

# Hearing

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

March 27, 2019



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BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

In the Matter of the Appeal of: )  
 ) Hearing Examiner  
QUEEN ANNE COMMUNITY ) File W-18-009  
COUNCIL )  
 )  
Of the Final Environmental Impact )  
Statement for the Citywide )  
Implementation of ADU-FEIS. )

Hearing  
Heard before Deputy Hearing Examiner Barbara Dykes Ehrlichman

March 27, 2019

TRANSCRIBED BY: Bonnie Reed, CET

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Aly Pennucci  
Seattle City Council Representative

Nicolas Welch  
Planning and Community Development Representative  
Richard Ellison  
TreePAC

Steve Zemke  
TreePAC

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March 27, 2019

REDIRECT EXAMINATION

BY MR. EUSTIS:

**Q. Mr. Kaplan, I will pick up where Mr. Kisielius left off through his repeated questions. He doesn't understand how condominiumization could result in the difference in the land use form. And he repeatedly, I don't know if this was (inaudible) misunderstanding or the best misunderstanding, but I would have you -- I thought you addressed this line in your direct testimony, but I would have you, again with your testimony as from the standpoint of being the architect and the developer, development of the accessory dwelling units as condominium units would produce a difference in the land use forum?**

A. So I guess maybe the easiest way to present this is if I had two clients as an architect. I had one client that came to me and said we want to develop or redevelop our single-family property. And we understand we can do three units on the property, one principal unit of 2500 square feet under the Preferred Alternative, one ADU or 1000 square feet, and one other ADU or 1000 square feet.

How best can we develop our property in our single-family neighborhood? And my conclusion would be is that we design

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a project that responds to the neighborhood and reflects a single-family home with an ADU attached, maybe a DADU in the back, but the forum, the land use forum of that project would be residential in nature, single-family residential in nature. It would be two rental units and one home, one larger unit that would be occupied by him or someone else.

I have another client that comes in on a similar size piece of property, maybe the same piece of property that says, you know, I'm going to buy this piece of property and convert it into three condominium units. It's a completely different project in that, you know, the client basically says how can I get a 2500 square foot main unit and two ADUs that I can sell and maximize building off of them, build as much as I can on this lot.

Well, in that case, they would be stacked units reflective of most multifamily buildings that I see in multifamily zoned areas throughout the city. It could be 3 stories tall and mostly a box to maximize the developable area. Totally different building type and conclusion. And the two different projects would not relate with one another. And, therefore, there would be a significant change in land use forum.

**Q. Okay. Did you find the potential for development of ADUs as saleable condominium units discussed in the EIS?**

A. It was not.

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**Q. In terms of either the projective 10-year buildup, and maximum buildup, did you see that scenario develop in the EIS?**

A. For condominiums?

**Q. Yes.**

A. No, it was not in the EIS.

HEARING EXAMINER: Can I interrupt for a second? Mr. Kaplan, can you move your mike closer? We discovered, which Mr. Kisielius might already know, that mike's really aren't for the purpose we're using them for. They should be up close to actually capture your voice.

THE WITNESS: Do you want me to repeat what I just said?

HEARING EXAMINER: That would be great, thank you. Go ahead.

THE WITNESS: Go through the testimony again?

HEARING EXAMINER: Well, no, I think if you could just repeat your last -- what your last exchange was there because I was distracted. And I think we picked it up, it would be more audible if you spoke closer to the microphone.

**Q. (By Mr. Eustis) Do you recall my question?**

A. I do.

**Q. Okay.**

A. The answer to your question of whether there was a discussion of condominiumization three units on each property, that was discussed in the EIS and I answered it

1 was not.

2 **Q. And either the projected 10-year buildup either from the**  
3 **proposed legislation or the maximum buildup that was also**  
4 **portrayed, could you see a portrayal in the development of**  
5 **the Preferred Alternative principle new request to accessory**  
6 **dwelling units? Did you see that portrayed under the**  
7 **scenario that the accessory dwelling units would be built**  
8 **for resale as condominiums?**

9 A. It was not considered.

10 **Q. Okay. You know, you indicated that the development of**  
11 **accessory dwelling units as condominiums would produce a**  
12 **different (inaudible) comp in terms of design. And could**  
13 **you explain that further as to why the development of**  
14 **accessory dwelling units at a condominium sale would produce**  
15 **a different outcome for design?**

16 HEARING EXAMINER: I'm sorry, I have to interrupt again.  
17 Mr. Eustis, could you back up a wee bit from the microphone?  
18 Sorry. I'm going to be the microphone police today, so just  
19 get used to it.

20 MR. EUSTIS: Do you want me to repeat the question?

21 HEARING EXAMINER: Please do.

22 **Q. (By Mr. Eustis) Seriously. Mr. Kaplan --**

23 HEARING EXAMINER: Still too loud so you need to back up a  
24 little bit. Okay. Now try it. Just test before you launch  
25 into it so you can see.

1 your development capacity and meet a market demand. So the  
2 interests are diametrically opposed.

3 On one hand you have a (inaudible) unit that you are  
4 building to a particular market and you want to develop as  
5 much as you can for the least amount of money, totally  
6 driven by economics. On one hand you've got the property  
7 owner that has a project that's driven by aesthetics. And  
8 on the other hand you have the property owner that's  
9 motivated by profit. And those will yield two different  
10 building types and land use forums.

11 **Q. So in the scenario where accessory dwelling units were**  
12 **development for resale as condominiums, from your**  
13 **experience, would the interest of the developer be to**  
14 **maximize the size of accessory dwelling units?**

15 A. Yes.

16 **Q. Okay. And within the limits of the proposed alternative,**  
17 **how did that maximization then (inaudible) down to a**  
18 **difference in design?**

19 A. Well, if you had these two properties side by side, you have  
20 a residential appearance on one hand. On the other hand you  
21 would have a three-story, more commercial looking building.

22 **Q. Okay. By residential appearance, do you mean -- do you mean**  
23 **single family?**

24 A. Yes, more relative to a single-family home.

25 **Q. And by commercial do you mean more like a multifamily**

1 MR. EUSTIS: Okay, testing for volume. Testing for  
2 volume.

3 HEARING EXAMINER: Still too loud. I guess you need to  
4 back it up a little further.

5 MR. EUSTIS: Testing for volume.

6 HEARING EXAMINER: Okay. Good, thank you.

7 **Q. (By Mr. Eustis) Okay. I believe in response to one of my**  
8 **prior questions you indicated if the accessory dwelling**  
9 **units were built for resale as condominiums, that would**  
10 **produce a difference in design. Now from your standpoint as**  
11 **an architect, why would that be? Why would you produce a**  
12 **different design for the developer for resale and resale of**  
13 **condominium units as opposed to let's say the lot owner or**  
14 **the home owner who just wants to create accessory dwelling**  
15 **units for rental?**

16 A. Well, the interest of the two parties is really 180 degrees  
17 off. On one hand you have a property owner who wants to add  
18 a unit or two units to their property for rental income or  
19 for a family member. And it's done in keeping with the  
20 neighborhood character, residential character of the  
21 neighborhood and the interest of the property owner. He or  
22 she, or they, will most likely live onsite.

23 On the other hand, you have a developer that by  
24 definition, and I've done buildings like this, I've  
25 developed them and designed them, the goal is to maximize

1 **building?**

2 A. Yes.

3 **Q. Okay. In a series of questions Mr. Kisielius asked you**  
4 **about the origin of various images within Appellant's**  
5 **Exhibit 20, and that I believe is Exhibit 28 in the**  
6 **proceedings. Okay. I've put Exhibit 20 on the screen. I**  
7 **gather you have a copy of it?**

8 A. Yes.

9 **Q. Okay. First directing your attention to page 2, there's a**  
10 **red line around a lot, what's the origin of this image?**

11 HEARING EXAMINER: I'm sorry, just a minute.

12 MS. JOHNSON: They changed -- when they came in this  
13 morning, they changed all of these levels. And so now if  
14 you have it that close, your breathing practically drowns  
15 out the witness. So it needs to be a lot further.

16 MR. EUSTIS: Sorry, I was moving in closer to the exhibit.

17 **Q. (By Mr. Eustis) All right. Exhibit 2, where does that come**  
18 **from -- page 2 of Exhibit 28, I'm sorry.**

19 A. It comes from King County (inaudible) web page. And the red  
20 mark around the drawing is a marker we put on there to  
21 highlight one particular piece of paper just as a random  
22 5000 square foot lot.

23 **Q. All right. Page 3, next page the image at the bottom,**  
24 **Exhibit 2-7?**

25 A. This comes out of the FEIS.

1 **Q. Directly?**  
 2 A. Yes.  
 3 **Q. Okay. And I take it, the red encircled to Exhibit 2-5**  
 4 **was added by you?**  
 5 A. Yes.  
 6 **Q. Okay. And Exhibit 2-5 comes from the EIS as well?**  
 7 A. Yes. I might add the orange square at the back of the  
 8 middle side was also added.  
 9 **Q. And what does that orange square purport to show?**  
 10 A. It purports to show the (inaudible) coverage if an ADU was  
 11 added on to the back of the house.  
 12 **Q. All right. Mr. Kisielius asked you a number of questions**  
 13 **regarding the next page, sorry. I believe this is page 4.**  
 14 **The top image is impacts adding FEIS proposed height, bulk**  
 15 **and scale. Where did this image come from?**  
 16 A. The image came from a Portland report entitled Residential  
 17 Infill project Summary. I believe it was part of the PDF  
 18 that was asked for -- that seemed to be asked for within an  
 19 exchange of the planners in Portland and Mr. Welch.  
 20 The image was used simply to show massing in bulk and so  
 21 it was a good image. And a number of the numbers on the end  
 22 have changed from Portland numbers to Seattle numbers to  
 23 reflect the actual conditions that we're talking about. The  
 24 original image had some numbers at the top that responded to  
 25 issues in Portland. But, really, we were just looking at

1 reflect different options for dividing up the house into  
 2 multiple units.  
 3 **Q. And how was these image obtained -- these images obtained by**  
 4 **you?**  
 5 MR. KISELIUS: I'm also going to object at this point. I  
 6 appreciate, I think Mr. Eustis is trying to rehabilitate his  
 7 witness' testimony on this exhibit, but I think first of all  
 8 he's exceeding the scope the actual cross-examination. The  
 9 limited -- Mr. Kaplan didn't even talk about the bottom half  
 10 of the page in his initial discussion. The only thing he  
 11 testified to in the cross-examination was to the call out  
 12 boxes that he added to it.  
 13 Mr. Eustis is also eliciting some testimony that were  
 14 already elicited through cross-examination. We're getting  
 15 into duplicative territory. And if the intention is to go  
 16 through all 37 pages again, we're going to be here for a  
 17 while. I'd at least ask Mr. Eustis to focus on those pages  
 18 in which Mr. Kaplan said he didn't know something, except  
 19 that he's going back and figured it out now. Again, I think  
 20 that's rehabilitation of testimony that exceeds the scope of  
 21 direct. But we're going to be here for a very long time at  
 22 this point if we're planning to go through this again for  
 23 now the third time.  
 24 HEARING EXAMINER: Response?  
 25 MR. EUSTIS: The issue is not whether it exceeds the scope

1 being able to show the massing difference between .5 FAR and  
 2 what happens under the Preferred Alternative when fashion  
 3 the other buildings 1.05 FAR. So that's all we were trying  
 4 to show in this image.  
 5 **Q. All right. So the square footage that you show 1500, 2500,**  
 6 **3500, 5250, were those added by you?**  
 7 A. The 1500 was the original number in Portland. The 25, 35,  
 8 and 5250 would change to reflect the Preferred Alternative  
 9 or reflect more in concert to what the Seattle zone would  
 10 allow.  
 11 **Q. Okay. Then the purpose of this was to show the relative**  
 12 **massing under various FAR?**  
 13 MR. KISELIUS: Objection, he's continuing to lead his  
 14 witness to the conclusion he would like to draw.  
 15 HEARING EXAMINER: Sustained.  
 16 **Q. (By Mr. Eustis) Was the purpose of this to show, you know,**  
 17 **actual (inaudible)?**  
 18 A. No.  
 19 **Q. Okay. Then what was the purpose of including this?**  
 20 A. It was a good visual graphic on comparing different mass in  
 21 height, bulk and scale of the residential dwellings.  
 22 **Q. All right. The images at the bottom of this page, where do**  
 23 **they come from?**  
 24 A. Those were part of the same power point. And I just pulled  
 25 it off that power point and inserted. And they simply

1 of the direct, the issue is whether it exceeds the scope of  
 2 the cross. Excuse me, these images were directly asked  
 3 about by Mr. Kisielius. And my recollection is he asked  
 4 about the images down below. My question of Mr. Kaplan -- I  
 5 mean Mr. Kisielius seemed to make this big point of, you  
 6 know, Mr. Kaplan not knowing where they came from. I'm  
 7 asking, you know where they came from. This is proper  
 8 redirect. And if it weren't proper, there wouldn't be  
 9 redirect.  
 10 HEARING EXAMINER: Okay. I'm going to overrule the  
 11 objection and allow you to proceed. I do hope that we  
 12 will --  
 13 MR. EUSTIS: I'm not asking for every image.  
 14 HEARING EXAMINER: -- not go through every page.  
 15 **Q. (By Mr. Eustis) Mr. Kaplan, I'm next asking you about pages**  
 16 **5 SF (inaudible) to 1.05 FAR and then the following page**  
 17 **SF 5000 compared to LR1 zoning. My question is, you have**  
 18 **these images of the -- we're talking again, referred to as**  
 19 **the mass of these structures. Where do these images come**  
 20 **from?**  
 21 A. These images came from a report that an architectural firm  
 22 ZGF prepared for the city. And the name of the document is  
 23 the MHA Urban Design and Neighborhood Character Study. And  
 24 that's where the image came from.  
 25 **Q. Okay. So on page 5, you have with FEIS AADU times 2 plus**

1 **primary. Is that from that document or is that a separate**  
 2 **document?**  
 3 A. That is the graphics from that document. That image -- the  
 4 description of that image as been changed to address the  
 5 Preferred Alternative. And the image is a direct copy of  
 6 the image that I just identified.  
 7 **Q. Coming from the ZGF study, what was the name of that study?**  
 8 A. MHA Urban Design and Neighborhood Character Study.  
 9 **Q. Okay. Is that the same source for the image that appears on**  
 10 **page 6 of Exhibit 28?**  
 11 A. Yes.  
 12 **Q. Okay. So you have a comparison for the existing LR1, does**  
 13 **that come from that study?**  
 14 A. The image below where it says Lowrise 1, that is a  
 15 copy -- an exact copy of the data itself. Everything to the  
 16 left of that has been amended to identify the residential SF  
 17 5000 square foot lot and not Lowrise 1. So this was just a  
 18 comparison of height, bulk and scale.  
 19 **Q. Between potential developments under the proposed**  
 20 **alternative and Lowrise 1?**  
 21 A. Yes.  
 22 **Q. Okay. Page 7, there are, in the lower, left-hand corner**  
 23 **there are images that were inserted, I believe, over**  
 24 **documents that came from the EIS?**  
 25 A. Yes.

1 scope of redirect.  
 2 MR. EUSTIS: In any event, Your Honor, I would ask that  
 3 the witness be allowed to correct figures that he had used  
 4 in presenting this image.  
 5 HEARING EXAMINER: I will allow it.  
 6 **Q. (By Mr. Eustis) Okay. So here I'm going to focus on the**  
 7 **first part. I believe you testified as to the -- you began**  
 8 **with a number of laws. Maybe it's easier if you could just**  
 9 **go down through these figures, and on re-examination give**  
 10 **the figures that would appropriately fit within this page.**  
 11 A. Okay. So this was our typical neighborhood drawing a  
 12 (inaudible) simply identifies the lot types based on King  
 13 County's Assessor's information. And the spreadsheet simply  
 14 identifies the number of lots as 70-unit lots. And there  
 15 were a number of lots that were under 3200 square feet.  
 16 Most lots were not, so 64 out of the 78 were not -- were  
 17 lots that were over 3200 square feet and, therefore, would  
 18 qualify for three residential units.  
 19 The drawing capacity is right. The existing non-relatives  
 20 per lot is mistakenly written as 4, it should be 2 --  
 21 actually 2.06 as taken from the 2010 Census from Seattle's  
 22 documentation on average household size in Seattle.  
 23 Vehicles per lot is 1.2 which comes from the City's  
 24 documentation.  
 25 **Q. The City's documentation, the EIS?**

1 **Q. And where did those images come from?**  
 2 A. The image that was inserted on the lower left is an image of  
 3 a pamphlet, it's called the guide to constructing, the guide  
 4 to developing backyard cottages produced by the Seattle  
 5 Planning Commission in 2010.  
 6 **Q. Did you have any involvement in preparing that handbook?**  
 7 A. I did.  
 8 **Q. What was your involvement?**  
 9 A. Well, as I testified, I was on the Planning Commission  
 10 during the time where we developed an additional ADU or  
 11 backyard cottage policy in 2010. And we brought it to the  
 12 city council to go citywide. And this was a pamphlet that  
 13 we prepared to help people consider and build backyard  
 14 cottages.  
 15 **Q. Okay. By "we", are you referring to the Planning**  
 16 **Commission?**  
 17 A. The Planning Commission.  
 18 **Q. There were some questions regarding the figures on page 16.**  
 19 **So over the evening, did you have an opportunity to go back**  
 20 **and re-examine those figure?**  
 21 A. Yes.  
 22 MR. KISIELIUS: I'm going to object because I actually did  
 23 not talk about this page on cross-examination.  
 24 MR. EUSTIS: I believe you had an objection --  
 25 MR. KISIELIUS: During your direct, that's not proper

1 A. I believe it's spelled out in the EIS.  
 2 **Q. Okay.**  
 3 A. The proposed non-related people on site is 12. Therefore,  
 4 the probable vehicles in the -- again, this is the full  
 5 build-out, would be 3 units per lot. And so you have 3.6,  
 6 divide that by the number of lots that are over 3200 square  
 7 feet and you come to 280 vehicles. There's 93 vehicles  
 8 existing. Therefore, you have an increase in the number of  
 9 vehicles of 187.  
 10 Below, that deals with occupancy. And the underlying  
 11 basis for this spreadsheet was incorrectly composed. And  
 12 the numbers are different. So the added number of relatives  
 13 was basically to compensate for children in the  
 14 neighborhood. And so based on the census and average  
 15 household size of 2.06 for fairness and for what we really  
 16 know, we just took that out.  
 17 So the existing occupants are 2.06 instead of 8.5. And  
 18 again the proposed occupants per lot of 12 that yields an  
 19 estimated occupant load in the existing area today of about  
 20 156. And the -- under the full build-out, that would  
 21 increase to 936, which would be a 600 percent increase,  
 22 yielding a total of increase of about 780 for the occupant  
 23 numbers in that two-block range.  
 24 **Q. Under full build-out?**  
 25 A. Yes.

1 **Q. Okay.**  
 2 A. And I would like to apologize for the errors in that  
 3 spreadsheet.  
 4 **Q. Okay. Do you recall whether the EIS gave figures of**  
 5 **occupancy with the proposed lifting of the occupancy to 12**  
 6 **unrelated adults per unit under the build-out scenario?**  
 7 A. I don't recall any studies of any occupant levels.  
 8 **Q. Next I would like to draw your attention to exhibit --**  
 9 **excuse me, page 22 of Exhibit 28. There are a number of**  
 10 **images there. What would be the source of those images?**  
 11 A. Again this was taken back on March 23rd, approved by the  
 12 Seattle Planning Commission in 2010.  
 13 **Q. There are two images on page 23. I believe you identified**  
 14 **the source of the lower image, the upper image, the map of**  
 15 **the city showing backyard cottages by year built. Can you**  
 16 **recall the source of that image?**  
 17 A. The source of that image was from Council Member O'Brien's  
 18 website. I pulled that off of the website.  
 19 **Q. At page 24 there are two images, one image has a summary of**  
 20 **essentially single-family zoning. The image below has a**  
 21 **summary of existing ADU rules. What's the source of these**  
 22 **two images?**  
 23 A. The source of these two images is from the City's Planning  
 24 and Zoning website. I should add that on the top image, the  
 25 blowup portion is what we did. We took that area that is

1 aerial image, it's a high resolution image showing one full  
 2 block.  
 3 **Q. These are existing conditions?**  
 4 A. These are existing conditions.  
 5 **Q. Okay. And the image on the left, very briefly. You covered**  
 6 **this before. I'm simply refreshing where we are.**  
 7 A. Okay. It's from the EIS full build-out of (inaudible)  
 8 alternative (inaudible).  
 9 **Q. All right. So you have full build out on one hand, existing**  
 10 **conditions on the other hand. Under the Preferred**  
 11 **Alternative, under full build-out were you expecting to**  
 12 **change your conditions in the image shown on the right?**  
 13 A. Yes.  
 14 **Q. What -- again, under the Preferred Alternative, what would**  
 15 **you expect that change in condition to be?**  
 16 A. Well, those are all single-family homes right now,  
 17 single-family occupancy. And they would then be converted  
 18 to allow two more residences per lot. So you triple the  
 19 density of what is already a very dense neighborhood.  
 20 **Q. Okay. And so in fact, if you had a build out of existing**  
 21 **conditions shown by the photograph on the right, would you**  
 22 **expect that build out to be accurately portrayed by the**  
 23 **image that's on the left?**  
 24 A. No.  
 25 **Q. Why not?**

1 surrounded (inaudible) and kind of we just blew that up  
 2 noting that minimum lot size is now 30 -- or would be 3200  
 3 square feet. That's not in any city document.  
 4 **Q. All right. And there's a URL to the right hand side of the**  
 5 **upper image?**  
 6 A. Yes.  
 7 **Q. Is that the -- is that where that description is found?**  
 8 A. Yes.  
 9 **Q. In the lower image, does that come from the same information**  
 10 **that the City provides of the zoning?**  
 11 A. Yes.  
 12 **Q. All right. And the last page, page 38, there is a pie**  
 13 **chart. And do you know the origin of that pie chart in the**  
 14 **bottom?**  
 15 A. Came from the (inaudible) completed by the city (inaudible)  
 16 of Seattle.  
 17 **Q. All right. Well, thank you for identifying those sources.**  
 18 **While we're on Exhibit 28, I have a question regarding page**  
 19 **19. So you have two images, one is an illustration on the**  
 20 **left. And the other is, you know, a photograph on the**  
 21 **right. Again, just to familiarize ourselves with these**  
 22 **images, very briefly, could you identify those two?**  
 23 A. Sure there're snips of other exhibits that we have. The one  
 24 on the right is part of the Queen Ave block that is a Google  
 25 Maps -- well, it's probably from the City GIS image, it's an

1 A. The image on the left shows blocks for buildings but there's  
 2 lots of space between buildings. There's lots of  
 3 differentiation in building types and backyards and spaces.  
 4 Comparing it to the drawing on the right, there would just  
 5 be that type of space.  
 6 **Q. So under a build-out scenario with a Preferred Alternative,**  
 7 **would you expect the coverage of the buildings to be even**  
 8 **denser and more intense than what's shown on the areal**  
 9 **photograph?**  
 10 A. Well, I think it's definitely considered lot coverage, but  
 11 within the lot coverage descriptions, it would become much  
 12 more dense, a lot less breeze and a much more buildup, maybe  
 13 more than what's shown right now in the existing condition.  
 14 **Q. So under the build out of an existing block shown on the**  
 15 **aerial photograph, would you expect that the image on the**  
 16 **left accurately portrays the build out conditions?**  
 17 A. No.  
 18 **Q. I believe at the end of this cross-examination, Mr.**  
 19 **Kisielius asked you as to the environmental review given to**  
 20 **the prior accessory dwelling unit legislation. By prior,**  
 21 **the one that you worked on whenever it was in 2006 or so?**  
 22 A. Yes.  
 23 **Q. And I think you responded that you didn't know what**  
 24 **environmental review was given?**  
 25 A. Yes.

1 **Q. Okay. Did you have any control over the nature and content**  
2 **of environmental review over that piece of legislation?**

3 A. No.

4 **Q. Okay. So whose determination would that have been?**

5 A. Would have been the city council.

6 MR. EUSTIS: All right. I have no further questions of  
7 you on redirect, thank you.

8 HEARING EXAMINER: Mr. Ellison --

9 MR. ELLISON: Yes, shall we do a microphone --

10 HEARING EXAMINER: Of recross -- well we can do a  
11 microphone check.

12 MR. ELLISON: 1, 2, 3, is this okay? Microphone check, 1,  
13 2, 3. Good morning. Is that okay?

14 HEARING EXAMINER: Okay. It looks like we're good.

15 MR. ELLISON: Thank you.

16 R E C R O S S - E X A M I N A T I O N

17 BY MR. ELLISON:

18 **Q. I have a few questions for you. I'd like for you to look at**  
19 **the esthetics section of the EIS, which I believe is part of**  
20 **your expertise. And --**

21 HEARING EXAMINER: Mr. Ellison, I just want to caution  
22 you. On recross you can only cover topics that were covered  
23 by Mr. Eustis on his re-direct --

24 MR. EUSTIS: Just on my recent questions.

25 HEARING EXAMINER: -- it's not a new line of questioning.

1 MR. EUSTIS: Page 16 I was asking him about, page 16.

2 HEARING EXAMINER: They look very similar.

3 MR. KISIELIUS: And I guess I should ask the same  
4 question, is my microphone level okay?

5 HEARING EXAMINER: Go ahead.

6 MR. KISIELIUS: Oh, I'm sorry, testing. Can you hear me?  
7 Is this adequate? Great.

9 R E C R O S S - E X A M I N A T I O N

10 BY MR. KISIELIUS:

11 **Q. Mr. Kaplan, I just have a couple questions only about this**  
12 **page because at this point, I just want to understand. And**  
13 **you were speaking kind of quickly and the numbers appear to**  
14 **have changed. So I want to make sure I know what you were**  
15 **saying. On the existing ave, non-relatives per lot where it**  
16 **currently shows four. I just want to make sure I copied it**  
17 **down correctly. You changed that to 2.06 non-related people**  
18 **based on the 2010 Census data?**

19 A. I don't really care if it's related or not, it's just  
20 occupants. We can change the non-relatives.

21 **Q. Okay. So that's just people, related or otherwise?**

22 A. That's correct.

23 **Q. Okay. That's helpful, thank you. And just to be very**  
24 **clear, the numbers you're arriving at are assuming that**  
25 **every single lot over 3200 square feet that is depicted here**

1 MR. ELLISON: Just the questions just asked right now?

2 MR. EUSTIS: Yes.

3 MR. ELLISON: As opposed to questions that were asked  
4 earlier?

5 MR. EUSTIS: Well the scope.

6 HEARING EXAMINER: Well, the scope of the  
7 cross-examination.

8 MR. ELLISON: Because Mr. Kaplan had earlier had addressed  
9 the aesthetic value of large trees in a single-family  
10 neighborhood. So I just wanted to have him elaborate on  
11 that and ask him a few questions about that.

12 HEARING EXAMINER: And I don't think that was a part of  
13 the cross-examination. So that's not allowed.

14 MR. ELLISON: Okay. Then I have no further questions at  
15 this time, thank you.

16 HEARING EXAMINER: Thank you, Mr. Ellison.

17 MR. KISIELIUS: If I may have brief cross on just the one  
18 page that was not the subject of my cross-examination that  
19 Mr. Eustis has now elicited more testimony on, and that  
20 would be page 18 of the document of Exhibit 28 I believe.

21 HEARING EXAMINER: Okay.

22 MR. EUSTIS: Are you asking me to bring it up?

23 MR. KISIELIUS: If that would help your client. He's got  
24 a copy of it in front of him so that would be fine too. As  
25 long as the witness has what he needs.

1 **is going to develop two ADUs, is that correct, to a max**  
2 **occupancy?**

3 A. I think that's what we were supposed to show based on what  
4 the previous decision of the hearing examiner said to look  
5 at the full build-out on a lot, maybe on both sides. So  
6 what we did is we said, okay, we have to look at the full  
7 build-out. What would happen if every site was to develop  
8 best (inaudible) and best use.

9 **Q. That's all I'm trying to get at is an understanding of what**  
10 **you're trying here. And then the bottom half where you're**  
11 **dealing with occupants again. So relatives, is that -- did**  
12 **you change the 1.5 number?**

13 A. I crossed it out.

14 **Q. Okay.**

15 A. I explained why it was there and said in all fairness to the  
16 document, we should just disregard it.

17 **Q. Okay. And then the occupants per lot that follow, what was**  
18 **the source of those?**

19 A. The 2.06 was this Seattle Census of 2010.

20 **Q. Okay. And then the 16.5, is that out of the equation now as**  
21 **well?**

22 A. Yes.

23 **Q. Okay. Instead of, you applied what number?**

24 A. The Preferred Alternative number is 12. So we went with 12.

25 **Q. Okay. And you disregarded the existing -- you said that**



1 **that part, the 2.05 is crossed out?**  
 2 A. I'm not understanding. There's two numbers there. The  
 3 existing average occupants per lot is 2.06 crossed out to  
 4 8.5.  
 5 **Q. Okay.**  
 6 A. And then below that I think what you are talking about are  
 7 proposed occupants per lot. And that's the proposal -- and  
 8 again looking at max build out, that would be 12.  
 9 **Q. Okay. And then what did you multiply to get to your number**  
 10 **of 600 percent?**  
 11 A. Well, estimated occupants in existing area would simply be  
 12 the 2.06 times the existing lots. So that's the existing  
 13 number, the 156.  
 14 **Q. Okay.**  
 15 A. If you were to multiply that by 12 occupants per lot, you  
 16 would then come up with the 936 or 600 percent increase.  
 17 **Q. Okay. That's helpful, I understand that better now and I**  
 18 **appreciate that. And again, your contention was that the**  
 19 **EIS doesn't talk about the numbers that would occur under**  
 20 **max build out scenario anywhere in the EIS, doesn't quantify**  
 21 **that?**  
 22 MR. EUSTIS: Vague, ambiguous numbers. Numbers of what,  
 23 are you speaking occupant, are you speaking dwelling units,  
 24 are you speaking cars?  
 25 MR. KISIELIUS: Occupants. I thought I asked that, I will

1  
 2 NICOLAS WELCH: Witness herein, having first been  
 3 duly sworn on oath, was examined  
 4 and testified as follows:  
 5  
 6 HEARING EXAMINER: Could you state and spell your name for  
 7 the record and provide a work address?  
 8 THE WITNESS: Nicolas Welch, N-I-C-O-L-A-S W-E-L-C-H.  
 9 HEARING EXAMINER: Okay. Let's check your levels here.  
 10 Perhaps you could say a couple things.  
 11 THE WITNESS: Test, test for volume, testing, testing.  
 12 HEARING EXAMINER: Okay. We're good, thank you.  
 13 MR. KISIELIUS: Madam Examiner, I just want to alert you.  
 14 We want to make sure we have all the exhibits that Mr. Welch  
 15 might want to refer to in the binders there. So my  
 16 colleague Clara may be hovering around. So that's why I  
 17 wanted to make sure --  
 18 HEARING EXAMINER: No problem.  
 19 MR. KISIELIUS: But in the meantime --  
 20 THE WITNESS: Would you like me to provide my work  
 21 address?  
 22 HEARING EXAMINER: Oh, yes, sir.  
 23 THE WITNESS: 600 Fourth Avenue, Seattle, Washington. I  
 24 believe the zip code is 98124.  
 25 HEARING EXAMINER: Thank you. You may proceed, Mr.

