

Hearing

In the Matter of the Appeal of the: Queen Anne Community Council

March 25, 2019



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4 HEARING EXAMINER: Good morning.
5 MR. KISIELIUS: Good morning.
6 MR. EUSTIS: Good morning.
7 HEARING EXAMINER: Please be seated.
8 Be on the record. March 25th, 2019. My name is Barbara
9 Dykes Ehrlichman. I am the hearing examiner for the City of
10 Seattle. To my right is Bonita Roznos. She's our executive
11 assistant.
12 Before we get started, I'd like to go around the table and
13 have everyone, all the party representatives that is,
14 introduce themselves, spelling their first and last names.
15 We'll start over here.
16 MR. KISIELIUS: Tadas Kisielius with Van Ness Feldman on
17 behalf of the City. And my name is T-A-D-A-S, last name is
18 K-I-S-I-E-L-I-U-S.
19 HEARING EXAMINER: Thank you.
20 MS. PARK: Good morning, Your Honor. Clara Park with Van
21 Ness Feldman on behalf of the City. First name is
22 C-L-A-R-A, and last name is P-A-R-K.
23 HEARING EXAMINER: Thank you.
24 MS. PENNUCCI: Good morning. I'm Aly Pennucci with the
25 City of Seattle Council (inaudible) staff. My name is

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1 A-L-Y, first name. Last name is Pennucci, P-E-N-N-U-C-C-I.
2 MR. WELCH: Good morning. I'm Nicolas Welch from the
3 Office of Planning and Community Development. First name
4 Nicolas, N-I-C-O-L-A-S, Welch, W-E-L-C-H.
5 MR. ELLISON: Hello. My name is Richard Ellison. I'm
6 representing TreePAC. And it's R-I-C-H-A-R-D,
7 E-L-L-I-S-O-N. Thank you.
8 HEARING EXAMINER: Thank you.
9 MR. EUSTIS: Jeffrey Eustis, attorney for Queen Anne
10 Community Council. Spelling of the last name is
11 E-U-S-T-I-S.
12 MR. KAPLAN: Good morning, Your Honor. My name is Marty
13 Kaplan, (inaudible). M-A-R-T-I-N, K-A-P-L-A-N.
14 HEARING EXAMINER: Thank you very much. The matter to be
15 heard today involves an appeal by the Queen Anne Community
16 Council of the adequacy of the Final Environmental Impact
17 Statement issued by the Office of Planning and Community
18 Development on behalf of the Seattle City Council on October
19 4th, (inaudible).
20 The hearing examiner file number is W-18-009. This
21 hearing will be conducted pursuant to Chapter 23.76 of the
22 Land Use Code; the Administrative Rules, which are found at
23 Chapter 3.20.02; and the Hearing Examiner (inaudible).
24 Within 15 days of the close of the record, unless
25 otherwise agreed to, we will issue -- I will issue a written

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1 decision on appeal, and a copy will be sent to each party
2 representative and anyone else who has requested a copy.
3 All testimony today and throughout this hearing will be
4 taken by oath or affirmation, so if testifying, (inaudible)
5 please state full name and address, include your zip code
6 for the record.
7 As you all know, cross-examination is allowed here. And
8 after each witness testifies on direct, the other side will
9 be allowed to cross-examine.
10 This is an administrative hearing. The Rules of Evidence
11 are not strictly applied; however, all evidence must be
12 relevant, come from a reliable source, and have value in
13 proving the point for which it's offered. And that language
14 is from the code. I didn't make that up.
15 The order of presentation, you will start with opening
16 statements if the parties wish to make them. The appellant
17 will go first and then the City, and then presentation of
18 the evidence by each party in the same order. Rebuttal
19 testimony has been allowed in the same order.
20 You can do closings either orally or at the end of the
21 hearing -- or at the end of the hearing or in writing after
22 the hearing, whichever the parties agree to.
23 Are there any questions at this time?
24 MR. EUSTIS: No questions. Let's see, some preliminary
25 matters. Some preliminary matters.

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1 HEARING EXAMINER: Okay.
2 MR. EUSTIS: As perhaps the hearing examiner may recall
3 from the initial hearing, there was an agreement between the
4 parties that the exhibits would be exchanged electronically.
5 HEARING EXAMINER: Um-hum.
6 MR. EUSTIS: I have prepared one set of written paper
7 exhibits for the examiner. For the record, those are in
8 these notebooks.
9 HEARING EXAMINER: Okay.
10 MR. EUSTIS: And I'm prepared to hand these forward as
11 opposed to holding them out individually as the case
12 proceeds.
13 HEARING EXAMINER: Okay.
14 MR. EUSTIS: These paper exhibits essentially are
15 printouts of exhibits that were provided to the City during
16 the exchange of exhibits.
17 HEARING EXAMINER: Okay. And you expect to be using all
18 of these exhibits?
19 MR. EUSTIS: Do I expect to be using all of them?
20 HEARING EXAMINER: Yes.
21 MR. EUSTIS: Well, as the examiner may see, there are a
22 good number of exhibits. I would expect to use, you know,
23 all Exhibits 1 through 20. However, Exhibit 16 has a number
24 of subparts. And, you know, I -- it will depend upon some
25 of these exhibits what we produce during cross-examination.

1 So I can't say that I would use each and every one of those
2 documents.
3 HEARING EXAMINER: Okay.
4 MR. EUSTIS: In terms of the numbering, because these are
5 tabs and there are a number of subparts, I guess I would
6 suggest that the -- for the numbering of exhibits, we have
7 appellant's exhibits as they're listed, you know, so that
8 there would be effectively placeholders, and then City
9 exhibits as the City has listed them, as opposed to devising
10 yet another numbering system which would affect (inaudible)
11 when we introduce a third numbering system.
12 HEARING EXAMINER: Right. Right. Which is typically what
13 we do.
14 MR. EUSTIS: Yes, I understand.
15 HEARING EXAMINER: Yes.
16 MR. EUSTIS: But for purposes of, I guess, clarity, given
17 the number of exhibits, that would be my humble proposal.
18 So however the examiner wishes to take it up.
19 HEARING EXAMINER: Okay. Do you have any response?
20 MR. KISIELIUS: I do. For precisely the reason that
21 Mr. Eustis states, which is it's not clear yet whether all
22 will be used and whether there will be any objections to any
23 of the exhibits, on relevance or any other grounds.
24 It would -- the City's (inaudible) better to take them up
25 one at a time rather than having the examiner take them all

1 MR. ELLISON: So my questions are -- I'm kind of new to
2 this process, so I'm trying to learn. How much time is
3 allocated for the opening and closing statements?
4 HEARING EXAMINER: There isn't a specific amount of time.
5 I would suggest ten or 15 minutes on each side at the most.
6 MR. ELLISON: Thank you. How much time is allowed for
7 cross-examination of witnesses?
8 HEARING EXAMINER: Well, it -- cross-examination has to be
9 for specific reasons and specific, you know, purposes. So
10 if it takes longer, there's no set time for
11 cross-examination. It depends on the subject matter.
12 MR. ELLISON: May TreePAC call a witness on the Queen Anne
13 Community Council list or the City list if a -- even if
14 either party does not call them?
15 HEARING EXAMINER: No.
16 MR. ELLISON: Will I -- will TreePAC be provided a digital
17 or hard copy of all the select exhibits on the Queen Anne
18 list or the City list?
19 HEARING EXAMINER: No. We've put our -- we don't have
20 exhibits on the --
21 Do we have exhibits on the (inaudible) that we could do?
22 No. You'll have to get them from the parties.
23 MR. ELLISON: Okay. Thank you.
24 HEARING EXAMINER: Either electronically or in hard copy.
25 MR. ELLISON: So with cross-examination, may TreePAC

1 and then at the end of the hearing decide which ones
2 (inaudible).
3 HEARING EXAMINER: Yeah, I think we're going to have to do
4 it one by one, as painful as that is (inaudible). But I
5 will enter the FEIS as Exhibit 1 right now since we already
6 have it up here.
7 MR. KISIELIUS: And (inaudible). So it's -- we've got a
8 copy for the witness of the exact same thing already on the
9 table so --
10 HEARING EXAMINER: Okay.
11 MR. KISIELIUS: -- that all parties can rely on them.
12 HEARING EXAMINER: All right. Any other preliminary
13 matters?
14 MR. ELLISON: Yeah. I have a few questions for you,
15 please.
16 HEARING EXAMINER: Okay. Can you identify yourself when
17 you -- when you speak up, just so that the record is clear
18 when you're speaking.
19 MR. ELLISON: This is Richard Ellison. I'm vice president
20 of TreePAC. I'd also like to introduce Steve Zemke at the
21 table here. He's president of TreePAC.
22 HEARING EXAMINER: Okay. Can you have him spell his first
23 and last name for us?
24 MR. ZEMKE: Yes. S-T-E-V-E, Z-E-M-K-E.
25 HEARING EXAMINER: Okay. Thank you.

1 present and/or enter for the record exhibits on the Queen
2 Anne list or the City list, even if the party does not call
3 them.
4 HEARING EXAMINER: No.
5 MR. ELLISON: If there's a need to transfer representation
6 of TreePAC during these proceedings through the week, is
7 that allowed and how is that done? So if I'm -- so for
8 example --
9 HEARING EXAMINER: (Inaudible).
10 MR. ELLISON: If I'm sick or for some reason or another I
11 cannot attend, then how do I transfer representation of
12 TreePAC?
13 HEARING EXAMINER: Well, typically you would just let us
14 know and let us know who will be representing in your stead.
15 MR. ELLISON: Thank you. May TreePAC issue written
16 declarations in support of or to contradict evidence
17 provided at the appeal?
18 HEARING EXAMINER: No.
19 MR. ELLISON: And that's going to be ten days, if I
20 understand it correctly, that the final brief -- the closing
21 brief would be issued? Or when --
22 HEARING EXAMINER: The closing decision on appeal is due
23 15 days after the close of the record. Sometimes, in larger
24 cases like this, that time period could be extended by
25 agreement of the parties if the examiner -- if the examiner

1 feels that she needs more time. But typically it's 15 days
 2 after the close of the record. Which, if there were closing
 3 briefs, the record would not close until after the closing
 4 briefs are submitted. So that would be 15 days after that
 5 date.
 6 MR. ELLISON: Okay. Thank you.
 7 HEARING EXAMINER: You're welcome. Any other preliminary
 8 matters?
 9 MR. KISIELIUS: Just to -- first and foremost, just in
 10 light of Mr. Ellison's invitation because of his familiarity
 11 with the process, I just want to make clear on and try to
 12 avoid the awkwardness of objecting to an opening statement,
 13 just to be clear that opening statements aren't an
 14 opportunity for presenting evidence or presenting testimony.
 15 So I just don't want to interrupt him.
 16 HEARING EXAMINER: Okay.
 17 MR. KISIELIUS: Just to get some confirmation from the
 18 examiner on that. And then separately, on the question of
 19 closing statements, we just started talking today,
 20 Mr. Eustis and I, about what the parties might jointly
 21 request (inaudible).
 22 At least from the City's standpoint, we'd like to come to
 23 you tomorrow morning with -- if we have a joint proposal,
 24 we'll do that. And if we don't, then we'll just (inaudible)
 25 what we have.

1 We inquired with Mr. Eustis several weeks ago whether he
 2 would want to identify which witnesses he wants to call on
 3 direct. We did not get that information. And so we'll plan
 4 on calling our witnesses, and don't have any objection to
 5 him exceeding the scope of direct on his cross for those
 6 that we call.
 7 HEARING EXAMINER: Okay. That's sounds good. I like
 8 time-saving measures.
 9 Okay. Anything else? All right. Well, I will hand it
 10 over to the appellant for -- oh, yes -- hand it over to the
 11 appellant for opening statement.
 12 MR. EUSTIS: Rather than giving a full outline of the
 13 case, my assumption is that the examiner at this point is
 14 somewhat familiar with the proposal, the proposed
 15 legislation.
 16 HEARING EXAMINER: Yes.
 17 MR. EUSTIS: And the examiner also is somewhat familiar
 18 with the final EIS. Although the final EIS, at least
 19 online, goes to 695 pages or so, I'm not making the
 20 assumption that the examiner has read each and every one of
 21 those pages.
 22 HEARING EXAMINER: Okay.
 23 MR. EUSTIS: So we -- so my opening will not try to
 24 retrace, explain how we got to this point and then go
 25 through and give a narrative recitation of the EIS. Rather,

1 HEARING EXAMINER: Okay. That's fine.
 2 Any other preliminary matters?
 3 MR. EUSTIS: Yes. As the examiner perhaps observed, the
 4 appellant listed as its witnesses the witnesses (inaudible)
 5 the City. So (inaudible) whatever, the 17 witnesses, we
 6 would have the ability to call those witnesses as direct
 7 examination.
 8 However, to avoid both the awkwardness of calling the City
 9 witness on direct only for the City witness to then testify
 10 to the City's direct, I would propose to conduct my
 11 examination of the City witnesses as they are called but in
 12 the event that the City's direct does not touch on all the
 13 topics that I would like to touch on, I would ask for some
 14 leeway to be allowed to examine the witness nonetheless on
 15 additional topics, i.e., going beyond the scope of the
 16 direct. And I propose that both to avoid awkwardness and as
 17 a time saving measure.
 18 HEARING EXAMINER: Do you have any objection to that,
 19 Mr. Kisielius?
 20 MR. KISIELIUS: We see the value in some of the
 21 efficiencies there. But just to be very clear, as the City
 22 has indicated in its final list and even its preliminary
 23 list, there's a long list of witnesses, many of whom we may
 24 not call that are on there because we're still sort of
 25 learning the scope of the appellant's case.

1 I will devote my opening to letting the examiner and the
 2 parties know where we are going in our presentation. And I
 3 won't try to repeat or encapsulate the testimony of the
 4 witnesses.
 5 In Queen Anne's appeal, you will hear from three principal
 6 witnesses. You will hear first from Bill Reid, an
 7 economist. And Bill Reid will address issues of housing,
 8 economics, displacement, as outlined in the disclosure of
 9 witnesses. And depending upon the extent of questioning and
 10 cross-examination, if I -- generally I would think that we
 11 could conclude with Bill Reid this morning.
 12 The examiner will next hear from Ross Tilghman. Ross
 13 Tilghman will speak on I think proposals, impacts to
 14 on-street parking, parking capacity, the analysis that was
 15 used in the EIS, including that there would be no remaining
 16 significant unmitigated adverse environmental impacts to
 17 on-street parking.
 18 I anticipate commencing with Mr. Tilghman this afternoon.
 19 Again, depending upon the length of time it takes to go
 20 through his exhibits, the extent of cross-examination, we
 21 may be able to conclude with Mr. Tilghman this afternoon.
 22 If not, I would pick up with him tomorrow morning.
 23 HEARING EXAMINER: Thank you.
 24 MR. EUSTIS: And third, the examiner will hear from Marty
 25 Kaplan, and Marty Kaplan is both the representative of the

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1 Queen Anne Community Council and he is an architect with a
 2 wealth of experience in the Puget Sound area and in the city
 3 of Seattle.
 4 And he will speak to the issues of aesthetics, changes to
 5 the land use forum, the impacts of allowing essentially full
 6 development of accessory dwelling units and attached
 7 accessory dwelling units in city neighborhoods. Again, not
 8 attempting to encapsulate Mr. Kaplan's testimony.
 9 And through this testimony, Queen Anne will show that the
 10 EIS fails in its duty to provide a full disclosure of
 11 environmental impacts upon those three areas and it fails in
 12 its objective giving the City Council a document that fully
 13 appraises the City Council of impacts of its intended
 14 legislation. In a word, the EIS is itself legally
 15 inadequate.
 16 So in terms of an opening, I really don't have more to
 17 say. I think the witnesses will speak for themselves.
 18 HEARING EXAMINER: Thank you.
 19 MR. EUSTIS: Thank you.
 20 HEARING EXAMINER: Mr. Ellison, do you want to go ahead?
 21 MR. ELLISON: Do I use the microphone?
 22 HEARING EXAMINER: If that would be helpful.
 23 MR. ELLISON: I'm not sure I'll be as succinct.
 24 My name is Richard Ellison, and I'm representing TreePAC.
 25 TreePAC appreciates the privilege of representing the

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1 Seattle's environmental interests, the tree canopy, during
 2 this critical decision by the Seattle City Council.
 3 TreePAC has asked to intervene in this appeal so that
 4 opportunities for mitigation in the ADU process are not
 5 lost. I begin by describing some of the Seattle policies
 6 that support trees and, in that sense, are not being
 7 supported by the ADA proposal.
 8 First of all, one of Seattle's four core values is
 9 environmental stewardship, according to the Comprehensive
 10 Plan. Seattle's 2035 Comprehensive Plan for managing growth
 11 is deliberately put together to try to mitigate impacts to
 12 Seattle's growth.
 13 I will quote from this document. "Although the region
 14 looks very different than it did when European settlers
 15 first arrived 150 years ago, Seattle's trees, vegetation and
 16 soils still make up a vitally important system that manages
 17 water runoff, cleans the air, mitigates climate change
 18 emissions and impacts, improves human health, and reduces
 19 the heat island effect.
 20 "This natural system also provides wildlife habitats,
 21 supports invaluable neighborhoods, and is integral to the
 22 essential character of the Emerald City."
 23 "Goal No. EG1: To foster healthy trees, vegetation, and
 24 soils, and improve human health, provide wildlife habitats,
 25 reduce drainage costs, give residents across the city access

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1 to nature, and increase the quality of life of all
 2 Seattleites.
 3 "Policies. E1.1. Seek to achieve an urban forest that
 4 contains a thriving and sustainable mix of tree species and
 5 ages and creates a continuous and healthy ecosystem that is
 6 valued and cared for by the City and all Seattleites as an
 7 essential environmental economic and community asset.
 8 "E1.2. Strive to increase the citywide tree canopy
 9 coverage to 40 percent over time.
 10 "E1.3. Use trees, vegetation, green stormwater
 11 infrastructure, amended soils, green roofs, and other
 12 low-impact development features to meet drainage needs and
 13 reduce the impacts of development.
 14 "E1.5. Promote sustainable management of public and
 15 private open spaces, trees, vegetation by preserving or
 16 planting native and naturalized vegetation, removing
 17 invasive plants, improving soil health, using integrated
 18 pest management, engaging the community in long-term
 19 stewardship activities.
 20 "E1.6. Strive to manage 700 million gallons of stormwater
 21 runoff each year with green stormwater infrastructure by
 22 2025.
 23 "E1.7. Promote the care and retention of trees and groups
 24 of trees that enhance Seattle's historical, cultural,
 25 recreational, environmental and aesthetic character."

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1 TreePAC is concerned that the ADU-FEIS does not follow
 2 these principles.
 3 Points of concern. All tree retention is essentially
 4 voluntary under development including proposed in the rear
 5 yard. The current tree ordinance indicates that lots under
 6 5,000 square feet have no tree protection. Minimum lot size
 7 now has been reduced to 3200 square feet. So under these
 8 smaller parcels, there is no tree protection.
 9 On lots 5,000 square feet or greater, quote, an
 10 exceptional tree can be removed only if necessary to achieve
 11 the maximum allowable lot coverage. AKA, it is not
 12 protected in development.
 13 The FEIS says, quote, vegetation and tree canopy could
 14 decrease if property owners choose to eliminate landscape
 15 features to construct DADUs, meaning that it is voluntary
 16 retention of significant and exceptional trees. The
 17 ADU-FEIS replies -- relies on a new tree ordinance being
 18 created, although such efforts have failed since the
 19 consecutive order in 2017.
 20 The current ordinance SMC 25.11 was written in 2001. It
 21 was last updated in 2008 Director's Rule. And the prior
 22 mayor, Tim Burgess, issued an Executive Order 2017-11: Tree
 23 Protection --
 24 MR. KISIELIUS: Your Honor, I'm sorry. I'm going to -- I
 25 was trying to avoid this before, but we're straying from

1 opening argument and now actually testifying with narrative
 2 facts in the opening that, as best as I can tell, are not
 3 reflected in any of the exhibits that are -- that have been
 4 presented to this hearing.
 5 HEARING EXAMINER: Okay. Mr. Ellison, the purpose of the
 6 opening statement is not argument. It is to lay out what
 7 your case will show in very simple terms.
 8 MR. ELLISON: Well, the -- as I'm not allowed to call
 9 witnesses, I have to rely on the witnesses that are being
 10 presented, and through cross-examine, I'm hoping to reveal
 11 some of these particular points.
 12 HEARING EXAMINER: That is correct, but you're -- you need
 13 to stick to what the evidence will show when you do
 14 cross-examine those witnesses rather than reading and
 15 talking about all of the policies the City currently has.
 16 MR. ELLISON: My intentions are at first to lay out the
 17 responsibilities the City has said itself it would like to
 18 deal with on preserving and enhancing the significant trees,
 19 the exceptional trees in the city of Seattle and their
 20 values.
 21 Their values include things along the lines of habitat,
 22 stormwater runoff. So if all these exceptional trees are
 23 removed, there's impacts to -- in the wintertime -- to a lot
 24 extra stormwater runoff. In the summertime, we're very
 25 concerned about the island heat effects that occur.

1 HEARING EXAMINER: Okay. Well, it's difficult to know
 2 since the evidence hasn't been presented yet.
 3 But, Mr. Ellison, you need to keep your remarks very short
 4 and keep them within the scope of what is in the record
 5 currently. So --
 6 MR. ELLISON: Well, the record includes the FEIS.
 7 HEARING EXAMINER: It does.
 8 MR. EUSTIS: If I could add?
 9 HEARING EXAMINER: And the appellant's --
 10 MR. EUSTIS: Yeah, but if I could add?
 11 HEARING EXAMINER: Sure.
 12 MR. EUSTIS: I don't -- I don't represent TreePAC separate
 13 from -- but certainly Mr. Ellison both in an opening, you
 14 know, closing, et cetera, would be allowed to speak to
 15 things over which the examiner could take judicial notice,
 16 including the City policies, the contents of City
 17 ordinances, et cetera.
 18 My only point -- I'm actually responding to Mr. Kisielius
 19 that --
 20 HEARING EXAMINER: That is true.
 21 MR. EUSTIS: -- it's not simply limited to the Queen Anne
 22 exhibits.
 23 HEARING EXAMINER: Okay.
 24 MR. KISIELIUS: There's a reason I entered my objection
 25 when I did when he starts talking about potential impacts to

1 We can show in presentations in documents the City, I
 2 believe, is receiving for this appeal that the urban heat
 3 island effect is most significant in areas that do not have
 4 substantial tree cover. And those areas, the single-family
 5 home areas, those zones currently as single-family have the
 6 lowest urban island heat effect.
 7 I wish to show that the --
 8 MR. KISIELIUS: And, I'm sorry, if I could just -- I'm not
 9 sure that you've ruled on the objection, and we're
 10 continuing with what was the basis of the objection.
 11 The City doesn't contest argument, even recitation of
 12 policies or documents that are in the record. But what
 13 Mr. Ellison is doing is testifying to facts and adding
 14 factual information into the record that we do not
 15 believe -- that we believe exceeds what was part of the
 16 exhibits that -- as we've gotten from the Community Council.
 17 So he's circumventing the examiner's ruling about the
 18 limitations on presentation of new evidence that are outside
 19 of what we've -- that between the appellant and the
 20 respondent have coordinated.
 21 So when he starts testifying to specific issues that
 22 aren't reflected in the documents or the scope of the
 23 testimony that's been given, I don't want him to bootstrap
 24 more information into the record that is technically out of
 25 bounds.

1 stormwater and other issues. That's why -- I understand,
 2 and that's why I let him talk at length about the policy.
 3 MR. EUSTIS: Same applies to the stormwater code. But I
 4 don't want to start arguing --
 5 HEARING EXAMINER: Right. I don't want to belabor this.
 6 MR. EUSTIS: Yeah.
 7 HEARING EXAMINER: That's true that we can refer to things
 8 that are City policies and code. I can take judicial notice
 9 of those. But I need you to keep your remarks short and to
 10 the point. You need to stay within the framework of this
 11 appeal.
 12 MR. ELLISON: Thank you, Your Honor.
 13 One of the ideas I'd like to present is that the ADU-FEIS
 14 used a false methodology in how it calculates tree loss;
 15 that the -- some of the figures in the FEIS are erroneous
 16 and are based upon no data as far as the location and the
 17 number of trees and the size of the trees and, therefore,
 18 are undervaluing the canopy.
 19 If one was to compare the figures that are presented, the
 20 drawings as far as the tree canopy is concerned and compare
 21 that to LIDAR studies that I believe are part of the
 22 entrance of the documentation of -- for Seattle 2016 LIDAR
 23 Study for the City I believe is one of the documents that's
 24 part of this hearing; that if one compares those documents,
 25 these drawings that were created by someone who has written

1 the FEIS, to the LIDAR studies, that they are -- that there
2 is almost no comparison, that they are -- that the City is
3 greatly and grossly under-representing the number of trees
4 in Seattle's neighborhoods, particularly in neighborhoods
5 like Wedgwood where I live, Queen Anne, and other
6 neighborhoods throughout the city.

7 So this false methodology is underestimating the number of
8 trees that are going to be impacted in development; that the
9 size of the trees that are going to be planted for
10 mitigation for any trees that are removed, that there is not
11 potentially the yard space for these trees to grow to
12 maturity.

13 Because according to Seattle code, the trees, if you're
14 removing a large canopy tree, according to the Seattle tree
15 code and the executive order, these trees must be replaced
16 by a canopy of equivalent size. So there is not the soil
17 space available in these new lots to allow a tree to grow to
18 such size.

19 It also -- the City is not mitigating according to the law
20 that says that when you remove a significant tree or an
21 exceptional tree, that that tree must be replaced onsite or
22 off-site. There is nothing to show in the FEIS or in many
23 other Seattle documents that show that actually the
24 executive order has been implemented. So not only is
25 Seattle losing its trees, but these trees are not being

1 MR. ELLISON: Another piece -- thing that needs to be
2 discussed is that in part of the FEIS's evaluation of
3 impacts to trees is that they are missing impacts to
4 critical root zones based upon both the trenching around the
5 new structures, the placement of the new structures,
6 sidewalks, utilities. Impacts are not evaluated regarding
7 the -- any garages that are to be built or any storage
8 facilities on the property, according to the FEIS.

9 So these other structures are not part and parcel to
10 measuring the impacts to trees in the sense of how much
11 hardscape is on the property. So if we're reducing the lot
12 size down, if we're building out to the maximum size on a
13 lot and we are not building just one but we're building two
14 ADUs, attached or unattached, the footprint of these
15 structures is so much that there is no room for new trees,
16 as well as the fact that the building of these structures is
17 going to impact and kill any trees that they may try to save
18 or they will have to remove the trees as part of the
19 development process.

20 The ultimate result is that --

21 MR. KISIELIUS: Madam Examiner, I'm sorry. I -- this
22 is -- these are factual assertions, testimony that is
23 outside the scope of what we know to be the limitations of
24 the witnesses that Mr. Eustis plans to present. We're now
25 getting into testifying about beyond what is --

1 replaced as required by law.

2 One of the issues also again is that Seattle is depending
3 upon the tree ordinances that are written, and the tree
4 ordinances have, again, not been enforced. The former Mayor
5 Burgess gave an executive order that -- and -- that the tree
6 ordinance be updated and that the trees lost be mitigated,
7 and that has not happened.

8 Part of this FEIS was based upon the idea, some of the
9 mitigations were, that we're going to have a new tree
10 ordinance. The new tree ordinance is going to satisfy the
11 needs for mitigation. But there is no new tree ordinance.
12 The lead --

13 HEARING EXAMINER: That's outside the --

14 MR. ELLISON: The lead sponsor of --

15 HEARING EXAMINER: -- the scope of what we're talking
16 about here.

17 MR. ELLISON: Well, if the FEIS depends upon a new tree
18 ordinance being part of the future protection of Seattle's
19 trees and they've been kicking the can for ten years down
20 the road on a new tree ordinance, what's the likelihood that
21 there will be a new tree ordinance available to mitigate the
22 impacts from the tree loss?

23 HEARING EXAMINER: Well, again, that's very speculative.
24 And you have to stick to what your evidence will show in
25 this hearing.

1 HEARING EXAMINER: Yeah, there is no --

2 MR. KISIELIUS: -- (inaudible).

3 HEARING EXAMINER: -- testimony during opening statement.
4 I mean, you have been testifying, which you haven't been
5 sworn for, so you're not a witness.

6 You need to stick to whatever evidence will be shown. And
7 it should take no more than five minutes total for you to
8 tell us what you expect to show as a part of your case.

9 MR. ELLISON: I think I presented the types of information
10 that I will be asking witnesses and -- in my
11 cross-examination of the witnesses as to the validity of the
12 data that has been presented in the FEIS and the impacts of
13 development, both as party FEIS and as the historic nature
14 of the city of Seattle. Thank you.

15 HEARING EXAMINER: Thank you.

16 Mr. Kisielius.

17 MR. KISIELIUS: I'm going to keep my remarks short but
18 just wanted to say a few words about the evidence, and in
19 particular, how it fits on the framework that (inaudible).

20 The examiner knows the SEPA statutory directive requires
21 the examiner to give substantial weight to the agency's
22 (inaudible) determination, and the appellant bears a heavy
23 burden to establish otherwise. And when considering the
24 evidence that will be presented, the examiner, any
25 adjudicator like the examiner, reviews the adequacy of the

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1 EIS under the rule of reason, which is a broad, flexible
 2 cost effectiveness standard. It requires the EIS include
 3 reasonably thorough discussion of significant aspects of the
 4 probably environmental consequences (inaudible).
 5 So this is important because inherent in that standard is
 6 the notion that there may be many approaches that are
 7 reasonable. The mere existence of a different reasonable
 8 approach or methodology is legally insufficient to support
 9 the conclusion that the EIS is inadequate.
 10 And I think that's important, in particular in this
 11 instance, because, as we've heard about the presentation of
 12 testimony, that that's largely what you're going to hear
 13 about throughout the course of the next several days.
 14 I think it's also important to remember that this is a
 15 non-project action, and the framework that governs EIS's --
 16 the regulatory framework that governs the EIS's non-project
 17 actions gives the lead agency even more discretion and
 18 deference.
 19 And that's -- there are -- and that's according to the
 20 regulations in the Seattle Municipal Code and the safety
 21 regulations. The lead agency has more flexibility in
 22 preparing non-project EISes because there's normally
 23 (inaudible) detailed information. So some of the facts that
 24 you've been hearing about are the types of facts that are
 25 only available at the time of the project analysis.

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1 All of this sets a high bar for challenges to a
 2 non-project EIS. And over this next several days, the
 3 City's going to establish that the appellant and intervenor
 4 can't meet that high bar.
 5 You're going to hear, as you've already heard from the
 6 opening statements, testimony from appellant witnesses that
 7 constitutes classic flyspecking, a phrase that's used in the
 8 SEPA case law to describe the nitpicking and second-guessing
 9 that does not satisfy appellant's burden. And at best, the
 10 testimony that you're going to hear demonstrates different
 11 ways of conducting the analysis. And in some instances, as
 12 we'll -- as you'll hear from the City's witnesses, the
 13 methods that they propose are not even reasonable.
 14 Additionally, you may even hear, and I suspect based on
 15 some of the opening statements you will hear, about the
 16 proposal itself and whether the City should embark on this
 17 policy endeavor. But that's irrelevant in these
 18 proceedings.
 19 The examiner or Courts do not rule on the wisdom of
 20 proposed -- of the proposal but only on the question of
 21 whether the EIS provides the decision-maker with sufficient
 22 information to make a reasonable decision.
 23 Now, to the extent that my remarks seem focused on the
 24 appellant's shortcomings in their case is a reflection of
 25 the burden they carry, but it's not a reflection on the

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1 City's EIS. It bears emphasizing, and what you'll hear from
 2 the City's witnesses over the course of the next several
 3 days is that it is not a bare bones document, that the
 4 City's going to present evidence and testimony demonstrating
 5 that it undertook its responsibilities under SEPA in a
 6 thoughtful, deliberative, and thorough manner.
 7 The end product achieves its intended purpose of informing
 8 the decision-makers of the potential impacts of the
 9 proposal. And so for the next several days, from City
 10 witnesses to City staff and as well as the consultants that
 11 helped prepare the analysis, the subject to -- that it's
 12 relevant to, the appellant's witnesses' testimony we believe
 13 you'll be (inaudible) to see, the City's EIS is adequate.
 14 Thank you.
 15 HEARING EXAMINER: All right. Mr. Eustis, you may call
 16 your first witness.
 17 MR. EUSTIS: Yes. Our first witness will be Bill Reid.
 18 HEARING EXAMINER: Mr. Reid, would you raise your right
 19 hand.
 20 Do you swear or affirm that the testimony you're about to
 21 give in this matter is the truth?
 22 THE WITNESS: I do.
 23 HEARING EXAMINER: Thank you. Could you state your name
 24 and spell it for the record, including your address.
 25 THE WITNESS: Happy to. William Reid, W-I-L-L-I-A-M, last

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1 name Reid, R-E-I-D. 2281 Northeast 106th Avenue, Hillsboro,
 2 Oregon 97124.
 3 HEARING EXAMINER: You may proceed.
 4 MR. EUSTIS: Very good. So do you need to speak directly
 5 into this microphone to be picked up on the record, or can I
 6 sit back here? I just want to be sure.
 7 HEARING EXAMINER: You can sit back a little ways, but you
 8 tend to be a little soft-spoken sometimes so just keep in
 9 mind that -- and we'll watch the levels to make sure you're
 10 getting picked up --
 11 MR. EUSTIS: Okay.
 12 HEARING EXAMINER: -- to the (inaudible).
 13
 14 WILLIAM REID: Witness herein, having first been
 15 duly sworn on oath, was examined
 16 and testified as follows:
 17
 18 DIRECT EXAMINATION
 19 BY MR. EUSTIS:
 20 Q. Mr. Reid, tell us, what do you do for a living?
 21 A. I am an economist who specializes in real estate and land
 22 use. I consult for public agencies as well as various
 23 private interests.
 24 Q. How long have you been doing that work?
 25 A. Twenty-one years and six days.

