

Hearing

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

March 28, 2019



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1 **Q. Yes.**
 2 A. Yes, I wrote some of the text.
 3 **Q. Okay. And are you able to identify what portions of the**
 4 **text you wrote?**
 5 A. I can identify chapters overall, and maybe subsections
 6 that -- where I contributed, I would say, the majority of
 7 the content. With so many collaborators working on the
 8 document, I can't say this entire chapter was 100 percent
 9 words from me.
 10 **Q. Okay. Then the appendices -- and I'm speaking of A, B, and**
 11 **C -- were those -- apart from your review of the text, were**
 12 **they principally written by consultants, the appendices?**
 13 A. Appendix A and Appendix B certainly were principally written
 14 by the consultants. Appendix C is shorter, and I may have
 15 contributed more of the original content to Appendix C. I
 16 don't believe I contributed all of it for Appendix C.
 17 **Q. Okay. And who would have been the principal author for**
 18 **Appendix A, Housing and Economics?**
 19 A. I believe the principal author would have been our team from
 20 ECONorthwest, and I can't really speak to division of labor
 21 among the consultants from that firm.
 22 **Q. Okay. So you wouldn't know who would be the principal**
 23 **writer of that appendix?**
 24 A. I can't say for certain.
 25 **Q. Okay. Appendix B dealing with parking?**

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1 A. I can say that the primary authors were the firm that we
 2 hired for the parking transportation analysis, which was
 3 Toole Design Group. And, similarly, I can't say what the
 4 division of labor was among the consultants from Toole that
 5 were working on that.
 6 **Q. Okay. And we've covered C. I listened to your coursework**
 7 **at Tufts.**
 8 **Has your coursework concluded instruction and writing on**
 9 **preparing environmental impact statements?**
 10 A. I would say I -- my coursework in graduate school included
 11 that type of technical writing and analysis, not
 12 specifically narrowly focused on EISs.
 13 **Q. Okay. Have you had any formalized education and training on**
 14 **the scope of environmental impact statements under the State**
 15 **Environmental Policy Act?**
 16 A. I have not had formal training in a classroom setting on
 17 that.
 18 **Q. So whatever training you had has been as you have gone along**
 19 **and participated, then, in the various documents that you**
 20 **identified in your prior testimony?**
 21 A. Certainly learning from experience working on previous EISs,
 22 learning from colleagues and mentors who have worked on
 23 those and other EISs and have expertise in that
 24 environmental review.
 25 **Q. Okay. And I gathered you haven't had any formal training in**

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1 **the scope of analysis for environmental impact statements**
 2 **under the National Environmental Policy Act?**
 3 A. Similar answer. I have not had formal classroom training on
 4 that.
 5 **Q. Okay. I'm drawing your attention to City Resolution 31547,**
 6 **which has become Exhibit 31 in this proceeding.**
 7 **I believe you testified to that on your direct**
 8 **examination, correct?**
 9 A. That's right.
 10 **Q. Okay. So Section 2 requires that the Department of Planning**
 11 **and Development prepare a report on Seattle's development**
 12 **regulations regarding accessory dwelling units, and that**
 13 **report be presented to the HALA Committee by March 15, 2015.**
 14 **You know, was such a report prepared? I'm referring to, I**
 15 **believe it's, maybe, page 2 or 3 of this document.**
 16 A. Yes, I see that page. I was involved in preparing reports,
 17 a background report on accessory dwelling units. I'm not --
 18 I wasn't involved in the HALA Committee process.
 19 Specifically, I was involved after the committee made its
 20 recommendations in implementing some of those
 21 recommendations. I didn't attend any HALA Committee
 22 meetings, so I -- I can't speak to whether --
 23 **Q. So you don't know whether such a report was prepared?**
 24 A. I don't know whether it was presented at the HALA Committee,
 25 or provided to, I should say, to the restoration in the

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1 resolution.
 2 **Q. Do you know if such a report was prepared?**
 3 A. Well, because I don't know what report might or might not
 4 have been presented to the committee, I can't say whether
 5 the report -- I really -- I just can't speak to what report
 6 might or might not have been presented to that committee.
 7 But as I said, I -- I did prepare a background report on
 8 ADUs.
 9 **Q. Was this the backyard cottage report that was, I think,**
 10 **either prepared for or submitted to Councilmember O'Brien?**
 11 A. There was a report on backyard cottages. I believe that
 12 term is in the title. I don't recall the specific title
 13 that we used. And I am confident Councilmember O'Brien has
 14 seen it. I didn't personally present it to him several
 15 years ago.
 16 **Q. Okay. And so you cannot say whether that report was this**
 17 **report which was requested by the date of March 15, 2015?**
 18 A. I didn't attend any HALA Committee meetings, so can't say
 19 what reports might or might not have been presented there.
 20 **Q. All right. So here I'm drawing your attention to the EIS.**
 21 **At the beginning of the EIS, Exhibit 1 in these proceedings,**
 22 **there on page 1-2, Paragraph 1.2, there's a discussion about**
 23 **the proposal's objectives.**
 24 **Do you have that in front of you?**
 25 A. Yes, I do.

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1 **Q. And on the next page, 1.3, there is a statement above Land**
 2 **Use Policy 7.5, that "With this proposal, the City aims to**
 3 **implement Comprehensive Plan policies related to ADUs"; do**
 4 **you see that?**
 5 A. Yes.
 6 **Q. Okay. And then under Policy 7.5, there is a policy to**
 7 **encourage accessory dwelling units, family-sized units,**
 8 **other housing types that are attractive and affordable, all**
 9 **right?**
 10 A. Yes, I see that.
 11 **Q. Okay. You have certainly spent a lot of time on both this**
 12 **proposal and the environmental analysis. I believe Mr. Reid**
 13 **characterized this, the housing that would come out of any**
 14 **of the various alternatives, including the preferred**
 15 **alternative, would be market-rate housing.**
 16 **Would you generally, generally agree with that?**
 17 A. Yes. Overall we are in the EIS contemplating that these are
 18 ADUs where rents are not regulated.
 19 **Q. All right. Based upon your work on mandatory housing and**
 20 **affordability, et cetera, you would agree, wouldn't you,**
 21 **that there is a need for housing that would be affordable by**
 22 **those who are at 80, 50, and 30 percent adjusted median**
 23 **income in the Seattle area --**
 24 A. I was...
 25 **Q. -- as a general matter?**

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1 A. As a general matter, I believe there's a need at those
 2 income levels and moderate and higher income levels as well.
 3 **Q. Okay. You spoke to the range of alternatives, and I believe**
 4 **in response to one of Counsel's questions, you indicated**
 5 **that the alternatives presented clearly, the no action**
 6 **Alternative 2, 3, and the preferred alternative, presented a**
 7 **reasonable range of alternatives?**
 8 A. By Counsel, are you referring to Mr. Kisielius, not the City
 9 Council?
 10 **Q. Sorry. An s-e-l kind of counsel.**
 11 A. Yes, that's, of course, my testimony.
 12 **Q. Okay. You would agree, wouldn't you, that none of the**
 13 **alternatives have provisions that would target or restrict**
 14 **additional accessory dwelling units to housing needs for**
 15 **those at 30, 50, 80 percent adjusted median income?**
 16 A. Well, I wouldn't agree entirely. It is correct that the
 17 alternatives do not include or contemplate a rent or price
 18 restriction for those income levels, but ADUs do -- some
 19 ADUs do serve households at the income levels that you have
 20 described.
 21 And, separately, in the context section of the EIS, we
 22 discuss other efforts the City could undertake to, apart
 23 from the coaching, is serve those households with ADUs.
 24 **Q. Okay. But as part of any of these alternatives, there are**
 25 **not provisions to restrict the cost of ADU housing so that**

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1 **they would be affordable to those segments of the**
 2 **population? I'm speaking of 30, 50, 80 percent of adjusted**
 3 **median income. I'm asking you about restrictions on any of**
 4 **the alternatives that would make additional ADU housing**
 5 **affordable for those segments of the population.**
 6 A. Well, actually, if you turn to page 2-6, where we describe
 7 the alternatives, in the draft EIS, Alternative 3 did
 8 contemplate a requirement for...
 9 **Q. In the draft EIS?**
 10 A. Well, and in the final EIS.
 11 **Q. Okay.**
 12 A. But this was an alternative that was available and studied
 13 in the draft EIS.
 14 **Q. And what is that provision?**
 15 A. At the time of the draft EIS, we contemplated requiring that
 16 the second ADU be contingent on an affordable housing
 17 contribution and studied the outcomes of that provision.
 18 **Q. Okay. And let me go -- you said this is page 2-3?**
 19 A. 2-6.
 20 **Q. 2-6. Sorry. And so under Alternative 3 -- and I'll take it**
 21 **I'm reading from the final EIS?**
 22 A. Right.
 23 **Q. Okay. So could you read the language that you're speaking**
 24 **of that it would make accessory dwelling units affordable to**
 25 **those ranges of income?**

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1 A. Sure. On page 2-6, the bottom row, which occupies most of
 2 the page, is discussing incentives for affordable housing.
 3 And it's phrased that way because there would be a
 4 requirement that if you want to build a second ADU, you have
 5 to make a contribution to affordable housing.
 6 **Q. Right.**
 7 A. And the way we describe it at a programmatic level in this
 8 EIS is to say that we contemplate a contribution, a
 9 financial contribution the property owner would make at a
 10 specific per square foot amount that's consistent with a
 11 certain level of requirement in the MHA program as a way of
 12 studying the financial outcomes in Chapter 4.1 of applying
 13 that requirement to the production of a second ADU.
 14 Now, as you may know, MHA also includes a performance
 15 option where affordable housing can be provided on-site.
 16 This does not get to that level of detail, but it does set
 17 up the framework for analyzing what the affordable housing
 18 contribution could be under that alternative.
 19 **Q. All right. So as with MHA, the proponent of the second ADU**
 20 **could essentially buy their way out of providing an**
 21 **accessory dwelling unit that would be affordable to those at**
 22 **30, 50, 80 percent of AMI?**
 23 MR. KISIELIUS: Objection to the characterization of the
 24 program as misleading.
 25 HEARING EXAMINER: Sustained.

1 **Q. (By Mr. Eustis) Okay. So here under Alternative 3, it says**
 2 **it speaks in terms of an affordability contribution equal to**
 3 **the MHA requirements, okay? When it speaks of affordability**
 4 **contribution, it speaks of a monetary contribution; does it**
 5 **not?**
 6 A. In this case, that is what we analyzed in the housing and
 7 socioeconomics analysis, and, specifically, the highest and
 8 best use analysis, to understand how this would affect
 9 feasibility of different development outcomes in Alternative
 10 3.
 11 **Q. Okay. So did you make any determination as to whether that**
 12 **provision would create additional housing units through ADUs**
 13 **that's affordable to those three segments of the population?**
 14 A. My -- my recollection in Chapter 4.1, we discuss that
 15 Alternative 3, as a result of this requirement, it would
 16 affect -- it could affect the overall amount of ADU
 17 production because it is an added financial cost to building
 18 a second ADU. And I believe we discussed that it would lead
 19 to a -- an amount of affordable housing that could be
 20 produced with the financial contributions that we were
 21 studying, and we don't really get more precise than that --
 22 **Q. Okay.**
 23 A. -- because this policy could be developed further if the
 24 decision-maker wanted to take that approach.
 25 **Q. Okay. But in any event, the no-action alternatives did not**

1 **compounded to satisfy?**
 2 A. Whether it's satisfied or not, 75 percent would limit you to
 3 3750.
 4 **Q. Okay.**
 5 A. You have to satisfy both requirements.
 6 **Q. All right. Following that part of your testimony, I believe**
 7 **you testified that under the single-family code, there is**
 8 **allowable one principal dwelling unit per lot; is that**
 9 **correct?**
 10 A. That's correct.
 11 **Q. All right. So in your analysis, did you give any**
 12 **consideration to the effect of condominiumizing accessory**
 13 **dwelling units? And (inaudible) that still satisfies the**
 14 **requirement of one single-family dwelling per lot?**
 15 A. My understanding is that an accessory dwelling unit that has
 16 been sold as a condominium still satisfies the requirement
 17 for one principal dwelling unit.
 18 **Q. Okay. Even though the accessory dwelling unit could be**
 19 **separately owned and separately conveyed as a separate**
 20 **condominium unit?**
 21 A. Yes.
 22 **Q. Okay. And is that topic discussed in the EIS?**
 23 A. What topic specifically?
 24 **Q. The topic that in the case of two accessory dwelling units,**
 25 **you could have, essentially, three condominium units created**

1 **include any incentives for affordable housing that would**
 2 **apply to the creation of a second ADU, did it?**
 3 A. The no-action alternative does not include --
 4 **Q. Not the no action. The preferred. If I said no action, I'm**
 5 **sorry. I misspoke. The preferred-action alternative.**
 6 A. The preferred alternative does not carry forward that
 7 incentive for affordable housing.
 8 **Q. Okay. And when you spoke to single-family zoning, you spoke**
 9 **to the three categories of single-family zoning and their**
 10 **respective lot sizes; do you recall that?**
 11 A. Yes.
 12 **Q. Okay. You would agree, wouldn't you, that at least under**
 13 **the 75/80 Rule, it's possible for people to subdivide**
 14 **properties and create lots that are smaller than 5,000**
 15 **square feet? That's an exception to the**
 16 **5,000-square-foot-minimum lot size?**
 17 A. Yes. There's no change proposed to that --
 18 **Q. I understand.**
 19 A. -- existing policy, but it can yield new lots that are less
 20 than 5,000 square feet subject to certain requirements and
 21 conditions.
 22 **Q. And under the 75/80 Rule, possibly down to 3750 square feet?**
 23 A. That is, I believe, the smallest possible lots that could be
 24 created through the 75/80 Rule.
 25 **Q. Yeah, 75 percent of 5,000, assuming the 80 percent get**

1 **on a single-family lot, and that would satisfy the**
 2 **requirement of one dwelling per lot.**
 3 A. I don't believe we discussed what does and does not satisfy
 4 the requirement of one principal dwelling unit per lot.
 5 There's no change to that provision in the code under any
 6 alternative (inaudible).
 7 **Q. And so if it's your understanding that the**
 8 **condominiumization of accessory dwelling units still fits**
 9 **within the provision that on a single-family lot there would**
 10 **be one principal dwelling unit, what's that based on?**
 11 A. Just to clarify, you're asking what my understanding is
 12 based on?
 13 **Q. Yeah. What's your understanding based on.**
 14 A. My understanding of that, specifically, is based on my
 15 knowledge of the Land Use Code and what constitutes a
 16 principal structure and an accessory structure.
 17 **Q. Okay. To your understanding, has your department prepared**
 18 **an interpretation that the creation of accessory dwelling**
 19 **units as condominiums is still consistent with that**
 20 **provision with the single-family code?**
 21 A. I don't believe my department has done that.
 22 **Q. Okay. To your knowledge, has the Seattle Department of**
 23 **Construction and Inspections prepared such an**
 24 **interpretation?**
 25 A. Well, I -- as you might know, I don't work for that

1 department specifically, but my understanding is that an
 2 interpretation, I believe, is a formal or a specific action
 3 that SDCI might take when they get a --
 4 **Q. Right.**
 5 A. -- question on something. So I can't speak to whether they
 6 may have gotten questions about this issue or this topic,
 7 and then, as you said, issued an interpretation.
 8 **Q. So you have no knowledge of such an interpretation having**
 9 **been rendered?**
 10 A. I don't know. All I can say is that I don't know if SDCI
 11 staff have issued that formal interpretation on this
 12 question.
 13 **Q. Okay. And if your department hasn't issued an**
 14 **interpretation, then you have no knowledge of SDCI issuing**
 15 **such an interpretation.**
 16 **What is your understanding then, the basis for your**
 17 **understanding, that creating and selling accessory dwelling**
 18 **units as separate condominium units would be still**
 19 **consistent with the provision that a single-family lot have**
 20 **a single-principal dwelling? It has to come from some**
 21 **place.**
 22 A. Yes, I believe I have answered this question. It comes from
 23 my knowledge of the Land Use Code.
 24 **Q. Okay. I take it that the analyzing and rendering**
 25 **interpretations on the Land Use Code is not part of your**

1 supervisor, Geoff Wentlandt; and in other departments with
 2 colleagues Ms. Pennucci; and in the Department of
 3 Construction and Inspections with Andy McKim.
 4 **Q. Okay. And have any of these people issued a written**
 5 **analysis, you know, of that question, to your knowledge?**
 6 A. Again, I don't know if those people have issued a written
 7 analysis. But the best I could say is that Mr. McKim, in
 8 the Department of Construction and Inspections, has at least
 9 written to me about how that part of the Land Use Code is
 10 interpreted.
 11 **Q. But he's written to you by email?**
 12 A. Yes.
 13 **Q. Okay. All right. To your knowledge, was that among the**
 14 **emails provided in response to our request for public**
 15 **records relating to the email communications and documents**
 16 **that contain information regarding the preparation of the**
 17 **EIS?**
 18 A. I can't say for certain, but I'm -- it's possible that it
 19 would not be because I believe the email that I'm recalling
 20 from Mr. McKim was several years ago before the EIS process
 21 review.
 22 **Q. Would you be able to locate that email?**
 23 A. I'm not sure.
 24 **Q. Okay. So if we have a break, given that our request for**
 25 **public records was, you know, expansive, I would ask that**

1 **scope of work?**
 2 A. I don't implement the code through permit review or
 3 decisions about specific development projects because I work
 4 in long-range planning, but I do analyze the code and work
 5 on it through the legislative process.
 6 **Q. Okay. And so have you prepared an analysis of that**
 7 **question?**
 8 A. What do you mean by "analysis" in this case?
 9 **Q. Okay. You say that your understanding is based upon your**
 10 **working with the code, and I'm asking you if you have**
 11 **prepared any analysis of that issue other than what you're**
 12 **testifying to here today.**
 13 A. I was asking for you to clarify what you mean by "analysis."
 14 **Q. Analysis would be, I guess, an articulated process by which**
 15 **you would take the provisions of the Land Use Code, apply**
 16 **them to the circumstances involving the condominiumization**
 17 **of accessory dwelling units, and render a conclusion.**
 18 A. No. I have not written that down, but I have reviewed the
 19 relevant provisions in the Land Use Code on this topic.
 20 **Q. Okay. And have you discussed this with the colleagues in**
 21 **your department?**
 22 A. Yes. I have discussed this with at least one colleague in
 23 my department and colleagues in other departments.
 24 **Q. Okay. And who have you discussed this with?**
 25 A. In my department I believe I've discussed this with my

1 **you look for it and try to provide it.**
 2 **MR. KISIELIUS:** And at this point, I'm going to object
 3 because this is turning from a deposition line of inquiry
 4 into now a forum for questioning whether the City has
 5 appropriately responded to a public records request, which
 6 is outside the Examiner's jurisdiction, and it's irrelevant.
 7 And if Mr. Eustis had used the tools available to him that
 8 are governed by this Examiner through discovery, for
 9 example, rather than using the Public Records Act, we could
 10 have a discussion about it. But he has chosen repeatedly to
 11 utilize a different process and a different approach, which
 12 I'm not conceding anything of what he's asserting and
 13 alleging here. But I don't think it's appropriate to be
 14 raising this in this forum. There are different processes
 15 for if you think you were wronged. If your client thinks
 16 they were wronged, there are different processes for
 17 addressing that. Not here.
 18 **HEARING EXAMINER:** You can respond.
 19 **MR. EUSTIS:** Essentially, my request is, you know, are
 20 there writings that contain this analysis, and Mr. Welch is
 21 vague on that. And what I have asked him to do is to
 22 produce the writing if it exists or not. And we were -- two
 23 public records. It doesn't matter whether our request is
 24 through public records or through interrogatories. We were
 25 entitled to see it, and he has no recollection it was

1 provided.

2 MR. KISIELIUS: If I could respond, it absolutely does

3 matter which form he chose to pursue those records, because,

4 again, this Examiner doesn't have jurisdiction to hear his

5 complaint about the sufficiency of the City's response to a

6 public records request. This is a (inaudible)

7 jurisdictional issue. This should not be coming up here.

8 And, secondly, it is Day 4 of the hearing. And we're

9 asking the City to produce records that could have been

10 requested through discovery months ago and were not, and we

11 have very different interpretations of what was requested.

12 MR. EUSTIS: All right. So I'm not asking the Examiner to

13 enforce the Public Records Act. I'm simply asking Mr. Welch

14 to produce this writing that, apparently, forms the basis of

15 his understanding. It exists or it doesn't exist.

16 HEARING EXAMINER: Okay. I'm not ruling on anything

17 related to the Public Records Act, but, Mr. Welch, can you

18 provide this email? Can you go look for it, at least, and

19 try to provide it to Mr. Eustis?

20 THE WITNESS: Sure.

21 MR. EUSTIS: Okay.

22 HEARING EXAMINER: Thank you.

23 MR. EUSTIS: Thank you.

24 **Q. (By Mr. Eustis) I'm going to be -- I'm going to ask you**

25 **about Exhibit -- a page, what appears in the appellant's**

1 alternative.

2 **Q. No, no, no. I'm just asking you. I'm not asking you your**

3 **opinion as to whether this is possible. I'm asking you**

4 **simply to confirm that under the preferred alternative there**

5 **is a FAR limitation of .5.**

6 A. That's correct.

7 **Q. And that applies to the so-called "principal residence"?**

8 A. It would apply to the lot overall -- that's how FAR limits

9 are applied -- and then there would be certain floor area

10 that is exempt from the FAR calculation.

11 **Q. Okay. So the accessory dwelling units up to a thousand**

12 **square feet would be exempt, correct?**

13 A. Any floor area in an accessory dwelling unit would be exempt

14 and could not exceed 1,000 square feet due to the size

15 limit.

16 **Q. All right. And so for the primary residence, the figure**

17 **of -- on a 5,000-square-foot lot, the figure of 2500 square**

18 **feet would fit within the .5 FAR?**

19 A. That's correct.

20 **Q. That's correct. And so that point, the .5 FAR for the**

21 **primary residence, would be maxed out, right? 2500 square**

22 **feet on a 5,000-square-foot lot?**

23 A. Yes, that does equal .5 FAR.

24 **Q. Okay. And on top of that there could be a thousand**

25 **additional square feet for the first ADU, and a thousand**

1 **exhibit, what appellants noted as Exhibit 20. And I'm**

2 **looking for it right now.**

3 THE WITNESS: My copy of that is in my backpack.

4 May I (inaudible)?

5 HEARING EXAMINER: Of course.

6 **Q. (By Mr. Eustis) Yes, certainly.**

7 **Okay. I'm asking you about page 5.**

8 A. Okay.

9 **Q. All right. So on page 5, what we have is -- I think you**

10 **correctly identified it as an image.**

11 **The massing image is of an LR1 townhouse that appeared**

12 **on -- I believe it was your MHA Appendix F or something; is**

13 **that right?**

14 A. That's right.

15 **Q. All right. And so the image itself would be a portrayal of**

16 **what would be possible under an LR1 townhouse; do you recall**

17 **that?**

18 A. It's similar. It's been adjusted --

19 **Q. Yeah.**

20 A. -- its location on the site, but the structure appears to be

21 what came from LR, that appendix, for Lowrise 1 (inaudible).

22 **Q. Okay. So here I'm just largely focusing on the math.**

23 **Okay. So this is under the preferred alternative where**

24 **the limitation would be .5 FAR?**

25 A. I don't believe this is possible under the preferred

1 **additional square feet for the second ADU, correct?**

2 A. That's correct.

3 **Q. All right. So --**

4 A. Again, I should qualify that that's up to those amounts.

5 That would not be achievable in every case --

6 **Q. Yeah, right.**

7 A. -- because other standards apply.

8 **Q. Okay. So we would have on a 5,000-square-foot lot, 4500**

9 **square feet of, essentially, habitable living space?**

10 A. That could be possible, yes.

11 **Q. All right. So to get, let's say, two floors amounting to**

12 **2500 square feet, you would need at least a footprint of**

13 **about 1250 square feet, half of 2500?**

14 A. That math is correct; yes. That's --

15 **Q. Okay. And...**

16 A. -- one way to achieve it.

17 **Q. Right. And 1250 square feet, as a footprint, would**

18 **translate to about 25 percent lot coverage?**

19 A. That's correct.

20 **Q. Okay. But in the 5,000-square-foot zone, one could have up**

21 **to 35 percent lot coverage?**

22 A. That is the lot coverage on it for a 5,000-square-foot lot.

23 **Q. Okay. So you have an additional 10 percent of lot coverage**

24 **that could be gained under this with this hypothetical**

25 **structure that has a footprint of 1250 square feet?**

1 A. Well, not really. If you have maximized the floor area
 2 ratio limit as you, yourself, said that that structure
 3 would, then you have not achieved the maximum lot coverage,
 4 but you would be limited from additional floor area by the
 5 FAR --
 6 **Q. To the principal, to the principal dwelling unit. If you
 7 could have an accessory building in back, not an accessory
 8 dwelling unit, you could have a garage, an outbuilding,
 9 et cetera, so long as you fell within rear yard setbacks,
 10 side yard setbacks, and lot coverage, right?**
 11 A. I'm going to refer to Chapter 2 where we describe that FAR
 12 limit.
 13 **Q. So is it your understanding that the FAR limit applies to
 14 something else other than the principal dwelling unit?**
 15 A. In my understanding of what's written, I know that would be
 16 applied. And my understanding of the intent of the FAR
 17 limit in the preferred alternative is that it would, as I
 18 said, apply to development on the lot overall with certain
 19 exceptions for floor area in certain structures or
 20 locations, and those include floor area below grade and
 21 floor area in an ADU.
 22 **Q. Right.**
 23 A. So other floor area would be subject to that FAR limit, so
 24 if you've maxed that out with a 2500-square-foot house that
 25 you've described, there would not be floor area available,

1 includes only floor area below grade and floor area in an
 2 ADU.
 3 **Q. So I thought on direct testimony you testified that,
 4 you know, you -- I think you agreed with the figure of 4500
 5 square feet with the combination of the principal dwelling
 6 unit and two accessory dwelling units, and then I thought
 7 you testified that, in fact, you could have up to 5,000
 8 square feet.
 9 You didn't say that?**
 10 A. I think what you might be referring to is when I was
 11 testifying to one of the pages in Appendix -- excuse me --
 12 in Exhibit 20. And I, initially, misspoke and said 4500
 13 square feet, and I caught myself and said 5,000 square feet
 14 because we were talking about a 6,000-square-foot lot.
 15 That's what's labeled on that diagram.
 16 **Q. Okay.**
 17 A. And in that condition, you would be able to achieve a
 18 principal unit of 3,000 square feet, half of the lot size,
 19 plus two ADUs of 1,000 square feet, again, subject to all
 20 the other code standards, and that gets you to 5,000.
 21 **Q. All right. So then is it your testimony the FAR limit
 22 effectively, then, is a restriction on the ability to build
 23 out to 35 percent of lot coverage?**
 24 A. I'll elaborate. It does not prevent all lots from ever
 25 achieving, potentially, 35 percent lot coverage. It could

1 in general, for other structures or other sources of
 2 structure.
 3 **Q. So even other structures like, for instance, a garage, a
 4 gazebo, even the rear yard? And, again, I'm assuming
 5 compliance with the rear and side yard setbacks.
 6 It's your testimony that the FAR limit would apply to
 7 those (inaudible) as well? Where do you find that?**
 8 A. Well, I'll refer here to page 2-21 where we describe how the
 9 floor area ratio limit would apply under the preferred
 10 alternative. And I'll read from this paragraph, which is my
 11 understanding of how it would apply for single-family zones.
 12 It says (as read): "Lots in single-family zones would be
 13 subject to a maximum floor area limit of .5 FAR. Floor area
 14 below grade or in an ADU, whether attached or detached,
 15 would be exempt from the floor area calculations."
 16 **Q. And so you read that. It doesn't specifically address
 17 whether floor area ratio applies to other accessory
 18 structures other than accessory dwelling units, does it?**
 19 A. It does address that because it says, "Lots in single-family
 20 zones would be subject to a maximum floor area limit of .5
 21 FAR."
 22 So the starting point for this is to say floor area on a
 23 single-family lot is regulated, according to the standards
 24 described here. Then it goes on to say what specific floor
 25 area would be accepted in that calculation, and that

1 in cases reduce the likelihood that a lot achieves 35
 2 percent --
 3 **Q. Okay. So...**
 4 A. -- by reducing the size of structure. That's possible.
 5 **Q. Okay. So the footprint of the structure could be larger.
 6 The single-structure housing, the principal unit, an
 7 accessory dwelling unit, the footprint could be larger, up
 8 to 35 percent, so long as the FAR limit and the 1,000 square
 9 feet per ADU happened to be respective?**
 10 A. Yes. All of these standards apply in concert, and the one
 11 that is a limiting factor for any particular lot or
 12 development proposal varies project to project and site to
 13 site.
 14 **Q. So under the existing code, there is a limit of 800
 15 additional square feet for an accessory dwelling unit and
 16 attached accessory dwelling unit?**
 17 A. That's correct.
 18 **Q. Okay. But what's included in that 800 square feet is
 19 garages?**
 20 A. Yes. If a DADU is in the same structure as the garage, the
 21 garage floor area counts towards that 800-square-foot limit
 22 currently.
 23 **Q. Okay. And that's a change under, you know, all of the
 24 alternatives, or any of the alternatives in terms of the
 25 maximum allowable lot area, floor area for an ADU, garages**

1 are not included?
 2 A. No, that's not correct. In Alternative 3, we retained the
 3 inclusion --
 4 **Q. Okay. I'm sorry.**
 5 A. -- of garage floor area.
 6 **Q. But for the preferred alternative need, garage floor area is**
 7 **not included, correct?**
 8 A. That's correct.
 9 **Q. Okay. I think I recall that your legal counsel asked you, I**
 10 **think, an introductory question as to whether -- to**
 11 **characterize Mr. Reid's testimony that he said that the EIS**
 12 **was silent on displacement; do you recall that question?**
 13 A. Yes. I'm not positive that was the exact wording of it, but
 14 I recall the question when it came up.
 15 **Q. Okay. And I recall your answer saying -- agreeing with that**
 16 **characterization that Mr. Reid's testimony was silent on**
 17 **displacement.**
 18 MR. KISIELIUS: Objection. The witness just said he's not
 19 sure that was the correct characterization of the question,
 20 and now he's asking him to go further on it.
 21 HEARING EXAMINER: Sustained.
 22 **Q. (By Mr. Eustis) Okay. You would agree, wouldn't you, if**
 23 **Mr. Reid -- Mr. Reid did not say that the EIS was silent on**
 24 **displacement?**
 25 A. I don't believe he said that it was silent on

1 **Q. And the displacement risk map being the one from Appendix M**
 2 **to the MHA EIS?**
 3 A. No. A displacement risk index is contained in Appendix A to
 4 the MHA EIS. It's from the growth and equity analysis. I
 5 believe it's now an exhibit in this proceeding, and it is on
 6 page 4-38.
 7 **Q. Okay. So you do recall Mr. Reid's testimony dealing with**
 8 **the negative relationship in a number of identified census**
 9 **tracts, a negative relationship between increased housing**
 10 **and loss of house (inaudible), correct?**
 11 A. Can you specify what you mean by "negative relationship"?
 12 **Q. Yes. That more housing created was associated with a**
 13 **decrease in the number of households. And here I'm**
 14 **referring to his reference to Exhibit M-17 of Appendix M.**
 15 A. I don't recall him testifying to a negative relationship, as
 16 you've described it, and that's not the conclusion of that
 17 appendix.
 18 **Q. I was referring to Exhibit M-17.**
 19 **You don't recall his testifying to that?**
 20 **All right. Okay.**
 21 A. It would help me if you can be a little more specific with
 22 the word "that."
 23 What testimony is it you are referring to specifically?
 24 **Q. His testimony based upon Exhibit M-17, that there was a**
 25 **negative relationship between the changing households and**

1 displacement --
 2 **Q. Okay.**
 3 A. -- period.
 4 **Q. Because Mr. Reid definitely referred to the access to**
 5 **opportunity document that was presented in the EIS, and here**
 6 **I'm referring to the document at page A-34, correct?**
 7 A. Would you repeat that page number?
 8 **Q. Yeah, A-34. This is the access to opportunity document.**
 9 A. I'm not seeing that on...
 10 **Q. Exhibit 4.1-16.**
 11 **HEARING EXAMINER: Oh.**
 12 **THE WITNESS: I'm sorry. A-34?**
 13 **MR. KISIELIUS: It's an appendix page number?**
 14 **HEARING EXAMINER: Appendix --**
 15 **MR. EUSTIS: Yeah.**
 16 **HEARING EXAMINER: -- or the main chapter?**
 17 **MR. EUSTIS: It's 4-34. If I said A, I'm sorry. 4-34.**
 18 **THE WITNESS: I don't recall Mr. Reid testifying to this**
 19 **exhibit, which is the opportunity -- access to opportunity**
 20 **index.**
 21 **Q. (By Mr. Eustis) You don't recall his addressing this in his**
 22 **testimony at all?**
 23 A. He addressed the displacement risk index map. This is the
 24 access to opportunity index map. I don't believe he spoke
 25 to the latter.

1 **the production of housing.**
 2 A. I recall his testimony on this exhibit, and I don't agree
 3 with the characterization of that relationship as negative.
 4 **Q. Okay. So you don't agree with the negative, for example,**
 5 **M-17, change in households living in marked rate units and**
 6 **the negative numbers that appear that are coded with various**
 7 **colors?**
 8 A. Well, previously, you've been speaking about a negative
 9 relationship between two variables, and now you're referring
 10 to a negative number for just one variable. Those are two
 11 different things.
 12 **Q. Okay. I'm selecting these just because this is one of the**
 13 **exhibits that he happened to refer to.**
 14 **So I don't want to, you know, spend time trying to**
 15 **paraphrase or summarize Mr. Reid's testimony. We all heard**
 16 **the testimony. I mean, it's available, you know, on audio,**
 17 **hopefully.**
 18 **But the thrust of his testimony was the City had data**
 19 **where there was an association between increased housing**
 20 **units and loss of houses and loss of households.**
 21 **And the point of his testimony, a point of his testimony,**
 22 **was that the City had this information by census tract, and**
 23 **in terms of analyzing the accessory dwelling units, the**
 24 **typology that the City selected for its lots, did not**
 25 **consider or zero in on the areas of the City where there was**

1 a loss of households in areas where there was an increase in
2 housing. That was the trust.