1 rephrase.  
 2 **Q. (By Mr. Kisielius) Is it your -- did I hear your testimony**  
 3 **correctly that the EIS does not quantify the number of**  
 4 **occupants in the max build out scenario?**  
 5 A. As I read through the document, it did not go through an  
 6 exercise like this and didn't identify in the max build out  
 7 with the max occupants would be other than the fact that you  
 8 could have 12 occupants on every site over 3200 square feet.  
 9 MR. KISIELIUS: Okay. I appreciate the clarification,  
 10 thank you. I don't have any further questions.  
 11 HEARING EXAMINER: Thank you. We're done with Mr. Kaplan.  
 12 MR. EUSTIS: Nothing on re-redirect.  
 13 HEARING EXAMINER: Thank you, Mr. Kaplan, you may step  
 14 down.  
 15 THE WITNESS: Thank you.  
 16 HEARING EXAMINER: Any further witnesses, Mr. Eustis?  
 17 MR. EUSTIS: No.  
 18 HEARING EXAMINER: Okay. We will turn to the City.  
 19 MR. KISIELIUS: Okay. The City would start by calling Mr.  
 20 Nicolas Welch.  
 21 HEARING EXAMINER: Would you raise your right hand? Do  
 22 you swear or affirm the testimony you are about to give in  
 23 this matter in the truth?  
 24 THE WITNESS: Yes, I do.  
 25

1 Kisielius.  
 2  
 3 DIRECT EXAMINATION  
 4 BY MR. KISIELIUS:  
 5 **Q. Mr. Welch, could you please tell us what is your occupation?**  
 6 A. I'm a strategic advisor in the Seattle Office of Planning  
 7 and Community Development.  
 8 **Q. Okay. And could you briefly describe your educational**  
 9 **fc**  
 10 **r**  
 11 **obackground and training? And I would like you to focus on**  
 12 **the items that are relevant to your profession.**  
 13 A. Sure. I have a bachelor's degree from Tufts University in  
 14 international relations in Spanish. And a masters also from  
 15 Tufts University in urban and environmental policy  
 16 (inaudible).  
 17 **Q. Okay. And returning to your employment with the City, can**  
 18 **you describe your general experiences in your occupation,**  
 19 **including what are your current primary responsibilities?**  
 20 A. Sure. I've worked for the City for about five and-a-half  
 21 years in our planning department, formerly the Department of  
 22 Planning and Development and now the Office of Planning and  
 23 Community Development. I've worked primary during that time  
 24 on land use policy generally, but that includes projects  
 25 related to environmental planning, urban design, affordable

1 housing and geospatial analysis and comprehensive planning.  
 2 **Q. Okay. And so long range planning as opposed to project**  
 3 **review?**  
 4 A. That's right.  
 5 **Q. Okay. And let's focus a little bit on your prior**  
 6 **experiences implementing SEPA. And specifically if you**  
 7 **could please describe your prior experiences working on the**  
 8 **preparation of or review of EISs.**  
 9 A. Yes. Other than this EIS, I've been involved in four other  
 10 EISs for the City, those include the Seattle 2035  
 11 Comprehensive Plan EIS, some involvement with the University  
 12 District Urban Design EIS and the Uptown EIS given most  
 13 recently the Mandatory Housing Affordability or MHA EIS.  
 14 **Q. Okay. And were those project or not project actions?**  
 15 A. Those were all for non-project actions.  
 16 **Q. And could you just briefly describe the levels of your**  
 17 **involvement or in what capacity have you been involved in**  
 18 **your experiences?**  
 19 A. For the comprehensive plan EIS I was involved in the  
 20 analysis of the alternatives and different growth strategy  
 21 options, specifically the growth and equity analysis that  
 22 was a part of the Seattle 2035 project and EIS. For the  
 23 University District and Uptown EIS I had more limited  
 24 involvement specifically in review and some contribution to  
 25 elements of those EISs focussed on housing and displacement.

1 **a couple steps back with the origin. Are you familiar with**  
 2 **the origins of the proposal?**  
 3 A. Yes.  
 4 **Q. And how did the City develop the proposal that's under**  
 5 **review today?**  
 6 A. Well, initially the city council adopted their resolution I  
 7 believe in 2015 or the end of 2014, it's resolution 314547.  
 8 And that resolution addressed accessory dwelling units and  
 9 specifically directed city staff to explore several possible  
 10 strategies or efforts which would undertake to promote  
 11 accessory dwelling units or increase the production of  
 12 accessory dwelling units, including specifically regulatory  
 13 changes and specifically several of the regulatory changes  
 14 that we went on to study and that are contemplated in this  
 15 EIS.  
 16 **Q. I'm going to pause for a second and orient you. You have**  
 17 **two binders next to you. One of them, I believe the one to**  
 18 **your right is going to be exclusively Exhibit 1, which is**  
 19 **the EIS. I think the one to your left should have -- maybe**  
 20 **it's the inverse, one of them should have Exhibit 11, which**  
 21 **is City's Exhibit 11 if you look at the tabs.**  
 22 A. Yes.  
 23 MR. KISIELIUS: Hand this in for marking, City's Exhibit  
 24 11. And I think that will be -- we'll get there.  
 25 **Q. (By Mr. Kisielius) So is that the resolution you were**

1 And for the MHA EIS, pretty extensive involvement,  
 2 especially with the chapter focussed on housing and  
 3 (inaudible), which included a displacement analysis.  
 4 **Q. Okay. Let's focus now on the EIS that's under appeal right**  
 5 **now. Can you describe your involvement with the proposal**  
 6 **generally with the FEIS?**  
 7 A. Sure. To begin with, the proposal that involved with the  
 8 City's work on accessory volume units since about 2015.  
 9 That included the initial proposal and the direction of the  
 10 city council to consider and study and propose regulatory  
 11 changes for accessory dwelling units as involved in the DNS  
 12 decision and appeal that preceded this EIS.  
 13 And on this EIS I was effectively one of two co-project  
 14 managers with Ms. Pennucci, was involved in every aspect of  
 15 the EIS, in the EIS process, reviewing and collaborating  
 16 with consultants on all the chapters of the EIS and  
 17 including primary authorship of some parts of the EIS.  
 18 **Q. Okay. And how did you work with or manage those on your**  
 19 **team with specific subject matter expertise?**  
 20 A. We had a team of consultants. And on several aspects of the  
 21 analysis, it was a collaborative analysis where we looked to  
 22 and drew on the expertise that they brought as subject  
 23 matter experts on the various chapters in the EIS.  
 24 **Q. Okay. I want to shift gears and talk about the proposal and**  
 25 **some of the elements of the proposal. But let's start maybe**

1 **referring to?**  
 2 A. Yes, it is.  
 3 **Q. Okay. And that's what sets forth the regulatory changes**  
 4 **that you were just describing?**  
 5 A. Yes.  
 6 MR. KISIELIUS: Okay. The City would move to admit what's  
 7 been marked as City's Exhibit 11, I believe it would be  
 8 Examiner Exhibit 31.  
 9 HEARING EXAMINER: Okay. Normally we don't need to put  
 10 legislation in the record, but I will do that this time.  
 11 Exhibit 31.  
 12 MR. EUSTIS: No objection.  
 13 HEARING EXAMINER: Okay.  
 14 (Exhibit No. 31 admitted into evidence)  
 15 **Q. (By Mr. Kisielius) And can you briefly describe from there**  
 16 **how that -- continuing origins of the proposal, so from the**  
 17 **resolution to maybe just a brief discussion of that HALA**  
 18 **committee recommendations, how does that fit into the whole**  
 19 **thing?**  
 20 A. After that council resolution, is now Exhibit 31 I believe.  
 21 The former mayor and I guess city council formed an advisory  
 22 committee, Housing Affordability and Livability Agenda  
 23 provides (inaudible) created HALA. And this was a 28-member  
 24 group of housing experts, for profit developers, non-profit  
 25 developers, housing advocates that met for a period of about

1 10 months and developed a suite of 65 different  
 2 recommendations intend to support housing affordability and  
 3 livability in Seattle. And one of those -- actually several  
 4 of those recommendations, three of those recommendations  
 5 addressed ADUs and largely echoed and reinforced the  
 6 direction they had gotten at city council regarding  
 7 regulatory barriers for ADUs.

8 **Q. And briefly does the City's comprehensive plan include**  
 9 **policies related to ADUs that are relevant to the origins of**  
 10 **the proposal?**

11 A. Yes, it does.

12 **Q. I want -- you talked about the resolution, you talked about**  
 13 **the HALA recommendation. I want to have you turn to page**  
 14 **1-3 of the FEIS and ask you to identify the objectives of**  
 15 **the proposal that are analyzed in the EIS.**

16 A. On page 1-3 it says the objectives of this proposal are to  
 17 remove regulatory barriers to make it easier for property  
 18 owners to permit and build attached and detached accessory  
 19 dwelling units. And second to increase the number and  
 20 variety of housing choices in the single-family zones.

21 **Q. And so could you just tie the objectives together with the**  
 22 **origins that you are describing? How did these objectives**  
 23 **relate to that council resolution and the HALA committee's**  
 24 **recommendations and the building out plan?**

25 A. Well, the resolution and the HALA recommendations and even a

1 accessory dwelling unit that's subject to merely different  
 2 requirements and regulations. And this proposal would  
 3 reduce or amend or remove some of those barriers, some of  
 4 those regulatory barriers. And those include the proposal  
 5 of which change or remove the owner occupancy and off-street  
 6 parking requirements for ADUs. It would allow up to two  
 7 ADUs on lots in single-family zones. And it would modify  
 8 several development standards that regulate the size and  
 9 location of ADUs on a specific property.

10 **Q. Okay. And I want to now get into the elements of the**  
 11 **proposal, but, again, one more preliminary step. It would**  
 12 **be helpful -- because I know some of these vary according to**  
 13 **alternative. I would like to ask you some questions about**  
 14 **the alternatives, not just for frame work. So how did the**  
 15 **City frame the alternatives for the EIS?**

16 A. Well, one input to how we frame the alternatives, first,  
 17 they were crafted to achieve those two objectives that we  
 18 established on page 1-3. One input into their composition  
 19 was the initial proposal that we developed about three years  
 20 ago and that was the subject of the DNS appeal preceding  
 21 this EIS. And then we expanded to include additional  
 22 alternatives that varied the selection and the intensity of  
 23 the policy changes, the degree of policy changes that would  
 24 remove regulatory barriers so that there was a range of  
 25 options studied within the scope of what the objectives

1 subsequent council resolution that after the HALA committee  
 2 process established a HALA work plan informed by that  
 3 committee guidance. All three of those recommended  
 4 regulatory changes. The objective, the first objective  
 5 specifically outlines that goal.

6 And the comprehensive plan policies, the two that are  
 7 described on page 1-3 similarly address the policy goal of  
 8 encouraging ADUs and encouraging other housing types in  
 9 single-family areas and specifically measures that could  
 10 make housing opportunity more available to people in  
 11 single-family zones throughout the city. And to do that,  
 12 that would involve the second objective of the proposal,  
 13 which is to increase the number and range of housing choices  
 14 in those areas.

15 **Q. Okay. To be clear and stepping back again for perspective.**  
 16 **Are ADUs currently allowed in single-family zones, under the**  
 17 **current regulations?**

18 A. Yes, they are.

19 **Q. So I'm going to ask you about how this proposal changes the**  
 20 **current regulations governing ADUs. And we'll get into the**  
 21 **details of that, but I want to start with the concept of**  
 22 **regulatory barriers first. So start with what's there now.**  
 23 **Can you provide a high level summary of some of the**  
 24 **regulatory barriers that this proposal aims to remove?**

25 A. Sure. The code currently allows attached and detached

1 directive.

2 **Q. What's the importance of varying the degree of the proposed**  
 3 **changes or the focus of the proposed changes?**

4 A. That allows us to identify different potential outcomes and  
 5 impacts of the proposal and to give ultimately policymakers  
 6 a range of options that they can choose between and among  
 7 and including potentially modifying the proposal to try to  
 8 reduce or mitigate the environmental impact of.

9 **Q. And in your experience with those bases that the City used**  
 10 **for any alternatives, were they calculated to help a**  
 11 **decisionmaker understand the impacts and the proposal?**

12 A. Yes, they are.

13 **Q. Do you think they're reasonable?**

14 A. Yes, I do.

15 **Q. So let's now turn to the elements of the proposal. And I**  
 16 **want to walk through a couple of them with you. And I want**  
 17 **to get some clarity on what the proposal actually is and**  
 18 **then ask you as we're going through some of them to focus on**  
 19 **maybe the ways that those differ among the different**  
 20 **alternatives. And if it helps, I invite you to turn to page**  
 21 **2-4 and refer to Exhibit 2-2.**

22 MR. EUSTIS: Of the EIS?

23 MR. KISIELIUS: Yes, sorry, of the EIS, which is  
 24 Examiner's Exhibit 1.

25 **Q. (By Mr. Kisielius) Are you there?**

1 A. Yes.

2 **Q. Okay. And before we get there, to orient us, the changes**

3 **from the draft EIS and the final EIS, are those depicted in**

4 **the underline or strikethrough?**

5 A. In the final EIS, yes.

6 **Q. Okay. So with the Preferred Alternative being underlined,**

7 **can you just describe briefly, before we get into the**

8 **elements of the proposal, how the Preferred Alternative was**

9 **developed and the reasoning underlying Preferred Alternative**

10 **development?**

11 A. After the draft EIS was established and then had a public

12 hearing and received draft EIS comments, we developed a

13 Preferred Alternative largely incorporating different

14 elements of the two draft EIS alternatives, Alternative 2

15 and Alternative 3, that we thought would best achieve the

16 objectives in the puzzle.

17 **Q. Okay. All right. So let's walk through some of these**

18 **elements of the proposal. And like I said, if you could**

19 **sort of focus on or describe how the elements change among**

20 **the various alternatives, starting with numbers of ADUs**

21 **allowed on lots in single-family zones. Let's start with**

22 **what's currently allowed under the code and then what**

23 **changes are proposed under the action alternatives?**

24 A. Sure. Currently in Alternative 1 reflects current code. A

25 lot in a single-family zone can have either one attached

1 occupy either the principal residence for the ADU for at

2 least six months of the year in perpetuity. Alternative 2

3 considered removing that requirement entirely. And

4 Alternative 3 considered making no change to that existing

5 requirement. In other words, maintaining the existing

6 owner-occupancy requirement.

7 And the Preferred Alternative contemplated removing that

8 requirement, but as I mentioned earlier, establishing a new

9 requirement for ownership that would apply if someone wants

10 to add a second ADU. One year of continuous ownership would

11 be required before the property owner would be able to

12 establish a second ADU.

13 **Q. Okay. Minimum lot size?**

14 A. This one's a little more straightforward. The minimum

15 today -- to be clear, this is the minimum lot size to

16 establish a detached accessory dwelling unit. Potentially a

17 point of confusion because there's a different minimum lot

18 size that applies to single-family zones generally. But the

19 minimum to establish a detached accessory dwelling unit

20 today is 4000 square feet. So your lot has to be that size

21 to be eligible to build a new detached ADU. And the three

22 action alternatives all contemplate lowering that to 3200

23 square feet.

24 **Q. And the distinction you were just drawing, the potential**

25 **confusion, can you unpack that for me? What is the other**

1 accessory dwelling unit within or attached to the principal

2 residence. Or if it meets certain other criteria, it can

3 have a detached accessory dwelling unit.

4 In Alternative 2 and Alternative 3, we've contemplated

5 allowing two ADUs. There's a distinction between those two

6 draft EIS alternatives. Alternative 3 considered allowing

7 two attached ADUs within the main house, not two detached

8 ADUs. And then in the Preferred Alternative, we carried

9 that forward with the requirement that a second ADU could be

10 added only if the property had been in continuous ownership

11 for at least one year.

12 **Q. Okay. How about the next one, off-street parking**

13 **requirements?**

14 A. Currently, one off-street parking requirement is -- excuse

15 me, one off-street parking space is required for a property

16 that adds ADU. You can only add one ADUs, so one off-street

17 parking space is required. Alternative 2 considered

18 removing that requirement entirely. Alternative 3

19 considered removing the requirement for the first ADU, but

20 maintaining it for a property that would add a second ADU.

21 And the Preferred Alternative mirrors Alternative 2, which

22 contemplated removing the requirement for one or two ADUs

23 that would be added.

24 **Q. Okay, but they are owner-occupancy requirement.**

25 A. Yes. Currently the code requires that a property owner

1 **minimum lot size that is applied in a single-family zone?**

2 **What is the lot size that governs?**

3 A. Sure. Seattle's single-family zones, and there are really

4 three specific single-family zones that we're talking about,

5 SF 5000, SF 7200 and SF 9600. Each of those has a minimum

6 lot size for the creation of new lots. And the minimum is

7 part of that zone name. So the most common in terms of area

8 in the City is SF 5000. And that means to establish a new

9 lot, you must have 5000 square feet. That has no bearing on

10 DADUs or to put it differently the change more contemplated

11 in the minimum lot size for a DADU has no bearing and makes

12 no change to the minimum lot size overall for the zone.

13 **Q. Okay. And we'll get into some more details with you and**

14 **some other witnesses on that topic, but that's helpful**

15 **overview. How about -- let me just ask you, is the next**

16 **line in the chart capturing the distinction that you're**

17 **drawing here?**

18 A. Yes, it is.

19 **Q. How about maximum household size, something else we've**

20 **talked about. So first let's backtrack. Can you explain**

21 **the maximum household size currently allowed in**

22 **single-family zones under the existing regulations?**

23 A. Yes. Currently the maximum household size -- first of all,

24 it applies to the entire property, whether a -- whether

25 that's just one house, one principal residence or a

1 principal residence with ADU. And that maximum is any  
2 number of related people with no limit or up to 8 unrelated  
3 people, considering, again, the whole lot, whether there's  
4 an ADU or not.

5 **Q. I'm going to interrupt you for a second because I jumped  
6 ahead in the chart, it's on page 2-6. So if I threw you off  
7 there, so let's keep going, I'm sorry.**

8 A. So that limit today is up to eight unrelated people. And  
9 the proposal contemplates a change. In Alternative 2 and in  
10 the Preferred Alternative, we studied changing that limit to  
11 12 unrelated people, up to 12 unrelated people if a property  
12 has two ADUs. So that limit wouldn't change for a house on  
13 its own, on a single-family lot with just one house. And it  
14 wouldn't change for a lot with a house and one ADU, but the  
15 limit would be up to 12 unrelated people if the lot has two  
16 ADUs. Alternative 3 studied maintaining that existing  
17 household size limit as it is today.

18 **Q. Okay. And this is a slight diversion, but I want to unpack  
19 the existing regulations and how -- I'd like to ask you to  
20 describe how the maximum household size currently applies  
21 outside the single-family context because in prior testimony  
22 we've had some comparisons to non-single family zones. So  
23 how does the maximum household size apply in those other  
24 contexts?**

25 A. Sure. The maximum household size of the land use code

1 break.

2 MR. KISIELIUS: That sounds great.

3 HEARING EXAMINER: So we will be back at 5 past 11:00.

4 (Recess)

5 HEARING EXAMINER: Back on the record. Please continue,  
6 Mr. Kisielius.

7 MR. KISIELIUS: Thank you.

8 **Q. (By Mr. Kisielius) I believe we were reviewing Exhibit 2-2  
9 that starts on page 2-4 of the EIS. To wrap up the max  
10 occupancy question, I heard you say in other contexts, it's  
11 applied on a per unit basis. So for example, the example  
12 used was per apartment, but that you were saying it applies  
13 on the property in the context of ADUs, can you explain --**

14 MR. EUSTIS: Excuse me. I believe somebody is either  
15 photographing or recording these proceedings. And I would  
16 ask that she not do that. And in regards to me, I am not  
17 consenting to her taking my photograph.

18 HEARING EXAMINER: Yeah, there's not supposed to be cell  
19 phone use in here.

20 UNIDENTIFIED SPEAKER: I'm sorry. Okay, I'll turn it off.

21 HEARING EXAMINER: Okay, thank you.

22 MR. EUSTIS: And I believe the other fellow had his iPhone  
23 pointed at me. And I would ask that he delete the  
24 photograph if that's what you're doing.

25 UNIDENTIFIED SPEAKER: I'm sorry, I wasn't aware of the

1 actually is a maximum for a household which is defined to  
2 occupy a dwelling unit. It's actually not a definition that  
3 applies solely in single-family zones. So in other zones  
4 that allow residential uses, multifamily zones, mixed-use  
5 zones, each dwelling unit would have that maximum of up to 8  
6 unrelated people. So if you have an apartment building with  
7 any number of individual dwelling units. Each of those  
8 dwelling units could have up to eight people.

9 **Q. Okay. And by contrast here for the context in which we're  
10 focussed, the single-family zone, the max household size  
11 under current proposed, does that apply to the lot or the  
12 unit?**

13 A. It applies to the lot overall.

14 **Q. Okay. And I'm sorry for jumping around, but let's go back  
15 to that page and maybe talk about rear yard coverage. Can  
16 you -- what is rear yard coverage?**

17 HEARING EXAMINER: Mr. Kisielius, we've got to take a  
18 break pretty soon. So let the witness go ahead and answer  
19 your question --

20 MR. KISIELIUS: This is a good time to pause if you would  
21 like.

22 HEARING EXAMINER: All right. After he answers or before?

23 MR. KISIELIUS: I have a couple follow ups to that one, so  
24 before we get to the next topic.

25 HEARING EXAMINER: So we'll go to that question after the

1 rules.

2 MR. EUSTIS: Thank you.

3 HEARING EXAMINER: Yes. You may proceed Mr. -- I'm sorry,  
4 did you have something else?

5 MR. ELLISON: I didn't bring a laptop today so I'm using  
6 my phone as a computer. And so if you see me doing it, I'm  
7 trying to research things while I'm here.

8 HEARING EXAMINER: That's okay. It's just iPhone usage of  
9 other types we don't -- recording or taking photographs or  
10 using for other purposes besides the hearing itself.

11 MR. KISIELIUS: Okay.

12 HEARING EXAMINER: Go ahead.

13 **Q. (By Mr. Kisielius) I just wanted to wrap up the max  
14 occupancy piece. And I had a -- there's a juxtaposition, I  
15 guess. You said it was applied per unit in the multifamily  
16 context, so per apartment. But in the residential context,  
17 I think you said it applies on the lot so it would govern  
18 both the principal and the accessory dwellings. Can you  
19 explain why the code does that?**

20 A. Sure. The household size limit applies for a dwelling unit.  
21 And in the multifamily context with the example of  
22 apartments, each of those apartments would be a dwelling  
23 unit, each of which could have up to eight unrelated people.  
24 The code also defines what a dwelling unit is.

25 And in a single-family context, it considers the entire

1 property to constitute a dwelling unit whether that property  
2 has one or potentially two ADUs. So the household size unit  
3 of up to 8 unrelated people currently or up to 12 in the  
4 Preferred Alternative would be applying to the entire  
5 property which constitutes one dwelling unit.

6 **Q. Okay. Thank you for that clarification. So on page 2-5 I  
7 was beginning to ask you about rear yard coverage. And I  
8 was hoping you could explain what is rear yard coverage?**

9 A. Sure. Rear yard coverage is a development standard that  
10 applies in single-family zones and sets a maximum limit on  
11 the amount of the designated rear yard that can be covered  
12 with the structure. And the rear yard is generally the 25  
13 feet or 20 percent of the lot depth, whichever it is, let's  
14 see, whichever is less, I believe. And under current code,  
15 it sets a limit of 40 percent on the amount of that rear  
16 yard area that can be covered with a structure.

17 HEARING EXAMINER: Can I ask a question?

18 THE WITNESS: Sure.

19 HEARING EXAMINER: You said 25 feet or 25 percent of lot,  
20 I'm assuming that goes from the rear setback or rear  
21 property line rather?

22 THE WITNESS: The rear lot line.

23 HEARING EXAMINER: Yes.

24 THE WITNESS: Yes. And if I misspoke, let me clarify.  
25 It's 25 feet from the rear lot line or 20 percent.

1 **describe what lot coverage concept is and whether that  
2 changes under the proposal?**

3 A. Yes. Lot coverage, overall lot coverage is another, a  
4 distinguished development standard for single-family zones  
5 that sets a limit on the amount of the entire lot area that  
6 can be covered with structures. And that would include the  
7 house, obviously, and accessory structures like a DADU. For  
8 less than or under 5000 square feet or larger, that limit is  
9 35 percent of the entire lot area. For lots under 5000  
10 square feet, it's calculated a little bit differently, the  
11 lot coverage limit is 1000 square feet plus 15 percent of  
12 the lot area.

13 So just as an example on a 4000 square foot lot, that  
14 would yield 1000 square feet plus 600 additional square feet  
15 for a total coverage of 1600 square feet, which amounts to  
16 40 percent of the lot area in that case. So that's why the  
17 formula gives you a different nominal percentage. That's  
18 all under the current code.

19 It's distinct from the rear yard coverage. It applies in  
20 addition to rear yard coverage. So an application to build  
21 a single-family house or an application to build a DADU,  
22 those permit applications would have to comply with both of  
23 those standards, overall lot coverage and rear yard  
24 coverage.

25 The lot coverage, the overall lot coverage limit is not

1 HEARING EXAMINER: Or 20 percent, okay.

2 THE WITNESS: Of the lot depth, whichever is less.

3 HEARING EXAMINER: Whichever is less. Okay, thank you.

4 THE WITNESS: So the limit today is 40 percent of that  
5 rear yard area that can be covered with any structure, that  
6 would include a detached ADU, a detached garage, a tool  
7 shed. And under Alternatives 2 and 3, we contemplated  
8 increasing that rear yard coverage unit to 60 percent  
9 specifically and solely for a one-story detached ADU,  
10 meaning a DADU which is only 15 feet in height or less. And  
11 the reason for that is to allow one-story designs, more  
12 flexibility in some cases because they're more appropriate  
13 for people who may have limited mobility, people with  
14 disabilities who can't go up and down stairs.

15 In the Preferred Alternative, we also contemplated  
16 increasing that to 60 percent but added that it would have a  
17 limit on tree removal for any DADU that would be proposed to  
18 go over that 40 percent limit.

19 HEARING EXAMINER: Okay. And that would still have the  
20 one, the 15-foot height level?

21 THE WITNESS: Yes, I omitted that, I'm sorry, yes. It  
22 would also apply for one-story DADUs.

23 **Q. (By Mr. Kisielius) Okay, thank you. And I want to ask you,  
24 I guess, about the comparison to lot coverage because I  
25 think there's been some confusion on that. So can you**

1 proposed to change under any alternative. We haven't  
2 contemplated any change to that. The rear yard coverage  
3 that I was describing earlier is the one that we have  
4 studied increasing but not lot coverage.

5 **Q. Okay, thank you. Maybe one more element. Can you turn to  
6 page 2-7 and describe -- well maybe start on -- I'm going to  
7 focus on floor-area ratio and just ask you to quickly  
8 describe what it is and then whether and how the proposal  
9 changes floor-area ratio concepts in the single-family zone?**

10 A. Sure. Floor-area ratio is a calculation of the amount of  
11 square footage developed on a piece of property relative to  
12 the size of that property. So if you have 10,000 square  
13 feet as your lot size, and you have a structure on it that  
14 is also 10,000 square feet, and that could be in one story  
15 or in five stories, those all yield at FAR of 1.0 because  
16 the total floor area is the same as the lot area. So it's a  
17 ratio of those two measures.

18 In several zones, a common development standard in the  
19 land use code is a floor-area ratio limit which would  
20 determine what that ratio could be on properties in that  
21 zone. Currently single-family zoning does not have a floor  
22 area ratio limit. We don't govern the size and location,  
23 the size and scale of structures with an FAR limit, other  
24 zones do.

25 The alternatives in the EIS contemplate adding an FAR

1 limit for single-family zones. Specifically that's in  
2 Alternative 3 and in the Preferred Alternative. Alternative  
3 2 doesn't contemplate FAR limit. In Alternative 3, we  
4 studied applying an FAR limit of 0.5 meaning a lot could  
5 have -- a typical 5000 square foot lot could have a maximum  
6 floor area amount of 2500 square feet, half of the lot area.

7 We also said the limit would be either an FAR of .5 or  
8 2500 square feet, whichever is greater. And the affect of  
9 that is to say if your lot is less than 5000 square feet  
10 where the .5 calculation would yield less than 2500 square  
11 feet, then the 2500 is sort of the floor that would be set  
12 for the amount of floor area you could develop. Again on a  
13 4000 square foot lot, .5 FAR would be 2000, but the  
14 alternative considers 2500 as the minimum.

15 The Preferred Alternative is similar to -- before I leave  
16 Alternative 3, we described that that calculation would  
17 exempt certain floor area from the FAR limit, specifically  
18 any floor area below grade, like a basement and any floor  
19 area in a detached ADU. So when you're considering what you  
20 could build on the property floor area in those locations or  
21 in those types of structures wouldn't count.

22 The Preferred Alternative is similar, it still sets a  
23 floor area ratio limit of .5 or 2500 square feet, whichever  
24 is greater. And then it adjusts those exemptions a little  
25 bit. It says that any floor area below grade or in any ADU

1 **Q. And do you believe, based your experience those are a  
2 reasonable range of alternatives?**

3 A. Yes, I do.

4 **Q. I want to get into some of the subsequent chapters and talk  
5 about how these various elements are analyzed and either  
6 inform the analysis impacts or otherwise. But before we get  
7 into that, can you describe, how did the examiner's decision  
8 in this appeal affect the scope of the EIS, what chapters  
9 you included?**

10 A. Yes. The scope of the EIS largely reflects the direction  
11 that we received from the examiner's decision in 2016. It  
12 includes the elements of the environment that the examiner  
13 had identified for further study. And then it also includes  
14 some aspects and some topics and issues that came up during  
15 the scoping process that were suggested in scoping comments  
16 we received for further studies. So the EIS included some  
17 of that as well.

18 **Q. So I take it you're familiar with the examiner's decision in  
19 the EIS appeal?**

20 A. I am.

21 MR. EUSTIS: Before we go on, I don't believe that's made  
22 an exhibit in this proceeding, but it's certainly, I would  
23 think, something that the Examiner could take judicial  
24 notice of since it was issued by this office. I only raised  
25 the question as to whether it -- if the Examiner wishes to

1 would be exempt, whether that's a detached ADU in the  
2 backyard or an ADU within or attached to the main house.

3 **Q. (By Mr. Kisielius) So on that topic, on the floor-area  
4 ratio topic, there was some testimony earlier that the EIS  
5 is silent on that specific element. Do you agree with that?**

6 A. No, I don't.

7 **Q. And I think we'll get into some examples as we walk through  
8 some of them. But for all of the aspects that you just  
9 highlighted here, did the EIS talk about them in the various  
10 chapters?**

11 MR. EUSTIS: Objection, vague "them". I'm not sure what  
12 you're talking about.

13 MR. KISIELIUS: The first part of my question specified  
14 the elements to which he had just testified. I'll rephrase.

15 **Q. (By Mr. Kisielius) Does the EIS address the elements that  
16 you just testified about in the various chapters?**

17 A. Yes.

18 **Q. Okay. We focussed on just a couple elements of the  
19 proposal. Are -- there are others here, which we may touch  
20 on later. So I'm going to come back to those. I'm going to  
21 ask you an overarching question, though. Given the  
22 objectives of the proposal to the various differences in the  
23 alternatives, do those result in alternatives in your  
24 experience that are meaningfully different from each other?**

25 A. Yes, they do.

1 make it a formal exhibit to this proceeding or take judicial  
2 notice of.

3 The reason I bring this up is at the outset I had asked  
4 certain court documents be made exhibits and it wasn't made  
5 an exhibit. Just for purposes of formality of reference.

6 HEARING EXAMINER: Yeah. My normal practice is that with  
7 a decision like this, it probably is a good idea to make it  
8 part of the record because if this were -- not saying it  
9 will, but if it were to go up on appeal, it would be readily  
10 available to whatever decisionmaker needed it.

11 MR. KISIELIUS: And the City has no objection. We in the  
12 past have cited to other decisions of the examiner's  
13 persuasive authority.

14 HEARING EXAMINER: Sure.

15 MR. KISIELIUS: But if we want to make it an exhibit in  
16 this instance, no objection. So we could do that now, if  
17 you like.

