

# Hearing - Day 1

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

June 25, 2018



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BEFORE THE HEARING EXAMINER  
FOR THE CITY OF SEATTLE

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

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

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Court-Certified Transcription

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June 25, 2018

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

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

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standard of review in the context of the issues raised by the appellants only. The authority of the hearing examiner to hear and decide this matter includes Chapter 25.05.680 and SMC 2341. Under the Code, the SEPA official's determination is accorded substantial weight, and the burden of establishing to the contrary is on the appellants. The hearing will be conducted in accordance with Chapter 3.02 of the City's Administrative Code, and the hearing examiner rules.

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

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

That said, I want to thank and recognize the superb

1 THE WITNESS: My name is Peter Steinbrueck. P-E-T-E-R.  
2 Steinbrueck, S-T-E-I-N-B-R-U-E-C-K.

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

6 THE WITNESS: I do.

7 HEARING EXAMINER: Thank you.

8  
9 PETER STEINBRUECK: Witness herein, having first been  
10 duly sworn on oath, was examined  
11 and testified as follows:

12  
13 DIRECT EXAMINATION

14 BY MR. BRICKLIN:

15 Q. Well, good morning, Mr. Steinbrueck.

16 A. Good morning.

17 Q. Would you tell the hearing examiner a little bit about your  
18 background?

19 A. Sure. First of all, let me say, I'm honored to be here, and  
20 I'm here for the good of the city, as I know everyone in  
21 this room is, and for the unique and diverse neighborhoods  
22 and communities throughout the city. It is my honor. So I  
23 called -- to be called upon as an expert witness. And I  
24 believe that there's a lot at stake here for the future of  
25 the city.

1 Development -- Construction and Development, excuse me, now  
2 OCBD, and divided. And I don't know if you want to  
3 continue. I --

4 Q. Please.

5 A. I conducted several studies on behalf of the city, including  
6 background -- two background reports for the 2035 Seattle  
7 Comprehensive Plan, the 19 -- excuse me, 2015 Seattle 2035  
8 Urban Village Study, which I have a copy of here, a  
9 non-redacted copy, I should say. I also had conducted a  
10 extensive study that was unique and innovative in the United  
11 States, called the Seattle Sustainable Neighborhoods  
12 Assessment Project in 2014.

13 Q. And this was what you did for the City of Seattle?

14 A. That's correct. I've also done preservation studies for the  
15 city, and -- and in other areas, yeah, so --

16 Q. All right. Let me hand you --

17 MR. BRICKLIN: I'm not sure how to handle exhibits.  
18 Probably to the clerk and same copy to you. This is his  
19 resumé. It was Exhibit 21 on our list.

20 (Exhibit No. 6 marked for identification.)

21 Q. (By Mr. Bricklin) Mr. Steinbrueck, I'm handing you a copy of  
22 what's been marked for identification as Exhibit 1 --

23 HEARING EXAMINER: 6.

24 Q. (By Mr. Bricklin) Or, no, 6. I'm sorry. 6. Do you  
25 recognize this document?

1 I am a licensed architect. I'm a member of the College  
2 of Architects of the United states. I am a LOEB fellow with  
3 Harvard University Graduate School of Design where I devoted  
4 a year to self-study of urban environmental issues, policies  
5 and strategies. I am a consultant under Steinbrueck Urban  
6 Strategies, specializing and focusing on land use  
7 development, comprehensive and neighborhood planning, and  
8 urban environmental strategies. I'm a member -- elected  
9 member of the Seattle Port Commission, elected this year --  
10 or in the -- last year.

11 I served on the Seattle City Council for 10 years. I  
12 served as Council president for two. I also chaired the  
13 Land Use Development and Urban Planning Committee for four  
14 years and oversaw the entire portfolio of the city's  
15 comprehensive planning process and land use regulation  
16 development standards.

17 Q. When you were on the -- what years were you on the City  
18 Council, did you say?

19 A. I served on the City Council from 1997 through 2007.

20 Q. And were you involved with the City Council's Land Use  
21 Committee at that time?

22 A. I chaired the Land Use Committee. Land Use and Development,  
23 which also included comprehensive planning. I should  
24 mention also, I've been a consultant directly to the City of  
25 Seattle, former Department of Community -- of DCD, Community

1 A. I certainly do.

2 Q. And what is it?

3 A. It is my curriculum vitae 2018 entailing writings,  
4 publications, speaking panels, jury presentations, et  
5 cetera.

6 Q. Is that accurate and reasonably complete?

7 A. I would say it's all accurate, but not comprehensive nor  
8 complete.

9 Q. All right. Fair enough. You have a long and distinguished  
10 career, I know. Yes, it's hard to encapsulate on two pages.  
11 All right.

12 MR. BRICKLIN: And how do you want us -- do you want us to  
13 move the admission of each exhibit as we go, or --

14 HEARING EXAMINER: Yes, that would be preferable.

15 MR. BRICKLIN: All right.

16 HEARING EXAMINER: If for some reason they're done in a  
17 collective, that's fine, but at the end of each one so we  
18 don't lose track of them would be helpful.

19 MR. BRICKLIN: All right. Move the admission of  
20 Exhibit 1 -- or Exhibit 6, excuse me.

21 MR. JOHNSON: No objection.

22 HEARING EXAMINER: Exhibit 6 is admitted.

23 (Exhibit No. 6 admitted into evidence.)

24 Q. (By Mr. Bricklin) You mentioned your work on studies  
25 specific to urban villages. Can you explain a little bit

1 more about your work on that?

2 A. Sure. And I do have a print copy here.

3 Q. All right.

4 A. It was undertaken at the request of the city in 2000- --  
5 oops, I'm sorry -- 2015. And the intent was to provide,  
6 among other things, an analysis of the functional  
7 characteristics of the existing urban villages throughout  
8 the city as designated under GMA sales comprehensive plan.  
9 I did not -- it did not include the urban centers, the six  
10 urban centers. It focused on the 6 hub urban villages, and  
11 I believe the 18 residential villages.

12 Q. All right. So let's take a minute, time out, because you  
13 and a lot of other folks in the room are very familiar with  
14 the terminology that's used in the --

15 A. Okay. Sure.

16 Q. -- comprehensive plan regarding a variety of issues,  
17 including the three terms you just mentioned; urban centers,  
18 and then two different types of urban villages, I think you  
19 said. I want you to explain just in broad strokes --

20 A. Sure.

21 Q. -- what those different terms mean.

22 A. Well, urban centers are called for under the Growth  
23 Management Act of the State of Washington or regional  
24 comprehensive planning policies, and our city's  
25 comprehensive plan as designated. They are areas of higher

1 A. Yeah, I do. I have the list somewhere here of the hub urban  
2 villages. I think West Seattle Junction is a hub urban  
3 village. Yeah, so there's six of them. And, again, that's  
4 where there's mixed use, concentrations of employment  
5 density and other facilities to support -- and again, they  
6 are included in the city's urban village strategy as areas  
7 to target for substantial share of the city's future growth  
8 and employment and population.

9 Q. All right. And, let's see, because -- and again, just by  
10 way of background --

11 A. Yeah.

12 Q. -- the MHA proposal that this environmental impact statement  
13 was prepared for, can you describe that in the broadest of  
14 strokes, just so the examiner has --

15 A. Okay. The proposal itself --

16 Q. -- a very basic understanding of its main elements?

17 A. -- reflects the city's intent to increase the available --  
18 supply availability of affordable housing under 60 percent  
19 median income in particular, and distribute it in --  
20 throughout the city as part of the growth strategy. The  
21 city's goals are to support affordability in the city. This  
22 is a mechanism for achieving a higher level of growth and a  
23 higher percentage of affordable units through a mandatory  
24 inclusionary policy that calls for either in-kind -- excuse  
25 me -- performance-based development of new affordable units,

1 intensity, concentrations of employment, and residential, as  
2 well as areas where transportation and other facilities are  
3 concentrated and are desired to be concentrated. So they  
4 are the densest -- most highest densities of employment  
5 residential populations in the city, and areas targeted to  
6 receive a significant share of the city's future growth.

7 Q. What are some examples, or an example?

8 A. South Lake Union, Northgate, Uptown, First Hill.

9 Q. Downtown?

10 A. Downtown, of course, University District, yes.

11 Q. Okay.

12 A. Uh-huh.

13 Q. All right. So those are the urban centers you said, right?

14 A. Yeah.

15 Q. And then next you mentioned urban villages. What are those?

16 A. Well, the urban centers are inclusive of all the urban  
17 villages and the city's urban village strategy, which  
18 underpins the entire comprehensive plan. Some examples of  
19 hub urban villages would be -- which, again, are one scale  
20 down, but still areas of -- of concentration of dense -- of  
21 population employment densities and transit connections and  
22 other facilities. Ballard is a hub village, as is North  
23 Rainier, as is -- let me think here. I don't have a list in  
24 front of me.

25 Q. Well, you may have a copy of the plan there.

1 concurrent with market rate or an in lieu cash payment,  
2 which would be extracted from virtually every mixed-use zone  
3 classification, other than single family, throughout the  
4 city. So commercial, neighborhood commercial, the various  
5 land uses would -- would be adjusted to include an increment  
6 of this inclusionary percentage. And with -- with a range  
7 of intensity from light, to medium, to higher intensity  
8 extractions, using the land use code as the mechanism.

9 Q. What were you asked to do in terms of your testimony for the  
10 various appellants in this case?

11 A. Sure. Well, I was asked to review the HALA MHA proposal,  
12 the EIS, and the final EIS, and analyze it for its adequacy  
13 in terms of its attention to potential impacts,  
14 environmental impacts, for its adequacy in terms of  
15 consistency or not with the Seattle Comprehensive Plan 2035.  
16 I was also asked to look at the use of the 10-minute  
17 walkshed construct, with regard to the urban village  
18 boundaries and proposed expansions of those boundaries to I  
19 think about 10 of the urban villages involved there.

20 Then I was also asked to consider the adequacy of the  
21 three al- -- four alternatives in the EIS that propose  
22 somewhat different aspects of the proposal for achieving the  
23 stated goal of mandatory inclusionary housing. I also was  
24 asked to look at some sub area issues such as North Rainier  
25 and Roosevelt, and to consider the application and adequacy

1 of the EIS with regard to sub areas of the city.  
 2 **Q. All right. And --**  
 3 A. And the neighborhood -- excuse me. I -- I failed to mention  
 4 also the relationship of the EIS, environmental impact  
 5 statement, with regard to a segment -- a significant section  
 6 of the Seattle Comprehensive Plan encompassing the urban  
 7 villages.  
 8 **Q. You have a copy of the comprehensive plan there I believe,**  
 9 **right?**  
 10 A. Yes. Yeah, I do.  
 11 **Q. Could you turn to page -- where are the page numbers on**  
 12 **this -- 29?**  
 13 A. Uh-huh.  
 14 HEARING EXAMINER: Are we into one of the exhibits?  
 15 MR. BRICKLIN: Yes. I'm sorry. So the comprehensive  
 16 plan --  
 17 A. Oh, here we go. Are those --  
 18 HEARING EXAMINER: 5?  
 19 MR. BRICKLIN: It was Exhibit 3, I think, right?  
 20 Exhibit 3.  
 21 THE WITNESS: Yeah. Page 29. Okay.  
 22 MS. BENDICH: Let me get it.  
 23 HEARING EXAMINER: Okay. Oh, okay.  
 24 (Inaudible colloquy)  
 25 HEARING EXAMINER: What was the page?

1 **Northgate, South Lake Union, and Uptown. Are those the**  
 2 **urban centers you were referring to?**  
 3 A. Yes. Those are the designated urban centers, yes.  
 4 **Q. All right. And then I'm going to skip over the industrial**  
 5 **areas, which aren't important here.**  
 6 A. Manufacturing industrial centers.  
 7 **Q. Yeah.**  
 8 A. In addition.  
 9 **Q. And then there's a list of hub urban villages that it looks**  
 10 **like includes Ballard, West Seattle Junction, Bitter Lake,**  
 11 **Mount Baker/North Rainier, Fremont, and Lake City. Are**  
 12 **those the hub --**  
 13 A. Yeah. Those are -- those are the six hub urban villages.  
 14 **Q. All right. And then -- and you say those are sort of one**  
 15 **step down in terms of the amount of intensity --**  
 16 A. Intensity.  
 17 **Q. -- and density they take?**  
 18 A. That's correct, yeah.  
 19 **Q. And then there is on the next page a list of residential**  
 20 **urban villages that includes Crown Hill, Roosevelt, 23rd and**  
 21 **Union-Jackson, Columbia City, North Beacon Hill, Othello,**  
 22 **Rainier Beach, South Park, Westwood-Highland Park, Admiral,**  
 23 **Aurora-Licton Springs, Eastlake, Green Lake,**  
 24 **Greenwood-Phinney, Madison-Miller, Morgan Junction, Upper**  
 25 **Queen Anne, and Wallingford. Is that the list of --**

1 MR. BRICKLIN: Twenty-nine.  
 2 THE WITNESS: Yeah.  
 3 MR. BRICKLIN: And make sure we're looking at the --  
 4 HEARING EXAMINER: Counsel, I'll just ask, if a witness is  
 5 going to be spending some time, as it were, with some  
 6 sections of the EIS or the comprehensive plan, I prefer to  
 7 be able to follow along with it --  
 8 MR. BRICKLIN: Yeah.  
 9 HEARING EXAMINER: -- so if I can be directed to it. If  
 10 it's a quick reference, they're going to simply refer to a  
 11 page and --  
 12 MR. BRICKLIN: Move on.  
 13 HEARING EXAMINER: -- it's going to take me more time to  
 14 get it open --  
 15 MR. BRICKLIN: Yeah.  
 16 HEARING EXAMINER: -- don't worry about it.  
 17 MR. BRICKLIN: All right.  
 18 **Q. (By Mr. Bricklin) So making sure we're on the same page,**  
 19 **does it say, "Gross Strategy Figure 2" at the top there?**  
 20 A. Uh-huh.  
 21 **Q. Right?**  
 22 A. Yeah.  
 23 **Q. So and I'm just kind of going back here a little bit. When**  
 24 **you referred to urban centers, there's a list there of**  
 25 **Downtown, First Hill, Capitol Hill, University District,**

1 A. Yeah. There's I think 18 residential urban villages that  
 2 are listed there.  
 3 **Q. All right. And are they then one step down yet even more?**  
 4 A. That's right. Less intense, less mixed use, smaller  
 5 residential-oriented business districts.  
 6 **Q. All right. And does the -- if you go back to -- if you go**  
 7 **to page 41 --**  
 8 A. Okay.  
 9 **Q. -- is there a map that shows the -- where these various**  
 10 **urban centers, hub urban villages and neighborhood urban --**  
 11 **residential urban villages are?**  
 12 A. Yes. There's the future land use map, which is common to  
 13 all comprehensive plans in the State of Washington.  
 14 **Q. All right. And I see there on the key that the pale blue is**  
 15 **the residential urban villages. Do you see that?**  
 16 A. Yes, that's correct.  
 17 **Q. And on the map, those are spread around the city in various**  
 18 **locations, right?**  
 19 MR. BRICKLIN: And Mr. Examiner, I just -- kind of by way  
 20 of a heads up, but much of the case involves these  
 21 residential urban villages. So that's kind of the  
 22 geographic focus. Not exclusively, but a lot of the case is  
 23 about those pale blue areas on that map.  
 24 **Q. (By Mr. Bricklin) All right. So what did you do,**  
 25 **Mr. Steinbrueck, in terms of preparing for your --**

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

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

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

23 A. That's correct.

24 **Q. All right.**

25 A. And outside the urban village.

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

3 A. Yes.

4 **Q. -- the effect of the expansions? Yes?**

5 A. Yes.

6 **Q. And then are there also some zoning changes proposed outside**  
7 **of the urban villages?**

8 A. Yes.

9 **Q. And are those in the nature of changing the text of the**  
10 **zoning code to allow greater density in some zones?**

11 A. Yes.

12 **Q. All right. And can you state generally where those texts of**  
13 **zones occur outside of urban villages? How would you**  
14 **describe those areas?**

15 A. Text upzones.

16 **Q. Where are the areas outside the urban villages that are**  
17 **being (inaudible)?**

18 A. Well, first of all, there are extensive areas outside the  
19 urban villages, often along arterials such as Aurora, Lake  
20 City, Rainier Avenue. Areas outside of the urban villages,  
21 there is a considerable extent of non single-family,  
22 commercially-zoned properties, mixed use, et cetera. And  
23 unfortunately, the EIS did not analyze those areas in any  
24 great detail, in my view.

25 I looked for information on the areas outside of the

1 **Q. Yeah. So, but let's -- let me take one step at a time.**

2 A. Sure. Okay.

3 **Q. So one element of the proposal is upzoning inside the urban**  
4 **villages; is that right?**

5 A. That's correct.

6 **Q. So all those pale blue areas on that map, currently is there**  
7 **some single-family zoning inside those urban villages?**

8 A. Yes, there is.

9 **Q. And would the proposal eliminate all of the single --**

10 A. Yes, it would.

11 **Q. Let me finish the question, sir.**

12 A. Okay. Sorry.

13 **Q. Would the proposal eliminate all the single-family zoning**  
14 **inside those pale blue areas?**

15 A. That's my understanding.

16 **Q. All right. And then is another part of the proposal that**  
17 **some of those urban villages would actually be expanded in**  
18 **size; is that right?**

19 A. I believe 10 of them would be.

20 **Q. All right. And so they -- right now the urban villages**  
21 **adjacent to them are single-family areas; is that right?**  
22 **Yes?**

23 A. Predominantly, yes.

24 **Q. And so where there's an expansion of an urban village, that**  
25 **has the effect of converting a single -- generally**

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

10 So it is a sweeping -- in fact, I think it's the  
11 largest upzone that I've seen in my working life in Seattle,  
12 in one fell swoop. No area's left untouched, inside and  
13 outside the urban villages, other than some of the  
14 single-family areas that are farther distant from the urban  
15 villages.

16 **Q. All right. And you've actually started to get into this**  
17 **already. What were the principal conclusions you reached**  
18 **regarding the subjects that you were looking at? And we'll**  
19 **go back into these in some more detail, but just so the**  
20 **examiner knows where you're headed.**

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

1 analysis of the neighborhood plans, which constitute 200  
2 plus pages of the comprehensive plan with a separate set of  
3 goals and policies, or provide any identification or  
4 analysis or discussion of those goals and policies. Nor did  
5 it identify, I think in a full and complete way necessary  
6 for decision makers to evaluate impacts, environmental  
7 impacts.

8 A number of the areas of environmental impact -- and  
9 let me just say, I'm not a lawyer, but I have some working  
10 experience with -- with these topics, obviously. But the  
11 extent of environmental impacts identified in the final EIS  
12 are limited, and the discussion of those impacts and  
13 potential impact -- the discussion and analysis is limited  
14 and driven by a construct which is referred to as the growth  
15 and equity report, and it's --

16 HEARING EXAMINER: Please make sure that you have your  
17 phones turned off immediately.

18 MR. BRICKLIN: She's trying.

19 HEARING EXAMINER: Who's trying?

20 MR. BRICKLIN: She is. She's -- I see her working.

21 HEARING EXAMINER: You can take it out of the room, too.

22 A. And also failed to address the potential impacts of the  
23 oversized or extended urban villages and the ability of  
24 those urban villages to perform the basic functions that are  
25 necessary to support the growth and density in population

1 A. Okay. Yeah. So, okay. Sure.

2 **Q. I was just saying about the purpose.**

3 A. Yeah, so --

4 **Q. And so is one of the purposes to guide the development of  
5 development regulations, like the zoning code?**

6 A. In the hierarchy, the comprehensive plan reigns, yes. And  
7 that by law is my understanding. And by the Washington --  
8 the WAC under SEPA policies, and under growth management  
9 provisions.

10 **Q. All right. So now let's turn to the content of the  
11 comprehensive plan.**

12 A. Okay.

13 **Q. And you have it there in front of you?**

14 A. Well, I have the table of contents here, yes.

15 **Q. All right. And you have -- and you'll have the whole volume  
16 right next to you.**

17 A. I have my -- my Bible here.

18 **Q. All right. Good. All right. And I'm looking at the table  
19 of contents, and I see three columns there, which will help  
20 us understand the structure.**

21 A. Uh-huh.

22 MR. BRICKLIN: I'll just give the examiner a second to get  
23 there.

24 HEARING EXAMINER: I'm assuming that --

25 MR. BRICKLIN: I'm assuming it's right at the beginning.

1 and employment. I also felt that the alternatives were  
2 severely limited and were driven -- driven primarily by a  
3 theoretical construct that is defined in the -- the city's  
4 growth and equity study of 2015, I think it was. And  
5 they -- they are very narrow alternatives and do not reflect  
6 the bookends that I would expect as a decision maker as far  
7 as the potential to mitigate or reduce environmental  
8 impacts.

9 **Q. (By Mr. Bricklin) All right. Well, let's go back through  
10 those one at a time.**

11 A. Okay.

12 **Q. Let's start with the comprehensive plan. And, first of all,  
13 what's your understanding of the purpose of the  
14 comprehensive plan?**

15 A. Well, it is a legal basis, among other things, under Growth  
16 Management Act of the State of Washington, consistent  
17 with -- intended to be consistent with regional --  
18 countywide, regional, and statewide growth management  
19 policies. It is to guide future development in the city,  
20 and it is the embodiment of the city's and its communities  
21 and its residents' collective vision for how we want to grow  
22 basically, and it provides a series of -- a number of  
23 elements -- I think about 14 are contained in the 2035  
24 comprehensive plan -- that are specific elements of --

25 **Q. We'll get to the specific elements in a second.**

1 HEARING EXAMINER: (Inaudible.)

2 MR. BRICKLIN: It follows a bunch of acknowledgments, two  
3 pages of acknowledgments. Very close to the beginning.

4 HEARING EXAMINER: Is there a page number?

5 MR. BRICKLIN: On mine it's unnumbered. So it's before  
6 the numbering starts.

7 Mr. Johnson, can you -- I'm not sure how you -- did you  
8 potentially fail to copy the --

9 HEARING EXAMINER: I'm on page 13.

10 MR. BRICKLIN: Yeah, no, it would be long before that. It  
11 would be before the numbers.

12 MR. JOHNSON: Does anyone have a number of the page?

13 MR. BRICKLIN: It's not numbered in the --

14 HEARING EXAMINER: I'm not sure it's in here.

15 MR. JOHNSON: Did you find it?

16 MR. BRICKLIN: Yeah, it's right there.

17 MR. JOHNSON: Does it have a Bates stamp number?

18 MR. BRICKLIN: It has a Bates number on it.

19 MR. JOHNSON: It's Bates No. 370?

20 MR. BRICKLIN: Are those Bates numbered? Oh, yeah, so  
21 look at 23 -- I didn't realize you had a Bates --

22 HEARING EXAMINER: 20 --

23 MR. JOHNSON: 2370. 2370.

24 MR. BRICKLIN: Why is it not right at the front?

25 HEARING EXAMINER: 2037?

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1 MR. BRICKLIN: 2370.  
 2 HEARING EXAMINER: Okay. There's a zero at the end, too?  
 3 It's even further back?  
 4 MR. BRICKLIN: It's 0023 --  
 5 HEARING EXAMINER: So the cover page starts with 1883.  
 6 MR. BRICKLIN: Oh, that's --  
 7 MR. JOHNSON: What document are you --  
 8 HEARING EXAMINER: This is Exhibit 3, comprehensive plan.  
 9 MR. JOHNSON: Does the title of the document (inaudible)?  
 10 HEARING EXAMINER: So is there another document in here?  
 11 Because there's another one I've got as -- here's a 20  
 12 comprehensive plan. So I've got -- it looks like there's  
 13 another document in here.  
 14 MS. BENDICH: Is that the EIS?  
 15 HEARING EXAMINER: Gross inequity.  
 16 (Simultaneous crosstalk)  
 17 MR. JOHNSON: Oh, I'm sorry. You're looking at -- you  
 18 were on tab 2. So this was --  
 19 HEARING EXAMINER: What is tab 2?  
 20 MR. JOHNSON: Tab 2 is --  
 21 MR. BRICKLIN: The EIS for the --  
 22 MR. JOHNSON: It's the FEIS and appendices for the comp  
 23 plan.  
 24 MR. BRICKLIN: There's two -- you're right. There are two  
 25 documents in one notebook there.

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1 HEARING EXAMINER: All right. So I get this. I found my  
 2 way here. But I'm concerned we did introduce this as  
 3 Exhibit 3, and I've got two different documents in it.  
 4 So --  
 5 MR. JOHNSON: Well, actually, I think you're confused  
 6 because this -- we have this on here which is just a binder  
 7 number. You have to look at the tabs. So this Exhibit 3 is  
 8 the comprehensive plan.  
 9 HEARING EXAMINER: I'm confused because I asked you which  
 10 documents were in which notebook, and we labeled this 3.  
 11 So, and I was told that this is the comprehensive plan,  
 12 so --  
 13 MR. JOHNSON: Okay. I'm sorry. It is the comprehensive  
 14 plan.  
 15 HEARING EXAMINER: And is there anything else in there  
 16 that's been introduced yet?  
 17 MR. JOHNSON: Yes. Yes. Exhibit 2, which is the FEIS and  
 18 appendices for the comprehensive plan, which is what you're  
 19 looking at here.  
 20 HEARING EXAMINER: So what's in this notebook?  
 21 MR. JOHNSON: Okay. I see what we're -- that's the FEIS,  
 22 Exhibit 2.  
 23 MR. BRICKLIN: What's in the front half of that notebook?  
 24 HEARING EXAMINER: What is this?  
 25 MR. JOHNSON: Oh, I apologize. I see where the confusion

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1 is here. I think what -- here's the problem. It's the  
 2 growth inequity analysis. It's a carryover from the FEIS.  
 3 So that's the problem is you're looking at the tail end of  
 4 what's in Exhibit 2, Your Honor.  
 5 HEARING EXAMINER: So Exhibit 2 carries through into  
 6 notebook -- into the notebook 3. Okay.  
 7 MR. JOHNSON: Right. And we can -- we can try to move  
 8 those and get them all in separate notebooks if it's easier.  
 9 HEARING EXAMINER: That would -- that would be helpful  
 10 because then it's easier for me to --  
 11 MR. JOHNSON: We'll work on that.  
 12 HEARING EXAMINER: -- grab my notebook as opposed to kind  
 13 of guessing which point we're at in that.  
 14 MR. JOHNSON: Sure. Sorry about the confusion there.  
 15 Okay.  
 16 HEARING EXAMINER: All right.  
 17 MR. BRICKLIN: So if you could -- Mr. Examiner, if you  
 18 could then turn to --  
 19 HEARING EXAMINER: Exhibit 3.  
 20 MR. BRICKLIN: Yeah. The real Exhibit 3.  
 21 HEARING EXAMINER: Table of contents.  
 22 MR. BRICKLIN: Table of contents. All right. Now you're  
 23 looking at three columns, I hope.  
 24 HEARING EXAMINER: Yes.  
 25 MR. BRICKLIN: All right.

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1 **Q. (By Mr. Bricklin) And so explain the organization, if you**  
 2 **would, Mr. Steinbrueck of these -- of the --**  
 3 **A.** Sure. On Section 1, under city planning, there is an  
 4 introduction to the comprehensive plan, and that's followed  
 5 by 14 key elements of the comprehensive plan. The first one  
 6 being the growth strategy, which, as I've said, is the  
 7 underpinning for the entire comprehensive plan, and it  
 8 embodies the urban village strategy, which has been a model  
 9 throughout the United States for hundreds of comprehensive  
 10 plans and neighborhood plan level strategies in many, many  
 11 cities. So it's fundamental.  
 12 And I just want to, if I can, David, read -- number --  
 13 the first goal, which I think of the growth strategy --  
 14 well, it's not the first one, but it's goal -- goal of the  
 15 growth strategy G3, which calls for maintaining and  
 16 enhancing, quote, "The city's unique character, sense of  
 17 place, including its natural setting, history, human scale  
 18 development, and community identity as the city grows and  
 19 changes." And I -- I think that is a very fine statement  
 20 that tops the comprehensive plan and all of its elements  
 21 and -- and components. So beyond the growth strategy, land  
 22 use, transportation, housing, capital facilities, utilities,  
 23 economic development, environment, parks and open space,  
 24 arts and culture, community wellbeing, community engagement,  
 25 the container port element, shoreline areas, and finally a

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1 glossary.

2 **Q. All right. And the policy --**

3 A. That's Section 1.

4 **Q. And the policies in there apply citywide?**

5 A. They do.

6 **Q. And then what's the second section of the comprehensive**

7 **plan?**

8 A. The second section, Section 2, is titled, The Neighborhood

9 Plans. And there's about 200 pages there. And it

10 addresses, let's see, the entire list of urban villages,

11 including the urban centers, hub urban villages, and

12 residential urban villages. I think there are 30 in total.

13 **Q. All right. And then the last section, or the appendices?**

14 A. The appendices lists the growth strategy data and

15 background, land use, transportation, housing, capital

16 facilities, utilities, as well as the legislative history of

17 the comprehensive plan.

18 **Q. Now, how did the EIS characterize its relationship or**

19 **consistency or inconsistency with the comprehensive plan?**

20 A. Well, that's something that I -- I looked for carefully in

21 the EIS, and I found a list in the early pages of the EIS

22 that cited I think eight goals and policies out of hundreds.

23 Those were referenced in a general way with very little

24 discussion or analyses. And other parts of the EIS

25 references were made in very general ways to the

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1 comprehensive plan, and often citing, without any basis,

2 consistency with the comprehensive plan. You'll find that

3 frequently stated throughout the EIS, but with no backup, no

4 supporting analysis.

5 **Q. That the proposal was generally consistent with the EIS?**

6 A. Yes.

7 **Q. So you have the EIS in front of you there?**

8 A. No. That was not available to me. I got it online.

9 **Q. Here. I'll get -- let me get you a paper copy. Do we have**

10 **a -- no, it is there. I'm sorry. It is there?**

11 A. I'm sorry.

12 MR. JOHNSON: It should be. It should be.

13 A. We'll slide this stuff around, make some space here.

14 MR. BRICKLIN: Mr. Examiner, we're going to turn to page

15 2.2.

16 HEARING EXAMINER: And this is Exhibit 2?

17 MR. BRICKLIN: Yes.

18 A. Okay. Page 2.2. Okay. I'm on page 2.20.

19 **Q. (By Mr. Bricklin) No. 2.2.**

20 A. Oh, 2.2. Sorry. That's the page number. It goes from 2.19

21 to 2 --

22 **Q. So it's the second page of chapter 2.**

23 A. Chapter 2, second page. Okay. The numbering system is a

24 little baffling here in this document. Okay. Alternatives.

25 Chapter 2, alternatives?

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1 **Q. Yes.**

2 A. Okay.

3 **Q. Second page?**

4 A. Second page, 2.2.

5 **Q. 2.2.**

6 A. Okay. There we are.

7 **Q. And do you see the -- at the top of the page it says, "To**

8 **put MHA in effect, the city would grant additional**

9 **development capacity through area-wide zoning changes and**

10 **modification to the land use code. The proposed action**

11 **includes several related components." And then there are**

12 **five bullets. Do you see that?**

13 A. Yes.

14 **Q. And I want to turn your attention to the fourth and the**

15 **fifth bullet --**

16 A. Okay.

17 **Q. -- and have you address those in regard to this document's**

18 **discussion of consistency with the -- or lack of consistency**

19 **with the comprehensive plan.**

20 A. Okay. So your question regarding --

21 **Q. So the fourth -- so the fourth bullet -- you were just**

22 **referring to there were some places in the document where**

23 **there was an acknowledgment that the proposal would be**

24 **inconsistent in some respects with the comprehensive plan,**

25 **right?**

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1 A. Uh-huh.

2 **Q. And is the fourth bullet one of those examples?**

3 A. Yes, it is.

4 **Q. And why don't you read it just so we can --**

5 A. "Expand the boundaries of certain villages on the

6 comprehensive plan's future land use map, FLUM, and

7 locations near high frequency transit, as studied in the

8 Seattle 2035 Comprehensive Plan."

9 **Q. All right. So the comprehensive plan includes, as we saw,**

10 **the map showing the boundaries of the urban villages, right?**

11 A. Yes. And that's an area proposed for a change to the

12 comprehensive plan.

13 **Q. Right. And so the EIS acknowledges that that change is**

14 **going to be necessary?**

15 A. Yes.

16 **Q. All right. And then what's the next bullet talk about?**

17 A. The next bullet is, "Modify certain rezone criteria in the

18 land use code and policies in the neighborhood plan section

19 of the comprehensive plan concerning single-family zoning in

20 the urban villages."

21 **Q. All right. So where it talks about modifying policies in**

22 **the neighborhood plans concerning single-family zoning in**

23 **urban villages, what's your understanding of what that --**

24 **what's behind that statement?**

25 A. Well, it's a little bit baffling because it doesn't -- it

1 only refers to areas that are currently zoned single family,  
 2 and within the urban villages, whereas the proposal calls  
 3 for many other areas to -- to implement the changes called  
 4 for. And it only addresses one aspect of the neighborhood  
 5 plans, which is referencing single-family zoning, and does  
 6 not entail even any discussion or deeper analysis of the  
 7 proposed changes to those policies in the neighborhood  
 8 plans.  
 9 **Q. Okay. So in the neighborhood plans, are there policies that**  
 10 **speak to preserving single-family zoning in the urban**  
 11 **villages?**  
 12 A. Yes, there are. There are extensive references.  
 13 **Q. All right. And we'll come to those, I know. In this**  
 14 **bullet, does EIS identify any of those? In other words,**  
 15 **which neighborhood plans are going to be required to be**  
 16 **modified to allow -- to eliminate single-family zoning in**  
 17 **the urban villages? Does this bullet identify the specific**  
 18 **neighborhood plans?**  
 19 A. Not directly. You would have to look at the zoning -- the  
 20 proposed zoning changes on a zoning map citywide. And it's  
 21 very difficult because the granularity is not reflected in  
 22 the citywide zoning map. And so you would have to look very  
 23 hard to find where and how much area, acreage of single  
 24 family would -- would be upzoned to mixed use multifamily.  
 25 I think it may be found in some of the data in the

1 where the zoning -- the proposed zoning changes vary  
 2 slightly between the alternatives.  
 3 **Q. Right, but I'm talking about the pol- -- about the**  
 4 **proposed --**  
 5 A. Not the policies, no.  
 6 **Q. Let me finish the question.**  
 7 A. Yeah.  
 8 **Q. I'm talking about proposals to change the policies in the**  
 9 **neighborhood plans. Are there alternative ways of changing**  
 10 **those policies that are laid out in the alternative section?**  
 11 A. No.  
 12 **Q. Does -- after this bullet here on page 2.2, is there any**  
 13 **further discussion in the EIS about how they're going to**  
 14 **change the neighborhood plan policies?**  
 15 A. No.  
 16 **Q. This is the complete discussion; is that right?**  
 17 A. That's correct, essentially, yes.  
 18 **Q. All right.**  
 19 A. There is one reference, however, to changing the SMC as it  
 20 relates to the neighborhood plan, so --  
 21 **Q. We'll come to that. I'm talking about the --**  
 22 A. Yep, the plan, so --  
 23 **Q. There's a lot of things to cover.**  
 24 A. Okay.  
 25 **Q. I'm trying to compartmentalize things.**

1 appendices.  
 2 **Q. But in terms of the policies in the neighborhood plans**  
 3 **themselves that speak to single-family zoning in the**  
 4 **neighborhoods, are those identified in the EIS as to which**  
 5 **specific neighborhood policies are going to have to be**  
 6 **amended?**  
 7 A. No, they're not. I had to spend considerable time looking  
 8 for them as I perused the neighborhood plans and the  
 9 comprehensive plan.  
 10 **Q. Does the EIS discuss how they're going to change these**  
 11 **single-family policies in the neighborhood plans?**  
 12 A. Not in any detail.  
 13 **Q. Does it even -- does it mention it? Does it describe it at**  
 14 **all, how they're going to change the policies, or does it**  
 15 **just say we're going to change it?**  
 16 A. Only vague references to transitional areas that would be  
 17 seen as implementing the MHA program.  
 18 **Q. To the extent that changes to the comprehensive plan are**  
 19 **part of the proposal, and that they're going to have to**  
 20 **change parts of the neighborhood plans to eliminate**  
 21 **single-family zoning, does the EIS include alternative means**  
 22 **of modifying those neighborhood plans?**  
 23 A. No.  
 24 **Q. Apart from this --**  
 25 A. The only -- the only relationship there would be to, again,

1 A. Sure.  
 2 **Q. So I'm just dealing with the neighborhood policies right**  
 3 **now.**  
 4 A. Okay. All right. We'll stick to that.  
 5 **Q. So do the neighborhood plans include policies that are**  
 6 **relevant here other than the policies that speak to single**  
 7 **fam- -- maintaining single-family zoning in the**  
 8 **neighborhoods?**  
 9 A. Yes, many.  
 10 **Q. All right. Are any of those other policies in the**  
 11 **neighborhood plans ever mentioned at all anywhere in the**  
 12 **EIS? The neighborhood policies.**  
 13 A. The neighborhood policies, no. Citywide, yes, but not the  
 14 neighborhood.  
 15 **Q. Have you collected -- did you review the comprehensive plan**  
 16 **to identify neighborhood and citywide policies, for that**  
 17 **matter, that are never addressed in the -- anywhere in the**  
 18 **EIS?**  
 19 A. Yes, I did.  
 20 **Q. Did you compile a list of those?**  
 21 A. Yes, I did.  
 22 HEARING EXAMINER: Marked as Exhibit 7.  
 23 MS. BENDICH: David, could I ask, is this on your exhibit  
 24 list somewhere? Is it already --  
 25 MR. BRICKLIN: These are just excerpts of Exhibit 3.

1 HEARING EXAMINER: And there's no commentary on there  
2 whatsoever.

3 MR. BRICKLIN: These are just direct quotes out of  
4 Exhibit 3.

5 (Exhibit No. 7 marked for identification.)

6 **Q. (By Mr. Bricklin) So why don't you explain to the examiner  
7 how you went about compiling, and the significance of this  
8 document?**

9 A. Okay. Well, after I had felt like I had a pretty good  
10 review and understanding of the MHA proposal and its -- and  
11 the final EIS, I then turned to the comprehensive plan, both  
12 citywide, and looked -- read through virtually all of the  
13 goals and policies citywide and for each urban village in  
14 the comprehensive plan. And I produced a list of 32 pages  
15 of goals and policies, both citywide and -- and neighborhood  
16 plan level where I felt there was some relationship directly  
17 to the MHA proposal. That's what you just received.

18 And there -- there are policies in there that I  
19 acknowledge which support some aspects of the proposal. And  
20 there were many that would not support it, or at least  
21 needed to be discussed in some -- not called out  
22 specifically in every detail, but there are a number of key  
23 ones that I think have just been completely left out of the  
24 EIS.

25 And then I looked -- so I -- so I established that,

1 **citywide policies, the first part of the comprehensive plan?**

2 A. That's correct.

3 **Q. And then starting on page 15, is that where you then  
4 continued on and went through the neighborhood plans that  
5 are part of the comprehensive plan and went through each of  
6 those?**

7 A. That's correct. There's 17 additional pages covering  
8 neighborhood plan policies and goals.

9 **Q. All right.**

10 A. And -- and virtually every urban village other than the  
11 urban centers.

12 **Q. And then I've handed you Exhibit 8. Is this another  
13 rendition of these policies, but this -- or at least some of  
14 them, but this time organized not sort of sequentially as  
15 they appeared in the comp plan, but rather by subject  
16 matter?**

17 A. That's correct.

18 **Q. So for instance, on the second page, urban form and  
19 aesthetics is gathered, the policies -- both the citywide  
20 policies and policies from individual neighborhood plans  
21 that deal with urban form and aesthetics; is that right?**

22 A. Yes. Yes.

23 **Q. All right. And I notice -- and so the groupings that are  
24 used here I notice are on the first page, land use. Page 2,  
25 urban form and aesthetics; and then on page 4, edge effects**

1 sort of like a -- a -- a compendium of goals and policies,  
2 pulled from the comprehensive plan that bore some  
3 relationship. It might be tree canopy. It might be a  
4 vision for a town center at North Rainier. It might be  
5 goals for preserving the historic single-family character of  
6 a given neighborhood such as Roosevelt. A myriad of  
7 objectives reflected in those goals and policies. But tied  
8 to this proposal and its potential impacts, I -- that's  
9 where I found a severe derth of attention in the EIS.

10 **Q. All right. And --**

11 A. And when I say EIS, I'm referring to the final, because I  
12 didn't review the draft EISs. This is just for your  
13 information.

14 **Q. And then were these comprehensive plan policies then -- or  
15 at least some of them -- reorganized instead of going --  
16 well, let me ask you first -- let me stick with Exhibit 7.  
17 On Exhibit 7, did you just march through the EIS, sort of  
18 from front to back, and collect the policies as you  
19 encountered them?**

20 A. Essentially, and -- yeah.

21 **Q. And so the first --**

22 A. Using my knowledge and expertise to draw what I thought were  
23 the most relevant, salient goals in the 10 policies.

24 **Q. Right. But just in terms of how this is organized, so, are  
25 the first 15 pages of Exhibit 7 policies taken from the**

1 **and historic resources; page 5, open space; and page 6,  
2 housing policies.**

3 A. Yes.

4 **Q. Right?**

5 A. That's correct.

6 **Q. All right. And I notice on that first section, land use,  
7 there's a footnote that says the EIS acknowledges that the  
8 proposal's inconsistent with the land use policies relating  
9 to the maintenance of single-family zone in the urban  
10 villages, but it fails to acknowledge the proposal's  
11 inconsistent with the other subjects that are grouped on the  
12 later pages of this document; is that right?**

13 A. That's correct.

14 MR. JOHNSON: Can I interrupt?

15 HEARING EXAMINER: Yeah.

16 MR. JOHNSON: Was this provided in your exhibits to us?

17 MR. BRICKLIN: No. This, again, is the -- a compilation  
18 of the policies from Exhibit 3, comp plan, other than the  
19 footnote.

20 MR. JOHNSON: Okay. So --

21 MR. BRICKLIN: There's no other -- if you are concerned  
22 about the footnote, I can re- -- I realize that the footnote  
23 is not part of Exhibit 3, and I can take that out if you  
24 care about it.

25 MR. JOHNSON: Well, it's simply that we weren't provided

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1 the exhibit, so --

2 MR. BRICKLIN: Yeah.

3 MR. JOHNSON: -- if you're going to introduce them as an

4 exhibit, then I will object because they were not -- they

5 weren't included in the final exhibit list. If you're going

6 to use them for illustrative purposes to focus your

7 examination as to that document, I have no objection.

8 MR. BRICKLIN: Well, I don't -- I guess for

9 illustrative -- if you will admit them for illustrative

10 purposes, that's all I need. I don't care if they come in

11 for illustrative purposes or otherwise.

12 MR. JOHNSON: Well, I guess I wasn't -- I wasn't waiving

13 my objection to the admission of the exhibits. I was simply

14 saying that if you're using them to move Mr. Steinbrueck

15 through his testimony, then that's fine, but otherwise, I

16 would object and suggest that the document he's referring to

17 speaks -- speaks to itself.

18 HEARING EXAMINER: So there hasn't been a move to admit it

19 yet.

20 MR. BRICKLIN: But I can do that now so we can finish this

21 discussion.

22 HEARING EXAMINER: So your objection is to its

23 admissibility?

24 MR. BRICKLIN: Yeah. Both 7 and 8. Is that -- or just 8?

25 MR. JOHNSON: Well, both 7 and 8, simply because they

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1 weren't provided as separate exhibits.

2 HEARING EXAMINER: I will overrule the objection with

3 regard to Exhibit 7. As I understand, that's an excerpt of

4 an item that was provided.

5 MR. BRICKLIN: Right.

6 HEARING EXAMINER: And --

7 MR. BRICKLIN: 8 -- if I may speak to 8, 8 is the same

8 except for the footnote.

9 HEARING EXAMINER: Yeah. So I'll sustain it with regard

10 to the footnote and allow it as far as the other items in

11 there.

12 MR. BRICKLIN: All right. Thank you.

13 HEARING EXAMINER: So we're simply striking from my copy

14 the footnote?

15 MR. BRICKLIN: Yes. And I can provide another copy

16 without the note.

17 HEARING EXAMINER: An updated copy for 8. All right. 7

18 and 8 are then otherwise admitted.

19 (Exhibits Nos. 7 & 8 admitted into evidence.)

20 (Exhibit No. 8 marked for identification.)

21 MR. BRICKLIN: All right.

22 **Q. (By Mr. Bricklin) So let's turn on to Exhibit 8, which is**

23 **the by subject matter that you have in front of you.**

24 A. Yes. Yes.

25 **Q. The comp plan?**

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1 A. Yes, I have that here.

2 **Q. Right.**

3 A. Uh-huh. Yes.

4 **Q. Turn to page 2, which is the -- which is titled Urban Form**

5 **Aesthetics. And I see you bolded some of these policies**

6 **from both the citywide policies and the neighborhood plans.**

7 **Can you talk just general -- I don't need you to obviously**

8 **read a page and a half or two pages of policies, but just**

9 **generally, what's the gist of these policies, and your**

10 **opinion as to whether the proposal is consistent or**

11 **inconsistent with these policies? Or actually, let me put**

12 **it a little differently. Whether the EIS addresses the**

13 **consistency or inconsistency with these policies.**

14 A. Well, first of all, it's difficult to assess whether they're

15 consistent or not if they're not even called out. And most

16 of these are not in any specific form, or even a form

17 generally that we could identify as guiding objectives and

18 policies. So I think I'd like to, if I may, read some of

19 them.

20 **Q. Yeah.**

21 A. Is that permissible?

22 **Q. Absolutely.**

23 A. Well, under urban form, city --

24 HEARING EXAMINER: How many do you plan to read?

25 A. From --

Page 68

1 **Q. (By Mr. Bricklin) Yeah. Just an example or two.**

2 A. Exhibit --

3 **Q. Yeah, just an example or two.**

4 A. Okay. An example. So, "GS, Gross Strategy, G3, Goal,

5 maintain and enhance Seattle's unique character and sense of

6 place." I've already referenced that previously. G3.9 --

7 "GS 3.9, Preserve characteristics that contribute to the

8 communities" -- communities plural -- "general identity such

9 as block and lot patterns, and areas of historic,

10 architectural, or social significance."

11 Under a neighborhood plan, I will cite just an example

12 or two here. "Capitol Hill. Encourage the preservation of

13 the neighborhood's architectural quality, historic

14 character, and pedestrian scale." "Bitter Lake. Encourage

15 design and site planning of single family and multifamily

16 housing that fits with the surrounding neighborhoods." And

17 I could go on and on with these references.

18 **Q. So the common feature of all of these policies is -- how**

19 **would you -- what would you characterize the common feature**

20 **of all of these urban form aesthetic --**

21 A. There are numerous references to preserving and protecting

22 neighborhood -- a single-family character. Goals for

23 preservation of historic aspects of some neighborhoods, not

24 necessarily designated or not. A desire to maintain the

25 uniqueness of our city as it's reflected through its

1 neighborhoods and through these neighborhood plans. Every  
2 single neighborhood and urban village has its own distinct  
3 characteristics and qualities, and people value that deeply.  
4 That's why we're here.

5 **Q. All right. And then starting on page 4, just on page 4,**  
6 **there's a heading, Edge Effects. What does that term mean,**  
7 **"edge effects"?**

8 A. Sure. Let me turn to page 4, first of all. Edge -- that's  
9 kind of a general planning term that addresses urban form  
10 for both built and natural, where there's a condition that  
11 distinguishes, perhaps, one neighborhood from another, one  
12 area from another, one community from another, or divides,  
13 or is a dividing line where the uses may radically change  
14 from a more intense mixed use, or commercial, or industrial,  
15 to a lower intensity use. It could be anything from a busy  
16 arterial, such as 15th NE, or Aurora Avenue, or Rainier  
17 Avenue, or to a row of trees such as in Wedgewood that has  
18 been identified in the Wedgewood neighborhood plan -- which  
19 is not included here -- but is an important element, a  
20 defining element in that edge condition.

21 **Q. All right. And how does the proposal impact -- does it**  
22 **change where the edges are? What's the proposal's impact on**  
23 **edge effects?**

24 A. I -- I believe it would alter those built form, urban form  
25 conditions, and in some cases potentially violate the

1 HEARING EXAMINER: Okay.

2 MR. BRICKLIN: Yeah.

3 HEARING EXAMINER: We're going to take a 10-minute break  
4 and come back at a quarter to.

5 MR. BRICKLIN: All right.

6 (Recess)

7 HEARING EXAMINER: We'll return to the record with the  
8 appellant's witness, Mr. Steinbrueck.

9 **Q. (By Mr. Bricklin) Okay. So, Mr. Steinbrueck, we were --**  
10 **before the break, we were going through Exhibit 8, and we**  
11 **had just finished -- no, we were in the middle of talking**  
12 **about the edge effects. And would you read the edge**  
13 **effect -- I called it edge effects -- the Roosevelt HP1**  
14 **policy that you've listed there?**

15 A. Sure. The Roosevelt HP1 calls for, "Promote the  
16 preservation and maintenance of existing single-family homes  
17 in single-family zones, and control impacts to homes on the  
18 edge of the single-family zones."

19 **Q. All right. And how would the proposal impact implementation**  
20 **of that -- or consistency of that policy?**

21 A. In my view, the proposal would move these edge conditions  
22 into new territory extensively throughout the city where the  
23 proposed upzones have been made.

24 **Q. All right. And does the EIS discuss anywhere the extent to**  
25 **which it is consistent or inconsistent with these three edge**

1 natural form where there's a hillside and a flat area, such  
2 as in North Rainier at MLK and Rainier Avenue. So, yes, in  
3 many places I think the proposed upzones don't reflect on  
4 the ground conditions and existing urban form and character.

5 **Q. So I noticed the -- on edge effects you've collected three**  
6 **policies. It looks like the first two are from the citywide**  
7 **policies, and the third is I think from -- I'm not sure what**  
8 **part it is.**

9 A. That's Roosevelt.

10 **Q. Roosevelt. Roosevelt's neighborhood plan. So how do the**  
11 **citywide policies talk about these -- I see they use the**  
12 **term -- it looks like transition instead of edge effects.**  
13 **But what's the gist of these policies?**

14 A. Of the edge effect policy?

15 **Q. Yes.**

16 A. To apply sensitivity with regard to land use, land uses  
17 designations to specific areas of the city that reflect edge  
18 conditions, which are many, numerous throughout the city.

19 **Q. All right.**

20 HEARING EXAMINER: I'm going to pause you there.

21 MR. BRICKLIN: Sure.

22 HEARING EXAMINER: Where are we in schedule with this  
23 witness? You mentioned that he had to go to a Port meeting.

24 MR. BRICKLIN: Yeah. Well, but we have him all morning.

25 We have until noon.

1 **effect policies you've listed here?**

2 A. No.

3 **Q. All right. Let's go on to historic resources. And you've**  
4 **collected 10 or a dozen of those policies from the citywide**  
5 **policies and from some of the neighborhood plans. What's**  
6 **the gist of these, if you can summarize them?**

7 A. Well, you might look at Seattle as a collection of historic  
8 neighborhoods, some of which were, in fact, cities.  
9 Columbia City, Georgetown, Ballard, these were actual cities  
10 that were subsequently annexed by the City of Seattle over a  
11 time. And from that standpoint, Seattle -- Seattle's human,  
12 physical and historic cultural assets are unique to our  
13 entire region. It's why Seattle's so popular a place to  
14 live.

15 We are not the west side of a subdivision in Bellevue.  
16 We are not the Issaquah Highlands. We have a distinction  
17 from virtually all other areas outside of the city -- well,  
18 not with all other areas, but it's what makes Seattle  
19 unique. It's the character of our neighborhoods. It's what  
20 people talk about, what they love about Seattle, and what  
21 they come here for and they move here for. And it's what we  
22 collectively have identified through -- extensively through  
23 our commitment to historic preservation as reflected in many  
24 of the comprehensive plan policies and goals.

25 **Q. So are you saying that a lot of Seattle is old, and all the**

**old parts of the city are all alike, or are you saying that there's -- it's differences between the older sections of the city?**

A. Well, in fact, I have walked all of the neighborhoods that encompass the urban villages in the comprehensive plan. I've documented built and natural forms, recorded them, and -- as part of my work for the city -- and I can say from my own ground-truthing experience there and documentation, that every neighborhood in the city is different and distinct, as is the underlying zoning. Well, applying citywide zoning, but with different existing urban form, because the urban form predates the zoning in the City of Seattle. And many of our structures are late 19th century, early 20th century, and concentrated in some areas of the city that makes those areas distinct and appealing for people to want to move to.

**Q. All right. And so then with that background, what is the gist, if you will, of these historic resource and policies that you've collected from the citywide policies and neighborhood plans?**

A. The gist in relation to the proposal or --

**Q. Well, what's the gist of these policies overall? I mean, what do they seek to achieve?**

A. Commitment to protecting, enhancing and rehabilitating our cultural and historic assets in the city throughout.

a set of -- of sublevel metrics that relate parks and open space to the -- the density of a given area, and to the proximity of open space to where people live and work. And so there might be, for example, one acre of open space called for 100 house- -- households, for example. And again, the actual numbers, I can't pinpoint, but so --

**Q. And what's the gap piece of this? When you say gap analysis, what are you referring to, or what's the city in that referring to?**

A. Well, the gap analysis for -- for the city identifies specific areas that lack open space at the urban village level, and it also relates to hubs and urban centers. And there is a map which I could -- it's here somewhere -- that illustrates the gaps. And I'll -- I'll use North Rainier as an example. One area of the city, a hub urban village that the City Parks Department's gap analysis identified as having the lowest level of open space of any urban village in Southeast Seattle. And it's relationship of the amount of -- the quantity and the -- and the distance to that open space within the denser urban areas.

**Q. How does the proposal potentially impact consistency with these policies?**

A. Well, I can give you a compelling number that I calculated. Under alternative 1, the no -- no change --

**Q. No action alternative?**

**Q. All right. And how does the -- and does the proposal discuss whether or to what extent it is consistent or inconsistent with these -- any of these historic resource-related policies?**

A. No.

**Q. All right. The next grouping that you collected was open space related policies. What is the gist of these policies?**

A. Well, as the city grows -- and that's reflected in many of the city's comprehensive plan policies and goals, as well as the Seattle Parks Department's own master plan and gap analysis with regard -- open space is a human need, and it is one that is essential to the health, vitality and livability of the neighborhoods. And the city has a fairly complex set of metrics and targets for ensuring the adequacy of open space and parks throughout the city, particularly in areas receiving more density and growth, such as the urban villages.

**Q. And I notice, for instance, one of the ones you have here, P1.1, "Continue to expand the city's park holdings and open space opportunities." Well, actually, let me go back and ask you another -- you mentioned a gap analysis. What is the gap analysis you were referring to?**

A. The gap anal- -- I -- I hesitate to cite the specific metrics, but the city applies metrics that are actually a statewide basis, and then there -- the Parks Department has

A. No action alternative. The city's gap analysis identified over the growth period of 20 years, approximately 45 acres' shortfall in open space and parks throughout the city as -- as what to make up with various implementation, mitigation measures and strategies for that purpose. Under the preferred alternative, there's an excess of 400 acres of gap citywide that would need to be made up to meet the city's own metrics. And I calculated that at -- just to put a monetary figure to it, using a very rough figure, \$15 a square foot, it's 2 and a half billion dollars that it would cost to provide the necessary open space to mitigate this proposal.

**Q. Does the EIS anywhere discuss the relationship of the proposal or the consistency or inconsistency of the proposal with any of these open space policies in the citywide or neighborhood plans?**

A. I'm sorry. Could you restate that?

**Q. Yeah. Does the EIS anywhere discuss any of these open space policies as to how they relate to the proposal or whether the proposal is consistent or inconsistent with any of these policies?**

A. No, I couldn't find anything.

**Q. All right. And then the last subject matter where things are grouped here is on page 6, housing, and it says, "Rehab not demolition." What does that refer to?**

1 A. Well, let me -- oh, rehab -- okay. And we skipped over  
 2 trees.  
 3 **Q. Oh, I'm sorry. I didn't mean to do that. How did I do**  
 4 **that?**  
 5 A. Trees are also impacted by this proposal --  
 6 **Q. Yes.**  
 7 A. -- more extensively than the no action. Whenever there is  
 8 an increase in development on a parcel of land, and when  
 9 there's a rezone that upzones that land, there is less  
 10 pervious surface, and that results in a loss of tree canopy  
 11 and -- and undergrowth. And it's clear that this proposal  
 12 will have substantial impacts on the tree canopy loss. The  
 13 city has a metric for maintaining a 30 percent citywide  
 14 coverage. There are areas of the city that lack tree  
 15 canopy -- Ballard among them -- that we're struggling to  
 16 make up for and increase. But the proposal does not go into  
 17 any specific detail about those subareas of the city, and  
 18 our city's policy and targets for preserving and enhancing  
 19 tree canopies. So I'll just leave it at that. There are  
 20 means to do that. There's LiDAR, new technologies. And  
 21 I've done some of the studies myself in my own work for the  
 22 city.  
 23 **Q. So I see in the Exhibit 8 where the policies are grouped by**  
 24 **subject matter, trees were omitted. But going back to the**  
 25 **bigger document, Exhibit 7, where they're listed just in the**

1 A. Well, as I mentioned, the city has a fairly built-out  
 2 collection in its housing stock, and it varies quite a bit  
 3 by age, condition, character, style, et cetera. And I  
 4 should mention, not just single family, but multifamily.  
 5 There are many old, red brick buildings that are three or  
 6 four stories in height -- I, in fact, live in one myself --  
 7 that provide a significant -- make a significant  
 8 contribution to the city's avail- -- available, affordable  
 9 housing and stock, if you will. And some is subsidized.  
 10 Some is -- much of it is not subsidized. There are  
 11 preservation -- rehabilitation goals in this city, and there  
 12 are resources available for rehabilitating and protecting  
 13 existing housing -- our existing housing stock. So  
 14 reinvesting through rehabilitation preservation -- and I'm  
 15 not just speaking strictly of historic preservation.  
 16 By the way, there's only 400 historic landmarks in a  
 17 city of perhaps 100,000 buildings, just to put things in  
 18 perspective. So that's the gist of our housing policy in  
 19 the city is -- that is established and reflected here.  
 20 Land Use Policy 15.2, "Encourage rehabilitation,  
 21 opportunities, and reinvesting in vacant or underutilized  
 22 historic properties to spark economic revitalization."  
 23 L15 -- LU 15.3, "Encourage rehabilitation of existing  
 24 housing units and other building types that expand  
 25 affordable housing choices and contributes to market rate

1 **order they show up in the comprehensive plan, I notice on**  
 2 **page 12, you are -- they're collecting policy -- the**  
 3 **environmental policies. And I notice Environmental Policy**  
 4 **1.2, "Strive to increase citywide tree canopy coverage to**  
 5 **30 percent by 2037, and 40 percent over time."**  
 6 A. Yes, I referenced that. Yes.  
 7 **Q. Okay. So did you see anywhere in the EIS where it addressed**  
 8 **the relationship of the proposal to that policy, for**  
 9 **instance, or any of the other tree policies that are in the**  
 10 **comp plan or the neighborhood plans?**  
 11 A. Only in the proposed mitigations, but not in the policies,  
 12 yeah.  
 13 **Q. Well, but where they're talking about mitigation, did they**  
 14 **ever refer to these policies?**  
 15 A. No.  
 16 **Q. Or discuss whether the proposal's consistent with these**  
 17 **policies?**  
 18 A. No.  
 19 **Q. All right. Now back to Exhibit 8 and --**  
 20 A. Okay.  
 21 **Q. -- page 6 of that where you were referring to the housing**  
 22 **policies.**  
 23 A. Yes.  
 24 **Q. Again, let's start by asking, what's the gist of these**  
 25 **various housing policies that you've collected?**

1 and workforce housing."  
 2 **Q. And you mentioned Columbia City used to be its own city.**  
 3 **Where is Columbia City located for the examiner's**  
 4 **(inaudible)?**  
 5 A. Sure. It's in Southeast Seattle, and it is -- it's on  
 6 the -- it's near the Link light rail line.  
 7 **Q. Okay.**  
 8 A. And it is a designated historic district, part of it.  
 9 **Q. All right. And I see you highlighted one of the housing**  
 10 **policies from its plan there. Would you read that for me?**  
 11 A. Let me -- let me find -- and under the neighborhood -- yes.  
 12 Under the neighborhood plan section of policies and goals,  
 13 for Columbia City, "Encourage the preservation of affordable  
 14 housing resources through the rehabilitation of older  
 15 existing homes."  
 16 **Q. All right.**  
 17 A. And I want to make clear that this is to distinguish from  
 18 historic landmarks and historic districts, which have some  
 19 protections.  
 20 **Q. And --**  
 21 A. And there are many.  
 22 **Q. And what's the distinction? Are these protected?**  
 23 A. No, they're not, and nor are they addressed in any  
 24 significant way in -- in the EIS.  
 25 **Q. Well, and to --**

1 A. At this level.  
 2 **Q. And to be more specific, does the EIS ever discuss that**  
 3 **Columbia City policy or any of the other housing policies**  
 4 **that you've listed here?**  
 5 A. No.  
 6 **Q. All right. One last issue regarding comprehensive plan**  
 7 **issues, but it's a little different than what we've just**  
 8 **been through. You mentioned earlier that part of the**  
 9 **proposal would eliminate -- would make a code amendment**  
 10 **change impacting consideration of comprehensive plan**  
 11 **consistency in the future. What was that about?**  
 12 A. Yes. I think that was on the list of implementation  
 13 measures that would be called for. This one is particularly  
 14 trouble -- troubling to me, because what we have  
 15 historically relied on in considering upzones anywhere in  
 16 the city has been the city's general rezone criteria and  
 17 locational criteria under SMC 3.34.008. And among other  
 18 things, for me this has always been a safeguard in  
 19 considering upzones, because it provide -- and I -- I have,  
 20 as a decision maker, been directly involved in the  
 21 application of this rezone criteria, over countless  
 22 occasions.  
 23 And I felt that as -- you know, because we have this as  
 24 a matter of law, that it would serve to ensure better  
 25 results in considering rezone so that they're not arbitrary,

1 **Q. All right. So --**  
 2 A. And I just note the difference in terms of level of detail  
 3 there.  
 4 **Q. Right. We'll get to that in a second. Let me just --**  
 5 A. Okay. Sure.  
 6 **Q. -- make sure we're all in the same place first. And**  
 7 **speaking of place, where is Uptown? That's a -- that's a**  
 8 **new term for those of us --**  
 9 A. That's up from Downtown.  
 10 **Q. Hold on. Hold on. That's a new term for those of us who**  
 11 **have lived in Seattle --**  
 12 A. Of course.  
 13 **Q. -- for more than 25 years.**  
 14 A. Of course.  
 15 **Q. Because it kind of got invented more recently. Where is**  
 16 **Uptown?**  
 17 A. Uptown is adjacent to Belltown. It is contiguous with  
 18 Belltown and South Lake Union areas.  
 19 **Q. Is it what we used to call --**  
 20 A. And Lower Queen Anne.  
 21 **Q. Is it what we used to call --**  
 22 A. Basically it's Lower Queen Anne. And it is a fairly  
 23 historic character area of the city, an older area.  
 24 **Q. All right. All right. And earlier you said that this EIS**  
 25 **was citywide, but are you -- but actually, were there a**

1 so that they're applied in a manner this addresses many  
 2 long-standing, important factors at the neighborhood level  
 3 and at the citywide level. The proposal calls for striking  
 4 reference to the neighborhood plans in the rezone criteria.  
 5 Striking it out, wiping it out.  
 6 **Q. And does the EIS -- and what would the effect of that be, of**  
 7 **eliminating that criteria?**  
 8 A. Arbitrary imposition of upzones.  
 9 **Q. And does the EIS analyze the impact of that at all?**  
 10 A. No.  
 11 **Q. All right. All right. So, done with the comprehensive**  
 12 **plan. Which was the first of the major elements you said**  
 13 **you wanted to address. The second was the -- if I could**  
 14 **characterize it for you -- the lack of specificity in the**  
 15 **EIS generally. Put that in your own words. What's your**  
 16 **concern here regarding the level of detail in the citywide**  
 17 **EIS?**  
 18 A. Yeah, sure. Well, it's interesting to me to note that the  
 19 Uptown EIS, for example, is over 1,400 pages long.  
 20 **Q. Hold on. What's the Uptown EIS?**  
 21 A. That was the EIS done for the rezone -- the MHA proposal as  
 22 it reflect- -- as it applies to one of the city's six urban  
 23 centers. Uptown being an urban center, this preceded the  
 24 citywide upzone, the several urban centers between  
 25 University District, Uptown, some other areas, Downtown.

1 **couple of areas that -- where the city did an EIS for a**  
 2 **couple of specific neighborhoods before it got to this EIS**  
 3 **that's before us today?**  
 4 A. Yes.  
 5 **Q. All right. So the MHA proposal was analyzed in a smaller**  
 6 **neighborhood level in Uptown?**  
 7 A. Yes.  
 8 **Q. And then you said somewhere else --**  
 9 A. University District.  
 10 **Q. University District?**  
 11 A. Downtown.  
 12 **Q. All right.**  
 13 A. That was another one, yeah.  
 14 **Q. All right. And so when you said the Uptown EIS, you were**  
 15 **referring to the EIS done for the MHA proposal in**  
 16 **Uptown/Lower Queen Anne?**  
 17 A. Yes, that's correct.  
 18 **Q. All right. And what was -- all right. So now with that as**  
 19 **background, what was the contrast you were drawing?**  
 20 A. Well, the level of detail -- and, again, this is not a --  
 21 Uptown is not a single neighborhood. It comprises a larger  
 22 area with more complexity and intensity, but it is a  
 23 definable sub area of the city, and it's also designated as  
 24 an urban center. But I just note that the extent of  
 25 analysis on a wide range of topics was far more extensive in

1 that EIS than in the citywide analyses.  
 2 **Q. All right.**  
 3 A. Including historic resources and other issues.  
 4 **Q. All right. And we have another witness who's going to talk**  
 5 **about that.**  
 6 A. Yep. Okay.  
 7 **Q. That's fine. In more detail. But I'm --**  
 8 A. Sure.  
 9 **Q. I'm glad that you previewed that. All right. So apart from**  
 10 **that as an example, what was your -- going back to the**  
 11 **general point here regarding the level of detail in this**  
 12 **EIS, this citywide EIS, let me ask you it this way; do you**  
 13 **have an opinion as to whether the EIS reflects the**  
 14 **difference in -- the different impacts that occur,**  
 15 **neighborhood by neighborhood?**  
 16 A. It doesn't.  
 17 **Q. All right. And --**  
 18 A. And doesn't even attempt to.  
 19 **Q. All right. And can you give any examples of that, of where**  
 20 **significant impacts are omit -- are ignored because they**  
 21 **occur at the neighborhood level and don't get picked up in a**  
 22 **citywide discussion?**  
 23 A. Well, sure. I think I already have given some examples.  
 24 **Q. Okay. Do so in this context now, though. You can repeat --**  
 25 **refer back to things you referred to earlier.**

1 city's proposal, the MHA proposes to extend across an edge  
 2 condition the urban village boundary into a collection of  
 3 what has been identified as a historic character  
 4 neighborhood, a single family, early 20th century, craftsman  
 5 cottages, almost a cohesive, multi-block area that would be  
 6 upzoned basically, and put all of those houses -- which will  
 7 never be designated individually as landmarks, but would all  
 8 be impacted with higher potential for teardown with this  
 9 proposal and replacement with in-fill under a different land  
 10 use and development standard.  
 11 **Q. And you mentioned there edge effects. Would the edge of the**  
 12 **existing urban village change by several blocks in that**  
 13 **area?**  
 14 A. It would. It would shift it deep into the single-family  
 15 areas that surround the existing urban village.  
 16 **Q. And did the EIS address that in any meaningful way?**  
 17 A. No.  
 18 **Q. While we're still on edge effects then, let's talk about --**  
 19 **let's see how we can do this.**  
 20 A. Are we still on edge effects?  
 21 **Q. Yeah, well, since you just mentioned it.**  
 22 A. Okay.  
 23 **Q. So you moved me there.**  
 24 A. Okay.  
 25 **Q. So I figured I'd stick with that for a second. Let's turn**

1 A. Let me make sure I understand the question.  
 2 **Q. Yeah. So examples of where there are significant impacts at**  
 3 **a neighborhood level that are not addressed in the EIS. So**  
 4 **for instance, regarding open space impacts where specific**  
 5 **historic resources that are not addressed or tree canopy**  
 6 **issues that are not addressed.**  
 7 A. Oh, sure.  
 8 **Q. But at the neighborhood level.**  
 9 A. Oh, yeah. You know, I don't know where to begin with that,  
 10 because there are so many. But I can cite some specific  
 11 examples off the top of my head. Again, referring back to  
 12 North Rainier, a hub urban village has undergone very little  
 13 private investment with new development. It is -- it is a  
 14 location centrally of a -- of a light rail station, and it  
 15 has a -- within the Rainier neighborhood plan, long-standing  
 16 objective of establishing a town center with the concurrent  
 17 open space there. And it was identified as an area of the  
 18 city with one of the worst derths of open space in Southeast  
 19 Seattle. I'll use another example. So that was not  
 20 responded to. In fact, it was impacted, and maybe we'll get  
 21 into that later by -- by this proposal.  
 22 **Q. Yes.**  
 23 A. That very objective would be negatively impacted by this  
 24 proposal. Another example would be -- and I'll go back to  
 25 Roosevelt here. The area of Ravenna-Cowen Parks where the

1 **to the appendix, I think H, of the EIS.**  
 2 MR. BRICKLIN: This is going to be a different volume,  
 3 Mr. Examiner. And this would be --  
 4 HEARING EXAMINER: Exhibit 4?  
 5 MR. BRICKLIN: Or is it all 3?  
 6 (Simultaneous crosstalk)  
 7 HEARING EXAMINER: 2.  
 8 MR. BRICKLIN: 2? It's all 2? I'm sorry.  
 9 **Q. (By Mr. Bricklin) So let's turn to Appendix H.**  
 10 A. Okay.  
 11 **Q. And you're going to get the unenviable chore of walking**  
 12 **the -- being the first person to walk the examiner through**  
 13 **some of the zoning map changes.**  
 14 A. Okay. And I don't have Appendix H here with me, so --  
 15 **Q. Oh, it's in the --**  
 16 A. Oh, it's in the compound, yes.  
 17 **Q. Yeah. No. No. It's in the EIS.**  
 18 A. In the EIS.  
 19 MS. BENDICH: In the EIS.  
 20 A. Okay. And it's in the back here?  
 21 **Q. (By Mr. Bricklin) Yeah. Appendix H.**  
 22 A. Okay. Let's see. Appendix H. Those are all the comments.  
 23 Is the Appendix H in this volume, or is it in another?  
 24 MALE SPEAKER: What volume are you in?  
 25 THE WITNESS: I'm in volume --

1 MALE SPEAKER: 2?  
 2 THE WITNESS: 2.  
 3 MALE SPEAKER: Open 3, the first part of 3.  
 4 THE WITNESS: Okay. Thank you. Okay. 4, 3. Here we go.  
 5 If nothing more, we've created a lot of paper here. Okay.  
 6 So Appendix H. Is this the one that documents MHA's --  
 7 let's see. Zoning maps.  
 8 **Q. (By Mr. Bricklin) So are you at H18, for instance?**  
 9 A. No. I'm looking for H here just to start with.  
 10 (Simultaneous crosstalk)  
 11 A. Does this include all the boundary adjustments?  
 12 **Q. Yeah.**  
 13 A. Okay. So I'm in the -- here we go. Okay. Got it. Now,  
 14 what page?  
 15 **Q. H19.**  
 16 A. Okay. Okay. Got it. H19.  
 17 **Q. And what are we looking at here?**  
 18 A. We are looking at the proposed zoning alternative 3, Ballard  
 19 Urban Village.  
 20 **Q. All right. And actually, let's --**  
 21 **(Inaudible colloquy)**  
 22 MR. BRICKLIN: Do you have that, Mr. Examiner?  
 23 HEARING EXAMINER: I am. I'm trying to get these into one  
 24 notebook so I don't have to keep doing this every time.  
 25 MR. BRICKLIN: Yeah. Right.

1 A. Yes.  
 2 **Q. And --**  
 3 A. Zoning designations there.  
 4 **Q. Right. And the lowest density -- on the legend, are they --**  
 5 **are those zoning density -- are the zoning classifications**  
 6 **ordered in from less dense to more dense? That is, the**  
 7 **residential small lot is the least dense?**  
 8 A. Yes. Yeah. Yeah.  
 9 **Q. And then low-rise 1 is more dense?**  
 10 A. Yes.  
 11 **Q. Those are low-rise multifamily; is that right?**  
 12 A. Yes. Yeah, yeah, yeah.  
 13 **Q. And low-rise 2 is still low-rise multifamily but a greater**  
 14 **height; is that right? Low-rise 2?**  
 15 A. That's correct, yes.  
 16 **Q. And low-rise 3 is one height yet higher?**  
 17 A. Yeah. Uh-huh. Uh-huh.  
 18 **Q. And mid-rise is higher yet?**  
 19 A. Yes.  
 20 **Q. All right. And does the map under this alternative 3 show**  
 21 **areas where, for instance, there would be -- it looks like**  
 22 **that must be low-rise -- I can't quite make the color out --**  
 23 **2 maybe down there on the south part of the expansion area;**  
 24 **is that right?**  
 25 A. The low-rise 2 is the -- is the dark -- not quite the

1 **Q. (By Mr. Bricklin) So using that just as an example, first**  
 2 **let's make sure everyone understands how these maps work.**  
 3 **Is the existing urban village line shown -- looking at that**  
 4 **legend at the top, is the existing urban village line shown**  
 5 **in a solid black line?**  
 6 A. Yes.  
 7 **Q. And is the proposed expansion shown in a dotted line?**  
 8 A. Yes.  
 9 **Q. I'm just going to wait until you're -- so we're on Exhibit**  
 10 **H -- or page H19.**  
 11 A. Uh-huh.  
 12 **Q. So the black line is the existing urban village line, and**  
 13 **the --**  
 14 MR. BRICKLIN: Good?  
 15 HEARING EXAMINER: I'm with you.  
 16 MR. BRICKLIN: Yep? All right.  
 17 **Q. (By Mr. Bricklin) So the solid line is the existing urban**  
 18 **village line, and the dashed line is the proposed expansion**  
 19 **under this alternative?**  
 20 A. Uh-huh. Right.  
 21 **Q. And so there -- it looks like there's an expansion out there**  
 22 **on the east side of the existing urban village?**  
 23 A. That's correct.  
 24 **Q. Is that what we're seeing? And I notice there are different**  
 25 **colors and hatchings within that expansion area.**

1 darkest red, but, yeah.  
 2 **Q. Yeah.**  
 3 A. So, yeah, on the southeast side of the existing urban  
 4 village boundary.  
 5 **Q. All right.**  
 6 A. Southeast corner there, yeah.  
 7 **Q. All right. And by the way, I see that's hatched, you know,**  
 8 **those diagonal lines?**  
 9 A. Yes.  
 10 **Q. And I see in the legend it means hatched areas have a larger**  
 11 **increase in zoning or a change in zoning type?**  
 12 A. Yes, that's right.  
 13 **Q. All right.**  
 14 A. Yeah.  
 15 **Q. And I see that that part of the expansion area to the east**  
 16 **of it, there's single-family zoning, is that right, the**  
 17 **gray?**  
 18 A. Yeah. Yeah, that's right. It's pretty much -- yeah, and  
 19 then there's some indus- -- industrial -- light industrial  
 20 to the south.  
 21 **Q. All right. And then on the west of that area there's**  
 22 **single-family zoning?**  
 23 A. Yes.  
 24 **Q. And so when you talk about edge effects, are you talking**  
 25 **about the blocks there where under this example there would**

1 **be new low-rise, that is apartments or condos, being built**  
 2 **in what is currently a single-family zone?**  
 3 A. Yeah.  
 4 **Q. And they would be across the street from existing**  
 5 **single-family neighborhoods?**  
 6 A. Yes, that's correct. I think this is a very good example of  
 7 the case for moving the edge farther into the single-family  
 8 areas.  
 9 **Q. All right. And so if you --**  
 10 A. And they have tried to create a kind of a transition there  
 11 outside of the existing urban village by this -- this staged  
 12 level of intensity.  
 13 **Q. So if you're living in a house on -- on the opposite side of**  
 14 **that dashed line, that is, outside the proposed expansion**  
 15 **area, right now you look across the street, and on the other**  
 16 **side of the street there's another single-family home like**  
 17 **the one you live in, but under this proposal, it would**  
 18 **change to an apartment option?**  
 19 A. Yes, correct. Yes.  
 20 **Q. All right. Let's look at H25.**  
 21 A. This is H25?  
 22 **Q. H25.**  
 23 A. Yes. This would be Columbia City Urban Village.  
 24 **Q. Yes. And actually, I'm referring now to the --**  
 25 MR. BRICKLIN: This is rather confusing, Mr. Examiner.

1 A. Uh-huh. Uh-huh.  
 2 **Q. And here again, there is a dashed line on the south -- now**  
 3 **on the southwest side of Columbia City, showing an expansion**  
 4 **of the urban village out to the west; is that right?**  
 5 A. That's correct, yeah.  
 6 **Q. And is the -- and again, there's hatching in most of that**  
 7 **area indicating --**  
 8 A. Dense.  
 9 **Q. -- a larger increase in zone change; is that right?**  
 10 A. Uh-huh. Uh-huh.  
 11 **Q. I can't hear you.**  
 12 A. Yes. I'm sorry. Yeah, I'm sorry. Yeah.  
 13 **Q. All right. Because you have to remember you're making a**  
 14 **record for somebody who might one day type this into words.**  
 15 A. All right.  
 16 **Q. All right? And again this shows the change in zoning to a**  
 17 **low-rise, and I can't tell the shades of color --**  
 18 A. Low-rise 2, low-rise 3 are included there.  
 19 **Q. Right.**  
 20 A. And I think some residential small lot.  
 21 **Q. All right. And again, the new edge effect is going to**  
 22 **impact the people who live in the gray area to the west of**  
 23 **the new line; is that right?**  
 24 A. Most definitely.  
 25 **Q. All right. And there are, what would you say, one, two --**

1 The exhibit numbers and the page numbers are one off from  
 2 each other. So the -- in the EIS, the appendix, page H26 is  
 3 also identified as Exhibit H25.  
 4 HEARING EXAMINER: Yeah.  
 5 MR. BRICKLIN: So we need to be careful whether we're  
 6 referring to page numbers or exhibit numbers in this  
 7 document. Do you see what I mean there? So the number at  
 8 the bottom left corner is H26.  
 9 HEARING EXAMINER: Right.  
 10 MR. BRICKLIN: Up in the top left, the exhibit number is  
 11 H25.  
 12 HEARING EXAMINER: Oh, and that's Exhibit 4, this  
 13 document, right?  
 14 MR. BRICKLIN: Yeah, right.  
 15 HEARING EXAMINER: All right.  
 16 MR. BRICKLIN: Yeah. So we have to be careful which  
 17 reference we're using there.  
 18 HEARING EXAMINER: Okay.  
 19 **Q. (By Mr. Bricklin) So I'm going to -- let's stick with the**  
 20 **numbers at the bottom left.**  
 21 HEARING EXAMINER: Okay.  
 22 **Q. So page H26.**  
 23 A. Yeah.  
 24 **Q. Is the map for the preferred alternative rezoning in**  
 25 **Columbia City Urban Village. You see that?**

1 **eight or ten, twelve different blocks in this area?**  
 2 A. Yeah. And I think that that main arterial there is Martin  
 3 Luther King Way. That's -- that's where the edge currently  
 4 exists. The definable urban form edge is Martin Luther King  
 5 Way, Martin Luther King Jr. Way South.  
 6 **Q. Right.**  
 7 A. And on the west side of that line, which I have traipsed and  
 8 traveled by foot, climbing through dense wooded areas, areas  
 9 with no street infrastructure. I even had trouble mapping  
 10 this because the city's own zoning maps did not give a level  
 11 of detail in this area to essentially draw lines between  
 12 privately-owned parcels, public lands, and street  
 13 right-of-ways. And so -- and it's a very steep, critical  
 14 area -- steep slope, critical area part of the zoning here,  
 15 or designation overlay, I should say.  
 16 **Q. And --**  
 17 A. And then up -- farther up the hill, this is a kind of a  
 18 greenbelt belt. It is not kind of. It is a greenbelt --  
 19 greenbelt zone here, and then -- but there is housing there.  
 20 There's some spotty single-family housing where it levels  
 21 out at the foot of the slope. But beyond that, it turns  
 22 into a greenbelt, and then it -- it is entirely, I think,  
 23 single family.  
 24 **Q. All right. And then let's turn to page H29. And is this**  
 25 **the proposed -- or the preferred alternative for Crown Hill?**

1 A. Uh-huh. Yes, it is.  
 2 **Q. And what part of the city is Crown Hill?**  
 3 A. Crown Hill is considered part of Ballard, but it's North  
 4 Ballard, and it is -- it is directly north of what you --  
 5 what you would consider to be Ballard Center, the Ballard  
 6 Center.  
 7 **Q. All right. And are there proposed under the preferred**  
 8 **alternative expansions of the urban village in the Crown**  
 9 **Hill Urban Village?**  
 10 A. Yes.  
 11 **Q. And again shown by that dotted line?**  
 12 A. Yes.  
 13 **Q. All right. And again, are there new edges created all**  
 14 **around the southeast, south, and the southwest, and in the**  
 15 **full west side of the Crown Hill Urban Village?**  
 16 A. Yes, I would say, extensively.  
 17 **Q. All right. Let's turn to --**  
 18 A. And again, I've -- I've walked these entire areas and  
 19 documented conditions there. In some cases I couldn't get  
 20 through because the street ends and blocks forms that did  
 21 not allow for pass-through, basically, and other forms. But  
 22 predominantly single family surrounding that hard line  
 23 boundary that constitutes Crown Hill.  
 24 **Q. All right. And then let's turn to H54. I think maybe I got**  
 25 **that wrong. Hold on. I'm sorry. H56.**

1 **effects?**  
 2 A. Yes. Yes. And that -- those are areas where topography  
 3 changes, major arterials like MLK, Jecie Boulevard  
 4 [phonetic], and Rainier create a -- basically a devising  
 5 line, and the topography changes, and these boundary  
 6 expansions move those -- those into the single-family areas?  
 7 **Q. And I notice in the -- parts of the expansion areas are in**  
 8 **the darker browns, meaning low-rise; is that right? Down on**  
 9 **the south and the --**  
 10 A. I'm color blind to brown, so let me --  
 11 **Q. Right. Yeah, you referred to it as red earlier.**  
 12 A. And green.  
 13 **Q. And green. All right.**  
 14 A. So let me see -- point -- well, you --  
 15 **Q. Well, the southern most extension is -- I can't -- the**  
 16 **print's too small for my eyes.**  
 17 A. I can't read it either, but I see that little -- the  
 18 little --  
 19 **Q. LR --**  
 20 A. It's -- I think it's -- is it --  
 21 **Q. It's some LR. I can't read the number whether it's a 1 or a**  
 22 **3.**  
 23 A. Well, it's either -- are you referring to the very southern  
 24 portion of the expansion?  
 25 **Q. West of Renton Avenue.**

1 A. Okay. Got it.  
 2 **Q. This is the preferred alternative for Beacon Hill, North**  
 3 **Beacon Hill.**  
 4 A. Yes.  
 5 **Q. Again, dashed line showing proposed expansion area?**  
 6 A. Yes.  
 7 **Q. And again, new edge effects all along that dashed line?**  
 8 A. Yes. Several blocks deep into single-family zones and  
 9 several areas.  
 10 **Q. And then let's go to H59. This is the preferred alternative**  
 11 **for North Rainier Urban Village. Again, dotted line showing**  
 12 **the expansion of the urban area -- of the urban village on**  
 13 **the portions of the east and little -- little pieces on the**  
 14 **south and west side?**  
 15 A. Uh-huh. And north.  
 16 **Q. And north. Right. On the north probably not much of an**  
 17 **edge effect there because it butts up against Interstate 90,**  
 18 **right?**  
 19 A. Well, you can't build houses on Interstate 90.  
 20 **Q. Right. But in terms of the edge effect that we're -- you've**  
 21 **been indicating concern about --**  
 22 A. It's established.  
 23 **Q. Yeah.**  
 24 A. It's already established.  
 25 **Q. Yeah. But the other areas, new areas exposed to edge**

1 A. Yeah. That -- yeah, that would -- I think is RSL,  
 2 residential small lot.  
 3 **Q. No. It says L -- I can read LR something.**  
 4 A. Okay.  
 5 **Q. LR3.**  
 6 A. Oh, LR3. Okay. Well, so that's darker.  
 7 **Q. Yeah. Right here.**  
 8 A. We must be look- -- we're looking at something different.  
 9 Oh, there, that part. Yeah, I didn't see that. Yeah,  
 10 that's right. Yeah.  
 11 **Q. All right.**  
 12 A. That portion, yeah.  
 13 **Q. Okay. West of Renton Avenue?**  
 14 A. Yeah.  
 15 **Q. All right.**  
 16 A. Now I see it.  
 17 **Q. All right. And then --**  
 18 A. That area, by the way, also lacks basic street  
 19 infrastructure. I mean, sidewalks, traffic controls,  
 20 drainage, et cetera.  
 21 **Q. And then turn to page H65, please.**  
 22 A. Okay.  
 23 **Q. And again, same drill. Expansion of the urban village on**  
 24 **the -- primarily on the east and south sides of -- well,**  
 25 **first of all, which one are we looking at here? Othello**

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1 **Urban Village?**  
 2 A. Yes.  
 3 **Q. And, again, to place the examiner, where are we located in**  
 4 **the city here?**  
 5 A. Oh, it's in Southeast Seattle.  
 6 **Q. All right.**  
 7 A. Rainier Valley.  
 8 **Q. All right. And, again, hatch -- new expansion of the urban**  
 9 **village on the -- much of the east side and the south side?**  
 10 A. Yes. It goes several blocks deep into the east side  
 11 single-family areas.  
 12 **Q. And I don't know if you can tell with your color blindness,**  
 13 **but can you see that the -- on the south side there -- it's**  
 14 **a darker hue than on the east side of the expansion area?**  
 15 A. That's right. That would be a low-rise 3, I believe, on the  
 16 south.  
 17 **Q. Right. And, gosh, how many blocks of new edge effect are**  
 18 **created all along there, too?**  
 19 A. Well, there are multiple blocks. It looks to me like maybe  
 20 10, 12 blocks or more, yeah.  
 21 **Q. Yeah, right. All right. And then finally, if you'd turn to**  
 22 **H83.**  
 23 A. Okay.  
 24 **Q. And here we are in West Seattle, West Seattle Junction?**  
 25 A. Uh-huh.

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1 **Q. Again, expansion of the urban village.**  
 2 A. That's right. And it's a very hilly terrain in that area,  
 3 by the way.  
 4 **Q. All right. And again, some of the urban village expansion**  
 5 **areas showing the hatching, meaning a larger increase in**  
 6 **zoning; do you see that?**  
 7 A. Yes.  
 8 **Q. And --**  
 9 A. Both inside and outside and outside the urban village --  
 10 **Q. Right.**  
 11 A. -- are in the boundary expansion areas.  
 12 **Q. Right. So does the EIS discuss in any detail the effects of**  
 13 **creating these new edges all around these urban village**  
 14 **expansions around the city?**  
 15 A. No.  
 16 **Q. All right. Are those edge effects different block-to-block**  
 17 **and village-to-village?**  
 18 A. Absolutely. And they're different for a number of reasons  
 19 in terms of character-defining elements.  
 20 **Q. Explain to the examiner why.**  
 21 A. Both urban form and natural conditions and land use. And  
 22 age, history, all kinds of things --  
 23 **Q. Well --**  
 24 A. -- define those differences.  
 25 **Q. -- flesh that out, because that's an important point here.**

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1 **So tell the examiner why -- what those edge effects are.**  
 2 **You know, how those vary from --**  
 3 A. Well, let me say that --  
 4 **Q. -- location to location.**  
 5 A. Yeah. The original boundaries were adopted through the most  
 6 extensive community process that the city has undertaken in  
 7 planning in this city in the -- in the '90s. And I was on  
 8 the City Council when we went through the docket of  
 9 neighborhood plan adoption and the urban village boundaries.  
 10 So just there's -- I don't want to go into the history  
 11 there, but they -- there was some basis for establishing  
 12 those boundaries then. There's a new basis now. It's  
 13 entirely different, and an entirely different process, or  
 14 lack of process, I should say, that has resulted in these  
 15 new boundaries that don't reflect community values,  
 16 neighborhood plans, topographic conditions, built  
 17 conditions, historic resources conditions, natural  
 18 environmental conditions.  
 19 **Q. But for where --**  
 20 A. Yeah.  
 21 **Q. And thank you for that.**  
 22 A. Yeah.  
 23 **Q. But I want -- you were saying a moment ago that the edge**  
 24 **effects vary from block-to-block and village-to-village, and**  
 25 **you said in a variety of different ways.**

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1 A. Yeah, and I'm -- I'm -- I'm giving examples of the ways that  
 2 they vary.  
 3 **Q. Okay.**  
 4 A. Block-to-block, neighborhood-by-neighborhood, throughout the  
 5 entire city. We -- the city was not developed as a single  
 6 track development at a certain time in history. Thank  
 7 goodness for that.  
 8 **Q. All right. And can you give an example of how an edge**  
 9 **effect might play out differently in one location versus**  
 10 **another, depending on where in the city it occurred?**  
 11 A. You're really pressing me now.  
 12 **Q. Yeah, right, I know.**  
 13 A. Well, you know, it -- how it might be different?  
 14 **Q. Yeah.**  
 15 A. Well, I've given some examples there. I've given the  
 16 example of North Rainier where you have a historic landscape  
 17 that is part of the Olmsted legacy that adjoins the urban --  
 18 the hub urban center there. And you have a set of -- of --  
 19 of housing that is of historic character and quality, single  
 20 family. And you have institutional use there with Franklin  
 21 High/Franklin Field. And these things play no part in the  
 22 determination of the boundary move -- the edge -- moving the  
 23 edge.  
 24 **Q. And do they get -- do they get discussed in the EIS in terms**  
 25 **of it?**

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1 A. No, they do not. If we had more time I could go village by  
 2 village and give you more detailed descriptions of those  
 3 specific characteristics that differ and vary in all of  
 4 those aspects.  
 5 **Q. All right. So let's talk about how the proposal would**  
 6 **affect neighborhood architectural character and aesthetics.**  
 7 A. Okay.  
 8 **Q. As an architect and long-term (inaudible) professional, I'm**  
 9 **sure you're well-steeped in that.**  
 10 A. I am.  
 11 **Q. So first of all -- and I guess you've already -- you've**  
 12 **already addressed that the different parts of the city have**  
 13 **different histories and neighborhood character and such.**  
 14 **Does the EIS address those differences in any meaningful**  
 15 **way?**  
 16 A. No. It falls short of identifying the range of historic and  
 17 cultural resources in the city, much of which has been  
 18 inventoried, but not all. Maybe half of our city or less,  
 19 through specific context reports and inventories. The  
 20 presence of the historic districts is widely known, but  
 21 beyond the historic district, I want -- I would take you  
 22 beyond the designated landmarks and historic districts  
 23 whereby our city embodies an extraordinary collection of  
 24 historic resources that have no protections under the  
 25 current land use code. Or little protection I -- little or

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1 no protection, because there is a SEPA threshold there that  
 2 kicks in at some point.  
 3 **Q. So before we talk about the actual historic ones, I'm**  
 4 **talking here more about the architectural character and**  
 5 **urban form. So let's turn -- let's do it this way; let's**  
 6 **turn to the EIS.**  
 7 A. Okay.  
 8 **Q. Page 3.**  
 9 A. EIS, page 3.  
 10 **Q. 3.16 -- 3.162.**  
 11 A. Okay.  
 12 MS. BENDICH: This is the EIS.  
 13 A. Yeah, this is my -- oh, EIS you said.  
 14 **Q. Yes.**  
 15 A. Oh, okay. I'm sorry. EIS page -- let's switch these here,  
 16 over here. If you can take that, Judy, thanks. Page what?  
 17 **Q. 3.162.**  
 18 A. 3.16 -- okay. 162. 3, section 3 -- see, the page numbers  
 19 differ from the --  
 20 **Q. It should be in the bottom left. The bottom right.**  
 21 A. Here? This footnote?  
 22 **Q. No. The page numbers are in the bottom of the -- bottom of**  
 23 **the --**  
 24 A. Yeah, the bottom left and right, but it goes from -- this  
 25 goes from the title page, which is page 3.4.

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1 **Q. And then 5 and 6.**  
 2 A. And then 5, 6.  
 3 **Q. You need to go 160 pages in.**  
 4 A. Oh, I'm sorry.  
 5 **Q. 3.162.**  
 6 A. See, I haven't caught on to the -- the numbering system in  
 7 this. 162. Here we go. Okay. Okay. Here we go. I got  
 8 it.  
 9 **Q. All right. Is this section of the EIS that deals with the**  
 10 **urban form?**  
 11 A. Yes.  
 12 **Q. All right. And you reviewed this section?**  
 13 A. Yes, I have.  
 14 **Q. All right. And does this section of the EIS address the**  
 15 **different urban forms and the different neighborhoods of the**  
 16 **city?**  
 17 A. No.  
 18 **Q. Does it --**  
 19 A. It's generalized.  
 20 **Q. Does it address how expanding the urban village will impact**  
 21 **urban form issues in West Seattle versus Columbia City,**  
 22 **versus Ravenna --**  
 23 A. Only as it relates to the prescriptive underlying zoning  
 24 that exists in those areas that would be upzoned.  
 25 **Q. And what do you mean by that?**

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1 A. In other words, they group -- bunch -- they bunch the  
 2 various neighborhoods in a kind of classification approach.  
 3 In the -- maybe I'm referring to another document.  
 4 **Q. No. I think -- turn to --**  
 5 A. It's an urban form document.  
 6 **Q. So turn to page 3.170.**  
 7 A. Okay.  
 8 **Q. So a few further pages in.**  
 9 A. 1.7 -- 1.7, you said?  
 10 **Q. 170. 170.**  
 11 A. 3.170. Okay. Yes.  
 12 **Q. So are you on the page that says, "Impacts common to all**  
 13 **alternatives"?**  
 14 A. Yes.  
 15 **Q. Okay. And is this what you were referring to where they**  
 16 **characterize impacts by how great the zoning increase will**  
 17 **be? M, M1 or M2 zoning increases?**  
 18 A. Yeah. That's what's reflected here.  
 19 **Q. Yeah. So explain to the examiner what the -- what those**  
 20 **different suffixes refer to.**  
 21 A. Well --  
 22 **Q. And actually, it says right there, doesn't it?**  
 23 A. Yeah, it does. M, M1 and M2 suffix zoning changes, whereby  
 24 M would -- applies when a zone change to the zone in the  
 25 same category. M applies to a zone -- to zone changes to a

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1 zone in the same category. M1 applies when a zone changes  
 2 to a zone in the next highest category. And M2, a zoning  
 3 change to a zone to two or more categories higher. So those  
 4 are increments of -- of intensity of upzoning.

5 **Q. Okay.**  
 6 A. Basically.

7 **Q. And is it fair -- and does EIS conclude that impacts will be**  
 8 **minor if the change is in the M category, moderate in the**  
 9 **M1, and more significant if it's an M2?**

10 A. I -- I would -- I recall that it -- there would be -- it  
 11 stated there would be no significant adverse impacts,  
 12 regardless of classification.

13 **Q. Okay. So the -- and so just so the examiner understands how**  
 14 **these are analyzed in the EIS, starting on page 170 -- I'm**  
 15 **just going to refer to the 170 --**

16 A. 3.17 --

17 **Q. 3.**  
 18 A. 3. Okay.

19 **Q. These are all in chapter 3, so I'm just going to refer to**  
 20 **the last three --**

21 A. Okay. Fine.

22 **Q. So page 173 talks about the impacts if there's an M level**  
 23 **zoning change; is that right? Do you see that?**

24 A. Let me make sure we're on the same page.

25 **Q. Yeah. Bottom of page 173, M --**

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1 A. Okay, yeah.

2 **Q. Tier zoning changes, right?**

3 A. Tier zoning changes.

4 **Q. And then on page 175 it talks about impacts from M1 --**  
 5 A. Yes.

6 **Q. -- zoning changes. And on page 177, the impacts from M2**  
 7 **zoning changes?**

8 A. Yeah.

9 **Q. Is that right?**

10 A. So they cover, in a generalized way.

11 **Q. Right. In those discussions of the impacts from these**  
 12 **different intensities of changes, increment of changes, do**  
 13 **they analyze it neighborhood by neighborhood?**

14 A. No, they do not.

15 **Q. Let's pick the one out in the middle. Does an M1 zoning**  
 16 **change, you know, going up one level in the zoning code, are**  
 17 **the impacts of that the same in every neighborhood around**  
 18 **the city, regardless of where they occur?**

19 A. No, they're not. And they're not because one story in one  
 20 neighborhood may be a very significant change, or a  
 21 reduction in setbacks from 20 feet to 0 lot line would be  
 22 very significant in one neighborhood or one zone than it  
 23 might be in another. Just as Downtown, you know, 10 stories  
 24 is not seen as an enormous change, 5 to 10 stories in  
 25 heighth.

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1 Heighth -- so heighth, (inaudible) density, development  
 2 standards, all of those, we have an existing built out --  
 3 built form in this city, an urban form that expresses the  
 4 diverse character and uniqueness of every neighborhood. And  
 5 some of these things are consistent, such as front yard  
 6 setbacks in single-family neighborhoods. And some things  
 7 vary depending on the age, the pre-existing zoning or no  
 8 zoning when it was built.

9 **Q. And so in these pages of the EIS that are discussing the**  
 10 **impact on urban form, do they -- when they talk about the**  
 11 **impact of an M1 level zoning change, do they analyze it, you**  
 12 **know, in terms of how that plays out on individual blocks or**  
 13 **individual groups, numbers of blocks, or they just do it --**  
 14 **try to do it citywide?**

15 A. Well, there's some citywide, and it's very conceptual with  
 16 the visualization tools --

17 **Q. All right. So let's look at --**  
 18 A. -- to illustrate.

19 **Q. So let's look at those. Turn to page 178 and 179.**  
 20 A. Yeah.

21 **Q. Are those -- those have pictures on them?**

22 A. Yes. They -- well, and I -- they're --

23 **Q. They're not pictures.**

24 A. They're illustrations. They're not photographs.

25 **Q. Right. Right. And what do you understand what they're**

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1 **trying to illustrate?**

2 A. Well, on page 3178 is an image of a in-fill development in a  
 3 single-family zone under existing regulations, no action.  
 4 And then on page 179, in-fill development of residential  
 5 small lot housing in single-family context with an M zoning  
 6 change. And then there's a third one with an M -- also  
 7 in-fill -- residential small lot M zoning change,  
 8 concentrated development pattern it's described as. No  
 9 reference to any neighborhood anywhere in the city here.

10 **Q. And do you think these illustrations capture the significant**  
 11 **differences between the neighborhoods and how this kind of a**  
 12 **change in zoning would impact different neighborhoods**  
 13 **differently?**

14 A. They're very abstract, so no.

15 **Q. And -- all right.**

16 A. I should also point out, the perspectives are used in a way  
 17 that can convey different things.

18 **Q. Right. I was just about to ask you that. Even if you deal**  
 19 **with these at an abstract level, viewing this as an architect**  
 20 **who's looked at, I presume, countless illustrations --**  
 21 A. And done many myself.

22 **Q. -- and done many yourself, how accurately do you think or**  
 23 **completely do you think these illustrate the impacts of**  
 24 **these new developments on these illustrative blocks?**

25 A. Well, they're insufficient to I think inform the general,

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

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

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

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

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

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

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

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

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

3 A. Yeah. Sure.

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

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

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

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

5 A. No.

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

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

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

20 A. No.

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

22 A. Well, no.

23 **Q. And why not?**

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

1 that different -- different.

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

5 A. Not at all. Not at all.

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

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

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

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

12 **Q. Please.**

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

25 And when you encourage growth outside of those

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

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

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

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

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

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

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

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

24 A. That's a -- 3.

25 **Q. Appendix A.**

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

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

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

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

18 A. Sure.

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

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

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

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

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

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

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

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

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

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

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

1 **Q. And physical.**

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

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

17 A. No, it does not. No.

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

22 A. Yes, it does, extensively.

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

24 A. Appendix A, page 15?

25 **Q. Yes.**

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1 A. Okay. Let's see here. Page 15. Okay. Yes, I've got  
 2 Appendix A here.  
 3 **Q. Okay. Is that the page with the limitations?**  
 4 A. Yes, it is.  
 5 **Q. All right. And I'd like you to look at the first limitation**  
 6 **where it says, "All data sources have limitations."**  
 7 A. Uh-huh.  
 8 **Q. Do you see that?**  
 9 A. Yeah.  
 10 **Q. Could you read the first two sentences of that limitation?**  
 11 A. I can, and I will -- and in advance of that, I will just say  
 12 that the -- the first sentence says that, "This growth and  
 13 equity analysis should be used with caution."  
 14 **Q. Oh, at the top of the page. Right.**  
 15 A. Yeah. "It's a first attempt to understand equity effects of  
 16 broad city policies. And results of the analysis depend on  
 17 the selection and weight of the indicators." So that's a  
 18 judgment call, and it's temporal.  
 19 **Q. All right.**  
 20 A. And then it lists about five or six other key limitations of  
 21 this re- -- this report.  
 22 **Q. All right.**  
 23 A. I can go through them briefly if you'd like.  
 24 **Q. Well, I guess I'm just -- I'm going to ask you to highlight**  
 25 **one.**

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1 A. Okay.  
 2 **Q. In that all data sources have limitations, we'll let -- if**  
 3 **you read the first two sentences there.**  
 4 A. "These indices are high-level assessments that can inform,  
 5 but should not predetermine decisions about growth,  
 6 investment, and policy."  
 7 **Q. And then the next sentence?**  
 8 A. "Greater historical and qualitative context is needed to  
 9 avoid simplistic conclusions."  
 10 **Q. All right. And --**  
 11 HEARING EXAMINER: I'll stop you there. We're at noon.  
 12 Where are we with the witness?  
 13 MR. BRICKLIN: Very close to the end of my questions.  
 14 MS. BENDICH: There's a whole section on the 10-minute  
 15 walkshed that Mr. Steinbrueck knows a lot about. I don't --  
 16 MR. BRICKLIN: He just wants to know how much time you  
 17 need.  
 18 HEARING EXAMINER: I just need --  
 19 MS. BENDICH: I know, but I was going to make a  
 20 suggestion. On Tuesday -- I mean Thursday -- and I don't  
 21 know what your schedule is, Mr. Steinbrueck -- I have a  
 22 witness who's going to talk about that. But the background  
 23 that Mr. Steinbrueck would provide would really be helpful  
 24 before he talked, my witness.  
 25 HEARING EXAMINER: What are you asking and suggesting?

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1 MS. BENDICH: I'm suggesting that my -- if Mr. Steinbrueck  
 2 can come back on Thursday at 10 o'clock when (check)  
 3 Mr. McConachie is scheduled, we could cut my witness'  
 4 testimony in half. So I don't know what your schedule --  
 5 MR. BRICKLIN: So I think where we are is  
 6 Mr. Steinbrueck's going to have to return. I think we have  
 7 to turn to Mr. Steinbrueck. What's your availability?  
 8 Because I know you're not available this afternoon. After  
 9 that, what's your availability?  
 10 THE WITNESS: I'm not available tomorrow. I have  
 11 potential availability on Wednesday and Thursday.  
 12 HEARING EXAMINER: What's the estimated time from  
 13 appellants for this witness?  
 14 MR. BRICKLIN: I have only a few more -- I have five  
 15 minutes maybe, but I'm not sure -- it sounds like -- how  
 16 much are you going to have?  
 17 MS. BENDICH: I'm going to have -- and I thought you were  
 18 going to cover it, but I'm going to have about 20 minutes to  
 19 half an hour.  
 20 HEARING EXAMINER: Others?  
 21 MR. ABOLINS: Fifteen to twenty.  
 22 MR. THALER: I do not have time with him, but I would  
 23 suggest that with the problem of the video issue Wednesday  
 24 morning is a good time.  
 25 HEARING EXAMINER: That might be an opportunity. So we

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1 have a little over an hour on direct still. He's been on  
 2 for three hours. I imagine the City's going to need a  
 3 couple hours at least for cross.  
 4 MR. JOHNSON: I agree.  
 5 MS. BENDICH: So can you do it Wednesday morning?  
 6 HEARING EXAMINER: So we're looking for approximately a  
 7 little over three hours.  
 8 THE WITNESS: On Thursday or Wednesday?  
 9 MR. BRICKLIN: Wednesday morning.  
 10 HEARING EXAMINER: I'm not sure of the time yet, but I --  
 11 MR. BRICKLIN: Or possibly Wednesday morning.  
 12 THE WITNESS: Yes, I could be available Wednesday morning.  
 13 MS. BENDICH: Okay. That would be helpful.  
 14 HEARING EXAMINER: Is that matching the amount of time we  
 15 were looking for for the --  
 16 MR. BRICKLIN: Yeah. And we can move other people out of  
 17 the way if necessary.  
 18 HEARING EXAMINER: Okay.  
 19 MR. BRICKLIN: I think, right, on Wednesday? We have good  
 20 flex- -- yeah, we have flexibility on Wednesday.  
 21 HEARING EXAMINER: Okay. Do we want to tell  
 22 Mr. Steinbrueck what time he's coming back at this time?  
 23 MR. BRICKLIN: Do you want to say 9:00 a.m.?  
 24 THE WITNESS: 9:00 a.m. is fine.  
 25 MS. BENDICH: 9:00 a.m. on Wednesday, great.

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1 HEARING EXAMINER: 9:00 a.m.? Okay.  
 2 THE WITNESS: 9:00 a.m. is fine.  
 3 MS. BENDICH: Thank you.  
 4 HEARING EXAMINER: Okay. We will break for an hour.  
 5 We'll come back at 1 o'clock with the appellants' witness.  
 6 MS. BENDICH: Thank you.  
 7 THE WITNESS: Thank you.  
 8 (Recess)  
 9 HEARING EXAMINER: Before we go to the next witness, I  
 10 just want to check in with the parties on how we're  
 11 proceeding with scheduling for witnesses. I'm noting that  
 12 the last witness was on our schedule from 9:00 to 1:00. It  
 13 looks like we missed including lunch in that, and maybe some  
 14 other days. So that's going to be a problem. But we also  
 15 are anticipating another two hours from what the witness was  
 16 scheduled to do. So that's our first witness.  
 17 Recognizing that it's going to take longer, we can't  
 18 simply keep adding time onto the hearing. So we are going  
 19 to have to look for efficiencies. I am doing that for my  
 20 part. We've already cut the breaks from their normal 15  
 21 minutes down to 10, lunch down to an hour from an hour and  
 22 fifteen. And so I can only ask for -- generally just more  
 23 efficiency right now.  
 24 I will ask if we have -- I understand the City has been  
 25 circulating a chart of the witnesses, and I'm wondering

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1 where we are with finalizing that, to the degree we can at  
 2 this stage.  
 3 MR. JOHNSON: Again, we received a response this morning  
 4 that I think really only accounted for the first week.  
 5 HEARING EXAMINER: Uh-huh.  
 6 MR. JOHNSON: But now we are obviously not where we  
 7 thought we would be. So, and there was also an issue with  
 8 one of the witnesses who had previously been on --  
 9 designated to testify this week who was moved to another  
 10 week. So --  
 11 HEARING EXAMINER: And we don't know where that is going  
 12 to be. Right.  
 13 MR. JOHNSON: No. And frankly, we're kind of waiting  
 14 until the end of the day to see where we were.  
 15 HEARING EXAMINER: Right.  
 16 MR. JOHNSON: We're certainly available to sit down, have  
 17 a talk with the appellants to see where we go with it or --  
 18 HEARING EXAMINER: And has the City distributed that to  
 19 the appellants?  
 20 MS. BENDICH: I don't have it yet. I don't have a smart  
 21 phone. I don't have something to look at.  
 22 MR. JOHNSON: Well, I did send it electronically to  
 23 everyone on Friday at --  
 24 MR. ABOLINS: We requested it.  
 25 MR. JOHNSON: -- at your request. You know, a copy that

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1 they can manipulate and work.  
 2 HEARING EXAMINER: Great. I appreciate that.  
 3 MR. ABOLINS: Trying to coordinate on that and provide  
 4 it -- actually, move -- trying to move several of our  
 5 witnesses forward to open up more time hopefully in that  
 6 third week for you. And then the main change was to that  
 7 Wednesday morning, in fact, which is sort of somewhat  
 8 resolved because Peter Steinbrueck comes back in that slot.  
 9 HEARING EXAMINER: Uh-huh.  
 10 MR. ABOLINS: I think we've got a good working process if  
 11 we can kind of keep updating this and trying to preserve it  
 12 as much as possible as we go forward.  
 13 HEARING EXAMINER: When can I expect to get a copy of it?  
 14 MR. ABOLINS: We could send a current edition immediately.  
 15 HEARING EXAMINER: I don't want the immediate ones since  
 16 there's changes, and wanting to have a little more dust  
 17 settle, as it were, over it. It sounds like the parties  
 18 will have some more discussion to do. So, all right, I know  
 19 we're in hearing all day each day. If we looked at that, if  
 20 we just continued doing the best we could through maybe end  
 21 of day Wednesday, do you think we could solidify the  
 22 schedule? Is that too much time? Are we ready for --  
 23 MR. BRICKLIN: Well, I just think it's always going to be  
 24 subject to change. I mean, the likelihood that any witness  
 25 goes precisely to length, so -- I mean, I don't think you're

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1 ever going to (inaudible) it's etched in stone.  
 2 HEARING EXAMINER: Recognizing that, though, I don't even  
 3 have it. So since there's going to be some changes, let's  
 4 at least get the most immediate ones on there. I don't know  
 5 how long that conversation --  
 6 MR. ABOLINS: Well, we can get you that by the end of the  
 7 day today.  
 8 HEARING EXAMINER: All right. Well, I'll take it at the  
 9 end of the day. And then I have to, based on that,  
 10 estimate -- we've added three days for the City. I will be  
 11 using that as some measure as to what party -- each party  
 12 has allocated for their time. And so I'll have to start  
 13 watching that as to how we're doing. Obviously we've got  
 14 lots of time left, but if we continue with almost doubling  
 15 the estimated time for witnesses, a party will not have time  
 16 to put their case on, and that's ultimately what we'll wind  
 17 up. And I've tried to avoid that, but with the amount of  
 18 time we have allocated now of three and a half weeks, I  
 19 think that's ample for us to address the case.  
 20 MS. BENDICH: I'd just like to point out that I can -- in  
 21 that one-hour time slot that I have for one of my witnesses,  
 22 I can allocate half an hour of that to Mr. Steinbrueck.  
 23 HEARING EXAMINER: Yeah. And I'm going to allow the  
 24 parties to do the final details on that schedule before you  
 25 hand it in to me at the end of the day.

1 MS. BENDICH: Okay.  
 2 MR. BRICKLIN: And in terms of just Mr. Steinbrueck  
 3 running longer, I mean, we didn't -- he actually didn't  
 4 start at 9:00. We didn't get going until approximately  
 5 9:30. So, I mean, he still ran long, but it wasn't -- I  
 6 mean, we're not as long.  
 7 HEARING EXAMINER: Right. Yeah. Just an hour and a half  
 8 or so.  
 9 MR. BRICKLIN: Or two. Right.  
 10 HEARING EXAMINER: That's a lot. So just a cautionary  
 11 note. You know, there's no hard and fast rule here, but we  
 12 do need to stay on time. And it's the beginning, so I want  
 13 to make sure that everyone's aware that that's how I'll be  
 14 approaching it.  
 15 MR. WEBER: So Talis -- Talis, if I could just add, I  
 16 mean, we'd like to talk to you before you submit it to the  
 17 examiner, because there are probably some things we can  
 18 easily resolve, which will make what you give him more final  
 19 than otherwise, so --  
 20 MR. ABOLINS: I think that's the plan that after today we  
 21 can powwow, and then we can move forward.  
 22 HEARING EXAMINER: Great. Tomorrow morning is fine. Just  
 23 give yourself time to do it. There's not a rush. We want  
 24 to do a good-faith job of trying to nail something that's a  
 25 constantly-moving target.

1 A. Historic Seattle, we're kind of a hybrid organization. We  
 2 were -- we are a preservation development authority, a PDA,  
 3 founded in 1974, established by a city charter. And we are  
 4 also a 501(c)(3), a nonprofit, Historic Seattle Preservation  
 5 Foundation, which was founded and established in 1996. So  
 6 we just operate under Historic Seattle.  
 7 **Q. And you briefly said it there, but could you expand a little**  
 8 **bit more on what the organization's goals and methods of**  
 9 **operation are?**  
 10 A. Sure. So essentially we -- we've been saving historic  
 11 places that matter since 1974, over 45 places. And we have  
 12 sort of a three-prong approach of education where we have --  
 13 do lectures and tours and events to -- so that people --  
 14 public events so that people can learn about the value and  
 15 history, significance of -- of our city, and sometimes in  
 16 King County. And we have a whole year-long program.  
 17 We also do advocacy, which is what I focus on,  
 18 preservation advocacy. We do a lot of technical assistance,  
 19 work with property owners and individuals and policy makers  
 20 and city leaders on sort of ways that we can achieve sort of  
 21 preserving sort of places that we think are, you know,  
 22 significant to the city. And also do a lot of advocacy  
 23 strategy working with neighborhood groups, advocacy groups.  
 24 We also are a real estate developer. We own --  
 25 currently own eight historic properties in Seattle, and we

1 MR. ABOLINS: Will do.  
 2 HEARING EXAMINER: Continuing with the appellants and  
 3 their witnesses.  
 4 MR. BRICKLIN: Yes. We call Eugenia Woo.  
 5 HEARING EXAMINER: Please state your name and spell it for  
 6 the record.  
 7 THE WITNESS: Sure. Eugenia Woo. E-U-G-E-N-I-A, W-O-O.  
 8 HEARING EXAMINER: And do you swear or affirm the  
 9 testimony you will provide in today's hearing will be the  
 10 truth?  
 11 THE WITNESS: I do.  
 12 HEARING EXAMINER: Thank you.  
 13 EUGENIA WOO: Witness herein, having first been  
 14 duly sworn on oath, was examined  
 15 and testified as follows:  
 16  
 17 DIRECT EXAMINATION  
 18 BY MR. BRICKLIN:  
 19 **Q. Good afternoon, Ms. Woo. Would you please state your -- or**  
 20 **what's your business and occupation?**  
 21 A. I am the director of preservation services at Historic  
 22 Seattle.  
 23 **Q. How long have you been there?**  
 24 A. Since 2009.  
 25 **Q. All right. What's Historic Seattle?**

1 manage and operate them. And some of them we operate as  
 2 low-income housing. Others for commercial uses. Others are  
 3 for community uses. The Good Shepherd Center in  
 4 Wallingford, and Cadillac Hotel in Pioneer Square, and the  
 5 Washington Hall in the Central Area are some of our more  
 6 well-known projects. So together we kind of operate as  
 7 Historic Seattle, and we're -- so that's essentially what we  
 8 do.  
 9 **Q. And I'm sorry, you said how long have you been there?**  
 10 A. Since 2009.  
 11 **Q. All right. And what's your specific role been in those**  
 12 **years?**  
 13 A. So as I mentioned earlier, it's been advocacy. And so  
 14 everything from, like I said, technical assistance, to I do  
 15 things like review environmental impact statements, sort of  
 16 one of the more wonky aspects of my job. I follow city and  
 17 county and state policies on historic -- that impact  
 18 historic preservation and work -- we prepare Historic  
 19 Seattle landmark nominations and also National Register of  
 20 Historic Places nominations. We do public events that sort  
 21 of connect people and places together who care about  
 22 historic preservation.  
 23 **Q. You review individual project applications insofar as they**  
 24 **impact historic resources?**  
 25 A. I'm sorry. Say that again.

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1 **Q. And do you review individual project applications insofar as**  
 2 **they may impact historic resources?**  
 3 A. Related to environmental review or --  
 4 **Q. Yes, or otherwise.**  
 5 A. Otherwise. Yes, we do. Anywhere from actual -- we review  
 6 draft landmark nominations and support nomination and  
 7 designation if we believe they rise to that occasion. We  
 8 review some of the EIS's, like, for the Alaskan Way Viaduct  
 9 project or 520 bridge. Sometimes we're a Section 106  
 10 consulting party. And Section 106 is part of the National  
 11 Historic Preservation Act. And essentially when there's a  
 12 federal undertaking, whether by a federal government or if  
 13 there's a federal license required, or there's federal  
 14 funding involved in a project, then there's a review process  
 15 for that that the Department of Archeology and Historic  
 16 Preservation engages in. And as a consulting party,  
 17 sometimes we're invited to participate in the review of the  
 18 project's potential impact to historic resources.  
 19 **Q. And what did you do before you came to work for Historic**  
 20 **Seattle?**  
 21 A. I worked at -- I was a historic preservation consultant at  
 22 Artifacts Consulting in Tacoma. I was there for five years.  
 23 And --  
 24 **Q. What kind of work did you do there?**  
 25 A. Through that project -- we worked statewide, and we prepared

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1 a lot of landmark nominations, National Register  
 2 nominations, district and individual survey and inventory,  
 3 and also advising local jurisdictions on helping them  
 4 establish their historic preservation commission and  
 5 technical assistance and working with developers, private  
 6 developers who are -- want to rehab their properties and  
 7 obtain federal historic tax credits, which is an incentive  
 8 important to historic buildings. So it's a pretty -- pretty  
 9 wide range of things. Working on preservation plans.  
 10 **Q. Okay. And before working at Artifacts?**  
 11 A. I actually worked for the City of Seattle, and I -- in the  
 12 Department of Neighborhoods in the Historic Preservation  
 13 Program where I staffed two historic districts; the  
 14 International Special Review District and the Columbia City  
 15 Landmark District. So I worked closely with the  
 16 International Special Review District Board. I was a staff  
 17 for that. I worked a lot with property owners, business  
 18 owners, community folks, architects, engineers, contractors,  
 19 you name it. Pretty much anyone who kind of needed help  
 20 navigating the system of basically design review in the  
 21 historic district.  
 22 There's something called a certificate of approval  
 23 that's required for landmarks and buildings within the  
 24 historic districts. It's approval from the board which is  
 25 needed before usually other city permits are issued. So

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1 it's a lot of technical assistance and reviewing --  
 2 reviewing applications for compliance with design guidelines  
 3 and such.  
 4 **Q. And looking at your resumé, I gather even before you went to**  
 5 **work for the City for a number of years, you worked on a**  
 6 **variety of different historic preservation situations. And**  
 7 **let me hand you a copy of your resumé.**  
 8 HEARING EXAMINER: Marked as Exhibit 9.  
 9 (Exhibit No. 9 marked for identification.)  
 10 **Q. (By Mr. Bricklin) And is that a accurate --**  
 11 A. Yes, it is.  
 12 **Q. -- (inaudible) if not complete of your professional**  
 13 **background and education? Background and education?**  
 14 A. It's accurate. It's not a -- it's not a CV.  
 15 **Q. Right.**  
 16 MR. BRICKLIN: Move the admission of Exhibit 9.  
 17 MR. JOHNSON: No objection.  
 18 HEARING EXAMINER: Exhibit 9 is admitted.  
 19 (Exhibit No. 9 admitted into evidence.)  
 20 **Q. (By Mr. Bricklin) So before we dive into the details of the**  
 21 **EIS, I wanted to spend a few minutes having you explain a**  
 22 **little bit the context of this. And starting first with why**  
 23 **historic preservation matters. Why is there even a section**  
 24 **in the EIS dealing with historic preservation?**  
 25 A. So the historic and cultural resources section of an EIS is

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1 one of the important elements. It's important because it's  
 2 part of the environment. It's the built environment. And  
 3 it's everywhere, and it's not an outlier of what's important  
 4 to a city. It's part of the urban fabric and is considered  
 5 along with transportation and open space and all the  
 6 other -- and housing and all the other aspects.  
 7 And so -- and so what happens to this part of the  
 8 environment in historic and cultural resources is important.  
 9 And so that's why in that context historic preservation  
 10 matters. In general, it matters to sort of our greater  
 11 society because it's -- it's -- it's -- it's not only a link  
 12 to our her- -- our heritage and history and cultural  
 13 history, but it's also -- it's -- it's part of the current  
 14 urban fabric. So, and it's a mix -- historic preservation  
 15 is not about -- you hear about, oh, you want to preserve  
 16 things in Amber. That's not true. It doesn't mean things  
 17 don't change. It's how do you manage change and a balance  
 18 with historic preservation and other important goals in  
 19 the -- in the city, in a community.  
 20 And so it's part of live- -- it's about livability. I  
 21 know sometimes that's an overused term, but that was  
 22 actually in our earlier mission statement from 1974. So --  
 23 and so that historic preservation in general brings --  
 24 brings values. It's beyond -- it's not just things that  
 25 are -- some people think are beautiful. This could be more

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1 vernacular, more common resources, things that give a  
 2 neighborhood character or streetscape, things like that.  
 3 **Q. So were you here for Mr. Steinbrueck's testimony this**  
 4 **morning?**  
 5 A. For part of it, yes.  
 6 **Q. And did you hear him testify about how different**  
 7 **neighborhoods in the city have different characteristics and**  
 8 **different histories and so forth?**  
 9 A. Yes.  
 10 **Q. Do you agree with that part of his testimony regarding the**  
 11 **different neighborhoods of the city and the way in which**  
 12 **they are -- the historic character in those neighborhoods?**  
 13 A. I do. Can I go back and finish why historic preservation  
 14 matters?  
 15 **Q. Yes.**  
 16 A. There's just a little more --  
 17 **Q. Yeah. Sure. I'm sorry. I was hoping you might tie this**  
 18 **into that as well, but that's fine.**  
 19 A. So preservation also has an important sustainability goal.  
 20 Again, sort of the greenest building is the one that's  
 21 already built. Demolishing buildings just for the sake of  
 22 demolishing them or scraping a site just to build something  
 23 higher or newer, all that has to go somewhere. It goes into  
 24 the landfill. So from an environmental standpoint, that's  
 25 not really green. For a city that's supposed to be green,

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1 that's not very green. So sustainability is important.  
 2 Buildings don't just exist. They -- they obviously  
 3 house people and activities and businesses and -- and  
 4 oftentimes older buildings provide affordability housing and  
 5 what's called naturally-occurring affordable housing. The  
 6 rents are generally lower. And the same thing with  
 7 businesses. They -- smaller independent businesses  
 8 generally tend to go into older historic buildings. Again,  
 9 the rents are generally less.  
 10 And so you have that sort of connection with the old  
 11 and with the new, and so that kind of makes up a  
 12 neighborhood. So -- and so it's sort of this part of what  
 13 makes a place tick.  
 14 **Q. Okay. Let me hand you --**  
 15 MR. BRICKLIN: That was our 91.  
 16 HEARING EXAMINER: Excuse me?  
 17 MR. BRICKLIN: 91.  
 18 HEARING EXAMINER: Marked as 10.  
 19 (Exhibit No. 10 marked for identification.)  
 20 **Q. (By Mr. Bricklin) Handing you an exhibit that's been marked**  
 21 **for identification as Exhibit 10. Do you recognize this**  
 22 **document?**  
 23 A. I do.  
 24 **Q. And what is it?**  
 25 A. It is a document produced by the National Trust for Historic

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1 Preservation, Preservation Green Lab, and it's called Older,  
 2 Smaller, Better: Measuring how the character of buildings  
 3 and blocks influences urban vitality. And it came out in  
 4 May 2014.  
 5 **Q. And what's the gist of this document?**  
 6 A. So the gist of this document is a -- the -- so the Green Lab  
 7 exists -- they're actually based in Seattle. So the  
 8 National Trust is based in Washington D.C. It's a private,  
 9 nonprofit organization. The Green Lab kind of focuses their  
 10 resources on research and a lot of data gathering. So to  
 11 sort of basically back up a lot of what their assertions are  
 12 or assumptions about why historic places matter. And they  
 13 talk about block by block how older neighborhoods and older  
 14 buildings, how they contribute to a city. And oftentimes in  
 15 older neighborhoods you have more density, actually. And --  
 16 and so -- so that's why it's sort of called this older,  
 17 smaller -- smaller, better.  
 18 I think because a lot of times people just assume, oh,  
 19 it's a small building, it -- it doesn't -- you know, it  
 20 doesn't contribute as much as maybe some high-style  
 21 architectural, you know, monument or something. So this --  
 22 this recognizes why these places sort of help with vitality  
 23 of a neighborhood or a streetscape or a city, and it talks  
 24 about creative, thriving economies and how these contribute  
 25 a lot of maybe artists, or sort of more creative types, as

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1 you will, sort of go into these buildings. They talk about  
 2 the value of mixed-use districts and -- and having housing  
 3 and commercial uses in an area -- in a neighborhood.  
 4 **Q. You mentioned that this report was prepared by the National**  
 5 **Trust for Historic Preservation located -- headquartered in**  
 6 **D.C. Is National Trust the preeminent historic preservation**  
 7 **organization -- nonprofit in the country?**  
 8 A. It is. Yes, it is.  
 9 **Q. And looking at page 1 of the text, I see it had an executive**  
 10 **summary. The first couple sentences there say, "All across**  
 11 **America, blocks of older, smaller buildings are quietly**  
 12 **contributing to robust local economies and distinctive**  
 13 **liveable communities. Buildings of diverse version vintage**  
 14 **and small scale provide flexible affordable space for**  
 15 **entrepreneurs launching new businesses and serve as**  
 16 **attractive settings for new restaurants, et cetera. They**  
 17 **offer diverse housing choices that attract younger residents**  
 18 **and create human scale places for walking, shopping, and**  
 19 **social interaction." They're speaking there nationally.**  
 20 **Would you say that those concepts apply here in Seattle?**  
 21 A. I would say that, yeah.  
 22 **Q. Okay. Can you give examples of neighborhoods in the city**  
 23 **that have those kinds of features?**  
 24 A. Sure. I think Ballard, like, the Ballard Avenue Landmark  
 25 District is a really great example. Columbia City, Columbia

1 City Landmark District. The West Seattle Junction,  
2 obviously Pioneer Square. A lot of these happen to be also  
3 historic district. And -- and so it -- these are the places  
4 where people go shop and eat, and they offer something  
5 different than, like, a national chain, a fast food  
6 restaurant or something. And -- and they help promote local  
7 businesses in the economy, and that's generally sort of --  
8 sort of the idea.

9 **Q. Are all of the communities like this in Seattle in  
10 designated historic districts, or are there areas of the  
11 city that have these qualities that are not in a  
12 formally-designated area?**

13 A. So I mentioned the Junction. That was -- there was a  
14 historic survey done a few years ago. That is not currently  
15 a historic district. I think there were some landmark --  
16 potential landmarks that were identified. But the other  
17 ones that I mentioned, Ballard, Columbia City, Pioneer  
18 Square, the -- Pike Place Market is sort of its own animal  
19 because it's a farmers market, but it -- it also sort of  
20 fits in there.

21 So, yeah, most of the -- and the International Special  
22 Review District. Although, some of these that I just  
23 mentioned aren't within the current study area of this EIS,  
24 so -- but nevertheless, they -- they are historic districts,  
25 and they are places that people identify Seattle with.

1 previous witness testified were also their own cities, and  
2 so when -- when they were annexed to the City of Seattle.  
3 That's why they have that sort of Main Street character.  
4 MR. BRICKLIN: 92.

5 (Exhibit No. 11 marked for identification.)

6 **Q. (By Mr. Bricklin) I'm handing you what's been marked for  
7 identification as Exhibit 11. And do you recognize this  
8 document?**

9 A. I do.

10 **Q. And what is this?**

11 A. So this is a fact sheet. So the same -- the National Trust  
12 Green Lab produced this. They studied quite a few cities  
13 around the country. I don't know how many exactly. But  
14 each of these cities that they studied where they did the  
15 research, the data gathering, have the same approach. They  
16 each have this sort of two-page fact sheet, very similar  
17 format. Basically sort of distilling down what they've  
18 found in these cities.

19 And so for Seattle, as they said, they compare it to  
20 larger -- to areas with large, new structures,  
21 character-rich blocks of older, smaller, mixed-age  
22 buildings, contains 78 percent greater population density,  
23 36 percent more jobs in small businesses, and 24 percent  
24 more jobs in new businesses, and 64 percent more women and  
25 minority-owned businesses. So these are sort of some of the

1 **Q. So but you said the Junction is not. And are there other  
2 examples you can provide of areas with older homes that have  
3 historic character but aren't in a formally-designated  
4 district?**

5 A. So there also -- so there are commercial districts and there  
6 are residential districts. And so there are -- the  
7 Harvard-Belmont area of Capitol Hill is a residential  
8 district, local and national register.

9 **Q. But I asked about ones that are not formally designated.**

10 A. Oh, not. I'm sorry.

11 **Q. Are there areas of the city that have charac- -- historic  
12 character but are not --**

13 A. There are large -- yeah, there --

14 **Q. -- formally designated?**

15 A. There are large areas of the city. Most of the city has not  
16 been designated. And so I think the Green Lab says half a  
17 percent of the buildings in the city have actually been  
18 designated, which is very small. So there are areas such as  
19 the Ravenna-Cowen neighborhood, the Mount Baker or North  
20 Rainier, depending on what sort of terms you use, parts of  
21 Beacon Hill. There are whole big chunks of Capitol Hill,  
22 the Central Area, parts of Ballard. Ballard's a very large  
23 neighborhood, so there are sort of sub neighborhoods that  
24 could qualify. Definitely West Seattle as well. It's sort  
25 of -- South Park, Georgetown, some of these areas the

1 three main things they found. They find that these older  
2 places are inclusive, diverse, and economically vibrant. So  
3 that's on the first page.

4 On the back page, they show a map that kind of gives  
5 some statistics on the population of the city and sort of --  
6 they show sort of the -- the color-coded map shows sort of  
7 area -- blocks that have the older -- older, smaller,  
8 mixed-age buildings. That's in the sort of the range from  
9 yellow, to orange, to red. And then in the light blue to  
10 sort of darker blue areas, it shows sort of the newer,  
11 larger buildings. And essentially it -- it -- you can sort  
12 of see in this graph where the little circle, the kind of  
13 piechart-ish, when something was built, generally which  
14 decades, and the percentage of buildings in Seattle that  
15 fall within those -- those decades when they were built. So  
16 they have this sort of -- they look at the high versus low  
17 character score. Again, looking at density and diversity  
18 and inclusiveness and economic vitality.

19 **Q. And so this map gives -- you have some idea of some of the  
20 areas in the city that have higher concentrations of older  
21 buildings and more historic character neighborhoods? Is  
22 that --**

23 A. Yes, generally.

24 **Q. Okay.**

25 MR. BRICKLIN: Have I moved the admission of 10 and 11?

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1 THE CLERK: No.  
 2 MR. BRICKLIN: May I do that, please?  
 3 HEARING EXAMINER: Any objection?  
 4 MR. JOHNSON: No objection.  
 5 HEARING EXAMINER: 10 and 11 are admitted.  
 6 (Exhibits Nos. 10 & 11 admitted into evidence.)  
 7 **Q. (By Mr. Bricklin) All right. Was Historic Seattle involved**  
 8 **with the development of the current comprehensive plan?**  
 9 A. We -- Historic Seattle submitted the public comments on the  
 10 comp plan update, the 2035.  
 11 **Q. And did your organization take that opportunity to stress**  
 12 **the importance of historic resources in the planning**  
 13 **process?**  
 14 A. We did. Usually when we comment on public processes or  
 15 documents, it's with the historic preservation lens. And so  
 16 obviously the comp plan is a much bigger document that  
 17 covers a lot of different elements and areas, and so we  
 18 focused on when the draft comp plan was up, what it said  
 19 about historic and cultural resources.  
 20 MR. BRICKLIN: 16.  
 21 (Exhibit No. 12 marked for identification.)  
 22 **Q. (By Mr. Bricklin) I'm handing you what's been marked for**  
 23 **identification as Exhibit 12. Do you recognize this**  
 24 **document?**  
 25 A. I do.

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1 **Q. And would you first identify it by author and date, please?**  
 2 A. Did you want to continue on the comp plan?  
 3 **Q. Excuse me?**  
 4 A. Are we continuing on the comp plan?  
 5 **Q. No. This letter. Is this not the -- this is the comment**  
 6 **on --**  
 7 A. This is on HALA and (inaudible).  
 8 MS. BENDICH: That's the EIS.  
 9 **Q. (By Mr. Bricklin) Oh, well, this is on -- excuse me. Let's**  
 10 **start with this as I had -- since I've already handed it to**  
 11 **you.**  
 12 A. Okay.  
 13 **Q. So please identify this letter first.**  
 14 A. Sure. This was a letter submitted by Historic Seattle,  
 15 signed by our executive director, Kji Kelly, and it was  
 16 dated June 30th, 2017. And it was addressed to Sam Assefa,  
 17 the director of the Office of Planning and Development.  
 18 **Q. All right.**  
 19 A. And essentially their comment -- our comments on HALA, which  
 20 is the Housing Affordability and Livability Agenda and  
 21 Mandatory Housing Affordability, MHA. So these predated  
 22 the -- the City was asking for public comments about MHA and  
 23 HALA, just in general of the public. And so comments were  
 24 sent, and different people could submit their comments  
 25 however they wanted, whether it's an email or a letter, or

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1 attending public meetings, or through their website they had  
 2 a way to -- a method to do that. So we chose to do this  
 3 letter, and it generally sort of discusses our experience  
 4 with -- with HALA and the MHA process up to that point, what  
 5 we knew about it, and how we thought historic preservation,  
 6 how that could fit into HALA and MHA.  
 7 **Q. And what was the -- again, the gist of it, how it could fit**  
 8 **in, but then also the flip side, how historic resource**  
 9 **protection could suffer if efforts to increase housing were**  
 10 **not done right?**  
 11 A. Yeah. So I think when -- as a general statement, I mean, no  
 12 one is against affordable housing, so of course we were --  
 13 we support that. And we have some of our own projects that  
 14 are affordable housing. And so recognizing the need to have  
 15 that balance and the need for more affordable housing and --  
 16 but then talking about sort of how -- how what was being  
 17 proposed could have an adverse impact on historic  
 18 preservation in terms of the upzones and what that could do  
 19 to the character of the -- some of the neighborhoods that  
 20 were going to be impacted.  
 21 **Q. And turning your attention to the bottom of page 2, did**  
 22 **Historic Seattle advocate for being able to accomplish both**  
 23 **provision of affordable housing and protection of the**  
 24 **historic character and simultaneously being able to**  
 25 **accomplish both objectives?**

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1 A. Yeah. We talked about the intersection of historic  
 2 preservation, affordability, and livability. And so we said  
 3 there are a few ways that historic preservation relates to  
 4 sort of the main categories of the -- that was presented by  
 5 the city for HALA, which were growth with affordability,  
 6 (inaudible) equity, and anti-displacement. More resources  
 7 for affordable housing, promote efficient and innovative  
 8 development, and the state legislative agenda. So that --  
 9 that's from the City.  
 10 So we responded by saying that older buildings provide  
 11 a variety of housing types, and -- and essentially they  
 12 essentially said, "Older buildings and neighborhoods are  
 13 essential to the retention of a diverse housing stock that  
 14 reduces some inequality. And research shows that  
 15 neighborhoods with a high concentration of historic  
 16 buildings and mixed scale development are more vibrant and  
 17 perform better in terms of environmental, economic, and  
 18 social metrics." And we referenced the National Trust's  
 19 Green Lab, Smaller, Better, Older report.  
 20 **Q. Okay. And what's the next bullet mean, "Older neighborhoods**  
 21 **contain hidden density?" What's that concept mean?**  
 22 A. So older neighborhoods contain hidden density, essentially  
 23 the -- for example, your -- there's what appears to be a  
 24 single-family building on the out- -- an old, like,  
 25 Victorian, big single-family home. It's just not one or two

1 people necessarily living there. The hidden density is that  
2 it's maybe oftentimes a five-unit apartment building that's  
3 inside, and it's offering naturally-occurring affordable  
4 housing. Or, so there are many more people living in that  
5 one building than what might appear to -- to sort of the eye  
6 as you just kind of walk by. Same thing with some of these  
7 older buildings.

8 Some of the examples that were given is Boston's North  
9 End, to Miami's Little Havana. These -- I'm quoting the  
10 Green Lab: "Relatively low-slung human scale neighborhoods  
11 with older fabric are the missing middle of cities and can  
12 achieve surprisingly high population densities." That's  
13 according to the Green Lab. So that's sort of what I meant  
14 by hidden density.

15 **Q. All right.**

16 **A.** And then --

17 **Q. Then --**

18 **A.** Oh, I'm sorry.

19 **Q. Do you have anything more from that letter?**

20 **A.** There was just one about incentives, about historic  
21 preservation tax credits that actually could support the  
22 creation of affordable housing units in historic buildings.

23 **MR. BRICKLIN:** 89.

24 (Exhibit No. 13 marked for identification.)

25 **Q. (By Mr. Bricklin) All right. And now back to where you**

1 drafted at the time. So what we want to do is bring up the  
2 importance of historic preservation and -- and why. And so  
3 basically we're advocating for more of it to be put back in,  
4 which was exist -- which existed in the previous one.

5 So we thought it was odd that it was -- some of it was  
6 taken out. And so we just sort of went through -- again,  
7 sort of some of the things I had mentioned earlier about how  
8 older buildings play a vital role in defining Seattle's  
9 sense of place and character of its neighborhoods; how  
10 reinvesting in historic properties sparks economic  
11 revitalization, so it's good for the economy; and then also  
12 historic preservation is sustainable development. So those  
13 were our kind of three main points, and we sort of  
14 identified some of the goals and policies that were in the  
15 plans, kind of call those out, and -- and sort of explain  
16 why they were important.

17 **Q. And at the bottom of page 1 that you -- the letter poses the**  
18 **question, "Why does historic preservation matter?" And**  
19 **there's a bullet there about, "The older buildings play a**  
20 **vital role in defining Seattle's sense of place." I want**  
21 **you to read the -- that paragraph, beginning with, "The**  
22 **city's historic resources survey."**

23 **A.** Okay. "The city's historic resources survey, last updated  
24 in 2000, includes over 5,000 properties. These places  
25 contribute to Seattle's identity and quality of life, create

1 **thought I was from where I was supposed to be. I'm handing**  
2 **you what's been marked for identification as Exhibit 13.**  
3 **Can you identify this for me, please?**

4 **A.** Sure. This was Historic Seattle's public comment letter on  
5 the proposed comp plan amendments, and is dated  
6 October 30th, 2015, and that was addressed to Diane  
7 Sugimura, who at the time was the director of what was then  
8 called the Seattle Department of Planning and Development,  
9 which is now the Department of Construction and Inspections.

10 **Q. And does this letter discuss Historic Seattle's interests in**  
11 **protecting historic resources and how that plays into the**  
12 **development of the comprehensive plan?**

13 **A.** It does. It -- so some cities have a separate element for  
14 historic preservation. Those cities seem to deem historic  
15 preservation as very important in those cases. I wish we  
16 had those here, the separate element. But in -- short of  
17 that, historic preservation in the draft comp plan was sort  
18 of spread out through the different elements. Like, in arts  
19 and culture, land use, maybe housing. I can't remember.

20 And so what we did was we compared the comp plan that  
21 was existing at the time. I think the city has to update  
22 these every -- every 10 years maybe. I don't -- I don't  
23 remember. And comparing it to what was being proposed and  
24 what we found was that there was even less about historic  
25 preservation in the updated plan that was -- that was being

1 a distinctive sense of place, and serve as tangible  
2 reminders of where we came from. If we continue to tear  
3 down old buildings, the city will lose its authenticity and  
4 what makes it a great city. It will become anonymous  
5 without its historic compass."

6 **Q. All right. Now, that was written in October of 2015, almost**  
7 **three years ago. Is that still an accurate statement from**  
8 **Historic Seattle's perspective?**

9 **A.** Yes, definitely.

10 **Q. And is there concern about the manner -- that the proposal**  
11 **may cause these kind of impacts?**

12 **A.** Yes.

13 **Q. Is that a concern?**

14 **A.** It is.

15 **Q. All right. And so was there a concern about whether the**  
16 **environmental impact statement adequately identified those**  
17 **potential impacts?**

18 **A.** There is concern, yes.

19 **Q. All right.**

20 **A.** Oh --

21 **Q. Yes?**

22 **A.** Attached to this letter, we kind -- because we came up with  
23 three pages of sort of recommendations that we -- that we  
24 offered the city to promote and enhance planning regulations  
25 and incentive tools. And so we kind of do this whole bullet

1 point of what could be included.  
 2 **Q. All right. So let's talk a little bit about the resources.**  
 3 **Well, in that sentence -- in that passage you just read, it**  
 4 **said that there is over 5,000 properties that have been**  
 5 **identified in surveys, historic resource surveys, but only**  
 6 **450 are designated. Can you explain the difference between**  
 7 **those two categories, designated ones versus properties**  
 8 **identified in a survey?**  
 9 A. Sure. So the City of Seattle has a Landmarks Preservation  
 10 Ordinance, which was created in the '70s I think, maybe  
 11 1973. And that basically establishes the register of  
 12 landmarks list, which is the official, sort of list of  
 13 designated landmarks, and also establishes a Landmarks  
 14 Preservation Board, and also enables the creation of locally  
 15 designated historic districts. And some of those districts  
 16 have their own separate boards. Others have review  
 17 committees.  
 18 And so since the '70s, we've had over 400 individually  
 19 designated landmarks. I've -- I've heard anywhere from  
 20 between 400 and 450, so -- and it's not a static list or  
 21 number. It grows, because every year there are more  
 22 landmarks that are added to the list. So that's -- so  
 23 these -- these landmarks go through this process through the  
 24 Landmarks Board. They are approved through a two-step  
 25 process of nomination and designation.

1 historic resources survey, which is a big database in the  
 2 Department of Neighborhoods website, most of the designated  
 3 landmarks are not in that survey. So what could be in that  
 4 survey are potential landmarks. So if it's -- because then  
 5 you have sort of information in two different areas. That's  
 6 just how it is. So -- so of the 5,000, I would not subtract  
 7 the --  
 8 **Q. All right. So the 400 is not a subset?**  
 9 A. Yeah.  
 10 **Q. It's a different pot?**  
 11 A. Right. So those -- those properties can range anywhere  
 12 from -- so the City -- as I mentioned, they -- since they --  
 13 well, almost 20 years ago now they were systematically,  
 14 neighborhood by neighborhood, doing a survey of these  
 15 neighbor- -- a cultural resources survey. Boundaries  
 16 were -- were set, and they looked at the -- what's there in  
 17 terms of maybe streetscape, landscape, and buildings that  
 18 are in that -- that proposed survey area. And then you go  
 19 to this deeper level of looking at them resource by resource  
 20 and documenting -- there's a form called an inventory form,  
 21 and that's completed. And if it's done by a consultant,  
 22 then that's usually who -- who does the work, and the  
 23 review, the research. So it just -- and it basically kind  
 24 of documents the building from the exterior. And -- and  
 25 this information is -- was of low -- from the form was

1 And then after that, the owner of the landmark and the  
 2 city engage in negotiations of what's called controls and  
 3 incentives. And there's an agreement signed, legal  
 4 document, if they agree, which essentially lays out sort of  
 5 what's included in the designation, like, the entire site  
 6 and the building, the exterior usually. Sometimes the  
 7 interior is included, but that's -- that's part of the -- it  
 8 would have to have been part of the designation and then  
 9 also a negotiation with -- with the owner in terms of  
 10 whether that's included and what -- what requires a  
 11 certificate of approval if there's proposed changes to -- to  
 12 these areas before getting a permit.  
 13 And so once -- once the controls and incentive  
 14 agreement is signed, and the board approves that, it goes to  
 15 the City Council, and then the City Council passes a  
 16 resolution. So each individual landmark designation has its  
 17 own City Council approved resolution.  
 18 **Q. All right.**  
 19 A. And so once that's done and something's designated.  
 20 **Q. So in that passage you read, the 400 plus landmarks, 5,000**  
 21 **historic buildings surveyed, what's in that larger pot?**  
 22 A. So --  
 23 **Q. What are the 4,600 buildings that aren't landmarked, what**  
 24 **protection do they have?**  
 25 A. So the 5 -- it gets kind of confusing because the current

1 uploaded to the city's database, and sort of that's -- along  
 2 with a photograph. So that's what you generally see.  
 3 **Q. All right. So you've been talking about the city database.**  
 4 **Let's -- these are screen shots from the DON Historic**  
 5 **Preservation website. These are parts of Exhibit 13, 23,**  
 6 **and 102.**  
 7 MR. WEBER: These are what?  
 8 MR. BRICKLIN: 13, 23, and 102. They were all linked to  
 9 the same web -- different pages of that website. In fact,  
 10 then I made a copy of which pages, so -- but why does this  
 11 sticker -- is that different?  
 12 Oh, before I go on, can I move the admission of Exhibit 12  
 13 and 13?  
 14 MR. JOHNSON: No objection.  
 15 MR. BRICKLIN: The two comment letters.  
 16 HEARING EXAMINER: 12 and 13 are admitted.  
 17 (Exhibits Nos. 12 & 13 admitted into evidence.)  
 18 (Exhibit No. 14 marked for identification.)  
 19 **Q. (By Mr. Bricklin) I'm handing you what's been marked for**  
 20 **identification as Exhibit 14. Do you recognize these**  
 21 **page -- these screen shots?**  
 22 A. I do.  
 23 **Q. And what do you recognize them as being?**  
 24 A. So these screen shots are of the City of Seattle Department  
 25 of Neighborhoods website, and more specifically it's of the

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1 Historic Preservation pages of that website.  
 2 **Q. All right.**  
 3 A. And --  
 4 **Q. So we're going to walk through these as if we were looking**  
 5 **at a computer screen and clicking from one page to the**  
 6 **next --**  
 7 A. Okay.  
 8 **Q. -- as it were. Doing it this way so we have a paper record**  
 9 **for the examiner.**  
 10 A. So the first page is -- is sort of the landing page for the  
 11 Historic Preservation Program. And you see on the left the  
 12 navigation for -- for more pages, sub pages.  
 13 **Q. And I notice landmarks map is highlighted there in that**  
 14 **navigation column. So if you turn the page --**  
 15 A. Uh-huh.  
 16 **Q. -- is that, in fact, the page you would go to if you clicked**  
 17 **on that?**  
 18 A. Sure. So page 2 is the landmarks, and you can view  
 19 landmarks through a map or a list. And -- and all these  
 20 other things with the plus signs they're just -- they're  
 21 just pull-down menus. And then so here they say, "Since  
 22 1973, Seattle has designated more than 450 individual sites,  
 23 buildings, vehicles, vessels, and street clocks." So then  
 24 the next page shows the map, and you can zoom in and out of  
 25 it.

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1 **Q. All right. So if you go to page 3, page 3, is that a**  
 2 **zoom-in?**  
 3 A. So you're zooming, and you're -- you can keep going, and  
 4 then the numbers that you see actually change as you zoom in  
 5 or out because it just means there's -- in that area  
 6 there's, like, two landmarks or five landmarks or -- so the  
 7 density of the landmarks is more when the -- the higher the  
 8 number.  
 9 So on the next page, page 4, we've zoomed in a bit  
 10 more. We're kind of looking at First Hill, Capitol Hill  
 11 area, I-5, Downtown.  
 12 **Q. And is there a drop-down menu for select a neighborhood?**  
 13 A. Yeah. So you can -- you can either -- if you know an  
 14 address, then you can enter it by an address, or you could  
 15 select a neighborhood, and it's a drop-down menu.  
 16 **Q. All right. And if you click on one of the specific**  
 17 **landmarks, if you turn to the next page, is there a pop-up**  
 18 **screen that then gives you a picture of the landmark?**  
 19 A. You get -- you select a neighborhood, and you pick your  
 20 neighborhood, and then it goes to -- it zooms in -- it moves  
 21 you over to whatever neighborhood that is on the map, and  
 22 then on the next page you will see a thumbnail. So we're  
 23 over on First Hill then. And you sort of see a thumbnail  
 24 of -- a picture of the building, the address.  
 25 **Q. Are you talking -- are you on the page with the Seattle**

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1 **First Baptist Church thumbnail?**  
 2 A. Yeah. Uh-huh. Correct.  
 3 **Q. All right.**  
 4 A. And then if you were to move the cursor down, then there's a  
 5 link to the ordinance, the resolution -- the City Council  
 6 resolution that I mentioned earlier.  
 7 **Q. All right.**  
 8 A. If it's been adopted.  
 9 **Q. All right. Now, if you go back to the next -- if you go to**  
 10 **the next page, but if you go back to the first page of**  
 11 **the -- traveling through this website, another tab was for**  
 12 **historic resources survey; is that right?**  
 13 A. Correct.  
 14 **Q. And that's what's indicated on that page?**  
 15 A. Uh-huh.  
 16 **Q. And on that page I see a reference to context statements.**  
 17 **Do you see that?**  
 18 A. Yes.  
 19 **Q. And on the following page, have you clicked open the context**  
 20 **statements tab?**  
 21 A. Yeah. You'll see a list of historic context statements.  
 22 These were produced by the city. And usually when I --  
 23 earlier when I talked about a survey, when you survey a  
 24 neighborhood, usually there's also another important  
 25 document that is a historic context statement. And those

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1 are important because it tells the story of the  
 2 neighborhood. It provides sort of the history, how -- how  
 3 it came to be, how it formed, how it developed over time, if  
 4 it's -- it could talk about sort of some of the bigger  
 5 things that happened in the neighborhood related to industry  
 6 or transportation or streetcar development, things like  
 7 that. When -- generally when periods of development when --  
 8 when buildings were built or when things were put in --  
 9 **Q. Well, let me interrupt you, because we have an example here.**  
 10 A. Okay.  
 11 (Exhibit No. 15 marked for identification.)  
 12 **Q. (By Mr. Bricklin) I didn't make copies of this because it's**  
 13 **on your web -- I didn't even make one for me. But am I --**  
 14 **handing you what's being marked for identification as**  
 15 **Exhibit 15, do you recognize this document?**  
 16 A. I do.  
 17 **Q. And what is this?**  
 18 A. It's the Beacon Hill historic context statement.  
 19 **Q. All right.**  
 20 A. And it's City of Seattle Department of Neighborhoods.  
 21 **Q. And this is if you clicked on that link on the website, this**  
 22 **is the document that pops up?**  
 23 A. Yeah. If you go to North Beacon Hill in the pull-down menu,  
 24 this is what shows up. It's a downloadable PDF.  
 25 **Q. All right. And so for -- going back to the prior exhibit,**

1 **No. 14, all these neighborhoods have a context statement**  
 2 **like this in it?**  
 3 A. Yes.  
 4 **Q. In the database? All right. And so now you -- as you were**  
 5 **describing what's in these context statements, can you -- is**  
 6 **it useful to do so in reference to that one as an example?**  
 7 A. Sure. For the Beacon Hill context statement, which was  
 8 produced in 2004, just looking at the table of contents, it  
 9 has an introduction, and it goes through sort of these  
 10 periods of development that I had talked about that's kind  
 11 of typical in these -- in these documents, pre-history and  
 12 Pioneer settlement, and it gives a -- sort of a date range,  
 13 and then it talks about early development of Beacon Hill,  
 14 growth and development, 1920s and building -- development  
 15 and buildings, depression and World War II and into the  
 16 modern age, post World War II development, a conclusion, and  
 17 a bibliography.  
 18 So if you were to read through this, it's an  
 19 interesting read. I'd recommend it. You -- you know,  
 20 clearly this isn't a masters thesis wrote book, and that's  
 21 not the intent. The intent is to understand sort of what --  
 22 how the neighborhood came to be and how it -- how it  
 23 developed. So you get a good sense of sort of who settled  
 24 it, like, who moved there, who lived there, what was being  
 25 built at the time, sort of what some of the main arterials

1 A. So you click on the search, the historic resources survey,  
 2 then you get the city's database, which contains the 5,000  
 3 or so properties that we talked about a little earlier. You  
 4 search on that, and you get this -- the next page shows  
 5 basically a form of -- kind of a form and also some  
 6 pull-down menus. And you could -- this is how you can  
 7 search this database. So you can search it by address if  
 8 you actually know the address. You can search it by the  
 9 parcel number, which you get from the tax assessor's  
 10 website. You can search by architect or year built, style.  
 11 And you can also search by the neighborhood. And so this  
 12 shows a pull-down of the neighborhood menu, pull-down menu.  
 13 **Q. And if you clicked on Georgetown and then turned the page,**  
 14 **is that what you would see?**  
 15 A. Yes. Yes.  
 16 **Q. All right.**  
 17 A. So you see -- click on one of the neighborhoods, and then  
 18 you see a list of by address, and then if there's a historic  
 19 name, if it's known, and then the common name. The  
 20 difference between historic name and common name is --  
 21 **Q. That's probably not important that we know that. All right.**  
 22 A. And then you can hit view to get to the actual individual  
 23 property.  
 24 **Q. All right. Well, thank you for that tour of sort of why we**  
 25 **care and what the city's resources are and what their**

1 are, what sort of the residential development's like,  
 2 commercial development.  
 3 And you get a kind of -- generally when things are  
 4 built so you get a sense of sort of when most of the  
 5 buildings were built in the neighborhood by -- by some of  
 6 the older neighborhoods in Seattle. They were pretty much  
 7 built out, a lot of times, by the maybe 1920s. There wasn't  
 8 much being built during the depression. So you rarely see  
 9 anything built in the 1930s in Seattle. Some of these are  
 10 streetcar suburbs, and so you -- you get this power and  
 11 development that you just -- you go through the sort of main  
 12 commercial streets, and you can sort of generally tell when  
 13 some -- what decade something was built.  
 14 If you were a preservation professional, those things  
 15 kind of jump out. And so this -- this document lays it out  
 16 with some photographs. We cover things like institutions  
 17 and religious properties and schools and some of these  
 18 places that sort of help anchor a neighborhood, in addition  
 19 to the residential areas.  
 20 **Q. All right. And so return, if you will then, to Exhibit 14,**  
 21 **the webpage screen shots, the last two or three pages of**  
 22 **that. I see we're up to the historic resources survey page.**  
 23 **Are you there?**  
 24 A. Yes.  
 25 **Q. Yeah. And what does this page of the website take you to?**

1 **regulatory scheme is for protecting at least the landmarks.**  
 2 **Let's turn to the specifics of this case. What were you**  
 3 **asked to do in terms of the EIS?**  
 4 A. I was asked to review the final EIS, which I was already  
 5 doing anyway. I was -- because we were reviewing their  
 6 draft EIS and commenting on them, and so we were following  
 7 the process anyway.  
 8 **Q. All right. So what did you do to -- and you've begun to**  
 9 **answer that already. What did you do to develop your**  
 10 **opinions regarding the adequacy of the final EIS's**  
 11 **discussion of historic resources? What did you do?**  
 12 A. So when I review a draft EIS, I usually focus -- again,  
 13 because Historic Seattle is focused on historic  
 14 preservation, we focus on the historic resources sections.  
 15 Sometimes I go to some of the other ones, the other  
 16 sections, but it's mainly the historic resources. And so I  
 17 just start reading it and -- and I have no -- I have, you  
 18 know, mental notes of what I'm reading and whether I think  
 19 it's -- it's sort of --  
 20 **Q. Let me interrupt here. So in addition to reviewing the**  
 21 **draft EIS and preparing the comment letter on that, what**  
 22 **else did you do before you came in here today to testify on**  
 23 **the final? Did you review the final?**  
 24 A. So I looked -- oh, yes, I looked at the final, and I  
 25 compared -- I looked at our comments that were sent to the

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1 city, and the city's responses to our comments in the final  
 2 EIS, and then reviewed the final EIS to see how things  
 3 change between the final and the draft.  
 4 **Q. All right. And did you re-review the city's website and**  
 5 **surveys and context statements to --**  
 6 A. Yes. So I -- some of the resources they listed in the EIS  
 7 are the context statements, the National Register eligible  
 8 properties, which are actually found in the Department of  
 9 Archeology and Historic Preservation's website. They have a  
 10 date -- database called Wizard. So it's a database that I  
 11 use as well.  
 12 **Q. So now you introduced a new -- a couple new terms there.**  
 13 **Department of Archeology and Historic Protection,**  
 14 **Preservation?**  
 15 A. Preservation.  
 16 **Q. Preservation, known affectionately as DAHP?**  
 17 A. DAHP, yes.  
 18 **Q. Yes. Right. That's a state agency, right?**  
 19 A. Correct. Yes.  
 20 **Q. So you've switched from a city website -- or agency to a**  
 21 **state agency, and they have their own inventory, is that**  
 22 **what you're saying?**  
 23 A. Yeah. They have a also very large database called Wizard,  
 24 and it's an acronym for something.  
 25 **Q. Right. All right.**

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1 A. And it's statewide.  
 2 **Q. All right. So first let's -- let me hand you -- this is**  
 3 **their comment letter. It's on your -- it's part of the EIS.**  
 4 **But it's not in the -- am I right? The comment letters**  
 5 **aren't physically part of the paper EIS, right? You have to**  
 6 **go to the website for those? Yeah. So I downloaded this**  
 7 **from the website. So I'm handing you what's been marked for**  
 8 **identification as Exhibit 16. Yep, 16.**  
 9 MR. BRICKLIN: And before I ask you about that, may I move  
 10 the admission of 14 and 15?  
 11 MR. JOHNSON: No objection.  
 12 HEARING EXAMINER: 14 and 15 are admitted.  
 13 (Exhibits Nos. 14 & 15 admitted into evidence.)  
 14 (Exhibit No. 16 marked for identification.)  
 15 **Q. (By Mr. Bricklin) Would you first please identify**  
 16 **Exhibit 16?**  
 17 A. Sure. It's Historic Seattle's public comment letter to the  
 18 draft EIS for Mandatory Housing Affordability, and it's  
 19 dated August 4th, 2017. It's just addressed to OPCD and  
 20 signed by -- and signed by me.  
 21 MR. BRICKLIN: All right. I'd move the admission of this,  
 22 Your Honor, with the -- I don't know if we need to.  
 23 Technically it's part of the final EIS, but the written  
 24 version of the final EIS does not include the comment  
 25 letters. The online version does. So the paper copy you

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1 have does not have this. That's why I made a print of it  
 2 and suggest making it a separate exhibit.  
 3 HEARING EXAMINER: I think that's a good way to go. And  
 4 to the degree that additional comment letters will be needed  
 5 to demonstrate a party's case, I think we should skip  
 6 admissibility since they're part of the EIS.  
 7 MR. BRICKLIN: I don't think there will be an objection to  
 8 it.  
 9 HEARING EXAMINER: I think what I'd like to do is have  
 10 them in as separate exhibits so that -- I'm not going to  
 11 have to go thumb through the online version to locate them.  
 12 MR. JOHNSON: My only concern is I haven't seen the actual  
 13 exhibit, so if I could just take a quick look --  
 14 MR. BRICKLIN: Sure.  
 15 MR. JOHNSON: -- at what you're --  
 16 MR. BRICKLIN: Let me just put the number on it. But I  
 17 printed it from your website, so --  
 18 MR. JOHNSON: Well, I --  
 19 MR. BRICKLIN: Yeah, yeah, no, I get it. But that's why I  
 20 didn't bother to print it. But make sure I printed the  
 21 right thing. I get it.  
 22 HEARING EXAMINER: I would suggest if the parties are  
 23 going to do that that they print them just for courtesy's  
 24 sake.  
 25 MR. BRICKLIN: Sure.

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1 HEARING EXAMINER: And efficiency at the hearing.  
 2 MR. BRICKLIN: Yep. Yep. Yep. I'll do that.  
 3 HEARING EXAMINER: But admissibility, I don't think there  
 4 should be any issue on that. 16 is admitted.  
 5 (Exhibit No. 16 admitted into evidence.)  
 6 (Exhibit No. 17 marked for identification.)  
 7 **Q. (By Mr. Bricklin) I'm going to also hand you just to take**  
 8 **care of -- handing you what's been marked as Exhibit 17, do**  
 9 **you recognize that letter?**  
 10 A. I do.  
 11 **Q. And is -- would you please identify it for the record?**  
 12 A. It's a comment letter from DAHP, the Department of  
 13 Archeology and Historic Preservation.  
 14 **Q. The state agency?**  
 15 A. The state agency, to Jeff Wentland at OPCD. And it's  
 16 signed by Greg Griffith, Deputy State Historic Preservation  
 17 Officer. So it's their -- their comment letter.  
 18 **Q. On the draft EIS?**  
 19 A. On the -- on the draft EIS for MHA, yeah.  
 20 MR. BRICKLIN: So I'd move the admission of that one as  
 21 well, Your Honor.  
 22 HEARING EXAMINER: Any objection?  
 23 MR. JOHNSON: No objection.  
 24 MR. BRICKLIN: All right.  
 25 HEARING EXAMINER: 17 is admitted.

1 (Exhibit No. 17 admitted into evidence.)  
 2 **Q. (By Mr. Bricklin) So I don't want to focus on the comment**  
 3 **letter quite yet, but rather, on the final EIS, which is the**  
 4 **issue here. Based on your review of the final EIS, what**  
 5 **conclusions did you reach in -- first just at sort of a high**  
 6 **level headline view of the adequacy of the EIS's discussion**  
 7 **of historic resources, what were your key findings?**  
 8 A. So sort of three main things. One was the inadequacy of the  
 9 description of the -- what's called the affected  
 10 environment, sort of essentially what's existing. So that  
 11 was one -- one thing.  
 12 Another thing -- second sort of finding was the -- the  
 13 impacts weren't really -- because the impacts weren't -- of  
 14 the affected environment weren't laid out very well either  
 15 because it was -- the description of the affected  
 16 environment, the first part, is supposed to provide a  
 17 foundation for the rest of the section on historic  
 18 resources. So it was difficult to see what the impacts  
 19 would be since the affected environment was kind of lacking.  
 20 And then the third thing was the discussion of the  
 21 alternatives weren't really that distinguishable when it  
 22 came to how they might be different for historic resources.  
 23 **Q. Okay. So let's go back through those one at a time, and**  
 24 **let's start with the -- just getting physically located in**  
 25 **the EIS, I believe the discussion --**

1 Seattle and generally how it developed. And then it talks  
 2 about some of the -- then it kind of just jumps into some of  
 3 the designated National Registry of Historic Districts and  
 4 some of the local districts within the study area. There  
 5 are more, but just -- just focused on the study area.  
 6 That's what they focused on.  
 7 **Q. And is the study area those portions of the city that are**  
 8 **proposed for zoning changes in this proposal?**  
 9 A. In this -- in this one, yes. Not -- there were some earlier  
 10 neighborhoods that's not part of this EIS.  
 11 **Q. Right.**  
 12 A. Yeah. And then there are some exhibits where they show  
 13 tables of the urban villages and sort of -- they looked at  
 14 the number of resources that are determined eligible for  
 15 listing on the National Register of Historic Places.  
 16 **Q. All right. So let's stop there. So you're looking at --**  
 17 **it's a table titled Exhibit 3.5-1 on page 3.298?**  
 18 A. Correct.  
 19 **Q. And so that includes a list of however -- about 20 or so**  
 20 **urban villages it looks like?**  
 21 A. Yes.  
 22 **Q. All right. Where zoning changes are proposed. And this**  
 23 **table lists the number of resources determined eligible for**  
 24 **listing in the National Register of Historic Places. And**  
 25 **actually, you haven't talked about that yet. You talked**

1 MS. BENDICH: Do you have the page number?  
 2 MR. BRICKLIN: Yeah, I'm looking. I know it's 3.3  
 3 something here.  
 4 (Inaudible colloquy)  
 5 **Q. (By Mr. Bricklin) So could you turn to page -- chapter 3 is**  
 6 **the discussion of impacts? So everything is 3 point**  
 7 **something. And if you turn to 3.295, that's the beginning**  
 8 **of the historic research section.**  
 9 MS. BENDICH: If you keep going, is it 239?  
 10 MR. BRICKLIN: 3.295. Did I misspeak?  
 11 A. Okay. Got it.  
 12 **Q. (By Mr. Bricklin) All right. So that's the section you**  
 13 **reviewed primarily?**  
 14 A. Yes, it is.  
 15 **Q. All right. And I see there on that page the first sub part**  
 16 **is the affected environment; is that right?**  
 17 A. Yes.  
 18 **Q. So I guess I heard that one of your primary findings was**  
 19 **that the discussion of the affected environment was not**  
 20 **adequate. I guess let's take it this way; what -- first**  
 21 **we'll talk about what the EIS discusses. Then we'll talk**  
 22 **about maybe what got left out, if you will. So first things**  
 23 **first. What does the EIS discuss in terms of what the**  
 24 **affected environment is?**  
 25 A. So it gives a very, very broad overview of the history of

1 **about the Seattle landmark process. I gather there's a**  
 2 **national designation process as well; is that right?**  
 3 A. Yes, there is. So --  
 4 **Q. And how does that relate or -- different, or the same as the**  
 5 **city process?**  
 6 A. So the National Register of Historic Places is administered  
 7 by the National Park Service in D.C., and in every state  
 8 that gets -- the National Register Program is then -- gets  
 9 funneled through the -- each state's state historic  
 10 preservation office. So in -- and in Washington it's called  
 11 DAHP, as we learned earlier. And so the National Register  
 12 is the -- sort of the official national list of historic  
 13 properties.  
 14 And there was a whole process to get properties listed  
 15 on a National Register. There's a nomination form that gets  
 16 submitted on the state level. And then that is recommended  
 17 to the National Park Service. And that's generally sort of  
 18 the process. And it -- it's an honorary listing. There are  
 19 no protections for properties that are only listed on the  
 20 National Register.  
 21 And so in the state's database, they -- in their  
 22 Wizard, you can do a search for places that are list- --  
 23 actually listed on the National Register, including  
 24 individual properties and districts, and then also those  
 25 that are potentially have been deemed potentially el- --

1 determined -- what's called determined -- determined  
 2 eligible for listing. So they've been determined eligible,  
 3 but they haven't gone through the process of actually having  
 4 a form submitted and gone through the process yet.  
 5 **Q. So you said that even if you make it through that process**  
 6 **and you're listed on the national list, that's -- you don't**  
 7 **have any regulatory protection; is that what you said?**  
 8 A. Not unless it's also designated on the local level --  
 9 **Q. All right.**  
 10 A. -- who it is.  
 11 **Q. And so if you get designated on the national list, are you**  
 12 **automatically on the city list?**  
 13 A. No.  
 14 **Q. All right. Are there nationally designated ones that are**  
 15 **not on the city list?**  
 16 A. Yes.  
 17 **Q. Are there city designated ones that are not on the national**  
 18 **list?**  
 19 A. Yes.  
 20 **Q. All right.**  
 21 A. There's also a Washington Heritage Register.  
 22 **Q. Let's not go there. So in terms of what's in the EIS, turn**  
 23 **the page. There are maps on facing pages. I guess it's the**  
 24 **north half and the south half of the city.**  
 25 A. Yes.

1 **referring to?**  
 2 A. So the database that we talked about earlier, that's what  
 3 they were referencing. And so they've got X's next to the  
 4 urban villages, which is all but one, Lake City, where there  
 5 are properties in the database that are in those  
 6 neighborhoods or urban villages.  
 7 **Q. So a councilman reading -- or woman reading this EIS would**  
 8 **know that in all the -- throughout the study area there are**  
 9 **properties listed in the database?**  
 10 MR. JOHNSON: Objection. Calls for speculation.  
 11 **Q. (By Mr. Bricklin) Excuse me. A person reading this EIS**  
 12 **would know that in every -- in 26 of the 27 neighborhoods,**  
 13 **there are properties listed in the city's database; is that**  
 14 **right?**  
 15 A. Yes, that's how -- that's how I interpreted it.  
 16 **Q. All right.**  
 17 A. And then --  
 18 **Q. All right. And then what's the second column?**  
 19 A. Second column says, "Systematic Inventory Conducted."  
 20 **Q. And what does that mean to your understanding?**  
 21 A. So my understanding is that there were -- there are  
 22 properties that are in the database that have what appears  
 23 to be probably more detailed information on specific  
 24 properties that were part of a survey.  
 25 **Q. Well, what does the term "systematic inventory" mean at the**

1 **Q. And green dots indicate NRHP determined eligible property.**  
 2 **So is that the category you were just referring to, ones**  
 3 **that have been identified as possibly meeting National**  
 4 **Register status, but haven't gone through the process yet?**  
 5 A. Yes. So there are the two maps, Exhibits 3.5-2 and 3.5-3.  
 6 **Q. And so the green dots are potential national listings?**  
 7 A. Yes. And they should correspond to the numbers that are in  
 8 their Exhibit 3.5-1, in that table.  
 9 **Q. Oh, okay. So in 3.5-1, so that's the numerical count of the**  
 10 **green dots on the map?**  
 11 A. That is how I would interpret it.  
 12 **Q. All right. So these are determined eligible. Does the map**  
 13 **also include the ones that have actually been listed?**  
 14 A. Not that I'm aware of, given how it's labeled.  
 15 **Q. All right. All right. And then turning to the next page,**  
 16 **it's another exhibit labeled 3.5-4, Historic Resources**  
 17 **Survey Status. Do you see that --**  
 18 A. Yes.  
 19 **Q. -- table?**  
 20 A. Uh-huh.  
 21 **Q. And that lists the 27, I think it is, urban villages that**  
 22 **are in the study area. And the first column with an X --**  
 23 **and there's an X for 26 of the 27 it looks like -- titled,**  
 24 **Properties Listed in City Historic Resources Survey**  
 25 **Database. What's your understanding of what that's**

1 **top of that?**  
 2 A. From -- so since I didn't produce this, I -- I --  
 3 **Q. Right.**  
 4 A. -- I can only guess.  
 5 **Q. Yeah.**  
 6 A. I think -- I'm looking at the neighborhoods.  
 7 **Q. Well, let me ask you, if you go back to page 3.297, you**  
 8 **already mentioned this, I believe, the bottom paragraph, it**  
 9 **says, "The city had, until recently, an ongoing effort to**  
 10 **conduct historic resource surveys"?**  
 11 A. Uh-huh.  
 12 **Q. You're familiar with those, aren't you?**  
 13 A. I am.  
 14 **Q. All right. And what are those? You already mentioned them**  
 15 **earlier.**  
 16 A. So, yeah, so the survey -- so the systematic one is they --  
 17 they have the context statement, as I mentioned earlier. So  
 18 you'll see this third column or fourth column, Historic  
 19 Context Statement Prepared, and they match -- they mostly  
 20 match the X's of where the systematic inventory is  
 21 conducted. So there would've been an inventory form for --  
 22 so, again, boundaries were decided about what the survey  
 23 area was, and then within that -- within the survey area,  
 24 not every building or resource does necessarily then have an  
 25 inventory form. It's a sub-set of it, because usually you

1 can only do so much. There's budget and that whole thing.  
 2 **Q. So on page 297 it says, "Currently 11 neighborhoods in the**  
 3 **study area have been systematically inventoried."**  
 4 A. Uh-huh.  
 5 **Q. Does that sound about right, to your knowledge?**  
 6 A. Without having to count them, I guess.  
 7 **Q. Yeah. Just from your knowledge of -- I mean, you use this**  
 8 **inventory all the time, don't you?**  
 9 A. Yeah, I do.  
 10 **Q. Right. And does that sound about right, given your years**  
 11 **of --**  
 12 A. Yeah. Yep.  
 13 **Q. -- work with it?**  
 14 A. There is a mistake on their table, though.  
 15 **Q. All right. Okay. We'll come to that in a second.**  
 16 A. Okay.  
 17 **Q. But so that -- the middle column on Exhibit 3.54 is**  
 18 **reflecting X's for the 11 neighborhoods that the text says**  
 19 **have had systematic inventories?**  
 20 A. Yes. Yes.  
 21 **Q. All right. And then the last column, you've mentioned that**  
 22 **some of those inventories have included historic context**  
 23 **statements like the one we looked at for North Beacon Hill?**  
 24 A. Correct. Uh-huh.  
 25 **Q. And the X's indicate which neighborhoods have a historic**

1 **Q. Because if you turn one more page you go into the impact**  
 2 **section, right?**  
 3 A. Correct.  
 4 **Q. All right. So let's talk about what's not in the EIS. So**  
 5 **you mentioned that the EIS includes a list of the properties**  
 6 **that are eligible for national listing. Does it include a**  
 7 **list of properties that are already on the national list?**  
 8 A. No, not from what I can tell.  
 9 **Q. Does it include a map of where the national list of**  
 10 **properties are?**  
 11 A. No.  
 12 **Q. Does it include a statement of within any given urban**  
 13 **village on the -- to the extent that -- well, 26 of the 27**  
 14 **have had surveys. Does it say what those surveys found? Or**  
 15 **is it just an X indicating a survey has been done?**  
 16 A. So the survey -- information in these databases I --  
 17 **Q. No, I'm not -- I'm not asking about the database. I'm**  
 18 **talking about the EIS.**  
 19 A. Yeah.  
 20 **Q. Does the EIS tell a reader what information is contained in**  
 21 **the survey?**  
 22 A. No.  
 23 **Q. If I care about what the East Lake survey found, would I**  
 24 **know anything about it by reading this EIS?**  
 25 A. No.

1 **context statement; is that right?**  
 2 A. Yes.  
 3 **Q. All right. But then you said there's at least one area**  
 4 **you've identified. What was that?**  
 5 A. So the one that we submitted as the exhibit for Beacon -- or  
 6 North Beacon Hill, that is a context statement, and there's  
 7 no X on the --  
 8 **Q. On that line?**  
 9 A. On that.  
 10 **Q. All right. All right. And then in terms of understanding**  
 11 **the historic resources that are in the study area, that are**  
 12 **in these neighborhoods, is that the end of the discussion in**  
 13 **the EIS?**  
 14 A. Yeah, pretty general.  
 15 **Q. My question is, is that the end of the discussion?**  
 16 A. I believe it is, but I --  
 17 **Q. Well, turn the page.**  
 18 A. Yeah, it is. And then it moves on to unreinforced space and  
 19 re-buildings.  
 20 **Q. Right. And cultural resources?**  
 21 A. Yeah. Below ground, which is archeological.  
 22 **Q. Right. So in terms of historic resources in the study area,**  
 23 **the affected environment, what we've just reviewed is the**  
 24 **totality of the EIS; is that right?**  
 25 A. Correct.

1 **Q. If I cared about the historic resources in Madison-Miller,**  
 2 **would I know anything about what the survey found by reading**  
 3 **the EIS?**  
 4 A. No.  
 5 **Q. If I cared about any of these neighborhoods, would I know**  
 6 **what the historic surveys found by reading the EIS?**  
 7 A. No.  
 8 **Q. For the ones for which a historic context statement has been**  
 9 **prepared, like 23rd and Union-Jackson, would I know what the**  
 10 **historic context statement said by reading the EIS?**  
 11 A. No.  
 12 **Q. Would I know anything, any hint of what the historic context**  
 13 **statement said for Fremont?**  
 14 A. No.  
 15 **Q. Would I know what the historic context statement said for**  
 16 **any of these ones that have an X next to them?**  
 17 A. No.  
 18 **Q. Would that information have been useful if someone wanted to**  
 19 **understand how the project would impact historic resources**  
 20 **in these neighborhoods?**  
 21 A. It would have been useful, because the information is there.  
 22 **Q. Well, that's the ease of it, but I just -- before I know**  
 23 **that -- I know you know -- you've already said this**  
 24 **information's there. Why would it have been useful?**  
 25 A. Because it goes back to what we talked about earlier, which

1 is the first part of the historic resources section is the  
 2 affected environment. So we need -- you don't know what you  
 3 don't know, so we need to know what's there first. And so  
 4 what resources exist in the 27 neighborhoods, and within the  
 5 study area. We need to know what's there first before you  
 6 became aware of the impacts.

7 **Q. So this morning we were going through a variety of maps with**  
 8 **Mr. Steinbrueck in Appendix H of the EIS, the zoning -- the**  
 9 **rezone maps. You've seen those?**

10 A. I've seen -- I've seen the rezone maps, yes.

11 **Q. Yes. Is there any place where the EIS takes the inventory**  
 12 **information that's in the city database and overlays it with**  
 13 **the rezone map so you know if you're rezoning eight blocks**  
 14 **on the east side of some urban village, how many historic**  
 15 **resources in the inventory show up in that --**

16 A. No.

17 **Q. -- in that rezone area?**

18 A. No.

19 **Q. And that's true for all of these rezones, right?**

20 A. Yes.

21 **Q. Without that information, are you -- were you able to --**  
 22 **well, you have special knowledge. Would a --**

23 A. It's my super power.

24 **Q. Well, you know historic resources unlike most people in the**  
 25 **city know. Would a layperson, without your specialized**

1 information, and also I think just by observing the  
 2 neighborhood, identify where those resources are. I think  
 3 there's a map that shows sort of the general age or decade  
 4 and age that they're in, that they are in the neighborhood.  
 5 And -- and sort of what some of the -- how the potential  
 6 upzone could potentially impact these resources.

7 **Q. You've mentioned that in addition to landmarks there is a**  
 8 **creature in the historic preservation world known as a**  
 9 **historic district, right?**

10 A. Yes.

11 **Q. And why don't you describe what a historic district is?**

12 A. Sure. It's -- a historic district is --

13 **Q. Why don't you start with an example. Pioneer Square.**

14 A. Oh, okay. Pioneer Square. So Pioneer Square is a historic  
 15 district. I think we all know Pioneer Square. So usually  
 16 historic districts, they always have a boundary. And these  
 17 boundaries are not arbitrary. They're -- they're sort of  
 18 a -- they -- they make sense in terms of maybe they're --  
 19 they go from an arterial to an arterial. They look at a  
 20 general sort of what's there now, and is it a cohesive area  
 21 in terms of what's called period of significance. Like, how  
 22 this area -- neighborhood developed.

23 **Q. What's the period of significance mean?**

24 A. That's -- it's actually a National Register term. So  
 25 essentially it's in a neighborhood, you -- you sort of look

1 knowledge, be able to learn from this document how the  
 2 rezones impacted specific historic resources identified in  
 3 the city's surveys?

4 A. No, I don't believe so.

5 **Q. You mentioned that the city earlier did an EIS for -- and**  
 6 **Mr. Steinbrueck did, too -- for two parts of the city that**  
 7 **had the MHA program rolled out earlier; the Uptown area,**  
 8 **also known as Lower Queen Anne, and the University District.**  
 9 **Did you say you had reviewed one or both of those EIS's?**

10 A. I have in the past.

11 **Q. All right. Do you recall whether those EIS's involved a**  
 12 **more detailed description of the historic resources in the**  
 13 **area of the rezones proposed in those areas?**

14 A. They do. They both do.

15 **Q. Do you recall any -- we'll introduce them later, but just as**  
 16 **you sit here now, do you recall with any specificity what is**  
 17 **provided in those EIS's?**

18 A. They -- as I recall, they looked at the -- the -- it was  
 19 more block by block. They actually had more specifics on  
 20 the historic resources that exist. Where they got that  
 21 information and whether -- I think they also looked at a  
 22 National Register, what's listed on the National Register,  
 23 what's a Seattle landmark, probably what's been determined  
 24 eligible. And so, again, that information is not that  
 25 difficult to get. And so -- so they were able to apply that

1 back at how it --

2 **Q. Is it why we're designating this as a historic district, the**  
 3 **significant period, that sort of thing?**

4 A. This sort of -- well, then you -- then we get really wonky  
 5 here. Then you sort of get into what's called contributing  
 6 versus noncontributing historic resources and whether --  
 7 contributing means whether it contributes to the  
 8 significance of the district.

9 **Q. Well, let me give you -- let's use an example. What's the**  
 10 **period of historic significance for Pioneer Square, roughly?**

11 A. So it probably would've been -- because most of what's there  
 12 is -- there are only a few buildings that predate the Great  
 13 Fire. So you usually look at sort of the earliest building  
 14 that's, like, (inaudible), like, when it was built. So  
 15 generally you start from there. And then you look at the  
 16 patterns of development and how it -- how the neighborhood  
 17 developed, and what -- maybe some historic events or some --  
 18 some commercial -- something significant that happened,  
 19 occurred. So it could go all the way up until, you know,  
 20 maybe 50 years ago, if that -- if that continuity, history  
 21 can sort of kind of continue. Sometimes you could stop in  
 22 the '30s, or maybe -- because the depression maybe really  
 23 sort of demarcated a development for that area, like, when  
 24 are these buildings built.

25 **Q. So a historic district is a specifically delineated area?**

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1 A. Uh-huh.

2 **Q. With some common historic characteristics?**

3 A. Common history.

4 **Q. Architectural styles?**

5 A. Architectural styles, development period, cultural history

6 events may define an area.

7 **Q. Yep. Okay. And are all the places in the city that have**

8 **some defined historic character to them formally designated**

9 **as a historic district?**

10 A. Not everything, no.

11 **Q. Can you give some examples of areas of the city that have**

12 **historic character, fairly uniform in an area, and yet are**

13 **not designated as a district?**

14 A. Yeah. There are -- I would say the Central Area, Madrona,

15 Washington Park, the area around Volunteer Park,

16 Millionaire's Row, Fourteenth Avenue. I mean, it can -- I

17 go -- Queen Anne. I mean, huge swath of Queen Anne. Parts

18 of Ballard. Yeah, Ravenna.

19 **Q. All right. Did the EIS identify any of those areas?**

20 A. I don't believe so.

21 **Q. Was there an effort underway at the same time that the EIS**

22 **was underway to designate a new ar- -- formally designate a**

23 **historic district in the North Rainier area?**

24 A. So, yes, there is. Yep.

25 **Q. And did the EIS make any reference to that?**

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1 A. No.

2 **Q. So let's move past the affected environment to the impact**

3 **section of the EIS. And you testified earlier that the**

4 **impact analysis was deficient because -- you had said**

5 **something along the lines of you couldn't -- didn't describe**

6 **the impacts because it hadn't described the resources that**

7 **might be impacted. Could you explain that a little bit**

8 **more? Why did you find the impact section of the EIS**

9 **inadequate?**

10 A. Well, it -- as we said in our comment letter, it -- it

11 minimizes the actual impact on historic resources. It falls

12 back on the -- the fact that it's a programmatic EIS, so

13 there's a certain level of detail, what they believe is

14 appropriate. And so essentially it says that -- we talked

15 about direct and indirect impact, and then this is -- this

16 essentially says there's really no impact, so therefore --

17 but -- but if there were, then the historic resources may

18 be -- may be -- may be adversely affected. It's just very

19 general terms.

20 **Q. So for instance, you mentioned before that there are**

21 **historic resources identified in the city's own database,**

22 **5,000 or so. Is there any analysis in the impact section of**

23 **how any of those resources would be impacted?**

24 A. No, because it didn't go into any -- not even a general

25 level of detail for -- for the neighborhoods.

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1 **Q. Can you turn to the EIS appendix? Different volume**

2 **probably. The appendix.**

3 MS. BENDICH: Which one is that?

4 MR. JOHNSON: It should be in notebook 3, as I recall.

5 MS. BENDICH: This is 3.

6 MR. BRICKLIN: Judy, next time you get that back, why

7 don't you write appendix on that.

8 MS. BENDICH: Okay.

9 MR. BRICKLIN: Make it easier for the --

10 MR. JOHNSON: We're going to --

11 MR. BRICKLIN: Yeah.

12 MR. JOHNSON: -- make it --

13 HEARING EXAMINER: I think it's closer to the front.

14 MR. JOHNSON: The hearing examiner rearranged his.

15 HEARING EXAMINER: I think it's closer to the front of

16 that.

17 MR. JOHNSON: We're going to do the same with the witness.

18 **Q. (By Mr. Bricklin) Appendix H.**

19 A. Which appendix?

20 **Q. H.**

21 A. H.

22 **Q. Which might be near the front, it sounds like. It's the**

23 **colored maps.**

24 MR. JOHNSON: Well, the appendices start at the front. H

25 might be --

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1 MR. BRICKLIN: Oh, oh, I'm sorry.

2 MS. BENDICH: H is going to be farther along.

3 HEARING EXAMINER: H is in the middle. It's the 2158 is

4 the Bates stamp.

5 THE WITNESS: Deep.

6 MR. BRICKLIN: Yeah, it's way deep. There you go.

7 MS. BENDICH: There. There's the maps.

8 MR. BRICKLIN: Could you put a yellow sticky on any one of

9 those pages? Here. I got them. Yeah, that's fine.

10 MS. BENDICH: Put a little sticky.

11 MR. BRICKLIN: Yeah. On any one of them. I don't care.

12 Just so -- yep.

13 **Q. (By Mr. Bricklin) But if you would turn to -- oh, let's use**

14 **as an example -- let's go to page H70, the lower left-hand**

15 **corner, H70.**

16 A. Okay.

17 **Q. Is that Exhibit 6-H69?**

18 A. Yes, it is.

19 **Q. And do you see this says, "Roosevelt Urban Village**

20 **Alternative 3"?**

21 A. Yes.

22 **Q. All right. And let's get oriented here. So the existing**

23 **urban village is depicted by the solid black line; is that**

24 **right?**

25 A. It is.

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

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

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

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

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

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

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

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

1 **Q. All right.**  
 2 A. I think there was something about scale, too, and that's not  
 3 addressed in there.  
 4 **Q. All right. And last, let's talk -- one of the things you**  
 5 **talked about was the hidden density available in older homes**  
 6 **and the fact that you -- you can can sort of have your cake**  
 7 **and eat it too, if you will. You can both provide for**  
 8 **affordable housing and protect the historic resources?**  
 9 A. Yes.  
 10 **Q. There's a citywide policy at Land Use 15.2, "Encourage**  
 11 **rehabilitation opportunities and reinvesting in vacant or**  
 12 **underutilized historic properties." And another, 15.3,**  
 13 **"Encourage rehab of existing housing units and other**  
 14 **building types that expands affordable housing choices."**  
 15 **Are you familiar with those policies?**  
 16 A. I am.  
 17 **Q. Do you view the proposal as creating inconsistency with**  
 18 **those policies?**  
 19 A. I think -- so some of those may be in other parts of the  
 20 EIS.  
 21 **Q. Right. My question was, do you view the proposal as**  
 22 **creating inconsistencies with those policies?**  
 23 A. I -- I believe so, but like I said, some of the things  
 24 you're mentioning, it might be somewhere else.  
 25 **Q. Right. Are you aware of any place where the EIS discusses**

1 means it prolongs the life of the landmark and -- and then  
 2 the developer gets their additional FAR and height. So on  
 3 First Hill, there's something called TDP, which was  
 4 established in 2009. There aren't that many incentives for  
 5 historic preservation. There are just a few. So -- so in  
 6 Seattle, I think it's in Downtown, First Hill, I think maybe  
 7 South Lake Union, and then --  
 8 **Q. Well, that's fine. I don't need all them. And are you**  
 9 **aware that the proposal involves eliminating that program on**  
 10 **First Hill?**  
 11 A. Yeah. So the draft MHA legislation struck out the incentive  
 12 for First Hill TDP for -- it was for incentive zoning for  
 13 the landmarks. And I think there was incentive zoning for  
 14 open space and maybe green streets, too.  
 15 MR. WEBER: I'm going to object to the relevance of the  
 16 draft MHA legislation. That's not actually part of the EIS.  
 17 MR. BRICKLIN: It's part of the proposal that's analyzed  
 18 in the EIS.  
 19 MR. WEBER: Well, it actually postdates the EIS. It was  
 20 not transmitted until after the EIS, so we don't view that  
 21 as relevant. I mean, you can obviously -- that's just my  
 22 objection. I want it on the record.  
 23 HEARING EXAMINER: Is there some description of it in the  
 24 prepared alternative or something in the EIS that --  
 25 MR. BRICKLIN: It is the proposal to eliminate this --

1 **those policies?**  
 2 A. So I know there's a -- there's a HALA -- well, it's the MHA  
 3 HALA. I mean, you talk about preservation housing is  
 4 important, affordable housing is important, but --  
 5 **Q. But I'm talking about those specific policies. Are you**  
 6 **aware of any place where those policies are referred to?**  
 7 A. No.  
 8 **Q. All right. Last, are you familiar with a program regarding**  
 9 **the transfer of development potential on First Hill?**  
 10 A. I am.  
 11 **Q. And can you explain briefly what that program is?**  
 12 A. As best I can. I'll try. So in -- so the city has a  
 13 transfer of development rights. And it's incentive zoning.  
 14 So whether it's called TDR, transfer development rights, or  
 15 TDP, transfer development potential, it's an incentive of --  
 16 as related to landmarks to encourage preservation of a  
 17 landmark with the owner selling their tran- -- development  
 18 potential to a developer that wants additional height and  
 19 floor area ratio, FAR. And so the -- there's I think a TDR  
 20 bank, and so -- so essentially there are projects out there.  
 21 So there's something called a sending site, which is,  
 22 let's say, the landmark, and a receiving site, which is  
 23 the -- the development project. So it's supposed to benefit  
 24 both, and a -- and the money that goes to the landmark owner  
 25 is supposed to go back to rehabbing the building, which

1 HEARING EXAMINER: Well, let me make sure it --  
 2 MR. BRICKLIN: Yeah, I'm asking the witness. I was going  
 3 to ask the witness if she knows that, the answer to that.  
 4 HEARING EXAMINER: Okay.  
 5 **Q. (By Mr. Bricklin) Is there a reference to the elimination of**  
 6 **this program in the EIS itself? Do you know?**  
 7 A. Not that I'm aware of.  
 8 **Q. All right. Did the proposal exist before the EIS was**  
 9 **written?**  
 10 A. I -- I don't know. I think -- I believe there was community  
 11 outreach. Not to us, Historic Seattle, by the city about --  
 12 about the proposal to eliminate TDP from First Hill, I think  
 13 as late as 2016, late 2016.  
 14 **Q. Is the proposal now unveiled?**  
 15 A. Yes.  
 16 **Q. Do you know whether it will -- whether --**  
 17 HEARING EXAMINER: So in the interest of --  
 18 MR. BRICKLIN: I'm just going to ask one more foundation  
 19 question.  
 20 **Q. (By Mr. Bricklin) Do you know whether the proposal's**  
 21 **unveiled makes reference to this EIS as the basis for the**  
 22 **support for the proposal?**  
 23 A. No, I don't think so.  
 24 **Q. You don't know, or it does not?**  
 25 A. When you say the proposal, do you mean --

1 **Q. So the ordinance that would eliminate the program, I'm**  
2 **assuming there's some SEPA documentation for that proposal.**  
3 **Does that SEPA documentation refer back to this EIS? Do you**  
4 **know?**

5 A. I don't know.

6 **Q. You don't know. Why don't we wait on this then, and we'll**  
7 **figure that out.**

8 HEARING EXAMINER: So are you withdrawing?

9 MR. BRICKLIN: I'll withdraw the question until we find  
10 that out.

11 HEARING EXAMINER: Thank you.

12 MR. BRICKLIN: And that's all I have for this witness.

13 MS. BENDICH: I had one follow-up question.

14  
15 DIRECT EXAMINATION

16 BY MS. BENDICH:

17 **Q. This is a point of clarification, Ms. Woo.**

18 A. Uh-huh.

19 HEARING EXAMINER: Ms. Bendich, can you move your  
20 microphone closer, please?

21 MS. BENDICH: Oh, my microphone's not close enough?  
22 Sorry.

23 HEARING EXAMINER: Just a bit.

24 **Q. (By Ms. Bendich) I had one point of clarification. This**  
25 **regards the SEPA exemptions. And I think you mentioned that**

1 or not, and whether the growth projections have been met.

2 It's this table that's in the SEPA code, in the historic

3 preservation. And there is a lower threshold for potential

4 landmarks -- alterations or demolitions to potential

5 landmarks. So like I said, depending on the -- on the zone,

6 it could be -- if we're in residential, it's based on the

7 number of units. It could be four units. It could be

8 eight. It could be twenty. And then for a commercial

9 building, it's based on square footage.

10 **Q. Okay. Well, let's just take something like a residential**  
11 **small lot. It might have two buildings on it. Would SEPA**  
12 **kick in at that point?**

13 A. I'd have to look at the table. I don't know.

14 **Q. So you just don't know. Okay. Thank you.**

15 A. Uh-huh.

16 **Q. I would just like to draw your attention to the -- I believe**  
17 **you had some comments in your own letter, and I don't**  
18 **remember the number of the DAHP exhibit. I believe that was**  
19 **No. 17.**

20 MR. JOHNSON: Yeah.

21 MR. BRICKLIN: Yes.

22 **Q. (By Ms. Bendich) Okay. If you could take a look at that**  
23 **letter. And if you go to the second page of that letter,**  
24 **paragraph No. 4, you see what that says?**

25 A. Yes.

1 **there might be some kind of review if a potentially historic**  
2 **building were up for redevelopment.**

3 A. Yes.

4 **Q. Now, is every project covered requiring a SEPA analysis,**  
5 **even if its one building, or does it have to be bigger, or**  
6 **what is the threshold?**

7 A. No. There -- there are what's called categorical  
8 exemptions. And so a project would have to be over that  
9 threshold to be subject to SEPA and also reviewed for  
10 potential landmark nomination.

11 **Q. Okay. I'm not talking about where you already have a**  
12 **potential landmark, or where you have a landmark. Because**  
13 **that would require SEPA review -- or it would require some**  
14 **kind of review; is that correct?**

15 A. No. What I'm saying is if the -- the connection is if a  
16 project impacts a potential --

17 **Q. Oh, I see.**

18 A. -- historic resource, then what -- what the SEPA code says,  
19 that if it meets the threshold -- I mean, if it's over the  
20 threshold and the DCI refers that project to the landmark  
21 staff for a review to see if a -- if a landmark nomination  
22 should be prepared or not.

23 **Q. Okay. Do you know what that threshold is? How many units,**  
24 **or big does this project have to be?**

25 A. It depends on the zoning and whether it's in an urban center

1 **Q. Could you read that out loud for us, please?**

2 A. This says, "There is concern that SEPA exempt thresholds may  
3 support projects affecting archeological and historic  
4 properties to move forward without review."

5 **Q. Okay. And do you agree with that comment?**

6 A. Yes.

7 MS. BENDICH: Thank you. That's it.

8 HEARING EXAMINER: Anything further from appellants?  
9 Cross.

10 MR. JOHNSON: Go ahead and take a drink. You've been  
11 talking a long time.

12  
13 CROSS EXAMINATION

14 BY MR. JOHNSON:

15 **Q. Good afternoon, Ms. Woo. I'm Dale Johnson representing the**  
16 **City this afternoon. I have a few follow-up questions based**  
17 **on your testimony. Maybe starting off where you left off.**  
18 **Ms. Bendich referred to Exhibit 17 on the second page,**  
19 **paragraph 4 where it talks about concerns about SEPA exempt**  
20 **thresholds maybe not capturing or protecting adequately**  
21 **historic properties in Seattle. And you said you generally**  
22 **agree with that statement; is that correct?**

23 A. Yes.

24 **Q. Okay. And if the -- and my understanding is that there are**  
25 **a number of thresholds as you were describing to Ms. Bendich**

1 **Q. And that would be true under any of these impacts; is that**  
 2 **right?**  
 3 A. Yes.  
 4 **Q. I'm sorry, under any of these alternatives?**  
 5 A. Yes.  
 6 **Q. Okay. And if you could turn to the first page of the**  
 7 **historic resources section, which doesn't have a number on**  
 8 **it, but I think it's 3.295.**  
 9 A. Uh-huh.  
 10 **Q. You see the underlined text on that page that carries over**  
 11 **to the following page?**  
 12 A. Yes.  
 13 **Q. Do you know why that's underlined?**  
 14 A. Yes.  
 15 **Q. Why?**  
 16 A. I believe that's a change from the DEIS.  
 17 **Q. Okay. And do you know, does any of this new text in the**  
 18 **FEIS respond in any way to your comments that you made**  
 19 **during the DEIS review process?**  
 20 A. I think some of it does.  
 21 **Q. Okay. Can you say what part of it does?**  
 22 A. Well, without looking at my comments in the response, and  
 23 then comparing it to this, I couldn't say line by line.  
 24 **Q. Okay. But it does respond at least in part to some of your**  
 25 **comments?**

1 A. Not much more. They named some neighborhoods, but --  
 2 **Q. That's what I said. And which neighborhoods have higher**  
 3 **growth rates than others, right? But other than -- you**  
 4 **agree?**  
 5 A. Yes. Right.  
 6 **Q. No effort in any given neighborhood to analyze what the**  
 7 **impacts are in that neighborhood, right?**  
 8 A. No, it doesn't.  
 9 **Q. There was a lot of discussion about mechanisms in the city**  
 10 **code or proposed in the mitigation measures for the**  
 11 **protection of landmarks or potential future landmarks. Are**  
 12 **all the historically -- are all the buildings that matter to**  
 13 **you in terms of the historic character of a neighborhood**  
 14 **destined to be landmarks, or are there other buildings that**  
 15 **aren't landmarked, but still contribute to the historic**  
 16 **character of a neighborhood?**  
 17 A. There are definitely resources and buildings that aren't  
 18 currently landmarked that --  
 19 **Q. Well, I'm not -- I'm not talking about just currently**  
 20 **landmarked, but that -- for instance, you were talking**  
 21 **earlier about historically-significant areas like parts of**  
 22 **Ballard and the Central District, and elsewhere. Is it the**  
 23 **character of a neighborhood that makes it significant,**  
 24 **meaning that every building in that district is going to be**  
 25 **a landmark in that area?**

1 A. Yes.  
 2 **Q. Okay.**  
 3 MR. JOHNSON: I don't have anything further.  
 4 HEARING EXAMINER: Redirect.  
 5  
 6 REDIRECT EXAMINATION  
 7 BY MR. BRICKLIN:  
 8 **Q. On that last point, Ms. Woo, while it responds in part to**  
 9 **your comments, does it respond adequately to your comments?**  
 10 A. Not really.  
 11 **Q. All right. Shortly before that you were asked whether those**  
 12 **growth percentage numbers stood basically for the**  
 13 **proposition that the greater the growth rate, the greater**  
 14 **the risk to historic resources. And you agreed with that**  
 15 **general proposition, right?**  
 16 A. Yes.  
 17 **Q. And is that about the beginning and end of the EIS analysis**  
 18 **of impacts from this project?**  
 19 MR. JOHNSON: Objection. Leading.  
 20 **Q. (By Mr. Bricklin) Does the EIS go much deeper than that in**  
 21 **analyzing the impacts of this project on historic resources**  
 22 **and the proposition that the higher the growth rate, the**  
 23 **greater the risk, and showing which neighborhoods have**  
 24 **higher growth rates than others? Is there more analysis**  
 25 **than that?**

1 A. No, not every building will be a landmark.  
 2 **Q. Right. Does the integrity of that area as a district,**  
 3 **though, require that more than just the landmarked buildings**  
 4 **be protected?**  
 5 A. Oh, yeah, in a historic district, part of the cohesiveness  
 6 that I talked about earlier, one of the factors in  
 7 considering whether an area is potentially eligible to be a  
 8 district is integrity, which is a physical integrity of the  
 9 resources. So have there been significant alterations to  
 10 the buildings, to the streetscape? So it's looked at as a  
 11 whole. But if you chip away at it, and more and more lots  
 12 or parcels are demolished, or the buildings are changed or  
 13 added on to significantly, then it diminishes the ability  
 14 for that district to convey significance (inaudible).  
 15 **Q. So if you're a resident of Ravenna-Cowen, or the Central**  
 16 **District, or parts of Ballard that have this sort of**  
 17 **cohesiveness in terms of some historically -- historic**  
 18 **pattern of construction, all the homes are a certain style,**  
 19 **built in the 1920s or whatever, are all those homes destined**  
 20 **to be landmark status such that the landmark ordinance will**  
 21 **protect the cohesiveness of that area?**  
 22 A. No.  
 23 **Q. Does the fact that the city doesn't have comprehensive**  
 24 **inventories for all parts of the city suggest in any way**  
 25 **that it shouldn't use the data that it does have in areas**

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1 where it has the data?  
 2 A. No. They should use it.  
 3 **Q. And using that search form that you described when we were**  
 4 **looking at the website screen shots, is it possible to zero**  
 5 **in and find resources in the database on the specific blocks**  
 6 **that are called out in the zoning ordinance for expansion of**  
 7 **the UVs?**  
 8 A. You can definitely get a list of the addresses and look  
 9 those up and compare.  
 10 **Q. All right.**  
 11 A. You just follow up on the survey. So Historic Seattle, it's  
 12 referenced in the EIS, the Folke, Nyberg, Victor Steinbrueck  
 13 survey from the mid '70s. They're Historic Seattle surveys,  
 14 and they're still used today. Not just by us, but by  
 15 consultants and architects who prepare landmark nominations  
 16 and district nominations. The maps are used. The  
 17 information that's there is still valid. When we do  
 18 research and survey work, we always look to see what's been  
 19 done before. And that provides a foundation to see what's  
 20 changed. The history doesn't change.  
 21 **Q. And the fact that you've never peer reviewed an EIS for the**  
 22 **lead agency, does that, in your mind, undermine your ability**  
 23 **to evaluate whether the information in this EIS is adequate**  
 24 **for the public or decision makers?**  
 25 A. No, I don't believe SEPA requires -- I mean, anyone can

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1 review these and comment.  
 2 **Q. All right.**  
 3 A. And the fact that I am in the historic preservation field, a  
 4 professional, I understand what's being described generally  
 5 and what's missing or lacking.  
 6 MR. BRICKLIN: Thank you. That's all I have.  
 7 HEARING EXAMINER: Thank you, Ms. Woo.  
 8 THE WITNESS: Thank you.  
 9 HEARING EXAMINER: Appellant's next witness.  
 10 MR. ABOLINS: Friends of North Rainier would call Spencer  
 11 Howard. I have my exhibits before we get started in a  
 12 notebook, but without separate bindings or staples. Perhaps  
 13 I could staple it if I hand them out (inaudible).  
 14 HEARING EXAMINER: Let me try to help you.  
 15 MR. ABOLINS: That would be great. Thank you.  
 16 HEARING EXAMINER: Please state your name and spell it for  
 17 the record.  
 18 THE WITNESS: My name is Spencer Howard, S-P-E-N-C-E-R,  
 19 H-O-W-A-R-D.  
 20 HEARING EXAMINER: And do you swear or affirm the  
 21 testimony you will provide in today's hearing will be the  
 22 truth?  
 23 THE WITNESS: I do.  
 24 HEARING EXAMINER: Thank you.  
 25 \\\

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1 SPENCER HOWARD: Witness herein, having first been  
 2 duly sworn on oath, was examined  
 3 and testified as follows:  
 4  
 5 DIRECT EXAMINATION  
 6 BY MR. ABOLINS:  
 7 **Q. Mr. Howard, good afternoon.**  
 8 A. Good afternoon.  
 9 **Q. Can you please tell us a little about who you are, starting**  
 10 **with your employment?**  
 11 A. I currently -- I'm a co-founder, and I'm secretary of  
 12 Northwest Vernacular, a historic preservation firm. We  
 13 specialize in the built environment, so everything relating  
 14 to historic preservation of above-grade cultural landscapes  
 15 and buildings. Before that I was a partner with Artifacts  
 16 Consulting. I worked with Artifacts for just about 15  
 17 years. And then I have a Master's of Science in historic  
 18 preservation with a concentration in preservation design  
 19 technology.  
 20 **Q. And I take it you're familiar with historic resources with**  
 21 **that background?**  
 22 A. I am, yes. I've -- we -- Northwest Vernacular, we're one of  
 23 three firms that are currently on call with the University  
 24 of Washington for their cultural resource needs. We're  
 25 currently also working on the Uptown Urban Center survey and

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1 inventory and developing a historic context for Uptown. We  
 2 are working on multiple rehabilitation projects in the City  
 3 of Seattle, including the Macy's building, the Harvard Exit  
 4 up on Capitol Hill, and the Louisa down in the International  
 5 District. Also worked on with my previous firm as the lead  
 6 on the Seattle Center Landmark Study, and on the South  
 7 Seattle survey and inventory. So it was a lot of survey  
 8 work in South Seattle in about circa 2005.  
 9 **Q. Are you also familiar with EIS preparation with regard to**  
 10 **historic resources?**  
 11 A. I am, yes. I worked on, with my previous firm, on the Port  
 12 of Bellingham, the former Georgia Pacific site. I was the  
 13 lead on preparing the historic properties technical resource  
 14 component for that EIS. And then I was also the lead also  
 15 with my previous firm on Port Gamble, which is a National  
 16 Historic Landmark site, which is the most elite listing of  
 17 historic properties, doing the technical resource component  
 18 for an environmental impact statement for the redevelopment  
 19 of that historic district to bring back -- basically  
 20 redevelop and bring back historic density levels. They had  
 21 lost a lot of properties. And then I was also the lead on  
 22 the technical report for the MHA University District EIS,  
 23 doing the -- for the -- here in -- here in Seattle.  
 24 **Q. So you were actually involved on an EIS for an MHA proposal**  
 25 **for a specific neighborhood?**

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

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

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

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

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

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

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

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

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

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

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

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

24 A. I do.

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

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

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

5 **Q. In what ways?**

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

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

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

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

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

9 MR. BRICKLIN: Page 2.3.

10 MR. ABOLINS: Thank you.

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

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

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

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

3 A. Yes.

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

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

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

24 A. It is, yes.

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

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1 **what could've been done with respect to this particular**  
 2 **FEIS?**  
 3 A. We have. And actually, the Mount Baker Historic District  
 4 would probably be a great example of that. So that was a  
 5 historic district that the Friends of Mount Baker Town  
 6 Center received a grant from 4Culture to undertake a  
 7 preservation of a historic district. Northwest Vernacular  
 8 worked on that starting in June of 2017. And so it is  
 9 currently listed to the Washington Heritage Register of  
 10 Historic Places. It's under review by the keeper of the  
 11 register as a national -- for National Register listing.  
 12 But that area -- and there's some exhibits that would be  
 13 helpful.  
 14 **Q. Why don't we start with citywide exhibits, because I**  
 15 **understand you've done a fair amount of work in that area.**  
 16 **Can you tell us about your Exhibit 46? This is a historic**  
 17 **resource inventory that includes surveyed properties.**  
 18 A. Yes.  
 19 MR. BRICKLIN: Your 46 or my 46?  
 20 MR. ABOLINS: My 46.  
 21 MR. BRICKLIN: All right.  
 22 A. So the surveyed properties, part of that was in the -- in  
 23 the testimony from Ms. Woo previously in talking about the  
 24 City of Seattle Historic Resources Inventory, and how that's  
 25 a -- basically a web page, and that is a front end for a

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1 database. What we wanted to find out is, you know, that's  
 2 not that user friendly if you're trying to do a citywide  
 3 programmatic EIS. So we wanted to find out, could we  
 4 extract that data out of there, and push it in the GIS and  
 5 be able to use that as part of a larger map. And what we  
 6 found is that yes, you can. We initially tried to grab it  
 7 all out as a single download.  
 8 Because of some oddities with the addresses, that  
 9 didn't work as well, so we pulled it by neighborhood, and we  
 10 were able to geocode the addresses for all of the properties  
 11 and push those out into GIS so that the end result is having  
 12 all of the City of Seattle inventory data, which there's  
 13 currently a little over 8,900 properties in there available  
 14 as a GIS layer, so that that layer could then be overlaid  
 15 with the proposed land use zoning changes and be able to  
 16 understand where you're getting at clusters of potential  
 17 changes.  
 18 **Q. (By Mr. Abolins) And so this -- I think you should have 46**  
 19 **before you. Is this the outcome of that effort?**  
 20 A. I do. This -- so this was an early -- kind of an early  
 21 process map that we were working through. So the symbology  
 22 has a lot of colors on it. But basically all of the  
 23 multiple colors refer to the City of Seattle inventory  
 24 properties. The ones that are red with the white circle  
 25 around them, those are the Department of Archeology formal

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1 determination of eligibility properties. And so we have  
 2 some other exhibits that -- where we had legends and were  
 3 kind of cleaning this up, but we were trying to figure out,  
 4 does this work, and what would that look like if it did  
 5 work?  
 6 MR. ABOLINS: Okay. Your Honor, I would like to submit  
 7 this as a new exhibit number. I think we are on --  
 8 HEARING EXAMINER: 19.  
 9 MR. ABOLINS: -- 19.  
 10 HEARING EXAMINER: Are you asking that it be marked, or  
 11 are you asking --  
 12 MR. ABOLINS: We'd like to have it marked and admitted.  
 13 HEARING EXAMINER: Any objection?  
 14 MR. JOHNSON: No objection.  
 15 HEARING EXAMINER: Exhibit 19 is admitted.  
 16 (Exhibit No. 19 marked for identification.)  
 17 (Exhibit No. 19 admitted into evidence.)  
 18 **Q. (By Mr. Abolins) And then you also prepared a map showing**  
 19 **listed and surveyed historic properties citywide, correct?**  
 20 A. Yes.  
 21 **Q. That's Exhibit 38?**  
 22 A. Yes. That was the more refined one.  
 23 **Q. Okay. I'll have that marked as Exhibit 20.**  
 24 **(Exhibit No. 20 marked for identification.)**  
 25 **Q. (By Mr. Abolins) Can you tell us about this particular**

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1 **document?**  
 2 A. Sure. So this is -- it's, again, probably doing the same  
 3 thing of scale here, but we were trying to -- it's actually  
 4 the PDF is much larger. But we were putting together in one  
 5 location the information that's available to us in GIS, and  
 6 that is available publicly to be able to convey that, yes,  
 7 the data is available. Generically speaking, here's how it  
 8 looks across the citywide.  
 9 So the key in the lower left has a legend for the --  
 10 what all the colored dots mean. But basically all of the  
 11 black dots are City of Seattle inventory properties, and  
 12 then the different lines are the individual and are  
 13 individually-listed properties, National Register listed  
 14 properties. So what our intent was on this was to basically  
 15 compare that and the richness of that data spread with the  
 16 Exhibits 3.5.2 and 3.5.3, and the FEIS to show there's a lot  
 17 of data that's missing that is really important for -- for  
 18 the analysis.  
 19 **Q. Now, this is still a citywide level, correct?**  
 20 A. It is, yes.  
 21 **Q. It looks like the richness in data would allow somebody to**  
 22 **scroll down and see parcel by parcel relationships?**  
 23 A. Correct, yes. It's all built in GIS, so you can zoom in  
 24 on -- down to the individual parcel. You could even go  
 25 within a parcel. But it's -- it's -- yeah, the level of

1 detail that's there is -- it's highly detailed.  
 2 **Q. Okay. So let's see. Some of these are scale maps. Okay.**  
 3 **Tell us about your map 28. It shows surveyor eligibility**  
 4 **recommendations from state data.**  
 5 A. Yes. So --  
 6 MR. ABOLINS: And I'm going to have an exhibit marked.  
 7 MR. BRICKLIN: Here. Why don't we convert numbers.  
 8 MR. ABOLINS: It's 2 -- are we at 21 now? This would be  
 9 our Exhibit 82. Actually, I don't know if I have that one  
 10 available. Let's scratch that.  
 11 A. Well, we're -- I can talk about it.  
 12 **Q. (By Mr. Abolins) Yeah, go ahead and talk about it, yeah.**  
 13 A. So --  
 14 MR. WEBER: Wait. Which exhibit are we on here?  
 15 MR. BRICKLIN: Did you say 28 or 82?  
 16 MR. ABOLINS: It was map 28, but it was our Drop Box 82  
 17 which we disclosed. Do you have --  
 18 MR. JOHNSON: Is it the Mount Baker inventory? Is it this  
 19 one?  
 20 MR. ABOLINS: No. No. I think this was a newer exhibit  
 21 you prepared.  
 22 THE WITNESS: Yeah, that was a newer one.  
 23 **Q. (By Mr. Abolins) Yeah.**  
 24 A. So we -- since we typically do survey and --  
 25 HEARING EXAMINER: Before you continue your testimony, you

1 have links to some standard parts that they make available  
 2 to the public.  
 3 So they sent that over, and then we were able to filter  
 4 that out and basically work up a citywide map of all of the  
 5 state-sponsored survey and inventory projects that had -- so  
 6 for each property that had been surveyed, for which the  
 7 surveyor had made a recommendation on eligibility, we could  
 8 show those and what that eligibility recommendation had  
 9 been. So it was another tool in that data set to help  
 10 understand the existing baseline conditions, to then inform  
 11 the impact analysis.  
 12 **Q. I'd like to turn your attention to a map we do have. This**  
 13 **is 36 in that notebook.**  
 14 MR. ABOLINS: And I'm going to have it marked as I  
 15 believe -- is it 21 now?  
 16 (Exhibit No. 21 marked for identification.)  
 17 **Q. (By Mr. Abolins) What are we looking at with this particular**  
 18 **exhibit?**  
 19 A. So one of the -- one of the changes proposed under that MHA  
 20 FEIS was the floor area ratio increase, FAR -- FAR increase.  
 21 And so we wanted to, you know, quickly understand, how does  
 22 that relate, and would this data that we've been collecting,  
 23 this baseline data, have any relevance to that. So what  
 24 this map shows is the floor area ratio increases. We group  
 25 them into three tiers or, like, a .1 to .9. There's a

1 were asked a question about an exhibit that --  
 2 MR. ABOLINS: We don't have it.  
 3 HEARING EXAMINER: You're not introducing it?  
 4 MR. ABOLINS: Yeah.  
 5 HEARING EXAMINER: So what's the question he's answering?  
 6 **Q. (By Mr. Abolins) So what were you trying to demonstrate by**  
 7 **creating this exhibit we don't have? What did you -- what**  
 8 **were you able to include?**  
 9 A. So as -- since we usually worked in doing survey and  
 10 inventory work, we knew that that data -- that on the  
 11 individual forms that are completed for state-sponsored  
 12 survey and inventory work, that there are the categories  
 13 of -- for the surveyor to make their professional  
 14 recommendation as to whether a property is potentially  
 15 National Register eligible, individually. And there's also  
 16 another one for is a property potentially within a historic  
 17 district, and if so, does it potentially contribute to that  
 18 historic district? So we knew the data was there.  
 19 So we talked with the State Department of Archeology  
 20 and Historic Preservation to ask, could that be something  
 21 that could be exported out? It's not currently searchable  
 22 and queryable on their online site. In the end they said,  
 23 we'll just ship you a copy of our database. That's the  
 24 easiest way to basically send it out. We can export that.  
 25 They're used to exporting out parts of their database. They

1 couple other ones. But basically the red and the yellow are  
 2 the -- are the highest level of floor area ratio increases.  
 3 The yellow is an increase of 2 to 2.9, and the red is an  
 4 increase of 3 to 4.4.  
 5 So generally speaking, if you were thinking of a parcel  
 6 and you built out that whole tax parcel, that's floor area  
 7 ratio of one. So if you're increasing these as a whole  
 8 build-out for that whole parcel by 2 to 4, you're going up,  
 9 generally speaking, 2 to 4 stories on those. There's  
 10 flexibility in how that's implemented, so it could actually  
 11 be higher in some cases.  
 12 But for us, what was interesting is looking at some of  
 13 the kind of concentration and cluster areas within the City  
 14 of Seattle, the inset detail at the very bottom that shows  
 15 the red properties, sort of the red parcel outlines, that's  
 16 Morgan Junction, and so north/south, running between the --  
 17 the street running north/south is California Avenue SW, and  
 18 then Fauntleroy cuts across that running east/west. So  
 19 these red properties that are in there, those are subject  
 20 under the FEIS to the highest level of FAR increase. The  
 21 buildings that are on the west side of Fauntleroy are  
 22 predominantly single story, brick masonry buildings, built  
 23 circa -- or late to mid 1900s. So that's a character aspect  
 24 for that -- for the Morgan Junction.  
 25 There is no analysis of what this FAR increase would

1 have on those properties, because if they're a single story,  
2 brick building, you know, they haven't been surveyed;  
3 they're not listed; they're not protected. They're a very  
4 vulnerable property then to development pressure, because  
5 with the increase in the floor area ratio, that makes this  
6 scenario that would be targeted for a multistory development  
7 that would likely involve removal of those properties.

8 The other is the inset map that's on the left-hand side  
9 of the page, about midway up. And this is an inset from  
10 East Lake along Interstate 5 where SR 520 connects in. So  
11 East Lake is single and multifamily in that area.  
12 Interstate 5 had cut through in the mid to late 1960s and  
13 wiped out a large swath of it.

14 What we're seeing with the yellow parcel footprints is  
15 a FAR increase on those. You notice it's kind of hard to  
16 see, but there's a number of the red dots that are over  
17 those. So those are properties that the State Department of  
18 Archeology and Historic Preservation had made a formal  
19 determination of eligibility for those properties. So,  
20 again, you have a larger FAR increase. You have determined  
21 eligible historic properties. But there's no impact  
22 analysis of what that really means, what these proposed  
23 changes could -- how they could affect those properties and  
24 surrounding properties.

25 **Q. So I take it a map like this would be more useful to a**

1 A. It is. This was just looking at the same idea as the FAR.  
2 It's looking at the proposed zoning changes, the M, M1, and  
3 M2.

4 **Q. Okay. So now did you also conduct an analysis as if we were**  
5 **looking at this at a neighborhood-by-neighborhood level in**  
6 **terms of historic resources? I understand you picked North**  
7 **Rainier as one of the areas that you focused in on.**

8 A. We did, but we didn't -- no, we didn't go through individual  
9 each by neighborhood or individually by historic district.  
10 We looked at trying to find some of the cluster areas that  
11 didn't have any listings to show how the predictive value of  
12 this information is useful. I think --

13 **Q. Can you tell us about this clustering? I mean, how is -- I**  
14 **mean, does the City's FEIS allow a decision maker to**  
15 **understand where clusters of historic resources might be?**

16 A. No, it does not.

17 **Q. And is that -- for someone who cares about historic**  
18 **resources, why would that be relevant?**

19 A. It shows a concentration, much like with the University  
20 District EIS as part of that, which was included on that  
21 overlay. We also flagged character buildings as part of  
22 that. And so these are buildings that they're not going to  
23 be eligible. You're not going to be able to list them. But  
24 they are important to that neighborhood based on its  
25 development patterns to its visual and functional character.

1 **decision maker reviewing an EIS when trying to determine the**  
2 **impacts on historic resources?**

3 A. Yes.

4 **Q. What about this inset to the right with the red bounded**  
5 **area?**

6 A. That is the Mount Baker. So the inset to the right is --  
7 and the North Rainier Valley, the red dashed line is the  
8 boundary for the Washington Heritage Register listed Mount  
9 Baker Park Historic District. And so this -- this shows  
10 within that district the black dots are properties that had  
11 been previously surveyed as part of City of Seattle survey  
12 work. The red dots are formal determinations of  
13 eligibility. And then you can see across within the town  
14 center area what some of the FAR increases would be in that  
15 area.

16 **Q. Okay. And this is before the urban village expansion had**  
17 **been overlaid on that?**

18 A. It is. There's a better --

19 **Q. I'm going to now move to -- I think we're on Exhibit 22.**  
20 **This is Exhibit 37 in that book.**

21 (Exhibit No. 22 marked for identification.)

22 **Q. (By Mr. Abolins) And what are we looking at in Exhibit 37?**  
23 **This is another -- it sounds like, if you can just quickly**  
24 **describe what you've captured here, it looks like it's**  
25 **somewhat related to the previous map.**

1 And so they were important to identify and to call out.

2 And so that -- in getting to the cluster idea with this  
3 data is -- you know, there -- there may not be all the --  
4 all of these properties may not ultimately be listed or  
5 landmarked, but many of these properties contribute to a  
6 better understanding of the place identity for each of the  
7 urban villages and urban centers, as well as the  
8 interstitial areas connecting those that are part of the  
9 study area. And that is something that's also been not well  
10 covered. So much of the focus has been on the urban centers  
11 and urban villages, but those connecting links are also  
12 important. And many of those were former streetcar lines,  
13 so there's a history, and there's a development pattern  
14 related to those that I think is important for -- just for  
15 neighborhood identity and to guide growth going forward.

16 **Q. And I know Eugenia Woo talked about I think the context**  
17 **statements, as well as the inventories that exist in the**  
18 **city's data?**

19 A. She did, yes. And those -- so that would include --

20 **Q. If I can refer you -- I'll refer you to an exhibit here.**  
21 **This is Exhibit 28, which is a Mount Baker Inventory of**  
22 **Buildings and Urban Design Resources. And it'll be marked**  
23 **as Exhibit 23, I believe.**

24 (Exhibit No. 23 marked for identification.)

25 **Q. (By Mr. Abolins) Did you find that one?**

1 A. Yes, I did.  
 2 **Q. What is the significance of this document? Do you agree**  
 3 **with Eugenia Woo's testimony that these documents, even**  
 4 **though created in the '70s, are still worthy of**  
 5 **consideration today?**  
 6 A. I do, yes. And that was something that the -- Historic  
 7 Seattle has a collection of these for many neighborhoods  
 8 within the City of Seattle. The chapter 3.5 under the  
 9 references cited that they looked at only the map of First  
 10 Hill. It should've included all of these, because they all  
 11 provide a level of detail and information and understanding  
 12 of previous work that had been done. It's a foundation to  
 13 build on.  
 14 The reference section for 3.5 also did -- cited a  
 15 couple of the context statements, but the majority of the  
 16 context statements, as Ms. Woo had pointed out, were not  
 17 included in there. The references didn't include any of the  
 18 typical secondary published materials that would be  
 19 associated with Seattle's history and changes in  
 20 development. So --  
 21 **Q. Okay. Yeah, I'm going to refer you to the next document.**  
 22 **That would be Exhibit -- in that book, Exhibit 27, Mount**  
 23 **Baker Historic Context Statement.**  
 24 MR. ABOLINS: I ask that it be marked as Exhibit 24.  
 25 (Exhibit No. 24 marked for identification.)

1 **can you outline for us the work that you've done with**  
 2 **respect to the North Rainier Village and its relationship to**  
 3 **the Mount Baker Park addition?**  
 4 A. So we were hired by the Friends of Mount Baker Town Center  
 5 to prepare a historic district nomination for the -- for  
 6 Mount Baker. I had previously, with my previous firm,  
 7 worked in that area doing survey and inventory work  
 8 back circa 2005, so I was well aware of the resources within  
 9 the neighborhood. So I was excited to work on the project.  
 10 So we prepared the nomination, had public meetings, and then  
 11 it was listed by the -- to the Washington Heritage Register  
 12 in I believe March of 2018.  
 13 And so as part of preparing that, we collected and  
 14 developed in GIS a lot of the information on which of the  
 15 houses were architect designed, what was the boundary for  
 16 the historic district, which of the properties within the  
 17 historic district were contributing to the historic  
 18 district. So when we then looked at that information  
 19 relative to the FEIS, we were then able to use that same  
 20 data and overlay the Appendix H map for the showing the  
 21 Rainier -- North Rainier Valley Urban Village, and the  
 22 proposed urban village expansions. There's two of those  
 23 that occur within the listed historic district.  
 24 **Q. And you were here during Peter Steinbrueck's testimony when**  
 25 **he talked about the importance of understanding neighborhood**

1 MR. BRICKLIN: What was your number on it?  
 2 MR. ABOLINS: 27.  
 3 **Q. (By Mr. Abolins) So can you tell us, you know, what kind of**  
 4 **information does this provide with regard to the Mount Baker**  
 5 **neighborhood?**  
 6 A. So this provides the developmental history for the Mount  
 7 Baker neighborhood. It breaks it out into the development  
 8 periods. It identifies key property types and resource  
 9 types associated with the neighborhood. And it's a resource  
 10 and a tool for being able to evaluate the potential  
 11 eligibility of properties that are surveyed within the  
 12 neighborhood. It also was a fantastic tool for developing  
 13 the historic context for the Mount Baker Park Historic  
 14 District as well.  
 15 HEARING EXAMINER: Just checking in, Mr. Abolins. We had  
 16 an hour dedicated to this witness, and we're 40 minutes  
 17 through that. Is he planning on coming tomorrow?  
 18 THE WITNESS: I can. It's --  
 19 MR. ABOLINS: You can? Well, we'll make it happen.  
 20 HEARING EXAMINER: I assume we'll need it at this point.  
 21 MR. ABOLINS: Yeah. Yeah. After the break, we'll get  
 22 together on that schedule, Your Honor.  
 23 HEARING EXAMINER: Okay.  
 24 **Q. (By Mr. Abolins) All right. Okay. In terms of -- can you**  
 25 **tell us, in terms of this EIS document -- scratch that. So**

1 **level edge impacts from the urban village expansions?**  
 2 A. Yes.  
 3 **Q. And would you say that would be true with regard to the**  
 4 **proposed urban village expansion for North Rainier?**  
 5 A. Yes. And I would also add that it's also a plug for having  
 6 that baseline data, because it was an area where there had  
 7 been a lot of survey and inventory work. There had been  
 8 survey or eligibility recommendations that were available in  
 9 the State Department of Archeology and Historic Preservation  
 10 database. And those were -- many of those were within the  
 11 proposed urban village expansion. So having had that data,  
 12 it might have changed that approach with regards to that  
 13 urban village expansion, knowing that it was going to be  
 14 encompassing a number of properties that were potentially  
 15 eligible.  
 16 **Q. Because I know we've spent a lot of time on this EIS map**  
 17 **that shows the dot in North Rainier. And then --**  
 18 MR. BRICKLIN: How many dots?  
 19 **Q. (By Mr. Abolins) The one dot in Exhibit 3.5-3. And I see**  
 20 **that there's these little red bounded boxes to the east of**  
 21 **the North Rainier Urban Village in this same exhibit in the**  
 22 **EIS. Those are the proposed urban village expansion areas,**  
 23 **correct?**  
 24 A. Yes.  
 25 **Q. All right.**

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1 MR. ABOLINS: I'm going to offer our Exhibit 41 as the  
 2 next Exhibit 24.  
 3 MR. BRICKLIN: 25, I think.  
 4 MR. ABOLINS: Are we on 25?  
 5 HEARING EXAMINER: Yes.  
 6 (Exhibit No. 25 marked for identification.)  
 7 **Q. (By Mr. Abolins) Can you describe, what are we looking at,**  
 8 **and do a comparison of your document to the FEIS map?**  
 9 A. So this is -- this map shows a portion of the Mount Baker  
 10 Park Historic District. We zoomed in on the two urban  
 11 village expansion areas. So the yellow line is the historic  
 12 district boundary. The blue lines with the diagonal shading  
 13 are the proposed urban village expansions. We color coded,  
 14 as part of doing the National Register, the properties by  
 15 use. So all of the yellow properties are single-family  
 16 residences. Part of the character of the Mount Baker Park  
 17 Historic District are its single-family residences.  
 18 It was to the point of they pretty much excluded every  
 19 other type of development in there, other than there is a  
 20 commercial building. There is the community center.  
 21 There's -- there's a church, and there's a school. But  
 22 apartment buildings -- there's some residential in the upper  
 23 portion of the commercial building, but there were no  
 24 multifamily buildings constructed. So the change to go to  
 25 the -- so the area that's shown as part of the urban village

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1 expansion. And maybe that's better with a different  
 2 exhibit.  
 3 **Q. Okay. So in terms of the use, is there a distinct change in**  
 4 **terms of the residential use up on the hillside shown in**  
 5 **this picture, compared to the existing urban village areas**  
 6 **on the valley floor?**  
 7 A. Yes.  
 8 **Q. And what is the difference?**  
 9 A. The valley floor tends to be more multifamily, as well as  
 10 commercial, and then up on the hill and then going up onto  
 11 Mount Baker Ridge is all single family.  
 12 **Q. Okay. I'm going to go on with your next exhibit, which is**  
 13 **42 in my notebook, and I guess it will be 26 now.**  
 14 **MR. BRICKLIN: 26.**  
 15 (Exhibit No. 26 marked for identification.)  
 16 **Q. (By Mr. Abolins) What are we looking at in this map? I**  
 17 **think you entitled this map 4.**  
 18 A. Yes.  
 19 **Q. Olmstead Parks and Boulevard System.**  
 20 A. So --  
 21 **Q. What are you showing here in terms of historic resource?**  
 22 A. So the -- the ridge -- so we've got a -- we've got a fair  
 23 amount of things going on in a single map, but we're trying  
 24 to bring all of those parts together. Again, the yellow  
 25 line is the historic boundary; blue areas with the diagonal

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1 cross hatch are the urban village expansions, proposed urban  
 2 village expansions. The zoning for those is -- the proposed  
 3 zoning is residential small lot. The historic photos -- and  
 4 actually, the red shading that goes over the top of Mount  
 5 Baker Boulevard, which is that serpentine boulevard that  
 6 kind of runs across through the bottom center portion and  
 7 then wraps up to the right, a key part of the Mount Baker  
 8 Historic District development was the development of the  
 9 Olmstead brothers. They did not do design work, but they  
 10 were consulting to the developers who platted the district.  
 11 A large part was the -- the Mount Baker Boulevard is  
 12 part of a larger system of connectivity with the proposed  
 13 Olmstead system. More specific to Mount Baker, John Charles  
 14 had had to work with the civil engineer to get him  
 15 comfortable with the idea that, yes, you could put Mount  
 16 Baker Boulevard here and run that down, and that that would  
 17 be a shared amenity for the properties on either side. It  
 18 would be a gateway into the Rainier Valley. And also  
 19 looking at it from the other direction, it would be a  
 20 gateway from the valley into the historic district or into  
 21 the residential district at that time.  
 22 **Q. Well, just in case folks are not familiar with the Olmstead**  
 23 **brothers, can you talk about their significance in terms of**  
 24 **national landscape design?**  
 25 A. They're one of the preeminent, if not the preeminent

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1 landscape architects nationwide. They did the design work  
 2 for Central Park. They've -- they really were pioneers in  
 3 getting the idea of the role of landscape in -- in having a  
 4 quality and a setting that functioned for both residential  
 5 campus over -- campuses, and kind of broader design work.  
 6 So they were one of the premiere landscape architects in the  
 7 nation. So having them involved was a great (inaudible) to  
 8 the developers because it brought both a cache, and it also  
 9 brought their expertise in the lot layout setbacks and what  
 10 guidance they could lend to make as much of the landscape  
 11 components within this addition an amenity for the  
 12 residents.  
 13 **Q. What does this map show -- what does this map -- how would**  
 14 **this map be significant to somebody who would be considering**  
 15 **alternatives to the proposal with regard to historic**  
 16 **resources?**  
 17 A. So our thought on that was that the thinking of going back  
 18 to the role of Mount Baker Boulevard as a gateway into the  
 19 district, what we were concerned about was the proposed  
 20 residential small lot zoning on either side of that gateway,  
 21 which there's contributing properties in both of those  
 22 areas. And losing those properties to development pressure  
 23 and having new development would substantially change the  
 24 character of approach into the historic district and this  
 25 historic connection.

1 **Q. Okay. Well, when you say there's contributing properties,**  
2 **can you just quickly define what a contributing property is?**

3 A. A contributing property is a property that was built within  
4 the period of significance for a historic district and that  
5 has integrity, and through that integrity, contributes to  
6 the -- either architectural or historic associations for  
7 which the historic district is significant.

8 MR. ABOLINS: Okay. Well, I'm going to hand in Exhibit 39  
9 with regard to contributing properties and have that marked  
10 as our next Exhibit 27, if I'm keeping track.

11 (Exhibit No. 27 marked for identification.)

12 **Q. (By Mr. Abolins) And what do we see in terms of the nature**  
13 **of the contributing properties within the proposed urban**  
14 **village upzone?**

15 A. So the -- the orange footprints are contributing properties  
16 within the -- are contributing properties within the  
17 historic district. You can see how they relate to the  
18 proposed upzone areas. The photos along the side and along  
19 the bottom are some sample photos of contributing properties  
20 within both of those upzone areas. So as you can see,  
21 they're smaller single-family residences.

22 If the proposed upzone goes through for the residential  
23 small lot, there are four subcategory designations within  
24 the residential small lot that allow for increased  
25 development. Those typically require reconciliation with

1 construction and that period of construction within the  
2 historic district. So the proposed urban village expansion  
3 areas would take out a large swath of properties that were  
4 built between 1920 and 1929. So after the -- after the  
5 neighborhood -- after the Mount Baker plat was platted in  
6 1907, then lots were sold, properties developed. There were  
7 waves and patterns of growth and development. One element  
8 that was unique was along this outer strip was a high  
9 concentration of the 1920 to 1929 properties that were built  
10 along there. So loss of those properties through  
11 development pressure would significantly change the  
12 character of that edge of the historic district. Loss of it  
13 can also, depending to the severity and degree, can  
14 jeopardize the listing status of the district.

15 **Q. And, in fact, there was a visit by a state representative**  
16 **from DAHP who wanted to drive around the area, correct?**

17 A. Yes.

18 **Q. And as I recall, you had proposed driving through the center**  
19 **of the area, but he had a different idea?**

20 A. Yeah. He wanted to see the boundaries.

21 **Q. And tell us about that. What was his reason for wanting to**  
22 **see the boundaries, and what did he see?**

23 A. He was -- as part of doing a National Register nomination,  
24 you need to establish your boundaries, and so they have to  
25 have a logical foundation. So he was concerned that because

1 the neighborhood plan. But as our understanding from  
2 earlier testimony from Mr. Steinbrueck, that that  
3 requirement may go away with approval of the MHA FEIS, in  
4 which case it's unknown what sub -- what designation would  
5 apply to these if they would be a residential small lot.  
6 But the four sub designations, it's not known which one of  
7 those would apply, and how that would change the character  
8 of these urban village expansions.

9 **Q. Is it fair to say that someone considering an expansion and**  
10 **upzone of this area is necessarily contemplating changes in**  
11 **the character and use of the properties?**

12 A. Yes.

13 MR. ABOLINS: I'm going to hand in Exhibit 45, which is  
14 going to be marked as --

15 MR. BRICKLIN: 28.

16 MR. ABOLINS: -- 28.

17 (Exhibit No. 28 marked for identification.)

18 **Q. (By Mr. Abolins) And I think this is another slice at the**  
19 **nature of the contributing properties, is it not?**

20 A. Map 7, is that our --

21 MR. BRICKLIN: Yes.

22 **Q. Yes.**

23 A. -- 45?

24 MR. BRICKLIN: Yes.

25 A. Yes. So this was, again, looking at the decade of

1 we had said we want to do the whole plat, which is over 800  
2 properties -- so he said he wanted to see the boundaries, to  
3 go around those, because he wanted to make sure that we had  
4 not lost -- or that the -- the neighborhood had not suffered  
5 development changes along those outer edges. That he was  
6 anticipating that we would've had less integrity along the  
7 outer edges due to development pressures and just attrition  
8 over time, which is not uncommon with residential  
9 neighborhoods, commercial districts. You typically kind of  
10 have the edges get chewed away and kind of worked in.

11 He was very surprised to see that our level of  
12 integrity is quite high for this district, and it's -- in  
13 terms of the architectural character, historic properties,  
14 number of properties that were designed by architects, it's  
15 really quite an extraordinary district.

16 MR. ABOLINS: And my final exhibit for the day is  
17 Exhibit 63 in our notebook. Are we at 36 now?

18 MR. BRICKLIN: 29.

19 MR. ABOLINS: I mean 29. Okay.

20 MR. BRICKLIN: What was your number? 63?

21 MR. ABOLINS: 63.

22 (Exhibit No. 29 marked for identification.)

23 **Q. (By Mr. Abolins) Can you tell us what this document is,**  
24 **Mr. Howard?**

25 A. Yes. This was given to the Friends of Mount Baker Town

1 Center when -- from the Governor's Advisory Council on  
 2 Historic Preservation when the historic district was listed  
 3 to the Washington Heritage Register.  
 4 **Q. And for a decision maker reviewing the impact of the**  
 5 **proposed urban village expansion into the Mount Baker Park**  
 6 **addition, is there anything in this document that would**  
 7 **alert them to what those impacts would be?**  
 8 A. No.  
 9 MR. ABOLINS: I'm done for today.  
 10 MS. BENDICH: I think you need to admit them.  
 11 MR. BRICKLIN: Yeah, move to admit.  
 12 MR. ABOLINS: I'd like to move to admit.  
 13 HEARING EXAMINER: 20 to 29?  
 14 MR. ABOLINS: Yes.  
 15 MR. JOHNSON: No objection.  
 16 HEARING EXAMINER: 20 to 29 are admitted.  
 17 (Exhibits Nos. 20-29 admitted into evidence.)  
 18 HEARING EXAMINER: We'll have Mr. Howard back tomorrow for  
 19 cross. I have it in my notes that I will get a copy of  
 20 Exhibit 8 without a footnote.  
 21 MR. BRICKLIN: Yes.  
 22 HEARING EXAMINER: And that tonight or tomorrow morning  
 23 we'll get that schedule of current time where we're looking  
 24 at for the witnesses. I'll have Ms. Johnson contact  
 25 Mr. Thaler about the potential for remote witness. And I

1 CERTIFICATE  
 2  
 3 STATE OF WASHINGTON )  
 4 ) ss  
 5 COUNTY OF KING )  
 6  
 7 I, the undersigned, do hereby certify under penalty of  
 8 perjury that the foregoing court proceedings were transcribed  
 9 under my direction as a certified transcriptionist; and that the  
 10 transcript is true and accurate to the best of my knowledge and  
 11 ability, including any changes made by the trial judge reviewing  
 12 the transcript; that I received the audio and/or video files in  
 13 the court format; that I am not a relative or employee of any  
 14 attorney or counsel employed by the parties hereto, nor  
 15 financially interested in its outcome.  
 16  
 17  
 18 IN WITNESS WHEREOF, I have hereunto set my hand  
 19 this 10th day of July, 2018.  
 20  
 21  
 22  
 23   
 24 CHASTITY FEEZLE, WA-CRL  
 25



1 didn't hear anything specific proposed as to when that might  
 2 happen, but let's wait and see.  
 3 MS. BENDICH: So, Mr. Hearing Examiner, we just leave our  
 4 notebooks here?  
 5 HEARING EXAMINER: You can leave everything as is. We are  
 6 not providing security for it, so don't leave private goods,  
 7 but as far as -- there's no other hearing between now and  
 8 tomorrow. Notebooks, exhibits.  
 9 MR. BRICKLIN: And the room is locked.  
 10 MS. BENDICH: And the door is locked. Okay.  
 11 HEARING EXAMINER: Right.  
 12 MS. BENDICH: And when do you recommend the morning for  
 13 the room?  
 14 THE CLERK: As soon as the first person gets here.  
 15 MS. BENDICH: Okay. Thank you.  
 16 HEARING EXAMINER: No earlier than 8:00.  
 17 MS. BENDICH: Okay.  
 18 HEARING EXAMINER: All right. Thank you.  
 19 (Conclusion of June 25, 2018 proceedings)  
 20  
 21  
 22  
 23  
 24  
 25

## Hearing - Day 2

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

June 26, 2018



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BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

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

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

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

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46	Photographs of Notebooks Containing Survey and Inventory Work Done in the 1970s From the Department of Neighborhoods	252/258
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-o0o-  
June 26, 2018

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

MR. ABOLINS: Yes.

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

HEARING EXAMINER: -- Exhibit 8?

MR. BRICKLIN: Exhibit 8.

HEARING EXAMINER: Mm-hmm. Thank you.

MR. BRICKLIN: You bet.

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

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

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

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

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

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

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

THE CLERK: Hearing dot.

MR. ABOLINS: Hearing dot examiner?

THE CLERK: Yeah.

MR. ABOLINS: Okay. Great. Thank you.

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

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

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testimony with Spencer Howard.

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

THE WITNESS: Yes.

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

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

HEARING EXAMINER: Okay.

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

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

BY MR. ABOLINS:

**Q. Good morning, Mr. Howard.**

A. Good morning.

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

A. That was, yes.

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

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

1 that for, so both MHA, FEIS, and the Port Gamble  
 2 Redevelopment EIS, they had similar goals in that both wanted  
 3 to increase density. For the Port Gamble EIS we were working  
 4 with an existing national historic landmark historic  
 5 district. So we had to increase density while still  
 6 retaining the historic listing status of that district.  
 7 So the fundamental difference was in the Port Gamble EIS we  
 8 looked back at what the historic development patterns were,  
 9 what the existing building features and property types were  
 10 and are. And used that as a pattern to guide a build-out of  
 11 new development that would be compatible with the historic  
 12 district.  
 13 What we found in reviewing the MHA FEIS was that there was  
 14 none of that background level data that could inform at an  
 15 urban center and urban village level what the historic  
 16 character was and development patterns were and what they are  
 17 today to provide a level of predictability for both  
 18 developers and citizens and decision makers as to what type  
 19 of development to expect and how that development would  
 20 support and retain the character of those urban villages and  
 21 neighborhoods.  
 22 **Q. So in terms of a proposal that seeks to increase density, is**  
 23 **it necessarily the case that environmental interests, such as**  
 24 **the historic character or fabric of a neighborhood is in**  
 25 **competition with the idea of increasing density?**

1 village expansions into a either potential and currently  
 2 listed historic district might have been avoided altogether.  
 3 If that was an unavoidable urban village expansion then the  
 4 approach might have looked at how to guide new development  
 5 within those urban village expansion areas that seeks to  
 6 retain contributing properties while focusing new in-fill and  
 7 density into the noncontributing tax lots.  
 8 So you could potentially have a benefit for the historic  
 9 district in the sense of having new compatible construction  
 10 that's compatible with the character of the historic district  
 11 that's also increasing density, increasing property values  
 12 within the district and meeting al the goals. But still  
 13 retaining the historic character of the district.  
 14 Lastly, it might have also looked to alternative areas  
 15 either around or in other areas that hadn't been as highly  
 16 developed or didn't have potential historic properties to  
 17 guide redevelopment to those areas. So using, again, using  
 18 that baseline information to try and guide development where  
 19 it will have the least impact to historic properties.  
 20 **Q. And do the alternatives in this FEIS in any way allow that**  
 21 **weighing and balancing of the interests of density and**  
 22 **historic resource?**  
 23 A. No, they do not.  
 24 MR. ABOLINS: No further questions.  
 25 HEARING EXAMINER: Cross?

1 A. No. I think for urban density and for urban historic  
 2 preservation those two concepts are very closely interrelated  
 3 and interdependent. In preservation a vacant building is one  
 4 that is very vulnerable to loss and to attrition because  
 5 there's simply no money coming in to be able to maintain it,  
 6 to keep it in use. So being able to get active uses into  
 7 historic buildings, being able to have a higher concentration  
 8 of people and a population base that support those uses and  
 9 retain that is beneficial. To my mind it comes down to how  
 10 that growth is managed and how it relates to the historic  
 11 development patterns and the existing character of those  
 12 neighborhoods to be able to integrate it in in a manner that  
 13 supports retention of that character while still allowing for  
 14 growth and development.  
 15 **Q. And finally, we kind of zeroed in as a representative example**  
 16 **of a neighborhood where that approach might have occurred in**  
 17 **North Rainier. Can you share with us how a decision maker**  
 18 **with an adequate EIS, had that actually dealt with historic**  
 19 **resources, could allow an accommodation of density while at**  
 20 **the same time being respectful to historic resources?**  
 21 A. I think it comes down to a couple items. One, if the  
 22 available baseline data that's currently available through  
 23 GIS from King County, from City of Seattle, from the State  
 24 Department of Archeology and Historic Preservation, had been  
 25 utilized at an early level, the decision to do the urban

1 MR. BRICKLIN: No one else is questioning this witness?  
 2 Okay.  
 3 MS. BENDICH: I did have one small question.  
 4  
 5 CROSS - EXAMINATION  
 6 BY MS. BENDICH:  
 7 **Q. The technique you used, the technique you used by getting the**  
 8 **database from the state DAHP and preparing your maps for**  
 9 **North Rainier, could that have been done fairly easily**  
 10 **applying it to each of the urban villages?**  
 11 A. Yes, that could have. The data set that I pulled was at a  
 12 citywide level so that can be zoomed into any one of the  
 13 urban villages or urban centers.  
 14 MS. BENDICH: That's my only question.  
 15 HEARING EXAMINER: Okay. Cross?  
 16  
 17 CROSS - EXAMINATION  
 18 BY MR. JOHNSON:  
 19 **Q. Good morning, Mr. Howard.**  
 20 A. Good morning.  
 21 **Q. Thank you for being here again this morning. First if I**  
 22 **could draw your attention to the -- oh, first let me ask you.**  
 23 **Do you have the exhibits in front of you that you testified**  
 24 **to yesterday?**  
 25 A. Yes. I believe so.

1 and urban form context of homes near Olmsted Boulevard?

2 A. Yes.

3 **Q. Okay. Earlier, or towards the end of your testimony this**  
4 **morning you referenced the Port Gamble EIS. In terms of**  
5 **square miles, what was the size of that study area?**

6 A. Oh --

7 **Q. -- If you know.**

8 A. No. It had the core historic district, as well as some  
9 upland areas. So it was large, but not nearly as large at  
10 the City of Seattle.

11 **Q. Okay.**

12 MR. JOHNSON: Nothing further.

13 HEARING EXAMINER: I just have a few questions for you,  
14 Mr. Howard.

15  
16 EXAMINATION

17  
18 BY THE HEARING EXAMINER:

19 **Q. Did you prepare a report? Or findings?**

20 A. I did an expert witness or expert disclosure. And then as  
21 part of that we provided links for everyone to all the  
22 background materials we looked at. As well as the folder  
23 that has all of the analysis maps developed and the GIS  
24 database and all of the information. And then I prepared a  
25 series of maps as exhibits, but I didn't do any report that

1 citywide map and indicate that maybe there's some Department  
2 of Ecology items missing and what could have been shown on a  
3 citywide map. Are you saying that the FEIS should have gone  
4 to this level of detail throughout the city?

5 A. Yes.

6 **Q. And would that match the level of detail you experienced with**  
7 **the programmatic EIS that you did in Port Gamble?**

8 A. It would, yes. And for the University District.

9 **Q. Okay. And tell me, the University District MHA, what does**  
10 **that study, and I have had no witnesses describe this for me**  
11 **yet, but it sounds like there were other EIS's done in**  
12 **relation to MHA for specific areas. Were they done after or**  
13 **before this EIS?**

14 A. It was done before this EIS. And so I can't describe  
15 adequately the rationale for why it moved ahead. But it was,  
16 the intent of the University EIS was to increase density  
17 within the University District. And so it was looking at the  
18 same factors in terms of a series of alternates and proposed  
19 land use and zoning changes. And for us what the impacts of  
20 those would be on historic properties.

21 HEARING EXAMINER: Thank you. Redirect?

22 MR. ABOLINS: Yes.  
23  
24  
25

1 looked at those or analyzed those.

2 **Q. Okay. In Exhibit 19 --**

3 MR. BRICKLIN: Hearing Examiner 19?

4 HEARING EXAMINER: Yeah. I'll just refer them as Exhibit  
5 whatever.

6 MR. BRICKLIN: Your 46.

7 HEARING EXAMINER: Whatever. And once they get here, that  
8 is the exhibit.

9 MR. BRICKLIN: Yeah. No, I'm just giving him the  
10 translation.

11 HEARING EXAMINER: Right.

12 MR. BRICKLIN: Forty-six.

13 **Q. (By the Hearing Examiner) You indicated that, I think you**  
14 **said that the red dots are Department of Ecology eligibility?**  
15 **Eligible?**

16 A. Yes, Department of Archeology and Historic Preservation.

17 **Q. What are the other dots?**

18 A. All of the other dots are City of Seattle historic property  
19 database surveyed properties, color coded by neighborhood.

20 **Q. You gave two maps, two or three, of Mount Baker. Yes, three,**  
21 **so that would be Exhibits 26 through, well, 25 through 27.**  
22 **And for yours, 41 through, 42 and 39. And I'm just, you**  
23 **don't have to look at them in particular, I'm just trying to**  
24 **get a sense of what your testimony is directed at in the**  
25 **context of these maps. I understand when you show me a**

1 REDIRECT EXAMINATION

2 BY MR. ABOLINS:

3 **Q. So I think we've talked about the inadequacy of a citywide**  
4 **map for evaluating clusters of historic resources. So I just**  
5 **want to make clear, you know, on some of these maps, you**  
6 **know, they have dots covering the entire, you know, city.**  
7 **And again, are you trying to say that the City of Seattle**  
8 **needs to be encased in amber and preserved?**

9 A. No. I think that the FEIS, like, in Appendix H where they  
10 broke out by all the urban villages the exhibit maps that  
11 showed the detail of the proposed land use and zoning  
12 changes. That if you had that with the available historic  
13 property data overlaid then at least as you're looking at the  
14 alternatives you'd be able to better understand what the  
15 potential impact might or might not be to historic  
16 properties.

17 **Q. And you were also questioned about neighborhoods that might**  
18 **not have, you know, the ability themselves to try and**  
19 **document their historic clusters of properties or even**  
20 **districts. So if a neighborhood lacks that information and**  
21 **then there's a proposal that's going to have an impact on**  
22 **such historic resources, whose responsibility is it to come**  
23 **up with the funding and insure that an appropriate analysis**  
24 **takes place?**

25 A. It ideally should rely on the entity proposing the changes

1 and undertaking that it's both a responsibility to understand  
 2 how the changes will potentially impact the existing  
 3 environment. And it's an opportunity if done right in terms  
 4 of providing that information on historic development  
 5 patterns, character and properties, much like we did with  
 6 Port Gamble, is to educate the public on what historic  
 7 density levels were, how those relate to proposed changes,  
 8 and how that can be a beneficial component for neighborhoods  
 9 going forward if done in a compatible manner.

10 **Q. And then you were asked to confirm that in this case the**  
 11 **City's FEIS is just a different methodology than the one you**  
 12 **were outlining. And in terms of its adequacy, does this**  
 13 **methodology allow a decision maker to weigh and balance the**  
 14 **objectives of its proposals against the historic resources of**  
 15 **Seattle's neighborhoods?**

16 A. No.

17 **Q. And finally, there was a reference to some text language that**  
 18 **described the important historic resource that is somewhere**  
 19 **within the North Rainier urban village. But does this EIS**  
 20 **show the decision maker where the resources are in the manner**  
 21 **that you were able to do with the mapping to allow a**  
 22 **tailoring of the parcel-by-parcel proposed upzones to the**  
 23 **North Rainier urban village?**

24 A. No.

25 MR. ABOLINS: No further questions.

1 HEARING EXAMINER: Thank you, Mr. Howard.  
 2 MR. BRICKLIN: I have a couple.  
 3 HEARING EXAMINER: Yeah.

4

5 R E D I R E C T E X A M I N A T I O N  
 6 BY MR. BRICKLIN:

7 **Q. You were asked about contributing properties that add to the**  
 8 **historic character of a neighborhood. And you described two**  
 9 **categories, one -- and these are properties that aren't going**  
 10 **to make it to the level of being a landmark, right, if I**  
 11 **remember that --**

12 A. -- Individually.

13 **Q. And there were two categories I think I heard you describe.**  
 14 **One where these occur inside a designated district and there**  
 15 **you said they would have some protection through the**  
 16 **district's designation, correct?**

17 A. Depending on the level of protection afforded to that  
 18 district they'd have the same.

19 **Q. And then there would also be properties that contribute to**  
 20 **the historic character of a neighborhood that are not in an**  
 21 **area that's been designated, right?**

22 A. Yes.

23 **Q. And actually in the City of Seattle there's far more of those**  
 24 **in unprotected areas than in designated districts, right?**

25 A. Yes.

1 **Q. And those have no protection, correct?**

2 A. Correct.

3 **Q. And does the EIS discuss -- you were asked to read a couple**  
 4 **sentences on page 3.306 and 3.116 of EIS where the EIS says,**  
 5 **"If you lose some buildings you can start to degrade the**  
 6 **cohesiveness of a neighborhood's architectural character."**  
 7 **Does the EIS go on to explain where in the city that**  
 8 **phenomenon is possible to happen under this proposal?**

9 A. No, it does not.

10 **Q. And relate it to the rezone maps that are in the appendix and**  
 11 **say, "Here is an area where we're proposing a rezone into a**  
 12 **neighborhood with historic character that's unprotected."**  
 13 **Does the EIS do that?**

14 A. No, it does not. And we were confirming with the GIS  
 15 mapping, like, Morgan Junction is a great example that there  
 16 are instances where there are character buildings that exist  
 17 that have significant floor area ratio increases. And  
 18 there's no mention made of those properties or the impacts to  
 19 those properties.

20 **Q. Okay. Thank you.**

21 MR. BRICKLIN: That's all I have.

22 HEARING EXAMINER: Okay. Thank you, Mr. Howard.

23 MR. HOWARD: Thank you.

24 HEARING EXAMINER: Appellants' next witness?

25 MR. BRICKLIN: Call Bill Reid.

1 HEARING EXAMINER: Is Mr. Reid here?

2 MR. BRICKLIN: Yes, he is. I think. Good morning,  
 3 Mr. Reid.

4 MR. REID: Good morning.

5 HEARING EXAMINER: Please state your name and spell it for  
 6 the record?

7 MR. REID: Sure. My name is William Reid. Last name R-E-  
 8 I-D.

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

11 MR. REID: I do.

12

13 WILLIAM REID: Witness herein, having first been  
 14 duly sworn on oath, was examined  
 15 and testified as follows:

16

17 HEARING EXAMINER: Thank you. And just for clarification,  
 18 I think what I'll need with witnesses is whose witness they  
 19 are.

20 MR. BRICKLIN: Right.

21 HEARING EXAMINER: I'm trying to track.

22 MR. BRICKLIN: Yeah.

23 HEARING EXAMINER: And this is, it happened on both sides.  
 24 We've had multiple attorneys jumping in on a witness and  
 25 objecting at different times. So I want to, I know that some

1 of that's going to happen anyway because there's multiple  
2 parties. But I do want to keep within our normal rules of a  
3 single attorney working with a single witness for a party if  
4 we can.

5 So whose witness is this?

6 MR. BRICKLIN: So this is a SCALE witness. But I don't  
7 want to, I mean, he, I know he's at least a SCALE witness. I  
8 don't speak for the other co-appellants, who may have him  
9 listed as well. I just don't know that.

10 HEARING EXAMINER: Yeah. And I don't either. So I need  
11 the parties to tell me, please.

12 MR. BRICKLIN: Yeah. So I don't know if others are in on,  
13 like, is Fremont?

14 MR. THALER: Toby Thaler for Fremont Neighborhood Council.  
15 Bill Reid is on our list. I'm not sure I'll have any  
16 questions for him today. After Dave Bricklin is done I'll  
17 consider that.

18 HEARING EXAMINER: Okay.

19 MR. BRICKLIN: Should I proceed?

20 HEARING EXAMINER: Please.

21 MR. BRICKLIN: Yeah.

22 DIRECT EXAMINATION

23 BY MR. BRICKLIN:

24 Q. So good morning, Mr. Reid.  
25

1 A. Oh, sorry. Yes. I'm currently retained by the State of  
2 Washington, Washington Department of Commerce, specifically  
3 related to providing updated buildable lands and housing  
4 inventory and housing affordability guidance for the seven,  
5 now seven, buildable lands counties under the Growth  
6 Management Act.

7 Q. And does that involve analyzing how land use policies impact  
8 housing affordability?

9 A. It does. One of my two major tasks is specifically  
10 identifying the interaction between different policies and  
11 the housing development process to identify where the  
12 interaction of housing development and planning policies  
13 potentially delay or cause costs or not. And affect housing  
14 affordability, yes.

15 MR. BRICKLIN: Mr. Examiner, may I just, a little  
16 housekeeping real quick while I'm handing in an exhibit. Did  
17 we get admitted yesterday all those exhibits that the prior  
18 witness was speaking of, 18 through 29?

19 HEARING EXAMINER: We are admitted up through 29.

20 MR. BRICKLIN: Yeah, all right.

21 HEARING EXAMINER: Yes.

22 MR. BRICKLIN: Very good. All right. Hand this in as No.  
23 30, I guess. Exhibit 20 for you guys, from mine.  
24 (Appellants' Exhibit No. 30 marked for identification)

25 Q. (By Mr. Bricklin) Handing you what's being marked as Exhibit

1 A. Good morning.

2 Q. David Bricklin. Introduce yourself to the examiner, if you  
3 would. Tell him what your profession is and a little bit  
4 about your background.

5 A. Sure. I am a and have been for 20 years, a land use and real  
6 estate economics consultant and urban economist based in the  
7 Pacific Northwest. Specifically, I'm based in the Portland,  
8 Oregon region. But for the last 18 years have been actively  
9 consulting on real estate and urban economics for public and  
10 private interests throughout the Puget Sound, as well as in  
11 Oregon, where I'm located.

12 On public and private issues largely having to do with  
13 redevelopment past clients have included the City of Seattle,  
14 assisted with redevelopment planning, Capitol Hill area, U-  
15 District in the past. And then private clients looking at  
16 redevelopment issues for investment themselves.

17 Q. Okay. And what is an urban, what'd you say, urban economist  
18 or land use economist?

19 A. Indeed. Urban economist or real estate economist.  
20 Basically, dealing with the economic dollar feasibility and  
21 economic, you know, demographic, employment, household growth  
22 issues that drive the need for and drive the feasibility of  
23 redevelopment or other types of development.

24 Q. And have you done work also for the Washington Department of  
25 Community Development regarding GMA buildable lands analyses?

1 30. Do you recognize that document?

2 A. I do recognize it.

3 Q. And what is that?

4 A. That is my professional resume with focus on Puget Sound and  
5 Seattle area, specifically, projects I've done in the past.

6 Q. All right.

7 MR. BRICKLIN: We'd move the admission of Exhibit 30.

8 MR. JOHNSON: No objection.

9 HEARING EXAMINER: Exhibit 30 is admitted.

10 (Appellants' Exhibit No. 30 admitted into evidence)

11 Q. (By Mr. Bricklin) All right. So what were you asked to do  
12 by the various co-appellants in this case?

13 A. Very simply and generally, I was asked to review the final  
14 EIS and to read all sections and documents related to it that  
15 pertain to socioeconomic and housing affordability. And just  
16 provide review and any notes of concern about what I found in  
17 it. But very generally that.

18 Q. Okay. And did you review the appendices and technical  
19 reports that are related to those subjects?

20 A. Yes, I did.

21 Q. All right. And so I think you're the first witness we've had  
22 here on the housing and economic affordability issues. It's  
23 been touched on a little bit by prior witnesses. So I want  
24 to start by having you explain to the examiner how the  
25 Environmental Impact Statement approaches this issue, the

1 **housing affordability issue?**  
 2 A. Sure. So that's a big question.  
 3 **Q. I know. So maybe start broad overview and then before you**  
 4 **plow into details.**  
 5 A. Sure. So really the focus of the EIS has to do with the  
 6 City's policy, intended policy, of basically creating  
 7 generally speaking more housing units throughout the City of  
 8 Seattle with detail about different urban villages, different  
 9 parts of the city where those housing units are planned to be  
 10 created through two different mechanisms basically. Number  
 11 One, allowing upzones of different types in different parts  
 12 of the city that will enable greater development capacity to  
 13 occur than previously under previous zoning so that overall  
 14 the intent is more housing units are created of whatever  
 15 type.  
 16 The second is the MHA policy, the mandatory housing policy,  
 17 such that new development when it occurs with those upzones  
 18 of different types for different categories, when a new  
 19 development occurs with higher density because of the upzone  
 20 that's received under the policy, that new development is,  
 21 the policy is for that new development to contribute to what  
 22 I would call subsidized housing in two potential ways.  
 23 Number One, well, the developer can go through the  
 24 calculation of either providing subsidized units in the  
 25 project they build as part of it, so physically new units in

1 then after they're developed they're restricted to only rent  
 2 at reduced rents or in some instances there are projects that  
 3 have, you know, sales price restrictions. But it's  
 4 overwhelmingly rentals. But those projects receive funds  
 5 from some public entity from the federal government all the  
 6 way down to local level, local cities or counties. And those  
 7 units are built to rent at a subsidized or reduced rate for  
 8 households who can't afford the market rate housing.  
 9 **Q. So in the market rate part of the market, I gather that must**  
 10 **stretch from at the high end Bill Gates' Medina property**  
 11 **wherever he lives all the way down to the lowest level market**  
 12 **rate rentals in the City of Seattle; is that right?**  
 13 A. That's correct. And the definition is, strictly speaking,  
 14 housing that will rent, that rents or sells, for any  
 15 unrestricted rent or price no matter how old it is or where  
 16 it is. So, in your example, Bill Gates' home, yes, that's a  
 17 market rate project that would sell for untold amounts.  
 18 Nearly all of the new apartment housing that's being built in  
 19 Central Seattle and elsewhere is market rate. It's new  
 20 rentals that will charge rent at whatever the market will  
 21 bear. And that also includes older apartments and older  
 22 homes that, by virtue of being older, might rent or sell for  
 23 a lower price and are affordable to more households. But  
 24 they rent or they sell at a price that's lower by virtue of  
 25 being older, not by restriction.

1 the new project being built as a result of the upzone. Or  
 2 what's called a (inaudible) mechanism. And what that means  
 3 is that the developer has the option of instead of building  
 4 the new subsidized units as part of their planned project,  
 5 they can contribute based on the specific fee schedule and  
 6 the fee schedule varies for different parts of the city, the  
 7 fee schedule, the developer pays fees based on the size of  
 8 the development that they're going to be building. And those  
 9 fees go into a fund to help pay for subsidized units at some  
 10 future time in some place in the city to be determined.  
 11 **Q. Okay. I want to ask you, I noticed you used the term**  
 12 **"subsidized housing" to refer to part of the housing market.**  
 13 **Is the other part of, is there a term "market rate housing"**  
 14 **or something like that used for the other half of the, the**  
 15 **nonsubsidized part of the market?**  
 16 A. Yes, that's correct. In talking about a housing market,  
 17 housing inventory, housing stock, or housing market, there  
 18 are basically two categories. One, those being what we would  
 19 call "market rate housing." And those are apartments that  
 20 basically are built to and rent for whatever the market will  
 21 bear.  
 22 **Q. And houses.**  
 23 A. And houses, exactly. So apartments or houses. Then there's  
 24 the subsidized housing market and those are the housing units  
 25 that typically receive some sort, as part of development and

1 **Q. Now I gather the medium and high ends of that market segment,**  
 2 **not too much concern about affordability. But is**  
 3 **affordability an issue as you get to the lower ends of the**  
 4 **market segment of the market rate part of the market?**  
 5 A. Well, yeah, sure. Yes. So when new development is built --  
 6 let me back up and answer that question differently. The  
 7 largest and most important inventory of, I'll use the term  
 8 "affordable housing," not subsidized housing, but affordable  
 9 market rate housing --  
 10 **Q. -- Well, yeah, I want to try to stay away from the term**  
 11 **"affordable."**  
 12 A. Oh, sure, understood.  
 13 **Q. For now. We'll come to it in a minute.**  
 14 A. Okay. So let me answer in terms of new construction then.  
 15 So new housing when it's built is, if it's not subsidized, if  
 16 it's not rent or price restricted, new housing that's built  
 17 is typically top of market sales price or rent rate. By  
 18 virtue of being new. By virtue of being developed at current  
 19 construction and development costs. And current land price  
 20 market. You know, all those issues. New housing that's  
 21 built is at the high end of pricing whatever kind it is.  
 22 But that's what gets provided. New housing that's built,  
 23 if it's not subsidized or rent restricted or price  
 24 restricted, but rent restricted really, new housing is  
 25 expensive. Top of the market. But the issue regarding

1 affordability and development and growth in a city really is  
 2 older housing, whether it's older, smaller homes or, you  
 3 know, old apartments. Like I said earlier, by virtue of  
 4 being cheaper because they're older, those are the critical  
 5 housing units that serve as the affordable housing, so most  
 6 of the affordable housing stock in a city.

7 **Q. Would it be fair to use an analogy of is you went out to buy**  
 8 **a suit at Macy's, a new suit, it might be a top of the market**  
 9 **relatively for a new suit. Whereas, if I went to the**  
 10 **secondhand store and bought a used suit, it's going to be a**  
 11 **more affordable suit.**

12 A. Yeah.

13 **Q. That's basically what you're saying as applied to housing?**

14 A. Yeah, that's a pretty good analogy.

15 **Q. All right.**

16 A. For sale, anyway.

17 **Q. Yeah. Right. What metric do land use planners and**  
 18 **economists use typically to describe the affordability at the**  
 19 **low end of the market in terms of, is that based on incomes?**

20 A. Yeah. So affordability, you know, in the industry, whether  
 21 it's planning or whatever, affordability really is measured  
 22 in terms of income. How much housing costs a household can  
 23 take on with utilities on a monthly basis, whether it's  
 24 rental or ownership. But it boils down to income level.

25 **Q. Yeah. So what's considered a reasonable amount for a**

1 are a number of different terms.

2 **Q. All right. And so people could be paying upwards, you know,**  
 3 **anywhere from 30 up to 50 percent of their income maybe on**  
 4 **housing and being in that category?**

5 A. Easily. And then if it's ownership housing on top of that  
 6 they pay higher and higher property taxes. So you add it all  
 7 up and it's even more than.

8 **Q. All right. So now I want to come to the word "affordable"**  
 9 **because I've seen it used both to describe affordable housing**  
 10 **in the sense of providing for the rent subsidized housing.**  
 11 **That's one part of the affordable equation. And then**  
 12 **affordability is also this low end of the market rate housing**  
 13 **where people are paying over 30 percent of their income for**  
 14 **housing. Is the term "affordable" used in both of those**  
 15 **contexts?**

16 A. It is. It is a catch-all term. It's not specific, which is  
 17 why when I talk about it professionally and actually when I  
 18 teach it, I teach real estate at the local university, I  
 19 discuss things in terms of subsidized when we're talking  
 20 about, you know, classic rent or price restricted housing,  
 21 yes.