3 And I gather your response was, Well, the problem is you
4 have a mix of multifamily and single family, so we can't
5 tease out the effects on single-family housing. I gather
6 that was one of your responses.

7 And my question is: Certainly, the City could have
8 examined the effect on single-family housing of this
9 legislation in more vulnerable neighborhoods? It could
10 have?

11 A. My response would be that we could have, and, indeed, we
12 did.

13 Q. Okay. So in terms of your typology...

14 A. And just for the record, I'd also like to clarify that once
15 again, you have mischaracterized the conclusion and the
16 finding of Appendix M to the MHA EIS.

17 Q. I understand that that's your opinion.

18 So in terms of the typology that you considered, the
19 typology of lots that went into the housing and
20 socioeconomic analysis, there was a range of income,
21 correct? A range of cost of housing?

22 A. I would like to refer to that part of Chapter 4.1.

23 Q. Okay. So tell me which part you're referring to, and I'll
24 try to follow you.

25 A. I will do that once I get there.

1 A. I recall Ms. Souvanny speaking of Southeast Seattle. I
2 believe she spent time living in that area. I'm not sure
3 if -- I don't specifically recall Mr. Reid referring to that
4 area.

5 Q. Okay. Okay. And your -- the City's document 2035: Growth
6 & Equity. I believe it was City Exhibit 28, which was --
7 I'm looking for the -- I believe it's Hearing Exhibit 36.

8 A. Yes, I'm seeing that.

9 Q. Okay. So among other things when you go into that exhibit,
10 there are a number of city maps that then focus on risk of
11 displacement based upon a number of indicators.

12 A. Can I just clarify that there's one map that shows that, not
13 a number of maps that show that.

14 Q. Okay. What I'm referring to are the maps that appear in --
15 beginning at page 35 of that document, Attachment B to that
16 document, you have a number of displacement indicators?

17 A. That's correct.

18 Q. And you said you have -- I'll try to do a count. I'm
19 referring to the first map, and it begins with people of
20 color?

21 A. That's right. I believe there were 14 indicators.

22 Q. Okay. So under these 14 indicators, generally, there
23 appears to be some commonality among these maps that the
24 neighborhoods in Southeast Seattle that are shown as being
25 at greater or perhaps even the greatest risk of

1 Q. Okay.

2 A. I'm on page 4-16, Exhibit 4.1-11, and I believe what you
3 just asserted was that the typology included a range of
4 incomes in the typology.

5 Q. Incomes? No, housing cost.

6 A. Housing cost in the typology, and I -- I don't agree with
7 that.

8 Q. Rent category? Sales price? I'm referring to 4-15.

9 A. Okay. So on page 4-15, yes, we did use -- we did categorize
10 different areas of the City by housing costs. I thought you
11 were referring to the parcel typology because you had used
12 that specific term.

13 Q. All right.

14 A. But I apologize if I misunderstood.

15 Q. Mr. Welch, you were here for the testimony by Mr. Reid and
16 by Ms. Souvanny in the prior appeal proceeding, right?

17 A. In the DNS appeal, yes, I was here.

18 Q. And you heard their testimony identifying areas that they
19 perceived were more vulnerable to displacement on account of
20 the proposed expansion of accessory dwelling units? You
21 heard that?

22 A. I recall them describing places that were more vulnerable to
23 displacement in general.

24 Q. Okay. And you would agree, wouldn't you, that those -- they
25 spoke of areas in Southeast Seattle?

1 displacement?

2 A. Well, that's -- that's shown in the displacement risk index
3 map which is --

4 Q. Okay.

5 A. -- a composite based on these indicators. And, yes, that's
6 a fair characterization of some of those neighborhoods in
7 Southeast Seattle.

8 And by extension, that means that these individual maps
9 that show those individual indicators are going to show that
10 same trend because that's what produces that final outcome
11 in the overall index.

12 Q. Okay. So the issue of displacement risk, and, particularly,
13 in Southeast Seattle, was brought to your attention in the
14 prior proceeding at the appeal of the DNS by -- including
15 Mr. Reid, who testified in this proceeding. And yet I do
16 not find in your typology the particular consideration of
17 the impacts of the proposal upon these neighborhoods in
18 Southeast Seattle; is that the generalized sense; would you
19 agree with that?

20 A. No, I would not agree with that.

21 Q. And so in a -- with respect -- in a particularized sense,
22 with respect to particular neighborhoods, Mr. Reid talked
23 about a particular census tract.

24 Can you show me where the potential for displacement
25 presented by the proposed action considers the impact upon

1 **those specific neighborhoods?**
 2 A. Well, to begin, I would direct you to page 4-37, in the
 3 housing and socioeconomics chapter, under the heading
 4 Displacement. Beginning in the middle of the paragraph, it
 5 refers to the displacement risk index, and then it refers to
 6 an exhibit, which is the displacement risk index, and it
 7 discusses those specific neighborhoods. It names Rainier
 8 Valley, White Center, Beacon Hill, and North Seattle as the
 9 areas with marginalized populations most vulnerable to
 10 displacement.

11 And it describes that except for Beacon Hill, those are
 12 all lower-price neighborhoods, and that refers to that price
 13 typology that you raised a moment ago.

14 And it mentions that those four neighborhoods all have
 15 relatively larger shares of people of color. And then the
 16 following pages discussing impacts do so in a few ways, and
 17 one way is to characterize different outcomes in lower,
 18 medium, and higher-priced neighborhoods.

19 **Q. So what's the language on 4-37 you're referring to?**

20 A. Beginning in the middle of the first paragraph, "As shown,
 21 in Exhibit 4.1-18, the neighborhoods in the study area with
 22 marginalized populations most vulnerable to displacement are
 23 Rainier Valley, White Center, Beacon Hill, and North
 24 Seattle. Except for Beacon Hill, these are lower-price
 25 neighborhoods. All four neighborhoods also have relatively

1 **Q. And what he testified in part and what he testified to was**
 2 **identifying vulnerable lots, from his point of view, lots**
 3 **vulnerable to displacement or a greater chance of**
 4 **displacement where the value of the structure was relatively**
 5 **low in relationship to the value of the property itself and**
 6 **how that would make such properties more amenable to**
 7 **teardown and reconstruction under, basically, a higher price**
 8 **cost.**

9 **So in terms of that potentiality, is that discussed in the**
 10 **EIS?**

11 A. Thank you for clarifying. Yes, it is.

12 **Q. And where is that discussed?**

13 A. Well, methodologically, it is part of the analysis
 14 because -- and let me preface by saying we will have someone
 15 who can speak more deeply to the housing and socioeconomics
 16 analysis, but it is part of the methodology. By that, I
 17 mean, what you described, cost of housing, cost of
 18 construction, those are all inputs to our analysis, and the
 19 analysis considers that they vary geographically.

20 In terms of impacts, the paragraph just after the one we
 21 were just reading, begins by saying some people may be
 22 concerned that an overall increase in development
 23 feasibility could have an adverse impact on economic or
 24 cultural displacement.

25 So this is after already identifying, based on that

1 larger shares of people of color."

2 **Q. And other than that generalized discussion, is there**
 3 **(inaudible) quantify the impact?**

4 A. Sure. I'll mention this is all in the discussion of
 5 Alternative 2, so there is similar discussion for the other
 6 action alternatives.

7 Directing you to the next paragraph which discusses
 8 physical displacement impacts, and, again, in the middle of
 9 the paragraph it says, "We expect the overall number of
 10 teardowns to decrease from 2,030 under Alternative 1
 11 (No Action) to 1,800 under Alternative 2, including fewer
 12 teardowns specifically in lower-price neighborhoods, where
 13 displacement risk could be higher."

14 And then it's quantified there and in tables elsewhere in
 15 that chapter.

16 **Q. Okay. So you recall, you know, Mr. Reid focusing in on in**
 17 **particular properties where the value of the housing stock**
 18 **is relatively low in comparison to lot size and those**
 19 **properties then being more amenable to conversion and tear**
 20 **down of construction of the accessory dwelling units.**

21 **Does this analysis focus on that?**

22 A. I'm sorry. You packed a lot into that question.

23 Could you please repeat the beginning part?

24 **Q. Sure. You were here for Mr. Reid's testimony, right?**

25 A. Yes.

1 highest and best use analysis and the forecast analysis,
 2 that there would be fewer teardowns, fewer demolitions,
 3 specifically in low-cost neighborhoods to which Mr. Reid was
 4 referring. Fewer houses will be torn down.

5 But then it goes on to look at what effects the
 6 development feasibility could have in -- throughout the
 7 study area and, specifically, those neighborhoods in terms
 8 of the impact on economic and cultural displacement.

9 And there's a sentence here that says (as read): "Our
 10 analysis shows that, in Alternative 2, lower-price
 11 neighborhoods" -- again, those specific neighborhoods most
 12 vulnerable to displacement -- "are likely to experience
 13 smaller changes in development feasibility across all lot
 14 sizes than medium- or higher-priced neighborhoods.
 15 Likewise, the change in redevelopment rates between
 16 Alternative 1 and Alternative 2 would be smaller in
 17 lower-price neighborhoods than medium- and higher-priced
 18 neighborhoods. Therefore, because changes in development
 19 feasibility would be smallest in lower-price neighborhoods,
 20 Alternative 2 would not be likely to have adverse impacts on
 21 economic displacement."

22 And this is all to -- this is all without even looking to
 23 the effect of producing ADUs in these neighborhoods. The
 24 beneficial effects on displacement of ADU production
 25 increasing the housing (inaudible).

1 **Q. And you're aware of Mr. Reid's opinions to the contrary?**
 2 A. Well, I can't really speak to -- I'll just say this was my
 3 response to the question you had asked me.
 4 **Q. Okay. So...**
 5 **(Inaudible colloquy)**
 6 **Q. (By Mr. Eustis) You said that there is a -- that there's a**
 7 **separate section that deals with the preferred alternative?**
 8 A. Yes, a discussion of the impacts of the preferred
 9 alternative.
 10 **Q. Okay. Is this a similar discussion as appears on 4-37?**
 11 A. Yes. On 4-41, under the heading "Displacement," there is a
 12 similar discussion.
 13 **Q. Okay. 4, dash -- okay.**
 14 A. It actually predicts the fewest teardowns in these
 15 neighborhoods across all the action alternatives, indeed,
 16 all of the alternatives.
 17 **Q. So in your opinion, that's where the analysis appears?**
 18 A. I would say this is where the discussion of the impacts
 19 appears. And there is a summary of the analysis earlier in
 20 the chapter, and a thorough discussion of the methodology in
 21 Appendix A.
 22 **Q. So in your testimony, you also cited to language at 4-66,**
 23 **where you make reference to localized impacts.**
 24 A. Yes, I'm on that page.
 25 **Q. All right. So in terms of localized impacts, did you --**

1 If you are referring to the proposal that's analyzing the
 2 EIS, I'd...
 3 MR. EUSTIS: Preferred alternative.
 4 MR. KISIELIUS: Thank you.
 5 THE WITNESS: Could you repeat just the last bit? Your
 6 question brought up forecast model.
 7 Can you clarify or restate that part?
 8 **Q. (By Mr. Eustis) Okay. So in the economic analysis,**
 9 **essentially, there are two approaches used. One is highest**
 10 **and best use and the other is forecasting, is a forecasting**
 11 **model.**
 12 **My understanding is the forecasting model is based upon**
 13 **past trends.**
 14 A. That is one input to the forecast model, but it's not the
 15 only input.
 16 **Q. Okay. Okay. So the preferred alternative would make a**
 17 **number of changes in the legislation. I mean, I outlined**
 18 **them for purposes of the question, and I'll mention a number**
 19 **of them doing away with on-site parking and, eventually,**
 20 **doing away with the requirement for owner-occupancy,**
 21 **increasing the numbers of accessory dwelling units,**
 22 **et cetera.**
 23 **So given that these are not features of either the current**
 24 **legislation in the City of Seattle and they're not**
 25 **components of the legislation in Oregon, so how did you go**

1 **does the EIS tend to identify where in the city these**
 2 **localized impacts would occur?**
 3 A. No. The conclusion is that in general, we expected
 4 reproduction to be relatively distributed incremental. And
 5 what we're recognizing here is that in certain areas, that
 6 may not always be the case. And when it's not the case --
 7 if and when it's not the case, there could be localized
 8 impacts. But to try to identify specific places would be
 9 speculative over the ten-year period of the EIS.
 10 **Q. Okay. And your conclusion that the ADU production would be**
 11 **distributed over the City and single-family (inaudible), is**
 12 **that based upon the prior trends?**
 13 A. In part.
 14 **Q. Okay. So the proposed legislation makes a number of changes**
 15 **that are not contained within the current legislation, such**
 16 **as doing away with or limiting the question of**
 17 **owner-occupancy, allowing additional accessory dwelling**
 18 **units, increasing the lot area for accessory dwelling units,**
 19 **so these are changes in policy (inaudible).**
 20 **So how did you factor those changes in policy using your**
 21 **forecasting model?**
 22 MR. KISIELIUS: I'm going to just object only to clarify
 23 that Mr. Eustis is -- he asked about proposed legislation.
 24 I want to make sure we're not talking about any coordinates
 25 that's pending before the Council.

1 **about creating forecasts based upon these changes in**
 2 **legislation?**
 3 A. Okay. Well, just one clarification. Some of those are
 4 components of legislation in Oregon or cities in Oregon.
 5 But to your question about how we considered them, again,
 6 I'll just mention that we have a subject matter expert who
 7 can speak more deeply and intimately to the methodology used
 8 in the forecast model.
 9 But in Appendix A, we describe how all of those things are
 10 incorporated into the methodology for forecasting ADU
 11 production. This could be a long answer because the
 12 different -- the answer is different for each of those
 13 individual policies that you cited, but we -- I guess at a
 14 high level, I would say we incorporated them in a reasonable
 15 way to model the effects of the different code provisions
 16 under each alternative.
 17 **Q. Okay. But you didn't attempt to take those variables, break**
 18 **them down into particular neighborhoods, particular census**
 19 **tracts, to determine how they would affect ADU production in**
 20 **those smaller areas?**
 21 A. No, I -- I don't agree with that. We did -- the forecast
 22 model does include not just a neighborhood-based component
 23 of the analysis, but it is covering every parcel and its
 24 parcel characteristics in the study area. And that includes
 25 the things you mentioned such as market factors that affect

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1 that area, parcel characteristics --

2 **Q. The study area?**

3 A. -- existing development for the study area of this EIS.

4 **Q. The study area being all the single-family neighborhoods?**

5 A. Almost all.

6 **Q. And the City does consider the effect of those factors on**

7 **every parcel?**

8 A. Yes, the factors that I described.

9 **Q. So if it discusses the impacts of making those changes on**

10 **every parcel and every neighborhood, did you attempt -- as**

11 **part of this, you know, the outreach for this proposal, did**

12 **you attempt to go to the various neighborhoods to discuss,**

13 **disclose the impacts of these changes?**

14 MR. KISIELIUS: I'm going to object if this is going to

15 the process. That issue has been dismissed. I can't think

16 of any other reason why that question would have any

17 probative value to this proceeding.

18 HEARING EXAMINER: Sustained.

19 **Q. (By Mr. Eustis) Okay. I'm next going to draw your**

20 **attention to page 4-93 of the EIS.**

21 A. Okay.

22 **Q. I'm getting there. So I'm drawing your attention to the**

23 **upper part of the page where there's the provision, the**

24 **specific elements of the proposed Land Use Code changes that**

25 **would affect the aesthetic character of the study area**

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1 **include, and then you list nine elements, okay?**

2 A. Yes, I see those.

3 **Q. So among those -- or so with respect to location of entries,**

4 **that's one of the elements?**

5 A. That's correct.

6 **Q. And does that result in the elimination of the provision**

7 **under the current legislation that acts as the either off of**

8 **larger side yard or rear yard with alley access but not off**

9 **the front facade?**

10 A. You asked does it include elimination of that existing...

11 **Q. Does the proposed alternative?**

12 A. Does the preferred alternative include elimination of, and

13 then I'm not sure I caught the rest of that.

14 **Q. Okay. The elimination under the current legislation of the**

15 **limitation on access to the accessory dwelling unit.**

16 A. No.

17 **Q. "No"?**

18 A. The preferred alternative contemplates a change in the

19 standard and requirement for where entrance to a detached

20 accessory dwelling unit can be.

21 **Q. And what would that change be?**

22 A. Again, referring back to Chapter 2, page 2-6, "Location of

23 DADU entry." The preferred alternative, as well as

24 Alternative 2 and 3, adds a little bit of flexibility to

25 where the entry to a DADU can be. It says that that

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1 entrance can be on any facade if the entrance is 10 feet

2 from the lot line and -- if the entrance is 10 feet from the

3 lot line and located on the facade facing the nearest side

4 or rear lot line.

5 Let me read that again and make sure I'm relaying it

6 correctly.

7 **Q. Again, your page reference was 2, dash -- did you say 2-13?**

8 A. I said 2-6, but I'd actually like to refer to 2-14. And I

9 think it is worded just a little bit more completely and

10 clearly there.

11 So for the action alternatives, it says (as read): "The

12 proposed code changes would allow an entrance" -- to a

13 detached ADU -- "on any facade provided that the entrance is

14 no closer than 10 feet to the side or rear lot line, unless

15 that lot line abuts a right-of-way," in which case that

16 10-foot standard wouldn't apply.

17 And that is a change from the current policy where it just

18 says entrance to a DADU cannot face the nearest side of the

19 rear lot line, period, unless it's the right-of-way.

20 **Q. Okay. So when Mr. Kuehne testified, he, then, was mistaken?**

21 **He believed that the access to an ADU could be on the front**

22 **facade.**

23 A. Well, I think part of the confusion --

24 **Q. No. I'm asking was he mistaken, because he testified that**

25 **the access to the ADU could be on the front facade, and he**

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1 **even attempted to identify in one of his images where there**

2 **would be multiple access points on the front facade.**

3 **So my question is: Was he simply mistaken?**

4 A. Right. In order to be able to answer that question, it has

5 to do with confusion in some of the terminology that I

6 believe the two of you were using during that questioning

7 about ADU versus DADU, and he was referring in that example

8 to an attached accessory dwelling unit.

9 **Q. Correct.**

10 A. And what I have just been describing is a detached accessory

11 dwelling unit.

12 **Q. Oh, okay.**

13 A. And I just want to make sure I understand the question

14 you're asking.

15 **Q. All right. So then for an attached accessory dwelling unit,**

16 **under the preferred alternative, what are the entry**

17 **limitations for an attached?**

18 A. Well, okay. This will test my memory of that specific code

19 provision. The reason it tests my memory is that there is

20 no change proposed to the limitations on where entrances can

21 be for an attached ADU, so I can't refer to that here in the

22 EIS.

23 **Q. Under the proposed alternative?**

24 A. Under all alternatives there's no change proposed or

25 contemplated to where the entrance to an attached ADU can

1 be.

2 **Q. And that's the provision that you just read not on the**

3 **closest side yard? It's under...**

4 A. No. I was reading where the location of a detached ADU --

5 **Q. Right.**

6 A. -- entry can be on page 2-14.

7 **Q. Okay. And what's your understanding as to where the entry**

8 **can be for an attached accessory dwelling unit?**

9 A. My understanding at a high level is that the entrance to an

10 attached ADU cannot be on the same facade as the entrance to

11 the principal resident unless the director makes some

12 determination that screening or topography or other measures

13 sufficiently uses a good word to describe that the second

14 ADU entrance would be sort of secondary or subsidiary. I'm

15 forgetting the exact word.

16 **Q. All right. All right. You are correct, but --**

17 A. De-emphasize. Excuse me. That's the word.

18 **Q. De-emphasize.**

19 A. De-emphasize the entrance of any (inaudible).

20 **Q. In the mind of the decision-maker.**

21 **So you're correct. I was asking Mr. Kuehne about attached**

22 **accessory dwelling units, and I recall his response being**

23 **both could be on the front facades. (Inaudible) pointed**

24 **out. My question is so was that an error?**

25 A. What's your question (inaudible)? Was that an error?

1 overall hearing time and/or seemed to be on a pace here

2 where we can expect the appellant's side of the table to be

3 using at least as much time in their questioning of the City

4 witnesses as the City has. And if we continue at that pace,

5 it seems unfair to the City to allow that to happen because

6 it's putting us in the unenviable choice of looking at

7 schedule versus putting on our case. And it amounts,

8 effectively, to a bit of a filibuster here that -- that

9 we're taking time; that at some point it's going to

10 effectually deliver the request for the extension that

11 they've already asked for.

12 So it seems in typical proceedings it's fair to expect

13 time to be allocated evenly between the parties, and that's

14 not happening here unless we deliver the extension that

15 Mr. Eustis has asked.

16 And I just want to observe that now because I think

17 there's still some time to put some meaningful controls on

18 the proceedings.

19 HEARING EXAMINER: Okay. Do you have a response?

20 MR. EUSTIS: Well, my response is we -- appellants have

21 taken more time up to this point because appellants put on

22 their full case which only involved three witnesses.

23 The City has named seven witnesses, apparently, to respond

24 to what three witnesses responded to. It's the City's

25 choice. And we've heard through the direct examination of,

1 **Q. Yes.**

2 A. His response?

3 There is no change proposed to those attached ADU entrance

4 provisions.

5 **Q. Okay.**

6 HEARING EXAMINER: Would now be a good time to take a

7 15-minute break?

8 MR. EUSTIS: Yes.

9 HEARING EXAMINER: It looks like you're going to a new

10 subject or a new page, at least.

11 MR. EUSTIS: Yes. I'm going to a new page in my notes.

12 HEARING EXAMINER: All right.

13 MR. EUSTIS: Yeah, that's fine.

14 HEARING EXAMINER: We'll be back at 10:41.

15 (Recess)

16 HEARING EXAMINER: Please be seated. Thank you. All

17 right. We will continue cross-examination.

18 MR. KISIELIUS: Before we continue --

19 HEARING EXAMINER: Yes.

20 MR. KISIELIUS: -- can I just raise a procedural issue

21 that amounts to a concern, and it's just building off of the

22 conversation we had yesterday.

23 So with respect to schedule, I just want to note having

24 looked at minutes and looked at time allocated, the City, as

25 of this break this morning, has had about a third of the

1 Well, we'll hear about more about this later. We'll hear

2 more about this later.

3 By no means has my questioning been intended to filibuster.

4 I have asked about very specific points, so I don't -- you

5 know, if the concern is to time, I'm not sure what is

6 accomplished by this back and forth.

7 MR. KISIELIUS: Because I don't want to get to the end of

8 the day and be in the same position, and whether it was

9 intended or not, that's effectively what's happening in

10 terms of the number of witnesses. Mr. Kuehne is a perfect

11 example. Thirty-five minutes of my questions, over an hour

12 between the two of them on the same subject matter, often

13 times repeating the same territory that's been covered.

14 So I just -- and in contrast, in terms of the

15 cross-examination of appellant's witnesses, it was half at

16 most of the time they spent on direct. And it's imbalanced

17 right now and unfair.

18 HEARING EXAMINER: Well, we're going to have a full

19 hearing on this proceeding whether we have to extend it or

20 not. My hope is that we don't have to extend it. I have to

21 recognize that you two have very different styles. You're a

22 very quick speaker, Mr. Eustis not so much, and that's just

23 the way it goes.

24 And so I'm sure that everyone is mindful of the time, and

25 I expect everyone to be respectful of it and try to get

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1 through this as quickly as possible. But I don't feel like
 2 I can limit Mr. Eustis's right to cross-examination and also
 3 to direct because some of these witnesses you also listed as
 4 witnesses on his side of the table, so --
 5 MR. KISIELIUS: Thank you.
 6 HEARING EXAMINER: -- there we have it, and you may
 7 continue.
 8 **Q. (By Mr. Eustis) Mr. Welch, in your direct testimony you**
 9 **referred to a LiDAR study done of tree canopy?**
 10 A. That's correct.
 11 **Q. Okay. I have put up on the screen what is identified as the**
 12 **City's Exhibit 18.**
 13 **Does this contain the LiDAR study that you referred to?**
 14 A. Yes, this is a report summarizing that study, yes.
 15 **Q. Okay. So among other things in this report -- excuse me**
 16 **while I go through it -- there is a pie chart that appears,**
 17 **I believe it's on page 7 of this report, showing 63 percent**
 18 **of the tree canopy cover in single-family residential**
 19 **neighborhoods?**
 20 A. Yes, I see that.
 21 **Q. Okay. Do you recall a (inaudible) where this image appeared**
 22 **in Appellant's Exhibit 20, the 38-page document, that you**
 23 **spent a fair amount of time talking about?**
 24 A. Yes, I do recall that.
 25 **Q. Okay. So this is that image?**

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1 A. I just want to confirm very quickly. Yeah, only a slight
 2 difference, which is that this image on this exhibit, it
 3 appears to be from a PowerPoint presentation. But the pie
 4 chart, I agree, appears --
 5 **Q. Is the same?**
 6 A. -- to be the same.
 7 **Q. Okay. Well, in the interest of time, and since we have a**
 8 **party which is concerned about tree canopy, I will not ask**
 9 **you further questions about this. But I would move for its**
 10 **admission.**
 11 HEARING EXAMINER: Any objection?
 12 MR. KISIELIUS: It's a City exhibit. I guess we didn't
 13 enter it, because we didn't think it was needed, and it's
 14 summarized in the document. But there's no objection to
 15 entering it into the record.
 16 HEARING EXAMINER: All right.
 17 Anybody have a copy of it?
 18 MR. KISIELIUS: Oh, sorry.
 19 MR. EUSTIS: I think the City does.
 20 MR. KISIELIUS: I'm sorry. Jeff --
 21 MR. EUSTIS: 18.
 22 MR. KISIELIUS: -- 18?
 23 HEARING EXAMINER: I will admit this as Exhibit 37 into
 24 the record.
 25 (Exhibit No. 37 admitted into evidence)

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1 **Q. (By Mr. Eustis) Mr. Welch, Mr. Kuehne in his testimony**
 2 **indicated that it wasn't within the scope of his work to**
 3 **consider specific impacts upon tree removal.**
 4 **You were here for that?**
 5 A. Yes, I was.
 6 **Q. And I take it you're the one who worked -- at least he**
 7 **identified you as the one who worked with him on preparing**
 8 **these exhibits.**
 9 A. Ms. Pennucci and I worked together on that.
 10 **Q. Okay.**
 11 A. It tended to be me who sent some of the correspondence to
 12 him.
 13 **Q. Yeah. And he explained that the point of his exhibits was**
 14 **to show, was to focus on the placement of structures, not**
 15 **necessarily the placement or removal of trees; would you**
 16 **agree with that?**
 17 A. Yes. I'm not sure that's the exact words he used, but, yes,
 18 I would characterize that he focused on the placement and
 19 scale and aesthetic impacts in terms of height, bulk, and
 20 scale from the difficult alternatives --
 21 **Q. Okay.**
 22 A. -- as opposed to tree canopy.
 23 **Q. Yeah. So it wasn't the focus of his modeling to show**
 24 **impacts on tree canopy in single-family neighborhoods?**
 25 A. That was not the focus.

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1 **Q. Okay. Are impacts on tree canopy in the City of Seattle**
 2 **separately -- of the proposed action, are they separately**
 3 **addressed in a quantitative sense in the EIS?**
 4 A. Yes, they are.
 5 **Q. Okay. Do you have a particular page in mind?**
 6 A. Page 4-52, in the land use chapter.
 7 HEARING EXAMINER: Did you say 52?
 8 THE WITNESS: Yes.
 9 **Q. (By Mr. Eustis) I'm going to remove the screen. Let me**
 10 **find it.**
 11 (Inaudible colloquy)
 12 **Q. (By Mr. Eustis) Okay. And then is there a place where the**
 13 **EIS quantifies the impacts on tree canopy by the various**
 14 **alternatives, as opposed to giving a generalized conclusory**
 15 **assessment?**
 16 A. Sure. I pointed you to 4-52 because that's where the
 17 section begins.
 18 **Q. Okay.**
 19 A. If we turn the page to 4-54, there's the beginning of some
 20 of the quantification of change of tree canopy generally.
 21 There's an analysis of existing canopy on different lots in
 22 the study area on page 4-54.
 23 **Q. We are referring to Exhibit 4.2-10?**
 24 A. Actually, preceding that, 4.2-9, summarizes similar results
 25 that are then presented as a graphic in 4.2-10.

1 And then a quantification of impacts occurs in the impacts
 2 analysis section, which begins on 4-66, but it doesn't begin
 3 there. That's -- that's where that analysis begins with
 4 respect to tree canopy. I'm sorry I'm not being very
 5 precise.
 6 **Q. Are there illustrations showing, for example, the effect**
 7 **upon tree canopy of the -- apart from what Mr. Kuehne**
 8 **prepared of the full build-out alternatives?**
 9 A. Apart from what Mr. Kuehne prepared, no.
 10 **Q. Okay. Thank you.**
 11 MR. EUSTIS: Okay. Yeah. Thank you for bearing with me.
 12 I have no further questions for you, Mr. Welch.
 13 HEARING EXAMINER: Mr. Ellison, your turn.
 14 MR. ELLISON: Do we need to do a mic test?
 15 HEARING EXAMINER: No, we're good.
 16 MR. ELLISON: Okay. Thank you.
 17 HEARING EXAMINER: Thank you.
 18 MR. ELLISON: Thank you, Mr. Welch.
 19
 20 CROSS - EXAMINATION
 21 BY MR. ELLISON:
 22 **Q. Going back to page 4-54.**
 23 A. Yes.
 24 **Q. The exhibit that's shown on 4-54-9 (verbatim), where does**
 25 **that information come from?**

1 single-family parcels overall in comparison with
 2 single-family parcels that have a detached ADU.
 3 And to answer the other part of your question, no, we did
 4 not look individually parcel by parcel and with our eyes to
 5 try to discern the canopy. We used GIS software to
 6 calculate what the canopy was on each of those, roughly,
 7 130,000 parcels.
 8 **Q. Right. So that's what I'm suggesting is that -- I'm asking**
 9 **so that the data that you used to determine things are**
 10 **coming from all of those data points there that are**
 11 **suggested in this, 4-2-10?**
 12 A. Yes. I'm sorry if I misunderstood. The summary statistics
 13 for lots with and without a DADU that's shown in 4.2-9 is
 14 the same analysis and data set shown in 4.2-10.
 15 **Q. Well, if you look at the original document of 4-2-9, they**
 16 **say that actually the study was done with only ten data**
 17 **points per unit, each unit being a different neighborhood**
 18 **type, such that the single-family zones, you know, it is**
 19 **based -- analysis is based upon just ten parcels, if I**
 20 **understand that correctly.**
 21 HEARING EXAMINER: Question there? Can you make that a
 22 question, Mr. Ellison?
 23 MR. ELLISON: Um...
 24 HEARING EXAMINER: Add, is that correct?
 25 **Q. (By Mr. Ellison) Can you verify that the exhibit, 4-2-9,**

1 A. There are two exhibits on that page.
 2 Is there one specifically?
 3 **Q. Well, the 4-2-9 (verbatim), actually, just the table.**
 4 A. Okay. Exhibit 4.2-9.
 5 You asked what the data source was?
 6 **Q. Yes.**
 7 A. The data on tree canopy comes from the 2016 LiDAR study that
 8 we've been talking about; the data on parcels comes from the
 9 City's GIS layer that shows where parcels are in the study
 10 area; and the calculation was an analysis that we did using
 11 those two data sources.
 12 I should add it also includes data about permit activity:
 13 Where DADUs have been built. Where new single-family homes
 14 have been built.
 15 **Q. So just to -- you wanted to go back to the 4-2-9.**
 16 **I'm looking at 4-2-10 (verbatim), that scatterplot showing**
 17 **all those data points.**
 18 **Are you suggesting that you looked at all of those, all of**
 19 **those parcels, in trying to discern the impacts to the**
 20 **effects of ADUs on trees, tree canopy?**
 21 A. Well, first this -- neither of these exhibits was an
 22 analysis of impacts of the alternatives. This is a
 23 calculation of tree canopy cover on parcels currently in the
 24 study area.
 25 And Exhibit 4.2-10, as you can see, characterizes

1 **determination of the change in canopy cover with or without**
 2 **a DADU and with single-family homes, is from all the data**
 3 **points there expressed in 4-2-10, or is it from based upon**
 4 **the LiDAR study that's also currently a City exhibit?**
 5 A. Well, both. It uses the tree canopy cover data that covers
 6 the entire city from that 2016 LiDAR study, but it is an
 7 analysis of all study area parcels as shown in 4.2-10 that
 8 we conducted as part of the ADU EIS.
 9 **Q. I would like to -- is there a -- if you could pull up, open**
 10 **up your copy of the 2016 Seattle Tree Canopy Assessment**
 11 **report?**
 12 A. Okay.
 13 **Q. And if you'll go to page 14?**
 14 A. Okay.
 15 **Q. What is the title of the report on the top of that page?**
 16 A. "What Impact can Development Have on Tree Canopy?"
 17 **Q. And can you read the methodology that is used for the study?**
 18 A. Under the heading "Methods" (as read): "Development impact
 19 on tree canopy was explored by randomly selecting 10
 20 development points from each UFSP Management Unit totaling
 21 80 points. Using 2007 to 2017 historical imagery from
 22 Google Earth, tree canopy was mapped by parcel for before
 23 and after development (Figure 19). Percent tree canopy was
 24 calculated by dividing the total area of tree canopy by the
 25 total area of the parcels."