18 HEARING EXAMINER: Okay, sure.

19 MR. KISIELIUS: It will take just a second. Jeff, it's  
20 Exhibit 5, City Exhibit 5.

21 HEARING EXAMINER: I take it there are no objections.

22 MR. EUSTIS: Since I brought up the topic, no.

23 HEARING EXAMINER: The Examiner's 2016 decision will be  
24 Exhibit 32 on the record.

25 (Exhibit No. 32 admitted into evidence)

1 **Q. (By Mr. Kisielius) And if you need to refer to it, Mr.**  
 2 **Welch, it's in the binder next to you. I'm going to ask you**  
 3 **about your understanding of the concern about the potential**  
 4 **fundamental change to the land use forum that we've heard**  
 5 **about in the last couple days. Is that phrase used in the**  
 6 **examiner's decision in the DNS appeal?**  
 7 A. Yes.  
 8 **Q. Okay. And what's your understanding of the instruction from**  
 9 **the examiner's decision to address the potential fundamental**  
 10 **change to the land use forum?**  
 11 A. My understanding is that primarily reflected a topic  
 12 discussed in that hearing around the issue of potential  
 13 impacts on housing and displacement resulting in a proposal  
 14 that could occur as a result of changes in the underlying  
 15 development, economics in single-family zones from these  
 16 code changes.  
 17 **Q. Okay. And what portions or chapters of the final EIS**  
 18 **addressed the potential fundamental change to the land use**  
 19 **forum?**  
 20 A. Several chapters do. In the vain of what I just mentioned,  
 21 the Housing and Socioeconomics chapter explores that  
 22 question of the underlying development, economics and  
 23 changes in that domain resulting from the proposal.  
 24 The land use chapter also explores the topic of a  
 25 fundamental change in the land use forum because it includes

1 residential zoning. It could result from changes that are  
 2 incompatible or uses that are incompatible with the  
 3 comprehensive plan. And then it could also result from  
 4 these types of changes, changes in increases in density and  
 5 scale. And those are relevant to the proposal. So that's  
 6 what this chapter focussed on.  
 7 **Q. And what you just described, is that a common way in your**  
 8 **profession to characterize land use impacts for non-project**  
 9 **actions?**  
 10 A. Yes.  
 11 **Q. And on this page specifically, is there a discretion of the**  
 12 **fundamental change in the land use forum?**  
 13 A. Yes, there is.  
 14 **Q. Can you describe where and roughly what it addresses?**  
 15 A. The final paragraph on page 4-62 discusses this approach and  
 16 it discusses the question of whether ADUs would be  
 17 compatible in scale and density with the existing land use  
 18 pattern. That was the threshold we used to determine  
 19 whether there would be impacts developing from the proposal.  
 20 And then it goes onto say that there are some examples of  
 21 what we would consider a fundamental change in the land use  
 22 forum. Those include a policy that would allow or change  
 23 the rules for subdivisions in single-family zones, allowing  
 24 duplexes or apartments or rezoning to another denser or  
 25 different zone. The ones named here are residential small

1 that term. And the aesthetics chapter also looks at changes  
 2 overall in some of the aspects of visual character resulting  
 3 from changes of the land use, potential changes in the land  
 4 use forum.  
 5 **Q. Okay. And there's been some testimony, there's been some**  
 6 **discussion about other topics that have been suggested or**  
 7 **part of that concept. So add parking, does the EIS address**  
 8 **parking issues?**  
 9 A. Yes, it does.  
 10 **Q. Okay. I want to kind of walk through some of these chapters**  
 11 **with you. Let's start with the land use analysis and focus**  
 12 **on the issue of the fundamental change to the land use**  
 13 **forum. So can you turn to page 4-62 of the EIS?**  
 14 A. Yes.  
 15 **Q. We're jumping a couple pages in here, but I'd like you to**  
 16 **start with methodology. How does the final EIS characterize**  
 17 **land use impact?**  
 18 A. This chapter of the EIS looks at two types of land use and  
 19 facts, increased density and change in building scale.  
 20 **Q. Okay. And why did it arrive at those two?**  
 21 A. Well, there are several types of land use impacts that can  
 22 occur from a proposal that could include intensification of  
 23 potential uses like rezoning from a residential area to a  
 24 zone that allows commercial activity. It could include  
 25 incompatible uses like allowing industrial activity near

1 lot, the RSL zone, or another multifamily zone.  
 2 **Q. Table the discussion of the distinctions between single**  
 3 **family and those two zones you mentioned. But just to kind**  
 4 **of unpack a little bit more the analysis in the land use**  
 5 **chapter, how did you determine the potential changes in**  
 6 **population density from constructing additional ADUs? You**  
 7 **can refer to page 4-63 there if that would help.**  
 8 A. Sure. This -- it ties to the analysis in Chapter 4.1, which  
 9 we haven't yet discussed and we'll have others that will  
 10 help to explain that as well in terms of the methodology and  
 11 findings from the Housing and Socioeconomics technology  
 12 chapter. But the land use chapter and other chapters relate  
 13 to the forecast of ADU production that we describe and  
 14 present in Chapter 4.1.  
 15 So in the land use context we look at what we expect for  
 16 ADU production and the change or the increase in ADU  
 17 production across the alternatives. And the potential  
 18 changes in population density and building density that that  
 19 could create. And we use estimates of the number of people  
 20 that would live in those ADUs. And we consider the maximum  
 21 number of people that could live in those ADUs. And then we  
 22 discuss each alternative in the context of those potential  
 23 changes in population.  
 24 **Q. I want to follow up on something you just said because there**  
 25 **was testimony that the EIS does not quantify the maximum**



1 **number of people that could live in ADUs. You just said it**  
 2 **does. Can you show us where?**  
 3 MR. EUSTIS: Objection, misstates prior testimony dealing  
 4 with maximum. I believe the prior testimony was based on 12  
 5 occupants per single family home, 12 specific.  
 6 HEARING EXAMINER: Isn't that what you were asking?  
 7 MR. KISIELIUS: Yes.  
 8 HEARING EXAMINER: Okay.  
 9 MR. KISIELIUS: Can I proceed?  
 10 HEARING EXAMINER: Yes, please do.  
 11 **Q. (By Mr. Kisielius) Can you describe where that is?**  
 12 A. Yes. On page 4-63, the first paragraph, final sentence says  
 13 for Alternatives 1 and 2 and the Preferred Alternative --  
 14 I'm sorry, let me go back one sentence before that. The  
 15 tenth ultimate sentence says although not anticipated, we  
 16 also considered the maximum number of ADU occupants based on  
 17 the proposed land use changes for Alternatives 1 and 2. In  
 18 the Preferred Alternative this would result in four people  
 19 per ADU.  
 20 For Alternative 3 and I'm saying now on the side, for  
 21 Alternative 3 where we don't increase the household size  
 22 limit to 12, we assumed four people on per ADU on a lot with  
 23 one ADU and two people per ADU on a lot with two ADUs.  
 24 And then the following pages go on to describe what that  
 25 would mean based on the ADU production estimates that we get

1 that the house and the ADUs would add up to 12 total people  
 2 on that lot.  
 3 On the following page, Exhibit 4.5-6 then shows population  
 4 estimates overall in the study area over the study timeline  
 5 based on those ADU production estimates and the maximum  
 6 household size assumptions. For that you would find -- this  
 7 exhibit is focussing specifically on maximum household size.  
 8 So each of these numbers represents what that would be  
 9 across the alternatives.  
 10 **Q. And we asked you to skip over, but is 4.5-5 the same**  
 11 **calculation based on average household size?**  
 12 A. That's right.  
 13 **Q. Okay. Let's -- thank you for the diversion. Can you go**  
 14 **back to the land use analysis. And let's stay there for a**  
 15 **second. Can you just again unpack the maximum number of ADU**  
 16 **occupants under each alternative? And maybe a different way**  
 17 **of saying it are the numbers that are depicted on the chart,**  
 18 **is that chart a graphic depiction of the numbers and the**  
 19 **assumptions that are incorporated into the land use**  
 20 **analysis?**  
 21 A. Yes, that's right.  
 22 MR. EUSTIS: Again, which chart?  
 23 HEARING EXAMINER: Which chart?  
 24 MR. KISIELIUS: Perhaps I will just ask the witness.  
 25 HEARING EXAMINER: Okay.

1 from the Housing and Socioeconomics analysis. So for  
 2 example, on page 4-65, the final paragraph on that page says  
 3 changes in population density would result from the creation  
 4 of additional ADUs. And then it goes on to say that change  
 5 would correspond to 3465 more residents or a maximum of 9240  
 6 residents. And that maximum is contemplating the number of  
 7 people on lots with the full maximum household size.  
 8 **Q. Okay. Is that the only discussion of that concept?**  
 9 A. No, it also appears in the public utilities and  
 10 services -- excuse me, public services and utilities  
 11 chapter.  
 12 **Q. Do you want to turn to page 4-199?**  
 13 MR. EUSTIS: 4-99?  
 14 MR. KISIELIUS: 4-199.  
 15 A. Yes.  
 16 **Q. (By Mr. Kisielius) So can you describe Exhibit 4.5-4 and on**  
 17 **the following page 4.5-6?**  
 18 A. Yes, 4.5-4 is an exhibit presenting basically the same  
 19 calculations, the same estimates again derived from the  
 20 Housing and Socioeconomics analysis in 4.1 that shows our  
 21 assumptions in this case for the public utilities analysis  
 22 based on average household size. But then the rows at the  
 23 bottom are based on assumptions about maximum household  
 24 size. And you'll see for example that for Alternative 2 and  
 25 the Preferred Alternative, they show the assumption being

1 **Q. (By Mr. Kisielius) The numbers in 4.5-4 for the average**  
 2 **assumptions there. And the maximum calculation on 4.5-6,**  
 3 **and the average assumptions on 4.5-5. You had mentioned**  
 4 **that those are in the utilities chapter. Is that reflective**  
 5 **of the assumptions that are throughout the document?**  
 6 A. Yes. I think you might have said average both times, but  
 7 the table shows average and maximum --  
 8 **Q. Thank you.**  
 9 A. -- in 4.5-4 and 4.5-6. Those all reflect the same  
 10 calculations and assumptions in the land use chapter.  
 11 **Q. Okay, thank you. We talked a little bit about some of the**  
 12 **elements of the proposal earlier. I want to focus on, for**  
 13 **purposes of the land use analysis, the land use impact**  
 14 **analysis. The square footage and height of new ADUs that**  
 15 **are constructed because I don't think we talked about those.**  
 16 **So can you please explain what assumptions the EIS makes**  
 17 **about square footage and heights of new ADUs that are**  
 18 **constructed?**  
 19 A. Yes, we assume, for the purpose of land use analysis, that  
 20 the ADUs constructed and the DADUs constructed would  
 21 maximize the size allowed in terms of square footage and the  
 22 height allowed based on the height limit for DADUs.  
 23 **Q. And how did -- can you --**  
 24 HEARING EXAMINER: I'm sorry, I was talking to myself,  
 25 sorry.

1 **Q. (By Mr. Kisielius) Okay. How does that assumption affect**  
 2 **the impact analysis?**  
 3 A. Well, it helps us analyze what the maximum potential land  
 4 use impact would be if the structures that result are the  
 5 largest in terms of building scale from a land use  
 6 perspective based on the increases or the changes and the  
 7 size for height limits for DADUs in particular.  
 8 **Q. And you just used the words largest it could be. Does the**  
 9 **largest it could be vary among the alternatives?**  
 10 A. Yes, it does.  
 11 **Q. So what are some of the changes to the development standards**  
 12 **for ADUs that differ among the various alternatives?**  
 13 A. Sure, this is one that we hadn't touched on earlier  
 14 describing the alternatives, but another standard regulating  
 15 ADUs is a maximum gross floor area limit or a maximum gross  
 16 size limit I believe it's called. For attached ADUs, the  
 17 current code and the alternatives, and I'm just going to  
 18 refer back to Chapter 2 to make sure I get this right, to  
 19 that table describing the alternatives. For attached ADUs,  
 20 the current code allows up to 1000 square feet already  
 21 today, but it includes garage and storage areas in that  
 22 calculation. The action alternatives vary but two of them,  
 23 Alternative 2 and the Preferred Alternative consider  
 24 excluding garage and storage area from that calculation. So  
 25 it would allow for potentially slightly larger attached

1 **that also depicted on page 2-15?**  
 2 A. Yes. To be precise, there's an allowance that we  
 3 contemplate specifically in the height limit section we were  
 4 looking at for green features, green building features like  
 5 a green roof. And then additionally, we contemplate  
 6 allowing certain exceptions for roof features like dormers  
 7 that add interior space. The proposal largely is to adopt  
 8 what is already allowed in single-family zones for the  
 9 principal residents and allows similar flexibility for  
 10 DADUs. And that's what is depicted on 2-15.  
 11 **Q. So this is a bit of a -- we've gotten into the weeds very**  
 12 **quickly about the elements of the proposal. Can you come**  
 13 **back to the land use analysis and describe how the maximum**  
 14 **of what you can build based on these parameters varies among**  
 15 **the alternatives?**  
 16 A. Yes. In Alternative 1, the maximum DADU that you can build  
 17 is 800 square feet including garage and storage areas. And  
 18 then in the Preferred Alternative, for example, that would  
 19 increase to 1000 square feet and it would not include garage  
 20 and storage areas. And that's described in the land use  
 21 chapter. Similarly the height limit could increase by a few  
 22 feet in the Preferred Alternative. And we contemplate what  
 23 that would be if someone built the largest and tallest DADU  
 24 allowed by code, allowed by the Preferred Alternative.  
 25 **Q. And in the land use analysis, turning to page 4-66, what**

1 ADUs.  
 2 There's a more noteworthy change for the DADU size limit  
 3 which today is 800 square feet. And that includes a garage,  
 4 if that's part of the structure, and storage areas if those  
 5 are part of the structure.  
 6 Alternative 2 and the Preferred Alternative both increase  
 7 that to 1000 square feet. So that would have a -- an affect  
 8 on the potential change in the building scale from the land  
 9 use perspective and it would exclude the garage and storage  
 10 areas from that calculation. Alternative 3 would be in  
 11 between those in terms of the change in scale contemplated.  
 12 It would allow 1000 square feet, but it would continue to  
 13 include garage and storage area calculation.  
 14 **Q. Okay. And you had mentioned height as well I think?**  
 15 A. Yes. The height limits -- it's a little bit complicated how  
 16 the code currently describes it. The height limit varies  
 17 depending on the width of the lot and the type of roof that  
 18 you have. We show that, we show that set of standards on  
 19 page 2-11. But to summarize, the change in the height limit  
 20 in general would be to allow one to two additional feet in  
 21 the height limit for a DADU across all the action  
 22 alternatives. There's some variation in whether there would  
 23 be additional height exception for certain green building  
 24 features, like a green roof.  
 25 **Q. And is that also the height features or roof features, is**

1 **does the EIS assume about the rate at which density and**  
 2 **growth will increase over the 10-year study period?**  
 3 A. We generally assume that it would be incremental over that  
 4 period of time. And that it would occur in a relatively  
 5 distributed pattern throughout the study area as it has in  
 6 the historical record of ADU production in Seattle.  
 7 **Q. What would that incremental pattern of development do to the**  
 8 **degree of the impact from a land use standpoint?**  
 9 A. It would generally moderate or lesson the degree of impact  
 10 compared to a scenario where ADU production is perhaps more  
 11 concentrated in a particular area.  
 12 **Q. What does the EIS assume about how increased density will be**  
 13 **distributed throughout the city?**  
 14 A. It includes that that change -- the change in population in  
 15 building density from increases in ADU production would be  
 16 distributed throughout the study area.  
 17 **Q. And can you explain the basis of that assumption?**  
 18 A. There are two bases for that. One is that that's the  
 19 pattern we observed in the past. But also that our -- again,  
 20 referring to the Housing and Socioeconomics analysis in 4.1  
 21 which we will -- I think you'll hear more about later, but  
 22 we find that the relative changes -- the relative likelihood  
 23 of ADU production on different types of lots in different  
 24 areas of the city is similar in the action alternatives as  
 25 it is under the no-action alternative and the changes in

1 that feasibility are also similar. Meaning, we don't have  
2 reason to expect that the likelihood of ADUs being developed  
3 in different parts of the city would change under the  
4 proposal.

5 **Q. Okay. And what would the distribution throughout the city  
6 do to the degree of the impact that you would anticipate  
7 based on the analysis?**

8 A. I would anticipate that being distributed, the distributed  
9 pattern would lesson the impact.

10 **Q. So, but is it possible that you could have increased density  
11 or more ADU production in a concentrated area?**

12 A. Yes.

13 **Q. And does the FEIS disclose the possibility of localized  
14 impact?**

15 A. Yes, it does.

16 **Q. It does, where?**

17 A. On page 4-66, the second paragraph says localized impacts  
18 could occur if ADU production is higher in a concentrated  
19 area such as a particular block in the study area. And then  
20 it describes the potential impacts associated with that  
21 localized ADU production. And that could be more noise,  
22 more of a reduction in privacy resulting from more change in  
23 density in a concentrated area and describes these impacts  
24 as likely to be minor.

25 **Q. Okay. And can you -- and I want to keep this at a higher**

1 **I'd like to turn to aesthetics. And we'll be asking some  
2 questions of one of the people on your team that help  
3 prepare the modelling, but I want to ask you about the  
4 analysis in the chapter more generally and to give us the  
5 overview there. So first, could you -- let's start with  
6 baseline conditions. And I believe the chapter starts on  
7 page 4-85. I'd like you to turn to 4-86 of the EIS. And  
8 ask you to please describe how the EIS assesses the baseline  
9 conditions.**

10 A. Sure. We describe what the urban form currently consists of  
11 in single-family zones in Seattle. It's a qualitative  
12 discussion of the types of homes, the scale of homes that  
13 are typically found in single-family neighborhoods. And it  
14 includes a description of the age of homes that are often  
15 found, some of the key features from aesthetic standpoints  
16 like typical yards that are found, landscaping, that sort of  
17 thing that characterizes the aesthetic quality of  
18 single-family areas in Seattle.

19 **Q. I think you described it just now as qualitative. Why? Why  
20 did you take a qualitative approach in describing the  
21 current urban form or common urban form?**

22 A. Well, the purpose here is to establish a baseline from which  
23 we can examine and measure and identify the potential  
24 impacts to aesthetics. So that qualitative description of  
25 the current urban form achieves that and it also allows us

1 **level, but can you generally summarize and characterize the  
2 land use impacts of the three action alternatives? And here  
3 again, we're focused on the elements you identified, changes  
4 to building density, population density and number of tear  
5 downs. And if you need to refer to the document, you can.**

6 A. Sure. For changes in building density and population  
7 density, we consider what the increased ADU production could  
8 do and conclude that the impacts would be, in general,  
9 minor, based on the pattern of ADU production that we expect  
10 and the amount of ADU production we expect in the context of  
11 the whole city and Seattle's population growth overall.

12 We recognize that there could be localized impacts if ADU  
13 production occurs in a specific area. And we also discussed  
14 that we estimate fewer tear downs would occur. Fewer  
15 single-family homes would be demolished under the action  
16 alternatives compared to the no-action alternative. And  
17 that means more of the existing land use forum will be  
18 preserved and that further reduces or lessons the likely  
19 land use impact.

20 **Q. On that piece, does that build from the analysis in Chapter  
21 4.1?**

22 A. Yes.

23 **Q. We'll hear more of that. I also didn't mean to interrupt or  
24 cut you off if you have more to say to that. I want to turn  
25 to a different chapter.**

1 to consider impacts for the entire study area.

2 **Q. Okay. And in your professional experience, is that level of  
3 review of baseline conditions common for non-project actions  
4 like this one?**

5 A. Yes.

6 **Q. Before we leave the current urban form question, I was just  
7 going to ask you to take a look at page 4-87 and 4-88. Can  
8 you describe what we're looking at there?**

9 A. Sure. On page 4-87, Exhibit 4.3-1, this is -- these are two  
10 photographs of existing homes in Seattle neighborhoods,  
11 Seattle single-family neighborhoods. They illustrate  
12 visually the typical character found, the scale of  
13 development, existing development found in the study area,  
14 in many areas.

15 On the following page, 4-88, Exhibit 4.3-2, includes two  
16 photographs showing relatively recent single-family homes,  
17 newly constructed homes that maximize the zoning envelope,  
18 the building envelope that's already allowed by code. And  
19 so this helps us show both what the existing context is in  
20 many neighborhoods but also what is already allowed in terms  
21 of development and aesthetic character under the current  
22 zoning standards.

23 **Q. There was some testimony about what is described as a big  
24 boxy style. Would you characterize these photographs of  
25 more recently constructed houses in Seattle to be that big**

1 **boxy style in your experience?**  
 2 A. Yes, I would.  
 3 **Q. Okay. So for the impact analysis on aesthetics, how does**  
 4 **the EIS characterize, how does it characterize impacts to**  
 5 **aesthetics?**  
 6 A. The analysis focuses on potential changes to bulk and scale.  
 7 **Q. Okay. What does bulk mean?**  
 8 A. Bulk is the combination of height of a structure and floor  
 9 area in that structure that together produced a sort of  
 10 visual volume that that structure occupancy on a lot or in a  
 11 space.  
 12 **Q. Okay. And how about scale? Did you focus on scale?**  
 13 A. We did. We looked at scale as well. It is related, but it  
 14 refers more to the size and especially the height of a  
 15 structure, but particularly in relation to it's context. So  
 16 that would include in relation to other existing structures  
 17 in that specific area, setting.  
 18 **Q. And when, in your experience, does the evaluation of bulk**  
 19 **and scale entail qualitative or subjective judgment?**  
 20 A. Yes, it does. It's the evaluation of the bulk and scale of  
 21 a structure's subjective and could vary somewhat person to  
 22 person, neighborhood to neighborhood.  
 23 **Q. Okay. So we went -- we talked at length about the elements**  
 24 **of the proposal. Does the EIS identify what elements of the**  
 25 **proposal affect aesthetics? You can turn to page 4-93 if**

1 use this model to illustrate different development outcomes  
 2 that we would expect under each alternative and to  
 3 illustrate the potential full build-out or maximum  
 4 development outcome that could occur under each alternative.  
 5 **Q. Okay. You said the range, do you think that's a**  
 6 **representative range?**  
 7 A. I think the features included in that model are  
 8 representative, yes.  
 9 **Q. Okay. Are lot sizes representative?**  
 10 A. Yes.  
 11 **Q. The range of lot widths and depths?**  
 12 A. Yes.  
 13 **Q. Okay. Are you familiar with Mr. Kaplan's testimony that the**  
 14 **model's two blocks are not representative of two blocks from**  
 15 **an average single-family neighborhood in the city?**  
 16 A. Yes.  
 17 **Q. Do you agree?**  
 18 A. No.  
 19 **Q. Why not?**  
 20 A. I think the range of lot sizes and the existing structures  
 21 that are illustrated, the characteristics of the lots that  
 22 are illustrated reasonably reflect the range of conditions  
 23 that are found in single-family neighborhoods throughout the  
 24 study area.  
 25 **Q. So does the fact that it doesn't match up precisely with a**

1 **that would help.**  
 2 A. Yes, it does identify those.  
 3 **Q. Can you just briefly walk us through those?**  
 4 A. Sure. On 4-93, we identify a handful of features of the  
 5 different code changes in the alternatives that would affect  
 6 aesthetic, character and aesthetic impacts. That includes  
 7 the number of ADUs that would be allowed, the minimum lot  
 8 size for a DADU, whether parking is required, the maximum  
 9 size and height of a detached ADU, the rear yard coverage  
 10 limit, and then some discussion of where entries and whether  
 11 roof features are allowed, and then finally the maximum FAR  
 12 limit we discussed earlier.  
 13 **Q. And we're going to have another witness who is going to**  
 14 **provide more testimony about the aesthetics model. But I**  
 15 **want to ask you some questions about the methodology, the**  
 16 **framework of the model. Can you explain -- we've already**  
 17 **had some testimony about the two-block hypothetical,**  
 18 **but -- so maybe I'll just jump into the question. Why is**  
 19 **the two-block hypothetical -- why did you choose that**  
 20 **hypothetical?**  
 21 A. Well, the purpose was to illustrate what the code changes  
 22 could produce from an aesthetics standpoint. And the  
 23 two-block model includes range of different characteristics,  
 24 a range of lot sizes, lot dimensions, includes a range of  
 25 parking conditions, presence or absence of an alley. And we

1 **block that you pull out from the mapping on the city make a**  
 2 **difference to you in terms of whether the hypothetical is**  
 3 **representative?**  
 4 A. No. The intention was not to copy identically the  
 5 characteristics of a single block in a single particular  
 6 neighborhood but to create a representative model that would  
 7 allow us to analyze how the code changes could affect  
 8 aesthetic impacts in terms of bulk and scale primarily and  
 9 to be able to generalize that discussion and understanding  
 10 of impacts across alternatives -- excuse me, across  
 11 neighborhoods throughout the city.  
 12 **Q. Okay. And do you think it captures, in that regard,**  
 13 **neighborhoods that are the subject to the proposal, the**  
 14 **single-family homed areas of the city?**  
 15 A. Yes, it does.  
 16 **Q. There's some detailed questions, but let's get to that level**  
 17 **of precision. What about the widths of the street? Were**  
 18 **you present for Mr. Kaplan's testimony about the widths of**  
 19 **the street?**  
 20 A. Yes.  
 21 **Q. Do you believe that the widths of the street depicted in the**  
 22 **hypothetical are representative of single-family**  
 23 **neighborhoods?**  
 24 A. Yes, I do.  
 25 **Q. Why?**

1 A. The widths of streets can vary, but the typical width of a  
 2 street in single-family neighborhoods is 25 or 26 feet, curb  
 3 to curb.  
 4 **Q. Okay.**  
 5 A. In fact the most common width found and the average width  
 6 when you consider the length of streets as well is 26 feet.  
 7 **Q. Okay.**  
 8 A. And the width of the street curb to curb in the hypothetical  
 9 model is also 26 feet.  
 10 **Q. Okay. Mr. Kaplan compared to a street in Queen -- there are**  
 11 **several streets depicted but to a two-block comparison. I**  
 12 **think we talked about McGraw specifically, which he**  
 13 **characterized as an arterial. There was a north to south**  
 14 **street. Are you familiar with what that street was?**  
 15 A. Yes, it's Fifth Avenue West.  
 16 **Q. And do you know what the width of that street is curb to**  
 17 **curb?**  
 18 A. Yes, 25 feet.  
 19 **Q. Okay. What about the density that's depicted in the**  
 20 **two-block hypothetical. There's some testimony that**  
 21 **suggested it didn't capture the density of a typical Seattle**  
 22 **neighborhood. Do you agree?**  
 23 A. No, I don't agree with that. The overall density can vary  
 24 in neighborhoods throughout the study area in single-family  
 25 zones. But what we've shown you in a hypothetical model is

1 at a few very specific blocks that are exact copies of  
 2 blocks that have existed in the study area. There are some  
 3 challenges with doing that. The more we specify and make  
 4 the model or a set of models very precise, the less we're  
 5 able to draw overall conclusions about the type and degree  
 6 of impacts to aesthetics and the less decision makers have  
 7 information that can apply broadly across the study area.  
 8 It also can raise concerns with trying to illustrate  
 9 future outcomes for very specific properties, indeed  
 10 properties that have the owner who could be looking at an  
 11 example of something that is forecasting what would happen  
 12 exactly on their lot with what would appear to be quite a  
 13 lot of precision. So instead the approach is, and as we  
 14 discussed, to develop a model that represents that range of  
 15 conditions but is not specifically focussed on just one  
 16 area.  
 17 **Q. Okay. And I asked you earlier if you thought that it would**  
 18 **be adequate to inform a decision maker about the potential**  
 19 **aesthetic impacts, I want to make sure I'm understanding**  
 20 **that. So without the hypothetical -- do you think the**  
 21 **hypothetical is a reasonable approach to inform the decision**  
 22 **maker about the impacts of the proposal even though it's not**  
 23 **specific? Could that be applied to specific properties and**  
 24 **properties and specific locations to make some judgments**  
 25 **about that?**

1 representative of the density found in many neighborhoods  
 2 and also includes smaller lots. In many cases, one after  
 3 the other, adjacent smaller lots that illustrate what the  
 4 impacts and outcomes would be in those denser neighborhoods  
 5 in the city. Likewise, it shows some larger lots that would  
 6 illustrate what the impacts would be in areas where that's  
 7 the predominant lot. So it's representative of those  
 8 different conditions.  
 9 **Q. A bigger picture. Mr. Kaplan rattled through a list of a**  
 10 **lot of different neighborhoods in the city. And there's a**  
 11 **suggestion that it might not be possible to make a**  
 12 **representative two-block example for the single-family**  
 13 **neighborhoods in Seattle. Do you agree with that?**  
 14 A. No.  
 15 **Q. For the same reasons?**  
 16 A. For the same reasons.  
 17 **Q. Okay. In your experience, is the approach that's used here,**  
 18 **the hypothetical block example, adequate to inform a**  
 19 **decisionmaker of the potential aesthetic impacts?**  
 20 A. Yes, I think it is.  
 21 **Q. Okay. And in getting to some of the criticisms from not**  
 22 **using a specific location and instead using a**  
 23 **hypothetical -- let me ask, did you consider conducting**  
 24 **analyses of actual locations?**  
 25 A. Yes. We considered that we could as another approach look

1 A. Yes.  
 2 **Q. Okay. What are, without getting -- I think there's been**  
 3 **some testimony on this, but I just want to make sure the**  
 4 **baseline is set. What are the two scenarios that were**  
 5 **modelled in the EIS?**  
 6 A. Well, actually first we model existing conditions, which in  
 7 a sense constitutes a third scenario. But first we  
 8 illustrate typical development in a single-family  
 9 neighborhood. And then we do model two scenarios that  
 10 represent future outcomes. The first we call the 10-year  
 11 scenario. And the second, just to preview, the second is  
 12 the full build-out scenario.  
 13 The 10-year scenario reflects the development outcomes  
 14 that we would expect for the 10-year period studied in this  
 15 EIS. And it's based, again, on the development outcomes  
 16 that we create or that we learn from the Housing and  
 17 Socioeconomics analysis in chapter 4.1. So that includes  
 18 estimates of ADU production in the future and also estimates  
 19 of tear downs of single-family homes in the future. And  
 20 that specifically includes different types of outcomes,  
 21 tear downs with an ADU added or with two ADUs added. It  
 22 looks at the feasibility of adding a DADU versus an attached  
 23 ADU. And we take what we learn from that analysis and  
 24 develop an estimate of how many -- of each of those  
 25 development outcomes we would expect in the 10-year time

1 frame for this two-block area. And then that's what's  
 2 illustrated in the various images for the 10-year scenario.  
 3 The full build-out scenario then shows what the aesthetic  
 4 outcomes would be if every lot in the two-block model  
 5 redeveloped to the maximum development potential in terms of  
 6 bulk and scale. And that reflects the maximum allowed by  
 7 current code or the proposed code changes in each  
 8 alternative. And that's not something we expect to happen  
 9 during the ten year time frame of this EIS or frankly even  
 10 longer than that. But we illustrate it so that there's a  
 11 depiction of what the full build-out could be.

12 **Q. Okay. And I think I just heard you say it's not likely. If**  
 13 **it's not likely, why is it included?**

14 A. Well, it helps characterize what the overall scale of  
 15 development could be under each alternative because that  
 16 outcome varies, it varies in particular because of the  
 17 presence or absence of our floor area ratio limit. And we  
 18 also include it even though it's highly improbable to occur  
 19 because the hearing examiner's decision gave us the  
 20 direction to illustrate the full build-out on at least one  
 21 block, including lots as small as 3200 square feet, which  
 22 are included in this model.

23 **Q. Okay. So does the -- and I know we've looked at some of**  
 24 **these already. The -- briefly can you just orient the**  
 25 **examiner, because we've focussed mostly on what I'll call**

1 1. And again shows the largest possible house that could be  
 2 constructed and the largest possible DADU that could be  
 3 constructed on each property.

4 **Q. Okay. And so that was the bird's-eye view, the oblique**  
 5 **angle. There are several street views and yard views as**  
 6 **well, correct?**

7 A. Yes. There's a -- the series shows a plan view directed  
 8 from above, this oblique view, and then a series of views  
 9 that actually more closely represent what someone would  
 10 actually experience in the world and with the street in a  
 11 public space or even standing on private property such as in  
 12 a rear yard where you might be able to see the affects of a  
 13 DADU that's added in the different sizes in the alternative.

14 **Q. And so with the series of images, is it possible to compare**  
 15 **within each alternative the differences between the current**  
 16 **conditions, the 10-year and the full build-out scenario?**

17 A. Yes. Within each alternative you can compare current  
 18 conditions, what we expect over ten years and then the full  
 19 build-out scenario which is highly improbable but  
 20 illustrative of what that would be. And then similarly are  
 21 cross alternatives you can make a comparison that reflects  
 22 different changes in the code standards.

23 **Q. Okay. Let's -- and again since we're going to have another**  
 24 **witness talk about the modelling specific. So I don't want**  
 25 **to dwell on that, but I would like to talk about the impact.**

1 **the bird's-eye view of the two blocks. In general, is the**  
 2 **same series of photographs depicted -- photographs, excuse**  
 3 **me, same series of images presented for all three**  
 4 **alternatives, excuse me, four actually?**

5 A. Yes, for each viewpoint we show both of those scenarios,  
 6 10-year scenario and full build-out for each of the four  
 7 alternatives.

8 **Q. Okay. And again, so just choosing one, and I'll let you**  
 9 **choose which one, can you just high level describe the**  
 10 **ranges of the depictions that are there?**

11 A. Sure. Let's look at page 4-100 of the EIS. This is showing  
 12 sort of a bird's-eye perspective of the hypothetical model.  
 13 This first exhibit is showing existing conditions. So there  
 14 are no development outcomes illustrated yet.

15 Then the following page shows what we would expect over  
 16 the 10-year period. And, again, this is based on actual  
 17 production estimates from Chapter 4.1. And in this example  
 18 you see many of those same existing houses, but you also see  
 19 some new houses shown in a darker shade of yellow and some  
 20 ADUs added, those are shown in orange, either attached or  
 21 detached. This is for Alternative 1 and then the same  
 22 perspective appears for three actual alternatives.