1 **Q. Precise.**
 2 A. Exactly.
 3 **Q. And do you do this in your own firm?**
 4 A. Currently, yes. I do this in my own firm, yes.
 5 **Q. And what's the name of your firm?**
 6 A. PNW Economics, LLC.
 7 **Q. Okay. And prior to that, who did you work with?**
 8 A. Prior to that, I was with an international professional
 9 services firm, Cardno, immediately prior.
 10 **Q. Okay. And for how many years did you do that?**
 11 A. And that was roughly for one year.
 12 **Q. Okay. Could you give us some examples of the kind of work**
 13 **that you do?**
 14 A. Sure. I guess so presently, for Washington Department of
 15 Commerce, I am assisting the Growth Management Act
 16 department division in clarifying and updating buildable
 17 land, accounting and reporting, like the various counties
 18 and the cities, and the seven Western Washington county
 19 buildable land counties, as well as putting together an
 20 analysis of housing costs, development costs, affordability
 21 issues, and economic issues surrounding housing development
 22 and its availability statewide, but particularly obstacles
 23 to providing housing in Western Washington. So that's been
 24 an ongoing project for a little over a year now.
 25 **Q. Okay. Have you worked on housing and economic issues in the**

1 **involved in the appeal of the MHA EIS?**
 2 A. I was.
 3 **Q. Okay. So that would be another issue on which you were**
 4 **familiar with housing, economic issues, displacement issues**
 5 **in the city of Seattle?**
 6 A. All of the above, yes.
 7 **Q. Okay. Other than, you know, those items, have you testified**
 8 **before as an expert on housing and economic issues?**
 9 A. Testified on other issues regarding housing. In advisory
 10 committee and other advisory roles for government, yes.
 11 **Q. Okay.**
 12 A. Yes.
 13 **Q. And what is -- you mentioned work for the appellants, work**
 14 **for the Department of Commerce. You know, typically, who**
 15 **would you do economic analysis work for?**
 16 A. On the -- on the public sector side of my client base, I
 17 would typically work for a city, sometimes a county, but
 18 usually a city in assisting somewhat like what I did for --
 19 how I assisted the City of Seattle in the two projects I
 20 mentioned; and that is, identify what obstacles there are to
 21 providing certain different types of housing, usually
 22 housing that's of higher density than what's currently
 23 allowed.
 24 Because the City is interested in seeing additional
 25 housing capacity created with higher density, but there are

1 **city of Seattle?**
 2 A. I have. I've done a -- I think probably the two projects
 3 that, for the City of Seattle, that come to mind are some
 4 work I did for the City of Seattle Community Development
 5 regarding what sort of incentives or what are the
 6 development economics that hold back higher density
 7 mixed-use developments, cost issues, market issues. And
 8 then a similar type of project in the U District, just
 9 trying to identify what measures the City can take to
 10 facilitate higher density forums.
 11 **Q. Okay. So, as you are probably aware, there was a prior**
 12 **appeal on this very proposal; that is, the proposal to**
 13 **expand accessory dwelling units and detached accessory**
 14 **dwelling units in the city of Seattle.**
 15 A. Yes, I'm (inaudible) aware.
 16 **Q. This was the appeal of the determination of nonsignificance?**
 17 A. Yes.
 18 **Q. Okay. And you testified in that proceeding?**
 19 A. I did testify in that proceeding.
 20 **Q. Okay. And so for a similar proposal, let me just refer**
 21 **to it as the expansion of accessory dwelling units, I take**
 22 **it you were familiar with that proposal? You testified on**
 23 **that proposal?**
 24 A. Yes, all the above. Testified and familiar, yes.
 25 **Q. Okay. And then subsequent to that, did you -- were you**

1 typically market and economic obstacles to that, feasibility
 2 obstacles and that sort of thing. So that's very frequently
 3 what I will do for a public entity, yes.
 4 **Q. Okay.**
 5 HEARING EXAMINER: Can I interrupt you?
 6 MR. EUSTIS: Yes.
 7 HEARING EXAMINER: You have a document on the screen.
 8 MR. EUSTIS: Yes, I know.
 9 HEARING EXAMINER: Are you going to introduce that?
 10 MR. EUSTIS: I am, right now.
 11 HEARING EXAMINER: Good.
 12 MR. EUSTIS: Yeah.
 13 HEARING EXAMINER: Thank you.
 14 **Q. (By Mr. Eustis) Okay. You will see on the monitor behind**
 15 **me a copy of what was listed as Appellant's Exhibit 5 in**
 16 **this proceeding. Could you identify that?**
 17 A. That is my resumé.
 18 **Q. Okay. And in green on the left-hand side, you have a list**
 19 **of public interest, private interest, et cetera. Would that**
 20 **be a list of the current and past clients for whom you've**
 21 **done work?**
 22 A. Yes, that's correct. With an emphasis on clients in
 23 Washington and Puget Sound.
 24 **Q. Okay. And then you've also listed your experience, various**
 25 **projects in which you've been involved?**

1 A. Representative projects, that's correct.
 2 **Q. Okay.**
 3 MR. EUSTIS: Well, without going over the resumé in minute
 4 detail, we would offer Appellant's Exhibit 5 as an exhibit
 5 in this proceeding. In terms -- I will make another humble
 6 request in terms of exhibits. We have a certain number of
 7 core exhibits, not only the EIS, the Findings and
 8 Conclusions in the prior DNS appeal. And I guess
 9 (inaudible) the question as to whether this would just be
 10 Exhibit 2 or if we wanted to allocate exhibit numbers to
 11 those core exhibits. Again --
 12 HEARING EXAMINER: Well, if there's a set of exhibits that
 13 are mutually agreed upon that we can introduce now, we can
 14 do that. Otherwise, it would be Exhibit 2.
 15 MR. KISIELIUS: From the City's standpoint, this is the
 16 first we've heard of the proposal, so I don't know what the
 17 range of documents that Mr. Eustis is referring to.
 18 HEARING EXAMINER: Okay.
 19 MR. EUSTIS: What I'm referring to is essentially City's
 20 Exhibits --
 21 MR. KISIELIUS: Well, obviously the core --
 22 MR. EUSTIS: -- 1, the FEIS; 2, the DEIS; 3, the EIS
 23 determination of non-significance; 4, the EIS scoping
 24 report; 5, the hearing examiner's findings and decisions.
 25 Again, because these are kind of core documents --

1 HEARING EXAMINER: Right.
 2 MR. EUSTIS: -- in which I'm taking time.
 3 Okay. So appellant would propose that the FEIS and
 4 appendices be Exhibit 1.
 5 HEARING EXAMINER: Yes, and it already is.
 6 (Exhibit No. 1 admitted into evidence)
 7 MR. EUSTIS: I would concur with Mr. Kisielius, there's
 8 probably not a need for the draft EIS.
 9 HEARING EXAMINER: Okay.
 10 MR. EUSTIS: It's not in our list, appellant's list.
 11 The EIS -- so Exhibit 2 would be EIS Determination of
 12 Significance and Scope of Notice --
 13 HEARING EXAMINER: Okay.
 14 MR. EUSTIS: -- which is the document that the FEIS is
 15 based upon.
 16 HEARING EXAMINER: Okay. So as you had -- as you
 17 introduce those, if you want to hand me an exhibit, I can
 18 put it in the record. Otherwise, I can't put it in the
 19 record.
 20 MR. EUSTIS: These were core documents that I believe the
 21 prehearing coordinator required the City to provide to the
 22 examiner already.
 23 MR. KISIELIUS: Clarification. I think the only core
 24 document that the examiner asked for in advance of the
 25 hearing is the EIS, which we provided. I think the City is

1 HEARING EXAMINER: Right.
 2 MR. EUSTIS: -- just so that you don't have these core
 3 documents that --
 4 HEARING EXAMINER: Are littered throughout --
 5 MR. EUSTIS: -- appear much later on.
 6 HEARING EXAMINER: -- the record. Yes, I understand.
 7 MR. KISIELIUS: And so I understand and appreciate the
 8 question, but I thought Mr. Eustis was referring to his
 9 appellant documents.
 10 HEARING EXAMINER: Okay.
 11 MR. KISIELIUS: So the City did identify core documents.
 12 I think the concern -- the only concern we'd raise is that
 13 some of them (inaudible), and some of them, to the extent
 14 that they have any relevance, depends on what the arguments
 15 will be.
 16 And so I certainly -- we don't object to the final EIS.
 17 I'm not sure -- the draft is fine, but -- the determination
 18 of significance is fine. So if you want to walk down that
 19 list very quickly. And I apologize for that, Your Honor.
 20 HEARING EXAMINER: No, it's (inaudible).
 21 MR. EUSTIS: So the -- rather than giving -- and I'm
 22 bringing this up now because now we're going towards the
 23 numbering of exhibits, and I'm doing this to --
 24 MR. KISIELIUS: Yeah.
 25 MR. EUSTIS: -- for simplicity --

1 responsible and has available hard copies of the other core
 2 documents.
 3 I think what we're trying to identify is which of those
 4 would be relevant to the issues that you have yet to fully
 5 articulate. So again, I think we've got an agreement that
 6 at least at this point, the draft EIS is not yet known to be
 7 something that we need to put in already, and so we can
 8 leave that out.
 9 HEARING EXAMINER: Um-hum.
 10 MR. KISIELIUS: (Inaudible) transpires. I'm not sure I
 11 understand the need. It's not a long document, but as I
 12 understand it, the (inaudible) procedural arguments or
 13 issues raised that those were dismissed.
 14 So again, the Scope of Notice, I'm not yet sure what the
 15 relevance is yet. And I won't know until (inaudible).
 16 HEARING EXAMINER: Right. Well, it sounds like,
 17 Mr. Eustis, we're going to be entering your -- the CV as
 18 Exhibit 2 at this point.
 19 MR. EUSTIS: Okay.
 20 HEARING EXAMINER: We're just not going to be able to
 21 do -- accomplish a, as much as I would like to, a group of
 22 core documents at the beginning that would be necessary for
 23 this case that we all agree (inaudible).
 24 MR. EUSTIS: Appellants would offer Appellant's Exhibit 5,
 25 Mr. Reid's resumé.

1 HEARING EXAMINER: Okay. Do you have a copy of it?
 2 MR. EUSTIS: There is a copy of it --
 3 HEARING EXAMINER: Actually --
 4 MR. EUSTIS: -- in the exhibits that were -- that we have
 5 compiled.
 6 HEARING EXAMINER: Okay. Okay. (Inaudible).
 7 MR. EUSTIS: In the compilation, it is given Exhibit --
 8 HEARING EXAMINER: (Inaudible).
 9 MR. EUSTIS: -- Exhibit 5A. And that just --
 10 HEARING EXAMINER: 5A.
 11 MR. EUSTIS: -- happens to be the tabbing that was given
 12 by the compiler of exhibits.
 13 HEARING EXAMINER: Okay. (Inaudible). There we go.
 14 All right. Mr. Reid's CV will be entered into the record
 15 as Exhibit 2. I'm assuming there's no objection to that.
 16 MR. KISIELIUS: No objection.
 17 HEARING EXAMINER: All right.
 18 (Exhibit No. 2 admitted into evidence)
 19 HEARING EXAMINER: You may proceed, Mr. Eustis.
 20 **Q. (By Mr. Eustis) Mr. Reid, you have reviewed the final EIS**
 21 **for the accessory dwelling unit proposal?**
 22 A. I have, yes.
 23 **Q. And with respect to which issues did you review the EIS?**
 24 A. Socioeconomics and housing, as well as a bit in the parking
 25 analysis.

1 **impacts of the proposal upon housing and housing**
 2 **displacement in the city?**
 3 A. It is my opinion after all of the review that the EIS does
 4 not fully consider several different issues and, therefore,
 5 fully consider, in particular, issues of displacement
 6 regarding this change in regulation that would allow
 7 additional accessory dwelling units as studied in the EIS.
 8 **Q. So before you proceed --**
 9 A. Um-hum.
 10 **Q. -- to give detailed testimony, could you, I guess, give a**
 11 **brief summary of the points upon which you would fault the**
 12 **EIS?**
 13 A. Sure. There are really three major -- what I would call
 14 major -- issues that, in my view, render the EIS inaccurate
 15 or incomplete, particularly when it comes to displacement,
 16 displacement risk and actual displacement of households when
 17 new accessory dwelling units are allowed to be built in
 18 higher volume and in more locations in the city.
 19 The first one is that the EIS, the socioeconomic and
 20 housing chapter, mentioned displacement as a potential risk
 21 of the new, you know, code or regulation to allow additional
 22 accessory dwelling units, but it -- and it talks about the
 23 risk of accessory dwelling units -- or excuse me -- the risk
 24 of displacement, but it fails to mention that the City has
 25 collected voluminous, detailed data on actual displacement

1 **Q. Okay. And I take it you also reviewed the appendices to the**
 2 **EIS?**
 3 A. Yes. Appendix A1, I believe, which is the more detailed
 4 treatment of housing and socioeconomics, yes.
 5 **Q. Okay. And are there other documents that you reviewed in --**
 6 **for preparation of your testimony today?**
 7 A. Yes. So different sections of the MHA EIS for some
 8 background data that pertains to some of the issues here.
 9 And I'm trying to think of -- off the top of my head. I
 10 might be blanking on something else, but that was the
 11 primary other piece of information.
 12 **Q. Okay. And for the MHA EIS in particular, would that be**
 13 **Appendix M?**
 14 A. Oh, yes, Appendix M. That -- yeah, that appendix that
 15 discusses the correlation or existence of gains or losses in
 16 households when new housing is built in different census
 17 tracts historically in the city of Seattle. Yes.
 18 **Q. Okay. And I take it you are also drawing upon your wealth**
 19 **of experience, background, education in the area of real**
 20 **estate economics?**
 21 A. Yeah, definitely.
 22 **Q. All right.**
 23 A. Yes.
 24 **Q. Okay. So based upon your review, do you have an opinion as**
 25 **to whether the EIS gives a full analysis of the potential**

1 activity occurring at the census tract level throughout the
 2 city.
 3 The EIS fails to mention that that data is available. It
 4 fails to analyze that data as an existing condition. And it
 5 fails to utilize that data of actual displacement occurring
 6 by different -- all the different census tracts within the
 7 city of Seattle. It fails to utilize that information as
 8 the baseline or to inform the analysis of impact to
 9 displacement to future households. So that's the first one.
 10 The second one is -- the analysis is twofold. There's
 11 a -- and we'll talk more about it in detail, but there's a
 12 highest and best use analysis that discusses how the
 13 development form might change economically as a result of
 14 the ability to more freely build more accessory dwelling
 15 units, as in does it make economic sense to build it. And
 16 the second one is a decision-making model to figure out how
 17 many accessory dwelling units will be built throughout the
 18 city based on econometric modeling.
 19 The analysis rests on what are called property or parcel
 20 typologies. And by that, the analysis assumes there are
 21 kind of this set -- I can't remember off the top of my head,
 22 I believe it's six kind of representative parcel sizes and
 23 improvement sizes, house -- size of house and existence of
 24 daylight basement and other structure. But there are six of
 25 these kind of common prototype parcels. And the analysis

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1 utilizes these prototypes to model what is going to happen
 2 in the future, whether or not accessory dwelling units will
 3 be built or not.
 4 And the problem is that the prototypes do represent many,
 5 a large number of characteristics of -- that are common in
 6 the city, but the problem is that displacement and loss of
 7 homes and loss of households that are economically
 8 vulnerable are frequently in non-common types of home sizes
 9 and parcel sizes. So the analysis takes a look at what's
 10 common out there, but it doesn't take a look outside of that
 11 at what's less common and what, therefore, is likely at
 12 higher risk of displacement.
 13 And finally, the analysis utilizes what's called residual
 14 land value analysis. And, in my opinion, that's an
 15 incomplete way to look at the issue. Residual land value
 16 analysis takes a look at different properties and asks the
 17 question: If a developer is looking to buy a property and
 18 change it -- in this case, add accessory dwelling units to
 19 an existing home or tear down the home and build three new
 20 units -- residual land value analysis answers the question
 21 is it worthwhile for that property to be purchased and then
 22 changed for profit.
 23 That analysis is incomplete in this situation because it
 24 solely looks at the perspective of somebody buying a
 25 property and changing it. It doesn't adequately take a look

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1 at how an existing homeowner who lives in the home might do
 2 something different with their property or how an existing
 3 homeowner who rents the house to somebody, lives somewhere
 4 else but owns a home and rents it out -- they already own
 5 the home so they're not thinking -- they're not looking at
 6 buying the home and changing it. They already own it and
 7 they're thinking -- their decision-making process is
 8 different.
 9 And we don't have analysis of that, so we don't have
 10 analysis in the EIS that asks the question what about
 11 existing home -- people who already own homes and rent them
 12 out, what is their decision tree, what's their
 13 decision-making process. The EIS is silent on that.
 14 And in my view, that is a much higher-risk situation from
 15 an economic perspective of homes being taken, demolished and
 16 being replaced with more rental units. Those are the big
 17 three issues, in my opinion.
 18 **Q. So I asked that, well, largely -- well, to let the**
 19 **examiner -- give the examiner a preview of your more**
 20 **detailed testimony.**
 21 A. Um-hum.
 22 **Q. So if you are, you know, comfortable in doing so, if this**
 23 **order that you gave these issues is logically how you think**
 24 **of them, what I would ask you to do is now elaborate on each**
 25 **of these three points, beginning with the first point**

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1 **dealing with the failure to consider the potential for**
 2 **displacement by the proposal based upon the information that**
 3 **the City holds on the census tract basis.**
 4 A. Sure. So I have -- I'm going to first refer to Chapter 4.1
 5 of the EIS, Housing and Socioeconomics, and I'm going to
 6 focus on displacement.
 7 Now, the displacement being the occurrence of new
 8 development happening, and with new development happening,
 9 the loss of certain existing households because they can no
 10 longer afford to live there, rents or housing costs are
 11 driven up; or the home that they're in is purchased,
 12 demolished, and they're forced to move because the structure
 13 is gone; or cultural displacement, meaning cultural groups
 14 living together and with existing economic networks are
 15 eroded by gentrification or new development taking out
 16 older, existing housing and that loss of cultural population
 17 eroding leads to cultural displacement, people who no longer
 18 can or will want to live in a neighborhood because those
 19 services and that economic community network is leaving. So
 20 either way, I'll refer to Section -- Chapter 4.1 of the EIS.
 21 Displacement is discussed at first on page 410, and it
 22 goes through and discusses the three general types of
 23 displacement that the City of Seattle recognizes as being a
 24 risk and pays attention -- has done analysis of in the past.
 25 But the information, in terms of existing conditions and

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1 displacement, is -- no information is provided in
 2 Section 4.1 about how much displacement has been going on,
 3 where has it been going on. It's basically silent on what
 4 existing conditions there have been regarding actual
 5 displacement activity, households leaving, different types
 6 of economically vulnerable households leaving when new
 7 housing is built and it effectively forces them out.
 8 So existing conditions is silent on this. And that's
 9 surprising to me because in the MHA EIS Appendix M, which we
 10 had discussed earlier, the entire appendix is dedicated to
 11 providing detailed data by a census tract throughout the
 12 city between 2000 and 2010/2014 as I recall is the data set.
 13 That appendix to the MHA EIS in great detail establishes
 14 where actual displacement has been going on throughout the
 15 city by census tract by a number of definitions of
 16 economically vulnerable households.
 17 There's an analysis of households that are -- that make no
 18 more than 30 percent of area household income.
 19 There's an analysis of households by census tract for
 20 households earning between 50 and 80 percent of average
 21 household income, what many would now call, you know, the
 22 missing middle type of housing need and vulnerable
 23 households.
 24 There's an analysis of households of different racial or
 25 ethnic groups and how they have moved in or moved out by

1 census tract as new housing has been built.
2 And the analysis goes so far as to say -- to do two
3 different types of analysis, and that is: What's the impact
4 on households by census tract when any new housing is built?

5 And then there's also a separate analysis of, and data for:
6 What's the impact on population, these economically
7 vulnerable populations when we only consider new market rate
8 housing that has been built?

9 And so up on the screen from Appendix M, right here is
10 page M12 or Exhibit M14 -- and this is the first -- there's
11 many of these maps and scatter plots of all this data. But
12 either way, Exhibit M14 from the MHA EIS Appendix M, each of
13 those kind of outlined areas in the city outlined in white,
14 different colors, are census tracts in the city of Seattle.

15 Every one that is not shaded green -- not shaded green --
16 is a census tract that when it experienced new housing
17 development of any type, it lost economically vulnerable
18 households between 2010 and -- excuse me -- between 2000 and
19 2010/14. Okay? This particular map shows -- again, the
20 darker brown, the more economically vulnerable households
21 were displaced. In this map, it's households that earn
22 between 50 and 80 percent of area median income.

23 So the information is detailed and voluminous, and the
24 incidence of displacement when new housing is built is
25 extremely well documented here, but the EIS for the -- for

1 restrictions on what -- on the affordability of new
2 accessory dwelling units or detached or attached dwelling
3 units, how much they might rent for or even potentially sell
4 for. So they are new market rate housing.

5 And so this map and the data behind it more accurately
6 reflect the relationship that I would argue the ADU EIS
7 should have discussed at all, but more importantly,
8 discussed in detail and utilized as part of analysis.

9 **Q. Do you happen to recall what the EIS reported or represented
10 to be the effect of the legislation upon displacement of
11 lower income or more vulnerable housing?**

12 A. Yeah, I do. I mean, that's later in the chapter. And I
13 guess -- let me see. In the Impacts section. I guess --
14 let me flip to it. Impacts of Analysis -- here we go.

15 Displacement in the -- displacement risk and displacement
16 are addressed beginning on page 4-37 of the EIS,
17 Chapter 4.1, Housing and Socioeconomics. And this is --
18 this is also where I find that the analysis really is -- the
19 impact analysis upon displacement is greatly lacking.

20 There really -- the analysis really -- the analysis of
21 impact upon displacement is really a redisplay of the
22 displacement risk index criteria or information from the
23 2016 -- oh, the -- there was a -- actually that's another
24 document I did review as part of this.

25 In 2016, there was a major report done by the City of

1 the -- this EIS, for the DADUs and ADUs, is completely
2 silent on this issue as a -- as an existing condition, a
3 historical condition, an existing condition as well as the
4 baseline or what should inform the framework for analyzing
5 impacts and analyzing potential future displacement. This
6 is -- this is not included.

7 So either way, if you -- the -- one other point. Is there
8 another map --

9 **Q. Yes.**

10 A. -- up there?

11 Just to kind of point out a second one. This is -- this
12 map that you see, Exhibit M14, this is -- that was, by
13 census tract, how many households were gained or lost that
14 earn between 50 and 80 percent of area median income when
15 new housing of any type was built in that census tract.

16 This next map, it's the very next one in Appendix M of the
17 MHA EIS. This is a little more specific. This is, by
18 census tract, how many households were gained -- how many
19 households that earn between 50 and 80 percent of area
20 median income were lost or gained when new market rate
21 housing was built in that census tract.

22 And this is an important distinction, and I would say that
23 this particular map is a bit more -- an analysis that goes
24 with it, the data that goes with it is a bit more -- is a
25 bit more pertinent here because there really are no

1 Seattle to identify a way to look at the displacement risk
2 throughout the city. And this is a -- this is -- the maps
3 that are in the EIS are actually just those maps from the
4 2016 report. They do not report new, original information
5 or impact analysis of this legislation.

6 The maps simply show: In 2016, we identified these areas
7 where, according to our methodology for looking at
8 displacement, this is where we think displacement is most
9 likely to happen based on how we look at it.

10 But the problem is we have this information from the MHA
11 EIS that very directly, succinctly and precisely identifies
12 how much displacement, where, what types of households, and
13 how much. And again, in the impact analysis, this isn't
14 treated, discussed, used as part of the analysis.

15 The impact analysis is really just restatement, reprinting
16 of the maps from the 2016 displacement methodology report.
17 There is a little bit of discussion about what displacement
18 might be, but it's really kind of more qualitative. There's
19 no: This is what's been happening. We think the ADU --
20 this new legislation will have the impact of making this
21 better, making this worse, having no impact at all. That
22 isn't done whatsoever.

23 **Q. So you -- at the beginning of your remarks, you mentioned
24 that the EIS used a lot size typology approach.**

25 A. Correct.

1 **Q. In your opinion, does that lot size typology approach enable**
2 **either the decision-maker, the authors of the EIS to**
3 **identify areas of greater displacement risk?**

4 A. In my opinion -- in my opinion though, I mean, I think --
5 first off, because the EIS doesn't identify what
6 displacement has been occurring and, therefore, what the
7 actual risks are based on this very well documented
8 historical data, the model to analyze displacement -- the
9 model to analyze production of ADUs, highest and best use
10 analysis for all the different parcels that they looked at,
11 and the typology that's referenced as part of coming up with
12 a methodology to do all this, indeed, the parcel typology --
13 you know, I'll get to that specifically -- kind of is
14 designed in a way that's -- doesn't factor in what's going
15 on, why displacement is actually occurring.

16 In -- I'll refer to Appendix A to answer this question
17 more precisely. So on page A23 of Appendix A of the
18 accessory dwelling units final EIS, there's an Exhibit A13,
19 there is a -- I'm sorry, it's four parcel types. There are
20 four what's called a parcel typology.

21 The analysis of ADU and DADU production and how it
22 happens, all the different permutations of how a property
23 might be developed or redeveloped, is really kind of is
24 based greatly on --

25 **Q. Mr. Reid?**

1 shows the distribution of all the different single-family
2 residential parcels there are in the city by size, by lot
3 size. Okay?

4 And what the analysis then does, it says, look, we can't
5 model every single -- we apparently can't model every single
6 parcel and its sizes and its qualities. That's, you know,
7 not possible. So what we're going to do is model the
8 economics of what we will call four prototype parcel types
9 that we, after reviewing the data, show common
10 characteristics with many of the parcels out there. Okay?
11 So it's a model. These aren't actual properties being
12 modeled. These are prototypes based on some frequently
13 common characteristics of parcels. Okay?

14 The problem is that, I would argue, that in areas of
15 displacement, where it's been bad -- my word bad -- where
16 it's happened and where it's happened significantly
17 according to the data there in Appendix M of the MHA EIS,
18 there's a lot of variation in parcel sizes and in house
19 sizes, the size of the structure that there's a lot of
20 variation out there. And these prototypes are
21 representative of a certain number of parcels out there, but
22 it should be a bit more comprehensive than just -- the
23 analysis should have utilized some more variations on this.

24 For instance, as part of reviewing all this, one thing --
25 reviewing all of the documents, one thing I did was to go

1 A. Yes, sir.

2 **Q. Can I ask you to pause for a moment?**

3 A. Yeah. Sure.

4 **Q. I think the examiner might be looking for this page.**

5 HEARING EXAMINER: A13; is that right?

6 THE WITNESS: Exhibit A13.

7 MR. EUSTIS: Exhibit -- which --

8 HEARING EXAMINER: Yes.

9 THE WITNESS: Yes, on page A23.

10 HEARING EXAMINER: Okay. A23, okay.

11 THE WITNESS: Sorry.

12 HEARING EXAMINER: That's all right. Thank you.

13 Okay. Now I have it.

14 **Q. (By Mr. Eustis) Okay. Proceed.**

15 A. Oh, sure. Thank you. So in Exhibit A13, what you have is a
16 list of the four different types of parcels that the ADU
17 impact analysis utilizes for figuring out does it make sense
18 to build an accessory dwelling unit or a detached accessory
19 dwelling unit or both, to tear down a house and build three
20 new units. All the different permutations of those
21 decisions are based on the highest and best use analysis
22 that focuses on these four parcel types, typologies. Okay?

23 The EIS went through the process of analyzing all the
24 different types of single-family residential parcels there
25 are in the city. Okay? And in -- actually Exhibit A14

1 out to look at King County Assessor data and pair that with
2 where home rentals are already occurring, just to kind of
3 get an idea of where single-family homes are being rented
4 versus owned more frequently as a sign that you might have
5 some different DADU or ADU impacts with the new legislation.

6 In looking around in parcels, one I found in particular
7 that was in -- that's in Columbia City, kind of in the
8 37th Avenue I think and Dakota Street area, I went through
9 and took a look at 20 or 30 different parcels in this block,
10 two-block area just to kind of get a sense of how much
11 variation there might be between actual parcels out there
12 and these prototypes.

13 And before I -- before I mention what I found, I will
14 point out that the parking analysis -- and I forget what
15 section. I could be reminded of that.

16 **Q. Appendix B?**

17 A. Appendix B. The parking analysis in Appendix B does what's
18 called a "case study." The analysis goes out and takes a
19 look at the build environment, an actual, you know, area of
20 the city, and gathers information about it and does analysis
21 with it.

22 And this analysis, this economic housing and socioeconomic
23 analysis of the impacts of the legislation could have and
24 should have done a very similar thing focusing on taking a
25 look citywide but, in particular, focusing on where

1 displacement has been occurring, is recorded to have been
2 occurring, to find out are these prototypes representative
3 of the built environment in these census tracts or not.

4 And to the extent that they are or they aren't, how do we
5 model or how should we model the potential displacement
6 impact if these prototypes don't kind of accurately describe
7 the built environment of homes in some of the areas that
8 have seen displacement.

9 So what I found, at least in the 37th Avenue and
10 Dakota Street area, was that only one of the 20 or 30
11 parcels I looked at actually was identical to one of these
12 four prototypes. So out of 20 or 30 parcels, only one -- I
13 could only find one of those that very, very nearly matched
14 one of the prototypes.

15 And only half of them, only half of the parcels I looked
16 at and found, were within 95 percent of being described
17 reasonably accurately by these prototypes, okay, by these --
18 by the parcel typology, by the parcel types. Let me be
19 precise. I have it written down.

20 There were a total of 23 I looked at. So one of 23 was
21 exactly like a parcel -- like a parcel type analyzed, and
22 only half were within 95 percent of that. Okay? So the
23 point here really being that from a perspective of -- what I
24 did -- actually, let me back up.

25 So what I also found was that very frequently lot sizes

1 I did find one instance where, under existing code,
2 somebody had already done that and built three town homes,
3 three full-sized town houses. They were allowed to do that.
4 So anyway, that, to me, was an indicator that this would
5 likely be repeated.

6 **Q. (By Mr. Eustis) Okay. In your testimony, you have used the**
7 **term "displacement." And by using that term, what is the**
8 **process, the pattern that you are speaking of?**

9 A. Sure. So I spoke a little bit -- I kind of talked about
10 that kind of I think when I introduced. There are really --
11 I appreciate the City of Seattle's definition of
12 displacement, particularly from the MHA EIS, but there
13 are the three types, and the two in particular that I think
14 are, citywide anyway, are particularly important to
15 recognize.

16 One is physical displacement. Okay. That's when --
17 that's a situation where an existing residential structure
18 of some type, the economics of the property value -- and
19 maybe the Land Use Code and Land Use Code legislation's
20 changed so that something different can be done with that
21 property.

22 Physical displacement is when an existing housing
23 structure is removed. The household in it, therefore, has
24 to leave, displaced. And after the demolition of that
25 residential structure, something is built in its place.

1 varied around in this size range, but what varied a bit more
2 were the size of the homes on the parcels. And that's
3 important because in this particular neighborhood in
4 Columbia City, the home sizes tended to be a little bit
5 smaller, okay, than the typology. The typologies I should
6 say.

7 And that's important because the smaller the structure
8 relative to the size of the lot, the easier it is, probably
9 more economical it is, to remove that existing home and
10 replace it with up to three structures.

11 HEARING EXAMINER: Okay. Are you talking about footprint
12 or are you talking about --

13 THE WITNESS: Footprint, yeah.

14 HEARING EXAMINER: Okay.

15 THE WITNESS: Footprint, yeah.

16 A. So take a 5,000-square-foot lot, then there might be a
17 1200-square-foot home on it. Okay. The typologies have
18 anywhere from 15- to 1900-square-foot homes on that lot.

19 But in that neighborhood of Columbia City anyway, what I
20 found was the homes were a little bit smaller than average,
21 which means the lot size ended up -- the lot itself ended up
22 being a bigger kind of palate to use to build more units on
23 potentially. And so, in my opinion, therefore, more
24 likelihood that that home would be removed and then replaced
25 by maybe up to three units.

1 From an economic -- from a vulnerable -- economically
2 vulnerable household perspective, I think the most common
3 scenario there is an older home, maybe built in the '50s,
4 '60s, '70s, depreciated -- it rents for cheaper because it's
5 older -- and it's in moderate condition, is affordable to
6 the household living in it, owning it or renting it by
7 virtue of its condition, older and, you know, moderate
8 shape.

9 That type of a residential structure being bought, or the
10 owner, existing owner in it, because the home isn't of much
11 value relative to the parcel, it might make sense for them
12 to demolish the home and replace it with more units,
13 basically under this legislation. That's physical
14 displacement.

15 Then there's economic displacement. And that's basically
16 a neighborhood or a district becomes more popular with
17 higher and higher income households. That drives up rents
18 and home prices in the neighborhood, and that makes it less
19 and less affordable for existing households who are living
20 there. Rent increases, that sort of thing.

