

Deputy Hearing Examiner Susan Drummond

BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of:

Hearing Examiner File:

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

W-21-007

APPELLANTS' POST-HEARING
BRIEF

I. INTRODUCTION

The Office of Planning and Community Development (hereafter the "Department" or "OPCD"), has proposed Townhouse and citywide residential parking reforms (hereafter the "Proposal") based on an assumption these were 'minor adjustments' in density and land-use with resulting insignificant environmental impacts. The determination that the changes were minor was based on "qualitative" assumptions rather than any quantitative data or further analysis. Hearings conducted February 28 to March 2, 2022 revealed that OPCD staff witness Brennon Staley – who authored the Proposal, which was then corroborated by OPCD peer staff Geoff Wendlandt who issued the Determination of Nonsignificance ("DNS") – was dismissive to the need for quantitative assessment to establish the level of significance of the Proposal's citywide cumulative impacts to multifamily zones. The failure to adequately analyze and quantify impacts to tree canopy, stormwater infrastructure, and cumulative impacts of both caused OPCD to minimize and overlook environmental impacts testified to by TEIR/GET witnesses and evident in the exhibits provided... Mr. Staley testified that this citywide 'non-project action' includes "908 Acres (of LR1-zoned

1 land) specifically located on interior lots that could be affected by proposed changes in the density
2 limit regulations”¹ ; and continued that these low-rise multifamily zones currently include an
3 approximate average of “22 to 23 percent canopy cover”. Assuming a liberal estimate of just
4 twenty percent existing canopy cover for Seattle’s multifamily zones, Mr. Staley testified the
5 equivalent tree canopy land area of “180 acres” (which is roughly a wooded area of forty city
6 blocks) will be impacted by forthcoming development within LR1 zones, yet the environmental
7 impacts to the Proposal remain unstudied by the Department. Despite the known and testified
8 environmental services and health benefits of the urban forest canopy cover in Seattle, and despite
9 the 2035 Seattle Comprehensive Plan that sets the goal of at least twenty percent canopy cover
10 within multifamily areas, Mr. Staley deemed that if the targeted tree canopy goals could not be
11 achieved within multifamily zones as identified in the 2016 Tree Canopy Assessment (Examiner
12 Exhibit 40), the citywide goals could be achieved “by having higher canopy cover in other areas
13 [of the City]”.² With this suggestion, Mr. Staley continued that “this Proposal did not study how
14 [the City] would reach a city-wide tree canopy cover goal if the canopy cover in multifamily
15 [zones] was something different than what it is.”

16 These facts alone – drawn entirely on testimony from and exhibits created by City staff and
17 witnesses – are determinative. They establish that the Proposal is “reasonably likely” to have a
18 “more than moderate” impact on environmental elements including water runoff (stormwater),
19 utilities, plants, animal habitats, environmental health, aesthetics, and light and glare. The testified
20 “incremental impacts” will indeed have ‘probable significant adverse’ effects on the environment³.

22 ¹ Day 1, Zoom recording from 3 hours, 33 minutes to 3 hours Part 3; from Page 18 of the SEPA Checklist (Exhibit 3)

23 ² Zoom recording for Day 1 at 3 hours and 37 minutes. Referencing tree canopy cover goals identified on page 2 of Examiner Exhibit 40, the Seattle 2016 Canopy Cover Assessment Final Report.

³ Reference SMC 25.05.360.A; SMC 25.05.782; SMC 25.05.794.A

1 This and subsequent testimony allows the Examiner to easily conclude that issuance of the DNS
2 with only OPCD “qualitative” peer review was clearly erroneous. The pro se co-appellants
3 TreePAC Environmental Impact Review (“TEIR”) and Greenwood Exceptional Trees (“GET”)
4 therefore request that the Examiner reverse the DNS and remand it to the Department with
5 directions to fully study and disclose the significant adverse impacts.

