

EXHIBIT A

**Verbatim Transcript of Proceedings
(From Audio Recording)**

In RE Livable Phinney
MUP 17-009 (DR, W)



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1 **the status of revenues and the overall financial health,**
2 **we are given a certain amount to invest when we are**
3 **growing.**

4 Q And -- and are you -- are you aware of any service change
5 recommendations that are made in this study related to
6 the Route 5?

7 A **I'm not the expert on that, but I am aware that at least**
8 **two trips were added to the Route 5 this March. And**
9 **reliability investments were identified -- again, I'm not**
10 **the expert. I don't know if those were actually made.**

11 Q That's okay.

12 A **If it happened.**

13 Q That's okay.

14 Do you know how the Route 5 is actually scheduled?

15 A **So Route 5 is designated as a frequent route. It is --**
16 **it's corridor --**

17 Q When you say "frequent route," what does that mean to
18 Metro? Because just so you know because you are -- you
19 are from Metro, there are different standards for the
20 City of Seattle. But what does -- what does frequent
21 mean for Metro?

22 A **Frequent means about every 15 minutes.**

23 Q Okay.

24 A **And the corridor on which Route 5 operates is actually**
25 **identified as a very frequent route, which means it has**

1 better than 15-minute headways during the peak period.
2 And so when Route 5, when combined with the 5 Express,
3 meets -- meets that standard.

4 In the off-peak period, basically the midday period,
5 it has headways of 15 minutes. And then in the -- the
6 afternoon peak period, in the peak direction, it has
7 headways better than 15 minutes. In the non-peak
8 direction, it has headways of 15 minutes. And that
9 extends into the evening hours.

10 So it roughly has 15-minute-or-better headways for
11 14 plus hours for Monday through Saturday. And then the
12 additional service beyond that is less than -- less than
13 15 minutes, and that extends to 18, 19 hours --

14 Q Okay.

15 A -- of the day.

16 Q Cool.

17 And what future investments is Metro making in the
18 future for Route 5?

19 A I am not aware of those right now off the top of my head.

20 Q Okay. Do you know if there is any intention -- does
21 Metro have any intentions for expanding the corridor?
22 Are you expanding service in this corridor or are you
23 aware of anything like that?

24 A I can say that our long-range plan identifies this
25 corridor as a frequent corridor.

1 MR. EUSTIS: Thank you.

2 Q (By Ms. Clawson) Sorry. Do you have anything more to
3 say about that?

4 A **No.**

5 Q Okay. So then from '91 to '99, you did -- I think you
6 said you did prepare analysis related to road -- big
7 road-widening projects?

8 A **I supervised the preparation.**

9 Q Great, great. Okay. I just wanted to understand.

10 But have you prepared a parking study for a
11 development in the city of Seattle ever before?

12 A **No.**

13 Q Okay. I just wanted to be clear about that.

14 And have you talked to any -- I didn't hear it in
15 your testimony, and so clarify for me, if you would, have
16 you spoken with anybody from the City of Seattle related
17 to this development and how parking studies are looked at
18 in the City of Seattle?

19 A **Well, there were three different instances when I gave
20 input to the City of Seattle.**

21 Q Okay.

22 A **One is I've been a member of the Phinney Ridge community
23 council parking committee. We provided two fairly
24 detailed comment letters to the City about this study.
25 So those are two instances where I provided input.**

1 The City also held a public meeting to talk about
2 non-design guideline issues. And under that situation,
3 they would allow citizens to come and testify to -- to
4 the issue in this case of parking for me. There were
5 other -- people testified to other different things.

6 And I testified -- well, I got up and spoke. I
7 don't know if the word testified is correct. But I got
8 up and spoke and repeated my concerns about the -- the
9 developer's parking study.

10 So there are three instances where I provided some
11 fairly -- I was either involved or I personally provided
12 input to the City of Seattle regarding my concerns.

13 Q So you provided input, public comment essentially, but
14 you never talked to any person who was reviewing parking
15 studies about whether, you know, what the City's view of
16 reasonable assumptions and parking studies are? You
17 never have received feedback back from the City?

18 A No.

19 Q Okay. I just wanted to be clear about that.

20 MR. EUSTIS: If we could, just for
21 reference, the Phinney Ridge community council parking
22 committee comments are set forth in the record in
23 appellant's list of proposed exhibits at 35 L and M. And
24 they would be included within, well, the documents he
25 reviewed and included within 35. I didn't touch upon

1 I just would feel that if I was DPD looking to protect
2 views in protected view corridors, that this would be
3 something I would question. And I would want to have a
4 better picture of what the actual impacts were.

5 Q Okay. Included in our exhibit list, we have three
6 documents: One is Exhibit 21, which is a view from the
7 Phinney condos; and Exhibit 22, another view; and 23 is
8 your view analysis using the applicant's CAD drawing.

9 So in terms of your testimony, what's the best order
10 for you to discuss these?

11 A Let's see. Let's go to the other one, Irene, the next
12 one.

13 Q So this would be Exhibit 21, which is shown on the
14 screen.

15 A This is fine. What this diagram -- this one was not
16 created -- this was not created for this use. This was,
17 I think, an iPad program, a photographing iPad program
18 showing an artificial horizon, showing angles, and from
19 the horizon down to the view from the top of the Phinney
20 building. And --

21 Q Ms. Wall has just put up Exhibit 22.

22 A And this one was taken by me with my iPad using a program
23 that creates an artificial horizon and then shows angles
24 downward. And I drew three lines. The top line shows
25 the angle at the far bank. The bottom line shows the --

1 roughly the angle at the near bank and that -- the total
2 angle as shown there is roughly one and a half degrees.

3 And if you draw a line at -- there's a third line in
4 the middle which is a half degree down that shows that if
5 you add only a half degree of view, you would have a
6 significant view of the far bank.

7 And what is clear -- I mean, I don't have survey
8 equipment or there are other tools to use to provide more
9 accurate measure angles, but this diagram shows the --
10 the angle at 1.5 to 3 degrees to the view, which I didn't
11 doctor it. It was straight from my iPad. It creates an
12 artificial level. I don't know how accurate it is.
13 Whereas -- which is a higher angle than is on the
14 applicant's proposal.

15 If that's true, then none of that view is blocked
16 because their proposal shows the view being blocked from
17 the view at 3 to 4.5 degrees. And this is going from,
18 basically, 1.5 to 3 degrees.

19 Now, I'm not representing any accuracy on here. I'm
20 just saying that there is -- this is a -- this view --
21 there's a very small amount of angle subtended. The
22 building proposal as submitted barely clips the view.
23 And if the angle was not correctly measured, that far
24 bank will be visible, and the view should be protected.

25 Q Okay. This -- you've addressed Exhibit 22. Let's see.

1 **A** If their data is correct, then the view is blocked. But
2 I think that the margin of error is such that I would
3 have no confidence in saying that with that specific
4 design, that the view is indeed blocked because the
5 measurements are so fine. And the value of the view is
6 so high that it's worth verifying.

7 **Q** Okay. So, in other words, the documentation that's
8 presented so far cannot support this statement?

9 **A** That's my opinion.

10 **Q** Okay. Thank you.

11 MR. EUSTIS: I would offer Exhibits
12 21, 22, 23, Mr. Bodsky's resume as 24.

13 EXAMINER: Any objections from the
14 City or the applicant?

15 MS. CLAWSON: No.

16 EXAMINER: All right. Exhibits 21
17 through 24 are admitted.

18 MR. EUSTIS: And that concludes my
19 examination of Mr. Bodsky.

20 Thank you for making yourself available.

21 MR. BODSKY: Thank you.

22 MR. DORCY: I have no questions.

23 MS. CLAWSON: I guess I just have a
24 couple.

25 ///

1 CROSS-EXAMINATION

2 BY MS. CLAWSON:

3 Q First, I wanted to say your Amtrak facility, I've been
4 inside of it, and I love it, so bravo. I love the window
5 placement. You can watch all the trains. I know that's
6 the point. It's great.

7 I just have one question. Did you do a view study
8 yourself? You've looked at ours. You are giving comment
9 and analysis of items like margin of error, but did you
10 do any independent view study yourself?

11 A **No, just that iPad diagram.**

12 Q Okay.

13 A **I would have to purchase equipment, which I don't have.**

14 Q Yeah.

15 A **So because the level of accuracy is -- I think would be**
16 **relatively high to prove the case, and you would have to**
17 **have some -- I would think some sort of photographic**
18 **proof to show that that accuracy was actually reflected**
19 **in a photograph that showed that subtended blockage.**

20 Q Okay. Good.

21 MS. CLAWSON: That's all I have.

22 Thank you.

23 THE WITNESS: Okay.

24 EXAMINER: I have a couple questions.

25 Can you bring up the one with the compass and the

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1 EXAMINER: I guess I'm confused. It
2 seems to me that the impact would be the loss of the
3 view. If the applicant is saying that that's happening,
4 and you are saying that they could be wrong about that,
5 and maybe they will get a view of the lake, I'm lost as
6 to where the impact is.

7 THE WITNESS: The impact is the
8 additional -- if this -- if this diagram is correct and
9 the view is indeed blocked, then the applicant is allowed
10 to raise the building an additional 4 feet and totally
11 block the view, whereas I think at this level without the
12 blockage and without that additional allowance, there is
13 the potential that the view is actually there within the
14 margin of error.

15 EXAMINER: Even with what they are
16 proposing?

17 THE WITNESS: Even with what they
18 are -- exactly per that view diagram within the margin of
19 error, that view may be there, the view of the far end of
20 the lake.

21 EXAMINER: Okay. It was the double
22 negative that I was having a hard time with.

23 THE WITNESS: Sorry.

24 EXAMINER: Can you show me the other
25 image again? I just -- I have a question about the --

1 Q Okay. And then I think are you aware of when the other
2 count was conducted? And if you don't know, that's okay.

3 **A The prior studies?**

4 Q Uh-huh.

5 **A They did one at midnight and another one, I believe,**
6 **midday.**

7 Q And when does the parking restriction end on Greenwood,
8 the things -- I guess the areas designated in blue?

9 **A It depends on the restriction. Typically one- and**
10 **two-hour restricted parking ends at, I believe, 6 p.m.**

11 Q Okay.

12 MS. CLAWSON: Okay. That's all I
13 have. Thank you.

14 EXAMINER: Any redirect?

15 MR. EUSTIS: If I may.

16 (Discussion off the record.)

17

18 MR. EUSTIS: Okay. Thank you. I have
19 no further questions for Mr. Richards.

20 EXAMINER: All right. Thank you,
21 Mr. Richards.

22 MR. EUSTIS: Thank you for making
23 yourself available.

24 Okay. Our next witness is Laura Reymore.

25

1 LAURA REYMORE, having been first duly sworn
2 by the Examiner, testified as
3 follows:

4

5 DIRECT EXAMINATION

6 BY MR. EUSTIS:

7 Q Your full name for the record, please?

8 A **Laura L. Paris Reymore.**

9 Q And where do you live?

10 A **I currently live at -- at -- on Mercer Island.**

11 Q Okay. But you have lived in the Phinney Ridge --

12 A **Yes.**

13 Q -- neighborhood?

14 A **I did live in the building from December through April.**

15 Q Okay. You refer to "the building." Which building are
16 you talking about?

17 A **6714 Greenwood Avenue North, which is a building that I
18 own and have owned for quite a number of years.**

19 Q All right. And is this the apartment building located
20 directly to the south of the --

21 A **Yes, yes.**

22 Q -- proposed project?

23 A **Yes, it is.**

24 Q Okay. And what is the nature of the use of that
25 building?

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14 That I am herewith securely sealing the said deposition
15 and promptly delivering the same to Jessica Clawson.

16 IN WITNESS WHEREOF, I have hereunto set my signature on
17 the 17th day of May, 2017.

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EXHIBIT B

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1 MS. KENDALL: Okay.

2 EXAMINER: Thank you.

3 MS. CLAWSON: And we would offer that.

4 MR. EUSTIS: No objection.

5 EXAMINER: Okay. Exhibit 49 is
6 admitted.

7 Q (By Ms. Clawson) Mr. Koltonowski, can you describe the
8 specific experience you have in the City of Seattle
9 preparing transportation and parking studies, please?

