

BEFORE THE HEARING EXAMINER  
FOR THE CITY OF SEATTLE

Response from  
TreePAC

To the City Council's reply in opposition  
and Declaration of Clara Park to our Motion  
to Intervene in the appeal of the  
Queen Anne Community Council

MOTION TO INTERVENE

HE File Number: W-18-009

Non-Project Action of the Department,  
Seattle City Council Accessory  
Dwelling Units FEIS

TreePAC appreciates the privilege of responding to the City Council's March 14, 2017 reply in opposition to the TreePAC motion to intervene in the appeal of the Accessory Dwelling Units FEIS by Queen Anne Community Council. This response also includes the Declaration of Clara Park, the Department's Legal Counsel from Van Ness Feldman LLP.

As indicated in the Motion for Intervention but not addressed in City Council's reply in opposition, TreePAC effectively argues that their interests in the appeal will "not be adequately represented as evident by the list of witnesses and exhibits presented within the Appellant Final Witness & Exhibit List dated February 12, 2019 and the Department's Final Witness and Exhibit List dated February 19, 2019. The issued ADU FEIS had very limited content and a subjective environmental assessment of the expected reduction of the city's tree canopy. It is also apparent that the lack of witnesses and lack of exhibits relative to the original Subject Appeal tree canopy issues ultimately will not adequately address the impacts without TreePAC's intervention or right to appeal the final order."

This defined intent of the motion has not been denied by any party of the appeal. That intent being had had any party of the appeal made an effort to include witnesses with exhibits to address the environmental impacts of tree loss, TreePAC would not have had to move to intervene. It is the essential purpose of the proposed intervention to have any party of the appeal adequately address the tree loss or remediation issues. We know that Queen Anne Community Council mentions tree losses in the appeal as an issue but they have presented no witnesses or substantive arguments within its appeal document list; nor has the City acknowledged tree losses as an issue as they have not presented within any of their fourteen witnesses to address evidence in this matter. Therefore, TreePAC must be granted the right to intervene because neither the Department nor the appealing parties have shown intent to properly representing the tree issue relative to the ADU FEIS.

As TreePAC finds fault in all parties not representing the environmental consequences of tree canopy loss within their submitted Exhibits and Witnesses, there is no prejudice to the rights of any party in this appeal. Parties to the appeal have failed to address the inadequacies of the SEPA to protect or remediate plants including Heritage and Exceptional trees, but the have also failed to address the wildlife dependent on tree buffers such as the Great Blue Heron habitats. The SEPA checklist indicates that animal review as "Not applicable. The proposal is a non-project action

affecting multiple parcels in the City of Seattle. A variety of birds and animals can be found throughout Seattle.” Residential properties exist within the buffer zones of the Great Blue Heron Management Area, and thereby quite applicable to the scope of the FEIS. Therefore, not only is the the QACC appeal exhibits minimal in its attention to the appeal mentioned trees or tree canopy; the Environmental Checklist prepared with the FEIS is terribly inadequate on trees and wildlife displaced by the proposed modified ADU policies and codes. The QACC has not provided a list of evidence and witnesses about the inadequacy of protecting SEPA Exceptional trees while it challenges the “No impact” to Plants and Animals as stated in the ADU Environmental Checklist and FEIS.

TreePAC’s motion is timely. Contrary to what is suggested, the revelation of the parties’ final witness and exhibit list has only been completed three weeks prior to our motion. Any time extensions to the appeal hearing were applied to the appellant and the City prior to the issuance of the Exhibits and Witness list. As such, the time for TreePAC’s motion shall not be truncated as requested in the City’s reply.

