

BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

In the Matter of the Appeal of:

Hearing Examiner File:

**W-21-007**

TreePAC Environmental Impact Review  
(TEIR) and Greenwood Exceptional  
Trees (GET) of the November 15, 2021  
Determination of Non-Significance by  
Brennon Staley, Office of Planning and  
Community Development (OPCD).

APPELLANTS' PRIMARY LIST OF  
WITNESSES AND EXHIBITS

Pursuant to the revised Prehearing Order entered December 21, 2021, Appellant Richard Ellison, the committee chairperson and pro se representative for TreePAC Environmental Impact Review (or 'TEIR') submits herein the Appellant's Primary Witness and Exhibit List. Digital files of the Exhibit Entries 1 to 51 and 66 to 76 have been issued to the Seattle City Attorney this day. Per the original Prehearing Order, the Appellants were to file and serve rebuttal witness and exhibit lists by February 3rd while also serving electronic copies of exhibits on the other parties.

However, given the duration for discovery, it has been agreed by all parties that TEIR's primary final list of exhibits and witnesses along with service to other parties will be February 10, 2022<sup>1</sup> and a second set of exhibits and witnesses may be submitted following the Department's response to the interrogatories #1 to #10 issued to the Department on January 14, 2022. The Appellant will file with the Office of Hearing Examiner an electronic copy and a hard copy of the primary exhibits by February 17, 2022.

Not listed herein, all relative sections of the Seattle Municipal Code (hereafter "SMC") Land Use Title 23 and Environmental Title 25 will be included within the Appellant's arguments. Also not

<sup>1</sup> As moved by the Appellants on January 10, 2022 with the interrogatory and request of documents subsequently submitted on January 14, 2022.

1 included with the list herein, but will be referenced in the appeal hearing, are all relative  
2 documents available specifically for this decision with the Notice by the Seattle Office of  
3 Planning and Community Development (hereafter the “OCPD” or the Department). Outside of  
4 the City’s fourteen (14) core documents served to the Appellant on January 10<sup>th</sup>, City records  
5 prepared past the date of the December 6, 2021 appeal should not be included within the record.

6  
7 APPELLANT EXHIBIT LIST

8 Included are the applicable documents without copy are the following commonly acknowledged  
9 sources of witness testimony:

- 10 1. State Environmental Policy Act Handbook, Washington State Department of Ecology;
- 11 2. SEPA Training Session Four: “Non-project SEPA, phased review, adopting existing  
12 documents”;
- 13 3. Urban Forestry Stewardship Plan 2013 (pages 1, 8-25, 29-33, 37-40, 53, 60-63, and 73 of  
14 original 79-page document)
- 15 4. Urban Bird Treaty letter (adopted June 7, 2017)
- 16 5. Seattle Fire Code as amended;
- 17 6. All SDCI Director’s Rule including 7-2018 (pages 1-6), Rule 6-2001 and Rule 16-2008
- 18 7. CDC website: “Health Effects of Gentrification” including linked documents.

19 <https://www.cdc.gov/healthyplaces/healthtopics/gentrification.htm>

20  
21  
22 **Appellant Exhibit # : Description**

23 *[\* Documents already available on the SDCI digital record for the project.]*