22 **Q. All right. And that's why I made the comment I didn't want**  
 23 **to talk about affordable, because I hear it used in both**  
 24 **contexts and I think it becomes a source of confusion. Does**  
 25 **the EIS use the term "affordable" in both contexts?**

1 **household to take on in relation to their income? Is there a**  
 2 **standard that planners and economists use generally?**

3 A. There is an industry rule --

4 **Q. -- Rule of thumb?**

5 A. Rule of thumb generally speaking is apartment rentals,  
 6 apartments are generally on average not going to rent for,  
 7 apartments are not going to be able to be rented -- let me  
 8 answer differently. A household cannot afford to rent or  
 9 won't be able to rent an apartment if the rent for the  
 10 apartment is more than 30 percent on average than their  
 11 monthly income.

12 **Q. All right.**

13 A. Okay? And for ownership it's a little bit lower. Monthly  
 14 mortgage payment between 20 and 30 percent, closer to 30. A  
 15 household can't afford a mortgage by lending, average lending  
 16 standards, if the monthly mortgage payment is more, certainly  
 17 more than 30 percent of their monthly income.

18 **Q. And then what happens if, you know, that's fine for the**  
 19 **economists and the planners to have that, but in reality out**  
 20 **in the market in Seattle are there people paying more than 30**  
 21 **percent of their income on housing?**

22 A. Oh, sure. And that, you know, that would be very common.

23 **Q. And what term do you use to describe the people who are in**  
 24 **that condition? Or the housing?**

25 A. Yeah, housing challenged. Affordability constrained. There

1 A. It does. It also uses the term "subsidized," but the term  
 2 "affordable" is very generally used throughout the document.

3 **Q. And let's turn to the EIS and it's one of these volumes in**  
 4 **front of you. Ms. Bendich can help you locate the right**  
 5 **volume I hope.**

6 MS. BENDICH: I think it's the complete one.

7 THE WITNESS: The EIS?

8 MR. BRICKLIN: Yeah, you can hand that. Yes, did I say  
 9 EIS?

10 THE WITNESS: I think it's No. 2.

11 MS. BENDICH: This is it.

12 THE WITNESS: Okay. The big one, of course.

13 **Q. (By Mr. Bricklin) So could I ask you to turn to, just to**  
 14 **orient everyone here, let's start at page 3.3, which is the**  
 15 **very first page of the impact section of the EIS. And it's**  
 16 **titled, "Housing and Socieconomics," do you see that?**

17 A. I will be there in a sec.

18 **Q. Yeah.**

19 A. I overshot it. Three point three you said?

20 **Q. Yeah. Although it's not numbered, so you have to locate it**  
 21 **by finding 3.4 and turn back one page.**

22 A. Three point one?

23 **Q. Nope. It's 3.3. The title page is apparently 3.1 and this**  
 24 **blank page is 3.2 and the first page of text unnumbered is**  
 25 **3.3. Are you there?**

1 A. I am.  
 2 **Q. So is this the beginning of the EIS discussion of the housing**  
 3 **and socioeconomic impacts?**  
 4 A. It is.  
 5 **Q. All right. And 3.1.1 is a description of the affected**  
 6 **environment, right?**  
 7 A. Mm-hmm. Yes.  
 8 **Q. And as we flip through the text there's a long discussion**  
 9 **about the racial and ethnic composition of Seattle's**  
 10 **neighborhoods and a lot of information about that, correct?**  
 11 A. Yes.  
 12 **Q. And then it goes in to talk about income and wealth as it's**  
 13 **distributed around the city. And then on 3.23 a little bit**  
 14 **about inventory. And then you come to 3.25 and there's a**  
 15 **section titled "Housing Affordability." Do you see that?**  
 16 A. I do see that.  
 17 HEARING EXAMINER: And we'll take a break there and come  
 18 back and discuss.  
 19 MR. BRICKLIN: All right. Thank you.  
 20 HEARING EXAMINER: Come back at a quarter to, please.  
 21 (Recess)  
 22 HEARING EXAMINER: Before we return to Mr. Reid,  
 23 Mr. Thaler, which witness was it that you were requesting the  
 24 video?  
 25 MR. THALER: Potentially Dr. Richardson, Jeffrey

1 MR. THALER: Yeah. Either that or an airplane ticket will  
 2 happen.  
 3 HEARING EXAMINER: We are trying to improve our Skype  
 4 capacity. We have had one large hearing with three out-of-  
 5 state witnesses. It went relatively well. They were all in  
 6 a legal office, though, with a tech on their side so we'll  
 7 need to have something like that probably here as well.  
 8 Typically, this is something that's required by written  
 9 motion in advance, but I'll take it as an oral motion from  
 10 the hearing yesterday that this is a request and I'm granting  
 11 it. It just needs to be shown at this point that the  
 12 technology at the other end will function.  
 13 MR. THALER: Thank you.  
 14 HEARING EXAMINER: Continuing with Mr. Reid.  
 15 MR. BRICKLIN: Yeah. Thank you.  
 16  
 17 DIRECT EXAMINATION (Resumed)  
 18 **Q. So we were making our way just through the EIS just in terms**  
 19 **of understanding how it's organized. And I think we'd gotten**  
 20 **up to page 3.36 where in the affected environment there's a**  
 21 **section about subsidized housing. And I see there it says,**  
 22 **"These units are also commonly referred to as rent and income**  
 23 **restricted affordable housing." Is that consistent with your**  
 24 **use of that terminology?**  
 25 A. It is.

1 Richardson, who was scheduled for Wednesday. If I can open  
 2 my calendar.  
 3 MR. BRICKLIN: But we moved him out of there, right?  
 4 MR. THALER: Yeah, moved him out of there. He's replaced  
 5 by --  
 6 MR. BRICKLIN: -- Scott Peters.  
 7 HEARING EXAMINER: I see him on Wednesday, July 25th?  
 8 MR. THALER: Uh --  
 9 MR. ABOLINS: -- That's a proposed.  
 10 MR. THALER: Yeah.  
 11 HEARING EXAMINER: And so --  
 12 MR. THALER: -- Whatever, whatever works. He's available.  
 13 HEARING EXAMINER: And so Ms. Johnson will e-mail you our  
 14 Skype protocol.  
 15 MR. THALER: That would be fine --  
 16 HEARING EXAMINER: -- And a test run will need to be  
 17 scheduled in advance. So obviously outside of this week of  
 18 hearing and that week of hearing.  
 19 MR. THALER: Okay. I appreciate that. Thank you. We have  
 20 a nice break. Hopefully, your calendar is not totally filled  
 21 with --  
 22 HEARING EXAMINER: -- There is time with that.  
 23 MR. THALER: Okay. I will make sure that happens.  
 24 HEARING EXAMINER: So I'm sure we'll be able to work  
 25 something out. Okay?

1 **Q. Now the EIS also uses the term "affordable housing" in some**  
 2 **places you said to refer to the lower end of the market rate**  
 3 **part of the market, right?**  
 4 A. Correct. The term does get used interchangeably. Yeah.  
 5 **Q. And that's even though at the bottom of that first paragraph**  
 6 **on page 3.36 it says, "References to "affordable housing" in**  
 7 **this chapter refer to subsidized rent- and income- restricted**  
 8 **housing." But that's actually not accurate because the term**  
 9 **is used in both the subsidized market and the unsubsidized**  
 10 **market, right?**  
 11 A. Yeah, that's correct. I mean, even in speaking, answering  
 12 questions prior today I've even done it myself. The word  
 13 "affordable" gets mixed up, if you will. But it gets used  
 14 not purely consistently.  
 15 **Q. Right. All right. So in the EIS affected environment**  
 16 **section that we're in where it talks about subsidized**  
 17 **housing, does it talk about the available supply of**  
 18 **affordable housing, of this subsidized housing?**  
 19 A. Chapter 3 primarily talks about the number of new subsidized  
 20 housing units that have been created over the past decade or  
 21 so.  
 22 **Q. Mm-hmm.**  
 23 A. But it doesn't really get into the total inventory of  
 24 subsidized housing citywide or by part of city. It's more  
 25 emphasis on how many have been created over a period, shorter

1 period of time.

2 **Q. And does it talk about the demand, the existing demand for**

3 **subsidized housing and identify shortfalls? Or does it just**

4 **talk about supply?**

5 A. It mostly focuses on supply. There is discussion in this

6 section about, Section 3, Chapter 3, there's plenty of

7 discussion about households citywide by income level. But

8 there's not necessarily a what I would call reconciliation of

9 the amount of need or demand for subsidized housing with the

10 amount of supply that there is. So the document doesn't let

11 us know specifically whether or not there are a sufficient

12 number of subsidized housing units in the city. We actually

13 don't know. We just know that a number have been created

14 over the past decade or so and we know that there are, how

15 many households there are in the city by percentage of income

16 level that they make, affordable level of household income

17 they make. Different income level cohorts. But we don't

18 have a reconciliation specifically.

19 **Q. All right. And then on page 3.39 I see a heading,**

20 **"Displacement." And that section goes on for many pages I**

21 **see. What is the EIS talking about when it talks about**

22 **displacement?**

23 A. Well, so there are three categories of displacement that the

24 EIS talks about. The primary and overwhelming one it talks

25 about is displacement. And that is --

1 communities are displaced for whatever reason, demolition,

2 physical or economic, the decay of those communities creates

3 kind of an accelerated cultural displacement.

4 **Q. Can you give an example in Seattle where that has occurred?**

5 A. Well, I know in Rainier Valley it's been occurring. I

6 actually personally know a Laotian family who is part of a

7 number in the community that have been displaced. They

8 couldn't find anything they could afford to buy. Or rent for

9 that matter. And ended up having to move far outside the

10 City of Seattle. And I know from that that's a specific

11 place where that's occurring. And I imagine it's happening

12 elsewhere.

13 **Q. So has there been a large decline in the Black population in**

14 **the Central Area over the last few decades?**

15 A. Yeah, according to the data. You know, a technical document

16 that supports all of this, Black population has been the, I'd

17 use the term "hardest hit" in terms of, you know, numbers and

18 percentage of decline among different demographic groups,

19 racial groups in the city, yes.

20 **Q. All right. So then is the next section of the EIS starting**

21 **on page 3.60 an analysis of the impacts that the proposal**

22 **will have on these housing and socioeconomic issues?**

23 A. Oh, yes, I'm there. I see it.

24 **Q. And is that where the impact analysis starts on 3.60?**

25 A. Yes, it is, on 3.60, that's impacts.

1 **Q. -- Is what?**

2 A. Displacement. Displacement -- excuse me, physical

3 displacement.

4 **Q. Thank you.**

5 A. Forgot the first word. But there are three types of

6 displacement. Physical displacement is the first. And the

7 overwhelmingly treated type of displacement in the EIS. And

8 that's very basically the displacement of households by the

9 physical removal or reduction in the number of housing units

10 that occur due to redevelopment or whatever reason. How many

11 households actually are displaced because of the physical

12 change or removal of the building they were in. Okay?

13 Demolition. Demolition is a good word. And it's used

14 throughout the EIS regarding physical displacement.

15 The other two that do get treatment, but far less, are

16 economic displacement and cultural displacement. Economic

17 displacement is considered an indirect impact. And another

18 way of stating it is affordability displacement. As prices

19 rise, as economic conditions change such that households can

20 no longer afford to live there, they have to leave. That's

21 economic displacement. Being priced out basically.

22 The third kind, which gets even less treatment than

23 economic, is cultural. And that is as neighborhoods change

24 where there happen to be concentration of ethnic or cultural

25 language groups in different parts of the city, as those

1 **Q. And does it begin with a discussion of impacts common to all**

2 **alternatives? Do you see that?**

3 A. Yes. Yeah, each alternative is treated in this section.

4 **Q. All right. And then those are summarized on 3.81, "Key**

5 **Findings Impacts Common to All Alternatives," do you see**

6 **that?**

7 A. Key findings summary, yes, on 3.81.

8 **Q. Right. And those are grouped under three headings, "Housing**

9 **Supply, Housing Affordability," and on the next page,**

10 **"Displacement," right?**

11 A. Correct, yes.

12 **Q. All right. And I notice here housing affordability is used**

13 **in both senses that we've talked about, the first bullet**

14 **talking about market rate housing and the third bullet**

15 **talking about rent and income restricted units.**

16 A. I see that, yes.

17 **Q. And then following this section that deals with the impacts**

18 **common to all alternatives, there's several short sections**

19 **dealing with impacts unique to each of the alternatives,**

20 **correct?**

21 A. That's correct.

22 **Q. All right. So and in each of these sections on impacts,**

23 **whether it's impacts common to all alternatives or to the**

24 **individual ones, we have the same trilogy of categories of**

25 **issues being housing supply, housing affordability, and**

1 **dislocation; is that right?**

2 A. Basically, yes.

3 **Q. All right. All right. So what conclusions did you reach**  
4 **regarding the analysis provided in the EIS regarding the**  
5 **impacts, the housing and socioeconomic impacts? And I guess**  
6 **first start maybe just with the headlines, if you would. And**  
7 **then we'll go back and dive into them in more detail. But**  
8 **are there a number of key findings that you would have**  
9 **identified?**

10 A. Yes. So when I read through there were really kind of four  
11 areas that I pointed out as being of concern. Number One,  
12 the entire FEIS ignores ownership housing. It's treated  
13 lightly in certain sections, but ownership housing is the  
14 majority of housing need in the city for the majority of  
15 households at different times in their life. And the FEIS  
16 glosses over, doesn't really treat the issue at all in any  
17 substance.  
18 Number Two, economic dislocation is given very light  
19 treatment. There's text description, written description of  
20 the risks or issues regarding economic dislocation, the  
21 pricing out of households. But not a lot of analysis,  
22 supporting analysis, to talk about it. And that particularly  
23 important regarding the fact that the whole thing is silent  
24 on ownership housing. Largely silent on ownership housing.  
25 It's overwhelming about rental housing.

1 **Q. All right.**

2 A. And that report breaks, classifies different urban villages,  
3 parts of the city, in terms of four categories. Two  
4 categories, but two ways of thinking about it. Access to  
5 economic opportunity, how many jobs are nearby, different  
6 types of shopping that's nearby, transit, those sorts of  
7 things. Positive things to have in a community, in a  
8 neighborhood or an urban village. And then risk of  
9 displacement. You know, percentages of households that are  
10 non-white. And then other, you know, measures of  
11 displacement risk that might happen if redevelopment occurs  
12 in that urban village.  
13 So high displacement risk and low displacement risk are the  
14 two categories in that line of thinking about classifying  
15 neighborhoods. So think about a quadrant. There's high  
16 displacement risk and low displacement risk. And then on the  
17 vertical of the quadrant are high economic opportunity and  
18 low access to economic opportunity. And so the blending of  
19 those two categories and two classifications for each creates  
20 four different ways of classifying different urban villages.  
21 And so yes, there are problems, I think, in terms of how  
22 that was done and it in my view flaws the EIS. In terms of  
23 understanding impacts to specific types of households and  
24 their housing, their ability to pay for housing, and their  
25 risk of displacement.

1 The analysis on dislocation, physical dislocation,  
2 demolition, is my view that it is flawed and is low. For a  
3 few different reasons. And that is a problem in terms of  
4 underestimated or understated risk of physical displacement  
5 of households as a result of the policies and wasn't studied  
6 properly.

7 And the final thing is given how the fee mechanism works  
8 and the level of fees that are generated as a result of the  
9 policy, there's I find the analysis of where affordable  
10 housing units are actually going to end up being built -- not  
11 affordable, excuse me. Subsidized housing is where they will  
12 be built are flawed in terms of their location, where they'll  
13 likely be. So those would be the four things that I found to  
14 be of concern.

15 **Q. All right. And then in addition to those four did you also**  
16 **develop an opinion regarding -- well, let me as background to**  
17 **that, is the text in the EIS based on an underlying report**  
18 **that's included as an appendix?**

19 A. It is. So the entire methodology of understanding impacts to  
20 the city and its different urban villages is based on what I  
21 would call the rubric of, the equity rubric that was  
22 established in the equity report as part of the comprehensive  
23 plan update.

24 **Q. Is that Appendix A?**

25 A. Appendix A, correct.

1 **Q. All right. So that might be a fifth one of your major**  
2 **findings.**

3 A. And that's probably something to add fifth, yes.

4 **Q. Right. All right. And did you also have a finding regarding**  
5 **the analysis of impacts to discrete ethnic groups in the**  
6 **city?**

7 A. As a result --

8 **Q. -- Or was that part of one of these other ones?**

9 A. I would say that's part of the critique of the equity  
10 analysis.

11 **Q. All right. Got it. All right. So let's go back through**  
12 **those one at a time. The first one you mentioned was the**  
13 **absence of analysis of impacts on owner-occupied housing. So**  
14 **actually we've already talked about different ways of looking**  
15 **at the housing market and talked about subsidized versus**  
16 **nonsubsidized and the nonsubsidized, the high end Bill Gates**  
17 **and the low end, folks who are price challenged. But we**  
18 **didn't talk about this other way to segregate the market,**  
19 **owner-occupied versus renters. Tell us about that.**

20 A. Sure. So for everybody who has a shelter, they either own it  
21 or they rent it, basically. Or whoever, you know, pays the  
22 rent or pays the mortgage, it's either owned or rented.  
23 Whether it's subsidized or whether it's market rate, okay.  
24 And so that's primarily the difference. For rent would be  
25 rental housing, market rate rental housing, like what's being

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

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

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

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

1 **Q. All right. All right. So the second, and that was the issue**  
 2 **you said simply not addressed in the EIS?**  
 3 A. Not addressed, correct.  
 4 **Q. All right. The second issue you mentioned I think you said**  
 5 **the EIS acknowledges the phenomenon, but fails to adequately**  
 6 **analyze the issue; can you explain that?**  
 7 A. Well, it really is related primarily to the absence of any  
 8 discussion of ownership housing, the impact of these policies  
 9 on ownership housing or the provision of ownership housing,  
 10 which isn't guaranteed, discussed under this policy. And  
 11 it's impact on alleviating home ownership prices and  
 12 unavailability.  
 13 The economic dislocation that's created by that is simply  
 14 and unfortunately households being priced out of their  
 15 neighborhood, whomever they are. The more people are here,  
 16 the more people renting, again, will eventually move into  
 17 ownership if history serves to be correct. And it will be.  
 18 Always has been. That simply creates increased home price  
 19 pressure and rising property tax costs. Pressure on  
 20 households who currently own and may already be ownership  
 21 cost challenged. And, therefore, an acceleration and decline  
 22 in home ownership rates for certain key demographics, who are  
 23 already vulnerable.  
 24 **Q. Is this impact regarding the impacts on owner-occupied**  
 25 **housing, is that spread out equally across the different**

1 **households being priced out of the entry level housing**  
 2 **market?**  
 3 A. Yes. So The Seattle Times actually has had a series of  
 4 articles on the topic, most recently in the past year or 18  
 5 months specifically on that. And then the equity analysis  
 6 doesn't get into home ownership rates per se unfortunately.  
 7 But it does very well document at least between 1990 and 2010  
 8 the declining, just the declining presence of different  
 9 racial groups in the city. And very specifically, I think I  
 10 mentioned earlier, very specifically in more acute losses in  
 11 Black households among all specific racial groups.  
 12 **Q. So the proposal of providing for greater zoning capacity in**  
 13 **various neighborhoods, it's your opinion will actually likely**  
 14 **end up with making it more difficult for low income people to**  
 15 **get into the home ownership market; is that the bottom line?**  
 16 A. Yes. By increasing the development capacity for rental homes  
 17 of any kind in any part of town, you create more population  
 18 that's eventually going to demand, some sooner, some later,  
 19 but eventually going to demand ownership housing. That's  
 20 going to create inability for moderate, modest, challenged  
 21 income households to even get into ownership.  
 22 The other thing that happens, which doesn't even get  
 23 discussed really in the FEIS is all these different urban  
 24 villages that are going to see what market rate, new market  
 25 rate rental housing investment or new higher density, higher

1 **socioeconomic groups, or would you expect that to have a**  
 2 **disproportionate effect on some?**  
 3 A. I would expect it to have a disproportionate effect on lower  
 4 income groups, period, whomever they are. The problem with  
 5 the FEIS is we don't know which households are going to be  
 6 hit by any of this negatively as a result of ownership  
 7 affordability decline.  
 8 We know certain parts of town are displacement risked or  
 9 have different levels of economic opportunity access. But  
 10 the FEIS never actually states the impact of all this is  
 11 increased or decreased presence of Black households renting  
 12 or owning. There's no discussion specifically of Asian  
 13 households renting or owning as a result of any of this. And  
 14 any what I would call "cross tab" with income, any relation  
 15 to those demographic groups and their typical income levels.  
 16 So we don't know. So if somebody asked the question, "What  
 17 does all of this do to the well-documented declining and  
 18 disappearing home ownership rates of Black households in the  
 19 City of Seattle?" the FEIS has no answers for that. It  
 20 discusses different parts of, different urban villages and  
 21 how the equity rubric classifies them. But we don't actually  
 22 know the impact on affordability, ownership, rental status  
 23 and renter ability on specific racial groups and vulnerable  
 24 racial groups.  
 25 **Q. So you said there's a well-documented effect of Black**

1 capacity development rental housing overwhelmingly, any new  
 2 investment that creates new population in a district creates  
 3 what's called a "halo effect." It makes the district more  
 4 popular. More people there shopping. It draws more people  
 5 into the district and, therefore, it has a positive, upward  
 6 pressure on home prices and rentals elsewhere in the  
 7 district. And that doesn't get discussed in here either.  
 8 **Q. So another volume you have in front of you there are the**  
 9 **appendices, which includes Appendix A.**  
 10 A. Sure.  
 11 MS. BENDICH: They may have put them altogether.  
 12 MR. BRICKLIN: Oh, yeah, I know. It's a little  
 13 overwhelming here. It might be in the back half of this. Do  
 14 you think that's the case? Appendices?  
 15 MR. THALER: Appendices I believe are in the beginning of  
 16 Notebook Three.  
 17 MS. BENDICH: No, no, they rearranged it this morning.  
 18 MR. BRICKLIN: Oh, they got moved.  
 19 HEARING EXAMINER: Which appendices are you looking for?  
 20 MR. BRICKLIN: A. So for future reference, we've got a  
 21 blue divider there.  
 22 MS. BENDICH: A blue divider.  
 23 MR. BRICKLIN: Yeah.  
 24 **Q. (By Mr. Bricklin) Are you seeing where we're at?**  
 25 A. Mm-hmm. I see that.

1 **Q. All right.**  
 2 MR. BRICKLIN: And Mr. Examiner, I'm turning to page 22 of  
 3 Appendix A.  
 4 THE WITNESS: Sure.  
 5 **Q. (By Mr. Bricklin) So earlier you referred to a rubric that**  
 6 **involved two different factors and if you mix and match the**  
 7 **two times two you end up with a grid of four. Are those, and**  
 8 **I think in the EIS and in the Appendix A, instead of using**  
 9 **the word "rubric" they refer to it as a typology. Same**  
 10 **thing?**  
 11 A. Yeah. Rubric's my word, but typology is their word, yes.  
 12 **Q. Yeah. All right. And so is this, on page 22 of the**  
 13 **Appendix, is this those four categories you're talking about,**  
 14 **the high displacement risk, low access to opportunity, and**  
 15 **other combinations of those two factors?**  
 16 A. Yes. This is the visualization of that for all the urban  
 17 villages relative to one another.  
 18 **Q. All right. And then they show which urban villages fall into**  
 19 **which of those categories, as it were. Types. And when you**  
 20 **were speaking of the risk to low income people being able to**  
 21 **move into the home ownership market, is that risk that you**  
 22 **said is not spread out evenly among the different economic**  
 23 **groups, would that vary from urban village to urban village**  
 24 **how that gets manifest?**  
 25 A. Yes. I mean, each urban village has distinct home prices and

1 A. So talking nonsubsidized, by virtue of all new construction,  
 2 it will all be top of market and the most expensive. Yes.  
 3 **Q. All right. And so if you have a old brick apartment house in**  
 4 **town that is torn down and is replaced with a new project,**  
 5 **you may end up with equal or more units. But are you, would**  
 6 **they necessarily be serving the same part of the market?**  
 7 **Would the new units be serving the same part of the market as**  
 8 **the ones you lost?**  
 9 A. It would overwhelmingly be a loss of units at lower costs  
 10 replaced by units at top of market cost. Redevelopment  
 11 happens on sites whose existing improvements are cheap enough  
 12 to buy, tear down, and put in place something else in order  
 13 for the development to pencil. To financially make sense.  
 14 And so projects, existing housing that is more expensive in  
 15 place are extremely low likelihood to be bought, torn down,  
 16 and replaced by higher density development. It is greatly  
 17 skewed towards existing housing that's more modest cost being  
 18 bought, torn down, and replaced by brand new housing that  
 19 would be top of market in cost for whatever neighborhood  
 20 we're talking about.  
 21 **Q. And this is, I presume, an existing phenomenon even before**  
 22 **this proposal were to be enacted?**  
 23 A. Yes, indeed. Here and anywhere else there are people.  
 24 **Q. Right. And what would the expected impact of this proposal**  
 25 **be on that? Would that tend to accelerate it? No impact?**

1 distinct rents. And so yes, it varies.  
 2 **Q. All right. And then when you said that the EIS didn't**  
 3 **address this issue, that's true both across the city and also**  
 4 **at an urban village level of granularity?**  
 5 A. I would say so, yes.  
 6 **Q. All right. So let's talk about your point about economic**  
 7 **dislocation, which I think you described as basically a**  
 8 **supply and demand condition, right? The supply takes you to**  
 9 **the demand goes up for housing and the supply doesn't go up**  
 10 **fast enough and you get priced out of the market?**  
 11 A. Right. Exactly.  
 12 **Q. Right.**  
 13 A. If demand outstrips supply, exactly.  
 14 **Q. And, you know, one thing that's always struck me is the**  
 15 **proposal is said to increase housing capacity, you know,**  
 16 **zoning capacity. But would that necessarily translate into**  
 17 **additional housing at the low end of the market? Or may the**  
 18 **new housing end up being more expensive than the low end of**  
 19 **the market can afford?**  
 20 A. I would say that it guarantees that the new housing created,  
 21 the new -- setting aside any subsidized housing units that  
 22 are created with the fees --  
 23 **Q. -- Yeah, right.**  
 24 A. -- or that one place --  
 25 **Q. -- I just want to deal with the nonsubsidized market.**

1 **Or decelerate that?**  
 2 A. Well, I think at least initially and for some time it would  
 3 be an acceleration of the affordability problem for a number  
 4 of reasons. Number One, you have, you know, if you're  
 5 talking about a situation where existing housing is replaced  
 6 by, is torn down and replaced by brand new housing at top of  
 7 market, you've not only taken out what I would call  
 8 affordable housing stock, older homes or older apartments  
 9 that by virtue of being older, they're market rate, but they  
 10 rent or their prices are more modest because they're older.  
 11 You are losing those units and they're not being replaced.  
 12 **Q. With units of the same price?**  
 13 A. With units of the same price, that's correct.  
 14 The other problem is that you have a delay. Households  
 15 have to move out of their apartments or whatever was torn  
 16 down. There's no guarantee they'll find anything any time  
 17 soon. So even though the FEIS goes into detail about how  
 18 many new units are created, but only this many are displaced,  
 19 well, there are potentially vast time periods between when  
 20 that displaced household can even find something. Much less  
 21 if it's even in the City of Seattle. So the math is  
 22 extremely simplistic in that regard.  
 23 **Q. And did the EIS or the equity analysis that it's based on**  
 24 **look at this basic supply and demand equation for the low end**  
 25 **of the market rate, nonsubsidized market?**

1 A. I did not see any reconciliation, I would say, or comparison  
 2 between -- well, let's put it this way. I didn't see in the  
 3 EIS, Chapter 2 or 3, Section 2 or 3, any sort of  
 4 comprehensive inventory of specifically rental housing by age  
 5 so that I don't see how the EIS documents existing conditions  
 6 comprehensively. It doesn't state there are this many  
 7 thousands of apartments that were built before 1920 and,  
 8 therefore, rent at this amount. And there are this many  
 9 thousand of housing units that were built between 1920 and  
 10 1950 and typically rent or sell for this amount. There's no  
 11 treatment of what the housing stock is in the city that's  
 12 being impacted.

13 MR. WEBER: David, I'm going to have to make an objection  
 14 that we'll have to address later. But I think as you  
 15 probably well know since you were at Mr. Reid's deposition,  
 16 most of what he is now saying was not an opinion that was  
 17 ever disclosed to the City, either in discovery or in his  
 18 deposition, at the end of which he stated he wouldn't be  
 19 rendering any opinions that he didn't discuss in his  
 20 deposition.

21 So we'll be objecting and when we get to cross, we may get  
 22 out the deposition and address this issue. But it appears  
 23 that Mr. Reid is straying far beyond the testimony that was  
 24 disclosed to the City.

25 MR. BRICKLIN: Okay. We'll take that up when you raise it,

1 HEARING EXAMINER: I think you've articulated the  
 2 objection.

3 MR. WEBER: Yeah.

4 HEARING EXAMINER: And we have that now.

5 MR. BRICKLIN: Well, so I think the beginning point is not  
 6 what issues they chose to go into at the deposition. I think  
 7 the beginning point is the disclosure we made in writing in  
 8 advance. What they chose to go into at the dep is up to  
 9 them.

10 MR. WEBER: No, no, David, I have to object to that. At  
 11 the deposition we walked through the statement. We discussed  
 12 everything in that statement and then I asked, "Are you going  
 13 to render any other opinions at hearing other than the ones  
 14 we've discussed?" And the answer was, "No."

15 HEARING EXAMINER: So I think Mr. Bricklin is correct,  
 16 though. You focused on that last sentence and that is that  
 17 is the issue that they responded no. And so they framed it  
 18 at that time to the City that they are not going to be having  
 19 any additional issues besides what was -- so it's not so much  
 20 what was discussed at the deposition as it was their  
 21 affirmative, "This is it."

22 MR. WEBER: Correct. You're correct. That's the issue.

23 HEARING EXAMINER: And so you were going to say something  
 24 about that, Mr. Bricklin, I believe?

25 MR. BRICKLIN: Yeah. So now I'm trying, so with that

1 I guess.

2 MR. WEBER: Okay.

3 HEARING EXAMINER: Are you raising it now or?

4 MR. WEBER: I don't know how Your Honor wishes to proceed.  
 5 I mean, we can address it later or we can address it now. I  
 6 mean, I think this is going to be a continuing problem based  
 7 on the five areas that were disclosed.

8 HEARING EXAMINER: The issue is if you don't raise the  
 9 objection now then we have something in testimony.

10 MR. WEBER: Okay. Well, then let's deal with it now. And  
 11 not just with respect to this issue, but with respect to the  
 12 other issues that were flagged. I mean, the issues, Number  
 13 Four, analysis of where affordable units might be built.  
 14 Number Five, the displacement psychology, those were not  
 15 addressed in his deposition.

16 So I guess the only issues that were addressed in his  
 17 deposition were ownership housing, economic dislocation, but  
 18 not including the issues he's now discussing. Some  
 19 discussion of physical displacement. And then some other  
 20 issues that apparently he's not going to testify today on  
 21 based on your summary of those five areas.

22 So I guess perhaps do we need to unseal the deposition and  
 23 have it introduced and go through the deposition?

24 HEARING EXAMINER: Let me get Mr. Bricklin's response.

25 MR. WEBER: Okay.

1 framework, I would like to have you again specify precisely  
 2 which opinion you think is not addressed?

3 MR. WEBER: Well, I mean, we haven't heard all of them.  
 4 But of the five areas that you flagged for Mr. Reid to  
 5 address, the first one was the allegation that the EIS  
 6 ignores ownership housing. That was extensively discussed.  
 7 I understand that's an opinion that he was going to render.

8 HEARING EXAMINER: That was discussed. Okay.

9 MR. WEBER: Yes. The second one you mentioned was economic  
 10 dislocation. This is the issue of, that Mr. Reid was  
 11 discussing --

12 MR. BRICKLIN: -- Getting priced out of the market.

13 MR. WEBER: Right. That people who want to find places to  
 14 buy won't be able to have access to ownership housing.

15 MR. BRICKLIN: Mm-hmm.

16 MR. WEBER: That was discussed. We admit that was  
 17 discussed.

18 The third issue you talked about was physical displacement,  
 19 the idea that the EIS understated physical displacement. And  
 20 I think there was discussion to some extent about that at the  
 21 deposition in terms of the City's methodology for, you know,  
 22 computing how many units would be demolished. But that's as  
 23 far as it went. It didn't go into the areas that Mr. Reid is  
 24 now discussing.

25 And then the fourth and fifth areas you've outlined, the

1 analysis of where affordable units will be built, that was  
2 simply not discussed at all in the deposition. Or in the  
3 witness statement. And the challenge to the displacement  
4 typology, that was not discussed.

5 MR. BRICKLIN: So on that last point, I don't know that  
6 he's challenging. I wouldn't characterize it that he's  
7 challenging the typology. He's challenging the adequacy  
8 analysis that was done on a urban village by urban village  
9 basis.

10 MR. WEBER: Yeah, I don't --

11 MR. BRICKLIN: -- Using that typology.

12 HEARING EXAMINER: And is that raised within the framework  
13 of one of the first two issues? Or something else?

14 MR. BRICKLIN: Well --

15 HEARING EXAMINER: -- Which issue is that addressing? Of  
16 the?

17 MR. BRICKLIN: So I believe what his disclosure said was  
18 that "For market rents and home prices, it varies greatly  
19 from urban village district area even within a single MHA  
20 market area. In low market urban villages with rents higher  
21 than the assumed low market average, new capacity creation  
22 and, therefore, risk of displacement is higher than analyzed  
23 because new capacity will create greater demolition and  
24 displacement risk in that urban village."

25 So our disclosure included a critique of the failure of the

1 moving in his testimony into this issue of displacement  
2 generally and the mechanics of loss of low income units being  
3 replaced by higher income units. I mean, we know that  
4 Appellants are going to raise that issue and they've got  
5 witnesses who are going to talk about that. But Mr. Reid was  
6 not one of the people who was identified as talking about  
7 that subject.

8 MR. BRICKLIN: So, I mean, one of his statements is, "With  
9 higher capacity ensured by MHA, greater units produced per  
10 parcel in the future means greater capacity to spread high  
11 site acquisition costs, including older residential  
12 structures that could be acquired and demolished."

13 MR. WEBER: -- Yeah, that was all in the context of the  
14 City's analysis of how many physical demolitions there would  
15 be. That was when, all of those issues were in the context  
16 of physical, which is a subject that Mr. Reid didn't actually  
17 spend a lot of time on today, but that was extensively  
18 covered.

19 MR. BRICKLIN: And he goes on to say that, and for all of  
20 this, after relaying a lot of issues, he says, "Under layers  
21 of analysis, demolition displacement risk is far from  
22 understood under MHA. And for all of this, the capacity and  
23 impacts to ownership housing are entirely ignored."

24 HEARING EXAMINER: As I understand it, Mr. Bricklin, you're  
25 indicating that you do not agree with the objection.

1 EIS to apply this analysis discretely for, you know, one  
2 urban village to the next. Kind of this broad brush  
3 approach.

4 MR. WEBER: I'm not actually sure that Mr. Reid's  
5 disclosure did that.

6 MR. BRICKLIN: Well, I just read it.

7 MR. WEBER: Well, I want to clarify. I mean, with respect  
8 to the typology, I don't necessarily object to what he has  
9 said so far about the typology. I mean --

10 MR. BRICKLIN: -- Well, can you wait to -- all right.

11 MR. WEBER: -- what I'm objecting to is you had a fifth  
12 category that is hard to parse because we haven't heard it.  
13 But that is actually the least of the issues I'm concerned  
14 about. I mean, what Mr. Reid is talking about right now in  
15 terms of talking about, you know, low cost housing being  
16 replaced by, you know, more expensive housing and the whole  
17 displacement, that was not in the deposition. That was not  
18 in the witness statement.

19 MR. BRICKLIN: Well, it certainly was. Being priced out of  
20 the market?

21 MR. WEBER: No, no, no. The separate issue, I mean, the  
22 idea of people who want to buy not being able to find  
23 ownership housing because allegedly the EIS didn't look at  
24 ownership housing. I understand that was fully discussed.  
25 That was what his statement was all about. But now we're

1 MR. BRICKLIN: Right.

2 HEARING EXAMINER: And that all of these are subjects that  
3 are within the context of what was raised in the deposition.

4 MR. BRICKLIN: That's true.

5 HEARING EXAMINER: I don't have the benefit of the  
6 deposition or the disclosure --

7 MR. BRICKLIN: Yeah.

8 HEARING EXAMINER: -- in front of me.

9 MR. WEBER: Well, I would be happy to introduce the  
10 deposition as an exhibit at this point.

11 HEARING EXAMINER: And given that this is covering several  
12 subjects and a level of detail that we could easily spend an  
13 hour or 30 minutes or so at least, I mean, you've already  
14 been at it 10 minutes on one part. How I'd like to proceed  
15 with it is if it wasn't disclosed or it was not identified as  
16 an item in the deposition, I would sustain the objection.  
17 But what I need to do is to postpone the discussion for this  
18 for a later time. You can either do it, you could do it in  
19 briefing between the next segment of the hearing. Or you  
20 could even postpone it to closing. What I'm inclined to do  
21 is allow the testimony to go forward. The appellant can  
22 preserve the record for it simply for purposes of preserving  
23 the record. But and it can be excluded as far as the  
24 objection. You've preserved your right to objection  
25 essentially. And we can get into the details of what

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1 segments of the testimony were not permissible and are  
 2 encompassed within any objection that I would sustain at a  
 3 later time.  
 4 MR. WEBER: Okay.  
 5 HEARING EXAMINER: I think that's the best, most efficient  
 6 way that we can address it.  
 7 MR. WEBER: Yeah. We can move to strike it later. I  
 8 understand.  
 9 HEARING EXAMINER: That's exactly what we would do.  
 10 MR. WEBER: Okay.  
 11 HEARING EXAMINER: So and I would leave it to the parties  
 12 to tell me whether they want to try to brief that in between,  
 13 or just incorporate that into closing. I think maybe  
 14 incorporating it into closing might be better.  
 15 MR. WEBER: Okay. Well --  
 16 HEARING EXAMINER: -- Or do you feel?  
 17 MR. WEBER: I think given the time we've built in between  
 18 the weeks of hearing --  
 19 HEARING EXAMINER: -- Right.  
 20 MR. WEBER: -- it may be possible to address it sooner.  
 21 We'll give that some thought.  
 22 HEARING EXAMINER: Okay.  
 23 MR. WEBER: Thank you.  
 24 HEARING EXAMINER: Okay.  
 25 MR. BRICKLIN: Don't have any clue where I was.

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1 **Q. (By Mr. Bricklin) Do you, Mr. Reid? So let's try. Was**  
 2 **there, I think you were describing the impact on the lower**  
 3 **echelons of the unsubsidized market as older affordable**  
 4 **housing is lost and replaced by newer, what you keep**  
 5 **referring to as top of the market housing. And so the**  
 6 **segment of the market for the entry level folks and the**  
 7 **people at the low end of the home ownership scale, their**  
 8 **supply is declining at the same that the demand is increasing**  
 9 **as you're bring more and more people into the city for these**  
 10 **rentals.**  
 11 A. Right. That would tend to be what happens more often.  
 12 **Q. Right. And it's true though that, I mean, the EIS did**  
 13 **acknowledge this phenomenon at a sort of 50,000 foot level,**  
 14 **right, in terms of saying that as new housing is developed it**  
 15 **can mean a loss of older more affordable housing?**  
 16 A. Yes. I mean, well, I would say it qualitatively discusses  
 17 the issue.  
 18 **Q. Right.**  
 19 A. Mm-hmm. Yes.  
 20 **Q. Did it make any effort to say anything more than that, which**  
 21 **is to say did it then talk about either the extent that this**  
 22 **would manifest itself, whether it manifests itself**  
 23 **differently among the different urban villages or different**  
 24 **socioeconomic groups, any analysis of that kind?**  
 25 A. Not for economic displacement that I saw. The detailed

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1 treatment of displacement by urban village really in the EIS  
 2 is really limited to demolition or physical displacement  
 3 versus new units created under the policy. But not detailed  
 4 math or analysis on the economic or affordability  
 5 displacement.  
 6 **Q. And then let's talk about the physical displacement, the**  
 7 **demolition risks. Let's start by having you explain the**  
 8 **approach used by the EIS to analyze the historic demolition**  
 9 **trends.**  
 10 A. Yeah. So the EIS in Appendix G I believe is the detailed  
 11 appendix in terms of how the city went through and studied  
 12 physical displacement risk. And it treats physical  
 13 displacement in two different ways. One, there's a detailed  
 14 analysis that it discusses regarding a modelling, a model  
 15 that it built to figure out how much displacement would occur  
 16 in different urban villages, different parts of the city,  
 17 kind of based on the assumptions of redevelopability and  
 18 a few other criteria. And then reports detailed findings of  
 19 estimated physical displacement based on that methodology.  
 20 And then in a significantly shorter treatment it also talks  
 21 a bit about historical demolition, historical displacement,  
 22 that's occurred as a result of demolition pre-MHA. And talks  
 23 about the ratio of displacement due to demolition that has  
 24 historically occurred. Demolition of older units, whatever  
 25 they are, versus new units created in their place. And kind

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1 of discusses that relationship. But it's not an extensive  
 2 discussion. But it's in there.  
 3 **Q. And so it comes up with a historical trend of demolition**  
 4 **based on development rates in the past?**  
 5 A. Basically, yes.  
 6 **Q. X amount of new growth results in Y amount of demolition?**  
 7 A. Yeah, you could state it that way.  
 8 **Q. Historic trend. And for estimating demolition if the**  
 9 **proposal were to be implemented, does the EIS begin by**  
 10 **assuming that that same historic demolition rate would**  
 11 **continue into the future?**  
 12 A. It does. The analysis of impacts considers both rates of,  
 13 estimated rates of demolition. The model rate of demolition  
 14 versus historical trend. And considers the historical trend  
 15 ratio of new units created versus old lost to be on the high  
 16 side of demolition risk by urban village.  
 17 **Q. Right. So --**  
 18 HEARING EXAMINER: -- Just a quick clarification.  
 19 MR. BRICKLIN: Yeah.  
 20 HEARING EXAMINER: I think the witness referenced a  
 21 Appendix G for that. Would that be in the materials?  
 22 MR. BRICKLIN: Yeah, I didn't recognize that either,  
 23 actually.  
 24 HEARING EXAMINER: I have G as growth estimates.  
 25 MR. BRICKLIN: So --

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1 HEARING EXAMINER: He may be referring to a subsection?  
 2 **Q. (By Mr. Bricklin) Or it may be that they take the growth**  
 3 **estimates from there to then drive the demolition**  
 4 **projections; is that what happened?**  
 5 A. Correct. Appendix G, Technical Memorandum MHA EIS Growth  
 6 Estimates is the detailed treatment of how the numbers were  
 7 derived. But then Section 3 reports the results of that.  
 8 **Q. Section 3 of the EIS?**  
 9 A. Of the EIS, correct.  
 10 MR. BRICKLIN: And actually, Mr. Examiner, I noticed the  
 11 last pages of Appendix G are about demolition, starting at  
 12 G10, 11, and 12 are potential demolition based on this  
 13 modelling exercise.  
 14 HEARING EXAMINER: Thank you.  
 15 MR. BRICKLIN: Yeah.  
 16 **Q. (By Mr. Bricklin) So if I'm hearing you right there were two**  
 17 **different approaches that were considered for estimating**  
 18 **demolition. One was a modelling exercise that looked at a**  
 19 **variety of factors. And the other was just looking at data**  
 20 **from past demolitions?**  
 21 A. That's correct.  
 22 **Q. And between the two of them, the data from past demolitions**  
 23 **gave the higher demolition rate and that's the one that was**  
 24 **used in the EIS?**  
 25 A. Both are reported in the EIS, but the historical demolition

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1 rate, my reading was there was more emphasis on comparing  
 2 those numbers because they were on the higher end.  
 3 **Q. Right. And yet even though the EIS emphasized the higher end**  
 4 **historic data and not the lower modelling, your opinion is**  
 5 **that even those higher end historic data number were not high**  
 6 **enough?**  
 7 A. Yes, that's my opinion.  
 8 **Q. And what is that based on?**  
 9 A. So that's based on the fact that under the new policy -- let  
 10 me back up a second. Under existing zoning and allowed  
 11 density for different parts of the city, it's lower than it  
 12 would be under the new policy, okay. Lower zone capacity for  
 13 different parts of town. With the existing lower development  
 14 capacity that's allowed pre-MHA redevelopment projects,  
 15 redevelopment can't build as high or as many new units as  
 16 they can under MHA. So historical redevelopment and  
 17 historical demolition for redevelopment is based on the  
 18 economic reality that pre-MHA redevelopment is extremely  
 19 sensitive to what the existing improvements are in place that  
 20 have to be bought, demolished, and then built upon. Because  
 21 there's a limit on, there's a lower limit on how many new  
 22 units replacing that make sense financially.  
 23 So redevelopment that's occurred up until MHA has greatly  
 24 been on lower cost sites relatively speaking. What we would  
 25 call "low hanging fruit." Sites that have existing, valuable

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1 even, existing apartment projects are less common pre-MHA to  
 2 be torn down and redeveloped because they're more expensive  
 3 to buy and the cost adds to the development costs under the  
 4 pre-MHA lower zoning, allowed zoning density. So the rate of  
 5 demolition pre-MHA is skewed towards projects that avoided  
 6 expensive demolition costs because the number of units  
 7 allowed pre-MHA pre-higher zoning is lower. They can't  
 8 afford to pay for those units to be displaced.  
 9 After MHA, those upzones create far more development  
 10 capacity on each parcel. And with that higher development  
 11 capacity come more units and more rental income to pay for  
 12 buying more expensive sites and tearing down more expensive  
 13 assets in place, apartments, commercial development, whatever  
 14 it is. But the higher capacity per parcel allows the  
 15 developer to buy a more expensive piece of property,  
 16 including existing improvements, and tear them down because  
 17 of the new capacity created.  
 18 So in my view because of that significantly different  
 19 economic situation, relying on historical demolition trend or  
 20 historical demolition ratio of existing units lost to new  
 21 units created prior to MHA when zoning allowed units by  
 22 zoning or lower skews the demolition risk low because  
 23 historically developments have been more sensitive to that  
 24 cost and have not had the wherewithal to buy sites that have  
 25 more units to be lost. If that makes sense.

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1 **Q. And so if the reality in the post MHA world is more**  
 2 **development spurred by the upzones resulting in a greater**  
 3 **rate of demolition than pre-MHA, was that disclosed in the**  
 4 **EIS that there would be an increased rate of demolition**  
 5 **compared to historic rates?**  
 6 A. I don't recall that it was treated at all.  
 7 **Q. All right.**  
 8 A. I mean, maybe there was a statement qualitatively, you know,  
 9 that it's a possibility. But I don't recall any treatment of  
 10 it really.  
 11 **Q. Right. All right. Let's turn to the subsidized part of the**  
 12 **market for a moment. And was there statements in the EIS**  
 13 **about where the new subsidized housing would be developed?**  
 14 A. Yes. There is analysis and tables in the EIS that show a  
 15 distribution of where new subsidized units would be built by  
 16 urban village.  
 17 **Q. And was there, you mentioned, let's go back to your**  
 18 **description of how the subsidized part of this program works.**  
 19 **So the developers that develop in areas subject to MHA have**  
 20 **to, you said either have to provide some subsidized units in**  
 21 **the project or pay money into a fund, right?**  
 22 A. Correct.  
 23 **Q. And the units generated out of the fund, do they have to be**  
 24 **built on the same block or same neighborhood where the**  
 25 **project is being developed?**

1 A. My understanding and my reading is there is no requirement  
 2 that funds generated have a geographic, have to be retained  
 3 geographically.  
 4 **Q. All right. But does the EIS make any assumptions about where**  
 5 **those units would be actually built?**  
 6 A. Well, it does. And it kind of distributes where, you know,  
 7 they think that the subsidized units will go.  
 8 **Q. And do you believe that distribution that they theorize is**  
 9 **accurate?**  
 10 A. In my view I don't know that it is. I didn't see any  
 11 analysis in there about the wherewithal of a developer, a  
 12 subsidized housing developer, to build units in a more  
 13 expensive urban village versus a less expensive urban  
 14 village. The fees generated, I believe, in Section 2 of the  
 15 EIS, state that the average fees generated per new subsidized  
 16 unit with all of this is about \$80,000. And then states but  
 17 that cost is a half to a third of the total cost of a new  
 18 subsidized unit. So the \$80,000 generated here is maybe a  
 19 quarter, maybe a third, of the total cost needed. In more  
 20 expensive urban villages where land prices are more expensive  
 21 that same fee is going to have to leverage far more  
 22 additional funds to built in an expensive urban village than  
 23 in a cheaper urban village, because of cheaper land costs and  
 24 cheaper development costs as a result. So I don't know how  
 25 the distribution of where subsidized units if they

1 **Q. (By Mr. Bricklin) You testified that the EIS does not**  
 2 **analyze the distribution of these subsidized units around the**  
 3 **city according to or taking into account land costs and land**  
 4 **development costs; is that right?**  
 5 A. Not that I read, no.  
 6 **Q. All right. And your opinion is that if that had been taken**  
 7 **into account there would be more units built in areas with**  
 8 **lower land costs and development costs than forecasted in the**  
 9 **EIS?**  
 10 A. Yes. A largely fixed amount of fees, scarce resource in a  
 11 fund, you get more, you buy more with scarce resources and  
 12 cheaper places to develop. And so you would tend to see  
 13 subsidized housing development where land costs are lower and  
 14 redevelopment would be, redevelopment of new subsidized units  
 15 would be less expensive. Make the money go further.  
 16 **Q. Right. And assuming your analysis is correct, how does that**  
 17 **play out in terms of the city's stated objectives of**  
 18 **developing market rate housing sort of spread out around the**  
 19 **city and not being focused in low income areas?**  
 20 A. I think it would be difficult to provide new subsidized units  
 21 in those areas. And very specifically, according to the  
 22 typology, the equity typology, you would find it very  
 23 difficult, far more expensive anyway, to develop new  
 24 subsidized units in any urban village that has a high access  
 25 to economic opportunity classification. Because those are

1 materialize, I see significant challenges to building new  
 2 subsidized units for those fees, those average fees. I see  
 3 challenges building in more expensive urban village  
 4 basically.  
 5 **Q. And did the EIS analyze the risks that the fees would result**  
 6 **in a disproportionate share of the new subsidized housing**  
 7 **being located in low property value areas of the city and not**  
 8 **spread out around the city as envisioned?**  
 9 A. Not that I recall. The most detail that it goes into that I  
 10 recall is a certain level of fees per unit on average would  
 11 be generated. But there was no relationship drawn, as I  
 12 recall, to more expensive urban villages versus less  
 13 expensive.  
 14 **Q. If the fees are used disproportionately in areas where**  
 15 **housing, where land values are lower and development costs**  
 16 **are lower, would that be --**  
 17 MR. WEBER: -- Objection. Speculation. "If they're used."  
 18 I mean, you haven't established they would be used in that  
 19 way. Nor has he.  
 20 **Q. (By Mr. Bricklin) Does the --**  
 21 HEARING EXAMINER: -- Are you withdrawing the question that  
 22 wasn't quite finished?  
 23 MR. BRICKLIN: Yeah.  
 24 HEARING EXAMINER: Okay.  
 25 MR. BRICKLIN: I'll.

1 the most amenitized, easiest access to education and parks  
 2 and a bunch of other things. Those would be the urban  
 3 villages that would be the most difficult to build new  
 4 subsidized units with scarce, I use the word "scarce," but  
 5 simply meaning limited funds.  
 6 **Q. So just maybe a summing up of big picture, do you believe the**  
 7 **EIS does an adequate job of disclosing to the readers the**  
 8 **impacts of the program on the future housing market in**  
 9 **Seattle?**  
 10 A. I would say no. For all the reasons we talked about, but  
 11 primarily demolition risk, displacement risk. And ownership  
 12 housing availability, affordability and the impacts to  
 13 different urban villages and their residents, specific  
 14 residents, is not addressed adequately.  
 15 MR. BRICKLIN: All right. That's all I have for this  
 16 witness.  
 17  
 18 DIRECT EXAMINATION  
 19 BY MR. THALER:  
 20 **Q. Just a quick follow-up. You just testified a minute ago that**  
 21 **in your opinion it's more difficult to build subsidized**  
 22 **housing in high opportunity urban villages as defined in the**  
 23 **typology in Appendix A. Do you think the inverse is true,**  
 24 **that it's also difficult to have market rate housing built in**  
 25 **low opportunity urban villages as a result of the upzoning?**

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

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

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

20 HEARING EXAMINER: Cross-examination?

21  
 22 CROSS - EXAMINATION

23 BY MR. WEBER:

24 **Q. Hi. Jeff Weber for the City. So, Mr. Reid, a couple of  
 25 questions. Prior to this case, how many environmental impact**

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

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

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

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

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

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

17 A. It's based on a couple of different things. Number One, the  
 18 overwhelming treatment of housing need in the EIS is  
 19 treatment of affordable rents and new rental unit production,  
 20 whatever it is. So the intent of the policy based on this,  
 21 my conclusion is that the emphasis is on rental housing need  
 22 and, therefore, the policy is set up and would deliver an  
 23 emphasis on rental housing need.

24 The other half of that is that with limited resources, you  
 25 know, funds being generated only a certain amount through the

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

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

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

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

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

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

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

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

22 A. Well, based on Number One, in the city I would expect to see  
 23 for a while anyway a balance of rentals being created. And  
 24 so the units being built in them will also be rentals. I  
 25 don't expect to see ownership units being built in a market

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1 rate rental project, subsidized ownership units being built  
 2 in a market rate project. And I don't see a ton of if  
 3 somebody were to build an ownership building, you know, a  
 4 condo or whatever, you're more likely to see, because it's an  
 5 ownership project, you're more likely to see it all being  
 6 market rate ownership and fee paid in lieu. So you're not  
 7 going to see a lot of ownership units created with the  
 8 program, the performance units. For those reasons.  
 9 **Q. So earlier in your testimony you said that the question of**  
 10 **economic displacement or dislocation was given light**  
 11 **treatment, I think you said. Are you aware of the, what's**  
 12 **referred to as the correlation analysis that appears in the**  
 13 **EIS? I believe it's page 3.48.**  
 14 A. Let me go there and take a look. I did review this page, I  
 15 mean, let's see.  
 16 MR. ABOLINS: What page?  
 17 MR. WEBER: This is page 3.48 in the EIS.  
 18 MR. ABOLINS: Thank you.  
 19 THE WITNESS: So, yeah, I'm familiar with correlation.  
 20 What specifically?  
 21 **Q. (By Mr. Weber) Well, my question is do you have any quibble**  
 22 **or a quarrel with the methodology of that correlation?**  
 23 A. Well, I mean, the analysis goes through and calculates a  
 24 correlation. But as it notes, "Correlation has no predictive  
 25 value." So, and again, it's based on historic development

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1 pattern pre-MHA. So I don't have a quibble with what it  
 2 does, but I wouldn't use it to predict necessarily what's  
 3 going to happen.  
 4 **Q. But do you acknowledge that that is substantial discussion of**  
 5 **economic displacement that is in the EIS?**  
 6 A. It's a statistical analysis. It's not an enumeration, per  
 7 se. There's a margin of error. There's sample bias.  
 8 There's, it's a statistical product. I suppose that as a  
 9 statistical analysis it's fine, but I don't necessarily for  
 10 those reasons would say that it is a proper and appropriate  
 11 treatment of the issue.  
 12 **Q. Can you turn to page 3.86 of the EIS?**  
 13 A. Sure.  
 14 **Q. So at the very bottom of the last paragraph, do you see the**  
 15 **sentence that says, "The additional housing supply has the**  
 16 **potential to reduce economic displacement pressures in the**  
 17 **same neighborhoods?" And then it continues to the end of the**  
 18 **page. Does that change your view of whether the dynamic of**  
 19 **potential increases in price in a specific locality is**  
 20 **addressed in the EIS?**  
 21 MR. BRICKLIN: And what was the page number? I'm sorry.  
 22 MR. WEBER: Page 3.86.  
 23 THE WITNESS: No. It's two sentences. It's mentioning it  
 24 might happen, but that's, it's two sentences of qualitative  
 25 speculation. So no, it's a statement.

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1 MR. WEBER: That's all I have.  
 2 HEARING EXAMINER: Redirect?  
 3  
 4 REDIRECT EXAMINATION  
 5 BY MR. BRICKLIN:  
 6 **Q. So on that last point, I mean, what kind of analysis would**  
 7 **you think would be necessary to inform a decision-maker and**  
 8 **the public about those impacts? Beyond those two sentences.**  
 9 **What's missing?**  
 10 A. Well, I think -- I don't think it would have been terribly  
 11 difficult to take a look at different urban villages and  
 12 track which ones have seen how much new development, has  
 13 occurred, new apartments or whatever. And then check the  
 14 assessor value data, county assessor value data, to see what  
 15 has happened to home prices or other property values as new  
 16 investment has gone into that, those urban villages. So to  
 17 identify what's the affordability impact been in terms of  
 18 numbers. That is an analysis that has precedent and it's  
 19 fairly straightforward to do.  
 20 **Q. Okay. And you were asked about material on page 3.48, titled**  
 21 **"Housing Development and Change in Low-Income Households."**  
 22 **And you said yes, there's a discussion there, but it's not a**  
 23 **proper treatment of the issue. Flesh that out for the**  
 24 **examiner, if you would. Why is that not a proper way to**  
 25 **address that issue?**

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1 A. Well, it's purely statistical. I mean, it's not enumeration.  
 2 You know, there's no enumeration of change. It's sort of,  
 3 it's statistical analysis. It's sample, it's analysis based  
 4 on sample rather than documented enumeration.  
 5 **Q. What do you mean? I don't know what you mean by enumeration?**  
 6 A. Like how many, how many, like, this was how many households,  
 7 like, these are the known certain numbers what's happened  
 8 versus this other variable, this has also happened. And so  
 9 here's the relationship. We don't see any numbers really at  
 10 least until -- we see correlations in Table 3.1-33 on page  
 11 3.50.  
 12 **Q. Mm-hmm.**  
 13 A. But those are just correlations and statistical analysis.  
 14 It's not actual number of things.  
 15 **Q. So if you were a reader of the impact statement and you**  
 16 **wanted to know the extent to which these two factors are**  
 17 **correlated -- well, excuse me. Let me put it this way.**  
 18 **On page 3.48 in the first paragraph, the last sentence**  
 19 **says, "This can occur if new housing brings about amenities**  
 20 **that make the neighborhood more attractive to higher income**  
 21 **households, driving up rents and housing prices," and then it**  
 22 **goes on, "While it's hard to predict the impact at the**  
 23 **neighborhood scale, it's possible to examine the historical**  
 24 **relationship between housing growth and change in the number**  
 25 **of households at various income levels."**

1 So this whole relationship is about trying to relate the  
2 factor of new housing growth on the one hand and the change  
3 in households at various income levels on the other?

4 A. Right. And the correlation.

5 **Q. And so it says there's a certain correlation. Does the EIS  
6 take that to the next step and say, "Okay, well, based on  
7 these correlations here's what we can expect in terms of how  
8 this program, this MHA program, is going to impact household  
9 ownership in different parts of the city?"**

10 A. I don't recall any forward looking predictive analysis based  
11 on this. Because you statistically can't and shouldn't  
12 project based on a historical correlation. And for the same  
13 reason getting into, as we discussed with demolition risk,  
14 under MHA you're going to have a higher level of investment  
15 per parcel with the upzones. And that's just a different  
16 equation, it's just a different rate, different relationship  
17 of existing neighborhood to new development.

18 **Q. So if you can't use the statistics, are you saying then  
19 there's no analysis that could be provided?**

20 A. No. I think you can, you have existing urban villages  
21 throughout the City of Seattle that have existing  
22 relationships between different levels of density. And you  
23 can at least just within the City of Seattle case study how a  
24 higher density urban village, when you upzone a further out  
25 urban village and it resembles an existing one closer in

1 HEARING EXAMINER: Just so everyone knows, I don't have a  
2 hard lunch at noon. I try to see where we are. We try to  
3 break at 12:00, 12:30. Same for the morning break. Same for  
4 the afternoon break. I like to do it where the witnesses are  
5 as opposed to. So I will surprise you with the time.

6 Before we go to the lunch break, just to confirm that we're  
7 going to follow up on the objection raised by the City. And  
8 if we're going to do that and do that in writing. And the  
9 idea is that there was testimony and there was a reference to  
10 a deposition. And potentially it sounds like there was a  
11 disclosure in addition to the deposition.

12 MR. BRICKLIN: Yeah. Although it's certainly up to the  
13 City to decide whether to pursue it. I tried to avoid  
14 getting into the issue I thought he was concerned about. So  
15 maybe I didn't skirt it enough. But I tried to skirt a lot  
16 of it.

17 MR. WEBER: Unfortunately, I think after we had our  
18 colloquy, you went very, very in depth in one of the  
19 issues --

20 MR. BRICKLIN: -- Okay. All right.

21 MR. WEBER: -- that I had signaled.

22 MR. BRICKLIN: All right.

23 HEARING EXAMINER: So we'll get that in writing. I leave  
24 it to the parties' discretion as to when to do that. The  
25 fact that you get it in earlier doesn't mean that I'm

1 that's expensive, what's happened here could be used as case  
2 study to say, "This is what's going to happen up here." But  
3 I didn't see that.

4 **Q. All right. And last, you were asked a question at the  
5 beginning about some of the work you've done in the past on  
6 environmental impact statements. I wanted to take a slightly  
7 broader view on that. I want you to assume that the purpose  
8 of preparing an EIS is to inform the public and decision-  
9 makers about key information to help them make good  
10 decisions. You know, apart from the work you've done on  
11 EIS's, have you done work on economic and housing analyses  
12 that served that basic function?**

13 A. I would say for the majority of my consulting career and what  
14 I teach, how to take a look at housing, meaning the economics  
15 behind it, the economics of how development and redevelopment  
16 works, it's all the same type of analysis. It's just not  
17 necessarily within a document that's labelled an EIS I would  
18 say. Is how I would answer that.

19 **Q. All right.**

20 A. It's all consistent.

21 **Q. All right.**

22 MR. BRICKLIN: That's all I have. Thank you.

23 HEARING EXAMINER: Thank you. Thank you, Mr. Reid.

24 MR. BRICKLIN: Thank you for extending the morning session  
25 to finish the witness.

1 necessarily going to rule on it. We've had with the  
2 testimonies here, I can certainly address this in closing.  
3 So if --

4 MR. BRICKLIN: -- Well, the one thing I would say on that  
5 point is part of striking testimony that you claim you were  
6 surprised by is demonstrating prejudice. And before  
7 testimony is struck --

8 MR. WEBER: -- Stricken.

9 MR. BRICKLIN: -- Stricken. Thank you. The opportunities  
10 ought to be provided to cure any prejudice. And so what I  
11 would say is --

12 HEARING EXAMINER: -- So what we're going to do, though, is  
13 the objection is going to come in writing.

14 MR. BRICKLIN: Yeah.

15 HEARING EXAMINER: There'll be reference to the deposition  
16 and disclosures. And there will be an opportunity to  
17 respond.

18 MR. BRICKLIN: Yeah. I was just going to say there was  
19 also an opportunity, given that we've got two months here, is  
20 what I'm going to propose is I have a conversation with the  
21 City. And if they can persuade me that this is really new  
22 information, I'm going to offer to let them depose him and  
23 reopen cross-examination on this one issue.

24 HEARING EXAMINER: Okay. I'll leave that to your  
25 discretion.

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1 MR. BRICKLIN: I'll discuss that with them.  
 2 HEARING EXAMINER: If it waits until the end, it waits  
 3 until the end. If you do it now, you do it now.  
 4 MR. BRICKLIN: All right. Thank you.  
 5 HEARING EXAMINER: For calendar now that I have the  
 6 calendar, seeing that I'm assuming green is Appellants and  
 7 blue is the City. And there was a --  
 8 MR. BRICKLIN: -- This is this morning's calendar?  
 9 MR. THALER: That's correct. I think the dark green  
 10 represents some changes.  
 11 MR. BRICKLIN: I don't know.  
 12 MR. THALER: But there's two shades of green on there.  
 13 HEARING EXAMINER: Okay. The yellow? Dan Nelson?  
 14 MR. THALER: The reason that's in yellow is because  
 15 Mr. Nelson is a City employee, but we're not calling him as  
 16 our witness. So there were just some scheduling issues  
 17 around that.  
 18 HEARING EXAMINER: So he's actually --  
 19 MR. THALER: -- We could have probably put him in green.  
 20 HEARING EXAMINER: Okay. All right. So how I'll be  
 21 treating this is that this is the allocation of time for the  
 22 parties. I don't, you know, obviously, I don't think the  
 23 three days that we've added for the City are on here. But  
 24 those in addition would be the time allocated for the  
 25 parties.

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1 And so I leave it your capacity to function within. So I  
 2 leave it for you to function within that time. I will try to  
 3 remind you where we're at with a particular witness as far as  
 4 whether you're running into running over the time allocated  
 5 for it.  
 6 So for the appellants just understand that's your deadline  
 7 is within those days. Same with the City. I will set aside  
 8 September 7th in addition to the dates we've already set  
 9 aside in case there's an emergency, witness unavailability or  
 10 something along those lines. I know things can come up and I  
 11 do want to pad this. I do want to give the parties an  
 12 opportunity to function. But at the same time, I need to  
 13 keep an eye on the calendar for our hearing room and allow  
 14 others to bring their appeals. And this is certainly  
 15 displacing that for others in the city.  
 16 MR. BRICKLIN: So, I'm sorry, that extra day you said was  
 17 September 8th --  
 18 MS. BENDICH: -- 7th.  
 19 MR. BRICKLIN: 7th in reserve? All right.  
 20 HEARING EXAMINER: Yes.  
 21 MR. BRICKLIN: All right.  
 22 HEARING EXAMINER: All right. We will go to lunch and  
 23 return at 1:00. The door will be locked during lunch. You  
 24 may leave things. Again, you are doing that at your own  
 25 discretion so if you have something you don't want to get

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1 lost and it comes back and we can't help you with that. But  
 2 just the general opportunity is there if you feel comfortable  
 3 leaving it in a locked room, you may do so.  
 4 MR. ABOLINS: And just 1 o'clock?  
 5 HEARING EXAMINER: See you at 1 o'clock.  
 6 MR. ABOLINS: Okay. Thank you.  
 7 (Lunch recess)  
 8 HEARING EXAMINER: All right. And Appellants' next  
 9 witness?  
 10 MR. BRICKLIN: Thank you. Call Davidya Kasperzyk.  
 11 HEARING EXAMINER: Please state your name and spell it for  
 12 the record?  
 13 THE WITNESS: Davidya Kasperzyk, D-A-V-I-D-Y-A  
 14 K-A-S-P-E-R-Z-Y-K.  
 15 HEARING EXAMINER: And do you swear or affirm the testimony  
 16 you provide in today's hearing will be the truth?  
 17 THE WITNESS: I do.  
 18 HEARING EXAMINER: Thank you.  
 19  
 20 DAVIDYA KASPERZYK: Witness herein, having first been  
 21 duly sworn on oath, was examined  
 22 and testified as follows:  
 23  
 24 //  
 25 //

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1 DIRECT EXAMINATION  
 2 BY MR. BRICKLIN:  
 3 **Q. Thank you, Mr. Kasperzyk. Thank you for coming in today.**  
 4 **What's your professional background and occupation?**  
 5 A. I'm an architect, urban designer, and bioregional planner.  
 6 I've been practicing in Seattle for 34 years.  
 7 **Q. Was that architect and regional planner?**  
 8 A. Yes.  
 9 **Q. So architect I understand. What's a regional planner?**  
 10 A. Someone who looks at a region as to both form and analysis.  
 11 And for my situation, my interests, design and planning.  
 12 **Q. And are you privately employed? Or retired?**  
 13 A. I wouldn't say retired. Consultant for life.  
 14 **Q. Consultant for life. All right. Tell the examiner a little**  
 15 **bit about your background, the kind of work that you've done.**  
 16 A. Okay. So graduate work, should I start with academic?  
 17 **Q. You can go that way, sure.**  
 18 A. So academic, Master of Science in Natural Resources,  
 19 Anthropology and Ecosystems, University of Michigan. And  
 20 University of Oregon, Master of Architecture, Architecture  
 21 and Regional Planning. One of my interests academically has  
 22 been human settlement and patterns of settlement and  
 23 urbanity.  
 24 **Q. Okay.**  
 25 A. My practice, coming up to Seattle in 1984, established with a

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1 number of architecture and urban design firms. And then  
 2 established my own practice. Also worked for a landscape  
 3 architecture oriented firm. And then I established my own  
 4 practice with a Northwest collaborative in 1990. And from  
 5 that point in time I did what I would call integrated design  
 6 and planning, would be looking at ecosystems, existing  
 7 settlement patterns and proposing strategic settlement,  
 8 commercial development, transportation and ecosystem  
 9 strategies for future communities. And that has played out  
 10 at a number of cities. I did a number of city vision plans.  
 11 County comprehensive plans. And then the state, I was the  
 12 liaison, my public service also got into a lot of I would say  
 13 significant work. I was the AIA's liaison to the growth  
 14 strategies commission.

15 **Q. What's the AIA?**

16 A. Seattle American Institute of Architects. And I was the  
 17 Regional Planning and Urban Design Chair for three years, '90  
 18 to '93. I also served as the Co-Chair of the City of  
 19 Seattle's Design Guidelines for Commercial and Multifamily  
 20 Buildings, the original one. And numerous other planning  
 21 roles. Including I worked on six of the City of Seattle  
 22 neighborhood plans of the 1990 to 1994 period.

23 **Q. And what kind of work did you do on those open space plans?**  
 24 **What was your role?**

25 A. Open space plans and open space was one of the elements. So

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1 in the comprehensive planning it would be looking at existing  
 2 ecosystem functions, existing parks, public realm, looking at  
 3 a strategy for how the community, like the Olmsteds, would  
 4 have built around like. I feel like that's really been a key  
 5 in my career.

6 But then also multifamily, how and where growth should be  
 7 focused. Design guidelines for that growth to be contextual  
 8 in the community. Transportation strategies and plans for  
 9 urban areas and regional areas. And then later in my career  
 10 for five years I was the urban design manager and the bridge  
 11 architecture manager of the SR 520 corridor, which I  
 12 recruited and put together three dimensional studies and  
 13 strategies for contextualizing the bridge as it landed on  
 14 both sides, including City of Seattle.

15 **Q. And that was from the perspective of impact on historic**  
 16 **resources?**

17 A. That was included in there. The Mountlake neighborhood  
 18 clearly was strategically in a planning and application phase  
 19 for National Register status. And I worked closely with that  
 20 community around specific houses and placement and kind of  
 21 the dynamics of that.

22 **Q. Okay.**

23 A. I also kind of recently has been the initiator, grant writer  
 24 and project coordinator for the Mapping Historic Ballard  
 25 Project.

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1 **Q. Okay. What is that?**

2 A. It was funded by a Department of Neighborhoods grant, City of  
 3 Seattle Department of Neighborhood grants. Sarah Sodt, who I  
 4 believe is coming up next, was the overseer at the City  
 5 around historic resources. And it was a citizen based effort  
 6 where we brought in, as project coordinator, I brought in  
 7 within the grant funds a GEI specialist and a historic  
 8 resources specialist, Connie Walker Gray, with Confluence  
 9 Architects, who I'd worked with on the SR 520 project.  
 10 So we trained a number of citizens in historic analysis.  
 11 Connie Walker Gray did. And then we did a smartphone  
 12 analysis survey of a large portion of North Ballard, which  
 13 also above 58th to 85th. So we got all the way up into Crown  
 14 Hill urban neighborhood, as well as the Ballard urban  
 15 neighborhood and a small portion of the expansion areas  
 16 proposed under the MHA. But we looked at a lot of properties  
 17 and evaluated them and we went through four iterations  
 18 getting each, at each level, bringing in a more professional  
 19 intensity in our analysis. And the outcome by August 2016,  
 20 we had placed 160 properties on the City's historic resource  
 21 inventory.

22 **Q. All right. And have you in your career spent time doing**  
 23 **public service projects of various kinds?**

24 A. I mentioned a few there.

25 **Q. Yeah.**

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1 A. But I've also been President on the Board of Allied Arts, the  
 2 Urban Design Chair for Allied Arts for seven years, including  
 3 the waterfront studies. Was a founding board member and  
 4 President of the Seattle Urban Nature Project, which mapped  
 5 7,800 acres of Seattle public land. Founding board member  
 6 and President of Groundswell Northwest, which did a Ballard  
 7 open space inventory. And in subsequent years, developed 16  
 8 parcels within the Ballard area, including the hub urban  
 9 village area, including the Ballard Commons, Ballard Corners,  
 10 and other parks. So actually implemented 16 new habitat and  
 11 park properties.

12 **Q. Handing you what's been marked for identification as Exhibit**  
 13 **31.**

14 HEARING EXAMINER: And can you cross-reference to your  
 15 exhibit number?

16 MR. BRICKLIN: And it is Exhibit 25.

17 HEARING EXAMINER: Okay.

18 **Q. (By Mr. Bricklin) Do you recognize this document?**

19 A. I do.

20 **Q. And what is that?**

21 A. It's an adapted curriculum vitae.

22 **Q. All right. And is that a accurate, if not complete, listing**  
 23 **of some of your professional experience and accomplishments?**

24 A. It is.

25 **Q. All right.**

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1 MR. BRICKLIN: Move the admission of Exhibit 31.  
 2 MR. JOHNSON: No objection.  
 3 HEARING EXAMINER: Thirty-one is admitted.  
 4 (Appellants' Exhibit No. 31 admitted into evidence)  
 5 **Q. (By Mr. Bricklin) So I think we can at times today shorten**  
 6 **things up a little bit, because you were present for**  
 7 **Ms. Woo's testimony yesterday, as well as Spencer Howard's**  
 8 **testimony yesterday and this morning; is that right?**  
 9 A. Yes, yes.  
 10 **Q. All right. So feel free, as we go along, if you want to**  
 11 **reference things they said instead of having to say it all**  
 12 **again anew.**  
 13 A. Okay.  
 14 **Q. But let me start before we get into the details of the work**  
 15 **you've done on this case, why do historic resources matter?**  
 16 A. With my training and interests I've looked at, as I said,  
 17 settlement patterns. And that includes ecosystems and  
 18 basically how humans, how do we survive on the planet has  
 19 kind of been my mission. My mission in life. So I think it  
 20 matters critically that people and kind of urban design fits  
 21 its context. And that is both its ecosystems but also its  
 22 cultural resources. Cultural and historic resources. I  
 23 think that we really have a need for meaning and a sense of  
 24 history as part of that meaning. Where do we come from?  
 25 What was important to the people that came before us? What's

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1 part of our heritage? What's next? How does that inform  
 2 what's next? So there is that cultural human piece of it.  
 3 I also think there's a really strong need for architectural  
 4 continuity, if you will. So famous song, you know, "Hey, ho,  
 5 way to go, Ohio," where Dayton, Ohio, basically tore itself  
 6 down and tried to build again. I think there's great social  
 7 science that shows a need for people to have a relationship  
 8 to the people that came before them, their families, the  
 9 layers of immigrants, the indigenous peoples. All those  
 10 things are important to us in making an architecture and  
 11 living in a place.  
 12 And then I also think it's a real basic commercial  
 13 relationship to strong communities, which I would refer to  
 14 Ms. Woo's reference to the Green smaller better study done  
 15 recently. That's one of many that are showing that reasons,  
 16 places like my community, Ballard, Ballard Avenue having that  
 17 historic district, is very symbolic and archetypal for  
 18 people. One of the reasons they like that place is because  
 19 of those references. Even though they've been modernized,  
 20 inside they're fresh. Those historic places made fresh, made  
 21 anew, are critical I think to a strong community, an  
 22 identifiable community. And also a commercially viable  
 23 community. People, I think, the economist who was on before  
 24 me describing people being attracted as though it's a magnet.  
 25 People want to be in a place that has history.

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1 One of the things I've done, I travel a lot. And I see how  
 2 places like Barcelona or small villages or small towns  
 3 leverage a great place into a great economy.  
 4 **Q. All right. So what were you retained to do in this case? Or**  
 5 **what were you asked to do?**  
 6 A. I was asked to look at and read the historical resource  
 7 section. And also to look at the proposed alternatives for  
 8 their locational appropriateness and try to get a sense of  
 9 what, from my perspective and my experience, where the  
 10 impacts might be in those expansions of the urban village. I  
 11 know a number of these communities very well. So it was  
 12 looking at them. And then trying to look at the MHA and see  
 13 if there were things that came up that I thought were  
 14 critical. Or insufficient.  
 15 **Q. And in addition to the areas where the urban villages would**  
 16 **be expanded, did you also look at areas where density was**  
 17 **being increased inside the existing urban village?**  
 18 A. Definitely. I mean, the economist kind of for me really put  
 19 meat on the experience that I've observed change over time in  
 20 a community like ours that's having such amazing growth.  
 21 Such an amazing growth spurt. And also historically in  
 22 Seattle you can see it in the settlement patterns as Eugenia  
 23 was talking about yesterday, Ballard over time, you can see  
 24 the communities that happened in the twenties, prior to the  
 25 recession. The World War II burst after the amazing forties

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1 and the moderns that came in. How that changed the  
 2 community. How it added to it. Which buildings were lost.  
 3 **Q. Okay. And in addition to reviewing the historic resource**  
 4 **section of the EIS, I presume you also referred back to some**  
 5 **of the prior survey work you had done in the historic**  
 6 **resource realm in Ballard?**  
 7 A. I did. I went back and in our Mapping Historic Ballard  
 8 project, we also documented 1904, 1937 and 1933, the county's  
 9 historic Roosevelt program to photograph all the historic  
 10 buildings in Seattle. That referenced 1968, 1998, and 2015  
 11 as snapshots we built maps on. So in our GIS we laid out  
 12 ortho photographic layers so you could compare those periods  
 13 with, I don't know if you're familiar with it, but there's a  
 14 technology device of a button. You can grab on the button  
 15 and you can pull one map back and see what happened on the  
 16 period before. So a change over time, very visible.  
 17 **Q. What conclusions, what were your key takeaway points in**  
 18 **reviewing the EIS in terms of its adequacy or lack of**  
 19 **adequacy regarding treatment of historic resources?**  
 20 A. As a theme I would say you can do it based on a couple of  
 21 criteria, which is close to blind. Or you can do it on a  
 22 larger set of criteria so that you can try to finesse  
 23 something like growth. You can put in right growth right  
 24 place. And at that period clearly you would have captured  
 25 what's the best of what's left and try to integrate that into

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1 the future.  
 2 In the specifics of the FEIS for the MHA, I was, I thought  
 3 it was very inadequate, the historic resource inventory even  
 4 specific to Ballard having only two structures identified.  
 5 **Q. Well, we'll come to the specifics. So --**  
 6 A. -- Okay. I'll come back to that.  
 7 **Q. So the first item is the, sort of the inventory, the**  
 8 **description of the affected environment?**  
 9 A. That's right.  
 10 **Q. Was adequate or inadequate?**  
 11 A. Quite inadequate.  
 12 **Q. All right. Second?**  
 13 A. I'm amazed myself. The impacts, I felt they didn't take  
 14 their statistical information and talk about how the impacts  
 15 were going to play out over time. And the specifics of that.  
 16 I felt they, having been involved in crafting alternative  
 17 scenarios to try to mitigate design problems, I feel like the  
 18 alternatives, the development of alternatives, were  
 19 inadequate for not, as I said, attempting to finesse  
 20 situations. It seemed like, again, the only criteria was a  
 21 very limited criteria they were basing their level of  
 22 analysis on.  
 23 And finally, I think they didn't talk about, insufficiently  
 24 discussed the benefits, the expected benefits from the  
 25 change. I mean, housing units is one measure. There are

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1 other measures.  
 2 **Q. And did you reach an opinions regarding the adequacy of the**  
 3 **mitigation discussion?**  
 4 A. As Mr. Reid, William Reid, just said, it was, like, two  
 5 sentences. I go back to that. I thought they were actually  
 6 a relatively good list of possible mitigations, but there was  
 7 no study. There was no application of what this might mean  
 8 and/or recommendations. So I thought it was insufficient in  
 9 trying to inform a city council or whoever the decision  
 10 makers are going to be in this process. Including the  
 11 public.  
 12 **Q. All right. So let's go through those four items one at a**  
 13 **time then. The first one you mentioned was the failure to**  
 14 **adequately describe the existing historic resources in the**  
 15 **area that is being impacted. And, first of all, why is that**  
 16 **important? Why is it important to start with a good**  
 17 **description of what's there?**  
 18 HEARING EXAMINER: Mr. Bricklin, I just want to make sure  
 19 I'm following. You said there were four points. I thought I  
 20 had five. So I just want to make sure I'm following your  
 21 count.  
 22 MR. BRICKLIN: Well, I heard a fifth one in there, too.  
 23 THE WITNESS: Kind of a mission statement. A preface.  
 24 Sorry, I'm wired that way.  
 25 MR. BRICKLIN: It's okay. So the four I thought --

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1 HEARING EXAMINER: -- The framing at the beginning of each  
 2 witness is extremely helpful to me.  
 3 MR. BRICKLIN: Yeah.  
 4 HEARING EXAMINER: So I want to track those, I want to make  
 5 sure I'm getting them when they come in.  
 6 MR. BRICKLIN: Right. So the four were the inadequate  
 7 description of the existing environment --  
 8 THE WITNESS: -- Existing environment.  
 9 MR. BRICKLIN: The inadequate description of the proposal's  
 10 impacts.  
 11 THE WITNESS: Right.  
 12 MR. BRICKLIN: The alternatives --  
 13 THE WITNESS: -- Failed alternatives, develop alternatives  
 14 to mitigate.  
 15 MR. BRICKLIN: And the last one was the mitigation.  
 16 THE WITNESS: The expected benefits. The third one was the  
 17 impact.  
 18 MR. BRICKLIN: Expected benefits?  
 19 HEARING EXAMINER: Insufficient discussion of the benefits.  
 20 THE WITNESS: Of the benefits.  
 21 HEARING EXAMINER: Housing units --  
 22 THE WITNESS: -- Of the mitigation.  
 23 MR. BRICKLIN: The intended benefits of the mitigation is  
 24 the fourth one.  
 25 HEARING EXAMINER: I see, so the --

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1 MR. BRICKLIN: -- I hear now what you're saying.  
 2 HEARING EXAMINER: So the insufficient discussion of  
 3 benefits is part of the mitigation issue?  
 4 MR. BRICKLIN: Right.  
 5 HEARING EXAMINER: Okay.  
 6 MR. BRICKLIN: Right.  
 7 HEARING EXAMINER: That's the fourth issue.  
 8 MR. BRICKLIN: I'm tracking now.  
 9 HEARING EXAMINER: Thank you.  
 10 MR. BRICKLIN: Sorry.  
 11 **Q. (By Mr. Bricklin) All right. So the first one?**  
 12 A. Why is it important?  
 13 **Q. Well, no. Yes. Why is it important to get an adequate**  
 14 **description of the existing resources in the area?**  
 15 A. I think in a rational world, a baseline is always required.  
 16 So having insufficient inventory is the beginning of a big  
 17 problem. If you don't know what you have, you don't know  
 18 what you're going to lose. So I don't know how you would get  
 19 to a true study of impact.  
 20 An example of this is so having two green dots in the  
 21 Ballard community. We had just in August 2016 added 160  
 22 historic resource inventory properties in our survey, of  
 23 which my sense is that at least 25 would have been within the  
 24 existing hub urban village. So that wasn't incorporated.  
 25 **Q. Well, here, let's start with the beginning of where the EIS**

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1 discusses the historic resources in Ballard, I guess, in  
 2 particular. So I'm going to turn back to the same map that  
 3 Mr. Spencer [sic] was referring to this morning, that's on  
 4 page 3.300 of the EIS. When you were referring to two green  
 5 dots, I think that's the map you were referring to.  
 6 A. Three point, what was the number?  
 7 Q. Three point 300, page 300 of Chapter 3.  
 8 A. Yeah. Okay. Yes.  
 9 Q. There you go. Is that the map you were referring to a second  
 10 ago?  
 11 A. It is.  
 12 Q. With the two green dots. So what's your understanding of  
 13 what those two green -- well, what's the legend say those two  
 14 green dots represent?  
 15 A. That they are national NRHP determined eligible property.  
 16 Q. All right. And in your mind, does that do a fair -- is that  
 17 a fair representation of the historic resources at stake  
 18 inside the Ballard Urban Village?  
 19 A. I do not.  
 20 Q. How far off is that in terms of being -- expressing the  
 21 richness in the quality and the diversity and the historic  
 22 resources in the Urban Village?  
 23 A. In the hundreds, would be my opinion.  
 24 Q. All right. And tell the Examiner why you feel that way.  
 25 A. Well, in our study, we identified and rated all the

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1 historical resources north of 58th Street. So where the --  
 2 those who are familiar -- the north end of the Ballard  
 3 Commons up to 65th. So that area that's inside the Hub  
 4 Urban Village -- and I'm looking -- should I refer to this  
 5 map here, the...  
 6 Q. Well, why don't we...  
 7 A. Start with that?  
 8 Q. You're looking at the EIS right now.  
 9 On the Ballard Urban Village, the northern boundary, the  
 10 long northern boundary, is that 65th Avenue --  
 11 A. Yes.  
 12 Q. All right. -- running east and west?  
 13 And then just also to orient you and the Examiner, I see  
 14 the Ballard Bridge there crossing the waterway.  
 15 Is that 15th --  
 16 A. It is.  
 17 Q. -- Northwest?  
 18 All right. And so then why don't you continue and tell  
 19 me what you found in terms of historic resources south of  
 20 65th and all the way down, pretty much to the -- almost to  
 21 the canal.  
 22 A. So I...  
 23 Q. And do you want to make reference to that map now just for  
 24 that purpose?  
 25 A. Sure. Yeah.

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1 Q. And what map are you referring to?  
 2 A. The Select 150.  
 3 Q. All right.  
 4 MR. BRICKLIN: And this is part of Exhibit 36. There's a  
 5 number of items in there. It's this one.  
 6 MS. BENDICH: Here it is. Okay.  
 7 Q. (By Mr. Bricklin) You have your own copy of it?  
 8 A. I do.  
 9 Q. Perfect. So I'll give you...  
 10 A. Perfect. Bigger. Better.  
 11 Q. All right. So is this exhibit -- this is being marked as  
 12 Exhibit 32, so, Mr. Kasperzyk, the document you're holding  
 13 in your hand we're going to refer to that as Exhibit 32.  
 14 A. Okay.  
 15 (Exhibit No. 32 marked for identification)  
 16 Q. (By Mr. Bricklin) All right. You may want to even put a  
 17 little sticky on that so you can kind of remember that.  
 18 A. All right.  
 19 MS. BENDICH: I have stickies. (Inaudible).  
 20 Q. (By Mr. Bricklin) Here you go.  
 21 A. Thank you.  
 22 Q. Yeah. And tell me about how this -- did you create this  
 23 exhibit or participate in the creation of this exhibit?  
 24 A. Yes, I did.  
 25 Q. All right. And tell me how this exhibit came to be created.

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1 A. It began with choosing the survey area, which, as you can  
 2 see, is Eighth on the east, 85th on the north, 58th on the  
 3 south, and the bluff, the end of built structures, on the  
 4 west.  
 5 We secured funding and brought professionals aboard  
 6 historic resources and GIS. And our GIS person pulled  
 7 forward -- all the green, green-base elements here are  
 8 buildings 50 years old. Fifty years old. The gray ones you  
 9 see out are buildings post, so...  
 10 Q. So when you say the "green" one, you're talking about the  
 11 pale green that looks --  
 12 A. The pale...  
 13 Q. -- like it forms...  
 14 A. The pale green.  
 15 Q. Hold on. Let's one speak at a time here.  
 16 A. Sure.  
 17 Q. So all of the individual -- this looks like if you look with  
 18 a fine eye, individual lots are identified here in each of  
 19 these --  
 20 A. Yes.  
 21 Q. -- blocks?  
 22 A. Yes.  
 23 Q. And so the survey went through and identified on a  
 24 lot-by-lot basis every parcel that had a lot -- a structure  
 25 on it of 50 years or older?

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1 A. Yes.

2 **Q. And those are the light green shaded lots?**

3 A. Yes.

4 **Q. All right. So that's almost all of them it appears at a**

5 **glance?**

6 A. In the outer community. So you can see --

7 **Q. Yes.**

8 A. -- within the Hub Urban Village the waves of settlement and

9 trade out of buildings.

10 **Q. Yeah. So on this map, Northwest 65th runs east-west about a**

11 **quarter or a third of the way up the page; is that right?**

12 A. That's right. You can see the red anchor of Ballard High

13 School there -- or I'm sorry. That's Whitman Middle School,

14 but Ballard High School was there at the jog in 15th on the

15 right-hand -- right-half quadrant.

16 **Q. All right. So it's the bottom. It's from 65th down that**

17 **is -- corresponds with the Urban Village --**

18 A. Yes.

19 **Q. -- in the City's zoning parlance; is that right?**

20 A. Yes.

21 **Q. All right.**

22 A. Probably to 28th on the west.

23 **Q. All right. All right. So by this map you're saying you**

24 **know that there is a lot of older buildings, 50-years plus,**

25 **in this part of the Urban Village?**

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1 A. Remnant buildings. Yes, remnant historical buildings there.

2 **Q. All right. What does the word "remnant" mean?**

3 A. Oh, it means existing. It has survived previous periods of

4 development.

5 **Q. Okay. All right. And then does the information the City**

6 **provided in the EIS include any statement, either in map**

7 **form or text form, about the extensive existence of**

8 **50-year-plus-old buildings in this part of the Urban**

9 **Village?**

10 A. I didn't see it.

11 **Q. All right. All right. Do you have another map there**

12 **that -- which one did you want to go to next?**

13 A. Parcels by year built.

14 **Q. Yeah.**

15 MR. BRICKLIN: So also part of 36, Counsel.

16 (Exhibit No. 33 marked for identification)

17 **Q. (By Mr. Bricklin) I'm handing you what's been marked for**

18 **identification as 34 --**

19 A. 3.

20 **Q. -- is that right?**

21 **33. Thank you. And can you tell me how this -- did this**

22 **map -- was this map created through the same process you**

23 **were talking about with regard to the prior exhibit, 32?**

24 A. It is. So it's another layer of our GIS analysis and --

25 **Q. What?**

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1 A. It's another way of looking at the information.

2 **Q. All right. And how is it shown on this map?**

3 A. You can see the legend up in the upper-left corner, Parcels

4 by Year Built.

5 **Q. Uh-huh.**

6 A. And that first one, 1900 to 1910, that's actually 1890 to

7 1890 -- or 1880 to 1910.

8 **Q. Okay.**

9 A. And then -- so we were looking -- so at the time we did

10 this -- so it will go to -- 1916 would have been the

11 hundred-year mark.

12 So those deeper saturation, those hard reds and the --

13 the next salmon color, that hard one, those are all

14 buildings that are a hundred years old or more, which you

15 can see is -- and, basically, you're looking at Ballard

16 1907. It just kind of comes forward what the community was

17 at that point when it was annexed by the City of Seattle.

18 **Q. All right. And then do you have another map in your**

19 **collection that tell this story?**

20 A. Evaluation category?

21 **Q. Yeah.**

22 (Exhibit No. 34 marked for identification)

23 **Q. (By Mr. Bricklin) And I'm handing you what's been marked**

24 **for identification as Exhibit 34.**

25 A. 33 and 34?

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1 **Q. Yeah, good move.**

2 **And, again, is this map another product of the --**

3 A. Yeah.

4 **Q. -- mapping exercise that your group --**

5 A. Yes.

6 **Q. -- accomplished?**

7 A. It is. And so it's -- this is the first level of

8 evaluation. And this -- this -- the amount of parcels we

9 looked at were 7,400, to round it off, which just about

10 killed, about killed us.

11 **Q. All right.**

12 A. Yeah. So this was the first level of evaluation after two

13 trainings with a smartphone software system called

14 "Fulcrum." And so we were able to go out with our

15 volunteers and evaluate according to the category list on

16 the upper left there.

17 And deep red, well-preserved, appears to possess historic

18 and/or architectural significance. Then it drops to

19 partially preserved, and three is altered and does not

20 appear to possess historic and/or architectural

21 significance.

22 **Q. All right. And, again, if we train our eye on the area**

23 **south of 65th, we're looking at the areas that are in the**

24 **northern part of the Urban Village, correct?**

25 A. Right, right.

1 So this one it's -- so it's the least decisive, but it's  
 2 also the most suggestive in the sense that it -- that there  
 3 are a lot of contributing buildings, as well as buildings  
 4 that have potentially significant value historically.

5 **Q. Okay. All right.**  
 6 MR. BRICKLIN: I'd move the admission of 32, 3, and 4.  
 7 MR. JOHNSON: No objection.

8 **Q. (By Mr. Bricklin) Was any of the --**  
 9 HEARING EXAMINER: 32, 33, and 34 are admitted.  
 10 MR. BRICKLIN: I'm sorry.  
 11 (Exhibit Nos. 32 - 34 admitted into evidence)

12 **Q. (By Mr. Bricklin) Was any of the information that's**  
 13 **depicted on these maps reflected in the EIS that you were**  
 14 **able to find --**  
 15 A. No.  
 16 **Q. -- either in map or text form?**  
 17 A. No.  
 18 **Q. Any indication about the rich historic architectural**  
 19 **heritage in this part of Ballard?**  
 20 A. No.  
 21 Would this be a time to mention the context statement we  
 22 developed?  
 23 **Q. Sure.**  
 24 A. Yeah. So at this point we -- we had commissioned our  
 25 historic resource person, Connie Walker Gray, to develop a

1 **Q. All right. And was this report prepared in conjunction with**  
 2 **that mapping exercise that you were just describing?**  
 3 A. Yes.  
 4 **Q. All right.**  
 5 MR. BRICKLIN: Move the admission of Exhibit 35.  
 6 MR. JOHNSON: Unfortunately, this was not -- we only had  
 7 a slip sheet for this exhibit in Exhibit 36, so could I just  
 8 take a quick look?  
 9 MR. BRICKLIN: Sure.  
 10 MR. JOHNSON: No objection.  
 11 MR. BRICKLIN: Thank you. I appreciate it.  
 12 HEARING EXAMINER: Exhibit 35 is admitted.  
 13 (Exhibit No. 35 admitted into evidence)

14 **Q. (By Mr. Bricklin) All right. And what of significance is**  
 15 **in this report? Could you walk us through it briefly as it**  
 16 **relates to the area south of 65th?**  
 17 A. Well, this is the kind of systematic survey that -- that I  
 18 assumed criteria of a systematic survey that I think the  
 19 City has included in their -- in their matrix, and it is not  
 20 included as a -- as a "yes" element in the Ballard community  
 21 in the matrix.  
 22 What these are as -- and I think it was described earlier  
 23 today. I think Eugenia Woo yesterday talked about it. And  
 24 then -- I'm sorry -- Spencer, Spencer Howard, also talked  
 25 about the place this document has in providing context and

1 context statement, along with a couple of senior members of  
 2 the Ballard Historical Society.  
 3 So our context -- so our community, Ballard community  
 4 context statement, was developed and was also peer reviewed  
 5 and submitted to the City, along with these maps, and the  
 6 160 Historic Resources Inventory nominees, August 2016.

7 **Q. And so that would have been submitted to the City prior to**  
 8 **the preparation of this EIS, right?**  
 9 A. Yes.  
 10 **Q. All right. And do you have that, or do you need a copy of**  
 11 **that?**  
 12 A. Yeah.  
 13 **Q. Take copy?**  
 14 MR. BRICKLIN: This is part of 36. I don't have an extra  
 15 one of this one.  
 16 (Exhibit No. 35 marked for identification)

17 **Q. (By Mr. Bricklin) I'm handing you what's been marked for**  
 18 **identification as Exhibit 35.**  
 19 **Is this the context statement you were just referencing?**  
 20 A. Yes; yes.  
 21 **Q. I see it's on Confluence Environmental Company letterhead?**  
 22 A. Yes.  
 23 **Q. Who or what is Confluence?**  
 24 A. It's an environmental review and national restoration  
 25 ecology-oriented firm.

1 any future effort or interest in developing a district,  
 2 conservation, preservation, integration districts.  
 3 I use those three because in my studies, both in the  
 4 United States and internationally, there's a variety of  
 5 preservation categories, including ones that -- for example,  
 6 like Ballard that have had significant development scenarios  
 7 and have lost a percentage of their community so it's not  
 8 that perfect, perfect community anymore, but it is still a  
 9 significant community.  
 10 So one of the -- a category like historic integration  
 11 district would allow that a lot of buildings have been  
 12 "ghosted," kind of a term within the field, if -- so one of  
 13 the --

14 **Q. What does that mean?**  
 15 A. Ghosted. It means it's gone, but you have captured it  
 16 visually.  
 17 **Q. Okay.**  
 18 A. So when I was proposing this study, I was saying at a  
 19 minimum this is a ghost survey of what Ballard was circa  
 20 2016, which I thought had value in and of itself.  
 21 **Q. But I don't want to create confusion on the record.**  
 22 A. Sure.  
 23 **Q. The maps we've been referring to aren't ghosts. These are**  
 24 **buildings that still exist --**  
 25 A. Right.

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1 **Q. -- right?**  
 2 A. Those are the existing buildings, yes.  
 3 **Q. All right. In Exhibit 35, I see on pages 6 and 7, a**  
 4 **description of difficult architectural styles that are**  
 5 **residential architectural styles and periods.**  
 6 **Can you explain just briefly why that information is in**  
 7 **here and why it is significant to you from a historical**  
 8 **perspective?**  
 9 A. I think it, you know, shows surges in development and kind  
 10 of who were the people who -- who were involved in it, what  
 11 was the -- as you can see it was a -- clearly a, you know,  
 12 Norwegian period. There was a post-World War II period. I  
 13 was part of a later period of people coming to the great  
 14 City of Seattle, and so on each of those periods it reflects  
 15 in the architecture.  
 16 In the Hub Urban Village, it's always had a multifamily  
 17 element to it, so there's been apartment houses, historic  
 18 apartment houses. Duplexes. Triplexes. And each of those  
 19 are standing there as architectural structures that can be  
 20 categorized, yeah. And so we tried to categorize what is  
 21 existing in the community, so this is our baseline material.  
 22 **Q. All right. And what is this taken from?**  
 23 A. These are samples of structures that represent -- that we  
 24 submitted to the City for the Historic Resources Inventory.  
 25 **Q. So this is some of the background data that accompanied the**

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1 **other materials you've described that were submitted to the**  
 2 **City?**  
 3 A. Right. So the hundred --  
 4 **Q. All right.**  
 5 A. -- 160 of these.  
 6 **Q. All right.**  
 7 MR. BRICKLIN: So this will be marked as Exhibit 36.  
 8 (Exhibit No. 36 marked for identification)  
 9 **Q. (By Mr. Bricklin) And so for each of the 150-plus buildings**  
 10 **that were reflected on that map of the top 150, you provided**  
 11 **backup in the form of sheets like these?**  
 12 A. Right.  
 13 **Q. And these are just a handful of samples of the larger set**  
 14 **that you provided to the City?**  
 15 A. Exactly, yeah. Yeah, I tried to show a residence. You  
 16 know, the first one is a -- you know, a residence. The  
 17 second one is a piece of infrastructure, terra-cotta. It  
 18 used to be a telephone and now it's a digital warehouse  
 19 relay station. And then to an apartment, a pure apartment.  
 20 The third one is a pure apartment from the '20s. And then  
 21 the fourth one is a mixed-use building, residential over  
 22 commercial.  
 23 MR. JOHNSON: Excuse me. But is that also part of  
 24 Exhibit 36?  
 25 MR. BRICKLIN: Yes. (Inaudible).

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1 MR. JOHNSON: Can I just take a...  
 2 MR. BRICKLIN: Do you want a copy of it?  
 3 THE WITNESS: Yeah. And our...  
 4 MR. BRICKLIN: Yeah, I can get one from him.  
 5 MR. JOHNSON: Okay.  
 6 THE WITNESS: And all of these are within the Hub Urban  
 7 Village, existing Hub Urban Village.  
 8 MR. BRICKLIN: All right. I move the admission of 36 as  
 9 well.  
 10 MR. JOHNSON: No objection.  
 11 HEARING EXAMINER: 36 is admitted.  
 12 (Exhibit No. 36 admitted into evidence)  
 13 **Q. (By Mr. Bricklin) You mentioned the word "contributing" a**  
 14 **few minutes ago regarding the structures contributing to the**  
 15 **character or the cohesiveness of the neighborhood; do you**  
 16 **recall that?**  
 17 A. Yes.  
 18 **Q. So -- actually, let me back up one step.**  
 19 **Is there a Ballard historic district designated, formally**  
 20 **designated?**  
 21 A. It's the National Historic District on Ballard Avenue.  
 22 **Q. Okay.**  
 23 A. And there are a few other identified buildings, including  
 24 the Carnegie Library and the fire station.  
 25 **Q. Right. But the district itself, where -- so you said on**

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1 **Ballard Avenue.**  
 2 **Let's turn to Appendix H, which has the zoning maps in it**  
 3 **for a second.**  
 4 (Inaudible colloquy)  
 5 **Q. (By Mr. Bricklin) Are you in H?**  
 6 A. Yes.  
 7 **Q. And turn to H.20, page H.20 in the bottom.**  
 8 A. Okay.  
 9 **Q. So do you recognize the part of the City shown there?**  
 10 A. I do.  
 11 **Q. And what is that?**  
 12 A. That's the Ballard Hub Urban Village surrounded by the solid  
 13 line, and the proposed, one of the proposed, MHA  
 14 districts --  
 15 **Q. Can you --**  
 16 A. -- to the east.  
 17 **Q. And urban village expansion --**  
 18 A. To the east.  
 19 **Q. -- to the east?**  
 20 **All right. And you just made reference to the Ballard**  
 21 **historic district along -- did you say along Leary Way?**  
 22 A. Ballard Avenue.  
 23 **Q. Ballard Way?**  
 24 A. Ballard Avenue.  
 25 **Q. Ballard Avenue?**

1 A. Yes.

2 **Q. And so can you -- I don't know that Ballard Avenue is**

3 **labeled on this.**

4 A. It's the diagonal gray zone.

5 **Q. Right.**

6 A. At the --

7 **Q. On the south side?**

8 A. -- bottom, on the south side, yeah.

9 **Q. Running parallel to the waterfront there?**

10 A. Yes.

11 **Q. All right. So that gray zone is the historic district?**

12 A. Yes.

13 **Q. The rest of Ballard Urban Village and the Urban Village**

14 **expansion area, all of that lies outside the historic**

15 **district, correct?**

16 A. It does, yes.

17 **Q. Are there buildings that you would say are contributing to**

18 **the historic character and integrity of Ballard located**

19 **outside of the historic district?**

20 A. Hundreds.

21 **Q. Hundreds. If you read the EIS, would you know that?**

22 A. No.

23 **Q. Because they're outside the historic district, do they have**

24 **any regulatory protection?**

25 A. There's a Washington Register building, Baker House.

1 A. It appears to me that all the remaining parcels are -- will

2 be subject to some level of zoning density increase.

3 **Q. All right. And where the color is solid, the legend says**

4 **those areas have a typical increase in zoning, usually one**

5 **story; do you see that?**

6 A. Yes.

7 **Q. And where it's hatched, it means there's a larger increase**

8 **in zoning or a change in zone type; do you see that?**

9 A. Yes.

10 **Q. All right. Now, on those maps that you were -- had prepared**

11 **in your project, the southern limit of those maps appears to**

12 **be 58th Street; is that right?**

13 A. It is.

14 **Q. And on this zoning map that we're looking at, 58th Street**

15 **runs roughly east to west down the middle of this urban**

16 **village; is that right?**

17 A. Yes. You can also key it to the Ballard Commons, which is

18 the green square.

19 **Q. The green square on 22nd?**

20 A. Yes. On 22nd --

21 **Q. Sort of olive green?**

22 A. -- and 58th. So the north boundary of the Commons is where

23 our study begins.

24 **Q. Okay.**

25 MR. BRICKLIN: So do you see that, Mr. Examiner, or...

1 There's a couple of other structures that have conservation

2 easements on them, so there are a few, but the rest do not.

3 **Q. So fair to say that hundreds of them do not?**

4 A. Hundreds do not.

5 **Q. Hundreds minus two or three?**

6 A. Right.

7 **Q. Okay. I see on the legend of this map, the charcoal gray is**

8 **identified as no zoning changes; do you see that?**

9 A. Yes.

10 **Q. And that appears to correspond -- at least one chunk of it**

11 **corresponds to that historic district you just described,**

12 **right?**

13 A. Yes.

14 **Q. And that would be consistent with what we heard elsewhere in**

15 **the testimony that the City left the historic districts**

16 **outside of the MHA program, right?**

17 A. Yes.

18 **Q. All right. Other than a couple of other small splotches of**

19 **gray, I see all the rest of the Urban Village, the existing**

20 **Urban Village and the Urban Village expansion area, have a**

21 **variety of colors on it; do you see that?**

22 A. Yes.

23 **Q. And that, from the legend, do you see, represents areas that**

24 **are -- where the -- it's a no zoning change. These are all**

25 **areas where the zoning is increasing, right?**

1 HEARING EXAMINER: I believe so.

2 MR. BRICKLIN: Yeah.

3 HEARING EXAMINER: Well --

4 MR. BRICKLIN: Why don't you pull the...

5 HEARING EXAMINER: -- no. I see something labeled "open

6 space" that's green.

7 THE WITNESS: Right. That's Ballard Commons.

8 HEARING EXAMINER: Okay.

9 MR. BRICKLIN: Okay. So you're in the same place.

10 **Q. (By Mr. Bricklin) So the maps you have been providing that**

11 **show the hundred-year-old-plus and 50-year-old-plus**

12 **structures in your study area are basically the north half**

13 **of this Urban Village?**

14 A. Yes.

15 **Q. All right. And the north half of that Urban Village**

16 **includes areas that are in the proposal.**

17 **All of that area is proposed for upzone, right? All of**

18 **it is?**

19 A. It is.

20 **Q. And some of it is upzoned to a higher tune than others, and**

21 **those are the areas with cross-hatching?**

22 A. Yes.

23 **Q. All right. Did you see any analysis in the EIS of the**

24 **impact that that upzoning in those areas would have on the**

25 **historic resources in those areas?**

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1 A. I saw text references that if zoning goes up, houses go  
 2 down.  
 3 **Q. Okay. Any effort in the EIS that you saw that tried to**  
 4 **bring that down to the Ballard level and talk about how that**  
 5 **would manifest itself in Ballard?**  
 6 A. Not -- not directly. There were -- you know, so percentage  
 7 increases per alternative, so you would imagine that --  
 8 like I think one of them was a 160 percent increase in  
 9 zoning capacity would -- would have more impact than a -- I  
 10 think it was a 116 or something. I can't quite remember the  
 11 numbers, but there were percentages there that you could  
 12 infer. But directly speaking to a number or any finer grade  
 13 analysis, no, I didn't.  
 14 **Q. Okay. So when you're -- well, let's see if we can find**  
 15 **that. Actually, before we leave the page of the EIS we were**  
 16 **on, let me just...**  
 17 A. There's that quadrant. There's a section out to the east.  
 18 **Q. Yeah. Well, hold on.**  
 19 A. Okay.  
 20 **Q. In the description of impacts in the EIS, could you turn to**  
 21 **page -- on impacts on the historic resources, if you would**  
 22 **turn to page 3.308.**  
 23 A. Okay.  
 24 **Q. And I see there there's -- it's identified as Exhibit 3.5-5**  
 25 **and 3.5-6 on the next page. And on the following page,**

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1 **3.5-7, lists of urban villages with 50 percent or greater**  
 2 **estimated housing growth under various alternatives; do you**  
 3 **see that?**  
 4 A. Yes. I think they had an assumption that anything -- it had  
 5 to be over 50 percent to show here.  
 6 **Q. And so does Ballard show up there?**  
 7 A. I don't -- I don't see it, so that they must have had -- I  
 8 think I was overseeing on Crown Hill for those bigger  
 9 numbers.  
 10 **Q. Okay. And so according to the EIS, there are no significant**  
 11 **impacts to the -- any of these historic resources in**  
 12 **Ballard?**  
 13 A. That's correct.  
 14 **Q. And do you think that's an accurate characterization of how**  
 15 **this proposal would impact the historic resources in**  
 16 **Ballard?**  
 17 A. It's tragic, in my opinion, yeah.  
 18 **Q. And why is that?**  
 19 A. Because there are significant resources there that have  
 20 meaning to this community that I -- I really -- some level  
 21 of mitigation needs to be engaged to -- to make this a  
 22 reasonable effort towards quality growth.  
 23 **Q. On the preferred alternative zoning map we were looking at a**  
 24 **minute ago, and you don't have to flip back through that big**  
 25 **volume.**

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1 A. Okay.  
 2 **Q. I'll just -- I'll hand you my copy.**  
 3 A. Sure.  
 4 **Q. You made reference to -- or you pointed out earlier the**  
 5 **proposed expansion area on the east side of the Urban**  
 6 **Village?**  
 7 A. Yes.  
 8 **Q. All right. Does that also, at least to the extent that it's**  
 9 **north of 58th there, that line, does that also correlate to**  
 10 **the areas you did your resource inventory maps on?**  
 11 A. So, yes. We went east all the way to Eighth Avenue there.  
 12 **Q. All right. So if we take a look, for instance at, oh, the**  
 13 **Select 150 map, which was Exhibit 32, what part of that map**  
 14 **corresponds to the expansion area, or at least the north**  
 15 **part of the expansion area shown on -- the EIS (inaudible)?**  
 16 A. So you can see from the south, there's 14th Avenue, which is  
 17 the boulevard, it has boulevard treatment. It's a wide  
 18 street.  
 19 Are you picking up on in the lower right quadrant?  
 20 **Q. Yeah.**  
 21 A. So the first major street to the west is 14th just to the  
 22 right of 15th, so that zone right there, that lowest square.  
 23 **Q. So I see 14th Avenue Northwest --**  
 24 A. Yes.  
 25 **Q. -- runs north and south.**

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1 A. And then the...  
 2 **Q. And from there, over to the east, is that quadrant?**  
 3 A. Yes.  
 4 **Q. Okay.**  
 5 A. You can see the Commons is the green anchor on the gray just  
 6 below, so that's on the north side. That's 58th all the way  
 7 across.  
 8 **Q. Okay. So, again, in terms of lining your map up with the**  
 9 **expansion area of the Urban Village, roughly the area east**  
 10 **of 14th Northwest and south of 65th is the northern part of**  
 11 **the expansion area; is that right?**  
 12 A. It is.  
 13 **Q. All right. And on your -- on Exhibit 32, it appears, if I'm**  
 14 **reading this right, that almost every lot in there is a --**  
 15 **has that light green shading; is that right?**  
 16 A. Yes. I would refer to Exhibit 33 --  
 17 **Q. All right.**  
 18 A. -- the parcels by year built --  
 19 **Q. Okay.**  
 20 A. -- together, you know, and...  
 21 **Q. So let's turn to that.**  
 22 **So we're looking -- but now that we've identified the**  
 23 **quadrant --**  
 24 A. Yes; right.  
 25 **Q. -- we can look at that same southeast corner of your map.**

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1 A. You can see the saturation of historic buildings there,  
 2 which I think it's fair. In fact, I can say it proceeds to  
 3 the south into this proposed expansion zone.  
 4 **Q. All right. So from your personal knowledge --**  
 5 A. Yes.  
 6 **Q. -- you know that this area of --**  
 7 A. Yes.  
 8 **Q. -- historic buildings extends south of 58th and into the**  
 9 **rest of that proposed --**  
 10 A. That's right.  
 11 **Q. -- expansion area; is that right?**  
 12 A. Yes, including Hollywood Village. It's an intact Tudor  
 13 street that runs west from Eighth Avenue. And it's -- both  
 14 sides of the street are all Tudor, 1940s, Hollywood, called  
 15 a "Hollywood Tudor." So it's like a fairy tale village.  
 16 It's completely intact. It's a city in there waiting to be  
 17 had.  
 18 **Q. Okay. Any mention of that in the EIS?**  
 19 A. None.  
 20 HEARING EXAMINER: Before you move on from that, you did  
 21 an excellent job of describing it for the record. Just to  
 22 confirm and go outside my bounds (inaudible) describe for  
 23 the record, this spot is the Commons, correct?  
 24 THE WITNESS: Uh...  
 25 HEARING EXAMINER: The long...

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1 THE WITNESS: You got your finger on it?  
 2 HEARING EXAMINER: Yeah.  
 3 THE WITNESS: Yes.  
 4 HEARING EXAMINER: Okay. I get you away from the mic and  
 5 pointing at something so that nobody can see.  
 6 THE WITNESS: This is the Commons.  
 7 HEARING EXAMINER: Okay. Okay. Thank you.  
 8 THE WITNESS: Yes.  
 9 **Q. (By Mr. Bricklin) Do you believe the level of -- the amount**  
 10 **of information provided in the EIS was adequate to allow**  
 11 **somebody who wanted to make a smart decision on historic**  
 12 **resources that it could make a good decision?**  
 13 A. I think there's almost no information there for them to  
 14 incorporate the impact on historic resources.  
 15 **Q. All right. So we've talked about the existing environment**  
 16 **or the affected environment. We talked about the impact**  
 17 **analysis. Let's go on to talk about alternatives.**  
 18 **Do you need some water, sir?**  
 19 A. I could use some water.  
 20 **Q. Actually, we have got water in one of these. Here you go.**  
 21 MS. BENDICH: I believe so.  
 22 MR. BRICKLIN: Judy, you're a woman of many talents.  
 23 MS. BENDICH: Absolutely.  
 24 **Q. (By Mr. Bricklin) So you mentioned when you previewed your**  
 25 **topics that you felt that the alternatives did not -- none**

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1 **of them were framed to try to minimize impacts to historic**  
 2 **resources, and I -- what did you mean by that?**  
 3 A. From what I read, there were only a couple of criteria that  
 4 were being used to identify the impacts, those zones, and  
 5 that's displacement. I think there was another one, too.  
 6 **Q. Access to opportunity?**  
 7 A. Access to opportunity and displacement.  
 8 **Q. Right.**  
 9 A. So I -- I saw, you know, not -- I saw no -- no effort to try  
 10 and mitigate the impact -- the impacts on historic  
 11 resources.  
 12 **Q. By crafting an alternative that avoided key blocks, for**  
 13 **instance?**  
 14 A. Key blocks and/or the best of what's left, you know,  
 15 using -- using our inventory or using our inventory as a  
 16 model to quickly survey these expansion areas.  
 17 So our -- so our study -- so our study looked at 7,400  
 18 parcels. I would suspect we're talking about a few hundred  
 19 parcels here and expanses of them, so I -- I don't think it  
 20 would be inappropriate or onerous for the City to -- to have  
 21 developed that baseline inventory to help shape some  
 22 mitigation.  
 23 **Q. Okay. And you say help shape mitigation or help shape the**  
 24 **alternatives?**  
 25 A. Help shape the alternatives and -- and inform the

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1 decision-makers about decisions that they're making.  
 2 **Q. Okay. Finally, let's talk about mitigation, and let's turn**  
 3 **to other sections in the EIS. So that's going to be in page**  
 4 **311 of that chapter, 3.311.**  
 5 MS. BENDICH: (Inaudible.)  
 6 MR. BRICKLIN: Sure. Thanks.  
 7 **Q. (By Mr. Bricklin) And do you have that there in front of**  
 8 **you?**  
 9 A. I do.  
 10 **Q. And did you review that list of mitigation measures there?**  
 11 A. I did.  
 12 **Q. And did you find there any useful discussion regarding the**  
 13 **intended benefits of those mitigation measures?**  
 14 A. I didn't see anything about the benefits. It felt like, you  
 15 know, a -- I don't want to be pejorative, but, you know, a  
 16 solid list of ways you could go if you wanted to do some  
 17 analysis. But I didn't see any analysis, so a lot of good  
 18 ideas. It's a nice wish list.  
 19 **Q. All right. Do you think that wish list, as you put it,**  
 20 **would allow a decision-maker or the public to assess the**  
 21 **extent to which the mitigation measures would accomplish**  
 22 **anything in the way of historic preservation?**  
 23 A. I don't think it's possible without the background, data,  
 24 and analysis and some level of crafting alternatives to  
 25 attempt to -- to attempt to actually provide some

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1 mitigation.  
 2 **Q. All right. And then, finally, one clean-up matter.**  
 3 **Could you turn to page 302, so just go back a few pages**  
 4 **in the EIS.**  
 5 A. 302?  
 6 **Q. Yeah, and it's just a few pages from where you are. Just a**  
 7 **few pages. You're at 311, I think, so go back to 302.**  
 8 A. Oh, (inaudible).  
 9 **Q. Earlier you mentioned that the context statement that you**  
 10 **had submitted to the City didn't show up somewhere.**  
 11 **This exhibit on page 302, is that the place you were**  
 12 **referencing at that time?**  
 13 A. It is.  
 14 **Q. I see on that there Ballard is listed and historic context**  
 15 **statement prepared and there's no X mark there?**  
 16 A. Correct.  
 17 **Q. All right. And would it also be fair to say that apart from**  
 18 **not having an X marked at the right spot, there was also no**  
 19 **information of the type included in the context statement**  
 20 **included in the EIS itself? Maybe that's double negative.**  
 21 **Did the EIS include any sort of summary of that context**  
 22 **statement in the EIS so that people had an idea of what was**  
 23 **at stake in Ballard?**  
 24 A. No. I just -- I can only think that they weren't aware of  
 25 it.

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1 **Q. All right. All right.**  
 2 MR. BRICKLIN: That's all I have for this witness. Thank  
 3 you.  
 4 HEARING EXAMINER: Anybody else for the appellants?  
 5 UNIDENTIFIED SPEAKER: No.  
 6 UNIDENTIFIED SPEAKER: Nope.  
 7 MS. BENDICH: No.  
 8 HEARING EXAMINER: All right.  
 9 Cross?  
 10 MR. JOHNSON: Thank you.  
 11  
 12 CROSS - EXAMINATION  
 13 BY MR. JOHNSON:  
 14 **Q. Mr. Kasperzyk, Dale Johnson -- we've met before -- on behalf**  
 15 **of the City.**  
 16 **The first thing I'd like to ask you to do, unfortunately,**  
 17 **these exhibits, it looks like you have a larger copy of**  
 18 **these maps, maybe?**  
 19 A. Yes.  
 20 **Q. Okay. And those that were provided for the record are very**  
 21 **small text.**  
 22 **I'm going to ask you to take Exhibit 33, which I'm going**  
 23 **to hand you now, and could you -- and I don't necessarily**  
 24 **need you to be absolutely precise because the Examiner**  
 25 **already noted that you had described for the record where**

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1 **the Urban Village boundary and the proposed expansion areas**  
 2 **are --**  
 3 A. Right.  
 4 **Q. -- relative to this.**  
 5 **Could you take a yellow highlighter and just --**  
 6 A. Yeah.  
 7 **Q. -- outline that please?**  
 8 A. Sure. Sure.  
 9 MR. JOHNSON: May I approach the witness?  
 10 HEARING EXAMINER: Mm-hm.  
 11 **Q. (By Mr. Johnson) And, again, I'm not asking you to be**  
 12 **overly precise, but then we'll make a copy and substitute**  
 13 **this into the record with permission.**  
 14 MR. BRICKLIN: Or maybe add it as an exhibit.  
 15 MR. JOHNSON: That's fine.  
 16 MR. BRICKLIN: Yeah.  
 17 THE WITNESS: (Inaudible).  
 18 MR. JOHNSON: Thank you very much.  
 19 MR. BRICKLIN: May I see that, too.  
 20 MR. JOHNSON: If you can hand it to him.  
 21 You see it?  
 22 MR. BRICKLIN: Yeah.  
 23 MR. JOHNSON: Okay. I'm sorry. I'll take that, too.  
 24 MR. BRICKLIN: And what did you outline?  
 25 THE WITNESS: 65th, yeah.

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1 MR. JOHNSON: Here. Take...  
 2 THE WITNESS: Down at Eighth.  
 3 MR. BRICKLIN: Yeah.  
 4 THE WITNESS: Down at Eighth and then tried to capture  
 5 the expansion projecting below.  
 6 MR. BRICKLIN: Okay. As well as the existing urban  
 7 village, or is this just the expansion area, is my question.  
 8 THE WITNESS: So the -- over my map, the yellow line  
 9 there --  
 10 MR. BRICKLIN: Yeah.  
 11 THE WITNESS: -- on 28th and 65th?  
 12 MR. BRICKLIN: Yeah.  
 13 THE WITNESS: So that's the north and west boundaries.  
 14 MR. BRICKLIN: I'll let Counsel ask the questions since  
 15 you're...  
 16 **Q. (By Mr. Johnson) Those are the north and west boundaries of**  
 17 **the Urban Village or of the expansion areas?**  
 18 A. Of the Urban Village.  
 19 **Q. Okay. So if we were to compare this to the Appendix 8 at**  
 20 **page H.20 --**  
 21 MR. BRICKLIN: This guy.  
 22 MR. JOHNSON: Thank you.  
 23 **Q. (By Mr. Johnson) -- the highlighting area, the area you have**  
 24 **drawn with highlighter around that, that would comprise the**  
 25 **area generally showing the Urban Village and the proposed**

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1 stretch onto your maps at all?  
 2 THE WITNESS: It does.  
 3 HEARING EXAMINER: Could you please -- perhaps we could  
 4 mark that on at 36 as well.  
 5 THE WITNESS: Okay. I...  
 6 HEARING EXAMINER: The new 36.  
 7 MR. JOHNSON: That was 37.  
 8 HEARING EXAMINER: 37. Okay.  
 9 MR. JOHNSON: So why don't we use a (inaudible). For  
 10 future reference, we need a different color pen.  
 11 MR. BRICKLIN: Do you want a map of the Crown Hill UV?  
 12 Here?  
 13 THE WITNESS: Yeah, that would be good. Thank you.  
 14 MS. BENDICH: This is to look at.  
 15 THE WITNESS: It's a quick transfer here, so 77...  
 16 HEARING EXAMINER: And like the other one for Ballard, I  
 17 assume you're marking not just the Urban Village, but the  
 18 proposed expansion as well?  
 19 THE WITNESS: Yes.  
 20 HEARING EXAMINER: Thank you.  
 21 THE WITNESS: Hopefully, this won't be taken verbatim,  
 22 because I'm making this as I go here.  
 23 (Inaudible colloquy)  
 24 MR. BRICKLIN: Can I see what you did, too?  
 25 HEARING EXAMINER: Thank you. Oh. Sorry.

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1 MR. BRICKLIN: Yeah. Thanks.  
 2 MS. BENDICH: All right.  
 3 MR. JOHNSON: And so for the record, you have now marked  
 4 the Crown Hill Urban Village and Urban Village expansion  
 5 areas on Exhibit 37 outlining it in pink; is that right?  
 6 THE WITNESS: Yes.  
 7 MR. JOHNSON: Okay.  
 8 HEARING EXAMINER: Thank you.  
 9 Redirect?  
 10  
 11 REDIRECT EXAMINATION  
 12 BY MR. BRICKLIN:  
 13 **Q. And that's just on that, and that's the southern part of**  
 14 **Crown Hill, right?**  
 15 A. It is.  
 16 **Q. That UV extends north off of your map?**  
 17 A. Yeah.  
 18 **Q. Right.**  
 19 A. (Inaudible).  
 20 **Q. Okay. And the Crown Hill one, according to the EIS, has**  
 21 **some of the highest percentage increases of any of the UVs,**  
 22 **right?**  
 23 A. Yes.  
 24 **Q. Counsel read you one sentence out of this 800-page document**  
 25 **that says that "As a neighborhood's historic" -- this is on**

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1 **page 306, 3.306, "As a neighborhood's historic fabric**  
 2 **decreases, it is less likely to meet local and federal**  
 3 **eligibility for consideration as a historic district," and**  
 4 **you said that was an accurate statement.**  
 5 **Was there any effort, to your knowledge, of the EIS to**  
 6 **apply that generic statement to any of the neighborhoods at**  
 7 **issue in this case? Did they look at Ballard or Crown Hill**  
 8 **or any others that say --**  
 9 A. Oh, no. I didn't see any level of specificity.  
 10 **Q. And Counsel asked you several questions about -- that the**  
 11 **upzoning only occurred inside the Urban Villages or the UV**  
 12 **expansion area.**  
 13 **Can what goes on inside the Urban Village or Urban**  
 14 **Village expansion area also impact the integrity or the**  
 15 **character of the historic properties across -- you know, on**  
 16 **the margin on the edge of the Urban Village but outside the**  
 17 **Urban Village?**  
 18 A. Certainly an impact. Traffic, level of services, so impacts  
 19 in that way.  
 20 I think aesthetically the -- the northern boundary is a  
 21 pretty clear arterial crossing, so it's only a two-lane --  
 22 two-lane arterial that still has a significance.  
 23 And you can see people in Ballard, some of them are  
 24 quaint in the sense that they're calling it "a wall of  
 25 buildings," so it's visible, the difference between a four,

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1 or with this potentially five-story building, facing  
 2 one-and-a-half story buildings across the street.  
 3 **Q. All right. And I'm handing you what's not been marked yet,**  
 4 **but tell me before I bother to mark it whether you recognize**  
 5 **that document.**  
 6 A. I do.  
 7 **Q. And what is that?**  
 8 A. The 1997 Ballard historic homes survey.  
 9 **Q. And were you involved in putting that together?**  
 10 A. I was not.  
 11 **Q. Okay. What significance have the -- did you review that in**  
 12 **preparing your testimony for today?**  
 13 A. Well, we did, yeah. And we -- we incorporated it in some of  
 14 our early study maps that these were -- these homes were  
 15 already identified. We didn't have the time or the  
 16 resources to actually identify which ones are still alive.  
 17 **Q. And did you submit that to the City as well, or do you know?**  
 18 A. This?  
 19 **Q. Yes.**  
 20 A. For this? For this process?  
 21 **Q. No, not for this process. But you said when you submitted**  
 22 **your maps and other information in 2016 --**  
 23 A. Oh.  
 24 **Q. -- was this part of what was submitted; do you know?**  
 25 A. It wasn't, but I know this is --

1 **Q. It was not?**  
 2 A. I know this was developed. My sense of -- this is hearsay  
 3 to me -- was that Department of Neighborhoods commissioned a  
 4 historian, a local historian, to go out and develop this.  
 5 **Q. Well, let me --**  
 6 A. So I think it was a -- I think this had a City -- is a City  
 7 document.  
 8 **Q. All right. To the best of your understanding, is this in**  
 9 **the City's files --**  
 10 A. Yes.  
 11 **Q. -- exactly?**  
 12 MR. BRICKLIN: All right. Let's get it marked then.  
 13 FEMALE SPEAKER: (Inaudible).  
 14 MR. BRICKLIN: This was Exhibit 97 from my list.  
 15 HEARING EXAMINER: Marked as 38.  
 16 (Exhibit No. 38 marked for identification)  
 17 MR. BRICKLIN: And we move the admission of that  
 18 document.  
 19 HEARING EXAMINER: Any objection?  
 20 MR. JOHNSON: No. I'm sorry. No objection.  
 21 HEARING EXAMINER: 38 is admitted.  
 22 (Exhibit No. 38 admitted into evidence)  
 23 MR. BRICKLIN: That's all we have, Your Honor.  
 24 HEARING EXAMINER: Thank you, Mr. Kasperzyk.  
 25 THE WITNESS: You're very welcome.

1 **educational and professional background as it relates to**  
 2 **history.**  
 3 A. Sure. I have a bachelor's and master's degree in history,  
 4 and my master's is in Western American and Environmental  
 5 History. I've been a practicing historian since about 1997.  
 6 I specialize in Washington State history. I'm the assistant  
 7 director of HistoryLink.org and write for various  
 8 publications on the history of Washington.  
 9 **Q. And I understand you spent quite a bit of time working in**  
 10 **the area of Olmstedian history?**  
 11 A. Yes.  
 12 **Q. Can you tell us about those professional experiences you**  
 13 **had?**  
 14 A. So I have written for HistoryLink about the Olmsted legacy  
 15 in Seattle, and I have also been on the board for the  
 16 Friends of Seattle's Olmsted Parks -- (inaudible) to bring  
 17 my resumé -- I think 2009 until 2017.  
 18 And then I'm also on the steering committee of the  
 19 Volunteer Park Trust, and I've been on that since 2013.  
 20 **Q. Okay. And have you had a chance to work with environmental**  
 21 **impact statements that involve Olmsted resources in the**  
 22 **past?**  
 23 A. Mm-hm. The one I worked with primarily is the environmental  
 24 impact statement for the SR 520 replacement project and its  
 25 impact.

1 MR. BRICKLIN: Thank you.  
 2 HEARING EXAMINER: Appellant's next witness?  
 3 MR. ABOLINS: Yes. Friends of North Rainier calls  
 4 Jennifer Ott.  
 5 (Inaudible colloquy)  
 6 HEARING EXAMINER: Please state your name and spell it  
 7 for the record.  
 8 MS. OTT: Hi. My name is Jennifer Ott, and it's  
 9 J-e-n-n-i-f-e-r, and O-t-t.  
 10 HEARING EXAMINER: And do you swear or affirm the  
 11 testimony you're providing in today's hearing will be the  
 12 truth?  
 13 MS. OTT: Yes, I do.  
 14  
 15 JENNIFER OTT, Witness herein, having been first  
 16 duly sworn on oath, was  
 17 examined and testified as follows:  
 18  
 19 HEARING EXAMINER: Thank you.  
 20  
 21 DIRECT EXAMINATION  
 22 BY MR. ABOLINS:  
 23 **Q. Good afternoon, Ms. Ott.**  
 24 A. Hi.  
 25 **Q. Just to get started here, can you please tell us about your**

1 **Q. Okay. And you've been asked to review the FEIS in this case**  
 2 **and to consider its relationship to the Olmsteds listed,**  
 3 **correct?**  
 4 A. I have.  
 5 **Q. And what did you do to prepare your opinions in that regard?**  
 6 A. I read through the FEIS, including the reports, and I also  
 7 did comparative research with Olmsted records that we have  
 8 that we use as our primary sources.  
 9 **Q. And so in terms of -- which elements of the FEIS pertain**  
 10 **most closely to the Olmsted issues?**  
 11 A. Issues of concern are just -- touch upon Olmsted properties.  
 12 **Q. Or the actual sections of the FEIS.**  
 13 A. Oh, I'm sorry. I looked at the historic resources section  
 14 and the open space section.  
 15 **Q. Okay. And just in summary form, what were your -- what's**  
 16 **your basic opinion with regard to the adequacy of the FEIS**  
 17 **in those sections?**  
 18 A. I thought it was inadequate because it doesn't mention the  
 19 Olmsted system, first of all, which is worrisome. I was  
 20 surprised to see that. It also doesn't mention cultural  
 21 landscapes at all. There is some information about  
 22 architectural preservation, but there isn't thinking about  
 23 landscape preservation in the documents.  
 24 And as far as mitigation, cultural landscapes are  
 25 challenging because the impact of an adjacent construction

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1 project can have a tremendous impact on the cultural  
 2 landscape. And it is hard -- with the way that the document  
 3 is written, the mitigation -- to see how that impact will be  
 4 mitigated or even considered.

5 **Q. So as we move into the basis for your opinions on this, why**  
 6 **don't you explain to us what is the Olmsted system and why**  
 7 **is it important.**

8 A. So I think this is when I can reference an exhibit?

9 **Q. Sure.**

10 A. Okay. If you look at Exhibit 59, page 110, it's the last  
 11 page of that document.

12 MR. ABOLINS: Your Honor, I would offer this as  
 13 Exhibit -- where did we leave off of?

14 THE WITNESS: Oh, I'm sorry.

15 HEARING EXAMINER: We're on 39 now.

16 MR. BRICKLIN: 39.

17 MR. ABOLINS: Okay. So we'll have this marked as Exhibit  
 18 39, and that's 59 in our books.

19 THE WITNESS: Sorry.

20 MR. ABOLINS: That's okay.

21 (Exhibit No. 39 marked for identification)

22 **Q. (By Mr. Abolins) All right. And so what are we looking at**  
 23 **in Exhibit 39?**

24 A. And so that map, if it's that last page of that document,  
 25 was prepared. It highlights the Olmsted-influenced

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1 landscapes in the City of Seattle's Park system.  
 2 And it's important because it gives you a nice snapshot  
 3 of the Citywide impact on the Olmsted system, and so what we  
 4 have in Seattle is a park and boulevard system that was  
 5 developed beginning in 1903 when the Olmsted brothers were  
 6 invited to Seattle. That is that era similar to now where  
 7 we had galloping growth, and so the City leaders decided  
 8 that now is the time to capture the land that they could get  
 9 in order to build a park system.

10 It's important to note the relative absence of parks  
 11 right around Elliott Bay, there at the core of downtown.  
 12 They've already been priced out of and developed out of that  
 13 area. And so the park system kind of loops around downtown,  
 14 and so they came back in 1908 when the City expanded and  
 15 added to the park system.

16 And there's elements to the park system that are  
 17 important to note. There's the large parks, or the  
 18 destination, crown jewel parks -- Volunteer Park. Seward  
 19 Park. Woodland Park -- and those are connected by a  
 20 boulevard system. It's discontinuous because of some issues  
 21 with development happening and land not being available and  
 22 because of lack of funds, but it's essentially a loop around  
 23 the City that connects those large parks.

24 And there's also the small parks within the system.  
 25 Olmsted's goal was to get a park within a half mile of every

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1 house and a playfield within a mile that would be large  
 2 enough for sort of older kids to play. And so all of those  
 3 pieces come together as this matrix of a park system for the  
 4 City that still serves us today.

5 **Q. How is this Olmsted system of parks and parkways, how is**  
 6 **that relevant to livability in the City of Seattle?**

7 A. Well, it goes to the very core, sort of the mental health  
 8 benefits and the physical health benefits of having park,  
 9 open space available. And not just any parks, but a nice  
 10 wide variety of parks. And that connectivity. It's one  
 11 thing if you have to travel through a regular city street  
 12 grid to get to a park. But if you get to follow a  
 13 boulevard, it's just an amplified benefit for the community.

14 It also created a framework -- and I'm in the process of  
 15 researching this now -- of it created a framework and an  
 16 emphasis in Seattle on having a park system that has been  
 17 built on since then.

18 And so it's provided a real sense of momentum in the  
 19 City, I think, that parks -- parks are part of how we  
 20 develop our community; making sure we have park access.

21 **Q. And did the Olmsted brothers, as their system evolved with**  
 22 **the City's growth, did they work with developers?**

23 A. They did. We're lucky we -- mitigation funding from a  
 24 development project, the 520 Bridge, made it possible for us  
 25 to scan and index all the correspondence of the Olmsted

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1 Brothers firm related to Seattle projects. So if you go  
 2 through those letters and the field notes, which were the  
 3 notes that the firm members took as they went around the  
 4 City, you can see how they talked with different developers  
 5 as they platted the subdivisions that they were developing  
 6 for the City and encouraged them to reserve parkland. To  
 7 donate parkland to the City.

8 The Mount Baker neighborhood is a great example. The  
 9 Hunter Tract. They donated a strip of land along the lake  
 10 to ensure that there would be space for the boulevard, but  
 11 also because that would trigger the donation of the  
 12 shorelands to the City.

13 And that was at the suggestion of Olmsted. The -- he  
 14 worked with them to have their streets -- sorry -- in the  
 15 subdivision conform to topography of the land, not just  
 16 overlay a basic grid because of the benefits for the  
 17 livability of the neighborhood.

18 And so you see a lot of correspondence about how he  
 19 encouraged the interaction between the City grid that was  
 20 privately owned and the parkland that was owned by the City.

21 **Q. And does the Olmsted system of parks and parkways hold any**  
 22 **special place in our comprehensive plan?**

23 A. Yes, it's listed. We are happy to see it listed among the  
 24 iconic landscape -- or the iconic historic resources of  
 25 Seattle. It's right on page 66 of the Citywide planning

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1 section, and is right along with the Space Needle and  
 2 Pioneer Square.  
 3 **Q. Okay. I'm going to -- I'm going to make a special exhibit.**  
 4 **This is part of -- I think Exhibit 3 is the 2035 comp plan.**  
 5 **But is the page that you're referencing? If you can**  
 6 **point us to the --**  
 7 A. Yes.  
 8 **Q. -- iconic position that this system has in our City's**  
 9 **citywide policies.**  
 10 A. It's in the first paragraph. It says, "Through the  
 11 preservation of icons and historic locations such as the  
 12 Space Needle, the Olmsted network of parks and boulevards,  
 13 and Pioneer Square, the city can continue to celebrate its  
 14 heritage and maintain its unique sense of place."  
 15 **Q. Okay. And then before I have these exhibits formally**  
 16 **admitted, I'd like to, in that white book right there, I**  
 17 **think -- is it open to Exhibit 49? Further up, yeah. That**  
 18 **one.**  
 19 A. Right here. Sorry. Yes. Okay. The 1909 report.  
 20 **Q. Yes.**  
 21 MR. ABOLINS: Your Honor, I think that one was just  
 22 marked as Exhibit 40; is that correct?  
 23 MR. BRICKLIN: The page from the comp plan.  
 24 MR. ABOLINS: Yeah, the comp plan page was 40, and I  
 25 would like to have this marked.

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1 HEARING EXAMINER: So hold on a second.  
 2 Yeah, actually -- so for this item, normally the  
 3 comprehensive plan itself wouldn't be an exhibit, but it is.  
 4 And now we've got another exhibit coming in as something  
 5 that wouldn't normally exist. So I'll take this for  
 6 illustrative purposes, but I think we necessarily need a  
 7 whole 'nother exhibit for this.  
 8 MR. ABOLINS: Understood. Understood.  
 9 HEARING EXAMINER: Unless the appellants see some  
 10 particular for appeal purposes, we'll keep it in.  
 11 MULTIPLE SPEAKERS: No.  
 12 (Excerpt from 2035 Comprehensive plan admitted for illustrative  
 13 purposed only)  
 14 HEARING EXAMINER: All right. So we're on?  
 15 MS. BENDICH: 40 now.  
 16 HEARING EXAMINER: 40 would be the next exhibit, and then  
 17 you were going to move on to another one?  
 18 MR. ABOLINS: Yeah. So if this is the next exhibit, then  
 19 I'm going to mark this as 40, and ask the witness to  
 20 identify what...  
 21 (Exhibit No. 40 marked for identification)  
 22 **Q. (By Mr. Abolins) What is this document?**  
 23 MR. JOHNSON: Excuse me.  
 24 Can you refer to what is marked --  
 25 HEARING EXAMINER: His 49.

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1 MR. JOHNSON: It's your 49?  
 2 MR. ABOLINS: Yes, it's my 49.  
 3 MR. JOHNSON: Okay. All right.  
 4 **Q. (By Mr. Abolins) What is this document?**  
 5 A. So this is the 1909 annual report of the Board of Park  
 6 Commissioners and -- in which they reprinted the 1903 report  
 7 of the Olmsted Brothers. That's the original park system  
 8 plan, and then they also have this supplemental report,  
 9 which is the 1908 plan that they were trying to do.  
 10 **Q. So is this document essentially a historic record of the**  
 11 **original system of parks and parkways as identified by the**  
 12 **Olmsted brothers?**  
 13 A. Yes. This is the easiest accessed copy of it.  
 14 **Q. Okay. And then the original document you were referring to,**  
 15 **the first exhibit, number --**  
 16 **MR. BRICKLIN: 39.**  
 17 **Q. (By Mr. Abolins) -- 39, what was that document?**  
 18 A. The one with the map?  
 19 **Q. Yeah.**  
 20 A. That is the historic resources study that was done by the  
 21 Parks Department and adopted in 2005. It identified the  
 22 historic resources within the parks system.  
 23 **Q. And did you see any significant description of the historic**  
 24 **fabric and legacy of the Olmsted system within the FEIS for**  
 25 **the MHA proposal?**

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1 A. No.  
 2 **Q. Have you had an opportunity to review some of the ways that**  
 3 **the City's proposal as outlined in the FEIS might actually**  
 4 **impact Olmsted resources?**  
 5 A. Yes.  
 6 **Q. And what are those? Were those impacts described in the**  
 7 **FEIS in any way?**  
 8 A. No, I just found them on the maps.  
 9 **Q. Okay. And so can you describe the ones that you were able**  
 10 **to identify in your review?**  
 11 A. I have the list here. So there's two kinds: Ones that are  
 12 adjacent to parks, across the street from parks, and ones  
 13 that are adjacent to the boulevards. There is an upzone on  
 14 the north side of Hiawatha Playfield, there is an upzone on  
 15 the north side of Leschi Park, and the rest are adjacent to  
 16 adjacent to boulevards.  
 17 There is one on the south side of Winthrop, and another  
 18 on the south side of Mount Baker Boulevard. I see -- and  
 19 then there are -- one, two, three -- three more on -- or I'm  
 20 sorry -- four more on Mount Baker Boulevard. Three on  
 21 Ravenna Boulevard.  
 22 **Q. So did you mention Ravenna?**  
 23 A. Yes.  
 24 **Q. Okay. So what is your opinion on, you know, the adequacy of**  
 25 **the FEIS to allow a decision-maker to weigh the relative**

1 **impacts of one of the alternatives versus another on those**  
2 **historic resources?**

3 A. I think it would be really hard because the maps do not --  
4 there isn't a map of the system in the EIS -- the park  
5 system either -- as it exists today, or the Olmsted, the one  
6 that's similar to Exhibit 39, but there's also no narrative  
7 that would explain the significance of the system and how it  
8 could be impacted.

9 I think that Seattle is in our kind of beginning stages  
10 of really figuring out how to protect cultural landscapes.  
11 It's a challenging thing. They are changing places. It's  
12 not just like a building that's just frozen in time, and so  
13 if you don't explain to a City official or a developer or a  
14 neighborhood resident how something will impact the cultural  
15 resource, then I think it would be very challenging for  
16 anyone to understand that from just looking at the FEIS.

17 **Q. And is this an issue of concern that some within the City**  
18 **have actually been trying to work with you on?**

19 A. Yes, we're very happy. This is something that we butt up  
20 against quite a bit. Projects get proposed. We -- I'm  
21 sorry. By "we," I mean the Friends of Seattle's Olmsted  
22 Parks. And I say "we," because I've been a member and part  
23 of the board is -- I'm no longer on the board now -- but the  
24 process is that the FSOP board keeps an eye out,  
25 communicates with parks, tries to identify projects that are

1 individual elements of it while -- when there isn't any  
2 other policy or regulation other than landmarking that will  
3 protect them?

4 And the Parks Department can't protect something just  
5 because they like it or because they want to. There's a lot  
6 of demand pressures on these parks, particularly as the  
7 population grows, and so we want to look at how we can  
8 develop policies or procedures to protect those parks.

9 But this would be another example where -- particularly  
10 along Winthrop, which is part of Cheasty Boulevard. If the  
11 parcels that are marked for an upzone are upzoned, that land  
12 will not be available for park space which had been  
13 identified as a possible --

14 **Q. We'll get into that.**

15 A. Okay. Yeah.

16 **Q. So it sounds like there was an earnest effort, you believe,**  
17 **to work with Olmsted advocates to ensure that these things**  
18 **were properly accommodated as the City was growing?**

19 A. It's an ongoing effort, and the goal is to figure out an  
20 actual plan of how this will work in the future.

21 **Q. And did you see any of the effort that you were working on**  
22 **with the City reflected in any meaningful way of this FEIS?**

23 A. No. I kind of wondered if anyone in Parks was involved in  
24 this effort.

25 **Q. And I guess does it concern you that when this FEIS is**

1 proposed either adjacent to or on park property and  
2 ascertain if they're going to impact it negatively.

3 And that is a tremendous job, particularly in times when  
4 development is on an uptake because of the good economy.  
5 And so what happens is that we look and see what is being  
6 proposed, and then we react to it. And it's great if it  
7 comes in early to the board and we can provide early input.

8 Most of the time, though, it gets a little ways long, and  
9 that makes it very difficult for us to have an impact and to  
10 protect the historical resources because once the momentum  
11 and the ship is sailing in one direction, it is very hard to  
12 shift the ship in another direction because there is not --  
13 unless it is a landmark property, which there is only the  
14 four park properties that are landmarked -- unless it has  
15 City landmark protection, then it is very, very hard to  
16 enforce the preservation of the space.

17 And so that's been a problem that we've butted up against  
18 quite a bit, and so the Parks Department approached the  
19 Friends of Seattle's Olmsted Parks to help them form the  
20 Olmsted Legacy Task Force.

21 And what that task force is looking at is how can we,  
22 short of landmarking, because landmarking is a whole 'nother  
23 layer of hard and fast regulations that creates management  
24 issues for parks.

25 So how can we look at protecting the system and the

1 **considering a proposal for what may be some of the more**  
2 **sweeping upzones across the City that it's ever seen that**  
3 **these types of issues are not addressed anywhere in this**  
4 **document?**

5 A. It does. Because this is such a big document and a big  
6 process, it seems like it's particularly important to make  
7 sure that all of the groundwork and the pieces that need to  
8 be considered as decisions are made are in the document so  
9 that it doesn't rely on the expertise of who's making the  
10 decision because they might not necessarily have a cultural  
11 landscape preservation expertise.

12 **Q. Okay. And in your -- using your expertise with the Olmsted**  
13 **system, were you actually involved in an (inaudible)**  
14 **departmental effort to try and site an open space in the**  
15 **North Rainier Urban Village?**

16 A. I was.

17 **Q. Can you tell us about that? And why was that process going**  
18 **on and how is it proceeding?**

19 A. So the upzone that was the previous upzone for the North  
20 Rainier Urban Center -- Urban Village -- sorry -- did not  
21 include open space, and so there was a challenge to that  
22 upzone.

23 And the Friends of Seattle's Olmsted Parks got involved  
24 because one of the things that we would like to see is those  
25 areas that have the Olmsted system was not fully developed

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1 within that we would like to put our support and effort  
 2 behind any efforts to do that, and the North Rainier area is  
 3 an area like that.  
 4 And so we were part of identifying why there was an  
 5 Olmsted connection, why the project to acquire open space  
 6 for a park would further the Olmsted plan from a hundred  
 7 years ago, and so we got as far as identifying the parcels  
 8 that were particularly well-situated for the goals of both  
 9 the open space for the neighborhood and also for the Olmsted  
 10 plan's overall integrity and protection of that.  
 11 And then it got as far as the conservations features  
 12 funding for the property. And Parks was on board with it,  
 13 and then it's now listed as one of the upzone parcels --  
 14 well, it's a chunk of upzone parcels.  
 15 **Q. Okay. So backing you up --**  
 16 A. Mm-hm.  
 17 **Q. -- referring you to Exhibit 20 in the Friends of North**  
 18 **Rainier notebook.**  
 19 MR. ABOLINS: And I will add for marking as Exhibit 41  
 20 that same document.  
 21 (Exhibit No. 41 marked for identification)  
 22 **Q. (By Mr. Abolins) Can you tell us what -- I think this is**  
 23 **20. Let me see.**  
 24 A. Actually, I think it's 19.  
 25 Is it the illustrations or the letter?

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1 **Q. It's the Godden letter.**  
 2 A. Oh, that's No. 20 in your book.  
 3 **Q. Okay. Yeah. Yeah. So can you tell us what this document**  
 4 **is?**  
 5 A. Sure. This is a letter that I wrote as the chair of the --  
 6 or the president of the Friends of Seattle's Olmsted Parks  
 7 in 2014 to Jean Godden, the chair of the Parks, Seattle  
 8 Center, Libraries, and Gender Pay Equity Committee of the  
 9 City Council.  
 10 **Q. And then I see that you're identifying that North Rainier is**  
 11 **containing one of the worst or perhaps the worst gap in open**  
 12 **space within Southeast Seattle?**  
 13 A. I don't know if it's the worst. I know that it is one that  
 14 has caused a lot of concerns within the Parks Department,  
 15 and it is one of the links in the Olmsted chain that was  
 16 weak. And so we were identifying why we felt like it was a  
 17 good idea to develop parkland in that Mount Baker Town  
 18 Center area.  
 19 **Q. Okay. And then --**  
 20 HEARING EXAMINER: I'm going to ask you to pause there.  
 21 Can you give me an estimate of time?  
 22 MR. ABOLINS: I think I'm getting -- like 15 minutes.  
 23 HEARING EXAMINER: Okay.  
 24 **Q. (By Mr. Abolins) So I want to turn to the next exhibit, and**  
 25 **that will be Exhibit 18 in that book.**

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1 **Can you describe for us what that document is?**  
 2 MR. BRICKLIN: Are you going to mark it?  
 3 MR. ABOLINS: I'm going to -- well, yeah. That will  
 4 be --  
 5 MR. BRICKLIN: 42?  
 6 MR. ABOLINS: -- 42. Thank you.  
 7 THE WITNESS: This is the Conservation Futures annual  
 8 collections application for funds.  
 9 **Q. (By Mr. Abolins) Okay. And is this the City proposal for a**  
 10 **park space?**  
 11 HEARING EXAMINER: So, Mr. Abolins, if you're going to  
 12 ask questions, you'll need to be near a mic.  
 13 MR. ABOLINS: Yeah, I'm sorry.  
 14 HEARING EXAMINER: And I need to get a copy of that if  
 15 you want it marked.  
 16 MR. ABOLINS: Right. I'm looking for another notebook  
 17 here, so (inaudible) -- this is probably (inaudible). Oh,  
 18 no. Hearing Examiner copy.  
 19 (Inaudible colloquy)  
 20 THE WITNESS: I can open it on my computer if that's  
 21 okay.  
 22 MR. ABOLINS: I think I've got another copy sitting here,  
 23 but let me hand this to the Examiner for marking.  
 24 (Exhibit No. 42 marked for identification)  
 25 **Q. (By Mr. Abolins) Okay. Can you tell us what this document**

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1 **is?**  
 2 A. It is okay if I open it up?  
 3 **Q. Sure.**  
 4 A. So that's the application for Conservation Futures funding  
 5 that the City submitted to the Conservation Futures fund.  
 6 **Q. Okay. And I would like to refer you to the last page of**  
 7 **that exhibit, and does this identify actual park parcels**  
 8 **that were identified by the City Parks Department for**  
 9 **acquisition to bridge that open space gap?**  
 10 A. It does. They're on the south side of the Winthrop Street  
 11 and to the west of MLK.  
 12 **Q. Okay. And then we have Exhibit 19. I think it's just a**  
 13 **preceding exhibit in that notebook. Can you tell us, and**  
 14 **then we'll this marked as Hearing Examiner Exhibit 43.**  
 15 **(Exhibit No. 43 marked for identification)**  
 16 **Q. (By Mr. Abolins) Can you tell us what this represents?**  
 17 A. These are the designs put together Maggie Johnson at Johnson  
 18 Sutherland for what that park could be if it was developed  
 19 for park purposes.  
 20 **Q. And it is your understanding that this was an effort that**  
 21 **was represented in participation of individuals and agencies**  
 22 **within the City of Seattle?**  
 23 A. Mm-hm, yes.  
 24 **Q. Can you describe for us like the type of outreach and**  
 25 **engagement that was occurring to come up with these to**

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1 **develop this park project?**  
 2 A. Well, there is outreach to the Friends of Seattle's Olmsted  
 3 Parks, and then to the Parks Department, Chip Nevins, was  
 4 involved. And then Michael James at SDOT was involved. And  
 5 then I remember community meetings around the affair that's  
 6 in September. I apologize. I forget what that's called.  
 7 **Q. Is that Hub Fest or...**  
 8 A. No. It was the design festival.  
 9 **Q. Seattle Design Festival?**  
 10 A. Mm-hm, and -- where we talked about what could happen in  
 11 that area.  
 12 **Q. Okay.**  
 13 HEARING EXAMINER: Just a quick question. This was at  
 14 the back of the last exhibit.  
 15 Do you intend that to be attached?  
 16 MR. ABOLINS: No. I think that's already in there.  
 17 HEARING EXAMINER: Yes.  
 18 MR. BRICKLIN: It's 41.  
 19 MR. ABOLINS: Yeah, this is Exhibit 41.  
 20 HEARING EXAMINER: We already have that in ours.  
 21 MR. ABOLINS: Okay. Thank you.  
 22 HEARING EXAMINER: It didn't seem like you wanted it part  
 23 of 43.  
 24 MR. ABOLINS: No duplicates, no.  
 25 **Q. (By Mr. Abolins) So we'll move on to what is Exhibit 22 in**

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1 **that notebook and will be marked as Exhibit 43.**  
 2 **HEARING EXAMINER: 44?**  
 3 **MR. ABOLINS: 44.**  
 4 **(Exhibit No. 44 marked for identification)**  
 5 **Q. (By Mr. Abolins) Tell us: What are we looking at here?**  
 6 A. We're looking at the play area for the preschool that is at  
 7 the building adjacent to the transportation center -- or  
 8 transit center. (Inaudible).  
 9 **Q. All right. And so I guess with reference to this picture,**  
 10 **can you tell us in what way recognition of the Olmsted**  
 11 **system of parks and parkways might be relied upon within a**  
 12 **proposal for intense development to achieve issues of social**  
 13 **equity in the City of Seattle?**  
 14 A. So that gap analysis of the Parks Department did --  
 15 highlighted the lack of park open space area in the  
 16 neighborhood of the North Rainier area.  
 17 It's important because if you have small children, you  
 18 need open space. All -- everybody does, but, particularly,  
 19 small children. And that is particularly challenging in  
 20 this area when you think about the transportation  
 21 infrastructure that is directly east of the transit center,  
 22 and then you think of the hillside that is directly west.  
 23 And as somebody who has cared for small children, the  
 24 cage that you see here would be a preferable alternative to  
 25 braving the streets and that hill to go play.

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1 And it's because there is no play area north or south of  
 2 that transit center. You don't have to cross a significant  
 3 roadway and that you would not have to scale a significant  
 4 hill and also then go a distance to get to an actual  
 5 playground.  
 6 And the Olmsted vision they have with the playground  
 7 within a half mile of every house is not just an amenity.  
 8 It's sort of a -- it's an essential part of having a healthy  
 9 community. And so you can see how desperate they are to get  
 10 the kids outside. I mean, you have to let them get outside,  
 11 but it has to be safe and it has to be close enough to be  
 12 realistic.  
 13 **Q. So in what way would the park project that was developed**  
 14 **with the assistance of the Seattle Department of**  
 15 **Transportation and the Seattle Parks and Recreation**  
 16 **Department and the local community have built upon the**  
 17 **Olmsted legacy to address those issues of equity and**  
 18 **livability in North Rainier?**  
 19 A. So those parcels identified in the Conservations Futures  
 20 application are the perfect place to put a park. There, at  
 21 the bottom of the hill, which Olmsted in the nineteen --  
 22 I'll pull it out to make sure I get the right report.  
 23 So the 1903 report calls for a playground right there at  
 24 the base of the boulevard coming down from Jefferson Park --  
 25 not called that at the time, but that's what the park was --

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1 before you cross over the valley towards Mount Baker  
 2 neighborhood.  
 3 And so this was sited exactly where Olmsted intended that  
 4 a park with playground facilities would be sited. It's  
 5 along the boulevard, which it makes for ease of access, but  
 6 also it adds to the boulevard experience. If you're in the  
 7 Cheasty Greenspace and coming down the hill, as you turn the  
 8 corner and enter Winthrop, it's a landscape in flux right  
 9 now because of the transit center and the transportation  
 10 infrastructure and the changes that will be coming. But to  
 11 have a park right there alongside the boulevard will add to  
 12 the boulevard experience and help pull people across to the  
 13 Mount Baker Boulevard, which is just on the other side of  
 14 that intersection and then continue down.  
 15 And the bigger context is that by making that connection  
 16 and making it a stronger connection, you're connecting  
 17 people from Jefferson Park at the top of the hill, which  
 18 offers those amazing views across the City and big, large  
 19 open space. You come down the hill -- well, first you  
 20 follow Beacon Avenue, which is a park boulevard, and it's a  
 21 more formal experience. You come down to the Cheasty  
 22 Greenspace, which is an informal experience and very leafy  
 23 and informal and shady.  
 24 You come out into Winthrop and you go through the  
 25 business and transportation center and you end up on Mount

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1 Baker Boulevard, which makes the graceful sweep through the  
 2 historic neighborhood. And then you hit Mount Baker Park,  
 3 which takes you down to the lake and connects you with Lake  
 4 Washington Boulevard, which you can take north or south to  
 5 continue onto the system.  
 6 So it's that genius of place that Olmsted was trying to  
 7 protect and preserve in order that we could have everyone  
 8 have access to it.  
 9 I joke sometimes that thank goodness there was Olmsted  
 10 because I could never afford to enjoy some of the really  
 11 amazing parts of Seattle, our views and our waterways. But  
 12 because his plan preserved those connections and those  
 13 opportunities, every one of us can experience that in  
 14 Seattle.  
 15 **Q. And you had an opportunity to review the proposed -- the**  
 16 **preferred alternative of the MHA proposal for these**  
 17 **particular parcels?**  
 18 A. I did.  
 19 **Q. And what was the preferred alternative (inaudible)?**  
 20 A. Absent to 95 feet.  
 21 **Q. And would you say that represents an impact to the City's**  
 22 **long developed project to bridge the open space gap in North**  
 23 **Rainier?**  
 24 A. It does because once it's upzoned, that land will become too  
 25 valuable to become park property. The Parks Department will

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1 not be able to get funding, and I think they would have to  
 2 weigh, then, the costs benefit, and it would likely be  
 3 outweighed by the cost of something that has been upzoned.  
 4 It also -- well, that's...  
 5 **Q. And are there other impacts to the Olmsted legacy from that**  
 6 **particular location being upzoned to 95 feet?**  
 7 A. It would because that particular location is on the south  
 8 side of the boulevard, and so the shadow that would be  
 9 created by that building would impact the boulevard.  
 10 It will also impact the experience. It's sort of a --  
 11 what's it called? When you're the cost of a missed  
 12 opportunity, because instead of getting the gain of a park  
 13 and the -- the benefit that would provide to the park  
 14 system, you get the loss and the addition of the large  
 15 building that's going to be put there. And it just doesn't  
 16 seem like the right place for a tall building like that.  
 17 **Q. Okay.**  
 18 MR. ABOLINS: I have no further questions.  
 19 HEARING EXAMINER: We'll take a break and come back at  
 20 3:30. Thank you.  
 21 (Recess)  
 22 HEARING EXAMINER: And we'll return with cross.  
 23 MR. ABOLINS: Well, before we get started, I move to  
 24 admit the exhibits.  
 25 HEARING EXAMINER: Yes. And those were?

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1 MR. ABOLINS: 39.  
 2 HEARING EXAMINER: 39 to 44?  
 3 MR. ABOLINS: 44, yeah.  
 4 MR. JOHNSON: No objection.  
 5 HEARING EXAMINER: 39 through 44 are admitted.  
 6 (Exhibit Nos. 39 - 44 admitted into evidence)  
 7 MS. BENDICH: Your Honor, I had a few questions before we  
 8 started with cross.  
 9 HEARING EXAMINER: Okay. And is she a witness of yours  
 10 or...  
 11 MS. BENDICH: No.  
 12 HEARING EXAMINER: Okay.  
 13 MS. BENDICH: No, but she may have information.  
 14 HEARING EXAMINER: That's fine. And I'll allow you  
 15 questioning. What I need to keep track of is if an  
 16 appellant is on direct they get redirect as well, but you  
 17 won't get that opportunity.  
 18 MS. BENDICH: That's fine.  
 19 HEARING EXAMINER: I just need to keep track of that.  
 20 MS. BENDICH: Okay.  
 21  
 22 CROSS - EXAMINATION  
 23 BY MS. BENDICH:  
 24 **Q. Ms. Ott, you have mentioned, of course, the --**  
 25 HEARING EXAMINER: Can you identify yourself for the

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1 record?  
 2 MS. BENDICH: Oh. I'm Judith Bendich for Friends of  
 3 Ravenna-Cowen.  
 4 **Q. (By Ms. Bendich) Ms. Ott, you've mentioned the Olmsted**  
 5 **plan, the extensive series of boulevards that followed the**  
 6 **contours of the City.**  
 7 **Are you familiar with the area that is next to Roosevelt**  
 8 **Urban Village?**  
 9 A. I am.  
 10 **Q. Okay. And could you describe that for us?**  
 11 A. The Olmsted plan elements?  
 12 **Q. Yes.**  
 13 A. So there, that is the northern part of the loop, or the  
 14 northeastern part. That segment extends from the University  
 15 through the Ravenna neighborhood -- or I'm sorry -- Ravenna  
 16 and Roosevelt neighborhoods to Green Lake.  
 17 There are the -- kind of the primary elements are the  
 18 University campus, 17th Avenue, which was known as  
 19 University Boulevard, Ravenna Boulevard, Ravenna and Cowen  
 20 Parks, and then into Green Lake Park.  
 21 **Q. Okay. And I think you mentioned previously that the**  
 22 **City -- in the FEIS, did the City mention the relationship**  
 23 **between that area and the Olmsted boulevard in that**  
 24 **location?**  
 25 A. Not that I saw, no.

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1 **Q. Is there any upzoning proposed along that area?**  
 2 A. There are near Ravenna and Cowen Park -- I'm sorry. Near  
 3 Ravenna Boulevard and Cowen Park there are increased density  
 4 and increased height.  
 5 **Q. And so what are you looking at there?**  
 6 A. I am looking at the exhibit, H.70.  
 7 **Q. And H? Is there a page number down there?**  
 8 A. There does not appear to be a page, unless it's -- oh, I'm  
 9 sorry. Page 71?  
 10 MR. BRICKLIN: Yeah. They're one page different --  
 11 THE WITNESS: Okay. Page 71.  
 12 MR. BRICKLIN: -- than the exhibit number.  
 13 **Q. (By Ms. Bendich) Page 71 you're at.**  
 14 **Do you think that will have -- you've seen the upzoning?**  
 15 A. Yeah.  
 16 **Q. Will that have an impact on the nature of the Olmsted**  
 17 **boulevard that runs through there?**  
 18 A. I will, because right now it's the same with the impact that  
 19 would be at the north end of that boulevard as -- currently  
 20 it's single-family housing or things like Marshall School,  
 21 which is set a little bit back from the road.  
 22 And if you have increased density, it changes the  
 23 character of the areas adjacent to the boulevard. And  
 24 there's a lot of discussion in Olmsted letters and  
 25 preservation planning. Cheasty Boulevard's landmark

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1 nomination, which is one of the exhibits, I believe, it  
 2 discusses how the area surrounding the historic boulevard is  
 3 as important to the integrity of the function it plays in  
 4 the City as the actual pavement and right-of-way.  
 5 MS. BENDICH: Thank you.  
 6 HEARING EXAMINER: Cross, please?  
 7  
 8 **CROSS-EXAMINATION**  
 9 BY MR. JOHNSON:  
 10 **Q. Ms. Ott, I'm Dale Johnson. We've met before. And I'm**  
 11 **representing the City today, so just a few follow-up**  
 12 **questions on your direct.**  
 13 **Directing your attention to your testimony about the**  
 14 **North Rainier Town Center Park, first of all, am I**  
 15 **describing that correctly?**  
 16 A. North Rainier Urban Village Park --  
 17 **Q. Okay.**  
 18 A. -- or Mount Baker Town Center Park. Are the two. I have a  
 19 hard time with those, so...  
 20 **Q. Okay. It's not a park yet, so it doesn't have a --**  
 21 A. Not a park.  
 22 Purpose?  
 23 **Q. -- formal name?**  
 24 A. Oh, no. It doesn't have a formal name.  
 25 **Q. But you know what I'm referring to --**

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1 A. Yes.  
 2 **Q. -- when I say North Rainier, or the North Rainier Park?**  
 3 A. Yes.  
 4 **Q. Okay. Fair enough.**  
 5 **And I just want to understand that it's -- it's my**  
 6 **understanding, based on your testimony, that you're assuming**  
 7 **that it's less likely or even perhaps unlikely that the**  
 8 **North Rainier Park will be developed because of the upzoning**  
 9 **in that area --**  
 10 A. Correct.  
 11 **Q. -- that will essentially make it economically infeasible for**  
 12 **the City to acquire the property necessary to establish the**  
 13 **park; is that correct?**  
 14 A. Yes.  
 15 **Q. Okay. And now you're not an economist, correct?**  
 16 A. I am not.  
 17 **Q. Okay. So that's your opinion as a layperson?**  
 18 A. Correct.  
 19 **Q. All right. And you're not standing here as an economist**  
 20 **today --**  
 21 A. No.  
 22 **Q. -- to testify to that?**  
 23 **All right. And that was a "no"?**  
 24 A. No.  
 25 **Q. You're shaking your hand --**

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1 A. Yes, I'm sorry. No.  
 2 **Q. -- but there's a recording being made of your testimony.**  
 3 **Okay. Isn't it true that the property comprising the**  
 4 **proposed park is owned -- a significant amount of that**  
 5 **property is owned by public agencies?**  
 6 A. I would need to look at an actual parcel map, but I do  
 7 understand that King County and Sound Transit own part of  
 8 those parcels.  
 9 **Q. Okay. So King County, Sound Transit, and then there are**  
 10 **also some private owners, correct?**  
 11 A. Yes.  
 12 **Q. Okay. And isn't it true that nothing in the MHA legislative**  
 13 **proposal that's the subject of the FEIS would prevent the**  
 14 **City from acquiring the property for the North Rainier Park?**  
 15 A. There is nothing that would prohibit it, but a policy like  
 16 this is going to have an impact on how individual parcels  
 17 are viewed by people and their relative value.  
 18 And I think that --  
 19 **Q. Okay.**  
 20 MR. JOHNSON: And I'm going to move to strike her  
 21 response because she just testified she's not an economist.  
 22 She can't draw that conclusion. She's not qualified to  
 23 testify about the economics of land acquisition in the City  
 24 of Seattle.  
 25 MR. ABOLINS: She's able to testify to common sense

1 impressions and perceptions of properties in the City.  
 2 MR. JOHNSON: Okay.  
 3 HEARING EXAMINER: So I'll overrule it. She's already  
 4 testified to it, so that's in there. And we have qualified  
 5 the value of it as far as expert testimony at this point,  
 6 so...

7 **Q. (By Mr. Johnson) Okay. So let me rephrase the question.**  
 8 **The MHA itself, the language of the MHA as proposed, as**  
 9 **you understand it, does not prohibit the City of Seattle**  
 10 **from acquiring the property necessary to establish the North**  
 11 **Rainier Park, does it?**

12 A. Correct.

13 **Q. Okay. Thank you. And is the Olmsted Park System -- and I**  
 14 **apologize for -- if I mischaracterize it, but -- and as I**  
 15 **understand it, that's a system of parks that the Olmsted**  
 16 **Brothers proposed or...**

17 A. They either designed, proposed or influenced -- or I'm  
 18 sorry. Designed, influenced, or recommended.

19 **Q. Okay. And then they are connected by a boulevard or a**  
 20 **series of boulevards?**

21 A. Correct. It is not a hundred percent continuous, but they  
 22 are connected.

23 **Q. Okay. And so is it a fair statement to say that those --**  
 24 **the entire system that was proposed or designed was all**  
 25 **adopted or developed as a park and boulevard system?**

1 **Q. Okay.**  
 2 A. And Parks, I would need to go back to that. I haven't  
 3 looked at that document for a while to characterize how it  
 4 is incorporated. I don't remember if they identified  
 5 additional properties to be purchased based on the system.

6 **Q. Okay. And when you say "additional properties to be**  
 7 **purchased," do you mean purchased for the establishment of**  
 8 **additional Olmsted-related --**

9 A. Mm-hm.

10 **Q. -- parks?**  
 11 **Okay. And do you know if the FEIS in the parks and open**  
 12 **space section of the FEIS if that references the 2017 Parks**  
 13 **and Open Space Plan?**

14 A. I would need to look.

15 **Q. Okay.**  
 16 A. I remember the other...

17 **Q. Do you have the EIS handy there?**  
 18 A. Yeah.

19 **Q. Can you look at 3.344?**  
 20 UNIDENTIFIED SPEAKER: 3.444?  
 21 THE WITNESS: Yes, the comprehensive -- that policy  
 22 framework page.  
 23 MR. JOHNSON: 3.344. I'm sorry.  
 24 UNIDENTIFIED SPEAKER: You got an extra 4 in there.  
 25 MR. JOHNSON: I think I added an extra 4.

1 A. I'm sorry. I didn't hear.  
 2 Was it was not or was?  
 3 **Q. Was not.**  
 4 A. Was not, correct.

5 **Q. Okay. And the parks that were developed, the Olmsted parks**  
 6 **that were developed, designed and then developed, are those**  
 7 **then now owned by the City Parks Department?**

8 A. As far as I'm aware, nothing has been sold out of the system  
 9 or -- well, that's not true. I'm sorry. There is -- it's  
 10 complicated.  
 11 It depends on how precise. Like the WSDOT Peninsula of  
 12 Washington Park was sold to the State for transportation  
 13 purposes and will not be returned to the City. So there's  
 14 bits and pieces.  
 15 But if they developed it as a park, it's still a park. I  
 16 mean, I guess I'm not sure how precise you want to be.

17 **Q. Well, if the large part or the -- you know, the major**  
 18 **components of the Olmsted system were actually developed,**  
 19 **largely owned and operated, or owned or operated by the City**  
 20 **Parks Department?**

21 A. Yes.

22 **Q. Okay. With some exceptions on the (inaudible).**  
 23 **Okay. And is the Olmsted park and that system included**  
 24 **in the 2017 Parks and Open Space Plan?**  
 25 A. The system is referenced.

1 THE WITNESS: Are we on the page that starts with policy  
 2 framework?  
 3 MR. JOHNSON: I believe so, yes.

4 **Q. (By Mr. Johnson) So do you see a reference to the 2017**  
 5 **Parks and Open Space Plan?**

6 A. I do.

7 **Q. Okay. And you noted earlier that the twenty thirty -- well,**  
 8 **let me ask the question.**  
 9 **Does the 2035 comp plan address the Olmsted system?**

10 A. It references it.

11 **Q. Okay. All right. And at the outset of your testimony, you**  
 12 **testified about the Olmsted parks and parkways, and then you**  
 13 **said that one of the goals was to get a playground within a**  
 14 **half a mile of every -- was that every residence or house?**

15 A. Residence.

16 **Q. And then you also said something else in addition to the**  
 17 **playground, and I didn't catch what it was.**

18 A. Oh, it's a playfield and within a mile of every house.

19 **Q. Okay.**  
 20 A. And that's a larger-scale facility that would be for older  
 21 children.

22 **Q. I see. And is that -- and were those goals accomplished?**  
 23 A. To a degree. That is with the gap analysis. And various  
 24 other times throughout the City's history, but the gap  
 25 analysis is the most recent attempt to quantify -- no. I'm

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1 sorry. I shouldn't say the most recent. That is a recent  
 2 document to quantify accessibility of parks.  
 3 I just saw a presentation by a Parks employee that they  
 4 have a new mapping system where they are looking at not  
 5 just -- technically, it's this far, but they're looking at  
 6 the walkability of that distance.  
 7 And so I don't know what that's called, but they have a  
 8 new system for gauging that.  
 9 **Q. And so this is something the City Parks Department is paying**  
 10 **attention to, correct?**  
 11 A. Yes.  
 12 **Q. Okay. And that derives from this initial goal of the**  
 13 **Olmsted Brothers over a hundred years ago to meet this**  
 14 **objective of a mile from a playfield or half mile from a...**  
 15 A. Yes. I'm not sure if they used the exact same terminology,  
 16 the half mile and the mile, but there is some variation upon  
 17 that that is still the guiding in acquisitions.  
 18 **Q. Okay. And then on Exhibit 44, you showed a photo of a -- I**  
 19 **hate to describe it this way, but kind of like a cage-like**  
 20 **structure.**  
 21 **And was that a playground?**  
 22 A. That's the outdoor play area for the preschool at the  
 23 building that's strictly adjacent to the Mount Baker Transit  
 24 Center.  
 25 **Q. Okay. And is that a Park, City Park facility, or...**

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1 A. No. That is what they have created in the absence of City  
 2 Park facilities.  
 3 **Q. I see. Okay. And that's an existing condition right now?**  
 4 A. Correct.  
 5 **Q. Okay. And, I mean, you may have testified, but when was**  
 6 **that installed?**  
 7 A. I don't know. And -- I'm sorry -- within a few years.  
 8 **Q. Okay. Within the last few years?**  
 9 A. Yeah.  
 10 **Q. Okay. Fair enough. And then in response to Ms. Bendich's**  
 11 **question, I believe, maybe -- maybe it wasn't, but you said**  
 12 **something about -- I thought you said TC Boulevard landmarks**  
 13 **designation.**  
 14 **Did I get that right or...**  
 15 A. Cheasty's. I'm sorry.  
 16 **Q. I see. Okay.**  
 17 A. Cheasty Boulevard is (inaudible).  
 18 **Q. Okay. How do you spell that?**  
 19 A. C-h-e-a-s-t-y. That is the boulevard that goes up from MLK  
 20 in Rainier, the cross-intersection. It goes up the hill  
 21 towards Jefferson Park.  
 22 **Q. And is there an ongoing effort to get that designated as a**  
 23 **landmark?**  
 24 A. It has been designated.  
 25 **Q. It has been. Okay. All right.**

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1 **And is that a City landmark?**  
 2 A. Yes.  
 3 **Q. Okay. All right. Does it enjoy any other landmark status**  
 4 **like a state or federal status?**  
 5 A. Not that I'm aware of.  
 6 **Q. Okay.**  
 7 A. However, I should say the boulevard and parks system have  
 8 state register status, the whole system as a whole. Cheasty  
 9 is not identified as a particular one within that.  
 10 **Q. Okay. All right. And if a project were to be developed**  
 11 **that met the -- if you can answer this question -- that met**  
 12 **the SEPA standards requiring an analysis of a specific**  
 13 **project, like a large building or buildings or whatever the**  
 14 **case may be, would the impacts on the City Parks systems,**  
 15 **including any impacts to the Olmsted parks, be considered as**  
 16 **part of that SEPA review?**  
 17 A. Let me think. It would depend upon -- I guess that's a hard  
 18 question to answer because it feels like I would be  
 19 speculating a lot. There's a lot of things that would come  
 20 into play in that question, so I'm not sure how to answer  
 21 it.  
 22 **Q. Okay. I don't want you to guess.**  
 23 A. Yeah, I feel like I would just guess.  
 24 MR. JOHNSON: I don't have anything else, Your Honor.  
 25 HEARING EXAMINER: Redirect?

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1 MR. ABOLINS: Yes, Your Honor.  
 2  
 3 REDIRECT EXAMINATION  
 4 BY MR. ABOLINS:  
 5 **Q. So I guess in terms of a -- you know, assuming there was a**  
 6 **proposal to build the 95-foot structure in the upzoned area**  
 7 **where the park was being planned, is that -- I mean, I guess**  
 8 **would you have a concern that -- I guess to what level do**  
 9 **you think the SEPA process would protect against the**  
 10 **landowner taking advantage of that zoning increase?**  
 11 A. If everything went according to what was the spirit of the  
 12 SEPA law, then there would probably be protections.  
 13 However, this goes to the speculation, where I didn't  
 14 feel comfortable answering that question, is that my  
 15 experience in these matters has been that it is very  
 16 complicated. And that would be my concern, is that there  
 17 are so many variables and so many things to consider that  
 18 I'm afraid the SEPA protection would not be adequate.  
 19 **Q. And to your knowledge, is there anything in SEPA that would**  
 20 **prohibit somebody from developing their property consistent**  
 21 **with the increased zoning capacity allowed by the City?**  
 22 MR. JOHNSON: Objection. Calls for a legal conclusion.  
 23 HEARING EXAMINER: Sustained.  
 24 MR. ABOLINS: Okay.  
 25 **Q. (By Mr. Abolins) Now, you mentioned the different levels of**

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1 recognition given to the boulevard system.  
 2 Is there a nomination to the federal level relating to  
 3 the boulevard system as a whole?  
 4 A. It has been nominated to the National Register.  
 5 Q. What's the status of that nomination?  
 6 A. And I'm nervous, so now I'm -- I didn't check that before I  
 7 came. I'm pretty sure it's been added to the National  
 8 Register, but...  
 9 Q. It's pending, at least?  
 10 A. It's pending, at least.  
 11 Q. And is there any --  
 12 A. I should know that, but I...  
 13 Q. Is there any reference of that in the historic resources  
 14 section of this document?  
 15 A. No.  
 16 Q. And then with regard to the open space section, there was  
 17 some debate about whether an upzone to 95 feet is somehow  
 18 problematic for a place that's intended to be a park.  
 19 Was there any discussion or acknowledgment that the City  
 20 of Seattle's preferred proposal had the highest upzone for  
 21 the City's park acquisition project?  
 22 A. Discussion where?  
 23 Q. In this FEIS.  
 24 A. No.  
 25 Q. So would somebody reading this document have any sense of

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1 the relationship of those types of zoning proposals to this  
 2 Olmsted legacy and how this open space gap was intended to  
 3 be filled by the City Department of Parks and Recreation?  
 4 A. (Inaudible).  
 5 MR. ABOLINS: No further questions.  
 6 MR. BRICKLIN: I didn't hear the answer.  
 7 THE WITNESS: No. I'm sorry.  
 8 HEARING EXAMINER: Thank you, Ms. Ott.  
 9 THE WITNESS: Thank you.  
 10 HEARING EXAMINER: Next witness?  
 11 (Inaudible colloquy)  
 12 MS. BENDICH: Yes. Friends of Ravenna-Cowen is calling  
 13 Ms. Sarah Sodt.  
 14 (Inaudible colloquy)  
 15 MS. BENDICH: Good afternoon, Ms. Sodt.  
 16 MS. SODT: Hello.  
 17 HEARING EXAMINER: Please state your name and spell it  
 18 for the record.  
 19 MS. SODT: Sure. My name is Sarah Sodt. S-a-r-a-h;  
 20 S-o-d-t.  
 21 HEARING EXAMINER: And do you swear or affirm that the  
 22 testimony provided in today's hearing will be the truth?  
 23 MS. SODT: I do.  
 24 ///  
 25 ///

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1 SARAH SODT, Witness herein, having been first  
 2 duly sworn on oath, was  
 3 examined and testified as follows:  
 4  
 5 HEARING EXAMINER: Thank you.  
 6  
 7 DIRECT EXAMINATION  
 8 BY MS. BENDICH:  
 9 Q. Ms. Sodt, could you say what your current job is?  
 10 A. I am the City's historic preservation officer.  
 11 Q. Is that interim, or is that the official?  
 12 A. That is official.  
 13 Q. Okay. So before we get to that -- and I would like to just  
 14 go back through your education and your employment  
 15 experience, okay?  
 16 So if you could just start with post-bachelor's, your  
 17 educational experience.  
 18 A. I have a master's in urban planning from the University of  
 19 Washington including certificate in historic preservation.  
 20 Q. And what year was that?  
 21 A. 2002.  
 22 Q. And anything else after that?  
 23 A. Not in terms of education.  
 24 Q. Okay. Is it all work-related or...  
 25 A. It's all work.

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1 Q. All right. And while you were a graduate student, did you  
 2 participate in any historic survey?  
 3 A. Yes. I -- as a part of my thesis project, I worked on a  
 4 survey of the University District.  
 5 Q. And did you work on a Seattle neighborhood commercial  
 6 district project?  
 7 A. I did also work a little bit on that as well.  
 8 Q. Okay.  
 9 MS. BENDICH: So if we could have this marked, please?  
 10 And I'll give you this copy.  
 11 MR. JOHNSON: Could you still let us know what exhibit it  
 12 is of yours?  
 13 MS. BENDICH: Yeah. So you have it down at the very...  
 14 THE WITNESS: 23.  
 15 MR. JOHNSON: Thank you.  
 16 MS. BENDICH: It's Friends of Ravenna-Cowen No. 23, and  
 17 that would be Exhibit No --  
 18 MR. BRICKLIN: 46.  
 19 MS. BENDICH: -- 46.  
 20 HEARING EXAMINER: Marked as Exhibit 45.  
 21 MR. BRICKLIN: Oh, I'm sorry. 45.  
 22 (Exhibit No. 45 marked for identification)  
 23 MS. BENDICH: Okay. 45.  
 24 MR. BRICKLIN: And what was your number? Forty?  
 25 Sarah, what was the...

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1 THE WITNESS: 23 --  
 2 MR. BRICKLIN: 23.  
 3 THE WITNESS: -- it says here.  
 4 MR. BRICKLIN: Thank you.  
 5 **Q. (By Ms. Bendich) Okay. Could you tell us what your role**  
 6 **was in -- and first of all, just tell us when this was done.**  
 7 A. It -- according to this, it looks like it was done prior to  
 8 November 2002.  
 9 **Q. And when did you actually graduate?**  
 10 A. 2002, in, I think, June.  
 11 **Q. Okay. But it wasn't published until after you graduated?**  
 12 A. Yeah, it looks like that.  
 13 **Q. Okay. And who prepared it?**  
 14 A. Mimi Sheridan.  
 15 **Q. And who's Mimi Sheridan?**  
 16 A. She is a cultural resources specialist, although I believe  
 17 she is now retired.  
 18 **Q. And if you could turn to just the inside cover of that, and**  
 19 **then to the third page, which has the number. It's got a**  
 20 **COS number down at the bottom 06. 06 is where it has the**  
 21 **index.**  
 22 A. Sorry? Which?  
 23 **Q. This page right here.**  
 24 A. Okay.  
 25 **Q. And it has what you did, the project background, the survey**

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1 **process and the historical overview and survey results.**  
 2 **And then it lists a whole bunch of neighborhoods; do you**  
 3 **see that?**  
 4 A. I do.  
 5 **Q. Okay. And so your task in this was to do what?**  
 6 A. I did -- I believe I -- it's not fresh in my mind, but I did  
 7 some fieldwork for Ms. Sheridan relating to some of these  
 8 areas.  
 9 **Q. Okay. And this is entitled a commercial district report.**  
 10 **In the course of it, did you actually take a look at some**  
 11 **of the residential areas surrounding the commercial areas?**  
 12 A. Only I believe -- as I recall, this was just areas that  
 13 are -- were zoned neighborhood commercial.  
 14 **Q. Okay. So if you could turn to -- let me just find the right**  
 15 **pages here.**  
 16 **Turning to the Eastlake section -- I think it's Eastlake,**  
 17 **yes -- which starts at page -- and I'll just use the last**  
 18 **three numbers on here, 724, and then it goes to 725.**  
 19 **And --**  
 20 A. I don't see any page numbers.  
 21 **Q. Down at the bottom. It doesn't have the right one. Sorry.**  
 22 MS. BENDICH: Your Honor, does the regular exhibit have  
 23 all the correct pages?  
 24 HEARING EXAMINER: Yes.  
 25 MS. BENDICH: Okay.

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1 THE WITNESS: I do have -- I found Eastlake just randomly  
 2 here.  
 3 MS. BENDICH: Okay. Well, I may have you search through  
 4 it.  
 5 MR. JOHNSON: My copy doesn't have Bates numbers either,  
 6 so...  
 7 MS. BENDICH: Yes. Well, the one on mine, I'll just say,  
 8 did not have any numbers, so I appreciated the Bates numbers  
 9 that were on here.  
 10 **Q. (By Ms. Bendich) But in any event, you found Eastlake, yes?**  
 11 A. Yeah.  
 12 **Q. Okay. So you'll see where it says "recommendations" under**  
 13 **Eastlake?**  
 14 A. Mm-hm, yes.  
 15 **Q. And it says (as read): "Eastlake has numerous houses,**  
 16 **including houseboats and apartment buildings, that weren't**  
 17 **additional survey and research."**  
 18 **Do you know whether, in fact, that has occurred?**  
 19 A. I do not.  
 20 **Q. Is there anything in the database that you have at the City**  
 21 **that reflects that any houses and apartment buildings in the**  
 22 **Eastlake area were surveyed?**  
 23 A. I do not know the answer for sure. There was a survey and  
 24 inventory of pre-1906 residential properties that was done,  
 25 I think subsequent to this, so perhaps that would have

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1 covered that area. I'm not sure.  
 2 **Q. You're not positive. Okay. And then if you'll keep**  
 3 **flipping through, it's page 728 with the Bates stamp, but**  
 4 **you don't have that. But if you would go to Greenwood.**  
 5 **Phinney Ridge. Broadview.**  
 6 A. Got it.  
 7 **Q. You got that?**  
 8 **And then go to the two pages after that, page 730.**  
 9 **Do you see the recommendation?**  
 10 A. Yes.  
 11 **Q. And it states (as read): "The large portion of North**  
 12 **Seattle has been little studied, although most of the houses**  
 13 **are modest and neighborhood survey to identify significant**  
 14 **residences and apartment buildings is warranted. And**  
 15 **there's also a possibility of locating former commercial and**  
 16 **institutional buildings in single-family areas."**  
 17 **Do you know whether a study of North Seattle has been**  
 18 **conducted?**  
 19 A. I am not aware of a North Seattle survey, other than the  
 20 pre-1906 residential survey that I mentioned, which might  
 21 have captured portions of North Seattle.  
 22 **Q. But there hasn't been a systematic survey of this area; is**  
 23 **that correct?**  
 24 A. Not that I am aware of.  
 25 **Q. And then if you'll go to the area which has Roosevelt,**

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1 **Northeast Seattle; do you see that? This starts at page**  
 2 **735, and I --**  
 3 A. I got it.  
 4 **Q. You're very good. You're there. Okay.**  
 5 A. It is alphabetical.  
 6 **Q. Okay. And, if you will look at the next page, page 736, so**  
 7 **this addresses -- where it says "historic properties," this**  
 8 **addresses first commercial areas.**  
 9 **And do you see what it says there? If you could just**  
 10 **take a look at that.**  
 11 A. Sorry. Which? Which section?  
 12 **Q. Where it says "historic properties."**  
 13 A. Okay.  
 14 **Q. So this identifies properties. There are significant**  
 15 **buildings along Northeast Roosevelt Way near Northeast 65th**  
 16 **Street, and then it describes a Gothic revival influence.**  
 17 **It includes a restaurant. Then it includes another popular**  
 18 **restaurant, the Sunlight Cafe, which was once a City Light**  
 19 **office. And then there's the Scarlet Tree, another intact**  
 20 **building that has house-to-restaurant.**  
 21 **Do you know whether there's been any survey that included**  
 22 **these particular properties?**  
 23 A. Other than this survey?  
 24 **Q. Right.**  
 25 A. Not that -- not that I am aware of.

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1 **Q. And then if you'll turn to the next page where it has**  
 2 **recommendations. If you'll take a look at that first**  
 3 **paragraph there, it says (as read): "The Roosevelt-Ravenna**  
 4 **area and the neighborhoods to the north have a wealth of**  
 5 **single-family homes that warrant a neighborhood survey.**  
 6 **This survey may identify former commercial buildings that**  
 7 **probably remain in the residential areas." This is at page**  
 8 **737.**  
 9 **Do you know whether there's been any survey done in that**  
 10 **area?**  
 11 A. Again, the only survey that I would think would cover this  
 12 would be the pre-1906 residential survey that was done.  
 13 **Q. And where would we find that on, if you know? You've taken**  
 14 **a look at the section of the EIS on historic resources?**  
 15 A. Yes.  
 16 **Q. Have you taken a look at the maps within there?**  
 17 A. Yes.  
 18 **Q. And do you know whether any of these buildings in Ravenna or**  
 19 **Roosevelt have dots on there?**  
 20 A. I think the dots refer to the National Register eligibility,  
 21 not to survey and inventory that data from our database. So  
 22 (inaudible).  
 23 **Q. So there would be no dots on there at all, then; is that**  
 24 **correct, for -- if they came from the Seattle database?**  
 25 A. Well, there would be dots if there was pre-residential --

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1 pre-1906 residential survey data in our database for this  
 2 (inaudible).  
 3 **Q. Okay. Well, I'm going to have you take a look at actual**  
 4 **exhibit, which is in the historic neighborhood section here.**  
 5 **This is the --**  
 6 HEARING EXAMINER: Ms. Bendich, you need to be near a  
 7 microphone if you're going to be speaking.  
 8 MS. BENDICH: Okay. Sorry.  
 9 **Q. (By Ms. Bendich) The Section 3.5 in here, so if you could**  
 10 **try to find that. I think somebody must have a page of**  
 11 **that.**  
 12 **Okay. So what are you looking at?**  
 13 A. I'm looking at Exhibit 3.5-2, National -- "NRHP Determined  
 14 Eligible Properties -- North."  
 15 **Q. Okay. And so there are a few dots on that; is that correct?**  
 16 A. Yes.  
 17 **Q. And those are in the Roosevelt neighborhood?**  
 18 A. Yes.  
 19 **Q. And those would have come from what?**  
 20 A. Well, I don't -- these are National Register-determined  
 21 eligible properties, so I'm -- I'm -- I don't know where  
 22 those dots came from.  
 23 **Q. All right. So you assume that that was -- came from the**  
 24 **Washington State Department of Archeology and Historic**  
 25 **Resources?**

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1 A. That would be a likely assumption.  
 2 **Q. And there's a database there called "WISAARD"?**  
 3 A. WISAARD.  
 4 **Q. Yes. Okay. So if you could turn the page? Yes. Thank**  
 5 **you.**  
 6 **Do you see any other maps?**  
 7 A. No.  
 8 **Q. So are there any maps that you can see in this EIS that**  
 9 **would cover the properties that Seattle has in its database**  
 10 **for historic resources?**  
 11 A. I don't see any maps. I just see the -- the chart that  
 12 shows which areas were covered in the survey.  
 13 **Q. Okay. Now, Ms. Sodt, I would like you speak a little more**  
 14 **generally, if you could help us and educate us. And going**  
 15 **back to your work history, after you graduated with your**  
 16 **master's degree, where did you work?**  
 17 A. I worked for a short time at Municipal Research and Services  
 18 Center. And then shortly after I graduated, I got a job  
 19 with the King County Historic Preservation Program.  
 20 **Q. And what did you do for them?**  
 21 A. I did many different tasks, basically, a sustained  
 22 coordination of the King County Landmarks Commission and  
 23 some survey and inventory work.  
 24 **Q. Okay. Would you explain what kind of surveys you did?**  
 25 A. One of the efforts that I helped on was a systematic survey

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1 update of unincorporated King County. So we looked at the  
 2 existing survey and inventory data and then revisited those  
 3 sites to verify and update the data on those sites and  
 4 looked for potential other sites that had been missed in  
 5 subsequent surveys.  
 6 **Q. So when you started off, what was your -- what data were you**  
 7 **looking at?**  
 8 A. We were looking at the data that existed in the County's  
 9 database.  
 10 **Q. So this is the King County Assessor?**  
 11 A. No. The King County --  
 12 **Q. Oh, the King County...**  
 13 A. -- Historic Preservation Program has its own database.  
 14 **Q. Okay.**  
 15 A. Or at least it did at the time.  
 16 **Q. And what kind of information is in there?**  
 17 A. So address. You know, any historic -- known historic  
 18 information, a brief written description of the resource,  
 19 the physical attributes of the resource, what typology it  
 20 met, and I can't remember exactly what else was in the  
 21 database.  
 22 **Q. So were you looking first for properties that were 50 years**  
 23 **old or older?**  
 24 A. I can't remember what the threshold the County uses for  
 25 their survey and inventory work, but it probably is 50

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1 years.  
 2 **Q. So is that information in the King County database, or did**  
 3 **you go to a different source?**  
 4 A. So if we were looking at new properties that weren't in the  
 5 database, we would use the King County Assessor database.  
 6 **Q. So what kind of survey were you doing? I mean, just**  
 7 **describe the survey that you did.**  
 8 A. So we would go out into the field and look at properties and  
 9 verify if they had been -- if they still existed and if they  
 10 had been altered over since the last time they were surveyed  
 11 and inventoried. And then if we -- during the course of  
 12 that work, if there were properties that weren't covered by  
 13 the previous survey work but now had become 50 years old or  
 14 older, we'd add those to the database.  
 15 **Q. Okay. And so you would add -- and so did you describe this,**  
 16 **I believe in your deposition, as a windshield survey?**  
 17 A. Yes.  
 18 **Q. Okay. And so what is a windshield survey?**  
 19 A. Well, there's -- the windshield survey is really just going  
 20 out and kind of -- the way I think of a windshield survey is  
 21 going out and driving around and just kind of having a  
 22 visual check on -- on resources that are known and  
 23 potentially finding ones that weren't previously known maybe  
 24 due to age. And then that helps us then do a little bit  
 25 more research and then go back out in the field for, you

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1 know, further verification.  
 2 **Q. So were there any forms you used when you did this**  
 3 **windshield survey?**  
 4 A. Yeah. We had a form that we would just fill out by hand,  
 5 write down the address, any notes about alterations that  
 6 maybe had -- that we could visually identify quickly.  
 7 **Q. What else did you describe on the survey form?**  
 8 A. Whether it was a commercial building or a house. And if it  
 9 was a house, what style was it.  
 10 **Q. So what do you mean by "style"?**  
 11 A. Like architectural style, so...  
 12 **Q. Did you specify what the condition of that property was on**  
 13 **the form?**  
 14 A. We typically don't really look at condition. It's more  
 15 architectural integrity.  
 16 **Q. Okay. So did you note down the architectural integrity on**  
 17 **that form?**  
 18 A. Yes.  
 19 **Q. And you said that this was then entered into the King County**  
 20 **database?**  
 21 A. Yes.  
 22 **Q. Okay. So from King County, did you get another job?**  
 23 A. Yes.  
 24 **Q. Okay.**  
 25 A. I got a job with the City's historic preservation program in

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1 2004 when I coordinated the International Special Review  
 2 District and Columbia City Landmark District.  
 3 **Q. So what I'm trying to figure out is we've had a lot of**  
 4 **testimony already about the nature of historic resources, so**  
 5 **we have landmark historic resources; is that correct?**  
 6 A. Do you mean --  
 7 **Q. In the City.**  
 8 A. -- officially designated landmarks?  
 9 **Q. Yes, by the City of Seattle.**  
 10 A. Yes.  
 11 **Q. That's one separate program; is that correct?**  
 12 A. Yes.  
 13 **Q. And then there's National Register historic districts;**  
 14 **you're aware of those?**  
 15 A. Yes, although I do not administer that program.  
 16 **Q. I'm not asking whether you administer it. I'm just asking**  
 17 **for the categories.**  
 18 A. Yes.  
 19 **Q. Okay. And what is a National Register historic district?**  
 20 A. That is a historic district that's designated to the  
 21 National Register.  
 22 **Q. And --**  
 23 A. Federal Register.  
 24 **Q. And this does not include just one building; is that**  
 25 **correct?**

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1 A. If it's a district, it likely includes more.  
 2 **Q. Do you know of any historic districts that are in**  
 3 **neighborhoods in the Seattle area?**  
 4 A. All of the National Register historic districts are in  
 5 neighborhoods.  
 6 **Q. Residential neighborhoods?**  
 7 A. Harvard-Belmont. Columbia City covers some neighbor -- you  
 8 know, residential areas. Fort Lawton has some residential.  
 9 Then there's -- those are the local -- also local historic  
 10 districts.  
 11 Then there's Montlake and Roanoke, and then I believe  
 12 Mount Baker was recently listed. And then there's a tiny  
 13 residential National Register historic district, and I can't  
 14 remember its name. But it's adjacent to one of the Olmsted  
 15 parks, and it just is comprised of some cottages.  
 16 But none of those are -- I don't believe any of those are  
 17 local landmark districts, which is what I administer.  
 18 **Q. Okay. But you're familiar generally with those historic**  
 19 **districts; is that correct?**  
 20 A. Generally.  
 21 **Q. Yes. And have you actually seen the applications for some**  
 22 **of those historic districts?**  
 23 A. Only the Mount Baker. The others I haven't, haven't seen.  
 24 I wasn't involved.  
 25 **Q. Okay. But you looked at Mount Baker's?**

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1 A. I have.  
 2 **Q. So within Mount Baker's, there's something called**  
 3 **"contributing buildings"?**  
 4 A. Yes.  
 5 **Q. And what does that mean?**  
 6 A. That means that those buildings are within the period of  
 7 significance, which is the period of historic significance  
 8 that's been identified in the nomination. And they're  
 9 buildings that have a high enough integrity that they still  
 10 convey that significance. That's my understanding of what  
 11 those are.  
 12 **Q. Are there also some resources within that district that**  
 13 **might be called "noncontributing"?**  
 14 A. Yes. Generally, those are buildings that were not  
 15 constructed or resources that were not constructed or built  
 16 within the period of significance. Or they are historic  
 17 noncontributing, meaning that they have be so highly altered  
 18 you can't determine that they were a historic resource or a  
 19 contributing resource.  
 20 **Q. So whether it's contributing or noncontributing, are these**  
 21 **still considered to be part of the National Historic**  
 22 **District?**  
 23 A. They're still within the boundary.  
 24 **Q. So now I just want to switch over to the Seattle database.**  
 25 **Are you familiar with the Seattle database?**

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1 A. Yes.  
 2 **Q. Okay. And why are you familiar with it?**  
 3 A. It's a part of the program that I administer.  
 4 **Q. And do you know when that database was started?**  
 5 A. I don't know when the database itself was created, but I do  
 6 know that the City, in the year 2000, started -- attempted  
 7 to start a comprehensive survey and inventory of the City.  
 8 **Q. And do you know whether there were any inventories that**  
 9 **existed before that database was started?**  
 10 A. There have been other survey and inventory projects before  
 11 then.  
 12 **Q. And was the data from those entered into that database to**  
 13 **your knowledge?**  
 14 A. The one survey that was started before that that was entered  
 15 was the survey of City-owned properties. And that was done  
 16 in the late '90s, and, therefore, was, you know, I think  
 17 relevant data to put in the database given that it just had  
 18 been done.  
 19 **Q. Okay. But anything before, let's say, that particular**  
 20 **survey where you might have had surveys done before that,**  
 21 **were those data put into the database?**  
 22 A. I don't -- I don't believe so.  
 23 **Q. Now, you work with the Department of Construction and**  
 24 **Inspections; is that correct?**  
 25 A. I do.

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1 **Q. Okay. And how do you work with them?**  
 2 A. We interface with them in the permitting process.  
 3 **Q. So why do they interface with you?**  
 4 A. So if there is a permit that's applied for that is for a  
 5 property that's within a district or is a property that's a  
 6 designated City landmark, SDCI cannot issue a building  
 7 permit or any permit before the landmarks board or the  
 8 relevant district order commission has approved that, the  
 9 change in that permit.  
 10 **Q. Does that apply to national historic districts as well?**  
 11 A. No, just if it's local.  
 12 **Q. So if some districts already been approved by the Parks,**  
 13 **National Park Service, is there some way that DCI would know**  
 14 **that these buildings are part of the National Historic**  
 15 **District?**  
 16 A. Only if it's a local, a local district as well.  
 17 **Q. Okay. So we have talked about landmark districts. Those**  
 18 **are Seattle landmark districts; is that correct?**  
 19 A. Local landmark districts.  
 20 **Q. And it's a local Seattle --**  
 21 A. Landmark.  
 22 **Q. -- district?**  
 23 **Okay. And so what does that mean?**  
 24 A. It means it's been designated by the City of Seattle City  
 25 Council.

1 **Q. So do you think it's important that the Department of**  
 2 **Construction and Inspections know about national historic**  
 3 **districts?**  
 4 A. It's not -- there's no regulation that requires them to know  
 5 about it.  
 6 **Q. If you had your druthers -- you like historic resources; is**  
 7 **that correct?**  
 8 A. It's my profession.  
 9 **Q. If you had your druthers, what you would you like to see**  
 10 **with respect to coordination between the National Historic**  
 11 **District and Department of Construction and Inspection?**  
 12 A. Well, I would -- my position is that we should be -- as the  
 13 code says, we should be designating more local landmarks, so  
 14 that's -- that's kind of my position is that we should be  
 15 designating locally more historic districts and more  
 16 landmarks to protect them, and then they have the local  
 17 regulation that would oversee it.  
 18 **Q. Why shouldn't there be a regulation that covers national**  
 19 **historic districts as well?**  
 20 A. Well, there is a regulation that covers that National  
 21 Register historic districts if there's a federal undertaking  
 22 involved.  
 23 **Q. Okay. By "federal undertaking," you mean what?**  
 24 A. So it could be a federal permit. It could be federal funds.  
 25 It could just be federal permission to do something. And

1 **Ravenna-Cowen for a north -- or Ravenna-Cowen North Historic**  
 2 **District?**  
 3 A. I am aware of that.  
 4 **Q. So assuming -- let's take a look at Mount Baker and**  
 5 **Ravenna-Cowen North Historic District.**  
 6 **Those would not have any -- if I can just paraphrase what**  
 7 **you said, those would not have any triggering mechanism for**  
 8 **SEPA review by DCI; is that correct?**  
 9 A. It depends on what -- if the project triggers review,  
 10 historic preservation review under the SEPA ordinance, then  
 11 there would be SDCI review.  
 12 **Q. Okay. What are the standards for that?**  
 13 A. I don't have the threshold chart in front of me.  
 14 **Q. Normally, it's at least a -- a unit of at least four --**  
 15 **A. It's a number of units.**  
 16 **Q. Four. Okay. But if you are upzoning from single-family**  
 17 **residential or you're going to Lowrise One or Lowrise Two,**  
 18 **would SEPA be -- just a loft, would SEPA be covered?**  
 19 A. I would have to -- like I said, I would have to look at  
 20 that -- that threshold chart, and I don't have that.  
 21 **Q. Do you have any notebooks in your office that have**  
 22 **information about properties in Seattle?**  
 23 A. Yes.  
 24 MS. BENDICH: If we could have that marked, Your Honor?  
 25 MALE SPEAKER: (Inaudible).

1 then that would trigger federal review, and as the certified  
 2 local government representative, I would have some input on  
 3 the impacts into that resource.  
 4 **Q. Okay. Thank you. So you mentioned Montlake.**  
 5 **That's a national historic district?**  
 6 A. Yes.  
 7 **Q. And were federal funds used for that national historic**  
 8 **district?**  
 9 A. So that National Register historic district came about  
 10 actually because of a federal undertaking, State Route 520  
 11 work, so the designation of that historic district was  
 12 due -- or was mitigation for that undertaking.  
 13 **Q. So I'm just trying to get clarity.**  
 14 **So that particular historic district, which is not in**  
 15 **the -- it's not a Seattle historic district?**  
 16 **Would that require some kind of review by DCI if there**  
 17 **were supposed to be changes there or upzoning there?**  
 18 A. So the only trigger would be if a project proposed in  
 19 that area triggered the thresholds in the code for historic  
 20 preservation review, which is in a SEPA ordinance.  
 21 **Q. Okay. And Mount Baker that you just mentioned, was any**  
 22 **federal funds used for that?**  
 23 A. I think that effort was the -- the neighborhood prepared  
 24 that nomination.  
 25 **Q. And are you aware that there's a proposal by the Friends of**

1 MR. JOHNSON: Is that one of your exhibits?  
 2 MS. BENDICH: Yes. This is Exhibit 28.  
 3 HEARING EXAMINER: Marked as Exhibit 46.  
 4 (Exhibit No. 46 marked for identification)  
 5 MR. BRICKLIN: 48? Did she say 48?  
 6 MR. JOHNSON: No, she said 28.  
 7 MS. BENDICH: This is 28 of Ravenna-Cowen's exhibits.  
 8 MR. BRICKLIN: Yeah, right. All right.  
 9 **Q. (By Ms. Bendich) Showing you Exhibit 46, Ms. Sodt, could**  
 10 **you describe what that is?**  
 11 A. These are notebooks in our office that document survey and  
 12 inventory work that was done in the '70s.  
 13 **Q. And do you use those?**  
 14 A. My staff does use these when we're doing -- when we're  
 15 reviewing SEPA referrals from SDCI as just one piece of  
 16 information that we have in our office usually to help us  
 17 with any historic photos that are in these notebooks. Then  
 18 we can assess changes that have been made to resource over  
 19 time, but only in conjunction with a -- or a site visit.  
 20 **Q. Do these have survey sheets in these notebooks?**  
 21 A. They do.  
 22 **Q. And do the survey sheets have a recommendation up at the**  
 23 **top? Some of them?**  
 24 A. I believe some of them do.  
 25 **Q. So do some of them have a recommendation that says**

1 "landmark"?

2 A. I believe so.

3 **Q. Do some of them have recommendations that say community**

4 **significance?**

5 A. I believe so.

6 **Q. And tell us what community significance means.**

7 A. Well, I don't know what I really meant in that context. I

8 would just be speculating that it means it's a resource

9 that -- that's significant to that neighborhood.

10 **Q. And do you know who -- what entity got those notebooks**

11 **together in the first place?**

12 A. I believe it was a City survey effort.

13 **Q. And how many neighborhoods were surveyed?**

14 A. I can't remember exactly off the top of my head, but it was

15 30-some. Thirty-four, perhaps?

16 **Q. So 34 neighborhoods within Seattle were surveyed, and do you**

17 **have an approximate date of that?**

18 A. I think it was the early -- like '74, '5.

19 **Q. Okay. Are there maps that show the areas that were covered?**

20 A. I do not know if maps still exist.

21 **Q. At your deposition were you shown pages from a map book that**

22 **had the areas where the City had conducted the survey?**

23 A. Yes.

24 **Q. Okay. And is that at your office?**

25 A. I believe so.

1 **Q. It says there's an alphabetical neighborhood listing of**

2 **neighborhoods, and there are 34 map pages there; is that**

3 **correct, just on the inside page?**

4 A. Yes.

5 **Q. And this is not the -- I'm sorry. It wasn't the inside**

6 **page. It was the -- one, two -- third page in. Sorry.**

7 **And this shows that there were surveys done in many, many**

8 **different areas of Seattle; is that correct?**

9 A. Yes.

10 **Q. Some of these areas have not been surveyed in Seattle to**

11 **this date again; is that correct?**

12 A. I believe that's -- that's true, except that either they

13 might have been covered by the neighborhood commercial

14 survey that you referenced or the pre-1906 residential

15 survey or the City-owned resources survey.

16 **Q. Well, if you just take a look at a few of those? So we have**

17 **Ravenna, for example.**

18 **Has that been surveyed by the City --**

19 A. No.

20 **Q. -- since this survey?**

21 A. Only inasmuch that it was covered by those thematic surveys

22 that I just mentioned.

23 **Q. How about Phinney? Was that surveyed by the City subsequent**

24 **to this survey?**

25 A. Only that -- to my knowledge, only inasmuch that they were

1 **Q. Okay.**

2 MS. BENDICH: (Inaudible) exhibit number. And this was

3 Friends of Ravenna-Cowen's No. 27.

4 (Exhibit No. 47 marked for identification)

5 **Q. (By Ms. Bendich) I'm going to show you this.**

6 **Are these -- if you could take a look at that first.**

7 MR. BRICKLIN: Friends of Ravenna-Cowen 27?

8 MS. BENDICH: Yes.

9 MR. BRICKLIN: (Inaudible).

10 **Q. (By Ms. Bendich) Is that the book of maps you were**

11 **referring to?**

12 A. I...

13 **Q. It's not a book.**

14 A. Sorry. I...

15 **Q. It's not a book. It's a little folder.**

16 A. I thought you were asking me if those addresses were mapped

17 on a map.

18 **Q. No, that's not what I meant.**

19 A. No.

20 Yes. These are -- I believe are from the notebooks.

21 **Q. Okay. These are maps of the areas that were surveyed in**

22 **there?**

23 A. It appears to be that, that way.

24 **Q. On the second page of that; do you see that?**

25 A. Yes.

1 surveyed by the three thematic surveys that I just

2 mentioned.

3 **Q. This is dating back to 1909; is that what you're saying?**

4 **I'm just trying to understand which survey you're talking**

5 **about.**

6 A. So the neighborhood commercial survey, which was your

7 exhibit that you had me refer to and then there was a

8 pre-1906 residential survey done Citywide which would have

9 covered all neighborhoods that had residential properties

10 that were both prior to 1906 and then a Citywide survey was

11 done of City-owned properties.

12 **Q. Okay. So I'm just trying to understand what's in the**

13 **database and what's not in the database.**

14 A. And all three of those surveys would have been in the

15 database.

16 **Q. And when was the 1909 one done?**

17 A. Sorry. Pre-1906 residential survey?

18 **Q. The pre-1906, yes.**

19 A. I believe that was done in 2004 to 2006.

20 **Q. Okay. Are you familiar with the ages of many of the**

21 **Craftsman and Tudor and bungalow-style homes in Seattle?**

22 A. Generally, yes.

23 **Q. And weren't most of those after 1906 when they were built?**

24 A. There would be a large number of them that would be built

25 after.

1 **Q. Would you say most of them were built during that period,**  
 2 **after 1906?**  
 3 A. Probably a majority.  
 4 **Q. So there's actually nothing in the database pre-1906, or**  
 5 **very little in the database pre-1906 which would cover the**  
 6 **wealth of Craftsman, bungalow, Tudor-style housing that came**  
 7 **along after 1906; is that correct?**  
 8 A. I can't definitively say that. But understanding  
 9 development in the City, that's the reason why we're trying  
 10 to capture the 1906 was those were the early residential  
 11 buildings.  
 12 **Q. I'm sorry. What was the early residential building?**  
 13 A. Pre-1906 would be early residential buildings in Seattle.  
 14 **Q. But you would not be capturing anything that came after**  
 15 **that; is that correct?**  
 16 A. Not in a pre-1906 survey.  
 17 **Q. All right. And I think you've already said that most of the**  
 18 **Craftsman and bungalow homes did come after 1906; is that**  
 19 **correct?**  
 20 A. I don't know that definitively, but based on my  
 21 understanding of development in the City, that is probably  
 22 accurate.  
 23 **Q. Okay.**  
 24 MS. BENDICH: Okay. While we're at it, could we move the  
 25 admission of Exhibits 46 and is that 47?

1 **This is a pretty old document; is that correct?**  
 2 A. Yes, 1979.  
 3 **Q. Okay. So where it says "red dot" at the bottom of that**  
 4 **page, it might not look red anymore; is that correct?**  
 5 A. Yes.  
 6 **Q. And a blue dot also doesn't look so blue sometimes, but it**  
 7 **says "possible community significance"; do you see that?**  
 8 A. Mm-hm, I do.  
 9 **Q. Okay. And then if you turn to the next set, there's a**  
 10 **little folder that says, "1979 inventory. Master**  
 11 **Neighborhood Listings," and then it says, "Updated December**  
 12 **of 1983"; do you see that?**  
 13 A. Yes.  
 14 **Q. And that's also there?**  
 15 A. Yes.  
 16 **Q. And let me just turn to the next set of pages, and it**  
 17 **goes -- does this go by neighborhood?**  
 18 A. It looks like it does.  
 19 **Q. Okay. It may change later on, so we'll go through that.**  
 20 **So their recommendations across the right side of the**  
 21 **page; do you see those?**  
 22 A. Yes, the dots.  
 23 **Q. And these all here are either land -- recommendation for**  
 24 **landmarking or for community significance; is that right?**  
 25 A. Yes, it looks like it.

1 MR. BRICKLIN: Yes, and 45.  
 2 HEARING EXAMINER: 45 through 47?  
 3 MS. BENDICH: And 45, yeah.  
 4 MR. JOHNSON: No objection.  
 5 HEARING EXAMINER: 45 through 47 are admitted.  
 6 (Exhibit Nos. 45 - 47 admitted into evidence)  
 7 **Q. (By Ms. Bendich) Okay. Now, in addition to the maps on the**  
 8 **bookshelf there, is there an index on the bookshelf -- let**  
 9 **me just make sure -- entitled "Inventory Listings"?**  
 10 A. Yes.  
 11 **Q. And have you taken a look at that?**  
 12 A. I did take a look at that.  
 13 **Q. Okay. And you took a look at this after your deposition?**  
 14 A. I did.  
 15 **Q. Okay.**  
 16 MS. BENDICH: This is Friends of Ravenna-Cowen, Exhibit  
 17 25, and I would like to submit this.  
 18 HEARING EXAMINER: Marked as Exhibit 48.  
 19 (Exhibit No. 48 marked for identification)  
 20 **Q. (By Ms. Bendich) So if you could thumb through this a**  
 21 **little bit, Ms. Sodt, I just want to make sure this is the**  
 22 **same thing that's on the bookshelf.**  
 23 A. It appears to be.  
 24 **Q. So turning to the inside cover, and I recognize that the**  
 25 **colors have faded out.**

1 **Q. And as far as you know -- and I don't expect a comprehensive**  
 2 **statement about this, but in general, are these addresses**  
 3 **that were taken from the notebooks that are in your office?**  
 4 A. They appear to match in some cases, and in some cases  
 5 they're -- I believe the notebooks have more, but I couldn't  
 6 quite tell.  
 7 **Q. Okay.**  
 8 HEARING EXAMINER: Ms. Bendich, I just want to check in  
 9 with you. We're about 50 minutes into the time we allocated  
 10 for direct and cross on this witness.  
 11 How are we doing?  
 12 MS. BENDICH: I would say another 10 to 15 minutes.  
 13 **Q. (By Ms. Bendich) Okay. So if you look through these, these**  
 14 **were all recommended as landmark, or they were all**  
 15 **recommended as community significance.**  
 16 **Has any of this, to your knowledge, been input into the**  
 17 **City of Seattle database?**  
 18 A. To my knowledge, this data was not inputted into the  
 19 database, although some of these could have been resurveyed  
 20 as a part of subsequent survey efforts and added to the  
 21 database.  
 22 **Q. So when you were going -- what's the number? This is...**  
 23 MS. BENDICH: Oh, I would move the admission.  
 24 HEARING EXAMINER: Of 48?  
 25 MS. BENDICH: Of 48, please.

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

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

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

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

1 **Q. Okay. But that's only if it's a landmark; is it not?**  
 2 A. But it's also unnecessary demolition of historic resources.  
 3 **Q. And then I'd just like you to briefly take a look again at**  
 4 **the comprehensive plan. Let me find that here quickly.**  
 5 MR. JOHNSON: I think it's No. 3.  
 6 MS. BENDICH: (Inaudible). Ah, here we are.  
 7 **Q. (By Ms. Bendich) If you could turn to the page that has the**  
 8 **little green sticky on it?**  
 9 MR. ABOLINS: Which is?  
 10 MS. BENDICH: This is in Section 3.5 -- I'm sorry. The  
 11 comprehensive plan.  
 12 **Q. (By Ms. Bendich) Could you read the number of the page**  
 13 **that's at the bottom of that?**  
 14 A. 66.  
 15 **Q. 66. And has the 2035 -- did the City Council with the**  
 16 **mayor's approval approve a section on preservation and**  
 17 **cultural resources?**  
 18 A. Yes.  
 19 **Q. And if you'll look down, does it say what the benefits are**  
 20 **of having historic preservation in that section?**  
 21 A. Yes.  
 22 **Q. And does it say that it's really important to acknowledge**  
 23 **and protect Seattle's heritage?**  
 24 A. Basically, it says that, yes.  
 25 **Q. And does it say that historic resources revitalize**

1 **the upzoning?**  
 2 A. I -- I don't know if that's how it's termed.  
 3 **Q. Okay. Are you familiar in general with the 2035**  
 4 **comprehensive plan?**  
 5 A. I am.  
 6 **Q. Okay. And you're aware that there are sections there on**  
 7 **neighborhoods?**  
 8 A. Yes, although I -- I haven't read them necessarily.  
 9 **Q. All right. We won't go there.**  
 10 A. Where they're there.  
 11 **Q. We won't go there.**  
 12 MS. BENDICH: Okay. Thank you, Ms. Sodt. I have no  
 13 further questions.  
 14 MR. BRICKLIN: Very briefly.  
 15  
 16 CROSS - EXAMINATION  
 17 BY MR. BRICKLIN:  
 18 **Q. And, Ms. Sodt, my name is Dave Bricklin. I'm representing**  
 19 **SCALE, the coalition of groups.**  
 20 **When you had said that your staff doesn't use the data**  
 21 **that's more than five years old, that was for project**  
 22 **review?**  
 23 A. Yes.  
 24 **Q. All right. How about for more general planning purposes,**  
 25 **evaluating more problematic plan-level proposals? Do you**

1 **commercial districts?**  
 2 A. Not in those words, but it says (as read): "Incubates  
 3 small, locally owned businesses. Revitalize" -- sorry.  
 4 "Revitalize commercial districts and generate local jobs."  
 5 **Q. And it's an important thing for tourism?**  
 6 A. Yes.  
 7 **Q. And then if you look down, are there land use goals?**  
 8 A. Yes.  
 9 **Q. And these comprehensive plan wants to maintain the City's**  
 10 **cultural identity and heritage; is that correct--**  
 11 A. Yes.  
 12 **Q. -- land use G.14.**  
 13 **And then policies. And it says LU 14.1. (As read):**  
 14 **"Maintain a comprehensive survey and inventory of Seattle's**  
 15 **historic and cultural resources"; do you see that?**  
 16 A. Yes.  
 17 **Q. Do we have that now in Seattle?**  
 18 A. We started one, and then we did not -- we lost funding to do  
 19 that.  
 20 **Q. And does it say (as read): "Update the survey and inventory**  
 21 **when developing a new community plan or updating an existing**  
 22 **plan as appropriate"?**  
 23 A. It does say that.  
 24 **Q. As part of the MHA FEIS process, is it your understanding**  
 25 **that this is basically developing a new community plan with**

1 **reach back and look at older data then?**  
 2 A. I haven't. I haven't had -- really had that opportunity to  
 3 do that sort of work.  
 4 **Q. So it hasn't presented itself one way or another?**  
 5 A. Yeah.  
 6 **Q. All right.**  
 7 A. I mean, we use the database, the electronic database.  
 8 **Q. Okay. Well, some of the information on the -- in the**  
 9 **database is more than five years old, right?**  
 10 A. That's true.  
 11 **Q. So you're using data older than five years all the time; is**  
 12 **that right?**  
 13 A. Yes, but I -- like I said, I -- how I use the database or  
 14 how my staff uses the database is we use it, but we also do  
 15 a field survey to get an updated understanding of a  
 16 property.  
 17 **Q. Right. But that's not project-specific, right?**  
 18 A. Mm-hm. And I don't know how other people have used our  
 19 database.  
 20 **Q. Okay. And were you here when Mr. Kasperzyk testified**  
 21 **earlier about the information he provided your department on**  
 22 **the Ballard historical inventory?**  
 23 A. I wasn't here for that.  
 24 **Q. You were not?**  
 25 A. Yeah.

1 **Q. All right. Are you aware that his organization has**  
 2 **presented a lot of information on the resources in Ballard?**  
 3 A. So I am aware they did this survey.  
 4 **Q. Yeah.**  
 5 A. And that survey work was inputted into our database.  
 6 **Q. All right. And so that would be -- you would view that as**  
 7 **current and useful information to be used?**  
 8 A. Because it wasn't -- it was done within the last five years,  
 9 yes.  
 10 MR. BRICKLIN: All right. Thank you.  
 11 HEARING EXAMINER: Cross?  
 12 MR. JOHNSON: Thank you.  
 13  
 14 CROSS - EXAMINATION  
 15 BY MR. JOHNSON:  
 16 **Q. Good afternoon, Ms. Sodt. I'm Dale Johnson on behalf of the**  
 17 **City. Thanks for your time this afternoon.**  
 18 **A few follow-up questions based on appellants' counsels'**  
 19 **questions.**  
 20 **Just to clarify your role with regard to this FEIS, you**  
 21 **did not prepare the historic resources section of this FEIS;**  
 22 **is that correct?**  
 23 A. That is correct.  
 24 **Q. Okay. And you said you had two meetings with the consultant**  
 25 **that prepared the FEIS?**

1 **Q. Okay. And then is there an eligibility recommendation made**  
 2 **with regard to those surveyed resources?**  
 3 A. Sometimes, and that -- so there -- there are resources that  
 4 were inventoried and kind of had a more thorough look at the  
 5 history of a resource and integrity. And then there's some  
 6 properties that were identified -- that would be identified  
 7 as, no, they don't have the integrity, and those would be in  
 8 the database, too.  
 9 **Q. Okay.**  
 10 A. And then there might be some that were identified as needing  
 11 more research, but we might not have had the time to do  
 12 that.  
 13 **Q. Okay. And so how many properties are in the database, if**  
 14 **you know?**  
 15 A. I don't know off the top of my head, but I -- the last time  
 16 I think I had a CCI tech (inaudible). They administer the  
 17 database for us, and it was over 5,000.  
 18 **Q. Okay. And if you just take those data points in excess of**  
 19 **5,000 as a -- as a number of data points, they could include**  
 20 **any of these categories of information you just discussed,**  
 21 **correct?**  
 22 A. Yeah.  
 23 **Q. Including a property that was recommended at -- or would**  
 24 **be -- someone concluded it was not eligible?**  
 25 A. That's correct.

1 A. That is correct.  
 2 **Q. And would you know who the consultant was?**  
 3 A. From ESA.  
 4 **Q. Okay. All right. You talked about -- in your first meeting**  
 5 **you discussed the regulatory framework regarding historic**  
 6 **preservation in the City of Seattle and the information or**  
 7 **data that might be available; is that right?**  
 8 A. Yes.  
 9 **Q. Okay. And then what did you do at the second meeting?**  
 10 A. The second meeting was basically to meet with me to talk  
 11 about some comments that were received about the chapter,  
 12 and primarily looking at the mitigation measures that were  
 13 identified.  
 14 **Q. Okay. All right. And can you just briefly state the**  
 15 **categories of information in the City database? And what I**  
 16 **mean by that is does it contain designated landmarks?**  
 17 A. It -- it would if they were designated after they -- the  
 18 survey and inventory had took place. Typically, when we're  
 19 doing a survey and inventory, we don't identify landmarks  
 20 and put -- you know, already designated landmarks and put  
 21 those in the database.  
 22 **Q. Okay.**  
 23 A. But they may be designated subsequently.  
 24 **Q. Okay. So it's surveyed resources?**  
 25 A. Potentially historic resources.

1 **Q. Okay.**  
 2 A. Mm-hm.  
 3 **Q. And, again, you talked about an initiative to try to survey**  
 4 **the entire City, if you will --**  
 5 A. Mm-hm.  
 6 **Q. -- for historic resources, and that would be kind of**  
 7 **boundary to boundary; is that right?**  
 8 A. Yeah.  
 9 **Q. But didn't get it done?**  
 10 A. No.  
 11 **Q. Okay. And as a result of that, are there some neighbors in**  
 12 **the City that have been better surveyed in a way that the**  
 13 **qualitative data related to historic resources in that**  
 14 **neighborhood may be better than another neighborhood?**  
 15 A. There -- there might be. Like one example is Ballard  
 16 because they did a recent comprehensive survey within those  
 17 geographic boundaries. Southeast Seattle has been surveyed  
 18 pretty comprehensively, although now the data is getting a  
 19 bit older. And that was, I believe as a result of  
 20 mitigation from -- I believe it was from the Mercer corridor  
 21 expansion, so it was a federal -- a part of a federal  
 22 undertaking, so it was mitigation for that.  
 23 **Q. Okay. And the mitigation was to actually go out and do --**  
 24 **A. Do the survey.**  
 25 **Q. -- the survey?**

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

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

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

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

1 and then we would compare it to this data. Mostly use it  
2 for kind of looking at a photo.

3 **Q. Okay.**

4 A. And then -- then we can kind of see how it's changed over  
5 time.

6 **Q. Okay. All right. And other than doing the site visit and  
7 kind of the specific work for individual properties, is  
8 there a way to tell whether these properties from this older  
9 data even still exists in light of the demolition?**

10 A. I think we'd have to do a site visit or go onto the  
11 assessor, the County's, or look at Street View on Google  
12 Maps.

13 **Q. Okay. And Ms. Bendich asked you a question about whether or  
14 not you provided this data, the older data to the EIS  
15 consultants, and you said no; is that right?**

16 A. Yeah. I don't -- I don't think I did.

17 **Q. And do you ever interface with other EIS consultants in  
18 terms of providing data or...**

19 A. In the regulatory framework, yes.

20 **Q. Okay. And is this data that you would provide to an EIS  
21 consultant normally?**

22 A. I don't believe I did for Uptown or South Lake Union, both  
23 of which I have worked on recently.

24 **Q. Okay.**

25 MR. JOHNSON: I don't have anything further.

1 **Q. From your desk?**

2 A. Presumably, yes.

3 (Inaudible colloquy)

4 **Q. (By Ms. Bendich) And can you access the County Assessor's  
5 data from your desk?**

6 A. Yes.

7 MS. BENDICH: Thank you, Ms. Sodt.

8 HEARING EXAMINER: Thank you, Ms. Sodt.

9 (Inaudible colloquy)

10 HEARING EXAMINER: Is she a direct witness of yours?

11 MS. BENDICH: No, she is not.

12 MR. BRICKLIN: No, she is not.

13 (Inaudible colloquy)

14 MS. BENDICH: Do you want me to...

15 MR. BRICKLIN: Yeah, can I feed one question?

16 MS. BENDICH: Can he advise me? Can he advise me since  
17 we're not (inaudible)?

18 HEARING EXAMINER: All right. We'll take one more  
19 question because we're going to need to wrap up.

20 (Inaudible colloquy)

21 **Q. (By Ms. Bendich) Okay. I believe Mr. Johnson asked you  
22 whether you have some information in the City that's better  
23 than other information in the City; is that correct? Or  
24 I'll ask...**

25 A. Oh...

1 HEARING EXAMINER: Redirect?

2 MS. BENDICH: Yes. I have some cross -- I mean,  
3 redirect.

4 REDIRECT EXAMINATION

5 BY MS. BENDICH:

6 **Q. Have you ever used these data that are in this windshield  
7 survey and found that the property looked exactly or very  
8 close to the way it did when these photos were taken?**

9 A. I can't think of an -- of an exact instance, but,  
10 presumably, there are some that haven't altered much over  
11 time.

12 **Q. And you talked about using Google Maps.**

13 **What's Google Maps? How would you utilize Google Maps?**

14 MR. BRICKLIN: Street View.

15 THE WITNESS: Street View.

16 MR. BRICKLIN: Street View.

17 **Q. (By Ms. Bendich) You would use the Street View?**

18 A. Yeah. You can go to an address and look at the Street View.

19 **Q. So it's pretty easy to do that, right?**

20 A. I suppose. Sure.

21 **Q. Okay. So if you had the addresses, you could actually do a  
22 Street View of each of these properties that are listed in  
23 this index?**

24 A. Presumably.

1 **Q. Do you have information in the City that you would say is  
2 better --**

3 MR. BRICKLIN: In some areas.

4 **Q. (By Ms. Bendich) -- in some areas that are better than  
5 others?**

6 A. I would say that some areas have been surveyed either more  
7 comprehensively or maybe had been covered by multiple  
8 surveys over time.

9 **Q. So there is data there.**

10 **Do you believe that data is useful for somebody, a member  
11 of the public, or somebody who's looking at this EIS to have  
12 access to?**

13 A. Sure, it is useful.

14 **Q. And do you see anywhere in the section on historic resources  
15 that identifies those properties?**

16 A. No. Just the chart that identifies that certain areas were  
17 covered.

18 MS. BENDICH: Thank you.

19 HEARING EXAMINER: Thank you, Ms. Sodt.

20 So wrap up. I'll need a copy of Exhibit 37.

21 Is that all set to go?

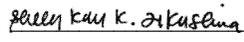
22 MR. JOHNSON: It should be.

23 MR. BRICKLIN: And could I get a copy of that, too?

24 MR. JOHNSON: I guess that would be...

25 HEARING EXAMINER: Oh, you're giving me the original?

1 MR. JOHNSON: I was giving you the original. I thought  
 2 you wanted to make a copy.  
 3 HEARING EXAMINER: No, I'll give you back --  
 4 MR. JOHNSON: You want us to make a color copy? Okay.  
 5 We'll make a color-copy, then, and (inaudible) in the  
 6 morning.  
 7 HEARING EXAMINER: And I just want to touch base with the  
 8 parties briefly. I haven't had a chance to do this earlier,  
 9 but my intent is to do essentially a rolling site visit over  
 10 the next month or two. I intend to visit the Urban Villages  
 11 and the proposed expansion areas. It will be a windshield  
 12 survey, and...  
 13 MR. BRICKLIN: Well, you can do it at your desk, too.  
 14 HEARING EXAMINER: I don't know. Yeah, actually, I  
 15 probably will.  
 16 MR. BRICKLIN: Google Street View.  
 17 HEARING EXAMINER: (Inaudible) Street View of things.  
 18 And I put it out there. If there's anything other than  
 19 those areas that I plan to see that I need that brought to  
 20 my attention, I'm happy to consider it. We don't need to do  
 21 that now.  
 22 MS. BENDICH: Okay.  
 23 HEARING EXAMINER: But at some time I'll get to that.  
 24 And with that, we are adjourned for the evening. I'll  
 25 see you tomorrow.

1 CERTIFICATE  
 2  
 3 STATE OF WASHINGTON )  
 4 )  
 5 COUNTY OF KING )  
 6  
 7 I, the undersigned, do hereby certify under penalty  
 8 of perjury that the foregoing court proceedings were  
 9 transcribed under my direction as a certified court reporter;  
 10 and that the transcript is true and accurate to the best of my  
 11 knowledge and ability, including any changes made by the trial  
 12 judge reviewing the transcript; that I received the audio  
 13 and/or video files in the court format; that I am not a  
 14 relative or employee of any attorney or counsel employed by the  
 15 parties hereto, nor financially interested in its outcome.  
 16  
 17 IN WITNESS WHEREOF, I have hereunto set my hand  
 18 this 11th day of July, 2018.  
 19  
 20  
 21  
 22   
 23 Shelby Kay K. Fukushima, CCR#2028  
 24  
 25



1 MS. BENDICH: Thank you.  
 2 (June 26, 2018, hearing concluded.)  
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## Hearing - Day 3

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

June 27, 2018



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BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

---

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

---

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

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TRANSCRIBED BY: Marjorie Jackson, CET

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A P P E A R A N C E S

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

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2 June 27, 2018

3

4 THE COURT: Return to the record for June 27 and continue

5 with the appellant's case.

6 MR. BRICKLIN: Recall Mr. Steinbrueck.

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

8 last time.

9 MR. BRICKLIN: Resuming his testimony.

10

11 DIRECT EXAMINATION (continued)

12 BY MR. BRICKLIN:

13 Q. Good morning, Mr. Steinbrueck.

14 A. Good morning. Thank you.

15 Q. So I want to cover a couple of items that we didn't quite

16 finish with the other day. First, in Appendix -- did you

17 notice that in Appendix F of the EIS there's a description

18 of the actual proposal that was being described in the EIS,

19 the detailed code amendments and zoning maps --

20 A. Yes.

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

22 Appendix F?

23 MS. BENDICH: F is marked in here.

24 MR. BRICKLIN: Excuse me? And do you have a -- oh, yes,

25 he has a copy of that. Could you -- Ms. Bendich will

Page 8

1 help --

2 A. Sure.

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

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

5 COS 2054.

6 THE COURT: Okay.

7 Q. (By Mr. Bricklin) And the first couple of pages of

8 Appendix F includes some tables describing increases in

9 development capacity in various zones under the proposal.

10 And then that's followed by text that first having described

11 other development capacity increases and then new and

12 modified development standards.

13 A. Um-hum.

14 Q. And then when you turn to page F6, you come to a section

15 titled Rezone Criteria.

16 A. Yes.

17 Q. And the other day I think you were testifying about a change

18 in Rezone Criteria and there was an objection that you were

19 making reference to a council bill, and the council bill

20 wasn't part of this proceeding or something. And so instead

21 of referring to a council bill today, we will have you refer

22 to the rezone criteria as described in -- or the changes to

23 the rezone criteria as described in Appendix F6.

24 A. Okay.

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

Page 9

1 A. I'm looking for my copy of the same. There we go. Okay.

2 **Q. All right.**

3 A. Okay, got it.

4 **Q. So do you have a copy of that?**

5 A. Um-hum.

6 **Q. Okay.**

7 A. 23.34.010.

8 **Q. Correct. And I see that -- you know, this is in a typical**

9 **strikeout version, so the current language is what's not**

10 **stricken out. So this is a section that's currently titled**

11 **Designation of Single-Family Zones. And its proposed -- the**

12 **title would be amended to say Designation of SF 5,000, SF**

13 **7200 and SF 9600 Zones. Are we in the same place?**

14 A. Yes, we are.

15 **Q. All right. And then paragraph B of that section as it**

16 **currently reads before the strikeout says: "Area zoned**

17 **single-family or RSL that meet the criteria contained in**

18 **Section 23.34.011(b) and that are located within the adopted**

19 **boundaries of an urban village may be rezoned to zones more**

20 **intense than single-family if all of the following**

21 **conditions are met." Do you see that language?**

22 A. Yes.

23 **Q. All right. And the first subsection, the first condition**

24 **that must be met in the current language is: "A**

25 **neighborhood plan has designated the area as appropriate for**

Page 10

1 **the zone designation, including specification of the RSLT,**

2 **RSLC or RSLTC suffix if applicable." Do you see that**

3 **language?**

4 A. Yes, I do.

5 **Q. And is this the language that you were referring to the**

6 **other day when you said that the proposal includes a**

7 **deletion of language that would require sub zones in the**

8 **urban village to be consistent with the neighborhood plan?**

9 A. Yes, it is. And thank you for finding it for me.

10 **Q. All right. And so with that big foundation now set --**

11 A. Yes.

12 **Q. -- what was your opinion as to whether the -- well, first of**

13 **all, what's the impact of that? And then I'm going to ask**

14 **whether the EIS considered the impact of that.**

15 A. Well, first of all, the impact has not been identified,

16 discussed or analyzed. And this is perhaps one of the most

17 significant strikeouts in this proposal, because it

18 essentially abandons a 25-year, maybe more, commitment that

19 the City made in the adoption of the neighborhood plans in

20 the late 1990s. And the work that preceded those plans,

21 literally the largest community involvement, engagement

22 effort ever undertaken in the city, a bottom's up approach

23 to planning as opposed to typical top down as reflected in

24 those neighborhood plans.

25 This language strikes that, all of that. Removes it from

Page 11

1 consideration within the urban villages, and I think in some

2 areas outside the urban villages for consideration under the

3 rezone locational criteria.

4 **Q. So in terms of the SEPA rule requirement that a EIS**

5 **addresses the relationship of the proposal to the existing**

6 **plans and the Seattle regulation that requires EIS --**

7 MR. JOHNSON: Objection; he's leading and testifying.

8 **Q. (By Mr. Bricklin) -- to address --**

9 MR. BRICKLIN: May I finish the question first to see if

10 it's leading or not?

11 THE COURT: We do need to let him finish the question.

12 MR. JOHNSON: Okay.

13 THE COURT: You can restate your objection.

14 **Q. (By Mr. Bricklin) And in regard to the Seattle regulation**

15 **that requires an EIS to consider the consistency or**

16 **inconsistency of the proposal of the planned use plans, do**

17 **you have an opinion as to whether this EIS has addressed the**

18 **relationship of this part of the proposal with the City's**

19 **existing comprehensive plans and neighborhood plans?**

20 A. Well, my general understanding of the principles here have

21 been basically preempted -- let me say that the need to

22 identify and at least generally identify policies,

23 regulations, et cetera, that may be in conflict with the

24 proposal, to identify those in a general sense, discuss

25 them, and discuss alternative approaches to their

Page 12

1 application.

2 In this case, I think it's preemptive by simply

3 eliminating an entire body of historically established work

4 and regulatory scheme under the comprehensive plan and the

5 reasonable criteria; simply struck out, therefore no

6 discussion, no identification, we don't need to deal with

7 the neighborhood plans. That's kind of how I see it.

8 **Q. All right. Now, also on Monday you identified a number of**

9 **inconsistencies between the proposal and a whole raft of**

10 **comprehensive plan policies, both citywide and in the**

11 **neighborhoods. And the -- you mentioned in that testimony,**

12 **I believe, that the EIS did not conclude a clear description**

13 **of how -- of the part of the proposal that would involve**

14 **amending the comprehensive plan and neighborhood plans to**

15 **allow this proposal to go forward. Do you recall that part**

16 **of your testimony?**

17 A. Yes.

18 **Q. And I believe you also testified that the EIS not only did**

19 **not describe that part of the proposal, but it didn't**

20 **describe alternative means of amending the planning**

21 **documents to create consistency.**

22 MR. BRICKLIN: This is our -- our No. 46.

23 THE COURT: Marked as 49.

24 (Exhibit No. 49 marked for identification.)

25 **Q. (By Mr. Bricklin) Handing you what's been marked for**

1 identification as Exhibit 49. Do you recognize this  
 2 document?  
 3 A. I do.  
 4 **Q. And what is this?**  
 5 A. Well, it only came to me recently, but it appears to be a  
 6 piece of public information -- or information that was  
 7 intended to put out before the public ways to get involved,  
 8 potential changes, who's going to be affected, ways to get  
 9 engaged. And it's titled: 2018 Comprehensive Plan  
 10 Amendments. And it's a set of proposed amendments by  
 11 various neighborhoods with strikeouts to those neighborhood  
 12 plans, policies and goals.  
 13 MR. BRICKLIN: So, first I'll move the admission of  
 14 Exhibit 49.  
 15 MR. JOHNSON: No objection.  
 16 MR. BRICKLIN: And it lists one, two, three, four, five,  
 17 six, seven --  
 18 THE COURT: 49 is admitted.  
 19 (Exhibit No. 49 is admitted into evidence.)  
 20 **Q. (By Mr. Bricklin) So for instance, just using the first one**  
 21 **in the package there, Aurora-Licton Springs, I see that**  
 22 **there are -- there's a policy identified AL-PQ, protect the**  
 23 **character and integrity of Aurora-Licton's single-family**  
 24 **areas. This is an -- the pages are not numbered, but it's**  
 25 **the second page of the document, Aurora-Licton Springs, the**

1 chapter.  
 2 **Q. All right. And did you notice that that chapter is then**  
 3 **based to some extent on the Appendix A which is the**  
 4 **so-called race and social equity atlas, I think?**  
 5 A. Equity and growth analysis report.  
 6 **Q. Yes. Thank you. So you're familiar with that?**  
 7 A. I am.  
 8 **Q. And did you have any -- did you develop any opinions**  
 9 **regarding the -- oh, how would you put it -- on the**  
 10 **limitations of using that report and whether those**  
 11 **limitations were acknowledged in the body of the EIS?**  
 12 A. Well, I would avoid opinion making here. I think the report  
 13 itself lists an entire page plus of limitations, caveats and  
 14 cautions with regard to the use of that report and its  
 15 preliminary assessment of race and social justice issues,  
 16 particularly opportunities in displacement areas of the city  
 17 which it attempted to map in fairly considerable detail.  
 18 **Q. All right. So let's find those, if you will.**  
 19 A. Yeah.  
 20 **Q. So if we turn to the growth and equity report, Appendix A.**  
 21 A. Um-hum, okay.  
 22 **Q. And if we could find that here.**  
 23 MS. BENDICH: (Inaudible).  
 24 A. Yeah.  
 25 **Q. (By Mr. Bricklin) Appendix A. So we're going to flip to**

1 **policy: Protect the character and integrity of**  
 2 **Aurora-Licton single-family areas within the boundaries of**  
 3 **the Aurora-Licton urban village. And then there are three**  
 4 **options provided for modifying that policy to create a**  
 5 **situation where the proposal would be consistent with this**  
 6 **policy; is that right?**  
 7 A. Yes. A, B, and C options.  
 8 **Q. Right. And in the EIS, was there anything parallel to this**  
 9 **in terms of identifying different options for how policies**  
 10 **might be amended to create consistency with the proposal?**  
 11 A. No.  
 12 **Q. And I don't want to focus on specific text proposals because**  
 13 **the examiner has ruled that the EIS didn't need to set forth**  
 14 **the text of proposed amendments. But even in a conceptual**  
 15 **way, did the EIS provide any proposal or alternatives for**  
 16 **modifying the neighborhood plan?**  
 17 A. Nothing specific.  
 18 **Q. All right. So let's turn to the part of the EIS that talked**  
 19 **about housing, and in particular race, some social justice**  
 20 **issues related to the housing.**  
 21 **First of all, in your years of experience in the public**  
 22 **and private realm have you -- have you seen many, if any,**  
 23 **EISes that have had long sections dealing with socioeconomic**  
 24 **issues as this one did?**  
 25 A. No. It's about a hundred pages there. About an entire

1 **the beginning of this volume, or --**  
 2 MS. BENDICH: No, not the beginning.  
 3 MR. BRICKLIN: Okay.  
 4 MS. BENDICH: Here it is.  
 5 MR. BRICKLIN: All right. Thank you. Mandatory Housing  
 6 Authority, Appendix A.  
 7 **Q. (By Mr. Bricklin) Okay. We're into the growth and equity**  
 8 **analysis, analyzing impacts on displacement and opportunity**  
 9 **related to Seattle's growth strategy. And if you would then**  
 10 **turn to page 15 of that document.**  
 11 A. Okay, yes.  
 12 **Q. Is that the page and a half of limitations that you were**  
 13 **referring to?**  
 14 A. Yes, it is.  
 15 **Q. And I notice in the first -- or number of bullets there, and**  
 16 **the first one is titled -- it's actually: "All data sources**  
 17 **have limitations." Do you see that one?**  
 18 A. Um-hum, yes. Second paragraph.  
 19 **Q. Right. And I notice the -- why don't you read the second**  
 20 **sentence of that one.**  
 21 A. "These indices are high-level assessments that can  
 22 inform" -- parentheses -- "(but should not predetermine)  
 23 decisions about growth, investment and policy."  
 24 **Q. And then one more sentence.**  
 25 A. "Greater historical and qualitative context is needed to

1 avoid simplistic conclusions."  
 2 **Q. All right. Do you believe that the EIS itself in the main**  
 3 **volume that readers would turn to reflected those**  
 4 **limitations?**  
 5 A. Yes, I believe that -- no, I believe it went far beyond  
 6 those limitations. And I would say that's my evaluation of  
 7 that section of the socioeconomic issues.  
 8 **Q. Okay.**  
 9 A. That it was an over application.  
 10 **Q. And are there any specific things that you went to mention**  
 11 **in that regard?**  
 12 A. Yes. And it's also reflected in limitation in the third  
 13 paragraph here: "The indices present snapshots in time  
 14 based on available data, census track data, income data,  
 15 household data, household race related demographics."  
 16 And my feeling is that if -- my view is, as a professional  
 17 involved in long-term planning, that you don't embrace a  
 18 concept -- a theoretical concept such as this based on  
 19 limited data, based on a temporal condition, here and now,  
 20 and set regulatory -- a regulatory scheme for the next 20  
 21 years based on that. In other words, making laws that form  
 22 a solid basis going forward for land use and development.  
 23 And that's why I think under the limitations these indices  
 24 present snapshots in time, and I'm quoting from the growth  
 25 and equity page on limitations, based on best currently

1 significant upzones to the University District as part of  
 2 the MHA.  
 3 MR. BRICKLIN: And the examiner has heard that the MHA  
 4 proposal was rolled out in the University District and in  
 5 uptown --  
 6 A. That's right.  
 7 **Q. (By Mr. Bricklin) -- in advance of the citywide --**  
 8 **A. Urban centers, University District among them.**  
 9 **Q. Right. And so you were -- when that was in the proposal**  
 10 **stage, you were retained by a hundred or so businesses in**  
 11 **that area to evaluate the impact of MHA on those businesses?**  
 12 A. That's correct. And it was at a -- as I said, a critical  
 13 time when the upzone was before the city council and  
 14 committee and for the entire University District, and this  
 15 was kind of a community intervention at that time.  
 16 **Q. And why don't you give the examiner a little bit of the -- a**  
 17 **very brief description of the commercial setting in the**  
 18 **U-District. What's it look like up there?**  
 19 A. Sure. And I'm going to speak -- there are several corridors  
 20 of small business. Our focus was on the University Ave  
 21 from about 40th Northeast to about 58th, 55th Northeast,  
 22 only on the Ave corridor. We didn't have the resources to  
 23 extend that to Brooklyn, Roosevelt, other areas where  
 24 there's intensity of small business commercial uses, so we  
 25 focused on the corridor.

1 available data and research indicating relationships between  
 2 that data and both displacement risk and assess opportunity.  
 3 I think there's something missing there, but...  
 4 **Q. There's plenty more in terms of the precautionary notes for**  
 5 **the use of this data. All right.**  
 6 **You mentioned in your testimony the other day two**  
 7 **different kinds of displacement. There's been a lot of**  
 8 **discussion so far in the hearing about displacement in the**  
 9 **residential market, but you also mentioned briefly the other**  
 10 **day displacement in the commercial sector.**  
 11 A. That's right.  
 12 **Q. And I didn't get a chance the other day to ask you to**  
 13 **expound on that. What was your testimony about that?**  
 14 A. Oh, well, I think -- if I recall, that I testified to the  
 15 effect that the proposal and the analysis of potential  
 16 impacts doesn't address commercial displacement, which is to  
 17 say businesses and non-residential.  
 18 **Q. Right. And what's your knowledge regarding that phenomenon?**  
 19 **Do you have any experience in --**  
 20 A. Well, I do. In fact, I conducted a survey and a study of  
 21 small business vulnerabilities in the University District on  
 22 behalf of a coalition of over a hundred small businesses  
 23 that participated independently of the City. This was not a  
 24 consultant study for the City. It was done for the  
 25 businesses at a critical time when the City was considering

1 **Q. And what's the character of the businesses on that corridor?**  
 2 **What's the makeup?**  
 3 A. Unique, let me say that, to the City. It's one of the  
 4 second or third largest commercial districts in the City.  
 5 It's an urban center. But what particularly defines the  
 6 University District's small businesses is there's a  
 7 multitude of them, a very fine granularity where you'll see  
 8 multiple small businesses on a single block and multiple  
 9 buildings, many of which offer historic character as well,  
 10 that offer smaller tenant spaces to support small  
 11 businesses. And there's probably in excess of 200 small  
 12 businesses in that -- from 40th to 60th roughly, I'd say  
 13 closer to 250, but we weren't able to calculate them all --  
 14 quantify them all because some are on upper floors. Things  
 15 like Open Flight Dance Studio on an upper floor, a massage  
 16 or therapy studio, professional services, a whole range of  
 17 services and retail opportunities that uniquely defines the  
 18 University District. We also examined the demographic  
 19 characteristics of those small businesses by a door-to-door  
 20 survey.  
 21 **Q. And what did you find?**  
 22 A. We found a predominance of perhaps 70 percent of the owners  
 23 minority, women, with minority and women employees and with  
 24 month-to-month tenancies often.  
 25 **Q. And what -- did you then evaluate how the upzone proposed by**

1 **the City's MHA proposal would impact those retailers?**  
 2 A. We attempted to, again with very limited resources and  
 3 virtually no help from the City.  
 4 **Q. Um-hum. And what did you find?**  
 5 A. We found what I would consider in my professional view a  
 6 very high level of vulnerability in terms of potential  
 7 displacement due to redevelopment, and exacerbated by a more  
 8 intense upzone capacity.  
 9 **Q. And how would that play out in a given situation?**  
 10 A. Well --  
 11 **Q. How does that work in the market?**  
 12 A. -- typically you have a month -- an agreement that allows  
 13 you month to month and the rents can go up just about any  
 14 time, or you can be asked to leave. And so a developer  
 15 amasses a full block or half block for a future larger scale  
 16 mixed use project and is able to assemble the parcels, and  
 17 the commercial tenants basically have -- are left extremely  
 18 vulnerable and have nowhere to go basically. Can't probably  
 19 leave and return either in the course of the redevelopment.  
 20 **Q. Okay.**  
 21 A. And so I have witnessed and documented the change in this  
 22 phenomenon in different parts of the city.  
 23 **Q. And that was going to be my next question.**  
 24 A. Yeah.  
 25 **Q. So you said you did this study in the University District.**

1 **study you did for the City that's been referenced as a**  
 2 **ten-minute walk study. Are you familiar with that?**  
 3 A. I certainly am.  
 4 **Q. And why don't you explain to the examiner what that study is**  
 5 **about.**  
 6 A. Sure. Well, I think -- are you referring to my urban  
 7 village study?  
 8 **Q. Yes.**  
 9 A. Well, it embodied quite a bit more than the walk study.  
 10 **Q. Yes, so --**  
 11 A. But I'll define a walk shed for you.  
 12 **Q. Well, why don't you start by describing the whole study and**  
 13 **then we'll zero in on the walk shed.**  
 14 A. Sure. This is I think one of our exhibits here, at least a  
 15 different version of the exhibits, we'll get to that. But  
 16 it's entitled: Seattle 2035 Urban Village Study, and I'm  
 17 referring to my draft final report of August 2015. And it  
 18 was undertaken as a -- I was a consultant to Department of  
 19 Community Development pursuant to the work that was underway  
 20 with regard to the Seattle Comprehensive Plan 2035, 20-year  
 21 update. This was intended to do a number of things, but to  
 22 examine current characteristics -- functional  
 23 characteristics of each of the City's urban villages, each  
 24 of the 30 urban villages. And there's a lot more detail to  
 25 that. But so basically an analysis of existing conditions

1 **Of course, this EIS is about other parts of the city.**  
 2 **Do you think the findings that you made with regard to the**  
 3 **retail district and the University District would apply**  
 4 **elsewhere around the city?**  
 5 A. I do. And while I'm not an economist, when you look at the  
 6 scattering of minority-owned small businesses throughout the  
 7 city -- particularly southeast Seattle including north  
 8 Rainier, areas like Ballard have undergone considerable  
 9 transformation in terms of change of business mix,  
 10 tenancies, et cetera. But you find -- again, these are  
 11 character-defining elements of most neighborhood business  
 12 districts throughout the city, and they vary considerably in  
 13 size and scale also and extent.  
 14 **Q. And in your review of the EIS, did you see any evaluation of**  
 15 **the impact of the proposal on minority businesses and retail**  
 16 **districts around the city?**  
 17 A. No. And I would further say that the growth and equity  
 18 study did not address commercial displacement, commercial  
 19 opportunity, commer- -- equity and --  
 20 **Q. So this whole focus on race and social justice was limited**  
 21 **to the residential market --**  
 22 A. I would say.  
 23 **Q. -- and did not address the retail commercial market?**  
 24 A. That is correct.  
 25 **Q. All right. Last, I think, let's talk about the -- it's a**

1 in these villages.  
 2 I was also asked to consider the construct of a ten-minute  
 3 walk shed which is defined as identifying the center of a  
 4 high capacity transit hub -- node, if you will -- within a  
 5 given urban village that exists today or is planned, and  
 6 identify basically walking distance for an average person to  
 7 that node as it relates to the urban village boundaries.  
 8 And I was also provided from -- the City provided me with  
 9 a set of proposed boundary adjustments, perhaps about ten of  
 10 them, I believe, including one new urban village potential  
 11 designation out at 130th. And there were some rather  
 12 sketchy lines drawn to -- that intended to identify the  
 13 ten-minute walk shed from that center, that transit center.  
 14 And I was asked to basically what's called ground truth  
 15 those -- a planning term -- to ground truth those proposed  
 16 boundary changes.  
 17 **Q. And so the basic idea is you want to encourage higher**  
 18 **density growth close to these transit nodes?**  
 19 A. Yes. And it's very consistent with the urban growth  
 20 strategy and the City's overall growth strategy to  
 21 concentrate intensity of both residential and employment  
 22 densities near these transit hubs.  
 23 **Q. And so how did you go about ground truthing the ten-minute**  
 24 **nodes --**  
 25 A. Well, with the assistance of --

1 **Q. -- ten-minute walk sheds, excuse me?**  
 2 A. -- with some highly skilled technical folks at the urban  
 3 ecology lab at the University of Washington Department of  
 4 Planning. I took the maps that the City gave me, and I  
 5 produced some more accurate maps as overlays of the city's  
 6 street grid, topographic lines, et cetera, parcels. And I  
 7 went to -- I visited each of those urban villages and  
 8 explored the city's proposed boundaries and identified  
 9 anomalies or problems or conflicts with laying those out on  
 10 a firm basis.  
 11 **Q. Can you give an example of a problem that -- just**  
 12 **generically what sort of thing might be of --**  
 13 A. Well, the city's lines went through mid-blocks, went through  
 14 parcels, cut across parcels, were erratic, and not  
 15 particularly clear in terms of if you were to actually map  
 16 them on a street grid, it was very difficult. They also  
 17 ignored topographic conditions, greenbelts and such, and  
 18 changes in land use.  
 19 **Q. Okay. And what other -- apart from ground truthing these**  
 20 **lines and with an eye towards identifying areas that are**  
 21 **within ten minutes' walk of the transit node, what else did**  
 22 **you cover in the study that you drafted?**  
 23 A. Well, I noted conditions had varied and deviated from --  
 24 that should be considered in solidifying those lines. I  
 25 produced a set of maps that are contained in the book but

1 not in the published report, a whole set of livability  
 2 characteristics and potential changes to the comprehensive  
 3 plan to reinforce livability characteristics, which I  
 4 defined in considerable detail.  
 5 **Q. Okay. So the --**  
 6 MR. BRICKLIN: Let's mark this. Our next exhibit is 50  
 7 maybe?  
 8 THE CLERK: Yes.  
 9 MR. JOHNSON: Which exhibit of yours is this?  
 10 MR. BRICKLIN: 29.  
 11 A. I will say that I regret now that I didn't submit this as an  
 12 exhibit. I had thought that the one that was submitted  
 13 contained my task 3 section.  
 14 MR. BRICKLIN: We'll explain that in a second. Okay. All  
 15 right.  
 16 **Q. (By Mr. Bricklin) So I'm going to hand you Exhibit 50.**  
 17 A. Yeah, okay.  
 18 **Q. So do you recognize that document?**  
 19 A. Yes, I do.  
 20 **Q. And what is that?**  
 21 A. This is the City's publication of my urban village study in  
 22 2016.  
 23 **Q. All right. And you've made reference to this --**  
 24 MR. BRICKLIN: And we'd move the admission of Exhibit 50,  
 25 Your Honor.

1 are not -- were not intended to be a final recommendation  
 2 but a preliminary one as a starting point, not an end point.  
 3 And taking simply the ten-minute walk shed and aligning it  
 4 with the street grid.  
 5 **Q. I guess that's an important point.**  
 6 A. Yeah.  
 7 **Q. What is -- so why don't you elaborate on that. What do you**  
 8 **mean that it was a starting point? What would come next in**  
 9 **your mind?**  
 10 A. Well, it excluded a whole set of recommendations I made for  
 11 making a final determination of those boundaries that would  
 12 consider the neighborhood plans, underlying zoning, the  
 13 existing characteristics of the urban villages, such as are  
 14 they big enough now to support the growth that is called  
 15 for? Will they likely or not achieve the densities  
 16 that support -- what I call transit supported densities,  
 17 such as 15 housing units per acre, which I recommended.  
 18 Many of the urban villages in their current characteristics  
 19 are perhaps less than half that density today.  
 20 So the changes and recommendations I made there looked  
 21 more holistically at these various functional  
 22 characteristics and criteria. And I felt that the need --  
 23 there was a need to go much further before finalizing the  
 24 boundaries. And I recommended that in my report. I also  
 25 established under a task 3 of the consultant study, which is

1 THE COURT: Help me understand what this is.  
 2 MR. BRICKLIN: I'm sorry.  
 3 THE COURT: This is the study that he was just talking  
 4 about, something that wasn't --  
 5 MR. BRICKLIN: So let me clarify this. All right.  
 6 **Q. (By Mr. Bricklin) So you've made reference to a redacted**  
 7 **version and then there's this Exhibit 50. Why don't you**  
 8 **explain that sequence of events to the examiner.**  
 9 A. Okay. Sure. Of course, again we're referring to the  
 10 Seattle 2035 Urban Village Study Consultant Report  
 11 produced -- conducted by my firm, Steinbrueck Urban  
 12 Strategies, in the summer and fall of 2015. The background  
 13 report intended to inform the Seattle Comprehensive Plan  
 14 2035 and the urban village strategy.  
 15 **Q. All right. Explain how it changed from one version to the**  
 16 **next.**  
 17 A. I completed my report and all of the requirements of my  
 18 consultant contract and delivered the report on August 15th,  
 19 2015 -- August 2015. And several months later, the City  
 20 released -- and I'm not sure of the exact date, but it was  
 21 in 2016 -- I believe early 2016, a altered report.  
 22 **Q. All right. And is the altered report that the City**  
 23 **released, is that Exhibit 50?**  
 24 A. Yes, it is, according to the table of contents and the cover  
 25 letter.

1 **Q. And how does the altered report vary from the one you**  
 2 **submitted to the City?**  
 3 A. It eliminated or deducted task 3, pages 130 through, I  
 4 believe, 156 of the report.  
 5 **Q. And what was the gist of that part of the report?**  
 6 A. Evaluation -- the title: Evaluation of Livability  
 7 Characteristics For the Urban Villages. And then there were  
 8 several subareas: Analysis of the 2035 draft plan for  
 9 live -- growth strategies, livability goals and policies,  
 10 recommendations for new goals and policies, key livability  
 11 indicators analysis and recommendations. And the literature  
 12 review, which I undertook of cities in other parts of the  
 13 country and research in this area.  
 14 **Q. Did the City explain to you why they had redacted a portion**  
 15 **of your report?**  
 16 A. This is anecdotal and a recollection in a conversation I had  
 17 with my project manager, Tom Hauger, who was the City's top  
 18 comprehensive plan senior planner, and who I reported to in  
 19 the undertaking of this work. And he said it wasn't needed.  
 20 I recall this section because the Hala MFA agenda had leaped  
 21 forward, and I was six months too late to be making these  
 22 recommendations, so it was not relevant at that point is  
 23 what I recall as the explanation. And I was concerned about  
 24 that because I felt that this was very important information  
 25 to help inform the MFA program --

1 UNIDENTIFIED SPEAKER: And I can just explain that, Your  
 2 Honor, that that was an error on my part because I thought  
 3 that the City's published version was my version, and I  
 4 found out subsequently it was not.  
 5 THE COURT: And you've asked that this be admitted?  
 6 MR. BRICKLIN: Yes.  
 7 THE COURT: Any objection to 50?  
 8 MR. JOHNSON: No objection.  
 9 THE COURT: I'm sorry.  
 10 MR. JOHNSON: No objection.  
 11 THE COURT: 50 is admitted.  
 12 (Exhibit No. 50 is admitted into evidence.)  
 13 THE COURT: Mr. Bricklin.  
 14 **Q. (By Mr. Bricklin) Thank you. So I want to go back. The**  
 15 **part that was published includes these maps with the lines**  
 16 **that you ground truthed, right?**  
 17 A. Yes, sir.  
 18 **Q. And you said that in your view they were a starting point**  
 19 **and that they would be adjusted to take into account other**  
 20 **factors. And I wanted -- and you rattled off a number of**  
 21 **factors, but I just want you to elaborate on that a little**  
 22 **bit.**  
 23 **What were the other factors that you thought would be**  
 24 **utilized by the City in moving from those initial lines to**  
 25 **final proposal?**

1 **Q. MHA.**  
 2 A. MHA program. And I wanted them to have the opportunity to  
 3 consider this work. And it has shifted from the planning --  
 4 the comprehensive planning division of the City to the more  
 5 political side of things, which was the momentum behind MHA.  
 6 **Q. So I want to go back to another statement you made about the**  
 7 **walk shed lines that you ground truthed and that they**  
 8 **were --**  
 9 THE COURT: Just before we get on that, I want to make  
 10 sure I want to track what we just did with the --  
 11 MR. BRICKLIN: Yeah.  
 12 THE COURT: So I understand that the report was done in  
 13 2015 which is still in this -- labeled as such in the City's  
 14 copy here. But you've indicated that a section was removed  
 15 and that that was in part the section you were giving  
 16 testimony to earlier?  
 17 THE WITNESS: Yes, sir, that's correct. And the section  
 18 removed is reflected in the City's published copy of the  
 19 table of contents, where it goes from task 2 to task 4, and  
 20 task 3 is missing.  
 21 THE COURT: And the original report is not being  
 22 introduced into evidence, I assume, because it wasn't on  
 23 the exhibit list?  
 24 MR. BRICKLIN: No, we did not have it on the exhibit list.  
 25 So we've just relied on his summary of its contents.

1 A. Yes. And if I could take a minute to find my documentation  
 2 of that from the report.  
 3 **Q. Sure.**  
 4 A. Because I detailed it fairly extensively.  
 5 **Q. Okay.**  
 6 A. And I believe it may, in fact, be in the redacted report as  
 7 well. But I have to find the source here. So let's see  
 8 here. It was also reflected in a memo to Tom Hauger, which  
 9 I was looking for and I can't seem to find.  
 10 MS. BENDICH: I have it.  
 11 **Q. (By Mr. Bricklin) What are you -- I'm sorry, what are you**  
 12 **looking for?**  
 13 A. Memo to Tom Hauger.  
 14 **Q. Oh.**  
 15 A. And I don't know if that was made an exhibit or not, but it  
 16 outlines my -- what I recommended. Thank you. Okay.  
 17 So this is -- yeah, it should be in the report because  
 18 it's listed under task 2, review of urban village boundaries  
 19 and locations in the urban village study. And I proposed a  
 20 set of threshold criteria to be considered for changes to  
 21 urban village boundaries; expansions, contractions, new  
 22 urban villages, et cetera.  
 23 THE COURT: Mr. Steinbrueck, is this in the document you  
 24 gave --  
 25 THE WITNESS: It is. It's under task 2, and it's

1 called -- unless there was some changes to task 2.  
 2 THE COURT: Is there a --  
 3 THE WITNESS: (Inaudible).  
 4 MR. BRICKLIN: So I think the examiner is asking whether  
 5 we can find specific pages in task 2.  
 6 THE COURT: I just want to follow along, if I can.  
 7 THE WITNESS: Yeah, sure. No, I would --  
 8 **Q. (By Mr. Bricklin) In your memo to Mr. Hauger, were you**  
 9 **quoting directly from task 2 or is this a summary of...**  
 10 A. This was, I think, part of the -- some of the detail of my  
 11 contract, which has not been submitted as an exhibit.  
 12 **Q. Right. But I'm asking did you -- in what you're looking at,**  
 13 **the document, were you quoting from your report or just**  
 14 **summarizing it, do you know?**  
 15 A. I believe I -- this was draft language from the report.  
 16 **Q. Okay. So --**  
 17 A. July 15th, 2015.  
 18 **Q. All right. So we might be able to find these actual**  
 19 **words --**  
 20 A. I think so.  
 21 **Q. -- in your report?**  
 22 A. I think it is contained in the -- in the -- both reports.  
 23 **Q. So task 2 starts on page 12 of Exhibit 50. So why don't you**  
 24 **turn there and see if you can find in the report itself**  
 25 **instead of --**

1 A. Yes.  
 2 **Q. And then it says: Ten villages. And then it says: 23 and**  
 3 **Jackson. And then it says: Northeast 130th. And then the**  
 4 **next line says: Applying measurable criteria from task 1.2A**  
 5 **to E; do you see that?**  
 6 A. Yeah.  
 7 **Q. Are those the criteria you think you might have been**  
 8 **referring to?**  
 9 A. Well, I'd have to go back and look at task 1.2.  
 10 **Q. Yeah. And what I'm discovering is I don't see task 1.2 in**  
 11 **the City's version. So if you turn back to page 11 -- you**  
 12 **see that's the end of task 1.1?**  
 13 A. Yeah. There's no 1.2.  
 14 **Q. There does not seem to be a 1.2.**  
 15 A. Okay.  
 16 **Q. Could I ask you to look in your own report?**  
 17 A. Yeah. And then I'll look also -- it's possible it got moved  
 18 to another section, but I can't be certain, but I'll see  
 19 what we can find here. Just bear with me.  
 20 MR. JOHNSON: So, Your Honor, I'm going to object to the  
 21 continued use of his version based on the fact that we don't  
 22 have it, we weren't provided it. And --  
 23 A. Okay. I found it in the current version. I'm sorry.  
 24 **Q. You found it in the current version?**  
 25 THE COURT: Let him finish.

1 A. Sure.  
 2 **Q. -- in your summary memo to Mr. Hauger.**  
 3 A. Okay. That's fine. It has the scope of work on page 12.  
 4 It identifies -- well, let's see. Let me look at my table  
 5 of contents here again. New urban village boundaries. Here  
 6 we go, I think (inaudible).  
 7 **Q. Can I turn your attention to page 15?**  
 8 A. Oh, here we go, I -- yeah.  
 9 **Q. Look at page 15.**  
 10 A. Okay. Page 15.  
 11 **Q. It's titled Urban Village Boundary Adjustment Methodology.**  
 12 A. Okay. Yeah. Yeah. That explains the methodology. Yeah,  
 13 that explains -- but it's not the criteria that I  
 14 recommended, the threshold criteria. That, I think, is in  
 15 the subsequent area. Page -- and this is the report -- the  
 16 exhibit that is --  
 17 **Q. This is the one the City produced?**  
 18 A. Yeah, the City produced. Yeah, that -- there's a full page  
 19 of the process of mapping and what to consider in assessing  
 20 boundary expansions. And it includes the walk shed, zoning,  
 21 location of transit stations and hubs, a tour map.  
 22 **Q. So are you on page -- are you on page 15?**  
 23 A. Yes.  
 24 **Q. Could I direct your attention to the top where it says:**  
 25 **Task 2.1; do you see that?**

1 MR. BRICKLIN: I'm sorry.  
 2 MR. JOHNSON: So right now we're relying on hearsay  
 3 because he's reading from his version. It's very difficult  
 4 for us to track. I mean, that's the point of providing  
 5 exhibits in advance of hearing, so maybe that can be fixed.  
 6 But it makes it very difficult to do this comparison based  
 7 on reference to a document we don't have.  
 8 THE COURT: Any response, Mr. Bricklin?  
 9 MR. BRICKLIN: Well, let me withdraw the question.  
 10 THE WITNESS: Well, I did find the page --  
 11 MR. BRICKLIN: Because I think he said -- I think he said  
 12 he found it in Exhibit 50.  
 13 THE COURT: Okay. I'm -- I disturbed this a bit because I  
 14 was trying to retract it. I have a strange desire to track  
 15 what you're saying and (inaudible).  
 16 MR. BRICKLIN: Well, I identified specific --  
 17 THE COURT: If it's not here, then I understand that. And  
 18 I think it's okay to hear testimony about work he did. I  
 19 don't think we want to get too much into page numbers and  
 20 criteria that are missing. So as long as we can stay out of  
 21 describing the other report.  
 22 MR. BRICKLIN: Sure.  
 23 THE COURT: But the work that you did is certainly open  
 24 for --  
 25 THE WITNESS: Thank you.