21 And so households -- different economically vulnerable
22 households will be forced to move out because they can no
23 longer afford to live there because of prices or rents.
24 That's economic displacement. There isn't necessarily a
25 loss of a structure. Nothing is -- a structure isn't

1 necessarily demolished and replaced. It's just by economic
 2 factors displacement occurs.
 3 And then immigrant household -- immigrant households,
 4 different language groups. Cultural displacement, that is a
 5 particular -- the City recognizes that as a distinct type of
 6 displacement. More vulnerable households, maybe immigrants
 7 from somewhere.
 8 I have a friend who grew up in South Seattle, immigrant
 9 family from Laos. And her old neighborhood is very
 10 much going through this right now, and that is that, as
 11 gentrification occurs, different households who remain in
 12 the area because of family ties or language ties to
 13 businesses, cultural ties to the area, when the urban form
 14 changes and things get more expensive, that cultural network
 15 erodes and it pushes people out. Her family ended up having
 16 to move to Auburn for that very reason, so as an example.
 17 **Q. Would the -- by chance, would this be Sue Souveny**
 18 **(phonetic), who testified during the DNS hearing?**
 19 A. That is correct. That is correct.
 20 HEARING EXAMINER: Mr. Eustis, it's about time for our
 21 break, so if you could find a natural time to take a
 22 15-minute break (inaudible).
 23 MR. EUSTIS: Very well. Let's see, I would address,
 24 before we break, the two exhibits from Appendix M of the MHA
 25 EIS. These would be Exhibits M14 and M17, to which Mr. Reid

1 of it, we can admit it.
 2 MR. EUSTIS: I do not have a copy of it right now.
 3 HEARING EXAMINER: Okay. Do you have a copy of these two
 4 documents, these two (inaudible)?
 5 MR. EUSTIS: I do not have a paper copy right here.
 6 HEARING EXAMINER: Okay. So I can't admit it then.
 7 MR. EUSTIS: Very well. Then subject to obtaining paper
 8 copies, we will present that later, but I want to avoid
 9 if --
 10 HEARING EXAMINER: All right.
 11 MR. EUSTIS: Because our access to a printer, that would
 12 be tomorrow.
 13 HEARING EXAMINER: Right.
 14 MR. EUSTIS: But Mr. Reid is not likely to be here.
 15 HEARING EXAMINER: Sure.
 16 MR. EUSTIS: I don't want to have to go through the
 17 process of calling him to -- for that limited purpose.
 18 HEARING EXAMINER: Sure. That's fine. And I will take
 19 judicial notice in the meantime.
 20 MR. EUSTIS: Very well. Okay. Let's --
 21 HEARING EXAMINER: Okay. Can we take a break now?
 22 MR. EUSTIS: Certainly.
 23 HEARING EXAMINER: Okay. We'll be back at 10:46.
 24 (Recess)
 25 HEARING EXAMINER: Thank you. You may be seated. We will

1 testified.
 2 Now, these were not listed on appellant's exhibit list.
 3 They -- but I would ask the examiner to take judicial notice
 4 of them because they're already documents in the MHA
 5 proceeding. And I would point out that this exhibit was
 6 also the subject of the City's deposition of Mr. Reid, so I
 7 don't think there's any surprise there.
 8 I leave to the examiner whether the examiner would like
 9 these to be made exhibits in this proceeding or if it's
 10 sufficient for the examiner to take judicial notice of them.
 11 HEARING EXAMINER: Okay. Do you have a response?
 12 MR. KISIELIUS: Cutting to the chase, we wouldn't have an
 13 objection. The only objection we've got, I think, is the
 14 limited excerpt here. Because I fully suspect that, given
 15 the testimony that we've heard, we're going to have to talk
 16 about more of the document because -- well, we're just going
 17 to have to.
 18 So I don't know if -- it's not a very long one. If we can
 19 just put in the entirety of the document. Or if you want to
 20 wait and have us -- if we have to refer to it or submit it
 21 on the (inaudible).
 22 HEARING EXAMINER: Okay.
 23 MR. EUSTIS: We have no objection to offering the entirety
 24 of the appendix and -- of the MHA EIS.
 25 HEARING EXAMINER: Okay. Well, if someone has a copy

1 continue with direct examination of Mr. Reid.
 2 **Q. (By Mr. Eustis) Mr. Reid, prior to the break, we were --**
 3 **you were discussing displacement, the few types of**
 4 **displacement. So the -- you have a situation, let's say in**
 5 **the Dakota neighborhood you were talking about, where an**
 6 **existing homeowner is able to sell the property to let's say**
 7 **somebody who wants to build an accessory dwelling unit or**
 8 **tear down the principal residence and build two units.**
 9 **The -- certainly the seller would be able to realize an**
 10 **economic return by selling it to such a person? How would**
 11 **that affect the availability or the supply of affordable**
 12 **housing?**
 13 A. Well, so anytime a rent -- anytime an accessory dwelling for
 14 rent is added to a property, it basically converts that
 15 residential property into a commercial property and it earns
 16 income. Okay?
 17 And so that home no longer will sell for its value as a
 18 single-family home. Now it's -- now it will be appraised
 19 and sell for the value of that single-family home plus the
 20 capitalized value of the rent income from each of those two,
 21 one or two, accessory dwelling units that have been added.
 22 So now all of a sudden you have properties that are worth
 23 significantly more than they were, and that basically
 24 reduces the affordable single-family housing stock,
 25 effectively. So it just -- it pushes homes that may have

1 been approached being affordable in terms of price, it makes
 2 them that much more expensive because they have those
 3 income-earning rental units on the property as well, and
 4 that just can significantly increase the value of that
 5 property.
 6 **Q. So then would that make the -- such properties more out of**
 7 **reach or harder to purchase by let's say entry-level**
 8 **single-family homeowners?**
 9 A. Yes. Yes it would, exactly.
 10 **Q. So in that sense, it would end up reducing the supply of,**
 11 **quote/unquote, affordable single-family houses?**
 12 A. That is correct.
 13 **Q. So, in your opinion, do the prototypes presented by the City**
 14 **give an accurate depiction of existing conditions to allow a**
 15 **full and accurate determination of the impacts of the**
 16 **proposal upon displacement?**
 17 A. In my opinion, no, they don't.
 18 **Q. Okay. I think you have given the basis for that opinion in**
 19 **your prior testimony. Is there anything more that you would**
 20 **add to it?**
 21 A. Just, you know, basically that, I mean, the risk of
 22 displacement or where displacement has been happening,
 23 according to data that's been collected, is just that the
 24 properties that vary from this, particularly on unit size,
 25 unit sizes that are smaller than are assumed in the parcel

1 A. In my view, yes, I think it would have a significant impact.
 2 **Q. And I take it that that significant impact is not revealed**
 3 **in the EIS?**
 4 A. Not that I see, no.
 5 **Q. Okay. So at this point, what I would like to do is to move**
 6 **to your second issue in -- that you identified. You've**
 7 **already talked about the different parcel typologies. I'm**
 8 **not clear whether your discussion of the first issue has led**
 9 **you into the second issue.**
 10 A. Okay.
 11 **Q. But I'll leave for you to speak to the second issue that you**
 12 **identified in the beginning of your testimony.**
 13 A. Could you clarify what you're -- which one you're referring
 14 to --
 15 **Q. Yeah.**
 16 A. -- because I -- go ahead.
 17 **Q. The -- I believe your issue with it was with the -- on the**
 18 **two methodologies that were used. One was highest and**
 19 **best use.**
 20 A. Oh.
 21 **Q. The other was the forecasting methodology.**
 22 A. Right.
 23 **Q. The question would be whether the application of those**
 24 **methodologies either would be suitable applicable**
 25 **methodologies for assessing the impacts of this legislation,**

1 types relative to the size of the lot itself.
 2 Examples of those types of -- any variation like that is
 3 not modeled here. And so, therefore, absolute -- the
 4 problem with displacement is that the analysis that's done,
 5 the prototypes that are used, the parcel typologies that are
 6 used, the assumption is let's take a look at what the impact
 7 is to the most common types of parcels in the city.
 8 Well, unless displacement's happening on over half of the
 9 properties in the city, which it's not, the issue is what
 10 are the exceptions out there, what are the characteristics
 11 of parcels out there, parcels and improvements upon them,
 12 that are more common or have exhibited displacement
 13 problems.
 14 And so, therefore, in my view, just based on review, these
 15 prototypes are descriptive of probably certainly many of the
 16 parcels throughout the city, but they aren't representative
 17 of the parcels that are at risk of displacement. That's --
 18 that is what I would say is the problem.
 19 This verifies what parcels probably don't have
 20 displacement risk. It doesn't take a look at what might
 21 have displacement risk or likely does.
 22 **Q. Given your areas of inquiry and in particular your view of**
 23 **areas in the Columbia lots in the Columbia City area, would**
 24 **you anticipate that the proposed legislation would have a**
 25 **significant impact upon displacement?**

1 **and if there would be more appropriate methodologies, what**
 2 **those would be.**
 3 A. Right. So I think -- right. Sorry. I guess my numbering
 4 was different. I'm sorry.
 5 **Q. Okay.**
 6 A. So, yeah. So the issue of residual land value analysis as
 7 being sufficient here. So there -- when it comes to making
 8 the choice to change a property, to -- whether it's to add
 9 an accessory dwelling unit, add two accessory dwelling units
 10 to the existing home, or whether it's to tear down the
 11 existing home and replace it with up to three new units
 12 potentially, there are two decision-makers that decide --
 13 two types of decision-makers that -- two economic agents is
 14 the word I would use, term that I would use -- that have to
 15 think about what to do or what they plan to do.
 16 There's the existing owner of that property, and then
 17 there is a developer, an entity that's looking at developing
 18 a property they don't yet own. Okay? Both can look at a
 19 piece of property and decide what they're going to
 20 potentially do to have the best economic outcome for
 21 themselves. Okay?
 22 The existing homeowner who may rent this house out already
 23 and maybe they can have more rent income because they can
 24 have up to three units instead of just one, or somebody who
 25 says, that property, I've done some analysis, I think I can

1 make it pencil, so to speak, to buy that and change the
2 property in a way that earns me return on investment that's
3 sufficient to me.

4 The analysis that's done in the EIS called "residual land
5 value analysis," okay, really only applies to the second
6 agent that might potentially change a property. It
7 applies -- it describes and analyzes the decision-making
8 process for somebody who does not yet own a property but
9 might buy it and change it, okay, whether they keep the
10 existing structure or not and how many potential accessory
11 dwelling units they add.

12 It might be somebody looking to buy and live in a house,
13 an existing home, and add units in the back. It might be
14 somebody looking to completely clear the property and do
15 something different. Okay?

16 But residual land value analysis asks the question: How
17 worthwhile is it to buy this property in its current
18 economic value and change it, given what income I can earn
19 after it's changed?

20 An existing homeowner who might live in that property and
21 think about changing it or somebody who owns a home and is
22 already renting it out doesn't think that way. They already
23 own it. They bought it who knows how far in the past at a
24 lower cost, at a lower price.

25 So the question of "How much can I pay for this property

1 doesn't adequately address how an existing homeowner might
2 look at it, okay, and, in my view, understates the likely
3 incidence of ADU/DADU construction and, therefore,
4 understates, potentially significantly, the risk of
5 displacement throughout the city because it effectively
6 ignores all the existing homeowners out there who don't have
7 to worry about a purchase of the home itself at current
8 market price. That's maybe the best way I can qualitatively
9 describe that distinction.

10 **Q. Right. Although it's explained in the EIS, there hasn't**
11 **been any testimony, specific testimony today. Could -- just**
12 **as you did with displacement. Could you give a -- an**
13 **explanation of "residual land value," you know, how that**
14 **works and how the application of that methodology apparently**
15 **was used by the EIS?**

16 A. Sure. I'd be happy to. So residual land value analysis.
17 So it's kind of a complicated process, but this is basically
18 how it works. A developer agent, whomever, who might be
19 looking at buying a piece of property and to change it,
20 whether it's raw land, or in this case potentially, you
21 know, not a lot of raw single-family -- you know,
22 unbuilt-upon single-family lots. So we're likely talking
23 about existing homes on properties, on lots.

24 One goes out and researches the property, how big it is,
25 how many accessory dwelling units and what size might fit on

1 and does it makes sense to buy it given what income I can
2 earn from it," doesn't apply to somebody who already owns
3 the house.

4 The EIS utilizes a residual land value analysis to inform
5 analysis of how much -- how many accessory dwelling units
6 are going to be built based on a number of different
7 researched economic assumptions, but it only applies to the
8 independent developer economic agent making a, "Do I buy
9 this house at current market rate, change it?" and, "Is it
10 worthwhile, the income I'm going to get back?"

11 It doesn't apply to the existing homeowner. All the
12 existing homeowner thinks is essentially -- they don't have
13 to buy it at market rate. They own -- they bought it ten
14 years ago, five years ago, whatever.

15 Their issue is, "Is the cost of actually constructing
16 something new on my property or even tearing down my
17 existing home and building something brand new up to
18 three" -- all they're worried about is the cost of that
19 demolition and new construction. They don't have to buy the
20 property at current market price. And that's a very
21 different economic proposition for an existing homeowner
22 than it is for the developer entity.

23 So, for that reason, it is my opinion that the analysis in
24 the EIS resting on residual land value analysis which models
25 the developer decision-maker, decision-making process,

1 it, what's the cost to build those, what's the cost to --
2 what's the cost to actually do the physical development
3 activity on the site depending on number of units chosen.
4 You know, what might work and what might not. What's the
5 cost of demolishing the existing home. Is that a good idea
6 or not, how costly is that.

7 And then, based on those costs, does a comparison of those
8 costs regarding income that can be generated. How much can
9 I -- once I finally take on all those costs, take out a
10 loan, pay a certain interest rate for a certain amount of
11 time to do construction activity, take out a loan to buy the
12 property, what income can I earn once I've built what I plan
13 to build.

14 So it's an analysis that goes out and figures out how much
15 total income can I earn from changing this property, and it
16 compares it to the cost of buying the property and whether
17 building new entirely or removing what's existing and
18 building new entirely on top of it. And it makes
19 assumptions about all these different costs.

20 And then it solves for -- well, let me step back a second.
21 So given how much income the property, once it's purchased
22 and changed, might earn, and given what it's going to cost
23 to build everything on it, okay, those are held constant.
24 And then the developer, or whomever, does analysis to figure
25 out: Given how much I can rent it out for, given how much

1 it's going to cost to build, how much can I afford to pay
 2 for the property itself? Okay?
 3 If the amount that they calculate is higher than -- if the
 4 amount that they calculate they can afford to pay and still
 5 make an acceptable rate of return, if the amount they
 6 calculate they can pay for the property as is is higher than
 7 what its current market value is on the market, there's
 8 positive residual land value and it makes sense to buy that
 9 property and redevelop it.
 10 Now, if they go through the process in identifying and
 11 identify that the income -- there's a lot of assumptions
 12 that go into this, of course. How much -- if they go
 13 through the process and they figure out how much they can
 14 earn from renting out the new units and they compare that to
 15 the cost of building new things on the property, maybe
 16 including demolishing the existing structure or maybe not,
 17 if they compare revenues to income versus those costs and
 18 they solve for how much they can afford to pay for the
 19 property, if what they calculate they can afford to pay for
 20 the property is less than the current market value to just
 21 buy it as is, that's called "negative residual land value"
 22 and that's effectively for a developer a no-go. Don't do
 23 that. You're losing money effectively. Okay?
 24 So that's why the EIS spends a lot of time going through
 25 tons of assumptions about home prices, rents, lots sizes,

1 **determine the residual land value since they already own the**
 2 **land?**
 3 A. Correct. And neither would people who own the home and rent
 4 it. The -- that issue, that tenure split you're speaking of
 5 is for people occupying the unit. So there are those
 6 households you rent the home from somebody else, and that
 7 would also be part of what might get changed.
 8 **Q. Okay. So in terms of, I guess, measuring potential for**
 9 **teardowns, potential for displacement, was the residual land**
 10 **value method appropriately used in this instance?**
 11 A. I mean, it's my opinion that it was a -- it's
 12 incompletely -- it's incomplete to use it only. There
 13 should have been the different -- there should have been a
 14 different analysis to explicitly model the decision-making
 15 process and the economic value of the development process
 16 for an existing owner of that unit. So it's incomplete. I
 17 wouldn't say it's -- it's incomplete to just use it only.
 18 **Q. Okay. So there was another model used in the economics**
 19 **discussed, the forecasting model.**
 20 A. Yes.
 21 **Q. Okay. And what did the forecasting model attempt to do?**
 22 A. Well, the forecasting model attempts to -- it's a limited
 23 dependent variable econometric model. And it's basically a
 24 statistical model that feeds in historical data and
 25 assumptions to model whether or not -- to model what the

1 construction costs, demolition costs, interests rates. All
 2 those -- those are all the different assumptions you go
 3 through in a residual land value analysis.
 4 But it's all predicated on the question -- on one question
 5 only: Someone looking to buy that property and change it.
 6 It does not address or model what somebody who already owns
 7 the property might do. They're not looking at -- they
 8 already own it, so why do they solve for buying it? Why do
 9 they solve for how much they can pay to buy that property?
 10 All that matters to them is how much does it cost to build
 11 what I need to build, how much does it cost maybe to
 12 demolish the existing home and replace it, and how much
 13 income am I going to earn by renting out what I've built
 14 once I've done that.
 15 They don't -- residual land value is not an issue to an
 16 existing homeowner basically. So it doesn't model their --
 17 the existing homeowner's decision tree, what they would do.
 18 **Q. Do you recall the EIS discussing the extent of occupant**
 19 **ownership of single-family housing in the city of Seattle?**
 20 A. Occupant --
 21 **Q. Occupant ownership as opposed to renter occupancy.**
 22 A. I can't remember the precise number, but I think it was
 23 in the -- I do, and it was something along the lines of,
 24 like, 63 percent owner and the rest renter. Yeah.
 25 **Q. Okay. So for owner-occupants, they wouldn't need to**

1 likely outcome is for a lot based on the different
 2 permutations of what you can do.
 3 It's kind of like a yes -- it doesn't answer yes/no. It's
 4 not a model that tries to answer yes or no. What it is --
 5 specifically, but what it tries to model is what -- there's
 6 a certain fixed number of outcomes that can happen, and the
 7 model tries to estimate a certain percentage will be -- will
 8 stay the same, a certain percentage are going to -- are
 9 estimated to be -- homes are going to be torn down and
 10 replaced by three new units, a certain percentage are going
 11 to be -- and they'll all be rental, and all the different
 12 permutations of how many units might be created, how many
 13 might be lost. And whatever's created, are they going to be
 14 rented or sold or what's the combination, that sort of
 15 thing. So that's what the -- that's what the model attempts
 16 to do.
 17 **Q. Okay. So is it forecasting of future trends based upon past**
 18 **patterns?**
 19 A. Yes. And in good part, because in order to -- in order to
 20 create a model, an explanatory model, you need to use
 21 historical data of some sort in order to estimate
 22 coefficients or predictive numbers. So, yes, there's
 23 historical data used.
 24 **Q. Okay. So the proposed legislation would make a number of**
 25 **changes to the current legislation?**

1 A. Yes, it would.
 2 **Q. Including it allowing two accessory dwelling units,**
 3 **including doing away with off-street parking, including**
 4 **eventually doing away with a requirement that an owner of**
 5 **the property reside on the property. Okay. So -- all**
 6 **right.**

7 **Are these changes that are reflected in the prior data**
 8 **dealing with the penetration of accessory dwelling units?**

9 A. Well, I mean, it -- I mean, you know, without having the
 10 benefit of all the data from the model, you know, in front
 11 of me, what I would say is that any historical data that's
 12 been used with the -- you know, before this legislation
 13 that's, you know, being -- that's planned, any historical
 14 data regarding all the different variables that contribute
 15 to the likely outcome of converting to adding an ADU or
 16 doing whatever is all based on the, what I would call, the
 17 different -- the different economic strike points, so to
 18 speak, about what's going to happen and what's not going to
 19 happen.

20 All the historical data reflects being able to add one
 21 ADU. Okay? And the decision-making process, maybe the
 22 location, what ended up happening with it is based on the
 23 underlying economics of being able to add that one unit.

24 So I would -- my concern would be that any prediction, any
 25 predictive model built with that historical data, with that

1 alternative, is going to allow more accessory dwelling units
 2 than Portland does.

3 **Q. Okay. So there is kind of another variable that will be**
 4 **testified to later in these proceedings, and that deals with**
 5 **unit ownership of each of the, let's say, the hypothetical**
 6 **three units of the principal unit, an accessory unit, and a**
 7 **detached accessory dwelling unit or two accessory dwelling**
 8 **units.**

9 A. Um-hum.

10 **Q. So in terms of -- let me begin with the residual land value**
 11 **methodology. To your knowledge, was unit ownership,**
 12 **ownership of all three units, a variable that was considered**
 13 **as part of the application of the residual land value?**

14 A. My recollection is the residual land value model sets up the
 15 framework for the econometric model. And so ownership of up
 16 to three units I believe is one of the potential outcomes
 17 that the econometric model does in the second stage of the
 18 analysis.

19 But it's based -- but the analysis is based on the
 20 residual land value analysis findings, which, as I said
 21 earlier, only partially models the potential outcome for
 22 adding or converting to ADUs for properties because it only
 23 looks at the developer, how the developer would look at the
 24 buying a new property, buying a property and changing it.
 25 So, yes, it's -- it factors in.

1 legal constraint on what that historical data says, would be
 2 problematic for forecasting under very different
 3 circumstances.

4 **Q. From the EIS -- to your recollection, was the EIS based upon**
 5 **any forecasting -- inputs to the forecasting model that**
 6 **included the types of changes that are proposed in this**
 7 **legislation?**

8 A. There were some adjustments made. And I'm trying to
 9 remember what specifically they were, but they were kind
 10 of -- my recollection was they were arbitrary in nature.
 11 They didn't rest on any sort of, like, economic finding that
 12 there was -- there's an underlying structural change to the
 13 economics of the situation.

14 There were adjustments made, but my recollection is that
 15 there weren't any made that, in my view, would kind of like
 16 directly address a problem. So, you know, for an empirical
 17 reason.

18 **Q. Okay. Was part of the forecasting model based upon the**
 19 **follow-up research that was done in the city of Portland?**

20 A. I believe some of it was based on that, yeah.

21 **Q. Okay. Do you recall if the City of Portland legislation**
 22 **contains some of the same broadening of accessory dwelling**
 23 **units that is proposed with the Seattle legislation?**

24 A. I'm trying to remember. I think -- my recollection is
 25 Seattle's law is going to be, at least the preferred

1 **Q. Okay. The analysis in the EIS, was it based upon the**
 2 **assumption that ADU units would be for rental housing,**
 3 **rental housing only?**

4 A. The econometric model does allow for an ownership outcome.
 5 So not -- I would say not -- the econometric model doesn't
 6 exclusively allow for rentals.

7 **Q. Apart from the model, does the EIS make the assumption that**
 8 **ADU housing would be rental housing?**

9 A. That's the, overwhelmingly, discussion, yes.

10 **Q. Okay. So in terms of residual land value, assuming that ADU**
 11 **units could be created for owner occupancy, i.e., separately**
 12 **sold off as condominium units on a single-family property,**
 13 **would that then change the outcome of the residual land**
 14 **value model?**

15 A. Well, I think it would, simply because the -- you know, even
 16 over the last ten years in the city of Seattle, the
 17 propensity for people to own homes versus rent, the
 18 propensity continues to be over 60 percent homeowner demand
 19 for new units, 60, 65, and the remainder, 30, what, 35, 40
 20 percent rental. Okay?

21 And for new ownership units to be created with this, in my
 22 view, it makes it much more likely -- easier and likely for
 23 an existing homeowner to just say, Wait a minute, I can -- I
 24 can build, I can tear down my own home, sell three new homes
 25 on the existing unit? Well, yeah. I'll do that all day.

1 Why wouldn't I?
 2 The demand is more robust for ownership housing. It's a
 3 bigger market. And so the economic pressure on the demand
 4 for ownership opportunity, whether -- even if it is an ADU
 5 or it's a DADU kind of in a town house development type,
 6 looks like a town house development type, that is going to
 7 be far more likely and easier for an existing homeowner to
 8 do, yes. So it -- ownership is going to -- ownership is
 9 going to push that economic activity higher is what I
 10 would say.
 11 **Q. And with respect to the various prototypes, did you see that**
 12 **considered?**
 13 A. Not explicitly. And I think the prototypes themselves --
 14 because like I said, I think -- from my view and where I've
 15 looked in the city at parcels, home sizes are smaller in
 16 some places than the prototypes, frequently smaller than the
 17 prototypes. And the smaller the existing structure relative
 18 to the parcel, the easier it is to remove everything, build
 19 three units and sell each one of them.
 20 So I don't think the prototypes, in my view, reflect some
 21 likely activity that's going to happen, parcels that are
 22 going to see that happen.
 23 **Q. Okay. If the development and sale of ADUs as separate**
 24 **units, i.e., the condominiumization of ADU units and the**
 25 **principal structure, would end up increasing the economic**

1 **of your testimony? And if not, are there additional points**
 2 **that you would like to raise?**
 3 A. I think that's it, according to my notes. No, I think those
 4 were the big three.
 5 **Q. Okay. Initially, as I recall, you'd mentioned that you were**
 6 **going to touch on parking. We haven't --**
 7 A. Oh.
 8 **Q. We haven't talked about parking. And I wasn't exactly sure**
 9 **of the extent of that, that that was part of your testimony.**
 10 A. Oh, no, I'm sorry.
 11 MR. KISIELIUS: I'm going to offer an objection here.
 12 (A), there wasn't really a question. It's kind of
 13 open-ended. But to the extent that there's an inquiry about
 14 Mr. Reid's analysis of parking issues, he's not a
 15 transportation or parking expert whatsoever, or at least
 16 there's been no foundation for that.
 17 HEARING EXAMINER: Do you have a response?
 18 MR. EUSTIS: Yeah. Well, if I could, I'll have him
 19 identify the issue that he was going to talk to and then ask
 20 him how that relates to his economic analysis.
 21 HEARING EXAMINER: Okay. You may proceed.
 22 MR. EUSTIS: Okay.
 23 **Q. (By Mr. Eustis) So without giving your testimony, what is**
 24 **the issue that you would address?**
 25 A. Actually, it's very simple, and I've already talked about it

1 **incentive to redevelop property, what would be the**
 2 **implications for that upon your prior observations that this**
 3 **legislation would have the effect of taking a,**
 4 **quote/unquote, affordable single-family housing and**
 5 **increasing the cost of that housing?**
 6 A. Well, I mean, the ability to -- the ability to simply build
 7 three -- build two units in addition to, or three new units
 8 and just sell them, there's much lower risk than having a
 9 rental on your property or two rentals on your property.
 10 And, therefore, yes, it's absolutely going to -- it is
 11 going to increase the incidence of existing affordable
 12 housing, in my opinion, being removed in place of these --
 13 of units that are condominiumized units for sale. And the
 14 risk of displacement will be higher as a result in different
 15 parts of the city, in my opinion.
 16 **Q. And did you find that issue addressed in the EIS?**
 17 A. Not very specifically, no.
 18 **Q. Okay.**
 19 A. No.
 20 **Q. Let's see, so -- well, let's see. Mr. Reid, I've tried to**
 21 **go through your three initial points. I have the sense that**
 22 **the points have somewhat merged together, so -- it's**
 23 **possible. I haven't been, you know, keeping track of them.**
 24 **So what I would, you know, ask you to do is -- you know,**
 25 **have I covered the points that you outlined at the beginning**

1 a little bit; and that is that I looked at the parking
 2 analysis and identified that the parking analysis went out
 3 and looked at a part of the city as a case study, kind of an
 4 area in the -- the case study of the built environment as
 5 part of its analysis; and, therefore, observed that parking
 6 treated the built environment and its impacts in a way that
 7 the Socioeconomic and Housing section should have.
 8 So no analysis or comment on the methodology or merit of
 9 parking. Just that observing that parking looked at a case
 10 study of the built environment. Socioeconomic and Housing
 11 should have done the same thing, particularly in light of
 12 the displacement data.
 13 HEARING EXAMINER: Okay. Well, I'm going to overrule the
 14 objection. You may proceed.
 15 MR. EUSTIS: Okay.
 16 **Q. (By Mr. Eustis) So in parking, its analysis of the built**
 17 **environment, are you speaking of the four quadrants, sample**
 18 **quadrants, that the parking analysis focused on?**
 19 A. I am. I am.
 20 **Q. Okay. Thank you. So in terms of the forecasting model, you**
 21 **indicated that there are a number of variants that could be**
 22 **put in. Did the data you used in that consider ADU**
 23 **legislation that would require off-street parking?**
 24 A. In the econometric model, my recollection is no. The
 25 highest and best use analysis, or the residual land value

1 analysis, made assumptions about that because it affects,
2 you know, yield on the lot.

3 **Q. Right.**

4 A. If you have to put cars on the lot, that's less room for a
5 home, for a structure. But my recollection is that the
6 econometric model doesn't drill into that detail.

7 **Q. Okay. Let's see, if you have nothing further in your
8 testimony, I have no further questions. Just to sum up, in
9 your opinion, does the -- with respect to housing and
10 economics, is the EIS giving a full disclosure of the
11 impacts of this proposal upon housing and displacement and
12 economics in the city of Seattle?**

13 A. In my opinion, it doesn't. And just very quickly, it's
14 entirely absent of any documentation of historical
15 displacement down to the census tract. That information
16 isn't treated as the existing environment, and it certainly
17 isn't utilized to build a framework, a methodology to
18 estimate impacts of this legislation. It's not even
19 factored in, and that's surprising.

20 If somebody reviewing the EIS asks what do we know of
21 displacement in the city and does this make it better or --
22 does this legislation make that better or worse, the answer
23 is we don't know because we didn't look at it.

24 **Q. Okay.**

25 A. We don't know. We don't know what this does to what we

1 MR. ELLISON: I object. The intervenor --

2 HEARING EXAMINER: Just a moment.

3 MR. ELLISON: Oh, I'm sorry.

4 MR. KISIELIUS: Just if they have -- if they think they
5 have a reason to ask questions of the particular witness, is
6 it correct to assume that they should precede the City's
7 cross-examination?

8 HEARING EXAMINER: That's correct. And -- okay.

9 Go ahead, Mr. Ellison.

10 MR. ELLISON: Hello, my name is Richard Ellison. I have
11 some questions for you, Mr. Reid.

12 HEARING EXAMINER: Wait. Wait a minute. I didn't --

13 MR. ELLISON: Oh, I'm sorry.

14 HEARING EXAMINER: -- say you could ask questions.

15 MR. ELLISON: Oh, I'm sorry.

16 HEARING EXAMINER: The subject matter had nothing to do
17 with trees and so -- and I'm not sure which issue number
18 this is in --

19 MR. ELLISON: May I speak to --

20 HEARING EXAMINER: -- in the appeal, but we don't -- this
21 person is not qualified on the subject of trees. And he
22 testified to no analysis of tree cover as part of his direct
23 testimony. And so you're precluded from asking questions of
24 this witness.

25 MR. ELLISON: May I make a comment to perhaps address what

1 already know is a displacement problem. And I can -- I
2 mean, I don't want to spend a lot of time, waste time going
3 through a bunch of details, but, you know, we only look at
4 how a certain part of the economy out there will look at
5 whether or not to build an ADU or DADU or what to do with a
6 property.

7 We've modeled only a certain part, and we -- the EIS
8 doesn't go out, and given that it doesn't take a look at
9 where in the city displacement has been a problem and why,
10 it chooses a methodology that analyzes, you know, properties
11 in a prototype manner that are not cognizant at all about
12 what parcels and properties have looked more like,
13 specifically in these neighborhoods and areas where there's
14 been a displacement problem or displacement challenge. It's
15 silent on that as well. And I think there's some big
16 questions that it's -- it doesn't address, doesn't begin to
17 address, in my opinion. Thank you.

18 **Q. Thank you for your testimony.**

19 HEARING EXAMINER: Okay. Any questions?

20 MR. KISIELIUS: May I ask a procedural question?

21 HEARING EXAMINER: Sure.

22 MR. KISIELIUS: I presume, given the subject matter, that
23 the intervenor will not have questions of this witness, but
24 in terms of the order, we can anticipate if they think that
25 they want questions, would it be --

1 you're asking?

2 HEARING EXAMINER: Go ahead.

3 MR. ELLISON: Some of the assumptions of the impacts to
4 trees are based upon the number of ADUs that are going to be
5 built on a property. And so if the number of tree -- the
6 number of ADUs that can be built on a property are
7 inaccurately assessed in the FEIS because they're being
8 underassessed in number, I would like to ask a question as
9 to are the number of ADUs that would be built on properties
10 accurately assessed or are there more ADUs going to be built
11 than the City has planned in the FEIS and, therefore, there
12 would be greater potential impact to trees on -- per those
13 properties.

14 HEARING EXAMINER: He's not qualified to answer questions
15 about impacts to trees.

16 MR. ELLISON: Correct. But he is qualified to answer
17 whether more ADUs would be built than what the City has
18 assumed.

19 HEARING EXAMINER: Yes. If that's your only question --

20 MR. ELLISON: That is my -- that would be -- that could be
21 my only question.

22 HEARING EXAMINER: Okay. You may ask that question.

23 MR. ELLISON: Thank you.

24 ///

25 ///

DIRECT EXAMINATION

BY MR. ELLISON:

Q. Mr. Reid, do you feel that the FEIS accurately assesses the number of ADUs that would be built on properties in the city of Seattle as a result of this legislation?

A. It's my opinion that particularly in the case of where ADUs can be condominiumized and sold; but overall, it's my opinion the EIS underestimates the number of ADUs that will be created. Yes, that's my finding.

Q. Do you feel that the idea that the owner-occupancy requirement would be removed for the ADU process would increase the number of ADUs that could be built based upon the FEIS?

A. Yes. If a property does not require that the owner-occupant, the primary owner-occupant, live on the property, that parcel becomes a up-to-three-unit redevelopment to three different households. And that absolutely increases the number of households that can rent or own on that property. So without the owner-occupant requirement, that's an -- that increases the market for ADUs, yes.

Q. Do you feel these number of increased ADU units would be a significant number? And if so, is there any way to extrapolate how large the significant number could be, a percentage?

A. Without -- I mean, I think in certain neighborhoods -- I think certain neighborhoods and parcels where the parcels -- where the home, the structure size is smaller than has been modeled, and particularly in those instances where the homes, the new units, can be condominiumized, yes, there will be significantly -- I think there will be significantly more ADUs than modeled, than the results indicate. However, having said that, I don't have a good answer for you in terms of order of magnitude or percentage gain, that sort of thing.

Q. So that form of analysis would -- has not been done and would need to be done in order to get an accurate analysis of what the actual number of ADUs would be in any proposal as given here?

A. Yes. I think there are methodology shortcomings that if revised would give a more accurate count or forecast, yes.

HEARING EXAMINER: Okay. I think that's it.

MR. ELLISON: Thank you very much.

HEARING EXAMINER: All right.

Mr. Kisielius.

CROSS-EXAMINATION

BY MR. KISIELIUS:

Q. Good morning, Mr. Reid. Tadas Kisielius. I'm here on behalf of the City. I have a couple questions for you.

A. Um-hum.

Q. So first, am I correct that you've only been involved professionally in two EISes prior to this one?

A. I believe that's correct, yes.

Q. Can you describe those, please?

A. That would be the Mountain Star MPR EIS and then the MHA FEIS just last year.

Q. The first one was a project action (inaudible)?

A. That was a project action, yes.

Q. And the second one, the MHA one, were you involved in the drafting or providing of that EIS?

A. I was not. Purely review.

Q. Okay. And review on behalf of one of the appellants?

A. I think an entity affiliated with the appellant, with (inaudible).

Q. Sorry, the appellant in the MHA --

A. Oh, that appellant. Yes, yes, yes, yes.

Q. Okay. So you haven't contributed to any other EISes in your professional career?

A. Not that I'm recalling, no.

Q. And never peer-reviewed any other EISes in your professional capacity, whether project action or non-project action?

A. No.

Q. Okay. Let me start with the -- some questions about your criticism of the highest and best use analysis. I

understand your general criticism is that the City relied on the residual land value approach. Is that generally correct?

A. Generally, yeah.

Q. Okay. I don't know that you ever answered what you would have done instead. What would you have done instead of a residual land value with that component of the analysis?

A. I would have -- I would have done two different, including the residual land value analysis. My criticism isn't that the residual land value analysis is improper. It's just that it only represents the decision-making process for a certain portion of the pie here.

The other portion of the pie that residual land value analysis doesn't really model or try to predict are people who already own the structure and aren't looking to buy the property. In that -- in those instances, some -- actually a more basic return on investment type analysis, return on cost analysis would be perfectly appropriate. Far simpler really.

Just simply: I don't have to buy the house. I don't have to buy the unit. I don't have to buy the property. I just need to compare the income I'm going to make from this potentially to the cost of doing it, and is the difference, is the return on -- is the income return compared to that cost, is it worthwhile. I don't have to worry about buying

1 a property at current market price.
 2 **Q. So the difference between the two, if I'm understanding you**
 3 **correctly, is that the return on cost doesn't have you**
 4 **figure in the cost of acquiring the property.**
 5 A. Of actually acquiring the property at current market price,
 6 yes.
 7 **Q. Okay.**
 8 A. Exactly.
 9 **Q. I want to come back to that in a second, but let me go back**
 10 **to your critique of the residual land value analysis.**
 11 A. Um-hum.
 12 **Q. Does the -- you referred to the category of people who**
 13 **already own their property. Do you distinguish at all**
 14 **between those who own it free and clear or those who might**
 15 **still be paying a mortgage? Does that factor into your**
 16 **assessment at all?**
 17 A. Well, in a return on cost -- in a return on cost analysis,
 18 it's, yeah, it's part of the cost. I mean, it's an existing
 19 cost from --
 20 **Q. I'm not asking about the return on cost. I'm asking**
 21 **about --**
 22 A. Oh, from residual --
 23 **Q. -- the residual --**
 24 A. -- land value.
 25 **Q. -- land value. Does that figure into your -- you've**

1 A. And financing that.
 2 **Q. So let me ask a separate question related to that. What's**
 3 **your understanding of how the majority of ADUs are**
 4 **themselves financed? So assuming a homeowner wants to build**
 5 **an ADU, how would that person go about financing the**
 6 **construction today?**
 7 A. Probably getting a short-term construction loan and
 8 utilizing the existing property they own as collateral just
 9 to build that one unit, you know.
 10 **Q. Okay. How would you use a return on cost -- and I'll want**
 11 **to return to the other alternative that you were suggesting**
 12 **is missing from this.**
 13 A. Sure.
 14 **Q. How would you use a return on cost model to determine the**
 15 **feasibility to construct an ADU?**
 16 A. The return on cost model? Well, basically, what's the
 17 cost -- what are the development costs for this, do I have
 18 to add any water or any gas connection, do I have to add
 19 parking, a driveway, what are the on-site construction
 20 costs, what's the structure cost, what's the cost to add it,
 21 what's the cost of a loan, the financing to do it. All that
 22 adds in.
 23 And then you compare that to the income stream, financing
 24 all of that versus the income stream, the revenue, that you
 25 would -- the income you would earn from renting it out. And

1 **criticized the residual land value because it excludes, in**
 2 **your opinion, those who you said own their property. And**
 3 **I'm just trying to understand how fine-tuned we should**
 4 **understand that word "own."**
 5 **Do you mean --**
 6 A. Oh, right.
 7 **Q. -- only those who own free and clear, or do you mean**
 8 **including those people who might be paying off a mortgage?**
 9 A. Including people who would be paying off an existing
 10 mortgage.
 11 **Q. So the --**
 12 A. The point is they don't have to buy -- they don't have to
 13 purchase a property at its current market value and then do
 14 something with it.
 15 **Q. But they don't -- so the cost that they still owe on the**
 16 **acquisition of that house is not a cost, in your estimation?**
 17 A. It is a cost, but it -- but they're not taking out a new
 18 mortgage to buy it. They currently -- they might have a
 19 mortgage for the home when they bought it five years ago
 20 when it was worth \$300,000. They're not looking at taking
 21 out a loan to buy it at its current market price of
 22 \$500,000. That's the difference.
 23 **Q. Yeah.**
 24 A. Buying at current market price.
 25 **Q. All right.**

1 basically, if your return on -- the typical rule of thumb in
 2 real estate is, you know, if you're developing an income
 3 property, you're usually looking at at least a 10 percent
 4 return on cost to make it worthwhile.
 5 If you can't make a 10 percent return on cost to buy a
 6 home, it's going to appreciate it at least 8 percent
 7 annually and do nothing with it. So you need a return on --
 8 you need a return on investment that's higher than
 9 8 percent, usually a minimum of 10. So you just compare
 10 your income stream to your cost stream over time.
 11 **Q. And what is that 8 or 10 percent based on?**
 12 A. Rule of thumb, long-term home price appreciation in most
 13 markets, including Seattle. Very long term is at least
 14 8 percent. Stocks do almost that well on average over time.
 15 So the point being that if you're going to take the risk
 16 of developing real estate, it's riskier than just buying a
 17 stock or buying a home and sitting on it. You better make
 18 higher return than something that's less risky.
 19 **Q. Okay. Thank you. That's helpful. Have you ever used a**
 20 **return on cost analysis for -- to analyze changes to the**
 21 **(inaudible) code or comprehensive plan?**
 22 A. Yes, I have. For different cities, more in Oregon than
 23 here. Actually, some of the analysis I did for the City of
 24 Seattle in the Broadway District and U District was to do --
 25 return on cost was one of the criteria to take a look at

1 whether or not development would happen or not. We also did
 2 a residual land value analysis. We used both. But, yes,
 3 for cities, I use that. Yes.

