

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).

AMENDED APPELLANTS' LIST OF
WITNESSES AND EXHIBITS

Following the receipt of the interrogatories, the Appellant's list of witnesses remain unchanged; and the list of exhibits additionally include the following common access and acknowledged documents as well as the amended exhibits that were provided from the Department's responses to discovery:

A. Common access documents:

1. [Seattle 2035 Comprehensive Plan](#) Managing Growth to Become an Equitable and Sustainable City 2015–2035, pp. 33-34, 47, 121, 133 and p. 389.
2. Seattle Municipal Code (SMC) Chapters 23.24 Shorts Plats and 23.28 Lot Boundary Adjustments
3. Full development site plans for the City's Core Exhibits 8 to 13 that the Department reported to be available to Appellant through the public portal available online. As referenced by the Interrogatory Response No. 4, these full sets are referenced as evidence to the matter of scope of environmental impact within these six department-provided examples. ¹

¹ Department response to the Remainder of Interrogatory No. 4 states "*In its exhibits OPCD previously provided to Appellant excerpts of plan sets focused on information it considered most relevant. OPCD objects to Appellants' Interrogatory No. 4 as overly burdensome. The full plan sets have been available to Appellant through the public portal available online. Notwithstanding the objection, in response to this interrogatory, OPCD is now providing full and complete plan sets for each of Exhibits 8 – 14, which contain the information requested to the extent it is available.*"

COS0001624	40	1718 27th Ave Plan Set.pdf	Portable Document Format	/RFP 4 & 5 - Plan Sets
COS0001664	48	3238 14TH AVE W Plan Set - Parcel B.pdf	Portable Document Format	/RFP 4 & 5 - Plan Sets
COS0001712	70	8324 13th Ave NW Plan Set.pdf	Portable Document Format	/RFP 4 & 5 - Plan Sets
COS0001782	21	704 W Bertona St Plan Set.pdf	Portable Document Format	/RFP 4 & 5 - Plan Sets
COS0001803	78	8328 13th Ave NW Plan Set.pdf	Portable Document Format	/RFP 4 & 5 - Plan Sets
COS0001881	44	3408 34th Ave W Plan Set.pdf	Portable Document Format	/RFP 4 & 5 - Plan Sets
COS0001925	27	5034 Sand Point PI NE Plan Set - Parcel B.pdf	Portable Document Format	/RFP 4 & 5 - Plan Sets
COS0001952	33	3412 34th Ave W Plan Set.pdf	Portable Document Format	/RFP 4 & 5 - Plan Sets
COS0001985	37	1716 27th Ave Plan Set.pdf	Portable Document Format	/RFP 4 & 5 - Plan Sets
COS0002022	44	3236 14TH AVE W Plan Set - Parcel A.pdf	Portable Document Format	/RFP 4 & 5 - Plan Sets
COS0002066	19	5032 Sand Point PI NE Plan Set - Parcel A.pdf	Portable Document Format	/RFP 4 & 5 - Plan Sets
COS0002085	23	712 W Bertona St Plan Set.pdf	Portable Document Format	/RFP 4 & 5 - Plan Sets
COS0002108	70	8326 13th Ave NW Plan Set.pdf	Portable Document Format	/RFP 4 & 5 - Plan Sets

4. In context to fully understand the difference between the proposed Department Townhouse Reform Action and the recent 2019 SEPA determinations (without challenging or judgement to past determinations), the public access documents associated with Citywide MHA implementation and Accessory Dwelling Unit regulations are to be referenced. The Final Environmental Impact Statements can be found at the following public documents / links:

- i. Compiled_MHA_FEIS_2017.pdf (seattle.gov)²
- ii. MAIN_ADU_FEIS_2018.pdf (seattle.gov)³

B. Amended exhibits available via discovery with this appeal (COS = discovery number).

1. Appellant Exhibit 52: Department Responses to Interrogatories 1 to 10
2. Appellant Exhibit 53: Notes SEPA Analysis Townhouse Reform Legislat. COS0004611
3. Appellant Exhibit 54: LR1 density analysis COS0004224
4. Appellant Exhibit 55A: Townhouse Reforms Goal and Principles COS0000004
5. Appellant Exhibit 55B: Lowrise 1 Density Limit COS0000609
6. Appellant Exhibit 56A: Townhouse Reforms Next Steps COS0000007
7. Appellant Exhibit 56B: Check-in and Engagement COS0004290

² Link to 2019 approved MHA FEIS p. 3.315 – 3.332 3.315-3.342
https://www.seattle.gov/Documents/Departments/HALA/Policy/MHA_FEIS/Compiled_MHA_FEIS_2017.pdf

³ Link https://www.seattle.gov/Documents/Departments/Council/MAIN_ADU_FEIS_2018.pdf of the 2019 approved ADU FEIS, pp 3.31, 3.35, 4.52 to 4.55, 4.62-4.76, 4.92, 41.59, 5.14-5.15.