1 THE COURT: If that helps clarify --  
2 THE WITNESS: I would refer you to page 29 of the City's  
3 published report.  
4 UNIDENTIFIED SPEAKER: One person at a time.

5 **Q. (By Mr. Bricklin) All right. So you said turn to page 49?**

6 A. Yes. Task 2.3, Areas of Transition. This more or less  
7 spells out various, as I said, functional criteria,  
8 threshold criteria to be considered for changes to  
9 (inaudible). It lists six different subject areas.

10 **Q. And would you highlight some of those ones that are -- why  
11 you include -- significant ones and why you included them as  
12 informing decisions on where the boundaries should be?**

13 A. Yes. And it references the proposed walk shed, the  
14 ten-minute half mile walk shed as a factor. It references  
15 the rezone criteria of SMC 23.34 as important to review in  
16 analysis prior to a future rezone that will require City  
17 adoption.

18 It references support for the urban village goals and  
19 policies embodied in the comprehensive plan and the  
20 following urban village criteria: "Transit access, desired  
21 mix of uses, density goals, development capacity, bicycle  
22 pedestrian facilities and access, village open space and  
23 access to parks and village open space, areas of  
24 transition." Number 4: "Should also consider the City's  
25 adopted neighborhood plans that apply to each area proposed

1 MR. BRICKLIN: That's all I have, Your Honor. Thank you,  
2 Mr. Steinbrueck.

3 THE WITNESS: Okay. We're done?

4 MR. BRICKLIN: No, you are not done. I am done. I am  
5 done; you are not.

6  
7 DIRECT EXAMINATION

8 BY MS. BENDICH:

9 **Q. Mr. Steinbrueck?**

10 A. Yes.

11 **Q. I'm Judith Bendich, and I'm the authorized representative  
12 here for the Friends of Ravenna-Cowen.**

13 **I'd like to turn your attention actually to the cover page  
14 that came from (inaudible).**

15 A. Okay. That's right here in front of me.

16 **Q. Okay. And this is talking about your report. And if you  
17 would go down to the bullet points that are in the middle of  
18 that page.**

19 A. Yes, I see three bullet points.

20 **Q. Okay. It says: "To test the boundaries on the ground, DPD  
21 contracted with Steinbrueck Urban Strategies to conduct  
22 field analysis of the potential urban boundaries, the  
23 boundary expansion. Some of the factors they considered  
24 were proposed UV boundary expansions should follow street  
25 grid, preferably arterials, but not divide a cohesive**

1 for inclusion within the urban village." And I recommended  
2 excluding industrially zoned lands, since there are some  
3 urban villages that include some industrially zoned lands.  
4 While we're going through this exhaustive review, I felt it  
5 was important to be comprehensive about it and also consider  
6 the possible impacts on race, social equity displacement and  
7 access to opportunity. That more or less sums it up.

8 **Q. All right.**

9 A. And then there's a matrix on page 50 that -- a dot matrix  
10 for all of the proposed urban villages, not just the ten  
11 walk shed urban villages.

12 **Q. All right. So in that list of criteria or factors to  
13 consider in the urban village boundary quest, a ten-minute  
14 walk shed was one of many factors to be considered?**

15 A. That's correct.

16 **Q. And is that why you were saying it was -- it tended to be  
17 the first step in the process but not the last step?**

18 A. It is. And I would also add that the original urban  
19 boundaries -- the urban villages that were established, I  
20 think, in 19-- in the 2000 -- excuse me, the 1994 Seattle  
21 Comprehensive Plan, there was no ten-minute walk shed factor  
22 in the original urban village designations. It was not a  
23 device at that time. So this is introducing a new concept,  
24 transit supported communities concept, but one of many  
25 factors.

1 **neighborhood or street." Do you see that?**

2 A. Yes, I do.

3 **Q. Was that also included in your report itself?**

4 A. Yes.

5 **Q. Okay. So let's look at that with respect to the  
6 Roosevelt --**

7 A. Okay.

8 **Q. -- map that you produced. If you could find the page for  
9 me in here because I don't have a good copy of it.**

10 A. Yeah, okay.

11 MS. BENDICH: Do you have a good copy of it?

12 MR. BRICKLIN: Yeah, but I don't know which page it is.

13 MS. BENDICH: I don't either.

14 A. It looks like page 113.

15 **Q. Is that Roosevelt?**

16 THE COURT: 113 of Exhibit 50?

17 MR. BRICKLIN: I believe. It's punched out, so I have to  
18 interpolate.

19 A. Okay. I've got the Roosevelt map.

20 THE COURT: We're still on Exhibit 50?

21 MR. BRICKLIN: Yes.

22 THE COURT: Is that page 113? You want me to use the  
23 City's version?

24 MR. BRICKLIN: Right.

25 MS. BENDICH: Yes.

1 THE COURT: All right. I'm sorry.  
 2 A. I have more confidence in my own version.  
 3 MR. BRICKLIN: Or 112.  
 4 MS. BENDICH: It's hard to tell here.  
 5 MR. BRICKLIN: This is 113. The other one is 112, it's  
 6 punched out.  
 7 A. Okay. Rainier Beach. Roosevelt is on page 112 -- well, the  
 8 section. But there's two sections of -- two different  
 9 sections with different maps in them. So the one -- there's  
 10 the -- let me see if this one has everything in it. Okay.  
 11 It's -- yeah. There are -- there's satellite maps that I  
 12 think show more clearly the various villages, along with  
 13 graphic-generated maps. So I'll find it here.  
 14 MR. BRICKLIN: I don't think those are in the final  
 15 report.  
 16 THE WITNESS: Yeah, they are. I'm looking through it  
 17 right now.  
 18 MR. BRICKLIN: Oh.  
 19 THE WITNESS: They look like this.  
 20 MR. BRICKLIN: What page -- is there a page number?  
 21 THE WITNESS: I'm looking for the page number right now.  
 22 They're alphabetical. And here --  
 23 MR. BRICKLIN: Oh, I've got it.  
 24 THE WITNESS: Here it is. It's page 36 and 37, I believe.  
 25 36 and 37 is the Roosevelt.

1 **1990 comprehensive -- in their neighborhood plan?**  
 2 A. Yeah.  
 3 **Q. So -- and just below where that middle section is there's a**  
 4 **street. And is that Northeast 65th Street? It's kind of**  
 5 **hard to read the small print here.**  
 6 A. Yes, it is, in about the middle of the map.  
 7 **Q. And is that a major arterial?**  
 8 A. I would consider it -- there's a street classification index  
 9 there, but I think it probably is a major arterial, yes.  
 10 **Q. Okay. And then there is a border between the light blue and**  
 11 **the gray; do you see that?**  
 12 A. Yes, yes.  
 13 **Q. What is that border street?**  
 14 A. That's 15th Northeast.  
 15 **Q. Is that an arterial?**  
 16 A. Yes, it is.  
 17 **Q. Now, continuing over, let's just take south of Northeast**  
 18 **65th Street first. It goes how far over to the east?**  
 19 A. Two to three blocks to the east.  
 20 **Q. So that's approximately 17th Avenue Northeast?**  
 21 A. 17th and I think all the way to 18th. I can't read it very  
 22 clearly. It looks like 18th.  
 23 **Q. But then there's -- in that section, there's a little dotted**  
 24 **line; do you see that?**  
 25 A. Um-hum.

1 THE COURT: So we're not looking at 113?  
 2 THE WITNESS: No, that's a different section.  
 3 MS. BENDICH: No.  
 4 MR. BRICKLIN: It's still Exhibit 50?  
 5 THE WITNESS: Yeah.  
 6 **Q. (By Ms. Bendich) so looking at page 50 -- 36, I'm sorry.**  
 7 A. Yeah. 36 shows a graphically-generated map.  
 8 **Q. All right. So you have some lines there in light blue. Do**  
 9 **you see those?**  
 10 A. Yes.  
 11 **Q. Okay. Now, where is the original neighborhood plan adopted**  
 12 **part of the comprehensive plan? Where are the original**  
 13 **boundaries?**  
 14 A. The original boundaries include the area that is slightly  
 15 shaded, a grayish tone from the outlying areas. And the  
 16 proposed boundary adjustment areas are in the light blue.  
 17 **Q. In the light blue. Okay. And the transit center is in the**  
 18 **middle of that gray area?**  
 19 A. Yes.  
 20 **Q. Is that correct?**  
 21 A. That's correct. The future transit center of Roosevelt.  
 22 **Q. The future. This is the future light rail station at**  
 23 **Roosevelt?**  
 24 A. Yes.  
 25 **Q. And that was actually asked for by the neighborhood in the**

1 **Q. What's that dotted line?**  
 2 A. That line represents the City's original proposed simplistic  
 3 algorithmically determined boundary adjustment based on a  
 4 ten-minute walk shed, computer generated.  
 5 **Q. And that area that you have there, is this -- any of this**  
 6 **other than Northeast 65th Street along an arterial?**  
 7 A. No.  
 8 **Q. These are all small little streets?**  
 9 A. Neighborhood residential street.  
 10 **Q. So --**  
 11 A. Classified as such.  
 12 **Q. So why did you put -- since the criteria says here in**  
 13 **Ms. Sugimura and in your own report says that it should**  
 14 **follow a street grid, preferably arterials, why did you put**  
 15 **it into a neighborhood?**  
 16 A. I was directed to first identify a reasonable ten-minute  
 17 walk shed by foot and compare that with the City's  
 18 originally proposed algorithmically proposed boundary  
 19 adjustment. So this map reflects basically that, that one  
 20 criteria. So it's walking distance to the station.  
 21 **Q. Okay. And --**  
 22 A. Without regard to land use or topographic conditions or  
 23 other factors.  
 24 **Q. And did it -- did it split neighborhoods?**  
 25 A. Yes.

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1 **Q. So --**  
 2 A. I would say so. The cohesion of neighborhoods is defined by  
 3 a number of factors. I would say yes.  
 4 **Q. So on the east side of 15th, would you just describe that**  
 5 **neighborhood for us.**  
 6 A. Yeah. This --  
 7 **Q. That's Roosevelt.**  
 8 A. Yeah, this is Roosevelt. And so there is a map in here also  
 9 showing the underlying zoning, another map. But this -- the  
 10 zoning change is to -- mostly to single-family RS 5000, I  
 11 think, and is comprised of a collection of older early 20th  
 12 Century craftsman style and other styles of architecture.  
 13 **Q. Okay. Which are you referring to, the east side or --**  
 14 A. The east side of 15th, with the minor exception of a little  
 15 bit of commercial development on 65th.  
 16 **Q. So solely along 65th Street?**  
 17 A. Yeah. South of 65th it shifts abruptly to single-family.  
 18 **Q. So it's entirely -- other than 65th Street, as far as you**  
 19 **know, it's entirely single-family?**  
 20 A. Yes.  
 21 **Q. And then, let's go across the street. Let's go to 15th,**  
 22 **across the arterial. What's over there?**  
 23 A. Mixed use, multifamily and commercial.  
 24 **Q. So is there longstanding commercial in the Roosevelt urban**  
 25 **village as it currently is?**

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1 A. Yes.  
 2 **Q. So describe some of it.**  
 3 A. The types of businesses or...  
 4 **Q. Sizes, types.**  
 5 A. Well, it tends to be low rise predominately. That has been  
 6 changed -- the zoning was changed as part of the station  
 7 area overlay. But most of the scale is, I would say, three  
 8 to four stories, mixed use, commercial, residential,  
 9 apartments, et cetera.  
 10 **Q. So they have apartment buildings there, do they?**  
 11 A. Yes.  
 12 **Q. Across the street, across the arterial, are there any**  
 13 **apartment buildings or --**  
 14 MR. BRICKLIN: Across which arterial?  
 15 A. Across 15th.  
 16 **Q. (By Ms. Bendich) Across 15th to the east are there any**  
 17 **apartment buildings except perhaps along 15th -- or excuse**  
 18 **me, except perhaps along Northeast 65th Street?**  
 19 A. No, I don't believe so.  
 20 **Q. Those are all single-family?**  
 21 A. Yes.  
 22 **Q. Okay. And then looking a little bit around, there's some**  
 23 **green area on here. Could you tell us what that green area**  
 24 **is?**  
 25 A. So the southwest -- excuse me, southeast on the map, there's

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1 a green area that also is overlaid with the blue boundary  
 2 adjustment that is Cowen Park, and it adjoins Ravenna Park,  
 3 Ravenna Ravine.  
 4 **Q. And then at the southern end of Cowen Park, is that a**  
 5 **boulevard?**  
 6 A. That is a historic -- Ravenna Boulevard, part of the park  
 7 system, and is a designated boulevard.  
 8 **Q. And that's part of the Olmsted --**  
 9 A. Part of the Olmsted legacy, yes.  
 10 **Q. -- (inaudible) plan?**  
 11 A. Yes.  
 12 **Q. And even over to the west of 15th in that southern area, is**  
 13 **that single-family?**  
 14 A. Yes, it is. Yes, it is.  
 15 **Q. And does that have the same characteristics as across the**  
 16 **arterial to the east?**  
 17 A. Yes. There is one little commercial node there at the  
 18 corner of, I think, Brooklyn and Ravenna boulevard. It's an  
 19 older one-story commercial building.  
 20 **Q. All right.**  
 21 A. And there may be one or two apartments -- small apartment  
 22 buildings, but it's predominately single-family, early 20th  
 23 Century craftsman style prevalent.  
 24 **Q. And would you describe that area as cohesive as well, in the**  
 25 **southern part of the actual Roosevelt urban village?**

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1 MR. JOHNSON: We're talking about directly south of the  
 2 established urban village?  
 3 MS. BENDICH: I'm saying around Cowen Park area.  
 4 THE WITNESS: Yeah.  
 5 MS. BENDICH: In here.  
 6 MR. JOHNSON: And you're asking --  
 7 MS. BENDICH: I'm sorry, I'm not pointing very well.  
 8 THE WITNESS: And you're asking me to what?  
 9 **Q. (By Ms. Bendich) In the area that is from -- if we can take**  
 10 **a look at this, from about Roosevelt -- point out where**  
 11 **Roosevelt is here.**  
 12 A. Well, I regard -- you know, the actual -- the neighborhoods  
 13 on -- what defines, you know, a specific neighborhood by  
 14 name people will disagree over. There's a longstanding  
 15 battle between Wallingford and Fremont, for example: No,  
 16 we're Wallingford; no, you're Fremont.  
 17 But basically I think the Roosevelt neighborhood is along  
 18 the corridor of Roosevelt, the street arterial, Roosevelt  
 19 Way Northeast. And centrally, you know, around that  
 20 corridor to the east moves into Ravenna, to the south -- to  
 21 north University District. And Cowen Park is -- really is  
 22 part of Ravenna, I would say, of the Ravenna neighborhood.  
 23 **Q. So you had mentioned that you'd only done part one of this**  
 24 **study; is that right?**  
 25 A. Yes.

1 **Q. And what had you intended to do with part two with respect**  
 2 **to identifying cohesive neighborhoods, for example?**  
 3 A. I had expected that the City would undertake another phase  
 4 which would involve neighborhoods and the neighborhood  
 5 planning process and all of the -- the application of the  
 6 other criteria before establishing firmly a future land use  
 7 map with a boundary adjustment.  
 8 **Q. And have you looked at the MHA proposal for expanding the**  
 9 **Roosevelt neighborhood?**  
 10 A. Yes. The boundary, yes.  
 11 **Q. The boundary?**  
 12 A. Yeah.  
 13 **Q. Did that basically adopt these lines that you had put on**  
 14 **this preliminary map?**  
 15 A. I would say not precisely but fairly closely, yes.  
 16 **Q. So it expanded it over to the Ravenna neighborhood?**  
 17 A. Yes.  
 18 **Q. And it's based entirely on the ten-minute walk shed that you**  
 19 **had on your map?**  
 20 A. That's right. That's correct. Okay. Let me get this  
 21 material out of my way here. Okay. So here we go.  
 22 **Q. So if you could identify that.**  
 23 A. Sure. Okay. We're looking at the EIS map of the -- oh,  
 24 this is the University District EIS study. This is the  
 25 University District.

1 **respect to the area south of Northeast 65th Street between**  
 2 **Northeast 65th Street and Northeast -- and 62nd, is that the**  
 3 **all single-family area that you were previously describing?**  
 4 A. Yes, it is, with the exception of 65th.  
 5 **Q. Okay. And these are all -- could you just describe in**  
 6 **general -- I know you're not the historic resources person,**  
 7 **but could you describe in general what those houses are**  
 8 **like?**  
 9 A. Yes, I would say they're predominately early 20th Century  
 10 teens and '20s smaller working class homes, for the most  
 11 part of that era, with side yards, front yards, rear yards.  
 12 The architectural character of those houses is predominately  
 13 what might be called early -- what might be called early  
 14 first generation craftsman style, which is expressive of  
 15 framing and simplicity use of wood materials. They are  
 16 virtually all wood -- there may be one or two exceptions,  
 17 brick. But there's a consistency of style and period to  
 18 those houses.  
 19 **Q. Have you actually walked in that area?**  
 20 A. Many times.  
 21 **Q. Are those homes well maintained?**  
 22 A. Mostly. Some have been let to get run down that were used  
 23 as rentals and are boarded up or have been torn down.  
 24 **Q. Those are very few; is that correct?**  
 25 A. Very few around the 65th and 15th area.

1 **Q. This is?**  
 2 A. Yeah, it's taken from that. And this is a map of the  
 3 proposed zoning for alternative Roosevelt urban village.  
 4 **Q. Could you read for the hearing examiner --**  
 5 A. Yeah, okay.  
 6 **Q. -- the number down at the bottom?**  
 7 A. COS\_002228.  
 8 **Q. Okay. And looking at the expansion area that's shown on**  
 9 **that proposed expansion of the Roosevelt urban village,**  
 10 **could you describe that for us.**  
 11 A. The expansion areas --  
 12 **Q. Yes.**  
 13 A. -- on this map? Okay. The -- it appears that the entire  
 14 expansion area proposed under MHA is to the east of north --  
 15 of 15th Northeast and encompasses, oh, it looks like six or  
 16 seven blocks.  
 17 **Q. And south of -- south of Northeast 65th Street?**  
 18 A. Oh, yeah. It starts at -- it's hard to read -- 70th.  
 19 **Q. It starts at 70th?**  
 20 A. Yeah.  
 21 **Q. And it continues south?**  
 22 A. It's south to Northeast 62nd.  
 23 **Q. To 62nd?**  
 24 A. Or adjacent to Ravenna Park.  
 25 **Q. Is that area that you had previously -- at least with**

1 **Q. Okay.**  
 2 A. The so-called Sizely rentals (phonetic).  
 3 **Q. All right. I want to turn your attention to another section**  
 4 **of your report.**  
 5 A. Okay. And we're using the -- we're referring to the City's  
 6 redacted report.  
 7 **Q. The City's report.**  
 8 THE COURT: Exhibit 50.  
 9 **Q. (By Ms. Bendich) Exhibit 50.**  
 10 A. Exhibit 50. Okay.  
 11 **Q. I believe you said that you had compiled some data on the**  
 12 **actual housing density at the time that you did the report**  
 13 **in the Roosevelt urban village as it is in the solid lines,**  
 14 **that's what I'm referring to. I'm not talking about across**  
 15 **east to --**  
 16 A. The existing urban village boundaries, yes.  
 17 **Q. And is there a chart in here in your study that describes --**  
 18 THE COURT: Would you give us the page number, please.  
 19 MS. BENDICH: I believe it's page 136.  
 20 A. And Exhibit 50, page 136. Yes, I have it here.  
 21 **Q. (By Ms. Bendich) What is this chart? Describe for us what**  
 22 **this chart is.**  
 23 A. Well, it's titled: Urban Village Measurable  
 24 Characteristics. It's basically a set of data points for  
 25 each of the urban villages and urban centers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 **"Small business and cultural gathering places are vulnerable**  
 2 **to economic displacement and may be pressured to relocate**  
 3 **when rents increase." Right?**  
 4 A. Yes.  
 5 **Q. Was there any analysis in the EIS of whether the proposal**  
 6 **will exacerbate that condition or impact it one way or the**  
 7 **other?**  
 8 A. Not that I can point to. It was mostly dismissive of any  
 9 significant impact, if at all.  
 10 **Q. And was there any analysis of whether specific neighborhoods**  
 11 **that would -- would be particularly vulnerable to that as a**  
 12 **result of the MHA proposal?**  
 13 A. No, there wasn't.  
 14 **Q. On the -- two pages over on 3.80, this section ends with the**  
 15 **sentence: "From this perspective, the relationship between**  
 16 **growth and cultural displacement can vary and is context**  
 17 **dependent."**  
 18 A. Let me see where that's --  
 19 **Q. The last sentence on the page.**  
 20 A. Oh.  
 21 **Q. "From this perspective, the relationship between growth and**  
 22 **cultural displacement can vary and is context dependent."**  
 23 **Do you see that, the last sentence on the page?**  
 24 A. Oh, yeah, now I see it. Yeah. Yeah, it's context  
 25 dependent, absolutely.

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1 **Q. Right. So you agree with that?**  
 2 A. Yes, I do.  
 3 **Q. And did the EIS try in any way to evaluate this impact by**  
 4 **the context of the different neighborhoods in the city?**  
 5 A. No.  
 6 MR. BRICKLIN: That's all I have. Thank you.  
 7 MS. BENDICH: I have no further questions.  
 8 MR. ABOLINS: Just a few.  
 9  
 10 REDIRECT EXAMINATION  
 11 BY MR. ABOLINS:  
 12 **Q. On North Rainier, I wanted to talk -- you talked about**  
 13 **expansion. Can you discuss your views on the**  
 14 **appropriateness or lack of appropriateness for expanding the**  
 15 **urban village in North Rainier?**  
 16 A. I can. First of all, I identified in my research and as  
 17 communicated in my report that that particular hub urban  
 18 village is one of the largest in the city out of the six, if  
 19 not the largest, and is very low density in terms of  
 20 residential density, which is apropos to this proposal. I  
 21 think it's around five and a half households per acre or  
 22 something, very low. It certainly doesn't support transit  
 23 objectives for our urban villages, it's way below that.  
 24 **Q. And what are some of the potential effects of expanding an**  
 25 **urban village that is already reflecting those types of**

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1 **socioeconomic circumstances?**  
 2 A. Well, once again, it spreads the growth outward rather than  
 3 inward where it's intended to go.  
 4 **Q. Is that consistent with the urban village strategy that the**  
 5 **City is purporting to pursue?**  
 6 A. No. It's opposite of the urban village strategy.  
 7 **Q. Is there an analysis in the socioeconomic and housing**  
 8 **section of this FEIS that would allow a decision maker to**  
 9 **weigh those types of factors with regard to the urban**  
 10 **village expansion that's proposed?**  
 11 A. No.  
 12 MR. ABOLINS: No further questions.  
 13 THE COURT: Thank you, Mr. Steinbrueck.  
 14 THE WITNESS: Thank you. Have a good day.  
 15 THE COURT: You, too.  
 16 We will return at 1:15.  
 17 (Lunch recess)  
 18 THE COURT: Return to the record with the appellant's next  
 19 witness.  
 20 MR. THALER: Toby Thaler, Fremont Neighborhood counsel.  
 21 We call a witness who is listed by SUN, Seniors United, I  
 22 believe, David Bloom.  
 23 MR. WEBER: And Toby, could I just clarify. I believe  
 24 you're calling Mr. Bloom as a fact witness; is that correct?  
 25 MR. THALER: Yes.

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1 THE COURT: As opposed to expert?  
 2 MR. THALER: Not giving opinions.  
 3 THE COURT: Please state your name and spell it for the  
 4 record.  
 5 THE WITNESS: My name is David Bloom, B-L-O-O-M.  
 6 THE COURT: Do you swear or affirm the testimony that you  
 7 will provide in today's hearing will be the truth?  
 8 THE WITNESS: I do.  
 9 THE COURT: Thank you.  
 10  
 11  
 12 DAVID BLOOM, Witness herein, having first been  
 13 duly sworn on oath, was examined  
 14 and testified as follows:  
 15  
 16 DIRECT EXAMINATION  
 17 BY MR. THALER:  
 18 **Q. So is Honorable Reverend your --**  
 19 A. Not necessary.  
 20 **Q. Not necessary. But you are --**  
 21 A. I'm an ordained minister, yes.  
 22 **Q. Okay. So Mr. Bloom, can you state your background that's**  
 23 **relevant to this hearing.**  
 24 A. Okay. As I said, my name is David Bloom. I'm a 42-year  
 25 resident of Seattle. Roughly half of that time as a renter

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1 exceeded?

2 A. I think if we watch as things unfold in the University

3 District, much of the displacement that we raise concerns

4 about here will occur.

5 **Q. Okay. Thank you.**

6 MR. THALER: Nothing further.

7 HEARING EXAMINER: Thank you, Mr. Bloom.

8 THE WITNESS: Thank you.

9 HEARING EXAMINER: Appellants' next witness?

10 MR. BRICKLIN: Appellants call Talis Abolins, but I see he

11 is momentarily out of the room, so I need to go out in the

12 hall and grab him, I guess.

13 HEARING EXAMINER: Please state your name and spell it for

14 the record.

15 MR. ABOLINS: Talis Abolins. T-A-L-I-S, A-B-O-L-I-N-S.

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

17 testimony you will provide in today's hearing will be the

18 truth?

19 MR. ABOLINS: I do.

20 HEARING EXAMINER: Thank you.

21

22 TALIS ABOLINS: Witness herein, having previously been

23 duly sworn on oath, was examined

24 and testified as follows:

25

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1 MR. WEBER: Your Honor and Mr. Bricklin, could I just

2 raise one point, which I think the parties are in agreement

3 upon. Mr. Abolins obviously is a representative of one of

4 the parties. He's also an attorney. The City was

5 approached by Appellants' counsel earlier on, asking our

6 consent to have him testify notwithstanding those things.

7 And the City was amenable to him testifying as a fact

8 witness, not an expert, of course subject to all the normal

9 rules about cross-examination and so forth. And, obviously,

10 we would be concerned if it begins to look like Mr. Abolins

11 is going beyond what a typical fact witness would be doing,

12 but we're happy to let him proceed on that basis.

13 HEARING EXAMINER: Certainly. There's nothing to prevent

14 an attorney from testifying as a fact witness, just with the

15 caveat that we're not taking any type of argument at this

16 time.

17 MR. BRICKLIN: Understood.

18

19 DIRECT EXAMINATION

20 BY MR. BRICKLIN:

21 **Q. Where do you live, Mr. Abolins?**

22 A. I live in the North Rainier Mount Baker neighborhood.

23 **Q. You can direct your answers to the Examiner, is a good**

24 **target.**

25 **And you know that neighborhood?**

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1 A. I do. I know it very well.

2 **Q. And are you here to testify about what you know about the**

3 **neighborhood?**

4 A. Yes, based on my personal experiences in that neighborhood.

5 **Q. Can you describe how you have become familiar with the**

6 **conditions there?**

7 A. Well, I have been very involved in two of the organizations

8 that are advocating on behalf of the neighborhood, the

9 Friends of the Mount Baker Town Center, as well as the Mount

10 Baker HUB business association.

11 **Q. What's your role with the first of these, the Friends of**

12 **Mount Baker Town Center?**

13 A. Well, when I moved into the neighborhood, it was very clear

14 that conditions were not friendly around the town center.

15 It was a very auto-centric area that was intended to house a

16 lot of people under the urban village strategy, but unlike

17 Columbia City, there was no "there" there. And there was no

18 real organization speaking up on behalf of it.

19 And so a group of us got together and started out just

20 picking up garbage around the area and ultimately formed the

21 nonprofit with support from Seattle Parks Foundation and

22 many other collaborators, Friends of Seattle Olmsted Parks

23 and local stakeholders. And the focus was to try and build

24 on the North Rainier Neighborhood Plan, which called for

25 trying to support livable density by focusing on providing

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1 the -- filling the open space gap and building on the

2 historic fabric of the area, which included an Olmsted

3 Boulevard that had been intended to connect this future Town

4 Center to the Beacon Hill to the west and the historic Mount

5 Baker neighborhood to the east.

6 And so that was -- that became a multi-year effort that is

7 still ongoing to provide an amenity into that -- that's

8 currently missing in that area.

9 **Q. So just to orient the person reading the record, just**

10 **generally, as to where the North Rainier urban village is.**

11 **And you just sort of did it. Is it basically centered on**

12 **Rainier Avenue --**

13 A. It is.

14 **Q. -- south of I-90?**

15 A. Just south of I-90, there is an intersection of Rainier

16 Avenue and Martin Luther King Way, and that intersection

17 also happens to be the location of, I guess, a third

18 corridor, and that is the Olmsted Boulevard corridor that

19 runs east-west. So you have the confluence of three

20 relatively important corridors right in the heart of that

21 North Rainier urban village.

22 **Q. Any landmarks someone might know in that area if they're**

23 **driving down Rainier Avenues? What's some ad posts there?**

24 A. To the east, you will definitely see the Franklin High

25 School, which is itself -- is an actual landmark, historic

1 landmark that was saved from demolition. And it sits up on  
2 the hill in a very prominent location right down -- you're  
3 looking down the corridor of Mount Baker Boulevard right at  
4 it as you go down Rainier.

5 And then if you turned -- if you were driving south on  
6 Rainier and you turned immediately to the right or west at  
7 that same location, you would see the entrance into another  
8 landmark, Cheasty Greenspace, which is a steep forested  
9 slope, and it's one of Seattle's great forested areas that  
10 is part of the ring of green that is referenced in that  
11 comprehensive plan for preservation.

12 **Q. And if anybody has ever gone down to Lowe's down there? Is**  
13 **there a Lowe's right in that area?**

14 A. Yes.

15 **Q. Just trying to get folks familiar with what area we're**  
16 **talking about?**

17 A. And Lowe's is in -- that's also within what's known as the  
18 town center. The town center is the area surrounding the  
19 transit -- the Link station and the Metro bus station right  
20 at the heart there where that intersection is. And so the  
21 town center is essentially the walk shed, it's a  
22 city-designated walk shed, where there's intended to be  
23 intense focus of residential mixed-use development. And  
24 Lowe's is within that area. It's a 13 acre parcel, and  
25 it's -- it used to be the site of Sick's Stadium. We had --

1 **through, and I have a notebook of them here. Do you have**  
2 **the same setup there?**

3 A. I do, I have --

4 **Q. All right. So the first one -- I guess -- what are we up**  
5 **to? 56? 57. Friends of North Rainier's No. 10.**

6 A. This has already been admitted?

7 **Q. No, I'm about to ask that it be admitted.**

8 A. Oh, 57. Okay.

9 **Q. Can you, first of all, describe -- that looks to be a**  
10 **compilation of several documents.**

11 A. Yeah, this is a series of aerial views of town center. And  
12 this first one is just a straight aerial that actually  
13 identifies several of the landmarks. You can see that green  
14 oval there is Franklin Field. Franklin Field, if you look  
15 at the lower left-hand corner of Franklin Field where the  
16 track meets the corridor, that there is the intersection of  
17 Rainier Avenue and Martin Luther King Way. And you will see  
18 that along the southern border of that field is Mount Baker  
19 Boulevard. And you can't tell from the picture, but it's  
20 sweeping down quite a steep slope onto the Valley, Rainier  
21 Valley floor.

22 **Q. Sweeping down from the east, from Lake Washington, there's a**  
23 **ridge and then it comes back down to Rainier Valley?**

24 A. Yeah, from around Franklin High School there, you see that  
25 elegant arc around Franklin High School. It's kind of a

1 Jimmy Hendrix has played there. Elvis Presley. Babe Ruth  
2 hit a home run there. So it's got some historic context,  
3 but it's no longer there, of course.

4 **Q. All right. And maybe you have done this already, but when**  
5 **you refer to it as a "town center," that's terminology taken**  
6 **from the City's planning lexicon?**

7 A. Yes, it's in the comprehensive plan.

8 **Q. All right. And have you described sort of what your**  
9 **understanding is of what that town center designation, what**  
10 **it's trying to encapsulate?**

11 A. Yeah, I mean, the town center is -- it's detailed in  
12 numerous city planning documents, including the North  
13 Rainier plan within the comp plan. And it's intended to be  
14 a mixed-use and mixed-income town center with residential on  
15 the top and a vibrant small and ethnic business district on  
16 the bottom. And it's an amazing plan because we're  
17 basically creating town center out of whole cloth, a very  
18 kind of compromised area.

19 And so there's repetitive references in the North Rainier  
20 section of the comp plan to how it's going to be a range of  
21 incomes and housing. Socioeconomics is very important to  
22 the viability of this area. And that's reflected in the  
23 planning documents that have been developed through  
24 community outreach for decades.

25 **Q. All right. Now, I know we have a series of exhibits to go**

1 broad Olmsted corridor. In fact, one of the Olmsteds  
2 actually walked that area with the developer -- I think  
3 Jennifer Ott testified to that -- and actually influenced  
4 that curve right there.

5 And then it continues -- it's broken. So this is one of  
6 the things that we wanted to fix is because the Olmsted  
7 fabric was assumed -- based on accessibility, bringing  
8 people in the community, from whatever walk of life, into  
9 parks and open spaces and livability as density occurs. And  
10 so Martin Luther King Way and Rainier Avenue pretty much  
11 destroyed that connectivity of the parkway system.

12 And so you have Cheasty Boulevard. You can see all the  
13 forested area right there surrounding Cheasty Boulevard.  
14 That's a steep slope of thick forest, and it cuts a hard  
15 right, heading due east directly into Mount Baker Boulevard.  
16 So that was part of the original Olmsted vision of  
17 connecting the city through parkways and parks as density  
18 builds up around it.

19 So that was one of the key strengths we saw in the  
20 neighborhood plan, was to build on that vision to create  
21 density around that and so those two boulevards was a key  
22 focus of that.

23 **Q. All right. And turn to the next page of this exhibit.**

24 A. And then this is just -- this is a shape you have seen  
25 previously. This is the North Rainier urban village, the

1 original and current boundaries of that village. And you  
2 will see that arc of the Mount Baker Boulevard to the right,  
3 kind of sweeping down right into the heart of it -- and that  
4 big red asterisks, that is the Light Link station.

5 Now, those boundaries were intentionally created and they  
6 follow the contours of the steep slopes on either side,  
7 basically. So you will see that the boundary on the west is  
8 kind of where that greenspace is from the earlier photo.

9 That's a steep forested slope of the historic Cheasty  
10 Greenspace. And then, of course, the Boulevard is sweeping  
11 up by Franklin -- those are both gateways into the town  
12 center.

13 Now, you will see an overlay over that purple surrounding  
14 the Link station. That's the station area.

15 **Q. The crosshatch, the brown?**

16 A. The crosshatch there. That is the station area. It's also  
17 roughly co-existent with the town center concept and was  
18 ultimately recently upzoned very dramatically in order to  
19 fulfill that mission of density around a Link station.

20 **Q. So, I'm sorry. You said the crosshatched area was upzoned  
21 recently?**

22 A. Yeah, it's already been upzoned, yeah.

23 **Q. All right.**

24 A. To as high as 125 feet.

25 **Q. And that's separate and prior to the MHA proposal?**

1 **Q. Which plan are you referring to?**

2 A. The North Rainier Neighborhood Plan. So it's a great plan,  
3 and while it doesn't appear in that FEIS, it's kind of -- it  
4 was intended to guide growth.

5 **Q. And the North Rainier Neighborhood Plan, meaning, that's one  
6 of those neighborhood plans we have heard talked about that  
7 are a component of the City comprehensive plan?**

8 A. Yeah, yeah.

9 **Q. Okay. All right. And then on to the next page?**

10 A. This is a just another aerial kind of close-up. You can see  
11 where the Link station is being constructed in this one.

12 **Q. Where is that?**

13 A. Well, you see the rail kind of swooping from the left mid,  
14 heading --

15 **Q. Coming out of Beacon Hill?**

16 A. Yeah. Out of Beacon Hill and near the end of the Cheasty  
17 Greenspace and then heading due south.

18 **Q. So the station is just west of the football field there, or  
19 the soccer field?**

20 A. It is. And then you will see there's kind of an oval white  
21 area that is between Rainier Avenue, which is coming from  
22 the left corner, and then MLK is sort of on the other side  
23 of Lowe's, swooping down to the intersection. That blank  
24 area is actually now a bus station, a bus station area for  
25 Metro.

1 A. Correct.

2 **Q. All right. And then you want to go on to the next?**

3 A. Yeah. So the next one is an aerial view showing the station  
4 area superimposed. The big white building is the Lowe's  
5 building, and then the additional parking lot to the north,  
6 that comprises 13 acres of potential dense redevelopment  
7 that has not occurred.

8 And I think it's, you know, important to note that this  
9 photo shows the level or lack of level of the development  
10 that continues to this day. I mean, there's certainly a few  
11 projects that have sprung up. This is a very -- unlike  
12 Boomtown Seattle and all the other station areas, this area  
13 is lagging and certainly, as Peter Steinbrueck mentioned,  
14 density is something that really needs to be focused where  
15 it matters around that Link station.

16 But this is the station area that was upzoned, kind of  
17 reflecting, I guess, the best plans of our leaders at that  
18 time.

19 **Q. And, by the way, is your group -- the groups you mentioned  
20 that you're involved with, are they advocates for getting  
21 density into this station area?**

22 A. They are. We have advocated for affordable housing and,  
23 basically, the plan. We don't make this stuff up. I mean,  
24 this plan was created after the most extensive outreach the  
25 City of Seattle has ever seen. And so it's --

1 **Q. And the Link Light Rail station that's under construction in  
2 that picture, that's -- this picture must be a half a dozen  
3 years old or so now. I mean, that station is built,  
4 operating.**

5 A. Yeah, it's probably closer to 10.

6 **Q. A number of years -- 10 years old. Yeah, all right. Okay.  
7 Next picture.**

8 A. Well, and then also there's a larger scale one. And I think  
9 it will be really helpful for the hearing examiner. It's --  
10 this is a City document that is attempting to show future  
11 expected conditions under the more recent upzone. And it  
12 shows the levels of development that were allowed to achieve  
13 the town center vision ostensibly and where it would be  
14 located. And I have to say, very little of this has  
15 occurred, very little indeed.

16 You will see in the pink area, that's the highest area --

17 **Q. So just to get oriented, it looks like we're looking from  
18 the southeast towards the northwest, back -- like, looking  
19 back towards downtown.**

20 A. Yeah. You're looking down basically Rainier Avenue there.

21 **Q. Right.**

22 A. And there is a plan by Seattle Department of Transportation  
23 that's moving forward with our -- they were great partners  
24 with our local community. It's called Accessible Mount  
25 Baker. They will actually be separating Rainier Avenue and

1 Martin Luther King so they do not intersect. One road  
 2 will --  
 3 **Q. How are they going to do that?**  
 4 A. It's going to be -- it's called the Bolo tie. And it's  
 5 basically -- they're both north-south corridors. So right  
 6 now they're like this. They're going to make it like this,  
 7 which is going to eliminate a lot of pavement and create  
 8 more smooth traffic through -- to make it a more  
 9 pedestrian-friendly area. And that's in 2021. And so  
 10 there's -- that's on the horizon.  
 11 And as a part of that and one of the things we were  
 12 involved with them at the table with, was reconnecting the  
 13 Olmsted Boulevards. That's going to be a key feature of  
 14 this plan, is that they're going to actually make that a  
 15 bicycle and pedestrian connection for the surrounding  
 16 communities to come into the town center and hopefully, you  
 17 know, breathe some life into it.  
 18 **Q. All right. And then the next image, next page.**  
 19 A. So this is from the original plan of the North Rainier  
 20 Neighborhood Plan. Again, this is from 1999, I believe.  
 21 And this is the picture of the town center before the Light  
 22 Link Station had been built. And this just shows how long  
 23 this community has been advocating for this balanced vision  
 24 involving the various factors that Peter Steinbrueck was  
 25 talking about. And you can see that there's -- the area of

1 MR. ABOLINS: Yes, it's Michael Ross. Mr. Bloom was  
 2 expected to go further.  
 3 MR. BRICKLIN: So we had Mr. Abolins testify, begin to  
 4 testify since we had a gap before Mr. Ross showed up.  
 5 HEARING EXAMINER: How long do we anticipate Mr. Abolins'  
 6 testimony?  
 7 MR. BRICKLIN: He has quite a little bit.  
 8 HEARING EXAMINER: I mean, we could try to --  
 9 MR. BRICKLIN: I mean, would we have time to fit you both  
 10 in?  
 11 MR. ABOLINS: Potentially, yeah. Are you okay to wait for  
 12 a file?  
 13 MR. ROSS: Yeah, yeah.  
 14 MR. BRICKLIN: All right, we'll plow through --  
 15 HEARING EXAMINER: Well, how long --  
 16 MR. BRICKLIN: I don't know. How long would you say,  
 17 Mr. Abolins.  
 18 MR. ABOLINS: Why don't we go --  
 19 MR. BRICKLIN: I'm actually filling in for Ms. Newman.  
 20 HEARING EXAMINER: So let's -- we'll talk it through.  
 21 MR. ABOLINS: Why don't we go for.  
 22 HEARING EXAMINER: How much time do you need to finish  
 23 your testimony?  
 24 MR. ABOLINS: Well, with cross-examination, it could be an  
 25 hour, and that would take up us to 3:30. And I think -- are

1 Lowe's is still kind of in that whitish across McClellan in  
 2 the center of the picture, that circular circle is drawn in  
 3 kind of around where the Link station is. You can see the  
 4 Franklin Field.  
 5 And I want to draw your attention to the area on the right  
 6 that says "preserve and maintain quality of single-family  
 7 areas." It's highlighted. That arrow actually happens to  
 8 be pointing to precisely the same area that is proposed for  
 9 expansion of the urban Village. And so it's sort of a  
 10 brutal irony that this kind of information is not being  
 11 shared in the FEIS of what the underlying, you know,  
 12 foundation of the neighborhood plan is.  
 13 And then you have the other areas, you know, are being  
 14 emphasized for the density, which has still to this day not  
 15 occurred.  
 16 So I think that kind of walks us through, like, a frame of  
 17 reference.  
 18 And I see another witness is here, and perhaps if I can  
 19 continue another day, we could go with another witness.  
 20 MR. BRICKLIN: Okay. I should explain that to the  
 21 Examiner. We sort of have Mr. Abolins as a little bit of a  
 22 filler here, since he's frequently available to fill in when  
 23 we have gaps. And so I don't know this witness but I'm  
 24 gathering that we have someone who is slated to come here at  
 25 this hour?

1 you okay until 5:00 or --  
 2 MR. ROSS: Yeah, I think that's pushing it a little bit  
 3 but, yeah, that's okay.  
 4 HEARING EXAMINER: How much time is -- and this witness is  
 5 Mr. Ross?  
 6 MR. ABOLINS: Yes.  
 7 HEARING EXAMINER: And how much time is Mr. Ross  
 8 anticipated to -- including cross, with our very rough  
 9 formula of half to a third of the time of direct, how much  
 10 time is that anticipated to take.  
 11 MR. ABOLINS: I think we could get it done, Your Honor.  
 12 HEARING EXAMINER: How much time is that anticipated to  
 13 take?  
 14 MR. ABOLINS: I'm expecting about an hour and a half hour  
 15 of cross.  
 16 HEARING EXAMINER: Okay. So it doesn't actually fit.  
 17 That's why I don't trust attorneys' math. I don't trust  
 18 mine either. I don't trust mine either, but I was in your  
 19 chair before. Remember that there's a 15-minute break at  
 20 3:30. So you've got a witness hanging out there, coming  
 21 back at 3:45, and then you have to get him done by five  
 22 o'clock. That's pretty tight.  
 23 MR. ABOLINS: I will make -- I'm pretty good at trying to  
 24 maintain efficiency, and I will do my best to get him done,  
 25 my absolute best to get him done today so he doesn't have to

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1 come back.  
 2 HEARING EXAMINER: Yeah, that's okay --  
 3 MR. BRICKLIN: The best way to do that would be to break  
 4 yours and do him right now.  
 5 HEARING EXAMINER: That's kind of where I was going with  
 6 it. Even though I would like to finish because you started,  
 7 it's a hiccup, but since you are available, I would rather  
 8 get through a witness and then we have accomplished that.  
 9 MR. ABOLINS: Yeah. And then I can --  
 10 HEARING EXAMINER: And then we can always come back to  
 11 you.  
 12 MR. ABOLINS: All right. Well, let's do that.  
 13 HEARING EXAMINER: Thank you for working through that.  
 14 Any concerns from the City.  
 15 MR. WEBER: No, that's fine.  
 16 HEARING EXAMINER: All right. Before we move on too much  
 17 that from witness, though, we did have Exhibit 57. Did we  
 18 want to admit that.  
 19 MR. BRICKLIN: Sure.  
 20 HEARING EXAMINER: Any objections.  
 21 MR. WEBER: No.  
 22 HEARING EXAMINER: 57 is admitted.  
 23 (Exhibit No. 57 admitted into evidence.)  
 24 MR. ROSS: Where do you want me?  
 25 HEARING EXAMINER: Please come forward.

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1 MR. ROSS: Right here?  
 2 HEARING EXAMINER: Yes.  
 3 MR. ABOLINS: Hot seat. This is for your reference.  
 4 MR. ROSS: Okay, great. Thank you.  
 5 HEARING EXAMINER: Please state your name and spell it for  
 6 the record.  
 7 MR. ROSS: My name is Michael Ross, M-I-C-H-A-E-L,  
 8 R-O-S-S.  
 9 HEARING EXAMINER: And do you swear or affirm that the  
 10 testimony you will provide in today's hearing will be the  
 11 truth.  
 12 MR. ROSS: Yes.  
 13  
 14 MICHAEL ROSS: Witness herein, having been duly sworn on  
 15 oath, was examined and testified as  
 16 follows:  
 17  
 18 MR. WEBER: And tell us, if I could just confirm, since  
 19 your final witness list didn't have any designations, you're  
 20 calling Mr. Ross as a fact, not an expert witness?  
 21 MR. BRICKLIN: Yes, he is personally familiar with the  
 22 neighborhood, as well.  
 23 ///  
 24 ///  
 25 ///

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1 DIRECT EXAMINATION  
 2 BY MR. ABOLINS:  
 3 **Q. Okay. First of all, Mr. Ross, thank you for being here**  
 4 **today. And the purpose of your testimony, we're going to**  
 5 **talk about your familiarity with the neighborhood**  
 6 **personally. Also, your professional background. We'll get**  
 7 **into your direct participation in the North Rainier planning**  
 8 **process. And then we'll move into some of your investments**  
 9 **into the future of that neighborhood plan, and also some of**  
 10 **your concerns with a few of the areas where the plan is**  
 11 **struggling.**  
 12 **So, first of all, can you tell us what your current -- or**  
 13 **tell the hearing examiner what your current occupation is.**  
 14 A. I'm an attorney and a developer.  
 15 **Q. And what type of -- give us a sense of how many years you**  
 16 **have been doing it and what types of projects you are**  
 17 **involved with.**  
 18 A. Sure. I have been practicing law in Seattle for 35 years.  
 19 I almost exclusively represent real estate developers and  
 20 have done that for quite some time. I also do real estate  
 21 development. I have done projects in Seattle and Tacoma. I  
 22 have done small for-sale townhome projects. I currently  
 23 have Mount Baker Station, which is the project we'll  
 24 probably focus on most today, and have other developments  
 25 that are sort of in the pipeline as well.

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1 **Q. And do you have experience with both market rate and**  
 2 **affordable projects?**  
 3 A. No. We have an affordable component to our market rate  
 4 projects through the MFTE, but I don't do affordable  
 5 projects.  
 6 **Q. And do some of your clients have occasion to work with those**  
 7 **who are doing affordable projects?**  
 8 A. They have done a number of joint ventures with the  
 9 affordable developers, but they aren't themselves affordable  
 10 developers.  
 11 **Q. More of an inclusive approach to --**  
 12 A. They are, yeah.  
 13 **Q. Okay. And what's your personal connection with Rainier**  
 14 **Valley?**  
 15 A. Well, I am a Seattle native, a Seattle area native. I grew  
 16 up on Mercer Island. My family's -- my father's family  
 17 moved here in the '30s and settled in the Rainier Valley.  
 18 They lived about half a mile south of where our current  
 19 project is. All of my cousins went to Franklin High School.  
 20 I used to go to Sick's Stadium games there. I bought my  
 21 tennis shoes at Chubby & Tubby's.  
 22 And my mother grew up in Seattle, but not in the Rainier  
 23 Valley. She went -- actually grew up on 25th and Jackson  
 24 and went to Coleman School as an elementary school, which is  
 25 in the Rainier Valley, so a long time -- been in Seattle my

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1 whole life.

2 **Q. And let's see. As a kid, I understand you used to frequent**

3 **certain establishments right in the town center core area?**

4 A. For sure. I mean, Sick's Stadium was a big one, but we'll

5 probably talk about one of the other projects that I'm

6 working on, which is also in the core of the Mount Baker

7 neighborhood. And it was the site of a Dag's restaurant.

8 Dag's was a drive-in, and there weren't any good drive-ins

9 on Mercer Island where I grew up. So we would always drive

10 in and have our burgers at Dag's, which is the property that

11 I have under contract to buy right now. That was probably

12 55 years ago.

13 I don't know if anybody --

14 THE WITNESS: Does Dag's mean anything to anybody in the

15 room? Okay. Great. Awesome. Yeah.

16 **Q. (By Mr. Abolins) And moving forward, I understand more**

17 **recently, you have been involved in the North Rainier**

18 **Neighborhood planning processes?**

19 A. Yeah.

20 **Q. Tell us about that.**

21 A. I'm a member of the Mount Baker HUB, which is the business

22 association for the Mount Baker neighborhood, and so I have

23 been active in that group. And that's primarily how I have

24 been active in the neighborhood currently. But Mount Baker

25 Station, which is the project that we currently have under

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1 construction, we started that process about ten years ago.

2 And through that process we were very active in the

3 neighborhood plan as it was being developed, the update to

4 the neighborhood plan. So we participated in meetings. We

5 attended all the hearings. We obviously had to go through a

6 MUP process. We actually had to go through a contract

7 rezone and a MUP process to get that project approved, and

8 we were pretty active in that neighborhood plan.

9 **Q. I would ask you to turn to what's marked as Exhibit 7 in**

10 **that folder.**

11 MR. ABOLINS: And this will be 52?

12 HEARING EXAMINER: No, we're at 58.

13 MR. ABOLINS: 58. Okay, make this 58 now.

14 **Q. (By Mr. Abolins) Do you recognize this document?**

15 A. Well, I'm looking at No. 7. That is the urban design

16 framework. Yeah, I have seen this before.

17 **Q. Okay. And then I think you will see one of the attachments,**

18 **I believe, is the neighborhood plan update that you were**

19 **talking to. If you can flip back to --**

20 HEARING EXAMINER: So is the exhibit just the neighborhood

21 plan or --

22 MR. ABOLINS: The urban design framework has, as an

23 attachment, the North Rainier Neighborhood Plan.

24 HEARING EXAMINER: And the whole thing is the exhibit?

25 MR. ABOLINS: Yeah.

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1 THE WITNESS: Okay, there it is.

2 **Q. (By Mr. Abolins) Okay. And I guess on that cover --**

3 HEARING EXAMINER: And I'm pleased that you found it, but

4 where is it?

5 MR. ABOLINS: You're at the first page.

6 HEARING EXAMINER: First page?

7 MR. ABOLINS: No. Where you have your thumb. It says

8 right there on the cover.

9 HEARING EXAMINER: Okay.

10 MR. ABOLINS: And let me get to a more accurate

11 description of what page we're looking at here.

12 THE WITNESS: I'm happy to show a picture of it, and I

13 will tell you why I am happy to show you a picture in a

14 moment.

15 HEARING EXAMINER: Actually, we need an oral record so

16 that --

17 THE WITNESS: Okay.

18 HEARING EXAMINER: -- someone listening who can't see what

19 you're doing --

20 THE WITNESS: Okay.

21 HEARING EXAMINER: -- it gets in.

22 **Q. (By Mr. Abolins) Appendix C. It says "North Rainier**

23 **Neighborhood Plan," and this should be the 44th page in the**

24 **document. It's a color sheet that says "North Rainier**

25 **Neighborhood Plan Update." And I guess -- does this first**

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1 **page provide some evidence of your participation?**

2 A. It does, yeah. If you look closely at that picture you will

3 see that is my nose in profile at the very right-hand side.

4 So if I can tell you a little bit about that picture. The

5 City sponsored a number of community events to discuss and

6 take input on the neighborhood plan. And I attended all of

7 them.

8 And this one, the City had eight different -- I think six

9 or eight different translators for the different neighbors

10 in that area. And I was able to sit at a table with a group

11 of Chinese folks, elderly Chinese folks who didn't really

12 speak English, so you will see there's a woman there. She

13 was the translator. And the conversation was about density

14 that day.

15 And so the City passed out little blocks like you get in

16 kindergarten. And they asked these people, you know, "What

17 do you think about density?" And this particular group

18 liked density a lot. They would pile their blocks one on

19 top of the other to make a little city of high-rises. So it

20 was a pretty interesting event. I have a pretty clear

21 memory of it.

22 **Q. And so this document, does it reflect the outcome of that**

23 **neighborhood planning process?**

24 A. Yeah, it does.

25 **Q. And how do you feel about this plan?**

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1 A. I supported it then and I support it now. I think it's a  
 2 great plan.  
 3 **Q. And can you summarize for us, what is the vision of the**  
 4 **North Rainier Neighborhood Plan and the North Rainier**  
 5 **Neighborhood Town Center?**  
 6 A. You know, it's to develop an urban HUB but preserve the  
 7 things about the neighborhood that are special, the  
 8 diversity, the -- you know, it's a core, close-in  
 9 neighborhood. It has transportation to make the best use of  
 10 that transportation for the neighbors, you know, to make it  
 11 a more vibrant core neighborhood.  
 12 **Q. And with respect to the town center itself, you spoke about,**  
 13 **you know, some of your clients who were involved in**  
 14 **mixed-income inclusive development.**  
 15 A. Mm-hmm.  
 16 **Q. Are those principles reflected in the North Rainier**  
 17 **Neighborhood Plan, as well?**  
 18 A. Yeah, they are.  
 19 **Q. And what do they envision in terms of, like, the range of**  
 20 **housing in the core of the town center?**  
 21 A. Well, it's a diverse range of housing. It's all level of  
 22 income. Primarily with respect to housing, density and  
 23 mixed income.  
 24 **Q. And there's also been reference to the term "mixed use." Is**  
 25 **that a part of the plan, as well?**

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1 A. It is, yeah.  
 2 **Q. And how is that -- how does that feature play into this**  
 3 **plan?**  
 4 A. Well, in my view it means that, at street level, you  
 5 probably have good retail or good commercial, something  
 6 that's going to make -- it's going to activate the streets,  
 7 have people out on the streets. And in my mind, that sits  
 8 on top of residential, so that's what I think of when I  
 9 think of mixed use.  
 10 **Q. So in order to achieve that, is there an interrelationship**  
 11 **between the economic activity of the first four mixed-use**  
 12 **elements and that mixed-income range of housing?**  
 13 A. Yeah. It's symbiotic, right? You need people to feed the  
 14 retail, and the people who are in the neighborhood want to  
 15 have retail that they can benefit from, that they can go  
 16 have dinner, they have their local grocery or whatever it  
 17 is, but that they aren't isolated. They should work  
 18 together.  
 19 **Q. And did you find the plan inspiring?**  
 20 A. Yeah, I do. I get kind of excited about it.  
 21 **Q. And have you acted on that inspiration?**  
 22 A. Yeah.  
 23 **Q. In what ways?**  
 24 A. Well, the reason we became involved in it is because we  
 25 targeted some property that we wanted to develop. And this

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1 is the Mount Baker Station project that I have mentioned  
 2 before. So if I can talk for a minute about the project.  
 3 **Q. Tell us about -- is this Stazione 25?**  
 4 A. Stazione 25 is the branding of the project. It is -- it was  
 5 an interesting piece of property. It was basically an  
 6 isolated single-family neighborhood that sat behind the QFC  
 7 and the Rite-Aid and in front of Cheasty greenbelt. And it  
 8 was five or six individual homes, and it was zoned single  
 9 family, but it was an island of single family. I don't  
 10 think the City ever got around to rezoning it. It didn't  
 11 really fit. There was industrial on one side and commercial  
 12 on the other side.  
 13 And so we thought it would be -- we knew that it was going  
 14 to be near the Light Rail station. At that time, the Light  
 15 Rail station and the Light Rail were targeted, but they  
 16 hadn't been constructed, and so the station hadn't even  
 17 started construction when we targeted this property.  
 18 And so we assembled -- it was maybe, it was ten different  
 19 parcels and maybe seven different owners. It was very  
 20 reflective of the neighborhood. The people whose homes we  
 21 bought were from a very diverse group of backgrounds. It  
 22 was very cool. We went to the City to talk to them about  
 23 what they thought about, you know, a different product type  
 24 for that. And they were very supportive of changing the  
 25 zoning from single-family to something more dense in support

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1 of the Light Rail station.  
 2 And in our meetings with them, they basically said, hey,  
 3 just, we're going to do a legislative rezone here, be done in  
 4 about a year, just draft behind us, we're going to get it  
 5 taken care of, and then you guys can go ahead and proceed.  
 6 And that didn't really happen. It took the City longer  
 7 than we expected to get that legislative rezone done.  
 8 And so, after a couple years, we went through a contract  
 9 rezone process. And again, we had the City's support. The  
 10 City was very interested in having that particular piece of  
 11 property developed. We, at that time, decided that the best  
 12 use of it would be a multi-family project. They liked that  
 13 idea, and so we went through the contract rezone process and  
 14 the MUP process. That took us about three years to get  
 15 through, but we got through.  
 16 **Q. And let me ask you this: Did your project respond to the**  
 17 **North Rainier Neighborhood Plan vision of a mixed-income**  
 18 **development?**  
 19 A. It does. I mean, it's a market rate project. And it does  
 20 have an affordable component through the MFTE.  
 21 **Q. What is the affordability component?**  
 22 A. MFTE is the tax abatement program. So essentially 20  
 23 percent of the units are dedicated to people who are in the  
 24 range of 60 to 80 percent of the median income. But the  
 25 vision of that project is that it's really for workforce

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1 housing. It's not intended to be the top of the market,  
 2 although it's going to be a beautiful project. We didn't  
 3 skimp on it. It's going to be a really, really nice  
 4 project, but it's for workforce.  
 5 It's right by the train station. We anticipate that  
 6 people who live there are going to be people who are working  
 7 downtown or want to hop on the Light Rail and get anywhere  
 8 that the Light Rail can take them.  
 9 **Q. So let's take a look at Exhibit 10. It's an exhibit that**  
 10 **was just admitted. And maybe you can --**  
 11 HEARING EXAMINER: Sorry, what --  
 12 MR. ABOLINS: Now it's Exhibit 57, sorry. Exhibit 57 in  
 13 the record, it's 10 in your notebook.  
 14 **Q. (By Mr. Abolins) There's a series of aerials, and you can**  
 15 **pick whichever one you think best allows you to speak to**  
 16 **your project.**  
 17 A. Yeah, let's see here. I think the best one was identified  
 18 as page 6, because it's kind of interesting. It -- you will  
 19 see where the Light Rail curves under Beacon Hill. It goes  
 20 into the tunnel there. That street that goes east-west is  
 21 McClellan to -- and then you will see 25th, which is a  
 22 north-south street, which is bordering the QFC. So you will  
 23 see the word "South Lander" beneath that. South of that is  
 24 the QFC/Rite-Aid shopping center.  
 25 **Q. Mm-hmm.**

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1 A. To the left of that, to the west of it, is our property.  
 2 And you will see that dotted line. That dotted line, I  
 3 don't think -- I am not sure why it's dotted on this page,  
 4 but that property was always kind of an island in the City's  
 5 zoning. It wasn't part of the transit overlay. It wasn't  
 6 part of the -- I think at some point it wasn't part of the  
 7 zoning there. So it's just been always treated a little bit  
 8 differently.  
 9 **Q. And so is it fair to say that your project -- well, how many**  
 10 **units is your project --**  
 11 A. Our project is 301 units.  
 12 **Q. And how many existing units of residential did those 300**  
 13 **units displace?**  
 14 A. There were six houses, I believe.  
 15 **Q. Okay.**  
 16 HEARING EXAMINER: I'm sorry. Could we take a quick step  
 17 back? I was caught up in your description of the streets.  
 18 THE WITNESS: Yeah.  
 19 HEARING EXAMINER: Where is the property where you're  
 20 developing?  
 21 THE WITNESS: So if you see on -- if you're looking at  
 22 page 6 and the --  
 23 MR. ABOLINS: The dotted line?  
 24 THE WITNESS: Yeah, the dotted line. You see the words  
 25 "South Lander Street?"

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1 HEARING EXAMINER: Mm-hmm.  
 2 THE WITNESS: Beneath that, it's the property -- it's  
 3 between the solid line and the dotted line.  
 4 HEARING EXAMINER: Okay.  
 5 **Q. (By Mr. Abolins) So Cheasty Greenspace is the greenery**  
 6 **that's across the street, across McClellan and to the south,**  
 7 **correct?**  
 8 A. That's right.  
 9 **Q. And so -- okay. So we talked about that project. And you**  
 10 **mentioned, while we're here, you have another project that**  
 11 **you're investing dollars in, as well. And which one is**  
 12 **that?**  
 13 A. Yeah, we are. Where MLK crosses with Rainier, that  
 14 intersection, to the south triangle of that intersection,  
 15 there are two parcels there. If you want to look at it, if  
 16 you look and see where the Franklin track is, and you go to  
 17 the west or to the left on your page, you will see where the  
 18 two roads intersect and you will see a little triangle of  
 19 property there.  
 20 There's really four parcels there. The southernmost  
 21 parcel is where Mercy Housing is developing its new project.  
 22 The two properties to the north are where we just entered  
 23 into a contract to acquire those two properties.  
 24 **Q. So if you turn to the next image, does it give you a little**  
 25 **better close-up?**

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1 A. Yeah, it does. So, again, if you look at the -- if you look  
 2 at the track, if you're looking at it --  
 3 **Q. Kitty corner?**  
 4 A. Yeah. It's the triangular piece where the two roads cross.  
 5 You can see Rainier and MLK cross, and then you can see --  
 6 and between the two are two parcels.  
 7 **Q. And is there a certain historic feature north of those**  
 8 **parcels that you found particularly attractive for that**  
 9 **location?**  
 10 A. Well, there's a lot of things we find attractive about the  
 11 location.  
 12 **Q. Well, why don't you talk about those?**  
 13 A. Okay, sure.  
 14 So, first of all, it's an awesome intersection, right?  
 15 You have got these two arterial roads that cross, and it's  
 16 sort of an iconic intersection, as far as I'm concerned. I  
 17 always grew up (inaudible) near the intersection of MLK and  
 18 Rainier, I knew exactly where it was. I spent time there.  
 19 We love the fact it's essentially across the street from  
 20 the train station. That's a big draw for us. That's very  
 21 important. That's the main reason we did Stazione 25.  
 22 It should be connected to the Cheasty greenbelt through  
 23 the Olmsted plan, right? And there are plans in the city  
 24 for the accessible Mount Baker, and we're hopeful that those  
 25 plans are going to come into fruition, and we're going to

1 have that greenbelt extend down off of the Cheasty  
 2 Greenspace through this neighborhood and back up into Mount  
 3 Baker.  
 4 **Q. Okay, all right. And now, you mentioned -- actually, if you**  
 5 **turn to Exhibit 76.**  
 6 A. Which is?  
 7 **Q. FNR, which is -- I think has got an attachment --**  
 8 A. Got it.  
 9 **Q. -- to your 76. Does this depict your project and how it's**  
 10 **envisioned, the project up on the hill?**  
 11 A. Yeah, that's our project.  
 12 **Q. Let me get (inaudible)?**  
 13 MR. ABOLINS: And this will be marked as Exhibit 59.  
 14 (Exhibit No. 59 marked for identification.)  
 15 MR. ABOLINS: Thank you. And so if we can refer -- how  
 16 many pages back are the depictions of your project.  
 17 A. They're double-sided. The letter is two sided. One piece  
 18 of paper, two sides, and then the next pages, back to back,  
 19 are the depictions of the project.  
 20 **Q. Okay. And so the first -- the top picture, is that looking**  
 21 **from McClellan up the hill at your project?**  
 22 A. It is, yes.  
 23 **Q. And then how about the next picture?**  
 24 A. The next picture is looking from -- gosh, after ten years I  
 25 can't remember the name of that street, but --

1 doesn't -- you would think potentially that having the only  
 2 market rate project in a neighborhood would be a good thing.  
 3 It's not. We'd like to see more market rate development.  
 4 We would like to see -- we think it brings a lot of good  
 5 things to the neighborhood and increases the value of our  
 6 property.  
 7 **Q. So while you're on that, what is unique about the North**  
 8 **Rainier Urban Village in terms of the level of market rate**  
 9 **activity as compared to other parts of the city?**  
 10 A. There's not enough. There's not much and there's not  
 11 enough. And it's out of balance with the existing supported  
 12 housing.  
 13 **Q. And so as far as -- you mentioned this Mercy Housing**  
 14 **project. How important was that block that was selected for**  
 15 **that project to, I guess, defining the character of the**  
 16 **empty block surrounding the transit station?**  
 17 A. Well, again, when you think about it, it's essentially on  
 18 the intersection of two key arterials in the Rainier Valley  
 19 in the whole city of Seattle, Rainier and MLK. I mean, it's  
 20 right where those two cross.  
 21 It's also right across street from the train station so  
 22 you have all this visibility and all this activity around  
 23 the site. And, you know, in our view if you want to  
 24 activate a neighborhood, you have to have active commercial,  
 25 on the ground floor, that serves the neighborhood. And you

1 **Q. Is that 20 --**  
 2 A. Well, you're on 25th.  
 3 HEARING EXAMINER: 55 years...  
 4 A. You're looking at the northeast corner of the project.  
 5 **Q. (By Mr. Abolins) Northeast --**  
 6 A. The project consists of two buildings. This is the north  
 7 building.  
 8 **Q. Okay. Great. And then you had mentioned Mercy Housing, and**  
 9 **I guess -- tell us about this letter that you have attached**  
 10 **your project diagrams to. What is the purpose of this**  
 11 **letter?**  
 12 A. Well, we had an opportunity to meet with the addressees of  
 13 this letter. It Was Deputy Mayor Kim, Director Assefa and  
 14 Carlton van.  
 15 **Q. What was the purpose of the meeting?**  
 16 A. Well, we have found out that Mercy Housing was doing a  
 17 project in the intersection I just described, that key  
 18 intersection. And we were concerned because we are very  
 19 interested in having an activated Mount Baker Station, sort  
 20 of -- and consistent with the vision of the plan. And we  
 21 weren't aware -- we knew that there was a developer who was  
 22 sort of sniffing around on that property and had plans to do  
 23 market rate housing project there, which is what we were  
 24 expecting.  
 25 And, by the way, that's not offensive to us. It

1 also -- you have to have attractive buildings.  
 2 And, by the way, I happen to think the Mercy building is  
 3 an attractive building. I think it adds -- it adds to the  
 4 neighborhood. It's not a detriment to the neighborhood.  
 5 And you have people in the neighborhood who have the means  
 6 to, you know -- disposable income to support the retail in  
 7 the neighborhood.  
 8 **Q. Well, let me -- you're involved in the business association.**  
 9 **Is the business association opposed to affordable housing?**  
 10 A. No, it's not, and neither am I.  
 11 **Q. And where are the meetings of the business association held?**  
 12 A. They're held at a supported housing facility.  
 13 **Q. And what's happening with that? That's Mount Baker Housing,**  
 14 **correct?**  
 15 A. Yeah.  
 16 **Q. And is Mount Baker Housing currently looking at expansion?**  
 17 A. They have several projects slated for the neighborhood.  
 18 **Q. And do you know what the business association's position is**  
 19 **on the expansion of affordable housing by that organization?**  
 20 A. I think they're very excited about it.  
 21 **Q. And is there any level of collaboration or participation by**  
 22 **Mount Baker Housing representatives in the business**  
 23 **association?**  
 24 A. Yeah, they participate in the business association.  
 25 **Q. How about with Mercy Housing, was there any sort of outreach**

1 or engagement by Mercy Housing with the local neighborhood  
2 plan and its advocates?

3 A. Not that I am aware of.

4 **Q. And why are you meeting with the City if this is a nonprofit  
5 project?**

6 A. Well, again, we -- you know, our concern isn't necessarily  
7 this particular project; although the letters express a  
8 concern about this project. It's a little bit of a canary  
9 in the coal mine. We think that currently the neighborhood  
10 is out of balance between market rate and affordable. And  
11 now, all of sudden, you have, you know, not just affordable  
12 but truly supported. And, again, we're not against truly  
13 supported or affordable, but we want it to be in balance.

14 We also have a concern about the ground floor. You know,  
15 right now, Mercy Housing has said what they're going to do  
16 there is support services for transition, people  
17 transitioning out of homelessness. I don't know what that  
18 means. I don't know what it's going to look like. I don't  
19 know what it's going to feel like. I don't know how it's  
20 going to affect our tenants.

21 Our project is -- the total budget for Skazione 25 is \$103  
22 million. So we have made a huge investment in this  
23 neighborhood. We have an interest in preserving and making  
24 sure it's a successful project.

25 **Q. So you -- does that project involve some risks that are not**

1 about your neighborhood all day. It's a great story, and I  
2 do appreciate it. But I want to be mindful of the time we  
3 have got for other appellants and what we're here for, as  
4 far as the legal burden.

5 **Q. (By Mr. Abolins) Okay. Well, in terms of talking about,  
6 you know, the risks to your investment -- and I think you  
7 have testified to the investment was kind of inspired by the  
8 neighborhood plan. It sounded like the market was  
9 responsive to that neighborhood plan.**

10 **In terms of socioeconomic, which is a part of the  
11 mixed-use, mixed-income features of the plan as I understand  
12 it, does the -- do the existing conditions of the North  
13 Rainier Urban Village reflect those attractive features of  
14 the plan?**

15 A. Not yet, no, they don't.

16 **Q. And as I understand, did this Mercy Housing project come  
17 with city dollars supporting it?**

18 A. My understanding is, yes, it did.

19 **Q. And in terms of, you know, the second upzone that's been  
20 proposed, you understand there the MHA upzones have been  
21 proposed for North Rainier for --**

22 A. I do.

23 **Q. And do you understand the basic proposal is one of  
24 increasing develop-ability in exchange for in lieu fees or  
25 onsite units, correct?**

1 **present when developing in other parts of the city?**

2 A. Yeah. There's risk, but the flip side of risk is  
3 opportunity. And that's part of what we saw when we started  
4 this process, is this was a relatively underdeveloped  
5 neighborhood. The land prices were a little bit lower. And  
6 we saw huge potential. And as we became engaged with the  
7 planning process, we thought -- we were excited by the  
8 prospects that are represented by the plan that the City had  
9 helped us develop.

10 **Q. And did you do market studies to determine whether potential  
11 tenants and residents would also be responsive to those  
12 features of the North Rainier Neighborhood Plan?**

13 A. Yeah, we did. We actually wanted to get a good profile of  
14 who our tenants were going to be, so we did commission a  
15 study.

16 **Q. And what --**

17 HEARING EXAMINER: Mr. Abolins, I would just check with  
18 you on timing for the witness. What are you anticipating at  
19 this point?

20 MR. ABOLINS: Probably ten minutes, Your Honor.

21 HEARING EXAMINER: Okay. I'm wanting to get us to a  
22 point, too, where we're getting to something underlying the  
23 EIS.

24 MR. ABOLINS: Okay.

25 HEARING EXAMINER: I honestly could sit and talk to you

1 A. That's right.

2 **Q. And do you have any concerns about the implementation of  
3 this proposal in a manner where the City is not aware or not  
4 regulating where those in lieu fees are being invested?**

5 A. Our concern is that if those in lieu fees are deployed  
6 primarily in the Rainier Valley, it's not going to meet the  
7 plan. That instead of having the mixed use that the plan  
8 calls for, you're going to have an overbalance. You're  
9 going to have too much of the affordable and supported  
10 housing and not enough market-rate housing.

11 **Q. And what does that portend for the success of the plan?**

12 A. Well, it's a failure of the plan. That's not what the plan  
13 called for. If that's what happens, then the plan hasn't  
14 been implemented and isn't successful.

15 **Q. And does that have any impact on the ability to attract the  
16 type of inclusive mixed-income development that is desired  
17 in the plan?**

18 A. You will have a downward spiral. You know, the less you  
19 have of the market rate and the more of the affordable you  
20 have, it will just perpetuate itself. We're sort of in that  
21 spiral now, and I think one of the prospects of the plan was  
22 to break that spiral, to do what's necessary to bring  
23 market-rate housing to essentially rebalance.

24 MR. ABOLINS: I have no further questions.

25 MR. WEBER: I have no questions.

1 HEARING EXAMINER: Thank you.  
 2 THE WITNESS: You're welcome.  
 3 HEARING EXAMINER: We'll take a break and come back at 25  
 4 after? Is that right?  
 5 MR. WEBER: 3:05 to --  
 6 MR. ABOLINS: 3:20?  
 7 HEARING EXAMINER: Yeah, 25 after.  
 8 Before we break, let's --  
 9 MR. ABOLINS: I would like to have my exhibits.  
 10 HEARING EXAMINER: We've got 59 and 58 that were not  
 11 admitted yet.  
 12 MR. ABOLINS: I would like to have them admitted.  
 13 MR. WEBER: That's fine.  
 14 HEARING EXAMINER: All right. 58 and 59 are admitted.  
 15 (Exhibit Nos. 58 and 59 admitted into evidence.)  
 16 (Recess)  
 17 HEARING EXAMINER: And we return with continued direct  
 18 with Mr. Abolins by the appellant.  
 19  
 20 DIRECT EXAMINATION (cont.)  
 21 BY MR. BRICKLIN:  
 22 **Q. Mr. Abolins, when we broke off before, I think we were --**  
 23 **you were providing a little bit more background before we**  
 24 **jump into the specific EIS issues I want to turn to. And**  
 25 **you were reviewing some of the background planning documents**

1 **that pertain to this area. And I think the next one you**  
 2 **were going to discuss is the 2010 plan update, which is**  
 3 **Friends' Exhibit 5, I believe?**  
 4 A. And I do want to say I think that document has been admitted  
 5 by -- that's the attachment, the 2010 update is the  
 6 attachment that Mr. Ross referred to, Attachment C --  
 7 **Q. Oh.**  
 8 A. -- to the Urban Design Framework, which I think was recently  
 9 an exhibit. But I can --  
 10 HEARING EXAMINER: Are you talking about Exhibit 58?  
 11 THE WITNESS: Yeah, Exhibit 58.  
 12 **Q. (By Mr. Bricklin) Oh, okay.**  
 13 A. And so that document is basically the groundwork that was  
 14 laid to feed into the City's comprehensive plan on North  
 15 Rainier, and many of those goals and policies were actually  
 16 formally adopted by the City Council in one form or another.  
 17 And it includes such things as open space goals and  
 18 policies, as well as all of these provisions on the  
 19 socioeconomic -- the intended socioeconomic conditions of  
 20 the urban village.  
 21 **Q. All right. I just want to make sure that I haven't missed**  
 22 **something. I also have on the list the 1999 neighborhood**  
 23 **plan. Did you intend to submit that?**  
 24 A. That was the one where -- we already talked about it --  
 25 **Q. Right.**

1 A. -- that was the image of the --  
 2 **Q. That was just the image from the plan.**  
 3 A. Yeah.  
 4 **Q. Not the whole plan.**  
 5 A. Yeah, showing the residential neighborhood with respect to  
 6 the Town Center core.  
 7 **Q. All right. And then let's turn to the neighborhood plan**  
 8 **that's incorporated within the City's comprehensive plan.**  
 9 **Are you familiar with that document?**  
 10 A. I am, and there is a separate exhibit --  
 11 **Q. Yep.**  
 12 A. -- of that plan.  
 13 MR. BRICKLIN: And, Mr. Examiner, I think we have the  
 14 whole comp plan in so I don't know if you want -- we're  
 15 going to be talking about a couple pages of it. We could  
 16 hand you a separate exhibit, or you could turn to it in  
 17 the comp plan.  
 18 HEARING EXAMINER: I will take it as illustrative and  
 19 useful to me, but we won't use it as an exhibit.  
 20 MR. BRICKLIN: All right.  
 21 HEARING EXAMINER: There's just a couple pages.  
 22 MR. BRICKLIN: Right. Yeah.  
 23 MR. WEBER: And for my reference, which --  
 24 MR. BRICKLIN: Page 2 -- Exhibit 2 from Friends of North  
 25 Rainier.

1 THE WITNESS: It's page 348 in the Neighborhood Plan  
 2 Section of the EIS -- or of the comprehensive plan.  
 3 A. Yeah. So this reflects what has actually become part of the  
 4 comprehensive plan to guide growth in North Rainier. And  
 5 the three elements where I'm concerned about today of  
 6 environment are open space, historic resources, as well as  
 7 the socioeconomic section. And this speaks to much of that,  
 8 although it's not referenced in the FEIS.  
 9 So I will refer you to, first of all, the Town Center Goal  
 10 at the very top, Goal 1 speaks to a town center that would  
 11 concentrate housing commercial uses, services and living  
 12 wage employment opportunities. So it's a real emphasis on  
 13 economic development and employment opportunity.  
 14 Another housing and socioeconomic policy is Town Center  
 15 Policy 2, which calls for the development of a shopping  
 16 district composed of businesses that provide products and  
 17 services meeting the needs of the community members from  
 18 different cultural backgrounds. And that's consistent with  
 19 the other documents calling for a small and ethnic business  
 20 district.  
 21 Down in the Housing Goals, Goal 2, "Housing in the  
 22 neighborhood meets community needs for a range of household  
 23 incomes and unit sizes and makes a compatible transition  
 24 from higher intensity mixed use in multi-family residential  
 25 to the single family areas, so it's that cohesive, respect

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1 for cohesive neighborhoods, as well as that range of incomes  
 2 that is called for by the comp plan.  
 3 Again, the very next housing goal, 3, "Development within  
 4 the Town Center prioritizes housing that serves households  
 5 across a range of incomes."  
 6 And then, similarly, on the next page, jumping down to  
 7 policy 11, talking about home ownership opportunities  
 8 consistent with that range of housing. And Policy 13,  
 9 "Encourage a mix of home prices and sizes through the use of  
 10 incentives, requirements on development and/or funding."  
 11 Because, really, this is really calling out what was  
 12 developed through the neighborhood planning process of a  
 13 robust, inclusive range, a diverse range of economic housing  
 14 levels.  
 15 So then down under Economic Development Goals, which are  
 16 closely related to those concepts of mixed income, we have  
 17 Goal 6, for example. It talks about a local economic  
 18 climate in which North Rainier's unique small businesses can  
 19 remain economically viable and have the opportunity to grow  
 20 as the Town Center grows, so that's a core tenet of this  
 21 comp plan.  
 22 Policy 16 on the very next page, "Strive to facilitate the  
 23 vitality of the existing retail and businesses to help meet  
 24 the neighborhood's employment goals, "which, as you have  
 25 heard, this is a very depressed area right now."

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1 Then Policy 18, "Strength in local business associations,  
 2 to include and support the presence and growth of businesses  
 3 owned by immigrants and minority community members." And  
 4 that is one of the roles that our business association  
 5 serves today.  
 6 And then Policy 19, "Support and expand the existing  
 7 diverse mix of generally small-scale businesses." So this  
 8 is actually identifying some of the existing conditions, in  
 9 terms of that small and ethnic business, a vanguard of small  
 10 and ethnic businesses that we want to build on and grow.  
 11 And then, also, "Encourage the inclusion of affordable  
 12 commercial space in new development." So while we do have  
 13 an expansion of affordable housing stock, affordable  
 14 commercial is kind of a central tenet of this plan that  
 15 needs to be supported with economic principles.  
 16 And moving on to the open space relevant comp plan  
 17 features, we have the Community Life Goals, NRG-8. "North  
 18 Rainier Valley's network of parks, recreational facilities,  
 19 open spaces and art and culture programs are functioning and  
 20 well utilized." So it's really consistent with what we  
 21 heard about the fabric of the Olmsted system. This goal  
 22 contemplates there would be a network of parks that are  
 23 functioning well.  
 24 And then Goal 9, this is, again, related to housing and  
 25 socioeconomics, "Ethnic and cultural diversity is a

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1 continued presence in the community." So business oriented.  
 2 Finally --  
 3 HEARING EXAMINER: I'm just going to ask you to pause for  
 4 a second. You said "Open Space Goal 9"?  
 5 MR. BRICKLIN: Community Life Goal 9.  
 6 THE WITNESS: I'm sorry, let me clarify. That particular  
 7 one, 8 is refer -- is related to open space, and then 9 --  
 8 MR. BRICKLIN: Well, you read, "Community Life Goal,  
 9 NRG-8."  
 10 THE WITNESS: Okay.  
 11 HEARING EXAMINER: If you could read the number --  
 12 THE WITNESS: Okay.  
 13 HEARING EXAMINER: -- when you are reading each item, that  
 14 will help make clear for the record the goal and policy that  
 15 you're referencing.  
 16 THE WITNESS: Okay, I will do that.  
 17 A. So NRG-8 was with reference to open space. NRG-9 is with  
 18 reference to housing and socioeconomic conditions.  
 19 Turning on to Open Space Goals, NRG-13 and NRG-14 are also  
 20 reflecting the intended ways in which to guide growth with  
 21 regard to open space. It talks about the importance of  
 22 Cheasty Boulevard and its greenbelt being reclaimed and  
 23 developed consistent with that Olmsted Parks and Boulevard's  
 24 plan that is in the record.  
 25 **Q. (By Mr. Bricklin) Why is the word "reclaimed" there? What**

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1 **is the condition of that greenbelt right now?**  
 2 A. Well, it's been the subject of continued improvement and  
 3 there has been some investment in it, but currently it  
 4 doesn't connect well with the Town Center because of that  
 5 difficult intersection of Rainier Avenue and Martin Luther  
 6 King Way. So we were working on that one.  
 7 And Goal NRG-14 talks about, "a ring of green surrounding  
 8 the urban village with strong connections to the greenbelts,  
 9 boulevards and parks, augmented with a hierarchy of open  
 10 spaces." And so this concept of a hierarchy is, again,  
 11 consistent with the system of parks and parkways. So the  
 12 boulevards are not -- you know, you don't tell the children  
 13 to play in the street. They're nice boulevards, but they  
 14 connect the children to the parks and the forest. Like the  
 15 forest, you don't tell the kids to go play in -- Cheasty  
 16 Forest is not, you know, a place where you would send the  
 17 kids to play in the grass. It's not a playground for the  
 18 children of the Hao Mai Preschool. So there is this idea  
 19 that you integrate it consistent with the principles of the  
 20 Olmsted entities which undergird our city.  
 21 And then moving on to the open space policies, NRP-33, the  
 22 policy is to design parks and open spaces and programming to  
 23 accommodate users of diverse ages, interests and cultures.  
 24 For example, the children of the Hao Mai Vietnamese  
 25 Bilingual Preschool. NRP-34, "Consider using levy funds,

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1 general funds and partnerships with developers to create a  
 2 hierarchy of public and private open spaces that are  
 3 publicly accessible and address the gaps identified in the  
 4 parks gap analysis."  
 5 So they have really called out -- and in the structure of  
 6 our comp plan, the park gap that exists at the heart of this  
 7 neighborhood.  
 8 And then, finally, NRP-35, "Seek to preserve environmental  
 9 sensitive hillsides, particularly those in that Cheasty  
 10 greenbelt, and seek to protect them from further residential  
 11 development."  
 12 And that's the area that Jennifer Ott was speaking of next  
 13 to the 95-foot-high proposed rezone. So that I have called  
 14 out, as Peter Steinbrueck had suggested, the (inaudible) and  
 15 features of our comprehensive plan which were not addressed  
 16 in any meaningful way in the FEIS.  
 17 **Q. Well, all right. But with that last sentence, you stole my**  
 18 **next question, so let me frame that up a little better. So**  
 19 **I know there were going to be three other subjects you were**  
 20 **going to talk about in more detail, but I'm going to add one**  
 21 **to that list. In analyzing the EIS, did you evaluate and**  
 22 **look for places where the EIS addressed these comprehensive**  
 23 **plan goals and policies? Did you look for that?**  
 24 A. Yes.  
 25 **Q. And is it in there anywhere?**

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1 A. No, no. Not in any meaningful way. There is an  
 2 acknowledgement that the open space gap exists, as it has  
 3 for decades in this area of the Town Center.  
 4 **Q. Mm-hmm.**  
 5 A. North Rainier. It doesn't actually say where it is in the  
 6 Village, but that's how to --  
 7 **Q. Does it acknowledge that that gap is called out as a focus**  
 8 **of some of these goals and policies in the City's**  
 9 **comprehensive plan?**  
 10 A. No.  
 11 **Q. Does it address any of these other goals and policies that**  
 12 **you have just ticked off?**  
 13 A. Let me clarify. In the FEIS, it does say that there is an  
 14 open space gap in North Rainier.  
 15 **Q. Right, but I'm talking about these policies and goals.**  
 16 A. These policies, no, they're not referenced or analyzed or  
 17 harmonized in any way.  
 18 **Q. Because it's one thing to recognize there's a gap, there's**  
 19 **this, that and the other thing, but it's something else if**  
 20 **that gap has been called out in the City's comprehensive**  
 21 **plan. And that has not been done, I hear you saying.**  
 22 A. Not in the FEIS.  
 23 **Q. Right. And, again, none of the other policies that you**  
 24 **talked about are in the EIS at all?**  
 25 A. No.

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1 **Q. All right. So before we -- so we can count that as Issue**  
 2 **No. 1. And I know you were going to talk about three more**  
 3 **issues --**  
 4 A. I think.  
 5 **Q. -- (inaudible) in a second, but before we get to that, I**  
 6 **want to ask you about one more preliminary document. Do you**  
 7 **have before you a letter from Council Member Harold to Mayor**  
 8 **Murray in July of -- it's your No. 9, I believe.**  
 9 A. Yeah, I have got that here.  
 10 **Q. Is that where you were going to turn to next?**  
 11 A. Yeah.  
 12 **Q. All right.**  
 13 MR. BRICKLIN: This is our No. 9.  
 14 HEARING EXAMINER: Marked as Exhibit 60.  
 15 (Exhibit No. 60 was marked for identification.)  
 16 **Q. (By Mr. Bricklin) And I think I just described the letter.**  
 17 **Can you describe the content of the letter and why it's**  
 18 **relevant to the background that you're discussing here?**  
 19 A. Yeah, so this echoes some of the discussion that Michael  
 20 Ross talked about, the existing conditions of the Town  
 21 Center, which aren't addressed in the FEIS. Here we have  
 22 the current president of the Seattle City Council is issuing  
 23 a letter following on a North Rainier Urban Village  
 24 Assessment, which is identified as a report issued through  
 25 the Seattle Economic Development Commission and prepared by

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1 Burke Consulting in 2014.  
 2 And in this, this really goes to livability issues that,  
 3 again, are not in the FEIS, but are here, you know, front  
 4 and center, in a letter written to the mayor and others.  
 5 He's talking about the importance of the Mount Baker Town  
 6 Center and the vision of that town center, talking about the  
 7 need for an interdepartmental team to focus on a set of  
 8 targeted public realm investments that are sorely needed  
 9 within the North Rainier Hub Urban Village by the end of  
 10 2015.  
 11 He talks about all the work that's already been done.  
 12 "And the strong argument could be made that based on  
 13 environmental equity and social justice, the City should  
 14 partner with North Rainier Community and help it share in  
 15 the benefits of public investment and economic development  
 16 occurring in other great -- other areas of our great city."  
 17 So this is actually corroborating what, you know, a  
 18 developer in our neighborhood has described. This is like  
 19 three years ago. Conditions have not apparently changed  
 20 that much. So these are -- he talks about the tremendous  
 21 potential, just really echoing what we heard earlier today.  
 22 And then he goes into this North Rainier Urban Village  
 23 Assessment on page 2, and he quotes several findings. And  
 24 these are kind of scathing findings on the lack -- the  
 25 failure of the City to achieve the appropriate conditions in

1 North Rainier Urban Village that have been called for for so  
2 many years. And this is a City-commissioned study, and he's  
3 calling for an interdepartmental team to just work together  
4 and address some of these issues of livability and  
5 infrastructure and economic -- socioeconomic development to  
6 fulfill the vision of the plan.

7 And I just bring it to your attention because it echoes  
8 what Peter Steinbrueck talked about, that, you know, we have  
9 in this city's history of planning, tremendous granularity  
10 of how you combine elements of the environment. You  
11 consider, meaningfully, the way that elements of the  
12 environment build upon each other to create a livable place.  
13 And that's --

14 **Q. If done right.**

15 A. If done right. And I guess there's a stark contrast to the  
16 ground-truthing that was done, perhaps, with the University  
17 District and the Uptown focus, but -- and here we have this  
18 president of the City Council already ground-truthing these  
19 same types of principles. And so he gets it, it's his  
20 district. But in the FEIS, there is none of this.

21 **Q. All right. Well, we'll get to that in a second. I just  
22 wanted you to lay the background first. And I'm sorry, what  
23 was that exhibit number?**

24 A. 60.

25 **Q. Thank you.**

1 one of the biggest, if not the biggest, in the city. They  
2 just looked at it as a -- like from 50,000 feet high. They  
3 didn't talk about where the locations of the gap were with  
4 respect to the proposed zoning changes.

5 **Q. Can you point out to the Examiner the specific page of the  
6 EIS where this 50,000-foot assessment of the open space is.**

7 **Do you need a copy --**

8 A. Yeah.

9 **Q. You want to do it with this one?**

10 A. I can try to find it. It's in the open space section, which  
11 was at 3.4 -- or what is that? 3.7. I think that was one  
12 of the -- yeah, open space and recreation, 3.7. Section  
13 3.7, but the page is further -- now I me see why people  
14 are -- page 3.343. So if you flip through here, you don't  
15 see any map showing where the open space gap is. You don't  
16 see any ability for a decisionmaker to evaluate the  
17 relationship of the intense residential zoning to the open  
18 space, and you don't see any mention of the Olmsted Parks  
19 and Boulevard system and the fact that that existing  
20 planning framework for the city actually called for an open  
21 space near the intersection where the Link station is.

22 You see general discussions of the amount of acres of  
23 parks and open spaces, but there's really no way to compare  
24 and contrast the different areas of North Rainier Urban  
25 Village. It's also misleading in the sense that, unlike the

1 MR. BRICKLIN: And what was your exhibit number on that?  
2 HEARING EXAMINER: This was 9.

3 MR. BRICKLIN: 9. Thank you

4 **Q. (By Mr. Bricklin) All right. So with that as background,  
5 in addition to discussing the comp plan policy omissions in  
6 the EIS, were there three other areas about the EIS that you  
7 wanted to address factually?**

8 A. Yeah, I wanted to get into the open space resources.

9 **Q. Okay. Open space is one?**

10 A. And then the historic resources section.

11 **Q. All right.**

12 A. And then the housing and socioeconomics.

13 **Q. All right. So let's turn to open space first. And what did  
14 you -- I gather you reviewed the EIS to see what it said  
15 about open space conditions in your neighborhood?**

16 A. Yes, because we have been working for years with the City on  
17 trying to bridge what is considered Southeast Seattle's with  
18 the worst open space gap.

19 **Q. All right. And we'll talk about the details of that gap in  
20 a second, but what did you find in the EIS itself in terms  
21 of it discussing open space?**

22 A. They talked about it at like a 50,000-foot-high level. They  
23 talked about -- there was no reference to the severity of  
24 the open space gap. They talked about it in terms of  
25 looking at the overall Urban Village, which is described as

1 City's more -- the City Parks Department has specific  
2 standards that focus on the special needs for park space  
3 within the Hub Urban Villages, and that the walking  
4 distances should be not as far as in other parts of the city  
5 because that's where all the density is. There's a  
6 recognized need for basically a neighborhood park, is what  
7 the City Parks acquisition planner told me, is that -- the  
8 idea is that these Hub Urban Villages should have --  
9 MR. WEBER: Objection; hearsay.

10 HEARING EXAMINER: Hearsay is allowed.

11 MR. WEBER: But I mean, we have -- anyway --

12 THE WITNESS: I can lay some background on my  
13 participation directly with that individual.

14 HEARING EXAMINER: I will allow it as just -- and let it  
15 go to the weight.

16 A. But anyway, I think suffice it to say that there's no way to  
17 meaningfully evaluate the relative impacts of the proposal  
18 on the open space need in North Rainier in any meaningful  
19 way.

20 **Q. (By Mr. Bricklin) Well, let's do it this way. Are you on  
21 page 3.346? Can you turn there?**

22 A. Yeah.

23 **Q. You see the heading "Existing Conditions"?**

24 A. Yes.

25 **Q. So this would be the section where the EIS has the**

1 opportunity to discuss what the existing open space  
 2 conditions are in North Rainier and other study areas in the  
 3 city; is that right?  
 4 A. Yes.  
 5 **Q. And how -- how many -- you can also count the number of**  
 6 **words that the EIS devotes to describing open space in the**  
 7 **city, but it appears to be just one page of text.**  
 8 A. Right.  
 9 **Q. Is that right?**  
 10 A. That's right. But if you look at the next page, there's a  
 11 listing of the urban villages. And this is what I mean when  
 12 this is misleading, because you don't have a map to actually  
 13 look at what they're talking about. It says "acres of parks  
 14 and open space."  
 15 HEARING EXAMINER: Which page are you on now?  
 16 THE WITNESS: 3.347. It's Exhibit 3.7-3.  
 17 **Q. (By Mr. Bricklin) And so I see that North Rainier is listed**  
 18 **there. Is it?**  
 19 A. Yes.  
 20 **Q. And so there's acres of park and open space, and also**  
 21 **described on a pro rata basis per resident?**  
 22 A. Yeah. And you see that it's an underserved urban village.  
 23 And I think the declaration that was filed in the summary  
 24 judgment proceedings by the City's parks expert who was a  
 25 marine biologist actually talked about how there's a massive

1 HEARING EXAMINER: Sustained.  
 2 **Q. (By Mr. Bricklin) All right. Now you said that they did**  
 3 **mention the gap at -- you called it the 50,000-foot level,**  
 4 **do you know where in the EIS there's some reference to this**  
 5 **open space gap?**  
 6 A. What --  
 7 **Q. Or were you just referring to that check mark on page 3.347?**  
 8 A. Yeah, there's a few references indicating that it's an  
 9 underserved urban village.  
 10 **Q. But beyond that, is there any -- you said there's no**  
 11 **reference to the fact that the Olmsted Parks open space**  
 12 **system comes through this urban village, right?**  
 13 A. No.  
 14 **Q. And there is -- and, apparently, you're now saying there's**  
 15 **no reference to the fact that there is a gap that the City**  
 16 **and the community have been trying to fill in that system?**  
 17 A. No recognition of that effort.  
 18 **Q. All right. So what do you know about -- what information do**  
 19 **you think was pertinent to a description of either the**  
 20 **existing open space in the community and/or -- well let me**  
 21 **start with that. About the existing open space and**  
 22 **shortcomings in the existing open space in the community?**  
 23 A. Can you ask that again?  
 24 **Q. Yeah. What factual information do you have about any open**  
 25 **space gaps in the community?**

1 increase in need in North Rainier for parks.  
 2 This talks about 66 acres of parks in North Rainier Town  
 3 Center. I mean, how do you reconcile Southeast Seattle's  
 4 worst open space gap for decades with the fact that there's  
 5 66 acres of park? And I think what they're talking about is  
 6 that this is, like, they're counting greenspace, they're  
 7 counting boulevard space, the roadways. And so I think this  
 8 is a misleading statement, and I think there are other  
 9 documents I can refer you to that illustrate that.  
 10 **Q. But in terms of describing -- apart from whether the number**  
 11 **is correct or not, in terms of describing existing open**  
 12 **space in North Rainier in terms of where it is, the types of**  
 13 **open space parks versus playgrounds versus wild areas or**  
 14 **whatever, where those areas are located on the map, any**  
 15 **description of that in the EIS?**  
 16 A. No.  
 17 **Q. Any description of sort of the shortfall in terms of how**  
 18 **much more is being sought by the community and the City**  
 19 **Parks Department?**  
 20 A. No. And Jennifer Ott mentioned she didn't think that the  
 21 people who prepared this document had talked to the Seattle  
 22 Department of Parks and Recreation, and that is my --  
 23 MR. WEBER: Objection. This sounds like some sort of a  
 24 summary of prior testimony. This isn't fact testimony.  
 25 MR. BRICKLIN: Yeah, that's fine. We can go on.

1 A. Well, again, that was one of the core missions of the Friend  
 2 of Mount Baker Town Center, was to achieve that missing  
 3 element of livability. And so we had before us maps that  
 4 had been prepared by the City which showed the open space  
 5 gaps. And that's one of them.  
 6 **Q. So Friends is Exhibit 14, which will be marked for**  
 7 **identification here as Exhibit 61.**  
 8 **(Exhibit No. 61 was marked for identification.)**  
 9 A. Yes.  
 10 **Q. What is that document?**  
 11 A. This is the Seattle Parks and Recreation Department 2008  
 12 Gaps and Usable Open Space for North Rainier. You will see  
 13 that as basically the North Rainier Urban Village and its  
 14 existing boundaries. And the color -- it's a very pretty  
 15 map. There's a lot of colors here. The gap is signified by  
 16 the area without color. And in the more recent edition of  
 17 the parks gap analysis, it's remarkably similar except the  
 18 color is orange in the final map of that analysis. But it's  
 19 pointing to the same thing. And the reason why almost the  
 20 entire center of the urban village is in a parks gap is  
 21 because that is recognized where the logical need for an  
 22 open space is.  
 23 **Q. And was the open space gap also referenced in exhibits that**  
 24 **have been previously admitted, Exhibit 41 and 44?**  
 25 A. Yes. And I think it's in that urban design framework, as

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1 well, that was admitted by the last witness. It's a  
 2 long-standing feature and problem in North Rainier.  
 3 **Q. Do you -- I have them by exhibit number. Can you remind the**  
 4 **Examiner what those two exhibits are that were admitted**  
 5 **previously, 20 --**  
 6 HEARING EXAMINER: Which --  
 7 MR. BRICKLIN: Exhibit 41 --  
 8 MR. WEBER: Is 41 the hearing examiner --  
 9 MR. BRICKLIN: Hearing examiner -- yeah, I'm trying to  
 10 stay true there. Hearing Examiner 41, which was your  
 11 Exhibit 20.  
 12 THE WITNESS: 58, I believe. The urban design framework.  
 13 **Q. (By Mr. Bricklin) But wasn't there a summary by the Friends**  
 14 **of -- of the Parks to the Park Department that referenced**  
 15 **that open space gap?**  
 16 A. Friends of Mount Baker Town Center?  
 17 **Q. It's showing on your notes as FSOP,**  
 18 A. Oh, yeah, the Godden letter. That was my Exhibit 20. It's  
 19 Exhibit 41, actually --  
 20 **Q. That's what I --**  
 21 A. And I would -- yeah, Exhibit 41 is actually a very studied  
 22 analysis of the open space gap that integrates -- Exhibit 41  
 23 actually is a very excellent reference discussing the goals  
 24 and policies of open space for the city of Seattle and its  
 25 relationship to the various planning documents that are

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1 designed to actually guide growth in the town center.  
 2 And so I think there's probably some additional exhibits  
 3 we could walk through, as well.  
 4 **Q. All right. Well, previously -- before we do that -- well,**  
 5 **all right.**  
 6 **So what is the concern you have about how the proposal**  
 7 **would impact the open space in your community?**  
 8 A. Well, just to cut to the chase, you know, if the purpose of  
 9 this environmental impact statement is to allow the City  
 10 Council to ensure that it takes an action that is going to  
 11 consider open space resources which are essential to  
 12 livability, this is an embarrassment. Because after years  
 13 of effort working with the City in an interdepartmental  
 14 function, as Bruce Harrell called for, and getting the City  
 15 to actually create an open space acquisition project  
 16 targeting specific parcels, in harmony with the Olmsted  
 17 historic and open space resource itself, as Jennifer Ott had  
 18 found reference to -- they had even called for an open space  
 19 adjacent to Cheasty greenspace on the valley floor at this  
 20 key intersection.  
 21 **Q. Open space acquisition?**  
 22 A. Yeah. Before density came in. And then here we are, we're  
 23 doing it. We've got the City partnering with -- not just  
 24 departments within the city, but King County Conservation  
 25 Futures. They get -- they have funding allocated to do

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1 preliminary acquisition work. And this is not a theoretical  
 2 thing. This is something years of preparation for social  
 3 justice for the children of the Hao Mai Preschool, the kids  
 4 in the affordable housing Mount Baker project.  
 5 **Q. From the ones that looked like they were in a cage in**  
 6 **Exhibit 42?**  
 7 A. Yes. Exhibit 42. We were having meetings there --  
 8 **Q. Excuse me, 44.**  
 9 A. -- in the preschool, sitting in little chairs trying to --  
 10 with maps showing, where do we site a park? And the  
 11 authority on siting a park was the Seattle Parks and  
 12 Recreation Department. They said it should go here. And so  
 13 this document doesn't --  
 14 **Q. "This document," meaning --**  
 15 A. FEIS makes no reference to it. And I looked through the  
 16 alternatives, and a City Council member would not even have  
 17 a hint that the preferred alternative calls for the highest  
 18 upzone to those same parcels, 95 feet high.  
 19 **Q. Can you show where that is on one of those maps, the rezone**  
 20 **maps?**  
 21 A. It's -- you got the --  
 22 **Q. Yeah, I have -- Exhibit H?**  
 23 A. H-65 would probably get you in the vicinity of it. And if  
 24 you look at the last page of Exhibit -- I think this was  
 25 admitted Exhibit 42 before the hearing examiner. The last

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1 page actually identifies -- well, it has -- the document has  
 2 the gap analysis. And then it goes on and it identifies on  
 3 the last page parcels in red, outlined, right there nestled  
 4 south of -- it's the final page there -- south of the green  
 5 Winthrop Boulevard, which is part of the reclaimed Cheasty  
 6 Boulevard. And then it's kind of in the corner of the  
 7 Boulevard system with that steep forested hill behind it, so  
 8 it's sort of logically located.  
 9 The Hao Mai Preschool is across Winthrop and across --  
 10 basically, just, it's in the empty space next to the Light  
 11 Link Rail, the northern section of Light Link Rail.  
 12 And so -- but the red parcels on -- if we turn now to  
 13 Appendix H to see from what the proposal does to those same  
 14 red parcels, you just look at --  
 15 **Q. Does it give a reference?**  
 16 A. Yeah, this is Exhibit H-58 on page H-59.  
 17 **Q. Is that the preferred alternative?**  
 18 A. This is a preferred alternative. And you can see -- the way  
 19 you can -- sadly, this map doesn't really articulate, you  
 20 know, anything about the topography or the forest or, you  
 21 know, anything like that in terms of livability. It's been  
 22 kind of excised. But you can see where we're talking  
 23 about -- you see the winding Mount Baker Boulevard as it  
 24 comes down into the center of the village, and then there's  
 25 a straight -- a couple of gray bands that cross there. And

1 so just south of Winthrop, it says 95 feet. SM-95.  
 2 **Q. And those are the parcels that are slated for open space**  
 3 **acquisition by some departments in the city and other**  
 4 **agencies?**  
 5 MR. WEBER: Object. You're characterizing prior  
 6 testimony.  
 7 MR. BRICKLIN: All right. That's fine.  
 8 **Q. (By Mr. Bricklin) So a moment ago you testified --**  
 9 HEARING EXAMINER: (Inaudible) question.  
 10 MR. BRICKLIN: I will start again.  
 11 **Q. (By Mr. Bricklin) So a moment ago you testified about**  
 12 **certain parcels that were slated for open space acquisition.**  
 13 **Are those the same parcels that you're now describing?**  
 14 A. Those are the same parcels that are in the acquisition  
 15 project document prepared by Chip Nevins of the Seattle  
 16 Parks and Recreation department. And that was prepared, you  
 17 know -- it was prepared with the support of the Seattle  
 18 Department of Transportation, the Seattle Parks Foundation  
 19 and many collaborators. And I think we have Exhibit 43  
 20 before the hearing examiner, which reflects the outcome of  
 21 that interdepartmental effort.  
 22 **Q. Those are the illustrations?**  
 23 A. Yeah. And those -- this is kind of an important document  
 24 because it shows the level of planning that we were able to  
 25 accomplish in siting that park because with that

1 **Q. So why don't we move on to the next one: Historic**  
 2 **Resources. So why don't you start by -- and there's already**  
 3 **been a lot of testimony about that, so please don't**  
 4 **regurgitate, but very briefly summarize the historic**  
 5 **resource assets in your neighborhood.**  
 6 A. Well, the two main features that remain and complement the  
 7 village are the Mount Baker Park addition, which is up on  
 8 the hill above the Town Center and outside of the current  
 9 urban village. And then the -- which includes, at that  
 10 gateway, Franklin High School, which is landmarked, and the  
 11 boulevard system. Mount Baker Boulevard, again, sweeps  
 12 around Franklin right there into the -- it's a gateway into  
 13 that area.  
 14 And then on the other side, you have the steep forested  
 15 hillside of Cheasty greenspace. Again, that's part of the  
 16 Olmsted system of parks and parkways, as well. So the  
 17 primary features are the Olmsted system. That is an  
 18 equitable system of connecting density to parks, and then  
 19 you have the historic Mount Baker, which is now a recognized  
 20 historic district, one of its kind in the city that is soon  
 21 to be on the national register of historic places.  
 22 **Q. So when you -- just a clarification about the terminology.**  
 23 **When you talk about the Mount Parker -- excuse me -- the**  
 24 **Mount Baker park addition, is that an addition to a park, or**  
 25 **is it a subdivision that has the name "park" in it?**

1 interdepartmental approach, we were able to get the Seattle  
 2 Department of Transportation to lend its base map for  
 3 accessible Mount Baker, so we were looking into the future  
 4 at how the roadway would be changed. And that's page 2 of  
 5 Exhibit 43.  
 6 MR. BRICKLIN: Let's give the examiner a second to find  
 7 that. That might be it right there. All right.  
 8 **Q. (By Mr. Bricklin) So what are we looking at here?**  
 9 A. So you can see Franklin High School over on the right.  
 10 **Q. Yep.**  
 11 A. You can see where Mount Baker Boulevard is intended to  
 12 basically be reconnected to Cheasty Boulevard. You can see  
 13 the separation of Rainier and Martin Luther King Way. That  
 14 was something that was accomplished with our collaboration.  
 15 And then you can see what -- our final piece of our mission  
 16 to achieve livability is the park site, and that park site  
 17 in the lower left-hand corner, you see a King County wet  
 18 weather storage facility. And then the rest of the parcel  
 19 is -- those are the same blocks that were identified by the  
 20 Parks Department for acquisition, and they are the same  
 21 blocks that this document upzones to 95 feet.  
 22 **Q. All right.**  
 23 A. Okay.  
 24 **Q. I think you cut to the chase on that just fine.**  
 25 A. Okay, thank you.

1 A. It has a parkway through it, and I think that was just the  
 2 name the developers came up with because they wanted to  
 3 emphasize the value of integrating parks and development.  
 4 **Q. Right. So just to clarify, we're not talking about park**  
 5 **land here; we're talking about a residential community that**  
 6 **has the name "park" in it?**  
 7 A. Yes.  
 8 **Q. And it was the addition to a plat, a subdivision that it**  
 9 **preceded, I gather.**  
 10 A. It -- yeah. It's an addition to the city, I think.  
 11 **Q. Right. And then -- so this old subdivision, 100 years or so**  
 12 **old, is what you have succeeded in getting designated as a**  
 13 **historic district?**  
 14 A. In terms of historic and cultural resource, Forculture  
 15 [phonetic] gave us a grant.  
 16 **Q. Who is -- or what is Forculture?**  
 17 A. It's a nonprofit that is devoted to documenting the cultural  
 18 resources of the area.  
 19 **Q. Funded by the county and the city?**  
 20 A. I believe so, yeah.  
 21 And then Spencer Howard's firm was hired to build upon a  
 22 bunch of the research that already existed and to pull it  
 23 together and confirm the validity of this as a true historic  
 24 resource.  
 25 **Q. All right.**

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1 HEARING EXAMINER: Did you want to admit this?  
 2 MR. BRICKLIN: So then if we could have -- this is  
 3 Friends' Exhibit 25.  
 4 THE WITNESS: Now the --  
 5 **Q. (By Mr. Bricklin) You have before you what's been -- what**  
 6 **is being identified as Exhibit 62; is that right? Which was**  
 7 **Friends' Exhibit 25. And what is that document?**  
 8 A. This is a summary of basically the effort that went into  
 9 getting the historic district established. And it  
 10 summarized -- this was a unique project because it not only  
 11 focused on architecture, but also the social history, the  
 12 legacy of this neighborhood. And the nomination report  
 13 itself is over 500 pages. We're not going to kill some  
 14 trees. This is, I think, a helpful summary of the  
 15 nomination and the reasons why this district was established  
 16 as one of a kind in the city of Seattle. And I just would,  
 17 you know, commend this to you. It's a social and  
 18 architectural history. And it also recognizes and  
 19 celebrates the true diversity of this historic neighborhood.  
 20 And as late at 1980, it was like one-third African-American;  
 21 one-third Caucasian; one-third Asian, roughly.  
 22 That's on page -- the third page. There's a description  
 23 of the current makeup. And it shows that this is not some  
 24 sort of enclave of colonialism. This is an actual diverse  
 25 neighborhood that, as demonstrated on that one figure out of

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1 North Rainier neighborhood plan, this neighborhood wanted to  
 2 preserve the cohesiveness of this remarkable place.  
 3 **Q. All right. To try to --**  
 4 MR. WEBER: Which exhibit is that?  
 5 MR. BRICKLIN: 74. Photo series.  
 6 HEARING EXAMINER: Marked as Exhibit 63.  
 7 THE WITNESS: We're on 74?  
 8 MR. BRICKLIN: Yes.  
 9 **Q. (By Mr. Bricklin) So have you collected photographs to**  
 10 **provide some visualization? We've had a lot of words**  
 11 **describing your neighborhood. Are there some pictures now**  
 12 **provided --**  
 13 A. Yes.  
 14 **Q. -- to add to that?**  
 15 A. Yes. This is a series of photos designed to show the  
 16 on-the-ground conditions.  
 17 **Q. And would you like to walk through them quickly, one at a**  
 18 **time?**  
 19 A. Sure.  
 20 **Q. There are a lot of them, so be fairly quick, if you would.**  
 21 A. So this is a historic tour of the park district, the Mount  
 22 Baker Park addition after it had been recognized by the  
 23 state. And this is looking up at the edifice of Franklin  
 24 High School as it sits up on the hill.  
 25 The second page here is another view, and I think this is

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1 a helpful one. This is showing -- this is looking north.  
 2 And so this is Franklin High School on the right here. And  
 3 then you're looking at Mount Baker Boulevard. This is the  
 4 character of the topography and the vegetation and the  
 5 housing behind that vegetation right at this node entering  
 6 the Town Center. It has great integrity.  
 7 This next picture with the blue house, this is across the  
 8 street from the high school. This is within the area of the  
 9 proposed expansion of the urban village. This is the  
 10 type -- this is the way in which these residences, which are  
 11 a hundred years old in many cases, and, as Spencer  
 12 mentioned, they're all contributing to this district.  
 13 This is the way they're oriented on the Olmsted Boulevard  
 14 across from Franklin High School. Remarkable continuity.  
 15 **Q. So in your mind, is this -- the blue house a structure that**  
 16 **wouldn't necessarily qualify for a landmark designation but**  
 17 **would be viewed as contributing to the historic character?**  
 18 MR. WEBER: Object. He's not a historic expert.  
 19 THE WITNESS: I spent a lot of time working on this  
 20 historic designation.  
 21 HEARING EXAMINER: Let me hear from Mr. Bricklin in  
 22 response.  
 23 MR. BRICKLIN: I will withdraw to keep things moving. I  
 24 don't want to debate it.  
 25 A. Okay. So this next picture, this is what it looks like

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1 outside of the historic district. This is on the floor.  
 2 This is off Wetmore. And this is what happens when you  
 3 don't have -- you allow for an upzone or a change in zoning.  
 4 This is the type of thing that is happening relatively  
 5 quickly in some of the areas of the city. And, here, this  
 6 is an example of how the impacts can occur.  
 7 **Q. So that sign that says "Your home could be next," I wonder**  
 8 **if that's not exactly what they intended.**  
 9 A. Well, this is a Habitat For Humanity, so this is basically  
 10 an old craftsman home that is getting a bit of support, and  
 11 then that's what's going up next to it. So there are areas  
 12 that are, you know, certainly no longer deserving of  
 13 historic protection because the continuity is no longer  
 14 there, but this is a contrast with what's going on in the  
 15 protected area of our district.  
 16 And this is -- the next picture is looking the other way.  
 17 So these two old homes are flanked by, you know, the type of  
 18 in-fill development that can occur if you don't look before  
 19 you leap on up zones.  
 20 The next picture is similar. So this is kind of, you  
 21 know, I think relevant as the City looks to expand without  
 22 understanding the cohesiveness of our neighborhoods.  
 23 **Q. Were there any photographs like these included in EIS in**  
 24 **your neighborhood?**  
 25 A. None at all. There's just those generic village, you know,

1 generic village mockups. And they don't in any way  
 2 represent what we see on the ground.  
 3 **Q. And having reviewed the EIS, did you see kinds of pictures**  
 4 **for any of the communities that are in this study area?**  
 5 **Ravenna or --**  
 6 A. No, no --  
 7 **Q. -- Beacon Hill. Do they provide a few pictures like this to**  
 8 **give council members some context, understanding of what's**  
 9 **being proposed?**  
 10 A. No. The only places I saw that type of discussion was in  
 11 the University District, and the uptown EIS's allowed for  
 12 that level of understanding.  
 13 **Q. All right.**  
 14 A. This next picture is a panorama. And I think this is really  
 15 important to understand -- Peter Steinbrueck talked about  
 16 urban form. So this is a picture from the Town Center  
 17 looking at Franklin High School up on the hill where Mount  
 18 Baker Boulevard sweeps down. And --  
 19 **Q. Is that Mount Baker Boulevard running off to the right side**  
 20 **or the left side of the high school?**  
 21 A. It's running straight at the high school. It's on the left  
 22 side of the picture running at the high school.  
 23 **Q. And then when it gets to the high school, does it branch?**  
 24 A. It turns left.  
 25 **Q. Left, all right.**

1 is like this massive buffer. And there's no discussion of  
 2 that at all in the EIS in terms of allowing an evaluation of  
 3 height, bulk and scale, edge effect, urban form,  
 4 cohesiveness, none of that.  
 5 **Q. So the next picture, this is important because it shows the**  
 6 **slope. So this is like on the north side of the field**  
 7 **directly -- this is, again, the urban village expansion is**  
 8 **going -- proposed to have some -- they just went a chunk**  
 9 **away for some reason at a couple blocks into the most**  
 10 **sensitive part -- one of the most sensitive parts of our**  
 11 **historic district.**  
 12 **And in order to do so, they're jumping a cross a field and**  
 13 **up a slope to get to the historic buildings.**  
 14 **And then this next one is kind of a large panorama facing**  
 15 **the other way. Rainier -- that's Martin Luther King right**  
 16 **there on the edge of the track. In the middle is the Mount**  
 17 **Baker Mount Arch -- Mount Baker Lofts, Artspace building.**  
 18 **This is one of the Vanguard affordable housing projects**  
 19 **built right at the Light Link station. You can see the**  
 20 **level -- the lack of development surrounding it. It is on**  
 21 **its own. This is where the cages of the Hao Mai Preschool**  
 22 **are located, and the Link station is right behind it.**  
 23 **And so, again, this is to illustrate -- you know, in terms**  
 24 **of a need for expanding the urban village, this illustrates**  
 25 **what Peter Steinbrueck is talking about. You don't start**

1 A. But you have another elegant sweep up to the right.  
 2 **Q. Okay.**  
 3 A. And so this is showing the disconnection from the Town  
 4 Center to the historic district, because what you have on  
 5 the left is a gymnasium. On the right you have a large fire  
 6 department. This is not a place where you're going to have  
 7 this harmonious transition of development from a town center  
 8 into a residential area. This is a gulf that is separated  
 9 in terms of urban form buildings, you know, public buildings  
 10 leading immediately into a historic district. So this is  
 11 not like some sort of transitional area where you can  
 12 upzone.  
 13 **Q. So the Town Center is to the back of the photographer?**  
 14 A. Yeah, the Town Center is at my back --  
 15 **Q. Right?**  
 16 A. -- and basically, I'm on Rainier Avenue, basically.  
 17 **Q. Right.**  
 18 A. And so then the next picture is, again, from the field.  
 19 Again, you're looking. Again, this is not some harmonious  
 20 transition of levels of development in an orderly manner.  
 21 You know, they're jumping -- to do the urban village  
 22 expansion, they're jumping across a zero height development,  
 23 a football field. Then you have got public facility there.  
 24 This is a gymnasium for Franklin High School. And then you  
 25 have got the historic district immediately there. So this

1 **diluting this urban village. It has no density at all in**  
 2 **the places that matter. And the EIS doesn't illustrate this**  
 3 **in any way.**  
 4 **So this next picture -- this is looking from the overpass**  
 5 **over Martin Luther King Way, looking south. The only large**  
 6 **sort of multi-family building you see down there, that's the**  
 7 **Claremont. It's a great project. It's a 100 percent**  
 8 **affordable housing project. And everything else is low**  
 9 **development, ready to be developed, hopefully with the**  
 10 **neighborhood plan in mind.**  
 11 **The next photo is looking at the area proposed for the**  
 12 **open space. This is with the car and the excavator in it.**  
 13 **So on the right side of this picture, you see a partially**  
 14 **reclaimed Cheasty Winthrop Boulevard.**  
 15 THE WITNESS: And it looks like this, Your Honor.  
 16 A. So I'm standing on the overpass as it's coming down onto  
 17 Cheasty Boulevard. And we're looking at -- this is some  
 18 undeveloped property. Again, that's one of the reasons, one  
 19 of the many factors that went into a careful selection of  
 20 this area as suitable for open space.  
 21 On the next picture is showing more of it. You see that  
 22 large swath of gravelly area. Our landscape designer  
 23 thought that could be suitable for, like, a skate park to  
 24 give activities for youth. And then you would have -- the  
 25 playground and grassy area would nestle up to Cheasty

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1 greenspace, which is in the back. That's the beginning of  
 2 the forested hill in the back there. So you can see why  
 3 this is facilitating that core tenet of the Olmsted system  
 4 of parks and parkways that we are connecting people to a  
 5 park in the heart of a dense area, as shown in those  
 6 illustrations.  
 7 The next picture, that's the Mount Baker Park. I mean,  
 8 that's Mount Baker Lofts building on the far left. That's  
 9 one of the few projects in our key Town Center blocks. It's  
 10 an affordable housing project. This is a --  
 11 **Q. When you're using the term "affordable housing," are you**  
 12 **using it to mean below market rate or market rate but at the**  
 13 **low end of the --**  
 14 A. It's an Artspace building and --  
 15 **Q. Arch?**  
 16 A. Artspace. It's a national nonprofit that --  
 17 **Q. All right.**  
 18 A. -- facilitated -- it is mixed use. We're really happy with  
 19 this project. It's struggling. The businesses there are  
 20 struggling severely because there's a lack of mixed-income  
 21 development. I mean, the people, you know, are --  
 22 **Q. But I was just asking about the housing. Do you know if**  
 23 **it's market rate housing or below market?**  
 24 A. It's definitely not market, and I think it's like low end --  
 25 **Q. All right. Subsidized?**

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1 A. Subsidized.  
 2 **Q. All right.**  
 3 A. So the rest of these key blocks are undeveloped.  
 4 The next shot is a shot of the Link station coming into  
 5 the station. Again, this is looking south. You can see the  
 6 Claremont building to the right of that Pepsi sign. That's  
 7 the kind of subsidized projects that are up and down.  
 8 Just south of the Claremont is a DESC. You can't see it  
 9 in this picture, but a 7-story DESC supportive housing.  
 10 That's a zero --  
 11 **Q. What is DESC?**  
 12 A. It's basically --  
 13 **Q. Without necessarily knowing the acronym, but what --**  
 14 A. Supportive housing for people who cannot be employed, are  
 15 unemployable because of mental illness or addiction or  
 16 whatever. It's seven stories. And these are the types of  
 17 big projects that are populating North Rainier Urban  
 18 Village. And it just got opened months ago, and we welcome  
 19 it.  
 20 And Mount Baker housing is expanding by 100 affordable  
 21 units itself. We welcome it. We have our meetings there.  
 22 But, you know, too much of good thing in the wrong places  
 23 without paying attention, we can have a failure of a plan.  
 24 HEARING EXAMINER: Mr. Bricklin, I just want to check with  
 25 you on time, see how we're doing for opportunity for cross?

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1 MR. BRICKLIN: We are racing. I think we will be done in  
 2 about 15 minutes.  
 3 THE WITNESS: I'm going to, yeah, whip through these.  
 4 A. So this is, again, yeah, looking down the slope towards the  
 5 Town Center from the historic district. This is to show the  
 6 gulf in terms of some smooth transition. It's not going to  
 7 happen. This is like a completely separate area that  
 8 doesn't transition in any way to the Town Center. And some  
 9 of the homes that are right within the proposed urban  
 10 village expansion shown on these pictures --  
 11 **Q. So that's an important point. So are you now looking at,**  
 12 **for instance, the picture, the yellowish, goldenrod house**  
 13 **with the orange bucket in the lawn in front of it; is that**  
 14 **where you're at?**  
 15 A. Yeah.  
 16 **Q. So these are -- would be within the urban Village expansion**  
 17 **area?**  
 18 A. Yes. This is the gymnasium at the lower level below the  
 19 slope --  
 20 **Q. All right.**  
 21 A. -- in which the neighborhood sits.  
 22 **Q. All right.**  
 23 A. The next one shows the gymnasium, as well. So you can see  
 24 that these homes are basically up on a hill, across a lot of  
 25 public and open, you know, public facility land before you

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1 even get to the town center. You're looking up the  
 2 staircase from the field into the historic district. It's  
 3 not some sort of smooth, sort of, you know, edge effect  
 4 situation.  
 5 And not to mention, these are historic -- a cohesive  
 6 historic recognized district. This is Mount Baker Boulevard  
 7 looking up in the area that is -- the Do Not Enter sign.  
 8 That's because there is a giant median on the boulevard, and  
 9 so it's one way that way, and it goes past the high school  
 10 on the other side. But that's to show the gateway.  
 11 The next picture is also of the gateway. This is within  
 12 the urban village expansion area.  
 13 The next picture is, as well. All of these pictures are  
 14 showing the character, the architectural character and  
 15 integrity of the homes within the proposed expansion area.  
 16 **Q. All right. Thank you for that tour. All right.**  
 17 **I think we may have already -- we have already addressed**  
 18 **whether any of that is reflected in the EIS, and that you**  
 19 **have basically hit what the relationship of the MHA proposal**  
 20 **is to those resources. I think you have adequately**  
 21 **addressed your concerns with increased density on the hill**  
 22 **above the station area.**  
 23 **So can we move on then?**  
 24 A. Please.  
 25 **Q. All right.**

1 So, then, that brings us to the last topic, the  
2 socioeconomic conditions. So -- and which includes housing.  
3 So I guess let's start with the comprehensive plan, the  
4 neighborhood plan for North Rainier. How does it address  
5 housing issues in the --

6 A. I will just summarize again.

7 Q. Yes.

8 A. Mixed income linked to mixed use in order to create a viable  
9 area for economic opportunity and, importantly, integration  
10 across of range of incomes. That's baked into the  
11 comprehensive plan, and it's part of -- it's a core tenet of  
12 the success of our town center, which has yet to be  
13 realized.

14 Q. All right.

15 HEARING EXAMINER: And just to clarify, that was the  
16 comprehensive plan or the neighborhood plan that's been  
17 incorporated into the comprehensive plan?

18 THE WITNESS: In both, yeah.

19 HEARING EXAMINER: Okay.

20 THE WITNESS: And I walked previously through --

21 HEARING EXAMINER: Yes.

22 THE WITNESS: -- the ones that are related to  
23 socioeconomic.

24 Q. (By Mr. Bricklin) And do you have a couple exhibits -- you  
25 want to put these in just to amplify that, or are you okay

1 the significance of this article?

2 A. This is an article that was co-authored by the lady who  
3 lived in that blue teal house in the previous set of photo  
4 exhibits. And a business owner, a long-time family business  
5 owner, Wui Dang [phonetic], who owns a house on Hanford  
6 across from the new proposed Mercy housing project, and is  
7 basically in response to some concerns that were raised with  
8 the City's -- the Mercy housing project that Mr. Ross is  
9 speaking to.

10 And this summarizes, I think in a very articulate way, the  
11 hope and vision for a successful town center and underscores  
12 the concerns of the city not paying attention to the  
13 socioeconomic conditions on the ground. And Mercy Housing,  
14 I want to say, was -- our business association -- after that  
15 Burke report that Council Member Harrell spoke about all  
16 those scathing findings about North Rainier's potential  
17 failures, Burke consulting was hired by the City to do  
18 almost a year-long outreach project to try and get the  
19 stakeholders together of our neighborhood and to form an  
20 association.

21 And out of that process, I was chosen as one of the many  
22 steering committee members. We formed the business  
23 association. And the purpose, which was -- it's mentioned  
24 in the comprehensive plan, that they were going to support  
25 business associations. So we were excited that we're

1 with the plan?

2 A. Let's see.

3 Q. The data, OED data.

4 A. We can skip that one.

5 Q. All right.

6 A. What's the next one?

7 Q. We have already done Council Member Harrell's document.

8 A. Yep. Council Member Harrell spoke to the need to help the  
9 struggling socioeconomic conditions there. You know -- and  
10 that's not mentioned anywhere. It's not called out in terms  
11 of the potential failure of the plan.

12 Q. And did you want to spend time talking about the  
13 Zang [phonetic] project, or is that?

14 A. Yeah, I think that was Exhibit 10, which was --

15 Q. No, it was 75 in your list.

16 A. Okay, yeah, 75.

17 Q. Well, no, there's -- I may be wrong. There's an Exhibit 10  
18 here, too.

19 A. Yeah, let's admit --

20 Q. Do you want the article?

21 A. Yeah, the article.

22 Q. Puget Sound Journal article.

23 MR. BRICKLIN: This is 75 in the Friends' list.

24 Q. (By Mr. Bricklin) So you have before you what's being  
25 marked as Exhibit 64, which was Friends' 75. And what is

1 getting this support, and that was how the HUB business  
2 association was formed.

3 And we took that seriously. We were to go out there and  
4 make sure that we network our plan, our neighborhood plan,  
5 with developers and property owners. And we had an  
6 interdepartmental meeting at the Bullet Center with members,  
7 city representatives, private sector nonprofits, to talk  
8 about: How do we make the plan come to life?

9 And one of the persons there was someone who had bought  
10 some property on a key block of our town center. And he  
11 walked out of there and he shook my hand. He was a Chinese  
12 architect. He had done a project associated with the  
13 Beijing Olympics. And he said, "We are inspired. We want  
14 to create a signature project in your town center." They  
15 said it would be mixed income, market rate and affordable,  
16 mixed-use, and they would hold it. They weren't just going  
17 to sell it off.

18 And so we started working with them. And by the time we  
19 were done, they were looking at three parcels of mixed-use,  
20 mixed-income development right in that same area. And they  
21 were looking at -- they were going to buy up the Wells Fargo  
22 Bank and redevelop that, put the Wells Fargo Bank in the  
23 first floor of another building and then put more retail on  
24 that one.

25 So this is like -- this is a dream. We're finally setting

1 the tone. And then, as Mike Ross talked about, we heard  
2 that some people were sniffing around the property right  
3 across the street from what these guys were working on. So  
4 we wanted to engage. And lo and behold, there was no  
5 engagement. Paul Allen had combined like \$20 million with  
6 \$5 million dollars of City of Seattle dollars, no engagement  
7 with the business association. We were created to have that  
8 engagement with the city. They targeted it right there next  
9 to this three-block, three-parcel area that was to be  
10 developed.

11 And we tried to keep those guys involved, but they saw the  
12 concentration of affordable housing -- they saw that this  
13 was going to be a seven -- an important project, but it was  
14 at the wrong location because of that lack of engagement,  
15 right on a key block. It was another one of these 7- to  
16 8-story buildings, very low -- basically getting people out  
17 of homelessness.

18 So we tried to say -- we tried to engage with them after  
19 the fact, tried to find them a new parcel. We found a  
20 seller of a similarly sized block, a parcel that was just  
21 two blocks south. And he was willing to sell it to them for  
22 about the same price. In some ways it was better. The  
23 Chinese guys were willing to pay their transaction costs to  
24 switch, get them a couple blocks out of the key undeveloped  
25 area of our town center. They refused. We tried --

1 **Q. Got it. Got it. Does the EI -- I want to focus on the**  
2 **EIS -- does the EIS analyze the potential impacts of its**  
3 **program that doesn't require these in lieu fee projects to**  
4 **be distributed around the city, and apparently doesn't --**  
5 **Well, let me back up. To your understanding, does the**  
6 **program prohibit a concentration of the in lieu fee projects**  
7 **in your community and other lowland value areas?**

8 A. It has not and it does not.

9 **Q. And does the EIS analyze the impacts that -- the adverse**  
10 **impacts that might be associated with that?**

11 A. No, it does not. There's no comparison of socioeconomic  
12 conditions and no effort to change the current flow, the  
13 current way in which these projects are sited, which is in  
14 the areas of lowest -- and this is not universal, but there  
15 is a predominant -- in our neighborhood, an opportunity for  
16 nonprofits to come in and buy land for relatively cheaper  
17 than they could in the areas of economic development. They  
18 can get it cheaper and they can produce more units. That's  
19 their mission. That's fine. But this FEIS does not allow  
20 the City Council to understand this -- what Michael Ross  
21 said could be a failure of the plan.

22 **Q. All right.**

23 MR. BRICKLIN: That's all I have, I think. Thank you.

24 HEARING EXAMINER: That's it?

25 MR. BRICKLIN: Yep.

1 **Q. What does this have to do with EIS?**

2 A. Basically, the EIS is now a new layer. If the City isn't  
3 paying attention to socioeconomic conditions among its urban  
4 villains, you're going to get that concentration of a  
5 mismatch. You're going to get boomtime in other parts of  
6 the city, and you're going to get the in lieu fees that will  
7 be paid into the department --

8 **Q. Is that what this is related to?**

9 A. Yeah.

10 **Q. I needed you to make that connection.**

11 A. Okay, it's --

12 **Q. All right. So there was testimony earlier about the in lieu**  
13 **fees would be used disproportionately in areas with lower**  
14 **land values.**

15 A. Yes.

16 **Q. Is that the concern that you're saying has been overlooked**  
17 **here?**

18 A. Yes, because there's no formula to ensure that there is an  
19 equitable distribution of market and affordable housing, as  
20 is required by our comprehensive plan with the neighborhood,  
21 and probably throughout the city as a matter of fair  
22 housing. And as Michael Ross was saying, he's taking a huge  
23 risk to do true mixed income. We want people like that, who  
24 come in and collaborate. These guys actually scared away  
25 three parcels --

1 HEARING EXAMINER: Okay.

2 Cross?

3 ///

4 ///

5 CROSS - EXAMINATION

6 BY MR. WEBER:

7 **Q. So Mr. Abolins, I want to go back to some of your earlier**  
8 **discussion about the EIS's discussion of parks and open**  
9 **space. And you mentioned a couple of things that you found**  
10 **to be missing. One, you said there was no map of the open**  
11 **space gap. And I want to understand. The EIS obviously**  
12 **includes a number of charts, correct?**

13 A. Yes.

14 **Q. So what would a map of an open space gap look like in this**  
15 **context?**

16 A. Well, it would like look like Exhibit -- let me see. We had  
17 that exhibit entered. Well, it would be similar to the  
18 exhibit -- the parks project, North Rainier Parks project  
19 has an analysis of the open space gap, shows where it is, in  
20 order to explain where the parcels had been located. And  
21 I'm going to try and find that real quick.

22 So if you look on Exhibit 42 --

23 **Q. Can you give me the corresponding reference in your**  
24 **exhibits?**

25 A. It's Exhibit 18 of mine. And if you look at page 2.

## Hearing - Day 4

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

June 28, 2018



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BEFORE THE HEARING EXAMINER  
FOR THE CITY OF SEATTLE

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

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

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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2 June 28, 2018

3

4 HEARING EXAMINER: All right. We continue with the

5 appellants' case.

6 MR. BRICKLIN: The appellants call David Sherrard.

7 HEARING EXAMINER: Please state your name and spell it for

8 the record.

9 THE WITNESS: My name is David Sherrard. And the last

10 name is spelled S-H-E-R-R-A-R-D.

11 HEARING EXAMINER: And do you swear or affirm the

12 testimony you will provide in today's hearing will be the

13 truth?

14 THE WITNESS: I do so affirm.

15 HEARING EXAMINER: Thank you.

16

17 DAVID SHERRARD: Witness herein, having first been

18 duly affirmed on oath, was examined

19 and testified as follows:

20

DIRECT EXAMINATION

21

22 BY MR. BRICKLIN:

23 **Q. Good morning, Mr. Sherrard. Welcome. Would you please tell**

24 **the examiner a little bit about your background?**

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

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1 coming August. I worked initially for the County and City

2 of Walla Walla, San Juan County. Worked for 17 years for

3 the City of Bellevue. I've been a planning consultant for

4 about 15 years. In addition to doing a variety of product

5 review and code development, I also have specialized in

6 environmental review. For 15 of the 17 years I was with the

7 City of Bellevue, I was responsible for doing the technical

8 review of every SEPA determination issued by the City for

9 every action, including private and public actions.

10 While at the City, I supervised a number of

11 environmental impact statements, including a number of

12 non-project environmental impact statements, as well as

13 writing some in cases where we thought it was more efficient

14 than hiring consultants.

15 **Q. All right. And what is your -- are you now retired? Are**

16 **you still working?**

17 A. I am still working. I have a on-call relationship with the

18 consulting firm that I've worked with for the last 15 years

19 or so, which allows me to work with other firms, which

20 allows me to extend my contribution to projects beyond just

21 the ones that Parametrix would be involved in.

22 **Q. And it looks like we neglected to include your CV in our**

23 **listing of exhibits. I don't know -- have you seen that?**

24 **I'm just noticing that that doesn't show up. So I may --**

25 **I'll deal with that later.**

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

2 deposition.

3 **Q. Yeah, I know, but I don't see it on the list that I provided**

4 **to you, unless you're seeing it there. I'll deal with that**

5 **later. I don't want to hold things up now. So what were**

6 **you asked to do with regard to this project?**

7 A. I was asked to review the draft and final environmental

8 impact statements and the various appendices and other

9 information in the voluminous discovery files that the city

10 had provided, to look at the specific issue of the adequacy

11 of alternatives in reference to the requirements of the

12 State Environmental Policy Act.

13 **Q. All right. And so what did you do to prepare for that, or**

14 **to analyze that issue, about the adequacy of the**

15 **alternatives?**

16 A. Well, of course, I refreshed myself in looking at the state

17 statutes and the SEPA guidelines, and then I looked through

18 the EIS and the supporting information, and evaluated that

19 in relation to the guidelines.

20 **Q. All right. And before we get into the details, can you**

21 **summarize your key findings?**

22 A. Yeah. First the city considered but rejected several

23 alternatives raised in scoping and DEIS comments. I believe

24 these alternatives were rejected inappropriately and should

25 have been included, because they meet the objectives of the

1 proposal. Their rationale for doing so in presenting --  
2 which was presented in the final EIS, and to some extent in  
3 the draft EIS -- I believe misinterpreted both the SEPA  
4 guidelines and misinterpreted their own objectives.

5 The second area is that the city did not develop  
6 alternatives to mitigate significant elements, other than  
7 equity. So they spent a lot of effort in the final EIS  
8 looking at displacement and access to opportunities as far  
9 as that is an impact, and designing an alternative which  
10 addressed that impact, but they didn't address other impacts  
11 on neighborhood character, natural environment, that type of  
12 thing.

13 In addition, the -- the way that the city presented the  
14 alternatives I believe did not provide decision makers and  
15 the public an adequate means to understand those  
16 alternatives and the significance of those alternatives.

17 **Q. And when you say the amount in which they presented them,  
18 what do you mean by that? Visualization of them, or --**

19 A. I think to some extent their description of the alternatives  
20 was not well tailored to allow persons to understand the  
21 magnitude of the change, explaining the technical details in  
22 terms of floor area ratio and height and that type of thing,  
23 doesn't really communicate to most decision makers and to  
24 the public in particular.

25 And in particular, the maps that they provided, both in

1 important to understand that the purpose of SEPA is to  
2 provide the citizens of the state with a certain result.  
3 And that includes not only natural environment, but also an  
4 aesthetically and culturally-pleasing environment. So we're  
5 talking about what later in the SEPA guidelines is generally  
6 referred to as the built environment.

7 Now, there are a number of other policies in there. I  
8 think this provides an important background in realizing  
9 that the purpose of SEPA is to accomplish a goal of reaching  
10 better decisions and reaching a better result rather than  
11 just do a disclosure.

12 Moving on to 21C.030 and going to (a), I think it's  
13 important to recognize that the legislature, in looking at  
14 implementing this, instructs all jurisdictions, including  
15 the city, to use an integrated analysis of the social  
16 sciences and environmental design arts in planning and  
17 decision making. So this is not just, again, a disclosure.  
18 This is a -- a mandate to -- to do a systematic and  
19 integrated approach.

20 Moving down to (c), there's a list of requirements.  
21 And in (c)(iii), one of the requirements for any EIS is to  
22 address alternatives to the proposed action.

23 Moving down to (2), looking at (b), on -- yeah -- I'm  
24 sorry, where am I? C.03 -- looking at (b), one of the  
25 mandates is to make the SEPA process useful to decision

1 the final -- draft and final EIS document, and in the  
2 appendices, were in some cases absent, in some cases very  
3 difficult to read and interpret. And I look at that from  
4 the perspective that it, you know, would have been  
5 relatively easy for the city to prepare a set of maps that  
6 would have communicated effectively. And, in fact, for  
7 example, the newspaper did, but for some reason, they chose  
8 not to prepare a document that was readily interpretable.

9 **Q. All right. So you said one of the -- so we'll come to  
10 address each of those three key findings in a minute. You  
11 said the first thing you did was go back and review the SEPA  
12 statute and rules that inform planners who are working on  
13 EIS's as to how to develop their alternatives. Are there  
14 particular statutory and/or rule provisions that you thought  
15 were particularly relevant to your project?**

16 A. Yes. Did you want to pass those out, or did you just want  
17 me to talk about them?

18 **Q. We can --**

19 A. I mean, I could just talk about them. But, any rate, the  
20 first one --

21 **Q. Let me -- yeah, let me -- so these are just -- these are  
22 statutes and rules, so I'm not presenting them as an  
23 exhibit, but just things he'll be referring to. All right.**

24 A. So the first I think is RCW 43.21C.020, which is the -- the  
25 legislative recognition. Going to (2)(b), I think it's

1 makers and the public, which is, of course, central to  
2 producing documents that are clear and complete.

3 **Q. Are you now in the WAC's 197-11-03 --**

4 A. Oh, I'm sorry. Yeah, I'm sorry. I'm in the WAC 197-11-030.  
5 I lost track of my --

6 **Q. All right.**

7 A. So looking at (2)(a) as I -- I said, it's important that  
8 they be useful to decision makers, and also that they  
9 emphasize both important environmental impacts and  
10 alternatives. And I think that that is critical to  
11 reviewing this EIS.

12 If you drop down to (g), you know, the mandate here is  
13 to identify, evaluate, and require, and implement reasonable  
14 alternatives that would mitigate adverse impacts of proposed  
15 actions on the environment. So this is a very clear  
16 statement that in preparing an EIS, you're required to look  
17 at the impacts and look at what would mitigate or reduce  
18 those impacts. And you're required to consider whether you  
19 can develop an alternative that would do that. And as I  
20 said, the city did that for equity issues, but not for any  
21 of the other impacts of the proposal.

22 Moving on to WAC 197-11-60, Content of Environmental  
23 Review, first thing it says is, "Environmental review  
24 consists of the range of proposed activities, alternatives  
25 and impacts." So again, we're looking at a range here.

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

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

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

19 HEARING EXAMINER: What was the --

20 A. Getting down to --

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

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

25 HEARING EXAMINER: (1)? Okay.

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

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

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

16 A. Oh, the EIS itself. Yes.

17 **Q. Yes.**

18 A. Okay.

19 **Q. So turning to page --**

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

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

23 MR. BRICKLIN: Yes.

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

1 MR. BRICKLIN: Yeah.

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

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

11 HEARING EXAMINER: Okay.

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

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

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

25 A. Yes, I am.

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

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

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

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

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

1 has advanced, tends to have deformed the city's decision  
 2 making throughout. And the city's discussion of  
 3 alternatives is -- is really based around that formal  
 4 proposal, rather than the -- the mandate that the EIS be  
 5 focused on the objective. So I think that that's really the  
 6 important thing about this statement in the EIS.  
 7 **Q. All right. Have you reviewed the EIS's statement of**  
 8 **objectives?**  
 9 A. Yes, I have.  
 10 **Q. And where do we find those in the EIS?**  
 11 A. I believe it's way up in section 2.  
 12 **Q. All right. Let's turn there.**  
 13 A. Like, 2 --  
 14 **Q. Two point --**  
 15 A. 2.2 or something like that.  
 16 **Q. All right.**  
 17 A. It's kind of hard to find because it's very -- it's an odd  
 18 organization because they spend a lot of time in this EIS  
 19 talking about the preferred alternative before they ever get  
 20 to the objectives.  
 21 **Q. So there's a summary of those -- if you could turn to page**  
 22 **1.3.**  
 23 A. Oh, okay. Yeah.  
 24 **Q. There's in the summary section.**  
 25 A. Well, 2.4 also contains the objectives. I believe they're

1 regional demand or anything that would -- or any real  
 2 discussion of why that is a public goal.  
 3 The third bulleted item, "Leverage development to  
 4 create at least 6,200 net new rent and income-restricted  
 5 housing units serving households of 60 percent of the area  
 6 on medium income in the study area over a 20-year period."  
 7 I would say that producing rent-restricted housing units is  
 8 certainly a appropriate objective for the city. I find it  
 9 very peculiar that they come up with a number 6,200. They  
 10 also use the number 6,000 throughout the EIS.  
 11 But this number, according to their later analysis,  
 12 comes from the HALA Committee recommendation, which was a  
 13 committee established by the City Council but which didn't  
 14 establish city policy, and is only one of the alternatives  
 15 under discussion. So to take --  
 16 **Q. What do you mean it's only one of the alternatives under**  
 17 **discussion?**  
 18 A. Well, it is the preferred alternative.  
 19 **Q. In this EIS?**  
 20 A. In this EIS. And, in fact, the only alternative other than  
 21 the -- other than no action. But it presupposes that the  
 22 goals of that citizen committee should be the goals of the  
 23 city, whereas, in fact, that goal is based on a wide range  
 24 of assumptions, the most important of which is how much  
 25 development will occur in the city. Now, given that fact,

1 the same.  
 2 **Q. All right. Either place. Let me go to 2.4.**  
 3 HEARING EXAMINER: Which page are we going to?  
 4 THE WITNESS: 2.4.  
 5 MR. BRICKLIN: 2.4.  
 6 **Q. (By Mr. Bricklin) And what was pertinent in the city's**  
 7 **statement of the objectives for your analysis?**  
 8 A. Well, you know, the first bulleted item to address the  
 9 pressing need for housing, affordable and available to a  
 10 broad range of households, is pretty much a public goal  
 11 that's contained in GMA and in the city's comprehensive  
 12 plan, so that's really not controversial.  
 13 The second item, "To increase overall production of  
 14 housing to help meet current and projected high demand,"  
 15 seems a little out of place here. I mean, the city does not  
 16 have an objective in their comprehensive plan to -- I mean,  
 17 they do have an objective in their comprehensive plan to  
 18 produce a certain amount of housing. And what this goal  
 19 seems to do is to contradict their comprehensive plan and  
 20 suggest that the city needs to produce more housing.  
 21 Now, there's nothing in the EIS that I could find to  
 22 indicate why this necessarily would be beneficial to the  
 23 public, except the assertion that producing more housing  
 24 affects the market in such a way that might produce a  
 25 surplus of housing. But again, there isn't a analysis of

1 you know, that you're taking one of the potential  
 2 alternatives and taking aspects of it and making it your  
 3 objective, I think goes beyond the reasonable parameters of  
 4 an objective, simply because it may have the effect of  
 5 limiting other objectives. The other thing about it is that  
 6 it isn't really consistent with some aspects of the further  
 7 discussion of -- of the -- you know, how the proposal or  
 8 alternatives meets this goal.  
 9 In the scoping determination, the city actually uses  
 10 two numbers for that goal. One is 8,400, and the other is  
 11 6,000. Since they produce 6,000 or 6,200 in the EIS, I  
 12 assume that that was some kind of error. Although, I'm  
 13 surprised that it wasn't corrected.  
 14 And in some cases, the city talks about producing these  
 15 6,200 units over a 20-year period. In other cases they  
 16 speak of producing these units over a 10-year period.  
 17 Obviously producing them over a 10-year period is a  
 18 significantly different goal than over a 20-year period.  
 19 **Q. So you referred to recommendations created by a citizens'**  
 20 **committee going by the acronym HALA. And did the City**  
 21 **Council adopt the recommendations of that committee as its**  
 22 **own?**  
 23 A. Well, I think that's a very peculiar thing. The city passed  
 24 a resolution accepting those recommendations, and the city,  
 25 in fact, adopted a framework amendment to the Land Use Code,

1 which purported to adopt those. But at the same time, the  
 2 city declared that implementing this program would be --  
 3 would have significant impacts and require an environmental  
 4 impact statement. So I find it very peculiar that the city  
 5 would take any such action when they have an environmental  
 6 impact statement requirement, and they're in the process of  
 7 preparing an environmental impact statement and --  
 8 MR. WEBER: I'm going to object. This is obviously  
 9 argument that has nothing to do with the EIS. This is about  
 10 whether the city apparently could or couldn't have taken  
 11 prior actions, which is not the subject of this appeal.  
 12 HEARING EXAMINER: Mr. Bricklin.  
 13 MR. BRICKLIN: I think the witness is testifying that the  
 14 HALA recommendations included a long list of mechanisms by  
 15 which affordable housing could be provided in the city, and  
 16 that one of those recommendations out of a list of over 60  
 17 items, was MHA. And that the -- in terms of assessing the  
 18 proper scope of alternatives, if the city's objective was to  
 19 promote the development of affordable housing, the range of  
 20 alternatives should've considered not just this one  
 21 mechanism, but other reasonable mechanisms, some of them  
 22 included on HALA's own recommendation list. And that --  
 23 MR. WEBER: I'm going to object. That isn't actually  
 24 anything the witness has said yet.  
 25 HEARING EXAMINER: So you asked him whether the city had

1 entered into between a variety of private individuals, some  
 2 of which also were public officials.  
 3 So the HALA recommendations, and then the city's  
 4 process are somewhat different. And the HALA recommendation  
 5 was -- was very broad and included a lot of alternatives.  
 6 **Q. All right. And so for instance did the HALA --**  
 7 HEARING EXAMINER: So before you go on to the next  
 8 question, I've got this floating objection out there.  
 9 MR. BRICKLIN: Well, he didn't object to that one.  
 10 MR. WEBER: Yeah, that line was fine. I have no objection  
 11 to --  
 12 HEARING EXAMINER: So what about the other objection then?  
 13 Did that question bring us back to a place where the  
 14 objection has been withdrawn or --  
 15 MR. WEBER: No. No. I think the objection is no longer  
 16 relevant. I think he diverged onto a path that I'm okay  
 17 with.  
 18 HEARING EXAMINER: Okay. So objection withdrawn or --  
 19 MR. WEBER: Sure.  
 20 HEARING EXAMINER: Thank you.  
 21 **Q. (By Mr. Bricklin) So did the HALA recommendations include**  
 22 **things like expanding the city's efforts to preserve**  
 23 **existing affordable housing?**  
 24 A. Yes.  
 25 **Q. And to create a staple source of public funding for**

1 adopted the --  
 2 MR. BRICKLIN: HALA policies.  
 3 HEARING EXAMINER: -- HALA policies.  
 4 MR. BRICKLIN: Right. Recommendations.  
 5 HEARING EXAMINER: And that's what he was answering?  
 6 MR. BRICKLIN: Right. And I was just about to -- so let  
 7 me just ask the next question. How about if we do it that  
 8 way so you --  
 9 HEARING EXAMINER: Yeah. All right.  
 10 MR. BRICKLIN: -- interrupted this testimony.  
 11 HEARING EXAMINER: So sustaining the objection, and we'll  
 12 come back to it after this question --  
 13 MR. BRICKLIN: All right.  
 14 HEARING EXAMINER: -- Mr. Weber, or you'll bring it up  
 15 again if we're still there.  
 16 MR. WEBER: Okay.  
 17 **Q. (By Mr. Bricklin) So, Mr. Sherrard, the HALA**  
 18 **recommendations, did they include the MHA as one**  
 19 **recommendation, an MHA program as one possible way of**  
 20 **addressing affordable housing in the city?**  
 21 A. Well, they included a number of -- of options. But I think  
 22 that that was the alternative that received the most  
 23 attention. And that was the aspect that was subsequently  
 24 incorporated in what I would characterize as a private  
 25 agreement, sometimes known as the grand bargain, that was

1 **below-market housing?**  
 2 A. Yes, they did, although the public funding was generally  
 3 targeted to a lower threshold than this particular proposal.  
 4 **Q. Did it include things like boosting the production of ADU's**  
 5 **and DADU's, accessory dwelling units and detached accessory**  
 6 **dwelling units?**  
 7 A. That is correct. You know, in what is often known as  
 8 backyard cottages in single-family zones.  
 9 **Q. Did it include provisions for reducing regulatory red tape,**  
 10 **if you will, that might be limiting the production of**  
 11 **housing?**  
 12 A. Yes.  
 13 **Q. Did the city do a -- and then it included an MHA-like**  
 14 **program as one of its alternatives, right?**  
 15 A. Yes.  
 16 **Q. All of these options and others in the HALA proposal were**  
 17 **all -- would you say that they were all in the -- had the**  
 18 **objective of addressing the first objective stated here on**  
 19 **page 2.4 of addressing the pressing need for housing**  
 20 **affordable and available to a broad range of households?**  
 21 A. Yes.  
 22 **Q. All right. And to your knowledge, did the city do an**  
 23 **environmental impact statement analyzing the impacts of**  
 24 **employing one of these alternatives versus another, or some**  
 25 **combination of these alternatives versus another combination**

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1 of them?

2 A. To my knowledge, this is the only EIS that the city has

3 prepared that addresses any of the recommendations.

4 **Q. All right. Did the city indicate in this EIS, or elsewhere,**

5 **for that matter, that those other HALA recommendations would**

6 **not be able to accomplish that objective of increasing the**

7 **development of affordable housing?**

8 A. The city mentions other elements of the HALA proposal in the

9 EIS. So it basically says this is one element of a number

10 of -- of related issues. So, you know, it is disclosed as

11 part of the HALA process. So that is one of the

12 peculiarities of this EIS, is it spends a lot of time

13 talking about that as a -- in essentially a proposal, and

14 being this proposal rather than focusing on objectives and

15 alternatives.

16 **Q. So is it fair to say that those other HALA recommendations**

17 **that would address the pressing need for housing**

18 **affordability were not included in this EIS not because they**

19 **would not address that first objective, but because they**

20 **would not address the third objective, which was specific to**

21 **MHA, the production of 6,200 units through a fee-based**

22 **system?**

23 A. Yeah, I would say that those other alternatives were not

24 included in the issue of leveraging development. Although,

25 again, what the city has used as terminology here,

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1 "leveraging development," could include a wide variety of

2 other actions.

3 For example, for the city to provide city-owned

4 property for affordable housing would leverage development

5 of affordable housing by reducing the cost to a developer,

6 and therefore making it reasonable, for example, that as a

7 condition of -- of offering, you know, this property, that

8 the developer would provide affordable housing. So that's

9 one way the city could leverage development.

10 Another way that the city could leverage development,

11 which I'll get into further on -- you know, leveraging, I

12 think by common English usage, and especially by scientific

13 usage, involves applying pressure. And, you know, applying

14 a small bit of pressure on one end of the lever that results

15 in more pressure on the other end of the lever.

16 So that, you know, includes things that are fairly

17 simple, like requiring a certain percentage of affordable

18 housing, which is certainly a police power that the city

19 has. So the way that --

20 **Q. Is that sometimes referred to as inclusionary zoning?**

21 A. Yes, it is sometimes included -- called inclusionary zoning.

22 **Q. All right.**

23 A. Although, inclusionary zoning often includes a lot of other

24 issues -- or can include other issues, in addition to

25 affordable housing, such as providing open space, things

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1 like that.

2 **Q. All right. So how would you characterize the alternatives**

3 **that were presented in the EIS?**

4 A. Except for one -- except for the no action alternative, the

5 EIS presents one alternative with several options to that

6 alternative. So all the alternatives involve a -- a

7 combination of upzoning properties and requiring that a

8 certain proportion of that upzoned property include

9 affordable housing. So that's basically the proposal.

10 There are three options that kind of tinker with the details

11 of that, with the preferred alternative being the final

12 variation on a theme. But they are all essentially the same

13 alternative.

14 **Q. All right. And when you say tinker with that, how do the**

15 **alternatives 2, 3 and the preferred alternative -- what is**

16 **tinkered with among those?**

17 A. The main thing that they vary between those is the

18 percentage of affordable housing that is required that's

19 associated with different upzones. And what they've done is

20 adjusted both on the rezoned maps and in the tables that

21 show the regulations, the amount of affordable housing

22 required for a specific upzone.

23 So, for example, for the MR, multifamily residential

24 zone, which has a existing floor area ratio of I think

25 around 4, in the various alternatives, they have different

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1 increases in the FAR ratio. And on the map, they have

2 different areas where there is a 5 percent or a 7 percent,

3 or an 11 percent requirement for affordable housing.

4 There also is -- are changes in the maps. The major

5 change in the maps between the first couple alternatives in

6 the draft EIS and the final EIS is the city did go through a

7 process of using the EIS analysis to identify impacts, but

8 in this case, only related to displacement and equity

9 impacts. And in that case, they made additional adjustments

10 both in the areas to be upzoned and in the percentage of

11 affordable housing, with the goal of reducing the extent to

12 which existing older buildings that could be expected to

13 provide affordable housing would be replaced by new

14 buildings.

15 So they acknowledge that if you increase the zoning

16 capacity, you're likely to provide more encouragement for

17 developers to remove old housing, and that old housing tends

18 to be more affordable. So that was, you know, one case

19 where they followed the mandate in the SEPA review and used

20 the draft EIS analysis to develop an alternative that

21 incorporated mitigating measures.

22 **Q. Okay. If you turn to page 2.64 of the EIS.**

23 A. Yes.

24 **Q. What is the title of that section?**

25 A. It's, "Alternatives Considered but not Included in the

1 Detailed Analysis."

2 **Q. And what does that section of an EIS do generally?**

3 A. That section of an EIS generally says, these are other  
4 alternatives that we looked at, but we did not include  
5 because they're not reasonable alternatives. Either they  
6 don't meet the objectives, or for some other reason, they  
7 can't reasonably be implemented.

8 **Q. All right. And did you have any comments on that section on  
9 the decision to exclude those from detailed review?**

10 A. Well, I find that the increased MHA performance and payment  
11 requirements involve some very peculiar and contradictory  
12 reasoning.

13 **Q. So first of all, before you get into the peculiarities and  
14 contradictions, first of all, describe what that alternative  
15 would have been.**

16 A. Yeah. It's -- it's described here as, "A version of MHA  
17 implementation with significantly increased MHA payments and  
18 performance required. There is some interest in scoping,  
19 citing housing programs in other communities. The city  
20 reviewed the potential to evaluate an alternative with  
21 markedly higher MHA requirements in the range of  
22 25 percent." And then it states that the city found that  
23 that was not reasonable, for various reasons.

24 **Q. All right. And do you have any assessment of the  
25 reasonableness of that decision?**

1 number of upzones, including the ones that are included in  
2 their generalized change in the bulk tables of increasing  
3 building height and floor area ratios. And then in a number  
4 of areas, they propose rezoning single-family development to  
5 low-rise and other classifications.

6 So, you know, in all, they change, you know, the zoning  
7 substantially over an area of about 400 acres. And by in  
8 large, they produce affordable housing contributions of  
9 around 5 to 7 percent. In a few isolated blocks they  
10 designated them as into affordable zoning, and they get up  
11 to 11 percent. So --

12 **Q. And those percentages are what generate the 126 number that  
13 you said?**

14 A. Right. That generates 126 num- --

15 **Q. And so if you change the fee so that -- to a higher  
16 percentage --**

17 A. Yeah, if you --

18 **Q. How does that result in different environmental effects?**

19 A. Well, obviously if you change the fee to 25 percent, then --  
20 I mean, 25 percent, that's 5 times as much as 5 percent; you  
21 know, 3.3 times as much as 7 percent; you know, 2.2 times as  
22 much as 11 percent. So you need to provide, you know,  
23 somewhere between half as much land that you've upzoned.  
24 And, you know, half as much, or maybe a quarter as much.

25 So, you know, it -- to me, as a planner, and I think a

1 A. Yeah. They -- the city refers to the real estate analysis  
2 that they did, which I've reviewed fairly extensively. And  
3 they point out near the end of the paragraph there that  
4 based on that analysis, it was determined that increasing  
5 the requirement to 25 percent affordable housing resulted in  
6 9 of 23 housing scenarios in a strong market, and 6 of 22 in  
7 a medium market area being feasible. So in this case --

8 **Q. Well, here, time out. Let's back up two steps. First of  
9 all, by setting the fee at a higher level, presumably that  
10 one -- the impact of that is taking more money out of the  
11 developer's pocket, directly or indirectly. But in terms of  
12 environmental issues, why is this a -- or is this an  
13 alternative that would play out differently in terms of  
14 environmental impacts than the one that's addressed in the  
15 EIS?**

16 A. Well, it would markedly -- it would have the potential to  
17 markedly decrease all of the impacts that relate to the  
18 degree of change from existing zoning conditions and  
19 existing development potential.

20 **Q. And why is that?**

21 A. Well, that is because the city developed their proposal and  
22 their maps to produce a certain number of affordable housing  
23 units. So, for example, the area that I know best, which is  
24 the Roosevelt Urban Village, the city produces a total of  
25 126 affordable housing units. In doing that, they did a

1 rational person, it makes sense if you have a model that  
2 will produce your objective at a higher rate, why would you  
3 reject it? And they use what I think is a very peculiar  
4 argument, and an argument that is, in fact, you know, defies  
5 the laws of logic is they say, well, since only 40 percent  
6 of the development examples that we have produce this, then  
7 we're not going to consider it at all.

8 **Q. Well, hold on. So let me have you unpack that one a little  
9 bit.**

10 A. Okay.

11 **Q. You say 40 percent of development examples, and earlier you  
12 made reference to different scenarios.**

13 A. Nine out of twenty-two -- nine out of twenty-four and six  
14 out of twenty-two.

15 **Q. Different prototypes?**

16 A. Yeah.

17 **Q. Explain what you're talking about.**

18 A. The city in one of their appendices, I forget which one -- I  
19 guess it's not referenced here -- develops a whole bunch of  
20 prototypes of typical buildings under different zoning  
21 categories. And they developed those prototypes for the  
22 existing zoning and their proposed changes to the Land Use  
23 Code.

24 **Q. So a prototype might be, what, a four -- a duplex, a  
25 fiveplex, a --**

1 A. Yeah. Yeah.  
 2 **Q. -- three-story apartment?**  
 3 A. But in -- but in each case, they do a prototype under the  
 4 existing zoning and under the proposed changes. And they  
 5 put in a number of proforma assumptions in this and  
 6 basically attempt through this analysis, you know,  
 7 notwithstanding the extent of assumptions, to provide a  
 8 perspective on what they define as feasible.  
 9 **Q. So this is talking about economic -- so economic**  
 10 **feasibility, would these prototypes pencil out, if you will,**  
 11 **a different -- under different scenarios?**  
 12 A. Yeah. I mean, it's -- it's -- it's an interesting use of  
 13 this particular analysis. It's a very common residual land  
 14 analysis. I myself have used it probably a dozen to 20  
 15 times in environmental impact statements. But I've used it,  
 16 and I've been advised by a number of economists that it is  
 17 valid as a comparison. It really isn't very valid as a  
 18 prediction, because there are so many assumptions in it that  
 19 cannot be validated or may change over time.  
 20 But basically, you know, the way you can use it is  
 21 given this set of assumptions, let's say land costs are the  
 22 same, rents are the same, that type of thing, if you add  
 23 another -- if you have a 40 -- let's say a -- make it easy,  
 24 a 50,000 square foot building, and you add another 5,000  
 25 square feet to it then, you know, it's going to -- it's

1 You know, the big issue here is that public policy and  
 2 regulations almost always change land value, or have the  
 3 potential to do that. So that, for example, if you --  
 4 upzoning, upzone a parcel, you usually increase the land  
 5 value. If you downzone it, you decrease the value. And,  
 6 you know, there's no question that the city has the right to  
 7 adopt police powers that affect land values.  
 8 **Q. Well, let's get back to your -- with some understanding now**  
 9 **that the city apparently reviewed both the reviewed MHA**  
 10 **against these 22 different potential development scenarios,**  
 11 **and did it at, I gather, at a variety of --**  
 12 A. Right.  
 13 **Q. -- fee levels?**  
 14 A. Right.  
 15 **Q. Because the different fee levels have different cost impacts**  
 16 **and make the penciling out of these different scenarios more**  
 17 **or less likely?**  
 18 A. Right.  
 19 **Q. Is that right? All right. So that gets us up to the point**  
 20 **of you saying -- I thought you were quoting the part on page**  
 21 **2.65 where there is reference to increased MHA requirements**  
 22 **of 25 percent were tested, and in this scenario, the number**  
 23 **of feasible prototypes -- so feasible ones, meaning**  
 24 **economically feasible, I gather; is that right? Is that**  
 25 **what you're talking about?**

1 going to produce more income and be a preferable item.  
 2 The way the city has used this is two-fold. One,  
 3 they've used it to predict the amount of development, which  
 4 is very peculiar use. And in the other case, they've used  
 5 it for this feasibility analysis, which is kind of odd  
 6 because the thing that it does is hold constant land prices,  
 7 which might be a reasonable thing to do if you're looking at  
 8 the alternative in terms of predicting development type.  
 9 For example, in the City of Bellevue, when we did  
 10 transportation analysis, we were always in the quandary as  
 11 to how much residential land use versus office land use to  
 12 predict in districts that allowed either. So, for example,  
 13 in large areas in the Downtown, and in the Bel-Red area, you  
 14 could build a 10-story office building or a 15-story  
 15 residential building or something like that.  
 16 And the transportation impacts of office versus  
 17 residential are substantially different. So we would employ  
 18 this type of analysis to give us a good -- or at least a  
 19 reasonable basis to say, well, we're going to predict, you  
 20 know, that 40 percent of the development is residential, and  
 21 60 percent is office. You know, that kind of thing.  
 22 You know, we were warned not to use it as a  
 23 predictive -- you know, predicting an amount of the  
 24 development. And in a case like that, we held land values  
 25 constant.

1 A. Yeah, that's what they're talking about.  
 2 **Q. Dropped to 9 of 23.**  
 3 A. Uh-huh.  
 4 **Q. And if they -- if you assume a strong market; and to 6 of 22**  
 5 **if you assume a medium market. And I think you were about**  
 6 **to explain to us why -- either whether you're disagreeing**  
 7 **with those numbers or whether you're disagreeing with the**  
 8 **conclusions that are derived from those numbers.**  
 9 A. No, I'm not disagreeing with the numbers. I mean, they used  
 10 a reasonable analysis. But their conclusion in the last  
 11 sentence, "However, the finding that a 25 percent  
 12 requirement would render most development prototypes in  
 13 strong and moderately strong markets infeasible, given  
 14 prevailing land prices suggests that an alternative with the  
 15 approach would not plausibly achieve the proposed  
 16 objectives." I mean, to me, there is absolutely no logic to  
 17 that. It's basically saying that it's got to be 100 percent  
 18 or nothing.  
 19 It's -- I can't find a good analogy. I guess it's kind  
 20 of like saying, if only 40 percent of people would buy  
 21 pickup trucks, then we will never produce pickup trucks,  
 22 because there's only a 40 percent market.  
 23 You know, I would say that a reasonable way of using  
 24 this finding, which I think is very important, is to do what  
 25 the SEPA guidelines tell you to do, and use an integrated

1 analysis and look at the potential for where can we locate  
2 these really good examples that meet our objectives? And  
3 let's find places where we can put those, and let's develop  
4 an alternative that instead of doing this, you know, kind of  
5 across the board Tic-tac-toe approach, let's actually look  
6 at our city, and let's look at those locations where these  
7 are feasible and, you know, maybe we can do this with half  
8 to a quarter of the area of impact.

9 **Q. So I gather the -- is it fair to say that the gist of this  
10 is that with a higher MHA fee, you might have a less diverse  
11 set of development because you're only going to have 6 or 9  
12 of these scenarios, not all 22 of them showing up? And  
13 because the -- because you'd have a less diverse array of  
14 development scenarios, that this was not a reasonable  
15 alternative? Is that --**

16 A. Well, that's not what they say.

17 **Q. But is that the gist of it?**

18 A. No. The gist of it is they say, it's all or nothing.

19 **Q. Right. Well, let me put it another way. In your mind, if  
20 an alternative would allow for 6 to 9 of 22 development  
21 scenarios to occur, would that be a reasonable alternative?**

22 A. Well, that would be a reasonable alternative, but an  
23 alternative that included all 22, but included employing the  
24 6 to 9 that are more productive at particular locations. I  
25 mean, you don't necessarily need to preclude all the others.

1 the ripple effect of where that happens. So it's kind of  
2 like, well, let's -- let's change the code and then see what  
3 affect it has on the ground.

4 The other alternative is to say, well, where on the  
5 ground is it appropriate to put these nine scenarios? And  
6 where can we do that with the least impact? And, you know,  
7 how will that alternative, one, meet the objective, and two,  
8 result in less impact?

9 HEARING EXAMINER: I just want to check in, Mr. Bricklin.  
10 We were going to -- it looks like you guys were allocating  
11 until 10 o'clock for this witness.

12 MR. BRICKLIN: Well, 10:30, I think, but --

13 HEARING EXAMINER: 10:30. Okay. Either way, we're just  
14 getting there.

15 MR. BRICKLIN: We're going more slowly than I had  
16 anticipated, I will confess.

17 HEARING EXAMINER: Recognizing that I've said that several  
18 times, and we seem to have actually made up time  
19 yesterday --

20 MR. BRICKLIN: Yeah, we usually --

21 HEARING EXAMINER: -- so we're doing okay. But I'll keep  
22 moving --

23 MR. BRICKLIN: Right. We are generally. But actually,  
24 what I am sensitive to is the next witness has a -- has to  
25 be done this morning, right?

1 **Q. Well, yeah, no, I wasn't saying that you would regulatory  
2 preclude them.**

3 A. But you don't need to implement them. And much of the  
4 impact of this -- I mean, this is a -- this is a program and  
5 alternatives with a geographic impact, a geographic  
6 placement throughout the city and a geographic impact. And  
7 if you impact less of the city, then almost all of the  
8 impacts, whether they're on neighborhood character, whether,  
9 you know, they're on community identity, whether they're on  
10 aesthetics, whether they're on tree cover, whatever, you  
11 know, that could be reduced.

12 And, you know, that points out that the approach the  
13 city has taken, which, you know, I would characterize, and I  
14 think is fairly common use among planners, is a Tic-tac-toe  
15 application. I mean, they have taken the Land Use Code and  
16 just done a kind of a Tic-tac-toe change in basically the  
17 tables that specify --

18 **Q. I don't know what you mean by a Tic-tac-toe approach.**

19 A. Well, a Tic-tac-toe, you know, it's used a lot because it's  
20 a graphic that everyone understands. I mean, it's basically  
21 just a matrix, you know, three lines, three columns. It  
22 looks like a table. So what the city has done is in the  
23 Land Use Code tables, they've just taken those regulations,  
24 like floor area ratio, and building height, and setbacks and  
25 that thing, and just changed them. And then they've told us

1 MS. BENDICH: Let me just check.

2 MR. BRICKLIN: Yes.

3 MS. BENDICH: Yes.

4 MR. BRICKLIN: I see a head nodding back there.

5 MS. BENDICH: Yes.

6 MR. BRICKLIN: So, and how long are you going to -- how  
7 long will that witness take? I mean, be generous because  
8 you don't want to --

9 MS. BENDICH: No more than an hour.

10 MR. BRICKLIN: Yeah. So I might -- so as we see -- I'll  
11 try to be done by 11:00, including cross maybe, but if we're  
12 not, maybe we'll interrupt at that time and take this other  
13 witness who does need to get done this morning.

14 THE WITNESS: And I have no problem with interrupting.

15 MR. BRICKLIN: All right. That would be okay with  
16 everybody? All right. Thank you. So I'll continue plowing  
17 along here.

18 THE WITNESS: Okay.

19 **Q. (By Mr. Bricklin) So are you aware of any -- can you give us  
20 any examples of jurisdictions that have attempted to  
21 accomplish these objectives that the city includes here in  
22 terms of increasing affordable housing by means other than  
23 an MHA-like program, an extraction program?**

24 A. Well, extraction programs are pretty -- are pretty common.  
25 And I think the big difference conceptually and in

1 application are those programs that include incentives or  
2 upzones, and then take -- you know, take back some of them.  
3 So they're basically give and then take-back programs,  
4 which, you know, this is typical of. The other alternative  
5 are simple inclusionary requirements, which the city also  
6 looked at in the EIS, but peculiarly, not in the  
7 alternatives considered, but not included in detail  
8 analysis. But instead, they looked at that in -- in the  
9 response to public comments.

10 **Q. Do you need some water there?**

11 A. No. I have some.

12 HEARING EXAMINER: Let me just make sure I'm oriented  
13 where we are. Have we moved on from the alternatives  
14 considered but not included?

15 MR. BRICKLIN: Yeah, I think --

16 THE WITNESS: Do you want to move on? Yeah.

17 MR. BRICKLIN: Well, yes and no.

18 THE WITNESS: Okay.

19 MR. BRICKLIN: Let me first have him define incentive  
20 zoning, and then I'll come back to that question if I can.

21 THE WITNESS: Okay.

22 HEARING EXAMINER: Uh-huh. I just want --

23 MR. BRICKLIN: I think he's saying --

24 HEARING EXAMINER: -- to make sure I'm tracking --

25 MR. BRICKLIN: Yeah, right.

1 **jurisdiction in this area that's used that approach?**

2 A. Yeah, I'm very familiar. When I worked for Bellevue in the  
3 mid '90s, Bellevue adopted an inclusionary housing provision  
4 in their zoning code. It was a flat 10 percent requirement  
5 for all new development, single family, multifamily,  
6 anything, plus a higher percentage requirement for any case  
7 where a rezone increased the -- the development potential of  
8 a property.

9 **Q. So would that have the effect of generating more affordable  
10 housing?**

11 A. Definitely affordable.

12 **Q. And would it do so without the adverse effects occasioned by  
13 sort of upzones that are included in the MHA?**

14 A. Well, there were no adverse effects because it didn't change  
15 the zoning.

16 **Q. Right.**

17 A. It just required a portion of the -- of the density to be  
18 devoted to affordable housing. Now, it did introduce some  
19 flexibility into the code for affordable housing units. So  
20 it did have the provision, for example, in single-family  
21 subdivisions that the affordable -- the lots designated for  
22 affordable housing could have duplex units in zones that  
23 otherwise did not allow duplex units. But also had a  
24 requirement that they -- you know, that the duplexes looked  
25 like single-family houses, you know, which was a design

1 HEARING EXAMINER: -- what we're oriented at.

2 THE WITNESS: Yeah, I was just saying it's addressed, but  
3 it's not here.

4 MR. BRICKLIN: All right. So he's sort of addressing this  
5 section, but now what's missing from this section.

6 HEARING EXAMINER: I see.

7 **Q. (By Mr. Bricklin) So first of all, would you define clearly  
8 what incentive zoning is, as you use that term?**

9 A. Well --

10 **Q. Excuse me. I didn't mean incentive zoning.**

11 MS. BENDICH: Inclusionary.

12 **Q. (By Mr. Bricklin) Inclusionary zoning.**

13 A. Well, inclusionary zoning is really just very simple. It's  
14 zoning that includes certain requirements in the zoning code  
15 that require performance of some type.

16 **Q. Okay. And in the affordable housing realm, what would  
17 inclusionary zoning look like?**

18 A. Inclusionary zoning -- I know -- you want me to get into  
19 details?

20 **Q. No. Just briefly.**

21 A. It would re- -- it would include a requirement that a  
22 certain percentage of housing was affordable.

23 **Q. Okay.**

24 A. So it would be like this, but without the bump-up payback.

25 **Q. Okay. And are you familiar with an example of a**

1 performance standard, rather than really a -- a part of the  
2 inclusionary.

3 **Q. I understand the ordinance is no longer in effect?**

4 A. Yeah, the ordinance was in effect for a number of years.

5 **Q. Was it effective while it was in effect?**

6 A. Yeah, it was perfectly effective. I mean, I personally  
7 reviewed a number of projects, and, you know, they simply  
8 did their affordable housing. You know, the biggest issues  
9 tended to be the design of the affordable units. You  
10 know --

11 **Q. Was it subject to a court challenge?**

12 A. It was never challenged. There was a challenge of the SEPA  
13 review, which was upheld, but there was never a court  
14 challenge.

15 **Q. All right. Are you familiar with -- and you indicate  
16 this -- I think you've indicated that this alternative was  
17 not included in the list of alternatives considered but not  
18 considered in detail in the EIS, right?**

19 A. No, it was not. It was -- it was, however, addressed  
20 elsewhere.

21 **Q. You said it was mentioned somewhere else?**

22 A. It was addressed --

23 **Q. In the response to comments?**

24 A. -- in the response to comments where -- in the response --  
25 in the comments there were -- there were a number of

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1 comments that said, you know, why don't you consider this  
 2 alternative.  
 3 **Q. And what was the -- do you recall what the response to those**  
 4 **comments was, what the justification was?**  
 5 A. Yeah. The response is on pages 412 to 417.  
 6 HEARING EXAMINER: While he's looking, Mr. Bricklin, of  
 7 that maybe till 11:00, how much -- when do you think you're  
 8 done? I just need to figure out when we need a break.  
 9 MR. BRICKLIN: I suspect we'll need a break before I'm  
 10 done, so whenever is convenient for you.  
 11 HEARING EXAMINER: Okay. We'll go another five minutes.  
 12 MR. BRICKLIN: All right.  
 13 A. Actually, this is just on -- on 412 and 413.  
 14 **Q. (By Mr. Bricklin) All right.**  
 15 A. But it goes through the description of -- of what was --  
 16 what was -- you know, what was proposed in comments. And  
 17 then it goes on to state that, "The concept of implementing  
 18 a requirement to provide for, or pay for affordable housing  
 19 through, and in conjunction with granting additional  
 20 development capacity, is inherent in the definition of the  
 21 proposal that is the subject of this EIS, and is evident in  
 22 the objectives for the proposal as well."  
 23 **Q. And what's your assessment of the validity or legitimacy of**  
 24 **that justification?**  
 25 A. Well, I think in that justification, the city has very

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1 clearly stated that they have abrogated their responsibility  
 2 of looking at alternatives. And they very clearly said that  
 3 the proposal is not the objectives, but the proposal is this  
 4 one alternative, which is the MHA approach.  
 5 HEARING EXAMINER: Can you draw my eye to what you just  
 6 read again?  
 7 THE WITNESS: It is on page 412.  
 8 HEARING EXAMINER: Uh-huh.  
 9 THE WITNESS: It is the first sentence in the second  
 10 paragraph.  
 11 MR. BRICKLIN: Second black type paragraph.  
 12 THE WITNESS: Yeah, second black type paragraph.  
 13 HEARING EXAMINER: "The concept of"?  
 14 THE WITNESS: Yeah, "The concept of implementing."  
 15 HEARING EXAMINER: Okay.  
 16 MR. BRICKLIN: So the second sentence in that paragraph.  
 17 THE WITNESS: Right.  
 18 A. "The concept of implementing a requirement is inherent in  
 19 the definition." So it's the first --  
 20 **Q. (By Mr. Bricklin) It's the first sentence.**  
 21 A. First sentence.  
 22 **Q. Yeah.**  
 23 A. I mean, one, the structure of this sentence is very odd,  
 24 because it combines reference to the proposal and reference  
 25 to the objectives. And I don't find anything in the

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1 objectives that would not include this alternative. You  
 2 know, it -- it provides affordable housing. It -- it may or  
 3 may not increase the amount of development. It certainly  
 4 leverages affordable housing by requiring it. I don't know  
 5 of any more affordable way of leveraging it. And it  
 6 certainly could be implemented in an equitable manner. So  
 7 it's not the objectives that the city used to exclude this.  
 8 They very clearly say that, in fact, it's because it doesn't  
 9 meet the particular approach of our preferred alternative.  
 10 Which, they really don't even call a preferred alternative.  
 11 I mean, they call it the proposal. And, in fact, you know,  
 12 it pretty clearly indicates that they are -- are using as a  
 13 touch stone of what is reasonable, not their objectives,  
 14 which is what is required.  
 15 **Q. So if we go back --**  
 16 A. But their pref- -- but their preference.  
 17 **Q. Right. So if we go back to the objectives on 2.4 --**  
 18 A. Yeah.  
 19 **Q. -- do any of those objectives say that the objective here is**  
 20 **to create a fee-based program with upzones? Is that stated**  
 21 **as one of the objectives?**  
 22 A. There's nothing in there that says anything about upzones.  
 23 That this project -- that the objective is to have a upzone  
 24 payback system.  
 25 **Q. And so you're -- when you say that a inclusionary zoning**

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1 **proposal would meet all of the objectives, in part that's**  
 2 **because none of the objectives are stated to be, we're going**  
 3 **to upzone?**  
 4 A. Right. And, you know, the approach the city has taken is  
 5 just one of the options. So from my perspective, under SEPA  
 6 it would be totally inappropriate for the city to write into  
 7 their objectives that we want a particular program that  
 8 includes the, you know, grant take-back system. It's  
 9 just -- you know, it's one public policy alternative. But  
 10 there are a range of public policy alternatives that the  
 11 city could employ.  
 12 **Q. As part of the response to comments, did they provide any**  
 13 **other justification for not evaluating an inclusionary**  
 14 **zoning program, other than the fact that it didn't match**  
 15 **MHA; it didn't involve an upzone and then a payback for the**  
 16 **upzones?**  
 17 A. They indicate that they think it would not reach the  
 18 objective of providing 6,200 units. But they don't provide  
 19 any rationale for that. And, you know, in order to  
 20 substantiate that rationale -- or that conclusion, from my  
 21 experience in doing, you know, similar EIS's --  
 22 **Q. Excuse me. Let me interrupt you. What part of this passage**  
 23 **are you referring to?**  
 24 A. Okay. On -- well, actually, I'm sorry. This refers to  
 25 voluntary.

1 **Q. Right.**  
 2 A. So I'm -- I was out of line there.  
 3 **Q. Correct. All right. So as to inclusionary zoning, is the**  
 4 **only reason stated that it doesn't involve a upzone with a**  
 5 **payback by developers?**  
 6 A. Yeah. I mean -- I mean, what they say is -- you know, what  
 7 we looked at is inherent to our proposal. Further down in  
 8 the one, two, three, fourth non-highlighted paragraph,  
 9 they -- they say, "As noted above, imposition of MHA  
 10 requirement is inexorably tied to granting additional  
 11 development capacity under the definition of the proposal  
 12 and its objectives." So not only is it inherent, but it's  
 13 inexorable.  
 14 **Q. All right.**  
 15 A. You know, I'm sorry, but the City Council has a wide  
 16 discretion, and they can implement any program they want.  
 17 And if there's a significant environmental impact, you know,  
 18 they can adopt what they want, but they sure need to look at  
 19 alternatives.  
 20 HEARING EXAMINER: Did they reject inclusionary zoning?  
 21 THE WITNESS: No.  
 22 HEARING EXAMINER: Where did they reject inclusionary  
 23 zoning?  
 24 THE WITNESS: They -- no, I'm not saying they rejected.  
 25 I'm saying they could reject it if it were under

1 the -- that the --  
 2 HEARING EXAMINER: When you do --  
 3 THE WITNESS: -- final EIS --  
 4 HEARING EXAMINER: Please get me to the line after you do  
 5 this.  
 6 THE WITNESS: Okay.  
 7 MR. BRICKLIN: Start with the line.  
 8 THE CLERK: Start with the line.  
 9 MR. BRICKLIN: Start with the line.  
 10 HEARING EXAMINER: I hear your argument, and I get it.  
 11 THE WITNESS: Okay.  
 12 HEARING EXAMINER: If you want to repeat it, you can, but  
 13 I'm really trying to follow your argument, and you're not  
 14 helping me.  
 15 MR. BRICKLIN: May I --  
 16 THE WITNESS: I actually think that it doesn't actually  
 17 make that statement. It simply says -- you know, it simply  
 18 says it's not consistent with the alternatives. But the  
 19 statement of therefore it's not included --  
 20 MR. BRICKLIN: And where is that statement made?  
 21 HEARING EXAMINER: That's the statement I'm looking for.  
 22 MR. BRICKLIN: That's the statement he's looking for.  
 23 THE WITNESS: Oh, you're just looking for that statement?  
 24 HEARING EXAMINER: For that statement, yes.  
 25 THE WITNESS: Okay. Looking at the fourth non-highlighted

1 consideration.  
 2 HEARING EXAMINER: In the EIS, is there any statement that  
 3 rejects inclusionary zoning?  
 4 THE WITNESS: Yeah. They have --  
 5 HEARING EXAMINER: Where?  
 6 THE WITNESS: -- rejected inclusion --  
 7 HEARING EXAMINER: Please point the page to where it says  
 8 they reject inclusionary zoning.  
 9 THE WITNESS: That --  
 10 HEARING EXAMINER: I need to follow what you're saying.  
 11 THE WITNESS: Wait a minute.  
 12 HEARING EXAMINER: I thought you made that allegation.  
 13 THE WITNESS: No, no, I did not say -- what I -- what I  
 14 said is the City Council, as a decision maker --  
 15 HEARING EXAMINER: So you're -- I don't want to -- I heard  
 16 what you said, but what you're -- I'm trying to be clear on  
 17 what you said. I thought you said that the FEIS rejected  
 18 inclusionary zoning, and I'm trying to find the page number  
 19 for that. Are you saying --  
 20 MR. BRICKLIN: 4.12.  
 21 HEARING EXAMINER: Thank you. That's all I need.  
 22 MR. BRICKLIN: 4.12.  
 23 HEARING EXAMINER: And where is that line? I need to put  
 24 my eyes to it.  
 25 THE WITNESS: Okay. And I need to -- I need to say that

1 paragraph, the one, two, three, fourth line --  
 2 **Q. (By Mr. Bricklin) Well, why don't you read -- why don't you**  
 3 **read the first two sentences there.**  
 4 A. "A number of comments suggest that an alternative to be  
 5 studied wherein affordable housing requirement could apply  
 6 to development" --  
 7 **Q. (By Mr. Bricklin) Would apply.**  
 8 A. "Would apply to development without increasing zoning  
 9 capacity or providing a development incentive."  
 10 **Q. All right. Stop there. Is that incentive -- is that**  
 11 **inclusionary zoning?**  
 12 A. That --  
 13 **Q. In fact, does it go on to say, "Such as an impact fee or an**  
 14 **inclusionary-housing requirement"?**  
 15 A. Right.  
 16 **Q. All right. So that's what you've been talking about?**  
 17 A. That's what I've been talking about.  
 18 **Q. All right. And then what's the next sentence say about**  
 19 **that?**  
 20 A. Then, "As noted above, imposition of MHA requirements is  
 21 inexorably tied to granting additional development capacity  
 22 under the definition of the proposal and its objectives."  
 23 **Q. And it goes on with another reason in addition?**  
 24 A. Yeah. "In addition to leveraging development to create new  
 25 rent and income-restricted units, these objectives also

1 include increasing overall production of housing to meet  
 2 current and projected high demand. The development capacity  
 3 increases included in the DEIS alternatives would help meet  
 4 this objective."  
 5 MR. BRICKLIN: So, Your Honor, I think the --  
 6 HEARING EXAMINER: Let me ask a question --  
 7 MR. BRICKLIN: Yes, absolutely.  
 8 HEARING EXAMINER: -- to make sure I'm tracking. As I  
 9 understand it, the first sentence says, "Comments suggested  
 10 inclusionary zoning." And the following comment from the  
 11 city is that it implies that that's not something they're  
 12 going to follow.  
 13 MR. BRICKLIN: Right. It --  
 14 HEARING EXAMINER: Is that correct?  
 15 MR. BRICKLIN: Yes.  
 16 THE WITNESS: Yes. They did not specifically state it,  
 17 but they give the reasons why they're not including it.  
 18 HEARING EXAMINER: Okay. And that's why I needed you to  
 19 help me --  
 20 THE WITNESS: Right.  
 21 HEARING EXAMINER: -- through that --  
 22 THE WITNESS: Right.  
 23 HEARING EXAMINER: -- because I heard you saying they  
 24 rejected inclusionary zoning. It doesn't explicitly say --  
 25 THE WITNESS: Right, it doesn't explicitly say it. But --

1 why don't we just take a break here, put on your witness,  
 2 and then we'll come back after that.  
 3 HEARING EXAMINER: I see. Okay.  
 4 MS. BENDICH: Is that all right with you?  
 5 HEARING EXAMINER: That's fine. I just didn't know that  
 6 we were doing that. So we'll continue with the witness.  
 7 Please state your name.  
 8 MS. BENDICH: Yes, so I am Judith Bendich. I am the  
 9 authorized representative for Friends of Ravenna-Cowen.  
 10 HEARING EXAMINER: You're on the record, so you just -- if  
 11 you're going to speak, you just state your name. But what I  
 12 need is the witness to state their name and spell it for the  
 13 record.  
 14 THE WITNESS: Good morning. My name is Lorne McConachie  
 15 spelled L-O-R-N-E, M-c-C-O-N-A-C-H-I-E.  
 16 HEARING EXAMINER: Do you swear or affirm the testimony  
 17 you will provide in today's hearing will be the truth?  
 18 THE WITNESS: Yes, I do.  
 19 HEARING EXAMINER: Thank you. Your witness.  
 20 MS. BENDICH: Thank you.  
 21  
 22 LORNE MCCONACHIE: Witness herein, having first been  
 23 duly sworn on oath, was examined  
 24 and testified as follows:  
 25

1 HEARING EXAMINER: But you've gotten me there.  
 2 THE WITNESS: But they did not include it.  
 3 MR. BRICKLIN: Right.  
 4 HEARING EXAMINER: Okay.  
 5 MR. BRICKLIN: I think the whole EIS speaks to that  
 6 because it's not in there.  
 7 HEARING EXAMINER: Got it. Okay. Thank you.  
 8 THE WITNESS: Yeah. Now, my other comment was that the  
 9 City Council could decide not to do inclusionary or fees,  
 10 but they need to know what the difference in impacts are.  
 11 MR. BRICKLIN: All right. This might be a good place for  
 12 a break.  
 13 HEARING EXAMINER: Okay. We'll come back at 10:35.  
 14 MR. BRICKLIN: Thank you.  
 15 HEARING EXAMINER: Thank you.  
 16 (Recess)  
 17 MS. BENDICH: Okay. Mr. McConachie, welcome. You ready?  
 18 HEARING EXAMINER: Yes. We've had a switch.  
 19 MS. BENDICH: We have had a switch.  
 20 HEARING EXAMINER: I'm ready, but let's note it for the  
 21 record that we are -- decided to --  
 22 MS. BENDICH: Yes, let me just say who I am.  
 23 HEARING EXAMINER: I didn't know we were doing this. So  
 24 what happened to our last witness?  
 25 MS. BENDICH: What Mr. Bricklin kindly did was say, well,

1 DIRECT EXAMINATION  
 2 BY MS. BENDICH:  
 3 **Q. Mr. McConachie, first of all, could you just tell us a**  
 4 **little bit about your education and professional background?**  
 5 A. I am an architect. I'm a principal with Bassetti Architects  
 6 in the City of Seattle. I received my professional  
 7 education at the University of Oregon, graduated in 1977. I  
 8 moved to Seattle in 1980, have been practicing architecture  
 9 as a registered architect pretty much from that time. I  
 10 worked with the Bumgardner Architects for five years until  
 11 1985, at which time I moved to Bassetti Architects, at which  
 12 I am currently still employed.  
 13 **Q. Okay. And on your resumé, which we will make an exhibit in**  
 14 **a moment, it says after your name, FAIA. What does that**  
 15 **mean?**  
 16 A. The American Institute of Architects has a fellows subgroup  
 17 in which when you've practiced long enough and done enough  
 18 things, you can potentially become a fellow, and I have -- I  
 19 was awarded fellowship about six years ago.  
 20 **Q. So in general, would you just say the -- the nature of your**  
 21 **work, and whether you focus on personalized and**  
 22 **collaborative spaces?**  
 23 A. We focus on institutional projects, education, cultural,  
 24 municipal. I have personally done a great number of  
 25 schools, both in our city and around the region. I have

1 consulted around the world on educational matters in terms  
2 of educating our children. The work I do is very public.  
3 Most of the schools we work on are public institutions.  
4 Roosevelt High School is probably the most pertinent one to  
5 my testimony today as a major restoration that I was  
6 responsible for.

7 Our work involves consensus building, a great deal of  
8 collaboration with community groups, with teachers, parents,  
9 outreach into community to make sure we're designing in a  
10 way that is comprehensive and sensitive to the needs of the  
11 neighborhood.

12 **Q. You mentioned some municipal work. What were you referring**  
13 **to?**

14 A. I was heavily involved in the building we're sitting in  
15 today in terms of its design, as well as Seattle City Hall  
16 across the street. So both of those were projects that our  
17 firm was responsible for.

18 **Q. And have you served in any capacity on any boards in the**  
19 **city?**

20 A. I have. I served on the Seattle Landmarks Board for roughly  
21 eight years, six years as Chair of that board. I also  
22 served on the Pioneer Square Preservation Board, as I  
23 recall, four years as Chair on a six-year cycle.

24 **Q. Okay.**

25 A. Might have been three. I'm sorry. I don't remember

1 A. Yes, it appears to be so.

2 **Q. Okay.**

3 MS. BENDICH: So I would move the admission of No. 65,  
4 please.

5 MR. WEBER: No objection.

6 HEARING EXAMINER: 65 is admitted.

7 (Exhibit No. 65 admitted into evidence.)

8 **Q. (By Ms. Bendich) So, Mr. McConachie, are you familiar with**  
9 **something called Tomorrow's Roosevelt Neighborhood Plan?**

10 A. I am. I've lived in the Ravenna neighborhood since 1989 and  
11 have been involved with varying planning, sustainability  
12 efforts within the Roosevelt neighborhood over those many  
13 years. So I am familiar with this plan. I was not the  
14 author of it or anything like that, but I have seen it. I  
15 have referenced it. And as I recall it, made commentary on  
16 it as it was being involved with -- being developed within  
17 the neighborhood.

18 MS. BENDICH: So taking -- we're going to get this -- get  
19 an exhibit number here. And this is Friends of  
20 Ravenna-Cowen Exhibit No. 5.

21 HEARING EXAMINER: Marked as Exhibit 66.  
22 (Exhibit No. 66 marked for identification.)

23 **Q. (By Ms. Bendich) Okay. Mr. McConachie, you have a copy in**  
24 **front of you?**

25 A. I do.

1 exactly.

2 **Q. And any particular councils or task forces that you**  
3 **participated in?**

4 A. I have participated in the Mayor's Task Force on two  
5 occasions. One for historic schools within our city; second  
6 for transferable development rights within the City of  
7 Seattle as two specific task force here in Seattle.

8 **Q. And have you provided me with a copy of your resumé?**

9 MS. BENDICH: I'm sorry?

10 MR. WEBER: Go ahead. I was just noticing something had  
11 been handed up, and I didn't know what it is.

12 MS. BENDICH: Oh, it's the resumé.

13 MR. WEBER: Okay.

14 MS. BENDICH: Do you need a copy?

15 MR. WEBER: Well, if you could reference what exhibit  
16 it --

17 MS. BENDICH: Well, we don't know -- it's Friends of  
18 Ravenna-Cowen Exhibit No. 31. Okay.

19 HEARING EXAMINER: Marked as Exhibit 65.

20 MS. BENDICH: 65.

21 (Exhibit No. 65 marked for identification.)

22 **Q. (By Ms. Bendich) And is this your resumé, Mr. McConachie?**  
23 **Yes?**

24 A. I'm sorry. What was the question?

25 **Q. Is that your resumé?**

1 **Q. So it's dated March 1999 on the cover page.**

2 MR. WEBER: Excuse me. Could I have a copy, too? You  
3 just have a slip sheet for it in your exhibits.

4 MS. BENDICH: Oh, I thought I had given -- I do have an  
5 extra one.

6 **Q. (By Ms. Bendich) Okay. So it says the date is March 1999.**  
7 **Could you say how you understand this document came to be --**  
8 **come into existence?**

9 A. I think the deeper history was the Growth Management Act  
10 encouraged neighborhoods throughout the state to develop  
11 plans for their own growth. As I recall, this plan began  
12 some three years before its published date. There were  
13 development plans within the neighborhood. I don't think  
14 they were approved by the city until this document came in  
15 1999. But the neighborhood worked on it from, if you will,  
16 a grass roots level, in a generative way, developing the  
17 plan over three, four years. And I -- I don't have specific  
18 memory of -- as to exactly when it began, but it was a slow  
19 process of -- involving the community, involving the  
20 businesses, et cetera, within Roosevelt.

21 And -- and a lot of its genesis was in focusing on the  
22 fact that we were a potential site for transit. And so the  
23 community was very interested in understanding how that  
24 might shape and impact the community.

25 **Q. Do you know whether the city itself actually helped support**

1 neighborhoods in developing their neighborhood plans at that  
2 time?

3 A. I believe there was city support of that development.

4 **Q. And taking a look at page 5, if you would. So in here it  
5 talks about urban villages being the center of the  
6 comprehensive plan at that time. And does it define in here  
7 what the neighborhood boundaries are for this urban village?**

8 A. It does define those boundaries with a map as shown on page  
9 6 of this document. There's sort of the hard line of the  
10 urban village, and then there's a dashed line of what you  
11 might call areas -- outreach area. Basically the community  
12 was interested not only in those living within -- living or  
13 working within that hard line boundary, but also an  
14 understanding of the potential urban village's impact on  
15 immediate neighbors.

16 **Q. And just turning over to pages 7 and 8. So page 7, I  
17 believe, gives just a general neighborhood profile and  
18 history of the existing Roosevelt at that time. And then  
19 turning to the next page, it talks about the history. And  
20 what do you know about the history of Roosevelt?**

21 A. What I -- what I know, I guess, is Roosevelt was an --  
22 Roosevelt began as a little node, a hub of commercial  
23 activity around the Roosevelt/65th intersection. That was  
24 its -- it's the commercial hub of the village. There were  
25 residential areas around that.

1 I remember seeing it referenced in the Alaska Yukon exhibit  
2 as a marker that got you to the university and north from --  
3 from Downtown.

4 **Q. And across 15th Avenue NE to the east, is there -- at that  
5 time, even, was there any commercial activity?**

6 A. The Ravenna neighborhood is east of Roosevelt. It  
7 developed -- well, it may have been developing around the  
8 same time, but it was a desig- -- I believe it was a town in  
9 1906, and then was annexed in 1907. So 15, 16 years after  
10 Roosevelt, the -- this little residential village of -- of  
11 Ravenna was annexed into the city as well. It's -- it's  
12 bounded by 15th on the west, 25th on the east, 65th slices  
13 through it in the -- in the center as probably the only  
14 arterial that is -- is, you know, bifurcating the  
15 neighborhood. But Ravenna was much more of a residential  
16 area as opposed to the commercial hub that Roosevelt began  
17 as.

18 **Q. Okay. So Ravenna, the town of Ravenna, started across the  
19 street, and it started a little later; is that what you're  
20 saying?**

21 A. That's my understanding.

22 **Q. And then it was subsequently annexed?**

23 A. Correct, about 15 years after Roosevelt was.

24 **Q. And Ravenna, to this day, extends from 15th Avenue NE over  
25 to about -- the next arterial over is what?**

1 Roosevelt has had a history of being an arterial  
2 intersection as it's beginning. As I recall, it was annexed  
3 into the city in about 1891. Much of its growth began  
4 around that time and into -- into the early 20th century.  
5 Roosevelt High School, for example, was built in 1922. I  
6 know that because I worked on it. So that was its area of  
7 significant growth.

8 **Q. And does it have -- is it kind of bifurcated? Does it have  
9 a commercial center and a residential center to it?**

10 A. Yeah, the node at 65th and Roosevelt was the historic  
11 commercial center that, of course, grew as the neighborhood  
12 developed. Around the Roosevelt neighborhood, it extends  
13 south to the Ravenna Boulevard, one of the historic Olmsted  
14 Legacy aspects of our city. To the west it's now the  
15 freeway. Although, of course when -- I-5 was not built back  
16 in the 1800s, so that was a later addition. To the north, I  
17 think it's up to about 75th; to the east, it goes to 15th as  
18 the boundary -- the arterials creating the boundary of the  
19 neighborhood. But the node was -- was really at the two --  
20 at the intersection of 65th and Roosevelt.

21 **Q. And along 15th at that time, based on what your knowledge of  
22 the history is, was there actually, like, a trolley car that  
23 went --**

24 A. Yeah, that was a trolley avenue running from downtown, I  
25 think all the way up to 80th, till about the World War II.

1 A. 25th NE.

2 **Q. Are there any arterials intersecting that section of  
3 Ravenna, this 10 blocks?**

4 A. Well, on a north/south basis, no. The east/west basis, 65th  
5 runs through the middle of the neighborhood.

6 **Q. And today, where are arterials in the Roosevelt  
7 neighborhood?**

8 A. Within the neighborhood, Roosevelt 12th and 65th pretty much  
9 create the crosshairs of the neighborhood. And, of course,  
10 there are arterials around that neighborhood as well.

11 **Q. All right. So starting with 15th, are there any arterials  
12 to the west of that? Is that Roosevelt?**

13 A. West is 12th, then Roosevelt, and then all the way to the  
14 freeway as primary arterials.

15 **Q. And on the east/west straight, it's NE 65th Street. And is  
16 there another arterial even north of that?**

17 A. Well, 75th is probably the northern edge of both Roosevelt  
18 and Ravenna neighborhoods, and the Cowen-Ravenna Park forms  
19 the southern edge of the neighborhood. So that's a natural  
20 area.

21 **Q. And the residential section of Roosevelt, does that extend  
22 along -- more closely to Cowen and Ravenna Parks?**

23 A. Within Roosevelt, there's a -- there's an arc of -- of  
24 resident -- single-family residential historic bungalow  
25 character on the northern edge -- northern and western edge

1 of Cowen Park. And then there's another grouping of  
 2 residential houses north of the node of Roosevelt, heading  
 3 up towards 75th.  
 4 **Q. Okay. So you had mentioned earlier that one of the major**  
 5 **concerns here, or one of the reasons for doing this, was**  
 6 **Roosevelt community's concern about having a light rail**  
 7 **station. Tell me about that.**  
 8 A. It was -- at one point I remember the -- the light rail was  
 9 planned ahead from the University of Washington all the way  
 10 up to Northgate. The neighborhood, because it has a freeway  
 11 entry, and it's a commercial hub within this -- this -- this  
 12 regional stretch, felt that it would be appropriate to have  
 13 a light rail station there. And part of this early planning  
 14 of the neighborhood was in anticipation of the location  
 15 somewhere within the Roosevelt neighborhood. It wasn't at  
 16 that time obviously determined.  
 17 **Q. So turning your attention to page 14, does that discuss the**  
 18 **light rail station planning?**  
 19 A. It does. Planning began in 1998 for a regional transit  
 20 system, including a planned light rail line with a station  
 21 to be built in Roosevelt.  
 22 **Q. Okay. And that came as the result of citizen action; is**  
 23 **that correct?**  
 24 A. I -- I know the citizens were interested in it, and, if you  
 25 will, lobbying for it. Obviously the authorities having

1 **Q. And there's a picture below that in which it says,**  
 2 **"Multifamily housing on Roosevelt Way NE of a multistory**  
 3 **building." That's an apartment -- apparently an apartment**  
 4 **building; is that right?**  
 5 A. Uh-huh.  
 6 **Q. Do you know that building?**  
 7 A. I do know that building.  
 8 **Q. Is it an apartment building?**  
 9 A. Yes, I -- well, I believe it is.  
 10 **Q. Okay. Are there any such buildings in -- across 15th Avenue**  
 11 **in the Ravenna section?**  
 12 A. Along 65th, there are a couple of apartment buildings on the  
 13 arterial, but outside of that specific arterial cluster  
 14 along 65th in approximately 20th to 25th, there are --  
 15 Ravenna is a single-family neighborhood.  
 16 **Q. And turning to the next page, 21, if you look at the issues**  
 17 **that are listed there -- and go to the last one which says,**  
 18 **"Maintenance." At that time, was there a concern about the**  
 19 **single-family housing stock?**  
 20 A. Yes. As I mentioned a moment ago, there was -- there's sort  
 21 of been a, for lack of a better word, a slumlord owner in  
 22 the Roosevelt/Ravenna neighborhood at the corner of 15th and  
 23 65th for many years. And there was concern that that kind  
 24 of poor maintenance record and lack of neighborly attention  
 25 would spread as that slumlord purchased more property. And

1 jurisdiction over light rail made the final call.  
 2 **Q. All right. I think we covered that. If you could turn to**  
 3 **page 21. I think I missed something here. So were there**  
 4 **certain goals set by the community in -- if you turn to page**  
 5 **18.**  
 6 A. In terms of anticipation within this plan, yes, there were  
 7 goals to recognize the kind of urban village character that  
 8 would come with a light rail station to increase density at  
 9 the hub where the station was -- was to be planned, and to  
 10 have a gradual transition of building heights and densities  
 11 as it -- as it feathered back into the single-family  
 12 neighborhoods around Roosevelt and adjacent to Roosevelt.  
 13 **Q. And at page 20 of Exhibit 66, does it state what the housing**  
 14 **goals are?**  
 15 A. Yes, it does. It lists four goals for housing. "Protect  
 16 and preserve the neighborhood's single-family character,  
 17 while accommodating the 25 percent increase in housing units  
 18 expected in the next 20 years. Develop a range of  
 19 strategies to help encourage housing opportunities for wide  
 20 range of residents. Support the adoption of the Roosevelt  
 21 design guidelines for commercial and multifamily projects."  
 22 And I'm summarizing here; increase awareness of the need for  
 23 housing maintenance for both owner and non owner-occupied  
 24 units. There were some areas of our neighborhood that  
 25 weren't very well kept for years.

1 it was an ongoing concern with neighbors. At almost every  
 2 planning meeting, there were discussions of how to we deal  
 3 with this challenge.  
 4 **Q. And so it mentions here about transient residents. Is that**  
 5 **a concern?**  
 6 A. Yes.  
 7 **Q. Why? What are we looking for here in a neighborhood?**  
 8 A. Well, the neighborhood's goals really focused on family  
 9 liveable apartments, mixed-use projects, as well as  
 10 single-family homes. It was -- the intent was to create a  
 11 liveable community that attracted a broad variety of folks  
 12 from low cost, to high cost, from single occupancies, to  
 13 families.  
 14 **Q. Then turning your attention on Exhibit 66 to page 17. What**  
 15 **was the major issue that the neighborhood was concerned**  
 16 **about?**  
 17 A. There were a number of issues, but --  
 18 **Q. But on page -- as they -- I'm sorry. I gave you the wrong**  
 19 **page number. On page 34. Sorry about that.**  
 20 A. Okay. I was -- okay. And page 34 it identifies one of the  
 21 goals, which was to improve the clarity, the identity of the  
 22 neighborhood.  
 23 **Q. And how about the issue?**  
 24 A. The issue was lack of iden- -- lack of neighborhood  
 25 identity. And there was talk about creating entry points

1 into the community. There was talk about the clarification  
2 of residential -- single-family residential from the  
3 commercial core. Just a better treatment and -- and upgrade  
4 to the neighborhood.

5 **Q. Okay. And then turning your attention to page 40 of  
6 Exhibit 66.**

7 A. Page 40. Yes.

8 **Q. So one of the headers here talks about community gathering  
9 space. So did they have -- did the Roosevelt neighborhood,  
10 and perhaps -- let me just back up. In addition to what we  
11 call this particular defined boundary of the Roosevelt  
12 neighborhood, did community members from Ravenna actually  
13 participate in the development of this plan?**

14 A. Yes. I know -- I know of several community members that  
15 were in the Ravenna side of 15th that were heavily involved  
16 in this. I have neighbors, the Johnsons, who live across  
17 the street from me, who they're an architect and an urban  
18 planner, they -- they played a major hand. And another  
19 woman I know who's a lawyer was also deeply involved in  
20 neighborhood planning, all of whom lived in Ravenna.

21 But, again, recognize that Roosevelt was our -- our  
22 chopping area, our -- our local commercial zone. So it was  
23 pertinent to them as to how the area grew.

24 MS. BENDICH: Mr. Examiner, may I help you find something  
25 or --

1 architect, its impact in the cultural development of its  
2 neighborhood, and its identity within the neighborhood.  
3 It's prominent, and the neighborhood relates to its  
4 presence.

5 **Q. Okay. So if we could move on. Today you're -- and I'll  
6 just say this; when you started preparing for your testimony  
7 today, what were you originally going to testify about?**

8 A. You had asked me to talk about sort of the 10-minute walk  
9 zone, some urban planning design impacts around that issue.

10 **Q. And did I inform you that Mr. Peter Steinbrueck had  
11 testified about that issue pretty extensively yesterday?**

12 A. That's what I heard.

13 **Q. So are we trying to move -- so we're not going to have you  
14 go through in detail what he would've already talked about;  
15 is that correct?**

16 A. That was my understanding.

17 **Q. Okay. So the next document I'd like you to look at is  
18 what's called Roosevelt Neighborhood Design Guidelines,  
19 which is Friends of Ravenna-Cowen Exhibit No. 6.**

20 MS. BENDICH: Do you need a copy?

21 MR. WEBER: Let me see here. Nope. We've got it.

22 MR. BRICKLIN: What number is that then?

23 MS. BENDICH: That would be marked as Exhibit 67, I  
24 believe.

25 HEARING EXAMINER: Yes.

1 HEARING EXAMINER: No.

2 MS. BENDICH: Okay.

3 HEARING EXAMINER: I'm good.

4 MS. BENDICH: Okay.

5 **Q. (By Ms. Bendich) So one of the recommendations here involves  
6 Cowen Park. And they wanted the completion of an adventure  
7 play area.**

8 A. That happened.

9 **Q. And that occurred?**

10 A. Yes.

11 **Q. And they also want other additions to the neighborhood. And  
12 I think this goes through a whole bunch of them. And that's  
13 part of this plan; is that right?**

14 A. That's correct. There was improvement of the parks, of  
15 critical issues about open space, discussion of a town  
16 square that has been an ongoing issue throughout the growth  
17 and planning of -- of the Roosevelt neighborhood.

18 **Q. And if you could turn to page 43, please. You had mentioned  
19 earlier that you were involved in the high school, Roosevelt  
20 High School design issues. And you also said that you  
21 served on the Seattle Landmarks Board?**

22 A. That's correct.

23 **Q. Is there something special about Roosevelt High School?**

24 A. Roosevelt is a designated landmark within the City of  
25 Seattle because of its architectural character, its

1 (Exhibit No. 67 marked for identification.)

2 **Q. (By Ms. Bendich) And are you familiar with this document,  
3 Mr. McConachie?**

4 A. I am familiar with this document. I was involved in its  
5 generation.

6 MS. BENDICH: Okay. I would move to admit No. 67.

7 MR. WEBER: No objection.

8 HEARING EXAMINER: We also have 66 to be admitted. Do I  
9 have 65 here?

10 MS. BENDICH: Yes, I --

11 HEARING EXAMINER: So 66 also needs to be admitted.

12 MS. BENDICH: Yeah, okay. I move the admission of No. 66.

13 HEARING EXAMINER: 66 and 67 are admitted.

14 (Exhibits Nos. 66 & 67 admitted into evidence.)

15 **Q. (By Ms. Bendich) And what is the purpose -- this is, I  
16 believe, down at the bottom it says it's a City of Seattle  
17 Department of Planning and Development document. And how is  
18 this generated.**

19 A. This is, if you will, an update of the previous plan of  
20 Roosevelt as new information came to the neighborhood. And  
21 there was an opportunity to work with the city in kind of  
22 refining and shaping the design guidelines for the  
23 neighborhood to be upgraded.

24 For example, there's a whole section of sustainability  
25 in here. By -- by this date the neighborhood had begun a

1 sustainability committee. There had been many discussions  
2 both with the city, as well as within the neighborhood about  
3 potential impacts of a more sustainable approach to  
4 development as one example.

5 **Q. And so just take a look at page -- oh, it's page --**  
6 MR. BRICKLIN: Roman Numeral 4.

7 **Q. (By Ms. Bendich) Small Roman Numeral 4. And it has a list**  
8 **of various things where these words, "Pedestrian**  
9 **environment, street level design, greenways, transitions,**  
10 **sustainability," and it continues on to the next page, "the**  
11 **high school heritage, and Ravenna Park and Boulevard**  
12 **Heritage." Were these the thrusts of this design?**

13 A. Yeah.

14 **Q. Guideline?**

15 A. These were the, if you will, fine tuning of -- of defining  
16 characteristics of the neighborhood that we wanted to make  
17 sure were the focus of -- of future growth.

18 **Q. Is there anything in particular that you wish to highlight**  
19 **with respect to the goals and the design guidelines here?**

20 A. Well, pertinent to this discussion, I feel there are some  
21 really important defining characteristics of the Roosevelt  
22 neighborhood, and they have to do with the historic node,  
23 the commercial center. The landmark presence within the  
24 neighborhood is -- is Roosevelt High School. And that's  
25 part of the namesake of the neighborhood as well. We have

1 **expanded into the Ravenna area across 15th?**

2 A. Not to my memory.

3 **Q. Now, one of the things you were tasked to do, I believe --**  
4 **let me back up. Mr. McConachie, did you participate in any**  
5 **way in making a comment about -- in the comprehensive plan**  
6 **process, or participating in anything that happened in the**  
7 **neighborhood -- about a proposal that was being made at that**  
8 **time to extend the boundary of 15th -- across 15th to the**  
9 **east into the Ravenna neighborhood?**

10 A. Yes, I believe I have attended planning committee meetings  
11 within the neighborhood in which this issue was discussed.

12 There was a petition that circulated that I believe I  
13 signed. It's -- it's been a pretty hot topic within the  
14 neighborhood, so I've had numerous discussions around it.

15 **Q. Why? What are people concerned about, including yourself?**

16 A. It seems a pretty arbitrary move. It damages the historic  
17 fabric of a neighborhood. There are other areas within the  
18 Roosevelt neighborhood that the community has talked about  
19 where growth should occur, where actually the citizens, the  
20 families that lived in these neighborhoods wish to grow the  
21 neighborhood. And I know the -- the community around the  
22 park didn't want to grow density into these historic  
23 single-family homes. So it's been a pretty hot topic in  
24 terms of discussion of -- of the neighborhood.

25 **Q. And so how would they -- just by expanding it by about two**

1 the elegant south boundary, which is part of the Olmsted  
2 Legacy of Seattle, the boulevard and the parks. And then we  
3 have this swath of historic homes that are historic  
4 bungalows growing from 1900, primarily, through 1930, that  
5 are -- is an intact group of historic homes.

6 Over the years there have been numerous architectural  
7 tours of this as a -- as an intact bungalow neighborhood.

8 The area recently was nominated for a National Landmark  
9 District because of its intact nature of --

10 **Q. Let me stop you there. You said landmark district. We've**  
11 **been hearing throughout this process here at the hearing,**  
12 **different terminology, okay? Now, landmark has a potential**  
13 **significance, right? And then there's -- it's called a**  
14 **National Historic District.**

15 A. I may have misspoke. National Historic District I believe  
16 is how they refer to it from the federal perspective.

17 **Q. Okay.**

18 A. I'm a local landmarks guy, so I chucked that in. I'm sorry.

19 **Q. And do you know what the date of this particular design**  
20 **guidelines was? Was this in 2015?**

21 A. 2015, yes.

22 **Q. During the process in 2015, was there any suggestion that**  
23 **the boundary should be changed?**

24 A. Not to my recall.

25 **Q. Was there any discussion that the boundary should be**

1 **and a half blocks, how would that -- and then upzoning it --**  
2 **how would that impact the neighborhood?**

3 A. Neighborhoods have development patterns that -- that give  
4 them character, give them a sense of cohesion and a sense of  
5 identity. Part of the -- the bigger planning within Seattle  
6 has talked about maintaining these -- these neighborhood  
7 identities, making sure that as we grew, our urban village  
8 boundaries didn't impinge upon the character of a place. So  
9 within the little Ravenna south edge of Roosevelt, it would  
10 mean that the -- the lot area relationships would change.  
11 The heights might change. The density of units per the size  
12 of lots might change. Open space, vegetation. Just the  
13 whole cadence of a neighborhood can change.

14 And it's -- again, our neighborhood -- the Roosevelt  
15 neighborhood in particular has been very good about saying,  
16 we recognize change, and we want to become an urban village,  
17 and here's where we'd like change to be. And then when we  
18 saw this imposition of -- of upzoning into specific  
19 single-family housing areas, the neighborhood said, no, this  
20 is not where we wanted growth to be. You're going to mess  
21 with a defining characteristic of what our neighborhood is,  
22 and we'd prefer it not here.

23 **Q. So this upzone that was proposed during the comprehensive**  
24 **plan, what was that based on? What was the rationale for**  
25 **it?**

1 A. Becoming an urban village, the transit stop.  
 2 **Q. No. How did they get to -- from the transit to 17th?**  
 3 A. Oh, oh, I'm sorry. That was the 10-minute walk radius,  
 4 which is obviously the -- the crux of the biscuit here.  
 5 There -- it appeared to -- to me, as I looked at this, that  
 6 there was a fairly arbitrary 10-minute walk radius around  
 7 the -- around the station. And yet the comp plan talks  
 8 about that being a contextual radius not a -- just a fixed  
 9 mathematical equation. My understanding was that it came  
 10 out of a GIS mapping and was slightly revised therein.  
 11 But the comp plan talks about it stopping at arterials.  
 12 Well, it just crossed 15th into a single-family  
 13 neighborhood, which didn't make sense even from the rules of  
 14 what the comp plan talked about. The comp plan talks about  
 15 maintaining these elegant neighborhoods. And here we just  
 16 expanded south and eastward into one of these historic  
 17 little -- potentially federal historic districts.  
 18 As I said, in many neighborhood meetings there were  
 19 neighbors who lived slightly northwest of the station that  
 20 said, we -- we're actually shifting part of the  
 21 neighborhood. We're moving into rentals. The freeway's  
 22 fairly close. We -- we would like our area to be upzoned.  
 23 So we, the neighbors, said to the city, hey, here's a whole  
 24 zone of the neighborhood that would like to grow and can  
 25 more than accommodate the growth targets that the city had

1 **you've mentioned in the northeast -- is it the northwest**  
 2 **quadrant of the existing Roosevelt village, that there was**  
 3 **community support for increasing the density there; is that**  
 4 **correct?**  
 5 A. That's correct.  
 6 **Q. And has that -- at least in this revision, has that been**  
 7 **increased substantially?**  
 8 A. This is called out as residential small lot. So it has not  
 9 increased significantly, although a little.  
 10 **Q. And along this area, you're overlooking -- or you're near**  
 11 **the freeway; is that correct?**  
 12 A. That's correct.  
 13 **Q. What are the views from there?**  
 14 A. Pretty spectacular. Green Lake and the Olympic Mountains  
 15 are to the west. If you get a southern view, you get Lake  
 16 Union and the City of Seattle. Obviously most of these are  
 17 still single-family homes, so they're not standing tall to  
 18 get some of those views. Though, there has recently been  
 19 some apartment development around 67th that has just  
 20 commanding presence and views, I'm sure, to the south and  
 21 the -- and the west.  
 22 **Q. So there is apartment development going in currently**  
 23 **along -- I'm just asking -- along -- facing the freeway, and**  
 24 **close to the freeway, around 67th or 68th?**  
 25 A. Yeah. This is -- these are pretty desirable places, from

1 put forth.  
 2 **Q. If you could look at --**  
 3 A. This map?  
 4 **Q. -- at the map. And if you would please give the hearing**  
 5 **examiner --**  
 6 MS. BENDICH: This is from the EIS, Mr. Examiner, and it  
 7 is the -- from, what is it, G that has the maps? Which  
 8 section?  
 9 MR. BRICKLIN: G.  
 10 MS. BENDICH: G. And there's a --  
 11 MR. WEBER: I don't think it's G. I think it's --  
 12 MR. BRICKLIN: G or H.  
 13 MS. BENDICH: H, I think. Okay.  
 14 MR. BRICKLIN: It's H.  
 15 **Q. (By Ms. Bendich) Okay. Section H. And on the bottom there,**  
 16 **Mr. McConachie, there will be a summary -- a number of the**  
 17 **page.**  
 18 MR. BRICKLIN: H-71 in the lower right-hand corner.  
 19 **Q. (By Ms. Bendich) H-71.**  
 20 A. H-71, and it's identified as COS002228.  
 21 MR. BRICKLIN: And is it Exhibit H-70, preferred  
 22 Alternative Roosevelt Urban Village?  
 23 THE WITNESS: Urban village -- yes, Exhibit H-70, Proposed  
 24 Zoning Preferred Alternative Roosevelt Urban Village.  
 25 **Q. (By Ms. Bendich) So looking at that map, Mr. McConachie,**

1 what I can see. I mean, there's a couple of problems here.  
 2 One, the old single-family homes are -- are little, wood  
 3 buildings. They're -- that's not a construction system that  
 4 is terribly good at -- at noise mitigation. The sound of  
 5 the freeway would be -- would be apparent; whereas, newer  
 6 construction, high-rise or mid-rise construction, is usually  
 7 concrete and steel, more density, is able to more  
 8 effectively deal with the noise challenge of a freeway.  
 9 And we see this all over our city and cities all over  
 10 the world. You know, Capitol Hill has apartments all along  
 11 the freeway because they have tremendous views of the Sound,  
 12 of Lake Union. I just got back from New York. My goodness,  
 13 the New Yorkers know how to build luxury apartments with  
 14 views because that's -- that's an unchangeable aspect of who  
 15 they are.  
 16 So I think the idea that modern construction and more  
 17 dense construction along a freeway -- I know there's been  
 18 often spoken of, well, we can't put poor people next to the  
 19 freeways. And I -- I kind of feel like that's a bit mythic  
 20 at this point in terms of the settlement patterns of what I  
 21 see in urban development around -- certainly around our  
 22 country and around the world. These would be pretty --  
 23 pretty nice places to live with the views.  
 24 **Q. And you're saying that there's community support, or there**  
 25 **has been community support for that particular area?**

1 A. In several meetings I attended, folks who lived there asked  
 2 that their area be upzoned so that they could sell as a  
 3 block of neighbors to a developer and move on.  
 4 **Q. Okay. Now, Mr. McConachie, I also, I believe, asked you to**  
 5 **point out inconsistencies with development into the Ravenna**  
 6 **area with the comprehensive plan; is that correct?**  
 7 A. Yes.  
 8 **Q. And did I also inform you that somebody had already did**  
 9 **that?**  
 10 A. I do believe.  
 11 **Q. So Mr. Steinbrueck had already had an exhibit, I believe**  
 12 **it's No. 8. And if we could -- have you looked at that?**  
 13 A. Yes, I have. The Inconsistent Comp Plan Policies by Topic?  
 14 **Q. Yes. And would you just like to point out -- so we don't**  
 15 **need a new exhibit here -- point out from that particular**  
 16 **exhibit which particular points that are made in that**  
 17 **exhibit apply equally as well here to the Ravenna community?**  
 18 A. On page 1 of Exhibit 8, probably the most important is I --  
 19 from any perspective is R-HP1, "Promote the preservation and  
 20 maintenance of existing single-family homes in single-family  
 21 zones, and control impacts to homes on the edge of the  
 22 single-family zones." This gets to defining characteristics  
 23 of neighborhoods and making sure we don't grow into them  
 24 based on what I consider an arbitrary location of a  
 25 10-minute walk. Promote -- another one just above that,

1 **that you wish to point out?**  
 2 A. R-LUG1, "Foster development in a way that preserves  
 3 single-family residentially-zoned enclaves and provides  
 4 appropriate transitions to more dense or incompatible uses."  
 5 Again, all of these deal with this same edge of  
 6 neighborhood, historic district, coherent sense of intact  
 7 single-family houses that just got included into something  
 8 based on this random walk zone.  
 9 **Q. Anything else?**  
 10 A. I'm now moving to page 4 under historic resources, "Preserve  
 11 the characteristics" -- this is GS 3.9, excuse me.  
 12 "Preserve characteristics that contribute to communities'  
 13 general identity such as block and lot patterns, and the  
 14 areas of historic architectural or social significance."  
 15 Again, I was trying to speak earlier to the settlement  
 16 pattern of a development, and that changes over time. One  
 17 of the beauties of -- of this little landmark area -- or  
 18 excuse me -- historic district, is the settlement pattern,  
 19 is the relationship of buildings, the -- the  
 20 positive/negative aspect of how buildings sit on the land.  
 21 And you -- you can't get that anymore. That happened in  
 22 1910, 1920. The way we build today, it doesn't look like  
 23 that.  
 24 Last is LUG14, "Maintain the city's cultural identity  
 25 and heritage." There's a little heritage opportunity that

1 R-LUG2, "Promote the growth of the Roosevelt Urban Village  
 2 in a manner that concentrates residential and business uses  
 3 on the commercial core, and near the light rail station,  
 4 with less dense residential mixed use and commercial  
 5 development along the commercial arterials that extend from  
 6 the core." Within the neighborhood, there was a  
 7 transitional aspect of higher in the center, more dense, and  
 8 feathering out into the single-family neighborhoods around.  
 9 **Q. So we don't have a camera in this hearing room. Could you**  
 10 **just explain what you were just doing with your hands?**  
 11 A. I'm -- I'm -- if you will, I'm wedding cake stepping down as  
 12 we go from the center of the neighborhood to lower density,  
 13 lower-rise units, extending into a single-family zone.  
 14 **Q. And is there a nat- -- I won't call it natural, but is there**  
 15 **a built-in boundary that has a stopping point in terms of**  
 16 **your wedding cake, or whatever you want -- along the**  
 17 **arterial?**  
 18 A. We in the neighborhood thought 15th was that boundary. It's  
 19 been a historic separation between Ravenna and Roosevelt,  
 20 and that's part of the -- the challenge of why I'm here  
 21 today is that we've sort of arbitrarily crossed the boundary  
 22 based on this 10-minute radii that I believe was not well  
 23 thought through. It lacked contextual understanding of the  
 24 neighborhood.  
 25 **Q. And did you have any other inconsistencies from Exhibit 8**

1 we're missing on, I believe.  
 2 **Q. Okay. Thank you. Have you stated your -- you are an expert**  
 3 **on landmarks and historic resources. So are you giving us**  
 4 **your opinion based on your personal opinion here, or on your**  
 5 **professional opinion as to whether this should be considered**  
 6 **as a historic area?**  
 7 A. I guess both. I -- I have dealt with landmark structures  
 8 all over our state and nation. I try very hard in designing  
 9 around and with landmark structures to understand the  
 10 context of the broader neighborhood, and to make sure that  
 11 as we change and grow and adapt to new critical needs for  
 12 our society, that we maintain that sense of heritage and  
 13 presence of a landmark, be it a district or a building, as  
 14 well as accommodating growth. And I think there are  
 15 opportunities here that have just simply not been carefully  
 16 thought through.  
 17 MS. BENDICH: Okay. Thank you. Do you have cross?  
 18 Oh, you had a question. Sorry, Mr. Bricklin.  
 19 (Inaudible colloquy)  
 20 MR. WEBER: Could I just ask a clarification? I mean, I  
 21 don't remember, is he actually one of your witnesses, David?  
 22 MR. BRICKLIN: Yes. We adopted the -- Ravenna's --  
 23 Ravenna-Cowen's witnesses. I just have one question, in any  
 24 event.  
 25 DIRECT EXAMINATION

1 BY MR. BRICKLIN:

2 **Q. You talked about the impingement of the urban village**  
3 **expansion east of 15th NE into the Ravenna neighborhood. In**  
4 **terms of the integrity of that character, is the impact of**  
5 **that only on the lots that are actually rezoned and**  
6 **redeveloped, or does the impairment extend beyond to the**  
7 **larger district?**

8 A. That's an interesting question, and I -- I think -- just  
9 because one side of the street changes doesn't mean it  
10 doesn't impact the other side of the street. There are  
11 obviously parking issues that would spread throughout a  
12 neighborhood. There would be -- I mean, I'll give a simple  
13 example. The sewer lines in this neighborhood were built in  
14 the 18 -- late 1800s. To come in and do a major development  
15 in a neighborhood means that all those water, sewer  
16 utilities would likely have to be upgraded and replaced,  
17 causing all kinds of activity throughout a neighborhood. So  
18 any -- any development on one side of the street impacts the  
19 other side of the street in a -- in a zone around it as we  
20 see traffic changing.

21 You know, one of the beauties of this little historic  
22 district is its non-trafficked area. It actually has a  
23 pedestrian bridge across the ravine that was closed down as  
24 a bicycle/pedestrian access point, gosh, 20, 30 years ago.  
25 Those are the kind of --

CROSS EXAMINATION

1 BY MR. WEBER:

2 **Q. Mr. McConachie, I'm Jeff Weber with the City Attorney's**  
3 **office here for the City. At one point there was a**  
4 **reference to Mr. Steinbrueck's testimony. Did you listen to**  
5 **or review the actual testimony he gave when he was up on the**  
6 **stand?**

7 A. I did not.

8 **Q. At one point you were talking about the 15-minute walkshed,**  
9 **and you I believe said it was inconsistent with the**  
10 **comprehensive plan provision that said there shouldn't be**  
11 **any expansion across 15th. Was that a specific**  
12 **comprehensive plan provision, and could you identify it?**

13 A. Where within the comp plan did I see that?

14 MS. BENDICH: I believe it was -- I believe he made a  
15 mistake. So --

16 A. Well, I believe there is reference not to cross arterials,  
17 but I don't believe it said specifically 15th.

18 **Q. (By Mr. Weber) And is that in the 2035 comprehensive plan?**

19 A. Oh, you're tapping my memory here. I'm sorry, I can't give  
20 you a specific reference. I would have to go back and do a  
21 little research as to where I saw that.

22 **Q. Okay.**

23 A. Well, I'll suffice that.

24 **Q. Have you ever been involved in your professional capacity in**  
25

1 **Q. Closed from being a --**

2 A. Closed being a --

3 **Q. -- a car --**

4 A. -- an automobile access point. Those are the kind of  
5 impacts that just spiderweb out from growth into a  
6 neighborhood, let alone an historic neighborhood.

7 MR. BRICKLIN: Okay. Thank you. That's all I have.

8 MS. BENDICH: If I could just follow up a little bit on  
9 just one more question on that, or should I wait?

10 HEARING EXAMINER: Well, you will have an opportunity for  
11 redirect. I thought you were finished.

12 MS. BENDICH: This was just to expand on what Mr. Bricklin  
13 said, just one point.

14 HEARING EXAMINER: Okay.

DIRECT EXAMINATION (Continued)

15 BY MS. BENDICH:

16 **Q. As far as you know, has NE 62nd Street, which is bordering**  
17 **along the park, hasn't that been designated as a greenway**  
18 **for bicycles and others as well?**

19 A. I do believe it has. And there's also another green street  
20 that runs from Roosevelt High School westward and eastward.

21 MS. BENDICH: Okay.

22 HEARING EXAMINER: Cross, please.  
23  
24  
25

1 **preparing any portion of a non-project EIS?**

2 A. I have been involved with a number of EIS's with regard to  
3 my educational projects, my architectural projects.

4 **Q. But those were project EIS's.**

5 A. Oh, I'm sorry. Non-project EIS. Not to my recall.

6 **Q. Thank you.**

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

8 HEARING EXAMINER: Redirect.

9 MS. BENDICH: No redirect.

10 HEARING EXAMINER: Thank you, Mr. McConachie.

11 THE WITNESS: Thank you.

12 MR. BRICKLIN: I'd recall Mr. Sherrard to the stand.

13 Welcome back.

14 THE WITNESS: Thank you.

15 HEARING EXAMINER: I remind you, Mr. Sherrard, you're  
16 still under oath from the last time.

17 THE WITNESS: Yes.

DIRECT EXAMINATION (Continued)

18 BY MR. BRICKLIN:

19 **Q. So before your break, you were discussing the failure of the**  
20 **EIS to analyze as an alternative something that you**  
21 **described as inclusionary zoning. Is there another -- is**  
22 **there a type of mechanism for addressing affordable housing**  
23 **that's referred to as a linkage fee?**  
24  
25

1 A. Yes.

2 **Q. And would you describe very briefly what that mechanism is?**

3 A. Well, I think that an excellent description of that is found

4 in Seattle City Council Resolution No. 31551.

5 **Q. Well, we'll get to that in a second. Just start out --**

6 A. Well, it basically means that you do not upzone, and you do

7 not necessarily require developments to provide affordable

8 housing, but you assess a fee, which is then used to develop

9 affordable housing elsewhere.

10 **Q. So --**

11 A. And, in fact, that is, in part, an element of this proposal,

12 except this proposal also includes the upzone.

13 **Q. Okay. And would -- in your opinion, would a -- does a**

14 **linkage fee have the ability to accomplish the objectives of**

15 **the proposal as stated in the EIS in section -- on page 2.4?**

16 A. Yes.

17 **Q. Can you explain how?**

18 A. It provides affordable housing.

19 **Q. Yep.**

20 A. It does not increase the supply of housing necessarily,

21 although I don't think that that really is an appropriate

22 goal. It does leverage directly development by requiring

23 development to pay a fee. That certainly is a very

24 effective leverage. And it certainly can be designed to be

25 equitable. You can design it in a way that, for example, if

1 (Exhibit No. 68 admitted into evidence.)

2 **Q. (By Mr. Bricklin) And does the EIS include in its**

3 **alternatives that are analyzed in detail a linkage fee**

4 **alternative?**

5 A. It does not include an alternative such as this, which I

6 find really peculiar, because it was on the table for years.

7 **Q. Did the city develop this linkage fee proposal that's**

8 **reflected in Exhibit 68 as just kind of back of the**

9 **envelope, or did they --**

10 A. Oh, no.

11 **Q. -- devote a substantial amount of time to it?**

12 A. They not only devoted a substantial amount of time, but a

13 substantial amount of consultant reports, I believe some of

14 which are in the whereas section. So they retained

15 consultants to do, you know, a wide variety of reports. You

16 know, this was a very thorough, multiyear program that came

17 up with a alternative that I believe everyone at the time

18 agreed was -- would be effective. And at that time they

19 thought it was the appropriate way to go.

20 **Q. And did the council when it adopted this resolution indicate**

21 **in the resolution whether they viewed this as a viable**

22 **alternative for mitigating the impact of new commercial and**

23 **residential development on the demand for affordable**

24 **housing?**

25 A. Yes.

1 you retain existing affordable housing, you know, you may

2 have another -- another type of fee assessed. Or in some

3 cases, for example, you could forgive fees for housing

4 within a certain rent-restricted range.

5 **Q. Assuming that the fees are used to produce additional**

6 **housing, would that also meet the objective of increasing**

7 **the production of housing?**

8 A. Yeah. You could design the fee to produce however much

9 money you, you know, you wanted.

10 **Q. All right.**

11 MR. BRICKLIN: This is SCALE 142, Jeff.

12 MR. WEBER: Okay.

13 (Exhibit No. 68 marked for identification.)

14 **Q. (By Mr. Bricklin) I'm handing you what's being identified**

15 **for this record as Exhibit 68, I believe, right? Do you**

16 **recognize that document?**

17 A. Yeah, that is the resolution that was passed by the council

18 as a result of a multiyear effort on the part of the council

19 subcommittee, in particular, Councilperson O'Brien, that

20 really went almost all the way towards developing such a fee

21 program.

22 **Q. All right.**

23 MR. BRICKLIN: We'd move the introduction of Exhibit 68.

24 MR. WEBER: No objection.

25 HEARING EXAMINER: 68 is admitted.

1 **Q. Do you know whether the drafters of the EIS in the document**

2 **indicated why they did not include this as a alternative**

3 **discussed in detail?**

4 A. In my looking through the document, I find absolutely no

5 mention of this option as -- as existing in their -- in

6 their knowledge.

7 **Q. All right. You noted that one of the objectives of the city**

8 **here is to -- let me get the words the right way -- to**

9 **distribute the benefits and burdens of growth equitably.**

10 **Can a linkage fee proposal accomplish that?**

11 A. Yeah, it can, and -- and, you know, it actually probably has

12 more potential to do so just because the city has a much

13 greater extent of control on where the money is spent and

14 where these affordable housing opportunities, you know,

15 occur.

16 **Q. And same question as to the alternative you mentioned**

17 **earlier, the inclusionary zoning alternative. Can that**

18 **alternative accomplish the city's objective of distributing**

19 **the benefits and burdens of growth equitably?**

20 A. Yes.

21 **Q. And why do you feel that?**

22 A. Well, you can use some of the same mechanisms used in the

23 MHA proposal. For example, not targeting areas where you

24 want to preserve existing housing. You also have the

25 opportunity of targeting the housing achieved development in

1 areas that have high opportunity, that have access to  
 2 transit and that type of thing.

3 **Q. Okay. All right. Let's move on to another issue. You**  
 4 **mentioned in your review of the SEPA regulations that**  
 5 **there's a regulation that provides that alternatives should**  
 6 **be considered which would accomplish the objective at lower**  
 7 **environmental cost.**

8 A. Yes.

9 **Q. Do you recall that? Do you believe this EIS developed**  
 10 **alternatives that meet that SEPA requirement?**

11 A. Well, in looking at the EIS, and in looking at areas where  
 12 it identifies significant adverse impacts, and looking at  
 13 the mitigating measures, I don't find that there was any  
 14 example of effort to take action that would incorporate  
 15 mitigation for those impacts in an alternative.

16 **Q. So let's take an example. Historic resources, for instance,**  
 17 **or the character of some of our neighbors -- you were just**  
 18 **here for the prior witness' testimony, Mr. McConachie?**

19 A. Yeah. Uh-huh. Some of it.

20 **Q. And you heard him describing the character of the Ravenna**  
 21 **neighborhood. And I want you to assume there's been**  
 22 **testimony on earlier days --**

23 MR. WEBER: Objection. He can't assume testimony he  
 24 hasn't heard.

25 MR. BRICKLIN: Yes, he can. That's totally legitimate in

1 made a change. So I did not find that either. So there's a  
 2 lack of evidence that any changes were made.

3 I have to say that in reading the EIS, in the final EIS  
 4 there are cases where there are bulleted lists of things  
 5 that were considered, but it seems to me, you know, as a  
 6 professional who's written these things and reviewed these  
 7 things, that it is a complete black box as to who decided to  
 8 do what, and what they did. So I would have to say that  
 9 there's nothing in the EIS that -- that shows me how these  
 10 were analyzed.

11 I can't say that there may not have been, you know, a  
 12 committee of the city staff who drew a line differently, but  
 13 they certainly didn't document it in the EIS. And from the  
 14 record of the EIS, it certainly doesn't appear that it was a  
 15 concern of theirs.

16 **Q. So to address that in a coming -- same issue from a slightly**  
 17 **different angle, was alternative 2 in the EIS crafted to**  
 18 **your understanding from reviewing it with an eye towards**  
 19 **reduced -- developing maps that avoided neighborhoods with**  
 20 **significant historic or community character?**

21 A. Well, my recollection is that alternative 2 was based on an  
 22 allocation system. You know, based on the projected amount  
 23 of development in the 2035 comp plan, it was more or less  
 24 equally distributed among the various urban villages. So I  
 25 didn't see in the EIS any description that, you know, they

1 a trial.

2 MR. WEBER: Okay.

3 **Q. (By Mr. Bricklin) I want you to assume there's been prior**  
 4 **testimony --**

5 A. I've seen an outline of testimony.

6 **Q. I want you to assume there's been prior testimony in this**  
 7 **hearing about similar issues in other neighborhoods.**

8 A. Uh-huh.

9 **Q. Did you see any alternative in the EIS that was crafted to**  
 10 **address the impacts to historic or character neighborhoods**  
 11 **throughout the city that would be impacted by the proposal?**

12 A. I did not see any discussion, for example, in the final EIS  
 13 in the preferred alternative, which was a new alternative  
 14 developed, that outlined impacts that had been identified  
 15 and how this proposal specifically was amended in order to  
 16 address those impacts, except for displacement and  
 17 opportunity in which there are pages and pages of discussion  
 18 and many maps. And so, you know, I have to say there's an  
 19 absence of documentation of that.

20 In addition, in going through the responses to  
 21 comments, where comments were made that this is an adverse  
 22 impact, you know, that should be looked at, normally in a  
 23 final EIS, if a change were made to address that, I would  
 24 expect the city's response, you know, to say, you know, we  
 25 reviewed that comment and found that it was valid, and we

1 took these items into consideration.

2 **Q. Then same question regarding alternative 3. And as the city**  
 3 **worked to develop that alternative, and the map of how the**  
 4 **density would be distributed around the city, any indication**  
 5 **that that alternative was crafted in any way to avoid**  
 6 **neighborhoods with significant character or historic**  
 7 **buildings?**

8 A. No, I didn't find that.

9 **Q. And same question regarding the preferred alternative.**

10 A. I didn't find any evidence of that.

11 **Q. All right. And likewise, if we were going to consider**  
 12 **another element of the environment, let's say open space and**  
 13 **trees, you see any indication that alternative 2, 3, or the**  
 14 **preferred alternative were crafted -- that maps associated**  
 15 **with those alternatives were crafted to minimize impacts to**  
 16 **open space or trees?**

17 A. I didn't find any evidence in the text or anything that I  
 18 could see on a map that would have addressed that.

19 **Q. All right. You said you live in the Green Lake or Roosevelt**  
 20 **area?**

21 A. I live in the Green Lake area. I have previously lived in  
 22 the Roosevelt area. They're just across the freeway from  
 23 each other. So, you know, there's a freeway division, but  
 24 from my point of view, they're basically the same  
 25 neighborhood.

1 **Q. All right. And can you use the maps for these alternatives**  
 2 **to illustrate the point regarding whether changes could be**  
 3 **made that would -- to the maps that would --**  
 4 A. Sure.  
 5 **Q. -- reflect or make steps in the direction of protecting**  
 6 **community character and the like?**  
 7 A. Yeah.  
 8 **Q. All right. So do you want to turn -- do you have the --**  
 9 A. I have the EIS, yep.  
 10 **Q. Yeah.**  
 11 MR. BRICKLIN: Sorry, transcriptionist.  
 12 A. Is it page 68, page 69, 70, 71?  
 13 **Q. (By Mr. Bricklin) And are you using the exhibit number or**  
 14 **the page number?**  
 15 A. Page number. I'm sorry.  
 16 **Q. All right.**  
 17 A. The EIS page number.  
 18 **Q. Yeah. Page 68 is titled -- page 68 is titled, "Rainier**  
 19 **Beach Urban Village" (inaudible).**  
 20 A. Right. 69 is Roosevelt --  
 21 **Q. Yes.**  
 22 A. -- alternative 2.  
 23 **Q. Right.**  
 24 A. Page 70 is Roosevelt alternative 3. And 71 is Roosevelt  
 25 alternative 4.

1 neighborhood because I used to live right in the middle of  
 2 it.  
 3 HEARING EXAMINER: Isn't it northwest?  
 4 **Q. (By Mr. Bricklin) Northwest side you meant, right?**  
 5 A. Northwest side I mean. I'm sorry.  
 6 MR. WEBER: Can you tell us again what page you're on?  
 7 THE WITNESS: Page 871.  
 8 A. So that -- when I moved in 1983, that was a very stable  
 9 single-family neighborhood. In the five years I lived there  
 10 with my family, we got to know a lot of people in the  
 11 neighborhood. Other families with children, that type of  
 12 thing. You know, as a whole, the neighborhood, you know,  
 13 opposed a rezone of a -- of a portion of it. But, you know,  
 14 the fact is is that it's a very stable single-family  
 15 neighborhood. And it's proposed to be upzoned to a  
 16 combination of low-rise and RHS.  
 17 In my opinion, and I think in the analysis in the EIS,  
 18 that's a pretty substantial change in character of the  
 19 neighborhood between single-family homes that are set back,  
 20 have a front yard setback, have a lot of vegetation and are  
 21 by in large owned by moderate-income individuals, to the  
 22 type of thing that you see in low-rise development,  
 23 basically maximize density, three-story development. You  
 24 know, you can fit about six of those on a standard  
 25 single-family lot. No, I take that back. It takes two

1 **Q. Right. For the preferred alternative --**  
 2 A. Yeah, preferred alternative.  
 3 **Q. -- as they call it. All right. And can you make reference**  
 4 **to these to help illustrate your point?**  
 5 A. Sure, yeah. Now, it's very difficult for me because these  
 6 maps are essentially unreadable, except for the general, you  
 7 know, pattern of -- of shading. And the really important  
 8 thing about these maps is the change in zoning. But I think  
 9 it's important to also put this into perspective what the  
 10 city is accomplishing in this. And in all the changes that  
 11 you see in this area, you know, over a couple hundred acres,  
 12 the city is achieving only 126 affordable housing units. So  
 13 for all of this change --  
 14 **Q. In the Roosevelt area?**  
 15 A. In the Roosevelt area --  
 16 **Q. Uh-huh.**  
 17 A. -- they're achieving 126 housing units, affordable housing  
 18 units. Of those, they're achieving 72 units with  
 19 residential development, and 55 units through commercial  
 20 development. So basically all of this change is  
 21 accomplishing really relatively little. Now, the areas that  
 22 I would focus on -- well, let's say that I'm most familiar  
 23 with -- is in the northeast corner. So you can see that  
 24 there's I-5 on the west side, and Lake City Way on the  
 25 northeast side. And I'm very familiar with this

1 single-family lots to fit six on them.  
 2 I might say that I currently live across the freeway at  
 3 the corner of Woodland Avenue and 73rd. And that  
 4 neighborhood is making the transition from single family to  
 5 L3. So, you know, I have seen that transition happen, and I  
 6 know people who live on the street in single-family homes.  
 7 And, you know, I know what kind of experience they have had.  
 8 Now, if you look south of 65th Street in the area that  
 9 is kind of more lightly red, that is a block between 70th  
 10 and 69th.  
 11 **Q. (By Mr. Bricklin) Right. You said south of 65th?**  
 12 A. I mean, I'm sorry, south of 70th. 65th is the major street  
 13 through the area, but 70th, that's a block that is being  
 14 rezoned to R3 rather than -- I mean L3 rather than L1.  
 15 South of that is a large lot which is multiple residential.  
 16 The zoning isn't being changed, but it's subject to the  
 17 additional allowed density.  
 18 HEARING EXAMINER: This is the preferred alternative,  
 19 right?  
 20 THE WITNESS: Pardon?  
 21 HEARING EXAMINER: This is the preferred alternative that  
 22 you're looking at?  
 23 THE WITNESS: Yeah. Yeah. On H-71.  
 24 A. I'd also refer you to the -- to the big square in the far  
 25 northeast corner of the -- of the map. That is the

1 Roosevelt Reservoir. And then south of that, southeast of  
2 that, is a large single-family neighborhood that is proposed  
3 to go to L1 zoning. You know, in addition, there's the area  
4 to the southeast, which is adjacent to the Ravenna area.

5 And all of these changes, plus all of the development  
6 that's happening in the area of existing mid-rise and  
7 low-rise is projected to create 72 residential units. So,  
8 for example, if you took that block that is immediately  
9 south of 70th Street --

10 **Q. (By Mr. Bricklin) South of the reservoir?**

11 A. No. No. Next to the free- --

12 **Q. South of 70th?**

13 A. Next to the freeway.

14 **Q. All right.**

15 A. That block, the portion of it zoned residential, is about  
16 20,000 square feet. So if instead, since you're destroying  
17 the neighborhood anyway, you upzoned that to MR, which is  
18 the same as the block immediately to the south, in that  
19 block alone, you'd create 112 new units and potentially 28  
20 affordable units, with a 25 percent affordability  
21 requirement. And this would be a situation where you  
22 upzoned this area from, you know, allowed zoning of, you  
23 know -- well, you'd have to really look at the existing  
24 condition -- which is about four to five units per acre, to  
25 a situation where you're in the, you know, 30 to 40 units

1 A. Well, yeah I mean, it does. For example, the --

2 **Q. And hold on. And did the EIS reflect that sort of knowledge  
3 of what they were rezoning on a block-by-block basis?**

4 A. You know, the EIS was very peculiar to me in that. And I  
5 looked at the discussion of -- of Roosevelt and the  
6 neighborhood impact discussion. And, you know, they had  
7 different thresholds for what they considered slight,  
8 moderate, and significant impact. And so in order to do  
9 that impact, I'm assuming that someone did the work of  
10 looking at the land use pattern and considering what the  
11 impacts would be.

12 The peculiar thing I find is that they never say where  
13 it will happen. So they don't say, you know, the northeast  
14 section, or this area or, you know, these street  
15 intersections or these blocks. They just say a portion will  
16 be, you know, will be, you know, minor; a portion will be  
17 moderate; a portion will be significant.

18 **Q. All right. Let's try to wrap up here quickly.**

19 A. Okay.

20 **Q. Did you also have -- you mentioned earlier criticisms of the  
21 mapping in the EIS and the clarity of that. Could you  
22 please expand on that?**

23 A. Well, you know, to go back to the EIS itself, the EIS  
24 document, there is no map in that document that shows what  
25 the upzones are or what the pattern is. I mean, where they

1 per acre. So there's no question, in my mind, that this  
2 would be viable for 25 percent, you know, affordable  
3 housing.

4 **Q. So it sounds like you're describing something that would  
5 accomplish two different things that you've addressed in  
6 your testimony. One, increasing density in certain areas,  
7 and the fees associated with it. And then the trade-off  
8 being being able to reduce the -- or eliminate the increased  
9 zoning elsewhere; is that what you're saying?**

10 A. Yeah, it's basically instead of doing a bingo chart, you  
11 know, changing the zone, and letting the chips fall where  
12 you may, you would look at places that were suitable for  
13 development that, for example, could achieve a 25 -- a  
14 reasonable 25 percent share, and develop more of that and,  
15 you know, less elsewhere.

16 **Q. All right.**

17 A. You know, there are other examples of where you could do  
18 that in the neighborhood and basically eliminate almost all  
19 of the single-family conversion to L1 to L2 or L3, and end  
20 up with more affordable units. And, you know, it's  
21 relatively -- relatively simple to do, but it requires, you  
22 know, some specific planning, some forethought, and  
23 hopefully some consultation with the neighborhood.

24 **Q. I was going to say, does it require knowledge of the  
25 neighborhood on a block-by-block basis?**

1 are. Towards the end of the project description section,  
2 there are maps which I find bizarre -- must be in the end of  
3 the 2 -- 200s -- where they provide -- they devote pages.  
4 Is it okay if I take this out and put it back?

5 MS. BENDICH: I think it would be better not to.

6 MR. WEBER: No.

7 **Q. (By Mr. Bricklin) Yeah, it would be better not to do that.**

8 A. Okay. Well, there's a --

9 **Q. Hold on. Hold on. I think we may have made copies of what  
10 you were referring to.**

11 A. Okay. There's an example.

12 **Q. But just give us a -- let's start by giving us a page  
13 number.**

14 A. Well, even turning the page is -- is a challenge.

15 **Q. Uh-huh.**

16 A. Let's see. This is 3 -- it's at the end of the 200 section.  
17 399.

18 **Q. You're looking for the maps at the end of --**

19 A. Yeah.

20 **Q. Yeah, so they start at 2.42.**

21 A. 2.42. Okay. Yeah. Yeah. So here we have these maps.

22 **Q. And if you go back to 2.41 --**

23 A. Right.

24 **Q. -- does that indicate that these are a series of urban  
25 village expansion area maps?**

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

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

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

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

1 Uptown, and what we used to call Lower Queen Anne, that EIS  
2 is much better in providing a range of alternatives for --  
3 for intensity, and it is light years better in outlining the  
4 reasons and the differences in impacts between those  
5 alternatives. So, you know, that's a pretty good EIS.

6 **Q. So I'm handing you what's being marked as Exhibit --**

7 MR. BRICKLIN: What are we at, 70 --

8 MS. BENDICH: 70.

9 **Q. (By Mr. Bricklin) 70. Do you recognize this --**

10 MR. WEBER: What exhibit is that of yours?

11 MR. BRICKLIN: I'm sorry. Our -- it's SCALE's 146. But  
12 it's only excerpts. 146 is the whole Uptown EIS.

13 MR. WEBER: Oh, okay.

14 MR. BRICKLIN: And I've printed excerpts from it.

15 (Exhibit No. 70 marked for identification.)

16 **Q. (By Mr. Bricklin) Do you recognize this document --**

17 A. Yeah.

18 **Q. -- Mr. Sherrard? And the first two pages are the cover  
19 material.**

20 A. Uh-huh. Uh-huh.

21 **Q. And then you see that it's chapter 2 of the Uptown EIS?**

22 A. Uh-huh.

23 **Q. Titled what? What's the title of chapter 2?**

24 A. The title is, "Purpose and Introduction."

25 **Q. What's the -- well, that's section 2.1. What's the title of**

1 know, the kind of thing that -- that I would expect in an  
2 EIS, that I would expect in even an average EIS. And, you  
3 know, this is a good example, but it's a very average EIS.

4 I don't know if you want to move on to other examples,  
5 but, you know, I think this is just a good example of an  
6 average EIS, and what you'd expect from an average EIS.

7 **Q. Okay. And then did you mention there was another City of  
8 Seattle example?**

9 A. Yeah. I mean, the best EIS the City of Seattle has ever  
10 done, in my estimation, is the 2005 Downtown Density and  
11 Height EIS. And I am familiar with this EIS because a  
12 couple years ago I did the EIS addendum for the Rainier  
13 Square redevelopment in downtown Seattle. That's a 51-story  
14 redevelopment of the site. And since that's an addendum to  
15 the 2005 EIS, I had to go through every section of that EIS  
16 and indicate how this project conformed or did not conform.

17 And I was really impressed. I mean, that EIS level of  
18 analysis and transparency was light years ahead of this one.  
19 You know, the description of the alternatives, even though  
20 they were conceptual with different, you know, approaches,  
21 were pretty transparent in what they were trying to  
22 accomplish, and that was pretty transparent in the preferred  
23 alternative just what they had considered.

24 And even more impressive to me was that there was  
25 incorporation of -- of responses to comments in the

1 **chapter 2?**

2 A. Oh, chapter 2 is alternatives. Sorry.

3 **Q. Right. And could you explain how -- you've mentioned -- oh,  
4 by the way, there's a -- in case people reading the record  
5 want to know, I see on page 2.4 there is a map that shows  
6 where Uptown is located there at the base of Queen Anne, you  
7 see that?**

8 A. Yep.

9 **Q. So can you use this document to detail your testimony about  
10 the City of Seattle in a programmatic EIS, providing a  
11 broader range of alternatives than they've done so here?**

12 A. Well, yeah. I mean, if you look on page 2.2, they have no  
13 action, which, of course, is required. They have  
14 alternative 2, which is a mid-rise alternative, moderate  
15 height, which has a certain package of density alternatives.  
16 They have alternative 3, which allows basically a high level  
17 of change. And then they have the preferred alternative,  
18 which was developed after the draft EIS, and does a lot of  
19 combination of that kind of thing of these various aspects.

20 But I think the really significant part of this is the  
21 changes that were made and the explanation of the changes  
22 that were made, and the rationale for the changes that were  
23 made. You know, this is a relatively transparent process,  
24 and, you know, shows the trade-offs that the city was  
25 looking at. So this, you know, includes the kind of, you

1 preferred alternative. It made it clear that they took  
2 input seriously and, you know, where impacts were  
3 identified, you know, they considered them, and in many  
4 cases made -- made changes.

5 **Q. When you say it was more transparent, what do you mean by  
6 that? Can you --**

7 A. The reasons for the differences between the alternatives and  
8 this EIS, like I said, are a black box.

9 **Q. In which EIS?**

10 A. In the --

11 **Q. MHA?**

12 A. -- MHA EIS. You know, except for displacement and  
13 opportunity, which goes to some detail and has an appendix  
14 and all that. But elsewhere, you know, who made this  
15 decision, and what they considered, and what factors were,  
16 and what they're trying to accomplish.

17 **Q. Or even what the decision was in terms of making changes?**

18 A. Yeah. I mean, it's -- it's -- it's very opaque. But a lot  
19 of that is because, you know, this is a Tic-tac-toe --

20 **Q. And how would you --**

21 A. -- planning process.

22 **Q. And how would you contrast that with the 2005 EIS when you  
23 said it was more transparent?**

24 MR. WEBER: I'm going to object to continuing to discuss a  
25 document that hasn't been put into evidence. We have no

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1 exhibit that has this 2005 document.  
 2 MR. BRICKLIN: Well, why can't he talk about it?  
 3 MR. WEBER: I suppose he can, but I just wonder how long  
 4 you intend to --  
 5 MR. BRICKLIN: This is my last question.  
 6 HEARING EXAMINER: Are we introducing it?  
 7 MR. BRICKLIN: I don't have it.  
 8 HEARING EXAMINER: I'm not asking if you do. I'm just  
 9 asking --  
 10 MR. BRICKLIN: Yeah, I know.  
 11 HEARING EXAMINER: -- if that's going to happen. We can  
 12 do it. Otherwise --  
 13 THE WITNESS: I have it.  
 14 MR. BRICKLIN: We can if you want it. If anybody wants  
 15 it, I'll be happy to submit it.  
 16 HEARING EXAMINER: I'm fine with him describing something  
 17 he's done.  
 18 MR. BRICKLIN: Yes.  
 19 HEARING EXAMINER: Good enough. Objection overruled.  
 20 **Q. (By Mr. Bricklin) So what did you mean the 2005 was more**  
 21 **transparent?**  
 22 A. Well, it was more transparent in detailing the reasons for  
 23 specific proposals and specific areas and, you know, the  
 24 reasons and rationale; whereas, for example, you look at the  
 25 difference in maps between alternative 1, alternative 2,

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1 alternative 3, there's a description that --  
 2 **Q. In this EIS?**  
 3 A. In this EIS, of the different approaches that were taken.  
 4 But there are so many idiosyncratic differences between  
 5 these with no explanations, for example, why in this one you  
 6 go from single family to L1, in this one you go from single  
 7 family to L3. So in terms of transparency, just  
 8 completeness of description.  
 9 **Q. How about in the --**  
 10 A. This EIS goes overboard in -- in displacement and -- and  
 11 access to opportunity, and is almost blank in most other  
 12 areas.  
 13 **Q. And did the 2005 EIS that you're familiar with, did that --**  
 14 **that the city prepared, did that include a range of**  
 15 **alternatives that varied -- that involved various levels of**  
 16 **changes in density development allowed in the program area?**  
 17 A. Yeah.  
 18 **Q. And I don't know if you stated, did you state where the --**  
 19 **what the study area was for the 2005 EIS?**  
 20 A. It was Downtown. You know, I -- it included the  
 21 International District, you know, but it was basically  
 22 Downtown Seattle.  
 23 **Q. All right. And was it -- the proposal was a change in**  
 24 **zoning?**  
 25 A. Yeah. It was a -- basically an entirely new code.

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1 **Q. All right.**  
 2 MR. BRICKLIN: All right. I think that's all I have for  
 3 this witness. Thank you.  
 4 HEARING EXAMINER: Okay.  
 5 MR. BRICKLIN: And I'd move the admission of exhibits that  
 6 we (inaudible).  
 7 HEARING EXAMINER: We have 69 and 70.  
 8 MR. WEBER: No objection.  
 9 HEARING EXAMINER: Admitted.  
 10 (Exhibits Nos. 69 & 70 admitted into evidence.)  
 11  
 12 **C R O S S E X A M I N A T I O N**  
 13 **BY MR. WEBER:**  
 14 **Q. So Mr. Sherrard, I'm Jeff Weber here for the City. First,**  
 15 **could you describe, since your resumé wasn't put in**  
 16 **evidence, your educational credentials?**  
 17 A. I have a Bachelor Arts [sic] degree in geography from the  
 18 University of Chicago.  
 19 **Q. Do you have any further formal education beyond that BA?**  
 20 A. Yeah, I have a lot of education in -- in terms of continuing  
 21 education.  
 22 **Q. But in terms of additional degrees?**  
 23 A. Not additional degrees. I do have certification as the --  
 24 from the American Institute of Certified Planners.  
 25 **Q. Okay. Do you have any other certifications?**

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1 A. No.  
 2 **Q. Do you have any professional training in economics?**  
 3 A. I have educational training in economics from my University  
 4 of Chicago background where our econom- -- our geography  
 5 department was very heavily into land economics and urban  
 6 economics, and I took some courses with, you know, that  
 7 were -- well, at University of Chicago they have double  
 8 numbered courses for undergraduates and graduate students.  
 9 So these were courses with both kinds of students.  
 10 **Q. But apart from courses taken in your undergraduate degree in**  
 11 **geography, do you have any educational credential in**  
 12 **economics?**  
 13 A. No.  
 14 **Q. Do you have any educational credential regarding historic**  
 15 **preservation?**  
 16 A. No, I do not. But I have prepared probably, I don't know,  
 17 15 or 20 EIS's that addressed historic preservation. And,  
 18 by the way, I don't think I've testified regarding historic  
 19 preservation.  
 20 **Q. We'll get to that. So early in your testimony you said that**  
 21 **the phrase "formally proposed" is not contained in the SEPA**  
 22 **rules. I'm going to refer to the illustrative exhibit that**  
 23 **you provided. Can you turn to WAC 197-11-442?**  
 24 A. 442. Yes.  
 25 **Q. Second to the last line, do you see the words, "formally**

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1 are hundreds of EIS's that do a better job than this one  
 2 does.  
 3 MR. WEBER: That's all I have.  
 4 HEARING EXAMINER: Redirect.  
 5  
 6 **REDIRECT EXAMINATION**  
 7 BY MR. BRICKLIN:  
 8 **Q. One question about that website that you said you went to.**  
 9 **Did you happen to try to go look at one property, then go to**  
 10 **look at another and then come back to the first one? And**  
 11 **how easy is it to navigate from back and forth like that?**  
 12 A. Well, I'll tell you what, it -- it was not easy at all, and  
 13 it does not scale well. You'd expect to be able to go to  
 14 this area to scale, to get a pattern.  
 15 **Q. Look at a neighborhood?**  
 16 A. Look at a neighborhood to scale. I mean, basically that  
 17 website doesn't do a much better job -- it does a better  
 18 job, but the barrier is reading this document and having to  
 19 go to another source entirely. And, you know, the rules  
 20 basically say that an EIS should be concise, readable, and  
 21 complete.  
 22 **Q. All right. You were asked about your experience with**  
 23 **economics. And you had testified in direct about some**  
 24 **housing economic analysis that you brought to bear here.**  
 25 **Have you, in your years as a planning professional, had**

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1 **experience with issues like that?**  
 2 A. Oh, yeah. I have probably used the same model that the city  
 3 used, because, you know, these models are basically all the  
 4 same. I think the first time I used that model was when I  
 5 worked for San Juan County for the Diamond Bridge  
 6 development in probably 1980.  
 7 **Q. And have you used it since then?**  
 8 A. And for the City of Bellevue we used that model extensively  
 9 every time we updated the transportation facilities plan,  
 10 which is every two years, to come up with the transportation  
 11 analysis zone estimates of future land use by category of  
 12 land use.  
 13 **Q. All right.**  
 14 A. And so not only did I interact closely with the consultant  
 15 who was preparing that, but I also prepared, you know, in  
 16 coordination with him, many of the inputs. And then, you  
 17 know, went through and -- and reviewed the inputs, did  
 18 quality control review, found errors. Looking at the  
 19 results, identified anomalies, traced those back to what --  
 20 you know, to what the reason for the anomaly was in the  
 21 inputs. You know, I mean, economics --  
 22 **Q. That's fine. I think we have the idea of your experience in**  
 23 **that realm. And last, there were questions about the --**  
 24 **your use of the -- or review of the historic resource**  
 25 **impacts and your testimony that the information -- you sort**

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1 **of took the information on impacts as given in the EIS and**  
 2 **were looking to see if that informed the crafting of the**  
 3 **different alternatives. And I want to turn your**  
 4 **attention -- I hate to make you wade through this again, but**  
 5 **a different document -- that's the appendix -- the main EIS**  
 6 **volume.**  
 7 A. Okay. Yeah, it's here.  
 8 **Q. Oh, that is that? I'm sorry.**  
 9 MS. BENDICH: It's all there.  
 10 A. That's why this volume is so big.  
 11 **Q. (By Mr. Bricklin) I see.**  
 12 A. Okay.  
 13 **Q. 3.304.**  
 14 A. 304.  
 15 **Q. And do you see a heading there, "Impacts"?**  
 16 A. Yes.  
 17 **Q. And I'll represent that we're in the historic resource**  
 18 **section of the EIS. And if you go down in that first**  
 19 **paragraph, five lines, do you see the sentence that says,**  
 20 **"The estimated growth rates under the -- the estimated**  
 21 **growth rates under the alternatives are indicators of**  
 22 **potential impacts to historic and cultural resources. Areas**  
 23 **with a higher growth rate have the potential for more**  
 24 **redevelopment." Next sentence, "Potential" -- excuse me --**  
 25 **"Areas with a higher growth rate have the potential for more**

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1 **redevelopment than areas with lower projected growth rates."**  
 2 **Do you see that?**  
 3 A. Uh-huh.  
 4 **Q. And if you turn to a couple pages in --**  
 5 MR. WEBER: Is there a question?  
 6 MR. BRICKLIN: Yeah, I'm going to -- I'm tying several  
 7 pieces together here.  
 8 **Q. (By Mr. Bricklin) Turn to page 3.08.**  
 9 A. Uh-huh.  
 10 **Q. They then analyze the impacts of the no action alternative,**  
 11 **alternative 2, alternative 3, and the preferred alternative.**  
 12 **Do you see that?**  
 13 A. Uh-huh.  
 14 **Q. And under the action alternatives, the first one,**  
 15 **alternative 2, it says, "Alternative 2 estimates 10 urban**  
 16 **villages will have a housing growth rate of over 50 percent**  
 17 **more than under alternative 1." You see that?**  
 18 A. Uh-huh.  
 19 **Q. And alternative 3, first sentence. "Alternative 3 estimates**  
 20 **8 urban villages will have a housing growth rate over**  
 21 **50 percent greater."**  
 22 A. Uh-huh.  
 23 **Q. And, "The preferred alternative" -- first sentence --**  
 24 **"estimates 7 urban villages will have a housing growth rate**  
 25 **of over 50 percent greater." Do you see that?**

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1 A. Yep.

2 **Q. All right. So there's an -- do you agree that that's an**

3 **indication that the EIS was trying to characterize different**

4 **impacts to historic resources between the various**

5 **alternatives?**

6 A. Yes, it was, using a particularly bizarre methodology.

7 **Q. All right. But apart from the impact analysis, because I**

8 **want -- you were talking about alternatives, did you see any**

9 **indication that the alternatives were crafted in a way to**

10 **adjust the boundaries of the rezones or the intensity of the**

11 **rezones to increase or de- -- well, I guess to decrease the**

12 **impact on historic resources?**

13 A. No, because this is a complete Tic-tac-toe analysis with --

14 I mean, I wasn't going to characterize my opinion of the

15 analysis. But being a Tic-tac-toe analysis, it never looks

16 at the actual resources that were there. You know, it

17 doesn't look at, you know, any kind of surveys of historic

18 resources and --

19 MR. WEBER: Objection.

20 A. -- overlaid map --

21 MR. WEBER: He's already said he's not an expert in this

22 topic.

23 A. Well, I'm just saying what's here. But, yeah, in -- what

24 I'm saying is inherently, there isn't anything in there that

25 you -- you can say that they've compared the inputs and

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1 assume that the inputs have an effect on the output. But

2 there's no evidence that they actually used that to craft an

3 alternative, no.

4 MR. BRICKLIN: All right. Thank you. That's all I have.

5 HEARING EXAMINER: Okay. We will return at 2 o'clock.

6 MR. BRICKLIN: Thank you.

7 (Recess)

8 MR. THALER: Before we start, Your Honor, technological.

9 I was listening to some of the testimony that was already

10 put on the website. This microphone tends to distort, and I

11 think it needs to be kept away from you. Away.

12 HEARING EXAMINER: Okay. Thank you.

13 MR. THALER: And I'll double-check tonight and let you

14 know.

15 HEARING EXAMINER: Okay.

16 MR. THALER: Maybe it needs to be switched.

17 MR. BRICKLIN: I have lost track of one exhibit. 18.

18 HEARING EXAMINER: 18?

19 MR. BRICKLIN: May I inquire what that is?

20 HEARING EXAMINER: Oh, it was notes from one of the

21 witnesses.

