

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In the Matter of the Appeal of:) Hearing Examiner File:
) W-21-007
TreePAC Environmental Impact Review)
Townhouse Reforms Legislation,)

HEARING VIA ZOOM - VOLUME I
Hearing Examiner Susan Drummond Presiding
March 1, 2022

TRANSCRIBED BY: Reed Jackson Watkins, LLC
Court-Approved Transcription
206.624.3005

1 A P P E A R A N C E S

2

3

4 On Behalf of the Appellant:

5 KEVIN ORME

6 Law Office of Kevin Orme

7 502 North 80th Street

8 Seattle, Washington 98103-4302

9

10 DAVID MOEHRING

11 TreePAC Committee

12 2131 North 132nd Street

13 Seattle, Washington 98133

14

15

16 On Behalf of Office of Planning and Community Development:

17 DANIEL MITCHELL

18 Seattle City Attorney's Office

19 701 5th Avenue

20 Suite 2050

21 Seattle, Washington 98104-7095

22

23

24

25

1 INDEX OF PROCEEDINGS

2

3

PAGE

4 February 28, 2022 proceedings commence..... 7

5 Introductions and preliminary remarks..... 7

6 Opening statement by Mr. Orme..... 16

7 Testimony of Brennon Staley..... 24

8 Testimony of Geoff Wentlandt..... 122

9 Testimony of Nicolas Welch..... 144

10 Testimony of Jennifer Pettyjohn..... 174

11 Testimony of Megan Neuman..... 179

12 Closing discussion..... 194

13

14

15

16

17

18

19

20

21

22

23

24

25

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

2

3

PAGE

4

BRENNON STALEY

5

Direct Examination by Mr. Mitchell..... 24

6

Cross-Examination by Mr. Moehring..... 91

7

GEOFF WENTLANDT

8

Direct Examination by Mr. Mitchell..... 122

9

Cross-Examination by Mr. Moehring..... 122

10

Redirect Examination by Mr. Mitchell..... 142

11

NICOLAS WELCH

12

Direct Examination by Mr. Mitchell..... 144

13

Cross-Examination by Mr. Moehring..... 152

14

JENNIFER PETTYJOHN

15

Direct Examination by Mr. Mitchell..... 174

16

MEGAN NEUMAN

17

Direct Examination by Mr. Mitchell..... 177

18

Cross-Examination by Mr. Moehring..... 188

19

20

21

22

23

24

25

1 O P C D E X H I B I T I N D E X

2			
3	NO.	DESCRIPTION	ADMITTED
4	1	Proposal Summary of the Draft townhouse reform	
5		legislation.....	11
6	2	Draft townhouse reform legislation.....	11
7	3	SEPA Environmental Checklist.....	11
8	4	SEPA Determination of Non-Significance.....	11
9	5	Notice of SEPA Determination of Non-Significance...	11
10	6	Townhouse Reform GIS Analysis Summary.....	11
11	7	List of Example Projects Achieving Higher Density	
12		Through Subdivision.....	11
13	8	Example Site Plan, 704 and 712 W Bertona Street....	11
14	9	Example Site Plan, 5030 and 5036 Sand Point	
15		Place NE.....	11
16	10	Example Site Plan, 8322, 8236 and 8328 13th	
17		Avenue NW.....	11
18	11	Example Site Plan, 1716 and 1718 27th Avenue.....	11
19	12	Example Site Plan, 3236 and 3238 14th Avenue NW....	11
20	13	Example Site Plan, 3408 and 3412 34th Avenue W.....	11
21	14	Notice of SEPA DNS posted in SEPA Register.....	11
22	15	Housing Choices Background Report, August 2019....	11
23	16	Seattle Affordable Middle-Income Housing Advisory	
24		Council Policy Recommendations to Mayor Jenny A.	
25		Durkan, January 2020.....	11

1 O P C D E X H I B I T I N D E X

2

3 NO. DESCRIPTION ADMITTED

4 17 Seattle's Lowrise Multifamily Zones Summary,
5 February 2020..... 116 18 Mailing List of Agencies that were mailed notice
7 of SEPA DNS..... 11

8

9

10 A P P E L L A N T E X H I B I T I N D E X

11

12 NO. DESCRIPTION ADMITTED

13 20 Expanded information on the OPCD's Core Document
14 Exhibit No. 7..... 121

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

-o0o-

February 28, 2022

AUTOMATED VOICE: Recording in progress.

HEARING EXAMINER: Thank you, Ms. Oberhansly.

Good morning, everyone. I am Susan Drummond, City of Seattle Deputy Hearing Examiner. Today is February 28th, 2022, Monday morning, 9:00 a.m. We are here on Appeal No. W-21-005 filed by TreePAC Environmental Impact Review and Greenwood Exceptional Trees. If I can have the party representatives introduce themselves.

MR. MOEHRING: I --

MR. ORME: Yes. Go ahead, David. Sorry.

MR. MOEHRING: Sorry. I'll let you go, Kevin.

MR. ORME: Okay. My name is Kevin Orme. Apologies for no camera; it's disabled on my computer somehow. I will be speaking with the opening statement on behalf of Rich Ellison, who unfortunately has contracted something over the weekend and so was unable to join us this morning. Mr. Mitchell may be familiar. I was the one that submitted a response on Rich's behalf several weeks ago when there was documents being filed.

HEARING EXAMINER: Okay.

MR. ORME: But thanks for letting me join.

HEARING EXAMINER: Okay. So you'll be the party

1 representative for the appellants today?

2 MR. ORME: Just -- I'm just doing the opening statement,
3 and then David and others are going to be --

4 HEARING EXAMINER: Okay.

5 MR. ORME: -- doing all the other heavy lifting.

6 HEARING EXAMINER: Okay. All right. Well, good morning.

7 MR. ORME: Thank you. Good morning.

8 HEARING EXAMINER: Um-hum.

9 MR. MITCHELL: Good morning, Your Honor. Daniel Mitchell,
10 Assistant City Attorney from the Seattle City Attorney's
11 Office, Land Use Section, representing the Office of
12 Planning and Community Development.

13 HEARING EXAMINER: Good morning, Mr. Mitchell.

14 So it looks like all parties are present. I do have a few
15 procedural issues to go through before we get started this
16 morning.

17 So this is a SEPA appeal and, of course, the burden of
18 proof is on the appellants, so they will proceed first. And
19 I know there was some back-and-forth among the parties kind
20 of on the order of presentation, and I think there was a
21 witness from the City which -- Mr. Wentlandt, I think --
22 which is unavailable on day three, so he'll need to go, I
23 think, on day two. And then, Mr. Mitchell, I think you had
24 requested that Mr. Staley go first. So it looks like those
25 two witnesses would need to proceed on day two.

1 So are there any questions from the parties on the order
2 of the witnesses over the next three days, or have all those
3 issues been resolved?

4 MR. MITCHELL: Your Honor, those issues have been
5 resolved. And if I may speak as to this sort of stipulated
6 agreement that we have reached, the -- all the City
7 witnesses are going to be called first. And I think that
8 the order will be I'll just be doing a direct, and then the
9 appellants will do a cross, also direct, and then it will
10 basically have like a back-and-forth with all the City
11 witnesses, starting with Brennan Staley, Geoff Wentlandt,
12 Nick Welch, Jennifer Pettyjohn, Megan Neuman, and then
13 Jacqueline Faith Ramos.

14 HEARING EXAMINER: Okay. All right.

15 Mr. Orme, any comments on that?

16 MR. ORME: I am not going to be the doing the cross.

17 David, would you have any comments on that?

18 MR. MOEHRING: No. That's what I understood.

19 HEARING EXAMINER: Okay. All right. That is fine. Thank
20 you all for coordinating on that issue.

21 I had -- and with respect to Ms. Ramos, I know I had
22 issued a subpoena on that. There was a reply from the City
23 which came in after I had issued the subpoena -- this was in
24 response to a motion -- and at the time I hadn't read it. I
25 have since reviewed it. I did note that my order on

1 Ms. Ramos on the subpoena was without prejudice. So if
2 there are continued relevance objections, those can
3 certainly be raised today.

4 And I should note with respect to all witnesses, in order
5 to keep the hearing on track and consistent with the hearing
6 examiner rules, it is important for all testimony, of
7 course, to be relevant, efficient, and nonduplicative. So
8 I -- if there are issues with that, I will go ahead and rule
9 on those during the hearing.

10 With respect to exhibits, I have taken a look at the
11 parties' exhibit lists. The City's looks relatively
12 straightforward, 1 through 21, and we have received those
13 exhibits. The appellants filed an amended list of exhibits,
14 and it looks like what they've identified are 1 through -- I
15 think it was -- was it 68? Actually, well, maybe --

16 THE CLERK: 70.

17 HEARING EXAMINER: 77? It looks like maybe 76. Are there
18 any notes from the parties on that?

19 MR. MOEHRING: Yeah. There was -- just to clarify, there
20 was a second round of exhibits following the interrogatory
21 responses, and I believe those were Exhibits 52 through 64.

22 HEARING EXAMINER: Yeah. And I saw there were
23 placeholders for those, so -- and that was apparent from the
24 list which the appellants filed. So I guess we'll address
25 probably the appellants' exhibits as the hearing proceeds, I

1 assume. The City's list looks somewhat straightforward. I
2 didn't know if the parties had stipulations on admission of
3 any of the exhibits.

4 MR. MITCHELL: The parties hadn't gone through that
5 process, Your Honor, to stipulate in advance to any
6 exhibits.

7 HEARING EXAMINER: Okay. Well, I guess I did have a
8 question on the City's because it looked like it was
9 primarily from the record. And I could be wrong on that,
10 but would there be an objection to admitting the City's
11 Exhibits 1 through 20 from the appellant or should we
12 address that as the hearing proceeds?

13 MR. MOEHRING: If I could speak on behalf of (inaudible)
14 we have no objection. The only objection would be 19 and
15 20.

16 HEARING EXAMINER: Okay. All right. Well, why don't we
17 go ahead -- since there's no objection, why don't we go
18 ahead and admit the City's Exhibits 1 through 18, and I'll
19 reserve ruling on 19 and 20.

20 (Exhibit Nos. 1-18 admitted into evidence)

21 MR. MITCHELL: Thank you, Your Honor. And just so that
22 I'm clear as I'm referencing them in the direct testimony,
23 they'll be numbered as they're numbered in the --

24 HEARING EXAMINER: Yeah, I know. Sometimes the numbering
25 does shift, but yes. And typically I tend to refer to the

1 numbers as the parties have identified them rather than --
2 there will be ultimately be a new master list, but because
3 these came in in order, those will still -- even on the
4 master list, those will be -- continue to be 1 through 18,
5 which makes things a little simpler. But I tend to, even in
6 my decision, refer to the exhibits through the parties'
7 numbering because I find it a little bit easier, although,
8 yes, there ultimately is a master list and so the numbering
9 does end up switching.

10 So any other questions on exhibits? Okay. Let's see. In
11 terms of some more detail on order and procedure, the
12 appellants have indicated they wish to make an opening
13 statement this morning; is that correct? Okay.

14 And then, Mr. Mitchell, does the Department wish to make
15 an opening statement as well? And I guess you would be
16 calling your witnesses first, so it sounds like both parties
17 would proceed with opening statement if they both wish to do
18 so.

19 MR. MITCHELL: Yes, Your Honor. And to that, the City
20 would waive its opening and just go right to calling
21 witnesses.

22 HEARING EXAMINER: Okay. All right. And then after that,
23 it looks like the parties have resolved the order of
24 presentation on witnesses, and so forth, but if questions
25 arise, I can address those as the hearing proceeds.

1 And in terms of breaks, typically there's a midmorning
2 break between 10:00 and 11:00, and there's typically a lunch
3 break of about an hour. And then morning break is about 15
4 minutes, lunch break typically about an hour, and then
5 there's a midafternoon break. And there are no hard set
6 times that we need to set today for that. I think tomorrow
7 I may need to set the break about noon, but other than that,
8 it kind of depends a little bit on how the testimony
9 proceeds.

10 So before we get to opening statements, any other
11 procedural issues that we need to address this morning?

12 MR. MITCHELL: Yes, Your Honor. Just one other minor
13 issue, Your Honor. Ms. Neuman is planned to be called at
14 the end of the day today according to the timeline that
15 we've sort of somewhat informally reached. Ms. Neuman has a
16 doctor's appointment midday. And because of sort of the
17 arrangement that we've agreed to, I indicated that she
18 shouldn't need to cancel that, and I would anticipate that
19 she'll be back in time for her scheduled testimony. If for
20 some reason we are full speed ahead and we are very far in
21 advance of the order that we've sort of worked out, I guess
22 I would maybe say up front that if -- instead of having any
23 dead air, perhaps if we run into that situation, there could
24 be a witness called from the appellants then. But I don't
25 anticipate that happening, and I would leave that up to

1 Your Honor to decide sort of how to accommodate for that.

2 HEARING EXAMINER: Yeah. That would be my preference. I
3 think that that would be the most efficient approach.

4 Mr. Orme, I don't know if you have comments at this time
5 on that.

6 MR. MITCHELL: And I should say, I didn't -- we haven't
7 worked that out with the appellants, so I don't mean to
8 spring this as a surprise. I don't anticipate that
9 happening, but I did want to just let it be known that
10 Ms. Neuman has an appointment that she's going to keep, and
11 it shouldn't affect sort of the order of scheduling that
12 we've --

13 HEARING EXAMINER: No. I appreciate the heads up on that.
14 Thank you.

15 Mr. Orme, I don't know if you have any comments at this
16 time, but we can address that as needed later in the day,
17 presumably.

18 MR. ORME: Yeah, no. Again, I would defer to David, just
19 because I will only be here about the first hour --

20 HEARING EXAMINER: Okay.

21 MR. ORME: -- for the openings.

22 HEARING EXAMINER: All right.

23 MR. ORME: Thank you.

24 HEARING EXAMINER: All right. No. And typically that
25 would be my preferred approach would be to go ahead. Even

1 though a witness sometimes I'll call -- may be called out of
2 order, that's fine. It would be the best. It's most
3 efficient to do it the way, Mr. Mitchell, that you had
4 proposed, typically.

5 Okay. I think with that, we can go ahead and proceed with
6 opening statements. I see a hand raised. Do you have a
7 question?

8 MR. MOEHRING: Yeah. One question. If we could ask
9 Daniel -- Mr. Mitchell, I'm sorry, one more time just to
10 repeat the order planned for today just to make sure I --

11 HEARING EXAMINER: Oh, you mean the witness order?

12 MR. MOEHRING: Correct.

13 MR. MITCHELL: Yes. I'm just going by sort of the email
14 exchange, and I'll say it's Brennan Staley will be the first
15 witness. And then Geoff Wentlandt will be called as the
16 second witness. Nicolas Welch will be called as the third
17 witness. Jennifer Pettyjohn will be called as the fourth
18 witness. And then Megan Neuman will be called as the fifth
19 witness. And then tomorrow morning is when Jacqueline Faith
20 Ramos will be called as the last City witness.

21 MR. MOEHRING: Thank you, Mr. Mitchell.

22 HEARING EXAMINER: Okay. All right. So I think as the
23 appellants have the burden of proof, do they wish to proceed
24 with their opening statement first?

25 Mr. Orme?

1 MR. ORME: Yeah. That sounds good to me.

2 HEARING EXAMINER: Okay.

3 MR. ORME: Thank you, Your Honor.

4 So I just to -- again, this is on behalf of the TreePAC
5 Environmental Impact Review Committee and the Greenwood
6 Exceptional Trees Group (inaudible) Seattle.

7 So to begin, we of the TreePAC Environmental Impact Review
8 Committee and the Greenwood Exceptional Trees seek a Seattle
9 community that balances both increased population density
10 while retaining and expanding our urban tree canopy so we
11 can help achieve the 2035 Comprehensive Plan goals that have
12 already been laid out for Seattle. In this way we can truly
13 be a leader in environmental stewardship. We can truly be
14 the Emerald City of big trees, salmon, and the environment,
15 not just a name, like it is now.

16 The time to assess these impacts is now, and the SEPA
17 requirements require looking at them both short and long
18 term and in terms of their cumulative impacts. This is not
19 just an individual "go" or "no go" project by individual
20 (inaudible) action. This requires true citywide landscape
21 level analysis. This requires a holistic approach provided
22 from real data, and that way we can support the critical
23 choice between future urban canopy survival and
24 environmental protection in the city, or literally just
25 death by a thousand clear cuts, like what is going on at

1 present citywide.

2 We're not asking if the upzone should be approved or not.
3 We're asking for a legitimate, complete environmental
4 analysis prior to any approval that can provide the
5 mitigation opportunities that otherwise will be lost or
6 ignored. These citywide impacts should be analyzed, rolled
7 up to a citywide approach, and implemented at the
8 neighborhood project level after that assessment's taken
9 place and, again, not project by project in terms of
10 assessment, because that will fail to take most of the
11 overall impacts into account until it's too late.

12 The City is asking for changes in code allowing more
13 increases to human and auto density, impervious surfaces,
14 noise, etc. All these are intrusions into both the natural
15 and the existing built human environment. But what are the
16 impacts of these changes? How can they be mitigated? Is
17 there even enough space for a new tree to grow to maturity?
18 Will a saved tree have enough soil left to survive if
19 squeezed into the tiny space (inaudible)?

20 And, quite frankly, it's not TreePAC or Greenwood
21 Environmental -- Greenwood Exceptional Trees' responsibility
22 to provide this mitigation. It's the City's responsibility,
23 acting in the public trust, to require a functional,
24 successfully implemented mitigation when these impacts are
25 expected. So as concerned experts and citizens, as you will

1 see over the next few days, we believe there will be
2 significant negative environmental impacts, and so we are
3 appealing this DNS.

4 So in this DNS, repeated statements have been made like
5 it's a non-project action or no impacts would result.
6 Mitigation? None. Even the DNS ruling on townhouse reform
7 mitigation to SEPA, threshold determination does not at all
8 mention the words tree, wildlife, or climate change within
9 it, yet all these are affected, both incrementally by each
10 project, and citywide when analyzed (inaudible). We believe
11 by not adequately evaluating and planning how to minimize
12 the loss of substantial trees this violates the Director's
13 Rule 6-2001, which specifically states it is the City's
14 policy to minimize or prevent the loss of wildlife habitat
15 or other vegetation which has substantial aesthetic,
16 educational, ecological, and/or economic value. And
17 specifically within that rule, 25.05.400, the purpose of the
18 EIS, excuse me, states: The primary purpose of the
19 environmental impact statement is to ensure that SEPA's
20 policies are an integral part of the ongoing programs and
21 actions of state and local government, and EIS shall provide
22 impartial discussion of significant environmental impacts
23 and shall inform decision makers and the public of
24 reasonable alternatives, including mitigation measures, that
25 would avoid or minimize adverse impacts or enhance

1 environmental quality.

2 Two recent Northwest Progressive Institute polls of
3 Seattle voters citywide showed extremely strong support for
4 protecting trees during the development process and beyond.
5 To protect ourselves from record hot summer temperatures,
6 mitigate storm runoff in monsoon winter rains, not to
7 mention habitats of birds and urban wildlife, we need the
8 shade and environmental value of big canopy trees. And we
9 all know this climate crisis is real and data shows Seattle
10 that communities with fewer or no trees on those
11 hundred-plus degree days are much hotter and/or show urban
12 heat island effects than neighborhoods which still retain
13 their big tree canopy and tree groves. Trees reduce the
14 impacts from urban heat island effects, thereby saving
15 lives, so the upzone will have direct negative impacts on
16 the community by reducing these ecosystem services that are
17 provided by these trees, and also the plants, soils, and
18 wildlife that live with or on the trees.

19 Preservation of native wildlife isn't just about
20 aesthetics and recreation. Wildlife also provide important
21 ecosystem services alongside of trees, including insect,
22 pest control, seed dispersal, predator and prey cycle
23 (inaudible) culturally, plants, birds, wildlife and salmon
24 are critical ties to the world for our native communities.
25 What would Chief Seattle say when you consider that in many

1 city council meetings they begin with the statement, "I
2 would like to acknowledge that we are on the traditional
3 land of the first people of Seattle, the Duwamish people,
4 past and present, and honor with gratitude the land itself
5 and the Duwamish tribe"?

6 Proposed City's legislation CB 120207 wonderfully notes,
7 Seattle's urban forest reflects a history of environmental
8 injustice with widespread race and class disparities of
9 service urban heating. The City is experiencing numerous
10 losses of significant trees and areas of its urban forest
11 canopy, both through the land subdivision and development
12 from any process, and through the legal and illegal removal
13 of large significant and exceptional trees. If our elders
14 and youth prone to asthma are more likely to have severe
15 health problems when record high temperatures combine with
16 smoke and regional forest fires, building a row of
17 townhouses without much better of attempts of preserving an
18 infrastructure of trees in parallel seems very poor
19 planning. And if the potential impacts of tree canopy
20 removal are not even evaluated, deliberately or otherwise,
21 then opportunities to mitigate these impacts are lost.
22 These are key SEPA issues and cannot be ignored now, or the
23 cost of remediation in the future, if it's still even
24 possible, will likely be beyond our capacity.

25 We also have such a wet climate here, and storm waters are

1 slowed by tree canopies, soil absorption. These
2 environmental services are integral parts of slowing water
3 movement promoting healthy community. As land (inaudible)
4 crazy and water runoff from impervious services continues to
5 overload our antiquated sewer systems. It's obvious to all
6 Seattleites that big trees and soil absorb huge amounts of
7 water, slowing down water flow and significantly reducing
8 the quantity of water in the sewage pipes.

9 Additionally, the canopy root soils act as a natural
10 system to filter this runoff, reducing the toxic quality of
11 urban waters that otherwise negatively impact Puget Sound
12 and our increasingly endangered salmon. Increased runoff
13 means increased toxins in the salmon. If we lose the soil
14 space for big trees to survive and grow, we lose these
15 ecosystem services. This DNS, and likely many others to
16 come, directly impacts plants, animals, hydrology, and
17 aesthetics. If we don't analyze these potential impacts or
18 acknowledge any of these problems, how can we find solutions
19 to mitigate any of these issues?

20 The Seattle interim tree ordinance, 25-11, states: It is
21 in the public interest to maximize the retention of large
22 and exceptional trees as these trees provide considerable
23 benefit to the City in reducing stormwater runoff,
24 pollution, absorbing air pollutants, providing wildlife
25 habitat, absorbing carbon dioxide, providing shade,

1 stabilizing soil, and increasing property values. This
2 policy of tree retention is consistent with the Seattle
3 comprehensive plan. And in that comprehensive plan, titled,
4 Toward a Sustainable Seattle 2020-2035, one of its four core
5 values is environmental stewardship. Quote, the beauty and
6 diversity of the natural environment in and around our city
7 is one of the characteristics that most distinguishes
8 Seattle from other major cities around the country and the
9 world. The long-term health and wealth of the community
10 depends in part on environmental quality.

11 The comprehensive plan calls for Seattle to continue to be
12 a national leader in environmental stewardship. The City
13 will strive to protect and improve the quality of the local
14 environment, maintain and enhance conditions necessary for a
15 healthy natural -- natural environment -- apologies -- to
16 design, build, and manage the City's built environment in
17 ways that protect and strive to restore over time natural
18 resources and natural systems, act as a role model in
19 environmentally sustainable practices, and improve the
20 overall quality of life in Seattle.

21 As you'll see in the next few days, forthcoming testimony
22 from both the hydrologists, arborists, wildlife ecologists,
23 environmental policy experts, architects, and an
24 environmental health professional will shed light on the
25 evidence in our appeal regarding these SEPA subdivisions.

1 In summary, is this DNS valid on both procedural and
2 substantive issues? No. We believe that the DNS should be
3 denied and further environmental review is absolutely
4 necessary. We believe there are significant negative and
5 ultimately cumulative environmental impacts, both short and
6 long term. These impacts must be evaluated or our
7 opportunity to address and mitigate them will be lost, our
8 urban tree canopy will continue to be mowed down at an
9 increasing rate without taking any public consideration into
10 account. SEPA requirements exist for all these reasons.
11 It's time to take them seriously.

12 HEARING EXAMINER: Thank you, Mr. Orme.

13 Mr. Mitchell, you had indicated the Department would be
14 waiving oral argument. Do you want to go ahead and call
15 your first witness? I believe that was Mr. Staley.

16 MR. MITCHELL: Yes, Your Honor. Thank you. I would like
17 to call Brennan Staley.

18 HEARING EXAMINER: Staley.

19 MR. MITCHELL: Yes.

20 HEARING EXAMINER: Okay.

21 Mr. Staley, good morning. If you could state your name
22 for the record.

23 MR. STALEY: Brennan Staley.

24 HEARING EXAMINER: And do you swear or affirm to tell the
25 truth under penalty of perjury under the laws of the state

1 of Washington?

2 MR. STALEY: I do.

3 HEARING EXAMINER: Thank you.

4

5 BRENNON STALEY, having first been duly sworn,

6 was examined and testified

7 as follows:

8

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

10 BY MR. MITCHELL:

11 Q. Good morning, Mr. Staley. Will you please go ahead and say

12 and spell your first and last name for the record?

13 A. First name is Brennon, B-R-E-N-N-O-N. Last name is Staley,

14 S-T-A-L-E-Y.

15 Q. Thank you. And where do you work, Mr. Staley?

16 A. I work for the Office of Planning and Community Development

17 in the City of Seattle.

18 Q. And what is your job title within the Office of Planning and

19 Community Development? And I'm just going to just -- the

20 acronym for that department is OPCD. I'll probably be

21 referring to OPCD from here on.

22 A. I am a strategic advisor.

23 Q. And did you work at OPCD prior to becoming a strategic

24 advisor?

25 A. I did.

1 Q. What were your previous roles with OPCD?

2 A. Before that, I was a -- I -- with OPCD, I was a land use
3 planner, and I was also a land use planner with the
4 Department of Planning and Development when it was split
5 into OPCD and the Department of Construction Inspections.

6 Q. Okay. And how long have you been a strategic advisor? I'm
7 sorry I didn't ask that.

8 A. About five years.

9 Q. Okay. And how long have you been working in total for the
10 City in the pre- -- fifteen years?

11 A. Fifteen in total.

12 Q. Okay. And could you describe your education background,
13 beginning with undergraduate studies?

14 A. I have a scientific baccalaureate in environmental
15 engineering from Brown University, and I have a masters in
16 urban planning from the University of Washington.

17 Q. Okay. And did you work anywhere after your undergraduate,
18 postgraduate studies before joining the team at the City?

19 A. I did. I worked for two years doing environmental
20 organizing for Massachusetts Community Water Watch, and I
21 worked for two years in a diversity consulting firm.

22 Q. And so before we begin to discuss the specifics of your work
23 with this legislative proposal at issue here, can you
24 describe your experience in drafting legislative proposals
25 and with SEPA environmental analyses that you've done with

1 your work?

2 A. Yes. I have -- during my years as a land use planner,
3 strategic advisor, I have done many -- managed many policy
4 initiatives that involved policy analysis and (inaudible)
5 engagement. And the majority of those resulted in some kind
6 of a piece of legislation that generally was drafted by
7 myself, as well as environmental documentation. So that's
8 been a regular part of the work I've done over 15 years.

9 Q. Great. Is it worth asking, have -- could -- would you be
10 able to give an estimate as to about the number of times
11 you've performed SEPA review of a legislative proposal?

12 A. Probably between 10 and 15.

13 Q. Okay. And was that all with your work for the City?

14 A. That's correct.

15 Q. And as part of your experience, have your environmental
16 reviews led to the ultimate issuance of both determination
17 of nonsignificance and determination of significance in
18 those 15 proposals?

19 A. I have worked on -- or kind of supported environmental
20 reviews that resulted in both. I have never issued a
21 determination of significance on a project that I was
22 working on by myself.