The loss of trees in single family neighborhoods, like a recent project in Wedgwood, a neighborhood that represents single family with a high density of trees and exceptional trees. In a SHORT PLOT SUB-DIVISION DEVELOPMENT at 7500 27th Ave NE, 11 trees were removed and 3 lots created. No trees were preserved, there is limited space for new trees, no landscape plan has been provided online, and no money for replacement trees has been noted, all within a lot with steep slopes. There is no room for additional ADU’s on this property, but it serves as an example that trees, Exceptional or not, are not being preserved within Single-Family zoned developments, regardless of the code requirements. If space was available for additional ADU’s on this or other properties, it is unlikely that trees, exceptional or not, would be preserved. For projects adjacent to Critical Habitat, such as Seattle’s designated Heron Rookeries, the proposed ADU legislation would likely remove any legal protection for trees that provide both visual and noise screening. The addition of ADU's throughout Single-Family zones allows no protection of trees, no space for new trees, no money for replacement trees, even within Critical Areas or Critical Habitats. Addition of ADU's will remove more open space/ tree space. Herons or big trees have no protection and need a voice as represented by TreePAC and its constituents.

## **I. STATEMENTS OF FACT**

1. TreePAC consists of a Board of eleven individuals in a legal political action committee that has consistently supported the retention or mitigation of trees. The committee has requested by motion to participate in the appeal. As evident from the TreePAC website, none of the Board of TreePAC reside within Queen Anne or are members of the Queen Anne Community Council.
2. TreePAC has unique interests in the appeal. Of the City’s fourteen (14) witnesses, none of them are listed to testify on the environmental impacts to the tree canopy. Of the QACC’s three (3) witnesses, none of them are listed to testify on the environmental impacts to the tree canopy.
3. TreePAC has represented city-wide unique interests in the appeal. Members of TreePAC have been active in assuring that the City adequately enforces existing tree protection codes

within single-family and multi-family residential areas. Included is a recent Wedgwood neighborhood short plat subdivision (#3027465 at 7500 27<sup>th</sup> Ave NE) within an ECA environmentally critical area that ultimately removed 11 trees (including a substantial 51” DBH tree) and a Grove of eight trees without an evident revegetation plan or in-lieu funds paid for mediation or replacement. The document notes for the Wedgwood neighborhood lot subdivision (including a critical slope area) removes eleven trees for which nine were in fair or good in health as indicated within the arborists report<sup>1</sup>.

4. TreePAC intervention status in the Appeal will not delay the hearing process in this matter, as TreePAC has not requested to present witnesses or new evidence. The City’s claim that they will not have the time to review new witnesses and evidence is erroneous and goes beyond the scope of the motion for this intervention.
5. TreePAC intervention status in the appeal will not expand the issues beyond those already in the appeal. The motion for intervention clearly delineates the three (3) appeal items that pertain to the environmental impacts of Seattle’s tree canopy.
6. TreePAC intervention status in the Appeal will not prejudice the rights of the parties. Without introducing new witnesses or evidence, TreePAC has no interest nor any ability nor any authority to prejudice the rights of any party. The reply from the City failed to provide any evidence that TreePAC would prejudice their rights within the appeal.
  - a. Demonstrating an association between an architect member of TreePAC with assistance in compiling factual information does not demonstrate how the rights of the City would be compromised in this hearing.
  - b. The City’s claim is analogous to suggesting that since the City of Seattle Office of the Hearing Examiner has one or more position appointed by the Seattle City Council, that there would be judicial prejudice in this hearing. The simple fact that both of these entities are related through appointment does not suggest judicial bias. Nor does it prove that the rights of the other parties would be compromised in this hearing.
  - c. The City’s reply references a drawing titled “Figure 1 Seattle 2016 LiDAR Canopy Cover Assessment by Seattle’s Urban Forestry Team” on the Motion to Intervene Page 4, showing that it a part of the QACC exhibit on Aesthetics. Circumstantially, so it is. Moreover, Figure 1 is part of the City’s Exhibit List: Item number 18 – ‘2016 Seattle Tree Canopy Assessment Report’ (which the motion for intervention Figure refers to as the ‘Seattle 2016 LiDAR Canopy Cover Assessment by Seattle’s Urban Forestry Team’.
  - d. Having this graphic image mutually shown from both QACC exhibit and the City’s exhibit demonstrates (a) there are no new issues of evidence being raised and (b) there is no bias of evidence being referred to in TreePAC’s interests.
7. The appellant and the City of Seattle have failed to present witnesses with exhibits relative to trees within this appeal despite the fact that tree canopy issues have been delineated as a concern by the Queen Anne Community Council several times with their appeal.