22 MR. BRICKLIN: Oh, okay.

23 HEARING EXAMINER: Howard.

24 MR. BRICKLIN: Could I get a copy of that at a break or

25 whatever? I don't need it right now. I think that was just

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1 handed in by the witness maybe when he testified. Thank

2 you.

3 HEARING EXAMINER: I think we made copies when we were

4 here.

5 MR. BRICKLIN: Oh, all right. Well, I'll double-check.

6 HEARING EXAMINER: That was one of the notes that we

7 caught that was from a witness, and then we made two copies;

8 one for --

9 MR. BRICKLIN: Oh, so maybe --

10 HEARING EXAMINER: -- City, one for us.

11 MR. BRICKLIN: -- Mr. -- oh.

12 HEARING EXAMINER: He had his notes with him but --

13 MR. BRICKLIN: I didn't get one.

14 HEARING EXAMINER: -- we didn't get one for you.

15 MR. BRICKLIN: Might I impose on you to make one, or I can

16 get one from the City or --

17 MR. WEBER: If you send me an email, we can get you one.

18 MR. BRICKLIN: All right. Thank you.

19 HEARING EXAMINER: Okay. Great. Thank you.

20 MR. BRICKLIN: Let's do that. Thank you.

21 HEARING EXAMINER: We now continue with the appellants'

22 case. Next witness, is that --

23 MR. THALER: Toby Thaler, Fremont Neighborhood Council.

24 We call Steve Zemke.

25 HEARING EXAMINER: Please state your name and spell it for

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1 the record.

2 THE WITNESS: Steve Zemke, Z-E-M-K-E.

3 HEARING EXAMINER: And do you swear or affirm the

4 testimony you will provide in today's hearing will be the

5 truth?

6 THE WITNESS: I do.

7 HEARING EXAMINER: Thank you.

8

9 STEVE ZEMKE: Witness herein, having first been

10 duly sworn on oath, was examined

11 and testified as follows:

12

13 DIRECT EXAMINATION

14 BY MR. THALER:

15 **Q. Who are you?**

16 A. Who am I. I'm Steve Zemke. And just to give you a little

17 bit of background, I'm a member of the Seattle Urban

18 Forestry Commission. And were you --

19 **Q. Oh, no. No. Go ahead. Do your first piece and then I'll**

20 **do it.**

21 A. Okay. Yeah. I'm a member of the Seattle Urban Forestry

22 Commission serving in the wildlife biology position. I've

23 been a past Vice Chair of the Commission for a year. We go

24 on year terms. I'm not speaking representing them today. I

25 only say this as a matter of reference in terms of my

## Hearing - Day 5

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

June 29, 2018



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BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

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

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

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TRANSCRIBED BY: Shanna Barr, CET  
Court-Certified Transcription

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A P P E A R A N C E S

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

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

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87	Excerpts from Made to last, Historic Preservation in Seattle and King County, by Lawrence Kreisman.....	--	27
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3 NO.	DESCRIPTION	MARKED	ADMITTED
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2 June 29, 2018

3

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

5 start.

6 HEARING EXAMINER: Okay.

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

8 MR. BRICKLIN: Sure. Yesterday, one of the witnesses

9 referred to Exhibit 69 of a Seattle Times map that he noted

10 when it was printed the legend was cut off, so we have

11 printed the correct version which we'd like to substitute.

12 I've provided a copy to counsel.

13 HEARING EXAMINER: Okay.

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

15 Anything else?

16 MS. BENDICH: Yes. The second matter is I believe we had

17 spoken before about trying to at least truncate some of the

18 witnesses by submitting declarations.

19 HEARING EXAMINER: Yes.

20 MS. BENDICH: And I do have one declaration here from

21 Barbara Warren. I have the original and a copy. I've

22 spoken with Counsel this morning and they believe they don't

23 need to cross-examine her, so I'd like to submit that

24 evidence as testimony today so we can get this filed.

25 HEARING EXAMINER: Okay.

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1 MS. BENDICH: And I am not sure what the procedure is, how

2 we admit this. You know, do we say, "I move the admission

3 of this testimony"?

4 HEARING EXAMINER: Yeah. I think we're just going to have

5 to admit it as an exhibit submitted by counsel without

6 somebody -- unless you're having some witness testify to its

7 contents or introducing it, there's no other way to do it.

8 MS. BENDICH: All right. Well, we'll do whatever we need

9 to do so that she doesn't have -- we don't have to have more

10 witnesses.

11 HEARING EXAMINER: Um-hum. If the City has any objection,

12 let us know --

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

14 HEARING EXAMINER: -- if you have an objection, right.

15 MS. BENDICH: Are we going to mark this as an exhibit

16 number, then?

17 HEARING EXAMINER: Yes.

18 MS. BENDICH: Oh.

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

20 MS. BENDICH: Barbara Warren. (Inaudible).

21 HEARING EXAMINER: Right.

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

23 MS. BENDICH: Absolutely.

24 MR. JOHNSON: Okay.

25 HEARING EXAMINER: This is marked as Exhibit 85.

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1 (Exhibit No. 85 marked for identification)

2 HEARING EXAMINER: It's dark. We're missing a light,

3 yeah. We may all go dark for a second here, but we're going

4 to have to switch the lights and make sure we've got them

5 all on. There we go. Okay.

6 And was there any objection?

7 MR. JOHNSON: No objection.

8 HEARING EXAMINER: So 85 is admitted.

9 (Exhibit No. 85 admitted into evidence)

10 MS. BENDICH: All right. And just for the record, I am

11 Judith Bendich for Friends of Ravenna-Cowen, and --

12 HEARING EXAMINER: I am sorry. Were there other

13 preliminary? My --

14 MS. BENDICH: Oh. No.

15 HEARING EXAMINER: Okay.

16 MS. BENDICH: That's it.

17 HEARING EXAMINER: I've got two.

18 MS. BENDICH: Oh, okay.

19 HEARING EXAMINER: One is I -- we've had some -- a little

20 confusion over getting started and the opening of the

21 hearing room. Our normal procedure is to open 15 minutes

22 before a hearing. I am happy to accommodate with all the

23 materials and such that we have here, but just so it's -- we

24 have a hard, clear time, I'll set it at 8:30 so that my

25 staff --

1 MS. BENDICH: All right.  
 2 HEARING EXAMINER: -- has time to get established in the  
 3 morning. And you're welcome to come in at 8:30.  
 4 MS. BENDICH: Okay. Thank you.  
 5 HEARING EXAMINER: Just so that everybody is clear on a  
 6 clear time that we'll come in.  
 7 You'll note we -- Ms. Roznos is sitting in for Ms. Johnson  
 8 today, so we may slow things down a little bit --  
 9 MS. BENDICH: Sure.  
 10 HEARING EXAMINER: -- on exhibits. And I'll just let you  
 11 know if I need a little time to make sure that we  
 12 accommodate on that.  
 13 MS. BENDICH: Of course.  
 14 HEARING EXAMINER: Please proceed, Ms. Bendich.  
 15 MS. BENDICH: Okay.  
 16 Good morning, Mr. Kreisman. So could you please state  
 17 your full name?  
 18 MR. KREISMAN: Yes. Lawrence Kreisman.  
 19 MS. BENDICH: And spell it, please.  
 20 MR. KREISMAN: L-A-W-R-E-N-C-E, K-R-E-I-S-M-A-N.  
 21 MS. BENDICH: Okay.  
 22 HEARING EXAMINER: And do you swear or affirm the  
 23 testimony you'll provide in today's hearing will be the  
 24 truth?  
 25 MR. KREISMAN: I do.

1 architectural heritage and design arts.  
 2 Also, I developed the "Blueprints: 100 Years of Seattle  
 3 Architecture" exhibit to acknowledge the centennial of the  
 4 AIA in Seattle and Washington state, and that was at Museum  
 5 of History & Industry, and also wrote Made to Last, which  
 6 was an expanded version of a book on preservation in Seattle  
 7 that I did in 1885. The Made to Last book in '99 covered  
 8 not only Seattle but King County in terms of its  
 9 architectural heritage, the landmarks process and the  
 10 programs that were available, listed all of the current  
 11 landmarks in the state -- in the city and the county -- and  
 12 also went into some detail about the restoration and  
 13 adaptive reuse of buildings by private and public groups  
 14 over the years to try to essentially wake people up to the  
 15 fact that we did have a very valuable system of looking at  
 16 historic properties and historic districts. And I think  
 17 that did a great deal of good, because preservation tends to  
 18 be somewhat invisible to the public on a daily basis.  
 19 And then in 2007, Glenn Mason and I did a book on The Arts  
 20 and Crafts Movement in the Pacific Northwest, which focuses  
 21 on a national design reform movement that occurred that was  
 22 very progressive at the turn of the century that encouraged  
 23 basically looking at neighborhoods and the "City Beautiful"  
 24 movement in a way that meant that new neighborhoods  
 25 developing would be creating a strong community of

1 HEARING EXAMINER: Thank you.  
 2 MS. BENDICH: Okay.  
 3  
 4 LAWRENCE KREISMAN: Witness herein, having first been  
 5 duly sworn on oath, was examined  
 6 and testified as follows:  
 7  
 8 DIRECT EXAMINATION  
 9 BY MS. BENDICH:  
 10 **Q. Mr. Kreisman, can you describe for us your academic history,**  
 11 **your work history and your research background, very broad**  
 12 **strokes, as it relates to this case?**  
 13 A. Okay. I have a graduate degree in architecture with a  
 14 certificate in urban design from the University of  
 15 Washington. I was employed by the City of Seattle during my  
 16 graduate study as a historian and researcher and surveyor on  
 17 several projects. I subsequently have -- I developed the  
 18 Seattle Architecture Foundation tour program starting in  
 19 1989, and our first tours, from 1990 through 2003, I was the  
 20 director of the program. So we did a lot of touring through  
 21 a lot of neighborhoods and explored a lot of undiscovered  
 22 material. I was the director of programs, educational  
 23 programs at Historic Seattle until I retired in December.  
 24 That's 20 years. So basically I have about 40 years of  
 25 experience and work in historic preservation and

1 wonderfully designed homes, regardless of whether you had a  
 2 lot of money. So they were homes for just beginning people.  
 3 It was their first homes. It was the beginning of economic  
 4 stability for a lot of people who moved to the city.  
 5 **Q. Okay. Have you --**  
 6 A. Well, have I covered everything? Well, not everything,  
 7 but...  
 8 **Q. I'll ask you some follow-up questions.**  
 9 A. Okay.  
 10 **Q. All right. And showing you what is marked as, I believe --**  
 11 **you tell me. I think at the bottom -- do I have the bottom**  
 12 **number there?**  
 13 A. You have Exhibit 16.  
 14 **Q. Thank you. This is Friends of Ravenna-Cowen Exhibit 16**  
 15 **and --**  
 16 UNIDENTIFIED SPEAKER: Just hold on to (inaudible).  
 17 MS. BENDICH: Oh, yeah. Sorry. I wasn't looking.  
 18 HEARING EXAMINER: This will be marked as Exhibit 86.  
 19 (Exhibit No. 86 marked for identification)  
 20 **Q. (By Ms. Bendich) And, Mr. Kreisman, what is this?**  
 21 A. This is an abbreviated one-page summary of my credentials  
 22 and work experience.  
 23 **Q. Okay.**  
 24 A. I know you didn't submit the five-page, extremely detailed  
 25 one of all the projects I've done, but this is a nice

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1 summary, anyway.  
 2 MS. BENDICH: And I would move to admit number 86,  
 3 Your Honor.  
 4 MR. JOHNSON: No objection.  
 5 HEARING EXAMINER: 86 is admitted.  
 6 (Exhibit No. 86 admitted into evidence)  
 7 **Q. (By Ms. Bendich) And have you also taught, Mr. Kreisman?**  
 8 A. I have. I was auxiliary faculty at the University of  
 9 Washington in the Architecture and Planning and Urban Design  
 10 program for a number of years, and I taught classes on  
 11 preservation, urban design, ornament and applied ornament  
 12 skyscrapers. I also taught at Antioch during their summer  
 13 program, usually instructing teachers. I was involved with  
 14 a group called "Architecture and Children" for a number of  
 15 years, which was a way of implementing an understanding of  
 16 architecture and the built environment into the public  
 17 school system, and we trained teachers from around the state  
 18 through Department of Education, the a Department of  
 19 Education. And what else did I do?  
 20 **Q. That's enough, I think.**  
 21 A. That's enough? Okay.  
 22 **Q. Okay. So how many books have you written in total?**  
 23 A. If you count the small ones, ten.  
 24 **Q. Okay. And do you write -- have you written articles for the**  
 25 **public as well?**

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1 A. I have. From 1988 to 2012, I would write regular features  
 2 on home design for the Pacific Northwest Magazine, a Seattle  
 3 Times magazine. And for seven years of those, in January I  
 4 would do a cover story that focused on various aspects of  
 5 built heritage and preservation and why we should care about  
 6 it. It ranged from discussing commercial and industrial and  
 7 civic and fraternal and immigrant buildings, community  
 8 resources and schools, to residential buildings and why we  
 9 needed to protect residential neighborhoods.  
 10 **Q. Have you served on any boards in the city of Seattle?**  
 11 A. I did. I was on the Seattle Landmarks Preservation Board  
 12 for eight years. They are usually two-, three-year terms,  
 13 but due to not filling positions I stayed for eight years,  
 14 and for part of that I was the co-chair or the vice chair of  
 15 the board.  
 16 **Q. And have you received any honors? For example, from the**  
 17 **American Institute of Architects?**  
 18 A. I did. I am honorary AIA with AIA Seattle. I received  
 19 awards from the Association of King County Historical  
 20 Organizations several times for my work, books, or exhibits,  
 21 and I was given the Washington State Preservation Award for  
 22 career achievement in preservation way back in '97. I said  
 23 at that time that did that mean that I was going to retire,  
 24 but I kept going. But those were some of them.  
 25 **Q. And I believe you talked about your book, Made to Last; is**

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1 **that correct?**  
 2 A. I did.  
 3 **Q. Okay. So just wait a minute.**  
 4 A. Lots of pretty pictures.  
 5 MS. BENDICH: And this is Friends of Ravenna-Cowen's  
 6 No. 17.  
 7 **Q. (By Ms. Bendich) And we've provided here an excerpt from**  
 8 **Made to Last which is actually the intro, the introduction.**  
 9 **And what's important about this introduction?**  
 10 A. Well, the introduction was a way of saying that really  
 11 considering the amount of growth in Seattle up to that time  
 12 we have done a fairly remarkable job of preserving key  
 13 buildings that reflect the various periods of development.  
 14 However, there was always the danger because of development  
 15 that all of these were going to be lost and that the value  
 16 of the City's ordinance, Preservation Ordinance, and the  
 17 district ordinances, we were able to protect, before they  
 18 were eroded, some of those areas of the district. But the  
 19 importance was to give people a capsule of history of  
 20 Seattle and King County and its growth over time, some of  
 21 the important industries and important people that made a  
 22 difference in how we grew.  
 23 I think a lot of the assumptions of people who come from  
 24 the East Coast are that we're a young city, we have no  
 25 history, and the importance was to educate people to, no, in

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1 fact, everybody has a history and you just have to look at  
 2 it from the perspective of when this history happened and to  
 3 preserve elements of that history that your collective  
 4 memory will hold and that if we did not preserve that  
 5 history we would be no different than any new town or new  
 6 city that's developed with no ties to the past, and that the  
 7 cultural, social, and economic endeavors that built these  
 8 neighborhoods, these downtowns, the expansion, are all very  
 9 significant. And my particular worry in this was that we  
 10 were getting so many new people into town that didn't  
 11 understand the value of community except that we had a  
 12 Starbucks on every corner and good Internet services, so the  
 13 intent in writing the book and in illuminating it for the  
 14 general public was that there was a lot of important work  
 15 done here as a framework for maintaining the most important  
 16 aspects of this community so people could continue to enjoy  
 17 it.  
 18 **Q. Okay. So you also mentioned you had written a book called**  
 19 **The Arts and Crafts Movement. And was this the book that**  
 20 **was part of the exhibition that was at the Museum of**  
 21 **History & Industry?**  
 22 A. It was.  
 23 **Q. Okay.**  
 24 MS. BENDICH: If we could pass this along. I am passing  
 25 over Friends of Ravenna-Cowen Exhibit 18. I need you to

1 just look at this one.

2 HEARING EXAMINER: Marked as Exhibit 88.  
3 (Exhibit No. 88 marked for identification)

4 **Q. (By Ms. Bendich) And would you tell us what that is?**

5 A. This is the chapter that focuses -- the title is "Bungalows  
6 for Everyone."

7 **Q. And this is a chapter from the book; is that correct?**

8 A. Chapter 6.

9 **Q. Okay. And why, for purposes of this hearing, is this -- do  
10 you consider this important?**

11 A. Well, because we're talking about neighborhoods that were  
12 developed in the first quarter of the century before the  
13 Depression, where there was a great deal of growth, of  
14 expansion, streetcar lines leading out to other areas that  
15 were just being platted, opening up these new areas to  
16 development for a lot of the newcomers. Some of them were  
17 immigrant families from foreign countries, some of them were  
18 maybe from the East Coast and California moving up here for  
19 opportunity in some of the industries that we had, and some  
20 of them were in the service industries. They initially  
21 moved into rooming houses close to downtown or small  
22 apartments. But there was that sense of growth as you had a  
23 family and needed to provide for your family, and these  
24 neighborhoods provided economic security and a wonderful  
25 housing stock for people who were just getting started. And

1 so bungalows, because of the prevalence of the style, the  
2 availability of local building materials from the Doug fir  
3 of all these lumber mills and the shingles and the rocks and  
4 the clinker brick and -- manufactured by, you know,  
5 bungalow -- there were several brick companies in Seattle --  
6 meant that you could assemble a house for yourself for very  
7 little money on a plot that was being provided sometimes by  
8 the owner or the developer and you could live comfortably.

9 So for the arts and crafts -- if I could take a second to  
10 just read this paragraph that describes why this arts and  
11 crafts movement was so important. "The ideals of the arts  
12 and crafts movement, a celebration of craftsmanship and  
13 creative process and appreciation of sound construction,  
14 pleasing proportion, grace and simplicity and a comfortable  
15 rusticity that sees beauty in nature and honors indigenous  
16 materials, found fertile ground in Washington and Oregon.  
17 The inspired handiwork of anonymous amateurs and significant  
18 regional artists alike yielded a remarkable variety of  
19 progressive architect-designed residences, bungalows for  
20 everyone, and all manner of artistic and practical  
21 furnishings and accessories."

22 So it was a very vital period in the development of  
23 American cities and suburbs, and it's reflected in other  
24 cities around the country. But there have been those where  
25 the fabric has almost completely disappeared, and we're just

1 fortunate that there are a couple of neighborhoods in  
2 Seattle, like Ravenna or like Wallingford or like Mount  
3 Baker, where there's enough intact streetscape to actually  
4 appreciate and feel as though you were there in 1900, 1910.  
5 There are not the intrusions that we see in Capitol Hill,  
6 where there was some wonderful housing but it's all been  
7 eroded by upzoning.

8 **Q. And as another example of one of your public publications,  
9 Mr. Kreisman, you had mentioned Pacific Northwest Magazine.  
10 This is the Seattle Times Sunday insert?**

11 A. Yes.

12 **Q. Okay. And then on page, I believe, 31 of that, it begins  
13 with your article; is that correct?**

14 A. It's page 11.

15 **Q. I am sorry. Page 11.**

16 MS. BENDICH: So I will pass this over as an exhibit, and  
17 that is Exhibit -- Friends of Ravenna-Cowen Exhibit 19.

18 HEARING EXAMINER: Hearing Examiner Exhibit 89.  
19 (Exhibit No. 89 marked for identification)

20 **Q. (By Ms. Bendich) And tell us about this article just  
21 briefly. Why did you write it?**

22 A. Well, it was actually a follow-up between -- I had written  
23 an article a year ago called "Saving Ourselves" and -- in  
24 which I was talking about, you know, what we lose when we  
25 lose the buildings in our neighborhood that we're familiar

1 with and the challenge of preserving them in light of things  
2 like zoning changes and development, urban growth pressure.  
3 And a lot of people have the assumption that, yeah, it costs  
4 more to restore and rehabilitate and so often it's easier to  
5 just raze it. But in new thinking about buildings, it's a  
6 recognition that we are looking for sustainability, and the  
7 most sustainable buildings are those that we save and we use  
8 and bring back into useful life rather than to demolish and  
9 send to landfill. So I think the approach here was to show  
10 some examples of buildings that were threatened or  
11 definitely going to disappear. And actually, the cover shot  
12 is of a house that was owned by one of the people who  
13 basically made his mark in the Gold Rush, and it was  
14 threatened by being too close to Swedish Providence Medical  
15 Center. And it's long gone. There's an example of a  
16 building that could be moved rather than demolished, and it  
17 was moved.

18 So there are pluses and minuses here of whether you save  
19 buildings or -- and let them go to a good death or whether  
20 you find other ways to preserve their integrity, if not in  
21 the same place, in other places. And I remember that I was  
22 impacted most because I was at Historic Seattle, and we for  
23 a year and a half were seeing this lovely apartment building  
24 on Boren torn down for --

25 **Q. And, Mr. --**

1 A. Yeah.

2 **Q. Because we don't have a camera in the courtroom --**

3 A. Oh.

4 **Q. -- could you just describe what you're pointing to?**

5 A. This was on page 12. This is a picture of the North Cliff

6 Apartments, which was meant -- Boren Avenue was "apartment

7 row," and it had some very significant apartment buildings

8 from the 1920s and early '30s, and it was a consistent

9 streetscape of height, of scale, of materials. And so it's

10 an example of taking that away and creating a less friendly

11 streetscape and one that's not familiar to people, so...

12 But there are examples here of buildings that, you know,

13 sometime -- this is page 14 where the building is intact,

14 but inappropriate or insensitive modernizations or signage

15 take away the character of the building as it was meant to

16 be seen.

17 So, really, what I was trying to do in many of my writings

18 was to educate the public to small buildings that they would

19 not normally have thought to consider. I mean, who would

20 know that this building on page 16 is actually the

21 Metro-Goldwyn-Mayer regional distribution center, that

22 Metro-Goldwyn-Mayer and cafe, that there was a whole section

23 of Belltown that was essentially for all the regional

24 distributors of movies in the Northwest, in Washington,

25 Oregon, Montana, Idaho. It all happened here. So there's

1 (Exhibit Nos. 87-89 admitted into evidence)

2 **Q. (By Ms. Bendich) So, Mr. Kreisman, I think you've told us**

3 **why you feel history and preservation is important, but how**

4 **should it matter? And this is a question that has come up**

5 **for all of our historic resources people who have testified.**

6 **Why is it important for the public? Why is it important,**

7 **actually, to you? You've devoted your life to it.**

8 A. Well, I've been here since 1971, and I have seen a huge

9 amount of change, some of it for the good, some of it not

10 for the good, and I am reminded of the -- you know, there's

11 an impetus to growth and there's also -- there are places

12 where growth happens where you don't impact historic

13 resources as much. But for me, it matters that whether

14 you're a longtime resident or a newcomer or a tourist that

15 you come to the city with an understanding -- you've moved

16 here because of certain things, and a lot of people have

17 moved here because of the quality of our neighborhoods, not

18 necessarily because we have -- we -- I will say that we --

19 you know, I've been in other cities where there is

20 spectacular residential housing in glorious neighborhoods,

21 mega mansions, but what Seattle has always seemed to pride

22 itself on has been its underplaying its wealth. We have not

23 been a showy city. We've been more directed to good works

24 and getting things done, and when there are obstacles in the

25 way, yeah, let's do a major regrade, let's move a hill. But

1 history here that very few people are aware of. My mission

2 is to educate people to there is a value to this place,

3 there is a value associated with a building even if it may

4 not be a landmark building.

5 And the same holds true in residential areas, where if you

6 are thinking in terms of it's got to be in the National

7 Register, it's got to be a -- on the state or the city

8 landmark register to be important, that's not the case. A

9 lot of the city's buildings are not integrated into that

10 formal system but are equally important or are of a

11 community importance that we have to consider before we say

12 blatantly, oh, it's just another bungalow. I am sorry. I

13 went off in --

14 **Q. Okay.**

15 A. -- not a tangent, but a little bit more of on my soapbox.

16 MS. BENDICH: I would move the admission of Exhibits 87

17 through 90. Do I have the right --

18 HEARING EXAMINER: I just have --

19 MR. BRICKLIN: To 89.

20 MS. BENDICH: Oh, to 89.

21 HEARING EXAMINER: 87, 88, and 89.

22 MS. BENDICH: Okay. So we -- all right.

23 HEARING EXAMINER: Any objections?

24 MR. JOHNSON: No objection.

25 HEARING EXAMINER: 87 through 89 are admitted.

1 in general, we've been very much a city of people who want

2 to create environments that are safe, secure, cozy, and also

3 offer a sense of community.

4 And these traditional residential neighborhoods in what we

5 call the "streetcar suburbs," because the streetcar took

6 them out of the downtown, provide that. They provide not

7 just solid housing that has lasted a century and continues

8 to do just what it was meant to do, it provides interiors

9 that responded to changes in the way people lived in terms

10 of domestic reform. There were women in the workforce

11 suddenly, women who needed to have efficiency in their home.

12 These were people who did not have places for servants in

13 their houses. The bungalows were not servant houses. They

14 were two-bedroom, one-bath houses, generally, with a small

15 kitchen. But there was a thought of, well, let's do

16 built-ins so that people don't have to go out and buy a lot

17 of furniture. Let's do beds that pull out of walls. Let's

18 do inglenooks to sit around the fireplace. Let's do lots of

19 cabinetry and closets. And also, remember that the core

20 value is family at home, insulated somewhat from the busier

21 life outside. Fireplaces, (inaudible) glass light fixtures.

22 A piano in every house, gathered around the piano. It was a

23 nice gesture, but it also reflected some of the medieval

24 handmade aspects of an earlier lifestyle, that they could

25 escape. Because I know that it seems like today we're in a

1 frantic situation, but in 1910 in Seattle, with all of the  
2 building and construction and regrades and transportation  
3 changes and noise and pollution downtown, there was a  
4 respite, a retreat that you could go to, and it was the  
5 bungalow and it was in these residential neighborhoods. But  
6 they were also convenient. They were near an arterial that  
7 had retail and commercial. They were near a transit line,  
8 and they were accessible to green spaces. And thank God for  
9 the Olmsteds bridging all and connecting the old parks and  
10 boulevards to create that greenbelt, because if it hadn't  
11 been done between 1903 and 1930, we would not have any green  
12 space.

13 So have I reached any point of answering why I think it's  
14 important that these neighborhoods are important and  
15 continue to be important?

16 **Q. We get to ask the questions, as people say.**

17 A. Okay. You ask them.

18 **Q. Are you familiar with the Ravenna-Cowen and that  
19 neighborhood?**

20 A. I am.

21 **Q. And why?**

22 A. Well, I've lived in the Bryant-Assumption, which is just to  
23 the east of 25th Avenue, and my frequent walks are through  
24 Ravenna Park down to 55th and over to 15th and sometimes to  
25 go over the pedestrian bridge on 20th and come back on 15th.

1 **Q. When you say popular, what do you mean?**

2 A. It means they sold out almost immediately. And I think  
3 there was one or two times when we scheduled a second one to  
4 accommodate those people. And it also, for me -- because  
5 when I started at Historic Seattle, we had in 1997 developed  
6 a Historic Seattle Arts and Crafts Guild that was a group of  
7 people who were really interested in the movement of the  
8 arts and crafts and design reform in bungalows but also in  
9 applied arts and education. So it inspired us to start a  
10 yearly Bungalow Fair and arts and crafts lecture series  
11 through Historic Seattle that the first year we did it in  
12 the -- the first two years we did it in Wallingford at  
13 Historic Seattle's property, Good Shepherd Center, and then  
14 we needed to expand again and we moved to Town Hall Seattle,  
15 which was one of Historic Seattle's projects, to do a  
16 feasibility study to prove that we could have a meeting  
17 space in that old church, and it turned out to be a real  
18 success. So for -- from 2000 to 2011, we had a yearly  
19 weekend program with dealers and speakers from out of town,  
20 out of the country, great turnout, lots of support, and it  
21 was our way, as an educational device, of explaining to the  
22 public why the arts and crafts movement and why the bungalow  
23 were so key to the development of Seattle.

24 **Q. Okay. And you've mentioned Wallingford as one of those  
25 neighborhoods?**

1 So I am quite familiar with those landmarked bridges in the  
2 city.

3 **Q. And in a -- you had spoken before about taking tours in  
4 neighborhoods. Have you ever -- could you tell us something  
5 about that with respect to Ravenna-Cowen and who organized  
6 it and what it was about?**

7 A. Well, Larry Johnson, who is an architect who lives in  
8 Ravenna, had done a tour with Historic Seattle years ago.  
9 And when I came on board, we revamped that and included it  
10 in -- we did that through the Seattle Architecture  
11 Foundation, because I was still working for the Seattle  
12 Architecture Foundation as the director, and I was also  
13 program director for Historic Seattle for a short time for a  
14 number of years. So we instituted a Ravenna tour that  
15 actually included entering into the interiors of three or  
16 four of the bungalows in the district just to give people an  
17 understanding that it wasn't just the exterior, but it was  
18 the home life that was created in these spaces that was  
19 important. And we chose bungalows that had been largely  
20 unchanged over time. So they still had the original  
21 woodwork that hadn't been painted; they still had fireplaces  
22 and inglenooks and built-ins and lighting fixtures. And it  
23 became one of our most popular tours.

24 We did follow up with a Wallingford bungalow tour, which  
25 was also very popular.

1 A. Um-hum.

2 **Q. You've mentioned the Ravenna-Cowen neighborhood. And I am  
3 assuming there are other neighborhoods. What is  
4 particularly, if it is, special about the Ravenna-Cowen  
5 neighborhood? How does it compare to other neighborhoods  
6 that have bungalows?**

7 A. For me, it speaks to the best qualities of a bungalow -- of  
8 an early 20th century neighborhood in that there's an --  
9 it's insular in a way in that even though it has commercial  
10 arterials, once you walk past that or into the neighborhood,  
11 you have a sense of welcoming. And it's partly that the age  
12 and the character of these buildings, with shared materials  
13 of clabboard, of siding, of clinker brick, of cobblestone,  
14 and the scale of these, and the pitched roofs and the  
15 welcoming open porch -- the covered porches that welcomed  
16 people and also provided communication, it was a way of  
17 responding to your community and knowing your neighbors by  
18 the front porch, by the front stoop.

19 It's something that we don't see very much in modern-day  
20 construction, where you have a two-car garage and a long  
21 driveway and people drive in with their car and never see  
22 the light of day because they never come out. I have  
23 that -- I was walking yesterday in my neighborhood, and we  
24 have one of those houses, and I -- for the first time, I saw  
25 somebody actually -- the drive -- the garage door opened,

1 they went into the house, and that's all I saw of them.  
 2 So these buildings were designed to be relating to the  
 3 outdoors, the indoors/outdoors, through this transition part  
 4 of the front porch.  
 5 **Q. Okay.**  
 6 A. And you would be able to meet your neighbors, know your  
 7 neighbors, be a part of a community. And so what I get from  
 8 a Ravenna-Cowen is a much stronger sense of that. And it's  
 9 partly the mature street trees and the landscaping and the  
 10 connection to the park, and also the fact that it's not a  
 11 completely true grid, that because of the ravine of Ravenna  
 12 Park, you have angled streets that come in at angles, and  
 13 consequently when you're walking down some of them, each of  
 14 these bungalows is at a skew. They're not, you know,  
 15 straight on, so you see the fronts and the porches of these  
 16 as staggered down the street and covered. And so there's  
 17 something a little bit different about Ravenna-Cowen than  
 18 there would be in Wallingford, where it's a pretty strict  
 19 grid that runs down to Lake Union. And the reality was that  
 20 the North Lake Union area was full of asbestos and gas  
 21 plants. It wasn't a pretty picture, you know. Now we sell  
 22 it as views to Lake Union and downtown, but in those days  
 23 all these bungalows are facing -- the front and back face  
 24 the front -- face east/west rather than south because nobody  
 25 wanted to look at that. They wanted, you know, to walk into

1 MS. BENDICH: Oh, I'm sorry. That was Friends of  
 2 Ravenna-Cowen No. 21.  
 3 UNIDENTIFIED SPEAKER: Thank you.  
 4 THE WITNESS: Your question again?  
 5 **Q. (By Ms. Bendich) What does that represent, that map?**  
 6 A. So it's a fairly detailed map that shows every building  
 7 within certain boundaries. And because of the color coding,  
 8 you're able to immediately see that nearly all of the  
 9 buildings featured are prior to the Depression in 1930, that  
 10 in general they are between 1900 and 1929. And the brunt of  
 11 them seem to be these green ones from 1910 to 1919, which  
 12 was -- really, 1910 to 1929 were really the key periods for  
 13 constructing homes in these residential districts that were  
 14 being platted.  
 15 **Q. And it consists of, I believe, one -- four --**  
 16 A. There are blow-ups --  
 17 **Q. Four pages?**  
 18 A. Yeah. There are blow-ups on the -- of the -- the main map  
 19 is on the first page and the blow-ups of the sections, three  
 20 sections, are --  
 21 **Q. So there are three sections to this?**  
 22 A. Right.  
 23 **Q. And the blow-ups just allow you to see with a little more**  
 24 **clarity the shape of the building, the house, and the period**  
 25 **for which -- during which it was built; is that correct?**

1 their house and not think about that, so...  
 2 **Q. So, Mr. Kreisman, are you familiar with the process of the**  
 3 **Friends of Ravenna-Cowen to file an application for a**  
 4 **National Historic District in Ravenna-Cowen area?**  
 5 A. I am.  
 6 **Q. Did you have anything to do with the preparation of that?**  
 7 A. I did not.  
 8 **Q. So as far as you know, this was a community-generated --**  
 9 A. Yes.  
 10 **Q. -- thing? Okay.**  
 11 A. I do know that while I was at Historic Seattle there were  
 12 several community people who did come to Historic Seattle to  
 13 talk to us and Eugenia Woo about possibilities, but that was  
 14 probably a year ago.  
 15 **Q. Okay. And have you seen a map that has been produced as a**  
 16 **result of that application?**  
 17 A. I have.  
 18 **Q. And we have to wait here for a second.**  
 19 HEARING EXAMINER: Marked as Exhibit 90.  
 20 (Exhibit No. 90 marked for identification)  
 21 **Q. (By Ms. Bendich) And could you tell us what you're looking**  
 22 **at?**  
 23 UNIDENTIFIED SPEAKER: Excuse me.  
 24 MS. BENDICH: Oh, I'm sorry.  
 25 UNIDENTIFIED SPEAKER: What number of --

1 A. Right.  
 2 **Q. And the map, at least if you go to the first page of it, you**  
 3 **were talking about the kind of diagonal streets and the**  
 4 **contour. Is that what you were referring to?**  
 5 A. Yes.  
 6 **Q. And this area goes from 12th Avenue Northeast all the way**  
 7 **over to the east to approximately 24th? I mean, you can**  
 8 **take a look at this on the bigger one, but it's very hard to**  
 9 **tell which streets you're on exactly from the smaller**  
 10 **version on the front.**  
 11 **So a portion of this is in what we call the Roosevelt**  
 12 **neighborhood. From your understanding of the Roosevelt**  
 13 **neighborhood, does that end at 15th?**  
 14 A. I -- yes, I think so.  
 15 **Q. So the portion here, what's marked as P-1 on this map,**  
 16 **that's actually what we call the Roosevelt and the Roosevelt**  
 17 **Urban Village, but it surrounds what? What's the identifier**  
 18 **here?**  
 19 A. Well, it's surrounding Cowen Park, and then Ravenna Park  
 20 continues from 15th over to 24th here. So it is essentially  
 21 adjoining the park.  
 22 **Q. And is it easy to walk from one section to another? We do**  
 23 **have a divider here of 15th.**  
 24 A. Well, absolutely. It's not like 15th is a major -- you  
 25 know, major thoroughfare would be a freeway or -- but

1 it's -- it was all part of a contiguous residential  
 2 neighborhood, and it still is. And same kind of housing,  
 3 really. There was no dichotomy between one kind of housing  
 4 on one side of 15th and one -- a different kind on the other  
 5 because they were all built at the same time, sharing  
 6 possibly the same builders.  
 7 **Q. Okay. And you mentioned there was a trolley car line that**  
 8 **ran right up 15th at that time; is that right?**  
 9 A. Was it 15th or 14th?  
 10 **Q. I think it was 15th.**  
 11 A. Yeah.  
 12 **Q. Yeah. But that's for you to say.**  
 13 A. Well, I think it was -- initially, it was a streetcar that  
 14 ran up University Way, which used to be called 14th, to the  
 15 park. And I can't tell you for sure what later street lines  
 16 occurred over here because I haven't looked at that.  
 17 **Q. So do you support a National Historic District in this area?**  
 18 A. Absolutely.  
 19 **Q. And did you write a letter in support of that to the State**  
 20 **Department of Archeology and Historic Preservation?**  
 21 A. I did. And I have a copy of that.  
 22 MS. BENDICH: Hold up. Just wait.  
 23 HEARING EXAMINER: Marked as Exhibit 91.  
 24 (Exhibit No. 91 marked for identification)  
 25 MS. BENDICH: If you could pass that up?

1 **have you also had the opportunity to review the application?**  
 2 **And I don't mean in depth, but just in general review the**  
 3 **application that's been filed for creating a National**  
 4 **Historic District?**  
 5 A. I did.  
 6 **Q. Okay. Are you aware of what date the hearing by the council**  
 7 **is taking place in the state on that?**  
 8 A. I got a letter while I was on vacation that said it was  
 9 right now. It was at 9:00 today. I can't be in Olympia.  
 10 **Q. And this exhibit is Friends of Ravenna-Cowen's Nos. 22-A, B,**  
 11 **and C, and they've been combined here into one notebook.**  
 12 **And, Mr. Kreisman, this was fairly voluminous, so I only**  
 13 **made one copy, and I'll let you look at my copy here.**  
 14 MR. BRICKLIN: So what's the identity of this document?  
 15 **Q. (By Ms. Bendich) If you could just tell us what it is.**  
 16 A. The official name for it is the -- it's "The Ravenna-Cowen  
 17 North Historic District National Register of Historic Places  
 18 Nomination."  
 19 **Q. And this has three little parts to it, right?**  
 20 MS. BENDICH: And I think in the exhibit, Mr. Examiner,  
 21 we've divided those with red pages in our notebook.  
 22 **Q. (By Ms. Bendich) So there -- the first section is very**  
 23 **short, is it not, the first couple of pages?**  
 24 A. Yeah. It pinpoints -- there's a summary paragraph and a  
 25 setting for, you know, the importance of the neighborhood in

1 MR. BRICKLIN: I did.  
 2 MS. BENDICH: Oh, you did already?  
 3 MR. BRICKLIN: You already give me --  
 4 MS. BENDICH: Oh, that was --  
 5 MR. BRICKLIN: (Inaudible).  
 6 MS. BENDICH: That was Friends of Ravenna-Cowen No. 21,  
 7 yes.  
 8 UNIDENTIFIED SPEAKER: 20.  
 9 MS. BENDICH: Oh, 20. Okay.  
 10 **Q. (By Ms. Bendich) And do you have a copy of that,**  
 11 **Mr. Kreisman?**  
 12 A. I do.  
 13 **Q. And is this the letter that you sent?**  
 14 A. I did.  
 15 **Q. Yes?**  
 16 A. Yes.  
 17 **Q. Okay.**  
 18 MS. BENDICH: I would move the admission of whatever the  
 19 exhibits. I have not --  
 20 MR. BRICKLIN: 90 and 91.  
 21 MS. BENDICH: 90 and 91.  
 22 MR. JOHNSON: No objection.  
 23 HEARING EXAMINER: 90 and 91 are admitted.  
 24 (Exhibit Nos. 90 and 91 admitted into evidence)  
 25 **Q. (By Ms. Bendich) So, Mr. Kreisman, have you also asked --**

1 terms of developing simultaneously with the  
 2 Alaska-Yukon-Pacific Exposition and (inaudible) with the  
 3 university to the present campus, which meant that more  
 4 people were moving into the neighborhood. It was kind of a  
 5 gold mine period for realtors and developers because they  
 6 would plot land and they would sell properties to people who  
 7 wanted to move to those neighborhoods, and access was much  
 8 more improved by then.  
 9 **Q. Okay. And turning after the first red page in the notebook,**  
 10 **exhibit page 5 --**  
 11 A. Okay.  
 12 **Q. Are you on that page?**  
 13 A. I am on that page.  
 14 **Q. And is there any signif- -- anything that you've like to**  
 15 **talk about that's on that page?**  
 16 A. Well, in my work experience with inventory and survey work,  
 17 when you find a potential historic district that has like  
 18 more than 60 percent of buildings that are contributing or  
 19 potential landmark quality, that makes it a really key  
 20 factor in whether the neighborhood is important to preserve.  
 21 And in this particular case, according to the -- the average  
 22 year of construction of all the houses in the neighborhood  
 23 is 1918, but the majority of them are 1910 to 1919. There's  
 24 essentially 80 percent -- let's see -- 60 -- about 60  
 25 percent 1910 to -- so 80 percent. And actually, 93 percent

1 of the buildings are between 1900 and 1929. That's  
 2 extraordinary. And what's extraordinary is the number that  
 3 are contributing buildings as opposed to -- when we talk  
 4 about historic buildings that are noncontributing, it's  
 5 mostly buildings that have been altered substantially --  
 6 replaced siding, replaced windows, additions, garages in  
 7 front, all those things that are loss of integrity. But  
 8 when you have so many contributing buildings in a  
 9 neighborhood after all these years, it really, you know, is  
 10 a sign that we're -- we've been lucky so far. Let's not  
 11 trust our luck to the future and new development, and let's  
 12 keep this intact and remember that once it's gone, it's gone  
 13 and you can't go back. So not to be shortsighted in  
 14 decision-making but take the long-term approach of we want  
 15 these to be -- we want this neighborhood to be around for  
 16 many years to come because other people need to appreciate  
 17 how this city developed, not just architecturally, but in  
 18 terms of social, cultural, and economic growth. All these  
 19 neighborhoods that are intact tell that story.

- 20 **Q. So on page 6, if you could turn to page 6.**  
 21 A. Um-hum.  
 22 **Q. And what do you find inter- --**  
 23 A. Okay. So there are documentation --  
 24 **Q. And if you could tell the Hearing Examiner where you're**  
 25 **looking.**

1 A. Okay. Page 6, under "Buildings and Sites," it says  
 2 "Historic Contributing," 300 buildings out of the total of  
 3 443. So that's 67 -- it's close to 68 percent that are  
 4 historic contributing buildings. And that's not to say that  
 5 some of them aren't landmark quality or potentially  
 6 designatable as a single building, but it's saying that as a  
 7 neighborhood there are -- almost 70 percent of these  
 8 buildings are intact, have quality and integrity and tell  
 9 the story.  
 10 **Q. Okay. And then turning your attention to pages 6 through 9?**  
 11 A. Okay.  
 12 **Q. What is that about?**  
 13 A. So this is giving a little bit of background understanding  
 14 of what the different architectural styles and periods are  
 15 that are reflected in the district. And somewhere  
 16 there's -- ah. On page 9, the styles found in the study  
 17 shows that of the 443 buildings 259, or almost 59 percent,  
 18 are Craftsman homes, which are -- "Craftsman" home is a  
 19 funny word, and people used to call me all the time and say,  
 20 "What's a Craftsman home?" And I had to explain that a  
 21 bungalow is basically a 1 1/2-story building. It's low to  
 22 the ground, but it has certain -- a Craftsman bungalow has  
 23 certain features that are more rustic in terms of the use of  
 24 local materials and river rock and clinker brick, whereas,  
 25 you know, there are Colonial Revival bungalows that look

1 very much like Colonial homes only they're bungalow shape  
 2 and height. But a Craftsman home can be anything from a  
 3 bungalow to a 2-story home or a 2 1/2-story home, so there  
 4 are several floors but have -- borrows that same vocabulary  
 5 of broad eaves, overhangs, porches that are part of the  
 6 bungalow vocabulary. So Craftsman homes, which would mean  
 7 bungalows or 2-story homes, 259 of them are Craftsman homes.  
 8 And the next largest type of building is the Colonial  
 9 Revival, 112, which is 25 percent. Colonial Revival came  
 10 into its own, really, after 1914. I mean, there were  
 11 Colonial buildings, but World War I drew a lot of  
 12 patriotism, and people looked to the Colonial Northeast, the  
 13 original Colonial houses and said, "Well, we want to be  
 14 patriotic. We want our house to be a Colonial Revival."  
 15 And sure enough, that's what happened. And a lot of the  
 16 media, the magazines and even the plan books that were  
 17 produced that have, you know, years before been just  
 18 Craftsman bungalows suddenly had Colonial Revival homes.  
 19 And so you have a fair number of these in the district as  
 20 well.  
 21 And then the third type of building is the Tudor Revival  
 22 or kind of English medieval, return to the formal English  
 23 style. There's not very many. There's 17 here.  
 24 **Q. And turning to page 18, pages 18 to 24?**  
 25 A. 18. You have the numbers on this --

1 **Q. Oh.**  
 2 A. These are the builders, but I don't see any --  
 3 **Q. That's --**  
 4 A. Oh, this is 18. Okay.  
 5 HEARING EXAMINER: How are you distinguishing 18?  
 6 THE WITNESS: 18 at least has a page number on the bottom.  
 7 HEARING EXAMINER: Okay.  
 8 THE WITNESS: Page 19 does not, so I was looking at the  
 9 right-hand ones.  
 10 HEARING EXAMINER: Got it.  
 11 THE WITNESS: The left-hand --  
 12 MS. BENDICH: Yeah. Well --  
 13 THE WITNESS: They ran out of space with all the  
 14 footnotes.  
 15 HEARING EXAMINER: Right.  
 16 **Q. (By Ms. Bendich) I think it's probably there. It just**  
 17 **didn't get copied.**  
 18 A. Yeah.  
 19 **Q. Okay. So tell us about what is -- why is this in here in**  
 20 **this application?**  
 21 A. Well, I think it's as I said in the arts and crafts book  
 22 that the growth of the city meant that not simply architects  
 23 but construction companies and mill companies took advantage  
 24 of the expansion to promote bungalows and Craftsman homes,  
 25 and so this is a list of significant architects and builders

1 who were involved in someplace in this area from 12th all  
 2 the way to 24th. Some of them are really important  
 3 architects like Carl Gould, who did the University of  
 4 Washington campus and the Seattle Art Museum and Volunteer  
 5 Park and lots of very elegant homes in the Harvard-Belmont  
 6 district, was also, you know, able to work in smaller scale.  
 7 The Craftsman Bungalow Company, which is on page 18, Jud  
 8 Yoho built himself as Seattle's bungalow man, and he was an  
 9 incredibly -- I want to say he was an early Fred Anhalt, who  
 10 was a builder in the late '20s who built these wonderful  
 11 Norman- and English-style apartment buildings on Capitol  
 12 Hill. But Jud Yoho started out -- you know, came out as,  
 13 you know, a butcher's son and developed neighborhood  
 14 shopping areas, and then he -- Craftsman bungalow, Jud Yoho  
 15 decided that he wanted to develop bungalows for everyone and  
 16 built one for himself in Wallingford. And he was one of the  
 17 most prolific builders, and his building was largely through  
 18 his promotion of the Craftsman Bungalow Company, which the  
 19 Craftsman Company would offer to build you a home, give you  
 20 the plans, would sometimes even furnish the lot and provide  
 21 you the house with rent and you could buy it eventually. So  
 22 there were all these enticements. And he wasn't the only  
 23 one, but his was the largest company. He claimed to have  
 24 international reputation. And in fact, I remember one time  
 25 I was -- I got a call from a woman who said, "I have these

1 MR. BRICKLIN: You want right by the red page.  
 2 MS. BENDICH: Keep going.  
 3 THE WITNESS: You went by the red page.  
 4 MS. BENDICH: No. This way.  
 5 MR. BRICKLIN: The other way?  
 6 MS. BENDICH: This way. Keep --  
 7 THE WITNESS: Oh. This is 67, though. Okay.  
 8 MS. BENDICH: Yeah. And this --  
 9 THE WITNESS: 670?  
 10 MS. BENDICH: Here's --  
 11 THE WITNESS: Oh, okay. Oh, that one. Oh, not those  
 12 pictures. Okay.  
 13 **Q. (By Ms. Bendich) And the first couple of pages of that are**  
 14 **a summary, are they not?**  
 15 A. Yes. They list all the buildings, and also, you know, where  
 16 they're located, the date built, the -- whether they're --  
 17 the -- whether they're considered historic contributing or  
 18 historic noncontributing because they've been remodeled or  
 19 altered. And then there are non-historic, noncontributing  
 20 buildings, which are generally buildings that are more  
 21 recent. The one I am seeing on 15th is 2008, for instance,  
 22 and it's a 2-story wood frame triplex.  
 23 **Q. And then just -- so you've explained that.**  
 24 A. Yeah.  
 25 **Q. So if you could just -- let's just go to a couple of the**

1 plans from the Craftsman Bungalow Company." And she lived  
 2 in Maryland. So there was her house in Maryland. So a  
 3 great deal of exposure to the buying public that amounted to  
 4 a lot of Craftsman bungalows in Wallingford and in Ravenna.  
 5 But other people are not -- you know, unsung heroes.  
 6 Although Elmer Green, who is listed on page 19, I have a  
 7 colleague in Victoria who has been working for 20 years  
 8 researching Elmer Ellsworth Green, who was a Victoria  
 9 architect who practiced in Seattle and did apartment  
 10 buildings and some really quintessential bungalows, one of  
 11 which is a city landmark down in West Seattle, the  
 12 Bliss [sic] House.  
 13 **Q. Okay. And --**  
 14 A. So I think it's a wonderful compilation and great  
 15 information.  
 16 **Q. Again, yeah, okay. So then if we could just turn -- and in**  
 17 **the notebook, it's the next red section after the red piece**  
 18 **of paper.**  
 19 A. What am I looking at?  
 20 **Q. Okay. You're going to be looking at the pictures that**  
 21 **come --**  
 22 A. The pictures.  
 23 **Q. And it starts at about page 67, in that section.**  
 24 MR. BRICKLIN: Right after that red page?  
 25 MS. BENDICH: See where that red page is?

1 **homes here, and following these -- this index --**  
 2 A. Okay. Do you want me to look at these?  
 3 **Q. Yeah.**  
 4 A. Do you want --  
 5 **Q. So we've marked a few here. I -- and tell the Examiner.**  
 6 A. So we're on page 30, and this is on -- it's 6102 12th Avenue  
 7 Northeast. So that's -- yeah.  
 8 **Q. What are these pages called at the top?**  
 9 A. Continuation sheets. Individual properties.  
 10 **Q. And --**  
 11 A. Ravenna-Cowen North Historic District.  
 12 **Q. So is -- for every property that is identified in the index,**  
 13 **is there a separate page for each property that has**  
 14 **information about that property?**  
 15 A. There is.  
 16 **Q. Okay. And just generally tell us in summary fashion what**  
 17 **kind of information is in there.**  
 18 A. So it provides the date built, the Craftsman who -- the  
 19 style. The architect, if it's known, or the builder, and  
 20 the classification that we were referring to, historic  
 21 contributing. If it had an historic name associated with  
 22 maybe the first owner or a second owner who was important.  
 23 The original owner. In this case, it's Julius Jacobson.  
 24 And he has subgroups here, which define -- you know, it's a  
 25 Craftsman building, but what is it? It's a front gable

1 bungalow.

2 **Q. You don't need to go through all that.**

3 A. Yeah, okay.

4 **Q. And does it have pictures at the bottom?**

5 A. It does have pictures and it shows owner/occupants, so...

6 **Q. Okay.**

7 A. And it shows early -- the tax assessor, thank God, has all

8 those county tax assessor photographs from the 1937 period,

9 which generally for an architectural historian are very

10 valuable because a lot of the changes in these kinds of

11 houses occurred during the '50s, '60s, and '70s, and you can

12 track what it looked like originally. And so for a

13 homeowner, it's critical for going back if you want to

14 restore a building and seeing what it looked like before the

15 damage.

16 **Q. And then on to the right of that, is there another picture?**

17 A. Yes.

18 **Q. And is that a contemporaneous picture?**

19 A. 2018.

20 **Q. Okay. And this particular home is located in the Roosevelt**

21 **Urban Village; is that correct?**

22 A. Yes.

23 **Q. And then if you could -- we're not going to take too many**

24 **examples here, but --**

25 A. Good.

1 **Q. And to upzone?**

2 A. And to upzone, yes. And it is a side gable bungalow with

3 a -- again, a lovely covered front porch that extends the

4 whole way, and it appears that it's -- that porch is pretty

5 intact in the 2018 photograph.

6 **Q. Okay. Any others?**

7 A. There's one more here. On page 86 is a Tudor Revival-style

8 house on 17th Avenue Northeast at 62nd. 6206.

9 **Q. And is it your understanding this is also part of the**

10 **expansion area of the Roosevelt Urban Village?**

11 A. Yes.

12 **Q. All right. So now, Mr. Kreisman, have you actually read the**

13 **"Historic Resources" section of the FEIS?**

14 A. I have. Several times.

15 **Q. And do you want to tell us just your overall concerns**

16 **about it?**

17 MS. BENDICH: Mr. Examiner, should we wait until we get

18 Section 3.5? That's in the EIS itself.

19 HEARING EXAMINER: I --

20 MS. BENDICH: Okay.

21 HEARING EXAMINER: Tell me what you're doing.

22 MS. BENDICH: Okay. That's where we're going next.

23 HEARING EXAMINER: And what page are you going to?

24 MS. BENDICH: Okay.

25 **Q. (By Ms. Bendich) Do you want to tell us what page you're**

1 **Q. But just go to the next sticky page.**

2 A. And this one is on -- this is page 62, and this is the --

3 yeah. So that's 6310 15th Avenue Northeast.

4 **Q. And is this a historic contributing home?**

5 A. Yes, it is.

6 **Q. And it's along the arterial, is it not?**

7 A. It is.

8 **Q. And you can -- and the same thing. There's an old picture**

9 **and a new picture down at the bottom?**

10 A. Right.

11 **Q. Okay. And, you know, let's just move through these fairly**

12 **quickly because they're generally of the same description.**

13 A. And then this one is on --

14 **Q. Okay.**

15 A. -- page 68. Oh, no. Wait. Oops. 66. We have also one on

16 15th Avenue Northeast. That would be just near the other

17 one. And that's also historic contributing, and it's a

18 different form. It's a front gable bungalow with porches,

19 with an open covered porch.

20 **Q. Okay. A few more.**

21 A. And this is page 78, 6316 16th Avenue Northeast, one block

22 over.

23 **Q. And is this part of the area that the City plans to expand**

24 **the Roosevelt Urban Village into?**

25 A. That's my understanding.

1 **going to, Mr. Kreisman? It's the bottom --**

2 MR. BRICKLIN: It looks like he's on the title page.

3 THE WITNESS: Well, I'm at the beginning of --

4 MS. BENDICH: The title page, which is --

5 MR. BRICKLIN: Of that chapter, which is --

6 MS. BENDICH: Which is page 3.295.

7 MR. BRICKLIN: But it's unnumbered?

8 THE WITNESS: Right.

9 MR. BRICKLIN: The page before 296.

10 THE WITNESS: Well --

11 MS. BENDICH: Just wait --

12 THE WITNESS: Okay.

13 MS. BENDICH: -- until --

14 THE WITNESS: I will wait.

15 MS. BENDICH: -- the Hearing Examiner has that in front of

16 him.

17 HEARING EXAMINER: Okay.

18 MS. BENDICH: Okay.

19 **Q. (By Ms. Bendich) And as you go through it, please try to**

20 **identify the page and the paragraph that you're referring**

21 **to, all right?**

22 A. Okay.

23 **Q. So go ahead.**

24 A. Where to start? It provides a fair amount of information

25 but I am afraid that with my history with the City going

1 back to 1977, '78, I was struck by the kind of the  
 2 perfunctory way in which survey and inventory work at the  
 3 city prior to 2000 is approached as a windshield survey that  
 4 didn't have a lot of information. Because I worked on it,  
 5 and I know for a fact that in 1979 I and a number of  
 6 investigators who have later gone on to important careers in  
 7 preservation, so they were not just volunteers, we worked  
 8 with Earl Layman, who was an architect, an architectural  
 9 historian and the City's first preservation officer, to  
 10 develop what we basically wanted, was an important tool for  
 11 advising the City about what were significant buildings and  
 12 what buildings were of community significance. And what we  
 13 did was we surveyed over 30 neighborhoods. We looked. We  
 14 got out of the car. We walked these streets. We looked at  
 15 these buildings from the exterior. We sometimes got invited  
 16 in. We filled out property forms for each of these  
 17 buildings that we thought were significant or contributing  
 18 to the neighborhood or we filled out a lot more forms that  
 19 ended up in what we called the "Hold" file because we  
 20 decided that these might not be important. But we met  
 21 weekly, we had reviews, and we documented them in such a way  
 22 that there was actually a summary document that showed all  
 23 of those buildings that we thought were potential landmarks,  
 24 community landmarks and needed to be further researched.  
 25 The way the City presents it on their websites, which, you

1 know, that digital website was not in use in the '70s and  
 2 '80s, and hardly any of the buildings that were pinpointed  
 3 as important to look at for potential landmark status are in  
 4 that database. So when I look at this, I say, well, whoever  
 5 was doing the HALA EIS did not have all the materials that  
 6 they should have been looking at in doing their evaluation.  
 7 They were just looking primarily, apparently, according to  
 8 the 3.298, is determined eligible historic properties for  
 9 National Historic Register, and there really isn't any  
 10 documentation of city landmarks in the same way. There's  
 11 the -- on 3.302, there's a listing of those neighborhoods  
 12 where there has been a historic resource survey done and  
 13 they're in the survey database, but that database does not  
 14 reflect earlier surveys that were actually more important  
 15 than they're given credit for.  
 16 Consequently, the same thing holds for where it says  
 17 historic context statement prepared. That may be true for  
 18 these neighborhoods because the City didn't do context  
 19 statements for these, but there is valuable information that  
 20 provides the context for many of these neighborhoods that  
 21 was done earlier than the City's inventory by Historic  
 22 Seattle in this historic, really groundbreaking project, the  
 23 Urban Resource Inventory for Seattle, that architects Victor  
 24 Steinbrueck and then Folke Nyberg did between 1975 and '77.  
 25 **Q. So you were just holding something up, and the Hearing**

1 **Examiner was --**  
 2 A. Sorry.  
 3 **Q. -- writing things down. So could -- just wait a second.**  
 4 A. Okay.  
 5 **Q. Okay. So you want to hold it up again?**  
 6 A. Yeah. So...  
 7 **Q. This was the study that was done for Historic Seattle back**  
 8 **in 1975 by Mr. Folke Nyberg and --**  
 9 A. Victor Steinbrueck.  
 10 **Q. And Victor Steinbrueck?**  
 11 HEARING EXAMINER: And who were they?  
 12 MS. BENDICH: Hmm?  
 13 **Q. (By Ms. Bendich) And who were they? Who were those folks?**  
 14 A. They were architects on the faculty at the University of  
 15 Washington, and we received National Endowment for the Arts  
 16 funds and some City funding to prepare this with a large  
 17 number of volunteers from neighborhoods. And the intent was  
 18 not just to look at buildings, but to understand that  
 19 buildings are in context. And so I think what's interesting  
 20 is that this study was more profound than just looking at  
 21 architecture. And if you look at --  
 22 **Q. Right. We get --**  
 23 A. I'll just list some of the things that were covered in the  
 24 inventory form that people were supposed to fill out.  
 25 **Q. We don't need to go there.**

1 A. We don't? Okay.  
 2 **Q. But these context statements are online; is that correct?**  
 3 A. These context statements, the maps that were produced --  
 4 MS. BENDICH: We're not offering these as exhibits,  
 5 Your Honor, because this is Mr. Kreisman's copy, but if you  
 6 could --  
 7 THE WITNESS: I'll just give you a sense of --  
 8 MS. BENDICH: He's standing up and showing you one of  
 9 those maps.  
 10 THE WITNESS: -- how complicated this was. It included  
 11 for every neighborhood that was surveyed --  
 12 HEARING EXAMINER: Mr. Kreisman? Mr. Kreisman?  
 13 THE WITNESS: Yeah?  
 14 HEARING EXAMINER: I need you to make sure that you're  
 15 close enough to a microphone to speak.  
 16 THE WITNESS: Okay. Sure.  
 17 HEARING EXAMINER: And don't have the paper between you  
 18 and the microphone so that your voice is picked up.  
 19 THE WITNESS: So --  
 20 **Q. (By Ms. Bendich) You need to turn around. It's a hard**  
 21 **thing to do.**  
 22 A. Every neighborhood that was surveyed --  
 23 MS. BENDICH: Do you want to hold it up for him?  
 24 THE WITNESS: There was a history of the neighborhood's  
 25 development, a look at common building types in the

neighborhood, a look at potentially significant landmark or community resources in those neighborhoods. And the color coding here is solid means it's a landmark potential, outlined is community significant, and then all of the view corridors and landscape features that are part of urban design in the neighborhood are pinpointed here.

So if you want to flip it over, we've got lots of -- okay. But lots of documentation. History. General description. So these are essentially the kinds of information that are put into context statements, in EIS's. And also, when you do a landmark nomination for a particular building, of late that's been also part of it is educating the Landmarks Board to all the information they need to know about, well, what is the broader context of this building and its neighborhood and the city, and how does it compare with other neighborhoods or other buildings? So this is readily available documentation, and what I was noticing in the exhibits --

**Q. (By Ms. Bendich) And let's go to --**

A. We're going back to that 3.302 --

**Q. Let -- just one second.**

A. Okay. I am sorry.

**Q. And so you're talking about Section 3.5 and page 3.302, Exhibit 3.5-4; is that correct?**

A. That's correct.

**Q. And --**

A. So I was looking at this and seeing that, you know, this says properties listed in the city historic resources survey, and there were Xs against all these -- a lot of these neighborhoods. It doesn't say how many. And then systematic inventory conducted, and there are only a few that actually have had that happen, or certainly, even fewer where there's a context statement prepared. But if I compare that with the maps, I already see that these provided historic context for Admiral, for Ballard, for Eastlake, for Greenlake, for Madison area. And then, of course, Queen Anne and Wallingford and Mount Baker apparently have context statements done for them. But it says to me that there's a lot of information that is already available that maybe people who are doing the EIS were not -- it wasn't -- they weren't exposed to that. They didn't even know it existed. We know that it -- they knew about the Urban Resource Inventory because it's actually paraphrased in some of the introductory materials and things, so that is one of --

**Q. So how many --**

HEARING EXAMINER: We'll pause there and come back at 10:30.

MS. BENDICH: Oh, okay.

(Recess)

HEARING EXAMINER: And we'll return to the record, Mr. Kreisman on direct.

**Q. (By Ms. Bendich) Okay. Mr. Kreisman, you've talked about Exhibit 3.5-4 in Section 3.5 of the MHA FEIS. You briefly mentioned the previous two pages of 3.5-2, that there was a map of National Historic District properties from the state. What's missing here for the average reader to understand?**

A. Well, it doesn't really describe any of the neighborhoods that are part of this urban village discussion. It has no basic information about or context for understanding, you know, how is Ravenna different or the same as any of these other neighborhoods, Wallingford, Fremont, whatever. It does have National Register determined eligible properties indicated on these maps, but it doesn't provide me with any real understanding. If I was the public or I was a decision-making person, I would be thinking, well, I realize that it says that because of space and such they're dealing with these in more general terms, but I would need more information to go on. Why are these neighborhoods important? Why aren't they important? What are the aspects of, you know, these boundaries that's going to impact particular areas? So...

**Q. Would you want a map similar to what they did for -- from the state that shows actual properties on it?**

A. That would have been great, yeah.

**Q. And why would that have been important?**

A. Well, it would have told me immediately that there's a core of valuable resources here that is not necessarily documented in the city database. That they need to be considered, and maybe this area that's been included in that extended urban village really needs to be protected even though it's not a landmark district. Because the reality is that a lot of buildings in and of themselves are not going to be designated city landmarks, but the consistency, the continuity, the scale, the streetscape, and all the other things that go into appreciating a historic district are so important that they can't just be easily wiped away.

**Q. And we heard that. But is it shown here?**

A. No.

**Q. Is it shown anywhere in this report?**

A. Nothing. Not that I see.

**Q. Okay. So if you are a decision-maker, do you -- well, just as a member of the public, would you have needed that information to draw a conclusion here about where the upzone should be?**

A. I would. And I would be concerned about words like "could impact historic resources indirectly" versus it's inevitable that any kind of change in those historic districts is going to impact them not indirectly but directly. Because you know over time with the property as it is valuable that

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

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

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

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

1 potential to be landmarks if the regulatory process  
2 governing the development does not require consideration of  
3 the potential eligibility as a Seattle landmark. But that  
4 really fails to address issues of historic neighborhoods  
5 and --

6 **Q. Okay. We'll stop there.**

7 A. It's also inconsistent with the Comprehensive Plan and with  
8 neighborhood comments that were, I remember, done in '99.

9 So, you know, you're talking in a Comprehensive Plan of  
10 preserving historic buildings can help incubate small  
11 local-owned businesses, revitalize commercial districts,  
12 generate local jobs. Historic preservation promotes  
13 sustainability through reuse, repair, and upgrading existing  
14 built resources. So if you're talking about rezoning and  
15 upzoning in these neighborhoods, preservation really doesn't  
16 have a chance.

17 **Q. Does anything in this section reference the Comprehensive  
18 Plan discussion of historic resources and why they're  
19 important?**

20 A. I don't specifically remember anything that refers to this.

21 **Q. And would the upzoning that's, let's say, in Ravenna, would  
22 that be inconsistent with the Comprehensive Plan?**

23 A. I would say so.

24 **Q. All right.**

25 MS. BENDICH: No further questions.

1 MS. BENDICH: So --

2 HEARING EXAMINER: It's part of what we're doing here. I  
3 understand that the neighborhoods need that story told, but  
4 this isn't about an appeal of an EIS. And so I understand  
5 that what you're saying is that story is missing from the  
6 EIS, here's an example of how that story is missing from the  
7 EIS. Every single structure is not something I am going to  
8 read.

9 MS. BENDICH: Okay.

10 HEARING EXAMINER: And you know that. And no judge is  
11 going to do that, so --

12 MS. BENDICH: No. If --

13 HEARING EXAMINER: The point of having it on the record is  
14 beyond me. I am not catching --

15 MS. BENDICH: No. We were just trying to -- and you're  
16 correct. What we were trying to do is just point to some  
17 specific homes and areas that were destined under this plan  
18 to be upzoned.

19 HEARING EXAMINER: For this neighborhood. And I --

20 MS. BENDICH: For this neighborhood. And there were many  
21 more in there. And so, you know, it's fine. We didn't get  
22 into the history or anything like that that's also in there,  
23 but that's fine.

24 MR. BRICKLIN: How about if we do the table of contents  
25 where --

1 HEARING EXAMINER: On that subject or --

2 MS. BENDICH: On that subject. We're ready for --

3 HEARING EXAMINER: For the witness?

4 MS. BENDICH: Well, I think Mr. --

5 MR. BRICKLIN: No. That's fine. I think we're good where  
6 we are.

7 MS. BENDICH: Okay.

8 HEARING EXAMINER: Okay. We've got 92 was not admitted.

9 MS. BENDICH: Oh, I'm sorry. I did want to admit that.

10 MR. JOHNSON: No objection.

11 HEARING EXAMINER: It's a bit oversized.

12 MS. BENDICH: I understand that. And I was --

13 HEARING EXAMINER: You've referenced 1 through 11 and  
14 marked some examples, so I am inclined to introduce that. I  
15 don't understand why the rest of it would be included.

16 MS. BENDICH: Well, I would move to -- we didn't go  
17 through it all, but I think that all the pages in there are  
18 important pages and --

19 HEARING EXAMINER: I think they are important in and of  
20 themselves, particularly to tell the story of the history --

21 MS. BENDICH: Right.

22 HEARING EXAMINER: -- and for the homes, but this isn't a  
23 place for that --

24 MS. BENDICH: Okay.

25 HEARING EXAMINER: -- alone.

1 HEARING EXAMINER: I think the witness did an excellent  
2 job of covering the history.

3 MS. BENDICH: Okay. All right.

4 HEARING EXAMINER: I think it's been --

5 MS. BENDICH: No. I leave it --

6 HEARING EXAMINER: -- amply covered.

7 MS. BENDICH: I leave it to the Examiner, of course, to --

8 HEARING EXAMINER: Yeah. So the table of contents from --  
9 so it's the front through -- you went through page 11 was  
10 referenced in the first section. So there's a table of  
11 contents, and then the National Register of Historic Places  
12 register form went through page 11. There are -- that's of  
13 90 pages. So that form was not referenced beyond that  
14 point.

15 MS. BENDICH: That's true.

16 HEARING EXAMINER: Then there was a National Register of  
17 Historic Places continuation sheet -- and I certainly have a  
18 list of all of the properties -- would amply identify the  
19 volume. And then there were four or five examples.

20 MS. BENDICH: All right.

21 HEARING EXAMINER: So we pull all of that out.

22 MS. BENDICH: That's fine.

23 HEARING EXAMINER: And then return to you the sheets.

24 MS. BENDICH: Okay.

25 HEARING EXAMINER: We're not going to do that now.

1 MS. BENDICH: Okay.  
 2 HEARING EXAMINER: But we'll do that later.  
 3 MS. BENDICH: That's fine.  
 4 HEARING EXAMINER: And I want to make sure we capture the  
 5 exhibit and what was discussed here, but I want to also not  
 6 have a lot of paper in the record that wasn't actually used.  
 7 MS. BENDICH: I understand. So then, I would move to  
 8 admit those pages from this exhibit that you have  
 9 designated.  
 10 HEARING EXAMINER: And there's no objection, so 92, after  
 11 that cleanup, is admitted.  
 12 (Exhibit No. 92 admitted into evidence)  
 13 MS. BENDICH: Okay.  
 14 HEARING EXAMINER: And we're to cross.

CROSS - EXAMINATION

BY MR. JOHNSON:

18 **Q. Good morning, Mr. Kreisman. I am Dale Johnson. I am**  
 19 **representing the City for today, and I just have some**  
 20 **follow-up questions from Ms. Bendich's questions regarding**  
 21 **your testimony.**  
 22 **You testified that there's teardown and in-fill happening**  
 23 **now in the Bryant neighborhood and that that could extend to**  
 24 **other neighborhoods, including Ravenna; is that a fair**  
 25 **characterization?**

1 **Q. Okay. And then related to that, that presumably if that**  
 2 **were to occur, that neighborhood may no longer meet the**  
 3 **criteria for being designated as a historic neighborhood**  
 4 **under federal, state, or local law; is that right?**  
 5 A. Correct.  
 6 **Q. Okay. Can you draw -- look at the FEIS at page 3.306, if**  
 7 **you still have it there?**  
 8 A. 3.30 -- what did you say?  
 9 **Q. 3.306?**  
 10 A. 306. Okay.  
 11 **Q. And I am just going to direct your attention to the top of**  
 12 **the page, first paragraph. And the first sentence there**  
 13 **says, "Potential decreases to the historic fabric of a**  
 14 **neighborhood are likely to occur if historic buildings are**  
 15 **redeveloped or demolished and new buildings are constructed**  
 16 **that are not architecturally sympathetic to the existing**  
 17 **historic characteristics of a neighborhood." Does that**  
 18 **sentence capture the concern we were just discussing?**  
 19 A. Yes. Absolutely.  
 20 **Q. Okay. And then it goes on to say, "As a neighborhood's**  
 21 **historic fabric decreases, it is likely to meet local and**  
 22 **federal eligibility criteria for consideration as a historic**  
 23 **district." I mean --**  
 24 UNIDENTIFIED SPEAKER: Less likely.  
 25 MR. JOHNSON: I am sorry. Sorry, I --

1 A. Um-hum. That's true.  
 2 **Q. Okay. And does that suggest that there really aren't many**  
 3 **protections, at least regulatory, or systematic protections**  
 4 **for the kinds of homes you were discussing in the**  
 5 **Ravenna/Roosevelt neighborhoods?**  
 6 A. As far as I know, that's true.  
 7 **Q. Okay. And in the context of your discussion of the ongoing**  
 8 **teardown and in-fill throughout Seattle, you also reference,**  
 9 **you know, the fact that this was -- well, strike that. I**  
 10 **won't belabor that point.**  
 11 **And then earlier you testified that -- and again, I am**  
 12 **paraphrasing here, so feel free to correct me if I**  
 13 **mischaracterized what you said, but -- and kind of**  
 14 **throughout your testimony you talked about the importance of**  
 15 **retaining contributing buildings, that is, buildings or**  
 16 **structures that don't necessarily rise to a landmark status**  
 17 **themselves but contribute to the overall of a neighborhood.**  
 18 **And I'm just trying to understand. First of all, is that a**  
 19 **fair characterization?**  
 20 A. That's correct.  
 21 **Q. Okay. So is the concern that the degradation of those**  
 22 **contributing structures will ultimately lead to kind of a**  
 23 **critical mass that could eventually lead to the loss of a**  
 24 **historic neighborhood? I mean, is that what that's about?**  
 25 A. Yes.

1 THE WITNESS: Less likely after that.  
 2 **Q. (By Mr. Johnson) Yes. Did I say? Okay.**  
 3 **As written, does that sentence accurately reflect your**  
 4 **testimony regarding that?**  
 5 A. That's true, yeah.  
 6 HEARING EXAMINER: And I'm sorry, Mr. Johnson. My mind  
 7 was not with you when you mentioned the page.  
 8 MR. JOHNSON: Okay.  
 9 HEARING EXAMINER: Would you do that again? I'm sorry.  
 10 MR. JOHNSON: Yeah. It's page 3.306, and it's -- I was  
 11 referring to the first paragraph, first two sentences.  
 12 HEARING EXAMINER: Potential decreases?  
 13 MR. JOHNSON: Yes. Beginning there and then the following  
 14 sentence.  
 15 **Q. (By Mr. Johnson) Now, could I have you turn to page 3.297?**  
 16 A. Page 3.2.  
 17 **Q. 3.297, so back a few pages.**  
 18 A. And it's just before the -- okay. Yes.  
 19 **Q. First of all -- and I direct your attention to the first**  
 20 **full paragraph on this page, so it begins "There are seven."**  
 21 **Do you see that?**  
 22 A. Yes, I do.  
 23 **Q. And as to the first sentence, "There are seven National**  
 24 **Register historic districts within the urban villages or**  
 25 **proposed expansion areas." Do you know if that's an**

1 MS. BENDICH: Yes.

2

3 REDIRECT EXAMINATION

4 BY MS. BENDICH:

5 Q. On page 306, Mr. Kreisman.

6 A. 306. Okay.

7 Q. And I believe Mr. Johnson read the paragraph that begins  
8 that page?

9 A. That's correct.

10 Q. Okay. So is there any way in here -- I mean, this is a  
11 general statement, is it not?

12 A. It is.

13 Q. And does it really address the upzones that are supposed to  
14 be proposed in the Cowen-Ravenna area as to whether or not  
15 those would absolutely or not increase the demolition of  
16 buildings in that area?

17 A. No. It seems to be a general approach that -- and an  
18 obvious one that there will be decreases in historic fabric  
19 under any kind of movement to redevelop and demolish.

20 Q. In the Ravenna-Cowen area, have you seen -- the area we're  
21 talking about today, have you seen that happen there?

22 A. I have seen a number of cases where buildings have been  
23 demolished and replaced sometimes.

24 Q. Okay. Is this usual in that area?

25 A. It's not very common.

1 A. We were just there.

2 Q. Yes, we were. Never mind. I am just going to go back to  
3 where we were. This was on the page where we were  
4 discussing 3.306. We'll just go back to that.

5 So here, Mr. Johnson pointed out a general statement.  
6 Does the EIS take that general statement of more development  
7 or more loss and apply it to how the upzones would impact  
8 Ravenna, for example?

9 A. No. I don't see anyplace here where it specifically  
10 pinpoints certain neighborhoods and explains what those  
11 impacts would be on any of the areas adjoining the urban  
12 village, the core of the urban village. So I didn't see  
13 that and --

14 Q. What about any of the neighborhoods? I mean, you've  
15 identified there were context statements for many  
16 neighborhoods throughout Seattle. Does it tell you in any  
17 way, shape, or form how this EIS and the proposed upzones  
18 could impact those neighborhoods?

19 A. Well, it gives housing growth under alternatives for the  
20 various urban villages. So there are statistics that are  
21 being presented here as far as growth under the alternative  
22 (inaudible) and preferred alternative, but, you know,  
23 there's not a lot of information other than that.

24 Q. Would it show you by a map or more detail about -- in the  
25 context statement about that, would it help you as a reader

1 Q. Okay. And then going back to -- there was a -- Mr. Johnson  
2 used the word "contributing" as if though those were the --  
3 excuse me. I won't characterize what he said. He didn't  
4 mention noncontributing, historic noncontributing buildings.  
5 Are those important to the whole framework of what a  
6 historic district is?

7 A. And you're saying noncontributing, nonhistoric?

8 Q. No. Historic noncontributing.

9 A. Oh, historic. They are important in that they continue to  
10 reflect the building characteristics of an earlier period.  
11 They just have been changed in some way that one would have  
12 to consider have they been altered beyond the point where  
13 that can be taken back and it will still be very much  
14 appropriate to the streetscape.

15 Q. And in a National Historic District, does it typically  
16 include contributing, historic noncontributing, and even  
17 noncontributing properties?

18 A. It does.

19 Q. And is all of that area considered part of the historic  
20 district?

21 A. It is.

22 Q. Okay. I just have a couple of more questions. There's one  
23 on page 3.297.

24 A. 297?

25 Q. Yeah.

1 understand what the impacts were going to be?

2 A. It doesn't help me -- if I am a property owner in this  
3 district, it wouldn't help me figure out, well, what are  
4 the -- basically the threats to the viability and the  
5 continuing value of my neighborhood in any of these  
6 scenarios. And I think my reading of this is that there's a  
7 lot more concern about these are National Register or these  
8 are Seattle landmarks, but there's less the broad  
9 understanding of community values and the common good in  
10 this rather than --

11 Q. But even with respect to the national Historic Districts and  
12 the abutting national Historic Districts, are they -- let's  
13 take the abutting one. They said there are some that are  
14 around. Are those identified in this EIS?

15 A. No, not that I know. Obviously, I didn't know what they  
16 were, so clueless.

17 MS. BENDICH: No further questions.

18 HEARING EXAMINER: Thank you, Mr. Kreisman.

19 THE WITNESS: You're welcome.

20 MS. BENDICH: Okay. And, Your Honor, I am going to be  
21 leaving, but I will be coming back today so we -- I can pick  
22 up that notebook at that time, unless --

23 HEARING EXAMINER: I am not sure it will be ready by then  
24 or not. Maybe sometime at the next phase of the hearing.

25 MS. BENDICH: Oh, okay. Thank you.

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1 HEARING EXAMINER: So we've got to manage the hearing  
 2 and --  
 3 MS. BENDICH: Okay. Thank you very much.  
 4 HEARING EXAMINER: But we'll get that to you.  
 5 MS. BENDICH: And I ran five minutes over.  
 6 HEARING EXAMINER: Appellant's next witness.  
 7 See you in July.  
 8 UNIDENTIFIED SPEAKER: Yes.  
 9 UNIDENTIFIED SPEAKER: Your Honor, we did discuss this  
 10 morning that we move the City's exhibits from the --  
 11 HEARING EXAMINER: One of these were mine.  
 12 UNIDENTIFIED SPEAKER: -- hearing room, and we'll be doing  
 13 that Monday morning.  
 14 HEARING EXAMINER: Monday's fine.  
 15 UNIDENTIFIED SPEAKER: (Inaudible) from staff.  
 16 HEARING EXAMINER: Yes. We're happy to (inaudible).  
 17 Is the next witness still Carl Guess?  
 18 UNIDENTIFIED SPEAKER: Yes, sir.  
 19 HEARING EXAMINER: Please state your name and spell it for  
 20 the record.  
 21 MR. GUESS: Certainly. Carl Guess. That is C-A-R-L,  
 22 G-U-E-S-S.  
 23 HEARING EXAMINER: And do you swear or affirm the  
 24 testimony you will provide in today's hearing will be the  
 25 truth?

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1 MR. GUESS: Yes.  
 2 HEARING EXAMINER: Thank you.  
 3 MR. GUESS: Thank you.  
 4 MS. TOBIN-PRESSER: I have an --  
 5 HEARING EXAMINER: Please introduce yourself.  
 6 MS. TOBIN-PRESSER: For the record, Christy Tobin-Presser  
 7 on behalf of the Junction Neighborhood Organization. I have  
 8 a copy of notebook exhibits for each of you if that's  
 9 helpful.  
 10 HEARING EXAMINER: Are they in the order that they're  
 11 going to be introduced?  
 12 MS. TOBIN-PRESSER: Roughly. They're each tabbed.  
 13 There's a couple that are out of order.  
 14 HEARING EXAMINER: All right. We'll try to work with  
 15 that.  
 16 MS. TOBIN-PRESSER: Would you like the notebook or do you  
 17 already have the exhibits at hand?  
 18 HEARING EXAMINER: If you haven't introduced them to me,  
 19 then I don't have them.  
 20 MS. TOBIN-PRESSER: Okay.  
 21 UNIDENTIFIED SPEAKER: Thank you. Does this correspond to  
 22 the list of exhibits that you were provided electronically?  
 23 MS. TOBIN-PRESSER: Correct.  
 24 UNIDENTIFIED SPEAKER: Okay.  
 25 MS. TOBIN-PRESSER: It does. There is one that I had

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1 hoped to talk to you about.  
 2 UNIDENTIFIED SPEAKER: Okay.  
 3 MS. TOBIN-PRESSER: But we'll talk about it when we get to  
 4 it. It's...  
 5  
 6 CARL GUESS: Witness herein, having first been  
 7 duly sworn on oath, was examined  
 8 and testified as follows:  
 9  
 10 DIRECT EXAMINATION  
 11 BY MS. TOBIN-PRESSER:  
 12 **Q. Mr. Guess, you did just state your name for the record. Can**  
 13 **you tell us where you live?**  
 14 A. Sure. I live in West Seattle on the outskirts of the  
 15 Junction Urban Village.  
 16 **Q. And do you live in a house or an apartment?**  
 17 A. I live in a house.  
 18 **Q. Have you ever lived in an apartment?**  
 19 A. I have. My wife and I have rented houses in Portland and  
 20 Boston and New York City before buying our home in Seattle.  
 21 **Q. And how long have you owned your current home?**  
 22 A. Approximately 21 years.  
 23 **Q. And what, if anything, has been your involvement in the West**  
 24 **Seattle Junction community?**  
 25 A. Well, I walk through it just about every day. I've got a

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1 dog, and so that takes a little bit of time. I know many of  
 2 the business owners and workers, if not by name, then by  
 3 face. My family and I have participated in the full spate  
 4 of events at the Junction from the Summer Fest to the high  
 5 parade and have marched in the Kiddie Parade, and my oldest  
 6 even lit the Christmas tree at the Junction Plaza Park a few  
 7 years ago.  
 8 **Q. Are you active in this particular appeal that's being heard?**  
 9 A. Yes, I am.  
 10 **Q. And how are you involved?**  
 11 A. The Junction Neighborhood Association, of which I am a  
 12 member, has a committee, the Junction Land Use Committee. I  
 13 am a member of it, and I was tasked with reviewing the  
 14 adequacy and accuracy of two sections of the EIS, "Open  
 15 Space and Recreation" and "Biological Diversity."  
 16 **Q. And what's your educational background, Mr. Guess?**  
 17 A. I have a bachelors degree in English and a minor in computer  
 18 science from Lewis & Clark College, and I have a masters in  
 19 journalism from Columbia University.  
 20 **Q. So have you reviewed the Environmental Impact Statement, a**  
 21 **couple of sections of it?**  
 22 A. Yes.  
 23 **Q. And do you feel able and competent to read and understand**  
 24 **those sections?**  
 25 A. Yes, I do.

## Hearing - Day 6

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

July 23, 2018



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BEFORE THE HEARING EXAMINER  
FOR THE CITY OF SEATTLE

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

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

TRANSCRIBED BY: Bonnie Reed, CET  
Court-Certified Transcription

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1 MR. JOHNSON: No objection.  
 2 HEARING EXAMINER: 115 is admitted.  
 3 (Exhibit No. 115 admitted into evidence.)  
 4 HEARING EXAMINER: And lastly, we have a --  
 5 MR. THALER: We have a notebook.  
 6 HEARING EXAMINER: All right.  
 7 MS. BENDICH: I do have a --  
 8 MR. BRICKLIN: You have an exhibit --  
 9 MR. THALER: Yes. And I have an exhibit to turn in, but  
 10 no number until he gets it.  
 11 HEARING EXAMINER: Right.  
 12 MS. BENDICH: I need to check the actual exhibit, because  
 13 when I was looking at my own, I found a couple of pages that  
 14 were missing from it, and I brought those pages in case --  
 15 HEARING EXAMINER: We'll do that after the break.  
 16 MS. BENDICH: Okay. Thank you.  
 17 (Recess)  
 18 MS. BENDICH: Mr. Examiner, I did have one question --  
 19 HEARING EXAMINER: Let's wait until we're on the record.  
 20 MS. BENDICH: Oh, okay. I'm sorry.  
 21 HEARING EXAMINER: And you can be seated, if you like.  
 22 MS. BENDICH: Okay. I appreciate your staff doing Exhibit  
 23 92, which is the Application for the National Historic  
 24 District for Ravenna-Cowen, but Ms. Johnson wasn't here  
 25 then, and I'm not sure whether the correct pages got in.

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1 HEARING EXAMINER: All right. Why don't you bring that to  
 2 our attention now.  
 3 MS. BENDICH: Okay. So --  
 4 HEARING EXAMINER: We'll get through that now.  
 5 Ms. Johnson did not do it, I did it --  
 6 MS. BENDICH: I know. I know.  
 7 HEARING EXAMINER: -- so --  
 8 MS. BENDICH: So --  
 9 HEARING EXAMINER: I did. So --  
 10 MS. BENDICH: I know. And I --  
 11 HEARING EXAMINER: -- she didn't have anything to do with  
 12 it.  
 13 MS. BENDICH: And I -- maybe I misunderstood your ruling,  
 14 but my understanding was that the historic -- this history  
 15 section would remain in. And that is the first part. And  
 16 it went up to page 90.  
 17 HEARING EXAMINER: Not in total, no.  
 18 MS. BENDICH: Oh, no?  
 19 HEARING EXAMINER: No.  
 20 MS. BENDICH: Okay.  
 21 HEARING EXAMINER: The sections that were referenced by  
 22 testimony.  
 23 MS. BENDICH: Only?  
 24 HEARING EXAMINER: Yes.  
 25 MS. BENDICH: Okay. All right. Because I was doing

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1 drafts on my closing argument and using some of those pages,  
 2 so that's why I wanted the whole history in there.  
 3 So -- and they're not -- so descriptions of Ravenna Park,  
 4 for example, are in that section. And we've had  
 5 descriptions of Ravenna Park, but I don't know whether it  
 6 was specifically mentioned in there. But I was going to use  
 7 that, because it has a nice picture and various other  
 8 things.  
 9 So I would ask you to reconsider to include the history  
 10 section in the -- as the exhibit in 92. And I will have  
 11 another witness being -- testifying about the application  
 12 later on this week, so...  
 13 HEARING EXAMINER: Why don't you allow that -- can you  
 14 have that witness introduce that, then? Because right now  
 15 we're just --  
 16 MS. BENDICH: Okay. That's what I'll do.  
 17 HEARING EXAMINER: -- the witness actually introducing  
 18 that item, and that was not what the item was that was  
 19 introduced at that time.  
 20 MS. BENDICH: All right. So I will just have them  
 21 introduce all of -- that part of it. Okay. Thank you very  
 22 much for that clarification. Okay. Now, I believe we're on  
 23 to the next witness.  
 24 HEARING EXAMINER: All right.  
 25 MS. BENDICH: My name is Judith Bendich. In this

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1 instance, I am actually representing SCALE. I've been asked  
 2 to do this particular witness on behalf of SCALE. And this  
 3 is Mr. Tom Veith.  
 4 HEARING EXAMINER: Please state your name and spell it for  
 5 the record.  
 6 THE WITNESS: Thomas Veith, T-H-O-M-A-S; V as in  
 7 Victor-E-I-T-H.  
 8 HEARING EXAMINER: And do you swear or affirm the  
 9 testimony you will provide in today's hearing will be the  
 10 truth?  
 11 THE WITNESS: I do.  
 12 HEARING EXAMINER: Thank you.  
 13  
 14 THOMAS VEITH: Witness herein, having first been  
 15 duly affirmed on oath, was examined  
 16 and testified as follows:  
 17  
 18 DIRECT EXAMINATION  
 19 BY MS. BENDICH:  
 20 Q. Okay. Mr. Veith, would you please state your educational  
 21 history for us?  
 22 A. I have a Bachelor of Arts in environmental design from the  
 23 University of Washington 1975, and a Master of Architecture  
 24 from the University of Washington 1991.  
 25 Q. And do you have any postgraduate work or certifications or

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1 licenses?  
 2 A. I have certificates in computer-aided drafting and building  
 3 information modeling from North Seattle College.  
 4 **Q. Okay.**  
 5 MS. BENDICH: I want to state for the record that we are  
 6 not introducing Mr. Veith as an expert witness. He's going  
 7 to be a fact witness, if there was any concern about that,  
 8 Mr. Johnson.  
 9 MR. JOHNSON: Thank you.  
 10 **Q. (By Ms. Bendich) And have you been engaged in any volunteer**  
 11 **activities?**  
 12 A. Yes. Among those since then I was a volunteer member of the  
 13 Neighborhood Planning Advisory Committee, which was the  
 14 city-wide guided neighborhood planning in the '90s. I've  
 15 been a member of the Wallingford Chamber of Commerce and the  
 16 Wallingford Community Council. I've been an officer on the  
 17 Community Council. I've been a member -- I was a member of  
 18 the Seattle Landmarks Board from 19 -- from 2003 until 2011.  
 19 **Q. Okay. And is there an organization that you're currently**  
 20 **working on regarding Wallingford?**  
 21 A. Yeah. I'm a member -- I'm a trustee for the Historic  
 22 Wallingford.  
 23 **Q. And what is that organization about?**  
 24 A. This is a -- we're still formulating our precise description  
 25 of our goals, but it's mainly oriented about educating

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1 people about and preserving components of the cultural and  
 2 historical background of Wallingford.  
 3 **Q. And what's your current employment?**  
 4 A. I am an instructor, and I am the program coordinator for  
 5 Engineering Graphics and Design Technology at North Seattle  
 6 College.  
 7 **Q. Okay. Now, let's go back to your graduate school days.**  
 8 A. All right.  
 9 **Q. When you were a graduate student at the University of**  
 10 **Washington, did you write a thesis?**  
 11 A. I did.  
 12 **Q. And what was that about?**  
 13 A. That was a review of -- a history of the career of Architect  
 14 Arthur Loveless, and then a review of his career and his  
 15 buildings using a particular aesthetic philosophy.  
 16 **Q. And postgraduation from the University of Washington, did**  
 17 **that thesis lead you into doing other things?**  
 18 A. Yes, it did. As a result of the -- my work with several  
 19 historians in the community, I became involved with the  
 20 editing and writing of Shaping Seattle Architecture.  
 21 **Q. And if you can just -- and has that gone through two**  
 22 **editions?**  
 23 A. Yes. This is the 1994 edition.  
 24 **Q. And Mr. -- we're not putting these in as an exhibit, we're**  
 25 **just holding them up.**

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1 A. This is the 2014 edition.  
 2 **Q. Okay. And are those -- those books, are those still used**  
 3 **today?**  
 4 A. Yes.  
 5 **Q. Okay.**  
 6 A. Well, obviously --  
 7 **Q. Yeah.**  
 8 A. -- people will prefer the more recent edition, but they're  
 9 both in use.  
 10 **Q. And what sections did you write in there?**  
 11 A. I wrote five of the -- this is a collection of articles on  
 12 Seattle architects. I wrote five of the chapters. And in  
 13 addition, I contributed to some of the other chapters and to  
 14 the appendices.  
 15 **Q. Okay. And have you done any other writing?**  
 16 A. Well, of course, I've written this -- a Preliminary Sketch  
 17 of Wallingford's History with a 4 Culture grant, and that  
 18 became the context statement for the Wallingford  
 19 neighborhood on the Department of Neighborhoods' website.  
 20 These are pamphlets that were done. I was a part of each  
 21 of these groups. These were done while I was in graduate  
 22 school. This is called "Architecture Building and  
 23 Profession, the First 100 Years of AIA in Seattle,  
 24 Washington." And this was written with Clair Enlow, who's a  
 25 writer for the Seattle Daily Journal of Commerce.

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1 Here's a copy of my thesis.  
 2 **Q. Okay.**  
 3 A. And then there's a -- for the -- Seattle's Inventory of  
 4 Historic Buildings. I've written several entries for that,  
 5 and this would be the kind of thing I would have written for  
 6 that.  
 7 **Q. So those that you're holding up are from the Department of**  
 8 **Neighborhoods' website?**  
 9 A. That is correct.  
 10 **Q. Okay. So is there anything in any of your books -- let's**  
 11 **say the one on -- that's 130 years of history, the context**  
 12 **statement, Wallingford -- that you consider is significant**  
 13 **that you would like to point out to the Hearing Examiner?**  
 14 A. Well, I -- of course, this is a -- tries to trace the  
 15 development of the neighborhood both in terms of physical  
 16 terms and culturally from its initial development through to  
 17 1985.  
 18 And it contains information on the development pattern in  
 19 the neighborhood, the platting pattern, and the general  
 20 progress of building in the neighborhood, including the  
 21 periods of most building activity, which was in the teens  
 22 and '20s -- the 1910 to 1920 area.  
 23 And it also talks about the cultural development in the  
 24 neighborhood that was informing that construction in those  
 25 periods.

1 **Q. And do -- does any of that -- I mean, the platting, the --**  
2 **what you've just described, does that still exist today in**  
3 **the neighborhood?**

4 A. Much of it does. Of course, the platting doesn't change,  
5 except for occasional amendments. And I would have to say  
6 the Wallingford neighborhood is probably completely platted  
7 at this point.

8 The platting pattern, the development pattern along the  
9 street car lines, the development of the commercial  
10 districts and the residential districts all still inform  
11 after 100 years the character of the neighborhood and the --  
12 anyone prowling in the neighborhood, most of the buildings  
13 you will see are going to be buildings from that period and  
14 are going to be characteristic of a particular period in  
15 architectural history, and a particular style of building.

16 **Q. Okay. Have you also done work for the City of Seattle?**

17 A. I have.

18 **Q. And would you tell us what that is?**

19 A. I have done a number of things. The most important probably  
20 were my historic surveys. The Wallingford neighborhood is  
21 one of those surveys with -- I also did a context statement  
22 for South Park, another for the central area. And I did a  
23 context statement that accompanied the survey of pre-1906  
24 buildings throughout Seattle. That was done with Greg Lang,  
25 who actually did probably more of the actual survey work.

1 **Are these normally done for a windshield survey?**

2 A. Normally not, but some of the surveyors have gone into more  
3 detail with the buildings, and I would probably count myself  
4 as one of the more detail-oriented surveyors.

5 **Q. Okay. So do you actually get a surveying form from the City**  
6 **of Seattle?**

7 A. I do.

8 **Q. And do you have actually -- again, we're just going to show**  
9 **it. We're not going to put it into exhibit. But just so we**  
10 **can --**

11 A. I actually am not actually sure I have it.

12 **Q. Oh, okay.**

13 A. So...

14 **Q. Well, if you don't, you don't. Okay. So any other work**  
15 **that's uploaded -- and was this particular survey that you**  
16 **did of Wallingford, was that uploaded to the Department of**  
17 **Neighborhoods' Historic Resources Program site?**

18 A. Yes. It's all -- each entry was -- well, each form, the  
19 information was taken and entered digitally, along with the  
20 description of the property and some sort of assessment of  
21 significance. And that information is all available online  
22 from the Department of Neighborhoods' website.

23 **Q. So how many -- what was the parameters of this study that**  
24 **you were given from the City of Seattle?**

25 A. I was looking for historic buildings, which means buildings

1 And -- well, those are the primary items, but I also did  
2 an assessment of a building in the international district  
3 that was being looked at for some sort of landmark action.

4 **Q. And have you done actual -- you mentioned the difference**  
5 **between there's a survey versus a context statement. Have**  
6 **you done actual -- you mentioned South Park.**

7 **Have you done actual surveys --**

8 A. Well --

9 **Q. -- let's say in Wallingford, for example?**

10 A. Yes, I did a fairly extensive survey of Wallingford. It  
11 started out as a windshield survey, but with several of the  
12 buildings I got into quite a bit of detail. I looked at  
13 building permits, assessor's records, Polk directory,  
14 references and other works, such as in the Folke Nyberg,  
15 Victor Steinbrueck Seattle -- historic Seattle survey done  
16 in the late '70s.

17 And there -- the sources for the various -- and on each of  
18 the survey entries are listed and there may be some that  
19 I've neglected to mention.

20 **Q. So what year was this study?**

21 A. So I did the most of the survey work in the summer of 2004.  
22 I think the context statement, which accompanied it, was  
23 completed in 2005.

24 **Q. So you've mentioned all kinds of records that you've**  
25 **reviewed.**

1 of a certain age. And for the -- in the city, they have to  
2 be at least 25 years old, but most of the buildings I was  
3 looking at were at least 50 years old.

4 And the purpose of the survey was to identify previously  
5 unidentified potentially historic properties, and to  
6 identify mainly properties that were either in a very good  
7 condition or very significant in their degree of  
8 representing a certain style, a certain period, a certain  
9 connection with an event or a person.

10 And we had very -- some more stringent criteria, for  
11 example, if it appeared that both the siding and windows had  
12 been replaced, the building probably would not qualify for  
13 the survey. But if the building was in its closest original  
14 form, it had its original siding or the siding had been  
15 repaired in kind, and the same with the windows, then it  
16 would be admitted onto the survey.

17 **Q. So in this survey, have you actually been -- did you**  
18 **actually do some photos of the properties, then, also?**

19 A. Yeah. So I walked the entire neighborhood, I looked at  
20 every residential building in the neighborhood, I filled out  
21 a survey form, and I took a photograph, and the photograph  
22 is -- at least one of the photographs is in the inventory  
23 entry on the city database.

24 **Q. So if you go to the -- you've gone to this database before;**  
25 **is that correct?**

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1 A. Yeah.

2 **Q. If you go to the database and you type in "Wallingford,"**

3 **what pops up?**

4 A. You will get a list of buildings that the -- that are

5 identified as Wallingford structures, and we do have a copy

6 of that list.

7 **Q. Okay. But on the website itself --**

8 A. Right.

9 **Q. -- so it has the list by address; is that correct?**

10 A. That's correct.

11 **Q. But it has -- on the left-hand side, it says "view."**

12 A. So if I press -- if you press the "view" link, that will

13 take you to the inventory entry, and you'll see the entire

14 entry plus the photograph.

15 **Q. Okay. So is it -- is this really a complicated process to**

16 **do if you know what the URL is?**

17 A. It's not complicated at all. Matter of fact, you don't need

18 to know the URL. You can go to the -- just go to the

19 website, Department of Neighborhoods' website, and follow

20 the links to the preservation program, to the inventories,

21 and to the particular -- the search page. And you can

22 search by address, by architect, by style.

23 **Q. And by neighborhood?**

24 A. And by neighborhood, yes.

25 **Q. And so you had -- you did this walking throughout**

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1 **Wallingford.**

2 A. Yes.

3 **Q. How many buildings did you actually look at?**

4 A. I didn't do an exact count, though that's possible, but my

5 estimate was a little over 4,000 buildings.

6 **Q. And of those buildings, how many did you actually believe**

7 **should be in this state of -- well, in part of your survey**

8 **of historic resources?**

9 A. I filled out 500 and -- with one -- within one or two of 520

10 inventory forms, and almost all those were entered into the

11 database.

12 **Q. And if you had to do it over again, would you have added**

13 **more?**

14 A. I probably would for two reasons. One is that I was told to

15 find about 500. And by the time I -- I was careful about

16 adding buildings to the inventory in the western edge of the

17 neighborhood, because I was beginning. I wasn't sure of

18 what I would find. Which is the whole purpose of the

19 windshield survey is to uncover things that maybe you

20 weren't aware of.

21 And then -- but as I moved towards the eastern boundary of

22 the neighborhood, I was already approaching the limit of how

23 many I could do. And in addition, this was done 14 years

24 ago, and I'm smarter, wiser, more adept at identifying

25 significant features of buildings, and there are probably a

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1 few that if I were to review again today I'd be more anxious

2 to include them on the inventory.

3 MS. BENDICH: If you could pass this over, please, and

4 have it marked. This is SCALE Exhibit 172.

5 HEARING EXAMINER: Marked as 117.

6 (Exhibit No. 117 marked for identification.)

7 **Q. (By Ms. Bendich) And do you have a copy of that exhibit in**

8 **front of you, Mr. Veith?**

9 A. Yes, I do.

10 **Q. So this, when we talk about it, it's going to be Exhibit**

11 **172. So just if you would mark that --**

12 MR. JOHNSON: 117.

13 MS. BENDICH: Oh, I'm sorry. 117. Sorry. Yes.

14 **Q. (By Ms. Bendich) So if you could, when you refer to it,**

15 **refer to it by that number.**

16 **Okay?**

17 A. All right.

18 **Q. Okay. So what is this Exhibit 117?**

19 A. This is a list of buildings from the Wallingford

20 neighborhood, as identified on the inventory, and it

21 consists -- I think there's 14 pages. There's 624 addresses

22 listed on the document.

23 **Q. Okay. And if you take a look at the left side, it says**

24 **"view."**

25 A. Yes.

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1 **Q. Is that what you were referring to that you can actually, if**

2 **you have the URL and you were there, you could actually**

3 **click on it and see the whole thing; right?**

4 A. Yes, you could.

5 **Q. Okay. And do you have any examples of what those look like?**

6 A. Yes. So --

7 **Q. Just hold them up. We're not putting them into evidence.**

8 A. Yeah. So these are examples of what you would find. This

9 particular one was done by another surveyor, but -- so there

10 is a significant statement, there is an appearance place on

11 the form, and then various headings for categorizing the

12 building we're going to --

13 MR. BRICKLIN: 16 --

14 MS. BENDICH: No, we don't have --

15 MR. BRICKLIN: Okay. No?

16 MS. BENDICH: No resume.

17 A. -- time period style, materials used. And these all design

18 to make the database searchable. And then there's a

19 photograph.

20 When the database was first set up, there wasn't a lot of

21 room, so small photographs were typical. As the database,

22 the computer capabilities, the city grew, the photographs

23 became more numerous and larger.

24 **Q. Okay. Thank you. Now, in addition, I'd like to -- if we**

25 **can pass this over.**

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1 MR. THALER: These are the copies that we made here.  
 2 MS. BENDICH: Yeah. Okay.  
 3 HEARING EXAMINER: Marked as 118.  
 4 (Exhibit No. 118 marked for identification.)  
 5 **Q. (By Ms. Bendich) This is -- now, if you'll just mark on**  
 6 **yours. It's Exhibit 118. And what does 18 --**  
 7 MR. JOHNSON: Excuse -- sorry. Excuse me.  
 8 MS. BENDICH: Oh, I'm sorry. It's SCALE Exhibit 173.  
 9 MR. JOHNSON: Thank you.  
 10 MS. BENDICH: Uh-huh.  
 11 **Q. (By Ms. Bendich) Okay. So what is 118?**  
 12 A. This is a map of a portion of the Wallingford neighborhood,  
 13 and each dot represents an inventory entry. So it shows you  
 14 a distribution of the inventory entries across the  
 15 neighborhood.  
 16 **Q. And so, just so we have some context here, about the middle**  
 17 **of the page it says North 45th Street. And then it has a**  
 18 **big road -- what appears to be a big road on the right.**  
 19 **And is that the freeway?**  
 20 A. Yes. The large road on the right is the freeway, and on the  
 21 left is a road going through Woodland Park, which is Aurora.  
 22 **Q. All right. And so have you actually counted by taking a**  
 23 **look at the addresses the numbers of historic resources**  
 24 **represented by these dots that are within the Wallingford**  
 25 **urban village boundary?**

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1 A. I have. So I have looked at the Exhibit 117. I counted 624  
 2 entries. Four of them are actually addresses outside of  
 3 Wallingford, and one of them is duplicated. So there are  
 4 actually 619 properties in the Wallingford neighborhood, and  
 5 those are the properties that are represented by the dots on  
 6 Exhibit 118.  
 7 **Q. But have you taken also a look at the boundaries of the**  
 8 **urban village itself?**  
 9 A. Yes, I did. The boundaries weren't on the map when it was  
 10 originally handed to me, so I've added the boundaries to the  
 11 map.  
 12 **Q. So we -- go ahead.**  
 13 A. And then I initially counted the dots to see how many  
 14 properties were in the boundary. Because some of them were  
 15 on the border and I couldn't tell what side they were on, I  
 16 systematically went through the list of properties to  
 17 determine which ones were within the urban village and which  
 18 ones were not.  
 19 **Q. Okay. So I'd like to have this marked as an illustrative**  
 20 **exhibit, and I'll give a copy to you, Counsel.**  
 21 MR. BRICKLIN: Is this the same one as the prior one, but  
 22 just with the border?  
 23 MS. BENDICH: This is the same as Exhibit 118, but it just  
 24 has a border, a black border around it.  
 25 MR. BRICKLIN: All right.

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1 **Q. And is that black border the lines of the Wallingford urban**  
 2 **village, these three?**  
 3 A. Yeah. Those are the boundaries of the Wallingford urban  
 4 village.  
 5 **Q. And just for context here, so the Hearing Examiner**  
 6 **understands where that is to be found --**  
 7 HEARING EXAMINER: You asked for it to be marked?  
 8 MS. BENDICH: Yes.  
 9 HEARING EXAMINER: But you said illustrative exhibit?  
 10 MS. BENDICH: Yes. I would like it to be an exhibit,  
 11 so...  
 12 HEARING EXAMINER: So what are you asking?  
 13 MS. BENDICH: I'd like it to be an exhibit.  
 14 HEARING EXAMINER: All right. So it's marked as Exhibit  
 15 1 --  
 16 MS. BENDICH: But I have not -- I previously identified it  
 17 to the -- to Counsel for the City, so I just wanted to make  
 18 sure that --  
 19 HEARING EXAMINER: So there's no such thing as marking an  
 20 illustrative exhibit.  
 21 MS. BENDICH: I understand that. Okay.  
 22 HEARING EXAMINER: So you've asked me to do that.  
 23 MS. BENDICH: I have. So I would like --  
 24 HEARING EXAMINER: What are you asking?  
 25 MS. BENDICH: I would like to make it an exhibit, but I am

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1 just pointing out to Counsel that this was not listed on  
 2 our origi- -- on SCALE's original exhibit list.  
 3 However, it's based entirely on the exhibit of -- that has  
 4 the map, which was provided, that's 118. And this is simply  
 5 putting an overlay on it by Mr. Veith from his testimony.  
 6 And I will also point out for the Hearing Examiner that a  
 7 map, an actual map of the urban -- of the Wallingford urban  
 8 village is found in Appendix H.  
 9 HEARING EXAMINER: Let's deal with the exhibit first.  
 10 MS. BENDICH: Okay.  
 11 HEARING EXAMINER: Before we get to --  
 12 MS. BENDICH: Okay. So --  
 13 HEARING EXAMINER: We've got several exhibits that have  
 14 been introduced. Are you looking to admit them?  
 15 MS. BENDICH: Yes, I am. 117 and 118, and this would be  
 16 119.  
 17 HEARING EXAMINER: 19.  
 18 MS. BENDICH: Yes.  
 19 MR. JOHNSON: No objection.  
 20 MS. BENDICH: Okay.  
 21 HEARING EXAMINER: 117, 18, and 19 are admitted.  
 22 (Exhibit No. 119 marked for identification.)  
 23 (Exhibit Nos. 117, 118, and 119 admitted into evidence.)  
 24 HEARING EXAMINER: We also have introduced during the  
 25 break what's been identified as 116. This was the document

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1 referenced from the last witness from the Appellants.  
 2 MR. BRICKLIN: Oh. Mr. Thaler's provided that to you?  
 3 MR. THALER: Dr. Richardson's paper?  
 4 HEARING EXAMINER: Yes. Uh-huh.  
 5 MR. BRICKLIN: Oh.  
 6 MR. THALER: Good.  
 7 HEARING EXAMINER: Yes.  
 8 MR. THALER: 116?  
 9 HEARING EXAMINER: Yes.  
 10 MR. THALER: Thank you.  
 11 HEARING EXAMINER: Everyone got a copy? Any objection?  
 12 MR. MITCHELL: No objection.  
 13 HEARING EXAMINER: 116 is also admitted.  
 14 (Exhibit No. 116 marked and admitted.)  
 15 HEARING EXAMINER: Thank you, Ms. Bendich. Please  
 16 continue.  
 17 MS. BENDICH: Okay. So -- I just -- in case the Hearing  
 18 Examiner wished to take a look at the actual urban village  
 19 that's in the urban village map that is in the EIS, that is  
 20 found at Appendix H, page 80.  
 21 HEARING EXAMINER: Are you going there now with the  
 22 witness?  
 23 MS. BENDICH: Or it's --  
 24 HEARING EXAMINER: That -- are you --  
 25 MS. BENDICH: I can. I will. Okay.

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1 **Q. (By Ms. Bendich) So Mr. Veith, when you were drawing this**  
 2 **map, what were you looking at?**  
 3 A. So I was looking at a copy of -- I have the number written  
 4 here. So it was a copy of this map from page H-80 in the  
 5 EIS. Appendix H, page 80, exhibit -- of Exhibit 1. So  
 6 looking at this map, and I transferred the information as  
 7 close as I could, comparing the scale of the map to this  
 8 drawing --  
 9 **Q. Okay.**  
 10 A. -- to Exhibit 119.  
 11 **Q. All right. So you've done that. So we now have in front of**  
 12 **us Exhibit 19, which has the boundary lines of the**  
 13 **Wallingford urban village. And -- but that map at this**  
 14 **exhibit doesn't show the upzoning that's being proposed,**  
 15 **which is found on the -- at Appendix H, page 80?**  
 16 A. Right.  
 17 **Q. So -- and you've looked at this appendix; right?**  
 18 A. (No verbal response.)  
 19 **Q. And what's your concern about the zoning -- preferred zoning**  
 20 **that's being recommended here by the City in the EIS?**  
 21 A. Well, there are several areas here on the exhibit where  
 22 single-family zones are being -- the zoning is being changed  
 23 from single-family to various low-rise zones, and these are  
 24 identified by the hatching. The single-family areas are  
 25 being changed are these light gray with the hatching, and

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1 they cover a substantial part of the urban village. There  
 2 are also changes to some of the low-rise zones, which are  
 3 the darker brown, and with hatching. And there are changes  
 4 to the heights allowed in the commercial zones, especially  
 5 along 45th Street.  
 6 Now, of course these will -- there are several historic  
 7 buildings from the inventory that are in this area where the  
 8 zoning is changed. And in particular, there's I think 26  
 9 buildings on the inventory that are along 45th Street.  
 10 And they suggest -- well, they embody the historic scale  
 11 of that neighborhood and the increases in height in the  
 12 zoning put the individual buildings at danger and also will  
 13 affect the overall scale and character of the street if the  
 14 street is built out to the zoning -- to the new zoning.  
 15 **Q. So I believe you stated earlier that this Northeast 45th**  
 16 **Street over to I guess goes to parts of North 45th Street,**  
 17 **that developed as a result historically.**  
 18 **There was a trolley line that ran along there?**  
 19 A. Well, there are three separate trolley lines that I am aware  
 20 of that ran through it. And in the core of the 45th Street  
 21 community, which is between Meridian and Densmore, there was  
 22 a trolley that came up Wallingford, turned east along 45th,  
 23 and then turned north again on Meridian. And at that turn  
 24 or crook in the trolley line, that was the beginnings of  
 25 that commercial district.

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1 And that -- in that area there, several of the inventory  
 2 buildings were located, and the -- they also tend to be the  
 3 historically most interesting buildings on the 45th Street  
 4 corridor.  
 5 But there are buildings inventoried that are stretched  
 6 along the entire corridor, except where I think at the west  
 7 end there's been a few have gone missing as a result of the  
 8 develop under the current standards.  
 9 **Q. Are you also familiar with the University District?**  
 10 A. I am.  
 11 **Q. So University Way. Are you familiar with University Way?**  
 12 A. I am.  
 13 **Q. And does that have a large number of smaller buildings and**  
 14 **buildings that -- some apartment buildings that are pretty**  
 15 **old?**  
 16 A. It does. And it has a distinctive character there as well.  
 17 And anybody who's attended the university, that district is  
 18 called The Ave. And that's -- it's a familiar historical  
 19 district, and it's -- because of its character, it's very  
 20 walkable, and so a center for commerce and interest in the  
 21 area.  
 22 **Q. So the area that's in Wallingford along 45th Street, does**  
 23 **that have a similar favor -- flavor to it that the**  
 24 **university Ave does?**  
 25 A. It does. And I think they're -- that is one of the

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1 characteristics of the street that makes it very appealing  
 2 and it makes it an attractor for people from all over the  
 3 city.  
 4 **Q. And the zoning that's being proposed here goes how many**  
 5 **feet?**  
 6 A. Well, it varies from area to area. In the core area on  
 7 one -- on the north side of the street, it goes from NC240  
 8 to NC255 on the south side. From NC2P65 to NC2P75.  
 9 **Q. So that's 75 feet high?**  
 10 A. That's correct.  
 11 **Q. That's close to eight stories?**  
 12 A. That's correct. Could be eight stories if --  
 13 **Q. And other sections of it, how many -- you say 55 -- or 65?**  
 14 A. Well, going from 40 to 55 on the north side of the street in  
 15 the core -- the historic core, what I call the historic  
 16 core, but all along the 45th Street corridor, the heights  
 17 seem to be increased.  
 18 The majority of the core goes from -- I mean, the majority  
 19 of the street goes from NC2P40 to NC2P65, according to this  
 20 graphic in the EIS.  
 21 MS. BENDICH: So if you could pull up this one. This is  
 22 SCALE Exhibit 176, and I'd like it marked, please.  
 23 HEARING EXAMINER: Marked as 120.  
 24 (Exhibit No. 120 marked for identification.)  
 25 **Q. (By Ms. Bendich) Do you have what's now Exhibit 120 in**

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1 **front of you, Mr. --**  
 2 A. I do.  
 3 **Q. Okay. And is this a section of photographs?**  
 4 A. This is a collection of photographs. The initial pages  
 5 show -- so the initial pages from the cover, page 1,  
 6 until -- through page 9 show buildings in or near the  
 7 Wallingford urban village that are already landmark  
 8 structures.  
 9 **Q. And that --**  
 10 A. City landmarks.  
 11 **Q. So that's city landmarks?**  
 12 A. And some of them are also listed on the National Register of  
 13 Historic Places.  
 14 **Q. So one of them, the second photograph in, it says 1629 North**  
 15 **45th Street?**  
 16 A. That's correct.  
 17 **Q. So that's a landmark building?**  
 18 A. The Wallingford Fire and Police Station. The architect's  
 19 Daniel Huntington who designed this while he was city  
 20 architect. I think it's a -- dates from about 1912, 1913.  
 21 And this is at the corner of Densmore and 45th, which is at  
 22 the west end of what I call the historic core 45th Street.  
 23 **Q. So would it be important in your view to maintain character**  
 24 **and scales surrounding that building?**  
 25 A. Well, the building can stand on its own, but it is important

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1 and valuable to have the building remain in its context, so  
 2 its contribution to the streetscape and the -- its  
 3 relationship to the streetscape remains apparent. And in  
 4 that case, you would want to maintain the scale and the  
 5 surrounding area, if possible.  
 6 And that would be particularly important if, for example,  
 7 you wanted to include these landmarks as key structures in a  
 8 district.  
 9 **Q. Okay. And is there anything -- oh. Have you read chapter**  
 10 **3.5 of the EIS?**  
 11 A. I have.  
 12 **Q. Is there anything in there that indicates that there is a**  
 13 **historic -- a landmark historic building right within the**  
 14 **core of the Wallingford urban village that might need some**  
 15 **attention here with respect to this upzoning?**  
 16 A. Well, there's no listing of individual buildings at all, as  
 17 far as I can tell, in section 3.5 of the EIS.  
 18 **Q. Okay. But if you went to the Department of Neighborhoods'**  
 19 **site, would that have landmark buildings in the City of**  
 20 **Seattle?**  
 21 A. Yeah. So there is also a list of landmark buildings in the  
 22 city at the neighbor -- Department of Neighborhoods'  
 23 website. And I think the link is actually on the same page  
 24 that has -- contains the link to the inventory.  
 25 **Q. So this would have been easy to find, then; right?**

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1 A. Yeah. It would have been easy to find. There's a list  
 2 of -- I think between -- somewhat over 400 buildings in the  
 3 city that are landmarked. And I think seven of those  
 4 buildings are in the Wallingford neighborhood, and five of  
 5 them are in the urban village.  
 6 **Q. Okay. And then the next section here says, "Landmarked**  
 7 **buildings after --" following that, those photographs --**  
 8 **"Landmarked buildings near the Wallingford urban village."**  
 9 A. So they're near the village, so the John Stanford School is  
 10 at the northeast corner of the neighborhood -- southeast  
 11 corner of the neighborhood, and Gas Works Park is at the  
 12 south end of Wallingford neighborhood --  
 13 **Q. But that's not within --**  
 14 A. They're not --  
 15 **Q. -- Gas Works --**  
 16 A. They're not within the urban village, no.  
 17 **Q. But if -- and then we have a third section here, starting on**  
 18 **page -- it's got 10, page 10 on the right-hand side. It**  
 19 **says, "Examples of historic buildings in the Wallingford**  
 20 **urban village." And have you -- if you would just take us**  
 21 **on a quick --**  
 22 A. Quick.  
 23 **Q. -- walking tour here, a picture tour.**  
 24 A. So there are a couple of departures from the title here.  
 25 For example, the building on page 11 is in the urban

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1 village, but it's not on an inventory. And I thought it was  
 2 worth looking at this, because if a surveyor were to look at  
 3 this today, they might include it.  
 4 I did not include it, because when I was doing the survey,  
 5 this building was being remodeled, and I didn't know what  
 6 the quality of the building would be after the remodeling  
 7 was complete, so I did not include it on the inventory. But  
 8 you can see it's a building of some character.  
 9 There is a building at 4117 Whitman on page 13, which is a  
 10 potential landmark quality building, and that's noted on the  
 11 inventory entry.  
 12 The building on page 14 is an eclectic-style building with  
 13 shingle-style and craftsman elements. It's called a  
 14 vernacular-style house. That's probably inaccurate. I did  
 15 not prepare these photographs, but I reviewed them all.  
 16 On page 15 is a building at 1203 North Allen. This is  
 17 also a landmark quality building in my opinion. It's  
 18 actually one of the best examples of craftsman bungalow in  
 19 the neighborhood, and perhaps in the city. And that's  
 20 partly because it also incorporates an extensive garden,  
 21 which is typical to the style.  
 22 I'm not going to go through every item here. There's a  
 23 bungalow court building described as a bungalow court,  
 24 though it's actually a Tudor cottage-style development on  
 25 page 16.

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1 **Q. You're --**  
 2 A. There are two apartment buildings on pages 19 and 20, and a  
 3 third apartment building on page 21 that are interesting.  
 4 Another group of row houses similar to the Tudor cottages on  
 5 page 22.  
 6 The lone remaining historic building near the corner of  
 7 Stone Way and 45th is at 4512. It's shown on page 23.  
 8 There are --  
 9 **Q. So this one at Stone Way, which is now the Blue Star Cafe**  
 10 **and Pub?**  
 11 A. Uh-huh.  
 12 **Q. This is what you're referring to. This is right at -- right**  
 13 **next to 45th Street, basically; right?**  
 14 A. It's -- there is a parking area between 45th Street and this  
 15 building, but if you stand at the corner of 45th and Stone  
 16 Way, it's the remaining historic building on that corner,  
 17 visible from that corner. So there are a couple of churches  
 18 here.  
 19 **Q. So these churches -- well, just going to page 24 here, where**  
 20 **it's at 4600 Sunnyside.**  
 21 A. Yes.  
 22 **Q. Is that -- it says it's built in 1913. And is that in an**  
 23 **area that's going to be upzoned as well?**  
 24 A. It is. And it's actually -- it's only a block off 45th, so  
 25 it'll be -- let's see -- it's in a -- what I believe is a

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1 residential area. I don't have it marked on the zoning map,  
 2 but it is across the street from an area that will be  
 3 upzoned.  
 4 **Q. Okay. Anything else you want to show us or point out in**  
 5 **this exhibit?**  
 6 A. Well, there's a variety of styles. There's an interesting  
 7 stick-style house on page 27. There's an arts and crafts  
 8 colonial revival-style house on page 29. There's a  
 9 prairie-style house on page 30.  
 10 And these are all styles that were popular and often  
 11 considered proto-modern styles in the early 20th -- built in  
 12 the early 20th century. And they tend to occur throughout  
 13 the Wallingford neighborhood, particularly the craftsman  
 14 bungalows. And several of those are illustrated.  
 15 For example, on page 26 there's a craftsman house. The  
 16 building on page 30, the prairie-style house has some  
 17 craftsman elements at the porch. And the building on page  
 18 31 is another craftsman bungalow, and you can see that the  
 19 house next door, the -- on -- actually, on either side are  
 20 also craftsman-style houses.  
 21 There is an example of a house that's just outside the  
 22 village on page 34. It's -- I think the person who made the  
 23 photograph made an error there. But it's -- it would be  
 24 affected by upzoning across the street.  
 25 And the building on 35 -- on page 35 is an American

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1 four-square or sometimes called a classic box building. And  
 2 this is the style that was popular throughout the city in  
 3 between 1900 and 1910. But this is a pretty nice example of  
 4 it.  
 5 **Q. Mr. Veith.**  
 6 A. Yes.  
 7 **Q. Let me just stop you for a minute. You said that even**  
 8 **though something is not squarely within the boundaries of**  
 9 **the urban village, it's right across the street from it.**  
 10 **And you said that it would be impacted.**  
 11 **What did you mean by that?**  
 12 A. Well, if the upzoning results in the destruction of numerous  
 13 houses on the other side of the street, it changes the  
 14 context for the building. And so that has an impact on that  
 15 structure, and also it can put some zoning pressure on those  
 16 properties.  
 17 But the main thing is that it affects the character of the  
 18 buildings as a whole. So there are two things you might do  
 19 with the information in the inventory. One of them is to  
 20 designate additional landmarks. But a second course would  
 21 be to formulate and designate historic districts in Seattle.  
 22 There are examples of this.  
 23 Controls for designated landmarks are fairly stringent.  
 24 In many cases, districts are somewhat less stringent, but  
 25 they're designed to protect the character of the district as

1 opposed to the character of the individual house.  
 2 And when you see the district, the area around a building  
 3 change fairly radically in character and in style, then  
 4 those buildings outside -- just outside the district also  
 5 can suffer the change -- that change in character.  
 6 **Q. So I'm sorry to interrupt you.**  
 7 **Do you have any other photos here you want to point out?**  
 8 A. Well, there are several more here. I guess the two I would  
 9 like to look at -- there's a building on page 37, and this  
 10 is an example of what I was talking about before about being  
 11 older and wiser.  
 12 So this building is on the survey and is in -- close to  
 13 the heart of the urban village. At the time, I thought of  
 14 it as kind of a late Queen Anne house. But actually, this  
 15 is a very interesting structure, because it incorporates  
 16 what's called a vernacular gable front and wing structure,  
 17 and that's indicated by the differing detail on the front  
 18 gable and the side gable to which some late Queen Anne  
 19 detailing has been added.  
 20 So it's an especially interesting structure. And in fact,  
 21 if you look at the inventory entry, in addition to the notes  
 22 that are indicated here, it indicates that when the Nyberg  
 23 Steinbrueck study was done in '76, '77, this was noted as a  
 24 particular -- a building of particular interest. And --  
 25 **Q. So it's been intact for over -- well, it's been intact since**

1 A. I have.  
 2 **Q. Have you read it carefully?**  
 3 A. Well, I've -- yeah, I've read it a couple times. I've made  
 4 some notes.  
 5 **Q. Okay. Is there anything -- and remember, you're not talking**  
 6 **as an expert here, but just a person who's read this, and**  
 7 **you have some knowledge, so you're allowed, at least to talk**  
 8 **about how it -- what you saw here.**  
 9 **What is it that you found significant here?**  
 10 A. Well, there's a couple of things. I -- probably the most  
 11 important thing is although the section starts out with the  
 12 statement that it provides analysis of potential impacts to  
 13 historic resources and cultural resources in the study area.  
 14 In fact, it doesn't really mention any particular  
 15 resource. It doesn't -- it doesn't even list numbers of  
 16 resources that might be impacted. And it doesn't deal in  
 17 any concrete way with what the actual impacts of the change  
 18 would be on the individual resources.  
 19 And it's kind of disturbing, because there's a lot of  
 20 information available. There's the inventory entries, there  
 21 are the context statements for the neighborhoods, there are  
 22 the designated landmarks.  
 23 And the report attempts to summarize some of its findings  
 24 and tables, and the tables are kind of misleading.  
 25 **Q. So what are you referring to? Do it by page number, for**

1 **1901, but it --**  
 2 A. Right.  
 3 **Q. -- it was part of a survey even done back in the mid-'70s?**  
 4 A. Right.  
 5 **Q. Okay. And it's still intact. Okay.**  
 6 **Anything else you want to point out?**  
 7 A. Well, there are a couple of examples on page 41 and 42 of  
 8 Dutch Colonial structures, and these became popular in the  
 9 '20s, and often designed by the same pair of architects who  
 10 did several of the craftsman bungalows in the teens and the  
 11 early years of the 20th century.  
 12 And I could talk about all these, because I'm kind of  
 13 excited about all of them, but I think that gives you an  
 14 idea of the character of the buildings in the village.  
 15 **Q. Okay.**  
 16 MS. BENDICH: If not done, I would like to move the  
 17 admission of Exhibit 120.  
 18 MR. JOHNSON: No objection.  
 19 HEARING EXAMINER: 120 is admitted.  
 20 (Exhibit No. 120 admitted into evidence.)  
 21 **Q. (By Ms. Bendich) So, now turning your attention to the**  
 22 **chapter on historic resources in the MHA final environmental**  
 23 **impact statement.**  
 24 A. Yeah.  
 25 **Q. Have you read that?**

1 **example.**  
 2 A. Yeah. So for example, we see on page 3-302, Exhibit 3.5-4,  
 3 we -- there's a list there of neighborhoods, and Xs to  
 4 indicate whether that neighborhood has a -- has properties  
 5 listed in the historic resource database, whether the  
 6 systematic inventory was conducted, and the -- and whether a  
 7 historic statement was prepared.  
 8 And on that for the Wallingford community, all three of  
 9 those boxes are X'd. In other words, there is -- there are  
 10 properties listed on the database, the neighborhood was  
 11 systematically inventoried and a historic context statement  
 12 has been prepared. However, if you turn to Exhibit 3.5-1,  
 13 we see Wallingford listed in the second batch of  
 14 neighborhoods.  
 15 **Q. Could you just slow down here?**  
 16 A. Yeah.  
 17 **Q. So what's the page number you're looking at?**  
 18 A. Oh, I'm sorry. Page -- so the exhibit is 3.5-1. It's on  
 19 page 3-298. And we see here that the -- this is a chart for  
 20 NHRP, which is National Register of Historic Places.  
 21 Actually, the initials are in the incorrect order there.  
 22 Determined eligible historic properties by typology in urban  
 23 village. And there's a zero next to Wallingford.  
 24 And while that may be true, it kind of misses the whole  
 25 point of all the data that's available from the city. So

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1 being listed on the national historic register is not  
 2 really -- it's more of an honorific designation. It doesn't  
 3 really protect a structure in any way or control the  
 4 structure in any way, unless federal funds were involved  
 5 with a project that will affect the structure.  
 6 While the city landmarks ordinance, which is more -- which  
 7 is restrictive, and which is -- or which is regulatory. And  
 8 this table does not -- I mean, correctly from the title of  
 9 the table does not indicate which properties might meet that  
 10 criteria.  
 11 In fact, if you look at the survey entries, you will find  
 12 that there are several properties where it's noted that the  
 13 property would qualify for landmark status. And so a  
 14 person -- the -- you know, the average person reading this  
 15 document sees that an inventory has been conducted, and then  
 16 sees that -- you know, an exhibit suggesting that nothing of  
 17 value has been found in the Wallingford neighborhood.  
 18 And I think that leads to an incorrect response. So this  
 19 is one way in which the document fails to really assess the  
 20 impacts on the structures we know are there.  
 21 **Q. So here we have this Exhibit 3.5-1, which is the National**  
 22 **Register of Historic Places, and it lists every single urban**  
 23 **village, and it has a number of structures that are in that**  
 24 **urban village.**  
 25 **Do you understand why you couldn't do the same thing for**

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1 **the -- just list every single one of the urban villages and**  
 2 **put a number next to how many buildings in that neighborhood**  
 3 **have been inventoried that are on the Department of**  
 4 **Neighborhoods' website?**  
 5 A. Well, you should be able to do that. In the case of -- you  
 6 could also show the number that are actually in the urban  
 7 village and that are -- in other words, that are likely to  
 8 be rezoned, and you could also give a sense of how many of  
 9 those are estimated to be to qualify for the city's landmark  
 10 designation, which is, you know, if you were going to go for  
 11 a designation of some sort, you obviously would wish to use  
 12 the city's regulatory designation rather than the -- rather  
 13 than rely solely on the federal designation.  
 14 **Q. Okay. Anything else that struck you about -- well, there's**  
 15 **some maps in here on page 3.300. And again, these are just**  
 16 **the National Register of Historic Places maps.**  
 17 **So when you look at that and you look at Wallingford, what**  
 18 **do you see?**  
 19 A. It says there there are no National Register of Historic  
 20 Places determined eligible properties in Wallingford, and  
 21 that -- so that indicates -- that suggests that there's  
 22 nothing of interest here. And that's obviously not true.  
 23 **Q. So just with respect to what you just did here, you took**  
 24 **the -- all the information from the Department of**  
 25 **Neighborhoods' inventory. They're all on dots on a map, and**

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1 **then you just drew a border around it --**  
 2 A. That's --  
 3 **Q. -- and looking at Exhibit 19 --**  
 4 A. 119?  
 5 **Q. Yeah, 119. Would you have liked to have seen something like**  
 6 **that in this EIS?**  
 7 A. Well, I think it would have been more informative than the  
 8 graphic we were provided with. And I think if the number of  
 9 structures indicated -- I mean, if the number of structures  
 10 located in the village would have been indicated, it would  
 11 give the reviewer more sense of what the impacts might have  
 12 been at the bare minimum to do that, and perhaps talk in  
 13 some detail about how they -- how the zoning might have been  
 14 better laid out or determined or proposed in order to deal  
 15 in some way with the fact that these historic structures and  
 16 the associated neighborhood character would be impacted by  
 17 the development that's suggested by the zoning.  
 18 **Q. So turning back to the chapter 3.5, is there anything else**  
 19 **in there that you were concerned about?**  
 20 A. Well, one is this statement in 3.5.1, which is on the first  
 21 page of section 3.5, that they -- the study (inaudible) are  
 22 very general detail, because a more in-depth examination  
 23 would not be appropriate for a programmatic EIS. There's a  
 24 big philosophical problem I have with that. And that is if  
 25 you leave the discussion of the impacts for a case-by-case

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1 look at each property after the zoning has been put in  
 2 place, which is what the purpose of the City's proposal is,  
 3 then you're looking at a different environment at that point  
 4 than you are at this point in time.  
 5 In other words, you state that you're -- that you don't  
 6 need to do anything now because of the changes that are  
 7 proposed will be dealt with at the -- on the case-by-case  
 8 basis as those projects come to -- before the City.  
 9 But in fact, the environment that you're discussing at  
 10 that point is a different environment. You're talking about  
 11 the new zoning. You're not talking about the old zoning.  
 12 So the whole question of how the implementation of the  
 13 zoning is going to affect the property cannot be discussed.  
 14 So in other words, the EIS, for a -- for the individual  
 15 project will assume the zoning that's proposed.  
 16 And at that point, it's really too late to deal with the  
 17 impacts that are due to the zoning change. So I have a  
 18 philosophical issue with basically saying we're not going to  
 19 look at this carefully, because we're going to wait later  
 20 for each project to be discussed.  
 21 **Q. So anything else here in this EIS that caused you any**  
 22 **concern or you want to comment on?**  
 23 A. Well, there are some comments that do deal with Wallingford.  
 24 For example, on page 3-299, there's a statement from a  
 25 survey done by Mimi Sheridan, and it's summarized in the

1 report as saying, "Other neighborhoods still retain aspects  
2 of their historic fabrics, such as Wallingford, which was  
3 noted to contain one of the city's best examples of early  
4 20th century craftsman bungalow neighborhoods." And this is  
5 citing Sheridan, 2002.

6 **Q. And I just want to stop you. We already have Exhibit 45 in  
7 evidence of that study by Mimi Sheridan.**

8 A. Yeah. So actually, Ms. Sheridan's report I believe was  
9 recommending to the City that they do a careful inventory of  
10 the bungalows exactly for the purpose of making sure we had  
11 a record, and fairly complete information about this  
12 historic fabric.

13 And I think the assumption here was that that study might  
14 engender a consideration of the district. And since  
15 Ms. Sheridan had reviewed the commercial structures in the  
16 district and had determined some of them to be eligible for  
17 landmark status, that they might also be included in that  
18 kind of district. So although it mentions this, it  
19 doesn't -- the report doesn't anywhere say what the impacts  
20 of the proposal would be.

21 **Q. Okay. Anything else? Because we're kind of at our time  
22 limit.**

23 A. Okay. So I think those are -- the statement that's made at  
24 3.5.2 that the MHA program would not directly impact any  
25 historical or cultural resources.

1 **historical cultural resources. But that's not the complete  
2 sentence there; is it?**

3 A. Okay. So, "But development allowed by the MHA program could  
4 impact these resources indirectly by affecting decisions to  
5 demolish or redevelop historic-aged properties or construct  
6 new properties on land, and may contain belowground cultural  
7 resources." So that's correct. I did not read the  
8 entire --

9 **Q. Okay.**

10 A. -- sentence.

11 **Q. So isn't it true that the FEIS in this section is pointing  
12 out impacts that could result from the MHA program to  
13 existing historic-aged properties?**

14 A. Well, I don't think you're providing any information that  
15 wasn't known before the report was written. In other words,  
16 you're saying there may -- there may be an impact, but you  
17 don't say what that impact is other than what it might be.

18 **Q. Now, you also talked about -- you said that you were -- and  
19 I don't want to put words in your mouth. But you took issue  
20 with the idea that the assessment of impacts of a project on  
21 historic resources should be occurring after the zoning  
22 change has been made. Do you recall your testimony --**

23 A. Yeah. So the --

24 **Q. -- on that issue?**

25 A. Yeah. The point there was that I think the purpose of the

1 And even given the information that's in the report, that  
2 seems to be a comment that can't be supported by the chapter  
3 itself, and it certainly wouldn't be supported if you look  
4 carefully at the inventory or the list of designated  
5 landmarks or the general character of the neighborhood and  
6 its suitability for being included in a -- some sort of  
7 historic district.

8 **Q. Okay.**

9 MR. BRICKLIN: I'm sorry. What was the page number on  
10 that?

11 THE WITNESS: The page is 3-304 in section 3.5.2, with the  
12 various percents.

13 MR. BRICKLIN: Thank you.

14 MS. BENDICH: Okay. Thank you, Mr. Veith.

15 So I'm finished with re- -- with direct.

16 HEARING EXAMINER: Cross?

17  
18 CROSS EXAMINATION

19 BY MR. JOHNSON:

20 **Q. Mr. Veith, I'm Dale Johnson. I represent the City. A few  
21 follow-up questions based on Ms. Bendich's examination,  
22 maybe starting where we left off.**

23 **If you could direct your attention to page 3.304 of the  
24 FEIS, paragraph 3.5-2. And you said that the EIS states  
25 that the MHA program would not directly impact any**

1 EIS is to assess the impacts of the zoning change. But if  
2 you're looking at projects after the zoning change is made,  
3 then the zoning change is part of the existing environment,  
4 and you're not -- so you're not -- you're only dealing with  
5 the -- you're basically setting up a new environment that  
6 the developer or the neighbors of the development will have  
7 to address later.

8 **Q. Okay. But you're not suggesting that zoning -- the zoning  
9 dictates the protections that a historic building may or may  
10 not receive; right? I mean, there are protections that a  
11 building would -- a historic -- a landmark, for instance.**

12 A. Right.

13 **Q. Okay. There are protections afforded that particular  
14 structure; is that correct?**

15 A. Well, the zoning can have an influence on what the owner of  
16 the property believes they're entitled to.

17 **Q. Okay.**

18 A. So in that sense, it can have an effect. It can also have  
19 an effect on the general character of the neighborhood.

20 **Q. Understood. What I'm asking you is, is whether or not you  
21 agree that the zoning is not what affords protection to  
22 designated landmarks. It's a separate set of regulations or  
23 statutes; isn't that right?**

24 A. In Seattle, that's true, but it is -- zonings are some --  
25 there are sometimes overlays, zoning overlays that can be

HEARING EXAMINER: Redirect?

REDIRECT EXAMINATION

BY MS. BENDICH:

Q. Does chapter 3.5 identify any landmarks anywhere in the city?

A. I did not see any reference to a specific landmark anywhere in the city.

Q. Okay. And when you mention -- you mentioned two things. Mr. Johnson asked you about landmark buildings. But then there's also what we call neighborhood districts.

A. Right.

Q. What were you referring to there?

A. Well, there are several historic districts that have been identified and formulated, codified by the City, and these districts vary from one to another. But within these districts in general, there are guidelines which guide new development in the district and also the remodeling or adjustment of existing structures in a district, particularly buildings that are called contributing structures.

And these -- the -- with the goal of maintaining the character of the district as a whole, but not necessarily protecting individual buildings to the same degree that they would be protected if they were a designated landmark.

bungalow neighborhoods. A survey should be conducted to identify and evaluate them."

And she's not making a specific proposal for our district, but obviously if you -- once you've identified and evaluated the structures that are available in a particular neighborhood, then a determination could be made whether they should be designated landmarks, whether they might be suitable for inclusion in the district, or if they are buildings of interest, but not requiring any particular action.

Q. Okay. And just to -- so you can complete your sentence here. Turning again to Exhibit 3.5-1. Starts at, actually, page 3.300 and 3.301.

What was your point about this?

A. Well, I -- my point is that it's -- by pointing only to the historic resources that are deemed eligible properties for the purpose of the National Register of Historic Places, you're neglecting the city rules and controls and the survey information itself.

And so when you put a zero next to Wallingford on Exhibit 3.5-1 and on page 3-298, that suggests to a reviewer or to any individual reading the review that that was the important thing to consider, and that the city's inventory really doesn't matter. It just seems like it would have been easy enough to include -- if you're going to make a

Q. And is there also something called a state historic register district -- and I'll ask two questions at the same time -- and a national historic register district?

A. Yeah. Well, I can say for certain that there are national historic districts. I am less clear about the law when it comes to the state, so I can't say for certain.

Q. Okay. And how -- what's included in a national historic district?

A. Well, the district will be generated -- somebody will propose the extent of the district and the types of structures that would be included. They might include -- they could include contributing buildings, which are buildings that embody the character that the district is designed to protect or continue.

And then there will be -- there are also included noncontributing buildings, which might be buildings outside of the period of significance of the district or might be newer buildings don't -- that are -- that did not even exist when the district was formulated.

Q. Okay. So when you referred to Ms. Sheridan, Mimi Sheridan's study, what specifically was she suggesting with respect to Wallingford; do you recall?

A. I'll just read it here. She had a recommendation, "Wallingford has an extensive collection of early 20th century homes, including some of the city's best craftsman

chart like this, to include at least another column that indicated how many buildings were on the inventory, how many buildings are landmarks, how many buildings on the inventory were proposed eligible for protection under the city's ordinance, rather than relying completely on a reference to a register that, in fact, does not do any of those things.

Q. Thank you, Mr. Veith.

MS. BENDICH: Mr. Hearing --

HEARING EXAMINER: Mr. Veith, I have a question for you.

EXAMINATION

BY HEARING EXAMINER:

Q. It looks to me for -- on 3.298 chart where we've got the National Register of Historic Places that, if my math is correct, there's -- there are 111 properties on there. And I'm going to ask you a couple questions about -- that relate from that. If you don't --

A. Can you say what page it --

Q. Yes. 3.298.

A. So that's the Exhibit 3.5- --

Q. Uh-huh.

A. -- 1? Yeah?

Q. And if you don't know the answers to this --

HEARING EXAMINER: Or if Counsel thinks that there was another witness, please direct (inaudible).

## Hearing - Day Seven

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

**July 24, 2018**



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Hearing - Day Seven - 7/24/2018

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BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

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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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HEARING, DAY SEVEN - JULY 24, 2018  
Heard Before Hearing Examiner Ryan Vancil

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Court-Certified Transcription

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1 **Dan Nelson that you didn't have any personal involvement**  
 2 **with the work of the racial equity review team?**  
 3 A. This particular set of work?  
 4 **Q. Correct.**  
 5 A. That's correct.  
 6 **Q. You didn't have any personal involvement?**  
 7 A. That's correct.  
 8 **Q. And as to the Exhibits 131 through 142, the document, the**  
 9 **work of that team, is it correct that these were all**  
 10 **comments dealing with the draft Environmental Impact**  
 11 **Statement?**  
 12 A. No.  
 13 **Q. It's not correct?**  
 14 A. My recollection is the -- excuse me. I flipped my thinking.  
 15 You're correct. They're comments for the draft  
 16 environmental EIS, and they were finalized and submitted  
 17 after the final EIS was published.  
 18 **Q. But they're not comments on the content of the final**  
 19 **Environmental Impact Statement?**  
 20 A. They should have been included in the draft EIS so that  
 21 there is information to the community that says (inaudible)  
 22 that it's -- I apologize. That said racial and social  
 23 equity was considered. In the absence of including those  
 24 comments, he gave the community the implication that racial  
 25 and social justice and (inaudible) was done and that it was

1 HEARING OFFICER: It's all right. Nothing to be sorry  
 2 about.  
 3 Any redirect?  
 4 MR. THALER: No, Your Honor.  
 5 HEARING OFFICER: Thank you for your testimony,  
 6 Ms. Batayola.  
 7 THE WITNESS: Thank you.  
 8 MR. THALER: I'll call Mr. Levitus.  
 9 HEARING OFFICER: We'll take a recess.  
 10 MR. THALER: All right.  
 11 HEARING OFFICER: We'll come back. Let's just say 17  
 12 after --  
 13 MR. THALER: Okay.  
 14 HEARING OFFICER: -- to give us all 15 minutes.  
 15 MR. THALER: Okay. All right.  
 16 (Recess)  
 17 HEARING OFFICER: Okay. We'll return with Appellants'  
 18 next witness.  
 19 MR. BRICKLIN: All right. We'll call David Levitus.  
 20 HEARING OFFICER: Please state your name and spell it.  
 21 MR. LEVITUS: Hello. My name is David Levitus.  
 22 D-A-V-I-D, L-E-V-I-T-U-S.  
 23 HEARING OFFICER: And do you swear or affirm the testimony  
 24 you will provide in today's hearing will be the truth?  
 25 MR. LEVITUS: Yes, I do.

1 adequate. At the beginning of council, when we filed --  
 2 when we filed our appeal, we had assumed --  
 3 MR. BRICKLIN: Does she need water? Offer her some water.  
 4 THE WITNESS: Toby, I can cry and I can continue.  
 5 MR. THALER: Yeah.  
 6 THE WITNESS: I need to just do this.  
 7 We had assumed that the racial equity analysis was done  
 8 properly. And I know, having been part of the City in the  
 9 formative years on racial and social justice, that I  
 10 believed -- I believed that the City had done it right. And  
 11 so in our appeal, we had appealed because of the lack of  
 12 specificity, we had appealed because of lack of  
 13 alternatives, we had appealed because of our environmental  
 14 justice issues. And to find out those EJ issues were  
 15 actually called out by the Office of Sustainability and  
 16 Environment when, in fact, on summary judgment that critical  
 17 life issue (inaudible) was thrown out, and the lack of  
 18 concurrency, to see that the Department of Transportation --  
 19 there was one also that I saw from City Light saying they  
 20 hadn't even considered all of that, densification of the  
 21 north part of Beacon Hill, and to see that that information  
 22 was not included, it feels like a betrayal.  
 23 MR. WEBER: I have nothing further.  
 24 THE WITNESS: I'm sorry.  
 25 MR. THALER: Don't be sorry.

1 HEARING OFFICER: Thank you.  
 2 MR. THALER: This one here is clean and --  
 3 MR. LEVITUS: Oh, is that?  
 4 MR. THALER: Yeah. And feel free to --  
 5 MR. LEVITUS: Thank you.  
 6  
 7 DAVID LEVITUS: Witness herein, having first been  
 8 duly sworn on oath, was examined  
 9 and testified as follows:  
 10  
 11 DIRECT EXAMINATION  
 12 BY MR. BRICKLIN:  
 13 **Q. Good morning, Mr. Levitus. Would you please tell the**  
 14 **Examiner a little bit about your background, who you are and**  
 15 **what kind of work you do?**  
 16 A. Sure. So I'll start with my education. I earned my  
 17 bachelors in history and economics at New York University.  
 18 My focus there, I did an honors thesis about urban  
 19 development policy in New York, New Jersey, which was --  
 20 they were cited by the National Endowment on the Humanities.  
 21 I did a graduate research paper about a low-income housing  
 22 program in New York City. And then I came to the University  
 23 of Southern California, where I completed my masters and  
 24 PhD, officially in history, but I had three exam fields, and  
 25 one of those was in urban studies, building off my

1 coursework in urban history, geography, quantitative  
2 methods. And I became an expert in patterns of metropolitan  
3 development over the last century. And as -- during my time  
4 in grad school, I became a reviewer for a leading journal  
5 called "Urban History," including papers on the equity  
6 implications of patterns of metropolitan development. And  
7 so that's my educational background.

8 I, as professional experience, first started in housing in  
9 college, worked for the former general counsel of the  
10 New York Housing Department in his legal practice doing  
11 research on specific cases and looked -- tracking housing  
12 policy, as well as kind of the day-to-day work of his time  
13 in the housing court there.

14 Since -- during grad school and since then, I've been very  
15 active in a variety of issues in Los Angeles, where I've  
16 lived for the last 13 years, including from 2013 to 2016 I  
17 was the prime leader of a community organizing network  
18 called LA Voice to work on affordable housing. I was  
19 involved in that organization's work with a very  
20 broad-ranging coalition called ACT-LA, which sought to  
21 increase equitable development, especially around transit,  
22 and was very active in crafting a policy that eventually  
23 became a ballot initiative which passed in November of 2016,  
24 Measure JJJ, and was a -- was kind of a -- was an  
25 inclusionary zoning ordinance both around transit and for

1 that's what that process involved, yes.

2 **Q. Okay. Continue.**

3 A. And last, I had a role, public service, in an elected  
4 official city body, the West LA-Sawtelle Neighborhood  
5 Council, which includes approximately about 35,000 people  
6 within it, its borders. I was an at-large board member  
7 elected by the community, and I was vice chair of the  
8 planning and land use management committee. And in that  
9 role, I was tasked with reviewing proposed developments  
10 across the entire area, which was experiencing rapid growth  
11 and providing official feedback to the city planning  
12 department, the city council. And I also participated in  
13 some early comments on the Expo Transit Corridor  
14 Neighborhood Plan that I mentioned earlier.

15 **Q. Okay. And what were you retained to do for SCALE?**

16 A. Sure. So I was retained to review the EIS, kind of assess  
17 its adequacy concerning housing impacts, including  
18 displacement, segregation, racial and social inequity, and  
19 related matters, including, you know, relevant alternatives.

20 **Q. And what did you do to prepare for your testimony?**

21 A. So I reviewed and assessed the EIS, including its analysis  
22 of impacts and range of alternatives presented. And I based  
23 that on my firsthand experience, really kind of in the  
24 weeds, researching and designing inclusionary housing and  
25 zoning policy and working on zoning extensively, my academic

1 the whole city. And I was very active in developing that  
2 and pushing for it.

3 My current profession, I do some writing, academic  
4 writing, but my principal job is I'm the executive director  
5 of a nonprofit called LA FORWARD working on a variety of  
6 social justice issues in Los Angeles, and that includes  
7 continuing to serve on the host community, the primary  
8 governance body of this ACT-LA coalition, on several of its  
9 committees and really shaping its work on -- whether it's  
10 engaging with the local metro agency, community plan updates  
11 and neighborhood planning, and statewide planning  
12 legislation. And in that role, I've reviewed and analyzed,  
13 given testimony about an inter-neighborhood plan called the  
14 Exposition Transit Corridor Neighborhood Plan, gave  
15 testimony at city council, and also was less involved but  
16 involved in a South LA, Southeast LA community plan,  
17 neighborhood plan process.

18 And then in terms of other public service --

19 **Q. And just stopping you there --**

20 A. Oh, yeah. Sure.

21 **Q. -- for half a second.**

22 A. Sure.

23 **Q. And did that include review of the environmental review  
24 documents for that, for those projects?**

25 A. Right. Yeah. So in California they're called EIRs, and

1 expertise, background in patterns of urban development over  
2 the long term from 1900 to the present, and then I also  
3 consulted -- additionally, I consulted relevant professional  
4 academic literature around inclusionary zoning, displacement,  
5 and that sort of thing.

6 **Q. All right. So what I've done with a number of experts is  
7 have them first sort of hit the bullet points. And I know  
8 you're not wild about bullet points, but if you could  
9 explain to the Examiner first what your main takeaways are,  
10 and then we'll go back through them in a little more detail.**

11 A. Sure. So I'll start with some of my conclusions about the  
12 range of alternatives that -- well, let me just say it. I  
13 think that the EIS failed to consider a reasonable range of  
14 alternatives that would have accomplished the stated  
15 objectives without kind of the negative impacts of the  
16 proposals that were included. And really, four main points  
17 on that, possible alternatives.

18 One is higher in-lieu fees or a tiered system of in-lieu  
19 fees. The higher the fee, the further away from the  
20 development site in order to encourage more on-site  
21 developments in the interest of preventing kind of  
22 segregation and displacement in a particular neighborhood.

23 Number two, to increase the MHA affordable housing  
24 requirements for -- consider those for study. The other  
25 peer cities have done much higher, and that wasn't -- it

1 wasn't adequately considered.

2 **Q. When you say --**

3 A. Yeah.

4 **Q. -- the affordable housing requirements, how is that**

5 **different than the fee, or is this -- include that but more**

6 **or?**

7 A. It includes that. It's the performance and/or payment

8 requirements.

9 **Q. So the first point related to just the payment, the second**

10 **point relates to both performance and payments?**

11 A. Yes.

12 **Q. Okay.**

13 A. And the third point, I think there could have been more

14 detailed consideration given to allowing neighborhood

15 planning to drive the allocation of increased density. That

16 potentially could have reduced negative impacts and

17 increased the positive impacts. We don't fully know because

18 that wasn't done.

19 And then, fourth, I think there are multiple methods for

20 accomplishing the City's objects, because around the country

21 inclusionary zoning policies vary at least on four

22 variables. Actually, far more, but four key ones: Do they

23 include incentives, or are they just, you know, requirements

24 without incentives attached for the developers to build

25 affordable housing? Do they include an option for in-lieu

1 So the first one is, so the EIS was crafted,

2 Alternative 3, to reduce displacement by placing more of the

3 upzones in areas that theoretically had lower displacement

4 risks, but I argue that the EIS method for discerning which

5 areas had higher and lower displacement displacement risks

6 was flawed, untested, not peer reviewed, and produces

7 results inconsistent with peer cities. And additionally,

8 it's contradictory within the EIS. There's confusing and

9 inconsistent statements about the amount of displacement

10 expected to occur in areas that supposedly have these low

11 displacement rates. It has limited predictive utility.

12 So, number two, I believe that the EIS provided

13 contradictory information about the displacement impacts on

14 market-rate housing without suggesting adequately to the

15 decision-makers or the public how to make sense of that

16 contradictory information. And the main tool that the EIS

17 disclosure of displacement impacts uses to assess if new

18 housing construction creates displacement was a very

19 simplistic statistical tool, a correlation analysis that

20 resulted in really misstating and not fully flushing out

21 what the impact of new housing in a given neighborhood is.

22 And, you know, there are better tools, basically, available,

23 that were not considered or included and that would have

24 taken into account key issues like context, you know, the

25 context of a particular area, issues around timing. Does

1 fees as a way to not have to do performance on site? Are

2 they voluntary, like Seattle's previous incentive zoning

3 program, or are they mandatory, like this proposed action?

4 And their geographic scope. Are they, you know, a fee that

5 applies to all development in every part of the City, like

6 some cities do with linkage fees, or are they limited to

7 certain neighborhoods?

8 And the impacts of these programs vary, and, you know, I

9 think that a lot of these different options are feasible.

10 They've been used successfully elsewhere, there's

11 documentation of it, and I think it would have been wise for

12 the -- in my professional opinion, for the EIS to have

13 considered and addressed the impacts associated with one or

14 more of these options.

15 **Q. And is it your understanding that those options would have**

16 **satisfied the City's objectives in -- as stated in the EIS?**

17 A. Yes.

18 **Q. All right. And then did you -- so those are your four key**

19 **takeaways with regard to alternatives. And then did you**

20 **also have takeaways with regard to the EIS's discussion of**

21 **impacts?**

22 A. I did. So I have four main points about the discussion of

23 impacts. I thought it was flawed in four key respects.

24 First -- and these -- a lot of it's about issues around

25 displacement impacts.

1 new housing cause displacement? And does displacement occur

2 in anticipation of new housing? Does it occur with a

3 significant lag that wouldn't have been fully accounted for

4 in the analysis that was done?

5 **Q. Third point?**

6 A. The third point, so --

7 **Q. So what --**

8 A. Yeah.

9 **Q. Actually, were those first two with regard to displacement**

10 **in the market-rate housing market?**

11 A. This was with -- it was about how market-rate housing can

12 potentially directly cause displacement and the inadequacy

13 of the analysis of that.

14 **Q. Okay. And the third point?**

15 A. The third point is about -- particularly, it's about the

16 income-restricted segment, otherwise known as subsidized

17 units or affordable units. I believe there was a failure to

18 accurately assess how -- what the projected geographic

19 distribution of this income-restricted units would be.

20 The --

21 **Q. So now we're talking about using public dollars to build**

22 **housing --**

23 A. Right.

24 **Q. -- for folks who can't afford housing?**

25 A. Right. Using -- especially using the pot of money from the

1 in-lieu fees --

2 **Q. Right.**

3 A. -- which are relatively attractive to build affordable

4 housing.

5 **Q. Okay. And so this is about the geographic distribution of**

6 **those units?**

7 A. Right. Correct. And the EIS basically assumes that --

8 makes an assumption they will be distributed around the city

9 in proportion, equal proportion to the general growth of

10 population in the city. That's not supported with any

11 evidence. I believe that an accurate assessment would have

12 disclosed a probability that these units will

13 disproportionately to be constructed in lower-income areas

14 resulting in greater displacement and segregation than

15 acknowledged in the EIS.

16 **Q. All right. And the fourth point?**

17 A. And the fourth point is about the interaction of both -- of

18 new market-rate development and the placement of

19 income-restricted units. So there was not a -- really an

20 assessment of kind of the key matter of timing and

21 sequencing, so when considering the efficacy of

22 income-restricted unit construction in relation to market

23 units. And what I mean is that when -- to the extent that

24 like income-restricted housing is an attempt to keep some of

25 the people in the neighborhood that's at -- that are at risk

1 excluded. And I believe there was several distinct

2 alternatives that would have basically provided more

3 affordable housing and also in conjunction with adding

4 capacity for market-rate housing so that the benefits and

5 burdens of growth are equitably shared, which is another

6 objective of the EIS. And these alternatives potentially

7 would have done so with lesser impacts.

8 My assessment really was that the alternative -- all of

9 the alternatives included had very slight differences and

10 there was no differences in program design, slight

11 quantitative changes, quantitative changes in where the

12 development was happening, but no kind of different types of

13 programs that would have accomplished the objective, which

14 should have been considered.

15 **Q. So when you say different kinds of programs, so you're**

16 **saying that all the alternatives in the EIS included the**

17 **same structure of an MHA -- of a perform or pay a fee? The**

18 **fee was the same in all the alternatives; is that right?**

19 A. That's my understanding, yes.

20 **Q. And there's a gradation of the fees. They're varied across**

21 **geography and by the amount of the upzone? That whole fee**

22 **table --**

23 A. Sure.

24 **Q. -- was set, didn't vary from alternative to alternative?**

25 A. Right.

1 of being displaced, the EIS ignores these questions of lag,

2 and, you know, if those units can't be built until many

3 years after the market-rate housing goes in can cause -- or

4 they -- those units have to be built in a whole other

5 neighborhood entirely, it has the potential to create --

6 accelerate displacement, and that was not discussed

7 adequately.

8 **Q. All right. So now let's go back through those one at a time**

9 **and deal with them a little more slowly. And so the --**

10 **let's start, the first group were related to the**

11 **alternatives analysis. And the first one -- well, I guess**

12 **before we get into even the first one, what was kind of your**

13 **overall framework for analyzing whether the alternatives**

14 **were appropriate for the -- given the objectives that are**

15 **stated?**

16 A. Sure. So, you know, obviously law that, you know,

17 alternatives considered in the EIS have to be limited to

18 those that are consistent with the proposal's objectives and

19 reasonable range of number. It's totally fair. That's the

20 law, obviously. But there are alternatives that fit this

21 cool concept of (inaudible) a requirement to provide or pay

22 for affordable housing through and connection with granting

23 additional development capacity, which is how the EIS

24 defined the objectives. And there were alternatives that

25 met that, and they were not -- they were incorrectly

1 **Q. So what's your understanding of the only -- in the entire**

2 **program, the only thing that changes from one alternative to**

3 **the other is what?**

4 A. My understanding was the only thing that changes is kind of

5 the level of upzones in a particular area. So that was

6 shifted, and the boundaries of the urban village were

7 shifted in different, you know, Alternative 2 versus 3

8 versus the preferred alternative. But the basic structure,

9 program design of mandatory payment or performance, was not

10 changed and would, yeah, so -- and -- yeah.

11 **Q. Okay. So the large notebook you have in front of you there**

12 **includes the EIS. And could you turn to page 2.4? And make**

13 **sure you're in the -- yeah. And on the top of that page,**

14 **does that state objectives of the proposal?**

15 A. Yes, it does.

16 **Q. Are we on the same page? All right. And there are four**

17 **bullets there. Do you see those?**

18 A. Um-hum.

19 **Q. And as you discussed or as you developed alternatives that**

20 **you believe that the EIS did not include and that could**

21 **reasonably have addressed the City's objectives, are these**

22 **the objectives that you had -- you were using as your**

23 **testing, you know, your framework?**

24 A. Yes.

25 **Q. All right. And so the alternatives you're going to discuss**

1 now all, in your opinion, would accomplish these various  
 2 objectives?  
 3 A. Yes.  
 4 **Q. All right. All right. So let's talk about the first one**  
 5 **you mentioned. I think you said that was higher in-lieu**  
 6 **fees or a tiered system of in-lieu fees.**  
 7 A. Right.  
 8 **Q. So first of all, just to kind of set the stage here, we're**  
 9 **talking about the part of the program that is intended to**  
 10 **generate housing for below-market housing, right?**  
 11 A. Right.  
 12 **Q. Government assisted housing? And --**  
 13 A. Not necessarily government assisted, but --  
 14 **Q. Or --**  
 15 A. -- restricted to people with incomes less than 80 or 60, 30  
 16 percent AMI.  
 17 **Q. And by the way.**  
 18 A. Yeah.  
 19 **Q. Let's digress for a second, because you just threw around**  
 20 **some terms that may not be familiar to everyone, and**  
 21 **particularly the Examiner. So you talked about 30 and 60**  
 22 **and whatever --**  
 23 A. Right.  
 24 **Q. -- AMI. So first of all, what does "AMI" mean?**  
 25 A. AMI stands for area median income, and it's --

1 **Q. Or a step above it?**  
 2 A. Right.  
 3 **Q. Is that right?**  
 4 A. Um-hum.  
 5 **Q. All right. And so your testimony, you said, was that an**  
 6 **alternative would have been to consider higher in-lieu fees**  
 7 **for a tiered system. And so, first of all, explain what --**  
 8 **how much higher, and also in the -- we'll get to the tiered**  
 9 **system in a second, but let's take it one step at a time.**  
 10 A. Sure.  
 11 **Q. How much higher?**  
 12 A. Well, you know, the -- because this isn't, you know, what  
 13 a -- a linkage fee in professional parlance, which is based  
 14 on an objective analysis of how much impact new housing has  
 15 on the city, these can be set -- my understanding is that  
 16 they can be set as high or as low as the city wants. And  
 17 some cities around the country have set fees incredibly high  
 18 in order to incentivize on-site construction. And so the --  
 19 you know, it could have been doubled. Basically, it doesn't  
 20 have to be the -- it doesn't necessarily have to be viable.  
 21 There are ways to calculate what that fee should be. It  
 22 could be what's the cost of providing building affordable  
 23 units off site. It could be kind of about the -- kind of  
 24 the affordability gap, you know, about the construction on  
 25 site. There's a lot of ways of calculating it, but the --

1 **Q. Area what?**  
 2 A. Area median income.  
 3 **Q. Median? All right.**  
 4 A. Median. And it's used very commonly here and many other  
 5 places around the country for calculations about eligibility  
 6 for certain programs, especially for affordable housing --  
 7 entry into income-restricted affordable housing units.  
 8 **Q. All right. And so if a hundred -- if you're at a hundred**  
 9 **percent of area median income, you're right in the middle, I**  
 10 **guess, of income --**  
 11 A. Right. Middle class.  
 12 **Q. Middle class.**  
 13 A. Theoretically.  
 14 **Q. Right. So 80 percent is you're a little bit below that, 60**  
 15 **percent worse off, 30 percent, you're really scraping --**  
 16 **just scraping by, I guess.**  
 17 A. Impoverished, basically. Yeah.  
 18 **Q. Impoverished. All right. So that's what those numbers are**  
 19 **referring to?**  
 20 A. Um-hum.  
 21 **Q. All right. And so when you -- your first alternative then**  
 22 **in talking about higher in-lieu fees, we were talking about**  
 23 **here about the fees that would be generated to build housing**  
 24 **for people who are at some level of poverty?**  
 25 A. Right.

1 that's a discretionary question for a city or state. It's  
 2 not legally prescribed, you know, what those have to be.  
 3 **Q. So it sounds like you're saying there's -- if you increase**  
 4 **the fee, it actually drives two different things. One, if**  
 5 **the fee is paid, it raises more money?**  
 6 A. Right.  
 7 **Q. And, B, you also mentioned it incentivizes more on-site**  
 8 **housing?**  
 9 A. Right.  
 10 **Q. Do you want to explain that just in a sentence or two?**  
 11 A. Sure. Oftentimes, when these fees are low, as was the case  
 12 in, you know, Seattle's incentive zoning program, that if  
 13 you want to opt out of building on site, developers can pay  
 14 a fee. Oftentimes, the developers would much rather pay a  
 15 fee if -- all things being equal, because they don't want to  
 16 have to deal with the hassle of having -- if they're going  
 17 to manage the building, of long-term tenants or what they  
 18 see as a hassle. And so it's oftentimes, all things  
 19 financially being equal, easier for them to pay into a fund.  
 20 So that is a common occurrence.  
 21 **Q. And so the lower the fee, the easier it is for the**  
 22 **developer --**  
 23 A. Right.  
 24 **Q. -- to decide to go that route, and the higher the fee --**  
 25 A. Right.

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

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

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

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

1 A. There is. There is research on that. There was a report  
 2 from the Cornerstone Consultants about Seattle's existing  
 3 inclusionary zoning program, the voluntary one that showed  
 4 funds from in-lieu fees took nearly four years to be  
 5 expended. And there's extensive research on how some of the  
 6 most successful inclusionary zoning programs, from the  
 7 nation's oldest and most productive in my home county of  
 8 Montgomery County, Maryland, to rapidly grow new transit  
 9 programs in Los Angeles, limit or disincentivize in-lieu  
 10 fees. And the reason being for that type of program design  
 11 is that, you know, whether it's academic research from folks  
 12 out of Harvard, like Roz Chetty and Nathaniel Hendren, or a  
 13 study of Montgomery County from Beth Schwartz, that most of  
 14 the benefits of inclusionary zoning, of producing these  
 15 affordable units, come from having it on site. And that's  
 16 because that, you know, it means that affordable housing is  
 17 widely dispersed, and that creates race and class  
 18 integration. It results in racially integrated neighborhood  
 19 schools, and it also reduces the opposition to the presence  
 20 of affordable units in better-off neighborhoods.

21 **Q. What do you mean by that?**

22 A. So, you know, there's a tendency when you're building a new  
 23 affordable nonprofit, say, or a government entity's  
 24 building, an entire complex that's dedicated to units that  
 25 are affordable, to people making -- who are making less than

1 area's most expensive neighborhoods. And that's with a  
 2 program that requires 12.5 percent affordable homes on site  
 3 without any incentive provided. There are incentives if you  
 4 want to do more, and it obviously has produced a lot of  
 5 housing over the last couple of decades.

6 **Q. Okay.**

7 A. You know, and it's -- in the literature, including, you  
 8 know, the work by Rick Jacobus and the Cornerstone firm, you  
 9 know, the -- he says -- and this is from the report in 2014.  
 10 On page 4, he says, "When considering in-lieu fees, it is  
 11 also important to decide if a city wants --

12 **Q. Slow down if you would, please.**

13 A. Sure.

14 **Q. Because it's going to just be hard --**

15 A. Sure.

16 **Q. -- for the Examiner to di- -- you can continue reading.**

17 A. Okay.

18 **Q. Just a little slower pace.**

19 A. Sure. "When considering in-lieu fees, it is also important  
 20 to decide if a city wants to always allow developers the  
 21 option to pay the fee or to restrict its use to some  
 22 developers. Some cities allow a fee in lieu by right, while  
 23 others require developers to demonstrate some net benefits  
 24 to the City or to a substantial hardship." End quote. And  
 25 that's how Montgomery County works. There's very few ways

1 80 or 60 or 30 percent, it often creates a backlash among  
 2 the neighbors who are worried about potential impacts, you  
 3 know, rightly or wrongly. I would say wrongly. But it --  
 4 that is what happens. And because affordable units are --  
 5 if they're included in a building, the market-rate building,  
 6 you know, backlash doesn't exist so it's easier to, you  
 7 know, site them.

8 **Q. Is there any -- is there a report from HUD that echos this?**

9 A. Right. There are several reports from the Federal  
 10 Department of Housing and Urban Development that note -- one  
 11 in particular from 2012, called "Expanding Housing  
 12 Opportunities Through Exclusionary Zoning," which looked at  
 13 Montgomery County, Maryland, and Fairfax, Virginia, which  
 14 are two of the oldest programs, the most successful. Notes  
 15 that "Requirements that affordable units" --

16 **Q. This is a quote?**

17 A. Yeah. From page -- well, the first quote is from page 7 of  
 18 the appendix of that report.  
 19 "Requirements that affordable units be dispersed  
 20 throughout a given development and that all new developments  
 21 include affordable housing have contributed to residential  
 22 income integration, promotion of housing choice." And  
 23 Montgomery County, Maryland, which is one of the oldest  
 24 programs from the 1970s, it's created more than 14,000 homes  
 25 for low-income families that are integrated into some of the

1 to pay the fee. It's in very limited cases.

2 You know, there's another example in the city of  
 3 Los Angeles program I helped create under this Measure JJJ.  
 4 Basically, whenever you have a spot upzone in a part of LA  
 5 where there wasn't -- it was kind of out of compliance with  
 6 the plan, there's a requirement that developers include  
 7 affordable housing. And as I mentioned previously, you  
 8 know, it's kind of a tiered -- geographically tiered system.  
 9 So if you build on site, you have to, you know, provide a  
 10 certain number of units. If you build a mile away, it's  
 11 another, you know, 25 percent more, and so on. And this was  
 12 just enacted in 2016 and has been looked at as a model for  
 13 cities. Other cities are now looking at it as a model.

14 **Q. Right. You know, if you increase the fee, isn't there a risk that the developers will then decide to build more on-site units?**

15 A. Well, I don't view it as a risk. I view it as a benefit for  
 16 all the reasons I mentioned. You know, you get -- you  
 17 either -- either, if the developers really don't want to  
 18 build on site, they have strong objections that are  
 19 potentially non-financial, they can still pay the fee that  
 20 generates more revenue for the City to spend on affordable  
 21 housing or you get more on-site construction. And --

22 **Q. So in your view it's a win/win either way?**

23 A. Right.

1 **Q. You either get more money or you get more units on site?**  
 2 A. Correct, yeah.  
 3 **Q. Okay.**  
 4 A. And I think what's really important is that more on-site  
 5 construction, not only does it not have a lag between when  
 6 the money gets allocated and spent, but it also reduces the  
 7 need for affordable housing developers to compete with the  
 8 private market, acquire sites --  
 9 **Q. What do you mean by that?**  
 10 A. Well, you know, affordable housing developers, like any  
 11 other developer, need land in order to build on, and they  
 12 have to go up against people who are seeking to build all  
 13 kinds of other construction, whether it's commercial or  
 14 residential or, you know, luxury condos, what have you. And  
 15 generally, affordable housing developers have much more  
 16 limited resources. And so when they are bidding on sites or  
 17 trying to find sites, you know, they have to compete in that  
 18 market. With on-site provision of affordable housing, that  
 19 doesn't need to happen.  
 20 **Q. You've eliminated that, right?**  
 21 A. You know, and so it's -- it allows housing to be, you know,  
 22 spread more easily and reduces kind of the overhead costs  
 23 for that construction.  
 24 **Q. All right.**  
 25 A. You know, and I think this -- so as I said, it's an

1 Baltimore or Alexandria, Virginia, saying, you know, "We've  
 2 identified this as an issue," why he couldn't also quote a  
 3 local group as well.  
 4 HEARING OFFICER: Mr. Weber?  
 5 MR. WEBER: I think the difference is a local group,  
 6 presumably, if they wanted to be called as a witness, they  
 7 could be here and say this stuff themselves. It's a little  
 8 different than citing an academic paper.  
 9 HEARING OFFICER: It's a slight difference. We do allow  
 10 hearsay in these administrative pleadings. I think it goes  
 11 to the weight of the evidence as opposed to admissibility,  
 12 so I'll overrule.  
 13 THE WITNESS: Okay.  
 14 **Q. (By Mr. Bricklin) So what did Puget Sound Sage say about**  
 15 **this?**  
 16 A. Yeah. And this was approximately a month ago. They -- in  
 17 an online post, they indicated that, you know, while it's  
 18 great to create 6,000 units in general over the next 10  
 19 years, it doesn't do much to kind of prevent displacement  
 20 and -- in the currently -- in the low-income communities  
 21 that exist already. And, you know, that's a major concern  
 22 that, you know, encouraging more on-site affordable units  
 23 could resolve. The last --  
 24 **Q. And --**  
 25 A. Yeah.

1 automatic mechanism to guarantee integration. In-lieu fees,  
 2 you know, as carefully -- as much as the City might want to  
 3 say we're going to spend in-lieu fees in a geographically  
 4 distributed area, it can't be guaranteed. You know, as the  
 5 housing market -- as the real estate market changes, where  
 6 affordable housing was previously constructed may become not  
 7 just unaffordable, but it may be impossible to find sites to  
 8 buy. And I think, you know, there's -- this is not purely  
 9 a -- you know, this is a national issue and it's well  
 10 recognized in the literature, this problem of finding sites  
 11 for affordable housing near areas of hot new development.  
 12 But there are -- you know, it's applicable here in Seattle.  
 13 You know, there's a coalition here, Puget Sound Sage, which  
 14 represents many impacted residents, and they say, well, you  
 15 know, theoretically we're going to create these 6,000 units  
 16 over the next 10 years --  
 17 MR. WEBER: I'm going to object. Hearsay. I mean, Puget  
 18 Sound Sage is not here to say what they said. This is just  
 19 Mr. Levitus --  
 20 THE WITNESS: This is from a post -- oh, sorry.  
 21 HEARING OFFICER: So any response?  
 22 MR. BRICKLIN: Well, I think he's entitled to say whether  
 23 his opinions are echoed by a local group that is saying the  
 24 same things. He's cited literature from all around the  
 25 country. I don't know why he could quote somebody from

1 **Q. And so do -- does their post say in particular that the**  
 2 **policy does nothing to prevent impending displacement and**  
 3 **eventual houselessness of currently housed low-income**  
 4 **communities and communities of color?**  
 5 A. Yes. That's the exact quote.  
 6 **Q. Thank you. All right. And then continue.**  
 7 A. And the last thing, you know, I'll say about this  
 8 particular -- on this particular point about the importance  
 9 of having higher in-lieu fees to incentivize on-site  
 10 construction is that, you know, the positive thing about  
 11 in-lieu things is that they can kind of be used to attract  
 12 outside money, state or federal money, to an affordable  
 13 housing developer so they can build more, but --  
 14 **Q. Explain that.**  
 15 A. Sure. So --  
 16 **Q. Because, see, on a lot of points --**  
 17 A. Yeah.  
 18 **Q. -- you're really familiar with the --**  
 19 A. Yeah.  
 20 **Q. -- housing economics and all of that.**  
 21 A. Sure.  
 22 **Q. Very few other -- very few people are.**  
 23 A. Right.  
 24 **Q. So unpack that a little bit.**  
 25 A. Sure. So, you know, oftentimes affordable housing

1 developers, nonprofits or others, you know, draw -- kind of  
 2 put together funds from a variety of sources: State,  
 3 federal, city governments. You know, it could be a very  
 4 wide range of sources. And one of the sources is often a  
 5 kind of pool of money from in-lieu payments here in Seattle  
 6 or otherwise. And the positive thing about -- I'll  
 7 acknowledge a positive aspect of having in-lieu fees rather  
 8 than on-site production of affordable housing in market-rate  
 9 units or a market-rate building, is that that money can go  
 10 to an affordable housing developer and then they can use  
 11 that money to attract money from other sources to build more  
 12 units off site. But given changes in the state and  
 13 especially the federal budgets, declining amounts of that  
 14 funding to construct affordable housing, it's actually  
 15 likely, according to a report which I'll cite, that this --  
 16 the leverage rate, so to speak, the ability to attract  
 17 additional money using the local pool of money is going to  
 18 decline. And this is from a report of Jacobus and  
 19 Cornerstone titled, "Seattle Incentive Housing Program,  
 20 Analysis of Data Relating to Historical Production Under  
 21 Seattle's Incentive Zoning Program," from February 2014.  
 22 So, you know, that is a real concern, that the ability of  
 23 money in Seattle, of local in-lieu fees to attract outside  
 24 money in order to build more housing will decline going  
 25 forward.

1 to do here and also try to follow along and check what is  
 2 and isn't being said --  
 3 HEARING OFFICER: Right.  
 4 MR. WEBER: -- versus against the document. I don't  
 5 really have a good sense how closely he's following it. At  
 6 this point, I'm just trying to listen to what he's saying.  
 7 HEARING OFFICER: Okay.  
 8 MR. BRICKLIN: To force the issue, I'll offer the exhibit,  
 9 and you can decide whether --  
 10 MR. WEBER: And I have another objection to the exhibit.  
 11 HEARING OFFICER: Yes.  
 12 MR. WEBER: If this is the time, which is probably is.  
 13 HEARING OFFICER: He's offering it.  
 14 MR. WEBER: Yeah.  
 15 MR. BRICKLIN: Yes.  
 16 MR. WEBER: It is --  
 17 HEARING OFFICER: I think so, yes.  
 18 MR. WEBER: It is clear to me that this is in essence an  
 19 expert report. And whatever we say or don't say about it  
 20 being an accurate record of what he is saying right now, you  
 21 know, we did written discovery. We took a deposition. We  
 22 never received this document. The testimony, I am quite  
 23 confident, is going beyond what was disclosed to us in  
 24 discovery. I don't know how you resolve this issue of  
 25 scripts and so forth, but perhaps there needs to be a

1 **Q. All right. All right. So --**  
 2 HEARING OFFICER: Let me ask.  
 3 MR. BRICKLIN: Yes.  
 4 HEARING OFFICER: How are we doing on the script?  
 5 MR. BRICKLIN: In terms of sticking to it?  
 6 HEARING OFFICER: The notes, yes.  
 7 MR. BRICKLIN: I think Counsel would agree we're -- at  
 8 times he's reading it, which I don't particularly like  
 9 because I'd rather he have a conversation with you.  
 10 HEARING OFFICER: Well, that's what I'm looking at.  
 11 MR. BRICKLIN: Right. I --  
 12 HEARING OFFICER: I mean, I'm seeing him reading from a  
 13 document. I could be reading it with him.  
 14 MR. BRICKLIN: Right.  
 15 HEARING OFFICER: I find that helpful.  
 16 MR. BRICKLIN: Oh, okay. Well, I'm fine to --  
 17 HEARING OFFICER: Particularly for direct quotes.  
 18 MR. BRICKLIN: Sure.  
 19 HEARING OFFICER: But let me ask Mr. Weber, though. I  
 20 don't --  
 21 MR. WEBER: To be honest, I --  
 22 HEARING OFFICER: I mean, I don't know where we're at with  
 23 this, so...  
 24 MR. WEBER: I have asked others in this room to help me  
 25 follow along. It's very difficult for me to do what I need

1 different rule for an expert, because my understanding here  
 2 is this is an expert report that should have been disclosed  
 3 to the City much earlier and was not. And on that basis  
 4 alone, I object to its admission. As to the question of  
 5 whether it's accurately reflecting what he's saying, I can't  
 6 judge that at this point.  
 7 HEARING OFFICER: Well, but you've also said that his  
 8 testimony is going beyond --  
 9 MR. WEBER: Well, I'm listening to his testimony --  
 10 HEARING OFFICER: So --  
 11 MR. WEBER: -- and I am very familiar with the discovery  
 12 and with the deposition, so I know that what he's saying  
 13 goes beyond what was in the deposition. I don't need to  
 14 look at the statement to know that.  
 15 HEARING OFFICER: Right. So I'm just saying, but that's  
 16 part of your objection is that point?  
 17 MR. WEBER: Yeah. My overall objection here is simply it  
 18 is clear to me this is an expert report that we should have  
 19 received earlier.  
 20 HEARING OFFICER: And I guess I'm hearing another element  
 21 to that, that regardless of whether this is a report or not  
 22 we have expert testimony that's also going beyond what was  
 23 disclosed?  
 24 MR. WEBER: That would be part of that objection, yes.  
 25 HEARING OFFICER: Because that gets at a greater issue

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1 than just a report.  
 2 MR. WEBER: Right.  
 3 MR. BRICKLIN: On that point, I think he would -- Counsel  
 4 would need to be more specific, because generally this is  
 5 exactly what we said he was going to talk about. If there  
 6 are specific elements of the testimony that you believe are  
 7 beyond what was disclosed, I would need to be more foc- -- I  
 8 can't really respond to just a -- you know, that kind of  
 9 universal statement that he's going beyond the scope because  
 10 I don't know what that refers to specifically.  
 11 MR. WEBER: Well, for example, the last statement about  
 12 leverage is definitely new. But I will express some  
 13 frustration here. We've been down this road before, and  
 14 this puts the City in just a very difficult position. I  
 15 mean, I don't want to take the City's time, I don't want to  
 16 take Your Honor's time to parse these kinds of issues. At  
 17 the end of the day, he is testifying. We have witnesses who  
 18 will respond. But we have been prejudiced repeatedly, and  
 19 this is another example, and this is at this point a very  
 20 difficult situation. I am not sure that I am going to bring  
 21 any sort of motion. I am not going to be able to spend the  
 22 time to go through and compare that, and I am not sure it  
 23 helps Your Honor to do that. I am just expressing my  
 24 frustration.  
 25 MR. BRICKLIN: If I may, I think you said something there

1 have the script.  
 2 MR. WEBER: Yeah.  
 3 HEARING OFFICER: I don't know what the discovery was.  
 4 MR. WEBER: And, Your Honor, I--  
 5 HEARING OFFICER: So if you can't pinpoint for me what the  
 6 objection is, then I can't --  
 7 MR. WEBER: I--  
 8 HEARING OFFICER: I hear what you're saying.  
 9 MR. WEBER: Yeah.  
 10 HEARING OFFICER: I hear your frustration, but I can't --  
 11 MR. WEBER: And I think I agree with what Your Honor just  
 12 said about prejudice. I also recognize the reality that the  
 13 hearing schedule gives us some time here. I'm not going to  
 14 waste everyone's time by trying to bring a motion on this  
 15 question of whether, you know, he has exceeded the scope of  
 16 the deposition. It's just not productive. I do think that  
 17 as Your Honor considers how to deal with this question of  
 18 notes and scripts and so forth, it will be useful to think  
 19 through how this may or may not differ in the case of an  
 20 expert. At this point, I think I will let Your Honor  
 21 address the question of your need to review this document  
 22 concurrent with the testimony.  
 23 But I think the second issue is, you know, to the extent  
 24 that the document differs from the testimony, and it seems  
 25 almost inevitable that it will given the detail of the

1 that's key, is you mentioned the word "prejudiced," which of  
 2 course is the essential element of somebody's going beyond  
 3 their scope. The way this hearing is set up, our witnesses  
 4 are -- testified a month ago or this week, and your experts  
 5 as to Mr. Levitus, for instance, aren't testifying for  
 6 another month, so I don't believe there would be any  
 7 prejudice. This is as if you took his deposition a month  
 8 before you cross-examined him. So you're going to have --  
 9 this is not -- you're going to have ample opportunity to  
 10 present counterevidence through your own witnesses. You're  
 11 going to have a month's preparation for that.  
 12 So I don't think there's any prejudice, Your Honor.  
 13 HEARING OFFICER: Well, I would see some. I mean, we have  
 14 a case schedule for a purpose, and the idea was to exchange  
 15 exhibits and to disclose during the parties' efforts to have  
 16 discovery. While it's possible due to our hearing schedule  
 17 that there be gaps in times, it's also possible that counsel  
 18 has other cases and other work to do in that time that  
 19 wasn't necessarily dedicated to this case because there  
 20 would be an opportunity for the appellants to bring in new  
 21 information mid hearing.  
 22 The challenge I have, though, Mr. Weber, is I -- if right  
 23 now I've got to buckshot, I've got some pieces of it are  
 24 fully appropriate and within discovery, and I don't know how  
 25 to piece through that. I simply don't even have -- I don't

1 document and just how this testimony is proceeding, although  
 2 again, I haven't been able to parse it line by line, I mean,  
 3 what do we do with that? And I do feel, again, that there  
 4 is some prejudice to the City to have the burden put on us  
 5 to in essence go through this statement at some point and  
 6 try to divine what was it that he said versus didn't say and  
 7 strike the parts that weren't said. I mean, that really  
 8 shouldn't be our burden, nor yours. It's a problem that has  
 9 been created by the appellants by having Mr. Levitus bring  
 10 this thing up here. And I'm left at a loss what to do with  
 11 it, but it shouldn't be the City's job or yours to figure  
 12 that out.  
 13 MR. BRICKLIN: On that last point, I would say that I have  
 14 been tracking what he's saying, and it's very close to this,  
 15 to what's in the document. And he may have -- you know, in  
 16 places he summarized in a few words or a sentence or two  
 17 what's in a paragraph, but he's basically marching right  
 18 through the document.  
 19 HEARING OFFICER: Well, the only thing I'm left with  
 20 really is to try to discourage this from happening in the  
 21 future. This is a -- I agree. This is really the  
 22 equivalent of an expert report that was -- as I understand  
 23 it, no party is saying that was part of the disclosed  
 24 exhibits and that there wasn't anticipated expert report  
 25 from the witness. That being the case, I would generally

1 never allow an expert report to come in mid hearing, even if  
 2 it's a hearing with staggered time in between. So in some  
 3 sense, I am crippled. I can't read the quotes that I'm  
 4 getting, but there is a record being established, there is  
 5 testimony being provided, and the witness can proceed with  
 6 that, and I'll go ahead without seeing the script.  
 7 MR. BRICKLIN: Okay.  
 8 HEARING OFFICER: And --  
 9 MR. BRICKLIN: Okay.  
 10 HEARING OFFICER: -- sustain the objection and overrule  
 11 the admission of the report.  
 12 MR. BRICKLIN: All right.  
 13 **Q. (By Mr. Bricklin) So let us continue then. I think we were**  
 14 **just at the end of --**  
 15 A. Finished that (inaudible).  
 16 **Q. First alternative, right?**  
 17 A. Yeah.  
 18 **Q. So let's go on to the second alternative that you mentioned**  
 19 **as meeting the City's objectives and -- or doing better,**  
 20 **frankly, and -- perhaps. And that was that the MHA**  
 21 **affordable housing requirements should -- higher MHA**  
 22 **affordable housing requirements should have been analyzed as**  
 23 **one of the alternatives, so -- and I think at the beginning**  
 24 **when you were doing these in summary form, I asked you to --**  
 25 **"So this is not just the fees, this is also performance?"**

1 **Q. -- when you're reading quotes.**  
 2 A. So on 2.65, 2.66, the sentence that says, "It would be  
 3 speculative and infeasible on a programmatic level to EIS to  
 4 analyze how varied MHA requirements could affect development  
 5 feasibility on a more site-specific basis."  
 6 And there is additional on 2.65 -- 2.65, while there was  
 7 a -- it says there was a finding that 25 percent requirement  
 8 would render most development prototypes in strong and  
 9 moderately strong markets infeasible given prevailing land  
 10 prices, there was no consideration given to levels, you  
 11 know, 11 percent, between 11 and 20 percent, let's say.  
 12 **Q. What's the level that the program is analyzing?**  
 13 A. It varies based on, you know, how strong the market is in  
 14 different parts of Seattle. My recollection is that it  
 15 varies between 5 and 11 percent, and 11 percent is only in a  
 16 very limited area of the city.  
 17 **Q. Okay. So the -- we saw that yesterday. There was a grid**  
 18 **that basically varies the fee according to three geographic**  
 19 **areas in the city, kind of hot, medium, and low market, and**  
 20 **then -- or also, it seems to be the distance from downtown.**  
 21 A. Right.  
 22 **Q. And then also varies at according to how much of an upzone**  
 23 **there is?**  
 24 A. Um-hum.  
 25 **Q. Low, moderate or --**

1 **And you said, "Yes, this is both the performance, and the**  
 2 **fees should have been higher." And so why don't you explain**  
 3 **what you had in mind there and why you think it would meet**  
 4 **the City's objectives and perhaps with fewer adverse**  
 5 **impacts?**  
 6 A. Sure. So there is a wide range of production requirements,  
 7 payment requirements in practice across the country. You  
 8 know, mandatory programs sometimes require developers to  
 9 produce anywhere from 10 to 30 percent of new units as  
 10 affordable. In California, where there's many programs, the  
 11 common requirement is 15 percent. In California, only 116  
 12 programs out of 8 had requirements less than 10 percent.  
 13 And so I believe that, you know, there should have been a  
 14 greater -- a study of whether it would have been feasible to  
 15 include higher requirements than currently exist in the EIS  
 16 for study. There's a claim in the EIS on 2.65 and 2.66  
 17 that, quote, it would be speculative and infeasible on a  
 18 programmatic level to EIS to analyze how varied MHA  
 19 requirements could affect development.  
 20 **Q. Slow -- when you read --**  
 21 A. Sure.  
 22 **Q. -- you tend to read too fast for people to --**  
 23 A. Sure.  
 24 **Q. -- digest what you're saying, so if you could slow down --**  
 25 A. Right.

1 A. Right.  
 2 **Q. -- highest upzone?**  
 3 A. Um-hum.  
 4 **Q. So you're saying in that table with those nine different**  
 5 **levels they vary somewhere between 5 and 10 or 11 percent?**  
 6 A. My recollection, yes.  
 7 **Q. All right. And then you're saying that the EIS says 25**  
 8 **percent is not feasible?**  
 9 A. Right.  
 10 **Q. But then you said, "But what about something between 11 and**  
 11 **24" -- "or 20 percent"?**  
 12 A. Right. What about 15 percent, which is very common in peer  
 13 cities, cities and towns across the country, in many places  
 14 where they don't even offer any incentives to developers.  
 15 **Q. And in your opinion, if they -- would a 15 percent rate have**  
 16 **accomplished the objectives that the City set out on**  
 17 **page 2.4?**  
 18 A. Yes, I believe they would have. And high probability that  
 19 it would have accomplished the objectives more successfully.  
 20 If, indeed, the market can bear, developers could actually  
 21 pay more in fees or performance requirements than the  
 22 amounts that are currently considered, then that would mean  
 23 that you could actually generate significantly more  
 24 affordable housing units than would be generated by this  
 25 plan.

1 **Q. Okay. And you said that in terms of the feasibility of**  
2 **doing this, that other jurisdictions are using fees higher**  
3 **than what Seattle analyzed in this document?**

4 A. Um-hum.

5 **Q. Can you give some examples?**

6 A. Sure. Montgomery County, Maryland, the first inclusionary  
7 zoning program, which has been tweaked a lot over the years,  
8 currently is at 12.5 percent with no incentives for  
9 developers. You know, New York and Chicago have both  
10 tried -- had programs that range, but sometimes go up to 20  
11 or 25 percent. San Francisco and Santa Monica both have  
12 programs that are -- require affordable housing above 20  
13 percent. So it's very common.

14 **Q. Okay.**

15 A. And the last -- my last point on that is, you know,  
16 oftentimes, you know, the in-lieu fees get set -- this is --  
17 sorry. I should be clear. So this is a quote from the  
18 Department -- HUD, Housing and Urban Development, from their  
19 document/report, "Inclusion ary Zoning in Mixed-Income  
20 Communities." And it says that although -- you know,  
21 although an option to provide in-lieu fees provides  
22 developers and localities --

23 **Q. Slow down again.**

24 A. Sorry. "Although an option to provide" -- "to pay in-lieu  
25 fees provides developers and localities with more

1 **and then the fees are used to build affordable housing in**  
2 **the not-so-well-off parts of town. Is there a study by**  
3 **Lincoln Institute of Land Policy that speaks to that issue**  
4 **by Calavita and Mallach?**

5 A. There is. And that's -- I did not consult that directly,  
6 but it's cited in the HUD report that I just mentioned.

7 **Q. All right.**

8 A. And basically that whether the market-rate housing gets  
9 built in a gentrifying area, kind of a growing area where  
10 there's increasing market-rate housing, or whether it's  
11 built in an already well-off area, the fact that the  
12 affordable housing is provided on site as a result of an  
13 in-lieu fee and then that gets built in the low-income area  
14 can accentuate inequality and displacement and segregation.

15 **Q. All right. All right. So then the third alternative you**  
16 **discussed was a neighborhood-by-neighborhood rezoning**  
17 **process. What did you mean by that one?**

18 A. So --

19 **Q. And let me ask you. So here you're shifting from analyzing**  
20 **the fee and the performance part of the program to the**  
21 **upzone part of the program; is that right?**

22 A. Right.

23 **Q. All right. And so what does this**  
24 **neighborhood-by-neighborhood alternative look like with**  
25 **regard to the upzone part of the program?**

1 flexibility, critics argue that these fees do not always  
2 reflect the true costs of creating affordable housing,  
3 particularly in areas of high land prices."

4 **Q. And so what do they mean by that?**

5 A. So that if the fees are set too low and the amount of money  
6 generated isn't enough to actually build an affordable  
7 housing unit, which is supposed to be the -- kind of the  
8 equivalent of what would get built on site -- if you're  
9 supposed to built 100 -- if you're building a hundred-unit  
10 market-rate building and you're supposed to include, let's  
11 say, 10 percent affordable units, the amount of money that  
12 gets paid in fee instead of doing on site, if you do an  
13 in-lieu fee, that amount of money might not be enough to  
14 cover 10 units. And that would be a real problem and would  
15 actually reduce the amount of housing, affordable housing  
16 that gets built overall.

17 **Q. And so do you minimize that problem by charging a higher**  
18 **fee?**

19 A. Yes, you can minimize it by charging a higher fee.

20 **Q. And is that the point of that HUD report that you were**  
21 **quoting?**

22 A. Yes.

23 **Q. All right. And you mentioned earlier that the in-lieu fees**  
24 **can actually exacerbate segregation and -- by building the**  
25 **new higher-priced developments in the well-off parts of town**

1 A. Well, and I should say it's not just upzoning.

2 **Q. Okay.**

3 A. It could also be fees. But specifically, it's largely  
4 talking about where to allocate density. I believe you  
5 could kind of reduce the negative impacts and accentuate the  
6 positive impacts by allowing neighborhood level planning to  
7 drive the allocation.

8 **Q. How do you do that? What does that mean?**

9 A. Well, so as is common practice in cities across the  
10 country -- it's been done in Seattle previously, it's  
11 practiced in LA -- that you kind of have a general plan for  
12 the city, but you kind of on a given geographic area -- LA,  
13 for example, is broken into 35 areas, but you can break the  
14 city into whatever size the city thinks is appropriate and  
15 kind of do an analysis of what the situation on the ground  
16 is there, who lives there, you know, demographically, what  
17 are the assets there, and then make decisions about where  
18 specific upzones should be and any -- and potentially  
19 include any kind of particularly mitigating policies  
20 designed for that special area. And that has been done.  
21 You know, it is feasible to do a lot of different areas in  
22 a relatively short period of time. In Los Angeles, which is  
23 a city of 4 million, is now doing every neighborhood plan,  
24 all 35 of them, over the next five years. It just takes  
25 staff resources. And what it allows you to do is to kind of

1 tailor the plan to specific areas. And, you know, what is  
 2 appropriate for an especially impoverished area is maybe  
 3 different than an area where it's, you know, two-thirds of  
 4 highly impoverished and then, you know, one-third actually  
 5 relatively well off. And so going to the neighborhood level  
 6 lets you really tweak the zoning in order to reduce any  
 7 negative consequences and accentuate the positive.  
 8 It's true -- and I speak as a historian who has studied  
 9 this deeply -- you know, neighborhood-based zoning has been  
 10 used for exclusionary purposes to exclude people of low  
 11 incomes or communities of color, but it has become a tool  
 12 for marginalized populations to assert kind of community  
 13 driven and controlled development in order to kind overcome  
 14 a situation they've been put in by the history of redlining  
 15 and whatnot. And we -- you know, we've seen that in cities  
 16 across the country of being -- that neighborhood-based  
 17 zoning, rezoning being used as a tool for equity by the  
 18 groups that are most impacted by inequity.

19 **Q. And would an allocation of the new density using**  
 20 **neighborhood planning as the tool for doing that, would that**  
 21 **meet or exceed those four objectives that the City**  
 22 **identified on page 2.4?**

23 A. Yes, I think it could. Now, it wasn't considered, so -- but  
 24 I think you can definitely structure even neighborhood-based  
 25 programs so you can make sure that they are producing

1 social processes are unfolding. So figuring out what are  
 2 kind of the microdynamics of displacement happening in a  
 3 certain neighborhood.

4 **Q. Were you here yesterday for the testimony of the woman from**  
 5 **the Madison-Miller community who was testifying about the**  
 6 **anonymous -- her anonymous 85-year-old --**

7 A. Right.

8 **Q. -- neighbor? And is that --**

9 A. I was.

10 **Q. Is that the sort of thing you're talking about in terms of**  
 11 **being able to draw on that kind of neighborhood-specific**  
 12 **information?**

13 A. Yes. That's precisely what I'm talking about. My  
 14 recollection is she talked about how their area, part of the  
 15 city, it was marked as low risk for displacement, highest  
 16 opportunity, and yet, you know, while one-half the -- this  
 17 urban village was very well off, the other half was not, and  
 18 displacement was occurring as a result.

19 And kind of an extensive, you know, consideration of  
 20 qualitative and quantitative information from persons on the  
 21 ground would allow consideration, allow kind of crafting  
 22 plans that are appropriate. You know, I think especially  
 23 when it comes -- we've seen in history, whether it's -- you  
 24 know, there's just dozens of examples of this that  
 25 communities, all communities but especially the most

1 adequate new housing and adequate new affordable housing,  
 2 and there is examples across the country where we see that  
 3 happening. We saw it in Montgomery County. We've seen it  
 4 in Los Angeles, where over the last year and a half since  
 5 this new policy was enacted we already have 2,000 new  
 6 affordable housing units being built, and part of that is on  
 7 a neighborhood basis.

8 **Q. And so I notice in the Appendix A, which is -- deals with**  
 9 **growth and equity issues, it says, "Greater historical and**  
 10 **qualitative context is needed to avoid simplistic**  
 11 **conclusions." Do you recall seeing that?**

12 A. Um-hum. Um-hum.

13 **Q. What's your -- and that's on page 15 of Appendix A. What's**  
 14 **your sense of how that statement relates to your testimony**  
 15 **here?**

16 A. Well, I think it goes to the central point of my testimony,  
 17 which is my experience that, you know, allowing -- doing  
 18 that neighborhood-level planning, devoting more resources to  
 19 it, staff resources to it, allows for people who have been  
 20 most impacted by inequity to speak and inform policymakers'  
 21 decisions to allow us to kind of do a more detailed kind of  
 22 contextual analysis by experts, historians, sociologists,  
 23 and others, and to kind of -- to do a whole deeper level of  
 24 what is sometimes in this field called "ground-truthing,"  
 25 which is kind of to figure out why and how certain like

1 marginalized ones, they have access to kind of forms of  
 2 knowledge that are not necessarily represented in official  
 3 statistics, and that's often ignored at a high -- on a high  
 4 level of analysis. But when you can get more granular and  
 5 not just statistically, but you can go and talk to people on  
 6 the ground and have them help shape the programs, that you  
 7 are able to craft policies that have less negative impacts,  
 8 more positive impacts, especially around equity.

9 **Q. Okay. In the appendix also, there's a statement referring**  
 10 **to the areas with high displacement risks: Othello,**  
 11 **Columbia City, North Rainier, North Beacon Hill and Rainier**  
 12 **Beach. This is on Appendix A-31. And it says, "New**  
 13 **development may put upward pressure on rents before a**  
 14 **community's stabilizing" -- "before community stabilizing**  
 15 **investments take effect." And it also says that a**  
 16 **well-resourced mitigation strategy, coupled with expansion**  
 17 **of housing choices over time could prove successful, but**  
 18 **further community engagement and analysis should be**  
 19 **undertaken to determine the feasibility and details of such**  
 20 **a strategy. Do you recall reading those sentences?**

21 A. Yes.

22 **Q. And what's the relationship of those sentences to your**  
 23 **testimony on this point?**

24 A. Well, that with the preferred alternatives, it's really --  
 25 prevents kind of really a -- crafting a well-resourced

1 mitigation strategy through further community engagement,  
2 and that's the type of thing that a neighborhood-level kind  
3 of process would allow for crafting a mitigation strategy  
4 from the very start before any upzoning is enacted, and...

5 **Q. Okay. And I think you've already spoken about models from  
6 around the country on this; is that right? Are there any  
7 others on -- in your notes there that you wanted to refer  
8 to?**

9 A. Yes. So I referenced earlier there was a -- you know, in  
10 LA, in South LA, historically a very impoverished, redlined,  
11 segregated area, you know, there's a community-based  
12 coalition, a (inaudible) coalition which put out a plan,  
13 idea, a people's plan, and 80 percent of those  
14 recommendations made it into the City's official plan. This  
15 was just last year. There's a similar plan for East LA,  
16 (inaudible) a Latino area which is an impoverished -- and  
17 segregated. And so this goes to my point about that, you  
18 know, these neighborhood-based planning can be used as a  
19 tool for advancing equity. We see the ACT-LA coalition that  
20 I'm part of and a leading public interest nonprofit called  
21 Public Counsel in LA now have put together a large document,  
22 a guide to how marginalized communities can participate  
23 effectively in shaping neighborhood-level plans and doing  
24 training-the-trainer sessions and really taking kind of the  
25 true meaning of equity, empowering these populations to

1 legislature.

2 **Q. All right. So then let's talk about the -- your fourth item  
3 under the alternatives where you said that there are many  
4 other designs available to meet the City's objectives that  
5 weren't considered. And I presume which could reduce  
6 impacts or better accomplish the City's own desegregation  
7 and housing goals. And you mentioned there that there were  
8 four variables, so why don't you talk about those again and  
9 explain how -- probably do them one at a time.**

10 A. Sure.

11 **Q. So I think your first variable was you said with or without  
12 a fee? Or with or without incentives actually --**

13 A. Right.

14 **Q. -- was your first one?**

15 A. Right. So as I've mentioned, you know, Montgomery County,  
16 Maryland, you know, they have a base, 12.5 percent of  
17 certain housing units need to include affordable hou- -- new  
18 units -- new housing developments need to include 12.5  
19 percent of affordable housing. And then they offer  
20 incentives above that. Now, that's kind of a hybrid  
21 program. Some programs say you have to include, you know,  
22 10 percent affordable housing and we're not going to give  
23 you any incentives for it. So it's a -- really a question.  
24 Do you want to -- you know, do you want to offer things like  
25 density and reductions in required parking in exchange for

1 shape their own destiny.

2 So, you know, I think it's -- I talk about LA a lot partly  
3 because it's what I know most intimately, but I think we're  
4 also on really the forefront of what equity according to  
5 planning development can look like, and these are many  
6 examples from there.

7 **Q. And did you also address that in the initiative measure that  
8 you worked on down there?**

9 A. We did. So in this Measure JJJ, you know, part of it, we  
10 had this -- one part of it was requirements for -- including  
11 affordable housing, and there was upzoning. But another  
12 part of it was an incentive program around transit, within a  
13 mile of transit stops. And in order to kind of square the  
14 need for a citywide policy with a need for local, you know,  
15 neighborhood planning, there was an interim kind of  
16 imposition of these incentive programs near transit. And  
17 the language in the measure, in the ballot measure, said,  
18 you know, these will be superseded by community-involved  
19 neighborhood plans as long as they meet these certain  
20 standards for equity. And so that's one way you can make  
21 sure you're meeting citywide goals, by having a program  
22 design that both puts a program in place citywide, then  
23 allows for neighborhood-level customization, and then makes  
24 sure those neighborhood-level customizations are meeting the  
25 standards that were deemed appropriate by the voters or the

1 developers building more -- including affordable housing  
2 units or do you just want to say you have to do it?

3 **Q. Okay.**

4 A. That's the -- you know, whether or not --

5 **Q. All right.**

6 A. -- incentives are included.

7 **Q. All right. And then you said with or without a fee option.  
8 I guess that's fairly self-explanatory?**

9 A. Right. It's are developers allowed to pay in-lieu fees  
10 instead of building on site to perform. You know, so it's  
11 pretty self-explanatory. And again, some cities don't have  
12 the option or have it highly restricted, and other cities,  
13 you know, freely make the in-lieu fees available to any  
14 developer who so chooses.

15 **Q. And then the third one you mentioned was voluntary versus  
16 mandatory?**

17 A. Right. So --

18 **Q. What's that about?**

19 A. So some programs, some inclusionary, these -- some of these  
20 programs around the country basically say if you want to --  
21 we're not going to make you include affordable housing, but  
22 if you want to, we'll let you build higher if you include 10  
23 percent affordable units. It's not required for anyone.  
24 Developers are free to ignore it. Other programs say you  
25 have to build a certain percentage or pay our in-lieu fee,

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1 so...

2 **Q. Okay. And then your fourth one was geographic scope?**

3 A. Right. So some programs are applied to the entire city, all

4 development. There's a -- you know, whether it's a fee or

5 on-site performance requirement. Others are limited to a

6 downtown area or a specific neighborhood or near transit, so

7 things can be done along -- there can be permutations

8 along -- combinations along all those different lines, yes.

9 **Q. Okay. Do these programs result in different scope and**

10 **severity of adverse impacts?**

11 A. They do. They change potentially how much housing gets

12 built, how much affordable housing gets built, where it gets

13 built and -- you know, and so this, it depends on -- again,

14 the devil is in the details, but it can significant- -- it

15 can reduce negative impacts by allowing, you know, programs

16 that are more customized for the -- you know, kind of fit

17 the City's both conditions and the needs.

18 **Q. And apart from impacting the segregation and displacement**

19 **elements, do these programs also vary in how they impact**

20 **things like open space and aesthetic qualities in the**

21 **neighborhood and traffic and things like that?**

22 A. I mean, they certainly can. You know, any change to

23 development patterns can -- will change those impacts.

24 **Q. Okay. And so for instance, you mention that some**

25 **jurisdictions don't have an upzone associated with these**

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1 **programs. So if that alternative were analyzed, then**

2 **presumably the various adverse impacts associated with**

3 **upzones could be avoided?**

4 A. Yeah, that's certainly possible.

5 **Q. And do all these different permutations still -- can they be**

6 **put together in a way that would still allow the City to**

7 **meet its objectives?**

8 A. Yes. I believe that it would be possible to craft an

9 alternative that would meet all the City's objectives. You

10 know, there are, you know, one -- I'll just throw out a kind

11 of a hypothetical example out there which has been tried in

12 cities such as Los Angeles. You could enact a mandatory

13 citywide linkage fee, which, you know, all developers -- it

14 has to be based on the -- you know, the calculation of the

15 impact of new development, so it varies in different cities

16 and different markets within a city. You could say, for

17 example, all new developers need -- all new developments

18 need to pay 5 percent of their construction costs or 5 --

19 you know, you could set it different ways, and that would be

20 used to raise money for affordable housing. And then you

21 could pair that with a kind of expanded version of a

22 voluntary on-site inclusionary zoning program that would say

23 if a developer wants to build more densely or, you know,

24 have other incentives such as reduced parking or

25 streamlining of permits, they can build more, but they have

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1 to do it on site. So you could accomplish -- you could both

2 raise revenue for building affordable housing, as well as

3 ensure there's development happening on site. And the --

4 you know, design of this particular program, you know, that

5 I've just kind of laid out would, you know, prevent kind of

6 like -- it wouldn't allow kind of upzone -- it wouldn't be

7 like we're upzoning this entire district. It would actually

8 probably spread growth out more evenly and, you know, thus

9 kind of distribute the benefits and burdens more equitably

10 because it would not create the kind of speculative activity

11 that occurs when there's a upzone intensely concentrated in

12 one area.

13 And, you know, the -- I think to -- additionally on that

14 point, I mean, there's multiple places in the EIS where it

15 talks about how, you know, new housing construction, it kind

16 of goes back and forth on this point, but there are

17 admissions that new housing construction is expected to

18 contribute to displacement in high risk areas, and that in

19 particular kind of rapid construction kind of contributes to

20 that, and so, you know, having --

21 **Q. And so, for instance, is that -- those statements found on**

22 **Appendix -- in Appendix A at page 28 and 31 among other**

23 **places?**

24 A. Yes, they are.

25 **Q. All right.**

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1 A. And so, you know -- and later on, on 3.9 -- or previously in

2 the EIS on 3.92 and also 1.19, part of the stated reason for

3 choosing the third alternative is that it, quote, moderates

4 development capacity increases in urban villages of high

5 displacement risk. These urban villages have high overlap

6 with the areas of the city that have relatively higher

7 percentages of racial and ethnic minority populations.

8 Moderating growth capacity in these areas mitigates the

9 potential for cultural displacement of racial and ethnic

10 minority populations.

11 **Q. And there was a lot in there.**

12 A. There was a lot in there.

13 **Q. Let's take that one a little -- one step at a time. So**

14 **you -- first of all, you're quoting from the EIS on**

15 **page 3.92. And maybe we should just pull that up so we can**

16 **all look at it together. All right. And let's see. So**

17 **you're -- this is in the chapter on housing?**

18 A. Um-hum.

19 **Q. And it's Section 3.1.3, "Mitigation Measures"? Is that**

20 **right?**

21 A. Um-hum.

22 **Q. And "moderates development and capacity increases." So I'm**

23 **looking for where these -- where are we on this page?**

24 A. Underlined.

25 **Q. Oh, it's the under- -- oh, so it was the language that was**

1 added to the final EIS, all right, from -- in comparison  
2 with the draft. All right. So now I see where you are.  
3 "The third alternative moderates development capacity  
4 increases in urban villages with high displacement risks."

5 So first of all, what's your understanding of what the EIS  
6 means when it talks about urban villages with high  
7 displacement risk?

8 A. So that's drawn from -- there's a hyphology of displacement  
9 risk constructed. It's detailed, I believe, in Appendix A  
10 and incorporates a bunch -- several different -- I think  
11 about a dozen different variables, and it is kind of  
12 putatively used to assess which areas are at high -- the  
13 populations are at risk of being displaced.

14 Q. Okay.

15 A. The low income and communities of color are at risk of being  
16 displaced.

17 Q. All right. And this first sentence says the preferred  
18 alternative moderates that, moderates new development in  
19 those areas, right?

20 A. Um-hum.

21 Q. All right. And then it says, "These urban villages have  
22 overlap with areas of the city that have relatively high  
23 percentage of racial and ethnic minority populations."  
24 Which is what you were just saying as well, right?

25 A. Right.

1 impact fee, combined with a kind of a voluntary program to  
2 allow density or other incentives in exchange for building  
3 more -- building affordable units on site would allow the  
4 impact to be spread more evenly than the preferred  
5 alternative does.

6 Q. And just to visualize this a little bit, could you turn to  
7 the appendix at page A-17? And do you see sort of a heat --  
8 oh, you're not there yet.

9 A. Yeah.

10 Q. And you see a heat map there of the city with the coding  
11 indicating the dark -- the darker, the richer the orange  
12 red, the higher the vulnerability to displacement?

13 A. According to this index.

14 Q. According to this index. And I know you're going to talk  
15 later about the validity of the index, but assuming for the  
16 moment the validity of it. And I don't know if you can make  
17 it out, but if you look carefully on that, down in the south  
18 part of the city where it's some of the highest  
19 vulnerabilities are identified, you see areas outlined in  
20 black, which are the urban villages? Is that your  
21 understanding? Urban center villages?

22 A. Yeah. Well, purple.

23 Q. Yeah. Maybe it's a purple color.

24 A. Um-hum, yes.

25 Q. And are you -- and you're aware that there are upzones

1 Q. And then the last sentence says, "Moderating growth capacity  
2 in these areas mitigates the potential for cultural  
3 displacement of racial and ethnic minority populations." So  
4 what's your observation about that, about this passage  
5 overall, then?

6 A. Well, I think it's a recognition that increasing housing  
7 construction, or at least increasing development capacity,  
8 which upzoning does, can contribute to displacement.

9 Q. Okay.

10 A. And, you know, so this is the language that is about how  
11 the -- why the preferred alternative was chosen, because it  
12 was reducing upzoning in the high risk areas, and yet a  
13 large amount of the -- in the preferred alternative, a very  
14 high -- a very significant amount of upzoning is still  
15 occurring in those areas. So it's kind of -- it would make  
16 sense to me that the logical conclusion would be we want to  
17 spread out growth far more broadly and thus reduce the  
18 impact everywhere rather than concentrating it in these  
19 particular areas.

20 You know, as I mentioned before, you know, when it comes  
21 to kind of the combination of allowing a significant amount  
22 of upzoning in this new housing growth and high risk areas  
23 and then likely building affordable units off site can  
24 really lead to increased segregation. And so kind of a  
25 program, as I mentioned, that had a citywide linkage fee,

1 proposed in those urban villages in that southern part of  
2 the city where the vulnerability to displacement is highest?

3 A. I'm aware of that. And also, the -- some of the urban  
4 villages in the north part of the city that it looks like  
5 there's extensive overlap between the boundaries of the  
6 urban villages and the areas that are high risk of  
7 displacement according to my view of this map.

8 Q. All right. So while the preferred alternative might have  
9 reduced the extent of upzoning in these high risk urban  
10 villages somewhat compared to Alternative 2, there's still  
11 extensive upzoning occurring in these high vulnerability  
12 areas?

13 A. Yes.

14 Q. And what you're saying is an alternative that upzoned in  
15 other areas away from these high vulnerability areas would  
16 reduce the adverse impacts of dislocation and further  
17 segregation?

18 A. Yes. Well, that -- a program that, you know, didn't set  
19 geographic boundaries on where the upzoning could  
20 necessarily occur. It was project-based, you know, based on  
21 incentives rather than, you know, a drawing a line around a  
22 space and saying here's where we're going to increase  
23 density. That, combined with a kind of citywide fee on  
24 development could be a better alternative than -- and should  
25 have been considered above the preferred alternative.

1 **Q. And did you say earlier that linkage fees in other cities**  
 2 **are often imposed without increasing density at all in**  
 3 **exchange for those fees?**  
 4 A. Um-hum, yes. Because the legal basis for those is  
 5 different. They require a kind of commissioning and a nexus  
 6 study to determine what is the impact of new development,  
 7 and so -- and that can be commercial development, it can be  
 8 development. And so linkage fees, they're not based on --  
 9 they just have a different legal basis, and so they  
 10 generally don't have any incentives attached to them, any  
 11 upzoning.  
 12 **Q. And could a linkage fee program accomplish -- you know,**  
 13 **going back to those four objectives that the City set forth**  
 14 **on page 2.4, could the linkage fee program accomplish those**  
 15 **objectives?**  
 16 A. I believe it could, particularly in combination with kind of  
 17 expansion of a voluntary incentive zoning program.  
 18 **Q. All right. And would it do so as well or better than the**  
 19 **City's proposal, in your opinion?**  
 20 A. It's --  
 21 **Q. If done in combination with the incentive program?**  
 22 A. I think it could. Again, it depends on how the linkage fees  
 23 are set, you know. And we need a nexus study for that. It  
 24 depends on the design of the incentive zoning program. But  
 25 I certainly believe it could, and I believe it would be

1 produced under that program. So very high percentage and a  
 2 very high number of units in a very short period of time.  
 3 And there's an additional program --  
 4 **Q. How long has that program been around?**  
 5 A. For 19 months. And it's produced --  
 6 **Q. Well, I thought you said 26 -- but you said 26 percent of**  
 7 **the units developed by that program have occurred in the**  
 8 **last 19 months, suggesting a longer period of time?**  
 9 A. Oh, no. Sorry. I misspoke.  
 10 **Q. I misunderstood?**  
 11 A. So under this program, there have been approximately a  
 12 little over -- about 6,500 units constructed in total and 26  
 13 percent of them have been affordable, income restricted,  
 14 which is a -- that number of income-restricted units is  
 15 1,677.  
 16 **Q. Okay.**  
 17 A. There's a program that's tied to it. And this is both from  
 18 the ballot measures we passed. There's a voluntary program  
 19 where near transit if you want to build more densely, you  
 20 get reduced parking because you're right next to transit.  
 21 That program has been in effect for 10 months. It has  
 22 already produced -- it's produced a total of a little over  
 23 approximately 5,500 units overall, and 21 percent of those  
 24 have been affordable, so 1,145. So we see LA is a city of  
 25 4 million people, obviously larger than Seattle, but those

1 better for, you know, countering some of the negative  
 2 impacts around segregation and displacement.  
 3 **Q. All right.**  
 4 A. And, you know, there was a -- you know, generally, it's --  
 5 you know, there is kind of in conventional economic theory  
 6 the idea you increase costs and you decrease supply, but  
 7 the -- kind of the studies of people who kind of worked on  
 8 linkage fees is that linkage fees, if they're not set  
 9 incredibly high, and they can't be set that high given the  
 10 nexus studies that are required to be done, they don't  
 11 render projects infeasible. They often just kind of eat  
 12 into a developer's profits. And so they also have the  
 13 impact of kind of reducing how much developers are willing  
 14 to pay for land, which isn't necessarily a bad thing if you  
 15 are kind of reducing rapidly rising land costs.  
 16 And we see -- you know, just to give you an example of  
 17 kind of like programs like this in action, and particularly  
 18 around incentive zoning, you know, again, I'll cite  
 19 Los Angeles, which I'm familiar with because I helped craft  
 20 and I'm deeply involved in tracking, the city recently -- of  
 21 LA put out a report that due to the requirement that any  
 22 kind of local upzoning include a high percentage of  
 23 affordable housing, in the last 19 months it's already  
 24 produced approximately 1,600 income-restricted units. And  
 25 that's a number that's 26 percent of the total units

1 are some pretty impressive numbers for the number of units  
 2 that can be constructed in a very short period of time with  
 3 affordable and market rate, which suggest to me, that, you  
 4 know, it would have been possible to craft a program in  
 5 Seattle not necessarily exactly like this, but that would  
 6 have accomplished the goals of increasing the total supply  
 7 of housing as well as the supply of affordable housing  
 8 significantly.  
 9 **Q. So Seattle's objective, I think on page 2.4, was to create**  
 10 **6,000 units in 20 years. So that would be 600 -- let me**  
 11 **see. 6,000 -- that's around 300 a year.**  
 12 A. Um-hum.  
 13 **Q. And so the -- admittedly in a larger city, but the program**  
 14 **you've identified there producing many times greater units**  
 15 **in one year -- per year?**  
 16 A. Right. Right. Produced nearly 3,000 units in less than two  
 17 years.  
 18 **Q. Right. So in terms of meeting the City's objectives of**  
 19 **creating 6,000 units in 20 years, do you feel that a program**  
 20 **like this would accomplish the job here?**  
 21 A. Yeah, I think it could. And if there was a linkage fee  
 22 added on to that for -- which has been done in Los Angeles  
 23 recently as well, you know, you could raise even more money  
 24 for affordable housing. So you could produce a far, far  
 25 larger amount of units than is contemplated in this plan,

1 and which the plan itself acknowledges is -- we need a  
 2 far -- we need a lot -- we need as many units as possible.  
 3 **Q. In the -- in LA's linkage fee program, is that tied to**  
 4 **density increases that are given in exchange?**  
 5 A. It's not, no. It's -- the only -- it was initially passed  
 6 as kind of a flat fee for residential development and a  
 7 slightly lower fee for commercial. It was recently amended  
 8 so that it's -- the fee is tiered. So hot areas, so to  
 9 speak, increased development, are -- have a higher dollar  
 10 fee -- dollars-per-square-foot fee associated with them.  
 11 **Q. All right. And in Los Angeles, were the disadvantaged**  
 12 **communities in fact believing that they would be better**  
 13 **served if there were not upzones included in the package?**  
 14 A. Yeah. That's --  
 15 **Q. Explain that.**  
 16 A. Sure. So this has been part of the ACT-LA coalition I've  
 17 been working closely with for the last 4 1/2 years, as well  
 18 as the South LA kind of segregated and impoverished area  
 19 coalition unit, ACT coalition, which I mentioned. The key  
 20 principle has been keeping base density low even along key  
 21 commercial and transit corridors, not to limit density  
 22 per se, but to encourage -- to kind of encourage developers  
 23 to take advantage of incentives to build on site. Because  
 24 the feeling is if we get affordable units in there in  
 25 another part of the city, what good does it do to people who

1 **thought they were generating.**  
 2 A. Sure. So the -- you know, the EIS's main tool for assessing  
 3 areas that were most likely to suffer kind of the negative  
 4 consequences of growth or kind of marginalized populations  
 5 is this -- called displacement risk index. And it's --  
 6 **Q. So that's the heat map we were -- the product of that is**  
 7 **that heat map we were looking at a minute ago?**  
 8 A. Yes. I believe so, yeah. And there are many factors which  
 9 go into that, and it listed on page 16 of Appendix A are  
 10 some of those factors. And so it's kind of a composite  
 11 trying to integrate all those things that make an assessment  
 12 of where people are at risk of being displaced. You know, I  
 13 thought it was notable that -- so also on page 15, the  
 14 appendix, it says, quote, the indices and maps and the  
 15 growth and equity analysis in Appendix A should be used with  
 16 caution. This is a first attempt to understand equity  
 17 effects of broad city policies, and results of the analysis  
 18 depend on the selection and weighting of indicators.  
 19 When I see something like that as a -- someone who works  
 20 in this field and, you know, has an academic background, it  
 21 makes me wary, because the selection and weighting of  
 22 indicators is the entire -- the whole McGill, so to speak.  
 23 It's -- there is -- you know, how to -- it would be easy to  
 24 kind of change what those factors were and significantly  
 25 change by adding or taking out certain factors, by

1 are right there? So that's been a key principle both of  
 2 crafting citywide policy and legislation and also of the  
 3 specific south LA groups that have coalitions that have  
 4 pushed for and successfully pushed to plan their  
 5 neighborhood.  
 6 **Q. All right. So I think we're now -- we've exhausted the**  
 7 **alternatives, your alternatives analysis. So let's move on**  
 8 **to the -- your critique of the EIS's discussion of impacts.**  
 9 A. Um-hum.  
 10 **Q. The first one you mentioned in your summary at the**  
 11 **beginning -- and actually, you maybe have touched on this a**  
 12 **little bit in the context of alternatives, but I guess**  
 13 **it's -- also relates to impacts, was that you said that**  
 14 **Alternative 3 was crafted to reduce dislocation impacts by**  
 15 **placing more of the upzones in areas that had the lower**  
 16 **dislocation risks. Oh. But this is different than what you**  
 17 **talked about before.**  
 18 A. Yeah. Yes.  
 19 **Q. But here you are saying, but the method -- this is where you**  
 20 **question the methodology for doing that, right?**  
 21 A. Um-hum. Right.  
 22 **Q. So why don't you explain to us what your concerns are about**  
 23 **the methodology that the EIS used to try to discern where**  
 24 **areas of high displacement were and why that might not have**  
 25 **generated the benefits, the reduction of impacts they**

1 increasing their weight, you know, change results  
 2 significantly. And I did not get a sense that there was a  
 3 real method to the how they were combined, how they chosen  
 4 and combined. It's kind of admitted in the EIS that there's  
 5 no -- this does not have predictive power, and so it's  
 6 not -- the accuracy can't be questioned or verified. If  
 7 it's not predicting what's going to happen, it makes it very  
 8 difficult to judge whether it's a valid indicator. And I  
 9 didn't see much -- I didn't see any evidence that it's been  
 10 peer reviewed to judge and kind of -- and then strengthen  
 11 its rigor as a tool. And considering this is the primary  
 12 way in which we're making decisions about where things  
 13 should be upzoned, that seems -- and there's not a lot of  
 14 kind of detailed neighborhood analysis taking into account  
 15 all kinds of qualitative information, it seems -- it seemed  
 16 very problematic to me.  
 17 **Q. So let's take a second to --**  
 18 A. Yeah.  
 19 **Q. -- go over some of those, the EIS's acknowledgment of the**  
 20 **limitations of this. Those, you say, occur on page -- in**  
 21 **the Appendix A at page 15?**  
 22 A. Um-hum.  
 23 **Q. It's under a heading "Limitations"?**  
 24 A. Right.  
 25 **Q. And why don't you talk about a couple of those that jump out**

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1 **at you in terms of their significance.**  
 2 A. Sure. Well, you know, my -- I'll just say, first, my  
 3 dominant impression is that, you know, there's -- it's good,  
 4 always good to acknowledge limitations of data and tools.  
 5 There's so many limits, limitations, that it questions to me  
 6 the validity of the tool overall. So I think there's a  
 7 couple of key problems.  
 8 **Q. So it's sort of like the -- it's not just any one of them,**  
 9 **it's sort of the cumulative effect of --**  
 10 A. It's the combination, right.  
 11 **Q. -- so many? I see.**  
 12 A. So for -- you know, data sources have limitations. They  
 13 certainly do, especially high level assessments. But when  
 14 you're adding multiple data sources together and create a  
 15 composite, you're kind of -- you're ramifying, you're  
 16 multiplying the problems with that data, potentially. You  
 17 know, there's, I think -- and that also relates to another  
 18 point about questions about lag and timing. The second  
 19 point on limitations is it presents snapshots in time, so  
 20 it's a data -- another data and analysis issue.  
 21 You know, they -- there are -- I think to my point about  
 22 kind of the need for neighborhood-level analysis and that's  
 23 a way to get better data, that's kind of more you know what  
 24 it's really saying. And there's an acknowledgment of that  
 25 here that income, behavior, and physical proximity affect

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1 opportunity in complex, nuanced ways. Some neighborhoods  
 2 that appear at the lower end of an accessed opportunity  
 3 index in fact have desirable neighborhood amenities. You  
 4 know, another point, marginalized populations exist across  
 5 the entire city. And, you know, I think the --  
 6 **Q. Including areas not identified as high --**  
 7 A. Right.  
 8 **Q. Including both areas with high risk of displacement and**  
 9 **otherwise?**  
 10 A. Right. And then -- and finally, I mean, it says this is  
 11 not -- like I mentioned, this is not -- it's an assessment  
 12 of susceptibility, not a predictor of future outcomes.  
 13 Again, to me, that goes to the point of like, how valid is  
 14 this is a tool? Not only can it not predict, but it seems  
 15 like a mash-up of a lot of data sources which have  
 16 underlying issues of their own. And to base the entire  
 17 analysis on it, the entire decision about where to locate  
 18 upzoning seems not a good practice to me.  
 19 **Q. I gather you did agree with the sentence there in the last**  
 20 **limitation, "The relationship between growth and potential**  
 21 **displacement is not straightforward"?**  
 22 A. Right. Right.  
 23 **Q. Have you ever -- in all your work and academic analysis over**  
 24 **the years, have you seen an effort of this kind developed**  
 25 **for predicting displacement risks?**

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1 A. I have seen in New York the Regional Plan Association has  
 2 put together a displacement index, but it wasn't being  
 3 used -- it was kind of, as this acknowledges, you know, it's  
 4 useful as a first -- as a starting point. It's not a great  
 5 tool for like making critical decisions about where upzoning  
 6 should happen. So in New York, there's this, you know,  
 7 region-wide -- there's a big displacement index that's  
 8 created, but the inclusionary zoning programs and the  
 9 upzoning are being done kind of like, you know, neighborhood  
 10 by neighborhood. So it's not that this has no use. It  
 11 could kind of like be a roadmap of where we should start  
 12 investigating, but it's, I think -- I've never seen it used  
 13 as a tool to set citywide zoning policy.  
 14 **Q. Okay.**  
 15 A. In my experience. And I think -- you know, I want to add  
 16 one point. You know, on 3.58 of the EIS --  
 17 **Q. So that's Chapter 3.58?**  
 18 A. Yeah. I think there's an important admission. It's a very  
 19 long chapter.  
 20 **Q. I don't see 3.58. Oh, page 3.58.**  
 21 A. It's page 3.58.  
 22 **Q. I'm sorry.**  
 23 A. So it's the third bullet from the top under "Key Findings,  
 24 Displacement."  
 25 **Q. Hold on. Let's wait till we're all there.**

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1 MR. BRICKLIN: All right. Are you there?  
 2 HEARING OFFICER: Um-hum.  
 3 MR. BRICKLIN: Yeah? All right.  
 4 THE WITNESS: And it says, "Areas classified as having low  
 5 displacement risk, high access to opportunity had a higher  
 6 ratio of low-income households displaced than areas with  
 7 high displacement risk and low access to opportunity." This  
 8 suggests that access to opportunity may be more strongly  
 9 associated with a likelihood of development activity  
 10 resulting in displacement than the neighborhood's  
 11 displacement risk classification.  
 12 **Q. Wait a second. What did you just say? Or what did the EIS**  
 13 **say?**  
 14 A. The EIS basically said that the -- that areas that are --  
 15 theoretically have a high displacement risk are -- actually  
 16 maybe have a lower displacement risk than areas that are  
 17 supposed to have a low displacement risk. That it's not  
 18 predicting, actually, where displacement will be occurring.  
 19 In fact, it's reversed from what this tool -- this typology  
 20 is suggesting.  
 21 **Q. So given that acknowledgment, did the authors of the EIS say**  
 22 **therefore we shouldn't use this since it's kind of**  
 23 **predicting the opposite of what we're thinking it does?**  
 24 A. No. I believe it -- you know, the EIS continues to  
 25 basically use the -- use this tool to make decisions,

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1 predominantly make decisions about where development should  
 2 go, where upzoning should go.  
 3 HEARING OFFICER: And on that note, we'll take a break.  
 4 MR. BRICKLIN: All right.  
 5 HEARING OFFICER: And come back at 1:15.  
 6 MR. BRICKLIN: Thank you.  
 7 (Recess)  
 8 HEARING OFFICER: We'll return with direct of Mr. Levitus.  
 9 MR. WEBER: Can we just see that? Can we have this copy?  
 10 MR. BRICKLIN: Yeah. Once he's done with it, yeah.  
 11 MR. WEBER: Yeah, sure.  
 12 HEARING OFFICER: 145.  
 13 (Exhibit No. 145 marked for identification)  
 14 MR. BRICKLIN: 145?  
 15 **Q. (By Mr. Bricklin) Mr. Levitus, I'm handing you a copy of**  
 16 **what's been marked for identification as Exhibit 145. Do**  
 17 **you recognize that?**  
 18 A. Yes. It is my --  
 19 **Q. And what is that?**  
 20 A. -- resume and CV.  
 21 **Q. All right.**  
 22 MR. BRICKLIN: We'd move the admission of 145, Your Honor.  
 23 MR. WEBER: No objection.  
 24 HEARING OFFICER: 145 is admitted.  
 25 (Exhibit No. 145 admitted into evidence)

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1 **Q. (By Mr. Bricklin) So, Mr. Levitus, let's see where we were**  
 2 **before lunch. I think you had just read the quote from**  
 3 **page 3.58 where the EIS said that it -- that the information**  
 4 **there suggests access to opportunity may be more strongly**  
 5 **associated with likelihood of a displacement than the**  
 6 **displacement risk classification itself. Now, and -- right.**  
 7 **And you had answered that no indication that the EIS authors**  
 8 **had taken that into account. So then let me ask you the**  
 9 **follow-on. Are there other methods available that could**  
 10 **have been used to get a better handle on displacement risks**  
 11 **than what the -- this method that the EIS sort of used and**  
 12 **discredited itself?**  
 13 A. Yeah, yes. I think that, certainly, given that the -- you  
 14 know, the displacement risk index is supposed to be an  
 15 assessment of susceptibility, not a predictor of future  
 16 outcomes, and yet this quote from the EIS and 3.58  
 17 suggesting it doesn't even properly classify areas of  
 18 susceptibility. So given that low bar, I think there are  
 19 many ways in which one could more carefully assess the risk  
 20 of displacement, especially through more granular  
 21 neighborhood-level studies, ones that I mentioned, what I've  
 22 been calling some ground-truthing involving not just  
 23 quantitative evidence, but qualitative evidence. Interviews  
 24 with sources on the ground, people who live there.  
 25 Especially in marginalized communities, you know, folks, you

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1 know, have -- may have insights about the neighborhood and  
 2 its patterns of change that they've seen over many years,  
 3 and those are not necessarily represented in kind of  
 4 aggregate-level statistics. And, you know, so that type of  
 5 analysis would be, I think, very valuable in determining,  
 6 you know, what are the displacement trends, what's at risk  
 7 of happening next.  
 8 **Q. So one kind of displacement that's discussed in the EIS**  
 9 **is -- they refer to it as economic displacement, right?**  
 10 A. Right.  
 11 **Q. And briefly, what's economic displacement?**  
 12 A. So economic displacement is not physical displacement where  
 13 buildings are torn down, but when rising rents and existing  
 14 buildings are going up and thus the existing tenants can no  
 15 longer afford to live there. Or in the case of property  
 16 owners, the property taxes are going up. They can no longer  
 17 afford to live there. They can't afford to pay the property  
 18 taxes.  
 19 **Q. All right. And is -- one part of the EIS suggests that the**  
 20 **upzones will generate more housing which would have an**  
 21 **ameliorating effect on economic displacement?**  
 22 A. Yeah. That's the general view conveyed by the EIS. I think  
 23 it's problematic on several grounds. One, the piece I cited  
 24 from Puget Sound Sage previously, you know, land -- we have  
 25 already seen land values skyrocketing in areas of high

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1 displacement risk. But just more generally, as --  
 2 **Q. Even as more housing is developed, you're saying that the**  
 3 **land values are going up anyway?**  
 4 A. Well, yeah. As the -- as more development capacity is  
 5 contemplated, even, it leads to increases in land values and  
 6 increases in costs there. But the other piece is that it's  
 7 been pretty well documented. One study by Rick Jacobus,  
 8 "Inclusionary Housing, Creating and Maintaining Equitable  
 9 Communities," came out in 2015, makes the point that while  
 10 at a regional level adding more housing can moderate the  
 11 increase in price or even lower it, oftentimes what happens  
 12 is in a particular neighborhood where new housing is built,  
 13 especially if it's high-end market-rate housing, it actually  
 14 drives up costs there. And one would think, according to  
 15 kind of Econ 101 logic, well, why would that be? It should  
 16 lower costs. But what happens is the new housing, it's  
 17 nicer, it draws the people who can afford to pay more. They  
 18 start spending more money on local areas. Maybe the Whole  
 19 Foods comes in or other types of retail development, and  
 20 that attracts even more people in, becomes an even more  
 21 attractive area, and so that leads to -- can lead very  
 22 easily, and has led in many places, to economic displacement  
 23 where, you know, as that area becomes more and more  
 24 expensive people are forced farther and farther away from  
 25 that area. And often we see it out -- even all the way out

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1 to inner-suburbs where they don't have the same access to  
 2 transit and jobs that they had in those central city areas.  
 3 **Q. And does the EIS acknowledge this phenomenon?**  
 4 A. The EIS -- well, it has a confused acknowledgement of it.  
 5 There is a claim -- there's a bunch of different things  
 6 going on in the EIS all at once when it comes to talking  
 7 about displacement. There's a claim that new housing is not  
 8 correlated at all with economic displacement in given  
 9 neighborhoods.  
 10 **Q. Where does it -- do you have an example of where it says**  
 11 **that?**  
 12 A. Yes. So on -- in 3.48 in the EIS.  
 13 **Q. Okay.**  
 14 A. So it says there --  
 15 **Q. Which paragraph are you in?**  
 16 A. Okay. It's the first paragraph, bottom of the first  
 17 paragraph. "It is also possible that new development can  
 18 contribute to economic displacement at the neighborhood  
 19 scale." And basically talking about the point I said before  
 20 when new housing brings about amenities that make the  
 21 neighborhood more attractive for higher-income households.  
 22 Then, on 3.52 --  
 23 HEARING OFFICER: Sorry. I didn't catch that whole  
 24 sentence. So you said it is possible?  
 25 THE WITNESS: Oh. "It is also possible" --

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1 HEARING OFFICER: And where is that?  
 2 THE WITNESS: That's --  
 3 HEARING OFFICER: Is that the beginning of a sentence or  
 4 half a sentence or?  
 5 THE WITNESS: That is -- well, it starts -- the sentence  
 6 starts with "However." It's the last four -- four or five  
 7 lines of the first paragraph in 3.48.  
 8 MR. BRICKLIN: Do you see, Mr. Examiner? No?  
 9 HEARING OFFICER: So it's in the top paragraph somewhere?  
 10 MR. BRICKLIN: Yeah. And if you go off to the right-hand  
 11 side and about five lines up from the bottom, there is the  
 12 word "However"? Are we on 3.48?  
 13 HEARING OFFICER: No.  
 14 MR. BRICKLIN: All right.  
 15 HEARING OFFICER: I vainly postponed readers until  
 16 Thursday, and now I'm --  
 17 MR. BRICKLIN: So "However" there? Five lines up from the  
 18 bottom?  
 19 HEARING OFFICER: Yes.  
 20 MR. BRICKLIN: Got it?  
 21 THE WITNESS: Those two sentences.  
 22 HEARING OFFICER: Thank you.  
 23 THE WITNESS: Sure.  
 24 So it acknowledges the possibility of this phenomenon  
 25 happening, of new construction generating economic

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1 displacement in an area, and then goes on to say -- goes on  
 2 to present a correlation analysis that's summarized on 3.52.  
 3 It's on the third paragraph, four lines up. It says,  
 4 "Overall, net new housing development is not correlated with  
 5 areas experiencing a loss of low-income, moderate-income, or  
 6 middle-income households. Net new housing development also  
 7 correlates with areas gaining households with incomes above  
 8 80 and 20 percent AML."  
 9 **Q. So on the one hand, the first sentence you read on page 48**  
 10 **indicated that as new higher-income housing comes in it can**  
 11 **result in displacement, and then this sentence four pages**  
 12 **later says the opposite?**  
 13 A. It says, "We checked it out. It isn't happening, at least  
 14 in Seattle."  
 15 **Q. And what's your view of the accuracy of the manner in which**  
 16 **they use that correlation analysis to reach that conclusion?**  
 17 A. Well, I think the correlation analysis is deeply problematic  
 18 to hang a big conclusion like that on for several reasons.  
 19 First, as I've mentioned before, the EIS acknowledges that  
 20 areas that are high risk, its moderated development capacity  
 21 increases, which is implying that new housing does  
 22 somehow -- can exacerbate development risk. And that's --  
 23 there is a quote on 3.92 to that effect. This is the same  
 24 quote I've mentioned before, third paragraph. "Preferred  
 25 alternative moderates development capacity increases in

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1 urban villages with high displacement risk." And is  
 2 mentioned also in the Appendix B and Appendix A. At  
 3 Appendix B, page 21 -- so on Appendix B, page 21, it says,  
 4 the last paragraph, "MHA implementation was crafted with a  
 5 commitment to racial equity. In our final proposal to the  
 6 city council" --  
 7 **Q. Slow down, please.**  
 8 A. Sure. "In our final proposal to the city council, we have  
 9 recommended smaller changes in zoning where there's a high  
 10 risk of displacement for marginalized peoples." Again,  
 11 on -- so this is throughout the document. Again, on  
 12 Appendix A, page 31 -- sorry for jumping around. It's in  
 13 the third paragraph.  
 14 HEARING OFFICER: What page number again?  
 15 THE WITNESS: Oh, sorry.  
 16 MR. BRICKLIN: Page A-31, you said?  
 17 THE WITNESS: Yeah. Appendix A, page 31. So it's  
 18 actually the final paragraph. It talks about high  
 19 displacement risk for urban villages. It says, "It is not  
 20 clear that expanding urban village boundaries supports the  
 21 equitable development strategies outlined for these  
 22 villages. New development may put upward pressures on rents  
 23 before a community's stabilizing investments take affect.  
 24 While resource mitigation strategy coupled with expansion of  
 25 housing choices over time could prove successful, but

1 further community engagement and analysis to be undertaken  
2 to determine the feasibilities and details of such a  
3 strategy."

4 I think this is a really important kind of acknowledgment,  
5 tacit kind of admission that new housing construction is  
6 expected to contribute to displacement in these high-risk  
7 areas, and that rapid construction in particular can  
8 exacerbate displacement and that there needs to be  
9 mitigations put in, which I'll -- I've already talked about  
10 a little and I'll talk about further.

11 So that's my first main point, that there's an internal  
12 contradiction about whether -- about what's susceptible,  
13 what the EIS deems susceptible to displacement and whether  
14 new housing construction contributes to displacement.

15 The second point is that the correlation analysis which is  
16 used to come to the conclusion that new housing doesn't  
17 cause displacement is very simplistic and it fails to  
18 consider important context and timing issues. It ignores  
19 the fact that merely the possibility of building more  
20 housing as a result of upzoning may push displacement,  
21 economic displacement, or that displacement takes place  
22 several years after the new housing is built if the data --  
23 and it's possible in doing statistical analyses to account  
24 for these lags or these, you know, anticipatory effects.  
25 But my reading of this correlation analysis was that that

1 A. Um-hum.

2 **Q. Is that right?**

3 A. Right.

4 **Q. And then what's spread across the top? What are the  
5 individual columns dealing with?**

6 A. And then it's as it relates to first citywide, and then the  
7 four different types, classified types of urban village as  
8 determined by the displacement risk index.

9 **Q. Okay.**

10 A. So high risk, high access to opportunity; high risk of  
11 displacement, low access to opportunity; and so on.

12 **Q. And what is a correlation number? What do these numbers  
13 represent?**

14 A. Right. So as the EIS says on 3.48 accurately, it's a  
15 statistical technique to measure the strength and  
16 directional relationship between variables. And so the  
17 strongest correlation, a zero percent is like there's no  
18 correlation, or zero, rather. 1 is that it's a positive, a  
19 hundred percent, you know, connection between the two  
20 variables. They move together. And negative 1 means they  
21 move in opposite directions but they're still very related.  
22 And so --

23 **Q. So give me an example of something that would be highly  
24 correlated in common life.**

25 A. You know, the number -- let's see. You know, the number of

1 wasn't done. It was a very blunt instrument.

2 **Q. So let me ask you to go back through that again.**

3 A. Sure.

4 **Q. With -- but by starting by explaining what the correlation  
5 was that they did before you explain what the error was --**

6 A. Right.

7 **Q. -- with regard to timing.**

8 A. Right. So this is Exhibit 3.133.

9 **Q. So that's in the EIS?**

10 A. In the EIS.

11 **Q. I'm not sure which page it is on. I should know that.**

12 HEARING OFFICER: 3.133? That is on -- it's on page 3.60.

13 Or maybe that's 50. 50.

14 THE WITNESS: Right. 3.50, correct.

15 So you can see the analysis was done, you know, basically  
16 seeing if there was a correlation between changes in  
17 low-income households that was -- you know --

18 **Q. (By Mr. Bricklin) So let me take this.**

19 A. Sure.

20 **Q. So on the left-hand side I see a bunch of, you know,  
21 percentages of AMI. So these are different household income  
22 levels, right?**

23 A. Right. Right.

24 **Q. Going from the poorest at the top to the wealthiest at the  
25 bottom?**

1 marriages that happen after couples get engaged. You know,  
2 to give you a very direct example.

3 **Q. Right. That's good.**

4 A. It's very -- usually, they -- those numbers go together. If  
5 you plotted them on a graph --

6 **Q. Right.**

7 A. -- you would see they track pretty closely.

8 **Q. Right.**

9 A. It's important to note that correlation is -- as they say,  
10 is not causation. So just because it seems like there's a  
11 relationship, it may not be causal. So maybe there's a  
12 finding that in neighborhoods where there are more churches  
13 there are also more bars, but it doesn't mean that more  
14 churches cause more bars. It may have no relationship or it  
15 may be working through another relationship that mediates  
16 between the two. So it's a very basic tool to see, hey,  
17 maybe there is a relationship here. We should investigate  
18 further.

19 **Q. Okay. And so what were the conclusions that the City  
20 reached in regards to their correlation analysis?**

21 A. Sure. The main correlation or main conclusion, rather, was  
22 that there was no relationship between new housing  
23 construction in a neighborhood or citywide and the loss of  
24 low-income households in a given area. That was one of the  
25 main conclusions. They also found that there were not

1 significant correlations, for example, between new housing  
2 production and changes in the African American population.  
3 That was not true for some ethnic groups. For some other  
4 ethnic groups they found that, you know, new housing  
5 construction meant more Latinos or Asians living in a  
6 neighborhood. And then the final thing that was -- really  
7 stood out to me in this analysis was that what the highest  
8 correlations, the highest relationship was between new  
9 housing construction and new higher-income people, people  
10 over 80 EMI and over 120 percent EMI moving into an area.  
11 So that was very clearly correlated, that when new housing  
12 happens wealthier people tend to move in.

13 **Q. So let's just take a random number here. So I'm looking in  
14 the 50 to 80 percent AMI, so it's poor folks but not  
15 desperately poor; is that right?**

16 A. Well, it depends, but yeah.

17 **Q. Or something like that?**

18 A. Yeah, sure.

19 **Q. And I'm just using the all housing row and the citywide  
20 number, and so .129. So that's a -- I gather that's much  
21 closer to zero than it is to 1.**

22 A. It's under 3. It has no significant --

23 **Q. Under .3?**

24 A. Yeah. It has no significance whatsoever.

25 **Q. So what that's saying is when we look at the data, and the**

1 be -- yeah. Between 2000 and 2014 was the -- they did the  
2 correlation by number of new housing units versus change in  
3 low-income households.

4 **Q. Okay. And what was your concern about the timing that they  
5 missed by the way they did the correlation?**

6 A. Sure. So, I mean, my concern about the timing was that,  
7 one, it ends partly before, you know, as the -- kind of  
8 the -- as the recession is ending and before the boom has  
9 fully kicked off. That's one issue. I think in general  
10 that issues of timing and sequencing are really important to  
11 consider when doing correlation analysis and kind of getting  
12 more kind of granular into like when the housing  
13 construction occurs and to when displacement occurs, and so  
14 I would -- you know, as a trained historian and someone who  
15 has done quantitative methods for historians, you know, I'd  
16 want to think about like why -- like we know that -- it's  
17 been documented there's extensive displacement of African  
18 Americans, let's say, in the Central District over the  
19 last -- you know, since 1990. It would make sense to me to  
20 inquire -- you know, the contra- -- that contradicting the  
21 fact that it's saying new housing isn't correlated to it at  
22 all would lead me to wonder, well, perhaps this is being  
23 done -- displacement is happening in advance of new  
24 construction that isn't part of the study period. In other  
25 areas, maybe it's happening after. Maybe low-income people

1 **two things that they're comparing are, as you see in the  
2 title of the exhibit, housing production and the changes in  
3 low-income households, so saying that looking at this  
4 segment of the low-income households there's no correlation  
5 between housing production and the number of low-income  
6 households we have citywide?**

7 A. Right.

8 **Q. That's what that's saying?**

9 A. Yeah.

10 **Q. And you could go to each of these boxes and where they're  
11 under .3 basically say there's no correlation --**

12 A. Right.

13 **Q. -- between housing production --**

14 A. Yeah.

15 **Q. -- and low-income households?**

16 A. Um-hum.

17 **Q. And so then you were saying when you started critiquing  
18 this, you were talking about timing issues?**

19 A. Right.

20 **Q. So I guess maybe before you get into your critique, what  
21 timing did they assume in this -- in the correlation study  
22 before you talk about what they were ignoring or -- if that  
23 makes sense.**

24 A. Right. So it was done over a period of -- my impression was  
25 that it was based on between 2000 and 2014, but I could

1 are able to hang on for longer. So I think that is -- that  
2 would be one of my major concerns.

3 And if you look at, you know, the study I cited, "Urban  
4 Displacement Project" at UC Berkeley led by Miriam Zuk and  
5 Karen Chapple, who have done a lot of research in this area,  
6 you know, gentrification -- they, quote, say,  
7 "Gentrification may not precede displacement, yet in many  
8 cases we found that displacement precedes gentrification and  
9 the two processes are often occurring simultaneously."  
10 Research suggests that it's not just that investments in  
11 transportation infrastructure can accelerate the process of  
12 gentrification and displacement but that even planning of  
13 such investments can accelerate that process.

14 **Q. So --**

15 HEARING OFFICER: And let me make sure I understand your  
16 concern with the approach.

17 THE WITNESS: Sure.

18 HEARING OFFICER: That, then, between 2000 and 2014 what  
19 was missed in that concern. I heard the part about the  
20 recession.

21 THE WITNESS: Recession. Right. The recession. About  
22 you -- there was a very high -- not going into analysis of  
23 particular neighborhoods, so maybe you're lumping  
24 together -- you're kind of -- if one area is gaining  
25 population and one area is losing population of a certain

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1 group, if you're aggregating those, they may wash -- they  
 2 might wash out so it doesn't look like displacement is  
 3 occurring, even though, you know, there's movement from one  
 4 area to another.  
 5 HEARING OFFICER: So it's timing and the failure to go  
 6 with a lower level --  
 7 THE WITNESS: Right.  
 8 HEARING OFFICER: -- to do the analysis?  
 9 THE WITNESS: Right.  
 10 HEARING OFFICER: Okay.  
 11 THE WITNESS: And that, you know, basically if you kind of  
 12 went on the ground and started talking to people and  
 13 learning about those -- learning from them what patterns  
 14 they saw, then you could devise even statistical analyses of  
 15 what was playing out on the ground.  
 16 **Q. (By Mr. Bricklin) And on the timing, you mentioned also**  
 17 **that because this data ended in 2014 it was just at the**  
 18 **start of the building boom here that was beginning at around**  
 19 **that time?**  
 20 A. Yeah. That was certainly accelerating around that time.  
 21 **Q. So to the extent that the development in the last five years**  
 22 **from 2014 to 2018 has generated displacement, that's not**  
 23 **going to be picked up, or even if the development in 2012 or**  
 24 **'13 caused displacement that occurred --**  
 25 A. Right.

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1 **Q. -- a year or two later, it would have fallen outside the**  
 2 **data set?**  
 3 A. Right. Right. Exactly.  
 4 **Q. Okay.**  
 5 A. I think one other point I'll add is that, you know, because  
 6 there wasn't more detailed granular contextual level of  
 7 analysis, we're missing a big picture that is kind of  
 8 present in some of the data but was not spelled out. So,  
 9 you know, to go back to a point I made, the correlation  
 10 itself shows this huge influx of people who make over 80  
 11 percent AMI into areas where there's a lot of new housing  
 12 being built, both those that are according to the index at  
 13 high risk of displacement and low index, low risk of  
 14 displacement. So we're seeing that pattern. That's a very  
 15 real thing.  
 16 And we're also seeing, according to 3.58, the very last  
 17 bullet point at the bottom, the areas with high displacement  
 18 risk and low access to opportunity were the fastest to gain  
 19 very low-income households and low-income households. So we  
 20 can see in this data a sorting of the City taking place,  
 21 where it's not to the -- we know that people of low incomes  
 22 and very low incomes are not moving to the areas where  
 23 there's, you know, necessarily this new housing  
 24 construction. They're moving to the already impoverished  
 25 areas as very much wealthier people move into the areas

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1 where the housing is being constructed.  
 2 And so -- and if you look -- if we went back to the other  
 3 table you could see that the wealthier people are the ones  
 4 who are generally going to the areas that are low risk of  
 5 displacement, high access to opportunity. So that makes  
 6 sense. They're going to areas that are already kind of  
 7 quote/unquote nice or existing luxury. You see the more  
 8 middle-income people who are moving into areas that are both  
 9 high risk and high opportunity, which kind of accords with  
 10 how people understand how often gentrification works in  
 11 these processes of movement. And then in those areas, which  
 12 are -- had been occupied by people -- by marginalized  
 13 populations and low-income communities, they are going in  
 14 large numbers to the low-opportunity areas. So they may be  
 15 the new people who are moving into the city, maybe not be  
 16 the people who have existed in a low-income neighborhood  
 17 already, but the only place they're forced to go is a low  
 18 income, predominantly low income, low access to opportunity  
 19 area, probably far from, you know, transit and jobs. And so  
 20 that is creating a pattern by which the city is becoming  
 21 more segregated.  
 22 **Q. And so is your testimony that while the EIS at the first**  
 23 **passage you quoted 10 minutes ago acknowledged the theory**  
 24 **that gentrification could cause dislocation, that the EIS**  
 25 **used this correlation analysis to conclude otherwise and you**

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1 **believe that conclusion is wrong?**  
 2 A. Yes.  
 3 **Q. Is that the bottom line?**  
 4 A. Yes, that's the bottom line.  
 5 **Q. All right.**  
 6 A. To the point I made previously about, you know, the really  
 7 influx of low-income people into low-access-to-opportunity  
 8 neighborhoods, the scholars have said before -- Miriam Zuk  
 9 and Karen Chapple out of Berkeley, who lead the Urban  
 10 Displacement Project, they say -- they define it  
 11 displacement might push households out or it might prohibit  
 12 them from moving in, called exclusionary displacement. You  
 13 know, and they say, "Despite some challenges with studies of  
 14 this, it's not an easy issue, most studies agree that  
 15 gentrification at a minimum leads to exclusionary  
 16 displacement and may push out some renters as well."  
 17 There was a Federal Reserve study in Philadelphia by Lei  
 18 Ding and Jackelyn Hwang, and that found that even in a place  
 19 with less gentrification, less influx of wealth into poor  
 20 areas in Seattle -- I mean, sorry -- in Philadelphia, which  
 21 is not experiencing the same level of changes we've seen in  
 22 high growth cities like Seattle and New York and the Bay  
 23 Area, the kind of influx of wealth means that the most  
 24 vulnerable groups -- and this is an empirical study -- tend  
 25 to get shunted into the most disadvantaged neighborhoods

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1 across the city. And so that's, you know, a pattern they  
 2 found even in a place where the influx of wealth to these  
 3 previously low-income areas was not as pronounced. I  
 4 think --  
 5 **Q. All right.**  
 6 A. Yeah.  
 7 **Q. And then I think -- have you already -- I know you've**  
 8 **already discussed in part that better tools are available.**  
 9 **Was there anything further on that that you wanted to add or**  
 10 **have you covered that?**  
 11 A. I think, you know, that we can look at the example of peer  
 12 cities. You know, Seattle is not its own sui generis, it's  
 13 not -- you know, we see examples of this happening in other  
 14 places in the U.S. and, frankly, beyond, you know, influx of  
 15 wealth into cities, including into previously disadvantaged  
 16 areas. And that, to me -- we see these patterns of  
 17 displacement occurring. That, to me, would seem to suggest  
 18 a need for more detailed analysis here just kind of what's  
 19 actually going on because -- and that can involve things  
 20 like ground-truthing and qualitative interviews to try to  
 21 suss out, get a better kind of an overall view of what's  
 22 happening, and then you can do some of these analyses at a  
 23 more granular level, the quantitative analyses.  
 24 I think, you know, the main -- to come back to one final  
 25 point, which is that a correlation doesn't -- it doesn't

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1 indicate causation. And the fact that a correlation doesn't  
 2 seem to define a relationship doesn't mean that one doesn't  
 3 exist. It may be obscured by other variables. So it's a  
 4 starting point, but it's hardly definitive as to whether or  
 5 not, say, new housing construction causes displacement for  
 6 low-income households.  
 7 **Q. All right. So let's -- your third of four critiques of the**  
 8 **impact analysis in the EIS related to -- actually, to the**  
 9 **income-restricted segment, I believe. And you said there**  
 10 **was a failure to accurately assess the projected**  
 11 **distribution, geographic distribution of these**  
 12 **income-restricted units that might be built as a result of**  
 13 **the alternative. What's your -- how would you flesh that**  
 14 **one out for us?**  
 15 A. Sure. So this is really important, and I think it is easily  
 16 glossed over in the EIS. The EIS, it has several tables  
 17 that show projected distribution of income-restricted units  
 18 across urban villages, you know, presented in numbers,  
 19 totaled up. But this very confident presentation really  
 20 cloaks the absence of any analysis about how that geographic  
 21 distribution is going to be generated. And then 3.85 --  
 22 **Q. So let me interrupt for a second.**  
 23 A. Yeah. Sure.  
 24 **Q. So I assume if the income-restricted units were being built**  
 25 **in the structures, the new development, then they would be**

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1 **distributed around the city?**  
 2 A. They would be distributed exactly where the growth was  
 3 happening.  
 4 **Q. Where the new growth is happening?**  
 5 A. Right.  
 6 **Q. And but because there's a fee component here and to the**  
 7 **extent that the fee is used by developers, then this issue**  
 8 **arises, where are these units actually going to be built and**  
 9 **will they mirror where the development is occurring?**  
 10 A. Yeah.  
 11 **Q. All right. And I'm sorry to interrupt you, but so then what**  
 12 **page were you turning us to?**  
 13 A. I believe -- I thought it was 3.58.  
 14 UNIDENTIFIED SPEAKER: 85.  
 15 THE WITNESS: 3 point -- okay. So see here, 3.85, there's  
 16 these estimates of where the affordable units will be built,  
 17 and there's -- you can see there's like different  
 18 projections for Row 2 versus 3 versus preferred alternative.  
 19 I don't see the quote I was going to call, so let me just  
 20 reference it generally. The quote, "MHA payment units will  
 21 be distributed according to each urban village's share of  
 22 total citywide residential growth."  
 23 **Q. (By Mr. Bricklin) Now look in the footnote.**  
 24 A. Oh, right. There's the footnote. I left that out of my  
 25 notes. Yeah. So in the footnote, footnote 21 at page 385.

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1 So the alternative -- yeah. So that's what I just said on  
 2 the bottom of 385. You know, this --  
 3 **Q. So the second sentence. "The alternative assumes that MHA**  
 4 **payment units will be distributed according to each urban**  
 5 **village's share of citywide residential growth"?**  
 6 A. Right.  
 7 **Q. All right.**  
 8 A. So I --  
 9 **Q. You're questioning that assumption?**  
 10 A. It seems like an unfounded assumption to me that this will  
 11 happen, especially -- you know, obviously, if it was a  
 12 requirement for on-site building that would be true. But if  
 13 there's no requirement for on-site building, if you can pay  
 14 an in-lieu fee, it's very debatable given the patterns we've  
 15 seen in other cities around the country and other towns that  
 16 the distribution of affordable units will mirror that of the  
 17 market-rate units. We see -- so the only really evidence  
 18 that's mustered to support this notion is on 4.15.  
 19 **Q. That's a map?**  
 20 A. It's a map on 4.15 and some of the text on 4.14. So  
 21 basically, it says -- the claim is we've done -- Seattle has  
 22 done a pretty good job in the past of evenly distributing  
 23 these units. It's something that's taken into account in  
 24 terms of, you know, how Office of Housing spends money, and  
 25 this map here is presented on 4.15. I'll note that there's

1 no overlay of this high -- of what's supposed to be  
 2 susceptibility of displacement or not. All the other maps  
 3 that were incorporated throughout this are -- don't overlap  
 4 up here, so it's very hard to do an analysis of, well, is  
 5 this distributed as maybe we think it optimally should be?  
 6 So that is one question.  
 7 I think that it also doesn't include a date range. I  
 8 wasn't able to find one in the EIS for when those projects  
 9 were built. And we know, you know, in rapidly changing real  
 10 estate markets and in cities, especially ones where there's  
 11 significant growth in land values that, you know, past  
 12 performance may not be indicative of future results. So if  
 13 this map stated mostly predate of the boom and the rapidly  
 14 rising real estate values in certain parts of the cities, it  
 15 doesn't really tell us much. That's -- that would be one.  
 16 It seems to me a very weak -- weakly support ed assumption  
 17 that was made about the distribution of affordable housing  
 18 units.  
 19 **Q. Well, and it also -- correct me if I'm wrong. If I'm**  
 20 **looking at the clustering of dots here, they seem to be**  
 21 **focused significantly in the downtown area and the near**  
 22 **downtown area, First Hill and Capitol Hill there?**  
 23 A. Right.  
 24 **Q. Right in the middle of the map?**  
 25 A. Right.

1 they can more easily and more cheaply buy land in  
 2 lower-income parts of the city, low-access-to-opportunity  
 3 parts of the city, and thus you are creating segregated  
 4 income and race-segregated neighborhoods. So that's one  
 5 piece. And even if the units were being built right away,  
 6 it would be difficult.  
 7 There's another aspect, which is that according to a study  
 8 of Seattle I referenced before by Cornerstone Partnership  
 9 that came out in 2014 called "Seattle Incentive Zoning,"  
 10 generally there's been a lag of four to five years between  
 11 when an in-lieu fee gets paid and when it gets used, fully  
 12 paid out for the affordable housing units, which means if  
 13 you want to be building -- the sequencing is totally wrong.  
 14 You want to be -- ideally, the best practice is to build  
 15 affordable housing in an area before it starts to rapidly go  
 16 up in land values. Here, it's not only happening, it's  
 17 happening several years later. And as a real estate market  
 18 continues to be very heated here, one can expect that  
 19 problem to get even worse.  
 20 One last thing I'll say is that the same study concluded  
 21 that, you know, Seattle -- the ability to use this new  
 22 funding, this funding from in-lieu fees to track, you know,  
 23 state and federal funding and other funding sources is  
 24 likely to decline, so that even the positive benefit of  
 25 being able to have a flexible pool of money in order to

1 **Q. And if the City's assumption were right that the -- these**  
 2 **rental housing program units are mirroring development**  
 3 **around the City, they would want to show a correlation that**  
 4 **development over the same time span --**  
 5 A. Right.  
 6 **Q. -- had been focused in that same area?**  
 7 A. Right. There's no evidence presented that this correlates  
 8 closely with where housing development has taken place or  
 9 its relationship to where places that are supposed to be at  
 10 risk. It's very lightly sourced and lightly annotated.  
 11 **Q. Okay.**  
 12 A. I think the reason for why I as someone who works in this  
 13 would be skeptical about even if there had been good  
 14 distribution of units, a relatively even distribution of  
 15 units in the past, that that may not be the case going  
 16 forward. One, we know that it's very difficult, can be very  
 17 difficult for affordable housing developers, nonprofits to  
 18 kind of build a hundred percent of affordable housing. You  
 19 know, the place they really need to go is the areas that are  
 20 at range of displacement, and that's -- unfortunately, those  
 21 are the areas where the rising land costs make it very  
 22 difficult to buy property, and so that would suggest to me  
 23 that -- and this has happened in many other cities. We've  
 24 seen it happen in Chicago. We've seen it in many places  
 25 that then what happens is the affordable housing developers,

1 build more units, that may not become as effective in the  
 2 future. So we may end up with less units in worse places,  
 3 so to speak, and that will all heighten segregation and  
 4 inequality and reduce this anti-displacement impact of  
 5 subsidized housing. And there's really no analysis -- to go  
 6 talk with the analysis of impacts, there's no analysis of a  
 7 scenario like this because there's just an assumption made  
 8 that units will be distributed along with the rest of  
 9 growth, and that I find not to be entire- -- not to be  
 10 believable or supportable.  
 11 **Q. All right. And when you say there's no analysis, you meant**  
 12 **no analysis in the EI- -- in this EIS?**  
 13 A. Um-hum.  
 14 **Q. All right.**  
 15 A. Right.  
 16 **Q. All right. And then your fourth point.**  
 17 A. Um-hum.  
 18 **Q. Why don't you explain that one?**  
 19 A. Sure. So this is -- it's building on the point I just made,  
 20 which is that, you know, it's -- kind of the best practice  
 21 in terms of preventing displacement is making sure  
 22 subsidized housing, affordable housing gets put into a  
 23 neighborhood that's at risk of displacement because then  
 24 some of the people who are being displaced from places they  
 25 are renting that aren't, you know, rent controlled, are able

1 to move into some of their -- these new affordable units and  
 2 stay with -- in close contact with their communities and  
 3 support networks and jobs and transit. If that's the best  
 4 practice, you know, this problem of a lag -- see, the  
 5 problem with the fact that it takes four years or even in a  
 6 good scenario two or three years for these affordable  
 7 housing units to be built means that the folks who are being  
 8 displaced as a result of rising land values and rising rents  
 9 are -- they've left. They're gone. The -- you know, the  
 10 cow has left the barn. The horse has left the barn. It's  
 11 too late. And you know, these questions about the amount  
 12 and timing and pace of growth as ways of limiting  
 13 displacement, it seems reasonable to me that like these  
 14 would be included as part of the EIS, right? You know, and  
 15 that in particular there be consideration given to how it  
 16 would be possible to make sure that affordable units are --  
 17 funded by in-lieu fees are, you know, placed into  
 18 neighborhoods that are about to, you know, see an explosion  
 19 of market-rate housing as an explosion of upzoning.  
 20 So basically, you know, this plan threatens displacement  
 21 and segregation from two different angles. One, it's  
 22 upzoning a lot of these kinds of areas, even ones that are  
 23 high displacement risks, supposedly. And at the same time,  
 24 it's not going to be able to -- those new units that are  
 25 coming in because their in-lieu fees are not on site are

1 MR. WEBER: Um-hum.  
 2  
 3 CROSS - EXAMINATION  
 4 BY MR. WEBER:  
 5 **Q. So, Mr. Levitus, I'm Jeff Weber With the City Attorney's**  
 6 **Office. I'll have a few questions for you.**  
 7 A. Sure.  
 8 **Q. Have you ever been involved in preparing or drafting an**  
 9 **Environmental Impact Statement?**  
 10 A. I have not been involved on the city level, but I've been  
 11 deeply involved in reviewing these as a part of professional  
 12 work and public service work and very familiar with the  
 13 issues that are involved with them.  
 14 **Q. But not as a preparer or a drafter?**  
 15 A. No.  
 16 **Q. So you've talked about various benefits that you believed**  
 17 **would flow from having affordable units on site. I just**  
 18 **want to understand. Is it necessary that the affordable**  
 19 **units be actually on site in the development itself or just**  
 20 **that they be nearby in a certain type of neighborhood?**  
 21 A. I think generally there's some research showing that it's  
 22 best if they are mixed right in. It really ensures a level  
 23 of integration that you can't avoid. It's also good to have  
 24 them nearby, but if you're able to have them on site, that  
 25 ensures a level of social mixing that wouldn't necessarily

1 likely to be far away. And so that seems like that scenario  
 2 was not analyzed at all in this document.  
 3 **Q. All right. So that -- so this is not an issue where you can**  
 4 **point to something in the EIS that's -- you're taking issue**  
 5 **with, but rather, something that's simply missing from the**  
 6 **analysis?**  
 7 A. Right. And I think that's exactly right that it's generally  
 8 omitted. You know, there's a mention that Alternative 1 is  
 9 least likely to reduce displacement.  
 10 **Q. That's the no action alternative?**  
 11 A. Right. The no action alternative. Because it will generate  
 12 many fewer income-restricted units. But that doesn't take  
 13 into consideration how the increase in development capacity  
 14 of the upzoning will generate, you know, say, displacement  
 15 in a certain area. So it's -- you know, and one could  
 16 analyze a variety of different programs, as I've mentioned  
 17 earlier today, that would, you know, have -- my point is  
 18 that it's not really the number of affordable units that are  
 19 built, but when and where they're built. And that's really  
 20 crucial and that's not analyzed sufficiently in this  
 21 document.  
 22 **Q. All right.**  
 23 MR. BRICKLIN: I think that's all I have for this witness.  
 24 Thank you.  
 25 HEARING OFFICER: Cross.