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1 **Q. So if you look at the chart below, it lists how many**
 2 **different management units?**
 3 A. You're asking how many management units are shown there?
 4 **Q. Yes, sir.**
 5 A. I count eight.
 6 **Q. So if there are eight different management units and there**
 7 **are eight total unit points studied, would that suggest,**
 8 **then, that they used ten management points for the**
 9 **single-family zone in their study?**
 10 A. Yes. I believe that's what specified in that "Methods"
 11 paragraph.
 12 **Q. What does it say under "Results"?**
 13 A. Under the heading "Results" (as read): "Although this piece
 14 is not statistically valid, it is a detailed analysis of how
 15 development impacted tree canopy at each identified point
 16 and provides general insights into how development can
 17 impact the canopy cover over time. Downtown and Single
 18 Family had the most tree canopy loss."
 19 **Q. So this chart here, 4-2-9, is based upon this data?**
 20 A. No, that's incorrect.
 21 **Q. Could you explain how it's different?**
 22 A. Once again, 4.2-9 was an analysis that we did as part of the
 23 ADU EIS that's the subject of this hearing. It did not take
 24 any calculations done as part of the methodology that you
 25 just had me read.

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1 What it took from the 2016 canopy cover study was the
 2 LiDAR data set that shows where canopy cover is across the
 3 entire city citywide, so citywide data set.
 4 **Q. Correct.**
 5 A. We used that and for all of these study area parcels
 6 calculated the canopy cover on each parcel. And we were
 7 able to distinguish parcels with and without DADU and
 8 parcels that had new single-family homes, and that's how we
 9 arrived at those percentage statistics.
 10 **Q. Thank you. So would you say -- would it be reasonable to**
 11 **say, based upon the data there, saying that the difference**
 12 **between lots with one DADU and lots without one DADU would**
 13 **be that you would lose 2.2 percent canopy cover?**
 14 A. I would say on average, based on where DADUs have been built
 15 in the past, that's the difference that we observed, yes.
 16 **Q. Could you estimate that if you were to build two DADUs, then**
 17 **that would be twice that much, or how would one figure**
 18 **something like that?**
 19 A. Well, it is not possible, currently, or under any of the
 20 alternatives to build two DADUs, but you wouldn't be able to
 21 do this analysis for that because it's not something that
 22 we've -- we have a data set on. It's not possible today or
 23 under the proposal.
 24 **Q. Okay. I'm going to rephrase the question.**
 25 **If you were to increase the footprint of a primary**

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1 **residence by building an accessory dwelling unit and then**
 2 **you also had a detached accessory dwelling unit, how might**
 3 **one assess the add up of both of those units to potential**
 4 **canopy loss in single-family zones?**
 5 A. Well, what we have analyzed here also include study area
 6 lots with new single-family houses, some of which might
 7 have -- well, let me -- let me start over.
 8 Here we looked at detached ADUs, so it is possible that
 9 some of the study area lots in all three rows of that
 10 table -- sorry. I apologize.
 11 Today -- I'm tracking with your question now. So today we
 12 don't have examples where a house has two ADUs. Under the
 13 proposal, under the alternatives that allow two ADUs, the
 14 detached ADU would be in the rear yard, and the effect of
 15 that is partly what's described here in this exhibit.
 16 The attached ADU cannot go into the rear yard, so it would
 17 be -- in general, typically, they're found in basements or
 18 within the existing structure. But if they are attached to
 19 that structure, they would be within what's called the
 20 "principal building area," which is the area that you could
 21 also be developing, just an addition to your house, whether
 22 or not it is a permitted ADU, per se.
 23 **Q. So what you're suggesting is that if you have an attached**
 24 **accessory dwelling unit, then it would allow the homeowner,**
 25 **say, to maximize the footprint of the existing house to --**

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1 **up to an extra thousand square feet in closing?**
 2 MR. KISIELIUS: Objection. I think he's mischaracterizing
 3 the testimony.
 4 HEARING EXAMINER: Sustained.
 5 Can you just ask him to rephrase?
 6 **Q. (By Mr. Ellison) How might the footprint of the house**
 7 **change if one was to add an attached dwelling unit? What's**
 8 **the maximum allowed additional footprint if you were to**
 9 **build an attached dwelling unit?**
 10 A. Okay. Well, the maximum potential additional footprint
 11 would be equivalent to the maximum size for an attached ADU,
 12 which is currently 1,000 square feet, and that's not
 13 proposed to change.
 14 In many cases that might not be possible because of the
 15 size and location of existing structures and the other
 16 standards that apply on a single-family lot.
 17 And, in addition, it's also often not where we observe
 18 ADUs being built. It's there often, as I said, within the
 19 main structure. They're frequently in a basement or a lower
 20 story.
 21 But that is both the theoretical maximum for how much the
 22 footprint could increase with an ADU, and it's at least what
 23 could increase for just expanding or rebuilding the
 24 single-family house, which could even go -- could
 25 potentially go beyond that depending on the lot size and the

1 existing map coverage.

2 **Q. Does the proposal to increase the rear yard coverage from 40**

3 **percent to 60 percent, does that allow for any additional**

4 **expansions of a single-family home footprint?**

5 A. No. That specific policy would not allow for additional

6 expansion of a single-family home. If anything, it would be

7 predicated on not expanding a single-family home because the

8 overall lot coverage limit (inaudible) need to apply.

9 **Q. If one was to put in a new unattached dwelling unit into a**

10 **yard, you suggested that the footprint of that new ADU would**

11 **only be a thousand square feet, as far as the calculation of**

12 **the impact to the tree canopy; is that correct?**

13 A. Well, what I testified was describing the analysis that we

14 conducted about the -- to determine a reasonable and

15 conservative upper bound for what the tree canopy impact

16 could be. And for that calculation, we did use the maximum

17 size allowed under any alternative for the ADU, which would

18 be a thousand square feet; that's correct.

19 **Q. Are you familiar with the Seattle Tree Protection Code and**

20 **its requirements?**

21 A. Yes.

22 **Q. Excuse me while I try to pull it out.**

23 **It's Chapter 25.11, Tree Protection. There's an exhibit**

24 **(verbatim) 25.11. It's part of the tree protection**

25 **ordinance. There's an exhibit, 25.11.050(B), a drawing that**

1 **If the footprint is not where the tree is, but the**

2 **footprint intrudes into the critical root zone, you're**

3 **suggesting that the impacts of this project, proposed**

4 **projects, would only be limited to the thousand square foot**

5 **of a footprint of the new structure. But if it impeded into**

6 **the critical root zone, would that not extend, then, the**

7 **impact beyond the actual footprint of that structure?**

8 A. Okay. The last part of your question, I think, asked what

9 the impact -- could there be an impact to the critical root

10 zone if the detached ADU extended into the critical root

11 zone area; is that -- is that accurate?

12 **Q. That is correct.**

13 A. Okay. Again, my understanding of the tree protection code

14 is that there is protection for that critical root zone.

15 **Q. Yes, but that's not my question. My question is how is that**

16 **impact evaluated in the FEIS, because if I understand you**

17 **correctly, the FEIS, in your estimation of the impacts to**

18 **tree canopy, include only the footprint.**

19 **But if the critical root zone extended in throughout the**

20 **entire backyard of, say, a 2500 -- or excuse me --**

21 **3500-square-foot lot, or a similar size parcel, if there was**

22 **an exceptional tree in the yard, it's likely that the**

23 **critical root zone might extend throughout the whole yard,**

24 **then the thousand-square-foot footprint would not be a valid**

25 **evaluation of the impacts of the potential loss of tree**

1 **shows a feeder root zone and inner root zone of a tree.**

2 **Are you familiar with that document?**

3 A. I am familiar with that document.

4 **Q. If you were to have an exceptional tree in a backyard, how**

5 **large might that feeder root zone be, or a critical root**

6 **zone be in that yard?**

7 A. I don't know the answer to that.

8 **Q. Might the critical root zone be part of where the footprint**

9 **would be of an exceptional tree? Actually, where the tree**

10 **itself is not within the footprint of a building, but the**

11 **root zone (inaudible) the critical root zone on that tree,**

12 **may be, in part, a footprint of that structure?**

13 A. Well, my understanding of that section of the municipal code

14 includes protections both for the exceptional tree and the

15 root zone of that tree, so I don't know if it's possible by

16 code for the critical root zone to possibly extend into the

17 footprint of the DADU. But my understanding of the tree

18 protections is that there is protection for that root zone

19 so that it's -- it's not only that the tree itself would not

20 be -- you know, couldn't be in the footprint of the unit,

21 but that there's consideration of what that root zone is in

22 siting and locating any accessory structure in a rear yard.

23 **Q. How is that evaluated in the environmental -- in the FEIS in**

24 **regards to impact to the critical root zone in the rear**

25 **yard?**

1 **canopy for that yard.**

2 MR. KISIELIUS: Objection. That's testimony. Not even a

3 question.

4 HEARING EXAMINER: Yeah. Mr. Ellison, if you could...

5 MR. ELLISON: How do I rephrase the question?

6 HEARING EXAMINER: Yeah, and if you could make them

7 shorter. I think it's hard to understand compound

8 statements with questions attached at the end.

9 MR. ELLISON: Okay.

10 HEARING EXAMINER: Because the witness has to go back

11 through the compound pieces and try to figure it out.

12 **Q. (By Mr. Ellison) You have suggested that the EIS evaluates**

13 **the impact of tree canopy by suggesting that the impact**

14 **would be a maximum of the thousand-square-foot footprint of**

15 **the new structure; is that correct?**

16 A. That's not exactly right. What we did, what I testified,

17 was that we used the 1,000-square-foot-maximum size, again,

18 assuming one story, so, yes, 1,000-square-foot footprint in

19 our calculation. In other words, as one of our assumptions

20 in calculating a reasonable and conservative upper bound

21 estimate of what the tree canopy impact could be, there are

22 several reasons that that's a conservative assumption, as

23 well as others that we made, which I'm happy to go into.

24 One of them is that we assumed none of those trees in the

25 rear yard are exceptional trees, and that, therefore, there

1 are no protections for them in preventing their removal.
2 If some of them, as you're describing, were exceptional
3 trees -- and that's why I began to reiterate that my
4 understanding of Chapter 25.11 is the protections for the
5 exceptional tree and its root zone -- if one of those trees
6 in a rear yard were exceptional, then we would be
7 overstating the impact because the tree protections would
8 kick in and have an effect.

9 **Q. That does not relate -- but what you're suggesting is that**
10 **the tree might be preserved; however, we'll go into that**
11 **particular point later.**

12 **What I'm suggesting is that your estimation of the impact,**
13 **if you -- or maybe I need to go forward with that.**

14 **If we look at the building codes, it's my understanding in**
15 **the tree protection laws of the City of Seattle that**
16 **exceptional trees are not protected if it interferes with**
17 **the building potential of a lot.**

18 MR. KISIELIUS: Objection. We're getting into the
19 existing City codes for tree protection, which both
20 Mr. Welch has testified and as is clearly documented in the
21 EIS, are not being changed by this proposal.

22 HEARING EXAMINER: I'm going to overrule it. I think the
23 code, as it applies now, has an effect on there are impacts
24 based on where these ADUs might be located that should be
25 explored and will let him explore it.

1 comparison of existing and proposed lot coverage that would
2 immediately enable an exceptional tree to be removed.
3 Sometimes there's flexibilities that allows siting or
4 locating a structure in a different area or flexibility from
5 some other development standards with an eye towards
6 preserving that tree.

7 And then even if at some point to achieve maximum lot
8 coverage, it would be required to remove an exceptional tree
9 mitigation for that requirement.

10 **Q. So, basically, the code allows for removal of the trees**
11 **unless the home -- the developer or homeowner wishes to find**
12 **some need to preserving the tree if they so desire; is that**
13 **correct?**

14 A. (Inaudible) confirm it with you, so I can't say firsthand
15 how this proceeds. But my understanding of the way these
16 code provisions are applied is that, first, the applicant
17 has to try to reconfigure the proposal in some reasonable
18 way to avoid impacts to the tree. And then, as I said, if
19 that's not possible to achieve maximum lot coverage, removal
20 of the exceptional tree can occur with mitigation and
21 replacement.

22 **Q. As part of the FEIS, are you stating that vegetation of tree**
23 **canopy could decrease if property owners choose to eliminate**
24 **landscape features there at the DADUs? So I interpret that**
25 **as meaning that it is really up to the developer or the**

1 MR. ELLISON: Thank you.

2 THE WITNESS: I'm pausing here because I don't know if
3 you're waiting to restate your question or if you're waiting
4 for me to answer.

5 **Q. (By Mr. Ellison) A little of both.**

6 A. Okay.

7 **Q. Are trees allowed to be removed for a (inaudible) project,**
8 **exceptional trees allowed to be removed for a building**
9 **project, if it is -- does not -- if exceedable footprint is**
10 **not exceeded?**

11 **How (inaudible) rephrase this?**

12 **Where are exceptional trees allowed to be removed from a**
13 **development project?**

14 A. Your question was where?

15 **Q. Under what circumstances are exceptional trees allowed to be**
16 **removed from development projects?**

17 A. My understanding of 25.11 is that in general, an exceptional
18 tree can be removed only if its removal is necessary to
19 achieve the maximum lot coverage allowing for the project.

20 **Q. So in that sense, if the maximum lot coverage has not been**
21 **met yet, then that exceptional tree could be removed for**
22 **(inaudible) development proposal?**

23 A. I think there are -- well, depending on the zone, at least,
24 and maybe depending on the permit type, there is sometimes
25 flexibility in other standards so that it's not just a

1 **homeowner to decide whether they would like to --**

2 MR. KISIELIUS: Objection. He's testifying to his
3 impression of what he just read.

4 HEARING EXAMINER: Okay. Mr. Ellison -- sustained. You
5 need to ask a question and not testify.

6 **Q. (By Mr. Ellison) In determining the impact to the tree**
7 **canopy, again, the original -- the assumption that you made**
8 **in your calculations was based upon that if a DADU was built**
9 **in the rear yard, it would have a thousand foot, square-foot**
10 **impact to the tree canopy; is that correct, that size at**
11 **maximum?**

12 A. No, that's not entirely correct. And this is the
13 clarification that I have been trying to make, but I'll -- I
14 apologize if I haven't been clear.

15 We did not assume that 1,000 square feet was the maximum
16 impact that that DADU would have. We assumed that 1,000
17 square feet was the maximum footprint of a DADU, and
18 according to the action alternatives, that would be the
19 maximum footprint. So we did that to set an upper limit for
20 what that footprint could be.

21 Now, in fact, that footprint would not be possible on the
22 vast majority of lots. You cannot occupy -- on a typical
23 lot, you can't build a 1,000-square-foot footprint in the
24 rear yard because of the rear yard coverage limit. In other
25 words, you need a lot of a certain size even to be able to

1 build 1,000 square feet. It actually comes out to be about
2 8,000 square feet of lot area that you need, which is less
3 than something like 17 percent of lots in single-family
4 zones.

5 I know I walked through a lot of numbers there, but you
6 need a certain lot area for 1,000 square feet even to be
7 possible. And less than a fifth of lots actually have that
8 lot area, so we chose something that's relatively rare as an
9 upper limit for the footprint of the DADU and calculated,
10 even in that case, what would the maximum acreage of tree
11 canopy loss be.

12 And that's how we arrived at this small percentage of 0.3
13 percent of all canopy coverage in single-family zones, which
14 we determined to be a minor impact, and then there's more
15 discussion of trees and tree canopy.

16 I can point you to that page if you would like.

17 **Q. Please.**

18 A. Beginning on the bottom of 4-66.

19 **Q. (Inaudible).**

20 HEARING EXAMINER: Mr. Welch, could you restate? You said
21 less than some percentage of lots were 8,000 square feet or
22 larger. I missed that --

23 THE WITNESS: Sure.

24 HEARING EXAMINER: -- number.

25 THE WITNESS: I think it's about -- I think the number is

1 **Q. Yes, that is the sentence I'm referring to. It does not**
2 **state anything about the methodology and how you -- in**
3 **reading that as a citizen, I'll just say, to me that says**
4 **that you're looking at evaluating a thousand square foot and**
5 **you multiply it by --**

6 MR. KISIELIUS: I'm going to object again. Mr. Ellison
7 continues to give his impressions of a document. He's
8 supposed to be asking the witness questions.

9 HEARING EXAMINER: Sustained.

10 Mr. Ellison, if you can say -- if you use your impression
11 to ask him a question, that's one thing. But you can't just
12 state your understanding of a document.

13 **Q. (By Mr. Ellison) I'm concerned about the lack of**
14 **transparency on how you're interpreting the greater than a**
15 **thousand-square-foot footprint of the new lot.**

16 MR. KISIELIUS: I'm going to renew my objection. He's now
17 expressing his concerns about the witness's testimony.

18 HEARING EXAMINER: Yes, sustained.

19 Ask a question, Mr. Ellison.

20 **Q. (By Mr. Ellison) For a thousand-square-foot parcel, how**
21 **large would the footprint be for any construction impacts to**
22 **construct that 1,000-square-foot structure?**

23 A. Initially, you said "parcel." Do you mean structure?

24 **Q. I meant structure, yes.**

25 A. Okay. I don't know a specific number. Certainly, it would

1 about 17 percent.

2 HEARING EXAMINER: Okay.

3 THE WITNESS: But I rounded a little and I said less than
4 1 in 5 --

5 HEARING EXAMINER: Okay.

6 THE WITNESS: -- or less than a fifth.

7 HEARING EXAMINER: Thank you.

8 **Q. (By Mr. Ellison) Okay. So I'm looking at the bottom of**
9 **page 4-66.**

10 A. Okay. In the final paragraph there, the last sentence
11 begins (as read): "It would be speculative to project an
12 amount of tree canopy loss that could result from either the
13 1,085 additional DADUs in Alternative 2 or the proposed
14 increase in rear yard coverage limit."

15 And I'll just note this is Alternative 2 where we don't
16 have a limit on tree removal as part of that rear yard
17 coverage limit. That's in the preferred alternative.

18 So it would be speculative to predict an amount of tree
19 canopy loss, and then continuing (as read): "We can roughly
20 estimate the scale of potential impacts from Alternative 2
21 in the context of all land in Seattle single-family zones.

22 And so the sentence that relates to your question about
23 the footprint assumption is if all 1,085 additional DADUs
24 maximize the size limit of 1,000 square feet on one story,
25 the total footprint of DADUs would be just under 25 acres.

1 be something more than just the footprint of the structure
2 itself. Construction involves the area around that
3 structure.

4 We didn't explicitly include that here because as I
5 mentioned, even just including an assumption that all of
6 these DADUs that we expect based on our forecasts, assuming
7 all of them would be 1,000 square feet is already a very
8 conservative assumption in several different ways that
9 largely -- that probably overstates the footprint of
10 construction of those DADUs to reality.

11 **Q. Were you here for the testimony given the other day where it**
12 **was suggested that the trenching to build a footprint and**
13 **utilities and sidewalk might increase the size of the**
14 **footprint?**

15 A. Yes. I believe that was Mr. Kaplan during his testimony.

16 **Q. And are you suggesting that that was taken into account in**
17 **calculating out the estimates of the impact for this new**
18 **footprint for the thousand-square-foot structure, or a**
19 **2,000-square-foot structure?**

20 A. What I'm saying is that assuming that all of the DADUs
21 produced over this ten-year period would have a footprint of
22 1,000 square feet is already a very conservative assumption
23 that likely far overstates the footprint of those
24 structures.

25 **Q. Is that because you're saying that there isn't enough space**

1 on the lot in order to construct? Even with that 60 percent
2 coverage, it wouldn't be enough space on that lot to build a
3 structure of over a thousand square foot?

4 A. That's one part of it, or something similar to what you just
5 said is part of it.

6 What I'm -- the reason for it is that a small minority of
7 lots that are even able to have a 1,000-square-foot DADU in
8 the rear yard. That's that 8,000 square foot of lot area
9 that I mentioned a moment ago. You have to have that size
10 lot to even achieve this footprint.

11 Q. So...

12 A. And then, additionally, there could be other standards, such
13 as the lot coverage limit, or the siting or size of existing
14 structures on the lot that would prevent 1,000 square feet.

15 It also assumes that these are all one-story DADUs that
16 occupy that footprint. It's likely that many
17 1,000-square-foot DADUs would, in fact, be two stories, and
18 that would be a 500-square-foot (inaudible). And it assumes
19 that none of these is an exceptional tree where protection
20 (inaudible).

21 Q. If we look at the impact from new, just a new single-family
22 home that was also mentioned earlier, there was about a
23 10.1 percent decrease in canopy cover, if I recall.

24 A. 8.1 percent, I think, is the -- is the difference. I'm
25 seeing 30.8 percent and 22.7 percent.

1 MR. KISIELIUS: I'm objecting again. This is his concern
2 about what would happen, not a question for the witness.

3 HEARING EXAMINER: Sustained.

4 Q. (By Mr. Ellison) How much open space would be available
5 after the construction of a DADU on a lot?

6 A. That is impossible to say as an overarching statement. It
7 depends on a myriad of different factors across 135,000
8 lots.

9 Q. As part of the -- if you were trying to -- the tree code, if
10 I understand it correctly, requires replacing trees for
11 trees that are removed; would that be a correct assumption?

12 A. I think at least for exceptional trees and trees over 2 feet
13 in diameter, that replacement requirement applies.

14 Q. Looking at City Code 23.44.008, development standards for
15 uses permitted outright, it talks about both tree
16 preservation options and tree planting options regarding
17 single-family dwelling units.

18 Are you familiar with this ordinance?

19 A. I actually missed the code section that you stated.
20 Can you restate it?

21 Q. 23.44.008, development standards for uses permitted
22 outright. Tree requirements. And there is a Point "a" and
23 a Point "b." Point "a" is the tree preservation option, and
24 Point "b," the tree planting option.

25 And it says...

1 Q. I stand corrected.
2 If you're suggesting that the amount of lot space
3 available for the DADU and potential encroachment into
4 exceptional tree roots or any tree roots in the yard, how
5 would that be different from actually just a new
6 construction? I mean, if you're building this new, this
7 DADU, and it's the maximum size allowed on the rear lot
8 and -- which means there's only so much space for that to be
9 built on, plus you have a single-family home that's already
10 existing, how is that going to be -- it seems to me that
11 there's isn't going to be much lot space on this. If you
12 have a single-family home and DADU, you're not going to have
13 much space for a tree canopy at all.

14 MR. KISIELIUS: I'm going to object. There were attempts
15 to add how twice in that, but it ended up being testimony at
16 the end. And to the extent that they were formulated as
17 questions, it was compound.

18 HEARING EXAMINER: Sustained.

19 MR. ELLISON: I made the mistake, the same mistake again,
20 yes, Counsel. Too many questions at one time.

21 HEARING EXAMINER: Yeah. One question at a time and no
22 testimony.

23 Q. (By Mr. Ellison) My concern would be that the construction
24 of new DADUs would remove most of the remaining open space
25 on that lot.

1 MR. ELLISON: May I read the code?

2 HEARING EXAMINER: He said he was familiar.

3 Are you familiar with that code?

4 THE WITNESS: I don't think I actually answered it yet. I
5 am generally familiar with that section of the single-family
6 code, not extremely familiar with the subsections that
7 you're pointing to in terms of the exact language.

8 HEARING EXAMINER: You could limit your reading. If you
9 want to read one subsection, that's great, but not like the
10 whole thing.

11 Q. (By Mr. Ellison) The tree planting option, should you
12 choose to remove the tree, it says (as read): "For lots
13 over 3,000 square feet, at least 2 caliper inches of tree
14 per 1,000 square foot of lot must be planted. On lots that
15 are 3,000 square feet or smaller, at least 3 caliper inches
16 of tree must be planted per lot."

17 So that's one of the -- are you familiar with -- does that
18 remind you? Are you familiar with that requirement?

19 A. My answer is the same as your previous question about my
20 familiarity.

21 Q. Returning back to the original tree section code of 25.11,
22 tree placement and site restoration, which is .090, it does
23 talk about exceptional tree replacement.

24 Are you familiar what the requirements are on this?

25 A. At a high level, I am familiar with the requirements. I

1 (inaudible) the sentence in the EIS that describes
 2 (inaudible).
 3 **Q. Are you familiar with the part that says that a tree to be**
 4 **designed to result, upon maturity, in a canopy cover that is**
 5 **at least equal to the canopy cover prior to --**
 6 MR. KISIELIUS: I'm going to object again and on relevance
 7 grounds.
 8 The EIS describes the tree protection ordinance as is part
 9 of the planning context. It does not rely on any of them
 10 for any part of its impact analysis. And, in fact, as
 11 Mr. Welch testified yesterday and today, they assumed they
 12 wouldn't protect the canopy and assumed it would result in
 13 removal.
 14 So the extent to which Mr. Welch can recite or recall
 15 parts of the tree protection code, which is what this is
 16 amounting to, is irrelevant to the adequacy of the analysis
 17 in the EIS.
 18 HEARING EXAMINER: I'm going to sustain the objection. I
 19 don't think it is relevant, so can you move on, please?
 20 **Q. (By Mr. Ellison) Do you think there is enough -- how would**
 21 **one determine how -- what size trees one could plant in a**
 22 **rear yard after a new DADU is constructed?**
 23 A. The best I can say is as a non-arborist, I would consult an
 24 arborist.
 25 **Q. Would the soil space need to be contiguous for that tree to**

1 fishing through a lot of stuff, and I know some of that is
 2 unavoidable.
 3 But if you can streamline your questioning a little bit
 4 and, you know, get to the points that you really need to
 5 make so that we can move on, that would be great.
 6 **Q. (By Mr. Ellison) Looking at the LiDAR study on page 15,**
 7 **there's a diagram that shows -- what is the title of that**
 8 **page?**
 9 A. Page 15: "How Does Tree Canopy Reduce the Urban Heat Island
 10 Effect?"
 11 **Q. Do you have an understanding for what that urban heat island**
 12 **effect is?**
 13 A. Yes.
 14 **Q. Could you explain that for us, please?**
 15 A. My general understanding is that areas that have more tree
 16 canopy tend to have less heat gain over the course of the
 17 day. And areas that have less tree canopy, the exposed
 18 surface of developed areas absorbs heat and then retains
 19 that heat later in the day and stays warmer longer as a
 20 result of the sort of heated mass in the earth of those
 21 areas.
 22 **Q. So if there was any reduction in tree canopy, might that**
 23 **result in increased urban heat island effects?**
 24 A. I agree there is a relationship between the amount of tree
 25 canopy and the urban heat island effect.

1 **be able to reach mature size?**
 2 MR. KISIELIUS: I'm going to object again. We're getting
 3 to whether or not -- it's the same question. It's just
 4 trying to get to whether or not you can comply with
 5 replanting requirements in the existing code, which this
 6 proposal does not change.
 7 HEARING EXAMINER: Sustained.
 8 And, Mr. Ellison, you've been asking these sort of
 9 open-ended questions about planting a tree in a rear lot
 10 where a DADU is located without any specifics. The witness
 11 could not possibly answer the question in a way that would
 12 have any relevance to this proceeding.
 13 MR. EUSTIS: On this point, I'm going to have to join the
 14 City's objection only to, I guess, address concerns that
 15 Mr. Kisielius and I have voiced yesterday and today
 16 regarding the passage of time. And I guess I would join it
 17 on grounds that I think TreePAC's questioning is, one,
 18 largely argumentative, and, two, these points as,
 19 Mr. Ellison was trying to, I guess, get the witness to
 20 corroborate his point of view, I believe they can be
 21 presented in argument because they're based upon authorities
 22 and they're based upon existing records.
 23 HEARING EXAMINER: Okay. Well, the objection's already
 24 been sustained, so, Mr. Ellison, generally, it's a good idea
 25 to come prepared to ask questions. And you seem to be

1 **Q. So if significant amounts of tree canopy were removed, that**
 2 **would then, potentially, cause a significant increase in the**
 3 **urban heat island effect?**
 4 A. If significant amounts of tree canopy were removed, that
 5 seems like a fair statement.
 6 **Q. Is there any relationship between tree canopy and stormwater**
 7 **in the sense of mitigating stormwater impacts?**
 8 A. Yes, I believe there is a relationship.
 9 **Q. Is it my understanding that all the new DADUs are required**
 10 **to have cisterns associated with them in order to help**
 11 **mitigate the increased runoff?**
 12 A. I'm sorry. I think you phrased that as is it your
 13 understanding, and that's a little hard for me to answer.
 14 **Q. Is there a requirement for cisterns for all new ADUs?**
 15 A. No. Under the stormwater code, I don't believe that would
 16 be a requirement for all ADUs.
 17 **Q. And how would that be determined?**
 18 A. Do you mean how would one determine whether what I just said
 19 is correct?
 20 **Q. How would one determine whether there was a need for a**
 21 **cistern for a property?**
 22 MR. KISIELIUS: And I'm going to now object because we're
 23 now moving into the stormwater code, which, as best as I can
 24 tell, is not part of these proceedings or issues. And to
 25 the extent that he's now raising a new issue, I believe he's

1 precluded by the Examiner's order from doing that.
 2 HEARING EXAMINER: Sustained.
 3 **Q. (By Mr. Ellison) Is there any discussion in the FEIS**
 4 **regarding animals or wildlife and their interactions with**
 5 **plants?**
 6 MR. KISIELIUS: Objection. Same objection.
 7 HEARING EXAMINER: I'm going to -- I'm not sustaining the
 8 objection, but I am going to tell you that that question is
 9 inappropriate because it's too broad.
 10 And so if you have a question about something in the FEIS,
 11 be a little more specific. The relationship between trees
 12 or plants and animals is a little broad.
 13 **Q. (By Mr. Ellison) Can you show me within the FEIS where**
 14 **impacts to wildlife habitat might be discussed?**
 15 MR. KISIELIUS: Objection. Again, this is now talking
 16 about a totally different subject matter.
 17 HEARING EXAMINER: Sustained.
 18 **Q. (By Mr. Ellison) Is there any discussion within the FEIS**
 19 **any discussion of wildlife pathways?**
 20 MR. KISIELIUS: Objection.
 21 HEARING EXAMINER: Sustained. Wildlife is not on the
 22 table for (inaudible).
 23 MR. ELLISON: I'm not sure how to create the question
 24 regarding that plants don't -- animals don't live in
 25 condominiums or at homes. They live in a natural

1 **Q. (By Mr. Ellison) How might the loss of any exceptional**
 2 **trees or trees larger than 12 inches in diameter for the**
 3 **construction of a DADU impact tree growths?**
 4 MR. KISIELIUS: Objection on the grounds of vagueness.
 5 We're talking about the hypothetical construction of a DADU,
 6 which Mr. Welch has already testified, could be any number
 7 of different things. And we're asking for a very specific
 8 conclusion, so there's a vague question, but...
 9 HEARING EXAMINER: Yeah, it is too vague. Sustained.
 10 **Q. (By Mr. Ellison) Is there any discussion in the EIS on tree**
 11 **growths?**
 12 A. We don't use that term, specifically, in the discussion of
 13 tree canopy overall.
 14 HEARING EXAMINER: Mr. Ellison, I think everyone's
 15 patience is getting fried here. So I'm going to give you
 16 until noon to finish up here, and that will be it.
 17 **Q. (By Mr. Ellison) Are you familiar with Mayor Burgess's**
 18 **order for tree protection?**
 19 A. I know what that is. I'm not extremely familiar with all of
 20 the content of that executive order.
 21 **Q. One introductory paragraph says that Whereas, urban trees**
 22 **face a variety of threats --**
 23 MR. KISIELIUS: Objection. The witness testified to his
 24 familiarity. Mr. Ellison is now reading into the record
 25 parts of that. And at the base of it all, it's, again,

1 environment. And if one was to have an impact to plants and
 2 trees, that would then have impacts to -- potentially to
 3 wildlife.
 4 HEARING EXAMINER: Your intervention was on the basis of
 5 impacts to trees and tree canopy and did not include
 6 wildlife habitat, which it would be a separate subject, so
 7 you don't have any basis for asking questions on that
 8 subject.
 9 MR. ELLISON: And I thought within the intervention -- and
 10 within the intervention there was a mention of heron
 11 rookeries in the City of Seattle, and the concern would be
 12 of the tree screening of these rookeries.
 13 MR. EUSTIS: I'm going to -- I'm sorry. I'm going to have
 14 to interpose an objection.
 15 Although we were not -- Queen Anne was not copied on
 16 TreePAC's intervention, I do not recall the -- TreePAC's
 17 intervention would be within the scope of the issues raised
 18 in the appeal. Heron rookeries was not raised in the
 19 appeal, and I don't believe it's within the scope of what
 20 the Examiner allowed and what the Examiner allowed for
 21 TreePAC.
 22 And I only say this, you know, in the interest of time. I
 23 don't want to continue, whatever, beating dead birds.
 24 MR. KISIELIUS: The City joins in the objection.
 25 HEARING EXAMINER: Sustained.

1 irrelevant because it was not relied upon in the analysis.
 2 It's in the EIS.
 3 HEARING EXAMINER: Sustained.
 4 Mr. Ellison, that's not a regulation or a code which would
 5 be required by SEPA to be addressed or analyzed as part of
 6 the impact analysis. It's an affirmation or -- an
 7 aspirational statement is the words I'm looking for.
 8 And so you need to stick to issues regarding the impacts
 9 of this proposal, the preferred alternative.
 10 **Q. (By Mr. Ellison) Are you familiar with the Seattle 2035**
 11 **Comprehensive Plan?**
 12 A. Yes.
 13 **Q. Could you give an interpretation of how that**
 14 **comprehensive -- how it, the comprehensive plan, suggests**
 15 **that trees and/or canopy should be dealt with in**
 16 **construction projects?**
 17 A. My recollection of what the comprehensive plan says about
 18 tree canopy is not precise enough to cite the policy that
 19 deals with construction projects. I do know that there are
 20 goals and policies in the comprehensive plan that address
 21 tree canopy, generally, and the objective of maintaining it
 22 and preserving it and caring for it and increasing it over
 23 time.
 24 **Q. Are you familiar with -- that it says that you should**
 25 **promote the care and retention of trees and groups of trees**

1 as part of its policy?
 2 MR. KISIELIUS: I'm going to renew my objection. This is
 3 so wide-ranging. We're really supposed to be focused on the
 4 adequacy of the analysis in the EIS, not a recitation of the
 5 City's policies or regulations governing tree protection,
 6 none of which are proposed to be changed by this proposal.