10 **A So I've been involved in those for the last 20, 25 years**
11 **down from the originally walking the streets and**
12 **measuring the inventory to counting the cars, to**
13 **analyzing utilization and projecting future trips, so for**
14 **over 20, 25 years. And have done recently, in probably**
15 **the last decade, at least been involved with at least 50**
16 **of those studies, transportation studies, which the**
17 **majority included parking, parking demand in the city of**
18 **Seattle, itself.**

19 Q Great. And your role in the project was -- the specific
20 project was?

21 **A Principal of the project.**

22 Q Okay. Great.

23 **A For traffic and parking.**

24 Q Okay. I'm going to hand you a few documents. Are
25 these --

1 day's testimony. They are at home.

2 And then we can actually count all the cars that are
3 there, and we do it two nights. Typically a Tuesday,
4 Wednesday or Thursday so -- because some people don't --
5 take off for Friday on the weekend or don't get back
6 until a Monday. We make sure it's not a holiday weekend.
7 That can actually influence it for days beyond. So we
8 then do those counts on those days and drive around with
9 two in the car and actually count every car that is out
10 there in the typical street frontages and parked on the
11 streets.

12 Q And in Exhibits 50 through 52, those counts are actually
13 included in your appendices?

14 A Correct. The counts are there, the measurements of the
15 street system and the calculation of available spaces.

16 Q And you were here for the testimony of Mr. Crippen
17 yesterday, correct?

18 A Correct.

19 Q And I think it was his testimony that he didn't call into
20 question any of those counts that you did in terms of,
21 you know, whether cars were there when you said they
22 were?

23 A No, I don't believe he did.

24 Q Okay. And so for this latest study in the Exhibit 52 in
25 October 28th, 2016, when did you do your parking count,

1 what hours of the day?

2 **A Those were primarily 6:00 to 7:00 p.m.**

3 Q Okay. And why did you do it during that time?

4 **A Again, we followed up with John Shonan (phonetic). I**
5 **can't remember if the actual correction notice identified**
6 **the time or we followed up as to that's when there's the**
7 **most parking challenges out there from the neighborhood**
8 **in terms of the restaurants still busy and more people**
9 **have come back from work. So that is that kind of**
10 **transition time. After that, the restaurants start to**
11 **dissipate. And before then, the residents aren't back on**
12 **the street yet. So that was determined to be the peak**
13 **parking challenged time out there.**

14 Q And that's different from the initial count that you did
15 in your November, 2015, study, Exhibit 50, correct?

16 **A Correct.**

17 Q And what was the time that you counted cars for that
18 study?

19 **A Well, the original study was at midnight, midnight to 1**
20 **o'clock, and this study was 6:00 to 7:00.**

21 Q So 6:00 to 7:00 was done in response to a correction
22 notice from the City?

23 **A Correct.**

24 Q Okay. So then after you figure out how many cars are
25 actually out there, what's the next step?

1 A The next step is doing that calculation as to how many
2 available spaces are still out there, and therefore we
3 come out with a percentage utilization for the existing
4 street system.

5 And then as indicated we get a list. We go through
6 and check with -- with the City what's pipelined,
7 pipeline being defined as those projects that are
8 actually programmed or in the City's system that an
9 application is in to the City and is likely to result in
10 either additional parking demand out there or taking away
11 frontage or taking away of different portions.

12 And, therefore, we add that in as pipeline into the
13 system just like in a traffic vehicular study where you
14 would look at what else is definitely happening out there
15 and add that into the system, add that and then add the
16 demand for our actual project. And we determine that
17 demand based on our experiences and Right Size Parking
18 for the development.

19 Q Okay. And so this project has commercial space and
20 residential space?

21 A Correct. It's an interesting project that went
22 through -- originally we were looking around replacing
23 just in kind the 4,000, but the latest site plans and
24 part of the checks is that --

25 Q When you say just replacing the 4,000, you mean --

1 **A The commercial.**

2 Q -- the commercial?

3 So there's 4,000 commercial square feet on the site
4 today?

5 **A Correct.**

6 Q Okay. And then so you were looking at, oh, we're just
7 going to replace same to same?

8 **A Uh-huh.**

9 Q And then --

10 **A Then it actually is smaller.**

11 Q Okay.

12 **A So it's going to have -- today there is arguably four
13 spaces in the back because they have --**

14 Q When you say on site in the back, there are four spaces
15 on site in the back, you mean on the site today
16 specially?

17 **A On the site today commercially in the back, they have a
18 deck, and they have dumpsters. And we've checked each
19 time, there's two to three cars potentially -- that are
20 parked in the back. There's probably four you could put
21 in the back. And so they are probably employees' cars.**

22 So the demand that commercial has today for 4,000
23 square feet, other than those three cars in the back, is
24 on the street system today at 6:00 to 7:00. So they are
25 already counted on the street system today of any

1 overflow demand when we do our parking count.

2 So the fact that it's actually getting smaller could
3 actually result in a reduction in cars on the street
4 system -- on the parked frontages today, but we didn't
5 take any reduction for that. And in fact, originally we
6 had done a calculation and included that as a potential,
7 you know, even additional demand because those four spots
8 in the back were going to be removed, but we had 4,000 to
9 4,000. Now it's actually about 700 square feet smaller
10 of commercial space is in this proposal.

11 Q Okay. So -- but the smaller commercial square footage,
12 did that show up in your initial traffic study or parking
13 and traffic study?

14 A No, it didn't.

15 Q Did it show up in the October 28th study?

16 A We made a site modification for it, but we were still
17 being conservative and including -- not taking any
18 reduction.

19 Q Okay. And so what was your demand presumed for
20 commercial?

21 A Let me make sure.

22 Q I don't mean number of stalls. I mean just the rate.

23 A Oh, we were using it at a 2.55, which is typical retail
24 per thousand square feet.

25 Q Okay. Great.

1 And then what was your assumed demand for
2 residential units in the October 28th study?

3 **A We were doing the .57 per unit, which was therefore 33**
4 **parking stalls for the residential.**

5 Q Great. And so I'm going to have you turn to Page, I
6 guess, A-3 because it's the third page of the appendix in
7 Exhibit 52.

8 **A Yes.**

9 Q And can you -- this is -- can you tell me what this is,
10 please?

11 **A So King County -- King County Metro has a program that is**
12 **a predictor based on over 240 studies, local studies in**
13 **King County, of apartment buildings and the parking where**
14 **it's unconstrained where the parking is the demand. So**
15 **it can be a local specific study, and the predictor, much**
16 **like the applicants -- the appellants talked about, you**
17 **know, commercially doing models to predict things in the**
18 **future, this predicts the parking demand in a much more**
19 **accurate way down to parcels in King County, Seattle.**

20 Q Okay. And so looking at Page A-3, what -- can you tell
21 me where the .57 comes from?

22 **A So the .57 comes from inputting -- there's several**
23 **units -- several inputs. First of all, the parcel**
24 **itself. So it's looking at the characteristics of that**
25 **area in terms of whether it's got the frequent transit,**

1 whether it's that character neighborhood. So a whole
2 bunch of inputs go in about the character of the
3 neighborhood. Then -- in just selecting the parcel.

4 And then what we put is the square footage, the
5 average square footage of the apartments. The larger
6 they are, they have an influence on how much parking
7 demand there is. We put the price of the units in.
8 Again, if they are significantly more expensive, then
9 they tend to have more parking demand. Number of
10 bedrooms or in this case whether it's studios or the type
11 of unit goes into this to determine the parking demand.

12 There is an option here for affordable units. And
13 even though these may classify in terms of size or cost,
14 they are not governmental affordable unit
15 classifications. So in this case we put zero. If there
16 was any, it really knocks it -- knocks it down
17 significantly, the parking count.

18 And then whether -- the way we've always used and
19 discussed it is whether it's bundled or unbundled. Is
20 there parking available to the unit in terms of its cost,
21 so how much would the parking cost.

22 And in this case, it's unbundled. It doesn't --
23 there is no parking that comes with the unit. So if you
24 had -- if you were paying for a unit, and you get a
25 parking spot as part of that, that's called bundled. If

1 you are not getting any parking with the unit, it's
2 called unbundled so...

3 Q And unpack bundled. I was very confused yesterday about
4 bundled. I think everybody understood that.

5 So unpack that for me a little bit. Why -- why does
6 the rate go up for bundled parking? Why does parking
7 demand go up if you have bundled parking?

8 A So if you've got a space of parking in the apartment
9 that's dedicated to you that you know you can park there
10 in a secured area at any time, you know, typically as an
11 apartment it's downstairs and under cover, and you can
12 come and go as you see fit and leave it, then that's
13 going to be an encouragement for to you have a car.
14 Whether you park it there all the time or whether you
15 drive it, it's an encouragement to have a car there.

16 Q So it's kind of like -- this is all kind of behavioral?

17 A Absolutely. And if you don't have any parking, then you
18 are going to have to go out and pay for it or you have to
19 circulate around to find a parking spot, and you don't
20 have a dedicated parking. It's being -- ever since I've
21 been a traffic engineer, there's been a connection
22 between easy, available parking and whether you have a
23 car or not.

24 Q Great.

25 There was testimony yesterday about the use of a .49

1 ratio for residential demand. Did you use .49?

2 **A Not for this update. We did it for the original, but**
3 **then as we updated the price to -- this process has been**
4 **going on for about two and a half years. So when we**
5 **updated the price for the last correction notice, that's**
6 **the .5. So Exhibit 52 is all based on the .57 parking**
7 **demand.**

8 Q Great.

9 And so what was the total parking demand then for
10 the entire project that you presumed?

11 **A We used at that time 36.**

12 Q Great.

13 So you've already said that you were here for the
14 testimony of Mr. Crippen here yesterday.

15 **A Yes.**

16 Q And I think, again, it was his testimony that he didn't
17 dispute the use of --

18 **A I'm sorry. I correct myself. 37.**

19 Q Okay. 37. Sorry. Okay. Great. 37.

20 But you were here for the testimony of Mr. Crippen?

21 **A Yes.**

22 Q And his testimony was that he didn't dispute the ratio
23 that you used to determine commercial demand, correct?

24 **A Correct.**

25 Q But he did have some questions about the use of your

1 residential demand, which I think he presumed at .49?

2 **A I think --**

3 Q In any event --

4 **A Yeah.**

5 Q -- he wanted us to be using a .8 --

6 **A Correct.**

7 Q -- I think he said over and over and over and over.

8 **A Yes.**

9 Q So you were here for that testimony?

10 **A Yes, I was.**

11 Q Okay. Do you have anything to say about that? Why did
12 you use .57 here?

13 **A As I said, we have a lot of experience doing parking
14 studies in the city. So we've seen a number of studies
15 where parking utilization and frequent transit are there,
16 then you get much lower rates than ITE for a start.**

17 **And all of those factors that go into right size are
18 very pertinent to this location, particularly the size of
19 the units.**

20 **We've also -- we've done a number of these units
21 before across the city, and we've got information from
22 the owners as to car ownership.**

23 Q We can get into that in a second.

24 **A Okay. And so based on your extensive experience of doing
25 parking studies, parking utilization and actually other**

1 **studies ourselves, this certainly seemed in the**
2 **appropriate, if not high, amount for this area for**
3 **apartments this size.**

4 Q Does ITE which I think Dr. -- or Mr. Crippen, sorry,
5 testified -- he kept citing to ITE. Does ITE say
6 anything about the use of local data?

7 **A Yes. Actually --**

8 Q That wasn't presented to us yesterday.

9 **A Right. It does encourage the use of local data,**
10 **particularly if it's showing that it's different than the**
11 **general surveys that are country-wide and don't take into**
12 **account many of the factors that right size does.**

13 Q So you would say that maybe -- sorry.

14 EXAMINER: If all the cell phones
15 could please be off.

16 MS. CLAWSON: Yeah.

17 Q (By Ms. Clawson) So -- so you would say that a study
18 based on 240 data sets in King County might be more
19 relevant and more, I don't know, something that you would
20 want to use rather than --

21 **A Absolutely.**

22 Q -- studies that were done for parking counts in 1982 in
23 Dallas, Texas?

24 **A Absolutely.**

25 Q Okay. Great. Okay. We've already talked about that.

1 So there was a lot of talk about why not .8, why
2 this other rate that we used. So when you actually plug
3 everything in to the King County Right Size Parking, do
4 you look at the rate and think in your head is this
5 reasonable?

6 **A Yes.**

7 **Q** Okay. And how did you determine based on other factors
8 that the .57 was reasonable as it related to the .81 that
9 shows up on Right Size Parking?

