

Hearing

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

March 29, 2019



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Page 1

BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

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

HEARING
Heard before Deputy Hearing Examiner
Barbara Dykes Ehrlichman
March 29, 2019

Transcribed by: Bonnie Reed, CET
Court-Certified Transcription

Page 2

A P P E A R A N C E S

1
2
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20 Seattle City Council Representative
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22 Nicolas Welch
23 Planning and Community Development Representative
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25 Richard Ellison
TreePAC

Page 3

I N D E X O F P R O C E E D I N G S
PAGE

1
2
3 March 29, 2019, Hearing, Morning Session
4 Discussion re closing statements 5
5 Testimony of Amalia Leighton-Cody 14
6 Testimony of Nicolas Welch 28
7 Testimony of Catherine Snyder.....108
8 Testimony of Aly Pennucci140
9
10 E X A M I N A T I O N I N D E X
11 AMALIA LEIGHTON-CODY PAGE
12 Direct Examination (Resumed) by Mr. Kisielius 14
Cross-Examination by Mr. Eustis 43
13 Redirect Examination by Mr. Kisielius..... 95
Recross-Examination by Mr. Eustis.....100
14
15 NICOLAS WELCH
16 Redirect Examination by Mr. Kisielius.....105
17
18 MARY CATHERINE SNYDER
19 Direct Examination by Mr. Kisielius.....108
Cross-Examination by Mr. Eustis.....123
20 Redirect Examination by Mr. Kisielius.....135
Recross-Examination by Mr. Eustis.....136
21
22 ALY PENNUCCI
23 Direct Examination by Mr. Kisielius.....140
Cross-Examination by Mr. Eustis.....178
24 Redirect Examination by Mr. Kisielius.....191
Recross-Examination by Mr. Eustis.....193
25

Page 4

E X A M I N A T I O N I N D E X (Continued)
ROSS TILGHMAN PAGE

1
2
3 Rebuttal Direct Examination by Mr. Eustis.....197
4 Cross-Examination by Mr. Kisielius.....205
5 Redirect Examination by Mr. Eustis.....211
6
7 E X H I B I T I N D E X
8
9
10 NUMBER DESCRIPTION ADMTD
11
12 40 Testimony Notes of Amalia Leighton-Cody 98
13
14 41 Portland ADU Survey 99
15
16 42 E-mail from Andy McKim to Nicolas Welch 105
17 and Shannon Loew
18
19 43 Seattle ADU Vehicle Ownership Estimates 153
20
21 44 E-mail from Gordon Clowers to Aly 189
22 Pennucci dated 3-29-18
23
24
25

Page 5

1
2
3 -o0o-
4 March 29, 2019
5 (8:59:24 a.m.)
6
7 HEARING EXAMINER: Good morning, everybody. All
8 right. We were on direct examination of Ms. Leighton-
9 Cody. Proceed.
10 MR. KISLIELIUS: A preliminary matter first?
11 HEARING EXAMINER: Sure.
12 MR. KISLIELIUS: Closings. We had --
13 HEARING EXAMINER: Yes.
14 MR. KISLIELIUS: We going to revisit that.
15 HEARING EXAMINER: Yes.
16 MR. KISLIELIUS: The City's proposal would be to
17 allow parties to file written closings following the
18 hearing to keep the record open for that limited purpose.
19 HEARING EXAMINER: Okay.
20 MR. KISLIELIUS: I suggested that to Mr. Eustis. I'm
21 not sure what his position is on that request.
22 MR. EUSTIS: Yes. I guess I would suggest we -- we
23 address that issue, yeah, at the end of the hearing
24 today. My understanding is after Ms. Cody, the City has
25 two witnesses, and I would expect that Ms. Pennucci's

Page 6

1 scope of testimony greatly overlaps with Mr. Welch's. So
2 I -- I don't know how long that will take. It will take
3 what it takes.
4 HEARING EXAMINER: You're an optimist, yeah. Okay.
5 MR. EUSTIS: What can I say? That's how I've gone
6 through life. And we have Mr. Tilghman here, and I would
7 intend to call Mr. Tilghman as a rebuttal witness.
8 HEARING EXAMINER: Okay.
9 MR. EUSTIS: So if -- if we have time for oral
10 argument, I would propose oral argument, because at this
11 point, the testimony is freshest in the minds of the
12 examiner. I believe the examiner knows the standards of
13 review for an EIS. These are not foreign notions.
14 And finally, it (inaudible) down to a matter of cost.
15 If we do written testimony, it's probably an additional
16 whatever, 12 hours for the appellant, and it just gets
17 down to cost. Further, I understand that if we do a
18 written closing, the City is going to order up written
19 transcripts for the entire proceeding, and so far, the
20 City has taken the position that it will not share those
21 with the appellant. That puts the appellant at an unfair
22 disadvantage.
23 And if that's the case, since these -- once they're
24 prepared, they become public records, I would ask that
25 the City provide them so we can do the written closing on

Page 7

1 equal footing. I don't think it's fair that the examine
2 -- that the City gets to pick and choose, send it to the
3 examiner, and essentially, we don't have access to that
4 without paying an extraordinary cost.
5 MR. KISLIELIUS: May I respond?
6 HEARING EXAMINER: Sure. Go ahead.
7 MR. KISLIELIUS: I'm going to take a couple issues,
8 because I think they're different. On the issue of
9 written closings, I don't think it matters whether we
10 have time for them today or not. The City's position is
11 that the examiner will benefit from thoughtful,
12 deliberative written argument that would allow the
13 examiner to review the relevant case law, and in
14 particular, argument related to interpretations of codes,
15 which Mr. Eustis objected to the testimony about.
16 We'd like to put that in writing before the examiner.
17 He said we could, and -- and we think we would -- you
18 would benefit from the time to be able to review that.
19 So regardless of whether there's time for argument or
20 not, we think the examiner would benefit. We'd like to
21 present the argument in writing.
22 To the extent that Mr. Eustis, if there is time,
23 would prefer to do his argument in his closing orally, it
24 doesn't -- it shouldn't preclude the City from doing its
25 in writing. In fact, there's some logic to the sequence

Page 8

1 in that, which would be, typically, we're a respondent,
2 we respond to his legal arguments. That's another
3 option. All I'm saying is the written closing is, in my
4 experience, typical for the examiner, and for good
5 reason; because it allows us to put it all together in a
6 manner that would allow the examiner to review it.
7 On the separate question of transcribing, which I
8 believe is a separate matter, and Mr. Eustis, I think,
9 has mischaracterized, because there has been no formal
10 request. There was an informal request, if we were to do
11 it, and I'm not sure that we've ever communicated what
12 the City's position would be.
13 Again, it's advancing a public records dispute before
14 this examiner. The reality is, in the normal course when
15 a party orders a transcript, any party who wants one pays
16 the court reporter. That's the way it works, and
17 Mr. Eustis is seeking to circumvent that through a
18 request through public records, which the City will
19 handle in the normal course. That's not the way that
20 it's done. You don't advance it through the examiner to
21 force the City to respond to a public records request in
22 a certain way.
23 The -- if Mr. Eustis wants to talk about fairness,
24 which I -- if he wants to talk about fairness, this is
25 the cost of litigation that parties, in the usual course,

1 would expect to incur by working directly with the court
2 reporter. And for him to say it's unfair, the City
3 should pay for ours, I think, is -- is similarly unfair
4 and using -- leveraging public resources for his personal
5 client's gain. But in any event, I think that is a
6 different issue than the question of the appropriateness
7 of the written closing.

8 HEARING EXAMINER: Okay. I think, given the amount
9 we have to do today and to try to finish up in a timely
10 manner, it's probably unrealistic to expect that we could
11 accomplish closing arguments today anyway. I think I
12 would benefit greatly from having a written -- written
13 closing argument and, you know, it doesn't have to be a
14 book. So, you know, you can -- you can write whatever,
15 you know, is -- is affordable for your client and, you
16 know, gets the point across.

17 So as far as the transcripts go, I am not -- I don't
18 think I'm in the middle of that one. I think that's
19 something that if the -- let's see. How -- how should we
20 do this? I'm not sure what was done in the MHA case, if
21 anybody has knowledge of that. How does that work?

22 MR. KISLIELIUS: The City transcribed and the
23 appellants filed a public records request.

24 HEARING EXAMINER: Okay.

25 MR. EUSTIS: And obtained the transcripts so they

1 public records requests. That exceeds the scope of my
2 representation. I can't -- and I have not committed to
3 Mr. Eustis what the City's response would be. So I -- I
4 -- that limitation needs to be recognized.

5 In terms of the details of how this worked out in
6 MHA, it was provided in response to public records, but
7 first obtained the consent of the court reporter and gave
8 the court reporter the opportunity, if they had a legal
9 right, to say that we were not -- we, the City, were not
10 entitled to hand it over. Because, again, there's a
11 contractual issue as between the court reporter and what
12 the rules of the game are.

13 And so in that limited instance, there was a limited
14 waiver of, they said, fine, hand it over, we won't object
15 in this instance. I can't promise you what they would
16 say in this instance, and that's why I think this is
17 outside the bounds of what we're talking about.

18 At -- at the end of the day, as to the Superior Court
19 issue, it becomes a court cost, and that's dealt with in
20 its own way. This -- this is not that instance. And so,
21 again, getting into a level of detail that I think is
22 outside the examiner's authority, when we start talking
23 about what is and isn't an appropriate response to a
24 public records request.

25 HEARING EXAMINER: Okay. Well, here's how I see it.

1 could use it in the closing argument. You know, I would
2 -- I would point out that the issue of, you know,
3 requesting transcripts in a deposition does not apply to
4 this case. If you're in a Superior Court proceeding and
5 you transcribe a portion, you don't just make it
6 available to the judge and tell the opposing party, well,
7 you buy your own. It's not done that way.

8 HEARING EXAMINER: Right.

9 MR. EUSTIS: If it's in the Court of Appeals, it's
10 not done that way. In other proceedings I've been
11 involved in where one party -- and typically, a developer
12 goes out and -- and does it, I've had the examiner say,
13 sorry, we are not -- we are not doing transcripts of the
14 proceedings; I took notes, I have tape recordings, but
15 I'm not going to be doing that because it, essentially,
16 disfavors one side and it also grossly increases the
17 volume of stuff I have to read.

18 John Gall (phonetic), Snohomish County. So there --
19 you know, if you -- what the City is saying, you know, we
20 can't share the -- we can only share it with the examiner
21 and all of our witnesses and parties, but we can't give
22 it to the appellants because that would be a gift of
23 public funds. It's just not true. That's absurd.

24 MR. KISLIELIUS: I am not responsible for making the
25 decision on how the City does or does not respond to

1 Either both sides have it or no sides have it. So -- and
2 if the appellant can obtain it through a public records
3 request, and that's the way they want to go, they're
4 entitled to make public records requests. If the court
5 reporter does not consent to the public records request,
6 then the City doesn't use the transcript. Is that clear?

7 MR. EUSTIS: It's clear. One -- a concern I would
8 have is -- is timing. Clearly, for the examiner's
9 purpose, sooner is better than later, because --

10 HEARING EXAMINER: Absolutely.

11 MR. EUSTIS: -- memories fade over time.

12 HEARING EXAMINER: Yes.

13 MR. EUSTIS: Transcribing the proceedings, depending
14 upon how many transcripts (inaudible) have could be
15 easily a week process, and then that would mark the
16 beginning time when we would start writing closings. And
17 then there's the issue of we're doing simultaneous
18 closings or -- or sequential?

19 So I see this -- and further, once we learn the City
20 has done transcripts, we send out a public records
21 request. The City has five days to respond. The typical
22 response by the City is they respond in five days and
23 then they say, and it will take us a month to get the
24 documents. That's the typical response.

25 Under public records law, there's nothing I can do

Page 13

1 about that other than file a court action. So it
 2 introduces a whole level of -- of not complication, but a
 3 delay in producing the written closing.
 4 HEARING EXAMINER: Right.
 5 MR. EUSTIS: If we were to do a written closing,
 6 generally, sooner is better than later. I do recall that
 7 the examiner has an absence scheduled for next week, to
 8 begin next week, or something. I seem to recall --
 9 HEARING EXAMINER: Oh, I did, but I don't anymore.
 10 MR. EUSTIS: Oh.
 11 HEARING EXAMINER: Yes.
 12 MR. EUSTIS: Hopefully, not on account of this.
 13 HEARING EXAMINER: Well, maybe, but -- yeah.
 14 MR. EUSTIS: Okay. But, you know, my proposal would
 15 be sooner -- sooner rather than later, by whatever -- a
 16 week from today, a week from Monday. Actually, I will be
 17 out on Monday and Tuesday. So it would be a week from
 18 next Wednesday, or something like that, but not have a
 19 prolonged period for written closings. That would be my
 20 plea.
 21 HEARING EXAMINER: Okay.
 22 MR. KISLIELIUS: May I suggest that we -- we could
 23 resolve the schedule now. I think the important thing,
 24 and the reason I wanted to raise it at 9:00 AM, was to
 25 address whether we were doing oral or written --

Page 14

1 HEARING EXAMINER: Okay.
 2 MR. KISLIELIUS: -- first and foremost, because that
 3 changes sort of the scope of the day, I think.
 4 HEARING EXAMINER: Right.
 5 MR. KISLIELIUS: In terms of the dates in the
 6 proposal, we can iron that out now. What I'd propose is
 7 if I could use the lunch break to follow up on the
 8 examiner's direction related to the transcripts, that
 9 might inform the dates and the schedules, and --
 10 HEARING EXAMINER: Okay.
 11 MR. KISLIELIUS: -- so if we could revisit this
 12 towards the end of the day, I might have more information
 13 that might influence that outcome.
 14 HEARING EXAMINER: Okay. Sounds good. We will -- we
 15 will wait and see. Is that all with regard to
 16 preliminary matters?
 17 MR. KISLIELIUS: Yes, thank you.
 18 HEARING EXAMINER: Okay. You may proceed.
 19 AMALIA LEIGHTON-CODY: Witness herein, previously
 20 having been duly sworn on
 21 oath, was examined and
 22 testified as follows:
 23
 24 CONTINUING CROSS EXAMINATION
 25 BY MR. KISLIELIUS:

Page 15

1 **Q. Good morning, Ms. Leighton-Cody.**
 2 A. Good morning.
 3 **Q. So when we left off yesterday, you were**
 4 **describing the -- the parking study areas, the four**
 5 **parking study areas. I wanted to ask you one last**
 6 **question about that. Was the -- did you collect data on**
 7 **all four study areas?**
 8 A. Related to the contract of the EIS?
 9 **Q. Correct.**
 10 A. We did not.
 11 **Q. Okay.**
 12 A. Two of the study areas, that is, southeast and
 13 the southwest, are data that we obtained from the Seattle
 14 Department of Transportation related to studies within
 15 single family zones or portions of studies that were
 16 within single family zones that were representative of
 17 the study area as a whole.
 18 **Q. Okay. And is it commonplace, in your experience,**
 19 **when dealing with a non-project action, to rely on data**
 20 **that exists if it's representative?**
 21 A. Yes.
 22 **Q. Okay.**
 23 A. And sometimes in project actions as well.
 24 **Q. Okay. Let's turn to the EIS's impact analysis**
 25 **now and how the EIS analyzed the expected increase in**

Page 16

1 **demand for on-street parking under each of the**
 2 **alternatives.**
 3 **So maybe starting with some terms, and without**
 4 **drilling on them too long, can you turn to page 4-167 and**
 5 **just talk about what we mean when we say parking supply,**
 6 **parking utilization and parking availability?**
 7 A. Yes. On page 4-167, in the sidebar, there are
 8 three definitions of how parking supply, parking
 9 utilization and parking availability are defined for the
 10 purposes of this EIS. Do you want me to read them out
 11 (inaudible)?
 12 **Q. Just how they work together.**
 13 A. Okay. So parking supply, for the purposes of
 14 this study, was looking at unrestricted on-street parking
 15 spaces. Parking utilization was the number of vehicles
 16 observed divided by the parking supply. And parking
 17 availability is the total number of parking spaces
 18 available per block.
 19 **Q. Okay. And the way that you use the terms in this**
 20 **EIS, are those standard or common for people in your**
 21 **profession?**
 22 A. Yes.
 23 **Q. So let me ask you -- before we get into the**
 24 **details of what you found for each of these, I want to**
 25 **ask about the differences, among the alternatives, as it**

1 **pertains to parking. So, first, were you here for**
 2 **Mr. Tilghman's testimony?**
 3 A. I was.
 4 **Q. And do you recall his testimony in which he**
 5 **recommended his mitigation requirements for off-street**
 6 **parking for a second ADU?**
 7 A. Can you repeat the question?
 8 **Q. Do you remember testimony related to mitigation**
 9 **that would require off-street parking?**
 10 A. Yes.
 11 **Q. And did the alternatives themselves have**
 12 **different parking requirements?**
 13 A. Yes.
 14 **Q. Specifically, Denny, the alternatives incorporate**
 15 **off-street parking for a second ADU?**
 16 A. Yes.
 17 **Q. And how did the impacts analysis that we're about**
 18 **to talk about take that into consideration?**
 19 A. Yes. So for the purposes of the EIS, we assumed
 20 that all vehicles that were added to the parking areas
 21 for -- would occur for all ADU production. We did not
 22 assume that any vehicles, as a result of ADU production,
 23 would park on the parcels themselves. We assumed all
 24 vehicles would park on the street.
 25 **Q. Even for the alternatives in which there's a**

1 There is a study that was conducted, a
 2 statistical study that was conducted by Portland State
 3 University with the Department of Environmental Quality
 4 in Oregon to look at characteristics of ADU occupants in
 5 the City of Portland. And so part of our methodology was
 6 to look at what would the parking impacts be specifically
 7 for ADU unit production.
 8 HEARING EXAMINER: May I interrupt you just for a
 9 second? Can you move your mic back a little bit? We've
 10 been playing with our mics again this morning, so --
 11 MR. KISLIELIUS: Do you mean -- I'm sorry. Back away
 12 from her?
 13 HEARING EXAMINER: Away from her, yes.
 14 MR. KISLIELIUS: Okay. So push it back towards the
 15 edge of the table.
 16 A. Back where it was.
 17 MR. KISLIELIUS: Do you want test the level again?
 18 HEARING EXAMINER: Do you want to test it?
 19 A. It was fine before.
 20 HEARING EXAMINER: Well, just try it. Testing one,
 21 two, three.
 22 A. Testing one, two, three.
 23 HEARING EXAMINER: Okay. Good. Thank you.
 24 A. So for the purposes -- we wanted to identify
 25 vehicle ownership for the ADU residents, and then we also

1 **requirement for off-street parking?**
 2 A. Correct.
 3 **Q. And does that make it a conservative analysis?**
 4 **Let me define what I mean by conservative. Tending to**
 5 **overstate the impact?**
 6 A. Correct.
 7 **Q. Okay. Can you turn to page 4-180? And I just**
 8 **want you to provide a high level summary of the**
 9 **methodology that you used for the parking analysis?**
 10 A. Yes. 4 -- 4-80, section 4.4.2, discusses the
 11 impacts (inaudible) identify the potential impacts for
 12 the parking analysis.
 13 MR. EUSTIS: A clarification. 4-180 or 4-80?
 14 MR. KISLIELIUS: 180. Is that -- I thought that's
 15 what you said.
 16 A. Yes. In section 4.4.2.
 17 MR. KISLIELIUS: 4-180.
 18 HEARING EXAMINER: Yeah, it didn't sound clear to me.
 19 MR. KISLIELIUS: Okay. Sorry.
 20 A. I'll move the microphone.
 21 So for purposes of this EIS, one of the
 22 challenges with -- specifically relating to ADU units, is
 23 that there is not lot of information, statistical
 24 information available related to ADU and vehicle
 25 ownership.

1 -- once we knew the number of vehicles per ADU resident,
 2 we wanted to apply that to the number of ADU units that
 3 would be anticipated within the study area and use those
 4 to determine what -- if and what the potential impacts
 5 would be.
 6 BY MR. KISLIELIUS:
 7 **Q. Okay. And I want to talk about those elements in**
 8 **a little bit more detail. So, first, turning to page**
 9 **4-183 --**
 10 A. Yes.
 11 **Q. -- looking at Exhibits 4.4-14 --**
 12 A. Yes.
 13 **Q. -- can you tell us what we're looking at here?**
 14 A. Yes. So part of -- as I mentioned, we used
 15 information from the Portland State University ADU
 16 survey, and we recognize that there are different
 17 characteristics for renters in Portland than in Seattle.
 18 So we adjusted the numbers in Portland to be
 19 representative of Seattle, based on the census data that
 20 we had from the American Community Survey.
 21 We also then not only conducted that -- that
 22 adjustment for Seattle as a whole, but we also adjusted
 23 it for the actual study areas that we looked at. So this
 24 exhibit identifies the existing conditions and the
 25 vehicles -- the anticipated vehicles added based on ADU

1 production for each alternative which -- within each
 2 study area.
 3 **Q. Okay. And then I think you indicated that the**
 4 **southeast and southwest study areas were collected**
 5 **differently, not -- not expressly for the purposes of --**
 6 **of this EIS. Can you -- can you explain how data was**
 7 **collected for the two study areas that were new to this**
 8 **data collection that was new for purposes of this one?**
 9 A. Yes.
 10 **Q. And how that was done?**
 11 A. Yes. So as I testified to yesterday, we wanted
 12 to look at representative study areas and find the number
 13 of -- and be able to apply this in a -- in a
 14 representative way across the study area for the EIS. So
 15 we did two things.
 16 One, we -- the staff at my office actually did
 17 not collect the data. We had IDAX Data Solutions, which
 18 is a vendor that the City of Seattle typically uses for
 19 parking studies, both in residential areas and in
 20 commercial areas throughout the City.
 21 **Q. It's -- IDAX, is that I-D-A-X?**
 22 A. I-D-A-X Data Solutions, I believe, is their --
 23 their full name. They -- they work for other
 24 jurisdictions in Washington, outside of Washington, and
 25 they do a lot of -- of work for the City of Seattle on

1 **you gave IDAX for its collection?**
 2 A. Yes. Yes. So we asked IDAX to, based on the
 3 knowledge that I personally have used them on other
 4 studies in the City, say -- or other projects in the City
 5 of Seattle, and knowing that they conducted the parking
 6 study in the southwest, we asked them to use a similar
 7 approach to those parking studies that they have done for
 8 other projects in the City of Seattle.
 9 We also asked them if they were familiar with Tip
 10 117, because that is the current no action alternative of
 11 how parking waivers are established in certain zones in
 12 Seattle for ADU parking.
 13 **Q. Okay. And was parking instruction to collect it**
 14 **consistent with that?**
 15 A. Yes.
 16 **Q. Okay. We have heard -- I think Mr. Tilghman**
 17 **testified that data was collected on a single day only,**
 18 **is that correct?**
 19 A. That is not correct.
 20 **Q. So can you turn to Appendix B -- sorry to make**
 21 **you jump around.**
 22 A. That's okay.
 23 **Q. Appendix B, page B-17.**
 24 A. So if I could --
 25 **Q. Yeah, don't touch -- don't touch the microphone.**

1 various parking studies. They had actually, themselves,
 2 done the data collection in the southwest study area.
 3 **Q. Okay.**
 4 A. And then I think I had a second part.
 5 **Q. Is that -- is that one of the reasons you**
 6 **chose --**
 7 A. Yes.
 8 **Q. -- IDAX? Okay.**
 9 A. Yes.
 10 **Q. Can you -- well, what instructions did you give**
 11 **to IDAX for collection of the data?**
 12 A. Yes. So as I mentioned, they are very familiar
 13 with parking requirements in the City of Seattle,
 14 particularly --
 15 MR. EUSTIS: Objection --
 16 A. -- on the street.
 17 MR. EUSTIS: -- foundation as to the familiarity of
 18 IDAX. No personal knowledge.
 19 HEARING EXAMINER: Sustained.
 20 A. So --
 21 BY MR. KISLIELIUS:
 22 **Q. Okay. Go ahead. I mean, not -- not with the --**
 23 **other reasons, not that one.**
 24 A. Yes. Can you repeat the question?
 25 **Q. Well, I was asking, what were the instructions**

1 A. So for -- for -- for the purposes of the scope of
 2 work that Tool Design asked IDAX Solutions to identify,
 3 we had them go out for two days in December. One, we
 4 looked at Friday in the -- in the morning. So between
 5 the hours of 1:00 AM to 5:00 AM. So Thursday, if people
 6 parked their cars on Thursday night, and they were still
 7 there Friday morning.
 8 **Q. Okay.**
 9 A. And we also asked them to do a Saturday
 10 afternoon, on the weekend. So we had two days, and we
 11 were very thoughtful about those days. We actually did
 12 them -- we were up against the Seattle Public Schools
 13 winter break and the University of Washington winter
 14 break, and we wanted to make sure we were not up against
 15 a time when people would have different parking patterns,
 16 potentially, than what was the norm.
 17 **Q. So you collected them before those --**
 18 A. Yeah, those times, yes.
 19 **Q. Okay. And --**
 20 A. In December.
 21 **Q. Okay. And when was parking utilization higher?**
 22 **During the weekday or the weekend?**
 23 A. In general, over the study areas and the block
 24 faces that we looked at, it was higher on the weekdays.
 25 So we used that for the purposes of our analysis. Again,

1 a somewhat conservative estimate for utilization.
 2 **Q. All right. In terms of the data collection**
 3 **times, are those typical, in your profession, for -- for**
 4 **completing a study like this, choosing the weekday and**
 5 **the weekend, like you did here?**

6 A. Yes.

7 **Q. All right. I want to shift to a different**
 8 **discussion. I want to talk about Mr. Tilghman's**
 9 **testimony about the -- what he characterized as**
 10 **consistently or systematically -- systemically, I think,**
 11 **overestimating parking inventory.**

12 A. Yes.

13 **Q. So, first, what's your understanding of the**
 14 **methodology that he used to calculate parking supply?**

15 A. Based on the testimony that I heard from
 16 Mr. Tilghman, he used the -- the identified protocol in
 17 Tip 117, meaning that he went out and measured. He chose
 18 his unit of measurement to be a wheel that -- what I
 19 understand to be handheld, that he wheeled along the
 20 ground, and that he recalibrated at certain points to
 21 take the measurements.

22 And then he used the attached form to -- for
 23 Exhibit B, to identify those measurements. And he used
 24 the parking distances or the parking space allocation
 25 identified in Tip 117 to identify the parking supply

1 **Q. Okay. So let me ask you, you were confronted**
 2 **with the disparity that he identified for the subsets**
 3 **that he measured. Did you -- after reviewing that data,**
 4 **did you ask IDAX to -- to check on those locations in**
 5 **which Mr. Tilghman measured the block faces?**

6 A. Yes. We asked IDAX to go out and actually use a
 7 wheel. I can't guarantee that it was the exact same
 8 brand of wheel that Mr. Tilghman used, but they used a
 9 wheel to measure the block faces in the exact same
 10 locations that Mr. Tilghman had in his exhibits.

11 **Q. And what were the results?**

12 MR. EUSTIS: Objection, hearsay. We do not have IDAX
 13 here. And, further, apparently, the City is using this
 14 additional data that was not part of the EIS to bolster,
 15 to make up for the deficiencies of the EIS.

16 MR. KISLIELIUS: May I respond?

17 HEARING EXAMINER: Response?

18 MR. KISLIELIUS: Yes. First, on the hearsay.
 19 Ms. Leighton-Cody has already testified that she does
 20 these types of transportation reports, parking reports,
 21 and typically, subcontracts out for the data collection
 22 itself. This is typical. She's an expert, and she's
 23 allowed to work on -- work from and rely on other people
 24 who work at her direction. It's not hearsay when you're
 25 talking about an expert.

1 along those block faces.

2 **Q. Okay.**

3 A. And he only did a subset -- my understanding,
 4 based on his exhibits, is that he did a subset of the
 5 block faces that we looked at in our study area.

6 **Q. Okay. Let's -- let's step way back. You're**
 7 **familiar with Tip 117?**

8 A. Yes.

9 **Q. Is Tip 117 the only way to calculate parking**
 10 **inventory, in your experience?**

11 A. No, it is specific project-based application for
 12 an ADU parking waiver in the City of Seattle.

13 **Q. Okay. Well, can you explain why you chose to**
 14 **reference Tip 117 for purposes of this study?**

15 A. Yes. Again, for the no-action alternative
 16 that -- one way that people currently -- excuse me --
 17 parcel owners can currently not get a -- can currently
 18 get a parking waiver in certain locations in the City of
 19 Seattle today.

20 **Q. Okay. And we'll be hearing from Ms. Snyder and**
 21 **SDOT in just a bit. But what's your understanding of**
 22 **whether Tip 117 identifies the specific measurement**
 23 **method that Mr. Tilghman used as the only way to comply**
 24 **with Tip 117?**

25 A. It does not explicitly state to use a wheel.

1 With respect to the disclosure, first of all, our
 2 final list does disclose that we would -- we might
 3 conduct additional work. It hasn't resulted in any
 4 documents, but it is absolutely appropriate and
 5 commonplace for an expert to respond to the work done by
 6 an appellant expert. This is -- this is part of the
 7 usual course. We are allowed to actually analyze what
 8 Mr. Tilghman did and explain whether we think it was
 9 correct or not.

10 HEARING EXAMINER: I'm going to overrule the
 11 objection. You may proceed.

12 BY MR. KISLIELIUS:

13 **Q. So I think I was asking --**

14 A. Can you repeat the question?

15 **Q. Yes. What were the results of the following**
 16 **counts that you did?**

17 A. Yes. So the results were that, in some
 18 instances, their counts were the same as Mr. Tilghman's.
 19 In some cases, they were different than Mr. Tilghman's.

20 **Q. Okay. Then in which -- let's say, in which --**
 21 **you say different. Were some more than what Mr. Tilghman**
 22 **had?**

23 A. Yes. And some were less.

24 **Q. Okay. So let's focus on the -- focus on the**
 25 **discrepancy, first, between the differences in the wheel**

1 counts, before we get to the discrepancy from what was
 2 reported in the EIS.
 3 So can you explain why there's still a
 4 discrepancy between what Mr. Tilghman measured and the
 5 wheel measurements that IDAX did in follow-up to that?
 6 A. How there could potentially be discrepancies?
 7 Q. Yes.
 8 A. In my experience of actually conducting wheel
 9 measurements myself on block faces within these --
 10 MR. EUSTIS: Objection.
 11 A. -- same areas in the City of Seattle --
 12 MR. EUSTIS: Objection. She's not speaking from
 13 personal knowledge as to the -- the discrepancy. She's
 14 not answering counsel's question. She's speaking
 15 hypothetically. And hypothetically, in this case,
 16 doesn't really matter because we're dealing with actual
 17 discrepancies.
 18 MR. EUSTIS: May I respond?
 19 HEARING EXAMINER: Yes.
 20 MR. KISLIELIUS: So again, Ms. Leighton-Cody is an
 21 expert. She's speaking -- her words were "in my
 22 experience." So she is speaking from personal
 23 experience, and she, as an expert, is allowed to try to
 24 explain what happened. That's what experts do. This is
 25 not a lay witness.