24 Appellant Exhibit 1: [2016 Seattle Tree Canopy Assessment](#)

25 Appellant Exhibit 2: [Exhibit - Seattle's LR MF Zones, Jan 2016](#)

- 1 Appellant Exhibit 3: [Exhibit - Seattle LR MF Zones, Feb 2020](#)
- 2 Appellant Exhibit 4: “Lowrise Multifamily Code Updates: Balancing Design and Density”.
- 3 Appellant Exhibit 5: Vehicle Access Easement Standards, SDCI Multifamily LR
- 4 Appellant Exhibit 6 Seattle Ordinance 123495 dated December 20, 2010 (pages 1 -40)
- 5 Appellant Exhibit 7: “Modeling Urban Impervious Surface Areas in Relation to Urban Heat
- 6 Island Effects - Research for a Sustainable World”
- 7 Appellant Exhibit 8: “Correlations of Stormwater Runoff and Quality: Urban Pavement and
- 8 Property Value by Land Use at the Parcel Level in a Small Sized American City”
- 9 Appellant Exhibit 9: Annotated [SEPA Checklist](#) (posted with appeal)
- 10 Appellant Exhibit 10: “The Benefits and Limits of Urban Tree Planting for Environmental and
- 11 Human Health”
- 12 Appellant Exhibit 11: Beacon Hill Anti-Displacement Survey
- 13 Appellant Exhibit 12: “YIM 1 and YIM 2” Clarify Washington Regulatory Takings
- 14 Appellant Exhibit 13: OPCD 2018 Community Planning Prioritization (p 1-4, 28-31)
- 15 Appellant Exhibit 14: Seattle Hearing Examiner decision ADU DNS from W-16-004.
- 16 Appellant Exhibit 15: Lot Coverage Assessment TEIR Alternatives to OPCD notice
- 17 Appellant Exhibit 15A: Street Trees Only Alternatives to on-site canopy
- 18 Appellant Exhibit 16: 25.05.926 - Lead agency for governmental proposals and SMC 25.05.670
- 19 Cumulative effects policy
- 20 Appellant Exhibit 17: Market Rate Housing Needs and Supply Analysis , BERK 2021
- 21 Appellant Exhibit 18: OPCD Housing Choice Public Engagement Summary, January 2020
- 22 Appellant Exhibit 19: LR1 zone case study: 2213NW 63rd St., Seattle, WA
- 23 Appellant Exhibit 19B: LR1 zone case study: 2045 NW 63<sup>rd</sup> St., Seattle, WA
- 24 Appellant Exhibits 20: Expanded information on the OPCD's Core Document Exhibit #7.
- 25 Appellant Exhibits 21A-D: Before and After Images of City Core Document Examples
- Appellant Exhibits 22: Eleven (11) examples at Greenwood and Phinney neighborhood

1 Appellant Exhibits 23: Core document trees removed within LR-zoned (2019) Whittier  
developments site including 8326 13th NW; 8318 13th NW, 8340 13th NW, and 8344 13th NW.  
2 Appellant Exhibit 24: City of Seattle, Proposal Summary Townhouse Reforms, Nov 2021  
3 Appellant Exhibit 25: Nicolas Welch conversation with OPCD staff about trees  
4 Appellant Exhibits 26: June Establishment of Seattle's Urban Forestry Commission  
5 Appellant Exhibit 27: Beacon Hill neighborhood stats  
6 Appellant Exhibit 28: Clean Heat  
7 Appellant Example 29: Beacon Hill Survey Results  
8 Appellant Example 30. Maria Batayola Profile CV  
9 Appellant Exhibit 31: Martin Kaplan, Architect Profile CV  
10 Appellant Exhibit 32: David Moehring, Architect Profile CV  
11 Appellant Exhibit 33: William Lider, Engineer CV  
12 Appellant Exhibit 34: Michael Oxman Profile CV  
13 Appellant Exhibit 35: Brian Derdowski Profile CV  
14 Appellant Exhibit 36: Kathleen Wolf Profile CV  
15 Appellant Exhibit 37: Urban Trees and Human Health: A Scoping Review  
16 Appellant Exhibit 38: The Urban Forest and Ecosystem Services: Impacts on Urban Water, Heat,  
and Pollution Cycles at the Tree, Street, and City Scale  
17 Appellant Exhibit 39: Trees Grow on Money: Urban Tree Canopy Cover and Environmental  
Justice  
18 Appellant Exhibit 40: A Conceptual Typology of Practical Design Interventions to Integrate  
19 Health and Climate Resilience Co-Benefits  
20 Appellant Exhibit 41: Declaration of Tina Cohen, retired arborist  
21 Appellant Exhibit 42: Declaration of Robert and Mary Jean Gilman, Seattle residents  
22 Appellant Exhibit 43: Declarations of Penny Griffen, Whittier trees  
23 Appellant Exhibit 44: Declaration of David Moehring, 6407 Carleton  
24 Appellant Exhibit 45: Declaration of Suzanne Grant, 2813 4<sup>th</sup> Ave W  
25 Appellant Exhibit 46: Declaration of Woodrow Wheeler, wildlife biology  
Appellant Exhibit 47: Woodrow Wheeler Profile CV