7 HEARING EXAMINER: Sustained.

8 **Q. (By Mr. Ellison) In your assessment, returning back to the**
 9 **FEIS, in a number of statements, for example, on Land Use,**
 10 **4-76, it says, which you've repeated already, quote, It**
 11 **would be speculative to estimate the net effect of the**
 12 **Preferred Alternative with respect to tree canopy and**
 13 **vegetation. Overall impacts on the tree canopy and**
 14 **vegetation from the Preferred Alternative would likely be**
 15 **minor in context of the 1300 -- one thousand three hundred**
 16 **thousand (verbatim) lots in single-family zones.**

17 **If it's really speculative in nature, then how is this**
 18 **considered to be a valid evaluation of impacts to tree**
 19 **canopy?**

20 HEARING EXAMINER: You have a question there, but that's
 21 not it. So you can't ask him how it's valid. That's my
 22 decision as whether it's an adequate FEIS. He's not
 23 qualified to opine on that.

24 MR. ELLISON: You're saying that he's not qualified to
 25 respond to that question?

1 to occur on a parcel basis. It would be speculative to
 2 estimate what that net effect is, but we present a
 3 conservative upper bound estimate of what it could be.

4 **Q. Did the City consider looking at different neighborhood**
 5 **types, for example, Wedgewood versus downtown in canopy**
 6 **cover, and then doing some random sample blocks to see what**
 7 **the impact could be? Could they have done a sampling and --**
 8 **to evaluate, well, where are the exceptional trees? Where**
 9 **are the potentials for (inaudible)?**

10 **Could they have actually rather just done this wide-ranged**
 11 **estimation of coming up to a 0.3 percent impact? Could they**
 12 **have not actually done some (inaudible) sampling to look at**
 13 **the actual potential impacts to canopies of exceptional**
 14 **trees or tree groves?**

15 A. Okay. You've mentioned several different things there, but
 16 I -- as I understand the general question about random
 17 sampling versus a citywide or study area-wide analysis, my
 18 response to that part would be we began with a study
 19 area-wide analysis using the very conservative assumptions
 20 that I have described. And the results of that, our
 21 conclusion, our finding, was that the impacts overall, with
 22 all of those conservative assumptions, would likely be
 23 minor, so we did not go further on that analysis for that
 24 reason.

25 And, furthermore, looking specifically, we have already in

1 HEARING EXAMINER: It's not the -- you don't want to ask
 2 whether it's valid or not. I think you have another
 3 question in there that it's --

4 **Q. (By Mr. Ellison) Could you explain why it's speculative to**
 5 **estimate the net effect of the preferred alternative with**
 6 **respect to tree canopy and vegetation?**

7 A. Sure. That would be speculative for at least a couple of
 8 reasons. One is we don't know exactly where ADUs will be
 9 built or single-family homes torn down over the course of
 10 the ten years studied in this EIS, and, therefore, we don't
 11 know what the existing canopy is on those eventual lots,
 12 whether any exceptional trees exist on those exceptional --
 13 excuse me -- exceptional trees exist on those lots,
 14 et cetera.

15 It's also speculative to estimate the net effect. And
 16 that word "net" is in there because there are aspects of the
 17 preferred alternative that both present potential impacts to
 18 tree canopy and potential benefits to tree canopy.

19 Specifically, removing the off-street parking requirement
 20 offers a potential benefit to tree canopy by reducing the
 21 amount of lot area that would have to be converted into
 22 impervious surface and, potentially, result in the removal
 23 of vegetation and trees.

24 So the net effect of those two things operating together
 25 would be without knowing where development is actually going

1 that analysis considered the entire study area, and that
 2 everything impacted by the footprint would be tree canopy.

3 So going further into specific neighborhoods could only
 4 show, potentially, a lower impact if we found that, in fact,
 5 not all area of every backyard is entirely tree canopy.
 6 Some of it isn't.

7 So we had already started with that very conservative
 8 upper bound assumption, found a minor impact, and did not go
 9 any further with it.

10 **Q. When you did your calculation saying each**
 11 **thousand-square-foot footprint of a structure, what was the**
 12 **size?**

13 **If you said, Well, there are other parts of the lot that**
 14 **will be impacted, how did you determine what the size of**
 15 **that footprint actually would be in this multiplication to**
 16 **express so many times, so many units per new construction?**

17 MR. KISIELIUS: Objection, because I think he's now asking
 18 about a hypothetical analysis that the City didn't -- asking
 19 what the City did in a hypothetical analysis that the City
 20 didn't complete.

21 MR. ELLISON: No, I'm not, and I'm trying to understand
 22 what the analysis was.

23 MR. KISIELIUS: And I also note that it's twelve o'clock.

24 HEARING EXAMINER: Sustained, and it is twelve o'clock.
 25 If you have one more question, you can ask it, and that

1 will be it.

2 **Q. (By Mr. Ellison) In calculating the impact of a**

3 **thousand-square-foot DADU on a lot, what square footage**

4 **multiplication did you use in order to determine the impacts**

5 **from that thousand-square-foot structure? If you're**

6 **suggesting that you evaluated the area that was larger than**

7 **a thousand-square-foot structure, then what was that value**

8 **that was used to -- as a multiplier?**

9 A. Let me clarify the second part. I didn't suggest that we

10 included some other area to represent other site area that

11 could be affected or impacted.

12 The multiplication we did was assuming 1,000 square feet

13 as the footprint for each DADU, which, as I have said, is a

14 rare possibility, multiplied by, I believe, 1,085 as the

15 number of DADUs forecasted for that alternative, and that, I

16 believe, gives you 25 acres.

17 **Q. But didn't you testify earlier that --**

18 HEARING EXAMINER: That's the end.

19 **Q. (By Mr. Ellison) -- it was larger than a thousand square**

20 **foot --**

21 HEARING EXAMINER: Mr. Ellison?

22 **Q. (By Mr. Ellison) -- in the assumption?**

23 MR. ELLISON: Thank you.

24 HEARING EXAMINER: We're done.

25 Okay. Redirect?

1 **other alternatives? Turn to page 2-6.**

2 **Can you describe what the preferred alternative says for**

3 **incentives for affordable housing on page 2-6?**

4 A. For the preferred alternative it says, "No incentives for

5 affordable housing apply to the creation of a second ADU."

6 **Q. Okay.**

7 A. "Independent from the Land Use Code changes evaluated in

8 this EIS, the City is considering programmatic actions or

9 investments to make ADUs available to homeowners and renters

10 with lower incomes."

11 **Q. Articulating a different program?**

12 A. That's right.

13 **Q. Did the housing and -- excuse me -- the housing and**

14 **socioeconomic analysis actually walk through potential**

15 **impacts to affordability (inaudible) alternative?**

16 A. Yes, it did.

17 **Q. Okay. Let's talk briefly about the 75/80 Rule that**

18 **Mr. Eustis asked you about.**

19 **So I think you, in your exchange, focused on the 75**

20 **percent part of the 75/80 Rule.**

21 **Could you very quickly refresh us on what that means?**

22 A. Sure. The 75 refers to the requirement that you're applying

23 this rule to create a new lot that is less than the minimum

24 lot size required by the zone. It can only be, at most, 75.

25 At least -- it must be at least 75 percent of that minimum

1 MR. KISIELIUS: I hope to be very brief.

2 THE WITNESS: I thought we were breaking for lunch.

3

4 REDIRECT EXAMINATION

5 BY MR. KISIELIUS:

6 **Q. Mr. Welch, I have a couple of questions for you. I want to**

7 **start with the beginning of Mr. Eustis's cross-examination.**

8 **He had asked you about -- a lot of questions about housing**

9 **affordability, and I think there was some discussion about**

10 **market rate housing and the other categories restricted**

11 **housing or subsidized.**

12 **Is that the right description for that?**

13 A. We often use the term "rent" and "income-restricted housing"

14 to be as precise as possible.

15 **Q. Okay. And was the goal or objective of this proposal**

16 **specifically designed to address that restricted subsidized**

17 **housing component?**

18 A. No.

19 **Q. And by comparison to, for example, MHA, which you worked on,**

20 **was that part of that objective?**

21 A. Yes.

22 **Q. But I heard you testify about Alternative 3, and there is**

23 **some analysis of that kind of housing affordability issue in**

24 **Alternative 3.**

25 **I want to ask you: Is it also included for some of the**

1 for the zone.

2 **Q. That's with the smallest possible lot size you can have,**

3 **pursuant to that 75/80 Rule, based on just that first prong**

4 **in the SF 5000 zone?**

5 A. Based on just the 75 part in the SF 5000 zone, it would be

6 3,750 square feet.

7 **Q. So to be absolutely clear, you could never get down to 3,200**

8 **feet; is that correct?**

9 A. That's correct. That would not be possible.

10 **Q. Let's focus on the 80 part of the rule.**

11 **Can you describe what that is?**

12 A. The 80 part is the second requirement, which also must be

13 (inaudible), and is a comparison that includes or considers

14 the other lots, I believe, on that block face. And maybe

15 the opposite block face, but at least the block face of that

16 property.

17 And the requirement says that that new lot that someone

18 would be proposing to create must be 80 percent of the lots

19 on that lot face with the lot size of that lot face.

20 HEARING EXAMINER: Lot size, yeah.

21 **Q. (By Mr. Kisielius) And what is that designed to do in**

22 **general, that second prong?**

23 A. It's designed to --

24 MR. EUSTIS: Objection. Objection. Beyond the scope of

25 my examination.

1 Mr. Kisielius, in the interest of time, it's not necessary
2 for him to -- for Mr. Welch to testify on what is set forth
3 in the code. The code speaks for itself. We don't need
4 Mr. Welch to offer his explanation. I only interpose that
5 objection in the interest of time.

6 MR. KISIELIUS: And if I could respond, this is squarely
7 in redirect. Mr. Eustis asked him about this very rule.
8 And for him to now be saying it's out of bounds for me
9 would...

10 MR. EUSTIS: No, the purpose. I didn't talk about the
11 purpose of this.

12 MR. KISIELIUS: It's related to responding to your
13 characterization throughout about the illegal subdivisions,
14 and this is important.

15 HEARING EXAMINER: Overruled.

16 **Q. (By Mr. Kisielius) What is the general purpose of the
17 second prong in the 80 percent piece?**

18 A. That is a test of whether that new lot would generally be
19 compatible in scale in terms of lot size with the context
20 with other lots on that lot.

21 **Q. And what does that do from your standpoint given your
22 discussion earlier in terms of aesthetic impacts? Does that
23 make it more likely to be in concert with the added height,
24 bulk, and scale of surrounding structures?**

25 MR. EUSTIS: Objection. Now he's talking about aesthetic

1 **displacement.**

2 **Is it your understanding that Appendix M, that's the MHA
3 Appendix M upon which Mr. Reid relied, does that show lots
4 that are vulnerable to displacement?**

5 A. No.

6 **Q. What does it show?**

7 A. The aspect of that appendix that Mr. Reid was referring to
8 are census tracts, and it shows the overall, in that case, a
9 change in the number of households and different income
10 groups at the census tract level.

11 **Q. Okay. And this is my last question for you.**

12 **Mr. Eustis was asking you about the tree canopy analysis,
13 and you had just described the beginning pages of the tree
14 canopy analysis that included the table with the
15 scatterplot. I think (inaudible) try to find it.**

16 A. 4-54.

17 MR. EUSTIS: The scatterplot, I believe, is in the EIS.

18 MR. KISIELIUS: Yes, I was (inaudible). Thank you.

19 **Q. (By Mr. Kisielius) 4-54?**

20 A. 4-54.

21 **Q. Yeah. Okay. So you had testified to the beginning parts of
22 that, and Mr. Eustis asked you whether there was anything
23 else beyond that -- his term was "conclusory" -- section
24 that discussed the impacts, and you said yes. And I want to
25 make sure the record is clear.**

1 impacts of the 75/80 Rule. Aesthetic impacts of the 75/80
2 Rule is not an issue in this proceeding. It's the aesthetic
3 impacts of accessory dwelling unit legislation.

4 MR. KISIELIUS: Yeah. Madame Examiner, they've made the
5 75/80 Rule part of this proceeding. They're arguing about
6 it and arguing about how that creates substandard laws that
7 will ruin neighborhoods in their words.

8 HEARING EXAMINER: Overruled. Let's limit this line.

9 MR. KISIELIUS: This is my last question.

10 HEARING EXAMINER: Okay.

11 **Q. (By Mr. Kisielius) And I think you answered, but could you
12 repeat your answer?**

13 A. Sure. It would tend to reduce aesthetic impacts because you
14 asked about height, bulk, and scale, or if that lot were
15 required, as it is, to be generally similar or consistent
16 with the lot pattern on that block, resulting development in
17 height, bulk, and scale impacts of that zone on that lot are
18 more likely to be consistent with other lots on that lot in
19 other development (inaudible).

20 **Q. Okay. I want to switch topics to the displacement
21 discussion that you had with Mr. Eustis, and I just want to
22 focus on one point.**

23 **At one point, Mr. Eustis asked you about Mr. Reid's
24 testimony and was talking about the identification of --
25 "lots" was the word he used -- lots that are vulnerable to**

1 **Do you believe that initial part was conclusory?**

2 A. Not with respect to impacts. The alternatives.

3 **Q. Okay.**

4 MR. KISIELIUS: No further questions. Thank you.

5 HEARING EXAMINER: Mr. Eustis?

6 MR. EUSTIS: In the interest of time, no questions.

7 HEARING EXAMINER: All right. Well, it's 12:10 now. We
8 could take a lunch break. This is a natural time to do
9 that.

10 MR. KISIELIUS: It is.

11 HEARING EXAMINER: Okay. So we will be back at 1:25.

12 MR. KISIELIUS: Thank you.

13 HEARING EXAMINER: We'll be in recess.

14 (Lunch recess)

15 HEARING EXAMINER: Mr. Kisielius, you may proceed.

16 MR. KISIELIUS: Actually, Ms. Park, my colleague, is going
17 to be handling the next witness.

18 HEARING EXAMINER: Oh, okay.

19 MS. PARK: Good afternoon. This is Clara Park for the

20 City, and the City calls as its next witness Mr. Andy McKim.

21 HEARING EXAMINER: Would you raise your right hand?

22 Do you swear or affirm that the testimony you're about to
23 give is the truth?

24 MR. MCKIM: I do.

25 HEARING EXAMINER: Would you spell and state your name for

1 the record and provide a work address?
2 MR. MCKIM: Yes. Andy McKim, M-C, capital K-I-M. I'm
3 with the Seattle Department of Construction and Inpections
4 at 700 Fifth Avenue, Suite 1800.

5 HEARING EXAMINER: Thank you.
6 You may proceed, Ms. Park.

7
8 ANDY MCKIM, having first been duly sworn,
9 was examined and testified
10 as follows:

11
12 DIRECT EXAMINATION

13 BY MS. PARK:

14 **Q. Good afternoon, Mr. McKim. Can you start by stating your**
15 **occupation, please?**

16 A. Yeah. I'm a Strategic Advisor 2 with the City, SDCI,
17 typically usually called land use planner supervisor.

18 **Q. And how long have you been employed by SDCI and in what**
19 **capacities?**

20 A. I've been there for 32 years. I've been a strategic advisor
21 for a couple of years, a supervisor. I've just been a
22 supervisor back to 1990.

23 **Q. Do you have any specific training or education that's**
24 **relevant to your ability to carry out your responsibilities**
25 **at SDCI?**

1 A. Yes. My responsibility, my main responsibility, is
2 interpreting the Land Use Code. I'm trained as a lawyer. I
3 am a member of the bar. I went to law school at University
4 of Michigan and graduated in '84.

5 **Q. Go Blue. I also went to Michigan, so I'm obligated to say**
6 **that.**

7 **What are your primary professional responsibilities with**
8 **SDCI?**

9 A. I write, generally, opinion letters, land use code
10 interpretations relating to (inaudible) and application of
11 the Land Use Code. I write a lot of e-mails and provide
12 technical support to staff in the department, elsewhere in
13 the city. I provide information to the public as well.

14 **Q. And are you familiar with the proposal that's being analyzed**
15 **in this FEIS?**

16 A. I've seen an early version of the proposal, but I haven't
17 looked closely at it in quite some time. I don't know what
18 the specifics are right now.

19 **Q. Okay. Understood. But are you -- I take it you're familiar**
20 **with the current regulations that govern ADUs and**
21 **single-family zoning?**

22 A. Yes.

23 **Q. Okay. Now, based on your experience with SDCI and your**
24 **familiarity with the current regulations, I'd like to just**
25 **ask you to address just a few points that the opponents have**

1 raised.

2 **So I'd like to start on the topic of the so-called**
3 **condominiumization, ADUs. So we've had some testimony over**
4 **this hearing about two examples of condominiums that were**
5 **created after the applicants had applied to build ADUs, and**
6 **I want you to focus on the code compliance aspect of those**
7 **two projects. So I'll ask you to refer to what's been**
8 **entered as Hearing Exhibits 29 and 30, and those are**
9 **Appellants' Exhibits 8A and 8B. And, Mr. McKim, you have**
10 **copies in front of you.**

11 **First of all, are you generally familiar with these two**
12 **projects?**

13 A. I've looked over these exhibits in preparation for this
14 hearing.

15 **Q. Okay. And I'm --**

16 MR. EUSTIS: Madam Examiner? Permission to voir dire the
17 witness in terms of his scope of testimony?

18 HEARING EXAMINER: For what purpose?

19 MR. EUSTIS: To determine his involvement in the code
20 enforcement decisions or findings that were made.

21 HEARING EXAMINER: Okay.

22 Do you have an objection?

23 MS. PARK: We'll stipulate for the record that he wasn't
24 personally involved with these -- with the enforcement of
25 this specific projects. And it would seem it would be

1 appropriate for cross-examination.

2 MR. EUSTIS: But the -- again, I'm requesting the
3 opportunity to voir dire the witness as to his familiarity
4 with these decisions, the ones that he's going to testify
5 to. If it's left to cross-examination, well, that's after
6 he's already given his testimony.

7 HEARING EXAMINER: I think for -- yeah. Just make it
8 limited, please.

9 MR. EUSTIS: Okay.

10
11 VOIR DIRE EXAMINATION

12 BY MR. EUSTIS:

13 **Q. So, you are aware that there were code enforcement actions**
14 **dealing with these two sites?**

15 A. From reviewing these exhibits, I am.

16 **Q. Okay. And there were findings made by SDCI code enforcement**
17 **people dealing with each of those sites?**

18 A. They drew conclusions, yes.

19 **Q. Okay. And did -- in the conclusions that they drew, did you**
20 **have any involvement?**

21 A. I do not recall being consulted. The enforcement staff will
22 consult our work group and me if they have questions about
23 how the code should apply. It may well be that I was asked,
24 but I don't specifically recall that.

25 **Q. Okay. So you have no recollection being consulted on either**

1 **case?**
 2 A. That's correct.
 3 **Q. Okay.**
 4 MR. EUSTIS: I would move to -- as a form of a motion in
 5 limine, I would move to exclude any of Mr. McKim's testimony
 6 relating to these enforcement actions because he had no
 7 involvement, and anything that he provides here would
 8 essentially be backfill on findings where he had no
 9 involvement.
 10 HEARING EXAMINER: Do you have a response?
 11 MS. PARK: Sure. Yes, Your Honor. We are not litigating
 12 the substance of these complaints. I think Mr. McKim in his
 13 long experience and in his capacity as supervisor is capable
 14 of testifying to the records of the SDCI complaints and the
 15 documents herein, just as Mr. Kaplan did.
 16 MR. EUSTIS: Well, these aren't just ordinary documents.
 17 These were complaints, documentation, enforcement action,
 18 and a finding that was rendered in which Mr. McKim had no
 19 involvement or he can't recall having an involvement, so
 20 whatever he is doing is simply, you know, what his gloss,
 21 his opinion on findings that were already made. There's no
 22 reason to hear from Mr. McKim on this. I'm not -- we're not
 23 litigating the enforcement action.
 24 MS. PARK: Right.
 25 MR. EUSTIS: It is what it is.

1 **owner-occupancy requirement?**
 2 MR. EUSTIS: Objection because it calls for a
 3 legal conclusion. And here, I'm referring to the decision
 4 in Cowiche Canyon v. Bosley, which basically says that if
 5 the agency has not rendered a formal interpretation on an
 6 issue, then it's improper for a witness to come in, testify,
 7 and offer a legal conclusion. And this, you know, builds on
 8 the longstanding requirement that questions of law lie in
 9 the province of the Court or the decision maker, namely, the
 10 Hearing Examiner. This is a matter for argument. The City
 11 can certainly present its argument as to whether on
 12 single-family lots you could allow the condominiumization of
 13 dwelling units, and that can be presented as a matter of
 14 argument. Mr. Welch testified that there was no written
 15 interpretation, and the law simply does not allow Mr. McKim,
 16 regardless of his wealth of experience and that he does code
 17 interpretation, to come in and essentially give an
 18 off-the-cuff opinion. It's not amenable to testimony. And
 19 so, again, in the interest of time, certainly the City can
 20 present argument, but we don't need Mr. McKim to offer an
 21 off-the-cuff interpretation which we have not seen before.
 22 HEARING EXAMINER: Response?
 23 MS. PARK: Yes. First, we've disclosed Mr. McKim as a
 24 witness and identified the subject of his testimony weeks
 25 ago, and so the appellants have had notice that we would be

1 MS. PARK: It may go to the weight of his testimony, but
 2 there is value in having someone in his position explain the
 3 agency's action here.
 4 HEARING EXAMINER: Okay. I'll allow it. It hopefully
 5 will be fairly limited.
 6 MS. PARK: It will, yes.
 7 HEARING EXAMINER: Okay.
 8
 9 DIRECT EXAMINATION, (Cont.)
 10 BY MS. PARK:
 11 **Q. Okay. First, Mr. McKim, can you generally describe how SDCI**
 12 **handled the code complaints against these two projects?**
 13 MR. EUSTIS: Objection.
 14 **Q. (By Ms. Park) -- given your review of these --**
 15 MR. EUSTIS: Lack of personal knowledge. I mean, he
 16 testified he has no personal knowledge. If our concern is
 17 for the passage of time, there is no purpose in having
 18 Mr. McKim, you know, speculate or offer an opinion on which
 19 he had no involvement.
 20 HEARING EXAMINER: I'm going to sustain the objection on
 21 lack of personal knowledge. That was the first ground he
 22 stated.
 23 MS. PARK: Okay.
 24 **Q. (By Ms. Park) Mr. McKim, can you explain how condominium**
 25 **projects like the two projects here satisfy the**

1 discussing issues of code compliance. Mr. McKim will -- can
 2 testify about -- generally about the code compliance, which
 3 is an issue -- code and compliance and interpretation, which
 4 is an issue on which Mr. Kaplan has offered his testimony.
 5 So we think it's fair to offer the City's perspective on
 6 those codes, which we've already discussed at length in this
 7 hearing.
 8 HEARING EXAMINER: All right.
 9 MR. EUSTIS: I would respond that it's neither here nor
 10 there the fact that they listed Mr. McKim. We were under no
 11 obligation to then go through their witness and -- witness
 12 list, what was 17 in all, and bring motions in limine on
 13 each of them. I mean, that would have been, you know -- I
 14 guess I don't know what he's testifying to until the
 15 question is asked, and the question that has been posed is
 16 clearly one asking for a conclusion as to law. It's simply
 17 not amenable to, you know, expert testimony or even lay
 18 testimony.
 19 HEARING EXAMINER: Well, I would tend to agree with you,
 20 Mr. Eustis. Asking the witness for a legal conclusion is
 21 not appropriate since he's not representing the Department
 22 and he's not offering argument.
 23 So if you want to talk about procedures on how code
 24 interpretation or code enforcement, code compliance, excuse
 25 me, is conducted, that would be fine, but providing an

1 interpretation through this witness would not be
2 appropriate.

3 MS. PARK: All right. Thank you.

4 **Q. (By Ms. Park) Mr. McKim, have you personally been involved
5 with situations in which a question of the
6 condominiumization of ADUs has arisen?**

7 A. The question has been asked of me in the past by people who
8 were contemplating entering into such an arrangement. The
9 question has been asked whether it was consistent with the
10 Land Use Code, whether it was permissible under the Land Use
11 Code, and the advice that we had offered --

12 MR. EUSTIS: Objection. Now he's offering his legal
13 conclusion. This is not dealing with procedures of
14 enforcement.

15 HEARING EXAMINER: Sustained.

16 MR. EUSTIS: This is simply a backdoor method of getting
17 the response that was objected to.

18 **Q. (By Ms. Park) Mr. McKim, can you just generally describe
19 the procedures through which SDCI has responded to
20 complaints about condominiumization of ADUs?**

21 A. Well, what the inspector would do would be to determine
22 whether there was anything in the Land Use Code that limited
23 that, whether -- in determining whether there was a
24 violation of a Land Use Code, the inspector would consult
25 the Land Use Code, and the inspector would visit the site,

1 HEARING EXAMINER: Overruled.

2 THE WITNESS: I would expect the inspector to check permit
3 records, verify that a permit has been issued establishing
4 an accessory dwelling unit. I would expect the inspector to
5 consult or be aware of the standards for accessory dwelling
6 units in 23.44.041 as to the (inaudible). Inspectors will
7 typically then visit the site and determine whether there's
8 any information that supports a conclusion that there's a
9 code violation.

10 **Q. (By Ms. Park) And is the covenant for owner-occupancy one
11 of the permit documents that an inspector might review?**

12 A. Quite possibly. The -- if it's something that is going to
13 be used (inaudible).

14 MR. EUSTIS: I'm going to object. Further speculation.

15 THE WITNESS: Yeah. Yeah.

16 MR. EUSTIS: His response is "quite possibly."

17 HEARING EXAMINER: Overruled.

18 THE WITNESS: Yes, it is possible that they would review
19 that.

20 **Q. (By Ms. Park) From your experience, is the
21 condominiumization of ADUs a common phenomenon?**

22 MR. EUSTIS: Objection. Foundation.

23 HEARING EXAMINER: Yeah. Lay a foundation for that.

24 **Q. (By Ms. Park) Mr. McKim, during -- throughout your
25 experience in the City, how often has the question of**

1 determine whether they perceived any violation of the
2 standards that are in the Land Use Code.

3 **Q. And can you describe in a little more detail what an
4 inspector might do to determine if there is a violation of
5 the Land Use Code?**

6 MR. EUSTIS: Objection. Calls for speculation. He had no
7 involvement in these matters and what an inspector might do.
8 It just calls for speculation as to what some inspector
9 might do.

10 MS. PARK: It's a question about the procedures of the
11 agency.

12 HEARING EXAMINER: Overruled. I'll allow it. Go ahead.

13 THE WITNESS: Well, the inspector -- as I said, I would
14 expect that they would either know what's in the Land Use
15 Code already or check the Land Use Code or consult with
16 their supervisors about what the code provided. The
17 inspector would then visit the site and determine, based on
18 what was in the code, whether there's a violation. In some
19 cases, the inspector would do permit research if there's
20 some question whether somebody is operating consistently
21 with the permits that are issued.

22 **Q. (By Ms. Park) Okay. And in the instance where the issue is
23 a condominiumization of ADUs, what documents would an
24 inspector review to determine or to address that issue?**

25 MR. EUSTIS: Again, objection. Speculation.

1 **condominiumization of ADUs come up?**

2 A. Addressed to me personally? I can recall a couple of
3 instances in the past few years. I actually got an email
4 yesterday asking about it that I haven't responded to yet.
5 But I would say probably two or three times.

6 **Q. Throughout your entire career?**

7 A. That's correct.

8 **Q. All right. All right. And I'll switch topics, then. And
9 I'd like to -- I'd like you to testify on the difference
10 between an ADU and a duplex. So does SDCI consider any
11 difference between an ADU and a duplex?**

12 A. Yes. The Land Use Code defines duplexes, specifically
13 excludes a residence that includes an accessory dwelling
14 unit.

15 **Q. Are there different design or construction requirements for
16 an ADU as opposed to a duplex?**

17 A. Well, there are specific constraints, development standards
18 that apply to accessory dwelling units that would not apply
19 to a duplex. A duplex typically would not be permitted in a
20 single-family zone, whereas an accessory dwelling unit -- or
21 a single-family house with an accessory dwelling unit
22 attached to an accessory dwelling unit would be subject to
23 the standards in that section, 23.44.041, such as a size
24 limit. I think there are limits on where the location of
25 front doors are, that sort of thing, to prevent the

1 accessory dwelling unit from -- the house with an accessory
2 dwelling unit from looking like a standard duplex.

3 **Q. Thank you. Do duplexes and triplexes currently exist in
4 single-family zones under the current regulations today?**

5 A. There are duplexes, there are multifamily structures in
6 single-family zones, and in general this is because there
7 are existing nonconforming structures that were built under
8 previous standards or built prior to annexation into the
9 city.

10 **Q. Thank you. And how does SDCI handle reports of, say, an
11 illegal dwelling unit?**

12 A. Well, again -- and here, the inspector would, first of all,
13 check the permits to find out how many dwelling units are
14 authorized by permit, and then it would just cite for
15 evidence that there is a unit that isn't properly
16 authorized.

17 **Q. Thank you, Mr. McKim. No further questions.**

18 A. Thank you.

19 HEARING EXAMINER: Cross-examination.

20

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

22 BY MR. EUSTIS:

23 **Q. Mr. McKim, do you know if, in fact, the inspectors on the
24 two examples given inspected the records for the existence
25 of a covenant of owner-occupancy?**

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

2 BY MR. KISIELIUS:

3 **Q. Mr. Shook, could you please state your occupation?**

4 A. Yes. I'm a senior economic policy analyst. I am a partner
5 and director at my firm, ECONorthwest, which is an
6 45-year-old economics finance planning firm that has
7 worked -- its headquartered in the Pacific Northwest, and we
8 work across the country on a range of public policy,
9 environmental, and land use issues.

10 **Q. So good thumbnail of the company. What are your personal
11 primary professional responsibilities?**

12 A. So I have two -- probably two responsibilities. I am a part
13 (inaudible) holder and partner, so I have a range of
14 corporate responsibilities. But from the consulting side, I
15 am a director, so I am primarily responsible for business
16 development, and when we secure work, responsible for
17 designing and ensuring the proper execution of that work for
18 our clients.

19 **Q. Okay. And do you have any specialty with respect to
20 socioeconomics or economic analysis?**

21 A. Yes. At the heart of all our work is some question of
22 economics and, particularly, impact on the social welfare,
23 and so across our board we do a range of this work.
24 Specifically, we have a large body of work that works both
25 within SEPA and NEPA analysis when questions of economics

1 A. No.

2 MR. EUSTIS: I have no further questions for Mr. McKim.

3 HEARING EXAMINER: Okay. Any redirect?

4 MS. PARK: No redirect.

5 HEARING EXAMINER: Thank you, Mr. McKim.

6 THE WITNESS: Thank you.

7 MR. KISIELIUS: As its next witness, the City would like

8 to call Mr. Morgan Shook.

9 HEARING EXAMINER: Raise your right hand.

10 Do you swear or affirm that the testimony you're about to
11 give in this matter is the truth?

12 MR. SHOOK: I do.

13 HEARING EXAMINER: Thank you. Please state your name and
14 spell it, first and last, and provide a work address.

15 MR. SHOOK: Yes. My name is Morgan Shook. First name,
16 Morgan, M-O-R-G-A-N. Last name, Shook, is S-H-O-O-K. Place
17 of business is 1200 Sixth Avenue, Suite 60 -- ooh. 612? I
18 have it right here. I always forget. 615. New location.

19 MR. KISIELIUS: May I proceed?

20 HEARING EXAMINER: Oh, absolutely. Go ahead.

21

22 MORGAN SHOOK, having first been duly sworn,
23 was examined and testified
24 as follows:
25

1 arise.

2 **Q. Okay. I'm going to come back to that, but I want to ask you
3 to describe your educational background and training,
4 focusing on the items that are relevant to your profession.**

5 A. Exactly. So I have a degree in molecular biology. I worked
6 as a researcher, so deep experience in setting up research
7 design, as well as executing that work through statistical
8 and mathematical modeling. I then received my graduate
9 degree in urban regional planning with specialization in
10 economic development and economic analysis.

11 **Q. Okay. And you talked about your professional
12 responsibilities. Can you describe your -- the types of
13 experience, the projects that you tend to work on on
14 economics issues and also on housing issues?**

15 A. Exactly. So we work on a wide range of them, but
16 specifically we get asked questions in the policy
17 environment that are relevant to this case around how
18 changes in land use might affect issues within, certainly,
19 the housing environment and broader socioeconomic effects.

20 **Q. Okay. And I heard you mention SEPA and NEPA before. Can
21 you describe your prior experiences working on EISs?**

22 A. Yes. I've worked on over a dozen EISs. About half of those
23 are project work and project specific actions, and the other
24 half are programmatic.