23 Q. Um-hum. Um-hum. Okay. So let's talk about the legislative
24 history of this proposal. What was the origin of this
25 legislative proposal? How did it grow, if you could

1 describe that process?

2 A. Obviously, we had been working -- as a city, had been
3 working on the housing affordability crisis for a long time.
4 You know, housing has been getting increasingly expensive in
5 this city and region for 20 or 30 years and over the last
6 ten years has gotten incredibly unaffordable, and so we've
7 been doing this work generally for many years. I guess the
8 more immediate origin of this was in -- under the Durkan
9 administration, she had a Seattle housing -- or Housing
10 Seattle Now program that had a number of different
11 attributes to it. One was the creation of the Affordable
12 Middle-Income Housing Advisory Council, which was a
13 stakeholder group that issued many recommendations,
14 including one to specifically look at issues related to
15 townhouses.

16 Also at that same time, we did a large amount of public
17 engagement to help understand what people, both those living
18 in Seattle and those that had been priced out of Seattle,
19 what kind of housing they wanted, the attributes of it,
20 where it should be located, and that resulted in a -- you
21 know, a deep body of conversations, and a public engagement
22 summary called the Housing Choices Public Engagement Summary
23 which highlighted a lot of these issues and, in specific,
24 brought up the fact that for many people townhouses are a
25 preferred housing type because they feel they can't afford

1 detached homes and don't want to live in apartments for
2 their entire lives. So those two things came together to
3 suggest that townhouses in particular were an area that we
4 needed to focus and also highlighted some specific issues
5 that we are trying to address through this proposal.

6 Q. Great. And you mentioned Housing Choices. Were you
7 referring to -- there was a background report, which I think
8 is on our -- is now Hearing Examiner No. 15. Is that the --
9 did you mention that report as part of the process?

10 A. Yes. So the Housing Choices project started with the
11 issuance of a background report that provided data and then
12 commenced through a lot of public engagement and created a
13 public engagement summary.

14 Q. Okay. And you mentioned the Affordable Middle-Income
15 Advisory Council and that they had issued some public policy
16 recommendations. That is now Hearing Examiner No. 16. Is
17 that what you were referring to regarding the policy
18 recommendations that came from that council to the mayor 's
19 office?

20 A. That is correct. That report is where they put their final
21 policy recommendations. Obviously, there was also a lot of
22 conversations that provided a much richer description, but
23 that was the final product that they did.

24 Q. Okay. And so this current townhouse reform legislation, did
25 that grow from that work from the Affordable Middle-Income

1 Advisory Council policy recommendations?

2 A. Yes. That's one of the places that came from.

3 Q. Okay. And did you prepare a proposal summary that
4 summarizes the proposed townhouse reform legislation?

5 A. I did.

6 Q. Okay. I am going to try to open that and share it, if I
7 may. One second. All right. Are you seeing the proposal
8 summary?

9 A. I am.

10 Q. Okay. And do you recognize this document and can you
11 describe it?

12 A. Yes. I -- this is a document that I drafted. It was
13 approved by other people, and it summarizes the -- the
14 substance and intent of the proposal that was included in
15 the SEPA checklist.

16 Q. Okay. And this is now Hearing Examiner No. 1, just for the
17 record.

18 And could you go ahead and describe the summary of the
19 legislative proposal that's at issue here?

20 A. Um-hum. So the proposal includes three sets of actions.
21 One set of actions would be modifying the density limit for
22 lowrise 1 zones, lowrise 1 zones being the primary place
23 where we see townhouse or rowhouse development or the
24 most -- it is the -- it's the zoning where you have the most
25 of it. And essentially we're doing two things at once.

1 One, we are reducing the -- the number that is allowing more
2 density for standalone townhouse projects but at the same
3 time then applying the density limit for the first time to
4 certain rowhouse projects on interior lots. So for certain
5 projects it would allow them to be slightly more dense, and
6 for other projects it would prevent them from being as
7 dense. That's the first set of things. Should I continue
8 on to the other two?

9 Q. Yeah. Why don't you go ahead. We'll come back and talk
10 more about that, but why don't we go ahead.

11 A. And the other sets of actions are updating some requirements
12 around bike parking. There were -- basically, in summary,
13 the changes would be that it would remove the requirement
14 for short-term bike parking but keep in place the long-term
15 bike parking requirements, and then also make a number of
16 changes that would make it easier to accommodate parking on
17 townhouse properties by allowing them on the interior of
18 some units on the ground floor, allowing bike lockers and
19 sheds, which are a preferred way of storing bikes outside,
20 insert setbacks and separations (inaudible) and clarifying
21 that bike parking that is attached to or next to a house
22 should not be counted towards the -- measuring the width of
23 that house or -- or other things like that. You know, it
24 also should not be -- sorry. So basically trying to make it
25 easier to accommodate bike parking and -- but also kind of

1 freeing up space that could be used for other things, like
2 open space, where we require short-term bike parking.

3 Q. Great. And then what about the third?

4 A. Yeah. And the last set is a number of kind of minor
5 modifications and clarifications that address different
6 issues that have come up in the limitation of past code
7 changes. One, allowing car parking -- limited amount of car
8 parking underneath building overhangs not to count towards
9 floor area. A change that happened previously had made it
10 all count towards floor area, which resulted in people no
11 longer having even small amounts of car parking under --
12 under buildings. Also, make it easier to have parking off
13 on alley. And then changing the minimum size of parking
14 spaces for a garage from large to medium, which is
15 consistent with -- more consistent with parking spaces in
16 other areas. There's no place where you require large
17 parking spots. And -- and then also some -- some minor
18 clarification on how we measure density standards,
19 essentially putting back in place a standard that had been
20 accidentally removed as part of past legislation.

21 Q. Okay. Thank you. Let me stop here and (inaudible).

22 Actually, no. I'm going to start sharing a new document. I
23 am going to share what's been marked as a Hearing
24 Examiner 17. Let me share that.

25 Do you recognize this document?

1 A. I do.

2 Q. And could you describe what this document shows?

3 A. This document is intended to be a description of the rules
4 in place for lowrise zones. It is essentially -- it is not
5 a legally binding document, but rather there is a summary
6 for the public of what exists in the code, the land use
7 code.

8 Q. Great. And for -- does it show a summary of some code
9 requirements for the current requirements for the LR1,
10 lowrise 1, zone?

11 A. That is correct.

12 Q. And so currently for LR1 zone, is there -- what is the floor
13 area ratio area requirement?

14 A. It varies by both the type of -- or sorry. It varies based
15 on whether there is an MHA suffix or not. So the floor
16 ratio is 1.3 if there is an MHA suffix, and it is 1 if there
17 is no MHA suffix.

18 Q. Okay. What does that mean to have an MHA suffix or not
19 having an MHA suffix?

20 A. If you have an MHA suffix, then you are subject to the
21 requirements of MHA, which is the Mandatory Housing
22 Affordability requirement, and that you need to contribute
23 to affordable housing, either by setting aside some units as
24 being rent income restricted or paying into a fund. And the
25 vast majority of lowrise zoning in our city is -- does have

1 an MHA suffix.

2 Q. Great. And then below the floor area ratio is the line
3 showing the density requirements. And so does this
4 accurately show the current existing density limits for a
5 lowrise 1 zone?

6 A. That is correct.

7 Q. And so if a project is MHA, if MHA is applicable to a
8 project, then there is no limit currently, and if it's not,
9 then there's one unit per 1,300 square feet?

10 A. That is correct for cottage housing-types development.

11 Q. Oh, okay. I see. And -- right. So we're talking about for
12 row houses and townhouses, could you go ahead and describe,
13 I guess, the current density requirements?

14 A. Yeah. So overall, there are certain types of development
15 that are exempt from density requirements entirely. Those
16 include, again, for those with MHA suffix, which are the
17 majority, cottage housing, apartments, and then all
18 rowhouses either on corner lots or on lots that are more
19 than 3,000 square feet. So all those would be entirely
20 exempt from a density limit. However, a density limit does
21 apply for all townhouses and for rowhouse developments that
22 are less than 3,000 square feet and on an interior lot, and
23 it also applies to those with no MHA suffix.

24 Q. Okay. Great. And so this also shows the current building
25 height limits for a lowrise 1 zone. And for rowhouse and

1 townhouses, the building height is 30 feet?

2 A. That is correct.

3 Q. And what about building setbacks? Does this exhibit show
4 the building setback requirements for rowhouses and
5 townhouses?

6 A. Without analyzing every single one of them, they do look
7 generally correct to me.

8 Q. Okay. Okay. Well, great. So I'm going to stop sharing
9 this document.

10 And so I think you've already, you know, probably talked
11 about this in your summary of what the legislation is
12 accomplishing, but so currently is there a density limit for
13 rowhouses on interior lots greater than 3,000 square feet?

14 A. No.

15 Q. Okay. And then this proposal would establish a density
16 limit of one dwelling unit 1,150 square feet on rowhouses
17 developed on interior lots greater than 3,000 square feet;
18 is that correct?

19 A. That is correct.

20 Q. And you mentioned that there is not any density limit
21 currently for cottage housing or apartments that might be
22 built in the LR1 zone?

23 A. It is provided they have an MHA suffix. That is correct.

24 Q. Okay. And most would that are built within the LR1 zone; is
25 that correct?

1 A. That is correct.

2 Q. And so does the development community already use
3 development techniques to essentially achieve a similar
4 density limit of around one dwelling unit of 1,150 square
5 feet for rowhouses and townhouses on interior lots in the
6 LR1 zone?

7 A. Yes. So developers can choose to develop at a greater
8 density, again, by doing apartments, by doing cottage
9 housing, by doing row housing, or by doing a combination of
10 townhouses and cottage houses. And those are all ways that
11 people can develop today at a greater density than is there.
12 And, you know, specifically we are seeing people who often
13 purposely change the loca- -- subdivide their property or
14 adjust the lot boundaries so that they can do rowhouses in
15 the front and townhouses in back, and that would allow them
16 to develop at a density that is more dense than the current
17 density limit.

18 Q. And the way that that currently -- the way that that works
19 is that because rowhouses do not have a density limit, if
20 it's a lot greater than 3,000 square feet, interior lot,
21 then would the developers rearrange the lay of the land
22 through a lot boundary adjustment or a lot segregation so
23 that a 3,000-square-foot lot or greater would be on the
24 street side, allowing for essentially rowhouses to be built
25 without a density limit, and then the portion then -- the

1 other portion of the subdivided property would be used for
2 the -- the remainder would be used for townhouse
3 development?

4 A. That is correct. Essentially, it is an often-used practice
5 to divide a property parallel to the street, which creates
6 one lot that is parallel to the street in which you could
7 develop rowhouses, and then one on the back in which you
8 would develop townhouses.

9 Q. I'm going to share the proposal summary again, which is
10 marked Hearing Examiner No. 1.

11 And so there's a diagram on the top of page 2 that -- is
12 this an illustration of the -- of this process that you
13 talked about where there's a subdivision, a lot segregation
14 that results in essentially a lot that's street side to
15 accommodate rowhouses with the remaining lot accommodating
16 townhouses?

17 A. I apologize. On my -- I am not yet currently seeing that
18 exhibit yet.

19 Q. Ah. Okay. Oh, great. Thank you for letting me know. I
20 thought I was sharing.

21 HEARING EXAMINER: We can see the list --

22 MR. MITCHELL: Is there --

23 HEARING EXAMINER: -- of PDFs, just not the actual
24 exhibit.

25 MR. MITCHELL: Oh, okay. Thank you.

1 HEARING EXAMINER: We're seeing your screen, just not
2 the --

3 MR. MITCHELL: I'll try that again. I'm sorry. How about
4 now?

5 HEARING EXAMINER: Yeah. We can see.

6 MR. MITCHELL: Okay. Great. Sorry about that.

7 THE WITNESS: Yes. To answer your question, that is a
8 diagram from the proposal summary which depicts what often
9 happens. The Example 2 shows how someone might subdivide
10 the property. So, again, there are two parcels, one that
11 is -- touches -- adjacent to the street and one that is not,
12 and then you can develop rowhouses on the parcel that's
13 adjacent to the street. Those rowhouses, provided they're
14 on a lot that's more than 3,000 square feet, would not be
15 subject to a density limit, and the townhouses on the back
16 would be. And that, in addition to simply doing rowhouses,
17 doing apartments, or cottage houses, are ways that people
18 can today develop more densely than the density limit that
19 we are talking about.

20 Q. And does this development technique of utilizing lot
21 segregation or lot boundary adjustment, does it add
22 complexity, time, and cost to the application process?

23 A. It does. It -- obviously, it increases the number of
24 permits that come in. It adds to the process of going
25 through subdivision. And that, obviously, is both more time

1 for developers, it is also more time for the City because we
2 have to review multiple permits and do all the associated
3 work with those. So, yes, it provides significant time to
4 the process.

5 Q. And does it make it more complicated for anyone who wants to
6 search for a permit to, I guess, find the multiple permits
7 that would be needed to be found through -- you know, when
8 the property is -- goes through a lot segregation?

9 A. That is correct. It becomes substantially more difficult
10 for people to find permits or to understand what's going on
11 in permit data.

12 Q. And is this development technique, is it a common practice
13 in the development community, prevalent for interior lots in
14 the LR1 zone?

15 A. We -- we see it happening. We do see it happening fairly
16 often.

17 Q. So do you consider this density limit change that is being
18 proposed in the LR1 zone a small or minor code amendment
19 considering the density level for rowhouses and townhomes
20 are already being achieved similar to what the proposal will
21 allow, and considering, I guess, the other times of
22 developments allowed in the LR1 zone are already developed
23 at a higher density?

24 A. Yes. I would generally consider it to be minor given that
25 it is -- in most cases, can be allowing something people can

1 already do.

2 Q. And is this proposal amending the zoning classification of
3 any property?

4 A. No.

5 Q. Rezoning any property?

6 A. It is not.

7 Q. Is it amending the height restrictions of the property?

8 A. No.

9 Q. Any property?

10 A. It is not.

11 Q. Is it amending the setback limits of any property?

12 A. No.

13 Q. And is it amending the open space requirements or green
14 factor requirements that currently exist for any property?

15 A. No.

16 Q. And so how do you anticipate that this proposal would change
17 the project limit application process for townhomes and
18 rowhouses on these interior lots in LR1 zone?

19 A. I think it would be less likely that people would subdivide
20 their lot prior to doing a -- developing a property and
21 putting -- submitting multiple permits, so it would be more
22 likely that people would develop the whole lot with all
23 townhouses and under one permit.

24 Q. And are the actual proposed code changes, are they shown on
25 what's been marked as the Hearing Examiner No. 2? It's the

1 draft legislation, the draft ordinance?

2 A. Yes. That ordinance is intended to indicate what would --
3 what the legislation would likely look like.

4 Q. I'm just going to --

5 A. Or rather to describe, I guess, the proposal, is what I
6 should say.

7 Q. I'm opening that document and I'm going to share it. Are
8 you seeing the draft ordinance?

9 A. I am.

10 Q. Okay. And so what we have been talking about regarding the
11 change to the density level, that's -- is that in Section 2
12 of the ordinance?

13 A. That is correct.

14 Q. And the amendment is proposed to be for Seattle Municipal
15 Code 23.45.512; is that correct?

16 A. That is correct.

17 Q. And so does the strike-through indicate the language is
18 proposed to be removed, and the underline is showing the
19 language proposed to be added to the code?

20 A. That is correct.

21 Q. And so the proposal would remove, then, the -- I guess the
22 language "less than 3,000 square feet in size," which was
23 a -- placed a limit on the number of lots with rowhouse
24 development that would be subject to density limits; is that
25 correct?

1 A. That is correct.

2 Q. And so now all rowhouse development on LR1 zones on interior
3 lots would be subject to the density limit of one dwelling
4 unit per 1,150 square feet under the proposed legislation?

5 A. That is correct.

6 Q. As would all townhouses development?

7 A. Yes.

8 Q. Okay. So in addition to the density level change that we
9 just talked about, what other code amendments are being
10 proposed? We talked about -- I guess you summarized the
11 changes to the bike parking. Can you explain those in more
12 detail?

13 A. Yes. So under current rules, if you a -- if you build a
14 detached house, there are no biking parking requirements of
15 any kind, but if that -- those houses become attached to
16 each other, then they're both subject to long-term bike
17 parking requirements and short-term bike parking
18 requirements. The long-term bike parking requirements
19 require one stall for each unit and are intended primarily
20 for the residents of that building. And then, in addition,
21 you're required to have short-term bike parking stalls for
22 anybody who might visit. And there's a minimum of two bike
23 parking stalls. So even if you have two attached houses,
24 then you have to have two bike parking stalls, short-term.
25 And then above that, it -- it varies. And the -- these were

1 intended to be -- this requirement was really thought of as
2 something for apartments and was not thought through how it
3 related for townhouses, and so they were really intended to
4 be either in the right-of-way or inside the common area of a
5 building. But townhouses don't have a common area of the
6 building, and in most cases we don't allow them in the
7 right-of-way, so they take up public space -- private -- or
8 basically open space, what would otherwise be open space,
9 often in taking up the person's front -- you know,
10 whoever's -- one of the apartment's front lawns or their
11 rear lawn. So the idea was to continue to require the
12 long-term bike parking spaces while removing the requirement
13 for short-term bike parking to make it more similar to
14 detached houses.

15 In addition to that, there are a variety of other changes
16 to make it easier to locate bike parking on site. One of
17 the reasons why is to avoid forcing people to use their open
18 space, their -- kind of their front yards and rear yards for
19 bike parking, instead allowing it in other areas, because
20 those areas tend to be preferred for open space amenities
21 for the -- the homeowners and are better places for locating
22 trees. And so we want to be more flexible to allow it in
23 other areas that would make more sense for bike parking.

24 Do you want me to talk about, then -- that's the bike
25 parking portion. Do you want me to talk about the last

1 portion as well or...

2 Q. Yes. That would be great.

3 A. Great. So the other portion has a variety of changes. And,
4 again, one of them is simply saying that if you have a
5 portion of your car parking underneath a building overhang
6 up to certain amounts, that it would not count towards FAR.
7 And the reason there is that while we don't want people to
8 provide parking garages at the bottom floor that are exempt
9 from FAR, we do generally want people to have portions of
10 their cars underneath buildings. The reason why is that
11 makes for more efficient parking arrangement and allows
12 essentially a reduction in -- a potential reduction in
13 impervious surfaces if you can park -- so if you're -- if a
14 parking space surface, if you can put some portion of that
15 underneath a structure, then that means there's less
16 impervious surface elsewhere, and so we want to encourage
17 that to, you know, reduce the amount of impervious -- the
18 option, potential, for impervious surface.

19 We also had a small change to -- to the distance in the
20 rear yard you could have parking. And the idea is that
21 because the turn radius on some alleys requires more space,
22 this would make sure that you can park your car in the rear.
23 And, again, that is generally a preferred option because
24 that means you don't have to have all the driveway space,
25 which has impervious surface and takes up open space and

1 keeps the cars out of public view.

2 We also added a -- just a measurement section that had
3 been inadvertently removed in the previous code, and then,
4 lastly, changed the -- the mid -- the parking size. Right
5 now for townhouses every parking style must be a large
6 parking style. In apartments, there are usually a mix of
7 smalls and mediums, and so it's very unusual to require all
8 parking spaces to be large. And this, especially, can make
9 it difficult on the first floor. Because they're very long
10 spaces, often with that marking means there isn't as much
11 room for a normal-sized bedroom on the first floor. So by
12 reducing that -- by shorter stalls, this would allow for
13 better bedroom arrangements for people who wanted to put
14 those on the first floor.

15 Q. Great. Thank you.

16 Was there anything more that you wanted to add to the
17 description of what the proposal is doing before we go into
18 the environmental analyses?

19 A. I don't think so. Thank you.

20 Q. Okay. And how did you assess the environmental impacts of
21 the proposal?

22 A. Well, we did a GIS analysis to understand the
23 characteristics of townhouse units across the city. We
24 looked at the development capacity model we have, which
25 shows which lot size might be developable, the number of

1 units that might be accommodated on those, as well as, you
2 know, the non-environmentally critical areas, the amount
3 that are corner lots and other lots. So basically, you did
4 a (inaudible) characterized the existing lots across a range
5 of places you might have lowrise -- sorry, lowrise, midrise
6 zoning, and other zones that could allow townhouses and
7 rowhouses.

8 We did an informal permit review. We got a list of
9 permits that have come in over a period of time from when
10 MHA was put in place to when we did this analysis in 2019,
11 and we -- I looked at all of the projects that -- I pulled
12 up site plans for all the projects that were large ones that
13 had gotten past use permits, and then I looked at a
14 selection of ones that were smaller. I consulted with
15 colleagues in a variety of areas to get their understanding
16 of what this might result in practice. We also talked with
17 people who build townhouses to get their understanding of
18 what it might result in practice. And then, obviously, I
19 used my own personal judgment and expertise, having worked
20 on tree issues for many years, having worked on
21 environmentally critical areas and shorelines for many
22 years, as well as housing for many years. My participation
23 as part of the Urban Forestry Core Team, my work updating
24 the urban forestry master plan and helping create the canopy
25 cover assessment for the City.

1 So, you know, all of that, and -- as well as then kind of
2 did policy analysis, kind of piece out all the many
3 different aspects of the proposal and think through their --
4 their potential impacts from each of them. And, lastly,
5 consulting the -- or looking at the past environmental
6 impact statements, particularly those relating to mandatory
7 housing and affordability and the last comp plan update.

8 Q. Okay. Maybe this would be a good time to go into more
9 detail, if you would, as to what your involvement has been
10 with the Urban Forestry Commission and you said the Urban --
11 can you describe that?

12 A. Yeah. So in the City, the primary body for coordinating
13 urban forestry issues across departments is called the Urban
14 Forestry Core Team. It -- in a previous incarnation, it was
15 called the inter- -- or the Urban Forest Interdepartmental
16 Team. I served on both of those for most of the last eight
17 years, and that is the group that helped to develop the
18 canopy cover analysis. It's the group that also helped to
19 do the updates -- the creation and updates of the urban
20 forest management plan, previously called the stewardship
21 plan. And that is also the body that has worked on tree
22 regulations, both when I was the project manager for that
23 work and afterward as well.

24 Q. Okay. Thank you.

25 So let's first talk about the GIS data that was prepared

1 as part of this SEPA analysis. Who was it that prepared the
2 GIS data?

3 A. Nick Welch, who works in our Office of Planning and
4 Community Development.

5 Q. Okay. And did you consult with Mr. Welch as to the
6 methodology that would be used for the GIS study?

7 A. I did.

8 Q. Sorry. I'm going to pull up the Hearing Examiner No. 6. Do
9 you see what's been marked as Hearing Examiner No. 6?

10 A. I do.

11 Q. Okay. And is this the analysis summary for the townhouse
12 reforms GIS?

13 A. That is correct.

14 Q. Okay. And so can you walk through the methodology that was
15 used?

16 A. Yes. At a high level, we first used the -- I got an expert
17 from our development capacity model, which is a model that
18 we have had for many years in the City that analyzes all the
19 lots that exist in the city and first makes an estimation of
20 what portion of them are reasonably and likely to redevelop
21 over an infinite period of time under today's economic
22 conditions, and then it, through a number of assumptions,
23 calculates, you know, on those lots that could potentially
24 be redevelopable, if they redeveloped, how many units could
25 potentially be put on place. So this, again, is a

1 theoretical calculation of those that might be potentially
2 redevelopable, and if they all happened to be redeveloped,
3 how many units that could potentially produce.

4 So we basically used that existing model to get data on
5 the number of units, the number that are potentially
6 developable -- redevelopable, and the number of units. We
7 then divided up those lots into the number that were corner
8 lots and the number that were interior lots, corner lots
9 being particularly important, again, because corner lots --
10 rowhouses on corner lots are not subject to a density limit
11 of any kind, and so those are likely to all be -- you know,
12 so -- sorry. So they could be potentially more denser. We
13 also looked at those that are in -- the portion of those
14 lots that are in environmentally critical areas, like steep
15 slopes, wetlands, riparian corridors as, obviously, those
16 ones are going to have different -- both restrictions and
17 also potential impacts. And then the same for shoreline
18 districts as well for the same reason. And then, lastly,
19 the -- looked at the portion that are in historic districts
20 as well. For those same reasons, they are substantially
21 less likely to be redevelopable but also have different
22 potential impacts.

23 Q. Great. And I think you probably mentioned this, but did
24 you -- in the paragraph under Redevelopment Status, did you
25 also remove -- I guess identify sort of City-owned lands as

1 another factor of properties that are not likely to be
2 redeveloped?

3 A. So the -- as part of the development capacity model, that's
4 one of the steps that creates the output is that they make
5 assumptions about which ones are unlikely to be redeveloped.
6 And one of the assumptions is, for example, that they are
7 actually owned by the City of Seattle and -- or they contain
8 a landmark structure, for example, so -- so the --

9 Q. Okay.

10 A. -- development capacity model does those things, and we
11 got -- there's an output, and that's what we used in this
12 analysis.

13 Q. I see. And just so I understand better, the development
14 capacity analysis is also looking at sort of the -- what's
15 currently developed on the property to assess whether it's
16 likely or unlikely that it would be redeveloped further?

17 A. That is correct. So one of the -- one of the estimates it
18 makes is it looks at the -- kind of the -- the difference
19 between what currently exists on the -- on the property and
20 what could potentially be developed on that property. And
21 using assumptions that are unique for every single zone, if
22 something is -- you know, essentially, if it is a -- already
23 a very large building and you couldn't build something much
24 bigger, we would assume that it would not be developable.
25 However, if it's a very small building, you could build

1 something much larger, we would assume that it could
2 potentially be redevelopable.

3 Q. Okay.

4 A. So that's one of the assumptions that's in the development
5 capacity model.

6 Q. Great. All right. Thank you.

7 And then on the last page is the findings. And can you
8 walk through the findings for the LR1 zone?

9 A. Yeah. So the columns indicate the result by zone, LR1 being
10 lowrise 1, lowrise 2, lowrise 3, and then midrise and
11 highrise. These are the -- the zones that -- the
12 multifamily zones in the city of Seattle. And then within
13 each zone there's a column for the total number of parcels
14 that fall into that field, and then just those that are
15 considered to be potentially redevelopable. The rows then
16 give that information for different attributes, obviously
17 starting with the total number for all lots in the city,
18 both the number of lots and the acres, and then just for
19 corner lots, steep slope ECAs, wetland ECAs, (inaudible)
20 ECAs, shoreline district, historic districts, and landmark
21 structures. For each of them it says the number of lots
22 that meet that attribute and the acres in that lot. Or for
23 ECAs, I believe it is the acres of ECA in those areas.

24 Q. I see. And those were sort of separate from the number --
25 from the -- I'm sorry. The first row that says number of

1 lots and is 10,572, are these, you know, the corner lots
2 being -- these are just sort of identifying out of that
3 10,572 which are sort of unique to these rows being, you
4 know, a corner lot? So out of the 10,572, there was 1,559
5 that were corner lots, and there was 1,426 that involved
6 steep slope ECAs? Is that -- am I reading that properly?

7 A. That is correct.

8 Q. I see. Okay. And then, ultimately there was a number of
9 lots in this second column after all parcels for LR1, and
10 you have the parcels that were identified to be potentially
11 redevelopable?

12 A. That is correct.

13 Q. And so under the current existing code, the number of lots
14 that were identified was 5,532 for the LR1 zone?

15 A. Could you say that one more time?

16 Q. I'm sorry. So for -- under this GIS analysis, the finding
17 of sort of the number of redevelopable lots for LR1 zone was
18 approximately 5,532?

19 A. That's correct. The number of lots that were redevelopable
20 in LR1 zones.

21 Q. I see. Okay. Okay. And so the GIS analysis helped you
22 sort of assess the overall impacts of the proposal?

23 A. That is correct.

24 Q. And so did you develop a specific estimate of the number of
25 potential units that might be built based on the proposal?