10 **A** **As I said, the experience with these similar apartments,**
11 **as well as various studies that have been completed**
12 **across the city that have lower parking rates. Some that**
13 **had rates as low as .33 --**

14 **Q** And those are parking rates that -- is it based on census
15 data or is it based on -- I mean --

16 **A** **From the studies, it looked like it was a combination of**
17 **actual counts and ownership --**

18 **Q** Okay.

19 **A** **-- as well where there were studies produced in 2010.**

20 **Q** And ownership means car ownership?

21 **A** **Car ownership. Sorry.**

22 So really it's right in line with the studies that
23 we've been submitting to the City and approved by the
24 City over the last few years as well since that was -- we
25 were encouraged to use that more local data rather than

1 generic nationwide ITE data.

2 Q And did you find anything interesting as it relates to
3 the .57 versus the .81 as it relates to the time when you
4 did your study here?

5 A Yes. So when we were asked to do the 6:00 to 7:00 study,
6 again, trying to be conservative, the .57 is based on
7 peak demand. And clearly residential peak demand is kind
8 of midnight and on.

9 As I talked about earlier, 6:00 to 7:00 is this
10 transition time when some people haven't got back yet,
11 but some of the commercial is busier. And it's -- you
12 know, the commercial is actually busiest around 3
13 o'clock, but you've now got afternoon workers who -- or
14 morning workers, school children, college students who
15 are now back in -- back at the area at 6:00 to 7:00.

16 So that's the peak of the demand even though peak of
17 commercial is earlier, peak of residential is later, but
18 the overlap of the two classes is the highest at that
19 time.

20 So actually in fact, ITE does have studies at least
21 that show the distribution of parking demand throughout
22 the day. And so say it's 100 percent at midnight as
23 to --

24 Q For residential?

25 A For residential as to the peak demand. It's 100 percent

1 midnight on until about, you know, 4, 5 o'clock in the
2 morning. While before that, as you progressively get
3 towards midday, it's dropping. And at 6:00 to 7:00, it's
4 actually only 69 percent of the peak demand is being
5 demanded for parking of residential apartments.

6 So we didn't do that factor before to be
7 conservative. We still applied 100 percent. So
8 interestingly enough, if you actually applied that 69
9 percent factor to the 6:00 to 7:00 time period to the .8
10 Mr. Crippen was identifying, you would actually get a
11 rate that's in the rate of .55. So .69, 69 percent,
12 multiplied by .8, which is the demand that he identified
13 for that time -- from right size would actually provide
14 .55 as the parking demand, which is actually less than
15 the .57 we had used in our original study for that time.

16 Q Great.

17 I'm going to hand you another --

18 MS. CLAWSON: Oh, we would offer -- we
19 haven't offered yet --

20 EXAMINER: No.

21 MS. CLAWSON: -- the transportation
22 studies, please.

23 EXAMINER: All three?

24 MS. CLAWSON: Yes.

25 EXAMINER: Okay.

1 where there isn't an actual parking. So the only way to
2 do that survey is either -- specific census data. The
3 census data is really tough to get on a specific address,
4 on an apartment and what's going on.

5 So the apartment managers are the best people to get
6 that data because what we're looking for is car
7 ownership. Now, just -- oh, sorry.

8 Q No, I'm sorry.

9 A It doesn't mean that if you have a car, that you are
10 definitely still going to have it at that location. But
11 our assumption is if you have a car, then we're counting
12 it as part of the parking demand that that site would
13 have.

14 Q And these buildings are owned by the same owners as the
15 applicant?

16 A Correct.

17 Q Okay. And these units in these buildings are the same
18 sizes?

19 A Correct.

20 Q Okay. Great.

21 A I would say they are probably a little bit more urbanized
22 than where we are.

23 Q In terms of location?

24 A In terms of location. But in the time period that we
25 had, that was the data that we could get -- get ahold of

1 so...

2 Q And why did you ask for the specific inputs that you did?

3 A Again -- oh, in terms of size and in terms of that it's
4 near frequent transit because those are the two main
5 elements and policies that the City is looking at for
6 Right Size Parking as well, you know, has it got transit
7 available, is it a smaller unit, does it have parking
8 available.

9 They are the three kind of biggest elements, and
10 price of unit, the four biggest elements that go into
11 parking demand. And these have all of those.

12 Q So looking at Exhibit 53 then, I see some red.

13 A Uh-huh.

14 Q Corporate. That's not being anti corporate, is it?

15 A No. So corporate apartments we found in the past are
16 slightly different. The --

17 Q And what are corporate apartments?

18 A Corporate apartments are usually a corporation owns that
19 apartment. And if you have got somebody in from out of
20 state who may have flown in, then they might be using
21 that apartment. Or there's a potential that, you know,
22 it's that one late night a week, not quite Mad Men type,
23 but, you know, you're working really late in the city,
24 and so you need an apartment to stay overnight and get
25 back to your hearing early the next morning. So that's

1 corporate.

2 So what we've done -- obviously the corporate
3 doesn't attach an ownership of a car to that apartment.
4 So rather than take all the zeros that the corporation
5 identifies as car ownership identified with that unit, we
6 eliminate that. One, because a lot of times they are
7 probably not occupied every single day anyway, but
8 otherwise if we added a zero in, it would skew the data
9 to showing a lot lower parking generation than we would
10 feel comfortable with.

11 Q Because maybe somebody in from out of town has a rental
12 car?

13 A Correct.

14 Q Okay.

15 A They might have a rental car. They might not -- you
16 know, so rather than speculate, it's easiest to eliminate
17 those corporate ones from this. Because this one had a
18 particularly high number compared to what we've
19 experienced in other places.

20 Q Okay. So then what -- what did this Exhibit 53 show in
21 terms of car ownership?

22 A So out of the 42 remaining apartment units that were not
23 corporate, 11 of those apartment unit owners identified
24 that they owned a car. And therefore we assumed that car
25 would be parked of demand, even though, again, someone

1 may be having a secondary apartment that they are not
2 actually there every night or whatever, we assumed a
3 parking demand of one per person who owned a vehicle in
4 that apartment unit.

5 And, therefore, 11 divided by 42 results in a peak
6 parking demand of .26. And, again, that would be
7 expected to be typically at night sometime. So 0.26 is a
8 parking amount, which is actually half of that Right Size
9 Parking that we used in our study. So, again, it just
10 gives us a comfort level to the type of parking rate for
11 these types of units identified on a frequent transit
12 area.

13 Q Great.

14 MR. EUSTIS: So the record is clear, I
15 would like it to reflect a continuing objection to
16 Mr. Koltonowski's testimony on Exhibits 53 and 54. My
17 objection --

18 EXAMINER: Noted.

19 MR. EUSTIS: -- dealt to the exhibit,
20 but it also deals with -- addresses --

21 EXAMINER: Delayed testimony.

22 MR. EUSTIS: -- testimony on these
23 exhibits.

24 Q (By Ms. Clawson) Okay. Let's go to Exhibit 54 then.
25 What does that show?

1 A 54 doesn't have as many corporate apartments. In fact,
2 only one. So this one was easier to deal with in terms
3 of calculations. And so it actually has an even larger
4 spread. It has 66 non corporate apartment units. And of
5 that, it still had only 11 car ownership, which actually
6 generated a parking rate of 11 over 66 of .16. So --

7 Q So I'm seeing -- I just want to be clear.

8 So on Page 2 of Exhibit 54, you've highlighted red
9 the Unit 601 other. There are other units, for example,
10 507, 414 that have other, but those aren't corporate
11 units?

12 A Correct. So there is another -- so there's a balance
13 of -- I mean, we actually got more data than that we --
14 or more information about the unit owners than I felt
15 comfortable sending out as obviously part of the survey.
16 And clearly in looking at that, this was a corporate
17 apartment even though they had identified this in
18 other -- in this element.

19 So, again, to be conservative, we felt we would
20 rather eliminate -- even though it has zero, it would
21 help our case to have that in the data pool, we felt,
22 again, it was one where it was really more of a corporate
23 apartment where we couldn't tell its use. So felt that
24 would be the more conservative approach to eliminate that
25 data.

1 all?

2 MR. EUSTIS: Yes.

3 MS. CLAWSON: I think he has a point
4 that he was just going to make that has to do with
5 parking. We're really not talking about trip generation.

6 EXAMINER: All right. Well, I would
7 sustain it as long as -- if it's going outside of it.
8 But if we're getting to parking, then I would overrule
9 it. So I guess I will allow it for now, and we'll note
10 the objection and hopefully get to parking.

11 THE WITNESS: Okay. In the same
12 terms, it allows a capacity where you would normally say
13 100 percent is capacity, 1.2 is what the City allows for
14 capacity because it's all theoretical.

15 So the same in utilization for parking, we're
16 talking about theoretical because you can -- we have
17 these numbers that say theoretically you can fit this
18 number of cars in, but we can have utilizations over 100
19 percent.

20 We have done studies in certain areas today already
21 where today we're having over 100 percent of the
22 theoretical capacity.

23 Q (By Ms. Clawson) And how does that happen?

24 A **Because cars park -- when we do our measurements, we sure**
25 **five feet from every curb. We do 30 feet. We exclude**

1 from the stop signs. We do a very conservative approach
2 to our measurements, and then we also -- the calculations
3 that the City provides identifies, hey, if you have this
4 much length, this is how many cars you can fit in there
5 theoretically.

6 This is based on data the City has -- it's been
7 there ever since I've been there, at least 25 years ago.
8 Cars were certainly -- may have -- were bigger in those
9 days. People gave more room. They didn't park right up
10 to the driveway.

11 So you can actually fit more cars in parking than
12 the theoretical 100 percent at same -- and that's the
13 same in transportation. We have a 100 percent capacity
14 roadway we would say, and the City adopts 1.2 in the
15 number of its V over C ratios.

16 So I was just linking the two. I apologize I didn't
17 get to the point earlier.

18 Q (By Ms. Clawson) Okay. So you were here for
19 Mr. Crippen's testimony about a bike lane --

20 A Yes.

21 Q -- a potential bike lane?

22 I'm going to hand you a document.

23 MS. CLAWSON: Oh, and we would offer
24 those other two.

25 MS. KENDALL: 53 and 54.

1 **A Correct.**

2 Q Okay. Great.

3 So you wouldn't be normally required to look at
4 zoning capacity?

5 **A Correct.**

6 Q Okay. You would be required to look at what projects are
7 actually in the pipeline?

8 **A Yes.**

9 Q Great. Okay.

10 So crossed out 12 through 14 because of that?

11 **A Yes.**

12 Q Okay. And so let's then -- I guess why did you cross
13 out, and I think we all know the answer, but you crossed
14 out the second column with cycle track --

15 **A Correct.**

16 Q -- because you don't believe there will be a cycle track
17 that is impacting us in the construction year?

18 **A Correct.**

19 Q Okay. And then the third column without cycle track, the
20 Livable Phinney analysis, let's go through that.

21 **A Okay.**

22 Q Okay. So the legal parking space is the same?

23 **A Yes, it's 281.**

24 Q And then the capacity of on-street parking, you actually
25 did allow for -- or did you not --

1 **A** No, it's like a double take. If you use 85 percent and
2 then you are using 85 percent as your -- I think it's --
3 let's just stick to what is actually out there. That's
4 not how it's done. It's not a threshold.

5 So -- and I was tracking yesterday, but I was a bit
6 confused, and so I felt in my mind I wanted to put it --
7 let's stick to like to like, straight numbers, and then
8 the numbers that, you know, what is this affect of .8 if
9 that was -- I could understand where Mr. Crippen was
10 identifying the .8, not that I agreed with it, but I
11 could understand putting it in.

12 I could not agree or could not understand his use of
13 the 85 percent at this point, and so I kind of wanted to
14 get it straight in my mind apples to apples.

15 **Q** Great.

16 Okay. So you used 100 percent. So the 239 is no
17 longer --

18 **A** Correct. That should be crossed out and put 281.

19 **Q** Okay.

20 **A** Because that's what is actually out there, and we're
21 doing real counts, not theoretical.

22 **Q** Great. And 3 we wouldn't consider because it's cycle
23 track impacts?

24 **A** Correct.

25 **Q** And then 4 is the same as 4 in our first study, correct?

1 **A As I say, I think it's a number of factors. So one in**
2 **itself, I think it's the number of factors.**

3 Q Okay. So is it -- is it your opinion that the charging
4 of parking for a facility that does not provide parking
5 and does not charge for parking is a factor that can be
6 used in terms of -- to determine parking demand by
7 tenants in this proposed building?