6 II. APPEAL PROCEEDINGS

7 Based on pre-hearing order⁴, the appellant’s appeal issues A, B, D, F, K (except challenges to the
8 timing), I, J, and partially L were eligible to be heard in the hearings set for February 28 and March
9 2, 2022. Specifically, these issues include: A. Increased lot coverage resulting from more
10 unstacked townhouse units; B. Decreased area for tree canopy⁵; D. Transportation Access relative
11 to required on-site parking spaces; F. Increased city infrastructure demands for stormwater and
12 sanitary; K. Failure to adequately consider the public interests; and L. Failure to adequately
13 consider SEPA cumulative impacts arguments for the challenged proposal⁶.

14 The appellants examined five (5) city staff witnesses including Brennon Staley, Office of
15 Planning and Community Development (OPCD), representing the Director of the OPCD (hereafter
16 ‘Department; Geoff Wentlandt (OPCD) for SEPA Compliance; Nick Welch (OPCD) for GIS data;
17 Megan Neuman of the Seattle Department of Construction and Inspections (hereafter SDCI); and

18 ⁴ Order entered February 8, 2022, the Department’s partial dismissal motion is granted for Issues C, E, G, H, K (to the
19 extent Issue K challenges SEPA decision timing), and L were dismissed. Issues C(a)-(c) that raised economic
20 displacement and environmental justice issues were ruled not to be environmental elements requiring SEPA analysis
21 or that raised policy questions not identified with significant SEPA impact warranting further analysis. Similarly with
22 Issue E, the Appellants raised concerns with the OPCD proposal being able to provide access to diverse and fair
23 housing. Although we may not agree with the policy choices in the code revision proposal, the Examiner noted that
they cannot review matters that determine how the code should be designed to allow for fair housing development
within a SEPA appeal.

⁵ Includes Dr.. Wolf ‘s testimony on the issues of tree inequity within the city and the resulting environmental injustice
within Seattle’s underserved multifamily neighborhoods.

⁶ In terms of Cumulative Impacts, Issue L, the appellants acknowledge the pre-hearing Order that the Examiner cannot
address legislation adopted in 2019 relative to the MHA and AADU/DADU 2019 legislation impacts, including its
interpretation, application, effectiveness, or environmental review.

1 a former lead in Seattle tree canopy research including multifamily zones, J. Faith Ramos
2 (formerly for the Department and SDCI, and currently an Advisor within Seattle's Information
3 Technology department). In addition, we called OPCD's Jennifer Pettyjohn based on the response
4 to interrogatory number 1⁷ who testified that her role was very limited to the matters of the appeal.
5 The appellants also called nine (9) witnesses (eight expert and one lay-witness) including William
6 Lider, Stormwater and Infrastructure Engineer; Brian Derdowski, experienced in SEPA and
7 Environmental Policy; Martin Kaplan, an architect/developer and former Seattle Planning
8 Commissioner; Kathleen Wolf, PhD, UW environmental sciences researcher; Richard Ellison,
9 adjunct professor in botany, general biology, environmental science, geology and general science;
10 Woodrow Wheeler, conservationist and naturalist wildlife guide; David Moehring, architect and
11 member of Seattle Urban Forestry Commission; Michael Oxman, Arborist; and Suzanne Grant,
12 exceptional tree and nature advocate with direct experience in project-specific SEPA DNS.

13 III. FACTS

14 Brennon Staley of OPCD testified to the following: While "Green Factor" is an available tool
15 for developers to use to select types of plantings to install on the grounds of completed projects
16 "...they [in using green factor] are not mandated that you have to do trees." Mr. Staley testified
17 that he obtained GIS information from Mr. Welch regarding the total number of potentially
18 developable parcels. Mr. Staley testified that certain types and locations of parcels require parking,
19 and "...it is certainly possible that if you had more parking spaces that that could take up a space
20 that might have otherwise have been a tree planting area." Staley testified that "we did not do that
21

22 _____
23 ⁷ Interrogatory Number 1 was for the Department to "Identify each person and contact information from the Seattle Office of Planning and Community Development and persons from city agencies and external consultants that were engaged to provide information for the OPCD that contributed analysis that lead to the DNS."

1 assessment" as to how many potential developments identified in the GIS dataset would require
2 parking.