23 And then finally if you turn to the following page, 4-102,  
 24 this illustrates the largest possible development on each of  
 25 those properties in terms of bulk and scale for Alternative

1 **So you had earlier testified that the different aspects of**  
 2 **the proposal vary among the alternatives. So I'd like to**  
 3 **ask you about how the variation among those -- among the**  
 4 **elements of the proposal affect the impacts of the analysis**  
 5 **of each of the alternatives. So maybe let's just start with**  
 6 **one. How does the -- you talk about the minimum lot size**  
 7 **for construction of an ADU. How does that change affect the**  
 8 **potential aesthetic impacts?**

9 A. Sure. The minimum lot size for a detached ADU if lower than  
 10 3200 square feet would perhaps obviously allow the  
 11 development of a DADU on a smaller lot, a lot as small as  
 12 3200 square feet. And those are included, those lots. Lots  
 13 of that size are included in this model.

14 And for the action alternatives where that change would  
 15 occur, we show what that DADU could be. Indeed we show the  
 16 largest DADU that can be built on that 3200 square foot lot.  
 17 So for a smaller lot, in areas where that lot exists that  
 18 could result in a visual impact from construction of a  
 19 structure where current code wouldn't allow it. And because  
 20 that lot is -- because those are smaller lots and in general  
 21 narrower lots, it could also mean impacts to views or  
 22 privacy from adjacent lots.

23 **Q. Okay. How about the change in maximum gross floor area that**  
 24 **you described earlier. How does that variability among the**  
 25 **alternatives affect potential aesthetic impacts?**

1 A. It affects aesthetic impacts because allowing larger  
 2 detached ADUs would allow or produce a greater change in  
 3 building scale compared to the no-action alternative. So  
 4 there's a greater potential impact in the alternatives that  
 5 allow larger detached ADUs.

6 **Q. And that variability is depicted in the modelling?**

7 A. Yes, it is. In fact I might mention, it's depicted sort of  
 8 in those overview images, it's depicted in the street view  
 9 images. And then several of the potential code changes  
 10 include a specific focus depiction of what that would be.

11 **Q. Okay. The -- how about the change in maximum height for**  
 12 **DADUs, is that -- you describe some variability there. How**  
 13 **does that affect the potential aesthetic impact?**

14 A. Similarly to our discussion -- the discussion of size. A  
 15 taller DADU could also have a greater impact on overall bulk  
 16 and scale compared to the no-action alternative. Greater  
 17 height can also lead to impacts of due to shade or shadow  
 18 and impacts due to privacy if there is a taller structure  
 19 adjacent to a neighbor's property.

20 **Q. And that's depicted in the modelling?**

21 A. Depicted and discussed in the text, yes.

22 **Q. Okay. Rear yard coverage. You described some variability**  
 23 **among the various alternatives with respect to changes in**  
 24 **rear yard coverage. How does that affect potential**  
 25 **aesthetic impacts?**

1 **impacts?**

2 A. Yes.

3 **Q. Let's -- I want you to turn to what has been marked as**  
 4 **Examiner's Exhibit 28, which is Appellant's Exhibit 20. And**  
 5 **I think I have a copy for you. I'll hand it to you. I have**  
 6 **to get it on my screen so bear with me.**

7 A. Sure.

8 **Q. Okay.**

9 MR. EUSTIS: What page will you be referring to?

10 MR. KISIELIUS: What page? Oh, I'll be walking through it  
 11 and I will give you the page numbers.

12 **Q. (By Mr. Kisielius) So are you familiar with this document**  
 13 **and Mr. Kaplan's testimony about this document?**

14 A. Yes.

15 **Q. I'm going to ask you whether you agree with the conclusions**  
 16 **Mr. Kaplan drew from this document and why or why not. And**  
 17 **I would like to walk through a couple of the pages. In**  
 18 **general -- well, let's walk through a couple pages. Let's**  
 19 **just start with page 2. And here we're looking at that**  
 20 **aerial view that says typical SF 5000 single-family lot?**

21 A. Yes.

22 **Q. Okay. I believe there's some testimony today said it was a**  
 23 **random 5000 square foot lot in Queen Anne, is it?**

24 A. No, this is a lot that's 5300 square feet. So it's a little  
 25 bit larger than 5000 square feet, but it's not in Queen

1 A. Rear yard coverage could -- it could change the potential  
 2 bulk on the property. It's worth noting that because that  
 3 additional rear yard coverage would be predicated on a  
 4 one-story DADU, it could also have, in a sense, a positive  
 5 impact on aesthetics because it could allow one-story DADUs  
 6 where, under current code, the result might be a two-story  
 7 DADU. From a shading and privacy perspective, it could have  
 8 a lesser impact. But from the coverage of the lot, the  
 9 amount of area that is occupied by the structure, it could  
 10 increase the scale in that sense of potential development.

11 **Q. Okay. How about floor area ratio. Again the variability**  
 12 **among the alternatives, how does that affect potential**  
 13 **impacts?**

14 A. Floor area ratio, it varies across the alternatives. There  
 15 is no FAR limit today. And applying a FAR limit would tend  
 16 to lesson the aesthetic impact because it would regulate the  
 17 scale of buildings in an additional way and would tend to,  
 18 in all alternatives, in all cases would limit the size of a  
 19 new house that someone could build compared to what's  
 20 allowed in the current code.

21 **Q. Again. Are those variations among the alternatives depicted**  
 22 **in the modelling and discussed in the analysis?**

23 A. Yes, they are.

24 **Q. Okay. So in -- based on your work and your experience, did**  
 25 **the action alternatives have different potential aesthetic**

1 Anne, it's in Magnolia, it's 3030, 43rd Avenue West.

2 **Q. Okay.**

3 HEARING EXAMINER: So are we looking at page 2?

4 MR. KISIELIUS: Yes. And we're going to move on to page  
 5 3.

6 HEARING EXAMINER: Okay.

7 **Q. (By Mr. Kisielius) So there was some clarifying testimony**  
 8 **today about the source of these images being from the EIS.**  
 9 **Can you confirm these are city images?**

10 A. Yeah, the base image of both is from the EIS.

11 **Q. Absent the red circle. What is the purpose of this image?**  
 12 **Can you tell us, focussing among the examples, what's**  
 13 **happening to the size of the house in relation to the size**  
 14 **of the ADU or detached accessory dwelling unit?**

15 A. Sure. Well, overall the purpose of both images is to  
 16 illustrate what lot coverage means in the top example. And  
 17 in the bottom, what rear yard coverage means. These appear  
 18 in our chapter on the alternatives, at least in part to just  
 19 illustrate how these code standards operate, what they mean  
 20 for the reader. But they also illustrate, in the top  
 21 example on lot coverage, what different amounts of lot  
 22 coverage look like and what would happen if you, as property  
 23 owner, use some of your available lot coverage for a DADU.  
 24 So for example, it's a little difficult because this image  
 25 has been annotated, but if you ignore the orange rectangle

1 that was added in the middle row, the property -- actually  
 2 if you consider that orange rectangle which represents, I  
 3 believe, an attached ADU, the lot coverage would stay the  
 4 same but actually the house would be smaller.  
 5 So the addition of an ADU in general means that all else  
 6 equal, the house would have to be smaller to accommodate  
 7 that unit or that structure given the lot coverage limit.  
 8 Similarly, you see a similar affect in the exhibit below or  
 9 rear yard coverage. So in the upper half of that it's  
 10 showing the current rear yard coverage limit, it describes  
 11 it as two-story DADU. And that's 40 percent of the rear  
 12 yard. And below it shows that a one-story DADU under the  
 13 action alternatives could cover more of the rear yard as we  
 14 discussed up to 60 percent. But with that larger footprint,  
 15 a consequence is that the main house footprint has to  
 16 shrink. So overall, the rear yard coverage limit has  
 17 increased, the overall lot coverage limit would be the same.  
 18 And it shows that the consequence of the DADU occupying more  
 19 area of the lot means that the house necessarily has to be  
 20 smaller.  
 21 **Q. Okay. And can you describe the bottom half and how that**  
 22 **explains the rear yard coverage concept that you were**  
 23 **testifying to earlier?**  
 24 A. Sure. In the top half -- in the first part of the bottom  
 25 image, it says two-story DADU. And that darker green

1 showing what would happen to the footprint if the rear yard  
 2 coverage when it increases. So it's illustrating what  
 3 happens due to the rear yard coverage limit.  
 4 And as I mentioned, one consequence of a DADU that  
 5 occupies a larger footprint is that the largest house that  
 6 you can have on that lot necessarily is smaller because the  
 7 overall lot coverage limit has not changed.  
 8 **Q. Okay. Let's -- going back, sorry to make you jump around.**  
 9 **Going back to Exhibit 28, I'm asking you to turn to page 4.**  
 10 **There's been some testimony about this page already. Do you**  
 11 **know where these images on page 4 of Exhibit 28 are from?**  
 12 A. Yes.  
 13 **Q. Can you tell us where?**  
 14 A. Yes, they are graphics created by the City of Portland for  
 15 their own proposal called the Residential Infill Project.  
 16 They're created for analysis of policy in Portland. And the  
 17 policy of the Residential Infill Project would allow new  
 18 uses, new multifamily uses in some of their single-family  
 19 zones. And in general these illustrations depict those  
 20 different outcomes in the Portland context. It has no  
 21 connection to this EIS with or the proposal or Seattle at  
 22 all. I think I answered the question.  
 23 **Q. Yeah. So is it -- even if it's not prepared for the City,**  
 24 **is it representative of what could be constructed under the**  
 25 **City's proposal?**

1 rectangle illustrates the full grain of that DADU. Below  
 2 that where it says one-story DADU, the dark green rectangle  
 3 is larger, illustrating a larger footprint that could occur  
 4 due to the changing of rear yard coverage limit.  
 5 HEARING EXAMINER: So when you say dark green, I have  
 6 black and white.  
 7 **Q. (By Mr. Kisielius) So how about if we turn to 2-14 in the**  
 8 **EIS. If you want to do that as well, you can.**  
 9 A. Is that the same image?  
 10 **Q. It is, but there's some accompanying text on page 2-13 you**  
 11 **might want to look at.**  
 12 A. Okay.  
 13 MR. EUSTIS: 2-14 in the EIS?  
 14 HEARING EXAMINER: 14 or 13?  
 15 MR. KISIELIUS: Starting at 2-14, he may refer to text.  
 16 HEARING EXAMINER: Okay.  
 17 **Q. (By Mr. Kisielius) So you see the image at Exhibit 2-7?**  
 18 A. Yes.  
 19 **Q. So maybe if you want to speak from this example?**  
 20 A. Sure. So I'll describe again. The top half of this image  
 21 illustrates the current limit on rear yard coverage of 40  
 22 percent. And the slightly darker green rectangle shown  
 23 there represents the footprint of a DADU that is occupying  
 24 that 40 percent coverage of the rear yard. Below that is a  
 25 larger footprint represented by that dark green rectangle

1 A. Certainly not entirely. We've already heard testimony of  
 2 how some of the annotations came to be on this graphic but  
 3 it's important because on the top half, it illustrates  
 4 several different houses of different sizes of a 5000 square  
 5 foot lot, that part is correct. But the annotations of what  
 6 that's illustrated shown in those arrows that say 2-story  
 7 triplex, 3-story triplex, those have been added.  
 8 And there are some other factual errors here. The far  
 9 right shows, in this version, in the appellant's exhibit, it  
 10 says it's a 5250 square foot house on a 5000 square foot  
 11 lot, which would indeed yield a FAR of 1.05 as shown. But  
 12 the actual image is showing a 6750 square foot house allowed  
 13 by Portland's code on a 5000 square foot lot. And that  
 14 produces an FAR of 1.35.  
 15 So I believe earlier Mr. Kaplan testified that this has  
 16 been amended to resemble the proposal and allow a comparison  
 17 of height, bulk and scale. But that's not even allowed  
 18 under Seattle's current allegations, let alone under the  
 19 proposal. So the comparison shown here is distorted before  
 20 intending to compare anything having to do with the proposal  
 21 in Seattle's current regulations.  
 22 **Q. Okay. And what about -- I think you had mentioned earlier**  
 23 **that this was related to Portland's proposal to add**  
 24 **different options to its single-family zoning. Is the**  
 25 **current proposal the City's considering going to add**



1 multifamily options to the single-family zone?  
 2 A. No.  
 3 **Q. Okay. Let's turn to page 5. I might ask you to look at 5**  
 4 **and 6 as a set. You heard the testimony this morning**  
 5 **identifying the document from which some of this information**  
 6 **is taken?**  
 7 A. Yes.  
 8 **Q. Are you familiar with that document?**  
 9 A. Yes.  
 10 **Q. So to the extent that they purport to depict what can be**  
 11 **built under SF 5000, do you agree that's accurate?**  
 12 A. No.  
 13 **Q. Why not?**  
 14 A. Well, graphically let's start with the image, this depiction  
 15 of a structure and some of the layout of information and  
 16 numbers associated with that structure has been borrowed  
 17 from an appendix from the MHA EIS. And it illustrates and  
 18 shown on the following page, on page 6, it illustrates a  
 19 structure that is possibly in a Lowrise 1 zone.  
 20 **Q. I'm going to ask you to pause for a second. Is that**  
 21 **Appendix F to the MHA EIS?**  
 22 A. Yes.  
 23 **Q. Do you have a copy there in front of you?**  
 24 A. Yes.  
 25 **Q. And I'm looking for my third copy. Can you turn -- we'll**

1 HEARING EXAMINER: Okay.  
 2 MR. KISIELIUS: So it might require pausing Mr. Welch's  
 3 either his direct or cross at some point if by, I would  
 4 suggest by 2:00, if wherever we are, I would request  
 5 permission to suspend Mr. Welch's examination and allow  
 6 Mr. Kuehne to testify because he's coming in from out of  
 7 town. And we were hoping we would be further along in the  
 8 proceeding than we were when we made his plans. And he is  
 9 unavailable tomorrow and Friday.  
 10 HEARING EXAMINER: Okay. That's not a problem from my  
 11 standpoint.  
 12 MR. EUSTIS: Out of curiosity, what is the scope of his  
 13 testimony?  
 14 MR. KISIELIUS: Mr. Kuehne?  
 15 MR. EUSTIS: Yes.  
 16 MR. KISIELIUS: He's -- we've referred to aesthetics. So  
 17 it's on the same subject matter, but he's the person who  
 18 actually did the modelling. And I had indicated yesterday  
 19 we needed to get him on today. And I'm just envisioning now  
 20 we're breaking for lunch, and he's not yet done with  
 21 everything I need, I was going to ask him about.  
 22 MR. EUSTIS: The length is in your control.  
 23 HEARING EXAMINER: Anything else?  
 24 MR. KISIELIUS: No.  
 25 HEARING EXAMINER: Okay. We will be in recess for lunch.

1 **just use this for now.**  
 2 MR. KISIELIUS: Do you have a copy of this?  
 3 MR. EUSTIS: I do not.  
 4 MR. KISIELIUS: Okay. I would just like you to follow  
 5 along with what he's looking at.  
 6 MR. EUSTIS: Sure. May I ask, we're pushing 12:30 and I  
 7 was going to inquire as to what point we might be taking a  
 8 lunch break? I see we're sort of shifting gears to another  
 9 document, which is why I raise the question now.  
 10 HEARING EXAMINER: I was going to say around 12:30, but we  
 11 could do it now if that's better.  
 12 MR. KISIELIUS: Now is fine. One procedural request. So  
 13 I had mentioned yesterday we're trying to be -- we're trying  
 14 to manage witness schedules.  
 15 HEARING EXAMINER: Right.  
 16 MR. KISIELIUS: And so we had intended to start with  
 17 Mr. Welch today because as you have heard he's got some  
 18 overarching information that's helpful context.  
 19 HEARING EXAMINER: Sure.  
 20 MR. KISIELIUS: The second witness, Mr. Kuehne is here,  
 21 but he's traveled from out of town to be here to testify.  
 22 HEARING EXAMINER: Okay.  
 23 MR. KISIELIUS: Given at which point -- the point in the  
 24 morning when Mr. Welch started his testimony, I want to make  
 25 sure we're able to get Mr. Kuehne on and off today.

1 We'll be back at let's see, 1:40.  
 2 MR. KISIELIUS: Thank you.  
 3 (Lunch recess)  
 4 HEARING EXAMINER: Thank you. You may be seated.  
 5 We're back on the record. Mr. Kisielius, you may  
 6 continue with whatever it is you want to do.  
 7 MR. KISIELIUS: I was going to suggest that  
 8 because, again, given time constraints and we had  
 9 already taken a break from Mr. Welch's testimony, I  
 10 propose that we suspend his direct examination, take  
 11 on Mr. Kuehne's so we can be mindful of his  
 12 scheduling constraints and be sure to be done with  
 13 him today, and then resume with Mr. Welch when he's  
 14 done with all of the questions.  
 15 HEARING EXAMINER: Okay.  
 16 MR. KISIELIUS: Okay. So we'd like to call Oliver  
 17 Kuehne.  
 18 HEARING EXAMINER: Good afternoon, sir.  
 19 WITNESS/KUEHNE: Good afternoon.  
 20 HEARING EXAMINER: Would you raise your right hand?  
 21  
 22 OLIVER KUEHNE: Witness herein, having been first  
 23 duly sworn on oath, was examined  
 24 and testified as follows:  
 25

1 HEARING EXAMINER: Thank you. Could you say and  
2 spell your first and last name and provide a work  
3 address for the record?

4 THE WITNESS: Yes. My name is Oliver Kuehne. It's  
5 O-L-I-V-E-R. Last name Kuehne, K-U-E-H-N-E. My work  
6 address is 1050 Southwest 6th Avenue, Suite 1800 in  
7 Portland, Oregon 97204.

8 HEARING EXAMINER: Thank you.  
9 You may proceed, Mr. Kisielius.

10  
11 DIRECT EXAMINATION

12 BY MR. KISIELIUS:

13 **Q. Good afternoon, Mr. Kuehne. Could you tell us what**  
14 **is your occupation, please.**

15 A. Yeah. I'm senior planner and urban designer with HDR  
16 Engineering.

17 **Q. Okay. And what are your primary professional**  
18 **responsibilities in your role?**

19 A. I wear a number of different hats, but with regard to  
20 this, the most relevant role is, I do a lot of  
21 graphic representations, illustrations of proposed  
22 changes to development codes, general plans, and  
23 things of that nature.

24 **Q. Okay. And can you briefly describe your educational**  
25 **background and training, focusing on the items that**

1 A. Okay.

2 **Q. And the other one should have numbered exhibits. And**  
3 **I want to make sure you have the one that has the**  
4 **Tab 35.**

5 HEARING EXAMINER: Mr. Kuehne, could you just say  
6 "testing" a couple of times so we could make sure  
7 we're picking you up, please?

8 THE WITNESS: Yes. Test. Test. Test.

9 HEARING EXAMINER: Okay.

10 THE WITNESS: Okay.

11 HEARING EXAMINER: We're good. Thank you.

12 THE WITNESS: Sure.

13 **Q. (By Mr. Kisielius) Yeah, so you should have one that**  
14 **says -- oh, you found it?**

15 A. I'm still looking. Yep, I found it.

16 **Q. Okay.**

17 MR. KISIELIUS: This is City Exhibit 35. You got  
18 it? It's a CV.

19 HEARING EXAMINER: Any objection to this going into  
20 the record?

21 MR. EUSTIS: No objection.

22 HEARING EXAMINER: All right. We will enter this  
23 as Exhibit 33. Is that right? 33, yes. 33 into the  
24 record.

25 MR. KISIELIUS: Okay.

1 **are relevant to your profession?**

2 A. Okay.

3 **Q. And I want to focus in particular on your experiences**  
4 **with aesthetic analyses.**

5 A. Okay. Yeah, my background is in -- I studied  
6 architecture and town planning at the University of  
7 Stuttgart in Germany. I have a master's degree in  
8 architecture. Or I should say the equivalent of a  
9 master's degree.

10 **Q. Okay. And you had mentioned your, in sort of summary**  
11 **fashion, your prior experiences working on or**  
12 **preparing those aesthetic analyses of, you said "code**  
13 **changes and plan changes."**

14 A. Yeah.

15 **Q. About how many of those have you worked on in the**  
16 **course of your career?**

17 A. Dozens. I just the other day looked at my resume,  
18 which is not everything I've worked on, and I counted  
19 somewhere in the order of 35 to 40 --

20 **Q. Okay.**

21 A. -- in recent years.

22 **Q. Okay. So you have two binders in front of you.**

23 A. Yeah.

24 **Q. And one is going to be -- have the entirety of the**  
25 **EIS in it.**

1 (Exhibit No. 33 admitted into evidence)

2 **Q. (By Mr. Kisielius) And Mr. Kuehne, does what was**  
3 **marked as Exhibit 33 accurately reflect your**  
4 **educational background and professional training and**  
5 **expertise?**

6 A. It does.

7 **Q. Let's focus on your work related to this EIS. So**  
8 **what parts of this EIS were you involved in?**

9 A. My main responsibility was to develop the 3D modeling  
10 and to generate the illustrations that are used in  
11 the EIS.

12 **Q. Okay. And did you work with Mr. Welch and**  
13 **Ms. Pennucci in your work?**

14 A. Yes. Yes.

15 **Q. Okay. Let's talk about the modeling methodology that**  
16 **you used. And I invite you in the binder that is the**  
17 **EIS, if you want to rely on it, if you want to turn**  
18 **to page 4-93.**

19 A. 4-93?

20 **Q. Uh-huh. And there's a discussion of methodology that**  
21 **describes the three-dimensional visual modeling.**

22 A. Mm-hmm.

23 **Q. Is that the part that you described you were**  
24 **responsible for?**

25 A. It is, yes.

1 **Q. Okay. And can you tell us, generally, what was your**  
 2 **process in modeling the three scenarios?**  
 3 A. Mm-hmm.  
 4 **Q. We've already heard Mr. Welch testify to the existing**  
 5 **conditions and the 10-year build-out and the full**  
 6 **build-out.**  
 7 A. Yeah.  
 8 **Q. So we know kind of that general framework. Can you**  
 9 **describe what your process was to do the modeling for**  
 10 **those three scenarios?**  
 11 A. Right. So using the 3D modeling software, I  
 12 basically acted like a developer or an architect  
 13 would when it comes to applying the appropriate code  
 14 changes for the various alternatives to a variety of  
 15 lots. And there's two blocks that were modeled.  
 16 **Q. Okay. What -- well, I didn't mean to interrupt you.**  
 17 A. Yeah. Well, I was just going to say, so the two  
 18 blocks contain 60 lots that are of varying sizes,  
 19 just to sort of represent a cross section of  
 20 conditions that are prevalent in Seattle. And so I  
 21 applied those rules basically to those various lots.  
 22 **Q. Okay. And what modeling software did you use?**  
 23 A. It's called SketchUp.  
 24 **Q. Okay. And using SketchUp, are you able to**  
 25 **incorporate the differences in the code changes**

1 **Q. Here's a preferred alternative 10-year scenario.**  
 2 **When you depicted development on any lot -- I noticed**  
 3 **there's a couple of different combinations there --**  
 4 **what were you trying to achieve? Were you trying to**  
 5 **maximize the development outcome for each of the**  
 6 **scenarios that are shown here?**  
 7 A. Yes. And so the way I did it, in an instance -- for  
 8 instance, the lots in the most top left corner, the  
 9 yellow lot, so that is a redeveloped house, or a  
 10 teardown with a new house. In this case, I maximized  
 11 the development potentially for that lot.  
 12 In other cases where it's an existing house with a  
 13 new ADU, I try to maximize the development potential  
 14 for the ADU, and that's subject to the lot coverage  
 15 that the existing house already represents.  
 16 **Q. And let's step back. I realize I jumped into one of**  
 17 **the examples. Can you tell us what the color coding**  
 18 **even means?**  
 19 A. Yes. So the light tan color represents existing  
 20 buildings. The yellow represents the primary  
 21 building, the primary house redeveloped, or a new  
 22 house. And the orange color represents ADUs whether  
 23 they are attached or detached.  
 24 **Q. Okay. So can you point us to an example of new**  
 25 **principal structure with a new detached accessory**

1 **between the three alternatives? Or the four**  
 2 **alternatives, I guess?**  
 3 A. Yes. In the sense that -- so basically the way it  
 4 works is, you draw in real-life dimensions. So if I  
 5 draw up 20 feet, it's 20 feet in real life. So any  
 6 dimensional changes between the -- sorry, any  
 7 dimensional differences between the different  
 8 alternatives are represented accurately in the model.  
 9 **Q. Okay. And you say "represented accurately." How**  
 10 **accurately?**  
 11 A. Well, if I'm drawing 20 feet, it's 20 feet.  
 12 **Q. Okay.**  
 13 A. So it's exactly that way.  
 14 **Q. And in general, is this the modeling software that**  
 15 **you typically use when you're conducting your work?**  
 16 A. It is, yes.  
 17 **Q. And is it a common tool that you use in your -- that**  
 18 **people in your profession would use?**  
 19 A. It is common, yeah. I mean, there's a variety of  
 20 modeling software.  
 21 **Q. Okay.**  
 22 A. This is one of the common ones, yes.  
 23 **Q. And then let's talk a little bit more about your**  
 24 **process. Maybe I'll direct you to a page, 4-133.**  
 25 A. Okay.

1 **dwelling unit on that map, so by example?**  
 2 A. Yes. So on the right-hand side, the block without  
 3 the alley, there's a house with a detached ADU sort  
 4 of in the -- smack in the middle of the block.  
 5 **Q. The house is in yellow and the detached accessory**  
 6 **dwelling unit is in orange?**  
 7 A. Correct, (inaudible), yeah.  
 8 **Q. Okay.**  
 9 A. Yeah.  
 10 **Q. And what's the one immediately beneath that to the**  
 11 **bottom of the page?**  
 12 A. So that represents an existing house with a new  
 13 attached ADU and a new detached ADU.  
 14 **Q. Okay. And I think you started off talking about the**  
 15 **other block to the left. And I'll say it's on the**  
 16 **right side of the block to the left-hand block, four**  
 17 **lots down; it's in yellow. What does that represent?**  
 18 A. That is a new structure, a new main house without any  
 19 ADU.  
 20 **Q. Okay. So for each of these different kinds of**  
 21 **developments you're depicting here, I think I heard**  
 22 **you say you were maximizing the possibilities for**  
 23 **each of those scenarios.**  
 24 A. Right.  
 25 **Q. What does that mean? Because we heard Mr. Welch**

1 **testify about sort of the --**  
 2 A. Yeah.  
 3 **Q. -- differences between the alternatives and the**  
 4 **changes to the various elements of the code.**  
 5 A. Right.  
 6 **Q. What does it mean to you to maximize it for that**  
 7 **particular lot?**  
 8 A. So there's a variety of limiting factors depending on  
 9 the alternative. It could be the FAR or it could be  
 10 the lot coverage. It could be the rear coverage. So  
 11 like I said, I basically approached it like an  
 12 architect would. So I started drawing and I looked,  
 13 well, how much of an ADU footprint can I put in spec  
 14 here and still, you know, comply with all the  
 15 regulations that are part of that alternative.  
 16 **Q. Okay.**  
 17 A. So I tried to maximize what's possible, which is not  
 18 always the maximum allowed by code. It's the --  
 19 well, sorry, I shouldn't say that. It's the maximum  
 20 allowed by code, but it's not the maximum allowed by  
 21 each sort of subcomponent of the code.  
 22 **Q. Okay. Can you unpack that a little bit? Give a for**  
 23 **example.**  
 24 A. Yeah. Well for instance, you know, the maximum lot  
 25 coverage and the floor area ratio could be limiting

1 **depiction and comparisons, is that the common**  
 2 **approach for depicting development outcomes from code**  
 3 **changes in your professional training?**  
 4 A. It certainly is, yeah.  
 5 **Q. Okay.**  
 6 A. So sort of showing before and after representations  
 7 or before and after illustrations are very common,  
 8 yeah.  
 9 **Q. And we've heard some testimony that -- there's a**  
 10 **suggestion that the City should have used an actual**  
 11 **block or specific locations. Do you agree with that?**  
 12 A. I don't.  
 13 **Q. Why?**  
 14 A. For a couple of reasons. For one thing, the use of  
 15 the hypothetical two-block area allowed us to depict  
 16 a wide range of real-life conditions that are out  
 17 there. So in some ways it's actually more  
 18 representative than any one block you would find in  
 19 the city because it just shows conditions that you  
 20 can find in various neighborhoods around the city.  
 21 And the other aspect, and I think that's something  
 22 that Mr. Welch talked about earlier is, there's a bit  
 23 of concern with representing somebody else's  
 24 property. And I think sometimes people get very  
 25 literal, and they think, oh, yeah, there's -- you

1 each other. You could, you know -- potentially you  
 2 could be allowed to have a larger building based on  
 3 just the FAR, but the lot coverage could actually  
 4 reduce the possibility to achieve that FAR limit.  
 5 **Q. Okay, that's helpful.**  
 6 **Let's turn the page now to page 4-134. And this is**  
 7 **the full build-out. So can you just describe on each**  
 8 **lot what we're seeing here?**  
 9 A. Yeah. So what this represents is basically, you  
 10 know, a hypothetical blank slate. So assuming each  
 11 and every lot would be torn down almost there and  
 12 completely redeveloped from scratch, the attempt here  
 13 was to show this is the maximum that could happen  
 14 here. So the assumptions were two ADUs on each lot  
 15 and a redeveloped main house.  
 16 **Q. Okay. And so just to abundantly clear, because these**  
 17 **types of images are reproduced for each of the**  
 18 **alternatives --**  
 19 A. Correct.  
 20 **Q. -- do the different pages that correspond with each**  
 21 **of the alternatives, are they accurate with respect**  
 22 **to the differences in the development regulations**  
 23 **between those alternatives?**  
 24 A. They are, yes.  
 25 **Q. Okay. Is this kind of methodology, the graphic**

1 know, Mr. Welch is going to build an ADU, even though  
 2 that may not be his plan or his intention.  
 3 So I think it's easy to focus on the differences in  
 4 the proposed alternatives if we sort of strip it down  
 5 from anything that could distract you from analyzing  
 6 that.  
 7 **Q. And do you think this approach would still allow**  
 8 **somebody to understand impacts in specific locations**  
 9 **within the city?**  
 10 A. Yes.  
 11 **Q. So do you think that this modeling approach that you**  
 12 **helped prepare is a reasonable approach to inform a**  
 13 **decision-maker about the potential aesthetic**  
 14 **outcomes?**  
 15 A. I do.  
 16 MR. KISIELIUS: I want to ask you about an exhibit,  
 17 and I'm sorry, I haven't printed Appellant's exhibits  
 18 for the witnesses. So there's one that you entered  
 19 into the record, Exhibit 16-A, sub (17), which is  
 20 Examiner Exhibit 27 that I think you just sent to me.  
 21 MR. EUSTIS: Yes.  
 22 MR. KISIELIUS: Is there any way we could, since I  
 23 don't have printed copies of your exhibits...  
 24 MR. EUSTIS: Is there a way? There's always a way.  
 25 MR. KISIELIUS: Thank you. It won't be up for

1 long, I promise. 16-A (17) is the HDR number on it.  
2 Thank you.

3 I don't know if you left -- I don't know if you  
4 left it up. You didn't have any hard copies for the  
5 witness, did you?

6 MR. EUSTIS: No.

7 MR. KISIELIUS: Okay. I just didn't know if it was  
8 already up there. I didn't want to have to --

9 MR. EUSTIS: Just a second.

10 MR. KISIELIUS: -- if that's easier. Thank you.

11 **Q. (By Mr. Kisielius) So Mr. Eustis has kindly put up  
12 Hearing Examiner Exhibit 27. Are you familiar with  
13 this document?**

14 A. Yes. If I remember correctly, that's a document that  
15 we, HDR, submitted to the City as part of our  
16 proposal.

17 **Q. Okay. So what was this document for? What was it  
18 used for?**

19 A. Yeah. It was to illustrate or it was to show a  
20 variety of different illustration techniques to the  
21 City to get a sense of what their goal was in terms  
22 of the illustrations (inaudible) for the EIS.

23 **Q. Okay. So some samples?**

24 A. Correct. Exactly, yeah.

25 **Q. And are you familiar with the examples of the**

1 expression of the buildings, the low-pitched roofs,  
2 they're much more representative of what's out there.  
3 In fact, most of these buildings are actually modeled  
4 after existing homes in Queen Creek.

5 **Q. Okay. And so you used same software?**

6 A. Correct. Yes.

7 **Q. And so it's accurate to the same degree for those  
8 conditions?**

9 A. It is, yes.

10 **Q. And in terms of the -- there are some familiar  
11 elements in terms of basic colors.**

12 A. Mm-hmm.

13 **Q. Is that typical to use to reduce an image to the same  
14 types of basic colors?**

15 A. It's the pallet that I typically use, correct. Yeah.

16 **Q. Okay.**

17 A. Although there's differentiations in terms of  
18 their -- like the green colors, for instance -- I  
19 mean, Arizona is a desert, so I tend to tone that  
20 down so it's not, like, as dark and as, you know, as  
21 vibrant as it would be in northwest, for instance.