8. Appellant Exhibit 56C: Project Schedule COS0000006
9. Appellant Exhibit 57A: Townhouse Data COS0004353
10. Appellant Exhibit 57B: Townhouse Data memo COS0004347
11. Appellant Exhibit 58A: Presentation to Executive Team COS0004426
12. Appellant Exhibit 58B: Letter to Mayor 10/13/2021 COS0004420
13. Appellant Exhibit 59 Summary and Fiscal Note COS0000529
14. Appellant Exhibit 60: Attachment A 9/3/2019 Advisory Council COS0003950
15. Appellant Exhibit 61: LR1 Layouts Study COS0000562
16. Appellant Exhibit 62: not used
17. Appellant Exhibit 63: City Townhouse Dwelling Count Calculations COS0000586
18. Appellant Exhibit 64: City Townhouse Value Calculations per Sq. Ft COS0000589
19. Appellant Exhibit 65: Seattle Street and property utility map in LR1 zone example
(resent as one pdf)

Above amended this 21st day of February 2022 in Seattle, Washington.



END OF AMENDMENT

Original exhibit and witness list (without changes) for reference:

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

1 final list of exhibits and witnesses along with service to other parties will be February 10, 2022⁴
2 and a second set of exhibits and witnesses may be submitted following the Department's
3 response to the interrogatories #1 to #10 issued to the Department on January 14, 2022. The
4 Appellant will file with the Office of Hearing Examiner an electronic copy and a hard copy of
5 the primary exhibits by February 17, 2022.

6 Not listed herein, all relative sections of the Seattle Municipal Code (hereafter "SMC") Land Use
7 Title 23 and Environmental Title 25 will be included within the Appellant's arguments. Also not
8 included with the list herein, but will be referenced in the appeal hearing, are all relative
9 documents available specifically for this decision with the Notice by the Seattle Office of
10 Planning and Community Development (hereafter the "OCPD" or the Department). Outside of
11 the City's fourteen (14) core documents served to the Appellant on January 10th, City records
12 prepared past the date of the December 6, 2021 appeal should not be included within the record.

13 APPELLANT EXHIBIT LIST

14 Included are the applicable documents without copy are the following commonly acknowledged
15 sources of witness testimony:

- 16 1. State Environmental Policy Act Handbook, Washington State Department of Ecology;
- 17 2. SEPA Training Session Four: "Non-project SEPA, phased review, adopting existing
18 documents";
- 19 3. Urban Forestry Stewardship Plan 2013 (pages 1, 8-25, 29-33, 37-40, 53, 60-63, and 73 of
20 original 79-page document)
- 21 4. Urban Bird Treaty letter (adopted June 7, 2017)
- 22 5. Seattle Fire Code as amended;
- 23
- 24

25 ⁴ As moved by the Appellants on January 10, 2022 with the interrogatory and request of documents
subsequently submitted on January 14, 2022.

6. All SDCI Director's Rule including 7-2018 (pages 1-6), Rule 6-2001 and Rule 16-2008

7. CDC website: "Health Effects of Gentrification" including linked documents.

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

Appellant Exhibit # : Description

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

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

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

Appellant Exhibit 3: [Exhibit - Seattle LR MF Zones, Feb 2020](#)

Appellant Exhibit 4: "Lowrise Multifamily Code Updates: Balancing Design and Density".

Appellant Exhibit 5: Vehicle Access Easement Standards, SDCI Multifamily LR

Appellant Exhibit 6 Seattle Ordinance 123495 dated December 20, 2010 (pages 1 -40)

Appellant Exhibit 7: "Modeling Urban Impervious Surface Areas in Relation to Urban Heat Island Effects - Research for a Sustainable World"

Appellant Exhibit 8: "Correlations of Stormwater Runoff and Quality: Urban Pavement and Property Value by Land Use at the Parcel Level in a Small Sized American City"

Appellant Exhibit 9: Annotated [SEPA Checklist](#) (posted with appeal)

Appellant Exhibit 10: "The Benefits and Limits of Urban Tree Planting for Environmental and Human Health"

Appellant Exhibit 11: Beacon Hill Anti-Displacement Survey

Appellant Exhibit 12: "YIM 1 and YIM 2" Clarify Washington Regulatory Takings

Appellant Exhibit 13: OPCD 2018 Community Planning Prioritization (p 1-4, 28-31)

Appellant Exhibit 14: Seattle Hearing Examiner decision ADU DNS from W-16-004.