3 When asked if he had studied the issue of parking, Mr. Staley responded, "in a qualitative
4 manner, yes." "We looked at permits and see what's coming in. We also did work on green factor
5 in the past to understand how it's playing out on sites." But he said, "this is not a separate study
6 that had its own documentation....it was not a standalone analysis of study." H.E. Exhibit 7
7 includes a sample list of non-corner projects with higher density did not address parking count,
8 height, bulk, and scale, and other issues required in the SEPA process such as the quantity of trees
9 retained, removed, or replanted (H.E. Exhibits #7 verses # 19).

10 Relevant to the appellants' claim that an EIS should have been performed, Mr. Staley testified
11 that "To my knowledge, we have not done an analysis of the existing [tree protection] rules and
12 their effectiveness in that period following MHA [legislation]⁸."

13 Although asked to provide City GIS data for the location of LR1 properties and site properties
14 including Environmentally Critical Areas (ECA) all available from the Seattle interactive GIS
15 map, Nick Welch (OPCD) testified that he was not asked to provide the canopy cover information
16 that is also available from that same source⁹. Mr. Welch testified that he did not know that
17 information by property was available. Consequently, a quantitative assessment to the impact on
18 tree canopy was overlooked or perhaps considered irrelevant as a 'non-project action'.

19 Not only did the Proposal overlook impacts resulting from reduced canopy cover, they also
20 neglected to consider the incremental increases in parking, additional trash containers, and
21

22 ⁸ As testified, the MHA EIS relied on execution of Mayor Burgess's 2017 Executive Order.

23 ⁹ <http://seattlecitygis.maps.arcgis.com/apps/webappviewer/index.html?id=f822b2c6498c4163b0cf908e2241e9c2> An example of the canopy cover is shown in the pages 25-26 of the appeal notice. To find the data, zoom into 1"=200' scale (or closer), click on property, and then '[Click for more property info...](#)' to reveal the estimated Tree Canopy Coverage (2016) per property.

1 additional nonpermeable surfaces for access and vehicular maneuvering. Megan Neuman of SDCI
2 testified that almost all of the core document examples from January 10, 2022¹⁰ as listed within
3 HE Exhibit No. 7 “List of Example Projects Achieving Higher Density Through Subdivision” and
4 subsequent one-page site plan Exhibits 8 through 13 are missing critical information to assess the
5 potential SEPA environmental impacts quantified within Seattle Municipal Code Title 25 (HE
6 Exh. 19) including plants, animals, and stormwater. The ‘parent’ lots with rowhouses simply did
7 not have the physical space for the associated parking or permeable planting areas of sufficient
8 size.

9 The City’s tree assessment studies that we prepared and reported to SDCI and OPCD teams
10 between 2016 to 2017 led by J. Faith Ramos have been ignored. The research reports covered tree
11 canopy assessments within multifamily areas, and were sent to Mr. Staley¹¹. The presented
12 research included tree canopy clearing examples without space to replant canopy within rowhouse
13 development (HE Exhibit 28, page 14-15) includes a presentation caption stating “...a few
14 different plan views of a subdivided unit lot site with existing trees [removed]. These examples
15 are still better than many others I saw in our random sample.” The evidence of these environmental
16

17 ¹⁰ OPCD’S LIST OF CORE DOCUMENTS included, by exhibit number:

- 18 1. Proposal Summary of the Draft townhouse reform legislation
- 19 2. Draft townhouse reform legislation
- 20 3. SEPA Environmental Checklist
- 21 4. SEPA Determination of Non-Significance
- 22 5. Notice of SEPA Determination of Non-Significance
- 23 6. Townhouse Reform GIS Analysis Summary
7. List of Example Projects Achieving Higher Density Through Subdivision
8. Example Site Plan – 704 & 712 W Bertona Street
9. Example Site Plan – 5030 & 5036 Sand Point Place NE
10. Example Site Plan – 8322, 8236 & 8328 13th Ave NW
11. Example Site Plan – 1716 & 1718 27th Ave
12. Example Site Plan – 3236 & 3238 14th Ave NW
13. Example Site Plan – 3408 & 3412 34th Ave W
14. Notice of SEPA DNS posted in SEPA Register

¹¹ And others (H.E. Exhibits 28 and 29).