1 A. No.

2 Q. But did you have a -- you know, an estimate of the change to
3 the number of units that might -- you know, did you --

4 A. We had a qualitative estimate of the potential change rather
5 than a quantitative estimate.

6 Q. Okay. And part of your environmental review, you indicated
7 you -- did you consult with colleagues from the Seattle
8 Department of Construction and Inspections about the current
9 development trends in the LR1 zone?

10 A. That is correct.

11 Q. And what information did you learn from the contacts at SCI?

12 A. They were able to (inaudible) describe and confirm that what
13 I was seeing through a -- in the informal review of permits
14 about the fact that we are seeing people, you know, both
15 develop property -- people developing the properties
16 underneath the density limit, in particular through the
17 process of subdividing and issuing -- doing a portion that
18 are townhouse and a portion that are rowhouse. They also
19 were able to talk about kind of where we're seeing bike
20 parking and the challenges that it was bringing up with
21 (inaudible). They were able to relate a lot of the issues
22 they heard from developers and the -- you know, the
23 conflicts they were hearing about -- especially around open
24 space and trying to manage finding space for bike parking
25 and car parking on these sites. And then they were also

1 able to use their own expertise to -- you know, to review
2 the proposal and to understand what its potential impacts
3 might be on future development.

4 Q. Great. And who from the Seattle Department of Construction
5 and Inspections -- which I'll refer to that as SDCI -- who
6 from SDCI did you talk to specifically?

7 A. Megan Neuman and David VanSike.

8 Q. Okay. And did they confirm to you that it was sort of a
9 common development practice of the development community to
10 go through a lot segregation, lot boundary adjustment
11 process if that process in the LR1 zone would essentially
12 increase the number of units that might be developed?

13 A. Yes.

14 Q. And did -- and you mentioned that you looked at a sampling
15 of permit data, and did you sort of confirm that through
16 your own research?

17 A. Yes.

18 Q. And how did you obtain the permit data?

19 A. I requested our GNIS analysis -- Jennifer Pettyjohn to
20 provide a list of projects that had come in in LR1 zones
21 over a given period of time, roughly from when MHA had been
22 put in place to the point in which we did the analysis.
23 Once I had that, then I used our Excel system to pull up
24 specific site plans to review them.

25 Q. Great. And how did she gather the permits? Did she utilize

1 the publicly available Web portal from SDCI?

2 A. I don't know the specific technique that she went through,
3 but she pulled from the permit data that we have and which
4 is publicly available.

5 Q. Okay. And did Ms. Pettyjohn do any sort of analysis of the
6 permits that she was obtaining for you, or did she just
7 simply gather them and provide them to you to do -- for you
8 to review and analyze?

9 A. She simply created a list for me to review and analyze.

10 Q. Okay. And did Ms. Pettyjohn have any other role in this
11 SEPA review other than providing you with the permits that
12 you requested?

13 A. Not directly. I should point out that she was, obviously, a
14 critical part of creating the development capacity model
15 which -- an output of which we used. But, again, that was
16 something that had been done previously. So in this
17 particular case, no --

18 Q. Okay.

19 A. -- as it related to this specific one.

20 Q. And I guess I should have asked the same question of Nicolas
21 Welch, who provided the GIS methodology that was used. But
22 did Mr. Welch have any other role in the environmental
23 analysis other than preparing the GIS methodology?

24 A. He did review the legislation, you know, to provide his own
25 feedback on, you know, whether its outcomes would be --

1 obviously, he's been involved in past EIS work on a variety
2 of things as well, but that -- yeah. But that was on past
3 work.

4 Q. Okay. And so after performing -- oh. I should say, in the
5 Hearing Examiner No. 1, the summary proposal, it's -- there
6 is language that says basically that you can perform an
7 informal review of permit data. Was that sort of the
8 informal review that you were referring to?

9 A. That is correct.

10 Q. And what was your assessment after performing the informal
11 review regarding, you know, the prevalence of projects that
12 choose to subdivide? Did you find that projects were able
13 to essentially achieve a similar density to what the
14 proposal would have the density limit changed to for the
15 LR1 zone?

16 A. I looked at two types of projects, those with master use
17 permits, which is an indication that they're a larger
18 project, and those that only had to get building permits.
19 For -- I looked at site plans for all of the projects
20 getting master use permits, and of those that were on
21 interior lots and didn't have the usual site
22 characteristics, all but one had subdivided their property
23 to do rowhouses in the front and townhouses in the back. So
24 it was obviously a very common practice on larger ones. And
25 then I looked at a scattering of ones of different size, and

1 I found, you know, some that were doing it, some were not,
2 but the -- there's definitely a decreasing prevalence as the
3 site gets smaller.

4 Q. Okay. And so your -- the results of your informal permit
5 review, were they consistent with sort of what you learned
6 about the current development trends from SDCI's contacts
7 that you were -- that you had discussed this proposal with?

8 A. Yes.

9 Q. Okay. I am going to open up Hearing Examiner No. 7 and
10 share that with you.

11 Can you -- do you recognize Hearing Examiner No. 7?

12 A. I do.

13 Q. Do you see it?

14 A. Yes, I see it too.

15 Q. Okay. Great. Can you describe what we're looking at?

16 A. Yes. So this is a list of development projects that I
17 looked at as part of my work. It is not a comprehensive
18 list but rather a selection of projects. And these are
19 specifically all projects that exceed a density of one unit
20 per 1,300 square feet by a subdivided lot and building a
21 combination of rowhouses in the front and townhouses on the
22 rear lot. So, again, all examples of projects on interior
23 lots in lowrise 1 zones today that are already exceeding the
24 density limit of one unit per 1,300 square feet. And,
25 again, this is not meant to be comprehensive of all the

1 projects that are doing it. It is rather meant to be --
2 show some examples to show the -- what happens.

3 Q. Great. And so let's just look at -- so on the left column,
4 it is sort of the -- lists the City exhibit number of 8
5 through 13, which was the number associated with the core
6 documents and the City exhibit list that was submitted. And
7 then you have the address in the next column of the project
8 location. You have the number of townhouse -- rowhouse
9 units and then the number of townhouse units that were
10 developed as part of the project, and the total number of
11 units is in a column, total lot size, and the total square
12 foot per unit that resulted; is that correct?

13 A. That is correct.

14 Q. And so the sampling of different projects shows a varying
15 degree of density that was achieved through projects, all of
16 which were more dense than the one dwelling unit per 1,300
17 square feet that currently exists in the code for rowhouses
18 that are -- some rowhouses and townhouses; is that correct?

19 A. That is correct.

20 Q. Okay. I'm going to just pull up next exhibit -- the Exhibit
21 No. 8 and 9, so -- to take a look at. Okay. So it's hard
22 to -- can you see City exhibit -- or Hearing Examiner
23 Exhibit 8?

24 A. I can.

25 Q. Okay. And do you see that there's a project image? Is

1 that -- that's an illustration of the proposed rowhouses?

2 A. That is correct. This is -- in this particular project,
3 they proposed five rowhouses on the front lot and three
4 townhouses on the rear lot.

5 Q. Okay. And you can see, is there a small diagram on the
6 right side of the site plan showing sort of the birds-eye
7 view of the rowhouses and the townhouses?

8 A. That is correct.

9 MR. MOEHRING: Objection (inaudible). The exhibit
10 being -- that is being displayed is not --

11 HEARING EXAMINER: Oh, I can't -- Mr. Moehring, are you
12 speaking? I am having trouble hearing you.

13 MR. MOEHRING: Oh, sorry. Can you hear me okay?

14 HEARING EXAMINER: Yes, I can hear you now.

15 MR. MOEHRING: Sorry. The objection is the Exhibit 8
16 being displayed is different than the Exhibit 8 that we have
17 received.

18 HEARING EXAMINER: Let's see.

19 MR. MOEHRING: The Exhibit 8 that I have shows a site plan
20 and much more information than is on the current drawing.
21 It also has "City Exhibit No. 8" in the upper left-hand
22 corner.

23 HEARING EXAMINER: Yeah. I think we're looking at
24 Exhibit 8 right now.

25 Is that correct, Mr. Mitchell?

1 MR. MITCHELL: That -- yes. Sorry.

2 And, Mr. Staley, were you going to clarify?

3 THE WITNESS: To be clear, I believe the original
4 Exhibit 8 was a screen capture from the site plan, and this
5 is probably the -- this is the front of the site plan that's
6 being up right now.

7 HEARING EXAMINER: And what I have as Exhibit 8 is the
8 same as what's up on the screen.

9 Mr. Moehring, do you have something different?

10 MR. MOEHRING: Yes, I do.

11 MR. MITCHELL: It's possible that -- and I don't know
12 this. I am surmising what may have happened is that
13 there -- when we submitted the core documents initially
14 there may have been a change from the core documents to the
15 City's final exhibit list that was submitted on
16 February 17th.

17 HEARING EXAMINER: Oh, okay. So maybe that changed the
18 numbering a little bit.

19 MR. MITCHELL: It's possible. But I do think that this
20 was the version that was provided in the exhibit list that
21 was submitted on the 17th. I think.

22 MR. MOEHRING: Ms. Examiner, may I --

23 HEARING EXAMINER: Yes.

24 MR. MOEHRING: Can I share our version of Exhibit 8
25 (inaudible)?

1 HEARING EXAMINER: Yeah, sure, Mr. Moehring.

2 MR. MOEHRING: Okay. We're going to have -- I'm going to
3 have Lars share it. That's okay.

4 MR. MITCHELL: Would I -- do I need to stop sharing on my
5 end?

6 MR. MOEHRING: Yeah.

7 MR. MITCHELL: I don't mind doing that.

8 HEARING EXAMINER: My guess is yes, but I don't --

9 MR. MITCHELL: Okay.

10 HEARING EXAMINER: Oh. That looks pretty --

11 MR. MOEHRING: (Inaudible).

12 HEARING EXAMINER: That looks exactly the same as what I
13 have, Mr. Moehring.

14 MR. MOEHRING: Oh, great. Yes.

15 HEARING EXAMINER: Yeah. So I think you've got the
16 correct one.

17 MR. MOEHRING: Great. Yes. So this has much more
18 information, as you can see.

19 HEARING EXAMINER: Oh. Well, I don't know. It looks -- I
20 mean, it looks a little larger in terms of the print and so
21 forth, but I think I have the same information that you have
22 there, so I think it's the same exhibit.

23 MR. MOEHRING: All right. Maybe it was just not
24 displaying from --

25 HEARING EXAMINER: It may just have displayed a little

1 differently with the -- you know, the screen sharing, maybe
2 it's a little different.

3 MR. MITCHELL: Yeah. Well, I'm glad that Your Honor has
4 the same exhibit that Mr. Moehring is showing, so that's
5 good.

6 HEARING EXAMINER: Yeah. No. I -- Mr. Moehring, I think
7 I have the exact same thing that you do. And I was looking
8 at kind of the descriptive detail. It looks all the same.

9 MR. MOEHRING: Okay. Thank you.

10 HEARING EXAMINER: Yeah.

11 So, Mr. Mitchell, I think you can proceed. I don't think
12 we have an objection. I think there was just some confusion
13 in terms of the display on the Zoom and all that.

14 MR. MITCHELL: Okay.

15 Q. (By Mr. Mitchell) Mr. Staley, so do you know -- I don't
16 know if you've done this calculation, but do you know if,
17 had the -- had that project not gone through a lot
18 segregation, do you know what number of units it would have
19 been able to build if they just didn't do the lot
20 segregation and just built on the one lot?

21 A. I do not know the answer. I do know it would have been
22 fewer units since the density they were achieving was higher
23 than what would be allowed solely for townhouses. Again,
24 with that said, if they hadn't subdivided and they had
25 chosen to do apartments, for example, or cottage housing,

1 they could have potentially gotten to the same density. But
2 if they had not subdivided and chosen to do townhouses, they
3 would have had fewer units under the current rules.

4 Q. Great. Thank you.

5 And I'm going to pull up Hearing Examiner 9. Are you able
6 to see what's been marked as Hearing Examiner No. 9?

7 A. I am.

8 Q. And, again, can you describe this exhibit and what we're
9 looking at here?

10 A. This is another -- a snapshot of the site plan that came
11 from the larger plan set for the -- a project on Sand Point
12 Place Northwest -- Northeast.

13 Q. Okay. And maybe it's a little clearer to see in the
14 rendering at the bottom left, but how many rowhouses are
15 they -- were they proposing to develop with this site?

16 A. Five rowhouses.

17 Q. Okay. And then how many -- were they also building
18 townhouse units --

19 A. Yes.

20 Q. -- behind? And how many townhouse units?

21 A. I believe it was two townhouse units, although I cannot be
22 entirely sure just from this. But that is my recollection
23 and what appears here.

24 Q. I see. Did you -- in preparing Exhibit No. -- Hearing
25 Examiner No. 7, I think you listed two townhouses on that

1 exhibit. Did you do sort of your own research to gather
2 that data?

3 A. Yes. I actually looked at the site plan for the -- the
4 townhouse units as well.

5 Q. I see. Okay. And, again, I don't know if you've done
6 necessarily this calculation, but the same question.
7 Would -- do you know what the density the develop- -- had
8 the property not been segregated, would -- do you know what
9 the density number of units would have been achieved?

10 A. I -- I do not know that off the top of my head, but I do
11 know that if it had not been subdivided, again, if they had
12 done apartments or cottage housing they could have
13 potentially achieved the same density, but if they decided
14 to do all townhouses that they would have had fewer units,
15 one or more fewer units.

16 Q. Great.

17 MR. MITCHELL: So, Your Honor, I was about to show
18 Mr. Staley the environmental checklist and start talking
19 about that. I don't know if this would be a good time to
20 take a morning break. You mentioned that --

21 HEARING EXAMINER: Yeah.

22 MR. MITCHELL: -- we have to do that.

23 HEARING EXAMINER: We can certainly do that.

24 Do the parties wish to take a short 15-minute break at
25 this point?

1 MR. MITCHELL: I was just --

2 HEARING EXAMINER: It doesn't matter. We could --

3 MR. MITCHELL: I thought this could be a good time.

4 HEARING EXAMINER: Yeah. No, it might be a good time.

5 MR. MITCHELL: Yeah.

6 HEARING EXAMINER: Unless you were almost towards the end,
7 then this would be -- this would make sense. I am not
8 hearing any objection, so why don't -- so it's 10:33. Why
9 don't we reconvene at 10:48. That would be 15 minutes. Any
10 questions before we do that?

11 Okay. We are adjourned until 10:48. Thank you all.

12 AUTOMATED VOICE: Recording stopped.

13 MR. MITCHELL: Thank you.

14 (Recess)

15 AUTOMATED VOICE: Recording in progress.

16 HEARING EXAMINER: Thank you, Ms. Oberhansly.

17 So we are back on the record in POW 21-007. It's 10:48.

18 Mr. Mitchell, I think you were continuing with your direct
19 examination of Mr. Staley.

20 MR. MITCHELL: Yes. Thank you. And I am about to share
21 the screen to share Hearing Examiner No. 3.

22 Q. (By Mr. Mitchell) Mr. Staley, do you recognize Hearing
23 Examiner No. 3?

24 A. I do.

25 Q. Can you describe what this document is?

1 A. This is the environmental checklist that I provided for the
2 townhouse reforms proposal which we're discussing today.

3 Q. And can you walk through the format of the environmental
4 checklist in terms of what information is provided on the
5 environmental checklist?

6 A. Yes. The first section provides general information about
7 the applicant, the -- when it's being issued, and the
8 proposal itself. There's a second section that provides
9 general questions about -- that are intended primarily for
10 project actions but also apply to non-project actions as
11 well, and then there is a final section that has specific
12 questions for non-project actions.

13 Q. Okay. And so the Section B, Environmental Elements, you
14 were saying that those are the elements that are primarily
15 for describing impacts of -- from a project action, and then
16 there's a Supplement D after you -- going through those 14
17 elements that -- let's see. There we are. And so this is a
18 supplemental sheet that is only provided for non-project
19 action s?

20 A. That's correct, um-hum.

21 Q. Okay. So when we walk through the supplemental sheet for
22 non-project actions, D, that you prepared -- and do you want
23 to talk about your -- you know, the environmental review
24 that you did and how you identified that the proposal would
25 be likely to increase discharged water emissions to air

1 production storage, or release of toxic or hazardous
2 substances or production of noise?

3 A. Certainly. So in doing this analysis, obviously we talked a
4 lot about how -- all the things that we brought into
5 consideration, the permit analysis, the GIS analysis, our
6 expertise, consultation with other City staff and outside
7 people, and looking at other SEPAs. That was all kind of
8 the background that we brought into that. Then we looked at
9 the potential impacts that might occur in this area. You
10 know, the first, obviously, is important to note that there
11 are no direct impacts because this is not a project action.
12 This is a non-project action. But there could potentially
13 be indirect non-project action impacts.

14 We looked at, you know, whether this was going to allow
15 new development of any new types, and of course on any new
16 parcels, and of course it will not. This is something that,
17 you know, will not allow new types of development in new
18 areas or allow development on sites that are not allowed
19 today. It does not change zoning. So these are -- all
20 these sites today are today's -- are sites that could
21 already by developed under the current rules.

22 Then we thought about how it might influence the types of
23 development that might occur. And, again, these are all
24 sites that today you are already allowed to do apartments or
25 rowhouses or cottage housing or townhouses. Many of those

1 have no density limit today. And of course we're already
2 seeing that projects are developing to density limits equal
3 to and actually even lower than what is proposed in this
4 legislation today, so we -- so it is -- but we did look
5 at -- you know, there could be potential impacts, the extent
6 to which, you know, this shifts that type of development
7 that it replaces today that are doing a mix of townhouses
8 and rowhouses might do townhouses today. It could also
9 shift it between apartments towards apartments, or away from
10 apartments towards cottage housing or away from cottage
11 housing. We considered all the kind of different impacts
12 that -- you know, kind of how that might shift.

13 We also looked at the likely implications on individual
14 sites. You know, again, this legislation would not change
15 the FAR, would not change the height, the setbacks. It
16 would not change the open space requirements. It would not
17 change the green factor requirements. And so what we --
18 what we are seeing, from our experience we looked at
19 permits, is that, you know, if in some cases it results in
20 developments that are slightly more dense or slightly less
21 dense, that overall it's not likely to significantly change
22 the floor plate of projects that they're still considering a
23 townhouse or a rowhouse-type methodology because all of
24 those factors limit the -- the scale to buildings and where
25 you have to fit in your trees and your pervious surface,

1 that -- that what we tend to see is that people kind of
2 maintain the same three-story height limit, and then they --
3 they fill out as -- you know, kind of fill that out in a --
4 in a similar way in all those different ones. But it could
5 have kind of small changes, especially if it, you know,
6 encourages a townhouse rather than an apartment or just --
7 just townhouses instead of a combination of townhouses and
8 rowhouses.

9 We also looked at the impact of all the design changes.
10 And, again, that could go in multiple different ways. You
11 know, allowing parking underneath buildings could help
12 reduce the amount of impervious surface on these sites in
13 that it might make for a more efficient pattern where you
14 can locate parking partially underneath it. If, you know,
15 it increases the -- a slightly different -- higher densities
16 or lower densities on any project, that might change the
17 amount of area that is used for parking either in buildings
18 or outside. We also looked at how, you know, removing the
19 bike -- short-term bike parking requirement would tend to
20 free up more open space in places that, you know, might
21 otherwise have bike sheds on them and change patterns.

22 So yes. So, essentially, we considered kind of all this
23 huge range of different ways this might shape the -- the
24 development of sites, and we kind of thought about all those
25 in a -- in a kind of qualitative manner in particular, you

1 know, just because all the changes are so small by
2 themselves and there are so many of them that -- and because
3 so many of them might, you know, increase the amount, some
4 of them might increase development -- or, sorry, might
5 increase new impervious surface and some would reduce it,
6 it -- yeah. So we -- potentially, we thought through all
7 those different things and -- and then looked at those in
8 comparison to kind of past analysis that's gone on, looked
9 at those in terms of what's allowed today and what could be
10 allowed, and -- and then also kind of looked at what we've
11 been seeing based on the existing rules that are already in
12 place that kind of limit what you can do in terms of green
13 factor, etc. And as we looked through all those, we came to
14 the conclusion, while it could incrementally both kind of
15 increase discharges in some areas and decrease discharges in
16 some areas, that overall that it would not be likely to --
17 actually, this -- sorry. That it would (inaudible)
18 basically kind of incremental changes to the proposal.

19 Q. Great. Thank you.

20 And so everything that you took into consideration that
21 you just described -- so for D(1), what was your finding
22 regarding the -- I guess the level of impacts from what's
23 described in D(1)?

24 A. Yeah. I think, as was written down, I found that the
25 proposed changes result in -- could result in incremental

1 increases in the amount and duration of construction
2 activity, but that these would only make a minor difference
3 in the potential -- total potential for emissions to air,
4 noise, and release of toxic or hazardous materials.

5 I also found that any increase -- any incremental increase
6 in greenhouse gas emissions resulting from additional
7 development could be at least partially offset by reductions
8 in commuting over future building -- the building's life, as
9 more residents and employees would be able to live and work
10 in Seattle. Again, obviously, that's one of the purposes of
11 the proposal is to encourage development in Seattle so
12 we're, you know, both -- thus meaning we don't have -- that
13 development doesn't happen in a sprawl where it would
14 actually destroy a lot more trees and result in a lot more
15 impervious pavement and it would have much greater impacts
16 on climate change.

17 Q. Great. All right. So let's go to D(2). And, you know, I
18 know your answer to D(1) and how you described your review
19 probably is applicable to a lot of -- you know, to how you
20 would perform the review for all of the D -- as well as how
21 you describe -- how you filled out the other portions of the
22 environmental checklist from 1 to (inaudible), but maybe we
23 could talk about your response here to D(2) and how you --
24 how would -- what you answered for how the proposal would be
25 likely to affect plants, animals, fish, or marine life.

1 A. Yes. So, I mean, the answer to the first question, you
2 know, all the -- the things I talked about, the things we
3 were bringing in and who we talked about and the different
4 ways this proposal would -- could potentially (inaudible)
5 minorly increase impervious surface versus decreasing it are
6 all very much relevant here. And, obviously, it is very
7 interconnected as in, you know, the changes to water and air
8 do also affect, plants, animals, fish, and wildlife. I
9 would say that kind of in addition to that, we also looked
10 at -- in kind of in more detail about how this might impact
11 the -- the amount of space available for plants and the
12 potential stormwater impacts.

13 In terms of plants, you know, again, as I mentioned, the
14 basic premise that, you know, we're not modifying, we're not
15 allowing development in any new areas, we're not allowing
16 any new types of development, we're not changing the floor
17 area, the height, we're not changing the stormwater
18 regulations, we're not changing the green factor
19 regulations, we're not changing the open space regulations,
20 parking regulations. All those mean that -- that, you know,
21 for sites that are -- would be developed under either
22 scenario, you know, the footprint of buildings is going to
23 be, in broad sense, generally very similar. But there
24 are -- could be kind of minor impacts in terms of how
25 changes to bike parking and -- you know, and parking -- and

1 automobile parking might affect it.

2 You know, specifically, you know, removing the short-term
3 bike parking requirement will free up more space for
4 planting, and that could potentially -- that could be
5 planted with trees and vegetation. You know, allowing more
6 flexibility where you locate bike parking so that it doesn't
7 as frequently need to be in front and rear setbacks also
8 would allow for potential more space that could potentially
9 be planted. Allowing parking to be partially underneath the
10 building could also potentially reduce the amount of -- of,
11 you know, impervious space needed for parking. And allowing
12 it -- making it easier to put on alleys similarly could
13 because it would remove the need for driveways. On the
14 other side, if -- in some cases, if it changes the density
15 of a -- of a unit, that might slightly increase impervious
16 surface, which would reduce plants.

17 But, again, on -- overall, because of all the regulations
18 that are in place, because we're not allowing development in
19 new areas, because we're not allowing new types of
20 development, because, you know, people -- development can
21 already -- is already allowed through (inaudible) mechanisms
22 the densities that we're considering here, that these things
23 would overall -- are going to be minor changes overall.

24 We also did look at stormwater impacts, and there I relied
25 on my work on kind of the stormwater regulations in the

1 past, helping develop green factor. And kind of similarly,
2 again, we're not changing -- there's no change to the
3 stormwater code, there are no changes to green factor, both
4 of which require a certain level of vegetation and
5 infiltration facilities or capture facilities. You know,
6 given that we're not changing the -- the basic massing of
7 the buildings, it is likely that all those would be --
8 changes would be fairly minor and would be kind of very
9 consistent with the purpose of the stormwater code to manage
10 development when it occurs.

11 Q. Great. Thank you.

12 And so you have talked a lot about existing regulations
13 sort of providing the protections and the mitigation. Are
14 there other regulations in place that haven't -- that
15 weren't listed here that you are -- that you -- you're aware
16 of, obviously, because of your role as the urban -- on the
17 urban forest management team. Is that what (inaudible)
18 called?

19 A. The Urban Forest Core Team.

20 Q. The Urban Forest Core Team. I --

21 HEARING EXAMINER: We're going to mute some -- there's --
22 yeah. There we go. Okay.

23 Go ahead, Mr. Mitchell.

24 MR. MITCHELL: Okay.

25 Q. (By Mr. Mitchell) So are there other, you know, regulations

1 that we haven't talked about yet that you have -- were
2 considering when determining that there would be minor
3 changes that you could talk about to some extent now?

4 A. Yeah. Thank you. I guess other codes that exist that help
5 to address these issues that I failed to mention are
6 obviously the shoreline master program which affects
7 shoreline lots, the environment critically area regulations
8 which -- again, both of which we are not proposing to
9 change. In addition to the kind of stormwater code, there
10 also is obviously the stormwater connection process which
11 also regulates, you know, the -- this -- and any
12 requirements placed on the property to (inaudible) enlarge
13 pipes and things of that nature. I also didn't mention the
14 tree protection code which also applies to all these
15 projects that we're not proposing to change as well.

16 Q. Great. And -- but I guess while you mention that, and I
17 know that this is something that maybe Mr. Moehring had
18 indicated he might have an objection to, but City exhibit --
19 or hearing -- so City Exhibits No. 19 and 20 were the
20 director's -- SDCI director's report and the draft
21 legislation that was just recently made public through the
22 SEPA notice process, and I was -- I'll hear from
23 Mr. Moehring about what his objection would be to that.

24 MR. MOEHRING: Still object. If you look at the --

25 HEARING EXAMINER: Can you speak up a little bit,

1 Mr. Moehring?

2 MR. MOEHRING: Sure.

3 HEARING EXAMINER: Yeah. I think it's because your mask
4 that makes it a little -- yeah.

5 MR. MOEHRING: Sorry about that.

6 HEARING EXAMINER: No, it's fine.

7 MR. MOEHRING: Yeah. If you look at the date of that
8 exhibit, it's something as like February 11th, 2022, well
9 after the appeal was filed, well after any SEPA
10 considerations were considered on -- for this particular
11 action, so -- and, in addition, that proposal is still in a
12 public comment period. It may change. So it's really
13 irrelevant documentation at this moment.

14 HEARING EXAMINER: Mr. Mitchell, any comments on that?

15 MR. MITCHELL: Yeah. I guess my response would be, you
16 know, Mr. Staley only considered the current tree protection
17 code that he mentioned as sort of a -- you know, a
18 mitigating regulation. The reason why, you know, I thought
19 to include it is just to show that the City is also
20 currently working on improving upon the current tree
21 protections.