22 **Q. And I think you had mentioned lot sizes. What can  
23 you say about the rear lot sizes of the neighborhood  
24 that you modeled here?**

25 A. Well, the entire lot tends to be larger. Much larger

1 **modeling that are shown here?**

2 A. Yes, I am.

3 **Q. How are you familiar with it?**

4 A. I created those.

5 **Q. Okay. And did you create those for Seattle?**

6 A. No, no. They were for a project in a suburb of  
7 Phoenix, Arizona called Queen Creek.

8 **Q. Okay. The Appellant's witness testified that --  
9 there's a suggestion here that the modeling here for  
10 Arizona and Seattle were the same. That they were  
11 modeled the same and that they are comparable.**

12 A. Yeah.

13 **Q. Do you agree?**

14 A. No, I don't. I mean, they're modeled in the same way  
15 in terms of the general technique and in terms of  
16 some of the color schemes used. However, the content  
17 is significantly different.

18 **Q. Okay. In what way?**

19 A. Well, Queen Creek is a low-density veteran community  
20 of Phoenix. It's basically a mostly single-family  
21 suburb. What's presented here is fairly large lots  
22 with large, mostly single-family homes with very  
23 different architecture.

24 I mean, there's not a lot of architecture detail,  
25 but in terms of the general form, the general

1 than the typical lot that you would find in an urban  
2 neighborhood in Seattle.

3 **Q. Okay.**

4 A. That was the purpose that I did the (inaudible) here.

5 **Q. Okay.**

6 A. I mean, that there are -- if I recall it correctly,  
7 they might be quarter-acre lots or 10,000 square foot  
8 lots, something along those lines.

9 **Q. Okay. Thank you. I don't think I have more  
10 questions about that for you, so...**

11 A. Okay.

12 **Q. I want to turn back to actually what you did do for  
13 the City in the EIS.**

14 **There was some testimony about whether or not the  
15 images you prepared for the City accurately capture  
16 aesthetic impacts of parking from the ADU production.**

17 A. Okay.

18 **Q. So let's start with sort of a basic framework  
19 question. In your depictions of code changes that  
20 you've worked on in your career, do parked cars on  
21 the street tend to contribute to the aesthetic impact  
22 of the proposal, in your experience?**

23 A. Parked cars on the street, I would argue not, no.

24 **Q. Why is that?**

25 A. To me, parked cars on the street are just part of

1 city life. And in a scenario where we show more  
 2 cars, it's just basically utilizing existing parking  
 3 spaces, so there's no additional parking. So I don't  
 4 think there's any aesthetic impact.

5 **Q. What tends to be the focus of your aesthetic impact**  
 6 **analyses?**

7 A. I mean, the focus in this case specifically was to  
 8 show the differences between the alternatives. So  
 9 highlight the differences between the alternatives.

10 **Q. But, I guess, to what? Differences in what?**

11 A. The differences in building height and bulk, in lot  
 12 coverage.

13 **Q. Okay. So the structures?**

14 A. Correct.

15 **Q. With that context, did you make adjustments to show**  
 16 **depictions of differences between parking between the**  
 17 **alternatives?**

18 A. Yes. So the parking is actually (inaudible) the  
 19 rule. And the assumption was, for the -- well, for  
 20 alternative 1 through 3, I'm showing two cars per  
 21 unit for the main house, and then one car per ADU.  
 22 The rule is, basically, if there's a garage, then the  
 23 assumption is there's a car in the garage. If it's a  
 24 two-car garage, there's two cars in the two-car  
 25 garage, so you wouldn't see those cars, but you will

1 A. "More extreme," so in terms of, I had to delete many  
 2 more trees.

3 **Q. Okay.**

4 A. In addition to that, because the purpose of these  
 5 drawings is to represent changes in the building  
 6 environment, so in some instances I actually had to  
 7 delete trees from the model just because the trees  
 8 would obscure an ADU or building behind it. So in  
 9 some instances, I actually deleted more trees than I  
 10 would have needed to just for the sake of the  
 11 building.

12 **Q. Okay. And can you turn to page 4-126?**

13 A. Mm-hmm, yeah.

14 **Q. Okay. Can you point to -- and I guess I'll ask you**  
 15 **to toggle to help illustrate what you just described**  
 16 **between 4-124, 4-125 and 4-126. Can you give some**  
 17 **examples?**

18 A. Yeah. For instance, so starting out with page 4-125,  
 19 there's a new main house with a flat roof sort of a  
 20 little bit above and to the right of the center of  
 21 the image. And if you compare that location with the  
 22 existing conditions in 4-124, you can see there's a  
 23 tree that was removed for that, for instance. Maybe  
 24 actually two trees.

25 **Q. What about closer to the lens, so to speak, just two**

1 see cars in the driveway and on the street.

2 **Q. Okay.**

3 A. And so depending on the number of units in the  
 4 various alternatives (inaudible) the scenarios, the  
 5 number of cars changes.

6 **Q. And how about the preferred alternative, did you make**  
 7 **any adjustments for the preferred alternative?**

8 A. Yes. I mean, you'll see there's more cars parked on  
 9 the street in the preferred alternative. The reason  
 10 for that is that in the preferred alternative, we  
 11 edit guest parking. So there's an additional car per  
 12 lot represented here parked in the street, yeah.

13 **Q. Okay. There's also been some suggestion that the**  
 14 **images you prepared don't sufficiently show changes**  
 15 **to tree canopy. Do you agree?**

16 A. I don't.

17 **Q. Why is that?**

18 A. The way I developed this, so I started with the  
 19 existing additions and I added trees to the existing  
 20 conditions model. In the 10-year scenario, we  
 21 developed a lot. If there was a tree in the way,  
 22 deleted it. So just by doing that, the number of  
 23 trees was reduced. More extreme so in the complete  
 24 redevelopment scenario, the full villa scenario.

25 **Q. What does that mean, "more extreme"?**

1 **lots to the left?**

2 A. Yes. You're talking about the lot with the two --  
 3 the attached ADU and the detached ADU, correct?

4 **Q. I am, yes.**

5 A. Yeah.

6 **Q. Is that building removing a tree?**

7 A. It is, yes.

8 **Q. Okay. Okay.**

9 A. And there's also an example of a tree in -- so in the  
 10 10-year scenario, there's the ADU a little to the  
 11 right of the center that includes an existing -- or  
 12 that includes a garage, which is identified sort of  
 13 in the yellow color, I actually had to remove the  
 14 tree there just to make sure that's visible even  
 15 though the tree was not impacted by the development  
 16 itself.

17 **Q. Okay. And how about, can you now switch to 4-126 on**  
 18 **the full build-out?**

19 A. Yeah.

20 **Q. And maybe to focus you maybe on the closest two lots**  
 21 **to the point of view.**

22 A. Yeah. So in the full build-out, obviously because  
 23 there's a lot more buildings there, the number of  
 24 trees in the back yard were reduced. The street  
 25 trees are approximately the same. There may be a few

1 minor modifications to accommodate driveways. But  
 2 generally speaking, the most significant impact here  
 3 is shown in the back yards.  
 4 **Q. And we chose an oblique view, but if you turn to page**  
 5 **4-133 and 4-134, comparing the 10-year and the full**  
 6 **build-out, does that similarly depict removal of**  
 7 **trees to...**  
 8 A. Yes, it does.  
 9 **Q. And do you think, in your experience and for people**  
 10 **in your profession, does that change in tree canopy**  
 11 **depict aesthetic impacts of removing trees?**  
 12 A. I'm hesitating, because I would say yes, but the main  
 13 focus, what I focused on in developing these drawings  
 14 was the impact of the buildings. Yeah, so the  
 15 attempt was not to have a comprehensive indication of  
 16 what the tree coverage is going to be.  
 17 **Q. Yeah. And is that based on, you had earlier**  
 18 **described sort of what the focus of the aesthetic**  
 19 **impact analysis is, in your experience?**  
 20 A. Correct. Yes, mm-hmm.  
 21 **Q. Okay. So let's focus, saying on this page, this is**  
 22 **the full build-out scenario of the preferred**  
 23 **alternative, page 4-134.**  
 24 A. Yeah.  
 25 **Q. I just want to confirm, did you say that this is**

1 A. I don't.  
 2 MR. KISIELIUS: Okay. I don't have any further  
 3 questions for you, but Mr. Eustis and Mr. Ellison  
 4 might have some.  
 5 THE WITNESS: Thank you.  
 6 HEARING EXAMINER: Great. I leave it to you two to  
 7 figure out which order you'd like to go in.  
 8 MR. ELLISON: You have the bigger part; I'll let  
 9 you go first.  
 10  
 11 CROSS EXAMINATION  
 12 BY MR. EUSTIS:  
 13 **Q. Mr. Kuehne?**  
 14 A. Yeah.  
 15 **Q. Did I pronounce your name correctly?**  
 16 A. Perfectly, yeah, thank you.  
 17 **Q. Kuehnay (phonetic) or Kuehne?**  
 18 A. Kuehne.  
 19 **Q. Kuehne?**  
 20 A. Mm-hmm.  
 21 **Q. Are you a registered architect?**  
 22 A. I'm not.  
 23 **Q. Are you licensed?**  
 24 A. I'm not, no.  
 25 **Q. Okay. Do you work as an architect?**

1 **the -- you assumed two ADUs per lot in this scenario?**  
 2 A. That's correct, yeah.  
 3 **Q. Okay. And under the proposal in general, whether**  
 4 **it's in this image or elsewhere, based on your**  
 5 **representations, where will most of the bulk from**  
 6 **ADUs be realized in?**  
 7 A. The majority of bulk will be in the rear because of  
 8 the detached ADU in the rear yard. The attached ADU  
 9 would sort of emphasize the bulk of the main building  
 10 which, you know, would include the volume of the  
 11 attached ADU, but the most visible part of it would  
 12 be in the rear.  
 13 **Q. Okay. So we've jumped around a bit, but to wrap up,**  
 14 **do you believe you used reasonable and standard**  
 15 **methods of people in your profession to depict**  
 16 **building outcomes under each of the alternatives?**  
 17 A. I do.  
 18 **Q. And do you think that that the depictions that you**  
 19 **created of those building outcomes under each of the**  
 20 **alternatives would inform decision-makers about the**  
 21 **potential aesthetic changes that result from the**  
 22 **proposal?**  
 23 A. I do, yes.  
 24 **Q. And then do you have any reason to question the**  
 25 **accuracy of any of your depictions?**

1 A. I do not, no.  
 2 **Q. Okay. So if typical architect work might be to**  
 3 **design structures for particular clients, this is not**  
 4 **work that you do?**  
 5 A. It is not, no.  
 6 **Q. You work for, what, HDR Engineering?**  
 7 A. That's correct.  
 8 **Q. And I take it this is a civil engineering firm?**  
 9 A. It's a multidisciplinary, engineering and planning  
 10 architect firm.  
 11 **Q. How long have you worked there?**  
 12 A. Since 2005.  
 13 **Q. Okay. And prior to this, have you done any work in**  
 14 **the City of Seattle?**  
 15 A. I have. Yes, I have. Let's see. Actually, no, I  
 16 stand corrected. I've done work in Bellevue and in  
 17 Shoreline.  
 18 **Q. I'll ask you this because it's a common -- in this**  
 19 **proceeding it's been a common question of witnesses.**  
 20 **Have you before been tasked with drafting text of**  
 21 **an EIS?**  
 22 A. I have not, no.  
 23 **Q. Okay. Have you ever taken any courses in this**  
 24 **Washington State Environmental Policy Act?**  
 25 A. I have not, no.

1 **Q. Okay. In the National Environmental Policy Act?**  
 2 A. No.  
 3 **Q. Okay. So for the City or the Town of Queen Creek,**  
 4 **you also used SketchUp?**  
 5 A. That's correct.  
 6 **Q. That was the same model?**  
 7 A. Mm-hmm, yep.  
 8 **Q. Okay. So would I understand correctly that in**  
 9 **SketchUp, it is a 3D model?**  
 10 A. Correct.  
 11 **Q. And it allows you to -- it has a number of**  
 12 **parameters?**  
 13 A. Mm-hmm.  
 14 **Q. And allows you to put in constants or variables under**  
 15 **each of those parameters?**  
 16 A. What do you mean by "parameters"?  
 17 **Q. Parameter? A parameter would be, as I understand it,**  
 18 **would be a category that would describe what the**  
 19 **model would produce. By example, a parameter would**  
 20 **be lot size; a parameter could be lot coverage; a**  
 21 **parameter could be street width.**  
 22 A. No, it's actually a lot more simple than that. It's  
 23 very much, like, drawing by hand in that, you know,  
 24 if there's a 5,000 square foot -- let's say a 50 to a  
 25 hundred foot lot, I actually drew 50 feet at a

1 **specific existing block in the City of Seattle?**  
 2 A. Yes.  
 3 **Q. Okay. So this is your own block that you've created?**  
 4 A. Yeah, it's a two-block area that is hypothetical, but  
 5 each of the existing houses is actually closely  
 6 modeled after an existing house in Seattle.  
 7 **Q. Okay. What was the source of those existing houses?**  
 8 A. I spent a lot of time on Google Earth analyzing and  
 9 measuring.  
 10 **Q. Okay. So then would I correctly understand that you**  
 11 **had gone to specific houses around the city and then**  
 12 **you had modeled those and put them into this**  
 13 **hypothetical block?**  
 14 A. That is correct.  
 15 **Q. Okay. So the houses themselves come from different**  
 16 **parts of the city?**  
 17 A. They come from a variety of locations, correct.  
 18 **Q. Okay. So in terms of both the -- I take it that your**  
 19 **work was an iterative process? By "iterative" I mean**  
 20 **you started out with a certain production of your**  
 21 **model, you had it reviewed by City staff, and then**  
 22 **you got input, you made adjustments to the model**  
 23 **through this, I call it an iterative process, a**  
 24 **(inaudible)?**  
 25 A. Yep, that's correct.

1 hundred feet. So it's not automated in that sense.  
 2 **Q. Oh, so -- yeah, I...**  
 3 A. I drew everything, yeah.  
 4 **Q. Okay. So digitally, you were able draw it into the**  
 5 **model?**  
 6 A. Correct. But in real-life dimensions, very similar  
 7 to AutoCAD.  
 8 **Q. Maybe it's easier to speak to a specific example.**  
 9 **I'll draw your attention to page 4-134 in the EIS.**  
 10 A. Yeah.  
 11 **Q. Oh, my gosh. Here we go.**  
 12 **You have that in front of you?**  
 13 A. Mm-hmm.  
 14 **Q. Here, I will... Bingo, there it is.**  
 15 **So if I understand your testimony, this is not a**  
 16 **particular collection of two blocks in the City of**  
 17 **Seattle?**  
 18 A. That's correct.  
 19 **Q. Okay. And then what you have done is to -- to make**  
 20 **sure I understand this -- you have essentially**  
 21 **created a separate block in which you've put these**  
 22 **massings of potential structures, in this case, under**  
 23 **the full build-out?**  
 24 A. What do you mean by a "separate block"?  
 25 **Q. You have created a block that's different from any**

1 **Q. Okay. And from whom in the City would you be**  
 2 **receiving input?**  
 3 A. Mostly Mr. Welch.  
 4 **Q. Okay. And could you recall specific directions that**  
 5 **Mr. Welch would have given you?**  
 6 A. Pertaining to what specifically?  
 7 **Q. Pertaining to the details in the model.**  
 8 A. In terms of the configuration of the block, is that  
 9 what you're talking about?  
 10 **Q. Yeah. So for instance --**  
 11 A. Yeah.  
 12 **Q. -- did you receive input from Mr. Welch, no, you need**  
 13 **to change the lot sizes; no, you need a more**  
 14 **representative sample of lot sizes; you need a more**  
 15 **representative sample of structures; you need to do**  
 16 **this to street width?**  
 17 A. Yes. The...  
 18 **Q. Not the speculation on my part?**  
 19 A. No, no. The block lot configuration was not  
 20 developed by me.  
 21 **Q. It was developed by Mr. Welch?**  
 22 A. It was developed by City staff, yes.  
 23 **Q. Okay. And what inputs did they give you regarding**  
 24 **the lot block configuration?**  
 25 A. Lot dimensions and the general layout.



1 **Q. Okay. And in terms of a block, they asked you to**  
 2 **consider a block of, let's say, such and such a**  
 3 **dimension in north/south?**  
 4 A. Yes.  
 5 **Q. Such and such a dimension in east/west?**  
 6 A. Yeah, yeah.  
 7 **Q. Do you know where those came from?**  
 8 A. Where the dimensions came from?  
 9 **Q. Yeah. I mean besides Mr. Welch?**  
 10 A. No. I mean, again, based on typical blocks that we  
 11 looked at during this iterative process that you  
 12 described.  
 13 **Q. Okay. But you received the dimensions from**  
 14 **Mr. Welch?**  
 15 A. Correct.  
 16 **Q. Okay. So my understanding from your testimony is**  
 17 **while you may have considered structures,**  
 18 **representative structures, and here I'm basically**  
 19 **referring to the outlines as indicated by perhaps**  
 20 **aerial photographs under Google, those came from**  
 21 **different parts of the city, but you weren't trying**  
 22 **to depict any specific set of two blocks by creating**  
 23 **your model?**  
 24 A. I was not; that's correct.  
 25 **Q. Okay. And even though you were not considering any**

1 you wouldn't find in any one block necessarily. So  
 2 it allowed us in a smaller area to model a greater  
 3 variety of conditions.  
 4 If we had used real existing blocks, it would have  
 5 been a -- probably a much greater effort and we  
 6 probably would have had to select a greater number of  
 7 real-life blocks to achieve the same thing.  
 8 **Q. In terms of potential impacts on actual existing**  
 9 **neighborhoods, would consideration of real-life**  
 10 **blocks at least give a more accurate portrayal of the**  
 11 **impacts of the proposal on those specific**  
 12 **neighborhoods?**  
 13 A. Well, on those specific blocks, perhaps, yes. But  
 14 the task was not to illustrate the impact on a  
 15 handful of blocks in Seattle, the task was to  
 16 illustrate change -- no, not changes, sorry -- on  
 17 differences between the no-build and the build  
 18 alternatives. And that, I think, can be achieved much  
 19 more efficiently and much more accurately in this  
 20 two-block model that shows a really great variety of  
 21 different conditions within a small area.  
 22 **Q. And the task --**  
 23 A. Yeah.  
 24 **Q. -- that you just described, that was defined to you**  
 25 **by Mr. Welch?**

1 **two blocks, or two block faces within the city, it's**  
 2 **your opinion that your model comes closer to**  
 3 **depicting real-life conditions than the actual**  
 4 **consideration of the existing city blocks?**  
 5 A. Yes, I believe so. In the sense that there's a  
 6 greater variety that we can illustrate in this area  
 7 than would exist on any real-life -- on most  
 8 real-life blocks, yes.  
 9 **Q. Okay. In your iterations back and forth with**  
 10 **Mr. Welch, did the topic ever come up as to whether**  
 11 **your modeling should be based upon actual existing**  
 12 **city blocks or a sampling of actual city blocks?**  
 13 A. It was a consideration early on in the process, yes.  
 14 **Q. It was a consideration?**  
 15 A. Mm-hmm.  
 16 **Q. Okay. But then through the process, that**  
 17 **consideration was abandoned?**  
 18 A. Yes.  
 19 **Q. What's your understanding as to why it was abandoned?**  
 20 A. Well, one of the reasons, I believe, just, you know,  
 21 like I described, is the hypothetical block allowed  
 22 us to show a greater variety of conditions. For  
 23 instance, on this exhibit you see the left block has  
 24 an alley, the right block doesn't. There's a variety  
 25 of lot sizes from smaller to larger that typically

1 A. No.  
 2 **Q. You just described the task, and I'm asking who**  
 3 **defined the task of this particular --**  
 4 A. Well, let me rephrase what I said. My understanding  
 5 of the purpose of these drawings...  
 6 **Q. Is?**  
 7 A. What I've just described is to illustrate the  
 8 differences between the no-build alternative and the  
 9 three-build alternatives. Or the two-build  
 10 alternatives and then the preferred alternative.  
 11 **Q. Okay. Where did that understanding come from?**  
 12 A. I honestly don't recall -- it was well over a year  
 13 ago -- exactly when sort of the scope of work was  
 14 defined.  
 15 **Q. So tell me, how familiar are you with the City of**  
 16 **Seattle?**  
 17 A. I'm somewhat familiar. I've never lived here. I've  
 18 visited multiple times.  
 19 **Q. Okay. And so as part of this work, did you make it a**  
 20 **point to drive around the various city neighborhoods**  
 21 **to get a sense as to the character and variation of**  
 22 **those neighborhoods?**  
 23 A. Not in person, no.  
 24 **Q. Okay.**  
 25 A. No, like I said, I spent a fair amount of time

1 driving Seattle streets in Google Earth.  
 2 **Q. In Google Earth?**  
 3 A. Yeah.  
 4 **Q. Okay. Street view? Aerial view?**  
 5 A. Yep, exactly.  
 6 **Q. Okay. Well, less traffic congestion?**  
 7 A. Yeah, that's very true.  
 8 **Q. Okay. I'm drawing your attention to, again just for**  
 9 **ease of reference, page -- sorry. I think I was on**  
 10 **page -- I apologize for jumping around. I realize**  
 11 **it's annoying to watch.**  
 12 **Okay. So in abandoning -- you know, giving**  
 13 **consideration to actual existing city streets in**  
 14 **actual existing neighborhoods, did the budget play a**  
 15 **factor?**  
 16 A. I don't feel comfortable with the term "abandoning"  
 17 because I don't think that is what we did. I think  
 18 we came to the conclusion that what we ended up doing  
 19 was a better way of doing it.  
 20 **Q. Well, that was not what I was asking. I wasn't**  
 21 **asking your impression as to which was the better**  
 22 **way. So clearly your modeling was not based upon**  
 23 **actual existing city streets. You used a model which**  
 24 **was a composite of conditions, correct?**  
 25 A. It was a composite of actual existing conditions,

1 **judgment, taking that approach, actual city blocks**  
 2 **would be too costly?**  
 3 A. Well, actually, that discussion happened after HDR  
 4 already had a signed contract, so our budget was  
 5 fixed at that point.  
 6 **Q. Okay. Then was it a determination that you couldn't**  
 7 **do that work within the fixed budget?**  
 8 A. It was a determination that a more efficient and  
 9 actual better way of doing it was what we ended up  
 10 doing within --  
 11 **Q. But cost --**  
 12 A. -- within --  
 13 **Q. -- but cost played a factor?**  
 14 A. Cost was one of the factors, correct.  
 15 **Q. Okay. And so for you to consider, let's say, a**  
 16 **sampling of the various scenarios under the various**  
 17 **alternatives, and by that I mean the four**  
 18 **alternatives, and you have existing conditions,**  
 19 **10-year, and then full build-out, that actually**  
 20 **considering those scenarios under existing city**  
 21 **blocks would involve greater cost; is that correct?**  
 22 A. It depends on the number of blocks.  
 23 **Q. On the number of blocks?**  
 24 A. Yeah.  
 25 **Q. But in a way, any number of blocks, whether it's six**

1 though.  
 2 **Q. Yeah, but it's not - to represent an actual**  
 3 **city block, correct?**  
 4 A. Correct.  
 5 **Q. Okay. You testified earlier that there was**  
 6 **consideration again into using actual city blocks?**  
 7 A. Correct.  
 8 **Q. But you chose not to do that?**  
 9 A. Correct.  
 10 **Q. In that sense, I used the verb "abandoned."**  
 11 A. Okay.  
 12 **Q. Okay. So you chose not to do that.**  
 13 A. Mm-hmm.  
 14 **Q. My question is: In the choice not to do that, did**  
 15 **budget or cost play a factor?**  
 16 A. To the best of my recollection, that was one of the  
 17 factors, correct.  
 18 **Q. Okay. So then was the City's concern that actually**  
 19 **basing your aesthetic impact analysis on an actual**  
 20 **existing city street would be too costly for the**  
 21 **City?**  
 22 A. I can't speak for the City.  
 23 **Q. Okay. I'm speaking of your understanding. You**  
 24 **indicated that cost did play a factor. My question**  
 25 **is: Did it play a factor because in the City's**

1 **blocks, 10 blocks, 16 blocks, consideration of those**  
 2 **scenarios would involve greater cost, right?**  
 3 A. Correct.  
 4 **Q. Okay. And cost was a factor in going the direction**  
 5 **you did go of creating this hypothetical set of**  
 6 **blocks, right?**  
 7 A. It was one of the factors, yes.  
 8 **Q. Thank you. Let's see. I think I found it. Come on.**  
 9 **Okay. So what I'm looking for is, I think it's**  
 10 **4-134; which I'm drawing your attention to page 4-134**  
 11 **of the EIS.**  
 12 A. Okay.  
 13 **Q. Okay. This is the full build-out for the preferred**  
 14 **alternative.**  
 15 A. That is --  
 16 **Q. I'm just saying that for the correct.**  
 17 A. That is correct.  
 18 **Q. I realize it says it right there on the page.**  
 19 A. Yeah.  
 20 **Q. I read it. Okay. And you prepared this?**  
 21 A. I did.  
 22 **Q. Okay. And did you receive feedback from Mr. Welch on**  
 23 **this particular rendition?**  
 24 A. I don't recall specifically because there were a  
 25 number of (inaudible) that I produced.

1 **Q. Okay. So for each of these lots, did you make a**  
 2 **determination as to whether the principal dwelling**  
 3 **plus the attached accessory dwelling would fit within**  
 4 **35 percent lot coverage?**  
 5 A. Yes.  
 6 **Q. You did? Did you know whether -- and let me ask you**  
 7 **this.**  
 8 **So there are separate rear yard lot coverage**  
 9 **limitations?**  
 10 A. Yep.  
 11 **Q. And do these represent compliance with those rear**  
 12 **yard limitations?**  
 13 A. They do, yes.  
 14 **Q. Okay. What is your understanding in terms of rear**  
 15 **yard limitations for lots under 5,000 square feet,**  
 16 **what is your understanding relating to the**  
 17 **consideration of area within the alley?**  
 18 A. The alley, half of the alley was included in the rear  
 19 calculation.  
 20 **Q. For the lots on the left or the western side of this**  
 21 **hypothetical street?**  
 22 A. Correct.  
 23 HEARING EXAMINER: I'm sorry, you said lots smaller  
 24 than 5,000 square feet?  
 25 MR. EUSTIS: Smaller than 5,000 square feet.

1 that's what I was trying to describe earlier, I  
 2 approached it like an architect would have.  
 3 **Q. Okay. And I was...**  
 4 A. Looking at the rules involved in the building  
 5 footprint and the building overlay.  
 6 **Q. But I was specifically asking about the higher**  
 7 **percentage of lot coverage that would ally to lots**  
 8 **under 5,000 square feet.**  
 9 A. I'm sorry, I'm not sure what you're questioning.  
 10 **Q. So this illustration does contain lots under 5,000**  
 11 **square feet?**  
 12 A. It does, yes.  
 13 **Q. Okay. And for purposes of putting these depictions**  
 14 **on the buildings, did you consider the additional lot**  
 15 **coverage that is allowed for lots under 5,000 square**  
 16 **feet?**  
 17 A. I'm not sure I understand what you mean by  
 18 "additional lot coverage."  
 19 **Q. Are you aware that for lots under 5,000 square feet,**  
 20 **the lot coverage may exceed 35 percent?**  
 21 A. So I don't...  
 22 **Q. I'm just asking if you're aware of that.**  
 23 A. I don't recall at this point.  
 24 **Q. Okay. Thank you.**  
 25 **So at least looking at this visually, this is the**

1 HEARING EXAMINER: Okay.  
 2 **Q. (By Mr. Eustis) So as Mr. Welch testified, for lots**  
 3 **smaller than 5,000 square feet, is there a different**  
 4 **formula used for lot coverage?**  
 5 A. I need to see that. It's been a while that I've  
 6 looked at the model. So I haven't looked at the  
 7 calculations and I haven't looked at what I did  
 8 specifically in developing it, you know, since last  
 9 August, so some of the details I'm a little foggy on,  
 10 so...  
 11 **Q. And one of the details you're foggy on is what, lot**  
 12 **coverage for lots under 5,000 square feet?**  
 13 A. Yes, some of those.  
 14 **Q. Okay.**  
 15 A. I don't want to represent knowledge of something that  
 16 I may or may not recall, so...  
 17 **Q. Okay. So this hypothetical block does contain lots**  
 18 **under 5,000 square feet?**  
 19 A. It does, yes.  
 20 **Q. Okay. And so you can't say whether the lot coverage**  
 21 **on those lots would be consistent with what the code**  
 22 **would allow or reflective of 35 percent?**  
 23 A. In each of the alternatives and in each scenario,  
 24 everything that's here (inaudible) reflective of what  
 25 each of the proposed code changes would allow. And

1 **four build-out model, this appears to show a fair**  
 2 **amount of separation between the accessory dwelling**  
 3 **units and the houses and even among the houses. In**  
 4 **your virtual tours of the City of Seattle, do you**  
 5 **recall this being representative of any particular**  
 6 **neighborhood?**  
 7 A. No. This is representative of the development  
 8 potential of these lots.  
 9 **Q. Okay.**  
 10 A. It doesn't try to represent anything currently in  
 11 existence.  
 12 **Q. Mr. Kisielius asked you a question as to whether your**  
 13 **model purported to depict real-life conditions in the**  
 14 **various neighborhoods of Seattle, I recall. And one**  
 15 **of your answers was there was concern that**  
 16 **representing a specific block would create**  
 17 **speculation that a particular owner might be**  
 18 **considering an accessory dwelling unit.**  
 19 A. Yes.  
 20 **Q. And where did that concern come from?**  
 21 A. That is a pretty common occurrence in my field.  
 22 Where if you, in a planning project, where if you  
 23 show something developed on somebody's property and  
 24 then, you know, the neighbor says, "Hey, John is  
 25 going to build a house there," and John doesn't know

1 anything about it, so there was a concern about that.  
 2 So there's a benefit in having a hypothetical  
 3 block, because then you're stripping away that  
 4 potential for distraction. You're focusing on the  
 5 important (inaudible), which is, you know,  
 6 illustrating the differences between the  
 7 alternatives.  
 8 **Q. Okay. Okay. So this is your notion that you**  
 9 **expressed. But was that concern expressed to you by**  
 10 **the City?**  
 11 A. No.  
 12 **Q. Okay. So this is something that you just imported as**  
 13 **a reason you gave?**  
 14 A. That is my professional experience, yes.  
 15 **Q. Okay. And do you know if that's the experience in**  
 16 **the City of Seattle?**  
 17 A. I don't know that.  
 18 **Q. Okay. I'm next drawing your attention to what is**  
 19 **marked as page 4-138 of the Environmental Impact**  
 20 **Statement.**  
 21 A. Okay.  
 22 **Q. And I would gather that this purports to be a**  
 23 **representation from the oblique view of full**  
 24 **development under the preferred alternative?**  
 25 A. Correct. It's the same model that we (inaudible).

1 **Q. Okay. So it would have to be what, a side door or a**  
 2 **rear door?**  
 3 A. Correct.  
 4 **Q. Okay. So under the preferred alternative, do you**  
 5 **have an understanding as to where the entry could be?**  
 6 A. And again, I want to repeat that it's been, you know,  
 7 eight, nine months since I've touched this, so some  
 8 of my recollection may be vague. My understanding is  
 9 that under the preferred alternative, ADUs may be  
 10 accessed from the front facade.  
 11 **Q. To the front facade?**  
 12 A. That's my recollection, yes.  
 13 **Q. All right. So if that were the case, then your**  
 14 **rendition, if you were showing a variety, should show**  
 15 **principal units and accessory dwelling units with**  
 16 **both accessed from the front facade?**  
 17 A. That is correct, yeah.  
 18 **Q. Okay. And do they?**  
 19 A. In this particular image, I'm not sure. I think if  
 20 you look at the -- let's see -- on the right diagonal  
 21 street, the fourth house from the left, if I recall  
 22 correctly, see sort of a sliver of the orange peeking  
 23 out, my recollection is that front porch actually  
 24 serves the access to both the front main house and  
 25 the ADU with side-by-side doors.