4 **Q. Okay. And would you agree though that the residual land**
 5 **value approach is far more common from a policy analysis**
 6 **standpoint?**

7 A. It can be, only because the city is looking at -- typically
 8 a city is looking at establishing a new policy and dealing
 9 with developers who are looking at buying the property at
 10 whatever market price after the new policies are in place.
 11 ADUs are different because you're talking about not only
 12 developers looking at maybe -- typically you're looking at,
 13 for policy reasons, you're looking at commercial properties
 14 and mixed-use properties where it's truly a commercial real
 15 estate development project.
 16 ADUs are different. Now you're talking about existing
 17 homeowners and existing neighborhoods and their decision
 18 tree. Their thinking is going to be -- is going to be
 19 different than your typical development.
 20 So that's why typically, in my experience, residual land
 21 value is an analysis that's more common, but it's built --
 22 but policies are typically far more regarding what would be
 23 typical commercial real estate development issues, not --
 24 you know, this is different because we're talking about
 25 existing neighborhoods, existing single-family homes.

1 A. It's not an economic analysis in terms of like this,
 2 predictive.

3 **Q. Okay.**

4 A. What can or will happen.

5 **Q. Right.**

6 A. Other than the EIS.

7 **Q. Okay.**

8 A. When I hear economic analysis, I hear an analysis that's
 9 going to predict what will happen if you change economic and
 10 legal things. That's -- I hear more -- what I hear is
 11 predictive.

12 **Q. And so in terms of -- just to clarify your answer, that only**
 13 **economic analysis of ADU-related policies that you're aware**
 14 **of is this particular EIS?**

15 A. Yeah, I would say so. Most (inaudible).

16 **Q. You had mentioned in your response to Mr. Eustis's questions**
 17 **that your understanding is that the residual land value**
 18 **analysis informs the production estimates. The word you**
 19 **used was that it "informs" the other.**
 20 **I'd like to understand precisely what your understanding**
 21 **is of how the residual land value analysis informs the**
 22 **forecast modeling in the production incidence.**

23 A. Well, I mean, the residual land value analysis basically --
 24 you know, having not done the modeling, I do have questions,
 25 some questions about how some of it was translated. But the

1 **Q. You're distinguishing, I think, in your answer ADU**
 2 **construction from other types of policy changes, right?**

3 A. Yes. Yeah. It's --

4 **Q. How many -- how many analysis, economic analysis of ADU**
 5 **production are you familiar with?**

6 A. I've reviewed -- I mean, I've reviewed some construction
 7 cost and analysis that's been done for the current ADU
 8 legislation, for the current policies.

9 **Q. Meaning --**

10 A. What you can do now.

11 **Q. Okay. I'm sorry. You're referring to documents like --**
 12 **related to the EIS or different?**

13 A. Some documents related to the EIS. But I'm also familiar --
 14 what I'm speaking to, what I'm directly familiar -- more
 15 familiar with for longer is the existing what it -- how you
 16 can build ADUs already.

17 **Q. Okay. And that's an economic analysis?**

18 A. More just kind of the economics behind it, the costs and the
 19 issues. But not like a -- what's going to convert,
 20 predictive -- not a predictive analysis.

21 **Q. I'm going to ask you to be really precise here because I'm**
 22 **not sure I'm understanding your answer.**

23 A. Sure.

24 **Q. Is it an economic analysis or not? Or is it just these are**
 25 **the rules that govern ADU production now?**

1 residual land value analysis goes through and tries to
 2 identify or understand the economic conditions where the
 3 highest and best use of the property changes. And the
 4 econometric model utilizes those findings in order to set up
 5 the parameters of -- to predict what will actually happen.
 6 The residual land value analysis doesn't predict what's
 7 going to happen. The econometric model does. But the
 8 parameters, the outcomes that the econometric model tries to
 9 predict are based on the underlying economics of the
 10 situation that the residual land value analysis conducts.

11 **Q. And I want to turn to -- I don't want to leave the**
 12 **residual land value. I want to talk a little bit about the**
 13 **prototypes. But is it your understanding that the**
 14 **prototypes were also utilized in the econometric forecasting**
 15 **model?**

16 A. My understanding is that they're more utilized in the
 17 highest and best use analysis, that the findings inform the
 18 econometric analysis, residual land value analysis.

19 **Q. That's -- I guess that's what I'm not understanding.**

20 A. Sure.

21 **Q. To what extent -- if you could just very precisely**
 22 **articulate to what extent are the prototypes in the residual**
 23 **land value analysis utilized in the forecasting model?**

24 A. Indirectly, because they are primarily a -- they're
 25 primarily part of the residual land value analysis. And

1 then that information is used for the predictive econometric
 2 model. It's a two -- it's like a two-stage model.
 3 **Q. So the modeling in the forecast -- I'm sorry, (inaudible) on**
 4 **this because I'm still not sure I heard an answer. The**
 5 **modeling that's used for the residual land value, the**
 6 **prototypes let's say, are those the parcel types that are**
 7 **modeled in the forecasting model, in your understanding?**
 8 A. Ultimately, yes.
 9 **Q. Okay. And let's talk about those prototypes just briefly.**
 10 **I understand, generally speaking, that your criticism is**
 11 **that they were too limited and that they don't -- they're**
 12 **only accurate to the extent that they reflect the natural**
 13 **parcel in the city. Is that generally --**
 14 A. Yeah. I mean, I think my point really is that there's a
 15 broad variety of parcel types, parcel sizes, and improvement
 16 sizes upon those parcels. And the prototypes only get at a
 17 fair number of them, but it doesn't necessarily get at -- it
 18 doesn't necessarily get at the question are these the types
 19 of parcels that are more inclined to be developed than
 20 others. These are just the majority -- these are just
 21 common to many of the parcels in the city.
 22 **Q. Is it your understanding that the City sought to**
 23 **exhaustively capture every parcel type in the city by coming**
 24 **up with those four?**
 25 A. Yes, I mean, the following exhibit after the prototypical

1 **(inaudible) the same location. So are they generally**
 2 **adjacent?**
 3 A. Yeah. They're all -- basically it's all the parcels that
 4 run north/south. I can't remember if Dakota's north -- on
 5 the north end of the south end. But, yeah. It's every
 6 single parcel from north to south on both sides, 37th and
 7 38th. And that comes to 23 different parcels.
 8 **Q. Okay. So those are all rentals?**
 9 A. No. No, no, no, no, no. No, I don't -- only a few of them
 10 were.
 11 **Q. Okay.**
 12 A. Some -- most of them, I would say, are owner-occupied, I
 13 would guess.
 14 **Q. Most were --**
 15 A. They weren't listed as "for rent." So I actually don't
 16 know.
 17 **Q. So when you say rental, that, you know, are we talking two**
 18 **or three? Four or five?**
 19 A. I didn't -- well, so I don't know. My information about
 20 what a rental was or wasn't was based on what's currently
 21 available for rent on ForRent.com or one of the other
 22 websites like that.
 23 **Q. So of the 23, you can't quantify how many were, but most**
 24 **were not?**
 25 A. Yeah. Well, there was only -- there was like only one in

1 parcel types is the -- their distribution of all the
 2 different parcels in the city, parcel size, yes.
 3 **Q. All right. And you had referred to some investigation that**
 4 **was done in Columbia City, I think, to try to point out what**
 5 **you think are inconsistencies.**
 6 A. Um-hum.
 7 **Q. First, how did you select those 23 parcels that you looked**
 8 **at in Columbia City? Were they adjacent to each other? Are**
 9 **they -- (inaudible) you make that cut off? First you said**
 10 **20 to 30. Then you said precisely 23. So I'm wondering how**
 11 **did you find those.**
 12 A. So it -- I came about finding those looking for where
 13 existing single-family rentals are --
 14 **Q. And let me pause there.**
 15 A. -- in the city.
 16 **Q. How did you know that these were rental properties?**
 17 A. By going on a couple different rental home websites to see
 18 where property -- where single-family homes were being
 19 rented throughout the city. So a different website.
 20 **Q. Okay.**
 21 A. And then after finding out where different rentals were, I
 22 went to different portions of the city on the King County
 23 assessor's GIS website, map website, to take a look at
 24 parcels.
 25 **Q. Well, I had understood that you said that these were**

1 the neighborhood, maybe two, that were. There were some
 2 other neighborhoods I looked at. So I think it was one or
 3 two that were actively listing as available.
 4 **Q. Okay.**
 5 A. Now, how many there are that are currently rented, that are
 6 renter-occupied that aren't available, listed as available
 7 on another website, I don't know.
 8 **Q. Okay.**
 9 A. So I can't tell you how many total are rented there. I can
 10 only say there were a certain number that were openly listed
 11 as available for rent.
 12 **Q. And do you know what the zoning was for all of those 23**
 13 **parcels?**
 14 A. It was a single-family zoning, and I -- but I couldn't tell
 15 you what the specific --
 16 **Q. Because I heard you say something about a town home. That**
 17 **one had been sold and converted to a -- two or three? Did**
 18 **you say three town homes?**
 19 A. There was -- yeah. There was one that had been converted
 20 to -- two properties, I believe, that were converted to
 21 three town homes.
 22 **Q. And is it your understanding that that can be conducted in a**
 23 **single-family zone?**
 24 A. To be perfectly honest, I am -- my criteria for searching
 25 for the different properties as I was looking at this was

1 within the study area of the EIS and similar zoning to what
 2 the EIS was studying. I didn't research the specifics of
 3 that specific zone and what it allowed or what it didn't.
 4 **Q. Does that mean you don't know whether they were**
 5 **single-family zone?**
 6 A. No, it was single-family zone.
 7 **Q. Okay.**
 8 A. Yeah.
 9 **Q. You had said 95 percent -- you were making a comparison for**
 10 **those 23 parcels to the parameters listed for the typology.**
 11 A. Um-hum.
 12 **Q. And you said you were looking for those that were within**
 13 **95 percent of those parameters. I'm just trying to**
 14 **understand what that means. Because there wasn't just one**
 15 **parameter in the typologies.**
 16 **When you say 95 percent, are you referring to a specific**
 17 **element of the typology, the lot size, the square footage of**
 18 **the home, the -- I mean which -- 95 percent of what?**
 19 A. Being within 95 percent of the parcel size and improvement
 20 size, total improvement square footage.
 21 **Q. So only 95 percent were -- matched those both?**
 22 A. 50 percent exhibited improvement and a combination of
 23 improvement and lot -- total improvement size and lot size
 24 that were within 95 percent of the prototypes.
 25 **Q. Okay. And then I'm curious. You said half of those**

1 **Q. I understand that there's closer correlation between one of**
 2 **the two parameters. And I was just trying to figure out**
 3 **whether they're -- you know, were they all above 70 percent?**
 4 A. No. I mean, no. On the improvement side, I mean, there
 5 were homes in there that were closer to a thousand square
 6 feet. There were one or two of those. I mean, I don't have
 7 the detailed list in front of me, but the -- there were a
 8 number of homes in there that were significantly smaller.
 9 The lot sizes were far more consistent with what the
 10 prototypes are in the EIS by lot size, but the size of the
 11 improvement varied quite a bit more. That's where the
 12 variation was.
 13 **Q. Okay. I want to ask you about the forecast in the**
 14 **econometric model a little bit.**
 15 A. Um-hum.
 16 **Q. A few more questions about that. You had asked about -- you**
 17 **were asked about the adjustment factors. Mr. Eustis asked**
 18 **you a series of questions that were designed to explore your**
 19 **familiarity with whether or not the forecast model took into**
 20 **consideration parts of the code that might change, and he**
 21 **asked you specifically about the forecast model.**
 22 **And I think you used the word "arbitrary." And it might**
 23 **have been preceded by to your recollection. So I'd like you**
 24 **to tell me what you understand about the forecast models**
 25 **precisely that lead you to the conclusion they were**

1 **exhibited that. What about the other half?**
 2 A. They were off and typically --
 3 **Q. How much?**
 4 A. By more than 95. I don't have like a histogram of the
 5 distribution.
 6 **Q. Were they close to 95? Were there any above 85?**
 7 A. Yeah, I would say there were some.
 8 **Q. Okay.**
 9 A. And then there were some -- more of the ones that I
 10 observed, as I recall, the total improvement size was
 11 smaller. That was kind of the key difference. Lot size --
 12 my recollection is the lot sizes were more similar to the
 13 prototypes. That was more consistent.
 14 **Q. Okay.**
 15 A. It was the improvement size that varied far more. So there
 16 were more properties that had smaller homes than the
 17 prototypes, but the lot sizes were more similar to the
 18 prototypes.
 19 **Q. Okay. And I'm still trying to get order of magnitude.**
 20 **Because there's 23 lots we're talking about here, right?**
 21 **And you said half. So I don't know if that means 11 or 12.**
 22 **Half are within 95 percent of those two parameters.**
 23 A. Yes.
 24 **Q. The other half were not.**
 25 A. Were not.

1 **arbitrary.**
 2 A. Well, my recollection was that there was basically a
 3 percentage adjustment to certain variables to factor in
 4 changes.
 5 **Q. What about them made them arbitrary, in your opinion?**
 6 A. The percentages weren't based on any what I would call
 7 empirical guideline as to what -- why you would adjust them
 8 by that much. We have this data that shows that this is
 9 going to change and so, therefore, 17.5 percent adjustment
 10 is appropriate because of this. My recollection was it was
 11 just more qualitatively-driven adjustment. I could be
 12 wrong, but that's my recollection.
 13 **Q. Okay. And what would you have done to address the**
 14 **limitations of the data set that's based on conditions that**
 15 **won't be changed -- excuse me. Let me rephrase that because**
 16 **that wasn't very clear.**
 17 A. Sure.
 18 **Q. What would you have done rather than the adjustment factors?**
 19 **How would you have arrived at something that was not**
 20 **arbitrary in your mind?**
 21 A. I mean, it's hard to say. I mean, the challenge with the
 22 model is that you're doing something -- you're doing
 23 something based on historical data that is not
 24 representative of what the future's going to have with the
 25 change to the law.

1 I think -- I guess my preference would be to -- I think
2 this kind of gets back to the better understanding the built
3 environment and different parts of the city where ADUs have
4 occurred or specifically where displacement has been
5 occurring and better understanding the built environment or,
6 you know, the -- for instance, we've taken -- we've done the
7 case study of the Columbia City neighborhoods in Columbia
8 City. And the home sizes there are 20 percent smaller
9 than -- in this displacement-prone neighborhood or census
10 tract.

11 We know that improvements that total home size,
12 improvement size, is 15 to 20 percent smaller than the
13 prototypes. And so we're going to make an adjustment to the
14 model to reflect that. The smaller improvement sizes are
15 going to make it more likely that ADUs are going to be built
16 because the existing improvement size is smaller.

17 **Q. Let me interrupt you for a second because I think that
18 you're tying together with some of your testimony that I'd
19 like to touch on in a second but focus really specifically
20 on the adjustments to the forecast model which you
21 characterized as arbitrary.**

22 **What I think I heard you say is there might have been a
23 different adjustment that you would put in. That doesn't
24 explain to me why you think -- or what you would have done
25 in lieu of the other adjustments that were made to address**

1 **oath about the likelihood of what you call the significant
2 increase in the development? Is it consistent with that?**

3 A. No, because the underlying assumption about what the
4 prototype parcels are and their economics I don't -- I think
5 could have been better done. And, therefore, the results I
6 think are -- the other -- the outcome of the results I would
7 differ with.

8 **Q. So just to be very clear --**

9 A. Uh-huh.

10 **Q. -- the reason you think that the results of the forecasting
11 that looked at that issue understated it tie back to your
12 assessment about the limited nature of the prototypes; is
13 that right?**

14 A. That's part of it, yeah.

15 **Q. What's the other part?**

16 A. Well, like I said, I think there's an issue with the
17 prototypes and what the economics of them are that feed into
18 the model, as well as the fact that the model uses as an
19 input an analysis of conversion, the economics of conversion
20 strictly speaking with residual land value analysis.

21 I think because the econometric model gets an incomplete
22 picture because we're only looking at a residual land value
23 analysis modeling, the potential outcomes that inform the
24 econometric model, we don't have this analysis, what I said
25 would be easier to do for existing homeowners, return on

1 **the portions of the code that are changing and Mr. Eustis
2 asked you about.**

3 **What would you do to address the very specific concern
4 that Mr. Eustis was asking you about?**

5 A. I mean, off the top of my head, I don't have a good answer
6 for you. I would need to build a model.

7 **Q. So I want to drill down on a couple questions still on the
8 forecast model, and you've got some testimony about what was
9 referred to as condominiumization.**

10 A. Um-hum.

11 **Q. So there we're referring to, as I understand it, the
12 purchase of some ownership interest in an ADU. Is that
13 about right?**

14 A. Yes. For sale.

15 **Q. And I heard Mr. Eustis ask you whether or not the residual
16 land value analysis, the highest and best use component,
17 took that into consideration. And I heard you answer that.
18 I have a different question. Did the forecasting model look
19 at that?**

20 A. The forecasting model made for sale a potential outcome,
21 predicted that potential outcome. So it --

22 **Q. And what did it find?**

23 A. I can't remember the percentages, but there were a certain
24 number of them, yeah, that would --

25 **Q. And does it square with the testimony that you offered under**

1 investment analysis. You have an incomplete picture with
2 the econometric model, and, therefore, that's why I think
3 there are problems.

4 **Q. Okay. So just to be clear, it sounds like the two reasons
5 are one is the prototypes used in the residual land value
6 and the reliance on the residual land value are the two
7 reasons that you've identified why --**

8 A. Those are my two concerns.

9 **Q. -- the econometric --**

10 A. Those are two of my big concerns, yeah.

11 **Q. Okay. The -- you used the word significant to describe the
12 increase of ADU production that you expect -- increase from
13 what's purported in the EIS. You thought that was
14 significant. It would be a significant increase if you had
15 thought about condominiumization differently, in the manner
16 you just describe described.**

17 **What does that mean to you? Because you then followed it
18 with you can't give an order of magnitude. So if you can't
19 give an order for magnitude, how is something significant?**

20 A. What I mean to say is I wasn't prepared to answer the
21 question with a specific point estimate. I wasn't prepared
22 to say there's going to be a 30 percent or a 40 percent.

23 **Q. But you were willing to call it significant. Doesn't
24 significant imply some understanding of how much in order of
25 magnitude at the very least?**

1 A. It did, but I wasn't going to commit to a number that I was
 2 uncertain about and have not done analysis, a new analysis
 3 of my own to do. So I wasn't going to commit to a specific
 4 number.
 5 **Q. But you're willing to commit to a characterization of**
 6 **significant?**
 7 A. Yes, I am.
 8 **Q. What does that mean to you?**
 9 A. It means that there are a lot of homes out there who have
 10 different physical characteristics than have been modeled
 11 and are, therefore, more likely to be redeveloped than the
 12 analysis does. That's what that means.
 13 **Q. So just that there will be more.**
 14 A. There will be --
 15 **Q. -- (inaudible) equal (inaudible)?**
 16 A. And potentially significantly more.
 17 **Q. That's what I'm trying to understand. I'm trying to**
 18 **understand what does significant mean to you. And I don't**
 19 **know --**
 20 A. Right.
 21 **Q. -- that you've answered that.**
 22 A. At least -- at least 20 percent, in my opinion, is
 23 significant.
 24 **Q. Okay. Let's turn to displacement.**
 25 A. Um-hum.

1 A. Sure. Yeah, I'm familiar with all that.
 2 **Q. What is the purpose of that study?**
 3 A. The purpose of the study was to -- well, it's interesting.
 4 The purpose of the analysis was to calculate some sort of
 5 correlation between, by census tract and by some definition
 6 of households that are -- some economic vulnerability
 7 definition of households, establish some sort of correlation
 8 estimate between number of housing units that are built over
 9 a period of time and what impact that had, what relationship
 10 that might have had with how many households either moved in
 11 or net moved in or net moved out of that census tract. So
 12 ultimately, it was about calculating a correlation.
 13 **Q. And do you know what the results were of that study? What**
 14 **conclusions did Appendix M reach?**
 15 A. The conclusions of Appendix M were that there were in many
 16 instances a positive correlation between housing production
 17 and population movement; that is, they calculated
 18 correlations that were positive. Increased housing units
 19 had a positive correlation with population change.
 20 **Q. Okay. And you used different words just now than you used**
 21 **when you were talking about Appendix M. You had sort of a**
 22 **short (inaudible) that talked about displacement, that it**
 23 **showed where displacement is happening. You didn't say that**
 24 **just now. So is it your understanding that moving in and**
 25 **moving out is displacement precisely?**

1 **Q. Could you confirm, did you -- you said when you had**
 2 **gotten -- when you prepared your testimony, you had read**
 3 **Chapter 4.1 and you had looked at the parking analysis. And**
 4 **I think Mr. Eustis asked you if you had looked at some of**
 5 **the earlier chapters. Did you read Chapter 3?**
 6 A. The title of the chapter is? I mean, I skimmed through
 7 different sections. It was really only --
 8 **Q. History and Planning Context.**
 9 A. I skimmed through it. Really it was Chapter 4 I focused on.
 10 **Q. Okay. So when you testified that the EIS I think your words**
 11 **were silent on --**
 12 A. Um-hum.
 13 **Q. -- some issues related to changes in population by census**
 14 **tract, changes based on people of color by census block and**
 15 **an analysis of existing conditions, when it was silent on**
 16 **that, you are including your review of Chapter 3?**
 17 A. No, I'm strictly speaking of Chapter 4.
 18 **Q. Okay. On displacement -- I want to get into some detail**
 19 **here about your testimony about Appendix M. Are -- can you**
 20 **describe for us what's the purpose of that study? Are you**
 21 **familiar with that?**
 22 A. Appendix M of the --
 23 **Q. I'm sorry, I should specify. It was the Appendix M of the**
 24 **MHA EIS to which you testified. You had two maps up on the**
 25 **screen, and we're going to get a copy in the record.**

1 A. Displacement is net negative, is net loss. Displacement is
 2 loss of anybody. But the number -- but -- displacement is
 3 loss of anybody, but net -- the numbers in the appendix are
 4 census tract-wide, so I don't -- I don't have a count of the
 5 total number of individual households that left, but net
 6 migration was negative for those census tracts.
 7 **Q. Okay. And you described it in favorable terms, Appendix M.**
 8 **You haven't always had such a favorable opinion of that**
 9 **document, have you?**
 10 A. I've never had a favorable opinion of Appendix M.
 11 **Q. All right. But like just now you were describing that it**
 12 **was -- I thought I heard you say that it had really great**
 13 **data and should have been used. Did I misunderstand your**
 14 **testimony?**
 15 A. In my 21 years of doing economic analysis, including
 16 statistical analysis, I have never seen an abuse of
 17 correlation analysis like that in my life.
 18 **Q. And -- okay. So I'm trying to understand then.**
 19 A. Here's the deal. Appendix M is interesting to me because,
 20 by census tract, it shows there are details for each census
 21 tract losing population as homes are built. Okay? The data
 22 points are the census tracts.
 23 Some census tracts, indeed, saw with new housing
 24 production more households moving in that might have earned
 25 a certain amount of income or might be of a certain racial

1 group. Those are all -- in Appendix M, there are scatter
 2 plots on the graph.
 3 Some of the dots -- some of the census tracts were above
 4 the axis, meaning they were positive, households were added
 5 as new housing was built. But for many of the census
 6 tracts, there were households lost as new households as new
 7 housing was built. The displacement is everything below the
 8 axis in those scatter plots.
 9 There were correlation analyses done that if you remove
 10 some of the outliers, outlier data points, you get very
 11 different correlation results in a number of those charts.
 12 There was no description in Appendix M of summary
 13 statistics, what's the mean, median and mode of these
 14 different data sets. It's just a correlation analysis of
 15 all these data points. But the point I'm focusing on is all
 16 the different census tracts where there were a loss of
 17 households who by any measure of economic vulnerability were
 18 lost as positive housing production occurred between 2000,
 19 2010/2014.
 20 **Q. And that was a citywide -- right, the scope of that study**
 21 **was citywide, all parcels throughout the city?**
 22 A. It was census tract based.
 23 **Q. Yeah.**
 24 A. So it really only observed where housing units were built of
 25 any type, market rate or total housing units were built

1 A. Oh, well, sure.
 2 **Q. Okay.**
 3 A. But it's not a one-to-one perfect relationship. But many of
 4 the census tracts are drawn along corridor -- the border is
 5 a corridor where zoning is going to be -- likely and
 6 frequently can be distinct from one side of the corridor --
 7 one side of the street to the other.
 8 So, no. Is it a perfect relationship between census
 9 tracts and zoning? No. But if you eliminate all the census
 10 tracts that have urban villages and the central business
 11 district area, you're looking at overwhelmingly far more
 12 single-family residential zoned areas and the census tracts
 13 have far more single-family zoned land that are part of the
 14 study area, that are part of the study area for the EIS.
 15 **Q. Okay.**
 16 A. So it's a very close relationship but not a perfect one.
 17 **Q. That's helpful. The -- still on the displacement topic.**
 18 A. Um-hum.
 19 **Q. You had answered a question of Mr. Eustis's by saying that**
 20 **you thought there was no discussion of where there's more of**
 21 **a risk of displacement in the EIS.**
 22 A. In Chapter 4, as it pertains to economically predicting the
 23 outcome of development.
 24 **Q. So can I turn your attention to the -- if you have your own**
 25 **copy of Chapter 4.**

1 versus households gained or lost in that census tract.
 2 **Q. So a census tract, how does that correspond to zoning? Is**
 3 **it always co-extensive?**
 4 A. No. And, in fact -- so, as an example, so the data set we
 5 got as part of requesting publicly available data -- and the
 6 analysis is citywide. The exhibits that I showed, that we
 7 had shown up on the screen, M14 and M17, that demonstrate
 8 what census tract citywide lost households when --
 9 households earning between 50 and 80 percent of median area
 10 income. It is citywide.
 11 If you go through and you remove all of the census tracts
 12 that aren't in the study area for this EIS -- namely, the
 13 urban villages and centers where this doesn't apply -- the
 14 correlation between new housing units built and households
 15 gained or lost goes negative.
 16 **Q. Let me ask you about that because that's what I'm -- maybe**
 17 **I'm --**
 18 A. Sure.
 19 **Q. -- asking the question wrong. But how do you focus on just**
 20 **the study here, the EIS?**
 21 A. Basically go through and take a look at all the different
 22 census tracts that don't match up with the study area based
 23 on how it's described in the EIS.
 24 **Q. Are there -- is it possible the census tracts extend beyond**
 25 **single-family zoning in some instances?**

1 A. I do.
 2 **Q. I'm looking at page 4-38.**
 3 A. Um-hum.
 4 **Q. Exhibit 4.1-18.**
 5 A. Yes.
 6 **Q. Does this not purport to map displacement risk in the study**
 7 **area?**
 8 A. This maps how the 2016 displacement risk methodology and
 9 report categorizes different parts of the city as having
 10 risk of displacement. It isn't based on any historical
 11 displacement data whatsoever. It is based on a criteria for
 12 displacement based on areas of the city where there is high
 13 and low economic opportunity versus -- oh, gosh, I forgot
 14 what the other criteria is just off the top of my head
 15 because I haven't reviewed the document in a while.
 16 But there are four criteria. High economic opportunity,
 17 low economic opportunity, and then there are two other
 18 categories, high -- it might even be mentioned in here if I
 19 were to look.
 20 But the point is, this -- these maps, this map in
 21 particular that you cite, does not display displacement
 22 data. It displays how the 2016 City report categorizes
 23 those as potentially prone or likely for displacement based
 24 on this equity methodology that was created.
 25 **Q. I'm understanding your testimony to be a little more**

1 nuanced. You had earlier said there is no discussion of
 2 that. What I think you're saying is slightly different
 3 (inaudible). You don't like the way they did it, but do you
 4 admit that there is some discussion of this topic?
 5 A. Let me clarify. There is no data-driven information in
 6 Section 4 based on actual displacement data at all. This is
 7 a categorization. This is a spectrum of displacement
 8 possibility. This is not data driven.
 9 This is not: This area of town demonstrated -- lost 200
 10 households when there were 300 housing units built, like the
 11 maps on the wall were for the MHA EIS. This is simply a
 12 categorization of displacement risk based on a certain
 13 definition of what's happened. It's a -- it isn't based on
 14 the actual displacement data.
 15 **Q. Okay. But to the question of no documentation of where**
 16 **displacement risk is more likely, do you agree that the map**
 17 **does that? I understand your issues with it, you would have**
 18 **done it differently, but you would agree that it shows that?**
 19 A. Let me clarify. Let me tell you what I think I said. And
 20 this -- let me clarify what I'm saying now. There is no
 21 information in -- about displacement risk in Chapter 4 based
 22 on actual displacement data.
 23 This map -- let me -- here. So if somebody were to ask
 24 the question, "Where has displacement happened in the past
 25 ten years in the city of Seattle? Where has it happened,

1 property.
 2 **Q. Okay.**
 3 A. Yeah.
 4 **Q. Okay. So it's revenue-based in other words? Okay. So you**
 5 **said yes to that question, that it would increase and,**
 6 **therefore, increase the value of the property such that it**
 7 **would decrease the supply of affordable homes for**
 8 **entry-level homeowners. And then later I think Mr. Eustis**
 9 **was asking you about the condominiumization component**
 10 **of it --**
 11 A. Um-hum.
 12 **Q. -- in which somebody would sell an ADU. And you said that**
 13 **would decrease the availability of rental-based property.**
 14 **What would that do to the homeownership component?**
 15 A. What -- what -- which part in what would it do to the
 16 homeownership component?
 17 **Q. The condominiumization I think was the word of the ADU.**
 18 A. Right.
 19 **Q. How would that work into the cost of entry into the**
 20 **homeowner market?**
 21 A. The issue of -- go ahead. Need to follow up?
 22 **Q. No, go ahead.**
 23 A. No. So the -- it would depend on what the value of the home
 24 is that would potentially be removed. But in order for
 25 redevelopment to make sense, the property has to be of, you

1 and, therefore, where might it be a problem in the future?"
 2 This map does not answer that question. It is not based on
 3 any historical data.
 4 **Q. And the data that you're referring to that you think is the**
 5 **displacement data is the families moving out data in**
 6 **Appendix M?**
 7 A. That's as close as to what we have, yes.
 8 **Q. Just a couple more questions for you.**
 9 A. Um-hum. Sure.
 10 **Q. You had two different questions from Mr. Eustis, and I guess**
 11 **I would like to -- well, let me ask you. So do you recall**
 12 **testifying -- he asked you about whether the construction of**
 13 **ADUs on a residential parcel increases the overall value of**
 14 **the parcel such that it would, I think in your words, reduce**
 15 **the supply of affordable homes for entry-level homeowners.**
 16 **Do you remember that?**
 17 A. Yeah. I remember that conversation, yes.
 18 **Q. Well, let me just -- before I get to my question, let me ask**
 19 **you a more precise, detailed question. How do appraisers --**
 20 **do you know how appraisers value ADUs and the value they**
 21 **bring? I understand the value of a home in relation to a**
 22 **home plus an ADU.**
 23 A. Right. My understanding is that they value it based on its
 24 use. And if it's an income property, they value it as an
 25 income property, as a -- they value it as an income

1 know, modest value relative to what the return would be.
 2 And so it's typically going to be a home that's not
 3 incredibly valuable if it's -- if it were to be removed.
 4 So the risk is that an existing home that's older and
 5 might have an affordable house payment or might be rented
 6 affordably because by virtue of being older, if it's taken
 7 out and replaced with three brand new units at market
 8 rate -- I mean, it will be different from situation to
 9 situation, but the guarantee would be that the home that was
 10 removed was rented based on its age and condition; whereas,
 11 the new units that were built on it, in its place
 12 specifically, would all rent out or sell at current market
 13 rate, which would be more expensive -- usually more
 14 expensive or rent for more, potentially rent for more than
 15 the home that was replaced.
 16 **Q. But you're saying --**
 17 A. But the point is --
 18 **Q. -- the ADU that was constructed and there was a**
 19 **condominiumization process and that would be then the**
 20 **ownership, and that was sold to be more than the principal**
 21 **residence, so it's structure in all instances?**
 22 A. Not in all instances, but for some, particularly for older
 23 homes that are rentals and rent affordably. That's where
 24 the risk of displacement is, are the older homes, older,
 25 moderate condition homes being replaced by brand new market

1 rate homes.
 2 Yes, those new units could rent for more potentially than
 3 what the old -- I don't want to say run down but more
 4 depreciated existing previous structure rented or sold for.
 5 **Q. Okay. Just for a few minutes or just one quick second.**
 6 A. Um-hum.
 7 MR. KISIELIUS: Thank you, Mr. Reid. I don't have any
 8 further questions for you.
 9 THE WITNESS: Thank you.
 10 HEARING EXAMINER: Okay. How long do you expect to be,
 11 (inaudible).
 12 MR. EUSTIS: I just have several questions. Not long.
 13 HEARING EXAMINER: Okay. I'd like to take a break by
 14 12:30 is the reason I'm asking.
 15 MR. EUSTIS: Yeah, fine. Okay. I'll try to respect that.
 16 HEARING EXAMINER: Okay.

REDIRECT EXAMINATION

BY MR. EUSTIS:

19 **Q. Okay. Mr. Reid, you indicated in response to**
 20 **Mr. Kisielius's questions you had not run a forecasting**
 21 **model yourself for this proposal.**
 22 A. That's correct.
 23 **Q. But you view that as part of your scope of work on this?**
 24 A. I was -- no. I was never asked to create any model, no.