22 HEARING EXAMINER: Okay.

23 MR. MITCHELL: And that's in the process.

24 MR. MOEHRING: I could also ask him -- I could also --
25 well, I'm not sure if I can ask Mr. Staley in

1 cross-examination, but if he could simply rephrase the
2 question or -- this is a -- the history of the tree
3 protection code hasn't changed in over ten years, even with
4 the MHA which referred to the tree protection code. So I
5 feel like there's the same type of thing trying to be
6 introduced here that, yeah, there might be a tree protection
7 code. We don't know if it's actually beneficial or less
8 beneficial to what's being proposed here, so I just feel
9 like that would be a whole other discussion. Although I'm
10 excited about the potential of a stronger tree protection
11 code, from what we've seen, you know, without getting into
12 testimony, I just don't think that it can be relied on to
13 help the situation here.

14 HEARING EXAMINER: Yeah. I guess from my review, I can
15 look at existing requirements and existing code requirements
16 in terms of mitigation. If this isn't -- hasn't been
17 adopted yet, I can't consider -- I mean, it provides some
18 context, I think for what the City is looking at, but
19 probably we shouldn't -- we wouldn't want to spend too much
20 time on this. I guess what I'm inclined to do is to admit
21 both of these but with the understanding that these are
22 talking about, as I understand it, future requirements that
23 are under review, and so they would have somewhat limited
24 relevance to this appeal. Am I mischaracterizing or
25 misunderstanding anything?

1 MR. MITCHELL: No, Your Honor. I think in -- you know,
2 in -- I -- it could -- if there's a strong objection, I will
3 readily admit that Mr. Staley and Mr. Wentlandt, in his
4 ultimate issuance of the DNS, did not rely on these
5 documents, and so we don't even need to really have them
6 admitted. But what I could do is just ask Mr. Staley, you
7 know, a few questions about what he knows of them at this
8 point.

9 HEARING EXAMINER: Mr. Moehring, any comment on that?

10 MR. MOEHRING: Yeah. I just think our objection is pretty
11 clear. And I guess we would request a ruling, and we just
12 maintain our objection.

13 HEARING EXAMINER: Okay. Yeah. I think what I'll do is I
14 won't admit these, but we can have some very limited
15 testimony on what the City is looking at. But I don't want
16 to go too far down that road. So if we can keep it kind of
17 limited, I think that briefly -- briefly talk about what the
18 City's talking about and then I think that -- but I don't
19 want to have too much testimony on that if the regulations
20 aren't quite in place yet.

21 MR. MITCHELL: Fair enough. Yes.

22 Q. (By Mr. Mitchell) So, Mr. Staley, you mentioned that one of
23 the code regulations that do exist is the tree protection
24 code that factored into your decision -- or your analysis, I
25 should say. Are you aware generally that there is a SEPA

1 proposal that's been made public to amend the tree
2 protection code with the intention of improving on those
3 tree protection regulations?

4 A. Yes.

5 MR. MOEHRING: Objection.

6 HEARING EXAMINER: And, Mr. Moehring, is your objection
7 the same as before, is that we don't have the regulations
8 yet so there's some uncertainty there?

9 MR. MOEHRING: Well, he's -- yes. And he's also
10 suggesting that there is -- it's all improvements, whereas
11 from our review, it does not look like all improvements.
12 But, again, we're getting into a different tangent.

13 HEARING EXAMINER: Okay. If we can just -- I will allow
14 it, but if we can just wrap this up very quickly, just
15 because it's hard to know exactly what ultimately will be
16 adopted.

17 MR. MITCHELL: True. I'll move on, Your Honor.

18 HEARING EXAMINER: Okay.

19 Q. (By Mr. Mitchell) So why don't we talk about number 3 and
20 the response to how would the proposal be likely to deplete
21 energy or natural resources.

22 A. Yeah. So, again, similar to the past ones, I think I've
23 already given a lot of background on the thought, the
24 overall -- excuse me, what likelihood of it -- sorry, of
25 different shifts happening because of this and the different

1 people we brought into it. As it relates to energy and
2 natural resources, kind of in addition to what I've talked
3 about previously, we considered, you know, the potential
4 shifts that could happen if for some reason this encouraged
5 more townhouse development in Seattle or it incrementally
6 made -- it encouraged -- it increased the density of units.

7 Obviously, you know, more construction in Seattle would
8 use more energy, although that construction in Seattle would
9 tend to use substantially less energy than construction that
10 might otherwise take place outside of Seattle. You know,
11 smaller units, a unit's energy use tends to, you know, be
12 based largely on the number of units. But also, smaller
13 units do use less energy, and so if you have more townhouse
14 development, again, it's going to overall consume less
15 energy per unit than what you might see if it occurs other
16 places. But, again, you know, the energy code is in place
17 and -- as are other standards for energy efficiency. And,
18 you know, we've -- we've also been part of kind of -- we
19 are -- regularly talk with the Seattle City Light to kind of
20 understand their infrastructure needs. I have worked as
21 part of the utility coordination committee to kind of
22 understand in the past the -- kind of the needs of Seattle
23 utilities. And in those conversations, it has become clear
24 that kind of this small amount of additional -- you know,
25 additional or less development would not have -- would have

1 very minor impacts on their overall electrical system, and
2 overall would help, you know, us move towards the kind of
3 development we need to address climate change.

4 Q. Great. And I guess the same question for number 4. How
5 would the -- what was your response to the question how
6 would the proposal be likely to use or affect
7 environmentally sensitive areas or areas designated for
8 governmental protection, such as parks, wilderness, wild and
9 scenic rivers, threatened or endangered species, habitat,
10 historical or cultural sites, wetlands, flood plains or
11 prime farmlands?

12 A. Yes. In addition to what we've talked about briefly in the
13 past, you know, obviously there are -- environmentally
14 critical area and shoreline regulations would still be in
15 place. You know, on those properties, a density limit would
16 become increasingly meaningless because there already are so
17 many regulations for what you need to avoid that it would be
18 very hard time imagine on sites that already have
19 environmentally critical areas that it would be reaching
20 this density limit anyway. So there is that to consider.

21 We also specifically did some analysis looking at historic
22 districts and kind of characterizing the extent of
23 properties in lowrise 1 in particular that are in those
24 areas to kind of understand what the potential would be.
25 And obviously, again, we're not modifying any of the

1 existing landmark regulations, which already limit and
2 modify demolition or construction of those areas.

3 Q. Great. Also, I think in the appellants' notice of appeal
4 they raise an issue that has to do with the great blue
5 heron, perhaps, specifically. Are you familiar with
6 Director Rule 13-2018, a specific director's rule?

7 A. I am --

8 Q. I believe it is a director's rule specifically as to great
9 blue heron for protection?

10 A. Yeah. I am at a high level familiar with that. I helped to
11 draft a previous version of that director's, and so I am
12 very familiar with in general things that apply there as
13 well.

14 Q. Okay. And does the proposal make any changes to that
15 director's rule?

16 A. It does not.

17 Q. That director's rule would still apply?

18 A. That's correct.

19 Q. Okay. All right. Can you talk about how the proposal --
20 what your response was to how the proposal would likely
21 affect land and shoreline use, including whether it would
22 allow or encourage land or shoreline uses incompatible with
23 existing plans?

24 A. Great. Yeah. So in addition to what we talked about
25 previously, we looked at whether -- how this would affect

1 land and shoreline uses. Obviously, the major one is this
2 proposal would not modify the types of uses that are allowed
3 in the affected area or the -- and so, you know, any change
4 would be a small change within the amount of use -- the uses
5 that are already allowed. And I feel like we captured an
6 awful lot of this in the -- in the past discussion, so
7 for -- yeah.

8 But, again, we're talking about -- you know, we're not
9 changing the height limit. We're not changing the setbacks.
10 We're not changing those -- those basic things. People
11 would continue to be allowed to do a diversity of
12 apartments, rowhouses, townhouses, single-family detached
13 houses in these areas. And there could be slight shifts
14 between which ones those -- are encouraged, discouraged.
15 But these are all -- all the sites that can be -- that would
16 be redevelopable under this -- or, sorry. We're not
17 proposing to allow new development in any areas, we're not
18 proposing to allow new types of development, and so it would
19 be generally minor. You know, certainly we are -- during
20 the (inaudible) review we looked at the -- kind of the types
21 of development (inaudible) the types of impacts that tend to
22 happen from those types of development. But, again, given
23 that it's not changing the height limit or the setbacks, it
24 is not likely that this would resolve in (inaudible)
25 changes. You know, certainly it's possible --

1 Did I -- did I freeze?

2 HEARING EXAMINER: You're reception is not perfect.

3 THE WITNESS: I'm sorry. It is possible this could
4 incrementally encourage more development in general.

5 HEARING EXAMINER: Thank you.

6 THE WITNESS: Okay. Well (inaudible).

7 MR. MITCHELL: Now you did freeze.

8 THE WITNESS: Should I stop my video?

9 HEARING EXAMINER: Yeah. You are -- you froze for --

10 THE WITNESS: (Inaudible) is that --

11 HEARING EXAMINER: Let's see.

12 MR. MITCHELL: Maybe if I stopped sharing. Would that
13 possibly help?

14 HEARING EXAMINER: Yeah. Why don't you go ahead and stop
15 sharing. I don't know if that will or not.

16 Mr. Staley, you still there?

17 THE WITNESS: Hopefully, this is better.

18 HEARING EXAMINER: Oh, yeah. Maybe if you turn the video
19 off. Sometimes that helps.

20 THE WITNESS: Can you hear me now?

21 HEARING EXAMINER: I --

22 MR. MITCHELL: It's very echoey.

23 THE WITNESS: I'm seeing a low connection. It's saying
24 it's not -- oh. I -- I don't know what else I can do right
25 now unless you want me to leave and come back in a minute.

1 HEARING EXAMINER: That was okay. I could hear that, and
2 I think we could -- I think that was fine, what you just
3 said.

4 THE WITNESS: Am I coming through now?

5 HEARING EXAMINER: Yeah. I think you're okay. If not,
6 we'll figure out something, and we'll --

7 THE WITNESS: Great.

8 HEARING EXAMINER: But, yeah, Mr. Staley. Go ahead.

9 THE WITNESS: Thank you.

10 So I don't know what I lost, but, again, I think I -- we
11 were -- it would not allow (inaudible) currently allowed, it
12 would not allow any types of units. Because we're not -- we
13 could look at kind of the types of impacts that happened
14 just on past projects, kind of massing of them (inaudible)
15 you know, for projects that are -- sites that are going to
16 redevelop anyway, it's not likely to have substantial
17 impacts on views or light access because they are likely to
18 have the same similar forms, the same footprint. Obviously,
19 this could result in some small incremental increase in the
20 number of townhouses overall, but those impacts would be
21 kind of consistent with, you know, the general impacts that
22 townhouse development -- that have been -- been kind of
23 considered as part of our (inaudible) and, you know -- or
24 consistent with what we're already seeing today.

25 Q. (By Mr. Mitchell) Great. Thank you.

1 And the last -- well, maybe not the last, but -- so then
2 would you also talk about impacts to -- there are
3 subcategories in 5, land -- the land use impacts, and then
4 one of them is public -- the public view protection, shadows
5 on open space, latent glare?

6 A. Yeah. So as I mentioned, you know, this could incrementally
7 encourage a townhouse production, and so there -- there
8 could be incremental -- kind of minor incremental changes
9 associated with more townhouse construction generally. But
10 again, those are, you know, consistent with what we're
11 already seeing in townhouse construction today. You know,
12 where -- to the extent that it shifts the pattern, we are --
13 those are not likely to be substantial because, you know,
14 we're looking at very similar forms kind of being
15 constructed before and after, and it's unlikely to see
16 significant changes in the floor plate or certainly on the
17 height or the setbacks are going to stay the same. Yeah.
18 And, obviously, we -- the regulations that manage those are
19 also -- would continue to be in place, including design
20 review and other things.

21 Q. All right. Great. And then do you want to talk about your
22 response to the question how the proposal would be likely to
23 increase demands on transportation or public services and
24 utilities?

25 A. So in addition to kind of what we've discussed in the

1 previous ones, you know, in this case, we -- for
2 transportation, you know, we looked at light parking. You
3 know, to the extent that we encourage townhouses, you know,
4 townhouses are subject to bike parking requirements, whereas
5 single family homes are not. However, apartments would
6 still be subject both to short-term and long-term parking
7 requirements. So, you know, these projects (inaudible)
8 long-term parking -- bike parking requirements, but would no
9 longer have short-term bike parking requirements, which
10 would have minor impacts in the extent to which -- you know,
11 kind of make it easy for people to park their bikes within
12 the projects, you know, again, at the same time
13 developing -- encouraging townhouses would encourage more
14 housing in places where people can bike to things compared
15 to the types of development that would occur, you know,
16 outside the city of Seattle if we don't have development
17 within the city, so that would actually make biking more
18 easy and use of transit more easy.

19 Again, this would not change the underlying parking
20 requirements. It would in several ways make it slightly
21 easier to accommodate car parking on site. So in that
22 sense, you know, it might make it easier to have car parking
23 on site. Also, if it in a way encourages additional
24 density, that might make it -- you know, increase the amount
25 of -- of car parking on site. But all those would be very

1 minor changes to the basic form and are kind of generally
2 consistent with the types of housing development we're
3 seeing within the city of Seattle.

4 In terms of utilities, I think I had already mentioned
5 briefly, you know, we work closely with Seattle Public
6 Utilities and the Seattle City Light to kind of understand
7 what their needs are. And, you know, overall, this kind of
8 development is kind of consistent with what they're
9 expecting to see within the city of Seattle. So it could
10 have minor impacts, but they would be very incremental.

11 Q. Great. And Hearing Examiner No. 18 is a list of local state
12 agencies that were -- that you directly provided notice of
13 this -- of these SEPA documents. And is Seattle Public
14 Utilities one of the agencies that you provided this to
15 directly?

16 A. Without looking at it, I wouldn't want to say for sure, but
17 that is my understanding, that's what we -- that is a
18 standard practice, and that's why I believe we did.

19 Q. Okay. And did you receive any sort of concerning comments
20 from Seattle Public Utilities that this would have any sort
21 of adverse impacts to their -- to the utility system?

22 A. We did not.

23 Q. So let's talk about the public engagement process that was
24 provided for this proposal. Can you walk me through that
25 process?

1 A. Yes. So, obviously, this proposal started as part of the
2 Affordable Middle-Income Housing Advisory Council and as
3 part of the housing choice public engagement summary. The
4 Affordable Middle-Income Housing Advisory Council is a group
5 of stakeholders selected by Mayor Durkan. They met over a
6 series of ten or so meetings. They also hosted a number of
7 subcommittees in which they brought in (inaudible) other
8 people. And so it was very -- all very much kind of focused
9 on kind of stakeholders, people in the industry, and so
10 there were lots of conversations there that resulted in
11 their recommendation to specifically address the -- the
12 dens- -- (inaudible) density limit and bike parking.

13 The Housing Choices effort was one in which we engaged
14 people through a number of means to ask them about their
15 housing needs. We had a survey that went out, an open
16 survey, and was communicated through a wide variety of
17 things, including different language media. We also
18 specifically did a large number of focus groups where we
19 brought people in for an hour at a time in groups of, you
20 know, four to six people and asked them like really detailed
21 questions about what they wanted to see in housing, and that
22 really kind of informed the -- kind of the types of housing
23 we wanted to see more of. And as I mentioned, you know, one
24 of the outcomes of that is, is that people are particularly
25 interested in more homeownership opportunities, but they

1 increasingly recognize that detached homes are unaffordable
2 to most people and are not an option, and -- and so
3 townhouses are kind of like one of the -- the only ways you
4 can get reasonably lower cost homeownership options. So
5 that was kind of a -- the kind of -- all the underpinning
6 that kind of led to the basic proposal.

7 And then we -- during that process, we did have
8 conversations with people who build townhouses and with
9 someone from Cascade Bicycle Club, kind of a bike advocacy
10 group, to kind of understand how they saw the proposal
11 playing out in -- in practice.

12 And of course, sorry -- then we -- lastly, of course, we
13 put all the documentation online and, you know, issued SEPA
14 through the standard methods, including the DJC and LUIB
15 and -- yeah.

16 Q. Okay. And I don't know if I need to show it, but Hearing
17 Examiner No. 4. Let me just make sure I'm getting that --
18 the numbers right. Okay. Yeah. No. It's Hearing Examiner
19 Exhibit No. 5. It's the notice of SEPA DNS that was, you
20 said, published in the LUIB? Is that what you called that?

21 A. Sorry.

22 Q. Can you describe what that is?

23 A. The Land Use Information Bulletin and the Daily Journal of
24 Commerce.

25 Q. Okay. And then Hearing Examiner No. 14 is the -- I believe

1 is the notice that was published to the State. Can you
2 describe that?

3 A. Not -- not seeing it in front of me, I don't want to
4 conjecture. But we did make sure to publish the notice sent
5 to the Department of Commerce that required notices of this,
6 these materials.

7 Q. Great. And so after you published it, did you receive
8 comments, public comments on the proposal?

9 A. We did, yes.

10 Q. And did you consider them?

11 A. Yes.

12 Q. Okay. So knowing, you know, the concerns raised by the
13 appellants in their notice of appeal -- and you've
14 described, you know, the environmental analysis that you
15 provided, is it your opinion, based on, you know, your
16 experience, that you assessed all the impacts that you think
17 should have been assessed in this -- for this proposal?

18 A. Yes.

19 MR. MITCHELL: Then at this time, I do not have any
20 further questions for Mr. Staley.

21 HEARING EXAMINER: Okay. Is there any cross-examination
22 from the appellant?

23 MR. MOEHRING: Yes. There's probably going to be quite a
24 bit of cross-examination. We apologize. We were told that
25 it was going to be about 60 minutes of testimony and that

1 we'd have some time to do that, so we're -- we can certainly
2 get started with our cross-examination and our direct
3 examination.

4 MR. MITCHELL: And I apologize. I think I probably went a
5 little longer than I anticipated for Mr. Staley, but I think
6 you'll find that I'll be considerably shorter for the other
7 City witnesses.

8 HEARING EXAMINER: Okay. Thank you for that clarification.

9 So, Mr. Moehring, why don't we -- you can go ahead and
10 proceed. Well, it sounds like we may need to interrupt for
11 lunch, but why don't we go ahead and get started.

12 MR. MOEHRING: Okay. So we'll share the documents, then?
13 Is that what we should do?

14 HEARING EXAMINER: Well, it's up to you. You don't
15 have -- I do have all the documents in front of me, so if
16 you reference it, I can just pull it up myself and look at
17 it. If you think it's -- if you wish to share it, though,
18 it's entirely up to you.

19 MR. MOEHRING: Okay. Yeah. Let's give it a shot. We
20 will pull up City Exhibit No. -- let's see -- 17. That was
21 identified on...

22

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

24 BY MR. MOEHRING:

25 Q. Good morning, Mr. Staley.

1 A. Good morning.

2 Q. Thank you for the very elaborate testimony. I appreciate
3 it. I think you took care of a lot of our questions, as
4 well, with Mr. Mitchell.

5 I wanted to look at this document one more time. Again,
6 could you briefly describe which document this is?

7 A. Yeah. This is a general description of the regulations that
8 apply in multi lowrise, multifamily zones. And, again, it's
9 a summary of what's in the code for illustrative purposes
10 only.

11 Q. And the purposes of this document versus the actual code
12 would be what?

13 A. This is meant to help people understand what's in the code,
14 but the land use code is actually what is binding as the
15 regulatory rules.

16 Q. Okay. Would this document change if your proposal is
17 accepted?

18 A. Yes, it would.

19 Q. Okay. Maybe let's go review those.

20 MR. MOEHRING: Let's go to the page 2 of this document.
21 And I'm not sure if we can zoom in on this to make this a
22 little bit larger. Great. And let's go up towards the top
23 of the page here. Thank you.

24 Q. (By Mr. Moehring) Okay. I guess the -- one of the things I
25 want to talk about a little is the requirements of the code

1 and how that applies to the future here. So this version of
2 the summary of the code was published when?

3 A. I do not know.

4 Q. Okay.

5 MR. MOEHRING: Let's look at the previous page. I'm
6 sorry. The previous page at the bottom, bottom right.
7 Previous page, bottom right. There we go. It's just over
8 to the right a little bit. Okay.

9 Q. (By Mr. Moehring) When does it say it was published?

10 A. I'm afraid I do not see it on my screen. Oh, there it is.
11 It says February 2020.

12 Q. Okay. Thank you. And how does that correspond with the
13 legislation that passed?

14 A. Which legislation are you referring to?

15 Q. Does this correspond to any legislation changes? That they
16 published this, again, in February 2020?

17 A. I guess this is -- this is after Mandatory Housing
18 Affordability regulations went into effect. But I do not
19 know the exact date or if there was a subsequent piece of
20 legislation that happened --

21 Q. Okay.

22 A. -- between that and February 2020.

23 Q. So you're saying that this was revised to reflect the
24 legislation of the mandatory housing?

25 A. Yes.

1 Q. Okay. Thank you.

2 So on the next page -- thank you -- do you see there's a
3 description? So you've gone over, again, the -- what had
4 changed in the mandatory housing in terms of increases or --
5 with this document, increases or decreases?

6 A. So Mandatory Housing Affordability made a number of changes.
7 Obviously, it imposed housing affordability requirements for
8 the first time that -- so either they have to -- developers
9 have to provide affordable units on site or pay into a fund.
10 It also made changes in a number of different standards in
11 different zones. Overall, in lowrise zones, there was a
12 change in the floor area ratio as well as the density but
13 not in the building height, and I don't believe in the
14 building setbacks either. Do you want me to talk about
15 lowrise 2 and lowrise 3 as well?

16 Q. No. I think that's fine.

17 Do you reflect -- do you know how much the floor area
18 increased, by any chance, for rowhouses and townhouses?

19 A. It -- it varied for each development type, and I -- off the
20 top of my head, I would not want to give you an exact
21 figure. Yeah.

22 Q. Okay.

23 A. But it did increase.

24 Q. Did the design criteria for rowhouses and townhouses, other
25 than the floor area, the density limits, did that change in

1 any way?

2 A. There were minor changes in the design criteria as well.

3 Q. Example?

4 A. For example, there are new regulations about where your
5 windows are located in order to prevent -- increase privacy.
6 There were changes to upper level setbacks in some cases.

7 Q. Okay.

8 A. And there may have been other changes. We updated green
9 factor to -- to try and make it more rigorous and especially
10 focus on the extent to which people can kind of see
11 vegetation from the streets, and there are other small
12 changes that -- but I am not sure I can accurately summarize
13 them right now.

14 Q. When you think of a green factor, does that mean -- when you
15 talk about vegetation, does green factor include a
16 requirement to have trees on the site?

17 A. Green factor is a -- has a menu of options that -- that
18 developers can choose from to achieve a certain
19 environmental benefit. That list includes trees, shrubs,
20 ground cover, as well as other things like impervious
21 surface. None -- none of them are required. But in
22 practice, (inaudible) everybody provides some kind of trees
23 and vegetation. And in that -- so there's those rules, plus
24 the -- you know, the tree protection code which manages when
25 trees are preserved, and also the street (inaudible)

1 requirements which have requirements for -- for street
2 trees.

3 Q. So trees are required with the green factor?

4 A. They are -- there is -- they are not mandated that you have
5 to do trees.

6 Q. Okay.

7 A. In practice, they -- they're almost always included.

8 Q. And you mention that the green factor -- well, let's skip to
9 the next question.

10 So looking at what is the real difference between --
11 before the proposed changes, what's the real difference
12 between a townhouse and a rowhouse?

13 A. The -- the major difference is that each rowhouse directly
14 faces the street with no other principal housing units
15 behind the rowhouse, whereas townhouses can be located
16 behind other townhouses. And the -- yeah. And then,
17 obviously, in terms of their outcomes, they have different
18 density limits and building setback requirements and
19 building width requirements as well.

20 Q. Is there a reason why the rowhouse does not allow dwellings
21 behind it, whereas the townhouses do?

22 A. I guess that -- that gets back to the -- the intent when it
23 was originally developed, which is multiple -- there's a lot
24 of reasons behind the intent, so I wouldn't -- I wouldn't
25 want to try and characterize the -- the purpose of that --

1 that development regula- -- sorry. That past -- the past
2 updates of the code.

3 Q. Okay.

4 A. But I guess -- sorry. Fundamentally, they're -- yes. They
5 resolved in slightly different building forms, and so
6 they're regulated slightly differently.

7 Q. In terms of forms, do the rowhouses have more of a leeway in
8 terms of side yards and setbacks?

9 A. They are different. Rowhouse setbacks are different from
10 townhouses. But in some ways someone might say they have
11 more leeway, and in some ways people might say they have
12 less leeway.

13 Q. Okay. So I heard you testify that one of the purposes of
14 this legislation change is to avoid the problems or the
15 process of subdivisions; is that correct?

16 A. We -- we said that one thing that we want to reduce is the
17 amount of time and process that it takes to permit a
18 development, both to kind of reduce cost, to reduce permit
19 times, and more minorly to kind of make the process legible
20 for people and City staff.

21 Q. I guess weren't you mentioning that the intent to increase
22 the density from a one dwelling to 13 -- one dwelling for
23 every 1,300 square feet of lot area as indicated here, to
24 the proposed one dwelling to every 1,150 square feet, that
25 was -- the reason for that was so that -- was the reason for

1 that so that lot subdivision was no longer necessary?

2 A. No. I would not -- I would not say this -- that the purpose
3 was to make lot subdivision no longer necessary.

4 Q. Okay. So we would expect lot subdivision to continue?

5 A. We would -- we would expect that it would still happen in
6 some circumstances but likely less frequently.

7 Q. Okay. And how would that change -- is the lot subdivision,
8 then, intended to -- can you read the small paragraph below
9 the rowhouse diagram there?

10 A. Yeah. "Rowhouses are attached side to side along common
11 walls. Each rowhouse directly faces the street with no
12 other principal housing units behind the rowhouses.
13 Rowhouses occupy the space from the ground to the roof.
14 Units cannot be stacked."

15 Q. Okay. Thank you. And that goes back to what you were
16 referring to before in terms of rowhouses versus the
17 townhouses, the rowhouses cannot have other units behind
18 them. So is the only purpose, then, to divide the lot is to
19 allow townhouses or other dwellings behind rowhouses?

20 A. The -- no. There are many, many reasons why somebody might
21 adjust a lot or subdivide a lot.

22 Q. Is the real intent, then, just to simply increase the number
23 of dwellings that would otherwise be allowed by code on the
24 lot?

25 A. I'm sorry. The intent of what?

1 Q. The intent of lot subdivision is to increase the number of
2 dwellings on a lot than otherwise would be required?

3 A. Who --

4 MR. MITCHELL: Your Honor, I object to the question. It's
5 conclusory. It calls for a legal conclusion.

6 HEARING EXAMINER: Mr. Moehring, are you asking about the
7 intent of why a developer would divide or the intent of the
8 code? I was -- I guess I was unclear on the exact question.

9 MR. MOEHRING: Okay. Let me rephrase the question.

10 HEARING EXAMINER: Okay.

11 Q. (By Mr. Moehring) The -- so if developers are subdividing
12 lots today, is not the intent of the developers in general,
13 from what you're seeing -- I think you had mentioned that
14 almost all examples that you've seen since Image A except
15 one had included a lot subdivision. Is the reason that
16 developers are doing that is to increase the number of
17 dwellings than would otherwise be allowed on that lot?

18 A. There are lots of reasons why people subdevelop -- or,
19 sorry, subdivide lots. And so I would not say that that is
20 true for all the reasons why people develop lots. There --
21 there are certainly some people who are choosing to
22 subdivide a lot because it would allow them to do rowhouses
23 in the front and some -- and townhouses in the back and that
24 would result in a more -- what they think is a better
25 outcome, which would likely include that they are -- there

1 are more units on the site than if they simply did all
2 townhouses.