25 **Q. Okay. And can you just give us a flavor of not -- excluding**

1 **this one, of the types of things that you worked on?**
 2 A. Yeah. So from a SEPA perspective, economics is, I think, a
 3 little interesting and different than many of the other
 4 disciplines. The questions we get asked aren't fairly
 5 routine, typically being driven out of the local policy
 6 context or specific questions out of scoping. So they can
 7 range from questions of how might this land use affect the
 8 city's fiscal sustainability, they may range to issues
 9 around how land use changes may affect housing production
 10 and housing affordability. So they cover a wide range of
 11 issues.
 12 **Q. Okay. And when you're involved in those CISs, do you -- are**
 13 **you reviewing work, are you writing work, a combination of**
 14 **both? What's your involvement in the actual EIS process?**
 15 A. So my involvement?
 16 **Q. Um-hum.**
 17 A. My involvement is typically in designing research, in the
 18 design of the research and constructing internal teams that
 19 can execute that work, from both approach and methodological
 20 point of view. I do some of that work myself, depending on
 21 sort of the needs and availability of staff on projects, but
 22 then I'm also responsible for writing sections and reviewing
 23 final draft and final documents.
 24 **Q. Okay. So if you look in one of the binders near you, there**
 25 **should be a Tab No. 32. It's the City's Exhibit 32. Do you**

1 leading our research team in designing a set of analyses
 2 that addressed the questions that were raised out of the EIS
 3 appeal, as well as sort of questions that came out of
 4 scoping and any other broader policy context that's framing
 5 this project.
 6 **Q. Okay. And you had earlier said you sometimes work on a**
 7 **team. Was this one of those instances in which you worked**
 8 **with some colleagues from ECONorthwest?**
 9 A. Yes. Internally?
 10 **Q. Yes.**
 11 A. Yes.
 12 **Q. Okay.**
 13 A. Almost -- almost always we're working on -- as part of
 14 teams --
 15 **Q. Okay.**
 16 A. -- while we're working on the teams.
 17 **Q. I didn't mean to interrupt you. I'm sorry.**
 18 A. That's okay.
 19 **Q. Were they working at your direction?**
 20 A. Yes. Staff were working at my direction. That staff is
 21 highly qualified, ranging from PhD economists deeply
 22 experienced in econometric techniques, as well as staff that
 23 are highly qualified with years of background in housing
 24 development, economics, and finance, an area of
 25 specialization for myself as well.

1 **recognize that?**
 2 A. Yes. This is a recent copy of my curriculum vitae.
 3 **Q. And does it accurately reflect your educational background**
 4 **and professional training and experiences?**
 5 A. It does. I think it's dated a few months. It doesn't have
 6 the full list of projects that I've executed in the
 7 intervening time.
 8 **Q. Okay.**
 9 MR. KISIELIUS: We'd move to admit City's Exhibit 32,
 10 which I think would be Examiner's Exhibit 38.
 11 HEARING EXAMINER: And any objection?
 12 MR. EUSTIS: No objection.
 13 HEARING EXAMINER: All right. This will be Exhibit 38 in
 14 the Hearing Examiner's record.
 15 (Exhibit No. 38 admitted into evidence)
 16 MR. KISIELIUS: Thank you.
 17 **Q. (By Mr. Kisielius) Let's focus on the EIS that's the**
 18 **subject of this appeal. What was your role in the**
 19 **preparation of this EIS?**
 20 A. Yeah. So my role was in responsible -- responsible for
 21 work in finding a partner on the response to -- or request
 22 for proposal when the City issued that. We proposed some
 23 rough outline of the types of activities and research we
 24 could do. Once we were selected as a part of that team to
 25 do the work for the City, we were -- I was responsible for

1 **Q. Okay. And then how about your coordination with the City?**
 2 **Who were your primary points of contact on the CIS project?**
 3 A. At the City, we collaborated and coordinated with Aly and
 4 Nick on the project.
 5 **Q. Mr. Welch and Ms. Pennucci?**
 6 A. Yeah, sorry. Mr. Welch.
 7 **Q. And Ms. Pennucci?**
 8 A. Yes.
 9 **Q. Okay.**
 10 A. Sorry.
 11 **Q. Let's take a look at some of your work. Can you -- so the**
 12 **other binder -- you can put that -- I think that one you can**
 13 **close and get it out of the way if you need it. The other**
 14 **binder will be the entirety of the EIS and its appendixes.**
 15 **I'm going to ask you to turn to page 4-5. Now let me ask**
 16 **you, when you were referring to your work, is that captured**
 17 **in Chapter 4.1?**
 18 A. Yes. I believe the City is the lead author of this chapter
 19 and heavily relies on information we provided as a part of
 20 the appendix, and we had a chance to review and comment on
 21 this.
 22 **Q. And so when you're referring to the appendix, you're**
 23 **referring to the one that's appended there as Appendix A?**
 24 A. A, yes.
 25 **Q. Okay.**

1 A. Appendix A.
 2 **Q. Great. So could you turn to page 4-5, please?**
 3 A. I'm there.
 4 **Q. So just a framework threshold question. What's the purpose**
 5 **of the discussion here of existing conditions and baseline**
 6 **data?**
 7 A. Yes. So our review of this is basically useful context that
 8 is fairly standard, using accepted data and techniques to
 9 discuss issues of housing affordability.
 10 **Q. Okay. And maybe let's walk through some basic terms. Can**
 11 **you -- on page 4-5, I think there's some discussion of a**
 12 **phrase used that's "housing affordability." How is that**
 13 **defined, in your professional experience?**
 14 A. Yeah. So fairly standard set of definitions with regard to
 15 housing affordability that are all set off of a HUD
 16 discussion around 30 percent being 30 percent of housing
 17 costs as a percent of total income. That's inclusive of
 18 rent, mortgage, and some utilities as a baseline for housing
 19 affordability.
 20 **Q. And what about cost burden? I think you used that phrase as**
 21 **well?**
 22 A. Yeah. So I think over time HUD has amended these data and
 23 definitions to include house -- the housing cost burden,
 24 specifically in two flavors, what they call just cost
 25 burden, just when housing costs are between 30 and 50

1 **please describe the existing conditions with respect to**
 2 **housing cost burdens in Seattle?**
 3 A. Yeah. So I think the purpose of this here is to talk about
 4 potentially some of the implications of the proposal with
 5 respect to housing affordability. And the useful context
 6 here is trying to document that more broadly, so which types
 7 of population groups experience housing affordability
 8 challenges more than others, and in which respect of sort of
 9 housing (inadable) whether that is ownership of homes
 10 versus rentals of apartments.
 11 And so the takeaways from this analysis are ones that
 12 we've seen, not just in the Seattle region, but much more
 13 broadly, people with lower incomes tend to be much more cost
 14 burdened than higher income households, and that obviously
 15 is highly associated with race and sort of a presence of
 16 nonwhite populations, which also have higher -- are more
 17 represented in those lower incomes, and so they tend to also
 18 be more highly cost burdened than their counterparts.
 19 **Q. And can you at a kind of high level just talk about**
 20 **Exhibits 4.1-2, 4.1-3, and 4.1-4, and just summarize how**
 21 **those --**
 22 A. Exactly. So I think this is the graphical representation of
 23 what I just said. So across all in Exhibit 4.1-3, across --
 24 and this is looking at housing cost burden among owner
 25 households by household income. We see across all

1 percent of household income, and then severely cost burdened
 2 when the housing costs are greater than 50 percent.
 3 **Q. Okay. And would you say that those terms that you use**
 4 **there, are those standard and common ways people in your**
 5 **profession define those terms?**
 6 A. Yes.
 7 **Q. What data did you use to assess existing conditions of**
 8 **housing affordability?**
 9 A. So this chapter that was done by the City uses fairly
 10 standard data with respect to the populations of interest,
 11 just drawing from the U.S. Census Bureau, specifically the
 12 ACS, but then also --
 13 **Q. Can you -- ACS. What does that stand for?**
 14 A. I'm sorry. The American Community Survey.
 15 **Q. Okay.**
 16 A. Which I think is the data used in Exhibit 4.1-2.
 17 **Q. Okay. How about Dupre & Scott Advisors?**
 18 A. And so the City then went a step further to also frame
 19 affordability for renter households as well as owner
 20 households. So with respect to the Dupre & Scott, they're
 21 using a third-party survey data that is accepted as a sort
 22 of accurate and as reasonable best data available with
 23 respect to sort of housing rentals, until they shut up shop,
 24 I guess, a little over a year ago.
 25 **Q. Okay. So with that data and with those definitions, can you**

1 households the rate of costs of not cost burdened. I guess
 2 maybe we'd be able to do it about 72 percent. But then when
 3 you look at that from a perspective of adjusting by income,
 4 which here is using -- it's a percentage of purely a median
 5 income by household type, we see that higher shares of
 6 households are cost burdened at the lower income rates.
 7 **Q. Okay.**
 8 A. Exhibit 4.1.4 looks at that same notation but by ethnicity
 9 of the householder. And again, we see higher rates of
 10 housing cost burdened in nonwhite -- I'm sorry, white,
 11 non-Hispanic groups.
 12 **Q. Okay.**
 13 A. So, yeah, people of color tend to be more cost burdened than
 14 their white, non-Hispanic counterparts.
 15 **Q. So you're talking a little bit about affordability. You**
 16 **made a distinction between ownership and rental housing.**
 17 **Can you describe the current affordability of homeownership**
 18 **in Seattle? And to the extent that the information in 4-7**
 19 **and 4-8 is helpful, I'd invite you to refer to that.**
 20 A. Yeah. So I would take a look at Exhibit 4.1-5, and then
 21 I'll walk through the sort of tabular format of that in
 22 4.16 -- or, sorry, 4.1-6 and 4.1-7. So the chart on
 23 Exhibit 4.1-5 is looking at home sales in single-family
 24 zones between 2008 and 2018 and adjusting it by
 25 affordability at different AMI thresholds. And what we see

1 here, I think, is shown in tabular form on Exhibit 4.1-6,
2 that in 2008 approximately 48 percent of those home sales
3 were affordable to a four-person household, so -- and then
4 that number has steadily declined, and for the last full
5 year of data when DIS was issued, it was down to 13 percent.

6 **Q. Okay. How about the rental?**

7 A. Yeah. And the rental --

8 **Q. Rental.**

9 A. -- is also discussed in the -- on Exhibit 4.1-7 using a
10 similar set of data. So here, it's using information pulled
11 from Dupre & Scott Apartment Advisors that they survey sort
12 of apartment rents, and here we see the average rent for
13 one-bedroom, two-bedroom, three-bedroom, four-bedroom,
14 single-family households or single-family housing, and then
15 the assessment of what percent of those households could
16 afford that sort of average rent.

17 **Q. Okay.**

18 A. And what we see is basically the larger the sort of
19 household unit size, the decreasing level of affordability.

20 **Q. Okay. Now, staying in the topic, sort of the background
21 existing conditions, I want to switch to displacement. I
22 don't, though, want to revisit the -- that because -- were
23 you here for Mr. Welch's testimony?**

24 A. I was here for Mr. Welch's testimony.

25 **Q. Okay. So I just want to ask you. Did you hear his**

1 be sort of displacement of -- on those grounds as well.

2 **Q. And you said fluid. Why is that? Is it --**

3 A. Yeah. Well, I think this is just where the evolving sort of
4 sense of where both the theory and sort of the empirical
5 data is on those things.

6 **Q. Okay.**

7 A. I think we need -- there are fairly good studies that sort
8 of point to the fact that these are issues that we should be
9 paying attention to. But a lot of the data in terms of
10 their graph- -- their longitudinal or sort of geographic
11 resolution are kind of typically out of reach, particularly
12 in the EIS settings, and so it can be sort of hard to
13 conduct those types of analyses, and so fluid in the sense I
14 think agencies are trying to find reasonable ways to talk
15 about these impacts and to assess them to decision makers.

16 **Q. So let's turn to the impact analysis, and we'll get into the
17 approach -- the details of your approach in some subsequent
18 questions. I just want to ask you at the start sort of a
19 big framer question. What are the two approaches that you
20 and your team used to analyze socioeconomic impacts in the
21 EIS?**

22 A. So we used two independent methods --

23 **Q. Okay.**

24 A. -- that are designed to answer a different set of questions.
25 The first one is what we call a residual -- oh, sorry.

1 **discussion of the three types of displacement and the
2 definitions that are articulated here?**

3 A. I did.

4 **Q. And do you agree with those?**

5 A. I do agree with those. The context I would add here is I
6 think traditionally SEPA and NEPA analyses has really been
7 defined or, I guess, focused, I think, on the more physical
8 side of displacement, because, particularly for project
9 actions, something is much easier sort of to make that
10 assessment of. But I think as social research has expanded
11 over the last several years, we are finding that there are a
12 range of social harms that are really affiliated when people
13 are involuntarily sort of moved from those areas,
14 particularly if those areas are in close proximity to things
15 like transit, economic opportunity, good school districts,
16 and such. And so the City and many other agencies have sort
17 of tried to expand a much more comprehensive view of
18 displacement by considering economic displacement, so sort
19 of involuntary displacement from homes that are a result of
20 sort of being priced out of neighborhoods. And then also, I
21 think, cultural displacement, which I think is still sort of
22 fluid in terms of a sort of concept and as a way to
23 systematically measure it. But we know to the extent that
24 sort of the sort of social connection and bonds of folks
25 break down in places that there are sort of effects that can

1 Excuse me. So a highest and best use analysis.

2 And just, Your Honor, let me kind of walk you through some
3 of this because it's obviously complicated. So when we say
4 a highest and best use analysis, what we're really trying to
5 to understand is how the policy changes the underlying
6 valuation of the land, so -- and that highest and best use
7 analysis is operationalized in what is broadly called a
8 pro forma analysis, but it's just a financial analysis that
9 kind of adds up income and subtracts costs and gives you
10 some sort of metric around financial performance. And then
11 you use that residual -- a specific type of pro forma
12 analysis called a residual land value analysis, which is
13 really the metric we are solving for, how we're trying to
14 create a metric that allows decision makers to see marginal
15 changes, to see those marginal changes across the
16 alternative types. So that is our highest and best use
17 analysis.

18 And that analysis, right, is not trying to predict whether
19 or not in a single -- any parcel is going to actually build
20 an ADU. We are trying to use that analysis to disclose to
21 decision makers how different elements of the action
22 alternatives compared to the no action alternatives and
23 understanding the effect of those policy proposals, both
24 with respect to the direction of the effect -- is it
25 positive, is it negative -- and to the extent that we can

1 understand the magnitude of that effect -- is it small, is
 2 it medium, large -- measured in that residual land value.
 3 Again, that is not a forecast. It is not a predictive type
 4 of analysis.
 5 The second analysis is a forecast, and this tool here is
 6 an econometric application that uses the best data we have
 7 available, uses techniques that are appropriate and the best
 8 to model these issues to produce a forecast of ADUs going
 9 forward. And because we have a historical record of them,
 10 we can treat ADU production as a statistical event and
 11 relate characteristics both within the property,
 12 characteristics within the neighborhood, and characteristics
 13 within the macro economy to every specific parcel within the
 14 study area. And we use that analysis as a basis to forecast
 15 ADU production going forward. We make some modifications to
 16 that approach, but that will get you to a little more going
 17 forward.
 18 But those are two independent analyses is that are set up
 19 to answer a different -- different sets of questions.
 20 **Q. So I want to stay at this higher level before we drill down.**
 21 **Why doesn't a highest and best use analysis provide a**
 22 **forecast?**
 23 A. Because we are simply looking for abstractions. We are not
 24 trying to model whether any specific property would choose
 25 to build an ADU. There would be other tools we would use to

1 analysis was to focus on elements of our -- that highest and
 2 best use analysis and the residual land value analysis and
 3 the critique of that as a basis for forecasting. That is
 4 not what -- that is not a tool we are using to forecast. We
 5 are using a separate method, a separate approach to deliver
 6 those forecasts. So the heart of his context is that we
 7 didn't consider enough parcel typologies, we didn't consider
 8 enough valuation options, and a few others as a basis to
 9 say, well, if your residual land value analysis is flawed,
 10 then your ADU production forecast is flawed, and that
 11 couldn't be further from the truth. Those are separate
 12 methods and separate analyses.
 13 **Q. Okay. I'm going to want to unpack that, and I think that**
 14 **will maybe -- as we talk about specific details, we can**
 15 **return to that question. But I want to ask you just another**
 16 **foundational question. In connection with your work on this**
 17 **EIS, did you look for other non-project EISs to find**
 18 **examples that analyze housing and socioeconomics?**
 19 A. Yes. So we work on many of these. We are asked to look at
 20 them as part of background documents. We do land
 21 development in other entitlement settings, so we are
 22 generally up to speed and familiar with the state of
 23 practice. So as a sort of broad answer, yes, and then
 24 obviously with a very specific question around how might
 25 this analysis around ADUs be done, we also went looking to

1 say -- if I was working for a property owner and say, well,
 2 the City is thinking about changing the ADU regulations, how
 3 am I to think about whether I should do this or not, right?
 4 That highest and best use analysis is simply meant to
 5 extract any insights that we could convey to decision makers
 6 around how the proposal is changing the underlying land
 7 economics. It is not a forecast, because we have a better
 8 tool if we were actually wanting to forecast that we can
 9 employ and not more -- and not this sort of stylistic
 10 approach to sort of understand broad changes of the policy.
 11 **Q. And that better tool that you just referred to, is that what**
 12 **you did in the forecasting model?**
 13 A. It is.
 14 **Q. Let's get into some of the details, but I want to start with**
 15 **a more basic question. Were you present for Mr. Reid's**
 16 **testimony?**
 17 A. Yes, I was.
 18 **Q. And when she was discussing your analysis?**
 19 A. Yes, I was.
 20 **Q. As a general premise, do you agree with his characterization**
 21 **of your work?**
 22 A. I do not.
 23 **Q. Why?**
 24 A. Mr. Reid's understanding and characterization of our work is
 25 incorrect and factually not accurate. And the basis of his

1 see if anybody else has done it, and this is really kind of
 2 the first of its kind that we are aware of nationally,
 3 particularly even -- you know, whether it's even in the
 4 academic literature or even in -- particularly in the EIS
 5 context.
 6 **Q. Okay. Let's dig into the details, so starting with that**
 7 **first analysis, the pro forma analysis of highest and best**
 8 **use. So I'm going to ask you a couple of questions that**
 9 **are -- hopefully will help you explain what is it and how**
 10 **does it work. You had used the phrase "residual land**
 11 **value." Can you describe what that means, and how is that**
 12 **concept used in determining the highest and best use?**
 13 A. Yes. So I'll loop back to this, but the residual land value
 14 is an output. It basically solves once we account for all
 15 costs of production -- so that includes construction costs,
 16 operating costs, depending on the alternative, alt scenario
 17 we're looking at, relative to the income you can get either
 18 from a rental or for sale, and it says: What would be my
 19 land budget? And that number tells us the underlying value
 20 of the land when you sort of adjust for the productivity
 21 that is enabled within the Land Use Code in terms of what
 22 you can do with the property. So it is a specific value
 23 that says what my -- sort of if I was thinking about as a
 24 developer or property owner, like what's my basis in the
 25 land given the potentiality that's enabled via the Land Use

1 Code.

2 **Q. Okay. Well, how does it allow you to normalize impacts**

3 **across alternatives?**

4 A. So because we're not using the highest and best use analysis

5 and the ROB metric to predict whether or not anybody will

6 build or not build, we're more interested in relative

7 differences between what one can do now within the no action

8 relative to changes that happen when you contemplate the

9 Land Use Code changes in Alternative 1 -- I'm sorry.

10 Alternative 2, 3, and the Preferred Alternative. And so the

11 way to think about this, if I could sort of --

12 **Q. Please.**

13 A. Let's see. In the appendix, probably the -- yeah. The

14 appendix table.

15 **Q. Are you refer to Appendix A?**

16 A. Yes.

17 **Q. Okay.**

18 MR. EUSTIS: What page?

19 MR. KISIELIUS: He's still looking.

20 THE WITNESS: Okay. Sorry. So I did go -- a way to look

21 at this is actually on page A-46, Exhibit A-26, and this is

22 representative of the tables that were produced in all the

23 other alternatives. But here we're looking at the relative

24 changes in the valuation of land within our sort of parcel

25 and valuation typology. So the way to think about this is

1 kind of why I want to make sure we distinguish the

2 pro forma -- sort of the high and say best use pro forma

3 analysis from the forecast model. Because the forecast

4 model, while it doesn't specifically say look at all these

5 different options that people can do with the land, it is

6 caring for those preferences and revealing what they

7 actually did. Did somebody choose to keep the house? Did

8 somebody choose to tear it down? Did they rebuild? Did

9 they add an ADU? Did they add a DADU? We have that, and so

10 as sort of holding those sort of sets of preferences and

11 other sort of financial -- other motivations, interests, we

12 can more accurately sort of assess and feel confident that

13 we are controlling for those variables going forward. So

14 sorry. I meant to circle back on that question.

15 **Q. (By Mr. Kisielius) That's okay. So let's pause for a**

16 **second. You jumped to A-26, I think, as an example, and**

17 **we're going to want to -- sorry. Exhibit A-26 on the page**

18 **A-46, and we'll likely return to that. And I think you**

19 **mentioned typologies, and I want to come back to that as**

20 **well. But staying at -- again, at the higher level, you**

21 **were talking about the basis a second ago?**

22 A. Um-hum.

23 **Q. Do you recall Mr. Reid's testimony, one of his criticisms**

24 **with residual land value was that the return on cost**

25 **analysis should have been used instead? Are you familiar**

1 to think about, okay, we have a characterization of sort of

2 high, medium, and low value or priced neighborhoods, and we

3 have different parcel typologies, A, B, C, D. And we can

4 talk more about those, but if you look at what the value of

5 the home would be if you kept the house in no ADUs at \$234,

6 and you look all the way across. Just, for example, a

7 teardown and rebuild with an ADU, and the value is at \$206.

8 And these are per square foot of land. You see that, one,

9 by choosing to do that option your valuation goes down, and

10 it goes down by roughly \$28. So it provides decision

11 makers -- so the direction -- the thing that we're trying to

12 disclose is the direction of the effect and the rough

13 magnitude of that effect.

14 And I should -- probably should also circle back to about

15 your earlier question about why highest and best use and

16 residual land value analysis is not a forecast. Looking at

17 this, just remembering that the decision making that any

18 economic agent is considering, right, with respect to sort

19 of what they should do with the land entertains lots of

20 different things. Financial return is one of them. But

21 people also need places to live. So people also value

22 privacy. People also value space and separation. People

23 want value neighborhood context. The residual land value

24 analysis doesn't give us any insight to those motivations

25 and how they factor into one's decision making, and that's

1 **with that?**

2 A. I am familiar with that, yes.

3 **Q. Okay. Part of his critique, as I recall, was that residual**

4 **land value analyses are limited to a specific context, that**

5 **being the developer who wants to come in and know whether to**

6 **acquire a property. Do you agree that the residual land**

7 **value approach is only relevant for analyzing those**

8 **situations?**

9 A. I don't agree.

10 **Q. Okay. Why not?**

11 A. For one, there are many different types of financial

12 approaches that one can do to model the financial

13 performance, and they are all sort of context specific

14 around what the key question you're trying to analyze is.

15 And Mr. Reid's testimony about return on cost I found

16 confusing because, one, return on cost and residual land

17 value analysis are two sides of the same coin in that you

18 can't solve one measure -- they always -- it's -- basically,

19 it's the same math, the same variables. You're just solving

20 for different -- given different (inaudible) variables. And

21 so when we do our residual land value analysis, we need

22 assumptions on return on cost. And likewise, if you were to

23 do a return on cost analysis, you would also need an input

24 for land basis as well.

25 **Q. Have you ever worked on an analysis for property owners that**

1 used a residual land value?

2 A. I have. I am currently working on one.

3 **Q. And how is that useful to the property owner? Again, here**
4 **I'm distinguishing between the homeowner who already owns**
5 **the property from the developer coming in and assessing**
6 **whether to buy it.**

7 A. Exactly. And this is an important feature. It depends
8 on -- each tool has its sort of benefits and sort of its
9 drawbacks, and it depends on what you're trying to measure.
10 And so the example I would draw here is for this project we
11 are running three different types of financial analyses --
12 residual land value, a return on cost, a discounted cash
13 flow analysis -- and these are all important perspectives to
14 bring to the land development process. And so the reason we
15 choose residual land value analysis is because we're not
16 trying to predict or model any specific landowner's cost or
17 financing condition, which would be appropriate in a return
18 on cost perspective. We are trying to disclose to decision
19 makers holding as many variables constant as possible so we
20 could try to isolate the effect of the policy changes that
21 are being contemplated.

22 **Q. Okay. So maybe you want to turn now back to Exhibit A-26 on**
23 **page A-46 and explain how these numbers would be useful to**
24 **both a developer who is looking to buy a property in one**
25 **instance and a homeowner who owns his or her home and is**

1 economic motivations. And so there's four key variables
2 we're trying to represent within the typology and scenario
3 sort of testing process. One, is it physically possible?

4 So we are actually looking at whether or not lots could
5 accommodate the types of proposed actions within the
6 alternatives. So we need some range of parcel
7 configurations. Obviously, legally permissible. We have
8 the no action, which has the current sort of ADU code, but
9 then, also, the code is varied in the action alternatives.
10 And then, right, we want to know whether or not it's
11 financially feasible, and that requires us to make a set of
12 other sort of characterizations of the land.

13 So because we're not trying to model this for every single
14 parcel, because that would be burdensome from a time and
15 resources perspective but also from a sort of just
16 understanding, since we're really trying to pull
17 abstractions and insights to decision makers, so we decided
18 we would roll our highest and best use analysis from what --
19 kind of a typology. And the typology is constructed so that
20 we can test how the proposals perform across a range of
21 settings and characteristics. And one of those is sort of
22 parcel characteristics that we're looking at different-sized
23 lots. And I'll get into those specifically. We're looking
24 at different neighborhood market conditions. So we have
25 explicit work that looks at pricing for homes as well as for

1 contemplating an improvement.

2 A. Yeah. I'm sorry. Which page are you on?

3 **Q. It's the same table were just looking at.**

4 A. The same table.

5 **Q. A-26 on -- Exhibit A-26 on page A-46.**

6 A. Yeah. So residual land value analysts is completely
7 agnostic to these decisions of go/no go. We're simply
8 wanting -- whether you are a property owner or whether you
9 are a developer, you are looking at this number and you're
10 seeing how the contemplated proposal is affecting the
11 underlying valuation of your land. And again, we're not
12 trying to tell anybody they should go and do and build an
13 ADU, but we're trying to disclose to them what the policy
14 changes do, which is the purpose of this analysis.

15 **Q. Okay. Let's get into the typologies. So I'm going to ask**
16 **you to flip back in the document now and refer to page A-9**
17 **and look at Exhibit A-1. And can you describe -- referring**
18 **to Exhibit A-1 as your reference about sort of the typology**
19 **process and how that works, what were the typologies that**
20 **you used in your highest and best use analysis?**

21 A. Okay. Yeah. So I think I'll step back before I talk
22 specifically about Exhibit A-1.

23 **Q. Okay.**

24 A. So remember, so the framework we're bringing here is highest
25 and best use, right, because we are trying to understand the

1 rentals. We have different valuation options, whether or
2 not those properties would be valued as for sale or as for
3 rent. We mix that in with, obviously, a set of global
4 assumptions related to what it would cost to build, what it
5 may cost to operate if you were renting it on the rental
6 market, and then put those analyses together. And what we
7 see is we have 44 different potential development outcomes
8 that are documented, I think on pages A-10 through A-12. I
9 won't get too (inaudible) with those. But when we spin
10 those characteristics with the zoning alternatives, with the
11 neighborhood conditions, with the valuation options, we have
12 roughly 8,400 different scenarios that we tested.

13 **Q. Okay. So I want to focus on two subsets of what you just**
14 **described, all of those inputs to the highest and best use**
15 **analysis, the parcel typology, specifically. Can you turn**
16 **to page A-23 and look at Exhibit A-13?**

17 A. Okay.

18 **Q. Does that capture the parcel typology that you used for your**
19 **highest and best use analysis?**

20 A. Yeah, it does. We are looking at a range of property
21 characteristics that can be developed, so we're looking at
22 lot size, lot width, lot depth, the footprint of the main
23 house, living space, footprint of any accessory structures,
24 size of a daylight basement, number of parking spaces that
25 are available, and we vary that across four different types.

1 The selection of those types is informed by our review of
 2 parcel configurations within -- from data from the King
 3 County assessor that is, I believe, shown as a histogram on
 4 page A-24 in Exhibit A.13. And the selection of
 5 particularly the lot sizes was informed by trying to find
 6 larger parcels so we could try to test how the policy
 7 changes as parcels get larger. It also targets some of the
 8 more common -- basically the highest sort of prevalence
 9 of units so we could kind of get a sense of what -- of units
 10 that fit into that, and that's really the 5,000 square foot
 11 parcel typology. But then we also specifically tested some
 12 smaller parcels of 3,200, and slightly larger at 37,500, to
 13 accommodate ADU lot size restriction or relaxation
 14 restrictions contemplating Alternative 2. So we thought we
 15 would spend a little more time on those. So we had a --
 16 trying to sort of reflect a range of conditions that are
 17 appropriate and called for given what has been proposed in
 18 the action alternatives.

19 **Q. So what import do you assign to the point that Mr. Reid**
 20 **raises that there could be parcels that don't match the**
 21 **typology that you use here?**

22 A. It seems fairly obvious that not -- in the attempt, they are
 23 somewhere in the range of over a 100,000 potential parcels,
 24 and unique, you know, conditions, and the intent is not to
 25 sort of reflect every single one of those, to reflect -- the

1 fully testing sort of what the implications of those choices
 2 may be.

3 **Q. Okay. Can you explain -- now focused on the residual land**
 4 **value, can you explain how this study is still helpful or**
 5 **relevant to the analysis, even if there are parcels in the**
 6 **City, as Mr. Reid claims, where the home size is smaller**
 7 **than that assumed in the typology?**

8 A. Yeah. So it's relevant because we are controlling for
 9 parcel size, we are controlling for different variables, and
 10 we are showing the impact of those things, and the idea here
 11 is not to be precise for any specific parcel. Remember,
 12 this is really an abstraction that is intended to give
 13 insight to decision makers. It gives insight into our other
 14 work with regard to the modeling effort and also give us
 15 insight into some conversation and discussion of
 16 affordability and housing impacts because we can establish
 17 relative changes of the action alternatives to the no
 18 action. We're not -- again, we're not trying to sort of
 19 solve for whether or not anybody is building anything or
 20 not. We're just trying to understand how the policy leads
 21 to sort of relative changes in performance of land given the
 22 policy changes.

23 **Q. And when you say "We are not trying to," are you being**
 24 **specific to the residual land?**

25 A. I'm being specific to the residual land value now.

1 intent is to provide some spread of conditions with respect
 2 to parcel size. Further, I believe Mr. Reid's testimony is
 3 very specific that the failure to consider different parcel
 4 sizes, particularly smaller ones with certain conditions, is
 5 a basis for underestimating our ADU production in the
 6 forecast. Again, this is a misstatement of what was done.
 7 The pro forma and the parcel typologies do not drive the ADU
 8 forecast. The ADU forecast relies on data for all parcels
 9 within the City of Seattle in the study area.

10 **Q. So were you -- just to make sure I'm hearing you correctly,**
 11 **were you trying to create a comprehensive list of parcel**
 12 **typologies that reflects every parcel in the city?**

13 A. No, we were not.

14 **Q. For purposes of the pro forma analysis?**

15 A. For the purpose of the pro forma analysis. Because we're
 16 really trying for the decision maker -- we're trying to pull
 17 some abstractions out. What happens when things get bigger?
 18 What happens when things get smaller? What happens when
 19 prices within neighborhoods are high? What happens when
 20 they're low? What happens when you could sell the entire
 21 property, house, ADU, or some combination of, versus renting
 22 it on the short- or long-term market? Those are lots of
 23 different dimensions that are potentially possible, and this
 24 process allows us to provide more narrow focus of those
 25 issues and also gives us confidence that, you know, we are

1 **Q. All right.**

2 A. Performing analysis.

3 **Q. So you talked about the inputs and assumptions incorporated**
 4 **to the residual land value. You've talked about the**
 5 **development options, the 44. Can you turn to page A-13 and**
 6 **tell us, how did the pro forma analysis analyze each of the**
 7 **relevant -- they analyze, sorry, the relevant profitability**
 8 **or the rental- or for-sale markets for each of the**
 9 **development options?**

10 A. Yeah, okay. So if you look at, on page A-13, Exhibit A-3,
 11 we look at different valuation options. And broadly, that
 12 means either property that may be rented or income that may
 13 be coming from -- income to the property that would come
 14 from rental versus income that would come from for sale.
 15 And for all alternatives, with different combinations of a
 16 home or an ADU, we are looking at the impact that those
 17 units may be rental, that all those units are for rent.
 18 We're looking at options that the main house is for sale but
 19 the ADU is rented. We're looking at valuation options that
 20 the main house is for sale and the ADU is a short-term
 21 rental. And then we're also looking at the house and any
 22 ADUs being a part of the for-sale market.

23 **Q. Okay. Did this residual land value analysis treat or**
 24 **consider the condominiumization scenario that Mr. Reid and**
 25 **Mr. Kaplan referred to in which ADUs are converted?**

1 A. Yes. So my understanding of condominiumization is a way for
2 ADUs to be available as a for-sale product, not --
3 obviously, not fee simple. But our analysis looks at the
4 valuation and productivity as if that -- both the house and
5 the ADU are for sale as single-family market prices.

6 **Q. Okay. So is Mr. Reid's contention that the pro forma
7 analysis did not consider this correct?**

8 A. That's incorrect.

9 **Q. This is a bit of an aside, but did you hear Mr. Reid's
10 testimony that ADUs are appraised by income-generating
11 mechanism?**

12 A. Yeah.

13 **Q. Can you explain how ADUs are actually appraised?**

14 A. Yeah. So I found Mr. Reid's testimony here confusing. And
15 let me try to put together what I think his testimony was
16 targeted at. He was making the broader point around unit
17 affordability and that ADUs would be valued as a commercial
18 property because of the income. I think questions around
19 sort of how anything is appraised are questions for the King
20 County assessor. But they use one of three methods. They
21 either look at an income method that says "What is the
22 income I could get off of valuation for sale or for rent."
23 It also looked at a comp, comparable. The assessor looks at
24 sort of other comparable properties and tries to adjust
25 using regression techniques to establish price. And then

1 A. Yes. So for the residual land value analysis, right, we are
2 looking at -- across these parcel types, and these parcel
3 types are mapped by neighborhood composition. So if you
4 turn to page -- I'll find where that is. If you turn to
5 page A-42 and Exhibit A-23 and Exhibit A-24, we map our
6 parcel typologies that we use in discussing the impact
7 analysis back to their relative number and shares across all
8 Seattle neighborhoods.