1 **Q. All right. So in these structures you see that --**  
 2 **and I'm looking at the structures that face the city**  
 3 **block, that runs diagonally across the upper**  
 4 **right-hand portion of this document -- and you see**  
 5 **that each of these houses or the principal structure**  
 6 **has, it appears to be a porch covered by a short shed**  
 7 **and roof?**  
 8 A. Right.  
 9 **Q. It appears to be the access to the house?**  
 10 A. Correct.  
 11 **Q. Okay. What did you understand, under the preferred**  
 12 **alternative, what did you understand to be the**  
 13 **limitation or not of entryways to various units?**  
 14 A. If I recall correctly, there's differences between  
 15 the alternatives in terms of the access to the ADU in  
 16 terms of the front door facing the street.  
 17 **Q. Okay. So under the current conditions, is there a**  
 18 **limitation on where the access to the accessory**  
 19 **dwelling unit may be?**  
 20 A. That is my recollection.  
 21 **Q. What's the limitation?**  
 22 A. That the front door can't be in the street-facing for  
 23 some.  
 24 **Q. The front door to the accessory dwelling unit?**  
 25 A. To the accessory dwelling unit, yes.

1 **Q. Okay. All right. So in your understanding, assuming**  
 2 **that you, for instance, the principal unit and two**  
 3 **attached accessory development units within a single**  
 4 **structure, under your understanding, would there be**  
 5 **anything that would prevent there from being three**  
 6 **entryways on the front facade of the house?**  
 7 A. I don't recall.  
 8 **Q. Okay. Do you recall anything that would prohibit**  
 9 **three entryways?**  
 10 A. Like I said, I don't recall, no.  
 11 **Q. Mr. Kuehne, I don't know if you were here for it,**  
 12 **there has been, by opponent's three witnesses, there**  
 13 **has been testimony on the potential for the**  
 14 **development of accessory dwelling units as separate**  
 15 **condominiums and the sale of those condominiums to**  
 16 **separate owners.**  
 17 A. Okay.  
 18 **Q. In terms of your modeling, is that a variation that**  
 19 **you considered?**  
 20 A. No.  
 21 **Q. Okay. And was it ever a topic of conversation?**  
 22 A. It was not, no.  
 23 **Q. In looking at page 138, and I see that sort of the**  
 24 **orange-brown rendition show the accessory dwelling**  
 25 **units?**

1 A. Correct.  
 2 **Q. Detached and attached?**  
 3 A. That's correct.  
 4 **Q. I don't see any renditions that show two attached**  
 5 **accessory dwelling units built within a single unit;**  
 6 **is that correct?**  
 7 A. To my best recollection, that is correct, yes.  
 8 **Q. Okay. Was this ever a topic of conversation between**  
 9 **you and Mr. Welch?**  
 10 A. I don't recall.  
 11 **Q. So in terms of -- you know, I understand that your**  
 12 **model attempted to present not for any specific**  
 13 **block, but present the variety of conditions, lot**  
 14 **size, et cetera.**  
 15 A. Yeah.  
 16 **Q. But apparently that outcome was not within that**  
 17 **variety of conditions?**  
 18 A. I don't have any recollection of that.  
 19 **Q. I'm showing you page 4-138. You see there's a**  
 20 **scattering of street trees?**  
 21 A. Yes.  
 22 **Q. All right. And then I'll go to page 4-134. Again**  
 23 **what you show nearly in front of every lot is a**  
 24 **street tree?**  
 25 A. Mm-hmm.

1 **Q. Okay. So there are a number of, let's say, close in**  
 2 **city neighborhoods, well-established neighborhoods.**  
 3 A. Yeah.  
 4 **Q. By name, are you familiar with, for instance, from**  
 5 **the drone map --**  
 6 A. I'm familiar with Queen Anne. I'm familiar with -- I  
 7 spent a bit of time in Fremont. I spent a bit of  
 8 time in -- I'm blanking on the name -- just north of  
 9 Fremont.  
 10 **Q. Wallingford?**  
 11 A. Thank you, yeah.  
 12 **Q. Okay. And are you familiar with Madison Park?**  
 13 A. I'm not.  
 14 **Q. Montlake?**  
 15 A. No.  
 16 **Q. Madrona?**  
 17 A. The name sounds familiar. I can't pinpoint it on the  
 18 map.  
 19 **Q. Seward Park?**  
 20 A. No.  
 21 **Q. Magnolia?**  
 22 A. No.  
 23 **Q. Ravenna?**  
 24 A. I'm sorry?  
 25 **Q. Ravenna?**

1 **Q. In your virtual tour of the city, did you find that**  
 2 **that was a common characteristic, that you would have**  
 3 **this frequency of street trees?**  
 4 A. The street trees were really not my focus of the  
 5 analysis. My primary focus was to analyze lot size,  
 6 lot configuration, and the housing typology.  
 7 **Q. All right.**  
 8 A. I do believe, if memory serves me right, that the  
 9 trees are somewhat representative of what I saw out  
 10 there. But, you know, like I said, it's been a  
 11 while, so I can't really recall except looking at the  
 12 (inaudible).  
 13 **Q. So I gather, you have essentially on each block, in**  
 14 **front of every lot, you have a street tree.**  
 15 A. Yeah.  
 16 **Q. So I gather that this was done generically. And**  
 17 **unlike your sampling of lot size, you weren't trying**  
 18 **to represent the, you know, street tree configuration**  
 19 **that one would encounter through Seattle**  
 20 **neighborhoods?**  
 21 A. Well at least I don't recall that. I do believe that  
 22 it's a little more than random samplings.  
 23 **Q. Okay. Are you familiar with city neighborhoods by**  
 24 **name?**  
 25 A. I am with some, yes.

1 A. No.  
 2 **Q. Okay. So if you're not familiar with them, I take it**  
 3 **that in creating this typology of lots in your**  
 4 **virtual tour, you don't recall in your virtual tour**  
 5 **going to those specific neighborhoods?**  
 6 A. I don't recall that. But my tour was not necessarily  
 7 focused on names as much as houses.  
 8 **Q. Okay. So you may have, but you don't have a specific**  
 9 **recollection?**  
 10 A. Correct.  
 11 **Q. All right.**  
 12 MR. EUSTIS: Okay. Mr. Kuehne, I don't have any  
 13 more questions. Thank you for your attention.  
 14 THE WITNESS: Thank you.  
 15 HEARING EXAMINER: Mr. Ellison?  
 16 MR. ELLISON: Thank you very much.  
 17  
 18 CROSS EXAMINATION  
 19 BY MR. ELLISON:  
 20 **Q. Hello, Mr. Kuehne.**  
 21 A. Hi.  
 22 **Q. Welcome to Seattle again.**  
 23 A. Thank you.  
 24 **Q. We sometimes call the city the Emerald City. I'd**  
 25 **like to sort of look some of your drawings and try to**

1 **compare them back and forth a little bit if that's**  
 2 **okay with you.**  
 3 A. Okay. Sure.  
 4 **Q. And let's start with -- I mean, some of them are**  
 5 **really very similar, so the ones I've taken in my**  
 6 **notes, we're going to 4-85.**  
 7 MR. EUSTIS: I'm sorry, I'm asleep.  
 8 MR. KISIELIUS: Did you 85?  
 9 MR. ELLISON: 4-85, yes.  
 10 MR. KISIELIUS: Okay.  
 11 MR. ELLISON: Which is a street view.  
 12 MR. KISIELIUS: I don't think it's 4-85.  
 13 MR. EUSTIS: Right.  
 14 MR. KISIELIUS: I don't think that's the page  
 15 number.  
 16 HEARING EXAMINER: That's not the right page  
 17 number.  
 18 MR. ELLISON: How about...  
 19 HEARING EXAMINER: 4-87. Are you talking about the  
 20 houses?  
 21 MR. ELLISON: There's a street view of houses.  
 22 Actually, I think we looked at the perimeter.  
 23 HEARING EXAMINER: That was in, I think, Mr.  
 24 Welch's testimony. Yeah, we're not doing that. But  
 25 I think you need to stick to the model drawings.

1 MR. ELLISON: I think you called it a street view  
 2 at one point.  
 3 MR. EUSTIS: Okay.  
 4 HEARING EXAMINER: It might be 136 through 138.  
 5 MR. ELLISON: So starting off with the current  
 6 view.  
 7 MR. EUSTIS: Okay. Okay. Okay, 4-134, I'll get  
 8 there.  
 9 HEARING EXAMINER: I think it's 136.  
 10 MR. EUSTIS: 136, okay.  
 11 MR. KISIELIUS: Here, I'll give you a page. I  
 12 mean, on my copy it's Exhibit 4.3-13.  
 13 MR. EUSTIS: Sorry.  
 14 HEARING EXAMINER: So what page number is that?  
 15 MR. KISIELIUS: Well, in this book it says 4-85.  
 16 Apparently, I'm looking at the draft EIS is what it  
 17 is.  
 18 HEARING EXAMINER: Oh.  
 19 MR. KISIELIUS: That's why it's messing the pages  
 20 up. So you want 4.3-13. That's page 4-105.  
 21 HEARING EXAMINER: Okay.  
 22 MR. KISIELIUS: This one?  
 23 MR. ELLISON: Yes, sir.  
 24 MR. KISIELIUS: It's 4-105.  
 25 MR. ELLISON: 105, okay.

1 That's what he was responsible for.  
 2 MR. ELLISON: Right. I guess what I'm looking for  
 3 is, it could be, really, any of the before-and-after  
 4 model streets that were shown. In all the  
 5 alternatives they started using the same models and  
 6 then they just do different things to them. So any  
 7 of the preferred alternatives, we could use that.  
 8 HEARING EXAMINER: So why don't you just pick out  
 9 4-134, which is a preferred alternative, and then  
 10 there's also 4-132 and 133. Just a suggestion.  
 11 MR. KISIELIUS: I don't think you suggested  
 12 (inaudible).  
 13 MR. EUSTIS: If the Examiner may direct your query,  
 14 by all means.  
 15 HEARING EXAMINER: Just trying to make things move  
 16 quickly.  
 17 MR. EUSTIS: Okay. This is 132. Is that the one  
 18 you want?  
 19 MR. ELLISON: What I was looking for is -- I mean,  
 20 I can start this way, but I was hoping to look at  
 21 the, sort of the lateral view.  
 22 MR. KISIELIUS: Oblique.  
 23 MR. EUSTIS: Oblique.  
 24 MR. ELLISON: The oblique view, is that the term?  
 25 MR. KISIELIUS: So 4-136.

1 HEARING EXAMINER: Thank you.  
 2 MR. KISIELIUS: We can as a team pull this off.  
 3 Okay. Now, you have to go turn it around again.  
 4 MR. ELLISON: I think I can handle it.  
 5 MR. KISIELIUS: You got this?  
 6 **Q. (By Mr. Ellison) Okay. So on this one view, we get**  
 7 **to see the current conditions, the 10-year plan and**  
 8 **the full build-out.**  
 9 A. Correct.  
 10 **Q. And so when I was looking at this, I noticed that --**  
 11 **I see some lines between. I'm assuming that's drawn**  
 12 **lot lines?**  
 13 A. Are you referring to the lines -- wait. Yes. Yeah.  
 14 **Q. These are lot lines here?**  
 15 A. Correct. Yeah.  
 16 **Q. So I can sort of count trees in this.**  
 17 A. Okay.  
 18 **Q. And see, you know, it looks like maybe there's seven**  
 19 **trees in the cluster at the top here under the**  
 20 **existing plan.**  
 21 A. Yeah.  
 22 **Q. And then you go to the 10-year plan, we're down to**  
 23 **three trees. And then the full build-out, you go**  
 24 **down to two trees. Okay?**  
 25 A. Okay.

1 **Q. And so you're representing -- is this, you know, a**  
 2 **representative view of what you think conditions are**  
 3 **going to be?**  
 4 A. I can tell you, I'm not sure if it was for all of  
 5 them, one of the alternatives I actually counted the  
 6 trees just the other day, so I came somewhat prepared  
 7 for this.  
 8 **Q. Okay.**  
 9 A. And in the existing conditions, the whole model, the  
 10 two-block model in that alternative had 121 trees.  
 11 In the 10-year scenario, it's 115. In the full  
 12 build-out, 86 trees that are shown in the model.  
 13 **Q. That are shown in?**  
 14 A. In the entire model for the two-block area.  
 15 **Q. Okay. Because if we go to -- well what I have is --**  
 16 A. Yeah.  
 17 **Q. -- Figure 4.3-23, which is basically looking at the**  
 18 **same view with alternative three under existing**  
 19 **conditions, and then looking at the 10-year and full**  
 20 **build-out conditions.**  
 21 MR. EUSTIS: Which alternative is this, do you  
 22 know?  
 23 MR. ELLISON: This was the alternative three. I  
 24 mean, they're all pretty much the same, I think, in  
 25 the sense of, you know -- if we can go to that page

1 **conditions and I count trees, excluding the street**  
 2 **trees, and I want trees in the interior, okay, on the**  
 3 **left block, I was counting 21 trees to start with,**  
 4 **and on the right block I was counting 30 trees to**  
 5 **start with.**  
 6 A. Yes.  
 7 **Q. And what I was noticing is in the left block after**  
 8 **the 10-year scenario, so if we go to the next page,**  
 9 **you lost one tree on the left block. And on the**  
 10 **right block you lost five trees. So there was a**  
 11 **decline of five percent trees in the left block and**  
 12 **17 percent of the trees in the right block. I**  
 13 **believe there was (inaudible) map on this.**  
 14 A. Okay.  
 15 MR. ELLISON: And then going to the next slide,  
 16 Jeff --  
 17 MR. EUSTIS: Yeah.  
 18 MR. ELLISON: -- the next slide for the full  
 19 build-out scenario.  
 20 MR. EUSTIS: Marty, he's in the hot seat.  
 21 MR. ELLISON: I'm sorry.  
 22 **Q. (By Mr. Ellison) We've lost 15 trees on the left**  
 23 **block and we've lost 22 trees on the right block. So**  
 24 **on the left block we've lost 71 percent of the trees**  
 25 **and on the right block we've lost 73 percent of**

1 on the screen that would be great, yes. On mine  
 2 it's --  
 3 MR. KISIELIUS: Which, I'm sorry? Same set of  
 4 images, which alternative are you interested in?  
 5 MR. ELLISON: I was looking at alternative three.  
 6 MR. KISIELIUS: I think that will be on page --  
 7 MR. ELLISON: 4-120?  
 8 MR. KISIELIUS: 4-129, I think.  
 9 MR. EUSTIS: He's on the planned.  
 10 MR. KISIELIUS: Oh, on the planned view.  
 11 MR. ELLISON: Yeah.  
 12 MR. KISIELIUS: Oh, I will step away, I'm sorry.  
 13 Just trying to help.  
 14 MR. KAPLAN: We're all getting (inaudible) for  
 15 helping. So which?  
 16 MR. ELLISON: I was looking at alternative three,  
 17 but I believe it's the same conditions.  
 18 HEARING EXAMINER: Existing conditions.  
 19 MR. ELLISON: Existing conditions, correct, of the  
 20 10-year compared to the...  
 21 HEARING EXAMINER: That would be 4-120. Yes, 120.  
 22 MR. ELLISON: So 4-120 is existing conditions?  
 23 HEARING EXAMINER: Yes.  
 24 MR. ELLISON: Okay. Thank you.  
 25 **Q. (By Mr. Ellison) So when I compare existing**

1 **the trees.**  
 2 MR. KISIELIUS: I'm going to object at this point.  
 3 Because again, it sounds like we're doing some  
 4 testimony about calculations that Mr. Ellison has  
 5 done.  
 6 MR. ELLISON: What I'm trying to do is understand  
 7 the correlation between -- if there's a correlation  
 8 between the aesthetics drawings. And part of that is  
 9 to draw attention to the existing conditions in the  
 10 City of Seattle and how this may represent a true  
 11 rendition of what's going on or if this is just an  
 12 abstract rendition of what's going on.  
 13 HEARING EXAMINER: Okay. You need to ask  
 14 questions, though, instead of...  
 15 **Q. (By Mr. Ellison) How did you determine how many trees**  
 16 **to start with and how many trees to remove through**  
 17 **this scenario?**  
 18 A. In answer to your first question, how did I determine  
 19 how many trees to start with, I first started  
 20 developing the model with the buildings. And then I  
 21 placed trees in a specific -- you're talking about  
 22 the trees on private properties, not the streets?  
 23 **Q. Yes. Yes, correct.**  
 24 A. Then I placed trees where they made sense in terms  
 25 of, like, where they would fit, where you would find

1 them in a neighborhood. And I didn't plant a forest  
2 in the model, so I'm showing one or two trees, I  
3 believe, for the most part on lots.

4 And again, as I pointed out earlier, some of the  
5 trees I had to remove because they would actually  
6 obscure a view. So what's represented here is not  
7 the actual existing or proposed tree coverage. That  
8 was never the intent of these drawings.

9 And then in answer to your second question,  
10 starting with that, and I think I mentioned that  
11 earlier, in developing the redeveloped lots in the  
12 10-year scenario, or the newly-developed lots in the  
13 full build-out, I started removing trees where they  
14 were in the way, quote/unquote, of proposed  
15 buildings.

16 **Q. So what you're representing is that the trees you  
17 placed initially were not trees that may have been  
18 there or not, they were just ones that you felt,  
19 well, they could go there if you wanted them to?**

20 A. Well, since it's a hypothetical block, so there's no  
21 tree that was there, right. I mean it's  
22 hypothetical.

23 **Q. How were you instructed as far as how to approach  
24 dealing with a tree canopy for the creation of these  
25 illustrations?**

1 **canopy cover in 10 years or in full build-out  
2 scenario?**

3 A. I don't know the answer to that. They may or may not  
4 be.

5 **Q. So it would just be by luck that may be they would  
6 be?**

7 A. Maybe. I wouldn't say by luck, because again I spent  
8 a fair amount of time looking at existing conditions.  
9 And like I said, the houses are actually -- the  
10 existing houses that I've drawn are closely based on  
11 real-life houses that you find out there. And then I  
12 placed trees where they would fit, where they would  
13 reasonably be in a yard. So it's more than luck. I  
14 think it's -- I would say it's a fair assumption.

15 **Q. Would you say that the -- are you familiar with any  
16 canopy maps of the City of Seattle?**

17 A. I'm not.

18 **Q. Are you familiar with any of the studies that have  
19 been done on the canopy of Seattle?**

20 A. Nope.

21 **Q. Because the canopy of Seattle, the average  
22 single-family neighborhoods -- I don't know if this  
23 is giving information I'm not supposed to -- but  
24 Seattle average canopy coverage in a single-family  
25 zone is 32 percent.**

1 A. I don't recall any specific instructions.

2 **Q. So the diagrams that you presented are not really an  
3 accurate portrayal of what canopy cover of a Seattle  
4 neighborhood might be?**

5 A. I don't know. But like I said, that was not the  
6 intent of these drawings. The intent of the drawings  
7 is to compare the alternatives.

8 **Q. Well, the alternatives might have an impact on the  
9 tree canopy. And if one was interested in assessing  
10 the impacts of tree canopy, perhaps there was a way  
11 of representing that in a graphical form.**

12 A. Well, I believe we did.

13 **Q. Well, I'll ask you this question. Were you  
14 instructed to create illustrations in this document,  
15 in the EIS, that portray the actual tree canopy of  
16 the city or of any neighborhoods in the city?**

17 A. To my recollection, no.

18 **Q. Okay. So would it be fair to say that these  
19 illustrations are not an accurate portrayal of the  
20 City of Seattle before or after, except that perhaps  
21 there are less trees after the building of -- 10  
22 years' worth of build-up in this project?**

23 A. I'm sorry, can you repeat that question?

24 **Q. That these diagrams would not be an accurate  
25 portrayal of the existing canopy coverage or the**

1 MR. KISIELIUS: I'm going to object before we get  
2 to further testimony, adding facts to the record.

3 MR. ELLISON: Okay. So...

4 HEARING EXAMINER: Just a minute, Mr. Ellison.

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

6 HEARING EXAMINER: Okay. So there was evidence in  
7 the record earlier, I believe it's Exhibit 28, the  
8 last page, that provides factual information on tree  
9 canopy cover in single-family neighborhoods. And if  
10 you would like to use that and show it to the  
11 witness, you may. But you can't just say --

12 MR. ELLISON: A number.

13 HEARING EXAMINER: -- you know, give us a  
14 recitation of facts, because that is you testifying,  
15 which you're not allowed to do.

16 MR. ELLISON: Can we put up Exhibit 28 that might  
17 show an illustration of configuration of canopy  
18 cover?

19 MR. KAPLAN: Yes, sir.

20 MR. ELLISON: Right on. Is that the example that  
21 you were considering?

22 HEARING EXAMINER: Yeah, the graph on the bottom, I  
23 believe, gives a quantification of...

24 **Q. (By Mr. Ellison) So according to this chart,  
25 single-family neighborhoods, imagine you have 63**



1 percent of the canopy cover in the City of Seattle.  
 2 A. Okay.  
 3 **Q. And so if I'm looking at your illustrations, do you**  
 4 **get the impression that this displays a 63 percent**  
 5 **canopy cover relative to what is in the City of**  
 6 **Seattle?**  
 7 MR. KISIELIUS: Objection. Again, so we have 63  
 8 percent canopy cover. He's asking him a question  
 9 that we don't have facts in the record about what  
 10 that means in terms of a real canopy cover in the  
 11 neighborhood. We're building a case from facts that  
 12 don't exist in the record.  
 13 HEARING EXAMINER: I'm going to allow it. Go  
 14 ahead.  
 15 **Q. (By Mr. Ellison) I guess part of my concern is that**  
 16 **if we're creating illustrations that appear to show**  
 17 **trees and show canopy in the City of Seattle, that,**  
 18 **for example, perhaps could there be a**  
 19 **misinterpretation of a drawing like this as to what**  
 20 **canopy cover is actually in the City of Seattle based**  
 21 **upon your illustrations?**  
 22 A. Could there be a misinterpretation? I think it's  
 23 always a danger that there's a potential for  
 24 misinterpretation in any drawing. So I think, yes,  
 25 there is a danger, sure.

1 that would allow you to say, well I'd like to show a  
 2 **30 percent canopy cover on this area?**  
 3 A. No. No. Like I said, the SketchUp, it's a simple  
 4 drawing software. There's nothing automated.  
 5 **Q. Would there be an option for, say, if you wanted to**  
 6 **show a canopy of a tree that wouldn't block out, say,**  
 7 **a building, and that you could actually sort of make**  
 8 **dots around the edge of the canopy that might show,**  
 9 **okay, here's the canopy, but you still see the**  
 10 **building through the structure?**  
 11 A. Are you asking me is technically possible to draw  
 12 something like that?  
 13 **Q. Yes, sir.**  
 14 A. Certainly, yes.  
 15 **Q. Is that a practice that is commonly done to**  
 16 **illustrate something that is hidden underneath**  
 17 **something else?**  
 18 A. I am not familiar with illustrating tree canopies per  
 19 se, so I can't really speak to that. And that was  
 20 not what I was tasked with.  
 21 **Q. And when you say you were not tasked with this, what**  
 22 **is the origin of that task? Was that from the scope**  
 23 **that you were given by your bosses?**  
 24 A. Yeah. I mean, that was the scope that was part of  
 25 our contract.

1 **Q. And you have stated you have not looked at any aerial**  
 2 **photos nor looked at any maps showing the tree**  
 3 **canopy?**  
 4 A. No, that's incorrect. I looked at aerial photos. I  
 5 did not specifically study the tree canopy in the  
 6 City of Seattle. But I looked -- like I said, I  
 7 spent a fair amount of time on Google Earth.  
 8 MR. ELLISON: Can we look at Exhibit 4.2-9 in the  
 9 body of the EIS?  
 10 MR. KISIELIUS: 4.2-9? Is that a page?  
 11 MR. ELLISON: Yeah.  
 12 MR. KISIELIUS: I think it may be a section.  
 13 MR. ELLISON: Yeah, it must be an exhibit.  
 14 HEARING EXAMINER: There's a table, Exhibit 4.2-9  
 15 as 4-54 in the final -- yeah, it is.  
 16 MR. ELLISON: Right there. There we go. But if  
 17 you blow that up, actually, a little bit.  
 18 MR. KAPLAN: Which part do you want me to blow up?  
 19 MR. ELLISON: This section right here.  
 20 MR. KAPLAN: Okay.  
 21 **Q. (By Mr. Ellison) So a study was done showing that the**  
 22 **average tree canopy cover on parcels in single-family**  
 23 **residences were an average of 30.8 percent canopy**  
 24 **coverage. And so I'm wondering, is there anything in**  
 25 **this software that you used, the SketchUp software,**

1 **Q. And did you have any opportunity to, say, ask the**  
 2 **City of Seattle as to an interpretation of what that**  
 3 **scope might be regarding a tree canopy? Did that**  
 4 **come up in conversation?**  
 5 A. The tree canopy, to my recollection, was never part  
 6 of that discussion. Again, my task was to illustrate  
 7 differences between the alternatives in terms of  
 8 the -- applying the different code provisions of the  
 9 various alternatives and what a visual impact of  
 10 those code alternatives would be. The tree canopy is  
 11 not part of those code alternatives.  
 12 **Q. Okay. I won't discuss city code at this point. Did**  
 13 **you have any instructions at all -- you said you**  
 14 **didn't have instructions from anyone at the city on**  
 15 **the tree canopy, is that correct?**  
 16 A. Correct.  
 17 **Q. Okay. Were there any instructions given to you in**  
 18 **the build-out scenarios as to the number of trees or**  
 19 **any placement of trees as part of a re-education**  
 20 **program for the ADU projects?**  
 21 A. No.  
 22 **Q. So no one represented to you, well, we need to have X**  
 23 **numbers of slot size is 300 feet, so we need to have**  
 24 **X number of inches of trees on this parcel?**  
 25 A. To the best of my recollection, that was not in the

1 discussion, no.  
 2 MR. ELLISON: Okay. I want to thank you very much  
 3 for your time, sir.  
 4 THE WITNESS: Thank you.  
 5 MR. ELLISON: I've completed my questioning. Thank  
 6 you very much.  
 7 HEARING EXAMINER: Okay. Mr. Kisielius, obviously  
 8 it's your time for redirect. It's 3:16. We can take  
 9 a break now or we could take a break in 15 minutes.  
 10 MR. KISIELIUS: I don't think my questions will be  
 11 very extensive.  
 12 HEARING EXAMINER: Okay.  
 13 MR. KISIELIUS: So to accommodate his timing,  
 14 then --  
 15 HEARING EXAMINER: Yes, please.  
 16 MR. KISIELIUS: -- if we could just bang through  
 17 some redirect.

18  
 19 REDIRECT EXAMINATION  
 20 BY MR. KISIELIUS:

21 **Q. Okay. Mr. Kuehne, Mr. Eustis asked you ask you a lot**  
 22 **of questions about your expertise in the area of**  
 23 **environmental review. I just want to ask, are you**  
 24 **basing your opinion off of your professional**  
 25 **experiences generally?**

1 **structures?**  
 2 A. That is correct, yeah.  
 3 **Q. And again, what's the focus of your modeling**  
 4 **exercise, in your opinion?**  
 5 A. The focus was to depict changes -- I'm sorry --  
 6 differences between the alternatives, the (inaudible)  
 7 from the actual alternatives with regard to the  
 8 building potential, development potential of each  
 9 block.  
 10 **Q. Okay. Now, Mr. Eustis asked you about your**  
 11 **familiarity with the names of neighborhoods, or asked**  
 12 **if had you driven around the city. Do you feel that**  
 13 **you needed to be familiar with the names of**  
 14 **neighborhoods or have driven around the actual**  
 15 **streets to complete your work in a professional**  
 16 **manner?**  
 17 A. No.  
 18 **Q. Do you think that impacts the value of the drawings**  
 19 **that you've prepared?**  
 20 A. It does not.  
 21 **Q. Okay. I'm going to ask you to turn to page 4-134 and**  
 22 **I just want to clarify something I think you said.**  
 23 **And here we're looking at the aerial view of the**  
 24 **preferred alternative and the full build-out**  
 25 **scenario.**

1 A. Yes.  
 2 **Q. And do your professional experiences involve**  
 3 **depicting development outcomes that allow**  
 4 **decision-makers to understand and evaluate code**  
 5 **changes?**  
 6 A. They do, absolutely, yeah.  
 7 **Q. And is that the one where you said -- how many times**  
 8 **have you done that (inaudible)?**  
 9 A. Dozens. Somewhere in the neighborhood of 35 for the  
 10 last decade or so.  
 11 **Q. And in those dozens of times --**  
 12 A. Yes.  
 13 **Q. -- have you ever been asked when depicting**  
 14 **development outcomes, to evaluate code changes, have**  
 15 **you been asked to address trees to the level of**  
 16 **detail that has been suggested through some of the**  
 17 **questions to you?**  
 18 A. Not that I can remember, no.  
 19 **Q. Okay. And let me ask you on the tree piece, what**  
 20 **would happen if you showed 30 percent coverage on**  
 21 **aerial shots of the lot?**  
 22 A. My guess is you probably wouldn't see much on the  
 23 lot.  
 24 **Q. And you testified earlier, did you have to remove**  
 25 **trees in order to show better views of the changes to**

1 A. Yeah.  
 2 **Q. And Mr. Eustis asked you if this drawing is**  
 3 **representative of anything in the city, and I think**  
 4 **you said -- your answer was "no." Is that...**  
 5 A. Correct.  
 6 **Q. And I think you said it's been it's depicting what**  
 7 **could be built; is that correct?**  
 8 A. That's correct. It depicts the development  
 9 potential.  
 10 **Q. And when we say "development potential," what is this**  
 11 **specific image depicting?**  
 12 A. Well, this specific image depicts sort of the  
 13 hypothetical potential of the preferred alternative.  
 14 In other words, if every homeowner decided to tear  
 15 down their house, build a new house, build two ADUs  
 16 on their lot, or if a developer came in and bought a  
 17 bunch of lots and decided to build this.  
 18 **Q. And are you aware of any place in the City of Seattle**  
 19 **that fits that description?**  
 20 A. No, I'm not.  
 21 **Q. And is that why you said it doesn't depict anything**  
 22 **in the city?**  
 23 A. Correct.  
 24 **Q. Mr. Eustis also asked you some questions about, he**  
 25 **called the condominiumization, and he asked if that's**

1 depicted anywhere. Did you understand there to be  
 2 any difference in what you would depict based on  
 3 whether it was to be sold or to be rented?  
 4 A. My understanding -- no, no.  
 5 **Q. Okay. Mr. Eustis also asked you -- and maybe staying**  
 6 **on page 4-134 -- he was noting that there wasn't in**  
 7 **this image an instance in which you had a single**  
 8 **structure with two attached accessory development**  
 9 **units. Instead, you said this represents an attached**  
 10 **plus a detached.**  
 11 A. Correct.  
 12 **Q. I'm asking, in your opinion, from sort of the**  
 13 **understanding that aesthetic ramifications to the**  
 14 **build-up, why focus on the attached plus detached**  
 15 **rather than the scenario in which you have the two**  
 16 **attached? Go ahead and answer.**  
 17 A. I believe the impact is actually greater with a  
 18 detached plus an attached unit with the house because  
 19 you actually get two different volumes.  
 20 **Q. Okay. And what does that do from an aesthetic**  
 21 **standpoint?**  
 22 A. Well, even if the lot coverage were the same, because  
 23 then, I mean, say if you had three units, and so the  
 24 main unit, another two ADUs and one building  
 25 footprint, but the sort of perceived lot coverage, I

1 smaller footprint main house with one ADU and an  
 2 additional ADU in the back with some yard space in  
 3 between, the perception is, it takes up more space  
 4 because the yard space in between is smaller.  
 5 **Q. But in your example --**  
 6 A. Yes.  
 7 **Q. -- the principal unit plus two accessory dwelling**  
 8 **units --**  
 9 A. Yeah.  
 10 **Q. -- you would take a 5,000 square foot lot, your lot**  
 11 **coverage would be 35 percent?**  
 12 A. Mm-hmm.  
 13 **Q. Okay. So in your other example, principal unit plus**  
 14 **an attached accessory dwelling unit, plus**  
 15 **(inaudible), the lot coverage would still be 35**  
 16 **percent?**  
 17 A. Correct.  
 18 **Q. But you could have increased lot coverage in the rear**  
 19 **yard under the second hypothetical, right? Increased**  
 20 **lot coverage in the rear yard.**  
 21 A. Okay.  
 22 **Q. Yeah, does the rear yard lot coverage go up to**  
 23 **something, like, 60 percent?**  
 24 A. The rear yard coverage, yeah.  
 25 **Q. Yes.**

1 think, is greater if you have principal unit in the  
 2 back, because then more of the lot will actually be  
 3 taken up by the development, even if there's some  
 4 open space in between the two building volumes.  
 5 **Q. Okay.**  
 6 MR. KISIELIUS: And, Mr. Kuehne, I have no further  
 7 questions for you. Thank you.  
 8 THE WITNESS: Thank you.  
 9 HEARING EXAMINER: Any recross?  
 10 MR. EUSTIS: Yes.  
 11  
 12 RE CROSS EXAMINATION  
 13 BY MR. EUSTIS:  
 14 **Q. Mr. Kuehne, I believe you said that "the perceived**  
 15 **impact" --**  
 16 A. Yeah.  
 17 **Q. -- "would be greater" if you had the principal unit**  
 18 **and then you attached the accessory unit because**  
 19 **there would be more lot coverage?**  
 20 A. No. What I said is, the perceive lot coverage would  
 21 be greater even if it's the same amount of square  
 22 feet. But because it's spread out, say, you know, if  
 23 you have a -- say you have a larger footprint  
 24 three-unit building in the front and a significant  
 25 back yard, my argument is if you have a slightly

1 A. But the lot coverage does not increase.  
 2 **Q. Okay. For a 5,000 square foot lot, still 35 percent.**  
 3 **So you're saying the perceived difference would be**  
 4 **two structures would have less lot coverage than one**  
 5 **structure?**  
 6 A. No, the opposite.  
 7 **Q. The perceived difference would then be that two**  
 8 **structures would have greater lot coverage --**  
 9 A. Correct.  
 10 **Q. -- then the single structure, even though the total**  
 11 **lot coverage would be the same?**  
 12 A. Exactly. That's my argument, yes.  
 13 **Q. And this is your subjective opinion as to what the**  
 14 **perceived lot coverage would be?**  
 15 A. Correct.  
 16 **Q. Okay. In your analysis, did the City ask you to**  
 17 **explore differences between perceived lot coverage**  
 18 **and actual lot coverage?**  
 19 A. No.  
 20 MR. EUSTIS: Okay. Thank you. I have nothing  
 21 further.  
 22 HEARING EXAMINER: Do you have any?  
 23 MR. ELLISON: I have no further questions for you.  
 24 Thank you very much.  
 25 THE WITNESS: Thank you.