Appellant Exhibit 15: Lot Coverage Assessment TEIR Alternatives to OPCD notice

Appellant Exhibit 15A: Street Trees Only Alternatives to on-site canopy

1 Appellant Exhibit 16: 25.05.926 - Lead agency for governmental proposals and SMC 25.05.670
2 Cumulative effects policy
3 Appellant Exhibit 17: Market Rate Housing Needs and Supply Analysis , BERK 2021
4 Appellant Exhibit 18: OPCD Housing Choice Public Engagement Summary, January 2020
5 Appellant Exhibit 19: LR1 zone case study: 2213NW 63rd St., Seattle, WA
6 Appellant Exhibit 19B: LR1 zone case study: 2045 NW 63rd St., Seattle, WA
7 Appellant Exhibits 20: Expanded information on the OPCD's Core Document Exhibit #7.
8 Appellant Exhibits 21A-D: Before and After Images of City Core Document Examples
9 Appellant Exhibits 22: Eleven (11) examples at Greenwood and Phinney neighborhood
10 Appellant Exhibits 23: Core document trees removed within LR-zoned (2019) Whittier
11 developments site including 8326 13th NW; 8318 13th NW, 8340 13th NW, and 8344 13th NW.
12 Appellant Exhibit 24: City of Seattle, Proposal Summary Townhouse Reforms, Nov 2021
13 Appellant Exhibit 25: Nicolas Welch conversation with OPCD staff about trees
14 Appellant Exhibits 26: June Establishment of Seattle's Urban Forestry Commission
15 Appellant Exhibit 27: Beacon Hill neighborhood stats
16 Appellant Exhibit 28: Clean Heat
17 Appellant Example 29: Beacon Hill Survey Results
18 Appellant Example 30: Maria Batayola Profile CV
19 Appellant Exhibit 31: Martin Kaplan, Architect Profile CV
20 Appellant Exhibit 32: David Moehring, Architect Profile CV
21 Appellant Exhibit 33: William Lider, Engineer CV
22 Appellant Exhibit 34: Michael Oxman Profile CV
23 Appellant Exhibit 35: Brian Derdowski Profile CV
24 Appellant Exhibit 36: Kathleen Wolf Profile CV
25 Appellant Exhibit 37: Urban Trees and Human Health: A Scoping Review
Appellant Exhibit 38: The Urban Forest and Ecosystem Services: Impacts on Urban Water, Heat,
and Pollution Cycles at the Tree, Street, and City Scale
Appellant Exhibit 39: Trees Grow on Money: Urban Tree Canopy Cover and Environmental
Justice

1 Appellant Exhibit 40: A Conceptual Typology of Practical Design Interventions to Integrate
2 Health and Climate Resilience Co-Benefits

3 Appellant Exhibit 41: Declaration of Tina Cohen, retired arborist

4 Appellant Exhibit 42: Declaration of Robert and Mary Jean Gilman, Seattle residents

5 Appellant Exhibit 43: Declarations of Penny Griffen, Whittier trees

6 Appellant Exhibit 44: Declaration of David Moehring, 6407 Carleton

7 Appellant Exhibit 45: Declaration of Suzanne Grant, 2813 4th Ave W

8 Appellant Exhibit 46: Declaration of Woodrow Wheeler, wildlife biology

9 Appellant Exhibit 47: Woodrow Wheeler Profile CV

10 Appellant Exhibit 48: Declaration of Marina Lamps Alvarez

11 Appellant Exhibit 49: Moehring Declaration – Seattle LR zoning maps

12 Appellant Exhibit 50: SMC 25.05.340 - Determination of nonsignificance (DNS)

13 Appellant Exhibit 51: Richard Ellison Profile CV

14 Appellant Exhibit 52: *reserved for receipt of department interrogatory response*

15 Appellant Exhibit 53: *reserved for receipt of department interrogatory response*

16 Appellant Exhibit 54: *reserved for receipt of department interrogatory response*

17 Appellant Exhibit 55: *reserved for receipt of department interrogatory response*

18 Appellant Exhibit 59: *reserved for receipt of department interrogatory response*

19 Appellant Exhibit 60: *reserved for receipt of department interrogatory response*

20 Appellant Exhibit 61: *reserved for receipt of department interrogatory response*

21 Appellant Exhibit 62: *reserved for receipt of department interrogatory response*

22 Appellant Exhibit 63: *reserved for receipt of department interrogatory response*

23 Appellant Exhibit 64: *reserved for receipt of department interrogatory response*

24 Appellant Exhibit 65: Seattle Street and property utility map in LR1 zone example

25 Appellant Exhibit 66: Declaration of William Lider, Engineer

Appellant Exhibit 67: King County Capacity Charge Residential Sewer Use

Appellant Exhibit 68: Seattle i-Tree

Appellant Exhibit 69: - blank -

Appellant Exhibits 70 to 76R: City discovery tree assessment via October 2019 public records request (14 documents and presentations)