9 **Q. Okay. Does it tell you what development and valuation
10 option is most feasible?**

11 A. Yes. So in the impact analysis -- so I would turn you to,
12 as an example, page A-44, Exhibit A-25. So when we run the
13 highest and best use analysis and the RLVs, we map that to
14 both parcel typology, we map that to housing price by
15 neighborhood, so higher, medium, lower, and then we show
16 which valuation option is most profitable or in the sense of
17 it has the highest residual land value analysis, so in this
18 way you could make a determination that given all those
19 development options and as measured with residual land value
20 analysis, which of these options would outcompete the other
21 ones. And so in this table specifically, we have it coded
22 by blue and gold, and the gold highlight indicates that the
23 highest residual land value results from valuing the parcel
24 based on for sale price of the main house and the long-term
25 rental income of the ADU, and that changes in the subsequent

1 there's also a cost method, where they look at the sort of
2 cost to replace used for valuation. So I'm not quite sure
3 what Mr. Reid was getting at with that comment, but I think
4 the broader point he was making is that an ADU or a
5 single-family home with an ADU would be unaffordable, which
6 I think is an incomplete assessment of that point because,
7 as he just stated, that he's not considering the income that
8 would be enabled from the ADU itself. So that would be part
9 of anybody's sort of litmus test or assessment of
10 affordability would be to include valuation of the home and
11 any income potential that would come off of an accessory
12 dwelling unit.

13 **Q. Okay. Did the FEIS look at the different valuations of
14 ADUs?**

15 A. Yes, it did.

16 **Q. And what were the different valuations of ADUs that were
17 considered?**

18 A. They are listed there on page A-13 and the ones I have just
19 rolled through.

20 **Q. Okay.**

21 A. And then they are reflected in our impact analysis later in
22 the impact sections.

23 **Q. Okay. Can you explain how this residual land value approach
24 informs decision makers of the potential impacts on housing
25 and socioeconomics?**

1 impact analysis, so we -- our subsequent action alternatives
2 to show which of these has the highest sort of financial
3 feasibility or the highest residual land value.

4 **Q. Does it also tell you how the feasibility of any option
5 changes under the various alternatives?**

6 A. It does.

7 **Q. So you have similar tables for the other alternatives?**

8 A. Exactly. So you look at Alternative 2 on page A-50,
9 Exhibit A-30, and we have a similar chart that discusses the
10 valuation changes, and those are accompanied by the specific
11 residual land value measures that are accompanied, in this
12 case, in Exhibit A-31.

13 **Q. Okay. And is that also tabulated in the actual EIS
14 chapter --**

15 A. Yes.

16 **Q. -- sort of all together?**

17 A. So if you turn to 4, to Chapter 4.

18 **Q. To 4-27?**

19 A. 4-27, likely.

20 MR. EUSTIS: We're back on the EIS, 4-27?

21 MR. KISIELIUS: Yes.

22 THE WITNESS: So if you look at page 4-27, Exhibit 4.1-13,
23 "Estimates of Highest and Best Use," here we have a summary
24 table that looks at, obviously, parcel type by neighborhood
25 price categorization and across the no action and action

1 alternatives. And again here, the gold highlight indicates
 2 the highest residual land value results from valuing the
 3 parcel based on for sale price of the house and long-term
 4 rental income from the ADU, as opposed to the blue, which
 5 values it based on a combination of sale price of the main
 6 house and ADU.
 7 MR. KISIELIUS: Madam Examiner, I'm going to keep plowing
 8 ahead. We're about to switch to the other forecast model.
 9 So I know there is the clean afternoon break, and I will not
 10 be done with Mr. Shook before the break, if you're looking
 11 for a logical time, or do you want me to keep going?
 12 HEARING EXAMINER: Usually, we break around 3:30.
 13 MR. KISIELIUS: Oh, an hour ahead.
 14 HEARING EXAMINER: Will that be enough time?
 15 MR. KISIELIUS: Oh, yes. Then we'll keep going. I am --
 16 I thought it was earlier. I --
 17 THE WITNESS: You know I sound like it, speaking
 18 (inaudible).
 19 MR. KISIELIUS: I meant I thought the breaks happened
 20 earlier. I apologize.
 21 **Q. (By Mr. Kisielius) So let's -- I want to switch now to the**
 22 **other model, the forecasting model. And you've touched on**
 23 **this earlier, but now that you've explained the residual**
 24 **land value analysis, can you explain why you went on to do**
 25 **the forecast model?**

1 back to the physical characteristics of the parcel, both
 2 size as well as characteristics of the structures that are
 3 on them and the condition that they are in. We also control
 4 for where those properties are by neighborhood, and then we
 5 also control for macroeconomic conditions by relating it
 6 back to changes in regional employment, as both documented
 7 and forecasted by the Puget Sound Regional Council as a
 8 basis to understand how production fluctuates relative to
 9 demand. And the chief driver of demand for housing is
 10 changes in employment.
 11 **Q. That was a good summary. There's a lot in there, and I want**
 12 **to ask you a very specific question about what you just**
 13 **described. And you said it before, but I just want to make**
 14 **sure I -- the typology that you described for residual land**
 15 **value analysis, those four types, A, B, C, D, did you use**
 16 **those in your forecasting model? Is that what you're --**
 17 **A. We did not use those prototypes to drive the forecast model.**
 18 **Q. Okay. And did you say you used every single parcel in the**
 19 **study area?**
 20 **A. We did.**
 21 **Q. Okay.**
 22 **A. We mixed and calibrated the historical model, yes. We used**
 23 **all parcels within the study area.**
 24 **Q. So Mr. Reid's statement is just incorrect that you -- when**
 25 **he testified that you used the parcel typology in the**

1 **A. Yeah. So, and as I said, the residual land value analysis**
 2 **would require -- if we were trying to make predictions about**
 3 **any given parcel, we would have to look at every single**
 4 **parcel, and we would have to create very specific conditions**
 5 **with respect to valuation, mortgages, how they would finance**
 6 **it, to -- actually to make some type of prediction as**
 7 **economic changes go forward, a very difficult process to do.**
 8 **So this -- we spent a lot of time and care to find an**
 9 **approach and set of methods that would enable us to produce**
 10 **some reasonable -- and estimates backed by best available**
 11 **data, best available science.**
 12 **And we really kind of contrasted two approaches. One is**
 13 **simply just looking at historical rates of ADU, which I**
 14 **think in other sort of contexts in many EISs would -- has**
 15 **been an accepted approach to kind of say, well, let's just**
 16 **carry the rough forecast forward. Because there were**
 17 **certain elements that are entertained in the action**
 18 **alternatives, we thought we could go down a different**
 19 **approach that would allow us to more precisely and**
 20 **accurately represent current conditions with potential**
 21 **changes in policy going forward. And so our model uses**
 22 **parcel data for every single parcel within the study area.**
 23 **It uses the historical record of ADU and DADU production and**
 24 **associates those two things together. So we have specific**
 25 **relationships about when ADUs have been produced that relate**

1 **forecasting?**
 2 **A. Factually inaccurate.**
 3 **Q. Okay. Let's turn to page A-34, so back to the appendix.**
 4 **Sorry I keep making you switch around.**
 5 **A. No. I should stick my finger in the --**
 6 **Q. I've got two different sets, so it's a little faster for me.**
 7 **I want to direct you to Exhibit A-20 on page A-34 and ask**
 8 **you to please describe what variables were considered for**
 9 **each parcel. Are you there? Sorry. I thought you were.**
 10 **A. Oh, yeah. Sorry. I was just getting my -- so this**
 11 **Exhibit A-20 is a just illustrative model -- or, sorry,**
 12 **illustrative sort of diagram that depicts how the model**
 13 **works and the key variables that are within it. And I would**
 14 **mention that the clear variables are drawn from a rich**
 15 **literature on property hedonics or regression analysis, and**
 16 **so we were specifying for those that had been identified as**
 17 **being most robust in sort of predicting sort of changes in**
 18 **production and price.**
 19 **So, obviously, the key inputs that I have just enumerated,**
 20 **neighborhood, total living area, age of the home,**
 21 **topography, condition of the building, presence of a**
 22 **daylight basement, the lot size, ones specifically that a**
 23 **lot size allows, I'd add the number of bedrooms within the**
 24 **single-family home, and then a macroeconomic variable around**
 25 **regional employment.**

1 The model, I would say, is very robust, and I would
 2 specify that or clarify that by saying ADUs are a fairly
 3 rare event, you know, when you think about what's happened
 4 historically, right? For the most part, most people choose
 5 to do nothing with their property. That said, we actually
 6 found strong significance for a lot of these variables in
 7 predicting the probability of an ADU event going forward.
 8 So the way the model works is that, historically build those
 9 relationships, and if you look at Exhibit A-21 -- I wouldn't
 10 concern yourself too much with the numbers here, but what
 11 this is, is a set of coefficients that describe the strength
 12 of the relationships that -- or, sorry, the direction and
 13 strength of those relationships as a probability of
 14 predicting both the presence of an AADU, the presence of a
 15 DADU, and whether or not that property will be torn down.

16 So the way the model works, then -- just, we'll get into
 17 the specifics of this. Once we have these factors mapped,
 18 we can then move the model forward through time and allow
 19 properties to age and look at the probability of an ADU
 20 happening over time and count those as part of a forecast
 21 going forward. And this is a standard and accepted approach
 22 for doing this type of forecasting.

23 **Q. And let me pause a second on Exhibit A-21. Again, I want to**
 24 **come back to Mr. Reid's claim that we discussed earlier that**
 25 **the analysis didn't consider parcels that are smaller than**

1 themselves, depending on -- like, for example, let's go to
 2 the AADU column and the coefficient for "Assess Condition."
 3 So we see a higher likelihood of an AADU happening relative
 4 to the assessed condition of the property.

5 **Q. Okay.**

6 A. I would just say broadly positive enhance the probability,
 7 negative reduces the probability of those events as a way to
 8 understand those coefficients.

9 **Q. And I think we're getting into the weeds. I want to step**
 10 **back and just ask you again a sort of a bigger picture**
 11 **question, which is: How does this forecasting model analyze**
 12 **how the proposed code changes could affect historical rates**
 13 **of ADU production?**

14 A. Exactly. So for one, it serves as a baseline for the No
 15 Action Alternative. So it makes those relationships
 16 historically. And in a no action where no change in policy
 17 is entertained we can produce an estimate of ADU production
 18 going forward. In the action alternatives, we can use
 19 relationships that are already built into historical record
 20 and vary those things to address changes in FAR minimum lot
 21 size and -- I'm sorry. Yeah, change in the minimum lot size
 22 required by -- for adding a DADU, as well as the change in
 23 the maximum for area that shows new construction. So those
 24 are options entertained both in Alternative 2, 3, and the
 25 Preferred Alternative.

1 **average or have smaller improvements in relation to the**
 2 **property size. Can you -- is that correct, and can you show**
 3 **us on Exhibit A-21?**

4 A. Yeah, yeah. So, first of all, we considered all parcels, so
 5 all characteristics. So we have -- specifically, we have
 6 the total square foot of living space, right, if you look at
 7 Exhibit A-21. We have the age of the home. We have the
 8 assessed condition of the house. Mr. Reid made the point
 9 that there were these older, more -- houses that are a
 10 little more rundown that don't have as much value relative
 11 to the land. That is a good variable to express that, and
 12 so we are considering those types of issues, as well as
 13 others, to drive our forecast going forward.

14 **Q. But --**

15 A. But specifically, Mr. Reid's contention on that issue was
 16 related to the pro forma and highest and best use analysis
 17 and not in context to the forecast model.

18 **Q. Okay. And what did you discover when you looked at parcels**
 19 **that had smaller improvements in relation to the property**
 20 **size?**

21 A. So we actually see that there is actually strong sort of
 22 predictive value with the respect of an ADU event. So many
 23 of our -- and if you look at the table, the dark bolded
 24 values indicate the presence of strong statistical
 25 significance in the estimate, and then the numbers

1 **Q. Okay. Are all the proposed code changes treated the same**
 2 **way in the econometric model?**

3 A. It is not, because in the historical model only models what
 4 was available to -- as an option under the no action, and so
 5 we had to devise a separate process to model new code
 6 changes that aren't contained in the historical record. And
 7 then, luckily, there are approaches that are both accepted
 8 and reasonable ways to deal with these sort of challenges
 9 when we're talking about making these adjustments. And I
 10 can talk through what we've done in that space, specifically
 11 estimating the number of lots in single-family zones that
 12 choose to add two ADUs. And so here we -- the model has
 13 independent probabilities of adding an ADU. And in this
 14 case, we can relax that requirement and allow the underlying
 15 property characteristics to allow those properties to add
 16 additional ADUs, so --

17 MR. EUSTIS: May I ask where the witness is referring?

18 THE WITNESS: Oh, sure.

19 MR. EUSTIS: He's just speaking.

20 THE WITNESS: Yeah. You can look at page A-38 and A-39
 21 has the -- in the exhibit -- or, I'm sorry, within the
 22 appendix has the text that details that process.

23 **Q. (By Mr. Kisielius) Let's jump to those adjustments. Can**
 24 **you describe in more detail what modeling approach you used**
 25 **to estimate the construction of two ADUs on one lot?**

1 A. Yes. I--
 2 **Q. Given that this is a new option, right? That's what you**
 3 **were just saying?**
 4 A. Yes. That was -- this is the new option that's not
 5 within -- that doesn't -- it's not reflected in the
 6 historical record. And so that is documented on -- starting
 7 on page A-38, and we use an econometric technique called the
 8 Poisson model that allows us to relax that restriction and
 9 allow those properties that would have a higher probability
 10 of building ADUs to add additional ADUs.
 11 **Q. Okay. And is that -- can you talk about how the forecast**
 12 **model captures other proposed changes that aren't reflected**
 13 **in the parcel level data, like maximum household style --**
 14 **excuse me -- maximum household size or parking requirements?**
 15 A. Yes, I can do that too. Let me turn to your page here that
 16 documents that.
 17 **Q. Are you looking for --**
 18 A. There it is. Page A-68 on Exhibit A-46 is a tabular summary
 19 of the process we went through. And specifically, we
 20 made -- of the policy changes that were contemplated in the
 21 action alternatives that we don't have data to base that on,
 22 we made a series of level adjustments that deal with an
 23 adjustment factor for the number of lots that can add one
 24 ADU, adjustment factor for the number of lots that can add
 25 one DADU, and adjustment factor that can -- for the number

1 **well?**
 2 A. Exactly, yes, in more detail. And so the next issue I want
 3 to get to is, I think, a comment I heard from Mr. Reid that
 4 these were arbitrary. And I would say that is a gross
 5 misstatement of fact that is detailed in this section about
 6 the process and the rationale that we used for making these
 7 adjustments. So two things we're trying to understand is
 8 the direction of the effect -- Again, by doing any of these
 9 are we making it more likely or less likely? And the second
 10 thing is we're trying to understand some rough magnitude.
 11 And so the basis for making those determinations is really
 12 drawn from three sources. One, it is drawn from the insight
 13 that we have in doing the residual land value analysis. So
 14 we can -- as we have tested those things in that approach,
 15 we can understand what the marginal changes to the
 16 underlying value of land have been and use that as the basis
 17 for establishing a minimum floor for what we think that
 18 threshold adjustment should do.
 19 MR. EUSTIS: And again --
 20 THE WITNESS: I would also use --
 21 MR. EUSTIS: Excuse me. Again, I would ask if the witness
 22 is referring to any particular discussion in this appendix
 23 so I can follow along.
 24 MR. KISIELIUS: At this point, Mr. Eustis, I think you're
 25 being -- you're free to ask him that question on

1 of lots adding two ADUs. Specifically, if you look under
 2 those broad headings, the element of level adjustment that
 3 we were doing -- so, for example, at the top of the table,
 4 the adjustment factor for the number of lots adding one ADU,
 5 we have a -- below it, a line that says the affected change
 6 to the parking requirement, which is one of the variables
 7 that is not in the historical record. Below that, we have
 8 the effect of DADU cost reductions due to other city
 9 programs that might be entertained going forward. We have
 10 the effect of additional allowed size, scale, and footprint,
 11 including square footage, height, rebuilding flexibility,
 12 rear lot coverage. And then, I think, lastly, we have an
 13 adjustment factor that looks at the lack of information that
 14 we have about the potential demand for adding two ADUs.
 15 So let me take that last one first. So, as I said
 16 previously, we already had something -- we relaxed a
 17 condition to allow ADUs to add more than one ADU. We make
 18 another adjustment on top of that that is detailed here that
 19 allows those to add even more ADUs.
 20 **Q. All right. When you say details, are you referring to the**
 21 **Exhibit A-46 or --**
 22 A. Yeah. A-46.
 23 **Q. What about the text on the page A-69, the --**
 24 A. Yes. Oh, yeah.
 25 **Q. -- second bullet from the bottom. Is it reflected there as**

1 cross-examination. He's describing what is the model
 2 generally, and --
 3 HEARING EXAMINER: I think if he has a page number --
 4 MR. EUSTIS: But I'm trying to follow on --
 5 HEARING EXAMINER: Do you have a page number?
 6 THE WITNESS: I'm still on the same page number.
 7 MR. EUSTIS: -- with his testimony --
 8 THE WITNESS: But yeah.
 9 HEARING EXAMINER: Okay. Great. Thank you.
 10 THE WITNESS: Yeah. Yeah. I'm not referring to any other
 11 section. So for reference, page A-68 and A-69 and -- are
 12 the principal pages that describe this process.
 13 So outside, so we use our insights that we gain on sort of
 14 the rough changes of some of these things because we
 15 actually looked at what -- like, for example -- sorry. For
 16 example, the lack of information about potential demand for
 17 adding two ADUs, our residual land value modeling found that
 18 on average we're looking at about an 18 percent increase in
 19 the financial sort of performance of that option, and we
 20 used that as the basis for making that adjustment even --
 21 and our adjustment is even higher than that to make sure we
 22 try to test an upper bound of production.
 23 In other places, we are using the work that we did as part
 24 of outreach to architects, builders in this space, to
 25 understand how some of these things might have performed and

1 as a basis for that. And obviously, we do a lot of work and
2 land development specifically, so we're using a lot of our
3 professional judgment. There are reasons to think that you
4 could choose a different number in some of those instances,
5 but we tried to calibrate it amongst the data we had
6 available, the work that we did and people operating in this
7 space, as well as our own professional judgment to provide
8 an estimate that would provide an upper bound on the
9 production of ADUs over the forecast period.

10 **Q. (By Mr. Kisielius) Okay. And let me pause there. When you
11 say provide an upper bound, what does that tend to do to the
12 resulting forecast?**

13 A. It would probably overstate what, maybe, we would -- if we
14 ran just independently just the model --

15 **Q. Okay.**

16 A. -- it would overstate the amount of ADU production.

17 **Q. Okay.**

18 A. And again, we're calibrating that by what's the direction of
19 the effect and what's the rough latitude of the effect. And
20 so the way these factors work is they are level adjustments
21 that then are applied to the probability of the ADU for
22 every specific parcel within the study area. So again,
23 we're relaying this back to the underlying data that are
24 within the study areas for the changes that are
25 contemplated.

1 different policy changes with respect to adding one AADU,
2 two AADUs, an AADU with a DADU. So when you add multiple
3 ones, that likelihood is carried forward even as ADU counts
4 possibilities increase with the parcels that may accommodate
5 them.

6 **Q. Okay. To be clear, it's both the residual land value and
7 the forecasting model incorporate that scenario?**

8 A. Exactly. There's a -- even though we don't use
9 condominiumization, we are considering for sale, and the
10 mechanism for sale is simply condominiumization.

11 **Q. And do the adjustment factors that you were testifying to a
12 moment ago, do those, in your opinion, resolve the concerns
13 Mr. Reid expressed about relying on past data --**

14 A. I --

15 **Q. -- to determine what will occur when you change a code?**

16 A. I do, because I can't contemplate a different process that
17 would allow us to relate it to actual data, use empirical
18 methods, and use our judgment to produce what we think are
19 reasonable estimates for decision makers to gauge ADU
20 production going forward.

21 **Q. I'm sorry. Bear with me. Let's switch and talk about the
22 results of each approach that you modeled here and focus on
23 those a little bit more, and maybe starting with the pro
24 forma analysis. Can you turn to page 4-27 of the EIS now,
25 the chapter?**

1 **Q. And is that forecast of production of ADUs and new homes
2 shown on page A-70, Exhibit A-47?**

3 A. It is.

4 **Q. Okay. I want to touch on a subject that we talked about in
5 the context of the residual land value analysis and now
6 focus on the forecast. You had explained how the residual
7 land value, the highest and best use analysis considers the
8 condominiumization scenario. Does the forecast model model
9 for that scenario?**

10 A. There are -- no. There are a range. And that's explicitly
11 (inaudible). Not explicitly. There are a range of baseline
12 characteristics and likelihood that are baked into the
13 modeling process, as we see in the historical record, and
14 condominiumization is one of them, just like it would be
15 financing rates and other things. The historical record
16 reflects the inputs that people consider when they choose to
17 build, tear down, build a new house with an ADU, take the
18 AADU out. Those baseline likely characteristics and the
19 likelihood of those affecting that are part of the
20 historical record. So with respect with condominiumization,
21 the historical record contains that option and the choice
22 that people have already done to move forward with building
23 the ADU because they can condominiumize it, and the
24 likelihood of condominiumization is carried forward within
25 the forecast model, and that likelihood is applied to the

1 A. Yes.

2 **Q. I just want to ask you to highlight a couple specific
3 outcomes. How did the alternatives affect the feasibility
4 of an owner retaining and remodeling the existing house as
5 compared to an owner tearing down and rebuilding?**

6 A. Yeah. So that is documented by parcel type, by alternative,
7 and by neighborhood price characteristic, and the results
8 are documented here. As a general matter, typically in the
9 No Action Alternative, higher priced and larger parcels, I
10 think, if I recall correctly, are more likely to sort of
11 tear down and rebuild as a single-family home.

12 **Q. Okay.**

13 A. And so there we contrast the action alternatives to look at
14 the results of the residual land value analysis to
15 understand whether to keep the house, convert it to a
16 basement, add an AADU, add a DADU. I would say they are --
17 obviously, I won't go through all the different
18 permutations, but the general relationship here is that for
19 more higher-priced neighborhoods, for larger parcels, there
20 is a -- amongst the action alternatives, a higher propensity
21 to build ADU -- they vary on the alternative -- and to
22 decrease the amount of teardowns, particularly in the
23 Preferred Alternative.

24 **Q. And again, sort of a general matter, referring to this
25 exhibit as needed, how do the alternatives affect the**

1 **valuation options and the relative feasibility of an owner**
 2 **renting versus selling?**
 3 A. Yeah. So we considered the valuation options by Seattle
 4 market areas. We look at maintaining the house and all
 5 units as rental, we look at maintaining one as an ownership
 6 and the ADU as either a long-term rental option or on the
 7 short-term rental market, and then we also look at the --
 8 all the units for sale at single-family prices as well. So
 9 that is documented on this table, on this exhibit, on
 10 4.1-13.
 11 **Q. Okay. And that's on page 4-27?**
 12 A. Yes, that's correct.
 13 **Q. Mr. Kaplan testified yesterday that the combination of**
 14 **allowing two ADUs on a lot and allowing condominiumization**
 15 **of ADUs would lead any reasonable developer to tear down the**
 16 **existing home and rebuild with three condo units. I think**
 17 **you said there was almost zero chance that they would**
 18 **preserve the existing home. Does the highest and best use**
 19 **analysis look at how the alternatives would affect**
 20 **feasibility of tearing down an existing home and build one**
 21 **or more ADUs?**
 22 A. It does.
 23 **Q. How?**
 24 A. If you look at by action alternative, by parcel typology
 25 type, and by neighborhood pricing, you see with respect to

1 configurations. So if you go down to the bottom of the page
 2 for Parcel Type B, you can compare the Preferred Alternative
 3 to the No Action Alternative, and you can see that in
 4 higher-priced neighborhoods for the Preferred Alternative,
 5 the highest and best use is to keep the house and convert
 6 the basement to an AADU and add a DADU. In medium-priced
 7 neighborhoods, it's to keep the house and convert to an
 8 AADU, and then to also add a DADU. And then, even in
 9 lower-priced neighborhoods, it's to keep the house and
 10 convert the basement to AADUs or -- and add a DADU. And the
 11 specific reason, discussed further in discussion,
 12 particularly for this issue, is really the impact of the FAR
 13 change, and this is kind of why the residual land value
 14 analysis is a tool we use, so we can look at the different
 15 elements of the policy that are having that effect with
 16 respect to what the development outcomes would be from a
 17 highest and best use perspective. But remember, this is
 18 still not a prediction of any certain parcel doing it
 19 because there are so many other factors at play.
 20 **Q. Okay. And conceivably, if one wanted, you could look at any**
 21 **of the alternatives for any of the parcel types on any of**
 22 **the three neighborhood prices and determine what the highest**
 23 **and best use would be?**
 24 A. Correct.
 25 **Q. Okay. Let's switch and talk about the results of the**

1 distribution of that outcome happening across alternatives.
 2 So decision makers could compare the outcome that he's
 3 talked about across those range of conditions relative to
 4 the no action.
 5 **Q. And what are the results, if you can summarize?**
 6 A. So, for example, let's look at the Preferred Alternative
 7 from looking at -- I'm sorry. I'm looking at
 8 Exhibit 4.1-13. Parcel Type A for the Preferred Alternative
 9 at higher neighborhood price categorizations, the highest
 10 and best use is they build a new house as large as possible
 11 with no ADUs in the Preferred Alternative. We look at
 12 medium price, that changes. The highest and best use is to
 13 keep the house, convert the basement to an AADU, and add a
 14 DADU as a long-term rental. And lower-priced neighborhoods
 15 in the Preferred Alternative for Parcel Type A, you see that
 16 we keep the house, convert the basement to an AADU, and add
 17 a DADU as a long-term rental.
 18 **Q. Let me just pause beforehand. You were reading there the**
 19 **highest and best use for the Preferred Alternative?**
 20 A. Correct.
 21 **Q. And you were focused on the Parcel Type A?**
 22 A. Yes.
 23 **Q. Is that correct? Okay.**
 24 A. And you can contrast that, how might that change as we think
 25 about different parcel types and neighborhood price

1 **forecasts of ADU production. What does the EIS find about**
 2 **the expected increase of ADUs across the alternatives?**
 3 A. So, if you look at page A-29, Exhibit 4.1-15 --
 4 **Q. Did you -- sorry. Did you mean 4-29?**
 5 A. Oh, excuse me. 4-29.
 6 **Q. Okay.**
 7 A. Yeah. Sorry. Page 4-29, Exhibit 4.1-15, titled "Estimated
 8 Production of AADUs" -- "ADUs in New Homes by Neighborhood
 9 Profile." And here we documented the estimated number of
 10 ADUs built by alternative, by price category, and those
 11 numbers are then documented in terms of in the text around
 12 the number of total ADUs that may be produced. And I'll
 13 just probably -- I'll just summarize that impact.
 14 **Q. Yeah. Well, can you maybe --**
 15 A. Yeah.
 16 **Q. -- summarize how the potential production varies by**
 17 **neighborhood profile?**
 18 A. Exactly. So because we are using parcel-based approach here
 19 and probabilities, we can map that back to neighborhood
 20 characteristics and -- as well as sort of the -- sorry, our
 21 neighborhood price characteristics, and so those estimates
 22 of ADU production are then mapped specifically to those
 23 parcels that are building, the total number of ADUs built,
 24 those that are building at least one ADU, and those that are
 25 also tearing down projects in order to -- tearing down homes

1 in order to accommodate some other housing outcome.
 2 **Q. Is the teardown, is that the last set of rows there?**
 3 A. Exactly, yeah.
 4 **Q. Okay. So what are the results of the -- how the**
 5 **alternatives would affect potential teardowns? Could you**
 6 **just summarize those?**
 7 A. Yeah. We find with the policy specifications outlined in
 8 the Preferred Alternative that that action alternative
 9 has -- is forecasted to have the least amount of teardowns,
 10 principally due to the FAR limitation.
 11 **Q. And --**
 12 A. And that number is less than what we are forecasting for the
 13 no action.
 14 **Q. Okay. Well, that's what I was going to -- I was also going**
 15 **to ask this. Exhibit 4.1-15 sort of has --**
 16 A. Yeah.
 17 **Q. It appears to have two sides. Could you tell us what's**
 18 **happening in the furthest most right --**
 19 A. Exactly.
 20 **Q. -- three columns?**
 21 A. Yeah. So on that exhibit, onto the left of that is actually
 22 the count, and then on the right side of that chart is the
 23 relative change of production to the No Action Alternative.
 24 So for a reference point, if you look at specifically for
 25 the issue of teardowns, percent of the study are parcels

1 **Q. Okay. So let's turn now -- because based on the results,**
 2 **you talked about the pro forma, the residual land value**
 3 **best -- highest and best use, and now you've talked about**
 4 **the forecasting. Can you turn to the EIS's discussion of**
 5 **impacts? It starts -- I think it's on the next page, 4-30.**
 6 **What does the EIS conclude about the impact that ADU**
 7 **production has on affordability?**
 8 A. So let me step back a little bit and kind of frame this
 9 answer. So in the No Action Alternative, the single-family
 10 zones and ADU production is limited, so there is not as many
 11 sort of housing options available. The root cause of
 12 housing affordability challenges are housing shortages with
 13 respect to holding demand constant, and that impact is
 14 magnified, particularly at lower-income population and
 15 obviously people of color with their associated highly
 16 correlated lower incomes, principally because they --
 17 that -- they don't have the income to outlay of other folks,
 18 and so thus begins sort of the musical chairs of housing
 19 affordability challenges. When we have housing shortages,
 20 we have multiple people competing for a very scarce
 21 resource.
 22 So the perspective that the analysis we're bringing here
 23 is we want to know to what extent are we addressing that
 24 root cause of housing shortages by, one, allowing people to
 25 have more housing options to live within a fairly defined

1 with teardowns, in higher-priced neighborhoods, we see a 38
 2 percent reduction relative to the no action in the number of
 3 teardowns. And likewise, if you looked at sort of the
 4 production numbers, we see in higher-priced neighborhoods
 5 the estimated number of ADUs built, we see roughly 164
 6 percent rate of increase relative to the no action.
 7 And I think it would probably be good to sort of -- if
 8 we're talking about the number and the estimate, that we are
 9 forecasting ADU production going forward in the no action
 10 and that when we model our analysis this way, even in the no
 11 action the rate of ADU production is higher than the
 12 historical data. And then when we look at the different
 13 action alternatives, we see significant increases in ADU
 14 production.
 15 And so if you just step back a little bit and compare the
 16 amount of production relative to the historical record of
 17 ADU production, we find that the rate that we're forecasting
 18 the Preferred Alternative is 2 1/2 half times what we've
 19 seen historically, which in my professional judgment when we
 20 look at land use changes is a fairly significant change in
 21 the amount of ADU -- in production period, particularly over
 22 the forecast that we're -- the forecast time period we're
 23 looking at.
 24 **Q. In terms of percentage?**
 25 A. Percentage increase.

1 space relative to what is possible in a no action. So we're
 2 specifically looking at the estimates of ADU production
 3 across the alternatives relative to the no action.
 4 Affordability can also be addressed by having more income.
 5 And here, a much more qualitative discussion, but ADUs are a
 6 product, if financing and other things can be achieved, that
 7 allows existing homeowners a new source of revenue, whether
 8 they choose to place that on the short-term or long-term
 9 rental market. So it provides a small buffer to sort of
 10 some of the affordability issues.
 11 So that is sort of our framing here for understanding the
 12 relative impacts of the action alternatives relative to
 13 what's happened to -- in the no action.
 14 **Q. Okay. And can you touch on the impact of teardowns on**
 15 **affordability?**
 16 A. Yes. And so the impact on -- of teardowns on
 17 affordability -- sorry. I lost my train of thought there
 18 for a second.
 19 **Q. That's okay. If you want to refer back to 4.1-15 and talk**
 20 **about the --**
 21 A. No, yeah. Yeah. So with respect to sort of affordability,
 22 right now -- do you need displacement or affordability with
 23 respect to teardowns?
 24 **Q. Affordability. Here, I was looking at -- oh, I'm sorry. I**
 25 **did mean displacement. I must have confused you. Let's**

1 just talk --

2 A. Okay.

3 **Q. -- generally about evaluating the impacts of displacement,**
4 **and then let's focus on teardowns. I apologize if I --**

5 A. Okay, sure. Yeah. So the affect of affordability, our
6 frame, then, is really the amount of ADU production that is
7 enabled -- that allows more housing choice, allows more
8 households to compete for a larger supply. And so we
9 evaluate that principally through the lens of comparing that
10 to what is happening in the no action versus the action
11 alternatives, and that discussion is then mapped to issues
12 of access to opportunity. Particularly, are we creating
13 more housing? And so that -- an example of that discussion
14 is started on page 4-33, but then also demonstrated with
15 reference to the Seattle 2035 Access to Opportunity Index
16 shown in Exhibit 4-1-16.

17 **Q. Okay. Can you turn back to page 4-32? And do you see that**
18 **middle paragraph that starts "Under" -- it's "Under all**
19 **alternatives, housing affordability and displacement in the**
20 **study area" --**

21 A. Yes.

22 **Q. -- "would continue to be a concern"? Can you explain that**
23 **conclusion?**

24 A. Yeah. So market prices aren't set by city policy, and the
25 demand for housing is outside the control without -- with --

1 action we're adding roughly 2,000 ADUs between 2018 and
2 2017. Compared to Action Alternatives 2, 3, and the
3 preferred, the no action also results in more teardowns and
4 also with homes -- much larger homes and fewer ADUs overall.
5 Because they provide the least amount of options and more
6 pressures for newer, more expensive housing, Alternative 1
7 is the one that has sort of the least ability to address
8 housing affordability issues.