3 Q. Okay. The practice of lot subdivision that's being
4 practiced was referred to as a development technique. We
5 understand that lot subdivision is allowed by code, but is
6 the development technique that basically allows townhouses
7 or other dwellings behind rowhouses -- contrary to what's
8 written here, is that development technique identified in
9 the Seattle Municipal Code?

10 MR. MITCHELL: Your Honor, I guess I'm going to object
11 again to the legal conclusion of -- I don't know what is
12 being referred to as contrary to what is written here.

13 MR. MOEHRING: Okay. Let me rephrase the question.

14 Q. (By Mr. Moehring) Mr. Staley, do you know the Seattle
15 Municipal Code?

16 A. I know substantial portions of it and not all of it.

17 Q. Would there be another person that contributed to the team
18 that would know more portions of the Seattle Municipal Code
19 relative to lot subdivision and density allowed?

20 A. Yes. The staffers in the Seattle Department of Construction
21 section tend to know much more of the code than I do.

22 Q. So in case -- in the terms of helping to develop this
23 proposal, I believe you mentioned that David VanSike and
24 Megan Neuman, as the two people from the Department of
25 Construction and Inspections, would they be more

1 knowledgeable of the code?

2 A. I would imagine they would be.

3 Q. Okay. All right. I will refer to them, then. Thank you.

4 In the -- while I have this slide up here, is there a
5 benefit to space -- open space for trees or planting to
6 either a rowhouse or a townhouse looking at the side yard
7 setbacks, front yard setbacks?

8 A. Can you clarify the question? Are you asking would one of
9 them tend to have more space for trees or are you asking
10 whether trees are a benefit?

11 Q. Would one of them have more space for trees?

12 A. I think that that is a complicated question. Both of them
13 are subject to the same open space requirements and the same
14 green factor requirements. Both of them tend to have the
15 same footprint because they have the same FAR. But they --
16 you know, both of those developments come in a wide variety
17 of configurations. And so, you know, the extent to which
18 either of them would have kind of more space that is
19 particularly suited for trees or plants is going to vary a
20 lot on a case-by-case basis.

21 Q. Okay.

22 MR. MOEHRING: Can you zoom in -- zoom out a little bit?

23 Q. (By Mr. Moehring) LR1 includes (inaudible) rowhouses and
24 townhouses. It also includes, of course, as I mentioned,
25 cottages and apartments. Is there any benefit of apartments

1 in terms of land use and impacts compared to townhouses and
2 rowhouses?

3 A. Again, it's going to vary a lot on a case-by-case basis.
4 You know, things we often see is that, you know, apartments,
5 again, they all tend to have the same amount of -- I'm
6 sorry. Apartments, townhouses, rowhouses all tend to take
7 about the same total amount of square footage. Apartments
8 tend to be kind of all in one place, whereas townhouses tend
9 to be spread out. That often results in townhouses,
10 rowhouses having like slightly more -- if they have
11 driveways, there's more driveways. But that is not always
12 the case. Also, you know, apartments, if you put -- you
13 have more units, you might have more parking spaces. So on
14 a -- it can vary a lot by case-by-case basis. Townhouses,
15 again, because they're only two stories, often are more
16 spread out, but not always. So there -- it depends a lot on
17 the specifics of the site.

18 Q. Okay. So you mentioned with apartments you may have more
19 parking spaces than you would with townhouses and rowhouses?

20 A. That is one possible outcome that could happen. Again, they
21 also might be -- more likely to be underground, but it's
22 going to vary a lot by the project.

23 Q. With your proposal of the increased number of dwellings per
24 lot, would you have more parking spaces as well?

25 A. There is not -- we're not changing -- proposing to change

1 the parking requirements.

2 Q. And the current parking requirements, is that -- well, there
3 is some -- are there some areas of the city of Seattle where
4 parking is not required for rowhouses and townhouses?

5 A. Yes.

6 Q. And which are those areas?

7 A. Those are -- I don't have the specific language in front of
8 me, but they are generally areas that are located near
9 frequent transit, so generally urban centers, villages,
10 places that we've designated for more growth, and then in, I
11 think, limited areas outside of those that are close to high
12 frequency transit.

13 Q. But there are -- excuse me.

14 So outside of that, there are townhouses and row houses
15 that do require parking?

16 A. That's correct.

17 Q. And do you know what that requirement for parking is?

18 A. I do not off the top of my head.

19 Q. Okay. Who would know that information on your team?

20 A. That would be -- okay. So I guess I knew it at one point,
21 but I guess I -- I always hesitate to quote from the code,
22 and so I -- I would know it if I was in front of a -- if I
23 was able to double-check. But Megan Neuman and David
24 VanSike would be even more familiar with parking standards
25 than I would be.

1 Q. Okay we will check with them.

2 When you asked for the GIS information, for the
3 information to analyze the environmental impacts to the
4 proposal, was there an inquiry in terms of how many of these
5 developments would be those that required parking versus
6 those that did not require parking?

7 A. We did not do that assessment.

8 Q. Is there an environmental impact for impact for having
9 parking on a lot versus no parking on a lot?

10 A. They have -- they do have a different set of impacts.

11 Q. Including space for trees, perhaps?

12 A. That can be an outcome, although, obviously, both sets are
13 required to have -- meet the same open space and green
14 factor regulations.

15 Q. Okay. So let's say a -- just to give a more clear example
16 rather than going roundabout with the questions here, if we
17 had a 5,000-square-foot lot in LR1, what would be the
18 current density allowed for townhouses in a
19 5,000-square-foot lot based upon the current code?

20 A. So under the current code, in a lowrise zone, if you have a
21 5,000-square-foot lot and came in with a proposal to build
22 all townhouses, then you would be allowed to have three
23 townhouses, is my understanding.

24 Q. Okay. And with the proposal to increase the density from
25 one dwelling per every 1,300 to one dwelling for every

1 1,150, I believe, what would the number of dwellings result?

2 A. If you came in and proposed to do a project that was all
3 townhouses, you would have four units on that lot. You
4 could have four units on that lot, I should say.

5 Q. And areas that required parking would therefore have more
6 parking spaces?

7 A. They -- you know, a developer -- most -- you know,
8 developers frequently provide parking regardless of the
9 parking, so the outcome isn't clear for any specific
10 project. But you're right. The parking requirement would
11 be -- again, I -- I don't want to say -- I'm not going to
12 summarize all the parking requirements, but since it's kind
13 of generally one parking space per one, it is likely that an
14 additional parking space would be required in those areas
15 where parking is required.

16 Q. And would that parking requirement perhaps take space that
17 was otherwise available to plant a tree or maintain a tree
18 canopy?

19 A. Again, all projects would be required to meet green factor,
20 and they would also be required to meet open space
21 requirements. They would still have to meet the minimum
22 requirements of open space. Parking in townhouses tends to
23 be within a structure, but it is certainly possible that if
24 you had more parking spaces that that could take up a space
25 that might have otherwise have been a tree planting area.

1 Q. And have you studied that possible impact?

2 A. In a qualitative manner, yes.

3 Q. Can you elaborate on what a qualitative manner means, and is
4 it documented anywhere?

5 A. We looked at, you know, permits and see what's coming in.
6 We also did work on green factor in the past to understand
7 how it's playing out on sites. And -- and so it's in -- in
8 that -- that capacity.

9 Q. So green -- again, green factor may or may not include
10 trees, right?

11 A. Yes.

12 Q. Okay. And is this study that you've done in the record as
13 well? Is it part of the court documents or in the record
14 anyplace?

15 A. It is not a separate study that had its own documentation.
16 So in that sense, no, it is not. It was not a -- it was not
17 a standalone analysis or study.

18 Q. Okay.

19 MR. MOEHRING: We can stop sharing this document.

20 Q. (By Mr. Moehring) The other document you were referring to
21 was the Hearing Examiner's Exhibit 7 with --

22 MR. MOEHRING: If we can pull that up again.

23 Q. (By Mr. Moehring) City Exhibit or Hearing Examiner Exhibit
24 No. 7. Okay. Just for the record, again, just please
25 elaborate the terms of what the purpose of this document

1 was.

2 A. So this is a list of selected development projects on
3 interior -- that is, non-corner lots -- in lowrise 1 zones
4 that exceed a density of one unit per 1,300 square feet by
5 subdividing a lot, building rowhouses in the front and
6 townhouses in the rear. And, again, these are -- these are
7 a selection of projects that are not intended to be all of
8 the projects that do that.

9 Q. And this particular data was helpful in terms of identifying
10 environmental impacts to these particular sites and how
11 those might carry forward --

12 A. Yes.

13 Q. -- in your proposal? Okay.

14 Where is the floor area included within this chart?

15 A. It is not listed there.

16 Q. Is floor area relative to the height, bulk, and scale of a
17 proposal?

18 A. Yes.

19 Q. Is height, bulk, and scale a requirement to be reviewed in
20 the SEPA process?

21 A. Yes.

22 Q. Where in this table does it include the quantity of trees
23 that were maintained or retained?

24 A. It does not.

25 Q. Where in this proposal does it show the quantity of trees

1 that were removed for this development?

2 A. Sorry. You were talking about the table previously, and now
3 you're talking about the proposal? What do you mean by the
4 proposal, please?

5 Q. I'm sorry. Where in this table does it identify the number
6 of trees -- I should say significant trees, those trees, I
7 understand, 6 inches and over have been removed?

8 A. It is not in the table.

9 Q. Where in this table does it identify the number of trees
10 that have been replanted?

11 A. It is not listed in this table.

12 Q. So is it fair to say that from these examples one cannot
13 really identify the impact to the tree canopy?

14 A. Are you -- again, are you talking about the table or are you
15 talking about something else?

16 Q. From this table, can you identify the number of trees that
17 were maintained, number of trees that were removed, and the
18 number of trees that were replanted that thereby impact the
19 tree canopy?

20 A. No. This table does not provide that information.

21 Q. Was there any information, any tables or any data that was
22 provided to you to make that assessment of the impact to the
23 tree canopy?

24 A. The site plans contain some of that information.

25 Q. And how would that information be reflected in your

1 assessment?

2 MR. MITCHELL: Your Honor, I guess I would object. "Your
3 assessment" is a vague question. I don't -- I'm not sure
4 what assessment is being referred to.

5 MR. MOEHRING: Well, basically, I'm trying to identify --
6 let me rephrase the question.

7 Q. (By Mr. Moehring) Where in the record has the -- these
8 examples, which are being -- the core examples that are
9 being used to model the proposed code, perhaps, or at least
10 to justify it, where in the record does it show that the
11 City has evaluated the impacts of the proposal in terms of
12 the tree canopy?

13 A. I guess that would be the SEPA checklist and determination
14 is where we characterize our analysis.

15 Q. Okay. Well, let's go, then -- oh. Before we do that --
16 we're going to go to the SEPA checklist next.

17 MR. MOEHRING: Could we pull up one of our exhibits? I
18 think it's Exhibit No. 20. And I'm not sure if you can make
19 this any larger. I'm having a little difficulty. Let's see
20 if we can -- okay.

21 Q. (By Mr. Moehring) Okay. So what we did after our
22 interrogatory came back with no response, is composed, from
23 looking at the public information, what was not on the
24 Exhibit No. 7. And have you had a chance to look at this
25 document?

1 A. I have not.

2 Q. Okay. So you would not be able to tell where we added
3 additional columns?

4 A. I -- I know that the 2016 assessment columns are additional.
5 But, no, I would not be able to definitively say which other
6 ones were clearly in or out.

7 Q. Okay. One of the interrogatory questions was regarding when
8 these proposals were permitted, if they were before the MHA
9 or after the MHA. Do you know if any of these examples,
10 Exhibits 8 through 13, were they permitted before the MHA
11 code change?

12 A. I -- the permit search that I requested only included
13 applications that were submitted after MHA became effective,
14 however -- so I guess when you say permitted, they all
15 received permits after MHA was effective, if that's what
16 you're asking.

17 Q. Okay. When a project is permitted, is its -- does it have
18 to follow code at the time that it is permitted or from at
19 the time that the permit application was submitted?

20 A. It is required to follow the code at the time that it is
21 vested, and "vested" is a complicated subject matter and
22 varies based on the type of project that comes in, etc.

23 Q. Okay. So if we have done a search on the City's publication
24 and looked at the date that the permit application was
25 submitted for any of these core examples, would that be the

1 date that it was vested?

2 A. Not necessarily.

3 Q. What would be one of the reasons why it would not be vested?

4 A. Sorry. The -- the date varies. If the -- for different
5 permits, the vesting date is at a different time, and it's
6 different -- so it's different for building permits versus
7 mass use permits, and if there was an early -- if there was
8 early design guidance, then often it is -- becomes vested
9 when they meet certain elements of the early design
10 guidance.

11 Q. Okay. All right. So since you haven't looked at this
12 document and you haven't done -- my understanding that you
13 have not done any assessment of the tree losses from those
14 examples, we will have a witness testify on this exhibit
15 later. Thank you. Now I'd like to switch over back to some
16 of your other prior testimony, if I could, switching to City
17 Exhibit and the Hearing Examiner Exhibit No. 1.

18 MR. MOEHRING: And if you could pull that up.

19 Q. (By Mr. Moehring) You had mentioned, as that's coming up,
20 about the parking changing from large parking spaces to
21 medium spaces. I think you mentioned something about the
22 depth of the parking space. Is there any more particular
23 dimensional information you can describe between a medium
24 parking space and a large parking space?

25 A. A medium parking space is -- has a -- is -- varies slightly

1 smaller in width and also smaller in length.

2 Q. And can you provide any more -- you know, roughly the actual
3 width in feet?

4 A. I would be hesitant to do that without looking at the code.
5 That's certainly what I -- what I -- what I did when I was
6 considering those proposals was looked at the code directly.

7 Q. Okay. Was one of the persons on your team who provided that
8 information to you to assess the benefits of going with a
9 smaller parking space?

10 A. I -- I looked at the code myself for those dimensional
11 requirements, but certainly that was a topic that was
12 discussed amongst the group.

13 Q. Okay. The only reason I ask is I'm trying to put into the
14 record what physical impact this may be, to go down to a --
15 you know, a parking space size X to parking space size Y,
16 but it doesn't sound like that you clearly know what that
17 is. Is it -- say, for example, is this parking space
18 16 feet and now it's going down to 12 feet? Is it 20 feet
19 going down to 18 feet? That's what I'm trying to find.

20 A. Yeah. I would --

21 MR. MITCHELL: (Inaudible) oh, I'm sorry. Go -- if you
22 wanted to answer that, Brennan.

23 I was just going to say that Mr. Staley probably could
24 have his recollection refreshed with some specific
25 information that you might be referring to, Mr. Moehring.

1 MR. MOEHRING: Okay.

2 Q. (By Mr. Moehring) Well, Mr. Staling, maybe I can give an
3 example or maybe I can provide you an example. Let's say --
4 you had mentioned before a townhouse/rowhouse lot may have
5 now up to four dwellings on it, you said? Four or five
6 dwellings if it was a 5,000-square-foot lot?

7 A. So under the proposal, a townhouse-only project on a
8 5,000-square-foot lot could have four units on it.

9 Q. Okay. And if it's in an area where parking is required, and
10 assuming, let's say, that one parking space is required per
11 dwelling -- I know you mentioned that that -- just that
12 would have to be verified. So then you would need four
13 parking spaces, correct?

14 A. Yes. Generally, if parking was required.

15 Q. And if those parking spaces were slightly smaller than are
16 required right now, has the study identified how much more
17 land space would be available?

18 A. No.

19 Q. If the parking spaces are slightly smaller than they are
20 right now, is the maneuvering space between one parking
21 space to another reduced as well?

22 A. No.

23 Q. Okay. But if there is more parking required because the
24 dwelling count increases, would it be fair to say that we
25 have more land area being used for parking access and

1 parking?

2 A. Sorry. If the --

3 Q. If we're adding a dwelling on a lot, if it went from three
4 to four, say, for example, with this 5,000-square-foot lot,
5 does -- is it fair to say that the amount of land area on
6 this lot for parking would be increased for land area --
7 increased for parking use?

8 A. I would have to do the math to find out if the decrease in
9 the size -- how much the decrease in the size offsets the
10 increase in the number of parking spaces, but in all
11 likelihood, the -- the addition of one space would be more
12 square footage than the reduction in the size of the spaces
13 and -- but, yes. So -- but in total, that's -- again, most
14 parking spaces are provided in a unit, so it might not make
15 a difference. But in terms of like the overall space that
16 are used for parking, I guess, in a sense -- I'm sorry.
17 So -- sorry. So, yes, probably the square footage, if you
18 just add up the parking spaces required, would be more, if
19 that's what you're trying to say.

20 Q. Okay, yes. Thank you.

21 And I -- has that been studied in terms of how much land
22 area would be used for parking versus space -- open space
23 for vegetation and planting?

24 A. So we obviously did look at the extent to which parking is
25 incorporated into townhouse and rowhouse projects, but we --

1 yes. Then we looked at the extent to, of course, which --
2 you know, what you can already do today by doing rowhouses
3 or by doing a combination of rowhouses and townhouses versus
4 what you can do for townhouses. And so we -- we looked at
5 all those things in a qualitative manner.

6 Q. Okay. Great.

7 HEARING EXAMINER: Mr. Moehring, I just wanted to make a
8 decision on when we'll go to lunch. I'm wondering if this
9 is a good time to break or if -- how much longer -- I know
10 you said you had quite a number of questions, so I just
11 wanted to find a good time.

12 MR. MOEHRING: We could take a break. I have maybe one
13 more question for this exhibit, and then we can break.

14 HEARING EXAMINER: Okay. Let's go ahead and do that
15 question, and maybe we'll break for lunch.

16 MR. MOEHRING: Okay. If we can flip to page 2.

17 Q. (By Mr. Moehring) Mr. Staling, you mentioned about -- has
18 there been a study in terms of how many parking spaces are
19 typically provided inside the townhouses versus outside the
20 townhouses in the actual -- within a property that's
21 required?

22 A. I am not familiar with any formal studies about the number
23 of spaces that tend to be included inside or outside of
24 townhouse --

25 Q. Okay.

1 A. -- development specifically.

2 Q. Because I know we mentioned -- or you mentioned about the
3 floor area ratio or floor area not changing with this
4 proposal?

5 A. Yes.

6 Q. Does this particular example kind of suggest that by
7 increasing the number of dwellings the footprint would not
8 necessarily change because you're simply making rowhouses,
9 which are smaller than one townhouse?

10 A. That is a possible outcome, yes.

11 Q. And is there a limitation in terms of parking when you make
12 a dwelling narrower? Does that parking -- in other words,
13 can parking be accommodated in any size dwelling no matter
14 what its width might be?

15 A. No. I would imagine that there are -- it is possible to
16 have a unit that is smaller than a parking space could -- or
17 that's small enough that it couldn't fit a parking space
18 (inaudible).

19 Q. And if that's the case, would that -- where would that
20 parking go?

21 A. I guess that's a -- kind of a -- depends on the specifics.
22 You know, that -- yeah. I mean, in theory, parking spaces
23 can be located underneath structures. They can be located
24 inside structures. They can be located off on alley. They
25 could also be located kind of between (inaudible) buildings

1 as well.

2 Q. Okay. But if it's located on site between the dwelling or
3 behind a dwelling, it's basically taking more land area; is
4 that correct?

5 A. I mean, unless it -- if it is within a building, then it
6 counts towards floor area and so it does not increase the
7 size of buildings. If it's located outside of a building,
8 then it, you know, certainly is -- that is space that is
9 used for parking.

10 Q. Right. But if it's a small -- if the building is
11 reconfigured so it's smaller footprint and the vehicle
12 cannot fit inside the building, then that means the vehicle
13 would have to be outside the building; is that correct?

14 A. I -- I guess there -- that is a theoretical thing that might
15 happen. But, again, you -- I guess the developer would have
16 to figure out if it's worth having a building small enough
17 that you can't have parking if you would need to have that
18 parking somewhere else.

19 Q. Does the City of Seattle allow parking -- if you're required
20 to have parking by the code, does the City of Seattle allow
21 parking elsewhere on another property?

22 A. I believe there are limited circumstances in which, if the
23 two properties are tied together by some legal contract,
24 that you can do that.

25 Q. Or could you have the parking in the street or in an alley?

1 A. Parking in a street or an alley would not count towards
2 parking requirements.

3 Q. Okay. All right. I think, just to conclude on this, it
4 sounds as if -- would it be correct to say or -- that
5 parking and open space may need to be studied a little bit
6 more in terms of its environmental impacts in terms of open
7 space and height, bulk, and scale (inaudible)?

8 A. Not for the purpose -- for the purposes of this SEPA
9 checklist, no.

10 Q. One other question you mentioned before about current code
11 allows existing trees to be protected if it's exceptional
12 trees; is that correct?

13 A. I don't believe I used those words, but we do have -- the
14 tree protection code does have rules and requirements that
15 relate to existing trees.

16 Q. Okay. Sorry about not phrasing your statement correctly.

17 In what case would an exceptional tree or trees allowed to
18 be removed in a townhouse or rowhouse development?

19 A. And you're talking specifically about on private property,
20 not street trees; is that correct?

21 Q. That's right.

22 A. There are provisions, and I don't off the top of my head
23 know the exact language, but they generally amount to if you
24 would be unable to achieve certain development capacity on
25 the site, that you -- you can remove trees. But if you

1 would be able to meet -- preserve (inaudible) and preserve
2 the excep- -- the tree, the exceptional tree, then you would
3 need to. There also are certain incentives to encourage
4 preservation. So, for example, you get more points for
5 green factor if you preserve the tree.

6 Q. Um-hum. Is there a requirement that -- or is there an
7 exception that if you -- is it -- or if the developer wants
8 to achieve the maximum floor area ratio for their townhouse
9 and rowhouse development, is there exception to that
10 protection that allows the trees or the exceptional tree to
11 be removed?

12 A. I -- I don't -- I guess I don't understand the question.

13 Q. Okay. You're talk- -- you're referring to the protection of
14 the existing trees in these developments?

15 A. Yes.

16 Q. Is there an exception to that requirement?

17 A. There's exceptions, for example, if the trees are hazardous.

18 Q. So there's no exception relative to the floor area ratio
19 that's allowed for townhouse and rowhouse developments?

20 A. As I mentioned previously, I believe that it is about --
21 development capacity is how they talk about it rather than
22 floor area ratio specifically. But I guess you're trying
23 to -- I was saying that that is the -- the standard is that
24 the exceptional tree must be preserved unless it is
25 impossible -- you cannot do so while preserving development

1 capacity. So I guess you're -- that is the standard. And I
2 guess are you trying to question whether you would call that
3 an exception to our standard?

4 Q. No, I'm not questioning that. I think you've answered that
5 question. Final question, then.

6 Has there been any data that you had asked for or
7 collected or received that records how many exceptional or
8 protected trees have been retained versus removed in
9 townhouse and rowhouse developments?

10 A. I did not -- I do not have a -- I did not receive a document
11 or set of data that has specific data on, but I have a total
12 summary of all the trees that have been removed or retained
13 or planted in the (inaudible) zones.

14 Q. And you have not asked for one either, correct?

15 A. I did not ask for one because I didn't -- do not know that
16 it exists.

17 Q. Okay. So in terms of assessment of the tree canopy, it
18 would be pretty hard to identify what the impacts have been
19 or will be; is that correct?

20 A. Are you -- you're not asking now about what has happened in
21 the past?

22 Q. Well, I'm just referring to your testimony about there's
23 relatively minor changes being proposed here. So in the
24 reference frame of the changes that you're taking about, I
25 assume since the 2019 MHA, there has been no data to show

1 how successful the tree protection measures have been in
2 terms of maintaining or retaining existing tree canopy?

3 A. To my knowledge, we have not done an analysis of the
4 existing rules and their effectiveness in that period.

5 Q. Okay. Thank you.

6 MR. MOEHRING: That's all the questions I have for this
7 document.

8 HEARING EXAMINER: Okay. So I think now would probably be
9 a good time to break for lunch. It's 12:22.

10 MR. MOEHRING: Oh.

11 HEARING EXAMINER: Oh, Mr. -- yes. I think you had
12 indicated you had one more question. You ended up having a
13 few more, but it was on that same document, so...

14 MR. MOEHRING: Yeah. I'm sorry. I planned to submit --
15 ask to be admitted into the record --

16 HEARING EXAMINER: Oh, Exhibit -- your Exhibit 20?

17 MR. MOEHRING: Yeah.

18 HEARING EXAMINER: Yeah. Any objections to that?

19 MR. MITCHELL: No objections.

20 HEARING EXAMINER: Okay.

21 MR. MOEHRING: Thank you.

22 HEARING EXAMINER: The Appellants' Exhibit 20 is admitted
23 into the record.

24 (Exhibit No. 20 admitted into evidence)

25 HEARING EXAMINER: I'll continue referring to that as

1 Exhibit 20, but it will in actuality probably become
2 Exhibit 19, I believe.

3 MR. MOEHRING: Sorry about the interruption.

4 HEARING EXAMINER: No, no, no. That's fine.

5 Any other last questions before we break? Okay. All
6 right. It's 12:23. We will reconvene at 1:23.

7 AUTOMATED VOICE: Recording stopped.

8 (Recess)

9 (Recording resumes in progress at this point:)

10 A. -- some developments. But it's very important to focus on
11 the fact that the footprint of the development and the
12 overall bulk and scale of the development would be unchanged
13 with or without the (inaudible) proposal.

14 MR. MITCHELL: All right. Thank you.

15 I do not have any further questions, Your Honor.

16 HEARING EXAMINER: Okay. Mr. Moehring, do you have any?

17 MR. MOEHRING: Yes, I -- yes, I do. Thank you.

18

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

20 BY MR. MOEHRING:

21 Q. Good afternoon, Mr. Wentlandt. How are you?

22 A. Thank you.

23 Q. Good. Thank you for your account of what you've done for
24 this project.

25 And what I'd like to do -- I understand one of the things

1 that you mentioned is that you were involved with the prior
2 mandatory housing affordability study, right?

3 A. I was.

4 Q. And was that a DNS, or was that a -- some other SEPA
5 category?

6 A. That was a determination of significance.

7 Q. Okay. So full -- a full study was done on that?

8 A. Right. After that determination the City prepared a
9 complete environmental impact statement.

10 Q. Okay. And in terms of rowhouses and townhouse zones, or the
11 LR zones, what was the major or minor change -- say what was
12 the changes that took place with the MHA with townhouses and
13 rowhouses?

14 A. Well, I think you went through some of this with Mr. Staley.
15 But there were a variety of changes, some affecting
16 allowable floor area ratio, some affecting the height
17 limits, some affected the density limits.

18 Q. Okay. And do you know whether density levels changed from
19 before MHA time to the after -- to our current state with
20 the townhouses and rowhouses?

21 A. They increased in some cases. In some cases, yeah. I mean,
22 they generally increased. I -- without having the numbers
23 in front of me, I don't want to try to say off the top of my
24 head those specific increases.

25 Q. And I think it's -- the current state was in the exhibit --

1 excuse me -- was that 17? The multifamily zone chart that
2 you were looking at before? Yeah, Exhibit 17. So that's
3 the current state for summary.

4 MR. MOEHRING: Can we also pull up our Exhibit No. 2.

5 Q. (By Mr. Moehring) And the purpose for these questions,
6 Mr. Wentlandt, is just to clarify the difference of when a
7 DNS is conducted versus when a full SEPA EIS was conducted.

8 MR. MOEHRING: So if you could pull up Exhibit No. 2,
9 which I can kind of see -- I see the file list, but I don't
10 see the actual document. Yeah. Maybe try re-sharing it.

11 Q. (By Mr. Moehring) And while we pull it up, Mr. Wentlandt --

12 MR. MOEHRING: And let's go to page 2, under townhouse,
13 rowhouses LR1.

14 MR. MITCHELL: Your Honor, I don't -- I don't know if I
15 (inaudible) necessarily want to object to this, but I do --
16 maybe I will make an objection here that what is being shown
17 is a summary of the code requirements that were in place in
18 2016, which they have all changed and are -- and the
19 existing requirements were -- are in Hearing Examiner 17.