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<sup>1</sup> . “Fair=Minor structural defects, not expected to contribute to failure in the near future, no disease concerns, moderate foliage density, cannot be isolated if in group, mostly suitable for location”. No revegetation plans provided online, nor funds noted for replacement of trees as required in the most recent Director’s rule.

In addition, the City's significant witness at the recent FEIS citywide appeal included Seattle City Arborist Nolan Rundquist.

- e. Recordings and city-generated transcripts for the Mandatory Housing Affordability (MHA) appeal hearing (day 9, July 26, 2018) called witness Seattle City Arborist Nolan Rundquist.
  - f. Mr. Rundquist indicated his involvement in Seattle's 2007 Urban Forestry Plan that identified having trees in the city provides multiple environmental benefits (habitat and the like), economic benefits where it reduces storm water and the need for expensive infrastructure, social benefits good for emotional health, and air pollution reduction.
  - g. Mr. Rundquist acknowledged that report cautioned in the attempt to curb urban sprawl by encouraging more growth in the cities that Seattle will have to be careful because if we lose our trees, people aren't going to want to live in the city.
  - h. Mr Rundquist also concurred that the report said that the city's regulations to hold on to the trees were inadequate and called for stronger regulations, but by the time of a subsequent 2013 report that there were no stronger regulations adopted and stronger regulations was still needed for privately maintained trees or private property trees.
  - i. As indicated in our motion and in the testimony of Mr. Rundquist, the City has still not adopted any stronger regulations by 2017 causing the Mayor issued an Executive Order that called for stronger regulations.
8. The above comments on the inadequacy of the current tree ordinance and the delay of a new one; as well as the heritage tree program; as well as the minimum soil area needed to plant trees; as well as street tree surveys and permits were comments that Richard Emerson of TreePAC submitted to the DEIS and the same comments he included within a ADU petition that received over 100 signers. And some excerpts from the Office of City Auditor, Management of City Trees, May 15, 2009, Summary of Findings and Recommendations.
  9. As indicated in the motion, TreePAC would be willing to minimally intervene for the sole purpose of preserving the right to appeal (as such intervention may be permitted at any time up to the start of the hearing.)
  10. Although not frequent, there are certainly other recent examples of an entity who has not filed an appeal but have requested and been granted the ability to participate in the appeal via intervention. In the Seattle case of W-16-006 to W-16-008, both WSDOT and King County were granted intervention rights despite their stated purpose as additional respondents to those issues unlikely to be adequately covered by the Seattle Department of Transportation.

## **II. REBUTTAL to CITY COUNCIL'S RESPONSE IN OPPOSITION**

1. In rebuttal to the City response on Page 3 line 3, TreePAC disagrees to assessment that "QACC is actively pursuing and litigating this [tree canopy] issue". Of the QACC's three (3) witnesses, none of them are listed to testify on the environmental impacts to the tree canopy. Likewise, of the City's fourteen (14) witnesses, none of them are listed to testify on the environmental impacts to the tree canopy.
2. TreePAC concurs that one of their members played a role in the compiling of one of QACC's reports on the aesthetic impacts. In rebuttal to the City response on Page 3 line 12, TreePAC is represented by individuals of multiple backgrounds each supporting various

causes within their respective fields, not unlike members of other political action committees – or even the represented diversity of the Seattle Urban Forestry Commission. The referenced exhibit prepared under the direction of witness Martin Kaplan pertains to aesthetic impacts and not to the issues related to the tree canopy. Moreover, Line 16 states that the “exhibit includes evidence relating to the tree canopy issues, including the same illustration of the “heat island effect”. The City response, however, fails to mention that the same image, Figure 1, is also part of the City’s Exhibit List: Item number 18 – ‘2016 Seattle Tree Canopy Assessment Report’. Accordingly, TreePAC disagrees that this single image confirms that QACC represents TreePAC’s involvement as claimed on the following page, Line 15.