1 impacts within multifamily zones have been documented at least five years, but the Department
2 has only focused on how to achieve additional dwellings without consideration to the
3 environmental impacts.

4 Brian Derdowski testified regarding the failures of the Proposal to comply with Environmental
5 Policy SEPA and DNS regulations. He testified of his concern that SEPA Responsible Officials
6 have allowed Non-Project Action reviews to evade reasonable and appropriate review of
7 environmental impacts and referenced an example remanded by the Growth Management Hearings
8 Board for just that reason.¹² The ruling stated “While WAC 197-11-442(2) allows more flexibility
9 when considering non-project actions, that does not allow avoidance of environmental review
10 merely because there are no specific proposals under consideration. Non-project actions are not
11 exempt from adequate SEPA review. In fact, jurisdictions may not evade SEPA review by
12 deferring analysis until later stages of actual development.”

13 Dt. Kathy Wolf, professor and researcher at the University of Washington, testified that she
14 and her colleagues have both conducted and reviewed extensive research on the multiple benefits
15 and impacts of trees in the urban environment. She testified that “...the urban forest management
16 plans for the city of Seattle are premised on periodic canopy assessments, and these are done using
17 remote sensing technologies, then translation of those technologies, be it satellite data or be
18 LIDAR, which is a more localized kind of radar sensing approach, and from those assessments,
19 there is an interpretation of current canopy ratings or current canopy cover. And this is done across
20 the entire city. But it is also though done the most recent assessment considered sub zones or

21
22 ¹² The case was Olympians for Smart Development and Livable Neighborhoods vs. the City of Olympia in 2019.
23 Quoting from the Board’s decision: “While WAC 197-11-442(2) allows more flexibility when considering non-project
actions, that does not allow avoidance of environmental review merely because there are no specific proposals under
consideration. Non-project actions are not exempt from adequate SEPA review. In fact, jurisdictions may not evade
SEPA review by deferring analysis until later stages of actual development.”

1 neighborhoods across the city of Seattle.” (Day 2,1:28:34) Additionally, “... there are a number
2 of datasets, interpretive reports based on that data and then moving forward to ‘what do we do
3 with this’ management plans that reflect a very good and historic understanding of canopy in
4 Seattle, including concerns about loss. And that has to do, of course, with up-zoning and increased
5 density expression within the city. It is because of the extensive evidence of wellness benefit that
6 makes trees no longer just nice to have and just beautiful but profoundly important for the wellness
7 of humans and households and even entire communities.” (01:31:52)

8 Dr. Wolf continued, “What does this have to do with higher density residential settings? What
9 it suggests is that in the last 10 years in particular, we have begun to understand the importance of
10 ambient greening of nearby nature, of having immediate access, not going away from the city out
11 to the mountains or the ocean, vacation, staycation, whatever[...]. Spaces of quality that lend
12 themselves to these sorts of benefits, often not on a level of consciousness for a lot of people, but
13 the biomarkers in laboratory experiments reveal these things.”

14 “The notion of ecosystem services really would establish itself by the millennium ecosystem
15 assessment, which laid out this notion of ecosystem services and the value with their translation,
16 the economic value with regard to nature. Earlier those ecosystem services were assumed to be
17 provided by landscapes and ecosystems beyond the city. The urban area was seen as sort of, ‘well
18 that's the wasteland, you know it has fallen’, if you will. But ongoing research has demonstrated
19 that ecosystem services are extensive in cities, in part because of the proximity to thousands, if not
20 millions, of people and the cumulative benefit of what one tree or what a small grove of trees...they
21 provide [to] many people through a passive experience looking in, driving by, as well as active
22 experience, perhaps taking a walk, walking your dog, spending time there with your children and
23 so on.” (02:01:37)

1 Dr. Wolf testified that her colleagues at the University of Washington were directly involved
2 with development of the City's "Green Factor" plan. She testified, "My understanding of the
3 Green Factor system and the points [is that] it's an opportunity or extended an opportunity for those
4 who are doing a building plan or a site plan to have interchangeability or substitute ability of
5 various green elements. But I think initially that the green element emphasis was on building
6 function. It was building cooling, it was roof water capture, it was reduced heating and cooling
7 costs of the building. And what I would suggest is that in the time that has elapsed since the green
8 factor was initiated we have learned a lot more about the experience of nature that is the volume."