1 And as identified in Tip 117, that is a -- a
 2 distance of measurements that you have to take spaces
 3 back from, feet back from, to account for parking spaces.
 4 So where I think the discrepancies, based on my
 5 experience of measuring block faces within these study
 6 areas, is that in between the driveways, that those are
 7 -- all driveways are not created equal. These -- these
 8 block faces are not created equal. Things are not
 9 delineated clearly in the same manner on all ways on a
 10 block face. So I think some of the discrepancies could
 11 occur from that.
 12 Q. Okay. What about -- let's focus, now, on the
 13 discrepancy between the different measurement methods; so
 14 the -- the wheel versus what the EIS reported.
 15 Can you describe, first of all, how that was
 16 captured? What was done to capture the data in the first
 17 instance, and then try to describe the discrepancies
 18 between the wheel measures and the data collection method
 19 for the EIS?
 20 A. Yes. So my understanding, based on the direction
 21 that I -- that I gave IDAX to do the parking supply
 22 analysis, is that the -- one of the ways they go out and
 23 look at parking supply is to -- they -- again, I
 24 mentioned that they -- I know that they have done this
 25 for Tool Design and other companies that I worked for,

1 MR. EUSTIS: By saying "my experience," she is
 2 speculating on the basis for which, apparently, IDAX
 3 found discrepancies as opposed to the real reasons why
 4 discrepancies were found.
 5 MR. KISLIELIUS: And again, IDAX was working at her
 6 direction. She's an expert. She's allowed to hire
 7 people to do things for her.
 8 HEARING EXAMINER: Overrule the objection.
 9 BY MR. KISLIELIUS:
 10 Q. I believe you were trying to explain, based on
 11 your experience, what the discrepancies might be. And
 12 here again, we're focused on the differences in the wheel
 13 counts that IDAX did as compared to those that
 14 Mr. Tilghman did.
 15 A. Yes. I was going to say, in my experience, using
 16 a wheel, that there are different ways to wheel along a
 17 street to get measurements; that one can roll the wheel
 18 consistently along a block face, and that is a way that
 19 you get measurements, and you stop at points and you look
 20 down at where distances are.
 21 So in my experience of measuring block faces for
 22 the purposes of different parking analysis and parking
 23 design, you stop at a driveway, at a point, and it's a
 24 point you use your professional judgment to identify
 25 where that driveway stops and starts.

1 and the City of Seattle, that they observe -- they do not
 2 always wheel every block face or measure every block
 3 face.
 4 They observe, based on their experience, the
 5 parking -- that the parking distances required are met.
 6 And so it's an observational look. And, again, based on
 7 the characteristics of these streets, I believe that
 8 those discrepancies are happening in between driveways.
 9 Tip 117 identifies a very specific dimension that
 10 is allowed for one parking stall between driveways or a
 11 minimum parking distance from one vehicle. There is a
 12 lot of assumptions that goes into that; the length of the
 13 vehicle, the distance between the spaces. So the
 14 discrepancy would be that you could actually have a small
 15 vehicle parked between two driveways that is less than
 16 what is identified in Tip 117.
 17 Q. Okay. Were there -- I guess, let me ask a
 18 different question. Would you expect that kind of
 19 discrepancy between data collection?
 20 A. Yes.
 21 Q. Were there instances in which the observed count
 22 were the same as the wheel measured count?
 23 A. Yes.
 24 Q. Were there instances in which the observed count
 25 was less than the wheel measured count?

1 A. Yes.

2 **Q. Are there -- so we're talking about differences**
3 **in data collection. Are those differences an issue for**
4 **the veracity of this study, in your opinion?**

5 A. No. Again, we're looking at a representative
6 study of the -- excuse me, a representative area within a
7 study area that we can apply.

8 And back to my initial testimony about
9 representative block faces, that because there is a
10 variety of -- I'm going to use the word interruptions
11 along the block face that would affect the parking
12 supply, and that varies within our study areas. We
13 wanted to have a representative -- we wanted to identify
14 representative block faces to account for those
15 interruptions, or the variety of those interruptions
16 across the City.

17 **Q. So in your experience and opinion, is the**
18 **observed method, as you've described it, a commonly**
19 **accepted methodology and approach for people in your**
20 **profession?**

21 A. Yes.

22 **Q. So as comparing the wheeled method versus the**
23 **observed method, would you be more or less inclined to**
24 **use one over the other when working with a non-project**
25 **action, as compared to, say, a project action?**

1 What is -- what was confusing to me and what I
2 did not gather from his testimony was how he chose, for
3 example, in the northwest to apply the 73 percent versus,
4 I believe, the 80 percent, as shown on his exhibit. And
5 -- and so the systematically part is -- is unclear to me.

6 **Q. Okay. So in your opinion, can you extrapolate**
7 **the adjustment throughout the entirety of the study area?**

8 A. Not based on his testimony.

9 **Q. Okay. Did -- as part of that follow-up work, did**
10 **IDAX spot-check any of its counts outside of the ones**
11 **that Mr. Tilghman had done with the wheel?**

12 A. Yes, they did. And I also personally drove
13 the -- certain blocks within his study area.

14 **Q. And so --**

15 A. And walked.

16 **Q. -- for those locations, what did they show about**
17 **Mr. Tilghman's extrapolation of adjustments throughout**
18 **the entire study area?**

19 A. Yeah. So I -- I'd just like to highlight one
20 particular street in the northwest study area, Northwest
21 Division Street. We observed -- the observed data was
22 actually less than the wheel measure data. And
23 Mr. Tilghman, on that block, had applied a 73 percent
24 factor, adjustment factor.

25 **Q. So in other words -- let me make sure I'm**

1 A. Yes. For the -- the scale of this study area for
2 this non-project EIS, we observed it is -- is applicable.

3 **Q. Okay. Why is that?**

4 A. Based on the number of block faces that we looked
5 at and the geographic range of study areas of the City,
6 the observed method was appropriate for purposes of this
7 EIS.

8 **Q. Okay. I want to switch to a slightly different**
9 **criticism. Did you hear Mr. Tilghman's testimony about**
10 **how he extrapolated the discrepancy he found to the rest**
11 **of the study area?**

12 A. Yes, I was here for that testimony.

13 **Q. Okay. What's your understanding of his**
14 **extrapolation?**

15 A. My understanding is that when he went out and did
16 the wheel measurements, he found different numbers on a
17 select number of block faces as opposed -- a small subset
18 of block faces within the study areas only for the
19 northwest and northeast.

20 He -- based on the -- his findings, within those
21 individual block faces, he applied two different factors
22 within each study area. So there were two factors for
23 the northwest and two different factors for the
24 northeast, based on his wheel measurements, comparing the
25 identified supply in the EIS.

1 **understanding. Mr. Tilghman's would have resulted in**
2 **less inventory through the extrapolation only? But when**
3 **you wheeled it, you found more than what the EIS**
4 **originally reported?**

5 A. Correct.

6 **Q. Okay.**

7 A. More supply.

8 **Q. So -- so what does that tell you, in terms of the**
9 **-- the veracity of applying a standardized adjustment**
10 **that reduces it throughout the study area?**

11 A. That there was -- potentially could have been
12 more streets identified to systematically apply it
13 throughout the study area.

14 **Q. Okay.**

15 A. And then, also, that all of the varying -- again,
16 to apply that back at a city-wide level, there -- the --
17 the four different -- we didn't discuss how the four
18 different factors would be combined to apply that back to
19 the whole EIS study area.

20 **Q. Yeah.**

21 A. We didn't hear from Mr. Tilghman how that -- how
22 that would apply.

23 **Q. Understood. Let's -- let's turn to the different**
24 **criticism. There was some discussion about what he**
25 **termed perceived barriers to pedestrians. Do you**

1 remember that testimony?

2 A. Yes, he had some exhibits.

3 **Q. Can -- can you, preliminarily, just summarize how**
4 **he defined perceived barriers and what streets he**
5 **identified as perceived barriers, just as an example?**

6 A. Yes. So in the northwest, for example, he
7 discussed the perceived barriers as the north-south
8 arterials. He discussed, I believe, Greenwood, Third
9 Avenue and Eighth Avenue as barriers. Per the City of
10 Seattle classification, those streets are not classified
11 as the same type of arterials. And, in fact, Eighth
12 Avenue and Third Avenue both have parcels that are
13 eligible for ADU production.

14 So even though they -- and they have crossing
15 improvements that would -- at certain locations, that
16 would change the perception that they are a --
17 potentially, for some users, that they are a perceived
18 barrier.

19 And then in the northeast study area, he
20 mentioned, also, arterials, but the streets that he
21 identified, I believe, 85th and 92nd within our study
22 areas, those are, in fact, not arterials. They are
23 identified as local streets and they have the same
24 characteristics as the block on either side of them,
25 which he did not identify as a perceived barrier.

1 utilize that 400 feet or to account for that 400 feet in
2 the utilization analysis for that project specific. And
3 because we did not assume that anyone would be crossing a
4 street to park their car other than if the unit was
5 produced on that block.

6 **Q. So you said project specific. Do we know any**
7 **specific locations of where ADUs will -- you know, aren't**
8 **necessarily going to be constructed?**

9 A. No, not as part of this EIS.

10 **Q. So let's go back to your analysis. How does the**
11 **EIS define what constitutes a potential adverse impact on**
12 **parking? You can turn to page 4-184, 4-185, if that will**
13 **help.**

14 A. So for the purposes -- can you ask your question
15 one more time?

16 **Q. Sure. How did the EIS define what constitutes a**
17 **potential adverse impact on parking?**

18 A. Yes. So the EIS identified that parking may not
19 be an issue unless the parking utilization exceeds 85
20 percent. And for each alternative, including the
21 preferred alternative, the EIS identified that based --
22 because we don't know exactly where an ADU would be
23 produced, we cannot -- we cannot identify exactly which
24 streets would have -- would exceed that utilization.

25 However, we did acknowledge that there would --

1 **Q. Okay. In your opinion, was it necessary for this**
2 **analysis to take into consideration what he termed to be**
3 **perceived barriers?**

4 A. Not at the -- at the scale in which we were
5 looking. The point of including some of those block
6 faces in our study area was the fact that ADU production
7 could occur on those block faces.

8 **Q. So --**

9 A. And -- and we assumed that the parking -- that
10 the -- that the cars that would be produced by the -- by
11 the occupants of the ADU units would be brought by the
12 ADU occupants, would want to park on the block in which
13 the ADU was produced.

14 **Q. And let's -- you said at the scale. Does the**
15 **status as a non-project action, as compared to a project**
16 **action, make a difference in terms of whether or not**
17 **you'd be inclined to consider perceived barriers?**

18 A. Yes. He -- he also had an exhibit that talked
19 about the 400 feet distance allowed on either side of ADU
20 production, as outlined in Tip 117. As I just mentioned,
21 we did not take into account the 400 foot. We did not
22 utilize space beyond the blocks, especially on some of
23 the shorter blocks that were not 400 feet long.

24 And so the -- that implies that you would be able
25 to turn a corner across a street, in some instances, to

1 there could potentially be some locations where that
2 would be exceeded. But, again, we can't definitively
3 answer that.

4 **Q. Okay. Did any of the study locations exceed the**
5 **85 percent threshold under any of the alternatives?**
6 **We're talking about the study areas as a whole.**

7 A. Not -- not within our analysis.

8 **Q. And --**

9 A. So -- so some of the blocks did, but as an
10 aggregate in the study area, when we looked at it as a --
11 as a -- as a broader area, no.

12 **Q. Thank you for that clarification. So did the EIS**
13 **disclose and discuss those potential localized impacts?**

14 A. Yes. There is exhibits that show those.

15 **Q. Okay.**

16 A. And then there's also exhibits that summarize
17 that in a table.

18 **Q. Okay. And is it also included in the text**
19 **itself?**

20 A. Yes.

21 **Q. Okay. Does the EIS also identify any mitigation**
22 **measures?**

23 A. Yes.

24 **Q. Can you describe what those are?**

25 A. Yes. So --

1 **Q. And I direct you to page 4-189.**
 2 A. I'm referencing that right now.
 3 **Q. Okay.**
 4 A. So, again, the mitigation measures that it said
 5 that it will rely on regulations in the municipal code,
 6 potentially implement residential parking zones, or RPZs,
 7 where applicable. RPZs have a defined use in the City of
 8 Seattle. And then, also, to improve other -- other forms
 9 of transportation options.
 10 **Q. Okay. How about a sensitivity analysis? Did you**
 11 **conduct a sensitivity analysis with your parking study?**
 12 A. Yes. In relationship to -- we looked at not only
 13 the City as a whole, for the purposes that we were
 14 looking at the -- a broader area of the EIS, but we also
 15 acknowledged that there is different -- there might be
 16 different utilization, car ownership within the actual
 17 study areas themselves, based on demographic differences
 18 within the City area.
 19 **Q. So I'm going to ask you to jump around again to**
 20 **the actual -- the appendix -- Appendix B, page B-46.**
 21 A. Yes.
 22 **Q. Is this the location of the summary of the**
 23 **sensitivity analysis?**
 24 A. Yes.
 25 **Q. And can you just briefly summarize the results of**

1 associated with those that --
 2 A. No.
 3 **Q. Okay. Have you heard anything in the opponent's**
 4 **testimony that you reviewed that causes you to question**
 5 **any of the conclusions or analyses in the parking impact**
 6 **analysis that you completed?**
 7 A. I'm sorry. Can you say that one more time?
 8 **Q. That's because I asked it terribly. Have you**
 9 **heard anything in the opponent -- in the appellant's**
 10 **testimony that causes you to question your analysis or**
 11 **your conclusions that are in the parking impact analysis**
 12 **in Appendix B in the corresponding chapter 4.4?**
 13 A. No.
 14 **Q. And do you believe you used reasonable and**
 15 **standard methods in your profession to analyze those**
 16 **parking impacts?**
 17 A. Yes.
 18 **Q. And do you believe the EIS adequately disclosed**
 19 **the impacts -- parking impacts to the proposal?**
 20 A. Yes.
 21 MR. KISIELIUS: Okay. I don't have any further
 22 questions for you.
 23 HEARING EXAMINER: Cross-examination.
 24 CROSS EXAMINATION
 25 BY MR. EUSTIS:

1 **the sensitivity analysis?**
 2 A. Yes. So based on the results of the economic
 3 analysis and, I believe, the anticipation that five --
 4 approximately 5,000 ADUs would potentially be produced
 5 over a five-year period -- or excuse me, a ten-year
 6 period, we looked at the potential for ADU production for
 7 each alternative, including the preferred alternative,
 8 within our study areas of the parking analysis as well as
 9 the City of a -- as the whole related to parking
 10 utilization.
 11 **Q. Okay. So let me ask you in general. In your**
 12 **experience and opinion, do you believe this approach was**
 13 **appropriate to inform a decision-maker of the potential**
 14 **parking impacts to the proposal?**
 15 A. Yes.
 16 **Q. Are you aware of any EISs or parking analyses**
 17 **more broadly that take a similar approach for parking**
 18 **impact analyses to the one you list in this EIS?**
 19 A. Can you ask the question again?
 20 **Q. Sure. Are you aware of any other parking**
 21 **analyses or EISs that use a similar approach to the one**
 22 **that we used here?**
 23 A. No.
 24 **Q. Okay. Is that because -- are you aware of any**
 25 **analyses of ADU construction and parking impacts**

1 **Q. Yes. Good morning.**
 2 A. Good morning.
 3 **Q. Ms. Cody, I see by your resume that you are a**
 4 **civil engineer?**
 5 A. Yes.
 6 **Q. Do you consider yourself to be a traffic**
 7 **engineer?**
 8 A. I am not a PTOE, which is a professional traffic
 9 operations engineer. I am not a licensed professional
 10 traffic operational engineer.
 11 **Q. Have you applied to become one?**
 12 A. I have staff that work for me that have
 13 professional traffic operations engineer certification.
 14 **Q. Okay. I believe you distinguish between traffic**
 15 **analysis that would be done for, like, a non-project**
 16 **action, such as the proposal at hand, versus analyses**
 17 **that would be done for a specific development proposal?**
 18 A. Are you specifically speaking about a parking
 19 analysis, not a traffic analysis?
 20 **Q. Okay. Parking analysis. Okay. So have -- have**
 21 **you ever prepared a parking analysis for a specific**
 22 **development -- development proposal, yourself?**
 23 A. No, but the staff that I manage and who
 24 contributed to this project did.
 25 **Q. So members of Tool do, but you have not?**

1 A. Correct.
 2 **Q. Okay.**
 3 A. But I have also managed other staff for -- I have
 4 managed other projects where traffic and parking analysis
 5 is part of the scope of work.
 6 **Q. All right. You distinguish between an**
 7 **observational method and the wheel method?**
 8 A. Yes.
 9 **Q. So you would agree, wouldn't you, that the wheel**
 10 **method involves actual linear measurements along a block**
 11 **face?**
 12 A. A wheel measurement -- yes.
 13 **Q. So in distinction or contradistinction from that,**
 14 **then, is the observational method more of a qualitative**
 15 **measure as opposed to an actual linear measurement of**
 16 **distance?**
 17 A. I would not characterize it as that. What we're
 18 characterizing as an observational method is that each
 19 block was -- each individual inch in each block was not
 20 measured. Certain parts of blocks, the measurement of
 21 the overall of the block face was taken using aerial
 22 photography or using (inaudible). There's a combination
 23 of things that would (inaudible) observation (inaudible)
 24 is my understanding.
 25 **Q. But you -- as I understand from your testimony,**

1 and some of the measured were also the same as
 2 Mr. Tilghman's.
 3 **Q. All right. But you said you'd have to refer back**
 4 **to the exhibits. I take it you're not referring to**
 5 **documents that have been marked as exhibits in this**
 6 **proceeding or listed as exhibits in this proceeding?**
 7 **What you're referring to is other documents that you may**
 8 **have, right?**
 9 A. Correct.
 10 **Q. Okay. And -- but as you testify here, you do not**
 11 **have -- you are not able to identify those blocks, those**
 12 **streets, those block faces where the measurement -- wheel**
 13 **measurements by IDAX would agree with Mr. Tilghman's**
 14 **wheel measurements?**
 15 A. I have some notes here that I have next to me
 16 that -- that have some instances where that is the case.
 17 **Q. Okay. And I take it these are notes that you**
 18 **have prepared for yourself based upon your conversations**
 19 **with IDAX?**
 20 A. Yes. And my actual -- I went out to some of the
 21 block faces myself.
 22 **Q. Okay. So I'm asking you about your experience,**
 23 **not -- not imported information from IDAX. So based upon**
 24 **your observations, I'm asking where your observations,**
 25 **apparently, of wheeled measurements would agree with**

1 **you do not have personal knowledge of how block faces**
 2 **were measured by IDAX?**
 3 A. I was not in the room or in the field with them
 4 when they did that, that is correct. And that is not
 5 typical for me to be in a room or in the -- in the field
 6 measurement when I have a vendor doing that data
 7 collection.
 8 **Q. So in your testimony, you indicate that some of**
 9 **the measurements taken by IDAX agreed with the**
 10 **measurements taken by Mr. Tilghman?**
 11 A. Could you specify which measurements I was
 12 speaking to?
 13 **Q. I don't think you were speaking to any**
 14 **measurements. In response to counsel's question to you,**
 15 **you were asked as to, I think, the results of the IDAX's**
 16 **wheeled samples, and I believe you testified that in some**
 17 **cases, they were the -- they agreed with, they were the**
 18 **same as Mr. Tilghman's, and in other cases, they were**
 19 **different. What I'm asking you is, in what instances**
 20 **were they the same? Do you know?**
 21 A. I would -- I would have to refer back to the
 22 exhibits. In some instances, I do know, because I
 23 remember them, but I don't remember all instances. And
 24 just to clarify, some of the observed -- observed, as
 25 we've been discussing, were the same as Mr. Tilghman's,

1 **Mr. Tilghman's?**
 2 A. Just to clarify, I did not -- I did not -- I did
 3 not personally wheel the streets for the purposes of this
 4 EIS study.
 5 **Q. Okay.**
 6 A. So I can't -- I can't verify if my observations
 7 were the same as Mr. Tilghman's, to be able to get to
 8 that level of detail.
 9 **Q. Okay. So then you said that you actually went**
 10 **out to these streets?**
 11 A. I went out to these streets just to -- just to --
 12 just to observe where they were, the characteristics of
 13 them, partly to respond to that -- questions about the
 14 perceived barriers.
 15 **Q. All right. So you didn't conduct measurements of**
 16 **your own?**
 17 A. I did not conduct measurements by myself in the
 18 field with the wheel --
 19 **Q. All right.**
 20 A. -- personally. But I have done wheel
 21 measurements --
 22 **Q. Before?**
 23 A. For other -- for other purposes. So I --
 24 **Q. In your professional life?**
 25 A. -- I've used the wheel. In my professional life

1 in Seattle.

2 **Q. Do you know how many block faces IDAX actually**

3 **measured? Actually --**

4 A. You mean in general?

5 **Q. No. You indicated that subsequent to the**

6 **preparation of the EIS, IDAX went out and they did wheel**

7 **measurements.**

8 A. Yes.

9 **Q. Do you know how many block faces they measured?**

10 A. Yes. So they did 13 measurements in the

11 northeast and 11 block face -- excuse me, 13 block faces

12 in the northeast, 11 block faces in the northwest.

13 So just to further clarify, eight of those in the

14 northeast were the block faces that Mr. Tilghman wheeled

15 and showed in the exhibit, and there were five additional

16 -- what I would call spot-checks. And in the northwest,

17 they looked at the six streets that Mr. Tilghman, shown

18 in his exhibits, and then five for additional spot-

19 checks.

20 **Q. Okay. And of the ones they sampled in the**

21 **northeast, how many block faces agreed with**

22 **Mr. Tilghman's measurements?**

23 A. One was exactly the same.

24 **Q. Just one?**

25 A. Yes.

1 supply, some blocks had less parking supply. One block

2 had exactly the same, of the eight blocks that were

3 measured by both Mr. Tilghman and IDAX.

4 **Q. Okay. Would it also be fair to say that based**

5 **upon the measurements, some blocks had more supply and**

6 **some blocks had less supply than the original numbers**

7 **reported in the EIS?**

8 A. Say that one more time, please.

9 **Q. Would it be fair -- so IDAX did an observational**

10 **study. IDAX would select blocks, went back and they did**

11 **a wheeled study. You indicated that some indicated more**

12 **supply/less supply than Mr. Tilghman reported.**

13 **Would it be also correct to say that some blocks**

14 **with wheel measurements had more supply or less supply**

15 **than reported in the EIS?**

16 A. Yes.

17 **Q. Thank you.**

18 A. That's only within the eight that we looked at.

19 **Q. Right. And then a similar question with the**

20 **northwest quadrant.**

21 A. Yes.

22 **Q. So in terms of the more supply/less supply than**

23 **Mr. Tilghman reported -- I apologize for that --**

24 A. Can you repeat the question?

25 **Q. Yes. So in the northwest quadrant, you indicated**

1 **Q. How -- so in terms of measurements, even in terms**

2 **of an element -- or a supply, what would be the margin of**

3 **error?**

4 A. I can't -- I don't have the numbers to accurately

5 answer that question.

6 **Q. Okay. And in the northwest, do you know how**

7 **many --**

8 A. Before we leave the northeast, some of them were

9 more and some of them were less than Mr. Tilghman's

10 measurements. So they were -- they were not all higher

11 or lower. There was just discrepancies on both sides,

12 from what I know.

13 **Q. By some more, less, more than what? Less than**

14 **what?**

15 A. It varied.

16 **Q. No, you -- more/less as a comparison. I don't**

17 **think it's clear, since, to some digress -- extent, we're**

18 **measuring negative space. It's not clear what -- to me,**

19 **at least, what you're referring to when you say "some are**

20 **more, some are less."**

21 A. Excuse me. Some blocks had, based on the wheel

22 measurements between the wheel measurements that IDAX

23 checked and the one -- the wheel measurements against

24 Mr. Tilghman's measured block faces, the results of the

25 wheeled measurements, some blocks had more parking

1 **that -- that IDAX, just for purposes of the record, is --**

2 **again, IDAX is either a trade name or an acronym. Could**

3 **you spell IDAX?**

4 A. Yes. I -- their full company name is IDAX Data

5 Solution. IDAX is I-D-A-X.

6 **Q. Okay.**

7 A. We just commonly refer to them as IDAX.

8 **Q. Okay. Very well. So they did wheeled**

9 **measurements in the northwest quadrant. I think you**

10 **indicated they did 11 blocks that Mr. Tilghman did, and**

11 **then five extra -- excuse me. Six blocks that**

12 **Mr. Tilghman did and five extra blocks.**

13 **In that area, did they all -- did their**

14 **measurements -- how -- how did their measurements**

15 **coincide with Mr. Tilghman's?**

16 A. Similar to the northeast study area, there were

17 some blocks that were more and some blocks that were

18 less.

19 **Q. Okay. By more, more parking supply, less parking**

20 **supply?**

21 A. Excuse me. Related to the parking supply along

22 those blocks. Some blocks have more parking supply and

23 some blocks have less parking supply identified.

24 **Q. Are you able to say how much more, how much less?**

25 A. As a percentage or as a number or as a range? I

1 don't have that collective representative calculation at
 2 this time for that.
 3 **Q. Okay. And as with the northeast quadrant, would**
 4 **it also be fair to say that the measurements taken -- the**
 5 **wheeled measurements taken by IDAX, in certain instances,**
 6 **they showed more supply; in certain instances, they**
 7 **showed less supply than reported in the EIS?**
 8 A. So in the five locations that were spot-checked,
 9 there was actually some where the wheeled measurements
 10 yield more supply than the observed -- the original
 11 observed parking supply.
 12 **Q. And there were some measurements where they**
 13 **showed less supply?**
 14 A. Yes. And some, they were the same.
 15 **Q. Okay. Are you able to identify the number of**
 16 **blocks in which the wheeled measurements showed less**
 17 **supply?**
 18 A. There's four.
 19 **Q. So it appears to be --**
 20 A. And --
 21 **Q. Go ahead.**
 22 A. And the reason that those blocks were chosen, one
 23 of them, as I think I mentioned, Division Street, had
 24 shown with a north-south block, it's a long block in the
 25 northwest study area, that Mr. Tilghman had applied a 73

1 **I think we would be entitled to see it.**
 2 MR. KISLIELIUS: I think all of your experts had
 3 their own notes that they brought with them as well. I
 4 think it's up to the examiner.
 5 HEARING EXAMINER: Do you have an objection to him
 6 looking at the spreadsheet?
 7 MR. KISLIELIUS: No.
 8 HEARING EXAMINER: All right.
 9 MR. EUSTIS: If I could. Thank you.
 10 MR. KISLIELIUS: I would ask, if Mr. Eustis is going
 11 to continue down this line of questioning, that she be
 12 allowed to refer to her notes while she's testifying if
 13 she needs them to respond to a question.
 14 HEARING EXAMINER: Absolutely.
 15 MR. KISLIELIUS: Okay.
 16 HEARING EXAMINER: Sure.
 17 BY MR. EUSTIS:
 18 **Q. So are you able to identify the relative margins**
 19 **of error that would apply to the observational approach**
 20 **versus the wheeled method of measurements?**
 21 A. Can you repeat the question?
 22 **Q. Yes. I'm asking if you would be able to identify**
 23 **the relative margins of error that would apply to the**
 24 **observational study -- or observational approach for**
 25 **measurements of parking supply versus the wheeled effort?**

1 percent adjustment factor to --
 2 **Q. I didn't ask about the adjustment factor. I just**
 3 **simply asked for the number of blocks.**
 4 A. I just want to tell you how we came to identify
 5 the number of blocks and why we chose the blocks that we
 6 chose for the purposes of the spot-check.
 7 **Q. Again, you're speaking from -- based upon what**
 8 **you have learned from IDAX, not from your specific**
 9 **knowledge as to how they went about measuring these**
 10 **distances?**
 11 A. No, I'm speaking about after observing the
 12 adjustment factor applied in Mr. Tilghman's exhibits of a
 13 73 percent factor. We asked IDAX to go out and measure
 14 the street because of that 73 percent, what he called a
 15 systematic for (inaudible) for his adjustment factor
 16 within the northwest study area.
 17 **Q. Okay. Very good.**
 18 A. And in that particular block that he applied a 73
 19 percent factor, we found that there were actually more
 20 parking -- there was one more parking stall identified
 21 than was observed.
 22 **Q. Okay. Okay. I -- I can't help but notice that**
 23 **it appears that you are looking at a spreadsheet and not**
 24 **just handwritten notes. Can we see the spreadsheet?**
 25 **This is the document from which she's testified.**

1 A. No. And partly because the study area is much
 2 larger than this small subset of block faces that we
 3 spot-checked for the purposes of this EIS. I believe
 4 there was 46,000 block faces within our study area.
 5 **Q. So you spoke of -- or you responded to**
 6 **Mr. Tilghman's testimony dealing with perceived barriers**
 7 **relating to, I guess, where one would be willing to park?**
 8 **Perceived barriers?**
 9 A. I don't believe that he was discussing perceived
 10 barriers unless relevant to where people are parking. I
 11 believe it's where relevant -- where people are willing
 12 to cross to park their car.
 13 **Q. Okay. Sorry for that.**
 14 A. That was my understanding.
 15 **Q. Fine. It looks like that. And the perceived**
 16 **barrier is not an actual barrier? There are crosswalks,**
 17 **traffic lights, things like that, in most cases?**
 18 A. In some locations along -- within the study area,
 19 some locations along those arterials that -- for the
 20 streets that are actually arterials within, that were
 21 identified as a perceived barrier, yes, there are various
 22 pedestrian -- specifically pedestrian crossings, and
 23 actually, in some cases, bicycle crossings.
 24 **Q. But we're talking about perceived barriers. So**
 25 **in terms of a -- the extent of a perceived barrier, does**

1 **the pedestrian much care about the formal classification**
2 **of the street?**

3 A. That is just in reference that classifications of
4 street are based on street widths, speeds --

5 **Q. Sure.**

6 A. -- number of lanes. So you -- not all arterials
7 are the same in the City of Seattle. So I was just
8 clarifying that, within the study areas, there are
9 different classifications of arterials. And so a
10 perceived barrier may be different or they could be
11 perceived differently based on their classification.

12 **Q. Okay.**

13 A. And -- and, again, I do not agree with the
14 perceived barrier, specifically for the northeast, since
15 those are not -- he -- he -- he identified perceived
16 barriers as arterials, and the streets that he identified
17 as perceived barriers, in the northeast, are not
18 arterials.

19 **Q. Okay. But even if they are not arterial, a**
20 **pedestrian's perception of -- of a barrier to crossing**
21 **the street to find parking, you would agree, wouldn't**
22 **you, based upon pedestrians's impression as to the busy-**
23 **ness of the street?**

24 A. Correct. However, in the northeast, those
25 streets look exactly like the other streets within the

1 **if it discusses all alternatives, that's fine.**

2 A. Okay. So Exhibit B-41 shows the -- the existing
3 utilization rates in the first column. It shows the
4 existing utilization rates for each study area and then
5 in total. The -- it -- but it doesn't -- I don't think
6 it asks exactly what you're --

7 **Q. I'm looking for the percentage.**

8 A. -- exactly what you're stating. Right. So it
9 doesn't do that. What, instead, it identifies is the
10 vehicles needed within the study areas for 85 percent
11 utilization and the subsequent ADUs needed for 85 percent
12 utilization, specific to the study area, assuming that
13 the maximum ADU development has occurred over a ten-year
14 period in those study areas.

15 **Q. Okay. So, then, to reach 85 percent, then, for**
16 **the preferred alternative, would it then be your**
17 **testimony that it would be necessary to have 96**
18 **additional ADUs in that area, is that what -- is that**
19 **what this table says?**

20 A. You're specifically speaking to the northwest
21 area?

22 **Q. Correct.**

23 A. Yes, so the -- this is identifying that there
24 would be 96 ADUs over a ten-year period that would
25 then -- at current parking utilization rates, assuming

1 study area that we did not identify as a perceived
2 barrier. They have the same physical characteristics.
3 They do not have a yellow center line. They do not have
4 stop signs on either side. They are a non-arterial local
5 street in the northeast that he identified as a -- as a
6 perceived barrier. And specifically 92nd and 85th,
7 between Fifth Avenue and Roosevelt Way.