1 HEARING EXAMINER: Thank you for your time.  
 2 THE WITNESS: Yes, thank you.  
 3 HEARING EXAMINER: Appreciate it.  
 4 Okay. It's 3:25. We'll be back at 20 till 4:00.  
 5 And we're off the record.  
 6 (Recess)  
 7 HEARING EXAMINER: Mr. Kisielius, back to your order of  
 8 presentation.  
 9 MR. KISIELIUS: Thank you. And I just want to -- I  
 10 appreciate that we facilitated Mr. Kuehne's schedule.  
 11 HEARING EXAMINER: No problem.  
 12 MR. KISIELIUS: So thank you. We'd I guess recall or call  
 13 back Mr. Welch. He still is sworn in.  
 14 HEARING EXAMINER: Mr. Welch, you are still sworn in  
 15 (inaudible).  
 16 MR. KISIELIUS: May I? Okay.  
 17 HEARING EXAMINER: They do that on TV.  
 18  
 19 NICOLAS WELCH: Witness herein, having previously been  
 20 duly sworn on oath, was examined  
 21 and testified as follows:  
 22  
 23 DIRECT EXAMINATION  
 24 BY MR. KISIELIUS:  
 25 **Q. So, Mr. Welch, we were at -- in the middle of your testimony**

1 on which he did his esthetics analysis.  
 2 And that was provided to Mr. Kuehne as a diagram, and he  
 3 did all of the work in the sketch up. So we didn't provide  
 4 that to him as a sketch up model, but we provided that in a  
 5 diagram.  
 6 And then for the ten-year scenario, we identified -- we  
 7 acted as sort of the liaisons between the housing and  
 8 socioeconomics analysis that gave us results for ADU  
 9 production and single-family teardowns, the rates of each of  
 10 those we would expect over ten years.  
 11 And we used that analysis to direct Oliver in terms of  
 12 which -- of how much redevelopment to be showing in the  
 13 ten-year scenario so that it was consistent, a conservative  
 14 interpretation of the housing and socioeconomics analysis,  
 15 meaning we rounded up certain outcomes of that analysis to  
 16 be showing relatively more redevelopment in the ten-year  
 17 scenario. And then we identified which lots would be most  
 18 likely to have that redevelopment for him to then illustrate  
 19 for the esthetics analysis.  
 20 **Q. Okay. So a cooperative effort?**  
 21 A. Yes.  
 22 **Q. And without revisiting the entirety of your testimony, when**  
 23 **you talked -- when you were testifying earlier today about**  
 24 **the representative nature of the block based on lot sizes**  
 25 **earlier this morning, that's the portion of the exercise for**

1 on esthetics. And I guess we were talking -- we started  
 2 talking about Appellant's Exhibit 20, which is Examiner's  
 3 Exhibit 28.  
 4 **But before we jump there, just to address something that**  
 5 **came up, can you describe on this esthetic analysis the**  
 6 **manner in which you coordinated with Mr. Kuehne in terms of**  
 7 **what did you contribute to the analysis, what did Mr. Kuehne**  
 8 **contribute to the analysis, how did you work together in**  
 9 **general, and then if there are specific inputs for which you**  
 10 **were responsible as compared to what he did.**  
 11 A. Sure. In general, Ms. Pennucci and I together worked with  
 12 all -- with Mr. Kuehne on developing the approach to the  
 13 esthetics analysis. As Mr. Kuehne testified, it was  
 14 iterative, and we -- our role, on the City side  
 15 specifically, was to provide the foundation for the  
 16 hypothetical model that Oliver then developed in the sketch  
 17 up.  
 18 And so specifically, that meant, as Mr. Kuehne testified,  
 19 Oliver, as he testified, we provided the dimensions of the  
 20 block itself, including the length and width of the block,  
 21 the street width, the alley width.  
 22 And then we also provided the dimensions of the lot sizes  
 23 themselves -- their width, depth and overall lot area -- and  
 24 then the configuration of those lots on both sides of both  
 25 blocks. And so that sort of laid the canvas, so to speak,

1 **which you were responsible for?**  
 2 A. That's right.  
 3 **Q. Okay. So let's switch to Exhibit 20. Do you still have**  
 4 **that in front of you?**  
 5 A. I do.  
 6 MR. KISIELIUS: Excuse me. Appellant's Exhibit 20,  
 7 Examiner's Exhibit 28.  
 8 UNIDENTIFIED SPEAKER: (Inaudible).  
 9 MR. KISIELIUS: I think -- he's got a copy, and I think  
 10 the examiner's got a copy, so I think we're good. Thank  
 11 you.  
 12 **Q. (By Mr. Kisielius) And when we left off, I think we were**  
 13 **starting to talk about exhibits -- excuse me, pages 5 and 6.**  
 14 A. That's right.  
 15 **Q. And so -- and I think I was in the beginning of asking you**  
 16 **if you had in front of you the document upon which pages 5**  
 17 **and 6 are based.**  
 18 A. I do.  
 19 **Q. And is that an appendix to the MHA EIS?**  
 20 A. It is.  
 21 **Q. Appendix F?**  
 22 A. Yes.  
 23 MR. KISIELIUS: I'm going to hand a copy to the examiner.  
 24 To be clear, this has not been identified an exhibit, but  
 25 given the testimony and the representations about what was

1 in here and what this actually showed, we intend to compare  
 2 the image from which it was taken and offer it as evidence.  
 3 So I wanted to be up front with Mr. Eustis.  
 4 This was not in our witness and exhibit list, but to the  
 5 extent that it formed the basis of appellant's exhibits, I'm  
 6 not sure there could be an objection to it. But I won't  
 7 make that call. So --  
 8 HEARING EXAMINER: Any objection?  
 9 MR. EUSTIS: No objection.  
 10 HEARING EXAMINER: All right. We will admit this as  
 11 Exhibit 34 for the record.  
 12 (Exhibit No. 34 admitted into evidence)  
 13 **Q. (By Mr. Kisielius) So what's been admitted as Exhibit 34,**  
 14 **to orient us so we're talking about the same thing, there's**  
 15 **really two sections. I'm going to be more interested in the**  
 16 **second section. And there's different page numbers.**  
 17 MR. KISIELIUS: So, for the examiner's benefit, F1 through  
 18 12, once you get to the next page is a page that's titled  
 19 "Mandatory Housing Affordability Urban Design and  
 20 Neighborhood Character Study," with a photograph. That's  
 21 the portion I'd like to --  
 22 MR. EUSTIS: I'm not --  
 23 MR. KISIELIUS: Start from the beginning.  
 24 MR. EUSTIS: Would you be more specific?  
 25 MR. KISIELIUS: I'm sorry, I thought I was. Starting at

1 illustrate potential development outcomes and urban design  
 2 perspective and the city's multifamily and commercial zones  
 3 in the context of the proposal to upzone those areas through  
 4 MHA.  
 5 **Q. Okay. And, to be clear, it was not related to the ADU**  
 6 **proposal that you're analyzing in this EIS?**  
 7 A. Not at all.  
 8 **Q. Okay. And any of the development outcomes that were**  
 9 **depicted in this appendix, are they at all intended to**  
 10 **depict development options in the SF 5000, SF 7200, SF 9600,**  
 11 **any of the SF zones?**  
 12 A. No.  
 13 **Q. Okay. I'm going to ask you to turn to page 24 of that**  
 14 **document.**  
 15 A. Okay.  
 16 **Q. And can you tell us what we're looking at there?**  
 17 A. This page of the document is one of several illustrations of  
 18 potential development outcomes in the lowrise 1 multifamily  
 19 residential zone. There are several because there are  
 20 various multifamily uses allowed, multifamily housing types  
 21 allowed in lowrise 1. And this one shows a town house  
 22 development.  
 23 **Q. Okay. And is -- again, just to be absolutely clear, turning**  
 24 **back now to Exhibit 20, pages 5 and 6. Anywhere in that**  
 25 **document, is there anything that purports to show SF 5000**

1 the beginning.  
 2 MR. EUSTIS: All right.  
 3 MR. KISIELIUS: The title says "Appendix F." The next 12  
 4 pages are titled Appendix -- or excuse me -- pages F1  
 5 through F12.  
 6 MR. EUSTIS: Right. Okay.  
 7 MR. KISIELIUS: The second document that's part of  
 8 Appendix F begins on the next page, titled "Mandatory  
 9 Housing Affordability Urban Design and Neighborhood  
 10 Character Study."  
 11 Keep going back. Further. Keep going. One more. There.  
 12 MR. EUSTIS: This?  
 13 MR. KISIELIUS: Yes.  
 14 MR. EUSTIS: Okay. All right. Got it.  
 15 **Q. (By Mr. Kisielius) Do you recognize the Urban Design and**  
 16 **Neighborhood Character Study here?**  
 17 A. Yes.  
 18 **Q. Are you familiar with it?**  
 19 A. Yes.  
 20 **Q. Are you familiar with it from your work on MHA?**  
 21 A. Yes.  
 22 **Q. Okay. What was the purpose of the urban design and**  
 23 **neighborhood study in its sort of broadest form?**  
 24 A. It was a report that we -- the City produced, I was involved  
 25 in, that we had consultants involved in as well, to

1 **with dimensions for SF 5000 or actual production**  
 2 **projections, graphics showing what might be built as is**  
 3 **depicted in Examiner Exhibit 28?**  
 4 A. To make sure I understand, you're asking is anything on  
 5 page 5 of Examiner Exhibit 28 accurately showing  
 6 single-family development outcomes?  
 7 **Q. Yes -- I mean, sorry, no. Is anything -- I asked that**  
 8 **question terribly, so I'm going to try it all over again.**  
 9 **In what has been now added to the record as Exhibit 35,**  
 10 **which is the MHA study --**  
 11 A. Yes.  
 12 **Q. -- is there anything resembling what is shown in Exhibit 28**  
 13 **on pages 5 and 6 as the SF 5000 with two ADU graphics or**  
 14 **information?**  
 15 A. Yes. The -- on page 5 and page 6, there is a graphic that  
 16 appears to have been labeled as a single-family 5000  
 17 development outcome with two ADUs that is effectively  
 18 identical to the one shown on this page for lowrise 1  
 19 multifamily zoning.  
 20 **Q. But that one that's shown on page 24 doesn't purport to be**  
 21 **in the MHA appendix from which it's listed? It does not**  
 22 **purport to be a single-family unit -- or structure?**  
 23 A. No. And it doesn't resemble what you could build on a  
 24 single-family lot.  
 25 **Q. Let's talk about that. Why doesn't it show what you could**

1 **build on a single-family lot?**  
 2 A. There are a few reasons. So if we look at page 5 of  
 3 Exhibit 28, first it says -- if this is a typical 5000  
 4 square foot lot, that is the same lot size used in both  
 5 examples. But there is some -- there are some square  
 6 footage numbers that are added up on the right side of the  
 7 page that it's unclear if that represents or is intended to  
 8 represent current conditions or the preferred alternative.  
 9 But it totals to 5250 square feet.  
 10 The numbers don't actually add up to that. It's off by a  
 11 hundred. But even if it were correct, that number at most  
 12 represents what is allowed under current single-family  
 13 zoning for a new house, but it far exceeds what would be  
 14 allowed under the preferred alternative, even if there are  
 15 two ADUs.  
 16 The image then shows basically these same four town  
 17 houses. It's been relabeled purporting to show a primary  
 18 unit and two ADUs, but the image clearly resembles the LR1  
 19 scenario where the lot coverage limit would be up to  
 20 69 percent for that zone, that multifamily zone, nearly  
 21 twice what would be allowed for lot coverage in a  
 22 single-family zone.  
 23 And then finally, the smaller table on the left side of  
 24 the page purports to show some standards that reflect this  
 25 drawing, and at the bottom it says "Parking spaces provided:

1 not have a floor area ratio limit. So these images in the  
 2 EIS do accurately represent what that would mean. But as I  
 3 testified earlier, Alternative 3 and the preferred  
 4 alternative do apply FAR limit, and the effect of that FAR  
 5 limit is to lessen the esthetic impacts of those  
 6 alternatives.  
 7 **Q. Okay. And that's true on the ensuing pages 9 and 10 as**  
 8 **well?**  
 9 A. Yes. Those are also from Alternative 2 where there's no FAR  
 10 limit.  
 11 **Q. Okay. So let's move on to 11. A couple clarifications. So**  
 12 **first, do you -- there's some dimensions that are depicted**  
 13 **in the top half of the page and then also in the bottom**  
 14 **left-hand page. Were those included in the EIS?**  
 15 A. No.  
 16 **Q. And is the red box circling the properties in question in**  
 17 **the EIS?**  
 18 A. No.  
 19 **Q. Okay. So tell me about what we're seeing there. Are the**  
 20 **dimensions correct?**  
 21 A. No. Both images are -- the base image is from the EIS  
 22 illustrating the full build-out scenario of one of the  
 23 alternatives. It's not labeled here, so I'm not immediately  
 24 sure which alternative. But those two lots are a particular  
 25 lot type in our hypothetical model, and each of them --

1 Zero."  
 2 So even setting aside the sort of dimensional and scale  
 3 issues with this drawing, that's also factually not correct  
 4 because there is a parking requirement in single-family  
 5 zones. And if this were a primary residence with two ADUs,  
 6 in all alternatives at least one parking space would be  
 7 required on that property.  
 8 **Q. Okay. And so the changes that the appellants have made, the**  
 9 **comparison they're trying to draw by doctoring the image on**  
 10 **page 24, do you think that is reasonable or appropriate?**  
 11 A. No. I think it grossly mischaracterizes what could be built  
 12 on a single-family property.  
 13 **Q. Okay. And is that under the proposal or existing**  
 14 **conditions? Which were you referring to when you say**  
 15 **grossly mischaracterizes?**  
 16 A. In -- under all alternatives, but especially under the  
 17 preferred alternative where the total maximum bulk possible  
 18 would be less than existing zoning.  
 19 **Q. Okay. Let's move on. How about page 7 and 8 of Exhibit 28?**  
 20 **Why is it -- well, first of all, are you familiar with which**  
 21 **alternative these images depict?**  
 22 A. Yes, they come from Alternative 2.  
 23 **Q. And why is that important in terms of the esthetic impacts**  
 24 **that they depict?**  
 25 A. Well, it's just important to note that Alternative 2 does

1 first, they are two lots. That's representing two different  
 2 lots. And each of them is 28 feet wide. So together they  
 3 are neither 50 feet, as is labeled at the top, or 52 feet,  
 4 labeled at the bottom. They would be 56 feet together.  
 5 Similarly, I believe they are 120 feet deep. And that  
 6 dimension is also shown incorrectly in the top and bottom  
 7 image, as is the product of width and depth leading to the  
 8 total area of those two lots combined.  
 9 **Q. Was this intending to depict an illegal subdivision?**  
 10 A. No.  
 11 **Q. So why did -- you said you were responsible for picking the**  
 12 **lot configuration. Why were these two included and side by**  
 13 **side?**  
 14 A. These two were included, along with several other relatively  
 15 smaller lots in our model, to illustrate what development  
 16 could look like and what new ADUs could look like on smaller  
 17 lots. One reason for that is that we were specifically  
 18 directed in the examiner's decision in 2016 to show a model  
 19 and to show full build-out, including lots as small as 3200  
 20 square feet.  
 21 So we have two lot types in the model that do that, but we  
 22 chose to show specifically two of them side by side, and  
 23 elsewhere I believe we show even three side by side, so that  
 24 it would be possible to identify the impacts of having ADUs  
 25 and new single-family homes of different sizes on adjacent

1 side-by-side lots where potentially the visual or scale  
2 impacts or impacts to privacy could be greater because the  
3 total area of those lots is less.

4 **Q. Okay. And briefly on the bar graph, does the bar graph  
5 correlate to what is depicted in the accompanying images  
6 there?**

7 A. No. That's from, in fact, a different chapter of the EIS.

8 **Q. Okay. And can you just explain that for us, please? What  
9 is the bar graph?**

10 A. The bar graph is showing the distribution. It's a  
11 histogram, so it's showing the distribution of lots in the  
12 study area according to their size. So the taller columns  
13 represent more lots that have that corresponding lot size.  
14 The red underline and the red rectangle are not from the  
15 EIS, but by way of example, the three columns that are  
16 included in that rectangle show the frequency or the share  
17 of all single-family lots that fall into those three  
18 different lot size categories.

19 **Q. Okay. There seems to be a point that's trying to be made on  
20 this page about subdivisions. So can you tell us how that  
21 bar graph correlates to showing which lots can be  
22 subdivided?**

23 A. Sure.

24 **Q. What size lots can be subdivided.**

25 A. Yes. Depending on the zone, as I mentioned earlier, there's

1 **the EIS depictions to an aerial photograph of an actual  
2 cupola box in Queen Anne?**

3 A. Yes.

4 **Q. Okay. I'm going to try to find a good example here. Bear  
5 with me. So let's maybe start with a basic framer question.  
6 Do you agree that the aerial photographs that Mr. Kaplan has  
7 included here are analogous to what the EIS attempts to  
8 show?**

9 HEARING EXAMINER: Which pages are you referring to?

10 MR. KISIELIUS: I was referring to all of the ones that  
11 come in part two, but --

12 HEARING EXAMINER: So --

13 MR. KISIELIUS: Because I think they're all of the same  
14 two-block scenario. The -- and I was referring specifically  
15 to the aerial photographs. We could start on page 14.

16 **Q. (By Mr. Kisielius) Let me ask it a different way. Is it  
17 the exact same lot configuration as what the EIS shows?**

18 A. No.

19 **Q. Can you make comparisons between the blocks that Mr. Kaplan  
20 has identified in order to try to ascertain esthetic impacts  
21 on those blocks? Can you make comparisons to -- let me  
22 start again.**

23 **Can you use the hypothetical in the EIS and compare it to  
24 the blocks that Mr. Kaplan has chosen to try to draw some  
25 conclusions about what the impacts might be, even in that**

1 a minimum lot size for the zone. So in the SF 5000 zone,  
2 the most common single-family zone, that minimum is 5,000  
3 square feet.

4 So one thing this bar graph does show, and it's included  
5 in the paragraph above, is that some lots in the study area  
6 are more than 10,000 square feet. And if those lots greater  
7 than 10,000 square feet happened to be in a five -- SF 5000  
8 zone, they theoretically could be subdivided into two new  
9 lots of at least 5,000 square feet each.

10 So that's noted in the bar graph. Well, excuse me, it's  
11 noted in the text. And then that fact is illustrated with  
12 the columns to the far right of the bar graph.

13 **Q. Okay. We're going to hear from Mr. McKim about the 75/80  
14 rule. I want to focus on the confirming whether the  
15 proposal is going to change anything about the minimum lot  
16 size for purposes of subdivision. Will it change the rules  
17 that govern subdivision?**

18 A. No --

19 **Q. Minimum --**

20 A. -- it doesn't.

21 **Q. Will it change the minimum lot size that is required --**

22 A. No.

23 **Q. -- for a subdivision? Okay. Let's switch to part two of  
24 this document that starts on page 12 and the ensuing couple  
25 of pages. And you recall Mr. Kaplan's testimony comparing**

1 **specific location?**

2 A. Yes, I believe you can.

3 **Q. Okay. Let's start with maybe just some basic questions.  
4 Does the aerial photographs that Mr. Kaplan has chosen, do  
5 they include alleys between them?**

6 A. Yes. On page 14, both blocks have -- appear to have  
7 an alley.

8 **Q. And does one of the two hypothetical blocks have an alley  
9 in it?**

10 A. Yes.

11 **Q. And in terms of the block sizes that Mr. Kaplan has  
12 identified, if you look on page 15 -- and he's coded his  
13 blocks with the size there.**

14 **Do you believe that there are representative lot sizes  
15 shown on the hypothetical that would allow you to make some  
16 judgments about esthetic impacts based on the hypothetical  
17 that was prepared?**

18 A. Yes. The hypothetical model includes a very similar range  
19 to what's shown here.

20 **Q. Okay.**

21 A. The one exception would be Lot Type A, which is apparently  
22 listed here as 2400 square feet, which would be under the  
23 3200 square foot minimum for a DADU. That type of lot,  
24 under current code, can have an attached ADU, and under  
25 current and proposed code would not be able to have a DADU.

1 So effectively, there would be no change on that type of  
 2 lot.  
 3 **Q. Okay. Bear with me, please. I'm having a computer problem.**  
 4 **There we go. Okay. Let's turn to page 22. Are you there?**  
 5 A. Yes, I'm there.  
 6 **Q. Okay. So did you hear some testimony today about this --**  
 7 **the source of this document?**  
 8 A. Yes.  
 9 **Q. And are you familiar with the 2010 planning commission**  
 10 **document from which Mr. Kaplan claims to have taken this**  
 11 **from?**  
 12 A. Yes, I am.  
 13 **Q. And are you aware of whether these images are included in**  
 14 **that document?**  
 15 A. Yes, I'm aware, and they are not in that document.  
 16 **Q. Okay. Do you know where these are from?**  
 17 A. They're not from the City of Seattle. I'm confident the  
 18 City did not create them, has not been involved in their  
 19 creation. To the best of my knowledge, they appear to be  
 20 created from the City of St. Paul, Minnesota, as part of  
 21 their ADU policy work.  
 22 **Q. I've just handed you a document. Are you familiar with this**  
 23 **one?**  
 24 A. Yes.  
 25 **Q. What is -- what is the document?**

1 page had to do with the witness's belief that lot coverage  
 2 calculations would not include area under an overhang or  
 3 under a cantilever part of an upper story of a building.  
 4 That's incorrect. The code does require that lot coverage  
 5 be calculated basically as though you were looking from  
 6 above at the coverage of the structure.  
 7 This particular page then seems to calculate potential  
 8 square footage on several different stories ostensibly for a  
 9 single-family lot under the proposal and arrives at the  
 10 potential FAR of 1.14, which it then says would exceed the  
 11 FAR limit for LR1 zoning.  
 12 **Q. And is that accurate, that the proposal would allow to**  
 13 **exceed the FAR LR1 multifamily zoning?**  
 14 A. No.  
 15 **Q. Okay. Why not?**  
 16 A. Well, on -- the example here is a 6000-square-foot lot. And  
 17 under the preferred alternative, the largest possible single  
 18 structure or the largest possible floor area in multiple  
 19 structures that someone could develop on that lot would be  
 20 4,500 square foot.  
 21 And that would be if they included the largest possible  
 22 principal unit at -- excuse me, let me pause. It would be  
 23 5,000 square feet. So it would be the largest possible  
 24 principal unit of 3,000 square feet. And that's based on  
 25 the FAR limit of 0.5.

1 A. This is the "Guide to Building a Backyard Cottage" published  
 2 in 2010 by the Seattle Planning Commission --  
 3 **Q. Okay. And is this --**  
 4 A. -- that was referred to.  
 5 **Q. Is this the one from which Mr. Kaplan claims to have gotten**  
 6 **the images on page 22?**  
 7 A. Yes, it is.  
 8 **Q. And again, this is a document that you say does not include**  
 9 **those images?**  
 10 A. This is that document.  
 11 **Q. Okay.**  
 12 MR. KISIELIUS: I'd ask for this to be marked and  
 13 admitted.  
 14 HEARING EXAMINER: Okay. Any objections?  
 15 MR. EUSTIS: No objection.  
 16 HEARING EXAMINER: Great. Well, this will be  
 17 Exhibit 36 -- I'm sorry, 35.  
 18 (Exhibit No. 35 admitted into evidence)  
 19 **Q. (By Mr. Kisielius) Okay. Let's turn to page 35. Are you**  
 20 **there?**  
 21 A. Yes, I'm there.  
 22 **Q. Can you respond to the allegations about the purported**  
 23 **loopholes. There's -- it says, "ADU FEIS loopholes exceed**  
 24 **floor area ratios of lowrise multifamily zoning."**  
 25 A. Yes. The testimony I recall on this page and the previous

1 And then if they included two ADUs that maximize the size  
 2 allowed for the ADUs, each of those could be 1,000 square  
 3 feet, and that would get to 5,000 square feet. And I should  
 4 say, this is assuming that all other development standards  
 5 that apply in single-family zones would be met by  
 6 that proposal, that development, lot coverage, yard  
 7 requirements, et cetera.  
 8 So 5,000 square feet on a 6,000-square-foot lot would be  
 9 something like an FAR of .83, which is much less than what's  
 10 allowed on an LR1 property.  
 11 **Q. Okay. And I'm sorry for -- I have just three more that I**  
 12 **realize I jumped over. Can you turn to page 24.**  
 13 A. What page?  
 14 **Q. Twenty-four.**  
 15 A. Twenty-four.  
 16 **Q. Sorry for jumping around.**  
 17 A. Yes.  
 18 **Q. So do you see the callout that says "Lot Size, Zone, Minimum**  
 19 **Lot Area"?**  
 20 A. Yes.  
 21 **Q. Does that accurately describe the minimum lot size -- does**  
 22 **that part, for SF 5000, SF 7200, SF 9600 show the correct**  
 23 **minimum lot area for subdivisions? Just for those three**  
 24 **categories.**  
 25 A. Yes, it does.



1 **Q. There's a -- then a phrase that's been added, and it says,**  
 2 **"Now 3200 square feet." Just -- I think you said it before,**  
 3 **but is this another instance in which it's suggesting that**  
 4 **the proposal is changing the minimum lot size for**  
 5 **subdivisions?**  
 6 A. Yes. It appears to be an instance where --  
 7 MR. EUSTIS: Objection. Misstates the testimony. Minimum  
 8 lot size per subdivision. Mr. Kaplan did not testify that  
 9 the ADU provision would allow subdivision -- would change  
 10 the subdivision laws.  
 11 MR. KISIELIUS: I'm not -- I'm actually just asking him to  
 12 respond to what's in writing in the exhibit that you've  
 13 entered.  
 14 MR. EUSTIS: My objection was misstates the testimony.  
 15 HEARING EXAMINER: Okay. Well, maybe you could rephrase  
 16 the question so you're focusing on the writing instead of  
 17 maybe what was testified to.  
 18 MR. KISIELIUS: I thought I had. I'm sorry.  
 19 **Q. (By Mr. Kisielius) The chart there that says "Lot Size" in**  
 20 **black writing with the three SF zones, do you agree that**  
 21 **that captures the minimum lot size for purposes of**  
 22 **subdivision, 5,000, 7200 and 9600?**  
 23 A. Yes.  
 24 **Q. There is separately writing in blue text that says "Now 3200**  
 25 **square feet." Does that accurately describe any aspect of**

1 **proposal.**  
 2 A. The testimony I recall was that this represents something  
 3 about the proposal, but in no alternative would it be  
 4 possible to achieve lot coverage of 49 percent on a lot of  
 5 this size.  
 6 **Q. Okay. And I think the last one is the following page,**  
 7 **page 34. I think you heard Mr. Kaplan's testimony**  
 8 **yesterday. He expressed concern about how lot coverage is**  
 9 **measured.**  
 10 **I think on cross he indicated he thought the proper**  
 11 **interpretation of the code is to include overhangs in the**  
 12 **measurement of the building footprint when calculating lot**  
 13 **coverage. Do you agree with that?**  
 14 A. I do agree that lot coverage calculation would include areas  
 15 under overhanging stories, such as the ones that are  
 16 depicted here.  
 17 **Q. Okay. I'm going to turn to a totally different subject now,**  
 18 **tree canopy. So we've -- there's been some testimony on**  
 19 **tree canopy, and I'd like to ask you. Is there discussion**  
 20 **in the EIS about tree canopy?**  
 21 A. Yes, there is.  
 22 **Q. And were you involved in that analysis and -- of tree canopy**  
 23 **in the EIS?**  
 24 A. Yes.  
 25 **Q. What part of your professional background and education did**

1 **the proposal as it pertains to the minimum lot size for**  
 2 **subdivisions?**  
 3 A. No. There would be no change under any alternative to the  
 4 rules for subdivision or the minimum lot area required for  
 5 subdivision. This appears to be another misunderstanding  
 6 about the difference between the minimum lot area required  
 7 for a DADU and the minimum lot area required for creating  
 8 new single-family lots.  
 9 **Q. Can you talk a little bit about the purpose of that? So if**  
 10 **there's the minimum lot size required for subdivisions, how**  
 11 **is it possible that you could have a lot size that's smaller**  
 12 **than the minimum lot size for subdivisions?**  
 13 A. Yes. There are areas of the city that were platted a long  
 14 time ago, before the current zoning regime was in place for  
 15 the minimum lot area requirements applied. And, in brief,  
 16 that's why we have lots various in the city where the  
 17 typical lot size would be less than something like 5,000  
 18 square feet.  
 19 **Q. Okay. Can you turn to page 33? Can you tell us what we**  
 20 **know about the lot coverage here?**  
 21 A. This is -- this structure in this location at this address  
 22 appears to have a lot coverage of almost 50 percent, 49  
 23 percent.  
 24 **Q. And why is that important? I believe the testimony was that**  
 25 **this is representative of what might be built under the**

1 **you bring to bear on this aspect of the analysis that's**  
 2 **included in the land use chapter?**  
 3 A. My -- in my educational background, as I mentioned, my  
 4 degree is in urban and environmental policy and planning,  
 5 and my studies in graduate school and coursework included  
 6 study -- courses in green urban design and sustainability  
 7 planning.  
 8 And then professionally, I've worked at the City of  
 9 Seattle on some environmental planning and policy efforts,  
 10 including an update to the Environmentally Critical Areas  
 11 Code and Land Use Code changes related to green stormwater  
 12 infrastructure.  
 13 **Q. Okay. And were there people on the team that worked with**  
 14 **you, the EIS team, that had technical backgrounds that are**  
 15 **different than yours that also contributed to this?**  
 16 A. Yes. We had a consultant who has a background in  
 17 environmental science who was involved as part of the  
 18 analysis.  
 19 **Q. Okay. Let's talk about what the EIS did. So can you turn**  
 20 **to page 4-52.**  
 21 A. Yes.  
 22 **Q. Does the City have any recent assessment of tree canopy**  
 23 **cover?**  
 24 A. Yes, it does.  
 25 **Q. Can you summarize the results of that assessment?**

1 A. Yes. In 2016, the City conducted a new tree canopy study  
 2 using a technology called LIDAR. And with this LIDAR data,  
 3 it's able to measure the amount of area that is covered by  
 4 tree canopy.  
 5 Some of the key findings that are listed on page 4-52, it  
 6 concluded: Overall, Seattle's tree canopy coverage citywide  
 7 is 28 percent; most of Seattle's trees are found in  
 8 residential areas, many of them in single-family residential  
 9 areas specifically; those areas account for 63 percent of  
 10 the City's tree canopy cover. And it was able to also  
 11 analyze the percentage that is coniferous trees --  
 12 **Q. Okay.**  
 13 A. -- in the city.  
 14 **Q. And I'd ask you to turn the page and -- did the EIS analyze**  
 15 **average tree canopy coverage on the study area lots with**  
 16 **DADUs compared to other lots?**  
 17 A. Yes, we did.  
 18 **Q. Okay. What were the results of that comparison?**  
 19 A. We looked at, using that LIDAR data set from 2016, the most  
 20 recent and the best data that the City has on its canopy.  
 21 We analyzed what the canopy coverage was on lots in  
 22 single-family zones overall and specifically compared lots  
 23 that have a permitted DADU and lots that don't.  
 24 We found lots without a DADU have a coverage, on average,  
 25 of 30.8 percent. Study area lots that do have a DADU have a

1 **estimate was generated.**  
 2 A. So beginning on the end of page 4-66 and then continuing on  
 3 to the following page, we did an estimate of the amount of  
 4 tree canopy that would -- that could possibly be lost, in  
 5 this case in Alternative 2, based on the production of  
 6 detached ADUs that we expect over the study period for  
 7 this EIS.  
 8 That estimate of DADU production, again, is, as I've said  
 9 in other parts of my testimony, would derive from  
 10 Chapter 4.1, the housing and socioeconomics analysis. And  
 11 for Alternative 2, we estimate that there would be 1,085  
 12 additional detached ADUs over that time period.  
 13 And so we took several conservative assumptions about  
 14 those detached ADUs in order to quantify a reasonable  
 15 conservative upper bound estimate of how much tree canopy  
 16 loss could result. So we multiplied that number of detached  
 17 ADUs times the largest footprint that we would expect of  
 18 1,000 square feet and we assumed that that entire footprint  
 19 today would be entirely tree canopy.  
 20 That's obviously not always the case. Some lots don't  
 21 have any canopy. Some have partial canopy. But we assumed  
 22 if all of that area eventually is occupied by a backyard  
 23 cottage, with tree canopy today and all of it were turned  
 24 into a backyard cottage, what would the tree canopy loss  
 25 amount to.