9 Finally, while looking at figures within 2016 Seattle Tree Canopy Assessment Exhibit #40,
10 Dr. Wolf testified, "So here we see a correlation with regard to not only heat expression, but the
11 possible consequence of climate change, where those dark red areas will grow, they will expand,
12 particularly if trees are removed, because we see that large trees in particular that unfolding canopy
13 over a large area is far more effective than small trees that are often planted as replacement after
14 construction because they're not (1) species that are selected to attain a large size, and (2) there's
15 not adequate planning of the space that large trees need to grow and attain that size, and that's not
16 only their space, but that is below ground root space. So while this image¹³ points out several
17 things, one is obviously the relationship of heat and tree canopy, it points out inequity across our
18 city, and it suggests the consequence of tree removal.... [02:29:13]"

19 Mr. Ellison, who has worked as an adjunct professor of biology for many years, testified to the
20 following: The City's detailed analysis of LR1 lot potentials could easily have included a tree
21 canopy analysis. All the information is readily available in the City GIS system. The City's six
22
23

¹³ Illustrative images of exhibit of rowhouses at 2300 W Emerson in Seattle

1 parcel examples, presumably representing good examples of LR1 development, could have had a
2 canopy analysis and quick site visit to support their DNS arguments, but there was none.
3 Additionally, the new LiDAR study being released summer 2022 would allow an easy opportunity
4 to evaluate current trends in canopy loss or gain by comparing to the 2016 LiDAR study, which
5 was very accurate. Google Earth also provides easy access to current aerial, street view, and
6 historical aerial photos, parcel by parcel. It is easy to unmistakably see green canopy and compare
7 green canopy before and after. The City's failure to make use of these tools was a major missed
8 opportunity to help minimize impacts and provide adequate mitigation.

9 On the SEPA plants list, the DNS checks off every item possible on the list, including
10 "pastures", "vineyards" and "orchards." If these were present, which is unlikely given that LR1 is
11 in an urban environment, their loss could be a significant negative impact, worth more study, not
12 a DNS. The fact that they are unlikely present indicates an apparent random approach to the SEPA
13 checklist. The Green Factor does not provide habitat for native wildlife. Newly planted street trees
14 in Seattle have a high mortality. The changes in LR1 are therefore important to study. Mr. Ellison
15 testified that Wildlife perform a lot of ecosystem services like eating bugs, mosquitoes, flies, and
16 worms to feed young in the spring and summer, and these wildlife require habitat to live. Without
17 adequate trees, we are eliminating the biological matrix. Several witnesses testified how trees have
18 many functions including supporting wildlife, shade, comfort, play, and aesthetics.. It appears that
19 the City is pursuing street trees and parks as the solution to canopy loss, but has provided no solid
20 documentation that street trees and parks can even minimally make up for that loss.

21 The Office of Planning and Development and Seattle Department of Construction and
22 Inspections are pursuing housing growth in lieu of being "a Leader of Environmental
23 Stewardship," as one of its four major comprehensive plan values. Woodrow Wheeler provided

1 substantiating testimony indicating the impacts to birds and wildlife. Architect and Arborist David
2 Moehring and Michael Oxman demonstrated the weaknesses in the core examples and that options
3 existed to provide both the density and healthy environments when design standards are identified,
4 such as increasing density only for sites with access to alleys and increasing setbacks when tree
5 canopy type planting is required. William Lider confirmed technically that the city street storm
6 water combined with sewer must be evaluated for increased capacity on a street by street basis
7 where additional density is proposed citing existing system failures and risks to salmon habitats.