1 even occur in the same neighborhood.  
 2 **Q. Have you ever conducted any economic modeling or feasibility**  
 3 **analysis related to the feasibility of development projects?**  
 4 A. I haven't -- I have not conducted a formal analysis, but I  
 5 have, you know, reviewed kind of that type of analysis for  
 6 different cities over the years and am kind of familiar with  
 7 the general act.  
 8 **Q. So have you reviewed or performed any economic feasibility**  
 9 **analysis specifically about this proposal and whether the**  
 10 **higher affordable housing requirements you're proposing**  
 11 **would actually be possible without negatively affecting**  
 12 **housing production?**  
 13 A. Well, I think they would be -- I haven't performed a, you  
 14 know, extensive economic analysis myself, but I think given  
 15 what we've seen in many peer cities, they would be -- you  
 16 know, certainly it's likely they would be feasible creating  
 17 the outcomes I've talked about.  
 18 **Q. But you haven't reviewed or done any analysis that relates**  
 19 **to Seattle in particular?**  
 20 A. I mean, I think peer cities are not so different, but I have  
 21 not conducted a specific analysis, economic analysis of  
 22 Seattle.  
 23 **Q. So you talked about the relationship between the performance**  
 24 **requirement versus the fee in lieu. Can you explain or do**  
 25 **you know how that economic relationship was set in this case**

1 know, I think my point is not that that I'm -- my point is  
 2 that if you did some kind of on-the-ground research and  
 3 listening, you could get a sense of where -- make a better  
 4 hypothesis about the timing and geography of displacement  
 5 and then test that statistically.

6 **Q. But what would you -- when you did this statistical**  
 7 **analysis --**

8 A. Yeah.

9 **Q. -- what would you be measuring? What are the variables**  
 10 **you're looking at in that study?**

11 A. Sure. I mean, it would -- you could look at -- you know,  
 12 you could look at the, you know -- the influx and outflux of  
 13 low-income households, middle-income households, high-income  
 14 households. You could look at, you know, the change in  
 15 proportions of those things, many of which were considered  
 16 in the correlation analysis but were not considered at a  
 17 sufficiently granular level.

18 **Q. So is it the same variables but just at a more detailed or**  
 19 **lower level?**

20 A. Well, I -- the proportion and the idea of measuring changing  
 21 proportions is different in a given area, the proportions of  
 22 low, you know, middle, high. It's different in the sense  
 23 that -- also that you're not seeing, you know, increases in  
 24 one type of area, you know, counter outfluxes in another  
 25 that are currently classified under the same typology. So

1 **Q. Do you need any particular data from those people or are you**  
 2 **just relying on more qualitative discussions?**

3 A. Well, I would argue that qualitative information is data in  
 4 its own form. Not to quantitate it, but it's -- it is  
 5 information about the world. And as a -- somebody who is  
 6 trained as a historian but also had a background in social  
 7 science, I mean, there is a lot of, you know, validity to an  
 8 approach that is not starting at a quantitative level, but  
 9 is -- you know, we wouldn't -- there's very few things we  
 10 can understand the world, really, through quantitative, and  
 11 it's important -- to really get into causation issues, you  
 12 have to go through and listen to the stories and understand  
 13 kind of the many moving pieces. You have to flush that --  
 14 start creating a broader hypothesis before you can, you  
 15 know, test it accurately.

16 MR. WEBER: That's all I have. Thank you.

17 THE WITNESS: Thank you.

18 HEARING OFFICER: Redirect?

19 MR. BRICKLIN: Just, I think, one question.

20 HEARING OFFICER: Yeah.

21

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

23 BY MR. BRICKLIN:

24 **Q. So there was some questions there regarding your testimony**  
 25 **that the market-rate development was going to -- the**

1 that level of kind of granular analysis would be more  
 2 useful.

3 **Q. So you were talking about doing some qualitative, for lack**  
 4 **of a better word, investigation --**

5 A. Yeah.

6 **Q. -- to inform how you proceed --**

7 A. Yeah.

8 **Q. -- with all this. What does that qualitative investigation**  
 9 **look like?**

10 A. Sure. I mean, it can take a variety of forms. I think, you  
 11 know, I've seen -- have colleagues who are urban planners  
 12 who, you know, spend time when it comes to kind of designing  
 13 a rezone really very proactively, you know, reaching out to  
 14 the people who are living in the street. Doing walking  
 15 tours, having those folks who are -- lived in the  
 16 neighborhood for a while explain, you know, what in their  
 17 view has gone on. Not that that's the end all, be all, but  
 18 it starts giving you a sense of, oh, this was here and it  
 19 left because of this reason. Like the testimony we heard  
 20 yesterday: Oh, there's an older African American man who  
 21 was forced out of his home and here's why. And you start to  
 22 pick up on some of those things. And it's a little more  
 23 time intensive, but I think you generate a much better end  
 24 result, and, frankly, a result that has much more buy-in  
 25 from the surrounding community.

1 **increased market-rate development, whether it would, in**  
 2 **fact, lead to higher displacement rates or not. And I want**  
 3 **to hand you an Exhibit 144 --**

4 MR. BRICKLIN: Is that a 4 or a 3, Mr. Thaler?

5 MR. THALER: 4.

6 **Q. (By Mr. Bricklin) 144. Which is a document that was**  
 7 **entered this morning, and it's from the City's Social**  
 8 **Justice Internal Review Team.**

9 MR. WEBER: Actually, I think the testimony was that no  
 10 one knew where that document was from.

11 HEARING OFFICER: Yeah, that's true. It's from the  
 12 possession of the central staff of the city council  
 13 according to the index.

14 MR. BRICKLIN: All right.

15 **Q. (By Mr. Bricklin) And just would you read out loud the**  
 16 **first sentence there?**

17 A. The "Overall"?

18 **Q. Yes.**

19 A. "Overall, a conclusion that increasing development capacity  
 20 and encouraging market-rate development in high displacement  
 21 risk areas as an anti-displacement strategy in and of itself  
 22 is a very dangerous conclusion for Seattle and the field of  
 23 planning nationally and goes against the HUD recommendations  
 24 on fair housing."

25 **Q. All right. And is that statement consistent with your**

1 **testimony?**  
 2 A. Yes, it is.  
 3 **Q. And is there any indication that you've seen in the final**  
 4 **EIS that that was acknowledged?**  
 5 A. No.  
 6 MR. BRICKLIN: That's all I have. Thank you.  
 7 HEARING OFFICER: Thank you, Mr. Levitus.  
 8 THE WITNESS: Thank you.  
 9 UNIDENTIFIED SPEAKER: So I think we're handing off the  
 10 baton here. Do you want to move?  
 11 UNIDENTIFIED SPEAKER: I'm moving.  
 12 UNIDENTIFIED SPEAKER: You're moving? All right. And  
 13 hopefully you can set the show for the afternoon, because  
 14 I've got to go.  
 15 UNIDENTIFIED SPEAKER: Yeah. Are you okay here?  
 16 UNIDENTIFIED SPEAKER: Sure.  
 17 MR. BRICKLIN: Who is your first witness?  
 18 MS. LATOSZEK: (Inaudible).  
 19 MR. BRICKLIN: You should introduce yourself.  
 20 MS. LATOSZEK: Mira Latoszek from North Beacon Hill. So I  
 21 would like to call Mr. Roger Pence as a witness.  
 22 HEARING OFFICER: Please state your name and spell it for  
 23 the record.  
 24 MR. PENCE: Yes. My name is Roger Pence. R-O-G-E-R,  
 25 P-E-N-C-E.

1 that culminated in the -- I think we called it the Beacon --  
 2 North Beacon Hill Action Plan, about 1994 as I recall. I  
 3 was heavily involved in all of that. And then, in the  
 4 summer of 1994, the City, recognizing what we had done on  
 5 Beacon Hill and in some of the other neighborhoods around  
 6 the city, decided to initiate their own neighborhood  
 7 planning project. This was in -- we met all summer long, I  
 8 remember, that year, in the Mayor Rice's conference room  
 9 developing a neighborhood planning process that was  
 10 ultimately implemented. Karma Ruder was the director of  
 11 that project. And we ended up with 38 neighborhood plans  
 12 around the City.  
 13 MS. LATOSZEK: I'd like to submit the North Beacon Hill  
 14 neighborhood plan from 1999 into the record.  
 15 HEARING OFFICER: Is that your Exhibit 3?  
 16 MS. LATOSZEK: Yes.  
 17 HEARING OFFICER: Marked as Exhibit 146.  
 18 (Exhibit No. 146 marked for identification)  
 19 **Q. (By Ms. Latoszek) So before we go into the plan itself,**  
 20 **could you -- you have some -- we won't call it expertise,**  
 21 **but you have some training in urban planning. Could you**  
 22 **just for the record describe that a little bit?**  
 23 A. I have a degree from the University of Washington in  
 24 political science, but one of my active areas of minor  
 25 interest in earning that degree was in urban planning. I

1 HEARING OFFICER: Do you swear or affirm the testimony  
 2 you'll provide in today's hearing will be the truth?  
 3 MR. PENCE: I will, yes.  
 4 HEARING OFFICER: Thank you.  
 5  
 6 ROGER PENCE: Witness herein, having first been  
 7 duly sworn on oath, was examined  
 8 and testified as follows:  
 9  
 10 DIRECT EXAMINATION  
 11 BY MS. LATOSZEK:  
 12 **Q. Mr. Pence, could you tell us a little bit about your**  
 13 **background, where you live currently, and where you've lived**  
 14 **in the past? You've been a community member of Beacon Hill**  
 15 **for a long time, but kind of explain what the current**  
 16 **situation is and how you've been involved in the**  
 17 **neighborhood over the years.**  
 18 A. Well, I moved to Seattle in 1968. And in 1970 and beyond, I  
 19 was very involved in neighborhood affairs, first in the  
 20 University District, then in Wallingford, and finally, in  
 21 1989 and afterwards, on Beacon Hill. I was very involved in  
 22 the neighborhood planning projects that were initiated by  
 23 the Beacon Hill community in the early 1990s. We had  
 24 neighborhood matching fund awards from the Department of  
 25 Neighborhoods to do our own grassroots neighborhood plans

1 took several classes in the planning department and the law  
 2 school, even, all oriented around these issues. But I don't  
 3 claim to be a professional in the field. I was always on  
 4 the neighborhood side of the conversation.  
 5 **Q. Great. Thank you. But it's safe to say that you have**  
 6 **knowledge and you were heavily involved in the neighborhood**  
 7 **planning process?**  
 8 A. Yes, indeed.  
 9 **Q. Great. So could you talk about the planning process that**  
 10 **occurred that resulted in the neighborhood plan in 1999?**  
 11 A. That was the plan that was done under the -- under Karma  
 12 Ruder's project. As one element of the citywide  
 13 neighborhood planning process, there were active citizen  
 14 task forces within the community, one for the Jefferson  
 15 Park, one for the town center planning. There were a number  
 16 of different groups meeting within the community. This --  
 17 it was largely a community-driven process. The City had  
 18 resources, money available to hire consultants to work with  
 19 the neighborhoods, but it was not City driven. It was --  
 20 the emphasis was on citizen engagement and a plan that  
 21 reflected the interests and the needs of the citizens of the  
 22 neighborhood as they came together to work on the process.  
 23 **Q. And could you describe some of the meetings that occurred**  
 24 **and how many people approximately were involved in the**  
 25 **process over time?**

## Hearing - Day 8

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

July 25, 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 8 - July 25, 2018  
Heard before Hearing Examiner Ryan Vancil

TRANSCRIBED BY: Bonnie Reed, CET

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

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July 25, 2018

HEARING EXAMINER: We're returning with appellants' case, July 25, 2018.  
MS. SAWYER: Hello.  
HEARING EXAMINER: Good morning.  
MS. SAWYER: Oh, I'm sorry, I'm Amanda Sawyer, I'm with JuNO. And I'll be questioning this morning.  
HEARING EXAMINER: Are the --  
MR. BRICKLIN: And I think if I can facilitate this, there's a question about the documents. There's at least one, and maybe more than one, very thick document, traffic data. And I think the question is whether we need to put in a 100-page document with a lot of data in it or --  
MS. SAWYER: Or I have a smaller copy --  
MR. BRICKLIN: There's a summary. I gather that the data that fills up the bulk of that document is summarized. And there's no question as to the summary in the front of that document is that right? Is that what the summary is?  
MS. SAWYER: Well, it's an additional exhibit that's used that data.  
HEARING EXAMINER: Has the city seen the summary?  
MR. BRICKLIN: No -- well, yes, because it was provided as

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one of the --  
MR. JOHNSON: So if you can give us the exhibit number, we can look at it.  
MR. BRICKLIN: So do you know the JuNO exhibit number?  
MS. SAWYER: The JuNO exhibit number is 107:  
MR. KOEHLER: For the big fat one.  
MS. SAWYER: I can provide everyone with their copy.  
MR. BRICKLIN: Sure you can do that if you want.  
MR. KOEHLER: Maybe we can do this as we're going.  
MR. BRICKLIN: That's fine if you want to do it when you get to it. Yeah, I think that would be easier.  
MS. SAWYER: This is your copy. I made a copy of everything that we referred to and (inaudible).  
MR. MITCHELL: This is ours.  
MR. BRICKLIN: And I think I heard Amanda say that she's not planning to ask all of those be admitted but rather the witness will be referring to some of them. I say that in terms of not asking the clerk to mark them all initially.  
HEARING EXAMINER: Right. We'll do those as we come in because I'm not sure if these are all in the order where they will be accepted or not. This is a stack enough that I don't want to get too far into marking things in advance.  
MS. SAWYER: Thank you.  
HEARING EXAMINER: Are you ready to proceed with the witness?

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1 MS. SAWYER: I am.  
 2 HEARING EXAMINER: Okay. Have you been before us already?  
 3 THE WITNESS: Not as a witness, no.  
 4 HEARING EXAMINER: Okay. Please state your name and spell  
 5 it for the record.  
 6 THE WITNESS: My name is Richard T. Koehler,  
 7 R-I-C-H-A-R-D, T stands for Thomas, T-H-O-M-A-S, and Koehler  
 8 is K-O-E-H-L-E-R.  
 9 HEARING EXAMINER: And do you swear or affirm that the  
 10 testimony that you provide in today's hearing will be the  
 11 truth?  
 12 THE WITNESS: I do.  
 13  
 14 RICHARD T. KOEHLER: Witness herein, having first been  
 15 duly sworn on oath, was examined  
 16 and testified as follows:  
 17  
 18 DIRECT EXAMINATION  
 19 BY MS. SAWYER:  
 20 **Q. Mr. Koehler, do you live in the West Seattle Junction?**  
 21 A. Yes, I live within a few minutes walking distance from the  
 22 Junction.  
 23 **Q. And how long have you lived there?**  
 24 A. I've lived there since 1997.  
 25 **Q. And how long have you volunteered with JuNO, the Junction**

Page 10

1 **Neighborhood Organization?**  
 2 A. I've been an active participant for two years.  
 3 **Q. And when did you become aware of the MHA proposal?**  
 4 A. I became aware of MHA two years ago when it was posted in  
 5 the West Seattle Blog.  
 6 **Q. And did you read the MHA EIS in it's entirety?**  
 7 A. Yes. I read the MHA DEIS FEIS and its appendices.  
 8 **Q. And did you also comment on the EIS?**  
 9 A. Yes, I provided comments along with the JuNO organization  
 10 prior to the DEIS common period as well as during the ES  
 11 common period.  
 12 **Q. Wonderful, thank you.**  
 13 MS. SAWYER: We are going to start by looking at some  
 14 sections of the Seattle 2035 Comprehensive Plan. And will  
 15 be -- we've tabbed every section that we're referring to.  
 16 We have marked a star on certain pages just to note which  
 17 paragraphs we'll be reading. Will that need to be admitted  
 18 into evidence?  
 19 HEARING EXAMINER: The comprehensive plan I believe is  
 20 already in evidence, Exhibit 3.  
 21 MS. SAWYER: Okay. Even if it's got a note on it, we've  
 22 altered the document, just to mark the paragraph.  
 23 HEARING EXAMINER: If you need the note in separately,  
 24 then we may admit that as a separate exhibit. Let's do that  
 25 when we get to it.

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1 MS. SAWYER: Okay, great. So I will note that it's not an  
 2 exhibit if it's part of the FEIS, the Comp Plan or Municipal  
 3 Code as we're covering those documents and ask that we mark  
 4 certain documents as exhibits as we go along to keep  
 5 everything straight. Okay.  
 6 **Q. (By Ms. Sawyer) So if we could turn to the first tab, just**  
 7 **148-1, this is not an exhibit. Mr. Koehler, do you**  
 8 **recognize this document?**  
 9 A. Yes, it's a page from the early sections of the MHA FEIS.  
 10 **Q. And can you please read the marked section from the FEIS?**  
 11 A. Please review adoption of existing environmental documents.  
 12 The city is following a course of phased environmental  
 13 review pursuant to WAC 197-11-060(5) and SMV 25.05.060.E to  
 14 review proposal implementing or related to the 2035  
 15 Comprehensive Plan. MHA is a regulatory program that would  
 16 implement the comprehensive plan. And this EIS is a step in  
 17 the course of phase review. The existing EIS that was  
 18 prepared by the City of Seattle 2035 Comprehensive Plan,  
 19 draft EIS 2015, final EIS 2016 is relevant to the present  
 20 proposal and is being adopted and used to help the  
 21 environmental review requirements pursuant to WAC 197-11-600  
 22 and SMV 25.05.600.  
 23 **Q. Thank you. And let's turn the page to tab 135-1. This is**  
 24 **not an exhibit as it's already part of the record. And do**  
 25 **you recognize this document?**

Page 12

1 A. Yes, it's a page from the comprehensive plan's EIS, which is  
 2 referred to in the prior paragraph I just read.  
 3 **Q. And could you please read the marked section?**  
 4 A. Proposed action, the city is considering text and map  
 5 amendments to the Seattle Comprehensive Plan that may alter  
 6 the distribution of projected growth of 70,000 housing units  
 7 and 115,000 jobs in Seattle through 2035. And that would  
 8 influence the matter in which the city conducts its  
 9 operations to promote and achieve other goals such as those  
 10 related to public health, safety, welfare, efficient service  
 11 delivery, environmental sustainability and equity.  
 12 **Q. Thank you. And let's turn the page --**  
 13 HEARING EXAMINER: Just to pause. As you're noting, it's  
 14 helpful to note whether you intend it to be an exhibit or  
 15 not. But if it's already an exhibit, identifying the  
 16 exhibit number is going to be important. So for example in  
 17 your 148-1, I understand that you're citing to Exhibit 2,  
 18 the EIS --  
 19 MS. SAWYER: Okay.  
 20 HEARING EXAMINER: And then the next one is Exhibit 3, the  
 21 comprehensive plan --  
 22 MS. SAWYER: Okay.  
 23 HEARING EXAMINER: -- is that right?  
 24 MS. SAWYER: Yes. I will make a note of that, and I will  
 25 say that out --

Page 13

1 HEARING EXAMINER: If it's already an exhibit that's fine,  
 2 but do state the exhibit number.  
 3 MS. SAWYER: Okay, great.  
 4 MR. KOEHLER: So the comprehensive plan EIS --  
 5 MS. SAWYER: Yes, is 3.  
 6 MR. KOEHLER: It's not the comprehensive because the  
 7 comprehensive plan's EIS --  
 8 MS. SAWYER: Seattle 2035 --  
 9 HEARING EXAMINER: You need to tell me what you're  
 10 introducing. So I don't know --  
 11 MR. BRICKLIN: You need to say what the exhibit is.  
 12 HEARING EXAMINER: All I'm saying is if you are already  
 13 referencing something in the record, please identify that  
 14 exhibit number.  
 15 MR. BRICKLIN: So the Comp Plan is 3. The comp plan DEIS  
 16 is 4, and the comp plan FEIS is 5.  
 17 MR. KOEHLER: Comprehensive plan EIS FEIS page --  
 18 MR. BRICKLIN: That's Exhibit 5.  
 19 HEARING EXAMINER: Thank you. And that is what I need you  
 20 to figure out and tell me. I'm not going to help you with  
 21 it --  
 22 MS. SAWYER: Of course, I'm sorry.  
 23 **Q. (By Ms. Sawyer) Okay. So turning to -- we're on 145-2,**  
 24 **this is not an exhibit as it is Exhibit 5 already in the**  
 25 **record. Do you recognize this document?**

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1 A. Yes, it's a page from the comprehensive plan final EIS.  
 2 **Q. And could you please read the first objective?**  
 3 A. The city's objectives for this proposal include retaining  
 4 the Urban Village strategy and achieving a development  
 5 pattern in line with it.  
 6 **Q. Wonderful. And then turning the page to tab 9. This is not**  
 7 **an exhibit. It is already in the record as Exhibit 5. And**  
 8 **do you recognize this document?**  
 9 A. Yes, it's another page from the comprehensive plan's final  
 10 EIS.  
 11 **Q. And could you read the first sentence of the Seattle**  
 12 **Comprehensive Plan section please?**  
 13 A. Yes. This is from the relationship to plans, policies, and  
 14 regulations section. The first sentence of the Seattle  
 15 comprehensive plan is Urban Village Strategy. All EIS  
 16 alternatives, including the preferred alternative, would  
 17 continue and reinforce the city's adopted Urban Village  
 18 Strategy, which accommodates the majority of anticipated  
 19 housing and employment growth and designated urban centers  
 20 and urban villages and MICs.  
 21 **Q. Thank you. And turning the page to tab 145-3. This is not**  
 22 **a new exhibit, it is already part of the record with Exhibit**  
 23 **5. Do you recognize this document?**  
 24 A. Yes, it's the environmental review section from the  
 25 alternative section of the comprehensive plan's final EIS.

Page 15

1 **Q. And can you please read the marked sections for us?**  
 2 A. SEPA infill exemption. According to Washington State's  
 3 Environmental Policy, see RCW 43-21C, the city may consider  
 4 adjustments to categorical exemptions from environmental  
 5 review, including for infill development as described in  
 6 RCW43-21C229.  
 7 The range of impact findings also help illustrate the  
 8 implications of the possible future city action that could  
 9 be taken to define higher SEPA categorical exemption levels  
 10 related to infill development which would eliminate  
 11 environmental review for certain size ranges of future  
 12 development. Such higher exemption levels would continue  
 13 until applicable levels of density or intensity of  
 14 development is defined in the comprehensive plan are met.  
 15 Except as otherwise discussed in Chapter 3 of this EIS,  
 16 the use of SEPA infill provisions is concluded to generally,  
 17 essentially the same potential for adverse environmental  
 18 impacts as defined for each alternative. This reflects the  
 19 conclusion that the use of higher categorical exemption  
 20 levels encouraging infill development would likely to result  
 21 in future growth in patterns that will aid in accomplishing  
 22 the Urban Village Strategy because it's use would be  
 23 oriented to development within the urban centers and urban  
 24 villages and not other places. This is likely to be so  
 25 regardless of which EIS alternative might be selected by

Page 16

1 decision makers to implement the Urban Village Strategy  
 2 preferred in the comprehensive plan.  
 3 A corollary finding of the EIS is that the range of  
 4 identified environmental impacts would be able to be  
 5 addressed through the implementation of the city's  
 6 development and regulations, other applicable requirements  
 7 of the city's comprehensive plan, Functional Plans or other  
 8 local, state or federal rules or laws.  
 9 **Q. Thank you. Can we turn to tab 74, this is not an exhibit,**  
 10 **it's already in evidence as Exhibit 5. Tab 74, but it's**  
 11 **already in evidence as Exhibit 5.**  
 12 A. This is 73?  
 13 **Q. I'm sorry is this tab 74?**  
 14 A. Yes.  
 15 **Q. Okay. And do you recognize this document?**  
 16 A. Yes. It's a page from the Seattle Comprehensive Plan, not  
 17 the comprehensive plan's FEIS.  
 18 **Q. Oh, excuse me, I'm sorry, this is Exhibit 3, the**  
 19 **comprehensive plan, my apologies. Could you please read the**  
 20 **first paragraph under discussion?**  
 21 A. Yeah, this is the section headed Urban Village Strategy  
 22 Discussion. The Urban Village Strategy is Seattle's growth  
 23 strategy. This strategy concentrates most of the city's  
 24 expected future growth and urban centers and urban villages.  
 25 Most of these areas have been the commercial center serving

1 their local communities or even the larger city and region  
2 for decades. They are the places best equipped to absorb  
3 more housing and businesses and to provide the services that  
4 new residents and employees will need.

5 **Q. And on the second page of tab 74, can you read the first  
6 sentence from the second paragraph?**

7 A. The Urban Village Strategy takes the unique character of the  
8 city's neighborhoods into account when planning for future  
9 growth.

10 **Q. And could you also please read the second to last paragraph  
11 of that page?**

12 A. The city intends for each of these areas to see more growth  
13 and change over time than other commercial locations or  
14 primarily residential areas. Together they will accommodate  
15 the majority of the city's expansion during the plan's  
16 lifespan. The city will continue to work with it's  
17 residents, businesses and institutions citywide to promote  
18 conditions that will help each of its communities thrive.  
19 But it will pay special attention to the urban centers and  
20 villages where the majority of the new housing and jobs is  
21 expected. The policies in this plan provide direction for  
22 that change and growth.

23 **Q. Thank you. And turning to tab 75, this is Exhibit 3 already  
24 in the record, do you recognize this document?**

25 A. Yes. It's a page that includes a more detailed description

1 refine more than half of those plans and help take action to  
2 accomplish the goals that each community prioritized.

3 **Q. Thank you. And turning to tab 72, this is also part of  
4 Exhibit 3, do you recognize this document?**

5 A. Yes, it's from the glossary section of the Seattle  
6 Comprehensive Plan.

7 **Q. I'm continuing to elaborate on how the comprehensive plan  
8 defines neighborhoods. Could you please read the three  
9 definitions that begin with neighborhood.**

10 A. Neighborhood, a geographically localized district within a  
11 city, e.g. Ballard, South Park, Columbus, Columbia City,  
12 Greenwood.

13 Neighborhood character. Unique look and feel of a  
14 particular area within the city. This is a subjective  
15 concept, one that varies not only by neighborhood, but also  
16 by each person's view of that neighborhood.

17 Neighborhood plan. Goals and policies adopted in the  
18 comprehensive plan consistent with the Growth Management  
19 Act, the detail how the vision goals and policies of the  
20 elements of the comprehensive plan apply to a specific  
21 geographic area.

22 **Q. Thank you. And let's all turn to tab 70, this is also part  
23 of the record as Exhibit 3. Do you recognize this page?**

24 A. Yes. It is the community involvement section of the Seattle  
25 Comprehensive Plan.

1 of Seattle's Urban Village Strategy from Seattle's  
2 Comprehensive Plan.

3 **Q. And could you please read the first sentence under the  
4 heading Seattle's Urban Village Strategy?**

5 A. The foundation of Seattle's Comprehensive Plan is the Urban  
6 Village Strategy.

7 **Q. And let's skip to the last page of tab 75 to read the  
8 paragraph that begins of course.**

9 HEARING EXAMINER: Which page was that?

10 MS. SAWYER: It's the last page of 75. So it is 13 and  
11 the paragraph starting with of course.

12 A. Of course urban villages are more than just the fulfillment  
13 of the regional growth strategy. They are neighborhoods  
14 where Seattle residents live, work, learn, shop, play and  
15 socialize. After the initial adoption of the plan, the city  
16 engaged in a citywide neighborhood planning effort that  
17 produced a neighborhood plan for each area of the city  
18 containing an urban center or urban village.

19 Those neighborhood plans found some common themes from  
20 improvement among the different communities and also  
21 highlighted some needs that were unique to each of those  
22 neighborhoods. To address the common themes, voters  
23 approved funding for libraries, open spaces, community  
24 centers and transit. Since the neighborhood plans were  
25 first adopted, the city has worked with communities to

1 **Q. Thank you. And let's turn to the third page of this tab.  
2 Would you please read the section titled discussion?**

3 A. This is under the section community and neighborhood  
4 planning discussion. Community planning is a specific type  
5 of community involvement process that produces plans for  
6 particular geographic areas. The city's approach to  
7 community planning has evolved over time to become more  
8 inclusive. The topdown approaches of earlier decades gave  
9 way to bottom up neighborhood planning process for unique  
10 areas including urban villages and urban centers designated  
11 in the 1994 Comprehensive Plan.

12 Between 1995 and 2000, the city-funded neighborhood groups  
13 to draft goals, policies and actions that would encourage  
14 the pattern and distribution of growth outlined in the  
15 comprehensive plan. By 2000 the city council adopted  
16 policies and goals for 33 neighborhood plans plus five urban  
17 center village plans within the downtown urban center into  
18 the city's comprehensive plan.

19 In recent years, city staff has initiated planning  
20 processes in partnership with many neighborhoods to update  
21 neighborhood plans, development implementation plans and  
22 address other planning and development issues. Currently,  
23 the neighborhood plan section of the comprehensive plan  
24 contains the goals and policies that have emerged from  
25 different community planning initiatives. These goals and

1 policies are the city's adopted neighborhood plans.  
 2 **Q. Thank you. And let's turn to tab 71. This exhibit is also**  
 3 **already part of -- I'm sorry, this document is part of the**  
 4 **record, part of Exhibit 3. Do you recognize this page?**  
 5 A. Yes, it's a page from the Seattle Comprehensive Plan, it  
 6 shows the flowchart of the city's planning processes.  
 7 **Q. Thank you. Does it reference neighborhood goals and**  
 8 **policies?**  
 9 A. It does. It shows it in the fourth section in the  
 10 flowchart, which is one of the three components of the  
 11 Seattle Comprehensive Plan. And it shows that it is flowing  
 12 into a set of implementation tools, including, for example,  
 13 land use code.  
 14 **Q. Thank you. And turning to tab 73, this is not a new**  
 15 **exhibit, this is part of existing Exhibit 5, the comp plan**  
 16 **EIS. Do you recognize this page?**  
 17 A. Yes, this is a couple pages from the comprehensive plans  
 18 FEIS that we referred to earlier.  
 19 **Q. And does the second page have a reference to neighborhood**  
 20 **plans?**  
 21 A. It does have a reference to neighborhood plans.  
 22 **Q. Could you please read that?**  
 23 A. No changes are proposed to the adopted neighborhood plans in  
 24 the comprehensive plan nor the container port in Shoreline  
 25 Management Elements.

1 HEARING EXAMINER: 162 is admitted.  
 2 (Exhibit No. 162 admitted into evidence.)  
 3 **Q. (By Ms. Sawyer) Thank you. And please turn to page 2.4,**  
 4 **and we've added a tab for everyone's convenience. What is**  
 5 **this section?**  
 6 A. This states the planning context for the MHA FEIS for the  
 7 University District.  
 8 **Q. And turning to pages on 2-6, please read the headlines in**  
 9 **the center of that page and it's opening paragraph.**  
 10 A. The headline for this particular part of the planning  
 11 context is the University District Community Urban Center  
 12 Plan. The University's Community Urban Center Plan was  
 13 completed in 1998. The plan was developed through a  
 14 collaborative process that included neighborhood  
 15 representatives, UW and the city and was subsequently  
 16 approved by resolution by the City of Seattle.  
 17 **Q. Thank you. And did JuNO make a reference to neighborhood**  
 18 **planning process from the late 1990s in a recent court**  
 19 **filing?**  
 20 A. We did make a reference to a similar process that was taken  
 21 with West Seattle Junction in the late '90s in our cross  
 22 motion for summary judgment.  
 23 **Q. And on page 2.6, do you recognize the bullet points?**  
 24 A. These bullet points appear to be a summary of or extracted  
 25 from the University District's Neighborhood Plan from the

1 **Q. Thank you. So from the information you've outlined so far**  
 2 **in the Seattle 2035 Comprehensive Plan and the comprehensive**  
 3 **plan's EIS, what conclusions could you draw regarding**  
 4 **neighborhood plans as they relate to growth and planning in**  
 5 **urban villages?**  
 6 A. The conclusions that I have drawn from that are that  
 7 neighborhood planning is important and essential element to  
 8 the way the city goes about neighborhood planning. And if  
 9 the FEIS that the city prepared for comprehensive plan aimed  
 10 to implement the Urban Village Growth Strategy, which  
 11 included neighborhood plans is a key component.  
 12 **Q. Thank you. And let's turn to tab 147, this we would like to**  
 13 **mark as an exhibit.**  
 14 MS. SAWYER: Could someone let me know what exhibit number  
 15 we are on?  
 16 HEARING EXAMINER: 162.  
 17 **Q. (By Ms. Sawyer) Okay. We would like this to be marked as**  
 18 **Exhibit 162. Mr. Koehler, do you recognize this document?**  
 19 A. Yes. This is the FEIS document which is the one that was  
 20 prepared for the MHA implementation for the University  
 21 District.  
 22 (Exhibit No. 162 marked for identification.)  
 23 MS. SAWYER: Thank you. I would offer Exhibit 162 into  
 24 evidence.  
 25 MR. JOHNSON: No objection.

1 comprehensive plan.  
 2 **Q. And why is that important?**  
 3 A. It's important because in order for the context for this MHA  
 4 action to be relevant to the neighborhood plans, the  
 5 neighborhood plans should be summarized and explained how  
 6 they will be implemented or affected by this plan.  
 7 **Q. Okay, thank you. And turning to tab 144-1, this is already**  
 8 **part of the record. It is exhibit -- I lost my exhibit**  
 9 **numbers. It is part of Exhibit 3, the comprehensive plan.**  
 10 **Do you recognize this page?**  
 11 A. Yes, this is the University Community Urban Center  
 12 Neighborhood Plan section from the Seattle Comprehensive  
 13 Plan that was referred to in the earlier document we just  
 14 read.  
 15 **Q. And what does this information establish?**  
 16 A. It establishes that the FEIS that was prepared for the  
 17 University District did in fact have a reference to the  
 18 neighborhood plan for the University District within the  
 19 comprehensive plan.  
 20 **Q. As well as their goals?**  
 21 A. As well as their goals and policies.  
 22 **Q. Thank you. And let's turn to tab 76. This is already part**  
 23 **of the record, Exhibit 3, the 2035 Comprehensive Plan. Do**  
 24 **you recognize this page?**  
 25 A. Yes. This is the West Seattle Junction's Neighborhood Plan,

1 which appears a few pages after the Seattle -- the  
2 University District's Neighborhood Plan in the Seattle  
3 Comprehensive Plan.

4 **Q. And what does this establish?**

5 A. It establishes that these are both neighborhood plans within  
6 the comprehensive plan.

7 **Q. Thank you. And -- I'm sorry. And could you read a few of  
8 the goals and policies in the West Seattle Junction, for  
9 example, G-1?**

10 A. G-1 states, small town community -- it's a community  
11 character goal. A small town community with it's own  
12 distinct identity comprised of a strong, single family  
13 residential community and a vibrant mixed-use business  
14 district serving the surrounding residential core.

15 **Q. And could you read P1?**

16 A. This is a community character policy. Seek to maintain and  
17 enhance a compact mixed use commercial core with small town  
18 character located between 41st and 44th Avenue Southwest and  
19 Southwest Genesee Street and Southwest Edmond Street by  
20 encouraging improved traffic flow, pedestrian safety, and  
21 amenities and architectural images, image.

22 **Q. Thank you. And two pages later, could you please read P13?**

23 A. This is under the housing and land use policy section.  
24 Maintain the character integrity of the existing single  
25 family areas.

1 **Q. And are you concerned about the conclusions that the Seattle  
2 2035 Comp Plan EIS reached regarding the distribution of  
3 growth if contrary to the Comp Plan EIS, the neighborhood  
4 plans were to be changed?**

5 A. I am concerned about that.

6 **Q. And why is that?**

7 A. I'm concerned because when the FEIS for the comprehensive  
8 plan was prepared, it contemplated no changes to the  
9 neighborhood plans, which to me, and which appeared  
10 according to Seattle's Urban Village Growth Strategy, the  
11 neighborhood plans appear to be an important mitigation to  
12 the affects of growth. The comprehensive plan's FEIS made  
13 and recommended no changes to the neighborhood plans. And  
14 so if there are changes to the neighborhood plans, they may  
15 represent undermining some of the key elements of the  
16 Seattle Urban Village Growth Strategy as well as the  
17 mitigations to that growth.

18 **Q. And if you had known during the Seattle 2035 Comp Plan EIS  
19 comment and appeal period the neighborhood plans were going  
20 to be changed, could you have acted differently?**

21 A. I could have.

22 **Q. And what could you have done differently?**

23 A. As the Comprehensive Plans EIS had been prepared, if it had  
24 contemplated change to the neighborhood plans, I could have  
25 made comments to our city officials, which are those

1 **Q. Thank you. Let's move on -- excuse me, did you find any  
2 references to the neighborhood plan in the MHA FEIS?**

3 A. I did not find any specific reference to West Seattle  
4 Junction's Neighborhood Plan, it's goals or policies in the  
5 MHA EIS.

6 **Q. Thank you. And let's turn to tab 149-1. This is not a new  
7 exhibit, it's already part of the record as Exhibit 2. Can  
8 you identify this page?**

9 A. Yes. This was from within the appendix of the FEIS, which  
10 is probably a different exhibit that's already been  
11 introduced.

12 **Q. The MHA FEIS is Exhibit 2.**

13 MR. BRICKLIN: Exhibit 2, the appendices are with the main  
14 document as Exhibit 2.

15 A. Yes. This is from the appendix to one of the appendices to  
16 the Seattle -- to the MHA FEIS and it is -- includes a  
17 relatively vague reference to the neighborhood plans.

18 **Q. Is the West Seattle Junction Neighborhood Plan summarized?**

19 A. It's not summarized on this page, no.

20 **Q. And were you able to ascertain what conflicts or changes the  
21 city envisioned to the West Seattle Junction Neighborhood  
22 Plan from the information provided in the MHA FEIS?**

23 A. I was not able to connect this to any goals or policies  
24 directly as part of the West Seattle Junction Neighborhood  
25 Plan.

1 preparing the EIS that the neighborhood plans should be  
2 maintained and left intact or modified differently or to ask  
3 for better clarifications or understands about how the Urban  
4 Village Growth Strategy might be changing as a result of  
5 proposed changes to neighborhood plans.

6 **Q. Thank you. And after examining all of these details, were  
7 the 2035 Comp Plan and the MHA FEIS, what deficiencies do  
8 you see in the process?**

9 A. Well, it appears to me that the MHA FEIS, that was the  
10 subject of our proposal today, did not properly incorporate  
11 any references to the neighborhood plans, which is in  
12 contradiction to what the Seattle's Urban Village Growth  
13 Strategy is. It didn't appear to summarize it, it didn't  
14 derive any particular pieces of information that would be  
15 necessary in order for me to understand how our neighborhood  
16 plan might be changed in important and critical ways as a  
17 result of that -- of the proposed action. And so it's just  
18 very unclear to me how our neighborhood is going to evolve  
19 if we are implementing MHA and without any particular  
20 guidance in place using our neighborhood plan.

21 **Q. Thank you. Let's turn our attention to design guidelines as  
22 they relate to neighborhood planning. Please turn to tab  
23 12.**

24 MS. SAWYER: We would like this to be marked as Exhibit  
25 163.

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1 HEARING EXAMINER: Yes.  
 2 (Exhibit No. 163 is marked for evidence.)  
 3 MS. SAWYER: Thank you.  
 4 MR. JOHNSON: Do you happen to have an exhibit number from  
 5 your exhibit list?  
 6 MS. SAWYER: It's 12.  
 7 MR. BRICKLIN: JuNO 12.  
 8 MR. JOHNSON: I understand now.  
 9 MS. SAWYER: Our tab numbers correspond with the JuNO.  
 10 MR. JOHNSON: I understand, thank you.  
 11 MS. SAWYER: Thank you.  
 12 **Q. (By Ms. Sawyer) Mr. Koehler, do you recognize this**  
 13 **document?**  
 14 A. Yes. This is the West Seattle Junction Neighborhood Design  
 15 Guidelines, which was put into effect as a part of Seattle  
 16 Municipal Code 23-43-004.  
 17 MS. SAWYER: Thank you. I would offer Exhibit 163 into  
 18 evidence.  
 19 MR. JOHNSON: No objection.  
 20 HEARING EXAMINER: 163 is admitted.  
 21 (Exhibit No. 163 admitted into evidence.)  
 22 MS. SAWYER: Thank you.  
 23 **Q. (By Ms. Sawyer) Can you read the second paragraph on the**  
 24 **page entitled Context and Priority Issues, and we've tabbed**  
 25 **that page. It's the first tab in the design guidelines for**

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1 **everyone's convenience.**  
 2 A. Say that again.  
 3 **Q. The second paragraph of Context and Priorities --**  
 4 A. Context and Priority Issues for the West Seattle Junction.  
 5 Through the neighborhood planning process, the community  
 6 clearly stated its desire to maintain the small town  
 7 atmosphere and quality so it would historically characterize  
 8 the West Seattle Junction. However, it was also recognized  
 9 that new development provides the opportunity for a broader  
 10 mix of businesses and services, residential units and  
 11 employment. As the junction prepared its neighborhood plan,  
 12 the city wide design guidelines were evaluated to determine  
 13 whether the guidelines adequately supported the community's  
 14 vision.  
 15 **Q. Thank you. And please read section 2, the first paragraph.**  
 16 A. Height, bulk and scale compatibility. A prevailing quality  
 17 of the Junction's small town feel is expressed in the  
 18 existing architecture. One way to preserve and continue the  
 19 small town quality and new development is through the  
 20 siting, massing and design of new buildings. However, the  
 21 neighborhood commercial zones with 85-foot and 65-foot  
 22 height limits NC85 and NC65 are the predominant zoning  
 23 designations in the commercial core on California Avenue  
 24 Southwest and Southwest Alaska Street causing potential  
 25 conflicts in height, bulk and scale compatibility between

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1 new development and existing one to two story commercial  
 2 buildings occupying small particles of land. Furthermore,  
 3 current zoning in the junction has created abrupt edges  
 4 between the NC65 and 85-foot zones and less intensive  
 5 multifamily development.  
 6 The City of Seattle's Land Use Code prescribes setback  
 7 requirements for new development on zone edges between  
 8 higher and lesser intensive zones. New development in the  
 9 Junction must carry this treatment further as more refined  
 10 transitions in height, bulk and scale in terms of the  
 11 relationship to surrounding context and within the proposed  
 12 structure itself must be considered.  
 13 **Q. Thank you. And did you find any references to this part of**  
 14 **the West Seattle Junction design guidelines in the esthetic**  
 15 **sections or elsewhere in the MHA FEIS?**  
 16 A. I didn't see any references to this content in the MHA FEIS  
 17 in the height, bulk and scale sections as anything related  
 18 to the West Seattle Junction itself.  
 19 **Q. Thank you. And turning back to the first page of -- turning**  
 20 **back one page. Would -- midway through the page, could you**  
 21 **please read the paragraph starting with the overall goal?**  
 22 A. The overall goal of these guidelines is to aid in creating a  
 23 district in which a new development supports a mix of uses  
 24 and engages the public realm, i.e. sidewalk, in a pedestrian  
 25 oriented manner. The commercial core is considered to

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1 include California Avenue Southwest, from Southwest Edmond  
 2 Street to Southwest Genesee Street, Southwest Alaska from  
 3 44th Avenue Southwest to 39th Avenue Southwest and Southwest  
 4 Genesee, Oregon and Edmond Streets from 44th Avenue  
 5 Southwest to 42nd Avenue Southwest. California Avenue  
 6 Southwest is recognized as the areas current pedestrian  
 7 oriented business district. However, following the  
 8 neighborhood -- however, the neighborhood envisions  
 9 Southwest Alaska Street from California Avenue Southwest to  
 10 Fauntleroy Southwest to become an extension of this  
 11 mixed-use district with continuous pedestrian scale and high  
 12 level comfort at the street level.  
 13 **Q. Thank you. And do the commercial goals and the design**  
 14 **guidelines match goals in the West Seattle Junction**  
 15 **Neighborhood Plan?**  
 16 A. They appear to match the definitions of the goals in the  
 17 neighborhood plan in the comp plan, yes.  
 18 **Q. And in the MHA FEIS, did you find any reference to the**  
 19 **contents of this design guideline document?**  
 20 A. I did not.  
 21 **Q. And in the MHA FEIS, did you find any references to the**  
 22 **commercial core that is described here?**  
 23 A. I did not.  
 24 **Q. Okay, thank you. Let's turn to the next tab marked map one.**  
 25 **What zones does it show?**

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1 A. This is a map showing West Seattle Junction Urban Village  
 2 with different zones which are readable in the legend below.  
 3 It shows within the Urban Village a commercial core matching  
 4 the descriptions that we had provided earlier, at least the  
 5 document provided earlier, that's the commercial core, it  
 6 shows the neighborhood commercial areas, it shows  
 7 multifamily areas and it shows the single family areas,  
 8 which were referenced in the neighborhood plan.  
 9 **Q. Thank you. And turning to the next tab, which is page 4 of**  
 10 **JuNO Exhibit 12, what is the subject of this page?**  
 11 A. The subject of this page is a description of how corner lots  
 12 should be treated in the West Seattle Junction.  
 13 **Q. And did you find any references to the West Seattle Junction**  
 14 **corner lots in the EIS?**  
 15 A. I didn't find any reference to this in the FEIS.  
 16 **Q. And could you read the section marked III or 3?**  
 17 A. Building forms and design elements and features at the  
 18 corner of key intersections should create gateways for the  
 19 neighborhood. These buildings should announce the block  
 20 through the inclusion of features that grabs one's interest  
 21 and marked entry.  
 22 **Q. Thank you. And did you find any references to these gateway**  
 23 **intersections in the MHA FEIS?**  
 24 A. I didn't find any specific call outs to these six gateways  
 25 in the FEIS.

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1 **Q. And why is it significant that design review guidelines for**  
 2 **the West Seattle Junction, why is it significant that that's**  
 3 **missing from the MHA FEIS?**  
 4 A. Well, what the design guidelines are doing is they're  
 5 showing how West Seattle is attempting to implement its  
 6 neighborhood plan in a way that's consistent with its goals  
 7 and policies. So it's not clear to me how the zoning  
 8 changes in the MHA proposals might affect the implementation  
 9 of those policies as well as whether these corner lots and  
 10 gateways might be affected by the implementation of the MHA  
 11 changes.  
 12 **Q. Thank you. So let's move on to discuss historical and**  
 13 **cultural omissions from the FEIS specific to the West**  
 14 **Seattle Junction Urban Village. If we could please turn to**  
 15 **tab 144-2, this is already an exhibit, it is Exhibit 3 on**  
 16 **the record. What is this document, Mr. Koehler?**  
 17 A. This is from the glossary section of the Seattle  
 18 Comprehensive Plan.  
 19 **Q. And can you read the marked item for me?**  
 20 A. Cultural resources, buildings, objects, features, locations  
 21 and structures with scientific, historic and societal value.  
 22 And then on the next page, historic landmark, a property  
 23 that has been designated by the city as an important  
 24 resource to the community, city, state or nation.  
 25 Designated landmark properties in Seattle include individual

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1 buildings and structures, vessels, landscapes and parks and  
 2 objects such as street clocks and sculptures. The Seattle  
 3 Landmark's Preservation Board is responsible for determining  
 4 which properties meet the standards for landmark  
 5 designation.  
 6 **Q. Thank you. And let's all turn to tab 148-2, this is not a**  
 7 **new exhibit. It's part of the record as Exhibit 2, the MHA**  
 8 **FEIS. Do you recognize this document?**  
 9 A. Yes. It's a section from the displacement section of the  
 10 MHA FEIS.  
 11 **Q. And could you please read the marked items for us?**  
 12 A. The first is under the displacement heading, it's one of the  
 13 definitions of displacement. Cultural displacement occurs  
 14 when residents are compelled to move because the people and  
 15 institutions that make up their cultural community have left  
 16 the area.  
 17 On the next page, new development may have direct impacts  
 18 on existing cultural institutions and businesses through  
 19 demolition of commercial buildings. While this chapter  
 20 focuses on residential displacement, it is important to note  
 21 that businesses, institutions and cultural anchors are also  
 22 susceptible to displacement due to market pressures.  
 23 Commercial displacement, including displacement of  
 24 institutions and cultural facilities is harder to quantify  
 25 than residential displacement. Like a household, a business

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1 or gathering place can be physically displaced due to  
 2 demolition. But while we know the number of housing units  
 3 on a given parcel data about the number, type or other  
 4 characteristics its business faces across all redevelopment  
 5 parcels citywide is not available.  
 6 Small businesses and cultural gathering places are also  
 7 vulnerable to economic displacement and may be pressure to  
 8 relocate when rents increase.  
 9 **Q. Thank you. And let's take a look at some historical**  
 10 **buildings within the West Seattle Junction. If we could**  
 11 **turn to tab 14, I would like this to be marked as Exhibit**  
 12 **164. Mr. Koehler, do you recognize this photo.**  
 13 **(Exhibit No. 164 marked for identification.)**  
 14 A. Yes, I recognize -- it's the photograph of the Campbell  
 15 Building, which is located at the intersection of California  
 16 and Alaska junctions at the Alaska Street in the West  
 17 Seattle Junction.  
 18 **Q. And you're familiar with this building so you can confirm**  
 19 **this is in fact a photo of it?**  
 20 A. Yes, I walk by it frequently and take the bus by it  
 21 frequently.  
 22 **Q. Thank you.**  
 23 MS. SAWYER: I would like to offer Exhibit 164 into  
 24 evidence.  
 25 MR. JOHNSON: No objection.

1 HEARING EXAMINER: 164 is admitted.  
 2 (Exhibit No. 164 admitted into evidence.)  
 3 MS. SAWYER: And this is JuNO 14.  
 4 **Q. (By Ms. Sawyer) And let's turn to tab 23. We would like**  
 5 **this marked as Exhibit 165. Mr. Koehler, do you recognize**  
 6 **this document?**  
 7 **(Exhibit No. 165 marked for identification.)**  
 8 A. Yeah, it's from the Landmark's Preservation Board, it's the  
 9 document that was prepared as part of the Campbell  
 10 Building's application for landmark status.  
 11 **Q. And this was prepared by the City of Seattle Landmark's**  
 12 **Preservation Board?**  
 13 A. Correct.  
 14 MS. SAWYER: Thank you. I would like to offer Exhibit 165  
 15 into evidence.  
 16 MR. JOHNSON: No objection.  
 17 HEARING EXAMINER: What are we doing with this document,  
 18 it's a lot? Is that the whole length of --  
 19 MS. SAWYER: We refer back to it as being part of the West  
 20 Seattle Junction's historic character and it's not  
 21 referenced --  
 22 HEARING EXAMINER: Through a witness or how is this going  
 23 to be used in the hearing?  
 24 MR. KOEHLER: We're going to reference a paragraph.  
 25 MS. SAWYER: We'll reference a paragraph of the --

1 MS. SAWYER: If it's part of the Seattle --  
 2 HEARING EXAMINER: Sorry, was that --  
 3 MS. SAWYER: I'm sorry. So it's part of the legislative  
 4 summary of the ordinance, making the Campbell Building a  
 5 historic -- on tab 32.  
 6 HEARING EXAMINER: Um-hum, is this part of another exhibit  
 7 or is this is a new exhibit?  
 8 MS. SAWYER: No. We're just referring to it as the city  
 9 recognizes this building as a historic building.  
 10 HEARING EXAMINER: So I understand what you're referring  
 11 to it for. I'm just trying to organize it as far as an  
 12 exhibit. Is it already in the record, are you introducing  
 13 it as an exhibit?  
 14 MR. BRICKLIN: Do you want it as an exhibit? I don't  
 15 think you need it. You've testified --  
 16 MS. SAWYER: No, we don't need it. It's part of  
 17 testimony --  
 18 MR. JOHNSON: The city has (inaudible) that this is  
 19 recognized as a historic building.  
 20 HEARING EXAMINER: So I don't need this paper?  
 21 MS. SAWYER: No, sorry.  
 22 HEARING EXAMINER: All right.  
 23 MS. SAWYER: My apologies, coming up there will be other  
 24 papers you don't need.  
 25 HEARING EXAMINER: We'll work through all that, you're

1 HEARING EXAMINER: You're coming back to it in Mr.  
 2 Koehler's testimony?  
 3 MS. SAWYER: Yes.  
 4 HEARING EXAMINER: Do you know where the paragraph is?  
 5 MS. SAWYER: Let me find it, pardon. The paragraph is  
 6 located on page 3 of the document. So we could just admit  
 7 page 3 if that's possible.  
 8 HEARING EXAMINER: Just for identification purposes, we'll  
 9 keep the cover and the table of contents and also page 3.  
 10 Are there any other pages that you believe will be  
 11 referenced and need to provide context to this statement --  
 12 MS. SAWYER: No, thank you for the clarification.  
 13 (Exhibit No. 165 admitted into evidence.)  
 14 **Q. (By Ms. Sawyer) Let's turn to tab 32. This is not an**  
 15 **exhibit, it is a Seattle legislative summary that we were**  
 16 **just referring to. Mr. Koehler, do you recognize this**  
 17 **document?**  
 18 A. Yes, this is a copy of the legislation that made the  
 19 Campbell Building a historic landmark for the City of  
 20 Seattle.  
 21 **Q. Thank you. And along the same lines if we turn to tab 15?**  
 22 HEARING EXAMINER: Was 32 -- did you need that marked or  
 23 is that an exhibit?  
 24 MS. SAWYER: It is not an exhibit.  
 25 HEARING EXAMINER: Do you want that marked as an exhibit?

1 doing just fantastic.  
 2 MS. SAWYER: Okay, thank you, I appreciate the leniency.  
 3 **Q. (By Ms. Sawyer) So if we turn to JuNO tab 15, we would like**  
 4 **this marked as Exhibit 166. Mr. Koehler, are you familiar**  
 5 **with this item?**  
 6 **(Exhibit No. 166 marked for identification.)**  
 7 A. Yes. This is a photograph of the Hamm Building located at  
 8 the intersection of California Avenue and Alaska Street in  
 9 the West Seattle Junction.  
 10 MS. SAWYER: Thank you. I'd like to offer Exhibit 166  
 11 into the record.  
 12 MR. JOHNSON: No objection.  
 13 HEARING EXAMINER: 166 is admitted.  
 14 (Exhibit No. 166 admitted into evidence.)  
 15 **Q. (By Ms. Sawyer) Okay. And so looking at tab 24, this will**  
 16 **not be an exhibit and you don't need the paper, apologies.**  
 17 **But, Mr. Koehler, can you tell me what this document is, tab**  
 18 **24?**  
 19 A. Yes, this is prepared for the Landmark's Preservation Board  
 20 to be submitted as part of the application for the Hamm  
 21 Building to become a Seattle city landmark.  
 22 **Q. Thank you. And the result of that is tab 33, which again,**  
 23 **will not be an exhibit but again extra paper. Could you**  
 24 **tell me what tab 33 is?**  
 25 A. Yes, this is a copy of the city legislation that made the

1 Hamm Building a historic landmark for the City of Seattle.  
 2 **Q. Thank you. And turning to the next tab marked 25 through 31**  
 3 **and 34, we would ask that these images be reviewed together.**  
 4 **And we would like them to be marked as a single exhibit,**  
 5 **Exhibit 167. Do you recognize these documents, Mr. Koehler?**  
 6 **(Exhibit No. 167 marked for identification.)**  
 7 A. Yes, these are photographs of murals that are located within  
 8 the West Seattle Junction.  
 9 MS. SAWYER: I'd like to offer Exhibit 167 into evidence.  
 10 The JuNO numbers are 25 through 31 and 34. They're marked  
 11 with a single tab.  
 12 MR. JOHNSON: No objection.  
 13 MS. SAWYER: Thank you.  
 14 HEARING EXAMINER: All right, 167 is admitted. Can you  
 15 just give a little more description as to what these are?  
 16 (Exhibit No. 167 admitted into evidence.)  
 17 THE WITNESS: Yeah, these are murals that are painted,  
 18 they're quite large. They're painted on the sides of  
 19 buildings. Each one has a plaque next to it describing what  
 20 it is, what it depicts, I think, is one of your next  
 21 question.  
 22 **Q. (By Ms. Sawyer) Sure what do you know about these murals**  
 23 **and...**  
 24 A. Yep. So they're painted images of moments in time in West  
 25 Seattle's history. So the one on the number -- exhibit --

1 description of the upcoming West Seattle Grand Parade. I  
 2 guess we just had it actually, in West Seattle, it was a  
 3 couple weekends ago, which is a significant event as a part  
 4 of the sea fair festival. And it includes a major parade  
 5 that takes place on California Avenue all throughout West  
 6 Seattle, but definitely including and sort of highlighted  
 7 the West Seattle Junction.  
 8 MS. SAWYER: Thank you. I would offer Exhibit 168 into  
 9 evidence.  
 10 MR. JOHNSON: No objection.  
 11 HEARING EXAMINER: 168 is admitted.  
 12 (Exhibit No. 168 admitted into evidence.)  
 13 **Q. (By Ms. Sawyer) And if we turn to tab 36, I would like this**  
 14 **to be marked as Exhibit 169. Mr. Koehler, do you recognize**  
 15 **this image?**  
 16 **(Exhibit No. 169 marked for identification.)**  
 17 A. Yes, this is a flyer from the West Seattle Summer Fest.  
 18 **Q. And what is the source?**  
 19 A. A friend of mine got it from the West Seattle Junction  
 20 Association.  
 21 **Q. And is this an annual event?**  
 22 A. It's an annual event and it takes place on California Avenue  
 23 and it has a special focus at the intersections of  
 24 California and Alaska Avenue, which is the center of the  
 25 event.

1 JuNO Exhibit 25, which is the first page, for example, shows  
 2 an image of the West Seattle Junction. You can see the  
 3 Campbell and Hamm Buildings located or positioned in this  
 4 mural and the street cars which originally gave the West  
 5 Seattle Junction its name. The junction is the junction  
 6 between street cars, for example.  
 7 You know just flipping through there, you can see the fire  
 8 station, which is part of the West Seattle Junction's  
 9 history. You can see the ferries, the so called Mosquito  
 10 Fleet that used to carry passengers from West Seattle to  
 11 Seattle, images from Alki, which was at one time a high-end  
 12 sort of resort for people of Seattle to come visit, and bank  
 13 day, which is JuNO Exhibit 30, for example, which is an  
 14 image that's painted on the side of Chase Bank on California  
 15 Avenue which shows kids making a deposit into sort of their  
 16 first banking experience.  
 17 So these are all wonderful murals and the community is  
 18 very vested in them. And when they are placed in jeopardy  
 19 due to development, there's quite a bit of community outcry.  
 20 **Q. Thank you. Let's turn to tab 35. We would like this to be**  
 21 **marked as Exhibit 168, JuNO Number 35. And Mr. Koehler,**  
 22 **what is this document and it's source?**  
 23 **(Exhibit No. 168 marked for identification.)**  
 24 A. Yeah, this is a snapshot, a screen shot of  
 25 thewestseattleparade.com, which is a website. It's a

1 MS. SAWYER: Thank you. I'd offer Exhibit 169 into  
 2 evidence.  
 3 MR. JOHNSON: Objection on relevance grounds. Just  
 4 simply, it's not clear to me what the purpose of the  
 5 document is.  
 6 HEARING EXAMINER: Is there a particular reason why you  
 7 singled this one out?  
 8 MR. JOHNSON: I'm not trying to be an obstructionist in  
 9 getting the evidence in the record, but it seems like we're  
 10 going pretty far afield at this point.  
 11 MS. SAWYER: We're trying to establish that there are  
 12 several community based resources that take place on  
 13 California Avenue, that there are important small businesses  
 14 on California Avenue within the West Seattle Junction. And  
 15 that those events and businesses are not covered in the MHA  
 16 FEIS and were not discussed as part of any sort of  
 17 historical resource or cultural context for the West Seattle  
 18 Junction.  
 19 HEARING EXAMINER: So one of the challenges we have with  
 20 this hearing is clearly the appellants, neighborhood groups  
 21 of Seattle, are concerned that the character and nature of  
 22 their communities has not been -- is not reflected in the  
 23 analysis of the EIS. And so the neighborhood groups are  
 24 coming forward, they're sharing their story. The challenge  
 25 of that, of course, is every aspect of that story is not

1 necessarily relevant to whether the analysis of EIS was  
 2 adequate or not, which is what we are here for.  
 3 MS. SAWYER: Okay.  
 4 HEARING EXAMINER: The city's been -- has not raised  
 5 objections a lot in this hearing, which I believe they could  
 6 have.  
 7 MS. SAWYER: Okay.  
 8 HEARING EXAMINER: I guess I'd like to get a feel for how  
 9 far down the path we're going to go into story telling. And  
 10 I don't --  
 11 MS. SAWYER: Sure.  
 12 HEARING EXAMINER: -- mean that in a derogatory sense at  
 13 all, I enjoy these stories of these great communities, and I  
 14 think they do deserve to be told. But the question is,  
 15 we're here for a specific legal reason.  
 16 MR. BRICKLIN: Can I weigh in on this one too?  
 17 MS. SAWYER: Of course, thank you.  
 18 MR. BRICKLIN: I think you frame the issue well. And  
 19 clearly the -- in our view at least, the EIS does not  
 20 discuss the cultural and esthetic and other rich fabric of  
 21 all these different communities. And we could go on at  
 22 great length to tell -- to provide some of that, that we  
 23 think is missing from the EIS from West Seattle and many  
 24 other communities as well. And it's almost like the  
 25 examiner could almost take judicial notice of the fact that

1 MR. KOEHLER: We would say the that the California Avenue  
 2 should have been highlighted. So these are all cases of why  
 3 California Avenue is significant.  
 4 HEARING EXAMINER: And I understand what you're saying.  
 5 MR. BRICKLIN: And I would suggest that, you know, an EIS  
 6 might as well say something like California Avenue is a  
 7 focal point in the community and many events occur there  
 8 such as blah, blah, blah and the Summer Fest. So actually,  
 9 it's -- I think it's very conceivable it could have been  
 10 mentioned in an EIS that was trying to alert the decision  
 11 makers as to the importance.  
 12 HEARING EXAMINER: And I agree with that. I guess the  
 13 characterization, for example, how you just put that would  
 14 perhaps require less than --  
 15 MS. SAWYER: May I offer a suggestion?  
 16 HEARING EXAMINER: -- for every single event that is to be  
 17 called out on history. And I think that's --  
 18 MR. JOHNSON: And that was the basis for my objection at  
 19 some point is, in the interest of judicial efficiency, et  
 20 cetera.  
 21 MR. BRICKLIN: Do you want to put them all in as one  
 22 exhibit?  
 23 HEARING EXAMINER: That would be very efficient. And I  
 24 don't -- I'm not opposed to these things coming in, but it  
 25 is an issue of efficiency.

1 each of the communities has a rich, cultural historic  
 2 heritage that -- and I think you could -- I don't think it's  
 3 much dispute as to what the EIS does or does not say about  
 4 that. I mean the words of the EIS are indisputable. I mean  
 5 they either address it or they don't.  
 6 MR. KOEHLER: I can weigh in on this too. The issue here  
 7 is that all of these are located on California Avenue, which  
 8 is analogous to the University District's University Ave,  
 9 for example, and is a specific part of the West Seattle  
 10 Junction. So it's not just that the West Seattle Junction  
 11 has community characteristics, it's that they're highly  
 12 localized. And so the sculpting of a plan and the  
 13 alternatives in the analysis could have identified the areas  
 14 of West Seattle Junction that are more sensitive.  
 15 HEARING EXAMINER: So there isn't a single point where  
 16 some aspect of the story of a neighborhood group or  
 17 neighborhood community becomes irrelevant, it's part of  
 18 continuing. The question does become how far removed we are  
 19 from the issue of analysis. For example, are you saying  
 20 that the Summer Fest should have been described in EIS?  
 21 Probably not. I won't hold you to that.  
 22 MS. SAWYER: Okay.  
 23 HEARING EXAMINER: That's probably the line I'm looking  
 24 for.  
 25 MS. SAWYER: Okay.

1 MS. SAWYER: Of course.  
 2 HEARING EXAMINER: And two things in part to appellants  
 3 is, one, and this is for future days, we have a few days  
 4 left of appellants. I think we're going to get to the city  
 5 tomorrow and Friday, but there will be some other days of  
 6 appellants. We have had a lot of leeway for having  
 7 individuals who are faces of those who will be impacted by  
 8 the changes proposed under the EIS. We have had  
 9 descriptions of neighborhoods and of specific homes. I  
 10 think I understand it. The record is replete with that. So  
 11 I hope that we'll have less of that in the coming days. I  
 12 think we've hit that very solidly. So that's a warning.  
 13 Just in the future if we could temper it a little bit.  
 14 Going forward today, this is frankly an organized stack of  
 15 materials and it would be more efficient rather than spend  
 16 this much time on each thing to -- whether it fits into what  
 17 we really want in front of us or not to simply proceed  
 18 through this pile in the efficient manner we have been. I  
 19 will -- I'm not stopping the city's objections to items as  
 20 they come up. And I will certainly have questions as items  
 21 come up as to how far we're going with things.  
 22 MS. SAWYER: May I offer a suggestion?  
 23 HEARING EXAMINER: Did you have a comment, Mr. Mitchell?  
 24 MR. MITCHELL: I don't know what we do with that. I mean  
 25 I think appellants just need to decide what is most

1 important, what narrative testimony maybe they could use to  
 2 summarize some of this. And there are other documents, for  
 3 instance there was a summary document that was discussed at  
 4 the outset, that may be something different we need to deal  
 5 with it doesn't fall (inaudible) --  
 6 HEARING EXAMINER: Right.  
 7 MR. MITCHELL: -- with what we're talking about.  
 8 HEARING EXAMINER: Okay. For the -- it looks like we have  
 9 a stack of events.  
 10 MS. SAWYER: We do. If I could have Mr. Koehler summarize  
 11 them to be on the record as to the significance of  
 12 California Avenue.  
 13 HEARING EXAMINER: Um-hum.  
 14 MS. SAWYER: And we don't need to admit them into  
 15 evidence, but we could move onto -- I think the next tab  
 16 would be 148-9. And after the summary, we can move onto  
 17 that which moves back into the MHA FEIS.  
 18 HEARING EXAMINER: Um-hum.  
 19 MS. SAWYER: Oh, excuse me, the one before it.  
 20 MR. KOEHLER: 148-3.  
 21 HEARING EXAMINER: Right.  
 22 MS. SAWYER: Would that be --  
 23 HEARING EXAMINER: Yes, if we want to do a quick summary  
 24 of these. And then keeping in mind, I don't know if there  
 25 are similar items that come up later, just keep that in

1 **Exhibit 2, the MHA FEIS, do you recognize this document?**  
 2 A. Yes, page from the MHA, FEIS, historic section.  
 3 **Q. Thank you. And does it show any other landmarks or cultural**  
 4 **assets?**  
 5 A. It shows a map, but it's only limited to NRHP eligible  
 6 property. So it does not show the Hamm Building, Campbell  
 7 Building or any of the cultural events we just described.  
 8 **Q. Okay, thank you. And if we could all turn to 148-4. This**  
 9 **is not a new exhibit as it's already part of the record in**  
 10 **Exhibit 2, the MHA FEIS. Do you recognize this page?**  
 11 A. Yes, it's a page from the historic section of the MHA FEIS.  
 12 **Q. And is the West Seattle Junction listed in this table?**  
 13 A. It's listed with an asteric after it.  
 14 **Q. And what does the asteric refer to?**  
 15 A. It means -- it's referring to the fact that an independent  
 16 survey was done by the West Seattle Junction Historical  
 17 Survey Group, which is how the Xs are made relevant.  
 18 **Q. Okay. And have you seen the survey by --**  
 19 A. Yep.  
 20 **Q. And does the MHA FEIS include any information that the**  
 21 **survey had revealed for the West Seattle Junction?**  
 22 A. No, it only references that it exists, it doesn't actually  
 23 reference any of the information in it.  
 24 **Q. Thank you. And if we could turn to the next tab, 148-5.**  
 25 **This is not a new exhibit as it is part of the record in**

1 mind --  
 2 MS. SAWYER: I'll be cognizant of that.  
 3 HEARING EXAMINER: -- maybe approaching that in the same  
 4 manner.  
 5 MS. SAWYER: Okay.  
 6 HEARING EXAMINER: So 169 is not admitted.  
 7 MS. SAWYER: Okay.  
 8 MR. MITCHELL: Are you going to use that number?  
 9 HEARING EXAMINER: It's got a sticker on it.  
 10 MR. MITCHELL: It's already been marked, so it's going to  
 11 be withdrawn.  
 12 HEARING EXAMINER: Yeah.  
 13 MR. MITCHELL: Okay.  
 14 **Q. (By Ms. Sawyer) Mr. Koehler, could you summarize the**  
 15 **information in front of you regarding activities that take**  
 16 **place in the West Seattle Junction?**  
 17 A. Yeah. On California Avenue there's quite a few events over  
 18 the course of a year. There's a weekend farmer's market.  
 19 There's a number of annual activities, including Summer  
 20 Fest, including Spring Fling, which is when small businesses  
 21 get together and create some activity on California Avenue.  
 22 So California Avenue has quite a few events and businesses  
 23 that are important to our community.  
 24 **Q. Thank you. And if we could all turn to tab 148-3, this is**  
 25 **not a new exhibit. This is already part of the record in**

1 **Exhibit 2. Do you recognize this document?**  
 2 A. Yes, it's another page from historic section of the MHA  
 3 FEIS.  
 4 **Q. And what does it explain to unreinforced masonry buildings?**  
 5 A. It calls out that unreinforced masonry buildings are  
 6 typically a one-story brick clad building that are usually  
 7 sensitive to development impacts.  
 8 **Q. Thank you. And does the FEIS identify the location of the**  
 9 **unreinforced masonry buildings in the West Seattle Junction?**  
 10 A. No, there's quite a few URMs within the West Seattle  
 11 Junction on California Avenue. The Campbell Buildings and  
 12 Hamm Buildings for example are both URM.  
 13 **Q. And does the FEIS show the -- you just stated it does not**  
 14 **show the location of the Campbell and Hamm Building both**  
 15 **city landmarks and URMs?**  
 16 A. Correct.  
 17 **Q. Does the FEIS show any of the locations of the murals?**  
 18 A. It does not.  
 19 **Q. And does the FEIS show or list any concentrations of smaller**  
 20 **historic businesses in the West Seattle Junction?**  
 21 A. It does not.  
 22 **Q. Thank you. And if everyone could please flip the page to**  
 23 **refer to tab 23. This was already entered into evidence as**  
 24 **the application for the assessment of landmark status for**  
 25 **the Campbell Building. Could you please read from page 3,**

1 **the section beginning the Junction setting?**  
 2 A. In recent years multistory -- say again, what was your  
 3 question?  
 4 **Q. Please read the section beginning the Junction's setting.**  
 5 A. The Junction's setting in buildings reflect phases in West  
 6 Seattle's early 20th Century establishment and subsequent  
 7 growth. A recent survey of properties in the district found  
 8 the largest collection of (inaudible) buildings for  
 9 erected --  
 10 MR. BRICKLIN: Hold on until the examiner is with you.  
 11 And you're at Exhibit 163, right?  
 12 MS. SAWYER: Yes.  
 13 HEARING EXAMINER: That's all I needed was the exhibit  
 14 number referenced.  
 15 MR. BRICKLIN: You needed the JuNO number. So you may  
 16 want to start -- where are you?  
 17 THE WITNESS: Midway down the page.  
 18 MR. BRICKLIN: What page number?  
 19 MS. SAWYER: Page 3.  
 20 THE WITNESS: Page 3.  
 21 MR. BRICKLIN: Yeah, wait until he gets there.  
 22 HEARING EXAMINER: Shall we?  
 23 A. The Junction setting in buildings reflect phases of West  
 24 Seattle's early 20th Century establishment in subsequent  
 25 growth. A recent survey of properties in a district found

1 **Q. And are you concerned about a cultural displacement in the**  
 2 **West Seattle Junction and why?**  
 3 A. I am concerned because these are important assets to our  
 4 community, it keeps our community together.  
 5 **Q. And do you think the MHA FEIS could have identified these**  
 6 **assets as well as analyzing growth?**  
 7 A. Yes, I think the FEIS should have or could have identified  
 8 the areas of concentration along California Avenue as a  
 9 significant place where historic and cultural assets are  
 10 concentrated in the West Seattle Junction. It could have  
 11 done more to indicate the risks of development in those  
 12 areas and could have illustrated potential mitigations for  
 13 those types of risks.  
 14 **Q. Thank you. Let's turn to tab 148-6. This is not an**  
 15 **exhibit, it is already part of the record as Exhibit 2, the**  
 16 **MHA FEIS. Do you recognize this page?**  
 17 A. Yes, it's a page from the historic section of the FEIS.  
 18 **Q. And could you please read the marked sections?**  
 19 A. The estimated growth rates under the alternatives are  
 20 indicators of potential impacts to historic and cultural  
 21 resources. Areas with a higher growth rate have the  
 22 potential for more redevelopment than areas with a lower  
 23 projected growth rate.  
 24 It also states the methodology. For this analysis,  
 25 potential significant impact will be defined as potential

1 the largest collection of exigent buildings were erected  
 2 between 1918 and 1930. Most of the buildings were masonry  
 3 or concrete and reflect restrained architectural treatments  
 4 on basic one and two part commercial block building form.  
 5 Some exhibit known is a popular architecture from the styles  
 6 of their period of construction such as classical revival  
 7 and streamline LaDaron. The north and south edges of the  
 8 district (inaudible) include later mid-century buildings  
 9 that are free standing orient to the automobile.  
 10 In recent years, multistory buildings have begun to  
 11 replace the smaller early and mid-20s Century structures  
 12 disrupting the district's pedestrian and early automobile  
 13 orient massing and scale. Examples of this trend can be  
 14 found on the east edges of the district on 42nd Avenue and  
 15 in the 4700 block of California Avenue. Even the prime  
 16 southeast corner of the Junction's main intersection now  
 17 features a new six story mixed use building.  
 18 HEARING EXAMINER: And I'm sorry, what page number was  
 19 that?  
 20 MS. SAWYER: Page 3.  
 21 HEARING EXAMINER: Page three, thank you.  
 22 **Q. (By Ms. Sawyer) And what makes these statements**  
 23 **significant?**  
 24 A. Well, it indicates that the West Seattle Junction is already  
 25 experiencing disruption to it's historic cultural assets.

1 growth rates of 50 percent or greater than the potential  
 2 growth rates under the no action alternative. See Chapter  
 3 2, Exhibit 2-8.  
 4 **Q. And just to clarify, the FEIS said that it considers**  
 5 **potential impacts not due to the growth rate, but only when**  
 6 **the growth rate is 50 percent higher than it already would**  
 7 **have been under the no action alternative?**  
 8 A. That's right. The methodology that they've outlined  
 9 indicates that what they consider risk to historic assets is  
 10 relative to the growth rate that is already in place. If  
 11 the growth rate that MHA adds is 50 percent more, then they  
 12 would indicate that as a potential risk. But they don't  
 13 take into account how fast the area might be growing already  
 14 under the no action alternative as an element to that.  
 15 **Q. Okay. If we could please turn to the next page, tab 67.**  
 16 **And we would like this to be marked as Exhibit 169. Mr.**  
 17 **Koehler, do you recognize this document?**  
 18 HEARING EXAMINER: We're on 170.  
 19 MS. SAWYER: I'm sorry, we had just --  
 20 HEARING EXAMINER: No, we marked that as denied.  
 21 MS. SAWYER: Okay, thank you.  
 22 (Exhibit No. 170 marked for identification.)  
 23 A. Yes, this is a letter that the JuNO Organization submitted  
 24 to Sam Assefa on March 9, 2017.  
 25 MS. SAWYER: I'd like to offer Exhibit 170 into evidence.

1 HEARING EXAMINER: Any objection?  
 2 MR. JOHNSON: No objection.  
 3 HEARING EXAMINER: 170 is admitted.  
 4 (Exhibit No. 170 admitted into evidence.)  
 5 **Q. (By Ms. Sawyer) And if we could please turn to page 3,**  
 6 **Appendix A. Mr. Koehler, did you prepare the tables shown**  
 7 **on pages 3 and 4?**  
 8 A. Yes, I did prepare them.  
 9 **Q. And what do these tables indicate?**  
 10 A. They show the growth rates of different urban villages and  
 11 urban centers in Seattle.  
 12 **Q. Since what year?**  
 13 A. The first one, which is on page 3, is looking backwards at  
 14 the growth rates that took place between 2000 and 2015. The  
 15 second one shows the growth rates that are projected from  
 16 2015 to 2035.  
 17 **Q. Okay, thank you. And let's turn to tab 148-7, the next tab.**  
 18 A. I'd add that it shows that the West Seattle Junction is one  
 19 of the fastest growing urban villages of all the urban  
 20 villages in Seattle in historic terms from 2000 to 2015 and  
 21 is projected to remain so going forward.  
 22 **Q. Thank you. And let's turn to the next tab, 148-7. This is**  
 23 **already part of the record as Exhibit 2, the MHA FEIS. Mr.**  
 24 **Koehler, do you recognize this chart?**  
 25 A. Yes, it's a table of projected growth rates under each

1 documents that are on file by the city, which are the design  
 2 review packets that were submitted by each. So when you  
 3 actually download the review packet, this website is linking  
 4 to the city's design review packet file, if that makes  
 5 sense.  
 6 MR. JOHNSON: I'm going to object on grounds of hearsay  
 7 because we have no way of confirming that -- this witness  
 8 doesn't -- is relying on data that we don't know the  
 9 reliability of. It's a private website that purports to  
 10 relate somehow to a city website.  
 11 THE WITNESS: All it is is a set of links that you get to  
 12 from the city.  
 13 HEARING EXAMINER: So before I can rule on it, I need to  
 14 get caught up with you. Which tab are you on?  
 15 MS. SAWYER: I'm sorry, 67 on page 5. And we've already  
 16 covered --  
 17 HEARING EXAMINER: I'm not seeing a 67. I've got 148-7,  
 18 148-8 and 9, 10.  
 19 MS. SAWYER: It's right before 148-7.  
 20 HEARING EXAMINER: Before it?  
 21 MS. SAWYER: Yes. And we had offered into evidence --  
 22 HEARING EXAMINER: This is the one you introduced -- I  
 23 see, so you went backwards.  
 24 MS. SAWYER: I'm sorry.  
 25 HEARING EXAMINER: That's all right. So this is Exhibit

1 alternative from -- based on a 2016 baseline.  
 2 **Q. And what does the first table show about the West Seattle**  
 3 **Junction?**  
 4 A. It shows that the baseline of 3,880 housing units is  
 5 projected to increase by 3,133, which is a growth rate of  
 6 more than 80 percent.  
 7 **Q. And on the second page, what does that information show?**  
 8 A. The second page shows which urban villages were singled out  
 9 as at risk to their historic and cultural assets.  
 10 **Q. And is the West Seattle Junction listed?**  
 11 A. The West Seattle Junction is not listed.  
 12 **Q. And referring back to the letter submitted to Sam Assefa,**  
 13 **which is tab 67, Exhibit 170. If we could turn back to**  
 14 **that, page 5, what does page 5 show?**  
 15 A. Page 5 shows a compilation that I made of the development  
 16 pipeline in the West Seattle Junction which is -- which I  
 17 compiled at the time we submitted the letter to Sam Assefa.  
 18 **Q. And what's the source of this data?**  
 19 A. I got it from Seattleinprogress.com, which is a place that  
 20 aggregates together the design review packets of all the  
 21 developments that are taking place in the city. I added up  
 22 all of the -- first of all, I listed all of the projects  
 23 that were listed on that website.  
 24 MR. JOHNSON: Is this a city website?  
 25 THE WITNESS: It's a private website. But it references

1 170.  
 2 MS. SAWYER: Correct, looking at page 5.  
 3 HEARING EXAMINER: All right. And the objection is that  
 4 this is based on hearsay?  
 5 MR. JOHNSON: Correct.  
 6 MS. SAWYER: The website does rely on data --  
 7 MR. BRICKLIN: Well, the website is just a set of links,  
 8 it's just a map. When you click on a link, you go to the  
 9 DCI webpage. You download the design review packet, which  
 10 is on file with the city, which is presented as part of the  
 11 design review process that the city holds. If you wanted to  
 12 review or verify these, you could look at the design review  
 13 packets for each of these projects.  
 14 MR. JOHNSON: It's still hearsay.  
 15 HEARING EXAMINER: Understood, but I mean it's -- doesn't  
 16 that just go to at some point what -- whether it's reliable  
 17 or not and that's something the city can raise as an  
 18 argument against it as opposed to an objection to it being  
 19 admissible?  
 20 MR. JOHNSON: I suppose, although --  
 21 HEARING EXAMINER: I mean we do allow hearsay in an  
 22 administrative hearing.  
 23 MR. JOHNSON: I understand and I don't often object on  
 24 these grounds because as Mr. Bricklin just said, almost  
 25 everything here is hearsay, right? But this just struck me

1 as data that I'm not sure the witness can speak to the  
2 reliability of, that's it.

3 THE WITNESS: What I can say is the mere part of the  
4 design and review packets that I looked at from the city's  
5 website.

6 HEARING EXAMINER: Okay. Well, yeah, the testimony speaks  
7 for itself in that respect, thank you, overruled.

8 A. So I was just explaining what this is. And it's a  
9 tabulation of all the units that were in the development  
10 pipeline at the time we submitted our letter to Sam Assefa.  
11 When I added them all up, it added up to 2,194 units of  
12 which I was trying to ascertain how many of those units were  
13 already incorporated in the baseline of 3,880 housing units  
14 that had been provided by the city. Because obviously, if  
15 that's how many are in the development pipeline, that  
16 represents a tremendous percentage of the baseline.

17 It could be, however, that these are parts of the  
18 projected growth. However, the projected growth of 3,000  
19 units is still very small or small compared to what was in  
20 the development pipeline of two years. So I was having  
21 difficulty trying to establish whether the baseline and  
22 growth projections were underestimated to what I was seeing  
23 within the development pipeline.

24 **Q. And did Sam Assefa or someone from the city respond to the**  
25 **information provided in this letter?**

1 **FEIS. Do you recognize this table?**

2 A. Yes, it's a summary of street occupancy, which is a parking  
3 assessment by these neighborhoods.

4 **Q. Is the West Seattle Junction listed on this table?**

5 A. No, it's not listed. And I was looking for it because what  
6 a lot of people do in West Seattle Junction is they drive  
7 their cars up there from outside West Seattle Junction and  
8 park in order to take the bus, but it wasn't -- West Seattle  
9 Junction was not listed on this table.

10 **Q. Thank you. And if we could turn to page 148-9, again. This**  
11 **is not a new exhibit, it's part of the record in Exhibit 2.**  
12 **Do you recognize this table?**

13 A. Yes, it's a map of screen lines from the FEIS transportation  
14 section.

15 **Q. And what does this map in the first table show?**

16 A. Well, the table shows a list of these screen lines. And it  
17 shows what the level of service standard is for each one.  
18 It shows that by the time the alternative for no action is  
19 completed in 20 years, three of those screen lines will be  
20 out of level of service compliance. And the map depicts  
21 which three screen lines are the ones that would be out of  
22 level of service compliance.

23 **Q. Thank you. And on page 3.284 in this tab, how does it**  
24 **describe those impacts?**

25 A. What it says is that any screen line that's out of

1 A. He responded but he didn't respond to this particular  
2 question of whether the development pipeline was  
3 incorporated in the baseline or growth patterns or not.

4 **Q. Okay, thank you. I'd like to turn our attention to**  
5 **transportation. Mr. Koehler, how long have you lived in**  
6 **West Seattle?**

7 A. 1997.

8 **Q. And during that time, did you commute to work?**

9 A. Yes. I've commuted to work during that entire time period.

10 **Q. And where did you work when you were commuting from West**  
11 **Seattle Junction?**

12 A. I always work off the peninsula, so I'm either commuting  
13 downtown or I'm commuting to -- at one point commuted to  
14 north of Seattle to Lynnwood. And at one point I commuted  
15 to Redmond.

16 **Q. And what was your method of commuting?**

17 A. Currently I take the bus probably three or four days a week.  
18 And I drive one to two days a week if I have a family event  
19 or something I need to do after work.

20 **Q. And how has your commute been?**

21 A. It's been -- it's taking ever longer to get to my place of  
22 work in the morning and it's been quite difficult to get to  
23 work.

24 **Q. Thank you. If we could turn to tab 148-8, this is not a new**  
25 **exhibit. This is part of the record in Exhibit 2, the MHA**

1 compliance and includes at least a .01, which is roughly a 1  
2 percent impact that MHA would create as additional load on  
3 that screen line should be called out as a potentially  
4 significant impact and it calls out those three.

5 **Q. Thank you. And please turn to tab 148-10. This is not a**  
6 **new exhibit, it's already part of the record as Exhibit 2,**  
7 **the MHA FEIS. Do you recognize this page?**

8 A. Yes, it's a page from the FEIS transportation section.

9 **Q. And what does the table show?**

10 A. The table shows the level of service standards for traffic  
11 corridors from A to F. And the document later refers to  
12 levels of service E and F being unacceptable.

13 **Q. Thank you. And what does the map on the next page show?**

14 A. The map shows the transit corridors that were studied by the  
15 MHA FEIS.

16 **Q. And on the following page there's a table, what does this**  
17 **table show?**

18 A. The table shows the transit times and levels of service at  
19 peak for each of the corridors that are depicted on the map.

20 **Q. And did any of these line items in the table surprise you?**

21 A. Yes, line 7, which is the West Seattle Bridge Corridor  
22 surprised me quite a bit.

23 **Q. And why is that?**

24 A. Because it doesn't match my personal experience. The level  
25 of service travel time for eastbound on west Seattle bridge

1 is listed at 8.5 minutes for a level of service of D. But  
 2 I've found that my own personal commute across the West  
 3 Seattle Bridge is much longer than that. And I personally  
 4 set aside roughly 30 minutes for that bridge crossing.  
 5 **Q. And so in order to investigate this further than just your**  
 6 **personal feelings, can we turn to tab 77 and 78? I would**  
 7 **ask that these images be viewed together and marked as a**  
 8 **single exhibit, Exhibit 171. Do you recognize these photos?**  
 9 **(Exhibit No. 171 marked for identification.)**  
 10 A. Yes, these --  
 11 MR. BRICKLIN: One second, 171; is that right?  
 12 MS. SAWYER: Yes, 171.  
 13 MR. BRICKLIN: I don't think she's been wrong yet.  
 14 A. These are photographs of SDOT transportation sign which is  
 15 suspended over Fauntleroy Avenue heading east, which is  
 16 giving traffic advisories as to what the transit time over  
 17 the West Seattle Bridge would be to I-5 which roughly  
 18 equates to corridor number 7. You can see that one of them,  
 19 which was taken on November 21st, not 2017, it indicates a  
 20 15 minute crossing time. And on the next page, on November  
 21 30th, it indicates a crossing time of 18 minutes.  
 22 MS. SAWYER: I'd like to offer Exhibit 171 into evidence.  
 23 MR. JOHNSON: Could I just ask for a little more  
 24 foundation in terms of clarifying that the witness took the  
 25 photo and time the photo was taken and et cetera?

1 5:45 p.m. for a Wednesday in March. The lower and upper  
 2 travel times reported by Google were recorded and the travel  
 3 time was calculated as the average of the minimum times plus  
 4 75 percent of the difference between minimum and maximum  
 5 times. This methodology accounts for the higher travel  
 6 times experienced during the peak hour. And since this was  
 7 p.m. peak, is probably why I couldn't find any kind of  
 8 impact eastbound because traffic eastbound is the a.m.  
 9 MR. BRICKLIN: Is what?  
 10 A. Is the morning.  
 11 **Q. So you feel the deficiency in the MHA FEIS is using only**  
 12 **p.m. travel times instead of a.m. in certain areas where --**  
 13 A. Yeah, I suspected that, so I wanted to conduct my own kind  
 14 of further investigation to justify whether my belief that  
 15 the FEIS use of p.m. peak hour underestimated the actual  
 16 peak times on the West Seattle Bridge of corridor 7.  
 17 **Q. Thank you. If we could turn to tab 79, 81, 84, 88, they're**  
 18 **marked together. I'd like to evaluate these documents**  
 19 **together and mark them as a single exhibit, 172. Mr.**  
 20 **Koehler, what are these images?**  
 21 **(Exhibit No. 172 marked for identification.)**  
 22 A. On the morning of April 18th, which is a Wednesday, I did  
 23 what I believed to be corridor 7 quarries from Google Maps  
 24 which matched the city's methodology to try to understand  
 25 whether the travel times for eastbound peak would be

1 THE WITNESS: Yep. I took these photos from my car at  
 2 roughly between 7:00 and 8:00 in the morning.  
 3 MR. JOHNSON: On the dates?  
 4 THE WITNESS: On the dates indicated, yes.  
 5 MR. JOHNSON: No objection.  
 6 HEARING EXAMINER: 171 is admitted.  
 7 (Exhibit No. 171 admitted into evidence.)  
 8 MS. SAWYER: Thank you.  
 9 **Q. (By Ms. Sawyer) And when you compare your personal**  
 10 **experience to the FEIS, how do you explain the discrepancy?**  
 11 A. Well, when I saw the discrepancy between the table and my  
 12 own personal experiences, I wanted to dive in and understand  
 13 what the methodology was that the city used to compute the  
 14 peak traffic times.  
 15 **Q. Thank you. So if we turn to the next tab, tab 149. This is**  
 16 **not an exhibit, it's already part of the record as Exhibit**  
 17 **2. Do you recognize this page?**  
 18 A. Yes, it's from one of the appendices from the MHA FEIS  
 19 transportation section.  
 20 **Q. And could you read this for us, the corridor travel time**  
 21 **section?**  
 22 A. Corridor travel times were estimated using Google maps  
 23 search results for each study corridor during a week day  
 24 p.m. peak hour. Each travel time corridor was mapped at the  
 25 depart at time, was set to 5:00 p.m., 5:15 p.m., 5:30 p.m.,

1 accurate or what they would be for the a.m. peak.  
 2 **Q. And tab 79, what does it show?**  
 3 A. It shows that for corridor 7, the transit time would have  
 4 been 16 minutes according to Google.  
 5 **Q. And on tab 81, the next page, can you explain what this is**  
 6 **depicting?**  
 7 A. It shows that the traffic is getting slightly worse and so  
 8 the transit time across corridor 17 would have been 17  
 9 minutes at that time of day.  
 10 **Q. And can you explain on the next page what tab 84 shows?**  
 11 A. Eighty-four shows that by 8:15 in the morning, the transit  
 12 time had degraded to 20 minutes and it was also interesting  
 13 to note that at that point, Google was starting to recommend  
 14 that customers divert through neighborhood streets in order  
 15 to complete that journey as an alternative to corridor 7,  
 16 which matches my own personal experiences of how people  
 17 choose to drive.  
 18 **Q. And lastly on tab 88, could you explain what is depicted on**  
 19 **this tab?**  
 20 A. It shows that by 8:30 in the morning, the traffic time had  
 21 degraded to 21 minutes.  
 22 MS. SAWYER: I'd like to offer Exhibit 172 into evidence.  
 23 MR. JOHNSON: No objection.  
 24 HEARING EXAMINER: 172 is admitted.  
 25 (Exhibit No. 172 admitted into evidence.)

1 **Q. (By Ms. Sawyer) And in reference to these maps during this**  
 2 **time, if you apply the city's methodology to these, what**  
 3 **level of service would you have?**  
 4 A. So using the city's methodology which is to take 75 percent  
 5 of the difference between the minimum and maximum, I would  
 6 have computed the travel time of 20 minutes at peak which is  
 7 far different from the 8.5 minutes that was depicted in the  
 8 EIS and would have been a level service of F as opposed to a  
 9 level service of D.  
 10 **Q. Thank you. Along the same lines, if we turn to tab 80, 82,**  
 11 **85 and 89, I'd ask that we evaluate these together like we**  
 12 **did with the previous documents and would like this to be**  
 13 **marked as a single exhibit, 172 -- I'm sorry, 173. Mr.**  
 14 **Koehler, what are these images?**  
 15 **(Exhibit No. 173 marked for identification.)**  
 16 A. Well, these are images also from that same morning. What I  
 17 did is I made a Google query that ran beyond corridor 7 onto  
 18 a little bit of northbound I-5. And I did that because the  
 19 travel times northbound on I-5 can be substantially  
 20 different than southbound because there's so much more  
 21 traffic and congestion headed north than south. So I  
 22 prepared these for that reason and found that the travel  
 23 times northbound were in fact worse than the travel times  
 24 indicated on corridor 7 without having -- including the I-5  
 25 north component.

1 north, 8:15, 21 minutes. And then 8:30 in the morning, 27  
 2 minutes to get to SR 99 across that junction.  
 3 **Q. So that was 86 and 90 respectively?**  
 4 A. Correct.  
 5 MS. SAWYER: Thank you. I'd like to offer Exhibit 174  
 6 into evidence?  
 7 MR. JOHNSON: No objection.  
 8 HEARING EXAMINER: 174 is admitted.  
 9 (Exhibit No. 174 admitted into evidence.)  
 10 MS. SAWYER: Thank you.  
 11 **Q. (By Ms. Sawyer) Thank you. And if we could turn to tab 87.**  
 12 **We would like this to be marked as Exhibit 175. Mr.**  
 13 **Koehler, do you recognize this image and what is it?**  
 14 **(Exhibit No. 175 marked for identification.)**  
 15 A. Yes, it's a snapshot that I took from the Seattle Department  
 16 of Transportation page which allows for a realtime rendering  
 17 of traffic conditions. It shows that -- I did it because I  
 18 wanted to corroborate the Google queries to see if there  
 19 were any traffic incidents reported on this map. And it did  
 20 corroborate the information provided by Google. And it did  
 21 not show any traffic incidents.  
 22 MS. SAWYER: Thank you. I'd like to offer Exhibit 175  
 23 into evidence.  
 24 MR. JOHNSON: No objection.  
 25 HEARING EXAMINER: 175 is admitted.

1 **Q. And can you explain tab 80, what time this was taken at?**  
 2 A. That was 7:45 in the morning for a transit time of 19  
 3 minutes.  
 4 **Q. And tab 82?**  
 5 A. Transit time 21 minutes taken at 8:00 in the morning.  
 6 **Q. Tab 85, please.**  
 7 A. 8:15 in the morning, transit time 27 minutes.  
 8 **Q. And lastly tab 89, please.**  
 9 A. 8:30 in the morning, transit time 24 minutes.  
 10 MS. SAWYER: Thank you. I'd like to offer Exhibit 173  
 11 into evidence?  
 12 MR. JOHNSON: No objection.  
 13 HEARING EXAMINER: 173 is admitted.  
 14 (Exhibit No. 173 admitted into evidence.)  
 15 MS. SAWYER: Thank you.  
 16 **Q. (By Ms. Sawyer) And lastly with the Google Map if we could**  
 17 **please turn to Exhibits 83, 86 and 90, I'd like to ask that**  
 18 **these be evaluated as a single item and marked -- as a**  
 19 **single exhibit marked 174. Mr. Koehler, what do these**  
 20 **images show?**  
 21 **(Exhibit No. 174 marked for identification.)**  
 22 A. They show another popular route across West Seattle Bridge,  
 23 which is to take SR 99 north.  
 24 **Q. And tab 83, what time and what information does this show?**  
 25 A. That was 8:00 with a transit time of 21 minutes to SR 99

1 (Exhibit No. 175 admitted into evidence.)  
 2 MS. SAWYER: Thank you.  
 3 **Q. (By Ms. Sawyer) And turning to tab 101, we would like this**  
 4 **to be marked as Exhibit 176. Mr. Koehler, do you recognize**  
 5 **this image and what is it?**  
 6 **(Exhibit No. 176 marked for identification.)**  
 7 A. Yes, it's a screen shot from the West Seattle Blog taken on  
 8 that same morning. I did this because I wanted to see  
 9 whether the West Seattle Blog was reporting any traffic  
 10 incidents that might have affected those traffic times and  
 11 confirmed that it did not.  
 12 MS. SAWYER: Thank you. I would offer Exhibit 176 into  
 13 evidence.  
 14 MR. JOHNSON: No objection.  
 15 HEARING EXAMINER: 176 is admitted.  
 16 (Exhibit No. 176 admitted into evidence.)  
 17 **Q. (By Ms. Sawyer) Thank you. What time should we move to**  
 18 **the -- okay. If we could turn to tab's 92 through 96, I'd**  
 19 **like to ask that we review these together and they be marked**  
 20 **as a single exhibit, 177?**  
 21 HEARING EXAMINER: I'm sorry that's tab --  
 22 MS. SAWYER: I'm sorry, 92 to 96.  
 23 HEARING EXAMINER: Oh, getting ahead of you.  
 24 MS. SAWYER: So much map fun, you can hardly contain  
 25 yourself.

1 HEARING EXAMINER: So we had this 87 was marked as 174.  
 2 MR. BRICKLIN: 175 I've got.  
 3 MS. SAWYER: It's 175 and then the 101, the West Seattle  
 4 Blog --  
 5 MR. BRICKLIN: Go backwards, 174 is 83, 86, 90 --  
 6 HEARING EXAMINER: 174 is 83, 86, 90?  
 7 MR. BRICKLIN: Yeah.  
 8 HEARING EXAMINER: Okay. So we're on 107 you're  
 9 using -- we're not on 107 yet.  
 10 MS. SAWYER: Ninety-two through 99 is the tab.  
 11 MR. BRICKLIN: Ninety-two through 96.  
 12 MS. SAWYER: My apologies, now I'm misspeaking, 92 through  
 13 96.  
 14 HEARING EXAMINER: Right.  
 15 MS. SAWYER: Thank you. And we would like these to be  
 16 marked as a single exhibit, 177. Mr. Koehler what are these  
 17 documents?  
 18 (Exhibit No. 177 marked for identification.)  
 19 MR. BRICKLIN: Wait, wait, wait, wait until he's ready.  
 20 Are you ready?  
 21 HEARING EXAMINER: Yes.  
 22 MS. SAWYER: Oh, okay.  
 23 **Q. (By Ms. Sawyer) Mr. Koehler, what are these documents?**  
 24 A. On that same morning I made some Google queries to see what  
 25 the traffic conditions were like in the interior of the West

1 We do have another document that uses this information.  
 2 A. Would you like me to say what it is?  
 3 **Q. Please describe tab 107, what is this document?**  
 4 A. So in our interrogatories with the city, we asked for the  
 5 city to outline which of the intersections and streets in  
 6 Seattle were the busiest. So in response to that, the city  
 7 said we don't have an assessment of every single  
 8 intersection and street in Seattle, but what we do have is  
 9 these traffic studies. So they sent us a file which  
 10 indicates all of the different traffic studies which were  
 11 volume counts of how many cars or trucks pass through the  
 12 area of study during a specific day.  
 13 So if you just take a look at one of the pages, you can  
 14 see that any individual study is located at a certain  
 15 position in the city so the first one, for example, is at  
 16 10th Avenue East, north of East John Street. You can see  
 17 some other information that the SDOT has, direction of flow  
 18 would be both directions. Start date, which means the date  
 19 of the study, a.m. peak that was experienced, the p.m. peak  
 20 that was experienced, the average weekday traffic, and the  
 21 average daily traffic for that particular study.  
 22 MS. SAWYER: Thank you. So tab 103 and 102 were created  
 23 using this data. Should we -- it is -- I know it's a  
 24 behemoth of a document. And I don't anticipate someone  
 25 would read every single line of the traffic counts, but --

1 Seattle Junction on neighborhood streets.  
 2 **Q. And what does tab 92 show?**  
 3 A. Ninety-two shows that cross traffic within the West Seattle  
 4 Junction from Alaska Street to 38th had congestion and  
 5 Google was offering various routes to get there.  
 6 **Q. Thank you. And can you please describe tab 93?**  
 7 A. Ninety-three was along California Avenue. And you can see  
 8 that there's congestion and some suggestions to reroute on  
 9 other streets.  
 10 **Q. What does tab 94 show?**  
 11 A. Ninety-four shows additional congestion and in the proximity  
 12 of the entrance of the West Seattle Bridge.  
 13 **Q. Thank you. And tab 95, please?**  
 14 A. Ninety-five and 96 both show different routes internal to  
 15 the West Seattle Junction, both of which happen to be in the  
 16 near proximity to corridor 7 or the West Seattle Bridge  
 17 where Google is showing red, which is severe congestion.  
 18 MS. SAWYER: Thank you. I would offer Exhibit 177 into  
 19 evidence?  
 20 MR. JOHNSON: No objection.  
 21 HEARING EXAMINER: 177 is admitted.  
 22 (Exhibit No. 177 admitted into evidence.)  
 23 MS. SAWYER: Thank you. And let's turn our attention to  
 24 tab 107, it is the behemoth of line data that I do have a  
 25 question if we should submit this in entirety into evidence.

1 MR. BRICKLIN: The rules of evidence explicitly allow for  
 2 compilations to be admitted in lieu of the underlying data.  
 3 And I think the city's got opportunities to turn to that  
 4 underlying data if it wants to question the accuracy of the  
 5 compilation.  
 6 MR. JOHNSON: I'm sorry, bear with me while I do a  
 7 comparison. Also we talked about -- these are documents  
 8 that you provided to us.  
 9 MS. SAWYER: Correct.  
 10 MR. JOHNSON: Pretrial, right? So was there another  
 11 document?  
 12 MS. SAWYER: No. I think maybe we're confusing the  
 13 summary -- I was unsure if I should submit the underlying  
 14 data for the next two tabs which were created from using  
 15 this data into evidence. We do not have a summary page of  
 16 document tab 107.  
 17 MR. JOHNSON: By my understanding -- I'm sorry. Do you  
 18 mind?  
 19 HEARING EXAMINER: Please.  
 20 MR. JOHNSON: My understanding of these documents was that  
 21 the data points are extracts from the larger document, is  
 22 that right, is that correct?  
 23 MS. SAWYER: Correct.  
 24 MR. JOHNSON: So on those grounds, I don't have an  
 25 objection of just using Exhibits 102 and 103 and not

1 admitting the entire --  
2 HEARING EXAMINER: Yeah, I have no need for 107. And  
3 certainly if the city has questions about the data or the  
4 conclusions reached in 102 and 103, they've been provided  
5 that data.

6 MS. SAWYER: Correct, yes.

7 HEARING EXAMINER: So as far as the record, I don't think  
8 we need that.

9 MS. SAWYER: Okay, thank you very much for the  
10 clarification.

11 **Q. (By Ms. Sawyer) So if we could turn to 103.**

12 MR. BRICKLIN: Those are in the record -- I didn't see  
13 what these were -- sorry.

14 HEARING EXAMINER: All right, onto tab 102.

15 MS. SAWYER: Tab 103.

16 HEARING EXAMINER: 103.

17 MS. SAWYER: Thank you.

18 **Q. (By Ms. Sawyer) We'd like this to be marked as Exhibit 178.**  
19 **Mr. Koehler, can you describe this document?**  
20 **(Exhibit No. 178 marked for identification.)**

21 A. Yes, it's a spreadsheet which I prepared which is an extract  
22 of the streets indicated in the studies that had the highest  
23 average daily traffic. It shows the -- there are three  
24 streets within the West Seattle Junction that are within the  
25 top 25 busiest streets, one of those is the West Seattle

1 two-year period.

2 I put a best fit line through the weekday traffic, which  
3 indicates that the average traffic has been increasing --  
4 has increased by more than 10 percent over the two-year  
5 period indicated by this data. This seems to corroborate  
6 from my personal experience of the traffic eastbound on  
7 corridor 7 becoming worse and worse and worse over that same  
8 time frame. You can also see that there are seasonal  
9 affects that I have also experienced, which is that the peak  
10 traffic and the peak congestion is not just in the morning,  
11 but it is also immediately prior to Christmas and after  
12 Thanksgiving from a seasonal affect.

13 MS. SAWYER: Thank you. I would offer Exhibit 179 into  
14 evidence, please.

15 MR. JOHNSON: No objection.

16 HEARING EXAMINER: 179 is admitted.

17 (Exhibit No. 179 admitted into evidence.)

18 MS. SAWYER: Thank you.

19 **Q. (By Ms. Sawyer) And did you find in the MHA FEIS any of the**  
20 **roads or intersections that we've discussed internal to the**  
21 **West Seattle Junction listed or described?**

22 A. The internal -- the FEIS only included the two corridors I  
23 mentioned before in it's study. It didn't include any  
24 analysis of the internal traffic to the West Seattle  
25 Junction.

1 Bridge entrance and exit. So that's number 4. Another is  
2 Fauntleroy and Alaska, which is number 20. And the 35th and  
3 Alaska -- 35th Avenue at Alaska Street is the 23rd busiest  
4 street by average daily traffic in the city.

5 **Q. Thank you. And again, just to clarify the source of**  
6 **information on this chart came from tab 107, which was**  
7 **provided to JuNO by the city?**

8 A. That's correct.

9 MS. SAWYER: Thank you. I would offer tab 178 into  
10 evidence.

11 MR. JOHNSON: No objection.

12 HEARING EXAMINER: 178 is admitted.

13 (Exhibit No. 178 admitted into evidence.)

14 MS. SAWYER: Thank you.

15 **Q. (By Ms. Sawyer) If we could please turn to tab 102, we**  
16 **would like this to be marked as Exhibit 179. Now Mr.**  
17 **Koehler, can you describe this document to me?**  
18 **(Exhibit No. 179 marked for identification.)**

19 A. Yeah, the traffic study data included multiple different  
20 measurements of the West Seattle Bridge eastbound traffic.  
21 And that took place over the two year period of the data  
22 that was included in that file. What I did is I compiled  
23 all that data. And then I plotted it on a chart from the  
24 start of 2016 to the end of 2017, in which you can see is  
25 the weekday and daily traffic had been increasing over that

1 **Q. Thank you. And please turn to tab 1 --**

2 HEARING EXAMINER: We're going to stop there and take a  
3 break.

4 MS. SAWYER: Of course, thanks.

5 HEARING EXAMINER: We'll come back at 10:50.

6 (Recess)

7 HEARING EXAMINER: All right, we'll return to the record,  
8 Mr. Koehler on direct.

9 MS. SAWYER: Are you ready?

10 HEARING EXAMINER: Um-hum.

11 MS. SAWYER: Okay, thank you.

12 **Q. (By Ms. Sawyer) If we could all please turn to tab 111, we**  
13 **would like this to be marked as Exhibit 180. And Mr.**  
14 **Koehler, do you recognize this document?**  
15 **(Exhibit No. 180 marked for identification.)**

16 A. Yes, it's a page from the terminal 5 FEIS appendix related  
17 to transportation.

18 MS. SAWYER: And I would offer Exhibit 180 into evidence.

19 MR. JOHNSON: No objection.

20 **Q. (By Ms. Sawyer) Mr. Koehler, did you find any study of key**  
21 **intersections in the MHA FEIS?**

22 A. I didn't find any intersection studies in the MHA FEIS.

23 **Q. As that compares to Terminal 5?**

24 A. Well, Terminal 5 did include studies of intersections that  
25 were -- well, not within the West Seattle Junction, very

1 close to the entrance of the bridge on corridor 7.  
 2 **Q. And could you please explain what Terminal 5 is and how it**  
 3 **relates to the Junction?**  
 4 A. So immediately east of the West Seattle Junction is a  
 5 location called Terminal 5, which is a project that the Port  
 6 of Seattle advocated for which would reconfigure port  
 7 service and invite much larger vessels with much more cargo  
 8 to transact in the land mass adjacent to the Duwamish River,  
 9 which as I mentioned is adjacent to the entrance of the West  
 10 Seattle Bridge.  
 11 **Q. Okay, thank you. And please turn to tab 110 --**  
 12 HEARING EXAMINER: And before we get to that, I know we're  
 13 almost there, but given the foundation that you established,  
 14 I'll admit 180, but let's get a full description of the  
 15 document before we ask for admission.  
 16 (Exhibit No. 180 admitted into evidence.)  
 17 MS. SAWYER: Of course, thank you.  
 18 THE WITNESS: The full description of the Terminal 5 EIS?  
 19 HEARING EXAMINER: I believe you just gave me some  
 20 background. When I was asked for admission, there was no  
 21 description of what this was.  
 22 MS. SAWYER: I'll change the order of my questioning,  
 23 thank you.  
 24 HEARING EXAMINER: Yeah.  
 25 MS. SAWYER: Thank you.

1 Terminal 5. And that is even under the no action where  
 2 Terminal 5 is actually not upgraded. So what it looks like  
 3 to me is that the Terminal 5 EIS indicates that there is  
 4 significant potential for congestion coming up at the  
 5 intersections which are adjacent to the West Seattle Bridge  
 6 and the lower bridge crossing the Duwamish River.  
 7 **Q. Thank you. And just to further explain on why these**  
 8 **intersections, their level is relevant to the MHA FEIS?**  
 9 A. Yep, as we indicated the Google -- when we looked at the  
 10 Google traffic analysis and the Google predictions for the  
 11 a.m. peak, we saw it in multiple cases Google would suggest  
 12 to the driver that they reroute their traffic over the lower  
 13 bridge and through neighborhood streets and backups in  
 14 congestion that these intersections would cause Google to  
 15 revise that and divert more traffic onto the bridge. So  
 16 what I conclude from that is that the impact of traffic  
 17 conditions at these intersections and the ongoing  
 18 degradation will eventually result in backups and further  
 19 congestion in the West Seattle Junction and further  
 20 degradation that I did not see articulated or analyzed or  
 21 considered during MHA FEIS.  
 22 **Q. Thank you. And if we could all please turn to tab 109, and**  
 23 **we would like this to be marked as Exhibit 182. Mr.**  
 24 **Koehler, do you recognize this exhibit -- this document and**  
 25 **please describe it in full?**

1 HEARING EXAMINER: Just ask for admission after you're  
 2 done with that.  
 3 MS. SAWYER: Okay. I'm out of rhythm after our break.  
 4 How quickly the pattern goes.  
 5 **Q. (By Ms. Sawyer) So looking at tab 110, we would ask this to**  
 6 **be marked as Exhibit 181. And, Mr. Koehler, do you**  
 7 **recognize this document and could you please describe the**  
 8 **document in full?**  
 9 (Exhibit No. 181 marked for identification.)  
 10 A. Yes, this is another page from the Terminal 5 FEIS appendix  
 11 transportation section. This particular page is outlining  
 12 key intersections that are located within the vicinity of  
 13 Terminal 5, which are also in the vicinity of the West  
 14 Seattle Junction near corridor 7.  
 15 MS. SAWYER: And I would offer Exhibit 181 into evidence.  
 16 MR. JOHNSON: No objection.  
 17 HEARING EXAMINER: 181 is admitted.  
 18 (Exhibit No. 181 admitted into evidence.)  
 19 MS. SAWYER: Thank you.  
 20 **Q. (By Ms. Sawyer) And do you see any references to level of**  
 21 **service during a.m. peak hours and how are those described**  
 22 **in this document?**  
 23 A. Yes, I see multiple references to intersection levels of  
 24 service during the a.m. peak hours. Levels of service of  
 25 both E and F are described as potential impacts to the

1 (Exhibit No. 182 marked for identification.)  
 2 A. Yes, there's a website called Seattle Streets Illustrated,  
 3 which is part of the Seattle Department of Transportation.  
 4 The website is presented as a guidebook for right of way and  
 5 street design standards and guidelines for the city. This  
 6 particular document is a snapshot of the map from within  
 7 Seattle Street's Illustration of the West Seattle Junction.  
 8 MS. SAWYER: Thank you. I would offer Exhibit 182 into  
 9 evidence.  
 10 MR. JOHNSON: No objection.  
 11 HEARING EXAMINER: 182 is admitted.  
 12 (Exhibit No. 182 admitted into evidence.)  
 13 **Q. (By Ms. Sawyer) And does this document, the Streets**  
 14 **Illustrated, show a variety of street type designations for**  
 15 **the West Seattle Junction?**  
 16 A. It does. It shows that within the West Seattle Junction  
 17 there are three different street designations, urban center  
 18 connector, urban village main and urban village neighborhood  
 19 street conditions may exist within the West Seattle  
 20 Junction, you can see two of them do.  
 21 **Q. Thank you. And did you find any reference to these street**  
 22 **designations in the MHA FEIS?**  
 23 A. No, the FEIS did not take advantage of these street type  
 24 designations or take advantage of any of the differentiation  
 25 for guidelines for how they would be used.

1 **Q. Thank you. And let's please turn to tab 108. This is not**  
 2 **an exhibit, it is part of Municipal Code.**  
 3 MR. BRICKLIN: So you don't need to it as an exhibit, you  
 4 just refer to it by code number.  
 5 MS. SAWYER: Thank you.  
 6 **Q. (By Ms. Sawyer) Mr. Koehler, could you please describe this**  
 7 **document?**  
 8 A. Yes, it's an excerpt from the Seattle Municipal Code,  
 9 Section 23.  
 10 **Q. And what does the table describe?**  
 11 A. The table describes minimum right of way widths for existing  
 12 streets when, you know, when a street is being considered  
 13 for development or what not, a development is taking place.  
 14 **Q. And what are the thresholds described?**  
 15 A. For zone's where the maximum height is 40 feet or less, the  
 16 required right of away width is 40 feet. For zones where  
 17 there's a height limit of more than 40 feet, the requirement  
 18 is 52 feet of width.  
 19 **Q. Thank you. Are you aware of any streets more narrow than 52**  
 20 **feet in the West Seattle Junction that parcels are about to**  
 21 **be zoned higher than 40 feet?**  
 22 A. I am.  
 23 **Q. And why is that important?**  
 24 A. It's important because the streets that are internal to the  
 25 West Seattle Junction may be narrower than the permitted

1 MS. SAWYER: Yes, I'm sorry again.  
 2 **Q. (By Ms. Sawyer) What does -- how wide is the right of way**  
 3 **for Edmond Street according to the Seattle DCI website page**  
 4 **in front of us?**  
 5 A. If you look at the Southwest Edmond Street, which is located  
 6 at the midsection of this page and go west of California,  
 7 you can see the designation is 25 to the south, 25 to the  
 8 north for a total of 50 foot right of way on Edmond Street.  
 9 **Q. And are any adjacent parcels zoned at 40 feet or more at**  
 10 **this section?**  
 11 A. Yeah, you can see on this page itself that the parcels  
 12 immediately to the north of Edmond Street are NC3P85, which  
 13 is an 85-foot height designation, which is proposed for an  
 14 additional 10 feet of height. If you were to go further  
 15 west on this, on Southwest Edmond, you would also be located  
 16 adjacent to an NC40 parcel, which is proposed to be upgraded  
 17 to NC55.  
 18 **Q. And why is that relevant?**  
 19 A. That's relevant for the same reasons I indicated before,  
 20 which is that there are streets within the West Seattle  
 21 Junction such as this one, which are below the minimum right  
 22 of way standards, which could create issues for  
 23 transportation if the development is zoned as proposed.  
 24 MS. SAWYER: Thank you. I would offer Exhibit 183 from  
 25 the Seattle DCI website into evidence.

1 right of way, but there is no indication of or how those  
 2 streets would be handled with the MHA FEIS.  
 3 **Q. Thank you. And let's all turn to tab --**  
 4 MR. BRICKLIN: I think you referred to this as Section 23,  
 5 but I think the citation will be 23 -- it's Table A for  
 6 23 --  
 7 THE WITNESS: It's within Section 23, but to be  
 8 specific --  
 9 MR. BRICKLIN: It's within title 23.  
 10 THE WITNESS: I didn't know the legal --  
 11 SPEAKER: Yeah, it's 23.53.015.  
 12 THE WITNESS: Thank you.  
 13 MS. SAWYER: Thank you.  
 14 MR. JOHNSON: State that again.  
 15 SPEAKER: 23.53.015.  
 16 MS. SAWYER: Thank you.  
 17 **Q. (By Ms. Sawyer) If we could all turn to tab 105, we would**  
 18 **like this to be marked as Exhibit 183. Mr. Koehler, do you**  
 19 **recognize this document?**  
 20 **(Exhibit No. 183 marked for identification.)**  
 21 A. Yes, it's an excerpt from one of the zoning maps located on  
 22 the DCI website.  
 23 MS. SAWYER: Thank you. I'd like to offer Exhibit 183  
 24 into evidence.  
 25 HEARING EXAMINER: Are you going to discuss that?

1 MR. JOHNSON: No objection.  
 2 HEARING EXAMINER: 183 is admitted.  
 3 (Exhibit 183 admitted into evidence.)  
 4 **Q. (By Ms. Sawyer) Thank you. And if we could all turn to tab**  
 5 **112, and I'm sorry I don't have magnifying glasses for**  
 6 **everyone.**  
 7 A. We don't have to look at it -- anyway, go ahead.  
 8 **Q. We would like this to be marked as Exhibit 184. Mr.**  
 9 **Koehler, could you please describe.**  
 10 **(Exhibit No. 184 marked for identification.)**  
 11 A. This is another excerpt from the SDCI zoning maps for the  
 12 West Seattle Junction. This particular excerpt is from an  
 13 area known as Fairmount Springs, which is located within the  
 14 West Seattle Junction perimeter.  
 15 **Q. And how would you describe the streets in this area that are**  
 16 **depicted on this map?**  
 17 A. The streets I'm referring to is Fairmount Springs is to the  
 18 west of Fauntleroy Avenue, which is roughly the area within  
 19 the midsection of this page. Those are single family zoned  
 20 areas. The streets are narrow. There is one street -- one  
 21 row of parking on either side of the street plus a single  
 22 lane that is for driving. So if you're driving down the  
 23 street and another car is coming in the opposite direction,  
 24 one of the two cars has to pull over for the streets that  
 25 are located within this area.

1 MS. SAWYER: Thank you. I would offer Exhibit 184 into  
 2 evidence.  
 3 MR. JOHNSON: No objection.  
 4 HEARING EXAMINER: 184 is admitted.  
 5 (Exhibit No. 184 admitted into evidence.)  
 6 MS. SAWYER: Thank you.  
 7 **Q. And if we could please turn to tab 147 there's a -- 1.24,**  
 8 **this full document has already been admitted into evidence,**  
 9 **it's Exhibit 162 from earlier today. And these are two**  
 10 **pages from that document. Mr. Koehler, well, what section**  
 11 **is this?**  
 12 A. This is from the transportation section of the University  
 13 District FEIS for the MHA Project.  
 14 **Q. And do you see any references to street level of service for**  
 15 **streets and intersections inside the U District?**  
 16 A. I do. Unlike the MHA FEIS for our neighborhoods, this FEIS  
 17 includes specific references to streets and intersections  
 18 located within the University District and levels of service  
 19 that indicate levels of service at both E and F and proposed  
 20 mitigations.  
 21 **Q. Thank you. And turning the page to 1471.25 is the page**  
 22 **number again, this is -- the full document's already been**  
 23 **admitted into evidence as Exhibit 162, do you see any**  
 24 **references to safety impacts on this page?**  
 25 A. I do. This is from the same section for transportation

1 environmental impact statement.  
 2 HEARING EXAMINER: Right.  
 3 THE WITNESS: They're not part of the record yet.  
 4 MS. SAWYER: Oh, I'm sorry, then that's my confusion.  
 5 HEARING EXAMINER: So they're not part of the DEIS?  
 6 THE WITNESS: No.  
 7 MS. SAWYER: So then we would like to have this exhibit  
 8 marked, tab 113 marked as Exhibit 185, sorry for the  
 9 confusion. I'm sorry, could you please --  
 10 (Exhibit No. 185 marked for identification.)  
 11 A. Yeah, this is our feedback -- this is JuNO's feedback for  
 12 DEIS, which we wrote and sent within the comment period. It  
 13 includes quite a few comments that take place throughout the  
 14 course of this document. The DEIS included some responses  
 15 to some portions of this, although it was very hard for us  
 16 to connect the responses to our feedback.  
 17 MS. SAWYER: Thank you. I would offer Exhibit 185 to be  
 18 admitted into evidence.  
 19 MR. JOHNSON: Will there be more testimony from the  
 20 witness about it?  
 21 MS. SAWYER: Tab 114 is the city's response to our  
 22 comments. And we have some responses to this comment that  
 23 are non-response from the city or lack clarification from  
 24 our comments for the DEIS.  
 25 MR. JOHNSON: I guess I would object for the time being on

1 within the University District FEIS, and it does include a  
 2 paragraph including the safety conditions related to  
 3 transportation changes.  
 4 **Q. And did you express concerns about traffic and safety**  
 5 **impacts internal to the West Seattle Junction in your draft**  
 6 **EIS feedback to the city?**  
 7 A. Among our feedback that we provided to the draft EIS, we  
 8 provided concerns about internal traffic conditions in the  
 9 West Seattle Junction for both streets and intersections as  
 10 well as concerns about the impact of potential traffic  
 11 related to the changes proposed.  
 12 **Q. Thank you. And if we can all turn to tab 113, this is**  
 13 **JuNO's comments regarding the draft environmental impact**  
 14 **statement, which would be part of the record, but we'd like**  
 15 **to admit the entire document or at least the excerpt we're**  
 16 **talking --**  
 17 MR. BRICKLIN: All of it.  
 18 **Q. (By Ms. Sawyer) Okay. I would like to admit the entire**  
 19 **document into evidence for tab 113. So if it can be marked**  
 20 **as Exhibit 180. Mr. Koehler, can you describe this document**  
 21 **please?**  
 22 A. Yes, this is --  
 23 HEARING EXAMINER: Sorry, can I go back? You said they  
 24 were part of the record or not?  
 25 MS. SAWYER: So these are comments to the draft

1 relevance grounds --  
 2 MR. BRICKLIN: Can I -- isn't it true the comment letters  
 3 are actually part of the final EIS, at least in a digital  
 4 format?  
 5 MR. JOHNSON: I think there is a length somewhere.  
 6 MR. BRICKLIN: That's why I said digitally. If you go  
 7 online for the EIS --  
 8 HEARING EXAMINER: Let's let Mr. --  
 9 MR. BRICKLIN: I was just going to say, I think it's part  
 10 of the record, technically, maybe not.  
 11 MR. JOHNSON: Okay. What I was trying to say was to allow  
 12 the witness to kind of link his testimony back to the  
 13 document, but right now there's hundreds of pages or tens of  
 14 pages, I don't know if there are that many questions about  
 15 it.  
 16 HEARING EXAMINER: Right.  
 17 A. Ask me the question, I'll --  
 18 **Q. (By Ms. Sawyer) Sure. Mr. Koehler, within the comments for**  
 19 **the draft environmental impact statement, are there any**  
 20 **specific areas that --**  
 21 A. Yes, there are -- you know, so what we did is we submitted  
 22 this comment and we got back in the DEIS feedback, which was  
 23 responded to in the FEIS was disjointed and difficult to  
 24 follow. And so what we had to do was piece together how the  
 25 city was trying to respond to this document from the

1 contents of the FEIS. We found numerous cases where a piece  
2 of feedback that's included in this document was not  
3 responded to, was not responded to completely. So we  
4 compiled those as a separate document that we found to be  
5 the specific pieces of feedback from this document that we  
6 found to be insufficient. So that will appear as the second  
7 piece of information that was furnished to the city earlier  
8 and which is apart of what is in front of us today.

9 HEARING EXAMINER: All right. Go ahead and proceed with  
10 it. I just do want to emphasize to the parties so that they  
11 understand, this is a four-week hearing. And I don't want  
12 to give the impression to parties that large documents that  
13 say everything they'd like to say is something at some point  
14 something that I'm going to go through every page, that's  
15 just not how this is going to work. So do you have specific  
16 sections in there that you want me to --

17 MR. BRICKLIN: Yeah, they're related.

18 HEARING EXAMINER: You're going to have to call those out.  
19 Just that's where we have to go with it. I'm only doing  
20 that if it's relevant and germane to the adequacy to EIS.

21 MS. SAWYER: Could I offer a suggestion?

22 MR. BRICKLIN: Yeah, we can do this one first.

23 MS. SAWYER: Tab 114 summarizes the comment we made in tab  
24 113, the city's response and if there is an issue with the  
25 response we received from the city. So basically tab 114 is

1 purposes, I was just highlighting. Again I sometimes have  
2 parties they want it -- this is -- look at this great  
3 document, Your Honor --

4 MR. KOEHLER: That's not our point. Our point is to  
5 substantiate the ones that we are --

6 HEARING EXAMINER: So let's do this as one exhibit then.

7 MS. SAWYER: Sure.

8 HEARING EXAMINER: The summary and the comment so they are  
9 at least in one place under a single number more easily  
10 referenced as 185.

11 MS. SAWYER: Okay, thank you.

12 **Q. (By Ms. Sawyer) Mr. Koehler, looking at tab 114, can you**  
13 **describe this document and who created it?**

14 A. Yeah, so I created this document. This is a spreadsheet  
15 that is a table of when we compared the FEIS responses to  
16 our feedback to the feedback that we originally submitted.  
17 We found a number of deficiencies to where that feedback was  
18 not responded to or responded to completely. I compiled  
19 those pieces of feedback, put them on this spreadsheet and  
20 furnished it to the city as part of their request for one of  
21 their interrogatories, which we're now submitting into  
22 evidence as the specific pieces of feedback that we feel  
23 like were not responded to adequately.

24 **Q. And in the list of noncompliant responses, does it include**  
25 **transportation as well as other issues that weren't**

1 a summary of where we found noncompliance in the city's  
2 response, if we could offer that into evidence instead.

3 HEARING EXAMINER: I'm not saying to exclude these. I  
4 recognize that you're -- there are some items in here that  
5 you will touch on. What I'm making clear for the parties is  
6 simply there are sometimes the impression of parties that  
7 it's in this grand record that an individual has every  
8 single page of thousands of pages of documents that they can  
9 tap in at any moment. In reality, that's not what happens,  
10 and I hate to burst the bubble on that. But that is how it  
11 works.

12 MS. SAWYER: You're only human and you're not a speed  
13 reader.

14 MR. KOEHLER: I think the point is we want to make sure  
15 that there's no question that these particular pieces of  
16 feedback were submitted. So if you need to go to the  
17 underlying documents to see, oh, wait a minute, did they  
18 really say that, you'll have that. You can think of it as a  
19 reference document rather than a --

20 MR. BRICKLIN: Or what I suggest is when JuNO does it's  
21 closing brief and it wants to argue that the city did not  
22 respond to the comments in the FEIS, you can point to this  
23 document which includes a list of specific places where the  
24 city didn't respond.

25 HEARING EXAMINER: Yeah, and you can use it for those

1 **addressed by the city's response?**

2 A. Yeah. And to save time, just as an example, transportation  
3 is among the issues that we've highlighted where there was  
4 not an adequate response.

5 **Q. Thank you. And do you feel the MHA FEIS underestimates the**  
6 **amount of traffic congestion in the West Seattle Junction?**

7 A. Yes. I think it underestimates the traffic based on it's  
8 analysis of the corridor 7 as well as it's a mission of any  
9 kind of traffic study for traffic and intersections internal  
10 to the West Seattle Junction.

11 MS. SAWYER: Thank you. And just stepping back for a  
12 moment, I would offer Exhibit 185 into evidence. And that  
13 is the combination of tab 113 and 114 with the understanding  
14 that every single word space and everything will not be read  
15 in it's entirety.

16 HEARING EXAMINER: Any objection?

17 MR. JOHNSON: No objection to it's admission for that  
18 purpose.

19 MS. SAWYER: Thank you, almost done.

20 HEARING EXAMINER: Exhibit 185 is admitted.

21 (Exhibit No. 185 admitted into evidence.)

22 **Q. (By Ms. Sawyer) And just to conclude about traffic, why is**  
23 **it important to understand the current level of traffic**  
24 **conditions specific to the West Seattle Junction?**

25 A. Well, the current levels of traffic are already out of what

1 we would consider -- what apparently is considered the level  
 2 of service standard. We've seen in cases where the city's  
 3 MHA FEIS studied screen lines that are out of compliance  
 4 they've proposed mitigations and they've highlighted where  
 5 those issues are. As additional growth takes place, it will  
 6 merely exacerbate the already poor performance of our levels  
 7 of service for transportation in the West Seattle Junction.  
 8 We're concerned that if those issues are not being  
 9 adequately highlighted, they are not being adequately  
 10 mitigated and that there's actually other sorts of  
 11 transportation issues and safety issues that take place  
 12 internal of the West Seattle Junction, which were omitted  
 13 from study.

14 **Q. Thank you. And just to summarize testimony, in your**  
 15 **testimony today you remarked that cultural and historic**  
 16 **importance of California Avenue and it's adjacent area known**  
 17 **as the commercial core; is that correct?**

18 A. Yes, we pointed out that the design guidelines as well as  
 19 the neighborhood plan indicates that there is a compact  
 20 commercial core for the West Seattle Junction. We didn't  
 21 see that recognized in the EIS, we didn't see it accounted  
 22 for in the development of alternatives that might have  
 23 accommodated that.

24 **Q. And in your testimony today, you remarked on transportation**  
 25 **issues, correct?**

1 weeks ago.

2 **Q. Thank you. And turning to the last tab, tab 68, we would**  
 3 **like this to be marked as Exhibit 186. Mr. Koehler, can you**  
 4 **please describe this document in full?**

5 **(Exhibit No. 186 marked for identification.)**

6 A. Yeah, this is an amendment that JuNO prepared, which was a  
 7 proposal to amend the comprehensive plan in a way that would  
 8 make the neighborhood plan and Urban Village Growth Strategy  
 9 more consistent and achievable. It includes, for example,  
 10 the identification removal of single family areas from the  
 11 West Seattle Junction Urban Village so that we'd be able to  
 12 proceed without disruption and impact to those communities  
 13 through actions like this.

14 **Q. And was this amendment docketed by the city council?**

15 A. Yes, it was docketed by the city.

16 MS. SAWYER: Thank you. And I would like to offer Exhibit  
 17 186 into evidence.

18 MR. JOHNSON: No objection.

19 HEARING EXAMINER: 186 is admitted.

20 (Exhibit No. 186 admitted into evidence.)

21 **Q. (By Ms. Sawyer) And lastly what would you propose that the**  
 22 **city do as an EIS with regards to the West Seattle Junction?**

23 A. Well, I think the West Seattle Junction should have been  
 24 treated as a unique community as illustrated and outlined in  
 25 the Seattle City Urban Village Strategy, which is that each

1 A. We remarked on transportation issues, we remarked on, you  
 2 know, opportunities to identify traffic impacts and  
 3 transportation impacts, yes.

4 **Q. And why are you concerned about the transportation impacts**  
 5 **in the West Seattle Junction --**

6 A. I already stated that.

7 **Q. Yeah. And have you made any proposals or provided feedback**  
 8 **to the city that would achieve this action's objectives that**  
 9 **could mitigate your concerns?**

10 A. We did -- or I did. What I did is I looked to see if there  
 11 were ways that we could accommodate both the neighborhood  
 12 plans, principles and objectives as well as the objectives  
 13 of this MHA action and found that it could be better  
 14 achieved if we had dedicated growth to areas of the West  
 15 Seattle Junction, which are not as historically sensitive,  
 16 and not as culturally sensitive, which are not referenced in  
 17 our neighborhood plan as protected areas or restricted areas  
 18 with areas that were not as sensitive or acute to traffic  
 19 impacts that we're already experiencing today.

20 And I propose that during verbal -- verbally during a  
 21 design (inaudible) with the Seattle City Council's  
 22 facilitation in place, I presented it through written  
 23 feedback within the DEIS comments or others or within our  
 24 letter to Sam Assefa one or the other. And I also did a  
 25 video on it that I believe was displayed to the city several

1 of these urban villages is itself a unique community with  
 2 it's own goals, policies, it's own character, it's own state  
 3 of being.

4 I would propose that the FEIS should be prepared so that  
 5 these sorts of things that we indicated which are unique to  
 6 the West Seattle Junction could have been brought to the  
 7 surface so that alternatives could have been developed for  
 8 the West Seattle Junction as well as mitigations. It would  
 9 be particular to how the West Seattle Junction functions as  
 10 a neighborhood and that that would be compatible with the  
 11 Urban Village Growth Strategy, which was both the subject of  
 12 the comprehensive plan and the comprehensive plan's FEIS and  
 13 which in fact were part of how the city approached the  
 14 University District's FEIS.

15 MS. SAWYER: Thank you. And that concludes our direct  
 16 testimony.

17 HEARING EXAMINER: Cross.

18 MR. JOHNSON: Could I just have 20 seconds.

19 MR. BRICKLIN: Could I just have one question?

20 MS. SAWYER: I'm sorry, I should have asked.

21 MR. BRICKLIN: You said that your Comp Plan amendment was  
 22 docketed, has any further action been taken on that to your  
 23 knowledge?

24 THE WITNESS: Not to my knowledge. It's been docketed,  
 25 and as far as I know it's still under consideration for the

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1 point in time when that becomes a part of the process for a  
 2 comprehensive plan update.  
 3 MR. BRICKLIN: Thank you.  
 4 MR. JOHNSON: No questions on cross.  
 5 HEARING EXAMINER: Okay, thank you, Mr. Koehler.  
 6 MS. SAWYER: Thank you.  
 7 THE WITNESS: Thank you.  
 8 HEARING EXAMINER: Next witness. You'll please state your  
 9 name and spell it for the record.  
 10 THE WITNESS: John H. Miller, J-O-H-N H M-I-L-L-E-R.  
 11 HEARING EXAMINER: And do you swear or affirm that the  
 12 testimony you provide for today's hearing will be the truth.  
 13 THE WITNESS: I do.  
 14 HEARING EXAMINER: Thank you.  
 15  
 16 JOHN H. MILLER: Witness herein, having first been  
 17 duly sworn on oath, was examined  
 18 and testified as follows:  
 19  
 20 DIRECT EXAMINATION  
 21 BY MR. KOEHLER:  
 22 **Q. Thank you, Mr. Miller. I'm going to begin by referring to a**  
 23 **document which is already in evidence, it's the FEIS is this**  
 24 **Exhibit 2? This is page H.83, which depicts a map of the**  
 25 **West Seattle Junction. So we'll be using this map as a**

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1 **point of reference. Mr. Miller --**  
 2 MR. BRICKLIN: I'm sorry, was it exhibit or page number  
 3 H82.  
 4 MR. KOEHLER: Page H83.  
 5 **Q. (By Mr. Koehler) And, Mr. Miller, do you recognize this**  
 6 **map?**  
 7 A. I do.  
 8 **Q. Thank you. Is it a map of the West Seattle Junction?**  
 9 A. It is.  
 10 **Q. Do you own and operate a business in the West Seattle**  
 11 **Junction?**  
 12 A. I do.  
 13 **Q. Where is it located?**  
 14 A. 4721 California Avenue, so it's on the main corridor of the  
 15 junction.  
 16 **Q. When did your business start?**  
 17 A. 1932.  
 18 **Q. Do you also own property at the West Seattle Junction?**  
 19 A. I do at 4741 California Avenue, like four doors south of my  
 20 business.  
 21 **Q. Okay. And roughly located on the map, that's where?**  
 22 A. Almost to the edge of the Urban Village, kind of the  
 23 southwest corner.  
 24 **Q. Okay, thank you. When and how did you become aware of the**  
 25 **proposed MHA changes in the West Seattle Junction?**

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1 A. When I talked to a friend of mine who is helping me develop  
 2 my property, he alerted me to all of this, what's going on.  
 3 **Q. You mentioned that your business is located on California**  
 4 **Avenue; is that correct?**  
 5 A. It is.  
 6 **Q. Do you regard California Avenue and the streets in the**  
 7 **immediate vicinity as important to the community?**  
 8 A. Yeah, it's downtown West Seattle, it's very important.  
 9 **Q. And from a cultural perspective, if you were to compare**  
 10 **California Avenue to an area further east, which is shaped**  
 11 **like a triangle on this map, how would you compare those two**  
 12 **areas --**  
 13 MR. BRICKLIN: What area are you talking about?  
 14 **Q. (By Mr. Koehler) There's an area known as the triangle to**  
 15 **the West Seattle residents, could you identify that area on**  
 16 **the map?**  
 17 A. That's the area east of Fauntleroy and north of Alaska, that  
 18 area there which has historically been commercial, you know  
 19 a lot of auto body shops and car repair shops and the West  
 20 Seattle -- the West Seattle YMCA, Alki Lumber, it's been  
 21 more of the commercial district of West Seattle.  
 22 **Q. And so if you were to compare the cultural and historic**  
 23 **importance of the California Avenue area and compare that to**  
 24 **the cultural and historic importance of the triangle area of**  
 25 **the West Seattle Junction, how would you compare those**

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1 **levels of importance?**  
 2 A. Well, the junction has historically been the center of West  
 3 Seattle. The triangle is zoned to become another large area  
 4 of development, but it's not -- it doesn't have the history  
 5 or the significance of the junction.  
 6 **Q. Okay, thank you, Mr. Miller.**  
 7 MR. KOEHLER: I'd like to mark -- what number are we on  
 8 for evidence.  
 9 HEARING EXAMINER: 187.  
 10 **Q. (By Mr. Koehler) I'd like to mark the document entitled**  
 11 **Council Connection as Exhibit 187. Mr. Miller, do you**  
 12 **recognize this document?**  
 13 **(Exhibit No. 187 marked for identification.)**  
 14 MR. JOHNSON: Does this have a JuNO number, do you know?  
 15 MR. KOEHLER: This one has a JuNO number, but it's the  
 16 very last number on our list. I don't remember the JuNO  
 17 number.  
 18 **Q. (By Mr. Koehler) Mr. Miller, do you recognize this?**  
 19 A. I do.  
 20 **Q. What is it?**  
 21 A. It's out of Seattle.gov website and it's a -- from  
 22 September 28, 2016, about the Legacy Business Preservation,  
 23 nice article  
 24 MR. KOEHLER: I'd like to introduce into evidence as  
 25 Exhibit 187.

## Hearing - Day 10

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

July 27, 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 10 - July 27, 2018

Heard before Hearing Examiner Ryan Vancil

Transcribed by: Debra Kallgren, CETD  
Court-Certified Transcription

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1 you're looking for the indifference. How is this showing  
 2 that? Just explain the chart if you can.  
 3 THE WITNESS: Absolutely. So let's look at the first  
 4 number, the shaded yellow, \$35.70. How you interpret that  
 5 is that in a high-market area, a developer ought to be as  
 6 willing to develop 12 percent of their building for  
 7 affordable housing units as they would be to pay \$35.70 for  
 8 every square foot of that development.  
 9 HEARING EXAMINER: And is the highlighted area that  
 10 indifference point you're looking for, or is there --  
 11 THE WITNESS: The whole table's indifference.  
 12 HEARING EXAMINER: What's the point of the highlighting?  
 13 THE WITNESS: The highlighting, I think, corresponds to  
 14 what's in the EIS.  
 15 HEARING EXAMINER: I see.  
 16  
 17 DIRECT EXAMINATION (Resumed)  
 18 BY MR. WEBER:  
 19 **Q. And, actually, Mr. Mefford, let's just go to page 2.19, and**  
 20 **we can show the Examiner how that works.**  
 21 A. Sure.  
 22 **Q. So, for example, if you look at -- can you tell us what**  
 23 **the 10 percent performance percentage in the high area, can**  
 24 **you tell us what the sort of indifference numbers are?**  
 25 A. Yeah, so the high area of 10 percent, \$29.75, is shown in

1 HEARING EXAMINER: The EIS.  
 2 THE WITNESS: -- the EIS Exhibit 2-6.  
 3 HEARING EXAMINER: Thank you.  
 4 **Q. (By Mr. Weber) So did you review the testimony of William**  
 5 **Reid?**  
 6 A. Yes.  
 7 **Q. So Mr. Reid felt that the EIS needed to more specifically**  
 8 **address ownership housing and particularly market-rate**  
 9 **ownership housing. Based on your experience, can the city**  
 10 **control whether development capacity is used per ownership**  
 11 **or rental housing? Or is that beyond the city's control?**  
 12 A. The city cannot control that.  
 13 **Q. And could you talk a little bit about whether there's any**  
 14 **difference in how that plays out in terms of different**  
 15 **development types? I mean, at the margin are there some**  
 16 **development types that are more likely to sort of be used as**  
 17 **ownership versus less?**  
 18 A. Right. Well, yeah, definitely. You know, in the  
 19 single-family market, we see that to be mostly ownership  
 20 type. There are rentals, of course, in a single-family  
 21 market. But the vast , large percentage of single-family  
 22 homes are owner-occupied, especially in Seattle. And in  
 23 multifamily, it can go either way, condominium,  
 24 owner-occupied units versus the rental-occupied units.  
 25 **Q. So from the standpoint of addressing housing affordability**

1 both of those exhibits there.  
 2 **Q. So it says 10 percent and 29.75 --**  
 3 A. Uh-huh.  
 4 **Q. -- in Exhibit 230.**  
 5 A. Yes.  
 6 **Q. And then looking at page 2.19 of the EIS, in the matrix**  
 7 **here, in the high-area, does it also say 10 percent**  
 8 **and 29.75?**  
 9 A. That's right.  
 10 **Q. So that's what you meant when you said --**  
 11 A. That's right.  
 12 **Q. -- that the intent was to match these?**  
 13 A. That's right.  
 14 UNIDENTIFIED SPEAKER: And just to understand the  
 15 documents, which of these informs the other?  
 16 THE WITNESS: I would -- this one informs this one.  
 17 UNIDENTIFIED SPEAKER: Thank you.  
 18 MR. WEBER: Can I keep going?  
 19 HEARING EXAMINER: Could you state what you were pointing  
 20 to when you said "this"?  
 21 THE WITNESS: Oh, yeah, sure.  
 22 HEARING EXAMINER: Sorry, it's for the record.  
 23 THE WITNESS: Well, I'm not keeping up with your naming --  
 24 HEARING EXAMINER: This chart is Exhibit 230.  
 25 THE WITNESS: Okay. So Exhibit 230 informs --

1 **and what's been going on in the housing market --**  
 2 A. Yes.  
 3 **Q. -- how do you view the relative importance of the EIS**  
 4 **looking at ownership versus rental housing if the concern is**  
 5 **affordability?**  
 6 A. The number one cause of homelessness, as I understand it, is  
 7 increase in rents. And so above and away the -- if we view  
 8 housing affordability as a crisis right now, then allowing  
 9 more rental-occupied units with rents that are affordable is  
 10 the most impactful way to increase affordable housing.  
 11 MR. WEBER: That's all I have for Mr. Mefford.  
 12 HEARING EXAMINER: Thank you.  
 13 Cross?  
 14  
 15 CROSS - EXAMINATION  
 16 BY MR. BRICKLIN:  
 17 **Q. Just on that -- so let's start with that last one. You**  
 18 **haven't done any analysis of how this program were to impact**  
 19 **home ownership in Seattle, have you?**  
 20 A. Not for this study, no.  
 21 **Q. All right. Or rentals, for that matter?**  
 22 A. Well, all of our work we modeled was rentals.  
 23 **Q. Right. But it was about the feasibility of this fee . It**  
 24 **wasn't about how this proposal was going to impact the**  
 25 **availability of housing overall?**

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1 A. Um --

2 **Q. Or, excuse me --**

3 A. -- well, I would say it's kind of implicit to our work,

4 yeah, yeah.

5 **Q. Okay. So did you do an analysis of what the current rental**

6 **market is in Seattle and how many people in rental houses**

7 **would be displaced as a result of this, or --**

8 A. No, that wasn't part of our scope.

9 **Q. -- how much new housing would be -- rental housing would be**

10 **developed? You didn't do anything like that, did you?**

11 A. Well, our work informs that very directly how much new

12 rental -- how much rental and affordable housing would be

13 developed.

14 **Q. I understand. But that's different than reaching a**

15 **conclusion as to whether --**

16 A. Right, that was not our scope. That's right. That's right.

17 **Q. Right.**

18 **Let's go back to Exhibit --**

19 MR. BRICKLIN: Is this 228 or 229 in the report?

20 MR. WEBER: 229.

21 MR. BRICKLIN: 229. Thank you.

22 **Q. (By Mr. Bricklin) And the bar graph --**

23 A. Oh, yeah, sure.

24 **Q. -- which is Exhibit 6 in there.**

25 A. I know it by heart. I designed it, but I can't find it

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1 right -- the hard copy -- oh, it's over here.

2 **Q. So, actually, before I get to -- let me start with a little**

3 **background. You have a range of prices for the high-market**

4 **area -- for each of the market areas for the prices observed**

5 **in the marketplace; is that right?**

6 A. For the prices of what?

7 **Q. Land prices.**

8 A. Yes, yes.

9 **Q. So for -- in areas you characterize as high-market areas --**

10 A. That's right.

11 **Q. -- land price varies from -- it looks like about 100 bucks**

12 **up to 450; for the medium, from about 50 to 250; and for the**

13 **low, I can't read the -- what, 30 to 80, something like**

14 **that?**

15 A. That's right. And the data behind that's on the previous

16 page.

17 **Q. Right. And then the way this analysis works is you take**

18 **the -- your estimate of how much money a developer has left**

19 **over after they net out the cost of building and the rents**

20 **they're going to receive and they've got X dollars left**

21 **over, and is that enough to buy the land?**

22 A. That's exactly right.

23 **Q. And, as an example, just using the line on the far**

24 **right-hand end, the SM-UD "Com 40" (phonetic) line --**

25 A. Yeah.

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1 **Q. -- you've calculated that a developer in that scenario would**

2 **have \$824 per square foot of profit, of a surplus --**

3 A. Right.

4 **Q. -- when he looks at his costs -- development costs versus**

5 **rents and land, he's apt to be looking to buy, in Seattle,**

6 **would be running somewhere between 100 and 450 bucks. So**

7 **he's got oodles of money left over, if you will, to justify**

8 **developing in this situation, right?**

9 A. I think that's fair, yes.

10 **Q. And let me ask you, let's go back to -- let's go to right**

11 **around in the middle of the chart, I think it lines up with**

12 **LR3 "trans" neighborhood, transition neighborhood. It's the**

13 **one that has the yellow at 242 --**

14 A. Uh-huh.

15 **Q. -- do you see that one?**

16 A. I do.

17 **Q. So that one's about -- roughly in the middle of the yellow**

18 **range, right?**

19 A. Yes.

20 **Q. And is it your conclusion that that is a feasible**

21 **development under those assumptions you've made?**

22 A. Yes.

23 **Q. So a development -- so now if we go back out to the line on**

24 **the right, the first one we were looking at, if the -- if a**

25 **project in that zone, in the high, had rents over**

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1 **development costs of 242, that would be feasible, and yet**

2 **you've calculated they're going to have 824. So, you know,**

3 **\$600 more per square foot than what they need to be feasible**

4 **at least, right?**

5 A. Are you -- well, I think you just said it wrong at the end

6 of it. I'm confident I --

7 **Q. Yeah.**

8 A. -- where you're going with this. But I think when you --

9 that \$600, you said, is the difference between 824 and 242,

10 roughly.

11 **Q. Yeah, right.**

12 A. But what you're (inaudible) looking at is 824 versus, let's

13 say, the top range of that high area or anywhere in that

14 range, but --

15 **Q. Or anywhere in that range.**

16 A. -- yeah, so you wouldn't really want to ever -- there's no

17 point in comparing 824 to 242.

18 **Q. I was just picking that because it was about the middle of**

19 **the range.**

20 A. No -- oh, okay. Okay. Then 824 --

21 **Q. Yeah.**

22 A. -- is roughly \$600, more the middle of the range. I gotcha.

23 **Q. Yeah.**

24 A. I thought you were talking about that other yellow dot.

25 **Q. Yeah, yeah, yeah, yeah.**

1 A. Okay.

2 **Q. And you responded to a question about, "Well, why not set**

3 **the fee higher for this scenario on the basis that -- well,**

4 **if you charged anything more than what's proposed right now,**

5 **the developer's going to go off and develop in another**

6 **city."**

7 A. There's a risk of that anyway, right?

8 **Q. There's a risk of that.**

9 **Did you evaluate the significance of that risk?**

10 A. No.

11 **Q. All right. Do you know how many developers in this**

12 **community develop primarily or exclusively in Seattle versus**

13 **how many of them are in a larger marketplace?**

14 A. I've certainly worked with enough, developers have a feel

15 for that, but we didn't survey and quantify that.

16 **Q. All right. Do you know what their -- so you didn't do any**

17 **sort of sensitivity analysis to say, "Okay, the fee we're**

18 **looking at right now generates 824, which is -- you know,**

19 **leaves a lot of money in the guy's pocket. Could we up the**

20 **fee by 10 percent or 20 percent or 30 percent and still be**

21 **in a range where these guys aren't going to bolt?" You**

22 **didn't do that kind analysis, right?**

23 A. Actually, we did something very, very close to it, which is

24 the sensitivity tables, where we developed all costs

25 inclusive of the fee. We did sensitivity analysis of up or

1 **Q. Right. But -- well, so two things there. First of all, you**

2 **didn't do a sensitivity analysis for increase in the fee by**

3 **more than 10 percent, right?**

4 A. Well, you can cover that with the sensitivity analysis we

5 did, because 10 percent of all costs would be far more

6 than 10 percent of the -- of the fees.

7 **Q. Okay. So what is -- yeah, well, what is that conversion,**

8 **actually, now that you mention it? So 10 percent --**

9 **increasing all costs by 10 percent --**

10 A. Yeah.

11 **Q. -- how much of an increase in the -- if all that increase**

12 **was just in the fees --**

13 A. Right.

14 **Q. -- how much more would the fees go up?**

15 A. I haven't done -- backed -- backed into that.

16 **Q. It would be more than 10 percent, though, right?**

17 A. It would be more than 10 percent, yeah, right.

18 **Q. And, in fact, the fees are a very small part of the overall**

19 **costs, right?**

20 A. What do we have? I'd have to refer to the number when you

21 say "very small."

22 **Q. Well, yeah, let's find the number.**

23 A. (Inaudible).

24 **Q. I know in your -- at page 3, you say that the fees are 2**

25 **to 8 percent of the development costs.**

1 down by 5 and 10 percent across the board. Those are in the

2 tables we walked through earlier.

3 **Q. Okay. I thought those were the constructions costs,**

4 **actually?**

5 A. It's -- it's all costs.

6 **Q. All costs.**

7 A. That's right.

8 **Q. They've been labeled construction costs.**

9 A. Yeah, well, it's all costs.

10 **Q. All costs. Okay.**

11 **And the 5 and 10 percent increase had left an awful lot of**

12 **these still in the feasible category, right?**

13 A. Uh-huh.

14 **Q. Which would suggest you could increase the fee by 5 or 10**

15 **percent and still have an awful lot of feasible options?**

16 A. The "awful lot of feasible options" part is the part that I

17 can't really land for you. I can certainly say

18 mathematically those numbers leave more surplus to cover a

19 higher fee.

20 **Q. All right. So, in terms of analyzing this, I think you said**

21 **you gave the model -- rather than doing the sensitivity**

22 **analysis yourself, you gave the model to the city and said,**

23 **"You guys can do further analysis if you want"?**

24 A. Well, we did both ends. We did the sensitivity analysis

25 that I just spoke to, and we gave our model to the city.

1 A. Okay. 2 to 8 percent.

2 **Q. All right. So let's -- can we use 5 percent just for these**

3 **purposes?**

4 A. Sure, yeah.

5 **Q. So if you have a 10 percent increase in costs overall --**

6 **here we're going to test your math -- but it's all in the**

7 **MH- -- all of that is in the MHA fee. How much has the MHA**

8 **fee gone up if --**

9 A. Is it 50 percent?

10 **Q. I want to say -- yeah, that's what I'm thinking. It's**

11 **probably 50 percent, right?**

12 A. Right, right.

13 **Q. So where you've shown a 10 percent increase in costs,**

14 **scenarios where that's feasible, if you want to do this**

15 **conversion, you could say, "Well, that's" -- you could**

16 **increase the MHA fees by 50 percent and it would still be**

17 **feasible?**

18 A. Well, I would stop with the qualitative interpretation. I

19 would say mathematically we can show the switching in and

20 out of those numbers altogether. But I think in the terms

21 of the feasibility, you go back to my comments earlier about

22 the number of developers that you're going to scare away by

23 cutting too close to the bone on profits, and that's --

24 that's important, right? Because what's feasible with what

25 we're showing versus where, even that \$824 example data

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1 point, what -- what we haven't talked about is risk, right?  
 2 The higher the numbers, the greater the risks. The more  
 3 these things evolve the way developers are willing to make  
 4 an investment.  
 5 **Q. Well, I get -- I get that.**  
 6 A. Okay.  
 7 **Q. But, you know, the higher the fee, the more the risk. The**  
 8 **lower the fee, the less the risk. I mean, it -- by that --**  
 9 A. (Inaudible) --  
 10 **Q. -- but by that measure, you'd say, "Well, then we should**  
 11 **have -- instead of having 11 percent, we should have had 9**  
 12 **percent because there would be less risk."**  
 13 A. No, I meant the higher the investment, the more the risk.  
 14 Not -- I didn't say, "The higher the fee, the more the  
 15 risk." I said that the -- what I spoke to is the higher of  
 16 the investment on the investor's side, then the greater risk  
 17 is there.  
 18 **Q. Okay. But -- but --**  
 19 A. So --  
 20 **Q. But that's --**  
 21 A. -- (inaudible) investment, then it's driving up risks,  
 22 right?  
 23 **Q. If the fee -- yeah, but, we're talking about 2 to 8 percent**  
 24 **of the cost. I mean, that's not in terms of the risk.**  
 25 A. Right.

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1 **Q. It's not like you're turning a million dollar project into**  
 2 **a 5 million dollar project, and the banks and the financiers**  
 3 **say, "Oh, my gosh, it's a much bigger project." You're**  
 4 **talking about a million dollar project turning into,**  
 5 **whatever it is, \$1,000,050?**  
 6 A. Right, right, right.  
 7 **Q. So that's not changing the risk from funding -- yeah,**  
 8 **from -- in terms of moving from one type of --**  
 9 A. Investment, right.  
 10 **Q. Right.**  
 11 A. Right.  
 12 **Q. Okay. So back to the point here, you've got a -- you said**  
 13 **qualitatively 50 percent increase in the fees is still in**  
 14 **the range of feasibility for a lot of these scenarios. Is**  
 15 **that an accurate statement?**  
 16 A. Yeah, I think that would be shown with the 10 percent  
 17 increase in costs in those sensitivity fields, which,  
 18 actually, I think there is a whole exhibit --  
 19 **Q. Without the graph. There's a table --**  
 20 A. No, actually, with the graph. Exhibit 8 that follows --  
 21 Exhibit 7 and 8 show up and down, 10 percent costs.  
 22 **Q. Oh, right, right, right.**  
 23 A. Okay. So that, I think, (inaudible).  
 24 **Q. Yeah. So Exhibit 8 is what we've just been talking about,**  
 25 **basically?**

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1 A. Yeah, you'll have to forgive me, but I do think we should  
 2 get specific on the construction costs as labeled earlier.  
 3 This is total costs (inaudible) report. I don't know how  
 4 significant this is, but it might be worth (inaudible).  
 5 I'll have to -- you'll have to forgive me, but I would have  
 6 to go back to what I said earlier about the sensitivity  
 7 analysis shown in my report. I think we'll take it at face  
 8 value as construction costs being what we -- what we covered  
 9 and not total costs in terms of the variation. So that just  
 10 simply lowers the -- some of the 50 percent correlation to  
 11 the fee, that lowers that a little bit.  
 12 **Q. Okay. But do you -- are we still rough -- I mean, we're**  
 13 **doing this roughly anyway, so we're still roughly in the**  
 14 **same ballpark?**  
 15 A. Yes, I just wanted to --  
 16 **Q. All right.**  
 17 A. Yeah.  
 18 **Q. So let's look at Exhibit 8, then. So if you're a developer**  
 19 **in --**  
 20 HEARING EXAMINER: Which exhibit?  
 21 MR. BRICKLIN: This is Exhibit --  
 22 HEARING EXAMINER: Oh, sorry. Exhibit 229.  
 23 MR. BRICKLIN: -- 229, but Exhibit 8 Defendant.  
 24 UNIDENTIFIED SPEAKER: Bates 15.  
 25 HEARING EXAMINER: Right.

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1 MR. BRICKLIN: Bates 15. Thank you.  
 2 **Q. (By Mr. Bricklin) So if you take any of the -- let's see,**  
 3 **around -- it looks like the last ten scenarios on the right,**  
 4 **starting at the one with the yellow at 283 -- well, maybe**  
 5 **it's two over from that, 321. Anyway, from there over to**  
 6 **the right, you've got a whole bunch of scenarios where**  
 7 **developers are looking at calculated residual land values;**  
 8 **in other words, money -- how much money they've got to spend**  
 9 **on the real estate that is equal to or more than the**  
 10 **midpoint of the land values in the high zone, and, in fact,**  
 11 **in four or five of the cases above the highest prices that**  
 12 **have been charged in that (inaudible), right?**  
 13 A. That's right.  
 14 **Q. Even with a 50 percent increase in the fees?**  
 15 A. Well, I think that's where we're off and are back to the  
 16 (inaudible) that 50 percent's probably not accurate, then.  
 17 **Q. Or maybe 40 percent?**  
 18 A. Yeah, I don't know what it is, but it's a -- yeah, we're in  
 19 the ballpark still.  
 20 **Q. All right.**  
 21 A. But I will say that's what I meant by risk on -- on that far  
 22 end. The greater the investment, the more volatility there  
 23 is. And so where those yellow squares are so high on the  
 24 far right of these exhibits, that's where I would say the  
 25 developers are going to be more susceptible to risk and more

1 sensitive to fees.  
 2 So I think that -- that -- I think it's a stretch to say  
 3 that that economic surplus of the yellow square above the  
 4 yellow area is all there for the taking for fees, because  
 5 that's cutting to the bone like I talked about earlier.  
 6 **Q. So -- but you already said that the yellow dots in the --**  
 7 **right smack-dab in the middle of the yellow price range are**  
 8 **feasible, right?**  
 9 A. Well --  
 10 **Q. They're not cutting to the bone, right?**  
 11 A. They are in that feasible range and it's a broad range,  
 12 right. So it's --  
 13 **Q. So when -- so using the -- back on that -- back on Exhibit**  
 14 **6, when we were looking at --**  
 15 A. Yep.  
 16 **Q. -- 242 --**  
 17 A. Yep.  
 18 **Q. -- right in the middle of the range, you didn't characterize**  
 19 **that as cutting to the bone, did you?**  
 20 A. I'd say it's in the middle of a broad range, right?  
 21 **Q. Right.**  
 22 A. So it's -- yeah, which means it's --  
 23 **Q. It was feasible?**  
 24 A. -- it's cut to the bone for half of the range and feasible  
 25 for the other half of the range.

1 and our analysis.  
 2 **Q. Yeah. But weren't -- let's see, that was in an appendix, I**  
 3 **think.**  
 4 A. Yeah, yeah.  
 5 **Q. It might help to have that in front of us, so Appendix**  
 6 **E-3 --**  
 7 UNIDENTIFIED SPEAKER: At page 3 --  
 8 **Q. (By Mr. Bricklin) Or Appendix E, page 3.**  
 9 A. I was just looking at it, so I can picture it, yeah. If I  
 10 get a little help to orient myself to find that.  
 11 MR. WEBER: Are you looking for Appendix E?  
 12 THE WITNESS: Yeah.  
 13 MR. WEBER: If you look -- there's a tab Appendix F, so if  
 14 you just turn right before that.  
 15 THE WITNESS: Gotcha. Thanks.  
 16 A. Okay.  
 17 **Q. (By Mr. Bricklin) All right.**  
 18 A. I'm able to see it.  
 19 **Q. All right. So let's see, you're from Seattle, right?**  
 20 A. I've lived there for 20-some years.  
 21 **Q. All right. So you know the neighborhoods?**  
 22 A. Yes.  
 23 **Q. All right. So, for instance, as you look at the area that's**  
 24 **depicted as high --**  
 25 A. Uh-huh.

1 **Q. All right. And you told the city that a rate at that level**  
 2 **would be feasible to employ, right?**  
 3 A. Well, we let our -- yeah, I mean, within those ranges, in  
 4 the same way that I'm telling you now, right. So within  
 5 that range, it would be feasible for half of that range and  
 6 not for the other half.  
 7 **Q. And so do you know if the city took you up on -- you know,**  
 8 **you gave them your model and you said, you know, "Run some**  
 9 **other numbers if you like." Do you know if they did that?**  
 10 A. Well, I think it's reflected in that exhibit that we talked  
 11 through earlier, that you asked me who -- who made it, and I  
 12 said, "I think it's the city staff." The one in Binder 8,  
 13 at the very back.  
 14 **Q. All right. But do you know if they tested different fee**  
 15 **levels and developed an analysis or anything like the one**  
 16 **you did here in Exhibit 229?**  
 17 A. I haven't asked them that directly.  
 18 **Q. All right. Now, you pointed out that the -- there's a --**  
 19 **the way you use high, medium, low is not the same way the**  
 20 **city's using high, medium and low, right? The city has a**  
 21 **map, and certain parts of the city are high, certain parts**  
 22 **are medium, and certain parts are low without regard to**  
 23 **whether specific parts are older neighborhoods, or high,**  
 24 **medium or low --**  
 25 A. It's the same dollar range that's consistent between the map

1 **Q. -- well, let me do it another way.**  
 2 **In the areas that are depicted green, medium --**  
 3 A. Yeah.  
 4 **Q. -- are there any parcels in that area that you would think**  
 5 **are actually in a high real estate market?**  
 6 A. Sure.  
 7 **Q. Lots of them, in fact, right?**  
 8 A. I don't know what "lots" is, but there are certainly parcels  
 9 in that area.  
 10 **Q. Can you give me some examples of neighborhoods that are**  
 11 **probably in the high -- in a high real estate market right**  
 12 **now, even though they're mapped green?**  
 13 A. Well, I'd have to really get back to the numbers to quantify  
 14 that, and I'm not sure I'm that precise with my judgment  
 15 there.  
 16 **Q. Okay. But you would agree there's -- there are high --**  
 17 **high-valued parcels in those green areas?**  
 18 A. I would suspect so. I realize I should have grounded it in  
 19 the data, because we've defined what high is and --  
 20 **Q. Right.**  
 21 A. -- you would suspect so, but I don't --  
 22 **Q. I mean, it --**  
 23 A. -- I would have to look at the numbers --  
 24 **Q. -- would be extremely unlikely that real estate lines would**  
 25 **follow the lines on this map, right? I mean, there's not --**

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1 A. That's right.  
 2 **Q. -- a line at Northeast 50th, and on one side you're in the**  
 3 **low real estate market --**  
 4 A. That's right.  
 5 **Q. -- and south of that you're in the medium?**  
 6 A. There are bound to be exceptions in each of these areas,  
 7 yeah, right.  
 8 **Q. Right. And you've got hot spots and cold spots --**  
 9 A. That's right.  
 10 **Q. -- sprinkled throughout?**  
 11 A. That's right.  
 12 **Q. All right. Now, if you happened to be buying property in**  
 13 **the -- let's say you're in the -- somewhere in Fremont or**  
 14 **Wallingford, a hot market area, but you're only going to be**  
 15 **charged a medium fee, right?**  
 16 A. I'm with you.  
 17 **Q. Is that right?**  
 18 A. That's how I would interpret this, yeah.  
 19 **Q. Yeah. So if you come back to your -- your graph, your**  
 20 **exhibit -- page 13 of Exhibit 229, so let's -- so you're now**  
 21 **in a position where you're only paying the medium fee, but**  
 22 **you're in the -- you're in a high market, right?**  
 23 A. Well, again, I -- I mean, I've got to get to the numbers to  
 24 really stick with you on this. I don't -- I mean, yeah,  
 25 conceptually I agree with the hot spots and cold spots,

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1 but --  
 2 **Q. Right. Well, let me put it this way conceptually --**  
 3 A. Yeah.  
 4 **Q. -- the whole idea of charging a higher fee if you're in a**  
 5 **higher market is that the market will bear a higher fee in a**  
 6 **higher market, right?**  
 7 A. Yes.  
 8 **Q. And if you're -- if you're in a high market but you're only**  
 9 **paying a medium fee --**  
 10 A. Right.  
 11 **Q. -- that's money in the bank for the developer, right?**  
 12 A. (No reply).  
 13 **Q. Because you've determined he could have paid a higher fee?**  
 14 A. Compared to the higher fee, sure.  
 15 **Q. Right?**  
 16 A. Right.  
 17 **Q. So everywhere where this medium fee is imposed that there**  
 18 **are high-market parcels being developed, developers aren't**  
 19 **getting cut to the bone in -- as you were putting it in some**  
 20 **of these situations, they're actually -- there's more fat on**  
 21 **the bone than you've characterized, right?**  
 22 A. Well, the difference is -- what we haven't informed this  
 23 conversation with is the actual zones, right? The zones  
 24 also have bearing, not just -- so the high, medium and low  
 25 have to do with the rents that are found in those areas, and

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1 the densities corresponding to the zones across the X-axis  
 2 of that exhibit do have bearing on profitability.  
 3 **Q. Right. But that's all worked into your RLV, right?**  
 4 A. Right, but that -- there are --  
 5 **Q. So if you're in a -- if you're -- let's say, then, you've**  
 6 **got a hot market in Fremont --**  
 7 A. Right.  
 8 **Q. -- rents are up, land prices are up, right?**  
 9 A. Right.  
 10 **Q. So your hot -- your high-market evaluation is applicable**  
 11 **there, right?**  
 12 A. Well, again, I mean, this is used to form --  
 13 **Q. This is what you're referring to?**  
 14 A. Yeah, yeah, your Appendix E exhibit --  
 15 **Q. Uh-huh, yep.**  
 16 A. -- used to inform our dollars for rents on the input side,  
 17 right? And also informs the land trading prices that are  
 18 shown on this exhibit. And the geography also affects -- is  
 19 related to the different individual zones shown in Exhibit 6  
 20 of our report. So there can be -- there can be  
 21 inconsistencies with what you're saying depending on these  
 22 zones geographically within the city, which is what you're  
 23 saying.  
 24 **Q. So are you agreeing with my -- I'm -- I'll admit to not**  
 25 **following what you were saying, but perhaps you're saying**

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1 **you're agreeing that a developer buying -- looking to buy a**  
 2 **parcel in a hot market in Fremont --**  
 3 A. Right.  
 4 **Q. -- is going to be looking at an analysis similar to what**  
 5 **you've done for the hot market, land prices and rents**  
 6 **similar to a hot market, right?**  
 7 A. I'm following you.  
 8 **Q. And yet will be paying only a medium fee?**  
 9 A. There are examples in this chart --  
 10 **Q. But first, can -- do you agree with that?**  
 11 A. But there's --  
 12 **Q. That if you're -- if you're a developer looking to buy a**  
 13 **parcel in a hot part of Fremont --**  
 14 A. Well, the Fremont part's the problem that I can't -- I can't  
 15 validate or (inaudible), because I don't know what zones are  
 16 in Fremont.  
 17 Okay. I -- I know the market area, hot, medium and low,  
 18 and I agree with you that there are places in the medium  
 19 area, such as Fremont, where the rents are very high.  
 20 **Q. Okay.**  
 21 A. Where I think I can't keep up with you there, sir, is the  
 22 degree to which these zones, as analyzed, correspond to  
 23 Fremont.  
 24 **Q. All right.**  
 25 A. And there are some zones where that hot market doesn't make

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1 the difference in terms of leaving money on the table for  
 2 the affordability fees.  
 3 **Q. So I'll have you assume that in Fremont the zoning --**  
 4 **there's some LR3 zoning, and you've got that broken out into**  
 5 **two subcategories, LR3, multifamily neighborhood, and**  
 6 **transition neighborhood. Do you see those?**  
 7 A. I do.  
 8 **Q. And are you on your Exhibit 6?**  
 9 A. Yes.  
 10 **Q. Yeah. So you've there calculated that a -- well, the city**  
 11 **has that map as a medium area, right?**  
 12 A. Yes.  
 13 **Q. All right. So you've calculated that -- for those two --**  
 14 **let's just, for frame of reference, use the first one, the**  
 15 **multifamily neighborhood. Okay. And you've calculated that**  
 16 **a prospective developer is going to have \$195 of money to --**  
 17 A. Residual.  
 18 **Q. -- residual --**  
 19 A. Yep.  
 20 **Q. -- to work with in buying property --**  
 21 A. Right, in the medium -- in the medium-market area, right.  
 22 **Q. In reality, because it's a hot market, he really would have**  
 23 **\$368, right?**  
 24 A. If LR3 is in Fremont --  
 25 **Q. Right.**

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1 A. -- sure.  
 2 **Q. LR3's in --**  
 3 A. Right.  
 4 **Q. Right.**  
 5 **So the city's charging them something that ends up at 195,**  
 6 **and, actually, he could be charged something that would**  
 7 **leave him with 368?**  
 8 A. Under those inputs that you gave me, sure.  
 9 **Q. Did you ever talk to the city about the -- were you aware of**  
 10 **how the city was using the low, medium and high in the**  
 11 **context of this map, where they're charging the low rates**  
 12 **not based on an evaluation of whether the parcel's actually**  
 13 **in a low market but just based on this map? And --**  
 14 A. We --  
 15 **Q. -- likewise, with medium and high?**  
 16 A. We were scoped with mapping where these different zone  
 17 segments were.  
 18 **Q. Did you have a discussion with the city about the**  
 19 **consequence of not matching up the medium, low, high fee**  
 20 **with where these things are actually on the ground or on --**  
 21 A. We were scoped to do that; we were scoped to do it.  
 22 **Q. Well, sometimes you're not scoped, but it comes up in**  
 23 **conversation anyway. Or maybe it comes up: "Do you want us**  
 24 **to do this? Do you want us to include it in the scope?"**  
 25 **Any conversation about it at all?**

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1 A. No, we're pretty good at sticking to our scope.  
 2 **Q. Okay. With regard to Mr. Levitus, you commented on his**  
 3 **statement about the fees that are used in other**  
 4 **jurisdictions, and you said you can't use that data from**  
 5 **other jurisdictions. And I think I heard you say, "In**  
 6 **isolation" --**  
 7 A. About fees only.  
 8 **Q. Right.**  
 9 A. You can't just compare fees to fees without looking at the  
 10 other development conditions.  
 11 **Q. Right.**  
 12 A. Or the rates -- the performance rates (inaudible).  
 13 **Q. Right. Did you -- I gather you did not do an analysis**  
 14 **yourself of other jurisdictions, right?**  
 15 A. That's right.  
 16 **Q. And do you know to what extent Mr. Levitus did?**  
 17 A. I heard his testimony. I didn't hear the breadth of  
 18 development costs in the way that I'm saying it needs to be  
 19 considered.  
 20 **Q. Are you -- have you looked at what these kinds of fees --**  
 21 **the rates that are charged for these kind of fees in other**  
 22 **cities around the country?**  
 23 A. No.  
 24 **Q. So you don't know whether these are on the low end, middle**  
 25 **or high end of fees around the country?**

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1 A. I don't.  
 2 **Q. And it's your understanding that the MHA program offers**  
 3 **developers an upzone over current maximum densities in**  
 4 **exchange for this -- either paying the fee or providing**  
 5 **units in their buildings, affordable units in their**  
 6 **buildings?**  
 7 A. Well, I guess it's my understanding. I wouldn't say the  
 8 word "offer." My understanding is that the city is  
 9 considering policies to increase the density in some areas,  
 10 and with those density increases come these requirements.  
 11 **Q. So could you turn to page 2 of your report.**  
 12 A. Yeah.  
 13 **Q. You just said you wouldn't use the word "offers"?**  
 14 A. I wouldn't.  
 15 **Q. Yeah. Who wrote the (inaudible) your staff?**  
 16 A. Well, if you found the word "offer," then (inaudible) --  
 17 **Q. Yeah, so I was -- I was -- my question was quoting your**  
 18 **report.**  
 19 A. Gotcha.  
 20 **Q. So the third line down, the middle of that third line, "The**  
 21 **program offers developers an upzone over current maximum**  
 22 **densities in exchange for providing units of affordable --**  
 23 **units affordable to households earning no more than 60**  
 24 **percent, et cetera," right?**  
 25 A. I would say that's loose language. Yeah, that -- that --

1 **Q. You'll have to up your editing game.**  
 2 A. Right. Well --  
 3 UNIDENTIFIED SPEAKER: We all do.  
 4 A. Elliot's a good guy and a great analyst, in many ways, and  
 5 he gets a little loose with stuff like that.  
 6 **Q. (By Mr. Bricklin) All right. And do you agree that in many**  
 7 **cases development projects are less sensitive to MHA fees**  
 8 **than many other cost and revenue drivers?**  
 9 A. No. I -- I would think economically they're indifferent as  
 10 to the source of the cost drivers, and a dollar's a dollar  
 11 across those different comparisons.  
 12 **Q. So could you turn to page 3 of your report.**  
 13 A. Yes.  
 14 **Q. Do you see the bullets, the second bullet? "In many cases**  
 15 **development projects are less sensitive to MHA than to many**  
 16 **other costs and revenue drivers." Is that what your report**  
 17 **says?**  
 18 A. That is what it says.  
 19 **Q. Are you disavowing that now?**  
 20 A. No. There's the use of "many" and "many." Let me see --  
 21 let me read the rest of that paragraph. I don't even -- I  
 22 don't understand that sentence in bold. It doesn't make  
 23 sense to me, unless it's MHA --  
 24 **Q. This is your report, right, we're talking about?**  
 25 A. Yeah, I understand. It's my company. This is our report.

1 **by a statement that the MHA fees are a small percentage of**  
 2 **the overall cost package, right?**  
 3 A. That's -- that's what it is. That's right.  
 4 **Q. For the -- in the low-market area, it's only 2 or 3 percent.**  
 5 A. Uh-huh.  
 6 **Q. So, I mean, that's -- I mean, you could double the MHA fee,**  
 7 **so now, you know, instead of -- or let's say go up by 50**  
 8 **percent. So instead of being 2 or 3 percent, it would be 3**  
 9 **or 4 percent of overall costs?**  
 10 A. I agree.  
 11 **Q. And so the developers would be less sensitive to that,**  
 12 **right?**  
 13 A. In the way that we got to that, that's right.  
 14 **Q. And that these percentages, these are the costs before the**  
 15 **cost of buying the land are included in the equation, right?**  
 16 A. That's right. That's right.  
 17 **Q. And how much does the land cost as opposed to all the other**  
 18 **costs? Is there a rule of thumb on that?**  
 19 A. No, there's not a rule of thumb on that.  
 20 **Q. Can you give me an approximation --**  
 21 A. Um --  
 22 **Q. -- of what the range is? Anywhere from what to what?**  
 23 A. I -- I know what you're asking. I'm thinking. I'd have to  
 24 do a little mini pro forma in my head right now.  
 25 (Inaudible).

1 And I think that that language also is kind of loose in  
 2 terms of the way it's written. But in my opinion, a dollar  
 3 is a dollar, and there are other considerations sometimes.  
 4 But I think -- I understand how you're interpreting that  
 5 sentence.  
 6 **Q. Well, let me suggest how the author might have intended it.**  
 7 A. Sure.  
 8 **Q. That if construction costs, which are perhaps the bulk of**  
 9 **the cost side of the equation --**  
 10 A. Right.  
 11 **Q. -- go up 5 percent, that's going to have a bigger impact**  
 12 **than if MHA fees go up 5 percent because they're just a**  
 13 **small piece of the equation?**  
 14 A. Uh --  
 15 **Q. Right?**  
 16 A. -- in a percent to percent, yeah.  
 17 **Q. Right.**  
 18 A. If they both go up by \$1,000 each, then I would say they're  
 19 indifferent to that \$1,000.  
 20 **Q. Right. But if you look at it relatively as a percentage --**  
 21 A. Relatively as a percentage, right.  
 22 **Q. -- I think maybe that's what --**  
 23 A. It's basic math. I think -- I think we're coming together  
 24 on that, yeah.  
 25 **Q. All right. Because I noticed that bold sentence is followed**

1 **Q. I mean, if you need more time, that's fine, but let me throw**  
 2 **out as an example --**  
 3 A. Go ahead, right.  
 4 **Q. -- have you seen situations where the land is as expensive**  
 5 **as the development costs? Where they're one to one? Is**  
 6 **that within the range of --**  
 7 A. Yes, yeah.  
 8 **Q. Okay.**  
 9 A. I mean, I've seen -- I've seen it go the other way, right?  
 10 Completely the other way, where land is a huge part of it  
 11 and a small part of it. So that range --  
 12 **Q. A big range.**  
 13 A. So I --  
 14 **Q. It could go from 25 to 75 percent, maybe?**  
 15 A. You bet. Well, depending on the development, right?  
 16 **Q. Right.**  
 17 A. The extreme example would be airport parking and surface  
 18 airport parking lots, right? Development costs are --  
 19 **Q. Close to zero.**  
 20 A. But the land is most everything.  
 21 **Q. Uh-huh.**  
 22 A. A super profitable investment. Or industrial storage,  
 23 whatever.  
 24 **Q. Right.**  
 25 A. And, conversely, a place where you can build a high-density

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1 on a small parcel of land. Depending on the price of the  
 2 land, it (inaudible) down.  
 3 **Q. All right. So let's just use as a hypothetical a 50/50,  
 4 half the cost is in the land, half of it not in the land.  
 5 That's a plausible hypothetical?**  
 6 A. So far.  
 7 **Q. All right. So in that -- I'm just trying to relate these  
 8 percentages. So if you then add --**  
 9 A. I see what you're -- yeah.  
 10 **Q. -- if you -- so now you've doubled the cost, right?**  
 11 A. Yes.  
 12 **Q. You have as much in the land as you do in the development.  
 13 And so now the MHA fee, instead of being 2 to 3 percent,  
 14 is 1 to 1.5 percent of the --**  
 15 A. Sure, but --  
 16 **Q. -- hold on, let me finish --**  
 17 A. I'm sorry.  
 18 **Q. -- of the overall project costs, right?**  
 19 A. Yeah, right.  
 20 **Q. And even in the high range, if the developer's looking at  
 21 the overall costs, because he doesn't just look at --**  
 22 A. Right.  
 23 **Q. -- construction costs, he's looking at how much to buy the  
 24 land --**  
 25 A. You bet --

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1 **Q. -- and the construction. The MHA fees are only going be --  
 2 in that hypothetical we just talked about, even in the high  
 3 context -- just 2.5 to 4 percent, right?**  
 4 A. That's right. That's right. That's right.  
 5 **Q. And you did testify on direct that the scenarios that you  
 6 identified as being infeasible with the MHA fee were  
 7 probably infeasible without the MHA fee as well, right?**  
 8 A. In those low-market areas --  
 9 **Q. Right.**  
 10 A. -- where they were down that low, that's right.  
 11 **Q. Right. There were very few, if any, scenarios that you  
 12 examined where the MHA fee moved something from feasible to  
 13 infeasible, right?**  
 14 A. That's right.  
 15 **Q. And you didn't determine how much more of a fee could be  
 16 charged before you would start triggering more of that  
 17 feasible to infeasible situation?**  
 18 A. Right, we didn't -- we didn't push it to that level of  
 19 precision, no.  
 20 **Q. All right. Could you turn to Exhibit 17 in the city's  
 21 notebook, please.**  
 22 HEARING EXAMINER: Is that an exhibit yet?  
 23 MR. BRICKLIN: No, I don't believe so. I thought the city  
 24 was going to --  
 25 MR. WEBER: I think this is in our --

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1 HEARING EXAMINER: Is it? Am I wrong about that?  
 2 MR. WEBER: We have not introduced this exhibit yet.  
 3 HEARING EXAMINER: Right.  
 4 MR. BRICKLIN: Which notebook is it in?  
 5 MR. WEBER: It's in, I believe -- can you check on that  
 6 one there --  
 7 UNIDENTIFIED SPEAKER: Sure.  
 8 MR. WEBER: Number 5.  
 9 **Q. (By Mr. Bricklin) And this looks to be somewhat of the  
 10 format of that document you said that you testified about on  
 11 direct testimony. Do you know if this a document your  
 12 office created or a document that the city created and  
 13 provided to your office?**  
 14 A. I believe this is a document the city created and provided  
 15 to our office.  
 16 **Q. Okay. I'm guessing you don't know who at the city created  
 17 this or do you?**  
 18 A. I know who our project manager was.  
 19 **Q. Your project manager?**  
 20 A. No, at the city.  
 21 **Q. Oh, who was that?**  
 22 A. That would be Mr. Wentlandt.  
 23 **Q. All right. Do you know whether he was directly involved in  
 24 creating this or what his role was?**  
 25 A. I don't.

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1 **Q. All right. Did you use this at all in your work?**  
 2 A. I don't think so, no.  
 3 **Q. All right. I won't ask you about it, then.  
 4 You did not -- do you know what linkage fees are?**  
 5 A. Yeah, a lot of those -- the different ways of saying the  
 6 same fee, like the pay-in-lieu fee, but it's called -- help  
 7 me out? I probably know it without the proper noun --  
 8 **Q. Yeah, all right. Well, it may not -- I was going to ask you  
 9 whether you did any evaluation of the feasibility of linkage  
 10 fees?**  
 11 A. Not that I know of, but it might have been the same  
 12 dollars-in, dollars-out analysis that applies to that.  
 13 **Q. Yeah, and you may be right there.**  
 14 MR. BRICKLIN: All right. Let me just confer with counsel  
 15 to see anybody has anything they want to --  
 16 (Inaudible colloquy)  
 17 MR. BRICKLIN: All right. That's all I have. Thank you.  
 18 HEARING EXAMINER: Thank you.  
 19  
 20 CROSS - EXAMINATION  
 21 BY MR. THALER:  
 22 **Q. I just have a couple of questions. Toby Thaler, Fremont  
 23 Neighborhood Council. I live in that rapidly expanding  
 24 neighborhood.  
 25 Could you please turn to the front of the EIS. You were**

1 **Why did you think it was important to point that out?**  
 2 A. Because this shows that there, again, is a process for these  
 3 scenarios, that while changes could happen under this  
 4 program, these would still -- this review process would  
 5 still occur.  
 6 **Q. Okay. Let's turn to page 3.308. And I'd just -- I'd like**  
 7 **you to consider Exhibit 3.5-5. And then on the next page**  
 8 **there's another exhibit for Alternative 3, it's 3.5-6. And**  
 9 **then if you turn over to the next page, there's a similar**  
 10 **exhibit for the preferred alternative that's Exhibit 3.5-7.**  
 11 A. Yes.  
 12 **Q. And those are all -- they all reflect similar data points;**  
 13 **is that right?**  
 14 A. That's right.  
 15 **Q. Okay. So can you just explain briefly what this con- --**  
 16 **what these convey?**  
 17 A. Yes. We were trying to compare the different alternatives  
 18 with respect to the estimated housing growth by percent, and  
 19 then compare that, then, to -- if that urban village has had  
 20 a systematic inventory conducted or not, so with the intent  
 21 to convey areas that may be less understood than others. So  
 22 if there is no systematic inventory conducted but, you know,  
 23 estimated housing growth in that area is at a certain  
 24 percent, that there could be an indicator of less-informed  
 25 review of that area.

1 **Q. Okay. And in your professional opinion, is this consistent**  
 2 **with how mitigation measures would be discussed in an EIS?**  
 3 A. Yeah. And I think I did -- I forgot to say earlier, I  
 4 didn't -- I didn't choose to do it in a bullet. That was  
 5 the template that we were given. But, yes, it's normal.  
 6 **Q. Okay. And then finally, on the last page -- no, I'm**  
 7 **sorry -- yes, it's the last page of page 3.313, there's a**  
 8 **Section 2.5.4, "Significant Unavoidable Adverse Impacts."**  
 9 **Do you see that?**  
 10 A. Yes.  
 11 **Q. Okay. So were you the one who concluded that there would be**  
 12 **no significant unavoidable direct impacts to historic and**  
 13 **cultural resources under any of the proposed alternatives?**  
 14 A. Yes.  
 15 **Q. Okay. Did you do that in consultation with your team at**  
 16 **ESA?**  
 17 A. Yes.  
 18 **Q. Okay. And what was the point of the under- -- if you go**  
 19 **near the bottom it says, "No significant unavoidable," and**  
 20 **then "direct" is underlined. Why is "direct" underlined?**  
 21 A. Because there is no direct impact happening to a specific  
 22 property under this program. The impacts would be indirect.  
 23 A direct impact would be something that is physically  
 24 changing a building structure or object for historic  
 25 resources.

1 **Q. Okay. And that's true across each of the alternatives you**  
 2 **evaluated?**  
 3 A. Yes.  
 4 **Q. All right. And can you now turn to page 3.311.**  
 5 A. Yes.  
 6 **Q. And there is a list of mitigation measures.**  
 7 A. Yes.  
 8 **Q. Do you recall those?**  
 9 A. Yes.  
 10 **Q. How are those developed?**  
 11 A. Sure. I developed those in consultation with the city,  
 12 and -- and that would be our project manager, Geoffrey  
 13 Wentlandt, and Sarah Sodt also reviewed these and provided  
 14 input.  
 15 **Q. Okay. And were these revised from the time of the**  
 16 **publication of the DEIS until the time of the FEIS?**  
 17 A. Yes.  
 18 **Q. Okay. And did you consult with Ms. Sodt about these after**  
 19 **publication of the DEIS or before?**  
 20 A. After.  
 21 **Q. Okay. And were you the one who made the determination that**  
 22 **the best way to show -- I guess, show these mitigation**  
 23 **measures was using a bullet kind of format?**  
 24 A. That's stylistic. I've seen that before. It's not  
 25 uncommon.

1 **Q. Okay. But there -- I mean, presumably, you've said there**  
 2 **would be impacts here, so --**  
 3 A. Yes.  
 4 **Q. -- so can you just -- let's ferret that out a little bit.**  
 5 **What's the difference in your mind between "direct" and**  
 6 **"indirect"?**  
 7 A. So "indirect" would be a changing to a setting or an overall  
 8 change to the historic fabric of a neighborhood. But a  
 9 "direct" would be something that is -- it's a physical  
 10 versus a nonphysical change.  
 11 **Q. And in your opinion, is the Section 3.5, the Historic**  
 12 **Resources section of the MHA EIS, reflective of the**  
 13 **standards you would expect to see in such a document?**  
 14 A. Yes.  
 15 MR. JOHNSON: Thank you. Nothing further.  
 16 HEARING EXAMINER: Cross?  
 17 MR. BRICKLIN: Thank you.  
 18  
 19 CROSS - EXAMINATION  
 20 BY MR. BRICKLIN:  
 21 **Q. My name's Dave Bricklin. I'm representing the Seattle**  
 22 **Coalition for Affordability, Livability and Equity.**  
 23 A. Uh-huh.  
 24 **Q. I have a number of questions for you here.**  
 25 **First of all, just a little bit about your background. I**

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1 saw that you worked on the Cheespi (phonetic) Trail project;  
 2 is that right?  
 3 A. Yes.  
 4 Q. And your -- and was that -- it indicates you did the  
 5 environmental checklist on that; is that right?  
 6 A. I did the historic section of that.  
 7 Q. Of that. All right.  
 8 So let me ask you about how you got started in this  
 9 project. And you said your supervisor is who?  
 10 A. Paula Johnson.  
 11 Q. And who's her supervisor?  
 12 A. Her supervisor is Margaret Clancy.  
 13 Q. And who is her supervisor?  
 14 A. Uh --  
 15 Q. Up the ladder?  
 16 A. I don't know.  
 17 Q. Where does Mark Johnson fit in?  
 18 A. Mark Johnson is Sharese's director.  
 19 Q. All right. So how many layers up the totem pole is he from  
 20 where you are?  
 21 A. In what way do you mean?  
 22 Q. In a hierarchy? In terms of the organization? I mean, is  
 23 he -- what's his relationship in the organization to you?  
 24 A. He is above me.  
 25 Q. A couple tiers up?

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1 A. Um, at least one.  
 2 Q. All right. So -- I mean, two, right? Because you said --  
 3 don't you report to Sharese, or she's a tier above you or  
 4 not?  
 5 A. I do not report to Sharese.  
 6 Q. Is she a tier above you, though?  
 7 A. Technically, yes, I think so.  
 8 Q. And then Mark's above her?  
 9 A. Uh-huh.  
 10 Q. I just -- and then how did you come to learn of this  
 11 project?  
 12 A. I came to learn of it when Sharese came to me with the scope  
 13 of work and the schedule.  
 14 Q. All right.  
 15 A. And I believe that was in March.  
 16 Q. And March of --  
 17 A. 2017.  
 18 Q. -- 2017.  
 19 Do you recall getting an email from Mark Johnson earlier  
 20 than that alerting you about this project headed your way?  
 21 A. I believe in the proposal phase, yes, and there might have  
 22 been an update at some point.  
 23 MR. BRICKLIN: Can we have this marked -- I'm sorry --  
 24 could we have this marked with a number?  
 25 HEARING EXAMINER: This will be 237.

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1 (Exhibit No. 237 marked for identification)  
 2 Q. (By Mr. Bricklin) I'm handing you what's been marked for  
 3 identification as Exhibit 237. Do you recognize this as a  
 4 reprint of an interoffice email at ESA?  
 5 A. Yes.  
 6 Q. From Mark to you and others dated September 19, 2016, right?  
 7 A. Yeah.  
 8 Q. And do you see there, he says, "Friends and Colleagues,  
 9 below is a message about an EIS. We are (inaudible) with  
 10 three-square blocks on. 'MHA' stands for Mandatory Housing  
 11 Affordability and so forth." Do you see that?  
 12 A. Uh-huh.  
 13 Q. And he says, "The City of Seattle is proposing some citywide  
 14 changes that would allow more density, but tie the increase  
 15 to creating affordable housing. We have a small budget to  
 16 do a high-level analysis for historic resources, open space  
 17 and recreation and public services and utilities." Do you  
 18 see that?  
 19 A. Uh-huh.  
 20 Q. Do you know what the budget was for that?  
 21 A. I do not.  
 22 Q. Turn to page 2, please. See the blue print in the middle of  
 23 the page? And does that finish with, "Getting a DEIS in 1 Q  
 24 '17," first quarter of 2017, "should be pretty easy to fit  
 25 in since the budget is small. We have about 30,000 for the

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1 whole of our work." Do you see that?  
 2 A. I do.  
 3 Q. And that would be not just for the historic resources, but  
 4 for the open space and recreation, public services and  
 5 utilities, right?  
 6 A. I would assume so.  
 7 Q. All right. Take a look earlier in that paragraph, at the  
 8 beginning of that blue type from Mark. "The city's initial  
 9 take -- the city's initial take on these topics were that  
 10 they would not result in significant impacts." What's --  
 11 would you remind me what the date of this memo is?  
 12 A. This would be September 19, 2016.  
 13 Q. So this is a year or more before the Draft EIS is published;  
 14 is that right?  
 15 A. Yes.  
 16 Q. And the city's indicating to your company that they've --  
 17 that they have determined that the project will not result  
 18 in significant impacts. Do you see that?  
 19 A. I see the sentence.  
 20 Q. And what -- and how does that sentence finish?  
 21 A. (No reply).  
 22 Q. Does it say, "But they" -- meaning the city -- "they feel  
 23 the need to justify that assumption"?  
 24 A. I didn't write this.  
 25 Q. I know, but is that what the sentence says?

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1 A. That is what it says.  
 2 **Q. And this is the email that you received about this project,**  
 3 **right?**  
 4 A. Yes, I was cc'd on this.  
 5 **Q. Did you -- before the Draft EIS made it to being a public**  
 6 **document, there were internal drafts, right?**  
 7 A. Yes.  
 8 **Q. And were they -- you drafted the internal drafts and**  
 9 **circulated them within your -- within ESA for comments by**  
 10 **others?**  
 11 A. That is standard, yes.  
 12 **Q. I'm handing you what's --**  
 13 **MR. BRICKLIN: May I have this marked as an exhibit,**  
 14 **please?**  
 15 **HEARING EXAMINER: This is 238.**  
 16 **(Exhibit No. 238 marked for identification)**  
 17 **Q. (By Mr. Bricklin) I'm handing you what's been marked as an**  
 18 **exhibit, as 238. Do you recognize this as a draft?**  
 19 **Apparently, according to the yellow highlighting on the**  
 20 **first page, May 5, 2017.**  
 21 A. Yes.  
 22 **Q. Do you see that?**  
 23 A. I see that date, yes.  
 24 **Q. All right. The initials "R.W." in the comment boxes here,**  
 25 **that would be Richard Weinman; is that right?**

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1 A. I believe so, yes.  
 2 **Q. And who is he?**  
 3 A. He does not work at ESA. I believe he was with the city or  
 4 a consultant to the city.  
 5 **Q. All right. So this was reviewed by people outside ESA as**  
 6 **well?**  
 7 A. That's standard, yeah.  
 8 **Q. All right. Okay. Could you turn to page -- the page that**  
 9 **has the Bates number of 34827. It's the page that has the**  
 10 **title in the middle of page 3.5.2, "Impacts."**  
 11 A. Yes.  
 12 **Q. Do you see that?**  
 13 A. (No audible reply).  
 14 **Q. And do you see that the comment box that has "R.W.3" in it**  
 15 **highlights text associated with that comment, right?**  
 16 A. Uh-huh.  
 17 **Q. And the text that is highlighted is, "Significant impacts**  
 18 **will be defined as potential growth rates of 50 percent or**  
 19 **greater than," and that sentence goes on, "than the**  
 20 **potential growth rates under the new action alternative,"**  
 21 **right?**  
 22 A. Right.  
 23 **Q. Do you see that his comment is that the -- that, "This**  
 24 **metric implies that other" -- excuse me, "I think this**  
 25 **metric is useful but incomplete." Do you see that?**

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1 A. Yes.  
 2 **Q. Do you see that he says a little further down, "I don't**  
 3 **think you can say definitively that such impacts are**  
 4 **significant, however, since they are indirect and**  
 5 **unconcerned"; is that right?**  
 6 A. Uh-huh.  
 7 **Q. And then he goes on to say, "And this metric implies that**  
 8 **the other impacts discussed in this section are**  
 9 **categorically not significant which is dubious"?**  
 10 A. Yes.  
 11 **Q. Did you have a follow-up discussion with Mr. Weinman about**  
 12 **his comment that characterizing the other impacts as**  
 13 **"insignificant" was dubious?**  
 14 A. Not directly, no.  
 15 **Q. Do you see that he continued, "This is a gross and**  
 16 **indefinite indicator, in any event, and probably more**  
 17 **suitable for unknown, unsurveyed buildings." Do you see**  
 18 **that?**  
 19 A. Uh-huh.  
 20 **Q. He says, "The locations of surveyed historic buildings, on**  
 21 **the other hand, are known and could be compared to the**  
 22 **parcels being rezoned," right?**  
 23 A. Uh-huh.  
 24 **Q. And that's what you did not do, right?**  
 25 A. We did not look at the parcel level.

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1 **Q. Do you know that the zoning that's being proposed is done at**  
 2 **the parcel level?**  
 3 A. I would assume so.  
 4 **Q. I mean, this isn't just a programmatic EIS in a broad**  
 5 **planning sense of saying, "Let's consider focusing growth in**  
 6 **urban villages and we'll figure out the details of that**  
 7 **later." It's not a high-level planning document in that**  
 8 **sense, is it?**  
 9 A. For historic resources, it is.  
 10 **Q. No, but I'm talking about the action that's being proposed.**  
 11 **The action is not adopting comprehensive plan policies that**  
 12 **aren't specific to any particular parcel. The action is --**  
 13 **is zone- -- rezoning of individual parcels in the city,**  
 14 **right?**  
 15 A. Uh-huh.  
 16 **Q. He goes on to say that, "Rezoning would seem to be a**  
 17 **stronger indicator of likelihood of demo or redevelopment,**  
 18 **and a better of measure of significant impact." Do you see**  
 19 **that?**  
 20 A. Uh-huh.  
 21 **Q. Let's talk about --**  
 22 **MR. BRICKLIN: I'd move the admission of these last two**  
 23 **exhibits, 238 --**  
 24 **HEARING EXAMINER: 237 and 238, any objection?**  
 25 **UNIDENTIFIED SPEAKER: No objection.**

1 HEARING EXAMINER: Both are admitted.  
 2 (Exhibit Nos. 237 and 238 admitted into evidence)  
 3 **Q. (By Mr. Bricklin) So let's continue talking about your**  
 4 **reference to programmatic EISs. Do you understand that not**  
 5 **all programmatic EISs have the same level of generality or**  
 6 **detail, as it were? That there's a spectrum.**  
 7 A. Yes.  
 8 **Q. So programmatic EISs are very high level, right? They might**  
 9 **be, as I said, adopting policies that would apply citywide,**  
 10 **right?**  
 11 A. Uh-huh.  
 12 **Q. You could have a programmatic EIS like this one that when**  
 13 **you look at the -- have you ever looked at the zoning maps**  
 14 **in the appendix to the EIS?**  
 15 A. Yes.  
 16 **Q. They're right down to the individual parcel. I mean, you**  
 17 **can -- do you live in the city?**  
 18 A. Yes, I do.  
 19 **Q. If you happen to live in a UV, you could find the parcel you**  
 20 **live on, right?**  
 21 A. (No audible reply).  
 22 **Q. You can see whether it's going to be zoned.**  
 23 A. Theoretically.  
 24 **Q. You said you had a discussion about the level of detail that**  
 25 **you would include in your analysis given that the EIS is a**

1 **on?**  
 2 A. No. The other ones have been projects.  
 3 **Q. All right. And what did you -- what did you understand the**  
 4 **requirements are for a programmatic EIS from having worked**  
 5 **on those two EISs?**  
 6 A. That you do a description of the affected environment, that  
 7 you assess impacts, and then you look at what might be  
 8 mitigation measures, and then you discuss what could be an  
 9 unavoidable significant impact.  
 10 **Q. And those are the same things you look at for a project EIS,**  
 11 **right?**  
 12 A. Yes.  
 13 **Q. So what's -- so in your mind, what was the difference**  
 14 **between a programmatic and a project EIS?**  
 15 A. So a project EIS is more detailed. And for historic and  
 16 cultural resources, you look more closely at the  
 17 geographical area that's being impacted.  
 18 **Q. You'll have to keep your voice up.**  
 19 **Okay. Do you -- do you recognize that the -- that's not a**  
 20 **bright line between a project EIS and a programmatic EIS?**  
 21 **That is that the level of detail for each varies depending**  
 22 **on how specific the proposal is.**  
 23 A. Sure.  
 24 **Q. Okay. Was one of your thoughts here that a more general**  
 25 **discussion would be okay because at the time of individual**

1 **programmatic EIS. Who did you have that discussion with?**  
 2 A. Can you repeat the question?  
 3 **Q. Yeah. I thought you testified that you had a discussion**  
 4 **with someone at ESA, or maybe more than one person, about**  
 5 **how detailed to make the analysis given that this is a**  
 6 **programmatic EIS.**  
 7 A. Oh, yes.  
 8 **Q. Who was that discussion with?**  
 9 A. Paula Johnson, Sharese Graham and Mark Johnson.  
 10 **Q. All right. And did you -- what did you bring to that**  
 11 **discussion in terms of your own personal knowledge of the**  
 12 **SEPA's requirements for the level of detail in a**  
 13 **programmatic EIS? What did you know about that subject, if**  
 14 **anything?**  
 15 A. I brought any experience in previous EISs.  
 16 **Q. And what were your -- what were the prior programmatic EISs**  
 17 **that you have worked on? I think you said one or two?**  
 18 A. Seattle Public Schools BEX IV and V, which is two different  
 19 project -- two different EISs, Building for Excellence  
 20 programs.  
 21 **Q. And what was the program that was being analyzed in those**  
 22 **EISs?**  
 23 A. That they would be improving schools or building new  
 24 schools.  
 25 **Q. Okay. And are there other programmatic EISs you've worked**

1 **projects, additional analysis could be done at that time?**  
 2 A. Yes.  
 3 **Q. Are you familiar with the vesting laws in this state?**  
 4 A. No.  
 5 **Q. Do you know -- so if the -- if this proposal is adopted and**  
 6 **property is upzoned --**  
 7 A. Uh-huh.  
 8 **Q. -- let's say from single-family to LR2, and a project comes**  
 9 **in for an apartment house in an LR2 zone, and you're going**  
 10 **to do historic resource review at that time, and you find**  
 11 **out that there's a historic resource of value there that**  
 12 **you'd like to save. Do you think -- are you aware whether**  
 13 **at that time the city has the right to say, "Oh, we're not**  
 14 **going to give you the LR2 zoning after all, because there's**  
 15 **a historic resource on this site. We're going to revert it**  
 16 **back to single-family"? Do you think the city has that**  
 17 **ability?**  
 18 A. Is it happening under SEPA?  
 19 **Q. No. I'm asking you -- yes, under SEPA --**  
 20 A. Oh, it would be under SEPA?  
 21 **Q. So -- well, my -- let me make sure we're saying the same**  
 22 **thing. So you do a SEPA analysis, you find out there's a**  
 23 **historic resource there --**  
 24 A. Sure. You mean historic-aged?  
 25 **Q. No. Something of historic value. You look at it. It's not**

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1 just 50 years old, but it's in good condition, you know.  
 2 You do an evaluation, "This is a good piece of historic  
 3 property, we would want to save it." Okay. That's what you  
 4 find out when you do your analysis. Do you think the city  
 5 at that point has the ability to say, "Never mind the  
 6 rezone, we're going to revert this back to single-family"?

7 MR. JOHNSON: Objection; calls for a legal conclusion.

8 **Q. (By Mr. Bricklin) Let me ask you this --**  
 9 MR. BRICKLIN: I'll withdraw the question.

10 **Q. (By Mr. Bricklin) -- do you think at that point -- were you**  
 11 **thinking when you said, "Well, we can do the environmental**  
 12 **analysis at the project level," were you thinking that the**  
 13 **city would have the ability to say, "You can't build the LR2**  
 14 **apartment there"?**

15 A. The existing regulations that protect historic properties in  
 16 the city of Seattle would remain the same under the MHA  
 17 program. They would not be decreased by -- in any way.

18 **Q. I understand that.**

19 A. Yeah.

20 **Q. I'm asking about your thought process when you said, "One**  
 21 **reason why we don't need to be as detailed here is because**  
 22 **we can do more detail at the project level." And I'm asking**  
 23 **you what you were thinking when you thought that. Were you**  
 24 **thinking: Well, at the project level, if we find out**  
 25 **there's an important historic resource on one of these**

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1 parcels, we'll be able to save it. We'll be able unwind the  
 2 rezone and, you know, not let the project go forward"?

3 A. No. I think we're pretty clear in saying that there are  
 4 properties that do not fall under SEPA review now and would  
 5 still not fall under SEPA review, which is partly why our  
 6 mitigation measures included changing the thresholds for  
 7 SEPA review.

8 **Q. Well, in fact, even if they fall under SEPA review, that's**  
 9 **not going to necessarily save the property, is it?**

10 A. No, there's a process and there's multiple decision-makers  
 11 involved.

12 **Q. Right. So if the consequence of rezoning the property to**  
 13 **this LR2 is that a developer is going to come in and propose**  
 14 **tearing down the building, you're not going to be able to**  
 15 **save the building through the SEPA process, are you?**

16 A. It depends on the building.

17 **Q. Okay. You would at least acknowledge that in some instances**  
 18 **you're not going to be able to save the building?**

19 A. Certainly.

20 **Q. All right. So if you cared about that building and if you**  
 21 **knew there was a building there to be cared about, you would**  
 22 **need to address that now, not at the project level, right?**

23 A. It's -- no, I would disagree. Because under a programmatic  
 24 EIS, in my experience, you do not look to inventory or make  
 25 eligibility determinations on individual properties.

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1 **Q. Right. I understand what you said about your experience.**  
 2 **I'm asking in terms of your thought process here, about**  
 3 **you'll be able to address this issue adequately at the**  
 4 **permitting level, at the permitting stage, that actually --**  
 5 **there's actually nothing at the permitting stage that's**  
 6 **going to save this building, is there?**

7 A. It depends on what regulations apply to that project.

8 **Q. All right. In this project, you use the -- this 50 percent**  
 9 **threshold for the definition of "significance."**

10 A. Yes.

11 **Q. Did you -- I know you didn't work on the Uptown or**  
 12 **University District EISs. Did you look at them to see**  
 13 **whether the process you were using was similar to the one**  
 14 **they were using?**

15 A. I looked at them only to see what mitigation measures they  
 16 proposed.

17 **Q. Okay. So when you were looking in them, did you happen to**  
 18 **notice that they didn't use a 50 percent threshold?**

19 A. I didn't read through their analysis.

20 **Q. Okay. When you do analyses of impacts, are you supposed to**  
 21 **look at cumulative effects?**

22 A. Yes.

23 **Q. And cumulative effects means that you consider not just the**  
 24 **impacts of the proposal but the impacts of other things that**  
 25 **are happening simultaneously, right?**

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1 A. Uh-huh.

2 **Q. Is that right?**

3 A. Yes.

4 **Q. And I said (inaudible).**

5 A. Yes.

6 **Q. And so you're aware, I presume, as an historic resources**  
 7 **person, that historic resources in this city are being lost**  
 8 **as the development boom occurs, right?**

9 A. Yes.

10 **Q. And the extent to which the fabric of -- the historic fabric**  
 11 **of certain communities is maintained or diminished is going**  
 12 **to be a function both of the development that's in the**  
 13 **pipeline now and would occur even without MHA along with the**  
 14 **development that will occur -- the enhanced development**  
 15 **under MHA, right? It's all going to combine to whittle away**  
 16 **at the fabric of these communities, right?**

17 A. With every construction project, yeah, there are changes to  
 18 the historic fabric of a neighborhood.

19 **Q. And nowhere in the EIS did you analyze the cumulative effect**  
 20 **on the historic fabric of the neighborhoods from the**  
 21 **development that's going to occur even without MHA, together**  
 22 **with the additional increment of development under MHA;**  
 23 **isn't that right?**

24 A. We looked to see which areas in the city had properties that  
 25 had been inventoried and to then show areas conversely that

1 have not been inventoried. So we were trying to demonstrate  
 2 the status of inventoried properties throughout the city to  
 3 show what -- what the city's historic resources are. But  
 4 it's -- like I said before, the information in the available  
 5 databases was incomplete and misleading, and that's why we  
 6 chose the state's data.  
 7 **Q. Right. So you answered talking about the resources that are**  
 8 **out there. My question was about the impacts to those**  
 9 **resources, the impacts -- a cumulative impact from the**  
 10 **development that's going to occur without MHA together with**  
 11 **the impacts from MHA on whatever those resources are.**  
 12 A. Uh-huh.  
 13 **Q. You didn't analyze that, did you?**  
 14 A. We looked at growth rates.  
 15 **Q. You didn't analyze -- well, "looked at growth rates." You**  
 16 **didn't analyze the impacts of that combined development on**  
 17 **the historic -- on the fabric of these historic communities,**  
 18 **did you?**  
 19 A. No.  
 20 **Q. "No," meaning you did not, right?**  
 21 A. That is correct.  
 22 **Q. And with regard to that bolded list of mitigation measures,**  
 23 **you did not include in that list a description of the**  
 24 **intended benefits of those mitigation measures, did you?**  
 25 **You just described the mitigation measures themselves?**

1 **resource experts use -- regularly refer to both databases,**  
 2 **right?**  
 3 A. Sure, yeah.  
 4 **Q. So it's good enough for -- so the city's database is good**  
 5 **enough for some purposes, but it wasn't -- you decided it**  
 6 **wasn't good enough for this EIS?**  
 7 A. It wouldn't accurately allow us to do a comparison across  
 8 the urban villages that was apples to apples.  
 9 **Q. Right. And I want to thank you for mentioning that, because**  
 10 **I was struck by that reason. Because it -- tell me if I'm**  
 11 **right -- suggested to me that the reason you were portraying**  
 12 **this information was to allow for this apples-to-apples**  
 13 **comparison between the different UVs so that decision-makers**  
 14 **and the public could say, "Well, if we put more growth in**  
 15 **this UV, which has -- you know, if we -- if we're going to**  
 16 **put a lot of growth in this one UV, geez, that UV has a lot**  
 17 **of historic resources in it and this one doesn't. If we're**  
 18 **interested in historic resources, maybe we'd be better off**  
 19 **aiming our additional density over here where there's not so**  
 20 **many resources." Was that the idea of trying to give them**  
 21 **apples-to-apples information?**  
 22 A. That was not the intent of the figure alone, just, I mean,  
 23 by mapping them was to show the distribution of them, but it  
 24 wasn't to show that those are the only historic resources in  
 25 the city.

1 A. Yes.  
 2 **Q. Is that right?**  
 3 A. We described the mitigation measures, yes.  
 4 **Q. Right. But not the intended benefits, correct?**  
 5 A. I think that was implied, but, no, not specifically.  
 6 **Q. So let's talk about the data. And one of the points you**  
 7 **made repeatedly was that the data in the city's database**  
 8 **is -- has problems, it's incomplete, it's -- some of it's**  
 9 **old, correct?**  
 10 A. Correct.  
 11 **Q. In fact, the data in WISAARD, the state database, suffers**  
 12 **from those same problems, doesn't it?**  
 13 A. It is regularly maintained. Any time I find an error, if I  
 14 do, I send it to Kim Gant and she changes it immediately.  
 15 So just with any data set, it does have its own problems,  
 16 but it's regularly maintained.  
 17 **Q. Have you ever reviewed the two data sets to compare the**  
 18 **degree to which either or the other is susceptible to having**  
 19 **errors in it or being out of date?**  
 20 A. I use both, so I'm not sure how --  
 21 **Q. You do use both?**  
 22 A. Yes, I do.  
 23 **Q. I was going to ask you that, too. You were commenting about**  
 24 **the limitations of the city's database. You use both. In**  
 25 **fact, most -- you're aware, aren't you, that most historic**

1 **Q. No. But I guess I'm trying to get at -- I'm trying to**  
 2 **understand why it was important to you that you had the same**  
 3 **quantum of information or the same qualitative information**  
 4 **for the different UVs.**  
 5 A. Oh.  
 6 **Q. Why was that important?**  
 7 A. Well, in any EIS, you're supposed to look at the study area  
 8 equally and --  
 9 **Q. Where is that from?**  
 10 A. I don't know the exact citation for that, but that's based  
 11 on my experience.  
 12 **Q. Okay. Go on.**  
 13 A. And so in order to make an accurate description of the  
 14 different urban villages and what has been recorded, we  
 15 wanted to use data that was equal and didn't have gaps. And  
 16 the city's database does have gaps. So we thought it would  
 17 be misleading as well as not appropriate at this scale to  
 18 map all of those points when I showed in the exhibits  
 19 earlier that you have areas that are absent of data, which  
 20 doesn't mean that there aren't properties there that are of  
 21 a certain age.  
 22 **Q. Right. And I understand if you're trying to compare one UV**  
 23 **versus the other, you'd want to -- you know, for that**  
 24 **purpose, you might want to have an apples-to-apples**  
 25 **comparison, right? Is that what you're saying?**

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1 A. Yes.

2 **Q. But how about if you're interested in -- you're focused on**

3 **one UV in particular, Ravenna, North Rainier, you know, and**

4 **you're trying to decide where to draw the lines in that UV**

5 **or what densities to apply in that UV, wouldn't you want to**

6 **have the best information reasonably available to you?**

7 A. I would assume so.

8 **Q. Right. And the fact that you didn't have such high-quality**

9 **information for some other UV in another part of town, that**

10 **wouldn't stop you from wanting to have the best information**

11 **reasonably available to you in the UV that you're looking**

12 **at, right?**

13 A. For that user, yes.

14 **Q. And do you understand the city and the members of the public**

15 **were deciding here not just how much growth to put in one UV**

16 **versus another, the apples-to-apples thing, but they were**

17 **also deciding where to draw the lines and how much density**

18 **to -- where to put additional density within any**

19 **individual UV?**

20 A. Right.

21 **Q. And so you're acknowledging, basically -- let's use that**

22 **South Park map that you had, Exhibit 234, and you're saying,**

23 **"Well, I didn't want to present this information because**

24 **I've got better information in South Park than I have over**

25 **here in Westwood," right?**

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1 A. Uh-huh.

2 **Q. But if I'm a decision-maker or a member of the public trying**

3 **to decide where to draw the line in South Park, wouldn't I**

4 **want to know where the lines are in relation to those red**

5 **dots?**

6 A. Well, like I said before, those red dots are not equal.

7 **Q. We'll get to that, but I'm talking about your**

8 **apples-to-apples rationale. Okay. That apples-to-apples**

9 **rationale, if applied, to say, "Well, I'm not going to**

10 **provide that South Park information," deprives the public**

11 **and the decision-maker of information that you had available**

12 **to you about where those -- where potential historic**

13 **resources are in that UV, right?**

14 A. We do disclose that there are inventoried properties in

15 South Park, and there is a historic-context statement for

16 South Park.

17 **Q. Right.**

18 A. Yes.

19 **Q. And -- but did you -- so there's one sentence in a long**

20 **chapter that says there's a context statement or there's an**

21 **X-mark on a chart, but you don't provide this data, do**

22 **you --**

23 A. We pro- --

24 **Q. -- that's on 234?**

25 A. -- we provide counts, I be- -- no, we don't provide. We

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1 just provide "presence, absence," but --

2 **Q. Yep.**

3 A. -- doing that at this scale, in my experience, would be very

4 unusual.

5 **Q. Well, you know, let's -- you know, like one of these dots**

6 **is -- you know, is a specific parcel, right? Each of these**

7 **dots is on a specific parcel, right?**

8 A. Yes.

9 **Q. And each of those parcels, if you turn to the zoning map, is**

10 **either going to have its zoning changed or not, right?**

11 A. Potentially, yes.

12 **Q. Don't you think it would be important for decision-makers**

13 **deciding whether to change the zoning on a parcel to know**

14 **whether it's been identified as a potential historic**

15 **resource in the city's database?**

16 A. Potentially.

17 **Q. I'm just going back to that -- the apples-to-apples issue**

18 **for a second. You said that you didn't use this resource**

19 **data because it wasn't available across all the UVs. But**

20 **isn't it also true that you didn't have context statements**

21 **across all the UVs, but you used the context statements**

22 **where you had them?**

23 A. Yes.

24 **Q. Because those would provide -- even though it doesn't --**

25 **well, that's fine. I'll just leave it at that.**

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1 MR. BRICKLIN: I think that's all I have. Thank you.

2 MS. BENDICH: We have three minutes. Do you want me to

3 just go?

4 HEARING EXAMINER: Use them.

5 MS. BENDICH: Okay.

6

7 CROSS - EXAMINATION

8 BY MS. BENDICH:

9 **Q. Do you recall referencing a "Start Property Survey Report"**

10 **(phonetic) by Mamie Sheridan (phonetic)?**

11 A. Which one? She wrote more than one, I think.

12 **Q. Okay. The one that talks about the Commercial District?**

13 A. Yes.

14 **Q. I want to just make sure I have another --**

15 MR. BRICKLIN: Are you looking for that?

16 Mr. Examiner, could I move the admission of the exhibits

17 that I off- -- that I (inaudible)?

18 HEARING EXAMINER: (Inaudible).

19 MR. BRICKLIN: I'd move the admission of --

20 MR. JOHNSON: You did some of them.

21 MR. BRICKLIN: Yeah, I thought I did some --

22 HEARING EXAMINER: Yes, we're good.

23 MR. BRICKLIN: I got them all?

24 HEARING EXAMINER: We're clear, uh-huh.

25 **Q. (By Ms. Bendich) And this is marked as -- or it's been**

## Hearing - Day 11

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

August 20, 2018



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EXHIBIT INDEX

NO.	DESCRIPTION	MARKED	RECEIVED
239	Declaration of Gordon Lagerquist		6
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	

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1 available after he returns from the Northeast United States  
2 at the end of the week, or August 30, 31.  
3 MR. KISIELIUS: Mr. Examiner, Tadas Kisielius on behalf of  
4 the City.  
5 Our understanding is Mr. Lagerquist is not being offered  
6 as an expert witness; rather, it's fact testimony.  
7 MR. THALER: Correct.  
8 MR. KISIELIUS: With that in mind, we have reviewed the  
9 declaration, and we don't need to cross examine Mr.  
10 Lagerquist.  
11 HEARING EXAMINER: Okay.  
12 MR. THALER: Thank you.  
13 HEARING EXAMINER: Anything else we need to address  
14 procedurally?  
15 MR. THALER: The City attorneys wanted to -- apparently in  
16 the paper shuffle, Exhibit 217 did not get in their hands.  
17 And I just reviewed what that exhibit is with co-counsel,  
18 and I will be able to provide a copy of that tomorrow.  
19 UNIDENTIFIED MALE: Thank you.  
20 MS. NEWMAN: Thank you.  
21 HEARING EXAMINER: Okay. Anything else?  
22 MR. THALER: Not from me.  
23 HEARING EXAMINER: All right. Just a short note for the  
24 parties. I'm happy to make the Hearing Examiner room  
25 available for you to collect your materials here, but we've

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1 -o0o-  
2 August 20, 2018  
3  
4 HEARING EXAMINER: Return for Monday, August 20th, for  
5 W-17-006 through 014, continuing with the Appellants' case.  
6 Are there procedural items that we need to address before  
7 we get started?  
8 MR. THALER: We had arranged to have Gordon Lagerquist --  
9 Toby Thaler, Fremont Neighborhood Council. We had arranged  
10 for Gordon Lagerquist to testify by means of a declaration,  
11 and the deadline that we had agreed on is August 9th, and it  
12 was hopefully received by counsel for the City before 5:00  
13 on August 9th. And I have a copy here for the Hearing  
14 Examiner.  
15 HEARING EXAMINER: Okay.  
16 MR. THALER: And I'm not sure how you want to proceed in  
17 terms of designating it as an exhibit or how that --  
18 HEARING EXAMINER: We'll just mark it as an exhibit, along  
19 with the others. We are on 239.  
20 Any objections?  
21 MR. KISIELIUS: None.  
22 HEARING EXAMINER: All right. Exhibit 239 is admitted.  
23 (Exhibit No. 239 admitted)  
24 MR. THALER: And then there's the logistics -- if the City  
25 wishes to cross examine Mr. Lagerquist, he would be

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1 had a few people trying to come into the Hearing Examiner  
2 staff only area to gather my cart to put things on it, so  
3 just make sure whoever is coming knows that this is the  
4 record.  
5 And I don't necessarily want documents up here unless you  
6 have handed them to me during the hearing. So just make a  
7 note.  
8 It's been individuals on both sides, so it's not a big  
9 deal, but I just want to -- if we could highlight that for  
10 them, that would be helpful.  
11 And with that, we will get started with the appellants.  
12 MR. ABOLINS: Good morning, Your Honor.  
13 HEARING EXAMINER: Morning.  
14 MR. ABOLINS: The Friends of North Rainier call Michael  
15 James.  
16 HEARING EXAMINER: Please state your name, and spell it  
17 for the record.  
18 MR. JAMES: Yes. My name is Michael James, M-I-C-H-A-E-L,  
19 J-A-M-E-S.  
20 HEARING EXAMINER: And do you swear or affirm that the  
21 testimony you will provide in today's hearing will be the  
22 truth?  
23 MR. JAMES: Yes, I do.  
24 HEARING EXAMINER: Thank you.  
25

1 MS. TOBIN-PRESSER: Christine Tobin-Presser,  
 2 C-H-R-I-S-T-I-N-E, T-O-B-I-N, dash, P-R-E-S-S-E-R.  
 3 HEARING EXAMINER: And do you swear or affirm that the  
 4 testimony you will provide in today's hearing will be the  
 5 truth?  
 6 MS. TOBIN PRESSER: I do.  
 7 HEARING EXAMINER: Thank you.  
 8  
 9 CHRISTINE TOBIN-PRESSER Witness herein, having first been  
 10 duly sworn on oath, was examined  
 11 and testified as follows:  
 12  
 13 DIRECT EXAMINATION  
 14 BY MS. NEWMAN:  
 15 **Q. Good morning. Claudia Newman for SCALE, Appellant SCALE.**  
 16 **Could you tell us what your address is?**  
 17 A. 4832 42nd Avenue Southwest, Seattle, Washington 98116.  
 18 **Q. And what neighborhood do you live in?**  
 19 A. The West Seattle Junction.  
 20 **Q. And how long have you lived there?**  
 21 A. About 14 and a half years.  
 22 **Q. And are you familiar with the MHA proposal that's the**  
 23 **subject of this hearing?**  
 24 A. Yes, I am.  
 25 **Q. And when did you become aware of it?**

1 the one.  
 2 MS. NEWMAN: Yeah. Yeah. It's actually still kind of  
 3 hard to read even when it's oversize.  
 4 HEARING EXAMINER: Uh-huh.  
 5 **Q. (By Ms. Newman) Do you recognize this document?**  
 6 A. I do.  
 7 **Q. Can you describe it?**  
 8 A. So this is a map of the preferred option of the upzones to  
 9 the West Seattle Junction Urban Village.  
 10 **Q. And the EIS has an Appendix H; is that right? That --**  
 11 A. It -- it does.  
 12 **Q. Okay.**  
 13 A. With preferred options.  
 14 **Q. And several maps are --**  
 15 A. Correct.  
 16 **Q. -- in the --**  
 17 A. Opt --  
 18 **Q. And this is one of them?**  
 19 A. Yes.  
 20 **Q. Okay.**  
 21 HEARING EXAMINER: We will mark it as Exhibit 240.  
 22 (Exhibit No. 240 marked)  
 23 MS. NEWMAN: And I also want to offer -- Mr. Examiner, if  
 24 I could get this marked, a set of photos. I brought an  
 25 extra copy just so you --

1 A. I became aware of it in late October of 2016 from an article  
 2 published on the West Seattle blog showing the maps for the  
 3 proposed rezone.  
 4 **Q. Okay. And you've -- actually, let's -- so overall we're**  
 5 **going to discuss two topics with your testimony this**  
 6 **morning, the aesthetic impacts in West Seattle, and the land**  
 7 **use impacts, including consistency and inconsistency of the**  
 8 **proposal with the City's comprehensive plan and neighborhood**  
 9 **plans. Is that what your -- is that right?**  
 10 A. Yes.  
 11 **Q. Okay. Well, let's start with a map to get our bearings.**  
 12 **I've put a stack of documents in front of you.**  
 13 MS. NEWMAN: Mr. Examiner, this, this is Exhibit H-82 from  
 14 the EIS, which is Exhibit 2, and it's in the appendix.  
 15 HEARING EXAMINER: We're just using this for illustrative  
 16 purposes?  
 17 MS. NEWMAN: Yeah. I mean, it's the same thing, but it's  
 18 oversized.  
 19 HEARING EXAMINER: Readable.  
 20 MS. NEWMAN: I wouldn't mind actually having it in the  
 21 record so we have an oversight to (inaudible), but it  
 22 doesn't matter.  
 23 HEARING EXAMINER: I think it's a good idea. I --  
 24 MS. NEWMAN: Okay.  
 25 HEARING EXAMINER: My eyes have had a hard time reading

1 HEARING EXAMINER: Photos will be marked as 241.  
 2 (Exhibit No. 241 marked)  
 3 UNIDENTIFIED FEMALE: And what SCALE exhibit are those?  
 4 MS. NEWMAN: This is SCALE exhibit -- it's in the two --  
 5 it's in the very end. Sorry. Almost there. Okay. Exhibit  
 6 192, SCALE.  
 7 HEARING EXAMINER: Thank you.  
 8 **Q. (By Ms. Newman) Okay. Do you recognize these photos?**  
 9 A. I do. They are photographs that I took of various houses  
 10 within the urban -- the West Seattle Junction Urban Village.  
 11 **Q. Okay. And using both these photos and the map that we just**  
 12 **had marked, can you walk us through them, and describe what**  
 13 **the pictures show, and the significance of each, and give us**  
 14 **kind of a general big picture of the West Seattle Junction**  
 15 **neighborhood?**  
 16 A. Yes. I definitely can.  
 17 So I'm going to use the map first just to describe the  
 18 areas so that we kind of know the context of what we're  
 19 talking about.  
 20 So if you look at the map, midway down the page there is a  
 21 street called Alaska, and it's intersecting the whole  
 22 junction urban village. Do you see it?  
 23 **Q. Yes.**  
 24 A. Okay. And then to the left side of the map going the other  
 25 direction, going north and south is California Avenue. So

1 if you look at the intersection of California Avenue and  
2 Southwest Alaska Street, that is actually the West Seattle  
3 Junction. It's where the streetcar used to stop, and it's  
4 why it is called the West Seattle Junction.

5 So a lot of the area is sort of in a rectangle shape  
6 around there is orange indicating neighborhood commercial,  
7 and it basically -- that area goes basically from Southwest  
8 Edmunds, which is a block south of Alaska, up to Oregon,  
9 which is north of Alaska, and then there's a square that's  
10 north to Genesee. And that area is what I'd call the  
11 historic junction, and it's where most of the shops, and  
12 restaurants, and retail are concentrated within the West  
13 Seattle Junction Urban Village.

14 So then there's another area that I want to talk about.  
15 If you follow Alaska east, you'll run into a rec- -- or I'm  
16 sorry, a diagonal street called Fauntleroy. So that point  
17 that's Alaska and Fauntleroy is a point of a triangle. And  
18 if you go then northeast, you'll get to the next point of  
19 the triangle, which is at 35th and Fauntleroy. And if you  
20 go south down 35th, you'll get to the third point of the  
21 triangle.

22 **Q. And you're -- when you say 35th, that's all the way up to  
23 the right-hand corner almost of the urban village?**

24 A. Yes, yes.

25 **Q. Okay. So you've -- okay.**

1 And Fairmount Park is -- it is an area that is  
2 characterized by a lot of homes that are 90 to 100 plus  
3 years old. It's where -- of the areas it's the one where  
4 you'll find the -- the larger, sort of craftsman-style homes  
5 in it, which is not to say there's not smaller bungalows.

6 But exhibits -- I'm sorry, Exhibit 241 -- and they're  
7 marked with an additional number, so 241-1, 241-2.

8 **Q. This is the photos?**

9 A. These are the photos, yes. So if you look at 241-1, and  
10 241-2, 241-3, and 241-4, those are all from that Fairmount  
11 Park area, and they sort of typify the types of houses that  
12 you'll find there.

13 HEARING EXAMINER: All right. So you've got -- what was  
14 the name of this residential area again?

15 MS. TOBIN-PRESSER: Fairmount Park.

16 HEARING EXAMINER: Fairmount Park.

17 MS. TOBIN-PRESSER: Or Fairmount Park.

18 HEARING EXAMINER: Fairmount.

19 MS. TOBIN-PRESSER: (Inaudible).

20 HEARING EXAMINER: And Exhibit 241, 1 through 4?

21 MS. TOBIN-PRESSER: Yes.

22 **Q. (By Ms. Newman) And those are typical -- kind of the typical  
23 character and aesthetic of houses in that neighborhood?**

24 A. Yes.

25 HEARING EXAMINER: Let me make sure I know exactly where

1 A. It's the point of a -- you can kind of see the triangle, so  
2 it's kind of the top of the of the triangle.

3 **Q. Uh-huh.**

4 A. And then you go south down 35th again to Alaska. That's the  
5 third point of the triangle, and then back to your original  
6 point. So that area is actually referred -- excuse me, to  
7 as the triangle.

8 And the thing about these two areas -- so in the Alaska  
9 junction sort of rectangle area that I talked about where  
10 the shops and -- and services are located, within the last  
11 ten years there have been nine large six- to seven-story  
12 apartment buildings built with a total of about 1500 units.

13 Down here in the triangle area there have been three -- at  
14 least three built in the last five to ten years with about  
15 500 new units, and there are several new apartment buildings  
16 being built in these two areas.

17 So now I'll move on to the first -- there's four distinct  
18 single family areas in the West Seattle Junction Urban  
19 Village map that are proposed to be upzoned under MHA. And  
20 the first one, if you go to Edmunds Street, which is one  
21 block south of Alaska, and between -- if you look between  
22 California and -- it's 40th, you'll see a series of sort of  
23 blocks -- there's a light brown and a darker brown with  
24 hatch marks in them. That's -- that's the first area I'll  
25 talk about, and it's called Fairmount Park.

1 you're talking about. You said south of Alaska Way, so  
2 you're going south of West Seattle Junction.

3 MS. TOBIN-PRESSER: Yeah. So if you head --

4 HEARING EXAMINER: And then slightly east?

5 MS. TOBIN-PRESSER: Yes. Right. The -- yes. So if  
6 you --

7 HEARING EXAMINER: That's the full crossed-hatch area?

8 MS. TOBIN-PRESSER: Yes.

9 HEARING EXAMINER: Okay.

10 MS. TOBIN-PRESSER: Now, there's an L-shaped, upside down  
11 L-shaped crosshatched area which is not what I'm talking  
12 about. That's a different area, which is farther east.

13 HEARING EXAMINER: Right.

14 MS. TOBIN-PRESSER: Okay.

15 HEARING EXAMINER: All right.

16 A. So another thing about this area --

17 HEARING EXAMINER: Is it bounded by Edmunds?

18 MS. TOBIN-PRESSER: Edmunds.

19 HEARING EXAMINER: Or --

20 MS. TOBIN-PRESSER: Yes.

21 HEARING EXAMINER: Okay.

22 MS. TOBIN-PRESSER: Yes.

23 HEARING EXAMINER: Thank you.

24 MS. TOBIN-PRESSER: Edmunds, and down to 40th.

25 A. Another thing about this area is they -- they tend to have

1 generous yards with a lot of trees. And if you walk through  
 2 the alleys, you will see that there are a lot of detached  
 3 accessory dwelling units in this area.  
 4 So the initial map, MHA map that came out in October of  
 5 2016, the proposed zoning changes to this area are precisely  
 6 what they are today going to -- from single family to LR2,  
 7 and then in the lighter block to LR1.  
 8 The only difference is that the initial map had the urban  
 9 village boundary being expanded down to Brandon Street one  
 10 block south, and that was shown as residential small lot.  
 11 And in this preferred option that -- that residential small  
 12 lot, the boundary did not get extended there.  
 13 So -- oh, one other picture I want to show you, this is  
 14 actually also in Fairmount Park, is 241, and it's the fifth  
 15 picture. That is actually just showing that -- this is  
 16 taken on 41st Avenue, and this is the west side of the  
 17 street. And as you can see, the -- the house is set -- the  
 18 houses are set up quite a bit off the street.  
 19 And I'll just tell you, because I don't think,  
 20 unfortunately, I -- oh, I do, actually. I'm sorry.  
 21 So if you look at 241, that is the west side of 41st  
 22 Avenue between Edmunds and Hudson.  
 23 **Q. Wait. 241-5?**  
 24 A. Dash 5.  
 25 **Q. Number 5?**

1 **Q. Okay.**  
 2 A. They're high up off the street. And then the other houses,  
 3 they're not even level with the street. They're -- they're  
 4 set down a little bit below the street.  
 5 **Q. Okay. And is there a view from the houses?**  
 6 A. Yes. There -- there is a view from both sides.  
 7 **Q. Okay. And what's that view of?**  
 8 A. The downtown Seattle.  
 9 **Q. Okay.**  
 10 A. Okay. That's what I had to say about Fairmount Park.  
 11 So if you then travel counterclockwise from Fairmount  
 12 Park, you will see a light brown upside down L-shaped area  
 13 with crosshatches. That area is a second single family area  
 14 to be upzoned, and it's known as Edmunds slope. And as  
 15 you'll see, Edmunds -- Edmunds Street kind of crosses  
 16 through it and -- and that's why it's called Edmunds.  
 17 And the reason it's called slope is, although you can't  
 18 see this from the map, starting south from Alaska and  
 19 heading north on all those blocks, it's a very significant  
 20 hill going up.  
 21 Of the four areas, architecturally this is an interesting  
 22 area because the homes generally fall between two  
 23 categories; either they're 90 to 100-year-old plus houses,  
 24 or they were built between the 1940s and the 1960s, and  
 25 there are very few houses that fall in between those two

1 A. Yes.  
 2 **Q. And it's the west side of what?**  
 3 A. It's the west side of 41st Avenue Southwest, between Edmunds  
 4 and Hudson.  
 5 **Q. Okay. Let's just slow down to make sure we all -- where is  
 6 that on the map?**  
 7 A. Oh, it is -- so if you go, if you find Edmunds again, which  
 8 is one block south of Alaska.  
 9 **Q. Uh-huh.**  
 10 A. The crosshatching starts at 42nd --  
 11 **Q. Okay. So we're still --**  
 12 A. -- on the left-hand --  
 13 **Q. -- in Fairmount?**  
 14 A. Yeah, we're still in Fairmount Park.  
 15 **Q. Okay.**  
 16 A. So that's the west side of 41st between Edmunds and Hudson.  
 17 And as you can see, it's set up off the street considerably.  
 18 And if you'll turn to 241-7, which I unfortunately put out  
 19 of order, that is the other side of the street.  
 20 And the point of this is simply to show that on one side  
 21 of the street the houses are set up, and on the other side  
 22 of the street the houses are set down.  
 23 **Q. And is this -- is the topography such that the houses in 5  
 24 are physically up the hill from the houses in 7?**  
 25 A. Yes. Exactly.

1 areas.  
 2 In the draft MHA map that came out in October of 2016,  
 3 this was proposed to be exactly the same as it is today,  
 4 which is going to LR1.  
 5 And I would also note that you can tell from the dotted  
 6 boundary line that this is an urban village expansion area,  
 7 so this isn't part of the urban village today.  
 8 **Q. So let's clarify that. On map Exhibit H-82, which is  
 9 Exhibit 240 in the record, that dark line, what is the dark  
 10 line representing, the bold black around the colored --**  
 11 A. The bold black represents the existing urban village.  
 12 **Q. And what is the dotted dashed line represent?**  
 13 A. The dashed line is the expansion to the urban village that  
 14 would take place under MHA.  
 15 **Q. Okay. And so all of that new -- that area that's  
 16 crosshatched in there would be within the urban village, the  
 17 West Seattle Junction Urban Village?**  
 18 A. Correct. The next area --  
 19 HEARING EXAMINER: One question before you go on --  
 20 MS. TOBIN-PRESSER: Yes.  
 21 HEARING EXAMINER: -- to the next one as well. In  
 22 Fairmount Park you indicated I think it was going to LR2?  
 23 MS. TOBIN-PRESSER: Yes.  
 24 HEARING EXAMINER: And that is from single family?  
 25 MS. TOBIN-PRESSER: Correct.

1 HEARING EXAMINER: And in Edmunds slope it's from single  
 2 family to LR1?  
 3 MS. TOBIN-PRESSER: Yes. And just to clarify, in  
 4 Fairmount Park the darker areas going to LR2; and then  
 5 there's a square to the southeast, it's a lighter brown,  
 6 that would be going to LR1.  
 7 **Q. (By Ms. Newman) And can we actually -- maybe we could use**  
 8 **this opportunity -- I was going to do this in a bit, but it**  
 9 **would be nice to have this. Explain what those numbers --**  
 10 **as you see those, each of the colored blocks have kind of**  
 11 **white numbers in them. Can you explain what those are**  
 12 **telling us?**  
 13 A. So the left-hand --  
 14 **Q. Do you -- if you know.**  
 15 A. Yes, I do know.  
 16 **Q. Okay.**  
 17 A. So there -- there's a couple words in each case, there's a  
 18 couple words, and then a line, and then a couple of more  
 19 words or letters. To the left of the line is what the  
 20 existing zoning is.  
 21 So where it says single family, so -- so looking in the  
 22 sort of darker brown rectangle in Fairmount Park that's  
 23 crosshatched, it says single family, and then there's a  
 24 line, and it says LR2 M1. So what that means is the  
 25 left-hand side means it's currently single family; and under

1 the zoning designation itself changes, because capacity will  
 2 be increased in all instances. Does that make sense?  
 3 **Q. Okay.**  
 4 A. Okay.  
 5 **Q. All right. Thank you. And so we left off. We were about**  
 6 **to venture into I think a new --**  
 7 A. Yes.  
 8 **Q. -- area?**  
 9 A. We're now going to head into an area that doesn't have an  
 10 official name, but what I'm going to call it is Oregon,  
 11 Genesee, and Dakota. So if you're at Edmunds slope, and you  
 12 just go directly north, you'll run into a hatched area with  
 13 a sort of stair step on the side, and it starts at Oregon to  
 14 the south, and then the next block is Genesee. It's a bold  
 15 line.  
 16 And then the only area that continues onto Dakota that is  
 17 subject to MHA change is that on the north side there's a  
 18 little yellow strip that's one side of a block, and it says  
 19 single family/RSL. That's also part of the single family  
 20 area that would be upzoned. So Oregon-Genesee-Dakota is  
 21 what I'm going to call it.  
 22 So this area, just -- just to sort of give you an idea of  
 23 what's there, see to the left of that particular area you'll  
 24 see what I -- I -- what looks like a lower-case "q" to me in  
 25 brown. Do you see that?

1 the line, then you go over to the right-hand side of the  
 2 line, and it tells you what it's going to be under the  
 3 proposed MHA; and then there is a -- in each case there is a  
 4 M in parentheses along with either -- it's either just M, M1  
 5 or M2, and that denotes the level of increased zoning, the  
 6 magnitude I guess, if you will.  
 7 If it's just M, it's not doing very much. So for example,  
 8 if you look at Fairmount Park, and if you go to the right of  
 9 the light brown hatch mark, you will see a solid light brown  
 10 square/rectangle, and that says LR1, and then there's a  
 11 line, and it says LR1 M. What that --  
 12 **Q. LR3? Is that a 1 or a 3?**  
 13 A. It's a 1, what I'm looking at.  
 14 **Q. Okay. Maybe my eyes --**  
 15 A. So I'm --  
 16 **Q. Okay.**  
 17 A. -- just going to hold it up to --  
 18 **Q. I think my eyes are just --**  
 19 A. -- show you what I'm looking at.  
 20 **Q. -- bad.**  
 21 A. Okay. So anyway, what that means is that it is currently  
 22 LR1. And under MHA, it will remain LR1; but because of the  
 23 increased capacity allowed under MHA, it's still what's  
 24 called an M -- everything will -- all the zoning within  
 25 exist -- urban villages will change, regardless of whether

1 **Q. When you say to the left --**  
 2 A. To the west of the Oregon-Genesee-Dakota.  
 3 **Q. I don't see it. Oh, you mean -- oh, it's just a dark brown**  
 4 **that kind of likes like a Q?**  
 5 A. Yeah, it looks like a lower-case "q."  
 6 **Q. Yeah.**  
 7 A. So that area is currently zoned LR2. But what it is, it's  
 8 Holy Rosary Church, which has been there for a hundred  
 9 years, the school, Hope Lutheran School, Seattle Lutheran  
 10 High School. So that's just to give you some context for  
 11 what's there.  
 12 But anyway, so Oregon-Genesee-Dakota area is characterized  
 13 by a lot of smaller single family bungalows, 90 to a hundred  
 14 plus years old.  
 15 And I have some pictures of that area. So the first one  
 16 is Exhibit 241-6.  
 17 **Q. Uh-huh.**  
 18 A. Although as it turns out, I think I was taken with the  
 19 trees, and you can really see more trees than you can see  
 20 houses. So -- but there are some better ones. Seven is  
 21 actually out of order.  
 22 **Q. And so what's significant about this in 6?**  
 23 A. Well, I was really just attempting to show that it's sort of  
 24 a smaller, old -- still very old homes. Still charming,  
 25 small, craftsman homes, but generally of a sort of smaller

1 scale, single story.  
 2 **Q. Okay. And that's the typical house that you would see in**  
 3 **that area?**  
 4 A. Yes. And 241-8 is actually probably a better picture,  
 5 because it's --  
 6 **Q. Okay.**  
 7 A. It's a different block, but just sort of showing you the --  
 8 **Q. Uh-huh.**  
 9 A. -- size of the houses. 241-9 is another typical home in  
 10 this area.  
 11 And that's not to say that there aren't two-story homes.  
 12 I mean, there are, definitely. And -- and there is some new  
 13 construction which I've shown in 241-10.  
 14 This is on 39th Avenue Southwest in that area, in the  
 15 Oregon-Genesee-Dakota area. It's 4409 39th. You can see  
 16 that from the address. And this was built in 2010. And as  
 17 you can see, it is built in the craftsman style to remain  
 18 consistent with the existing neighborhood.  
 19 And 241-11 is a picture of the same house, attempting to  
 20 show the scale of it. You can see the next -- the house  
 21 next door, and it's not out of proportion.  
 22 **Q. Uh-huh.**  
 23 A. Let's see here. So the -- another thing I wanted to show  
 24 from that area, so if you move up to -- so you're in the  
 25 Oregon-Genesee-Dakota area, and if you were to go north on

1 **Q. Okay.**  
 2 A. And then finally, if you turn to 241-14, you'll see what  
 3 actually that looks like next to the home. So it's a  
 4 picture of the home with the 40-foot apartment next to it.  
 5 And just a reminder that lowrise 2 under MHA would be 40  
 6 feet tall. So that would be similar to what one would be  
 7 looking at in that area, because Oregon-Genesee-Dakota area  
 8 under the initial map and under the existing map is proposed  
 9 to go to lowrise 2, except --  
 10 **Q. That crosshatched part is --**  
 11 A. The crosshatched part --  
 12 **Q. -- to go to LR2 with a 40-foot height?**  
 13 A. Correct. So the only change between the initial map from  
 14 October 2016 and the preferred option is that little yellow  
 15 half block up between Genesee and Dakota on 41st. And that  
 16 was originally going to be lowrise 2. And in the preferred  
 17 option, for some reason it's become residential small lot.  
 18 **Q. And so you've -- when we were in each neighborhood, you've**  
 19 **mentioned this proposed map from 2016, and you've said the**  
 20 **only change.**  
 21 **Can you elaborate a little bit on what you mean by that?**  
 22 **Not too much detail, but just generally what the proposed**  
 23 **map was in 2016, and why you're -- why you think it matters**  
 24 **to talk about that.**  
 25 A. Because the map in -- as I mentioned, I first learned about

1 Oregon, which is the south border again, and if you went up  
 2 to 42nd Avenue South into the orange area --  
 3 **Q. 42nd Avenue Southwest?**  
 4 A. Yeah. Between --  
 5 **Q. (Inaudible) the --**  
 6 A. Yeah. You're now in the neighborhood commercial area.  
 7 **Q. To the east?**  
 8 A. Yeah. Well, you're going west on Oregon from --  
 9 **Q. I'm sorry. West. West.**  
 10 A. West on Oregon to 42nd.  
 11 **Q. Okay.**  
 12 A. So the picture 241-12, so that's a picture of a single  
 13 family home now in -- on that street. Now, of course that  
 14 street is now zoned neighborhood commercial 40, and it has  
 15 been for probably -- since before I moved in.  
 16 **Q. So is that the only single family home on that street?**  
 17 A. There are a couple left. But --  
 18 **Q. Okay.**  
 19 A. So this -- this is -- but this is the same style of home and  
 20 sort of size that would typify the Oregon-Genesee-Dakota  
 21 area.  
 22 **Q. Okay.**  
 23 A. So if you turn to Exhibit 241-13, you'll see a neighborhood  
 24 commercial 40, NC-40 building, which is actually right next  
 25 to that home.

1 the upzones when the map in October 2016 came out. And  
 2 purportedly there was input, you know, public input taken  
 3 for a significant period thereafter.  
 4 And from the West Seattle Junction Urban Village, which I  
 5 think we're probably going to talk about later, but there  
 6 was significant input given.  
 7 And so it's important to note what changes were actually  
 8 made between the October 2016 map versus the preferred  
 9 option that we see today.  
 10 **Q. Okay. And we'll talk more about that later. But I just**  
 11 **wanted to -- okay.**  
 12 A. Yes. That's why I'm noting it, just so we can see during  
 13 the --  
 14 **Q. Okay.**  
 15 A. You know, over a one-year period of input the changes that  
 16 actually made it into this preferred option.  
 17 **Q. Okay.**  
 18 HEARING EXAMINER: Ms. Newman, how much time do you  
 19 anticipate still on direct?  
 20 MS. NEWMAN: Quite a bit.  
 21 HEARING EXAMINER: Okay. We'll take a pause there, and  
 22 come back at 10:45.  
 23 (Recess)  
 24 HEARING EXAMINER: We return from our break with Ms.  
 25 Tobin-Presser on direct.

1 MR. THALER: Thank you.

2 **Q. (By Ms. Newman) Do you want to continue --**

3 A. Sure.

4 **Q. -- where we left off?**

5 A. So I think there was just one of the four single family

6 areas that would be rezoned to discuss. And so we were

7 looking at the Oregon-Genesee-Dakota area.

8 If you go directly to the right, you'll see a hatch-marked

9 area, a brown hatch-marked area that looks in the shape of a

10 hockey stick, and then next to it is a yellow strip sort of

11 paralleling it.

12 **Q. Uh-huh.**

13 A. That doesn't have a particular area -- name, as far as I

14 know. I'm just going to call it 32nd and Genesee, because

15 it's -- the bottom part is Genesee, and then 32nd is the

16 street going the other direction. So that area is -- it's a

17 close-knit single family community.

18 It is above -- if you look to the right in the pink

19 area -- or actually I guess that's north, but in the pink

20 area you'll see Avalon Way.

21 **Q. Uh-huh.**

22 A. That's a pretty significant street. And that -- the 32nd

23 and Genesee sits above Avalon.

24 **Q. When you say "sits above," you mean topography?**

25 A. Yes.

1 There's going to be two light rail station -- well, three

2 in West Seattle, but two in the junction; one in Avalon, and

3 then one somewhere within the -- closer to the Alaska-

4 California junction.

5 But in any event, it didn't seem to make sense to be

6 upzoning that area.

7 And so now when we have the final map, it's -- the zoning

8 is much less impactful. I can only speculate as to --

9 **Q. And so why wouldn't it make sense to upzone if that's where**

10 **the light rail station is?**

11 A. Because it would likely be subject to either eminent domain

12 on the one hand; or if the light rail station's going to be

13 there, and it's not directly impacting the property, the

14 property would be zoned for a much, much, much higher,

15 denser development as part of transit-oriented development

16 that close to a station. So --

17 **Q. Okay.**

18 A. It wouldn't make sense to zone for, you know, LR3 when you

19 could go much, much higher in ten years.

20 There's two cleanup items. One we'll stay with the map.

21 But I forgot to mention -- we talked about that triangle

22 area in the orange.

23 So unlike the historical junction area, which is the

24 shops, and restaurants, and things like that, the triangle

25 area has historically been sort of light industrial. It's

1 **Q. Hill -- there's a steep hill there?**

2 A. Yes.

3 **Q. Okay. And so the hill is -- the yellow single family within**

4 **the urban village there is uphill from the pink outside of**

5 **the urban village?**

6 A. Avalon itself is a hill starting from the north and heading

7 south. It's going up a hill. And then 32nd and Genesee is

8 up at the top of the hill.

9 **Q. 32nd and Genesee, okay.**

10 A. The -- the thing that was always interesting to West Seattle

11 Junction population, when the map first came out, the

12 original map, the hockey stick part that's hatched is

13 currently proposed to go from single family to lowrise 1,

14 30-foot townhomes. The other side is now proposed to go

15 from single family to residential small lot.

16 When the initial map came out it was much more dramatic.

17 The LR1 side was proposed to go to LR3, which would be 50-

18 foot plus apartment buildings, and then the other side

19 that's now RSL was proposed to be lowrise 1. And it was

20 always perplexing to the West Seattle Junction community,

21 because at the time the initial map came out, Sound Transit

22 had already indicated that -- well, they didn't indicate to

23 the public, but they had already identified this particular

24 area as a likely location for the light rail station in

25 Avalon.

1 where Alki Lumber is. There's a YMCA.

2 But with -- as I said, there are some large apartment

3 buildings that have been built there, and sort of the -- the

4 hope is that that area will start filling in as well, and

5 then there will be a connector between -- I mean a

6 pedestrian sort of connector between that historical

7 junction and the triangle that would really connect the two

8 areas together.

9 **Q. That was part of a neighborhood plan, correct?**

10 A. Yeah.

11 **Q. That's not just a -- there's been a established --**

12 **A. Yeah.**

13 **Q. -- plan for that?**

14 A. That is the idea for the West Seattle Junction.

15 **Q. Okay.**

16 A. That would be -- become a -- a more -- it's sort of

17 underutilized right now, and it would become more utilized.

18 And -- and so there would be sort of this connected to areas

19 where there would be the shops, and restaurants, and -- and

20 commercial density, which --

21 **Q. At the junction?**

22 A. Correct.

23 **Q. Okay.**

24 A. And then the other thing I didn't say before is, Edmunds

25 slope, if you go back to that upside down L, and you go up

1 to Hudson Street, there's actually Mount St. Vincent  
 2 Retirement Home is up there, and I think it's where it says  
 3 LR3 in that lighter beige area in the -- that square that's  
 4 not crosshatched.  
 5 **Q. Okay. And again, that's a steep slope area?**  
 6 A. Yeah. The -- I might be incorrect that that brown part is  
 7 the retirement home. It might be on the next block.  
 8 Because that's actually more at the top of the hill. The --  
 9 the retirement home isn't actually sitting on that --  
 10 **Q. So it's --**  
 11 A. -- sloped.  
 12 **Q. -- generally in that area?**  
 13 A. Yes.  
 14 MS. NEWMAN: Okay. So, Mr. Examiner, I would like to  
 15 offer Exhibit 240 and 241 (inaudible).  
 16 HEARING EXAMINER: Any objections?  
 17 MR. KISIELIUS: None.  
 18 HEARING EXAMINER: 240 and 241 are admitted.  
 19 (Exhibits No. 240 and 241 admitted)  
 20 **Q. (By Ms. Newman) And did you have anything else to say about**  
 21 **these two in the --**  
 22 A. No, not right now.  
 23 **Q. -- general narrative? Okay.**  
 24 A. I might later.  
 25 **Q. That's -- keep them handy. So let's talk about the EIS then**

1 **Q. Okay.**  
 2 A. And also -- I mean, and there are great views of Mount  
 3 Rainier as well.  
 4 **Q. Okay. All right. Let's look at the EIS then. We're going**  
 5 **to pull that out, and we'll go page -- page through that a**  
 6 **little bit.**  
 7 A. Is that --  
 8 **Q. And also --**  
 9 A. Is that Exhibit 2?  
 10 **Q. So Exhibit 2 is that huge notebook right there in front of**  
 11 **you. Yes, it's Exhibit 2. And we're going to focus on the**  
 12 **land use chapters and the aesthetics chapters, but I'll**  
 13 **point everyone to page numbers as we go.**  
 14 **Did you review the MHA EIS?**  
 15 A. Well, I definitely did. I didn't read it cover to cover,  
 16 but I did read all of specific sections and parts of other  
 17 sections.  
 18 **Q. All right. And so we have Chapter 3.3, the EIS discloses**  
 19 **and analyzes aesthetic impacts, which starts on page 3.160.**  
 20 A. Okay.  
 21 **Q. If you want to open up to that.**  
 22 A. I'm there. I think it's 3.159 that it --  
 23 **Q. Oh, right.**  
 24 A. First page.  
 25 **Q. You're right. And you -- did you review this chapter?**

1 **for the MHA proposal.**  
 2 **Oh, actually, before I do that, I want to talk a little**  
 3 **bit more about the existing conditions there.**  
 4 **Is this a residential urban village, or a hub urban**  
 5 **village? What type of urban village is the West Seattle**  
 6 **Junction?**  
 7 A. It's what's called a hub urban village, because the vision  
 8 for it was that it would be a place where there would  
 9 actually be jobs beyond retail, and restaurant, and things  
 10 like that, that it would actually be a job destination.  
 11 **Q. Okay.**  
 12 A. Unfortunately, that hasn't been the case. So it has a lot  
 13 of characteristics of what you would think of as a  
 14 residential.  
 15 **Q. Okay. And are there views -- can you just give me a general**  
 16 **big picture of whether or not there are different views of**  
 17 **different important -- you know, like downtown, or Mount**  
 18 **Rainier and that sort of thing in this area?**  
 19 A. Yes. There are very beautiful views. Because you know how  
 20 they say Seattle is built on seven hills; one of them is  
 21 what's High Point in West Seattle.  
 22 And so as you're going along 35th, and -- and really all  
 23 of it, you're heading up as you're going north to south.  
 24 And so there are amazing views of the city facing east.  
 25 There are amazing views of Puget Sound up to the west.

1 A. I did. I'm part of the Junction Neighborhood Organization,  
 2 and we submitted a comment to the draft EIS, and I was  
 3 responsible for analysis of this chapter. So I did read  
 4 both the draft and the final.  
 5 **Q. All right. And does the EIS include a discussion of the**  
 6 **character development patterns, the land use, and all of**  
 7 **those details that you just testified about about West**  
 8 **Seattle anywhere in that chapter?**  
 9 A. No. Nowhere in the chapter.  
 10 **Q. Anywhere in the whole EIS that you're aware of?**  
 11 A. No, it does not. I am aware that it does not.  
 12 **Q. All right. And then looking at 3.3, do you see on that**  
 13 **page -- that first page of the chapter there's a section**  
 14 **called 3.3.1 called Affected Environment?**  
 15 A. Yes. That's where I had thought that there would be a  
 16 description of the current condition -- aesthetic condition  
 17 of West Seattle since it's being significantly affected.  
 18 But there's nothing there.  
 19 **Q. So what does it talk about?**  
 20 A. It basically talks about -- generally about floor area ratio  
 21 and building heights throughout the city. And then there's  
 22 a map of allowed heights over the whole city, which --  
 23 **Q. And so I want to make a distinction. So the map is about**  
 24 **allowed -- what the regulations allow, or is it about the**  
 25 **actual heights of buildings?**

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1 A. Allowed.

2 **Q. What are allowed?**

3 A. Yes. That's on page 3.161.

4 **Q. And is there anything in the EIS that describes -- wait.**

5 **I'm sorry. What about -- let's look at page 3.163.**

6 A. Okay.

7 **Q. There's three pictures on there, and they show an image**

8 **of -- this is under the heading Affected Environment. And**

9 **so what do you -- how do you interpret that? And tell me if**

10 **that adequately addresses and describes West Seattle, what**

11 **you were testifying earlier.**

12 A. Okay. So what this purports to describe is establish single

13 family housing areas, new infill single family housing and

14 lowrise multifamily infill housing areas.

15 And certainly with respect to the West Seattle Junction,

16 and I imagine other areas as well, it's extremely

17 misleading, and it certainly doesn't describe the existing

18 area. And --

19 **Q. It doesn't describe west -- like the actual neighborhood?**

20 A. No.

21 **Q. It's just a generic?**

22 A. No. And it's actually misleading.

23 **Q. How is it misleading?**

24 A. Well, if you look at the picture that's supposed to be

25 established single family housing areas, as you can see,

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1 it's actually a picture of a sidewalk. There's some houses

2 to the left-hand side of the picture. They're not -- you

3 can't even see what they look like.

4 The second picture is -- is purporting to show what new

5 single -- infill single family housing looks like in the

6 areas to be affected. And it's that boxy, geometric style

7 that's sort of hulking.

8 And certainly in the West Seattle Junction Urban Village

9 that is not predominantly the case. And I would just, as I

10 said, I would probably be going back to a couple of the

11 pictures.

12 But if you look at Exhibit 241, picture number 10, that's

13 an example of new infill construction within the West

14 Seattle Urban Village, and it looks nothing like that

15 picture.

16 If you look down at the third picture, which is lowrise

17 multifamily infill housing, it is in exactly the same style

18 as the above picture of new infill single family housing,

19 and it's taken from much farther away.

20 So it gives the impression that it's very similar in scale

21 to the new infill single family housing. So the implication

22 of this page is, you know, first that existing character of

23 the single family housing areas isn't even important enough

24 to show a real picture of.

25 Second, that new -- new housing looks like this boxy,

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1 geometric structure; and then third, and the new multifamily

2 construction will look the same; and therefore, you know,

3 who really cares? There's not really going to be an impact.

4 It's all going to look like what's already coming in anyway.

5 And that is not the case in the West Seattle Junction.

6 **Q. Okay. And on this new single family housing, how do you**

7 **know that it's not the case that West Seattle Junction is**

8 **transforming into what they're showing -- or that that's the**

9 **existing -- that reflects the current existing environment**

10 **or architecture in West Seattle Junction right now?**

11 A. Well, as I mentioned, I was the person in JuNO that was

12 responsible for kind of looking at this section, so I

13 already knew sort of generally that that wasn't the case.

14 But when I read the EIS, I went to Zillow and looked up

15 every single family parcel in the West Seattle Junction

16 Urban Village, and made a note of when it was built. And

17 everything that was built within the last 25 years I drove

18 by and looked at to determine whether or not it actually

19 looked like this new infill single family housing depicted

20 here. And very little did.

21 **Q. Okay. And did you provide that data as part of JuNO's**

22 **response to the EIS?**

23 A. I did. It's in -- it's actually in the published final

24 environmental impact statement in the comments section.

25 It's under -- it's under -- for some reason, even though

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1 JuNO submitted the comment, it's under -- I think it's under

2 Presser. But --

3 **Q. Okay.**

4 A. Maybe Tobin-Presser.

5 **Q. Okay. So it's under your name?**

6 A. Yes.

7 **Q. Not --**

8 A. I'm not sure why.

9 **Q. Not the organization?**

10 A. Right.

11 **Q. All right.**

12 A. The entire JuNO comment, for some reason, is under my name.

13 MS. NEWMAN: If I could, I have another exhibit I'd like

14 to have marked. I don't know if this will be all one

15 exhibit, or four separate. I think one would be our

16 preference.

17 And I can give you all a copy. This is a SCALE exhibit.

18 And I don't know the number of the SCALE exhibit, but I can

19 look it up.

20 HEARING EXAMINER: That would be helpful.

21 MS. NEWMAN: All right.

22 HEARING EXAMINER: So these are?

23 MS. NEWMAN: These are SCALE Exhibits 193 through 196, and

24 I have -- will offer them either as four separate or one

25 single, deferring to the Examiner on how you would prefer.

1 HEARING EXAMINER: So I'm just trying to figure out what  
 2 they are to determine whether they should be a single  
 3 exhibit or --  
 4 MS. NEWMAN: Oh, I could have -- I can walk through that  
 5 if you'd like to do that before we mark it.  
 6 HEARING EXAMINER: Yeah. I mean, I can see just by  
 7 looking at them that they relate to four different --  
 8 MS. NEWMAN: They're data --  
 9 HEARING EXAMINER: -- single family home neighborhood  
 10 areas that were just described by the witness.  
 11 MS. NEWMAN: Right. It's just a compilation of data on  
 12 each of those different areas.  
 13 HEARING EXAMINER: Are we going into each one? Or...  
 14 MS. NEWMAN: Probably not.  
 15 HEARING EXAMINER: However --  
 16 MS. NEWMAN: Not to much of a degree. Just --  
 17 HEARING EXAMINER: Okay.  
 18 MS. NEWMAN: (Inaudible).  
 19 HEARING EXAMINER: Then we can do a single exhibit, and  
 20 this will be Exhibit 242.  
 21 (Exhibit No. 242 marked)  
 22 **Q. (By Ms. Newman) Ms. Tobin-Presser, I have, as you know, just**  
 23 **had a new exhibit marked. And I believe you have a copy of**  
 24 **the four different documents in front of you. Can you**  
 25 **describe those for us, if you -- do you know what those are?**

1 **Oregon -- let's look at the Oregon-Genesee-Dakota. I don't**  
 2 **think we need to go through all four of them, but just to**  
 3 **give us an idea of what the information is telling us.**  
 4 A. Okay. So it -- you can see that the -- the top is -- the  
 5 top table is a summary of the table that's underneath. And  
 6 the table underneath has the address of each single family  
 7 parcel within that -- the Oregon-Genesee-Dakota area that we  
 8 looked at on the map. And it has the year it was built.  
 9 And then it shows the two cross streets just so you can  
 10 easily find them on the map.  
 11 Under initial maps it shows what the zoning designation  
 12 was proposed to be under the October 2016 map, and then it  
 13 shows what it is under the preferred alternative.  
 14 Then if you look at the summary at the top, it just  
 15 summarizes how many --  
 16 **Q. So wait. I'm sorry. So initial map means what the**  
 17 **proposal -- this isn't the current zoning? It's what the**  
 18 **proposal was in 2016?**  
 19 A. Right. The current zoning --  
 20 **Q. Okay.**  
 21 A. -- for this is all single family.  
 22 **Q. So these -- both of these last two columns show proposal --**  
 23 **the preferred alternative is the ultimate proposal now, but**  
 24 **it doesn't -- we don't have the current zoning shown on**  
 25 **this?**

1 A. I do.  
 2 **Q. Okay. Can you describe them?**  
 3 A. So as the Hearing Examiner just had noted, each one of the  
 4 four is with respect to one of the single family  
 5 neighborhoods that I just went through. And it -- each one  
 6 contains the data that I -- among other things, the data I  
 7 just described with respect to the year that each house on  
 8 each single family parcel was built.  
 9 It also contains -- so it contains the year it was built,  
 10 and then I calculated the number of years old, and then I  
 11 showed the concentration of homes being built within various  
 12 years. And then as you can see, so -- I'm not doing a very  
 13 good job at (inaudible). Sorry.  
 14 **Q. Well, I guess just a big picture of why -- why did you do**  
 15 **this, and why does this matter?**  
 16 A. Because I wanted --  
 17 **Q. This information?**  
 18 A. -- to show when houses were -- well, twofold. One, I wanted  
 19 to show when -- when the houses in the West Seattle Junction  
 20 were actually built, and how many were actually built in  
 21 that boxy, geometric style that's represented as new infill  
 22 single family housing within the EIS.  
 23 And then the other thing it shows is the difference  
 24 between the initial map and the preferred alternative.  
 25 **Q. Okay. And so if you could just tell us generally on the**

1 A. It's -- right. It's just --  
 2 **Q. Okay.**  
 3 A. -- at the top it says rezone to single family zoning, which  
 4 doesn't mean it's being rezoned to -- to single family  
 5 zoning. It's all of this is -- is --  
 6 **Q. Okay.**  
 7 A. -- existing single family zoning.  
 8 **Q. Okay.**  
 9 A. And so the table at the top, you -- you can see the  
 10 concentration of when homes were built. So you see the  
 11 period from 1907 to 1927, which would be 110 to 90 years  
 12 old. Sixty-one of the homes in that area were built between  
 13 then, and so on for these various. 1929 to 1949, there were  
 14 22 built, et cetera.  
 15 Between 2002 and 2013 you can see there were 12 homes  
 16 built, and one of those 12 homes was built in that boxy,  
 17 geometric style that's depicted in the EIS.  
 18 **Q. All right.**  
 19 A. And you can also see that there's not a whole lot of new  
 20 construction happening.  
 21 **Q. And a quick look shows me that zero boxy, geometric houses**  
 22 **were built at 32 -- in this 32nd and Genesee area, correct?**  
 23 A. Correct.  
 24 **Q. And zero in the Edmunds slope area?**  
 25 A. Correct.

1 **Q. But four were built in the Fairmount Springs area?**  
 2 A. Yes. But that is -- I would just take a note that that is  
 3 the largest of the four areas. It has the most houses.  
 4 **Q. Okay. Oh, there's 124 homes in Fairmount Park that are**  
 5 **between 1906 and 1927?**  
 6 A. Yes. That's by far the largest concentration of houses, as  
 7 you can see.  
 8 **Q. Okay. Is there anything else you'd like to describe or tell**  
 9 **us about this?**  
 10 A. No. Not right now.  
 11 MS. NEWMAN: All right. Mr. Examiner, I move to admit  
 12 exhibit -- yeah. We did mark it. I move to admit 242.  
 13 HEARING EXAMINER: Any objection?  
 14 MR. KISIELIUS: None.  
 15 HEARING EXAMINER: 242 is admitted.  
 16 (Exhibit No. 242 admitted)  
 17 MR. KISIELIUS: I'm sorry. That was 242?  
 18 HEARING EXAMINER: Uh-huh.  
 19 MR. KISIELIUS: Thank you.  
 20 **Q. (By Ms. Newman) Did the EIS show the aesthetic impacts of**  
 21 **changing single family zoning in the West Seattle Junction**  
 22 **Urban Village to RSL, or to LR1, or to LR2, from single**  
 23 **family to those three different zones?**  
 24 A. Within the West Seattle Junction, definitely not. And sort  
 25 of generically otherwise. But on page 3.169, under impacts.

1 **Q. You said that there's a nursery home there, and there's a**  
 2 **slope there. And so you're saying the EIS doesn't look at**  
 3 **the impact of upzoning adjacent to around the nursing home**  
 4 **and the slope impacts, that sort of thing?**  
 5 A. No.  
 6 **Q. Like that's an example of what is not considered in the EIS?**  
 7 A. Correct.  
 8 **Q. All right. So let's look at page 3.179. What is --**  
 9 **there's -- it looks like some graphics from 3.178, several**  
 10 **pages. Have you reviewed these?**  
 11 A. I have.  
 12 **Q. And tell me what -- what you understand those to be.**  
 13 A. So on 3.179, my understanding that this is purporting to  
 14 show what it would look like when existing single family,  
 15 which is the white house -- houses when -- if residential  
 16 small lot zoning is implemented, and the yellow would be  
 17 residential small lot, so what that would look like.  
 18 **Q. And is that a street in West Seattle?**  
 19 A. No.  
 20 **Q. Okay. Do you recognize -- do you know where that street is?**  
 21 A. No. I think it's just a generic --  
 22 **Q. All right.**  
 23 A. -- street.  
 24 **Q. What's your reaction to whether this is an adequate**  
 25 **depiction of aesthetic impacts that are going to be caused**

1 **Q. All right. So I do want to make -- just to be clear. We**  
 2 **have been so far talking about the affected environment,**  
 3 **which is the existing environment.**  
 4 **Now we're going to move our discussion into the impacts.**  
 5 **And so page 3.169 is the beginning of that chapter where**  
 6 **they discuss impacts of the MHA proposal; is that right?**  
 7 A. Right.  
 8 **Q. Okay. And continue. Sorry.**  
 9 A. No. That's okay. I'm just trying to find the -- the line.  
 10 So under -- under the 3.3.2, Impacts, the EIS specifically  
 11 says that, because MHA is a broadly defined city-wide  
 12 program, the EIS does not provide a detailed or site-  
 13 specific analysis of aesthetic impact at any specific  
 14 location.  
 15 But to the extent that that's suggesting that it's not  
 16 doing it on a parcel-by-parcel basis, I would just note that  
 17 it's not doing it by neighborhood basis.  
 18 So nowhere in the EIS is there a description of the  
 19 changing to West Seattle Junction Urban Village.  
 20 **Q. So for example, I'm just going to throw out a hypothetical**  
 21 **here. If -- let's look at the Genesee area again, which is**  
 22 **that upside down hockey -- or upside down L.**  
 23 A. So that's the Edmunds slope.  
 24 **Q. Oh, Edmunds slope.**  
 25 A. Uh-huh.