8 **Q. So in -- I'm looking at your Exhibit B-41, which**
9 **is, obviously, in Appendix B, at page B-46.**

10 A. Yes.

11 **Q. Given your greater familiarity, can you point me**
12 **to the exhibit that shows percent utilization in the**
13 **northwest quadrant, given the impacts of the preferred**
14 **alternative? I'm not -- I apologize. I -- I recall**
15 **seeing it, but I'd rather not spend my time searching for**
16 **it myself, so --**

17 A. Sir --

18 **Q. -- for an engineer of your greater familiarity.**

19 A. -- could you just ask the question?

20 **Q. Yes, the exhibit --**

21 A. Just tell me what you think the exhibit to be,
22 the exhibit to show --

23 **Q. Yes, the -- the exhibit showing the projected**
24 **utilization of -- of on-street parking in the northwest**
25 **quadrant of -- under the preferred alternative. I mean,**

1 there's no change in parking utilization over ten years,
2 would have -- would need 96 units to be produced, and all
3 those cars would park on the street.

4 **Q. Okay. As I recall from the parking study, the**
5 **assumption was that all units would be rental units. All**
6 **ADU units would be rental units?**

7 A. That is correct, that ADU -- that -- yes, we --
8 we had an assumption that even if the owner chose to
9 occupy the ADU, that they would take their ownership
10 level of cars with them.

11 **Q. Sure.**

12 A. So that two -- the maximum was that two units
13 would have -- would -- the two units would be occupied by
14 renters. That is based on our reference to (inaudible)
15 ADU study about characteristics of ADU occupants.

16 **Q. And as I recall, the parking study used a range**
17 **of 1.03 vehicles per ADU to 1.29, depending upon which**
18 **quadrant?**

19 A. Depending on the study area, correct.

20 **Q. The study area.**

21 A. Its specific use, and it's data specific to the
22 study area.

23 **Q. Again, given your greater familiarity, do you**
24 **recall which table shows that range, the 1.03 to 1.29?**

25 A. Exhibit B-19 on B-24, page B-24.

1 MR. KISIELIUS: Sorry, can you repeat that page
 2 reference?
 3 A. Sorry.
 4 MR. KISIELIUS: I didn't hear.
 5 A. Exhibit B-19 on page B-24.
 6 MR. KISIELIUS: Thank you. Sorry for interrupting.
 7 BY MR. EUSTIS:
 8 **Q. I'm getting there. So just for clarification,**
 9 **the estimated number of vehicles per ADU appears on the**
 10 **last row of Exhibit B-19?**
 11 A. Correct. It is identified by Seattle as a whole,
 12 and then the different study areas that were used for the
 13 parking analysis.
 14 **Q. And this would be the estimated number of**
 15 **vehicles for -- per ADU for rental occupancy, correct?**
 16 A. Correct. That's what we understand to be the
 17 typical characteristics of ADU occupants.
 18 **Q. Okay. Would -- would you happen -- in the City**
 19 **of Seattle for these four study areas, would you happen**
 20 **to have the estimated number of vehicles per units that**
 21 **are occupied by the owners of the units, as opposed to**
 22 **the renters?**
 23 A. I do not have that exact number in -- in front of
 24 me. My recollection is that it is -- I just don't have
 25 that actually in front of me, so I don't want to

1 -- together with owner occupancy of all potential free
 2 units that could be created on a single family lot?
 3 A. Not exactly how you described that. For purposes
 4 of the study, based on the characteristics of what we
 5 knew to be statistically valid information about ADU
 6 occupants in a similar sized city, we understood those
 7 characteristics to be for renters.
 8 For the purposes of a parking analysis, the --
 9 the difference between if it's an owner occupied and a
 10 renter occupied is a small -- for the purpose of a car.
 11 The -- the -- the parking generation is typically based
 12 more on the size of the unit. And what we know, based on
 13 the proposed alternatives -- but my understanding of
 14 those alternatives is there's -- the additional ADUs
 15 would -- would have a maximum square footage requirement.
 16 **Q. Okay.**
 17 A. That would -- that would tend to be smaller than
 18 other owner occupied -- typical owner occupied units in
 19 single family homes.
 20 **Q. But in your collection of data, I gather, you did**
 21 **not collect data for, quote-unquote, accessory dwelling**
 22 **units that would be sold off as separate condominium**
 23 **units, data in terms of parking detail?**
 24 A. To my knowledge, that specific -- very, very
 25 specific data set that you're referring to, to my

1 speculate.
 2 **Q. So you -- I'm not asking you to speculate, but to**
 3 **draw upon your recollection.**
 4 A. I believe it's about 1.6.
 5 **Q. Vehicles per owner occupant?**
 6 A. I believe, yes. Again, I don't have that exactly
 7 in front of me to (inaudible) from all of my census data.
 8 **Q. Is this owner occupant of a one bedroom single**
 9 **family house?**
 10 A. It does not differentiate -- I do not have those
 11 numbers. I do not. That -- I believe that is an overall
 12 average.
 13 **Q. For owner occupants of housing?**
 14 A. In Seattle specifically, yes. But again, I don't
 15 have that exact number in front of me.
 16 **Q. All right. So if you've -- if you've been**
 17 **present in this hearing, and -- and I think you have**
 18 **heard a fair amount of the testimony, you know that there**
 19 **has been an issue dealing with so-called**
 20 **condominiumization of accessory dwelling units.**
 21 **Okay. I take it, since the assumption of the --**
 22 **of Appendix B, was that all of accessory dwelling units**
 23 **would be renter occupied, you did not attempt to do a --**
 24 **to do -- to forecast impacts that were based -- based**
 25 **upon the owner occupancy of accessory dwelling units in a**

1 understanding of an accessory dwelling unit that is --
 2 that is owner occupied and classified as a condo, to my
 3 knowledge, that does not exist.
 4 **Q. Okay. But there would be data or -- let me ask**
 5 **you. Would there -- in the City of Seattle, is there**
 6 **data for the -- that rates of parking ownership for**
 7 **condominium owners, I guess, outside of the downtown?**
 8 A. My understanding is that American Community
 9 Survey does not drill down to ownership by housing unit
 10 type. So my understanding is that information is not
 11 available. It only breaks down owner versus renter. It
 12 does not identify unit type, which is why we looked at
 13 the Portland State University characteristics of
 14 occupants of ADUs within Portland.
 15 **Q. And the Portland study was based upon the**
 16 **Portland code, was it not?**
 17 A. The Portland -- the Portland study -- what do you
 18 mean, based on? The Portland study was a survey of -- of
 19 ADU owners and occupants in the City of Portland.
 20 **Q. All right. And it -- would it be fair to say**
 21 **that the development of the accessory dwelling units**
 22 **would -- in Portland would be governed by the City of**
 23 **Portland code, their restrictions on ADU development?**
 24 A. That's outside my area of expertise.
 25 **Q. All right. And so in Portland, is -- in terms of**

1 maximum number of unrelated adults, do you recall if the
2 number is six?

3 MR. KISLIELIUS: Objection, she just stated that that
4 -- the question he's pursuing is outside of her area of
5 expertise.

6 HEARING EXAMINER: Sustained.

7 BY MR. EUSTIS:

8 Q. Okay. So in doing the parking study in the City
9 of Seattle, as you may know, the preferred alternative
10 would allow the number of unrelated adults to be
11 increased from 8 to 12. Is -- is this a change that you
12 factored into your analysis as to parking impacts?

13 A. Again, parking analysis typically accounts for
14 the size of the unit. It is not common practice to -- in
15 parking analysis, to account for -- for example, for an
16 apartment building, you typically don't account for the
17 maximum occupancy allowed within the given jurisdiction
18 in which that apartment is being constructed.

19 Q. Okay.

20 A. Or a -- excuse me. Or a condominium. You go
21 with the parking generation based on findings within that
22 location where you use the (inaudible) transportation
23 engineers, the parking generation guidebook.

24 Q. Right. And that -- at least to my way of
25 thinking, that would be a reasonable approach, if the

1 Q. Okay. Seattle census. But those are under
2 current conditions, existing conditions? This is a range
3 based upon current conditions, right?

4 A. Current conditions is -- is not clear to me.
5 What this represents is that this is the number of
6 vehicles that were identified in the -- from the American
7 Community Survey as part of the US Census. So it is --
8 it is a snapshot of vehicle ownership during that time
9 period within the study areas in the City of Seattle.

10 Q. Okay. So it reflects current conditions, in
11 terms of vehicle ownership, per -- per unit?

12 A. Per household, yes.

13 Q. Okay. So that -- that figure, it is not based --
14 does not purport to take into consideration a change in
15 the maximum occupancy from 8 to 12, does it?

16 A. This is just stating the number of -- estimated
17 number of vehicles per ADU --

18 Q. I understand.

19 A. -- based on renters as a -- characteristics of
20 rent -- car ownership for renters in Seattle currently.

21 Q. Okay. But those figures do not purport to
22 represent changes in vehicle ownership, per ADU or per
23 single family lot, based upon the increase in occupancy
24 from 8 to 12, do they?

25 A. No, because they're just a snapshot of what is

1 number of unrelated adults is not affected by the
2 legislation.

3 The proposed -- the preferred alternative would
4 increase that number by 15 percent. And my question is,
5 is that a change, from 8 to 12 unrelated adults, a change
6 that you factored into on your parking analysis?

7 A. The -- the parking analysis that we did accounted
8 -- part of our sensitivity analysis was to look at the
9 current size of rental units, and we identified that
10 there are some rental units where there -- have more
11 vehicle ownerships than the --

12 Q. Sure.

13 A. -- than the standard. We, for purposes of the
14 EIS and for purposes of the -- the City -- or excuse me,
15 the study area-wide, we did not account directly for that
16 -- that change in maximum occupancy, because that is not
17 a common practice in parking analysis trip generation.

18 Q. Okay. So the -- the vehicle --

19 A. But -- but --

20 Q. I'm going back to Exhibit B-19.

21 A. Okay.

22 Q. So the vehicle ownership estimates that are used,
23 the range of 1.03 to 1.29, this -- these numbers come
24 from the Portland study?

25 A. No. Those come from the census, Seattle census.

1 current now.

2 Q. Okay.

3 A. So it would just be -- that wasn't the point of
4 this --

5 Q. I understand.

6 A. -- this exhibit.

7 Q. So you are aware, aren't you, that currently in
8 the City of Seattle, an accessory dwelling unit is
9 limited to 800 square feet, and that includes the area of
10 the garage. Are you aware of that?

11 A. I don't know the exact details on the code.

12 Q. All right. Are you aware that the code would
13 allow an increase in the area of the accessory dwelling
14 unit to 1,000 square feet, exclusive of the garage?

15 A. I am aware of that, because we took that into
16 account when we were looking at the -- if the Portland
17 ADU study was representative, the size of the ADUs in
18 Portland were representative of the size of the ADUs that
19 were proposed as part of our EIS study.

20 Q. Okay. And going back to Exhibit B-19, this
21 range, 1.03 to 1.29, I believe you testified that this is
22 a snapshot based upon census data --

23 A. Correct.

24 Q. -- right? But that snapshot does not assume a --
25 what, 25 percent increase, 800 square feet to a thousand

1 **square feet, in the size of ADUs, does it?**
 2 A. Could you repeat the question? Because --
 3 **Q. Yeah. Okay. So --**
 4 A. I mean, for my -- remember, you were asking --
 5 you said it increased by -- it was a 200 foot, square
 6 foot difference.
 7 **Q. Yeah, 200 square feet over 800. 25 percent. My**
 8 **math is correct, hopefully.**
 9 A. So repeat the question. What are you --
 10 **Q. Sure.**
 11 A. What are you asking?
 12 **Q. Sure. I believe you testified that this range,**
 13 **1.03 to 1.29, is a snapshot in time based upon census**
 14 **data, right?**
 15 A. Yes.
 16 **Q. Okay. And these -- and these are probably**
 17 **averages, but they're estimated number of vehicles per**
 18 **ADU, existing ADU, correct? It's a snapshot in time?**
 19 A. Yes.
 20 **Q. Okay. So my question is, you would agree,**
 21 **wouldn't you, that this snapshot in time is not**
 22 **reflective of a change in legislation that would allow a**
 23 **20 percent increase in the size of ADUs, right?**
 24 A. I don't think I can definitively answer that
 25 question.

1 time period, the number of bedrooms of rental units. So
 2 while it's not directly addressing your question, it does
 3 acknowledge a size. One could assume that with the
 4 additional size of ADU allowed, that there could be
 5 additional bedrooms provided.
 6 So what this snapshot on B -- Exhibit B-18 shows
 7 is the profile for the unit -- excuse me, for vehicle
 8 ownership based on the number of bedrooms within a given
 9 rental unit in the City of Seattle as a whole and within
 10 our individual study areas, up so five plus bedrooms.
 11 **Q. Okay.**
 12 A. So while we did not get to the specifics of what
 13 you're talking about, there was acknowledgment of a
 14 variety of unit sizes beyond what one could assume the
 15 number of bedrooms are in the current 800 square foot
 16 (inaudible).
 17 **Q. Okay.**
 18 A. Again, you're getting outside of my area of
 19 expertise.
 20 **Q. Okay.**
 21 A. But from the relationship of a parking study and
 22 unit size, we are -- we looked at an estimate of number
 23 of --
 24 **Q. So --**
 25 A. -- (inaudible) for ADU.

1 **Q. Okay.**
 2 A. But what I would like to point out is --
 3 **Q. My -- my question -- ma'am, let me try to ask it**
 4 **another way. So if this is a snapshot in time -- I take**
 5 **it it's based on the 2010 census data?**
 6 A. It's -- it's -- under B-24, it's 2012 to 2016.
 7 **Q. Okay. 2012 to 2016.**
 8 A. And we wrote this in 2017.
 9 **Q. Very well. But if this range is a snapshot in**
 10 **time of conditions that existed in 2012 to 2016, and the**
 11 **increase in the allowable size of an accessory dwelling**
 12 **unit has not gone into effect, then this range cannot be**
 13 **reflective of an increase in size in accessory dwelling**
 14 **units, can it?**
 15 A. Again, I can't definitively answer that, because
 16 the way that we do parking analysis and one of the ways
 17 that we were looking at this is that the -- the -- you
 18 generally look at the size of the unit, and that --
 19 **Q. Right.**
 20 A. -- was small.
 21 **Q. That's why I'm focusing on --**
 22 A. And what I'd like -- what I'd --
 23 **Q. -- size.**
 24 A. What I'd like to point out, though, is that on
 25 Exhibit B-18, on page B-23, we did look at, in that same

1 **Q. Okay. So referred to Exhibit B-18 on page B-23,**
 2 **and it shows number of bedrooms, that there are**
 3 **percentages given.**
 4 **And so what do these percentages show? "Ratio of**
 5 **vehicle ownership based upon number of bedrooms." I**
 6 **mean, for instance, for Seattle renters, I see, for**
 7 **studio, 15.6, and then for one bedroom, 40 percent, and**
 8 **then for two bedrooms, it falls to 29. What are these --**
 9 **is this vehicle -- what's -- what is the percentage?**
 10 **What are you comparing in the percentage?**
 11 A. So my understanding is that -- so --
 12 **Q. You speak in terms of your understanding. Did**
 13 **you prepare this table?**
 14 A. I did not personally put these numbers into this
 15 table. I reviewed it as part of a QA/QC, and I am
 16 familiar with this census data table that this -- is
 17 prepared. I personally did not enter these numbers into
 18 this table.
 19 **Q. All right. So my question --**
 20 A. I did a QA/QC.
 21 **Q. My question was, you know, just -- I don't want**
 22 **-- believe me, I don't want to go through every column**
 23 **and every row in this table. I've just chosen Seattle**
 24 **renters. And then we have six -- we have different**
 25 **conditions, from studio to five plus bedrooms. And I'm**

1 simply asking you, a percentage is a comparison. It's a
2 measure of one thing versus another. And what is the
3 percentage reflective of?

4 A. So using the same census data time frame as the
5 table in B-19, so the same -- 2012 to 2016, the same data
6 set, I'm going to just take northeast, for example. Of
7 the total number of rental households within,
8 specifically, the northeast study area, that is the
9 distribution of bedrooms within those rental
10 properties --

11 Q. Oh, I see.

12 A. -- for the northeast study area. So --

13 Q. Okay.

14 A. -- what we wanted to show was that because we
15 were looking in predominantly single family zones, the
16 rental -- current rental would be the -- the sizes of the
17 units, we were acknowledging the size of the units may be
18 different in single family zones versus other zones or
19 the average in the City of Seattle.

20 And this chart shows that we took that into
21 account and that we have a representative distribution
22 between all of the four study areas in which we looked at
23 the parking analysis.

24 Then from this, we then said -- we said, based on
25 that, we are acknowledging that more bedrooms could

1 characteristics as occupants of ADUs in Portland, that
2 they would also have lower vehicle ownership ratios than
3 the average renter in Seattle.

4 Q. All right. So, essentially, what you've done is
5 to take the data dealing with vehicle ownership in
6 Portland to make the assumption that that would also
7 apply to vehicle ownership by ADU occupants in Seattle?

8 A. Yes. Because as I mentioned before, we did not
9 -- that's -- we did not have any other data that was
10 specific to ADU for occupants.

11 Q. Okay. So --

12 A. And that's a statistically valid survey report.

13 Q. Okay. You're just accepting it as a
14 statistically valid -- you didn't do the statistics
15 yourself?

16 A. It's just stated in the -- there's a margin of
17 error calculation shown for Portland. There's -- there's
18 -- it is stated in the ADU.

19 Q. In the report itself?

20 A. In the report itself.

21 Q. All right. So my question dealt with, you know,
22 the use of -- for example, for northeast renters, the use
23 of the .944 ratio. And I gather -- I'm looking at B-19
24 for northeast renters, you have average number of
25 vehicles per household in the northeast neighborhood for

1 contribute to a higher number of vehicles, which is why
2 we did not just use one number for the City as a whole
3 for the purposes of this EIS -- excuse me, for the study
4 area for the purposes of this EIS. We used an individual
5 vehicle ownership estimate for ADU residents within each
6 of our parking analysis. It was effectively a
7 sensitivity analysis using available -- recent available
8 data.

9 Q. So, again, these are all renter households,
10 correct, reflected in Exhibit B-18?

11 Okay. So you focused on the northeast renters,
12 and you have an adjusted ratio of vehicle ownership. So
13 how -- how does that adjusted ratio, then, relate to the
14 incidence of vehicle ownership shown in the next table?

15 And again, in the next table, B-19, the next
16 page, you have an estimated number of 1.15 for northeast.

17 A. Yes. So again, based on the characteristics of
18 the Portland study, the -- the Portland study identified
19 that, again, predominantly ADU occupants were renters,
20 and predominantly those renters had less cars than other
21 rental-occupied units in Portland.

22 And so the -- using that same logic, we -- based
23 on the characteristics -- the assumption that the
24 characteristics of the occupants of the -- the potential
25 occupants of ADUs in Seattle would have the same

1 renters of 1.82. Is that what the third line -- third
2 row from the bottom shows?

3 A. Yes.

4 Q. And so then you're -- you're deriving the .94
5 figure from the Portland study, you're multiplying it,
6 then you get this figure of 1.15 for the northeast study
7 area? That's generally correct? That's how --

8 A. The 1.15 is the estimated number of vehicles per
9 ADU.

10 Q. Yeah. And that's the product you get when you
11 multiply 1.12 by the factor of .94, correct? Is that --
12 is that how that's derived?

13 A. Yes. Yes, using equation 3 in the EIS.

14 HEARING EXAMINER: We need to take a break here
15 pretty soon. Is this a decent time for a break, or do
16 you have -- are you almost done, or --

17 MR. EUSTIS: At your suggestion, it's always a decent
18 time for a break. Yes. That's fine.

19 HEARING EXAMINER: Okay.

20 MR. EUSTIS: There's no better, no worse.

21 HEARING EXAMINER: All right. So it is now almost
22 10:40. We will break until 10:55.

23 A. May I have my notes back?

24 HEARING EXAMINER: Yes.

25 MR. EUSTIS: So could we --

1 HEARING EXAMINER: We're off the record.
 2 (Recess taken.)
 3 HEARING EXAMINER: We're back on the record. And you may
 4 be seated.
 5 I believe you're still up, Mr. Eustis.
 6 UNIDENTIFIED SPEAKER: Thank you.
 7 HEARING EXAMINER: Oh, I was saying to Mr. Eustis.
 8 UNIDENTIFIED SPEAKER: I'm sorry. I misheard you. I
 9 apologize.
 10 UNIDENTIFIED SPEAKER: Is the microphone still okay?
 11 HEARING EXAMINER: He's the expert. Yeah.
 12 **Q. (By Mr. Eustis) Ms. Cody, I -- during the break, I had an**
 13 **opportunity to look more closely at Exhibit B-82. What --**
 14 **and I've also taken a look at equation 3. So I understand**
 15 **conceptually what's going on with equation 3, and I think**
 16 **you testified to this that you're making an adjustment for**
 17 **vehicle ownership based upon the actual pattern of vehicle**
 18 **ownership in Portland, which is the data set where we have**
 19 **actual data relating to vehicle ownership per accessory**
 20 **dwelling.**
 21 A. Correct.
 22 **Q. Okay. Conceptually. There -- what I don't understand when**
 23 **we go through Exhibit B-18 to B-19 -- again, for ease of**
 24 **access, we're dealing with pages B-23 and B-24.**
 25 A. Understood.

1 like based on flipping between page B-23 and B-24, that
 2 those numbers were copied and that is not correct, the
 3 estimated number of vehicles per ADU.
 4 **Q. Okay. I also had an opportunity to correct -- to check math**
 5 **during the break. And I believe I asked you if the**
 6 **estimated number of vehicles per ADU -- and I referenced**
 7 **northeast -- of 1.15 happened to be the product of the**
 8 **average number of vehicles per household of 1.82 in**
 9 **northeast multiplied by the adjustment ratio. I believe you**
 10 **testified as it was?**
 11 A. I said if the numbers used in equation 3, the variables used
 12 in equation 3 -- excuse me. Using equation 3, that we use
 13 that adjusted ratio.
 14 **Q. All right.**
 15 A. But obviously, you're pointing out the math that 1.82 and
 16 .94 does not -- and in my testimony, I paused and looked at
 17 that (inaudible) to see -- I don't have a calculator but
 18 that's not .944 of that number.
 19 **Q. It would be closer to 1.7?**
 20 A. Yes. But the average number of vehicles per household, I --
 21 that is not -- I don't have a calculator in front of me. I
 22 don't know those exact numbers.
 23 **Q. I understand the adjusted ratio would come up, but I don't**
 24 **understand the number to which it is applied. The 1.82 is**
 25 **really the average number of bedrooms. What is the number**

1 **Q. Just choosing the northeast neighborhood, B-18 we have a**
 2 **figure of 1.82, which is the average number of bedrooms per**
 3 **household. Okay. And then we have similar figures, you**
 4 **know, for northwest, 1.86; southeast, 1.67; southwest, 1.72.**
 5 **Okay.**
 6 **Then we go to the next exhibit, and those very figures:**
 7 **Northeast, 1.82; northwest, 1.86; southeast 1.67; southwest,**
 8 **1.72, they become different figures, and they're identified**
 9 **not as the average number of bedrooms but the average number**
 10 **of vehicles per household.**
 11 **So my question is: You have the same figures, how -- in**
 12 **B-19 with the average number of bedrooms, and then those**
 13 **same figures become the average number of vehicles per**
 14 **household on the next table. Is that an error in the table?**
 15 A. As I testified before the break, I did not -- I was not
 16 personally responsible for entering the numbers into this
 17 table.
 18 What I can tell you is based on the calculations that the
 19 staff at the Toole Design Group did, that the estimated
 20 number of vehicles I -- I would agree with you that there
 21 seems to be a discrepancy; it appears that those numbers are
 22 the same. But the bottom line -- the estimated number of
 23 vehicles per ADU, those numbers are consistent with the
 24 analysis that Toole Design put forward.
 25 I can't speak exactly to what happened, but it does look

1 **that this factor is applied to? Does it exist in these**
 2 **tables?**
 3 A. You would have to -- not as a standalone number. The
 4 percentages -- we'd have to do the math between the
 5 percentages of the renters and the number of vehicles and
 6 come up with the average.
 7 **Q. The math --**
 8 A. I just don't have a calculator. So I'm going to have to
 9 say --
 10 **Q. The math between the percentage of vehicles and the**
 11 **percentage of --**
 12 A. That average in theory should be calculated by multiplying
 13 the number of vehicles by the percentage of residents within
 14 the area that own that number of vehicles. Just to get the
 15 average.
 16 **Q. Okay. But that's not reflected on this table?**
 17 A. It appears that that number is incorrect in this table.
 18 The -- it appears that the numbers -- that it was a copying
 19 error. Preparation of the EIS tables that -- the table were
 20 formatted -- taken from Excel and formatted into -- my
 21 understanding is the tables were formatted from Excel and
 22 put into this format for consistency and ease of the reader.
 23 But the underlying number -- my testimony is still
 24 consistent that the estimated number of vehicles per ADU is
 25 correct based on what the calculation should be, based on

1 the percentages that are shown in the first five lines --
 2 six lines of that table.
 3 **Q. Okay. So given that the .94 is not applied to the correct**
 4 **number in the case of northeast 122, are you able --**
 5 A. Yeah, I don't believe --
 6 **Q. -- to go through the -- for northeast renters, are you able**
 7 **to go through the math that shows on estimated number of**
 8 **vehicles per ADU at 1.15?**
 9 A. I don't -- not in my head at this time. I could do it with
 10 a calculator or an Excel spreadsheet. But again, I did not
 11 enter the numbers, but I -- it appears to me that the table
 12 contains the numbers that showed the average number of
 13 bedrooms per household, not the average number of vehicles
 14 per household.
 15 **Q. Okay. That's fine. Generally, the way it goes on**
 16 **cross-examination, I'm entitled to ask the questions and --**
 17 A. I just can't multiply --
 18 **Q. -- you're limited to the --**
 19 A. -- 48.8 percent plus -- I can't do that sitting on the stand
 20 without --
 21 **Q. That's fine.**
 22 A. -- a calculator.
 23 **Q. That's fine. If Mr. Kisielius wants you to go through that**
 24 **exercise, he's entitled to ask. That's just the way the**
 25 **system works.**

1 A. That was not the only reason. I stated that there were some
 2 locations within some of the closer-in -- I think is what
 3 you just said -- areas. They were -- had portions of those
 4 neighborhoods that were part of the MHA study, portions of
 5 those areas have urban villages in them and portions of
 6 those areas have residential parking zones which we viewed
 7 as a restricted parking for the purposes of the parking
 8 study.
 9 **Q. Okay. So by --**
 10 A. I'm sorry; one other thing. Many of the central-in
 11 neighborhoods also have -- we wanted to get representation
 12 of some blocks that did not -- that were not improved
 13 because there is a -- I don't recall the percentage, but
 14 there is a percentage of the study area of the EIS that does
 15 not have improved streets.
 16 **Q. Sure. And for that reason, I take it, the northeast**
 17 **neighborhood was chosen?**
 18 A. Correct.
 19 **Q. All right. So when I speak of closer-in neighborhoods, what**
 20 **I'm speaking of are the neighborhoods of Fremont,**
 21 **Wallingford, Ravenna, Montlake, Madison Park, Madrona. Is**
 22 **it -- I'll leave out Capitol Hill because of -- urban**
 23 **village because of mix of multifamily, but certainly north**
 24 **Capitol Hill and Queen Anne, Magnolia, et cetera. By**
 25 **chance, do you live in the city of Seattle?**

1 **Mr. Kisielius asked you questions about how these four**
 2 **study areas were selected. Who selected the four study**
 3 **areas?**
 4 A. As I testified, the Seattle Department of Transportation had
 5 parking studies that -- had results of parking studies that
 6 were in the southwest and southeast --
 7 **Q. I understand.**
 8 A. -- (inaudible) locations that we had identified. We
 9 identified where else should we find representative study
 10 areas. And so I mentioned we were looking for a variety of
 11 things. Would you like me to restate what those are?
 12 **Q. Sure.**
 13 A. So we were looking at the presence of sidewalks, the range
 14 of parcel sizes, representative demographics, access to
 15 transit, presence of valleys, if the street was improved or
 16 not. I think that's a comprehensive list of what I
 17 testified to earlier. And, oh, sorry; we also wanted there
 18 to be geographic representation. We didn't think it could
 19 be consistent to do, for example, another area in the
 20 southeast or southwest. We wanted to show some distribution
 21 in the city to take into account all of those factors.
 22 **Q. All right. And I recall a response to a question as to why**
 23 **closer-in neighborhoods were not considered, and you**
 24 **indicated that, you know, many of those closer-in**
 25 **neighborhoods have residential parking zones, RPZs.**

1 A. I do.
 2 **Q. Okay.**
 3 A. I was born here.
 4 **Q. So you're very well familiar with these neighborhoods?**
 5 **And would you agree that each one of those neighborhoods**
 6 **has its own particular characteristics?**
 7 A. Related to the parking study? They have similar
 8 characteristics on their curb space as the areas that we
 9 chose for our purpose.
 10 **Q. Okay. But in terms of age of housing, there are differences**
 11 **among those neighborhoods?**
 12 A. I can't speak to that. That's outside of my area of
 13 expertise. I solely was looking at curb space related to
 14 the parking analysis.
 15 **Q. All right. So in terms of selecting closer-in**
 16 **residential -- and here I'm referring to single family**
 17 **neighborhoods -- it would have been possible to select**
 18 **actual neighborhoods that did not -- in actual block sense**
 19 **that did not include urban villages; is that -- that would**
 20 **have been possible, right?**
 21 A. Off the top of my head, I can't speak to how -- if I
 22 could -- if we could have selected the number of block bases
 23 in a contiguous area that were not in an urban village.
 24 **Q. Okay. And among those neighborhoods, in your opinion, would**
 25 **it have been possible to select neighborhoods that were not**

1 covered by the MHA -- MHA dealt mostly with urban centers,
 2 urban villages, multifamily (inaudible)?
 3 A. It is possible. Again, I do not have a map in front of me
 4 to fully be able to answer that with the exact number within
 5 our city area -- the contiguous area.
 6 **Q. Okay. And it would have been possible to select single**
 7 **family -- closer-in single family residential neighborhoods**
 8 **that did not have residential parking zones? One could**
 9 **select for that?**
 10 A. Potentially. Again, I don't have -- I can't definitively
 11 say that since I don't have -- I can't -- I don't have a map
 12 right in front of me right now to --
 13 **Q. Right.**
 14 A. -- to identify that.
 15 **Q. So I -- I take it -- who did you happen to work with within**
 16 **the city preparing Appendix D?**
 17 A. Would you like individual names or the departments --
 18 **Q. Yeah.**
 19 A. -- that we worked with.
 20 **Q. The individual names.**
 21 A. So for the purposes of the parking analysis in selecting the
 22 study areas is what you're specifically asking about?
 23 **Q. Yes.**
 24 A. The study areas? So there's going to be some people who I'm
 25 not going to remember their exact names. But from the

1 characteristics of the demographics, characteristics of the
 2 economic analysis study, and geographic distribution -- this
 3 is a -- this study area is effectively city wide, and so we
 4 wanted to make sure we had -- also had geographic
 5 distribution, so that lended itself to four quadrants. That
 6 we discussed doing other things but those areas were not
 7 more or less based on the factors that (inaudible)
 8 representative, based on the discussion of the group.
 9 **Q. I understand that because I read this document.**
 10 **But my question was: In this multidisciplinary approach**
 11 **either in addition to or instead of the four study areas,**
 12 **was consideration given to considering the closer-in single**
 13 **family neighbors like the ones, you know, I listed?**
 14 A. Based on the scope and the -- the scope and fee that was
 15 allocated for the parking analysis, we did the two
 16 additional analyses and we wanted to get geographic
 17 distribution to the north side of the city of Seattle. And
 18 if we had focused those efforts on the central part, we
 19 would have missed out on the geographic distribution of the
 20 north side of Seattle.
 21 So we did not -- we did not, obviously, for the purposes
 22 of this study, do additional analysis within the areas that
 23 you're talking about.
 24 **Q. Right.**
 25 A. What you're classifying as center-in neighborhoods.