8 IV. ARGUMENT

9 OPCD witness Brennon Staley testified to competing reviews of several SEPA elements prior to
10 issuing the Determination of Non-Significance (DNS) under the definition of SMC 25.05.774 -
11 Non-project actions. To the contrary, this Proposal will result in land use actions with multiple
12 measurable impacts on at least 908 acres of LR1 land area, as well as more acres of townhouse
13 and rowhouse developments within other zones. This proposal increases the number of rowhouses
14 and townhouses on a typical parcel without limiting the future use of lot segregation techniques or
15 adjusting development standards and conditions that address the likely and significant city-scale
16 environmental impacts.

17 SMC 25.05.340 establishes the basis of the Determination of nonsignificance (DNS) and
18 requires that a “responsible official determines there will be no probable significant adverse
19 environmental impacts from a proposal, the lead agency shall prepare and issue a determination of
20 nonsignificance (DNS) substantially in the form provided in WAC 197-11-970.” The threshold
21 determination must be based on “information reasonably sufficient to evaluate the environmental
22 impact of a proposal.” WAC 197-11-335; WAC 197-11-330; Anderson v. Pierce County, 86 Wn.
23 App. 290, 301(1997). See also Norway Hill Preservation and Protection Ass’n v. King County

1 Council, 87 Wn.2d 267, 276 (1976); Spokane County v. E. Wash. Growth Management Hr'gs Bd.,
2 176 Wn. App 555, 579, 309 P.3d 673 (2013), review denied 179 Wn. 2d 1015, 318 P.3d 279
3 (2014).

4 Further, the procedural requirements for a SEPA determination of the Proposal fail to be
5 sufficient. Washington courts have repeatedly articulated what this standard requires: "For the
6 MDNS to survive judicial scrutiny, the record must demonstrate that environmental factors were
7 considered in a manner sufficient to amount to prima facie compliance with the procedural
8 requirements of SEPA and that the decision to issue an MDNS was based on information sufficient
9 to evaluate the proposal's environmental impact." Wenatchee Sportsmen Ass'n v. Chelan County,
10 141 Wn.2d 169, 176 (2000) (citations omitted).

11 As testified by the witnesses¹⁴, the Department must take a realistic look at the potential
12 hazards with reasoned thought and analysis. Ultimately, the threshold determination "must indicate
13 that the agency has taken a searching, realistic look at the potential hazards and, with reasoned
14 thought and analysis, candidly and methodically addressed those concerns." Conservation
15 Northwest v. Okanogan County, 194 Wn. App. 1034, 2016 WL 3453666, *32 (2016).
16 (unpublished nonbinding authority per GR 14.1). Instead, the limited advisors to the effort
17 including just two OPCD staff and two SDCI staff have testified they collectively have not looked
18 in any searching way at the Proposal's impacts to the LR1 zones tree canopy and consequential
19 impacts, and relied instead on their qualitative assumptions and observations.

20 There is little to no record provided within the City's exhibits or interrogatory responses
21 that demonstrate the Proposal reviewers are knowledgeable of likely adverse environmental
22

23 ¹⁴ Including Martin Kaplan testimony of similar remanded city-wide SEPA DNS issued by the Office of Planning and
Community Development with Hearing Examiner File W-16-004, H.E. Exhibit # 34.

1 impacts that are rational and well documented. “SEPA seeks to ensure that environmental impacts
2 are considered and that decisions to proceed, even those completed with knowledge of likely
3 adverse environmental impacts, are ‘rational and well documented.’” *Columbia Riverkeeper v.*
4 *Port of Vancouver, USA*, 188 Wn.2d 80, 92, 392 P.3d 1025 (2017) (quoting 24 Wash. Practice:
5 *Environmental Law and Practice* § 17.1, at 192). This information must be adequate to demonstrate
6 that the agency has taken the requisite “hard look” at environmental impacts. *Pub. Util. Dist. No.*
7 *1 of Clark County*, 137 Wn. App 150, 158, 151 P.3d 1067 (2007). For the purpose of deciding
8 whether an EIS is required, the relevant information necessary to assess the project impacts must
9 be specified in the environmental checklist that is prepared and submitted with the application.
10 NMC 14.05.130. A threshold determination must ultimately be based on the information that is
11 provided in the environmental checklist and any additional information that is requested by the
12 responsible official beyond the checklist. WAC 197-11-335 and 197-11-350.