- 1 Appellant Exhibit 48: Declaration of Marina Lamps Alvarez  
2 Appellant Exhibit 49: Moehring Declaration – Seattle LR zoning maps  
3 Appellant Exhibit 50: SMC 25.05.340 - Determination of nonsignificance (DNS)  
4 Appellant Exhibit 51: Richard Ellison Profile CV  
5 Appellant Exhibit 52: *reserved for receipt of department interrogatory response*  
6 Appellant Exhibit 53: *reserved for receipt of department interrogatory response*  
7 Appellant Exhibit 54: *reserved for receipt of department interrogatory response*  
8 Appellant Exhibit 55: *reserved for receipt of department interrogatory response*  
9 Appellant Exhibit 59: *reserved for receipt of department interrogatory response*  
10 Appellant Exhibit 60: *reserved for receipt of department interrogatory response*  
11 Appellant Exhibit 61: *reserved for receipt of department interrogatory response*  
12 Appellant Exhibit 62: *reserved for receipt of department interrogatory response*  
13 Appellant Exhibit 63: *reserved for receipt of department interrogatory response*  
14 Appellant Exhibit 64: *reserved for receipt of department interrogatory response*  
15 Appellant Exhibit 65: Seattle Street and property utility map in LR1 zone example  
16 Appellant Exhibit 66: Declaration of William Lider, Engineer  
17 Appellant Exhibit 67: King County Capacity Charge Residential Sewer Use  
18 Appellant Exhibit 68: Seattle i-Tree  
19 Appellant Exhibit 69: - blank -  
20 Appellant Exhibits 70 to 76R: City discovery tree assessment via October 2019 public records  
21 request (14 documents and presentations)

22 APPELLANT WITNESS LIST

23 **Subpoenaed Witness and Parties to the Appeal to Testify List:**

24 1) City witnesses to testify their data, SEPA investigation and analysis on increased lot  
25 coverage resulting from more unstacked townhouse units. Decreased area for tree canopy,  
Transportation Access, Increased city infrastructure demands for stormwater and sanitary, and  
adequately consider the public interests.

1 basis who directed /promoted the change, including research into the impacts resulting in the  
2 DNS.

- 3 1) Brennon Staley, Office of Planning and Community Development (OPCD),
- 4 2) Geoff Wentlandt OPCD SEPA Compliance
- 5 3) Jennifer Pettyjohn; as noted in interrogatory response forthcoming
- 6 4) Megan Neuman, as noted in interrogatory response forthcoming
- 7 5) David VanSkike (SDCI), as noted in interrogatory response forthcoming
- 8 6) Nick Welch (OPCD), as noted in interrogatory response forthcoming.
- 9 7) J. Faith Ramos 2016 LiDAR University of Vermont; Heat Islands / Climate, Open  
10 Space for New Trees within LR-zones / Green Factor, public records.

11 **Appellants' Expert Witness List:**

- 12 1. Brian Derdowski : Environmental Policy credentials in CV; Need for SEPA and DNS – SEPA  
13 regulations and application to the OPCD proposal. Peter's Report SSNAP. Cumulative Impacts;  
14 Stormwater Policy (Estimated duration of testimony:1 to 1.5 hours);
- 15 2. Marty Kaplan: Architectural Credentials in CV; Need for DNS in past Hearing Examiner  
16 rulings, SEPA requirements, site options, on-site parking provisions; (1 to 1.5 hours);
- 17 3. Kathy Wolf: Researcher Credentials in CV; Multiple impacts to loss of existing trees and  
18 space to plant trees; tree Equity in Seattle (1.5 to 2 hours)
- 19 4. William Lider: Credentials in CV; APPEAL ITEMS A, B, F: Stormwater and City  
20 Infrastructure / Utilities Impact; urban trees relative to stormwater reduction and street capacity  
21 within Seattle . (1/2 to 1 hours).
- 22 5. Maria Batayola and lay-witness, Credentials in CV; tree equitable and access; impacts  
23 from the environment including loss of more open space. (1/2 to 1 hours).
- 24
- 25

1 6. David Moehring, expert and lay witness, Credentials in CV; Registered Architect IL  
2 #001012961 and Certified with the National Council of Architectural Registration Boards. Mr.  
3 Moehring is a Senior Capital Planner at the University of Washington Bothell and active outside  
4 of the University is an advocate for the urban environment. Townhouse Density / access for  
5 vehicles/ exterior amenity space, site examples and fit. In addition to being the appellant  
6 representative. (1-1/2 to 2 hours).