3. Given that TreePAC has not requested any new witnesses or evidence of fact, we further disagree to their statement that “the Motion is at heart a late attempt to appeal the FEIS by substituting means and to circumvent the deadlines or exchanging witness and exhibits lists.”
4. Similarly, as TreePAC has not requested for any new witnesses or exhibits within their motion, TreePAC disagrees with the City’s claim that the motion “would prejudice the City’s ability to prepare its case” (Page 5, Line 10). TreePAC has requested within our motion - as a minimum - to intervene for the sole purpose of preserving the right to appeal. TreePAC has requested that the “Hearing Examiner grant its motion to intervene in the appeal by allowing participation without directly adding days in the hearing schedule.” (Motion conclusion, page 8).
5. TreePAC disagrees with footnote 9 on page 5 stating the proposal would not reduce minimum lot sizes allowed to include ADU; as the FEIS clearly states the minimum lot size threshold would be reduced from the existing 4,000 square foot lot to the FEIS-proposed minimum lot size of 3,200 square feet.
6. Similarly, TreePAC disagrees with footnote 9 on page 5 stating the proposal would not “allowing potentially increased lot subdivision within SF zones”. The ADU FEIS Exhibit 4.2-5 clearly states that “About eight percent [of single family lots] have at least twice the minimum area required by zoning, meaning the *lot could theoretically be subdivided into two lots.*” (Emphasis added).
7. TreePAC requests the full deposition of Martin H. Kaplan be submitted by Clara Park as Exhibit A for TreePAC to comment. The provided document should be 102 pages whereas only fourteen pages were provided.
8. TreePAC disagrees that our intervention will prejudice the City as stated in the response in opposition, as TreePAC takes issue with all parties failing to provide witnesses to testify on the adequacy or inadequacy of the appeal relative to the environmental impacts of Tree Canopy loss. The City’s arborist has already testified on the recent city-wide MHA appeal that trees have significant environmental benefits that would be adversely impacted by continued inaction or lack of consideration to tree loss on private property. About two-thirds of Seattle’s tree canopy exists on private property within Single Family zones where the changes to the ADU policies are being considered. FEIS evidence clearly shows significant reductions in tree canopy coverage with new residential family developments.

In conclusion, TreePAC has identified why the City’s opposition to the motion is without merit and, therefore, seeks for the Hearing Examiner to allow TreePAC to intervene in these proceedings of the ADU FEIS appeal.

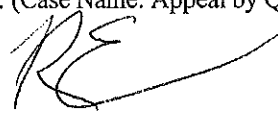
On behalf of the TreePAC this 18th day of March, 2019.

By: \_\_\_\_\_  
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**Certificate of Service**

I certify under penalty of perjury under the laws of the State of Washington that on this date I sent true and correct copies, via e-mail (and mail), of the attached Response from TreePAC to the City Council's reply in opposition and Declaration of Clara Park to our Motion to Intervene in the appeal of the Queen Anne Community Council for the Hearing Examiner File No. W-18-009. (Case Name: Appeal by Queen Anne Community Council on the Accessory Dwelling Units FEIS) Filed: 10/18/2018



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1 street tree manual so that we had continuity between all the  
 2 documents. And this is a basic plan that documents the  
 3 areas around which a tree's root system should be protected  
 4 during construction, given various -- you know, various  
 5 options.  
 6 Q. And so in your experience, existing trees are able to be  
 7 preserved through protection during construction process?  
 8 A. Yes.  
 9 MR. MITCHELL: Move for the admission of the Exhibit 222.  
 10 MS. BENDICH: No objection.  
 11 HEARING EXAMINER: 222 is admitted.  
 12 (Exhibit No. 222 admitted into evidence.)  
 13 Q. (By Mr. Mitchell) Are there requirements specifically for  
 14 downtown city trees as to the amount of square footage that  
 15 it -- a minimum square footage in order to plant a tree?  
 16 A. Yes. It's not in the street tree manual, but in our  
 17 right-of-way manual, we require a minimum of 500 cubic feet  
 18 of soil to be available when a new tree is planted for  
 19 downtown development.  
 20 Q. Uh-huh. And in your opinion, that's enough soil space for a  
 21 tree to be able to grow?  
 22 A. It's enough soil space for a moderately-sized tree to -- to  
 23 be established.  
 24 Q. Uh-huh. And even though there's really not a minimum like  
 25 in -- you said that only applies to a limited area of