1 Seattle Department of Transportation, we worked specifically
 2 with the parking team, Mary Katherine Snyder, Jonathan
 3 Williams and I can't remember Becky's last name off the top
 4 of my head. We worked with Aly Pennucci, Nick Welch, Gordon
 5 Clowers. We worked with -- we also coordinated with the
 6 economic analysis team, Morgan Shook, Kate MacFarlane.
 7 There was -- I could continue on. These are the people that
 8 we met with multiple times to confirm the parking studies
 9 for the purposes of the EIS.
 10 **Q. Okay.**
 11 A. It was a very multidisciplinary approach. We did not go out
 12 in isolation and identify the parking areas without making
 13 considerations to the demographics and (inaudible).
 14 **Q. Okay. In this --**
 15 A. In addition to the curb space that I spoke to earlier.
 16 **Q. Okay. In addition to this -- as part of this**
 17 **multidisciplinary approach, was there consideration given to**
 18 **including closer-in single family neighborhoods in your**
 19 **study areas either in addition to or instead of the four**
 20 **study areas that were selected?**
 21 A. We talked about the study area as a whole. And again,
 22 looking -- reflecting back on my testimony that I previously
 23 stated about getting representative areas, we, as a group,
 24 wanted to make sure that we had distribution of the various
 25 things, again: Physical characteristics of the block face,

1 **Q. Closer-in.**
 2 A. Closer-in to downtown I suppose you're saying.
 3 **Q. To -- well --**
 4 A. Relative closer to what?
 5 **Q. Closer to the city core.**
 6 A. Okay.
 7 **Q. I mean, effectively downtown.**
 8 A. Okay.
 9 **Q. Where we're sitting.**
 10 A. Okay.
 11 **Q. So you've answered the question of instead. I understand**
 12 **those neighborhoods -- you wanted representative**
 13 **neighborhoods, you wanted to consider neighborhoods to**
 14 **the -- apparently to the northern part of the city. My**
 15 **question is: In addition to the four study areas, was -- in**
 16 **this group, was consideration given to whether or not these**
 17 **closer-in single family neighborhoods should be considered**
 18 **as part -- within the parking study?**
 19 A. But they were considered in the initial selection. So your
 20 statement about considered in addition to is not a way that
 21 I can answer. They were -- all areas of the study area were
 22 considered as part of the study area selection. We ended up
 23 with the four study areas based on all the factors I've
 24 previously testified to. All areas of the study areas were
 25 considered. We wanted to be representative. So by default,

1 some of the neighborhoods that you mentioned that were
 2 within the study area or portions of those neighborhoods
 3 within the study area were, in fact, considered as part of
 4 that multidisciplinary discussion before we ended up on the
 5 four study areas.

6 **Q. All right. So I understand what the study -- the EIS study**
 7 **area is. It's effectively the entirety of this -- of single**
 8 **family neighborhoods that's where excessive dwelling units**
 9 **would be built across the city. It's the entire (inaudible)**
 10 **of the city as it relates to single family zoned property.**
 11 **I understand that.**

12 **In terms of the selected blocks for parking, can you -- is**
 13 **there any portion of the EIS that would -- where you could**
 14 **say that data is derived from city blocks within close-in**
 15 **single family neighborhoods in addition to the four study**
 16 **areas selected?**

17 A. I guess you're using the term "close in," and I understand
 18 you're saying to city of Seattle, but some -- points of some
 19 of the neighborhoods you mentioned are as equal to portions
 20 of the center core -- you're using a relative term, and I
 21 just don't -- I don't know how directly to answer that
 22 related to purposes of the study or for, in fact, why that
 23 matters.

24 **Q. So you're essentially -- I understand that you don't think**
 25 **that it matters --**

1 **Q. Okay. I'm at 4.4.**
 2 A. So --
 3 **Q. Do you have a page and line?**
 4 A. Yes. Page 4-171, Exhibit 4.46. Just as an example --
 5 **Q. Just a sec. Okay.**
 6 **So this document purports to show where there are**
 7 **unimproved sidewalks in the city?**
 8 A. Correct. So, for example, it was considered how within the
 9 study areas -- as I mentioned, the unimproved sidewalks
 10 which drastically effect the characteristics of the block
 11 face. This is also of the map because it shows the grayed
 12 out areas are the other zoning. And you're mentioning some
 13 of the other central-in neighborhoods. This map shows that
 14 within some of the neighborhoods that you mentioned --
 15 granted they aren't identified, but as I testified, I'm
 16 familiar with the city of Seattle -- that you'll note that
 17 many of the neighborhoods that you spoke of have gray areas
 18 within them.

19 This map doesn't even show the residential parking zones
 20 that are potentially outside of those gray areas. That is
 21 actually a map on -- excuse me -- so there's the RPZ map is
 22 Exhibit 4. -- excuse me, restricted parking zones in the
 23 study area, that map is shown on Exhibit 4.4-1 on page
 24 4-165.

25 **Q. All right. So -- okay.**

1 A. No, I'm not saying --

2 **Q. -- but I'm just asking where -- where in your -- where does**
 3 **your study reflect the consideration of collections of**
 4 **blocks within the closer-in single family neighborhoods that**
 5 **I listed in relation to the four studied areas identified in**
 6 **the (inaudible)?**

7 A. So again, for purposes of the parking analysis in the EIS,
 8 we wanted -- the most important thing was the curb space,
 9 the characteristics of the curb space.

10 **Q. Yeah, I understand?**

11 A. And so for specifically what you're asking, we could find
 12 curb space characteristics in the neighborhoods that you are
 13 speaking about that are similar to and representative of the
 14 areas in which we did the parking analysis.

15 **Q. Okay. Is -- looking at your appendix, for instance, is**
 16 **there data that would support this contention of similarity**
 17 **within the parking block characteristics. For example,**
 18 **between Montlake and northwest -- the northwest study area?**
 19 **Is there data that you can point to?**

20 A. There's data in Section 4.4.
 21 THE COURT: 4 point what?
 22 THE WITNESS: Section 4.4, the transportation study.
 23 Sorry.

24 **Q. (By Mr. Eustis) Of the EIS?**
 25 A. Of the EIS.

1 A. So there is this -- the purpose of me referencing the maps
 2 in Section 4.4 was to show that there's citywide data
 3 available; as part of our discussions, we looked at that
 4 related to some of the characteristics of the study area
 5 that I already testified to.

6 **Q. Just a sec. I'm looking over my notes.**
 7 **You mentioned the number of people that you worked with in**
 8 **this interdisciplinary approach for the parking impacts.**
 9 **In -- well, I -- I think with Mr. Shook, I (inaudible)**
 10 **process. So in this back and forth, this process, did**
 11 **anyone in this -- I don't know if you'd call it a team --**
 12 **voice the -- make the recommendation that for purposes of, I**
 13 **guess, the fullness of the represent- -- the fullness of the**
 14 **analysis that there should be a greater number of study**
 15 **areas as opposed to the four that were selected for purposes**
 16 **of determining impacts?**

17 A. My experience as part of programmatic EIS teams, regardless
 18 of what's being studied, you always would like to have more
 19 time or more availability to do more parking analysis.
 20 Again, we were looking for a representative area that we
 21 could identify -- for the purposes of the parking analysis,
 22 we were looking for representative areas that we could do
 23 within the scope and budget and time line of the EIS
 24 process.

25 **Q. Okay.**

1 A. So that is how we arrived at four. And yes, it was an
 2 iterative process.
 3 **Q. Okay. So in this -- so in this process then was budget a**
 4 **factor in limiting the consideration to these four study**
 5 **areas?**
 6 A. Initially our scope was actually just to use the study areas
 7 in the south and the southeast, and we were able to expand
 8 our scope to four study areas and have additional study in
 9 the northeast and the northwest. So that was part of our
 10 discussion. We said we need to be representative
 11 geographically within the city, and we requested additional
 12 budget and we were provided that to do that.
 13 **Q. Okay. Was the recommendation or the -- ever made or**
 14 **consideration made to expanding it to additional study areas**
 15 **beyond the four that were selected? Within the study group**
 16 **did some say, well, it's still not representative, we really**
 17 **should have these additional areas?**
 18 MR. KISIELIUS: Objection; asked and answered. We're
 19 going around -- like, around and around again.
 20 HEARING EXAMINER: I'll let you answer this one question
 21 and then we need to move on.
 22 A. So if I could direct you -- excuse me, part of the iteration
 23 and the parties (inaudible), I would like to direct you to
 24 the exhibits in -- excuse me, in Appendix B, some specific
 25 exhibits in Appendix B. I've repeatedly testified about the

1 whether there were recommendations for consideration of
 2 additional study areas beyond the four. That's not the
 3 question.
 4 HEARING EXAMINER: By the team.
 5 MR. EUSTIS: By the team.
 6 HEARING EXAMINER: Yes.
 7 MR. EUSTIS: That was not --
 8 HEARING EXAMINER: That was the question. I won't strike
 9 the answer but --
 10 THE WITNESS: So sorry; let me --
 11 HEARING EXAMINER: But go -- please answer the question.
 12 A. So as part of the iterative process, we did not ask for
 13 additional study areas because these study areas were
 14 representative, as I mentioned, of the block bases and of
 15 the parcel sizes for the study area as a whole.
 16 HEARING EXAMINER: Okay.
 17 A. I should have stated that.
 18 **Q. (By Mr. Eustis) Okay. Very well.**
 19 A. But these are the data to back that particular piece up.
 20 **Q. Ms. Cody, thank you for your patience. I have no further**
 21 **questions for you.**
 22 HEARING EXAMINER: Okay. Redirect?
 23
 24 R E D I R E C T E X A M I N A T I O N
 25 BY MR. KISIELIUS:

1 characteristics of the curb space being relative throughout
 2 the city.
 3 The other important component of this was that the study
 4 areas have representative lot sizes. And we actually, as
 5 part of the iteration, made sure that the study area showed
 6 a distribution of lot sizes within those study areas. So
 7 I'm going to reference the specific distribution charts
 8 within Exhibit B that show that.
 9 So, for example, Exhibit B 5 on page B-7 shows the
 10 breakdown of the parcels within the study area for the
 11 southwest study area.
 12 Exhibit B-8 on page B-10 shows the distribution of lot
 13 sizes within the northeast study area specifically.
 14 Exhibit B-11 on page B-13 shows the distribution of lot
 15 sizes within the northwest study location area.
 16 And Exhibit B-14 shows the distribution of lot sizes
 17 specific to the southeast study area.
 18 We also, as referenced and testified, we did B-2 which
 19 showed the distribution of lot sizes for all study locations
 20 combined relative to the study area of the EIS as a whole --
 21 excuse me, the parking study parcel sizes relative to the
 22 parcel sizes of the EIS study area as a whole.
 23 MR. EUSTIS: I realize that that is the response to my
 24 last question. I would move to strike the response as
 25 non-responsive. My question dealt with recommendation --

1 **Q. I'm going to start with maybe a bookkeeping matter. I**
 2 **believe the examiner also has a copy of the notes.**
 3 **Mr. Eustis has a copy of the notes.**
 4 **Can you look at the copy and is this the copy of the notes**
 5 **from which you were testifying?**
 6 A. Correct.
 7 MR. EUSTIS: I would -- she testified to this. I would
 8 move to offer this as an exhibit in the proceeding so at
 9 least --
 10 MR. KISIELIUS: No objection.
 11 MR. EUSTIS: -- we know what we're going to talk about.
 12 MR. KISIELIUS: I was going to do the same. No objection.
 13 HEARING EXAMINER: Oh, well, look at that. Then we will
 14 admit it as Exhibit 40.
 15 (Exhibit No. 40 admitted into evidence)
 16 **Q. (By Mr. Kisielius) I'm going to try to be very brief with**
 17 **the rest of my questions here, Ms. Leighton Cody. And**
 18 **almost all of them will be with the appendix.**
 19 **So Mr. Eustis was asking you questions about B-41 on page**
 20 **B-46 and asking you for the percentage of parking**
 21 **utilization by alternative. I think you were saying that**
 22 **table didn't answer the question he was asking. Can you**
 23 **turn to B-42 and page B-48?**
 24 A. Yes, I was looking for this in the tab. It was distracting
 25 me, because this is the only page in this tab.

1 **Q. Does that answer the question he was asking?**
 2 A. Yes, that is the chart that I was looking for.
 3 MR. EUSTIS: Again, I'm sorry; the page?
 4 A. It's B-48.
 5 MR. EUSTIS: On page?
 6 THE WITNESS: Exhibit -- that is the page number.
 7 MR. KISIELIUS: That is the page number, B-48 and the
 8 exhibit is B-42. It's just two pages away from where you
 9 were -- the one that you were looking at. It's the very
 10 last page of Appendix B.
 11 MR. EUSTIS: Okay. I got it.
 12 **Q. (By Mr. Kisielius) I want to ask you to flip back to**
 13 **page -- well, B-15 and I'll give you the page reference --**
 14 **oops, sorry. B-17 on page B-22.**
 15 **So Mr. Eustis asked you about the Portland regulations,**
 16 **and I'm not going to ask you about the operation of the**
 17 **regulations. But I want to ask you about the numbers. Did**
 18 **you and does the EIS compile for the Portland data the**
 19 **distribution that lead to the average? So in other words,**
 20 **does it compile by zero people, households in ADU, one**
 21 **person, household ADUs, two household -- is that captured in**
 22 **B-17?**
 23 A. Yes. It does that for both specifically the ADU households
 24 and it compares that to the renter households.
 25 **Q. And what does it say in terms of the frequency of those**

1 A. Yes, so --
 2 **Q. Without reading the methodology, could you just describe**
 3 **sort of what points are pertinent in your judgment as to why**
 4 **it's a reliable source?**
 5 A. Yes. So first off, that it was a study that was conducted
 6 by Portland State University, in fact, specifically by the
 7 survey research lab. It talks about the goals of the survey
 8 and it talks about the sampling and the target population
 9 and it just goes through its methodology related to their
 10 analysis and findings.
 11 **Q. Okay. And so to confirm, did you think that this was good**
 12 **science and data to rely on for purposes of this study?**
 13 A. Yes. Specifically for accessory dwelling units.
 14 MR. KISIELIUS: Okay. We'd move to admit City's Exhibit
 15 16.
 16 THE COURT: Any objection?
 17 MR. EUSTIS: No objection.
 18 HEARING EXAMINER: Okay. This will be Exhibit 41 in the
 19 record.
 20 (Exhibit No. 41 admitted into evidence.)
 21 **Q. (By Mr. Kisielius) And I think just one last question for**
 22 **you. There was some -- a lot of testimony about -- or**
 23 **questions and testimony about some of the calculations that**
 24 **are shown in B-19 on page B-24.**
 25 MR. EUSTIS: Again it was B-19?

1 instances in which ADU households in Portland are three or
 2 more people? What percentage of the time?
 3 A. It's actually three or more vehicles per household.
 4 **Q. Oh, sorry. Got it.**
 5 A. It's only 1.5 percent.
 6 **Q. I apologize. I'm actually working -- I'm confusing you.**
 7 **Can you go back two pages to B-15?**
 8 A. Yes.
 9 **Q. Does this answer the question that I was just asking?**
 10 A. Yes. So this Exhibit B-15 is the chart of the distribution
 11 of the number of occupants specific to the ADUs. And the
 12 percentage of adult occupants that was identified at three
 13 was 1 percent. There was -- in the Portland study, there
 14 were no ADUs identified as having more than three.
 15 **Q. Okay. Thank you. Sorry for confusing you.**
 16 **Mr. Eustis asked you a couple questions about the Portland**
 17 **study and I didn't think it necessary before, but because he**
 18 **asked you about sort of your judgment about whether it was a**
 19 **good document to rely on, can you turn to -- there's a**
 20 **binder there that has different exhibits -- Tab 16, City**
 21 **Exhibit 16?**
 22 A. Yes, this is the Portland that I'm referring to.
 23 **Q. And can you tell us -- I think you were beginning to explain**
 24 **why you believed it was good science to rely on, good data**
 25 **set to rely on?**

1 MR. KISIELIUS: Correct.
 2 THE WITNESS: Yes.
 3 **Q. (By Mr. Kisielius) On page B-24. This is the table.**
 4 A. Yes. I don't have a calculator.
 5 **Q. I'm not going to ask you to do that. What I -- what I'd**
 6 **just like you to do is -- I'd like to make sure I understand**
 7 **your testimony.**
 8 **The bottom row, estimated number of vehicles per ADU.**
 9 A. Yes.
 10 **Q. Do those accurately reflect the results of the work that you**
 11 **did to calculate estimated numbers of vehicles per ADU for**
 12 **each of the categories that are in the column?**
 13 A. Yes, for the work that the staff and I manage and directed
 14 on this project, and then my review of the project, yes.
 15 **Q. And I understand, you can't explain the discrepancy that**
 16 **Mr. Eustis was pointing out to the two rows above. And can**
 17 **you confirm, were you responsible for preparing the**
 18 **presentation of the data in B-19?**
 19 A. Not in this format.
 20 **Q. Okay. And was that the responsibility of the City?**
 21 A. It was.
 22 **Q. I have no further questions for you.**
 23 HEARING EXAMINER: Any recross?
 24 MR. EUSTIS: Yes.
 25

1 RE CROSS - EXAMINATION
 2 BY MR. EUSTIS:
 3 **Q. You're currently on page B-24?**
 4 A. Correct.
 5 **Q. Okay. I would have you go up to page B-20. And I believe**
 6 **that Mr. Kisielius asked you questions as to the estimate of**
 7 **adult occupants per ADU in Portland.**
 8 A. Yes.
 9 **Q. Okay. And you see that there's some text beneath the**
 10 **Exhibit B-16; do you see that?**
 11 A. Yes.
 12 **Q. Where it's reported that the average size of ADUs in**
 13 **Portland is approximately 665 feet?**
 14 A. Yes.
 15 **Q. Okay. Generally speaking, would you expect the number of**
 16 **occupants of an ADU to increase with the size of the ADU?**
 17 A. That's outside of my area of expertise.
 18 **Q. Okay. I have no further questions. Thank you.**
 19 HEARING EXAMINER: Any re-redirect?
 20 MR. KISIELIUS: No. Thank you.
 21 HEARING EXAMINER: All right. Thank you, Ms. Leighton
 22 Cody. You may be excused.
 23 MR. KISIELIUS: Before we call our next witness, I have
 24 one more bookkeeping matter.
 25 HEARING EXAMINER: Okay.

1 indicated that he had. By doing that, I wasn't, you know,
 2 opening the door to the admissibility of this exhibit. I
 3 would object to it on the grounds that I did.
 4 MR. KISIELIUS: May I respond?
 5 HEARING EXAMINER: Yes.
 6 MR. KISIELIUS: My recollection of the testimony that
 7 Mr. Eustis elicited is different and more expansive.
 8 Mr. Eustis asked Mr. Welch questions that elicited the
 9 testimony that Mr. Welch offered the opinion of whether or
 10 not the land use regulations limit the condominimization and
 11 that then prompted the question: Well, is that an official
 12 interpretation? Is it reduced in writing? And in answer to
 13 the question, is it reduced in writing, Mr. Welch answered:
 14 Yes, there's an email. And Mr. Eustis asked for us to
 15 produce that.
 16 Now, ironically, Mr. Eustis later objected to the
 17 testimony that was already offered into evidence by somebody
 18 else on a legal ground. So to the extent for this witness
 19 that -- he has opened the door through his questions and
 20 he's invited this document by requesting it. He should have
 21 known what he was getting when it was prompted by the
 22 question of: Is the opinion you just expressed in writing?
 23 MR. EUSTIS: He can testify -- he can testify about that.
 24 But just because he testified to that doesn't mean I'm
 25 consenting to the admissibility of this email.

1 MR. KISIELIUS: And this seemed the appropriate time to do
 2 it. Yesterday during Mr. Eustis' examination of Mr. Welch,
 3 Mr. Eustis requested a document, an email, he requested us
 4 to provide it, we have it. I'd like to recall Mr. Welch for
 5 the limited purpose of presenting that and asking to have it
 6 admitted into the record.
 7 HEARING EXAMINER: Okay. Any objection to that?
 8 MR. EUSTIS: Well, my objection is -- I guess I'd like to
 9 see the document. I mean, I -- I don't want Mr. Welch to
 10 testify without my --
 11 MR. KISIELIUS: I'll give you a copy.
 12 MR. EUSTIS: -- seeing it.
 13 HEARING EXAMINER: Okay. Let's give you a minute to read
 14 that through and...
 15 MR. EUSTIS: Okay. As the examiner may recall, I had
 16 objected to Mr. McKim's testimony based upon the foundation
 17 and the use of -- testimony to give a -- essentially a code
 18 determination, a legal opinion as to the meaning of law.
 19 And my citation was Cowiche Canyon versus Bosley. And I --
 20 Bosley. I can provide a copy of that.
 21 Having read this, this would appear to be an approach to
 22 bring in an email from Mr. McKim to Mr. Welch to accomplish
 23 the same thing.
 24 My question of Mr. Welch was whether, you know, he had, I
 25 think, received information or something like that, and he

1 MR. KISIELIUS: You asked for it to be produced. Not
 2 just...
 3 MR. EUSTIS: I asked for gigabytes of documents to be
 4 produced, and we are not going through everything that was
 5 produced.
 6 MR. KISIELIUS: I would add that to the extent that there
 7 was a suggestion that the City failed to comply with the
 8 Public Records Act in his questioning, we could ask two
 9 questions to address that issue as well and clear the record
 10 of the accusation.
 11 MR. EUSTIS: You have said that the hearing examiner does
 12 not stand as the arbitrator or the arbiter of compliance or
 13 non-compliance with the public records.
 14 HEARING EXAMINER: Okay. We're going to stop there.
 15 I do think that you opened the door by asking for the
 16 email. Mr. Welch went and dug it up, and so at this point
 17 to the extent that it calls for a legal interpretation -- or
 18 it contains a legal interpretation that is not an official
 19 legal code interpretation by SDCI, I'll give it the weight
 20 which it deserves, which is not a lot. But you're welcome
 21 to admit it into the record.
 22 MR. KISIELIUS: Okay. Do we need to call Mr. Welch to
 23 identify it or -- it will be three questions.
 24 HEARING EXAMINER: Okay. Go ahead. Mr. Welch, you've
 25 been previously sworn.

NICOLAS WELCH, Witness herein, having previously been sworn on oath, was examined and testified as follows:

REDIRECT EXAMINATION

BY MR. KISIELIUS:

Q. Mr. Welch, I'm handing you a copy of a piece of paper. Do you recall testifying in response to Mr. Eustis' questions about an email that documented your understanding related to the code?

A. Yes.

Q. And is this the email to which you were referring?

A. Yes.

MR. KISIELIUS: We'd move to admit the email.

HEARING EXAMINER: It's admitted as Exhibit 42.

(Exhibit No. 42 admitted into evidence)

MR. EUSTIS: Okay. And just so the record is clear for the reasons, you know, I just gave, I would object to the admissibility of the exhibit.

HEARING EXAMINER: So noted.

MR. EUSTIS: So that is reflected.

MR. KISIELIUS: I have no further questions.

HEARING EXAMINER: Do you have any questions, Mr. Eustis?

HEARING EXAMINER: And that's if you're entitled to rebuttal. So you will have that opportunity.

MR. KISIELIUS: And the questions we have for Ms. Snyder and Ms. Pennucci are, I believe, less each than what Ms. Leighton Cody testified to in terms of what I plan to ask. I cannot control what the other side of the table is going to do --

HEARING EXAMINER: Of course.

MR. KISIELIUS: -- in terms of cross-examination. So I believe we can probably fit it all in. But again, if it's -- if that's --

HEARING EXAMINER: Okay. Well, let's just go for it.

MR. KISIELIUS: We'd like to call Ms. Mary Catherine Snyder to the witness stand.

THE COURT: Good morning, almost afternoon. Would you raise your right hand? Do you swear or affirm that the testimony you're about to give is the truth?

THE WITNESS: I do.

THE COURT: Could you state and spell your first and last name for the record and provide a work address?

THE WITNESS: Sure. My name is Mary Catherine Snyder. It's M-A-R-Y, Catherine, C-A-T-H-E-R-I-N-E. And Snyder is S-N-Y-D-E-R. And I work at the Seattle Department of Transportation, so it's 700 Fifth Avenue and I'm on the 38th floor.

MR. EUSTIS: No.

HEARING EXAMINER: Okay.

MR. EUSTIS: Because I object to the exhibit, so I'm not going to start questioning on the exhibit.

HEARING EXAMINER: Just checking.

MR. EUSTIS: I don't want to fall for that.

THE COURT: You may be excused, Mr. Welch. Thank you.

MR. KISIELIUS: It is Exhibit 42?

HEARING EXAMINER: Yes.

MR. EUSTIS: Mr. Kisielius had his housekeeping matter.

As the hearing examiner has seen, we have Mr. Tilghman here, and I don't know the scope of testimony by the two remaining witnesses, Ms. Pennucci and Ms. Snyder, I believe it is. And I don't know the extent to which they are considering transportation. Obviously, Mr. Tilghman focused very heavily in his testimony on essentially Appendix B, parking analysis. We've had our witness on that topic, and I would just ask that Mr. Tilghman be able to offer responsive testimony, you know on parking.

THE COURT: Now?

MR. EUSTIS: Well, no. I don't know the scope of Ms. Pennucci and Ms. Snyder, so if that includes parking, I'd like Mr. Tilghman to hear that testimony.

THE COURT: Yeah. And that is rebuttal.

MR. EUSTIS: Yes.

HEARING EXAMINER: Thank you. You may proceed.

MARY CATHERINE SNYDER, Witness herein, having been duly sworn on oath, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KISIELIUS:

Q. Ms. Snyder, could you please describe what is your occupation?

A. Sure. I'm a Strategic Advisor 2 at the Seattle Department of Transportation. I'm in the transit and mobility division at SDOT in the parking team.

Q. Okay. And what are your primary professional responsibilities in that position?

A. Sure. So I've been at the City for 22 years. Currently, I'm in the parking team. I'm the curb space policy lead. I work on a variety of paid parking programs, pilots, technology, data collection efforts. And in the context of this discussion, I'm typically the liaison to SDCl and/or OPCD when they're doing kind of land use code parking requirement or parking policy efforts.

Q. I'm going to come back to that in a second. But I want you to first please briefly describe your educational background and training specific to areas that relate to your

1 profession.

2 A. Sure. I have two masters' degrees at University of

3 Washington in transportation planning and in urban planning

4 and I have a bachelor's degree at Cornell University in

5 political science.

6 **Q. Okay. And have you -- can you describe your prior**

7 **experiences working on preparing or reviewing EISes?**

8 A. So I've worked on -- so I've worked on about 12 -- I think

9 about a dozen EISes, about half project, half non-project.

10 **Q. Okay. And in what capacity?**

11 A. So I'm typically the parking kind of person on the -- from

12 the SDOT's perspective on the EIS. So I'll review kind of

13 the scope and kind of help guide what scope of work is done.

14 And I reviewed the documentation, kind of the consultant,

15 procurement, that kind of thing. Involved in the decision

16 of the mitigation or impact. I'm often involved in the

17 community engagement as well.

18 **Q. Okay. And can you just give us, for example, a couple of**

19 **examples of the non-project EISes that you've worked on?**

20 A. Sure. So I've worked on the comprehensive plan updates,

21 most recently the 2017 comprehensive plan update in terms of

22 providing data from SDOT and reviewing the work.

23 I worked pretty significantly on the commercial code

24 update that was in the mid 2000s that changed the parking

25 requirements in commercial and urban centers.

1 **Q. Okay. I think we heard Ms. Leighton Cody say she**

2 **coordinated with you. So that -- and did you coordinate**

3 **with Ms. Pennucci and Mr. Welch as well?**

4 A. Yes.

5 **Q. Okay. So I'm going to -- you were here for Ms. Leighton**

6 **Cody's testimony. I'm going to not ask you to repeat, but I**

7 **want to talk a little bit about the TIP 117?**

8 A. Um-hum.

9 **Q. And you heard Ms. Leighton Cody's testimony about that. I**

10 **want to ask your opinion in your role on behalf of -- let me**

11 **first ask you, are you experienced with TIP 117?**

12 A. Yes.

13 **Q. You're familiar with it?**

14 A. Yes.

15 **Q. Okay. What's your opinion, is there a single acceptable**

16 **methodology for calculating the parking supply pursuant to**

17 **TIP 117?**

18 A. I don't think.

19 **Q. And specifically for your role in SDOT, what types of**

20 **methodologies does SDOT use or accept when trying to do**

21 **parking supply calculations pursuant to TIP 117?**

22 A. So there's several kinds, so -- or several methodologies. I

23 mean, wheeling is certainly one, kind of a field observation

24 is one. We've had people that are consultants use kind of

25 GIS satellite imagery where they're measuring in the GIS

1 And then worked on the various neighborhood parking

2 frequent transit network, frequent transit service code

3 changes that occurred in the last ten years or so.

4 **Q. Okay. How about outside the context of EISs, can you**

5 **describe your experience working on parking studies more**

6 **generally?**

7 A. Yeah. So I've worked on about 50 parking studies over the

8 last 20 years with the City. Most notably, I managed the

9 annual paid parking study, which is the study we've done

10 every year in all paid areas since 2010. And that's

11 probably about 11,000, 12,000 paid spaces where we've

12 counted in the spring, and we use that data to set our

13 parking rates.

14 Been involved in other neighborhood business district or

15 other kinds of parking studies citywide and kind of in

16 specific areas.

17 **Q. Okay. And let's now switch to your role with the EIS that's**

18 **under appeal, what was your role in this project -- or**

19 **excuse me in this analysis?**

20 A. Right. So I was involved in the consultant procurement,

21 just in terms of reviewing the requests. I was part of the

22 scoping and figuring out how to address the parking and

23 transportation section, reviewed the data and the drafts,

24 including the study results and kind of the mitigation

25 impact determination.

1 measuring tool. We have inventories sometimes, and so then

2 we're updating that inventory. So often that's done with

3 field observation.

4 **Q. Okay. Does the purpose of the parking study make a**

5 **difference in your opinion when evaluating which one of**

6 **those methodology you've identified you might use?**

7 A. Yeah, I think so. I mean the scale -- the sense of scale or

8 just the distance to cover. I mean wheeling takes more time

9 than other methods, so sort of the time and resources we

10 have and just the scale of the study. And then -- you know,

11 if we're trying to understand -- in this case ten years, but

12 sometimes -- you know, like the comp plan I think was 20

13 years. It's just, you know, the time frame of that leads to

14 a sense of understanding of what we're trying to understand

15 and how we take that into account into the overall

16 (inaudible).