1 **that an owner would go through in making the decision to**
 2 **develop or not develop accessory dwellings?**
 3 A. Well, if you build and condominiumize in order to be able to
 4 sell the units, you build and you sell them for the full
 5 market price and you don't have the cost of maintaining
 6 them. You don't have the cost of keeping a loan, you know,
 7 paying off a loan for a long time from the income you make
 8 from keeping the rentals.
 9 So your cost calculations are different. It's simpler.
 10 You build a home. You sell it. You receive cash. And you
 11 figure out whether or not cash put in or the cost put in is
 12 worth the cash gotten back in terms of sale. So it's
 13 different.
 14 **Q. Okay. In large part, it would be influenced by the, you**
 15 **know, the going market rate for condominium units created on**
 16 **single-family lots?**
 17 A. Absolutely.
 18 **Q. Okay. And would you -- given the difference between the**
 19 **sale of single-family properties for rental income stream**
 20 **versus the sale of principal unit plus accessory dwelling**
 21 **units as condominium units, would you anticipate, you know,**
 22 **other factors being equal, the demand for, you know,**
 23 **housing, et cetera, that the condominiumization would then**
 24 **increase the incentive for selling -- excuse me, increase**
 25 **the market value of the single-family lots that would be**

1 **Q. Okay. So for purposes of determining -- you took issues**
 2 **with the prototypes that were used by the City. And for**
 3 **purposes of isolating, determining the areas of the city**
 4 **where this proposal would likely have an impact upon**
 5 **displacement, i.e., increasing the displacement, in your**
 6 **view of SEPA documents, is that an area of analysis that the**
 7 **City should have looked into as opposed to your doing it**
 8 **through running a separate forecasting model?**
 9 A. Yes. I mean, I think starting -- I think starting with
 10 known data about what parts of the city have a displacement
 11 problem already, a better understanding the potential
 12 prototypes from those parts of the city as opposed to just
 13 overall citywide four descriptive prototypes, I think -- I
 14 think that could have been examined.
 15 **Q. Okay. More than -- many things could be examined but for**
 16 **determining the impacts of this proposal upon displacement**
 17 **of populations, displacement of particular types of**
 18 **characterization in order to make a determination as to the**
 19 **significance of impact, is that an analysis that should have**
 20 **been done?**
 21 A. I think so, yes.
 22 **Q. And I believe that you spoke in terms of the either return**
 23 **on cost analysis or methodology in terms of rental. If**
 24 **return on cost were applied to the condominiumization of**
 25 **accessory dwelling units, how would that change the calculus**

1 **subject to condominium development?**
 2 A. It's my opinion that it would be by virtue of it being a far
 3 simpler development and the development process, quicker
 4 sales, and no long-term commitment to having to maintain the
 5 property.
 6 If you know you can sell three units for a certain amount
 7 each and you figure out how much market there is, the demand
 8 for that, and you figure you can sell three in a year and
 9 you do this, you know, and walk away with cash from sale,
 10 that absolutely is a much easier proposition than, in my
 11 opinion, than looking at kind of long-term properties,
 12 renting them out. I think there's a wider market for that.
 13 **Q. Do you recall where condominiumization of accessory dwelling**
 14 **units was specifically addressed in the EIS?**
 15 A. My only recollection of it is in the econometric model.
 16 Selling the units is -- all three units is one of the --
 17 **Q. As a single property?**
 18 A. I think so. I think so.
 19 MR. EUSTIS: Thank you. I have no further questions for
 20 Mr. Reid.
 21 HEARING EXAMINER: Thank you. Any recross?
 22 MR. KISIELIUS: No.
 23 HEARING EXAMINER: Okay.
 24 MR. KISIELIUS: No further questions.
 25 HEARING EXAMINER: All right. Great.

1 THE WITNESS: Thank you.
 2 HEARING EXAMINER: Thank you very much. And we will go on
 3 break. An hour and 15 minutes, so we'll be back at one --
 4 MR. EUSTIS: -- thirty-five?
 5 HEARING EXAMINER: -- thirty-five. Thank you. I wasn't
 6 calculating that (inaudible).
 7 (Lunch recess)
 8 HEARING EXAMINER: Good afternoon, everybody.
 9 MR. EUSTIS: Good afternoon.
 10 HEARING EXAMINER: We are back on the record. And so
 11 we've -- you were up to call your next witness.
 12 MR. EUSTIS: That's correct.
 13 HEARING EXAMINER: Okay. (Inaudible).
 14 MR. EUSTIS: Our next witness will be Ross Tilghman. And
 15 may I ask? Before I begin my direct examination of
 16 Mr. Tilghman, I see that the examiner's furiously taking
 17 notes. At least in the prior EIS challenge, the City
 18 prepared transcripts of all the testimony. And may I ask if
 19 the City intends to do that?
 20 And my question really deals with if that's what the City
 21 intends to do, then perhaps it would affect the measure of
 22 detail of which you took notes.
 23 HEARING EXAMINER: Okay.
 24 MR. EUSTIS: But --
 25 HEARING EXAMINER: Okay. Is the City intending to provide

1 T-I-L-G-H-M-A-N. Work address is 4618 44th Avenue South,
 2 Seattle, 98118.
 3 HEARING EXAMINER: Thank you.
 4 You may proceed.
 5 MR. EUSTIS: Thank you.
 6
 7 ROSS TILGHMAN: Witness herein, having first been
 8 duly sworn on oath, was examined
 9 and testified as follows:
 10
 11 DIRECT EXAMINATION
 12 BY MR. EUSTIS:
 13 **Q. Mr. Tilghman, tell me, what do you do for a living?**
 14 A. I'm a transportation planner. I work as a private
 15 consultant.
 16 **Q. And how long have you been doing that?**
 17 A. I've been doing that since 1984.
 18 **Q. Uh-huh.**
 19 A. Thirty-five years this year.
 20 **Q. Thirty-five years. And generally, what is your academic**
 21 **background and, you know, do you have additional studies,**
 22 **degrees, certifications, et cetera, you would have?**
 23 A. My undergraduate degree is in history. My graduate degree
 24 is a master's in geography. So when I was in the geography
 25 program, got interested in transportation matters. There

1 transcripts?
 2 MR. KISIELIUS: We have not made that decision yet. It's,
 3 in part, tied to the (inaudible). And what Mr. Eustis is
 4 referring to is -- I think he's referring to the MHA appeal.
 5 HEARING EXAMINER: Uh-huh.
 6 MR. KISIELIUS: Which we had 19 days of hearing. And
 7 so --
 8 HEARING EXAMINER: Right.
 9 MR. KISIELIUS: -- (inaudible) the transcription that was
 10 done, and that was appended to (inaudible). In this
 11 instance, we have not made that decision, so I can't promise
 12 for today's purposes what we're doing.
 13 HEARING EXAMINER: Okay.
 14 MR. KISIELIUS: But we certainly can make that decision.
 15 HEARING EXAMINER: All right. Thanks for your concern. I
 16 tend to take a lot of notes because it helps me put things
 17 in my mind, so -- exercise that helps my decision-making.
 18 So, Mr. Tilghman, would you raise your right hand.
 19 Do you swear or affirm that the testimony you're about to
 20 give is the truth?
 21 THE WITNESS: I do.
 22 HEARING EXAMINER: Thank you. Could you spell your first
 23 and last name for the record and also provide a work
 24 address?
 25 THE WITNESS: Yes. It's Ross Tilghman. That's R-O-S-S,

1 was some coursework related to transportation, both urban
 2 transportation, world trade, variety of issues dealing with
 3 movement and interchange.
 4 During my graduate school period, I became employed by a
 5 transportation planning consultant firm --
 6 **Q. Um-hum.**
 7 A. -- called TDA. I worked part-time there in grad school and,
 8 upon finishing my degree, began work full time. And I've
 9 been doing that work ever since. Not all with TDA, but I
 10 was associated with TDA for just over 20 years. And I have
 11 been, for the last dozen years, an independent practitioner.
 12 I also have experience being a downtown business
 13 improvement district manager three years in a town in
 14 Illinois. It was one of the original National Main Street
 15 pilot projects.
 16 So I worked there with downtown property owners on a
 17 variety of development, parking management, and marketing
 18 issues for approximately three years. And this was in
 19 concert with the National Main Street center run by the
 20 Historic Trust for -- the National Trust for Historic
 21 Preservation.
 22 Additional training in the transportation area includes
 23 Northwestern University Traffic Institute training in the
 24 mid '90s with addressing highway capacity analysis
 25 procedures.

1 And then in terms of economic development, I did various
 2 trainings with the National Trust for Historic Preservation
 3 on preservation advocacy, finance of historic property
 4 acquisition and redevelopment.

5 **Q. Okay.**

6 MR. EUSTIS: Let's see, could we bring up -- yes, you
 7 already have it. So the collection of exhibits as
 8 Exhibit 6, I believe, is the -- Mr. Tilghman's resumé, which
 9 I put up on the screen.

10 **Q. (By Mr. Eustis) The -- that's what it is?**

11 A. Yes, that is my resumé.

12 **Q. Okay.**

13 HEARING EXAMINER: I'm sorry, and you're moving to admit
 14 that as an exhibit?

15 MR. EUSTIS: I will. I am.

16 HEARING EXAMINER: Okay. Any objection?

17 MR. KISIELIUS: No.

18 HEARING EXAMINER: All right. That will be admitted as
 19 Exhibit 3 into the record.
 20 (Exhibit No. 3 admitted into evidence)

21 **Q. (By Mr. Eustis) Okay. Without going through your resumé,**
 22 **which is now part of the record, are there additional parts**
 23 **of your resumé that you would like to highlight as it might**
 24 **pertain to your testimony today?**

25 A. Yes. I have, throughout my career, worked on environmental

1 about 12, 13 years ago.

2 I did work up on Capitol Hill in the 1980s, what became
 3 the Broadway Market. I have done numerous small and large
 4 projects throughout the area. I did some work with the
 5 Columbia City Business Association five to six years ago to
 6 help them address -- or understand the consequences of
 7 multifamily development in -- on the edge of the
 8 Neighborhood Commercial District. So a wide variety of
 9 projects.

10 **Q. And have you done, let's see, environmental review for**
 11 **programmatic-level EISes?**

12 A. Yes, occasionally.

13 **Q. Okay. Let's see, do I recall that you worked on the Spring**
 14 **District environmental review in the city of Bellevue?**

15 A. It was prior to the environmental review, but I was part of
 16 a team that was generating early ideas for how that area
 17 might redevelop.

18 **Q. Okay. From the standpoint of transportation?**

19 A. Parking in particular.

20 **Q. Okay. Let's see, for -- generally speaking, what was the**
 21 **scope of your review of the EIS?**

22 A. Of the ADU EIS?

23 **Q. Yeah, the ADU. Not the Spring District EIS.**

24 A. I was asked to review the EIS for the adequacy of its
 25 parking analysis.

1 documents, environmental reviews, including EISes, and many
 2 of these have addressed parking issues. I have worked for
 3 the last 18 to 19 years with the City of Tacoma helping them
 4 manage their downtown parking enterprise system.

5 That is work that has involved supply and demand analysis,
 6 projection of parking revenues where they charge for
 7 parking -- both on-street and off-street -- with management
 8 techniques, with the issuance of bonds repaid through
 9 parking revenues. So a wide variety of parking issues
 10 related to Tacoma's downtown.

11 I do additional work currently in the Tacoma Dome District
 12 anticipating shared parking opportunities due to new
 13 development near the Tacoma Dome.

14 **Q. And you've -- have you also worked on projects in the city**
 15 **of Seattle?**

16 A. Yes, I have.

17 **Q. Could you give some examples?**

18 A. Well, I've done a number of projects over the years, a
 19 number of apartment building reviews, plans, traffic,
 20 parking studies from the 1980s until -- up until very
 21 recently.

22 I recently completed a mixed-use transportation analysis
 23 for a project at 7009 Greenwood Avenue. And I have
 24 completed EISes within the city, including the EIS for the
 25 King County Administration Building at Goat Hill. It was

1 **Q. Okay. And in conducting that review, what documentation did**
 2 **you review?**

3 A. Well, I reviewed the EIS, especially Chapter 4 addressing
 4 parking, and Appendix B, which was the more detailed parking
 5 report referred to in the main text. I read other chapters
 6 as well dealing with aesthetics and demographics, but my
 7 focus was primarily on the parking sections of the EIS.

8 Additionally, I reviewed census data related to the study
 9 areas in the EIS. I reviewed SDOT parking studies that were
 10 the basis of the analysis in the southeast and southwest
 11 study areas. I took a look at reports with which I was
 12 already familiar for other known developments in the study
 13 areas, what we would call pipeline projects. And I also
 14 reviewed the Portland ADU study that was referenced in the
 15 EIS. Those were the primary documents.

16 **Q. Okay. As I recall, the appendix makes reference to the SDOT**
 17 **Tip No. 117?**

18 A. That's correct.

19 **Q. And --**

20 A. And I -- yes, I --

21 **Q. What is that?**

22 A. Tip 117 is guidance provided by the City for how to
 23 determine the legal parking supply and to measure
 24 utilization, so to know how many spaces would be available
 25 for the development of ADUs under present policy.

1 **Q. Okay. And I take it before your work on this proposal, you**
 2 **were familiar with Tip 117?**
 3 A. Yes. It's been around for years, and I've used it on a
 4 number of occasions, including that project in Greenwood I
 5 referred to.
 6 **Q. Okay. Based upon your analysis of the EIS, your**
 7 **consideration of other documents, do you have an opinion as**
 8 **to whether the EIS fully discloses the impacts of the**
 9 **proposal upon on-street parking?**
 10 A. No, it does not fully disclose the impacts of the proposal
 11 on on-street parking. It --
 12 **Q. So before you -- before I ask you to drill down into your**
 13 **analysis, would you be able to provide kind of a brief**
 14 **summary or encapsulation of the points that you will be**
 15 **addressing in your testimony?**
 16 A. Yes. Yes. Glad to do that. So I disagree with EIS's
 17 finding that there would be no significant impacts to
 18 parking and, therefore, no mitigation required to address
 19 such impacts.
 20 The EIS sets 85 percent utilization as the maximum
 21 acceptable threshold. I think it says there would be
 22 problems beyond that level of utilization. The EIS found no
 23 study area before it looked at exceeding 85 percent, so it
 24 claims no significant impact would occur.
 25 Well, I disagree with that finding for these primary

1 policy.
 2 **Q. Okay. So you've identified those items. So what I would**
 3 **like you to do is first, you know, go through those points**
 4 **in the order that you presented them, or if there's some**
 5 **other logical order, please now elaborate on those points.**
 6 A. Okay. I'll start with the measurement of the parking
 7 supply, the inventory. The EIS states that it generally
 8 followed the guidance of Tip 117 in determining the supply.
 9 The EIS developed its own supply data for the northeast and
 10 northwest study areas.
 11 I have no idea what the EIS means by generally following
 12 Tip 117's guidance. It did not elaborate or qualify what it
 13 meant by generally following it. It raises the point that
 14 it followed some guidance, some parts of the guidance, but
 15 not all. It's unclear.
 16 HEARING EXAMINER: Do you have a page citation for that?
 17 THE WITNESS: Tip 117?
 18 HEARING EXAMINER: No, I mean in the FEIS where it says
 19 (inaudible).
 20 THE WITNESS: I do not have it in my notes. I -- if I
 21 could take a look at the --
 22 MR. EUSTIS: Sure. The EIS is --
 23 THE WITNESS: Yes.
 24 MR. EUSTIS: -- right on the table to your right.
 25 THE WITNESS: Okay. Give me just a moment, please.

1 reasons. One, the EIS does not accurately portray the
 2 parking supply in the northeast and northwest study areas.
 3 In fact, it overstates the legal parking supply by more than
 4 20 percent in some cases.
 5 Existing utilization was determined by a single
 6 observation. That is a distinct weekday utilization. So a
 7 single snapshot was used.
 8 The EIS neglects to study the impact of the maximum
 9 occupancy scenario that the proposed legislation allows.
 10 The legislation would allow up to 12 unrelated adults to
 11 live on a single property across three units, but the EIS
 12 did not calculate the parking demands that that scenario
 13 would incur.
 14 It also neglected to consider the cumulative effects of
 15 known pipeline projects. These are projects that are in the
 16 planning process and some which have already been permitted
 17 within the study area selected by the EIS.
 18 And contrary to the EIS's assertion, the northwest study
 19 area at least would exceed 85 percent utilization based on
 20 the projected number of ADUs to be produced. So some form
 21 of mitigation or policy change to avoid that condition
 22 should be provided.
 23 So, in short, for those primary reasons, I find that the
 24 EIS and parking analysis is inadequate to inform
 25 decision-makers fully on the impact of the proposed ADU

1 MR. EUSTIS: If it would speed up the process,
 2 Mr. Tilghman, I could -- at the end of the parking --
 3 discussion of parking, there's a section that deals with the
 4 identification or not of significant adverse impacts to
 5 parking. And you -- I think you'd find that at the end of
 6 the parking analysis.
 7 THE WITNESS: I think that that may be the part I need
 8 is -- here we go. Yes. It -- the reference about the
 9 general application of Tip 117 is in the appendix, Appendix
 10 B17. It is under the heading of "On-Street Parking Supply
 11 and Utilization Data."
 12 HEARING EXAMINER: Thank you.
 13 A. So I was discussing how the EIS measured the parking supply,
 14 the inventory. And I should clarify that in the southeast
 15 and southwest quadrants, it relied on studies provided by
 16 SDOT. It did not develop additional data. So the -- when I
 17 talked about the measurement of inventory, it pertains to
 18 the northeast and northwest study areas.
 19 I was interested in, in particular, the northwest study
 20 area, having just completed that Greenwood project which
 21 falls within the study area.
 22 **Q. (By Mr. Eustis) The Greenwood project you're talking about,**
 23 **is that 7009 Greenwood Avenue North?**
 24 A. That's correct. And that's a small mixed-use project for
 25 which I did a parking study. So I had already measured the

1 parking supply and observed parking utilization in the
2 blocks near that site which overlap the EIS study area. So
3 I was curious to see, oh, how do our numbers compare.

4 Well, as I looked at the numbers, I found that the EIS was
5 reporting much more legal parking on those blocks than I
6 measured, and I was puzzled by that. And that was a
7 consistent reporting block to block.

8 There were only one or two locations where we more or less
9 agreed on the supply, and those were on short segments with
10 very few spaces. So I was puzzled why that was the case.

11 Well, I couldn't determine why it was the case. And even
12 after asking for the backup data to show how the EIS
13 calculated the supply, you know, told there is none. So I
14 simply have no idea how it got a much higher legal number
15 than I got.

16 Based on my own measurements following the guidelines
17 fully of Tip 117, I found that there was anywhere from 20 to
18 27 percent less legal parking in the northwest quadrant than
19 the EIS. Similar things happened in the northeast quadrant,
20 anywhere from 3 percent to 18 percent less legal parking.

21 The differences depend on how developed the streets are. I
22 will come back to that.

23 So being puzzled by the big difference in Greenwood -- and
24 we're not talking about just a difference of one or two
25 spaces per block; again, talking about differences of more

1 much, much more in line there; although again, my
2 measurement of legal parking was somewhat less than the EIS
3 reported.

4 So it struck me that this was a systematic overestimation
5 by the EIS of legal parking. And that has important
6 consequences for its conclusions. By overestimating parking
7 supply, it finds there's simply more spaces available to
8 prospective ADUs.

9 And so it determines that many ADUs could be added without
10 tripping the 85 percent utilization level of the on-street
11 parking supply. But when one actually adjusts for what is I
12 believe the legal parking supply, far fewer ADUs could be
13 supported.

14 And indeed, the north -- the northwest study area would be
15 much closer to 85 percent under existing conditions when
16 using the legal parking supply than the FEIS says.

17 So I find --

18 **Q. So you --**

19 A. -- that the --

20 **Q. You have prepared a number of exhibits to support your
21 testimony. And, you know, at some point, you know, I would
22 like to work through those exhibits, but -- although I've
23 just done it, I didn't want to interrupt your train of
24 thought.**

25 A. Well, this actually might be most helpful to go through that

1 than 20 percent -- I determined that I should make some
2 sample measurements elsewhere in the study area.

3 So in the northwest study area, I made measurements on
4 6th Avenue Northwest between Northeast -- or Northwest
5 67th Street and Northwest 73rd Street. And again, I found
6 the same thing. My measurement of legal supply was
7 considerably less than that reported in the EIS.

8 I did the same thing in the northeast study area. I
9 picked two different streets, Northeast 82nd Street between
10 5th Ave and Roosevelt, and then further north in that study
11 area, Northeast 98th Street, and again, kept finding these
12 differences. My measurement of legal supply was notably
13 less than that in the EIS.

14 I'll note, as I said just a moment ago, that there were
15 some differences, and they appear to be based on the -- how
16 well developed the street is. The streets with curbs and
17 gutter and numerous driveways were where I found the
18 greatest difference between my measurement of legal supply
19 and the EIS's measurement.

20 In the north and -- that Northeast 98th Street example I
21 took, that street does not have a curb and gutter. It's
22 much less developed. There's a lot of gravel area beside
23 the street where cars park. They can park head in. They
24 can park parallel to the street. Some parking areas are
25 more or less well defined. Curiously, our inventories were

1 exhibit so I could specify the ways in which that supply
2 differs between my estimates and the EIS's.

3 **Q. Okay. So before we do that, could you explain the 85
4 percent threshold that's apparently used in Tip 117 and
5 that's been used -- I believe is even referenced in the EIS.**

6 A. Yes. 85 percent occupancy has generally by the profession
7 been considered what we would call the practical limit of
8 capacity. That is generally the point at which parking
9 appears to be full to the person showing up looking for a
10 space.

11 There are a handful of remaining spaces, but they can be
12 difficult to find. They may be difficult to see. So 85
13 percent is a longstanding criterion for the practical limit
14 of capacity.

15 When occupancy goes higher than 85 percent, it means a
16 really hard -- few, if any, spaces left. There's very
17 little flexibility then in the ability of the supply to
18 accommodate variations in demand.

19 The City has used 85 percent for long time as a -- as a
20 guideline. It's enshrined in Tip 117. Tip 117, again the
21 purpose of Tip 117 is to measure parking availability to
22 determine whether an accessory dwelling unit could be
23 located on a given block.

24 And if the finding from measuring the parking is that
25 utilization is already at or above 85 percent, the

1 requirement is the dwelling unit, new dwelling unit must
 2 include an off-street parking space so you're not
 3 exacerbating an already tight parking condition on the
 4 street.
 5 So -- and again, this is a common guideline throughout the
 6 parking profession.
 7 **Q. Then is -- let's see, where an action would cause on-street**
 8 **parking to exceed 85 percent, is that used as a trigger for**
 9 **mitigation?**
 10 A. Frequently, yes.
 11 **Q. Okay. And is it also -- is that threshold also used as a**
 12 **threshold for significant impact on on-street parking?**
 13 A. Yes. Because, as I said, less than 85 percent, there's
 14 flexibility. People, they show up, they generally find a
 15 space to park. Above 85 percent, it gets extremely
 16 difficult to find a place to park. And that means parking
 17 impacts. Demand can then spill over to adjacent areas, you
 18 know, impacting residents or other businesses.
 19 **Q. Okay. With -- let's see. I have -- then I would -- next**
 20 **I'd like to turn to exhibits that you have prepared to**
 21 **support your testimony. And the first one I'd like to refer**
 22 **to is Exhibit 9A and 9B. You said of exhibits provided to**
 23 **the examiner, they should be behind tabs. Hopefully those**
 24 **number (inaudible).**
 25 **So I will take these up in the order that they appear in**

1 9A, 9B. If you go to -- well, this is apparent in the book.
 2 I believe there's a 10A, 10B. Going further, when you get
 3 to 14, there's a 14A, 14B. You get the trend.
 4 HEARING EXAMINER: Right. It's just helpful to identify
 5 so she can have them ready to go when the time comes.
 6 MR. EUSTIS: Okay. I am going in the order that they
 7 appear in the notebook.
 8 HEARING EXAMINER: Okay. So all of the exhibits, 9, 10,
 9 11, 12, 13, 14, 15, skip 16, and then it's 17 and 18.
 10 MR. EUSTIS: Yes. I will have him identify those and,
 11 yeah --
 12 HEARING EXAMINER: Okay.
 13 MR. EUSTIS: -- (inaudible). Okay.
 14 HEARING EXAMINER: No problem. Okay. You may proceed.
 15 Go ahead.
 16 MR. EUSTIS: Good enough.
 17 **Q. (By Mr. Eustis) All right. So we were back on Exhibits 9A**
 18 **and -- 9A. Are you able to identify that?**
 19 A. Yes, I am.
 20 **Q. I should always say when I'm -- Appellant's Exhibit 9A for**
 21 **identification. And just for clarification, it's not the**
 22 **real Exhibit 9. All right. 9A for identification.**
 23 A. This is a copy of my field notes from measuring parking in
 24 the northeast study area, specifically on Northeast 82nd
 25 Street. This form comes from Tip 117. This is the form one

1 **the exhibit book. So directing your attention to**
 2 **Exhibit 9A --**
 3 HEARING EXAMINER: Just a minute. Let me get -- catch up
 4 with you there.
 5 MR. EUSTIS: Oh, okay. Sorry.
 6 HEARING EXAMINER: Okay. So you would like to admit 9A
 7 and 9B?
 8 MR. EUSTIS: Well, I -- I'd have the witness identify them
 9 first.
 10 HEARING EXAMINER: Okay.
 11 MR. EUSTIS: But eventually that's where I'm going.
 12 HEARING EXAMINER: Okay.
 13 MR. EUSTIS: And just -- there are a -- just to be clear
 14 as to where I'm going, there are exhibits that relate to
 15 Mr. Tilghman's testimony, and they are set out at
 16 Exhibits 9 -- I should say appellant -- noted in appellant's
 17 exhibit list --
 18 HEARING EXAMINER: Right.
 19 MR. EUSTIS: -- 9, 10, 11, 12, 13, 14, 15 and 17 and 18.
 20 And I will introduce these to Mr. Tilghman, and eventually I
 21 would offer all of these. And, of course, I would defer to
 22 the examiner's method of numbering. That's where I'm going.
 23 HEARING EXAMINER: Are they all As and Bs or are they just
 24 plain numbers --
 25 MR. EUSTIS: Oh, no. There are -- you know, for instance,

1 uses to measure the curb to determine the legal parking
 2 supply.
 3 It shows my measurements along the curb. And so Tip 117
 4 follows city code in stating that clearance must be left,
 5 obviously, by fire hydrants, by the side of a driveway, a
 6 crosswalk, similar things, so the cars don't present
 7 blockages to movement or to safety.
 8 So one measures the curb noting the presence of stop
 9 signs, fire hydrants, driveways, sidewalks, all of those
 10 features. And then the clear measurements can then be
 11 referred to in a table in Tip 117 that says for any given
 12 length of clear curb, that you get so many legal parking
 13 spaces.
 14 So it's a simple measure of how much clear curb space
 15 there is and how that relates to Tip 117's determination of
 16 legal supply.
 17 **Q. And this is your own counting of available parking spaces**
 18 **that you did in -- along Northeast 82nd Street in Northeast**
 19 **Seattle?**
 20 A. Correct. And this is one of several sheets, because you do
 21 it blockface by blockface, each curb line.
 22 **Q. Okay. And it shows the date of January 23rd, 2019?**
 23 A. Correct.
 24 **Q. I take it you did that work for your work in preparing for**
 25 **your testimony?**

1 A. I did.

2 **Q. Okay. And then at the bottom of each sheet, there's a**

3 **total, and that's the finding of eligible parking spaces?**

4 A. That's the total of the legal parking spaces, yes.

5 **Q. Okay. And so would Tip 117 also be kind of the standard in**

6 **the industry for measuring available parking spaces?**

7 A. That's the standard in Seattle. And it would be typical of

8 other jurisdictions, yes.

9 **Q. All right. So let's see, I'm next moving to what has been**

10 **marked as Appellant's Proposed Exhibit 9B. Are you able to**

11 **identify that?**

12 A. Yes. That is the same form that I used to measure parking

13 in the northwest study area on 6th Avenue Northwest. And

14 again, it is exactly the same process, same information,

15 just specific to that street. And there are a series of

16 forms as I worked from Northeast 67th -- or Northwest 67th

17 to 73rd.

18 **Q. Okay. Then at Exhibit 10, you have two documents, 10A and**

19 **10B. First looking at 10A, what is that?**

20 A. This is a tabulation of the parking on each street segment

21 within the study area, I believe this is the northeast study

22 area. If I could approach the screen and talk from there?

23 **Q. Sure.**

24 A. It might be easier.

25 **Q. You can, or I'm -- the only difficulty is with the**

1 the EIS reported for utilization street by street. And

2 shows -- that's the supply. That's the reported

3 utilization. That's how many cars actually occupy those

4 spaces.

5 And again, as I mentioned, based on my own measurements, I

6 found discrepancies between the legal supplies reported

7 there and my own measurement. The value I found for most of

8 the streets here in the northeast study area, and that is

9 those developed with curb and gutter and a number of

10 driveways, was -- they overstated by approximately 18

11 percent. So I do an adjustment factor, take the supply and

12 measure, adjust it by what I think the actual legal supply

13 is and get to this adjusted supply.

14 They've consistent -- my argument is they have

15 consistently overestimated. So I make an adjustment for

16 that. That adjustment does vary, as I said, in the northern

17 portion of the study area where the street type is

18 different, it's less developed than curb and gutter. It's a

19 small adjustment, so only a 3 percent variation. So I then

20 calculate the adjusted supply street by street.

21 The EIS -- I have no reason to doubt the single

22 observation of occupancy. So then I simply recalculate

23 utilization based on what I believe the legal supply is. So

24 you can see that, in fact, because the supply is lower, the

25 utilization increases. And that would be true on every

1 **microphone.**

2 THE WITNESS: Is there a handheld --

3 HEARING EXAMINER: There is.

4 THE WITNESS: -- mic available?

5 HEARING EXAMINER: Yes.

6 THE WITNESS: If I could use that, please?

7 MR. EUSTIS: Sure.

8 HEARING EXAMINER: Ms. Eustis, I think it would be easier

9 for us up here administratively if you, as you talked about

10 the exhibits, you then admitted them so we could get them

11 processed.

12 MR. EUSTIS: Okay. So I would move the admission of

13 what's been marked as Appellant's 9A and 9B.

14 HEARING EXAMINER: Okay. Any objections?

15 MR. KISIELIUS: No objection.

16 HEARING EXAMINER: So that will be Exhibit 4 for the 9A

17 and Exhibit 5 for the 9B.

18 (Exhibit Nos. 4 and 5 admitted into evidence)

19 HEARING EXAMINER: And we're working on the microphones

20 back up there.

21 THE CLERK: It's right here.

22 HEARING EXAMINER: Okay.

23 A. Okay. Again, this exhibit shows the parking street by

24 street. I report what the EIS reported for the number of

25 parking spaces street by street, and then I also report what

1 single lot in the study area. Yeah.

2 THE WITNESS: Could you show, please, the bottom of the

3 table?

4 A. So across the study area, the EIS -- and the northeast study

5 area -- the EIS reported 2384 spaces. I believe that it --

6 the proper legal supply is approximately 2020 spaces, so

7 almost a 360-space difference, 360 fewer spaces. So the

8 overall utilization, rather than being an area-wide of 53

9 percent, I believe is 62 percent, the existing conditions.

10 Another important point about these calculations is how

11 many blocks would already equal or exceed the 85 percent

12 threshold. By the EIS's calculations in the northeast study

13 area, there would only be six blocks meeting that threshold.

14 By my determination of legal supply, there would be 20

15 blocks already meeting that threshold.

16 And rather than there being just two blocks that are

17 absolutely saturated at or over capacity, I see that there

18 are nine blocks already in that condition. So that was the

19 process for the northeast study area.

20 I did a similar analysis of the northwest study area,

21 which I believe is exhibit -- Appellant's Exhibit 10B.

22 **Q. (By Mr. Eustis) Yeah.**

23 MR. EUSTIS: Could you -- could you bring up 10B?

24 HEARING EXAMINER: Would you like to move to admit 10A?

25 MR. EUSTIS: Yes, I would.

1 HEARING EXAMINER: Any objections?
 2 MR. KISIELIUS: No objection.
 3 HEARING EXAMINER: Okay. We will admit that as Exhibit 6.
 4 (Exhibit No. 6 admitted into evidence)
 5 **Q. (By Mr. Eustis) Okay. And so 10B is in the northwest**
 6 **quadrant? So we're speaking of these quadrants. I take it**
 7 **these are quadrants of parking impacts that were selected by**
 8 **the authors of the EIS?**
 9 A. That's correct.
 10 **Q. Okay. So that's why you're focusing on supply, utilization,**
 11 **et cetera, within those quadrants?**
 12 A. Right. They're these case studies, and so I'm simply
 13 checking up on the accuracy of their measurements.
 14 So again, for the northwest, same thing, showing every
 15 blockface in the study area, the supply reported by the EIS,
 16 the EIS's own calculation of utilization, the occupancy
 17 observed.
 18 And again, it's a different set of adjustment factors here
 19 because I found a different range of error, but for many of
 20 the streets, the -- here the blocks are long north to south
 21 and narrow east to west.
 22 The long north/south blocks, I found that they were over
 23 by 20 percent compared to my measurement of legal supply.
 24 So I adjust the EIS, you know, 20 -- a block with 20 spaces,
 25 adjust by 8 percent, has 16 legal spaces.

1 believe 28 are already saturated.
 2 **Q. (By Mr. Eustis) Okay.**
 3 MR. EUSTIS: Let's see, so I would move the admission of
 4 Exhibit 10B.
 5 HEARING EXAMINER: Okay. We will label that as Exhibit 7.
 6 I'm assuming you have no --
 7 MR. KISIELIUS: No objection.
 8 HEARING EXAMINER: No objection.
 9 THE CLERK: Thank you.
 10 (Exhibit No. 7 admitted into evidence)
 11 **Q. (By Mr. Eustis) So in the -- you indicated your familiarity**
 12 **with several projects in the northwest quadrant. So in**
 13 **figuring out, in projecting the impact of additional ADUs in**
 14 **this quadrant, did you consider the impact of those**
 15 **projects?**
 16 A. Well, yes. Again, because I had worked on 7009 Greenwood
 17 located right here at the corner of Greenwood and 70th, I
 18 had incorporated other known projects in my analysis. And
 19 that includes two projects just on the east side of
 20 Greenwood, well within the EIS study area.
 21 One at 7626 Greenwood, that's 60 apartment units, 4,000
 22 square feet of (inaudible). That, under current policies,
 23 provides no parking. Its study showed 29 vehicles that
 24 spill over to the street in the evening.
 25 Additionally, 6800 Greenwood. There's 41 apartment units,

1 And again, I believe this is a -- based on multiple
 2 measurements, not only the multiple blocks I studied for the
 3 7009 Greenwood project I worked on just two years ago and
 4 supplemented by my additional sample of another street
 5 further west. I'm finding a consistent level of error, so
 6 there's some systematic mismeasurement underlying the EIS
 7 data.
 8 MR. EUSTIS: Let's see, would you go to the bottom of that
 9 exhibit, Marty?
 10 A. So again, the EIS reported just over 2100 parking stalls in
 11 that northwest study area. I believe the actual total, the
 12 legal total is approximately 1638. So that's a big
 13 difference, nearly 500-stall difference.
 14 And an important consequence of that is that existing
 15 utilization is not 63 percent overall. It's already 81
 16 percent overall. This is before consideration of any other
 17 development, ADU or pipeline project or otherwise. It would
 18 be existing conditions.
 19 And again, the number of blocks or the equaling and
 20 exceeding 85 percent, EIS would show there are only 14. I
 21 believe it's actually 43. That's getting to be a high
 22 share. There are 113 blocks in this study area. Now 43 out
 23 of those are already at or above the 85 percent utilization.
 24 And indeed, there are a number that are at or above 100
 25 percent capacity, not four as reported in the EIS. I

1 4200 square feet of retail. It does have some on-site
 2 parking, so projected only three vehicles spilling over to
 3 the street.
 4 **Q. And so what -- what's the impact of considering the**
 5 **spillover parking from these specific projects? What's**
 6 **the -- in terms of your analysis, why did you consider that?**
 7 A. Well, this increases demand for parking on the street, clear
 8 and simple. That's what spillover parking is. So to get an
 9 accurate picture of what near term conditions will be --
 10 some of these projects -- I believe 6800 Greenwood is
 11 already constructed and now open. 6726 I believe is still
 12 under construction. So their impacts are either occurring
 13 now or are about to occur.
 14 7009 Greenwood will also have spillover, about 25 vehicles
 15 to the street in the evening. That may be -- that project
 16 is still in the works. It may be another couple years
 17 before it opens. But these -- the impact is just three
 18 projects alone, known and in the pipeline, would have a
 19 combined spillover of 57 vehicles to the street at 9:00 p.m.
 20 There are additional projects just outside of the study
 21 area that would have some influence on some streets in the
 22 study area. I did not include those, but this is
 23 representative of known developments that will add a
 24 noticeable number of vehicles to the street. That changes
 25 the utilization in the near term.