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1 downtown?  
 2 A. That's correct.  
 3 Q. Okay. But is there any reason -- is it your opinion that  
 4 even outside of that area that that would be an adequate  
 5 minimum amount of soil space for a tree to be planted?  
 6 A. As far as a minimum, yeah. I mean, obviously the more space  
 7 you have, the better for the tree, but, again, that was  
 8 established so we would at least have a minimum amount of  
 9 space that something could get established.  
 10 Q. And in your experience, do street trees downtown, are they  
 11 able to continue to grow and remain healthy when  
 12 redevelopment occurs that might block some of the sunlight  
 13 that that tree was getting?  
 14 A. It's -- well, it's a mixed bag. I mean, there are a lot of  
 15 trees in the downtown area that are doing very, very well.  
 16 And new construction has, you know, been in the area. So  
 17 we -- we've had our successes. We've had some areas where  
 18 new buildings went up, and plans changed, we had a lot more  
 19 impacts to the trees than we originally thought.  
 20 Q. Uh-huh.  
 21 A. And so we've had some issues where, you know, things didn't  
 22 work out as well as we wanted to. So, but in general, we've  
 23 had pretty good successes in keeping trees adjacent to  
 24 decent-sized projects.  
 25 Q. Even during -- even adjacent to, you know, 40-story

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1 skyscrapers?  
 2 A. Well, I mean, you know, there are some instances where  
 3 there's so much shoring, and you'd essentially remove the  
 4 entire one side of a tree and the entire root system on one  
 5 side of the tree that it's just not -- it's just not a smart  
 6 move to go ahead and try to maintain that tree there.  
 7 Q. Uh-huh.  
 8 A. But, again, we've been successful in retaining a lot of  
 9 trees in the downtown area.  
 10 Q. Okay. I was going to just ask you about the Heritage  
 11 Program, which is in the street tree manual that we just had  
 12 marked as Exhibit 222 on page 32. Can you just describe the  
 13 Heritage Tree Program?  
 14 A. Well, the Heritage Tree Program was essentially established  
 15 originally by Plant Amnesty. And when Cass Turnbull was  
 16 still the head of Plant Amnesty, she and I kind of got  
 17 together and -- and decided that the city could help out a  
 18 little bit. So the -- the city started being a partner in  
 19 the Heritage Tree Program about the third year it was going.  
 20 And since then, I believe we've -- we've had over 300 trees  
 21 nominated. And I believe we have about 175 heritage trees  
 22 at the -- at the moment. Essentially, they're -- they're  
 23 trees that may be, like, the largest in the city. They may  
 24 have some specific special thing about them. They're -- one  
 25 of them is a fairly small Japanese maple, but it was a -- it

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1 was a gift from Japan and one of our sister cities. So  
 2 there -- there are a lot of different instances where a tree  
 3 can be a heritage tree. It may have neighborhood  
 4 significance and not be any especially big tree or anything,  
 5 but it may be a landmark.  
 6 Q. And they're afforded the same protection as an exceptional  
 7 tree; is that correct?  
 8 A. That's correct.  
 9 MR. MITCHELL: Okay. I don't have any further questions.  
 10 HEARING EXAMINER: Cross, please.  
 11 MR. BRICKLIN: Can I go first?  
 12 MR. THALER: Yeah. Yeah. Go for it.  
 13  
 14 C R O S S E X A M I N A T I O N  
 15 BY MR. BRICKLIN:  
 16 Q. Let's start with that executive order you mentioned from  
 17 2005 that had the two-for-one deal in it.  
 18 A. Yes. Okay.  
 19 Q. Do you have that in front of you? Are you familiar with it?  
 20 A. I'm -- I -- yeah, I know --  
 21 Q. You know it? So that basically said that if trees are taken  
 22 out of the right-of-way, you have to replace one tree with  
 23 two, right?  
 24 A. Yes. Essentially it said that if a -- if a city, you know,  
 25 a city department --



1 Q. Right.

2 A. -- removed the tree. For example, if the tree falls over

3 and somebody -- in front of somebody's house, then we -- we

4 have not held homeowners to that same degree.