17 **Q. Okay. And how about -- you said scale, how about the**

18 **difference between a project and non-project action, does**

19 **that make a difference in terms of the methodologies you**

20 **might consider using?**

21 A. Well, yeah, I think -- I mean, when we have -- so we have

22 project EISs or project parking studies and transportation

23 projects and, you know, they're going to get into much more

24 detail of understanding specific (inaudible) on locations,

25 paid -- you know, all the different regulations, and we're

1 not going to do that in the course of a -- on a large scale
 2 non-project study.
 3 **Q. Okay. On that topic, were you here for Mr. Tilghman's**
 4 **testimony?**
 5 A. I was.
 6 **Q. And did you -- do you recall his testimony that project**
 7 **action EISs and non-project EISs typically have the same**
 8 **level of detail?**
 9 A. Yes, I remember that.
 10 **Q. Do you agree with that?**
 11 A. So I think it doesn't take into account with a large scale
 12 policy decision and a ten-year time frame, you know, it's
 13 just you would want to have a different kind of data. It's
 14 okay to have a different level of data and kind of a
 15 different understanding of that.
 16 **Q. Okay. I want to focus now on what was actually done here in**
 17 **terms of the data that was collected for the northeast and**
 18 **northwest study areas. So did you review IDAX's data and**
 19 **methodology for those two study areas?**
 20 A. I did.
 21 **Q. And do you think that reasonably implemented TIP 117?**
 22 A. Yes.
 23 **Q. Okay. I want to focus again on the methodology that**
 24 **Mr. Tilghman testified to using, the wheeling. And he**
 25 **touched on this in the abstract, but what would be the**

1 A. Yes. The southeast study, SDOT did that study for RPZ
 2 effort.
 3 **Q. Okay. And is it common in your experience for non-project**
 4 **actions to utilize data that was collected for a different**
 5 **purpose?**
 6 A. Yes.
 7 **Q. When you're conducting a different study?**
 8 A. Yeah. So for instance in the 2017 comp plan update,
 9 comprehensive plan update, SDOT provided data we had from
 10 the annual paid parking study that was in downtown and the
 11 other paid areas, and we also had data from Ballard parking
 12 studies that we had done, like an RPZ study, so similar to
 13 the Columbia City and West Seattle, the same kind of data.
 14 So it's typical for us to provide what we have --
 15 **Q. Okay.**
 16 A. -- when we have it.
 17 **Q. So let's get maybe to the discrepancy between the wheeled**
 18 **counts and the observed counts. Does it surprise you that**
 19 **the wheeled measure counts are different than using the**
 20 **observed method?**
 21 A. No, it doesn't.
 22 **Q. Okay. And why?**
 23 A. So I think that, you know, it's hard to know, like, people
 24 might pick up a wheel differently in different situations or
 25 kind of the -- different people with different professional

1 **implications for your work on SDOT if you were forced to use**
 2 **wheeling in all instances to calculate parking supply?**
 3 A. So my sense of wheeling is that it would take more time and
 4 more resources than other methods potentially, particularly
 5 in areas where the right-of-way just varies; it would be a
 6 lot more work to do that. And then if we had to do that for
 7 a lot of our -- we do a lot of parking studies at SDOT, and
 8 if we had to do that, that would really increase the costs
 9 and that could impact how we complete projects that we need
 10 to complete.
 11 **Q. Okay. Do you think Mr. Tilghman's methodology -- and I'm**
 12 **focusing again on wheeling --**
 13 A. Um-hum.
 14 **Q. -- the streets, is that necessary to inform a decision-maker**
 15 **of the impacts of a non-project action?**
 16 A. I don't think so.
 17 **Q. Okay. Why not?**
 18 A. Well, because it -- a ten-year kind of overall study just
 19 doesn't really -- we don't need that level of detail, and
 20 there's other ways to get that inventory. We did that in
 21 the Columbia City study and that seems -- that seemed fine.
 22 **Q. Okay. Is that the -- are you referring to the southeast**
 23 **study area?**
 24 A. Yes.
 25 **Q. That's the same data?**

1 judgment may end up with different counts, the distances of
 2 driveways and (inaudible).
 3 **Q. I'm looking for a reference so I can direct people. I was**
 4 **going to have you turn to a -- what I believe is in the**
 5 **binder there, Exhibit 20. But it's been admitted, so I'm**
 6 **just trying to find the examiner's reference. And I**
 7 **apologize for the delay.**
 8 MR. EUSTIS: This is City Exhibit 20?
 9 MR. KISIELIUS: Yeah, it's TIP 117.
 10 I apologize, Madam Examiner, I'm looking for them.
 11 HEARING EXAMINER: That's okay. I actually just pulled it
 12 up on the screen so I could see what it says, since we've
 13 been referring to it so much.
 14 MR. KISIELIUS: Maybe I'm looking at the wrong reference.
 15 MR. EUSTIS: It is City Exhibit 20.
 16 MR. KISIELIUS: It is. I'm just wondering what the
 17 examiner's exhibit number is.
 18 HEARING EXAMINER: I don't think we've admitted TIP 117.
 19 MR. KISIELIUS: I thought we had done it during
 20 Mr. Tilghman's --
 21 HEARING EXAMINER: Oh, really?
 22 MR. KISIELIUS: Yeah. I thought I had entered it during
 23 the cross-examination. So I apologize. If we haven't, I'd
 24 certainly enter it now.
 25 THE CLERK: TIP 117?

1 MR. KISIELIUS: Sorry for the delay.
 2 THE CLERK: Exhibit 22.
 3 HEARING EXAMINER: Twenty-two.
 4 MR. KISIELIUS: Thank you. The field in my spreadsheet is
 5 empty. Sorry.
 6 **Q. (By Mr. Kisielius) Okay. So you've got the document in**
 7 **front of you?**
 8 A. Um-hum, yes.
 9 **Q. Okay. I'd like to ask you a couple questions about that.**
 10 A. Okay.
 11 **Q. Can you turn to page 6 of TIP 117?**
 12 A. Um-hum.
 13 **Q. Do you see there's a chart there that says, "Number of legal**
 14 **on street parking spaces" in the left-hand column?**
 15 A. Yes.
 16 **Q. Does SDOT in your experience, always strictly apply the**
 17 **measurements shown in this chart?**
 18 A. So our focus tends to be on the part that is above that.
 19 But we don't typically use that table because we'll often
 20 divide by a standard space in SDOT's kind of practice is 18
 21 feet, so we often just divide by 18 feet when we have a --
 22 you know, we have a length of area that parking is allowed.
 23 **Q. Okay. Meaning if parking is allowed but it wouldn't**
 24 **strictly conform to the number of legal on street parking**
 25 **spaces on the chart?**

1 **Q. Okay. Does the fact that -- well, let me ask you: Do you**
 2 **agree that the pipeline projects were not included in the**
 3 **study in the EIS?**
 4 A. Yes, they were not included.
 5 **Q. So why?**
 6 A. So I don't think that is typical for -- I haven't seen for
 7 kind of the non-project EIS to include pipeline projects.
 8 This is a citywide ten-year analysis, and I'm not sure how
 9 we would do that. It just seems that there are projects
 10 that could occur all over the city and we wouldn't know
 11 exactly what shape they're in in terms of what to count
 12 when, when we're doing our study. So that doesn't seem like
 13 a reasonable way to come up with typical parking conditions
 14 in an ADU for the ten-year period.
 15 **Q. So you heard Ms. Leighton Cody testify about her opinion of**
 16 **the representativeness of the study areas.**
 17 A. Um-hum.
 18 **Q. Would the decision to not include or incorporate pipeline**
 19 **projects impair the representative nature of those study**
 20 **areas in your opinion?**
 21 A. Yes, sure, I think that it would kind of change the nature
 22 of the results because we wouldn't know how they were then
 23 related to other parts of the city because we don't know
 24 what pipeline projects are happening elsewhere.
 25 **Q. Okay. And in general --**

1 A. Yes. This provides a range and it's used a different way.
 2 **Q. Okay.**
 3 A. I would say we also don't use the tables in the back because
 4 we often collect different data when we're doing our study
 5 or people use tablets, surface tablets, stuff like that, and
 6 so they're doing realtime data entry as they're walking.
 7 **Q. Okay. So given your understanding of the various ways of**
 8 **calculating inventory consistent with TIP 117, do you**
 9 **believe the EIS for the northeast and northwest study areas**
 10 **used acceptable reasonable methodologies?**
 11 A. I do.
 12 **Q. Okay. We heard Ms. Leighton Cody testify about the days on**
 13 **which data was collected, the two days, is that -- the data**
 14 **collection times used that Ms. Leighton Cody described for**
 15 **the EIS, are those comparable or similar to what SDOT tends**
 16 **to use when doing parking studies?**
 17 A. It is. So when we do restricted parking zone studies, we
 18 count on an overnight, usually between 3:00 and 6:00 in the
 19 morning, 5:00 in the morning. And so that's consistent.
 20 **Q. Okay.**
 21 A. We're trying to understand residential parking.
 22 **Q. Okay. Let's switch to the topic of pipeline projects to**
 23 **which Mr. Tilghman testified. Are you familiar with that**
 24 **testimony?**
 25 A. Yes.

1 A. (Inaudible).
 2 **Q. In general, you said you -- I think you said you don't**
 3 **typically incorporate pipeline projects in the context of a**
 4 **non-project action. So is the -- I guess the question I've**
 5 **got is: Does that make a difference in the ability to make**
 6 **judgments about the impacts of the proposal from your**
 7 **standpoint?**
 8 A. I don't think on a non-project level. It's a different
 9 discussion for a project. But that's not what we have here.
 10 **Q. Okay. And in your role and given your experiences working**
 11 **on other EISs, do you believe the study provided sufficient**
 12 **detail to inform a decision-maker of the parking impacts of**
 13 **the proposal?**
 14 A. I do.
 15 **Q. Let me switch to questions about -- a couple just quick**
 16 **questions about mitigation. So Ms. Leighton Cody testified**
 17 **about the mitigation measures that are identified in the**
 18 **EIS. Can you explain how the City responds to changes in**
 19 **parking supply in localized areas?**
 20 A. Sure. That's the responsibility at least on the (inaudible)
 21 side for the Seattle Department of Transportation and I
 22 believe comes to the parking team. So for our policies in
 23 the comprehensive plan and our transportation plan, you
 24 know, curb lane, curb space is a public good and it's
 25 available to be used by all users. But we -- and we have

1 several programs where we help to manage parking and access
2 in business and residential areas. So one of them is the
3 community and access parking program.

4 So we do a lot of parking studies in business districts
5 and surrounding residential areas, and I think that's what
6 we would look at in applying here. If there were specific
7 local issues, then, you know, and people -- and we wanted to
8 look at that or people got in touch with us, we would do a
9 parking study, work with the community, figure out what
10 strategies made the most sense, like the restricted parking
11 zone, like the other kinds of parking regulations.

12 **Q. Okay. Are there documented policies that SDOT relies on to
13 guide its response to localized impacts?**

14 A. Yeah. So we use the City -- the comprehensive plan and then
15 kind of the City or SDOT's policies and programs. We're
16 guided also by the (inaudible) master plan, like plan
17 other -- other kinds of city plan -- (inaudible) planning
18 documents.

19 **Q. Okay. And how about -- well, let me ask you to turn to page
20 4-189 of the EIS. It's going to be the other binder, I
21 think. And it's tabbed out by chapter.**

22 A. I'm sorry; can you tell me again?

23 **Q. Sure. 4-189.**

24 A. All right.

25 **Q. So I'm going to direct you to Section 4.4.3, mitigation**

1 **Q. Okay.**

2 A. So we're trying to manage demand as well.

3 **Q. Okay.**

4 A. That's been in place since 2010.

5 **Q. Last question: Are you aware of any EISs or parking
6 analyses more broadly that take a similar approach for
7 parking impact analysis to the one that was used in this
8 EIS?**

9 A. So I mentioned earlier the 2017, the comp plan update, so
10 that had data from our annual study and the Ballard study,
11 which I think was similar, and it had kind of similar
12 conclusions at a programmatic level that generally their --
13 you know, SDOT efforts or other City efforts would manage
14 street parking and kind of maintain levels of access over
15 the course of a study horizon.

16 **Q. Thank you. I don't have any further questions for you.**

17 HEARING EXAMINER: Cross-examination?

18 MR. EUSTIS: Yes.

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

21 BY MR. EUSTIS:

22 **Q. You said you've worked for the City for 22 years?**

23 A. Yes.

24 **Q. And for how many of those years did you manage, I guess,
25 parking as a subject?**

1 measures.

2 A. Um-hum.

3 **Q. And can you just quickly look at the last two sentences of
4 that paragraph?**

5 A. Yes.

6 **Q. Does this section accurately describe the range of actions
7 SDOT may take if it determines that an adverse parking
8 impact exists?**

9 A. It does.

10 **Q. Let's focus specifically on one of those that's mentioned
11 there, the RPZs, the restricted parking zones.**

12 A. Um-hum.

13 **Q. Can you just briefly explain how the RPZ program works? And
14 I'm focused specifically on the allocation of parking
15 permits to residents.**

16 A. Sure. So we have about 36 RPZs or restricted parking zones
17 in the city. They are on residential streets typically
18 surrounding university, colleges, metered traffic
19 generators. We issue permits to residents and there's
20 usually a two-hour limit for non-residents or visitors to
21 the area.

22 We have a limit now of four permits per household per
23 residence primarily because in some zones, we issue more --
24 there are more permits issued than there are residential
25 parking spaces.

1 A. Yeah, I've worked -- so half that time was spent at SDOT,
2 the other half before then was the strategic planning office
3 or earlier planning offices. I'd say for almost 20 of these
4 years, I've worked on parking management.

5 **Q. You mentioned that part of your work is doing a study of the
6 paid spaces, the 11- to 12,000?**

7 A. Yeah.

8 **Q. Okay. Just asking to test your knowledge here.**

9 A. Okay.

10 **Q. So in this last year, what were the revenues from paid
11 parking in the city of Seattle, the 11- to 12,000 spaces?**

12 A. Sure. So we actually have 12,000 paid spaces. The revenue
13 is about 38 million.

14 **Q. 38 million?**

15 A. Yes.

16 **Q. Is that total revenue or is that revenue from essentially
17 what we used to call meters?**

18 A. That's the meter revenue. Or it's paid parking revenue
19 technically is the pay stations and (inaudible).

20 **Q. Okay. And from fines?**

21 MR. KISIELIUS: I'm going to object on relevance. I'm not
22 seeing --

23 MR. EUSTIS: Background.

24 HEARING EXAMINER: I'll let you ask one more question.
25 And she can answer the fines and the (inaudible).

1 A. So the fines are -- it's about 25 million.
 2 MR. EUSTIS: I only ask to satisfy my curiosity as
 3 somebody who pays for parking on street.
 4 HEARING EXAMINER: Thank you.
 5 MR. EUSTIS: And I've never encountered somebody who could
 6 ask that -- answer that question. So I thank you for doing
 7 that.
 8 THE WITNESS: Sure.
 9 HEARING EXAMINER: We're so glad we could accommodate your
 10 (inaudible).
 11 MR. EUSTIS: No one else has wondered?
 12 **Q. (By Mr. Eustis) Okay. In (inaudible), you know, the**
 13 **observational method and the wheeled method, even if one**
 14 **used the long-tape method, all methods of measurement have**
 15 **their limitations. But in general, would you expect the**
 16 **wheel method to provide more reliable results than the**
 17 **observational method? In general?**
 18 A. I don't think I could answer that truthfully -- or say
 19 that's true because, you know, we don't know exactly how
 20 people are wheeling in compared to how people are --
 21 **Q. (Inaudible).**
 22 A. -- you know, if you're looking at a computer screen and
 23 you're measuring it with a measuring tool, I think that
 24 there are pros and cons to both those, as you stated. And,
 25 you know, at the end of the day, I think for a non-project

1 some blocks that were over 85 percent. So when SDOT -- SDOT
 2 has programs to address those situations, and that's what
 3 this paragraph refers to.
 4 We have the community in access parking program or
 5 restrictive parking zone and certainly the build-out of the
 6 transit system and bicycling and, you know, pedestrian
 7 systems in the city provide people with alternative ways to
 8 get around.
 9 **Q. Generally available. Okay.**
 10 **You were here for Ms. Cody's testimony.**
 11 A. Yes.
 12 **Q. And in -- I believe in response to questions on redirect,**
 13 **she referenced an B-42, which appears on page B-48 of**
 14 **Appendix B.**
 15 A. I'm sorry, could you give me that (inaudible) again?
 16 **Q. Yeah. B-48. B-48. Okay. So do you see that?**
 17 A. Yes.
 18 **Q. Okay. So just choosing one area, in the southeast study**
 19 **area, at least this table shows, that the preferred**
 20 **alternative would, in terms of future parking utilization,**
 21 **result in 83 percent of parking supply. Do you see that?**
 22 **B-42?**
 23 A. Oh, I'm sorry. I thought you said 48.
 24 **Q. It's page B-48, Exhibit B-42.**
 25 A. All right.

1 action, we were trying to understand at a reasonable level
 2 what the parking conditions are and then how do those change
 3 when we -- when there's this change of policy.
 4 **Q. Okay. So apparently you cannot say that one -- the wheeled**
 5 **method would give --**
 6 A. I don't --
 7 **Q. -- more accurate -- just bear with me, if you would, in the**
 8 **revenues and fines. So you can't say, I gather, that the**
 9 **measurement of actual distances with the wheeled method**
 10 **would provide more reliable or accurate results than the**
 11 **observational method? You're not -- you can't say that,**
 12 **apparently?**
 13 A. I don't think that that's true. I don't think that there
 14 are any -- that it's on the whole more precise than the
 15 observational method.
 16 **Q. Okay. You testified to mitigation measures which are at**
 17 **Section 4.4.3. So I take it these mitigations would apply**
 18 **generically, that they would not be responsive to parking**
 19 **supply over-utilization issues created by any particular**
 20 **accessory dwelling unit on any particular street?**
 21 A. So what I --
 22 **Q. Generically apply?**
 23 A. Yeah. So the mitigation measures state that there are --
 24 kind of citywide in the course of the findings, there wasn't
 25 an indication of a significant impact but that there were

1 **Q. So we're within 2 percent of this 85 percent threshold.**
 2 A. Um-hum.
 3 **Q. In terms of the measurement of both parking supply and the**
 4 **measurement of parking demand, would you have a sense as to**
 5 **the margin of error? I mean...**
 6 A. So I don't -- no, I do not have a sense of the margin of
 7 error.
 8 **Q. Okay. But we're very close to 85 percent there, correct?**
 9 A. It's -- well, 83 is close to 85 percent.
 10 **Q. In terms of using the residential parking zone permit system**
 11 **as mitigation, you indicated that the limit is four RPZ**
 12 **permits per household or is that per single family lot?**
 13 A. So at SDOT I say four permits per household, that's actually
 14 the housing unit -- address unit. And so a single family
 15 house would have four. And in an apartment building, it's
 16 along the units in the apartment building, they each have --
 17 that are occupied -- and it's up to four. So most people
 18 don't have four cars; so, you know, we think on average
 19 households have one or two at most.
 20 **Q. So Mr. Welch testified that essentially a single family lot**
 21 **has a dwelling unit.**
 22 A. Um-hum.
 23 **Q. Okay. And the -- what we've been talking about, the**
 24 **accessory dwelling units, these are accessory units. And**
 25 **the fiction, I guess, is that these are accessory to the**

1 principal unit. So a single family lot that has two
2 accessory dwelling units, under your policy, would they be
3 entitled to four RPZ permits per dwelling unit, meaning four
4 times three is 12 or would they be entitled to four because
5 the code assumes you have one single family dwelling unit --
6 or single family parcel. Is it one --

7 MR. KISIELIUS: I'm going to --

8 **Q. (By Mr. Eustis) -- excuse me, is it four or is it 12?**

9 MR. KISIELIUS: I'm going to object to the question for
10 two reasons. One, I think it inaccurately characterizes
11 Mr. Welch's testimony. And two, I'm going to object to the
12 use characterizing a code provision as a fiction. He can
13 get to the question about the numbers in a different way
14 without the editorializing.

15 HEARING EXAMINER: Okay. I'm going to overrule the
16 objection based on characterization of Mr. Welch's
17 testimony. You can ask the question but please take the
18 editorial piece out.

19 MR. EUSTIS: The fiction?

20 HEARING EXAMINER: Yes.

21 MR. EUSTIS: Okay.

22 **Q. (By Mr. Eustis) The root of my question really is the same.**
23 **In the RPZ program, from your testimony my understanding is**
24 **that a single family lot with a single family house would be**
25 **entitled to a maximum of four RPZ permits. My question is:**

1 **Q. (By Mr. Eustis) Assuming that accessory dwelling units**
2 **have -- that each accessory dwelling unit getting this**
3 **hypothetical principal house plus two accessory dwelling**
4 **units has a different mailing address than the principal**
5 **unit, then would that single family lot be entitled to only**
6 **four RPZ permits or would each dwelling unit be entitled to**
7 **four RPZ permits?**

8 A. So SDOT policy set in our code language has said all
9 residences -- all resident addresses within the zone are
10 eligible for permits. So, yes, it would be up to the number
11 of cars, which is unlikely to be that many --

12 **Q. Yeah.**

13 A. -- given the --

14 **Q. So each unit would be entitled to four?**

15 A. Up to four.

16 **Q. Up to four. So a total of 12?**

17 A. Because all residence within a -- that live within a zone
18 are eligible for an RPZ permit if they have a vehicle.

19 **Q. All right. So Mr. Tilghman also gave testimony as to the**
20 **number of vehicles that could be potentially connected to a**
21 **single family lot with a principal unit and two accessory**
22 **dwelling units based on total occupancy of up to 12.**
23 **Without going into that number, so if you had -- let's say**
24 **you had a block such as one in southeast Seattle with the**
25 **preferred alternative that's at or about 83 percent of**

1 **Does that change when you have a principal dwelling and then**
2 **two accessory dwelling units?**

3 A. So within the RPZ program we use address. And I am not
4 familiar enough with how ADUs are addressed to be able to
5 answer that question.

6 **Q. All right. So you've been present here and I assume that at**
7 **some point in this you've heard about the permissibility or**
8 **at least the practice and lack of enforcement against the**
9 **condominimization of accessory dwelling units. For purposes**
10 **of this, since these are distinct units, I want you to**
11 **assume that they have distinct mailing addresses, okay? In**
12 **that case, you have a principal unit, two accessory dwelling**
13 **units, condominiumized, would they be entitled to a total of**
14 **four permits for all three units or would they be entitled**
15 **to four times three, 12 RPZ permits?**

16 MR. KISIELIUS: I'm going to object again in terms of the
17 lead in to that, Mr. Eustis is now offering testimony and
18 argument that it was -- he said we couldn't talk about here
19 in asking the witness to agree with it. The lack of
20 enforcement against something he thinks is against the code
21 is what he's asking about.

22 HEARING EXAMINER: That again is editorializing. So I
23 think you can ask that question without that bit in it. Do
24 you want to rephrase?

25 MR. EUSTIS: Yes.

1 utilization, so if you were then able to issue up to 12 RPZ
2 permits for that -- for the development of a single family
3 property on lot at or around 85 percent, then how would that
4 RPZ program end up mitigating parking impacts on a street
5 that is at or above 85 percent? It wouldn't, would it?

6 A. So what the RPZ program does is actually it provides permits
7 to residents often at a fee; I mean, there's a fee involved.
8 And then it manages the access for non-residents.

9 **Q. Right.**

10 A. So what it really does is kind of -- and currently the
11 Columbia City zone that you're referring to makes it
12 difficult for people that are going to light rail or to the
13 business district for parking on nearby residential streets.
14 So what that does is free up space so that residents have
15 access, you know, to the parking.

16 **Q. Okay. But were the impact above -- at or above 85 percent**
17 **is created by the residents and not by, let's say university**
18 **district students, patrons of Columbia City stores, then the**
19 **RPZ program doesn't project the residents against**
20 **themselves, does it?**

21 A. All residents are eligible for permits, yeah.

22 **Q. I understand.**

23 A. Yeah.

24 **Q. Okay. So with regard to pipeline projects -- and this was**
25 **brought up in the northwest study area -- the -- perhaps**

1 **this EIS is different from your normal programmatic EIS, but**
 2 **it did consider, you know, a discrete number of specific**
 3 **blocks in each of those four study areas, right?**
 4 A. Well, in terms of your first comment, I would disagree that
 5 this is different from other EISs I've worked on. I feel
 6 like this is actually similar to the comprehensive plan or
 7 commercial code, their frequent transit network in that they
 8 were essentially citywide or very large parts of the city.
 9 And then we had data in specific areas that we felt was
 10 representative of the rest of the city or the rest of the
 11 (inaudible).
 12 **Q. Well, that wasn't the thrust of my question, so --**
 13 A. Okay. That was the (inaudible).
 14 **Q. In this case -- in this case, the EIS considered four study**
 15 **areas --**
 16 A. Yes.
 17 **Q. -- and it considered discrete blocks, okay. And then the**
 18 **data that was given purported to represent, at the time the**
 19 **data was collected, the existing parking supply and**
 20 **utilization on those specific blocks, right?**
 21 A. Yes.
 22 **Q. Okay. You review parking studies prepared for projects?**
 23 A. For land use projects?
 24 **Q. Yeah.**
 25 A. No.

1 **consideration given to pipeline projects.**
 2 A. Yeah, I can't speak to that as I don't review land use code
 3 projects.
 4 **Q. Okay. Ms. Snyder, I don't have any further questions.**
 5 **Thank you for, I guess, devoting part of your lunch hour to**
 6 **this exercise.**
 7 HEARING EXAMINER: Well, we have three minutes or two
 8 minutes until 12:30. Can you finish your redirect?
 9 MR. KISIELIUS: I can be -- yes. I have just a handful.
 10 HEARING EXAMINER: Awesome. Go for it.
 11 MR. KISIELIUS: And I will ask just two quick questions.
 12
 13 REDIRECT EXAMINATION
 14 BY MR. KISIELIUS:
 15 **Q. There was a long discussion about permits and -- for units**
 16 **and is that all specific to the RPZ program?**
 17 A. Yes.
 18 **Q. On the last point Mr. Eustis raised about the pipeline**
 19 **projects, I'm going to ask you a slightly different**
 20 **question. Does the fact that conditions in reality may have**
 21 **changed in those study areas since the time the data was**
 22 **collected, does that render that data less useful in your**
 23 **opinion for purposes of trying to evaluate what might happen**
 24 **through a non-project action?**
 25 A. No, I don't think so because it's a -- you know, we have a

1 **Q. Okay. So there -- Mr. Tilghman testified that, for example,**
 2 **the northwest study area along Greenwood the Isolo project**
 3 **was -- I think it's completed and it's occupied, but it**
 4 **wasn't -- he identified it as a pipeline project. If you're**
 5 **considering supply and utilization given specific blocks in**
 6 **a period of time, wouldn't it be appropriate to consider the**
 7 **projects that are coming online?**
 8 A. So I'm not familiar with that specific project or the
 9 analysis that you referred to. I don't think that it's
 10 possible to make a decision about which pipeline projects or
 11 what even a pipeline project is within the citywide study.
 12 I don't think it's possible to do.
 13 **Q. But when you're dealing with specifically identified blocks**
 14 **within specific areas -- area, at a specific period of time,**
 15 **it certainly is possible to -- at least from permit filings,**
 16 **permit approvals to identify pipeline projects, isn't it?**
 17 A. I don't think that -- so I'm not sure that it is. I'm not
 18 sure how we would do that, and I -- yeah, it's not actually
 19 common practice. We don't do that with -- when we do our
 20 SDOT parking studies for capital projects or EISs, we don't
 21 do that.
 22 **Q. Okay. But certainly it's done when parking studies are**
 23 **prepared for particular developments. There is**
 24 **consideration given -- when a specific application comes on,**
 25 **a parking study is done, a traffic study, there is**

1 ten-year horizon. So, you know, curb space changes all the
 2 time, and over ten years -- we're trying to obtain what the
 3 impacts are over ten years and I thought the EIS did a
 4 really good job of that. But we -- and so kind of picking
 5 certain projects to add to that I think would really --
 6 would distort what we're trying to understand as, you know,
 7 with a ten-year project, ten-year horizon.
 8 **Q. And if you determine that the study area is representative**
 9 **and then subsequent to that, the facts in reality have**
 10 **changed, does it render the representative conditions that**
 11 **existed prior any less representative?**
 12 A. No.
 13 **Q. Okay. Thank you. I don't have any further questions.**
 14 HEARING EXAMINER: Thank you. Any recross?
 15
 16 RECROSS-EXAMINATION
 17 BY MR. EUSTIS:
 18 **Q. So in preparation for your testimony, did you happen to**
 19 **review the three parking studies that were presented by**
 20 **appellants as evidence of pipeline projects?**
 21 A. I did not.
 22 **Q. You did not? So you can't say whether the data reported in**
 23 **those parking studies was not available at the time the**
 24 **draft EIS was produced?**
 25 MR. KISIELIUS: I'm going to object because I think this

1 is exceeding the scope of cross. Mr. Eustis could have
 2 asked this in his cross and didn't. I asked about -- I
 3 didn't ask about the three pipeline projects. I just asked
 4 generic questions about conditions changing and now we're
 5 getting to the veracity of data in those reports.
 6 MR. EUSTIS: No, we're not.
 7 HEARING EXAMINER: I'm going to allow it. Go ahead.
 8 **Q. (By Mr. Eustis) Do you recall the question?**
 9 A. No. Could you please repeat it?
 10 **Q. Okay. So as I understand from your response to my prior**
 11 **question, you did not review the parking studies upon which**
 12 **Mr. Tilghman's issue of pipeline projects was based.**
 13 A. That's correct.
 14 **Q. Okay. So you cannot say whether these parking studies**
 15 **contained data that was not available at the time the draft**
 16 **of the final EIS was produced, can you?**
 17 A. No, I did not read them, so I can't say anything about them.
 18 **Q. Okay. Thank you.**
 19 THE COURT: Re-re?
 20 MR. KISIELIUS: No.
 21 HEARING EXAMINER: All right. Thank you. And we will be
 22 breaking for lunch. We will be back at a quarter of 2:00.
 23 We're off the record.
 24 (Lunch recess)
 25 HEARING EXAMINER: All right. Any preliminary matters

1 MR. KISIELIUS: -- witnesses.
 2 HEARING EXAMINER: Let's do the witnesses.
 3 MR. EUSTIS: Yeah. That's fine.
 4 MR. KISIELIUS: So the City would like to call Aly
 5 Pennucci.
 6 HEARING EXAMINER: Good afternoon.
 7 THE WITNESS: Good afternoon.
 8 HEARING EXAMINER: Would you raise your right hand,
 9 please.
 10 Do you swear or affirm that the testimony you're about to
 11 give in this matter is the truth?
 12 THE WITNESS: I do.
 13
 14 ALY PENNUCCI: Witness herein, having first been
 15 duly sworn on oath, was examined
 16 and testified as follows:
 17
 18 HEARING EXAMINER: Thank you. Would you say and spell
 19 your name, first and last, for the record and provide a work
 20 address?
 21 THE WITNESS: Sure. My name is Aly Pennucci. That's
 22 A-l-y. Pennucci is P-e-n-n-u-c-c-i. My work is 600 Fourth
 23 Avenue, Seattle, 98124.
 24 HEARING EXAMINER: Thank you.
 25 You may proceed.