20 So I don't -- I don't know if, you know, what the
21 relevance of showing this summary that shows all of the old
22 historic code requirements would be for this appeal. But,
23 and that would be my objection as to this.

24 MR. MOEHRING: I can respond, if you want.

25 HEARING EXAMINER: Yeah. Mr. Moehring, if you could.

1 MR. MOEHRING: The relevancy of showing what has happened
2 in the past is to show the -- what the City of Seattle has
3 done before relative to SEPA analysis and what triggered
4 that SEPA analysis to what is being proposed now.

5 Right -- we have heard Mr. Wentlandt testify that we have
6 made a determination of nonsignificance that was being
7 proposed for relatively minor changes, and we'd like to
8 compare those minor changes to the full MEIS study that was
9 done for the MHA (inaudible).

10 HEARING EXAMINER: I'll allow the question for now.

11 MR. MOEHRING: Okay. Thank you.

12 So I mean, if we could just page to the left a little bit
13 so we see the bold lowrise 1 terminology. We don't need to
14 see (inaudible) I don't think. There we go. Thank you.

15 Q. (By Mr. Moehring) Mr. Wentlandt, can you -- in context to
16 this Exhibit 17 right now, can you describe what you see on
17 this prior City document that was issued prior to the MHA
18 changes?

19 A. Yeah. I'm seeing a summary as it existed before MHA city-
20 wide implementation, and I'm seeing that this is one very
21 small slice of what that proposed action did .

22 That proposed action made zoning changes in 27 urban
23 villages across the city. It addressed many more zones in
24 addition to the zones that I'm looking at on the screen. It
25 changed height limits for pretty much every zone, including

1 neighborhood commercial zones, lowrise zones, highrise
2 zones, midrise zones, residential small lot zones.

3 It also expanded I think over a dozen urban villages on
4 the City of Seattle's future comprehensive plan land use
5 map.

6 Q. Okay. Thank you. So relative to rowhouses and townhouses,
7 what do you see as the primary changes in just the rowhouses
8 and townhouses from what we had before the MHA to what we
9 currently have?

10 A. Well, it changed the FAR limit, so the floor area ratio
11 limit row on this chart. It changed -- changed the density
12 limit row. It changed the height limit row. It -- so those
13 are the -- yeah. I mean, among the changes, but those are
14 some of the key ones.

15 Q. And how do the change the heights? Did the heights increase
16 from 30 feet in townhouses and rowhouses?

17 A. It did for the lowrise 2 and 3 zones. I think it went from
18 30 feet to 40 feet.

19 Q. Okay.

20 A. And -- and it also changed the height limit for apartments
21 to 50 feet, and lowrise 3, and I think 40 feet in lowrise 2.

22 Q. But it didn't change anything with the -- did it change
23 anything with the green factor?

24 A. I don't believe it changed the green factor, no.

25 Q. Or setbacks?

1 A. I can't recall if it changed some of the setback
2 requirements.

3 Q. And did density change?

4 A. Yeah. It did substantially change the density limit,
5 including removing the density limit for apartments.

6 Q. And it went from -- for rowhouses, say for example, what do
7 you read as the density for rowhouses prior to (inaudible)?

8 A. Well, I read one unit per 1600 square feet of lot area.

9 Q. Okay.

10 A. Yeah.

11 Q. And currently it is?

12 A. I think it's one per 1350, but I'm just saying that off the
13 top of my head from memory.

14 Q. Yeah. We can -- we've got Exhibit 17 to verify that.

15 And it is now being proposed at?

16 A. I think it's one per 1100. Again, without having the number
17 in front of me, I'm just quoting from memory. But it's a
18 reduction to that ballpark.

19 Q. And we mentioned before with the testimony of Mr. Staley
20 that that basically means about one additional townhouse or
21 rowhouse in a LR1 zone with what's being proposed?

22 A. Right. So that's discussed. It says then the determination
23 where it says that -- where density development would be
24 increased, the increase would be on the order of one
25 additional housing unit on the redevelopment of a 5,000 to

1 6,000 square foot lot.

2 So yes, I agree with your characterization.

3 Q. Okay. What would have been the density prior to the MHA for
4 the townhouses -- going back to the example that we talked
5 about before where we had a 5,000 square foot lot, and prior
6 to the current -- where currently you can do three
7 townhouses on that 5,000 square foot lot, if that's what I
8 heard testified; is that correct?

9 A. Yeah. I heard Mr. Staley's testimony on that. And I agree
10 with his conclusions.

11 Q. And it would be increased to -- was it going to be increased
12 to four for every 5,000 square foot lot? Is that your
13 (inaudible)?

14 A. Well, general -- generalizing, yes. You -- you could do
15 four townhouses instead of three --

16 Q. Okay.

17 A. -- on -- on that size lot.

18 Q. And looking at before the MHA changes on townhouses, what's
19 the density limit there? And what would that translate to
20 be for a 5,000 square foot lot?

21 A. It says one unit per 2,200 square feet, or one unit per
22 1,600 square feet. I think the difference there is whether
23 or not it's in an urban village.

24 Q. Let's go to (inaudible) number with --

25 A. (Inaudible) 16.

1 Q. Yeah.

2 A. I -- I hate doing math on the fly. So it would be 5,000
3 divided by 1,600, which I -- I could -- if I punch it into a
4 calculator, I could do that. But I -- I don't want to do
5 live math.

6 Maybe someone -- maybe you could do it for me.

7 Q. Okay. Tell me what numbers to punch in.

8 A. 5,000 divided by --

9 HEARING EXAMINER: (Inaudible).

10 A. -- 1600.

11 HEARING EXAMINER: Three point something.

12 Q. 5,000 divided by 1600?

13 HEARING EXAMINER: Should be 4800 if you got 200 left, so
14 that's 3.2, something like that. Does that sound about
15 right?

16 MR. MOEHRING: 3.2, okay.

17 A. Right.

18 MR. MOEHRING: Thank you.

19 A. So that would allow -- prior (inaudible) that would be three
20 townhouse units on a 5,000 square foot lot.

21 Q. (By Mr. Moehring) So really no change in terms of number
22 dwellings for townhouses before or after the MHA was
23 implemented? It was -- it's three now. It was three before
24 MHA? Is that what (inaudible)?

25 A. Yeah. This particular row of this particular chart, yeah.

1 But you could -- at the same time you were granted as
2 develop -- the developer would have access to greater floor
3 area, you know. So the density limit didn't change for this
4 item, but other things changed.

5 Q. Right.

6 A. And also, this is just, again, one very small piece of a
7 vastly bigger proposal.

8 Q. So in this case it's a smaller piece of a -- if this was
9 standalone on itself, you would have said that there would
10 have been no need to perhaps have a SEPA EIS conducted for
11 just the townhouses and rowhouses?

12 A. Well, we would have prepared a checklist and looked at what
13 the impacts could be based on what that proposal was, and
14 prepared a determination for that -- that proposal.

15 MR. MOEHRING: Okay. I think we can stop sharing this.

16 Q. (By Mr. Moehring) You talked about a technical -- one of the
17 reasons I think you testified that a DNS was justified is
18 that there was only technical clarifications of the code
19 being proposed?

20 A. Not only, but that was an aspect and -- and a motivation --
21 partial aspect of the proposal.

22 Q. What's the difference between a proposed changes in the code
23 versus an omnibus?

24 A. Well, yeah. I mean, I'll just say that the omnibus --
25 the -- the City of Seattle often prepares omnibus

1 legislation roughly once per year, and that legislation does
2 address problems, or inconsistencies, or errors. Sometimes
3 those are technical in nature.

4 That doesn't mean that other legislation can't fix or
5 address technical elements as well.

6 Q. So would an omnibus be used for technical clarification of
7 the code?

8 A. It could be. And other legislation such as this legislation
9 could be used for technical corrections of the code.

10 Q. Was this legislation at one point considered for omnibus?

11 A. I don't know that. I -- yeah. I don't know if it was or if
12 it wasn't.

13 Q. Okay. Let's see. Were you part of the interrogatory
14 responses?

15 A. I did -- yeah, I was a part of that.

16 Q. Okay. Do you recall seeing a draft version of the code
17 change -- some earlier draft versions of the code change, or
18 was that before your time?

19 A. I don't -- I was present during early drafts. I did not
20 work on earlier drafts of the code changes. I -- I might
21 have some vague knowledge of earlier drafts, but I don't
22 have a, you know --

23 Q. Okay.

24 A. -- I don't have a detailed recollection of earlier versions.

25 Q. Okay. That would have been Mr. Staley, correct?

1 A. Yes.

2 Q. All right.

3 MR. MOEHRING: Your Honor, I may have to provide a
4 supplemental description (inaudible) versions of -- we
5 received the earlier version there in the discovery process
6 that may help to clarify what I was hoping to identify with
7 Mr. Wentlandt, if that's okay.

8 HEARING EXAMINER: You mean a prior draft of earlier
9 versions of the proposed code changes?

10 MR. MOEHRING: Yeah. As a omnibus versus a DNS.

11 HEARING EXAMINER: Okay. Just coordinate with
12 Mr. Mitchell on exchanging that. And then if there are any
13 objections or whatnot, I'll rule on those.

14 MR. MOEHRING: Okay. Thank you very much.

15 Q. (By Mr. Moehring) One other thing -- one other question I
16 think you had testified earlier about combined sewer
17 overflow for this proposal?

18 A. I mentioned that as, you know, one of the types of items
19 that, you know, could, you know, factor into level of
20 service for utilities and, you know, could be a signal of,
21 you know, a potential significant impact related to
22 utilities, that I used that as one of the types of examples.

23 Q. Okay. Do you think that adding additional dwellings within
24 LR zones may have an additional surcharge to the sewer
25 system?

1 A. It -- more residences could have an incremental --
2 incremental impact to discharges to the sewer system, yes.

3 Q. Did you hear the prior testimony discussing the area
4 required on the lot for parking?

5 A. I did hear that.

6 Q. Could there be a potential increase in storm water because
7 of additional impervious surfaces due to this proposal?

8 A. Well, I don't think there -- it's conclusory that there
9 would be increased surface area due to parking from this
10 proposal. I -- I heard the testimony earlier.

11 However, if you look at the determination related to
12 parking, you know, it talks about how there could be,
13 depending on a specific development, more or less demand for
14 on-site parking.

15 I think that it would be off base to conclude that across
16 the board there would be more impervious surface due to
17 parking. It could be, but it's not conclusive that -- that
18 there would be.

19 Q. Okay. And you have seen conclusive studies, or you have
20 done some conclusive studies in this regard relative to
21 impervious surfaces and parking?

22 A. No.

23 Q. And have you done any conclusive studies in terms of
24 statement you made earlier about no change in the lot
25 coverage due to the FAR staying the same, but the dwelling

1 count increasing?

2 A. Well, that is -- like, that is clear and -- and evident that
3 the, you know, the standard for amenity area/open space is
4 not being amended by this -- this code change. So that
5 before and after this proposal I think it's 25 percent of
6 lot area has to be provided as amenity area.

7 And the same is true for green factors. You know, the
8 green factor requirement is -- is not changed.

9 So we can say in a conclusory way that those standards
10 will continue to apply on -- on the new development. That
11 doesn't require, you know, detailed technical analysis to be
12 able to conclude that. We can be confident that that's the
13 case.

14 Q. If there was a study presented to you or reviewed during
15 these hearings that demonstrated otherwise, would the City
16 be inclined to retract their DNS and do a more thorough
17 study?

18 A. Let's see. Let me think about that question.

19 Q. Let me just ask you the question differently. Has the City
20 specifically done an architectural site coverage study that
21 supports the theory that additional (inaudible) will not
22 take up more land area if the FAR is unchanged?

23 A. Well, there -- there is the concept -- you know, I wouldn't
24 call it a detailed site study, but the concept diagram that
25 you went through with Mr. Staley that showed the footprint

1 of buildings with three units versus four.

2 You know, it's really not that -- that complicated in the
3 sense that, you know, the total amount of floor area stays
4 the same. The density limit increases so that you have four
5 units instead of three, but the footprint of those four
6 units is the same as the footprint of the three units.
7 That -- that's the most likely, you know, site development
8 concept.

9 So without doing detailed architectural, you know,
10 renderings or site planning, that, you know, basic
11 understanding of how the site would be developed is -- is
12 informative.

13 Q. So there's a basic understanding, but I'm hearing there has
14 been no study done, right?

15 A. Well, that is a study.

16 Q. A theoretical analysis is like a study in terms of impacts?

17 A. Well, you can see that it has two diagrams. That is a
18 study.

19 And I also, as a, you know, preparer of the determination,
20 have a, you know, drawing, as I said, on understanding of
21 how development typically occurs in the lowrise zones and,
22 you know, what is customary. You know, I have -- have a
23 understanding that helps to predict, you know, or have a
24 feel for how a typical site plan would be before, and then
25 compare that to after the code changes.

1 Q. Okay. In terms of the building code, what sections of the
2 building code have you used to arrive at the DNS relative to
3 this proposal?

4 A. Do you mean the zoning code or the building code?

5 Q. Zoning code. Apologies.

6 A. Yeah. So chapter --

7 MR. MOEHRING: I'm sorry. Let me rephrase that.

8 Q. (By Mr. Moehring) Because this is a SEPA determination, what
9 portions of the environmental code, Title 25 have you used?

10 A. Well, the -- the procedures -- Title 25 lays out the
11 procedures, and so that's one section that, you know, we
12 always use.

13 It also -- the Title 25 also has the City's -- the City's
14 locally adopted SEPA policies, so we're referring to and
15 drawing on those, as well as the thresholds for SEPA review,
16 was drawing on those as well. So really the entirety of the
17 Chapter 25.

18 You know, I -- I don't have all of Chapter 25 memorized,
19 but, you know, we drew on -- for any SEPA determination
20 you're -- you're drawing on that chapter extensively.

21 Q. And can you elaborate on the non-project actions how you --
22 how you viewed the non-project action relative to this
23 proposal?

24 A. Yeah. Well, that -- that's a very important aspect of this
25 proposal. You know, non-project action is an action for

1 which, you know, there's no -- there's no construction
2 proposed. There's no physical alteration of the environment
3 that is occurring due to this proposal.

4 This proposal changes the -- the regulations, so it may
5 have indirect impacts in the future based on how it would
6 change the -- the character of future development under the
7 changed code. But there's no direct impact to the physical
8 actual (inaudible) directly from this proposal, and that's
9 why it's a non-project action as opposed to a project
10 action.

11 Q. Is there not results to the environment from projects that
12 result out of this position?

13 A. Right. And those are the indirect impacts that are
14 discussed in the checklist as well as the determination.

15 MR. MOEHRING: Can you pull up Exhibit No. 16.

16 Q. (By Mr. Moehring) I'm pulling up Seattle Municipal Code
17 Chapter 25.05.670, Cumulative effects policy.

18 Is it your understanding, Mr. Wentlandt, that there is
19 no -- or are there cumulative effects due to this proposed
20 policy?

21 A. There could be. We reviewed and considered whether there
22 might be cumulative effects.

23 MR. MOEHRING: And if we page down to -- to the next page,
24 I'm sorry, under policies. There we go.

25 Q. (By Mr. Moehring) Would you mind reading from line number 1,

1 point A?

2 A. Starting at number 1?

3 Q. Yeah.

4 A. Okay. The analysis of cumulative effects shall include a
5 reasonable assessment of: (a), present planned capacity of
6 such public facilities as sewers, storm drains, solid waste
7 disposal, parks, schools, streets, utilities, and parking
8 areas to serve the area affected by proposal; (b), the
9 present planned public services such as transit, health,
10 police and fire protection, and social services to the area
11 affected by proposal; (c), the capacity of natural systems
12 such as air, water, light, and land, to absorb the direct
13 and reasonably anticipated indirect impacts of the proposal;
14 and (d), the demand upon facilities, services, natural
15 systems of present simultaneously and known future
16 development in the area of the project or action.

17 Q. Thank you. And was it your conclusion that there was
18 cumulative effects from this proposal?

19 A. It was my conclusion that, to the extent that there were
20 cumulative effects, that they were not probably significant.

21 MR. MOEHRING: We can stop sharing. Thank you.

22 Q. (By Mr. Moehring) Are you familiar with the state law
23 regarding your role as the SEPA responsible official on this
24 project?

25 A. I am familiar with -- with the state law, yes.

1 Q. And what does the -- how does the City designate the SEPA
2 responsible official?

3 A. So I believe it -- the director may delegate that. The
4 City -- depending on the proposal, the City -- different
5 City departments have, you know, different SEPA responsible
6 officials.

7 Transportation proposal official, for example, will often
8 be a member of the transportation department where the
9 transportation director would delegate that responsibility
10 to her staff.

11 In this case my director was -- you know, would officially
12 be the responsible official, but it's common for directors
13 to delegate that to -- to staff.

14 Q. Okay. So the director -- what's the director's name? I'm
15 sorry.

16 A. Our acting director's name is Rico Quirindongo.

17 Q. Okay. And he is -- we've asked to have him testify, but
18 understand that that was not necessary because you've been
19 appointed to that role for this particular project?

20 A. For this particular action, yes.

21 Q. What type of training was involved in that, as your director
22 transferred that responsibility to you for this project?

23 A. You're -- you're asking what training was involved?

24 Q. Yeah. To become the SEPA responsible official as appointed
25 by the director of (inaudible)?

1 MR. MITCHELL: Your Honor, I guess I'd just say -- chime
2 in here with an objection only because I don't see how these
3 questions are relevant to any of the issues that the
4 Appellants raised in this appeal.

5 HEARING EXAMINER: Yeah. I guess I'm wondering the same
6 thing. I think we're getting a little off track from the
7 actual appeal issues. And I am a little worried, given how
8 many witnesses we have to get through.

9 MR. MOEHRING: Okay.

10 HEARING EXAMINER: And we went through the credentials
11 earlier and so forth. So...

12 MR. MOEHRING: Okay. Some wrapping up some questions.

13 Q. (By Mr. Moehring) Geoff, then -- or Mr. Wentlandt. I'm
14 sorry. Do you feel that there has been adequate information
15 provided to arrive at a determination of nonsignificance?

16 A. I do. I -- I think the checklist prepared was complete and
17 accurate, and I think there was enough information available
18 in the checklist, other related studies.

19 And I did my own assessment for the determination. And in
20 my view, there was enough information to make this
21 determination of nonsignificance.

22 I also think that there could be more information
23 prepared, and that's always the case. You can always do
24 more studies. But I -- I think that in this case there was
25 enough information to reasonably determine nonsignificance.

1 Q. And do you feel the agency has taken a realistic look at the
2 potential hazards or impacts, including the tree canopy,
3 storm water, and sewer capacity?

4 A. Well, I -- I do. And I think when you, you know, read
5 through the determination, it covers all of the elements of
6 the SEPA checklist, all the topic areas, and for each broken
7 into, you know, several topical areas such as land use and
8 development patterns; height, bulk, and scale; noise, light,
9 and glare; housing, et cetera.

10 And for each of those it has discussion, you know,
11 summarizing the types of impacts that would be anticipated.
12 It describes them briefly. And then in each of those
13 subsections it concludes with a statement as to whether
14 those impacts would be significant or not.

15 And so, you know, yes, I do think there's enough
16 information there in the determination to underpin a
17 determination of nonsignificance.

18 Q. And do you feel that the -- you have taken a hard look at
19 the environmental impacts that are potential here?

20 A. I think that's a vague term. I -- I would repeat what I
21 said earlier that I think there's enough information to
22 determine nonsignificance from this proposal.

23 Q. And that information has all been documented in your SEPA
24 analysis?

25 A. And -- and the related studies that, you know, have been

1 cited and discussed in my testimony and Mr. Staley's
2 testimony.

3 MR. MOEHRING: Okay. Thank you. No further questions.

4 HEARING EXAMINER: Mr. Mitchell, anything further?

5 MR. MITCHELL: I guess I'd just ask one question,
6 Mr. Wentlandt.

7

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

9 BY MR. MITCHELL:

10 Q. After answering the questions from Mr. Moehring, do you have
11 anything further that you'd like to add at this time that
12 you think should be clarified or -- or expanded upon?

13 A. Very briefly I will say that -- I would expand upon the
14 statement that the sections of the determination where the
15 nature of impacts are summarized, for many of them -- for
16 several of them it's -- it's difficult to predict, and it's
17 nonconclusive in terms of whether those impacts would be,
18 you know, greater or -- or lesser.

19 So there are environmental benefits that are described
20 along with potential impacts in some of those sections. And
21 I just emphasize this point because it's extremely -- or
22 it's -- it's difficult to predict over a future time horizon
23 the exact configurations of development; and, you know, to
24 do so at times is speculative; and, you know, to try to draw
25 conclusions about the environmental impact from speculative

1 information is not what's called on in SEPA.

2 So where, you know, impacts are discussed in the
3 determination where it could be greater or lesser, the
4 reason for that is because, without speculating, it can be
5 difficult to predict the exact nature of a development in
6 the future.

7 MR. MITCHELL: Thank you. I don't have any further
8 questions.

9 HEARING EXAMINER: Okay. Mr. Moehring?

10 MR. MOEHRING: I'm good. Thank you.

11 HEARING EXAMINER: Okay. All right. Thank you for your
12 testimony today, Mr. Wentlandt. You are dismissed.

13 THE WITNESS: Thank you.

14 HEARING EXAMINER: So I think the next witness,
15 Mr. Mitchell, you were going to call Mr. Welch, but I'm
16 wondering if we should just take our 15-minute break right
17 now.

18 MR. MITCHELL: That would be fine.

19 HEARING EXAMINER: Okay. All right. So it's 3:16. We'll
20 reconvene at 3:31.

21 MR. MITCHELL: Thank you.

22 HEARING EXAMINER: We are briefly adjourned.

23 AUTOMATED VOICE: Recording stopped.

24 (Recess)

25 HEARING EXAMINER: Back on the record on appeal W-21-007.

1 Mr. Mitchell, I think you were going to call Mr. Welch; is
2 that correct?

3 MR. MITCHELL: Yes, that is correct.

4 HEARING EXAMINER: Okay. Mr. Welch, good afternoon. If
5 you could state your name for the record.

6 THE WITNESS: Nick Welch.

7 HEARING EXAMINER: And do you swear or affirm to tell the
8 truth under penalty of perjury under the laws of the state
9 of Washington?

10 THE WITNESS: Yes.

11 HEARING EXAMINER: Thank you.

12

13 NICOLAS WELCH, having first been duly sworn,
14 was examined and testified
15 as follows:

16

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

18 BY MR. MITCHELL:

19 Q. Good afternoon, Mr. Welch. Will you please say and spell
20 your first and last name for the record.

21 A. Yes. My full name is Nicolas Welch, N-I-C-O-L-A-S,
22 W-E-L-C-H.

23 Q. And do you work in the Seattle Office of Planning and
24 Community Development?

25 A. Yes.

1 Q. What is your job title in OPCD?

2 A. I'm a strategic advisor.

3 Q. And how long have you been a strategic advisor?

4 A. I think about, between three and four years.

5 Q. Okay. And did you have any other jobs at OPCD prior to your
6 current role?

7 A. Before my current role I was a planning and development
8 specialist.

9 Q. And how many years have you worked in total for the City?

10 A. Just over eight years in total.

11 Q. And did you prepare the GIS analysis for the townhouse
12 reform environmental for -- that was done for the townhouse
13 reform legislation?

14 A. Yes.

15 Q. And before we discuss the GIS analysis, will you describe
16 your education, beginning with undergraduate studies, and
17 describe your work experience post college, particularly
18 working with GIS.

19 A. Sure. I have a bachelor's of arts with a double major in
20 international relations and Spanish from Tufts University in
21 Massachusetts, and a master of arts in urban and
22 environmental policy and planning also from Tufts
23 University.

24 After my graduate work I started working at the City of
25 Seattle just over eight years ago as I mentioned, on a range

1 of planning and policy projects over that time, many of
2 which have involved some component of GIS analysis.

3 Q. And when we say GIS analysis, what are we -- what are we
4 talking about?

5 A. GIS stands for Geographic Information Systems. So it is a
6 tool, usually an analytical tool, also a communication and
7 visual tool that we use to prepare -- to work with, and
8 analyze, and prepare spatial data.

9 So we use computer software to do that, and we use a range
10 of different spatial data sources sometimes with nonspatial
11 data associated with or related to it, and analyze, present
12 that information.

13 And outputs of that analysis can be maps, other graphics,
14 charts, tables of information, et cetera.

15 Q. Great. Thank you. How many GIS analyses would you estimate
16 you've prepared for other City proposals?

17 A. I would say it's -- it's probably on the order of 12 to 15.
18 It does depend a little bit what sort of constitutes an
19 analysis, because we do quite a lot of GIS work, and I'm
20 involved in a good amount of GIS work, and sometimes that's
21 a pretty focused or discrete task .

22 But I think for something that would amount to an
23 analysis, it would probably be between 12 and 15.

24 Q. All right. And before joining the City, you talked about
25 your education at Tufts. But were you involved in any work

1 before joining the City that involved GIS work or --

2 A. I have had a few pretty small focused positions, one with a
3 research project for the University of Texas at Austin where
4 I was sort of a contract GIS specialist for a public health
5 longitudinal study.

6 But nothing -- nothing on the order of sort of full-time
7 position outside of the City of Seattle.

8 Q. Thank you. All right. I'm going to show you what's been
9 marked as Hearing Examiner No. 6, and I'm going to share
10 that.

11 Can you see the document?

12 A. Yes.

13 Q. And do you recognize this document?

14 A. Yes, I do.

15 Q. Is it a summary of the GIS analysis that you performed for
16 this townhouse reform proposal?

17 A. That's right. It's a summary of the methodology that I used
18 to do that analysis.

19 Q. Okay. And does it accurately -- accurately summarize the
20 methodology that you use?

21 A. Yes, it does.

22 Q. And we heard from Mr. Staley. He already sort of walked
23 through the analysis, and I don't want to duplicate the
24 testimony.

25 But do you have anything that you want to add that hasn't

1 been said yet about methodology? That's -- I know that's a
2 broad question. I do have one thing I want to -- I want to
3 ask you, but I wanted to maybe -- maybe if you could just
4 summarize the methodology that you used.

5 A. Sure. Yes. First I did hear Mr. Staley's testimony, found
6 it to be complete and accurate. I agree with everything he
7 said in terms of describing this analysis.

8 There are several sections to this methodology that are
9 identified with those bold headings, each of which
10 essentially corresponds with a -- a topic or issue that we
11 looked at for a study area of all parcels that are in the
12 city's multifamily zones, so lowrise, midrise, and highrise
13 zones.

14 So that universe of parcels was then analyzed according to
15 its redevelopment status, which, as Mr. Staley described as
16 really a separate GIS model called our development capacity
17 model, and then also analyzed according to several other
18 attributes or physical characteristics that those parcels
19 could have.

20 The first after redevelopment status being the -- its
21 location on a corner lot, so there was a methodology that I
22 developed to -- that we've used in other applications to
23 identify street frontages, and used that to make a
24 reasonable estimate of the number of multifamily parcels
25 that are on corner lots where the existing development

1 standards and proposal would have some different application
2 or effect.

3 And then as Mr. Staley described, calculating -- first
4 identifying, and then calculating the number of parcels and
5 the amount of parcel area that intersects the City's
6 designated environmentally critical areas.

7 Similar methodology was used for those ECAs and for the
8 shoreline district, which is the designated area that
9 applies to the regulated parcels on the -- close to the
10 regulated water bodies under the shoreline master program.

11 And then on the second page it summarizes the analysis for
12 multifamily parcels that either contain a designated
13 landmark or are located in a designated historic district.