1 **by the MHA proposal?**  
 2 A. Well, my reaction is that it -- it's not adequate for a  
 3 number of reasons. As you just pointed out, this is just,  
 4 like, a drawing of Anywhere U.S.A. Street. It doesn't look  
 5 like the West Seattle Junction.  
 6 And also, where the residential small lot is inter- -- is  
 7 supposed to be interspersed with the single family, it's way  
 8 to the back of the picture.  
 9 So residential small lot is just -- under MHA is two  
 10 25-foot structures allowed on a lot is my understanding,  
 11 which makes the structures much closer together, and also  
 12 has an impact on the front yard.  
 13 Those impacts can't be seen in this type of drawing,  
 14 because they're way in the back, and there's a car in front  
 15 of -- it's blocking your view, and you can't -- because  
 16 it's -- the angle it's taken, you can't tell how close they  
 17 are together.  
 18 **Q. Okay.**  
 19 A. Did you want me to go through --  
 20 **Q. Yeah.**  
 21 A. Did you want to ask (inaudible)?  
 22 **Q. I'm sorry. I was just thinking. We can, yeah, go to the**  
 23 **next one. And --**  
 24 A. Okay.  
 25 **Q. -- page 3.181. And what is this showing?**

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 **for all of the uses or -- surrounding that urban village?**  
 2 **You don't have to know. If you don't know, that's fine.**  
 3 A. Well, a lot of it is single family. My only hesitation is  
 4 that along Fauntleroy, for example, or 35th, I would expect  
 5 there to be more -- some multifamily zoning just because of  
 6 their busy streets. And --  
 7 **Q. Okay. But you can't tell from looking at this map --**  
 8 A. No.  
 9 **Q. -- what the zoning is --**  
 10 A. No.  
 11 **Q. -- outside of the --**  
 12 A. No.  
 13 **Q. -- (inaudible)? Okay. All right. Is there anything else**  
 14 **with respect to these graphics? Do you want to look at the**  
 15 **transition area or the neighborhood commercial at all?**  
 16 A. I don't have anything to add.  
 17 **Q. Okay. Why is it important for the public and decision**  
 18 **makers to have an understanding of the aesthetic -- the**  
 19 **significant aesthetic impacts to the single family areas in**  
 20 **the West Seattle Junction Urban Village?**  
 21 A. Well, I can think of a lot of reasons. I'll share a few.  
 22 So if the impacts aren't clear, there is no way of -- for  
 23 decision makers and the public to evaluate whether --  
 24 whether the mitigation that's being proposed is actually  
 25 mitigating the issue.

1 **on how to zone --**  
 2 A. Exactly.  
 3 **Q. -- a neighborhood?**  
 4 A. Without an understanding of the contextual reality of where  
 5 the rezoning is being proposed, for example, right next to  
 6 the historic junction, which is the center of what -- what  
 7 I'll call the small-town feel that the neighborhood plan was  
 8 seeking to preserve, then decision makers have no idea that  
 9 the rezones are going to destroy what the neighborhood  
 10 worked so hard to put into a plan.  
 11 And then when neighborhoods propose alternatives within  
 12 urban villages, decision makers have no way of evaluating  
 13 the desirability of those proposed alternatives.  
 14 **Q. All right. Any -- I have a -- we have another section. I'm**  
 15 **wrapping this up, but I'm starting --**  
 16 A. Also the design --  
 17 **Q. But I want -- did you want to talk about a few more?**  
 18 A. Appendix F.  
 19 **Q. Oh, right, right. There is a document in the EIS that is**  
 20 **referred to -- it's in Appendix F, and it's referred to as**  
 21 **the Urban Design and Neighborhood Character Study. Have you**  
 22 **reviewed that document?**  
 23 A. Yes, I have.  
 24 **Q. And can you describe --**  
 25 MS. NEWMAN: This is in Exhibit 2, just for the record,

1 And a perfect example is that photograph we looked -- the  
 2 photographs we looked at where the houses on one side are  
 3 set up much higher than on the other side. Because one of  
 4 the three major mitigations that is being proposed for  
 5 these -- rezoning the single family areas are side facade  
 6 modulation, design review, and upper story setbacks.  
 7 So upper story setbacks is what the one that would be most  
 8 likely to be utilized for shading effects. So if -- if you  
 9 have no -- if a decision maker has no idea that on X street  
 10 or Y street the houses are set up way above the other side  
 11 of the street, they would have no way of knowing that an  
 12 upper story setback is going to do nothing to mitigate that.  
 13 So that is one reason.  
 14 And another reason is the -- if the existing aesthetics  
 15 are not properly and accurately described, then decision  
 16 makers and the public have no idea -- they have no way of  
 17 knowing whether it's something that is worth preserving,  
 18 whether the public has an interest in preserving.  
 19 **Q. And not -- when you said aesthetics, also the existing land**  
 20 **use, and development patterns, and topography, I mean, do**  
 21 **you -- are you including all of those --**  
 22 A. Sure. Yeah.  
 23 **Q. -- in that concept?**  
 24 A. Absolutely. Absolutely.  
 25 **Q. Those are important to be able -- to know to make decisions**

1 Appendix F of Exhibit 2.  
 2 **Q. (By Ms. Newman) Can you describe generally what you**  
 3 **understand this to be, and what your reaction is to it with**  
 4 **respect to whether it adequately addresses the issues we've**  
 5 **been talking about.**  
 6 A. So what I understand this is supposed to be is something  
 7 that's going to be showing the public and decision makers,  
 8 giving an idea of what the new zoning designations would  
 9 look like within a neighborhood. And I'm not going to go  
 10 through each of them.  
 11 But if you -- well, I don't know if everybody is there  
 12 yet. But it's City of -- it's 2081, the City of Seattle  
 13 Bates stamp 2081. Well, what I'm actually going to look at  
 14 is 208 -- 2091. So it's part of this urban design and  
 15 neighborhood character study, and it's the section with  
 16 respect to lowrise 2.  
 17 **Q. And can you also give us a page number of the actual study?**  
 18 A. Twenty-six.  
 19 **Q. Okay.**  
 20 A. Page 26 of the actual study. Okay. So I think that this is  
 21 supposed to be showing what lowrise 2, new lowrise 2 zoning  
 22 buildings are going to look like and what -- give us an idea  
 23 of what they're going to look like within the existing  
 24 neighborhood, I think. If that's the case, it doesn't --  
 25 it's inadequate.

1 So we have already looked at in page -- in Exhibit  
 2 241-14 -- dash 14 exactly what a lowrise 2 building would  
 3 look like next to a house. These pictures on pages --  
 4 **Q. And that's, by the way, a lowrise 2 under the current**  
 5 **zoning?**  
 6 A. Yes.  
 7 **Q. So it would actually with M added to it --**  
 8 A. No. It's lowrise 2. It's NC-40 right now.  
 9 **Q. Okay.**  
 10 A. So it's a 40-foot apartment building. But under the new  
 11 lowrise 2, which would have a 40-foot height limit.  
 12 **Q. Oh, I see.**  
 13 A. That's the height we're looking at.  
 14 **Q. Okay. Okay.**  
 15 A. So we know what that would look like, these pictures,  
 16 they're aerial shots, first of all.  
 17 **Q. And so what's the significance of it being an aerial shot?**  
 18 A. Because you can't tell how tall it actually is --  
 19 **Q. Okay.**  
 20 A. -- at all. They look like Legos. They're not -- they don't  
 21 even attempt at this point to -- to look like actual  
 22 structures.  
 23 The only one that maybe is next to a single family is on  
 24 page 27. And the picture at the top, it's cut off, but I  
 25 assume that that's supposed to be single family on the left.

1 A. You can tell that from the first sentence, because it says  
 2 the City will not complete adopting zoning changes until  
 3 summer of 2017. So that's --  
 4 **Q. So is there anything in here that would confirm for us that**  
 5 **this is the actual proposal that is being the preferred**  
 6 **alternative, this represent -- these graphics even show us**  
 7 **what the preferred alternative is?**  
 8 A. No.  
 9 **Q. Okay. All right. So we're going to do a quick discussion**  
 10 **about the land use impacts, the comprehensive plan, and**  
 11 **neighborhood plan issues, and that is then Chapter 3.2.**  
 12 **Have you reviewed the chapter in the Exhibit 2, MHA EIS 3.2?**  
 13 A. Yes. Sort of struggling to get there, though.  
 14 **Q. Oh, sure.**  
 15 A. Can you (inaudible).  
 16 **Q. Yeah. It's page 3.100.**  
 17 A. Okay. Oh, I'm there. I'm sorry.  
 18 **Q. Are you there? Okay. So this chapter, like the aesthetics**  
 19 **chapter, has a section on affected environment, and then it**  
 20 **has a later section on impacts, which is what EISs do.**  
 21 **Have you -- or does the affected environment section**  
 22 **contain a description of the land use zoning, specifically**  
 23 **in the context of the West Seattle Urban Village as it is**  
 24 **now?**  
 25 A. No, it doesn't. What it does basically is discuss what

1 But again, these look like Legos, and it's an aerial  
 2 structure. It's not helpful to see -- you can't see a  
 3 height difference obviously in that picture.  
 4 And then there's -- there's again no -- no reference to  
 5 any topography of the neighborhood in these pictures.  
 6 **Q. For the existing --**  
 7 A. Well, aesthetic, or -- or you know, what the houses actually  
 8 look like that aren't, you know, Legos.  
 9 **Q. And is this document dated, are you aware? Or did you look**  
 10 **for a date? Did you see any date?**  
 11 A. I didn't look for a date.  
 12 **Q. Okay.**  
 13 A. But it --  
 14 **Q. Do you see --**  
 15 A. It's not on the first page.  
 16 **Q. Do you have -- from looking at the --**  
 17 A. Well, it -- it does say -- it does -- no. Actually, no.  
 18 I'm sorry. I don't know.  
 19 **Q. Page 4.**  
 20 A. Oh, the models in this study reflect public input received  
 21 since June of 2016. It says that under Community Input.  
 22 **Q. And this is a draft for public input, so it's sometime**  
 23 **before the summer of 2017 --**  
 24 A. Yes.  
 25 **Q. -- this was put out?**

1 urban centers and urban villages are and -- just generally.  
 2 **Q. Just throughout the whole city?**  
 3 A. Yes. Like in a paragraph or so each. Then in a paragraph  
 4 or so each it -- it goes through what the existing zoning  
 5 designations within the urban villages and I think urban  
 6 centers are.  
 7 **Q. So that's 3.103, they're describing generally what single**  
 8 **family residential is, what multi -- so they're educating us**  
 9 **on what these different zones are?**  
 10 A. That's correct. And then the other thing that it does is  
 11 sort of generally talk about the ratios of the zoning within  
 12 the urban villages.  
 13 So for example, it does mention West Seattle Junction  
 14 Urban Village once, and it says that -- that a quarter of  
 15 the urban village usage is single family residential. But  
 16 it doesn't say every percentage of every zoning designation  
 17 for every urban village.  
 18 **Q. Okay. And does it describe what the West Seattle Junction**  
 19 **Urban Village actually looks like, or where it's located, or**  
 20 **what the context is for the single family use?**  
 21 A. No. Not at all.  
 22 **Q. Okay. And other land uses, and what the other land uses are**  
 23 **in the urban village, does it describe that?**  
 24 A. Not really, no. The -- I mean, only reference to West  
 25 Seattle Junction Urban Village in that section is with

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1 respect to the one-quarter single family usage.  
 2 **Q. In the affected environment section?**  
 3 A. Correct.  
 4 **Q. Okay. And were you present for the testimony of Rich**  
 5 **Koehler?**  
 6 A. No. Unfortunately not.  
 7 **Q. All right. Well, he testified about the neighborhood plan**  
 8 **policies and the Seattle comprehensive plan for the West**  
 9 **Seattle Junction neighborhood, and he pointed out that they**  
 10 **were not mentioned anywhere in EIS, so we don't need to**  
 11 **repeat that. But -- and he read a couple of them out loud**  
 12 **into the record.**  
 13 **And I just want to go one more step with those, because**  
 14 **there's a couple more points to be made there.**  
 15 **Are you familiar with the 2035 Seattle comprehensive plan,**  
 16 **and generally the West Seattle Junction neighborhood plan**  
 17 **policies in that plan?**  
 18 A. Yes to both.  
 19 **Q. Okay. Let's pull out the comp plan. I think that is**  
 20 **Exhibit --**  
 21 A. Three.  
 22 **Q. -- 3.**  
 23 A. I'm there.  
 24 **Q. All right. So the comp plan has neighborhood plan policies;**  
 25 **is that correct?**

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1 A. Yes.  
 2 **Q. All right. Is the -- and you testified earlier that you're**  
 3 **familiar with the MHA legislative proposal?**  
 4 A. I am.  
 5 **Q. Is the proposal inconsistent with any -- well, let's open up**  
 6 **actually to the West Seattle Junction policies.**  
 7 A. Okay. So the -- oh, sorry.  
 8 **Q. Page 403 of the comprehensive plan.**  
 9 A. Okay. So yeah. It's way in the back.  
 10 **Q. Yeah.**  
 11 A. Because it's in alphabetical order.  
 12 **Q. And -- yeah.**  
 13 A. Okay. I'm there.  
 14 **Q. Page 403. Is the MHA legislative proposal inconsistent with**  
 15 **any of the West Seattle Junction neighborhood policies and**  
 16 **goals?**  
 17 MR. KISIELIUS: Mr. Examiner, I'm going to object because  
 18 I think we're getting into the council bill that is before  
 19 council that has not yet been adopted.  
 20 We're not comparing the final EIS with the comp plan.  
 21 We're comparing what's in the comp plan to a council bill  
 22 that wasn't in existence when the final EIS was drafted.  
 23 MS. NEWMAN: Wait. What?  
 24 MR. KISIELIUS: Did you just say -- your question was  
 25 about the council bill.

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1 MS. NEWMAN: Oh, how about if I just say the MHA proposal  
 2 that's being addressed in the EIS.  
 3 MR. KISIELIUS: That would be okay.  
 4 MS. NEWMAN: That's been analyzed in the EIS.  
 5 MS. TOBIN-PRESSER: The preferred option.  
 6 MS. NEWMAN: The preferred option.  
 7 MR. KISIELIUS: Thank you. Yes.  
 8 MS. NEWMAN: Okay. I would expect the same thing.  
 9 Anyway, okay.  
 10 A. Could you repeat your question.  
 11 **Q. (By Ms. Newman) Is the MHA proposal inconsistent with any of**  
 12 **the West Seattle Junction neighborhood policies or goals?**  
 13 A. Yes. It is inconsistent with many of them. And I'm happy  
 14 to walk through them.  
 15 So there are two goals and policies that the MHA -- the  
 16 preferred option would just completely obliterate, and  
 17 that's West Seattle Junction goal number one.  
 18 The very first goal in the plan, community character goal,  
 19 a small-town community with its own distinct identity  
 20 comprised of a strong single family residential community  
 21 and a vibrant mixed use business district serving the  
 22 surrounding residential core.  
 23 Then if you turn over --  
 24 **Q. And it's inconsistent with that because?**  
 25 A. Because it would eliminate --

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1 **Q. Because strong single family residential community in the**  
 2 **West Seattle Junction is actually being -- will no longer --**  
 3 A. It will be totally eliminated.  
 4 **Q. Okay.**  
 5 A. On page 405, at the top --  
 6 **Q. Let me just clarify. Because the proposal, MHA proposal is**  
 7 **to upzone all of the single family within the urban village**  
 8 **to LR1 or 2?**  
 9 A. Primarily LR1. In the West Seattle Junction primarily  
 10 lowrise 1 and lowrise 2 with two half -- a couple blocks  
 11 of --  
 12 **Q. Okay.**  
 13 A. -- residential small lot. But I would just add that the MHA  
 14 proposal at all times has been to upzone every single family  
 15 zoned parcel in every urban village.  
 16 **Q. Right.**  
 17 A. Not just West Seattle Junction.  
 18 **Q. Okay.**  
 19 A. At the top of page 405, under Housing and Land Use Policies,  
 20 West Seattle Junction Policy 13, Maintain the character,  
 21 integrity of the existing single family areas.  
 22 Those are the two -- two goals and policies that are just  
 23 completely steamrolled. But there are a number of other  
 24 implicated policies with which MHA is inconsistent.  
 25 And the whole context of the West Seattle Junction

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1 neighborhood plan, as we read in the first goal, is that  
 2 there is this overarching context to ensure this compact  
 3 mixed use commercial core surrounded by -- you know, with  
 4 the higher density, maintaining the small-town character,  
 5 with a single family area complementing it.  
 6 The community character policy number 1, which I'm just  
 7 going to read the relevant part. It's on page 403. Safe to  
 8 maintain and enhance a compact mixed use commercial core  
 9 with small-town character, and then it just says located  
 10 between 41st and 44th Avenue Southwest, Southwest Genesee  
 11 Street, and Southwest Edmunds Street.  
 12 So these would completely -- this would increase the  
 13 boundaries of that area.  
 14 **Q. The MHA proposal would increase -- or what would increase**  
 15 **the boundaries of that area?**  
 16 A. Well, it -- it wouldn't technically make it commercial, but  
 17 it would increase --  
 18 **Q. What would? What's "it"?**  
 19 A. The MHA preferred option --  
 20 **Q. Okay.**  
 21 A. -- wouldn't -- wouldn't make the area commercial, but it  
 22 would push out the boundaries into the -- the single family  
 23 areas, which is inconsistent with that goal of having the  
 24 compact, denser core surrounded by the single family areas.  
 25 **Q. Okay.**

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1 A. And again, on policy 3 on that same page, encourage  
 2 attractive higher density mixed use development within the  
 3 commercial core at a height compatible with the neighborhood  
 4 small-town scale.  
 5 So the -- the additional density is -- is supposed to be  
 6 directed into the commercial core, which has been happening,  
 7 as I described in the -- both the historical junction with  
 8 the 1500 units in the last ten years, the 500 in the  
 9 triangle, and then the additional development capacity  
 10 within that area.  
 11 **Q. Okay.**  
 12 A. Another huge issue in the neighborhood plan is the goal and  
 13 policy to ensure that affordable housing exists within the  
 14 West Seattle Junction Urban Village. And for that I would  
 15 point to West Seattle Junction goal number 5.  
 16 And let me just back up a second. The reason that it's  
 17 inconsistent -- I'm sure it's been discussed at length in  
 18 this hearing -- but under MHA, developers would be able to  
 19 build in these areas and build market rate housing that  
 20 would be unaffordable to many of the people within the West  
 21 Seattle Junction Urban Village, and would have the option to  
 22 pay a fee for affordable housing to be built outside of the  
 23 junction urban village.  
 24 So when you look at goal number 5, which is on page 404 at  
 25 the bottom, it says, A community with housing and amenities

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1 that support a population of diverse income, ages and other  
 2 social characteristics.  
 3 And even more to the point, On policy number 15, at the  
 4 top of the next page, it says, encourage opportunities to  
 5 provide affordable market rate housing in the neighborhood  
 6 for junction workers.  
 7 There are policies within the West Seattle Junction  
 8 neighborhood plan that speak to ensuring that parking and --  
 9 there's sufficient parking, and particularly that traffic  
 10 impacts within the West Seattle Junction Urban Village are  
 11 not negatively impacting the surrounding areas.  
 12 So I would point to West Seattle Junction policy number 12  
 13 on page 404. It says, Strive to protect the residential  
 14 neighborhoods surrounding the West Seattle Junction from  
 15 traffic impacts.  
 16 Obviously, significantly in- -- well, maybe it's not  
 17 obvious to everybody here.  
 18 But I will just say that the West Seattle Junction Urban  
 19 Village is the last stop along the way to getting on the  
 20 West Seattle Bridge, which is the primary way to downtown  
 21 Seattle for most of the West Seattle Junction -- or not West  
 22 Seattle Junction -- with West Seattle.  
 23 So starting down at Vashon Ferry, all that traffic going  
 24 through Morgan Junction, Gatewood, all along 35th,  
 25 everyone's getting on there going to the West Seattle Bridge

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1 to get downtown.  
 2 And so when you're vastly increasing the density of the --  
 3 and the cars by significantly upzoning the West Seattle  
 4 Junction, what you're doing is you're --  
 5 MR. KISIELIUS: Mr. Examiner, I'm going to offer an  
 6 objection at this point just because we're -- we're going  
 7 past I think what her experiences are with the neighborhood  
 8 and what she's anticipating to happen to a -- from a traffic  
 9 standpoint due to increased development that I don't think  
 10 she has the background or expertise to offer that opinion.  
 11 MS. NEWMAN: Evidence is what reasonable people can  
 12 rely -- a reasonable person can rely on. This is someone  
 13 who lives in the neighborhood, who's familiar with the  
 14 traffic pattern and knows exactly what -- where traffic  
 15 comes from, where it's going. It's a factual description of  
 16 what's happening, and just generally showing that this  
 17 policy is relevant to that issue.  
 18 MR. KISIELIUS: The basis of my objection --  
 19 HEARING EXAMINER: Overruled. I'm going to allow it from  
 20 this witness.  
 21 A. I would just add that I've lived --  
 22 HEARING EXAMINER: And it just goes to the weight of what  
 23 she's (inaudible).  
 24 A. Yeah. I lived in the neighborhood for 14.5 years, and have  
 25 seen what the additional increased density has done to the

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1 traffic. And there's no reason to suspect that, with a  
 2 significantly increased density, that the same would not  
 3 occur, only in greater volume.  
 4 So as I said, there would likely be significant impacts to  
 5 the residential neighborhoods as a -- as a result of  
 6 significantly increased density.  
 7 And then finally, although I'm not saying that this is all  
 8 the policies, the last one I'll talk about is the --  
 9 **Q. Wait. Let me unwrap that. You're saying there may be more**  
 10 **policies and goals that are relevant to this project beyond**  
 11 **what we're talking about today in your testimony?**  
 12 A. There may be.  
 13 **Q. Okay.**  
 14 A. So I just wanted to hit on sort of the --  
 15 **Q. Yeah, the highlights.**  
 16 A. Correct. So there are goals and policies relating to  
 17 ensuring that West Seattle preserves its existing open space  
 18 entry canopy, maintains it.  
 19 And I would -- I would point out that -- so I actually  
 20 elicited the -- the testimony of Carl Guess, Junction  
 21 Neighborhood Organization earlier in this hearing, and he  
 22 testified as to the West Seattle Junction being underserved  
 23 with respect to open space, and not meeting the City 's  
 24 percentage goal with respect to existing tree canopy, and  
 25 how the impacts -- how there would be impacts that would

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1 negatively -- that would exacerbate those issues were the  
 2 preferred option to be implemented.  
 3 And so I would just point to parks and open space -- I'll  
 4 just reference them. Parks and open space goal number 6,  
 5 and talks about the -- the open space issues; and policy  
 6 number 20 indicates that it's a policy to enhance the urban  
 7 forest with existing parks and open space areas.  
 8 **Q. So you've testified that the proposal -- MHA proposal is**  
 9 **inconsistent with these neighborhood policies and goals.**  
 10 **And let's say there is, you know, a dispute over that,**  
 11 **consistent or inconsistent. Is it also your testimony that**  
 12 **these are all applicable and relevant goals to be analyzed**  
 13 **or discussed with respect to the MHA proposal?**  
 14 A. Yes.  
 15 **Q. Okay.**  
 16 A. Open space, parks, transportation, traffic.  
 17 **Q. Okay. And have you -- let's see. Did you notice any other**  
 18 **policies or goals in the 2035 comp plan outside -- not in**  
 19 **the neighborhood section itself, but in the first section,**  
 20 **which is city-wide policies that the MHA proposal is**  
 21 **inconsistent with?**  
 22 A. Yes. A careful reading of the comprehensive plan shows that  
 23 MHA is not consistent with the goals and the approach that  
 24 are espoused by the comprehensive plan.  
 25 The comp plan clearly envisions the way in which urban

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1 villages are supposed to grow, including single family  
 2 areas.  
 3 And MHA proposal is doing something entirely different and  
 4 inconsistent with that. And I'm happy to walk you through  
 5 that.  
 6 **Q. Yes.**  
 7 A. Okay. So the first part isn't specific. I'm just setting  
 8 the groundwork for where the specific policies come from.  
 9 But turning to page 13 of the comprehensive plan -- oh,  
 10 I'm sorry. Page 12 -- yes, page 13. The third paragraph  
 11 down, it says, Of course urban villages are more than just  
 12 the fulfillment of the regional growth strategy. They are  
 13 neighborhoods where Seattle residents live, work, learn,  
 14 shop, play, and socialize.  
 15 After initial adoption of the plan, the city engaged in  
 16 the city-wide neighborhood planning effort that produced a  
 17 neighborhood plan for each area of the city containing an  
 18 urban center or urban village.  
 19 I'm going to skip -- skip down to the last sentence.  
 20 Since the neighborhood plans were first adopted, the city  
 21 has worked with communities to refine more than half of  
 22 those plans and help take action to accomplish the goals  
 23 that each community prioritized.  
 24 Then turning to page 18, the first full paragraph, it  
 25 says, In the event that a conflict arises between another

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1 city policy and this plan -- meaning the comprehensive  
 2 plan -- the plan will generally prevail.  
 3 On page 20 there is a flowchart that shows how  
 4 implementation of policies is supposed to flow. Seattle  
 5 comprehensive plan is the fourth one down, and then flowing  
 6 from the Seattle comprehensive plan are to be the  
 7 implementation tools, including MHA, although MHA is not  
 8 listed here. That would be an implementation tool.  
 9 So then on page 23 --  
 10 **Q. And so the significance here is you're saying the MHA**  
 11 **proposal is supposed to flow from the Seattle comprehensive**  
 12 **plan, not the other direction?**  
 13 A. Correct. If the -- if the comprehensive plan is describing  
 14 how growth within urban villages is supposed to occur, then  
 15 the implementation is supposed to be consistent with that.  
 16 **Q. Okay.**  
 17 A. Okay. On page 23, the -- the second paragraph from the  
 18 bottom, the third line down, it says, The city will continue  
 19 to work with its residents, businesses, and institutions  
 20 city-wide to promote conditions that will help each of its  
 21 communities thrive, but it will pay special attention to the  
 22 urban centers and villages where the majority of the new  
 23 housing and jobs is expected. The policies in this plan  
 24 provide direction for that change in growth.  
 25 So then I'll go to the policies, the relevant policies on

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1 page 52, starting with policy 7.2, there's four bullet  
 2 points.  
 3 The fourth one calls for using a range of single family  
 4 zones to respond to neighborhood plans calling for  
 5 redevelopment or infill development that maintains the  
 6 single family character of the area, but also allows for a  
 7 greater range of housing types.  
 8 So this particular policy doesn't say what the greater  
 9 range of housing types would be; however, land use policy  
 10 7.3 does.  
 11 It says, Consider allowing redevelopment or infill  
 12 development of single family areas inside urban centers and  
 13 villages when new development would maintain the low height  
 14 and bulk that characterizes the single family area, while  
 15 allowing a wider range of housing types, such as detached  
 16 accessory units, cottage developments, or small duplexes or  
 17 triplexes.  
 18 The comprehensive plan right here tells us exactly what is  
 19 supposed to happen when new development happens in the  
 20 single family areas within the urban villages. It is not  
 21 40-foot apartments. It is not 50-foot apartments. It is  
 22 not 30-foot lot-filling townhouses. It is right here, and  
 23 it says detached accessory units, cottage developments, or  
 24 small duplexes or triplexes.  
 25 Then land use policy number 7.5 says encourage accessory

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1 dwelling units, family-sized units, and other housing types  
 2 that are attractive and affordable, and that are compatible  
 3 with the development pattern and building scale in single  
 4 family areas in order to make the opportunity in single  
 5 family areas more accessible to a broad range of households  
 6 and incomes, including lower-income households.  
 7 **Q. Okay.**  
 8 A. I would just add there's nothing in the comprehensive plan  
 9 that would allow for the type of rezone, or propose, or  
 10 guide, or suggest, or recommend the type of rezone that is  
 11 being proposed in the preferred option.  
 12 **Q. All right. So looking back at the EIS then, and looking at**  
 13 **the section in the land use chapter about impacts, which is**  
 14 **3.2.2 on page 3.109, for the sake of your testimony right**  
 15 **now, I want you to assume that there's a SEPA rule that**  
 16 **exists that requires that the EIS include a summary of**  
 17 **existing plans, such as neighborhood plans and a comp plan,**  
 18 **and it must discuss how the proposal is consistent or**  
 19 **inconsistent with those plans.**  
 20 A. Okay.  
 21 **Q. Okay. So looking at this EIS, specifically at pages 3 --**  
 22 **actually, let's start with backing up a little bit. 3.107**  
 23 **and 108, which is where they talk about relevant policies**  
 24 **and codes. 3.107.**  
 25 A. Yes. In there.

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1 **Q. Does the FEIS mention the West Seattle Junction neighborhood**  
 2 **plan under this when they talk -- when they list all the**  
 3 **relevant policies and codes?**  
 4 A. No.  
 5 **Q. And in fact, they just mention -- let's see, one, two,**  
 6 **three, four, five, six land use policies --**  
 7 A. Correct.  
 8 **Q. -- in the comprehensive plan?**  
 9 A. Yes.  
 10 **Q. And that's it?**  
 11 A. Yes.  
 12 **Q. And is there any discussion there, even with those six that**  
 13 **they've listed, about how the proposal is consistent or**  
 14 **inconsistent with those policies that they've identified?**  
 15 A. No. And ironically, one of the ones listed is that 7.3 that  
 16 talks about what types of --  
 17 **Q. Right.**  
 18 A. -- housing.  
 19 **Q. The one you just testified about?**  
 20 A. Yes.  
 21 **Q. And there's nothing -- no discussion in the EIS about**  
 22 **whether the proposal is consistent with that?**  
 23 A. No.  
 24 **Q. Does it identify any -- does the EIS identify goals,**  
 25 **policies from the West Seattle Junction neighborhood plan**

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1 anywhere else in the entire EIS?  
 2 A. No.  
 3 **Q. And looking at 3.107 and 3.108 again, does the city -- I'm**  
 4 **sorry. I guess this is self-explanatory. But if you look**  
 5 **back at the comp plan, I notice there's transportation**  
 6 **element, housing element, capital facilities element, a**  
 7 **utilities element, environmental element, parks and open**  
 8 **space, several elements in the comprehensive plan. Are you**  
 9 **familiar with that?**  
 10 A. Yes, I'm familiar with it.  
 11 **Q. And does this two pages where they talk about relevant**  
 12 **policies and codes mention any policies from any of those**  
 13 **elements of the comprehensive plan --**  
 14 A. No.  
 15 **Q. -- or the land use?**  
 16 A. They're only from land use.  
 17 **Q. Okay. Are you aware of whether -- when you talked earlier**  
 18 **about inconsistent, you said during your testimony that the**  
 19 **proposal -- MHA proposal was inconsistent with West Seattle**  
 20 **neighborhood policies, plan policies.**  
 21 **Are you aware of whether the City has actually**  
 22 **acknowledged -- obviously not in the EIS since they don't**  
 23 **even mention it -- but have they acknowledged anywhere else**  
 24 **where outside of the MHA process whether the MHA proposal is**  
 25 **consistent with the neighborhood policies or not?**

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1 A. They have acknowledged that it is inconsistent with a number  
 2 of neighborhood plans that -- that indicate that single  
 3 family zoning is to be preserved.  
 4 **Q. Okay. So even though the EIS doesn't talk about it, the**  
 5 **City has acknowledged it elsewhere?**  
 6 A. Well, the EIS makes an oblique reference in Appendix F.  
 7 **Q. Okay.**  
 8 A. But yes, the City has acknowledged it elsewhere.  
 9 **Q. So I want to explore that a little bit. And there's an**  
 10 **exhibit that's already in the record, Exhibit 170.**  
 11 A. I have it.  
 12 **Q. Okay. And that is -- I was going to wait to let everyone**  
 13 **get to it.**  
 14 **Okay. Can you -- well, I guess tell us what this is, and**  
 15 **give us the context of this.**  
 16 A. Okay. So --  
 17 **Q. Are you familiar with this, I should say first?**  
 18 A. I'm definitely familiar with it. I was one of the authors.  
 19 And what it is is a letter to Sam Assefa, Director of the  
 20 OPCD, in March of 2017.  
 21 So this was sort of at the beginning stages of when the  
 22 West Seattle Junction Urban Village was becoming aware of  
 23 what was being proposed, and was very concerned, among other  
 24 things, with the fact that the -- certainly the draft  
 25 proposal from October 2016 was inconsistent with the goals

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1 and policies at the West Seattle Junction neighborhood plan  
 2 in the way that I've just described.  
 3 And so we wrote a letter to -- JuNO is "we" -- wrote this  
 4 letter to Director Assefa advising him of, among other  
 5 things, certain policies and goals of the West Seattle  
 6 Junction Urban Village, which -- which conflicted with the  
 7 proposal. And that is one, two, three, four, five, six, on  
 8 page 6 of the letter there's a table --  
 9 **Q. Okay.**  
 10 A. -- setting forth those inconsistencies.  
 11 MS. NEWMAN: And so if I could, I think this is an exhibit  
 12 that was a SCALE exhibit, but I don't have the number. But  
 13 I can look it up.  
 14 Mr. Examiner, if I could offer this be marked. It was --  
 15 HEARING EXAMINER: Are we coming back to 170?  
 16 MS. NEWMAN: Oh, I'm sorry.  
 17 HEARING EXAMINER: Are we finished with that?  
 18 MS. NEWMAN: We're finished. All right. I believe it's  
 19 Exhibit -- SCALE Exhibit 40.  
 20 HEARING EXAMINER: Marked as 243.  
 21 (Exhibit No. 243 marked)  
 22 UNIDENTIFIED MALE: Yeah.  
 23 MS. NEWMAN: Yeah. Okay. So SCALE Exhibit 40.  
 24 **Q. (By Ms. Newman) So this is marked as Exhibit 243. Do you**  
 25 **have in front of you a memo with Seattle Office Planning and**

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1 **Community Development at the top from Sam Assefa?**  
 2 A. I do.  
 3 **Q. Okay. Do you recognize that?**  
 4 A. I do.  
 5 **Q. Can you describe what that is?**  
 6 A. It was generally, and it was a memo to -- to a committee of  
 7 the City council from Director Assefa --  
 8 **Q. And he's director of?**  
 9 A. The OPCD.  
 10 **Q. Okay.**  
 11 A. Setting forth -- describing that there's an inconsistency  
 12 between the MHA proposal and neighborhood plans.  
 13 **Q. Okay. So this -- the content of this is acknowledging that**  
 14 **there is, indeed, an inconsistency, as you've described?**  
 15 A. Yes. And that OPCD intends to undertake certain steps to  
 16 amend the neighborhood plans to make it consistent with MHA.  
 17 **Q. All right.**  
 18 A. To make them, the plans, consistent with MHA.  
 19 **Q. Okay. And so then the next steps, what happened after that?**  
 20 A. So --  
 21 HEARING EXAMINER: Are you finished with that exhibit?  
 22 MS. NEWMAN: We are finished with that exhibit.  
 23 HEARING EXAMINER: Is there --  
 24 MS. NEWMAN: Oh, did I -- did you want a copy?  
 25 MR. KISIELIUS: I have an electronic copy. Thank you.

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1 HEARING EXAMINER: Is there an explicit statement about  
 2 inconsistency?  
 3 MS. TOBIN-PRESSER: Yes. At the bottom of paragraph 3.  
 4 Although I would point out the statement itself is  
 5 inaccurate. But it says --  
 6 HEARING EXAMINER: Which page?  
 7 MS. TOBIN-PRESSER: Page 3.  
 8 HEARING EXAMINER: Page 3.  
 9 MS. TOBIN-PRESSER: The last full paragraph. The  
 10 proposals to implement MHA, while consistent with Seattle  
 11 2035 policies, that's what I would contend is inaccurate.  
 12 But it goes on to say, may conflict with certain existing  
 13 neighborhood plan policies as discussed above.  
 14 And now I'm trying to -- to find --  
 15 **Q. (By Ms. Newman) Well, to implement MHA, they are proposing**  
 16 **the following types of comp plan amendments. So they're**  
 17 **proposing amendments to the comp plan?**  
 18 A. Right. The -- they're -- the first part of it is that  
 19 they're -- they're attaching -- I mean, sorry. That  
 20 they're -- they're proposing to make amendments to be in the  
 21 comp plan -- I'm sorry, to the neighborhood plans. I'm kind  
 22 of getting lost in the question.  
 23 **Q. So at page -- let's -- focusing on page 4, the second half,**  
 24 **it says, this is what he's suggesting they're going to do.**  
 25 A. Oh, perfect.

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1 **Q. And individual right there, if you want to read that.**  
 2 A. Individual policies or goals in the neighborhood plan  
 3 element of the comprehensive plan are proposed for amendment  
 4 where they explicitly call for maintaining single family  
 5 zoning within an urban village or center.  
 6 **Q. So do you interpret that as an acknowledgment that the**  
 7 **policies -- neighborhood plan policies are inconsistent with**  
 8 **the MHA (inaudible)?**  
 9 A. It goes on to say certain policies that call for maintaining  
 10 aspect to single family areas, such as scale, character, or  
 11 integrity, are proposed for amendment if they would clearly  
 12 and directly conflict with the draft MHA implementation  
 13 proposal.  
 14 **Q. Okay. Okay.**  
 15 A. Thank you.  
 16 MS. NEWMAN: Another exhibit, this was -- this is already  
 17 an exhibit in the record. It's Exhibit 49.  
 18 Hearing Examiner, Exhibit 49.  
 19 **Q. (By Ms. Newman) Oh, did you want to --**  
 20 A. I, I did want --  
 21 **Q. -- say one more?**  
 22 A. If we could back up for a second, because I think there is  
 23 an important component.  
 24 **Q. Sure.**  
 25 A. Which is the draft environmental impact statement. Is that

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1 already an exhibit?  
 2 HEARING EXAMINER: Yes.  
 3 **Q. (By Ms. Newman) Yes. That is I believe Exhibit 1. Is**  
 4 **that --**  
 5 A. I actually in my notes have what it says, unless -- if  
 6 that --  
 7 **Q. We don't have to open it up. I just want to make sure I**  
 8 **have the right exhibit number.**  
 9 HEARING EXAMINER: Exhibit 1 is the draft EIS and  
 10 appendixes.  
 11 **Q. Okay.**  
 12 A. So you had asked if the City had acknowledged inconsistency  
 13 between the neighborhood plan and the preferred -- actually  
 14 at that time it wasn't the preferred alternative, but the  
 15 MHA proposal.  
 16 Appendix F, page 17 of Exhibit 1, the draft statement,  
 17 does state, Several policies in the individual urban  
 18 villages contained in the neighborhood plan policy section  
 19 of the comprehensive plan may conflict with elements of the  
 20 proposed action concerning changes to single family zones  
 21 within urban villages. Amendments to these policies will be  
 22 docketed and the policies modified to remove potential  
 23 inconsistencies. The potential impacts of these policy  
 24 amendments is considered in the EIS.  
 25 So the interest -- this was released on June 8th of 2017 .

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1 So the time line was that in March of 2017, JuNO provided  
 2 Director Assefa of the OPCD with our analysis of the  
 3 inconsistencies with the West Seattle Junction neighborhood  
 4 plan.  
 5 Another step, in May of 2017 there was a deadline for the  
 6 public to propose their own amendments that would resolve  
 7 inconsistencies with the comprehensive plan.  
 8 West Seattle Junction Urban Village, along with several  
 9 other urban villages, proposed their own amendments to the  
 10 comprehensive plan. And to resolve the inconsist --  
 11 **Q. Before the draft EIS?**  
 12 A. Before the draft EIS came out. Because the deadline was in  
 13 May. And for example, West Seattle Junction Urban Village,  
 14 in order -- because MHA had a requirement that every single  
 15 family parcel in every urban village had to be upzoned, West  
 16 Seattle Junction prepared an amendment and had 170 -- 67 or  
 17 so neighborhood signatures supporting it that said, well,  
 18 then we would like the boundary of the urban village changed  
 19 to exclude the existing single family areas.  
 20 And in that manner MHA could be implemented in that there  
 21 would be no remaining single family in the urban village,  
 22 and the single family areas would remain intact. So that  
 23 was an amendment that --  
 24 **Q. Proposed for the comp plan?**  
 25 A. Yeah. To resolve the inconsistency between the neighborhood

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1 plan and the -- the MHA. And that -- that policy was and is  
 2 docketed for consideration by city council, along with the  
 3 MHA proposal; however, on June 8th when the draft EIS came  
 4 out, what it says is, Amendments to these policies will be  
 5 docketed and the policies modified to remove potential  
 6 inconsistencies. So those aren't referring -- that  
 7 amendments referred to in the draft EIS are clearly not  
 8 referring to the neighborhood docketed amendments, because  
 9 those had already been docketed.  
 10 And it is -- the draft EIS appears to be suggesting that  
 11 the City will docket its own amendments, and that those  
 12 would be the ones that were adopted.  
 13 **Q. Okay.**  
 14 A. So then in July of 2017, after the draft EIS was released,  
 15 Director Assefa provided his memo to the committee of the  
 16 city council indicating that there would be amendments  
 17 drafted.  
 18 And then -- then it's the next step. Do you want me to go  
 19 into that?  
 20 **Q. Well, how many neighborhood plans containing specific**  
 21 **policies to retain their single family zoned areas are there**  
 22 **that are affected by the MHA proposal?**  
 23 A. Well, as we discussed with West Seattle Junction Urban  
 24 Village, there are a lot of policies within at least West  
 25 Seattle Junction's neighborhood plan that, even though they

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1 don't specifically say those words, are directly impacted.  
 2 But the neighborhood plans that specifically state the  
 3 single family areas are to be maintained, there's nine;  
 4 they're Aurora, Fremont, Morgan Junction, Northgate, North  
 5 Rainier, Roosevelt, West Seattle Junction, Wallingford, and  
 6 Westwood-Highland Park.  
 7 **Q. Okay.**  
 8 A. Those aren't (inaudible).  
 9 **Q. And I think I might have misspoken earlier. The EIS -- do**  
 10 **the EIS itself acknowledges that -- there's a sentence in**  
 11 **the draft EIS you said that said that it's inconsistent with**  
 12 **the neighborhood plan policies?**  
 13 A. On Appendix F, page 7, there's a reference that some of the  
 14 MHA policies may conflict with --  
 15 **Q. Okay.**  
 16 A. -- unnamed neighborhood plans.  
 17 **Q. Is there any other -- other than that single sentence, is**  
 18 **there any other discussion in the draft EIS about this**  
 19 **issue?**  
 20 A. No.  
 21 **Q. And how about the final EIS?**  
 22 A. No. In fact, the final EIS says the same -- says the same  
 23 thing, but at that point it says amendments to these  
 24 policies are docketed, and the policies would be modified to  
 25 remove potential inconsistencies.

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1 The only policies that -- amendments that are docketed are  
 2 the neighborhood amendments. The City hasn't docketed any,  
 3 and it couldn't have as of the issuance of the final EIS in  
 4 November of two-thousand (inaudible).  
 5 **Q. Okay. So then let's go back into the process of -- our last**  
 6 **exhibit showed that the director of OPCD recognized a need**  
 7 **to propose comp plan amendments that were consistent -- to**  
 8 **make the MHA proposal consistent with the comp plan.**  
 9 A. Right.  
 10 HEARING EXAMINER: My apologies. Ms. Newman, before you  
 11 go back to that exhibit, I want to make sure I got the page  
 12 number from the draft EIS that you were reading from.  
 13 MS. NEWMAN: Oh, sure.  
 14 MS. TOBIN-PRESSER: F-7.  
 15 HEARING EXAMINER: F-7.  
 16 MS. TOBIN-PRESSER: Yeah. So Appendix F, page 7, in the  
 17 draft. It's page 11 in the --  
 18 HEARING EXAMINER: Okay. So start over again. Appendix  
 19 F.  
 20 MS. TOBIN-PRESSER: Appendix F, page 7.  
 21 MS. NEWMAN: I think it's under a heading description of  
 22 the proposal.  
 23 HEARING EXAMINER: Okay.  
 24 MS. NEWMAN: (Inaudible).  
 25 HEARING EXAMINER: One problem we're running into is, I

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1 don't seem to have been given a copy of the draft yet. It's  
 2 been given an exhibit number, but I --  
 3 UNIDENTIFIED MALE: We can do that if you'd like.  
 4 HEARING EXAMINER: I have -- oh, they did. Are you sure  
 5 (inaudible)? Okay. Maybe -- Ms. Johnson thinks that we did  
 6 get a copy. I don't recall seeing Exhibit 1 up here  
 7 throughout.  
 8 UNIDENTIFIED MALE: Yeah. I don't know that you have, but  
 9 here it is.  
 10 HEARING EXAMINER: We'll give it back if we have another  
 11 one. But I think we may not have done that in the beginning  
 12 for some good reason at the time.  
 13 MS. NEWMAN: Okay.  
 14 HEARING EXAMINER: Okay. Thank you.  
 15 **Q. (By Ms. Newman) Okay. So just walking through the process,**  
 16 **there's an exhibit that has on the top of it meeting in a**  
 17 **box. This is Exhibit 49, already an exhibit in the Hearing**  
 18 **Examiner exhibits.**  
 19 **If you -- do you have that in front of you?**  
 20 A. I do.  
 21 **Q. You might wait a second to let everybody -- can you describe**  
 22 **for us what -- oh, have you seen this document before?**  
 23 A. Yes.  
 24 **Q. And can you describe what this is, and give us a little**  
 25 **narrative of the context of this?**

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1 A. Okay. So backing up to recall that we called attention to  
 2 the inconsistencies with the West Seattle Junction  
 3 neighborhood plan in March of 2017; June 8th, 2017, the MHA  
 4 is released saying that amendments will be docketed to  
 5 resolve inconsistency. July of --  
 6 **Q. The draft EIS is released?**  
 7 A. Yes, the draft --  
 8 **Q. Yes.**  
 9 A. -- EIS is released saying that amendments will be docketed  
 10 to resolve inconsistencies.  
 11 July of 2017 Director Assefa provides his memo to the  
 12 council saying that amendments will be docketed to take care  
 13 of the inconsistencies.  
 14 In October finally of 2017, the City began its process to  
 15 seek -- to prepare amendment -- amendments to the nine  
 16 neighborhood comprehensive plans that called for retaining  
 17 their single family zoning.  
 18 And what they did was -- I'm kind of doing this a little  
 19 bit out of order. But if you turn the page of this meeting  
 20 in a box exhibit, you will see that each --  
 21 **Q. I think we might want to wait.**  
 22 HEARING EXAMINER: I'm there.  
 23 MS. NEWMAN: Oh, okay.  
 24 A. So for each neighborhood you can see what is being proposed,  
 25 so you can see at the top the existing policy, and then

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1 three options -- well, really four options.  
 2 Options A, B, and C provided by the City that would be --  
 3 resolve the inconsistency.  
 4 **Q. (By Ms. Newman) So these are language for new comprehensive**  
 5 **plan policies? These are proposed amendments?**  
 6 A. Yes. And in fact, if -- if you would indulge me, and the  
 7 West Seattle Junction one is -- is just the second from the  
 8 last page, because that's the one I'm mostly familiar with.  
 9 So it -- it has at the top the West Seattle Junction  
 10 policy 13 that I read before that says, Maintain the  
 11 character and integrity of the existing single family areas.  
 12 The City's Option A would change that to maintain  
 13 character and scale similar to the existing single family  
 14 housing areas. Pretty minor.  
 15 Option B would provide that it would be changed to  
 16 maintain opportunities for -- for lower density housing  
 17 choices and historically single family housing areas,  
 18 including larger size housing units and ground-related  
 19 housing units. So that sounds a lot like what the preferred  
 20 option is. Then -- under the EIS.  
 21 Option C is, Replace existing policy with descriptions of  
 22 housing choices -- I'm sorry. Option C says, Maintain the  
 23 physical character of historically lower density areas of  
 24 the urban village by encouraging housing choices such as  
 25 cottages, townhouses, and lowrise apartments, encourage

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1 primarily residential uses, while allowing for commercial  
 2 and retail services for the urban village and surrounding  
 3 area generally at lower scale than in urban centers.  
 4 So this would have commercial and retail being allowed in  
 5 the single family areas.  
 6 And then Option D is inviting -- purportedly inviting the  
 7 community to craft its own policy. At the time that this  
 8 was -- this was issued, this is October of 2017 that this  
 9 document and these options were issued, the West Seattle  
 10 Junction's proposed amendment had long been docketed by the  
 11 City, but there's no reference to it here.  
 12 So turning back to the first page, again, as I said, so in  
 13 October of 2017, the City began what it characterizes as its  
 14 outreach with respect to these proposed amendments options  
 15 to the neighborhood plans, and there was three methods of  
 16 outreach/opportunity to provide feedback.  
 17 There were two regional open houses during the month of  
 18 October. There was an online feature called consider it  
 19 where the three options, A, B, and C were posted, and people  
 20 could indicate their agreement or disagreement for each  
 21 neighborhood. And then finally, people could send in their  
 22 comments or their own policy suggestions to Mr. Wentlandt,  
 23 Geoff Wentlandt of the OPCD by December 8th. So this whole  
 24 process had a deadline of December 8th of 2017.  
 25 The final environmental impact statement was actually

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1 issued on November 7th -- November 9th.  
 2 **Q. The final, yeah. Yes.**  
 3 A. November 9th of 2017. So this process with respect to  
 4 eliciting neighborhood feedback on the amendments had not  
 5 even been completed at this time, yet the FEIS says that  
 6 amendments to the policies are docketed.  
 7 **Q. So does the draft EIS for the MHA proposal or the final EIS**  
 8 **for the MHA proposal provide any summary of the different**  
 9 **options, Option A, B, C, or D at all?**  
 10 A. No. As I mentioned, you know, there were neighborhood  
 11 proposals docketed already, which would be Option D of the  
 12 City's --  
 13 **Q. Yeah.**  
 14 A. -- four options. None of those are discussed.  
 15 Option C from the City's three options actually talks  
 16 about allowing commercial buildings in single family areas.  
 17 It's not something that's considered or described in any way  
 18 under the EIS and its impact.  
 19 Really Option B is the only one of the -- the three  
 20 options being proposed by the City that bears any  
 21 relationship to the preferred option and the final EIS.  
 22 **Q. So does the EIS -- MHA EIS anywhere analyze the different**  
 23 **impacts that would be caused by these different alternative**  
 24 **proposals for comp plan amendments?**  
 25 A. No.

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1 **Q. And what is the overall big -- why does this matter? Why**  
 2 **did we go through all of this? And what's your thought**  
 3 **about this?**  
 4 A. I have a lot of thoughts. Is there a more --  
 5 **Q. Okay.**  
 6 A. -- specific area of thought?  
 7 **Q. I'm trying to explain to the Examiner what the significance**  
 8 **of this is. And --**  
 9 A. Well, I mean, for me that's a -- for me, and maybe --  
 10 **Q. Yeah.**  
 11 A. -- for the Hearing Examiner as well, the significance is  
 12 that the outreach process and the idea of soliciting  
 13 feedback from the community is inauthentic.  
 14 So I did a public records request to obtain all of the  
 15 feedback from the West Seattle Junction on these three  
 16 options. And the one that received the most support was the  
 17 community supported amendment.  
 18 But beside that, the only option that received even  
 19 minimal support was Option A. That's not the option that  
 20 shows up in the MHA final environmental impact statement.  
 21 **Q. So when you say it's disingenuous, what makes -- what is the**  
 22 **City doing that makes you think it's disingenuous?**  
 23 A. Well, first of all, it was pointed out, you know, as early  
 24 as March of 2017 that there were inconsistencies.  
 25 Nothing was done about it until October of 2017 in this

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1 rushed, you know, couple months long, oh, hey, these are  
 2 these three options, one of which we've already proposed,  
 3 and we're going to -- right in the middle of this purported  
 4 outreach process, we're going to put out the final  
 5 environmental impact statement, which has Option B in it,  
 6 and then the comment period is going to close.  
 7 And also, Option B doesn't reflect what your neighborhood  
 8 said.  
 9 **Q. So do you think there's any -- do you have any feeling from**  
 10 **the way the City's handled this that the City may ultimately**  
 11 **adopt as a comprehensive plan amendment Option A, Option C,**  
 12 **or Option D?**  
 13 A. There's nothing in the environmental impact statement that  
 14 would point to that.  
 15 MS. NEWMAN: Okay. This is City Exhibit 30, which I don't  
 16 think has been introduced into the record yet. I'd like to  
 17 mark that.  
 18 HEARING EXAMINER: This is 244.  
 19 (Exhibit No. 244 marked)  
 20 MS. NEWMAN: Do you need a copy of your exhibit?  
 21 MR. KISIELIUS: No.  
 22 **Q. (By Ms. Newman) Ms. Tobin-Presser, there's a document I**  
 23 **think that's in front of you, the Seattle City Council**  
 24 **Legislative Summary is on the top.**  
 25 A. Yes. I see it.

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1 MS. NEWMAN: I'm sorry. What was the exhibit number this  
 2 was marked?  
 3 HEARING EXAMINER: 244.  
 4 **Q. (By Ms. Newman) 244, do you recognize that document?**  
 5 A. I do.  
 6 **Q. Can you tell us what -- within the context of what we've**  
 7 **just been talking about, what the significance of this**  
 8 **document is?**  
 9 A. Well, the significance of this document --  
 10 **Q. And what it is.**  
 11 A. Oh, so it's a Seattle City Council Legislative Summary. And  
 12 what it does is -- I don't know if I'm saying this  
 13 correctly, but this is the point at which certain  
 14 neighborhood proposed amendments were docketed by the city  
 15 council for consideration, along with MHA.  
 16 And so there's a number of pages at the beginning that go  
 17 up to I think page 6. But then after that there's an actual  
 18 resolution, and it's Bates stamp number 4936.  
 19 **Q. And so they're docketing -- you earlier described a process**  
 20 **where neighborhoods submitted proposed amendments to the**  
 21 **comp plan, and you're saying this is the City actually**  
 22 **docketing the amendments that were proposed under -- by the**  
 23 **neighborhoods?**  
 24 A. Yes. So it says at the bottom of page 1 of the resolution,  
 25 comprehensive docket, section 1, comprehensive plan docket

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1 of amendments to be considered in 2018. The following  
 2 amendments proposed by individuals or organizations should  
 3 be reviewed by the mayor and council as possible amendments  
 4 to the comprehensive plan. The full text of the proposal  
 5 are contained in clerk file 320265. So --  
 6 **Q. So as of today, do we have any idea what the City's**  
 7 **preferred alternative to -- as far as specific language for**  
 8 **a comp plan amendment is?**  
 9 A. Out of the options that they pro- -- no, no.  
 10 **Q. For comprehensive plan amendments --**  
 11 A. No.  
 12 **Q. -- with the MHA proposal?**  
 13 A. No.  
 14 **Q. Do we know what they're proposing?**  
 15 A. No.  
 16 **Q. And has anything that the City's prepared or anticipates as**  
 17 **their preferred alternative been docketed?**  
 18 A. Not to my knowledge.  
 19 **Q. All right. So the only amendments that have been docketed**  
 20 **are the ones that the neighborhoods have proposed?**  
 21 A. To my knowledge, yes.  
 22 **Q. Okay.**  
 23 HEARING EXAMINER: Ms. Newman, where are you in timing?  
 24 MS. NEWMAN: I'm -- I still have quite a bit. So --  
 25 HEARING EXAMINER: Okay.

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1 MS. NEWMAN: I think it's a --  
 2 HEARING EXAMINER: We're going to take a break there for  
 3 lunch.  
 4 MS. NEWMAN: Okay.  
 5 HEARING EXAMINER: And we will return at 1:45.  
 6 (Lunch recess)  
 7 HEARING EXAMINER: And we return with Ms. Tobin-Presser on  
 8 direct.  
 9 MS. NEWMAN: Thank you, Mr. Examiner.  
 10 **Q. (By Ms. Newman) Continuing where we left off, if we could**  
 11 **look -- if you could look at the EIS, which is Exhibit 2 on**  
 12 **page 3.130.**  
 13 A. Okay.  
 14 **Q. And I want to point out this is the section in the EIS that**  
 15 **analyzes land use impacts. We were focused earlier on the**  
 16 **section that talks about the existing environment for land**  
 17 **use, and this is the section that talks about the impacts of**  
 18 **the proposal.**  
 19 **And on page 3.130 there is a section that's titled**  
 20 **Consistency With Policies and Codes. Do you see that?**  
 21 A. I do.  
 22 **Q. Will you read the first sentence of that section.**  
 23 A. Reasons to implement MHA under alternative 2 would be  
 24 generally consistent with comprehensive plan policies and  
 25 land use code requirements. With few exceptions, the area

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1 is currently zoned single family 5,000, single family 7200,  
 2 and residential small lot proposed for rezoning under  
 3 alternative 2 are either an existing urban village and  
 4 designated as residential urban village or hub urban village  
 5 on the FLUM, or are in proposed urban village expansions  
 6 area -- areas. As a part of the proposal, certain land use  
 7 code rezone criteria would be modified to maintain  
 8 consistency between proposed changes to single family zones  
 9 in urban villages in the criteria.

10 **Q. Okay. So in this discussion about consistency with policies**  
 11 **and codes, there is no mention at all about inconsistencies**  
 12 **with neighborhood plan policies, correct?**

13 A. That's correct.

14 **Q. And then turning to page 3.140, and I'll point out that**  
 15 **these are impacts analysis of the three different**  
 16 **alternatives. And so we have another paragraph here on**  
 17 **3.140 that looks similar, but this is for analysis of a**  
 18 **different alternative.**  
 19 **And have you had a chance to read that --**

20 A. Yes.

21 **Q. -- paragraph? And does that mention anything about**  
 22 **inconsistency with existing neighborhood plan policies?**

23 A. No.

24 **Q. And then looking at page 3.155, same question. This is the**  
 25 **preferred alternative analysis of land use impacts. There's**

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1 **a paragraph that says 3.155, --**

2 A. Yeah.

3 **Q. -- Consistency With Policies and Codes. Have you had a**  
 4 **chance to read that paragraph?**

5 A. I have.

6 **Q. And does that mention anything about inconsistencies with**  
 7 **neighborhood plan policies?**

8 A. It does not.

9 **Q. Okay. And why -- so you know, we've established I think**  
 10 **with your testimony over the past hour that there really is**  
 11 **very little discussion of -- little to no discussion of what**  
 12 **the neighborhood plan policies actually are in the comp**  
 13 **plan, and whether the proposal is consistent or inconsistent**  
 14 **with them. We spent a lot of time on that.**  
 15 **Why does this matter?**

16 A. Because the whole thrust of this section in the EIS is that  
 17 it's describing that MHA policy was evaluated in light of  
 18 the comprehensive plan policies with the clear implication  
 19 being that it's consistent with those.  
 20 But the single largest section of the comp plan is the  
 21 neighborhood plans, and I've showed you at least a number of  
 22 ways in which it completely annihilates many -- the central  
 23 nature of -- of at least the West Seattle Junction plan.  
 24 And the land use policy provisions in the body of the  
 25 comprehensive plan are not consistent with what's being

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1 proposed here.

2 As we talked about, the comprehensive plan talks about  
 3 what type of additional housing should be allowed in -- in  
 4 single family areas and urban villages, and that's cottage  
 5 housing, duplexes, and triplexes, and not 40-foot, 50-foot  
 6 apartment buildings.

7 **Q. Okay. And there is -- you know, we talked a little bit**  
 8 **about the extent of discussion in the EIS that's specific to**  
 9 **the West Seattle Urban Village and pointed out there**  
 10 **wasn't -- in the aesthetic section there was no discussion**  
 11 **whatsoever.**  
 12 **You testified that in the land use chapter there's no**  
 13 **discussion -- well, very little about West Seattle Junction**  
 14 **and the affected environment.**  
 15 **But there are a few paragraphs in the same section where**  
 16 **we're talking about -- where the EIS is talking about**  
 17 **impacts of the different alternatives, there are a couple**  
 18 **paragraphs about West Seattle specific. And so I wanted to**  
 19 **just get your feel -- there's one on page 3.124, and this is**  
 20 **the impacts of alternative 2.**  
 21 **And there's a little description there of West Seattle**  
 22 **Junction. Have you had a chance to read that description?**

23 A. I have. I read this description, and then the one for  
 24 alternative 3 and the preferred option. And they suffer  
 25 from the same problem. So I can just read this one.

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1 **Q. Yeah.**

2 A. Okay. So it says, West Seattle Junction, areas of existing  
 3 single family zoning at the edges of existing commercial and  
 4 meant -- multifamily zones would be changed to lowrise  
 5 multifamily, resulting in moderate land use impact. Much of  
 6 the village would potentially experience minor or moderate  
 7 impacts to scale with height increases of up to 15 feet.  
 8 A 24-acre expansion area would see single family  
 9 residential areas increase in density without a change in  
 10 the residential use. One portion of the urban village  
 11 expansion at the southeast of the village would be rezoned  
 12 to lowrise; however, this area is completely bounded by an  
 13 existing senior housing complex and lowrise and neighborhood  
 14 commercial zoned lands which mitigate potential transitions  
 15 conflict.  
 16 So the problem is I think that the fact that we're reading  
 17 an environmental impact statement, we know that there's  
 18 going to be impacts. And all it says is there's going to be  
 19 moderate land use impacts, more moderate land use impacts,  
 20 minor or moderate impacts.  
 21 Unfortunately, there is nothing in this description to  
 22 say what that would mean. I mean, I don't know --

23 **Q. And is there any description of the existing land use in**  
 24 **West Seattle to provide the -- to inform an analysis to**  
 25 **reach that conclusion?**

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1 A. There's no -- there's nothing that would describe the  
 2 existing context, or what a minor impact to that context, or  
 3 a moderate impact, or a significant impact would be.  
 4 **Q. And is there any analysis in here to support these**  
 5 **conclusions beyond this paragraph?**  
 6 A. No.  
 7 **Q. So that's it for aesthetic and land use impacts.**  
 8 **Did you have any other final points that you'd like to**  
 9 **make --**  
 10 A. Well --  
 11 **Q. -- before we wrap it up?**  
 12 A. Yes. So there's one thing. So Appendix B to the  
 13 environmental impact statement is a lengthy section  
 14 regarding community input, a community engagement. And it's  
 15 my understanding that the level of community engagement is  
 16 not something that is part of the analysis of whether the  
 17 environmental impact statement is adequate or inadequate,  
 18 and that the threshold for community engagement is fairly  
 19 low, and the requirements are fairly low.  
 20 And I just want to talk just very briefly, only because  
 21 the EIS itself calls out community engagement as being such  
 22 an important piece of the work it's done.  
 23 And it's my understanding that at least one witness has  
 24 also testified as to the importance of the community  
 25 engagement and what a great job was done.

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1 And so I would just say that, when I learned about the  
 2 impact -- or the -- the proposed rezones in October of 2016,  
 3 and I went to a meeting where there was a city presenter who  
 4 said that the proposed zoning changes to the West Seattle  
 5 Junction were based on community impact and were responsive  
 6 to what the community had said, I -- I was shocked.  
 7 And so what I did was, from that moment I went and I did a  
 8 public records request to find out every feedback engagement  
 9 up to (inaudible) had been for the West Seattle Junction,  
 10 and every educational opportunity that had taken place with  
 11 respect to MHA. And I did that for every event going  
 12 forward as well, which resulted in me having in my  
 13 possession every piece of documented feedback from the West  
 14 Seattle Junction Urban Village with respect to all the  
 15 City's outreach, including every email that was sent to  
 16 the -- the City's MHA email address.  
 17 And what I did with that was when -- because this was  
 18 Appendix B to the EIS, the draft EIS as well, when JuNO  
 19 submitted its comments to the draft EIS, I prepared an  
 20 analysis of every single bit of that West Seattle Junction  
 21 feedback, good and bad, and I submitted that, along with a  
 22 Dropbox link, which is in the public record, containing  
 23 every single piece of data, including all the emails, and an  
 24 anal- -- a chart showing the -- the -- every single bit of  
 25 data and what the -- what am I saying?

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1 When -- when a specific concern was raised, the number of  
 2 times that particular concern was raised by the West Seattle  
 3 Junction Urban Village so that the City would have a very  
 4 clear picture of precisely what the West Seattle Junction's  
 5 concerns were, and the level of concern, and the volume of  
 6 concern. And what -- and I submitted that along with JuNO's  
 7 comment to the EIS.  
 8 Now, I was hoping to point the Hearing Examiner to that  
 9 today in the record, but what I found out was that, while  
 10 the actual comments to the draft EIS are part of the final  
 11 environmental impact statement, they're not actually  
 12 included in this Exhibit 3 -- 2.  
 13 If you turn to page 4.479 where table of contents  
 14 indicates that the marked emails, letters, forms, and public  
 15 hearing transcripts would be, there's simply a link at which  
 16 one can go to that link, and the comments will then be  
 17 available to view.  
 18 And so that is where -- if one were to follow that link  
 19 and look at the comments, JuNO's comment, which is indexed  
 20 under the name Tobin-Presser, the portion of that comment  
 21 relating to Appendix B in the draft EIS would also contain  
 22 that full analysis, as well as the Dropbox link to every bit  
 23 of documented data in the City's possession with respect to  
 24 West Seattle Junction's feedback.  
 25 **Q. Okay. And what was the outcome of all your work? How**

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1 **did -- what's the big takeaway from what you learned about**  
 2 **what the input was, and what the City did in reaction to**  
 3 **that?**  
 4 A. So the big picture is that West Seattle Junction has  
 5 overwhelmingly and vocally not supported any of the  
 6 iterations of the MHA proposal that have been presented.  
 7 And while -- and for very specific reasons.  
 8 They've consistently expressed concerns regarding loss of  
 9 single family homes, lack of affordable housing that the  
 10 proposal would generate, extreme concern about displacement  
 11 of existing residents, loss of tree canopy, lack of -- loss  
 12 of open space, lack of transit and traffic infrastructure,  
 13 and essentially all of the things that we're discussing in  
 14 this appeal hearing.  
 15 And ironically, one of the big concerns, as expressed  
 16 again and again, is that the City was not listening or -- or  
 17 responding to the feedback that it was providing.  
 18 **Q. Okay. I think that is it. But --**  
 19 A. Well, there's one additional thing --  
 20 **Q. Oh, okay.**  
 21 A. -- in that.  
 22 **Q. Okay.**  
 23 A. That is borne out by the changes that we discussed to the  
 24 junction map. As I walked through it earlier -- I don't  
 25 remember the exhibit number, maybe 280 -- 281 I think.

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1 **Q. Uh-huh.**  
 2 A. I went through --  
 3 HEARING EXAMINER: 241.  
 4 **Q. (By Ms. Newman) 241.**  
 5 A. Oh, 241. As I went through each of the four neighborhoods,  
 6 I discussed exactly what change was made between the initial  
 7 map that was proposed, or submitted, or made public in  
 8 August -- October of 2016 versus the preferred option today.  
 9 The changes are very minor. And if one were to read the  
 10 analysis that I prepared with the backup data, it's clear  
 11 that none of those are responsive in any way to any of the  
 12 feedback that was provided by the West Seattle Junction  
 13 Urban Village.  
 14 MS. NEWMAN: Okay. I think that's everything. I do want  
 15 to make sure I've submitted all the exhibits that I had  
 16 marked.  
 17 HEARING EXAMINER: 244 has not been admitted yet.  
 18 MS. NEWMAN: Okay. I'd like to offer that.  
 19 HEARING EXAMINER: All right. 243 and 244 have not been  
 20 admitted yet.  
 21 MS. NEWMAN: Okay. I'd like to offer and submit those.  
 22 HEARING EXAMINER: Objection?  
 23 243 and 244 are admitted.  
 24 (Exhibits No. 243 and 244 admitted)  
 25 MS. NEWMAN: And I think with that, we're open for cross.

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1 HEARING EXAMINER: Any questions?  
 2 MR. ABOLINS: Well, I do have a question. The point that  
 3 was raised about the extensive comments --  
 4 MS. NEWMAN: I was going to mention that. As a -- I  
 5 wanted to bring that up after her testimony was done.  
 6 MR. ABOLINS: Okay. I will leave it to you.  
 7 MS. NEWMAN: But I do think we need to discuss the fact  
 8 that the comments on the EIS are not included in the record.  
 9 HEARING EXAMINER: Okay. Let's just do that now.  
 10 MS. NEWMAN: But I was going to do that. Oh, okay.  
 11 HEARING EXAMINER: I have one clarifying question. Did  
 12 you -- oh, I think I just figured it out.  
 13 I was looking at attachment B instead of Appendix B. You  
 14 were referencing Appendix B in context of the --  
 15 MS. TOBIN-PRESSER: Community engagement.  
 16 HEARING EXAMINER: -- community input, right. Okay.  
 17 Sorry. I got stuck on attachment B to Appendix A.  
 18 All right. So let's see. Question about the comment  
 19 letters from 4.5 in 4.479, Exhibit 1.  
 20 MS. NEWMAN: I just think they should be -- hard copies  
 21 need to be included in the record for the Hearing Examiner,  
 22 all the comments on the EIS.  
 23 MR. WEBER: And Jeff Weber for the City.  
 24 We certainly don't have any objection to including  
 25 relevant comment letters that people have referred to here.

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1 I mean, I think Your Honor has been careful not to bulk up  
 2 the record with a lot of things, and including everything  
 3 from that link is going to be a very large quantity of  
 4 material. And so I would hesitate before I would want to  
 5 introduce in hard copy form all of the comment letters  
 6 that --  
 7 MS. NEWMAN: How many pages is it?  
 8 MR. WEBER: I mean, there -- I can't tell you. But it  
 9 is -- there are many, many, many pages.  
 10 And so I guess I have no objection to the particular  
 11 comment letter that Ms. Tobin-Presser was referring to  
 12 being, you know, part of the record. I just want to caution  
 13 us, before we introduce all of it, that that may be more  
 14 than Your Honor wants in the record.  
 15 HEARING EXAMINER: That's a legitimate concern. Do you  
 16 feel that -- or do you --  
 17 MS. NEWMAN: I just think (inaudible) --  
 18 HEARING EXAMINER: Could you accept something less than  
 19 all of them? Or --  
 20 MS. NEWMAN: -- be one place of EIS that expresses the  
 21 concerns of the public, and the fact that it's not readily  
 22 available, and you can't access. And also, I think the  
 23 volume itself speaks volumes, the fact that there was that  
 24 much interest.  
 25 But you know, it's kind of put us -- puts us at a

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1 disadvantage that these folks put an enormous amount of time  
 2 and effort into submitting comments on the EIS, and there's  
 3 no record of them.  
 4 But I do acknowledge that it's -- I guess I would just be  
 5 curious to know how many documents it is, and try to come up  
 6 with a creative solution to recognize, you know, that we  
 7 want to not overwhelm with documents, but also not exclude  
 8 them. I just don't know what that creative solution is.  
 9 MR. ABOLINS: I just want to add for Friends of North  
 10 Rainier, we also assume that, since they are identified as  
 11 part of that exhibit, that they were in the record. And so  
 12 if there is a decision to somehow not include that part of  
 13 the EIS itself, then we would like an opportunity to  
 14 identify those particular letters that would be added for  
 15 the record.  
 16 MS. TOBIN-PRESSER: I recognize that I'm a witness now.  
 17 But I elicited testimony from a couple witnesses earlier.  
 18 And I can't recall, because I know we put a number of  
 19 sections into the record from our JuNO's comment, but there  
 20 was also questions asked with the assumption that the  
 21 comments were in the record already.  
 22 MS. NEWMAN: Right.  
 23 MS. TOBIN-PRESSER: And I don't think that's as much of a  
 24 problem for JuNO, but I don't know if other witnesses have  
 25 done the same.

1 MR. ABOLINS: I'm looking at them online. There are four  
 2 PDF files. I would -- they're taking a while to load. I  
 3 would guess that they're a couple thousand pages total.  
 4 HEARING EXAMINER: Right. So the value of having 2,000  
 5 pages that may or may not be referred to is limited to  
 6 almost not having value, except perhaps for the one purpose  
 7 that Ms. Newman mentioned of simply showing volume.  
 8 That can be captured in a statement as well as a pile of  
 9 paper. So rather than making sure that all those papers are  
 10 available, what I'd like to is not to decide exactly the  
 11 boundaries of it today, but the parties to make an effort to  
 12 identify what in those comments they feel need to be in the  
 13 record.  
 14 And the door's open to, particularly if they've been  
 15 referred to by a witness, or if they're salient summaries  
 16 from a particular neighborhood group, or something along  
 17 those lines that it makes sense that that's part of the  
 18 record, and I assume that was part of the record.  
 19 If there's any issue that the City sees with any of them,  
 20 those that are identified that they should be excluded for  
 21 some reason, we could do that. But they are part of the  
 22 EIS.  
 23 MR. ABOLINS: No. I'm fine with --  
 24 HEARING EXAMINER: I understand (inaudible).  
 25 MR. ABOLINS: I'm fine with that process, yeah.

1 minutes.  
 2 MS. NEWMAN: What's the last hearing day? September?  
 3 HEARING EXAMINER: September 4 right now.  
 4 MS. NEWMAN: Okay. I mean, would that make sense just by  
 5 the --  
 6 HEARING EXAMINER: I can -- we can certainly set it.  
 7 MS. NEWMAN: September 4th?  
 8 MR. KISIELIUS: I think it might be more efficient to have  
 9 this resolved on the Thursday of next week. I mean, we're  
 10 all here.  
 11 HEARING EXAMINER: Yes.  
 12 MR. KISIELIUS: So if the appellants could identify the  
 13 particular comment letters they're concerned about, and let  
 14 us know prior to Thursday of next week, we could come in  
 15 here on Thursday morning and probably dispose of this in a  
 16 very short time.  
 17 MS. NEWMAN: Does that work for you?  
 18 MR. KISIELIUS: Yeah. We want to be able to look at them,  
 19 obviously.  
 20 MS. NEWMAN: Okay. Well, Thursday we can aim for.  
 21 MR. KISIELIUS: Okay. Giving it to us in advance so that  
 22 we can --  
 23 MS. NEWMAN: Okay. That makes it more difficult  
 24 because --  
 25 HEARING EXAMINER: Okay. So let's assume that we're all

1 HEARING EXAMINER: I appreciate you identifying maybe  
 2 something less than 2,000 pages that's appropriate.  
 3 MR. ABOLINS: Yes.  
 4 HEARING EXAMINER: However, parties have a need to be able  
 5 to refer to those comments. So we won't decide that today.  
 6 Let's set a time line for when we would do that, recognizing  
 7 that we're all pretty busy this week.  
 8 When would you have an opportunity -- I think that's -- it  
 9 sounds like it could be quite a fishing expedition for some  
 10 parties that may or may not be represented. We are in  
 11 hearing at least through September 4th at this point.  
 12 So I don't ask that it be done this week, although I would  
 13 expect parties to kind of chip at it, because there's not  
 14 much time after that.  
 15 MR. ABOLINS: So if I'm correct, the schedule has City  
 16 witnesses Wednesday through Friday, and then next Thursday  
 17 and Friday, I take it that's because you have other matters  
 18 Monday, Tuesday, and Wednesday?  
 19 HEARING EXAMINER: Yes. This is our -- yeah. We've  
 20 already got the hearing schedule set.  
 21 MR. ABOLINS: Are there any openings in that period of  
 22 time when there could be an argument? Or --  
 23 HEARING EXAMINER: No, no. I'm not taking argument on  
 24 this. I'm giving you time to simply tell me what you want  
 25 admitted to the record. That will take another five

1 in hearing this week, and that there's nothing that's going  
 2 to get done on this this week.  
 3 MR. KISIELIUS: Right.  
 4 HEARING EXAMINER: So I think that's fair to the parties  
 5 to not put an extra burden of going through all of the  
 6 comment letters this week. So to give them a realistic time  
 7 to go through it, they can't get to you before next  
 8 Thursday, because there's only Monday, Tuesday, Wednesday.  
 9 MR. KISIELIUS: That's fine.  
 10 HEARING EXAMINER: Understanding what you said, it's  
 11 perfectly fair. But I think we're working with a limited  
 12 time schedule here.  
 13 MR. KISIELIUS: Well, if, if they can identify them at  
 14 that time, then we'll take --  
 15 MS. NEWMAN: Are you -- okay.  
 16 HEARING EXAMINER: Let me suggest this. That the  
 17 appellants make a good faith effort to identify the comment  
 18 letters that they intend to introduce into the record by  
 19 that Thursday morning. If you can do it before then, great,  
 20 let them know.  
 21 And we'll certainly leave this as an open-ended  
 22 opportunity for additional comments to be discussed.  
 23 At that time if the parties say we're not done, you know,  
 24 we need more time, or if the City says, I -- you know, look,  
 25 you've identified half the comment records, we need more

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.

CROSS-EXAMINATION

BY MR. KISIELIUS:

**Q. Ms. Tobin-Presser, Tadas Kisielius on behalf of the City, and I have just a couple of questions for you.**

**One is just a very precise question. You had -- I think it's Exhibit 242 are the photographs that you introduced?**

A. Oh, yes.

**Q. I was just curious. You testified about 8, 9, and 10. And being from the Oregon, Genesee and Dakota neighborhood, as you had -- or area as you had named it -- and as you said, that's sort of a big one, those are the only ones where you didn't really say where they were taken. So I was just -- if you could --**

A. Eight, 9, and 10.

**Q. Yes.**

A. Sorry. I'm trying to find them. Oh, here. Eight, 9, and 10, 30 -- it would be in the 37th, 38th and 39th. Oh, I'm

**alternatives 2 and 3?**

A. No. If you look at my exhibit -- okay. If you look at exhibit --

MS. TOBIN-PRESSER: Ms. Newman, what was the number with these four charts I prepared?

MS. NEWMAN: It is Exhibit 242.

A. So Exhibit 242, if you look at that, the first section in that, you can see that's Oregon-Genesee-Dakota. And if you look at the chart -- not the summary chart, but below that, you'll see there is a column for initial maps, and you'll see the column for preferred alternative.

And if you look down the initial map column and compare it to the preferred alternative, you will see it's all exactly the same until you get down to those -- I don't know, ten or so houses that in the initial maps were lowrise 1, and in the preferred alternative are residential small lot.

So the initial map refers to the map that was released in October of 2016.

**Q. Okay.**

A. So I don't know what -- then -- then 2 and 3 came out at the same time as the draft EIS. But the public comment was all taken with respect to those draft maps that came out in October of 2016.

**Q. Okay. So when you were testifying to comparisons, several times you talked about differences in the preferred**

sorry. Boy, I think 8 is on 40th. I believe -- I know 10 is on 39th. And 6 was actually the other one. Seven is 41st between Edmunds and Hudson.

**Q. Okay.**

A. That was the down slope one. So the -- the ones from Oregon-Genesee-Dakota are 6, 8, 9, 10, 11.

**Q. Right. And I think for a lot of them you identified. That was just 8, 9, and 10 I hadn't heard.**

A. Oh, yeah. So 8, 9, and 10.

**Q. So 9 is the only one that --**

A. I didn't say 6, either. I mean, I didn't tell you 6. But I think that is on 37th.

Eight I think is on 40th.

Nine -- I'm sorry. I just -- I didn't make a note of that. I'm sorry.

**Q. Okay. So more generally, how many non-project action EISs have you reviewed before?**

A. None.

**Q. Okay. Back to the Oregon-Genesee-Dakota neighborhood.**

A. Yes.

**Q. I think at one point earlier in your testimony you said -- you made reference to the only change that was reflected in the preferred alternative. And I guess I was -- well, first and foremost I wanted to understand, what were you comparing? Were you comparing the preferred alternative to**

**alternative.**

A. Yeah.

**Q. Were you referring to differences between the preferred alternative and those early October 2016 maps?**

A. The first ones that people looked at and commented on versus what's now being proposed, yeah.

**Q. Okay. As opposed to alternatives 2 and 3?**

A. Correct. Yes.

**Q. Okay. Thank you. So, okay. That's helpful then.**

A. Okay.

**Q. The -- let's stick with these charts for just a second. I want to understand it a little bit better. So I appreciate now the clarification about what the initial maps refers to. Can you turn to the one that is for Edmunds slope area.**

A. Yes.

**Q. So am I reading this correctly? I'm looking now at the summary chart at the top.**

A. Yes.

**Q. And you have 1992 plus, so that's since 1992. The next column, number of years old, you're saying zero to 25 years old?**

A. Right.

**Q. And the third column says zero new homes built --**

A. Right.

**Q. -- with -- since 1992?**

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.

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.

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?

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.**

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.

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1 truth?  
 2 MR. MOEHRING: Yes.  
 3 HEARING EXAMINER: Thank you.  
 4  
 5 DAVID MOEHRING Witness herein, having first been  
 6 duly sworn on oath, was examined  
 7 and testified as follows:  
 8  
 9 DIRECT EXAMINATION  
 10 BY MS. NEWMAN:  
 11 **Q. Good afternoon, Mr. Moehring. Could you also provide your**  
 12 **address.**  
 13 A. Sure. 3444 23rd Avenue West, it's in East Magnolia,  
 14 Interbay.  
 15 **Q. And oh, that's the neighborhood that you live in?**  
 16 A. Yeah.  
 17 **Q. Okay. And is it within an urban village?**  
 18 A. No. But it is within a LR1 area with adjacent LR2.  
 19 **Q. And so it's being upzoned by the MHA proposal?**  
 20 A. Yes.  
 21 **Q. And how long have you lived there?**  
 22 A. Two and a half years.  
 23 **Q. And are you familiar with the MHA proposal that's the**  
 24 **subject of this hearing?**  
 25 A. Yes, I am.

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1 **Q. When did you become aware of it?**  
 2 A. I think there was three kind of -- a fellow Magnolia member  
 3 of -- that I know mentioned that there was some information  
 4 on the MHA that was coming out, and there was three kind of  
 5 community based -- I think it was the Seattle Neighborhood  
 6 Coalition had some presentations to kind of talk about what  
 7 is being proposed.  
 8 MS. NEWMAN: Okay. I'm going to talk about this exhibit  
 9 height and scale edge impacts excluded from MHA FEIS, and  
 10 that's SCALE Exhibit 203.  
 11 HEARING EXAMINER: Marked as 245.  
 12 (Exhibit No. 245 marked)  
 13 MR. KISIELIUS: I'm sorry, Claudia. What was --  
 14 MS. NEWMAN: 203.  
 15 MR. KISIELIUS: Thank you.  
 16 **Q. (By Ms. Newman) Mr. Moehring, do you have that document that**  
 17 **I just described in front of you?**  
 18 A. I do.  
 19 **Q. And can you tell us -- oh, and do you recognize that**  
 20 **document?**  
 21 A. Yes, I do.  
 22 **Q. Can you tell us a little bit more about what that is?**  
 23 A. Basically it's a document that -- what's city-wide at the  
 24 areas where a height, bulk, and scale, both impact areas,  
 25 and specifically for areas which have not been considered

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1 within the MHA FEIS.  
 2 **Q. Did you prepare this?**  
 3 A. I did. The majority of this document comes from the EIS  
 4 from exhibit -- or I'm sorry, from Appendix H. And the only  
 5 thing I really added to this was adding the red dashed line  
 6 boxes in the areas.  
 7 **Q. Okay. So let's -- looking at the index, which I think is --**  
 8 **let's see. It's three pages in. It looks like these are**  
 9 **referring to the different maps from the MHA EIS Appendix H,**  
 10 **this index?**  
 11 A. That's correct.  
 12 **Q. And so does this index then show us what all the maps are**  
 13 **that are attached to this document?**  
 14 A. That's correct.  
 15 **Q. All right. And then turn the page, and it says H-100**  
 16 **reference only. What's that page?**  
 17 A. These are also part of the Appendix H. And the city started  
 18 out with some larger scale views before they went down to  
 19 the urban village views. So the --  
 20 **Q. Okay.**  
 21 A. -- H-100 basically is for the Central Seattle area.  
 22 **Q. Oh, okay. So this is showing -- this is H-100, and it's**  
 23 **showing zoning for the entire Central Seattle area. And so**  
 24 **it's including areas outside of urban villages?**  
 25 A. Yes. The urban village areas are with a heavy -- heavy line

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1 border.  
 2 **Q. Uh-huh.**  
 3 A. And the areas outside the villages are, you know, outside of  
 4 that border.  
 5 **Q. Okay. So if we turn to -- let's see. I guess before we**  
 6 **dive in, what I want to do is go through this a little bit.**  
 7 **But before we do, can you give us a little summary of what**  
 8 **your focus is of your testimony today, kind of the big**  
 9 **issues, and what you're trying to address with this**  
 10 **document.**  
 11 A. Sure. On the second page of the exhibit I kind of listed a  
 12 key concerns. And the height, bulk, and scale items, a lot  
 13 of this is just simply taken from the current land use code.  
 14 So the current land use code is very interested in having  
 15 gradual change in height, bulk, and scale versus a dramatic  
 16 change. So what I was trying to do with this exhibit was to  
 17 demonstrate areas where the proposed MHA changes were more  
 18 than a gradual change.  
 19 MR. KISIELIUS: Mr. Examiner, I'm going to interpose an  
 20 objection here.  
 21 Excuse me, Mr. Moehring.  
 22 Mr. Moehring is another witness that was not disclosed as  
 23 an expert.  
 24 MS. NEWMAN: I'm not -- I don't understand.  
 25 MR. KISIELIUS: He's prepared in essence an analysis

1 that's beyond just mere first-hand knowledge that a fact  
2 witness would typically provide. He's got credentials that  
3 he's added to his name at the end of the exhibit he  
4 prepared, which would speak to some authority that he's  
5 offering in support of this exhibit.  
6 So again, this is an example where, had he been listed as  
7 an expert, the City would have taken a different approach in  
8 its hearing preparations, and now we're kind of being blind  
9 sided again.  
10 MS. NEWMAN: There is absolutely no intention of blind  
11 side. There is no even close call with this being opinion  
12 expert testimony. We are going to -- it's -- it's a matter  
13 of taking maps and drawing dashed lines to show where there  
14 are impacts -- where certain areas are zoned a certain way,  
15 and where certain areas are zoned a different way, and going  
16 through them systematically. It's all facts.  
17 There's no analysis. It's just pointing out facts, and  
18 putting them together in a certain way, and summarizing the  
19 facts. It's a lay witness.  
20 MR. KISIELIUS: And I --  
21 HEARING EXAMINER: Just for my clarification, Mr.  
22 Moehring, are you an architect?  
23 MR. MOEHRING: Yes, I am.  
24 HEARING EXAMINER: The problem is I've seen him in  
25 hearings before, so I'm aware of his expertise.

1 MS. NEWMAN: Okay.  
2 HEARING EXAMINER: -- as long as it's just describing  
3 this.  
4 But if he's describing the edge issues, as I understand  
5 the objection to be, that that would be related to  
6 expertise. And I would take him as being speaking from his  
7 expertise on those, as this document certainly doesn't speak  
8 to edge impacts in any way.  
9 MS. NEWMAN: So I am not relying on him as --  
10 HEARING EXAMINER: And I'm not (inaudible).  
11 MS. NEWMAN: -- an architect. I'm relying on him as a  
12 person who's going to factually describe what the impacts  
13 are, just almost identical to what the previous witness that  
14 I presented did, of talking about having tall buildings next  
15 to short buildings, and the fact that the EIS didn't talk  
16 about them. And it's not an opinion. We're not talking  
17 about fenestration, and windows, and design, and what things  
18 look like.  
19 It's just a factual, going through and pointing out that  
20 there is zoning that is of a much lower intensity along the  
21 edges of a lot of these that has been ignored and not  
22 reviewed in the EIS.  
23 MR. KISIELIUS: Mr. Examiner, may I respond?  
24 HEARING EXAMINER: Uh-huh.  
25 MR. KISIELIUS: Two things. One is I think there is an

1 MS. NEWMAN: Well, I'm not --  
2 HEARING EXAMINER: And if you don't go there, I mean, I  
3 understand what you're saying. We can do the same thing we  
4 did with the last witness.  
5 But I mean, it's here. It's his credentials. If he's  
6 talking about zoning and potential edge impacts, I don't  
7 know how far you're going to go with that, but that does  
8 start to get into the issue raised by the City.  
9 If it's just a matter of describing these pages, anybody  
10 can do that, and we can allow that testimony.  
11 But not unlike with the last witness where we had this  
12 problem, there was an edge where, in fact, it seemed quite  
13 reasonable that Appellants would explore it more with --  
14 MS. NEWMAN: Okay.  
15 HEARING EXAMINER: -- a qualified witness. But here we  
16 have a disclosure issue with that.  
17 MS. NEWMAN: Well, I can tell you what the testimony will  
18 be, and maybe we can --  
19 HEARING EXAMINER: I'm sorry you're running into  
20 objections on testimony, Mr. Moehring.  
21 That's a -- that was actually a central issue the last  
22 time he was in front of me. So...  
23 MS. NEWMAN: Do you want me to describe what --  
24 HEARING EXAMINER: Well, we can continue with him  
25 testifying --

1 issue with the document, because this isn't just a  
2 reproduction of maps from the EIS. There's actual things  
3 being marked on maps from the EIS, which will, I would  
4 assume, have accompanying testimony.  
5 And I actually would take issue and disagree with what Ms.  
6 Newman has just described. I actually think that that is  
7 precisely what an expert gets to do.  
8 An expert gets to look at things, and project, and  
9 identify impacts or what they perceive to be impacts based  
10 on conditions that are not on the ground, based on their  
11 expertise.  
12 And here we've got an architect who's going to be lending  
13 that credential behind his testimony.  
14 MS. NEWMAN: I want to point out that I didn't ask him if  
15 he was an architect. I'm not offering him as an architect.  
16 MR. KISIELIUS: It's on his report.  
17 MS. NEWMAN: I'm just saying -- okay. Well, we can remove  
18 that from his report and give a new exhibit without that.  
19 I'm not relying on this witness as an architect.  
20 HEARING EXAMINER: The challenge for me then is to see  
21 whether I can forget that he's --  
22 MS. NEWMAN: I will find a substitute witness to walk  
23 through this. This is lay -- this is factual information  
24 that is lay witness. I could go through this and testify  
25 about this myself.

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1 HEARING EXAMINER: Right. And I -- there's no reason  
 2 to --  
 3 MS. NEWMAN: He just is coincidentally an architect.  
 4 HEARING EXAMINER: Did you prepare this?  
 5 MR. MOEHRING: I just took it from the manual.  
 6 HEARING EXAMINER: But I mean, did you -- you added these  
 7 lines?  
 8 MR. MOEHRING: Yes.  
 9 HEARING EXAMINER: Did you identify the edge areas?  
 10 MR. MOEHRING: I just looked at the map and saw where  
 11 there was a discrepancy --  
 12 HEARING EXAMINER: Right.  
 13 MR. MOEHRING: -- based upon what's on there.  
 14 **Q. (By Ms. Newman) Did you rely on your architecture expertise**  
 15 **to do that?**  
 16 A. Didn't need to. It's all written down there, you know, M  
 17 parentheses, M1 parentheses, single family zone next to area  
 18 commercial zone. It's all written on the documents  
 19 available for anybody to see.  
 20 HEARING EXAMINER: The witness has not yet been called to  
 21 draw on his architectural experience. I'm anticipating  
 22 there could be problems with that as we go, so I'm not --  
 23 I'm not going to rule on it now, but I'll allow that issue  
 24 to be raised again as an objection to specific testimony.  
 25 But I'll allow the witness to work his way through the

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1 exhibit to present -- simply stating that the challenge is,  
 2 I mean, when -- if anybody looks at these edges, you have a  
 3 unique way of viewing them just with your expertise, which  
 4 I'm simply trying to recognize your expertise. And it's  
 5 possible you would see something somebody else wouldn't,  
 6 simply because of that architectural background. So that's  
 7 the challenge we're faced here.  
 8 I don't think the City is necessarily surprised by the  
 9 exhibit. They've had a copy of that. So if we're working  
 10 through that, could be the best, most amazing architect in  
 11 the world here talking about that, or a complete lay  
 12 witness.  
 13 And so if we're going through this, then we can certainly  
 14 have someone present that. And I don't -- we don't need to  
 15 go to the gesture of finding a different witness to do that,  
 16 but I want us to be very careful as we proceed with this  
 17 witness to allow that testimony only. And that really gets  
 18 into the opinion of how those lines were formed.  
 19 MS. NEWMAN: Well, let's --  
 20 HEARING EXAMINER: Unless you want to try something else.  
 21 I mean, if you want to pull it and have another witness do  
 22 that, but I just -- if you're understanding the conflict  
 23 that we're in here with the --  
 24 MS. NEWMAN: I think I'm having trouble understanding it,  
 25 because I know that there was no expertise involved in

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1 drawing -- in -- I could have prepared these is what I'm --  
 2 and so I just don't understand how it's possible to even  
 3 think that you would need an architect to do this. And I  
 4 can walk through his testimony.  
 5 HEARING EXAMINER: That may be. And this is truly from my  
 6 subjective perspective of what --  
 7 MS. NEWMAN: Okay.  
 8 HEARING EXAMINER: -- of edge problems are.  
 9 MS. NEWMAN: Okay.  
 10 HEARING EXAMINER: Not anybody off the street would  
 11 immediately understand what that is and know where those  
 12 are.  
 13 An architect comes to that issue with some level of  
 14 understanding of what it is, and to be -- have the capacity  
 15 to identify those --  
 16 MS. NEWMAN: Okay.  
 17 HEARING EXAMINER: -- is just the problem. That's their  
 18 training is how these things impact neighborhoods and  
 19 design.  
 20 MR. KISIELIUS: So is the ruling that he would be allowed  
 21 to walk through that; and then if a line gets crossed,  
 22 then --  
 23 HEARING EXAMINER: Right.  
 24 MR. KISIELIUS: -- it would be addressed?  
 25 HEARING EXAMINER: Yes. And I understand Ms. Newman's

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1 question trying to find out where that line is to get there.  
 2 Because I -- it just seems natural to me it would be a  
 3 broader conversation than simply I drew this line here or  
 4 this is where the line is.  
 5 MS. NEWMAN: Okay. We'll do our best.  
 6 A. So answer your question? Or --  
 7 **Q. (By Ms. Newman) So that leads us to -- I don't want to go**  
 8 **through every single one of these photos -- I mean of these**  
 9 **graphics. But can we just pick an example or a couple**  
 10 **examples, and you can walk us through what -- just to**  
 11 **describe what you did and how you created this.**  
 12 A. Sure. I think the ones that are good examples -- again,  
 13 these are just examples -- would be H-25, Columbia City;  
 14 H-43, Green --  
 15 **Q. And let's just focus on Columbia City, H-25.**  
 16 A. Okay. So --  
 17 **Q. Just tell us what you did.**  
 18 A. Describing this -- do I -- should I describe this drawing,  
 19 too? Or not necessarily?  
 20 **Q. Well, I guess this map came from the MHA EIS, and it's**  
 21 **Exhibit H-25, correct, the original map?**  
 22 A. Yeah.  
 23 **Q. And then you -- did you draw those or add those dotted**  
 24 **lines?**  
 25 A. That's correct, yes.

1 **Q. And what was the process -- how did you decide, or what was**  
 2 **the process for adding those dotted lines?**  
 3 A. Well, basically just looking at those areas where the  
 4 proposed increase in height was more than 30 feet, which is  
 5 what was indicated in the MH -- MHA as a threshold to look  
 6 out for. So --  
 7 **Q. Within the urban village, or within the MHA proposal?**  
 8 A. Yes. Within --  
 9 **Q. Okay.**  
 10 A. And you'll see that these dash lines typically occur on  
 11 the -- where that heavy line is, which is the outline of the  
 12 urban village. So a lot of the areas affected within these  
 13 dashed lines are actually outside of the urban village.  
 14 HEARING EXAMINER: I want to make sure I understand what  
 15 you said, Mr. Moehring. That you drew these where you saw a  
 16 differential between zones where there was more than 30 feet  
 17 in allowed height?  
 18 MR. MOEHRING: That's right.  
 19 HEARING EXAMINER: And is anywhere there's -- anywhere  
 20 that happened is where you drew these?  
 21 MR. MOEHRING: Let me be more clear. So if it was -- if  
 22 it went from --  
 23 HEARING EXAMINER: I'm sorry, Ms. Newman.  
 24 MS. NEWMAN: That's fine.  
 25 MR. MOEHRING: If it went from 30 feet to 40 feet, I

1 talking about. But where I highlighted it with red is when  
 2 it's actually more than 30 feet. When it's --  
 3 **Q. Okay.**  
 4 A. -- like a 50-foot height or more.  
 5 **Q. So let's go through one at a time on this Columbia one, for**  
 6 **example.**  
 7 A. Okay.  
 8 **Q. Columbia City.**  
 9 HEARING EXAMINER: And this is still H-25?  
 10 MS. NEWMAN: Yes.  
 11 A. So in the very top -- you want to start from the very top?  
 12 **Q. (By Ms. Newman) Yeah.**  
 13 A. So that's actually North Rainier. The -- the part of the  
 14 top of this map is North Rainier where the first red dashed  
 15 line is.  
 16 **Q. Is that running north/south or east/west, North Rainier?**  
 17 A. It's running north/south.  
 18 **Q. Okay.**  
 19 A. So that light tan area that's right on the top of that map  
 20 of H-25 where the first red dashed box is, that's a LR2  
 21 area, which is going from 30 feet to 40 feet. So there you  
 22 have a difference of 40 -- from a 40 feet down to a  
 23 residential.  
 24 **Q. Single family?**  
 25 A. Single family. Then below that is a commercial --

1 didn't do it. If it went from 30 feet, such as single  
 2 family residential, or lowrise 1 up to 50 feet or more, then  
 3 I marked it. So at least a 20-foot to 25-foot increase in  
 4 height, sometimes more.  
 5 HEARING EXAMINER: Okay.  
 6 **Q. (By Ms. Newman) And so are all of the areas that -- so let's**  
 7 **just zero in on H-25 here. And the areas on that map that**  
 8 **are colored are the areas -- are those the areas that are**  
 9 **going to be upzoned by the MHA proposal?**  
 10 A. That's right.  
 11 **Q. And then the areas that are gray, are those areas that are**  
 12 **not being upzoned?**  
 13 A. Those are single family zone is my understanding.  
 14 **Q. Okay. So every one of those areas that are gray within your**  
 15 **red dashed lines are single family zoning?**  
 16 A. That's correct.  
 17 **Q. Okay. And then the areas that are color adjacent to those**  
 18 **red dash are zoned for either a 30-foot height or taller; is**  
 19 **that correct?**  
 20 A. That's correct.  
 21 **Q. Okay. So it's the distinction between single family and**  
 22 **zones that are potentially 30-foot height limit or more is**  
 23 **the -- they're adjacent to each other, is places where**  
 24 **you're showing they're adjacent?**  
 25 A. Well, while I'm doing it is -- so this map shows what you're

1 commercial zone, 40 feet currently, which is now going to  
 2 C-55, commercial 55 feet. So there you have a 55-foot  
 3 zoning right next to a single family zoning.  
 4 Going down from that, there's a small box, and there's a  
 5 box adjacent to that. The street name is meth -- let's  
 6 see -- 20 -- I can't see those letters -- I think 36 where I  
 7 have the red box around that. Going from Dakota down to  
 8 Genesee, I believe -- or no. Even further than that. That  
 9 is a LR3 area. Now it's becoming LR3, which is going up to  
 10 50 feet, again next to a single family 30-foot.  
 11 And below that is a NC-40, neighborhood commercial 40,  
 12 which is going up to 55. So you're going to have 55-foot  
 13 tall structures adjacent to single family and residential  
 14 small lot zoning.  
 15 **Q. Okay. And I've noticed that there's -- it's not just the**  
 16 **urban village boundaries, but there's zoning happening**  
 17 **outside of urban village boundaries that have these edge**  
 18 **impacts?**  
 19 A. Yes, that's correct. So if you look on the bottom of the  
 20 page --  
 21 **Q. Uh-huh.**  
 22 A. -- there is a portion between the Lucile, Lucile -- South  
 23 Lucile and South Orcas, which is right now a -- it's like a  
 24 salmon color on the map. That is -- currently is a  
 25 neighborhood commercial 40. It's going up to 55 feet. So

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1 both sides of that is single family with a -- at 30 feet  
 2 with a 55 beyond -- beyond that.  
 3 **Q. Okay.**  
 4 A. And also on that is -- if you want me to go there, in the  
 5 very right-hand bottom corner is a part of Othello we could  
 6 look at. That one actually runs for quite a distance where  
 7 it's outside of the neighbor- -- or it's outside of the  
 8 urban village zone, but it still has increases in height  
 9 that directly impact.  
 10 **Q. And where is that again? I don't see.**  
 11 A. At the very bot- -- you see where the little north arrow is?  
 12 **Q. Uh-huh.**  
 13 A. There's a salmon color area there.  
 14 **Q. Yeah.**  
 15 A. That continues on for quite some distance on the H-64  
 16 Othello map.  
 17 **Q. But you didn't put a red dash there?**  
 18 A. I did it on the Othello map.  
 19 **Q. Oh, I see. Okay. And so let's look at the Othello map**  
 20 **then, H-64 I believe that is.**  
 21 A. Yes. So are you there?  
 22 **Q. Yeah. If you could give us a little bit of -- some detail**  
 23 **about this one.**  
 24 A. Okay. So on this Othello map, you'll see basically the  
 25 urban village and heavy lines, but to the right of that,

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1 which is actually Rainier Avenue South, it kind of runs  
 2 parallel down, all that area is currently, you know, in the  
 3 salmon color, either neighborhood commercial 40, which is  
 4 going up to 55 feet. With -- again flanking both sides of  
 5 that 55 feet would be single family at 30 feet; or there's  
 6 LR3, which is right -- the darker color salmon, that is  
 7 again going to 50 feet, from my understanding. And --  
 8 MR. KISIELIUS: Mr. Examiner, I'm going to renew my  
 9 objection here.  
 10 And as the witness is continuing to testify, it's becoming  
 11 apparent that this is more than just identifying places on a  
 12 map where zoning is changing. He's going beyond that and  
 13 identifying places where he believes there is going to be an  
 14 edge effect, which includes not just a vicinity of the  
 15 places shown on the map, but the boundaries of where he  
 16 thinks the edge effect will occur. That involves some  
 17 professional judgment.  
 18 He is taking something that is not in place and making a  
 19 judgment about potential impacts based on documentation,  
 20 based on his expertise. And again, that's not -- I believe  
 21 that is the -- that is the exact role that an expert plays  
 22 in a proceeding. And --  
 23 HEARING EXAMINER: Do you have a specific example?  
 24 MR. KISIELIUS: He's just now testified, as we're looking  
 25 at H-64, those red dashed lines are not in the City's

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1 exhibit. Those are ones that he's put in to depict  
 2 something. And what he's depicting here is edge effect that  
 3 he's created based on what he understands to be the  
 4 differential between the salmon-colored zone and the gray  
 5 zone around it.  
 6 MS. NEWMAN: It's the -- he's telling us what the zoning  
 7 is. He's literally telling us what the zoning is. That's  
 8 it.  
 9 We've just learned that the NC zoning is going to be  
 10 increased to NC-55 right adjacent to a single family zoning.  
 11 MR. KISIELIUS: Mr. Examiner --  
 12 MS. NEWMAN: It's literally --  
 13 MR. KISIELIUS: Just all this, the City would have no  
 14 objection if the witness wanted to take the actual exhibit  
 15 that's in the EIS and point the same places out.  
 16 If he starts testifying about extent of edge effect, and  
 17 how far it goes, and where it's -- that's, that's where we  
 18 get into problem.  
 19 MS. NEWMAN: Your Honor, I think this is an --  
 20 MR. KISIELIUS: (Inaudible) testifying about (inaudible).  
 21 MS. NEWMAN: -- outrageous objection that is trying -- I  
 22 think that they are concerned about this because it's very  
 23 damning, and I think it's an outrageous objection that has  
 24 no basis whatsoever.  
 25 And any -- we're not putting this forward from an expert.

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1 He's literally just showing us specific areas and describing  
 2 what the zoning is. And there's no architectural expertise  
 3 being provided, other than identifying zoning.  
 4 HEARING EXAMINER: It's slightly more than that. If you  
 5 look -- if we're looking at H-64, for example, roughly dead  
 6 center there's a large square of light tan zoning that has  
 7 the dotted red line around it overlapping a rectangle that's  
 8 similarly outlined. That matches exactly a zoning area.  
 9 Then you move to the right where there's a corridor of  
 10 light salmon, light brown, light salmon, and light brown  
 11 again, and the red dots don't correspond to any boundary --  
 12 specific boundary of zoning. It's just an area that -- so  
 13 I'm not sure what it's corresponding to, unless there's some  
 14 type of edge effect outside of the area of the zoning.  
 15 MS. NEWMAN: See, what I'm confused --  
 16 HEARING EXAMINER: At least that's what I'm seeing right  
 17 here.  
 18 MS. NEWMAN: I'm confused about why edge effect is an  
 19 architect -- you have to have architectural expertise to  
 20 understand the idea that, if you have a high zone next to a  
 21 low zone, that that's something just that we're pointing out  
 22 that --  
 23 HEARING EXAMINER: I guess what I'm running into is: How  
 24 do you divorce the fact that an architect is looking at this  
 25 to find it as opposed to someone else?

1 MS. NEWMAN: I --  
 2 HEARING EXAMINER: Would someone else looking at this,  
 3 without an architect's role -- architect's understanding of  
 4 zoning, and code, and working with projects and maps come up  
 5 with the same conclusion?  
 6 And I don't know that I would assume that to be the case,  
 7 in deference to Mr. Moehring's actual experience.  
 8 Is there anything in here that simply defines what these  
 9 lines are?  
 10 MR. MOEHRING: I don't think there was, because I  
 11 simply -- to help --  
 12 HEARING EXAMINER: Right.  
 13 MR. MOEHRING: -- (inaudible) the discussion.  
 14 HEARING EXAMINER: It's just the maps themselves. There's  
 15 no text explaining --  
 16 MR. MOEHRING: Uh-huh, that's correct.  
 17 HEARING EXAMINER: -- what you have.  
 18 The challenge I'm having is also -- I understand that the  
 19 appellants have provided this exhibit. You know, there has  
 20 been fair warning to the City with this being in the record  
 21 that was to be presented.  
 22 MS. NEWMAN: I think the sandbagging is them objecting to  
 23 him not being presented as an expert when they knew and had  
 24 this exhibit with his -- with the architecture identified on  
 25 the front and not saying anything to us ahead of time --

1 MS. NEWMAN: I think the fact that the only reason that  
 2 you are saying that my expert -- I mean my witness -- my lay  
 3 witness is an expert is because you're looking at this  
 4 exhibit, and you're seeing AIA afterwards.  
 5 I didn't -- I didn't ask him if he was an architect.  
 6 There's no evidence in the record that he's an architect.  
 7 The only thing that you're relying on is that AIA right  
 8 there. And so --  
 9 HEARING EXAMINER: So the Hearing Examiner has to disclose  
 10 he knows he's an architect. I've had him in hearings  
 11 before.  
 12 MS. NEWMAN: Okay.  
 13 HEARING EXAMINER: So I can't erase that from my memory.  
 14 I know he's an architect.  
 15 MS. NEWMAN: I know. But I'm talking about the  
 16 sandbagging of --  
 17 HEARING EXAMINER: So what I -- in the context of the  
 18 objection being raised, there's a document that's got his --  
 19 I mean, it wouldn't suit for this hearing alone to take that  
 20 out, to redact that out, because the decision maker knows  
 21 he's an architect.  
 22 We could clean it up for the appeal record, because no  
 23 one's going to know then, except for the fact they're  
 24 listening to this, and probably can cut that out of their  
 25 minds. That's not going to matter to them.

1 HEARING EXAMINER: But not yet --  
 2 MS. NEWMAN: -- and warning us that they are going to  
 3 consider him to be an expert. And now suddenly we're at the  
 4 last minute. This is an extremely important piece of  
 5 evidence for our case.  
 6 And I think we're the ones who have been put in the  
 7 impossible position of not being able to present what I  
 8 think are just facts. And I've considered them facts.  
 9 And the City gave us no heads up whatsoever until this  
 10 moment that they don't consider this to be a factual  
 11 document.  
 12 MR. KISIELIUS: Mr. Examiner, if I might respond to that,  
 13 we were very clear early and often with our understanding of  
 14 who their experts were way back into discovery, and we  
 15 planned our case accordingly.  
 16 And the problem with this as an exhibit is that, as Mr.  
 17 Examiner has pointed out, there's no corresponding  
 18 explanation which the witness is now providing. The two  
 19 together is the -- raises the concern. It's the fact that  
 20 he has added things to a map, and is now communicating what  
 21 those things mean.  
 22 MS. NEWMAN: I --  
 23 MR. KISIELIUS: And if the geographic extent of the red  
 24 dashed lines have no meaning, then I suppose maybe we don't  
 25 have a problem with that.

1 I'm having a real struggle with it because I know the  
 2 witness. I know that he's got that background.  
 3 MS. NEWMAN: Well, this is putting us in an extremely  
 4 unfair position, because that was not our intention. I was  
 5 not intending to present him as an architect.  
 6 HEARING EXAMINER: Well, yeah. But you can call Carl  
 7 Sagan and not intend to call him as an expert on the  
 8 universe; but if you ask him about it, everybody's going to  
 9 see him as an expert. And that's the problem.  
 10 If you call someone who is an expert as a nonexpert, and  
 11 you didn't disclose that to the other side, and they didn't  
 12 know except for this little bit on here, then they didn't  
 13 have a chance to prepare for what -- I completely agree with  
 14 we look at the last witness as a lay witness, and they're  
 15 going to -- almost expert level of discussion of the  
 16 comprehensive plan and the code very articulately, but still  
 17 clearly a lay witness.  
 18 And we have lay witnesses in here who reach a high level  
 19 of expertise and understanding. And that's the struggle I'm  
 20 having with Mr. Moehring's testimony is I -- you know, aside  
 21 from being a well-studied citizen of the city, he also comes  
 22 to this with an expert background, which part of why he got  
 23 to the place he is of being able to testify to this.  
 24 And that wasn't disclosed to the City, that the -- how --  
 25 MS. NEWMAN: Well, I honestly --

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1 HEARING EXAMINER: I understand.  
 2 MS. NEWMAN: I didn't mean to not disclose it. I just  
 3 didn't consider this to be expert. I thought it was lay  
 4 witness testimony.  
 5 HEARING EXAMINER: I -- how does --  
 6 MS. NEWMAN: I truly thought it was a person just telling  
 7 us what the zoning is.  
 8 HEARING EXAMINER: But it isn't just the zoning. It's an  
 9 edge effect. It's an impact. It should have been  
 10 disclosed.  
 11 MS. NEWMAN: But we haven't described the impacts. We're  
 12 just talking about what the zoning is.  
 13 HEARING EXAMINER: What the edge effect is.  
 14 MS. NEWMAN: Literally just identifying --  
 15 HEARING EXAMINER: I mean, again, when I look at the maps,  
 16 it's not looking at just -- at least as far as H-64, if I  
 17 look at the salmon area, if we look just up to the upper  
 18 right-hand corner, there's a series of four boxes, and they  
 19 don't match any particular zoning edge. Their boxes  
 20 encompass an area.  
 21 MS. NEWMAN: I think what that is supposed to -- the box  
 22 is showing a spot where the zoning is single family adjacent  
 23 to neighborhood commercial. That's what the box is showing.  
 24 MR. MOEHRING: That's correct.  
 25 HEARING EXAMINER: So can you clar- -- can the witness

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1 clarify what the boxes represent? Because I -- plain just  
 2 looking at them, not knowing where we're at here, it says to  
 3 me, height and scale edge impacts excluded from MHA EIS,  
 4 which is the title.  
 5 MS. NEWMAN: Uh-huh, right.  
 6 HEARING EXAMINER: So if I looked at this, and there's no  
 7 explanation in this document as to what is surrounded by  
 8 these red dots that are added by the witness, I would  
 9 immediately assume the height and scale edge impacts are  
 10 defined by those lines.  
 11 And that's why I was asking for any plain explanation in  
 12 the document itself that would lay that out, partly because  
 13 that would have warned the City as to what this was about in  
 14 advance.  
 15 MR. MOEHRING: Well, the title of the document is height  
 16 and scale edge impacts excluded from the MH FEIS.  
 17 So the MHA FEIS covers all the urban villages, right? It  
 18 does not cover what's outside of the urban village.  
 19 So these boxes highlight those areas where there's a  
 20 change in zoning that is impacting, that is obviously a  
 21 height difference. If any --  
 22 HEARING EXAMINER: But you include areas within the urban  
 23 villages, too. I mean, I think --  
 24 MR. MOEHRING: Yeah.  
 25 HEARING EXAMINER: -- I'm looking at an urban village on

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1 H-64.  
 2 MR. MOEHRING: Right. Yeah. And the same thing there.  
 3 There is areas inside the urban villages where there is  
 4 significant height changes with the zoning that's been  
 5 identified.  
 6 I'm not offering any -- any opinions. I'm simply looking  
 7 at the documents that were issued by the City, and calling  
 8 those out as inquired. My understanding that's just simply  
 9 providing facts of a fact witness.  
 10 MS. NEWMAN: If I could just add one more thing.  
 11 HEARING EXAMINER: Let me hear from the City.  
 12 MS. NEWMAN: Okay.  
 13 HEARING EXAMINER: I mean, if he's just describing where  
 14 the heights are, wherever they are, and as I understand it  
 15 from the witness, your red lines do not match exactly where  
 16 the heights are? They're just maybe circling this general  
 17 area where they may occur?  
 18 MR. MOEHRING: Right.  
 19 MR. KISIELIUS: If that -- if that is -- if it's just  
 20 circling in a non-precise way those locations where there is  
 21 that differential -- I mean, I think the City's objection  
 22 stands here. There's an amount of this that is getting --  
 23 And I don't hold as limited a view as Ms. Newman does of  
 24 what an architect's credentials limit them in their role in  
 25 these types of issues.

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1 So I -- if there really is nothing behind those lines  
 2 other than to generally identify locations without any  
 3 precision, then the witness -- then we can keep trying to  
 4 go.  
 5 I'll reserve my more specific objections as -- if I hear  
 6 them. But --  
 7 HEARING EXAMINER: And I understand. I mean, part of this  
 8 is I'm looking at it, just never having seen it before, and  
 9 not trying to see it one way or the other. But when I look  
 10 at it, it looks like you're showing what your title says.  
 11 MS. NEWMAN: Well, that's --  
 12 HEARING EXAMINER: So I can go with your explanation. But  
 13 let's --  
 14 MS. NEWMAN: Okay.  
 15 HEARING EXAMINER: If I were going to show where the  
 16 impacts were, I would draw a line where the impacts were.  
 17 MS. NEWMAN: Yeah. But the impacts are defined by the  
 18 fact that there is a certain zone next to a single family  
 19 zone within those red dots.  
 20 HEARING EXAMINER: That's what I'm hearing, yeah.  
 21 MS. NEWMAN: Yeah.  
 22 HEARING EXAMINER: I'm just saying that, for example,  
 23 if -- again, looking at H-64, those upper right-hand corner  
 24 squares go beyond the edge. They encompass an area.  
 25 And I can well imagine that a witness would say the

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1 impacts go beyond those people that are immediately  
 2 adjacent. Maybe it's shadows. Maybe it's noise. I don't  
 3 know what that impact could be.  
 4 We're excluding that from testimony to the degree you  
 5 would go there. But I understand you're not saying that  
 6 today.  
 7 MR. MOEHRING: Right.  
 8 HEARING EXAMINER: That is simply --  
 9 MS. NEWMAN: And so if a lay witness said that, would you  
 10 accept a lay witness saying that?  
 11 HEARING EXAMINER: For the value it was. But we're not  
 12 there at this point really. I mean, it is --  
 13 MS. NEWMAN: I'm just -- okay.  
 14 HEARING EXAMINER: I guess to clarify, Mr. Moehring is  
 15 essentially not a lay witness on this subject, in my  
 16 opinion, and should have been disclosed as an expert for  
 17 purposes of this.  
 18 And I understand that there's a difference of opinion on  
 19 there. But that is how I would view someone with your --  
 20 with Mr. Moehring's background.  
 21 You view this is they bring a specialized lens to identify  
 22 these type of community impacts that somebody just looking  
 23 at it might not see. And so that's where the tension is.  
 24 And so to a degree that he's here to speak as an expert,  
 25 that is excluded, and I sustained the City's objection.

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1 To the degree he's simply a fact witness, the appellants  
 2 have provided this document to the City in advance, and a  
 3 mere description of it doesn't step over the line of Mr.  
 4 Moehring being an expert, so long as these lines simply  
 5 depict a general area where there is an edge between a  
 6 difference in one zone and another.  
 7 Because any witness could describe that, as the appellants  
 8 have pointed out.  
 9 MS. NEWMAN: Okay. We'll stick to that.  
 10 A. Yeah. So --  
 11 **Q. (By Ms. Newman) So sticking to that limited scope, let's**  
 12 **look at the Greenwood Phinney Ridge H-43, and just describe**  
 13 **factually, within the scope of what the Hearing Examiner**  
 14 **directed, what that -- facts, the facts that we're**  
 15 **presenting here.**  
 16 A. Okay. So H-43 shows a map of the -- basically Greenwood  
 17 running north to south. And you'll see the urban village  
 18 area that's along the urban village that basically flanks  
 19 that street. There's also a cross street.  
 20 But basically there is a lot of areas in this urban  
 21 village, again the salmon-color areas, which were either  
 22 zoned C-40 or 40 feet, and now going up to 55 as in -- as in  
 23 the very top, that -- that salmon-color area that's just  
 24 outside of the urban village to the top.  
 25 **Q. And you know that it's going to that -- if -- I mean, it's**

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1 **hard to read these because they're so small.**  
 2 A. Yes.  
 3 **Q. But if we had this blown up, is that information that you're**  
 4 **giving us about what the changes are on this piece of paper**  
 5 **that we're looking at, this map? I mean --**  
 6 A. No. You'd have to look at the city's website.  
 7 **Q. Oh.**  
 8 A. To see what the actual height is, because the city -- or let  
 9 me just say the document did not post that information on  
 10 here, because they basically neglected to consider the areas  
 11 outside of the urban village.  
 12 **Q. Oh, so the zoning in the gray is not shown is what you mean?**  
 13 **Oh, the areas outside of the urban village --**  
 14 A. The areas --  
 15 **Q. -- are not?**  
 16 A. -- outside the urban village.  
 17 **Q. Okay.**  
 18 A. Right.  
 19 **Q. Okay. Okay. Okay.**  
 20 A. And I guess these are the small examples. But if you look  
 21 at the city map in general, there's a large proportion of  
 22 these, like, salmon-color areas outside the urban village  
 23 which are having increases of height.  
 24 **Q. So where would a map like that be? If you say look at the**  
 25 **city map in general.**

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1 A. Well, let's look at the MHA FEIS document page --  
 2 **Q. The appendix?**  
 3 A. No. Within the -- within the land use section there's a map  
 4 of the city of Seattle. And it's page 3.105.  
 5 **Q. Okay.**  
 6 A. If everybody's there, I'll start.  
 7 HEARING EXAMINER: 3.105?  
 8 A. Is the page, yeah. And it's the City's -- or it's the MHA's  
 9 Exhibit 3.2-2, existing land use categories.  
 10 **Q. (By Ms. Newman) Okay.**  
 11 A. So on this map of Seattle you'll -- again you'll see the  
 12 urban villages and the urban centers I believe as they're  
 13 described in the heavy border or at the -- the drawing  
 14 actually says in the MHA study area, so everything that you  
 15 see with a heavy border around it is included within the MHA  
 16 FEIS.  
 17 **Q. Uh-huh.**  
 18 A. You'll see a large portion of the city is not within those  
 19 borders, and yet a large portion of the city -- of the city,  
 20 as you can see by the existing land use color-coded  
 21 category -- color coded categories, such as commercial,  
 22 mixed use, multifamily, those do have the same height  
 23 increases being applied to them, regardless if they're in  
 24 the urban village or not.  
 25 So there's a large amount of the city which is being

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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

1 to do is ask -- are the impacts of having an NC-3 zone like  
2 you've shown in here next to a single family zone, what are  
3 those impacts going to be, and are they significant?

4 MR. KISIELIUS: And I'm going to again object. I think  
5 this is the very nature of expert testimony. You're asking  
6 him to give an opinion as to an impact that's informed by  
7 his credential.

8 HEARING EXAMINER: And evaluate not only what they are,  
9 but the size, the volume. I don't see how he can cut out  
10 the fact that he's an architect and has experience in the  
11 developed world to answer that question.

12 So I'll sustain the objection.

13 MS. NEWMAN: Okay. I think I have no further questions  
14 then. Yeah. No further questions.

15 HEARING EXAMINER: Okay. Cross.

16  
17 C R O S S - E X A M I N A T I O N

18 BY MR. KISIELIUS:

19 **Q. Mr. Moehring, I have just a couple questions. Tadas  
20 Kisielius on behalf of the City.**

21 **I just wanted to get an understanding of -- which sections  
22 of the EIS did you review before you testified today?**

23 A. Several sections. There was some zoning maps that were  
24 issued. I think it was a map that just basically showed  
25 where specific areas of the city have -- have changed in

1 **two; or are you just looking at anything where it's 50 feet  
2 in any area adjacent to those 50 feet?**

3 A. If that adjacent area is 30 feet or less, correct.

4 **Q. Okay. And I just want to get a little more clarity on your  
5 understanding of the study area. So you were testifying to  
6 what you believed was included in the EIS --**

7 A. Uh-huh.

8 **Q. -- and what wasn't. And here I think you were referring --  
9 and I'll try to find it quickly.**

10 **Let me actually just draw your attention to page 2.3.**

11 **This is of the EIS, which is Exhibit 2 in front of you  
12 there.**

13 A. 2.3?

14 **Q. Uh-huh.**

15 A. Okay.

16 **Q. So I think your testimony was -- the part that confused me  
17 and where I was looking for more clarity was the testimony  
18 about the portions of the city outside of the urban villages  
19 that are subject to the proposal.**

20 **So I'm wondering if there are any -- if there is -- if you  
21 can tell me from this map, do you see the teal there that  
22 shows the EIS study area?**

23 A. Yes.

24 **Q. And do you see the blackout lines that show the areas of the  
25 urban villages?**

1 terms of heights.

2 There is also a map that was issued that indicated areas  
3 that were not going to be impacted. I looked at of course  
4 .2 in the MHA, 3.3 on aesthetics.

5 I also looked at the direct -- SDCl director's opinion, so  
6 several, several documents.

7 **Q. Okay. But you looked at all of section 3.2?**

8 A. Yes.

9 **Q. Not just excerpts?**

10 A. Right.

11 **Q. Okay. And I want to just ask for clarification on this  
12 sorting exercise here. When you were looking at portions on  
13 the map, you're making a comparison and said you're  
14 interested in a differential of greater than -- I think you  
15 said 30 feet; is that correct?**

16 A. I think I corrected that.

17 **Q. What was --**

18 A. Anything -- anything 50 feet or higher --

19 **Q. That --**

20 A. -- to a 30-foot zone.

21 **Q. That's -- okay. So that's the source of my confusion.  
22 You're comparing -- let me say it, and see if you agree with  
23 this.**

24 **You're comparing what a height may be allowed in an area,  
25 and comparing it to an adjacent area and subtracting those**

1 A. Yes.

2 **Q. Is there anyplace in the city that's outside of an urban  
3 village that's not shown in teal that you think has not been  
4 looked at in this EIS?**

5 A. Yeah. What I -- basically from what I saw on the map in  
6 section 3, there's a lot of areas that are outside of the  
7 study area.

8 **Q. Well, so why don't you -- let's step back.**

9 **What is your understanding of the study area?**

10 A. I'm looking at -- again at Exhibit 3.2-2 where it shows a  
11 heavy border and a portion of in MHA study area. And then  
12 right below it says outside MHA study area. So anything  
13 with a light border or no border is outside of the study  
14 area.

15 **Q. Okay. So that's the basis of your testimony?**

16 A. Correct. It's actually in the land use section.

17 **Q. This is the one on page 3.105?**

18 A. Yes.

19 **Q. So is it your understanding -- I'm going to ask you to get  
20 this. It may be difficult, but I'm kind of toggling now  
21 between page 3.105 and 2.3. Those are the two maps that we  
22 were just looking at.**

23 A. Uh-huh.

24 **Q. So I just want to make sure I'm understanding. If we were  
25 to look at the map you started with on 3.105, and do you see**

1 in the upper right-hand corner there's Lake City?  
 2 A. Yes.  
 3 **Q. And then there is the -- sort of an orangy-red path down**  
 4 **towards Green Lake?**  
 5 A. From Lake City?  
 6 **Q. Yes.**  
 7 A. Yes. Right.  
 8 **Q. So would you recognize that as Lake City Way, at least part**  
 9 **of it?**  
 10 A. Right.  
 11 **Q. And is it your testimony that that's outside the study area?**  
 12 **Is that your understanding?**  
 13 A. According to the two maps in section 3, that's correct.  
 14 MR. KISIELIUS: Okay. I don't have any further questions.  
 15 Thank you.  
 16 MS. NEWMAN: I have a little bit --  
 17 HEARING EXAMINER: Redirect?  
 18 MS. NEWMAN: -- of redirect, yeah.  
 19  
 20 REDIRECT EXAMINATION  
 21 BY MS. NEWMAN:  
 22 **Q. So I want to straighten this out, because I want to make**  
 23 **sure we have your testimony straightened out here.**  
 24 **So if you look at 2.3 in the EIS, which that's page 2.3.**  
 25 A. Okay.

1 **study area? Did you?**  
 2 A. Yes. And in 3.101.  
 3 **Q. Okay.**  
 4 A. Which is it repeats the same information, little less  
 5 detail.  
 6 MS. NEWMAN: Okay. I have no further questions.  
 7 HEARING EXAMINER: Thank you, Mr. Moehring. Sorry your  
 8 testimony was truncated by procedure once again. I'm sure  
 9 that I will hear the full force of your testimony someday,  
 10 and I look forward to that moment.  
 11 MR. MOEHRING: Thank you.  
 12 HEARING EXAMINER: Appellants' next -- oh, let's actually  
 13 take a break. Come back at 4:00.  
 14 MS. NEWMAN: Thank you.  
 15 HEARING EXAMINER: Thank you.  
 16 (Recess)  
 17 HEARING EXAMINER: Appellants' next witness.  
 18 MS. NEWMAN: Thank you, Your Honor. I also did not -- I  
 19 don't know if I did have a leftover with getting that  
 20 exhibit in.  
 21 HEARING EXAMINER: Right. 245.  
 22 MS. NEWMAN: Moving to admit, yeah.  
 23 MR. KISIELIUS: I'm sorry. Were you moving for admission?  
 24 MS. NEWMAN: Yeah.  
 25 HEARING EXAMINER: She has.

1 **Q. That page shows us the -- in green the EIS study area; is**  
 2 **that right?**  
 3 A. Yes, I think so.  
 4 **Q. And so you see that there is green shown outside of urban**  
 5 **villages?**  
 6 A. Uh-huh.  
 7 **Q. So the study area actually does include land outside of**  
 8 **urban villages? I can see how this is confusing.**  
 9 A. Uh-huh.  
 10 **Q. So then you look at page 3.105 --**  
 11 A. Uh-huh.  
 12 **Q. -- which is what we were just looking at, and it says that**  
 13 **in MHA study area are only the areas that have bold black**  
 14 **around them.**  
 15 A. Correct.  
 16 **Q. And so you interpreted that to mean that the MHA study area**  
 17 **was limited?**  
 18 MR. KISIELIUS: I'm going to object. This is -- that's  
 19 not a question. That's a statement.  
 20 **Q. (By Ms. Newman) Okay. How did you -- do you see that the**  
 21 **study area, after looking at page 2.3, is actually including**  
 22 **some areas outside of urban villages?**  
 23 A. Yes. But I haven't read section 2, so I'm not sure what  
 24 that really means.  
 25 **Q. Okay. But you -- and you interpreted 3.105 as defining the**

1 MR. KISIELIUS: Okay. With the extent of the limitation  
 2 of the testimony, we don't have an objection to having it  
 3 entered.  
 4 HEARING EXAMINER: And under those circumstances, it is  
 5 admitted.  
 6 MR. KISIELIUS: I guess --  
 7 HEARING EXAMINER: The context of the objections that have  
 8 already been ruled upon.  
 9 MR. KISIELIUS: And if I could ask for a clarification, I  
 10 would appreciate it, from the Examiner's standpoint, that  
 11 you had mentioned earlier preserving for the appeal,  
 12 striking of the qualifications for the appeal record would  
 13 be I think helpful additional item. Because --  
 14 HEARING EXAMINER: Is Appellant amenable?  
 15 MS. NEWMAN: I think the transcript is going to say  
 16 (inaudible).  
 17 HEARING EXAMINER: I think at this point we've talked  
 18 about him being an architect --  
 19 MS. NEWMAN: Yeah.  
 20 HEARING EXAMINER: -- more than (inaudible).  
 21 MS. NEWMAN: So I'm sure a judge would see that. But I'm  
 22 fine -- I'm fine with whatever the Examiner prefers. Or I  
 23 don't have an objection to removing it.  
 24 MR. KISIELIUS: I thought the proposal was a helpful one.  
 25 MS. NEWMAN: Okay.

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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

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1 talking about.  
 2 But I'm certainly going to talk about those on my urban  
 3 village.  
 4 **Q. Okay. And so you were present for Mr. Moehring's testimony?**  
 5 A. I was, yeah.  
 6 **Q. All right.**  
 7 A. He was abbreviated.  
 8 **Q. And so when you're referring to the zoning outside of --**  
 9 **that's shown on this map at least, you're saying the MHA**  
 10 **proposal is proposing upzones outside of the urban village?**  
 11 **Is that what you said?**  
 12 A. Right, right. You can see there's probably a half a dozen  
 13 of them on this particular map. So --  
 14 **Q. How is it shown on this map?**  
 15 A. Well, if you look on, for example -- well, all the zone  
 16 changes in the MHA application to zones are designated with  
 17 the M, or M1, M2 zoning appendage. So you can see a number  
 18 of those listed outside of the box.  
 19 So if we're talking about the top right portion along  
 20 Cherry Street -- or excuse me, on Union Street, there's some  
 21 applied. For the south along Cherry Street east and west of  
 22 the urban village there's some applied. Along Yesler there  
 23 is --  
 24 **Q. Sorry.**  
 25 A. I'm sorry.

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1 **Q. I'm not keeping up with you. But you're just pointing to**  
 2 **every area where there's a little notation of numbers**  
 3 **outside of their --**  
 4 A. Right, right.  
 5 **Q. Okay.**  
 6 A. So that is MHA, and that's being applied outside of the  
 7 urban village.  
 8 **Q. And what about these -- the colored areas that are not kind**  
 9 **of that gray-green, but everything else that's kind of an**  
 10 **orange or a brownish-red?**  
 11 A. Well, those -- those are areas that are zoned, for example,  
 12 lowrise, or neighborhood commercial, and so on.  
 13 **Q. Uh-huh.**  
 14 A. And those zones are getting zone changes, but they're not  
 15 necessarily identified on this map as --  
 16 **Q. But they're being upzoned with the MHA proposal?**  
 17 A. Right. So for example, if you look along Madison Street.  
 18 **Q. Uh-huh. Up in the upper left-hand?**  
 19 A. Yeah, upper left-hand corner, this area here is all part of  
 20 what's called the First Hill Capitol Hill Urban Village.  
 21 **Q. Uh-huh.**  
 22 A. Okay. Although from a historic standpoint, the portion down  
 23 below here was actually part of the central area at one  
 24 point in time, and it's called the 12th Avenue Urban  
 25 Village. The city took that away from the central area and

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1 gave that urban village to Capitol Hill I guess, which seems  
 2 to be perhaps something of a metaphor for what's happening  
 3 to the central area, which is now being branded as Lower  
 4 Capitol Hill in places. But that's an aside.  
 5 **Q. Okay. Well, let's talk a little bit about the urban village**  
 6 **area.**  
 7 A. Sure.  
 8 **Q. Can you give us a general big picture description of the**  
 9 **existing land use development patterns and**  
 10 **characteristics --**  
 11 A. Sure.  
 12 **Q. -- within --**  
 13 A. Sure.  
 14 **Q. -- this urban village?**  
 15 A. Yeah. So these maps kind of are very difficult to really  
 16 get a sense of the scale of what we're looking at here.  
 17 The 23rd Avenue Urban Village is about 515 acres of land.  
 18 The areas -- the -- it's a residential urban village, so  
 19 there are not necessarily any large, you know, commercial or  
 20 job basis, although there is in the -- adjacent to it the --  
 21 the -- see the Cherry Hill Hospital, which is going through  
 22 an expansion. In fact, their -- their one major institution  
 23 master plan was just updated to give them I believe close to  
 24 2 million additional --  
 25 **Q. Where's --**

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1 A. -- square feet.  
 2 **Q. -- that located?**  
 3 A. And that's -- that resides in this little hip area here  
 4 above --  
 5 **Q. Spruce Street?**  
 6 A. All their -- yeah, around Jefferson, up through Cherry. In  
 7 fact, they -- they call it the Cherry Hill campus.  
 8 **Q. Okay.**  
 9 A. So it's up in -- up in this area here.  
 10 **Q. Okay.**  
 11 A. And in fact, this is --  
 12 **Q. Let me just say --**  
 13 A. Sure.  
 14 **Q. -- for the record there's -- sometimes people may be**  
 15 **listening to what you're saying, and they can't see --**  
 16 A. Right.  
 17 **Q. -- where (inaudible).**  
 18 A. Right.  
 19 **Q. So just try to --**  
 20 A. I have to describe --  
 21 **Q. -- describe.**  
 22 A. -- as best I can.  
 23 **Q. Yeah.**  
 24 A. Thank you for that.  
 25 So another interesting point about this area up in here is

1 it looks like it has this dark shaded line around it. So it  
 2 would imply that perhaps this is another urban village or  
 3 not, but it's really not an urban village at all.  
 4 Mr. Steinbrueck, who testified earlier, in his analysis  
 5 had identified perhaps the Cherry Hill Urban Villages and  
 6 expansion. But it's not considered --  
 7 **Q. So it's an area that's in between two urban villages?**  
 8 A. It's -- it's -- yes.  
 9 **Q. Okay.**  
 10 A. And it's kind of unique in the central part of the city.  
 11 It's this one little area that's not being designated a  
 12 denser urban village.  
 13 **Q. Okay.**  
 14 A. Despite the Cherry Hill Hospital and all this --  
 15 **Q. Yeah.**  
 16 A. -- other growth that's going on there. So you want me to  
 17 carry on with --  
 18 **Q. Yeah. Just --**  
 19 A. -- describing?  
 20 **Q. -- describing --**  
 21 A. Okay. So --  
 22 **Q. -- this --**  
 23 A. So the central area, you know, historically was the black  
 24 community, starting primarily in the '50s, although there  
 25 were black land owners going back to a hundred years before

1 **Q. And it's currently what?**  
 2 A. Those are currently zoned single family.  
 3 **Q. Uh-huh.**  
 4 A. And those are, if you look at demographic maps that come  
 5 from the government census maps and the ACS maps, the -- and  
 6 I'm going to draw a blank on what ASC stands for.  
 7 MR. KISIELIUS: Art and community survey.  
 8 A. American community survey, which -- thank you -- which is  
 9 the -- the demographic detailed maps and so on, you can  
 10 actually go and lay over the various census tracks in these  
 11 areas and see that some of them approximate still 60 or 70  
 12 percent black population.  
 13 So the areas here -- and if you look at those tan maps in  
 14 general, not only do they represent where --  
 15 **Q. You're pointing to -- let's just -- because you're pointing**  
 16 **to --**  
 17 A. I'm --  
 18 **Q. -- currently single family zoned near Jefferson and Alder up**  
 19 **in --**  
 20 A. Right. So for example, this area right kind of in the upper  
 21 third of it -- well, let's start from the top down.  
 22 That's -- yeah, that's single family around the 23rd and  
 23 Union intersection.  
 24 And the map's kind of misleading here. It says no zoning  
 25 change for that gray area in the middle, but that was

1 that.  
 2 And the -- it really became kind of the hub of the black  
 3 community starting with what they call the great migration,  
 4 1940s, 1950s.  
 5 Prior to that there were about 5,000 black families that  
 6 lived in the central area. And after the 1950s, that had  
 7 ballooned quite a bit because of the southern migration.  
 8 And by the peak of it, that period, because of red lining,  
 9 and because of the nexus of the black community there, there  
 10 was about 70 percent of the population was black.  
 11 The -- the areas that -- the -- the central area had been  
 12 rezoned prior to this, parts of it, into these lowrise areas  
 13 and some commercial. So you see the darker brown area, or  
 14 taupe --  
 15 **Q. The gray?**  
 16 A. -- colors. Not gray.  
 17 **Q. Oh.**  
 18 A. But the taupe and the brown lowrise stuff, those areas were  
 19 rezoned a couple decades ago. But what we've seen in the  
 20 couple decades since this rezoning, the black population has  
 21 gone from about 70 percent in 1970 to now down to closer to  
 22 15 percent today.  
 23 And so notably what -- the reason I bring this up is  
 24 because the areas here that are this light tan color, which  
 25 is going to be the RSL zoning --

1 actually rezoned for MHA prior. There's a number of MHA  
 2 upzones that had happened for some neighborhoods, and the  
 3 nodes at 23rd and Union, 23rd and Cherry, and 23rd and  
 4 Jackson were -- have already been upzoned for MHA.  
 5 So when they say no zoning change, it just means not under  
 6 this current MHA proposal, but they had been upzoned before.  
 7 But that area around there, which is all single family,  
 8 has now been upzoned to RSL.  
 9 **Q. Or is being proposed?**  
 10 A. It's proposed to be upzoned --  
 11 **Q. To --**  
 12 A. -- to RSL. Thank you.  
 13 Then below Cherry Street, there's this green spot there  
 14 which is the Garfield Park and community center, and then  
 15 below that is Garfield High School.  
 16 So to the east of that and south of that is also single  
 17 family. That's a very high concentration of black community  
 18 there, lower income -- for most of the central area where --  
 19 well below median income. So that area is also single  
 20 family black community.  
 21 I've -- I've been through there photographing and talking  
 22 with neighbors. I know there's been some discussion about  
 23 outreach and how effective that's been.  
 24 But virtually everybody I talked to in this neighborhood  
 25 had no idea that their community is being rezoned. Some of

1 those families have been there for at least two generations,  
 2 if not more.  
 3 And then further on down south here you can see little  
 4 pockets of the single family that's being converted to RSL.  
 5 The reason why this is all being converted to RSL is because  
 6 this area is designated a high risk of displacement,  
 7 high-opportunity area. So the -- because it's high risk of  
 8 displacement, the city has suggested that not rezoning those  
 9 beyond RSL is a way to prevent displacement.  
 10 But we can talk -- I'd like to talk about that further.  
 11 **Q. Can you tell us a little --**  
 12 A. Sure.  
 13 **Q. -- bit about the topography --**  
 14 A. Sure.  
 15 **Q. -- in the area?**  
 16 A. I just want to point out there's one last section of --  
 17 **Q. Okay.**  
 18 A. -- single family down here in the bottom left corner just to  
 19 the east of Rainier and above what is I-90 going across  
 20 here. And that's my specific neighborhood called Jackson  
 21 Place.  
 22 And that's single family in there, again is I would say  
 23 demographically poor, and not people -- I mean, they are  
 24 people of color.  
 25 In fact, when I moved into this neighborhood in 2000, it

1 And I would note, not only does it not show topography on  
 2 this map, but it doesn't really show major transit  
 3 infrastructure.  
 4 So there's going to be a light rail stop here basically  
 5 where the words that say Interstate 90 is. There's going to  
 6 be a light rail stop there.  
 7 And we -- the neighborhood had lobbied for some higher  
 8 densities around here to support growth, and then with the  
 9 idea of MHA having inclusionary zoning that maybe we would  
 10 get some affordable units into this neighborhood. We pushed  
 11 hard for that, but the city chose not to up zone -- upzone  
 12 that in the way that the neighborhood asked.  
 13 But we do have this hillside that -- that goes from lower  
 14 on the west, higher to the east, that also tapers away from  
 15 Jackson Street heading south, tapers downwards into the  
 16 Rainier Valley. Okay.  
 17 There's a number of hills that kind of go from east to  
 18 west here across Cherry Street and Union and so on that we  
 19 really don't quite necessarily discern. And then when we  
 20 get to the eastern part of it, it tips away down towards  
 21 what's called Madison Valley. And obviously you don't get  
 22 to see that.  
 23 But of course, you know, for those who are interested in  
 24 what's happening with land use, in a flat terrain, building  
 25 heights make a lot of sense. But as you tip away, depending

1 was 30 percent of median income and 70 percent nonwhite.  
 2 And of course we're seeing a lot of gentrification of this  
 3 area now as the areas closer to Rainier and so on are  
 4 infilled with low -- with the lowrise townhouses. These  
 5 townhouses now are going for, you know, 750 up to \$850,000  
 6 and more in terms of price.  
 7 So we're seeing a lot of high -- expensive housing coming  
 8 in, even though it's in these lower density zoned zones,  
 9 lowrise zones.  
 10 So you're asking about topography?  
 11 **Q. Uh-huh.**  
 12 A. I think this map is really -- doesn't really fit the bill.  
 13 It looks like it's -- you know, everything's great, in a  
 14 straight -- straight grid. But there's a number of hills  
 15 here that you don't see.  
 16 From Rainier Avenue -- and this is called the Rainier  
 17 Valley that heads on south through here. So from the  
 18 Rainier -- Rainier Avenue it slopes upward towards Judkins  
 19 Park, which is this green strip here at the center in the  
 20 bottom.  
 21 And then running east/west across there is I-90. You can  
 22 actually see where it says Interstate 90, and then it  
 23 disappears into the tunnel heading towards Mercer and  
 24 Bellevue. And so that area down there, there's actually  
 25 going to be a light rail station that's put on here.

1 on where the building heights change in grade, that can have  
 2 significant land use impacts, edge impacts. And you don't  
 3 have to be an architect to understand that, you know, a  
 4 30-foot difference or something amplified by a hillside  
 5 gives you huge shadow impacts and so on.  
 6 And I'd be pleased to point out a number of these  
 7 conditions that happened here if we want to take the time to  
 8 do that.  
 9 **Q. Well, let's --**  
 10 A. I can also talk more about the map. I think the map doesn't  
 11 show -- for example, the city has expressly said that it  
 12 would like to increase densities around parks, around  
 13 schools, around transit hubs. And none of those are  
 14 identified on this map. And in fact, you can't really even  
 15 discern where the major arterials or transit quarters are on  
 16 here.  
 17 But obviously you would want to have density supported by  
 18 transit lines and where arterials could be, that sort of  
 19 thing.  
 20 **Q. Okay.**  
 21 A. So I think -- I think for a decision maker, this map, you  
 22 know, I mean, is perfunctory. It kind of shows where the  
 23 upzones are, but it doesn't really help put in context the  
 24 value of or the -- where perhaps there are mistakes, and  
 25 where legislatively they should be making corrections --

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1 should occur.

2 **Q. So let's look at the EIS and see if there there's a**

3 **description of what you've talked about in there.**

4 **Does the EIS describe the land use impacts of the**

5 **proposal?**

6 A. Well, there's --

7 **Q. Let's start over.**

8 A. Yeah. There's --

9 **Q. Sorry.**

10 A. There's a land use section. Is that what you're referring

11 to?

12 **Q. Yeah. Let's look at the land use section.**

13 A. Okay.

14 **Q. And it's Chapter 3.2.**

15 A. Uh-huh.

16 **Q. You've just given us a general description of land use. Is**

17 **there more about the land use that you didn't tell us? You**

18 **just --**

19 A. Well --

20 **Q. -- gave us some examples?**

21 A. I mean, there's -- there's lots. You know, for example,

22 this -- the single family within this urban village -- I

23 mentioned the urban village is 515 acres. The single family

24 portion of that is about 40 percent of the land mass.

25 And what we don't necessarily see is that linkage of those

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1 housing units. And I can tell you I have not -- noted down

2 here the precise numbers. But -- so that, that -- those tan

3 RSL areas that are in the upzone, that's 40 percent of the

4 land mass of the central area.

5 And even though city does go into some discussion of

6 demographics in Chapter 2, you don't necessarily understand

7 how that links to the rezoning that's happening here.

8 And I know we're talking about, you know, land use and

9 aesthetics. But again, for a decision maker, you don't

10 necessarily get that.

11 But in terms of what the city has said for the -- for this

12 area, there's 5,400 housing units currently in here,

13 according to the EIS. Obviously that's a number that's

14 increasing a good bit. We're seeing a lot of development in

15 that area.

16 There's about 975 single family homes in these areas here

17 that are being upzoned. So roughly 20 percent -- or

18 actually it's technically 17 percent of the households in

19 this community are single family homes.

20 In fact, we're the urban village or residential urban

21 village that's receiving the most single family upzoning in

22 terms of number of homes impacted and land area that's being

23 changed from single family.

24 The city itself says that there's -- the growth that's

25 going to occur within here is going to be -- under MHA is

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1 going to be 2,174 units of housing, which is about a 40

2 percent increase in the number of current households that

3 are there. But of -- for those 2,174, the city also says

4 there's only going to be 258 affordable units produced by

5 MHA. So that's about 11 percent of the new units are going

6 to be affordable.

7 And this is at 60 percent AMI. And I would suggest that

8 60 percent AMI for many of these neighborhoods is actually a

9 higher income level than the people who live there. So in

10 effect --

11 **Q. Okay.**

12 A. -- you know, this is going to have gentrifying effects

13 regardless.

14 The other -- the other point that I think is really

15 salient is that in these areas where we produce RSL, RSL

16 never produces the density of housing that it would actually

17 yield on-site affordable units, because the threshold, the

18 percentages are so low.

19 MR. KISIELIUS: Mr. Examiner, I'm going to -- I'm sorry to

20 interrupt. I'm going to object. Again, we're getting into

21 what that proposal -- first of all, I think there's a lack

22 of foundation at this point. But we're making -- we're

23 testifying about impacts of something that is yet to happen.

24 We're straying beyond fact witness limitations.

25 MS. NEWMAN: Can you clarify?

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1 HEARING EXAMINER: Yeah. You made multiple objections

2 there.

3 MR. KISIELIUS: So the first is on -- we're going between

4 speaking from an area of knowledge that I'm not sure we have

5 a foundation for in terms of both the displacement testimony

6 that he's providing and what's -- and then beyond that,

7 we're going -- straying beyond lay testimony by testifying

8 as to impacts, which exceeds what a fact witness can

9 typically offer.

10 We're no longer talking about the neighborhood and the

11 zoning changes. We're now going beyond that and explaining

12 what is going to occur in a variety of areas of expertise.

13 I don't believe there is a foundation. I believe it

14 exceeds the level of lay witness for testimony purposes.

15 HEARING EXAMINER: Well, I'll rule on the latter part of

16 that, and then I want to hear from Ms. Newman on the first

17 part of that.

18 The witness is not presented as an expert. There has been

19 no foundation of expertise. So we would allow him to speak

20 and opine with regard to those, as long as it's within the

21 subject of the question that has been asked by the counsel,

22 et cetera. So that's certainly within the latitude of what

23 we have in our hearings.

24 So I will overrule that part of the objection.

25 As to lack of foundation for a very -- a specific part of

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1 the argument that I don't remember which it was.  
 2 MS. NEWMAN: Displacement.  
 3 HEARING EXAMINER: Displacement. Did you have a response?  
 4 MS. NEWMAN: Well, I don't intend to spend a lot of time  
 5 on displacement. And so I could lay the foundation, but I  
 6 think we're done already with the displacement discussion.  
 7 So I mean, I don't expect -- that's not what I'm expecting  
 8 to -- unless -- I mean, this witness has an enormous amount  
 9 of knowledge, and experience, and expertise, not as an  
 10 expert, but just like from living --  
 11 HEARING EXAMINER: Within the (inaudible).  
 12 MS. NEWMAN: -- this issue --  
 13 HEARING EXAMINER: Understood.  
 14 MS. NEWMAN: -- for how long.  
 15 MR. BRADBURD: Too long.  
 16 MS. NEWMAN: Right. So we could lay the foundation, but  
 17 if you think it's necessary for the past what he's already  
 18 said.  
 19 HEARING EXAMINER: No harm, no foul with the past. I  
 20 guess if we're going there, I mean, again, this would be  
 21 partly an objection that would have to be made in some  
 22 degree before the testimony, although it's not necessarily  
 23 responsive to the question, either. So there's no way  
 24 counsel could have known that was coming.  
 25 But if this is the limit of it -- is that what I'm

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1 hearing, for displacement?  
 2 MR. BRADBURD: Yeah. I'm not trying to --  
 3 HEARING EXAMINER: (Inaudible) witness agrees with you.  
 4 MR. BRADBURD: Well, am I allowed to speak, or is that --  
 5 HEARING EXAMINER: Ms. Newman, are we going into  
 6 displacement?  
 7 MS. NEWMAN: We're not going into displacement.  
 8 MR. BRADBURD: Okay.  
 9 HEARING EXAMINER: Okay.  
 10 MS. NEWMAN: It's not a major issue here.  
 11 HEARING EXAMINER: Okay.  
 12 MR. BRADBURD: Okay.  
 13 HEARING EXAMINER: So in that regard, I will --  
 14 MR. BRADBURD: Okay.  
 15 HEARING EXAMINER: -- overrule the objection and allow  
 16 continuing testimony.  
 17 **Q. (By Ms. Newman) So what I want to talk about is you**  
 18 **mentioned that the map that we're looking at, Exhibit H-10,**  
 19 **did not -- you gave a few examples of some development**  
 20 **patterns, and the character and scale of development**  
 21 **generally, and the land use in the neighborhood; and you**  
 22 **said the map didn't show, like, the topography.**  
 23 A. It -- it -- yes.  
 24 **Q. And I want to explore whether the EIS itself discusses any**  
 25 **details about -- let's start with -- there's two different**

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1 **things I want to cover.**  
 2 **And one is what the neighborhood looks like now, existing**  
 3 **look; and then separately, the impacts that the MHA proposal**  
 4 **will have on it.**  
 5 A. Uh-huh.  
 6 **Q. And there's two separate questions I want to ask you.**  
 7 **And one is whether the EIS adequately describes what your**  
 8 **neighborhood looks like as far as the character of your**  
 9 **neighborhood, the aesthetic, the development patterns, the**  
 10 **land uses in your neighborhood, the scale of development,**  
 11 **all those details.**  
 12 A. No.  
 13 **Q. Does the EIS discuss that?**  
 14 A. No. It's -- it's pretty clear the EIS is very thin in those  
 15 types of details. They talk quite a bit abstractly, say  
 16 well, because an M1 zone doesn't affect such and such, the  
 17 impacts will be kind of like -- but they don't make that  
 18 tangible with either a physical description of what's there,  
 19 or a photograph of what's there.  
 20 Now, there are some schematics that they put into the --  
 21 **Q. Okay.**  
 22 A. -- into the --  
 23 **Q. Let's look at those. So we're going to start with --**  
 24 **there's two different chapters, and first we'll look at land**  
 25 **use impacts.**

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1 A. Sure.  
 2 **Q. Which is -- starts on page 3.100 of Exhibit 2 --**  
 3 A. Right.  
 4 **Q. -- MHA EIS.**  
 5 A. Right.  
 6 **Q. And there's -- let's see. I don't know -- actually, you**  
 7 **know what? I'd like to -- you said schematics, so I take it**  
 8 **back. Let's start with the aesthetics.**  
 9 A. Oh, okay.  
 10 **Q. All right. What --**  
 11 A. I -- I --  
 12 **Q. Why don't you --**  
 13 A. I can either do -- I can do land use first or aesthetics  
 14 first.  
 15 **Q. Well, let's start with land use.**  
 16 A. Okay.  
 17 **Q. But it's not --**  
 18 A. We're here.  
 19 **Q. I think the complaints you have about the land use may not**  
 20 **be -- so land use you said already that the EIS does not**  
 21 **specifically talk about your neighborhood, the land use in**  
 22 **your neighborhood, correct?**  
 23 A. Right. Well, so for example, I'm looking at page 3.109. It  
 24 talks about impacts common to all alternatives.  
 25 **Q. Well, let's start with --**

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1 A. Okay.

2 **Q. -- just page 3.99.**

3 A. 3.99.

4 **Q. Which is the beginning of the chapter.**

5 A. Okay. Okay.

6 **Q. And so the first half of the chapter is affected**

7 **environment. And I think we've established through other**

8 **testimony what this generally talks about.**

9 **But did you review it specific to your neighborhood, and**

10 **see any description of the actual land use effect -- the**

11 **existing environment of the land use for your neighborhood?**

12 A. No. I mean, it -- you know, for example, on page 107 it

13 does mention a few neighborhoods.

14 **Q. Okay.**

15 A. Residential, Seattle's 18 residential urban villages, but it

16 doesn't talk about the 23rd --

17 **Q. Okay.**

18 A. -- Avenue.

19 **Q. You're not -- it's not mentioned?**

20 A. Yeah.

21 **Q. And then there's a second half where it talks about impacts**

22 **of the proposal to the neighborhood, land use impacts. And**

23 **did you see in there a discussion about your neighborhood?**

24 A. Well, I -- I think it's -- it's somewhat misleading. So for

25 example, you know, they -- the third bullet down where you

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1 talk overall at the city-wide scale.

2 **Q. Where are you?**

3 A. On page 109, impacts page, impacts alternative, then it says

4 changes in resulting gradual shifts from single family to

5 multifamily.

6 **Q. Where is that? Okay.**

7 A. The third bullet down.

8 **Q. Okay.**

9 A. But I -- I would argue that's not true. I mean, it's not

10 always gradual.

11 And I can show you on my map some big differences, which I

12 think Dave Moehring was going to try and point out that

13 there are some differences that are not gradual shifts.

14 They are rather jarring juxtapositions of high -- higher

15 height zones, higher intensity in terms of floor area,

16 ratio, and building mass, and so on.

17 **Q. Well, show me -- I guess let's then -- do you have that?**

18 A. I -- I only briefly looked at his map.

19 **Q. Okay.**

20 A. But I -- I can certainly show you on my map where some of

21 those are.

22 **Q. Okay. Let's --**

23 A. And I would be pleased to walk through. Because it --

24 it's -- it is the kind of thing that a layperson can look at

25 and assess a higher zone and a lower zone. It's pretty

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1 obvious.

2 **Q. Okay. Then let's do that with Exhibit 246, which is your**

3 **map.**

4 A. Okay.

5 **Q. And tell us a little bit about areas where there are not**

6 **gradual shifts.**

7 **And I think that's an ambiguous statement, changes would**

8 **result in gradual shifts. I mean, arguably that -- well,**

9 **just setting that language aside, let's talk about just the**

10 **topic of transition, which this -- I don't want to testify**

11 **here. But --**

12 A. Well --

13 **Q. -- there's a couple --**

14 A. Yes.

15 **Q. -- different ways to read that bullet point.**

16 A. Well, I mean, there's, in urban planning, right, there's

17 typically the idea of, you know, either the wedding cake is

18 one way of describing, that you want to have transitions in

19 height, and intensity, and so on via graduated result.

20 **Q. Okay.**

21 A. And so that's a whole big part of urban planning and urban

22 design is to try and ensure that you don't have these

23 disparities.

24 And we have zoning codes that dictate heights, and

25 setbacks, and -- and floor area ratio, which is, you know,

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1 how you put the stuff inside the box that are all kind of

2 geared towards ensuring that you have transitions that are

3 not jarring.

4 **Q. Okay.**

5 A. And --

6 **Q. Well, let's --**

7 A. And I believe that this statement asserts that there are

8 gradual shifts, but I think in reality --

9 **Q. Let's --**

10 A. -- were you look to at the maps --

11 **Q. -- look --**

12 A. -- you'll see that's not true.

13 **Q. I'll give you an example. Up Cherry Street, which is in the**

14 **upper left-hand area, but outside --**

15 A. Sure.

16 **Q. -- of your urban village.**

17 A. Right.

18 **Q. I see that there is a change from LR3 to LR3 M?**

19 A. Right.

20 **Q. Do you know what the height will be for LR3 M?**

21 A. LR3 goes from 40 feet to 50 feet.

22 **Q. Okay.**

23 A. And so --

24 **Q. So that will be upzoned to a 50-foot height?**

25 A. Right. And you --

1 **Q. And then what -- do you know what the adjacent -- south of**  
2 **Cherry Street, what that zone is? You can't -- can you tell**  
3 **from looking at this map?**

4 A. Part -- part of that is where the hospital grounds are.

5 **Q. Okay.**

6 A. Part of that is up towards 18th. Well, let's see. The  
7 hospital -- the hospital property runs south along there for  
8 a while. And I believe it's down by 15th or so where it  
9 may -- may still be some single family.

10 Certainly down over by 14th is single -- single family or  
11 lower heights.

12 **Q. Okay. But --**

13 A. And I don't know offhand --

14 **Q. -- we can't tell from looking at this --**

15 A. But the point --

16 **Q. -- map. But we --**

17 A. Yeah. The point is --

18 **Q. -- know --**

19 A. -- we can't tell it's all this area that's grayed out all  
20 around here, you don't know what any of the zoning is.

21 **Q. Okay. What do you think the potential impacts are of having**  
22 **the 50-foot height next to, say, a single family zone, if**  
23 **that's what it was?**

24 A. Well, certainly 55 feet is going to be 20 feet higher than  
25 the current single family zone heights, which is at 30 feet.

1 people losing light for their --

2 **Q. They --**

3 A. -- gardens or for their -- yeah. So you know, that's --  
4 that is a very large land use impact, consequence of the  
5 land use decisions is that the light and space. You have  
6 issues of privacy.

7 What we're seeing in my neighborhood is, because we're on  
8 a hillside, for example, you have this cascading downward  
9 effect. But now, because we're adding additional height  
10 into some of these zones, depending on what's built and  
11 what's not built, you are now going to have people looking  
12 down into that.

13 I have an instance right now where a building is being  
14 built. It's under the current zoning, so they're allowed to  
15 do that. But under the new zoning they'll be -- even go ten  
16 feet higher than that. Where I had privacy in my bedroom  
17 window, I now have to go out and get shades because I'm no  
18 longer private.

19 But those are -- those are types of things that, from a  
20 land use impact standpoint, should be pretty clearly  
21 identified, particularly where zones change between zone to  
22 zone.

23 **Q. Uh-huh.**

24 A. And that's not described. And we have literally, you know,  
25 dozens of those here, which I could -- like I said, I'd be

1 So you're talking about almost a doubling of building  
2 heights between the two.

3 And depending on where that occurs, you know, for example,  
4 if it's a north to south, so if the -- if the heights are  
5 increased to the southern side, we have very low light in  
6 the wintertime, and you would see shadows being cast.

7 The city kind of describes very briefly in a couple of  
8 pictures shadow impacts, but they're very generalized. The  
9 example I think is in -- on the -- in the aesthetic section  
10 where they show some shadows.

11 But other EISs I have seen, and I think that the city has  
12 even produced for the other areas that are getting MHA  
13 upzones, have pretty significant shadow studies that kind of  
14 show, okay, on this block we're going to 60 feet, and here's  
15 where the shadow lines are going to be. And we don't see  
16 any of that here --

17 **Q. Okay.**

18 A. -- for our neighborhoods. And I would just suggest that,  
19 for an area like the central area, a lot of people --  
20 there's a lot of gardening, because there is so much single  
21 family in here. It's -- very classic land use pattern in  
22 Seattle is large setbacks from the street with large yards.  
23 In the back yard people have yards. People grow vegetable  
24 gardens and all that.

25 And wherever we have increasing height, we're seeing

1 pleased --

2 **Q. Well, what about --**

3 A. -- to point out.

4 **Q. Let's look down at on your map -- I don't know how to**  
5 **describe this. But see where the expansion of the dots are**  
6 **for the urban village?**

7 A. Right.

8 **Q. And they go up to what looks like Lane Street or --**

9 A. Right, yes.

10 **Q. Right above that, kind of south of South Washington Street**  
11 **there's an orange -- on the edge of the urban village**  
12 **there's an orange upzone from NC-240 to NC-255. Do you see**  
13 **that, that --**

14 A. You're up at Washington, yeah.

15 **Q. South of South Washington Street.**

16 A. Okay. So you're along Jackson Street there? Is that what  
17 you're looking at?

18 **Q. It's hard to see. But there's a little --**

19 A. Right in the middle of that --

20 **Q. -- orange --**

21 A. Right in the middle of the gray it says Jackson Street. No?

22 **Q. Oh, yeah. Yes, Jackson Street.**

23 A. Okay.

24 **Q. There's a little orange square.**

25 A. Right.

1 **Q. On either side of that you've got single family --**  
 2 A. Right.  
 3 **Q. -- RSL?**  
 4 A. So that's a mid block, so that's one of the areas that --  
 5 that I was going to point out. That's a -- that's a mid  
 6 block juxtaposition of a 55-foot zone next to a -- what's  
 7 LR2 will be a 40-foot zone. It's currently a 30-foot zone.  
 8 So houses that have already -- we've seen a lot of  
 9 development actually in this area here.  
 10 **Q. Can I just clarify? You have a 55-foot zone next to a --**  
 11 **what's going to be an RSL zone it looks like?**  
 12 A. Oh, I see where you're looking at. Yes, yes. That's a mid  
 13 block. That's another mid block.  
 14 **Q. Okay.**  
 15 A. Contradiction there. But -- but in this area here, which is  
 16 already zoned LR2, we've already seen a lot of townhouse  
 17 infill there.  
 18 **Q. Uh-huh.**  
 19 A. So the new townhouses that will be going in obviously will  
 20 be 10 feet taller than the existing ones. But -- but --  
 21 **Q. So the existing situation there, which hasn't been described**  
 22 **in the EIS, is not currently all single family homes? It's**  
 23 **got a lot of infill happening there?**  
 24 A. In -- in the brown areas.  
 25 **Q. Okay.**

1 is going to be potentially cast into shadow, or at least  
 2 (inaudible).  
 3 **Q. Okay.**  
 4 A. Let's see. There's another project which is this red  
 5 hatched line just to the south and west of Spruce Park.  
 6 That's called Pratt Park. And in the corner of Pratt Park  
 7 is an area that's currently zoned lowrise 3, and it's  
 8 already built out as a low-income housing project which is  
 9 being upzoned to a midrise. So that's currently a 40-foot  
 10 height building, and the midrise can go to 80 feet. So  
 11 obviously that will have end-of-day shadow impacts on the  
 12 northern part of that park there.  
 13 **Q. That's a park -- the light green is a park?**  
 14 A. Yes, yeah.  
 15 **Q. And --**  
 16 A. That's called Pratt Park.  
 17 **Q. Pratt Park.**  
 18 A. Right. If you look to the -- to the east of that, an area  
 19 that was lowrise 3 is now going to NC-55, and there's a park  
 20 that runs north/south just to the east of that. That's  
 21 called Blanche Lavizzo Park, which is a little pocket park.  
 22 There's an auditorium seating area up at the northern part  
 23 of that area there that's surrounded now by NC-55.  
 24 **Q. Are there views anywhere in the neighborhood?**  
 25 A. Yes, some. For example, along Judkins Park looking south

1 A. Where it says LR2.  
 2 **Q. Okay.**  
 3 A. Okay. But on the other side of MLK, that is single family.  
 4 That's actually a very poor portion of the neighborhood  
 5 along those blocks in there.  
 6 And also then, heading below in the expansion area, those  
 7 are also very poor black neighborhoods down in there.  
 8 **Q. Okay.**  
 9 A. And --  
 10 **Q. All right. And so let's look at --**  
 11 A. Do you want me to describe some more of the edge conditions  
 12 or land use conditions that I think are worth --  
 13 **Q. Sure.**  
 14 A. -- pointing out? So there's one that -- that we like to  
 15 refer to in our community about Spruce Park. Spruce Park is  
 16 this little green dot dead center of the map here.  
 17 **Q. Near 22nd Avenue South?**  
 18 A. It's on 22nd Avenue South, yes, just above Fir. It's  
 19 actually called Spruce Street -- Spruce Street Park, but it  
 20 runs between Fir and Spruce. And across the street from  
 21 that to the south is lowrise 3. And that area, lowrise 3 is  
 22 being upzoned to allow 50-foot heights.  
 23 And so what we're concerned about are shadow impacts on  
 24 the park, both -- you can see that lowrise 3 goes to the  
 25 west of it and to the south of it. So this one little park

1 towards Mount Rainier, you know, there's a limited set of  
 2 views that are protected under SEPA.  
 3 **Q. Uh-huh.**  
 4 A. And our neighborhood really only has a couple of them. For  
 5 example, the views towards the -- the Peck Med Building I  
 6 believe is a protected view over on --  
 7 **Q. And are there views --**  
 8 A. -- the north end of Beacon Hill. There's Mount Rainier,  
 9 which you can see down through, either along Rainier Avenue  
 10 or down through like Judkins Park.  
 11 **Q. Where's Judkins Park?**  
 12 A. Judkins Park is -- thank you. That's the lower green park  
 13 that runs north/south kind of in the middle of the urban  
 14 village at the bottom.  
 15 **Q. And so is any of the zoning affecting the views, not from**  
 16 **the park, but from -- of even unprotected views of Mount**  
 17 **Rainier from this neighborhood?**  
 18 A. Not specifically. I mean, I'd have to think about that.  
 19 **Q. Okay.**  
 20 A. Yeah. It's not -- there's nothing blatantly that's going to  
 21 impact those areas -- or those people with their views.  
 22 **Q. Okay. Let's look at the aesthetic chapter.**  
 23 A. Okay.  
 24 **Q. Page 163 and 164.**  
 25 A. Before we jump to that, can I just --

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1 **Q. Sure.**  
 2 A. -- talk a little bit more about the land use impacts --  
 3 **Q. Yeah.**  
 4 A. -- section? So -- so you know, on page 3.111 where you talk  
 5 about scale change, so they're listing impacts, land use  
 6 impacts that can come from that, so we talk about changing  
 7 setbacks and that sort of thing. And then they give a for  
 8 example. For example, an increase in height of midrise  
 9 building from four to five stories with the same uses were  
 10 not typically required to adverse land use finding. Right?  
 11 The problem is, is that they're not going to five stories.  
 12 They're going to 80 feet, or eight stories. So that's a 33  
 13 percent height increase in what the zone allows.  
 14 But they make it sound, you know, to the -- to the reader  
 15 that, you know, it's not going to be that big a scale  
 16 change, we're not going to see that kind of thing.  
 17 But I think where it gets even more misleading is in the  
 18 table. And I don't know about you, but as a reader of  
 19 information, tables, and graphics, and all that kind of  
 20 thing are really -- potentially have far more meaning  
 21 than -- than the words and the text. And I -- I find a  
 22 number of errors in the way that they present this.  
 23 So we're talking now about the land use impacts based on  
 24 the zoning changes, and there's the M zone, and M1, and then  
 25 M2 zone.

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1 **Q. Just are you looking at page 3 --**  
 2 A. I'm sorry. Page 3.113.  
 3 **Q. Exhibit 3.2?**  
 4 A. 3-2-3 and 3-2-4 are the ones I'll talk to, because those are  
 5 the ones relevant to my urban village. But those charts  
 6 talk about land use impacts in terms of density, use, and  
 7 scale.  
 8 **Q. And this is specific to a certain zone, like a single family**  
 9 **zone being changed internally to residential small lot**  
 10 **zones?**  
 11 A. Yes.  
 12 **Q. So what's going to happen within them?**  
 13 A. The way -- the way -- the way this works -- and I'm sure the  
 14 city knows this. For -- maybe for the benefit of the  
 15 Hearing Examiner, if you're deeply immersed in this at this  
 16 point in time, but an M zone basically says it's a minor  
 17 upgrade in terms of development potential that's being  
 18 traded off for inclusionary zoning fee.  
 19 And then 1 means you're giving them more; and therefore,  
 20 you'll demand more, you'll have a higher. And then an M2  
 21 means you're giving the largest bump up.  
 22 So most of my urban village is deemed an M upzone, and  
 23 that's because the city is relying on the equity analysis.  
 24 And our urban village resides in the quadrants of the grid  
 25 called high displacement, high-accessed opportunity.

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1 And I would just note that -- that that -- and I've got a  
 2 lot of complaints about that.  
 3 But if you look at the urban village map, at the very top  
 4 part, just above my urban village is what's called the  
 5 Madison Miller Urban Village, historically part of the  
 6 central area as a whole. And when the central area did its  
 7 planning back in the '90s, all this was considered under one  
 8 neighborhood plan.  
 9 Well, the city has deemed that that's -- this urban  
 10 village just to the north of this is a low displacement,  
 11 high-accessed opportunity, so their designations are all M1  
 12 designations just across this one street here, Pine Street.  
 13 And in fact, the -- the -- they had written some comments  
 14 on the draft EIS about how come we're being treated  
 15 differently than our sisters and brothers across the street,  
 16 and getting larger upzones?  
 17 And the -- the City respond by saying, you're not allowed  
 18 to question our analysis under -- and they cited the WAC,  
 19 saying that our -- our methodology is not to be critiqued.  
 20 But anyway --  
 21 **Q. So let's look at the --**  
 22 A. But let's look at this M chart, which is mostly from my  
 23 neighborhood. We -- we didn't get a lot of M1. We got  
 24 mostly M.  
 25 And so it shows, for example, impact of going from a

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1 single family to an RSL, which is, like I said, that's about  
 2 40 percent of our land mass. The proposal would allow for  
 3 an increase in density of households, which is perhaps a  
 4 correct statement. No change is allowed from residential in  
 5 terms of use; and despite smaller front and rear yard  
 6 setbacks RSL contains the same height limit and introduces  
 7 an FAR limit. RSL buildings will not alter the land use  
 8 pattern. They do not present a scale impact.  
 9 And I would argue that that is absolutely imprecise. RSL  
 10 buildings do alter the land use pattern because you would  
 11 now allow two buildings on a lot instead of one. So an  
 12 existing building could be knocked down, and the two  
 13 buildings could replace that on the lot, and thereby  
 14 changing dramatically the street scape.  
 15 You know, this idea that you're walking down the block,  
 16 and see everybody's garden, and waving at neighbors, and all  
 17 of a sudden you have a building now that sits right there at  
 18 the street.  
 19 More importantly, in our neighborhood, and in these  
 20 neighborhoods that are currently single family, the nature  
 21 of these buildings is very unique. These are smaller-scale  
 22 buildings, smaller homes, typically one story, or maybe one  
 23 story over a partially submerged basement. They are -- some  
 24 are craftsman-style homes, so you're familiar with that  
 25 smaller craftsman house, or they are smaller Victorian

1 homes, you know, the very simple, four square-type building,  
2 that kind of architecture. The new RSL zoning allows new  
3 buildings to be up to 2200 square feet in size.

4 And I would argue that building, in terms of size of that  
5 building is dramatically bigger than the current building  
6 sizes that we see in these neighborhoods.

7 This maybe goes back to the displacement issue, but what  
8 we see -- and we've seen in other neighborhoods, and we're  
9 already seeing in the central area -- I mentioned some of  
10 this lowrise stuff down below Jackson that we were looking  
11 at earlier. Those -- those neighborhoods have seen this  
12 cascading movement of people out of the neighborhood.

13 So a project goes in that takes down a house and puts in  
14 two or three in the case of lowrise, which means three or  
15 sometimes four buildings going onto the parcel, that loom  
16 above the other building, and the people that live there are  
17 intimidated by it. They're losing their neighbors. They're  
18 losing their light into their gardens. They're losing their  
19 privacy.

20 There was an instance that I went and saw a house up in  
21 Ballard, not in my neighborhood, but a woman who had her  
22 dining room window, and the building that went in right next  
23 door with the minimized setbacks and so on literally  
24 produced a wall right there out of her bedroom -- her dining  
25 room window where she used to look out at the neighbor's

1 same.

2 That's true, but what that masquerades as is that moving  
3 the density limits allows now the production of micro  
4 housing units into what were formerly single family  
5 neighborhoods. And we know that, with the micro housing  
6 projects where the units can be, you know, 220 square feet,  
7 and you're allowed to build a 2200 square foot building, you  
8 could potentially have ten units of housing, and even maybe  
9 two of those on what was once a single family lot. And then  
10 of course --

11 MR. KISIELIUS: Mr. Examiner, I'm sorry to interrupt. I'm  
12 going to object. I'm just wondering if there's a question  
13 that's going to be asked at one point. There's been some  
14 narrative testimony here. And I think --

15 MS. NEWMAN: Is there a problem? I mean, is that not  
16 appropriate?

17 HEARING EXAMINER: Well, I guess are you asking him that  
18 he simply provide a statement?

19 MS. NEWMAN: No. I just was letting him go through the  
20 table. Because my question was whether the land use chapter  
21 adequately addressed the impacts.

22 And he was just describing each of the issues he had with  
23 the table in Exhibit 3.2-3.

24 HEARING EXAMINER: Okay.

25 MS. NEWMAN: And it's just --

1 garden.

2 Those types of land use impacts are fairly significant for  
3 people who live there. You lose -- you lose your light.  
4 You lose your privacy. You lose your sense of space.

5 I've had an expert witness when I've come here to the  
6 Hearing Examiner before named Lynne Manzo at the University  
7 of Washington, who works in the college and build  
8 environment, and she talks about the loss of a sense of  
9 place, loss of identity, the sense that you don't belong  
10 there anymore.

11 When wealthier people move into the neighborhood, your  
12 neighbors move out. That creates a gentrification factor  
13 that is not necessarily talked about a lot, and certainly  
14 not described in this document.

15 **Q. Okay. Let's --**

16 A. That causes the neighborhood to flip.

17 **Q. And --**

18 A. So I think the -- the land use impacts on this change, you  
19 know, from going residential -- from single family  
20 residential to small lot has a huge impact in terms of the  
21 land use patterns in these neighborhoods, and will then have  
22 cascading effects on it.

23 Lowrise, lowrise 1 -- going to lowrise 1, the current  
24 density limit in lowrise 1 would be removed, allowing  
25 greater residential density. The height limits remain the

1 A. Again, because the decision maker will read this table --

2 **Q. (By Ms. Newman) So I mean, I do -- so I do want to point out**  
3 **that we have until 5:00. And so --**

4 A. Yikes. Okay. I'll -- I'll -- I'll go quicker.

5 **Q. We could --**

6 HEARING EXAMINER: At this point I assume Mr. Bradburd is  
7 coming back tomorrow.

8 MS. NEWMAN: Yeah. That's probably --

9 A. Nothing more exciting for me than being here again.

10 So back -- so lowrise 2 to lowrise 3, it says that,  
11 however, height limits would be similar to existing.

12 Well, actually, no. We're adding 10 feet for those zones.

13 The midrise says that there's -- the height limits  
14 increased slightly, and they're going from 60 to 80 feet.

15 That's a 33 percent increase.

16 So I think the -- this table is somewhat misleading to the  
17 decision maker in terms of what --

18 **Q. Do you think somewhat? Or --**

19 A. -- impacts. I was being -- I was being polite.

20 **Q. Yeah. Just we're --**

21 A. I -- I think --

22 **Q. I want formal, your formal --**

23 A. I think it's terrible.

24 **Q. -- opinion.**

25 A. I think it's -- well, my opinion as a layperson is this is

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1 misleading, if not intentionally misleading.

2 **Q. Okay.**

3 A. And particularly since this impacts -- in this urban

4 village, you know, every parcel is in effect being upzoned

5 because of all the additional development potential in the

6 lowrise zones going from single family to RSL, neighborhood

7 commercial all getting additional heights and everything.

8 So I think, you know, that the -- the impacts to an area

9 that's already seeing significant amounts of gentrification

10 and change, and because of all the -- the development, I

11 think this only is going to foster more.

12 And the -- the EIS does not describe that at -- at all,

13 from my vantage point.

14 **Q. Okay. So I do want to -- let's see. There was -- in the**

15 **land use impact chapter they do have short descriptions for**

16 **each of the alternatives about land use impacts for each of**

17 **the urban villages. Have you looked at that --**

18 A. I'm sorry. Can you give me --

19 **Q. -- in that chapter?**

20 A. -- a page number?

21 **Q. So if you look at page 3.126.**

22 A. Uh-huh.

23 **Q. They do have a short description of 23rd and Union Jackson**

24 **impacts. Have you had a chance --**

25 A. Right.

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1 **Q. -- to --**

2 A. That's for the --

3 **Q. -- review those?**

4 A. I believe that's for alternative 2. And then they have

5 another description for --

6 **Q. Right.**

7 A. -- alternative 3. And then they have a preferred

8 alternative that says it's kind of like alternative 3.

9 Right?

10 So yes, I've, I've looked at these. The alternative 3

11 description is on 3.138, and the preferred alternative is on

12 3.152.

13 And I think that there's quite a bit of disinformation on

14 the -- for the 23rd Avenue. So preferred alternative and

15 land use impacts are similar to alternative 3.

16 **Q. Which page are you on?**

17 A. I'm on page 3.152.

18 **Q. Okay.**

19 A. Which is the preferred alternative impacts on the 23rd Union

20 Jackson Urban Village.

21 **Q. Okay. It says existing single family zoning at the edges of**

22 **existing commercial, multifamily zones would be changed to**

23 **RSL.**

24 A. Right. Which says it reduces the potential impacts related

25 to changes and use, scale, and density.

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1 This is, again, making it an M rather than an M1 or going

2 to a lowrise 1. So it reduces potential impacts related to

3 use, scale, and density.

4 I think, you know, part of this, from my vantage point, is

5 they make these trans- -- generalized statements. And

6 what -- what we're seeing on the ground in terms of

7 development, if a -- if a developer can put in, you know,

8 two \$850,000 townhouses in the heart of the central area,

9 they will do that, given what land costs are, what they're

10 paying, you know, per footprint for land.

11 And again, I'm doing this as a layperson who looks at this

12 stuff pretty carefully, and talks about this with my

13 neighbors.

14 That -- that whether or not this is lowrise 1 or -- or RSL

15 is going to the same type of net land changeover that --

16 that the city is, in effect, trying to prevent.

17 The only difference is perhaps the properties will be

18 worth more because, instead of three townhouses on a lot,

19 there will just be two townhouses on a lot.

20 **Q. Well, I want to -- so I want to focus on the land use**

21 **impacts.**

22 A. Sure.

23 **Q. And they're saying that the -- there would be -- well, I**

24 **guess my first question is: Do you think -- does this have**

25 **any description of the context of the existing**

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1 **environment --**

2 A. It -- it doesn't talk about --

3 **Q. -- in your neighborhood?**

4 A. It doesn't talk about the hills. It doesn't talk about --

5 **Q. Okay.**

6 A. -- shadow impact.

7 **Q. All the things that we discussed earlier.**

8 A. It doesn't talk -- exactly.

9 **Q. So there's nothing in the EIS.**

10 **And then does this adequately provide for you information**

11 **that describes all of the potential impacts, land use**

12 **impacts --**

13 A. No.

14 **Q. -- in your neighborhood?**

15 A. No. And in fact, I think these are written to kind of be

16 mom and apple pie, everything's okay. In fact, I think

17 there's -- there's some -- you know, again, more false here.

18 The last sentence there talks about neighborhood

19 commercial does not result in land use impacts for the area,

20 and the NC zone encourages more pedestrian-oriented uses

21 which is compatible with nearby residential development.

22 But if you look along Rainier Avenue where they're making

23 conversion to NC -- neighborhood commercial, Rainier Avenue

24 gets 70 some thousand automobile trips a day on it. It's

25 not a pedestrian-friendly environment at all. Yet the --

1 the city is making it sound like, hey, this is a -- you  
 2 know, something we're doing intentional.  
 3 In the areas where it actually did ask for increased  
 4 density, the neighborhood did not get that. And in get --  
 5 instead what we're getting is this lowrise and this RSL  
 6 zoning that, again, I think is going to lead to displacement  
 7 out of those communities, and it's going to result in a  
 8 high-priced housing neighborhood.

9 And instead of getting perhaps densities of apartment  
 10 buildings and that sort of thing where you could have some  
 11 inclusionary units, we're not being offered that.

12 **Q. Okay.**

13 **A.** We're basically, at least in my neighborhood, prescribing  
 14 it's going to be all townhouses, which are all very  
 15 high-priced.

16 HEARING EXAMINER: And we'll end there.

17 MR. BRADBURD: We will end there.

18 HEARING EXAMINER: Continue tomorrow.

19 MR. BRADBURD: Okay. Thank you.

20 MS. NEWMAN: Great. Thank you.

21 (Conclusion of Day 11)

22  
23  
24  
25

1  
2 CERTIFICATE  
3

4 STATE OF WASHINGTON )  
5 )  
6 COUNTY OF SNOHOMISH )  
7

8 I, the undersigned, do hereby certify under penalty  
 9 of perjury that the foregoing court proceedings, recorded  
 10 statements, hearings and/or interviews were transcribed under my  
 11 direction as a certified transcriptionist; and that the  
 12 transcript is true and accurate to the best of my knowledge and  
 13 ability, including any changes made by the trial judge reviewing  
 14 the transcript; that I am not a relative or employee of any  
 15 attorney or counsel employed by the parties hereto, nor  
 16 financially interested in its outcome.  
 17  
18

19 IN WITNESS WHEREOF, I have hereunto set my hand this  
 20 4th day of September, 2018.

21  
22  
23   
 24 Bonnie Reed, CET  
 25



## Hearing - Day 12

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

August 21, 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 12 - August 21, 2018  
Heard before Hearing Examiner Ryan Vancil

Transcribed by: Bonnie Reed, CET  
Court-Certified Transcription

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1 -o0o-  
 2 August 21, 2018  
 3  
 4 HEARING EXAMINER: We return August 21st with continued  
 5 direct of Mr. Bradburd.  
 6 And, Mr. Bradburd, you're still under oath from yesterday.  
 7 THE WITNESS: Okay, thank you.  
 8 MS. NEWMAN: Thank you, Your Honor. Claudia Newman  
 9 returning this morning.  
 10  
 11 DIRECT EXAMINATION  
 12 BY MS. NEWMAN:  
 13 **Q. Good morning. We left off, I think, almost wrapping up a**  
 14 **discussion about land use, and we were looking at the EIS**  
 15 **chapter on land use impacts. And I think you may have had a**  
 16 **few more points to make, if you want to --**  
 17 A. Well, I just -- I just wanted to -- I don't know if I got to  
 18 the table. Most of the 23rd Avenue urban village is M.  
 19 There's a little bit of the M1. And so this table which is  
 20 presenting the impacts, because of the changes in the  
 21 different zones, on the M1 table there's not much in my  
 22 urban village but there's M1 all throughout the city. And  
 23 that table which is on page I think --  
 24 **Q. 3.114.**  
 25 A. Thank you. 3.114 talks about at the very top, the first row

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1 is Single Family to Lowrise 1 or Lowrise 2. Well, Lowrise 2  
 2 is going to 40 feet. So they call that a heights would be  
 3 the same or similar, but 40 feet is 33 percent higher than  
 4 30 feet. And particularly in Single Family, we don't see  
 5 this phenomenon, which is happening all over the city now,  
 6 these rooftop decks.  
 7 And the rooftop deck adds -- is a lot of it will go above  
 8 the roof line. So at 30 feet which is the top of a pitched  
 9 roof in a single-family home, now that flattens up to  
 10 30-foot height. And what we see developers doing  
 11 pervasively throughout the city are rooftop decks.  
 12 So there is then a solid wall which is maybe 42 inches or  
 13 so higher than the deck so that people don't fall off, and  
 14 then on top of that you'll see the -- the stairwell access  
 15 and so on. And they can be fairly prominent.  
 16 My neighbor had a house built -- it was going downhill  
 17 from them. It's a Lowrise 2. And so from there the -- they  
 18 figured, "Okay, well, this new thing is going only in at  
 19 30 feet." It's not going to block their view. But, of  
 20 course, it got a rooftop deck so the railings are higher,  
 21 and the developer aligned the stairwells against his view  
 22 which was of Mount Rainier and Phinney South and all that.  
 23 Now, again, that's not necessarily a protected view for  
 24 him but his investment in his home has been severely  
 25 impacted, and his views were impacted because, even though

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1 it's a 30-foot zone, the developer was allowed to put this  
 2 rooftop structure on top without -- and because they don't  
 3 have design review, it's below the threshold of design  
 4 review, no one told him, "Hey, you have to turn this thing  
 5 in a way that you're not blocking the views from all the  
 6 people that are uphill of you."  
 7 If they turned just the alignment of their stairwell  
 8 coming up out of the stairs, you know, going this way  
 9 instead of this way, it would block less of the view. So,  
 10 you know, for -- for some of us, that's pretty significant.  
 11 And then now in the Lowrise 2, they're adding additional  
 12 10 feet so that 30-foot zone is now going to be a 40-foot  
 13 zone plus the rooftop decks.  
 14 I can give you an example. I live in a Lowrise 2, so that  
 15 is a 30-foot zone today. But because I'm on a hill, a  
 16 developer was able to build just down the hill from me a  
 17 structure where with the rooftop access that height goes to  
 18 46 feet. So even though the zoning code says 40 feet, the  
 19 buildings actually being produced in a zone are -- the one  
 20 in my case was 46 feet from the ground level.  
 21 And with the upzones given under the MHA, that's now going  
 22 to be a base of 40 feet, so you're talking about potentially  
 23 a 56 foot height in what was formally a Single Family zone  
 24 that would be 30 feet at a top of a pitched roof. So you  
 25 can get a sense of, you know, how much, you know, people on

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1 decks looking down on people's backyards, the size of these  
 2 things in terms of blocking sunlight. There's -- there are  
 3 impacts, and these are land use --  
 4 **Q. Are those significant --**  
 5 A. Technical --  
 6 **Q. Would you describe them as significant impacts?**  
 7 A. Well, I think for the person experiencing it, yes, it can be  
 8 very significant.  
 9 **Q. Uh-huh.**  
 10 A. I don't know if I'm allowed to bring in anecdotal stories,  
 11 but, you know, years ago when I was going around through  
 12 Ballard, which was seeing significant displacement of the  
 13 homes because they'd been rezoned, neighbors -- the number  
 14 one complaint of neighbors was, "I hate this stuff. I" --  
 15 you know, "I got people staring into my backyard." I told  
 16 you the story about the woman who had now the solid wall  
 17 outside of where her dining room window was.  
 18 These are things that -- you know, they say zoning doesn't  
 19 cause displacement, but zoning does cause displacement.  
 20 What's there now is supposed to be gone, and the impacts of  
 21 these when they are fairly significant in terms of light and  
 22 sense of place in your -- you know, your -- your -- your  
 23 territory is now overwhelmed. You know, it's no longer in  
 24 the same scale.  
 25 And the whole point of Lowrises was to be --

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1 **Q. Uh-huh.**  
 2 A. -- at the same scale. Lowrise is no longer at the same  
 3 scale. Since 2010 when they've upzoned it and now it's part  
 4 of MHA even further, they are not compatible. And you can  
 5 look at the old Lowrise structures that were built before  
 6 2010, and they are, you know, single-story or two-story  
 7 structures. They fit nicely within the neighborhoods. They  
 8 give you the added density.  
 9 What the City has been doing is giving additional height  
 10 in both densities. It's not yielding affordability. The  
 11 unit sizes are now getting very big. So a neighborhood  
 12 where maybe there's smaller homes and the home sizes were in  
 13 the 1100 square feet or the 1200 square feet, we're now  
 14 seeing townhouses that are 1800, 2200 square feet.  
 15 That's what the RSL allows. A 2200-square-foot house that  
 16 can be 30 feet tall and have a rooftop deck and all the  
 17 armature around that and the roof, the stairwell and  
 18 everything, it's not the same. It really is traumatic.  
 19 And I don't believe that -- we'll get to the next --  
 20 **Q. You can go ahead and --**  
 21 A. -- pictures under the Aesthetics Section.  
 22 **Q. Well, let's -- let's go back to this table, Exhibit 3.2-4.**  
 23 **Are there any points in that table that you wanted to make**  
 24 **or was that --**  
 25 A. 3.2-4, well, there's one more that jumps out at me as pretty

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1 significant, and that's Lowrise 3 to Midrise. Well, Lowrise  
 2 3 is currently a 40-foot zone, Midrise is an 80-foot zone.  
 3 So they call that a moderate increase in height. That's a  
 4 50 -- that's 100 percent increase in height.  
 5 **Q. Wait, 30 -- it's 30 --**  
 6 A. Lowrise 3 is 40-foot zone.  
 7 **Q. 40-foot, okay. So it's --**  
 8 A. And if it's going to Midrise, in the new MM it's 80 feet.  
 9 **Q. And so the size will double there?**  
 10 A. The size -- yeah, it's 100 percent increase. That's not a  
 11 moderate increase.  
 12 **Q. Okay.**  
 13 A. So again, you know, for decisionmakers just like -- like,  
 14 "Okay, here's the nuts and bolts of it, I don't have to read  
 15 hundreds of pages of Land Use Code, I got this table here to  
 16 explain to me exactly what's happening," it's not exactly  
 17 what's happening. It's false information.  
 18 **Q. Okay, all right. Any more?**  
 19 A. I -- to be honest with you, I did not look closely at the M2  
 20 zones.  
 21 **Q. That's fine.**  
 22 A. You know, and then I think, you know, the area -- the  
 23 descriptions then when they talk about the impacts, so they  
 24 talk about the impacts in Single Family zoned areas, "The  
 25 greatest potential in significant impact" --

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1 **Q. Where are you reading from?**  
 2 A. Oh, I'm sorry page 3.116.  
 3 **Q. Uh-huh.**  
 4 A. So they say -- towards the end of it they say, "Urban  
 5 villages with greater quantities of existing Single Family  
 6 zones could experience more local land use impacts." Well,  
 7 the 23rd Avenue urban village is about 40 percent Single  
 8 Family. So that "could" is it's definitely going to see  
 9 impacts and pretty substantive ones.  
 10 **Q. Okay.**  
 11 A. Yeah. You know, I think all these -- I mean, I'm sure if I  
 12 haven't made this point enough other people probably have it  
 13 that, you know, these are just kind of generic descriptions.  
 14 You know, they -- you know, here's something that struck  
 15 my eye. It was on page 117, "Pressure for further zoning  
 16 changes," so it's second bullet down under Other Potential  
 17 Land Uses. "Some changes can create pressure for further  
 18 rezoning variance in proximity, although this would be  
 19 controlled by the Conference of Plan Policy or zoning  
 20 standards."  
 21 But I think Mr. Steinbrueck testified on the first day  
 22 that they're removing the criteria that is in the Land Use  
 23 Code for helping them do contract rezones. So that -- that  
 24 zoning standard, as it were, goes away.  
 25 But I'll give you an example. In the 23rd Avenue urban

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1 village, there's a main intersection at 23rd and Union,  
 2 which is the top node along 23rd. Let me -- I lost my map  
 3 of what happened. Hang on a second here. And this is part  
 4 of the rezone that had happened -- okay. I may need to  
 5 borrow another map from you. I don't know what I did with  
 6 my map.  
 7 MS. NEWMAN: Can I give him that, and can I have that --  
 8 MR. THALER: You mean this?  
 9 (Inaudible colloquy)  
 10 THE WITNESS: So the top node here is 23rd and Union,  
 11 right? And the way the Comprehensive Plan was written as  
 12 far as our Neighborhood Plan as the primary commercial node  
 13 in this -- in the urban village is this 23rd and Jackson  
 14 node.  
 15 And it was always zoned higher. It was zoned for the most  
 16 intensity. It has the best east-west access along Jackson  
 17 Street. It's close to down to, you know, the regional hub,  
 18 I-5 and I-90. So it's -- it makes sense to make this the  
 19 primary intense use within the urban village.  
 20 And the Neighborhood Plan always talked about 23rd and  
 21 Cherry being a small cultural hub. There's -- Coyote  
 22 Central is there which is an art school for youth. The  
 23 Garfield High School is right here, the Central Area.  
 24 Garfield Community Center is at that intersection. There's  
 25 a row of single-story brick garages which are repurposed

1 into artist workspaces. So that was kind of deemed as a  
2 little cultural hub.

3 There's also the -- what used to be called the Nova School  
4 which is the middle school for kids that are troubled, maybe  
5 incorrigible youth, but are given arts and that kind of  
6 outlet. That was at -- the Nova School is at that  
7 intersection or just adjacent to that intersection. So that  
8 was kind of the intent of that node.

9 And then the top node at 23rd and Union was meant to be a  
10 small localized node serving, you know, these homes and  
11 these people who live here. And what happened was one  
12 location here at the southeast corner -- excuse me,  
13 southwest corner applied for contract rezoning. The heights  
14 had been 40 feet, and they applied for contract rezoning for  
15 65 feet.

16 And, in fact, I attended those hearing examiner meetings,  
17 and the -- one of the rationales that the hearing examiner  
18 in their ruling made for this upzone was it's okay for this  
19 one to go to 40 feet because everything else --

20 **Q. 60 --**

21 A. 65 feet, thank you, because everything else around is zoned  
22 at 40 feet. That was kind of like it's okay for this one to  
23 go a little taller because it's not going to have impacts  
24 because everything else in the area will stay at 40 feet.

25 Well, low and behold, you know, a year or two later, the

1 Now, the southeast corner we've got a nonprofit housing  
2 developer that's involved, and we're trying to do some MHA  
3 units in there. But, you know, generally what we're seeing  
4 is density going in, prices going up in the community and  
5 we'll have housing being pushed into the fee structure which  
6 makes the low income people live in one building and wealthy  
7 people live in another building.

8 **Q. Okay.**

9 A. And I think there's an equity for -- particularly for the  
10 Central Area which has seen a lot of displacement to say,  
11 "People that used to live in single-family homes now have to  
12 live" -- "and the only way you can afford to live in your  
13 neighborhood anymore is in the low income housing project."

14 **Q. Okay. And then I --**

15 A. I find that --

16 **Q. -- cut you off there because we're --**

17 A. Cut me off there. I know that's not my area that you asked  
18 me to talk about.

19 **Q. So I want to move on to the Chapter 3.3 with aesthetic --**

20 A. Sure, sure.

21 **Q. And ask you whether the EIS adequately discusses the  
22 aesthetic impacts that the proposal will have to your  
23 neighborhood?**

24 A. Yeah, I mean, I don't want to spoil a surprise here, but I  
25 am not happy with the aesthetics description either.

1 property across the street, which also ended up here in the  
2 hearing examiner, said, "Well, we want to go to 65 feet  
3 because they're at 65 feet." And the hearing examiner at  
4 the time accepted that as a rationale.

5 So this idea that, you know, "Oh, everything's going to  
6 stay low, and we have controls over this," no, the controls  
7 are very loose unfortunately. The hearing examiner did  
8 overrule that upzone for other reasons, but they did -- they  
9 did accept the rationale that (inaudible). So that kind of  
10 what I call log rolling that, you know, that goes on --

11 **Q. Uh-huh.**

12 A. -- we see that a good bit. And in fact, this whole  
13 intersection is part of that MHA upzone that occurred  
14 earlier did go to the 65 feet. In fact, that whole corridor  
15 has been upzoned significantly all along there.

16 **Q. And would you say --**

17 A. And I just -- I just want to make my own personal comment  
18 here. Do you mind?

19 **Q. Sure.**

20 A. I don't mind upzones. I'm for -- you know, we're in a city,  
21 and density should be increasing. Where I personally have  
22 an objection is the way MHA is implemented. And this is not  
23 my line of questioning, but we're not doing true  
24 inclusionary zoning. And so what we'll see is -- and these  
25 apartments are becoming this way, this largely luxury.

1 **Q. When you say, "not happy," that's --**

2 A. Well, I -- I'm kind of being facetious.

3 **Q. Can you say whether -- just specifically whether it's  
4 adequate or not? Because we're --**

5 A. I believe that this document does not tell my councilmember,  
6 you know, Kshama Sawant, nor the citywide councilmembers or  
7 the people who have been looking at this what is really  
8 happening. There's been a lot of rhetoric about this is  
9 it's smiley, happy affordable housing that's going to be  
10 produced.

11 The -- the -- you know, the City came into our  
12 neighborhood and did some public workshops or public --

13 **Q. Let's wait. I don't want to get distracted with that.**

14 A. Okay, I'm sorry.

15 **Q. Can we focus on the EIS and look at page --**

16 A. Okay.

17 **Q. -- 3.163?**

18 A. Okay, yes.

19 **Q. And just tell us -- you said that -- so is it -- is your  
20 testimony that you don't think it is adequate in its  
21 description of aesthetic impacts to your neighborhood?**

22 A. Well, I think -- I think it goes through motions of trying  
23 to show -- you know, for a document that's 1,500 --

24 **Q. Are those motions adequate?**

25 A. No, no.

1 **Q. Do they adequately --**  
 2 A. Of course not.  
 3 **Q. Okay.**  
 4 A. For a 1500-page document, they could have spent time. And I  
 5 know the -- the City has spent time. The City's invested,  
 6 for example, in the Central Area design guidelines.  
 7 Well, there was a very detailed document the City  
 8 participated in producing that looked at neighborhood  
 9 aesthetics, that looked at the character of the Central  
 10 Area, that was the baseline for this work, okay? And, you  
 11 know, the City participated in that process. That was one  
 12 of the exhibits that I submitted to you as something that  
 13 maybe to talk about.  
 14 **Q. Is that mentioned in the EIS?**  
 15 A. No, no.  
 16 **Q. Okay. And can we focus -- let's focus on --**  
 17 A. But timing -- timing of that may have been in a way, you  
 18 know, that that document -- like for example, this was  
 19 produced in -- this was approved in 2018.  
 20 **Q. Uh-huh.**  
 21 A. So, you know, this document came out at the end of 2017.  
 22 Now that work was ongoing at the time, so, you know, I'm not  
 23 suggesting that --  
 24 **Q. Right.**  
 25 A. -- it was something that was available for them. What I am

1 design are primarily discussed in a qualitative and  
 2 generalized manner."  
 3 **Q. Uh-huh.**  
 4 A. And I think what they've done is they have not discussed it  
 5 in a qualitative manner, because to me the qualitative thing  
 6 would have been about lights and the shadows and, you know,  
 7 kind of these -- you know, the quality of what's being built  
 8 in terms of the character, that sort of the thing.  
 9 What they do -- what they talk about is in a quantitative  
 10 manner. So for example, the attachment that's in the  
 11 appendix -- I believe it was -- is that Appendix --  
 12 **Q. Appendix F.**  
 13 A. F, okay. The draft version by the way, so, you know, I  
 14 don't know how this implies that they're done with this or  
 15 not. But it's the draft urban character study -- Urban  
 16 Design and Neighborhood Character Study. And that document,  
 17 when you open it up, you know, has some of these pictures.  
 18 And I think the prior testimony, to me I heard them talk  
 19 about some of those, and I could elaborate perhaps a little  
 20 bit further on these diagrams. I call them the Lego blocks.  
 21 You know, these don't really give you an aesthetic sense at  
 22 all of what's being built, and they're just some examples.  
 23 But this data is mostly quantitative data, 5 feet,  
 24 15 feet, 10 feet. It doesn't really show a qualitative  
 25 aspect of these. If this were going to be a qualitative

1 suggesting is they are doing that work and they can do that  
 2 work and they should have done that work for this.  
 3 **Q. Okay.**  
 4 A. But they did not.  
 5 **Q. Okay, all right. And so we have two different sections in**  
 6 **the EIS. One that talks about the existing environment.**  
 7 **Which what you just said, they don't do that in here.**  
 8 **There's no discussion about your neighborhood describing**  
 9 **what it looks like, the aesthetics; is that right?**  
 10 A. Well, not -- not in any detail at all. It's very generic  
 11 stuff.  
 12 **Q. Okay.**  
 13 A. And yeah.  
 14 **Q. And so if you look at page -- well, let's -- when you say,**  
 15 **"generic," let's look at page 3.169 where it says, "Because**  
 16 **MHA is a broadly" -- this is under the heading Impacts.**  
 17 **It's a couple sentences down. "Because MHA is a broadly**  
 18 **defined citywide program, this EIS does not provide a**  
 19 **detailed or site specific analysis of aesthetic impacts at**  
 20 **any specific location."**  
 21 A. Right, I mean, they --  
 22 **Q. So that's --**  
 23 A. They right away say, "We don't do it." In fact, I have a  
 24 beef with the sentence right before that. They say, "Given  
 25 the large scale of the study area, impacts to aesthetic

1 aspect, to me it would show how these buildings might look  
 2 in context and so on, but they don't show anything in  
 3 context.  
 4 They have Lego block buildings that don't look like  
 5 anyone's building, and they have only some examples of what  
 6 can be done in these zones, not the diversity of it. So for  
 7 example, when you look at the Lowrise zones where they could  
 8 have these rooftop decks, you're not seeing the production  
 9 of the rooftop decks which would show how much bigger these  
 10 buildings are.  
 11 You know, you're getting to 45 feet and 48 feet in some  
 12 zones. If Lowrise 2 goes to, you know, 40 feet, you're  
 13 going to have building structures, physical structures built  
 14 environment over 50 feet. Same thing in Lowrise 3 which is  
 15 going to 50 feet. Now you're talking about up to 60 feet  
 16 tall, those buildings.  
 17 **Q. Okay.**  
 18 A. And again, I'm not necessarily adverse to those forms being  
 19 produced in the right areas, but I think there has to be  
 20 some understanding of where that fits in the neighborhood.  
 21 And this process, I'm sure somebody else has talked about  
 22 it, has been one of we're going to upzone everything the  
 23 same everywhere, like we're blowing up a balloon a little  
 24 bit. And city -- you know, you don't plan a city that way.  
 25 You don't build a city effectively that way. You --

1 **Q. Okay. In looking at page 3.163 in the EIS, have you seen**  
 2 **that page before?**  
 3 A. Oh, yeah.  
 4 **Q. So what -- explain what that is and then what your thoughts**  
 5 **are on that as far as --**  
 6 A. Well, I think this is kind of to like maybe whetten your  
 7 appetite for what they really want you to look at which is  
 8 this one here. But, you know, they talk about establish  
 9 single-family housing. I mean, I look at that block, and  
 10 that could be anywhere USA not necessarily --  
 11 **Q. Does that look like your neighborhood or reflect your**  
 12 **neighborhood?**  
 13 A. Well, that there's front yards, yeah. There's cars on the  
 14 street, yeah. But it certainly -- you know, it doesn't give  
 15 you a sense for the diversity of single-family housing  
 16 that's out there.  
 17 Single-family housing can be -- in some parts of my  
 18 neighborhood are, you know, older, wealthier perhaps  
 19 Victorian homes that might have a partially submerged  
 20 basement and then two floors with a pitched roof with lots  
 21 of, you know, the Victorian doodads and detailing.  
 22 It can be as I mentioned, you know, this older simpler  
 23 Victorian style. It's just a square box, but they're  
 24 certainly listed in our Central Area historical buildings  
 25 list in the -- on the Department of Neighborhoods website.

1 very little of that. There was --  
 2 **Q. Okay.**  
 3 A. -- a McMansiony thing built up at the very north end of  
 4 the --  
 5 **Q. That's okay, we don't --**  
 6 A. Okay.  
 7 **Q. Just the general idea --**  
 8 A. That's --  
 9 **Q. -- that you're saying that --**  
 10 A. Yeah.  
 11 **Q. -- this is not -- you have very little of this in your**  
 12 **neighborhood?**  
 13 A. Yeah.  
 14 **Q. Okay.**  
 15 A. The infill I think is typically, at least in the Single  
 16 Family areas, is a little more sympathetic --  
 17 **Q. Okay.**  
 18 A. -- to the surroundings.  
 19 **Q. And --**  
 20 A. And then --  
 21 **Q. Yeah.**  
 22 A. But then here's the Lowrise 1. You do get a sense that  
 23 there is a rooftop deck on this, but it's kind of shot in a  
 24 way, you know, from the low angle of the street. You know,  
 25 you can see there's the house that's next to it, though.

1 Or they can be Craftsman homes. We have typically more  
 2 simpler Craftsman homes. Not, say, as fancy as some of the  
 3 homes in Wallingford, but we do have some elements of nicer  
 4 Victorian -- Craftsman homes.  
 5 We have a lot of brick patterning. I don't see anything  
 6 in these in terms of the brick aesthetic. We have a lot of  
 7 that use in the Central Area because down at Rainier and  
 8 Dearborn where the Goodwill is today was historically a  
 9 brick factory. And so the roads were paved with bricks, and  
 10 we have a lot of brick homes up in these areas. So you  
 11 don't get that sense but --  
 12 And then -- and because the homes were -- because it was  
 13 migrant -- were people, migrants, from the south, a lot of  
 14 the infill development is very simple structures, smaller  
 15 homes maybe on a 3,000- or 4,000-square-foot lot but a  
 16 smaller home, a single-family home on slab, typically.  
 17 Again --  
 18 **Q. So a lot of variety I think is the main --**  
 19 A. Yeah.  
 20 **Q. -- point.**  
 21 A. Sorry, yeah.  
 22 **Q. And then with the -- the next picture down in Exhibit 3.3-3**  
 23 **is showing new single-family housing. So that's what --**  
 24 A. Well, I know that that type of -- you know, the proverbial  
 25 McMansion is showing up in a lot of neighborhoods. We have

1 That's probably a single-story house there with now the  
 2 30-foot Lowrise with the additional rooftop deck blocking.  
 3 Which you don't see on this -- or maybe you do at the back  
 4 corner there, that little stairwell access there.  
 5 What -- what I think is interesting about this here is the  
 6 way -- again, this is an angle shot here. And I can  
 7 actually mark this in my book here, but if you take your  
 8 fingers you say, "Okay, how big is this building," right,  
 9 which is -- right? And then you kind of measure that. It's  
 10 kind of presented as being like, "Oh, it's the same size,"  
 11 but you can see the cars, you know, are easily twice the  
 12 size.  
 13 And so it's kind of misleading the way they've kind of  
 14 presented this picture. It looks like, "Oh, this is a cute  
 15 little infill house," and it's, you know --  
 16 **Q. Right.**  
 17 A. Yeah, that's --  
 18 **Q. Okay.**  
 19 A. To me that's a visual trick. And again, if you're really  
 20 trying to convey honestly information to a decisionmaker,  
 21 you wouldn't, you know --  
 22 **Q. Uh-huh.**  
 23 A. -- give such a short, abbreviated view of what's here. And  
 24 I mean, how hard is it to put more pictures in and show --  
 25 **Q. Right.**

1 A. -- representative homes? Yeah.

2 **Q. Okay. So moving forward into the Impact Section, there are**

3 **a number of graphics that show -- illustrate presumably the**

4 **impacts of the upzone. Do these -- have you reviewed these**

5 **graphics on pages 3.178 and following through to page --**

6 A. Oh, yeah.

7 **Q. -- 3.189?**

8 A. Yeah, yeah, yep, I've looked at these.

9 **Q. And --**

10 A. And in fact --

11 **Q. Yeah.**

12 A. In fact, I think this -- you know, I don't know. We could

13 ask Jeffrey, but these might be snapshots out of -- they did

14 a virtual reality tour for people. And this reminds me of

15 what they had on the virtual reality tour.

16 **Q. So does those look like streets -- are those reflecting**

17 **streets in your neighborhood as far as you can tell, what**

18 **they look like?**

19 A. I would say it's -- I mean, if you really kind of pushed

20 yourself to see. You know, there are part -- the Central

21 Area, obviously, is an older, established part of the city.

22 Many of the streets are very heavily tree lined. They're

23 typically narrower streets that might have parking only on

24 one side of the street in the Single Family area.

25 So for example, around Garfield, some of that where the

1 **Q. Right.**

2 A. -- in the streets. We don't see any of that sense.

3 **Q. And you said earlier views?**

4 A. Views, yeah, I mean, depending on where you are.

5 **Q. Uh-huh.**

6 A. You know -- you know, the Central Area is --

7 **Q. That's right. We've already covered that --**

8 A. We're not near the water and all that. There are parts

9 where you can see the water but --

10 **Q. So are there any other comments you want to make just**

11 **overall about these graphics?**

12 A. Well, I just think, you know, for example, they talk about

13 Lowrise 1 and Lowrise 2. So what they've -- what we -- I

14 mean, I'm just going to pick -- pick one of these. So --

15 **Q. Which page?**

16 A. Well, I'm on page 181 which is looking at the Lowrise 1 and

17 Lowrise 2 infill. And so the first buildings are most

18 prominent to what you can see before you start going down

19 the block into infinity. The first two buildings there

20 show as two stories with a little rooftop deck.

21 And the rooftop decking, see, it looks like a fence or

22 maybe a glass kind of thing. It's not a solid piece. So

23 the sense of that mass of that is it's only maybe a 20-foot

24 building with this clear thing. But remember, Lowrise 1 can

25 be 30 feet with that solid wall and then potentially that

1 streets might have only one lane of parking and then the one

2 lane for traffic, they're not wide enough to have, you know,

3 the parking on either side of the street. The trees are far

4 more full, so you won't necessarily see -- see as much of

5 the housing. But at the same time -- you know what else

6 would -- what else did I --

7 **Q. And what about -- so let's look at the RSL.**

8 A. Again, you know, oh, I just want to make a point that --

9 **Q. Oh, sorry.**

10 A. -- you know, for some of the neighborhoods, the houses

11 aren't -- I mean, these don't look like they're very bulky

12 houses. These are, like, two-story maybe with a raised --

13 you know, so partially submerged basement it looks like. So

14 they're two stories, but, you know, for many of the blocks

15 they are just single-story structures, right? So this --

16 **Q. In your neighborhood?**

17 A. In the Central Area.

18 **Q. Yeah.**

19 A. Yeah, that's what I'm saying. There's some areas where

20 we're very more modest homes, you know, and there are some

21 areas that might look like this. But I would say it's not a

22 generalized picture that we --

23 **Q. Okay.**

24 A. We'd say, "Hey, this is Central Area." And again, we have

25 hills, you know --

1 stairwell access. So it kind of shortchanges them.

2 The next building down you see the -- the next story on

3 the top of that, right?

4 **Q. Uh-huh.**

5 A. So that might be more realistically what you see in the

6 Lowrise 1 zones, right? But you don't see the rooftop

7 railing on that one, and you don't see the rooftop access.

8 So even that one would be -- would be taller, right?

9 **Q. Well, let me --**

10 A. So --

11 **Q. -- ask you a question. Does this show -- you were talking**

12 **earlier quite a bit about the privacy impacts and the**

13 **lack-of-light impacts and what it would do if you had a**

14 **building built right next door to a single-family home, what**

15 **the impact would feel like for the person in the**

16 **single-family home.**

17 A. Right.

18 **Q. Does this reflect any of that for you?**

19 A. No. I mean, because they're not really showing this right

20 next door to the little like --

21 **Q. And does this --**

22 A. You know, these would almost be like the "Up" house or

23 something, you know?

24 **Q. Okay.**

25 A. I can give you another anecdote about right on my block, two

1 doors down is a Filipino family, multigenerational family,  
2 lives in this house. They've been there, you know, since  
3 the '40s or something. The next door to them between them  
4 and me, we're in a Lowrise 2 zone, developer came in and put  
5 in townhouses, three townhouses. I think I mentioned to you  
6 earlier they're priced between \$750 and \$850.

7 As a Lowrise 2 lot, they could have been an apartment  
8 building in there which would have housed maybe seven or  
9 eight apartments, but developers don't choose the apartment  
10 building form. Which was going to be one of the things I  
11 wanted to bring up later on but footnote that. It's more  
12 profitable for them to do the townhouses.

13 So in these higher density zones, we're not getting that  
14 kind of density. But anyway, so these townhouses came in,  
15 and this little family now has their little single-story  
16 house is completely overpowered by the height of, you know,  
17 this new one next door.

18 **Q. Uh-huh.**

19 A. Well, low and behold, they've sold their house to that exact  
20 same developer. So that's kind of like this cascading  
21 effect that we -- you know, we saw that in -- I don't know,  
22 is anyone from Ballard testifying?

23 **Q. No.**

24 A. I mean, I went out to Ballard and got a tour of Ballard back  
25 in 2015 when I was running. And the neighbors there were

1 **Q. Uh-huh.**

2 A. They've chopped the tops of the buildings off. Remember,  
3 this is -- you know, a Lowrise 3 can be a 50-foot building  
4 with the decks and everything on top of that. You don't see  
5 any sense of that.

6 **Q. So you can't sense what the height is because you can't even  
7 see the top of the building?**

8 A. Yeah, it's -- yeah.

9 **Q. This is on page 3.183?**

10 A. 183, this is -- yeah, this is the diagrams they've used to  
11 describe the aesthetics.

12 3.185 where they have the buildings across the street from  
13 the parking lot, this is analogous to a few situations we  
14 have. I mentioned earlier Spruce Street Park and Blanche  
15 Lavizzo and so on where they have the height increases next  
16 to the parks.

17 **Q. Uh-huh.**

18 A. We looked at the map yesterday. So they show a shadow going  
19 partly across the street, and then it -- you see it runs the  
20 shadow with the taller buildings goes back there. It goes  
21 into the park. And the language in the text they say, "The  
22 shadow extends only a short distance in the public space."

23 But I think that, you know, given the physical  
24 circumstances and the real shadow study, I keep seeing  
25 different. I see Greg Hill as an architect sitting over

1 basically, you know, "We could have had" -- "If you would  
2 have been here nine months earlier, we would have twice as  
3 many people on this tour, but people are moving in droves  
4 because, you know, this little neighborhood is just being  
5 steamrolled by the replacement housing."

6 And it's not the scale -- the whole intent, again, years  
7 ago of Lowrise was to kind of fit in you just make it from a  
8 scale standpoint, but the rules have changed to such a point  
9 where the scale isn't at the same scale anymore.

10 **Q. Uh-huh.**

11 A. I don't know how to describe that. I mean, I can tell you  
12 physically --

13 **Q. So it's a significant enough change that people don't want  
14 to live there anymore. It's a significant impact --**

15 A. People feel -- yeah, yeah.

16 **Q. Okay.**

17 A. That sense of loss of belonging and place.

18 **Q. So, actually, I think we've covered everything because  
19 I'm -- the only --**

20 A. I know you want --

21 **Q. -- reason I'm rushing is because we have a lot of witnesses.**

22 A. I understand that, and I just --

23 **Q. But if there are any final points --**

24 A. I was going to flip the page to 183 and the M1(M), the  
25 Lowrise 2, Lowrise 3 infill.

1 here. He can tell you that if you have -- the City says,  
2 "We're mitigating it by causing these setbacks at the" --  
3 "at the" -- you know, from the street level, you can see it  
4 on the bottom picture --

5 **Q. Uh-huh.**

6 A. -- that setback there. But if you do a sun shadow study,  
7 that setback there is not going to have any kind of dramatic  
8 footage. And the architect could probably explain to you  
9 the mechanics of the angles of the light and all that.

10 But I think this is -- that's really misleading, and in my  
11 neighborhood where we're getting, for example, a low -- a  
12 Midrise building, 80-foot building next to the park, this  
13 doesn't describe that.

14 **Q. Okay.**

15 A. I wanted to point out one other one here which talks about  
16 the Commercial strip.

17 **Q. And this is page 3.189?**

18 A. 3.189. They talk about the infill development and the  
19 Commercial zone. And we do have Neighborhood Commercial  
20 along -- for example, Jackson Street is all NC that's been  
21 upzoned, along Rainier Avenue. And some of the upzoning  
22 occurred as part of that prior one at the main nodes.

23 But I could look at the map, and we could talk about where  
24 we tend to see stuff. First of all, this picture is totally  
25 a fabrication for at least the Central Area. That road --

1 **Q. Which -- which --**  
 2 A. -- way is -- looks like it's at least six lanes wide with  
 3 including the parking. We have nothing like that in the  
 4 Central Area, a boulevard that's so broad. Yet we're  
 5 getting -- the zoning heights are going up to 50 feet,  
 6 60 feet, 75 feet, and they're in much narrower corridors.  
 7 And so the -- the -- the EIS here talks about, "Well,  
 8 there's going to be some moderate impacts," you know, "light  
 9 and air at the street," and so on. But if you think about  
 10 this, if you're a business, right, and you have an outdoor  
 11 cafe, you know, and across the street might be a 30-foot  
 12 building and now that's being upzoned to 65 feet, that cafe  
 13 who might enjoy sunshine, you know, for part of the day for  
 14 their customers is now going to be in shadow for many months  
 15 of the year and for many hours of the day.  
 16 The other thing that -- you know, I was looking through  
 17 this. And I don't know about you. I grew up in Chicago,  
 18 and I'm used to tall buildings in the Windy City. And we  
 19 start seeing that a little bit Downtown here, the wind  
 20 effects.  
 21 But as building heights go up, it channels the wind in  
 22 very interesting ways, and it -- wind will come over the  
 23 top, and it throws down onto the street level. So the  
 24 pedestrian's experience isn't one of just a sense of, "Okay,  
 25 I might be in the shadow a little bit more," but it can be

1 CROSS-EXAMINATION  
 2 BY MR. KISIELIUS:  
 3 **Q. Morning, Mr. Bradburd.**  
 4 A. Hi.  
 5 **Q. I'm Tadas --**  
 6 A. Could you remind me of your name?  
 7 **Q. Sure, Tadas Kisielius.**  
 8 A. Thanks, Tadas.  
 9 **Q. Here on behalf of the City, and I have a couple of**  
 10 **questions. I'm going to be asking you both about your**  
 11 **testimony today and some --**  
 12 A. Sure.  
 13 **Q. -- of what you said yesterday. I'd like to start with some**  
 14 **of your testimony yesterday. The reference is going to**  
 15 **be -- and this is Exhibit 2, the EIS --**  
 16 A. Okay.  
 17 **Q. -- page 3.11.**  
 18 A. You mind if I use my annotated one?  
 19 **Q. Not at all.**  
 20 A. Because it helps --  
 21 **Q. No.**  
 22 A. -- remind me of what I meant to say. Okay.  
 23 **Q. So I want to ask you a couple questions about the section**  
 24 **that's titled Scale Change.**  
 25 A. Sure.

1 climatically a change.  
 2 And again, you know, I'm not against the idea of putting  
 3 this in here, but you need to think about where we're going  
 4 and what the impacts are. And I know the City's going to  
 5 say, "Well, this is a" -- you know, "it's a programmatic" --  
 6 you know, "This isn't any particular change," or whatever.  
 7 But when we do our EIS assessments, the zoning -- the  
 8 rules have been changed in this city so that buildings under  
 9 200 units no longer go through any kind of environmental  
 10 study, right?  
 11 And the time for doing this kind of stuff should be to be,  
 12 "Look it, if we're going to zone this whole block ultimately  
 13 having it be 75-foot buildings on either side of the block,  
 14 somebody should be looking at what is this going to look  
 15 like in a physical environment that's built in 20 years or  
 16 20 years down the road."  
 17 This is the time to be considering this stuff, and we're  
 18 not doing it. And we're certainly not giving our  
 19 legislators the opportunity to think -- to even think about  
 20 it, that this is stuff that should be considered.  
 21 **Q. Okay, thank you. I think that's --**  
 22 A. Are you done?  
 23 **Q. Yeah, thank you very much.**  
 24 HEARING EXAMINER: Cross?  
 25

1 **Q. Yesterday you read a sentence that's in the -- I guess**  
 2 **towards the end of that first paragraph.**  
 3 A. Uh-huh.  
 4 **Q. Starts, "For example."**  
 5 A. Uh-huh.  
 6 **Q. Read that again just so we --**  
 7 A. "The increase of the height of Midrise buildings from four  
 8 to five stories with the same use as general configurations  
 9 a building footprint would not typically require an adverse  
 10 land use impact finding, although aesthetic impacts could be  
 11 possible."  
 12 **Q. Right. And I believe yesterday your criticism was that this**  
 13 **passage didn't accurately reflect the range of potential**  
 14 **impacts. And I think those that you were --**  
 15 A. Well, I --  
 16 **Q. Those that you were concerned about in your neighborhood**  
 17 **were new zoning might allow heights even beyond what was**  
 18 **described in this paragraph.**  
 19 A. Correct.  
 20 **Q. Is that consistent with what you (inaudible) --**  
 21 A. Correct, yes.  
 22 **Q. -- yesterday? And would that be an example in your**  
 23 **estimation of what you described as -- I think the phrase**  
 24 **you used was mom-and-apple-pie discussion that ignores**  
 25 **larger impacts?**

1 A. I don't know if I specifically said -- I -- but yes.  
 2 **Q. But it's one that fits the bill then in terms of --**  
 3 A. Well, I think -- I think what it's doing here is -- you  
 4 know, when you say, "for example," the for example is just a  
 5 moderate example. And what --  
 6 **Q. So let me pause.**  
 7 A. Sure.  
 8 **Q. Could you please read now the first three sentences of the**  
 9 **immediately following paragraph?**  
 10 A. Right. "A large scale change altered into a more  
 11 (inaudible) could create land use impacts. For example,  
 12 (inaudible) a 240-foot-tall residential tower into an area  
 13 of two or three stories." I don't know if we're doing that  
 14 anywhere.  
 15 **Q. Could you keep -- could you keep reading please?**  
 16 A. Sure. "(Inaudible) of occupied land in a completely  
 17 different configuration than the Lowrise structures. Scale  
 18 impacts could include view blockage, decreased access to  
 19 light and air at the ground level and reduction of privacy  
 20 and increases in light and air."  
 21 **Q. All right, you can stop there. You can stop there, thank**  
 22 **you.**  
 23 A. Okay.  
 24 **Q. So doesn't this example address precisely what you**  
 25 **suggested --**

1 **Q. So I'm going to interrupt you.**  
 2 A. -- east of it there's a park.  
 3 **Q. I'm going to interrupt you --**  
 4 A. Okay.  
 5 **Q. -- because I think I'm looking more for your**  
 6 **characterization of the first sentence was about how**  
 7 **representative that example was. And what I'm hearing you**  
 8 **say now is, unless we precisely spell out that specific**  
 9 **parcel, you don't think that this text is helpful.**  
 10 A. No, I don't. In fact, again, I think it's -- even as a  
 11 Midrise example it's misleading. Because Midrise is --  
 12 won't go to, perhaps, from four to five, they're going from  
 13 four to eight, right?  
 14 And I think -- so I think they've -- if you really wanted  
 15 to tell the councilmembers about the scale changes and the  
 16 impacts of scale changes, you should say, "These buildings  
 17 are going from four stories to eight stories." Don't say  
 18 they're going from four to five because councilmembers,  
 19 that's --  
 20 **Q. I'm -- I'm focusing again on the second example, not the**  
 21 **first one that you were testifying about yesterday, which is**  
 22 **talking about 240-foot tall. Let's move on. I'm going to**  
 23 **switch --**  
 24 A. Well, I --  
 25 **Q. -- to your testimony.**

1 A. No, no.  
 2 **Q. -- is missing from the --**  
 3 A. Not at all, because we are not doing a Highrise building in  
 4 a Lowrise zone.  
 5 **Q. Would you acknowledge it's a more representative example of**  
 6 **the concern that you raised --**  
 7 A. Well, I think --  
 8 **Q. -- in terms of the different -- you're going to have to let**  
 9 **me finish the question --**  
 10 A. Sure, sure.  
 11 **Q. -- for the purposes of the record.**  
 12 A. Sure, I'm sorry. Yes, sir.  
 13 **Q. Do you agree it's a more representative example of the**  
 14 **concern that you were raising about differential between**  
 15 **heights in areas that are -- where the height is allowed by**  
 16 **the new zoning is larger than what's there nearby?**  
 17 A. No, because I don't think it's representative. We're not --  
 18 we're not being zoned with Highrise anywhere. We are  
 19 getting one Midrise site is being upzoned adjacent to a  
 20 park, and that can go to 80 feet so -- and that 80-foot is  
 21 not comparable to anything that's in that area right now,  
 22 save for one building that's an older building further south  
 23 of there. But the rest of that area is all low-lying.  
 24 There's the -- to the west of it is the Langston Hughes  
 25 Performing Arts Center. To the --

1 A. There's -- we don't have any 240 foot tall buildings in  
 2 my -- it's a residential neighborhood so that's -- yeah.  
 3 **Q. Let's move on.**  
 4 A. Okay.  
 5 **Q. Let's go to the page 3.113.**  
 6 A. Okay.  
 7 **Q. Which is two pages later.**  
 8 A. Sure.  
 9 **Q. And yesterday you were discussing this chart which describes**  
 10 **the M type changes.**  
 11 A. Uh-huh.  
 12 **Q. I think your general criticism was that this didn't**  
 13 **accurately communicate land use impact, impacts of the**  
 14 **zoning changes that are described in the table.**  
 15 A. Right, I think downplays them is what I would say.  
 16 **Q. Okay. So let's focus on a specific example you used**  
 17 **yesterday.**  
 18 A. Uh-huh.  
 19 **Q. Yesterday you were testifying to the first row, and that's**  
 20 **the change from Single Family to Residential.**  
 21 A. Right, which is mostly what's happening in my neighborhood.  
 22 **Q. Right. And I think you read the sentence after the third**  
 23 **bullet point under Scale.**  
 24 A. Uh-huh.  
 25 **Q. In which it talks about retaining the same height limit and**

1 introduces the floor area ratio limit, "RSL buildings would  
 2 not alter the land use pattern and do not present a scale  
 3 impact." And your criticism yesterday was it didn't really  
 4 capture all the land use impacts because it didn't address  
 5 the possibility for more density in RSL. Do you remember  
 6 saying that?  
 7 A. Right, the land use pattern is one house per lot, and you're  
 8 putting on potentially two or more houses per lot depending  
 9 on the size of the lot.  
 10 **Q. So can you read the first bullet point in that list out**  
 11 **loud, please?**  
 12 A. "Allows the increase in the density of households."  
 13 **Q. Could you read the whole thing?**  
 14 A. "The proposal would allow an increase in the density of  
 15 households."  
 16 **Q. And the title of that is Density?**  
 17 A. Is Density, right.  
 18 **Q. Okay. So you --**  
 19 A. So --  
 20 **Q. -- agree that captures the concept of --**  
 21 A. No.  
 22 **Q. -- that you suggested was missing --**  
 23 A. I absolutely --  
 24 **Q. -- in the next --**  
 25 A. -- disagree with that.

1 two houses built in its place.  
 2 And, particularly, when the two houses in some  
 3 neighborhoods are going to -- both houses can be  
 4 dramatically bigger, the square footage of those and the  
 5 heights and with rooftop decks and all of the sudden you  
 6 are -- you're dramatically changing the land use.  
 7 **Q. So is that your understanding of the RSL, it will have a**  
 8 **greater footprint -- allow a greater footprint than what is**  
 9 **currently allowed in the Single Family Residential?**  
 10 A. It can allow a greater footprint relative to some existing  
 11 Single Family.  
 12 **Q. I'm asking you to compare the zoning, what the zoning would**  
 13 **allow. Is it your understanding that RSL would allow a**  
 14 **greater footprint than is currently allowed under the Single**  
 15 **Family Residential zone?**  
 16 A. No, I do not -- I do not believe that.  
 17 **Q. Okay. What's your understanding --**  
 18 A. What I'm saying is is that --  
 19 **Q. What's your understanding of the zoning differential?**  
 20 A. What's the zoning differential?  
 21 **Q. The difference between RSL --**  
 22 A. Obviously, what could be built in a single-family home under  
 23 the current Single Family rules can build a far bigger  
 24 structure than what potentially could be built under a RSL.  
 25 But what I'm saying is is in the real, on-the-ground

1 **Q. You're going to have to let me finish the question.**  
 2 A. Sure, I'm sorry.  
 3 **Q. Do you agree that that sentence captures the concept that**  
 4 **you implied was missing from the --**  
 5 A. No.  
 6 **Q. -- third bullet point?**  
 7 A. I do not agree with that because you can have a building  
 8 that could be, say, an apartment building form, right, that  
 9 could have twelve households in it and it's just that  
 10 building, right? Right? And so that -- in that, right, it  
 11 could be a duplex building. It's the same building, right,  
 12 and the land use where that's sited on the property and  
 13 everything like that would be the same, right? We call them  
 14 ADUs, right? You call them duplexes. Call it a triplex or  
 15 whatever, right?  
 16 To me the land use pattern change is where you are now  
 17 changing setbacks, where you're changing the physical size  
 18 of the buildings can be bigger from what's there and so on.  
 19 And this does not in any way describe that.  
 20 It talks -- it talks about household density, yes, but  
 21 that doesn't talk about now they can have two houses on the  
 22 lot where I used to only have one. And where the land use  
 23 pattern on the block might be the houses are all dead center  
 24 down the street and everyone's got the same yards and so on,  
 25 now that can be disrupted with that house knocked down and

1 situation in the Central Area, the physical forms that are  
 2 built there now as Single Family are nowhere near what the  
 3 maximum size could be, and we're not seeing those, you know,  
 4 McMansions necessarily showing up in the Central Area, okay.  
 5 **Q. That's a helpful characterization. Let me -- I need to kind**  
 6 **of stay on schedule because we're --**  
 7 A. Okay, sure, sorry.  
 8 **Q. I want to go back to the density question. So I**  
 9 **understand -- I think understand the clarification you're**  
 10 **trying to make. Could you go back to 3.111?**  
 11 A. Sure.  
 12 **Q. And then the carryover paragraph is where the EIS is**  
 13 **describing what it means in terms of density increase. And**  
 14 **I'm going to read you a sentence, and that is the second**  
 15 **full sentence on page 3.111. "Residential density increases**  
 16 **occur when density limits in the Land Use Code are changed**  
 17 **or removed such a property of a given size could have more**  
 18 **housing units."**  
 19 A. Correct, that's a housing density increase, yes, house --  
 20 yes.  
 21 **Q. And so that does not address in your estimation the density**  
 22 **concern you raised yesterday in your testimony about the**  
 23 **disclosure of what can occur?**  
 24 A. No, because again, I will -- I'll restate it. That housing  
 25 density, right, is not necessarily -- alls housing density

1 looks at is how many, quote, households are out there. And  
2 in that same building, you can have two households because  
3 one -- you know, one of the units could be, for example, a  
4 downstairs basement apartment, right? That would be an ADU,  
5 right? Or it could literally be a backyard cottage, right?  
6 That could be a smaller structure in the back, right?

7 But if the RSL says, you know, this Single Family area,  
8 which are smaller homes on slab, right, can now be replaced  
9 with these buildings that are 30 feet tall plus rooftop  
10 decks and all that and two of them placed on the site, that  
11 changes the physical land use pattern and the physical  
12 appearance of the community. And I think that's what the  
13 land use --

14 **Q. And that's different than -- that is not subsumed by the**  
15 **density discussion in your estimation?**

16 A. Right, right.

17 **Q. Okay.**

18 A. Population density potentially could be the same, household  
19 density could potentially be the same but the building forms  
20 that are there are dramatically different. And I don't  
21 think that this language in here, nor the pictures that they  
22 provide, convey that sense in a generic sense let alone talk  
23 about specifically what can happen for acres and acres of my  
24 neighborhood.

25 **Q. Okay. Let's talk about your neighborhood. I think**

1 **Q. Yes. Are you aware of the --**

2 A. Oh, yes.

3 **Q. Could you describe those for us, please?**

4 A. Yeah, I believe what the City is trying to do is say, "Okay,  
5 we're going to basically minimize the potential impacts of  
6 the neighborhoods by providing less of an upzone," which may  
7 make that land less appealable to a developer.

8 Because instead of saying maybe putting on two  
9 townhouses -- instead of under RSL they could put maybe two  
10 townhouses, they could put maybe three townhouses under L1,  
11 so that may deter some development. And then the idea of  
12 potentially additional fees associated with that may also be  
13 a deterrent to that displacement.

14 Now, I personally don't believe that's a formula, and I'm  
15 not an expert but I can give you my opinion. And I can tell  
16 you based on what land prices are and --

17 **Q. I was mostly just --**

18 A. (Inaudible) and so on --

19 **Q. -- questioning whether you were aware of the changes that**  
20 **were made to decrease the density in the Preferred**  
21 **Alternative as to compared to what was initially proposed in**  
22 **the Alternatives Two and Three?**

23 A. What it does is it reduces the -- the housing physical form  
24 density, yes, from low --

25 **Q. And the capacity --**

1 **yesterday you testified that the City responded to comments**  
2 **of the community in a dismissive way, I think was your**  
3 **characterization, about -- and the concern I think that you**  
4 **expressed or that -- communicated that the community**  
5 **expressed was the extent of the upzoning in your**  
6 **neighborhood as compared to the urban village immediately to**  
7 **the north; is that right?**

8 A. Well, there's -- yeah. And it has to do with the way that  
9 the M1 and M designations are made as a way to in effect  
10 mitigate what the City describes as, you know, the  
11 disparities in high risk of displacement in high opportunity  
12 neighborhoods.

13 And, you know, that document which is -- you know, I don't  
14 know if you want me -- I'd be pleased to talk about that  
15 document, if I'm allowed but --

16 **Q. No. I really need you to kind of address the questions --**

17 A. Sure.

18 **Q. -- I'm asking, in part because we're trying to stay on**  
19 **schedule.**

20 A. Sure.

21 **Q. So what I most want to ask about that concern is whether**  
22 **you're aware of the changes the City made to the residential**  
23 **zoning from what was depicted in Alternative Two and Three**  
24 **into what's now the Preferred Alternative?**

25 A. Called the Preferred, yes.

1 A. RSL to Lowrise, yes.

2 **Q. You'd use the word capacity?**

3 A. Yes, yes.

4 **Q. Let me ask you something else about what you testified**  
5 **yesterday. You talked about the -- what you described as a**  
6 **failure to provide more density to the south of the existing**  
7 **urban village in the vicinity of the anticipated light rail**  
8 **station.**

9 A. Right, because -- yes.

10 **Q. So I think you said the existing light rail station's in the**  
11 **proximity to I-90 there.**

12 A. Uh-huh.

13 **Q. I wrote down your words yesterday. I think you said that**  
14 **the neighborhood did not get increased density in that area.**  
15 **Do you recall saying that?**

16 A. The neighborhood had lobbied for increased densities beyond  
17 Lowrise. The City -- there are a couple of sections where  
18 they've done an M1 bump around there. And, obviously,  
19 there's an urban village expansion there, which is actually  
20 something that Steinbrueck had talked about in his analysis  
21 as well.

22 And I think that generally the community understands the  
23 value of increasing the density there to produce, you know,  
24 transit oriented development. What our concern is is that  
25 by only making it Lowrise you're never going to get

1 densities that are going to yield onsite affordability, so  
 2 we're basically prescribing that that area will be wealthier  
 3 homeowners next to light rail.  
 4 **Q. That's helpful clarification. So when you said, "did not**  
 5 **get the density increase," what you meant was did not get**  
 6 **the extent of the density increase that you would have**  
 7 **anticipated?**  
 8 A. Right, we --  
 9 **Q. Okay.**  
 10 A. Our understanding of it was the City had gone out as part of  
 11 their, quote, outreach was to go and offer quid pro quo  
 12 changes in the community. So it's increase higher densities  
 13 in some area in exchange for lowering densities in other  
 14 areas.  
 15 However, we were told that Single Family was off the  
 16 table. All Single Family had to be addressed regardless of  
 17 the communities being impacted. But what we had been  
 18 talking about was in our neighborhood is we have a poor  
 19 community in that Single Family zone, leave them alone.  
 20 Let's go to this other area closer to the light rail,  
 21 increase the density so we can get that --  
 22 **Q. Mr. Bradburd, I'm --**  
 23 A. We did not get that.  
 24 **Q. I appreciate just trying just to answer the question that's**  
 25 **being asked.**

1 have to be torn down with the zoning changes. Is that what  
 2 you're suggesting?  
 3 **Q. Well, that's helpful. No, that's -- I'm saying, if I wanted**  
 4 **to build a single-family home in RSL, are you saying I**  
 5 **couldn't do that?**  
 6 A. Well, a single-family home kind of implies -- there's two  
 7 things. There's the zoning rules. So if you wanted to  
 8 build a single-family home in RSL, no, you could not. You  
 9 could build a structure that's allowed under the zoning code  
 10 for RSL and put just one family in there and call it a  
 11 single-family. But you could not build a single-family  
 12 structure allowed under the zoning portion of the zoning  
 13 code called Single Family in a RSL zone. No, you could not  
 14 do that.  
 15 **Q. That's helpful, thank you. The -- and let me just ask**  
 16 **you -- and again, I'm going to try to cover a lot of ground**  
 17 **here. You provided several anecdotes yesterday and today.**  
 18 **One was about a person in Ballard where there's a new house**  
 19 **constructed next door and it resulted, I think you said --**  
 20 A. Right.  
 21 **Q. -- in an appearance of a wall right next door.**  
 22 A. Yes.  
 23 **Q. Today you were talking about an LR2 example. In your**  
 24 **neighborhood, you were talking about your neighbor with an**  
 25 **LR2 and townhomes.**

1 A. Yes.  
 2 **Q. And I appreciate there's nuance to your answers. What I'm**  
 3 **trying to explore is in the instances you used very sweeping**  
 4 **characterizations.**  
 5 A. Right.  
 6 **Q. And I'm trying to understand the nuances because it sounds**  
 7 **like --**  
 8 A. Okay.  
 9 **Q. -- it's a little less than some of the examples --**  
 10 A. Okay.  
 11 **Q. -- that you gave and the words that you used.**  
 12 A. Well --  
 13 **Q. Another example is you -- today you used and I wrote down**  
 14 **the phrase, when talking about the rezone, "What's there now**  
 15 **is supposed to be gone." And here you were talking about**  
 16 **rezoning residential land.**  
 17 A. Okay.  
 18 **Q. And you used the phrase, "What's there now is supposed to be**  
 19 **gone."**  
 20 A. Yes.  
 21 **Q. And I think you were referring to single-family homes?**  
 22 A. Right.  
 23 **Q. So is it your understanding that single-family homes are not**  
 24 **permitted in RSL?**  
 25 A. Single-family -- well, existing uses and buildings don't

1 A. Uh-huh.  
 2 **Q. And I think you were talking about some of the development**  
 3 **patterns and what you're seeing in portions of your**  
 4 **neighborhood today as well.**  
 5 A. Uh-huh.  
 6 **Q. In all those instances, just to confirm, those are existing**  
 7 **conditions occurring under existing zonings?**  
 8 A. It's under the current LR, yes.  
 9 **Q. All right.**  
 10 A. My point being, though, is these impacts have real -- I  
 11 mean, even under the current code --  
 12 **Q. And you've already explained that.**  
 13 A. -- it happens.  
 14 **Q. I just want to make sure that that was clear that we're**  
 15 **talking about existing zoning --**  
 16 A. Yes.  
 17 **Q. -- not what is -- what the proposal is.**  
 18 A. Correct, correct.  
 19 **Q. The design guidelines that you referred to, what's your**  
 20 **understanding of what MHA will do with respect to the design**  
 21 **guidelines that you testified about?**  
 22 A. Well, MHA doesn't do anything. They refer to the design  
 23 guidelines. There was a separate parallel process that the  
 24 City went through to update the rules under which design  
 25 review occurs, and that's alluded to. In the draft version,

1 they say it was about to happen, and then in the final  
 2 version, they talk about how it physically did happen.  
 3 **Q. I guess my very pointed question is, do you believe that the**  
 4 **design guidelines would still apply following adoption or**  
 5 **implementation of MHA?**  
 6 A. Well, the thresholds for design review -- full design review  
 7 have changed so that less projects go through full design  
 8 review.  
 9 And in -- you know, a lot of buildings in Neighborhood  
 10 Commercial, which is, you know, about -- I think about  
 11 20 percent of the Central Area, hit that threshold of going  
 12 through a formal design review.  
 13 But the Single Family that's going to Lowrise -- I mean,  
 14 that's going to RSL, which is about 40 percent of the land  
 15 area, and all the stuff that's currently in Lowrise that's  
 16 getting the bump up in MHA, a lot of that stuff does not go  
 17 through design review.  
 18 **Q. So those are the thresholds. I'll come back to that in a**  
 19 **second. I'm asking about those specific design guidelines**  
 20 **that you held up --**  
 21 A. Yes.  
 22 **Q. -- in your neighborhood.**  
 23 A. Yes.  
 24 **Q. What's your understanding of whether those --**  
 25 A. Do we need to make this an exhibit or is that --

1 some of these impacts, but the opportunity to actually  
 2 physically have that happen is reduced, yeah.  
 3 **Q. Thank you. I don't have any further questions for you.**  
 4 HEARING EXAMINER: Redirect?  
 5 MS. NEWMAN: Very quick.  
 6  
 7 R E D I R E C T E X A M I N A T I O N  
 8 BY MS. NEWMAN:  
 9 **Q. So if no design review, then the project doesn't have to be**  
 10 **consistent with the design guidelines?**  
 11 A. Correct, correct.  
 12 **Q. Okay. And earlier, can you clarify, were you -- when you**  
 13 **were talking about the existing development that's occurring**  
 14 **under the current zoning, were you describing for the**  
 15 **Examiner what the impacts -- the types of impacts can occur**  
 16 **from development, like lack of light, blocking views,**  
 17 **privacy impacts, shadow impacts, was that the purpose of**  
 18 **your narrative on that?**  
 19 A. Well, yeah. I mean --  
 20 **Q. Okay.**  
 21 A. -- I think there's two aspects which you asked me to come in  
 22 and talk about. One is the land use patterns which is the  
 23 physical built environment and the impacts of that. And the  
 24 second is the aesthetic character and how what potentially  
 25 could be laid into this neighborhood would be dramatically

1 **Q. No.**  
 2 A. Okay, I'm sorry.  
 3 **Q. Just what's your understanding. Are those -- do those still**  
 4 **exist after MHA?**  
 5 A. Oh, of course they do. The question is of what part of the  
 6 development will actually have to go and conform to those.  
 7 **Q. And are you aware of any changes proposed to the design --**  
 8 **the thresholds that trigger design review that are part of**  
 9 **MHA?**  
 10 A. My -- well, there's like an indirect connection, you know,  
 11 that perhaps greater development potential may push a  
 12 project that may be under a lower zone would not have gone  
 13 through design review if they could. I mean,  
 14 hypothetically, I think that could happen.  
 15 But what I am suggesting is is that most of the partial  
 16 development that we'll see under MHA will not go through  
 17 design review. And our design review guidelines, I'd like  
 18 to point out, does talk about things like try and minimize  
 19 rooftop decks because we know that rooftop decks do not  
 20 contribute to community. It creates this sense of  
 21 exclusivity and so on.  
 22 But the bulk of the projects that are being built do not  
 23 have to read that language because the thresholds are so  
 24 high that infill development does not use design guidelines.  
 25 So the authors of the design guidelines tried to minimize

1 different.  
 2 **Q. Right.**  
 3 A. Yes.  
 4 **Q. Okay, thank you.**  
 5 A. Yeah, okay, thank you.  
 6 MS. NEWMAN: I have no further questions.  
 7 HEARING EXAMINER: Thank you.  
 8 MS. NEWMAN: I think I need to --  
 9 Bill, can you give me the exhibit?  
 10 THE WITNESS: Oh, you want your map back?  
 11 MS. NEWMAN: Offer Exhibit 246 for admission.  
 12 HEARING EXAMINER: Any objection to 246?  
 13 MR. KISIELIUS: That's just the map?  
 14 MS. NEWMAN: Yeah, it's the oversized --  
 15 MR. KISIELIUS: No objection.  
 16 MS. NEWMAN: -- map.  
 17 HEARING EXAMINER: 246 is admitted.  
 18 Ms. Newman, is there anything else we need to do as far as  
 19 exhibits to wrap up from this?  
 20 MS. NEWMAN: Are there any more that I haven't --  
 21 HEARING EXAMINER: No, we're up --  
 22 MS. NEWMAN: We're up. Okay, that's where I forget. I  
 23 don't think so.  
 24 HEARING EXAMINER: Okay. We normally take a break  
 25 somewhere between 10:00 and 10:30.

1 MS. NEWMAN: Maybe --  
 2 HEARING EXAMINER: Since we're transitioning to a new  
 3 witness --  
 4 MS. NEWMAN: Okay.  
 5 HEARING EXAMINER: -- maybe we take that now --  
 6 MS. NEWMAN: Okay.  
 7 HEARING EXAMINER: -- and come back.  
 8 MS. NEWMAN: Thank you.  
 9 HEARING EXAMINER: All right, thank you. We'll come back  
 10 at 10:15.  
 11 (Break taken)  
 12 HEARING EXAMINER: Continue with appellants' case.  
 13 MS. NEWMAN: We'll continue with Greg Hill. Oh, and after  
 14 you swear him in, I want to have a preliminary conversation.  
 15 HEARING EXAMINER: Okay. Please state your name and spell  
 16 it for the record.  
 17 THE WITNESS: Gregory Hill, G-R-E-G-O-R-Y, H-I-L-L.  
 18 HEARING EXAMINER: And do you swear or affirm that the  
 19 testimony you'll provide in today's hearing will be the  
 20 truth?  
 21 THE WITNESS: I do.  
 22 HEARING EXAMINER: Thank you.  
 23 MS. NEWMAN: So off the -- before I ask questions, I want  
 24 to tell you that Greg Hill is an architect. I was not  
 25 planning on presenting him as an expert witness.

1 expert. I think if he goes to the territory that  
 2 Mr. Bradburd anticipated he might go, I think we will  
 3 object. I think there's sort of --  
 4 MS. NEWMAN: That was not --  
 5 MR. KISIELIUS: Okay.  
 6 MS. NEWMAN: What Mr. Bradburd said was not what I  
 7 intended.  
 8 MR. KISIELIUS: Okay.  
 9 MS. NEWMAN: That was not my intention for him to do.  
 10 MR. KISIELIUS: We'll play it by ear and object as we see  
 11 fit, Your Honor.  
 12 HEARING EXAMINER: I won't be doing anything until I hear  
 13 an objection so --  
 14 MS. NEWMAN: Right, I just wanted to --  
 15 HEARING EXAMINER: But I appreciate that. Thank you --  
 16 MS. NEWMAN: -- make sure it was out there and --  
 17 HEARING EXAMINER: -- for attempting to resolve it --  
 18 MS. NEWMAN: Yeah, okay.  
 19 HEARING EXAMINER: -- (inaudible) counsel.  
 20 THE WITNESS: Did you need my address?  
 21  
 22 GREGORY HILL: Witness herein, having first been  
 23 duly sworn on oath, was examined  
 24 and testified as follows:  
 25

1 I -- his testimony would represent pictures of the air --  
 2 Greg lives in the Wallingford neighborhood and would be  
 3 testifying as a resident very similar to the way that  
 4 Christy Tobin-Presser testified and not -- there is no  
 5 analysis or architectural opinion that's involved with his  
 6 testimony.  
 7 It's really just going through a description of the  
 8 Wallingford neighborhood and then discussing the Wallingford  
 9 Neighborhood Plan policies and the Conference of Plan and  
 10 the consistencies. It's very similar to what Christy  
 11 Tobin-Presser did.  
 12 And so I just wanted to -- we can figure it out as we go,  
 13 but I wanted -- I wasn't planning on even having him testify  
 14 that he's an architect. But after yesterday, I felt an  
 15 obligation and duty to tell you he's an architect based  
 16 on -- I didn't want to hide it based on the conversation  
 17 yesterday, so that's where we are.  
 18 But I'm presenting him as a lay witness. So maybe we  
 19 could start, and if you want to discuss it as we go --  
 20 MR. KISIELIUS: Sure. And I think we'll just maybe play  
 21 it the way we did yesterday, but I do think -- appreciate  
 22 your raising it.  
 23 I think Mr. Bradburd divulged that in his testimony as  
 24 well, and we had concerns based on that because it doesn't  
 25 mention that in his disclosure and he's not listed as an

1 DIRECT EXAMINATION  
 2 BY MS. NEWMAN:  
 3 **Q. I would like -- could you please give us your address? Yes,**  
 4 **thank you.**  
 5 A. 1215 North 47th Street in Wallingford.  
 6 **Q. All right.**  
 7 A. 98103.  
 8 **Q. And so you live in the Wallingford neighborhood?**  
 9 A. That's correct.  
 10 **Q. All right. And how long have you lived there?**  
 11 A. Thirty-seven years. We moved in in 1981.  
 12 **Q. And are you familiar with the MHA proposal that's the**  
 13 **subject of this hearing?**  
 14 A. Learning more about it every day, but yes, in general, I  
 15 think I --  
 16 **Q. All right.**  
 17 A. -- have a grip on it.  
 18 **Q. Can you tell us a little bit about your role with your**  
 19 **neighborhood community group?**  
 20 A. Yes. In 1983, McDonald's came to Wallingford. And I  
 21 attended a community meeting which was noticed in a local  
 22 newspaper when there were local newspapers, and I helped  
 23 participate in an appeal of that project, which was  
 24 successful, to the hearing examiner.  
 25 Subsequently, the Community Council was sued by McDonald's

1 and participated in the settlement which ended up with a  
 2 building on the corner, flat roof, no golden arches, 70-foot  
 3 sign instead of a 440-foot sign with parking swirling around  
 4 the building. So we had a better outcome, I think.  
 5 Since that time, I've been on the Land Use Committee and  
 6 been a chair from time to time.  
 7 **Q. For the Wallingford Community Council?**  
 8 A. For the Wallingford Community Council.  
 9 **Q. Which is an appellant in this case?**  
 10 A. That's correct.  
 11 **Q. Okay.**  
 12 A. And just also for the record, so I am an architect. I was  
 13 registered initially in Massachusetts in 1973, and I have  
 14 not done any housing --  
 15 HEARING EXAMINER: Just you might want to be careful.  
 16 MS. NEWMAN: Yeah, I--  
 17 HEARING EXAMINER: Ms. Newman's going to ask the  
 18 questions, so I wouldn't volunteer information.  
 19 THE WITNESS: Okay.  
 20 HEARING EXAMINER: I don't need your address. I don't  
 21 need any background.  
 22 MS. NEWMAN: Yeah.  
 23 THE WITNESS: All right.  
 24 HEARING EXAMINER: If Ms. Newman asks you a question, then  
 25 that's all we have to --

1 shows various zones within the village and how they are  
 2 proposed to be changed. The map also shows colored areas  
 3 outside the village that will be impacted by the changes  
 4 that come about through MHFA.  
 5 **Q. Okay.**  
 6 A. MHA.  
 7 **Q. And when you say, "will be impacted," do you mean they'll**  
 8 **actually be upzoned?**  
 9 A. The zoning on the ground will not change, but as you're  
 10 aware, what can be done in every zone, the height and FAR  
 11 and so forth are all being modified.  
 12 **Q. So some may be -- the actual either development regulations**  
 13 **or the zoning itself will change as a result of the MHA**  
 14 **proposal?**  
 15 A. Outside the village it's the development regulations that  
 16 change.  
 17 **Q. Okay.**  
 18 A. Inside it's both -- what some have referred to as a double  
 19 upzone. It's the zoning itself is changing as well as what  
 20 can be done within each zone.  
 21 **Q. Okay. And can you give us just a general big-picture**  
 22 **description of the existing development patterns and**  
 23 **character and scale and land use within the Wallingford**  
 24 **urban village where you live?**  
 25 A. Right. So the vast majority of it is Single Family. Many,

1 **Q. (By Ms. Newman) So today -- the purpose of your testimony**  
 2 **today is in your role as a resident, and so I'm not going to**  
 3 **go into the history of your architectural --**  
 4 A. Career.  
 5 **Q. -- background?**  
 6 A. Okay.  
 7 **Q. Right. So we are going to discuss the aesthetic and land**  
 8 **use impacts in the Wallingford urban village with your**  
 9 **testimony, and we want to start with a map to get our**  
 10 **bearings.**  
 11 **Do you have in front of you --**  
 12 MS. NEWMAN: Mr. Examiner, if I could get this marked?  
 13 **Q. (By Ms. Newman) This is an oversized version of H-79 from**  
 14 **the Exhibit 2, which is the MHA EIS. It's similar to the**  
 15 **maps that we've been using. Do you have that in front of**  
 16 **you?**  
 17 A. Yes.  
 18 HEARING EXAMINER: Marked as 247.  
 19 MS. NEWMAN: Okay.  
 20 **Q. (By Ms. Newman) And have you seen this document before?**  
 21 A. Yes.  
 22 **Q. And can you tell us what this is?**  
 23 A. This appears to be the most recent version of the MHA map  
 24 for Wallingford. The dark line represents the portion of  
 25 the neighborhood that's actually in the village, and it

1 many, many bungalows. It's one of the neighborhoods built  
 2 turn of the century. It's a streetcar suburb. They  
 3 developed a streetcar line and built a lot of the houses.  
 4 My house is a 1908 version. Not a nice bungalow but an old  
 5 house, but most of the houses are, in fact, bungalows.  
 6 There are also scattered about very small scale, mostly  
 7 brick apartment houses. One here, one there. There is a  
 8 Commercial area along 45th Street that does have mostly  
 9 one-story, mostly brick buildings. It also has several  
 10 newer buildings that are four and five stories.  
 11 Similarly on Stone Way, the vertical top to bottom orange  
 12 area is a Mixed-use zoning down there, and it has both  
 13 older, one-story commercial buildings as well as four-  
 14 and -- three-, four- and five-story newer buildings that are  
 15 mixed-use.  
 16 **Q. Okay. And those are shown in the orange -- kind of the**  
 17 **orange, the two orange lines --**  
 18 A. Right.  
 19 **Q. -- one going --**  
 20 A. The Commercial is shown in orange.  
 21 **Q. Uh-huh.**  
 22 A. Existing Multifamily is shown in brown, sort of the darker  
 23 brown. And then within the village the lighter areas are  
 24 Single Family, and virtually everything outside the village  
 25 is Single Family.

1 **Q. Okay. So all that gray -- you're saying virtually all the**  
 2 **gray areas on this map are Single Family?**  
 3 A. Correct. Unless they're colored, they're Single Family.  
 4 **Q. And I see that the Single Family zones, if you look at this,**  
 5 **what we've established with previous testimony -- and I**  
 6 **don't know if you're aware of this, this -- how -- what**  
 7 **those notations mean with the wording. And so for example,**  
 8 **if you look at one in the kind of lower, right-hand corner**  
 9 **of the urban village, it says, "Single Family," and then**  
 10 **there's a slash, and then it says, "LR1(M)"?**  
 11 A. LR2, I believe, M.  
 12 **Q. Oh.**  
 13 A. We're looking at the lower, right-hand corner of the  
 14 village?  
 15 **Q. In the bottom. I guess I can't see that.**  
 16 A. That's one of the problems with these maps.  
 17 **Q. That's why I blew this up, ironically.**  
 18 A. They're very difficult to read.  
 19 **Q. So generally, I guess just tell us what that -- what that**  
 20 **notation is.**  
 21 A. So it's saying that it is Single Family zoning today, and  
 22 that area is, in fact, almost all single-family houses.  
 23 It's being changed to -- LR2 is the darker brown one with  
 24 the lower, left-hand corner.  
 25 **Q. Oh, I see.**

1 avoid that. You're doing fine, but I just wanted to --  
 2 MS. NEWMAN: Thanks. I might have noticed that.  
 3 HEARING EXAMINER: -- to remind you.  
 4 MS. NEWMAN: Okay.  
 5 MR. KISIELIUS: I'm sorry, what was the SCALE --  
 6 MS. NEWMAN: 174.  
 7 MR. KISIELIUS: Thank you.  
 8 **Q. (By Ms. Newman) Mr. Hill, do you recognize this document?**  
 9 A. Yes.  
 10 **Q. And do you know who prepared this document?**  
 11 A. I believe this was prepared by Judith Noble. There was an  
 12 earlier document, but actually I've never seen the actual  
 13 document. But Greg Flood did a study trying to identify how  
 14 many houses would be impacted by this directly.  
 15 **Q. And who's Greg Flood?**  
 16 A. He's a former member of the Community Council who was mostly  
 17 involved in the neighborhood planning back in the mid '90s.  
 18 **Q. Okay. And who's Judith Noble?**  
 19 A. Former City employee who knows how to operate databases at  
 20 the City.  
 21 **Q. Okay. And so --**  
 22 A. So this reflects her delving into how many units there were  
 23 and how many units in each zone, how many units impacted by  
 24 this change.  
 25 **Q. Okay. And so do you have the ability to tell us what these**

1 A. 40th and --  
 2 **Q. Uh-huh.**  
 3 A. And Wallingford Avenue.  
 4 **Q. Uh-huh, okay.**  
 5 A. And that's an M1 implying that it's a -- what I would  
 6 consider two steps up from Single Family. So the current  
 7 Single Family zoning is 30 feet. Most of the homes are in  
 8 fact 25 or 28 feet, maybe.  
 9 **Q. Uh-huh.**  
 10 A. The L2 today is 30 feet, but when this is instituted, it  
 11 will be 40 feet plus eight houses plus I believe the  
 12 possibility of a green building bonus for an additional  
 13 floor.  
 14 **Q. Okay.**  
 15 A. So wildly different than the current Single Family zoning.  
 16 **Q. Okay.**  
 17 MS. NEWMAN: So I have another document that I would  
 18 request be marked by the examiner.  
 19 **Q. (By Ms. Newman) And this says at the top, if you have it in**  
 20 **front of you, "Lot Size Distribution of Lots." This is**  
 21 **SCALE Exhibit 174. I do have an extra copy, if you want it.**  
 22 HEARING EXAMINER: This will be marked as Exhibit 248.  
 23 And I just want to caution you, Ms. Newman, I don't know if  
 24 you were in here the day this red button got pressed and the  
 25 clock went off, so when you're handing just make sure to

1 **grids say for us and what the information is?**  
 2 A. So the first page, the left-hand side is the size of the lot  
 3 and square feet. And if you look over to the right, you'll  
 4 see the number of buildings in there in each of those, and  
 5 these are within the village.  
 6 So I was just telling you that totally there are 715  
 7 Single Family zoned lots in the village. And those lots  
 8 vary in size from as low as 1,000 up to 6,000. However, the  
 9 bulk of them are in the 3,000 to 5,000 range.  
 10 **Q. Okay. And on the next page, we have some numbers. It says,**  
 11 **"VILL NUMB" at the top. Can you tell us what that's --**  
 12 A. No idea.  
 13 **Q. Okay, skip that. And then the next page looks like a**  
 14 **summary of data?**  
 15 A. I think these are lot summaries.  
 16 **Q. Uh-huh.**  
 17 A. And by zone. So it's -- it actually isn't -- it's by group  
 18 of zones. So Commercial Mixed-use would be NC1, NC2, C1,  
 19 C2, and then Industrial would be -- there is actually some  
 20 Urban Maritime Industrial zoning. Most of it, I think, is  
 21 what's called -- I can't remember. It's got a hyphen in it.  
 22 **Q. So is this -- I guess is this just generally your**  
 23 **understanding this is within the Wallingford urban village,**  
 24 **and this is telling us the general mix of land use?**  
 25 A. Lots and what the zoning is.

1 **Q. Okay. What the actual zoning is?**  
 2 A. Right.  
 3 **Q. Okay.**  
 4 A. It does not slice up ownership. This is just numbers of  
 5 lots --  
 6 **Q. Okay.**  
 7 A. -- the City has recorded.  
 8 **Q. All right. And then the next page provides -- do -- can you**  
 9 **tell us what that information is?**  
 10 A. This is looking by zone.  
 11 **Q. Uh-huh.**  
 12 A. And then again it's lots by zone, and these are all the L  
 13 zones, L1, L2, L3. And there's an L2 and L3/RC which is  
 14 Residential Commercial. Those are along 45th Street.  
 15 **Q. And this is the existing conditions in the Wallingford urban**  
 16 **village?**  
 17 A. That's correct.  
 18 **Q. And so what is the takeaway when you look at this as far as**  
 19 **what the character is currently with respect to land use in**  
 20 **the Wallingford urban village?**  
 21 A. You have to go back to -- or forward to -- so it's a little  
 22 complicated. The very first page shows you how big the lots  
 23 are that are in Single Family zoning. The next page talks  
 24 about how many lots --  
 25 **Q. The first --**

1 And we have a fair amount of NC2 Pedestrian-40, 133. So  
 2 those three, Single Family, L2 and NC2, are, in fact, the --  
 3 comprise most of the lots. And the NC2 is on Stone Way  
 4 primarily and 45th Street. There are pockets of NC1 and so  
 5 forth, but --  
 6 **Q. Okay.**  
 7 A. -- those three zoning designations have the greatest number  
 8 of lots, virtually all of the lots.  
 9 **Q. So would 1,386, that number at the bottom, represent the**  
 10 **number of the lots within the urban -- Wallingford urban**  
 11 **village total?**  
 12 A. I believe that's correct.  
 13 **Q. Okay.**  
 14 HEARING EXAMINER: I just want to make sure I understand  
 15 that chart and compared to the last one. So this is number  
 16 of lots for type of zoning; is that correct?  
 17 THE WITNESS: Yes.  
 18 HEARING EXAMINER: And what was the first -- the -- so I  
 19 guess my confusion --  
 20 THE WITNESS: Why is there a difference between --  
 21 HEARING EXAMINER: Yes.  
 22 THE WITNESS: -- 715? I can't tell you what that  
 23 difference is because I didn't create the chart.  
 24 HEARING EXAMINER: Okay.  
 25 **Q. (By Ms. Newman) And so there's a difference between the**

1 A. -- there are.  
 2 **Q. Let me just interrupt. The first page also tells you that**  
 3 **there are 715 lots that are zoned Single Family within --**  
 4 **5,000 within the urban -- Wallingford urban village?**  
 5 A. That's correct.  
 6 **Q. Okay.**  
 7 A. The next page you'll see that there are, in fact, about  
 8 1,386 lots. There are 814 zoned Single Family.  
 9 **Q. And so you had said earlier you had no idea. Do you now**  
 10 **know what that is saying?**  
 11 A. The VILL NUMB?  
 12 **Q. Yeah.**  
 13 A. I still don't have it figured out.  
 14 **Q. Oh, not what VILL NUMB means. I mean what that graph -- I**  
 15 **guess we had a confusion there. I didn't mean to ask you**  
 16 **what VILL NUMB means.**  
 17 A. Okay.  
 18 **Q. What I meant to ask you is what does that grid tell us -- or**  
 19 **what is the grid saying?**  
 20 A. On this page?  
 21 **Q. No, the second page.**  
 22 A. Second page. Okay, so this is just giving you a sense of  
 23 how many are in what zone. So for example, we have a lot of  
 24 L2. We have 306 lots. That's -- next to Single Family,  
 25 that's the largest number of lots by zone.

1 **814 SF 5,000 doesn't match the first page --**  
 2 A. That's correct.  
 3 **Q. -- of 715? Okay. And so the number of single-family lots**  
 4 **could either be 814 or 715 based on this document, these**  
 5 **two --**  
 6 A. Yeah.  
 7 **Q. -- different grids?**  
 8 A. There's one possible reason, and that is there are a lot of  
 9 split lots.  
 10 **Q. And does the exact number, for purposes of what we're trying**  
 11 **to talk about today, matter?**  
 12 A. No, it's the proportion that matters.  
 13 **Q. Okay.**  
 14 HEARING EXAMINER: And the idea is conveyed in the first  
 15 that it's at least 715 and --  
 16 THE WITNESS: Yeah.  
 17 HEARING EXAMINER: Okay, thank you.  
 18 THE WITNESS: So those are the ones, basically, that will  
 19 be rezoned.  
 20 **Q. (By Ms. Newman) All of the Single Family 5,000 --**  
 21 **A. In village --**  
 22 **Q. -- within the urban village?**  
 23 A. Uh-huh.  
 24 **Q. Every one of them is being rezoned? Or, you know --**  
 25 A. According to this map, yes.

1 **Q. Okay.**  
 2 A. There's nothing -- there's no gray -- well, there is a piece  
 3 of gray left, but it's a school property.  
 4 **Q. And they're being rezoned to what?**  
 5 A. So this property right here?  
 6 **Q. Uh-huh.**  
 7 A. Which is the only gray piece in here.  
 8 **Q. Uh-huh.**  
 9 A. Is a school.  
 10 **Q. Oh, okay.**  
 11 A. They're being rezoned to LR1, LR2. I believe there's a LR3.  
 12 I think that's it. Initially, the -- most the Single Family  
 13 was to be zoned RSL which in theory is a lesser zone.  
 14 **Q. Uh-huh.**  
 15 A. But as the zoning designations in the South End have gone  
 16 down because developers don't really want to build there,  
 17 they may have gone up here because this is where they really  
 18 do want to build. A square foot of apartment in Wallingford  
 19 is worth a lot more than the square foot of an apartment  
 20 in --  
 21 MR. KISIELIUS: I'm going to object. Now we're getting  
 22 into territory which is informed by his expertise, talking  
 23 about development patterns and trends throughout the city  
 24 that exceed --  
 25 HEARING EXAMINER: I'd overrule that. That could be

1 **with Chapter 3.3 which is the Aesthetics Section. And does**  
 2 **that section contain a description of the existing land use**  
 3 **development patterns character and scale development within**  
 4 **the Wallingford urban village?**  
 5 A. No.  
 6 **Q. And does it adequately discuss the land use -- I'm sorry,**  
 7 **just the aesthetic impacts in that chapter that the proposal**  
 8 **will have to your neighborhood?**  
 9 MR. KISIELIUS: I'm going to object again. Now we're  
 10 talking about adequacy and a judgment that -- we're towing a  
 11 fine line between expertise and fact witness. Those are  
 12 questions with a fact witness we wouldn't necessarily object  
 13 to, but it's on the record that this is an architect  
 14 whose -- has background that is -- puts him apart and sets  
 15 him apart from typical fact witnesses.  
 16 I also object that's legal conclusion.  
 17 HEARING EXAMINER: Response?  
 18 MS. NEWMAN: I once again just think that as a layperson  
 19 has -- as other laypersons have shown us that there's this  
 20 general understanding that if you live in a neighborhood  
 21 there are impacts to your life, to your livability, to your  
 22 lack of sunlight, your privacy, what -- you know, generally  
 23 what are the impacts going to be. And frankly, the question  
 24 is really pretty black and white as far as is there a  
 25 discussion about aesthetic impacts at all that exists in

1 common knowledge for -- the level of knowledge from the  
 2 citizens that we see in front of us, that could be anybody  
 3 could tell us that as their opinion. Not necessarily  
 4 informed by data from a -- for an architect.  
 5 MS. NEWMAN: Thank you.  
 6 **Q. (By Ms. Newman) Did you review the MHA EIS?**  
 7 A. I have reviewed 3.2, 3.3 and Appendix F.  
 8 **Q. Okay. Let's start with -- if you have in front of you that**  
 9 **large notebook to your right is Exhibit 2?**  
 10 A. Okay.  
 11 **Q. The EIS. And --**  
 12 MS. NEWMAN: And oh, you know, before I move on, because I  
 13 tend to forget to do these things, can I move for submittal  
 14 of 247 and 248?  
 15 HEARING EXAMINER: Any objection 247 or 248?  
 16 MR. KISIELIUS: No objection to 247. I guess I have a  
 17 question if -- are we going to hear more about this?  
 18 Because I'm not sure I understand --  
 19 MS. NEWMAN: No, it was just the general data.  
 20 MR. KISIELIUS: From any other witness on this?  
 21 MS. NEWMAN: No.  
 22 MR. KISIELIUS: Okay. We don't have an objection.  
 23 MS. NEWMAN: Okay.  
 24 HEARING EXAMINER: 247 and 248 are admitted.  
 25 **Q. (By Ms. Newman) Okay, so looking at -- I'm going to start**

1 Wallingford in this EIS.  
 2 HEARING EXAMINER: Overruled.  
 3 MS. NEWMAN: Okay.  
 4 **Q. (By Ms. Newman) So that means you can answer the question.**  
 5 A. You'll have to restate it.  
 6 **Q. Okay. Does the EIS adequately discuss the land use -- I'm**  
 7 **sorry, the aesthetic impacts that the proposal will have on**  
 8 **the Wallingford neighborhood? And you may -- well, I guess**  
 9 **that's the question. Does it discuss them adequately?**  
 10 A. So I don't find a thread that, in fact, describes the  
 11 neighborhood and then how various parts of the neighborhood  
 12 will be impacted.  
 13 Just for example, the first cut would be in the village  
 14 and outside the village because areas outside the village  
 15 are going to be impacted by the change and development  
 16 standards within the Lowrise zones, as well as in the  
 17 Commercial zones. So that's one set of impacts to one area.  
 18 And then within the village, there's this double upzone  
 19 thing going on, so there's going to be separate and more  
 20 intense impact in those areas.  
 21 So right away you'd have to describe those two areas and  
 22 then talk about what's in them and what's going to happen to  
 23 them. None of that is in here that I have found.  
 24 **Q. And what matters -- as a resident of Wallingford, are you --**  
 25 **do you live within the urban village?**

1 A. Oh, yeah.

2 **Q. So what matters to you about this proposal, and what -- what**

3 **are the impacts that you see, not to -- well, to you and to**

4 **your neighborhood, just that bring you to the table here?**

5 A. So Wallingford is a fairly cohesive environment in terms of

6 building types. There are, you know, one- and two-story

7 buildings along the Commercial area, and there are primarily

8 bungalow size buildings less than 30 feet tall and some

9 larger houses. Some of the larger houses are -- some new

10 houses are larger, but it's a fairly uniform area.