1 **Q. Okay. So this would go into factoring in existing**
 2 **conditions?**
 3 A. Existing and what we would normally call background
 4 conditions. Again, the ADU analysis anticipates ADU
 5 production over the next ten years. These projects will
 6 be -- they're either already online or about to be online,
 7 certainly within the next two years.
 8 So they are known projects with documented spillover,
 9 studies already accepted by the City. They will add to the
 10 parking plan on the street and change the nature of parking
 11 availability by diminishing it.
 12 **Q. Okay. Just some questions about this vicinity map that is**
 13 **at Exhibit 11. So I take it this is a map taken from**
 14 **the EIS?**
 15 A. The map itself is from the EIS, yes.
 16 **Q. Okay. And the blocks marked in green, those were the**
 17 **northwest study area done by the authors of the EIS?**
 18 A. Yes. The highlighted streets here --
 19 **Q. Okay.**
 20 A. -- are within the study area.
 21 **Q. And then I see an arrow in the bottom right-hand corner of**
 22 **the map. That would indicate north to the right as opposed**
 23 **to being on the top of the page?**
 24 A. That's correct.
 25 **Q. All right. So Greenwood Avenue runs north to south, and you**

1 A. The second page does the same exercise for the southeast
 2 study area. There's at least one sizable project in the
 3 planning permit review stage right now. It's located at the
 4 corner of 39th Ave South and South Alaska Street.
 5 It's 242 apartment units, 13,000 square feet of retail
 6 restaurant. It's a space for grocery store, 14,000 square
 7 feet. It has a small office. It does provide considerable
 8 parking onsite. But its own study shows the spillover
 9 parking of 68 vehicles to the street in the evening.
 10 Again, it's on the corner of the study area, on the
 11 northwest corner of the study area. But, as in the
 12 northwest quadrant, the EIS did not consider any other
 13 developments in its analysis of parking conditions on the
 14 street.
 15 MR. EUSTIS: All right. I'd move the admission of
 16 exhibit -- of appellant's marked for identification
 17 Exhibit 11.
 18 HEARING EXAMINER: Any objections?
 19 MR. KISIELIUS: No objection.
 20 HEARING EXAMINER: Okay. We will include that as
 21 Exhibit 8.
 22 (Exhibit No. 8 admitted into evidence)
 23 **Q. (By Mr. Eustis) Okay. At Exhibit 12, 12A, B and C, my**
 24 **understanding is that you have attached parking and**
 25 **transportation impact documents from four -- from three**

1 **have to rotate this counterclockwise to the left and you'd**
 2 **have the proper orientation?**
 3 A. Well, or at least the customary orientation.
 4 **Q. Customary. All right. Good enough. So in your analysis of**
 5 **potential impacts from the proposal, at least for the**
 6 **northwest quadrant, you considered the additional**
 7 **utilization from spillover parking for these projects?**
 8 A. Yes, I did. Because I knew parking is already especially
 9 tight in the eastern portion of the EIS study area. There
 10 are more projects that are adding to that, that demand. So
 11 it --
 12 **Q. All right.**
 13 A. -- seemed a natural to --
 14 MR. EUSTIS: Move the admission of Exhibit 11 -- excuse
 15 me, Appellant's Exhibit 11.
 16 HEARING EXAMINER: Any objections?
 17 THE WITNESS: There's one more page.
 18 MR. KISIELIUS: The second page of the exhibit.
 19 MR. EUSTIS: Oh, I'm sorry. The second page. I'm sorry.
 20 MR. KISIELIUS: Sorry. Yeah, I would -- I think he's
 21 withdrawing his motion until he talks about the second page.
 22 HEARING EXAMINER: Okay.
 23 MR. KISIELIUS: Am I understanding that correctly,
 24 Mr. Eustis?
 25 MR. EUSTIS: That's correct.

1 **developments you identified on the first part of exhibit now**
 2 **Exhibit 8.**
 3 A. Yes, that's correct.
 4 **Q. Okay. Is -- and these form the background, the source of**
 5 **data, for your testimony regarding pipeline projects in the**
 6 **northwest quadrant?**
 7 A. That's right.
 8 **Q. Okay. Is there anything more that you would like to say**
 9 **about these three documents?**
 10 A. Well, that they would all have been available to the City as
 11 it performed the EIS for the ADU parking analysis.
 12 **Q. All right.**
 13 MR. EUSTIS: Move the admission of exhibits -- I'll just
 14 take them up one at a time -- Exhibit 12A, which is a
 15 parking study for --
 16 Could you (inaudible) 12A?
 17 -- the 6726 Greenwood Avenue project.
 18 HEARING EXAMINER: Any objection?
 19 MR. KISIELIUS: Just to confirm, is this the same study
 20 that we've seen before? Because we --
 21 MR. EUSTIS: Yes.
 22 MR. KISIELIUS: -- haven't talked about it at length. I
 23 just want to make sure.
 24 MR. EUSTIS: Yes.
 25 MR. KISIELIUS: No objection.

1 HEARING EXAMINER: Okay. We will admit that's -- that
 2 6726 Greenwood Avenue North study as Exhibit 9.
 3 (Exhibit No. 9 admitted into evidence)
 4 MR. EUSTIS: Okay. Let's see, could you go to
 5 Exhibit 12B. Thank you.
 6 **Q. (By Mr. Eustis) Could you identify that, please.**
 7 A. This is for the project called Isola Greenwood. That is, I
 8 believe, 6800 Greenwood Avenue. This is the transportation
 9 impact analysis that includes parking studies for that
 10 project, again, prepared in January 2014. That's the
 11 project that just recently opened after the construction.
 12 **Q. Okay. And you relied upon this study for calculating the**
 13 **spillover parking from that project?**
 14 A. Yes, that's correct.
 15 **Q. Okay.**
 16 MR. EUSTIS: Move the admission of the document at
 17 Appellant's 12B for identification.
 18 MR. KISIELIUS: No objection.
 19 HEARING EXAMINER: Okay. We will admit that as Exhibit 10
 20 into the record.
 21 (Exhibit No. 10 admitted into evidence)
 22 **Q. (By Mr. Eustis) And 12C?**
 23 A. This is my report on parking supply and demand for the 7009
 24 Greenwood Avenue project I referenced earlier.
 25 **Q. And let's see, this is the most recent of the three**

1 **Q. (By Mr. Eustis) Okay. Next I would like to move to**
 2 **Exhibit 13. It -- this is -- is this the order you'd like**
 3 **to bring it up?**
 4 A. Yes, that's --
 5 **Q. For now.**
 6 A. That's fine.
 7 **Q. Okay. So we're at 13A, for use of reference, in the**
 8 **notebook. Could you identify that, please.**
 9 A. This is an aerial view of a portion of the northeast study
 10 area in the EIS. And I have measured the dimensions of a
 11 couple of blocks here to show just how long they are. So
 12 the particular example here shows the segment of Northeast
 13 81st Street between 5th Avenue North and 8th Avenue North.
 14 That's 600 feet long east to west. It's 240 feet north to
 15 south. The streets surrounding it are typically 26 feet
 16 wide curb to curb. So it's a long block.
 17 A little to the east, east of Roosevelt, I measured the
 18 length of the block on 11th Avenue Northeast from Northeast
 19 80th up to I believe that's Northeast 82nd. 635 feet north
 20 to south and then 290 feet east to west.
 21 The reason I show this is because the EIS notes that
 22 ADU -- the residents and new ADU residents would typically
 23 prefer to park on the block on which they live. And then
 24 Tip 117, which gives guidance for measuring parking
 25 availability, which would determine where the ADU could be

1 (inaudible) that you've identified?
 2 A. Yes, it is.
 3 **Q. I take it this report identifies spillover parking from the**
 4 **7009 project?**
 5 A. Yes, it does.
 6 **Q. In preparing this, I believe you also relied upon the prior**
 7 **two reports that you identified?**
 8 A. Yes, I did.
 9 **Q. Okay.**
 10 A. And as I mentioned, there are other small projects a little
 11 further away that I also included. That was for the
 12 purposes of my analysis at that time, but it did rely on the
 13 other two studies we have just admitted.
 14 **Q. And this would support your conclusion of, what, 57**
 15 **potential, you know, demand for spillover parking spots by**
 16 **these three projects?**
 17 A. Yes.
 18 **Q. Okay.**
 19 MR. EUSTIS: Move the admission of Appellant's 12C marked
 20 for identification.
 21 HEARING EXAMINER: Any objection?
 22 MR. KISIELIUS: None.
 23 HEARING EXAMINER: Okay. We'll include that in the record
 24 as Exhibit 11.
 25 (Exhibit No. 11 admitted into evidence)

1 put without additional mitigation, specifies measuring
 2 parking within a 400-foot walking distance of any given
 3 site.
 4 So my point is that for many potential ADU locations on a
 5 given block, that block will be the majority of the parking
 6 readily available to them. Obviously, a project that's
 7 potentially near a corner would overlap. It would have a
 8 portion of its own block and maybe a portion of the next and
 9 could wrap around the corner, but it's to make the point
 10 that these are very long blocks. And a 400-foot block would
 11 be the majority of most blocks.
 12 So the notion that somehow, well, if parking is tight on
 13 your block but there's parking two or three blocks away,
 14 that's all fine, is: One, not what the EIS thinks that
 15 residents want to do; and two, overlooks just how far they'd
 16 end up walking if that were the case.
 17 So this is just to give a sense of scale in which
 18 potential ADU development could occur relative to walking
 19 distance.
 20 **Q. Okay. You did the same exercise for the northwest sections**
 21 **(inaudible)?**
 22 A. That's correct.
 23 **Q. And that's on the next page of this exhibit?**
 24 A. Yes. So again, I've looked at a few -- there are -- the
 25 street system is not altogether continuous, so one ends up

1 with somewhat different dimensions on the blocks. But the
2 north/south blocks, again, are long here, up to 600 -- well,
3 665 feet in this area west of 8th Avenue Northwest, 235 feet
4 in the cross dimension. There are some blocks immediately
5 east of 8th Avenue that they're as long as 790 blocks.

6 **Q. Feet?**

7 A. Thank you. Feet.

8 **Q. Sorry.**

9 A. You know, super blocks in urban planning are often
10 determined to be 600 feet long, almost twice the length of a
11 standard downtown city block. So these are exceptionally
12 long blocks. So, again, the point is ADU candidate
13 properties in this area basically only have their section of
14 the street as a ready parking pool.

15 There are some shorter blocks, as short as 400 feet, and
16 then again, this very common pattern of somewhere around 600
17 feet long, 225 feet across. So there are a variety of block
18 sizes. But again, the parking pool for a potential ADU site
19 is often really its own block.

20 **Q. Okay. Well, why don't we go to the next slide and then
21 exhibit.**

22 A. This slide takes a look -- again, it's the northwest study
23 area but on the east. East of Greenwood, the blocks are
24 oriented east/west rather than north/south, but they're
25 roughly comparable, 640 feet east and west, 240 to 295 feet

1 **Q. Okay.**

2 MR. EUSTIS: I would move the admission of the exhibit
3 marked 13A by appellants for identification.

4 HEARING EXAMINER: Okay. We were on Exhibit 12. We never
5 got the first aerial, which was northeast study area. We've
6 got a number of aerials here, so you're going to have to
7 help us out with which is which here.

8 THE CLERK: This is 13A.

9 HEARING EXAMINER: Oh, that is 13A? It looks like it's --

10 MR. EUSTIS: Yeah, this is --

11 HEARING EXAMINER: All right.

12 THE CLERK: Which would be the last (inaudible).

13 HEARING EXAMINER: Okay. I stand corrected.

14 THE CLERK: And so (inaudible)?

15 HEARING EXAMINER: Yeah, that's fine. We will admit it as
16 Exhibit 12 --

17 MR. EUSTIS: Okay.

18 HEARING EXAMINER: -- into the record.

19 (Exhibit No. 12 admitted into evidence)

20 **Q. (By Mr. Eustis) Let's see, next I'd like to move to what
21 appellants have marked as Exhibit 13B, and this consists of
22 two slides. Could you identify these?**

23 A. Yes. This illustrates what I was just discussing about
24 walking distance. So this first slide is an example of a
25 400-foot walking distance in the northeast study area.

1 in the north/south directions.

2 **Q. All right. And then, let's see, the -- for the other
3 quadrants, you also had measurements of the block
4 dimensions?**

5 A. Right. So here's a block in the southeast study area on
6 Angeline between 39th, and that's to 42nd, 650 feet long,
7 270 in the cross direction.

8 **Q. And then in the southwest quadrant?**

9 A. Yes. Again, the blocks are oriented north/south, 625 feet
10 to 650 feet in length and approximately 290 feet in the
11 cross direction. Those blocks have alleys in the middle, so
12 that adds a little to the depth.

13 **Q. Okay. And so you -- I take it the relevance of this to your
14 issues is that if Tip 117 assumes that people would walk,
15 like, 400 feet, some of these blocks are far in excess of
16 that?**

17 A. Yes, that's right.

18 **Q. Okay. And then what's the implication of that for, you
19 know, where people would search out to park?**

20 A. Well, again, I agreed that the EIS is right in that people
21 would expect to park on the block in which they live.
22 Should that block be full up, they'll be forced around a
23 corner or, you know, further down the street. But those
24 distances start growing and get well beyond a 400-foot walk
25 given just the length of those blocks.

1 Imagine a candidate ADU site in the middle of the block.
2 The yellow lines either side of it show the range of a
3 400-foot walking distance, you know, 400 feet to the east,
4 400 feet to the west. And in this case, one could actually
5 wrap around the corner before hitting the 400 feet.

6 But it shows that, in essence, the parking (inaudible)
7 within 400 feet is effectively that one block and just a
8 little bit around the corner or down the street. And that's
9 the same for the 11th Avenue scenario that's shown over
10 here.

11 **Q. Okay. And then the second slide in that exhibit?**

12 A. This shows, again, the blocks are long east to west.
13 They're not very deep north to south. If there were an ADU
14 candidate site on that short dimension, the 400 feet
15 overlaps various adjacent blocks, but it doesn't go the
16 length of any of it. It only goes part way along any one
17 block.

18 It's just an illustration of the kind of walking
19 experience the resident would expect to have within
20 400 feet.

21 **Q. Okay.**

22 MR. EUSTIS: Move to admit what appellants have marked for
23 identification as 13B.

24 HEARING EXAMINER: Any objection?

25 MR. KISIELIUS: No objection.

1 HEARING EXAMINER: All right. This will become Exhibit 13
2 in the record.

3 (Exhibit No. 13 admitted into evidence)

4 **Q. (By Mr. Eustis) Okay. Let's see, next I would like to move**
5 **to what we have marked for identification as Exhibit 14A,**
6 **which consists of two slides. Okay. Proceed.**

7 A. This is an illustration of the street segments that are
8 already at or above the 85 percent utilization level based
9 on the legal supply, basically the supply I determined.

10 This particular slide shows the northwest study area. I
11 referred earlier to a number of blocks, high percentage of
12 the blocks already being at or above 85 percent.

13 Forty-seven of 113 block segments were equal to or greater
14 than 85 percent utilization. And --

15 **Q. So, Mr. Tilghman, so this is the utilization based upon**
16 **consideration of your additional factor that you plugged in**
17 **from your own analysis, the error factor?**

18 A. Correct. Based on what I believe the legal parking
19 supply is.

20 **Q. Okay.**

21 A. Yeah. So one can see that east of Greenwood Avenue, many of
22 those streets are already at or above 85 percent.

23 Immediately west of Greenwood Avenue, a number are. Not
24 quite half. A similar pattern exists between 3rd Avenue and
25 8th Avenue, and then also west of 8th Avenue.

1 HEARING EXAMINER: Any objection?

2 MR. KISIELIUS: No objection.

3 HEARING EXAMINER: Okay. We will mark it as Exhibit 14
4 for the record.

5 (Exhibit No. 14 admitted into evidence)

6 **Q. (By Mr. Eustis) Okay. At 14B, you have a similar slide.**
7 **It begins with a similar slide, but then you have, you know,**
8 **additional -- an additional slide inserted after each of the**
9 **slides in 14A. So beginning let's say with the first slide.**
10 **And we've seen this before. This was the first slide for**
11 **Exhibit 14A, Appellant's Exhibit 14A.**

12 A. Correct.

13 **Q. So then go to the next slide and what has been marked as 14B**
14 **for identification. Okay. What are you trying to**
15 **show here?**

16 A. The previous slide showed the entire study area and the way
17 that the EIS considered it simply as one study area with no
18 differentiation by sub-area or character. Again, when
19 dealing with residential parking and residents' expectation
20 of not walking a long distance to find parking, it's
21 important to look at sort of the natural walking areas.

22 The blue lines that cross the map here highlight the
23 arterial streets that bisect the study area. There's
24 Greenwood Avenue, 3rd Avenue and 8th Avenue. Those are
25 perceptual barriers to pedestrians crossing the street, and

1 So the point is throughout the study area, there are a
2 number of street segments that are already too full to be
3 accommodating ADUs without some form of mitigation.

4 **Q. All right. And then on the second slide, I'll just -- now,**
5 **here you have the -- (inaudible) in the northeast study**
6 **quadrant?**

7 A. That's right.

8 **Q. Okay.**

9 A. So a similar illustration showing those street segments that
10 are already at or greater than 85 percent of the legal
11 supply as I measured it. The greatest concentration of
12 utilization is down here, Northeast 80th to I think
13 Northeast 85th Street/86th Street. A number of those
14 streets already at or above 85 percent, and then a handful
15 of streets further north that equal or exceed the 85 percent
16 utilization.

17 **Q. Okay.**

18 A. So 22 of 104 block segments.

19 **Q. This is the existing conditions without the impact of the**
20 **proposed ADU legislation and with the inclusion of your**
21 **error factor?**

22 A. That's right.

23 **Q. Okay.**

24 MR. EUSTIS: Move the admission of what has been marked
25 for identification as Exhibit 14A.

1 that is it would be unusual, say, to live west of Greenwood
2 but be seeking residential parking east of Greenwood forcing
3 you to have to cross the street.

4 These are wider streets than residential streets. They're
5 higher traffic volume streets because they're commercial
6 streets. Considering that people may be coming home in the
7 dark, parking, there's simply greater risk and uncertainty
8 in having to park on the opposite side of an arterial when
9 we cross it.

10 Again, people -- and the EIS says as much, people expect
11 to park on the block in which they live. And again, looking
12 at a 400-foot walking distance, very few people would be
13 tempted to try to make their 400 feet embrace an arterial
14 street.

15 So -- and the parking patterns differ when you look at
16 smaller areas of a larger study area. So east of
17 Greenwood Avenue -- and again, this is the existing
18 utilization that does actually include the pipeline
19 developments, because those projects are located right here.
20 Two of those projects are located immediately east of
21 Greenwood Avenue.

22 The near (inaudible) utilization in this area east of
23 Greenwood is already 88 percent, no ADU development
24 included. This is existing plus the known pipeline projects
25 would bring this area to 88 percent.

1 Now, in the area between Greenwood Avenue and 3rd Avenue,
2 the same scenario would yield 75 percent utilization, so
3 there's some capacity to absorb additional demand, 10
4 percentage points. Between 3rd Avenue and 8th Avenue, it's
5 already at 89 percent.

6 I'll also note that I have not identified any pipeline
7 projects that would affect this. This is the existing
8 utilization just between 3rd Avenue and 8th Avenue. That
9 basically says that area can't really absorb ADUs without
10 some sort of mitigation.

11 West of 8th Avenue, 82 percent utilization. And again, I
12 haven't identified any pipeline projects that are -- there
13 may be some, I just haven't -- I'm not aware of them.

14 So the EIS averages utilization across the whole study
15 area, but that's not how residents experience parking. It's
16 not how existing residents experience the influx of new
17 ones. That's not how new residents experience parking
18 availability.

19 The fact that parking on numerous parallel streets here
20 east of Greenwood Avenue already exceeds 85 percent is cold
21 comfort to a new resident who would be forced to park two or
22 three blocks over to find an available spot. They would
23 consider that a burden.

24 Topography also comes into play here. The land east of
25 Greenwood Avenue drops steeply to the east. Walking up and

1 development, the whole area is at 84 percent utilization.
2 The introduction of just a handful of ADUs would push the
3 whole area above 85 percent.

4 **Q. Okay.**

5 A. So it's a mischaracterization of the parking conditions.

6 **Q. So let's see, let's move to the next two slides that are
7 marked as Exhibit 14B for identification. Okay. The next
8 slide we saw before in a prior exhibit.**

9 A. Correct. Again, this is the -- showing the blocks exceeding
10 85 percent in the northeast study area.

11 **Q. And can you go to the next slide.**

12 A. And this takes a similar sub-area look at where the
13 perceptual barriers to pedestrian crossings are.
14 Roosevelt Way, Northeast 85th, Northeast 92nd breaks down
15 those sub-areas.

16 And again, it shows that in the area south of 85th and
17 west of Roosevelt, utilization in this area is already at 78
18 percent. So there is limited room to absorb additional
19 demand, but it's only 7 percentage points away from meeting
20 the 85 percent threshold.

21 The other areas are -- have capacity, that's clear. But
22 again, it's important to understand that there are certain
23 areas that are a lot tighter on parking than others so, were
24 ADU development to occur there, residents there would
25 experience an impact unlike what residents elsewhere would

1 down that hill is hard work. It's a steep hill. We have a
2 lot of steep hills in Seattle in residential neighborhoods.
3 So that's another factor.

4 Again, my point is it's much more meaningful to look at
5 parking conditions in what would be typical walking shed
6 than in great broad areas. The great broad area look simply
7 masks day-to-day conditions that residents would actually
8 experience.

9 **Q. So for purposes of your parking analysis then, are you
10 saying that the EIS should have considered a walking shed
11 approach as opposed to averaging the availability of parking
12 over the entire quadrant?**

13 A. Yes. Yes, in part. I think in -- on balance, the EIS
14 should have taken a much more subtle approach to examining
15 parking, again, noting perceptual barriers to pedestrian
16 movement and noting topography and actually the fact that
17 the dynamics of parking demand vary considerably across the
18 entirety of the study area.

19 Because the EIS makes broad statements that parking demand
20 will not exceed 85 percent utilization in the future;
21 therefore, there's no impact, therefore, no mitigation. And
22 yet, in numerous parts of that, that's simply not true.

23 And, in fact, as I described earlier, the entire northwest
24 study area, when considering pipeline development, it's
25 already on the -- it's I think, including pipeline

1 experience.

2 **Q. Okay.**

3 MR. EUSTIS: Let's see, so at this point I'd move the
4 admission of what appellants have marked as Exhibit 14B.

5 MR. KISIELIUS: No objection.

6 HEARING EXAMINER: Okay. We will enter it in the record
7 as Exhibit 15.

8 (Exhibit No. 15 admitted into evidence)

9 **Q. (By Mr. Eustis) Okay. At Exhibit 15, we have exhibit --
10 well, at appellant's marked for identification 15A, B, C and
11 D, we have four documents. And I would have you go through
12 and identify those.**

13 A. Yes. This table is very similar to one we saw earlier
14 noting the inventory block by block. What it adds is the
15 parking demand per ADU by quadrant, and then it estimates
16 what the demand for the maximum occupancy scenario would be.

17 Again, the proposed legislation allows up to 12 unrelated
18 adults to live on the same property. The EIS did not
19 identify the parking demand associated with a
20 maximum-occupancy property.

21 So I have estimated what that would be, again, using the
22 demand levels reported in the EIS on a -- calculated on a
23 per-person basis and then multiplying that by the 12 people
24 and then accounting for the fact that the 12-person maximum
25 property would displace the existing single-family property.

1 I deduct for that.
 2 So depending on the quadrant, the maximum occupancy
 3 parking demand varies from a low of about seven and a
 4 quarter vehicles per property to a high of 9.6 per property.
 5 So on balance, it's very close to nine vehicles per
 6 property.
 7 I then took a look at what would the utilization on any
 8 given block be if one property developed to the maximum
 9 occupancy, adding, you know, the demand appropriate to that
 10 quadrant.
 11 So this table shows the northeast quadrant. And the first
 12 line shows that adding one maximum-occupancy property would
 13 create a utilization of 125 percent on that block. That is
 14 information that is not in the EIS.
 15 And, in fact, one can look down block by block by block.
 16 The vast majority would be over capacity if one 12-person
 17 property were developed. And again, I'm basing that on the
 18 legal parking supply as I measured it, according to Tip 117.
 19 THE WITNESS: If you could scroll to the bottom of the
 20 table, please?
 21 A. So there are, in the northeast study, 104 blocks studied.
 22 The -- 28 of those would exceed 85 percent utilization if
 23 one 12-person property existed per block.
 24 **Q. (By Mr. Eustis) Per block?**
 25 A. Per block, yeah. Yeah. I mean, I'm just -- it's a

1 characteristics for renters.
 2 **Q. For renters. Across the board.**
 3 A. As I understand it, yes.
 4 **Q. Yes. And then in Portland, do you recall there being a --**
 5 **an occupancy figure used for ADUs in the principal**
 6 **structure?**
 7 A. You mean a maximum --
 8 **Q. Yeah.**
 9 A. -- occupancy? The adopted policy specifies six persons on a
 10 property.
 11 **Q. Okay.**
 12 A. A maximum of six.
 13 **Q. And then the City of Seattle maximum occupancy is how many**
 14 **unrelated adults?**
 15 A. Well, the proposed legislation would be 12.
 16 **Q. Okay. And that's an increase from current policy or**
 17 **current --**
 18 A. I believe current policy allows up to eight. I -- that's
 19 my -- that's my memory right now, but I believe that's
 20 correct.
 21 **Q. Okay. So it would -- under the preferred alternative, there**
 22 **would be an increase in occupancy per single-family lot**
 23 **with, I guess, principal unit and two accessory dwelling**
 24 **units of up to 12?**
 25 A. Yeah. You could have up to 12 people.

1 sensitivity test, how much can any one block absorb. And
 2 there are a handful of blocks that could readily absorb
 3 that, but adding up to nine additional vehicles in a given
 4 block usually causes trouble.
 5 It very significantly crosses the 85 percent threshold.
 6 And if there were just a handful of maximum-occupancy
 7 properties throughout the study area, it would really change
 8 the conclusions.
 9 **Q. So briefly, let's address the occupancy or population for a**
 10 **single-family lot. My understanding is that the City of**
 11 **Seattle has not done a parking -- a study of parking demand**
 12 **generated by ADUs, per se. Is that true?**
 13 A. Well, that is have they surveyed existing ADUs to determine
 14 what the parking characteristics are?
 15 **Q. Yes.**
 16 A. As far as I know, that has not been done.
 17 **Q. So in terms of vehicle ownership for ADUs, the EIS relied**
 18 **upon the Portland study?**
 19 A. In terms of vehicle ownership, my understanding is the EIS
 20 relied on census data for renters. And that would be
 21 renters across the board.
 22 **Q. But for ADUs in particular, it cited to the Portland study?**
 23 A. In part. The population of the ADU is related to the
 24 findings of the Portland study. And then vehicle -- again,
 25 as I recall, vehicle ownership is based on Seattle census

1 **Q. And that's --**
 2 A. It would be an increase to 12, but up to 12.
 3 **Q. Yeah. And that's the basis of your use of that figure,**
 4 **the 12?**
 5 A. Of -- yeah, of my estimation of what the impact would be on
 6 any given block.
 7 **Q. Okay. In the parking study used in the EIS, did you see**
 8 **where the study itself had factored in an occupancy of 12**
 9 **unrelated adults on a single-family lot with a principal**
 10 **unit and two accessory dwelling units?**
 11 A. Not in the parking analysis, I did not see any of that.
 12 **Q. Okay.**
 13 HEARING EXAMINER: May I ask you a question before you
 14 move on? And that is we have a number of these exhibits,
 15 15B through 15D. Do you want all of those as one exhibit or
 16 do you want those as separate exhibits?
 17 MR. EUSTIS: To me, it -- it doesn't make any difference
 18 to me. They can all be part of the same exhibit. If we
 19 follow the pattern that we have adopted so far, A, B and C
 20 would be in separate exhibit numbers.
 21 HEARING EXAMINER: Okay.
 22 MR. EUSTIS: But it -- as you see, I'm calling them all as
 23 proposed Exhibit 15.
 24 HEARING EXAMINER: Okay.
 25 MR. EUSTIS: But it doesn't make any difference to

1 appellant.

2 MR. KISIELIUS: And my only caution would be if we

3 amalgamate them, I worry about our ability to (inaudible)

4 numbers on the collection of them. And we will be referring

5 to specifics here, so it might be easier to keep them

6 separate.

7 HEARING EXAMINER: Okay. That we will do.

8 MR. KISIELIUS: Sorry.

9 HEARING EXAMINER: No, it's okay.

10 MR. EUSTIS: Okay.

11 **Q. (By Mr. Eustis) Did you have anything more to say about**

12 **appellant's marked Exhibit 15A?**

13 A. Well, again, only that this is new information, information

14 that's not in the EIS. And it would be development of

15 maximum-occupancy properties would have a pretty significant

16 impact on most blocks.

17 **Q. Okay.**

18 MR. EUSTIS: So I would move the admission of what the

19 appellants have marked as 15A for identification.

20 MR. KISIELIUS: No objection.

21 HEARING EXAMINER: Okay. So this will be Exhibit 16.

22 (Exhibit No. 16 admitted into evidence)

23 MR. EUSTIS: Okay.

24 **Q. (By Mr. Eustis) All right. So 15A dealt with the northeast**

25 **quadrant. And 15B, similar exhibit?**

1 and enter it into the record.

2 (Exhibit No. 17 admitted into evidence)

3 **Q. (By Mr. Eustis) I'm drawing your attention next to what**

4 **appellants have marked as Exhibit 15C. Can you identify**

5 **that?**

6 A. Yes. Again, the same exercise for the southeast and

7 southwest quadrants. The southeast quadrant, in terms of

8 actual residential streets, there are very, very few streets

9 there, so that's a very short analysis. Maybe more for the

10 southwest.

11 But again, it shows that a number of the blocks, were they

12 to have one maximum-occupancy unit -- or property rather,

13 would be pushed above, well above 85 percent, most of them

14 over capacity.

15 The southwest study area has a wider range of experience.

16 There's some streets that are very tight, and a

17 maximum-occupancy property could more than double, exceed

18 capacity by a factor of two. And there's some blocks that

19 could readily absorb it.

20 So it's a mixed bag, but it is very location-specific, and

21 it suggests that there are many, many blocks across all of

22 these quadrants that really wouldn't qualify to have a

23 maximum-occupancy property without some form of mitigation

24 or even a change in policy to limit how many people could

25 live there.

1 A. This does the same exercise for the northwest quadrant.

2 **Q. Okay. So you've explained the exercise before. What does**

3 **the northwest quadrant exhibit show?**

4 A. Well, the northwest quadrant already had higher levels of

5 utilization, especially when considering the legal supply.

6 So again, the addition of one maximum-occupancy property,

7 you can see -- and if you could scroll down -- virtually all

8 blockfaces would be pushed well beyond capacity.

9 So, in fact, 113 blockfaces in the study area. The number

10 of blocks where one maximum occupancy property would exceed

11 85 percent would be 110 of those 113. And, in fact, most of

12 those would be over 100 percent capacity, 101.

13 So it's -- it -- it's almost laughable, the scale of the

14 impact here. And that would simply push demand out into

15 adjacent blocks. Many of those adjacent blocks, as we've

16 already seen, are at or above 85 percent. It's a cascading

17 effect. It just keeps pushing demand further and further

18 out. It's something the residents would feel very, very

19 keenly.

20 **Q. Okay.**

21 MR. EUSTIS: I would move the admission of appellant's

22 designated 15B.

23 HEARING EXAMINER: Okay. Any objection?

24 MR. KISIELIUS: No objection.

25 HEARING EXAMINER: Okay. We will mark that as Exhibit 17

1 MR. EUSTIS: All right. Move the admission of appellant's

2 marked 15C for identification.

3 HEARING EXAMINER: Any objection?

4 MR. KISIELIUS: No objection.

5 HEARING EXAMINER: Okay. We will put it into the record

6 as Exhibit 18.

7 (Exhibit No. 18 admitted into evidence)

8 **Q. (By Mr. Eustis) And I'm next drawing your attention to what**

9 **appellants have marked as 15D.**

10 A. Yes. This is a summary table taking the totals from each of

11 those prior study area assessments to show quadrant by

12 quadrant the effect of adding one maximum-occupancy lot per

13 block.

14 So it would show the number of blocks that would equal or

15 exceed 85 percent utilization, even exceed actual capacity a

16 hundred percent. And one can see from the northeast area,

17 79 percent of blocks in the study area would then exceed 85

18 percent utilization with a maximum-occupancy property, with

19 just one on a block. And a majority, 56 percent, would

20 actually exceed a hundred percent utilization.

21 The northwest study area, well, it really saturates it.

22 97 percent of blocks would be over the 85 percent threshold

23 and 89 percent would be over a hundred percent.

24 As I said, the southwest study area could absorb more.

25 But close to half of those blocks, 49 percent, would still

1 equal or exceed 85 percent utilization. And just over a
 2 third, 38 percent, would still exceed a hundred percent.
 3 The southeast, again, I determined -- the southeast study
 4 area, again, was set by SDOT for parking management purposes
 5 related to the Columbia City business district. So it
 6 includes blocks that are multifamily, that are largely
 7 commercial.
 8 It's a -- it's a very -- the composition of that study
 9 area is very different than the others. So if you look at
 10 just the blocks that are primarily single-family, there are
 11 only six of them, the maximum occupancy scenario at one per
 12 block, 83 percent would be pushed over the utilization
 13 threshold. Two-thirds would be at or over capacity.
 14 So again, adding one maximum-occupancy property per block
 15 has pretty profound consequences on parking utilization,
 16 none of which was discussed or identified in the EIS.
 17 **Q. Okay. So I believe there's a table in the EIS that purports**
 18 **to summarize the net impact on on-street parking demand by**
 19 **implementation of the proposal, the preferred alternative.**
 20 **I seem to recall that the maximum utilization figure it**
 21 **comes up with is something like 83 percent.**
 22 A. Correct.
 23 **Q. Do you recall that table?**
 24 A. Yes, I do. And again, that was the basis of the EIS saying
 25 that under its analysis, no study area exceeds the 85

1 **Q. Were there figures for --**
 2 A. Oh, I'm sorry, in the EIS?
 3 **Q. In the EIS.**
 4 A. At the moment, I'm drawing a blank. I just don't remember
 5 if that was there. I remember -- I've read that within the
 6 census data. Whether I saw that in the census or in the
 7 EIS -- I know I saw it in the census data.
 8 **Q. Was parking analysis predicated on the assumption that ADU**
 9 **occupancy would be renter occupancy?**
 10 A. Yes. The parking analysis assumes all occupants are
 11 renters.
 12 **Q. Okay. So you were here with -- present during Mr. Reid's**
 13 **testimony. And I asked him questions about the impact of**
 14 **condominiumizing principal units and accessory units on**
 15 **single-family lots.**
 16 A. Yes, I heard that.
 17 **Q. And so if we -- if we considered the condominiumizing, that**
 18 **is the owner-occupants of three separate units, how would**
 19 **you effect -- how would you anticipate that that would**
 20 **affect the incidence of vehicle ownership?**
 21 A. Well, my expectation is that vehicle ownership would be
 22 higher for people who could afford the purchase of an ADU
 23 rather than just renting.
 24 **Q. And why would that be?**
 25 A. Well, one has to generally be a bit more affluent to manage

1 percent threshold and, therefore, there's no significant
 2 impact to parking so no mitigation required.
 3 **Q. And so what's your opinion as to the accuracy of that**
 4 **projection in that data?**
 5 A. Well, I think it's wholly inaccurate, and it's wholly
 6 inaccurate because the measurement of legal inventory is
 7 wrong. Again, I don't know how it was done because it's
 8 never described, no backup data was provided, but it has the
 9 effect of greatly inflating the legal inventory by, you
 10 know, 20 -- by something like 20 percent on a systematic
 11 basis.
 12 It doesn't include known pipeline developments that will
 13 add real cars to the street, that is an impact that
 14 residents feel, and it doesn't take into account the
 15 potential for adding 12 unrelated adults living on one
 16 property and that level of parking demand. So it misses the
 17 mark in important ways.
 18 **Q. Okay. With regard -- you indicated that the incidence of**
 19 **vehicle ownership was derived from vehicle ownership by**
 20 **renter occupants of property --**
 21 A. Yes.
 22 **Q. -- in the city of Seattle? Were there figures given in the**
 23 **EIS for the incidence of vehicle ownership for**
 24 **owner-occupied properties, if you recall?**
 25 A. Yes.