5 Q. Okay. But for city departments.

6 A. But for city departments, yes.

7 Q. So if you've got a big, old fir or red cedar in the -- or

8 any tree that the city takes out, you've got to put in two

9 trees in the place of it?

10 A. That's correct.

11 Q. And according to the executive order, when you take out that

12 big tree, you've got to put in at least two trees, right?

13 A. That's correct.

14 Q. And the two trees have to be at least two inches wide,

15 right?

16 A. Yeah, in di --

17 Q. In diameter.

18 A. Caliber.

19 Q. Caliber, right?

20 A. That's correct.

21 Q. So you replace one big, old tree with two tiny, little

22 saplings, is that the executive order?

23 A. That's what it says.

24 Q. All right. You worked on the 2007 Forestry Plan as well,

25 didn't you?

1 A. Yes.

2 Q. And in the 2013 report that was entered as an exhibit here,

3 but no stronger regulations had been adopted by then, and

4 the report again asked for stronger regulations, right?

5 A. I believe that it asked for stronger regulations for

6 privately-maintained tree -- or private property trees.

7 Q. Right. And in 20 -- by 2017, the city still hadn't adopted

8 any stronger regulations, and the mayor issued an executive

9 order that called for stronger regulations, right?

10 A. I believe so.

11 Q. And as we sit here today, those stronger regulations still

12 have not been adopted; isn't that true?

13 A. It's not my job to adopt those.

14 Q. I didn't say it was, but I'm just -- but I'm just -- you're

15 monitoring --

16 A. I -- I did my job. I got the street trees going.

17 Q. Right. But you agree with me those stronger regs for

18 protecting the trees as private development occurs, those

19 still haven't been adopted, right?

20 A. That -- that's true. Private property rules are hard.

21 Q. Despite this being in the city's plans and executive orders

22 for 15 years.

23 MR. BRICKLIN: Well, I think that's all I have for right

24 now. Thank you.

25 \

1 A. Yes, I did.

2 Q. And that plan identified that having trees in the city

3 provides multiple benefits, right?

4 A. Correct.

5 Q. Environmental benefits, obviously, habitat and the like,

6 right?

7 A. Correct.

8 Q. Economic benefits. It reduces storm water and the need for

9 expensive infrastructure?

10 A. Absolutely.

11 Q. Social benefits; good for emotional health and air pollution

12 reduction, right?

13 A. Absolutely.

14 Q. And that report also recognized that as we seek to curb

15 urban sprawl by encouraging more growth in the cities, we

16 have to be careful because if we lose our trees, people

17 aren't going to want to live in the city, and it's actually

18 going to boomerang, and people are going to be -- there's

19 going to be more urban sprawl pressure, not less, right?

20 A. Yes.

21 Q. That was in that report, right?

22 A. I believe it was.

23 Q. And that report also said that the city's regulations to

24 hold on to the trees were inadequate and called for stronger

25 regulations, didn't it?

1 CROSSEXAMINATION

2 BY MS. BENDICH:

3 Q. I have a few questions. I'm Judith Bendich. And let me

4 say, I've looked at the DOT website with all the names of

5 the trees, and I just love it; so -- when you talked about

6 500 cubic feet of soil being required downtown to plant for

7 a tree, predominantly, what kind of trees are you talking

8 about?

9 A. Well --

10 MR. MITCHELL: Object to the question. I don't know -- I

11 don't remember him designating that it was 500 cubic feet.