1 before we -- before we get to our last witness?
 2 MR. KISIELIUS: No. We do want to remember the revisit
 3 this, the briefing, but we should do that at the --
 4 HEARING EXAMINER: Yeah.
 5 MR. KISIELIUS: -- conclusion of the witnesses.
 6 HEARING EXAMINER: Okay.
 7 MR. EUSTIS: Briefing? I thought we were talking --
 8 MR. KISIELIUS: Closings.
 9 MR. EUSTIS: Closings.
 10 MR. KISIELIUS: Yeah.
 11 MR. EUSTIS: What I'm -- I asked it on the first day.
 12 What I'm waiting to hear is two questions: One, are you
 13 preparing transcripts; and, two, do -- does the appellate
 14 get the benefit of these transcripts in a -- in a way that
 15 we could be preparing for the same arguments? Apparently --
 16 MR. KISIELIUS: And that's what I was proposing that we
 17 talk about. My understanding, from our conversation earlier
 18 with the examiner was going to do written closing
 19 statements, but that -- but that we hadn't determined the
 20 schedule; and that the direction from the examiner was if we
 21 do not share with the appellant, then we don't get to use
 22 them. And then we're going to talk about the schedule in
 23 light of that. So we could do that now or we could get to
 24 the --
 25 MR. EUSTIS: No.

1
 2
 3 DIRECT EXAMINATION
 4 BY MR. KISIELIUS:
 5 **Q. Ms. Pennucci, could you please state your occupation?**
 6 A. I am a supervising analyst with Council Central Staff --
 7 **Q. Okay.**
 8 A. -- with the City of Seattle.
 9 **Q. And can you describe your professional responsibilities in**
 10 **your profession?**
 11 A. Sure. So Central Staff provides research and analysis and
 12 works with councilmembers on legislation. I primarily work
 13 in the area of land use, housing, and economic development.
 14 **Q. Okay. Can you describe your educational background and**
 15 **training and just focusing on those that are relevant to**
 16 **your occupation?**
 17 A. Sure. I have a bachelor's in urban studies from
 18 San Francisco State University. I have a master's in urban
 19 and regional planning from the University of Minnesota, and
 20 I am a certified planner with the American Institute of
 21 Certified Planners.
 22 And I have over ten years of experience working as both a
 23 planner and as a legislative analyst, but, in my current
 24 role, that includes several years working for the City of
 25 Minneapolis as a planner doing development review, project

1 reviews, zoning reviews, and a few years working for the
2 City of Seattle's long-range planning. And, then, for the
3 last almost four years working for the Council Central
4 Staff.

5 **Q. Okay. I'd like you to focus on your prior experiences
6 working on environmental review. Have you been involved in
7 SEPA review of nonproject actions?**

8 A. Yeah. So my work with -- my previous position as a senior
9 planner with the -- what is now the Office of Planning and
10 Community Development, I was involved in several SEPA
11 reviews with legislation that I was working on either as in
12 drafting the checklist; working on a determination of
13 nonsignificant for a determination for projects that I was
14 either involved or not involved in; as well as in my current
15 position where for any piece of legislation that relates to
16 land use, there is a required SEPA review. So, in that
17 role, I am reviewing the -- often reviewing the SEPA work
18 and EISes that are conducted for that legislation, or, in
19 some cases, when it's council-driven legislation, I myself
20 or others on my team are working with staff in other
21 departments developing the -- doing the SEPA work for
22 council legislation.

23 **Q. Okay. And can you describe your involvement with the EIS at
24 issue in this appeal?**

25 A. Yeah. So I was the project lead for this EIS. The council

1 A. Sure. So as the representative and the project lead for the
2 lead agency, we held the contract with the consultants, so I
3 had primary responsibility for executing those contracts,
4 reviewing invoices, that sort of day-to-day project
5 management, as well as making sort of the final call on
6 decisions about if there needed to be a call made about sort
7 of the development of the alternatives and that type of
8 thing, so...

9 **Q. Okay. All right. I'm going to ask you a couple of
10 questions about different subjects as they've come up over
11 the past couple days given your experience and your role in
12 the project.**

13 **So the other day in the socioeconomics context -- well,
14 let me ask: Were you here for Mr. Reid's testimony?**

15 A. I was.

16 **Q. And do you recall his testimony about the 23 parcels he
17 looked at in Columbia City?**

18 A. I do.

19 **Q. And do you remember what he said about the zoning of those
20 23 parcels?**

21 A. Of single-family zoning.

22 **Q. Okay. And did you take a look at the zoning of the parcels
23 that Mr. Reid described?**

24 A. I did.

25 **Q. And what did you find?**

1 was the lead agency. So I was the primary point of contact
2 for the City and managed the project overall working very
3 closely with Mr. Welch.

4 **Q. Okay. And did you manage the consultant team along with
5 Mr. Welch?**

6 A. I did.

7 **Q. Okay. And did you contribute to or review all the chapters
8 in the EIS?**

9 A. I did.

10 **Q. Okay. How did you coordinate with those members on your
11 team, whether City employees or outside consultants, that
12 had specific expertise?**

13 A. So, for this project, we worked very collaboratively and in
14 close coordination with the consultant team. And Nick and I
15 worked -- coordinated a lot, so we were often working as the
16 liaison between the different subject matter experts,
17 helping coordinate and reviewing all of that work and
18 relying on our subject matter experts to inform components
19 of the EIS that we may have been also contributing to.

20 **Q. Okay. And you've talked a little bit about your cooperative
21 relationship with Mr. Welch, who is with OPCD.**

22 A. Um-hmm.

23 **Q. And I understood you to describe sort of a division of labor
24 between you two. Can you focus on the unique aspect of your
25 role as the person from Central Council Staff?**

1 A. So he was not precise in identifying the exact location, so
2 I looked in the general area around 37th and Dakota Street.
3 And in that area there is some single-family zoning and as
4 well as on -- more on the west side of that area is, well,
5 multifamily zoning.

6 **Q. Okay. He also specifically testified about a parcel on
7 which the existing home was demolished and three new
8 townhomes were constructed.**

9 A. Um-hmm.

10 **Q. First let me ask you: Is it possible to do that, to build
11 three townhomes in a single-family zone?**

12 A. It is not.

13 **Q. So what does that suggest to you?**

14 A. It suggests to me that he may have been including a block --
15 there is one area in that vicinity generally there where one
16 side of the block is a low-rise multifamily zone and the
17 other side is a single-family zone. And we did identify one
18 somewhat recent townhouse development project, so I think
19 it's likely that he was potentially looking at a parcel that
20 is actually in a multifamily zone and had been redeveloped
21 at as a townhome.

22 **Q. Why is that important?**

23 A. It's important because those areas are not in the -- that
24 was not part of the study area and is not representative of
25 the conditions we were trying to study and quantify for the

1 decision-makers in the EIS.

2 **Q. Okay. Staying in the socioeconomic context, Mr. Eustis**
3 **yesterday asked about short-term rental versus long-term**
4 **rental market. And I'm going to ask you a few questions**
5 **about that. I don't want you to repeat what Mr. Shook said.**
6 **I want to focus on a very specific question.**

7 **So what's your familiarity with the short-term rental**
8 **restrictions in the city of Seattle?**

9 A. I'm very familiar with those regulations. I was the lead
10 drafter for that legislation on behalf of the Council.

11 **Q. Do those rules address what you can or cannot do with**
12 **respect to short-term rentals?**

13 A. They do.

14 **Q. And do they -- I think the scenario that Mr. Eustis asked**
15 **about was one in which you had a principal and two accessory**
16 **dwelling units. Could you ever put all three up for a**
17 **short-term rental?**

18 A. No. So the short-term rental regulations don't allow a
19 person to operate more than one short-term rental that is
20 not their primary residence. So you can have a short-term
21 rental license to operate that in your own home, so renting
22 out a room, as well as one additional unit.

23 So with the proposal and the preferred alternative to
24 allow two ADUs on one lot, there is no scenario where all
25 three of those units could be offered for short-term rental

1 based on the model he had created. And we selected, from
2 those views, based on his advice, that those offered a
3 good -- a good indication of what was happening in the study
4 area. What we focused on were the illustrations that best
5 showed a change between the no action and action
6 alternative. And so we not only tried to identify views
7 from the pedestrian experience where a person would
8 actually -- how one would actually experience the world, but
9 we also include oblique and plan view images of those
10 illustrations where -- which is not a way one would actually
11 experience the world, but as a way to demonstrate the
12 magnitude of change that we are expecting in the -- in the
13 areas and for the decision-makers to have that information,
14 to understand the relative differences.

15 **Q. So can you unpack that some more? Why would you have -- why**
16 **did you decide it was important to look at a perspective**
17 **that person on the street wouldn't see?**

18 A. Because if you were talking about -- for example, in the
19 ten-year scenario where there are not -- not assuming that
20 every lot on the -- on the block is redeveloping, it would
21 be difficult to see from many perspectives of the pedestrian
22 scale that there was a change. And, in addition, because
23 many of the changes we're expecting are things like adding
24 an accessory -- an attached accessory dwelling unit in the
25 basement, or a detached accessory dwelling unit, that's a

1 use.

2 If it was a scenario where the owner lived in one unit,
3 they could offer, again, a portion of their own home for
4 short-term rental use as well as one of the accessory
5 dwelling units. But the second accessory dwelling unit
6 could not be offered for short-term rental use under the
7 existing regulations.

8 **Q. Okay. And based on your understanding, does the proposal**
9 **seek to change any of those?**

10 A. It does not.

11 **Q. I'm going to be moving through this relatively quickly and**
12 **changing subjects.**

13 **So on the topic of aesthetics, were you here for**
14 **Mr. Kuehne's testimony about the models using aesthetic**
15 **analysis?**

16 A. I was.

17 **Q. I think Mr. Welch testified that you and he were responsible**
18 **for giving Mr. Kuehne input and feedback. And I don't want**
19 **you to visit any of the ground that Mr. Welch or Mr. Kuehne**
20 **covered. I just want you to focus on one specific aspect of**
21 **that working relationship.**

22 **Can you explain how your team collectively selected the**
23 **depictions that Mr. Kuehne proceeded that were ultimately**
24 **included in the aesthetics analysis?**

25 A. Sure. So Mr. Kuehne provided us with a number of views,

1 difficult shift to see from the street. It really is not
2 changing the way you experience the world, but we wanted to
3 make sure that there -- it was easy to identify where change
4 was occurring.

5 **Q. Okay. Is it fair to say you chose depictions that best**
6 **showed the impact?**

7 A. Yes.

8 **Q. Okay. So you've got two binders in front of you. One of**
9 **them is the -- I think the one to your right, the blue one,**
10 **is the EIS. I'm going to ask you a couple questions. We've**
11 **heard a lot of testimony about parking from Ms. Leighton**
12 **Cody and from Ms. Snyder -- excuse me -- Snyder. I want to**
13 **ask about the comparison in those studies to the production**
14 **numbers, which I think you've testified you were part of the**
15 **liaison of working between the socioeconomics and parking.**
16 **So, first and foremost, can you turn to Appendix B and**
17 **turn to Page B-24.**

18 A. Okay.

19 **Q. And there's been a lot of questions about B-19 -- Exhibit**
20 **B-19.**

21 A. Yes.

22 **Q. Were you here for that testimony?**

23 A. I was.

24 **Q. So I believe the discussion pertained to the final three**
25 **roads. And we heard Ms. Leighton Cody talk about the**

1 numbers -- the final numbers, but suggesting that there
2 might be an error above in those tables. And she had said
3 that she was not responsible for producing this. Was -- who
4 was?

5 A. So Mr. Welch and myself were responsible for the layout of
6 the document and taking the work from the consultants and
7 putting it into the format that you see -- you see in the
8 final EIS.

9 **Q. So since hearing that testimony, have you been able to go
10 back to look at the information that was provided from tool
11 design?**

12 A. I was.

13 **Q. And so what did you find?**

14 A. I found that this is an unfortunate example of human error
15 in cutting and pasting and trying to make tables formatted
16 in the same style where the third -- the third row from the
17 bottom -- so the average number of vehicles per household --
18 the numbers from the previous table on Page B-23, the
19 average number of bedrooms per household were inadvertently
20 carried forward and were not -- so they don't actually
21 reflect the calculations for the average number of vehicles
22 per household, as described in that table.

23 **Q. So, to be clear, did the work that Ms. Leighton Cody provide
24 you actually give you the accurate numbers of the average
25 number of vehicles per household?**

1 THE WITNESS: This was prepared in preparation for the
2 draft EIS.

3 MR. EUSTIS: Okay. But when was this document prepared?

4 THE WITNESS: I don't have the precise date of when it was
5 prepared. It was provided by the consultants when they
6 submitted their original documentation in preparation for us
7 to put the graph together. So that would have been -- let's
8 see. The draft was released last spring, so it would have
9 been around this time of year last year.

10 MR. EUSTIS: Okay. And, to your knowledge, have -- since
11 then, have any of the figures on this table been changed?

12 THE WITNESS: No.

13 MR. EUSTIS: Okay. As a result of Ms. Cody's testimony
14 this morning, then, there was no change to the figures on
15 this table?

16 THE WITNESS: Not to my knowledge.

17 MR. EUSTIS: Okay. All right. Thank you.

18 HEARING EXAMINER: Go ahead.

19 **Q. (By Mr. Kisielius) So, Ms. Pennucci, could you sort of
20 orient us, because I think the layout is a little different
21 than what we're looking at in the EIS. Can you tell us
22 which column on the chart that you have in front of you
23 corresponds to the grow in the table in Exhibit B-19?**

24 A. Sure. So is -- the fourth column is the third column -- the
25 fourth column from the left --

1 A. They did.

2 **Q. And in discovering that error --**

3 MR. EUSTIS: Objection.

4 **Q. (By Mr. Kisielius) -- do you have those numbers?**

5 A. I do. We went back to the source documents, so the original
6 draft that the consultants provided that we -- that we
7 copied from and could provide those numbers to the examiner.

8 **Q. So --**

9 MR. EUSTIS: If I could, it appears that Ms. Pennucci is
10 reading from a table, as was Ms. Cody. And rather than her
11 just orally tell us what it says, I would very much
12 appreciate having a copy of it.

13 MR. KISELIUS: So I was -- I'm happy to do that. Can you
14 just help --

15 **Q. (By Mr. Kisielius) Are you looking at the information from
16 tool design?**

17 A. I am.

18 **Q. Okay.**

19 MR. EUSTIS: And may I voir dire the witness?

20 HEARING EXAMINER: Quickly.

21 MR. EUSTIS: Okay. Ms. Pennucci, you have provided us
22 with a copy of a table. It says, Table 5, Seattle ADU
23 Vehicle Ownership Estimates.

24 THE WITNESS: Correct.

25 MR. EUSTIS: When was this table prepared?

1 **Q. Which -- what's the title of that column? That might be --**

2 A. It says, Average Number of Vehicles/Household. And then
3 underneath it says, Car-owned Rent (inaudible).

4 **Q. Okay.**

5 A. And so reading -- so the -- this table is oriented

6 differently than the table in the -- in the -- in Appendix

7 B. So I will be -- you know, the -- in Appendix B, Seattle

8 renters starts in the second column of that table in the

9 third row from the bottom at 1.651. And so reading from

10 left to right, I'd be reading from top to bottom on this

11 table we just handed out. So in place of 1.651, it should

12 be 1.035. In place of 1.82, for northeast renters, it would

13 be 1.222. In place of 1.864 for northwest renters, it would

14 be 1.309. In place of southeast renters, 1.677 would be

15 1.258. And in place of southwest renters, 1.729 would be

16 1.034.

17 **Q. Okay.**

18 A. And, then, in -- but most notably and importantly, that the

19 ultimate conclusion in both tables in terms of the estimated

20 number of vehicles per accessory dwelling unit that were

21 used in the analysis are the same.

22 MR. KISELIUS: Okay. We'd move for admission of the

23 chart that we've just presented.

24 HEARING EXAMINER: Any objection?

25 MR. EUSTIS: No objection.

1 Would you happen to another copy of it, by chance?
 2 MR. KISIELIUS: Yes.
 3 HEARING EXAMINER: It will be entered as Exhibit 43 into
 4 the record.
 5 (Examiner's Exhibit No. 43 admitted into evidence.)
 6 **Q. (By Mr. Kisielius) Okay. And so just -- I think you made**
 7 **the point there about the numbers -- of the estimated number**
 8 **of vehicles per ADU still being correctly reflected in the**
 9 **table in Exhibit B-19.**
 10 A. Yes.
 11 **Q. Would you describe the inadvertent copying of the -- would**
 12 **you describe the copying of the incorrect information two**
 13 **rows above as inadvertent?**
 14 A. Yes.
 15 **Q. Okay. And did it -- does it affect or bear on the outcome**
 16 **of what's depicted as the estimated number of vehicle per**
 17 **ADU?**
 18 A. It does not.
 19 **Q. Okay. I'm going to ask you some questions about**
 20 **Appellant's -- so Examiner's Exhibits 16 and 17, which are**
 21 **Appellant's Exhibits 15A and 15B. Do you have those in**
 22 **front of you?**
 23 A. I do.
 24 **Q. Okay. And I'm going to try to orient you as to which one is**
 25 **which. I believe the -- you might have the appellant's**

1 number of ADUs that would -- that could be filled in the
 2 study location before exceeding an 85 percent utilization
 3 rate based on Mr. Tilghman's adjusted supply of numbers.
 4 **Q. Okay. And we've had some testimony about the**
 5 **appropriateness of using that adjustment number. For the**
 6 **purposes of the questions I'd like to ask you, I want to ask**
 7 **you to assume that that was a correct thing to do.**
 8 A. Okay.
 9 **Q. In other words, applying the percentages was correct.**
 10 A. Okay.
 11 **Q. At the bottom of that column there's a total shown. And I**
 12 **think for the northeast, the number is 401. Do you see**
 13 **that?**
 14 A. Correct. Yes.
 15 **Q. What's your understanding of what this total shows?**
 16 A. So my understanding is that this is suggesting that in this
 17 parking study location, 401 ADUs would need to be built
 18 before exceeding an 85 percent utilization threshold.
 19 **Q. Okay. So how does that number, 401, compare with the total**
 20 **number of ADUs that the City calculates will be produced**
 21 **over the entire study area?**
 22 A. Well, that would result in about -- it would require about
 23 10 percent -- a little under 10 percent of the total number
 24 of ADUs expected over a ten-year period to be built in the
 25 study area. By doing that math correctly, there's about

1 exhibit at the top.
 2 A. Yes.
 3 **Q. So, for purposes of our discussion, what is 15A is**
 4 **Examiner's Exhibit 16.**
 5 A. Okay.
 6 **Q. And what is 15B is Examiner's Exhibit 17.**
 7 A. Okay.
 8 **Q. If you'd like, you can -- I believe one refers to the**
 9 **northeast and the other refers to the northwest study areas.**
 10 **So that might be another way to orient you and get you**
 11 **talking about the correct ones.**
 12 **I want to focus -- we've heard some testimony about these.**
 13 **I'd like to focus in how some of these numbers correspond to**
 14 **the production numbers that were analyzed in Chapter 4.1.**
 15 A. Okay.
 16 **Q. So if we were to go to Appellant's Exhibit 15A, which is**
 17 **Examiner's 16, that's the northeast study area.**
 18 A. Correct.
 19 **Q. There is a column to the -- second from the right that is**
 20 **titled, Number of ADUs to Exceed 85 Percent Utilization. Do**
 21 **you see that?**
 22 A. Yes.
 23 **Q. What's your understanding of what the numbers in that column**
 24 **shows?**
 25 A. So my understanding of that number is that that is the

1 four -- just over, like, 4300. Yeah.
 2 **Q. So can you remind us? Do you know how big the northeast**
 3 **study area is in comparison to the entire study area?**
 4 A. Yes. It represents less than 1 percent of the entire study
 5 area -- of the EIS study area.
 6 **Q. Okay. So can you do the comparison? You -- in order for**
 7 **401 to occur --**
 8 A. Right.
 9 **Q. -- what percentage of the total production would have to**
 10 **occur in what percent of the total site here?**
 11 A. About 10 percent of the production would have to have occur
 12 in about 1 percent of the study area. Less than 1 percent
 13 of the study area.
 14 **Q. And let's maybe do it a different way. So what -- if you**
 15 **were to look at just the percentage of the study area.**
 16 A. Sure. So if you -- so if you -- so the actual, like,
 17 calculated percent of the study area is about .84 percent
 18 that the -- that the northeast study area represents. So if
 19 you just apply it to that number, the total number of ADUs
 20 expected over the 10 -year period, you would expect to see
 21 about 37 ADUs in the -- in the study area. So that would
 22 leave capacity for 364 additional ADUs that could be built
 23 in the study area before exceeding the 85 percent threshold.
 24 **Q. And, again, that's according to Mr. Tilghman's adjusted**
 25 **supply?**

1 A. Correct.

2 **Q. Can we do the same exercise with 15B? That's the northwest**

3 **study area.**

4 A. Yes.

5 **Q. So maybe we'll start the same way. Do you know the**

6 **percentage? What percentage of the entire study area is the**

7 **northwest study area?**

8 A. About .9 percent of the entire EIS study area.

9 **Q. Okay. And what is the total number shown in terms of ADUs**

10 **before you exceed 85 percent utilization?**

11 A. 56.

12 **Q. And so if you were to apply the percentage against the total**

13 **production numbers --**

14 A. You would expect approximately 41 ADUs built in that study

15 location. So it would still be some capacity, about 15

16 ADUs. So that -- you know, that's suggesting the area would

17 be closer to the 85 percent threshold discussed in the EIS.

18 **Q. Okay. I'm going to ask you a question about the utilization**

19 **with one max occupancy property.**

20 A. Okay.

21 **Q. And, again, I'm going to focus on some of the numbers.**

22 **So, preliminarily, does the EIS calculate the average**

23 **number of residents per ADU?**

24 A. Yes.

25 **Q. So let's just -- you're still on Appendix B?**

1 didn't make that upward adjustment because we made other

2 conservative assumptions that informed our parking analysis.

3 **Q. Okay. Can you describe what some of those are?**

4 A. Sure. So, for example, as I believe Ms. Leighton Cody

5 testified to, that we assumed that 5 percent, under the

6 preferred alternative of eligible lots would build two ADUs.

7 And that is an assumption -- like, that is an upper-bound

8 assumption. The production model that came out of the

9 analysis in Chapter 4.1 assumed some lots would have two

10 ADUs and some would have one. But we -- so we assumed that

11 all lots that would be developing an ADU would have two.

12 And then we also assumed that all of those occupants that

13 would be -- or all of the cars generated from that

14 additional development would be parked on the street.

15 **Q. Okay. So let's return to the criticism about max occupancy**

16 **numbers. Does the average number, the 1.36 -- average**

17 **numbers of persons per ADU, include the possible range of**

18 **residents that might live in an ADU?**

19 A. Yes. Because just the basic rule of averages, it would

20 include all variations and household size.

21 **Q. So let me -- I think we need to dig into one important piece**

22 **of information in terms of the source of numbers.**

23 **Mr. Eustis has asked some witnesses questions that suggest**

24 **the Portland average might not be accurate because of**

25 **different restrictions in terms of numbers of people per**

1 A. I am.

2 **Q. Can you turn to Page B-20 of Appendix B?**

3 A. I'm there.

4 **Q. Okay. Is that the -- actually, does that depict or tell you**

5 **what the average numbers of adults per ADU are in the**

6 **Portland study?**

7 A. Yes. 1.36 is included, and that's in Exhibit B-15 on Page

8 B-20.

9 **Q. Okay. And using that as a -- was that a valid assumption**

10 **you used for similar numbers for the city of Seattle?**

11 A. I believe it was. We looked, you know, again, as been

12 discussed in looking at the Portland study, for lack of

13 other available data specific to ADUs, and then we looked at

14 census data for Portland and compared it to Seattle to get a

15 sense of how reflective of the -- like, similar demographics

16 and area, and it was appropriate to use that number.

17 **Q. Okay. Come back to the use of it in the parking study. But**

18 **just as a -- did the EIS use this 1.36 in all instances?**

19 A. No. In some instances, specifically in the land use

20 chapter, as well as the public services and utilities, we

21 rounded that number up to 1.5 just to give a more

22 conservative sort of upper bound estimate of the potential

23 impacts.

24 **Q. Still based off of the 1.36, though?**

25 A. Based off of the 1.36. In the -- in the parking study, we

1 **household. Are you familiar with the Portland restriction**

2 **on household numbers?**

3 A. I am.

4 **Q. And I think the testimony was currently Seattle is eight;**

5 **Portland is six. So is it something more complicated than**

6 **just two less?**

7 A. It is. Every city takes its own, I guess, approach to

8 definitions. In the city of Seattle, the definition of

9 household size says any number of related people or not more

10 than eight unrelated people can live in a unit. Or in the

11 case of single-family zones, it applies to the -- to the

12 lot.

13 In the Portland definition, it is any number of related

14 people, plus five.

15 And so in either instance with any number of related

16 people, you could -- you know, a family could exceed 12. It

17 could, you know -- it is unlimited --

18 **Q. Under current code?**

19 A. Under current code. Or, excuse me, exceed eight under

20 current code. And in Portland, similarly, because their

21 definition is any number of related, plus five, they could

22 easily -- they could have unrelated and people added to a

23 large -- you know, you could have a 12-person family and add

24 five unrelated people to that lot. So I would say that

25 these numbers reflect sort of those rare occasions where

1 there are very large household sizes.
 2 **Q. So that's the upper bound?**
 3 A. Yeah.
 4 **Q. Let's go back to the average. In looking back at Exhibit**
 5 **B-15 --**
 6 A. Um-hmm.
 7 **Q. -- what can you conclude about the likelihood that the**
 8 **number of people living in an ADU will be five or more?**
 9 A. I would say that would be an exceptionally rare occurrence,
 10 given that the number is closer to one. And if you look at
 11 the -- for example, in Table B-15, there is just 1 percent
 12 of occupants of ADUs in Portland that have three or more
 13 adults living in the -- in the unit.
 14 **Q. So, from the standpoint of those numbers, and based on those**
 15 **averages you just described, would any instances that the**
 16 **max occupancy scenario that Mr. Tilghman identified be**
 17 **commonplace?**
 18 A. No. It would be, like -- sorry. Let me make sure I'm
 19 understanding the question. You're asking me how frequently
 20 would it occur that there was a lot where there were more
 21 than eight or 12 people living on it?
 22 **Q. Yes.**
 23 A. I would say that would be a very rare occurrence given that
 24 the number is closer to one than it is four or five or
 25 anything higher than that.

1 **Q. So that's maybe the frequency with --**
 2 A. Yeah.
 3 **Q. -- with which it might occur. But if it did occur, did the**
 4 **EIS identify that -- those outcomes?**
 5 A. It did. I think as been testified to previously, the --
 6 while overall we didn't find a likelihood that -- or the
 7 entire study area that there would be utilization crossing
 8 the 85 percent threshold. Overall, we did identify that and
 9 disclose that there are localized impacts and, in fact, our
 10 parking analysis, I believe, Ms. Leighton Cody testified to
 11 some of the streets are over 85 percent capacity. And so we
 12 identified that there would -- there could be localized
 13 impacts and that they have mitigation strategies suggested
 14 in the chapter, as well as one of the alternatives does
 15 contemplate a parking requirement for the second ADU. So
 16 that provides information to decision-makers to both look at
 17 the overall impacts of each of the alternative studied, as
 18 well as looking at the specific changes to this one piece of
 19 the proposal --
 20 **Q. Okay.**
 21 A. -- related to parking.
 22 **Q. So on the concept of spillover parking demand from pipeline**
 23 **projects --**
 24 A. Um-hmm.
 25 **Q. -- what's your understanding of the types of projects that**

1 **Q. And in terms of the increase in household capacity, that**
 2 **happens through the addition of a second ADU --**
 3 A. Um-hmm.
 4 **Q. -- do you think that the parking analysis addressed that?**
 5 A. I do. Because, again, from what I stated previously,
 6 because we assumed that every -- that 5 percent of the loss
 7 would add -- would add two ADUs, we essentially doubled the
 8 parking demand. And because the average numbers of persons
 9 per ADUs already account for situations where those numbers
 10 may be higher or lower, I believe that we did account for
 11 that -- for that scenario.
 12 **Q. So I think Mr. Tilghman described his analysis shows one on**
 13 **each block in the study area. And I think he later**
 14 **clarified that was more of a sensitivity analysis. But just**
 15 **to be clear, what's the likelihood that you'd have one on**
 16 **each block of the study area, based on the averages?**
 17 A. I would say it was very, very rare. I mean, you would have
 18 to have 20 lots with exactly one occupant per every two ADUs
 19 with five people in it to get to an average of 1.36. So I
 20 think that the likelihood that you have, you know, in all
 21 those -- you know, throughout the city that that occurrence
 22 would be unlikely given that household size are not all
 23 exactly one.
 24 **Q. So --**
 25 A. Or most, I should say.

1 **Mr. Tilghman was referring to in those three reports he**
 2 **prepared? What kinds of land uses were we talking about**
 3 **there?**
 4 MR. EUSTIS: I'm going to object here. The question deals
 5 with the scope of a -- essentially, a parking impact
 6 analysis. And Ms. Pennucci has identified her background in
 7 planning. She's not a transportation engineer. She hasn't
 8 attested to qualifications dealing with the issue of whether
 9 a parking analysis should consider pipeline projects or not.
 10 MR. KISIELIUS: And that's not where my question was
 11 going. I'm specifically focusing Ms. Pennucci on testimony
 12 that relates to the correlation of numbers and statistics of
 13 which she is aware.
 14 So, for example, on the prior set of questions, we were
 15 talking about numbers as they compare to the production
 16 units with which she is intimately familiar. She testified
 17 she is the person that was the liaison that was making those
 18 connections between the different consultants.
 19 Similarly on this instance, I'm not going to ask her from
 20 a parking expert's perspective. I'm simply going to ask
 21 her -- it was a leading question. I was trying to set the
 22 stage. But I'm going to ask her something that is not
 23 related to whether or not a parking expert would consider
 24 those or not.
 25 If I could ask the question, I could rephrase it.

1 HEARING EXAMINER: Right.
 2 MR. EUSTIS: My question dealt with foundation.
 3 MR. KISIELIUS: Okay.
 4 MR. EUSTIS: In a word.
 5 HEARING EXAMINER: Okay. Why don't you try to rephrase
 6 and ask the question again.
 7 **Q. (By Mr. Kisielius) Okay. So did you -- so were you**
 8 **involved in the discussions about the representativeness of**
 9 **the parking study areas?**
 10 A. I was.
 11 **Q. And are you familiar with the proximity of those parking**
 12 **study areas to multifamily uses, to commercial uses of the**
 13 **kind that are included in Mr. Tilghman's reports by example?**
 14 A. I am.
 15 **Q. Okay. So what did you calculate?**
 16 A. So we -- again, as previously testified, we tried to pick
 17 study areas that were -- reflected a variety of conditions
 18 found throughout the study area so that they could be
 19 representative examples.
 20 One of the things we looked at are sort of proximity to
 21 multifamily and commercial zones. And so the study area, as
 22 a whole, only about 70 percent of the entire study area is
 23 within 400 feet of a multifamily or commercial zone. So
 24 much of the study area is not in very close proximity to
 25 multifamily or commercial zones for the full study area.

1 A. No. I mean, as a nonproject action, we are -- you know, we
 2 are required to provide a general discussion of the
 3 potential impacts of the different alternatives considered
 4 and are not required to do a specific, sort of,
 5 neighborhood-by-neighborhood, lot-by-lot level of analysis.
 6 However, to the extent where we felt like there were
 7 variations in the study area and that understanding the
 8 potential differing impacts, we did try to incorporate
 9 analysis that accounted for that variety.
 10 **Q. Okay. Well, I want to maybe get some specific examples of**
 11 **the types of analysis that were suggested should have been**
 12 **done here.**
 13 A. Okay.
 14 **Q. So let me start -- let's start with parking. I think you**
 15 **quantified the percentage of the study area that was the**
 16 **northeast and south -- northeast and northwest study areas,**
 17 **in other words, the percent of the whole that they were.**
 18 A. Correct.
 19 **Q. Have you calculated what percent of the whole all four study**
 20 **areas were?**
 21 A. Yeah. That represents about 3 percent of the total study
 22 area for the FEIS.
 23 **Q. Okay. And were you responsible for managing the budget for**
 24 **this entire EIS process?**
 25 A. I was.