1 a purchase. There's a down payment, which, in the Seattle
 2 market, is now a significant amount of money. And the data
 3 we do have generally shows that more affluent people tend to
 4 own more vehicles.
 5 So to the extent that ownership of an ADU entails a more
 6 affluent resident, I would generally expect a higher
 7 incidence of vehicle ownership.
 8 **Q. So if you had that data, vehicle ownership per owner**
 9 **residents, then would you expect that the impact of creating**
 10 **let's say an additional ADU per block would be even greater**
 11 **upon on-street parking?**
 12 A. If they were owner-occupied, yes, that's a possibility.
 13 **Q. Okay. More than a possibility? Would it be a probability,**
 14 **greater impact on on-street parking?**
 15 A. Based on the data we know from the census, I would say yes.
 16 Now, what that probability is -- yes, there's a probability
 17 it would be greater.
 18 **Q. Okay. So a number of times in your testimony you indicated**
 19 **that you -- the utilization figures for the northwest and**
 20 **the northeast quadrants, you didn't know what data the City**
 21 **used. Did you --**
 22 A. The inventory. The measurement --
 23 **Q. Right.**
 24 A. -- of the parking supply. I have no idea how that was
 25 determined.

1 **Q. Through the appellant, the Queen Anne Community Council, did**
 2 **you request that information?**
 3 A. Yes. Yes, I did.
 4 MR. EUSTIS: Would you bring up Exhibit 17?
 5 HEARING EXAMINER: Do you want to go ahead and move this
 6 one --
 7 MR. EUSTIS: Oh, yes.
 8 HEARING EXAMINER: -- into the record?
 9 MR. EUSTIS: Yes, please. I'm sorry.
 10 HEARING EXAMINER: Okay. Any objections to this exhibit
 11 on -- for the previous one?
 12 MR. EUSTIS: The summary? No, the table?
 13 HEARING EXAMINER: Yes.
 14 MR. KISIELIUS: You're asking (inaudible).
 15 HEARING EXAMINER: Yes.
 16 MR. EUSTIS: Thank you. Yes.
 17 HEARING EXAMINER: Okay. We will mark it as Exhibit 19
 18 and enter it into the record.
 19 (Exhibit No. 19 admitted into evidence)
 20 MR. EUSTIS: Would you scroll down, please?
 21 **Q. (By Mr. Eustis) Although it is addressed to me, are you**
 22 **able to identify what this is?**
 23 A. Yes. This is a request for records used to prepare the EIS.
 24 And in particular, there are requests for information about
 25 the parking analysis.

1 **quadrants?**
 2 A. No, I did not.
 3 **Q. Okay. Let's see, if you could go back to Exhibit 17.**
 4 A. Sure.
 5 **Q. This request also asks for vehicle incidence of car**
 6 **ownership for occupants of owner-occupied units in each of**
 7 **the four study areas?**
 8 A. Yes, it does.
 9 **Q. Okay. (Inaudible). And does the response supply that**
 10 **information?**
 11 A. Well, only to the extent that it says, "The parking analysis
 12 in the ADU-FEIS (inaudible) from a 2013 survey that
 13 (inaudible) State University conducted of ADU owners and
 14 data from the 2012 to 2016 American Community Survey to
 15 estimate vehicle ownership among ADU households in Seattle.
 16 **Q. And do you recall that, seeing any data relating to vehicle**
 17 **ownership for owner-occupied ADU, and that is**
 18 **condominiumized?**
 19 A. Not for condominiumized ADUs. It was census data, but it
 20 was not specific to ADUs.
 21 **Q. Could you go back to Exhibit 17. And the last part of**
 22 **Exhibit 17 asks for the incidence or (inaudible) of car**
 23 **ownership for both owner-occupied and renter-occupied units**
 24 **in a number of the Seattle residential neighborhoods. Do**
 25 **you see that?**

1 **Q. And specifically, what was the request for?**
 2 A. Well, it says, "Please produce public records and other
 3 documents containing the following information: Field
 4 notes, tabulations of curb measurements from other data
 5 showing how the parking supply was calculated for the
 6 northeast and northwest study locations as described on page
 7 B17 of Appendix B of the EIS."
 8 **Q. Okay. Let me just stop you there. So was this a request**
 9 **that was submitted at your request?**
 10 A. Yes, it was.
 11 **Q. Okay. And do you recall what the City's response was?**
 12 A. I was copied on that response, at least it was forwarded to
 13 me, and I believe it said there isn't any additional
 14 information, field notes or tabulations --
 15 **Q. I'm drawing your attention to the second full paragraph.**
 16 A. Yes. So the person replying says, "I reached out to the
 17 subject matter expert on ADU about your followup inquiry
 18 about field notes, tabulations, curb measurement data and
 19 actual tabulations of on-street parking capacity for the
 20 blocks considered in the northeast and northwest study
 21 locations. She confirmed that there are no additional
 22 records."
 23 **Q. Okay. Did you ever receive from the public records request**
 24 **field notes, tabulations of (inaudible), et cetera, related**
 25 **to on-street parking supply in the northeast and northwest**

1 A. Yes, I do.
 2 **Q. Now, other than the four quadrants considered, did the EIS**
 3 **consider the impacts of -- in either parking capacity and**
 4 **utilization in other neighborhoods besides the four**
 5 **quadrants and the impacts of ADU development in other**
 6 **neighborhoods besides the (inaudible)?**
 7 A. No, it did not.
 8 **Q. Okay. Would you consider -- would you consider let's say**
 9 **southeast, the southeast quadrant, to be representative of**
 10 **neighborhoods such as Montlake, Madrona and Madison Park?**
 11 A. Well, there are a variety of conditions in all of these
 12 neighborhoods. It's hard to say that one is representative
 13 of many others.
 14 **Q. Um-hum.**
 15 A. It may only be representative of others that have the same
 16 characteristics. But we have -- we have blocks that have --
 17 same as south, in the Columbia City area. There's a block
 18 that has an alley. The next block doesn't have an alley.
 19 Well, that affects parking availability for residents.
 20 There's no discrimination made between blocks with or
 21 without alleys. Again, the size lot, the size of home, the
 22 share that are already rented versus owned, no distinctions
 23 have been made.
 24 **Q. So the parking section of the EIS includes in it a section**
 25 **of, you know, of -- addressing unmitigated significant**

1 adverse impacts (inaudible) unmitigated significant adverse
2 impacts. Do you recall that section?

3 A. Yes, I do.

4 Q. Okay. In your opinion, would there be unmitigated
5 significant adverse impacts from the proposed legislation?

6 A. Based on the proposed legislation, yes. I've identified a
7 number of locations, particularly in the northwest study
8 area, but in select parts of other study areas that would
9 exceed, even greatly exceed, the 85 percent utilization
10 threshold.

11 The entire northwest study area would exceed 85 percent
12 with the development of the number of ADUs the EIS predicts
13 would be produced. Adding that to the pipeline development
14 and accounting for the legal supply, the northwest study
15 area alone would exceed the threshold. The EIS failed to
16 disclose that.

17 Q. Okay. So if it disclosed that (inaudible) significant
18 adverse impacts, from your perspective -- you know, granted
19 you're not designing the proposal, but from your perspective
20 as a transportation consultant, is there obvious mitigation
21 that could be identified?

22 A. Well, I could see -- I could see at least two paths. And
23 one would be consistent with current ADU policy. On those
24 streets where occupancy or utilization would equal or exceed
25 85 percent, an on-street parking space would be provided to

1 patient going on for nearly two hours. I think I've covered
2 the questions that I need to cover in my direct exam. Are
3 there other points that you wish to testify to that I may
4 have not asked?

5 MR. KISIELIUS: (Inaudible).

6 HEARING EXAMINER: Before we do that, can we -- do you
7 want this email chain put into the record?

8 MR. EUSTIS: Yes.

9 HEARING EXAMINER: Okay. Any objection?

10 MR. EUSTIS: So I would move the admission of 17 and 18.

11 HEARING EXAMINER: Okay. Let's keep them separate.

12 MR. EUSTIS: They should be.

13 HEARING EXAMINER: Okay. All right. So -- all right. So
14 the email dated Tuesday, January 15 -- is that 15? Yeah --
15 2019, to the Seattle -- or, I'm sorry, to Jeff Eustis and
16 from the Seattle -- City of Seattle Public Records Request
17 Center will be Exhibit 20.

18 And then the email with the same addresses but dated
19 January 30th, 2019, will be Exhibit 21.

20 MR. EUSTIS: Is there no objection?

21 MR. KISIELIUS: I already said no objection.

22 HEARING EXAMINER: Okay.

23 (Exhibit Nos. 20 and 21 admitted into evidence)

24 A. So to answer your question, there's a passage in the EIS
25 that gives me -- gives me pause. And it comes just after

1 accommodate the additional demand per unit.

2 Q. Do you mean on-street or off-street?

3 A. I'm sorry, off-street. Thank you for the correction.

4 HEARING EXAMINER: I was going to ask, how do you supply
5 (inaudible).

6 THE WITNESS: Yeah.

7 HEARING EXAMINER: (Inaudible).

8 THE WITNESS: No, yeah. Sorry.

9 A. No. Well, the existing policy requires if utilization's
10 already 85 percent on the street, the ADU can be improved if
11 an off-street space is provided to serve it. That policy
12 makes sense. It addresses the condition.

13 Another part of the proposed legislation that creates the
14 problem is this maximum occupancy scenario. There are a
15 handful of streets that could absorb a maximum-occupancy
16 property. But as I've shown, there are many, many, many
17 more streets that cannot absorb that without rather dramatic
18 parking spillover.

19 The policy could reduce -- either disallow that maximum
20 occupancy scenario on the streets that exceed 85 percent, or
21 the policy could, of course, be revised to reduce the number
22 of people that live on one property so that the -- no one
23 property would have such an overwhelming level of parking
24 demand.

25 Q. (By Mr. Eustis) Okay. Mr. Tilghman, you've been more than

1 the EIS says that there will not be any significant parking
2 impact as a result of the proposed legislation.

3 It -- and this is in Chapter 4, the parking discussion.

4 It goes on to note that there are likely some specific
5 blocks within the study area where on-street parking
6 utilization currently exceeds parking supply and would be
7 more sensitive to changes in local population. So it
8 acknowledges that possibility.

9 It says the degree of the deficiency and impacts
10 experienced in any given neighborhood depends on many
11 factors, including the choices an individual makes about
12 parking on or off the street when there are existing
13 off-street parking spaces provided, i.e., in a driveway or a
14 garage that are required or provided by choice.

15 And I think the effect of that language is to trivialize
16 the impact of high rates of utilization. And by call --
17 even though it says there are many factors that can affect
18 this, it specifically calls out people choosing to park on
19 the street rather than in a driveway or a garage.

20 But I think, as any of us who have ever lived or rented an
21 older house in one of Seattle's neighborhoods, the driveways
22 and garages can be really narrow and sometimes aren't up to
23 accommodating modern vehicles or doing it very safely.

24 And to imply that residents are choosing to create a worse
25 condition on the street when they could do something else, I

1 think is disingenuous. And I think that's why I say the
 2 language tends to trivialize the impact of parking.
 3 I'll use an anecdote. When I was measuring parking on
 4 Northeast 82nd Street, a neighbor who was walking her dog
 5 came up to me and inquired what I was doing. I told her I
 6 was doing a parking study to measure the supply. And she
 7 said, she asked me, "Do you think the City will prevent us
 8 from parking in front of our own driveways?" She says, "We
 9 don't have a choice."
 10 So again, that's an anecdote, but it points out that
 11 residents actually experience these impacts. And to create
 12 blocks after blocks through this legislation that would be
 13 approaching or even exceeding capacity will be a great
 14 burden on existing residents and the new residents.
 15 I think council members will be hearing about it. They
 16 will be unhappy. These are not trivial matters. It is
 17 about quality of life. As much as the City wants us to
 18 transition to less reliance on autos, we're not yet
 19 sufficiently organized to do that. We don't have all of the
 20 services in place to support less use of the car. While
 21 some people are doing it, it doesn't work for everybody.
 22 People's lives are highly varied. They can't all walk.
 23 They can't all take the bus for all purposes. They actually
 24 need their cars. The fact that car sharing has been --
 25 MR. KISIELIUS: I would like to interpose an objection

1 MR. KISIELIUS: And again, I'm going to interpose my
 2 objection. We're straying to the same (inaudible).
 3 HEARING EXAMINER: Are you finished, Mr. Tilghman?
 4 THE WITNESS: Yes. Thank you.
 5 HEARING EXAMINER: Then we'll leave it at that.
 6 MR. EUSTIS: Very well. We'll leave it at that.
 7 HEARING EXAMINER: Okay. And if you're done, we will take
 8 a break now.
 9 MR. KISIELIUS: Mr. Tilghman will be back after the break,
 10 just to --
 11 HEARING EXAMINER: Yes, he will.
 12 MR. KISIELIUS: I just wanted to make sure he wasn't
 13 leaving.
 14 HEARING EXAMINER: All right. It's 3:33. I think I can
 15 calculate this one. We should be back by 3:48. Thank you.
 16 We'll be off the record.
 17 (Recess)
 18 HEARING EXAMINER: Please be seated. And we're back on
 19 the record.
 20 Mr. Ellison, do you have any questions related to the
 21 testimony we've heard (inaudible) this afternoon?
 22 MR. ELLISON: Thank you. I have one potential question,
 23 and I'm not sure how appropriate it is.
 24 HEARING EXAMINER: Okay. I'm sure somebody will tell it's
 25 not appropriate.

1 right now only because I think we're straying from the
 2 adequacy of the analysis to the EIS to testimony about City
 3 policy related to parking and whether or not it could be
 4 supported. And that goes to (inaudible) the wisdom of the
 5 proposal, which is irrelevant to the adequacy of the EIS.
 6 What we're here to talk about is whether or not the
 7 analysis was sufficient. He's talked at length about that,
 8 but to be talking about the wisdom of the policy exceeds the
 9 bounds of this area.
 10 HEARING EXAMINER: Yeah. I'm going to sustain the
 11 objection. I can't --
 12 MR. EUSTIS: Well --
 13 THE WITNESS: Very well. I will --
 14 **Q. (By Mr. Eustis) So if I could refocus your question. So**
 15 **the section you read seemed to indicate that to alleviate**
 16 **the deficiencies in parking, the residents could do a number**
 17 **of things, including park off the street. But if part of**
 18 **the proposal is to require no new parking, would that not be**
 19 **contradictory?**
 20 A. Well, the proposed legislation doesn't resolve the issue,
 21 period.
 22 **Q. Okay. Very good.**
 23 A. I've made a connection to other city policies only in that
 24 how it manages parking is part and parcel of a larger
 25 picture, and right now it's not managing parking --

1 DIRECT EXAMINATION
 2 BY MR. ELLISON:
 3 **Q. But it relates to the -- it relates to the idea that if you**
 4 **have exceeded the 85 percent limit for parking that then**
 5 **would justify the need for off-street parking for every new**
 6 **ADU unit, then there's the likelihood that there will be**
 7 **additional parking required on a lot in addition to the ADU**
 8 **unit or two ADU units. So if there were going to be two ADU**
 9 **units, there would be potentially two new parking garages or**
 10 **parking spots required onsite. And is that -- would that be**
 11 **correct?**
 12 A. If the approach to meet demand is by requiring an off-street
 13 space on those blocks where utilization is above the
 14 85 percent threshold, yeah, it would take more property to
 15 accommodate cars.
 16 **Q. So on a larger lot, that might be something that they could**
 17 **do. But on a smaller lot, they'd be restricted to either**
 18 **having an ADU with a garage underneath it or have less ADU**
 19 **units on site?**
 20 A. It could be either. All depends on the specifics of the
 21 lot.
 22 MR. TILLMAN: Thank you very much.
 23 HEARING EXAMINER: Okay.
 24 Mr. Kisielius.
 25 ///

CROSS - EXAMINATION

BY MR. KISIELIUS:

Q. Good afternoon, Mr. Tilgman.

A. Good afternoon.

Q. Tadas Kisielius with -- on behalf of the City. I have a couple questions for you. Let me start where you finished, what are marked as Hearing Examiner Exhibits 20 and 21. This is Appellant's Exhibit 17 and 18. This is the email exchange?

A. Yes.

Q. Just to clarify, you weren't testifying you didn't get anything in response to that public records request, did you?

A. No. I testified that I did not receive any information about the determination of parking supply as to how it was measured. I received a detailed list of how many spaces were said to exist block by block. But I had asked specifically for the measurements, the field notes, how that supply was determined, and I did not receive any information about that.

Q. So you got a spreadsheet or something like that with data in it on the blockfaces, is that --

A. That's right.

Q. Okay. So the response here is about the follow-up request for any other data that hadn't already been provided?

SEPA -- the differences between a project action and a non-project action in terms of the level of detail required in the EIS?

A. Well, level of detail depends on the nature of the proposed action, and it looks at the consequence of implementing a particular policy or set of policies. But in my experience in preparing EISes, in terms of the work I did on transportation analysis, basically did the same level of detail regardless of project action or project specific -- a planned action or project-specific EIS.

Obviously, there could be differences in the nature of the study area and, therefore, potentially some difference in how far down the street system one looks at traffic or how parking is handled.

Q. But your testimony -- your opinion is informed by your assumption that you typically use the same level of detail for a non-project action as a project action EIS, typically? Is that what you mean?

A. Similar. Similar level, yeah.

Q. Okay. That's helpful. Thank you. Let's talk about the northeast and northwest study areas. Now, I understand your general criticism is that the City overstated parking supply in those areas; is that correct? Inventory, sorry.

A. Supply and inventory are synonymous here. But, yes, that's correct.

A. Yeah. I'd specifically asked for, you know, field notes, curb measurements, and there was none of that provided.

Q. Let me step back and talk about your EIS experience I heard in response to one of Mr. Eustis's questions. He asked whether you had any experience with non-project actions, and you said I think several. And Spring -- Spring District, is that the one that jumped --

A. No, I think I said I had some. Some EISes were non-project, and I qualified the Spring District was in early (inaudible) of planning discussions. I was not involved in an EIS --

Q. Okay.

A. -- on that. But it was considering zoning and development potential and how parking could be accommodated.

Q. Okay. But you have done some work on non-project EISes?

A. Yes, some.

Q. And can you identify one?

A. As I recall, the very early EIS on Snoqualmie Ridge. Because that was timber, I believe --

Q. That's a non-project action?

A. Well, at the time we called them programmatic. And it was -- it was sort of an early overview that was then followed up by specific phase development EISes. It was called programmatic at the time. It's debatable as to whether that's exactly project action at this point.

Q. Let me cut to the chase. What's your understanding of what

Q. Okay. And can you humor me and explain exactly how you calculated the inventory? Now, I know we have the logs, the sheets, but I mean even just how did you measure. Did you use a tool to measure? And if so, what?

A. Yes. I have a measuring wheel.

Q. Okay.

A. That you roll it along, and it tells you how many feet you've gone.

Q. And so where would you start that measurement and where would you finish?

A. Generally, if there were a sidewalk on the cross street, I'd start at the sidewalk on the side furthest away from the cross street. So where the -- basically at the property line of the first lot from the corner.

Q. Okay.

A. Start there and measure from there to the other end of the block, noting where there were identified "No Parking" zones, fire hydrants, driveways, crosswalks, all the things for which some clearance must be granted for parking purposes.

Q. And you -- you would just take the length of it and note where those occurred along the length? You didn't pick up the wheel and measure those separately or anything like that, right?

A. In this case, I did not measure the width of the driveways

1 separately.

2 **Q. Okay.**

3 A. But I start --

4 **Q. So what did you --**

5 A. Well, I'd start, say, at the edge of the sidewalk and

6 measure up until say -- often there's a fire hydrant not far

7 from the corner. Measure up to the fire hydrant. Note that

8 distance. Then measure from the fire hydrant on to, say,

9 the first driveway. Record that.

10 Then you have to make deductions. You have to have 20

11 feet clear from the sidewalk or the cross street. You have

12 to have 15 feet clear either side of the fire hydrant. And

13 you need 5 feet clear either side of the driveway. So

14 measure the distance, make the deductions, calculate what is

15 available for legal parking.

16 **Q. Okay. Is it your contention that physically measuring each**

17 **blockface in this manner that you've just described is the**

18 **only way to complete a parking inventory analysis?**

19 A. I would say it -- well, it is basically the method

20 identified by Tip 117.

21 **Q. That wasn't my question.**

22 A. And it --

23 **Q. Let me ask it -- let me ask it again. Is this the only way**

24 **that you can do a parking inventory?**

25 A. I believe it's the most accurate way. For example, I

1 **Q. Okay.**

2 A. But some of the non-project actions didn't necessarily

3 include parking as a part of the scope.

4 **Q. Okay. But let's focus in on Tip 117, because I think you**

5 **referred to it as the standard in Seattle. And just to make**

6 **it clear, is it your contention that the only manner to**

7 **conduct parking inventory under Tip 117 is the manner you**

8 **described?**

9 A. Well, that is what it recommends. Again, if one had highly

10 accurate aerial photographs, you could achieve -- I think

11 you could achieve the objective. But again, that depends on

12 the quality of the image.

13 And it -- my experience working with aerial photographs at

14 many different scales is they can be very good. They can be

15 very helpful. It's never the same as actually visiting the

16 site, walking the site.

17 **Q. Excuse me, I'm sorry. I didn't mean to -- I'm trying to do**

18 **two things at once, but I am listening. I apologize.**

19 A. Yeah. It's just there is no substitute for being on the

20 ground and seeing things. Seeing -- and particularly -- you

21 could look places where the aerial photo doesn't go. You

22 have perspective. And it's very important -- it's not just

23 the measurement of the curb, but seeing how the curb is

24 used, understanding those driveways.

25 As I was able to document in my study for 7009 Greenwood,

1 have --

2 **Q. That wasn't the question.**

3 A. Okay.

4 **Q. Is it the only way?**

5 A. Perhaps there is another way, one -- if one had high

6 resolution aerial photos with an unobstructed view of the

7 entirety of the curb, one could measure that and that would

8 be a -- that would be a pretty good estimate. But again, it

9 depends on you have to be able to see all parts of the curb

10 and it has to be high resolution so you can get down to a

11 foot level.

12 **Q. Have you ever calculated parking inventory using that**

13 **method?**

14 A. I have done back of the envelope estimation say using Google

15 or -- but only for the purposes of determining an order of

16 magnitude amount of parking, not to determine a legal

17 parking supply.

18 **Q. Okay. Have you ever done a parking inventory for a**

19 **non-project EIS where you've actually gone out and wheeled**

20 **it?**

21 A. I recall that having more to do with off-street parking.

22 They tend to be in more downtown, urban settings. So

23 off-street was a much larger player, but I don't recall --

24 to answer your questions, I don't recall doing that level of

25 parking measurement for a non-project action.

1 I could document instances of people parking in front of

2 driveways but driveways that clearly weren't used because

3 they -- it's an old curb cut, and sometimes the driveway is

4 gone, it's been turned into a garden. That can be difficult

5 to distinguish on an aerial photo for instance so --

6 **Q. Yeah. Thank you. Sorry.**

7 MR. ELLISON: Is it contagious?

8 MR. KISIELIUS: No. I apologize.

9 A. Yeah. My point is one gets more detail by actually walking

10 the site.

11 **Q. (By Mr. Kisielius) I'm going to approach you just to give**

12 **you access to a document I'm going to ask you to take a look**

13 **at.**

14 MR. KISIELIUS: And, Jeff, this is Exhibit 20, City

15 Exhibit 20.

16 MR. EUSTIS: City's Exhibit --

17 MR. KISIELIUS: 2-0.

18 MR. EUSTIS: Okay.

19 MR. KISIELIUS: And I apologize for the distraction and

20 the noise.

21 MR. EUSTIS: Tip 117?

22 MR. KISIELIUS: Yes. Examiner (inaudible).

23 HEARING EXAMINER: I'm assuming you want to enter this as

24 an exhibit?

25 MR. KISIELIUS: For now I was just asking for it to be

1 marked. I'll have him identify it, and then I'll --

2 HEARING EXAMINER: Okay.

3 MR. KISIELIUS: -- I'll move to enter it in.

4 HEARING EXAMINER: Okay.

5 **Q. (By Mr. Kisielius) So what I've handed you there under**

6 **Tab 20, do you recognize that document?**

7 A. Yes.

8 **Q. Is that the Tip 117 you were referring to?**

9 A. Yes, it is.

10 **Q. Okay.**

11 MR. KISIELIUS: I guess I'd just probably ask to enter it.

12 We've had a lot of testimony about it already.

13 HEARING EXAMINER: Okay. Any objections?

14 MR. EUSTIS: No objection.

15 HEARING EXAMINER: Okay. It will be entered into the

16 record as Exhibit 22.

17 (Exhibit No. 22 admitted into evidence)

18 **Q. (By Mr. Kisielius) Okay. So I'm going to ask you a couple**

19 **more questions about this. Can you tell me where it says**

20 **you need to measure the blockface with a wheel?**

21 MR. KISIELIUS: And, I'm sorry, Mr. Kaplan. Do you

22 mind -- that's a little distracting. Do you mind turning

23 off the screen? He's got a copy of it.

24 MR. KAPLAN: Oh, I'm sorry. I didn't even realize it was

25 on.

1 A. Well, that implies an action, yes.

2 **Q. Okay. I'm going to jump around a little bit. I want to go**

3 **back to your adjustment that you made to the inventory for**

4 **the northeast and northwest area. Now, you didn't make the**

5 **similar adjustment for the southeast and southwest; is that**

6 **correct?**

7 A. That's correct. Because those were SDOT projects. That was

8 data generated independently of the EIS effort.

9 **Q. You thought that was reliable?**

10 A. Yes.

11 **Q. Okay. So -- and I -- unless you need to refer to it, you**

12 **can move that binder out of the way if it's -- I'm done with**

13 **Tip 117.**

14 **The adjustment that you made, and here I'm referring to**

15 **what would have been marked as Examiner Exhibits 16, 17 and**

16 **18, which were Appellant Exhibits 15A, 15B, and 15C. Excuse**

17 **me, 15A and 15B, so 16 and 17.**

18 **I heard you say that you had checked it. How many --**

19 **those exhibits list all of the blockfaces in the entirety of**

20 **the study areas; is that correct?**

21 A. Yes, that's right.

22 **Q. And how many blockfaces did you yourself measure using that**

23 **wheel?**

24 A. In the northwest study area, there were two different

25 measurements I had done. Because, as I testified, one was

1 MR. KISIELIUS: Thank you.

2 A. Well, it talks about simply identifying the distances.

3 **Q. (By Mr. Kisielius) Okay. But does it say --**

4 A. It doesn't -- yeah, it doesn't -- no, it doesn't say, "Thou

5 must use a wheel." But it gives an example of, you know,

6 how you measure the distances. Obviously a wheel or a tape

7 measure is a very direct way of doing that.

8 **Q. Okay. And you'd mentioned high resolution GIS is another**

9 **manner of doing it?**

10 A. Yes.

11 **Q. So can you also tell us what's the -- what's the purpose of**

12 **Tip 117? Because I want to clarify. I thought I heard you**

13 **say in response to Mr. Eustis's question that it determines**

14 **significance and that it determines whether mitigation is**

15 **required. Can you tell us what -- what's the purpose of**

16 **Tip 117?**

17 A. Well, my understanding is the purpose of Tip 117 is to

18 determine whether adequate parking availability exists in a

19 residential zone for -- so you can obtain a parking waiver

20 for an accessory dwelling unit.

21 **Q. Okay. And so is it typically used, do you think, in project**

22 **action settings?**

23 A. Well, certainly.

24 **Q. Is that what it's designed for? The title is "Parking**

25 **Waivers for Accessory Dwelling Units." Is that --**

1 the work I had done previously for 7009 Greenwood, which was

2 working in the eastern portion of that study area.

3 So I had measured blocks east of Greenwood, from Greenwood

4 down to Dayton between 67th and 73rd. And I measured blocks

5 west of Greenwood from 67th to 73rd over to, say, First,

6 Sycamore, I think as far as 2nd. So I had two and a half,

7 three years ago measured those blocks for that study I was

8 doing.

9 **Q. And just for those of us who aren't as familiar with the**

10 **geography as you are having walked them, how many blockfaces**

11 **is that? You can refer back to your exhibit itself if you'd**

12 **like.**

13 A. Yeah, that would -- well, that would be 30, 40 blockfaces,

14 something like that. It's a few dozen. So that was

15 information I had obtained two, three years ago.

16 **Q. Okay.**

17 A. Then -- and that's what alerted me to a difference between

18 my measurements and what I read in the EIS when I looked at

19 the same blocks. Like, well, these numbers are different.

20 They're different by a lot. Why is that? That's what

21 prompted me to make an additional measurement.

22 I chose 6th Avenue Northwest, west of where I had studied,

23 more or less in the middle of the EIS study area. And I

24 measured that 67th to 73rd.

25 **Q. Okay. And I asked you before -- I want to ask you the same**

1 question with this one, but I want to go back to your
 2 answer. I used the work "blockface." Your chart uses the
 3 word "block." So tell me how to translate those two.
 4 A. Blockface would be the side of the street. The block would
 5 be both sides of the street for that segment between
 6 whatever cross streets are applicable.
 7 Q. So that's -- if you were to then translate what you just
 8 said, 30 to 40 blockfaces, is that safe to say that was 15
 9 to 20 blocks, as reported here?
 10 A. Yeah.
 11 Q. Okay.
 12 A. Yeah.
 13 Q. And so how many in that second area that you just described?
 14 A. Well, that second area -- well, 67th to 73rd, that's
 15 something like -- that would be another six to seven
 16 blockfaces. It's -- I say six to seven because that's where
 17 there's a shift in the street grid, so you get a different
 18 number on one side of the street than you do on the other.
 19 Q. Okay. So three to three and a half blocks is translated
 20 here?
 21 A. Approximately right, yes.
 22 Q. Okay. And that was for the northwest study area?
 23 A. That's right.
 24 Q. I'm going to ask you -- well, let's maybe come back to the
 25 northeast in a second. So you checked that many. And what

1 A. Well, I would say I was getting consistent results on
 2 individual blockfaces within that sample. The pattern --
 3 the pattern was -- I kept seeing the pattern repeat itself.
 4 Q. So (inaudible) using the correct -- your correct
 5 percentages. So the 80 percent, you were getting almost
 6 exactly 80 percent on every long blockface; is that correct?
 7 Is that your testimony?
 8 A. That -- yeah, that was the -- that was the average. There
 9 were small variations around that, but it --
 10 Q. How small? Some higher?
 11 A. 3 to 4 percent, either side of that.
 12 Q. Okay.
 13 A. I mean, they really did sort of converge.
 14 Q. Okay. And you found none where the inventory was
 15 actually -- you calculated something less than what the EIS
 16 found?
 17 A. That is correct.
 18 Q. Excuse me, you counted --
 19 A. Well, that is --
 20 Q. I meant the inverse of what you found. I'm confusing units.
 21 It's the end of the long day here, so I apologize.
 22 A. Yeah.
 23 Q. What I meant to ask you is did you find any instances in
 24 which your inventory showed less than what the City found --
 25 showed more than what the City found -- I said it right the

1 I'm trying to understand, because I don't think it was very
 2 clear from your testimony, because you testified that there
 3 was I think you called it systemic [sic] undercounting?
 4 A. Yes, I believe that's the term I used.
 5 Q. So based on that 15 to 20 plus three or four -- so 18 to 24
 6 blocks that you actually measured, there's more than that
 7 throughout the study area, isn't it -- aren't there?
 8 A. Right. There are 113 blocks. So my sample, my combined
 9 sample would be not quite 15 percent of the total; 18 out of
 10 113, something like that.
 11 Q. Okay. So then you applied, as I understood -- and I just
 12 want to get some clarity here -- two different percentages
 13 based on that smaller study sample that you did?
 14 A. That's right.
 15 Q. And can you just describe what -- which streets you used to
 16 arrive at which numbers there?
 17 A. Well, I noticed a difference on the -- I talked about the
 18 long blocks and then the short blocks. The blocks are --
 19 west of Greenwood, they're long north to south and then
 20 short east to west.
 21 As I recall, the -- I found different rates of variation
 22 depending on the length of the block, and so I applied those
 23 variations then to other similar blocks.
 24 Q. Okay. How did you know if there was systemic undercounting
 25 if you studied only a sample?

