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BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In the Matter of the Appeals of)	Hearing Examiner File:
)	W-17-006 through
WALLINGFORD COMMUNITY)	W-17-014
COUNCIL, ET AL.)	
)	
Of Adequacy of FEIS Issued by the)	
Director, Office of Planning and)	
Community Development)	
)	

FRIENDS OF RAVENNA-COWEN

TRANSCRIPT EXCERPTS OF KATHERINE WILSON

1 testimony, such as Mr. Bricklin. He's not here this week;
 2 he may be here next week. But there may be testimony at the
 3 end of the week, which is continued to the following week,
 4 but he wasn't here for it. And he may have questions of
 5 that witness. So I'm not going -- so my issue is, I'm
 6 concerned that if Mr. Kisielius is allowed to do -- take
 7 over to defend this witness, will our attorneys have the
 8 same opportunity to do that if there's a witness that's been
 9 continued to the following --
 10 HEARING EXAMINER: The issue with the counsel you
 11 mentioned is that he's counsel for a separate party. You
 12 are not -- even though you are all on the same team, you are
 13 not representing the same parties. And so I wasn't going to
 14 allow another party to have an opportunity for questioning
 15 when that party's representative had not appeared.
 16 MS. BENDICH: Okay. I wasn't aware of what the rationale
 17 was. So you're saying --
 18 HEARING EXAMINER: I would certainly allow Mr. Bricklin
 19 and Ms. Newman to substitute in and out for each other if
 20 their firms of schedule called for that.
 21 MS. BENDICH: Okay.
 22 HEARING EXAMINER: That's common practice.
 23 MS. BENDICH: All right.
 24 HEARING EXAMINER: I would certainly allow that. But if a
 25 party's representative isn't even in the room, I'm not going

1 programmatic EIS.
 2 **Q. I would prefer that you not use the word "we." I would**
 3 **prefer that you say specifically what each of these**
 4 **individuals with -- for whom you said you had discussions**
 5 **stated.**
 6 A. Mm-hmm. Okay. Okay. Paula Johnson discussed the typical
 7 level of detail for programmatic EIS. She, Paula Johnson,
 8 and I discussed programmatic EISs that I had worked on and
 9 that she had supervised, so that would include Seattle
 10 Public School Districts Building for Excellence 4 and 5
 11 programmatic EISs. I know that's a mouthful. Those were
 12 two separate programmatic EISs.
 13 Specific topics within that were the scope of the
 14 affected environment, so the level of detail that would be
 15 appropriate to characterize the affected environment within
 16 the study area for that particular -- for the MHA
 17 programmatic EIS. We, Paula Johnson and I, discussed the
 18 available information that could be used. And so then
 19 separately, Mark Johnson and I discussed those similar
 20 issues, so --
 21 **Q. What did Mr. Johnson say?**
 22 A. Mr. Johnson provided his opinion on the level of detail for
 23 a programmatic EIS. We, Mark Johnson and I, looked at the
 24 scope of work that was provided and Mark Johnson and I
 25 discussed how we might use the information available to

1 to allow that party a shot to ask questions of a witness
 2 that they --
 3 MS. BENDICH: Okay.
 4 HEARING EXAMINER: -- if they didn't have the time or
 5 chose not to show up for it.
 6 MS. BENDICH: All right. But because it's the same -- I'm
 7 just getting clarity -- because it's the same party, which
 8 is the City, you're saying that they can interchangeably as
 9 well to their attorneys.
 10 HEARING EXAMINER: Yes.
 11 MS. BENDICH: All right. Okay. I'm going to now resume
 12 cross-examination.
 13
 14 **CROSS EXAMINATION**
 15 BY MS. BENDICH:
 16 **Q. Ms. Wilson, I'm Judith Bendich. On July 27th, when**
 17 **Mr. Johnson was asking you questions, you stated that you**
 18 **became aware through Charise Graham about your role in the**
 19 **FEIS -- in the EIS. And you spoke with Paula Johnson about**
 20 **it, and you also met with Mark Johnson. You testified that**
 21 **we discussed the approach to take as a programmatic EIS and**
 22 **the scope. So could you be more specific than that? What**
 23 **did each person suggest as to each of these what a**
 24 **programmatic EIS was and the scope?**
 25 A. Sure. We discussed the typical level of detail for

1 describe the affected environment. And that included
 2 looking at the annexation dates for the City to address the
 3 pattern of growth within the City of Seattle to look at the
 4 state data of known historic resources; those are ones that
 5 are listed or determined eligible for listing in a historic
 6 register. And Mark Johnson and I discussed what maps could
 7 be included. Let me see. We --
 8 **Q. Let's stop you there.**
 9 A. Okay.
 10 **Q. What did he say about maps, and what did you say about maps?**
 11 MR. KISIELIUS: Mr. Examiner, I'm going to object on
 12 relevance grounds. This is an appeal of inadequacy of the
 13 EIS. The words stand for themselves. The testimony that's
 14 being elicited right now as to who said what and when that
 15 led to the work product is not relevant to the issue of
 16 whether the analysis itself is adequate.
 17 MS. BENDICH: I think it goes to we have Ms. Wilson taking
 18 full credit for this EIS, and I want to find out -- and
 19 we're going to have these witnesses testifying -- what each
 20 one played the role in, whether these were directive or not
 21 because that affects what the overall scope of this EIS was
 22 and how it came together.
 23 MR. KISIELIUS: I'll just say that that proves the point
 24 that this is irrelevant whether it was directive or not.
 25 The motive behind what -- and we don't agree with the theory

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

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

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

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

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

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?

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.

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

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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?**

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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**

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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.

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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?**