8 **A That was a long question. Can you repeat it?**

9 Q Yes.

10 **A I was --**

11 Q Is it your opinion that the charge -- that factoring in a
12 charge of parking, \$275 a month, for a facility that
13 doesn't provide parking and doesn't charge for parking is
14 a relevant factor in determining on-street parking demand
15 for tenants who would live in this building?

16 **A Absolutely.**

17 Q Okay. And is -- to your knowledge is that a factor that
18 the -- that's reflected in TIP 117, to your knowledge?

19 **A Not to my knowledge --**

20 Q Okay.

21 **A -- or disknowledge.**

22 Q Is that a factor that Dr. Shaw has indicated that you
23 should consider?

24 **A It's been in all -- all of our studies where we have no**
25 **parking, that is the default to identify because of the**

1 influence of if you don't have parking, that's a decision
2 maker. If you haven't got convenient parking, whether
3 you are paying for it or not paying for it, whether it's
4 within a close distance, whether it's safe, whether
5 it's -- all those factors go into it, and this is the
6 best reflection we can show as to if you don't have
7 parking, because you can't afford to pay for it maybe,
8 then you determine not to have a car. I mean, it's --

9 Q Or you determine to park on the street with everybody
10 else?

11 A You take an inconvenience. But this is definitely an
12 influence whether there's a -- whether you have parking
13 or not and everything is dependent on that.

14 Q Let me ask about something else. So at Exhibits 53 and
15 54, you introduced some survey results -- results of
16 surveys you didn't participate in.

17 A Just let me make sure I've got -- because I've got these
18 all over.

19 Q I believe it's right under -- what was under your right
20 hand as you waved your right hand over it. It has red on
21 it.

22 A Oh, these?

23 Q Yes.

24 A Okay. Very good. They are pretty much all over.

25 MS. CLAWSON: There you go.

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1 more urban setting than the setting for Phinney Flats?

2 **A Yes.**

3 Q Okay.

4 **A We didn't -- so I'm --**

5 Q Please, this is cross-examination.

6 **A Okay.**

7 Q It's not free form.

8 **A Okay. That's fine.**

9 Q All right.

10 **A I apologize.**

11 Q No problem.

12 So you took issue with Mr. Crippen's use of parking
13 demand figures given by the ITE parking generation
14 manuals, correct?

15 **A I'm trying to think of the word "issue." I questioned
16 them, yeah.**

17 Q You questioned --

18 **A Yeah, yeah.**

19 Q And in your testimony, I understood you to say that you
20 found the results of the surveys of these two buildings,
21 the one -- the Mad Flats, and I forget the name of the
22 other one, the one at 1st and Denny to be --

23 **A Uh-huh, mini --**

24 Q -- to be more representative of the ratio of parking
25 demand per unit than the ITE parking generation study?

1 **A** No, I don't think I said that. If I did, I would like
2 that read back to me. I think what it gave us was the
3 range of parking demand that the city is experiencing.
4 We still stand by the Right Size Parking of .57. We have
5 not used 1st and Denny or the Mad Flats in any of our
6 studies. I think it really was just to go to the fact
7 that locally in ceilings, we are experiencing much lower
8 parking rates than what ITE identified nationally.

9 **Q** Okay. So the -- I guess the, you know, anecdotal survey
10 results for these two developments, they didn't -- they
11 weren't used -- they didn't factor into any of your three
12 reports, correct?

13 **A** Correct.

14 **Q** Okay. And to your knowledge, they didn't factor in to
15 the SEPA determination rendered by the City, did they?

16 **A** No.

17 **Q** Okay. Because these were just produced for the first
18 time in this proceeding, weren't they, to your knowledge?

19 **A** Yes, for this proceeding. We've talked about it before
20 in trying to get the data because we understand they are
21 generating so much lower, but we did not actually have
22 the data to be able to produce until this hearing.

23 **Q** Okay. You are familiar with the ITE parking generation
24 studies? You have them -- you have them right there?
25 You are familiar with the trip generation, you know,

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1 at 3 o'clock, and we were asked to look at that time, we
2 should be applying a factor to that 100 percent because
3 not all those residents are there. You have a car to
4 commute, not everybody commutes every day or goes
5 anywhere, but certainly a percentage do. And that's data
6 that we have from ITE. We don't have any other data. It
7 follows what I would expect, and so we use that.

8 EXAMINER: And then I heard you say if
9 you applied that, you get down to .55; is that --

10 THE WITNESS: Well, yes --

11 EXAMINER: Well, yes, sir -- you used
12 a .57?

13 THE WITNESS: Correct. If we applied
14 that to the .8 that Mr. Crippen was identifying as his
15 preference, that .8 again from right size or from the ITE
16 is the peak based on the midnight. So if we're applying
17 that to the 6:00 to 7:00, we should apply that same 69
18 percent adjustment to the .8, and that, if my math is
19 correct, would be the .55.

20 EXAMINER: Understood. Okay. Thank
21 you for re-explaining that.

22 And then your testimony included some analysis of
23 utilization. I was with you up to the point of -- there
24 was a discussion about including -- and I don't know if
25 you included this in your conclusion or not or -- as far

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1 as your analysis of utilization, but the potential that
2 there was utilization of parking, essentially as I would
3 characterize them, areas that are not legal up to stop
4 signs, driveways, hydrants.

5 Did you include that in your analysis?

6 THE WITNESS: We include -- if a car
7 is parked closer to a stop sign than it should be, so,
8 you know, five feet closer, we're including it. It's
9 included in all of our counts. If a car is parked in
10 somebody's driveway, and so clearly that -- that area is
11 not included in our inventory, so when we do -- when we
12 do --

13 EXAMINER: So let me stop you there.

14 THE WITNESS: Sorry.

15 EXAMINER: Because that's getting to
16 what I'm trying to figure out. Is -- are those areas
17 included in the inventory?

18 THE WITNESS: No.

19 EXAMINER: Okay.

20 THE WITNESS: So that's why you are
21 kind of getting an excess -- you can have an excess
22 because those 30 feet is excluded from the theoretical
23 inventory --

24 EXAMINER: Right.

25 THE WITNESS: -- you know.

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1 EXAMINER: Okay. But you include it
2 in your actual use.

3 THE WITNESS: Count.

4 EXAMINER: Right. Okay. I was
5 wondering at what point that would stop if people are
6 parking up on the sidewalk or -- a bit much. Okay.

7 You had -- there was a question from Mr. Eustis
8 about the point of time that the rents were identified.
9 I think it was in -- well, in Exhibits 50, 51 and 52.
10 And it doesn't matter which one we grab. Let's start
11 with the last one, 52 on A-3. The rent was identified as
12 \$999.

13 Was that -- and then you said that the -- then you
14 said something about the project being two years behind.
15 Is that accounted for in this correction notice or not?

16 THE WITNESS: That's -- in the last
17 correction notice, I -- it is accounted for by asking --
18 saying what is the likely -- as of four months ago, we
19 asked -- well, sorry. As of October, we asked what is
20 the likely price point for these apartment units. And so
21 that --

22 EXAMINER: At the time you open,
23 anticipated, which encompasses the two-year delay?

24 THE WITNESS: Correct.

25 EXAMINER: Okay. There could be more

1 **A -- deep or deeper.**

2 Q Okay. That's great.

3 And looking at your phase II, I'm just going to ask
4 a couple detailed questions. You analyzed for, I'm going
5 to say, three chemicals hopefully correctly and just
6 confirm -- and please let me know if you've analyzed for
7 other chemicals. But you analyzed for HVOCs, Perc, PCE,
8 and vinyl chloride?

9 **A Uh-huh.**

10 Q And potentially others --

11 **A Uh-huh.**

12 Q -- as well?

13 Did any of those raise concerns or were all of them
14 either non detect or below MTCA screening levels?

15 **A They were.**

16 Q Okay. Great.

17 And so were you at the hearing yesterday?

18 **A I was not.**

19 Q You were not. Okay. The appellants raised two concerns,
20 so I just want to focus on those two concerns here today.
21 One of their concerns was they have seen sinkholes, and
22 they are concerned about groundwater. Are you concerned
23 about groundwater on this site based on your analysis and
24 what you've reviewed?

25 **A No. Like I said, it is a glacial till site. I think one**

1 thing we obtained subsequent to these reports was a
2 boring log for the property that's directly west of the
3 site across Greenwood Avenue North, and they drilled -- I
4 think that was called a C&S Auto facility before it was
5 redeveloped.

6 They drilled to 60 feet, and the boring log
7 indicated that they did not encounter groundwater.

8 Q So in your professional opinion as a licensed
9 hydrogeologist, you wouldn't be concerned about
10 groundwater on this site or close --

11 A No.

12 Q Okay. Thank you.

13 They raised one other concern, and I just want to
14 briefly touch on that. As part of your phase I report,
15 you sampled -- you took four borings in areas anticipated
16 to be where the former dry cleaning machine was.

17 A Uh-huh.

18 Q The appellants raised concerns that we did not analyze --
19 take borings around the perimeter of the site.

20 Analyzing the perimeter of a site, is that a typical
21 thing? Is it something that would be advised in this
22 situation?

23 A So we start with focusing on the areas where we find
24 contamination most likely in a dry cleaners, which is
25 within the dry cleaning space and where the dry cleaning

1 machines were. So that's typically where you find the
2 highest concentrations.

3 And the second is along the side sewer.

4 Q Okay.

5 A You know, because old sewers can leak, and so you are
6 going to find these chlorinated solvents within that
7 footprint of a site sewer.

8 Q You typically would not look at perimeter? You don't
9 appear -- if you aren't going to find contamination where
10 you anticipate it --

11 A Right.

12 Q -- you wouldn't be -- especially these type of
13 contaminants? They don't leach out --

14 A Right.

15 Q -- in that same way --

16 A Uh-huh.

17 Q -- unlike a coal tar, for example, that moves?

18 A Uh-huh.

19 Q Okay. I'm just going to hand you one last document.
20 This will be marked as Exhibit 60.

21 Can you please identify what this is?

22 A This is the report from EPA. I believe Ecology and the
23 Environment was their consultant.

24 Q Okay. And is this typical to have EPA involved in a
25 site? Do you understand the genesis for why EPA got

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1 REDIRECT EXAMINATION

2 BY MS. KENDALL:

3 Q Mr. Riley, during that phone conversation with Ecology,
4 did you ask if they had -- after they requested
5 additional study, did you ask whether they had reviewed
6 your study?

7 **A We did bring that up, yes. And they admitted that they**
8 **had not read our report.**

9 Q So they requested additional study without actually
10 having reviewed your report?

11 **A That is correct.**

12 Q Okay. So I'm going to attempt to hand you -- let me just
13 make sure I have sufficient copies. I have one for you.

14 MS. KENDALL: And, Mr. Eustis, I am
15 going to attempt to find the other one, but we have
16 provided this document to you.

17 MR. EUSTIS: Could I see it?

18 MS. KENDALL: Of course. I started
19 looking for it earlier, and I could not -- oh, I found
20 it. Organization is a strength of mine.

21 MR. EUSTIS: So by the way, it is
22 included at the back of your Exhibit 60 --

23 MS. CLAWSON: Also.

24 MS. KENDALL: That will do it.

25 MR. EUSTIS: So I don't think you need

1 to, but I will leave that to you.

2 MS. KENDALL: Thanks. It was -- all
3 right. Perfect. That was an attachment to the back of
4 that, I believe.

5 MR. EUSTIS: Correct. I believe --
6 yes.

7 MS. KENDALL: Of the EPA document.

8 MR. EUSTIS: The October 26th, 2016.

9 MS. KENDALL: Yes.

10 Q (By Ms. Kendall) Can you please just read the title and
11 explain what this memorandum is?

12 A So it's a memorandum. So once the -- once we had the
13 conference call with Ecology, Donna Yusum, there was
14 another individual in that meeting present, but we did
15 not get the name of that other individual with Ecology.

16 And since they hadn't read our report, we decided,
17 well, let's follow up with our interpretation of our data
18 and help clarify -- clarify our findings from our phase
19 II --

20 Q Right.

21 A -- and our phase I. And one thing that was discussed is
22 Ecology, in that conference call that we had, there was
23 some discussion about, well, maybe during construction --
24 Ecology said maybe during construction, maybe you could
25 put together a contingency plan that in the event you

1 find something, that the owner, developer, would -- is --
2 has the understanding that they'll mitigate it per the
3 regulations.