1 **Q. Can I ask you to pause?**
 2 A. Yeah.
 3 **Q. Did you say 70 percent? That seems like a lot. 70 percent**
 4 **is within 400 feet?**
 5 A. Is not within 400 feet.
 6 **Q. Oh. I must have misheard.**
 7 A. Excuse me. They're only 30 percent of the study area --
 8 sorry if I misspoke. Only 30 percent of the study area is
 9 within 400 feet of a multifamily or commercial zone.
 10 However, the parking study locations, 80 percent of the
 11 blockfaces included in those study locations are within 400
 12 feet of the study area.
 13 So that likely overstates the potential parking impacts,
 14 but we did that intentionally, in part, to identify
 15 locations where there are likely to be more mixing of uses
 16 that often could result in additional parking restraints.
 17 **Q. Okay. I'm going to turn to a different topic about the**
 18 **general criticisms that the City should have analyzed the**
 19 **proposal on a neighborhood-specific basis.**
 20 A. Okay.
 21 **Q. So, first, do you agree with that general contention that**
 22 **the City should have evaluated it on a more**
 23 **neighborhood-specific basis or that that analysis -- that**
 24 **level of analysis was needed for each element of the**
 25 **environment?**

1 **Q. In what capacity?**
 2 A. In all capacities. I had to, first, work with
 3 councilmembers to figure out how to fund it within the
 4 City -- within the budget available to them. And then I,
 5 again, managed the contract negotiated, approved invoices,
 6 worked with the consultants if we needed to shift sort of
 7 the -- some of the dollars around in order to sort of
 8 address where they were going over in certain areas of the
 9 analysis.
 10 **Q. Okay. And so for those four study areas, what was the cost**
 11 **of the data gathering?**
 12 A. So for the four parking study locations, we repurposed data
 13 provided by SDOT for two of them. So for the northeast and
 14 northwest study areas that actually represented a good
 15 number of the blockfaces actually analyzing this in this
 16 work. It was \$5,000 just for the data collection.
 17 **Q. Okay. And are you personally aware of the cost of the**
 18 **additional work to which Ms. Leighton Cody testified today**
 19 **that she did to double-check Mr. Tilghman's work and**
 20 **spot-check some other areas, the subsets of the northeast**
 21 **and northwest study areas?**
 22 A. Yes. Because we also had the pleasure of paying for that
 23 additional data collection. So for the additional work that
 24 they did using a -- using a different methodology, it was
 25 \$1,800 for 24 blockfaces.

1 **Q. And are you able to take the number of blocks that were**
 2 **wheeled and the number of the blocks within the study area**
 3 **to extrapolate what the cost would be to wheel the entirety**
 4 **of those study areas?**
 5 A. Yes. So if we had wheeled the entirety of the study areas,
 6 it would have been approximately \$44,000 more. So almost
 7 \$49,000 for data collection had we used the wheeled method
 8 versus the observed method, as described by Ms. Leighton
 9 Cody.
 10 **Q. I think Mr. Kaplan testified that those four areas were not**
 11 **sufficiently representative and would need at least eight**
 12 **more. Assuming you chose similarly sized study areas that**
 13 **were contemplated to capture eight more neighborhoods, what**
 14 **would it cost to collect data for those?**
 15 A. It would cost about almost \$100,000.
 16 **Q. And tell me again how much you spent on the data collection**
 17 **in this EIS?**
 18 A. \$5,000.
 19 **Q. Okay. And that doesn't include additional analysis?**
 20 A. Correct.
 21 **Q. Okay. Let's turn to another example. How about the**
 22 **aesthetics. And I want to focus on the modeling.**
 23 A. Okay.
 24 **Q. What was the cost of preparing the aesthetics modeling for**
 25 **the two-block area study in the EIS?**

1 **Q. Okay.**
 2 A. -- more.
 3 **Q. More?**
 4 A. Oh, no. That's combined.
 5 **Q. That's combined.**
 6 A. Yeah.
 7 **Q. How does that -- or, well, let me ask: Are you -- are you**
 8 **familiar with the City budget generally?**
 9 A. I am.
 10 **Q. In what capacity?**
 11 A. The Council Central Staff is responsible for staffing the
 12 council during their budget deliberation processes from year
 13 to year, so we work closely with them in reviewing the
 14 City's budget, making -- modifying changes to the budget,
 15 ensuring that they pass a balanced budget prior to the
 16 State-required deadline in December.
 17 **Q. So can you compare that total number -- 480 did you say?**
 18 A. Yeah.
 19 **Q. -- to an annual operating budget of a lead agency -- the**
 20 **Department acting in a lead agency status?**
 21 A. Sure. So --
 22 MR. EUSTIS: Objection. Lead agency -- here, I'm unclear
 23 whether she's referring to OPCD or the whole city council,
 24 Central Staff.
 25 MR. KISIELIUS: I'm happy to rephrase. I'm happy to

1 A. The cost for creating the model -- and to be very clear,
 2 that was just creating the model and those images. It was
 3 not writing the chapter or doing any of the layout or the
 4 other work involved in the development of the EIS. It was
 5 \$15,000.
 6 **Q. Okay. And is it linear? In other words, if you wanted to**
 7 **do more, would it be multiplied?**
 8 A. That -- yeah. That -- or that is what I -- my assumption
 9 is. It's an hourly rate to build and develop the model.
 10 And so my assumption would be, yes, that it would be \$15,000
 11 to do one additional study area.
 12 **Q. And so, again, using that at least eight, what would it cost**
 13 **to do at least eight more?**
 14 A. \$120,000.
 15 **Q. So it's -- and that's just for the modeling?**
 16 A. That's just for the modeling.
 17 **Q. So totalling that together, what do you get?**
 18 A. That would be about 220,000.
 19 **Q. And what was the entire budget of this -- the EIS?**
 20 A. \$260,000.
 21 **Q. Okay. So how does that -- if you were to do that extra data**
 22 **collection -- again, not including all the other associated**
 23 **costs, but just adding those -- what would the total be?**
 24 A. Sorry. I think my -- I need to catch up on the math. It
 25 would be approximately \$480,000 --

1 rephrase.
 2 **Q. (By Mr. Kisielius) If you were to pick a department that**
 3 **you would want to compare it to that is typically in the**
 4 **role of lead agency, what would you pick?**
 5 A. I would pick the Office of Planning and Community
 6 Development where -- because, where in this case, the
 7 council is the lead agency, that is a very uncommon -- in
 8 fact, I believe this might be the only example of the
 9 council being the lead agency, at least that I am aware of.
 10 And so the Office of Planning and Community Development
 11 would typically be the lead agency for conducting this type
 12 of analysis on a citywide policy change to the (inaudible).
 13 **Q. And are you familiar with their operating budget?**
 14 A. I am.
 15 **Q. And what portion of the operating budget would that \$480,000**
 16 **take up?**
 17 A. So the annual budget for the Office of Planning and
 18 Community Development is approximately \$12 million.
 19 Although, the majority of that budget is for personnel
 20 costs. So for about 40 percent is nonpersonnel, but about
 21 \$4 million is dedicated solely for use for projects that are
 22 participating in the equitable development initiative. So
 23 they have about a million dollars available to them for all
 24 other planning work that is nonpersonnel costs for --
 25 annually. And so this would represent about 50 percent of

1 that total --

2 **Q. Okay.**

3 A. -- total cost.

4 **Q. Any other context in terms of City expenses?**

5 A. Yeah. I mean, so if you think about -- you know, I guess,

6 from my perspective working closely with the council and

7 working on the City budget, we are balancing sort of

8 resources and what is reasonable and what's going to provide

9 enough information to the decision-maker.

10 So if you were looking at sort of how this fits within

11 other City policies related to housing goals and that sort

12 of thing, that amount of money would be close to funding

13 approximately 70 shelter beds for an entire year. It could

14 fund over six units of affordable housing that would be

15 available to low-income households earning less than 60

16 percent of area median income that would be required to be

17 permanently affordable for at least 50 to 75 years.

18 So, in that context, you know, there are -- it's a

19 balancing act of trying to provide these services.

20 **Q. We've talked about cost. I guess I want to focus on the**

21 **other half of the equation; the value of the work that was**

22 **done for purposes of informing the decision-maker.**

23 A. Um-hmm.

24 **Q. So, I guess, first for foundation, can you describe your**

25 **role with respect to the decision-maker in this instance? I**

1 80 amendments contemplated by the council. All of those

2 amendments, either myself or someone on my team, checked

3 that any proposed change for consistency with the EIS -- so

4 was the proposal analyzed? Could -- is it achievable? Is

5 it within the bounds of what was contemplated? And, again,

6 what is the -- what are the impact differences or the

7 mitigation measures that might be associated with those

8 modifications?

9 So it's just -- I feel like I have an extra interest in

10 ensuring that the document is able to be applied in real

11 life and is generally easy to understand because once the

12 legislative process starts, that sometimes can feel like

13 moving very quickly, and we need to provide that information

14 to the councilmembers and ensure that they understand the

15 full range of the alternative study.

16 **Q. And do you think the alternatives and the impact analysis**

17 **give the council the ability to consider the ramifications**

18 **of various aspects of the proposal?**

19 A. I do.

20 **Q. And in a manner that will help them evaluate what to**

21 **eventually adopt?**

22 A. I do.

23 **Q. I'm not asking you to presuppose what the council is going**

24 **to do with this because that's not your job nor can -- nor**

25 **can you predict. But I want to know how the EIS is written**

1 **mean, what is your job, in general?**

2 A. Yeah. So my job, in general, as I sort of said briefly

3 previously, is to advise councilmembers in areas related to

4 land use, housing, economic development, that type of --

5 that type of work. And so every piece of land use

6 legislation is -- has a required SEPA review. So I work

7 very closely with the decision-makers and the environmental

8 review that was conducted to help them understand what the

9 analysis was and if they are interested in making

10 modifications to a proposal that the executive transmitted

11 to ensure that any of those changes fit within the -- fit

12 within the balance of what was contemplated in the EIS, as

13 well as helping them understand the differing impacts from

14 going one way or the other. So I work very closely with the

15 decision-makers and how -- and in the application of an EIS.

16 **Q. Okay. And, based on that role --**

17 A. Um-hmm.

18 **Q. -- do you believe that the impact analysis in the EIS will**

19 **inform the decision-makers of the impacts of the policy**

20 **decision?**

21 A. I do. And to, like, put it into a little bit more context,

22 just in part because I recently survived this experience of

23 working with the council as they shepherded the mandatory

24 housing affordability proposal through the legislative

25 process. And during that discussion, there were more than

1 **will help them see the impacts maybe with a concrete**

2 **example. So can you give an example?**

3 A. Yeah. So I think there are a couple of ways. One, there

4 are three action alternatives for them to consider moving

5 forward, and they could take them all in whole or in part.

6 So I'll use the parking analysis as an example.

7 So in addition to the alternatives, we also looked at the

8 varying levers that might be pulled or modified in a -- in a

9 future piece of legislation and provided information

10 specific to some of those choices.

11 So in the parking example, we both included in one of

12 those alternatives a parking requirement or no parking

13 requirement so they can compare the relative change. And,

14 in addition, we provided, by the four study locations, how

15 the utilization rates varied after we incorporate the

16 assumed number of ADUs. And so why does that matter?

17 There's been a lot of testimony about whether or not the

18 numbers are accurate or not. But the four study locations

19 provide a range. Some of them are further from the 85

20 percent threshold. One is very close to it, but not over.

21 And what that allows the decision-maker to contemplate is

22 they could accept the proposal on the preferred alternative.

23 They could incorporate just the parking requirement from

24 Alternative 3 and some component of Alternative 2 and make

25 a -- you know, incorporate those into the proposals. They

1 could also consider geographic differences in how they apply
 2 a parking requirement.
 3 So there's information here where they can both, again,
 4 take the entire proposal and try to move forward with
 5 legislation that reflects exactly one of the alternatives,
 6 or they can modify the different components of each of the
 7 alternative within the bounds of what was contemplated.
 8 **Q. So going back to the cost -- the increased cost to which you**
 9 **testified, do you think it would be appropriate to incur**
 10 **that additional cost in light of the way that decision-maker**
 11 **could use the document as written?**
 12 A. I do not. I mean, as I mentioned, my familiarity with the
 13 City budget makes me intimately familiar with the very
 14 difficult decisions that have to be made every year about
 15 what gets funded and what doesn't to provide essential
 16 services like shelter beds to people who are living on the
 17 street. So I think it's important that this analysis is
 18 done; that it is taken seriously; and that the
 19 information is provided to the decision-makers. But I don't
 20 think it's reasonable for the City to be spending half of
 21 its planning dollars on one policy change at the cost of
 22 other essential services.
 23 **Q. Okay. And you've been here all week, right?**
 24 A. I have been here all week.
 25 **Q. Have you heard anything in the opponent's testimony that**

1 **Q. Okay.**
 2 A. Precise.
 3 **Q. Good enough. I've corrected my notes. I've written MURP**
 4 **training.**
 5 **So in your master's degree at the University of Minnesota,**
 6 **I assume that it did not involve construction education in**
 7 **the Washington State Environmental Policy Act?**
 8 A. No. And I would be hard-pressed to find a planning program
 9 that provides that precise level of training.
 10 **Q. Right. And have you done any separate training on the state**
 11 **Environmental Policy Act?**
 12 A. Well, so annually we meet with the City attorney's office to
 13 get updates on changes to get -- so background and get
 14 updates on training in the state environmental review.
 15 Because, as I described, we work closely with councilmembers
 16 and that we work with them to ensure that councilmembers are
 17 aware of those rules. So I wouldn't say I've had formal
 18 training, but there has been training in that --
 19 **Q. Okay.**
 20 A. -- sort of less formal sense.
 21 **Q. Same question with the National Environmental Policy Act.**
 22 A. I actually -- you know, I did take courses on environmental
 23 planning and that is covered in those context, which are not
 24 really state specific because we -- people leave graduate
 25 school and go off and work in a variety of contexts.

1 **causes you to question any of the conclusions or analysis in**
 2 **the EIS?**
 3 A. No.
 4 **Q. And you believe that the -- do you believe that the EIS will**
 5 **reasonably inform decision-makers of the impacts of the**
 6 **proposal?**
 7 A. I do.
 8 MR. KISIELIUS: I have no further questions.
 9 THE WITNESS: Thank you.
 10 HEARING EXAMINER: Cross-examination.
 11 MR. EUSTIS: Yes.
 12
 13 CROSS - EXAMINATION
 14 BY MR. EUSTIS:
 15 **Q. Well, since you've been here for the duration of the**
 16 **testimony, by now you know that am Jeff Eustis, and I**
 17 **represent the Queen Anne Community Council.**
 18 A. Right.
 19 **Q. So you went through your training --**
 20 A. Um-hmm.
 21 **Q. -- bachelor's of arts, I assume -- master's of arts, AICP --**
 22 A. Just to correct, it's neither a -- it's an MURP. It's a
 23 masters in urban and regional planning.
 24 **Q. Oh.**
 25 A. Just to be clear.

1 **Q. Sure. No. I --**
 2 A. Yeah.
 3 **Q. Someone who practices in the area, routinely I get**
 4 **advertisements for instructional courses on, for instance,**
 5 **writing EISes and (inaudible). And I'm just -- I'm asking**
 6 **if you have taken such an instructional course.**
 7 A. No. But I believe I did participate in a webinar in
 8 order -- as one of the ways to maintain my AICP credentials
 9 for Washington state that sometimes the local chapter
 10 offers. That was a number of years ago.
 11 **Q. How long was this webinar? Four hours? Three hours? A**
 12 **day? A week?**
 13 A. A couple of hours.
 14 **Q. A couple of hours. Okay. Are there any portions of the EIS**
 15 **that you specifically wrote?**
 16 A. So as been described, we work very collaboratively. So,
 17 yes, there are portions, but could I point to each, you
 18 know, paragraph that I specifically wrote, no. But I
 19 contributed and reviewed to this document. I didn't write
 20 any of the comments.
 21 **Q. Okay. A point that I covered with Ms. Cody was that the**
 22 **Portland figures of -- I believe it was 1.36 average**
 23 **occupants for ADU, that was based upon an ADU size of --**
 24 **average size of 665 square feet or so.**
 25 A. Yeah. And if you looked to Page B-20, it was the average

1 size of 665 square feet where their individual ADU sizes
 2 ranging from 200 to 1500. So that reflects an average ADU,
 3 including ADUs that exceed 1,000 square feet.
 4 **Q. Okay. So with your -- I understand from your testimony that**
 5 **only 30 percent of single-family neighborhoods lie within**
 6 **400 feet of multifamily and/or commercial areas -- only 30**
 7 **percent.**
 8 A. Only 30 percent of the study area.
 9 **Q. Of the study area. And the study area is single-family**
 10 **properties in the city?**
 11 A. That's correct.
 12 **Q. So 70 percent lie outside of that 400-foot radius?**
 13 A. Correct.
 14 **Q. Okay. But in the four study areas, 80 percent of those**
 15 **areas lie within 400 feet of multifamily and commercial**
 16 **areas?**
 17 A. Correct.
 18 **Q. Okay. So I understand your position that this yields even**
 19 **more conservative results. So, in that sense, the four**
 20 **study areas are not representative of the single family**
 21 **areas of the city as a whole?**
 22 A. Right. They are representative of 30 percent of the study
 23 areas, as well as (inaudible) 50 percent to be taken through
 24 the other portion of the parking study locations. But,
 25 again, I think you are balancing providing the variety of

1 proposal does not suggest that the objective is to create
 2 incumbent restricted units.
 3 **Q. Okay. So the choice whether to spend additional money on**
 4 **this EIS or spend additional money on beds for homeless is**
 5 **essentially a legislative choice by the City, right?**
 6 A. Correct.
 7 **Q. Okay. So you spoke to the budget, but you're the one who**
 8 **sees the invoices. So far, for conducting this EIS study,**
 9 **what are the invoices, as compared to the budget?**
 10 A. We -- so the consultant budget was 260,000. I didn't have
 11 that final figure in my head, but we were within about \$100
 12 or \$400, I think, of spending that. So the --
 13 **Q. So invoices -- are we talking 1 or \$400 of the actual**
 14 **budget?**
 15 A. Yeah. I don't have the exact -- the final calculation in my
 16 head but we budgeted \$260,000 just for the consultant work,
 17 and we spent those dollars.
 18 **Q. Okay. Does that include defense costs of the EIS?**
 19 A. It does not.
 20 **Q. And do you see those?**
 21 A. I do not. Because the city attorney is a separate -- a
 22 separate branch and is managing that contract that comes out
 23 of the (inaudible) and claims fund for the city.
 24 **Q. So within -- you indicated the money was shifted around**
 25 **within the various components of the budget for this**

1 conditions and identifying areas where there is most likely
 2 to be an impact by the introduction of --
 3 **Q. Okay.**
 4 A. -- additional development.
 5 **Q. With regard to the budget for this EIS --**
 6 A. Okay.
 7 **Q. Well, first of all, there's nothing that compelled, other**
 8 **than its election to take up this legislation to compel the**
 9 **City council to consider legislation that would expand**
 10 **accessory dwelling use in the City?**
 11 A. I don't know that I would agree with that characterization.
 12 I do think that the City is facing a housing crisis and they
 13 are looking -- they are compelled to look at strategies to
 14 address that housing crisis. And this is one of them. But
 15 were -- are they, like, compelled to do this specific study?
 16 No. But if they wanted to move forward with changes to the
 17 accessory dwelling units, they were required to do an EIS
 18 based on the previous hearing examiner decision on the
 19 determination of nonsignificance.
 20 **Q. If they chose to go forward with the legislation?**
 21 A. Correct.
 22 **Q. Okay. So you would agree with what Mr. Welch testified to**
 23 **that the additional ADU production allowed by this**
 24 **legislation would -- is for market-rate housing?**
 25 A. Yes, I would agree with the testimony of Mr. Welch that this

1 **project?**
 2 A. Yeah.
 3 **Q. How was it shifted around?**
 4 A. I don't have the exact shifts in front of me. I would need
 5 to go back and review the materials. But some of the
 6 choices we were making -- for example, we added a collecting
 7 additional parking data for the study which wasn't initially
 8 budgeted for. So Mr. Welch and myself took on a bigger
 9 share of certain components of developing the EIS, and
 10 particularly around the layout and graphics as well as not
 11 having staffing or assistance from the consultants in
 12 holding the scoping meetings or holding the public hearing
 13 on the draft EIS and other things. And so the choices we
 14 were making is what work can we take on so we could have our
 15 experts in certain areas take on -- to do some additional
 16 analysis.
 17 **Q. So to do the additional data collection for the northeast**
 18 **and northwest parking study areas, you indicated that was an**
 19 **additional charge of \$5,000?**
 20 A. Correct.
 21 **Q. And I take it that was a charge from IDAX or DAX?**
 22 A. Yeah, so the way the contract works is our contract with
 23 HDR, they were the prime consultant, the lead consultant for
 24 this project, and then there were a number of subs. You've
 25 heard from experts in those areas: ECONorthwest and Toole

1 Design Group. And then Toole -- so how it worked was Toole
 2 hired I-Dex, I-Dex invoiced Toole, Toole invoiced HDR, and
 3 those invoices all get sent to us. So our payments went to
 4 HDR and they paid the sub-consultants and so on down the
 5 road.
 6 **Q. Okay. I would like to draw your attention to a document**
 7 **that is marked 16-B-3C in appellant's collection of**
 8 **exhibits.**
 9 UNIDENTIFIED SPEAKER: I have it right here.
 10 HEARING EXAMINER: Do you have a copy of it that I might
 11 have?
 12 MR. EUSTIS: Just a second. 16B.
 13 Mr. Eustis, you're going to have to direct me better,
 14 because I don't have the same numbering and you never gave
 15 it to us. So right now I have no idea how to call up the
 16 exhibit that you're going to show, and I'd like to see that
 17 before we get too far down the path of questioning.
 18 UNIDENTIFIED SPEAKER: Which exhibit, 16-B?
 19 MR. EUSTIS: 16-B-3C.
 20 Can I bring it up on the screen?
 21 MR. KISIELIUS: That's not going to help me find it. I've
 22 got -- 16 is divided into nine subfolders, which are each
 23 divided into another six subfolders, which each have
 24 anywhere between eight and 20 emails in them. We talked
 25 about this three days ago.

1 copy of what we would be offering.
 2 MR. KISIELIUS: Well, doesn't she need to see it?
 3 HEARING EXAMINER: I do. But we can copy it if we need
 4 to. That would be the fastest thing. That's what I'm
 5 interested in.
 6 MR. KISIELIUS: Me too.
 7 MR. EUSTIS: I can email it to you right now.
 8 MR. KISIELIUS: That would be great. Thank you.
 9 Okay. Thank you.
 10 HEARING EXAMINER: Um-hum.
 11 MR. EUSTIS: You don't need to watch me. I'm sure you're
 12 interested in seeing my contact list.
 13 Okay. 16-B-3.
 14 MR. KISIELIUS: Ours just aren't grouped that way. The
 15 first subfolder is titled: Groups 1 through 9, and you
 16 don't get to the letters until you get to the subgroups.
 17 MR. EUSTIS: Okay. 16-B-3C, I am emailing this to you
 18 right now.
 19 MR. KISIELIUS: I have not yet received it.
 20 MR. EUSTIS: Hum?
 21 MR. KISIELIUS: I have not received it.
 22 MR. EUSTIS: Well, I logged on to guest. So given --
 23 MR. KISIELIUS: There, I've got it now.
 24 MR. EUSTIS: Okay.
 25 So I have -- I'd like to proceed to ask Ms. Pennucci about

1 MR. EUSTIS: So I'm happy to email this to you. I mean, I
 2 can let you -- certainly, I can let you read it. It's
 3 included within -- maybe Mr. Kaplan will find it.
 4 MR. KAPLAN: Three what?
 5 MR. EUSTIS: 16-B-3C.
 6 MR. KAPLAN: (Inaudible).
 7 MR. EUSTIS: No, I just want you to -- this is the
 8 examiner's set. This is the document I'm referring to.
 9 HEARING EXAMINER: Is it an exhibit already?
 10 MR. EUSTIS: It's not an exhibit.
 11 HEARING EXAMINER: Here's the email from Aly Pennucci to
 12 Nicolas Welch dated March 14th, 2018.
 13 MR. KISIELIUS: I understand. The problem I've got here
 14 is that what Mr. Eustis gave us doesn't have anything
 15 resembling what he's referring to. I have Exhibit 16 that's
 16 divided into nine subfolders, which are each divided into
 17 additional subfolders, each of which have multiple emails.
 18 HEARING EXAMINER: Does that help you at all?
 19 MR. KISIELIUS: I'd have to -- I'd literally have to sort
 20 through every single one of these.
 21 HEARING EXAMINER: Okay. So --
 22 MR. KISIELIUS: I have no way of searching for it.
 23 MR. EUSTIS: But you have --
 24 MR. KISIELIUS: What?
 25 MR. EUSTIS: You have -- the examiner is providing you a

1 this email.
 2 Okay.
 3 **Q. (By Mr. Eustis) Ms. Pennucci, you see on the screen what**
 4 **appellants had marked as Exhibit 16-B-3? Are you able to**
 5 **identify that?**
 6 A. I can literally see it, but I can't read it clearly. So I'm
 7 sorry; I'm now approaching that age, apparently, where you
 8 need to (inaudible).
 9 HEARING EXAMINER: You can use a hand held mic if you'd
 10 like to walk up to the screen.
 11 THE WITNESS: Okay. Or I can just walk up and read it and
 12 walk back.
 13 HEARING EXAMINER: True.
 14 MR. EUSTIS: Or presumably, she could read the paper
 15 document. Okay. Never mind.
 16 THE WITNESS: Okay. Now I've read it.
 17 **Q. (By Mr. Eustis) Okay. Let's see, remind us again who**
 18 **Gordon Clowers is?**
 19 A. Gordon is a planner in the Seattle Department of
 20 Construction and Inspections. He works in the code
 21 development group and often participates in EIS (inaudible)
 22 at the City of Seattle.
 23 **Q. Okay. So in his -- the third paragraph would it be fair to**
 24 **say he raises concerns about considering other study areas**
 25 **besides the four study areas used in the parking study?**

1 A. Yes, I'd say that's a fair summary.
 2 MR. EUSTIS: Okay. I'd move the admission of this email,
 3 Appellant's at least identified as 16-B-3.
 4 MR. KISIELIUS: No objections.
 5 HEARING EXAMINER: All right. This will be entered in the
 6 record as Exhibit 44.
 7 (Exhibit No. 44 admitted into evidence.)
 8 MR. EUSTIS: I'm sorry; Madam Examiner, is that 44?
 9 HEARING EXAMINER: Yes.
 10 **Q. (By Mr. Eustis) Ms. Pennucci, I don't believe I have any**
 11 **further questions for you.**
 12 HEARING EXAMINER: All right. There's no
 13 cross-examination on trees because Mr. Kisielius did not ask
 14 any questions on trees; is that correct?
 15 MR. KISIELIUS: Yes.
 16 MR. ELLISON: I object.
 17 HEARING EXAMINER: All right. Objection noted.
 18 MR. ELLISON: I object because this individual working for
 19 the City had direct oversight and responsibility for all the
 20 chapters, and I have some very succinct questions that I
 21 wish to address regarding the impacts of tree canopy.
 22 HEARING EXAMINER: Well, the rule of examination of
 23 witnesses requires that cross-examination has to be related
 24 to the direct examination. So when you're cross-examining a
 25 witness, you can only ask questions related to the topics

1 HEARING EXAMINER: Okay. That objection is noted in the
 2 record. Thank you.
 3 Mr. Kisielius, redirect?
 4 MR. KISIELIUS: I have I think just one question. But
 5 before it, I'm going to have to ask Mr. Eustis to please
 6 project the exhibit he just asked her about on the screen
 7 because I don't have a paper copy.
 8 MR. EUSTIS: Sorry.
 9 MR. KISIELIUS: Thank you.
 10 MR. EUSTIS: Let's see. Are we there?
 11 MR. KISIELIUS: Yes.
 12
 13 R E D I R E C T E X A M I N A T I O N
 14 BY MR. KISIELIUS:
 15 **Q. So let me know if you need to walk up there to read it.**
 16 A. No, I think I have at least the gist of it in my head.
 17 **Q. Is Mr. Clowers' comments assuming role of, quote, skeptical**
 18 **citizen in suggesting amendments? The words -- if you need**
 19 **to go up there and read it, you can --**
 20 A. No, you know, I'm not sure I understand the question. Are
 21 you asking what he is suggesting by using that terminology?
 22 **Q. I'm just asking -- yes.**
 23 A. So he -- my -- so my recollection of this email, it was part
 24 of the review process during the drafting of the EIS, and so
 25 he was just noting a -- based on his experience from being

1 that were covered in the direct examination. And since
 2 Mr. Kisielius asked no questions about trees, tree canopies,
 3 or the regulations -- or proposal, I should say, and its
 4 potential affect on trees, that wasn't a subject matter that
 5 can be covered on cross either by you or Mr. Eustis unless
 6 Mr. Eustis listed Ms. Pennucci as a direct witness, which
 7 he might have done, I don't know.
 8 MR. EUSTIS: Mr. Eustis did a catch-all designation, any
 9 and all city witnesses.
 10 HEARING EXAMINER: So.
 11 MR. EUSTIS: But I'm not going to be separately calling
 12 her largely in the interest of time.
 13 MR. ELLISON: I register that TreePAC strongly objects the
 14 opportunity to cross-examine this witness because this
 15 witness is directly responsible for many decisions on the
 16 environmental impact statement.
 17 HEARING EXAMINER: Understood.
 18 MR. ELLISON: And could provide direct testimony as to why
 19 or why not certain things occurred within -- should be
 20 within the body of the FEIS. I believe it can be ground --
 21 I'm hoping perhaps that then it could become grounds for an
 22 appeal on the decision or whatever the decision is made by
 23 the hearing examiner as evidence was not allowed to be
 24 discussed, that the witnesses directly responsible for
 25 making decisions on it.