12 THE WITNESS: Yeah, it's 500 -- it's 500 cubic feet.

13 MR. MITCHELL: Okay. I apologize.

14 A. Well, basically the specific trees are -- are called out in

15 their -- in the plans, landscape architects will go ahead.

16 But there's no -- there's no bottom line or top line species

17 that -- it's just basically a minimum. Will that tree

18 support a full-grown sequoia, you know, 500 square -- cubic

19 feet, absolutely not. But, again, it's a means to get

20 better soil conditions, and then typically you have in a

21 5-by-5, you know, pit full of construction debris.

22 Q. (By Ms. Bendich) Okay. So we've heard test -- well, let's

23 see if you'll agree to these or not. Do you believe that

24 native conifers have better environmental qualities than

25 deciduous trees?

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1 A. I do.  
 2 Q. Okay. So let's just take our ubiquitous Douglas fir.  
 3 A. Okay.  
 4 Q. Do you have any idea how many of those have been put into  
 5 right-of-ways?  
 6 A. Into what?  
 7 Q. Into right-of-ways, city right-of-ways.  
 8 A. Yeah. Not many, because it's really not a native situation  
 9 anymore.  
 10 Q. Not a native situation?  
 11 A. Right. It's -- a planting strip is not a native habitat for  
 12 a Douglas fir.  
 13 Q. So where do those go, if anywhere?  
 14 A. Well, they -- again, if somebody has a nice, wide planting  
 15 strip, and there aren't any traffic situations where it'll  
 16 block visibility or driveways or things like that, we're  
 17 happy to let people plant Doug firs.  
 18 Q. Okay. And would the same thing be true for a cedar?  
 19 A. Absolutely. Any kind of evergreen that --  
 20 Q. A yellow cedar.  
 21 A. Yeah, we'll let them go in. They're not on our recommended  
 22 tree list because we have to say no more than we say yes.  
 23 Q. So are most of the trees that go into these planting strips  
 24 or what are -- what I call the city right-of-way, smaller  
 25 deciduous trees?

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1 A. Most of them, that's correct.  
 2 Q. So, like, ginkgo bilobas, I've seen a lot of those around  
 3 lately.  
 4 A. Yes.  
 5 Q. Yes? Do they have the same environmental benefits as the  
 6 Douglas -- the native trees that are Douglas firs and cedars  
 7 and that kind of thing?  
 8 A. They have -- they have different benefits at different times  
 9 of the year. I -- I would be hard pressed to say that a --  
 10 a nice-sized oak tree doesn't have the same environmental  
 11 benefits during the summer as a Doug fir. Obviously during  
 12 the winter when the Doug fir has its needles on and the oak  
 13 doesn't have any leaves and we're getting most of our rain,  
 14 the Doug fir's going to provide a lot more storm water  
 15 benefits.  
 16 Q. Okay.  
 17 HEARING EXAMINER: Ms. Bendich, how many more questions do  
 18 you have?  
 19 MS. BENDICH: I was just going to be pursuing that line of  
 20 questions for a few minutes.  
 21 MR. BRICKLIN: It's (inaudible).  
 22 HEARING EXAMINER: I'm asking for timing purposes, not the  
 23 subject matter.  
 24 MS. BENDICH: Okay.  
 25 HEARING EXAMINER: How many more questions do you have?

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1 MS. BENDICH: I actually haven't gone through my notes to  
 2 know.  
 3 HEARING EXAMINER: Guess.  
 4 MS. BENDICH: Five, ten minutes.  
 5 HEARING EXAMINER: Okay. Mr. Thaler, you're going to  
 6 ask --  
 7 MR. THALER: I also have five minutes, five to ten  
 8 minutes.  
 9 HEARING EXAMINER: Okay. We'll need you to come back  
 10 tomorrow then. 9:00 a.m. Thank you all.  
 11 (Conclusion of July 26, 2018 proceedings)  
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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 9th day of August, 2018.  
 20  
 21  
 22  
 23  
 24  
 25

*Chastity M Keezle*  
 CHASTITY FEEZLE, WA-CRL