1 slightly lower percentage, 28.6 percent. And then we also  
 2 looked at lots in the study area where there had been a new  
 3 single-family house built in the last eight years, since  
 4 2010. The difference there was larger. Those lots had  
 5 canopy coverage of only 22.7 percent.  
 6 **Q. Okay. And so what does that data suggest about how**  
 7 **teardowns resulting in new single-family houses affect tree**  
 8 **canopy?**  
 9 A. It suggests that when existing single-family homes are  
 10 demolished and a new single-family home is built, there is a  
 11 meaningful reduction in the tree canopy on those lots.  
 12 **Q. And what would happen if the number of teardowns is reduced?**  
 13 **Would you expect to see more tree canopy cover retained?**  
 14 A. Yes. If we had fewer teardowns, we would expect that would  
 15 retain more tree canopy or reduce the relative impact on  
 16 tree canopy.  
 17 **Q. Okay. Can you turn to page 4-66?**  
 18 A. Yes.  
 19 **Q. Does the EIS discuss how the code changes proposed under the**  
 20 **action alternatives could impact tree canopy or vegetation?**  
 21 A. Yes, it does.  
 22 **Q. And does it include an estimate of the scale of potential**  
 23 **impacts from the action alternatives?**  
 24 A. Yes.  
 25 **Q. Describe that a little bit more and tell us how that**

1 So we added up that area, and it totals just about 25  
 2 acres. And we compared that to the overall acreage of tree  
 3 canopy in the entire city, which is 9500 acres, more or  
 4 less. And so that portion that is 25 acres is about  
 5 0.3 percent of the total tree canopy in the city. And  
 6 that's what we determined could be a reasonable upper bound  
 7 estimate if that number of DADUs at that size were produced.  
 8 **Q. Let me ask you a couple other questions about assumptions.**  
 9 **Let's see, what assumptions did the analysis include about**  
 10 **whether the lots had exceptional trees?**  
 11 A. Yes. The City -- as context, the City has tree regulations  
 12 currently that include protections for exceptional trees,  
 13 and by -- in this analysis, by assuming that all of that  
 14 footprint is not only tree canopy but would be removed by  
 15 the construction of a DADU, it's effectively assuming that  
 16 none of those trees is an exceptional tree, because if it  
 17 were, it would have protections that would influence where  
 18 and whether that DADU could be built.  
 19 In the same vein, it also presumes that the homeowners in  
 20 all of these cases make no voluntary choices to adjust the  
 21 size or siting of their DADU to minimize tree impact, which  
 22 obviously, in some cases, could occur.  
 23 **Q. And what about -- how did the analysis apply the off-street**  
 24 **parking requirement and why is that relevant to the --**  
 25 **whether the assumptions were conservative?**

1 A. Well, for that analysis, that calculation of canopy acreage  
2 did not specifically consider the off-street parking  
3 requirement. But Alternative 2 removed the off-street  
4 parking requirement, which could actually result in  
5 improvement from a tree canopy perspective compared to the  
6 no action alternative. Because today what often transpires  
7 is some area on a lot that has vegetation or trees becomes  
8 the parking space required for an ADU.

9 So Alternative 2, by removing the parking requirement,  
10 could actually have a positive impact on tree canopy  
11 coverage. But in that calculation of potential canopy loss,  
12 we didn't debit that amount in any way. It wasn't a factor.  
13 But it is an additional effect in Alternative 2.

14 **Q. Okay. And what was the conclusion? You said -- was it  
15 zero -- what was the percentage you arrived at?**

16 A. 0.3 percent.

17 **Q. What was the conclusion about whether or not any of the  
18 alternatives would lead to impacts to tree canopy?**

19 A. We concluded that by allowing -- by making code changes that  
20 would result in more detached ADUs and by allowing larger  
21 DADUs and by allowing in some alternatives an increase in  
22 the rear yard coverage limit, there could be impacts to tree  
23 canopy compared to the no action alternative.

24 But as a result of that calculation, trying to estimate  
25 the upper limit of what that could be overall, we concluded

1 particular policy and says, "The rear yard coverage limit  
2 would be the same as Alternatives 2 and 3 except that limits  
3 on tree removal would apply for development resulting in  
4 rear yard coverage above 40 percent."

5 **Q. (By Mr. Kisielius) Were you -- are you reading from  
6 page 2-13 at that point?**

7 A. Yes, I am.

8 **Q. Okay.**

9 A. And then I believe in the discussion of impacts in the land  
10 use chapter -- if you'd like to go there.

11 **Q. Please.**

12 A. Similarly, for the preferred alternative, there's discussion  
13 about that. Give me just one moment.

14 **Q. Are you looking at page 4-76?**

15 A. Seventy-six, that's right. There it says -- the last  
16 sentence under -- so to orient, "Tree Canopy and  
17 Vegetation." The first paragraph under that heading, the  
18 final sentence says, "Further, additional rear yard coverage  
19 under the preferred alternative would apply only if DADU  
20 construction did not result in tree removal."

21 **Q. So let me ask you a question. We talked about the extra  
22 protections in the preferred alternative. I'd asked you  
23 earlier whether the proposal makes any changes to the  
24 existing tree protection ordinance.**

25 **I'm going to ask you this because I think it's come up**

1 those would not likely be significant effects.

2 **Q. Okay. And do any of the alternatives make any changes to  
3 the City's existing tree protection ordinance?**

4 A. No.

5 **Q. Okay. Do any of the alternatives include any elements that  
6 limit tree removal or provide additional tree protection  
7 measures?**

8 A. Yes. In the preferred alternative, the rear yard coverage  
9 limit, as I mentioned earlier, it would increase from 40  
10 percent to 60 percent; but in the preferred alternative, we  
11 stipulated that that increase, that additional coverage,  
12 would be predicated on limits to tree removal. In other  
13 words, a detached ADU could exceed 40 percent only if it did  
14 not result in the removal of trees.

15 **Q. Okay.**

16 HEARING EXAMINER: Is that any trees or only certain kinds  
17 of trees?

18 THE WITNESS: In the alternative, we specified -- I'm  
19 inclined to read it.

20 HEARING EXAMINER: Okay.

21 THE WITNESS: Make sure I'm capturing it correctly. This  
22 is in Chapter 2. On page 2-5, it says, "For rear yard  
23 coverage, 60 percent for a DADU whose total height is no  
24 more than 15 feet subject to limitations on tree removal."

25 And then I believe a few pages later it elaborates on that

1 **before. Is the City considering any changes to its tree  
2 protection ordinance?**

3 A. Yes.

4 **Q. And does the FEIS disclose that those changes are being  
5 considered?**

6 A. Yes, it does. In Chapter 3, we provide information about  
7 that as context.

8 **Q. Does the fact that the City's considering changes to the  
9 tree protection ordinance affect the impact analysis in any  
10 way?**

11 A. No.

12 **Q. Why not?**

13 A. We provided that information, again, as I said, in -- as  
14 context for the reader, but we didn't rely on -- we didn't  
15 rely on it in any way. We didn't rely on any proposed new  
16 or changed requirements or restrictions regarding trees in  
17 order to arrive at our conclusions about tree impacts in the  
18 analysis.

19 **Q. Okay. Let's shift gears again. I'd like to ask you about  
20 displacement. I don't -- we're going to have another  
21 witness testify on the housing and socioeconomic analysis in  
22 more detail, but I'd like to ask you a few questions about  
23 the displacement analysis and the proportions with which  
24 you're intimately familiar.**

25 **So first, can you please describe your involvement with**

1 the analysis of potential displacement as a part of this  
 2 EIS. Did you participate in that?  
 3 A. I did.  
 4 Q. How about more generally, have you been involved in the  
 5 City's analysis of displacement more generally and outside  
 6 of this specific context?  
 7 A. Yes. In several other projects.  
 8 Q. All right. Can you just give us a couple examples?  
 9 A. Sure. As part of the Comprehensive Plan update, the Seattle  
 10 2035 Comprehensive Plan update, we developed a report called  
 11 "The Growth and Equity Analysis" that, among other things,  
 12 looked at the risk of displacement across the city as a way  
 13 of informing the growth strategy that -- or alternatives for  
 14 the growth strategy that we were considering in our  
 15 Comprehensive Plan update, the long-range plan for the City.  
 16 We've also used that analysis to inform other possible  
 17 land use and zoning changes. Recently it was part of the --  
 18 it was part of mandatory housing affordability in general  
 19 and the MHA EIS specifically. I also worked on a  
 20 displacement analysis for the University District EIS.  
 21 Q. Okay. Can you explain what displacement means?  
 22 A. Sure. Generally, we do define it in Chapter 4.1. In  
 23 general, it refers to a process where a person or household  
 24 is involuntarily forced to move or to leave. And that can  
 25 be for various different reasons or causes and can play out

1 institutions that may happen over time for a number of  
 2 different reasons and could relate to other forms of  
 3 displacement that I've mentioned.  
 4 Q. And in general, do those three types of displacement cover  
 5 the full range of displacement as you might think about it?  
 6 A. In general, yeah.  
 7 Q. And would you say that the way that the EIS has described  
 8 those three and the way you just summarized them, is that  
 9 standard or a common way people in your profession look at  
 10 this issue?  
 11 A. It's a standard way that we've looked at it within the City  
 12 of Seattle and our work on this topic, and more broadly  
 13 other cities and the sort of social science field looking at  
 14 gentrification and displacement.  
 15 Q. Okay. Mr. Reid testified about the lack of discussion of  
 16 existing conditions as they pertain to affordability and  
 17 housing. Do you agree that the EIS is silent on that topic?  
 18 A. No.  
 19 Q. Where is that discussion found?  
 20 A. There is some in the beginning of Chapter 4.1 and other  
 21 information in Chapter 3.  
 22 Q. Do you want to turn to page 3-12 and just describe in a high  
 23 level the information that's included there that's relevant  
 24 to the displacement discussion?  
 25 A. Sure. Beginning on page 3-12, there's a section describing

1 in various different ways. It's a very complex phenomenon.  
 2 Q. Do you want to turn to pages 4-10 and 4-11 of the EIS?  
 3 A. Yes.  
 4 Q. Do you want to briefly summarize the three types of  
 5 displacement that are described there?  
 6 A. Sure. We describe three types of displacement here, and  
 7 this is a common way that we organize our thinking around  
 8 how and why displacement happens.  
 9 The first is physical displacement. This refers to the  
 10 process where an individual or a household is living in a  
 11 housing unit and that housing unit is either demolished or  
 12 the household has to leave so that the property owner can  
 13 renovate or rehab that unit but they are required to leave  
 14 because of some site-specific activity, like the building is  
 15 torn down or rebuilt.  
 16 Economic displacement is a broader phenomenon that applies  
 17 when housing costs go up. Property values go up and  
 18 households have to leave because they're unable to weather  
 19 that increase in either rent or sometimes property taxes.  
 20 Cultural displacement is even more abstract and hard to  
 21 define precisely or analyze but refers to a process where  
 22 people feel they must leave from a -- leave a place they've  
 23 lived for a living due to cultural changes in the  
 24 neighborhood, and that could be the loss of  
 25 culturally-relevant businesses or important cultural

1 population and household characteristics in the EIS study  
 2 area, that is to say in single-family zones in Seattle.  
 3 There's a series of maps and tables that describe population  
 4 change by census tract throughout the city.  
 5 On page 3-15, there's a series of maps showing population  
 6 change by race in the study area over the last several  
 7 decades; on the following pages, additional data about  
 8 population by race citywide and at a more granular level;  
 9 and then several other charts that are on the following  
 10 pages refer to characteristics of households by race, by  
 11 income and disparities in those categories.  
 12 Q. Okay. Let's step back and talk about the City's efforts at  
 13 analyzing displacement more generally. I'm going to ask you  
 14 to turn to Tab 28, which would be in the other binder, the  
 15 City's Exhibit 28. It's the growth and equity analysis.  
 16 MR. KISIELIUS: Madam Examiner?  
 17 HEARING EXAMINER: Yes.  
 18 MR. KISIELIUS: I've got a --  
 19 HEARING EXAMINER: Oh, okay. Thank you.  
 20 MR. KISIELIUS: Uh-huh.  
 21 HEARING EXAMINER: I've got to keep my notes up to date  
 22 here.  
 23 Q. (By Mr. Kisielius) So -- oh, you're not there yet. Sorry.  
 24 A. Almost. Okay.  
 25 Q. Okay. So are you familiar with that document?

1 A. Yes.

2 **Q. And what is that?**

3 A. This is the report I mentioned earlier, the Seattle 2035

4 Growth and Equity Analysis.

5 **Q. And what information about displacement does the growth and**

6 **equity analysis provide?**

7 A. Well, in addition to some context and history and

8 discussion, it provides an analysis of displacement risk

9 across the city, as a map and as discussion of the findings

10 in that analysis.

11 **Q. You say displacement risk. So does it seek to predict or**

12 **forecast places where displacement could be a risk?**

13 A. Yes.

14 **Q. And in general and at a really summary level, how does it do**

15 **that?**

16 A. In general, it is a geospatial analysis, which means it's

17 using spatial data, data about different areas of our city,

18 and it uses data related to demographic characteristics that

19 reflect where vulnerable populations live.

20 And it uses built environment data about potential

21 development and the characteristics of the city, the

22 physical characteristics, and combines various factors that

23 have a relationship to displacement in order to identify

24 areas that have a high likelihood of displacement from

25 marginalized populations or a low likelihood.

1 **Q. Okay. Page 4-38?**

2 A. That's right, 4-38.

3 **Q. So this isn't just a reprint of the entire city information,**

4 **is it?**

5 A. No, it's not. We've used information from that -- excuse

6 me -- that displacement risk index and shown the EIS study

7 area so that we can understand displacement risk

8 specifically for where this policy would apply.

9 **Q. Okay. And are you familiar with Mr. Reid's testimony about**

10 **another appendix to the MHA EIS, Appendix M?**

11 A. Yes.

12 MR. KISIELIUS: That is Examiner Exhibit 23. I don't

13 think it had a corresponding appellant exhibit number.

14 **Q. (By Mr. Kisielius) So first, can you explain what**

15 **Appendix M of the MHA FEIS analyzed?**

16 A. Yes. Appendix M for the MHA EIS was an analysis we did

17 comparing -- fundamentally comparing two things: Change in

18 the number of households in Seattle at a census tract level

19 with the number of housing units produced over a similar

20 period of time at a census tract.

21 **Q. I realize I'm asking you questions about a document you**

22 **might not even have in front of you. Would you like a copy**

23 **just --**

24 A. Sure.

25 **Q. -- in case you need to refer to it?**

1 **Q. And is that displacement risk actually mapped?**

2 A. Yes.

3 **Q. Can you point us to where that is?**

4 A. It's on page 18 of this report.

5 **Q. Okay. And that's of the entire city, correct?**

6 A. Yes.

7 **Q. Okay. Do you agree with Mr. Reid that the displacement**

8 **index in the growth and equity analysis is not data driven?**

9 A. No.

10 **Q. On what data does it rely?**

11 A. It relies on -- I mean, it is literally the product of 14

12 data layers that are part of this geospatial model, and they

13 are largely census data from the U.S. Census and the

14 American Community Survey and various other spatial data

15 sets, such as where transit is located, where certain

16 businesses are located throughout the city, characteristics

17 of certain parcels in the city.

18 **Q. Okay. I want to turn now to how does the growth and equity**

19 **analysis inform the analysis in -- the displacement analysis**

20 **in the ADU EIS. So does the ADU EIS include a map of the**

21 **displacement risk index for the -- that's specific to the**

22 **study area of the ADU EIS?**

23 A. Yes, it does.

24 **Q. Can you direct us to that? Is that in 4.1?**

25 A. It's in Chapter 4.1.

1 HEARING EXAMINER: Can you repeat what you just said,

2 showed changes in the number of households --

3 THE WITNESS: Sure. It compared changes in the number of

4 households in certain income groups and in certain racial

5 groups over a period of time. And we compared that variable

6 with the number of housing units built over the same period

7 of time. And we did that analysis at the census tract level

8 for all of Seattle.

9 **Q. (By Mr. Kisielius) And what was the purpose of that**

10 **exercise?**

11 A. Well, again, this was from the MHA EIS so this was an

12 analysis of the MHA proposal, which involved proposed

13 rezones in multifamily and commercial zones throughout the

14 city paired with an affordable housing requirement.

15 And, in brief, over several years of outreach on MHA,

16 something we often heard from people was the belief or the

17 question or concern that areas that were experiencing a lot

18 of development, housing development, were also experiencing

19 a loss of low income people. So to explore that question

20 and to inform the MHA EIS and the MHA proposal overall, we

21 did the comparison that I described a moment ago comparing

22 those two variables over time.

23 And we looked at whether there was a relationship or a

24 correlation between areas where there was a lot of housing

25 built and a loss of low income people in those same areas.

1 And we did not find evidence of that conclusion. In fact,  
 2 we found that in general, in most cases, areas that had more  
 3 housing production tended to gain or retain people with  
 4 lower incomes over this period of time.

5 **Q. Okay. And Mr. Reid testified that the ADU EIS should have**  
 6 **used data from Appendix M. Do you agree that the failure to**  
 7 **consider the data from Appendix M renders this EIS deficient**  
 8 **in any way?**

9 A. No.

10 **Q. Why not?**

11 A. Well, for a few reasons. One is that we have substantial  
 12 displacement analysis in the EIS, of which I've only  
 13 discussed a part with the displacement risk index, and we'll  
 14 at least have another witness that will go deeper into that  
 15 displacement analysis.

16 But even to the extent that Appendix M could be  
 17 informative or even really applicable for this ADU EIS, I  
 18 don't think it is appropriate. There are two variables that  
 19 are included in Appendix M analyzed here and that are mapped  
 20 on the pages, several pages throughout this document:  
 21 housing production and change in households at different  
 22 income levels.

23 Housing production tends to be in -- for this time period,  
 24 which is roughly 2000 to 2012, housing production is  
 25 generally in our multifamily and mixed-use zones where there

1 just, at the census tract level, not something that we can  
 2 parse or disaggregate in that way.

3 **Q. You said something else that I want to explore. You're**  
 4 **using the phrase loss of low income people. I think I heard**  
 5 **Mr. Reid say places where displacement occurred. Do you**  
 6 **agree that those are absolutely equivalent?**

7 A. They're not absolutely equivalent. What we explored in  
 8 Appendix M was, as I've stated, change in the number of  
 9 households by income level and with an eye towards lower  
 10 income households.

11 That is probably a good proxy for households experiencing  
 12 displacement. Lower income households certainly are more  
 13 vulnerable in general, and so a loss in lower income  
 14 households could indicate that displacement is occurring.  
 15 But they're not equivalent.

16 A change in a household's income status over this 12-year  
 17 period, even if they didn't move away from that census  
 18 tract, it could just reflect a change in their income level  
 19 overall. So it's not a perfect equivalent match for  
 20 displacement, per se.

21 **Q. Okay. Let me ask you maybe putting it another way. Why did**  
 22 **you rely on the growth and equity analysis, not Appendix M?**

23 A. Well, again, the growth and equity analysis was one way that  
 24 we looked at the question of displacement for this EIS. It  
 25 was not the only way. And we'll go into that further later.

1 has been capacity for that. There's very little capacity  
 2 for new housing production, net housing production in  
 3 single-family areas.

4 So that data set would not be particularly relevant or  
 5 even applicable here. But even if we were to just look at  
 6 the change in the number of households at the census tract  
 7 level, I believe I heard Mr. Reid testify that we could have  
 8 learned something from looking at those census tracts that  
 9 are mapped in this document that intersect or include the  
 10 study area for the ADU EIS.

11 The problem with that is that there is no good  
 12 relationship between those census tracts and the ADU EIS.  
 13 In other words, very few census tracts are entirely  
 14 single-family zoning. Nearly all census tracts that  
 15 intersect with the EIS study area here include some  
 16 multifamily and mixed-use zoning.

17 **Q. And why is that important?**

18 A. Well, that's important because even if we were to look at  
 19 the results as shown in Appendix M and as I believe I heard  
 20 Mr. Reid testify, if we were to look at the census tracts  
 21 that showed a loss in low income people over this period of  
 22 time, we would have no way of knowing whether that loss  
 23 occurred from anything happening in the multifamily or  
 24 mixed-use zoning part of that census tract or in the  
 25 single-family zoning part of the census tract because it's

1 But we used it because it is -- it's been substantially  
 2 vetted. It's been used in various other city efforts  
 3 formally adopted by the city council. And it is  
 4 forward-looking.

5 So when we're looking over a ten-year period of potential  
 6 displacement outcomes under each of these alternatives, it  
 7 makes sense to use an analysis that is trying to estimate  
 8 potential future displacement risk, not necessarily  
 9 something that's looking historically.

10 Appendix M was looking historically to try to understand a  
 11 certain relationship between two variables. And, in fact,  
 12 it found that that relationship tended to support more  
 13 housing production as an anti-displacement measure, as  
 14 opposed to the inverse or the opposite conclusion.

15 **Q. Okay. And as you've mentioned several times, we'll discuss**  
 16 **the displacement impacts analysis in more detail with**  
 17 **another witness, but I just want to sum up with an**  
 18 **overarching question.**

19 **Can you address whether the FEIS's displacement analysis**  
 20 **is consistent with the City's other efforts to analyze**  
 21 **displacement, those efforts with which you've been involved?**

22 A. Yes. Overall, it is consistent, uses similar types of  
 23 analysis in a similar approach to understanding how and why  
 24 displacement happens.

25 **Q. Okay. I have just a couple more questions. And I apologize**

1 for jumping around, but I realize I failed to ask you the  
 2 one important piece of the esthetics analysis, which is  
 3 could you just give us a summary of the impacts that the EIS  
 4 described for the various alternatives as they pertain to  
 5 esthetics at a high level?

6 A. Sure. There's some variation across the action alternatives  
 7 because, as we've discussed, the specific development  
 8 standards would vary in each alternative with respect to  
 9 size, floor area ratio, et cetera.

10 For the action alternatives in general, it tends to find  
 11 that there could be minor impacts to height, bulk and scale  
 12 generally. There could be localized impacts to the extent  
 13 that ADUs are concentrated in a particular area. For the  
 14 preferred alternative specifically and for Alternative 3,  
 15 the addition of an FAR limit would serve to lessen those  
 16 esthetic impacts because it would reduce the size of the  
 17 largest house that someone could build on that property.

18 And then similarly, I believe -- yes, drawing again on the  
 19 forecast model from Chapter 4.1, which forecasts that in all  
 20 action alternatives there would be fewer demolitions of  
 21 single-family homes, fewer teardowns, compared to  
 22 Alternative 1, and that production would be greatest for the  
 23 preferred alternative. It concludes that that reduction in  
 24 teardowns would also lessen esthetic impacts relative to  
 25 Alternative 1 by reducing the number of homes that are

1 HEARING EXAMINER: Thank you. Well, it is now 4:50, and  
 2 so I think rather than getting into -- oh, I'm sorry, yeah.

3 MR. KISIELIUS: Did I not ask to have that entered?

4 HEARING EXAMINER: No.

5 MR. KISIELIUS: Okay.

6 HEARING EXAMINER: You didn't ask to have that entered as  
 7 an exhibit.

8 MR. KISIELIUS: I would request that we add it as an  
 9 exhibit.

10 HEARING EXAMINER: Okay. Any objections from this side of  
 11 the table?

12 MR. EUSTIS: No objection.

13 HEARING EXAMINER: Okay.

14 MR. EUSTIS: You're speaking of the growth and equity  
 15 analysis?

16 MR. KISIELIUS: Correct, yes.

17 HEARING EXAMINER: Yes. Okay. It will be entered as  
 18 Exhibit 36 into the record.

19 (Exhibit No. 36 admitted into evidence)

20 MR. KISIELIUS: Thank you for the reminder.

21 HEARING EXAMINER: Yeah. Thank you.

22 So we will pick up with cross-examination in the morning,  
 23 nine o'clock.

24 MR. EUSTIS: Very well. Let's see, with regard to  
 25 scheduling -- this is a recurrent topic. Apart from there

1 torn down.

2 Q. Okay. Okay. So, in general, you've testified about a lot  
 3 of different topics today: Changes to land use form,  
 4 displacement analysis, tree canopy, esthetics. Have you  
 5 heard anything -- now let me ask you. Have you been here  
 6 for the -- present for the appellant's testimony?

7 A. Yes, I have.

8 Q. Have you heard anything in the appellant's testimony that  
 9 causes you to question any of the conclusions or analysis in  
 10 those portions of the EIS to which you've testified today?

11 A. No.

12 Q. And do you believe you used reasonable and standard methods  
 13 in your profession to frame the range of alternatives  
 14 evaluated in the EIS?

15 A. Yes.

16 Q. And do you believe that you used reasonable and standard  
 17 methods of your profession to assess and disclose the  
 18 potential impacts of the proposal?

19 A. Yes.

20 Q. And do you believe that those portions of the EIS will  
 21 adequately inform a decision-maker of the potential impacts  
 22 of this proposal?

23 A. Yes, I do.

24 MR. KISIELIUS: I don't have any further questions for you  
 25 right now. Thanks.

1 will be direct on Mr. Kaplan and Mr. Kuehne, we spent almost  
 2 the entire day on Mr. Welch.

3 HEARING EXAMINER: Um-hum.

4 MR. EUSTIS: And because we covered a number of topics, I  
 5 do not anticipate that my cross-examination will, for  
 6 instance, be as short as Mr. Kuehne.

7 HEARING EXAMINER: Understood.

8 MR. EUSTIS: So if we have a lineup of seven City  
 9 witnesses and we are now through one and a half and my -- I  
 10 guess my concern deals with tomorrow and the day after --

11 HEARING EXAMINER: Correct.

12 MR. EUSTIS: -- and the potential for what I see as the  
 13 need for carving out additional days. So that's -- that's  
 14 my concern. And, you know, my concern is, as well, is  
 15 Mr. Kaplan indicated to me that he has a family engagement  
 16 in California and he will be absent on Friday.

17 HEARING EXAMINER: Okay.

18 MR. EUSTIS: So these -- these are my concerns.

19 HEARING EXAMINER: I see. Okay. Thank you for sharing  
 20 those. And are you -- are you proposing we not convene on  
 21 Friday because Mr. Kaplan won't be here?

22 MR. EUSTIS: That would be -- that would be my client's  
 23 request.

24 HEARING EXAMINER: I see. Okay.

25 MR. EUSTIS: Yeah.

1 HEARING EXAMINER: All right.  
 2 MR. EUSTIS: I know that the hearing was set for Monday,  
 3 but the -- and the other days were set aside.  
 4 HEARING EXAMINER: Um-hum.  
 5 MR. EUSTIS: I've read the notice on the board. I'm aware  
 6 of that.  
 7 HEARING EXAMINER: Okay.  
 8 MR. KISIELIUS: May I speak to this?  
 9 HEARING EXAMINER: Yes, please.  
 10 MR. KISIELIUS: The City would --  
 11 HEARING EXAMINER: Enlighten us.  
 12 MR. KISIELIUS: The City would like to hold to the  
 13 schedule. We've been planning for this week, and we think  
 14 we can make it through.  
 15 I'd observe that, with Mr. Kuehne, the City's questions of  
 16 its own witness including redirect was about 35 minutes of  
 17 the nearly hour and 45 minutes he was here. So to the  
 18 extent that there's a pace control issue, we've had one  
 19 appellant witness that extended over not just one day but  
 20 into the second.  
 21 And so we are trying to move along at a really good clip,  
 22 and I think we're doing that. Admittedly, Mr. Welch's  
 23 testimony is likely the longest of any of our witnesses.  
 24 HEARING EXAMINER: Okay.  
 25 MR. KISIELIUS: Several of the witnesses on our list will

1 HEARING EXAMINER: Right. Cross-examination always takes  
 2 time.  
 3 MR. KISIELIUS: Understood.  
 4 HEARING EXAMINER: Okay. Well, I think we need to hold to  
 5 the schedule that we have set out. And I know trying to  
 6 come up with additional hearing days is not a fun thing to  
 7 do for anybody. The last time I had to do that, it was two  
 8 months later, and I'd really not -- prefer not to do that if  
 9 we can avoid it.  
 10 So if we can try our best to get through this in the next  
 11 two days, I think that would be the way to go. And I want  
 12 to -- I want to do that. So -- yes, sir.  
 13 MR. ELLISON: On a different topic?  
 14 HEARING EXAMINER: Okay. Anything else on that topic?  
 15 MR. ELLISON: Just --  
 16 HEARING EXAMINER: Okay.  
 17 MR. ELLISON: There has been mention today of the 2016  
 18 Seattle Tree Canopy Assessment, which was listed as a  
 19 potential document to be put into the record, No. 18 by the  
 20 City. I'm just wondering if that's -- is that being entered  
 21 into the record because it's been discussed today, or is  
 22 that still outside the record?  
 23 HEARING EXAMINER: It's still outside the record. No  
 24 one's offered it as an exhibit.  
 25 MR. ELLISON: And I'm not allowed to do that --

1 be significantly shorter. Again, I can tell you what we  
 2 plan to do. So I would imagine, for example, Mr. McKim  
 3 would be in the range of about 30 minutes, from the City's  
 4 standpoint.  
 5 And the parking reports, that's a couple hours total  
 6 between the two of them. And the last one --  
 7 MR. EUSTIS: Who are the two witnesses on parking?  
 8 MR. KISIELIUS: Amalia Leighton Cody and Mary Catherine  
 9 Snyder.  
 10 MR. EUSTIS: Okay.  
 11 MR. KISIELIUS: These are all on our list. And then, of  
 12 course, Aly Pennucci at the end. Oh, excuse me, Morgan,  
 13 Mr. Shook. My point is I don't envision anybody being  
 14 longer than Mr. Welch. I certainly don't envision anybody  
 15 taking a full day. And I think we should be -- we should be  
 16 on a pace for getting several done each day, multiple ones  
 17 done each day.  
 18 HEARING EXAMINER: Okay.  
 19 MR. KISIELIUS: But I can only speak for the portions  
 20 of it that --  
 21 HEARING EXAMINER: Right. Of course.  
 22 MR. KISIELIUS: And again, with Mr. Kuehne, I -- that's  
 23 just an example. The majority of that was not -- that's our  
 24 witness, and the majority of it was not spent on our  
 25 questions.

1 HEARING EXAMINER: No.  
 2 MR. ELLISON: -- so I can't -- I can't suggest that.  
 3 Okay.  
 4 HEARING EXAMINER: Okay? All right. We will convene at  
 5 9:00 a.m. tomorrow morning.  
 6 MR. KISIELIUS: Thank you.  
 7 MR. EUSTIS: Thank you.  
 8 (Conclusion of March 27, 2019 Hearing)  
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 22  
 23  
 24 CERTIFICATE  
 25



1 STATE OF WASHINGTON )  
2 )  
3 COUNTY OF KING )  
4

5 I, the undersigned, do hereby certify under penalty  
6 of perjury that the foregoing proceedings were transcribed under  
7 my direction as a certified transcriptionist; and that the  
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12 attorney or counsel employed by the parties hereto, nor  
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15

16 IN WITNESS WHEREOF, I have hereunto set my hand  
17 this 8th day of April, 2019.

18

19

20

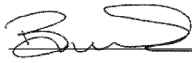
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