9 **Q. And does the analysis of impacts on housing affordability**
10 **look at it from both the lens of the inputs you got -- from**
11 **the perspective you got from the residual land value and**
12 **forecasting model?**

13 A. Yeah. So I would say broadly the insights that we had with
14 the highest and best use residual land value analysis were
15 confirmed with the internal sort of analysis of the forecast
16 model. That we're seeing a lot of the same sort of effects
17 both in terms of direction and in terms of magnitude. So we
18 use the results from the highest and best use analysis to
19 provide more discussion of around how those issues may
20 materialize outside of sort of our estimate, outside of the
21 specific estimate around the differences in ADU production
22 and the differences in teardowns.

23 **Q. Okay. And I think earlier you were saying that -- well, let**
24 **me ask. Do the rates of the ADU production vary by**
25 **neighborhood profile?**

1 and is happening currently. It's happened in the historical
2 record. It's happening right now in the no action. And so
3 the tightness in vacancy, the tightness in housing options
4 leads to sort of price increases. ADUs themselves provide
5 some opportunity as a sort of different type of housing
6 option that would have a different type of price point that
7 could meet housing needs of certain folks that would
8 otherwise -- so not just simply just the extension of
9 supply, but particularly also the character of that supply
10 provide -- you know, and they mean affordable in the
11 broadest sense of just having other options sort of on the
12 market segmentation and the supply for different types of
13 housing available to households in the region.

14 **Q. And you've talked about the impacts on affordability, the**
15 **impacts on displacement in general. I was hoping we could**
16 **walk through the impacts of each of the alternatives at a**
17 **high level and talk about how they would impact, and start**
18 **with housing affordability. Can you describe how the No**
19 **Action Alternative will impact housing affordability and how**
20 **that -- and then describe how that impact changes among the**
21 **various alternatives?**

22 A. Yeah. So the No Action Alternative impacts affordability.
23 This discussion starts on page 4-32 of the EIS chapter. And
24 here, we would expect that current trends in ADU production
25 will continue, and based on our forecast model, that in a no

1 A. They do.

2 **Q. And why is that variation noteworthy in the context of**
3 **affordability?**

4 A. Because of issues of displacement. And where housing
5 affordability is most needed, we see higher rates of
6 teardowns in the no action in higher-priced neighborhoods,
7 and particularly the neighborhoods that have lower
8 displacement risk according to the 2035 Access to
9 Opportunity and displacement risk. So that level of
10 discussion is -- we can map back to sort of those
11 neighborhoods and understand relatively where the units are
12 getting added, where are the teardowns happening, so we can
13 talk about neighborhood-specific effects.

14 **Q. Okay. And are the potential impacts of the increase in**
15 **residual land value considered an adverse impact to housing**
16 **affordability?**

17 A. No.

18 **Q. Why not?**

19 A. Because we see relative to the no action, the action
20 alternatives, and particularly the Preferred Alternative
21 results in fewer amount of -- or in the residual land value,
22 we see more ADUs being the highest and best use, and we see
23 less teardowns or fewer teardowns as the highest input, also
24 accompanying sort of the highest and best use of those
25 properties.

1 **Q. Okay. The was some testimony earlier today talking about**
 2 **Alternative 3's inclusion of incentives for affordable**
 3 **housing. What are the impacts of those, of that part of**
 4 **Alternative 3 when a property owner adds a second ADU?**
 5 A. Yes. So we modeled that specifically in the highest and
 6 best use analysis looking at what -- some range of what that
 7 incidence of that fee would be and looked at the impact on
 8 ADU production in performance of -- or, sorry, specifically
 9 the impact, financial impact, of that in that condition on
 10 the highest and best use.
 11 **Q. Before I switch to the displacement impact discussion I just**
 12 **want to ask you, is the level of discussion of impacts to**
 13 **housing affordability, in your professional opinion,**
 14 **adequate to inform a decision maker about the potential**
 15 **impacts to housing affordability of the proposal?**
 16 A. It is. And I always keep in mind here we're dealing with a
 17 non-project action, of which we don't have sort of specific
 18 details to be very precise about the exact nature. So
 19 for -- from a policy perspective, what we're trying to
 20 disclose to decision makers, again, is the direction of the
 21 effects and the rough magnitudes, and particularly amongst
 22 the distribution of those effects regarding either the
 23 location or special populations.
 24 **Q. Okay.**
 25 A. All of which we've done in this analysis.

1 comprehensive look at the issues that are framing
 2 populations within the city of Seattle by looking at a
 3 variety of different variables. Doing the best to sort of
 4 assess those things across space and across groups, we can
 5 use that as sort of a way to understand how changes, as we
 6 were discussing displacement, and which I'll get to, affect
 7 those areas of the city.
 8 **Q. Yeah. So let's -- again, kind of keeping it at a higher**
 9 **level, let's have you just describe what are the**
 10 **displacement impacts among the various alternatives,**
 11 **starting with the no action.**
 12 A. So particularly in the no action, we are looking at
 13 displacement. The --
 14 MR. EUSTIS: Again, so I can follow along, it would be
 15 helpful to have, you know, a reference, rather than just his
 16 speaking.
 17 MR. KISIELIUS: He's trying to summarize what is across
 18 several pages, beginning on page 4-37 through 4-42. And I'm
 19 going to ask him to summarize rather than pinpoint each
 20 sentence.
 21 THE WITNESS: So we are concerned -- from a displacement
 22 perspective, obviously, our framing here is looking at
 23 physical displacement, economic displacement, and cultural
 24 displacement. For this analysis, because of the information
 25 that we have, we're mostly focused on those first two. And

1 **Q. Let's now switch to the displacement -- analysis of**
 2 **displacement impacts. First, do you agree with Mr. Reid's**
 3 **testimony that a change in households is the same as**
 4 **displacement?**
 5 A. No. So I think that comment was related to him referencing
 6 the MHA appendix and using the census tabulation around
 7 changes in income and households? Is that --
 8 **Q. Yes.**
 9 A. Yes. So I do not agree that that is data around
 10 displacement.
 11 **Q. Okay.**
 12 A. And the reason for that is that is simply cataloging nominal
 13 changes in those population groups. It does not attribute
 14 sort of the reason for those changes. For example, for sure
 15 there could be some actual physical economic or cultural
 16 displacement happening, but we cannot distinguish that from
 17 other voluntary actions such as choosing to sell, choosing
 18 to move a different neighborhood, or even just controlling
 19 for demographic changes as people age out and move to other
 20 types of housing options and maybe different locales.
 21 **Q. Okay.**
 22 A. Just as an example. So that it is -- it is overstating --
 23 using that metric is overstating displacement in this
 24 context. And the reason we then reflect back using the
 25 displacement risk index is that it's a much more

1 so for physical displacement, we want to know roughly how
 2 many houses actually get torn down. Because there, we can
 3 at least reasonably say, well, that could be somebody who is
 4 renting, it could be somebody who, you know, has been forced
 5 to move involuntarily because some other land use action is
 6 taken outside of their control. That may not be the case,
 7 you know, since a lot of those teardowns are for people who
 8 own the home or are purchased by a developer, so -- but all
 9 things being equal, let's just use that as a measure of sort
 10 of physical displacement.
 11 We then also want to consider economic displacement.
 12 Economic displacement in this sense is relative to the no
 13 action do people -- are people going to find it harder --
 14 relatively harder to live in that neighborhood because they
 15 can't afford to live there, and the reason they can't afford
 16 to live there is because they don't have -- because there
 17 isn't enough housing, period, so housing shortages issue,
 18 and there may not be housing types that could meet their
 19 sort of financial needs. So we operationalize that by
 20 looking at the number of ADUs added. So when we think about
 21 displacement, we're having -- we're trading off looking at
 22 the number of teardowns from a physical displacement
 23 perspective and also then folding in the number of ADUs
 24 added as addressing sort of the finan- -- the issues around
 25 economic displacement. And we don't look at cultural

1 displacement because none of the alterna- -- because of none
 2 of the alternatives really pertain to sort of changing uses
 3 of those institutions and being limited to single-family
 4 properties.
 5 **Q. Okay. What are the potential economic displacement impacts**
 6 **under each of the alternatives?**
 7 A. Yeah. So here, again, it's the number of ADUs added as the
 8 principal basis, as well as some discussion of different
 9 types of valuation options, whether they would be sort of
 10 for rent or for sale, and we discuss those by alternative.
 11 **Q. All right.**
 12 A. Broadly, we find the Preferred Alternative as having the
 13 least amount of displacement risk because it has -- both
 14 forecasts it had the fewest amount of teardowns, it's
 15 forecasted to have the most amount of ADUs added, and it's
 16 also the finding that we have from our residual land value
 17 analysis where the highest and best use across many of the
 18 parcel types and the price configurations is to keep the
 19 existing house and maximize the ADUs that are allowed under
 20 those alternatives -- under that alternative.
 21 **Q. And is the level of discussion of displacement impacts, in**
 22 **your professional opinion, adequate to inform a decision**
 23 **maker about potential displacement impacts attributable to**
 24 **the proposal?**
 25 A. It is.

1 **the value of homes and price these entry-level purchasers**
 2 **out of the market. And then were you present for his**
 3 **testimony about the condominiumization and how that would**
 4 **impact renters and keep them out of the market?**
 5 A. Yes, I was.
 6 **Q. How would you reconcile those two scenarios?**
 7 A. I had a very hard time reconciling the points being made
 8 around ownership impacts and the fact that more housing
 9 options would be available, so I found those two statements
 10 contradictory. So as I understand, his point there was that
 11 the ability to build more AUDs than the action alternatives
 12 would increase the price of housing relative to the no
 13 action, which from a simple supply and demand perspective
 14 doesn't make sense because we have more housing options
 15 available relative to supply so -- or relative to demand.
 16 And then his other point is that having for-sale units
 17 available to folks would also increase affordability
 18 challenges or beyond the reach of folks is also, I think,
 19 hard to square in the sense that because we have those --
 20 that more supply available to folks, there's less upper
 21 pressure on prices for homes.
 22 **Q. Are all the outcomes he described likely to occur under the**
 23 **proposal, those two scenarios?**
 24 A. Yes.
 25 **Q. And in general, how would you compare sort of those**

1 **Q. Why?**
 2 A. Because we are not overstepping what data and information
 3 that we have available to us to make these assessments. To
 4 the extent that we have precise data that relate back to
 5 neighborhoods, we are using that information to discuss
 6 potential variation with regards to displacement and
 7 affordability changes and challenges across those
 8 neighborhoods. As -- and pressing or using other measures
 9 or reflecting on the measures of the displacement risk index
 10 also help us talk about sort of the relative magnitude of
 11 the risk in different places and how both ADU production and
 12 just -- and teardowns might vary across those places.
 13 **Q. Okay. And the final paragraph of the entire chapter, can**
 14 **you describe if there were any significant unavoidable**
 15 **adverse impacts as a result of the proposal in your**
 16 **analysis?**
 17 A. No. We identified no adverse environmental impacts,
 18 specifically for the reason that we see the action
 19 alternative, specifically, the Preferred Alternative,
 20 performing better relative to the No Action Alternative.
 21 **Q. Okay. Just a couple more questions. Were you present for**
 22 **Mr. Reid's discussion about the proposal's purported impacts**
 23 **on the cost of homeownership for entry-level purchasers?**
 24 A. Yeah.
 25 **Q. I think the idea here was the ADU production will increase**

1 **pressures, those concerns, to the No Action Alternative? So**
 2 **for people who are entry-level purchasers, for people who**
 3 **are renters, how would you compare how those people would**
 4 **fare in the No Action Alternative as compared to, say, the**
 5 **Preferred Alternative?**
 6 A. In the No Action Alternative, these folks have very little
 7 opportunity to live in these neighborhoods because we don't
 8 see any expansion in the opportunities, and so we have the
 9 same amount of supply that year over year is getting
 10 competed for from a larger and larger set of buyers, which I
 11 think anybody who has lived over the last six years can
 12 understand the impact of that relative to housing price.
 13 And so while not large, there are, you know, marginal
 14 effects on housing affordability by having more supply. And
 15 so all the action alternatives provide measures that can
 16 potentially enhance the financial feasibility and attracting
 17 those ADUs and that we forecast would likely do so. And
 18 providing more housing opportunities, we can marginally
 19 address some of these housing affordability challenges.
 20 **Q. So just in summary, have you heard anything in the**
 21 **opponent's testimony over the last several days that causes**
 22 **you to question any of the conclusions or analysis in the**
 23 **portions of the EIS in which you were involved?**
 24 A. No.
 25 **Q. And do you believe you used reasonable and standard methods**

1 of your profession to assess and disclose the potential
2 housing and socioeconomic impacts of the proposal?

3 A. I do.

4 **Q. Do you think the EIS adequately disclosed the housing and
5 socioeconomic impacts of the proposal and is a reasonable
6 method to inform decision makers?**

7 A. I do.

8 **Q. I have no further questions for you, Mr. Shook.**

9 HEARING EXAMINER: All right. Well, it's time for our
10 break, so we'll do that, and then we'll get to
11 cross-examination. It is 3:33. We'll be back at 3:45.

12 (Recess)

13 HEARING EXAMINER: Okay. Thank you. You may be seated.
14 I think we're ready for cross-examination.

15
16 CROSS - EXAMINATION

17 BY MR. EUSTIS:

18 **Q. Mr. Shook, good afternoon.**

19 A. Good afternoon.

20 **Q. I'm Jeffrey Eustis. I represent the Queen Anne Community
21 Council. By now, you have probably deduced that.**

22 **Looking at your resume, I see that you have a Bachelor of
23 Science in biology from the University of Puget Sound. And
24 it appears from my resume -- from your resume, which you
25 then worked for, what, three years at the Institute for**

1 A. -- have a degree in economics.

2 **Q. Okay. And I take it you don't consider yourself to be an
3 economist?**

4 A. I -- no. I reserve that for folks who have a PhD in
5 economics.

6 **Q. And would you admit a masters in economics?**

7 A. It depends.

8 **Q. All right. So I'm not going to -- given the hour, I'm not
9 going to take the time to try to go through the various
10 pages in the EIS that you referenced. You referenced a good
11 many. So I'll reference by content. At page 4-9,
12 Figure 4.1-7, I believe that you cited a rent for a
13 one-bedroom apartment, average rent in the city of Seattle
14 of \$1,607. Is that right?**

15 A. That's what the table says.

16 **Q. That's -- did you compile this table?**

17 A. No, I did not.

18 **Q. Who did?**

19 A. The City of Seattle did that.

20 **Q. Okay. So you got it from the City of Seattle? Okay. And
21 according to the figure, that would be a level of rent
22 affordable to those making at least, what, 95 percent of the
23 adjusted mean income for the city of Seattle?**

24 A. That's what it says.

25 **Q. Okay. So when I speak of affordable housing or affordable**

1 **Systems of Biology --**

2 A. Roughly.

3 **Q. -- in Northlake?**

4 A. I went to the UW for a while, and then moved over to
5 Northlake, and downtown afterward.

6 **Q. And you designed, implemented, revised experimental
7 strategies for recognizing disease predisposition, among
8 other things that you listed, and then you got a masters of
9 urban and regional planning from the -- from Portland State
10 in 2005; is that right?**

11 A. Yes.

12 **Q. Okay. I see you worked for the -- in the Department of
13 Medicine at the University of Chicago prior to doing that.
14 Then you worked -- well, let's see. So and then in 2008 you
15 got a certificate in commercial real estate development.
16 What brought about the change of direction? Biology, high
17 tech, ISB, and then real estate development?**

18 A. I consider myself a curious person, and following that
19 intuition takes you lots of different places. But I think
20 ultimately I just found my passion in sort of urban
21 placements and the intersection in sort of research, policy,
22 and what we do in the ground, I guess.

23 **Q. Okay. You do not have a degree in economics?**

24 A. No, I do not --

25 **Q. Okay.**

1 to segments of the population below adjusted median income,
2 what I'm going to be referring to is rental housing or
3 purchased housing that is -- where the rents are affordable
4 to somebody who pays no more than 30 percent of their
5 income. And I'm referring to the categories of 80 percent,
6 50 percent, 30 percent of the adjusted median income, okay?
7 So for a one-bedroom apartment, that would not -- the
8 average rent in the city of Seattle, that would not be
9 affordable to somebody in those categories of income.
10 Again, by those categories, essentially 80 percent and
11 below, correct?

12 A. Yeah. And just to clarify. This is for single-family
13 rentals.

14 **Q. Single-family rentals?**

15 A. Yes. Yeah.

16 **Q. Okay. And do you have -- in your research, did you attempt
17 to compile rental figures for accessory dwelling units?**

18 A. We did.

19 **Q. And were you able to come up with an average rent?**

20 A. Yeah. I think it's detailed in the appendix. I can't
21 reference exactly where.

22 **Q. Do you recall what that is?**

23 A. No.

24 **Q. Okay. And so I think that Mr. Reid characterized the rental
25 of accessory dwelling units as at market rate; is that**

1 correct?
 2 A. In market rate in the sense that, yes, this is -- the
 3 market --
 4 **Q. It's driven by the market?**
 5 A. -- will set the price. The market will set the price, yes.
 6 **Q. Yeah.**
 7 A. Yeah.
 8 **Q. And Mr. Welch indicated in the Preferred Alternative there**
 9 **wasn't any limitation on what homeowners or developers of**
 10 **accessory dwelling units could charge?**
 11 A. Outside of what the market would bear.
 12 **Q. Yeah, outside of what the market would bear. You're**
 13 **familiar with the Portland study?**
 14 A. I'm not familiar with the Portland study.
 15 **Q. I mean, are you aware that the Portland study concluded that**
 16 **the creation of accessory dwelling units did not create**
 17 **affordable housing?**
 18 A. I am not aware of that.
 19 **Q. Did you attempt to quantify the percentage or proportion of**
 20 **existing accessory dwelling units that are offered for rent**
 21 **in the short-term market? By short term, what I -- when I**
 22 **say short term, I'm referring to VRBO, Airbnb, etc.**
 23 A. Yeah. I believe there's a section in the appendix that
 24 detailed data that the city of Seattle has on short-term
 25 rentals.

1 where you talk about the four options for what the
 2 owner/developer of a single-family parcel could do. And I
 3 believe one of them was build the house and ADU, stay there,
 4 rent them; the second was rent out all three; third -- I
 5 know the fourth was to sell the parcel. Could you direct me
 6 to where? The page? I just can't find it at the moment.
 7 It's something that you testified to.
 8 A. I believe page A-13.
 9 **Q. A-13? Thank you. I'm getting there. All right. So these**
 10 **are the four possible ways to value the property, and I**
 11 **think I got the -- so the -- I won't repeat them. They**
 12 **speak for themselves. I had a question about number 4, all**
 13 **units valued based on for sale price. The lot is valued**
 14 **based on sales price per square foot of all units, including**
 15 **any ADUs, correct?**
 16 A. Correct.
 17 **Q. So in that alternative or possible way, you're valuing the**
 18 **lot, correct? That's what it says.**
 19 A. Yeah. The lot to -- with the principal housing unit and any
 20 associated ADUs.
 21 **Q. Okay. So among the four possible ways, I did not see a**
 22 **fifth possible way specifically addressed, the fifth being**
 23 **the sale as separate independent units, what we call --**
 24 **might call the house or the main house and each of the**
 25 **accessory dwelling units as condominium units.**

1 **Q. Okay. Do you recall the incidence or the proportion of**
 2 **existing accessory dwelling units that are rented on the**
 3 **short-term market?**
 4 A. I don't recall that number off the top of my head. I'd have
 5 to search for it.
 6 **Q. Okay. Would you generally agree that the return on**
 7 **short-term rentals would be larger than the return on, let's**
 8 **say, longer-term, month-to-month rentals?**
 9 A. What are you asking me to assume?
 10 **Q. In general. In general, the return that can be gained on**
 11 **short-term rentals over --**
 12 A. Are --
 13 **Q. -- just like -- over, for instance, a 60-day period, has a**
 14 **higher potential for economic return than renting it month**
 15 **by month?**
 16 A. I can't say precisely the generalization because it differs
 17 with respect to what the unit is, where it is, what the
 18 prices are, what the relative occupancies would be.
 19 **Q. You can't say?**
 20 A. Just to clarify, the EIS, the EIS explicitly looks at this.
 21 I can't say specifically as a generalization.
 22 **Q. Okay.**
 23 A. Yeah.
 24 **Q. Sir, maybe you can find it faster than I can. What I'm**
 25 **looking for is the portion -- I think it's in Appendix A --**

1 A. Just so I'm clear in my previous answer, how are you seeing
 2 that different than what is listed there?
 3 **Q. Because in number four, you are valuing the lot. That's**
 4 **what it says. You're valuing the lot as an entity,**
 5 **presumably for the sale to a purchaser. And under the fifth**
 6 **alternative that I outlined, you have three real estate**
 7 **entities, parcels, three fungible units of property, the**
 8 **condominium unit that would be created around the principal**
 9 **structure and each of the condominium units created around**
 10 **the accessory dwelling units, so you would have three**
 11 **separate fee sales of property.**
 12 A. So the -- so just -- it wouldn't be separate parcels.
 13 **Q. Well, they're not subdivided. They're --**
 14 A. Yeah, okay. But you said parcels.
 15 **Q. Okay.**
 16 A. Yeah.
 17 **Q. They're separate units of property, because a condominium is**
 18 **a separate unit of property. You'd agree with that? You've**
 19 **got a certificate -- you've got a sale.**
 20 A. There's an interest, yeah, for sure, in the structure. So
 21 we don't call out condominium specifically. So the way I
 22 would understand the question here is that we are valuing
 23 that property as though somebody -- we would -- we are
 24 valuing that property approximately equivalent to somebody
 25 valuing it at single-family prices.

1 **Q. Okay.**
 2 A. So as a standalone structure at that same rate.
 3 **Q. As a single-family parcel?**
 4 A. Exactly. Exactly.
 5 **Q. Good to know.**
 6 A. As a single-family unit. So the ADU and the principal
 7 dwelling unit are valued at the single-family unit price.
 8 **Q. Okay. I think you've answered my question.**
 9 **Okay. In your appendix, I believe, I have a question**
 10 **dealing with -- I believe it appears at page A-34. So at**
 11 **the top there's a sentence right before Exhibit A-20. I**
 12 **believe we're on page A-34. It says the multinomial logit**
 13 **model that analyzes the relative effect of each variable of**
 14 **each outcome, parens, attached accessory dwelling unit,**
 15 **detached accessory unit, teardown, or no action. Okay? And**
 16 **then what follows, it appears that there are, what, nine**
 17 **variables, right?**
 18 A. Those are categories.
 19 **Q. Okay. Nine categories. So I guess my question is: In**
 20 **terms of analyzing the effects of various variables, where**
 21 **does the elimination of homeownership fall?**
 22 A. In terms of the forecast or in terms of the baseline model?
 23 **Q. Well, in terms of your -- we're talking about the baseline**
 24 **model here.**
 25 A. So that is not included in that analysis. So in the

1 **Q. And so you're saying that that was considered in your**
 2 **forecast model? Is there some part of your appendix where**
 3 **you can show that?**
 4 A. Let's see. I remember -- I always get crossed up in which
 5 alternative is which. Let me find it here. Let's see here.
 6 If you look an page A-37, evaluating the potential impacts
 7 referenced as 2 and 3 in the Preferred Alternative of ADU
 8 production, at the bottom of the page, the new added line,
 9 in the final EIS we also modified the universal parcels
 10 eligible to add ADUs for Alternative 2 and Preferred
 11 Alternative, removed the owner-occupancy requirement, and we
 12 applied an ADU forecast model to all parcels in the study,
 13 including renter-occupied properties. That condition is
 14 carried forward into the results that are documented in the
 15 chapter, as well as the appendix for ADU production and
 16 teardowns.
 17 **Q. Is it quantified?**
 18 A. Yes, it is.
 19 **Q. And the results of the quantification is reflected in the**
 20 **table?**
 21 A. Yeah.
 22 **Q. Okay. While you're on Appendix A, I'd like to direct your**
 23 **attention to A-27.**
 24 A. Page A-27?
 25 **Q. Right. Let's see. Actually, I think it's on what I want to**

1 forecast, what we do to deal with the relaxation of the
 2 owner-occupancy requirement is we use data to assess the
 3 relative share of -- using the city's own rental database of
 4 looking at percent of those single-family homes that would
 5 be renter-occupied and relaxing that to add those parcels
 6 back into the forecast that then estimates the ADU
 7 production with that condition relaxed.
 8 **Q. So you use the renter -- a figure for renter occupancy of**
 9 **single-family housing and then you use that to factor into**
 10 **your forecast dealing with the production of accessory**
 11 **dwelling units?**
 12 A. Yes. So to be clear, so because we are running on a parcel
 13 level, in order to not account for the fact that the
 14 owner-occupancy requirement is in place, we don't factor
 15 that into our No Action Alternative. But when we forecast
 16 that being relaxed in the action alternatives, we add that
 17 section of parcels back into our data set so that the model
 18 can run them as a -- as the sample size that is estimating
 19 ADU production.
 20 **Q. So if you added it in, how did the elimination of**
 21 **owner-occupancy then change the forecast?**
 22 A. It increased the amount of ADU production as a principal
 23 sort of out there.
 24 **Q. Okay.**
 25 A. But those are all detailed in the EIS.

1 refer to as -- I'm sorry. What I meant, I meant the EIS on
 2 4-27. I'm referring to page 4-27, and this would be the
 3 Table 4.1-13.
 4 **So across for each -- I gather for each of the**
 5 **alternatives across a four -- the three neighborhood prices,**
 6 **the four parcel types, roughly, you have in the Table 12**
 7 **different scenarios. In these scenarios, do you consider**
 8 **the principal dwelling unit plus two accessory dwelling**
 9 **units?**
 10 A. I'm sorry. You're going to have to walk that back a little
 11 bit. I wasn't following all the details. I was unable to
 12 sort of match the details of what you said to my
 13 understanding. Could you do that again?
 14 **Q. Sure. So I'm basically in this table. You outline across**
 15 **the three levels of the priced neighborhoods and for the**
 16 **four parcel types. Then, for each of the four alternatives,**
 17 **you outline these options. Do any of these options consider**
 18 **the principal house plus two attached accessory dwelling**
 19 **units? That is, dwelling -- attached -- accessory dwelling**
 20 **units built within the house?**
 21 A. No, they do not. That was not a specific deal on the
 22 outcome that we modeled.
 23 **Q. So with respect to affordability, I gather it's your**
 24 **position that the measures that would increase the supply of**
 25 **housing would then have an effect on reducing the price of**

1 housing?
 2 A. Marginally, yeah. As a relative basis, not -- don't confuse
 3 that with being nominally the same.
 4 **Q. All right. So --**
 5 A. And we're comparing this to the no action, where prices and
 6 supply --
 7 **Q. Yeah. Theoretically.**
 8 A. But --
 9 **Q. No, I understand that --**
 10 A. Okay.
 11 **Q. -- theoretically that would be so. But, for instance --**
 12 A. Empirically, that's true.
 13 **Q. For all commodities?**
 14 A. You're talking about housing?
 15 **Q. Yeah. I'll talk about housing, yeah. Okay. So you're**
 16 **aware in the city of Seattle for the last several years**
 17 **there's been quite an impact, quite a housing boom. Have**
 18 **you seen that translate into reduced rental costs?**
 19 A. Yes, indeed.
 20 **Q. What's --**
 21 A. And as the supply has rolled onto the market, housing costs,
 22 housing prices have dramatically reduced over the last 12
 23 months.
 24 **Q. Okay. You're somebody who has a certificate in real estate.**
 25 **Can you cite to figures over the 12 months as to how, let's**

1 **I'm largely referring south of Madison, north of Jackson.**
 2 A. And in what respect to change are you referring to?
 3 **Q. Okay. The change in demographics. Are you familiar with**
 4 **that?**
 5 A. Yeah. It's been documented.
 6 **Q. Okay. And so if we were to summarize it, could you say that**
 7 **there has been a large impact of gentrification in driving**
 8 **out a population less affluent and a population which is a**
 9 **higher percentage of people of color?**
 10 A. I can't speak to the specific factors and their contribution
 11 to what's happened in the Central District and what's been
 12 the rise of what's the central cause of that, but I think
 13 the ACS and other federal administrative records document
 14 that those changes happened.
 15 **Q. Okay. And would you expect that the escalation of land**
 16 **values and land prices would be part of the reason?**
 17 A. Yes.
 18 **Q. Okay.**
 19 A. Because of issues of economic displacement.
 20 **Q. Okay.**
 21 A. Is a central contributive, you know, issue.
 22 **Q. Right. And based upon your testimony here, so the City is**
 23 **proposing a -- let's just talk about the Preferred**
 24 **Alternative, which effectively, by allowing additional**
 25 **accessory dwelling units would amount to the intensification**

1 say, the rental costs for a one-bedroom, single-family house
 2 has declined?
 3 A. I don't have those numbers at disposal, but I'm sure we
 4 could source them if they're needed.
 5 **Q. Okay. Would you happen to have figures as to how the rental**
 6 **price for a one-bedroom apartment has declined, as you say,**
 7 **in this past year? Do you know that?**
 8 A. Yeah, I do know that.
 9 **Q. And in your opinion, how has it declined?**
 10 A. It's declined.
 11 **Q. No. I'm asking for figures. Do you have those figures on**
 12 **the top of your head?**
 13 A. I don't have those figures on the top of my head.
 14 **Q. Okay. Percentage?**
 15 A. Not off the top of my head.
 16 **Q. Okay.**
 17 A. I don't want to give you an imprecise number.
 18 **Q. Okay. Thank you.**
 19 **I take it, at least, you've worked in this area since --**
 20 **by this area, this geographical area, since what, 1997?**
 21 A. I mean, I grew up here.
 22 **Q. Oh, you did?**
 23 A. In the Puget Sound area. Tacoma.
 24 **Q. Okay. So have you had an opportunity to just witness the**
 25 **change in the Central District? By the Central District,**

1 of develop potential on single-family properties. You would
 2 agree with that?
 3 A. It changes the underlying land economics, as we documented.
 4 **Q. Okay. So if you change -- if you increase the intensity for**
 5 **development on property, largely that would have an effect**
 6 **on increasing the value of the land. You would agree with**
 7 **that? And so in terms of gentrification, displacement of**
 8 **the population in the Central District, do you think that**
 9 **this proposal, the intensification of the development of**
 10 **land, would have a -- would improve conditions of**
 11 **gentrification or exacerbate conditions of gentrification?**
 12 A. I -- let's step back and remember the context here is
 13 examining the action alternatives relative to what's already
 14 happening in the no action. So our conclusion is, no, that
 15 would not exacerbate it, for the reasons I laid out. We are
 16 adding units to address housing shortages. We are adding
 17 units that provide more housing options. And particularly
 18 in the Preferred Alternative, we are reducing the rate of
 19 teardowns through the FAR approach.
 20 **Q. Okay. In your analysis -- so you have -- let's say you**
 21 **have -- in your typical situation where you have existing**
 22 **housing of a particular age and then you have some level of**
 23 **redevelopment of that housing, so to some degree you would**
 24 **be replacing old stock with newer stock, correct?**
 25 A. I'm not quite sure I follow the question. Sorry.

1 **Q. Okay. So begin with just taking a single-family lot with**
 2 **housing that might have been built in the 1930s. This**
 3 **legislative change goes in, allows two, at least, attached**
 4 **accessory dwelling units of a thousand square feet each, no**
 5 **new parking, etc. So to the extent that homeowners,**
 6 **developers, etc., sought to take advantage of that and add**
 7 **accessory dwelling units, there would be new construction?**
 8 A. Of ADUs.
 9 **Q. Yeah.**
 10 A. In the Preferred Alternative.
 11 **Q. Of ADUs.**
 12 A. Yeah.
 13 **Q. So this would essentially be adding new construction,**
 14 **possibly to existing construction, possibly it would be a**
 15 **complete teardown?**
 16 A. Yeah.
 17 **Q. So --**
 18 A. Our analysis shows in the Preferred Alternative that we have
 19 a reduction in the number of teardowns with an increased in
 20 the amount of ADUs.
 21 **Q. I understand.**
 22 A. Yeah.
 23 **Q. But the ADUs, if they're going to be built, would be new**
 24 **construction?**
 25 A. Largely, yes.