7 7. Richard Ellison, expert and lay witness Seattle WA 98199, co-appellant , examples of  
8 townhouse development (1/2 to 1 hour)

9 8.. Woody Wheeler Credentials in CV; Impacts to Natural Habitats (1/2 to 1 hour).

10 9. Michael Oxman, ISA Certified Arborist. Credentials in CV; Mr. Oxman has been an arborist  
11 with a Tree Risk Assessment Qualification since 1985, as well as having experience with Seattle  
12 Parks in 2002 and 2003. . Estimated Time: (1/2 to 1 hour)

13 **Fact Lay-Witness List:**

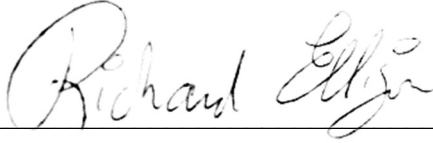
- 14 1. Suzanne Grant, Seattle WA 98199, tree advocate ; examples of townhouse development  
15 (1/2 hour)
- 16 2. Mary Jean Gillman, Seattle WA 98199, tree and wildlife advocate (1/2 hour)
- 17 3. Ivy Durslag, Seattle WA 98199, co-appellant (1/2 hour)

18 Additionally, the Appellant reserves the right (a) to call any witness identified by any party, (b)  
19 to use any of the documents identified by any other party, (c) to call substitute witnesses if any  
20 identified witness becomes unavailable, (d) to call additional witnesses as allowed by Seattle  
21 Hearing Examiner Rules, and. (e) to supplement this Primary witness and document list as new  
22 or more information becomes available.

23 Time period for each witness's testimony per Hearing Examiner's Order. The  
24 approximate time periods for each witness's direct testimony (in parentheses at the end of each  
25 witness summary) does not include time to authenticate documents, arguments about the

1 admissibility of documents if the Respondent will not stipulate to admission of the document(s),  
2 nor time for cross examination and re-direct testimony.

3  
4 Signed this 10th day of February 2022 in Seattle, Washington.

5   
6

7 Richard Ellison, Appellant Representative pro se  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



1 **Certificate of Service**

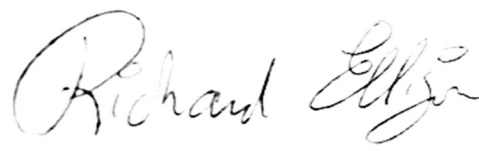
2 I, Richard Ellison, certify under penalty of perjury under the laws of the State of Washington that  
3 on this date I sent true and correct copies, via e-mail, of the **Appellant’s PRIMARY Witness &**  
4 **Exhibit’s List** to the person listed below, in the matter of the Determination of Non-Significance  
5 issued by the Director, Office of Planning and Community Development, Hearing Examiner File  
6 No. W-21-007. I also certify that on this date, a copy of the same document was sent via email to  
7 the following parties:

8 Department:  
9 Geoffrey Wentlandt  
10 Office of Planning and Community Development  
11 Email: [geoffrey.wentlandt@seattle.gov](mailto:geoffrey.wentlandt@seattle.gov)

12 Department Legal Counsel:  
13 Daniel Mitchell  
14 Seattle City Attorney's Office  
15 Email: [daniel.mitchell@seattle.gov](mailto:daniel.mitchell@seattle.gov)

16 Co-Appellant:  
17 Ivy Durslag  
18 Greenwood Exceptional Trees  
19 512 N. 82nd Street Seattle, WA 98103  
20 Email: [ivyhaley@msn.com](mailto:ivyhaley@msn.com)

21 I declare under the penalty of perjury under the laws of the State of Washington that the  
22 foregoing statement is true and correct to the best of my knowledge and belief.  
23 Signed this 10<sup>th</sup> day of February 2022 in Seattle, Washington.

24 

25 Richard Ellison, appellant representative pro se