1 first time.
 2 MR. ELLISON: More of what?
 3 MR. KISIELIUS: More supply.
 4 A. That is correct. I did -- my measurements did not ever
 5 exceed a reported measurement for the same section of block
 6 in the EIS.
 7 Q. (By Mr. Kisielius) And then the 73 percent was your number
 8 for the shorter blockface; is that correct?
 9 A. Well, actually, I'm -- let me back up because, in fact, I
 10 see the difference is the 80 percent was pretty much what I
 11 got from my -- the work I had done on the Greenwood project.
 12 Q. Okay.
 13 A. So that -- (inaudible) of that eastern half of the study
 14 area.
 15 Q. And here, you're referring to the 15 to 20 blocks that you
 16 did for the Greenwood study area?
 17 A. Correct.
 18 Q. Okay.
 19 A. And then the 73 percent adjustment factor I got -- then I
 20 correct what I said earlier because that includes
 21 north/south streets over -- that's what I derived from the
 22 6th Avenue sample.
 23 Q. And what --
 24 A. And --
 25 Q. What -- how did you then -- because again, we're looking at

1 **a subset of the entire study area. How did you figure out**
 2 **which to extrapolate to the remaining parts of the study**
 3 **area that you did not yourself wheel? In other words, how**
 4 **did you choose between 80 percent and 73 percent?**
 5 A. Well, again, the 80 percent included a lot of blocks east of
 6 Greenwood, which are oriented differently and have slightly
 7 different dimensions. Blocks immediately west of Greenwood,
 8 I had already included. And then the 6th Avenue was
 9 different again.
 10 And so I applied that to streets in its immediate vicinity
 11 and west. And that would be based on my view of how those
 12 streets were or were not comparable.
 13 **Q. Okay. Did you testify that you really couldn't explain the**
 14 **discrepancy that you were finding in your inventory and the**
 15 **City's inventory?**
 16 A. Well, that is I don't understand how the City calculated its
 17 inventory, so I don't have a way of explaining. Had I been
 18 able to see the detailed measurements, I could understand,
 19 you know, where the -- where the differences arise, where
 20 they come from. I simply don't know why they're different.
 21 I cannot -- I could only speculate, but it would be
 22 unfounded speculation.
 23 **Q. Okay. I guess my question is how did you -- on what basis**
 24 **can you assume the same differential throughout the study**
 25 **area, much less choose which of two percentages to apply to**

1 A. Could I get a copy of that? I don't think I have that --
 2 **Q. You can -- for the --**
 3 A. Or look at it? Yeah.
 4 **Q. Okay. So similarly, can you just tell us again how you got**
 5 **the 82 percent that you applied for the majority? Because**
 6 **this is the one where you were testifying is between**
 7 **developed and undeveloped streets?**
 8 A. That's correct.
 9 **Q. Okay. And was -- is it fair to say -- well, let me ask you.**
 10 **How many blocks of all the ones listed here did you yourself**
 11 **wheel?**
 12 HEARING EXAMINER: You're going to need the microphone.
 13 THE WITNESS: Could you scroll back to the top, please?
 14 Thank you.
 15 A. I looked -- the measurement I did in the southern part of
 16 that northeast quadrant was on Northeast 82nd. So between
 17 5th and 8th, 8th and 10th, commonly known as Roosevelt.
 18 That's actually -- that is at least four -- well, at least
 19 four blockfaces.
 20 **Q. (By Mr. Kisielius) So about two blocks?**
 21 A. Again, we can check the rest of my notes. The field notes
 22 has the exact tally.
 23 **Q. Okay. But two blocks?**
 24 A. Effectively --
 25 **Q. (Inaudible) the vernacular, you used --**

1 **the remainder?**
 2 A. Well, given that streets in that eastern portion were coming
 3 up with -- kept coming up with essentially the same
 4 differences, I used that difference there where I already
 5 measured more. The sample elsewhere showed, again, a
 6 profound difference.
 7 And I'm comparing, you know, blockface to blockface, my
 8 measurements to what's reported in the EIS. And while the
 9 numbers were a little different, the same kind of error, the
 10 EIS consistently showed more legal supply than I could
 11 measure.
 12 So that -- this is not a tiny sample. It's not a census,
 13 but it's -- I'm not extrapolating from just one block to the
 14 whole study area. I'm extrapolating from cross-sections of
 15 that study area.
 16 So it is -- it is a working assumption that, to the extent
 17 that I saw this as an error, it was a systematic error. I
 18 kept seeing the same kind of error.
 19 **Q. Within the -- within the City sample --**
 20 A. Within the sample, correct.
 21 **Q. Okay.**
 22 A. Yeah.
 23 **Q. Let me ask you to turn to your same chart for the northeast**
 24 **study area, which is Examiner's Exhibit 15 -- appellant, so**
 25 **Examiner's 16.**

1 A. Yes. Yes. I did that on Northeast 82nd.
 2 **Q. Okay.**
 3 A. And then recognizing that, in fact, there were different
 4 street types, I took Northeast 98th Street, and that is at
 5 least a block west of Roosevelt and one -- it's -- so one
 6 and a half. And again, there's an odd shape in the street
 7 east of it.
 8 **Q. Okay. So how many total for the northeast study area did**
 9 **you yourself wheel?**
 10 A. Well, that would be -- I believe that's eight.
 11 **Q. Okay. And so you derived the 82 percent number from a**
 12 **portion of those eight and the 97 percent from the other**
 13 **portion of those eight?**
 14 A. Well, again, looking at -- Northeast 82nd was developed as
 15 most streets south of -- streets in the mid 90s are. Curb
 16 and gutter, seem to have more or less similar numbers of
 17 driveways, item locations. It's a very consistent pattern.
 18 Further north of --
 19 THE WITNESS: If you could scroll down on the chart just a
 20 little, I can identify it.
 21 A. So I believe at approximately Northeast 96th Street, we get
 22 a different -- a different pattern, the less fully developed
 23 street. Lacking curb, gutters, sidewalk. So I applied the
 24 difference I found in my measurements versus the EIS
 25 measurements for the southern area I applied to similar

1 streets.

2 **Q. (By Mr. Kisielius) That's the two blocks?**

3 A. That's correct.

4 **Q. Okay.**

5 A. And then I did a similar thing for the northern area for the

6 streets like that.

7 **Q. Got it. And you extrapolated to the remainder that you**

8 **hadn't wheeled?**

9 A. That is correct.

10 **Q. Let me -- before we leave this, there's a couple cells there**

11 **that are shaded in green.**

12 MR. KISIELIUS: And, Mr. Kaplan, if you don't mind

13 scrolling further down so we can see them.

14 **Q. (By Mr. Kisielius) Can you tell me what that refers to?**

15 A. Yes. I had highlighted those because those -- and as I have

16 a note at the right of the chart, it says that's a

17 commercial area.

18 **Q. Okay. Yeah.**

19 A. That was just -- just for reference.

20 **Q. But did you --**

21 A. That's a different (inaudible).

22 **Q. So there's no ADU possibility in that location; is that**

23 **correct?**

24 A. That's correct.

25 **Q. And so did you look at -- did you include the inventory and**

1 **Q. So what I --**

2 A. Agreed, yeah.

3 **Q. -- mean is you included those in your summaries of the**

4 **totals?**

5 A. That is true.

6 **Q. Okay. The -- and just to -- I want to come back to the max**

7 **occupancy. I think you can sit down, but just -- but both**

8 **of the ones we just looked at, putting aside the max**

9 **occupancy issue that we're about to talk about, the total**

10 **study area does not exceed 85 percent even using your**

11 **adjusted factors; is that correct?**

12 A. For the northeast study area, that's correct.

13 **Q. And what about the northwest?**

14 A. The northwest, as I testified, using the supply I estimate

15 would be at a 81 percent overall existing average. When I

16 add the pipeline development, we've got the 84 percent

17 overall.

18 **Q. Okay.**

19 A. So then only a handful of ADUs would push the whole area

20 over 85 percent.

21 **Q. Okay. So my question is whether you consider the pipeline**

22 **projects or not, that 81 and 84, that's less than 85,**

23 **correct?**

24 A. Yes. Just.

25 **Q. And I don't mean to make you stand longer so -- I'm going to**

1 **the utilization in your total numbers?**

2 A. Yes, I did. Because the EIS had done the same thing.

3 Because there are values reported for those streets in the

4 EIS. The EIS was inconsistent. It did that in the

5 northeast study area for commercial areas. It didn't do it

6 in the northwest study area. For example, it did not

7 include parking on Greenwood. I don't know why. I just

8 mimicked --

9 **Q. Okay.**

10 A. -- what was there.

11 **Q. Okay. Including the max occupancy piece in a place where**

12 **you can't (inaudible)?**

13 A. That's right. So, in fact, that would be irrelevant. But

14 there was -- it doesn't change the result for the other

15 streets.

16 **Q. Right. But in terms of the amalgamation that you do for**

17 **your adjusted supply as compared to the actual existing**

18 **inventory plus the numbers you tally in terms of the total**

19 **number of blocks that exceed 85 percent or even a hundred**

20 **percent, you include those?**

21 A. Yeah. I did the same thing the EIS did, you're correct, but

22 there wouldn't be any ADUs or max occupancy potential on the

23 commercial --

24 **Q. Right.**

25 A. -- property.

1 **ask you to max occupancy. To the extent you need to refer**

2 **to that, if you want to stand up, but I also don't mind you**

3 **sitting back down.**

4 A. Well, fire away. I'll see what works best.

5 **Q. Okay. So generally, what's your understanding of the max**

6 **occupancy now?**

7 A. My understanding is that code allows up to eight unrelated

8 persons to occupy a property.

9 **Q. Okay.**

10 A. That could be over a couple of different units.

11 **Q. Okay. How many total possible units could you have? Under**

12 **current, if you know.**

13 A. I think -- well, primary residence plus an ADU. I think

14 that's it.

15 **Q. Okay.**

16 A. That's my recollection.

17 **Q. And does it govern at all the related (inaudible)?**

18 A. At the moment, I can't recall if it's eight persons or eight

19 unrelated persons. I know the proposed legislation

20 specifically says 12 unrelated adults.

21 **Q. Okay. So look (inaudible) you guessed my next question,**

22 **what's changing. Is that -- are there any limitations on**

23 **when you can have up to 12 as compared to the existing eight**

24 **under the analysis, the proposal described in the EIS?**

25 A. Well, my understanding is it would be with three units.

1 That is, you wouldn't have 12 with two units, but you could
 2 have -- if three units were provided, up to 12 unrelated
 3 adults could live on that property.
 4 **Q. And just to make sure we're using the same language, when**
 5 **you say three units, you mean principal plus two ADUs? And**
 6 **when you say two units, you mean principal plus one ADU; is**
 7 **that right?**
 8 A. Yes.
 9 **Q. Yeah. And so the -- you testified that you don't think that**
 10 **the EIS analyzed the max occupancy piece. Did -- and to be**
 11 **clear, the only time you get over 85 percent in the entirety**
 12 **of the study area is when you incorporate this factor; is**
 13 **that correct?**
 14 A. The adjustment factor for legal supply, do you mean? Which
 15 factor, I'm sorry?
 16 **Q. I thought we -- no, no. I'm talking about the max ADU.**
 17 **Because I thought we just clarified that you're under 85**
 18 **percent with your adjusted factor, even when you consider**
 19 **pipeline projects.**
 20 A. That -- yes, before any ADU production is considered.
 21 **Q. Understood.**
 22 A. Yeah.
 23 **Q. The -- with the max occupancy, is it -- was it your**
 24 **testimony that this is common, that this is something that**
 25 **you should have done or that anybody would do in a parking**

1 **currently under code. If I were to tell you that that eight**
 2 **restriction applies to an apartment, if I was building an a**
 3 **apartment, that applies now.**
 4 MR. EUSTIS: Objection. Ambiguous. Apartment? Apartment
 5 building? Apartment unit?
 6 HEARING EXAMINER: Yeah, can you clarify?
 7 **Q. (By Mr. Kisielius) Can a residence allowed within the unit**
 8 **(inaudible) it's limited to eight unrelated people currently**
 9 **under code. I heard you say that if the proposal identifies**
 10 **a max occupancy scenario -- and I'm just trying to**
 11 **understand -- when would a proposal explain its intention to**
 12 **maximize the occupancy?**
 13 A. I'm sorry, I'm missing something here.
 14 **Q. Okay. (Inaudible), it's the end of a long day, but let me**
 15 **ask you. When you were talking about your study that you**
 16 **relied on, did you assume max occupancy? Here I'm referring**
 17 **to 12C. Appellant's 12C, Hearing Examiner's Exhibit 11.**
 18 A. Hearing --
 19 **Q. That's it.**
 20 A. Oh, that's it? Okay. This -- well, the 7009 Greenwood
 21 project this exhibit addresses, I had -- was given market
 22 data indicating the number of people anticipated to occupy
 23 the units of different sizes, up to four-bedroom units.
 24 **Q. But you --**
 25 A. So that --

1 **utilization study?**
 2 A. I don't remember if I said exactly that, but if I take it --
 3 if the proposal includes a maximum occupancy scenario, I
 4 would expect to analyze the impact of that scenario.
 5 **Q. How would you know if the proposal includes a max occupancy**
 6 **scenario?**
 7 A. Well, usually it would say so. Well, the proposed
 8 legislation talks about the maximum occupancy allowed, so
 9 then some number of units would be expected to be produced
 10 to have that allowable level. What I did not see in the
 11 parking analysis was any specific calculation to the demand
 12 characteristics of 12 unrelated adults living on the same
 13 property.
 14 **Q. And that same potential -- and understanding we're going**
 15 **from eight to 12, but that same potential exists today. If**
 16 **you have a project that's for a residence, single-family --**
 17 **multifamily, the resident capacity exists for any unit**
 18 **that's being constructed; isn't that correct?**
 19 A. I'm sorry, I'm not sure I followed your question.
 20 **Q. Well, I'm trying to get at if it's part of the proposal. If**
 21 **I'm building a house right now, currently I'm limited by a**
 22 **code, according to your testimony, of by up to eight**
 23 **unrelated people can live in that, right?**
 24 A. I believe so.
 25 **Q. And if I'm building an ADU, we have a similar restriction**

1 **Q. -- estimated persons per unit. Did you do max occupancy**
 2 **there?**
 3 A. No.
 4 **Q. When you were doing your study and relying on the other**
 5 **couple of pipeline projects that you incorporated, the 6726**
 6 **Greenwood or the 6800 Greenwood, which would have 60 and 41**
 7 **units respectively, did you assume max occupancy for those?**
 8 A. I used the occupancies that they assume.
 9 **Q. The averages?**
 10 A. If that's what they were advertised as, yes.
 11 **Q. Okay. Let me ask you another question about this one while**
 12 **we've got it up. You had testified to the perceived**
 13 **barriers. I think you said it's important to identify the**
 14 **natural walking block sheds and you had identified perceived**
 15 **barriers. Did you yourself apply perceived barriers in the**
 16 **exact same study area?**
 17 A. Yes, I did in this study. I actually talked --
 18 THE WITNESS: Marty, if you could scroll down?
 19 **Q. (By Mr. Kisielius) Same one. Where is the perceived**
 20 **barrier right there on your supply that you looked at?**
 21 A. Well, Greenwood -- I do note that Greenwood Avenue, I looked
 22 at 800 feet either around the site walking distance.
 23 **Q. So beyond the 400 you testified should have been used in**
 24 **this instance?**
 25 A. Correct. And here's Greenwood Avenue. Now, I do believe --

1 **Q. Excuse me, I'm sorry. I don't mean to interrupt, but to**
2 **make that point, that is one of the perceived barriers you**
3 **say the EIS should have used?**

4 A. Yes.

5 **Q. Okay.**

6 A. Yeah.

7 **Q. And your -- the place where you were looking for parking**
8 **supply extends on both sides of the (inaudible); is that**
9 **correct?**

10 A. Yes. So I measured parking supply. I checked parking
11 occupancy utilization at multiple different times of the day
12 and days of the week.

13 And then when I talk about the impact of adding of
14 overflow parking from this particular project, I qualify it
15 by saying these residents are most likely to park west of
16 Greenwood Avenue because Greenwood is a barrier.

17 **Q. In your conclusions, did you rely on the supply that was**
18 **available on the other side of Greenwood?**

19 A. Well, it's incorporated in there. One of the
20 characteristics of it, as I've already shown in other
21 exhibits, is it is highly occupied. And the spillover
22 demand from the two projects being built on the east side of
23 Greenwood Avenue will pretty much fill up the parking that's
24 available over there.

25 So while I did measure it, it's not really available to

1 enforced. Blatantly illegal parking, such as parking in
2 front of a fire hydrant, I did not include (inaudible)
3 parking. So --

4 **Q. It wasn't limited though to just people parking in front of**
5 **driveways that no longer exist, right? It also included --**
6 **there's car -- parking spots made available close -- legal**
7 **spots identified in close proximity to stop signs, that if**
8 **you applied the spacing requirements in Tip 117, you**
9 **wouldn't be able to count; is that correct?**

10 A. That's right.

11 **Q. And similarly did include the fact that cars might be**
12 **smaller than what Tip 117 assumes?**

13 A. You can achieve -- sometimes you can get higher levels of
14 utilization with smaller cars and not -- and still
15 everybody's legally parked.

16 **Q. And your effective supply number considered that; is that**
17 **correct?**

18 A. No. The effective supply number had to do with the use of
19 clearances, I do believe. You can -- again, you can get
20 higher levels of utilization, but the supply -- the supply
21 itself, the way we measure supply doesn't change.

22 **Q. I understand the distinction you're making.**

23 A. Yeah.

24 **Q. Better utilization with the same space, but --**

25 A. Exactly.

1 residents of this project. One, because of high levels of
2 use; and then two, as I note, because people tend not to
3 want to cross an arterial to park on a regular basis. So I
4 assume that their parking would, in fact, spill, you know,
5 spill over through the area west of Greenwood.

6 **Q. And did you, when you were conducting this study,**
7 **distinguish between legal supply and effective supply?**

8 A. Yes, I did.

9 **Q. And did you make the case that because effective supply**
10 **exceeds legal supply, the parking impact would be less?**

11 A. Well, I showed the consequence using both measures.

12 **Q. Okay.**

13 A. I made the distinction because of my observation that --
14 again, this is why it was important to walk the street when
15 making measurements and observations. Had to do with the
16 way people were using parking. And that was, in part, a
17 reflection of the degree to which the City was or was not
18 enforcing legal parking.

19 So I made a fairly detailed tabulation of the factors that
20 contributed to what I called the larger effective supply,
21 people parking close to the end of the block, close to the
22 crosswalks, sometimes parking in front of driveways or, at
23 least former driveways.

24 So I made a detailed calculation of the factors that
25 contributed to that, that type of use that was not being

1 **Q. -- the effective supply was looking at the inventory that**
2 **you were counting as differently than the way you had done**
3 **it with the wheel measurement?**

4 A. Yes. Now, I reported both. I was just showing: Here's how
5 parking is being used and enforced, or not enforced, and
6 then here's the legal picture. I never said that one
7 overrides the other, that the effective supply is the one
8 that should be considered when judging parking conditions.
9 I simply reported what's happening.

10 **Q. All right. Okay. The -- back to the max occupancy.**

11 MR. KISIELIUS: And -- (inaudible) sorry for jumping
12 around, but if you could go back to 15, Appellant's
13 Exhibit 15A, which is Hearing Examiner 16. Yeah. Could you
14 go to the top (inaudible).

15 **Q. (By Mr. Kisielius) I want to make sure I'm understanding**
16 **exactly what you did, because I confess, I'm still a little**
17 **confused. So you've got the average persons per ADU up in**
18 **the top of that table; is that correct?**

19 MR. KISIELIUS: That 1.36. Great. Thank you.

20 A. Yes. Correct.

21 **Q. (By Mr. Kisielius) And then you have the number southeast**
22 **in the half of the table to the left where you've marked**
23 **rows southeast, southwest, northeast, northwest. You've got**
24 **the numbers 1.29, 1.03, 1.15, 1.21. Is that the number of**
25 **cars per person?**

1 A. That is the parking demand per ADU.
 2 **Q. So you've got persons per ADU and cars per ADU. And then**
 3 **help us get to then the next one, the vehicle ownership rate**
 4 **per person. Did you just divide those numbers?**
 5 A. That's right. The number of vehicles per unit divided by
 6 the number of people per unit, yeah, gives you the vehicle
 7 ownership rate per person.
 8 **Q. And then you multiply that by 12 to get to 12 people, what**
 9 **that -- if you apply that to 12 individuals?**
 10 A. Correct.
 11 **Q. Okay. So here's I guess where I'm a little confused. Do**
 12 **you then do some sort of a subtraction? You have "SF**
 13 **Parking Demand." So what -- tell us what you're doing**
 14 **there.**
 15 A. Okay. SF, that refers to single-family parking demand. So
 16 the scenario here is assuming the existing single-family
 17 home is then converted to three units in the scenarios that
 18 we were talking about earlier. So the net increase in
 19 parking demand would be the vehicles owned by the new
 20 residents less what is displaced or already exists on site.
 21 **Q. So what -- what number did you assume persons per principal**
 22 **residence to get to the single-family parking demand, the**
 23 **cars used by the principal unit?**
 24 A. I believe that was simply from the census data for those
 25 quadrants.

1 **Q. I'm still trying to figure out what your net increase is.**
 2 **It's the difference between what was there before and what**
 3 **is there now; is that correct?**
 4 A. What would be there versus what is there now.
 5 **Q. Okay.**
 6 A. Yeah. To answer your question about the number of people in
 7 the single-family home, my best recollection is the census
 8 data for these portions of Seattle generally reflect
 9 somewhere on the order of 2.7, 2.8 persons per household.
 10 **Q. Okay.**
 11 A. In that range. So that the total increase in persons could
 12 be anywhere from about seven or eight to eight to nine.
 13 **Q. Okay. And does it make a difference to you -- do you know**
 14 **whether it requires two to get -- two additional units to**
 15 **get to that maximum 12?**
 16 A. I'm sorry, two what?
 17 **Q. Two additional units --**
 18 A. Oh.
 19 **Q. -- to get to the maximum 12 people living -- 12 unrelated**
 20 **people living together.**
 21 A. Well, I believe so. Yeah.
 22 **Q. Okay. So what I'm having a hard time understanding is**
 23 **what -- if we have the number there, 1.36 persons per ADU,**
 24 **do you understand that to be an average?**
 25 A. Yes.

1 **Q. Okay. So is it --**
 2 A. Single-family, yeah.
 3 **Q. Okay.**
 4 A. Homes.
 5 **Q. Did you derive a number -- so in terms of the net increase,**
 6 **are we talking an extra ten people? Nine or ten? Does that**
 7 **sound about right?**
 8 A. I did not -- in this table, I did not make a calculation of
 9 difference in population going from this one single-family
 10 home to the maximum occupancy scenario. I was calculating
 11 the net increase in the parking --
 12 **Q. Okay.**
 13 A. -- demand.
 14 **Q. So let me ask you this. But the general premise is that**
 15 **you've got a principal dwelling unit with some number of --**
 16 **average number of people based on census data and then the**
 17 **subsequent construction of two more ADUs that max out the**
 18 **remainder; is that correct?**
 19 A. Well, my understanding is under the legislation, the
 20 single-family home could be -- could go away. Three rental
 21 units could be developed with a total of 12 unrelated adults
 22 living there.
 23 **Q. Let's not get hung up on that piece because I'm assuming**
 24 **there's a principal residence and two ADUs, three units.**
 25 A. Okay.

1 **Q. So what can we say about the average -- is the average**
 2 **number per ADU closer to one or closer to eight or nine?**
 3 A. Well, the average is this, 1.36.
 4 **Q. So is it fair to say that it's much more likely that there's**
 5 **going to be one person per ADU than there's going to be four**
 6 **or five or eight or nine, based on that average number?**
 7 A. Yeah, but I think the real answer depends on what's the
 8 attractiveness to someone to develop the property to the
 9 maximum occupancy scenario. That's not my area of
 10 specialization, so I won't opine on that.
 11 **Q. Thank you. Given the average number though, given what you**
 12 **know to be the average, is it more likely that it's going to**
 13 **be one person per ADU than it would be four or five or eight**
 14 **or nine?**
 15 A. I would assume it is more likely.
 16 **Q. And can you guess order of magnitude how many ADUs with only**
 17 **one person in them you'd need to have for every one maximum**
 18 **occupancy to get to an average 1.36?**
 19 A. Well, I haven't done that calculation.
 20 **Q. Okay. But yet you're showing one on every single block in**
 21 **the study area?**
 22 A. What I am illustrating is because the EIS does the broad
 23 average, average occupancy of people in an ADU and the
 24 consequent parking demand on the broad average. I'm saying
 25 the conclusions drawn don't reflect the actual impact of a

1 maximum-occupancy unit on any given block; and if -- I did
 2 the exercise -- if there's a maximum occupancy unit on a
 3 block, what is the resulting utilization on that block.
 4 The EIS didn't show that. I -- my argument is because it
 5 didn't show it, it's masking the true impact. And because
 6 some of these blocks I've already shown are at or over 85
 7 percent, they're not good candidates for maximum occupancy
 8 property.
 9 **Q. In Appellant's Exhibit 15B, which is Examiner's Exhibit 19,**
 10 **you still summarized total all of those assuming one on**
 11 **literally every single block in the study area; is that**
 12 **correct?**
 13 A. No, that is not correct. I simply show -- well, I --
 14 **Q. (Inaudible)?**
 15 A. What I showed would be how many -- how many blocks would
 16 exceed that if -- it's a sensitivity test, how many blocks
 17 have the capacity to absorb a maximum occupancy scenario.
 18 And I'm saying not many do.
 19 **Q. Okay.**
 20 A. Okay. It's a sensitivity test. I'm not saying they will
 21 all each have one max occupancy lot. It's just that how
 22 sensitive are blocks. Well, 79 percent of the blocks in the
 23 northeast study area are highly sensitive to it. They would
 24 exceed 85 percent utilization. Take any one block and one
 25 max-occupancy ADU and see what the results are.

1 A. No, I didn't say that. But the proposed legislation doesn't
 2 provide any criterion for where they go relative to parking
 3 conditions.
 4 **Q. I have just a couple more questions, and I'm 99 percent**
 5 **confident you can probably sit down (inaudible). The -- I**
 6 **appreciate your willingness to stand up though.**
 7 **Was it your testimony that the census data that the City**
 8 **used in relation to -- the Portland data, right? You**
 9 **testified that the City relied on Portland data and that**
 10 **there was census data that the City used to incorporate**
 11 **those numbers.**
 12 **And I thought I heard you say that the census data didn't**
 13 **look at ownership. Is that your testimony, that it only**
 14 **looked at rentals?**
 15 A. Well, we had -- there were a number of different questions
 16 about the data and what came from where. My understanding
 17 is that ADU population for Seattle was derived from data
 18 developed in Portland and that vehicle ownership was derived
 19 from Seattle's census data then applied to the ADU
 20 population.
 21 **Q. Okay. And so for that census component, I guess, I'm just**
 22 **wondering if that was, the census data that the City used,**
 23 **the Seattle census data, was exclusively rental. I just**
 24 **want to make sure I understand what you were testifying.**
 25 A. Yes. My recollection is that the estimate of parking demand

1 **Q. I thought I had heard you testify that the northwest --**
 2 **northeast study area would, as an aggregate, exceed 85**
 3 **percent capacity if you included max occupancy. And I**
 4 **thought that that meant you were amalgamating these and**
 5 **assuming one on each block. So that's not -- that is not**
 6 **your testimony?**
 7 A. No. No. This is a sensitivity test. If an ADU were put on
 8 any given block, what happens to utilization on that block.
 9 I'm not saying that --
 10 **Q. But if you have -- let me -- I'm sorry. I want to make sure**
 11 **we're very clear on this. Because you have 82 blocks. So**
 12 **that's assuming you went through that exercise and you put**
 13 **one max occupancy on literally every single block. And you**
 14 **said of the 104 total in northeast, 82 would be over 85**
 15 **percent, 58 of which would be over a hundred percent.**
 16 **That -- those numbers assume you've run through and added**
 17 **one to each and every single block in the entire study area.**
 18 A. Yes, I tested the sensitivity of each block.
 19 **Q. Okay.**
 20 A. Yeah. And so what I'm saying is the vast majority of blocks
 21 are highly sensitive to it.
 22 **Q. Okay.**
 23 A. They don't have the capacity for it.
 24 **Q. But you're not suggesting that's actually a scenario that's**
 25 **going to occur here?**

1 resulting from ADU development is based on the renter's
 2 tendency to own vehicles.
 3 **Q. Thank you for that clarification. I just wanted to make**
 4 **sure I had understood you correctly.**
 5 A. Okay.
 6 **Q. From a mitigation standpoint, what's your understanding**
 7 **of -- well, I thought I heard you say the City didn't**
 8 **identify mitigation. Is that -- was that your testimony**
 9 **(inaudible)?**
 10 A. Not for parking because it didn't identify parking impacts.
 11 **Q. Okay. And I thought I heard you say that among the**
 12 **mitigation measures that you might consider, one would be**
 13 **requiring off-street parking. Is that correct?**
 14 A. Yes, that's the one.
 15 **Q. And are you aware of whether any of the alternatives**
 16 **consider that option?**
 17 A. Well, the existing policy allows for that, or requires that.
 18 Unless you can get a waiver, as we've discussed. I know
 19 that Alternative 2, and I believe the preferred alternative,
 20 doesn't require any parking. At the moment, I can't
 21 remember what all the alternatives say about on-site
 22 parking.
 23 **Q. Okay.**
 24 MR. KISIELIUS: I have no further questions for you.
 25 Thank you.

1 HEARING EXAMINER: Redirect?
 2 MR. EUSTIS: Yes.
 3
 4 REDIRECT EXAMINATION
 5 BY MR. EUSTIS:
 6 **Q. Mr. Tilghman, I believe that you identified that the current**
 7 **occupancy for a single-family lot is eight unrelated adults.**
 8 A. I believe I did that, yeah.
 9 **Q. Okay. And that applies whether there's a principal**
 10 **residence or principal residence and an ADU?**
 11 A. As I understand it.
 12 **Q. Okay. You understand that, at least under the preferred**
 13 **alternative, that number, unrelated adults, it would**
 14 **increase to 12?**
 15 A. Yes.
 16 **Q. That would be a 50 percent increase?**
 17 A. Correct.
 18 **Q. Okay. Given that this is a proposed change in policy and**
 19 **the impact statement is to, you know, fully consider impacts**
 20 **of that policy, would you expect the impact statement to**
 21 **address that 50 percent increase in occupancy?**
 22 A. I would.
 23 **Q. Okay. As opposed to simply basing it upon a Portland**
 24 **average of occupancy?**
 25 A. Yes.

1 **Q. Whether by a wheel or a tape, would you consider such a**
 2 **measuring device to produce more accurate results than**
 3 **using, let's say, a digital measuring device such as on a**
 4 **PDF document or an aerial photograph?**
 5 A. Well, as I testified, the quality of the photograph is key
 6 to being able to make a precise measurement, but I firmly
 7 believe that a field measurement is the most -- the most
 8 effective, generally the most accurate, way to measure it.
 9 And it provides greater perspective on the character of
 10 the area and of any particular condition affecting parking,
 11 both supply and utilization.
 12 **Q. Okay. Mr. Kisielius asked you questions about effective**
 13 **parking supply versus the legal parking supply. And I**
 14 **gather that, quote/unquote, effective parking supply counts**
 15 **spaces that would not be eligible if one went by the book**
 16 **and measured distances, accurately measured distances from**
 17 **driveways, fire hydrants, crosswalks, stop signs, et cetera?**
 18 A. That's correct.
 19 **Q. Okay.**
 20 A. Basically, it's -- it's what you can get away with --
 21 **Q. Okay.**
 22 A. -- as a parker.
 23 **Q. So this is an EIS for a legislative change. Would you --**
 24 **would you expect that an EIS for a legislative change would**
 25 **be based upon legally established conditions or simply**

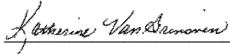
1 **Q. Okay. And I believe you testified that the Portland**
 2 **occupancy was based upon a maximum of six units -- six**
 3 **unrelated adults per single-family parcel?**
 4 A. That is Portland's adopted policy.
 5 **Q. Which would be about 50 percent of the proposed increase**
 6 **to 12?**
 7 A. That's right.
 8 **Q. So in some manner, you'd expect that the increase in**
 9 **allowable occupancy would be analyzed in the EIS?**
 10 A. I would have thought so, yes.
 11 **Q. Okay. With respect to the measurement of capacity,**
 12 **available parking spaces, as a traffic consultant, would you**
 13 **say that the standard approach would be to use some lineal**
 14 **measuring device?**
 15 A. Well, that is certainly a tried-and-true tradition. And I
 16 would say, yeah, that is the most common. You could see it
 17 used in one of those other Greenwood parking studies that
 18 Gibson Traffic Consultants used. They have the same sheets
 19 and very -- filled out in a very comparable way to what I
 20 did.
 21 That's, again, following Tip 117. No, Tip 117 doesn't say
 22 you have to use a wheel, but it says you need to measure the
 23 distances between all of these future features along with
 24 the curb. It's, as I said, one of the most direct ways to
 25 do it.

1 **conditions one might be able to just get away with?**
 2 A. Well, I would expect legally established conditions. I
 3 would expect it would be consistent with current guidance,
 4 such as Tip 117, about how you determine that legal
 5 measurement.
 6 **Q. If the analysis were just based upon what people could get**
 7 **away with, then would that give a complete and accurate**
 8 **representation of the impacts of the proposal?**
 9 A. Well, it would -- what they could -- it's a complicated
 10 situation. The key measure is utilization, are there
 11 available parking spots.
 12 **Q. Right.**
 13 A. And, yeah, if you say, look, we'll look the other way on
 14 enforcement, you can park too close to a driveway, you can
 15 park too close to a crosswalk, then, yeah, there's some more
 16 spaces, so sure we could accommodate more development.
 17 But I would note, for instance, when the City imposes or
 18 installs a restricted parking zone, as it has done in
 19 numerous neighborhoods -- including most recently and since
 20 the EIS data was done in Columbia City -- that process then
 21 also establishes, with posting signs, the legal limits of
 22 parking.
 23 **Q. Okay. So --**
 24 A. So --
 25 **Q. -- you have a City Council that's contemplating making a**

1 **change in policy. Would you expect that the City Council**
 2 **will then predicate that change in policy upon some**
 3 **standards that do not meet the City's own legal**
 4 **requirements?**
 5 A. Well, it would be highly inconsistent of the City to ignore
 6 its own legal requirements in making that establishment.
 7 **Q. So referring to, for instance, your summary of impacts. I'm**
 8 **referring to what was marked as Appellant's 15D. I think it**
 9 **may be 16 or something like that.**
 10 HEARING EXAMINER: Exhibit 19.
 11 MR. EUSTIS: Exhibit 19. I'm sorry.
 12 **Q. (By Mr. Eustis) So do you recall seeing a graphic depiction**
 13 **of attempting to put let's say the expected cars generated**
 14 **by an additional ADU on any of the streets? A depiction, a**
 15 **graphic depiction.**
 16 A. No. There were no graphic depictions or maps, as it were,
 17 of future conditions. They only address their version of
 18 existing conditions.
 19 **Q. Okay. Do you recall seeing any depictions of let's say the**
 20 **parking impacts on blockfaces and surrounding blockfaces**
 21 **under the circumstance where there would be -- where, you**
 22 **know, every lot on facing blockfaces would be developed with**
 23 **ADUs?**
 24 A. No. The approach was simply to take a broad -- the broad
 25 average of the future demand and future supply across the

1 MR. EUSTIS: Correct.
 2 MR. KISIELIUS: Which Mr. Reid testified to, and we have
 3 no objection.
 4 HEARING EXAMINER: Okay. It will be entered as Exhibit 23
 5 into this record.
 6 (Exhibit No. 23 admitted into evidence)
 7 HEARING EXAMINER: Is there anything else before we recess
 8 for the day?
 9 MR. KISIELIUS: I don't think so.
 10 MR. EUSTIS: I don't believe so.
 11 HEARING EXAMINER: Okay.
 12 MR. EUSTIS: We resume at 9:00 in the morning?
 13 HEARING EXAMINER: Yes, we do.
 14 MR. EUSTIS: Okay.
 15 HEARING EXAMINER: All right. We'll be off the record.
 16 MR. EUSTIS: Thank you.
 17 (Conclusion of March 25, 2019, Hearing)
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1 entire study area, and there was no finer assessment of
 2 that.
 3 **Q. Okay.**
 4 MR. EUSTIS: I don't have any further questions,
 5 Mr. Tilghman. Thank you for making yourself available.
 6 HEARING EXAMINER: Okay.
 7 Mr. Ellison?
 8 MR. ELLISON: I have no questions. Thank you.
 9 HEARING EXAMINER: Thank you.
 10 Mr. Kisielius?
 11 MR. KISIELIUS: No.
 12 HEARING EXAMINER: All right. Great. Well, we get to end
 13 before five o'clock, and we don't have to bring you back
 14 again.
 15 MR. EUSTIS: Just. So before we hit the bewitching hour,
 16 I would like to proffer up a copy of the exhibit of
 17 Appendix M.
 18 HEARING EXAMINER: Okay.
 19 MR. EUSTIS: Which we promised we would provide. I
 20 believe that the City already has a copy of it. The
 21 appendix.
 22 MR. KISIELIUS: Yes.
 23 MR. EUSTIS: Okay.
 24 MR. KISIELIUS: This is Appendix M to the MHA FEIS?
 25 HEARING EXAMINER: Correct.

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 proceedings were transcribed under
 9 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 court 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 29th day of March, 2019.
 20
 21
 22 
 23 Katherine VanGrinsven, WA CCR No. 3415
 24
 25