4 Q Isn't that what MTCA requires?

5 A Right.

6 Q Okay.

7 A So that's -- so the intent of this memorandum, anyway,
8 was to verify -- clarify our findings and why we believe
9 in those findings.

10 Q Right.

11 A And --

12 Q Okay. And after you provided this memorandum, has
13 Ecology provided any direction or opinion as to the
14 quality of your study?

15 A No.

16 Q Has EPA?

17 A Well, so yeah. So EPA then was also contacted, maybe at
18 the same time they contacted Ecology, I don't know, but
19 EPA got involved. And, again, just to back up a minute.
20 So by contacting -- by the citizens contacting Ecology,
21 Washington State Department of Ecology, that triggers
22 Ecology to perform their initial investigation.

23 Q Uh-huh.

24 A Okay. My understanding from some emails is that Ecology
25 indicated that they were going to wait in completing that

1 **initial investigation because EPA had stepped in.**

2 Q Okay.

3 **A And was going to perform their preliminary assessment.**

4 **So Ecology said we're done, we'll let EPA do their thing**
5 **and that they will evaluate their report when it's done.**

6 Q Okay.

7 **A So they were --**

8 Q Okay.

9 **A Yeah.**

10 Q So Ecology -- you know, it's typical to work with Ecology
11 on a site. So in compliance with MTCA, do you anticipate
12 working with Ecology?

13 **A Well, I think what is going to happen is the -- that**
14 **report has been completed by EPA as we talked about.**

15 Q Yep.

16 **A So Ecology is going to review that.**

17 Q Uh-huh.

18 **A And I think their decision is going to concur with EPA's.**

19 Q Okay.

20 **A That no further action is required.**

21 Q But will work with EPA -- or Ecology as need be?

22 **A Yeah, absolutely. Yeah.**

23 Q And in your professional opinion based on your
24 conversations with Ecology, your review of your own
25 studies and the review of the EPA studies, do you believe

1 additional testing is necessitated, required under MTCA?

2 **A No.**

3 Q And you believe that MTCA was fully complied with here?

4 **A Uh-huh, I do.**

5 MS. KENDALL: Thank you very much.

6

7 RE-CROSS-EXAMINATION

8 BY MR. EUSTIS:

9 Q When you say you expect that Ecology will concur with
10 EPA, that's speculation on your part?

11 **A Yeah, because I can't speak for Ecology.**

12 Q Right. And Ecology has received your October 26th, 2016,
13 report?

14 **A They have.**

15 Q Because that was part of the discussion?

16 **A They do have it.**

17 Q Okay. So you would expect that they would have reviewed
18 that?

19 **A Yes.**

20 Q Okay. Did -- did they give any indication that they
21 hadn't reviewed your prior work? Did they --

22 **A No, they didn't really comment on it at all.**

23 Q Okay. So you don't -- as you testify here, you don't
24 have a factual basis on which you can say that Ecology by
25 whatever, October, 2016, hadn't reviewed your prior work,

1 With Option C in particular, as they noted Option C
2 had the most -- or the previous option had the most
3 potential to carry forward. We did carry the same
4 spatial relationships and rough height, bulk and scale
5 and massing into this presentation.

6 We identified Greenwood Avenue as the area that
7 would have a strong commercial relationship, that the
8 residential entries would be off of 68th.

9 And I guess if I could speak a little bit
10 architecturally here from a par T or a basic concept. We
11 have kind of a commercial bar, if you will, along
12 Greenwood. And then we dissolved the mass and broke up
13 the bulk and the scale with modulation and bays as it
14 moved east. And the intent there was to begin to
15 dissolve the mass and have more of a town home expression
16 to provide that transition.

17 The highest points in the building are along
18 Greenwood. And then it steps down as it goes east.

19 Q Okay. And then looking at Page 27 again, you identify
20 pros and cons in the lower right-hand corner?

21 A Correct.

22 Q And I think the second -- the second pro says, "Least
23 impact of adjacent properties to the east." Can you
24 explain your mapping strategy as it relates to that?

25 A As I mentioned before, we've got several different

1 of Greenwood to the east to the residential uses to the
2 east.

3 Q Okay. And then on Page 5, you have some responses
4 related to the east facade on the lower left picture?

5 A Correct. So in the early design guidance, we gave them
6 some options in terms of how the bay modulation might be
7 expressed. We had some shutters, some flat roofs and
8 some parapets that -- or some bays that went above the
9 parapet.

10 The guidance from the board was to keep the bay
11 modulation and the southern two-thirds of the east facade
12 below the parapet to mitigate that height, bulk and
13 scale.

14 Q Great.

15 As it related to the neighbors?

16 A As it related to the neighbors to the east, yes.

17 Q And then on Page 12, what does this show?

18 A This is the south elevation of our building. It's a bit
19 of a composite. The darker shadowed area, that makes up,
20 I don't know, approximately, I don't know, a little over
21 a half of our building elevation. That is the building
22 to the south, the multifamily building.

23 Q Okay. And so -- so this is the wall facing south?

24 A Correct.

25 Q And this was your proposal at design review

1 recommendation 1?

2 **A Yes, correct.**

3 Q Okay. And what does it show exactly?

4 **A So it shows we have a wall closest to -- well, it shows a**
5 **south elevation. So there's a series of walls and the**
6 **mass steps down as you head east away from Greenwood**
7 **Avenue. So there's a wall that is noted by what I call**
8 **maybe the tartan or frames. There's dark frames with**
9 **light infil. That would represent the wall that is**
10 **closest to the southern property line. It represents the**
11 **masonry concrete level at grade or at the first level.**
12 **And as we move east, it shows the recess or the setback**
13 **that we have along that eastern facade.**

14 Q Great. Let's go to Page 17.

15 And so this is very similar to something you showed
16 at EDG 2.

17 **A Yes.**

18 Q It adds a layer?

19 **A Correct.**

20 Q So it adds a layer in terms of what?

21 **A This adds a layer of kind of visual connectivity, visual**
22 **privacy that we considered, visual privacy sight lines,**
23 **if you will, as it relates to the single-family**
24 **structures to the east.**

25 Q And were you here for the testimony of Ms. Reymore

1 yesterday where she was concerned about privacy into her
2 building's units to the south?

3 **A Yes.**

4 Q Does a blank wall create privacy concerns?

5 **A No. Typically privacy concerns are due to what I call**
6 **visual reciprocity where two people can see in on each**
7 **other, if you will, through windows. And clearly as**
8 **demonstrated on the earlier exhibit, the south wall of**
9 **our building does not have that relationship.**

10 Q Great. And then Page 18, you included some setback
11 diagrams?

12 **A Correct. So this is kind of the evolution of the project**
13 **showing the exhibit on the left-hand side of the page,**
14 **and below there's a small diagram showing where the**
15 **section is cut beneath each exhibit.**

16 **Again, it's reinforcing or demonstrating the**
17 **relationship of our building to the single-family**
18 **structures to the east that there is still upwards of 51**
19 **feet of separation at Rob's eastern property from our**
20 **large upper story building mass and then 45 feet from our**
21 **upper level building mass to Wally's property, which is**
22 **the northern eastern property.**

23 Q Okay. Great.

24 And then I'm going to have you skip to Page 20,
25 please. So the left -- the picture on the left is

1 different from the massing that we showed at EDG 2,
2 correct?

3 **A Yes.**

4 Q So at EDG 2 we had some shed roofs?

5 **A Correct, yes.**

6 Q And the board's guidance was to do what related to those?

7 **A Well, they wanted us to drop the shed roofs and reduce**
8 **the height, bulk and scale of the building by pulling the**
9 **parapets of the bay modulation below the main building**
10 **parapet, which in my opinion mitigates that scale and**
11 **helps communicate and support and reinforce this**
12 **transition from the Greenwood commercial corridor to the**
13 **east.**

14 Q And previously were there balconies on those units?

15 **A We did have a few units that had balconies, and we**
16 **removed those to relieve concerns about visual privacy.**

17 Q And you have -- on the picture on the right, there's
18 something -- you show a clear story --

19 **A Yes.**

20 Q -- up top. But that's not on the eastern edge of the
21 property?

22 **A Correct. The additional clear story volume is only along**
23 **the commercial corridor of Greenwood Avenue.**

24 Q Great.

25 And you also included a shadow analysis on Page 24

1 of this proposed massing to the design review board?

2 **A Correct.**

3 Q Okay. So I'm going to hand you another document.

4 EXAMINER: What page was the shadow
5 analysis?

6 MS. CLAWSON: The shadow was on Page
7 24. Yes. What would this exhibit be?

8 MS. KENDALL: This will be 65.

9 MS. CLAWSON: So this will be Exhibit
10 65.

11 Q (By Ms. Clawson) Can you identify --

12 EXAMINER: 66.

13 MS. KENDALL: Oh, sorry.

14 Q (By Ms. Clawson) Can you identify this for me, please?

15 **A Yes, this is -- Page 24 is a shadow analysis.**

16 Q Oh, no, no, no. Sorry. The document --

17 **A Oh, sorry, that document. I had already moved on.**

18 **Sorry.**

19 Q We're going --

20 **A Yes. So this is the report from the initial design
21 review recommendation meeting.**

22 Q Okay. And so at the meeting on August 1st, 2016, is
23 it -- is it required that you come back for a second
24 recommendation meeting?

25 **A That's at the discretion of the board.**

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1 Q Okay. And so what happened at the August 1st meeting?
2 What did they want you to do?

3 **A We had presented our response to the early design**
4 **guidance and our MUP submittal. They had some detailed**
5 **aspects that they wanted us to refine and bring it back**
6 **for another meeting.**

7 Q Okay. And some of the details had to do with just the
8 landscape plan details, et cetera? They are listed on
9 Pages 4 and 5 of those meeting minutes?

10 **A Yes, I believe it's -- it was hot button issues.**

11 Q Yes. For -- I will direct your attention to the bottom
12 of Page 4, No. 2, south wall color and materiality. Can
13 you read that, please?

14 **A "Item 2, south wall, color and materiality. Keep it**
15 **light to allow for better interior illumination of the**
16 **neighboring building to the south."**

17 Q So it was the board's recommendation and guidance at the
18 first recommendation meeting that you do that?

19 **A Yes.**

20 Q Okay. And then on Page 5, No. 7, can you just summarize
21 what their guidance was? You don't have to read it.

22 **A So this talks about the window relationships of --**

23 Q On the east windows?

24 **A On the east side, yes. So they wanted some more**
25 **consistency in the window patterning throughout the**

1 **building, but there was some consideration for privacy.**

2 Q So they wanted the windows to be considered for privacy
3 in addition to --

4 **A Yes.**

5 Q -- design?

6 **A Yes.**

7 Q Okay. Great.

8 Okay. So the board has us coming back for another
9 meeting.

10 MS. KENDALL: This has already been
11 marked 46.

12 MS. CLAWSON: Okay. Give it to Jay,
13 please.

14 Q (By Ms. Clawson) So Exhibit 46, you know where we're
15 going.

16 So Exhibit 46 is what?

17 **A Exhibit 46 is the design review recommendation packet for
18 the second meeting for this project.**

19 Q Okay. Great. And so that was held what day?

20 **A It was September 26th.**

21 Q So a little bit -- we got back in a little bit quicker
22 than we did last time?

23 **A We did.**

24 Q Okay. That's good.

25 So Page 3, 4, 5, those are all it looks like EDG

1 responses. So those may have been things that you -- how
2 you responded before?

3 **A Correct.**

4 Q Okay. And then Page 6 and 7, what are those?

5 **A This is some of the detailed refinements that they had**
6 **requested in our first recommendation meeting. So this**
7 **is our response documenting what those items were and how**
8 **we responded.**

9 Q Okay. Great.

10 So just walking through some of the before and
11 afters, which are super helpful. So on the top left of
12 Page 6, you have the August 1st proposal. The board
13 requested the east setback be a minimum of five feet?

14 **A Correct.**

15 Q And then on the right-hand picture, current proposal,
16 what -- what does that show?

17 **A It shows that the five-foot setback that they had**
18 **requested was maintained along the entire east property**
19 **line.**

20 Q And so that was a change from the previous recommendation
21 meeting?

22 **A Correct.**

23 Q Okay. Good.

24 Then on the next picture below that, can you tell me
25 what the response to the board's guidance on the CMU

1 wall?