11 When large areas are rezoned, which is happening here, you

12 can expect that there will be new development that will

13 match what's possible, and it will be distinctly different.

14 So there will be a period of time when you have this really

15 disjointed thing. Eventually, it might look like a cohesive

16 neighborhood again, but in the meantime, it's going to look

17 like some weird amorphism of buildings.

18 Personally, I like growing tomatoes, so the notion that I

19 can't do that anymore is kind of making me mad.

20 **Q. Yeah. And so you said that it will gradually change, but**

21 **then what -- what will the change -- right now it looks --**

22 **it's -- you've said it's almost all Single Family. It's**

23 **very -- very largely Single Family.**

24 A. Uh-huh.

25 **Q. And there will be a transition time where it's going to be**

1 **you know, and I don't know if this is using architectural**

2 **expertise --**

3 A. So a 4000 square foot lot --

4 **Q. -- but how many square feet is --**

5 A. Is a tenth of an acre?

6 **Q. Is one-tenth --**

7 A. Roughly 5,000, a little bit more than a tenth.

8 **Q. So one-tenth of an acre -- okay. And these -- okay.**

9 A. So if you look at that chart we looked at, which is 174 --

10 **Q. Uh-huh.**

11 A. -- there are over 500 of the 700 are in that

12 tenth-of-an-acre category. And I can tell you having

13 listened to some lectures about geography that that's really

14 the sweet spot for getting people to use transit without

15 having to rebuild your infrastructure.

16 **Q. Uh-huh, okay. I just want to get this... All right. The**

17 **graphics on page 3.3-10 -- I mean, I'm sorry, I don't have**

18 **the page numbers. There are graphics in this Aesthetic**

19 **Section. Let me just find them. 3.178.**

20 A. Can I just make one comment about --

21 **Q. Yeah.**

22 A. -- Exhibit 3.3-2, Established Single Family Areas?

23 **Q. Sure.**

24 A. You were asking me earlier does it describe Wallingford.

25 And the -- the last sentence in that paragraph next to the

1 **kind of a hodgepodge.**

2 A. Uh-huh.

3 **Q. And then the end result, do you think -- or what is going to**

4 **be the aesthetic change from what it is now to what it will**

5 **be then?**

6 A. Well, first of all, the transition time given even the rapid

7 rate of development in the city today --

8 **Q. Uh-huh.**

9 A. -- is going to be very long. So the disjointed period, it

10 will certainly exceed my lifetime. And so that -- that's a

11 real problem. And you can say, "Oh, well, you can sell your

12 property and make money and go someplace else." But some of

13 us actually like living there, so we're not too excited

14 about that. And the fact that it will be this very long

15 period of disjointedness is problematic.

16 **Q. Okay.**

17 A. Wallingford incidentally has a lot of tiny lots. So the

18 actual density in our neighborhood is quite high, and the

19 transit ridership is already very high. So it's not like

20 we're -- have quarter-acre lots or two-acre lots or

21 something. These are one-tenth-of-an-acre lots, as the

22 chart that we looked at --

23 **Q. Uh-huh.**

24 A. -- supports.

25 **Q. One-tenth. What -- I -- I'm just curious. I don't know if**

1 exhibit is --

2 **Q. This is page 3.163 of Exhibit 2?**

3 A. Correct. "Single Family areas also exhibit a range of home

4 sizes with many older one- and two-story homes smaller than

5 the allowed zoning envelope for new Single Family

6 development." I think they're trying to suggest this is

7 somehow a problem. I'm not sure what. But the next one,

8 "Front yards with setbacks of 10 to 15 feet," blah, blah,

9 blah. Well, that's not in our neighborhood. Our

10 neighborhood has 20-foot setbacks, sometimes larger.

11 So this whole description of an established Single Family

12 area is not our neighborhood. Which I think goes back to

13 your earlier question about, did we see Wallingford

14 described here? Well, here's what's supposed to be the

15 majority of our neighborhood, and it's not describing it at

16 all.

17 **Q. And so when you said -- actually, take that back. Okay.**

18 **And then see that next picture with new infill single-family**

19 **housing, is there anything you had to add about that image**

20 **or whether that --**

21 A. So --

22 **Q. -- represents currently?**

23 A. -- the top image there is, of course, pretty hard to see,

24 3.3-2.

25 **Q. Uh-huh.**

1 A. 3.3-3 is supposed to be a new single-family house, and so I  
 2 believe that's actually on -- I think that's on Midvale and  
 3 South Wallingford.  
 4 **Q. Uh-huh.**  
 5 A. Just above Ridgeway. And it does show a house that appears  
 6 to be kind of squeezed in between two older homes which, I  
 7 think, again supports the notion that this is a very dense  
 8 Single Family neighborhood. The lots are very small, so  
 9 anything you put in new that's boxy looks quite a bit  
 10 different than anything else.  
 11 **Q. Okay.**  
 12 A. And then at the bottom we have Lowrise -- Exhibit 3.3-4,  
 13 Lowrise Multifamily Infill Housing. That's actually a  
 14 townhouse project, so it's -- it's interesting, I guess. It  
 15 says it's mostly these are three stories or less. I'd say  
 16 that is probably correct.  
 17 And I think that portion of describing what Lowrise is in  
 18 our neighborhood, well, it's -- the most recent Lowrise is  
 19 fairly accurate and also points out that it may be larger  
 20 than some of the adjoining dwellings but it's not gigantic  
 21 either. Whereas, what's proposed is, in fact, gigantic.  
 22 **Q. Okay.**  
 23 A. On the next page, 3.3-5 talks about Mixed-use Commercial  
 24 corridors. And in the fourth paragraph, it describes  
 25 development of four- to seven-story buildings predominated

1 the City did its homework and prepared for trial, prepared  
 2 for hearing based on what was disclosed, double checked with  
 3 all of the appellants about who their experts were, deposed  
 4 them.  
 5 And what has happened repeatedly now over the course of  
 6 the last two days is trying to sneak in credential under the  
 7 guise of lay testimony. And this now gets directly into the  
 8 territory that is -- is going to be informed by his  
 9 expertise.  
 10 MS. NEWMAN: Well, first of all, I take offense at this  
 11 idea that I'm trying to sneak it in because I completely and  
 12 utterly believe in my heart that everything I'm asking him  
 13 to do is state what all my other witnesses are doing. And I  
 14 can -- he's a lay witness who lives in the neighborhood.  
 15 And I was taken a back yesterday and surprised, and so it's  
 16 not as if I have did this on purpose.  
 17 So again, I'm -- it's a coincidence that he's an  
 18 architect. I'm -- this testimony, I've had other people go  
 19 through this and say pretty much the same thing that he's  
 20 planning on saying. There's nothing much different.  
 21 And I guess I'd also like to ask if the witness believes  
 22 that his expertise as an architect is related to this sort  
 23 of building or, you know, whether you're an industrial  
 24 architect or residential architect.  
 25 I don't even know, to be honest, what the expertise is.

1 these corridors since 1990.  
 2 We're basically four stories. We have a couple of cheater  
 3 projects that got an extra floor put on by breaking the code  
 4 and -- but we don't have anything that's seven stories  
 5 anyplace. So that description in terms of the Mixed-use  
 6 corridor once again doesn't apply to Wallingford.  
 7 **Q. Okay, all right. And generally, have you had a chance to**  
 8 **look at the graphics on pages 3.178 through approximately**  
 9 **3.189 of Exhibit 2, the EIS?**  
 10 A. Yes, I have.  
 11 **Q. And do those graphics show what you -- you were talking**  
 12 **about Wallingford and what Wallingford looks like and also**  
 13 **talking about the transition phase of going from Single**  
 14 **Family to, you know, what you'll be living with.**  
 15 A. Uh-huh.  
 16 **Q. Do you think that these adequately reflect what the impacts**  
 17 **will be to Wallingford?**  
 18 MR. KISIELIUS: Objection. Mr. Examiner, we're now asking  
 19 an architect, which is clear on the record, to testify about  
 20 impacts of the build form and whether the analysis in the  
 21 EIS is adequate in communicating those impacts. This is  
 22 precisely the purview of an expert where somebody with his  
 23 expertise could offer an opinion that differs from a lay  
 24 opinion.  
 25 And this is fundamentally an issue of fairness. Again,

1 And I was just using him to -- as a lay witness. We haven't  
 2 even discussed the parameters of what his expertise is.  
 3 HEARING EXAMINER: So do you want an opportunity to look  
 4 at that or not?  
 5 MS. NEWMAN: Do you --  
 6 HEARING EXAMINER: I guess --  
 7 MS. NEWMAN: Sure, I would like to ask --  
 8 HEARING EXAMINER: -- one thing before we get too far into  
 9 that, though, I guess what I -- the challenge we have is the  
 10 further we get into discussing the expertise of the witness,  
 11 the more clearly we define --  
 12 MS. NEWMAN: Right.  
 13 HEARING EXAMINER: -- the expertise.  
 14 MS. NEWMAN: Right.  
 15 HEARING EXAMINER: And I appreciate the disclosure of  
 16 counsel indicating that the witness is an architect. I  
 17 agree that there's -- I don't see any attempt to obfuscate  
 18 or hide this. It's clearly -- if everyone could go back in  
 19 time, we'd simply disclose the architects as being experts,  
 20 and we'd be fine with where we are. We can't do that at  
 21 this point -- this late point in the hearing.  
 22 Because there is the potential for expertise with this  
 23 witness and the one yesterday, we are running into an area  
 24 where that expertise should have been disclosed and,  
 25 essentially, can't be permitted.

1 I will add the clarifying point that yesterday's witness  
 2 was an architect and, as disclosed to everyone in the  
 3 hearing, was known to the Hearing Examiner as being an  
 4 architect, had testified as an architect in front of the  
 5 Hearing Examiner at least twice and it was simply impossible  
 6 for the Hearing Examiner to simply pretend that this  
 7 individual was not testifying as an architect.  
 8 Short of the disclosure of this individual being named as  
 9 an architect today, there was no impression by the  
 10 decisionmaker to know that this -- this was an issue. And a  
 11 lot of statements there's a little -- the line is harder to  
 12 draw with regard to this -- this witness and the fact he has  
 13 expertise.  
 14 There's been a couple of objections that have been  
 15 overruled along those lines. Probably would have been  
 16 tighter on the witness yesterday where for the decisionmaker  
 17 that individual was an expert. Here we have a citizen who  
 18 has a lot of experience is going to speak to the built  
 19 environment and in some places his expertise is going to  
 20 touch on that.  
 21 I just -- I want to add that as a potential clarification  
 22 for the parties that I don't know --  
 23 MS. NEWMAN: Okay.  
 24 HEARING EXAMINER: -- that everyone picked up on  
 25 yesterday.

1 MS. NEWMAN: Okay. Well, I might just --  
 2 **Q. (By Ms. Newman) I guess one thing I would like to know is**  
 3 **have you ever worked on preparing an environmental impact**  
 4 **statement?**  
 5 A. Not -- not for anything like this. So I'm a transit  
 6 architect. I haven't done anything --  
 7 **Q. Transit.**  
 8 A. -- but transit stations.  
 9 **Q. Okay.**  
 10 A. All over the world. For the last ten years. Prior to that  
 11 I did mostly sewage treatment plant architecture, so I  
 12 haven't done any residential project in nearly thirty years.  
 13 And what I came here to do today is to look at pictures  
 14 and explain just what I'm seeing. I'm -- I have put  
 15 together some exhibits to try and explain how I might have  
 16 gone about preparing some exhibit, but you'll see they're  
 17 pretty primitive.  
 18 **Q. Well, are you talking about just photographs that you took?**  
 19 A. Yeah.  
 20 **Q. Yeah.**  
 21 A. Uh-huh.  
 22 **Q. And so you took -- that was, I think, a different issue**  
 23 **from -- right now we're focusing on your architectural**  
 24 **expertise with respect to looking at these graphics and**  
 25 **telling us whether they describe the impacts adequately that**

1 But with regard to this witness, the issue still remains,  
 2 he is an architect, and it is potential -- there is  
 3 potential for his expertise to be touching on that.  
 4 If you want to explore his background to add some  
 5 clarification there to maybe create some clarity around the  
 6 question he was just asked, maybe not, then --  
 7 MS. NEWMAN: Uh-huh.  
 8 HEARING EXAMINER: -- I'm happy to explore that  
 9 essentially as voir dire with the witness. But right now  
 10 the question you did ask does certainly relate to the  
 11 potential for expertise, and so I would disallow it. But if  
 12 you can demonstrate this individual -- as you were  
 13 suggesting, maybe he's a --  
 14 MS. NEWMAN: Okay. I might ask just a few --  
 15 HEARING EXAMINER: -- maritime --  
 16 MS. NEWMAN: -- questions.  
 17 HEARING EXAMINER: -- architect.  
 18 MS. NEWMAN: Exactly. I honestly --  
 19 HEARING EXAMINER: No relation at all.  
 20 MS. NEWMAN: I mean, maybe we can explore --  
 21 HEARING EXAMINER: But before you go down that path too  
 22 far, if he's talking about, "Well, I do residential stuff  
 23 all the time," then I don't know that that's going to --  
 24 MS. NEWMAN: Right.  
 25 HEARING EXAMINER: -- help us in any way.

1 **you were trying to -- or that you did articulate earlier in**  
 2 **your testimony. Do these reflect what impacts you were**  
 3 **articulating?**  
 4 A. So --  
 5 **Q. And I'm not sure we're allowed to do that yet, but I just --**  
 6 A. Yeah, right. So the upper, left-hand one which  
 7 is (inaudible) --  
 8 **Q. Hold on, I want to wait because we haven't --**  
 9 MS. NEWMAN: And so does that affect your -- or are we  
 10 allowed to have him go through these graphics?  
 11 HEARING EXAMINER: Well, let -- you've had a chance to  
 12 essentially voir dire on your witness to elucidate as to his  
 13 architectural background.  
 14 MS. NEWMAN: Right.  
 15 HEARING EXAMINER: So we've completed that step.  
 16 MS. NEWMAN: Yes.  
 17 HEARING EXAMINER: And there'd be an opportunity for the  
 18 City to --  
 19 MS. NEWMAN: Okay.  
 20 HEARING EXAMINER: -- comment.  
 21 MS. NEWMAN: Okay.  
 22 HEARING EXAMINER: And we're still in the realm of me  
 23 ruling on the objection.  
 24 MS. NEWMAN: Okay.  
 25 MR. KISIELIUS: The City's objection stands. We're --

1 I -- with an architectural degree, with an architectural  
 2 qualification certification, he is now being asked to  
 3 testify about the built form and potential impacts. And the  
 4 question directly elicited testimony about whether or not  
 5 the analysis of the impacts -- aesthetic impacts of built  
 6 things was adequate.  
 7 HEARING EXAMINER: To the adequacy though, he's indicated  
 8 he doesn't work on EISs, doesn't have much experience with  
 9 that so that -- and that's really an EIS question on  
 10 adequacy.  
 11 MR. KISIELIUS: And I would suggest that the question  
 12 elicited testimony about the nature of the impact of the  
 13 built form whether we put it under the guise of SEPA or not.  
 14 HEARING EXAMINER: Right.  
 15 MR. KISIELIUS: I think that's the basis of the objection.  
 16 MS. NEWMAN: I would just add that the last 30 years, I  
 17 think he said, of experience was with transit and with  
 18 completely unrelated architecture compared to residential  
 19 buildings. And the testimony would be more about his  
 20 experience living in a neighborhood and describing whether  
 21 this reflects what his neighborhood looks like and what the  
 22 impacts would be from development.  
 23 HEARING EXAMINER: So I think for what we have here as a  
 24 pattern of what the appellants are trying to establish is  
 25 simply are these neighborhoods within -- we're going through

1 **of this from an architect's point of view but more your --**  
 2 **whether this adequately reflects what your neighborhood is**  
 3 **like and what the impacts will be to the Wallingford**  
 4 **neighborhood, so if we could stay within that parameter,**  
 5 **though. Thank you.**  
 6 A. So earlier I pointed out that Exhibit 3.3-3, which is an  
 7 infill Single Family home picture, is in South Longford in  
 8 the village.  
 9 **Q. Uh-huh.**  
 10 A. And when I look at Exhibit 3.3-10, what strikes me is the  
 11 houses are -- in 3.10 are too far apart relative to the  
 12 houses shown on 3.3-3.  
 13 Also, I see toward the middle of the picture there are  
 14 buildings that project out toward the street both on the  
 15 right- and the left-hand side, squarish looking things. And  
 16 I think that the existing setbacks for Single Family would  
 17 not have allowed either of those. So even if there were new  
 18 buildings, they seem too close to the street, and the rest  
 19 of the buildings seem too far apart.  
 20 **Q. Okay. You mean in comparison to what Wallingford looks**  
 21 **like? So this doesn't --**  
 22 A. Yeah.  
 23 **Q. So does this reflect what Wallingford looks like?**  
 24 A. No.  
 25 **Q. Okay. Any other thoughts about any of these graphics?**

1 a list of them, and are those neighborhoods reflected in  
 2 these images. And that testimony could be provided by any  
 3 witness, essentially. To that degree, I'll allow the  
 4 testimony from this witness.  
 5 I will raise the cautionary note that if I have an  
 6 architect who's come up with his own pictures, that might be  
 7 a step beyond what --  
 8 MS. NEWMAN: I can --  
 9 HEARING EXAMINER: -- a normal resident might be  
 10 presenting. So I'm just -- I --  
 11 MS. NEWMAN: Okay.  
 12 HEARING EXAMINER: There's not an objection to that yet.  
 13 They're not even being presented. You haven't asked  
 14 about --  
 15 MS. NEWMAN: Right.  
 16 HEARING EXAMINER: -- them yet.  
 17 MS. NEWMAN: Okay.  
 18 HEARING EXAMINER: So I don't know if --  
 19 MS. NEWMAN: Okay.  
 20 HEARING EXAMINER: -- that was your intent, but I'll allow  
 21 this question. But we're still in -- we're still on a  
 22 (inaudible) as it were.  
 23 MS. NEWMAN: Okay. So thank you, Your Honor.  
 24 **Q. (By Ms. Newman) Mr. Hill, there's a distinction here being**  
 25 **made where we want to focus on not necessarily the critique**

1 A. 3.3.13, -13.  
 2 **Q. Uh-huh.**  
 3 A. I continue to see a tree on the left-hand side of the  
 4 picture. There's sort of a big -- huge tree on the left.  
 5 Then there's this other sort of pine tree. And what we've  
 6 seen where there are new developments, which is this is  
 7 trying to depict here, there aren't any trees.  
 8 **Q. Okay.**  
 9 A. So that's a little suspicious.  
 10 Under 3.3-15, which is on page 3.183, it's -- these are --  
 11 both purport to be L2 examples. Once again, everything  
 12 seems kind of far apart, and it's not quite clear to me  
 13 where all these buildings are. It would be ideal to have a  
 14 plan to go with this, but things look kind of far apart to  
 15 me.  
 16 **Q. Okay. When you say, "far apart," do you mean the buildings**  
 17 **too far apart from each other, or are you talking about the**  
 18 **street being too wide?**  
 19 A. It's kind of hard to tell. I mean, I see cars parked on  
 20 both sides and space to drive between them, so that's  
 21 probably typical for our street. The pavement's about 25  
 22 feet wide.  
 23 **Q. Uh-huh.**  
 24 A. But these -- the buildings in the lower Exhibit 3.3-16, I  
 25 think I'm counting four stories here in the buildings in the

1 background.

2 **Q. Uh-huh.**

3 A. On both the right and the left. And L2 currently allows

4 three. And I -- I guess what I'm seeing here is this is

5 disclosing that it will be four in the future.

6 **Q. Okay.**

7 A. I think that's what this is trying to tell us.

8 **Q. Okay. Anything else?**

9 A. So on 3.3-19, this appears to be Single Family across the

10 street from NC-40, and I can't think of that anywhere.

11 There are some houses on 45th street in the RC section, but

12 there's no Single Family zoning there.

13 And those houses have been enlarged and built onto

14 repeatedly because they are in a Commercial Residential

15 zone. So I don't think that that existing 3.3-19 relates to

16 my neighborhood. So the one below it, therefore,

17 wouldn't -- it's kind of not in the ballpark either.

18 **Q. Okay.**

19 A. So on 3.3-21, this shows a very wide street, and there are

20 no streets like that. Even 45th street is not that wide.

21 And it looks like they're 20 foot sidewalks, and sidewalks

22 in Wallingford are 11 feet wide. So this doesn't really

23 relate.

24 There is one positive in terms of the City's position in

25 the lower image, which is 3.3-22. It does, in fact, show

1 **Q. Okay.**

2 A. -- setup of each block as a little bit different than the

3 next block and this level of density. It's certainly not

4 anything in Wallingford. I don't think it even would

5 represent Capitol Hill. I just can't think of anything.

6 So we have projects in Toronto, Ottawa, Edmonton, big

7 Canadian cities, L.A., San Diego. I can't think of any city

8 that has this kind of thing, so I'm not sure what -- what

9 that relates to but doesn't relate to us.

10 **Q. Okay.**

11 A. Further back, if you look at -- on page 18...

12 **Q. Uh-huh.**

13 A. We have some Lowrise. I guess what's troubling me about all

14 these is the developers now require the seller of the

15 property to cut down all their trees, so this kind of

16 greenish business showing up all over the place would

17 certainly not represent our neighborhood after the

18 developers have come.

19 And in fact, in some cases the City hasn't required them

20 to do street trees either, so that's, I think, a shortcoming

21 in those images. It looks very green, but --

22 **Q. Uh-huh.**

23 A. -- that's not what we're currently getting. And it's hard

24 to believe with bigger buildings we get more landscaping.

25 **Q. Okay.**

1 that even with that huge width there are shadows being cast

2 from the left side of the street onto the right side of the

3 street just like they are in downtown Ballard these days.

4 **Q. Okay.**

5 A. But again, the whole image is not -- does not represent my

6 neighborhood of Wallingford.

7 **Q. Okay, all right. And have you reviewed -- there's -- in the**

8 **EIS there's Appendix F. There is a document called the**

9 **Urban Design and Neighborhood Character Study. Are you**

10 **familiar with that document?**

11 A. Yep, uh-huh.

12 **Q. And as you, I think, can probably glean from our**

13 **conversation so far trying to not address this from an**

14 **architectural perspective but rather from a perspective of**

15 **whether this shows -- kind of reflects what the impacts**

16 **would be in Wallingford from your understanding of what**

17 **Wallingford looks like, do you have any comments to say**

18 **about whether this is inadequate?**

19 A. Well, these images, which purport to explain, I guess, the

20 different levels of development --

21 **Q. What page is that?**

22 A. This is 8 and 9, I guess. Yeah, 8 and 9.

23 **Q. This is Exhibit 2, Appendix F, I don't -- oh, okay. Okay.**

24 A. I mean, I've been in an awful lot of cities. I can't think

25 of any city that has this --

1 A. I think the other thing about this, if you look at page 21,

2 to try and figure out how big a building is it's useful to

3 have scale elements. And in fact, bulk and scale is part of

4 this issue. And the two best ways, I think, looking at all

5 these documents is have doors and have people and -- but

6 then to not see them from above.

7 It seems like this image, as well as many of the images in

8 here, with this high angle -- I mean, I can't tell -- and in

9 theory, I should be able to tell, but I really can't tell

10 what it is you're getting there relative to everything else.

11 And these high-angle images, they don't give your eye an

12 opportunity to pick up a scale element and literally let

13 your brain measure the building. So I just find these not

14 helpful in terms of trying to figure out what it would look

15 like in my neighborhood.

16 **Q. Uh-huh.**

17 A. Because there's no -- I mean, unless we're all going to be

18 looking at things from a balloon in the future, this doesn't

19 have any relevance to how it impacts the next-door neighbor.

20 **Q. Okay. So if you're ready, I'm going to now introduce the**

21 **photos that I mentioned before. Do you have that in front**

22 **of you?**

23 A. Yep.

24 **Q. I think I gave you a copy. This is SCALE Exhibit -- well, I**

25 **have to back up. I have an extra copy for you. SCALE**

1 **Exhibit 162.**  
 2 HEARING EXAMINER: Marked as 249.  
 3 **Q. (By Ms. Newman) Can you -- do you recognize this document?**  
 4 A. Yes. So I was concerned that I wasn't really getting a  
 5 clear picture of what's being proposed. So I -- I knew a  
 6 couple of areas that were being upzoned from Single Family  
 7 to L2. And I thought, well, I'll go and just take some  
 8 pictures of those streets and sort of stitch them crudely  
 9 together. Obviously, somebody in my office could make this  
 10 all look great, but I was it doing myself.  
 11 And the two things you see here is the bottom image is the  
 12 plan view, so you get a feeling for how big each lot is.  
 13 The top image is best I could come up with was an elevation.  
 14 There is a lot of foliage, and that foliage based on  
 15 development happening currently will be all gone.  
 16 **Q. And so let me just get this. So what this is is a**  
 17 **photograph -- these are photographs that you took to show**  
 18 **what the existing -- what your neighborhood looks like right**  
 19 **now; is that right?**  
 20 A. That's correct.  
 21 **Q. Okay. So you basically just walked out, took some photos**  
 22 **and that -- from Wallingford to give a feel for --**  
 23 A. Right.  
 24 **Q. -- what the character of Wallingford is?**  
 25 A. So this is in the 4300 block of Wallingford Avenue looking

1 trees. There's another house that's a two-story house but  
 2 quite modest.  
 3 There's a bungalow that's had a roof addition put on, I  
 4 would say. The next one is obscured by foliage. Then  
 5 there's another one that has a tiny attic. It's a tiny  
 6 house. And on the far right, there's a two-story house  
 7 where it -- the upper floors are kind of in the -- in the  
 8 eaves, if you will, sloping ceilings and so forth.  
 9 **Q. Okay. And then what's the next --**  
 10 A. Now the next page. So I took a picture of an existing L2  
 11 project in south Wallingford. Which if you put your thumb  
 12 over it, there's only half of the white part at the top.  
 13 It's a three-story building. The bottom is gray. Then  
 14 there's kind of a weird pink color, and then there's white  
 15 siding above. But because these are LR2, I thought, "Okay,  
 16 well, I'll put another floor on the top," so I just copied  
 17 and pasted the upper floor.  
 18 MR. KISIELIUS: Mr. Examiner, I'm going to object or  
 19 interpose an objection at this point because --  
 20 HEARING EXAMINER: Uh-huh.  
 21 MR. KISIELIUS: -- we're going beyond photographing  
 22 existing conditions. And even the existing conditions shown  
 23 on the first page appears to be sort of stitched together in  
 24 a manner, but this is now attempting to communicate, in an  
 25 admittedly crude way, what the future conditions might be

1 west.  
 2 **Q. Okay.**  
 3 A. The next page --  
 4 **Q. And can I just ask, this first picture, is this a typical**  
 5 **example of what the single-family homes look like in**  
 6 **Wallingford?**  
 7 A. Yeah.  
 8 **Q. And when we look at that map, Exhibit 247, is that true**  
 9 **for -- we were saying there was about 700 homes. Are they**  
 10 **all generally of the same character like this?**  
 11 A. Yeah, so --  
 12 **Q. Or are there different sizes and different --**  
 13 A. This block is this block right here.  
 14 **Q. And what's the --**  
 15 A. It's between -- it's on --  
 16 **Q. -- street?**  
 17 A. Wallingford Avenue between 43rd and 44th which is currently  
 18 Single Family, and it's scheduled to be LR2.  
 19 **Q. Okay. So this photo is taken from that block?**  
 20 A. Right.  
 21 **Q. Okay.**  
 22 A. So you can see, starting on the left of the elevations,  
 23 here's a home that has some kind of attic but really just a  
 24 one-story home. Looks like it has a basement, possibly.  
 25 Then there's a house that's almost totally obscured by

1 that's something that's been prepared by an architect.  
 2 HEARING EXAMINER: So the basis of the City's objection --  
 3 MR. KISIELIUS: Again -- I'm sorry.  
 4 HEARING EXAMINER: -- is disadvantage because an expert  
 5 has not been disclosed and we're getting expert testimony  
 6 that they didn't have an opportunity to prepare for? Unless  
 7 this exhibit wasn't given to the City?  
 8 MR. KISIELIUS: I don't think --  
 9 HEARING EXAMINER: And I guess I'm not seeing the -- I'm  
 10 not seeing it yet. I -- I -- this doesn't look to me -- it  
 11 isn't -- no offense to the witness, but I -- this isn't  
 12 smacking of architect when I look at it. And I'm not seeing  
 13 the disadvantage to the City for this image to prepare and  
 14 respond saying, "Well, we need to depose this witness and  
 15 understand" --  
 16 MR. KISIELIUS: To put a finer point on it --  
 17 HEARING EXAMINER: Yes.  
 18 MR. KISIELIUS: I think it's that we didn't -- this was  
 19 not submitted with knowledge that there was an architect  
 20 behind it.  
 21 HEARING EXAMINER: Uh-huh.  
 22 MR. KISIELIUS: Or what the testimony would be. On some  
 23 of them, it's less obvious that it was even prepared rather  
 24 than an attempt to communicate existing conditions.  
 25 HEARING EXAMINER: Right.

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1 MR. KISIELIUS: When you get to the end, there's  
 2 actually -- there's some blocks that are put up there as  
 3 well.  
 4 HEARING EXAMINER: Yes. And I -- that was -- those --  
 5 those raise a different concern. Yeah, I agree.  
 6 MS. NEWMAN: What are the blocks?  
 7 HEARING EXAMINER: There are -- the very last page --  
 8 MR. KISIELIUS: And the third to last page.  
 9 HEARING EXAMINER: And the third to last page.  
 10 THE WITNESS: So just for the record, the blocks --  
 11 HEARING EXAMINER: So --  
 12 THE WITNESS: -- were prepared by Donn Cave.  
 13 HEARING EXAMINER: There's no --  
 14 THE WITNESS: Who's not an architect.  
 15 HEARING EXAMINER: Okay. So there's -- so you didn't  
 16 present -- you didn't prepare this?  
 17 THE WITNESS: I took the pictures, but he put together the  
 18 Photoshop image.  
 19 HEARING EXAMINER: So we'll address the witness's  
 20 testimony on those two images when we get to it.  
 21 **Q. (By Ms. Newman) Okay. So I'm trying to recall where we**  
 22 **were on page 2. Do you remember where we left off, or did**  
 23 **we complete that?**  
 24 A. Yeah, so the idea was blocks are not all going to be built  
 25 at once.

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1 **Q. Uh-huh.**  
 2 A. They're going to be built up a bit at a time. And the new  
 3 buildings will be as tall as the two images shown according  
 4 to the City documentation. And this purports to show what  
 5 that looks like on your typical Wallingford neighborhood  
 6 street.  
 7 **Q. And so your general focus here is just a height**  
 8 **differential, not necessarily all the -- you're not trying**  
 9 **to do a complete setback and bulk regulation matching.**  
 10 **You're just trying to show an image of the discrepancy in**  
 11 **height between the two buildings?**  
 12 A. Correct.  
 13 **Q. Okay. And then the third page?**  
 14 A. This is one block west. This is Densmore, again the 4300  
 15 block. Same thing, you can see most of these with one  
 16 exception -- two exceptions, I guess, are one-story.  
 17 There -- toward the right there are a couple of two-story  
 18 buildings but pretty modest. And once again, you can see  
 19 what my wife would refer to as itty-bitty lots with houses  
 20 on them.  
 21 And then page 4 shows the same thing with a couple of  
 22 future L2 four-story buildings tucked into that.  
 23 **Q. Okay, hold on. Okay, and again, let's see where -- so page**  
 24 **4 -- did we do page 4? Sorry, I got distracted there.**  
 25 **Okay. Then the next page, page 5, what's the -- did you**

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1 **take those photos?**  
 2 A. I did.  
 3 **Q. And --**  
 4 A. And these are actually L2 projects on Wallingford Avenue  
 5 that were built prior to the 2010 changes.  
 6 **Q. Uh-huh.**  
 7 A. They show 12- to 15-foot front yard setbacks and what  
 8 happens in those setbacks. The left image shows it largely  
 9 planted with ornamental things. The right image shows that  
 10 some people have plantings. Some people have used that  
 11 space as their outdoor recreation space.  
 12 **Q. Uh-huh.**  
 13 A. So there's an active band in front of the existing buildings  
 14 that's either landscape -- some people actually have  
 15 vegetable gardens, or sometimes they have patios and other  
 16 outdoor areas there.  
 17 **Q. Okay. And then page 6?**  
 18 A. Page 6, more of the same, see different ways people have  
 19 treated those areas. They clearly --  
 20 **Q. These are Lowrise?**  
 21 A. This is all L2.  
 22 **Q. L2, okay.**  
 23 A. Uh-huh. And this is -- the left one is on Wallingford.  
 24 Sorry, the left one is on 46th Street, L2 zone. And the  
 25 right one is down south of 40th and --

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1 **Q. And are you aware what the proposed setback will be for the**  
 2 **front yards --**  
 3 A. Five feet.  
 4 **Q. Five feet for MHA LR2?**  
 5 A. Right.  
 6 **Q. Okay.**  
 7 A. So page 7 is -- once again the left one shows how people are  
 8 using those spaces and how it really is a buffer, a visual  
 9 buffer. The right one is down on Market Street in Ballard.  
 10 That's again an L zone. And this is what a 6-foot setback  
 11 looks like. So you generally don't have much room for  
 12 anything, and it's not very usable either.  
 13 **Q. Okay.**  
 14 A. So that would definitely make an aesthetic change.  
 15 **Q. And then page 8 (inaudible)?**  
 16 A. Page 8, the left project is a new project in south  
 17 Wallingford by a national developer of residential projects.  
 18 In the ground floor, there is actually a so-called live/work  
 19 rule abater unit. People actually live in there with  
 20 virtually no space next to the sidewalk.  
 21 The right project is a new L2 project at 44th and Woodland  
 22 Park Avenue. And you can see there are two little tiny  
 23 trees over on the right-hand side. It's a three -- two- and  
 24 three-story building in the L2 zone.  
 25 **Q. What's the height of that building? Do you know?**

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1 A. Say again?  
 2 **Q. Do you know the height of that building?**  
 3 A. This is a 30 foot height.  
 4 **Q. Okay.**  
 5 A. It varies because the ground is --  
 6 **Q. Uh-huh.**  
 7 A. Is sloping. And you can see here where they've walled off  
 8 their front areas, no landscaping. In the future,  
 9 presumably that building would be closer to the sidewalk.  
 10 **Q. And why do you say that?**  
 11 A. Because this was built under the present zoning code, which  
 12 has, I think, a 10-foot setback.  
 13 **Q. Okay.**  
 14 A. And then the next is just talking about -- these are images  
 15 in Vancouver, British Columbia out on the west end, and it  
 16 shows that -- how important trees are.  
 17 As you look at the lower, left image there on Haro Street,  
 18 you can see there's a fairly narrow street. This is about  
 19 the same size as Wallingford Street. It's 25-foot pavement.  
 20 There's a planting strip with actually trees in it. Then  
 21 there's a sidewalk. Then there's another setback with more  
 22 trees.  
 23 And then what you barely see in the upper, right-hand  
 24 corner of the lower image is the beginning of a tower. And  
 25 if you just turn the camera straight up, you'll see these

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1 huge towers on either side, but you're not aware of that  
 2 when you're walking or driving down that street because your  
 3 code of vision is within the foliage area. And you really  
 4 are totally unaware of how gigantic those buildings are.  
 5 **Q. Do you know what the setback would be for those buildings by**  
 6 **chance or did you --**  
 7 A. I don't know what they are --  
 8 **Q. Okay.**  
 9 A. -- currently.  
 10 **Q. All right.**  
 11 A. So 9A is the example of transition and the kind of impacts  
 12 that concern us. So this is a house, and this is the same  
 13 L2 building you saw earlier, which is a 30 foot high  
 14 building in 9A. If you change to 9B, there's another one of  
 15 my crude paste-ups here, that shows with 40 feet how big  
 16 that building is.  
 17 **Q. Okay.**  
 18 A. And then --  
 19 **Q. But you didn't -- the setback will change --**  
 20 A. No.  
 21 **Q. -- also and you didn't show that change?**  
 22 A. I didn't show that change.  
 23 **Q. Okay.**  
 24 A. 10A is the front elevation of these two, the single-family  
 25 house and the townhouse project. And then 10B is, once

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1 again, the inflated version of the right-hand side of the  
 2 40-foot building next to the single-family house. So based  
 3 on the fact that the majority of our zoning is changing  
 4 to -- appears to be changing to L2 --  
 5 **Q. Uh-huh.**  
 6 A. -- this -- and L2 is changing to 40 feet, there will be a  
 7 lot of this happening. And I didn't find any similar images  
 8 in 3.3 or 3.2 or Appendix F.  
 9 **Q. In the EIS?**  
 10 A. Yeah.  
 11 **Q. Okay.**  
 12 A. Page 11, this shows kind of the transitions. Now, in  
 13 theory, this -- this shows what happens when you have a  
 14 sloping lot. So normally, there would be a four-story  
 15 building there. You'll, of course, count that there are, in  
 16 fact, five stories. And that's because the City has -- the  
 17 City zoning --  
 18 **Q. Can I just -- I'm sorry, real quickly, when you say,**  
 19 **"normally," what you mean is the existing zoning has a**  
 20 **40-foot height limit?**  
 21 A. Correct.  
 22 **Q. And not -- on that lot, okay.**  
 23 A. Right.  
 24 **Q. At the time this building was --**  
 25 A. Right.

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1 **Q. -- applied for, correct?**  
 2 A. And so you'd expect to have a four-story building.  
 3 **Q. Right.**  
 4 A. There's not quite enough space to squeeze in another floor.  
 5 However, if there's a sloping lot involved, then you can  
 6 squeeze in another floor because of the way the zoning code  
 7 works. And there's certain benefits, I guess you'd say, in  
 8 terms of the bulk of the building when you have a sloping  
 9 lot.  
 10 **Q. So a developer can actually get a higher height based on**  
 11 **kind of the methodology for measuring height --**  
 12 A. That's correct.  
 13 **Q. -- when they're on a slope?**  
 14 A. So what this is showing is this is really what a future L2  
 15 would be on a sloping lot next to a two-story building.  
 16 **Q. Okay.**  
 17 A. And then a couple more of those. This is currently an  
 18 existing house. This is page 12.  
 19 **Q. Uh-huh.**  
 20 A. Shows an existing house and what is currently an LR3 but  
 21 will become an LR4. Again, sloping lot so there are one,  
 22 two, three, four, five, six stories on this one.  
 23 **Q. And so the height at the time for that building was 40 feet,**  
 24 **but this building was technically built higher than 40 feet?**  
 25 A. That's correct.

1 **Q. Because of the slope?**  
 2 A. Yes. And, you know, I think if we went back and we went  
 3 through those images that we looked at in the 3.3 Aesthetics  
 4 Section --  
 5 **Q. Uh-huh.**  
 6 A. -- we'd find that those all appear to be flat. Whereas, our  
 7 whole neighborhood is kind of sloping, more or less, but...  
 8 So this talks about view impacts. There's a section about  
 9 view impacts in the EIS. But it's really -- it sort of  
 10 talks about the fact that there -- there is something in the  
 11 code about view impacts, but it's, in fact, limited to very  
 12 specific from -- views from very specific places of very  
 13 specific things. So the view from Wallingford to Lake Union  
 14 is not protected.  
 15 **Q. By?**  
 16 A. By the zoning code.  
 17 **Q. Okay.**  
 18 A. Or by SEPA, because SEPA is limited, actually, in terms of  
 19 view impacts of what you can -- what you can talk about  
 20 there.  
 21 **Q. Uh-huh.**  
 22 A. Or challenge. In this case, I took these pictures, I drew  
 23 in some horizontal lines and I gave that image to Donn Cave,  
 24 who's not an architect. He is a person on the board who  
 25 happens to know how to use Photoshop, which I don't know how

1 Then I went back up Wallingford Avenue to the 3500 block.  
 2 Page 15 shows the existing images, and you get this pretty  
 3 nice view of Lake Union and the Downtown skyline, neither of  
 4 which is protected from this location. And then if you  
 5 start doing these 40-foot buildings in the foreground and  
 6 bigger ones in the background, you can see what happens to  
 7 that view.  
 8 **Q. And so with this last photo that Donn Cave did on page 16,**  
 9 **is that meant to just portray a concept and not necessarily**  
 10 **precise measurements?**  
 11 A. Yeah, so streetlights are typically hung at 30 feet.  
 12 **Q. Uh-huh.**  
 13 A. And we did check by doing the old Boy Scout method of  
 14 projecting the horizontal line, the vertical line  
 15 horizontally and measuring it off just to be sure we were in  
 16 the ballpark. So it's not precise, but it's a pretty good  
 17 image. And it presumes that each building has an elevator  
 18 penthouse, which it would have, because now there's a clause  
 19 that allows you to have some extra space up there.  
 20 **Q. Uh-huh.**  
 21 A. So you can have stair and elevator and some -- some  
 22 additional space on the --  
 23 **Q. That goes above the --**  
 24 A. In the Commercial --  
 25 **Q. -- height limit?**

1 to do. And then he came up with the image of the building.  
 2 Now, the existing building on the left --  
 3 **Q. This is on page?**  
 4 A. Page 14.  
 5 **Q. 14, okay.**  
 6 A. The existing building on the left you'll notice that the top  
 7 floor is actually setback which makes it appear much less  
 8 bulky. In the Photoshop image there, you see a building  
 9 plus the elevator penthouse, and that's the new 55-foot  
 10 height building.  
 11 **Q. Is that what the proposed MHA height --**  
 12 A. I believe that's --  
 13 **Q. -- would be on that lot?**  
 14 A. I believe that's correct.  
 15 **Q. Okay.**  
 16 A. The building on the right, by the way, is one that -- was  
 17 one of the first ones that the Community Council thought  
 18 about challenging. That developer Brian Regan actually  
 19 worked with us, and he setback each floor of his building an  
 20 extra five feet so it's like -- it's called "The Egypt"  
 21 because it staggers, but he named it.  
 22 **Q. Okay.**  
 23 A. But so there's a lot of relief there. There's nothing in  
 24 the new legislation I've seen that suggests there's any  
 25 relief in the zoning code.

1 A. In Commercial areas, yeah.  
 2 **Q. Okay.**  
 3 A. And everybody wants to have a view spot on the roof, so I  
 4 think that would be what's expected. And I -- again, I  
 5 didn't find any of these type of images in Appendix F nor in  
 6 3.3 or 3.2 for that matter.  
 7 **Q. Okay. And is that -- does that conclude your description of**  
 8 **these?**  
 9 A. Yes.  
 10 MS. NEWMAN: Mr. Examiner, I'd like to offer Exhibit 249  
 11 to be admitted into the record.  
 12 MR. KISIELIUS: No objection.  
 13 HEARING EXAMINER: 249 is admitted.  
 14 **Q. (By Ms. Newman) Okay, I think we are ready to have a little**  
 15 **discussion about land use impacts then. If you're ready for**  
 16 **that?**  
 17 A. Yep.  
 18 **Q. And that takes us to -- let's see. We covered a lot of**  
 19 **ground on this topic with other witnesses, and so I'm going**  
 20 **to -- oh, you know, I have one quick question I wanted to**  
 21 **ask you about aesthetics.**  
 22 **Are there other topics that you would have discussed or, I**  
 23 **guess, criticisms or points you would have made about the**  
 24 **EIS and about this Urban Design and Neighborhood Character**  
 25 **Study that you didn't raise because of the objection that**

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1        **you're an architect? And so did you withhold some of your**  
2        **testimony that you otherwise would have made about that?**  
3        A. So --  
4        **Q. You don't have to say what it was, but I just want generally**  
5        **whether there were certain things that you couldn't say --**  
6        A. There probably are some additional comments I would make,  
7        yes, but --  
8        **Q. That you didn't say, okay. And so there are additional**  
9        **things that you found inadequate or not appropriate, but you**  
10       **didn't testify about them today?**  
11       A. That's correct.  
12       **Q. All right. Just didn't want you to be in a box. So --**  
13       MR. KISIELIUS: I guess I'm just -- at the risk of  
14       invoking more testimony, I'm not sure that you granted any  
15       of my objections at this point. I think you've overruled  
16       them all.  
17       HEARING EXAMINER: With regard to the witness.  
18       MS. NEWMAN: Well, I -- I placed a --  
19       HEARING EXAMINER: I'm not sure --  
20       MS. NEWMAN: -- condition --  
21       HEARING EXAMINER: So just a second.  
22       MS. NEWMAN: I'm sorry.  
23       HEARING EXAMINER: Is there a question or are you raising  
24       an objection or maybe I shouldn't have answered the  
25       question?

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1       MR. KISIELIUS: I'm sorry. I think -- well, maybe I'm  
2       just reading too much into --  
3       HEARING EXAMINER: Is there any objection?  
4       MR. KISIELIUS: No, I was just reading too much into  
5       what --  
6       HEARING EXAMINER: Okay, let's proceed.  
7       MR. KISIELIUS: What Ms. Newman was suggesting.  
8       MS. NEWMAN: There were --  
9       HEARING EXAMINER: Let's not get into this discussion  
10       about --  
11       MS. NEWMAN: We policed -- I think we heavily policed his  
12       testimony based on this understanding.  
13       HEARING EXAMINER: So understanding --  
14       MS. NEWMAN: And I just wanted to make that clear.  
15       HEARING EXAMINER: -- counsel both have opinions about  
16       where we've been, let's proceed.  
17       MS. NEWMAN: Okay.  
18       MR. KISIELIUS: Sorry for the interruption.  
19       **Q. (By Ms. Newman) So looking at the Land Use Chapter in the**  
20       **EIS, we did earlier in your -- this is page 3.99, Chapter**  
21       **3.2. In your testimony today, earlier you described not**  
22       **just the aesthetics but you also touched on land use. They**  
23       **sometimes tend to overlap of the Wallingford urban village**  
24       **and outside of it. Have you had a chance to review the Land**  
25       **Use Chapter of the EIS? I think you already said you did.**

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1       A. Yes, I did.  
2       **Q. And there's a section in there that is titled Affected**  
3       **Environment. So that is describing purportedly the**  
4       **environment -- current environment as of today that's going**  
5       **to be affected by the proposal. Does that section include**  
6       **description or discussion about the land use and zoning**  
7       **specifically in the context of the Wallingford urban village**  
8       **as it is right now?**  
9       A. You're going to have to cite the section again.  
10       **Q. Oh, okay, sorry.**  
11       A. You're talking about (inaudible).  
12       **Q. So page 3.99. It's in the EIS, 3.99. It's kind of not --**  
13       **the page number isn't on the page, so it's Chapter 3.2, Land**  
14       **Use.**  
15       A. The front page?  
16       **Q. Yes.**  
17       A. Okay.  
18       **Q. That's it. And so there are a couple of pages here where**  
19       **it's titled 3.2.1 Affected Environment.**  
20       A. Uh-huh.  
21       **Q. When you go through that and see that there's a description**  
22       **of the Conference Plan update, future land use designations**  
23       **describing Single Family Residential, and I'm just wondering**  
24       **if that -- it ends at page 3.108. If there's a description**  
25       **specific to Wallingford urban village that describes what**

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1       **the land use is and the zoning is as you did earlier in your**  
2       **testimony?**  
3       A. No.  
4       **Q. Okay.**  
5       A. There is nothing there I've found.  
6       MS. NEWMAN: And I'd like to introduce -- I'm going to  
7       pull up these neighborhood plans, if I could get these  
8       marked?  
9       These would be two separate exhibits, I believe. Unless  
10       you believe otherwise. And these are SCALE Exhibits 204,  
11       and it's specific to the -- I brought an extra copy if you  
12       want one because I'm not sure -- it was kind of a general  
13       statement.  
14       MR. KISIELIUS: You're entering them as two exhibits, but  
15       here they're listed as one, just so I'm (inaudible) --  
16       MS. NEWMAN: Well, SCALE Exhibit 204 said that we're going  
17       to rely on neighborhood plans and Conference of Plan,  
18       generally because they're more, I'd say, legal documents  
19       than they are --  
20       MR. WEBER: Actually, I don't see an Exhibit 204, at  
21       least --  
22       MS. NEWMAN: On the SCALE exhibit list.  
23       MR. KISIELIUS: You're looking at the (inaudible) --  
24       MS. NEWMAN: It's because I -- it's the Conference of  
25       Plan.

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1 MR. WEBER: Oh, okay.  
 2 HEARING EXAMINER: Marked as 250 and 251.  
 3 **Q. (By Ms. Newman) Let's see. Where's my pen?**  
 4 **Do you recognize these documents?**  
 5 A. Yes.  
 6 MS. NEWMAN: Oh, can I -- is the 251 the South Wallingford  
 7 Amendment?  
 8 HEARING EXAMINER: South Wallingford Amendment is 250.  
 9 MS. NEWMAN: Oh, okay.  
 10 HEARING EXAMINER: And the Wallingford Neighborhood Plan  
 11 is 251. Just marked them in the order we got them.  
 12 MS. NEWMAN: Okay.  
 13 **Q. (By Ms. Newman) Could you describe -- oh, do you**  
 14 **recognize -- did I say do you recognize them?**  
 15 A. Yes.  
 16 **Q. And can you describe --**  
 17 A. I was involved in both -- the preparation of both -- not the  
 18 preparation but the participation --  
 19 **Q. In --**  
 20 A. -- of these --  
 21 **Q. -- developing the plan?**  
 22 A. Developing the plan, sorry.  
 23 **Q. And what are they?**  
 24 A. So the City in the mid '90s under Mayor Norm Rice put  
 25 together a system whereby thirty-three different

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1 neighborhoods were given staff time and encouraged to do  
 2 planning. And Wallingford had a good group of people  
 3 leading and established separate from the Community Council  
 4 an outfit called -- what was it called? Wallingford  
 5 something. At any rate, the planning went on for a couple  
 6 years and resulted in a set of policies and goals for the  
 7 neighborhood.  
 8 However, when the City Council adopted it, they pointed  
 9 out that the south Wallingford area -- so that would be the  
 10 area outside the village here but where there is zoning that  
 11 will now be impacted by these changes. They encouraged us  
 12 to take another look at that, so there was actually still  
 13 another planning effort where we had a consultant assist us.  
 14 And that was the South Wallingford Plan, and that also came  
 15 up with some goals and policies.  
 16 **Q. Okay. And so the Wallingford Neighborhood Plan, which is**  
 17 **marked 251, is that generally focused on the urban village**  
 18 **area?**  
 19 A. Yes.  
 20 **Q. And then the South Wallingford Amendment is focused on**  
 21 **outside --**  
 22 A. South of 40th.  
 23 **Q. Okay. And you mentioned that there were -- just you said**  
 24 **there were other neighborhood plans. How many did you say**  
 25 **other people?**

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1 A. I think there were thirty-three neighborhood plans.  
 2 **Q. Okay, developed --**  
 3 A. Or at least started.  
 4 **Q. -- throughout the city of Seattle?**  
 5 A. Yes.  
 6 **Q. And you said you had reviewed the EIS. Does the EIS**  
 7 **mention, even state, that these exist, either of these?**  
 8 A. I didn't see that.  
 9 **Q. Okay, it doesn't mention them. The -- is there anything**  
 10 **that you'd like to describe thematically about these**  
 11 **neighborhood plans that -- other than their mere existence**  
 12 **that's relevant to --**  
 13 A. Well, I looked at some of the policies --  
 14 **Q. Uh-huh.**  
 15 A. -- that might relate to the MHA proposal.  
 16 **Q. So there's probably policies in here that are applicable to**  
 17 **the MHA proposal?**  
 18 A. Yes.  
 19 **Q. Okay. And they would be -- would these be relevant to**  
 20 **decisions on how to zone the Wallingford urban village in**  
 21 **the South Wallingford Amendment area?**  
 22 A. I would like to think so.  
 23 **Q. Because -- why do you say that? You say that laughingly.**  
 24 A. Well, you know, a lot of people spent a lot of time and City  
 25 resources to come up with all these policies and goals for

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1 our neighborhood.  
 2 **Q. Uh-huh.**  
 3 A. And they specifically relate to the future and what happens  
 4 in the future to all different aspects of the neighborhood.  
 5 **Q. Okay.**  
 6 A. Home ownership, who lives there, how the Commercial area  
 7 works and so forth. So they're very relevant, and it'd  
 8 certainly be a good starting point. If you were going to  
 9 make changes, you'd want to presumably take advantage of the  
 10 City's investment.  
 11 **Q. Okay.**  
 12 A. And the citizens' investment in that planning.  
 13 **Q. And there's also -- in the Comp Plan, Seattle 2035, are**  
 14 **there policies -- Neighborhood Plan policies that are**  
 15 **relevant to Wallingford?**  
 16 A. I think there are.  
 17 **Q. Page -- if you open up to page 398, I think you might have a**  
 18 **copy of it right in front of you. If you look at the**  
 19 **bottom of that --**  
 20 A. You're talking the Neighborhood Plan or the Comp Plan?  
 21 **Q. The Comp Plan.**  
 22 A. I don't think I have it.  
 23 **Q. What's right in front of you there, the big --**  
 24 A. This is F.  
 25 **Q. -- oversized --**

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1 A. That's F.  
 2 **Q. So I'm going to approach the witness.**  
 3 A. This is 3.3. That's 3.2. That's the neighborhood --  
 4 **Q. This document right here.**  
 5 A. Okay.  
 6 **Q. That's the Comp Plan.**  
 7 A. Okay.  
 8 **Q. Okay. I don't know if you have all the pages?**  
 9 A. Relevant sections thereof.  
 10 **Q. It looks like you may only have -- do you have -- does the**  
 11 **bottom of that piece of paper you have in front of you --**  
 12 A. 390, 389, 390.  
 13 **Q. Okay, those are the two pages that -- so these -- what I'm**  
 14 **looking at here is exhibit -- what is this exhibit?**  
 15 MR. KISIELIUS: It's 3.  
 16 **Q. (By Ms. Newman) Exhibit 3, which is the Conference of Plan**  
 17 **page 398, and it looks like you might have made a few**  
 18 **notations on there.**  
 19 A. I did.  
 20 **Q. So you're familiar with the -- that's -- what you have in**  
 21 **front of you, what you're looking at are from the Conference**  
 22 **of Plan, the Wallingford Neighborhood Plan policies; is that**  
 23 **right?**  
 24 A. Yes.  
 25 **Q. And --**

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1 A. When you said "big," I was looking this way, not that way.  
 2 **Q. Okay. Let's see. Is the MHA legislative proposal**  
 3 **inconsistent with any of the Wallingford neighborhood**  
 4 **policies in the Comp Plan?**  
 5 A. I think it is.  
 6 **Q. Can you identify which ones?**  
 7 A. So there's an Urban Village Goal W-G1.  
 8 **Q. Uh-huh.**  
 9 A. "Neighborhood with a vital commercial district serving the  
 10 residential core." But when I was fishing through the back  
 11 pages of Appendix F, it says under --  
 12 **Q. This is the Urban Design and Neighborhood Character Study?**  
 13 A. Correct.  
 14 **Q. And what page are you on?**  
 15 A. It's page 63.  
 16 **Q. Okay.**  
 17 A. Proposed Development Urban Design Standards.  
 18 **Q. Uh-huh.**  
 19 A. In the first one in the NC zones, which would be the  
 20 Neighborhood Commercial, "Discourage production of  
 21 ineffective street level retail space."  
 22 So during the mid '60s -- sorry, mid '80s, there was a  
 23 proposal to build a residential only building in the Leschi  
 24 neighborhood, and that project was appealed because it  
 25 represented about a third of the Neighborhood Commercial

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1 space.  
 2 The City Council in those days was actually doing appeals,  
 3 and so they backed up the appeal and made -- made them do a  
 4 mixed-use building. And subsequent to that, Jim Street  
 5 authored the mixed-use legislation for Seattle which said  
 6 you had to have ground floor commercial. And that became a  
 7 national model. None of that had been built since World War  
 8 II, and --  
 9 **Q. And mixed-use is retail and residential combined?**  
 10 A. Retail and residential, right.  
 11 **Q. Okay.**  
 12 A. At the time it was done, the bond market was happy, and they  
 13 didn't actually have to have it leased. They have the  
 14 retail lease to do it. So they started building projects.  
 15 And then when the bond market tightened up, they had a track  
 16 record. Used to be the banks, you know, you go in this way  
 17 for commercial, that way for residential. Now you had some  
 18 bankers that could actually put together packages for  
 19 mixed-use buildings.  
 20 So we have the precursor of what became a national trend.  
 21 And our Comp Plan goal of a vital commercial district  
 22 serving the residential core incorporates the notion that  
 23 businesses will actually be able to rent spaces.  
 24 This language, "discourage the production of ineffective  
 25 street level retail space," sounds awfully familiar, because

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1 that's what national developers -- residential developers  
 2 that come to our city want to do. They do not want to do  
 3 mixed-use buildings. They want to do single-purpose  
 4 residential. So if that was enacted, that would totally  
 5 screw up our neighborhood.  
 6 **Q. Okay.**  
 7 A. The notion that you'd have local businesses would just go  
 8 away.  
 9 **Q. And would it be inconsistent with that goal?**  
 10 A. Totally.  
 11 **Q. Okay. And the next goal I see on page 398 is, "Urban**  
 12 **villages policies protect the character integrity of**  
 13 **Wallingford Single Family areas." Is it --**  
 14 A. W-P1, yes.  
 15 **Q. Is the MHA proposal consistent with that goal?**  
 16 A. It's basically gobbling up a significant portion, 700 plus  
 17 homes, in the Single Family area and converting it to the  
 18 very high density Multifamily.  
 19 **Q. And is this -- by the way, this Wallingford neighbor -- this**  
 20 **is referring to the urban village, correct?**  
 21 A. Yes.  
 22 **Q. And so when these -- these policies are applicable to the**  
 23 **land within the Wallingford urban village? That's the --**  
 24 A. Uh-huh.  
 25 **Q. -- focus of them?**

1 A. So at the time the line was drawn, people objected to the  
 2 Single Family being in the village, and the City told us  
 3 that that was only to get the numbers to work. I see other  
 4 neighborhoods, if you look at those maps that are involved  
 5 here --  
 6 **Q. And let me just clarify. You're saying they didn't -- the  
 7 people objected to having the line --**  
 8 A. Include --  
 9 **Q. -- the size of the --**  
 10 A. -- Single Family in the village.  
 11 **Q. They wanted a smaller urban village line.**  
 12 A. They didn't want any Single Family in the urban village.  
 13 **Q. Okay. And that means they wanted a smaller line?**  
 14 A. Basically shrink wrap it around Multifamily and Commercial.  
 15 **Q. Okay.**  
 16 A. And that's exactly what Phinney did, and some other  
 17 neighborhoods did the same thing. But we weren't very  
 18 smart, I guess, in Wallingford so now it's come back to  
 19 haunt us. But at the time, they were very specific that not  
 20 going to rezone, not going to change anything, just to get  
 21 the numbers to work.  
 22 **Q. And that's what your neighborhood policy says, in fact,  
 23 "Protect the character integrity of Wallingford Single  
 24 Family areas"?**  
 25 A. That is correct.

1 that the targets weren't -- were right, wrong or  
 2 indifferent, but we met our target for growth before the  
 3 planning was done.  
 4 And so there were some -- some special L3 and L4  
 5 locational criteria developed for areas that were not  
 6 meeting their targets, but because we were meeting our  
 7 target and, basically, in theory were sidestepping that. So  
 8 in other words, special upzone features of the planning  
 9 would not apply to Wallingford because we were already over  
 10 our target. That's what W-P7 is.  
 11 **Q. Okay. So L3 and L4 locational criteria for the evaluation  
 12 of rezones to L3 and 3, 4 inside urban villages will not  
 13 apply to the Wallingford residential urban village?**  
 14 A. Correct.  
 15 **Q. Okay. And so you were given that special policy because the  
 16 urban village had already exceeded its household growth  
 17 target?**  
 18 A. That's correct.  
 19 **Q. And the MHA proposal is inconsistent with this policy?**  
 20 A. I believe it is, yes.  
 21 **Q. Yeah. Okay, are there any other --**  
 22 A. Under Housing Policies W-P8, "Promote a high rate of home  
 23 ownership within the Wallingford area," so obviously MHA is  
 24 doing two things that work against that. By rezoning over  
 25 750 homes, that obviously reduces the potentials for family

1 **Q. You know, before I forget, this is a little off topic, but I  
 2 want to make sure we get it in. Is there a transit station  
 3 in Wallingford at all?**  
 4 A. Wallingford has a bus line that runs --  
 5 **Q. I'm sorry --**  
 6 A. Light rail?  
 7 **Q. Light rail.**  
 8 A. No.  
 9 **Q. No light rail?**  
 10 A. They're not on the light rail.  
 11 **Q. And no proposal for a light rail in the near future?**  
 12 A. Sound Transit looked at an east-west line from the  
 13 U District through Wallingford to Ballard and Downtown. It  
 14 had pretty good ridership, but Ballard was first on the  
 15 list.  
 16 **Q. Okay.**  
 17 A. So they went there.  
 18 **Q. Okay. Are there any other -- well, let's just generally say  
 19 -- let's see on 398 --**  
 20 A. So W-P7 --  
 21 **Q. Yeah, okay.**  
 22 A. So this mentions, "The residential urban village has  
 23 substantially exceeded its household growth target." So  
 24 it's important to know that each neighborhood in this  
 25 planning phase was given a target. Now, I'm not arguing

1 dwellings.  
 2 Moreover, they're changing the L1 zoning to allow more to  
 3 be built there. Now, L1 in theory is a townhouse zone. So  
 4 it would be more like a compact family zoning. But they've  
 5 already in 2010 allowed more units to be built on L1, and  
 6 now they're going to loosen up that even more by eliminating  
 7 the density limits.  
 8 So what's happened today is families come in, they buy a  
 9 house, they have kids -- they buy a townhouse, they have  
 10 children, they move out. And it's just a constant turnover  
 11 because there's not outdoor space. There's no space to  
 12 actually have a homelike environment in a townhouse  
 13 envelope, but that was the original concept.  
 14 And so by tweaking the L1 to make it even more dense,  
 15 they're going to discourage townhouses by allowing L2 to be  
 16 40 feet tall. Nobody's building 40-foot tall, four-story  
 17 townhouses. Perhaps you can have an Olympic village that  
 18 had that, but nobody's building it.  
 19 And the L2 was a very popular place for townhouses. So  
 20 both L1 and L2 zoning, which are in theory setup to have  
 21 townhouses to allow more families, those options are going  
 22 to be reduced significantly. Plus, they're rezoning the  
 23 Single Family away, so there will be fewer family  
 24 opportunities.  
 25 **Q. Okay. Which one was that, which policy?**

1 A. W-P8.  
 2 **Q. Okay. Any other relevant or, I guess, more inconsistent?**  
 3 A. I think those are the key ones.  
 4 **Q. And are there -- let's see. Have you had a chance to review**  
 5 **just generally whether more of these are not necessarily**  
 6 **inconsistent but just relevant to the proposal, relevant to**  
 7 **be considered?**  
 8 A. I didn't find them --  
 9 **Q. Okay.**  
 10 A. -- significantly persuasive.  
 11 **Q. Okay. Looking at the EIS, did you see any mention anywhere**  
 12 **of those specific policies that you just identified and**  
 13 **walked us through?**  
 14 A. No.  
 15 **Q. So I mean, there's no discussion -- there's no mention at**  
 16 **all of those?**  
 17 A. I didn't see any.  
 18 **Q. Okay. Did you -- I have one last question in the Land Use**  
 19 **Impact Section. But I'm not sure if you have read -- I just**  
 20 **want to know, did you have a chance -- if you look at page**  
 21 **3.123, that section has a little bit of land use analysis of**  
 22 **the impacts for each of the different action alternatives.**  
 23 **Then it has a paragraph for Alternative Two, Alternative**  
 24 **Three and the Preferred Alternative that talks about**  
 25 **Wallingford specifically. Have you had a chance to read**

1 should be balanced. In other words, you should mirror image  
 2 things. You don't have hospitals on one side and  
 3 residential on the other. You have hospitals on both sides  
 4 or you have residential on both sides or commercial on both  
 5 sides, but you don't change zones in the street.  
 6 **Q. Uh-huh.**  
 7 A. That way each block-face has a consistent appearance to it.  
 8 But this seems to be saying, "Yeah, we're going to do that  
 9 all over the place." So I don't understand why it would be  
 10 the south.  
 11 The west frontage of Meridian, I don't understand why that  
 12 would be the case. Meridian is a pretty long street. It's  
 13 got things on both sides.  
 14 The east frontage of Midvale and the west frontage of  
 15 Interlake, now again, I -- I don't understand what's unique  
 16 about those streets at those spots.  
 17 **Q. Is there anything in the EIS as far as analysis or**  
 18 **discussion prior to this paragraph that would give you any**  
 19 **information to know why they chose those four?**  
 20 A. I didn't -- I didn't find anything.  
 21 **Q. Okay.**  
 22 A. I couldn't see anything looking at the map that was  
 23 particularly unique.  
 24 **Q. And then it says, "Much of the residential portion of the**  
 25 **village would have no changes to scale, and height increases**

1 **those paragraphs? Or it's very short.**  
 2 A. I did -- I did read that.  
 3 **Q. Okay.**  
 4 A. And, frankly, I live on North 47th Street.  
 5 **Q. Uh-huh.**  
 6 A. So --  
 7 **Q. Well, let's talk about what it says first --**  
 8 A. Okay.  
 9 **Q. -- and then -- so it says -- I don't know if you want to**  
 10 **read maybe that first sentence there.**  
 11 A. "Blocks of existing Single Family zoning in transition areas  
 12 at the edges of Neighborhood Commercial corridors would be  
 13 changed to Lowrise Multifamily resulting in some moderate  
 14 land use impacts."  
 15 **Q. So is that an accurate... I mean --**  
 16 A. Well, I -- I would say the impacts are not moderate based on  
 17 those images I showed you in my crude photo arrays.  
 18 **Q. Okay.**  
 19 A. But then it's even more confusing because it says, "Impacted  
 20 locations include the south frontage of North 47th Street."  
 21 Well, that is where I live. It would be impacted, but I  
 22 don't know why it's distinct from the other -- the north  
 23 side of the street.  
 24 And frankly, one of the things I found fascinating about  
 25 this was there is a planning concept where street fronts

1 **would be no more than 15 feet along Stone Way Avenue North**  
 2 **and North 45th Street." Is that an accurate statement, "no**  
 3 **changes to scale," in the Single Family?**  
 4 A. So I think the 15 feet Stone Way North and North 45th is  
 5 basically two Commercial strips, 45th east-west, Stone Way  
 6 north-south. But there are two things that I would think  
 7 might be mentioned.  
 8 If you allow 55 feet -- 45th Street is a 66-foot, maybe a  
 9 70-foot width. If you allow 55 feet on both sides, the  
 10 north sidewalk, as well as the south sidewalk, will never  
 11 see sunlight for a quarter of the year. To me that's  
 12 important.  
 13 The north-south Stone Way obviously has all these views,  
 14 like Wallingford Avenue, of Lake Union and the city. So  
 15 that also is a factor in terms of how people perceive what's  
 16 going on. Seems like that would be worth disclosing as  
 17 well, but I didn't find that either.  
 18 **Q. Okay. And --**  
 19 A. So in other words, it sort of says, "Something's going to  
 20 happen here," but it doesn't say why or what the outcome of  
 21 it.  
 22 **Q. Right.**  
 23 MS. NEWMAN: This is almost my last --  
 24 HEARING EXAMINER: Okay, how much time would you  
 25 anticipate on cross?

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1 MR. KISIELIUS: Probably fifteen minutes, fifteen to  
 2 twenty.  
 3 HEARING EXAMINER: Okay.  
 4 MS. NEWMAN: Okay.  
 5 **Q. (By Ms. Newman) So you – let's see. Overall, big**  
 6 **picture – I think we're going to wrap this up. But all of**  
 7 **these areas on Exhibit 247, this big map –**  
 8 A. Uh-huh.  
 9 **Q. – I just have a couple quick questions. Would the**  
 10 **residential areas that are all Single Family – and I think**  
 11 **you've already testified to this quite a bit, but I just**  
 12 **want to wrap kind of a big picture here. Have – they're**  
 13 **going from Single Family to either LR1, LR2 or LR3. Would**  
 14 **that create changes in scale?**  
 15 A. Yes.  
 16 **Q. Okay. And are they significant changes in scale?**  
 17 A. I think from the images that I showed you, those photographs  
 18 that were stitched together, it's a stark --  
 19 **Q. Significant?**  
 20 A. -- (inaudible) scale. Absolutely.  
 21 **Q. Okay. And you talked about views and you showed some images**  
 22 **of views from Wallingford and then you mentioned views**  
 23 **driving down Stone Way.**  
 24 A. Uh-huh.  
 25 **Q. Are there also views of the city and other amenities from**

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1 **the houses in these neighborhoods?**  
 2 A. Yeah, there are views to the Cascades from some places.  
 3 **Q. And are -- do the houses generally have views?**  
 4 A. Territorial?  
 5 **Q. Territorial views, that's the word I'm looking for, yeah.**  
 6 **The houses? Yes?**  
 7 A. Yes.  
 8 **Q. Okay. Is there anything else that you think we wanted to**  
 9 **cover that I haven't covered?**  
 10 A. Well, on 3.3.2 Impacts...  
 11 **Q. Uh-huh.**  
 12 A. There's this language --  
 13 HEARING EXAMINER: What page are you on?  
 14 **Q. (By Ms. Newman) What page is that?**  
 15 A. 3 -- 3.168.  
 16 **Q. Okay.**  
 17 A. So it says -- has the MHFA -- reading mid-paragraph, Broadly  
 18 Defined Citywide Program, "The EIS does not" --  
 19 **Q. Just give us a general -- are you in the middle of the page?**  
 20 A. Middle of 3.3.2 Impacts.  
 21 **Q. Oh, oh, page 169.**  
 22 A. One, two, three, fourth paragraph down. "The EIS does not  
 23 provide a detailed or site specific analysis of aesthetic  
 24 impacts at any specific location. The exact form of given  
 25 development cannot be accurately predicted. As such, such

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1 analysis would be speculative."  
 2 I find that fascinating. They're making very specific  
 3 recommendations about making buildings bigger. And yet  
 4 they're essentially saying, "But we have no idea what that  
 5 might look like. We're making all these recommendations,  
 6 but we don't know what it's going to look like."  
 7 Or do they just not want to disclose what it looks like?  
 8 Which I think is the real issue. And as Bill pointed out,  
 9 it's like too early, too early, too late, right? You're not  
 10 going to tell us now, and when the projects actually come  
 11 around, they'll say, "Oh, we did an EIS, not a problem."  
 12 **Q. Uh-huh.**  
 13 A. I think now is the time they need to disclose. And the  
 14 notion that you can't predict is ridiculous. Of course you  
 15 can predict. You know exactly -- you're saying you're going  
 16 to make it 10 feet taller. That's pretty easy.  
 17 We know from the changes made to the code in 2010 by  
 18 Councilmember Clark. She then came back in 2014 with a  
 19 group -- a list of ten changes. Now, she didn't accept any  
 20 neighborhood comments. She went totally with what the  
 21 developers told her because they said it was going to be  
 22 cost effective and they were -- you know, rents were going  
 23 to go down, blah, blah, blah.  
 24 So once again, they said, "We don't know what it's going  
 25 to be like. We can't predict." But once it happened, she

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1 was the first one to stand up and say, "Oh, I kind of got  
 2 taken here," you know, "I didn't know this was going to  
 3 happen. Here are ten things we need to do to cutdown on  
 4 this."  
 5 Well, now would be a good time to tell everybody what the  
 6 impacts are going to be, and the notion that they can't  
 7 predict is silly. I mean, it's very predictable. What  
 8 they're proposing is very clear. They should predict what's  
 9 happening and let us know, give us examples.  
 10 **Q. Okay, that's great. No more.**  
 11 HEARING EXAMINER: Take a short five-minute break and come  
 12 back so we can finish up the witness before lunch.  
 13 MS. NEWMAN: Okay.  
 14 THE WITNESS: Thank you.  
 15 (Break taken)  
 16 HEARING EXAMINER: We return with cross for Mr. Hill.  
 17  
 18 C R O S S - E X A M I N A T I O N  
 19 BY MR. KISIELIUS:  
 20 **Q. Good afternoon, Mr. Hill. I'm Tadas Kisielius on behalf of**  
 21 **the City, and I have just a couple questions for you.**  
 22 **I'd like to start with where you started. And I think you**  
 23 **were describing your perception of the land use impacts, and**  
 24 **you're making the distinction both inside and outside of the**  
 25 **urban village. And you're describing -- the label you used**

1 was the double upzone, and I think you were also  
2 describing -- the distinction I think you were making is  
3 where you're changing the map as opposed to where you're  
4 just changing the text.

5 And I thought I heard you say in response to Ms. Newman's  
6 question about if you found any of that in the EIS, I  
7 thought I heard you say, "None of that is in here that I  
8 have found." So I guess I wanted to just make sure that I  
9 understood that correctly. Was it your testimony the EIS  
10 doesn't touch those subjects at all anywhere in the  
11 document?

12 A. I think her question to me was, "Have you found anything  
13 that describes how these two sections of Wallingford inside  
14 and outside will be impacted?"

15 Q. Okay. So that was -- your statement was specific to that  
16 distinction?

17 A. Uh-huh.

18 Q. Okay.

19 A. And the notion of double upzone came from a young woman who  
20 went to a hearing I was -- or to a public meeting. And  
21 stood up and said, "That's like a double upzone," so not my  
22 words, just --

23 Q. I appreciate it. And the distinction again you're making  
24 there with the double upzone is one in which you're changing  
25 the map and what you're changing it to also has different

1 Q. (By Mr. Kisielius) Now, I want to focus first on  
2 Established Single Family Housing Areas. Because I heard  
3 you testify about the last sentence, about front yards with  
4 setbacks 10 to 15 feet, and you made the distinction that  
5 that didn't reflect your neighborhood.

6 A. Wallingford is more like 20, 25 feet.

7 Q. Okay. And then I think I heard you say that the entirety of  
8 that paragraph doesn't describe Wallingford. I think you  
9 said, "Not at all." Is that your testimony, the rest of  
10 this paragraph doesn't describe Wallingford is not accurate  
11 for -- even limited to this --

12 A. Well, that's true too.

13 Q. I'm sorry --

14 A. For example --

15 Q. If we could just pause for one second, I need to be able to  
16 finish the question before you can start answering just for  
17 purposes of the record.

18 So the distinction I'm trying to ask you to make is is it  
19 just that it's the setback piece that is not accurate for  
20 your neighborhood or is it the entirety of the paragraph  
21 that does not reflect Wallingford at all?

22 And maybe -- maybe what I'll have you do is to  
23 walk-through -- so the first sentence says, "Established  
24 Single Family areas are common in portions of the study area  
25 currently zoned Single Family Residential in urban

1 standards?

2 A. The development standards are changing, yes.

3 Q. Okay. So just to be clear, I understand the distinction in  
4 your testimony is more narrowed. Do you agree that the EIS  
5 discusses that aspect of the proposal?

6 A. I don't think -- I didn't find where it was making a clear  
7 distinction in terms of the impacts one versus the other.

8 Q. Okay, thank you. I'd like to draw your attention to figure  
9 3.3-2. And I'll give you a page number in just a second,  
10 because I have to find it myself, I apologize.

11 MS. NEWMAN: So is it Exhibit 3.3 --

12 MR. KISIELIUS: No, it's -- I'm sorry. It's Exhibit 2, so  
13 it's the EIS.

14 THE WITNESS: Establish --

15 MR. KISIELIUS: And it's --

16 THE WITNESS: -- Single Family -- it's 3.163.

17 MS. NEWMAN: I mean --

18 MR. KISIELIUS: Yes, thank you.

19 MS. NEWMAN: I was just reading the --

20 MR. KISIELIUS: I'm sorry, yes.

21 MS. NEWMAN: Do you see where I was --

22 MR. KISIELIUS: I see where you're going. I was --

23 MS. NEWMAN: Okay.

24 MR. KISIELIUS: So yes, we're all there. I'm finally  
25 there now, 3.163.

1 villages." So does Wallingford have established Single  
2 Family areas where --

3 A. It does.

4 Q. -- that zoning is in place?

5 A. Yes.

6 Q. "Most Single Family areas in Seattle have an established  
7 pattern of single-family homes"; is that accurate for  
8 Wallingford?

9 A. Yes.

10 Q. "And the ages of existing housing stock often span several  
11 decades"; is that consistent with Wallingford?

12 A. It's probably the low side, particularly in the next  
13 sentence. It's more like a 150.

14 Q. Okay. I'm sorry, I didn't understand the distinction you're  
15 making there.

16 A. They're 100 years old.

17 Q. Oh, I see, okay.

18 MS. NEWMAN: A typical --

19 Q. (By Mr. Kisielius) So you're saying the "several decades"  
20 is not representative enough?

21 A. I think it suggests, you know, it's like twenty or thirty  
22 years.

23 Q. Okay. "A typical block often has as many homes" -- "has  
24 many homes with an age of fifty years or older"; is that  
25 accurate?

1 A. It's older. Although, the way it's phrased makes it --  
 2 doesn't really capture what I think of as the neighborhood.  
 3 **Q. Well, I guess what I'm going at -- getting at here is your**  
 4 **testimony was that, "This does not reflect Wallingford at**  
 5 **all," were your words. And so what I'm hearing is it's a**  
 6 **little bit more nuanced, and I'm trying to explore that a**  
 7 **little bit more.**  
 8 **So when you said, "It doesn't reflect it at all," I'm now**  
 9 **hearing you say, "Well, it could have been changed to be a**  
 10 **little more reflective but" --**  
 11 MS. NEWMAN: Objection.  
 12 MR. KISIELIUS: -- "generally speaking" --  
 13 MS. NEWMAN: I'm not sure you're characterizing his  
 14 witness -- his testimony from my direct accurately, so if  
 15 you could --  
 16 **Q. (By Mr. Kisielius) Did -- did you say that this paragraph**  
 17 **does not reflect Wallingford at all?**  
 18 A. I think I'll go with that still, yeah.  
 19 **Q. Okay.**  
 20 A. If I was writing the paragraph to reflect Wallingford, the  
 21 first sentence is fine and the second sentence is fine. But  
 22 after that, it's not really reflective of Wallingford.  
 23 **Q. Are the -- and so the distinctions here you're making in the**  
 24 **sentences we've just discussed, are those incorrect or could**  
 25 **they have been dialed in more precisely?**

1 **Q. So can you give me an example?**  
 2 A. It was a later -- later image.  
 3 **Q. Okay, I just --**  
 4 A. Let's look at the first image since we're here.  
 5 **Q. Sure.**  
 6 A. On 3.178.  
 7 **Q. Okay.**  
 8 A. So the two things that are distinct here is on the  
 9 right-hand side, just above the dog, is a building that's  
 10 projecting out past all the others, and you wouldn't see  
 11 that in existing Single Family.  
 12 **Q. Are you referring to the one that's in gold?**  
 13 A. I have a black and white version so --  
 14 **Q. So you don't even -- you don't see the colors in your --**  
 15 A. No.  
 16 MS. NEWMAN: What page are we on?  
 17 MR. KISIELIUS: 3.179.  
 18 THE WITNESS: 178.  
 19 MR. KISIELIUS: On 178.  
 20 THE WITNESS: Yeah.  
 21 **Q. (By Mr. Kisielius) Okay. So on 178 are you referring to**  
 22 **the one that's blue or white?**  
 23 A. It's this one on the right immediately above where the dog  
 24 is, so this guy with the dog --  
 25 MS. NEWMAN: If you want to use the Exhibit 2, that might

1 A. The one about the age could have been dialed in more  
 2 precisely. It's not correct. And the one about the  
 3 setbacks is clearly incorrect.  
 4 **Q. So it's not correct when you said, "Most of them are a 100**  
 5 **years old," that is to say 50 years or older. That's**  
 6 **incorrect in your mind?**  
 7 A. Yeah, because it's characterizing how old are the buildings,  
 8 and the buildings are -- more than not are a 100 years old.  
 9 **Q. Okay. And just to clarify where we started with this, you**  
 10 **said the setbacks in Wallingford are further than 10 to**  
 11 **15 feet, is that --**  
 12 A. Yes.  
 13 **Q. Okay, thank you.**  
 14 A. And that's important, because when you're weighing these new  
 15 changes where they'll be 5 feet, that makes a huge  
 16 difference in the streetscape.  
 17 **Q. I had a question for you about the images in Exhibit 3.3,**  
 18 **and that starts on page 3.178.**  
 19 **You testified to several of these. I had a really precise**  
 20 **question. I just wanted to make sure I understood what you**  
 21 **were saying. You made a characterization about trees that**  
 22 **were missing from one image to the next, and I just wanted**  
 23 **to make sure I understood what you were referring to. So do**  
 24 **you recall that testimony?**  
 25 A. Yes.

1 be...  
 2 **Q. (By Mr. Kisielius) So was your testimony on the differences**  
 3 **between those pictures based on your black and white copy?**  
 4 A. No, I had -- I had the color one too. I just didn't bring  
 5 it.  
 6 **Q. Okay.**  
 7 A. Yeah, so I guess there is a blue building on the right-hand  
 8 side.  
 9 **Q. Is that the one you were just referring to as sticking out**  
 10 **further?**  
 11 A. Yes.  
 12 **Q. Okay.**  
 13 A. And then on the left-hand side, those --  
 14 **Q. Can I just interrupt you for a second? What is your**  
 15 **understanding of what's shown in blue there?**  
 16 A. Well, it says, "Single Family Zoning No Action," so I would  
 17 assume that's a single-family house or intended to be one.  
 18 **Q. Do you understand the distinction between the blue and the**  
 19 **white in that image?**  
 20 A. No.  
 21 **Q. Do you think it's important to understand that to testify**  
 22 **about what that's depicting?**  
 23 A. I think the average person that looks at this is just seeing  
 24 what's going on here and not necessarily reading everything  
 25 that's in here and then transporting it back into the image.

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1 **Q. Okay.**  
 2 A. I'm just looking at the image.  
 3 **Q. So -- okay, that's -- let's go back to the tree. I just**  
 4 **wanted to understand again what you were referring to as**  
 5 **what was missing. And I want to focus specifically on --**  
 6 A. So there's a tree on the left-hand side of the -- there's a  
 7 conifer behind the blue building on the left. And then if  
 8 you fast forward to page 181, see, that tree is in both of  
 9 the images there, and it looks to me like it would be within  
 10 the range of those lots that are being shown in orange now.  
 11 And so you wouldn't see trees based on -- based on what  
 12 we're seeing.  
 13 **Q. And just to -- I'm sorry I'm being -- I just want to make**  
 14 **sure I'm understanding the testimony. I'm -- going back to**  
 15 **3.178, there's sort of, what I'll call, an opaque tree at**  
 16 **the foreground.**  
 17 A. There's an opaque tree, but there's a -- what I would say  
 18 was a conifer that's green in front of the opaque tree.  
 19 Perhaps behind it. I guess behind it.  
 20 HEARING EXAMINER: You're talking about the actual -- the  
 21 tree -- not the outlines of trees but the actual trees that  
 22 you've drawn in behind the structures, is that correct, to  
 23 the left of the image?  
 24 THE WITNESS: Yes.  
 25 **Q. (By Mr. Kisielius) You're talking about to the left not the**

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1 **right? Or -- earlier I heard you say, "above the dog," so I**  
 2 **was focused on the right hand --**  
 3 A. No, that's different.  
 4 **Q. Okay.**  
 5 A. That building is just -- it's the building that's out.  
 6 **Q. Okay.**  
 7 A. On the left-hand side of the image, just to the left of the  
 8 orange building in the upper or lower image, there's a  
 9 conifer sticking up there.  
 10 **Q. And is that -- you're saying that's not shown in 3.181?**  
 11 A. Well, I guess what I'm saying is -- just to give you an  
 12 example, this is what we see in new projects. You wouldn't  
 13 see a big tree left behind.  
 14 **Q. I was focused on what you were comparing -- I just -- I was**  
 15 **trying to understand which picture you said was not depicted**  
 16 **in the later images, and I'm still not understanding that.**  
 17 A. So in images on 181.  
 18 **Q. Uh-huh.**  
 19 A. Which depict LR1.  
 20 **Q. Uh-huh.**  
 21 A. Two different versions.  
 22 **Q. Uh-huh.**  
 23 A. And then it says, "LR2," on the right, but let's look at the  
 24 left. So there's a conifer tree, green, sparse limbs  
 25 sticking up behind the yellow buildings.

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1 And I'm just saying based on where it is it most likely  
 2 would be in one of the developed lots. And if it was in one  
 3 of those developed lots, it wouldn't be there anymore, and  
 4 there wouldn't be any space for it to grow either.  
 5 **Q. So that's based on your assumption that the -- somebody**  
 6 **would clear the lot. I now understand, thank you. I**  
 7 **appreciate that clarification.**  
 8 **Let's look at your photographs, which is Exhibit 249, I**  
 9 **think.**  
 10 A. 162?  
 11 **Q. Yes, that would be the internal records, yeah. The**  
 12 **Examiner's marked it as 249 for the big record.**  
 13 A. Okay.  
 14 **Q. I want to start from the end, the last four photographs, and**  
 15 **then move forward. Well, first, you said in response to**  
 16 **Ms. Newman's testimony, "Not precise measurements." You**  
 17 **yourself called it "crude." Can you describe again how**  
 18 **you -- and I'm just focused on height. How you figured out**  
 19 **how tall to draw that building on page 14 to demonstrate**  
 20 **that it is 55 feet high plus living building of 10 feet?**  
 21 A. Yeah, so there -- first of all, there is a building. If you  
 22 go back to 13, you'll see there's an actual building there.  
 23 **Q. Okay.**  
 24 A. And I have the drawings for that building, so I know exactly  
 25 how tall that building is. And I know that the streetlight

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1 just to the right of that building is 30 feet. So that's  
 2 how we figured out how high that building was, and then it's  
 3 just a question of scaling up.  
 4 **Q. That's my question. So it's not that the building that**  
 5 **you've put in on page 14 is in the precise location of the**  
 6 **existing building, is it? Isn't that --**  
 7 A. It actually is, it is.  
 8 **Q. Well, I guess I'm still seeing the overhang.**  
 9 A. Well, that's because you've got a canopy.  
 10 **Q. Uh-huh.**  
 11 A. The canopy is on the burger place, and it sticks out. So  
 12 two things happening. There's a one-story burger joint on  
 13 the corner.  
 14 **Q. Okay.**  
 15 A. And then behind that is a Multifamily building, and we used  
 16 the Multifamily building for the height. And it's actually  
 17 on the backside, if you will, of our image. So we've  
 18 plunked this image on top of the burger place.  
 19 **Q. But you --**  
 20 A. But we've used the Multifamily building, which we know the  
 21 height of, to scale the height of the new building.  
 22 **Q. So how did you scale the front corner? Because they're in**  
 23 **different locations. One is closer to the canopy than the**  
 24 **other.**  
 25 A. Yeah, but -- so you establish a vanishing point. There are

1 a lot of lines on all these buildings. And if you take all  
 2 these lines on both sides, you arrive at a vanishing point.  
 3 **Q. Let me ask you, though, did --**  
 4 A. And then you take that off the existing building.  
 5 **Q. You had testified that you had not done this work.**  
 6 A. No, no. I -- I figured out how high to make it.  
 7 **Q. Okay.**  
 8 A. But the actual image here was done by Donn.  
 9 **Q. Okay. What assumptions did you make about -- now I'm**  
 10 **talking about the form, and this is on both pages 14 and 16.**  
 11 A. Uh-huh.  
 12 **Q. There are these blocks that you've put in. So what**  
 13 **assumptions did you make about the structures when making**  
 14 **those beyond just the height? What did you -- well, let me**  
 15 **start with, what did you assume for setbacks?**  
 16 A. We assumed 5 feet.  
 17 **Q. Okay, and --**  
 18 A. Minimum.  
 19 **Q. And can you describe again your understanding of what MHA**  
 20 **does to setbacks in Lowrise zones?**  
 21 A. I believe the setbacks are 5-foot minimum.  
 22 **Q. Compared to --**  
 23 A. On the front setback.  
 24 **Q. Compared to existing zoning. Did you -- I think you had**  
 25 **testified that there's a change that you're aware of?**

1 **MHA, that there wouldn't be an upper level setback?**  
 2 A. The powerline -- that powerline ends down there, so I don't  
 3 think it would necessarily apply.  
 4 **Q. And the design guidelines themselves would not apply?**  
 5 A. The design guidelines -- well, depending on the size of the  
 6 building. So the current design review has been collapsed  
 7 on itself. The goal is to only do half has many buildings,  
 8 so the building has to be a lot bigger.  
 9 It's no longer the number of units, so you can have a  
 10 gazillion little tiny units. It doesn't count. It's just  
 11 square footage that counts. That was the sop to the -- the  
 12 people that build really tiny units because they're kind of  
 13 getting hurt by some of these other things that are  
 14 happening here.  
 15 So everybody has to have a piece of the pie, right, for  
 16 your development site? So in our case here, we don't have  
 17 any authority. Design review guidelines up to the board to  
 18 determine what to do.  
 19 For example, in Stone Way, there's a project that's on  
 20 Stone Way, mixed -- it's a mixed-use project. It's a NC2  
 21 zone, 40 feet high, but the ground falls way. So the way  
 22 they do the zoning, it can be five stories on the backside  
 23 next to Single Family. The Single Family people were all  
 24 upset about that.  
 25 **Q. So -- so --**

1 A. The -- so the existing zoning today is 5 feet as well.  
 2 **Q. Okay.**  
 3 A. Okay. But the buildings that are down there today were  
 4 built under the old code, so they're actually further back.  
 5 **Q. Okay. So you assumed 5-foot setbacks. You said in**  
 6 **particular relation you pointed out on page 14 that the**  
 7 **building on the east side to the left of the page had an**  
 8 **upper level setback. And I thought I heard you say you**  
 9 **assumed that would not be the case for the one that you put**  
 10 **in.**  
 11 A. Yeah, so they had an upper level setback because of the  
 12 powerlines.  
 13 **Q. Okay.**  
 14 A. There's actually a cone, circle if you will, around the  
 15 powerlines, and they had to set it back. Also, the design  
 16 review board was pushing them because the Wallingford design  
 17 guidelines say, "Set the upper levels back." And that's  
 18 what happened on that "Egypt" project. They set those back.  
 19 **Q. Uh-huh.**  
 20 A. So there was both a technical reason to set it back,  
 21 powerline easement, as well as the design review guideline.  
 22 So the developer was, you know, magnanimous in saying, "Oh,  
 23 we'll set it back," because he knew he had to. We didn't  
 24 realize that at the time, but...  
 25 **Q. And is it your testimony that that would not occur under**

1 A. Let me finish.  
 2 **Q. No, no, no.**  
 3 A. Let me finish.  
 4 **Q. I'm sorry, you're deviating from the question. I'm really**  
 5 **focused on upper level setbacks, and I think you're**  
 6 **testifying about a different thing to which you already**  
 7 **testified about --**  
 8 A. No, I'm going to tell you exactly how it works because you  
 9 asked about design review. In that project, on design  
 10 review we sat down with the developer before the design  
 11 review meeting, and he agreed to pull his -- his parapet  
 12 back from the edge to decrease the bulk of the building.  
 13 During design review, the board said, "No, that's part of  
 14 the MHA. That's going to be something else in the future.  
 15 We don't have to worry about those single-family people, so  
 16 keep that parapet up there where we have it." So design  
 17 review doesn't necessarily get you anything. Even when you  
 18 have the developer agreeing with you, the design review  
 19 board can overrule that.  
 20 **Q. So let me ask you, outside of the design guidelines, is it**  
 21 **your testimony that there wouldn't be any requirement for**  
 22 **upper level setbacks?**  
 23 A. That's correct.  
 24 **Q. Okay.**  
 25 A. Well --

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1 **Q. Let me --**  
 2 A. It depends on whether it's the front or the rear of the  
 3 building. It's complicated.  
 4 **Q. Okay.**  
 5 A. There are some -- and I can't remember whether it's in the  
 6 Commercial or the Residential. There are some additional  
 7 side setbacks depending on how tall the building is.  
 8 **Q. Okay. Let's go to the page Ms. Newman asked to you read,**  
 9 **the Wallingford specific description of the land use**  
 10 **impacts. I'll give you a page number in just a second here.**  
 11 **Okay, I believe she referred you to 3.123.**  
 12 A. Okay.  
 13 **Q. I recall you were testifying and you were expressing a**  
 14 **question as to why specific areas in Lowrise Multifamily,**  
 15 **those specific areas, were called out. Do you remember your**  
 16 **testimony? She -- you read the second sentence, and it**  
 17 **called out some specific areas.**  
 18 A. Yeah, the south frontage of 47th.  
 19 **Q. Uh-huh.**  
 20 A. East of this, west of that, so forth, yes.  
 21 **Q. And in answering your question, I noticed you were referring**  
 22 **to Exhibit 247, that map right there.**  
 23 A. Uh-huh.  
 24 **Q. Is it your understanding that this paragraph refers to that**  
 25 **map?**

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1 A. Well, the paragraph refers to Wallingford. It refers to  
 2 streets. It doesn't say anything about the map that I can  
 3 see.  
 4 **Q. Okay. So let's -- I'm going to ask --**  
 5 A. So but if I look at the map, for example, on 47th street,  
 6 which happens to be where I live, both the north and the  
 7 south sides are to be rezoned to LR2 40 foot high.  
 8 **Q. Okay.**  
 9 A. So why would you only call out the south side here. It's --  
 10 I'm clueless. I -- I don't understand what it's talking  
 11 about. So that goes to the point that it's -- once again,  
 12 it's not really necessarily Wallingford who dreamed this up.  
 13 Or were they really looking at Wallingford? I'm at a loss.  
 14 I don't know.  
 15 **Q. I'm going to ask you to pause for a second while I find**  
 16 **another reference for you here. Actually, while I'm going**  
 17 **to that, if you could page back to 3.119.**  
 18 **If I was to tell you the heading there, Impacts of**  
 19 **Alternative Two, and if I told you that the paragraph that**  
 20 **you were just referring to was reflective of Alternative Two**  
 21 **and then if I asked you to turn to page --**  
 22 A. This is a hypothetical question?  
 23 **Q. Well, I could ask you to read it. I'm trying to be**  
 24 **efficient here in time and get you out of here in a speedy**  
 25 **way.**

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1 A. Say --  
 2 **Q. Well, let me do it this way. Can you turn to --**  
 3 HEARING EXAMINER: We have time, counsel, so --  
 4 MR. KISIELIUS: Okay.  
 5 **Q. (By Mr. Kisielius) Could you please turn -- there's**  
 6 **exhibit -- part of Exhibit 2 is the appendices of the EIS.**  
 7 **It should be there as well, and I'm going to ask you to**  
 8 **refer to Exhibit H.**  
 9 A. In here?  
 10 **Q. Yes, it should be part of Exhibit 2.**  
 11 MS. NEWMAN: Wait.  
 12 HEARING EXAMINER: Are you talking about Appendix H?  
 13 MS. NEWMAN: You mean Appendix H?  
 14 MS. KISIELIUS: Yes.  
 15 MS. NEWMAN: You said Exhibit H.  
 16 MR. KISIELIUS: Excuse me.  
 17 MS. NEWMAN: Appendix, okay.  
 18 MR. KISIELIUS: Thank you.  
 19 HEARING EXAMINER: Uh-huh.  
 20 **Q. (By Mr. Kisielius) Yes, I meant the appendix to EIS. It's**  
 21 **Exhibit 2 up there in the binder, but it's Appendix H.**  
 22 HEARING EXAMINER: And are we keeping 3.119 and --  
 23 MR. KISIELIUS: Yes, thank you, and I was going to try  
 24 to --  
 25 HEARING EXAMINER: And 123?

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1 MR. KISIELIUS: Yes, thank you. I know that's hard. I  
 2 apologize.  
 3 HEARING EXAMINER: All right, I just don't want to close  
 4 it and lose it.  
 5 **Q. (By Mr. Kisielius) And let me know when you get to Appendix**  
 6 **H.**  
 7 A. I got it.  
 8 **Q. I'm going to ask you to page -- you see at the bottom**  
 9 **there's a page number. It starts with "H," and then it's**  
 10 **got the number behind it.**  
 11 A. Uh-huh.  
 12 **Q. Could you please go to H-78? If you can let me know when**  
 13 **you're there.**  
 14 A. Okay.  
 15 **Q. And can you read -- now, sort of midway of the page to the**  
 16 **left of it, there's a title. It says, "Exhibit H-77,**  
 17 **Proposed Zoning Alternative Two."**  
 18 A. Okay.  
 19 **Q. So knowing what you know about the neighborhoods that are**  
 20 **called out in the description that you read on page 3.123 of**  
 21 **the EIS, could you -- could you testify whether those**  
 22 **specific locations are shown on this in a different way than**  
 23 **the areas around them?**  
 24 MS. NEWMAN: Which map? Which number are we on now?  
 25 MR. KISIELIUS: I'm comparing -- so --

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1 MS. NEWMAN: H?

2 MR. KISIELIUS: -- this can get confusing. Page H-78.

3 It's Exhibit H-77. It's the Alternative Two.

4 MS. NEWMAN: Okay.

5 **Q. (By Mr. Kisielius) So I'm going to -- so you don't have to**

6 **page back and forth, I'm going to read to you the**

7 **description from 3.123.**

8 A. No, I can see... So what he's saying is, in this

9 Alternative Two map, the north side of the street is RSL and

10 the south side of the street is L1, maybe.

11 **Q. And so when that specific paragraph in 3.123 calls out that**

12 **specific location, does that reflect it in the map on H-77?**

13 A. I'll give you that on 47th.

14 **Q. Okay.**

15 A. Do you want me to go through each one of these?

16 **Q. How about the west frontage of Meridian?**

17 A. Well, you know, Meridian runs through a whole lot of things.

18 I guess what -- it includes things on both sides, so I'm --

19 I think on that one it's kind of hopeless to figure out.

20 **Q. Okay.**

21 A. It's true at one point on the east side of Meridian there's

22 a park. It's also true that on the east side of Meridian

23 there's Multifamily, there's Commercial, there's all sorts

24 of things.

25 **Q. I guess what I -- you testified your understanding of what**

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1 the notation means there, you know, the existing zoning

2 followed by the line, followed by the proposed zoning. And

3 so we're focused here, the paragraph was describing,

4 "Existing Single Family zoning in transition areas at the

5 edges of Neighborhood Commercial corridors which would be

6 changed to Lowrise Multifamily."

7 So we're focused on ones that are currently Single Family

8 that are being changed to Lowrise. And so in light of that

9 limiting piece, do you see the part of west frontage of

10 Meridian Avenue North that's called out in that map, and is

11 that reflected in the paragraph that you read earlier?

12 MS. NEWMAN: Can you describe what "called out" -- I just

13 want to -- I object that it's confusing what you mean by

14 "called out."

15 MR. KISIELIUS: I guess I'm not sure if there's an

16 objection on the grounds of confusion if the witness can

17 answer.

18 MS. NEWMAN: Are you -- do you understand what he means by

19 "called out"?

20 THE WITNESS: Well, there is a portion of Meridian that

21 has L1 on the west side.

22 **Q. (By Mr. Kisielius) And is that stretch there currently**

23 **Single Family based on the notation in the map?**

24 A. Yes.

25 **Q. Okay. Now, you said Meridian goes through other sections**

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1 where -- a lot of different sections. Are any of those

2 currently Single Family that are not reflected there?

3 A. I'm not sure about the 43rd and Meridian, but I don't think

4 it's --

5 **Q. Is 43rd and Meridian being zoned to LR in that map?**

6 A. No.

7 **Q. Okay.**

8 A. So okay, so you're basically saying this language with west

9 of Meridian and Single Family changed to Lowrise.

10 **Q. Well, I guess I don't want to be saying anything. You're**

11 **the witness. But I -- the question I'd like to ask you is,**

12 **does that paragraph that you read before that confused you**

13 **make more sense now if it relates to this map?**

14 A. Yes.

15 **Q. Okay.**

16 A. Uh-huh.

17 **Q. I just have sort of a bigger question for you. You finished**

18 **with a statement about -- I think the quote I wrote down**

19 **was -- let me step back. We were talking about -- or you**

20 **were talking about what may be built or may not be built.**

21 **And the quote I wrote down was, "Of course you can predict."**

22 **And so I -- I just have a question for you. Can you predict**

23 **at this point exactly where structures will be built?**

24 A. If somebody bought a parcel, I think you could predict

25 pretty carefully, pretty close to what would happen here.

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1 **Q. If somebody bought a parcel?**

2 A. If somebody bought a parcel, was going to redevelop it, if

3 the rules are clear.

4 **Q. Do you know when somebody's going to buy a parcel in the**

5 **next twenty years?**

6 A. No. In fact, that's one of the issues here. But I - so

7 what I'm saying is the notion that you can't predict, "We're

8 rezoning everything," "We have no idea what the hell's going

9 to happen," that's not a very good position to be in, is it?

10 **Q. Let me - let me pause -**

11 A. And it seems to me that, in fact, it is possible to predict

12 fairly accurately.

13 **Q. Is it your impression that the EIS says, "We have no idea**

14 **what's going to happen"?**

15 A. I think it's used as a crutch to avoid disclosing what

16 really is going to happen.

17 **Q. Do you know what housing types - what structures will be**

18 **built? Can you predict precisely what will occur assuming**

19 **you know where something will be built?**

20 A. So based on what we've seen in the neighborhood, it's, I

21 think, reasonably tight envelope depending upon what zone

22 you're in.

23 **Q. Okay.**

24 A. But today in L2 you can pretty much predict it's going to be

25 townhouses. In the future, if it becomes 40 feet, then it's

1 probably not going to be townhouses, or they'll be very  
 2 expensive townhouses, which is also possible.  
 3 **Q. That was specific to LR2?**  
 4 A. Yes.  
 5 **Q. Okay.**  
 6 A. Uh-huh.  
 7 **Q. Okay, thank you. I have no further questions.**  
 8 A. Okay.  
 9 MS. NEWMAN: I know everyone wants to eat lunch.  
 10 HEARING EXAMINER: We'll do - we can do redirect.  
 11 MS. NEWMAN: Okay.  
 12 HEARING EXAMINER: That's why we took the five-minute  
 13 break, so we -  
 14 MS. NEWMAN: Okay, okay.  
 15 HEARING EXAMINER: - can finish with the witness.  
 16 MS. NEWMAN: Okay, great thanks.  
 17 HEARING EXAMINER: And we'll do a late lunch.  
 18 MS. NEWMAN: And I'll do it -  
 19 HEARING EXAMINER: That's fine.  
 20 MS. NEWMAN: -- very quickly.  
 21 HEARING EXAMINER: Yep, that's okay.

REDIRECT EXAMINATION

BY MS. NEWMAN:

**Q. Mr. Hill, those pictures in Exhibit 249 showing the view**

1 **basically describing Single Family housing areas throughout**  
 2 **the whole city. That's not specifically an attempt to**  
 3 **describe Wallingford. Is that how you read that? It's not**  
 4 **focused on Wallingford specifically?**  
 5 A. Can you start the question from the beginning?  
 6 **Q. Okay, so do you read that paragraph -- well, let me --**  
 7 **actually, let me start over.**  
 8 **Let's say you're a councilmember and you are making**  
 9 **decisions on how to zone upzone within the Wallingford urban**  
 10 **village. You want to -- you want to make those choices, and**  
 11 **you have in front of you, you know, a choice of how to zone**  
 12 **all over this area. And the law requires that the SEPA**  
 13 **analysis, the EIS, provide you with information about the**  
 14 **existing buildings, existing character, existing aesthetic**  
 15 **and what the existing Single Family areas look like in**  
 16 **Wallingford.**  
 17 A. Uh-huh.  
 18 MR. KISIELIUS: Objection.  
 19 **Q. (By Mr. Kisielius) Does this --**  
 20 MR. KISIELIUS: Objection.  
 21 MS. NEWMAN: I'm --  
 22 MR. KISIELIUS: The question has imbedded in it a legal  
 23 argument and conclusion.  
 24 MS. NEWMAN: I don't see anything objectionable with that.  
 25 I'm just asking him to assume something.

1 **impacts, the general purpose of those, as you said before,**  
 2 **was that to be precise to actually demonstrate what the**  
 3 **exact view impacts will be? Did you do your own study, or**  
 4 **are you just trying to show a general concept of what the**  
 5 **EIS didn't do and the fact that there are views in**  
 6 **Wallingford that should have been analyzed by the EIS?**  
 7 A. So the EIS did not provide us with any visual cue on some of  
 8 these situations such as the --  
 9 **Q. View impacts.**  
 10 A. -- view of the lake.  
 11 **Q. Are there -- is there any analysis of Wallingford specific**  
 12 **view impacts in the EIS?**  
 13 A. The only part I saw in the EIS on views was the discussion  
 14 of the City has a policy of view impacts. It is very  
 15 limited.  
 16 **Q. Okay.**  
 17 A. It's from specific places to specific things, and none of  
 18 those specific places are in an area that would be  
 19 redeveloped in Wallingford so it's not applicable.  
 20 **Q. All right. And then looking at the Aesthetics Chapter where**  
 21 **we were looking at the established Single Family housing**  
 22 **areas on page 3.163, there's one paragraph there that**  
 23 **describes Single Family areas.**  
 24 A. Hang on --  
 25 **Q. And as I think we've established, this is a -- just a --**

1 HEARING EXAMINER: What's the legal argument --  
 2 MS. NEWMAN: I'm just --  
 3 HEARING EXAMINER: -- that's imbedded in?  
 4 MR. KISIELIUS: The level of specificity that SEPA  
 5 requires in the product that she's showing.  
 6 MS. NEWMAN: So I'm just saying let's say that the law  
 7 requires that as a councilmember if you're making decisions  
 8 about zoning the Wallingford urban village that you are  
 9 supposed to --  
 10 HEARING EXAMINER: Just a second. Sounds like you're  
 11 rephrasing the question. Is that what you're going to do  
 12 or --  
 13 MS. NEWMAN: I'm repeating it, because I wasn't sure if  
 14 you --  
 15 MR. KISIELIUS: I heard a stop in the sentence, and then I  
 16 heard you say, "the law requires," and so I think the  
 17 question is to assume --  
 18 MS. NEWMAN: I'm saying let's assume -- okay, assume that  
 19 the law requires --  
 20 MR. KISIELIUS: I'll withdraw if she rephrases.  
 21 MS. NEWMAN: Let's -- I'll just say, "assume the law  
 22 requires."  
 23 HEARING EXAMINER: Uh-huh.  
 24 MS. NEWMAN: Okay.  
 25 **Q. (By Ms. Newman) So assume that the law requires that the**

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1 **EIS contain information about the existing environment land**  
 2 **uses and aesthetics, let's just focus on aesthetics, for you**  
 3 **to make those decisions -- to be able to make those**  
 4 **decisions, all right, about upzoning Wallingford, does this**  
 5 **paragraph on page 3.163 provide the information as a**  
 6 **councilmember about -- that's -- that is fully informed to**  
 7 **understand what the existing aesthetic is in Wallingford**  
 8 **with a Single Family zone?**  
 9 A. I don't believe so.  
 10 **Q. Okay.**  
 11 A. I think you'd have to have more photographs taken more like  
 12 the elevations that I showed in this exhibit so that people  
 13 can get a sense of how relatively large things are and what  
 14 the spacing is and so forth.  
 15 **Q. And possibly maybe the relationship of the Single Family to**  
 16 **this area, you know, each -- the context of how Single**  
 17 **Family relates to --**  
 18 A. Each edge.  
 19 **Q. -- other parts of the neighborhood?**  
 20 A. Uh-huh.  
 21 **Q. And also maybe the age of the homes, 50 years or older, do**  
 22 **you think is that a different description than homes here**  
 23 **are --**  
 24 A. Well, fifty years is basically mid-century.  
 25 **Q. Yeah.**

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1 A. So that's a very different kind of building than --  
 2 **Q. The 100 --**  
 3 A. -- majority of homes in our neighborhood.  
 4 **Q. So which are about 100 years is what you said?**  
 5 A. Uh-huh.  
 6 **Q. Yes, okay. That's -- I have no further questions.**  
 7 HEARING EXAMINER: Thank you, Mr. Hill.  
 8 THE WITNESS: Thank you.  
 9 HEARING EXAMINER: We will break and come back at 2:15.  
 10 (Break taken)  
 11 HEARING EXAMINER: Continue with appellants' --  
 12 MS. NEWMAN: Thank you.  
 13 HEARING EXAMINER: -- next witness.  
 14 MS. NEWMAN: Our next witness is Denise Derr, and she's  
 15 here.  
 16 HEARING EXAMINER: Please state your name and spell it for  
 17 the record.  
 18 THE WITNESS: Denise Derr, D-E-N-I-S-E, D-E-R-R.  
 19 HEARING EXAMINER: Do you swear or affirm that the  
 20 testimony you will provide in today's hearing will be the  
 21 truth?  
 22 THE WITNESS: Yes.  
 23 HEARING EXAMINER: Thank you.  
 24 MS. NEWMAN: Sorry, I forgot. Actually, I do have an  
 25 administrative -- I think I forgot to request admission of

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1 the last two exhibits, which were neighborhood plans for  
 2 Wallingford.  
 3 HEARING EXAMINER: Right, 250 and 251.  
 4 MS. NEWMAN: Okay, thank you.  
 5 MR. KISIELIUS: No objection.  
 6 HEARING EXAMINER: 250 and 251 are admitted.  
 7  
 8 DENISE DERR: Witness herein, having first been.  
 9 duly sworn on oath, was examined  
 10 and testified as follows:  
 11  
 12 DIRECT EXAMINATION  
 13 BY MS. NEWMAN:  
 14 **Q. All right, sorry about that. Ms. Derr, could you please**  
 15 **tell us what your address is and what neighborhood you live**  
 16 **in?**  
 17 A. 2912 Fourth Avenue West, Seattle, Washington, 98119, Upper  
 18 Queen Anne.  
 19 **Q. And how long have you lived there?**  
 20 A. I've lived in Upper Queen Anne for twenty-five years and my  
 21 current home twenty-one.  
 22 **Q. Okay. And are you familiar with the MHA proposal that's the**  
 23 **subject of this hearing?**  
 24 A. Yes, I am.  
 25 **Q. Yes. And today we're going to talk about aesthetic impacts**

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1 **and land use impacts, and we're going to start with talking**  
 2 **about your specific area and where you live.**  
 3 **And what I want to do is use a map to get your bearings**  
 4 **here. And let's start with this first map is from**  
 5 **Exhibit 2, which is the EIS. I've created an overblown copy**  
 6 **of it, and it's Exhibit H-76. Do you have that in front of**  
 7 **you?**  
 8 A. I have 77 and 107.  
 9 **Q. You only -- you don't have 76?**  
 10 MR. KISIELIUS: She might be referring to the page number,  
 11 not the --  
 12 **Q. (By Ms. Newman) Oh, I'm sorry, page number H-77.**  
 13 A. Yes.  
 14 **Q. Okay, thank you. Is your property shown on this map?**  
 15 A. No, it is not.  
 16 **Q. Okay, so you don't live in the -- this map is showing the**  
 17 **Upper Queen Anne urban village. You don't live within it?**  
 18 A. That's correct.  
 19 **Q. And where generally are you in relationship to this map, if**  
 20 **even though it's off of the map?**  
 21 A. I would be north and somewhat to the west.  
 22 **Q. Okay. But you're still in the Queen Anne neighborhood?**  
 23 A. Absolutely.  
 24 **Q. All right. So looking at the other map, this is page H-107,**  
 25 **but it's called Exhibit H-106. Do you have that in front of**

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1 you?  
 2 A. Yes, I do.  
 3 MS. NEWMAN: And I'm just wondering if I could get that  
 4 marked (inaudible).  
 5 THE WITNESS: Wait a minute, I may -- yes, H-107.  
 6 **Q. (By Ms. Newman) Okay, so this is titled Proposed Zoning**  
 7 **Preferred Alternative Northwest Seattle, so this is a larger**  
 8 **view of northwest Seattle. Is your property shown on this**  
 9 **map?**  
 10 A. Yes, it is.  
 11 **Q. Where is it?**  
 12 A. Again, if you go north and slightly west, you'll see --  
 13 **Q. Well, let's start -- actually, let's start by finding --**  
 14 **this is a little bit tough because it's not obvious to**  
 15 **everyone which urban village is the Queen Anne urban**  
 16 **village. So where is the Queen Anne -- Upper Queen Anne**  
 17 **urban village?**  
 18 A. The Upper Queen Anne urban village is shown at the bottom of  
 19 the page. It's a very long and somewhat narrow orange space  
 20 outlined in black.  
 21 **Q. Okay.**  
 22 A. And then if you go north and slightly west, you'll see some  
 23 tan boxes, three different shades of tan, next to a green  
 24 square, greenish. And I think my property -- well, it  
 25 should be in one of those squares.

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1 **Q. Okay. But it's -- is this a little bit too small for you to**  
 2 **be able to identify exactly which parcel?**  
 3 A. Oh, it's absolutely way too small.  
 4 **Q. Okay.**  
 5 A. If I can show you what I have to do, I can show you. I have  
 6 a big map, if it's helpful.  
 7 **Q. Sure. This will, I think, be just for illustrative purposes**  
 8 **because I don't --**  
 9 A. Well, I'm just saying --  
 10 **Q. Yeah.**  
 11 A. -- in order to really understand what was happening, this is  
 12 how big --  
 13 **Q. Okay.**  
 14 A. -- I found to be helpful. So here is Upper Queen Anne urban  
 15 village.  
 16 **Q. Uh-huh.**  
 17 A. And here is my property, and I think it's shown as LR1(M).  
 18 **Q. Okay. And where -- what's that map, or where did you get**  
 19 **that?**  
 20 A. This was a citizen made product to refer to in one of our  
 21 meetings so we could understand it.  
 22 **Q. Oh, so someone blew it up for --**  
 23 A. Right.  
 24 **Q. Okay.**  
 25 A. Yeah, because we couldn't see anything in the --

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1 **Q. Okay.**  
 2 A. -- documents provided so...  
 3 **Q. So your property is zoned LR1?**  
 4 A. That's correct.  
 5 **Q. And do you know -- and is it correct that the proposal**  
 6 **with the MHA proposal will be -- the zone will be LR1 with a**  
 7 **M?**  
 8 A. That's what it says, yes.  
 9 **Q. Okay. Have you reviewed Chapter 3.3 of the EIS, which is**  
 10 **the Aesthetic Impact Chapter?**  
 11 A. Yes, I have.  
 12 **Q. Or aesthetic --**  
 13 A. Uh-huh.  
 14 **Q. Yeah. Let's look at that chapter with respect to your**  
 15 **property. And I want to look specifically at page 3. --**  
 16 **it's page 3.172, Exhibit 3.3-9.**  
 17 A. Uh-huh.  
 18 HEARING EXAMINER: What page?  
 19 MS. NEWMAN: 3.172.  
 20 THE WITNESS: Or three or two, okay.  
 21 **Q. (By Ms. Newman) Yeah. And so there's a table on this page**  
 22 **that shows us the Land Use Code Amendments for each zone**  
 23 **that are proposed, and I note at the top that it's titled**  
 24 **Land Use Code Amendments Alternatives Two and Three. Do you**  
 25 **see that?**

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1 A. Yes.  
 2 **Q. And so did you see -- have you seen this before, this table?**  
 3 A. Yes.  
 4 **Q. And have you seen the table that gives us the Land Use Code**  
 5 **Amendments for the Preferred Alternative?**  
 6 A. I can't -- I really didn't realize that distinction until  
 7 you just pointed it out --  
 8 **Q. Oh, okay.**  
 9 A. -- so...  
 10 **Q. Okay. So as far as you know, there might be something in**  
 11 **here, but you just --**  
 12 A. That's correct.  
 13 **Q. -- haven't looked, okay. The first part here -- you just**  
 14 **said your property is Lowrise 1, and so that first section**  
 15 **describes the information about how Lowrise 1 will be**  
 16 **changed under the MHA proposal; is that your understanding?**  
 17 A. That's correct.  
 18 **Q. Does that provide adequate information for you to know what**  
 19 **the impacts will be to your property?**  
 20 A. Not at all.  
 21 **Q. And why not?**  
 22 A. Well, first of all, it's really helpful to see impacts  
 23 visually. But if I were to sit and try to understand how  
 24 this is going to look in an aesthetic sense, I have nothing  
 25 to go on. You know, when it says, "Remove density limits,"

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1 I don't know what that would look like.

2 **Q. Okay. And does it provide you any idea of how it would look**

3 **in the context of your neighborhood? Like what your**

4 **neighborhood looks like now, what that would look like in**

5 **your neighborhood?**

6 A. Not at all. I mean, it -- I mean, when -- for instance,

7 removing density limits, we live in a house that's

8 1,486 square feet, and there's six of us. And if you divide

9 that, you know, I think you get something like 240 square

10 foot per person.

11 And I think -- as I have determined from trying to

12 understand the floor area ratio changes, I think actually

13 they'll be, you know, selling smaller, you know, units that

14 are actually going to be a little bit bigger but obviously

15 are going to cost more and change the demographic of the

16 home. But --

17 **Q. Okay.**

18 A. -- in terms of aesthetic impacts, it doesn't tell me

19 anything.

20 **Q. But you do -- but it does give you a little bit of**

21 **information here where, like, the third bullet says, "It**

22 **will increase the maximum FAR by 0.1 to 0.3 depending on**

23 **building type." So that's telling you that the changes will**

24 **increase the FAR. Do you know what that means generally?**

25 A. I have a general concept that I understand it's a way of

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1 sort of shaping the volume on a particular piece of

2 property. And so I would -- I would assume that if density

3 were going to be increased that there would be impacts to

4 side areas and yards and just the bulk of the entire

5 building would be impacted.

6 **Q. And would you be able to visualize what an increase of FAR**

7 **by 0.1 to 0.3 would look like?**

8 A. No.

9 **Q. Okay. And are there steep slopes in your neighborhood or**

10 **any -- what's the topography generally? Is it flat or --**

11 A. The topography of Upper Queen Anne where I live is

12 absolutely unique. It has an amazing character and quality

13 that developers love. We are adjacent to Rodgers Park and

14 Queen Anne Bowl, and we have really steep slopes. Slopes

15 that are so steep that they actually have to grade the

16 sidewalks so in the rain you won't slip and you can actually

17 gain traction.

18 **Q. And that's a typical situation?**

19 A. Very typical. Our kids didn't learn how to ride bikes until

20 they were really old because they couldn't do it out their

21 front door.

22 **Q. Okay. And is your -- actually, let's look at one more thing**

23 **in the EIS. It says 3.174. I'm sorry, page 3.174, if you**

24 **could just turn the page, there is a paragraph there -- the**

25 **second paragraph on that page speaks to Lowrise 1 zones.**

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1 A. Right.

2 **Q. Which is where you live?**

3 A. Right.

4 **Q. And it says, "The height limit would not change in existing**

5 **Lowrise 1," and then says, "The proposal would result in**

6 **only minor increases in the bulking scale of new buildings."**

7 **And then it says, "An increase of 0.1 to 0.2 in the FAR**

8 **limit could result in some additional floor area."**

9 **Did you see in the EIS any analysis that would support**

10 **this conclusion that it would be minor increases?**

11 A. No, I did not. I didn't see anything that would support

12 that.

13 **Q. Okay.**

14 A. And quite frankly, even a minor change can have a major

15 impact.

16 **Q. Okay, that was --**

17 A. I already live very close --

18 **Q. -- my next question.**

19 A. Yeah, I mean --

20 **Q. So if it's -- if it's -- does it depend on the context**

21 **of where --**

22 A. Absolutely.

23 **Q. Okay.**

24 A. It means everything. I mean --

25 **Q. So explain --**

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1 A. -- you can't -- and it can go the other --

2 **Q. Elaborate on that.**

3 A. I'm sorry?

4 **Q. If you could elaborate on what you mean.**

5 A. Well, just go the other way. I mean, with a small change,

6 you can make something larger that's welcoming. But if it's

7 not tailored to what's there, you know, you really can't

8 make that assessment.

9 **Q. Okay.**

10 A. And our neighborhood, obviously, because of the topography

11 has not only, you know, the trees and the tree groves and

12 environmentally critical areas but it's got territorial

13 views which are, you know, really valued and really prized.

14 **Q. Okay. So there are views in your neighborhood. That was --**

15 A. Yes.

16 **Q. -- going to be another question.**

17 A. Yes.

18 **Q. Okay. Is the look and feel and function and all these kind**

19 **of characteristics of your neighborhood represented anywhere**

20 **in the EIS?**

21 A. I don't -- I don't think so and just for that reason I've

22 given. You know, this doesn't show anything that looks like

23 my neighborhood. We are, you know, an eclectic mix of

24 housing, different economic groups, different ages. There's

25 a master use -- SPU is there so there's an institutional

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1 overlay. And so, you know, these -- like I said, these  
 2 small things make a big difference. And if they're not here  
 3 to really assess the changes, then --

4 **Q. Uh-huh.**

5 A. -- you know, I can't.

6 **Q. Okay. And can you tell me -- you just mentioned a park. I**  
 7 **can't remember the name of it, but it's --**

8 A. Rodgers Park, Queen Anne Bowl.

9 **Q. Is that adjacent to your house?**

10 A. Yes, it is. It's nearby. It's the next block over.

11 **Q. And do you know what that -- let's see. Can you just tell**  
 12 **me a little about that and how it's zoned and what the**  
 13 **proposal will do to that property?**

14 A. Oh, well, yes. Okay, so you're referring to the open space  
 15 behind my house?

16 **Q. Right.**

17 A. Okay. So --

18 **Q. And that's -- so let me just clarify. That's not the park**  
 19 **then, the open space adjacent to your house?**

20 A. Well, behind my house is open space, and across the street  
 21 from the open space is the Queen Anne Bowl.

22 **Q. Okay.**

23 A. And then adjacent to the Queen Anne Bowl is Rodgers Park.

24 **Q. Okay.**

25 A. So it creates a lovely canopy for the views. It has a very,

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1 you know, nice, great nature corridor there.

2 **Q. Okay. And so the open space that's right behind your house**  
 3 **is -- what's that zoned now?**

4 A. Well, it's owned by the Seattle Parks Department.

5 **Q. Okay.**

6 A. It is open space. They acquired it from Seattle Pacific  
 7 University years ago through a vacation of the street. And  
 8 looking on the MHA maps, it was noted as being L2 zoning.

9 **Q. Uh-huh.**

10 A. And then with an M next to it.

11 **Q. So it's being proposed to be zoned for L2 with an M?**

12 A. I don't know if it's a mistake or it's being proposed. I'm  
 13 assuming it could be a mistake.

14 **Q. And why is that?**

15 A. Because it's park property.

16 **Q. It shouldn't be --**

17 A. And it shouldn't be. It should be designated as a green  
 18 park property.

19 **Q. And did you look into this at all? Does the --**

20 A. I did because that was a great concern. And it was a great  
 21 concern to me because at a meeting years ago in Wallingford  
 22 when Mike -- Councilmember Mike O'Brien was asked about sort  
 23 of the limits of density -- I actually asked him, "Would the  
 24 City ever consider turning parkland into housing?" And he  
 25 said after pausing and apparently giving it much thought

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1 that, "Yes, they would." And so I was very alarmed. And so  
 2 I emailed the City, and I got a response back basically --

3 **Q. Who did -- who did you email specifically?**

4 A. Yes, Sue Goodwin.

5 **Q. Uh-huh.**

6 A. And I emailed her saying that I think there's been an error  
 7 on --

8 **Q. And who is she?**

9 A. She is the Strategic Advisor, Public Discourse Officer, at  
 10 Seattle Parks and Recreation.

11 And when I inquired, she then wrote me back saying, "You  
 12 are correct, Denise. Our staff did some more digging and  
 13 contacted MHA and asked the following, 'We received an  
 14 inquiry from the public that Seattle Parks owned property  
 15 were included in the rezone maps, specifically the SPR owned  
 16 parking lot across the street from the Queen Anne Bowl and  
 17 directly south of West Fulton Street. SPR has jurisdiction  
 18 over that parking lot for park open space and recreation  
 19 purposes. We got it in a trade. See the attached air photo  
 20 and the first four pages of the attached deed, PDF. Can you  
 21 please exclude that parcel, as well as the half block,"  
 22 which is behind my house, "owned by SPR directly north of  
 23 West Fulton Street just as you excluded the Queen Anne Bowl  
 24 play field and David Rodgers Park. We have no intention of  
 25 surplussing these properties, and there's clearly some

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1 confusion that has resulted from proposing L2 MHA zoning  
 2 changes there."

3 **Q. Was there anything in the EIS that identified that parcel or**  
 4 **that entire area as green space?**

5 A. No, no.

6 **Q. And what does that tell you as far as what the zoning**  
 7 **choices -- how they made choices of zoning parcels?**

8 A. The error, if it is an error, makes it as -- appear as if  
 9 the study is random and it's unstudied.

10 **Q. What do you mean, "The study is random"? You mean --**

11 A. I mean the designation of the zoning and much of the MHA is  
 12 just rather patchworked together without actually knowing  
 13 what's there because it -- such a glaring oversight.

14 But there's other parts of the MHA that also make me --  
 15 make it seem as if it's unstudied. Specifically when it  
 16 says at 2.3 that, "The City is using the SEPA process to  
 17 test." The intent to test could be achieved.

18 And then also there was another document that said -- it's  
 19 the Joint Assessment of Fair Housing on page 368 where it  
 20 says, "Structuring its proposal MHA program to scale  
 21 requirements based on market conditions."  
 22 So to me as a property owner, you know, it seems as if on  
 23 its face the study, you know, lacks, you know, anything  
 24 definite or very clear or very studied.

25 **Q. And so let me just unwrap what you're saying. So their --**

1 **decisions have been made where they're proposing certain**  
2 **zones -- certain areas be zoned, and so that's a proposal to**  
3 **change. And you're saying that -- or you're saying they**  
4 **haven't put together the information -- or input the**  
5 **adequate information to inform those decisions?**

6 A. Right, to me -- to me this would be an error to label a park  
7 a developable lot.

8 **Q. Okay.**

9 A. And there are other things that I have read throughout this  
10 process that make me feel as if there isn't that kind of  
11 definition and thoroughness, and those were just my two  
12 other examples.

13 **Q. Okay, great. If that lot was the -- the open space next to**  
14 **your house was developed as LR2(M), would that have**  
15 **significant adverse impacts to your property?**

16 A. That would -- that would be an understatement. So of course  
17 the aesthetic impacts would be devastating. We have about a  
18 2-inch view of the top of the Cascades which means  
19 everything in the world to me.

20 And when a couple years back Aegis bought the property and  
21 built a senior facility there, I felt like the luckiest  
22 person alive because they built it just below that little  
23 snowcap, and it was wonderful.

24 But should that happen, it is an undeveloped alley, they  
25 could literally put, I don't know, a 55-foot tall tower in

1 A. Right. I mean, I don't in terms of -- for instance, I mean,  
2 I can't even hardly think this. Should it be developed,  
3 there is an undeveloped alley there that cannot ever be used  
4 as an alley. It goes -- it's like a mountaintop that goes  
5 to nature --

6 **Q. Uh-huh.**

7 A. -- and wetlands, and so I don't know where they would start  
8 the setbacks from that.

9 **Q. Okay.**

10 A. So, you know --

11 **Q. All right.**

12 A. Yeah.

13 **Q. So looking at -- I think this might be a rhetorical question**  
14 **but -- or maybe not. Let's look at pages 3.178 through**  
15 **3.189. There's a bunch of graphics that purport to show**  
16 **aesthetic impacts of the MHA proposal. Have you seen those?**

17 A. Yes.

18 **Q. Or looked at those?**

19 A. Yes.

20 **Q. Do any of those graphics show impacts that will be caused to**  
21 **your property to both the change of LR1 to LR1(M) and LR2 to**  
22 **LR2(M) on the adjacent lot?**

23 A. No, I don't -- I don't relate to these at all, no.

24 **Q. Okay. And I'm not going to go -- I don't think we need to**  
25 **go through each one, but you've reviewed them and don't**

1 the back of my yard. I would lose all privacy, all light.  
2 And so the aesthetic impacts are very real, and quite  
3 frankly, I would move. And I think our whole block would  
4 move.

5 But in addition to that, just general safety concerns.  
6 This is an environmentally critical area that has just about  
7 every aspect of an environmentally critical area, the steep  
8 slope, the chance of liquefaction, known slides, wetlands.  
9 It's -- it would actually put in peril the other properties  
10 should that be done.

11 **Q. Okay. Let's look at page -- back in the -- back in the EIS.**  
12 **Now I'm going to go to the Aesthetics Chapter, which is --**  
13 **and then I'm going to specifically page 3.172. This is now**  
14 **focused on the Lowrise 2 -- or I'd like to look at the**  
15 **Lowrise 2 description there in Exhibit 3.3-9 where it has**  
16 **some bullets telling us what the amendments will do from**  
17 **Lowrise 2 to Lowrise 2(M).**

18 A. Uh-huh.

19 **Q. Does that adequately show you what the impacts of allowing a**  
20 **Lowrise 2(M) development in the open space adjacent to your**  
21 **house would be?**

22 A. No.

23 **Q. Okay. And why not? I mean, you can refer to -- I think**  
24 **your testimony may have already answered that question, if**  
25 **you think it has.**

1 **think that they --**

2 A. Right, nope.

3 **Q. So now I want to move away from your specific property and**  
4 **talk a little bit about Upper Queen Anne. You're familiar,**  
5 **I'm assuming, with the Upper -- the character and nature of**  
6 **the Upper Queen Anne urban village area?**

7 A. Yes.

8 **Q. Let's see. So can you give us just -- I'm not sure. Do you**  
9 **want to -- I have some photos here that you've taken, and**  
10 **what I want to do is have you describe the existing land use**  
11 **development patterns, character and scale of the Upper Queen**  
12 **Anne neighborhood. Would you like to do that using your**  
13 **PowerPoint?**

14 A. Yes.

15 **Q. Okay.**

16 A. I could just flip through.

17 MS. NEWMAN: If I could mark this as an exhibit. This is  
18 SCALE Exhibit 189, and I do have an extra copy if you --

19 HEARING EXAMINER: Marked as 254.

20 MS. NEWMAN: And, Mr. Examiner, I would like to offer for  
21 admission the two maps, if I could?

22 HEARING EXAMINER: All right. We have from Appendix H to  
23 Exhibit 2, Exhibit H-76 is Exhibit 252, and the larger map  
24 with proposed zoning categories is Exhibit 253 and  
25 Exhibit 254.

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1 MR. KISIELIUS: Just to clarify, you're asking for  
 2 admission of the maps --  
 3 HEARING EXAMINER: Just the maps?  
 4 MR. KISIELIUS: -- not yet the document?  
 5 MS. NEWMAN: Right.  
 6 HEARING EXAMINER: Okay.  
 7 MR. KISIELIUS: No objection to the --  
 8 MS. NEWMAN: Right.  
 9 MR. KISIELIUS: (Inaudible).  
 10 HEARING EXAMINER: All right, 252 and 253 are admitted.  
 11 (Inaudible colloquy)  
 12 **Q. (By Ms. Newman) Okay, so this is Exhibit 254. Do you**  
 13 **recognize this document?**  
 14 A. Yes, I do.  
 15 **Q. And can you -- did you prepare this --**  
 16 A. I did.  
 17 **Q. -- yourself?**  
 18 A. Uh-huh.  
 19 **Q. Would you like to walk through this? And you can also use**  
 20 **perhaps the map --**  
 21 A. Okay.  
 22 **Q. -- to help us guide us to tell us a little bit what this --**  
 23 **what you're trying to show with this.**  
 24 A. Okay. Well, this most -- well, I'll start with the first  
 25 set of photographs would be within the urban village, which

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1 would be that square at the bottom, very narrow.  
 2 What I've tried to do on the first page is to give an idea  
 3 about what our Upper Queen Anne urban village -- residential  
 4 urban village looks like. We have a lot of historic  
 5 buildings, we have mature landscaping and it's very  
 6 welcoming.  
 7 And the next page is showing charming, family-friendly,  
 8 pet-loving Upper Queen Anne residential urban village. And  
 9 you can see all the little details that make it special and  
 10 such. It has evolved over many years and provides a human  
 11 scale with a lot of interactivity with one another. One of  
 12 the images at the top shows a little boy on a trike.  
 13 That little space there was months and months and months  
 14 of a lot of volunteer hard work to get the developer to set  
 15 that back to create that kind of community space, because it  
 16 was very important for our Upper Queen Anne residential  
 17 urban village to have that residential feel.  
 18 **Q. When was that built?**  
 19 A. Boy, I would have to say --  
 20 **Q. Approximately. Pre-2010?**  
 21 A. Right, probably so.  
 22 **Q. Okay.**  
 23 A. Yeah. We have a lot of small businesses, local businesses,  
 24 nonprofits, independent bookstore. We have a sense of real  
 25 community. When people move to Upper Queen Anne, it's

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1 because it has a feel of an established neighborhood  
 2 community.  
 3 On the next page, I show density.  
 4 **Q. Which page -- or can you give us just a description of the**  
 5 **title?**  
 6 A. It says, "Density With Blue Sky, Sunshine and Community."  
 7 **Q. Okay.**  
 8 A. So this shows that we have grown. We're not stuck in the  
 9 past. We understand growth and density. And our  
 10 neighborhood has worked really hard to develop a  
 11 Neighborhood Plan that's adopted into the Comp Plan.  
 12 And so a lot of these buildings which are new fit in.  
 13 They fit in very well. They have generous setbacks. They  
 14 have a certain height limit. The use of material has a  
 15 relationship with the older buildings that are currently  
 16 there.  
 17 And then on the next page, titled Upper Queen Anne  
 18 Historic Boulevard Gardens and Trees, one of the crowning  
 19 jewels of our neighborhood is the Olmsted park-designed road  
 20 that is called -- you know, the top of the hill, it's the  
 21 crown of Queen Anne, and it's lined with heritage trees and  
 22 it sets the tone for the rest of the community.  
 23 People take great pride in their landscaping, their mature  
 24 landscaping. We have a series of stairs that are old and  
 25 historic and provide people with opportunities to be outside

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1 and active and to interact with nature, and the overall  
 2 effect is very desirable.  
 3 The other image shows some of our homes with the -- in  
 4 Upper Queen Anne, more the working class architecture, and  
 5 that would be my home on the left, but other smaller homes  
 6 in Single Family zones and also older apartment buildings.  
 7 **Q. And this -- is this typical of the Single Family zoning**  
 8 **outside the urban village?**  
 9 A. As a mix. I think people have the wrong impression about  
 10 Upper Queen Anne. You say, "Queen Anne," and people think  
 11 everybody has a Frasier view and they're a millionaire. The  
 12 fact is, we are a bunch of, basically, retired teachers and  
 13 unemployed architects, you know. We don't have a lot of  
 14 money, and we work really hard to have our little home.  
 15 So there are some really nice homes, and when people come  
 16 to visit me, I take them to the fancy part of Upper Queen  
 17 Anne and show them the view.  
 18 **Q. Uh-huh.**  
 19 A. But primarily, yes, a lot of the same small things so --  
 20 **Q. Okay.**  
 21 A. And then here we have some of the bigger houses, also Single  
 22 Family zoning but charming and vintage and people take pride  
 23 and there is real dollar value and real character producing  
 24 and spiritually uplifting feelings that you get from people  
 25 who have maintained that history and promote it.

1 **Q. Can I just ask you a quick question? So looking at 252, we**  
 2 **have this strip that is orange with Queen Anne Avenue. Are**  
 3 **the -- and if you look outside of the bold black line, you**  
 4 **see a lot of gray right outside of that.**  
 5 A. Uh-huh.  
 6 **Q. Is that -- I guess two different questions. One, is the**  
 7 **current built environment on the -- you know, outside of**  
 8 **that in the gray area look like generally these houses that**  
 9 **you've shown typically?**  
 10 A. You know, I would say there are a lot of those, but --  
 11 **Q. Uh-huh.**  
 12 A. -- this in no way was intending to give a complete, accurate  
 13 assessment of the --  
 14 **Q. Okay.**  
 15 A. -- built environment. We have lots of grandfathered in  
 16 multi-story in Single Family zoning. You know, it --  
 17 it's -- but predominantly there is a lot of Single Family  
 18 Residential, yes.  
 19 **Q. Okay.**  
 20 A. Predominantly.  
 21 **Q. Outside of the --**  
 22 A. Yes.  
 23 **Q. -- urban village?**  
 24 A. Yes.  
 25 **Q. Okay.**

1 required to build a bit of a retaining wall.  
 2 And this development here is for -- it was actually an  
 3 entire block that a developer bought and sold out to  
 4 individual developers so that it didn't have to go through  
 5 any design review or -- because if it was such a big  
 6 development, they would have had to. So anyway, by doing  
 7 them individually, they didn't have any design review. I  
 8 think they might have had streamline design. But anyway,  
 9 that was a concern of our neighborhood, and --  
 10 **Q. And --**  
 11 A. -- we tried to stop it.  
 12 **Q. -- you mentioned the Neighborhood Plan policies. Are you**  
 13 **familiar with the Neighborhood Plan?**  
 14 A. Well, I'm not -- I am not prepared to speak on them today,  
 15 or I would have taken notes. But I've read --  
 16 **Q. Okay.**  
 17 A. -- it several times, and I know the general idea.  
 18 **Q. And do you know that there -- whether there are Queen Anne**  
 19 **policies in the Conference of Plan policies that speak to**  
 20 **the Queen Anne neighborhood?**  
 21 A. I'm sorry, is your question does the Comp Plan have  
 22 reference to our --  
 23 **Q. Does the Comp Plan include policies, Neighborhood Plan**  
 24 **policies, that are specific to Queen Anne?**  
 25 A. I believe yes, it is --

1 A. I would say that is a fair -- yeah.  
 2 **Q. And we can't tell from looking at this map what the zoning**  
 3 **is, right?**  
 4 A. No.  
 5 **Q. Okay.**  
 6 A. Yeah.  
 7 **Q. And we also -- do you know from looking at the EIS is there**  
 8 **any description of what the uses are -- existing uses right**  
 9 **outside of that?**  
 10 A. No, no.  
 11 **Q. Okay. All right, sorry. Continue.**  
 12 A. So then the next page was the "Design Guidelines  
 13 Neighborhood Plans Ignored?" So here is some images of some  
 14 of the development that's happening today.  
 15 I am familiar somewhat, although I don't have it here,  
 16 with the Queen Anne plan and the guidelines. And I would  
 17 say that, generally speaking, these are departures from the  
 18 design guidelines that our community has put forth.  
 19 And we are very concerned about the City's expansion into  
 20 environmentally critical areas since that's one of the  
 21 defining -- you know, it's a big deal in our neighborhood.  
 22 There are a lot of them. And when they're allowing them to  
 23 build in them now, as you can see from this corner, this box  
 24 here, that was built right into an environmentally critical  
 25 area. There is an underground stream there. They were

1 **Q. Okay.**  
 2 A. -- in the Comp Plan.  
 3 **Q. And when you reviewed the EIS, did you see any mention of**  
 4 **the Queen Anne Neighborhood Plan in there?**  
 5 A. No, no plans.  
 6 **Q. Okay. No discussion of the policies that you've been**  
 7 **referring to?**  
 8 A. No, no.  
 9 **Q. Okay. All right, so --**  
 10 A. And then the last two, this is a million dollar tear down.  
 11 Here is a beautiful Craftsman home that I think many young  
 12 families would just love to live in, but it is going to be  
 13 torn down. And you can see what they're going to be  
 14 building in its place. I attended the --  
 15 **Q. And what -- you say, "You can see." Can you be more**  
 16 **specific?**  
 17 A. Oh, okay, on the left side of the page, I took a picture of  
 18 the drawing which basically fills the entire lot with four  
 19 rowhouses and then either a townhome or a single-family home  
 20 or two townhomes maybe even in the back.  
 21 The neighborhood had an opportunity to have a public  
 22 meeting on this. And it was really well attended, and so  
 23 many thoughtful comments and concerns were brought forth by  
 24 the neighborhood.  
 25 And the planner was very direct with me at the end of the

1 meeting when I talked to him, and he just said, you know,  
 2 "We're not going to respond to any of these," you know,  
 3 "This will be torn down, and this will be built. This is  
 4 what we do."  
 5 **Q. And what is -- do you know what zone that piece of property**  
 6 **currently?**  
 7 A. You know, I don't know, but I would bet it's L1.  
 8 **Q. Is it near your house?**  
 9 A. It's -- well, it's on -- it's not in my immediate  
 10 neighborhood so --  
 11 **Q. Okay.**  
 12 A. Yep.  
 13 **Q. And do you know if this -- well, anyway, never mind.**  
 14 A. Yeah.  
 15 **Q. That's --**  
 16 A. And then the last one is just again this -- well, I guess  
 17 it's not the last one, sorry. The concern about the  
 18 encroachment into the ECAs.  
 19 **Q. And ECA means?**  
 20 A. Environmentally critical area.  
 21 **Q. Okay.**  
 22 A. This image on the left shows a box. This is a -- I think  
 23 there are two townhomes. This property was bought and  
 24 divided horizontally. And they built rowhouses in front,  
 25 and they built this right behind into the environmentally

1 A. Oh, yes, Exhibit H-76. If you look at the top in the north  
 2 part, there's a hatched area. You can't read it very  
 3 clearly, the numbers, but what that means is that they want  
 4 to rezone this. They also want to rezone this area here.  
 5 **Q. What's this -- wait, so tell us what --**  
 6 A. In Galer.  
 7 **Q. What they want -- they're proposing to rezone the hatched**  
 8 **area from --**  
 9 A. Right.  
 10 **Q. From NC2P-40 to -- is it NC2P-75?**  
 11 A. Well, it looks like that.  
 12 **Q. Okay.**  
 13 A. Yeah, so in other words, you have this long rectangle, this  
 14 urban village, and they want to bookend us with much taller  
 15 buildings. Taller than -- well, we have I don't know how  
 16 many -- almost twice the size.  
 17 **Q. Twice the size of what?**  
 18 A. Of some of the existing buildings.  
 19 **Q. Of most of them or --**  
 20 A. Well, I mean, if you know that the -- some of them, like I  
 21 showed you in Storyville is basically -- I mean, I'm not an  
 22 expert, but I would guess that is, I don't know how many, 30  
 23 feet tall or --  
 24 **Q. Okay. You don't --**  
 25 A. -- not even. So they want to go to 75 on that corner. So

1 critical area. I tried to appeal it. We tried to get the  
 2 neighborhood. It was too costly. It's a shame that it  
 3 comes down to that.  
 4 The middle picture shows almost immediately behind my  
 5 house. The new neighbors bought it and wanted to do a  
 6 little patio, and the City actually had to stop it because  
 7 it is eroding and it's a dangerous slope and so they've had  
 8 to stop work on that.  
 9 **Q. Okay.**  
 10 A. And then I guess my last picture shows the emphasis and the  
 11 priority that our community places on a diversity of  
 12 buildings that tell a story, that have history, that have  
 13 evolved, that bring people, you know, an awareness of  
 14 another time and another place. And they're really well  
 15 maintained and beautiful. There's old churches, there's  
 16 cool old apartment buildings and we really value that.  
 17 **Q. So how will -- what are the changes that are being proposed**  
 18 **with the MHA proposal in the Upper Queen Anne urban village,**  
 19 **and how will they impact that area?**  
 20 A. Well, according to this map on H-77, you'll see a little  
 21 hatched area.  
 22 **Q. And you're referring to the page number, not the --**  
 23 A. I'm sorry, yeah, the page number I guess this is.  
 24 **Q. Okay. It's -- just if you look up to the right, it says**  
 25 **Exhibit H-76.**

1 what that would do is it would set the tone for an entire  
 2 new feel of that row of buildings. Our urban village would  
 3 no longer be a residential urban village. It would be  
 4 really an extension of Lower Queen Anne or Uptown, and it  
 5 would destroy what we have worked for to create a balance of  
 6 urban residential.  
 7 And when Ed Murray decided to sever and denounce the  
 8 contributions of the Neighborhood Councils instead of trying  
 9 to work with them but dismissing their knowledge and their  
 10 skill and, you know, their institutional knowledge, he  
 11 reorganized us.  
 12 And I've been to over half a dozen of these HALA meetings.  
 13 And the one that I went to, which is the very first one,  
 14 "We're going to start something new that's going to be  
 15 inclusive." He divided us according to urban villages, and  
 16 they were very distinct categories as is indicated in some  
 17 of these things. There are still four distinct types of  
 18 urban villages.  
 19 Residential urban village was the lowest density. And  
 20 that is what we were categorized into being along with seven  
 21 other neighborhoods, residential urban village. By changing  
 22 the zoning, by adding this at 75 feet, it is a bait and  
 23 switch. It is -- it is that we are no longer what we said  
 24 you were going to be. "You're going to be something  
 25 different." So --

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1 **Q. Okay, and then I noticed also that along that entire**  
 2 **corridor it says NC2P-40 to NCP -- NC2P-55(M). Did you see**  
 3 **that too?**  
 4 A. Yes, but I -- yes, but I'm not as familiar with the  
 5 Neighborhood Commercial as I am with this. I mean, I --  
 6 yes, I mean, I see that.  
 7 **Q. So the height -- so what's going to happen there is the**  
 8 **height will go from 40 to 55 along that entire corridor?**  
 9 A. Right.  
 10 **Q. Is that going to also impact --**  
 11 A. Oh, absolutely.  
 12 **Q. -- the urban village?**  
 13 A. Well, and not only that. I mean, so we have a park, Big  
 14 Howe Park. And you know what you do on 4th of July? You go  
 15 there, and you can see the fireworks. On a clear day you  
 16 can see Mount Rainier. Again, maybe a floor difference and  
 17 all of the sudden you don't have that amenity anymore in  
 18 your neighborhood. It's gone. You're in a fish bowl.  
 19 **Q. And you said -- so are there views from the Upper Queen Anne**  
 20 **urban village generally?**  
 21 A. Yes.  
 22 **Q. Territorial views?**  
 23 A. Oh, yes.  
 24 **Q. Yes.**  
 25 A. Yes.

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1 **Q. Okay.**  
 2 A. I mean, well, it depends on what level. I mean, are you  
 3 saying at ground level?  
 4 **Q. Well, any -- from homes or from --**  
 5 A. Yes, yes.  
 6 **Q. -- the street?**  
 7 A. Yes.  
 8 **Q. Okay. And --**  
 9 A. Not the street so much.  
 10 **Q. Okay.**  
 11 A. Yeah. But homes, yes, and apartments (inaudible).  
 12 **Q. And does the EIS -- I don't -- I can't remember, I'm sorry.**  
 13 A. Yeah.  
 14 **Q. It's been a long day, but --**  
 15 A. Yeah.  
 16 **Q. Did the EIS describe the current environment in the Upper**  
 17 **Queen Anne urban village that you've -- as you've described**  
 18 **it for us?**  
 19 A. Well, no, but ironically one of the photos -- I don't have  
 20 the number.  
 21 **Q. Here, let's -- I'll open it up.**  
 22 A. It shows the -- let's see. What do they call it?  
 23 **Q. This will be page --**  
 24 A. Mixed-use something corridor?  
 25 **Q. Page 3.163?**

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1 A. 3.1 -- you know, it might be F. Could it be in F?  
 2 **Q. I think it's 3.163.**  
 3 A. Okay.  
 4 **Q. Oh, it's, I'm sorry, 3.164.**  
 5 A. Yes, you're right. Right there, that top building?  
 6 **Q. Uh-huh.**  
 7 A. I actually took a picture of it here. It's in here, but it  
 8 doesn't show the context at all. It is just a --  
 9 **Q. That is in Queen Anne you're saying?**  
 10 A. This is in Upper Queen Anne.  
 11 **Q. Okay.**  
 12 A. But what it shows you here, it is a building, like here's an  
 13 example of a building here. It doesn't show you what I  
 14 showed you here.  
 15 **Q. Right.**  
 16 A. What I showed you has meaning, has aesthetics, is relevant.  
 17 This is a picture of a building.  
 18 **Q. Okay. So I think that might be close to everything. I**  
 19 **don't know if you had -- and then about -- about aesthetics**  
 20 **did you have any other final points?**  
 21 A. Not -- not on aesthetics.  
 22 **Q. Okay. And do you have any other final points on any subject**  
 23 **matter?**  
 24 A. I do. And if I could just read it, it would be really fast?  
 25 **Q. Sure.**

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1 A. Okay. "In the earlier testimony on June 27th in this room,  
 2 the City indicated that the public has received lots of  
 3 outreach, that folks have had and will continue to have  
 4 opportunities to participate. But outreach and opportunity  
 5 do not equal informed public participation."  
 6 "The number of public relation events or the dramatic  
 7 number of citizens contacted are irrelevant if accurate  
 8 factual information is not provided. It's irrelevant if the  
 9 general public is denied the opportunity to share their  
 10 questions and concerns and listen to others in an open,  
 11 inviting forum."  
 12 "The City has misinformed the public, evaded relevant  
 13 questions and generally undertaken a media campaign designed  
 14 to divide and squash dissent. The MHA outreach has  
 15 continued the City's pattern of inadequate public  
 16 participation, and I will provide a few brief examples."  
 17 "Number one, our elderly neighbor Harold and his sister  
 18 lived in one modest duplex with lots of fruit trees,  
 19 abundant mature landscaping and gardens. Harold's Place we  
 20 used to call it. Even in his 80s, he'd spend his day  
 21 planting, painting his house or harvesting figs. Now  
 22 Harold's Place is Harold's Place.com. A touching tribute if  
 23 it weren't for the fact that now there is a development of  
 24 eleven housing units without space or even one significant  
 25 tree."

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1 "Citizens were not given complete information regarding  
 2 this development. The notice of application did not  
 3 indicate the additional development on the connecting  
 4 parcel. The public was given the opportunity to comment on  
 5 only seven of the eleven units."  
 6 MR. KISIELIUS: Mr. Examiner, I'm sorry, Mr. -- I'm going  
 7 to object. I think we're hearing testimony about the  
 8 adequacy of a public process associated with a specific  
 9 development project. I'm not sure that that's relevant to  
 10 the adequacy of the EIS.  
 11 **Q. (By Ms. Newman) Do you -- so you're talking about public**  
 12 **process for a specific development, and can you tie that**  
 13 **to --**  
 14 A. Well --  
 15 **Q. -- why that matters here today?**  
 16 A. I can tell you that on June 27th the City told Peter  
 17 Steinbrueck that in -- not only in MHA but he was referring  
 18 to all along the process, all along, like, you know, after  
 19 this is over when things happen --  
 20 HEARING EXAMINER: Okay, I rule on the objection, and I'm  
 21 going to allow the testimony. But I will remind appellants  
 22 that the time is running short.  
 23 MS. NEWMAN: Yeah.  
 24 THE WITNESS: Okay.  
 25 HEARING EXAMINER: And I will not extend appellants' time.

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1 THE WITNESS: Okay, I'll just end with this. "It was an  
 2 incomplete document. And what has resulted is a corner  
 3 property -- it is one corner parcel that is now worth almost  
 4 \$10 million, and there is not one ADA accessible unit or a  
 5 room for a significant tree. "  
 6 "I'd also like to remind you that on April 19th at the  
 7 HALA Night Out event I asked Ed Murray if they were removing  
 8 the owner occupancy requirement for the DADU legislation,  
 9 and he said it was off the table. That recording was  
 10 edited, and that statement was removed. It was a  
 11 misinformation of the public."  
 12 "And then finally, I would just like to say that this  
 13 Upper Queen Anne neighborhood will receive 75 percent of the  
 14 job growth and 65 percent of the expected housing growth for  
 15 the next twenty years within three miles of what I've just  
 16 been describing to you."  
 17 "And we have been to the neighborhood meeting that talked  
 18 about the MHA proposal, and it was stacked by organized  
 19 lobbies repeating the same script. Our representative left  
 20 halfway through the meetings. And my neighborhood doesn't  
 21 really know what's happening." Thank you.  
 22 **Q. Thanks.**  
 23 HEARING EXAMINER: Thank you, Ms. Derr. You have to do  
 24 cross.  
 25 Any questions?

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1 THE WITNESS: Oh, sorry.  
 2 MR. KISIELIUS: I have just -- just a couple.  
 3  
 4 C R O S S - E X A M I N A T I O N  
 5 BY MR. KISIELIUS:  
 6 **Q. Mr. Tad Kisielius on behalf of the City. I just wanted to**  
 7 **ask you a couple questions.**  
 8 **I'm hoping you can help me with the location of some of**  
 9 **the areas depicted in here, and I want to try to make this**  
 10 **as quick as possible.**  
 11 **I think given the captions you've got on some of the first**  
 12 **couple pages, I'm assuming the first four are all -- I'm**  
 13 **going to ask you to compare to the map that you have there.**  
 14 A. Uh-huh.  
 15 **Q. I'm presuming all of those are in the Queen Anne kind of**  
 16 **Commercial corridor that's shown in orange; is that a fair**  
 17 **assumption?**  
 18 A. The first two, that's correct. The third is a little -- you  
 19 know, a little tiny spot Commercial development that's not  
 20 in the urban village, a little to the east.  
 21 **Q. Okay.**  
 22 A. So it's not in the urban village, but it is a little  
 23 Neighborhood Commercial district, I would say.  
 24 **Q. Is that on McGraw; is that --**  
 25 A. This --

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1 **Q. Or is it --**  
 2 A. It's kind of a little bit of a mishmash, but some -- let's  
 3 see. It would be -- I think it would be on 7th.  
 4 **Q. Okay.**  
 5 A. Yeah, 7th and McGraw.  
 6 **Q. Okay. And then the next page is again in that sort of the**  
 7 **central Commercial corridor?**  
 8 A. Yeah.  
 9 **Q. So let's get to the next ones. Is -- these next -- the next**  
 10 **page with the landscaping, do you know -- and I don't**  
 11 **necessarily need to get specific addresses. I'm just trying**  
 12 **to understand. In this map, can you identify whether**  
 13 **they're in the gray areas or if they're in parcels that are**  
 14 **shown in the orange or some other color?**  
 15 A. Okay. Do you mean this -- this --  
 16 **Q. Yeah, I'm going to ask you for the residential ones,**  
 17 **generally.**  
 18 A. Okay.  
 19 **Q. If you can make -- if you can --**  
 20 A. Yeah, sure.  
 21 **Q. -- make kind of a generalized statement --**  
 22 A. Sure, sure.  
 23 **Q. -- that would be great.**  
 24 MS. NEWMAN: Can you be more specific about when you say,  
 25 "the residential ones," which pages and what the title is?

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1 MR. KISIELIUS: Sure.

2 **Q. (By Mr. Kisielius) So I guess we'll start with the Upper**

3 **Queen Anne Historic Boulevard Garden Trees page.**

4 A. Okay.

5 **Q. And maybe I'll try to make this as precise as possible. Can**

6 **you identify if any of these photos depict an area -- or**

7 **taken of an area that are shown in color on the map?**

8 **And the distinction, just to be very, very clear, that I'm**

9 **making is you have a couple areas that are shown in color**

10 **and then a lot that are just in gray. And so I'm just**

11 **trying to figure out, are any of these in the area shown in**

12 **color?**

13 A. Are any of these photos in this area here?

14 **Q. Correct. Are any of the areas that are shown in color that**

15 **are not in the precise boundaries of the urban village? Do**

16 **you see how there are some that have colors and some that**

17 **are gray?**

18 A. Right. Well, let me see. This photo in the top left, this

19 is the Parks Olmsted route, which would be like up here.

20 MS. NEWMAN: Where --

21 MR. KISIELIUS: Up --

22 MS. NEWMAN: Where's --

23 **Q. (By Mr. Kisielius) Up where 5th Avenue bends I think; is**

24 **that what you're referring to?**

25 A. Yes.

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1 **Q. Okay, all right.**

2 A. Right. This urban stairway is not far from my house which

3 is, you know, in orange up here.

4 **Q. Okay.**

5 A. Actually, this pine tree is right on the urban village --

6 **Q. Okay.**

7 A. -- on Crockett. This one next to it is, I think, 8th Avenue

8 in this area here.

9 **Q. When you say, "this avenue here," I can't quite see what**

10 **you're --**

11 A. Actually 6th.

12 **Q. So that's an --**

13 A. It's in this general area where this orange thing is.

14 **Q. Is it taken of -- in that orange area, do you know?**

15 A. I'd -- I'd have to study for a minute. It's in that general

16 vicinity. Let's see.

17 **Q. Well, let me ask. Maybe this -- I think this will help, and**

18 **I just --**

19 A. Yeah.

20 **Q. Are any of these depicting commercial property, or are they**

21 **all -- are they all residential?**

22 A. The pine tree is a commercial property.

23 **Q. Okay. The rest are residential?**

24 A. That is correct.

25 **Q. And are any of these then --**

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1 A. Well, actually no, this is not. This is a -- this is a

2 funeral home, commercial I guess.

3 **Q. That's up by where 5th Avenue bends around in the gray area?**

4 A. Yep.

5 **Q. Okay. Let's -- I'm sorry, I'm trying to make this fast. If**

6 **you could switch to the next page, the Upper Queen Anne**

7 **Working Class Architecture. Are any of these shown in areas**

8 **that are shown in color?**

9 A. Yes, that's my house which is --

10 **Q. Okay.**

11 A. -- in there.

12 **Q. Right, I remember you testifying about that.**

13 A. And that's my neighbor's house down there which is in the

14 colored area.

15 **Q. You're pointing to the second one from the left on the**

16 **bottom row there?**

17 A. Yep.

18 **Q. Okay.**

19 A. This one is. That one is.

20 **Q. Are all of these of your block?**

21 A. No.

22 **Q. Okay.**

23 A. This is over -- I mean, it's different areas. I can't -- I

24 mean, I don't have a complete map to be able to tell you if

25 there's orange areas over here, but generally speaking, I

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1 would say, you know --

2 **Q. What about the next page?**

3 A. Let's see. Those -- you know, I'd have to get out my big

4 map because I have not studied this -- I have not really

5 studied this whole parameter here which looks to be

6 involved, and some of these homes might very well be in

7 there.

8 **Q. Okay. So but at this point, we don't know which of these**

9 **are in a gray area versus a colored area on any of the maps?**

10 A. Some of them are. Some of them aren't. I'm not sure which

11 ones, correct.

12 **Q. Okay, all right. Can you tell whether or not -- well, when**

13 **you make -- is it your testimony that all of these will then**

14 **be affected by MHA, everything that's depicted here?**

15 A. I think indirectly everybody who lives in our neighborhood

16 needs to be aware of it because there is a --

17 **Q. I'm asking a very, very precise question.**

18 A. Yeah.

19 **Q. Will the specific properties depicted on here, the**

20 **residential ones that we just spent some time talking**

21 **about --**

22 A. Right.

23 **Q. -- is it your testimony that every single one of them will**

24 **be affected by MHA?**

25 MS. NEWMAN: I'm going to object on the grounds of what is

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1 "affected by." Because affected by could mean the actual  
 2 zoning will change versus impacted by the zoning changes on  
 3 other properties. There's two different -- and I just want  
 4 to make sure there's an understanding that we're on the same  
 5 page with that question.  
 6 MR. KISIELIUS: I can -- I'll rephrase.  
 7 MS. NEWMAN: Okay.  
 8 **Q. (By Mr. Kisielius) Is it your testimony that all the**  
 9 **residential properties that you've depicted here will be**  
 10 **rezoned by MHA?**  
 11 A. By "rezoned," do you mean affected by change in the code for  
 12 development standards?  
 13 **Q. I'm trying to -- I'm trying to be very precise. The zoning**  
 14 **that's applied currently to the properties shown here, is it**  
 15 **your testimony that that's going to change for every one of**  
 16 **these properties under MHA? Do you know?**  
 17 A. I have an opinion on it, and I'm not an expert. But I would  
 18 say that you can call it the same thing, but if you change  
 19 the development standards, you've got something different.  
 20 **Q. And I'm just trying to get clarity. So your testimony is --**  
 21 A. Yeah.  
 22 **Q. -- that the development standards on all of the properties**  
 23 **depicted here, the residential properties depicted here,**  
 24 **will change? That's your understanding from --**  
 25 MS. NEWMAN: And I don't think that's her testimony. I

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1 think that it's kind of obvious that this is not being  
 2 understood by --  
 3 MR. KISIELIUS: I'm trying to be as precise as possible.  
 4 HEARING EXAMINER: Well, let's give her a chance to --  
 5 MS. NEWMAN: Okay.  
 6 HEARING EXAMINER: -- answer.  
 7 THE WITNESS: I guess I understand your question that on  
 8 its face MHA is primarily focused in the urban villages and  
 9 the expansion areas. But MHA is also in coordination with  
 10 the, you know, backyard cottage legislation and the change  
 11 in code of development standards for all Single Family  
 12 zones.  
 13 So I think that it's hard for me to say. I understand I  
 14 could say yes, that the zoning won't change for some of  
 15 these houses based on a mandatory housing requirement. But  
 16 will this legislation perhaps impact every single one of  
 17 these? I think there is a possibility.  
 18 **Q. (By Mr. Kisielius) Okay. And that when you testified about**  
 19 **the -- your concerns about the impacts of MHA, that's the**  
 20 **perspective that you're bringing, that you're basing your --**  
 21 A. Not always.  
 22 **Q. Not always.**  
 23 A. I think I tried to be very specific around my house. I  
 24 understand that there's --  
 25 **Q. I'm sorry, I'm not -- I'm not -- I'm just trying to**

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1 **understand kind of your -- what your -- what your**  
 2 **understanding is of the proposal that we're talking about --**  
 3 A. Uh-huh.  
 4 **Q. -- today. And you've prepared this graphic. And all I**  
 5 **really wanted and I -- is to understand what is your**  
 6 **understanding of whether or not the properties that you**  
 7 **selected are impacted by MHA. And I first wanted to start**  
 8 **with which of the properties you have selected are actually**  
 9 **going to be rezoned under MHA. And I don't know that I got**  
 10 **an answer to that question.**  
 11 A. Well, I could tell you this, that I prepared this document  
 12 to support what we value in our community and what we're  
 13 trying to maintain in order to push back on zoning in the  
 14 urban village which will change its residential character.  
 15 **Q. And that's helpful. So it's not that this is intended to**  
 16 **show what will -- what is necessarily going to be rezoned by**  
 17 **MHA. You're talking about this is a representative, in your**  
 18 **mind, of community character?**  
 19 A. Absolutely, primarily.  
 20 **Q. So let's -- I think you had talked about some of these being**  
 21 **in your neighborhood. I wanted to flip back to that page.**  
 22 **I think it's the one that says Upper Queen Anne Working**  
 23 **Class Architecture?**  
 24 A. Yep.  
 25 **Q. You testified about your house to the far left and then the**

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1 **two in the bottom row also being in your neighborhood. Are**  
 2 **the two above also on your block?**  
 3 A. No, they are not.  
 4 **Q. So it's just those on this page that are?**  
 5 A. Well, actually the one -- only these two, so the one --  
 6 **Q. Okay.**  
 7 A. That's on that one, yeah.  
 8 **Q. On your block are -- is it predominantly currently**  
 9 **single-family houses?**  
 10 A. Yes. There are six houses on our block. They're currently  
 11 all multigenerational family homes on single-family lots.  
 12 **Q. And so I think you had testified about your concerns about**  
 13 **the impacts of the change, but I guess I wanted to make sure**  
 14 **I understood. What's the existing zoning on your block?**  
 15 A. It L -- it is L1.  
 16 **Q. Okay.**  
 17 A. We always thought that we could have three townhomes. Most  
 18 people know that. Now with the change in the floor area  
 19 ratio, it looks like we can squeeze in maybe eight or nine  
 20 on that lot.  
 21 And judging from the way they don't even respect the  
 22 existing codes for setbacks on the side, they can build  
 23 sidewalks now right on the property line. So as I say, even  
 24 with a small -- maybe not a huge change in the envelope,  
 25 huge change in the aesthetics.

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1 **Q. And here you're talking about not just -- in your opinion**  
 2 **not just based on the existing to what could be built under**  
 3 **MHA but what could be built now as compared to what might be**  
 4 **built under MHA?**  
 5 A. Both.  
 6 **Q. So the LR1 to the LR1(M) comparison?**  
 7 A. Yeah.  
 8 **Q. Okay.**  
 9 A. Yeah, I mean, I understand the distinction.  
 10 **Q. Okay. And the distinction there I think you mentioned**  
 11 **density. What were the other ones? Differences that aren't**  
 12 **currently allowed.**  
 13 A. Let's see. Density was the main one and having -- yeah.  
 14 **Q. Okay, thank you.**  
 15 A. That's pretty much it.  
 16 **Q. I think those are all the questions I have, thank you.**  
 17 A. Okay, thank you.  
 18  
 19 **REDIRECT EXAMINATION**  
 20 BY MS. NEWMAN:  
 21 **Q. Just a quick question.**  
 22 A. Okay.  
 23 **Q. So looking at Exhibit 252, which is the urban village map**  
 24 **showing Queen Anne, Upper Queen Anne, and you talked about**  
 25 **the impacts of development within that urban village, are**

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1 **the impacts going to stop -- are they only -- is it only**  
 2 **going to impact that area, or will the impacts of that**  
 3 **development have adverse impacts outside of those black**  
 4 **lines into this Single Family area?**  
 5 A. Absolutely. Single Family zones are right up against our  
 6 urban village there.  
 7 **Q. Okay.**  
 8 A. And the impacts will be huge.  
 9 **Q. And are the photos that you show of these homes, even if**  
 10 **they're not right up against, do they give you a general**  
 11 **feel for the typical homes that are immediately or near --**  
 12 **adjacent to or near the urban village?**  
 13 A. Absolutely. Yeah, I mean, there -- that's it. Yep, it's  
 14 very residential, it's very family oriented and it's very  
 15 valued for that, open space, a lot of dogs, a lot of kids.  
 16 **Q. Okay. So even though these houses might be a little farther**  
 17 **away -- and also do you think -- is this whole area that you**  
 18 **can see, all of this gray going all the way north, is that**  
 19 **one big cohesive neighborhood?**  
 20 A. I would --  
 21 **Q. That kind of plays -- has a character that is all in sync?**  
 22 A. Oh, absolutely.  
 23 **Q. And so development of this middle part could impact the**  
 24 **entire area you think?**  
 25 A. Oh, absolutely.

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1 **Q. Okay.**  
 2 A. It would dramatically change the tone.  
 3 **Q. That's -- I have no further questions.**  
 4 HEARING EXAMINER: Thank you, Ms. Derr.  
 5 MS. NEWMAN: Oh, did I offer the PowerPoint as a --  
 6 HEARING EXAMINER: No, we've not done 254 yet.  
 7 MS. NEWMAN: Okay. I could offer that.  
 8 MR. KISIELIUS: No objection.  
 9 HEARING EXAMINER: 254 is admitted.  
 10 We have the next witness for appellants. We'll take a  
 11 break, though, and come back at 3:40.  
 12 (Break taken)  
 13 HEARING EXAMINER: All right, we'll continue with  
 14 appellants' next witness.  
 15 MS. NEWMAN: Okay. Appellants call Mira Latoszek.  
 16 HEARING EXAMINER: Have you testified yet in the hearing,  
 17 or have you just --  
 18 THE WITNESS: I have not testified.  
 19 HEARING EXAMINER: Okay. Please state your name and spell  
 20 it for the record.  
 21 THE WITNESS: My name is Mira Latoszek, M-I-R-A,  
 22 L-A-T-O-S-Z-E-K.  
 23 HEARING EXAMINER: And do your swear or affirm that the  
 24 testimony you'll provide in today's hearing will be the  
 25 truth?

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1 THE WITNESS: I do swear that, yes.  
 2 HEARING EXAMINER: Thank you.  
 3  
 4 MIRA LATOSZEK: Witness herein, having first been.  
 5 duly sworn on oath, was examined  
 6 and testified as follows:  
 7  
 8 **DIRECT EXAMINATION**  
 9 BY MS. NEWMAN:  
 10 **Q. Good afternoon.**  
 11 A. Good afternoon.  
 12 **Q. I'm Claudia Newman for the Appellants SCALE. Could you**  
 13 **provide us your address and what neighborhood you live in?**  
 14 A. Yes. My address is 2218 14th Avenue South, and that's in  
 15 North Beacon Hill.  
 16 **Q. And how long have you lived there?**  
 17 A. I've lived there since 2005, and then I've also lived in  
 18 other locations in North Beacon Hill for twenty-five years.  
 19 **Q. Okay. And are you familiar with the MHA proposal that's the**  
 20 **subject of this hearing?**  
 21 A. Yes, yes, I am.  
 22 **Q. And in fact, you -- you're representing one of the**  
 23 **appellants in this appeal?**  
 24 A. Yes.  
 25 **Q. Which group is that?**

1 A. That's the Beacon Hill Council of Seattle.  
 2 **Q. All right. I want to talk a little bit about Beacon Hill**  
 3 **the neighborhood and the land use and aesthetic impacts**  
 4 **associated with that neighborhood.**  
 5 **I think you have in front of you a map. I don't have an**  
 6 **extra copy of it, but I gave you one of Exhibit H-55, which**  
 7 **is in Exhibit 2 of the Hearing Examiner's record, the EIS.**  
 8 **Do you have that in front of you?**  
 9 A. Yes, I do.  
 10 **Q. And do you recognize that document?**  
 11 A. Yes, I do.  
 12 **Q. What does that document show us?**  
 13 A. This is a map showing the proposed zoning changes for the  
 14 preferred alternative for the North Beacon Hill urban  
 15 village. So it's a map showing in a -- in black line  
 16 outline the extent of the current urban village, and then  
 17 with a dotted black line it shows the proposed expansion of  
 18 the urban village. And then within those areas, it shows by  
 19 color and by label the current zoning and the proposed  
 20 zoning change.  
 21 **Q. Okay.**  
 22 A. There's also a couple of areas that are outside of the  
 23 expanded area down at the bottom that are outside of the  
 24 expansion, but those also show proposed zoning changes.  
 25 **Q. Okay. And can you describe the -- and you can use this map**

1 **if you live down in the Single Family -- there's -- I see on**  
 2 **this map that there's quite a bit of Single Family zoning**  
 3 **within the expanded area where the dotted lines are but**  
 4 **outside of the current urban village.**  
 5 A. Yes, that's correct.  
 6 **Q. Are those downhill from -- down gradient from Beacon Avenue,**  
 7 **the south, right in the heart of where all of the orange is?**  
 8 A. Yes, most -- a lot of that is downhill, especially on the  
 9 east side of Beacon Avenue.  
 10 **Q. Okay.**  
 11 A. Much of that is fairly steep slope.  
 12 **Q. When you said that an elevator -- you need an elevator to**  
 13 **get to the light rail, are you talking -- are you saying**  
 14 **that it's underground so you start -- the elevator is on**  
 15 **Beacon Avenue South, and you go up and down to get to the**  
 16 **light rail station?**  
 17 A. That's correct.  
 18 **Q. So people from the single-family homes don't take an**  
 19 **elevator to get to the top of the hill. That's what I**  
 20 **wanted to --**  
 21 A. No.  
 22 **Q. Okay.**  
 23 A. No, they either have to walk, drive or bike. And it is --  
 24 it's a steep climb. On the east side it's -- it's even  
 25 steeper. In fact, there are some streets, you know, that

1 **or whatever is appropriate to describe the existing land use**  
 2 **development patterns, character and scale of the Beacon Hill**  
 3 **neighborhood.**  
 4 A. So Beacon Hill is a -- is a hill, obviously by the name. It  
 5 is kind of a ridge type of hill. It extends from  
 6 approximately where the International District is and goes  
 7 south from there for a few miles. So it's a -- it's a ridge  
 8 with steep sides on either side of it for the most part.  
 9 **Q. So what's the top of the ridge on this map?**  
 10 A. So on this map, the top of the ridge is essentially where  
 11 Beacon Avenue runs.  
 12 **Q. Uh-huh.**  
 13 A. And Beacon Avenue runs kind of a little bit on a diagonal  
 14 and then it ends. And then the top of the ridge is mostly  
 15 defined by 14th and 15th Avenue going north from there. So  
 16 the -- the hill is approximately 300 feet tall at this  
 17 location. So getting onto the hill requires, you know,  
 18 climbing stairs or driving up a hill. It -- you know,  
 19 it's -- it's a good climb.  
 20 The other way to get to the -- to Beacon Hill is on light  
 21 rail. And light rail is at approximately Beacon -- between  
 22 Lander and McClellan on this map. And that requires an  
 23 elevator ride because the light rail runs through the hill  
 24 in a tunnel.  
 25 **Q. So let me -- let me just clarify. So there's not -- I mean,**

1 run east-west there that when it -- when there's snow, those  
 2 get closed down because it's too steep to drive and too  
 3 slick to drive, and then the kids of Beacon Hill use those  
 4 for sledding.  
 5 **Q. Okay. And so you said the northern part of this urban**  
 6 **village is adjacent. Is it adjacent to the**  
 7 **Chinatown-International District; is that right?**  
 8 A. So it's not directly adjacent.  
 9 **Q. Okay.**  
 10 A. There's -- this is kind of cut off in this map. But it goes  
 11 north another -- the top of the hill goes north another,  
 12 say, approximately six blocks or so before you -- you know,  
 13 you have a -- before you reach sort of the point of the  
 14 hill, and then there's a bridge that takes you across to the  
 15 International District.  
 16 **Q. Okay. And so does the topography define the character of**  
 17 **the neighborhood; is that accurate?**  
 18 A. Yes, I think so. Because most of -- the topography has  
 19 always kind of defined the activity on Beacon Hill.  
 20 Historically, you know, before we've had buses and the light  
 21 rail station here, there was a trolley line that ran along  
 22 the ridge of the hill so --  
 23 **Q. Uh-huh.**  
 24 A. -- there has always been transportation along the top of the  
 25 hill because that's the easiest way to move. And because

1 there's transportation, there has -- there have been  
2 businesses and services, and the areas away from the top of  
3 the hill have typically been residential. And much of it is  
4 currently still Single Family Residential.

5 So these yellow areas are Single Family areas due to the  
6 fact that they're -- you know, they're further away from the  
7 services, they're further away from the ridge and they're  
8 not -- it's -- it's a climb to get to the service area.

9 **Q. And can you give me an example of uses or areas in your  
10 neighborhood where zoning changes can have a significant  
11 impact?**

12 A. So one -- the -- the sort of the central area of Beacon Hill  
13 is Beacon and McClellan. Like I mentioned, there's the  
14 light rail station. Across from the light rail station  
15 there is a grocery store that has been there for a long  
16 time, the Red Apple.

17 And to the north of the light rail station is the El  
18 Centro de la Raza building. You know, they've been a  
19 service organization for many years. And a few years ago  
20 they've built affordable housing there, and they have  
21 included in that affordable housing a plaza which is usable  
22 by everyone which now has attracted, you know, food carts.  
23 There's a restaurant that's opened up there.

24 And it's become kind of a cultural area, cultural center  
25 for the community. They have outdoor movies. There's

1 the grocery store is on is quite large. And so being a  
2 large lot given, you know, extra zoning, it makes it more  
3 desirable for development.

4 The grocery store, you know, that is something that the  
5 community has expressed that they want to maintain, and that  
6 was expressed in our original Neighborhood Plan. It was  
7 expressed again in the Neighborhood Plan update. It's an  
8 important aspect of the Beacon Hill community, and people  
9 value it.

10 And so if that lot is redeveloped, if there's no way to  
11 preserve that grocery store, that's going to be a  
12 significant impact on our community, on the cultural aspect  
13 of -- of our community. That's not something that people  
14 want taken away from them on Beacon Hill.

15 Beacon Hill doesn't want a Whole Foods. I mean,  
16 potentially this could be developed into a large building  
17 with retail in the bottom floor, but it's doubtful that a  
18 grocery store like the Red Apple which is -- which is  
19 surviving on thin margins is going to be able to afford that  
20 kind of rent.

21 So a Trader Joe's, a Whole Foods, those types of stores  
22 are not going to meet the needs of the surrounding  
23 community. They will probably attract people from other  
24 neighborhoods who are going to drive there, and so it's --  
25 it's really going to change the neighborhood a lot by

1 events that happen there. A little bit further south along  
2 Beacon there's a library. So that whole area is a -- is  
3 really kind of the heart of Beacon Hill.

4 **Q. Uh-huh.**

5 A. Culturally in many ways. And like I mentioned, the grocery  
6 store is a place that is not just, you know, a place where  
7 you get food. It's a place where you meet your neighbors.  
8 You run into neighbors. So it has a cultural aspect to it.

9 And the grocery store has always served, you know, a wide  
10 range of the cultures that -- you know, the various people  
11 that live on Beacon Hill. It's very multicultural. So  
12 they've -- they cater to -- you know, to the Hispanic  
13 community, they cater to the Asian community by providing  
14 those types of products.

15 So and they've -- they've -- they've always tried to, you  
16 know, maintain the best service that way. So as -- as there  
17 have been cultural shifts, there offerings have shifted as  
18 well, and I think that's one of the reasons that they're  
19 successful. But it's also made them into very much a  
20 cultural center for the community as well.

21 **Q. So what is the zoning change that's being proposed in that  
22 area with the MHA proposal, and how will it adversely impact  
23 that area?**

24 A. So currently where the grocery store is, that is zoned  
25 NC-65. The proposed zone is to go to NC-75. The lot that

1 potentially changing that.

2 We -- in previous testimony, there was mention of other  
3 areas that are important. One was The Garden House which is  
4 on 15th Avenue just north of -- let me see here, sorry.  
5 Just north of Bayview Street. So that -- that change is  
6 being proposed to go from LR2 to LR2(M).

7 Which doesn't seem like a huge change on paper, but The  
8 Garden House is a property that has three lots put together.  
9 It's 18,000 square feet. So by increasing the -- you know,  
10 the capacity by making it -- including it in the MHA, you're  
11 increasing capacity by allowing -- potentially allowing  
12 extra height and extra density.

13 And so that makes that large lot a lot more, you know,  
14 possible -- a lot more desirable for development. It makes  
15 it a lot more possible that it will be bought and  
16 redeveloped. And the -- there's already an expression of  
17 desire to sell that by the organization that owns it. And  
18 so increasing the zoning capacity there will make it even  
19 more desirable for that.

20 **Q. And do you know who testified about The Garden House, just  
21 to remind Examiner who described that?**

22 A. Frederica Merrell described the history of The Garden House.

23 **Q. Okay. And you described the steep hill area as the fact  
24 that there are -- that this is on a ridge and it's very  
25 steep. Is this information important for the City**

1 **councilmembers to know when they're making zoning decisions**  
2 **how to zone that neighborhood? Or if it is, how is it?**

3 A. Well, for one thing, I mean, it's -- you know, it's going to  
4 impact transportation. Because I mean, if you have more  
5 people living in a very -- in an area that's downhill from a  
6 steep area, they're probably going to be driving. So it  
7 affects, you know, the movement on Beacon Hill, but it also  
8 affects -- potentially affects, you know, things like views.

9 So for example, there is -- a friend of mine has a house  
10 that's on 14th near Forest Street. And that is proposed to  
11 go from -- from Single Family to, I believe, LR2 there. So  
12 potentially what will happen is -- they have -- they have  
13 views of the Olympics, and they have views of the bay down  
14 below, Elliott Bay down below.

15 And so potentially if the development occurs to the west  
16 of them and it's development that's -- you know, that's  
17 fairly high because with LR2 -- with the MHA zoning you have  
18 this increased capacity for height, their decks, they have  
19 decks both on the second and the third floor to take  
20 advantage of these views, will -- the views will likely be  
21 wiped out.

22 And I know -- I know several people who are in that  
23 situation, including someone who's basically rehabbed a  
24 house that did not have those views, did not take advantage  
25 of those views. They rehabbed it to reorient the use of the

1 know, the development potential is being spread out and  
2 diffused rather than being concentrated near -- near  
3 services and near transportation.

4 **Q. Okay. Have you had a chance to review the EIS for the MHA**  
5 **proposal?**

6 A. Yes, yes, I have.

7 **Q. And in Chapter 3.3, the EIS talks about the aesthetic**  
8 **impacts, and in Chapter 3.2, it talks about land use**  
9 **impacts. Did you see in either of -- did you review both of**  
10 **those chapters?**

11 A. Yes, I've read those.

12 **Q. And did you see a discussion of any of the -- any**  
13 **description of Beacon Hill development patterns, character**  
14 **and scale at all?**

15 A. No.

16 **Q. Specific to Beacon Hill?**

17 A. Not specific to Beacon Hill. You know, they mentioned that  
18 there's -- that Beacon Hill has a -- has a -- design  
19 guidelines. That's in there, but I don't --

20 **Q. Okay.**

21 A. -- see any like description --

22 **Q. So all of the issues that you've just testified about --**

23 A. No.

24 **Q. -- are not addressed in the EIS?**

25 A. No, they're not addressed, no.

1 house to take advantage of those views. And so, you know,  
2 what happens to that? Their use of their property really  
3 changes.

4 **Q. Okay. Under current conditions, is the downtown core area,**  
5 **which I presume is this orange -- is it correct that this**  
6 **orange part is downtown core area for Beacon Hill urban**  
7 **village?**

8 A. Yes, that's -- that's correct.

9 **Q. Is that area fully developed?**

10 A. No, no, it is not. So as -- as was testified, there was  
11 testimony earlier by Roger Pence regarding the updated  
12 Neighborhood Plan that happened in 2010, which included  
13 increasing zoning throughout the urban village, that was  
14 done because the light rail station was brought in. And so  
15 the -- we were one of the neighborhoods that, you know,  
16 got -- got additional zoning due to that.

17 A lot of that has not been built up. There are still  
18 single-family homes in that area along Beacon Avenue. Some  
19 of them are not necessarily in the best of shape. Those  
20 seem like they would be potential for development, and the  
21 type of zoning that's allowed in that area would allow for a  
22 lot of people to potentially live there surrounding the  
23 services and the transportation core.

24 So by spreading out -- by doing this expansion and  
25 expanding into the Single Family zones, it seems like, you

1 **Q. Or disclosed in EIS, I should say. And the same question, I**  
2 **guess -- I'm not sure if it was clear, but I'm talking about**  
3 **both kind of the current conditions and whether also the EIS**  
4 **talks about the adverse impacts -- potential adverse impacts**  
5 **during your testimony. Does it discuss those, the views**  
6 **and --**

7 A. Not to --

8 **Q. (Inaudible)?**

9 A. Not specific to Beacon Hill, no.

10 **Q. Okay. Do you have any -- I think that might be everything,**  
11 **but I'm not sure if we've covered -- you mentioned the**  
12 **Neighborhood Plan, and I understand that you had someone**  
13 **already testify in depth about the Neighborhood Plan for**  
14 **Beacon Hill.**

15 A. Yes, that's correct. We -- there was testimony regarding  
16 how the -- yeah, how Beacon Hill has always done  
17 neighborhood planning and --

18 **Q. Okay.**

19 A. -- that we've had this recent update.

20 **Q. Okay.**

21 A. With a lot of involvement with a lot of people.

22 **Q. All right, I think that covers it. Unless you have**  
23 **something else you --**

24 A. Yes. So I mean, one thing that I would like to -- you know,  
25 one thing that I would like to point out is Beacon Hill has

1 a lot of, you know, immigrant families who tend -- a lot of  
2 them own homes, and they -- they tend to live in extended  
3 family groups.

4 Many of them garden. Like, their entire property is  
5 devoted to food production for their families. I -- my  
6 neighbors a few doors down, that's exactly what they do.  
7 They produce their own food.

8 Much of these zoning changes could really affect their  
9 ability to do that. Not just because their own lot could  
10 change. Like, okay, they could sell and move somewhere  
11 else. But if you have a large townhome development built  
12 next -- next to the property of a house like that, it  
13 changes the potential for your ability to -- to grow that  
14 food.

15 So, you know, there basically -- there's this sort of  
16 cultural displacement that could occur, because their --  
17 their way of life, their -- you know, the way that they want  
18 to live is going to be affected by the surrounding  
19 development that is likely to occur.

20 And I don't see anything in the EIS that talks about, you  
21 know, Beacon Hill in the way that people live on Beacon  
22 Hill. And that really is something that I have had a  
23 problem with this EIS. And it's something that we on the  
24 Beacon Hill Council have tried to address and have -- have  
25 commented to to the City on.

1 about. Like, I walk through those areas. And on a summer  
2 evening, there are people out doing things in their yards,  
3 talking to each other, interacting with each other.

4 So intensifying the use there, I believe, will definitely  
5 change the character of -- of my neighborhood in those areas  
6 in the expansion area.

7 **Q. Okay, thank you.**

8 A. Thank you.

9 **Q. I have no further questions.**

10 HEARING EXAMINER: Any cross?

11 MR. KISIELIUS: We have no questions for Ms. Latoszek.

12 HEARING EXAMINER: Thank you.

13 THE WITNESS: Thank you.

14 HEARING EXAMINER: Next witness.

15 MS. NEWMAN: I think --

16 MR. THALER: Okay, call David Ward.

17 HEARING EXAMINER: Okay. While Mr. Ward is coming to us,  
18 Mr. Thaler, you've submitted a motion for subpoena?

19 MR. THALER: Yes.

20 HEARING EXAMINER: And I wanted to check. You've got --  
21 it looks like you have a subpoena attached to that. Is that  
22 what you wanted to use for your form?

23 MR. THALER: Well, unless you have your preference.

24 MR. WEBER: I'm sorry, I missed -- I missed what you're  
25 talking about, Toby. What --

1 **Q. And, you know, that reminds me that I -- if you could also**  
2 **along that same vein kind of describe what in the Single**  
3 **Family zones that are being included in this expansion --**  
4 **they're not in the UV right now, but they're going to be.**  
5 **Are those currently -- what's the character of the houses?**  
6 **Is there a different type of -- is it all similar or is**  
7 **there a lot of different or what does it look like?**

8 A. No, there's -- there is a variety of the types of houses  
9 from various different -- different ages of houses from --  
10 you know, there's houses that are -- some of them are over a  
11 100 years old so they're kind of Victorian houses. They're  
12 all pretty well maintained. They have nice big yards, a lot  
13 of sun and, you know -- and open space for kids to play.  
14 And there's lots of kids living in these areas.

15 And then there's also houses that were built in the '50s,  
16 kind of single -- single-story or two-, one-and-a-half-story  
17 ranch type houses. But they're all -- they're all pretty  
18 well maintained but not fancy. You know, they're not --  
19 they were built for people who were working people and still  
20 are working people. And but they're well maintained and  
21 well cared for and loved by the people who own them and live  
22 in that community.

23 And there's -- there's a lot of interaction between  
24 neighbors because of the way that -- because of the way  
25 that, you know, people use their yards and are out and

1 MR. THALER: We're talking about an ex parte motion for  
2 subpoena.

3 HEARING EXAMINER: There's a motion for subpoena that was  
4 submitted on August 20th by --

5 MR. WEBER: The City was never notified of this.

6 HEARING EXAMINER: The Hearing Examiner Rules provide for  
7 ex parte motions for subpoena.

8 MR. WEBER: Okay.

9 HEARING EXAMINER: And it was -- it was, as I understand,  
10 correctly filed electronically.

11 MR. WEBER: I'm just saying we haven't even seen it today.

12 HEARING EXAMINER: All right, well --

13 MR. THALER: Now that it's coming out, I'd be happy --

14 HEARING EXAMINER: -- you're getting more notice than --

15 MR. THALER: -- to give it to you.

16 HEARING EXAMINER: -- ex parte would normally give you,  
17 so --

18 MR. WEBER: Okay.

19 HEARING EXAMINER: -- you're getting it now.

20 MR. THALER: I have a copy of it. I'll hand it to you.

21 HEARING EXAMINER: The request is for the subpoena to be  
22 issued to Robert Feldstein. And so to get to your question,  
23 Mr. Thaler.

24 MR. THALER: Yes.

25 HEARING EXAMINER: There is no preferred form.

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1 MR. THALER: Yeah, so that's --  
 2 HEARING EXAMINER: I mean, it's you're responsibility to  
 3 serve it, so if you --  
 4 MR. THALER: So that's what I did.  
 5 HEARING EXAMINER: Okay, so -- okay, if this is what  
 6 you've given us and you're okay with it, then we'll go ahead  
 7 and sign.  
 8 MR. WEBER: Mr. Feldstein is not a City employee at this  
 9 point, so I don't have any particular reason to comment on  
 10 this.  
 11 HEARING EXAMINER: Okay, all right. Given that there  
 12 won't be any objection, this is the original so I'm going  
 13 to --  
 14 MR. THALER: Okay.  
 15 HEARING EXAMINER: We will get you a copy of --  
 16 MR. THALER: That's fine, thank you very much.  
 17 HEARING EXAMINER: And, Mr. Ward, glad we got to you  
 18 today.  
 19 THE WITNESS: Yes.  
 20 HEARING EXAMINER: Dressed in your tie and everything for  
 21 it.  
 22 THE WITNESS: That's right. I don't know if you heard the  
 23 comments of, "Oh, we've never seen you in a" --  
 24 HEARING EXAMINER: Right, yes.  
 25 THE WITNESS: -- "shirt and tie before." It's a rare

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1 occasion.  
 2 HEARING EXAMINER: Yes, I haven't seen you in that in a  
 3 hearing yet so appreciate the gesture.  
 4 THE WITNESS: Thank you. Toby, did you want to give  
 5 the --  
 6 MR. THALER: Yes, I'm getting it ready.  
 7 HEARING EXAMINER: So while he's getting ready, I'll just  
 8 ask you to state your name and spell it for the record.  
 9 THE WITNESS: Certainly. My name is David Ward, W --  
 10 David, D-A-V-I-D; Ward, W-A-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 THE WITNESS: Yes, I do.  
 15 HEARING EXAMINER: Thank you.  
 16 MR. THALER: So before starting, I'm going to hand in his  
 17 printed testimony to avoid the experiences we've had with  
 18 prior witnesses. And we have a series of exhibits. But I  
 19 think before we go into it, the exhibits I'll walk -- be  
 20 walking through Mr. Ward's testimony, and before handing  
 21 these in just give a little background and then get to the  
 22 exhibits.  
 23 MR. WEBER: So, Toby, could I just make one comment?  
 24 MR. THALER: Yes.  
 25 MR. WEBER: I mean, you've handed us this document here.

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1 Is Mr. Ward going to be reading this?  
 2 MR. THALER: No, but --  
 3 THE WITNESS: It's mostly my notes, so I'm, you know --  
 4 I'll be glancing at them but not just reading them directly.  
 5 MR. THALER: Because of my prior experience with witnesses  
 6 tending to look at their notes and the Hearing Examiner's  
 7 desire to have the testimony handed in if they -- witnesses  
 8 tended to read their testimony, I advised Mr. Ward to print  
 9 out a clean version of his notes to hand in. If we get  
 10 through all of it, then don't even need to have it as an  
 11 exhibit.  
 12 MR. WEBER: Okay. Well, then we'll wait until you try to  
 13 make it an exhibit to figure out whether there's an  
 14 objection.  
 15 MR. THALER: All right, whether or not there need be  
 16 stricken parts.  
 17 MR. WEBER: Right.  
 18 MR. THALER: Hopefully we'll get through it.  
 19  
 20 DAVID WARD: Witness herein, having first been.  
 21 duly sworn on oath, was examined  
 22 and testified as follows:  
 23  
 24  
 25

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1 DIRECT EXAMINATION  
 2 BY MR. THALER:  
 3 **Q. So could you give your background, please?**  
 4 A. Yes. I've been a researcher for about twenty years. I  
 5 began examining EISs in 1999 with the -- with the Sound  
 6 Transit Light Rail EIS. I've examined a few EISs since  
 7 then. I've been -- was active in the University District.  
 8 Still am. Worked with John Fox, the Displacement Coalition,  
 9 on other things for about three years.  
 10 I'm on the board of the Ravenna-Bryant Community  
 11 Association, my local neighborhood organization, and I'm  
 12 also on the board of the Ravenna Eckstein Community Center  
 13 and the Lifelong Recreation Community Center. And I'm a  
 14 founder of Seniors United for Neighborhoods that I'm an  
 15 appellant for, and I'm also the president of SCALE.  
 16 **Q. Okay. And can you tell us about your review of the MHA EIS?**  
 17 A. Yes. The -- the FA -- the -- well, I sent in a comment that  
 18 shows that the DEIS fails to meet the stated objectives, and  
 19 that would be the same for the FEIS.  
 20 **Q. Well, let's back up, because --**  
 21 A. Oh, sorry.  
 22 **Q. -- you're starting to get in -- I'm still laying a little**  
 23 **foundation.**  
 24 A. Okay, thank you.  
 25 **Q. Did you -- for example, did you have meetings with the**

## 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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-o0o-  
August 22, 2018

FEMALE SPEAKER: Good morning.  
 HEARING EXAMINER: Continue with Appellant's case.  
 FEMALE SPEAKER: You're on.  
 MR. TAVEL: Oh, I'm sorry. Oh, I was waiting for more.  
 My apologies. Phillip Tavel this morning for SCALE. And, I guess, do I just go right into the questioning or -- sorry.  
 HEARING EXAMINER: You call the witness.  
 MR. TAVEL: Oh, yes. So --  
 HEARING EXAMINER: Okay. And I'll swear the witness in.  
 Please state your name and spell it for the record.  
 THE WITNESS: Jennifer Scarlett. J-E-N-N-I-F-E-R, S-C-A-R-L-E-T-T.  
 HEARING EXAMINER: And do you swear or affirm that the testimony you'll provide in today's hearing will be the truth?  
 THE WITNESS: Yes.  
 HEARING EXAMINER: Thank you.

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

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DIRECT EXAMINATION

BY MR. TAVEL:  
**Q. Okay. So, Ms. Scarlett, can you tell us what neighborhood you live in?**  
 A. I live in the South Park neighborhood.  
**Q. And how long have you lived there?**  
 A. I've lived there 11 years.  
**Q. And are you familiar with the MHA proposal that is the subject of this hearing?**  
 A. Yes.  
**Q. And so when did you first become aware of the MHA proposal?**  
 A. In December of 2017.  
**Q. And what was it that brought it to your attention?**  
 A. I got a flier in the mail, and it was very cartoony, but I read the fine print on the back and it mentioned zoning. It didn't specifically say what the event was; they said that it was an open house, come for snacks type of thing. And then I went up to Shelby's Ice Cream, and that's when I first saw the rezone maps --  
**Q. Okay.**  
 A. -- and that's when I first found out about this.  
**Q. And so do you remember things that struck you when you first saw the rezone maps?**  
 A. Yes. I felt like there were no people from my neighborhood there. I was actually the only person at the South Park

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table at Shelby's until a little bit later, and then three more people showed up. But basically I remember thinking, you know, this is -- this is my neighborhood; this is -- these are my neighbor's homes, and here people are talking about putting apartment buildings where my neighbors live.  
**Q. Oh.**  
 A. So it was alarming.  
**Q. Okay. So what -- tell us a little bit about your role within any neighborhood groups or groups within South Park. Are you part of any?**  
 A. Yes, I'm part of the Duwamish Valley Neighborhood Preservation Coalition, and I've been doing -- holding meetings and kind of spreading the information to educate people about zoning and land use and also affordable housing and preservation of affordable housing.  
**Q. And --**  
 A. So...  
**Q. And how long have you been involved with that group?**  
 A. It's been about a year now. They actually found me. They found out about the upzone from me because of the fliers that I put up and the meetings that I was holding. So they actually contacted me and asked me to join them because they were an established 501(C)(3), so...  
**Q. And actually just tell us very briefly about the fliers that you put up in the meetings that you were having.**

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

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

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

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

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1 A. This would be page 60 of appendix B in the --  
 2 **Q. Yes, so --**  
 3 A. -- draft.  
 4 **Q. Yeah, so --**  
 5 A. EIS.  
 6 MR. TAVEL: Oh, okay. Thanks.  
 7 MS. NEWMAN: The draft EIS Exhibit 1.  
 8 MR. TAVEL: So it's Exhibit 1 in the draft -- sorry. The  
 9 draft EIS is Exhibit 1, and this is page 60 of appendix B  
 10 showing South Park.  
 11 HEARING EXAMINER: You said page 60?  
 12 MR. TAVEL: Yes, page 60 of appendix B.  
 13 MS. NEWMAN: We're talking about something else.  
 14 MR. TAVEL: Oh, sorry.  
 15 MR. KISIELIUS: Could we see what you're looking at  
 16 because I'm not sure I'm seeing that -- or --  
 17 HEARING EXAMINER: I have --  
 18 MR. KISIELIUS: -- could it be in the final EIS?  
 19 MS. NEWMAN: It could be in the final. There's an  
 20 appendix B.  
 21 THE WITNESS: Oh, okay. It is. Sorry. It is --  
 22 MALE SPEAKER: So maybe -- sorry, the final EIS.  
 23 THE WITNESS: -- in the final.  
 24 MS. NEWMAN: Final, sorry. Exhibit -- that's Exhibit 2,  
 25 appendix B is what I'm --

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1 THE WITNESS: This (inaudible) with what I handed out at  
 2 the meetings that I held.  
 3 MS. BENDICH: These are the maps.  
 4 MR. TAVEL: So --  
 5 MS. NEWMAN: Yeah, I think appendix B has all of the maps  
 6 that were handed out during the public meetings.  
 7 MR. TAVEL: I know we had just located it in here.  
 8 MS. NEWMAN: Oh, that's Exhibit 2.  
 9 MR. TAVEL: This, okay so --  
 10 MS. NEWMAN: That's the final EIS.  
 11 THE WITNESS: Okay.  
 12 MR. TAVEL: Okay. So in Exhibit 2, appendix B, page 60.  
 13 Yes, there we go. All right. Excellent. I think -- I  
 14 think it seems like -- has everyone located the correct  
 15 appendix B, page 60 map of South Park?  
 16 MS. NEWMAN: Ready?  
 17 MR. TAVEL: All right. So -- yes.  
 18 **Q. (By Mr. Tavel) Go through the map and tell us.**  
 19 A. Okay. So basically the -- you know, the overall land use in  
 20 South Park that's unique and different.  
 21 **Q. Mm-hmm.**  
 22 A. Is that we are situated on a river with shoreline.  
 23 **Q. Right.**  
 24 A. There's a toxic Superfund site that's just about to get  
 25 cleaned up on the river, and that's the whole river.

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1 **Q. So could you hold up -- hold up the map, and actually which**  
 2 **area are you pointing to right now?**  
 3 A. I -- this is where the Superfund site is.  
 4 HEARING EXAMINER: So it's actually better if she verbally  
 5 describes it.  
 6 MR. TAVEL: Oh.  
 7 HEARING EXAMINER: Because we're creating a record here.  
 8 **Q. (By Mr. Tavel) Yes, so if you could describe where on the**  
 9 **map you're looking. So is in the -- is the upper right**  
 10 **corner?**  
 11 A. So basically to -- I'll just do the best I can.  
 12 **Q. Okay.**  
 13 A. To the -- to the east and to the north, south -- the South  
 14 Park area is cut off by the Duwamish River -- the Duwamish  
 15 Waterway, they call it now -- and that is a Superfund site.  
 16 South Park is surrounded by industrial zoning and uses, and  
 17 we are the only urban village that is not surrounded by  
 18 further residential uses, so that is a huge difference.  
 19 **Q. So the only urban village that's surrounded by industrial**  
 20 **zones?**  
 21 A. Yes.  
 22 **Q. Okay.**  
 23 A. To the -- the border on the south and also to the -- to the  
 24 southeast is King County property, and that is also zoned  
 25 industrial. So we are cut in half by Highway 99, and there

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1 is no buffer --  
 2 **Q. Mm-hmm.**  
 3 A. -- between the highway and the homes --  
 4 **Q. Okay.**  
 5 A. -- in South Park. And to the -- we're cut off to the west  
 6 by the Roxbury hill, which is the large hill to Myers Way  
 7 and to White Center. And then that is also where State  
 8 Route 9 -- 509 --  
 9 **Q. Mm-hmm.**  
 10 A. -- goes down the hill there, and that completely cuts off  
 11 our neighborhood.  
 12 **Q. And so did you find that the EIS adequately represented some**  
 13 **of the -- some of the things in South Park that are**  
 14 **different from the other neighborhoods?**  
 15 A. No.  
 16 **Q. Did it -- was it just silent on it?**  
 17 A. Yes.  
 18 **Q. And so what did you think that meant, like, in terms of when**  
 19 **you read that EIS and it's silent about some of those**  
 20 **differences, specifically being surrounded by industrial**  
 21 **zone, a Superfund site, a hill, and two highways, what did**  
 22 **that strike you as a resident of South Park that the**  
 23 **Environmental Impact Statement was missing?**  
 24 A. Well, I felt like there's no way that they -- that anyone  
 25 could make a reasonable decision about land use and zoning

1 and density in the South Park area not knowing these  
2 impacts, not knowing the existing environment and what we  
3 deal with --

4 **Q. Mm-hmm.**

5 A. -- there on a daily basis.

6 **Q. Okay.**

7 A. Not knowing how inaccessible South Park is and also the  
8 environmental injustice that South Park has suffered for  
9 decades.

10 **Q. And when you say that, what do you mean specifically by  
11 that?**

12 A. I mean that because we've had this encroachment of  
13 industrial rezoning over the years --

14 **Q. Mm-hmm.**

15 A. -- and we've already lost so much of the surrounding  
16 neighborhood --

17 **Q. Right.**

18 A. -- that we're impacted by pollution in a way that other  
19 neighborhoods are not.

20 **Q. Okay.**

21 A. And a lot of these toxic sites aren't cleaned up yet;  
22 they're just starting to do these things. So we're still  
23 suffering. We still have the worst air quality, and --

24 **Q. And when you say "worst air quality," what do you mean by  
25 that?**

1 MR. MITCHELL: Your Honor, if I could just interject an  
2 objection. In the prehearing motions there was a ruling on  
3 this issue about whether the types of issues that he's  
4 talking about here were appropriate, and the ruling was that  
5 they were not. So in the interest of time, I guess I'd  
6 encourage or request that the appellant be bound by that  
7 order.

8 MS. BENDICH: Mr. Examiner, may I respond to that?  
9 Because I was here during part of that.

10 HEARING EXAMINER: (Inaudible) counsel who's on the  
11 case --

12 MS. BENDICH: Can I --

13 HEARING EXAMINER: -- respond.

14 MS. BENDICH: I'm --

15 HEARING EXAMINER: Why are you responding instead of him?

16 MS. BENDICH: Because I don't think he is aware. Can I  
17 talk with him? Can I have a conference?

18 HEARING EXAMINER: You can talk with him, but I don't want  
19 you inserting yourself over him.

20 MS. BENDICH: Okay. All right.

21 MR. TAVEL: Okay. I believe that the motion actually  
22 spoke to Beacon Hill and specifically to the impacts of the  
23 air traffic over Beacon Hill, which is obviously a different  
24 issue from the existing industrial pollution in South Park.

25 MR. MITCHELL: I guess my response would be, clearly the

1 A. We actually have more pollution -- particulate pollution  
2 than pretty much -- we're -- I think we're equal with the  
3 parts of Eastlake that are directly underneath the freeway.  
4 So basically because of the diesel traffic and the freight  
5 corridors, Highway 99 and Highway 509, and then also 14th  
6 Avenue South, which is a big Boeing --

7 **Q. Right.**

8 A. -- route, the diesel particulate in South Park is -- is some  
9 of the worst in the area.

10 **Q. And so to that extent, when you see that the Environmental  
11 Impact Statement is talking about obviously a large upzoning  
12 to your area, did it talk about the impact on the current  
13 health issues in South Park at all?**

14 A. No, it did not.

15 **Q. Did that strike you as odd that the Environmental Impact  
16 Statement didn't cover that?**

17 A. Well, it did, and then I found out that there was an initial  
18 scoping process and that in that scoping process that South  
19 Park knew nothing about that they excluded health impacts.  
20 And I felt like South Park needed its own EIS because  
21 knowing what we know about land use and uses and the  
22 environment in South Park, there is no way that an EIS for  
23 South Park would not include health impacts.

24 **Q. Okay. And so do you remember there being anything in the  
25 EIS that spoke about existing health issues in South Park?**

1 idea that impacts that are already existing were not  
2 attributable to the proposal was the subject of the motion,  
3 and the examiner ruled that existing situations such as  
4 health impacts were impacts that were not attributable to  
5 the proposal. The fact that we're -- he's now bringing up  
6 with respect to a different neighborhood doesn't -- I don't  
7 think that changes the matter.

8 HEARING EXAMINER: I need to bring up the order. I don't  
9 remember it being -- encompassing of all issues of this  
10 type. I remember it dismissing specific issues.

11 MR. TAVEL: And I guess I would only state --

12 HEARING EXAMINER: And I'm not inviting additional  
13 argument.

14 MR. TAVEL: Oh, my apologies.

15 HEARING EXAMINER: I think I understand your point.

16 MR. TAVEL: Okay. This was --

17 HEARING EXAMINER: I need to pull open the order on the  
18 motion.

19 MR. MITCHELL: It was on page 3 of your order, Your Honor.

20 HEARING EXAMINER: I apologize. Due to the volume of  
21 activity in the case, it's not easy for me to locate things.

22 MR. TAVEL: This was an order on the City's motion; is  
23 that correct?

24 MR. MITCHELL: That's correct.

25 HEARING EXAMINER: I believe we had a single order on

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1 multiple motions.  
 2 MR. MITCHELL: Yes, that's correct.  
 3 HEARING EXAMINER: And maybe someone could help me get a  
 4 date on that order.  
 5 MR. MITCHELL: You mean where in the order it's found  
 6 or --  
 7 MALE SPEAKER: The date. No, the date.  
 8 HEARING EXAMINER: No, what date the order (inaudible).  
 9 MR. MITCHELL: Oh, this order was 8th of June, 2018.  
 10 HEARING EXAMINER: And is this the preliminary order on  
 11 the prehearing motion?  
 12 MR. MITCHELL: Yes, correct.  
 13 HEARING EXAMINER: Okay. Yeah. I think that we'd just  
 14 followed that up with oral ruling at the prehearing  
 15 conference; was that right?  
 16 MR. MITCHELL: Well, no, there -- there is a --  
 17 HEARING EXAMINER: I'm just trying to figure out why I  
 18 said preliminary, and, I'm sorry, I don't remember all the  
 19 details about (inaudible).  
 20 MR. MITCHELL: I -- to be honest, I don't know.  
 21 HEARING EXAMINER: Well, let's open -- can we open --  
 22 okay. On page 3?  
 23 MR. MITCHELL: Right. And, Your Honor, I guess what I  
 24 would point out, obviously there were two organizations  
 25 whose issues were dismissed. Morgan Community Association

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1 and Beacon Hill Council. Beacon Hill Council, that was an  
 2 air quality issue. Now, I'm not able to even put my fingers  
 3 on where an air quality issue about South Park in particular  
 4 was even raised by any of the appellants in this case, but  
 5 to the extent it was, it's inacc--- it's exactly analogous  
 6 to the issue that was dismissed on the Beacon Hill petition.  
 7 MS. BENDICH: Anyway, Beacon Hill had a specific issue  
 8 that had airplanes in it.  
 9 MR. TAVEL: Right, yeah.  
 10 HEARING EXAMINER: Did you have something to add on that  
 11 response, Counsel?  
 12 MR. TAVEL: No, I --  
 13 HEARING EXAMINER: Was it raised in notice of appeal?  
 14 MR. TAVEL: Hold on one second. Just -- just that Beacon  
 15 Hill's issue, as I believe it actually just revolved around  
 16 the airplanes and the extra pollution from that as opposed  
 17 to existing industrial pollution from other things in South  
 18 Park. So that Beacon Hill's issue with regard to the  
 19 airplane like Morgan's was with the ferry traffic, this is  
 20 actually a different scenario of the existing pollution from  
 21 the surrounding industrial areas, not just airplane traffic  
 22 or ferry traffic.  
 23 HEARING EXAMINER: Understood. So was this issue raised  
 24 in a notice of appeal? A particular notice of appeal.  
 25 MR. TAVEL: Yes, I believe it was.

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1 HEARING EXAMINER: Which one? And can you point to it?  
 2 MR. TAVEL: That -- you will have to give me a moment,  
 3 then.  
 4 HEARING EXAMINER: As the parties look for that, what I  
 5 understand, the City is raising an objection to the subject  
 6 matter similar to the objection raised in its motion that  
 7 this is not necessarily something I have ruled on. It's not  
 8 the same issue. I understand that. The issue before me is  
 9 essentially an in-hearing motion that this is not subject to  
 10 appeal under SEPA and whether it was raised in the notice.  
 11 MR. TAVEL: Okay.  
 12 HEARING EXAMINER: So --  
 13 MR. TAVEL: And we are checking (inaudible).  
 14 HEARING EXAMINER: The first item we need to address is a  
 15 simple procedural matter, whether it was addressed in the  
 16 notice of appeal, and then I can --  
 17 MR. TAVEL: Okay.  
 18 HEARING EXAMINER: -- make a decision on the second part.  
 19 MR. TAVEL: Okay. Thank you. We are -- yes. So this  
 20 is -- so it's appellate issue 12. Which appellant?  
 21 MS. NEWMAN: Yeah, SCALE issue No. 12. And -- well,  
 22 there's a bunch of --  
 23 MR. TAVEL: Oh, right.  
 24 MS. NEWMAN: -- over all the big pictures.  
 25 MR. TAVEL: Oh, yeah.

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1 MS. NEWMAN: So this includes a description of the  
 2 existing environment because you have to do the existing  
 3 environment plus the inbox.  
 4 MR. TAVEL: And so, Mr. Hearing Examiner, would you --  
 5 should I read (inaudible)?  
 6 HEARING EXAMINER: That would be helpful.  
 7 MR. TAVEL: So No. 12, "The FEIS does not adequately  
 8 disclose and analyze the significant impacts on air quality  
 9 of the proposal or any of its alternatives. 12A, the FEIS  
 10 does not address the presence, impact, or mitigation of  
 11 localized ground-level air pollution. The very real  
 12 exposure of residents to localized continuous air pollution  
 13 is virtually ignored or, at best, mentioned in passing and  
 14 dismissed. The impacts will be significant, especially from  
 15 demolition and construction activities." That was 12A.  
 16 HEARING EXAMINER: So I understand the issue as you've  
 17 just framed it is an issue -- is an impact created by the  
 18 proposal through demolition.  
 19 MS. NEWMAN: There's more.  
 20 MR. TAVEL: And actually, yes, if I can --  
 21 MS. NEWMAN: There's quite a bit more.  
 22 MR. TAVEL: -- read from 12E the second paragraph, "The  
 23 deletion of the Duwamish data is troubling enough from the  
 24 standpoint of scientific integrity. It is even more  
 25 troubling from the standpoint of social justice. By failing

1 to consider the localized environmental impacts of MHA in  
2 lower income areas, the FEIS ignores that communities with  
3 the fewest resources for combating the health effects of  
4 poor air quality will be the same community whose air  
5 quality suffers the most."

6 "The FEIS takes inadequate measure of the various  
7 capacities of each community in Seattle to cope with the  
8 increased environmental burden MHA imposes on that  
9 community. But the environmental burden and the coping  
10 capacity vary from community to community, and the FEIS  
11 should have considered both factors at the community level."  
12 And that, I do not believe, was dismissed.

13 HEARING EXAMINER: No, it wasn't dismissed. That's what I  
14 am saying. I've already indicated we're not, you know,  
15 ruling on whether it was dismissed before and now the  
16 question is whether it's subject to appeal under SEPA.

17 MS. NEWMAN: I --

18 MR. TAVEL: And it's obviously our position that, you  
19 know, with respect to the EIS they have to take into account  
20 existing -- existing conditions, especially when, if you're  
21 talking about upzoning and rebuilding but you're already  
22 talking about ground air quality being that bad, that's  
23 exactly what the Environmental Impact Statement is supposed  
24 to be for.

25 HEARING EXAMINER: All right. So, frankly, the last

1 **Q. Right.**

2 A. And that's an annexation process that was happening, and  
3 there's been some -- some issues with it.

4 **Q. Mm-hmm.**

5 A. So it's kind of coming up within the next couple of years,  
6 and that wasn't touched on as well. Just very quickly, we  
7 have a large liquefaction zone in South Park because there's  
8 a lot of fill. There was actually a bend in the river that  
9 has been filled and a lake --

10 **Q. Oh.**

11 A. -- that has been filled. So we have areas of flooding as  
12 well. And part of South Park and the urban village area is  
13 actually in a FEMA flood zone.

14 **Q. Oh.**

15 A. And we have other localized flooding along basically 5th and  
16 Donovan is an area that floods yearly, and also -- let's  
17 see. It would be the 1200 block of Concord.

18 **Q. Okay.**

19 A. And along the base of Catholic Hill, which is a large hill  
20 in the center of South Park. That hill has slide and  
21 drainage issues and flooding along the base of the hill all  
22 the way around.

23 **Q. And were these anything that you found in the EIS mentioned?**

24 A. No.

25 **Q. Okay. And what else would you like to add?**

1 sentence you said is the one point I understand that comes  
2 into an Environmental Impact Statement is a description  
3 necessary for existing conditions.

4 MR. TAVEL: Correct.

5 HEARING EXAMINER: Did there have to be analysis of  
6 existing conditions and for existing impacts? I -- I'm not  
7 sure that that's the case, but if you -- you're saying that  
8 it should have been a full disclosure of existing conditions  
9 and that should have been included in it, then I'll allow  
10 that testimony for that purpose.

11 MR. TAVEL: Yes. And that is the purpose.

12 **Q. (By Mr. Tavel) And so, again, to sort of end that line of**  
13 **questioning there, when you look through the EIS, again, you**  
14 **didn't find any of the specific existing issues mentioned in**  
15 **the EIS and how upzoning and more building would impact that**  
16 **for your community?**

17 A. Yes, I did not. And I'd like to elaborate on the land  
18 use --

19 **Q. Yes.**

20 A. -- from the South Park map, the satellite map. One of the  
21 other issues regarding concurrency is that we have what's  
22 called a sliver on the river, which is an area on the  
23 Duwamish River that is also contaminated --

24 **Q. Mm-hmm.**

25 A. -- and has some residual King County single-family homes.

1 A. I would also like to add that when Highway 99 was cut  
2 through South Park, that only -- there was only two access  
3 points across Highway 99 between the west and the east side  
4 of South Park, so part of the neighborhood is completely cut  
5 off from the other. It's a long ways to go around; it's not  
6 really walkable. There's -- one of the overpasses is  
7 basically around Henderson Streets going from Catholic Hill,  
8 which is the large hill, to -- and that's just a pedestrian  
9 overpass.

10 **Q. Mm-hmm.**

11 A. There's no vehicle traffic there, and it's small. And then  
12 the other access is only under the underpass on Cloverdale.

13 **Q. Okay.**

14 A. So -- and this is -- so we have one whole side of the  
15 neighborhood is kind of isolated towards the west, and then  
16 the other side, with the business district, is on the -- the  
17 east side, the far east side. It's not centrally located to  
18 the neighborhood. And I'd also like to add that South Park  
19 does not have services and amenities. We don't have a  
20 grocery store, a pharmacy, a bank, a post office. Most  
21 everyone needs to use their vehicle because of the  
22 topography and geography --

23 **Q. Mm-hmm.**

24 A. -- to go shopping. The bus line -- we don't have frequent  
25 transit and the bus line doesn't even go to the Safeway in

1 White Center. It goes up the hill and then turns around.  
2 So most people drive to -- to access services --

3 **Q. Okay.**

4 A. -- in South Park.

5 **Q. And so did you find anything in the EIS that was  
6 specifically mentioning features of South Park?**

7 A. No.

8 **Q. All right. So now at this point tell me what other things  
9 beyond the EIS being silent about those specific issues  
10 existing in South Park, what was the next thing that you had  
11 noticed when going through MHA and EIS as it was proposed  
12 for South Park that you thought was not being considered?**

13 A. Well, the historic resources, 100 percent.

14 **Q. And tell me what was being missed.**

15 A. Well, South Park is one of the oldest neighborhoods in  
16 Seattle. We have a lot of existing homes from the  
17 settlement days --

18 **Q. Mm-hmm.**

19 A. -- pre-1900. And those homes are still standing; they're  
20 still intact. The neighborhood is largely unchanged. And  
21 even the business district has -- if you look at the old  
22 photos, they have a book on South Park --

23 **Q. Uh-huh.**

24 A. -- that has some of these photos. If you compare the old  
25 photos to recent photos, most of the business core is

1 **tell me the page number and describe what you're going to be  
2 pointing to and talking about.**

3 A. On page 7 we have the introduction to the history of South  
4 Park, the South Park neighborhood. I'd like to read the  
5 very first part, if that's okay.

6 **Q. Please.**

7 A. "Today South Park is an almost forgotten pioneer residential  
8 neighborhood in the City's Duwamish River area. Originally  
9 inhabited by Native Americans of the Duwamish tribe who  
10 fished the river, farmed potatoes, and found bulbs and  
11 berries along its meandering shores. The 16-mile Duwamish  
12 River provided some of the richest farmland in the area.  
13 Being navigable by canoe made it ideal for habitation and  
14 commerce, traits that would mark its later development."

15 "In the early 1850s, South Park was settled by pioneers  
16 who found the land fertile and easy to clear." Okay. Let's  
17 see. Going on. "South Park was growing and its future was  
18 and would be tied to the Duwamish River."

19 And then on page 8, I would like to read an excerpt as  
20 well.

21 **Q. Please.**

22 A. "For the last 150 years, South Park has been a portal of  
23 entry for many immigrants. Italian, Japanese, Polish,  
24 Belgian, and more recently Mexican, Guatemalan, Salvadorian,  
25 Cambodian, Laotian, Samoan, and Vietnamese to name a few."

1 actually still the same buildings that were there, and  
2 sometimes going back to 1900.

3 **Q. And did you bring photos of these buildings?**

4 A. I did.

5 MR. TAVEL: And if I may have this marked.

6 UNIDENTIFIED SPEAKER: Do the book first.

7 MR. TAVEL: Oh, do the book first. Sorry.

8 THE WITNESS: Yeah, I can just go through the book.

9 MR. TAVEL: Actually we have two things. First to mark is  
10 the Seattle South Park.

11 HEARING EXAMINER: Mark this 260?

12 MALE SPEAKER: 260.

13 MS. NEWMAN: Okay.

14 (Exhibit No. 260 is marked.)

15 **Q. (By Mr. Tavel) So is there anything in particular you want  
16 to point to in the book that shows some of those historic  
17 houses that are still there?**

18 A. Yeah, I would like to --

19 HEARING EXAMINER: Does the City already have a cop- --  
20 does the City already have a copy of that?

21 MR. TAVEL: Yes.

22 MR. KISIELIUS: Yes, we do have a copy.

23 A. I would like to just quickly go through some pages and  
24 photos.

25 **Q. (By Mr. Tavel) Please. Oh, (inaudible). So tell me the --**

1 And this is very important because that's a big part of our  
2 culture and identity in South Park is as a low income  
3 immigrant community.

4 **Q. Right.**

5 A. And then on page 9 I'll read: "Over the years, the rezoning  
6 of South Park has created a unique and at times troublesome  
7 mix of industry and residential. Today South Park's  
8 residential area is less than a square mile. South Park as  
9 a whole, residential and industrial, is bound on the east by  
10 the Duwamish River, on the west by the high ground of west  
11 Seattle and White Center, to the south by an expressway, and  
12 to the north by the First Avenue bridge."

13 HEARING EXAMINER: And, I'm sorry, which page were you  
14 just reading from?

15 THE WITNESS: Oh, that was page 9.

16 HEARING EXAMINER: Thank you.

17 A. Moving on to page 10.

18 **Q. (By Mr. Tavel) Okay.**

19 A. There's a photograph on the bottom -- well, actually both  
20 photographs on page 10 show the 14th Avenue business  
21 district.

22 **Q. Mm-hmm.**

23 A. And all of those buildings are still there. This building  
24 is -- this was taken in 1931.

25 **Q. Which one, the top --**

1 A. Both.  
 2 **Q. -- or the bottom. Both?**  
 3 A. Apparently both of these were in 1931. So this entire row  
 4 of buildings here is unchanged.  
 5 **Q. What next?**  
 6 A. So moving on quickly to page 25, we have some photos of  
 7 early school children in South Park, a historic photo, and  
 8 this really shows the pride that we have in their working  
 9 class immigrant community --  
 10 **Q. Mm-hmm.**  
 11 A. -- and that we have always had in South Park. And it says,  
 12 "In 1928 the South Park community was very diverse with a  
 13 mix of Belgian, Italian, Japanese, and Latino farming  
 14 families. Pictured here is a Concord school class  
 15 photograph from 1928 that shows many of the various  
 16 ethnicities." And moving on to page 31 --  
 17 **Q. Mm-hmm.**  
 18 A. -- it shows some of the early farmers in South Park, and it  
 19 shows the history of the immigrant Italian farmers --  
 20 **Q. Right.**  
 21 A. -- including Joe Desimone, who actually was one of the  
 22 founders of Pike Place Market --  
 23 **Q. Right.**  
 24 A. -- with many of the other immigrants. So that was -- that's  
 25 an important tie because we have buildings that are still

1 actually a preserved house and it's on the Seattle Landmarks  
 2 Preservation Board, and this was the Queerio House, I  
 3 believe. It's -- we call it the Hat House, and it's a  
 4 really unique style, and that house is still --  
 5 **Q. Still there?**  
 6 A. -- preserved, yes. Okay. Let's see. I'm trying to be as  
 7 quick as possible.  
 8 **Q. Oh, yeah. No, find what you would like to make sure you get**  
 9 **out.**  
 10 A. Okay. So one of the things that I wanted to talk about  
 11 with -- you know, the land use and the build environment in  
 12 South Park is that we have kind of the first influx of homes  
 13 is from pre-1900 to 1900.  
 14 **Q. Okay.**  
 15 A. And most of those homes are still in existence. And then  
 16 the next influx that we had was for Boeing workers.  
 17 **Q. Okay.**  
 18 A. Building the planes across the river at the Boeing -- Boeing  
 19 field. And so most of the infill that we have is also  
 20 smaller, working-class homes.  
 21 **Q. Okay.**  
 22 A. Similar in scale to the original homes built during the  
 23 '40s. And that's -- the Boeing legacy is pretty important  
 24 to South Park as well.  
 25 **Q. Definitely.**

1 from that era are still in existence in South Park, so  
 2 that's a big -- the farming history is a big part of our --  
 3 our culture there. So that shows a farm stand truck and  
 4 also a photo from the Pike Place Market.  
 5 **Q. Okay.**  
 6 A. And on page 32, you'll see a photo at the top of the page  
 7 that says, "A typical South Park farm home." And this photo  
 8 is still here -- or this -- I'm sorry, this home --  
 9 **Q. That home is still there?**  
 10 A. -- is still -- is still there, yes. And that is typical of  
 11 kind of the height bulk scale of South Park homes. They're  
 12 generally one, one-and-a-half stories, smaller, very -- you  
 13 know, kind of --  
 14 **Q. More quaint?**  
 15 A. -- a people's home, not really -- you know. You know what I  
 16 mean?  
 17 **Q. Yes. All right. (Inaudible).**  
 18 A. Okay. On page 33, you'll see another photograph of a  
 19 Victorian era home, and this home is still there.  
 20 **Q. And is that the --**  
 21 A. And it -- intact and --  
 22 **Q. -- the bottom photo on page 33?**  
 23 A. The bottom photo on page 33 is this home is intact and --  
 24 **Q. Okay.**  
 25 A. -- still beautiful. Okay. On page 35, we have what is

1 A. Okay. So on page 43, it shows the original location of  
 2 Boeing, which was actually on the South Park side.  
 3 **Q. Uh-huh.**  
 4 A. And it also shows the neighborhoods of South Park and  
 5 Georgetown, and it's -- if you look at a satellite photo  
 6 today you'll see that they are the same. They are largely  
 7 unchanged from that time. On page 44, it has a closer  
 8 satellite or aer- -- sorry, aerial photo of South Park, and  
 9 it shows Catholic Hill which is the tall hill which has the  
 10 flooding at the bottom.  
 11 **Q. Right.**  
 12 A. Okay. And let's see. Oh, okay. So on page 58 and 59, we  
 13 have two photos of the old firehouse, the historic  
 14 firehouse.  
 15 **Q. Mm-hmm.**  
 16 A. Which is still intact and beautiful.  
 17 **Q. In fact, what's it used for today?**  
 18 A. It is the South Park Community Center. And as you can see,  
 19 that's also a small historic building similar in scale to  
 20 most of the neighborhood. Okay. On page 81, you'll see two  
 21 photos. They're both commercial buildings. Both of these  
 22 buildings are still intact.  
 23 **Q. Okay.**  
 24 A. And at the same locations. Let's see. This building -- Oh.  
 25 Oh. This photo is from 1937.

1 **Q. Those two -- the two photos you were just talking about?**  
 2 A. Yes. On page 82, we have two more commercial buildings.  
 3 The one on the top is still in existence at 8510 8th Avenue  
 4 South.  
 5 **Q. Mm-hmm.**  
 6 A. In this photo it is a tavern --  
 7 **Q. Okay.**  
 8 A. -- called the Owls Club. Today it is the South Park Baptist  
 9 Missionary Church, but the building is intact. Okay. On  
 10 page 83, we have what was a nine-unit affordable housing  
 11 building that was on Cloverdale, and that is gone because it  
 12 was changed to low-rise zoning. So within the last two  
 13 years, this building was demolished, nine affordable units  
 14 were lost, and now there are townhouses, eight townhouses on  
 15 the same property. Okay.  
 16 And page 84, there's two more historic buildings that  
 17 are still intact and in use. And these are -- you'll notice  
 18 that these are very small buildings. This is very much the  
 19 scale of building of the development in South Park.  
 20 **Q. Okay.**  
 21 A. Okay. Let's see. On page 91, there's an old photo here it  
 22 says that it's from the late 1890s or early 1900s, the  
 23 photograph. And it shows the retail core at Dallas and 14th  
 24 Avenue South, and the buildings that are seen to the left in  
 25 the photo are still there. Those are the same buildings

1 called the Lady Lou (phonetic). This is in use today with  
 2 the same purpose. It's Loretta's --  
 3 **Q. Mm-hmm.**  
 4 A. -- and they serve beer and burgers. So still there.  
 5 **Q. That works.**  
 6 A. Okay. On page -- also on page 100 at the bottom, the  
 7 service station at 8620 14th Avenue South in 1951, this  
 8 exact building is still there unchanged.  
 9 **Q. Mm-hmm.**  
 10 A. It's a tire -- it's a Latino tire place now. And the house  
 11 that is sitting to the left of the photo, that house is  
 12 still on Main Street. It's still there. It's intact. It's  
 13 in use. And the -- just to say, the shrubs that are planted  
 14 to the side of the house are now 55-60 feet tall. So...  
 15 **Q. All right.**  
 16 A. Okay. And -- sorry this is --  
 17 **Q. Oh, no. No.**  
 18 A. There's a lot.  
 19 **Q. Finish off.**  
 20 A. Okay. So on page 102, we have -- oh, at the bottom we have  
 21 at the corner of Cloverdale and 14th in the business  
 22 district here is what's Napoli Pizzeria.  
 23 **Q. Mm-hmm.**  
 24 A. Is -- in this photo, it's an old drugstore.  
 25 **Q. Oh.**

1 today.  
 2 On page 92, we have a boarding house in the top  
 3 photograph. Here this building is restored and is  
 4 affordable housing right now. This and the outbuildings are  
 5 all restored. Okay. On page 97, there is two additional  
 6 photos of commercial buildings. These are the same  
 7 buildings just taken later. This is an image from 1955, and  
 8 these are the same buildings still there.  
 9 **Q. Okay.**  
 10 A. On page 98, there's additional photos of these same  
 11 buildings on 14th Avenue, which is the main drag --  
 12 **Q. Right.**  
 13 A. -- basically the core to -- which is on the east side of  
 14 South Park. These are the same buildings, and actually they  
 15 have been bought and restored and are in use now, which is  
 16 great because they kind of sat unused for a long time. On  
 17 page 99, it shows a photo of the South Park Hall, which  
 18 is -- was a dance hall.  
 19 **Q. Mm-hmm.**  
 20 A. And this building has been restored and is in use again.  
 21 **Q. As a town hall or as a hall as well?**  
 22 A. As -- as actually a gathering area and a dance hall.  
 23 **Q. Okay.**  
 24 A. So that's good news. Okay. And on page 100, you'll see the  
 25 top photo has a -- has a basically a hamburger bar and it's

1 A. But this is still in use, this same building.  
 2 **Q. Okay.**  
 3 A. So it's owned by an Italian family. And -- let's see. Oh,  
 4 yes, on page 103, this photo from 1937 on the top is the --  
 5 that is actually down the street from my house. That is the  
 6 same building that's been there the whole time. Okay.  
 7 Okay. On page 104, in the bottom photo it says built in  
 8 1924 by Dominic Genovese. The Genovese Cash and Grocery at  
 9 8006 8th Avenue South is pictured here in 1937. This  
 10 building is gone because it was rezoned to industrial, so  
 11 the house and the grocery were torn down, and it was turned  
 12 into Long Painting --  
 13 **Q. Uh-huh.**  
 14 A. -- which was -- there were some issues with some air quality  
 15 practices.  
 16 **Q. From that business?**  
 17 A. That business.  
 18 **Q. Okay.**  
 19 A. Oh, gosh. I'm sorry. I thought I turned that off. So that  
 20 was a big loss for the community. That was actually --  
 21 **Q. Right.**  
 22 A. -- that actually stayed -- that actually stayed a little  
 23 mini-mart for that side of South Park.  
 24 **Q. Mm-hmm.**  
 25 A. Because from there on 8th Avenue, North 8th Avenue to the

1 14th Avenue business core, it's a ways.  
 2 **Q. Right.**  
 3 A. So that was a big loss for the community because of the  
 4 change in zoning.  
 5 **Q. Right.**  
 6 A. Which goes on to page 105 which is chapter 9, and it's  
 7 entitled The Dilemma of Zoning.  
 8 **Q. Mm-hmm.**  
 9 A. So zoning is a contentious issue in south --  
 10 MS. BENDICH: Pick it up.  
 11 MR. TAVEL: Yeah, why don't we --  
 12 MS. BENDICH: Get it.  
 13 MR. TAVEL: Get it and silence it. Turn it off.  
 14 MS. BENDICH: Turn it off.  
 15 MR. TAVEL: No problem.  
 16 THE WITNESS: Sorry, guys. This is a new phone. My phone  
 17 conked out on me, so I'm --  
 18 MR. TAVEL: All right. As long as it's off now, yeah.  
 19 A. So -- okay. Moving on.  
 20 **Q. (By Mr. Tavel) So what -- all right. Yes. So what else in**  
 21 **the book would you like us to hear?**  
 22 A. I'd like to read part of this page --  
 23 **Q. Okay.**  
 24 A. -- of The Dilemma of Zoning in South Park.  
 25 **Q. Okay.**

1 dedicated. In 2005 the River City Skate Park on Cloverdale  
 2 Street was started." That's outdated. "At the same time,  
 3 South Park's affordable housing and proximity to downtown  
 4 Seattle attracts new buyers. Some newcomers are surprised  
 5 by the presence of industry around them, airplanes above  
 6 them, the sense of community inside a square mile, and the  
 7 dampness in their basements. That's just part of living in  
 8 South Park."  
 9 So that gives a little bit of a history into why zoning  
 10 is important there and how -- how aware the residents are  
 11 about land use --  
 12 **Q. Right.**  
 13 A. -- in south -- you know, in South Park, historically.  
 14 **Q. Right.**  
 15 A. So moving on to page 111, there's -- at the top of the page,  
 16 there's an intact -- an intact home, and this is very --  
 17 this kind of the age of the home and the -- let's see. What  
 18 would you call it? Like, the height-bulk scale of the home  
 19 is --  
 20 **Q. Mm-hmm.**  
 21 A. -- is very similar to most of the houses in South Park from  
 22 that age. They're smaller, one-and-a-half stories.  
 23 **Q. Right.**  
 24 A. Kind of tall -- tall, skinnier houses on bigger lots.  
 25 **Q. Mm-hmm.**

1 A. "The story of South Park is the agonizing story of residents  
 2 trying to respect the past in the face of urbanization. The  
 3 development of South Park into an industrial neighborhood  
 4 results -- results from early City planners looking to fully  
 5 appreciate the possibility of developing a port," which is  
 6 good for the economy, that's fine.  
 7 "Stimulated by the wartime economy, industry quickly  
 8 encroached on South Park's fertile farmland. In 1956, the  
 9 City Council rezoned South Park as, quote, 'transition to  
 10 industrial.' In the mid-1960s the City, again, threatened  
 11 to rezone all of South Park as industrial. After more than  
 12 4,000 residents staged a protest at City Hall, some of the  
 13 existing residential neighborhood was zoned high-density  
 14 residential.  
 15 "The integrity of the community remained threatened  
 16 during the 1970s as the historic South Park Church was  
 17 abandoned and demolished. To compound the neighborhood  
 18 issues, construction of Highway 99 sliced the neighborhood  
 19 in half.  
 20 "So the addition of the Duwamish Waterway Park at 10th  
 21 and Canyon in 1978 began some positive changes in South  
 22 Park. In 1989, the old South Park Field House was torn down  
 23 and replaced with a new building. In 2000, Concord School  
 24 was remodeled and reopened.  
 25 "In 2005, Cesar Chavez Park at 7th and Cloverdale was

1 A. A lot of trees and kind of gardens. It has a front porch.  
 2 The front porch is kind of really common in South Park.  
 3 **Q. Right.**  
 4 A. You know, if you drive down the streets of South Park,  
 5 you'll see that most homes have a front porch --  
 6 **Q. Mm-hmm.**  
 7 A. -- and a nice front yard. So -- and then I also wanted to  
 8 point out on page 111, the lower photo shows some of the  
 9 more recent infill, which is the skinny houses.  
 10 **Q. Right.**  
 11 A. And they're kind of the same scale, they have usually one --  
 12 one-and-a-half stories. They're similar in design --  
 13 **Q. Mm-hmm.**  
 14 A. -- to the historical homes in the area. They have the  
 15 pitched roof and the --  
 16 **Q. Right.**  
 17 A. And a lot of them also have the front porch --  
 18 **Q. Okay.**  
 19 A. -- kind of entryway. So -- okay. Page 112 and 113 just  
 20 very quickly shows sort of -- it shows an aerial photograph  
 21 of South Park in 1939 and shows the original neighborhood.  
 22 Most of these homes are still here. And then on page 113,  
 23 it shows a 1946 aerial photograph, and it shows most of the  
 24 infill from the Boeing workers, and those houses are still  
 25 there.

1 **Q. Okay.**  
 2 A. Okay. Page 115, it shows -- it shows what happens when  
 3 industrial zoning when single-family residentials change to  
 4 industrial zoning.  
 5 **Q. Right.**  
 6 A. It shows a picture of 837 Chicago Street, which is a sea of  
 7 concrete and a building and a big truck.  
 8 **Q. Mm-hmm.**  
 9 A. So that's basically what we have surrounding our  
 10 neighborhood. We don't really have trees.  
 11 **Q. Right.**  
 12 A. We have cement; we have some toxic sites --  
 13 **Q. Mm-hmm.**  
 14 A. -- that haven't been cleaned up. We have a lot of  
 15 abandoned --  
 16 **Q. Right.**  
 17 A. -- things.  
 18 **Q. Now, does that conclude what you wanted to show out of the**  
 19 **history of South Park book?**  
 20 A. Are you -- I just turned this off.  
 21 HEARING EXAMINER: You may have to actually just turn it  
 22 off as opposed to just --  
 23 THE WITNESS: Yeah.  
 24 HEARING EXAMINER: -- shut off the call.  
 25 THE WITNESS: I thought that I did. You press power off.

1 community inviting households with children, because we have  
 2 a lot of families in South Park.  
 3 **Q. Right.**  
 4 A. So, you know, that's one of the things we're protecting is  
 5 family housing.  
 6 **Q. Right.**  
 7 A. That's very important to us. Okay. And "South Park goal  
 8 No. 4, a neighborhood where residents of all cultures,  
 9 incomes, and ages are welcome." Diversity and our  
 10 low-income kind of working class history is really important  
 11 to South Park. Okay. Under policies, "South Park policy 1,  
 12 collaborate with South Park residents, businesses, and  
 13 organizations and future planning efforts that impact South  
 14 Park." So neighborhood planning is very important --  
 15 **Q. Mm-hmm.**  
 16 A. -- and inclusion is very important.  
 17 **Q. And in fact, actually, could I ask you quickly, what --**  
 18 **could you tell us what South Park goal 6 is with respect to**  
 19 **land use?**  
 20 A. Yes, South Park goal 6, maintain and enhance South Park's  
 21 residential character. I think this comes from the fear of  
 22 urban and industrial encroachment and goes back to past  
 23 battles over zoning.  
 24 **Q. And actually, with respect to the housing goal, what is the**  
 25 **South Park goal No. 8?**

1 Oh, you have to tap it twice. Sorry.  
 2 A. Okay. Let me see. We have more historic buildings that are  
 3 still there that show the scale. Okay. That concludes the  
 4 book.  
 5 **Q. So, in fact, I just want to ask sort of coming off of that,**  
 6 **the comprehensive plan has a section, obviously, for South**  
 7 **Park which talks about goals and policies regarding housing**  
 8 **and land use. What I wanted to ask you was, with respect to**  
 9 **that, South Park's -- like, what are South Park's stated**  
 10 **goals and policies as far as you know them with respect to**  
 11 **housing and land use that tie into that history of South**  
 12 **Park?**  
 13 A. Most of our neighborhood plan ties into the history of South  
 14 Park and the importance of residential and protecting us  
 15 from further rezoning and encroachment.  
 16 **Q. Okay.**  
 17 A. So this is the Seattle 2035 South Park Neighborhood Plan  
 18 that I have --  
 19 **Q. That's what you're looking at right now?**  
 20 A. -- that I'm reading from.  
 21 **Q. Okay.**  
 22 A. Okay. "South Park goals: South Park goal No. 2, a  
 23 community where neighbors are encouraged to know one another  
 24 and specifically join in making decisions about the future  
 25 of the South Park community." So South Park goal No. 3 is a

1 A. Oh, okay. Yeah. "South Park goal No. 8, the development of  
 2 new and the preservation of existing single-family, detached  
 3 housing affordable to low income households."  
 4 **Q. And does anything of that have to do with historically**  
 5 **what's happened with zoning within South Park?**  
 6 A. Absolutely. One of the reasons that we became an urban  
 7 village years ago was because people wanted to protect the  
 8 remaining residential from encroachment and rezoning.  
 9 **Q. Okay. And, let's see. In fact -- and now you've talked**  
 10 **about the policies. With respect to land use, what is South**  
 11 **Park's policy No. 5?**  
 12 A. "Land use policy No. 5, seek to maintain residential land  
 13 for residential uses."  
 14 **Q. Okay.**  
 15 A. It goes on to say, "Multifamily and split-zone lots adjacent  
 16 to commercial zoning along 14th Avenue south may be rezoned  
 17 to commercial zoning to provide increased space for parking  
 18 that supports commercial uses." I think that's a bit of a  
 19 special interest --  
 20 **Q. Uh-huh.**  
 21 A. -- from the South Park Merchant's Association.  
 22 **Q. Right.**  
 23 A. But it also does kind of attest to the fact that we are an  
 24 auto-oriented community. We are basically a little freeway  
 25 stop.

1 **Q. Driving community.**  
 2 A. Yeah.  
 3 **Q. And so then my last one that I wanted to ask about was just**  
 4 **the policy under housing was policy No. 8?**  
 5 A. Policy No. 8 is -- yeah, the development -- that's the  
 6 development of new and the preservation of existing  
 7 single-family detached housing affordable to low-income  
 8 households. We really value the affordability of the  
 9 neighborhood and our neighbors that don't earn as much. And  
 10 we're aware of --  
 11 **Q. And --**  
 12 A. We're aware of real estate pressures.  
 13 **Q. Right. Obviously, in a small community. Now, one of the**  
 14 **things I wanted to ask about was, did you see within the EIS**  
 15 **any of those goals and policies addressed?**  
 16 A. No.  
 17 **Q. Was there anything that you felt in the EIS took into**  
 18 **consideration what the South Park neighborhood had put out**  
 19 **in the comprehensive plan as its goals or as its aim in**  
 20 **protecting its community?**  
 21 A. I'm sorry, can you repeat that?  
 22 **Q. Yeah, sorry. That was a badly stated question. No, I**  
 23 **just -- you had said that you had seen nothing in the EIS**  
 24 **that specifically spoke about those goals and policies. Did**  
 25 **you feel there were any protections in the EIS in terms of**

1 also some neighborhood groups that have been working for  
 2 years to plant trees in our single-family yards, and restore  
 3 the tree canopy and kind of restore the habitat in the  
 4 Duwamish Valley and recover from some of the industrial  
 5 encroachment. So that's really a big part of, you know,  
 6 our -- our neighborhood plan.  
 7 **Q. Right.**  
 8 A. So that's something that matters to us.  
 9 **Q. Did you find anything within the EIS that was specifically**  
 10 **looking at impacts in your neighborhood that you could tell**  
 11 **distinguished South Park from the other neighborhoods that**  
 12 **it was lumped in with?**  
 13 A. No.  
 14 **Q. I will just ask, Ms. Scarlett, is there anything else that**  
 15 **you wanted to add to your testimony?**  
 16 A. Yes. I kind -- I went through the EIS; I've been through it  
 17 several times. And I've read the whole thing, and I've  
 18 looked for everything, and I kind of just wrote a quick  
 19 summary of -- without going page by page, because I know  
 20 we're pressed for time --  
 21 **Q. Yes.**  
 22 A. -- that it's too broad; that there's no baseline of analysis  
 23 or of the existing environment under any alternative. And  
 24 without showing the existing environment or changes and  
 25 impacts to the environment. Repeatedly saying "less than"

1 **how it was looking at the impact of this proposal on your**  
 2 **neighborhood?**  
 3 A. No.  
 4 **Q. Okay. All right.**  
 5 A. The South Park neighborhood plan was not mentioned at all in  
 6 the EIS, actually.  
 7 **Q. Okay.**  
 8 A. So it's almost like our whole planning process and  
 9 everything was just dismissed.  
 10 **Q. So I would ask you, then, what else with respect to South**  
 11 **Park would you like to make sure that the Hearing Examiner**  
 12 **hears today, especially with respect to what was missing in**  
 13 **the EIS?**  
 14 A. Let's see. Well, I wanted to also -- if it's okay, I'd like  
 15 to just say that we have other policies in our neighborhood  
 16 plan --  
 17 **Q. Okay.**  
 18 A. -- that are important to us.  
 19 **Q. Which are?**  
 20 A. Policy -- South Park policy No. 15 under environment  
 21 policies, "To seek to include quality environmental  
 22 practices in the execution of public works in South Park."  
 23 And also South Park policy No. 16, "Support the efforts of  
 24 local organizations that are working to create a healthier  
 25 environment." So we have some -- a lot of activists and

1 or "more than" has no substance because it's vague,  
 2 misleading, empty of real data and info. I felt like  
 3 decision makers would not be able to make an informed  
 4 decision on land use in my neighborhood of South Park.  
 5 And I'd also like to say that the Georgetown area,  
 6 which is, you know, part of the Duwamish community, is not  
 7 represented in the EIS at all. So they are also getting  
 8 upzoning, and they're a tiny, tiny little residential area  
 9 surrounded by industry just like us, so that's alarming to  
 10 me.  
 11 I felt like overall that the EIS really didn't have a  
 12 strong foundation and didn't really give a lot of  
 13 information. So it was basically comparing, you know,  
 14 nonexistent data to other nonexistent data, and then asking  
 15 someone to make an opinion. And in my honest opinion, I  
 16 felt it's dangerously devoid of analysis. I also went  
 17 through the aesthetics section, 3.3 of the MHA EIS, and I --  
 18 I looked at the photos and I read everything and I saw  
 19 everything. And I made some notes that these -- these  
 20 images really don't represent the existing environment or  
 21 the impacts. I didn't feel like the -- I didn't feel like  
 22 they really showed anything in particular that looked like  
 23 South Park or described South Park in any way.  
 24 **Q. Did -- were they pictures that said they were of South Park?**  
 25 A. They said that they generally represented built form in

1 Seattle, but it doesn't really talk about that. On page --  
 2 let's see. Page 3.163, there's Exhibit 3 -- Exhibit 2.  
 3 **Q. And this is in the final EIS?**  
 4 A. Yes. So it says, "Establish single-family housing areas,"  
 5 so -- and it says, "The ages of the existing housing stock  
 6 often spans several decades. A typical block often has  
 7 homes with an age of 50 years or older." The homes in South  
 8 Park are a lot older than that. It's very different there.  
 9 So I didn't feel like the photo showed -- I don't know.  
 10 It doesn't show -- because you're looking at it from this  
 11 angle, it doesn't show the spaces between the homes like the  
 12 traditional setbacks between the houses.  
 13 **Q. Right.**  
 14 A. So you can't really see -- you can't really see differences  
 15 between what they show as the existing environment and the  
 16 images that they show of potential impacts.  
 17 **Q. Okay.**  
 18 A. And the same goes for Exhibit 10 on page 3.178, and Exhibit  
 19 11 and 12. I've made a note on page 1 -- oh, I'm sorry,  
 20 page 179 that says, "I don't feel this is an adequate  
 21 representation of either the existing environment in South  
 22 Park or the potential impacts of zoning changes."  
 23 So I went through and I did read everything multiple  
 24 times and really look to try to see where South Park is  
 25 mentioned in a way that shows impacts. The graphics on page

1 MS. NEWMAN: Thank you.  
 2 MR. TAVEL: Sure.  
 3 A. So on this one specifically it said -- it talks about how  
 4 the residential small lot zone would establish a new maximum  
 5 dwelling unit size for every single dwelling unit including  
 6 any floor area in an attached accessory dwelling unit of  
 7 2200 square feet. It doesn't really tell me anything. I  
 8 know that the residential small lot code that the -- that  
 9 there's no minimum lot size, that that's one of the changes.  
 10 It doesn't mention this.  
 11 **Q. (By Mr. Tavel) Okay.**  
 12 A. It doesn't mention this in the residential small lot  
 13 chap- -- or, sorry, section.  
 14 **Q. Okay.**  
 15 A. So I felt like that was incomplete information. Let's see.  
 16 And, again, it goes on to repeatedly mention the -- let's  
 17 see -- using design review as a mitigation. Let's see, on  
 18 page 208, I made a note that information was left out. This  
 19 doesn't show impacts. I questioned what is the expected  
 20 result of this info. It's too vague. There's a lack of  
 21 data to be useful for decision making.  
 22 **Q. Okay.**  
 23 A. Okay. Page 211 mentions design review at least five times  
 24 and does not -- it does not apply to South Park, so that  
 25 has --

1 194 and 195 don't really show anything.  
 2 **Q. What do you mean by that?**  
 3 A. Well, it's a basic map, and it's -- tells you the change in  
 4 maximum building height, but this doesn't give you any  
 5 perspective as to what the actual on-the-ground environment  
 6 is like and what the differences will look like. A lot of  
 7 what it talks about in the -- in this section of the EIS,  
 8 which is the aesthetics section, it talks about how some of  
 9 the mitigations would be to design review and project level  
 10 design review, and most of that doesn't apply to South Park  
 11 because of the buildings that are going in there. They're  
 12 not -- they don't qualify because they don't fit the  
 13 criteria for design review.  
 14 I found something especially disturbing on page 202  
 15 when it talks about development character height and scale.  
 16 It tries to dismiss the residential small lot impacts. It  
 17 talks about some changes to the residential small lot code,  
 18 but it leaves out some important other changes, so I felt  
 19 the information was incomplete.  
 20 **Q. And actually what was the chapter number on that that you**  
 21 **were looking at?**  
 22 A. This is -- I'm on page 3.202.  
 23 **Q. Does it say where -- oh, section 3.3 --**  
 24 MS. NEWMAN: That's okay. No, 3.202 is perfect.  
 25 MR. TAVEL: -- aesthetics. Oh, okay.

1 **Q. And why does that not apply to South Park?**  
 2 A. Because residential small lot will -- under the new  
 3 criteria, it doesn't -- it doesn't qualify for design  
 4 review. So I think buildings have to reach a certain size  
 5 before they can qualify. So most buildings -- most  
 6 development in South Park under this proposal would not  
 7 qualify for design review.  
 8 **Q. Okay.**  
 9 A. I'm not an expert, but --  
 10 **Q. Fair enough.**  
 11 A. -- I know that. So...  
 12 **Q. I think -- I think we are reaching the end. If -- I would**  
 13 **say if there's any last thing that you feel you have not yet**  
 14 **added, add now, but I think other than that we are just**  
 15 **about done.**  
 16 A. Okay. There's -- there's a lot more, but I know you guys  
 17 are pressed on time.  
 18 **Q. Yeah.**  
 19 A. So I just felt like -- I noted on land use, which was the  
 20 chapter, I guess, 3.2.  
 21 **Q. Mm-hmm.**  
 22 A. I kind of summarized it as, "The decision makers would not  
 23 be able to make an informed decision on land use in my  
 24 neighborhood." And -- okay. Yeah, I just felt like it --  
 25 there was nothing in there that really showed South Park,

1 showed impacts to South Park, showed the existing  
 2 environment.  
 3 **Q. Right.**  
 4 A. Show the historical resources, showed the critical areas,  
 5 the flood zones.  
 6 **Q. And now, as you had looked at and as you had stated, you had**  
 7 **been a courier around Seattle for a long time. Did you find**  
 8 **parts of the EIS that did mention specifically some other**  
 9 **neighborhoods that you could compare and say that, you know,**  
 10 **you really miss the fact that there was nothing in there for**  
 11 **South Park, so that you had seen other areas mentioned in**  
 12 **the EIS?**  
 13 A. Well, I -- I saw that other areas were mentioned, but, quite  
 14 honestly, because of the way that the neighborhoods are  
 15 lumped together under the -- I think the access to  
 16 opportunity and --  
 17 **Q. The neighborhoods you mentioned?**  
 18 A. -- displacement risk, that because of how it's lumped  
 19 together that most of the impacts are kind of hidden because  
 20 of the averaging of the data and analysis, that you can't  
 21 really see which neighborhood is having what impact and what  
 22 degree -- to what degree that impact might be.  
 23 **Q. So you're saying you couldn't filter out South Park from the**  
 24 **other few neighborhoods that it was lumped in with?**  
 25 A. No.

1 MR. TAVEL: No, the book was the only one.  
 2 HEARING EXAMINER: And did you want 260 admitted?  
 3 MR. TAVEL: Yes, we would move to admit 260.  
 4 HEARING EXAMINER: Any objection?  
 5 MR. WEBER: None.  
 6 HEARING EXAMINER: 260 is admitted.  
 7 (Exhibit No. 260 is admitted.)  
 8 HEARING EXAMINER: Where are we on the schedule, then?  
 9 MR. WEBER: I believe we're going to start with the  
 10 cross-examination of Katie Wilson.  
 11 HEARING EXAMINER: Okay.  
 12 MR. WEBER: Ms. Bendich is going to start with that.  
 13 HEARING EXAMINER: We'll take a break, and we'll come back  
 14 at 10:30.  
 15 (Recess)  
 16 HEARING EXAMINER: And just a check, do we have any  
 17 additional witnesses from the appellants or was that --  
 18 MS. NEWMAN: No, but I do have a --  
 19 HEARING EXAMINER: -- conclusional?  
 20 MS. NEWMAN: -- a procedural issue. We, on our exhibit  
 21 list -- our witness list identified that we would like to  
 22 call City witnesses to do direct if necessary. We reserve  
 23 the right and have -- I think we talked about at the -- the  
 24 prehearing conference because I tend to always raise this  
 25 issue, but --

1 **Q. Okay.**  
 2 A. Definitely not.  
 3 **Q. All right. Thank you.**  
 4 A. No.  
 5 **Q. That is all.**  
 6 HEARING EXAMINER: Cross.  
 7 MR. WEBER: Jeff Weber for the City. I'll be very brief  
 8 here.  
 9  
 10 CROSS EXAMINATION  
 11 BY MR. WEBER:  
 12 **Q. Have you reviewed any EISs other than the one involved here?**  
 13 A. Yes, I did look at a couple. There was the uptown EIS,  
 14 so...  
 15 MR. WEBER: I think in the interest of time, the City will  
 16 stop there. Thank you very much.  
 17 THE WITNESS: Okay. Thanks.  
 18 HEARING EXAMINER: Any redirect from that question?  
 19 MR. TAVEL: No redirect.  
 20 HEARING EXAMINER: Thank you for your time, Ms. Scarlett.  
 21 THE WITNESS: Thank you.  
 22 MR. WEBER: Could I ask about exhibits? The book was  
 23 marked as --  
 24 HEARING EXAMINER: 260.  
 25 MR. WEBER: And were there any others?

1 HEARING EXAMINER: Mm-hmm.  
 2 MS. NEWMAN: -- I just wanted to make sure that we  
 3 recognize that I -- we have been under the impression that  
 4 we wouldn't call one of the City's witnesses separately and  
 5 do direct but would rather ask questions during cross that  
 6 may possibly be outside of the scope of direct.  
 7 HEARING EXAMINER: That's right.  
 8 MS. NEWMAN: Okay.  
 9 HEARING EXAMINER: Mm-hmm.  
 10 MS. NEWMAN: I just wanted to make sure that was okay.  
 11 MR. KISIELIUS: Can -- and I agree with that. I recalled  
 12 the same discussion after we talked about it --  
 13 MS. NEWMAN: No.  
 14 MR. KISIELIUS: -- being for efficiency's sake to do that.  
 15 I think the -- I guess I wanted to make sure that we're  
 16 thinking that that list is the same list. As I recall,  
 17 there were specific City witnesses that the opponents  
 18 identified and that's --  
 19 MS. NEWMAN: Oh, no, it would be ones that you're calling.  
 20 We're not --  
 21 MR. KISIELIUS: No, no. I understand.  
 22 MS. NEWMAN: Okay.  
 23 MR. KISIELIUS: But we had -- when we went through that  
 24 whole exercise with the Post-Its, there were specific City  
 25 witnesses that you all had sort of flagged as being City

## Hearing - Day 16

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

August 30, 2018



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BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

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

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1 August 30, 2018

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3

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

1 available units.  
 2 **Q. So in light of all the considerations you've discussed, in**  
 3 **your opinion, was it reasonable for the EIS to analyze**  
 4 **economic displacement in the manner it did without taking**  
 5 **the approach suggested by Mr. Reed as to focusing**  
 6 **specifically on replacement of older, less expensive**  
 7 **buildings with newer buildings?**  
 8 A. Yeah. I think we approached it in the right way.  
 9 **Q. A number of appellant witnesses raised the question of**  
 10 **residents being displaced by higher property taxes. Does**  
 11 **the EIS discuss the effects of higher property taxes?**  
 12 A. Yes, it does.  
 13 **Q. And then could I have you turn to page 3.39?**  
 14 A. Um-hum.  
 15 **Q. I'm not going to ask you to read it, but is this issue**  
 16 **addressed in the middle of the page there?**  
 17 A. Yes.  
 18 **Q. And then also turning to page 3.64.**  
 19 A. Um-hum.  
 20 **Q. Is the issue of property taxes also addressed and then --**  
 21 A. Yes, addressed in more depth there on this page.  
 22 **Q. Okay. So I take it you've heard or reviewed the testimony**  
 23 **of the appellants' experts on housing and socioeconomic**  
 24 **issues?**  
 25 A. Yes.

1 **represent the Seattle Coalition for Affordability,**  
 2 **Livability & Equity, SCALE, one of the appellants in this**  
 3 **action.**  
 4 A. Good morning.  
 5 **Q. How are you? I reviewed -- I listened to a recording of**  
 6 **your testimony from last week, as well as listened to your**  
 7 **testimony today, and reviewed the transcript of last week's**  
 8 **as well. I -- one of the aspects of Mr. Reed's testimony --**  
 9 **That you said you reviewed, right?**  
 10 A. Um-hum.  
 11 **Q. -- was that the EIS analysis had not addressed impacts --**  
 12 **had focused on the impacts on rental housing and not**  
 13 **owner-occupied housing. Do you remember that part of**  
 14 **Mr. Reed's --**  
 15 A. I do --  
 16 **Q. -- testimony?**  
 17 A. -- remember that argument.  
 18 **Q. Do you agree with him that the EIS focuses on rental**  
 19 **housing, not -- and doesn't analyze the impacts on**  
 20 **owner-occupied housing?**  
 21 A. I don't agree with that.  
 22 **Q. You did not address that, though, in your testimony, did**  
 23 **you?**  
 24 MR. WEBER: And I would object. If he didn't address it,  
 25 then it's not a proper subject for cross-examination.

1 **Q. Have you heard anything in their testimony that causes you**  
 2 **to question any of the conclusions or the sufficiency of the**  
 3 **analysis in the FEIS on housing and socioeconomics,**  
 4 **including displacement issues?**  
 5 A. No, I have not.  
 6 **Q. Do you believe the EIS adequately disclosed housing and**  
 7 **socioeconomic impacts, including displacement impacts?**  
 8 A. Yes.  
 9 **Q. Do you think the EIS adequately disclosed the housing and**  
 10 **socioeconomic impact concerns, particularly displacement**  
 11 **concerns, that were raised by the appellants?**  
 12 A. Yes, I think it adequately did that.  
 13 **Q. And do you stand by the conclusions and the analysis in the**  
 14 **housing and socioeconomics portion of the EIS?**  
 15 A. I do.  
 16 **Q. Thank you.**  
 17 MR. WEBER: That's all I have.  
 18 HEARING EXAMINER: Cross?  
 19 MS. BENDICH: Dave, I was relying on you.  
 20 MR. BRICKLIN: Do you want me to go first?  
 21 MS. BENDICH: Yes.  
 22  
 23 CROSS - EXAMINATION  
 24 BY MR. BRICKLIN:  
 25 **Q. Good morning, Mr. Ramsey. My name is Dave Bricklin. I**

1 MR. BRICKLIN: But I just want to confirm that I didn't  
 2 miss it. I'm not going to go into --  
 3 MR. WEBER: I'll withdraw the --  
 4 MR. BRICKLIN: -- it further.  
 5 MR. WEBER: -- objection in that --  
 6 MR. BRICKLIN: Yeah. I'm not going to go into it further.  
 7 MR. WEBER: Yeah.  
 8 **Q. (By Mr. Bricklin) I just want to acknowledge that you did**  
 9 **not address it in your (inaudible) --**  
 10 A. I was not questioned on that topic, no.  
 11 **Q. That's all I was asking for. Thank you. Regarding economic**  
 12 **dislocation, you actually spent a fair amount of time**  
 13 **talking about that again this morning as well as last week.**  
 14 **And as I understand it, the gist of this is that you believe**  
 15 **that, at a citywide level, adding housing supply will reduce**  
 16 **housing price impacts, not necessarily reduce housing prices**  
 17 **but at least reduce the rate of which they're increasing?**  
 18 A. Sure.  
 19 **Q. But you acknowledge and you point to several places in the**  
 20 **EIS where the EIS acknowledges that this citywide**  
 21 **correlation won't necessarily play out in any given**  
 22 **neighborhood, right?**  
 23 A. We did analysis at the neighborhood scale that shows that  
 24 that's a general -- as a general rule and trend, that we  
 25 weren't seeing any additional -- we weren't -- places -- we

1 weren't finding more economic displacement in areas with  
 2 more housing production.  
 3 So as a general rule, what our finding was, that at the  
 4 neighborhood scale, it is consistent with our finding at the  
 5 citywide scale that more production isn't a cause of more  
 6 economic displacement or isn't associated with it.  
 7 We weren't -- (inaudible), but, you know, relationships  
 8 there.  
 9 **Q. Well, perhaps I misunderstood the significance of the**  
 10 **language you were quoting this morning.**  
 11 A. Um-hum.  
 12 **Q. You quoted, for instance, page 3.77 and 3.86.**  
 13 A. Um-hum.  
 14 **Q. And Appendix I at 6.**  
 15 A. Yeah. Those were --  
 16 **Q. You know, and let me just read one of them --**  
 17 A. Sorry.  
 18 **Q. -- as an example.**  
 19 A. Sure.  
 20 **Q. You read -- there was the same notion repeated several**  
 21 **times, right?**  
 22 A. Yeah. I know what you're talking about.  
 23 **Q. And one of them, just to refresh your recollection, is --**  
 24 **I'm looking at the one from the Appendix, I-6. "This could,**  
 25 **in some cases, result in a situation where housing costs**

1 between economic displacement or that indicator of economic  
 2 displacement and new housing production.  
 3 **Q. Right. So it was using that as an indicator, right?**  
 4 A. Yes.  
 5 **Q. Basically, right?**  
 6 A. Yeah.  
 7 **Q. And -- but my -- the point was that while, in general,**  
 8 **greater housing supply, even if it's expensive housing, will**  
 9 **have a dampening effect on housing costs at lower levels in**  
 10 **the market, that at a neighborhood level, that may not**  
 11 **occur?**  
 12 A. There's --  
 13 **Q. It may be --**  
 14 A. There's circumstances where that might not play out at the  
 15 neighborhood scale.  
 16 **Q. Right.**  
 17 A. That's -- it doesn't acknowledge that potential.  
 18 **Q. Right. So -- and the EIS says that several times, right?**  
 19 A. Yeah.  
 20 **Q. Those are the quotes you had?**  
 21 A. Yeah.  
 22 **Q. Does -- but isn't it true that the EIS never then drills**  
 23 **down and tries to assess where -- which neighborhoods where**  
 24 **effect will occur, that negative effect will occur?**  
 25 A. Well, we do to the extent that when we did the correlation

1 **increase more rapidly in that neighborhood than would be the**  
 2 **case if the neighborhood experienced significantly less new**  
 3 **growth," talking about gentrification there.**  
 4 A. It acknowledges that under some circumstances that that  
 5 could happen in individual neighborhoods, yes.  
 6 **Q. All right. And -- but while the EIS acknowledges that**  
 7 **this -- so let's put it this way just to simplify the**  
 8 **language.**  
 9 A. Um-hum.  
 10 **Q. The generalized trend you've identified is a positive,**  
 11 **right, in that the notion is increased housing reduces**  
 12 **housing costs generally or upward pressure on housing costs**  
 13 **generally and --**  
 14 A. We don't --  
 15 **Q. -- that's a good thing.**  
 16 A. Yeah. There's research on that topic, yes.  
 17 **Q. And then --**  
 18 A. You know, our correlation also didn't show exactly that  
 19 though.  
 20 **Q. And then the -- right. It showed a weak correlation along**  
 21 **those lines?**  
 22 A. No, it didn't -- it didn't look at housing costs at all. It  
 23 looked at the relationship between the change in the number  
 24 of households at a different income scale and the amount of  
 25 new housing production to see, is there any relationship

1 analysis at the neighborhood scale or the census tract  
 2 scale, we not only looked at what was the general trend for  
 3 all census tracts citywide, but we also broke them down into  
 4 categories based on displacement risk and access to  
 5 opportunity to see, you know, even though, there might be  
 6 this particular relationship citywide, is it a different  
 7 type of relationship in areas with higher displacement  
 8 risks, for example, to see, you know, should there be -- you  
 9 know, should we be treating those types of areas differently  
 10 with regard to this potential effect.  
 11 And what we found was consistency, for the most part,  
 12 across all the different categories. And we can look at the  
 13 exhibit to look at that. But, yeah.  
 14 **Q. But that doesn't refute the statement that you've quoted**  
 15 **several times, that nonetheless, despite these general**  
 16 **trends --**  
 17 A. Um-hum.  
 18 **Q. -- that there are going to be neighborhoods where adverse**  
 19 **impacts are going to occur?**  
 20 A. It -- we didn't say that there are going to be  
 21 neighborhoods. We can't predict the future.  
 22 **Q. Well, I mean, isn't the EIS all about predicting the future,**  
 23 **imperfectly or otherwise, analyzing expected impacts in the**  
 24 **future?**  
 25 A. Yeah, potential impacts --

1 **Q. Okay.**  
 2 A. -- I guess is what we're looking at.  
 3 **Q. All right.**  
 4 A. And -- but I'm just -- the language you used wouldn't  
 5 (inaudible) language I chose for the EIS.  
 6 **Q. So the EIS in predicting the future --**  
 7 A. Um-hum.  
 8 **Q. -- imperfectly or otherwise --**  
 9 A. Yeah.  
 10 **Q. -- takes the citywide approach, and then also by the various**  
 11 **typologies that you referenced, but it acknowledges that**  
 12 **those general trends are -- that there will be specific**  
 13 **neighborhoods where those general trends don't play out and**  
 14 **where there will be adverse effects?**  
 15 A. It says that there could be potential neighborhoods under  
 16 certain circumstances where it diverges from that general  
 17 trend. And it may or may not be because of the new housing  
 18 production there that, you know -- but as a general rule, we  
 19 did quite a bit of analysis to look at, you know, has there  
 20 historically been any systematic relationship between new  
 21 housing production and the displacement of households of  
 22 different income levels.  
 23 **Q. Okay.**  
 24 A. And we didn't find that either citywide or in the different  
 25 neighborhood typologies.