14 Q. Great. And then on the third page there are -- there are
15 findings, and we talked about those with Mr. Staley.

16 But what were the findings for the LR1 zone in particular?

17 A. Using LR1 as an example, it's those first two columns after
18 that sort of first column on the left that describes those
19 different attributes. And this table of rows is a summary
20 of the number of lots and the amount of parcel acreage in
21 each zoned category that corresponds to the different
22 physical characteristics that were studied.

23 So for LR1 there was a total of 10,572 lots studied.
24 That's essentially the number of LR1 parcels in the City.
25 Just about half of which, or 5,532 are identified as

1 redevelopable in the City's development capacity model.

2 And then in the rows below that are the different numbers
3 and acreages of LR1 parcels that fit those different
4 characteristics, so the number that appear to be on corner
5 lots, the number that intersect different ECAs, and the
6 amount of ECA area on those parcels, the number that are in
7 historic districts, the number that contain a landmark
8 structure.

9 And then for each zone category, as Mr. Staley described,
10 we present the total number of parcels, and then look
11 specifically at those that are identified as redevelopable,
12 and present the relevant statistic for just that subset of
13 those parcels.

14 Q. Thank you. And then on the fourth page, can you describe
15 the -- what this is showing for -- as an example for LR1?

16 A. Sure. This -- overall this second table that's much smaller
17 is just a focused summary of some of the main findings for
18 LR, again, repeating the total number of lots studied in
19 this analysis, the number that are considered to be
20 redevelopable.

21 You might notice here this is a slightly bigger number
22 than I mentioned a moment ago. This is 5,739. That
23 reflects the -- the sum of the 5,532 I think that I noted or
24 categorized as redevelopable in the City's development
25 capacity model, plus 207 that are identified as vacant.

1 That's a different categorization in that specific model.

2 But together those parcels represent the ones we would
3 deem to be redevelopable, thinking it's just sort of a
4 different redevelopment status.

5 And then the final row is the total potential housing
6 units that could be built on those redevelopable parcels
7 based on the number of assumptions about -- in the
8 development capacity model and about FAR that would be --
9 FAR, density, unit size, and various other assumptions that
10 give us an estimate of the housing that could be built on
11 those parcels.

12 Q. Great. Thank you. And this is all based on the current
13 existing regulations?

14 A. That's right.

15 Q. Well, aside from that, is there anything else you wanted to
16 add or say about the GIS analysis that you prepared?

17 A. No, I don't think I have anything to add.

18 Q. And did you have any other role in this environmental
19 analysis that's at issue in this appeal, other than the GIS
20 work that you did that you just described?

21 A. This analysis that I just described was definitely my main
22 role in the project overall.

23 I also reviewed various (inaudible) participated in some
24 of the department's work alongside Mr. Staley in the
25 development of this as a -- you know, offering some review

1 of the material, including I think the SEPA checklists -- or
2 sorry, the legislation. I don't know that I reviewed any
3 part of the SEPA checklist.

4 But I think reviewed at least sections of the legislation
5 just as a staff reviewer, but didn't have a leading role in
6 any of that material.

7 MR. MITCHELL: All right. Great. Well, thank you.

8 I don't have any further questions for Mr. Welch.

9 HEARING EXAMINER: Okay. Mr. Moehring, do you have any
10 questions?

11 MR. MOEHRING: Yes. Thank you.

12

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

14 BY MR. MOEHRING:

15 Q. Good afternoon, Mr. Welch. How are you?

16 A. Good afternoon. Good. Thanks.

17 Q. Just a few questions for you on your process that was
18 involved in (inaudible) questions under analysis.

19 When you were -- can you maybe explain a little bit in
20 terms of how you were engaged for this effort? Were you
21 given a scope of work to what was desired?

22 A. Well, Mr. Staley and I are part of the same team and
23 division within OPCD. We're in the land use policy
24 division, so we work closely together on a number of
25 projects, this one among them.

1 So the sort of -- the scope of the analysis, yes, was
2 clearly communicated and discussed between the two of us. I
3 understood what the proposal was contemplating and what type
4 of analysis was necessary. And we collaborated on
5 developing what the methodology would be through
6 essentially, you know, communication, collaboration as
7 colleagues.

8 Q. And the scope was created by yourself and Mr. Staley; is
9 that what --

10 A. Yeah. I would say Mr. Staley, as the lead project manager
11 for this, identified the issues that he thought he needed
12 analyzed for SEPA purposes.

13 We have done similar work together on other projects, so
14 it made sense to me, and I was able to propose how we would
15 answer those questions and identify that information through
16 the data that we have available on the GIS tools that we
17 have available.

18 Q. And at that time Mr. Wentlandt was not involved (inaudible)?

19 A. I don't recall Mr. Wentlandt at all being involved in the
20 scope of work for this GIS analysis.

21 Q. Would you have, like, regular -- you and Mr. Staley have
22 regular meetings with folks other than yourself at the
23 Office of Planning and Community Development?

24 A. Yes. We both meet with other people regularly.

25 Q. And what type of meetings would you have, and how

1 frequently?

2 A. Are you asking in general about the types of meetings I have
3 in my work at OPCD?

4 Q. No. For this particular effort.

5 A. Oh, in that case I would revise my previous answer.

6 Yes, Mr. Staley had convened -- well, I guess I would say
7 overall OPCD has had and continues to have a focus on
8 housing, so these issues have come up through the work that
9 Mr. Staley initially described.

10 Some of those meetings were focused on this particular
11 policy proposal; and I participated in some, if not all of
12 those.

13 Q. Was the -- who were some of the folks that you and
14 Mr. Staley would meet with on a regular basis?

15 HEARING EXAMINER: I'm a little unclear on how this is
16 related to the issues in the appeal, Mr. Moehring. I want
17 to keep -- make sure we keep everything on track so we can
18 get through the witnesses.

19 MR. MOEHRING: Okay. I'm sorry.

20 Q. (By Mr. Moehring) What objectives did you and Mr. Staley
21 have with this -- with your effort? Was it primarily simply
22 to look at ways of getting more residential units on a lot?

23 A. I -- well, the GIS analysis that I prepared had the
24 objective of identifying and understanding the physical
25 characteristics and some of the environmental

1 characteristics of the study area, i.e., the zones and
2 parcels where potential code changes could apply and could
3 have an effect, and so we tried to identify what those
4 characteristics might be and then appraise how much of that
5 study area was in those different -- had those different
6 characteristics or intersected those different environmental
7 areas.

8 Q. I notice that from your exhibit, Exhibit No. 6 that was
9 (inaudible) before, looks like there is basically four
10 environmental issues that were looked at, maybe -- well, if
11 you had historic districts and landmarks, there was a few
12 more, but it was basically the four environmental issues.

13 A. I believe -- I'm not seeing it on the screen anymore. I
14 believe there were three.

15 The -- the City has a number of environmentally critical
16 areas that it regulates, and three of them were determined
17 to be particularly relevant here in terms of both the
18 proposal and the potential impacts on the environment. And
19 then the shoreline district is a separate set of
20 regulations. That was included, too.

21 Q. Would you like me to share that on the screen, if it helps?

22 A. I think my answer stands. I recall the three ECAs that were
23 studied, steep slope, riparian corridor, and wetland areas.

24 Q. Okay. Thank you. Was there any other environmental issues
25 that were part of the GIS requests of information?

1 A. I don't recall any other environmental analysis related to
2 this proposal that I was involved in, other than what's
3 reflected in Exhibit 6.

4 Q. And the source of the information that you're pulling, where
5 does that information come from?

6 A. Each -- each data set has its own source. The parcel data
7 generally comes from the King County assessor. The ECA data
8 is City data, so we access it through a central GIS server
9 that's publicly available. The analysis of corner lots also
10 involves data like street right-of-way, block faces, and
11 property lines. That's also all City or other public agency
12 data.

13 Historic districts is part of the City's zoning layer, and
14 landmark structures is a City-maintained data set.

15 Q. Okay. You had mentioned that the steep slope, wetlands,
16 riparian corridor ECA, shoreline district, those are all
17 available online with the GIS system; is that correct?

18 A. Yes.

19 Q. Is there other environmental features on that GIS
20 interactive map that you have not included within your
21 tabulations?

22 A. As I mentioned, there are other types of ECAs. The way that
23 the City regulates development in those ECAs and the way
24 that they might help us understand potential environmental
25 impacts is different than the ones that we included in this

1 analysis.

2 Q. And what are some of those additional ones that have not
3 been included?

4 A. Other ECAs that the City regulates include landslide-prone
5 areas, liquefaction zones, flood-prone areas, peat
6 settlement-prone areas.

7 Q. And is there a reason why those were not included, such as
8 the landslide zone?

9 A. Well, the --

10 Q. (Inaudible)?

11 A. That one in particular, the landslide-prone areas tend to
12 overlap pretty substantially with steep slope areas, so that
13 general issue is probably captured pretty well through our
14 analysis of steep slope ECAs.

15 Others tend not to have the same type of environmental
16 impact. So as an example, this is not a -- you know, I
17 don't work in SDCI on actual permanent review for
18 development projects in these areas, but in a peat
19 settlement-prone area, my understanding is we're in a
20 formal -- former landfill, which is another ECA.

21 My understanding is that development mostly has to be
22 constructed differently, so it has implications for the way
23 the development might be constructed, but is less about
24 potential impacts on the environment that SEPA directs us to
25 examine.

1 Q. Does the GIS interactive map also include a layer on the
2 canopy cover that was identified in the 2016 canopy
3 assessment that were talked about before?

4 A. Tree canopy data is also public data that the City
5 maintains, yes.

6 Q. And to what level is the tree canopy on that GIS information
7 available, whether it's -- is it a high-level information,
8 or is it down to a projects or a lot-specific information?

9 A. Well, it's -- I guess between those two options that you've
10 presented, it's the former. It is a high-level GIS layer
11 that identifies where a tree canopy exists, not on a parcel-
12 by-parcel basis, but as a -- essentially a -- a shape or a
13 polygon that outlines where tree canopy exists across the
14 city based on -- I believe the most recent model or data set
15 that we have is using Lidar to identify that tree canopy
16 area.

17 Q. So you said that there is not a lot-specific or there's not
18 a zone-specific tree canopy percentage identified?

19 A. Well, the -- the GIS tree canopy layer that we sometimes
20 use -- or that I'm familiar with is the polygon layer that I
21 described that outlines visually where tree canopy exists in
22 the city.

23 There are obviously other data sets that have even come up
24 in this proceeding today that talk about tree canopy by
25 management unit or by zone, but that is not the type of

1 thing that we would use in a GIS analysis because it's
2 basically a table of statistics and figures, and not spatial
3 data, even if it's based on tree canopy data.

4 MR. MOEHRING: Okay. I'm not sure, Your Honor, if it's
5 possible to pull up the GIS map, or if that -- so we can
6 take a look at an example?

7 HEARING EXAMINER: Which exhibit are you referring to?

8 MR. MOEHRING: I don't have an exhibit. I just wanted to
9 see if it was possible to go to the public access.

10 HEARING EXAMINER: No.

11 MR. MOEHRING: (Inaudible).

12 HEARING EXAMINER: No. Unless we have an exhibit or -- I
13 mean, I'm unclear of what you're trying to get at.

14 MR. MOEHRING: Okay.

15 HEARING EXAMINER: I think that's going to be quite
16 difficult.

17 MR. MOEHRING: Then pull up the appeal document?

18 HEARING EXAMINER: Yeah. I think that's -- isn't that an
19 exhibit? I mean, you can pull up -- if you want to look at
20 your appeal, that's fine.

21 MR. MOEHRING: Okay. Do we have the appeal (inaudible)?

22 HEARING EXAMINER: I mean, I have your appeal in front of
23 me.

24 MR. MOEHRING: Okay. Yeah. There's some -- there's some
25 graphics in the back of the appeal I think on page 23 or so.

1 Let's see here. Oh, I got it. Let's see if I can share my
2 screen.

3 Q. (By Mr. Moehring) Do you see the appeal?

4 A. Yes, I can.

5 Q. Excellent. All right. I'm just going to go right to the
6 back here.

7 Okay. This is on page 23 of the appeal. And this is from
8 the -- I believe this is from the GIS map you're talking
9 about, Mr. Welch?

10 A. I've been referring to the -- some of the GIS data that we
11 accessed through the City's GIS servers, but not to a
12 specific map.

13 I'm familiar with the interface that you're referring to,
14 but that's not something -- or excuse me, the interface
15 you're showing, but that's not something I've referred to in
16 my testimony.

17 Q. Okay. I'm sorry. Yeah. Could you describe what you're
18 seeing, if you're familiar with this?

19 A. Well, I can speak to parts of this. I'm familiar or at
20 least recognize the legend which has very commonly-used
21 zoning categories. The labels are on the screen showing
22 different zone names and the legend item for tree canopy.

23 But other than that, this appears to be some kind of
24 analysis or extract from that GIS application that I'm not
25 familiar with.

1 Q. Are you familiar with the ability to show this type of
2 information from the GIS system in terms of the map in the
3 back -- or the aerial view in the background I should say?

4 A. Yes, I'm familiar with the aerial base map that we have
5 available on this tool.

6 Q. Does the tool also show the zones in terms of color, like
7 the brown and the beige color, depending on what zone it is?

8 A. Yes.

9 Q. Does the tool also show the 2016 tree canopy in the green
10 overlay?

11 A. My recollection is the tree canopy is one of the layers that
12 is available on the City's public facing GIS application.

13 I'm not seeing a year for the (inaudible) of that tree
14 canopy data in this particular image that you're showing. I
15 see 2019 on the screen, but I don't think that's trying to
16 indicate the year of the tree canopy itself. But I'm
17 familiar with the City's tree canopy data.

18 Q. All right. The other information in terms of bold lettering
19 and the year, that all appears to be -- and the red bubbles,
20 that all appears to be added? Is that what you would
21 assume?

22 A. I don't recognize it from anything I've seen previously.

23 Q. Okay. So looking at just what you do recognize, is there
24 also a parcel information that you see on the screen that's
25 available on publicly -- on the GIS website in terms --

1 A. Yes. I --

2 Q. -- of (inaudible)?

3 A. Well, I see the parcel outlines. And as I mentioned, the
4 parcel data is not only publicly available, but part of the
5 GIS analysis that I testified to.

6 I don't see anything on the screen that identifies the
7 size (inaudible) parcels, but I see the outlines.

8 Q. All right. Are you aware that the public can click on any
9 of these parcels and see what the tree canopy coverage is
10 for that parcel?

11 A. Not -- I don't think I was aware that that was part of the
12 information that the public saw when clicking on a parcel.

13 Q. Okay. And were you aware that, if you click on any of these
14 tree canopy outlines, it will tell you the approximate area
15 of tree canopy?

16 A. Yes, I'm aware of that. I've used this -- what I believe is
17 this tree canopy layer or -- or the one that I've been
18 referring to that I'm familiar with on the City's GIS server
19 and the -- the size of the polygon that's represented is --
20 is always a part of the attributes that you see with GIS
21 data.

22 Q. Okay. With the added red bubble that is annotated with the
23 number 1, can you describe what GIS information you see
24 there within that red bubble identified with a number 1?

25 A. I see the -- I guess the four GIS layers that we have

1 referred to here; the aerial base map, the parcel outlined,
2 the zoning layer, and the tree canopy coverage layer.

3 Q. Okay. Do you see the evidence of new townhouses or
4 rowhouses within that red bubble?

5 A. You know, I'm seeing this for the first time, so I -- I
6 really can't say definitively what developments reflected in
7 that aerial imagery, but I -- I do see the -- there appears
8 to be some development that could be rowhouses or townhouses
9 reflected there.

10 Q. Okay. Sorry about that. And you also see within that same
11 red area where the rowhouses and townhouses are that there's
12 also a green canopy in that same location?

13 MR. MITCHELL: Your Honor, I guess I'd object because
14 Mr. Welch testified that he didn't -- couldn't identify what
15 was on that map.

16 HEARING EXAMINER: Yeah. It seems like we're getting a
17 little bit into speculation on this, --

18 MR. MOEHRING: Okay.

19 HEARING EXAMINER: -- Mr. Moehring.

20 MR. MOEHRING: That's fine. Let me redirect my questions.

21 Q. (By Mr. Moehring) So, Mr. Welch, I guess a question that I
22 have is, doing the GIS analysis, is it possible in terms of
23 what you know to obtain tree canopy information within a
24 certain development area such as an LR1 zone (inaudible)?

25 A. Well, yeah. What was shown, you used the phrase development

1 area, and so in -- in that sense, yes, it is possible to
2 identify or quantify the amount of any spatial layer,
3 including the tree canopy coverage layer within some other
4 area or geography, such as the lowrise 1 zone city-wide
5 or -- or some other geography of interest.

6 There are a lot of caveats or even limitations with the --
7 with our ability to do that or the usefulness of it because
8 of the -- you know, questions about data quality and
9 accuracy, especially when it comes to tree canopy data. And
10 that's something we struggle with all the time with any data
11 analysis is how current it is. And so as -- as time goes
12 on, the currency of data obviously changes.

13 So there are a lot of caveats that your question is sort
14 of forcing me to gloss over. But in a very crude sense, is
15 it possible to do some sort of spatial analysis with two
16 spatial layers like zoning and tree canopy? Yes.

17 Q. And if somebody would have asked you to prepare that
18 information, you know, to supplement the exhibit that we had
19 just reviewed, Exhibit No. 6, that has the steep slope
20 information, wetlands, corner lots, all lots, all that
21 information, could have there also been a calculation in
22 terms of tree canopy area within LR1, LR2, LR3 using this
23 online tool?

24 A. Theoretically yes, you could calculate the amount of that
25 tree canopy polygon in these different zone categories.

1 But again, given data quality issues or data currency
2 issues, the question of whether it's very instructive or
3 helpful for SEPA analysis would -- would not necessarily
4 be -- it would not necessarily be helpful or instructive for
5 SEPA analysis given those limitations of some of the data
6 sources.

7 Q. Is there any other information that the City has available,
8 other than what we've been talking about, that would help
9 identify the scope of environmental issues such as the tree
10 canopy within LR zones?

11 A. Well, outside of a GIS analysis, there are other sources of
12 information about specific characteristics of properties
13 or -- or impacts development. The main way that one could
14 evaluate that would be actually looking at plan sets, which
15 is a much finer level of detail than a city-wide GIS
16 analysis that -- that just shows sort of crudely the outline
17 of tree canopy as observed through Lidar data.

18 Q. How accurate the data do you need to view an environmental
19 assessment of the benefits of age, canopy, (inaudible)?

20 A. You're asking (inaudible) --

21 MR. MITCHELL: Yeah. I guess I would object because
22 Mr. Welch testified that he had -- he was not involved in
23 doing the assessment of this proposal.

24 HEARING EXAMINER: This does seem a bit far afield what he
25 was involved in in terms of preparing the GIS for this. He

1 had a fairly limited role, based upon his testimony.

2 MR. MOEHRING: Okay. He was not involved in the -- I
3 understand (inaudible) environmental aspect of the tree
4 canopy.

5 Q. (By Mr. Moehring) Would that be an accurate statement?

6 A. Do you mind repeating that question?

7 Q. I'm sorry. That I understand you were involved in coming up
8 with GIS data for other ECA items, but you're not involved
9 or asked to be involved with the tree canopy assessment?

10 A. That's correct. I was not involved in a tree canopy
11 assessment for this proposal.

12 MR. MOEHRING: Okay. All right. Switching the topic
13 really quickly, I would like to open up our Exhibit No. 63,
14 which came from discovery.

15 Q. (By Mr. Moehring) And I believe this is something that I'm
16 going to ask if you recognize.

17 HEARING EXAMINER: And just to clarify real quickly before
18 I forget, there is not an Exhibit 62; is that correct?

19 MR. MOEHRING: Yeah, that's right.

20 HEARING EXAMINER: Okay.

21 MR. MOEHRING: No 62, and no 69.

22 HEARING EXAMINER: Okay.

23 MR. MOEHRING: Yeah. This is one of those (inaudible)
24 exhibits.

25 HEARING EXAMINER: Gotcha, yeah.

1 Q. (By Mr. Moehring) Do you recognize this document, Mr. Welch?

2 A. Can you scroll down so I can see the full extent of it?

3 Thank you. And then back to the top, please.

4 No, I don't recognize this document.

5 Q. Okay. Can you describe -- or can you just read the title of
6 this document?

7 A. I'm really not sure what the title is. I see in red
8 Exhibit 63.

9 Q. (Inaudible) I guess in the black font in the upper left-hand
10 side.

11 A. The upper left-hand side says, Assumptions townhouse density
12 limit 1300 practical density limit with, and the word "with"
13 appears to be cut off, 1,150 interval 200.

14 Q. Okay. So you were not asked to prepare this information?

15 A. That's correct.

16 MR. MOEHRING: Okay. Let's go to the next exhibit, 64.
17 And this one I think we have to zoom in just to the upper
18 left part of the table.

19 Q. (By Mr. Moehring) Does this exhibit or document look
20 familiar? Before I ask (inaudible).

21 A. No. I don't recognize this document.

22 Q. Okay. All right.

23 MR. MOEHRING: Will you open up Exhibit No. 54.

24 (Inaudible).

25 Q. (By Mr. Moehring) Does this document look familiar?

1 A. It appears to be an email record between Brennan and me. I
2 need to read through it to see how much I recollect about
3 it. But based on the -- the names of the people there, I,
4 you know, recognize it as email between Mr. Staley and
5 myself.

6 Q. Would you like me to enlarge it a bit? Or...

7 A. No. It's okay as it is.

8 Q. Okay. What date was this document received?

9 A. Do you mean what date were those emails sent, or did the
10 Appellants receive it?

11 Q. What date was the email received sent from you -- I'm sorry.
12 What date did you send this email to Mr. Staley?

13 A. This appears to be an email thread, so it reflects multiple
14 emails, perhaps the most recent of which was on May 1st,
15 2020.

16 Q. Okay. And paging down to where your name has been
17 highlighted, what's the date on that correspondence?

18 A. The email with my name highlighted is Monday, April 27th,
19 2020.

20 Q. And what's the subject title say?

21 A. LR1 density analysis.

22 Q. And can you read that paragraph?

23 A. The capacity numbers are much closer to the MHA analysis now
24 that I've made the FAR and unit size assumptions totally
25 consistent between those two. I'll update the methodology

1 document. One thing to note is that while the townhouse and
2 MHA analyses now use the same assumptions, both differ
3 slightly from the assumptions in the Seattle 2035 analysis.

4 Q. And can you elaborate in terms of how the methodology that
5 you had prepared differed from the Seattle 2035 analysis?

6 A. I don't have a perfect recollection of what we were talking
7 about at this time, but I -- I think the general topic is
8 consistency between -- actually, I'll back up.

9 The sort of context for this is FAR and unit size
10 assumptions that go into our development capacity analysis
11 or our analysis of what amount of development is possible
12 for a given area or zone. And it appears we were discussing
13 the consistency between the way we did such an analysis
14 during MHA and what we were proposing or in the course of
15 doing for the townhouse proposal.

16 And this particular paragraph that I read seems to be the
17 point at which we had made consistent assumptions between
18 those two analyses.

19 And then you've asked how that differed from the Seattle
20 2035 analysis. That was the previous major comprehensive
21 plan update. And I don't recall specifically what the
22 differences were between the FAR and unit size assumptions
23 that we were using in this townhouse proposal compared to
24 Seattle 2035.

25 My -- my sort of supposition here would be that MHA had

1 changed certain development standards for the subjects'
2 study area, multifamily zones, including a particular FAR,
3 as there -- as there's already been some discussion of.

4 And so I think what was going on was we were creating a --
5 creating consistency between how we analyzed things under
6 MHA and this townhouse proposal, MHA being more recent than
7 the Seattle 2035 analysis.

8 But I was noting from Mr. Staley that I think probably the
9 bottom line here is I was calling out that making
10 comparisons between the townhouse proposal and another
11 important development capacity analysis that we had done for
12 Seattle 2035 would be a little bit apples and oranges
13 because of some of those differences in the assumptions.
14 But I don't recall specifically what those were at this
15 time.

16 Q. Were those differences resolved, or was it something that --
17 your recollection of this -- you would not be able to
18 answer?

19 A. I -- I don't -- I don't have a perfect recollection of where
20 this fit into the larger timeline of my work on this
21 proposal. But my guess here would be that we -- we didn't
22 really resolve them per se because what I was noting was not
23 a problem to be resolved, but a caveat that when we
24 sometimes make comparisons between our development capacity
25 or growth modeling in different projects over time, it's

1 critical to know what assumptions underpinned each of those
2 analyses.

3 And my guess here is that I was just sort of affirmatively
4 noting that we've now created consistency between those
5 analyses for MHA and the subject proposal for townhouses;
6 and as a result, that creates a difference to this previous
7 analysis, but it's not a problem that needs to be resolved
8 because we don't need to be -- you know, I think the -- the
9 differences are very minor, and I don't know that we were
10 necessarily needing to make precise comparisons to work done
11 through Seattle 2035.

12 Q. Is there any states or Seattle-level code requirements to --
13 relative to a SEPA analysis when there is differences from
14 the 2035 comprehensive plan, that you're aware of?

15 A. I'm not --

16 MR. MITCHELL: I would object to that question because
17 we're not talking about the comprehensive plan. We're
18 talking about the methodology used in the Seattle 2035
19 analysis.

20 MR. MOEHRING: I'm just asking if he's aware of -- that
21 there's any requirement, if there is a difference between
22 the analysis of the 2035 and what else is being proposed for
23 the City. I'm not asking for a legal analysis, just if he
24 is aware of any requirement.

25 HEARING EXAMINER: We are a bit outside, but I'll allow

1 the question.

2 A. Just for clarity, Mr. Moehring, could you repeat it one more
3 time for me?

4 Q. (By Mr. Moehring) Sure. Yes or no question. Are you aware
5 of any state or municipal requirement with analysis or SEPA
6 analysis if what is being proposed is different from what is
7 within the 2035 Seattle comprehensive plan?

8 MR. MITCHELL: Your Honor, I guess I object because we're
9 not talking about what's in the Seattle comprehensive
10 plan -- 2035 comprehensive plan. We're --

11 HEARING EXAMINER: I guess I'm -- go ahead.

12 MR. MITCHELL: I was just going to say, what this email
13 thread is talking about, and I think what Mr. Welch has
14 testified about is that this is a discussion about the
15 assumptions that went into the GIS analysis when studying
16 the Seattle 2035 comprehensive (inaudible).

17 HEARING EXAMINER: Yeah. I guess I'm -- yeah. I guess
18 I'm confused about the line of questioning, because there
19 were some assumptions it sounds like that were a little bit
20 different for the 2035 analysis, and the email thread just
21 seems to explain kind of what those are.

22 So I guess I'm confused about -- I guess I don't really
23 understand the question .

24 MR. MOEHRING: Okay.

25 HEARING EXAMINER: Because the comp plan analysis is not

1 relevant to what's before me. And so I guess I'm not -- I
2 just am a little confused as to what you're trying to get
3 at.

4 MR. MOEHRING: Yeah. We'll move on. Thank you.

5 We can close this exhibit.

6 Q. (By Mr. Moehring) And one other line of question, and that
7 would -- and maybe this will be a one-liner question.

8 Mr. Welch, are you involved in any information relative to
9 affordability of townhouses or rowhouses existing? Were you
10 asked to do any type of analysis of townhouse or rowhouse
11 affordability?

12 A. No. Not as it pertains to the proposal (inaudible).

13 Q. Okay. Do you know if -- did you know if anybody else on the
14 team, including Mr. Staley, who was asked to look at
15 affordability?

16 A. I know that Mr. Staley has worked on, as have I, housing
17 policy more generally; and affordability, including
18 (inaudible) housing types like townhouses is part of that,
19 and so it's part of work that we both have been involved in.