1 on the receiving end of many -- from my understanding, on
 2 the receiving end of many comments, he was expressing what a
 3 skeptical citizen might consider.
 4 I would also note that this type of feedback from our
 5 colleagues leads us to do things such as reverify that our
 6 study locations provide a variety of conditions that could
 7 be found throughout the study area. So as demonstrated in
 8 the final EIS, if you look, for example, at pages B-4, B-5,
 9 B-6, B-7, we went to great lengths to demonstrate the ways
 10 in which these study locations do, in fact, reflect
 11 conditions found throughout the study area.
 12 So this is not -- it is a helpful comment that helps us
 13 refine our analysis and presentation of information to the
 14 public and decision-makers.
 15 **Q. And do you still feel confident that the study areas are**
 16 **represented for purposes of the EIS?**
 17 A. I do.
 18 **Q. And not to belabor the point, and I don't know if you can**
 19 **read it from there, but can you read the last sentence**
 20 **that's highlighted? You might need to take a hand-held mic**
 21 **if you're going to read it from there.**
 22 A. "However, it's something to think about" --
 23 **Q. No, no, the last highlighted sentence.**
 24 A. Oh, sorry. "I think the numeric findings of the analysis
 25 look fair and good" --

1 **Q. No, no, no. That's a nice one to read too, but I'm looking**
2 **at the last highlighted sentence.**

3 A. Oh, the last highlighted sentence; sorry. I feel like I'm
4 giving a show here.

5 So the sentence that starts with "also"?

6 **Q. "I."**

7 A. Oh, here. Sorry. It is --

8 **Q. It's kind of hidden, I understand?**

9 A. It's pixilated here.

10 **Q. Yes.**

11 A. "I can see why that point is not that valid for the purposes
12 of this EIS analysis."

13 **Q. And do you consider that sentence to be qualifying the**
14 **opinion of the skeptical citizen that Mr. Clowers is**
15 **providing?**

16 A. I do.

17 MR. KISIELIUS: I have no further questions. Thank you.

18 MR. EUSTIS: I do.

19 HEARING EXAMINER: Okay.

20

21 RE CROSS - EX AMINATION

22 BY MR. EUSTIS:

23 **Q. Ms. Pennucci, for purposes of environmental review under the**
24 **state Environmental Policy Act, would you agree that the**
25 **significance of the impact should be judged from the**

1 A. I wouldn't agree with your characterization. I do think
2 that the people most directly impacted should have an
3 absolute say in the process. I think that environment
4 impacts can be localized and can ripple out to the city, to
5 the region, as is demonstrated by our current problems with
6 climate change; that is not the result of one action in one
7 specific area and only impacting those people.

8 So I do think that the SEPA process allows for that type
9 of input, as was demonstrated in this example where we got
10 over a thousand comments during the draft EIS, close to a
11 thousand during scoping where the population affected had
12 the opportunity to comment on and provide feedback on what
13 should be contemplated in this EIS.

14 **Q. Okay. So then if we are to view impacts from the standpoint**
15 **of the people to be impacted, Mr. Clowers' concern that --**
16 **what he says: The Eastlake folks wouldn't buy it," et**
17 **cetera. Would you say this is a valid concern?**

18 A. Not for the purposes of an EIS. I think that an EIS
19 document discloses the analysis and the impact threshold
20 that was determined by the authors of that EIS. The public
21 has an opportunity to comment, and further, they have an
22 opportunity to participate in the deliberative process that
23 will happen before the council and have their concerns heard
24 if they disagree with the analysis.

25 So I think that the -- both the EIS as well as the

1 **perspective of the population to the impacted?**

2 A. I'm not sure I understand your question. I believe that
3 the -- I'm not sure I'm clear on what you're asking me.

4 **Q. Okay. You know, given the distribution of the population,**
5 **you would agree, wouldn't you, that what may be of concern**
6 **or perceived as a significant impact to one may not be**
7 **perceived as a significant impact to others. You would**
8 **agree with that notion?**

9 A. Yes, I would agree that to the -- that people without
10 professional expertise have differing opinions and sometimes
11 even with the same professional expertise.

12 **Q. Okay. So then in terms of judging significance of**
13 **opinion -- of impact, you would agree, wouldn't you, that**
14 **significance of impact should be judged from the standpoint**
15 **of the population to be impacted?**

16 A. I'm sorry; are you suggesting that the population of the
17 study area should get to vote on the significance of
18 impacts?

19 **Q. I didn't say that. For instance -- let me be clear -- so if**
20 **we're talking about environment just in South Seattle and**
21 **heightened levels of pollution, let's say in the Duwamish,**
22 **we should consider the perspective of the people in the**
23 **Duwamish, not the people in Laurelhurst or Madison Park.**

24 A. Well --

25 **Q. You'd agree with that notion?**

1 legislative process provides ample opportunity for
2 individuals who differ with the analysis conducted by the
3 City or differ with the decisions that council members are
4 making to participate in that process and ultimately get to
5 vote in their next council member.

6 **Q. You provided a fuller answer than what I was looking for.**

7 A. You're welcome.

8 **Q. I was not necessarily going to express my gratitude. But**
9 **nonetheless, I will not pursue the issue further.**

10 HEARING EXAMINER: Are you done?

11 MR. EUSTIS: I'm done.

12 HEARING EXAMINER: Okay. Thank you, Ms. Pennucci.
13 Anything further from the City?

14 MR. KISIELIUS: No. The City is finished with this case.

15 HEARING EXAMINER: All right. Rebuttal?

16 MR. EUSTIS: Yes. Queen Anne Community Council will call
17 Ross Tilghman as a rebuttal witness.

18 HEARING EXAMINER: Mr. Tilghman, I'm just going to remind
19 you, you've already been sworn in these proceedings.

20 MR. EUSTIS: Yes, okay. Will you need to refer to pages
21 on the EIS on the screen or not?

22 UNIDENTIFIED SPEAKER: At this point I don't think so.

23 MR. KISIELIUS: If I might offer, the hard copy is right
24 to your right as well.

25 MR. EUSTIS: Okay. Very well.

ROSS TILGHMAN, Witness herein, having previously been sworn on oath, was examined and testified as follows:

REBUTTAL DIRECT EXAMINATION

BY MR. EUSTIS:

Q. Okay. Mr. Tilghman, you were here for Ms. Cody's testimony -- Ms. Cody's testimony and you were here for Ms. Snyder's testimony, correct?

A. Yes, I was.

Q. So there were questions that I asked of Ms. Snyder dealing with the relative reliability of the wheel measurements used in calculating parking supply and the observational approach. And I believe in response to my question, she was not able to say that the wheeled approach to measurements would be more reliable than the observational approach.

So first of all, with regard to the so-called observational approach, is -- in the area of parking assessment, is that a term of art, "observational approach"?

A. In terms of identifying parking supply, that is not a term practice I'm familiar with. In other words, one that I see described in city ITE publications that address parking

Q. So you also heard testimony that apparently IDAX went back to certain blocks and used a wheel measurement device to report on parking supply?

A. Yes, I heard that.

Q. Okay. So given that they went back to the blocks where they previously apparently did an observational study, what would you conclude as to its use of the wheel measuring device to verify its prior calculations?

A. Well, based on the spreadsheet that was introduced to the document that follow-up measurement on those select blocks, the wheeled measure, with very rare exceptions, finds fewer and sometimes quite a few fewer parking spaces than the so-called observation method.

Q. Okay. But with respect to determining accuracy, what would you -- what would you conclude apparently by the fact that IDAX went back and they used the wheeled measuring device?

A. Well, I'd conclude that there was some uncertainty as to the validity and the accuracy of the so-called observational method.

Q. So would they be using the wheeled approach to check on the accuracy of their prior observational --

MR. KISIELIUS: I'm going to object. We're now speculating as to what was in the mind of the people when the actual witness testified why they went back and wheeled it. And he's offering a completely different thought

measurement procedures or in any existing city documents that are used as guides to determining parking supply, such as TIP 117. I'm not familiar with an observational approach in any formal sense to measuring parking supply.

Q. So very briefly, what is the wheeled approach or the wheeled methodology of measurement?

A. Well, I believe as I described previously, it's using a measuring device such as a measuring wheel to determine the length of curb in order to identify the legal amount of parking.

Q. So you're measuring linear distances?

A. Correct.

Q. Okay. And it involves the operation of, presumably, a calibrated measuring device?

A. Yes.

Q. And the observational method?

A. Well, I'm not quite sure what the specific steps are. I didn't hear a description of what exactly is involved in an observational means of measuring parking supply. I took it that it meant it would use something less precise than a measuring wheel; that it might be some combination of field observation or use of varied photos or other mapping sources.

Q. Okay.

A. But it -- yeah. (Inaudible).

process that is inconsistent with the testimony of the person who is responsible for that work.

HEARING EXAMINER: Sustained.

MR. EUSTIS: Okay.

Q. (By Mr. Eustis) Okay. So we have a table, it's Exhibit 41. Have you had a chance to go over that table?

A. I have, yes.

Q. Okay. So with respect to your measurements, what -- and the accuracy of your prior measurements, what does this table show?

A. This table shows actually a very -- in most cases a very close correspondence between my measurements and the subsequent wheeled measurements.

Q. Okay.

A. -- by IDAX.

Q. Okay. Could you give some examples?

A. Yes, the first four lines at the top of the table indicate segments of Northeast 82nd Street. Now, that's the same segment that I had measured from Fifth Avenue Northeast east to Roosevelt Way. And my measurements for those four segments tallied 57 spaces and the wheeled measure subsequently done by IDAX tallies 56 spaces. So we differ by one across those four segments.

And then the four -- the next four lines below that, I'm not certain, but I believe they may have transposed my

1 numbers and IDAX's numbers because I consistently found
 2 fewer spaces than the EIS, yet the tally here would show I
 3 found 85 spaces there, which is more than 74 identified in
 4 the original EIS. So I'm not -- I haven't had the ability
 5 to check if that's a correct reporting of my numbers.
 6 Let me jump to the lower portion of the table which is in
 7 yellow which refers to segments of northwest study area. So
 8 I had done an additional sample measurements on Sixth Avenue
 9 from 67th to 73rd. IDAX followed up and measured the same
 10 area. I got a total of 72 spaces. IDAX got a total of 72
 11 spaces.
 12 There are some differences on any one block where
 13 sometimes I found one fewer or one case two more. But over
 14 the -- over that same study area, we came up with the
 15 identical number of spaces.
 16 And in any case, I had used an adjustment factor for that
 17 portion of the study area of 73 percent, and the IDAX
 18 wheeled measurement would seem to confirm what I -- you
 19 know, we got the same -- we got the same tally and we
 20 actually measured the curb.
 21 **Q. Okay. And could you speak to the results of IDAX's or**
 22 **EDAX's wheeled measurements versus their claimed observed**
 23 **measurements?**
 24 A. Well, in each case -- with I think there is one exception --
 25 one location where they actually -- their wheeled

1 **Q. Okay. I believe that in one of the scenarios you outlined**
 2 **shows the example of one single family lot developed with**
 3 **two accessory dwelling units and an occupancy of up to 12**
 4 **people.**
 5 A. Yes.
 6 **Q. And then you also had a -- used a vehicle ownership figure**
 7 **to come up with a number for potential cars that could be**
 8 **owned by those residents; do you recall what that was?**
 9 A. My recollection is there would be a net addition of
 10 approximately nine vehicles.
 11 **Q. Addition?**
 12 A. Correct.
 13 **Q. So on top of the vehicles that would presumably already be**
 14 **accounted for by the fact that in this hypothetical lot,**
 15 **there would already be a single family lot?**
 16 A. That's right.
 17 **Q. A single family dwelling unit?**
 18 **Okay. I believe Ms. Snyder testified that under her view**
 19 **that each one of these dwelling units would be allowed to**
 20 **have up to four residential parking zone permits, assuming**
 21 **that an RPZ covered the area.**
 22 A. In that scenario, yes.
 23 **Q. Okay. So in your opinion, then would issuance of, I guess,**
 24 **up to 12 RPZ permits for this hypothetical development end**
 25 **up mitigating impacts to on street parking?**

1 measurement resulted in one more space than observed
 2 measurement. But in all other -- on all other segments, the
 3 wheeled measurement was notably -- often notably less than
 4 the observed measurement.
 5 So for example, the very first -- the top line of the
 6 table, Northeast 82nd Street between Fifth Avenue and Eighth
 7 Avenue, the observed figure was 18 spaces, IDAX's wheeled
 8 measure was 13 spaces. And if one makes those comparisons
 9 down the line and see Northeast 82nd Street between Eighth
 10 and Roosevelt: Observed 20, measured 12. That's a big
 11 difference.
 12 On balance for that segment of those measurements on
 13 Northeast 82nd Street, the wheeled measured by IDAX came up
 14 with only 75 percent, only three-quarters of the so-called
 15 observed measurement.
 16 **Q. Okay. One of your grounds for challenging the EIS was that**
 17 **there -- the parking analysis was based upon an**
 18 **overestimation of supply of on street parking?**
 19 A. Yes, that's right.
 20 **Q. And do these figures that Ms. Cody just offered as part of**
 21 **her testimony, did those corroborate your prior opinion?**
 22 A. Yes, they do.
 23 **Q. Okay. You were here for Ms. Snyder's explanation for the**
 24 **RPZ program?**
 25 A. Yes.

1 A. Well, the purpose of a restricted parking zone is to limit
 2 the duration of parking by non-residents. So I think as was
 3 testified to earlier, it is most frequently applied near
 4 major generators of parking, so near neighborhood commercial
 5 business districts, near major institutions that would
 6 include things like the zoo.
 7 So the purpose of the RPZ is to limit parking by people
 8 who don't live in the neighborhood. But the RPZ itself does
 9 not in any way limit the number of residents or the number
 10 of residents vehicles that would be on the street.
 11 **Q. Okay. So it's not designed to, I guess, mitigate parking**
 12 **impacts as between residential homeowners versus themselves?**
 13 A. Correct.
 14 **Q. You were here for Ms. Pennucci's testimony relating to your**
 15 **Exhibits 15A and 15B. These were your tables dealing with**
 16 **the calculation of parking availability, et cetera, for the**
 17 **northeast and northwest quadrants?**
 18 A. Yes.
 19 **Q. So perhaps you were following her testimony more closely**
 20 **than I. Did she -- in your opinion, was she correctly**
 21 **responding to the points that you were making in those two**
 22 **exhibits; do you recall?**
 23 A. As best I recollect, yes, I don't recollect any serious
 24 differences in understanding.
 25 **Q. All right. Good enough. Let's see -- I have no further**

1 questions for you. Thank you.
2 HEARING EXAMINER: Mr. Kisielius, cross-examination?

3 CROSS - EXAMINATION

4 BY MR. KISIELIUS:

5 Q. Good afternoon, Mr. Tilghman.

6 A. Good afternoon.

7 Q. I think I just have a couple questions for you.

8 You earlier, in response to Mr. Eustis' first questions,
9 said in terms of the observational approach, you're not
10 familiar with it in any formal sense, I think is the phrase
11 you used. Am I misrecalling or is it -- didn't you testify
12 on the first day of this hearing that you were familiar with
13 utilizing, for example, high-resolution aerial photography
14 to determine parking supply?

15 A. Yes.

16 Q. Okay. So is it the title that the witnesses were using in
17 terms of observed supply that you're not familiar or it was
18 the actual methods that they were using?

19 A. Well, I'm not aware of any handbook that says the
20 observational approach to measuring parking supply is this.
21 That's just not a term of art I'm familiar with in terms of
22 measuring parking supply.

23 I did testify that yes, aerial photography, other mapping
24 is an approach that can be used to estimate supply. But I

1 measured, is that -- am I remembering that correctly?

2 A. Yes, 56 and 57, it's a difference of one.

3 Q. Okay. But you were taking the four rows?

4 A. The top four rows, correct.

5 Q. So I guess isn't that a little opportunistic? I mean, let's
6 go down to the bottom four rows of the green section,
7 understanding that those don't correspond with your wheeled
8 measures because you didn't, but looking at the difference
9 between the wheeled measured that IDAX did and compare it to
10 the observed TIP 117, can you tell us whether or not the
11 total of those four rows would have -- would give you
12 significantly more under the wheel measured than under the
13 observed?

14 MR. EUSTIS: Tadas, for purposes of your question, there's
15 an element key on the left that gives specific numbers.

16 Could you identify --

17 MR. KISIELIUS: Oh, sure. I was counting up.

18 Q. (By Mr. Kisielius) If you look at the green section, the
19 bottom four, but going 40510, is that northeast parallel and
20 perpendicular to the left? The bottom four, the last four
21 in the green.

22 MR. EUSTIS: Oh, that's -- that's what you're referring
23 to?

24 MR. KISIELIUS: Yes.

25 MR. EUSTIS: Okay. I wasn't sure which four you were

1 think I also testified that it can be -- it can be less
2 precise for a variety of different reasons and that I
3 thought the most accurate and reliable approach is direct
4 measuring in the field.

5 Q. I understand that's your testimony. I guess I'm just
6 wondering, is that a yes, is it the label that was assigned
7 to it that you thought was not --

8 A. Yes, that's not a regular term of art.

9 Q. Okay.

10 MR. KISIELIUS: Do you have the number -- I think it's
11 40 -- Exhibit 40, the chart that we were just referring to?

12 MR. EUSTIS: 41? 41?

13 MR. KISIELIUS: I have it as 40. I believe 41 is the
14 email. I thought that was 40.

15 HEARING EXAMINER: Forty is the chart.

16 MR. KISIELIUS: Yeah.

17 MR. EUSTIS: Forty is the chart? Okay, sorry.

18 Q. (By Mr. Kisielius) Okay. Sorry. But you have -- in any
19 event, whatever number it was, you've got it?

20 A. Yes.

21 Q. Thank you. So I guess I'd like to ask you a question. I
22 think I heard and I want to clarify, you were making some
23 comparisons and at one point you were up in the green
24 section and you said, if I total up these four rows, I get
25 56 for what they measured, and I get roughly 56 for what I

1 talking about.

2 Q. (By Mr. Kisielius) Do you see those?

3 A. Yes, I do.

4 Q. And so can you -- I'm going to ask you to do math. If you'd
5 like, I can hand you my phone with the calculator. But can
6 you add up the observed TIP 117?

7 A. I believe that would be a total of 92.

8 Q. And what would the other one be?

9 A. Is that 127, I believe.

10 Q. Okay. That's what I came up to. I'm not very good at math,
11 though, so I'm glad that we both arrived at the same one.

12 So if I chose those four, would it be fair to say that the
13 wheeled measured actually gave me significantly more supply
14 than what the observed method did?

15 A. In that case, yes. I will note that one reason I made what
16 you called an opportunistic distinction was simply that
17 there were -- as I testified previously, there are different
18 street types particularly in the northeast study area.

19 Q. Um-hum.

20 A. There's with curb and gutter, and then there's these up,
21 say, where North 98th is, is a very different setting.

22 Q. That's fair; but let me --

23 A. I would agree that, yes, there is a difference between the
24 wheeled measurement here and the observation.

25 Q. Okay.

1 A. And I think it underscores the point that, in fact, the
 2 observation -- we don't know on what basis the observation
 3 was made, what criteria led to saying any one street had
 4 this number versus another. I think I'd go back to the
 5 point that the wheel measurement is simply the more
 6 accurate, more reliable measurement, and whether it's up or
 7 down in this particular area where there's a lack of curb
 8 and gutter, there is a lot more judgment to be exercised
 9 there as to what counts as a legal parking space.

10 **Q. And yet you still adjusted those observed numbers down in**
 11 **your study, correct?**

12 A. In the areas where I made an adjustment, yes.

13 **Q. Okay. So I think I only have -- I want to switch to the RPZ**
 14 **topic. Mr. Eustis asked you if it was adequate to mitigate.**
 15 **I guess I just want to ask you a different question. Is the**
 16 **answer to that question depend on the facts? Meaning the**
 17 **specific facts in which you're trying to apply the RPZ?**

18 A. Um --

19 **Q. Mr. Eustis' question was, I think, broader based and just**
 20 **asked is that adequate to mitigate. And I'm wondering is**
 21 **that -- are the underlying facts important to make that**
 22 **conclusion?**

23 A. Well, I think any particular act of mitigation has to be
 24 aimed at a particular set of circumstances; so yes, the
 25 facts matter.

1 bulk of the projects were residential that had some street
 2 level --

3 **Q. Okay?**

4 A. -- commercial use.

5 **Q. Okay.**

6 A. But that wouldn't -- that would tend to chase employees out
 7 of the parking area. But if one is going out for a meal,
 8 unless one plans on staying more than two hours and is there
 9 when the restrictions apply -- they don't always apply later
 10 in the evening -- it wouldn't prevent restaurant patrons
 11 from parking in the neighborhood. Most RPZ are applied
 12 throughout the workday, so, you know, after 6:00 or 8:00
 13 p.m., it's open to whomever wants to park there.

14 **Q. Some are for football Saturdays, right? Sorry, that's a**
 15 **neighborhood joke for Mr. Eustis and my benefit.**
 16 **I have no further questions for you.**

17 MR. EUSTIS: Follow-up --

18 HEARING EXAMINER: Redirect?

19 MR. EUSTIS: Yes.

20

21 **R E D I R E C T E X A M I N A T I O N**

22 **BY MR. EUSTIS:**

23 **Q. So at least the date given on the face of the final EIS is**
 24 **October 4th, 2018.**

25 A. Yes.

1 And obviously it needs -- an RPZ is aimed, as I said, at
 2 one set of parking users, non-residential. It's aimed to
 3 protect residential -- residents so they have a better
 4 chance of parking. So it -- if one were in the situation
 5 where residential street were subject to a high level of
 6 utilization strictly from the residents themselves and not
 7 from employees and nearby businesses or patrons of nearby
 8 shops or students at a nearby school or what have you, an
 9 RPZ would not be an effective means of mitigation if it's
 10 simply being applied to residents. So, yeah, I guess the
 11 agree the facts do matter.

12 **Q. Do you agree that introduction of an RPZ is likely to free**
 13 **up some supply for residents? Let's take it -- I mean,**
 14 **would it be likely to free up some supply for residents?**

15 A. Depending on the circumstances, it might, yes.

16 **Q. And when you're dealing with the spillover effect that you**
 17 **were describing from pipeline projects from retail**
 18 **commercial, et cetera, would it help mitigate and free up**
 19 **supply for residents in the vicinity of those?**

20 A. To the extent that the pipeline development is commercial
 21 development -- I believe most of the projects I identified
 22 were primarily -- they were largely residential, small
 23 commercial components.

24 **Q. They weren't mixed use? No restaurants?**

25 A. Yes, there were restaurants but the largest floor area, the

1 **Q. (Inaudible). Okay. By that date, when you spoke of**
 2 **pipeline projects, you were referring to three parking**
 3 **studies done in the Greenwood area, correct?**

4 A. Yes, that's right.

5 **Q. Okay. Were all of those studies done prior to the release**
 6 **of the final impact statement?**

7 A. Yes. And some were significantly prior.

8 **Q. Okay. So this is --**

9 A. That is several years prior.

10 **Q. So this was known data at the time of at least of the final**
 11 **impact statement?**

12 A. Yes, that's right.

13 **Q. If you're doing a parking analysis, at the time you're doing**
 14 **the analysis, would you also consider parking analyses be**
 15 **done for other land use proposals being contemporaneously**
 16 **proposed?**

17 MR. KISIELIUS: I'm going to object. We're exceeding the
 18 scope of cross which was focused on the effectiveness of
 19 RPZs. Mr. Eustis is now trying to reinforce testimony
 20 related to whether or not pipeline projects should have been
 21 considered.

22 HEARING EXAMINER: I'm going to sustain that objection.

23 MR. EUSTIS: Okay. On that, I have no further questions.

24 Thank you.

25 HEARING EXAMINER: Okay. Thank you, Mr. Tilghman.

1 Any further rebuttal?
 2 MR. EUSTIS: No.
 3 HEARING EXAMINER: Okay. It looks like we're at the point
 4 of time where we can discuss closing statements.
 5 MR. KISIELIUS: And just for the record, I'll note it's
 6 3:37. We did it.
 7 HEARING EXAMINER: We did it.
 8 MR. KISIELIUS: If I -- maybe I can start.
 9 HEARING EXAMINER: Okay.
 10 MR. KISIELIUS: And as I indicated earlier, we've
 11 communicated with the court reporter to address the concern
 12 of the City as related to management of -- or an issue about
 13 just sharing without checking first. So we're handling that
 14 and we'll know by Monday whether there's going to be any
 15 sort of effort or issue that will preclude us from sharing
 16 it. Presuming that there is not, we will share transcripts
 17 with the appellant in order to -- in order to insure that
 18 we're able to proceed with the briefing schedule and provide
 19 the examiner with helpful information. The reality,
 20 however, is that the transcripts will be coming in in a
 21 staggered manner because the court reporter will be handling
 22 them one day at a time.
 23 HEARING EXAMINER: Sure.
 24 MR. KISIELIUS: So there will be some delay. I expect we
 25 would -- expect we would have day one by Monday. I expect

1 simultaneous closings and the chief issue deals with
 2 extending out this closing period. And I think it's in the
 3 interest of the parties and probably the examiner to bring
 4 it to a close. Because otherwise we end up with an extended
 5 process, especially if there's no page limit -- and there's
 6 certainly no page limit on the transcript -- we're looking
 7 at very long documents. So I would propose that there be
 8 simul- -- if we're doing it in writing, simultaneous
 9 closings.
 10 Now, in terms of dates, it appears that -- I mean, we
 11 can't really begin the product until the final transcripts
 12 are done. Mr. Tilghman testified on the first day, I
 13 believe, and now he's testifying on the last day.
 14 So in terms of timing, we can talk about that. But from
 15 initial -- initially, I would propose simultaneous closing.
 16 There's no secret as to what we're raising.
 17 MR. KISIELIUS: Well, that's -- I guess I'd like to
 18 respond. Because I do think there is a unique position
 19 sitting in the chair as the respondent that I do believe we
 20 have a good sense of Mr. Eustis' factually based claims. I
 21 have not seen him unpack a legal argument yet.
 22 And so we -- it's our obligation to respond to legal
 23 arguments that he raises and I'm at this point -- I can
 24 guess, but that's the best I'm doing. And I think we're
 25 entitled to see the case put out before us that puts

1 the subsequent days to follow. I don't do that work, so
 2 I'm --
 3 HEARING EXAMINER: Right.
 4 MR. KISIELIUS: -- a little reluctant to sort of commit to
 5 that. But I think for planning purposes, that we'd be able
 6 to start sharing by early next week and we'd have, I think
 7 the conclusion of the hearing by the end of the week, which
 8 is April 5, I think.
 9 HEARING EXAMINER: Right. It is April 5, next Friday.
 10 MR. KISIELIUS: So I think -- that's just I think context
 11 and background.
 12 HEARING EXAMINER: Okay.
 13 MR. KISIELIUS: I think the question of briefing -- in my
 14 experience the sequential manner to acknowledge that we are
 15 the respondent, they are the appellant, they bear the
 16 burden, we're responding to their arguments. So that -- I
 17 think is our initial proposal would be closing and then ours
 18 in sequence. It's been done differently in different ways.
 19 I think if we -- well, I guess that's our starting
 20 proposition. I don't know if Mr. Eustis has a -- I'm trying
 21 to be collaborative and open. I don't have a -- I have some
 22 proposed dates, but I think that's -- I think staggering is
 23 what the City would prefer.
 24 MR. EUSTIS: And my experience has been in this office,
 25 the office of the hearing examiner, the practice has been

1 together the law with the facts, including any legal
 2 specific arguments that we can be responsive to. We are the
 3 respondents.
 4 So my experience is very different than Mr. Eustis'. In
 5 every single one, the City has had the opportunity to
 6 respond. Now, in the most recent experience with MHA, it is
 7 true, we did concurrent closings, but we also each had the
 8 opportunity to concurrently respond. And the point of that
 9 was to avoid a protracted closed response reply. It sort of
 10 compressed it that way. And if that's what we prefer,
 11 that -- we're amenable to that.
 12 I just -- we need to be able to be sure that we have
 13 thoroughly responded to the arguments that he raises, and we
 14 haven't heard them yet.
 15 HEARING EXAMINER: Well, given -- I think the practice
 16 that was adopted in the MHA makes the most sense here. I
 17 guess I do think that appellants should have a chance to
 18 reply once they see your legal arguments, which they haven't
 19 seen those either. So you said you'd do a concurrent
 20 opening and a concurrent closing, is that how it works?
 21 MR. KISIELIUS: Yeah, I think people use different titles
 22 and there were a lot of parties --
 23 HEARING EXAMINER: Right.
 24 MR. KISIELIUS: -- but it was concurrent closing
 25 statements and then concurrent responses to the closing.

1 HEARING EXAMINER: Okay.
 2 MR. KISIELIUS: I think again that was designed creatively
 3 to avoid stretching three briefs over to --
 4 HEARING EXAMINER: Sure.
 5 MR. KISIELIUS: -- each person has the ability to respond
 6 and reply.
 7 HEARING EXAMINER: Sure. Okay. Concurrent closing and
 8 concurrent response. All right --
 9 MR. EUSTIS: Well, an alternative is that we can use the
 10 hour and 20 minutes right now to close, and then that will
 11 be argued, submitted and it could be decided.
 12 HEARING EXAMINER: We could do it that way, but I think in
 13 truth it would be a lot more helpful to me to have it in
 14 writing.
 15 MR. EUSTIS: Very well. I mean, it's...
 16 HEARING EXAMINER: Yeah. So what I'm going to do is I'm
 17 going to say the concurrent closing are due -- let's see,
 18 what's today? April 1st is a Monday, so the next day, April
 19 15th, is that a Monday?
 20 MR. KISIELIUS: That is a Monday.
 21 HEARING EXAMINER: Yeah. So unless there is some hiccup
 22 with the transcripts. Okay.
 23 MR. KISIELIUS: Okay.
 24 HEARING EXAMINER: I'm assuming that you'll have time to
 25 get started and you'll get the transcripts. You have good

1 anniversary trip.
 2 MR. EUSTIS: Yes. I will pass on the generosity.
 3 HEARING EXAMINER: So we'll make it Friday, the 26th. All
 4 right. Does that work for the City?
 5 MR. KISIELIUS: (Inaudible).
 6 HEARING EXAMINER: How about TreePAC, does that sound
 7 reasonable?
 8 MR. ELLISON: It sounds reasonable. Except, of course, I
 9 see we still have an hour and 15 minutes left in the day,
 10 which could have been time to ask questions of the previous
 11 witness.
 12 HEARING EXAMINER: I hear you.
 13 All right. Well, if there's nothing further, we can be
 14 off the record.
 15 MR. KISIELIUS: Thank you.
 16 MR. EUSTIS: Thank you.
 17 HEARING EXAMINER: Thank you, all of you.
 18 UNIDENTIFIED SPEAKER: Thank you very much.
 19 HEARING EXAMINER: Yes, thank you.
 20 (Conclusion of March 29, 2019 hearing day.)
 21
 22
 23
 24
 25

1 recollection right now of what has been testified to, so --
 2 and there's always listening, if you need to, you can get
 3 started and finish by the 15th. And then a week for
 4 closing, so the 22nd. Have closing briefs done on the 22nd?
 5 MR. KISIELIUS: That's okay.
 6 MR. EUSTIS: I would propose April 16th instead of the
 7 15th only because my son is coming up -- well, from all
 8 places, Portland -- but he doesn't live in an ADU -- over
 9 the weekend of the 13th and 14th, and I --
 10 HEARING EXAMINER: That's fine. I don't have a problem
 11 with the 16th. That's fine.
 12 MR. EUSTIS: Okay. And for the following week -- not that
 13 it's any concern of yours -- but my wife just made plans to
 14 go off for our wedding anniversary over the 22nd, 23rd and
 15 24th, and I would just as soon not do this. So I would
 16 propose --
 17 UNIDENTIFIED SPEAKER: The anniversary trip or the
 18 closing?
 19 MR. EUSTIS: -- the 25th, if I could.
 20 HEARING EXAMINER: Okay. Is that -- what day of the week
 21 is that?
 22 MR. EUSTIS: That's a Thursday.
 23 HEARING EXAMINER: Okay. Let's make it the 26th.
 24 MR. EUSTIS: Okay.
 25 HEARING EXAMINER: So you don't have to ruin your

1 CERTIFICATE
 2
 3 STATE OF WASHINGTON)
 4) ss
 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
 12 the transcript; that I received the audio and/or video files in
 13 the court format; that I am not a relative or employee of any
 14 attorney or counsel employed by the parties hereto, nor
 15 financially interested in its outcome.
 16
 17
 18 IN WITNESS WHEREOF, I have hereunto set my hand
 19 this 5th day of April, 2019.
 20
 21
 22
 23
 24 Bonnie Reed, CET
 25