2 **A They wanted us to make sure, ensure that that wall was**
3 **painted in a light color to maximize light reflectants.**

4 Q Great. And that is reflected in the design --

5 **A Correct.**

6 Q -- in this recommendation packet?

7 **A Correct.**

8 Q Okay. And then on the right-hand side, the bottom right
9 picture related to the windows, the privacy versus
10 design, can you explain that one, please?

11 **A Correct. So I'm going to refer to a portion of this**
12 **facade as the brick volume.**

13 Q Uh-huh.

14 **A And it is the rightmost volume of this image. What that**
15 **shows is we have windows that are facing east that were**
16 **kept smaller than the windows that are set further back**
17 **from the eastern properties. That was an intent to**
18 **maintain the privacy of those eastern properties. And**
19 **they felt that we had some slot windows.**

20 In order to make up for some of that light and air,
21 we wanted to still get light and air into those units, we
22 put some slot windows on the south facade of the brick
23 volume.

24 Q Uh-huh.

25 **A And they just wanted those to feel more consistent with**

1 **what was being proposed on the east. And so**
2 **architecturally we changed the location. We raised them**
3 **up to allow more light to penetrate into the unit a**
4 **little bit deeper, but also let, what I call, the head**
5 **datum of the window to be consistent so they feel more**
6 **unified and more coherent.**

7 Q And they are tall, so does that mean people can peer out
8 of them?

9 A **A tall person could.**

10 Q What is tall?

11 A **It's really about also to maintain usability for the**
12 **space so some furniture and things can still be put on**
13 **the wall. But there's still a lot of light to penetrate**
14 **and serve the space.**

15 Q Good. On Page 7, there's some bike parking it appears.

16 A **Correct.**

17 Q So that was an addition?

18 A **Yes. So the applicant coordinated with SDOT and was able**
19 **to obtain approval for parking at the -- I guess it will**
20 **be the northwest corner of the site in the right-of-way.**

21 Q Uh-huh, right.

22 A **So it was just additional parking provided.**

23 Q Now, there's been some discussion about load zones.

24 A **Yes.**

25 Q Are you aware of where a load zone has been granted for

1 the property?

2 **A Again, with SDOT coordination, the applicant has secured**
3 **a load/unload zone just south of this bike parking.**

4 Q And what would that be utilized for?

5 **A It would be utilized for resident move in/move out, as**
6 **well as commercial activity to the greatest extent**
7 **possible.**

8 Q For commercial loading?

9 **A Commercial loading, yeah.**

10 Q Okay. But that's not in the center turn lane? We can't
11 reserve that --

12 **A No.**

13 Q -- that's actually in front of our building?

14 **A No.**

15 Q With one of those traditional signs that say --

16 **A Yes, yes.**

17 Q I'm going to go to Page 11, please, related to the roof
18 deck. Can you tell me more about why and where you
19 placed the roof deck that is occupiable?

20 **A The roof deck conversation was really driven by respect**
21 **to the adjacent eastern property. We had located the**
22 **roof deck a little bit further east towards the view of**
23 **the Cascades, but there was some concern about kind of**
24 **the noise and activity of people gathering. And so we**
25 **pushed that common roof amenity deck further west. So**

1 now it's 30 feet from the roof edge, which would be 37
2 feet from the property line.

3 Q And that's the eastern roof edge?

4 A **That's the eastern roof edge, correct.**

5 Q What about on the -- it kind of looks like -- I don't
6 even know what shape that is. But there's a long, skinny
7 rectangle that goes along to the south?

8 A **Yes.**

9 Q So what is that?

10 A **That's for exiting.**

11 Q Okay.

12 A **It's fire and life safety exiting.**

13 Q And it goes down to a blue stairwell?

14 A **Correct.**

15 Q Okay. Great.

16 Can you tell me actually more about the stairwell?

17 I forgot about that.

18 A **Oh, the stairwell. So we had originally pushed the
19 stairwell south.**

20 Q And maybe we can go to the elevation on 12, the north --
21 well, maybe the west elevation on 13 is probably a better
22 one to talk about it.

23 A **Yeah, yeah. No, I think this is a good exhibit.**

24 **So in the western elevation of the building, you can
25 see that there is a rooftop feature, structure, near the**

1 southern property line. So that would be kind of the
2 upper right quadrant of the page. What we had done, and
3 this is to Mr. Dorcy's guidance, was to push the
4 stairwell further from the south property line.

5 In addition, we rotated it so -- in order to not
6 have the long mass of the stairwell. Stairwells are
7 typically rectangular, and you have two short sides and
8 two long sides. Well, we rotated the stair and pushed it
9 further north so that there would be more relief along
10 the south property edge.

11 In addition to that, we sloped the structure to
12 follow the pattern of the stair rise. So, again, to
13 further try to mitigate any mass that was adjacent to
14 that southern property line.

15 Q Great. And that was at the board's instruction or at
16 Mr. Dorcy's?

17 A I would say that was more at Mr. Dorcy's and --
18 understanding and help interpret the concern that the
19 board had for those transitions.

20 Q And part of this design review process, you go through a
21 design review board process, but is there also a land use
22 planner following along --

23 A Absolutely.

24 Q -- doing design review?

25 A Yes.

1 those are what was screened behind the privacy fence that
2 was shown on the earlier exhibit.

3 And then we have our garbage enclosure which is
4 completely internal to the building, but there's a
5 landscape buffer between that volume where the garbage
6 resides and Rob's --

7 Q To reduce blank walls?

8 A To reduce blank walls and just provide a more sensitive
9 transition.

10 Q Great.

11 Going to Page 21, this is the adjacency neighborhood
12 and privacy. This changed a little bit from the last
13 time?

14 A Yes.

15 Q Show me how -- tell me how.

16 A Predominantly in the bottom middle graphic, we -- again,
17 we show the sight lines and the visual privacy
18 diagramming, but we met with Rob and the adjacent
19 neighbor and learned to understand his concerns and his
20 privacy along at that eastern hedge.

21 So we have a really substantial planter along the
22 entire eastern edge that is structurally upgraded and
23 from a landscape perspective deep enough to support large
24 specimen trees. And then there's high grasses and low
25 shrubs to provide layers and visual interest and beauty

1 along that edge to mitigate some of those privacy
2 concerns.

3 Q Great. So I'm going to hand you another document,
4 Exhibit 67. Identify this for me, please.

5 A **This is the report from the last recommendation meeting.**

6 Q Great. And what happened at the last recommendation
7 meeting? We're saying it's the last, so I think we're --
8 we've already spoiled the plot.

9 A **I apologize. But at the last meeting, the board was**
10 **appreciative of our -- the way we had responded and**
11 **collaborated with them on achieving a well-vetted design**
12 **and did approve us to move forward for MUP application.**

13 Q Okay. Great.

14 And what was their vote that's on Page 5?

15 A **That was unanimous approval to move forward.**

16 Q With conditions?

17 A **With conditions, yes.**

18 Q And so what do the conditions mean?

19 A **They wanted to make sure that the landscape that we are**
20 **providing gets irrigated and has a strong chance for**
21 **survival. They wanted solid waste removal so that the**
22 **garbage and the recycling gets picked up inside the**
23 **building and dumpsters are dumped and then they are**
24 **returned, that there's no exterior staging.**

25 We had presented some artwork along the residential

1 **A Green Lake, Cascades.**

2 Q Which would be the relevant things here --

3 **A Correct, yes.**

4 Q -- right?

5 So it is this study that was responsive to that
6 zoning issue?

7 **A Correct.**

8 Q Okay. Great.

9 And so the first thing you do is you look at the
10 building at 40 feet?

11 **A Yes.**

12 Q And you see if there's a view blocked already?

13 **A If there is a view blocked already, yeah.**

14 Q Okay. And obviously there's no building there --

15 **A Right.**

16 Q -- because you haven't built it?

17 **A Correct.**

18 Q So you provide a massing?

19 **A Correct.**

20 Q And this was based on a CAD drawing?

21 **A It's based on layers of information, a fair amount of**
22 **detail. I can go into more detail about how that's**
23 **constructed but...**

24 Q I mean, you provided CAD drawings to --

25 **A Yes, there's --**

1 Q -- the appellants?

2 **A Yes. And the model diagrams are using CAD-based**
3 **technology in order to construct the massing.**

4 Q Okay. Great.

5 And so at 40 feet, does this study show blockage --
6 well, I guess you -- the study -- you are also supposed
7 to show a view study from residential structures,
8 correct?

9 **A Correct.**

10 Q Okay. And so the residential structure that you did this
11 view study from is --

12 **A The Phinney condos to the west.**

13 Q The west. Okay. Great.

14 And you were -- again, you said you were here for
15 the testimony of Mr. Bodsky, and his was really the
16 Phinney condos?

17 **A Correct.**

18 Q Okay. Great.

19 And so what did the view study show at 40 feet?

20 **A It showed that from the Phinney condos, that views of**
21 **Green Lake would be obstructed by a building that was 40**
22 **feet tall on our site.**

23 Q What did it show of the Cascades?

24 **A It showed that the Cascades were free and clear.**

25 Q Great.

1 Q Correct?

2 But what do you have to show in order for the City
3 to -- so I guess why don't you explain what the zoning
4 is.

5 **A So a clear story --**

6 Q Yes.

7 **A -- is a volume of building that is -- has lights or --**
8 **excuse me -- windows in it to allow light to penetrate**
9 **the space. And that is what's classified as one of the**
10 **rooftop features. And there's lots of different rooftop**
11 **features. Clear stories and parapets are probably two of**
12 **the most consistently applied throughout the City. And**
13 **in my mind, there's another bucket of rooftop, which**
14 **would be stairs and elevator penthouses. Those are other**
15 **rooftop features that are defined by the code.**

16 In this instance, rooftop features such as parapets
17 and clear stories are -- are allowed, but you need to be
18 able to demonstrate for the first --

19 Q They are allowed --

20 **A They are allowed --**

21 Q -- within the property or within the building line?

22 **A Within the building on your property.**

23 Q Then you have to set them 10 feet back unless --

24 **A 10 feet back unless you can demonstrate that there's no**
25 **additional shadow cast on to an adjacent property.**

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1 a little bit closer to Wally's garage, and realizing that
2 he would need to access our property in order to maintain
3 the back of his garage, which seemed very important to
4 him, we initiated a three-foot setback, a maintenance
5 setback.

6 At the time, it didn't appear acceptable to the
7 public. The design review board came back and said make
8 it five. So we went from --

9 EXAMINER: I'm sorry. I meant up on
10 the deck?

11 THE WITNESS: Oh, I'm sorry. I
12 missed -- I'm sorry. I thought you were talking about
13 the ground.

14 EXAMINER: No, the actual landscaping,
15 the trees --

16 THE WITNESS: Oh, trees, so that would
17 be in the southern two-thirds of the eastern facade.
18 That was -- negotiations or talks, discussions, about the
19 priorities for the single-family neighbors to the east
20 wanting to make sure that there was as much visual
21 privacy of the units up above, the upper story units and
22 the larger windows that were there that helped kind of
23 give a visual screening and beautify the eastern facade.

24 EXAMINER: And what led to that not
25 continuing further north?

1 THE WITNESS: Kind of -- if I could --
2 if I could talk about kind of -- our shadow analysis
3 demonstrated that -- that holding back that southern
4 section of the building, the 25-foot setback, that the
5 shadow cast -- that would minimize the shadow cast.

6 What we are doing from an urban design standpoint
7 is, one, putting our height, bulk and scale out on the
8 Greenwood corridor. And we're transitioning down and
9 through a town home expression in the lower mass in that
10 segment.

11 But we still -- we needed to provide urban design
12 frontage along that building. And so in order to shape
13 the building or squeeze the water balloon, we held that
14 portion of the building back 10 feet as it was adjacent
15 to a garage, not free backyard or open backyard. It was
16 -- that wasn't usable outdoor space at Wally's garage.
17 And so that building stayed or maintained at the 10-foot
18 setback.

19 But where there was open yard and our shadow
20 analysis dictated that we would cast less shadow if we
21 pulled that building back to the 25-foot setback, it was
22 a combination of the shadow cast analysis and maintaining
23 the height, bulk and scale and urban design presence of
24 the building on the street, the intersection and the
25 corner, if you will, of Greenwood and 68th and helping

1 frame that corner architecturally, that's -- there's a
2 lot of factors, but the shadow analysis and the
3 livability of the building and the urban design and
4 height, bulk and scale of that building and how it framed
5 the corner all played into that as a composite.