APPELLANT WITNESS LIST

Subpoenaed Witness and Parties to the Appeal to Testify List:

1) City witnesses to testify their data, SEPA investigation and analysis on increased lot 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.

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

1) Brennon Staley, Office of Planning and Community Development (OPCD),

2) Geoff Wentlandt OPCD SEPA Compliance

3) Jennifer Pettyjohn; as noted in interrogatory response forthcoming

4) Megan Neuman, as noted in interrogatory response forthcoming

5) David VanSike (SDCI), as noted in interrogatory response forthcoming

6) Nick Welch (OPCD), as noted in interrogatory response forthcoming.

7) J. Faith Ramos 2016 LiDAR University of Vermont; Heat Islands / Climate, Open Space for New Trees within LR-zones / Green Factor, public records.

Appellants' Expert Witness List:

1. Brian Derdowski : Environmental Policy credentials in CV; Need for SEPA and DNS – SEPA regulations and application to the OPCD proposal. Peter's Report SSNAP. Cumulative Impacts; Stormwater Policy (Estimated duration of testimony: 1 to 1.5 hours);

2. Marty Kaplan: Architectural Credentials in CV; Need for DNS in past Hearing Examiner rulings, SEPA requirements, site options, on-site parking provisions; (1 to 1.5 hours);

1 3. Kathy Wolf: Researcher Credentials in CV; Multiple impacts to loss of existing trees and
2 space to plant trees; tree Equity in Seattle (1.5 to 2 hours)

3 4. William Lider: Credentials in CV; APPEAL ITEMS A, B, F: Stormwater and City
4 Infrastructure / Utilities Impact; urban trees relative to stormwater reduction and street capacity
5 within Seattle . (1/2 to 1 hours).

6 5. Maria Batayola and lay-witness, Credentials in CV; tree equitable and access; impacts
7 from the environment including loss of more open space. (1/2 to 1 hours).

8 6. David Moehring, expert and lay witness, Credentials in CV; Registered Architect IL
9 #001012961 and Certified with the National Council of Architectural Registration Boards. Mr.
10 Moehring is a Senior Capital Planner at the University of Washington Bothell and active outside
11 of the University is an advocate for the urban environment. Townhouse Density / access for
12 vehicles/ exterior amenity space, site examples and fit. In addition to being the appellant
13 representative. (1-1/2 to 2 hours).

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

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

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

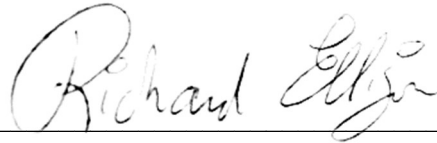
20 **Fact Lay-Witness List:**

- 21 1. Suzanne Grant, Seattle WA 98199, tree advocate ; examples of townhouse development
22 (1/2 hour)
23 2. Mary Jean Gillman, Seattle WA 98199, tree and wildlife advocate (1/2 hour)
24 3. Ivy Durslag, Seattle WA 98199, co-appellant (1/2 hour)
25

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

6 Time period for each witness's testimony per Hearing Examiner's Order. The
7 approximate time periods for each witness's direct testimony (in parentheses at the end of each
8 witness summary) does not include time to authenticate documents, arguments about the
9 admissibility of documents if the Respondent will not stipulate to admission of the document(s),
10 nor time for cross examination and re-direct testimony.

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

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14 Richard Ellison, Appellant Representative pro se
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Certificate of Service

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

Department:
Geoffrey Wentlandt
Office of Planning and Community Development
Email: geoffrey.wentlandt@seattle.gov

Department Legal Counsel:
Daniel Mitchell
Seattle City Attorney's Office
Email: daniel.mitchell@seattle.gov

Co-Appellant:
Ivy Durslag
Greenwood Exceptional Trees
512 N. 82nd Street Seattle, WA 98103
Email: ivyhaley@msn.com

I declare under the penalty of perjury under the laws of the State of Washington that the foregoing statement is true and correct to the best of my knowledge and belief.
Signed this 21st day of February 2022 in Seattle, Washington.



Richard Ellison, appellant representative pro se