1 A. Yeah, they wouldn't --
 2 **Q. Because you could have -- take the sample house. If you --**
 3 **currently, you could rebuild it with one accessory dwelling**
 4 **unit, right? Under the proposed legislation, under the**
 5 **Preferred Alternative, you could rebuild it with two**
 6 **accessory dwelling units without needing to increase**
 7 **parking. And so that would end up producing a higher value**
 8 **on residential product than rebuilding it with one accessory**
 9 **dwelling unit, right?**
 10 A. Are you saying that the unit price for two units is more
 11 than the unit price for one unit?
 12 **Q. No. I'm not talking about unit price.**
 13 A. Yeah.
 14 **Q. I'm talking about the value, the value of the entire parcel.**
 15 **Comparing two things.**
 16 A. Yeah. Yeah.
 17 **Q. Okay. Good enough.**
 18 A. You've created more value.
 19 **Q. Great. Thank you.**
 20 A. And that's documented in the EIS.
 21 **Q. Mr. Shook, nice to make your acquaintance. I have no**
 22 **further questions.**
 23 A. Likewise. Thank you.
 24 HEARING EXAMINER: Redirect.
 25

1 **Q. Right.**
 2 A. Yeah.
 3 **Q. Okay. So generally speaking, you go to property and you add**
 4 **new construction, you're -- to some degree, at least, you're**
 5 **replacing older construction with newer construction. You**
 6 **would agree, wouldn't you, that newer construction basically**
 7 **sells for a higher price per square foot than older**
 8 **construction?**
 9 A. That's correct. And I think to reflect back on the
 10 comparison, right, is in the no action you have nothing
 11 added and, in fact, what we are showing is you actually get
 12 more teardowns of older affordable housing with larger, more
 13 expensive homes without the additional production of ADUs as
 14 a housing option that you -- and because they are typically
 15 smaller because of the land use laws, of the alternatives
 16 concept (inaudible) they would also sell nominally at a
 17 lower price.
 18 **Q. But you would agree, wouldn't you, under the Preferred**
 19 **Alternative, not only could you rebuild this older house,**
 20 **but you could rebuild it with two accessory dwelling units?**
 21 A. That's one of the things that are contemplated, yeah.
 22 **Q. Okay. And you would agree, wouldn't you, that rebuilding it**
 23 **with two accessory dwelling units would result in the higher**
 24 **market value for the end product than simply rebuilding it**
 25 **with one accessory dwelling?**

1 REDIRECT EXAMINATION
 2 BY MR. KISIELIUS:
 3 **Q. Mr. Shook, I just have a couple of questions for you.**
 4 **First, Mr. Eustis asked you about your credentials to make**
 5 **you explain, but earlier you were testifying about working**
 6 **on a team. Does anybody on your team have the PhD that he**
 7 **was referring to?**
 8 A. Oh, yes. We actually had four PhD economists work on the
 9 forecast model and are responsible for executing that work.
 10 **Q. Okay. And you coordinated and consulted with them?**
 11 A. Correct.
 12 **Q. Okay. Mr. Eustis asked you to talk about the four valuation**
 13 **options on page A-13. Do you mind turning to that?**
 14 A. Sure.
 15 MR. EUSTIS: A-18?
 16 MR. KISIELIUS: 13.
 17 MR. EUSTIS: A-13?
 18 MR. KISIELIUS: A-13.
 19 THE WITNESS: Okay. I'm there.
 20 **Q. (By Mr. Kisielius) So I'd like to understand. Mr. Eustis**
 21 **was making a property value or parcel level -- I think he**
 22 **was asking you to think about it that way. I'd like to**
 23 **change the focus of the question and maybe ask you: How**
 24 **does that capture the condominiumization concept?**
 25 A. So condominiumization is a mechanism for for sale property

1 that is valued by the marketplace, and so we are treating
 2 that, all units, as part of the for-sale product, whether
 3 you can think of them together or -- I mean, they're
 4 equivalent to me in terms of independent -- you know, as a
 5 single use or independent, because they're all selling at
 6 the same market price for single-family housing given the
 7 size of those units.
 8 **Q. And is that meant to be distinguished from, for example, two**
 9 **columns over, the main house is sold and then those are then**
 10 **rented out for the longer -- the ADUs are rented out for the**
 11 **longer term?**
 12 A. Correct.
 13 **Q. Okay.**
 14 A. That's right.
 15 **Q. Mr. Eustis asked you questions about the owner-occupancy**
 16 **requirement, and I think you directed us to some text on**
 17 **page A-37. I'd like to ask you to flip back to page A-33**
 18 **and ask you if -- whether that addresses the -- how the**
 19 **model dealt with the owner-occupancy requirement.**
 20 A. It is. The text underlined on page A-33 describes how we
 21 deal with that specifically.
 22 **Q. Okay. Is that a little more detailed than the two sentences**
 23 **you referred to?**
 24 A. It is. Sorry.
 25 **Q. Okay.**

1 **questions related to comparing old stock with newer stock,**
 2 **and he asked you about the construction of an ADU and**
 3 **wouldn't that be new stock. Looking at this list of**
 4 **development outcomes where it says keep existing main home,**
 5 **and is it possible that when you're adding an ADU to an**
 6 **existing main home that it will always be new stock?**
 7 A. No.
 8 **Q. Okay. Mr. Eustis was asking you also in that instance to**
 9 **compare -- at the very end, he was asking you to compare the**
 10 **construction of a new single-family home in comparison to a**
 11 **new home and two new ADUs and asking you to evaluate those.**
 12 **Did you compare the development outcomes as between the No**
 13 **Action Alternative and the Preferred Alternative and --**
 14 A. We did.
 15 **Q. Okay. And are those different? Meaning what you can do**
 16 **with them in those scenarios, and does that affect the**
 17 **value?**
 18 A. It does.
 19 **Q. Okay. And how?**
 20 A. Specifically, the -- in the no action, it maintains current
 21 levels of AD -- of what is potential -- what you're able to
 22 do with respect to sort of producing ADUs. The action
 23 alternatives obviously allow more ADUs to be produced on
 24 properties if they meet the Land Use Code restriction
 25 requirements.

1 A. The other one was more of a summary.
 2 **Q. Okay. I didn't -- I wasn't looking for an apology.**
 3 A. I try to be as precise as possible.
 4 **Q. And Mr. Eustis asked you -- he was -- I don't need you to**
 5 **turn there. Just, he was referring to Exhibit 4.1-13 on**
 6 **page 4-27. That's the --**
 7 A. Yeah.
 8 **Q. -- the big table?**
 9 A. Big table.
 10 **Q. And he asked whether you looked at two attached accessory**
 11 **dwelling units, and you said that was not one of the**
 12 **outcomes that you modeled. And let me ask you to flip back**
 13 **now, staying within the appendix, to page A-10 through A-12.**
 14 **So first and foremost, because I know you were making**
 15 **distinctions and I want to honor them, but here we're**
 16 **talking just about the residual land value, right?**
 17 A. Yes.
 18 **Q. Okay. So of those 44 development outcomes, do those capture**
 19 **a representative range of development outcomes for purposes**
 20 **of the residual land value analysis?**
 21 A. I think they do.
 22 **Q. Okay. Even if they didn't capture all of the development**
 23 **outcomes?**
 24 A. Exactly.
 25 **Q. Okay. And similarly, Mr. Eustis was asking you about some**

1 **Q. Okay. On the discussion of affordability, Mr. Eustis was**
 2 **asking you lots of questions about affordability, and I want**
 3 **to go back to maybe a distinction I asked you about earlier.**
 4 **In relation to the questions he was asking you, do you make**
 5 **a -- do you see a difference or a distinction between**
 6 **policies that increase housing affordability and policies**
 7 **that specifically increase rent or income-restricted**
 8 **housing?**
 9 A. Yeah, exactly. They are two separate policy issues and two
 10 separate supply -- or just, you know, they are a result of
 11 different policy discussion -- or policy choices that
 12 decision makers make with respect to enabling market rate
 13 versus income or rent-restricted units.
 14 **Q. And when you were testifying to sort of the affordability**
 15 **impacts in this instance, were you referring more generally**
 16 **to the affordability concept or the rent restricted, market**
 17 **restricted?**
 18 A. I am speaking specifically to the market-restricted issue
 19 and not to the income- and rent-restricted one, which I
 20 don't believe is the --
 21 **Q. I think you used the phrase "market restricted." You**
 22 **meant --**
 23 A. Oh. Market rate.
 24 **Q. Yeah, okay.**
 25 A. Sorry. Excuse me.

1 **Q. Okay.**
 2 A. And not the income or rent restricted.
 3 **Q. I don't have any further questions for you. Thank you.**
 4 HEARING EXAMINER: Recross?
 5 MR. EUSTIS: Yes, I do.
 6
 7 **RE CROSS EXAMINATION**
 8 BY MR. EUSTIS:
 9 **Q. Mr. Shook, you're not free yet.**
 10 **Okay. Counsel asked you about Appendix A, pages A-10 and**
 11 **11, and here there's a list of 44 possible development**
 12 **outcomes. Some involve keeping the main house and some**
 13 **involve demolition. So in any of those 44, is there keeping**
 14 **the main house but building two accessory dwelling units**
 15 **underneath?**
 16 A. That was not one of the contributing --
 17 **Q. Okay.**
 18 A. And --
 19 **Q. Do the options include demolishing the main house, building**
 20 **a new main house and two accessory dwelling units**
 21 **underneath? I'm just asking if that's among the options.**
 22 MR. KISIELIUS: Asked and answered.
 23 MR. EUSTIS: No. It's a different question.
 24 MR. KISIELIUS: I must have misheard you.
 25 MR. EUSTIS: The first dealt with retaining. This one

1 A. Let me be clear. So we are valuing them as specific units,
 2 not like housing is. Forget about what the conveyance is on
 3 those. But we're valuing them as their units at the sale
 4 price for single-family prices. So to the extent that you
 5 can say what is the sale price for single-family units
 6 applied to that unit on a square footage basis is how we're
 7 evaluating it. Does that make sense?
 8 **Q. Well, I'm not sure I understand your answer. So if you**
 9 **had -- for instance, if you had an accessory -- two**
 10 **accessory dwelling units at 1,000 square feet each that were**
 11 **created as separate condominium units, you would value those**
 12 **as you would value a 1,000 foot single-family home?**
 13 A. No. We are valuing them at the average sale price for
 14 single-family homes within those market areas.
 15 **Q. Okay.**
 16 A. Yeah.
 17 **Q. So if you have a parcel which has a single-family parcel,**
 18 **5,000 square feet, and it has three units, one, the main**
 19 **house condominium unit, two condominium units for each of**
 20 **the accessory dwelling units, then you would value each of**
 21 **those units as you would value single-family units in that**
 22 **neighborhood?**
 23 A. Let me -- sale price. We're looking at the sale price for
 24 homes. So, first of all, so we're not looking at just what
 25 they're valued at. We're looking at what --

1 deals with demolition.
 2 MR. KISIELIUS: I apologize. I withdraw the objection.
 3 THE WITNESS: Yeah. None of them have demolish a house
 4 with two ADUs in there.
 5 **Q. (By Mr. Eustis) Okay. Now, among these 44 -- well, let me**
 6 **just back up.**
 7 **I believe you testified on redirect that the sale of -- if**
 8 **you want to call it the main house, we'll call it the main**
 9 **house -- the sale of the main house and then the sale of two**
 10 **accessory units as condominium units, each of those three**
 11 **units of property as condominium units would be valued at**
 12 **the sale price for single-family housing. Is that what you**
 13 **said?**
 14 A. Yeah.
 15 **Q. What's the basis for that, the sale of condominium units**
 16 **would be valued at the sale price for a single-family house?**
 17 A. So single-family homes are selling on a basis higher than
 18 condominium units, and so we're valuing those properties a
 19 little higher as for sale at single-family rate as opposed
 20 to the land use expected, a condominium rate (inaudible).
 21 **Q. Okay. But as I recall from your prior testimony, you were**
 22 **valuing -- under your Option 4, you were valuing the sale of**
 23 **the entire single value family parcel.**
 24 A. No.
 25 **Q. And not individual entities.**

1 **Q. Okay.**
 2 A. -- they're selling at. So the way to think about this is --
 3 this is a hypothetical -- is if the sale price is \$100 per
 4 square foot, right, and we have a 2,000 square foot home
 5 that's selling, right? That is going to be valued at 200 --
 6 if my math is right here, \$200,000, right? And then, if we
 7 have a 1,000 square foot to ADU, we are also valuing that at
 8 \$100 per square foot, so \$100,000.
 9 **Q. Okay. And you're saying that the sale of these units as**
 10 **units, condominium units as individual units, was factored**
 11 **in your model?**
 12 A. We're not -- I don't -- still don't understand the
 13 distinction you're trying to draw with condominium. I mean,
 14 for sale is for sale, so tell me why I should value those
 15 homes as -- at a different level. What basis are you --
 16 **Q. Well, I'm not --**
 17 A. I don't know.
 18 **Q. I'm not trying to tell you why. I'll get into the bottom**
 19 **with Mr. Ellison at that. What I'm asking you is in your**
 20 **anal- --**
 21 A. His --
 22 **Q. Just a sec. Just if I could?**
 23 A. Sure.
 24 **Q. In your analysis, did -- I went -- I saw Option 4 of that**
 25 **list on whatever it was, page A.8-13, or something, and I**

1 didn't see -- you know, in terms of the options for
 2 evaluating the parcels and which ADUs would be created, I
 3 didn't see an option where you attempted to value the parcel
 4 based upon the creation of three condominium units. I
 5 didn't see that, and I -- and given that your Option 4
 6 talked about valuing the lot, I don't see where you --
 7 A. You -- no, that's --
 8 **Q. -- on the property --**
 9 A. Yeah. That's not what I -- that's not what I said. That's
 10 not what I said. We are valuing the lot inclusive of the
 11 units that are on them at a rate of single-family sale
 12 prices.
 13 **Q. You're valuing the lot. That's what you just said.**
 14 A. I said -- I'm try- -- I'm -- I -- those things seem
 15 equivalent to me. I don't understand how they're different.
 16 **Q. Okay. Fine. I'll take that as your answer.**
 17 **Okay. So among the list of 44, you see among these --**
 18 **what do you call them? Development outcomes. I don't see**
 19 **an outcome involving the condominiumization of the**
 20 **single-family lot and the sale of the three condominium**
 21 **units as separate units. I don't see that. Is that**
 22 **correct? I'm not overlooking something?**
 23 A. And I'm --
 24 HEARING EXAMINER: I think that was asked and answered.
 25 MR. EUSTIS: As condominium units.

1 in the list of 44 --
 2 MR. KISIELIUS: That's not where it would be.
 3 HEARING EXAMINER: I'm overruling it. You can go ahead.
 4 **Q. (By Mr. Eustis) Within the list of 44, you have 44 legally**
 5 **permissible development outcomes, and I'm asking you: Does**
 6 **this list of 44 include -- just a second -- include the**
 7 **outcome of the sale of the main house and the accessory**
 8 **dwelling unit each as separate condominium units, "yes" or**
 9 **"no."**
 10 A. Let me make it -- I'll get to the "yes" and "no" part. So
 11 let --
 12 **Q. No. I'm asking you what's included in the list.**
 13 A. Are you asking for the words "condo" in there?
 14 **Q. I'm asking what's included in the list.**
 15 A. We are valuing for sale properties. The alternatives don't
 16 contemplate any changes to the condominiums law, and it's
 17 not -- wasn't factored into how we designed our construct to
 18 test different development outcomes per what is being
 19 proposed in the action alternatives, so -- and remember,
 20 this is meant to be a stylized --
 21 **Q. No. Excuse me.**
 22 A. -- analysis that --
 23 MR. EUSTIS: Move to strike the answer.
 24 THE WITNESS: -- just demonstrates to decision makers --
 25 MR. EUSTIS: I'm --

1 MR. KISIELIUS: Well, and also, I think we're now -- if
 2 we're going to go to new territory on recross, I should get
 3 re-redirect, because now we're exceeding --
 4 MR. EUSTIS: We're not. We're talking about his Exhibit
 5 No. 44, and we're talking about his sale at market price for
 6 single-family housing.
 7 MR. KISIELIUS: And the line of questioning that referred
 8 to the 44 had to do with whether or not that was -- all I
 9 asked was whether those were representative lists.
 10 MR. EUSTIS: Right.
 11 MR. KISIELIUS: In response to your question about whether
 12 it captured creation of a new home and two ADUs. You're
 13 moving -- and you're now trying to get into the
 14 condominiumization piece using this list, and I think you
 15 are actually -- I'm concerned that there are going to --
 16 there's some -- by focusing on places that are not relevant
 17 to the question that you're asking, you're communicating
 18 misinformation that I would like to correct.
 19 HEARING EXAMINER: I'm sorry. That's your (inaudible)?
 20 MR. KISIELIUS: So that's my concern is this -- well, yes,
 21 because he's exceeding the scope, and I --
 22 MR. EUSTIS: I'm not --
 23 MR. KISIELIUS: And I want the opportunity to try to have
 24 the witness clarify.
 25 MR. EUSTIS: He asked about the list of 44. I'm asking if

1 THE WITNESS: -- the rough sort of changes.
 2 MR. EUSTIS: I'm moving to strike --
 3 THE WITNESS: We're not trying to describe --
 4 MR. EUSTIS: -- the answer.
 5 THE WITNESS: -- every single outcome that may be
 6 possible.
 7 HEARING EXAMINER: I think that's been testified to
 8 previously already, so I'm not going to strike it.
 9 MR. EUSTIS: Okay. Can I get an answer to the question of
 10 whether that --
 11 HEARING EXAMINER: Absolutely.
 12 MR. EUSTIS: -- possibility is included within the list?
 13 It's either in the list or it's not.
 14 THE WITNESS: Those -- those words are not on the list.
 15 MR. EUSTIS: Thank you. And with that, I have no further
 16 questions of you.
 17 HEARING EXAMINER: Re-redirect? You can do that.
 18
 19 FURTHER
 20 REDIRECT EXAMINATION
 21 BY Mr. Kisielius:
 22 **Q. I would just simply like to ask, is the valuation option of**
 23 **the sale, would you expect to find that in the list of 44**
 24 **development options?**
 25 A. Yes. Oh, I'm sorry. Did I understand that right?

1 **Q. The valuation options --**
 2 A. Yeah.
 3 **Q. -- the four that are page A-13 --**
 4 A. Yeah.
 5 **Q. -- are they different from the 44 development options?**
 6 A. They are not.
 7 **Q. Okay. And with the four development -- excuse me, valuation**
 8 **options, the sale piece, is that where you believe the**
 9 **condominiumization concept is embedded?**
 10 A. I do.
 11 **Q. Thank you.**
 12 HEARING EXAMINER: All right. I think you may be excused.
 13 THE WITNESS: Thank you.
 14 MR. EUSTIS: Okay. Nothing further. Thank you.
 15 HEARING EXAMINER: All right. We have a little bit of
 16 time to get into the next witness.
 17 MR. KISIELIUS: We will not --
 18 HEARING EXAMINER: If you'd like to.
 19 MR. KISIELIUS: -- finish, but we'd like to start.
 20 HEARING EXAMINER: Yes.
 21 MR. KISIELIUS: The City would like to call Amalia
 22 Leighton-Cody.
 23 HEARING EXAMINER: Good afternoon.
 24 MS. LEIGHTON-CODY: Good afternoon.
 25 HEARING EXAMINER: Would you raise your right hand,

1 **Q. And what are your -- I'm sorry. Where are you employed?**
 2 A. I'm employed at Toole Design in Seattle, Washington. It's a
 3 company that's headquartered out of Silver Spring, Maryland.
 4 **Q. Okay. And how long have you been in your profession?**
 5 A. I have been in my profession since 2002, so 18 years.
 6 **Q. Okay. And can you describe your primary professional**
 7 **responsibilities?**
 8 A. Yes. As a licensed civil engineer and certified planner, I
 9 have performed analysis, design, feasibility, process
 10 submitting on various infrastructure projects, including
 11 transportation and utility projects around the country, but
 12 I have predominantly worked in Western Washington,
 13 predominantly in the city of Seattle.
 14 **Q. Okay. And can you give us a brief description of your**
 15 **educational background and training, focused on the items**
 16 **that are relevant to your profession?**
 17 A. Yes. I have a civil engineering degree from the University
 18 of Washington. I have been working for a civil engineering
 19 firm since 2001. I have worked that entire time on projects
 20 in the city of Seattle, focused on both, as I mentioned,
 21 transportation and utility projects, both design and
 22 analysis. I've done extensive amount of work on policy
 23 development and program development with the City of
 24 Seattle, various departments, including Seattle Department
 25 of Transportation, Planning Department in its various names,

1 please.
 2 Do you swear or affirm that the testimony you're about to
 3 give is the truth?
 4 MS. LEIGHTON-CODY: Yes, I do.
 5 HEARING EXAMINER: Could you state your name and spell it,
 6 both first and last name, and provide us with a work
 7 address?
 8 MS. LEIGHTON-CODY: A work address?
 9 HEARING EXAMINER: Yeah.
 10 MS. LEIGHTON-CODY: My name is Amalia, A-M-A-L-I-A,
 11 Leighton, L-E-I-G-H-T-O-N, Cody, C-O-D-Y. My work address
 12 is 720 Third Avenue, Suite 2020, Seattle, 98104, Washington.
 13 HEARING EXAMINER: Thank you.
 14 You may proceed, Mr. Kisielius.
 15 MR. KISIELIUS: Thank you.
 16
 17 AMALIA LEIGHTON-CODY, having first been duly sworn,
 18 was examined and testified
 19 as follows:
 20
 21 DIRECT EXAMINATION
 22 BY MR. KISIELIUS:
 23 **Q. Ms. Leighton-Cody, could you please state your occupation?**
 24 A. Yes. I am -- excuse me. I am a licensed civil engineer and
 25 a certified planner with the American Planning Association.

1 and the Seattle Public Utilities.
 2 **Q. Okay. And let's focus on SEPA. Can you describe your prior**
 3 **experiences working on or preparing, reviewing EISs, any of**
 4 **those?**
 5 A. Yes.
 6 **Q. Any work on EISs?**
 7 A. Yes. So throughout my career, both for project and program
 8 development, I have worked on everything from a SEPA
 9 checklist to a full EIS document like the one that we're
 10 talking about today. I have been -- worked -- I have worked
 11 on variations of the Burke-Gilman Trail EIS. I have worked
 12 on an EIS for downtown and the subarea planning for the City
 13 of Marysville. I worked on the Seattle Comprehensive Plan
 14 EIS. And I worked on a project-based EIS for the City of
 15 Shoreline for the Aurora Corridor.
 16 **Q. Okay. And those EISs, is it -- are they project action,**
 17 **non-project action? I think I can guess from some of them.**
 18 A. Yeah. Outside of this one, I worked on the Seattle
 19 Comprehensive Plan EIS and the downtown area -- excuse me,
 20 Downtown Marysville Subarea Plan EIS.
 21 **Q. Okay.**
 22 A. Which were not project based.
 23 **Q. There's two binders in front of you. One of them is the**
 24 **EIS, and I think it's the blue one.**
 25 A. Okay.

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1 **Q. The other one has tabs. I'm going to ask you to open up to**
 2 **33, so City Exhibit 33.**
 3 A. Yes.
 4 **Q. Do you recognize that document?**
 5 A. Yes. That is my resume.
 6 **Q. And does it accurately reflect your educational background**
 7 **and professional training and experience?**
 8 A. It does. It does not probably -- it probably
 9 under-represents all the projects that I have worked on that
 10 would be relevant to this project.
 11 **Q. But it's a good --**
 12 A. But it highlights some key projects specifically to my city
 13 of Seattle experience and related to my EIS experience.
 14 **Q. Okay.**
 15 MR. KISIELIUS: We'd ask to admit City Exhibit 33, which I
 16 think will be Examiner Exhibit 39.
 17 HEARING EXAMINER: No objection?
 18 MR. EUSTIS: No objection.
 19 HEARING EXAMINER: Okay. The CV is entered into the
 20 record as Exhibit 39.
 21 (Exhibit No. 39 admitted into evidence)
 22 **Q. (By Mr. Kisielius) So what was your role in the preparation**
 23 **of the EIS that's the subject of this appeal?**
 24 A. I was the project manager for Toole Design Group. We have,
 25 as I mentioned, offices throughout the country. So I was

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1 the lead on the project, and I had assistance from other
 2 staff in the office, in the offices that we manage,
 3 including some PTOEs, professional transportation operations
 4 engineers, who assisted with some of the details of the
 5 parking analysis.
 6 **Q. Okay. And they worked in consultation with you and under**
 7 **your direction?**
 8 A. Correct. And in -- with coordination with other team
 9 members of the city staff.
 10 **Q. Okay. And when you mentioned city staff, did you work with**
 11 **Mr. Welch and Ms. Pennucci on your chapter?**
 12 A. Yes. Very directly.
 13 **Q. Okay. And can you tell me what the work product was that**
 14 **your Toole Design team came up with that was used in the**
 15 **EIS?**
 16 A. Yes. We were the lead authors for Exhibit E, and we were
 17 reviewers for -- excuse me, the Exhibit E, which is the
 18 parking analysis. And we were reviewers and contributors to
 19 Section 4.4 and 4.5 of Chapter 4.
 20 **Q. Okay.**
 21 A. Specifically, the parking and transport ation model of the
 22 services and utility sections.
 23 **Q. Okay. So let's dig into the parking analysis. I want to**
 24 **ask you some questions about the study locations that were**
 25 **analyzed for the parking analysis. So I'll ask you, in**

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1 **Appendix B, can you turn to page A-3, Exhibit B-1?**
 2 A. Yes.
 3 **Q. Does this show the location of the four study areas?**
 4 A. It does, yes.
 5 **Q. And can you explain how these four study locations were**
 6 **chosen?**
 7 A. Yes, I can. In coordinating with the City and the other
 8 team members, we wanted to identify areas that had various
 9 representation to the study area as a whole that we were
 10 looking at as part of this EIS. So we wanted to make sure
 11 that we had geographic distribution representation of
 12 various curb space types, presence of unimproved streets,
 13 what we call unimproved streets, streets that typically
 14 don't have curb and gutter and sidewalk. We wanted to
 15 identify some areas that had alleys. We wanted to have a
 16 general range of transit options associated with these
 17 areas, different parcel sizes, and then, in coordination
 18 with economic analysis, the different typologies that were
 19 studied under the economic analysis.
 20 **Q. Okay. So those various conditions that you were just**
 21 **describing, were those trying to be representative of the**
 22 **study area of the EIS as a whole?**
 23 A. Yes.
 24 **Q. Okay. And the last one you mentioned there, the parking**
 25 **typologies, I guess I'd ask you to turn to Exhibit B-2 on**

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1 **the next page.**
 2 A. Yes.
 3 **Q. I'm going to start with the overarching question. I'm going**
 4 **to ask you about how those locations are representative, and**
 5 **maybe we'll start with B-2. What does B-2, Exhibit B-2 on**
 6 **page B-4, show?**
 7 A. Yes. So this is a chart that shows the -- in the darker,
 8 almost black color, is the various -- the distribution of
 9 parcel sizes within the entirety of the EIS study area, and
 10 then the lighter blue, identified as study locations, show
 11 the distribution of the parcel sizes within our four study
 12 locations.
 13 **Q. Okay. And in general, what can you say about the comparison**
 14 **of the study locations in relation to the EIS study area in**
 15 **terms of the lot sizes represented?**
 16 A. In general, our study locations represented the various
 17 parcel sizes within the EIS study area as a whole.
 18 **Q. Okay. And I see there's one in the middle there, the 5,000**
 19 **to 5,999 that's a little higher than the rest. So does**
 20 **that -- am I reading that correctly that the blue refers to**
 21 **the study locations?**
 22 A. Correct.
 23 **Q. Okay. And so in terms of identifying what that means, the**
 24 **study -- and I'm maybe looking from 2,000 -- the second,**
 25 **third, fourth, fifth and sixth, going from left to right,**

1 are the study locations higher in those -- that category of
 2 parcel sizes than the EIS study area as a whole?
 3 A. Yes.
 4 **Q. Okay. So what does that say about the study locations in**
 5 **terms of the range of parcel sizes that tend to be**
 6 **represented there?**
 7 A. So particularly related to parking, we wanted to recognize
 8 that the smaller the parcel size, the more parcels would be
 9 within a block face, and that there would be -- they're just
 10 denser areas, so one could make the assumption that there is
 11 going to be more cars within those block faces that have a
 12 smaller block size as compared to blocks that have larger
 13 parcels on them.
 14 **Q. Okay. And I think you had said earlier that the parcel size**
 15 **was tied to the typology that was in Chapter 4.1 was the**
 16 **basis of the residual land value. Can you tell us whether**
 17 **the parcel type -- we have just heard testimony about that,**
 18 **so I don't -- but the parcel typology, the four parcel**
 19 **types, can you tell us whether the EIS showed the parcels in**
 20 **each study area according to that typology?**
 21 A. Yes. So we have subsequently identified exhibits in the
 22 parking appendix that shows that we have identified the
 23 different -- that there is a variety of typologies within
 24 our individual study areas.
 25 **Q. So let's just walk through some of them. B-4 on page B-6?**

1 citywide maps, in Chapter 4.5, the transportation section,
 2 that identify on a whole where there is the presence of
 3 sidewalks versus a presence of bike lane, where there's
 4 presence of transit service. And so we reflected back on
 5 those maps to make sure that we had representation of each
 6 of those conditions within our study areas as an aggregate.
 7 **Q. Okay. And how about presence or -- presence of and**
 8 **proximity to transit? Does that vary among the study areas**
 9 **as well?**
 10 A. It does. So the study areas have a range of access to
 11 transit from local bus service to light rail --
 12 **Q. Okay.**
 13 A. -- in various proximities.
 14 **Q. Do you believe that the four study areas are sufficiently**
 15 **representative of conditions in the EIS study area as a**
 16 **whole, sufficiently representative to inform a decision**
 17 **maker of the parking impacts?**
 18 A. I do.
 19 **Q. We had some testimony the other day in which Mr. Kaplan was**
 20 **asked to talk about the representativeness of these study**
 21 **areas. He was very precisely asked about representativeness**
 22 **from an aesthetics standpoint. I'm going to ask you, was**
 23 **that the goal of picking these? Were you choosing -- trying**
 24 **to choose the most representative aesthetic areas?**
 25 A. No. For the purposes of a parking study, we were trying to

1 A. Correct. So this is for the southeast study location, and
 2 we have a legend that identifies how the different colors,
 3 how the different parcels are represented for the different
 4 typologies --
 5 **Q. Okay.**
 6 A. -- within that study area for parking purposes only.
 7 **Q. And the remainder are on B -- Exhibit B-7 on page B-9?**
 8 A. Correct. An exhibit was created for each of the parking
 9 study areas.
 10 **Q. Okay. So you were testifying earlier about the parcel**
 11 **sizes. I think you mentioned some other categories of**
 12 **things that you were looking at, presence of alleys,**
 13 **driveways, sidewalks. I probably missed a few from your**
 14 **list. But how did you ensure that the range that you were**
 15 **looking for was representative of the single-family areas**
 16 **when you're looking at those types of criteria?**
 17 A. So two things. One, we discussed Exhibit B-2, which we
 18 looked at as our study areas as an aggregate for the parcel
 19 sizes, and we created a distribution of lot size within each
 20 study area to identify those. Based on that, we have also
 21 looked at just looking at the maps that we wanted to make
 22 sure that we had examples of all of the things that we
 23 talked about. So, for example, in the southeast study area
 24 and in portions of the northeast, there is alleys. The
 25 northeast has areas that have no sidewalks. There's maps,

1 get representative idea of curb space in each study area.
 2 Curb space management varies within the study area, within
 3 the study areas, as I mentioned, based on the presence of
 4 sidewalks and the presence of driveways and the presence of
 5 alleys. And for the purposes of the parking study, that was
 6 the most important consideration.
 7 **Q. Okay. Be that as it may, I think the comparison was made to**
 8 **denser, more central neighborhoods. I think Capitol Hill**
 9 **was mentioned, Magnolia, Wallingford, Queen Anne, so -- and**
 10 **the connection was that these areas that you studied, the**
 11 **four parking studied areas, were not representative of those**
 12 **other neighborhoods. Do you agree with that?**
 13 A. No.
 14 **Q. Why not?**
 15 A. So two things. One, we looked at the -- for purposes of the
 16 parking area, we were trying to find a larger area that was
 17 not -- let me start over. Some of those neighborhoods that
 18 you mentioned have -- are not within our study area. Some
 19 portions of the neighborhoods are not within our study area.
 20 Some portions of --
 21 **Q. Let me pause there. Why not?**
 22 A. They are either -- were studied as part of the MHA EIS or
 23 they are within urban villages.
 24 **Q. Okay.**
 25 A. Additionally, some of those neighborhoods you mentioned have

1 residential parking zones, which, for the purposes of our
2 study we identified as restricted parking, and as identified
3 in our -- in Chapter 4.5 that we were looking at
4 unrestricted parking for the purposes of the parking study,
5 so we consider RPZs, or restricted residential parking
6 zones, a restriction on parking.

7 **Q. Can you just -- before you go to the third point -- I'm not
8 trying to make you lose track of where you wanted to go, but
9 just on RPZs, can you just describe what that is as a
10 mechanism and what -- how do they work?**

11 A. Yes. So RPZs are neighborhood parking restrictions, for all
12 intents and purposes, requiring that there is time
13 restrictions on -- at various times, and they require to
14 park there at certain times a permit. That is, I believe,
15 right now, typically only for a resident within that area
16 there is a maximum of four permits allocated per parcel.

17 **Q. Okay. And I can put --**

18 A. And they can be obtained through Seattle Department of
19 Transportation.

20 **Q. I appreciate that diversion, and I'm sorry I sidetracked
21 you. You were going to go on to a third point?**

22 A. Yes. So also, that we -- so the residential parking zones,
23 there was other areas that were studied, and we were also
24 looking for geographic representation. And you mentioned
25 those neighborhoods are typically considered within the

1 CERTIFICATE

2
3 STATE OF WASHINGTON)
4)
5 COUNTY OF KING)
6

7 I, the undersigned, do hereby certify under penalty
8 of perjury that the foregoing court proceedings were transcribed
9 under my direction as a certified transcriptionist; and that the
10 transcript is true and accurate to the best of my knowledge and
11 ability, including any changes made by the trial judge reviewing
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13 the court format; that I am not a relative or employee of any
14 attorney or counsel employed by the parties hereto, nor
15 financially interested in its outcome.
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18
19 IN WITNESS WHEREOF, I have hereunto set my hand this
20 5th day of April, 2019.

21
22 *Shanna Barr*

23
24 Shanna Barr, CET
25



1 center of city and have -- we were looking for a range of
2 demographics within our study areas as well.

3 **Q. Okay.**

4 A. And parcel sizes.

5 **Q. Okay.**

6 HEARING EXAMINER: And with that, I think we're going to
7 have to end the day.

8 MR. KISIELIUS: I appreciate being able to start, though.
9 Thank you.

10 HEARING EXAMINER: Yeah.

11 All right. We will be back here bright and early tomorrow
12 at 9:00, and we'll be off the record.

13 MR. KISIELIUS: Thank you.

14 (Proceedings concluded)
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