1 income households, for example. So we present -- we present  
 2 the data in a map form, you know, for every neighborhood.  
 3 And then we look at, you know -- we use statistical  
 4 techniques to try to understand more systematically rather  
 5 than on an individual neighborhood scale what can be  
 6 expected.  
 7 **Q. So you keep coming back to the general trends, but you're --**  
 8 **I don't know that you're -- I think you would agree that at**  
 9 **the end of the day, the EIS did not --**  
 10 **Let's use an example, Fremont.**  
 11 A. Okay.  
 12 **Q. -- go into Fremont and analyze whether Fremont is going to**  
 13 **be --**  
 14 MR. WEBER: I'm going to object. This question --  
 15 **Q. (By Mr. Bricklin) -- following the (inaudible) --**  
 16 MR. WEBER: -- has already been asked and answered about  
 17 these specific neighborhoods.  
 18 HEARING EXAMINER: Okay. Well --  
 19 MR. BRICKLIN: I don't think -- I think it's just been  
 20 asked. I don't think I've gotten a clear answer.  
 21 HEARING EXAMINER: I agree. Overruled.  
 22 **Q. (By Mr. Bricklin) So my question is the EIS never looks at**  
 23 **one specific neighborhood at a time, like Fremont, and says,**  
 24 **Okay, let's see if Fremont falls in the general rule or**  
 25 **whether it's going to fall into one of the -- be one of the**

1 **Q. And you would agree that the -- that while the EIS**  
 2 **acknowledges many times that there -- that the general rule**  
 3 **will not necessarily play out in every neighborhood, this**  
 4 **citywide EIS that was prepared didn't analyze this issue on**  
 5 **a neighborhood-by-neighborhood basis, right?**  
 6 **It didn't look at Capital Hill and analyze this issue**  
 7 **there. It didn't look at First Hill and analyze the issue**  
 8 **there. It didn't look at Fremont and analyze the issue**  
 9 **there.**  
 10 A. Well, you could say -- no, we analyzed -- we performed this  
 11 analysis separately on every census tract in the city, and  
 12 we have maps in the appendix that show the -- you know, what  
 13 happened historically in terms of new housing production and  
 14 the change in the number of households at different income  
 15 scales. We mapped that out.  
 16 So, you know, we show historically the relationship at the  
 17 neighborhood scale. And then we use statistical techniques  
 18 like correlation to say, okay, when you look at -- when you  
 19 look in general, you know, is there any sort of systematic  
 20 relationship? Well, there might be one neighborhood that  
 21 differs from this general trend we saw across the city as a  
 22 whole.  
 23 You know, in general, you know, our neighborhoods that  
 24 are -- that experience more housing production, are they  
 25 more likely or less likely to also experience a loss of low

1 **exceptions. It doesn't do that, does it? For Fremont.**  
 2 **Let's just use Fremont.**  
 3 A. For Fremont. So we've -- we analyzed it and present maps  
 4 for every neighborhood across the city so that the reader  
 5 can see what has occurred in the census tracts in Fremont  
 6 and elsewhere.  
 7 And then we group the census tracts by -- into categories  
 8 based on similarities in terms of displacement risk and  
 9 their access to opportunity so that, you know, across that  
 10 entire group, what is the general trend. Because there  
 11 might be an individual neighborhood for a variety of reasons  
 12 could have a -- could have a -- historically have seen both  
 13 the loss of low-income households as well as an increase in  
 14 production. But we can't base a finding on one -- on one  
 15 particular census tract because there could be -- there  
 16 could be lots of other factors involved there.  
 17 That's why we look at more than just one census tract at a  
 18 time in order to see, as a general trend, are we seeing this  
 19 sort of relationship, or might have there been something  
 20 anomalous in that particular census tract.  
 21 We also acknowledge that we -- you know, it's not a  
 22 perfect analysis and there might be circumstances in a given  
 23 census tract that could have, you know, the occurrence where  
 24 more housing production is also associated with economic  
 25 displacement. We do acknowledge that as well.

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 **lot. Isn't there less and less of that available?**  
 2 A. There's -- I do know that the -- if you look at housing  
 3 capacity across Seattle, there's a lot of -- there's a lot  
 4 of space and there's -- you know, when we did the parcel  
 5 allocation approach, a lot of the places that came were  
 6 parking lots. I -- over the long period of time, will there  
 7 be less parking lots available to redevelop? I suppose so.  
 8 **Q. And so the ratio of displacement to new development's going**  
 9 **to increase over time, won't it?**  
 10 A. I -- no, I disagree. Because I think that's more than  
 11 cancelled out by the factors that I discussed during my  
 12 testimony last week, which are the fact that when you allow  
 13 for -- when you allow for more capacity in an upzone  
 14 scenario in the action alternatives, you're allowing for  
 15 more growth to occur on less parcels than would be under no  
 16 action.  
 17 You know, the same amount of growth to occur on less  
 18 parcels because you can fit more growth on each parcel.  
 19 When you're redeveloping less parcels, you displace less  
 20 stuff happening on those parcels before the redevelopment  
 21 occurs.  
 22 So you would expect, under an upzone scenario, to have  
 23 less parcels for the same amount of growth to be  
 24 redeveloped. And when you have less parcels redeveloped,  
 25 you'd expect to have less homes on those parcels to be

1 that you're identifying here is important, and that's why we  
 2 used the parcel allocation model as the kind of primary  
 3 approach to estimating displacement, because it looks at  
 4 what's actually available on the ground to redevelop in each  
 5 of these given neighborhoods and which of those are most  
 6 likely to redevelop and then calculates the amount of  
 7 displacement based on what we found in each of those  
 8 individual neighborhoods.  
 9 It was a parcel scale on houses. We're looking at a fine  
 10 grain scale at each neighborhood in order to address how a  
 11 situation might change over time the way that you're  
 12 describing. And that's why we used the parcel allocation  
 13 approach to come up with the -- with those estimates.  
 14 This historic approach was thrown on there -- was included  
 15 to provide a range of potential outcomes, but we discussed  
 16 in the EIS why, particularly for the action alternatives, it  
 17 might be overstating the amount of demolition, because when  
 18 there's more capacity, you can fit more on less parcels.  
 19 **Q. But you said -- you discounted it because it may have**  
 20 **overstated, but you've just acknowledged that because of**  
 21 **this, the issue we talked about a minute ago, it may be**  
 22 **understated, right?**  
 23 A. Potentially for the no action alternative. Potentially.  
 24 **Q. And you're limiting the understatement to the no action**  
 25 **because it doesn't -- because you're thinking that the error**

1 displaced.  
 2 **Q. But if in the historic situation you had a lot of parking**  
 3 **lots and now you don't, whether they're less --**  
 4 A. That would --  
 5 **Q. -- (inaudible) --**  
 6 A. That would --  
 7 **Q. -- less or more, you're still going to be losing more**  
 8 **residential units in the future than your old stock ratio**  
 9 **would suggest?**  
 10 A. That would apply to all of the -- all of the alternatives  
 11 evenly. It wouldn't -- that's nothing unique to action,  
 12 so...  
 13 **Q. Well, that's fine. But the point is that the -- using the**  
 14 **historic ratio as a predictor of the future ratio would be**  
 15 **understating it, right?**  
 16 A. My -- yeah, for no action perhaps. I could follow your  
 17 logic for the no action alternative I guess. But, you know,  
 18 I'd say it's overstating it for the -- for the action  
 19 alternatives.  
 20 **Q. So to the extent it -- that using the historic ratio**  
 21 **understates future dislocations --**  
 22 A. Um-hum.  
 23 **Q. -- that historic ratio would not be conservative. It would**  
 24 **be understating future dislocations, right?**  
 25 A. I -- you know, I think the issue that you're addressing --

1 **in one direction might be cancelled out by --**  
 2 A. The amount of --  
 3 **Q. -- the factors --**  
 4 A. -- additional capacity, yes.  
 5 **Q. Right.**  
 6 A. Yes.  
 7 **Q. But did you do that analysis, or are you just guessing about**  
 8 **that?**  
 9 A. That's what the parcel model allocation approach was, was an  
 10 analysis of, you know, if you look at the parcels that are  
 11 most likely to redevelop, how much displacement could you  
 12 have. So essentially, the parcel allocation model was that  
 13 analysis that you're asking for.  
 14 And you couldn't do it in more detail than that. That was  
 15 looking at each parcel, which ones are most likely to  
 16 redevelop.  
 17 **Q. Before we leave the historic data piece of this though, so**  
 18 **that's where you used the TRAO data; is that right, in terms**  
 19 **of using the number of people signing up for that assistance**  
 20 **program as a marker for dislocation?**  
 21 A. As one indicator of the displacement of low income  
 22 households as a result of, you know, physical -- or  
 23 demolition of their unit.  
 24 **Q. Right.**  
 25 A. Yes.

1 **Q. And that was the data you used to develop this ratio, right?**

2 A. So there's different ratios. So let's separate out the  
3 discussion of demolitions, which we were just talking about.  
4 And one of the approaches to estimating demolitions that  
5 would occur from the amount of new growth was the historic  
6 trends approach which did calculate a ratio based on  
7 historic trends.

8 Then, once we -- we came up with two estimates of  
9 demolitions for each alternative, right. And then the  
10 second part of the analysis was to look at the TRAO data to  
11 look at what is the rate of -- for each demolition, how  
12 much -- how many displaced household -- what percentage of  
13 demolitions would result in a displaced low-income  
14 household.

15 And we acknowledge that that's not a complete accounting  
16 of all the potential households that could be displaced, but  
17 it was a good indicator of the relevant amount of  
18 displacement that would occur.

19 And we used it so we -- particularly so we could look at  
20 different neighborhood types and see if you'd see more  
21 displacement in a high risk neighborhood versus another.

22 **Q. And that -- but you and the EIS acknowledge many limitations  
23 that infect the TRAO data, right?**

24 A. That -- we do acknowledge limitations of the TRAO data yes.

25 **Q. And so, for instance, among other things, it only looks at**

1 allocation model approach for demolitions, which we think is  
2 more accurate because of all the stuff that we just talked  
3 and that you brought up yourself.

4 And then we also looked at it through a higher estimate of  
5 demolitions based on historic trends approach. So I think  
6 one thing we like (inaudible) is that because we think the  
7 historic trends approach is conservative and is a higher-end  
8 estimate of what the potential demolitions could be, that  
9 helps to account for the -- you know, the potential that we  
10 acknowledge that there might be -- we -- you know, using the  
11 TRAO analysis alone might be undercounting the amount of  
12 displaced low-income households as a result of demolition.

13 But I think more importantly, you know, the EIS, because  
14 it acknowledges that, it also says this is why we're  
15 presenting also the total amount of demolitions as a very,  
16 very high-end conservative estimate of what the potential  
17 demolition -- or potential displacement could be.

18 We don't expect that all -- every demolition would occur  
19 in a displacement of a household since many households are  
20 owner-occupied, but that information is also presented so  
21 that we could get a full accounting of what is the  
22 absolutely high end of potential displacement of households  
23 at other income levels, you know, moderate income, middle  
24 income as well.

25 **Q. So you keep saying it's very conservative, but you're --**

1 **displacement of folks with incomes below 50 percent AMI,  
2 right? It doesn't look at poor people in the 50 to 80  
3 percent?**

4 A. That's correct.

5 **Q. And there were a number of other limitations in the data  
6 that the EIS acknowledge, right? People just don't use the  
7 program. People get evicted. People get evicted in advance  
8 of the demolition by their rents going up. A variety of  
9 problems with that data, right?**

10 A. There could be situations where low-income households are  
11 able to benefit from that program and wouldn't have been  
12 tracked by that program, that's correct. That's why we --

13 **Q. Right. And so that -- those numbers also underestimate --  
14 understate the amount of actual displacement occurring  
15 because of the limited nature of that data send, right?**

16 A. That is -- that is true, yeah. It -- yeah.

17 **Q. And despite that, you characterize the numbers that you  
18 generate as conservative, very conservative at one point,  
19 right?**

20 A. Which numbers are you referring to?

21 **Q. Your -- the -- your estimates of the amount of dislocation  
22 that will be caused by the MHA program.**

23 A. We analyze the amount of -- potential amount of households  
24 at the lower end of the -- you know, at 50 percent or below  
25 that could be displaced. And we do that using the parcel

1 **that is despite your acknowledgment that the TRAO data only  
2 looks at the very low income, below 50 percent, and despite  
3 your acknowledgment a moment ago that the historic ratio  
4 that you used --**

5 MR. WEBER: Objection. He's now characterizing the  
6 witness's testimony.

7 HEARING EXAMINER: What's the question?

8 **Q. (By Mr. Bricklin) I'm asking whether when you state it's  
9 very conservative, are you -- isn't that inconsistent with  
10 your acknowledgment that the TRAO data is limited to the  
11 very poor, below 50 percent, and inconsistent with your  
12 acknowledgment that the ratio that you developed understates  
13 the future because of the parking lot issue we were talking  
14 about.**

15 A. There's a lot of elements there. When I said it was very  
16 conservative, I was referring to the fact that we present  
17 total demolitions as well in the EIS as a very, very  
18 conservative estimate of the amount of potential  
19 displacement, you know, so that that's fully presented.

20 Because we know that the percentages developed by TRAO,  
21 and we acknowledge in the EIS, are most likely low in terms  
22 of the amount of low-income households displaced due to  
23 demolition; however, we use that data in the EIS because it  
24 provides a really good way to compare the alternatives.

25 While the overall numbers might be slightly low for that

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1 particular indicator when you're using the parcel allocation  
 2 model approach, it's a nice comparison because we don't --  
 3 we haven't seen evidence that there might be any -- we're  
 4 able to look at how that displacement occurs, that ratio of  
 5 displaced households to demolished units changes in  
 6 different neighborhood types.  
 7 And one of the key things in the EIS and what the  
 8 actionable terms vary is the amount of growth that goes into  
 9 low-income -- or into high-displacement neighborhoods,  
 10 high-displacement-risk neighborhoods versus not. And,  
 11 therefore, we needed a method to try to differentiate, you  
 12 know, if you put more growth in a higher displacement risk  
 13 neighborhood, would that -- or would you expect to see, you  
 14 know, more displacement than the same amount of growth in a  
 15 low-displacement risk neighborhood.  
 16 So we did -- we used the TRAO data in order to look at,  
 17 you know, relative to each other, how much displacement?  
 18 What is -- you know, what is that ratio of for each new unit  
 19 developed and how many households are displaced, we were  
 20 able to use the TRAO data, because it was available at such  
 21 a fine grain scale, to make those comparisons in different  
 22 neighborhood types, which is really important to comparing  
 23 the different alternatives in there and informing the City's  
 24 decision about which way to go on that.  
 25 **Q. So your point that even if the conclusions you reached are,**

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1 **in absolute terms, understating the amount of displacement,**  
 2 **they're at least useful in terms of comparing one**  
 3 **alternative against the other? Is that what I heard you**  
 4 **say --**  
 5 A. I'd say that --  
 6 **Q. -- in all that?**  
 7 A. I'd say -- I think that the -- yes, definitely. And I would  
 8 say that that's why we also have a much higher end estimate  
 9 of the amount of demolition that could occur from that  
 10 overstating approach, which is the historic trends approach.  
 11 **Q. Okay. Did you hear the part of -- or read the part of**  
 12 **Mr. Reed's testimony where he discussed the problem with the**  
 13 **lag in time between new housing displacement on the one hand**  
 14 **and new housing production on the other?**  
 15 A. I -- I've read some of that. If you could remind me of his  
 16 particular argument, because I know other different people  
 17 made that argument, that would be helpful.  
 18 **Q. Well, let me just ask you. You didn't address the time lag**  
 19 **issue, did you, in your testimony?**  
 20 A. And we're talking about physical displacement?  
 21 **Q. Yes.**  
 22 A. With regard to physical displacement, we used data from  
 23 TRAO, which was, you know, every time that someone asks for  
 24 a demolition permit in Seattle, they need to provide  
 25 applications for TRAO to the household occupying that so

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1 that it's a count of households displaced by demolition. We  
 2 were looking at what are the impacts of demolition --  
 3 **Q. But, I mean, that -- right, but that's the -- that's the**  
 4 **very low income of below 50 AMI, right?**  
 5 A. Yeah.  
 6 **Q. How about the displacement of people with low incomes but**  
 7 **not that low, the 50 percent AMI up to 100 percent AMI?**  
 8 A. I'm trying to figure out this lag approach. Because we were  
 9 trying to estimate how much -- for physical displacement,  
 10 you know, how much -- you know, for each demolition, how  
 11 likely is it going to be to lead to displacement.  
 12 So we were looking at displacement due to demolition. So  
 13 there isn't a lag there in the same way. So I'm trying to  
 14 figure out what lag you're referring to.  
 15 **Q. All right. But it's not what I was referring to.**  
 16 A. Okay. Well, then Mr. Reed.  
 17 **Q. It's what Mr. Reed was referring to.**  
 18 MR. WEBER: I'm going to object. I don't believe that  
 19 this witness testified to the subject that Mr. Bricklin is  
 20 trying to his elicit --  
 21 MR. BRICKLIN: And that's fine.  
 22 MR. WEBER: -- and what's going on at this point.  
 23 MR. BRICKLIN: If he didn't, that's -- that was my first  
 24 question.  
 25 MR. WEBER: Because we don't even really know what that

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1 is. I mean, again, he's characterizing Mr. Reed's  
 2 testimony. He's being completely unclear what it is and  
 3 then asking this witness a question about that.  
 4 HEARING EXAMINER: I don't recall what he's being --  
 5 MR. BRICKLIN: Okay. That's fine.  
 6 **Q. (By Mr. Bricklin) And you didn't -- therefore, you didn't**  
 7 **address it?**  
 8 A. I don't know if I addressed it or not because I don't recall  
 9 exactly the argument that you're referring to from Mr. Reed.  
 10 **Q. Okay. All right. Do you recall a lag issue in the context**  
 11 **of economic displacement?**  
 12 A. I do recall arguments on that, yes.  
 13 **Q. And what do you recall Mr. Reed testifying about that? And,**  
 14 **well, let me ask you. Did you address Mr. Reed's arguments**  
 15 **about that?**  
 16 A. Mr. Levitus and Mr. Reed both made different arguments about  
 17 that, but I -- I anticipate that the argument had something  
 18 to do with, you know, as -- in areas expecting more growth,  
 19 then there might be more -- the prices might increase ahead  
 20 of that new growth coming into the neighborhood, and that  
 21 could result in economic displacement even ahead of the  
 22 production happening. Is that the general argument I'm  
 23 supposed to respond to?  
 24 **Q. Well, I think it's the notion that the increased prices that**  
 25 **will -- that sometimes arise, as we talked about earlier,**

1 when new, high-priced development and new amenities  
 2 associated with that come into a neighborhood --  
 3 A. Um-hum.  
 4 **Q. -- and the values go up --**  
 5 A. Yeah.  
 6 **Q. -- because of this new development and so rents go up and**  
 7 **housing prices go up. And you're saying, well, there's a**  
 8 **countervailing effect that, as housing supply increases,**  
 9 **that's going to offset that. And I think the lag issue in**  
 10 **this context is that that downward effect, that downward**  
 11 **price effect takes a long time --**  
 12 A. Oh.  
 13 **Q. -- to reach the lower parts of the market. So you might**  
 14 **have immediate impacts on these modestly-priced houses and**  
 15 **rentals and yet a long time from now there might be a**  
 16 **filtering down of the -- of this new housing but that's**  
 17 **going to be a long time from now.**  
 18 A. I think you're referring to two different things. Like  
 19 filtering is a concept in the research literature whereby  
 20 units that are new now are priced higher because they're  
 21 new, but over time they filter down to be -- to be more  
 22 reasonably priced and lower priced units on the market at --  
 23 you know, over many, many years. And that being a part and  
 24 part of how housing markets evolve over time.  
 25 I think that's a distinct issue from the effect that

1 **Q. Yes, market rate.**  
 2 A. I'd say a lot of it is in older buildings, if that makes  
 3 sense. I think it's also probably some in newer microunits  
 4 and other types of housing options. I don't think it's  
 5 exclusively in older stock.  
 6 **Q. I didn't say exclusively, but most.**  
 7 A. A lot, yeah, I would agree.  
 8 **Q. And you would agree that those older units are the ones that**  
 9 **are most likely to be demolished as new housing is produced**  
 10 **in the neighborhood, right?**  
 11 A. Relative to newer units, yes. Yeah.  
 12 **Q. And the newer units are going to be priced higher than the**  
 13 **old -- the units in the older buildings that are being**  
 14 **demolished, right?**  
 15 A. Typically, that's what our analysis shows.  
 16 **Q. And the EIS never says that, does it? The EIS never says:**  
 17 **Most of the affordable housing in the city is in these**  
 18 **older, smaller units, and those are going to be the units**  
 19 **that are most likely to be demolished in the -- as the MHA**  
 20 **program is unveiled.**  
 21 A. I'd say that we definitely have charts and the discussion  
 22 there that that -- you know, for example, we look at the --  
 23 after that chart that I showed earlier, which was looking at  
 24 the larger apartment complexes, we also discuss analysis,  
 25 survey data from smaller buildings in the -- you know,

1 supply can have on meeting current demands. Like if there's  
 2 a great deal of demand for new housing in a neighborhood and  
 3 the amount of -- we don't build anything in that  
 4 neighborhood, then the people that have the resources, the  
 5 higher-income folks are able to bid up the existing stock in  
 6 that neighborhood and can cause significant housing cost  
 7 increases with a lack of new development.  
 8 If you were to bring more development into that, that  
 9 accommodates some of that demand at least and reduces the  
 10 spillover effect of that -- of the demand on the remainder  
 11 of the housing stock. So, you know, in general, I would say  
 12 that more housing production helps to alleviate that  
 13 pressure from demand in a neighborhood.  
 14 That's a different thing than the issue that when you've  
 15 built a lot in a neighborhood, that can create new amenities  
 16 in the neighborhood and that might create additional demand.  
 17 And that's the second thing. That would be kind of a lag  
 18 that would happen after the development occurs. And that --  
 19 there's a possibility for that, and we acknowledge that.  
 20 **Q. You agree, don't you, that most of the affordable housing in**  
 21 **Seattle's in the older, smaller, only family apartments, the**  
 22 **smaller than 20-unit apartments that are -- been around for**  
 23 **decades? That's where most of the affordable housing is?**  
 24 A. I don't -- so you're talking about market rate affordable  
 25 housing?

1 smaller apartment buildings and discuss what were the  
 2 findings there in terms of the affordability levels.  
 3 And as a percentage of that smaller stock of smaller  
 4 buildings, that there was -- there was slightly more  
 5 affordable units there. Although, we found that there also  
 6 wasn't a significant amount of more affordable units within  
 7 that stock as well, but we do -- we did discuss that in the  
 8 EIS --  
 9 **Q. Does the --**  
 10 A. You reminded me of the second part of the question. I could  
 11 answer that too.  
 12 **Q. Well, my question was: Does the EIS ever say in plain**  
 13 **English most of the affordable housing is in these older,**  
 14 **smaller apartments, and those are the units that are --**  
 15 **those are the structures that are most -- that are going to**  
 16 **be demolished in the implementation of MHA? Does it ever**  
 17 **say that in plain English?**  
 18 A. Well, I'd say that we -- there's -- we certainly didn't find  
 19 that those types of units would be more likely to be  
 20 demolished under the implementation of MHA versus no action.  
 21 You know, it would be the same -- the same housing stock  
 22 that would be under pressure under no action as well.  
 23 **Q. But isn't there going to be more development under MHA?**  
 24 A. Yes. And there would be --  
 25 **Q. And won't there be more demolition?**

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1 A. Under the parcel allocation model, we found that it's about  
 2 the same or lower, under the -- when you look at -- when you  
 3 account for the fact that there's more capacity that  
 4 comes -- you can accommodate more growth on less parcels and  
 5 that can -- that can cause the (inaudible).  
 6 **Q. All right. So this brings us back to our earlier discussion**  
 7 **about whether that factor you -- has -- is more than**  
 8 **outweighed by the fact that historically there were empty**  
 9 **parking lots and little -- and limited use lots that are**  
 10 **being --**  
 11 A. No, I think that's --  
 12 **Q. -- (inaudible) --**  
 13 A. -- mischaracterizing the discussion we had. What I said is  
 14 that the parcel allocation model sidesteps that whole issue  
 15 by -- because it acknowledges the fact that perhaps the --  
 16 what was available historically is not what's available in  
 17 the future. And, therefore, it uses -- it looks at what's  
 18 available at the point of the analysis and what would be  
 19 most likely to redevelop at the point of the analysis based  
 20 on the current developable end capacity in Seattle and  
 21 calculates that out for the no action as well as the  
 22 actionable alternative. So it -- it's not underestimating  
 23 from the -- based on the perspective that you're providing  
 24 there.  
 25 **Q. Have you ever worked on an EIS previously that attempted to**

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1 **address housing issues across an entire city in a context**  
 2 **like this, as opposed to doing it on a**  
 3 **neighborhood-by-neighborhood basis?**  
 4 A. Certainly not in the level of detail of this one. I've  
 5 worked on other EISes that had -- that housing was a  
 6 section, but it wasn't -- not one that's been addressed like  
 7 this now.  
 8 **Q. So --**  
 9 HEARING EXAMINER: How much more time do you anticipate on  
 10 questions?  
 11 MR. BRICKLIN: Just a couple minutes.  
 12 HEARING EXAMINER: I want to take a break.  
 13 MR. BRICKLIN: All right.  
 14 HEARING EXAMINER: We're right at 10:30. Why don't we  
 15 just come back at 10:45 --  
 16 MR. BRICKLIN: Okay.  
 17 HEARING EXAMINER: -- with those couple questions.  
 18 MR. BRICKLIN: All right. Thanks.  
 19 HEARING EXAMINER: Thank you.  
 20 (Recess)  
 21 HEARING EXAMINER: Shall we continue with cross of  
 22 Mr. Ramsey?  
 23 MR. BRICKLIN: I'm going to not do any more.  
 24 HEARING EXAMINER: Okay.  
 25 MR. THALER: I have a few. I don't believe Ms. Bendich

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1 does.  
 2  
 3 **CROSS - EXAMINATION**  
 4 BY MR. THALER:  
 5 **Q. Toby Thaler, Fremont Neighborhood Council.**  
 6 A. Hi.  
 7 **Q. Hi. Just a few follow-up questions.**  
 8 **So toward the end of Mr. Bricklin's cross-examination he**  
 9 **asked you about the demolition of existing buildings in**  
 10 **order to be replaced by -- as they are replaced by market**  
 11 **rate buildings?**  
 12 A. Um-hum.  
 13 **Q. And I think I heard you say that the rate of demolition**  
 14 **would not be increased by the proposed actions, the MHA**  
 15 **action; is that correct? Did I mishear?**  
 16 A. What do you mean by the rate of demolition?  
 17 **Q. Well, so I'll just ask the question again.**  
 18 **Do you think that the MHA proposed action, the upzones,**  
 19 **will result in more demolition of existing buildings?**  
 20 A. We analyze that in two different ways to estimate the amount  
 21 of demolition that could occur under the alternatives.  
 22 Using the parcel allocation method, which addresses a lot of  
 23 the concerns that Mr. Bricklin brought up today, we found it  
 24 was essentially the same or slightly less for the action  
 25 alternatives, mainly due to the fact that there's more

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1 capacity on any given parcel, so you can build more on less  
 2 parcels and therefore have less demolition occur. When  
 3 using the historic trends approach, which was a simple ratio  
 4 that does not take into consideration the amount of  
 5 additional capacity on any given parcel under the action  
 6 alternatives, you do find that there would be -- under that  
 7 approach of estimation, it would be higher for the action  
 8 alternatives because of the amount of additional growth that  
 9 would be expected with the action alternatives.  
 10 **Q. So if I'm interpreting that correctly, is it accurate to say**  
 11 **that there's no increase in the number of buildings**  
 12 **demolished because the developable capacity is being spread**  
 13 **out more across the city? Is that what you're saying? So**  
 14 **instead of being focused on existing available parcels, the**  
 15 **development happens on a broader scale? I'm really not**  
 16 **understanding --**  
 17 A. Okay. So for each alternative -- you know, let's just take  
 18 Fremont as an example, right? There's a certain amount of  
 19 parcels in Fremont that have been seen to -- that are  
 20 redevelopable because they're not built out to the type of  
 21 capacity that they could be so it would be economically  
 22 feasible for a developer to redevelop them. So we used the  
 23 City's data on what -- you know, which are redevelopable  
 24 parcels and looked at the ones that are most likely to  
 25 redevelop under any scenario, right? Then we also have --

## Hearing - Day 17

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

August 31, 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 17 - August 31, 2018  
Heard before Hearing Examiner Ryan Vancil

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1 there?  
 2 MR. WEBER: I am not because my estimates have been  
 3 completely off.  
 4 THE COURT: Right. So it's possible Mr. Gifford could go  
 5 all day.  
 6 MR. WEBER: It's possible.  
 7 MR. BRICKLIN: Is he available to be completed on that  
 8 Friday if necessary if he doesn't finish on Tuesday?  
 9 MR. WEBER: I believe so, we would have to double check.  
 10 THE COURT: And Mr. Weinman could go -- do the appellants  
 11 have any sense?  
 12 MR. BRICKLIN: I don't believe we're too terribly long  
 13 with him and we would be motivated to not go too long  
 14 because we want to save time for rebuttal.  
 15 THE COURT: Right. Mr. Weinman, though, even if you do  
 16 some, could take --  
 17 MR. BRICKLIN: Even if Mr. Gifford is done on Tuesday.  
 18 THE COURT: Um-hum.  
 19 MR. BRICKLIN: Mr. Weinman is probably going to go to at  
 20 least 11.  
 21 THE COURT: They're saying an hour and a half. So I'm  
 22 saying maybe noon with cross.  
 23 MR. BRICKLIN: Yeah, maybe 11:30. So I'm contemplating we  
 24 may have a half day to fit in all of our rebuttal, which is  
 25 why I was trying to squeeze a little in today if we had

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1 time.  
 2 THE COURT: All right. I think we've got as far as we can  
 3 on that. And I'm sorry, Mr. Wyman's subject matter?  
 4 MR. WEBER: He's going to be speaking to some of the over  
 5 arching concept on (inaudible) alternatives.  
 6 THE COURT: Okay. Moving into our opportunities for  
 7 rebuttal. We have 30 minutes today and we'll -- or 25 by  
 8 the time we get this conversation done that we'd start a  
 9 witness, I assume -- how much time do you anticipate today's  
 10 witness taking?  
 11 MR. BRICKLIN: I would take maybe 20 minutes, I'm not  
 12 sure. I might be done, I might not, but 25.  
 13 THE COURT: And that's it for the appellants.  
 14 MR. BRICKLIN: For today?  
 15 THE COURT: For that witness?  
 16 MR. BRICKLIN: Yes.  
 17 MR. JOHNSON: I can if there's time but don't count on it.  
 18 MR. BRICKLIN: You mean whether --  
 19 THE COURT: I'm trying to figure out the time for  
 20 appellants on this rebuttal witness.  
 21 MR. JOHNSON: I'm not anticipating anything, but at the  
 22 most 5 minutes.  
 23 THE COURT: Well, it matters with the amount of time we  
 24 have. We may or may not get through direct with him today  
 25 and there's going to be cross, 10 to 15 minutes or so. So

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1 essentially we need to make sure that witness is coming  
 2 back.  
 3 MR. BRICKLIN: He's available next Friday.  
 4 THE COURT: Can he come on Friday?  
 5 MR. BRICKLIN: Yes.  
 6 THE COURT: And can we put him first, whenever Mr. Weinman  
 7 is finished?  
 8 MR. BRICKLIN: Sure.  
 9 THE COURT: And then that leaves, assuming there is time,  
 10 and it's not 4:30. And what's the name of the witness?  
 11 MR. BRICKLIN: Spencer Howard.  
 12 THE COURT: And that would leave additional time for  
 13 rebuttal. I don't want to -- I want to use our time we have  
 14 today with this witness. So all I want to add about that  
 15 time is I will divide it equally to assure that the City has  
 16 an opportunity to do cross. So whatever time we have, if  
 17 it's an hour or two, and I'm willing to push it up to the  
 18 limit to get more rebuttal in if that's what we want to do.  
 19 But what I don't want to do is get a rebuttal in for three  
 20 hours and the City doesn't get a chance to do cross.  
 21 MR. BRICKLIN: All of our rebuttal witnesses will be  
 22 short.  
 23 THE COURT: We'll just get an eye on the clock, and the  
 24 City gets equal time. Now, if you don't use that time, that  
 25 doesn't mean they'll get cut off, they can bring in another

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1 witness. But the point is to make sure the City has an  
 2 opportunity to finish their cross on each witness when it  
 3 comes in, at least within the bounds of equal time. Are  
 4 there problems you see with that allocation of time within  
 5 and again recognizing the parties for those rebuttal  
 6 witnesses, the more advance notice the City can get as to  
 7 who needs to be here for those rebuttal witnesses for that  
 8 Friday slot the better, maybe if we could know by Tuesday,  
 9 that would be great. But we're throwing darts.  
 10 MR. BRICKLIN: I notified them of the witness today and I  
 11 will continue to do that.  
 12 THE COURT: And it could be Mr. Gifford -- thank you for  
 13 going through that exercise. Let's go to the rebuttal  
 14 witness.  
 15 MR. BRICKLIN: All right. Mr. Howard, would you step up  
 16 and resume the stand and you're still under oath.  
 17 THE COURT: As Mr. Bricklin indicated, Mr. Howard, you are  
 18 still under oath from the last time. Proceed with rebuttal.  
 19 MR. BRICKLIN: Thank you.  
 20 REBUTTAL EXAMINATION  
 21 BY MR. BRICKLIN:  
 22 **Q. Mr. Howard, some of the City witnesses testified regarding**  
 23 **the level of effort that would be required in an EIS of this**  
 24 **geographic scope to do a parcel by parcel analysis of the**  
 25 **projects potential impacts on historic resources. And you**

1 previously submitted two exhibits which were marked as  
2 Exhibits 21 and 22. I'll give the Examiner a minute to get  
3 those. And that -- I think you testified that these two  
4 exhibits basically involve a comparison of information from  
5 two different data sets. Can you explain to the Examiner  
6 what you were comparing on these two exhibits?

7 A. Right, they did -- we pulled in available public GIS  
8 information on historic properties. So we pulled in City of  
9 Seattle landmark, City of Seattle historic districts, listed  
10 national register, Washington Heritage Register of  
11 properties, both individual and districts. And we pulled in  
12 surveyor eligibility recommendations for department of  
13 archeology and historic preservation determination of  
14 eligibility recommendations for properties and we --

15 **Q. So that was sort of the historic resource data?**

16 A. That was the historic resource data.

17 **Q. That was one-half of the comparison?**

18 A. It was. And then we had the excel data set from the City  
19 where they were looking at the development capacity on a  
20 parcel by parcel basis. And this was just --

21 **Q. As a result of the MHA proposal?**

22 A. As a result of the MHA proposal. This was used for -- to  
23 evaluate potential displacement. We found it was also  
24 helpful for looking at potential impacts to historic  
25 properties. So we used this --

1 **classifications?**

2 A. It was, yes. And both of those exhibits are static maps  
3 just exported out as a PDF, but in GIS, in the software, you  
4 can zoom in to look at the individual parcel level, you can  
5 pan out to look at an urban village level. You have a lot  
6 of flexibility in the scale of what you're looking at. And  
7 now you work with the data to understand where potential  
8 impacts might be.

9 **Q. All right. So in fact in looking at Exhibit 21, did you  
10 have the insets there to examples where you zoomed in on  
11 specific neighborhoods?**

12 A. We did. The two ones that were for us really telling was  
13 the one on the bottom that has the red color coded  
14 properties in Exhibit 21 and Exhibit 22. And this is Morgan  
15 Junction over in West Seattle. So these are areas under the  
16 floor area ratio where they would have some of the highest  
17 development, redevelopment potential. And the buildings in  
18 that area are predominantly single story brick commercial  
19 buildings. They haven't been inventoried, there's been no  
20 determination of eligibility, but there they would be under  
21 intense development pressure as part of the policy changes.

22 The other area is the inset that's on the middle upper  
23 left hand side of the page. And this shows an area along  
24 the east shore of Lake Union. And there's a row of yellow  
25 color coded properties right along Interstate 5, and there's

1 **Q. So when you say it was used to evaluate displacement, you're  
2 talking about the City used it for that purpose?**

3 A. Yes, the City used it for that purpose.

4 **Q. And then you used it for a different purpose?**

5 A. Yes. We used it for comparing with historic properties,  
6 both listed and determine eligible properties and properties  
7 that are in the City of Seattle's historic resource  
8 database. So the zoning piers M, M1, M2, we were able to  
9 compare those with the historic properties.

10 And then we also looked at the delta between the floor  
11 area ratio of the existing land use and the proposed under  
12 the MHA. And so that allowed us to understand areas where  
13 there would be a high redevelopment potential. And then we  
14 could compare those with what the available data was on  
15 historic properties in those areas. In those exhibits  
16 there's two good examples of this.

17 **Q. Hold on before you go on. Just to remind. So Exhibit 21,  
18 which was your figure 2.**

19 A. Yes.

20 **Q. That's where you did the analysis -- where you did the  
21 comparison between the historic resource data and the  
22 changes in FAR?**

23 A. Yes.

24 **Q. And the following Exhibit 22 was where you did the  
25 comparison between the historic resource data and the M1, M2**

1 a series of red dots over them. So the yellow color coding  
2 is an intermediate redevelopment threshold level. And the  
3 red dots are properties, there's at least seven of them, for  
4 which the state department of archeology and historic  
5 preservation have made formal determinations of eligibility  
6 for individual national register listing of those  
7 properties.

8 So it was examples like those two where you can quickly  
9 see where the proposed changes and even filter out areas of  
10 high intensity for potential redevelopment and compare that  
11 with the available data on historic properties. Understand  
12 if you're going to be placing properties that have  
13 potential -- historic potential under high development  
14 pressure. And so it was -- it's an effective planning tool.

15 **Q. And I guess the question is in terms of this being too big  
16 of an effort for the programmatic EIS, can you tell the  
17 Examiner how long it took you to create this map?**

18 A. It took us a little over 40 hours to prepare it. And that  
19 included downloading the data from the public portals, being  
20 able to load it into and build the database and then running  
21 our analysis on it, being able to pull in the City's excel  
22 data on the redevelopment potential and being able to create  
23 the maps that were turned into the exhibits doing all the  
24 topography and symbology on those and then making some  
25 revision on that as well. So it generally went pretty fast.

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1 **Q. And you've prepared other EISs for the City, right, or the**  
 2 **historic resource sections of them?**  
 3 A. We did for the U District EIS.  
 4 **Q. Are you aware from that prior work or from your review of**  
 5 **the City's work on this EIS why the City -- is there**  
 6 **anything blocking the City from doing something that you did**  
 7 **in that 40 hours time?**  
 8 A. No, not that I'm aware of. No, that data is all publicly  
 9 available. The only data set that took a little bit more  
 10 time was the surveyor eligibility recommendations from the  
 11 state department of archeology and historic preservation.  
 12 For that one I actually had to call the department of  
 13 archeology and historic preservation, the GIS analyst and  
 14 ask her if she was -- she could just export us a copy. She  
 15 exported out the whole database and sent it over to us. And  
 16 so then we worked through that. But that was the most  
 17 complicated part of it. Otherwise, everything else was on  
 18 publicly accessible websites and already available and  
 19 database -- databases were shape layer file format. So it  
 20 was very easy.  
 21 **Q. Okay. There was testimony here in the last -- yesterday, I**  
 22 **guess, about yet another way to identify redevelopment**  
 23 **potential. And that is that there was testimony that the**  
 24 **City has database where it's compared the amount of existing**  
 25 **development on a given parcel, parcel by parcel in the study**

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1 **area with the amount of development allowed under the MHA**  
 2 **proposal and the greater the difference between what's there**  
 3 **now and what's allowed, the greater the redevelopment**  
 4 **potential. Are you aware now as of today that such a**  
 5 **database also exists?**  
 6 A. I am.  
 7 **Q. And have you had a chance today to review that?**  
 8 A. I looked at the excel files for that.  
 9 **Q. And would it be -- would you be able to do yet one more map**  
 10 **of the type you've done here in terms of comparing the**  
 11 **historic resource information with that measure of**  
 12 **redevelopment risk?**  
 13 A. Absolutely. The excel files, the parcel number for all the  
 14 properties in there. So with the parcel number, you can  
 15 join it to the parcel base layer and you could run the model  
 16 with all the data in GIS and be able to project it, so, yes.  
 17 **Q. How would you characterize the difficulty or amount of time**  
 18 **involved in that exercise?**  
 19 A. It would probably take a couple hours to just pick the data,  
 20 get it linked up, get it up and running. And then it would  
 21 be pretty easy to then figure out what you wanted to do for  
 22 your analysis and be able to run that.  
 23 **Q. So four, five hours in all?**  
 24 A. Probably.  
 25 **Q. All right. There was testimony from city -- from one or two**

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1 **City witnesses that it was unreliable to use certain**  
 2 **database information on historic resources because the data**  
 3 **was more than five years old. Do you have a response to**  
 4 **that testimony?**  
 5 A. The -- so for the U District programatic EIS, we used survey  
 6 data from 2002 I believe. And that EIS was done in 2014.  
 7 So it was 12-year old data at the time. I think it -- for  
 8 us it ends up being a difference between a programatic and a  
 9 project-based EIS. But the programatic using the -- all of  
 10 the available data sets is key to be able to at least  
 11 understand the probability of their being potential historic  
 12 resources in the areas that are going to be affected by the  
 13 land use changes or whatever the policy changes are  
 14 happening as part of that programatic EIS. I think the data  
 15 degrades over time, but it's not that substantial to where  
 16 form data that's five years of age or older is being excised  
 17 from the database by the City, it's kept in there.  
 18 The state department of archeology and historic  
 19 preservation, when they created their online database  
 20 WISAARD, they went back through their legacy records from  
 21 the '70s and the '80s. And they actively scanned in those  
 22 records and then pushed them into GIS and located them  
 23 because that data they felt was relevant as a planning tool.  
 24 And I think I would feel the same in approaching a  
 25 programatic EIS that the more information that you can have

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1 that's available there, the better it helps you understand  
 2 when you're looking at the potential impacts decisions might  
 3 have for what the implications and the affects of those  
 4 decisions could be.  
 5 **Q. You mentioned that you used 12-year old data when you**  
 6 **prepared for the City of Seattle, the historic resource**  
 7 **section of the U District EIS. I don't remember what our**  
 8 **number this is, but here is a copy for you. I'm handing you**  
 9 **what is about to be marked as exhibit?**  
 10 THE COURT: 304.  
 11 (Exhibit No. 304 marked for identification)  
 12 **Q. (By Mr. Bricklin) 304. You might want to write that in the**  
 13 **corner there if you get a chance. Is this the historic**  
 14 **resources section of the draft EIS that you prepared for the**  
 15 **U District?**  
 16 A. It is, yes.  
 17 **Q. All right. And is there in here an example you can point to**  
 18 **where you use that 12-year data to -- first of all, this was**  
 19 **a programatic EIS too, right?**  
 20 A. Yes.  
 21 **Q. And can you point the Examiner to where in there you use the**  
 22 **12-year old data to help readers understand the impact of**  
 23 **the proposal on historic resources?**  
 24 A. It's on page 3.4-14, figure 3.4-34 property status. And so  
 25 the white dots are properties that were inventoried in 2002.

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1 And from that inventory data, the black triangles are the  
 2 properties that were recommended by surveyors in 2002 as  
 3 potentially City of Seattle landmark eligible properties.  
 4 So we included all of that in there.  
 5 What's difficult to see on this map is that we overlaid  
 6 the -- we overlaid the data set on the proposed land use and  
 7 zoning changes for this EIS so we could understand if there  
 8 was a substantial upzone, you know, what are the property  
 9 types and the existing properties within that area. We also  
 10 identified character properties along University Avenue.  
 11 And that actually -- those figures on page 3.4-18, figure  
 12 3.4-4 and then on the next page, 3.4-5, those have the  
 13 proposed -- the overlays of the alternatives considered  
 14 under the programmatic EIS.  
 15 MR. BRICKLIN: We'd move the admission of Exhibit 304,  
 16 Your Honor.  
 17 THE COURT: Any objection to 304?  
 18 MR. JOHNSON: No objection provided it hasn't already been  
 19 admitted.  
 20 MR. BRICKLIN: The final was in, but not the draft.  
 21 MR. JOHNSON: Okay, no objection.  
 22 THE COURT: 304 is admitted.  
 23 (Exhibit No. 304 admitted into evidence)  
 24 **Q. (By Mr. Bricklin) There was also some testimony from City**  
 25 **witnesses that -- and maybe you've already addressed this**

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1 **that the date in the State's WISAARD, W-I-S-A-A-R-D,**  
 2 **acronym, website or database was maybe not up to date or**  
 3 **degraded in your words by sitting there over time. Is**  
 4 **there -- is that a reason not to use that data?**  
 5 A. The -- no, the data in WISAARD is certainly -- it -- for the  
 6 City of Seattle, since the City maintains it's own historic  
 7 resource survey inventory, a lot of properties that are  
 8 surveyed with the City of Seattle projects aren't always  
 9 uploaded into the state database. But projects that are  
 10 done for regulatory compliance for section 106, section 4F  
 11 for executive order 0505, those are uploaded, salto  
 12 (phonetic) reviews, HUD reviews.  
 13 And then there was some properties surveyed and  
 14 inventoried we did for the City of Seattle in the Mount  
 15 Baker, Rainier valley areas that we uploaded into the state  
 16 database. So there is -- I guess the baseline is there is  
 17 data there as a planning tool, it's relevant as available  
 18 data, it helps with being able to understand and predict  
 19 potential impacts and to gauge what exists in these areas --  
 20 **Q. And is that true even though the date in there is sort of**  
 21 **opportunistic, if you will, it's not the result of a**  
 22 **city-wide inventory, but just where there happened to be**  
 23 **certain projects that did inventories and those projects**  
 24 **generate data?**  
 25 A. It is. And that's something where -- especially bringing

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1 those into the GIS, in the areas like the Mount Baker, Mount  
 2 Rainier area where there is a high level of available  
 3 property, information on properties in WISAARD. For those  
 4 areas, you can then zoom in and use the available data to  
 5 help better guide decision making. In areas where it's not  
 6 there, you probably just wish that it was there.  
 7 **Q. Right. And I want you to assume there was also testimony**  
 8 **from the City that the reason they didn't use the data that**  
 9 **was available either from WISAARD or from their own**  
 10 **inventories of certain neighborhoods was because they**  
 11 **wanted, if you will, a level playing field between the urban**  
 12 **villages. And to that end, they made reference to what's**  
 13 **been introduced as Exhibit 234.**  
 14 A. Yeah, that's --  
 15 **Q. And just hold on a second while the Examiner makes reference**  
 16 **to it?**  
 17 THE COURT: Go ahead.  
 18 **Q. (By Mr. Bricklin) And I want you to assume the City witness**  
 19 **testified that this demonstrated -- this was an illustration**  
 20 **of her testimony that there was more information available**  
 21 **in the South Park area and less information, less inventory**  
 22 **having been done in Westwood Highland Park. And a reader of**  
 23 **an EIS, if they saw a map like this, they might draw the**  
 24 **wrong conclusion that there were a lot of historic resources**  
 25 **in South Park, there were very few in Westwood, when it was**

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1 **really just the result that inventories had been done in one**  
 2 **and not the other. Do you have a comment on the wisdom or**  
 3 **appropriateness of discarding the South Park data for that**  
 4 **reason?**  
 5 A. I think this map is probably the best poster child for doing  
 6 survey and inventory work for the City for any municipality.  
 7 I think with South Park you have information to help refine  
 8 and guide decision making on where boundaries occur for land  
 9 use and zoning changes. In Westwood Highland Park, you  
 10 don't have that available information through the  
 11 inventoried properties. The other data set that is publicly  
 12 available for both of these properties and for the entire  
 13 City is the King County assessor estimated date of  
 14 construction data set. So you can -- using that layer for  
 15 both of these areas, you'd be able to see an estimation of  
 16 when properties in those areas were built. So you could  
 17 look quickly at Westwood Highland Park and understand if  
 18 it's a 1990 subdivision or if it's a concentration of 1920s  
 19 properties. It's information that helps to inform that  
 20 decision making at that policy level that -- it just helps  
 21 with transparency.  
 22 **Q. So the last part of your testimony was there were other data**  
 23 **sources that the City might have been able to use to fill in**  
 24 **the gaps. But even if you were able to limit yourself or**  
 25 **even if the city limited itself to it's own database, which**

1 is what this map is based on, which I want you to assume  
 2 that was the testimony, and it's so titled Seattle Historic  
 3 Site Database Entries, even if the City had limited itself  
 4 to that database, is there any reason not to use that  
 5 information about South Park when deciding where to draw the  
 6 lines in the South Park area even if there's not a similar  
 7 quantity of information available for other UVs?  
 8 A. No. I think it should definitely be used for that area. I  
 9 think it helps to -- it helps to refine the areas and  
 10 provide the basis, and even for the city's argument within  
 11 South Park if proposed land use and zoning changes are in  
 12 current areas that don't have historic properties or  
 13 contemporary properties, then you can show that and  
 14 demonstrate that to the public, then you've made your  
 15 argument for why those are there and why that occurs. And  
 16 it provides halfway through of explaining why the changes  
 17 were done and being able to bring everybody on board as to  
 18 the reasoning behind them.  
 19 So I think absolutely it should have been used. I think  
 20 there's at least two City of Seattle landmarks in South Park  
 21 as well that aren't shown on there. That you know, that  
 22 data is within the City database as well. And I'm glad to  
 23 see that the City's able to push their historic resource  
 24 inventory out into GIS. So that's fantastic to see that  
 25 they're doing that as well.

1 A. Yes.  
 2 Q. And those blow ups reflect small parts of the other data on  
 3 this map, is that right?  
 4 A. Yes, they do.  
 5 Q. Feel free to take time to take a look. And you didn't do  
 6 that for the entire EIS study, did you?  
 7 A. It was a problem in how to best present the information in  
 8 the live map. I can zoom in all over the city. But for  
 9 being able to get a static version of that map out for the  
 10 testimony, I did an overall one and then tried to pick a few  
 11 representational areas to be able to show that the capacity  
 12 of level of detail so that you could do those in said  
 13 details anywhere within the city. And you can zoom in to  
 14 the individual parcel level or you could zoom out, it's  
 15 flexible.  
 16 Q. But that isn't work you did in -- you haven't produced a  
 17 document that shows each parcel in the City; is that right,  
 18 in that manner?  
 19 A. I guess it depends on how you look at it. Technically the  
 20 GIS database that we have and the GIS software, we can see  
 21 every parcel in the City and all the data and historic data  
 22 and all that information in these maps, it's there and  
 23 visible. We didn't export out a whole series of static maps  
 24 to convey that information. We just did the overall one and  
 25 then the insets.

1 Q. But it wasn't done in EIS?  
 2 A. No, it's not.  
 3 MR. BRICKLIN: That's all I have, thank you.  
 4 THE COURT: Anything else from appellants?  
 5 MR. THALER: No, that's it.  
 6 THE COURT: Cross?  
 7 R E B U T T A L C R O S S E X A M I N A T I O N  
 8 B Y M R . J O H N S O N :  
 9 Q. Good afternoon, Mr. Howard, welcome back.  
 10 A. Thank you.  
 11 Q. Just to follow up on a few of Mr. Bricklin's questions.  
 12 First of all, isn't it true that the City used the WISAARD  
 13 database to obtain the data that is used in the EIS?  
 14 A. It was an incomplete data set and it was limited only to  
 15 state department of archeology and historic preservation  
 16 determined eligible properties.  
 17 Q. Okay. But my question was isn't it true that the source of  
 18 that data was from the WISAARD database?  
 19 A. Yes.  
 20 Q. And drawing your attention to Exhibit 21 and 22, those are  
 21 your work products. Do you have those or do you recall  
 22 them?  
 23 THE COURT: They're not in these binders.  
 24 Q. (By Mr. Johnson) Okay. You called out some highlighted, I  
 25 guess, what you call blow ups, is that right?

1 Q. And is the reason because of the volume of sheer pages would  
 2 be considerable. If you did that for every parcel within  
 3 the city, how many pages would it take?  
 4 A. We had thought about doing it just for the Appendix H maps.  
 5 So in the same way that the EIS did for the proposed land  
 6 use and zoning changes. And so those maps would be an ideal  
 7 series to have had that base data and then overlaid the  
 8 historic. And to be able to export those out so you'd be  
 9 able to see clearly the proposed land use changes and the  
 10 existing resource data.  
 11 Q. How many pages would it require for you to put data  
 12 reflecting this level of detail for every urban village  
 13 within the City?  
 14 A. It depends -- we could probably do it in the same amount of  
 15 pages that Appendix H was.  
 16 Q. How many is that?  
 17 A. I don't remember.  
 18 Q. Okay, 100?  
 19 A. I don't remember.  
 20 MR. BRICKLIN: Instead of guessing, we have Appendix H  
 21 there in front of you if you want. So this appears to be  
 22 the first.  
 23 MR. JOHNSON: I'm just looking for a ballpark here, I  
 24 don't want to hold everybody up.  
 25 MR. BRICKLIN: You can count the number, they are numbered

## 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

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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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3 WITNESS: PAGE:  
4  
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1 HEARING EXAMINER: And I apologize.  
 2 MR. KISIELIUS: 241 and 249, Examiner's Exhibits. I  
 3 believe those are SCALE 192 and SCALE 162 respectively.  
 4 **Q. (By Mr. Kisielius) I want to tie a couple things together.**  
 5 **So the one that's marked 241, which is SCALE 192, I'm going**  
 6 **to ask you to turn to the very end of that exhibit?**  
 7 MS. NEWMAN: Still finishing up.  
 8 HEARING EXAMINER: The end of 241?  
 9 MR. KISIELIUS: Yes.  
 10 MS. NEWMAN: These are West Seattle photos?  
 11 MR. KISIELIUS: Yes.  
 12 HEARING EXAMINER: A specific photo?  
 13 MR. KISIELIUS: Yeah, I was going to look at what is, I  
 14 believe, number 14 I believe on that one, it shows a picture  
 15 of a -- yes.  
 16 MS. NEWMAN: The last of the bunch.  
 17 MR. KISIELIUS: Yes.  
 18 MS. NEWMAN: Okay, I'm there.  
 19 **Q. (By Mr. Kisielius) So I want to go back to something you**  
 20 **testified about, which is some of the mitigation that's**  
 21 **incorporated in the proposal itself. And you had earlier**  
 22 **testified about upper level setbacks and articulation.**  
 23 **Given that, is the larger building shown in that picture**  
 24 **likely to be representative of what would be allowed in low**  
 25 **rise or mid rise?**

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1 A. No, I don't believe so. This does not reflect any upper  
 2 level setbacks, which the -- which under the proposal  
 3 Lowrise 1 and Lowrise 2 would be required to have. And in  
 4 addition, because of the fact that it's right next to -- you  
 5 know, right adjacent to a single family home, several of the  
 6 mitigation measures that were recommended in the aesthetic  
 7 section would also require some, you know, some additional  
 8 setbacks and some facade modulation when placed next to a  
 9 single-family home like that.  
 10 **Q. Okay. And let's turn to Exhibit 249, SCALE 162, that would**  
 11 **be the Wallingford photographs that Mr. Hill presented.**  
 12 **Okay. So in that exhibit there are some photographs towards**  
 13 **the end, pages 19 of 19, the very very end.**  
 14 A. Last page?  
 15 **Q. Yes. And, again, I'm going to ask you, given what you know**  
 16 **about the development regulations, do you think these images**  
 17 **accurately depict the potential built -- anticipated built**  
 18 **condition?**  
 19 A. I don't believe so. I think looking at some of these, it  
 20 appears that there are some upper level setbacks in certain  
 21 locations, but I don't believe that these are necessarily  
 22 accurate. It looks like a lot of them are -- appear to be  
 23 on the side streets instead of on the main boulevard here.  
 24 So I think that -- and it's difficult to tell here exactly  
 25 how far the setback from the street would be. But on the

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1 whole I would say I don't think this is quite accurate.  
 2 **Q. Now, I want you to compare more generally what Mr. Hill**  
 3 **prepared here to what you relied on in your analysis in**  
 4 **Exhibits 3.3-10 through 3.3-22. Which is more accurate in**  
 5 **your professional opinion?**  
 6 A. I believe the print types that were developed for the EIS  
 7 would be more accurate than this. I obviously cannot speak  
 8 precisely on Mr. Hill's technique and exactly how he did  
 9 this. But this does not appear to be something that was  
 10 basically, you know, inch accurate, scale, digital model of  
 11 a building prototype placed on the site. The prototypes  
 12 that were used for the EIS were designed by -- my  
 13 understanding from the City is that they were designed by an  
 14 architectural firm. They were located in a 3D digital model  
 15 on a representative lot and that the images that were  
 16 generated were essentially exports from that model using  
 17 scaled distances and camera angles, which is a technique  
 18 that is commonly used in these types of analyses. And which  
 19 it's fairly standard practice. And we think that that's one  
 20 of the best ways to represent these types of developments  
 21 because of the fact that -- we believe they're more accurate  
 22 than simply an image on a page.  
 23 I think there's sometimes some misapprehension about  
 24 images of those type. I think a lot of people believe that  
 25 they're simply mock ups or something that somebody just drew

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1 on a page. But there's a significant amount of effort that  
 2 goes into making sure that those are accurate and that they  
 3 are scaled appropriately and that they represent something  
 4 that a viewer on that street corner or along that sidewalk  
 5 would actually see if that was developed. So I would say  
 6 that this is -- this exhibit here is not quite up to that  
 7 level of accuracy.  
 8 **Q. Okay. More generally have you heard anything in the**  
 9 **appellant's testimony that you've reviewed that causes you**  
 10 **to question any of the conclusions or analysis in the**  
 11 **portions of the FEIS that you drafted and worked on?**  
 12 A. No.  
 13 **Q. And do you believe that you used reasonable and standard**  
 14 **methods of your profession to assess and disclose the**  
 15 **potential land use and aesthetic impacts of the proposal?**  
 16 A. Yes, I do.  
 17 **Q. And do you stand behind the conclusions in the EIS that you**  
 18 **reviewed or helped prepare?**  
 19 A. I do.  
 20 **Q. Thank you. I have no further questions for you.**  
 21 MR. KISIELIUS: So much faster than (inaudible).  
 22 MS. NEWMAN: That's always good when that happens.  
 23  
 24 EXAMINATION  
 25 BY THE HEARING EXAMINER:

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

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**

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

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**

1 **project level? Is there any other layer --**  
2  
3 A. Are you asking whether there is anticipation of another  
4 programmatic level -- programmatic EIS before you get to the  
5 project level? Is that what you're asking.  
6 **Q. It could be programmatic or it could be -- or not. Is**  
7 **there any other phase besides those two phases, the**  
8 **programmatic for the entire City and the --**  
9 A. In general -- not unless the City has identified a subarea  
10 or intends to adopt a subarea plan or something of that  
11 nature. Generally, in other EISs that I've prepared, if  
12 you're doing a city wide, then if there's no neighborhood  
13 plan that's being adopted or subarea plan or any other  
14 action that's being taken in between there at a smaller  
15 scale, then the next step, yes, would be a site specific  
16 SEPA analysis.  
17 **Q. And did the City identify any impacts that were unique to**  
18 **neighborhoods?**  
19 A. Aside from the neighborhood specific descriptions that were  
20 provided in there and describing the individual impacts?  
21 Sorry if I'm misunderstanding your question.  
22 **Q. Let me approach it from a different direction. If SEPA --**  
23 **if the purpose of it is to cover the impacts, the impacts**  
24 **analysis -- if the City does a programmatic level EIS and it**  
25 **says we're simply not getting to the overuse term of**

1 identifying an impact that's not analyzed. So I think the  
2 thing is, we've said that we've analyzed this at the  
3 programmatic level.  
4 We've identified several impacts that are specific to  
5 locations within those individual urban villages. And then  
6 basically said that for an individual development project on  
7 a specific site, that would require it's own SEPA review and  
8 it's own design review process. So I apologize if that's  
9 not answering your question, but I guess I'm just trying to  
10 understand what it is that you're asking me for.  
11 **Q. I think you've answered. I'm just trying to make sure I**  
12 **haven't missed anything. You're summarizing a lengthy and**  
13 **sometimes piecemeal argument that's been covered over a**  
14 **period of weeks?**  
15 A. I apologize if I tripped over any of the terminology.  
16 **Q. I think you covered it just fine. I'm picturing this sort**  
17 **of as an concentric circle. If you draw a circle of your**  
18 **programmatic EIS, did you encompass all of the impacts**  
19 **possible? I think the EIS says, no, we didn't do that**  
20 **because there's something else to come later at the project**  
21 **level. So you draw the next circle for the project. Is**  
22 **there anything between those circles or do they completely**  
23 **overlap? And I understand the City's position is that**  
24 **there's nothing in between those?**  
25 A. I believe that would be a fair characterization, yes.

1 **granularity, we're not getting to that. We're not required**  
2 **to, but more than that we've done the analysis we feel is**  
3 **sufficient to address the impacts. That's as I understand**  
4 **the City's position with regard to the EIS. And then we**  
5 **would be looking at things -- not we, but the process of**  
6 **SEPA would then look at any impacts on the project level?**  
7 A. That's correct. If --  
8 **Q. Are there impacts that the City identified anywhere in**  
9 **between those two layers of impact analysis?**  
10 A. I'm not aware -- not that I'm aware of.  
11 **Q. And specifically, that's why I was asking about the**  
12 **neighborhood level, were there any specifically any called**  
13 **out for the neighborhood level that are not encompassed**  
14 **within the programmatic analysis and/or within what might be**  
15 **picked up at the project level?**  
16 A. So I -- the reason I'm a little confused, I think, is that  
17 because the EIS does have those neighborhood specific  
18 sections in there. And we do describe the impacts that are  
19 anticipated for those locations. And I think, as I said --  
20 as we discussed, the next level down would be from a  
21 programmatic project -- excuse me, from a programmatic EIS  
22 would be to do a project level SEPA review for those  
23 projects that meet those thresholds.  
24 I'm not aware of any impacts -- I guess I think what I'm  
25 getting tripped up on there a little bit is this idea that

1 **Q. Okay, thank you. Cross?**  
2 MS. NEWMAN: Shall I go first?  
3 MR. THALER: Yeah, go ahead, it's 10 to noon, so that's  
4 fine.  
5 MS. NEWMAN: I definitely have quite a bit.  
6  
7 CROSS - EXAMINATION  
8 BY MS. NEWMAN:  
9 **Q. Good morning.**  
10 A. Good morning.  
11 MS. NEWMAN: Claudia Newman on behalf of SCALE just to  
12 have -- I'm going to be, at one point moving over to draw on  
13 that board. I don't know if we have a microphone that  
14 moves.  
15 **Q. We do?**  
16 MS. NEWMAN: Okay. And at another point I need to hook up  
17 my computer to the -- but maybe I can do that at lunch.  
18 **Q. Since I know this is ongoing, we're just going to draw a**  
19 **line at 12:15?**  
20 MS. NEWMAN: Okay. Good to know, thank you, great, okay.  
21 **Q. (By Ms. Newman) When you began this morning, you said you**  
22 **prepared other EISs and you've prepared**  
23 **environmental -- maybe a dozen or so environmental**  
24 **documents; is that right?**  
25 A. That's right.

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1 **Q. And how many of those environmental documents did you do in**  
 2 **Washington State?**  
 3 A. Probably I would say almost -- for the programmatic ones, I  
 4 would say all of them.  
 5 **Q. Okay. So about -- and they're all -- so they're all**  
 6 **programmatic EISs in Washington State?**  
 7 A. I've probably prepared somewhere in the neighborhood of  
 8 maybe two dozen EISs all told in my career. There have been  
 9 some project specific ones. And but for programmatic city  
 10 level policy type ones those have been almost exclusively in  
 11 Washington.  
 12 **Q. Washington, okay. And have those been -- how many of those**  
 13 **have been for comprehensive planning?**  
 14 A. Several. I'm just trying to think, probably five or six for  
 15 city-wide comprehensive plans and then various other subarea  
 16 plans or neighborhood plans.  
 17 **Q. Okay. And how many of those were for zoning, development**  
 18 **regulation amendments or zoning code amendments?**  
 19 A. I would say most had a zoning component of some kind.  
 20 **Q. Well, I mean solely, not including comprehensive planning or**  
 21 **neighborhood planning or subarea planning, but just solely**  
 22 **focussed on zoning?**  
 23 A. Well, they're usually in conjunction with a comprehensive  
 24 plan map change.  
 25 **Q. Okay.**

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1 A. So I would say in terms of zoning changes, yes, probably  
 2 about five or six. But I think that in terms of just  
 3 overall comprehensive plan policy, there's usually a zoning  
 4 change component that goes along with that and the impacts  
 5 of the need to be analyzed in the EIS. And I've prepared  
 6 probably -- probably the majority of those, so close to a  
 7 dozen, yes.  
 8 **Q. And can you list maybe four or five of the EISs you've**  
 9 **worked on, the projects?**  
 10 A. Let's see. So I was involved in the Seattle 2035 Comp Plan  
 11 EIS, I was involved in the City of Kirkland's latest  
 12 comprehensive plan update EIS.  
 13 **Q. And that's the annual comp plan update?**  
 14 A. No, they're periodic for GMA.  
 15 **Q. Sorry, but they're GMA comp plan --**  
 16 A. Yes, GMA comp plan update.  
 17 **Q. Okay.**  
 18 A. Did some work on Snohomish County's latest comprehensive  
 19 plan EIS update.  
 20 **Q. And was that also the GMA update?**  
 21 A. Yes, that was for their update cycle, not the major update.  
 22 And also City of Woodinville. And I've done some --  
 23 **Q. And that was the comprehensive plan GMA update?**  
 24 A. Yes, I forget the year, but it was a couple years ago now.  
 25 **Q. Okay. And anymore?**

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1 A. Off the top of my head, I think -- yeah.  
 2 **Q. So these are all -- the ones you've listed are all comp plan**  
 3 **update, which is related to a city-wide comprehensive plan**  
 4 **review under the Growth Management Act, right?**  
 5 A. That's correct.  
 6 **Q. So this MHA EIS that we're working on is not that, correct?**  
 7 A. The MHA proposal --  
 8 **Q. Right.**  
 9 A. -- does not specifically amend the comprehensive plan, but  
 10 it was identified as an implementation of the City's 2035  
 11 Comprehensive Plan.  
 12 **Q. Well, what I'm trying to get at is cities and counties have**  
 13 **to do an update under the GMA of their comprehensive plan**  
 14 **periodically, correct?**  
 15 A. That's correct.  
 16 **Q. That's not what this MHA proposal is?**  
 17 A. No, this is not a comprehensive plan update.  
 18 **Q. Okay. And this is actually primarily -- is it accurate to**  
 19 **say it's primarily a massive city-wide rezone, change of the**  
 20 **zoning code and development regulations for the City of**  
 21 **Seattle zoning code, right?**  
 22 A. The proposal does include zoning changes in substantial  
 23 portions of the City, it's not the majority, but it's for  
 24 most of -- I believe every urban village has some rezoning,  
 25 yes.

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1 **Q. Okay. I'm a little confused by your answer. All I'm trying**  
 2 **to do is characterize this as an EIS that is analyzing**  
 3 **zoning code amendments, that's the primary proposal?**  
 4 A. That would be -- yes, that would be one way -- that would be  
 5 one way to secure.  
 6 **Q. And so can you give me an example of an EIS that you've**  
 7 **worked on that's more comparable to this type of project and**  
 8 **not necessarily a comp plan update for GMA?**  
 9 A. I can offer -- so, for example, in addition to city-wide  
 10 programs, I've also done a number of EISs that were at the  
 11 neighborhood SCALE or at -- as part of subarea plans.  
 12 **Q. That's not what I'm looking for, specific to upzones, not**  
 13 **planning, changing the zoning code?**  
 14 A. But those subarea plans did include zoning changes so  
 15 analyze the impact of those.  
 16 **Q. Okay, all right.**  
 17 A. And so for the City of Covington, there was what's called  
 18 the Lake Point Development, was a subarea plan in the  
 19 northern portion of their city, did some analysis of their  
 20 zoning changes there. And as I said, several -- most of the  
 21 comprehensive plan EISs that I've done involved zoning --  
 22 **Q. Yeah, I understand.**  
 23 A. -- changes and we analyzed those as well.  
 24 **Q. Any other -- and what year was the City of Covington comp**  
 25 **plan?**

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1 A. I don't recall a precise year, I think it was probably 2014  
 2 or 2015, but I am not exactly sure.  
 3 **Q. Relatively recent?**  
 4 A. Yes.  
 5 **Q. Any other examples of -- and was the City of the Covington  
 6 Lake Point Development, you said it was a subarea plan. Was  
 7 the primary objective of the proposal to update the subarea  
 8 plan or was the primary objective of the proposal to amend  
 9 the zoning code?**  
 10 A. It was the establishment of a new subarea plan. And the  
 11 zoning changes were a component of that.  
 12 **Q. Okay. So they were kind of equal?**  
 13 A. Yes, it was essentially -- it was a new development that was  
 14 a subarea plan with incorporated neighborhood design  
 15 guidelines. And commensurate zoning change.  
 16 **Q. Okay. Any other examples of EISs that had a component that  
 17 was largely rezoning?**  
 18 A. The Snohomish County comprehensive plan that I described.  
 19 That update, there was some zoning changes proposed for that  
 20 as well. And the analysis for that involved -- analysis of  
 21 potential land use and public service impacts associated  
 22 with that.  
 23 **Q. The zoning changes?**  
 24 A. Yes.  
 25 **Q. Any other examples?**

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1 A. In terms of solely zoning changes on a city-wide scale?  
 2 **Q. Yeah, or even a small -- it could be a zoning change like  
 3 the uptown --**  
 4 A. So for a smaller, more subarea specific, I've done some  
 5 extensive amount of work in the City of Kirkland for their  
 6 downtown area looking at the park place development and  
 7 various zoning iterations of that as well as two  
 8 supplemental EISs that were attached to that for areas that  
 9 were adjacent to the original development and how those  
 10 would interact -- how the rezones on those properties would  
 11 interact with the larger plan there.  
 12 **Q. Okay. And you said you've done -- was that an EIS?**  
 13 A. Yes, it was in EIS plus several supplementals.  
 14 **Q. Okay. And any other examples?**  
 15 A. Not that are coming to mind at the moment.  
 16 **Q. And do you think there are others that you've done that had  
 17 just the primary zoning?**  
 18 A. At the project level, yes.  
 19 **Q. I'm sorry, no, no programmatic level for rezones, not  
 20 policy, not plan.**  
 21 A. I think that most of them are -- as I said, most of them are  
 22 for comprehensive plan amendments of which -- and there's  
 23 often a zoning component.  
 24 **Q. Okay.**  
 25 A. So I think since you're not looking for that specific

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1 piece --  
 2 **Q. Right.**  
 3 A. Then I have to say, no, that's probably it because most of  
 4 them encompassed both.  
 5 **Q. Okay, all right. I'm trying to figure out if we can do this  
 6 in 15 minutes, but we'll try. I might need the microphone  
 7 pack. Can I borrow a marker? Thanks. All right. So is  
 8 this on?**  
 9 **Q. Yes?**  
 10 **Q. (By Ms. Newman) So I want to talk a little bit about  
 11 context of environmental impacts. And there's a SEPA rule  
 12 that says, I don't know if you're familiar with it, the same  
 13 proposal can have a significant environmental impact in one  
 14 location but not in another location. Are you familiar with  
 15 that?**  
 16 A. I'm not familiar with that specific rule, but, yes, I  
 17 understand that principle.  
 18 **Q. And the concept makes sense to you. Okay. So let's say for  
 19 example, you have a building -- (inaudible) yeah, that might  
 20 help, actually. So we have say a 3 story building here in  
 21 Seattle. And immediately this is in a -- let's say it's  
 22 just a Lowrise 3 zone. And immediately adjacent to this, we  
 23 go from NC40 to -- NCP40 to NCP50. This is a zoning change.  
 24 Let's say it's proposed by the MHA proposal. And so right  
 25 now let's say it's a single-family home on that property.**

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1 **So it gets about to the 50, that might be out of scale, but  
 2 you get the idea. And they're right adjacent to each other.  
 3 So that's a potential -- you know, there's potential impacts  
 4 there that you can think about, but, you know, you generally  
 5 get the idea of what the height and the scale is of that  
 6 building; is that right?**  
 7 A. Yes.  
 8 **Q. And so let's put a different situation, we have a hill and  
 9 you have -- let's say it happens to be a non-profit  
 10 retirement home and people who live here are immobile, they  
 11 can't get out of the building. And the only chance they  
 12 have for sun all day every day is sitting out on this deck,  
 13 that's their only opportunity to have sun. I'm going to put  
 14 the same exact building, let's say this is NCP40 and the 40  
 15 building just coincidentally doesn't block their sun. Okay,  
 16 let's just take that to an assumption. But if you change it  
 17 to 50, lo and behold, that one extra story blocks their sun  
 18 completely. So would you agree that the same building here  
 19 would have a different impact on this building than it would  
 20 on this building?**  
 21 A. Yes, I would. And the EIS --  
 22 **Q. Well, I'm not asking about that yet. So another example  
 23 would be with the same building, let's say there was a  
 24 single-family home up here -- and this was actually a  
 25 single-family home currently, this is what it all looks like**

1 right now. This is all single-family homes, skip the  
 2 retirement. And they're right next to each other. And this  
 3 is single-family zoning. And it's on a very steep hill and  
 4 it also has a spectacular view of the mountains and the  
 5 sunset. So if you have NC40 to NC50 here, this was a  
 6 single-family home, if this gets built up to 50, that would  
 7 block the view to the mountains, you can assume --  
 8 A. In theory --  
 9 **Q. Let me just say in this scenario, it would block the view of**  
 10 **the mountains, let's just say that. But if you have**  
 11 **adjacent single-family home here, no view, no hill**  
 12 **whatsoever here, that would be a very different impact,**  
 13 **right?**  
 14 A. Yes.  
 15 **Q. Yeah. And so I guess my point is and you've said it, I just**  
 16 **want to show some examples that context matters, right, for**  
 17 **impacts? So you need to know what you're building in to**  
 18 **know what the significant impacts -- whether there will or**  
 19 **will not be significant impacts; is that right?**  
 20 A. Location specific factors do matter and they do -- they can  
 21 modify the level of impact in a given location.  
 22 **Q. Okay. So let's take that example with the retirement home**  
 23 **and let's say it was a single-family home where the current**  
 24 **house is --**  
 25 **Q. Ms. Newman?**

1 now is going to allow someone to build up to 65 feet and  
 2 therefore block the sun. That decision from going from 40  
 3 to 65 feet, that decision, is not going to be changed after  
 4 the MHA proposal is adopted, correct? This is when it  
 5 happens?  
 6 A. In terms of the reason -- if that rezone is part of the  
 7 proposal, then this is -- yes, this would be the review for  
 8 that. The development on that site itself would be subject  
 9 to later review and the imposition of various conditions on  
 10 their building permit and design review approval.  
 11 **Q. So when the design review board -- first of all, some**  
 12 **projects are exempt from design review, right?**  
 13 A. That's correct.  
 14 **Q. So I don't know about this project, but there's some**  
 15 **projects that won't even go through design review, but they**  
 16 **might have various impacts now.**  
 17 A. That's -- yes, that is potentially correct.  
 18 **Q. And some projects won't go SEPA review, they'll be**  
 19 **categorically exempt or exempt from SEPA review, right?**  
 20 A. That's right.  
 21 **Q. Okay. So let's say this one actually does go through design**  
 22 **review. Is it your contention that the design review board**  
 23 **would actually bring the height back down to 40 or has the**  
 24 **authority to do that or would actually do that?**  
 25 A. I can't speak to what the design review board -- excuse me

1 MS. NEWMAN: Yes.  
 2 **Q. Still floating around?**  
 3 MS. NEWMAN: Sorry, double me.  
 4 **Q. (By Ms. Newman) This change, this action that is being**  
 5 **taken by the City would allow a developer to build up**  
 6 **to -- actually, I think it's -- is it 55, NCP -- the next**  
 7 **zone up from NCP40 is NCP55; is that right?**  
 8 A. It's NCP55, I'm not 100 percent sure. I can look at the  
 9 EIS.  
 10 **Q. Well, let me actually --**  
 11 A. You've got 50 written up there, but...  
 12 **Q. I'm going to change that. I think I put my pen down.**  
 13 **Q. Are you going to be speaking again?**  
 14 MS. NEWMAN: Oh, I'm sorry. I'll need that mike back. Is  
 15 there an eraser by chance?  
 16 **Q. No.**  
 17 **Q. (By Ms. Newman) So I'm going to do my best with this kind**  
 18 **of messy drawing, but let's say this is actually being**  
 19 **changed from 40 to 65, NCP65. And we've got this retirement**  
 20 **home here, as I said before. And you go from 40 to 65,**  
 21 **you're going to block all of their sun, 100 percent of their**  
 22 **sun. So the -- right now the way that it's working is if**  
 23 **it's 40 -- it's a single-family home. And even with 40 of a**  
 24 **height, that's not going to block the sun. Okay, you can**  
 25 **just assume that. This action that the City is taking right**

1 that design review board -- excuse me to what they would do,  
 2 but they would have the authority to impose conditions on  
 3 the design. And as I believe some of the other witnesses  
 4 have testified, there is a process of -- there is an  
 5 (inaudible) design process that takes place when the project  
 6 is going through design review to accommodate location  
 7 specific factors such as this.  
 8 **Q. Well, the developer is coming to -- files an application and**  
 9 **has a legally vested right under the old code only to go**  
 10 **this high, 45 feet, that's it, right?**  
 11 A. Yes.  
 12 **Q. Before the proposal. So after MHA proposal is adopted, the**  
 13 **developer now has a legal vested right under the new**  
 14 **proposal to go up to 65 feet?**  
 15 MR. KISIELIUS: I'm going to object on the grounds, we're  
 16 talking about a legally vested right, which is a legal  
 17 conclusion about a fact pattern that we're talking about  
 18 something different than what the code allows.  
 19 MS. NEWMAN: I'm just trying to use a hypothetical to show  
 20 that this is going to have direct impacts that need to be  
 21 analyzed at this time and will not be able to be  
 22 addressed -- this is the change that's being made now --  
 23 **Q. So the objection wasn't to the whole hypothetical, it was**  
 24 **to a specific question you just asked about the legally**  
 25 **vested right?**

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1 MS. NEWMAN: Okay. I can't even remember what the  
 2 question was.  
 3 **Q. Are you --**  
 4 MS. NEWMAN: If you want me to rephrase -- or what's the  
 5 problem?  
 6 MR. KISIELIUS: The objection is to asking the witness to  
 7 testify whether somebody has a legally vested right --  
 8 MS. NEWMAN: Oh, okay.  
 9 MR. KISIELIUS: -- that's a legal conclusion --  
 10 MS. NEWMAN: Okay, that's fine.  
 11 **Q. (By Ms. Newman) I think you get the point of what I'm**  
 12 **trying to say. Under this new MHA proposal, we're going to**  
 13 **be coming out of the starting gate with an application that**  
 14 **is at 65 feet. As a matter of law, that's allowed by this**  
 15 **new proposal under the hypothetical?**  
 16 A. If the proposal amends the zoning code to that designation  
 17 and 65 feet is allowed in that zone, than, yes, I suppose  
 18 that would be correct.  
 19 **Q. Okay.**  
 20 MS. NEWMAN: So my next questions are going to involve  
 21 using this.  
 22 **Q. Do you want to wait until after lunch?**  
 23 MS. NEWMAN: Yeah, that would be okay.  
 24 **Q. Yeah, let's return at 1:30?**  
 25 **(Recess)**

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1 MS. NEWMAN: Okay.  
 2 HEARING EXAMINER: We're going to return to cross of  
 3 Mr. Gifford.  
 4 MS. NEWMAN: Thank you.  
 5 **Q. (By Ms. Newman) Mr. Gifford, you testified that to see what**  
 6 **impacts would be in the EIS of different -- of the upzone,**  
 7 **you'd find it, we could look at the maps, and at -- in**  
 8 **Appendix H and figure out what the zoning change is and then**  
 9 **look at a table in the EIS to see what it describes, right?**  
 10 A. Correct.  
 11 **Q. Okay. And was the table that you referred to the table in**  
 12 **the Land Use chapter or the Aesthetics chapter or both?**  
 13 A. I believe I was referring to the Land Use chapter.  
 14 **Q. Okay.**  
 15 A. But there is a description in the Aesthetics chapter of  
 16 generalized impacts by zoning -- a rezone tier, which you  
 17 could also --  
 18 **Q. Uh-huh.**  
 19 A. -- then trace back by seeing on the map the rezone tier is  
 20 noted there. And that would also direct you back to the  
 21 narrative.  
 22 **Q. Okay. And so you used -- we looked at H-102 -- which I want**  
 23 **to refer you back to. That was Lake City Way, okay. It's**  
 24 **page H-103, Exhibit H-102.**  
 25 MS. BENDICH: Oh, do you need (inaudible).

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1 MS. NEWMAN: Oh, you have them. Okay.  
 2 **Q. (By Ms. Newman) And then you testified --**  
 3 A. Uh-huh.  
 4 **Q. -- that this map shows us the impacts outside of the urban**  
 5 **village -- is that right -- if you --**  
 6 A. Correct.  
 7 **Q. -- I mean, when you combine it with looking at the table?**  
 8 A. Correct.  
 9 **Q. Okay. And so I want to do that then as an exercise. And**  
 10 **I'm going to hook in the, um -- I don't know what exhibit**  
 11 **number it is, put this is the interactive map that we have a**  
 12 **link to.**  
 13 **So I don't know if you can see up on the screen. It's a**  
 14 **Mandatory Housing Affordability map. Does that look**  
 15 **familiar to you?**  
 16 A. Yes.  
 17 **Q. And are you familiar, generally, with this map on the --**  
 18 A. In a general --  
 19 **Q. -- wall?**  
 20 A. -- sense. I didn't prepare it, but I have --  
 21 **Q. Okay.**  
 22 A. -- reviewed it.  
 23 **Q. All right.**  
 24 HEARING EXAMINER: This is Exhibit 291.  
 25 MS. NEWMAN: Okay. Thank you.

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1 **Q. (By Ms. Newman) So I want to look at a sample, zeroing in**  
 2 **on one area here, because you can type in an address; and**  
 3 **I'm just randomly typing in an address. Just to zoom out a**  
 4 **little bit, I want to show you where I am, so you have some**  
 5 **basis for understanding where we are. This is -- well,**  
 6 **actually, do you recognize this just from your work? Do you**  
 7 **see what -- it says Roosevelt.**  
 8 A. Yes. And I --  
 9 **Q. Okay.**  
 10 A. -- I can see where that is, yes.  
 11 **Q. And so that says the Roosevelt Urban Village?**  
 12 A. Yes, it appears to be.  
 13 **Q. And then do you see to the right there's a -- kind of a**  
 14 **bunch -- a little -- does my arrow work there? Yes.**  
 15 MS. BENDICH: It's working.  
 16 **Q. (By Ms. Newman) -- that little bunch of zoning --**  
 17 A. Yes.  
 18 **Q. -- outside? So that's outside of the urban village?**  
 19 A. Correct.  
 20 **Q. All right. I'm going to zero in on that. So it looks like**  
 21 **we've got -- and see, this is the -- what the proposal is.**  
 22 **And I'm just realizing that this doesn't show us what the**  
 23 **existing zoning is; but would you know, just based on your**  
 24 **understanding of how these different zones are going to be**  
 25 **upzoned, what that existing zoning would be?**

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1 A. Can you -- can you zoom -- can you zoom in a little bit  
 2 more?  
 3 **Q. Uh-huh.**  
 4 A. I can't read that from here.  
 5 **Q. So it says NC2P-55(M). And then there's LR2. And this is**  
 6 **all along Northeast 65th Street.**  
 7 A. Okay.  
 8 **Q. And then there's LR3(M). There's a lot of 55 here. So what**  
 9 **I'm curious to know about is -- it's currently -- do you**  
 10 **under- -- do you know what the current zoning would be for**  
 11 **this if it's -- if it's going to be rezoned to NC2P-55(M)?**  
 12 A. Well, not off the top of my head, I mean, that specific  
 13 location. But I believe on the left-hand side there -- I  
 14 mean, I can't -- since I can't -- I'm not actually --  
 15 **Q. Okay.**  
 16 A. -- using the map --  
 17 **Q. I can --**  
 18 A. -- myself --  
 19 **Q. -- I can toggle.**  
 20 A. -- yeah. So there is a tab there that says "Current Zoning"  
 21 that I believe should show the current zoning --  
 22 **Q. I'm trying to find --**  
 23 A. -- map for the city.  
 24 **Q. -- a search. I want to search into the same address. Oh,**  
 25 **well.**

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1 A. In the upper left of the map pane there, there's a spy glass  
 2 or a magnifying glass thing. You should be able to search  
 3 with that, I believe.  
 4 **Q. Okay. So here's the current zoning. I think what I'm going**  
 5 **to do is have two windows open so I can go back and forth.**  
 6 **Okay. So this is the proposal. And so the current zoning,**  
 7 **this -- I just want to make sure. Do you agree this is the**  
 8 **same area under the -- showing the current zoning? Or can**  
 9 **you tell?**  
 10 A. It appears to be, yes.  
 11 **Q. Okay. This is the proposed zoning at NCP-55. And the map**  
 12 **says, to the right -- actually, I want to go on this parcel**  
 13 **right here. So what this does -- this tells us -- actually,**  
 14 **I could have clicked on that, and that would have answered**  
 15 **the question. I don't need that window anymore. The**  
 16 **current zoning is NC2P-40 for this site right here. It's**  
 17 **proposed to be NC2P-55. It's located at a medium MHA area.**  
 18 **And does the EIS tell us -- see this area here that's**  
 19 **gray --**  
 20 A. Uh-huh.  
 21 **Q. -- what that --**  
 22 A. I do.  
 23 **Q. -- what that area looks like, specifically?**  
 24 A. My understanding is that area is outside the study area of  
 25 the EIS. I believe it's Single Family zoned in nature, but

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1 I don't know that for sure as I don't have a map in front of  
 2 me.  
 3 **Q. Well, does the EIS tell us what it is?**  
 4 A. Um, I believe, since the EIS says that the study area  
 5 applies to urban villages and commercial areas outside those  
 6 areas, I believe we can infer that that's Single Family  
 7 zoning.  
 8 **Q. But does it -- so the map here doesn't tell us that it's**  
 9 **Single Family -- that I'm looking at right now -- right? It**  
 10 **doesn't tell us what the zoning is --**  
 11 A. No, it --  
 12 **Q. -- outside?**  
 13 A. -- does not specifically say --  
 14 **Q. Okay. So --**  
 15 A. -- what zoning is for those properties.  
 16 **Q. -- and the map in the -- in the Appendix -- Exhibit H is --**  
 17 **doesn't tell us what the zoning is outside of the study**  
 18 **area, correct?**  
 19 A. Uh, I believe that's correct. Yes.  
 20 **Q. Okay. So as looking at these maps, we don't know what the**  
 21 **zoning is outside, correct?**  
 22 A. Uh, but I believe if you click over to the -- I believe the  
 23 current zoning map shows citywide information, the other tab  
 24 that you had open.  
 25 **Q. Okay. Of course, I closed it. Okay. Oh, so it's based on**

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1 **color here.**  
 2 A. Yes. That whole area around the zoning that you're asking  
 3 about that's shaded in light yellow, that's Single Family  
 4 zoning.  
 5 **Q. That's all Single Family.**  
 6 A. Yes.  
 7 **Q. Okay. So this is not in the EIS, is it, any identification**  
 8 **like this? This is just on this -- if you had --**  
 9 A. The EIS --  
 10 **Q. -- to look up the zoning map --**  
 11 A. -- Appendix H -- I believe the -- the figure that you had me  
 12 looking at on page 102 --  
 13 **Q. Uh-huh.**  
 14 A. -- does have a footnote reference to the interactive map.  
 15 **Q. Okay. So it refers you to this map that -- this map here.**  
 16 A. Well, both of -- yes. Both of those maps --  
 17 **Q. Okay.**  
 18 A. -- are available from that -- from that --  
 19 **Q. Okay.**  
 20 A. -- website.  
 21 **Q. So does the EIS describe what this area -- this -- inside**  
 22 **this study area -- what this looks like currently? What the**  
 23 **buildings look like? What the heights are?**  
 24 A. In terms of -- I mean, that specific location -- are you  
 25 asking specifically about --

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1 **Q. Yeah. That --**  
 2 A. -- the Land --  
 3 **Q. -- location.**  
 4 A. -- Use and Aesthetics chapters?  
 5 **Q. Do we know --**  
 6 A. Or that's not the EIS.  
 7 **Q. -- from the EIS, are those buildings all already 40 feet?**  
 8 **Are they all single-family homes? Are they commercial? Is**  
 9 **it mixed use? Do we know what is -- what it looks like**  
 10 **currently in that study area?**  
 11 A. So there -- there is an exhibit on page 3.161 of the EIS --  
 12 is a map of allowed heights citywide. And so that does show  
 13 ranges of heights across the city. So if you're --  
 14 **Q. So that's --**  
 15 A. -- so if that's what you're -- if that's what you're --  
 16 **Q. -- that's not what I'm asking for. So that -- but my**  
 17 **understanding is that is telling us what the code allows the**  
 18 **height to be currently; is that right?**  
 19 A. Uh, yes. That's correct.  
 20 **Q. Okay. So what I'm asking is whether there's a description**  
 21 **in the EIS of what the actual current use -- land uses are**  
 22 **in this little area, what it looks like.**  
 23 A. I believe I -- in terms of the actual land uses, I believe  
 24 I, during my earlier testimony, mentioned that the Existing  
 25 Condition section of the Land Use chapter references the

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1 Seattle 2035 Comp Plan EIS.  
 2 **Q. Does the Seattle --**  
 3 A. And here is --  
 4 **Q. -- 2035 Comp Plan describe this?**  
 5 A. -- it does include an existing land use map for the entire  
 6 city.  
 7 **Q. But does it describe what this area's current land use is?**  
 8 A. The map indicates what the land use on that property is in  
 9 terms of whether it's -- I don't have it in front of me at  
 10 the moment, but it has several categories of land use that  
 11 are applied.  
 12 **Q. That are actually currently there, not the zoning?**  
 13 A. Yes.  
 14 **Q. And can you show me that map?**  
 15 A. Uh, yeah. One moment.  
 16 So it --  
 17 **Q. This is the EIS for the Comp Plan?**  
 18 A. -- it is the Seattle 2035 Comp Plan Update EI- -- Draft EIS.  
 19 **Q. Okay.**  
 20 A. So it's in the City of Seattle Exhibits, Binder No. 4. It's  
 21 Tab No. 4. And I'm looking at page 3.4-2.  
 22 **Q. It's going to take me a second.**  
 23 MS. NEWMAN: Do you have a hard copy?  
 24 MS. BENDICH: No.  
 25 MS. NEWMAN: No.

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1 HEARING EXAMINER: What is your question, Ms. Newman?  
 2 MS. NEWMAN: I just wanted to know what -- where the EIS  
 3 for the Comp Plan 2035 actually described the land uses in  
 4 that area.  
 5 HEARING EXAMINER: And are you asking -- you're -- you're  
 6 not asking about zoning or are you?  
 7 MS. NEWMAN: About what zoning? No. I'm actually asking  
 8 about what the current uses are.  
 9 HEARING EXAMINER: Okay.  
 10 MS. NEWMAN: Yeah. Not what the current zoning is.  
 11 HEARING EXAMINER: Is that what this shows?  
 12  
 13 A. Yes, that -- that page -- page 3.4-2 of that EIS includes  
 14 an existing land use category map. So those are -- it  
 15 classifies properties as being either Commercial/Mixed  
 16 Use -- Commercial/Mixed Use, Industrial, Single Family,  
 17 Major Institution, Multi-family, Parks/Open Space. It's  
 18 derived from King County Assessor information.  
 19 **Q. (By Ms. Newman) So that's basically all the information in**  
 20 **the combined EISs for the Comp Plan and for the MHA EIS on**  
 21 **what the land use is for the current land uses for that**  
 22 **little area?**  
 23 A. You're asking for that specific parcel?  
 24 **Q. Yeah.**  
 25 A. Yes. The E- -- the Comp -- the Seattle 2035 EIS is more

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1 general. It talks in broader categories. As I mentioned,  
 2 it is focused on the urban villages because those form sort  
 3 of the -- the structure of the Comprehensive Plan itself.  
 4 But as a result the MHA EIS is also focused in that way. So  
 5 in terms of -- you know, there's a -- more discussion of the  
 6 zoning changing, but in terms of the existing land use  
 7 there, there is this map. And then I believe there is  
 8 some -- some general discussion in the Comp -- in the  
 9 Comprehensive Plan. But that is probably the most detailed  
 10 piece right --  
 11 **Q. That's the --**  
 12 A. -- there.  
 13 **Q. -- information. Okay.**  
 14 **So then what about -- do we know what the existing land**  
 15 **use is immediately on the edges outside of this little -- I**  
 16 **have to flip this back in -- this area? The actual -- even**  
 17 **though we know it's zoned for Single Family, but do you**  
 18 **know -- have you -- does the EIS tell us what the actual**  
 19 **uses are?**  
 20 A. One moment. I don't believe there is a specific discussion  
 21 of that area in the way that we've mentioned the specific  
 22 urban villages. But I can -- I'm able to find --  
 23 **Q. Okay.**  
 24 A. -- the Roosevelt.  
 25 HEARING EXAMINER: Ms. Newman?

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1 MS. NEWMAN: Uh-huh.  
 2 HEARING EXAMINER: While he's looking for that, could you  
 3 do me a favor and click on the property where the cursor  
 4 is -- or was --  
 5 MS. NEWMAN: Yeah.  
 6 HEARING EXAMINER: -- depending on where you (inaudible).  
 7 MS. NEWMAN: This one?  
 8 HEARING EXAMINER: No.  
 9 MS. NEWMAN: Oh, sorry.  
 10 HEARING EXAMINER: In the gray.  
 11 MS. NEWMAN: Oh, this one?  
 12 HEARING EXAMINER: Yeah. Any one. Well, why don't you go  
 13 to one that's not overlapped with orange.  
 14 MS. NEWMAN: Well, it says --  
 15 HEARING EXAMINER: I'm just trying to see if there's any  
 16 data in there on that.  
 17 MS. NEWMAN: -- it says.  
 18 A. If it's a Single Family zone, then I believe then it would  
 19 be occupied probably -- most likely by a single-family  
 20 house. But I -- we don't believe we have a detailed list.  
 21 I mean, again, we did not do a block-by block,  
 22 parcel-by-parcel --  
 23 **Q. (By Ms. Newman) Okay.**  
 24 A. -- documentation of all -- of all these areas,  
 25 specifically -- especially because those areas are -- are

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1 outside the study area of the EIS.  
 2 **Q. Okay. But then going back in the study area, say, this --**  
 3 **where I've highlighted -- well, actually I'm going to**  
 4 **highlight that right there. No, I'm going to highlight**  
 5 **right -- this one right here. Do you know what actual -- is**  
 6 **currently on that lot right there? What use? I mean, does**  
 7 **the -- I shouldn't say, "Do you know?" Let me ask that a**  
 8 **different way. Does the IS -- EIS tell us or the Comp Plan**  
 9 **EIS tell us, specifically, what's on that lot?**  
 10 A. That property should be reflected in the existing land use  
 11 map in the Comprehensive Plan EIS.  
 12 **Q. It would actually --**  
 13 A. It's --  
 14 **Q. -- tell us what use is currently on there? What --**  
 15 A. -- it would be --  
 16 **Q. -- what --**  
 17 A. -- it would be categorized.  
 18 **Q. Okay.**  
 19 A. It may not say specifically. It wouldn't provide all the  
 20 detail that's in a -- an assessor record, but it would tell  
 21 you if it's a single-family home or a multi-family  
 22 development or a commercial development.  
 23 **Q. Okay. So if we're talking about aesthetics, does the EIS**  
 24 **specifically tell us what the aesthetics are of this area**  
 25 **inside the study zone in this specific area?**

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1 A. I believe the description there is more -- is based on those  
 2 typologies as we described before that the way we approached  
 3 that was to look at common built form elements and to assess  
 4 impacts based on changes to --  
 5 **Q. Let me -- let me reask.**  
 6 A. -- different kind of typologies.  
 7 **Q. Isn't it true that this -- that the EIS actually doesn't**  
 8 **describe the aesthetics specifically of this area that I'm**  
 9 **showing you up on the screen?**  
 10 A. I would say it does not provide a parcel-by-parcel review of  
 11 that area, no.  
 12 **Q. Okay. It doesn't even -- does it describe -- do we know**  
 13 **from reading the EIS what -- looking at this map, what that**  
 14 **area looks like, generally? Is it all -- do we know if it's**  
 15 **old architecture? New architecture? Bulky buildings?**  
 16 **Skinny buildings?**  
 17 A. Well, based on the existing land use map that's in the  
 18 Comprehensive Plan EIS, that area appears to be mostly  
 19 Single Family with some commercial development in certain  
 20 locations. I was taking a very quick look at it, but we  
 21 could go back to that if you'd like. But I think, then, the  
 22 idea being that as you go into the Aesthetics chapter when  
 23 we're describing those common built form elements that it  
 24 would be more in line with the existing Single Family or  
 25 Lowrise, except for those areas where you've got commercial

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1 development, which is --  
 2 **Q. And --**  
 3 A. -- documented there.  
 4 **Q. -- so you took all of that from that map that you just**  
 5 **looked at in the Comp Plan 2035 EIS?**  
 6 A. Well, that and then the -- my familiarity with the  
 7 Aesthetics chapter.  
 8 **Q. Okay. Have you ever been to this area yourself?**  
 9 A. Uh, myself? Uh, probably -- I -- I don't believe so. I may  
 10 have.  
 11 **Q. Okay. Are you aware of what the topography is, if there are**  
 12 **steep hills?**  
 13 A. Looking at it now, no, I'm not.  
 14 **Q. And does the EIS tell us whether there are steep hills? Or**  
 15 **what the topography is of that area?**  
 16 A. I don't believe it specifically addresses that in that  
 17 location, no.  
 18 **Q. And does it tell us whether there are any historic landmarks**  
 19 **in that area? Does the EIS -- actually, I'm sorry. That's**  
 20 **out of your scope.**  
 21 MS. NEWMAN: I will -- I saw that coming. I don't know  
 22 why I asked that question.  
 23 **Q. (By Ms. Newman) Does the EIS give us any information about**  
 24 **the views that are enjoyed -- territorial views -- from this**  
 25 **area?**

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1 A. Uh, as I've said before, the EIS, in the Aesthetics chapter,  
 2 does not do a block-by-block, parcel-by-parcel review of  
 3 those conditions.  
 4 **Q. Okay. So there is going to be an NC -- this proposal is**  
 5 **proposing the potential for, I guess, the allowance of a**  
 6 **55-foot -- actually let me -- let me back up here. I'm**  
 7 **going to ask you a quick question first.**  
 8 **You had testified earlier that transition is often**  
 9 **required, right? And the City has -- are you aware that the**  
 10 **City actually has a requirement for rezones, that there be a**  
 11 **transition buffer zone between kind of high-intensity and**  
 12 **low-intensity uses?**  
 13 A. Yes.  
 14 **Q. And you had said if there's no buffer or transition and you**  
 15 **put a highrise commercial right next to that, it's obviously**  
 16 **going to be more significant impacts.**  
 17 A. Yes, I did say that.  
 18 **Q. Do you agree with that? So you don't immediately jump up to**  
 19 **massive heights.**  
 20 **I just want to point out here, isn't it right that we'll**  
 21 **have a single-family home -- if this is, indeed, Single**  
 22 **Family where I'm clicking -- immediately adjacent to a**  
 23 **55-foot tall building?**  
 24 A. The map is not on the screen.  
 25 **Q. Oh, okay. I keep trying to -- well, I can't get this in.**

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1 **All right.**  
 2 **So there will be a single-family home immediately adjacent**  
 3 **to a 55-foot tall, potentially, building; isn't that right?**  
 4 A. If the -- yes. If there -- if there is an existing  
 5 single-family home on that property outside and there is --  
 6 the property inside the rezone area is developed at that  
 7 full 55 feet --  
 8 **Q. Uh-huh.**  
 9 A. -- um, yes. Then that would be the case.  
 10 **Q. Okay. And there's no street in between them. It's just**  
 11 **right --**  
 12 A. It appears --  
 13 **Q. -- next to each other.**  
 14 A. -- just to be a property line.  
 15 **Q. All right. And that's true for not just that one site, but**  
 16 **we've got kind of an -- a whole area of edge impacts**  
 17 **happening here; is that accurate to say?**  
 18 A. Well, that's -- I mean, potentially, again, you know,  
 19 depending on the location-specific conditions of those  
 20 sites --  
 21 **Q. Uh-huh.**  
 22 A. -- but that could potentially be an area where you would  
 23 have a change in heights, yes.  
 24 **Q. Okay. And does the EIS address this impact of a 55-foot**  
 25 **tall building next to a single-family home?**

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1 A. So, again -- well, again, while the EIS does not do a  
 2 property-by-property review of this --  
 3 **Q. Uh-huh.**  
 4 A. -- it does -- edge effects are specifically called out in  
 5 the analysis as --  
 6 **Q. Okay.**  
 7 A. -- a potential source of impacts, and several of the  
 8 mitigation measures that are recommended are specifically  
 9 aimed at reducing those.  
 10 Again, whereas -- in terms of the -- as part of my earlier  
 11 testimony, I stated that there are several different classes  
 12 of mitigation measures, some of which are incorporated  
 13 directly into the proposals, and others which are  
 14 recommended specifically to address impacts that have been  
 15 identified. The incorporation of any recommended mitigation  
 16 measures is in the purview of City Council.  
 17 **Q. So, you know, speaking of the mitigation that you**  
 18 **recommended, let's look at the land use mitigation, which, I**  
 19 **think, is what you were just referring to, which is on**  
 20 **page 3.211. Is this what you were referring to just now,**  
 21 **that first bullet where it says --**  
 22 A. Well, this is the Aesthetics chapter, but --  
 23 **Q. Oh, okay. Sorry. I --**  
 24 A. -- yes. I mean, that's --  
 25 **Q. -- so (inaudible).**

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1 A. -- that and the mitigation for the land use is what I was  
 2 referring to, yes.  
 3 **Q. So for the land use you said you can amend -- for options**  
 4 **would include transitional height limits and particular**  
 5 **setbacks that would apply to parcels. And that mitigation**  
 6 **is informed by the edge impact analysis, right?**  
 7 A. It's informed by the entire impact analysis, yeah.  
 8 **Q. So how -- okay. And what I'm -- do you have a number or can**  
 9 **you give me some sort of quantification? If I zoom out**  
 10 **you'll notice that this little area that I just showed you**  
 11 **is one example -- and also if you look at the maps in the**  
 12 **appendix -- of many, many -- you can see there's several**  
 13 **there, right, on the map?**  
 14 A. Yes. I can see that.  
 15 **Q. And it's going through the whole city, several, you know,**  
 16 **little areas like that all over that are going to be**  
 17 **upzoned, right, in the study area outside of urban villages?**  
 18 A. Yes.  
 19 **Q. And I'm curious how the members of the County Council would**  
 20 **know --**  
 21 MS. BENDICH: City -- City Council.  
 22 **Q. (By Ms. Newman) -- I mean, the City Council would know**  
 23 **where they want to -- where it's important or where it**  
 24 **matters to change those height limits, bring them down.**  
 25 **What would the information be that they need to say maybe**

1 they wouldn't adopt the mitigation in this Ravenna area, but  
 2 maybe they would want to do it in Lake City Way? How do  
 3 they know how to -- where to apply that mitigation?  
 4 A. Well, as I've said, the -- the way that the impact analysis  
 5 is structured is to allow a reader or a decision maker to  
 6 identify the areas where they find -- where there are  
 7 impacts which they are concerned about. So if they find  
 8 that they think the height limit in that particular area is  
 9 of concern --  
 10 **Q. Uh-huh.**  
 11 A. -- I mean, in much the way that you've just done. You've  
 12 identified a property that -- obviously, if you say this is  
 13 a height limit transition that concerns me, that is --  
 14 **Q. Well, I want to -- I want to stop you there because I didn't**  
 15 **say that. What I was trying to figure out is what was going**  
 16 **on -- I was asking you questions about it. And I don't**  
 17 **think -- the EIS, I would have to say, from your answers --**  
 18 **isn't it fair to say that we don't know if this is of**  
 19 **concern or not because we don't know what the topography is.**  
 20 **We don't know what the views are. We don't know what the**  
 21 **use is next -- on the edge. All those things that I've**  
 22 **said.**  
 23 A. We -- well, I believe we just demonstrated that we know what  
 24 the use is on the edge. The map shows that it's --  
 25 **Q. Well, you -- it is zoned Single Family, correct?**

1 **Q. Okay.**  
 2 A. -- because all -- it applies to all zones even under -- even  
 3 under the no action, if you're developing in that zone,  
 4 those exceptions that are currently in the code would still  
 5 apply.  
 6 **Q. So you can go higher than 55 feet with the appurtenances,**  
 7 **but the EIS doesn't mention that.**  
 8 A. I -- I believe so. But, again, as I said, without having --  
 9 taking a look at the code in front of me, I can't verify a  
 10 specific exception.  
 11 **Q. And isn't it true that there's a green building, also,**  
 12 **exception that allows you to go higher than the height**  
 13 **limit?**  
 14 A. I don't have -- I am not familiar with those exact rules,  
 15 no.  
 16 **Q. And don't you think that it's important for you to know**  
 17 **those if you're writing the chapter on impacts?**  
 18 A. I think that, again, the EIS -- the EIS looks at these -- at  
 19 these height increases and bulk increases, again, in a  
 20 generalized way. And I think that, again, these are  
 21 site-specific individual examples where project-level SEPA  
 22 review and design review would be able to take a look at  
 23 those issues and address them.  
 24 **Q. So is it feasible that a builder could go above 55 feet**  
 25 **using exceptions?**

1 A. Yes.  
 2 **Q. And so --**  
 3 A. But it's --  
 4 **Q. -- do you know what -- we don't know what that actually**  
 5 **looks like, correct?**  
 6 A. In terms of standing in front of it from the streets, um --  
 7 **Q. Right.**  
 8 A. -- no. That is not currently documented, no.  
 9 **Q. Okay. Would the height limit for NC2P-55 feet, are there**  
 10 **exceptions that will allow a developer to go higher than**  
 11 **55 feet in the code?**  
 12 A. I believe the code allows certain rooftop appurtenances to  
 13 go above that limit. Other exceptions beyond that I'm  
 14 not -- I'm not -- I can't tell you right off the top of my  
 15 head without examining the code.  
 16 **Q. And did you include -- does the EIS talk about that**  
 17 **potential for exceptions in the code --**  
 18 A. Well, most --  
 19 **Q. -- that go above 55 feet?**  
 20 A. -- well, that's a pretty -- being able to have rooftop  
 21 appurtenances that go beyond the base height limit is a  
 22 pretty -- which is pretty common for most zones --  
 23 **Q. Does the EIS mention that?**  
 24 A. The EIS does not specifically address that particular issue,  
 25 no --

1 A. I wouldn't comment on development feasibility.  
 2 **Q. You don't --**  
 3 A. I'm not a --  
 4 **Q. -- or the --**  
 5 A. -- land use econ- -- or a real estate economist.  
 6 **Q. I want to look at another section that's -- oh, actually, I**  
 7 **had a quick question about the -- I want to -- I want to**  
 8 **actually show this first, and then I'll ask you a question.**  
 9 **So I'm seeing a -- here's an urban village. And this**  
 10 **urban village has --**  
 11 MS. NEWMAN: Is it not plugged in?  
 12 MS. BENDICH: You need to identify it for the record.  
 13 MS. NEWMAN: Okay.  
 14 **Q. (By Ms. Newman) I'm still on the interactive map and I'm**  
 15 **now zooming into an address, 8580 Greenwood Avenue North.**  
 16 **Do you recognize the urban village that's showing on the**  
 17 **screen?**  
 18 A. Yes. That appears to be Greenwood/Phinney.  
 19 **Q. Okay.**  
 20 MR. KISIELIUS: Can you see?  
 21 **Q. (By Ms. Newman) The Greenwood/ --**  
 22  
 23 A. Yes, thank you.  
 24 **Q. (By Ms. Newman) -- Phinney Ridge Urban Village?**  
 25 A. Yes. That -- that's correct.

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1 **Q. Okay.**  
 2 A. It appears to be.  
 3 **Q. And I just want to point out here that we have another**  
 4 **situation where there's NC2-75. Do you see that on the**  
 5 **screen at the north end of the urban village?**  
 6 A. Yes, I see that.  
 7 **Q. And then clicking outside here, it's identifying that as a**  
 8 **Single Family zone, so we have 75-foot buildings next to a**  
 9 **Single Family zone here; is that right?**  
 10 A. That's correct.  
 11 **Q. Does the EIS address -- or tell us what the current uses are**  
 12 **in that area?**  
 13 A. As I said for the previous example, the existing land uses  
 14 are documented in the Seattle 2035 existing land use map.  
 15 **Q. And so your answers, if I ask all those same questions,**  
 16 **would be similar to this area?**  
 17 A. Uh --  
 18 **Q. We don't -- do we know -- does the EIS tell us what the**  
 19 **topography is of this area?**  
 20 A. Not specifically, no.  
 21 **Q. Okay. And does the EIS tell us what the views are from this**  
 22 **specific area?**  
 23 A. No. Not specific- -- not -- not for individual parcels in  
 24 that area, no.  
 25 **Q. Okay. And does the EIS describe specifically what the**

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1 **current aesthetics are within the study area of this -- and**  
 2 **when I say "this area," I'm talking about within the urban**  
 3 **village.**  
 4 A. So you're talking about the Greenwood/Phinney Ridge Urban  
 5 Village?  
 6 **Q. Yeah.**  
 7 A. I don't believe it does a block-by-block specific  
 8 description of that. Again, as I said, it was talking  
 9 specifically about common built form elements and looking at  
 10 Single-Family areas versus Mixed Use versus Multi-Family  
 11 versus Commercial.  
 12 **Q. Okay. What percentage, would you say, of the project -- or**  
 13 **does it -- I -- I should -- does the EIS tell us what**  
 14 **percentage, now that we kind of go out and think about this**  
 15 **as a whole over the whole citywide zoning, that both the**  
 16 **urban villages and the areas outside will have NC2P zoning**  
 17 **adjacent to Single Family zoning?**  
 18 A. I don't have a number for that. No, I don't.  
 19 **Q. Does the EIS have one?**  
 20 A. I believe the EIS presents information on the acreage that's  
 21 going to be rezoned in each category. I don't believe it  
 22 specifically contains a number for rezoning in -- adjacent  
 23 to specific other zones.  
 24 **Q. Okay. So closing this up, I'm going to start on a new topic**  
 25 **here. I just want to go to the EIS and talk about -- now,**

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1 **you -- you agree that the EIS -- I mean, SEPA requires that**  
 2 **the EIS contain a description of the existing environment**  
 3 **for each element of the environment, correct?**  
 4 A. That's correct.  
 5 **Q. Okay. And so looking at the Land Use section, I want to**  
 6 **look at your description of the existing environment. So**  
 7 **this is distinguished from talking about impacts. We're**  
 8 **talking about what -- what it looks like now. And with**  
 9 **respect to land use, that would include, not just what the**  
 10 **code allows for land use when you're describing the existing**  
 11 **situation, but it would describe what the actual existing**  
 12 **land use is, right?**  
 13 A. That's -- yes. That is generally included in a description  
 14 of the affected environment.  
 15 **Q. Okay. And the same is true for aesthetics?**  
 16 A. Yes.  
 17 **Q. So looking -- let's actually start with the Aesthetics**  
 18 **chapter. So that's page 3.3 -- I mean, Chapter 3.3,**  
 19 **page 3.159. And so what you've done here in the Affected**  
 20 **Environment is describe the existing regulations and what**  
 21 **they allow; is that correct?**  
 22 A. Yes, that's correct. That section describes the citywide  
 23 allowed heights --  
 24 **Q. All right.**  
 25 A. -- for various -- various areas.

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1 **Q. And you also talk a little bit about the idea that there's**  
 2 **FAR limits and building heights and generally that sort of**  
 3 **thing.**  
 4 A. Yes, correct.  
 5 **Q. And skipping over page 3.163 and 3.164, you also have a**  
 6 **discussion about design review?**  
 7 A. Yes.  
 8 **Q. And RSL does not require design review, right, according to**  
 9 **you summary here? Unless it's within that five-year zone?**  
 10 A. Uh, which exhibit are you referring to?  
 11 **Q. Oh, I'm sorry. 3.164. It starts in the EIS -- Exhibit --**  
 12 **MHA --**  
 13 A. Uh-huh.  
 14 **Q. -- EIS, Exhibit 2?**  
 15 A. So when I'm reviewing this table in here -- so Exhibit 3.3-7  
 16 on page 3.166 --  
 17 **Q. Uh-huh.**  
 18 A. -- that contains the design review thresholds that were  
 19 adopted by City Council in 2017.  
 20 **Q. Uh-huh.**  
 21 A. Yeah. So accord- --  
 22 **Q. So R- --**  
 23 A. -- so according to this, yes, RSL would appear -- yes, it  
 24 would appear that RSL is not -- is not listed there.  
 25 **Q. Okay. And there are thresholds. So there are buildings**

1 that are -- it says: Less than 8,000, no design review for  
2 the Multi-Family and Commercial zones. I'm assuming that  
3 means 8,000 square feet; is that right?

4 A. Yes, that's correct.

5 **Q. Okay. So anything that's less than 8,000 square feet will  
6 not get design review; is that accurate?**

7 A. As subject to the 5- -- the provision that development of at  
8 least 5,000 square feet is still subject to design review if  
9 it was rezoned from Single Family to Lowrise 1 or Lowrise 2  
10 within five years of those changes to the design review --

11 **Q. Okay.**

12 A. -- ordinance.

13 **Q. And so when were those changes made?**

14 A. I believe those changes were made -- October 2017, I  
15 believe, is when that ordinance was passed by Council.

16 **Q. Okay. So five years from there, there won't be design  
17 review for -- that will grandfather out?**

18 A. My understanding is that yes, it phases out after five  
19 years.

20 **Q. Okay. And so then we get to page 3.168, and that's where  
21 you describe the views. That's your description of current  
22 existing views?**

23 A. Of -- that's the description of --

24 **Q. Current.**

25 A. -- yes -- of the views --

1 **Q. Those are --**

2 A. -- it does not -- it --

3 **Q. -- you understand my distinction. I'm talking about  
4 speci- -- so if you want to think about Roosevelt, from  
5 reading the CIS, we don't know what the aesthetics are of  
6 Roosevelt neighborhood --**

7 A. There is --

8 **Q. -- what the views are, what the topography is, what the  
9 buildings look like -- from looking at the CIS.**

10 A. The Affect on the Environment section of this chapter does  
11 not include a specific neighborhood by neighborhood, urban  
12 village by urban village description of aesthetic qualities.  
13 However, there is description -- there is some information  
14 on (inaudible) conditions in terms of built form and  
15 building types both here and in the Land Use chapter.

16 **Q. Okay. And it's fair to say the Land Use chapter, when you  
17 look at the affected environment -- not the impact analysis  
18 but the affected environment, your answer would be similar  
19 that there's no urban village by urban village analysis of  
20 what the actual land use is?**

21 A. Again, the Affected Environment chapter -- or excuse me --  
22 Affected Environment section of the Land Use chapter does  
23 make reference to the Seattle 2035 --

24 **Q. Okay.**

25 A. -- which includes that information on existing conditions.

1 **Q. Right.**

2 A. -- that are protected under the Comprehensive Plan policies  
3 and Seattle Municipal Code.

4 **Q. All right. So this is your entire description of aesthetics  
5 of the current environment that we just went through, other  
6 than I skipped over a page. 3.163 and 3.164 shows -- you  
7 went through that through your testimony, so I won't spend a  
8 lot of time on that, but that's common building -- common --  
9 what did you described it as?**

10 A. Common built form elements.

11 **Q. Common built form elements.**

12 A. So while those are not identified as belonging to specific  
13 locations, we did identify those typologies for the sake of  
14 comparison and for -- as a basis for the impact analysis.

15 **Q. Okay. And so you would agree that you do not describe -- in  
16 the Aesthetics chapter there is no description of the  
17 existing environment, what it looks like now, anywhere  
18 within the study area specific to each neighborhood.**

19 A. I don't think that's entirely accurate. Again, the EIS  
20 for -- because the EIS is a -- again, looking at this from a  
21 programmatic standpoint, we're looking at common built  
22 elements throughout the city. And we do pride some visual  
23 examples of existing development and existing building  
24 typologies that are located within the study area. It  
25 doesn't -- however --

1 And while I understand your question is specifically focused  
2 on the affected environment, there is -- there is  
3 information on existing conditions within the land use --  
4 excuse me within the impact analysis as well.

5 **Q. Okay. All right. Did you work on the U District upzone or  
6 the EIS for the U District upzone?**

7 A. No, I didn't.

8 **Q. All right.**

9 MS. NEWMAN: I don't know if this has been introduced yet.  
10 I think it might be an exhibit already. I have copies for  
11 both of you.

12 This is -- actually it may not be an exhibit, so I would  
13 request that it be marked. Oh, no, I need that. Thanks.

14 HEARING EXAMINER: There was a (inaudible) EIS, but I  
15 don't know if it was this draft or --

16 MS. NEWMAN: I'm thinking it might be --

17 HEARING EXAMINER: -- yeah.

18 MS. NEWMAN: -- a different section.

19 HEARING EXAMINER: Let's make sure we're not...

20 MS. NEWMAN: When I looked it was the Historic

21 Resources --

22 HEARING EXAMINER: That was --

23 MS. NEWMAN: -- chapter.

24 HEARING EXAMINER: -- so the FEIS was put in. This is the  
25 Draft EIS.

1 MS. NEWMAN: Oh, okay. So this would be a new exhibit.  
 2 EXAMINER: Marked as 306.  
 3 (Exhibit No. 306 marked for identification)  
 4 MS. NEWMAN: Okay.  
 5 **Q. (By Ms. Newman) All right. I've given you what's been**  
 6 **marked as Exhibit 306, the Draft Environmental Impact**  
 7 **Statement for the U District Urban Design Alternatives.**  
 8 **Have you seen this document before?**  
 9 A. Uh, I have -- I have read it. It's been a while, but --  
 10 **Q. So weeks or years?**  
 11 A. A couple of years.  
 12 **Q. Years, okay. Are you aware of what this -- actually, we**  
 13 **could just look straight at the fact sheet so you don't have**  
 14 **to guess what this was prepared for. Can you describe what**  
 15 **the name of the proposal was -- is on page -- it shows on**  
 16 **page 1. It's the first page in.**  
 17 A. Name of the proposal is the U District Urban Design  
 18 Alternatives.  
 19 **Q. Okay. And are you familiar with what that project was?**  
 20 A. Uh, somewhat. I understand that there was some upzoning and  
 21 some increased height limits proposed, but --  
 22 **Q. Okay.**  
 23 A. -- not -- I'm not particularly familiar with the specifics.  
 24 **Q. And it's a City of Seattle project?**  
 25 A. Yes, it is.

1 I'm going to ask him to look at what the document says and  
 2 just reflect on it, not -- not give me any -- there's no  
 3 need for him to have any experience working on this  
 4 document.  
 5 HEARING EXAMINER: I propose --  
 6 MR. KISIELIUS: So --  
 7 HEARING EXAMINER: -- before we argue about it more, I  
 8 need clarification on whether this is a direct witness of  
 9 yours or not?  
 10 MS. NEWMAN: It is.  
 11 HEARING EXAMINER: So I'll overrule.  
 12 MS. NEWMAN: Okay.  
 13 **Q. (By Ms. Newman) Can you read that first sentence under the**  
 14 **heading Land Use?**  
 15 A. "This section of the EIS describes existing land use,  
 16 development patterns, character, and scale of development  
 17 within and near the U District study area. This section  
 18 also summarizes pertinent plans, policies, and regulations."  
 19 **Q. Okay. And if you look at the first page here, it says,**  
 20 **"Affected Environment." This is -- we were talking earlier**  
 21 **about the requirement under SEPA that the EIS describe the**  
 22 **existing environment for each element in the environment.**  
 23 **And this is the Land Use section; is that what your**  
 24 **understanding is, looking at this?**  
 25 A. Yes, it appears to be.

1 **Q. All right. So I want to look at -- what I've given you here**  
 2 **is the Land Use chapter and the Aesthetics chapter. And I**  
 3 **want to go through this. Page 3.1-1, can you read the first**  
 4 **sentence under 3.1 from that chapter?**  
 5 A. Under the Study Area Overview?  
 6 **Q. Uh page 3.1-1. It says --**  
 7 **A. Oh.**  
 8 **Q. -- 3.1 Land Use.**  
 9 MR. KISIELIUS: Mr. Examiner, I'm going to object at this  
 10 point. The witness has a passing familiarity with this  
 11 document. We're about to ask him to do a detailed  
 12 comparison.  
 13 MS. NEWMAN: This is -- he has spent an enormous amount of  
 14 time talking about what a typical programmatic EIS looks  
 15 like and what they do and what's acceptable in a typical  
 16 programmatic EIS, and I'm going to show him that what he's  
 17 been saying is actually the opposite of what the truth is,  
 18 based on these documents.  
 19 MR. KISIELIUS: And that's Ms. Newman's characterization  
 20 of the document. This sets up the entire problem with this  
 21 is that he has -- doesn't have the information or the basis  
 22 to be able to testify competently about whether what  
 23 Ms. Newman's theory of the case is actually accurate.  
 24 MS. NEWMAN: I'm not going to ask him any questions that  
 25 would require him to have knowledge about this document.

1 **Q. And if you look at this, it says, "Study Area Overview."**  
 2 **And you read the first paragraph and look at the picture**  
 3 **next do it, the U District Study Area Boundaries. Is it**  
 4 **fair to say that this opens up by describing the actual**  
 5 **current existing land use development patterns, character,**  
 6 **and scale of developments specific to the U District area?**  
 7 A. Uh, it appears to describe the boundary of the study area.  
 8 **Q. Uh-huh.**  
 9 A. It calls out the acreages of several land use categories  
 10 such as public rights of way; and then, apparently, the  
 11 following few paragraphs are describing the mix of land uses  
 12 that are present.  
 13 **Q. Okay. And it describes, "The majority of the U District**  
 14 **study area" -- this is on 3.1-1 -- "is within the City of**  
 15 **Seattle's designated University Community Urban Center"; do**  
 16 **you see that?**  
 17 A. Uh, I do.  
 18 **Q. And then turning the page on 3.1-2, it describes,**  
 19 **"Figures 3.1-3 and 3.1-4 show the overall pattern of**  
 20 **existing development in the U District study area." So**  
 21 **that's showing to us what the specific development patterns**  
 22 **are for the U District area, right?**  
 23 A. Yes. That appears to be the case.  
 24 **Q. Okay. And then if you go on the next page, we've got a**  
 25 **breakdown, "In order to provide a more detailed description**

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1 of the existing land use pattern, the following discussion  
 2 breaks the study area into four small areas"; do you see  
 3 that?  
 4 A. Yes, I do.  
 5 **Q. And so it's broken down into the North Study Area, the Core**  
 6 **Area, the South Study Area, and University Way Northeast**  
 7 **Corridor; do you see that?**  
 8 A. I do see that.  
 9 **Q. All right. And then we go on to the next couple pages and**  
 10 **we have a description -- and I'll give you a second if you**  
 11 **want to look at it -- but how would you characterize, let's**  
 12 **say, the North Study Area, Core Area, South Study Area,**  
 13 **University Way Northeast Corridor? Those next few pages, if**  
 14 **you could take a look at those just briefly.**  
 15 A. I'm sorry. What is your question again as well?  
 16 **Q. Can you characterize for me what that is describing and**  
 17 **how -- what the information is that they're giving us --**  
 18 A. So --  
 19 **Q. -- in this EIS?**  
 20 A. -- each of those sections appears to describe, roughly, the  
 21 size and extent of each of those subareas --  
 22 **Q. Uh-huh.**  
 23 A. -- and describes rough proportions of different land use  
 24 types within them and some descriptions of general common  
 25 building typology.

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1 **Q. Okay. And so it's fair to say that this is giving us some,**  
 2 **not extraordinarily detailed information, but information**  
 3 **specific about the existing land use, development patterns,**  
 4 **character, and scale of development within the U District**  
 5 **that exists as -- as of the time of the writing of this EIS?**  
 6 A. Yes, that would seem to be a fair characterization.  
 7 **Q. Okay. And then if we could turn to page 3.3-1, which is the**  
 8 **Aesthetics chapter for the CIS, 3.3. Can you read that**  
 9 **first sentence under 3.3 Aesthetics?**  
 10 A. "The aesthetics chapters illustrates and describes the  
 11 physical character of the study area and it's immediate  
 12 surroundings."  
 13 **Q. Okay. And it looks like they did some three-dimensional**  
 14 **modeling to illustrate potential aesthetic impacts; is that**  
 15 **right what you see there?**  
 16 A. Uh, yes.  
 17 **Q. Okay. And then there's a section, Affected Environment.**  
 18 **Again, we have area context, and it describes -- if you can**  
 19 **look at that paragraph on 3.3-1, fair to say that describes**  
 20 **the -- what the University District physical character looks**  
 21 **like?**  
 22 A. Um, it describes its physical setting, where it's located  
 23 and some of the context of the surrounding areas. It  
 24 briefly describes the street network, presence of  
 25 neighborhood green streets, and then there appears to be a

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1 discussion of neighborhood character.  
 2 **Q. Okay. And then if you can see there's -- there's some**  
 3 **photos on page 3.3-4 and 3.3-5. And are you familiar with**  
 4 **the University District area?**  
 5 A. Uh, yes, I am.  
 6 **Q. Okay.**  
 7 A. I've never lived there, but been there on several occasions.  
 8 **Q. And from looking at this, is it fair to say these are**  
 9 **photos -- specific photos of that area? And we have a**  
 10 **discussion --**  
 11 A. I wouldn't -- I wouldn't -- I wouldn't dispute that.  
 12 **Q. -- and we have a discussion in the text that generally goes**  
 13 **on for several pages with several photos describing the**  
 14 **aesthetics of the U District?**  
 15 A. Yes. That appears to be the case.  
 16 **Q. And then on page 3.3-8 there's a description of viewsheds.**  
 17 **And it says: Designated viewpoints are identified in**  
 18 **Attachment 1 to the code.**  
 19 A. Yes, I see that.  
 20 **Q. And then there's a description at the bottom of the page of**  
 21 **scenic routes in the area; do you see that?**  
 22 A. Uh, yes, I see that as well.  
 23 **Q. Okay. So overall, is it fair to say that we've got about,**  
 24 **from pages 3.3-1 to 3.3-12, several pages that describe,**  
 25 **specifically, the aesthetics of the U District neighborhood?**

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1 A. Yes, I think that's fair to say.  
 2 **Q. Okay.**  
 3 MS. NEWMAN: I'd like to move to submit Exhibit 306.  
 4 MR. KISIELIUS: No objection.  
 5 HEARING EXAMINER: 306 is admitted.  
 6 (Exhibit No. 306 admitted into evidence)  
 7 MS. NEWMAN: Okay. I have another -- this is the Uptown  
 8 Urban Center. I think this a new exhibit.  
 9 HEARING EXAMINER: Is this the EIC -- the rezone?  
 10 MS. NEWMAN: This is an EIC for Uptown -- different  
 11 rezone.  
 12 HEARING EXAMINER: Right. Uptown --  
 13 MS. NEWMAN: Yeah.  
 14 HEARING EXAMINER: -- Urban --  
 15 MS. NEWMAN: Uptown --  
 16 HEARING EXAMINER: -- Center Rezone.  
 17 MS. NEWMAN: -- Urban Center Rezone. Yeah.  
 18 HEARING EXAMINER: And this, again, is the draft as  
 19 opposed to the final?  
 20 MS. NEWMAN: Yes.  
 21 HEARING EXAMINER: Okay. And the final is an exhibit  
 22 already.  
 23 MS. NEWMAN: Okay.  
 24 HEARING EXAMINER: Okay.  
 25 MR. KISIELIUS: For clarification, is the entirety of it

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1 in or just a specific section?  
 2 HEARING EXAMINER: It is Exhibit 70. Uh, you say it's the  
 3 entirety (inaudible)?  
 4 MR. KISIELIUS: I just want to make sure that there -- I  
 5 know, I -- I'm -- I'm familiar with specific chapters we've  
 6 talked about before. I don't recall whether we've added the  
 7 whole thing or not. Or it's --  
 8 MS. BENDICH: We had the Historic section of the EIS.  
 9 HEARING EXAMINER: So our notes say (inaudible).  
 10 MS. NEWMAN: Yeah. Just the Historic.  
 11 HEARING EXAMINER: But it's not true. Yeah. No, it's not  
 12 the entirety. Exhibit 70 is not.  
 13 MR. KISIELIUS: Could I propose that if we're going to be  
 14 adding that we supplement the pages that are reflected in  
 15 that?  
 16 HEARING EXAMINER: Just a second.  
 17 MR. KISIELIUS: Sorry.  
 18 HEARING EXAMINER: It's all right. Two (inaudible) -- I  
 19 just know it's not... Is this Chapter 2? I think it's just  
 20 Chapter 2. So right now we have Chapter 2 in the final.  
 21 All right. So Exhibit 70 is the Chapter 2 of the Final EIS  
 22 for Uptown. Exhibit 263 is an excerpt from the Historic and  
 23 Cultural Resources section.  
 24 MS. BENDICH: And that was the DEIS?  
 25 HEARING EXAMINER: No. This is the final.

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1 MS. BENDICH: Oh, the final. I know we had the DEIS.  
 2 HEARING EXAMINER: 261 is an excerpt from the draft.  
 3 MS. NEWMAN: Right.  
 4 HEARING EXAMINER: And, again, that's covering the  
 5 Historic and Cultural Resources.  
 6 MR. KISIELIUS: I'm sorry Mr. Examiner, the description  
 7 of 70 is -- is just Chapter two --  
 8 HEARING EXAMINER: Yes.  
 9 MR. KISIELIUS: -- of the draft?  
 10 HEARING EXAMINER: Uh-huh. No. The final.  
 11 MS. NEWMAN: The final.  
 12 MR. KISIELIUS: The final. Okay.  
 13 HEARING EXAMINER: 70 and 263 are the final.  
 14 MR. KISIELIUS: Okay.  
 15 HEARING EXAMINER: Chapter 2 and the Historic and Cultural  
 16 Resources respectively. 261 is the Draft EIS Historical  
 17 Resources. That's what we have in right now.  
 18 Ms. Newman has offered the entirety of the draft?  
 19 MS. NEWMAN: No. Just the Land Use chapter and the  
 20 Aesthetics Chapter of the draft.  
 21 HEARING EXAMINER: And your request?  
 22 MR. KISIELIUS: Actually, I -- it's the examiner's  
 23 prerogative whether you want to add it to 261 or 263 or just  
 24 keep it as an entirely new exhibit.  
 25 HEARING EXAMINER: There's so -- yeah. So we've got

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1 enough moving parts, I think we'll just do this distinctly.  
 2 And you had mentioned you want the entirety of --  
 3 MR. KISIELIUS: No. No. No. No.  
 4 HEARING EXAMINER: Oh, okay. All right.  
 5 MR. KISIELIUS: I wanted to know -- sorry for the  
 6 question.  
 7 HEARING EXAMINER: If it was --  
 8 MR. KISIELIUS: I just wanted to know if it was already in  
 9 or not.  
 10 HEARING EXAMINER: Okay. Thank you.  
 11 MS. NEWMAN: Okay.  
 12 HEARING EXAMINER: This will be 307.  
 13 (Exhibit No. 307 marked for identification)  
 14 **Q. (By Ms. Newman) And, Mr. Gifford, I've given you an**  
 15 **exhibit. It's been marked as Exhibit 307. It's a Draft EIS**  
 16 **Uptown Center Urban Rezone EIS. Have you seen this before?**  
 17 A. Yes, I have.  
 18 **Q. And have you read this document?**  
 19 A. I helped prepare it.  
 20 **Q. You did help prepare it.**  
 21 A. Yes.  
 22 **Q. Okay. And did you use on the Land Use section and the**  
 23 **Aesthetic Impact section?**  
 24 A. I did.  
 25 **Q. Okay. So you're far more familiar with this, obviously. If**

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1 **we -- and what was this -- what was the proposed action that**  
 2 **the CIS was prepared for?**  
 3 A. This was for some -- this was a potential rezone of the  
 4 Up- -- in the Uptown Urban Center, specifically. I believe  
 5 Mr. Wendlandt testified to this in -- in more depth as to  
 6 how this related to -- how this would relate to the MH- --  
 7 to MHA and to the Comprehensive Plan. But this was looking  
 8 at a range of height increases in the Uptown area to  
 9 increase housing affordability and adding some additional  
 10 design and development standards.  
 11 **Q. Okay. And then looking, then -- turning through here, I've**  
 12 **got Chapter 3, Section 3.1. You have to sift through, but**  
 13 **you end up at page 3.4. And that has, on the top, Affected**  
 14 **Environment.**  
 15 A. Yes.  
 16 **Q. And since you've read this before, I'm just going to ask you**  
 17 **is it fair to say that the chapter here, the section on**  
 18 **affected environment describes specifically the current land**  
 19 **use and development patterns, and --**  
 20 A. Uh, it describes --  
 21 **Q. -- of the -- Queen -- Upper -- of the Uptown area?**  
 22 A. -- it describes the current land use composition in terms of  
 23 acreages by category.  
 24 **Q. Uh-huh.**  
 25 A. There's also a description of future land use as defined by

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1 the Comprehensive Plan as well as allowed zoning -- or  
 2 excuse me -- zoning and allowed heights. There's also a  
 3 description of current -- or current at the time of this  
 4 writing --

5 **Q. Uh-huh.**

6 A. -- development standards and the zoning that's present.  
 7 There is a description, briefly, of neighborhood character  
 8 and employment uses and densities.

9 **Q. Okay. And then turning towards -- let's see. There's an**  
 10 **Aesthetics and Urban Design chapter, Section 3.4, page 3.94.**  
 11 **Can you do a similar description of what, if you -- if you**  
 12 **can, what we get, as far as the description of the affected**  
 13 **environment?**

14 A. Uh, yes. This section describes the current character of  
 15 the Uptown area, basically describing the type of  
 16 development present, general height of buildings, building  
 17 typologies, locations of major public open spaces and  
 18 landmarks -- such as Seattle Center, Space Needle, things of  
 19 that nature -- also describes several views and scenic  
 20 routes that occur in the area.

21 **Q. Okay. In fact, the views have -- let's see -- viewsheds**  
 22 **start on page 3.97. And they talk about a viewshed at Bhy**  
 23 **Kracke Park, Kerry Park, Myrtle Edwards Park, Olympic**  
 24 **Sculpture Park, Seattle Center, territorial view from**  
 25 **Queen Anne facing south, and territorial view Seattle Center**

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1 **from the North; do you see that?**

2 A. I do.

3 **Q. Okay. And then they have one -- about four pages,**  
 4 **roughly -- talking about scenic routes; do you see that?**

5 A. Yes.

6 **Q. And then shadows receive about a good four-pages'**  
 7 **description of the current environment; is that right?**

8 A. Um, what page are you on?

9 **Q. Starting on page 3.104. Actually, I might have misread**  
 10 **that. It's a little confusing, but it might be --**

11 A. I see a description of scenic routes beginning on  
 12 page 3.100.

13 **Q. If you look at page --**

14 A. And then there's --

15 **Q. -- 3.104.**

16 A. -- yes. Down there at the bottom. Yes, there's discussion  
 17 on shadows.

18 **Q. And that goes on for several pages.**

19 A. Yes.

20 **Q. All right. And then if you look, actually, at the Impact**  
 21 **section there for alternatives starting on page 3.109, we do**  
 22 **have some graphics here that are not actual photos, but is**  
 23 **it correct to say those graphics actually show the Uptown**  
 24 **neighborhood accurately?**

25 A. They are based on -- they were based on building footprint

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1 data that was, I believe, provided by the City and building  
 2 height data that, I believe, was pulled from King County  
 3 Assessor records, so there is some -- there is some  
 4 generalization there due to the fact --

5 **Q. Uh-huh.**

6 A. -- that we don't have exact information on building  
 7 envelopes --

8 **Q. Right.**

9 A. -- and roof forms and things of that nature. But, yes, to  
 10 the best of the data that we had -- to the best data that we  
 11 had available at the time, that did reflect the Uptown  
 12 neighborhood.

13 **Q. And then if you look at page 3.118 and all of the**  
 14 **graphics -- there's several pages of graphics following**  
 15 **that -- they go all the way to 3.127. Is it fair to say**  
 16 **those are actual representations of streets and corners and**  
 17 **views in the Uptown neighborhood?**

18 A. Yes.

19 **Q. All right. And then if you go to page 3.128 and you see all**  
 20 **the graphics following that, those are all the way to page**  
 21 **3.141. Those are all graphics of views -- specific views in**  
 22 **the Uptown neighborhood that will be impacted or may be near**  
 23 **the Uptown neighborhood?**

24 A. Those were -- yes, those are the views that were identified  
 25 as -- identified as protected because of City of Seattle

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1 Comprehensive Plan policies --

2 **Q. Uh-huh.**

3 A. -- or in the code.

4 **Q. But there were territorial views that were considered**  
 5 **important enough to analyze the impacts to.**

6 A. The territorial views were included because of the presence  
 7 of landmarks that the -- the Comp Plan and the code call for  
 8 the protection of use toward certain significant natural  
 9 landmarks such as Mount Rainier and bod- -- various large  
 10 bodies of water.

11 **Q. Okay.**

12 A. So those were included for that reason.

13 **Q. Okay. All right. And then we've got scenic routes, impacts**  
 14 **to those, and so on. I don't need to spend much more time**  
 15 **on that.**

16 **But this is a programmatic EIS, correct?**

17 A. It is.

18 **Q. Okay. And then the U District EIS that we just went through**  
 19 **earlier is also a programmatic EIS.**

20 A. That's correct.

21 **Q. Yes.**

22 MS. NEWMAN: I'd like to move for entry of 307.

23 MR. KISIELIUS: The only exhibit -- I think Ms. Newman has  
 24 an additional section here. And I -- unless I missed it, I  
 25 don't think Mr. Gifford testified to Section 3.2.

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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

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 --

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,

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

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 A. I would hesitate to speculate on their reasoning. I  
 2 might --  
 3 **Q. Did they explain it in their letters?**  
 4 A. My understanding is that the plans -- the plans were put in  
 5 place to help reflect local character and to improve  
 6 liveabil- -- and to maintain liveability in neighborhoods.  
 7 But my understanding -- my -- also my understanding of the  
 8 MHA proposal and our -- the assumptions that we proceeded on  
 9 for this were that the neighborhood plans were not being  
 10 changed; they were not -- and they were not being removed.  
 11 **Q. Okay. And so you're -- you don't believe that this**  
 12 **project -- you think this project is consistent with the**  
 13 **neighborhood plan policies and the Comp Plan?**  
 14 A. The neighborhood plans and their -- and associated design --  
 15 the Aesthetics chapter actually calls out specifically the  
 16 neighborhood design guidelines that are also included there  
 17 that during the design review process, if there is a  
 18 conflict between the City's design review criteria and an  
 19 adopted neighborhood design guidelines, that the  
 20 neighborhood design guidelines would supersede. And so --  
 21 **Q. Do you know the difference between neighborhood plan**  
 22 **policies and neighborhood --**  
 23 A. I do.  
 24 **Q. Okay. So I was asking about the neighborhood plan policies,**  
 25 **not the guidelines.**

1 **is being proposed? Like, for example, we need to know what**  
 2 **the setbacks are for each change or we need to know what the**  
 3 **increase in the FAR is, that sort of thing, to understand**  
 4 **what the impacts are?**  
 5 A. To understand the impacts of a proposal? Yes.  
 6 **Q. Yeah.**  
 7 A. You need to know what development regulations would apply to  
 8 that site or that area in -- in the future.  
 9 **Q. Okay. And so let's look at page 3.172. You had referred to**  
 10 **this, I think, earlier. This is -- or, can you describe**  
 11 **what this is? This is a chart, Exhibit 3.3.9 -- or 3.3-9.**  
 12 A. Yes. This is a -- excuse me. This appears to be a table  
 13 summarizing the amendments to the land use code for several  
 14 zones, including Lowrise 1 through Lowrise 3, Midrise,  
 15 Highrise, and Neighborhood Commercial.  
 16 **Q. And is it fair to say this describes the MHA proposal?**  
 17 A. It describes Alternatives 2 and 3 --  
 18 **Q. Okay.**  
 19 A. -- specifically.  
 20 **Q. And there's no -- no description of the preferred**  
 21 **alternative in this exhibit, right?**  
 22 A. Not in this exhibit, no, because this --  
 23 **Q. Is there an --**  
 24 A. -- this is specifically --  
 25 **Q. -- another exhibit like this that tells us what the land use**

1 A. So the neighborhood plans -- again, as far as -- as far as I  
 2 know in my understanding of the proposal is that there is --  
 3 they are not making any changes to those neighborhood plans  
 4 going forward.  
 5 **Q. Okay. And you said you authored the Land Use chapter,**  
 6 **correct? You were responsible for the -- writing that**  
 7 **chapter?**  
 8 A. Yes.  
 9 **Q. And that chapter includes the summary of applicable land use**  
 10 **plans and zoning regulations analysis that's required by**  
 11 **SEPA?**  
 12 A. There -- there is a section in there, yes.  
 13 **Q. Okay. And did you write that section?**  
 14 A. Uh, yes. I believe I did.  
 15 **Q. All right. If you look at page 3.100 of the EIS --**  
 16 MR. KISIELIUS: Sorry, Claudia. What --  
 17 MS. NEWMAN: Actually, you know what? I'm going to skip  
 18 that. I'm going to save time and I'll -- okay. I'm going  
 19 to save a lot of time, skip a bunch of questions here, which  
 20 will make everybody...  
 21 **Q. (By Ms. Newman) Let's talk a little bit about the proposal**  
 22 **and the description of the proposal in the EIS. Do you**  
 23 **agree that -- I think you even testified to this earlier,**  
 24 **but I just want to make sure -- that to adequately describe**  
 25 **or discuss the impacts of a proposal, we need to know what**

1 **code amendments are for the preferred alternative that looks**  
 2 **like this in this -- in the EIS?**  
 3 A. One moment please. There is not a table specifically like  
 4 that. But on page 3.202 there's a description of some of  
 5 the changes to the development standards under the preferred  
 6 alternative.  
 7 **Q. Okay. So that's describing the amendments in the preferred**  
 8 **alternative.**  
 9 A. Correct.  
 10 **Q. So back on page 3.172, this indicates that in Lowrise 1,**  
 11 **when you -- the development regulation is going to change**  
 12 **for the Lowrise 1 zone by removing the density limit,**  
 13 **implementing family size unit requirement, increasing the**  
 14 **maxim FAR by 0.1, 0.3, and implement a side facade**  
 15 **modulation requirement; do you see that?**  
 16 A. I do.  
 17 **Q. And then they -- we have the same kind of description for**  
 18 **LR2 and LR3. And then if you look at page 3.174, it states**  
 19 **that for Lowrise 1 zones the proposal would result in only**  
 20 **minor increases in the bulk and scale of new buildings, an**  
 21 **increase of .1 to .2 and the maximum FAR limit could result**  
 22 **in some additional floor area compared to existing**  
 23 **regulations; do you see that?**  
 24 A. I do.  
 25 **Q. And then you say this would only have minor aesthetic**

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 floor area is going to remain the same with the new  
 2 proposal, so we're -- we're going to be working with the  
 3 same amount of floor area than we are --  
 4 HEARING EXAMINER: That's what you're going to argue, but  
 5 I -- I need to hear your response to the objection.  
 6 MS. NEWMAN: Oh. I'm -- so I think it's fair for me to  
 7 say -- and have -- actually have the witness confirm that  
 8 the EIS doesn't analyze this issues, basically --  
 9 MR. KISIELIUS: And --  
 10 MS. NEWMAN: -- I guess.  
 11 MR. KISIELIUS: -- Mr. Examiner --  
 12 MS. NEWMAN: I mean, I guess we could. On it's face, it's  
 13 obvious that it doesn't.  
 14 MR. KISIELIUS: I'd add that Ms. Newman is getting  
 15 suspiciously close to some very detailed aspects of a  
 16 proposal that is not before this examiner and asking the  
 17 witness about whether this covers that or not.  
 18 MS. NEWMAN: Yeah, I am.  
 19 MR. KISIELIUS: This is about the council bill.  
 20 MS. NEWMAN: Because it's going to seriously affect the  
 21 impacts of a development if the gross floor area is  
 22 determined completely differently in the new MHA proposal,  
 23 which would be relevant to what the impacts are going to be,  
 24 if suddenly you do include all of this area.  
 25 HEARING EXAMINER: So let's not get too far down in -- the

1 it's going to change or not?  
 2 MS. NEWMAN: I think I already asked that.  
 3 MR. KISIELIUS: The initial --  
 4 MS. NEWMAN: And he said --  
 5 MR. KISIELIUS: -- basis of my objection was that he  
 6 wasn't familiar with the specific regulation she was talking  
 7 about and whether --  
 8 MS. NEWMAN: I wasn't -- I'm not talking about --  
 9 MR. KISIELIUS: -- (inaudible) amended or not.  
 10 MS. NEWMAN: -- a specific --  
 11 HEARING EXAMINER: Okay.  
 12 MS. NEWMAN: -- regulation. I'm not talking -- I'm  
 13 talking about how the gross -- we know from looking at this  
 14 page that the maximum FAR is going to be increased. But  
 15 does the EIS tell us if the calculation for gross floor area  
 16 in the FAR is going to be changed, and does it assume it  
 17 won't?  
 18 MR. KISIELIUS: And before I was cut off, the witness has  
 19 already testified. She did ask about a very specific  
 20 regulation, is inquiring whether he knows if it's going to  
 21 change or not, and this is tied to a topic that, as we've  
 22 discussed at length repeatedly, is outside the examiner's  
 23 jurisdiction. Even if it wasn't, this witness has testified  
 24 he's not familiar with the specific regulation she's talking  
 25 about and doesn't know whether it's going to change or not.

1 road in the argument. I'm just trying to just keep on the  
 2 subject of what you're asking this witness to testify to.  
 3 MS. NEWMAN: Just to confirm that the EIS does not tell  
 4 us -- or, basically, assumes that the gross floor area, the  
 5 way it's calculated under the current code, is going to stay  
 6 the same --  
 7 MR. KISIELIUS: And our objection remains --  
 8 MS. NEWMAN: -- with its conclusions.  
 9 MR. KISIELIUS: -- remains that this is a relevance issue  
 10 because what she's going after is an argument related to  
 11 the -- whether or not a proposal that's under consideration  
 12 by the Council was adequately analyzed in this EIS, which is  
 13 a different argument for a different forum related to a  
 14 different proposal. She's asking about details of the  
 15 council bill that she tried to introduce last time she was  
 16 before you a week and a half ago.  
 17 MS. NEWMAN: I just want to establish that -- I mean, even  
 18 if I didn't know what the council bill said, I think it's  
 19 relevant to determine impacts to know whether the gross  
 20 floor area of calculation is going to change or not because  
 21 that changes what the size of a building will be from the  
 22 MHA proposal. It's not just about the maximum FAR that's  
 23 allowed. It's also about what's included in that  
 24 calculation.  
 25 HEARING EXAMINER: So are you asking him whether he knows

1 So this is --  
 2 MS. NEWMAN: I -- I never said --  
 3 MR. KISIELIUS: -- should not be allowed.  
 4 MS. NEWMAN: -- this was the council bill. I didn't refer  
 5 to the council bill.  
 6 MR. KISIELIUS: You didn't need to. (Inaudible).  
 7 MS. NEWMAN: I didn't refer to --  
 8 HEARING EXAMINER: So regardless of whether it's a council  
 9 bill or not, we -- we have a witness that doesn't know about  
 10 the ordinance, and that's -- so that's what --  
 11 MS. NEWMAN: Right.  
 12 HEARING EXAMINER: -- the attorney is saying.  
 13 MS. NEWMAN: So what I'm now trying to establish --  
 14 HEARING EXAMINER: So how do we --  
 15 MS. NEWMAN: -- is whether --  
 16 HEARING EXAMINER: -- relate this to what --  
 17 MS. NEWMAN: -- sorry.  
 18 HEARING EXAMINER: -- this witness knows?  
 19 MS. NEWMAN: I shouldn't -- I just want to know does the  
 20 EIS give us any information -- or are there assumptions made  
 21 in -- what are the assumptions made in the EIS, is what I'm  
 22 trying to figure out, about what the gross floor area  
 23 calculation is.  
 24 HEARING EXAMINER: So I think the question you asked --  
 25 MS. NEWMAN: Uh-huh.

1 HEARING EXAMINER: -- which set this off to begin with,  
 2 kind of treaded on dangerous ground and --  
 3 MS. NEWMAN: Okay.  
 4 HEARING EXAMINER: -- has maybe not even gotten at that  
 5 question. So maybe rephrase what you've just said --  
 6 MS. NEWMAN: Okay. Okay.  
 7 HEARING EXAMINER: -- and we'll start -- we'll pick up  
 8 there. So for now, sustained.  
 9 MS. NEWMAN: Okay. Thank you.  
 10 **Q. (By Ms. Newman) Mr. Gifford, what -- is the assumption in**  
 11 **the EIS, when you analyzed impacts of the MHA proposal, that**  
 12 **the calculation for the gross floor area to determine what**  
 13 **the FAR is will stay the same as it is in the current code**  
 14 **with the MHA proposal?**  
 15 A. The proposal, as set forth in the EIS, does not mention the  
 16 method of measuring the FA- -- measuring FAR at all; and,  
 17 therefore, we had no reason to believe that it was going to  
 18 be changed. Changing that metric is not part of the  
 19 proposal; and so, therefore, we assumed that there would --  
 20 we did not assume there would be a change in that.  
 21 **Q. Okay.**  
 22 A. We did not see that to be an impact to be analyzed because  
 23 it was not identified as part of the proposal.  
 24 **Q. Okay. So on page 3.172 the MHA EIS says that the height in**  
 25 **LR3 will go from 40 feet to 50 feet. So are you at all**

1 **at all, correct? So we don't have any land use -- nothing**  
 2 **to show the changes from Single Family to RSL?**  
 3 A. Well, this table is designed to show the text changes that  
 4 would be made to those zones. It's not a matter of changing  
 5 from Single Family to RSL. I guess we're --  
 6 **Q. Okay.**  
 7 A. -- we're --  
 8 **Q. So there's nothing --**  
 9 A. -- unsure of your question.  
 10 **Q. -- here to show the changes from Single Family to RSL.**  
 11 A. I guess I'm not --  
 12 **Q. I understand the --**  
 13 A. -- sure I understand --  
 14 **Q. -- purpose of it.**  
 15 A. -- your question because these -- again, these are -- these  
 16 are to amend the existing zones. When you say "to change  
 17 from Single Family to RSL," that sounds like you're talking  
 18 about a rezone. So I just want to make sure I'm  
 19 understanding your question.  
 20 **Q. Yeah. It is a rezone. So because it's a rezone, it's not**  
 21 **included in this grid is what you're saying?**  
 22 A. Well, these are -- yes. This -- this exhibit is  
 23 specifically focused on --  
 24 **Q. Okay.**  
 25 A. -- making changes to the text of the code for these zones.

1 **familiar with the current code and what -- what the heights**  
 2 **are for Lowrise under the current code?**  
 3 A. Current code states that, I believe, for Lowrise -- for  
 4 Lowrise 3 and Lowrise 2 -- or 40 feet for Lowrise 3 and  
 5 30 feet for Lowrise 2.  
 6 **Q. And does that -- and is that also for row house and**  
 7 **townhouse developments? Is the height limit 40 feet?**  
 8 A. Off the top of my head I can't tell you. I'd have to look  
 9 at the code.  
 10 **Q. Okay. But from looking at this, that's what the impression**  
 11 **is that we have, right?**  
 12 A. That would be the maximum -- the maximum height allowed,  
 13 yes.  
 14 **Q. And the Highrise here says, "Increase in height limit from**  
 15 **300 feet to 340 feet"; do you see that?**  
 16 A. I do.  
 17 **Q. And isn't it true that the preferred alternative is actually**  
 18 **going to increase it to 440 feet? That's what it says on**  
 19 **that page. I know you're -- so that's why you're pointing**  
 20 **me to the other page?**  
 21 A. Uh, yes on page 3.202, it states that, "The preferred  
 22 alternative would increase height limits in the HR zone from  
 23 300 to 440 feet."  
 24 **Q. Okay. In 3.172, still looking at this land use thing,**  
 25 **there's no description of RSL zone amendments in this grid**

1 **Q. And so we don't have, kind of, this nice bullet summary of**  
 2 **what the changes will be when you go from Single Family to**  
 3 **RSL?**  
 4 A. Well, that's actually included in -- I mean, that's  
 5 described in the Land Use chapter in terms of talking about  
 6 density and intensification of use and scale changes. We  
 7 have the table that describes the impacts when you go from  
 8 any zone to any other zone that's proposed as part of the --  
 9 the MHA --  
 10 **Q. Where is that?**  
 11 A. -- proposal.  
 12 **Q. You said a table in the Land Use section? Or are you**  
 13 **talking about the Aesthetic section?**  
 14 A. I'm talking about the Land Use section. So on page 3.113,  
 15 these are -- this is one of the tables that I talked about  
 16 during my earlier testimony, and you can see right there on  
 17 the first row there is -- looking at Single Family to  
 18 Residential Small Lot -- so that describes, a bit, some of  
 19 the density, use, and scale --  
 20 **Q. Oh, I see. So these are the --**  
 21 A. -- impacts (inaudible).  
 22 **Q. -- the density, use, and scale but not the actual changes --**  
 23 **the amendments themselves, but more the type of land use**  
 24 **impact as described.**  
 25 A. Correct. I think you're talking -- because when you -- when

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1 you're saying "going from Single Family to RSL," that's

2 talking about a -- a rezone. You're changing the zoning of

3 the property.

4 **Q. Uh-huh.**

5 A. That exhibit you had me looking at a moment ago is

6 specifically --

7 **Q. I understand.**

8 A. -- about making text amendments to those zones.

9 **Q. Okay.**

10 A. It's not necessarily about making a rezone.

11 **Q. Does the EIS tell us what the minimum lot size for RSL is**

12 **going to be?**

13 A. I -- I believe it describes that somewhere. I'm not

14 100 percent sure where that is at the moment.

15 **Q. Are you aware of what the proposal is? Is there a minimum**

16 **lot size?**

17 A. One moment.

18 MS. NEWMAN: I'm almost done.

19 A. I'm sorry. I'm having difficulty finding -- finding that at

20 the moment. I thought I had that down as the -- I thought I

21 knew where that was, but that was actually the proposed

22 density limit for RSL.

23 **Q. (By Ms. Newman) Yeah.**

24 A. So I'm sorry I can't -- I can't find that -- that number.

25 **Q. Okay. Do you know -- do you not know what it is, though?**

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1 A. Not off the top of my head.

2 **Q. (Inaudible). Is it possible that there is no minimum lot**

3 **size for RSL at all?**

4 A. I suppose that that's possible. Again, without the --

5 without looking at the code, I would --

6 **Q. Okay.**

7 A. -- not make any further comment on that.

8 **Q. I mean with the proposal, not the current code.**

9 MR. KISIELIUS: And there I'm going to object again.

10 **Q. (By Ms. Newman) With the proposal as it was described to**

11 **you for preparation --**

12 HEARING EXAMINER: What's the basis --

13 **Q. (By Ms. Newman) -- of the EIS.**

14 HEARING EXAMINER: -- what's the basis on the objection?

15 MR. KISIELIUS: Ms. Newman is trying very carefully not to

16 use the words "council bill," but she's exploring some

17 details here that are specific to that proposal, which,

18 again, from a relevance standpoint is outside the examiner's

19 jurisdiction. She wants -- and I think she's trying to be

20 deliberate in the phrasing she's using, but if she can

21 clarify when she's talking about what's the proposal that

22 was reviewed in the EIS and what information is here, that's

23 very different than the proposal as she means it.

24 MS. NEWMAN: So I'm being careful because I'm working with

25 the -- in the parameters that are appropriate for -- as the

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1 hearing examiner has directed and for this hearing and that

2 I'm trying to work now within what the proposal in the EIS

3 is. And I'm asking questions about what -- what is the

4 proposal in the EIS and where does it tell us how -- what

5 information do we have. And I established that it's

6 important to know what the proposal is in order to

7 understand the impacts. And so to the extent the EIS

8 doesn't tell us what the proposal is, then that's relevant.

9 HEARING EXAMINER: Both the objection and the response

10 elevated the conversation to a plane above the question that

11 was asked. It isn't plain to me at all that that's what

12 you're asking about. I don't have the council bill in front

13 of me. You're just asking about RSL --

14 MS. NEWMAN: Yeah.

15 HEARING EXAMINER: -- the changes to it.

16 So in the context of what's here, that's the response that

17 the witness needs to give in a question like that. I don't

18 need to know if there's some possibility of something out

19 there because that's not what the question is.

20 MR. KISIELIUS: And the reason, Mr. Examiner, I guess I --

21 to make the point here, is I think Ms. Newman is --

22 HEARING EXAMINER: I guess, for me, on this one in

23 particular, is I -- are there changes proposed to RSL in the

24 EIS?

25

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1 A. I don't believe that the proposal specifically addresses

2 changing the minimum lot size for RSL. There are changes to

3 the density limit and the height limit for the RSL zone.

4 HEARING EXAMINER: So that, to me, is what was being asked

5 by Ms. Newman, even if there's a whole other conversation

6 going on here that I don't understand.

7 MS. NEWMAN: So I'm okay?

8 HEARING EXAMINER: I'm not sure if there's anything to

9 overrule there or not, or sustain. So I'm just going to let

10 it go. I think we've got an answer.

11 **Q. (By Ms. Newman) And the minimum lot size for Single Family**

12 **is -- do you -- see if you know. When you say "SF9600,"**

13 **9600 is telling us that's the --**

14 A. 9600 square feet.

15 **Q. -- square feet is the minimum lot size.**

16 A. For that particular type of Single Family zoning, yes.

17 **Q. And so for SF5000 the minimum lot size is 5000.**

18 A. That is the convention in the zoning code.

19 **Q. Okay. Okay. And does the EIS describe the maximum lot**

20 **coverage for RSL under the MHA proposal?**

21 A. It does. It states that the current -- as the code stands

22 right now, RSL zones don't have a maximum FAR. Now,

23 granted, FAR is not specifically lot coverage, but it is a

24 measurement of how much -- as we described earlier, how much

25 development you can fit on the site.

1 **Q. Uh-huh.**  
 2 A. And under the proposal, the RS -- RS -- excuse me -- the RSL  
 3 zone would have a maximum FAR of .75.  
 4 **Q. And how does -- so there's a separate maximum lot coverage**  
 5 **requirement, correct?**  
 6 A. In certain -- I believe in certain zones there is, yes.  
 7 **Q. And do you know what the current maximum lot coverage is for**  
 8 **Single Family zones?**  
 9 A. I don't have the exact number. I believe it's somewhere in  
 10 the neighborhood of 30 to 40 percent.  
 11 **Q. Okay. And do you know the -- or does the EIS tell us what**  
 12 **maximum lot coverage will be for RSL?**  
 13 A. Not specifically. I mean, again, not in a -- in a -- in  
 14 terms of the -- specifically that percentage, but it states  
 15 that there will be that FAR cap, which will limit the  
 16 ability of the property to cover the lot.  
 17 **Q. But we don't know exactly -- I mean --**  
 18 A. I don't believe it's --  
 19 **Q. -- it's separate from --**  
 20 A. -- I don't believe the proposal -- I don't believe the  
 21 proposal states a specific percentage for lot coverage.  
 22 **Q. Okay. So there's a statement at the end of the -- on**  
 23 **page 3.213, which is the Aesthetics chapter. The last**  
 24 **sentence, if you're there.**  
 25 A. Just a moment. 213 you said?

1 **Q. -- projects?**  
 2 A. -- such EIS, yes.  
 3 **Q. Okay. And so you would agree, then, that those are**  
 4 **measurable impacts, wouldn't you? You can do --**  
 5 A. Yes.  
 6 **Q. -- studies. And studies can be done to assess those**  
 7 **impacts.**  
 8 A. Correct.  
 9 **Q. And so the idea of "subjective" -- that word jumped out at**  
 10 **me. What are subjective -- are you -- are you meaning to**  
 11 **say that subjective impacts are not significant? People are**  
 12 **kind of imagining --**  
 13 A. No.  
 14 **Q. -- them?**  
 15 A. The -- the word "subjective" was inserted -- was put there  
 16 because -- again, to your point about -- your specific  
 17 example of shading and -- and looking at sun diagrams and  
 18 things of that nature, yes, those are measurable impacts.  
 19 Again, they are dependent on the quality of the data that is  
 20 available and how accurately the building is modeled. The  
 21 more -- you know, so, obviously, variations in architectural  
 22 form are going to have big -- big changes -- excuse me --  
 23 can have big impacts on how accurate your shading study will  
 24 be was not -- so that the subjectiveness there was  
 25 discussing more arguments about neighborhood character and

1 **Q. Uh-huh.**  
 2 A. Okay.  
 3 **Q. It says, "In the urban context of a rapidly growing city,**  
 4 **such changes are substantial but are also subjective in name**  
 5 **nature." And we're talking about -- I should actually back**  
 6 **up and say, in common -- let me back up here. "Aesthetic**  
 7 **impacts should be reduced to less than significant levels,"**  
 8 **the sentence says before that. "Therefore, no significant**  
 9 **unavoidable adverse impacts are anticipated. In the urban**  
 10 **context of a rapidly growing city, such changes are**  
 11 **substantial but are also subjective in nature, and are not**  
 12 **necessarily significant impacts pursuant to SEPA.**  
 13 **Nevertheless, some residents may perceive such changes**  
 14 **adverse." So people -- have you been through -- have you**  
 15 **been involved in a site-specific project appeal where --**  
 16 **where folks are challenging the height, bulk, and scale,**  
 17 **impacts of a specific project?**  
 18 A. Yes.  
 19 **Q. And are you familiar with the neighbors' issues with impacts**  
 20 **associated with lack of daylight and lack of privacy and**  
 21 **losing their views and the like?**  
 22 A. I am. I have conducted -- I've also conducted a number of  
 23 viewshed and shading studies for such E- --  
 24 **Q. Specific --**  
 25 A. -- specifically for --

1 bulk and scale and things of that nature that are, again,  
 2 in -- somewhat in the eye of the beholder. As we described  
 3 earlier, the -- the EIS was -- the impact analysis was  
 4 organized around this -- around this idea of impacts that  
 5 are going to be readily apparent to a resident or a viewer.  
 6 So while these impacts, such as the bulk or the scale of a  
 7 building, can be identified, there is a certain amount of  
 8 perception. Some people are going -- are more sensitive to  
 9 that than others. People may disagree about the  
 10 architectural character or quality of a particular design.  
 11 And so that's -- that's what we were trying to get at there.  
 12 We're not trying to indicate that those are not important or  
 13 that they should not be discussed.  
 14 **Q. Uh-huh.**  
 15 A. I mean as a matter of -- I mean, so we've discussed a lot of  
 16 those in this EIS, but I think we wanted to clarify,  
 17 specifically, how those subjective impacts fit into the SEPA  
 18 framework.  
 19 **Q. Okay.**  
 20 MS. NEWMAN: All right. I have no further questions.  
 21 MR. THALER: I have a few, but I'd like to beg your  
 22 indulgence. I need to use the restroom.  
 23 HEARING EXAMINER: What's your estimated time on  
 24 questioning?  
 25 MR. THALER: Fifteen, twenty minutes.

## 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

Transcribed by: Bonnie Reed, CET  
Court-Certified Transcription

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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

1 MR. BRICKLIN: Join.  
 2 HEARING EXAMINER: Sustained.  
 3 **Q. (By Mr. Weber) Do you think the EIS sufficiently addressed**  
 4 **the concerns raised by the appellants on the question of**  
 5 **impact analysis?**  
 6 A. I think it does.  
 7 **Q. Do you stand behind the conclusions in the EIS that you**  
 8 **reviewed or helped prepare?**  
 9 A. I do.  
 10 MR. WEBER: Thank you. That's all I have.  
 11 THE WITNESS: Thank you.  
 12 HEARING EXAMINER: Cross?  
 13  
 14 CROSS - EXAMINATION  
 15 BY MR. BRICKLIN:  
 16 **Q. Good morning, Mr. Weinman.**  
 17 A. Good morning, Mr. Bricklin.  
 18 **Q. I believe we've met somewhere in the past.**  
 19 A. We have indeed.  
 20 **Q. As you know, I'm representing the Seattle Coalition for**  
 21 **Affordability, Livability & Equity, SCALE, one of the**  
 22 **appellants here.**  
 23 **So -- (inaudible) by the way in terms of your background,**  
 24 **you've done a lot of work for lead agencies preparing**  
 25 **environmental impact statements, correct?**

1 **thorough is a function of the nature and impacts -- a**  
 2 **function of the nature of the proposal and the impacts**  
 3 **associated with the proposal, right?**  
 4 A. Yes.  
 5 **Q. And that the more important and significant the**  
 6 **environmental impacts, the greater the detail required,**  
 7 **right? Or conversely, the less significant the impacts, the**  
 8 **less detail required?**  
 9 A. That's discussion, and I guess we can talk about what you  
 10 mean by -- I think I said in my responses to direct  
 11 testimony, there are gradations of detail. I mean, I don't  
 12 know that -- I think it varies depending on the issue, the  
 13 context. So yeah, I agree with that.  
 14 **Q. Okay. And so in determining whether -- or in determining**  
 15 **the degree of detail, you need to pay attention to things**  
 16 **like the magnitude of the impacts?**  
 17 A. Um-hum.  
 18 **Q. And the scope of the impacts?**  
 19 A. Yes.  
 20 **Q. And the intensity of the impacts?**  
 21 A. Yes.  
 22 **Q. And the greater the magnitude, the greater the detail, true?**  
 23 A. Yeah, so --  
 24 **Q. In general, just to --**  
 25 A. In general, yes. And now I'm interpreting detail to mean

1 A. Correct.  
 2 **Q. Would you say that's been the majority of your work in the**  
 3 **EIS field over the years?**  
 4 A. Well, it depends on what you mean working for. I mean,  
 5 almost all EIS work is contracted and managed through public  
 6 agencies even if the proponent selects and pays the  
 7 consultant. So I'd say definitely the majority of my work  
 8 has been through public agencies, because that's the way EIS  
 9 preparation works. But I'd say my work overall, you know,  
 10 based on types of projects, has been pretty balanced between  
 11 public and private.  
 12 **Q. But all on behalf of proponents of the -- preparers or**  
 13 **proponents of the EIS?**  
 14 A. Yes.  
 15 **Q. Do you agree that if information on significant adverse**  
 16 **impacts essential to a reasoned choice is not known that the**  
 17 **agency should go out and get that information if it's**  
 18 **reasonably available to it?**  
 19 A. I recognize that section from the rules, and it's reasonably  
 20 available, yes. But I think there is also a distinction to  
 21 be made between what's reasonably available for a project  
 22 EIS for a private project and what's reasonably available  
 23 for a non-project legislative action.  
 24 **Q. You agree that what's reasonably available or in terms of an**  
 25 **impact analysis whether an impact analysis is reasonably**

1 the detail of the discussion --  
 2 **Q. Right.**  
 3 A. -- not necessarily the detail of extrinsic information to  
 4 analyze an issue. You can produce a detailed analysis of an  
 5 issue through greater discussion without any more extrinsic  
 6 information.  
 7 **Q. Well, that will vary on the nature of the specific topic,**  
 8 **right --**  
 9 A. Agree -- agreed.  
 10 **Q. -- whether extrinsic information is important to obtain,**  
 11 **right?**  
 12 A. Right.  
 13 **Q. But the general proposition that the greater the magnitude**  
 14 **of the impact, the greater the detail, you agree with that?**  
 15 A. The greater the amount of discussion, yes.  
 16 **Q. And the greater the intensity of the anticipated impacts,**  
 17 **the more detailed the discussion should be, true?**  
 18 A. The intensity of the impact --  
 19 **Q. Yes, anticipated?**  
 20 A. -- as distinguished from the greater of the impact?  
 21 **Q. The greater the anticipated intensity of the impacts, so the**  
 22 **more intense the impact is that's anticipated, the more**  
 23 **detail you're going to want to include in the discussion,**  
 24 **true?**  
 25 A. The more discussion.

1 **Q. True?**  
 2 A. The greater the discussion, yes.  
 3 **Q. And the greater the magnitude of the impacts. So for**  
 4 **instance, if you're going to cut down one acre of trees, you**  
 5 **may not have as much of a detailed discussion if you're**  
 6 **proposing to cut down a hundred acres?**  
 7 A. Yes.  
 8 **Q. Do you agree that because the affected environment chapter**  
 9 **of an EIS sets the baseline for the environmental analysis**  
 10 **that it's important that the baseline be accurate and**  
 11 **complete?**  
 12 A. Yes.  
 13 **Q. Do you agree that the impacts and alternatives for**  
 14 **non-project EISs are to be discussed at a level of detail**  
 15 **appropriate to the level of extraction of the proposal?**  
 16 A. Level of extraction?  
 17 **Q. Yes. The more general the proposal, the more policy**  
 18 **oriented, high level, the less detail; the more definitive**  
 19 **the proposal, the more detail?**  
 20 A. I don't know -- well, I think more detailed discussion is  
 21 possible if you have, you know, more information. I don't  
 22 think it's essential. I mean, again, we're on a --  
 23 **Q. A continuum?**  
 24 A. -- continuum of information and detail. And I think the  
 25 non-project nature of the proposal itself -- I mean, I hear

1 A. Agreed.  
 2 **Q. And if you then step down to development in the development**  
 3 **regulations, there are actually going to be the teeth -- you**  
 4 **know, in terms of having regulatory impact, and you're going**  
 5 **to have more specificity in the proposal at that point.**  
 6 **You're going to have more specificity in the analysis, too,**  
 7 **in the EIS, true?**  
 8 A. Yes.  
 9 **Q. And this EIS is an EIS for a -- the last one of those**  
 10 **examples we just discussed, right? It's a proposal of**  
 11 **development regulations, true?**  
 12 A. For area-wide action.  
 13 **Q. Right. And you've agreed that the larger the area, the --**  
 14 **that actually calls for greater detail, right? That**  
 15 **one-acre tree cutting is going to have less impact, less**  
 16 **detail required than if you're cutting a hundred acres,**  
 17 **true?**  
 18 A. An action that affects 3,500 acres would require more detail  
 19 than an action affecting, you know, 54,000 acres. But  
 20 again -- well, I'm talking about citywide, City of Seattle.  
 21 **Q. Okay.**  
 22 A. 54,000 acres.  
 23 **Q. So as I understand it, your view is that if you have a**  
 24 **rezone of one neighborhood in Seattle, U District, the**  
 25 **impacts associated with that are -- let me ask you this**

1 what you're saying and I know -- I think I understand, you  
 2 know, where you're going. But I think that the non-project  
 3 nature of the proposal itself keeps it on one end -- more  
 4 towards one end of the continuum. The fact that there are  
 5 detailed or intense impacts of a non-project action does not  
 6 take the required level of discussion to this end -- in my  
 7 opinion, to this end of the continuum.  
 8 **Q. "This" meaning the project level and --**  
 9 A. Exactly.  
 10 **Q. Do you agree that within the realm of non-project EISs there**  
 11 **is a continuum there between those programmatic EISs which**  
 12 **are more policy based than those which are more specific?**  
 13 A. Absolutely. I mean, the subarea plan EIS can be, should be  
 14 more detailed than a citywide action EIS.  
 15 **Q. Well, let's be more specific there. So if you were adopting**  
 16 **JMA parlance, countywide planning policies, those are going**  
 17 **to be very high level, right?**  
 18 A. Agreed.  
 19 **Q. And you're going to necessarily have a very generalized**  
 20 **discussion of that programmatic proposal, correct?**  
 21 A. Agreed.  
 22 **Q. Stepping down from there, a county or city might develop a**  
 23 **comprehensive plan, the policies will be more specific than**  
 24 **at the multicounty -- or the countywide level, and you'd**  
 25 **expect a greater level of detail there?**

1 **hypothetical. Let's assume you're doing an analysis of the**  
 2 **U District.**  
 3 A. Um-hum.  
 4 **Q. And you analyze the impacts of rezoning the U District,**  
 5 **right? And because that's a smaller area than the city as a**  
 6 **whole, you're saying -- it's your view that you should do**  
 7 **more detailed analysis in that smaller area than you would**  
 8 **if you're trying to do the whole city?**  
 9 A. You can, in theory, if you have sufficient resources.  
 10 **Q. You can what?**  
 11 A. You can be more detailed in the analysis.  
 12 **Q. So if the impacts -- let's say in neighborhood A, you've got**  
 13 **a rezone and there's going to be a certain intensity and**  
 14 **magnitude of impacts, and then another neighborhood is going**  
 15 **to have roughly the same, and a third neighborhood roughly**  
 16 **the same. You're saying if you look at those -- if you do**  
 17 **an environmental impact statement for those three**  
 18 **neighborhoods one at a time, you're going to have a more**  
 19 **detailed analysis. But if you combine all three of those --**  
 20 **or in your example, 33 neighborhoods -- together, then you**  
 21 **don't need to do as detailed of an analysis. Is that your**  
 22 **opinion?**  
 23 A. Well, I think you said that as well. If you have a large  
 24 area, a 3,500-acre study area versus a smaller area, a 50-  
 25 or 200-acre study area, you don't have as much detail.

1 **Q. Where do -- first of all, I didn't say -- I'm asking**  
 2 **questions. I didn't testify to anything. I'm asking for**  
 3 **your testimony. And I didn't follow what you just said**  
 4 **there.**  
 5 A. Well, we're talking about --  
 6 **Q. What you just said --**  
 7 A. I thought what you asked -- I'm sorry; go ahead.  
 8 **Q. It's your view that if you can do a detailed analysis for**  
 9 **one neighborhood and now you've decided to analyze 30**  
 10 **neighborhoods at the same time that had the same -- roughly**  
 11 **the same kinds of impacts as the one, because you're**  
 12 **combining them all in one document, now you don't have to do**  
 13 **as much detailed analysis?**  
 14 A. The actions are different.  
 15 **Q. So in both -- just to make sure we're talking about the same**  
 16 **thing here. The actions are -- that I was proposing in my**  
 17 **hypothetical were the same. In both cases there were**  
 18 **sites -- parcel-by-parcel rezones in neighborhood one or**  
 19 **there were parcel-by-parcel rezones in neighborhoods one,**  
 20 **two and three.**  
 21 A. So what I was saying is that there is a difference even  
 22 though it's an area-wide rezone, which you've said is the  
 23 same action, there is a difference if the area-wide rezone  
 24 applies to 50 acres versus whether it applies to 3,500  
 25 acres.

1 **upzoning, the City is not going to have the option at that**  
 2 **point of saying, oh, wait a second, this upzone, there are**  
 3 **impacts associated with this that we don't like, we'd like**  
 4 **to go back --**  
 5 MR. WEBER: Objection; calls for a legal conclusion.  
 6 A. Doesn't that call for a legal conclusion?  
 7 **Q. No. I'm asking you whether when you analyze -- when you**  
 8 **made the statement that, well, we can count on phased review**  
 9 **to fill in the gaps, whether you were taking that into**  
 10 **consideration?**  
 11 A. Can you clarify the question?  
 12 MR. WEBER: I'm not sure what the question is at this  
 13 point.  
 14 HEARING EXAMINER: Let's let him clarify.  
 15 **Q. (By Mr. Bricklin) So you said that when you do phased**  
 16 **review, you can fill in some of the more environmental**  
 17 **detail that might be missing in the --**  
 18 A. The site-specific detail, yes.  
 19 **Q. Right. And I'm asking you whether you -- when you made that**  
 20 **statement, whether you were acknowledging whether that that**  
 21 **additional environmental review will not address the option**  
 22 **of going back to the prior zoning and using that as a way of**  
 23 **avoiding whatever impacts are now confronted -- being**  
 24 **confronted?**  
 25 A. Well, you might not go back to the prior zoning, but the

1 **Q. And your testimony earlier was that the -- assuming the**  
 2 **impacts are spread evenly over the 50 acres or the 300 --**  
 3 **whatever it was, the 3,500 acres, when we did it with the**  
 4 **tree example, you said, well, the larger the acreage, the**  
 5 **more impact, the more detail, you better make sure you know**  
 6 **what you're doing.**  
 7 **But if I hear what you're saying in this context, you're**  
 8 **saying as you increase the area of the impact, and therefore**  
 9 **the magnitude of the impact, you do less analysis. Is that**  
 10 **your testimony?**  
 11 A. You're not doing less analysis.  
 12 **Q. Less detailed analysis?**  
 13 A. Less detailed analysis.  
 14 **Q. That's your testimony?**  
 15 A. That's correct.  
 16 **Q. Okay. You mentioned phased review. And I think you were**  
 17 **suggesting that when a specific project comes down the line**  
 18 **later on and seeks to take advantage of the rezones that are**  
 19 **part of this proposal, that additional environmental review**  
 20 **would be conducted at that time. Is that your testimony?**  
 21 A. To the extent they're not exempt, yes.  
 22 **Q. But you're familiar with the vesting doctrine in this state,**  
 23 **aren't you?**  
 24 A. Yes, I am.  
 25 **Q. And so if somebody applies to take advantage of the new**

1 project could be conditioned in a way to reduce its  
 2 intensity and reduce its impacts.  
 3 **Q. Right. But those conditions may be far less successful in**  
 4 **reducing impacts than if the zoning were what was there**  
 5 **before, right?**  
 6 A. It depends on what the issue is. I mean, if it's an onsite  
 7 critical area, I think the result is going to be the same.  
 8 **Q. Sure. But if you're talking about esthetics, density, those**  
 9 **issues are being decided now, they're not going to be**  
 10 **decided at the project state.**  
 11 A. That's correct.  
 12 **Q. And the cumulative effect of rezoning many parcels on the**  
 13 **block or same neighborhood, that's not going to be addressed**  
 14 **at the project level either, is it?**  
 15 A. Well, first of all, I think a non-project EIS is all about  
 16 cumulative impacts.  
 17 **Q. No, I know. And I'm asking you, when you talk about phased**  
 18 **review --**  
 19 A. By block level?  
 20 **Q. No, no. When a specific project comes in --**  
 21 A. Um-hum.  
 22 **Q. -- you're not in that environmental review going to look at**  
 23 **the cumulative effect of the rezone down the whole block or**  
 24 **the whole neighborhood, right, you're just looking at that**  
 25 **one parcel now?**

1 A. I don't agree with that. I think you're looking at offsite  
 2 impacts.  
 3 **Q. Right. The offsite impacts of developing that --**  
 4 A. That parcel.  
 5 **Q. -- single parcel?**  
 6 A. Right.  
 7 **Q. But you're not looking at the cumulative effect of rezoning**  
 8 **the whole block or the whole neighborhood, are you?**  
 9 A. No.  
 10 **Q. Now, I heard -- with regard to alternatives, I heard you**  
 11 **testify that the alternatives included in the EIS are**  
 12 **reasonable alternatives. Is that your testimony?**  
 13 A. Yes.  
 14 **Q. Do you understand that the -- separate from whether the**  
 15 **alternatives in the EIS are reasonable, there's this**  
 16 **distinct issue of whether there are other reasonable**  
 17 **alternatives that were omitted. Do you understand that as a**  
 18 **distinct issue?**  
 19 A. I see that as an issue that you have raised, yes.  
 20 **Q. All right. And I want to make sure I didn't miss anything.**  
 21 **You didn't testify that the alternatives -- well, maybe you**  
 22 **did. But let me ask you: Are you testifying that the**  
 23 **alternatives raised by the appellants are not reasonable**  
 24 **alternatives?**  
 25 A. I think some of them are not reasonable, yes.

1 **there should have been another set of maps, if you will,**  
 2 **that moves the lines a little differently to spare areas**  
 3 **with high densities of historic resources.**  
 4 A. That's a possible alternative, and I think I --  
 5 **Q. And that would have been a reasonable alternative, right?**  
 6 A. Well, I don't think you want me to use the word  
 7 "reasonable."  
 8 **Q. Would it have been on a par with the ones that are in there?**  
 9 A. It could have been.  
 10 **Q. What do you mean, could have been? It would have been?**  
 11 A. Might have been. I mean, I think I testified, in response  
 12 to questions from Mr. Weber that, you know, the City could  
 13 have gone in different directions on several of the issues,  
 14 but they were not required to. So I think you're asking  
 15 essentially the same question.  
 16 Yes, it's possible, likely, that there are other  
 17 reasonable alternatives. I mean, there are also other  
 18 possible alternatives that would not have met the objectives  
 19 of the proposal and would not have been reasonable.  
 20 **Q. But you're not -- so let's just stick with the one about**  
 21 **reshaping the lines to avoid clusters of historic resources.**  
 22 **You're not saying that that --**  
 23 A. That would not have been unreasonable, no.  
 24 **Q. -- falls -- right. Okay.**  
 25 **And you agree that reasonable alternatives should be ones**

1 **Q. And some of them are? Is that right?**  
 2 A. Well, all of the suggestions that I've heard relate to  
 3 various metrics -- varying -- most of them relate to varying  
 4 the metrics of the program itself; the detailed, you know,  
 5 metrical requirements for, you know, what's required.  
 6 **Q. Well, one of the alternatives that some of the witnesses**  
 7 **discussed was reshaping the areas that would be targeted for**  
 8 **the increased density to, for instance, avoid areas with**  
 9 **high densities of historic resources or vintage**  
 10 **neighborhoods.**  
 11 **Are you testifying that that's not a reasonable**  
 12 **alternative?**  
 13 A. I'm saying that -- I mean that -- what you're asking in  
 14 essence is whether or not mitigation measures need to be  
 15 included --  
 16 **Q. No.**  
 17 A. -- in alternatives.  
 18 **Q. No. My question is: The proposal from the appellants was**  
 19 **that a reasonable alternative that should have been included**  
 20 **was redrawing the lines. You've seen the lines in**  
 21 **alternative two and three and the preferred alternative,**  
 22 **right? And they move the density around here and there,**  
 23 **right? Correct?**  
 24 A. Right.  
 25 **Q. And one of the proposals from the appellants was, well,**

1 **that can feasibly attain or approximate a proposal's**  
 2 **objective but at a lower environmental cost --**  
 3 A. Yes.  
 4 **Q. -- right? And so redrawing the lines to avoid clusters of**  
 5 **historic resources would neatly fit into that, right?**  
 6 A. Yes. There are also other ways of accomplishing the same  
 7 objective in this case, which would be to mitigate impacts  
 8 on historic resources. That's the distinction I was making  
 9 between mitigation measures and alternatives.  
 10 **Q. You're not a historic resource expert, though, are you?**  
 11 A. Absolutely not.  
 12 **Q. You're not offering an opinion as to the feasibility of**  
 13 **relying on the City's historic resource mitigation to avoid**  
 14 **the impacts that would be avoided if you simply redrew the**  
 15 **line to avoid the historic resources. You've not testifying**  
 16 **as to the relevant benefits of those two approaches, right?**  
 17 A. I'm not testifying as to that.  
 18 **Q. And then you said some of the alternatives that have been**  
 19 **mentioned you said aren't reasonable because they don't**  
 20 **approximate the objectives of the proposal, right?**  
 21 A. Um-hum.  
 22 **Q. What was an example of that?**  
 23 A. Eliminating the upzone component.  
 24 **Q. And just going with the --**  
 25 A. Either the man- --

1 **Q. Incentive zoning?**  
 2 A. Incentive zoning.  
 3 **Q. Now, why do you believe that incentive zoning would not**  
 4 **attain the -- or approximate the objectives of the proposal?**  
 5 A. Of course, I don't believe that the City believes that it  
 6 would generate the same number of affordable units.  
 7 **Q. Do the proposal's objectives -- all right. So you don't**  
 8 **have an independent belief that that alternative is not**  
 9 **reasonable. You're simply challenging the City's statement**  
 10 **that they don't think incentive zoning would --**  
 11 MR. WEBER: I'm going to object to this line of  
 12 questioning. This is going well beyond the scope of the  
 13 direct testimony. Now Mr. Bricklin is postulating new  
 14 alternatives that haven't been mentioned by anyone and  
 15 asking the witness about those. I mean --  
 16 MR. BRICKLIN: Maybe I misunderstood. I thought he  
 17 testified that the alternatives that have been discussed in  
 18 earlier testimony of -- including incentive zoning were not  
 19 reasonable alternatives.  
 20 MR. WEBER: No, I don't think anyone mentioned incentive  
 21 zoning in direct. I think what he testified to was that --  
 22 I mean, that the Appellants' contentions that alternatives  
 23 that did not involve increases in development capacity  
 24 didn't need to be considered. He never used the word  
 25 "incentive zoning." You're now going down a different road.

1 MR. BRICKLIN: He didn't have to mention it. I asked him  
 2 whether it's part of the current city code. Fine.  
 3 **Q. (By Mr. Bricklin) Let me come at it this way. So in your**  
 4 **view, the -- not including upzones would not approximate the**  
 5 **accomplishment of the objectives of the proposal. Is that**  
 6 **your testimony?**  
 7 A. The one objective that is specific to increasing production.  
 8 **Q. Right. And my question is: Is your testimony to that**  
 9 **effect based on your own analysis or is it based on what the**  
 10 **City has told you?**  
 11 A. I read the objectives and I interpreted the objectives.  
 12 **Q. Right. No, I know you read the objectives. But in terms of**  
 13 **ruling -- saying these other alternatives are not reasonable**  
 14 **because they would not have achieved these objectives, is**  
 15 **that based on your own analysis of those alternatives or is**  
 16 **your conclusion based on the City's statement to you that**  
 17 **they would not -- that those alternatives would not meet**  
 18 **those objectives?**  
 19 A. No, they did not make that statement to me. That's my  
 20 conclusion.  
 21 **Q. All right. So can you tell me the thought process you went**  
 22 **through in reaching that conclusion?**  
 23 A. I looked at the objective and I said they could not  
 24 accomplish that objective without upzoning. Upzoning is  
 25 baked into the cake.

1 MR. BRICKLIN: He said -- his testimony about 90 seconds  
 2 ago was that -- he agreed that incentive zoning was what he  
 3 was talking about.  
 4 MR. WEBER: Well, in response to your question, I'm  
 5 objecting to the line of questioning.  
 6 HEARING EXAMINER: He responded to a question about  
 7 incentive zoning but he didn't -- that didn't reach back and  
 8 make that as an original direct testimony. And at this  
 9 point -- and because he said it in response to a previous  
 10 question in cross doesn't necessarily prohibit the City from  
 11 raising the objection at this point. So it's sustained.  
 12 **Q. (By Mr. Bricklin) So let me go back then -- let me rewind,**  
 13 **go back to when (inaudible).**  
 14 **What are -- what's an example of alternatives that you**  
 15 **believe the appellants have proposed that do not approximate**  
 16 **the objectives of the proposal?**  
 17 A. Excluding -- just requiring provision of affordable housing  
 18 without upzones.  
 19 **Q. Does the city code currently provide for incentive zoning as**  
 20 **a means of doing that?**  
 21 A. In some --  
 22 MR. WEBER: I renew my objection.  
 23 HEARING EXAMINER: There's an objection.  
 24 MR. WEBER: Again, you're asking for incentive zoning. I  
 25 mean, he didn't just mention it. It's --

1 **Q. What analysis did you do to assess whether the alternatives**  
 2 **that were discussed by the other witnesses that don't**  
 3 **involve upzoning would not generate a like number of units?**  
 4 **What analysis did you --**  
 5 A. Okay. First of all, I read the summary of the HALA report.  
 6 I read the City Council's resolution 2316 -- or 3216, you  
 7 know, all of which -- you know, I read the objectives, I  
 8 read the description of the proposal, all of which make  
 9 upzoning an integral element of the City's prior planning  
 10 direction for MHA and for the proposal.  
 11 **Q. So do you have the EIS in front of you there?**  
 12 A. Yep.  
 13 **Q. Can you turn to page 1.3, please?**  
 14 A. Yes.  
 15 **Q. Do you see there section 1.2, Objectives of the Proposal?**  
 16 A. Um-hum.  
 17 **Q. The first -- well, let's go to the -- the third bullet**  
 18 **refers to the 6,200 units of income-restricted housing,**  
 19 **right?**  
 20 A. Um-hum.  
 21 **Q. And the first bullet refers to an increase in production of**  
 22 **housing more generally across broad ranges of households; do**  
 23 **you see that?**  
 24 A. Correct.  
 25 **Q. Now, are you -- is it your testimony -- were you focussing**

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 **Q. All right. Do you know if you have Exhibit 238 in front of**  
 2 **you? That was the one where you made the comments in the**  
 3 **margin on the historic resource section.**  
 4 A. Yeah.  
 5 **Q. And you said that -- and your comment is, you say that "The**  
 6 **locations of surveyed historic buildings on the other hand**  
 7 **are known and could be compared to the parcels being**  
 8 **rezoned."**  
 9 **And -- so two questions there. So first of all, you're**  
 10 **talking about they're identifying specific historic**  
 11 **buildings and comparing them to the specific parcels being**  
 12 **rezoned, right?**  
 13 A. Not parcels but general areas, so this could make some, you  
 14 know, general statements about locations that might be more  
 15 or less susceptible to impacts to historic resources.  
 16 **Q. All right. So part of that analysis would, for instance,**  
 17 **include whether the upzone and any given alternative was**  
 18 **going to include a parcel that had a historic resource on**  
 19 **it, right? With this information that you were --**  
 20 A. I would not expect them to do a parcel-by-parcel analysis.  
 21 I would expect them to look at -- I mean, if there was a  
 22 cluster in a certain urban village in effect to say that.  
 23 **Q. Okay. And you said they -- the staff responded to that by**  
 24 **obtaining information from the federal and state historic**  
 25 **registers, correct?**

1 yeah.  
 2 **Q. Time out.**  
 3 A. Okay.  
 4 **Q. Those EISs were for rezones, weren't they?**  
 5 A. Yes, for smaller areas.  
 6 **Q. But they were rezones, right?**  
 7 A. Yes.  
 8 **Q. Which is what we're talking about here, right?**  
 9 A. Well, I think we had this discussion before. I'm not making  
 10 the distinction purely based on the fact that it's a rezone.  
 11 **Q. Right. Okay. You're right.**  
 12 **So this is your point, that because, you know, the rezone**  
 13 **for U District and Queen Anne will have certain impacts on**  
 14 **historic resources, it's useful to analyze those historic**  
 15 **resources upon -- you know, locate the specific parcels they**  
 16 **are located on. But if you're doing a larger area --**  
 17 MR. WEBER: Objection.  
 18 **Q. (By Mr. Bricklin) -- where you may impact more historic**  
 19 **resources, now you don't have to do that analysis. Is that**  
 20 **your testimony?**  
 21 A. I'm saying you can do an a finer level of detail in a  
 22 smaller area. It doesn't matter if it's a rezone, changes  
 23 to land use, adoption of a plan. The size of the area has a  
 24 bearing on what you can do. And as I read the words of the  
 25 rule, site-specific analysis is not required.

1 A. Yes.  
 2 **Q. And are you aware that the stuff did not include in that --**  
 3 **in responding to your comment including other historic**  
 4 **survey properties?**  
 5 A. I did hear testimony to that effect.  
 6 **Q. All right. Were you aware at the time -- after -- were you**  
 7 **aware of that at the time that you signed off on this EIS?**  
 8 A. No.  
 9 **Q. You testified that whether you go to a parcel-by-parcel**  
 10 **analysis will vary depending -- for an EIS such as this,**  
 11 **will vary depending on the nature of the impact, and you**  
 12 **used air quality as an impact that you're not going to look**  
 13 **at parcel by parcel, you're going to look at a neighborhood**  
 14 **or intersection or maybe even broader geographic scope,**  
 15 **right?**  
 16 A. That's not exactly what I said. I mean, I think I said  
 17 you'd never do parcel-by-parcel analysis. You would have --  
 18 you would have varied levels of detail depending on the  
 19 nature of the environmental resource you're dealing with and  
 20 what information you have. I don't think you ever do -- are  
 21 ever required to do parcel-by-parcel site-specific analysis.  
 22 **Q. Didn't the U District and the Queen Anne EISs identify the**  
 23 **location of historic parcel on a parcel-by-parcel basis?**  
 24 A. You're talking about subarea plans. I made a distinction  
 25 between the level of detail in a subarea plan versus a --

1 **Q. You also testified about the EIS's analysis of the**  
 2 **consistency with the comprehensive plan, and you**  
 3 **acknowledged that the EIS was -- you used the word**  
 4 **"selective." Do you remember that?**  
 5 A. Yes.  
 6 **Q. And the selectivity was that in part, that the EIS only**  
 7 **looked at some of the policies in the citywide portion of**  
 8 **the comprehensive plan and looked at none of the policies in**  
 9 **the neighborhood plans that are part of the comp plan. Are**  
 10 **you aware of that?**  
 11 A. Yes, I am.  
 12 **Q. And do you understand the role of those neighborhood plans**  
 13 **in the City's planning process?**  
 14 A. Yes, I do.  
 15 **Q. They're an integral part of the comprehensive plan, right?**  
 16 A. They're an element of the comprehensive plan.  
 17 **Q. You said it was more common to do a policy-by-policy**  
 18 **analysis in a subarea plan; is that your testimony?**  
 19 A. In my experience, yes.  
 20 **Q. So where we have a subarea plan for, let's say, Fremont or**  
 21 **Ballard, and if you're rezoning -- let's just say Fremont,**  
 22 **so you're rezoning Fremont subarea. You would then do a**  
 23 **policy-by-policy analysis of the subarea -- of the Fremont**  
 24 **neighborhood policies in the comprehensive plan, right?**  
 25 A. Well, if I was evaluating a rezone of the Fremont subarea, I

1 would primarily compare it policy by policy to policies in  
2 the comprehensive plan, because the subarea plan is required  
3 to be consistent with the comprehensive plan.

4 **Q. So if you're rezoning the Fremont subarea, you wouldn't  
5 compare the proposal with the policies in the Fremont  
6 subarea plan?**

7 A. I would look at both, but I would --

8 **Q. Wouldn't the Fremont ones be the more specific and more  
9 relevant ones?**

10 A. It depends.

11 **Q. You would at least look at them to figure that out, right?**

12 A. Yes.

13 **Q. Figure out if what you're proposing was inconsistent with  
14 them, right?**

15 A. At that level of analysis, yes.

16 **Q. And then if you combined your subarea -- let's say now you  
17 changed your proposal, we're not just going to do a rezone  
18 for Fremont, we're also going to do it for the area next  
19 door, Ballard. So we're going to do both those subareas at  
20 once. Are you still going to look at the policies for  
21 subarea plans for Fremont and Ballard?**

22 A. So you're saying I'm doing two subarea plans?

23 **Q. Yes, in one. In one -- the proposal is to amend the -- do  
24 an area-wide rezone that encompasses both Fremont and  
25 Ballard. So are you going to --**

1 **the analogy he drew between the -- making urban villages too  
2 large would have some of the same deleterious effects of  
3 making urban growth areas too large; do you recall that?**

4 A. Yes.

5 **Q. And you said, well, they're not exactly the same because  
6 they come from different legal constructs and a whole bunch  
7 of other things, right?**

8 A. Yes.

9 **Q. But he wasn't talking about the -- you know, what the legal  
10 basis for this was. Did you hear his testimony, that he was  
11 talking about just as if you make an urban growth area too  
12 large, you don't get the density that you want in the urban  
13 growth area because it's spread out over a larger area.  
14 Likewise, if you make an urban village too large, you won't  
15 get the higher densities that you're seeking in the core of  
16 the urban village, because you've made the urban village too  
17 large. Do you understand that was his testimony?**

18 A. I understand that was his testimony. I don't know what "too  
19 large" means. I mean, I harken back to the language in the  
20 City's comprehensive plan policies that say most growth or a  
21 majority of growth should be directed to urban villages.

22 Mr. Steinbrueck is obviously testifying that he thinks too  
23 much growth is being allowed to occur outside urban  
24 villages. I don't know what the terms -- what the term "too  
25 much" means in that context, because most growth is still

1 A. In my approach, I would be doing a less detailed analysis.

2 **Q. So because you're having a larger impact, you would do less  
3 analysis?**

4 A. Well, in a sense, yes, because the larger the area, the more  
5 general the analysis can be and will be.

6 **Q. Where does the -- what SEPA principle are you -- the larger  
7 the area, aren't you going to -- all other things being  
8 equal, are you going to have a larger impact, if you rezone  
9 just Fremont --**

10 A. Maybe. But you're discussing it at a more general level.

11 **Q. I get it that you think you should do it at a more general  
12 level. But you've agreed that the level of analysis is a  
13 function of how -- the magnitude and the scope of the  
14 impacts, right? Right? Right?**

15 A. Yes.

16 **Q. And if you have a certain level of impacts when you rezone  
17 Fremont and therefore you're going to analyze the  
18 consistency with the Fremont subarea plan, and now you're  
19 going to double the impact area because you're going to  
20 rezone Fremont and Ballard, your testimony is with that  
21 greater level of impact you're now going to reduce the level  
22 of discussion. That's your testimony, right?**

23 A. You're going to discuss it at a more general level.

24 **Q. Thank you. You took issue with Mr. Steinbrueck's testimony  
25 that -- I don't want to spend too much time on this -- on**

1 being directed to urban villages.

2 **Q. You understand that there's certain environmental benefits  
3 that come from higher density urban villages --**

4 A. Certainly, yes.

5 **Q. -- right? Easier access to transit, less single occupancy  
6 vehicle use?**

7 A. Yes.

8 **Q. A variety of things like that. And so the -- and if you  
9 have an urban village of a certain size and then you expand  
10 it and the same amount of growth comes into both the --  
11 well, let me start again.**

12 **As you expand the urban village, you're going to have less  
13 density in the core, aren't you?**

14 A. Well --

15 **Q. Or you're going to create disincentives for the increased  
16 density in the core of the urban village?**

17 A. Well, the other way of looking at it is that you're creating  
18 greater capacity to have -- outside of the urban village?

19 **Q. No. Let me go back to Mr. Steinbrueck's point.**

20 A. Yes.

21 **Q. Mr. Steinbrueck's point was that if you're seeking to have  
22 high urban densities close to transit stops in particular, I  
23 think was his focus, that if you have a smaller urban  
24 village, you're going to be able to support higher densities  
25 than if you have a larger urban village?**

1 A. Other things being equal, but --  
 2 **Q. So you would agree with that?**  
 3 A. I think there are other objectives.  
 4 **Q. But would you agree with that much?**  
 5 A. I agree with that much.  
 6 **Q. All right. Thank you.**  
 7 **Do you understand that the issue of business displacement**  
 8 **is not just an economic issue but it's a land use issue? If**  
 9 **you displace --**  
 10 A. Yes.  
 11 **Q. -- right?**  
 12 MR. BRICKLIN: That's all I have. Thank you.  
 13 MS. BENDICH: I don't have any questions.

CROSS - EXAMINATION

16 BY MR. THALER:  
 17 **Q. Hi, Mr. Weinman.**  
 18 A. Good morning.  
 19 **Q. Unlike Mr. Bricklin, I don't think you and I have ever met,**  
 20 **although I can assure you that I have been aware of your**  
 21 **work for a long time having worked in related areas.**  
 22 A. And I have responded to some of your comment letters on some  
 23 of the EISs that I've worked on.  
 24 **Q. All right. So just to explore a little bit the base of your**  
 25 **expertise. There's been a lot of discussion, including the**

1 characterize it as a land use issue. I don't know -- I'm  
 2 not sure exactly where to categorize indirect economic  
 3 displacement. It seems to me like it's more economics or --  
 4 it's more economics than it is land use.  
 5 **Q. Isn't it true that both physical and economic**  
 6 **displacement -- do you understand the difference between**  
 7 **physical and economic dis- --**  
 8 A. Yes.  
 9 **Q. Isn't it true that both physical and economic displacement**  
 10 **result in an indirect impact on the built environment in**  
 11 **terms of housing?**  
 12 A. Are you talking about business displacement or housing  
 13 displacement?  
 14 **Q. Just housing.**  
 15 A. Could you repeat the question? So you started out talking  
 16 about economic displacement.  
 17 **Q. Well, economic displacement includes people who can no**  
 18 **longer afford to be in their houses as a result of**  
 19 **gentrification.**  
 20 A. Yeah, okay.  
 21 **Q. So displacement of people from homes due to both physical**  
 22 **and economic reasons results in impacts under the built**  
 23 **environment housing part of the SEPA objectives, correct?**  
 24 A. The chain of causation for economic displacement is pretty  
 25 attenuated and, you know, I think difficult to put in the

1 **last question from Mr. -- the last few questions from**  
 2 **Mr. Bricklin, about affordable housing.**  
 3 **Do you consider yourself an expert in inclusionary zoning?**  
 4 A. Not at all.  
 5 **Q. Have you --**  
 6 A. Let me -- I am -- I have worked with and I'm very familiar  
 7 with land use regulatory programs over the course of my  
 8 career. I do not consider myself an expert on any one of  
 9 them.  
 10 **Q. Have you -- excuse me. I'm fending off a cold.**  
 11 **Have you read the paper titled -- that's in -- it's in the**  
 12 **exhibit list, but I won't refer you to it. Have you read**  
 13 **the paper by Zock and Chappel (phonetic) --**  
 14 MR. WEBER: I'm going to object to this line of  
 15 questioning. Mr. Weinman didn't testify about the specific  
 16 article or the subjects of that article. And he's just  
 17 indicated that his experience is what it is. I mean, I  
 18 don't think --  
 19 MR. THALER: I'll withdraw the question.  
 20 **Q. (By Mr. Thaler) At one point I believe you said that**  
 21 **economic displacement is not required to be considered in an**  
 22 **EIS. Were you referring solely to businesses as opposed to**  
 23 **residence when you said that, or is it applying to both?**  
 24 **Did I hear you right?**  
 25 A. Physical displacement is a land use issue. I would

1 same category as physical displacement.  
 2 **Q. Okay. Regarding neighborhood planning, were you aware in**  
 3 **the '90s when the City of Seattle did the original**  
 4 **neighborhood plans under the urban village structure?**  
 5 A. Yes, I was.  
 6 **Q. Are you -- do you know whether or not any SEPA process was**  
 7 **done for any of those plans?**  
 8 MR. WEBER: Objection; that's way outside the scope of the  
 9 adequacy of this EIS.  
 10 MR. THALER: I think it's relevant to his response on the  
 11 issue of how much SEPA analysis needs to be done at  
 12 different levels of scale. And he testified about the  
 13 horrendous expense of doing these EISs at the same level of  
 14 analysis that an individual subarea plan, like University or  
 15 Uptown, to do it at all these neighborhoods, I want to  
 16 briefly explore the history of Seattle's subarea planning  
 17 and the application of SEPA to that process.  
 18 MR. WEBER: Particularly given the way that the testimony  
 19 was limited, I simply can't see that as relevant to the  
 20 question at issue here.  
 21 HEARING EXAMINER: I'm not sure it was that limited. I  
 22 mean, it's been pretty far wielding. I mean, Mr. Weinman  
 23 has gone into any number of different EISs that are not this  
 24 one at issue.  
 25 MR. WEBER: Let me clarify.

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1 one.

2 **Q. (By Mr. Thaler) Do you recognize that?**

3 MS. BENDICH: Is this marked?

4 HEARING EXAMINER: Marked as 316.

5 (Exhibit No. 316 is marked for identification.)

6 A. Yeah.

7 **Q. (By Mr. Thaler) And what's the -- what is it? It's the**

8 **transmittal of the --**

9 A. Right.

10 **Q. -- MHA-R?**

11 A. It's the -- short title OPCDOHSDCI-Mandatory Housing

12 Affordability For Residential Development ORD (phonetic).

13 **Q. And that's -- you were giving to the mayor for sending to**

14 **the council the MHA-R proposal, correct?**

15 A. That is correct.

16 **Q. And did the scope of the alternatives in any SEPA review of**

17 **the MHA-R --**

18 MR. WEBER: Objection, this is the segmentation argument

19 again.

20 MR. BRICKLIN: Can he finish the question?

21 MR. WEBER: It's clear where he's going.

22 HEARING EXAMINER: Finish the question. I mean, it is on

23 alternatives, which is an allowed subject.

24 **Q. (By Mr. Thaler) Was their discussion about limiting the**

25 **scope of alternatives in the SEPA review considered or**

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1 **discussed around the time of that transmittal?**

2 A. I don't remember any conversation saying, let's limit it and

3 let's not include this or let's not include that. But I'm

4 not a land use person. I didn't spend a lot of time on the

5 formation of the EIS, but I don't remember any conversation

6 that said don't include this or don't include that.

7 MR. THALER: All right. I have no further questions.

8 MS. BENDICH: Do you want to admit any of this?

9 MR. THALER: I will move -- what is not admitted yet?

10 MS. BENDICH: I think most of these.

11 HEARING EXAMINER: We will, we have 314 and 315 that

12 weren't -- or let's see. I think 315 you were allowed to

13 ask questions and you did proceed on that. But 314 --

14 MR. WEBER: Can we take them in sequence?

15 MR. THALER: 314 is --

16 MR. WEBER: I don't believe --

17 MR. BRICKLIN: (Inaudible) policy memo?

18 MR. KISIELIUS: And there was an objection that was

19 sustained.

20 HEARING EXAMINER: Yeah, I don't think that was even used

21 after that. So that's denied.

22 MR. THALER: And 315 is this --

23 MR. WEBER: I would object to admission of that because he

24 really didn't ask anything about this document that

25 proceeded beyond just establishing what it was before he was

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1 cut off by the objection.

2 MR. THALER: Are you talking about 315?

3 MR. WEBER: Well, this document here, which is --

4 MR. THALER: Yeah, that's 315.

5 MR. WEBER: Well, actually, he did answer questions about

6 it. But you can make another objection, I'm sure, because I

7 do move its admission.

8 MR. THALER: That will go to the probative value of the

9 document as to whether it actually --

10 MR. BRICKLIN: Okay. That's in.

11 MR. THALER: I'm sorry?

12 MS. BENDICH: It was admitted. Next one.

13 HEARING EXAMINER: 316?

14 MR. THALER: Okay, 316.

15 HEARING EXAMINER: Any objections?

16 MR. WEBER: No objection to that.

17 HEARING EXAMINER: 316 is admitted.

18 (Exhibit No. 316 is admitted into evidence.)

19 THE WITNESS: Are you done with me?

20 MR. THALER: Yes, I'm done with you.

21 HEARING EXAMINER: Are there any other questions for

22 Mr. Feldstein?

23 MR. WEBER: No, I have no questions.

24 HEARING EXAMINER: Thank you, Mr. Feldstein.

25 THE WITNESS: Do you have questions?

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1 MS. BENDICH: No, no.

2 HEARING EXAMINER: No, you're free to go. Thank you.

3 THE WITNESS: Thanks.

4 MR. KISIELIUS: Are those yours?

5 MR. THALER: Oh, yeah, it's all ours.

6 HEARING EXAMINER: Next witness?

7 MR. BRICKLIN: Recall Bill Reid.

8 HEARING EXAMINER: And this is your last rebuttal witness;

9 is that right?

10 MR. BRICKLIN: Yes.

11 HEARING EXAMINER: All right.

12 MR. BRICKLIN: We have maybe 20 minutes less of a

13 15-minute break. So five minutes -- well, I'll go -- use no

14 more than 50 -- 52-and-a-half.

15 HEARING EXAMINER: And we'll trim the break a bit.

16 MR. BRICKLIN: All right.

17 HEARING EXAMINER: Mr. Reid, you're still on oath from the

18 last time.

19 THE WITNESS: Thank you.

20

21 BILL REID, Witness herein, having been.

22 previously sworn on oath, was

23 examined and testified as follows:

24 //

25 //

REBUTTAL EXAMINATION

BY MR. BRICKLIN:

**Q. So, Mr. Reid, let's keep on eye on the clock, and we're trying to get through this in a little under an hour.**

A. Okay.

**Q. Fifty-two minutes or so.**

**All right. Mr. Reid, I want you to assume that one of the City's witnesses, Nick Welch, testified that among the various dislocation issues, the economic dislocation element aspect was the most significant, and so I want to focus on that.**

MR. WEBER: I object. I'm not sure that's an accurate characterization of his testimony. For one thing, he didn't use the word "dislocation." But I also think for other reasons, it's not accurate.

MR. BRICKLIN: Fine. What word do you think he used instead of "dislocation," because I don't want to get bogged down on that?

MR. WEBER: I assume he used "displacement."

MR. BRICKLIN: Displacement. All right.

**Q. (By Mr. Bricklin) Let's just talk about economic displacement, all right? And I want you -- well, in simplest terms, what do you understand the City or Mr. Welch's position to be with regard to how MHA -- as to why the MHA proposal would not cause economic displacement?**

relationship with (inaudible) the household counts in the city.

MR. WEBER: So I have to object at this point. Again, this is not rebuttal, and I can see it's not going to be rebuttal probably for quite some time. I mean, the purpose of rebuttal is to respond to particular testimony of the City. What Mr. Reid is obviously doing is mounting a whole argument about why the EIS analysis on a certain subject was not correct. This was an argument he should have made on direct, he did not make on direct, and it's not a proper subject for rebuttal to just mount a whole new argument about why the EIS is inadequate. He has to respond to specific testimony.

MR. BRICKLIN: At this point all he is doing is summarizing, and I think everything he has summarized -- I know everything he has summarized to date is a response to Mr. Welch's testimony. He's just getting into the -- I call them scattergrams, he used another word.

THE WITNESS: Histograms.

MR. BRICKLIN: Histograms, that Mr. Welch spent a long time --

HEARING EXAMINER: I'm going to overrule at this point. I would certainly allow the witness to establish some foundation as to his understanding of what Mr. Welch said and where the City has come from. He hasn't even gotten to

A. Well, my understanding is that it's basically the general idea behind MHA; that is, that if you create more housing, you increase the supply of housing, and that would tend to dampen or reduce housing prices or rents, which in turn would prevent households from being displaced because they can afford housing.

**Q. All right. And do you agree with that basic notion that the increased supply is going to reduce displacement risks?**

A. No, I don't. I disagree with that.

**Q. And can you summarize at the outset the reasons -- in just a couple of sentences each, the reasons why you don't agree with that supply/demand analysis?**

A. Well, first of all I think it's really -- it's contrary to decades of economic and academic literature demonstrating how gentrification and displacement happen in (inaudible) major city.

**Q. All right. We'll come back to that.**

A. The second one I would say is, my understanding is that his conclusion is based on analysis in Appendix I that -- oh, excuse me, M, Appendix M, a bunch of histograms that are meant to demonstrate the relationship between housing production in the city in different census tracts versus how many households below 50 percent of area median income or whatever category of economic vulnerability, that analysis demonstrates that more housing production has had a positive

the point where he's -- of what he's speaking to. And we've got to at least have some -- every question doesn't have to be related to a specific factual rebuttal. There can be some contextual questions as well. And so at this point I understand this is setting context for the subject matter of the examination.

**Q. (By Mr. Bricklin) All right. And so the second -- your first point was Mr. Welch's testimony was inconsistent with the literature. The second point is something about these histograms or scattergrams, just in a sentence or two.**

A. Sure. The scattergrams or histograms in Appendix M purport a relationship between -- a positive relationship between housing production and the number of vulnerable households that live in the City of Seattle. And there are some significant problems with that analysis.

**Q. So your second point will be discussing Mr. Welch's reliance on those histograms?**

A. Correct, yes.

**Q. And then your third point about Mr. -- that you -- your third response to Mr. Welch's testimony?**

A. And I would say that what he said is contradicted elsewhere in the EIS. I think Appendix A specifically.

**Q. Okay. So let's go back through those one at a time. The first point, you said that Mr. Welch's testimony is inconsistent with the body of academic literature on this**

1 **subject. What -- can you extricate that?**  
 2 A. Yeah, sure. I mean, the topic of gentrification and --  
 3 which to restate is simply higher-intensity new development,  
 4 predominately housing -- new housing in a city, in existing  
 5 neighborhoods, and it's effect on existing population,  
 6 typically whether or not there is dislocation or -- what was  
 7 the other word?

8 **Q. Displacement.**

9 A. Displacement of existing households for different reasons.  
 10 And I mean, that's a gigantic body of literature and  
 11 economics and planning. And I mean, I think the most recent  
 12 major survey of all of that body of literature was in 2015  
 13 by the Federal Reserve Bank of San Francisco.

14 MR. WEBER: Here I need to object again. Mr. Reid, when  
 15 he was called, talked about certain things, they did not  
 16 include these particular subjects. He could have and should  
 17 have been asked on direct if Mr. Bricklin wanted this  
 18 witness to talk about these general issues as to the  
 19 adequacy of the analysis in the EIS. He didn't. And now  
 20 we're here on rebuttal and we are hearing lengthy argument  
 21 that does not constitute rebuttal.

22 MR. BRICKLIN: We are responding directly to Mr. Welch's  
 23 testimony, and it's not lengthy. It's -- I think the  
 24 testimony will be shorter than the objections at this point.

25 HEARING EXAMINER: Even so, the City has a right to make

1 Mr. Welch who said a lot of these things. But assuming that  
 2 some City witness did, certainly the nature of the City  
 3 testimony on the issue that we were just getting into was  
 4 mostly in the nature of a description of what was in the  
 5 EIS, describing how the EIS had set forth analysis on these  
 6 points. It seems to me that that's exactly the kind of -- I  
 7 mean, if you want to critique the EIS, you do that on  
 8 direct. If you want to rebut, you've got to do more than  
 9 that. You've got to respond to actual new matters that the  
 10 City witness brought up.

11 HEARING EXAMINER: Yeah. I mean, I'm -- this seems to be  
 12 additional argument on the analysis as opposed to some  
 13 particular argument that was raised in the context of the  
 14 hearing by a City witness. You know, again we're getting  
 15 into the field of presenting responsive argument, additional  
 16 argument as opposed to rebutting what someone stated and has  
 17 factual evidence that was submitted in the hearing.

18 MR. BRICKLIN: Well, Mr. Welch testified about a -- as an  
 19 example, Mr. Welch testified about a specific article and  
 20 characterized it a certain way. I did not know that  
 21 Mr. Welch -- by looking at the EIS, I did not know how  
 22 Mr. Welch was going to characterize that article. I now  
 23 know. I now have a witness who can say, Mr. Welch has not  
 24 characterized that article correctly. He's cherry-picking  
 25 from it or whatever. I couldn't have anticipated before

1 an objection if they don't -- if it shouldn't be in the  
 2 record.

3 MR. BRICKLIN: I agree. But that's why I made the first  
 4 point. I mean, we are -- and I've tried to be very clear in  
 5 my questions tying each of these questions to Mr. Welch's  
 6 testimony.

7 HEARING EXAMINER: What's being rebutted? Just make it  
 8 clear.

9 MR. BRICKLIN: So Mr. Welch testified that the supply --  
 10 the increase in housing production, supply, was going to  
 11 create a downward effect on prices for housing and that,  
 12 therefore, there would not be any dislocation resulting from  
 13 MHA.

14 HEARING EXAMINER: Right.

15 MR. BRICKLIN: And he supported that in part by  
 16 literature. He supported that in part by reference to these  
 17 histograms. And I'm having this witness refer to the  
 18 literature and refer to the histograms that Mr. Welch  
 19 referred to to provide another side of that story. I think  
 20 that's absolutely rebuttal.

21 HEARING EXAMINER: Mr. Weber.

22 MR. WEBER: Well, first I would like to point out, I do  
 23 believe that it's probably too hard to sort this out at this  
 24 point. I think the testimony of Mr. Welch and Mr. Ramsey is  
 25 being confused on a lot of bases. I'm not sure that it was

1 Mr. Welch testified how he was going to characterize that  
 2 article.

3 HEARING EXAMINER: Yeah, fair enough. I'll overrule it.

4 MR. WEBER: But I guess I would point out that Mr. Reid  
 5 was not talking about a specific article.

6 HEARING EXAMINER: Yeah. So that's a good point,  
 7 Mr. Weber. So if that's where we're going to go with it, I  
 8 think you're absolutely right, Mr. Bricklin, that would be  
 9 what we're looking for for rebuttal. I think we were  
 10 getting further afield with more general responsive  
 11 argument. And in that sense I accept the correction on my  
 12 overruling from Mr. Weber.

13 **Q. (By Mr. Bricklin) So let me take this in pieces then.**  
 14 **First of all, with regard to -- whether it was Mr. Welch or**  
 15 **another witness -- reference to the Zuk and Chapple article,**  
 16 **are you familiar with that article?**

17 A. I am familiar with it.

18 **Q. And do you believe that that article supports the City's**  
 19 **testimony that increased housing production will -- is not**  
 20 **associated with dislocation or displacement?**

21 A. No, I don't believe that article supports the argument.

22 **Q. And why is that?**

23 A. Primarily because in that same article -- that article does  
 24 do analysis of different types of housing production and  
 25 risk of displacement in San Francisco specifically. But

1 later in that study, after the findings are reported,  
2 there's a pretty detailed write-up about how the measurement  
3 and definition of displacement in that study and several  
4 others before it specifically related to policy analysis in  
5 the state of California, in the Bay Area in particular,  
6 discusses the fact that displacement, as estimated in that  
7 study, is underestimated because the data (inaudible), like  
8 the EIS uses, are Great Recession years. And the academics  
9 who did that study point out that displacement in their own  
10 analysis is underestimated for that reason.

11 They also point out in their analysis that displacement as  
12 they've defined it is also likely underestimated because  
13 they don't know how to -- they don't know how much income  
14 mobility is playing a role. And by that I mean, as income  
15 levels go up in a city like Seattle or San Francisco where  
16 you have a tech boom and a lot of people moving into the  
17 city that are earning a very high income, existing  
18 households -- those people drive up the average household  
19 income in the city. The existing residents who are living  
20 there because of average household income going up  
21 substantially, they're not getting paid dramatically more  
22 from year to year, so those households are actually moving  
23 down relatively in terms of their -- you know, kind of the  
24 cohort or income level that they have. So some people who  
25 might have been earning less than 60 percent of area

1 people have moved in earning more. So yeah, that's the  
2 idea.

3 **Q. So are your views regarding the City's mis-reliance on this  
4 document supported by reference to other academic  
5 literature? For instance, you mentioned already the San  
6 Francisco Reserve Board. Is that consistent with your view  
7 of their mis- -- (inaudible) of Zuk?**

8 A. Yes. And I mean, that point is made significantly in that  
9 San Francisco Federal Reserve Board survey of the  
10 literature. So Chapple and Zuk -- Zuk and Chapple, the 2016  
11 study that's cited in the EIS and I think referred to in the  
12 previous testimony, that same point is made, that how  
13 displacement has been looked at previously in the academic  
14 literature, displacement has been found to occur, but the  
15 way it's been done is likely underestimating the problem.

16 **Q. All right. Let's move on to these histograms or  
17 scattergrams which were in Appendix F that Mr. -- well, I  
18 thought it was Mr. Welch. Are you saying it was someone  
19 else? I thought it was Mr. Welch who testified about them  
20 at length. Was it the other gentleman?**

21 MR. WEBER: It might have been Kevin Ramsey.

22 **Q. (By Mr. Bricklin) Either Mr. Ramsey or Mr. Welch testified  
23 about these at length. And you've already explained -- so  
24 let's turn maybe to Appendix M, that might be useful,  
25 please.**

1 household income, because of a tech boom and people moving  
2 in with high incomes, the people who were previously living  
3 in the city at less than 60 percent of area household income  
4 would find themselves likely in lower categories,  
5 potentially less than 50 percent of area household income.

6 **Q. Right. Can you explain -- can you -- because that's a  
7 little bit of an interesting mathematical thing there. Can  
8 you give a simple example of that?**

9 A. Well, I mean --

10 MR. WEBER: Can we have clarification? Are you still  
11 talking about the Zuk and Chapple article? I'm not sure you  
12 are.

13 THE WITNESS: Yes, I am.

14 MR. WEBER: You are?

15 THE WITNESS: Yeah. I mean, I'm elaborating on what they  
16 mean by income mobility. And specifically what I'm talking  
17 about is downward income mobility, not because people are  
18 earning less, but because the average income in a city has  
19 gone up so much, existing households simply are lower down  
20 the ladder, not because they've lost income.

21 **Q. (By Mr. Bricklin) Lower down the ladder or lower compared  
22 to the average?**

23 A. Lower compared to the average. The ladder has moved up on  
24 them. They're not earning less, they're just lower on the  
25 ladder because the ladder has moved up because so many

1 A. M?

2 **Q. Yeah, M. So I've turned to M -- page M5, which is the first  
3 of these. And there's many of them on the following pages.  
4 You're familiar with these?**

5 A. I am, yes.

6 **Q. And one of the City witnesses testified about these and --  
7 either Mr. Ramsey or Mr. Welch or both maybe. You've  
8 already explained that these are showing a relationship on  
9 the X and Y axis of -- on the X axis, increases in housing  
10 production. And on the Y axis, changes in the number of  
11 persons in different income levels. And it was either one  
12 of those two City witnesses who testified that this  
13 relationship between changes in housing production and  
14 people in different income brackets in a given census tract  
15 could be used to evaluate the relationship between housing  
16 production and displacement or dislocation.**

17 **And what -- and in particular, I believe the witness  
18 testified that the -- even though the Y axis is not a direct  
19 measure of dislocation or displacement, it's a reasonable  
20 surrogate to use by using the percentage of low-income  
21 people, if you will, as a surrogate for displacement. And  
22 his testimony specifically, I believe, were very close to  
23 words like: We can assume that if there are more people in  
24 a low-income bracket, that dislocation isn't occurring  
25 because there's -- this is indicative of more people moving**

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1 in.

2 **Do you agree with that statement that was made?**

3 A. No, I don't agree with that statement. And the charts

4 themselves contradict that.

5 **Q. All right. And explain to me why you don't agree with that**

6 **statement.**

7 A. Well, so starting with, I believe, Chart M4 or M5, which is

8 the big histogram that demonstrates housing production

9 versus number of households earning less than 50 percent of

10 area median income -- area household income.

11 **Q. Okay.**

12 A. I think it's Chart M4 or 5.

13 **Q. Do you have -- you don't have it in front of you?**

14 A. I actually don't. When I -- I had it electronically, but I

15 didn't bring the hard copy. My apologies.

16 **Q. No, that's fine. We'll get it for you.**

17 A. Sure.

18 MS. BENDICH: Exhibit M.

19 THE WITNESS: Yeah. There you go. You're there.

20 MR. BRICKLIN: (Inaudible).

21 THE WITNESS: Yeah, sure. So let me get to the --

22 **Q. (By Mr. Bricklin) So go to page M5?**

23 A. Page M5. Right.

24 **Q. There's a histogram at the top of the page, Exhibit M3.**

25 A. Correct. So I'm looking at Exhibit M3, page -- yeah,

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1 Exhibit M3 on the top half of that page. And what I'm

2 referring to is in that chart the horizontal axis refers to

3 the change in number of -- or no, how many housing units

4 were produced. To the right is, you know, increase in

5 housing -- is positive housing production. The vertical

6 axis is the measures that change in number of households for

7 all the different zip -- excuse me, census tracks in the

8 City of Seattle, I believe there are 131.

9 But above the horizontal axis, the measurement means that

10 there were more households earning no more than 50 percent

11 of area household income in all the different census tracks.

12 And below the axis is negative, as in any dots on the chart

13 below the horizontal axis represent zip codes where those

14 city zip codes actually lost households earning no more than

15 50 percent of area household income.

16 **Q. You said zip codes, did you mean census track?**

17 A. Excuse me, census track, yes. That was a misstatement. So

18 there are by my count as I recall, 37 dots representing 37

19 census tracks in the City of Seattle where increased housing

20 production -- so the horizontal axis to the right, positive

21 housing production -- 37 census tracks between 2000 and 2014

22 in the City of Seattle saw positive housing production, but

23 saw -- but lost households.

24 **Q. Low income?**

25 A. Low-income households earning no more than 50 percent of

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1 area household income. The worst was -- we don't know what

2 census track, but the worst census track was the housing --

3 about almost 400 households, the very bottom one, almost 400

4 households were lost that earned less than 50 percent of

5 area household income when roughly 400 or so new housing

6 units were built in that specific zip code.

7 So for 37 census tracks, 37 different neighborhoods in the

8 City of Seattle, this chart establishes that positive

9 housing production leaves people out, leaves low-income

10 people out. This data -- this histogram, this

11 scattergram -- contradicts his statement, just in numbers.

12 **Q. All right. Now, there's a whole series of histograms in**

13 **this appendix that, as I understand it, sort of take a**

14 **similar look but just slicing the cake a little differently,**

15 **if you will, looking at different sections of the city or**

16 **different income groups or such; is that right?**

17 MR. WEBER: I'm going to object. We've now moved beyond

18 rebuttal to just the witness continuing (inaudible) EIS.

19 MR. BRICKLIN: Just give me a chance. Didn't he -- your

20 witness discussed more than just Exhibit M3. He talked

21 about the histograms, all of them. I just want to ask him

22 the same thing.

23 MR. WEBER: Well, if you can tie it to testimony of our

24 witness, I don't have any problem.

25 MR. BRICKLIN: Well, give me a chance.

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1 May I ask a preliminary question of the witness, Your

2 Honor?

3 HEARING EXAMINER: Again, I'm allowing contextual

4 questions, yes.

5 MR. BRICKLIN: Thank you.

6 **Q. (By Mr. Bricklin) So what do you understand the other**

7 **histograms in this appendix to be?**

8 A. Basically analysis of all the census tracks in the City, but

9 under different definitions of potential displacement,

10 different definitions of income level. And then there are a

11 number of different analyses based on race or ethnicity or

12 cultural identification.

13 **Q. And are the findings that you made relevant to Exhibit M3**

14 **that -- there are 37 -- was that the number, 37 -- census**

15 **tracks --**

16 A. Uh-hum.

17 **Q. -- in that lower right-hand quadrant inconsistent with**

18 **Mr. Welch's testimony?**

19 **Is that -- is there a similar finding with regard to the**

20 **other histograms in this chapter?**

21 A. Yes. And as a matter of fact, as average -- as you look at

22 more impoverished people, less -- you know, as you change

23 the definition and make -- you know, make people -- you

24 categorize people as even less economically advantaged or

25 more economically vulnerable, there are more census track

1 dots below the axis.  
 2 **Q. Can you show me when you mean by that?**  
 3 A. Well, let's see, what's a good example? Well, I mean, I  
 4 think any -- frankly any one of them.  
 5 **Q. Okay.**  
 6 A. You know, interestingly, for instance in Exhibit -- on page  
 7 M13, Exhibit M15, the analysis -- there's a similar analysis  
 8 of number of households -- you know, the census tracks, the  
 9 (inaudible) dots, households earning between 50 and 80  
 10 percent of area household income. So actually people a  
 11 little better off than households earning just 50 percent or  
 12 less.  
 13 **Q. Okay.**  
 14 A. This is actually quite an astonishing chart in my view,  
 15 because the number of dots below the axis in kind of the  
 16 bottom right quadrant where there was increased housing  
 17 production, there are -- but there were a loss in  
 18 economically vulnerable households, they're actually far  
 19 more dots down there now. And the count is actually the  
 20 great majority of census tracks in the City of Seattle in  
 21 that bottom right quadrant showing displacement,  
 22 dislocation.  
 23 **Q. All right. I asked Mr. Welch, perhaps the other City**  
 24 **witness, whether he thought the data was reliable given the**  
 25 **time frame that was used in the analysis, the data. And I**

1 A. That's almost 30 percent. Almost 30 percent. Pretty close.  
 2 A little under.  
 3 **Q. All right. Are the views you're expressing here today**  
 4 **consistent with any statements made in the EIS or its**  
 5 **appendix?**  
 6 A. The statements I'm making consistent?  
 7 **Q. Yes. Yeah. Were you able to -- I thought you mentioned**  
 8 **maybe at the outset today that there is actually language in**  
 9 **the appendix that is --**  
 10 A. Oh, I believe Appendix A -- yeah, Appendix A --  
 11 **Q. All right. So turn to that, if you would please.**  
 12 A. -- treats that topic. All right. Give me a sec here. I  
 13 seem to have lost (inaudible).  
 14 HEARING EXAMINER: How much longer, Mr. Bricklin, do you  
 15 think?  
 16 MR. BRICKLIN: About five to ten minutes at the most.  
 17 HEARING EXAMINER: We'll go and then take a break.  
 18 MR. BRICKLIN: Okay.  
 19 **Q. (By Mr. Bricklin) Are you on -- have you found Appendix A**  
 20 **yet?**  
 21 MR. BRICKLIN: I'm just trying to find it.  
 22 **Q. (By Mr. Bricklin) Oh, turn to -- I'm sorry; I can help you.**  
 23 **Turn to A15.**  
 24 A. Yeah, sorry. Do you recall the As in the page numbers?  
 25 That's what I'm missing. Ah, I was looking for the letters.

1 **noted that the time frame included the recession back in**  
 2 **'09, '11 and such. And he asserted that the data was valid**  
 3 **anyway. Do you agree with that?**  
 4 A. I would disagree, and I would simply bring it back to what  
 5 the Zuk and Chapple study said, very specifically: Great  
 6 recession data used to model displacement nearly certainly  
 7 risks understatement of displacement. I mean, I don't know  
 8 if you -- the data is good to use in terms of its  
 9 appropriate data to look at. But the big caveat here that  
 10 didn't get mentioned was what the author -- the study they  
 11 used in the EIS cites, and that is that great recession --  
 12 and let's not forget, there were two recessions in the time  
 13 period of analysis. There was a tech wreck of 2000, 2001  
 14 and the recovery, and then the great recession, 2007 to 2009  
 15 and the extended recovery from that much larger recession.  
 16 It's perfectly fine data to use, but the literature states  
 17 explicitly the displacement estimates are understated  
 18 because of the great recession specifically.  
 19 **Q. All right. You mentioned that in that first histogram we**  
 20 **looked at there were 37 census tracks that did not fit the**  
 21 **general rule that the City witness testified to. And**  
 22 **earlier you mentioned how many census tracks in the City**  
 23 **overall?**  
 24 A. I believe 131.  
 25 **Q. So 37, it would what -- it would be how much?**

1 Sorry. This is 15. I was looking for A15. Sorry.  
 2 **Q. Yeah, it's just -- you're right, it just says 15. So are**  
 3 **you looking at the page headed Limitations?**  
 4 A. Yes. Page -- yeah, page 15, correct.  
 5 **Q. And is there information on that page that is consistent**  
 6 **with the testimony you're providing here today?**  
 7 A. Yes. I mean, I think most of this page really kind of goes  
 8 into qualifications about all of the analysis, and  
 9 specifically that there are limitations to the data, there  
 10 are certain characteristics that are unique to different  
 11 neighborhoods where general conclusions about what happens  
 12 when you introduce new housing and what effect it might have  
 13 on displacement risk, you know, this page is where they go  
 14 into qualifications saying that's a general rule, it could  
 15 very well happen in certain neighborhoods with unique  
 16 characteristics, that there is higher risk of -- and higher  
 17 risk of a likelihood for displacement in certain types of  
 18 neighborhoods that are contrary to the general rule about  
 19 new supply.  
 20 **Q. And to your knowledge, did the body of the EIS ever carry**  
 21 **through with that concept and seek to identify or alert**  
 22 **readers of the specific neighborhoods?**  
 23 MR. WEBER: Objection; again, this is no longer rebuttal.  
 24 This is just a critique of the EIS.  
 25 MR. BRICKLIN: That's probably my last question, if that

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1 matters.  
 2 HEARING EXAMINER: Sustained.  
 3 MR. BRICKLIN: Let me see if I can ask it a different way.  
 4 **Q. (By Mr. Bricklin) Well, let me have you do this -- and**  
 5 **maybe Mr. Thaler can help you find page 3 -- in the EIS**  
 6 **itself, 3.48.**  
 7 MR. THALER: I can help you out that way.  
 8 **Q. (By Mr. Bricklin) Are you at 3.48?**  
 9 A. 3.48?  
 10 **Q. 3.48, yes.**  
 11 A. Almost. I am there.  
 12 **Q. All right. And in the top paragraph, five lines down, do**  
 13 **you see where it -- in the middle of the line, it says: "At**  
 14 **the neighborhood scale"?**  
 15 A. I see that, yes.  
 16 **Q. It says: "At the neighborhood scale, growth can also**  
 17 **increase the number and diversity of housing choices through**  
 18 **the creation of market rate housing, and growth may also**  
 19 **include the addition of rent and income-restricted housing**  
 20 **through subsidized housing investments." And then it says:**  
 21 **"In some circumstances this can make a neighborhood more**  
 22 **affordable to low- and moderate-income houses than it had**  
 23 **been before; however, it is also possible that new**  
 24 **development can contribute to economic displacement at the**  
 25 **neighborhood scale." Do you see that?**

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1 A. I do see that.  
 2 **Q. Is that statement consistent with the testimony that you've**  
 3 **provided here today?**  
 4 MR. WEBER: Objection; he's just being asked to opine on a  
 5 paragraph of the EIS with no reference to any testimony.  
 6 It's not rebuttal.  
 7 HEARING EXAMINER: His testimony earlier was rebuttal.  
 8 And it's just asking if this is consistent with it. So it's  
 9 elaborating on it, so I'll allow it. Overruled.  
 10 A. Yes, it is.  
 11 **Q. (By Mr. Bricklin) Great. And the next sentence explains**  
 12 **how that effect can occur -- how that --**  
 13 HEARING EXAMINER: Although we don't want to go --  
 14 MR. BRICKLIN: No, I don't.  
 15 **Q. (By Mr. Bricklin) Is that correct?**  
 16 A. Yes.  
 17 MR. BRICKLIN: I'll just leave it at that. Thank you.  
 18 HEARING EXAMINER: All right. We will take a five-minute  
 19 break and be back at -- well, we'll be back at 3:25.  
 20 (Recess)  
 21 HEARING EXAMINER: We'll return with Mr. Reid. Were there  
 22 any questions from Mr. Thaler or Ms. Bendich?  
 23 MS. BENDICH: No.  
 24 HEARING EXAMINER: Cross?  
 25 MR. WEBER: You said no, you don't have --

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1 MR. THALER: No.  
 2 MS. BENDICH: No.  
 3 MR. WEBER: I have no redirect, so I guess we're done.  
 4 MS. BENDICH: Oh, I have one exhibit after Mr. Reid.  
 5 HEARING EXAMINER: After Mr. Reid.  
 6 MR. BRICKLIN: So now you're free to go.  
 7 THE WITNESS: Oh.  
 8 MS. BENDICH: That's it.  
 9 HEARING EXAMINER: Thank you for waiting.  
 10 THE WITNESS: No problem. My pleasure.  
 11 HEARING EXAMINER: And that's it for rebuttal; is that  
 12 correct?  
 13 MR. BRICKLIN: Yes.  
 14 MS. BENDICH: In terms of witnesses, yes.  
 15 MR. BRICKLIN: Other than the exhibit, yes.  
 16 HEARING EXAMINER: All right. Let's go to the exhibit  
 17 now.  
 18 MS. BENDICH: Okay. We'll have this marked then.  
 19 HEARING EXAMINER: This will be marked as 317.  
 20 (Exhibit No. 317 is marked for identification.)  
 21 MS. BENDICH: Okay. This exhibit is -- it's getting to  
 22 the end of the day -- specifically in rebuttal to the  
 23 testimony of Jessica Brand, who was talking about outreach.  
 24 And I had asked her about the -- and she was testifying that  
 25 it had been overwhelmingly great outreach. And I had asked

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1 her about whether it would have been good to have lots of  
 2 copies of the DEIS at public libraries, and she said yes.  
 3 And I asked her whether she knew how many there were, and  
 4 she didn't.  
 5 So this exhibit specifically relates to that. It comes  
 6 from two documents that are exhibits that are already in  
 7 evidence. One is the draft EIS, page Roman Numeral XI. And  
 8 the second page is the final EIS, also at page 11. And the  
 9 third is taken from the Seattle Public Library website that  
 10 shows all of the -- on a map of all the libraries in the  
 11 city.  
 12 So the cover page here from the DEIS says that the draft  
 13 EIS was available at one public library, Seattle Public  
 14 Library. And that was what this exhibit is to show, that  
 15 the outreach to public libraries that Ms. Brand thought  
 16 should have happened, or did happen, actually didn't.  
 17 That's what it's for. That's the purpose.  
 18 HEARING EXAMINER: And are you responding, Mr. Kisielius?  
 19 MR. KISIELIUS: If I may have an opportunity. The first  
 20 two pages are already in the record. I think more  
 21 generally, we have a different recollection of Ms. Brand's  
 22 testimony than what Ms. Bendich just communicated.  
 23 Ms. Bendich asked Ms. Brand about which libraries they were  
 24 located in. She said she wasn't sure. Ms. Bendich showed  
 25 her the page of the draft EIS, she said she wasn't sure.

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1 This is not rebuttal, this is expanding on it. And at the  
2 end of the day, I think it's also irrelevant. I'm not sure  
3 what legal requirement Ms. Bendich would point to as this  
4 being relevant to the adequacy of anything related to this  
5 EIS.  
6 MS. BENDICH: I'm not asking the legal -- I'm not  
7 challenging what the legal requirement is. I'm --  
8 HEARING EXAMINER: So help me understand. We've got two  
9 pages that are already in the record.  
10 MS. BENDICH: They are in the record.  
11 HEARING EXAMINER: We had a witness who said -- I think  
12 she was very clear that as far as she knew -- at least what  
13 I recall -- was that she said there was only one that it was  
14 at.  
15 MS. BENDICH: No, she didn't say that. I had asked her  
16 whether she knew and she said she didn't know. She did not  
17 refer to this page.  
18 HEARING EXAMINER: She thought it was just one.  
19 MS. BENDICH: No.  
20 HEARING EXAMINER: And then you asked if it was -- if more  
21 would be good, and she thought that would be a good idea.  
22 MS. BENDICH: My recollection is different. My  
23 recollection is that she did not know that there was one.  
24 HEARING EXAMINER: Okay.  
25 MR. KISIELIUS: It's still not rebuttal.

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1 MS. BENDICH: What?  
2 MR. KISIELIUS: Sorry.  
3 HEARING EXAMINER: So what's the -- what are you rebutting  
4 about what she said?  
5 MS. BENDICH: I'm rebutting her proposition that she  
6 seemed to be under the impression that this -- the draft EIS  
7 was or should have been in the public libraries throughout  
8 the city.  
9 HEARING EXAMINER: She didn't say they were in libraries  
10 throughout the city, though, did she? Is that what you're  
11 saying, is that she said they were in libraries throughout  
12 the city?  
13 MS. BENDICH: No, she did not say they were in libraries  
14 throughout the city. She said that, as a public outreach,  
15 that would have been appropriate.  
16 HEARING EXAMINER: Yes. So she agreed with your  
17 proposition?  
18 MS. BENDICH: She did. But in fact, they weren't there.  
19 And I'm trying to --  
20 HEARING EXAMINER: So you're just demonstrating that they  
21 weren't there, which isn't rebutting what she said.  
22 MS. BENDICH: All right.  
23 HEARING EXAMINER: And you're doing that through two pages  
24 of this that are already in the record. And you could make  
25 this argument in closing without --

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1 MS. BENDICH: I can't -- well, maybe I need guidance from  
2 you. Because the last page of this exhibit is how many  
3 libraries there are in the City of Seattle.  
4 MR. BRICKLIN: He could take judicial notice of that.  
5 MS. BENDICH: Or you could take judicial notice of it. It  
6 is a City website.  
7 HEARING EXAMINER: I think that's fine. And I'm not going  
8 to get into the relevancy. I think there's a whole question  
9 of whether the witness really was getting at anything in the  
10 whole public process, but she was here and the City called  
11 her and --  
12 MS. BENDICH: Okay. So that's fine.  
13 HEARING EXAMINER: So I could take judicial notice of  
14 that.  
15 MS. BENDICH: That's fine. Then that's enough.  
16 HEARING EXAMINER: Okay. So in your -- so I'm not going  
17 to -- I'm going to deny the exhibit, so we don't have  
18 another exhibit --  
19 MS. BENDICH: I understand.  
20 HEARING EXAMINER: -- for the last two documents. If you  
21 want to in your closing mention this as an argument, you  
22 could simply indicate in a footnote judicial notice for --  
23 MS. BENDICH: That's fine.  
24 HEARING EXAMINER: And just be careful with the judicial  
25 notices on everything else. I'm expressly giving it for

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1 that item.  
2 MS. BENDICH: Okay. All right. And I would -- actually,  
3 I'll withdraw the exhibit. Why don't we do it that way.  
4 HEARING EXAMINER: Yeah, that's fine. We'll take the  
5 sticker off and hand it back. We've got a couple of other  
6 things to hand back too.  
7 Anything else from the parties before I go on to talk  
8 about closing?  
9 Okay. So I've got this for you. And this is also yours,  
10 I believe.  
11 MS. BENDICH: Oh, it's just a notebook.  
12 HEARING EXAMINER: Yes. And this is for Mr. Thaler. We  
13 did not use this.  
14 MR. THALER: Yes.  
15 HEARING EXAMINER: All right. And I'm sorry, is there  
16 anything else from the parties? So both parties rested and  
17 closed their cases as I understand it.  
18 Let's talk to closing arguments then. We've set dates for  
19 the opening brief for September 24th, and response brief  
20 will be October 10th. I would ask now for an extension from  
21 the parties for me to get a decision out. It's an extensive  
22 record and I imagine that it will take me through October to  
23 do it, even if my schedule stays open, which I doubt it  
24 will, based on the motions and such I'm getting from other  
25 cases. So I would anticipate trying to get it out in the --

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1 hopefully the first week of November. If for some reason  
 2 it's delayed more than that, I would contact the parties.  
 3 But essentially I need an extension on the timeline to make  
 4 that decision.  
 5 MR. WEBER: The City is fine with that.  
 6 MS. BENDICH: And certainly I'm fine with that.  
 7 MR. BRICKLIN: I'm fine.  
 8 HEARING EXAMINER: All right. Thank you.  
 9 Briefly -- and I'll state this because I know that we may  
 10 have other parties that are not here -- the representatives  
 11 are not here and they may want to hear this as well. So if  
 12 this is news you don't need, that's fine, but I just want to  
 13 make sure everyone understands at least some of the rules of  
 14 what we'll be doing.  
 15 Be sure that we're citing to specific documents and  
 16 sections of the EIS to support arguments. Generalized  
 17 statements are simply -- it's simply that, and I do look to  
 18 your briefing. I very much use these as a guide through  
 19 what your argument is. And so citing to those is essential.  
 20 Similarly, tying explicit arguments together by referencing  
 21 testimony and documents and evidence in the record by citing  
 22 to those documents.  
 23 Be sure to explicitly tie arguments together based on SEPA  
 24 law, with a strong emphasis -- we've already had some of  
 25 this, we get to WACs first, but the Seattle Municipal Code

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1 has its own SEPA section. And I am a creator of the code.  
 2 I was created by the Seattle Municipal Code, and I look to  
 3 that first, recognizing that there is a body of law outside  
 4 of that that I would certainly reference to. But I  
 5 encourage parties to look to the SMC first.  
 6 Make sure that you argue the issues that you want a  
 7 decision on. A notice of appeal from multiple parties with  
 8 multiple issues is rather sprawling. If any issue is not  
 9 addressed in closing or if it's just raised and dropped, I  
 10 will not decide on it. I will simply assume that you've  
 11 dropped it. So much for Briefing 101.  
 12 The -- I'd like to set a page limit. We've got a lot  
 13 here. I won't set it low, but I'd like to have the parties  
 14 let me know what they think they can do, keeping in mind  
 15 when I was trying to do this, it was clear, concise and  
 16 short and I cringed when I went over 20 pages. A record  
 17 like this, obviously it will be more than that. And we all  
 18 remember the civil case in 101 where -- I think it was a  
 19 medieval court, where the judge sentenced the lawyer to wear  
 20 his brief around his neck around the courtroom, but it was  
 21 too thick. So --  
 22 MS. BENDICH: I missed that in my class.  
 23 HEARING EXAMINER: So what would the parties need or --  
 24 MR. WEBER: Could I ask a clarifying question on that  
 25 which will help educate us?

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1 HEARING EXAMINER: Yes.  
 2 MR. WEBER: Are the appellants going to coordinate and  
 3 submit a single brief or is each appellant going to submit a  
 4 separate brief?  
 5 HEARING EXAMINER: I'm -- they are separate parties.  
 6 MS. BENDICH: They're separate -- we're separate appeals.  
 7 HEARING EXAMINER: I'm not -- I would be --  
 8 MR. BRICKLIN: (Inaudible).  
 9 HEARING EXAMINER: Yeah. I mean, I can answer for them.  
 10 They will be submitting separate ones.  
 11 MR. WEBER: So I think that -- for the City to be able to  
 12 answer how much we need, we need to know how much they  
 13 intend to --  
 14 HEARING EXAMINER: That's a good point. You will have a  
 15 higher burden there with page numbers. So we can weigh  
 16 that. What do the appellants need?  
 17 MS. BENDICH: I'm trying to look at it versus Friends of  
 18 Ravenna Cowen exclusively, versus SCALE, which has 27 some  
 19 coalition members, many of whom gave testimony in the case  
 20 for their particular urban village. So it's a --  
 21 HEARING EXAMINER: Well, we'll let the representatives  
 22 speak for themselves.  
 23 MS. BENDICH: Yeah. So that's a huge -- to me just a huge  
 24 magnitude of difference. So I always like to start with  
 25 more and hope -- in terms of allowed, I hope that I reduce

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1 it down. So I'd rather overstate it than understate it,  
 2 because I'm just worried about that.  
 3 And the other thing that I think might cut it down is  
 4 if -- let's say Mr. Bricklin gives all the great legal  
 5 arguments, whether it's possible just to refer to those and  
 6 then be specific -- just say see section blah, blah, blah of  
 7 Mr. -- SCALE's response, so I don't need to repeat it.  
 8 So that's my quandary at this point because I just don't  
 9 know. But I would say probably 50 pages. And I would  
 10 probably hope to get it down substantially shorter than  
 11 that, but I can't know at this point.  
 12 HEARING EXAMINER: As to Mr. Bricklin and Mr. Thaler.  
 13 MR. THALER: Well, I have a suggestion that makes briefs  
 14 easier to work with. And aside from the page number, you  
 15 know, our legal briefing structure footnotes drives me  
 16 crazy. I think -- and I don't know if you're willing to  
 17 entertain this or even counsel will agree with this. I  
 18 think endnotes make more sense, because then you can  
 19 actually have them and it's just -- it's more academic and  
 20 cleaner, the brief is cleaner. And then the page constraint  
 21 could be lower, like a 50-page limit, you could say 40  
 22 (inaudible) endnotes. You know, all the citations. Then  
 23 the citations and the notes can be more complete and  
 24 explanatory without -- if they're not, you know, verbose.  
 25 HEARING EXAMINER: All right. Mr. Bricklin.

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1 MR. BRICKLIN: I'm not sure what we need. It's  
 2 intimidating to think about all the issues and all the  
 3 evidence that's come in. And -- I don't know. Of course,  
 4 we also have -- I'm thinking out loud here. We also have a  
 5 rebuttal brief --  
 6 HEARING EXAMINER: That's right.  
 7 MR. BRICKLIN: -- which should be rebuttal, but still it  
 8 will give us some opportunity to discuss some things in more  
 9 detail, I suppose. And I'm very well aware of the idea  
 10 that, you know, less is more in these things, you know. I  
 11 don't relish your situation, having to read 500 pages of  
 12 briefing.  
 13 HEARING EXAMINER: If I -- that's -- you know, if we set  
 14 it at 50, that's what we're talking about.  
 15 MR. BRICKLIN: Yeah. So, I mean, it's going to be a lot.  
 16 Even half of that would be --  
 17 HEARING EXAMINER: There is a human being (inaudible).  
 18 MR. BRICKLIN: Right. Even half of that would be a lot.  
 19 I know. I'm struggling with my -- the conflicting thoughts  
 20 about, on the one hand, doing justice to the numerous issues  
 21 and all the evidence on the one hand, and then on the other  
 22 hand making this reasonable for you. So I guess I'm  
 23 thinking 50 pages just because anything longer than that  
 24 sounds too much, and 50 pages is probably not going to be  
 25 enough, but we'll figure out a way to make it enough is kind

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1 of what I'm thinking.  
 2 MR. THALER: You know, I kind of agree with that. I think  
 3 for Fremont's perspective, my issues are smaller. I'm  
 4 willing to try -- I'm willing to go to 40, but I'll  
 5 appreciate being able to pull the footnotes out.  
 6 HEARING EXAMINER: So I'm not trying to restrict the  
 7 capacity of a party to make their argument, so I agree with  
 8 Ms. Bendich, we need to give room for that but set a ceiling  
 9 on it. So I think 50 makes sense to me for appellants'  
 10 opening briefs, keeping in mind, though, that if you can  
 11 make clearer and succinct argument, and I can pick up a  
 12 document and read it and it ends at 20 pages, that's going  
 13 to be a very clear, good argument that is going to get its  
 14 word across as opposed to -- and recognizing that some of  
 15 you are dealing with multiple issues.  
 16 MS. BENDICH: Right.  
 17 HEARING EXAMINER: But if somebody's got two or three  
 18 issues and they max out to 50, it's simply not convincing,  
 19 it's just a lot of words to read.  
 20 MR. BRICKLIN: How many of us are going to file briefs, do  
 21 we think?  
 22 MS. BENDICH: We don't -- I don't know. Certainly West  
 23 Seattle will and Juno will.  
 24 MR. BRICKLIN: Juno will. So there's five right here.  
 25 MS. BENDICH: And I don't know about Beacon Hill and

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1 Orting Junction and (inaudible).  
 2 HEARING EXAMINER: Well, we'll see how that goes.  
 3 MR. BRICKLIN: Some of these -- yeah, what I'm thinking is  
 4 in terms of setting a limit for the City that corresponds to  
 5 ours, some of ours -- while there's a 50-page limit, I'll  
 6 bet you some of ours are not going to be anywhere close to  
 7 50.  
 8 MS. BENDICH: I agree.  
 9 MR. BRICKLIN: So I'm thinking if you give us an  
 10 opportunity over the weekend to survey our side of the  
 11 table, we might be able to say while the larger briefs would  
 12 have a 50-page cap, some of the others are agreeing to a 20-  
 13 or 25- to 30-page cap, something less, and then we could  
 14 give the City -- you know, add those up and give the City  
 15 the corresponding amount, I suppose.  
 16 HEARING EXAMINER: Well, let's look at the worst-case  
 17 scenario, everybody wants to use 50. What does the City  
 18 need?  
 19 MR. WEBER: For our opening?  
 20 HEARING EXAMINER: Yes.  
 21 MR. WEBER: I think we would need 75. I mean, we're going  
 22 to have a huge --  
 23 HEARING EXAMINER: I think that's fair.  
 24 MR. BRICKLIN: All right. Regardless? All right. So  
 25 you're right.

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1 MS. BENDICH: That's fine.  
 2 HEARING EXAMINER: And I'd like the responses to be half  
 3 that, 25.  
 4 MR. WEBER: Yeah, from the City's standpoint, I think we  
 5 probably need even more than 75 for our response --  
 6 HEARING EXAMINER: Actually responding to everything at  
 7 that point, I see.  
 8 MR. WEBER: Because we clearly have a hundred --  
 9 HEARING EXAMINER: Let's say 75, because you're going to  
 10 do your opening, and so you're -- okay.  
 11 MR. WEBER: We're going to be responding to hundreds of  
 12 pages of briefs in our response, and I think we need at  
 13 least a hundred pages as a -- to reasonably respond to that.  
 14 I'm hoping we don't use that, but I have to be cognizant of  
 15 the fact we just are going to have a huge amount to respond  
 16 to.  
 17 HEARING EXAMINER: Let's -- keeping that in mind, I was  
 18 distracted by the stage of when we would do this, and I'd  
 19 actually like to give the City less to begin with. You've  
 20 got -- you don't have as much work in the beginning, in your  
 21 opening.  
 22 MR. WEBER: Okay.  
 23 HEARING EXAMINER: So I'd like to do 60 for that.  
 24 MR. WEBER: That's fine.  
 25 HEARING EXAMINER: And then a hundred for the response.

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1 MR. WEBER: Okay.  
 2 HEARING EXAMINER: Fifty and 25 for the appellants. Okay?  
 3 MR. THALER: So the City's opening is 75?  
 4 HEARING EXAMINER: No, 60.  
 5 MR. THALER: Sixty.  
 6 MS. BENDICH: Sixty.  
 7 HEARING EXAMINER: All right. Let me touch briefly on a  
 8 few issues that I hope you'll get to. This is by no means  
 9 an exhaustive list. It's a short attempt -- a very limited  
 10 attempt to come up with a few things that I'm thinking  
 11 about, and there are many, many pages more than this in my  
 12 notes that I simply didn't get a chance to review before we  
 13 got to today.  
 14 One of the central issues is that we have come up against,  
 15 towards the end of the hearing of course is this: Does the  
 16 programmatic EIS and the project-level SEPA analysis  
 17 adequately analyze the potential impacts associated with the  
 18 upzone? Does that encompass the anticipated impacts or not?  
 19 MR. BRICKLIN: Could you state that again?  
 20 HEARING EXAMINER: Yes.  
 21 MR. BRICKLIN: I didn't quite understand it.  
 22 HEARING EXAMINER: So we have at issue, a programmatic  
 23 EIS, and the anticipation that the only additional SEPA  
 24 analysis will be at the project level. And does that  
 25 adequately analyze the potential impacts associated with the

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1 upzone?  
 2 As I understand it at least, part of where the appellants  
 3 have been going with their argument is that there's some  
 4 level needed more, not just attacking the adequacy of the  
 5 current EIS before us, but that there should be some  
 6 additional fees later.  
 7 MR. THALER: Is that -- may I ask a question?  
 8 HEARING EXAMINER: Sure.  
 9 MR. THALER: Is that kind of related to whether the  
 10 mitigation has been properly prescribed?  
 11 HEARING EXAMINER: No.  
 12 MR. THALER: It's totally separate?  
 13 HEARING EXAMINER: Um-hum. But that is an issue that you  
 14 raised. And again, this is not meant to be an exhaustive  
 15 list of all issues by any means.  
 16 Have the appellants demonstrated a reasonable likelihood  
 17 of significant negative environmental impacts that are not  
 18 addressed by the EIS? And that could actually overlap with  
 19 that last issue, or not, that needs to be addressed in  
 20 additional SEPA review later or that wasn't in this EIS.  
 21 There's two prongs to that.  
 22 And lastly on that same thread, frankly, I have a question  
 23 of whether the additional phases of SEPA, if there is this  
 24 argument that additional SEPA review is necessary for this  
 25 proposal, is that within my jurisdiction to review given

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1 that the challenge as to the adequacy of this EIS, and that  
 2 there is no specific proposal associated with this EIS?  
 3 MR. BRICKLIN: So you said if additional SEPA review is  
 4 necessary. You mean later?  
 5 HEARING EXAMINER: So it's the same --  
 6 MR. BRICKLIN: Not now.  
 7 HEARING EXAMINER: Yeah. Right. Not -- within the  
 8 context of this EIS itself, that's one of the challenges --  
 9 and in fact predominantly I think the challenges of where  
 10 we're at: Alternatives, the adequacy of the review of  
 11 impacts, et cetera. But part of the theme of this has been  
 12 that not enough review was done such that there may need to  
 13 be later review. And I don't -- I'm asking, is -- about  
 14 whether that's in my jurisdiction to address or not.  
 15 MS. BENDICH: What if --  
 16 HEARING EXAMINER: You know, if parties are going to argue  
 17 that this should be supplemented or an addendum or later  
 18 phases are needed, or that the infrastructure, the theme --  
 19 the layout of a programmatic EIS process project-level SEPA,  
 20 is that -- if the argument is that's not adequate to cover  
 21 the scope of impacts for this proposal, which seems to be  
 22 part of the argument, is that argument within my  
 23 jurisdiction?  
 24 MR. THALER: Is it the argument -- are you asking about  
 25 whether the argument is within your jurisdiction or whether

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1 you have jurisdiction to direct what the City does? I'm  
 2 not --  
 3 HEARING EXAMINER: Both.  
 4 MS. BENDICH: Okay.  
 5 HEARING EXAMINER: I mean, if the argument is within my  
 6 jurisdiction, then I can direct on it. If it's -- if I  
 7 can't do anything about the need for additional SEPA  
 8 review -- let's -- if this EIS is adequate for its purposes,  
 9 it's a programmatic EIS but more could be or should be done,  
 10 is that --  
 11 MR. THALER: Well, that raises the legal question in my  
 12 mind, is what would require something additional?  
 13 MS. BENDICH: That's why he's asking that.  
 14 HEARING EXAMINER: Well, that was my earlier question.  
 15 And if that's not an argument of appellants, then you don't  
 16 need to address that question. But that's certainly at  
 17 least part of the theme I've heard you getting at.  
 18 MS. BENDICH: Oh, all right. So for instance -- maybe  
 19 this is part two and not number one on the question. But  
 20 assuming it were possible or in your decision, you decided  
 21 that it was -- it was -- we weren't going to reach that  
 22 issue and we were just going to look at different sections,  
 23 for example, it might be -- there might be a finding, well,  
 24 yes, it's adequate here, but not adequate there. That's not  
 25 what you're saying with respect to the first issue. I mean,

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1 you would have jurisdiction under the proposed --  
 2 HEARING EXAMINER: Any -- it's very clear that any  
 3 challenge to the adequacy of this EIS is in my jurisdiction.  
 4 That's not the --  
 5 MS. BENDICH: Okay.  
 6 HEARING EXAMINER: -- question. But the suggestion has  
 7 been that there's a proposal and that there are impacts  
 8 associated with it that may come from this proposal, that go  
 9 beyond what this programmatic EIS has covered --  
 10 MS. BENDICH: Oh, I see.  
 11 MR. BRICKLIN: Oh, now we know where you're going.  
 12 MS. BENDICH: I know what you're saying.  
 13 HEARING EXAMINER: -- and will not be covered by project  
 14 level.  
 15 MS. BENDICH: I understand.  
 16 HEARING EXAMINER: You've all said that. I mean, you all  
 17 said project level is not going to get to this.  
 18 MS. BENDICH: Right.  
 19 HEARING EXAMINER: So the City says, well, it's  
 20 programmatic EIS, so we don't have to cover it here.  
 21 MS. BENDICH: I see.  
 22 HEARING EXAMINER: Was that right?  
 23 MS. BENDICH: I see. Okay.  
 24 HEARING EXAMINER: That's all I have, just because the  
 25 rest of it is pretty clear in their notice of appeal, the

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1 various impacts and the adequacy of the analysis --  
 2 alternatives analysis, et cetera.  
 3 MR. BRICKLIN: Can I just ask for clarification? I  
 4 thought I understood --  
 5 HEARING EXAMINER: Yes.  
 6 MR. BRICKLIN: -- but maybe I don't. For a second the  
 7 light went on. But for --  
 8 HEARING EXAMINER: This is all on tape, too.  
 9 MR. BRICKLIN: Yeah, I understand. My understanding from  
 10 conversing with Ms. Newman is that there has been discussion  
 11 here about the relevance of the council bill that has been  
 12 introduced, and whether this EIS is adequate for that. And  
 13 are you -- that's a different --  
 14 HEARING EXAMINER: I'm not going --  
 15 MR. BRICKLIN: That's not an issue you're asking about  
 16 here?  
 17 HEARING EXAMINER: No, I'm not. Yeah, it sounds like --  
 18 and I understand why you'd ask the question.  
 19 MR. BRICKLIN: Yeah.  
 20 HEARING EXAMINER: But that was denied as argument, and it  
 21 didn't come up again. It was suggested that we might get  
 22 into that, but we actually never did. That reminds me, we  
 23 have a document that was being held for that. Exhibit 273.  
 24 Ms. Newman indicated that she would come back to that  
 25 argument, but didn't.

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1 MR. BRICKLIN: Yeah. And actually she asked me to -- she  
 2 was -- I'm certain she believed that you were intending to  
 3 deny its admission but believed that that ruling never was  
 4 expressly made and asked me to request that you make the  
 5 ruling on the record so that there's a record of your --  
 6 HEARING EXAMINER: Yes, yes. And so I'm --  
 7 MR. BRICKLIN: You're denying it?  
 8 HEARING EXAMINER: Yes.  
 9 MR. BRICKLIN: All right. Thank you.  
 10 HEARING EXAMINER: Yeah, we did need that closed. She had  
 11 simply -- we did leave it open and she said she'd come back  
 12 to it. So we just did.  
 13 MR. THALER: So the physical piece of paper, do you hand  
 14 it back to us?  
 15 MR. BRICKLIN: No. No, it's part of the record.  
 16 MS. BENDICH: No, no. She wants it in the record.  
 17 HEARING EXAMINER: No, it's part of the record.  
 18 MR. BRICKLIN: It's just not admitted.  
 19 HEARING EXAMINER: It's part of the record as a denied  
 20 Exhibit 273.  
 21 MR. THALER: Okay.  
 22 HEARING EXAMINER: Which gives the opportunity for  
 23 appeal --  
 24 MR. THALER: Right, right.  
 25 HEARING EXAMINER: -- questioning on that issue.

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1 Do the parties need anything else from me or any  
 2 additional comments, questions, et cetera?  
 3 MR. BRICKLIN: No. But I want to thank the City Council  
 4 lawyers for -- they've been great to work with, and Your  
 5 Honor has been great to -- you've done a great job -- I  
 6 think everybody's done a great job of orchestrating a very  
 7 challenging proceeding. And we all know in how many  
 8 different ways it is very challenging. And I -- and we're  
 9 finishing on time and --  
 10 MR. WEBER: We express our appreciation to everyone as  
 11 well.  
 12 MR. BRICKLIN: Right. Yeah, no one threw anything at  
 13 anybody and -- really, I think we all did a very good job.  
 14 And it's great lawyering with people who are responsible  
 15 that way, professionals, it's wonderful.  
 16 HEARING EXAMINER: Your comments are much appreciated,  
 17 Mr. Bricklin. I also would like to thank the parties for  
 18 their courtesy to each other, for your courtesy to the  
 19 witnesses, and for your efforts to facilitate and the hard  
 20 work that you did to coordinate a challenging schedule over  
 21 a four-week period. I'm well aware of the tension between  
 22 the City struggling to address the need for affordable  
 23 housing and the neighborhoods striving to retain their  
 24 unique character and historic resources. And it's  
 25 undeniable in some respects as part of a historic effort by

1 the City and the tensions that that brings with it are not  
 2 always easy to keep contained.  
 3 I have a role in this to address only the adequacy of the  
 4 review of the EIS. And the greater debate of how to best  
 5 increase affordable housing and otherwise ensure the Seattle  
 6 neighborhoods remain unique and desirable places to live is  
 7 something I know you all carry on beyond this moment and  
 8 this place. I appreciate being a part of it, and I feel  
 9 privileged to have had the opportunity to participate in it  
 10 and will engage in my role and execute to the best of my  
 11 ability. I may see you again if we do oral argument, but  
 12 we'll leave it at that for now. Thank you.

13 MR. BRICKLIN: Thank you.

14 MS. BENDICH: Thank you very much.

15 MR. WEBER: Thank you.

16 (Conclusion of hearing on September 7, 2018)

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C E R T I F I C A T E

1  
2  
3 STATE OF WASHINGTON )  
4 ) ss  
5 COUNTY OF KING )  
6

7 I, the undersigned, do hereby certify under penalty  
 8 of perjury that the foregoing court proceedings were transcribed  
 9 under my direction as a certified transcriptionist; and that the  
 10 transcript is true and accurate to the best of my knowledge and  
 11 ability, including any changes made by the trial judge reviewing  
 12 the transcript; that I received the audio and/or video files in  
 13 the court format; that I am not a relative or employee of any  
 14 attorney or counsel employed by the parties hereto, nor  
 15 financially interested in its outcome.

16  
17

18 IN WITNESS WHEREOF, I have hereunto set my hand  
 19 this 17th day of September, 2018.

20  
21  
22  
23  
24  
25

  
 Bonnie Reed, CET