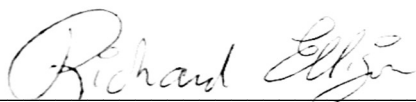
13 Accordingly, the appellants request that the Department shall withdraw the DNS given (a)
14 There are substantial changes in this proposal, as testified, proving that the proposal is likely to
15 have significant adverse environmental impacts; (b) there are significant forthcoming City-
16 generated information including a 2020 City Council resolution requiring ongoing tree inventory
17 and loss assessment and a 2022 update to the tree canopy cover assessment that will further
18 exacerbate the proposal's probable significant adverse environmental impacts, and minimum must
19 be reviewed prior to any further determination of significance; and (c) The DNS determination
20 failed to study or take into account the different degrees of environmental impact, and
21 incompletely examined the fourteen City Core Document of records listed within Exhibit No. 7
22 “List of Example Projects Achieving Higher Density Through Subdivision” and subsequent one-
23 page and woefully incomplete single page site plans Exhibits 8 through 13. These site examples –

1 resulting from a ‘development technique’ that could not be attributed to any explicit allowances or
2 exceptions of the Seattle Municipal Codes title 23 and title 25, were missing critical information
3 to assess the potential environmental impacts.

4 V. CONCLUSION

5 The City failed to take a hard look at environmental impacts under SEPA. Based on the evidence
6 at hearing, the Proposal will result in significant adverse consequences of land use plans to
7 estimated population, plants, and natural habitats; negative qualitative and quantitative impacts to
8 multifamily housing due to lack of trees; increased bulk and scale resulting from more unstacked
9 dwellings relative to lot area; reduced aesthetics; and reduced usable exterior amenity and
10 property-specific recreational uses. The impacts include reduced permeable lot coverage resulting
11 from increased number of unstacked townhouse units and resulting site provisions; adverse
12 impacts to health resulting from inadequate area for tree canopy as set forth by the 2035 Seattle
13 Comprehensive Plan; increased portion of the land area on each site to accommodate required or
14 provided on-site parking and emergency vehicle access and increased street-level infrastructure
15 demands for undersized combined stormwater and sanitary systems. The SEPA process, although
16 responsive to property investment interests, failed to adequately consider the public interests –
17 especially those in underserved multifamily communities. The SEPA checklist erroneously
18 categorized the proposal as a non-project action which fails to adequately consider the cumulative
19 impacts of the proposal. These impacts must be disclosed in an EIS that also considers mitigation
20 and alternatives. TreePAC Environmental Impact Review and Greenwood Exceptional Trees
21 respectfully asks the Examiner to reverse the Determination of Non-significance and remand to
22 the Office of Planning and Community Development with instructions to comply with SEPA and
23 for the preparation of an EIS consistent with this decision.

1 Signed this 16th day of March 2022 in Seattle, Washington.

2 

3 Richard Ellison, appellant pro se representative

4
5 **Certificate of Service**

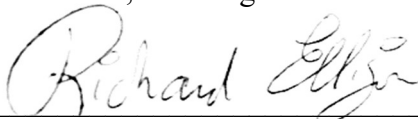
6 I certify that on this date, I electronically filed a copy of the foregoing document **APPELLANT'S**
7 **POST-HEARING BRIEF** with the Seattle Hearing Examiner using its e-filing system in the
8 matter of the Determination of Non-Significance issued by the Director, Office of Planning and
Community Development, Hearing Examiner File No. W-21-007. I also certify that on this date,
a copy of the same document was sent via email to the following parties:

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

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

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

16
17 I declare under the penalty of perjury under the laws of the State of Washington that the
18 foregoing statement is true and correct to the best of my knowledge and belief.
Signed this 16th day of March 2022 in Seattle, Washington.

19 

20 Richard Ellison, appellant pro se representative