6 EXAMINER: Were you here for
7 Ms. Johnson's testimony?

8 THE WITNESS: Yes, yes.

9 EXAMINER: So I guess I'm just
10 wondering. I understand the answer you've just provided,
11 but how did that -- those issues compare with, for
12 example, mitigation for the same -- visual impacts you
13 mitigated for Mr. Wally and his property, how did those
14 measure up and not continue to be considered?

15 THE WITNESS: Again, it's -- there was
16 the garage aspect about what's underneath that building.
17 And there's Wally's garage, which I understand is very
18 unique, and we certainly want to ensure that they
19 preserve that and help them any way we can. That --

20 EXAMINER: I'm asking specifically
21 within the context of privacy, which is why you said the
22 landscaping was added.

23 THE WITNESS: Correct. So the
24 southern two-thirds of the eastern facade was set back
25 because there was open air and open backyard in the

1 southern two-thirds of that adjacent relationship. The
2 northern section of -- northwest section of Wally's
3 property was a garage, which isn't -- it's covered. It's
4 not usable space. And so we maintained a little bit
5 smaller setback at that northeast corner adjacent to the
6 garage.

7 Whereas, where there was open space in the
8 residential backyards, we pushed the building back and
9 created a different relationship.

10 EXAMINER: Okay. And what kind of
11 provisions do you have for maintenance of those
12 plantings? I mean, is there something like that that's
13 provided at this level of permit or --

14 THE WITNESS: There will be operations
15 that will come in and maintain the plantings. We do have
16 an irrigation system that is being proposed to help
17 secure the viability of those plantings and keep them
18 robust.

19 EXAMINER: Okay. Those are all my
20 questions. We will take -- oh, I had one other.

21 The view study, I think I understand it, but was
22 that initially based on essentially a mass structure and
23 not the actual project?

24 THE WITNESS: Correct. Well, yes and
25 no. In terms of the building height itself, it was -- it

1 Q Okay. So were you here for Laura Reymore's testimony
2 yesterday?

3 **A I was.**

4 Q So she testified that the deck space, the southern deck
5 space, would allow occupants of the deck space to peer in
6 the windows of some of her apartments. Do you have any
7 reason to believe that that wouldn't be correct?

8 **A I would have to look at the relationship of that window
9 or the windows in question as it relates to the deck, and
10 we would have to do a sight line analysis or something to
11 draw that conclusion.**

12 **But at this point in time, I don't think that
13 there's that visual relationship.**

14 Q Okay. But at this point in time, do you have any data
15 that would cause you to disagree with what she has said
16 about the ability of the users of that deck space to look
17 into windows in her apartment building eight feet away?

18 **A On Page 3 of the same packet, in the lower left-hand
19 corner, it's a little bit harder to read on this print.**

20 **In the lower left-hand corner, we show an exhibit
21 that shows secondary window locations of southern
22 apartment building. And these are approximate. And it's
23 shown as a composite relative to that eastern deck
24 setback.**

25 Q Okay. So then somebody from the deck could look down

1 into that window, correct?

2 **A It looks like there might be one window. But it would --**
3 **it would be in the oblique. It would not be straight on**
4 **because of the nature of -- and the depth of that eastern**
5 **landscape setback. So there's no direct visual**
6 **reciprocity. It would be in the oblique.**

7 Q And oblique looking downward?

8 **A Yes.**

9 Q Okay. And a really tall person could look in the upper
10 window?

11 **A Perhaps a Sasquatch, yeah.**

12 Q Okay. Let's go back to Page 25 of the same set. Now, I
13 tried to follow your answer to the examiner's question as
14 to why this -- let me call it the deck area that
15 occupies, I guess it's the roof, the top of the first
16 floor over the southern two-thirds of the eastern facade.

17 As I recall, the examiner asked you why could that
18 not be continued farther to the north. And I wrote down
19 that you gave five reasons.

20 One, to maintain urban design frontage. Two, you
21 were already holding the building back 10 feet. Three,
22 there would not be usable outdoor space on the property
23 to the east adjacent to that, I think you called it, the
24 brick -- what did you call it, the brick...?

25 **A The brick volume.**

1 And there is a presence at the street level that
2 creates with a town home expression that I had mentioned
3 earlier along 68th that does constitute lower portions of
4 the brick volume as a composite that provide eyes on the
5 street, create a residential transition from the
6 commercial corridor along Greenwood to the residential
7 uses to the east. Those town homes and the stoops at
8 the -- excuse me -- the town home expression, not town
9 homes, but the live/work units and the stoops that they
10 provide created a presence of a brownstone, if you will,
11 or a town home expression going from the commercial
12 corridor to the east and the residential uses to the
13 east.

14 So that establishes a street front that is
15 satisfying visual safety, eyes on the street and a
16 residential presence in transition areas. So it's
17 achieving certain specific design guidelines and their
18 targets.

19 Q Okay. So then is it your testimony that pulling back the
20 brick volume, let's say, to 15 feet would end up
21 preventing the street-level presence and the eyes on the
22 street?

23 A It would compromise it. I think one thing that should
24 not be taken out of this equation, this is subjective,
25 but there's also a coherent composition architecturally

1 that must be achieved, and there's a critical mass that's
2 involved in order to achieve rhythms and proportions that
3 create a balanced design approach that all in turn serve
4 design guidelines and urban design in the end.

5 Q So in terms of this coherent architectural composition,
6 do you have any particular guidelines in mind?

7 A I do believe I could -- we could sift through these and
8 identify what those are. But in general terms, we want
9 active street fronts on the commercial side. There are
10 high transparency windows. We want to foster a good
11 environment for the health of commercial properties to
12 survive.

13 Q Okay.

14 A We want --

15 Q Go ahead. Oh, sorry.

16 A As we turn the corner, and we celebrated the corner
17 architectural with high transparency, then we began to
18 transition from the commercial corridor into the
19 residential typologies. We have a residential entry
20 there, the main building residential entry. Then we have
21 two live/works within the brick volume, if you will, that
22 reinforce the residential vocabulary or typology, and all
23 of that creates a strong urban design response that
24 serves more particularity in terms of eyes on the street
25 and pedestrian activity, in addition to meeting different

1 **layers of the design guidelines.**

2 Q Okay. So I gather it's your position that to pull back
3 the brick volume to 15 feet from the property line would
4 frustrate the applicant's ability to have a strong urban
5 design response on 68th?

6 **A Frustrate --**

7 Q Compromise.

8 **A Compromise? Potentially compromise. It would limit the**
9 **canvas at which all those things can be achieved. It**
10 **compromises the critical mass, if you will.**

11 Q And you would agree, wouldn't you, that these are
12 principally subjective determinations?

13 **A I think they are subjective. But over 20 years -- over**
14 **20 years of applying architectural study and expertise,**
15 **it's not without precedent as was supported by the design**
16 **review board.**

17 Q Okay. Is there -- with respect to livability, I guess as
18 it was characterized before, you began with a cube of
19 butter. So certainly within this cube of butter, you can
20 redesign the interior spaces, correct?

21 **A Correct, yes.**

22 Q Just like for instance if we move from Exhibit 62, early
23 design guidance submittal October 19, 2016, 16 in the
24 northeast portion of the building moving from right to
25 left, you have two live/work units, a lobby and bike

1 Q My question is what data did they prepare these view
2 angles from?

3 A I'm trying to answer the question.

4 Q Okay.

5 A The view angles are established using GIS mapping, which
6 has topographical and elevation information, our on-site
7 survey, the as-built drawings on record with the City of
8 Seattle for the Phinney condos all in composite. When we
9 piece this diagram together, we're using as-built
10 information, GIS information and a topographical survey.

11 Q So based -- so when you say GIS mapping, you would agree
12 the GIS mapping comes in many shapes and sizes. Can you
13 be more specific as to what GIS mapping?

14 A I don't remember the specific source of that GIS mapping
15 other than city -- the City provided GIS topographical
16 data. On the City web site, there is a GIS mapping
17 interface, and you can obtain topographical data.

18 Q I have used it.

19 A Yeah.

20 Q Yes. But I'm -- so how -- tell me, explain to me how you
21 get from the GIS mapping on the City web site to being
22 able to create these view cones.

23 A The view angles are established -- there's several
24 coordinates involved. There's what I will call a Z
25 coordinate which is up and down, and then there's X and Y

1 coordinates.

2 Q Okay.

3 A So it creates a three-dimensional vector, if you will.

4 So we have topographical information provided by the City

5 GIS mapping information that tells us where Green Lake

6 is. It tells us both in distance from the property. It

7 tells us in elevation from the property. And that

8 establishes the target which would in this case be Green

9 Lake. And it tells us that in the three coordinates. So

10 it gives us a three-dimension allocation of the lake.

11 When we use that in relationship with our

12 topographical survey, which is an engineered survey, we

13 understand what the relationship between Green Lake and

14 our property is.

15 And the other layer is the as-built drawings of the

16 Phinney condominiums, which would have floor datums that

17 would identify where the view source could be derived

18 from. In a composite, we're using City archive as-built

19 information, we're using topographical survey

20 information, we're using GIS mapping and creating a

21 composite.

22 Q Okay. And using that approach, what's your understanding

23 as to the margin of error?

24 A I couldn't -- I couldn't put a number on it. It's as

25 accurate as the satellites who gather the GIS

1 information. Our AutoCAD program which we use to input
2 that in is accurate to within, boy, I don't even know how
3 many decimal or how many --

4 Q Okay.

5 A How many zeros behind the decimal point.

6 Q So Mr. Bodsky, do you know Mr. Bodsky?

7 A I don't, no. I haven't had the pleasure.

8 Q So Mr. Bodsky testified that the margin of error was
9 around .15 -- 4 degrees. Do you have any reason to
10 disagree with that?

11 A I don't know where he derived the margin of error from,
12 so I couldn't say.

13 Q Okay. So for these, let me call them view cones, for
14 these view cones, are you able to say what the margin of
15 error is?

16 A I couldn't, no.

17 Q Okay.

18 A There's not a standard assigned for that.

19 Q So in terms of degrees of view --

20 A As --

21 Q -- you couldn't say that?

22 A As accurate as the information available is, reasonably
23 available.

24 Q Um --

25 A And it appeared -- sorry. I just wanted to finish. It

1 discussed before.

2 THE WITNESS: It will show up on a
3 couple different drawings. Would you -- are you -- can I
4 direct your interest to landscape or architectural and
5 dimensions or --

6 EXAMINER: You know what was useful
7 about the last one is that it included landscape and
8 interior rooms. So it really had everything in some
9 respects.

10 THE WITNESS: Landscape does not
11 provide interior demising. But 82.12 does show that.
12 It's just the landscape is more diagrammatic and not
13 rendered.

14 EXAMINER: Okay. Just in case you
15 need it, you might want to keep that other page open to
16 the other exhibit, too. It does have a few features that
17 are a little different, like, showing the garage and
18 things like that.

19 So my first question is how did you -- how did you
20 arrive at a dividing line essentially where there's the
21 25-foot setback; is that right, for the garden area?

22 THE WITNESS: Correct.

23 EXAMINER: And then the 10-foot
24 setback, how did you arrive at that dividing line between
25 what would be in what zone essentially?

1 THE WITNESS: Well, there's a balance
2 of the shadow analysis and where we wouldn't be casting
3 significant shadow on the Johnson property, in addition,
4 interior programmatic objectives.

5 EXAMINER: Is that at all influenced
6 by -- I understood one of the issues, concerns, that you
7 had to address was the frontage on the street. Is that
8 influencing that line at all?

9 THE WITNESS: It does in terms of
10 creating what -- I know I have another phrase -- critical
11 mass if you will in order to create coherent composition
12 that meets the goals and objectives of the design
13 guidelines, of some of the design guidelines.

14 EXAMINER: How do you -- and I will
15 get into this with the City, too, but you have obviously
16 worked with it quite a bit so -- and you've been
17 approaching this project. So how in the context of this
18 project did you balance the application of design
19 guidelines?

20 And I will give you some examples as to what I'm
21 trying to get at because I think you have given us
22 several points of how you reached this design. And some
23 of those might reach some design guidelines and others
24 seem not as clearly addressed. And I will give you what
25 I have in mind when I'm saying that.