20 I don't know if Mr. Staley was involved or conducted
21 analysis of affordability as it relates to this proposal,
22 because I, likewise, as I said, was not involved in that if
23 it happened.

24 Q. Okay. Thank you. You answered the question.

25 MR. MOEHRING: No further questions. Thank you.

1 HEARING EXAMINER: Mr. Mitchell, anything further?

2 MR. MITCHELL: Nothing further, Your Honor. Thank you.

3 HEARING EXAMINER: Okay. Thank you, Mr. Welch, for your
4 testimony this afternoon. You are dismissed.

5 I guess we should move to the next witness, Ms. Pettyjohn.

6 Mr. Mitchell, would you like to do that?

7 MR. MITCHELL: Yes. I'd like to call Ms. Jennifer
8 Pettyjohn.

9 HEARING EXAMINER: Okay. Ms. Pettyjohn, good afternoon.
10 If you could state your name for the record.

11 THE WITNESS: Yes. Jennifer Pettyjohn.

12 HEARING EXAMINER: And do you swear or affirm to tell the
13 truth. Under penalty of perjury under the laws of the state
14 of Washington?

15 THE WITNESS: I do.

16 HEARING EXAMINER: Thank you.

17

18 JENNIFER PETTYJOHN, having first been duly sworn,
19 was examined and testified
20 as follows:

21

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

23 BY MR. MITCHELL:

24 Q. Good afternoon, Ms. Pettyjohn. Could you go ahead and spell
25 your name for the record, too?

1 A. Yes. It's Jennifer, J-E-N-N-I-F-E-R, Pettyjohn,
2 P-E-T-T-Y-J-O-H-N.

3 Q. Thank you. And do you work in the Seattle Office of
4 Planning and Community Development?

5 A. I do.

6 Q. And what is your job title at PCB?

7 A. I am a senior planning and development (inaudible).

8 Q. And how long have you been working in that role?

9 A. As long as I can remember. I actually (inaudible) years.

10 Q. Great. And is that --

11 A. (Inaudible).

12 Q. Is that how long you've been working for the City?

13 A. I've worked for the City for 30 -- over 30 years.

14 Q. For over 30 years. Great. Well, let's just talk
15 specifically about your role in the townhouse reform
16 legislation at issue and the SEPA appeal.

17 Did Mr. Staley ask you to assist him in his environmental
18 review of the townhouse reform legislation by gathering
19 permit documents?

20 A. He did.

21 Q. Do you recall what his request was to you?

22 A. Not specifically, no. But (inaudible).

23 Q. Did you hear Mr. Staley's earlier testimony?

24 A. I did.

25 HEARING EXAMINER: Can you speak a little bit louder,

1 Ms. Pettyjohn? I'm hearing you, but it's --

2 THE WITNESS: Oh, sorry.

3 HEARING EXAMINER: Yeah. Just for the recording.

4 THE WITNESS: Is this better?

5 HEARING EXAMINER: Yeah. That is. Thank you.

6 Q. (By Mr. Mitchell) And did you get other permit documents for
7 Mr. Staley?

8 A. I did.

9 Q. And did you provide them to him?

10 A. I did.

11 Q. And did you provide any other assistance to Mr. Staley or
12 have any other role related to the environmental review of
13 the townhouse reform legislation, other than gathering and
14 providing those permits to Mr. Staley?

15 A. I did not.

16 Q. And you did not do any analysis of those permit documents
17 that you gathered; is that correct?

18 A. That's correct.

19 Q. And you said you heard Mr. Staley's testimony. Do you agree
20 with the way Mr. Staley described your involvement as
21 limited to gathering the permit documents?

22 A. I do.

23 MR. MITCHELL: Well, thank you. I don't have any further
24 questions.

25 HEARING EXAMINER: Okay. Mr. Moehring?

1 MR. MOEHRING: Thank you. No, I don't have any questions,
2 either.

3 HEARING EXAMINER: Okay.

4 MR. MOEHRING: I apologize. From the discovery
5 interrogatories, (inaudible) as if Ms. Pettyjohn had more
6 involvement. So sorry about that.

7 HEARING EXAMINER: Okay. Well, thank you, Ms. Pettyjohn,
8 for your testimony this afternoon. You are dismissed.

9 THE WITNESS: Okay.

10 MR. MITCHELL: Oh, and Your Honor.

11 HEARING EXAMINER: Yes.

12 MR. MITCHELL: Can I actually ask a question?

13 HEARING EXAMINER: Yes.

14 MR. MITCHELL: Because I forgot to ask for Mr. Welch as
15 well.

16 But starting with Mr. Welch and Ms. Pettyjohn, they were
17 both part of the witnesses that were subpoenaed. Now
18 that -- can we make clear that, I guess their subpoena
19 duties are complete?

20 HEARING EXAMINER: I believe so.

21 Any comment on that, Mr. Moehring?

22 MR. MOEHRING: I agree.

23 HEARING EXAMINER: Okay. So yes. To clarify,
24 Ms. Pettyjohn and Mr. Welch are both dismissed for the
25 duration of the appeal.

1 MR. MITCHELL: Thank you.

2 HEARING EXAMINER: Okay. And then I guess the next
3 witness would be Ms. Neuman; is that correct?

4 MR. MITCHELL: It is, yes.

5 HEARING EXAMINER: All right.

6 MR. MITCHELL: And I thought we have a little time left.
7 I can certainly call her. I think that I probably will be
8 complete with direct examination before 5:00, if that timing
9 works for the Hearing Examiner.

10 HEARING EXAMINER: Okay. Yeah. Why don't we go ahead
11 then. Typically -- I didn't mention in the morning -- but
12 yeah, typically we'll go to 5:00. I don't go past that.

13 So, but yeah, if we've got time to get her in, we might as
14 well if she's available.

15 MR. MITCHELL: We agree.

16 HEARING EXAMINER: Ms. Neuman, do we have you?

17 THE WITNESS: I am here.

18 HEARING EXAMINER: Good afternoon, Ms. Neuman. Can you
19 just state your name for the record.

20 THE WITNESS: Megan Neuman.

21 HEARING EXAMINER: And do you swear or affirm to tell the
22 truth, under penalty of perjury under the laws of the state
23 of Washington?

24 THE WITNESS: I do.

25 HEARING EXAMINER: Thank you.

1 MEGAN NEUMAN, having first been duly sworn,
2 was examined and testified
3 as follows:
4

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

6 BY MR. MITCHELL:

7 Q. Good afternoon, Ms. Neuman. Will you go ahead and spell
8 your first and last name for the record?

9 A. Megan, M-E-G-A-N; Neuman (inaudible).

10 HEARING EXAMINER: Your connection is not -- it looks like
11 a little slow.

12 MR. MITCHELL: The connection is dragging a little bit.

13 HEARING EXAMINER: Yeah. I'm wondering -- Ms. Neuman, I'm
14 wondering if we can turn your video off, if that will help
15 with that.

16 THE WITNESS: (Inaudible).

17 Q. (By Mr. Mitchell) Can you go ahead and --

18 THE WITNESS: (Inaudible) better now?

19 HEARING EXAMINER: Yeah. The sound --

20 MR. MITCHELL: Definitely.

21 HEARING EXAMINER: Yeah.

22 Q. (By Mr. Mitchell) Can you go ahead and spell your first and
23 last name again for the record?

24 A. Yes. Megan, M-E-G-A-N; Neuman, N-E-U-M-A-N.

25 Q. Great. Thank you. And do you work in the Seattle

1 Department of Construction and Inspections?

2 A. I do.

3 Q. And what is your job title at SDCI? I'll refer to that
4 department by its acronym, SDCI, from here on out.

5 A. I am the land use policy and technical teams manager.

6 Q. And is that in the land use policy and technical team with
7 SDCI?

8 A. Yes. I manage several teams that make up the land use
9 policy and technical teams.

10 Q. Okay. And do you have a shorthand way that you describe
11 that team?

12 A. POTECH.

13 Q. POTECH?

14 A. (Inaudible).

15 Q. Thank you. And how long have you been working in that role?

16 A. I have been in this role just over a year.

17 Q. And so can you generally describe the work of the POTECH
18 team that you manage?

19 A. Yes. The policy and technical teams are several (inaudible)
20 groups in the land use division, and we are technical
21 reviewers and experts in the land use code and land use
22 regulated ordinances.

23 Some of us perform duties such as formal code
24 interpretations, written opinion letters to help guide
25 applicants and staff with project-related decisions; and we

1 also assist in code development efforts to provide a code
2 manning perspective and to be ready for implementation. So
3 if new codes have any impact in our business roles, our
4 technology, we're ready to implement when the time comes.

5 Q. Great. Thank you. And did you work at SDCI prior to your
6 current role managing the POTECH team?

7 A. Yes. I've worked at SDCI since 20- (inaudible).

8 Q. I'm sorry. Did you say --

9 A. Yes, I did.

10 Q. -- 2014?

11 A. Yes.

12 Q. Okay.

13 A. So I started as a land use planner on the zoning team,
14 eventually became a technical expert on POTECH team that I
15 now manage.

16 Q. Thank you. Can you briefly describe your education,
17 starting with your undergraduate studies?

18 A. Yes. I received a bachelor's degree in architecture with a
19 minor in urban studies from Washington University in
20 St. Louis, and I have a master's degree in urban planning
21 and policy from the University of Illinois at Chicago.

22 Q. Great. And did you begin working for SDCI out of college,
23 or do you have any work experience that you'd like to talk
24 about between college and working for SDCI?

25 A. I did not start working at SDCI right out of college. After

1 college I worked at an urban design firm in St. Louis
2 primarily doing streetscapes design, and parks and open
3 space master planning for local municipalities.

4 Immediately prior to coming to Seattle I was the city
5 planner for city of (inaudible).

6 HEARING EXAMINER: Can you repeat that? We missed that.

7 A. That was about eight years. And current planning duties --

8 HEARING EXAMINER: Ms. Neuman, if you --

9 THE WITNESS: So sorry. Is the connection still bad?

10 HEARING EXAMINER: Yeah. Just if you can repeat the last
11 two sentences, I think we'll be fine. Just you did some
12 landscape work for municipalities, and then after that was
13 when it broke up.

14 A. Sure. So immediately prior to coming to Seattle I worked as
15 the city planner for the City of Lake Forest, Illinois. I
16 was in that position for eight years. And I engaged in both
17 long-range planning efforts and current planning duties such
18 as zoning review and permits, design review, and historic
19 preservation.

20 Q. Thank you. And did Mr. Staley consult with you and the
21 POTECH team asking for your review and feedback regarding
22 the townhouse reform legislation proposal?

23 A. Yes. Mr. Staley shared the draft legislation with me, and
24 my team and I provided feedback.

25 Q. And is that common between OPCD and SDCI that, if they're

1 working on a legislative proposal, that there would be
2 coordination between your departments?

3 A. Yes. When the legislative proposal is related to land use,
4 that is common practice.

5 Q. Okay. So I'm going to go ahead. This is not one of the
6 City's exhibits, but I'm going to show you something for
7 illustrative purposes. It was part of the City's discovery
8 response. And I'll share here, which is an email thread,
9 and I'm going to scroll to the bottom.

10 This was -- what this looks to be an email from you to
11 Bradley Wilburn dated January 29, 2020. Could you
12 identify -- I guess who is Bradley Wilburn and maybe some of
13 the other people that were cc'd on the email?

14 A. Bradley Wilburn is the zoning team manager. And the SCI
15 underscore land use POTECH team is the group of planners who
16 assist with this type of co-developmental liaison work. And
17 Stephanie Haines and Janet Oslund are other land use
18 managers in the (inaudible).

19 Q. Great.

20 A. I can -- I can name the people in the POTECH group if that's
21 relevant.

22 Q. Sure. Why not ?

23 A. That email goes to Dave VanSike, Emily Lofstedt, Travis
24 Saunders, and David Graves.

25 Q. Great. Thank you. And can you describe the email exchange

1 that you had with Bradley Wilburn, but also to all the other
2 people that were cc'd?

3 A. Yes. When we are made aware of any draft legislation, I
4 often will send it out to our land use managers as well as
5 my POTECH team.

6 In this case I describe the legislation as a small change.
7 And I can just read that if that's okay. A small change to
8 the --

9 Q. Sure.

10 A. -- density limit for townhouse development and LR1 zones.
11 And I also stated that the end goal is to make it possible
12 to have the same density on one lot as you would if you
13 subdivided and built rowhouses on the front and townhouses
14 behind.

15 Q. Okay. Thank you. And then you were asking for all of those
16 folks that were -- Bradley and the other people who cc'd to
17 review and provide you with any sort of concerns or
18 feedback?

19 A. Yes.

20 Q. And you received a response from this email thread from
21 Bradley Wilburn. And what was his response that was -- came
22 in on, I guess February 5th, 2020?

23 A. Bradley had no concerns for the proposed legislation. And
24 his team would be the one implementing the language and most
25 familiar with that section.

1 Q. Great. And then at the end of the thread on April 10th,
2 2020, you wrote back to Brennan. And what did you let
3 Brennan know in this email thread?

4 A. That the POTECH team and the zoning manager both reviewed
5 the legislation and didn't have any comments. I also
6 indicated that he and I had had a discussion around what to
7 do when there's different density limits.

8 And as I understand it, that was ultimately included -- a
9 resolution to that was included in the draft legislation.

10 Q. Yes. Thank you.

11 A. (Inaudible) mentioned that.

12 Q. He did. And I think that's section one of the proposed
13 (inaudible).

14 MR. MITCHELL: Right. I'm going to stop sharing that.

15 Q. (By Mr. Mitchell) And so did you hear Mr. Staley's testimony
16 about the legislative proposal earlier today?

17 A. I did.

18 Q. And do you --

19 A. I may have missed about ten minutes of it.

20 Q. Okay. I appreciate that.

21 Do you agree with Mr. Staley that this code change which
22 he described in that -- in that email as a small change to
23 the density level in LR1 zones was minor, and would not have
24 a substantial increase to the current development capacity?

25 A. Yes, I agree with that.

1 Q. And is that because you agree with Mr. Staley that this is
2 already sort of a common development technique -- I'm going
3 to use that term again because it's just a term that I'm
4 using for this purpose -- used by the development community
5 on interior lots in the LR1 zone to achieve a -- basically a
6 similar density level of -- of the one dwelling unit per
7 1150 square feet that's being proposed in the proposal
8 through lot segregation or lot boundary adjustment process?

9 Sorry. That was a mouthful.

10 A. I think I understood where you're going with it. So the
11 changes to the density limit would allow for similar
12 capacity as could be achieved through other development
13 techniques.

14 So if somebody wanted a short plat, I think we talked
15 about that, or do a lot boundary adjustment, they would
16 achieve a similar density as (inaudible) under this
17 proposal.

18 Q. Okay. And you agree that the -- that development -- that
19 lot segregation or lot boundary adjustment is consistent
20 with the land use code, you know, particularly Chapters
21 23.24, which is the short plat, Chapter 23.28, the lot
22 boundary adjustment chapters; is that correct?

23 A. Yes. We would have to review every application according to
24 those standards for compliance with the code.

25 Q. Yes. And do you agree with Mr. Staley's assessment that the

1 proposal would likely have an effect of at least some cases
2 changing -- the developers would choose not to go through
3 the -- that process of lot segregation or lot boundary
4 adjustment, which would essentially remove complexity in
5 SDCI's permit review process --

6 A. (Inaudible).

7 Q. -- by not having -- sorry. Go ahead. Yes.

8 A. Any -- any time you only have one permit needed to achieve
9 development, it becomes less complicated than when you have
10 to have a master use permit associated with it. Short plats
11 and LBAs that -- sorry, lot boundary adjustments can add
12 anywhere from two to four months to the time -- timeline for
13 a project. They can cost applicants several thousands of
14 dollars.

15 So for projects where this is relevant and it makes sense
16 for them to not segregate the -- the land, this would
17 definitely reduce process for those projects.

18 Q. Well, is there anything else at this time that you wanted to
19 add that I haven't asked regarding your involvement in this
20 environment review process for the townhouse reform
21 legislation?

22 A. No, I have nothing additional to add. Thank you.

23 MR. MITCHELL: All right. Well, thank you, Ms. Neuman. I
24 don't have any further questions.

25 HEARING EXAMINER: Okay. Mr. Moehring, do you have any

1 questions?

2 MR. MOEHRING: Yes, I do.

3

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

5 BY MR. MOEHRING:

6 Q. Hello, Ms. Neuman. How are you?

7 A. I'm doing well. Thank you.

8 Q. Good. I know you were listening to some of the testimony
9 earlier, and there's questions I think that were brought up
10 to Mr. Staley and Mr. Wentlandt that I think they deferred
11 to department of construction representative because it may
12 involve some questions on the code. So I was wondering if I
13 could ask you a few questions on that.

14 MR. MOEHRING: Mr. Mitchell, I was wondering if you could
15 also pop up that illustrative exhibit that you had on the
16 screen.

17 MR. MITCHELL: I will. Let me find that.

18 Q. (By Mr. Moehring) Not for the purposes of entering it into
19 the record, but at least to ask you another question that I
20 had asked previously to Mr. Wentlandt. And --

21 MR. MITCHELL: I'm sorry. I'm having some trouble with
22 that right now. Hold on one second.

23 Q. (By Mr. Moehring) As Mr. Mitchell is pulling that up,
24 (inaudible) are you familiar with the proposed legislation
25 that -- I see in this email correspondence you had a link.

1 Did you help write the legislation, or you were forwarding
2 the proposed legislation around for comment?

3 A. The latter.

4 Q. Okay. And --

5 A. Brennan forwarded me the draft, and I forwarded it on to my
6 colleagues.

7 Q. Okay. And if possible, would you mind reading the paragraph
8 two of the email that you sent to Brennan, where it says,
9 Sorry if.

10 A. Sure. Hi, Brennan. Sorry if I didn't loop back with you on
11 this one. POTECH and the zoning manager reviewed and didn't
12 have any comments. You and I discussed the one issue around
13 what to do when different density limits apply, and I
14 believe you were going to sort that out in the proposal.
15 But if we don't see it there, we can do it through an
16 omnibus. Best (inaudible).

17 Q. Thank you. And what was that difference that you had
18 discussed?

19 A. My recollection is that there was an inadvertent deletion of
20 how to handle standards when different density limits apply
21 in a previous build. And so the comment here was, you know,
22 is this a space where we could add that back in?

23 Q. Okay. Was there at one point a review of or a proposal to
24 make this change to this legislation as an omnibus?

25 A. I think -- I believe this was our first suggestion was, you

1 know, getting that language back into the code through this
2 bill.

3 Q. Okay.

4 A. But we (inaudible) that's where it would have been
5 appropriate as well.

6 Q. Okay. Sorry for cutting in there.

7 So you had mentioned at one time it was considered as an
8 omnibus?

9 A. It -- it would be eligible for that type of ordinance that
10 we put out annually since it was an inadvertent deletion in
11 a previous bill.

12 Q. Okay. What changed it from being an omnibus to the proposal
13 that it is right now with the SEPA DNS?

14 MR. MITCHELL: Your Honor, I guess I would --

15 A. The matter of timing.

16 MR. MITCHELL: I guess I would object because there seems
17 to be an implication in the question that an omnibus bill
18 would have something different than a DNS, which I think
19 omnibus bills would commonly also have the DNS involved
20 because they're just making clarifications and fixing that.
21 The purpose of --

22 HEARING EXAMINER: Could you --

23 MR. MITCHELL: -- an omnibus bill is normally -- would
24 normally not amount to a DS.

25 HEARING EXAMINER: Mr. Moehring, could you restate the

1 question?

2 MR. MOEHRING: Yes.

3 Q. (By Mr. Moehring) Ms. Neuman, do omnibuses in general, to
4 Mr. Mitchell's point, require any type of SEPA
5 determination?

6 A. Yes.

7 Q. And was there a point where this proposal was being
8 considered as an omnibus, but then determined that it
9 shouldn't be; it should be a public notice for a legislative
10 change?

11 MR. MITCHELL: And I'm sorry. Are you asking about the
12 proposal in its entirety, or are you asking about this one
13 issue that's being referred to in this email?

14 MR. MOEHRING: The proposal in its entirety.

15 HEARING EXAMINER: Can you restate the question? I'm
16 sorry. I don't think I followed what you were getting at.

17 MR. MOEHRING: Okay.

18 Q. (By Mr. Moehring) Was this proposal ever drafted as an
19 omnibus? The legislative change, was it proposed as an
20 omnibus at one point?

21 A. Not to my knowledge.

22 Q. Okay. All right.

23 MR. MOEHRING: You can stop sharing. Thank you,
24 Mr. Mitchell.

25 Q. (By Mr. Moehring) So I understand your background and

1 expertise is to do formal code interpretations; is that
2 correct?

3 A. The teams that I manage complete that work, yes.

4 Q. Were you asked to do any type of code interpretations for
5 the proposal for the Office of Planning and Community
6 Development on behalf of SDCI?

7 A. Formal code interpretations are (inaudible) identified in
8 the land use code. And no formal interpretations were
9 requested or completed for this proposal.

10 Q. And what was your role -- what was the Department of
11 Construction and Inspection's role with this proposal and
12 the -- and the drafted legislation?

13 A. We were consulted to offer current planning perspective, so
14 information on how existing codes are implemented,
15 communicate clarification for how the proposed codes be
16 implemented, and also to (inaudible) practices and
17 (inaudible) that would result from that legislation
18 (inaudible).

19 Q. Did the Office of Planning and Community Development also
20 ask for some examples of the development technique, as we
21 kind of calling, about using the lot subdivisions to have a
22 different level of density than what would otherwise be
23 allowed?

24 A. OPCD reviewed permit data that is held by SDCI in their
25 analysis, yes.

1 Q. What type of permit data did you provide -- or did the
2 Department of Construction and Inspections provide?

3 A. I believe Jennifer Pettyjohn provided a list of permits that
4 were (inaudible) for Brennan to go -- or I'm sorry,
5 Mr. Staley to go through and review site plans consistent
6 with what he shared earlier today.

7 Q. Okay. So Ms. Pettyjohn provided the list. Did they ask you
8 then the -- or I should say the Department of Construction
9 and Inspections to provide drawings of some of the projects
10 on that list?

11 A. All of the permit plan sets are available, and they had
12 access to them, yes.

13 Q. Okay.

14 A. They're publicly available.

15 MR. MOEHRING: If we could open up City Exhibit No. 7 --
16 or Hearing Examiner Exhibit No. 7. And this has been
17 testified on before. So this --

18 Q. (By Mr. Moehring) Do you recognize this document,
19 Ms. Neuman?

20 A. From earlier testimony, yes, I do.

21 Q. Okay. Other than that, you have not seen it before?

22 A. No.

23 Q. Do you know -- I guess you would not --

24 A. Not that I recall.

25 Q. You would not know then who prepared this document?

1 A. I don't know who prepared this document.

2 MR. MOEHRING: Okay. If we could open up Exhibit No. 8.
3 It has been presented before.

4 HEARING EXAMINER: And, Mr. Moehring, since we're closing
5 in on 5:00, I just want to get a sense on how many more
6 questions you have.

7 MR. MOEHRING: I'm going to say probably 15 to 20 minutes.

8 HEARING EXAMINER: Okay. What I'm thinking, why don't we
9 continue this questioning in the morning then, and we'll
10 kind of wrap up any little procedural issues that we need to
11 do, and then adjourn for the day, and continue tomorrow at
12 9:00 a.m.

13 Are the parties comfortable with that?

14 MR. MOEHRING: Yes.

15 MR. MITCHELL: Yes, Your Honor.

16 HEARING EXAMINER: Okay. I do have a question on
17 Ms. Ramos. I think she's the final witness, and she was the
18 one where there was an objection to calling her because she
19 was not involved in the SEPA review for this at all. She
20 had just prepared, I think an analysis from 2016 on tree
21 canopy within the city.

22 Do we still need to call Ms. Ramos?

23 MR. MOEHRING: Yes, Your Honor, if possible.

24 HEARING EXAMINER: Okay. And what did you need her for ?
25 I guess my concern is just because if she wasn't involved in

1 the SEPA review -- and I know I did rule on your motion and
2 went ahead and issued the SEPA, but I guess there's a
3 question in my mind on whether she would provide anything --
4 certainly nothing new.

5 I think there is -- we heard earlier on the tree canopy
6 information. I think that's your Exhibit 1. And I guess I
7 question -- there's just a question in my mind on that.

8 MR. MOEHRING: Sure. I think the relevance with her
9 testimony is that we have seen, as you saw, the Exhibit
10 No. 1, or our Exhibit No. 1 where the City left off in terms
11 of the tree assessment. And it is my understanding from
12 those records that Ms. Ramos was engaged by the Department
13 of Construction and Inspections and Office of Sustainability
14 and Environment to then take a closer look at what was
15 happening, including multifamily areas. And there really
16 has not been any code changes in the tree protection or
17 multifamily since then.

18 So what I'm trying to share is what her analysis kind of
19 entailed, and what are some of the recommendations that came
20 out of that analysis that could have been applied here.

21 MR. MITCHELL: And Ms. Ramos is prepared to appear and
22 give testimony, but I should just say that, you know, the
23 work that she did in 2016-17 was before MHA.

24 So I would disagree with Mr. Moehring's account that the
25 work that she did was sort of under the current existing

1 regulations, because they changed with the MHA
2 implementation, which I think came after her -- the report
3 that she provided.

4 HEARING EXAMINER: Okay. Well, I guess for right now I
5 will continue to allow Ms. Ramos to testify tomorrow. I do
6 want to keep it tightly focused on what is relevant, and
7 there is a question in my mind of how much she can really
8 add to this matter, given that she did not work on the SEPA
9 issues.

10 By the way, Ms. Neuman, thank you for your testimony this
11 afternoon. I didn't completely conclude with you on that.
12 We'll see you at 9:00 a.m. in the morning.

13 Then we'll hear from Ms. Ramos, and then I think that will
14 be the City's witnesses. And then we'll move to the
15 remaining interests of the witnesses that the Appellants had
16 identified in their admitted witness and exhibit list. Is
17 that correct?

18 MR. MITCHELL: That's correct. I did my best to make up
19 the time that I took (inaudible).

20 HEARING EXAMINER: No. Thank you all -- thank you both
21 for coordinating on that. We did get through close to
22 everyone, so I do appreciate that coordination.

23 Are there any -- before we adjourn for this evening, are
24 there any other procedural issues that I need to address?

25 MR. MOEHRING: No, Your Honor.

1 HEARING EXAMINER: Okay.

2 MR. MITCHELL: None from the City.

3 HEARING EXAMINER: All right. Well, we will continue

4 Ms. Neuman's testimony in the morning then. But otherwise

5 we are adjourned. Thank you all.

6 MR. MOEHRING: Thank you.

7 MR. MITCHELL: Thank you.

8 AUTOMATED VOICE: Recording stopped.

9 (February 28, 2020, hearing concluded)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 C E R T I F I C A T E

2 STATE OF WASHINGTON)

3)

4 COUNTY OF KING)

5 I, the undersigned, do hereby certify under penalty

6 of perjury that the foregoing court proceedings or legal

7 recordings were transcribed under my direction as a certified

8 transcriptionist; and that the transcript is true and accurate to

9 the best of my knowledge and ability, including changes, if any,

10 made by the trial judge reviewing the transcript; that I received

11 the electronic recording in the proprietary court format; that I

12 am not a relative or employee of any attorney or counsel employed

13 by the parties hereto, nor financially interested in its outcome.

14 IN WITNESS WHEREOF, I have hereunto set my hand this

15 11th day of March, 2022.

16

17

18 *Cynthia Allen*

19 s/ Cynthia M. Allen, RMR, CRR, CRC

20 Reed Jackson Watkins, LLC

21 800 Fifth Avenue, Suite 101-183

22 Seattle, Washington 98104

23 Telephone: (206) 624-3005

24 E-mail: info@rjwtranscripts.com

25