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1 I'm looking at Exhibit 63. It looks like these are
2 the ones that were addressed as priorities by the design
3 review board, the early design guidance, October 19,
4 2015.

5 THE WITNESS: Okay.

6 EXAMINER: So, for example, CSII.A2,
7 this seems to represent something along the lines of what
8 you are talking about with coherent architectural design
9 integrity.

10 THE WITNESS: Correct.

11 EXAMINER: And then you mentioned also
12 something in connection with CSII.B2 of connection to the
13 street?

14 THE WITNESS: Correct.

15 EXAMINER: Okay. So then if you turn
16 the page, then there's five other design guidelines,
17 CSII.D1 through D5. And these affect more the
18 relationship between the property and adjacent
19 properties?

20 THE WITNESS: Correct.

21 EXAMINER: So, for example, the 5
22 says, "Respect adjacent properties with design and site
23 planning to minimize disrupting the privacy of residents
24 in adjacent buildings."

25 THE WITNESS: Correct.

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1 EXAMINER: So when you are applying
2 these different design guidelines to your design, how do
3 you balance as to which one is going to take priority
4 over the other?

5 THE WITNESS: I think it's important
6 to draw contrast to what the zoning requirements are and
7 how -- how maximum zoning envelope or what is -- what is
8 allowed in contrast to what the proposed design has been
9 sculpted to do.

10 There's no setbacks required along that eastern
11 property line, but clearly we've demonstrated --

12 EXAMINER: I'm not asking about the
13 zoning. I understand that.

14 THE WITNESS: Sure, sure.

15 EXAMINER: I'm asking how you apply
16 the design -- simply -- I recognize that it's not a
17 question in a vacuum, but it's related to other aspects
18 of the project.

19 THE WITNESS: Yes.

20 EXAMINER: And in the interest of
21 time, I want to make sure that we're focusing on the --

22 THE WITNESS: I will try to be
23 concise.

24 EXAMINER: And it's the design
25 guidelines. How do you prioritize between those when you

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1 are applying them?

2 THE WITNESS: It's a composite, and
3 through the design review board, they oftentimes
4 prioritize design guidelines. And with all the layers
5 and the factors that go into building design, the push
6 and the pull and the external factors, it's really trying
7 to achieve a balance of all of them and address all of
8 them.

9 Are -- are some prioritized? I would say yes. But
10 we do strive to create a coherent positively contributing
11 built environment. And in doing so, I wouldn't say that
12 we necessarily prioritize, but we do to the best of our
13 ability try to come to a reasonable, rationale, coherent
14 conclusion, both architecturally, functionally,
15 programmatically, economically, environmentally in order
16 to strike a balance.

17 EXAMINER: Okay. And -- so there
18 isn't really a prioritization between them? You just --

19 THE WITNESS: That is not how --

20 EXAMINER: You try to do your best
21 across --

22 THE WITNESS: I try to do my best
23 across the board.

24 EXAMINER: Okay.

25 THE WITNESS: And create a coherent

1 response.

2 EXAMINER: Okay. Along the lines on
3 those -- for those design guidelines D1 through 5, is
4 there any in particular 5 that I mentioned about privacy
5 of residents in adjacent buildings, there is -- I don't
6 think there's been any dispute at least in the testimony
7 I've heard, including from the appellants, that that's
8 been achieved for that amenity level two on the southern
9 portion that is the 25-foot setback. In fact, I think
10 Ms. Johnson's testimony was that, if I had that, I would
11 be happy.

12 What did you do to try to achieve that design
13 guideline for the portion that is adjacent to the Johnson
14 property?

15 THE WITNESS: From the onset for our
16 preferred design, we have always held a setback that was
17 greater than a zoning base. I mean, we have to have a
18 baseline. So the zoning baseline is zero setback. And
19 so we've always sculpted the building in order to achieve
20 a buffer along that -- along that edge.

21 And we have created. From a privacy standpoint, we
22 utilized smaller windows in that volume of the building.
23 We carried quite expensive and substantial material
24 around the corner so that the quality of the building
25 would also face out.

1 A lot of designs kind of stop at the street facade,
2 and so we've tried to have the integrity of the materials
3 and the quality of the building turn the corner --

4 EXAMINER: Of the facade?

5 THE WITNESS: Of the facade, yes. And
6 in addition, we've landscaped -- we had decks, small
7 decks, albeit on the end, the portion that is five feet
8 away. We took those away and no longer have decks out
9 there, but we have a planted area above there. And so I
10 hope that we can get some tall grasses and things to kind
11 of visually soften that edge.

12 So those are some of the things -- we have a parapet
13 so the height, bulk and scale of a four foot of parapet.
14 A four-foot parapet would be allowed outright, but we've
15 held it down just enough to -- for waterproof -- excuse
16 me. I'm getting dry -- waterproofing transitions and to
17 conceal insulation and technical aspects.

18 EXAMINER: Where is the parapet you
19 are talking about?

20 THE WITNESS: I'm sorry. The eastern
21 edge of the roof line.

22 EXAMINER: The roof line?

23 THE WITNESS: Yeah. So the parapet is
24 minimized down to -- it's as small as possible. So we
25 try to mitigate the scale of that -- or that portion of

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1 the building.

2 EXAMINER: Okay. Recognizing that
3 we're in a city in an urban environment, I can't help but
4 ask, and if you have got irrigation coming for the
5 25-foot setback area --

6 THE WITNESS: Correct.

7 EXAMINER: And I assume that will also
8 feed into that 10-foot setback?

9 THE WITNESS: There will be a separate
10 line that goes into the 10-foot setback, yeah.

11 EXAMINER: And have you explored
12 opportunities for going a bit higher than grasses? For
13 example, you know, lattice screens with something along
14 those lines that might take out a whole set of windows to
15 the backyard?

16 THE WITNESS: It was a balance of
17 putting lattice and screens that would add height closer
18 to the property line. So it was something that we didn't
19 consider outright because we didn't want to have a
20 perceived mass even if it's a lattice closer to the
21 property line in that area.

22 So we just kind of kept it low and made the windows
23 smaller. Those windows have smaller units than any other
24 unit -- any other units in the project.

25 EXAMINER: So you did consider the

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1 MR. EUSTIS: In the interest of time,
2 I'm going to object beyond the scope.

3 MS. KENDALL: He was talking about
4 design guidelines.

5 MR. EUSTIS: Yeah, but he was talking
6 about specific guidelines. He wasn't -- I mean, we're
7 going into -- essentially we're going into other design
8 guidelines and asking for, presumably, consistency, maybe
9 lack of consistency with other design guidelines that
10 haven't been brought up yet in his testimony.

11 MS. KENDALL: Well, I believe the
12 hearing examiner --

13 EXAMINER: Let me just --

14 MS. KENDALL: I'm sorry. Go ahead.

15 EXAMINER: Drew on it. My question
16 was very broad, and I don't think that I can exclude
17 certain design guidelines. The ones I listed were not
18 exclusive. They were -- I mentioned them as examples of
19 a broad how do you apply the design guidelines. So I
20 think it's a fair question.

21 Q (By Ms. Kendall) In the hearing examiner's question as
22 to whether that -- why the facade on 68 goes to the
23 5-foot setback and the 10-foot setback and isn't the same
24 as the 25-foot setback, is CSII.C1 something that you
25 would consider? You were talking about importance of the

1 facade in 68 and creating a corner. Is this really what
2 we're looking at here?

3 **A That's a contributing guideline.**

4 Q Okay. And we talked about all the others. I'm not going
5 to repeat those. And I think we've talked about some of
6 the key elements. Looking at the elements that the
7 hearing examiner raised in terms of design guidelines
8 that he discussed, the corner design guidelines and the
9 respect for adjacent sites, with that balance and all of
10 the elements you added to the area near the Johnson
11 property, do you feel that you have achieved that balance
12 in terms of the design guidelines?

13 **A I do.**

14 Q Does it appear based on the approval and the
15 recommendations that the design review board also
16 concurred with that?

17 **A Correct. I do.**

18 Q Okay. Thank you very much.

19 One other quick question about the view diagram.
20 And I don't think we need to look at anything other than
21 Exhibit 21 of the appellant's. It's the -- Mr. Bodsky's
22 view itself. I don't know where that is but...

23 **A Could you confirm if it's this exhibit?**

24 Q It's that exhibit.

25 **A Okay.**

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3
4

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7

 That I am not a relative, employee, attorney or counsel of any party to this action or relative or employee of any such attorney or counsel and that I am not financially interested in the said action or the outcome thereof;

8
9

 That I am herewith securely sealing the said deposition and promptly delivering the same to Jessica Clawson.


10
11

 IN WITNESS WHEREOF, I have hereunto set my signature on the 26th day of May, 2017.

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14

15

16


Barbara K. Castrow
Barbara Castrow, CCR, RMR
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EXHIBIT C

**Verbatim Transcript of Proceedings
(From Audio Recording)**

May 4, 2017

In RE Livable Phinney

MUP 17-009 (DR, W)



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BEFORE THE HEARING EXAMINER

FOR THE CITY OF SEATTLE

In the Matter of the Appeal of:)
)
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)
Livable Phinney, a Washington) No. MUP 17-009 (DR, W)
non-profit corporation)
) DCI Reference:
From a Department of Construction) 3020114
and Inspections decision)
)
)

VERBATIM RECORD OF PROCEEDINGS, VOLUME III
(FROM AUDIO RECORDING)

May 4, 2017

Seattle, Washington

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Michael Dorcy
David Graves

1 to 7 p.m.

2 So I don't believe that this chart at midnight is a
3 valid -- is a valid analysis because it's not based upon
4 the peak period. So I used the chart from 6:00 to 7:00.

5 Q Okay. We're to the second page of --

6 A Yes.

7 Q -- Mr. Koltonowski's Exhibit 56.

8 A So he shows, again, 281 legal parking spaces and actual
9 capacity of 281. He uses the count from 6 to 7 p.m. of
10 249. He uses the parking demand created by pipeline
11 projects as six for the most recent -- or the third study
12 from Gibson Traffic Consultants. And then he came up
13 with a --

14 Q A figure that you take issue with, the 6, as opposed to
15 the 13?

16 A Well, actually, my analysis shows 15, and we'll get to
17 that, yes.

18 Q Okay.

19 A I'm just showing you sort of the progression of different
20 studies. Then he came up with a parking demand created
21 by Phinney Flats of 23. His reasoning was the .69 -- he
22 basically used the .69 factor. What he did is he took
23 the 69 residential units, multiplied by the .57, the
24 updated factor that he used from the right size parking
25 calculator, and he applied a factor of .69.

1 Now, I have never seen the concept he utilized of
2 the .69 used in any other parking study. It was not
3 something that was utilized in the first three studies.
4 He also zeros out the commercial demand created -- or the
5 parking demand created by the commercial development at
6 Phinney Flats.

7 So one of the things is that the way he came up with
8 the .69 factor is to say he went to the ITE parking
9 generation manual and said -- and looked at it, and said
10 from an average set of parking studies across the
11 country, typically the peak period is between midnight
12 and 1 a.m., and typically or in a typical residential
13 neighborhood, the parking demand is .69 -- from 6:00 to
14 7:00 is .69 of the parking demand at -- from midnight to
15 1 p.m. And he applied that and reduced the parking
16 demand created by the residential portion of the Phinney
17 Flats by that .69.

18 If -- and this is why I don't think this is a valid
19 analysis. It's based upon data from a typical
20 residential area. If this residential area were typical,
21 the peak period would be between midnight and 1:00. So
22 this is not a typical residential parking situation -- or
23 the parking -- the parking characteristics in this study
24 area are not typical.

25 So applying a factor based upon information from

1 **typical residential areas is not applicable in my**
2 **opinion.**

3 Q Is it your opinion because we have actual counts from a
4 period that shows actual parking demand to be greater
5 than 12 to 1 a.m.?

6 A **Yes.**

7 Q Okay.

8 A **Yes.**

9 Q So if you were to determine what the parking demand is
10 for the peak period, you would use the data from actual
11 counts for the 6:00 to 7:00 period?

12 A **Well, you certainly wouldn't -- well, the thing is is**
13 **that this concept, which was not used in the first three**
14 **studies, although they do have a paragraph about perhaps**
15 **doing a study from midnight to 1:00 which is not**
16 **applicable in my opinion, they don't -- for the period**
17 **between 6 and 7 p.m., they don't actually reduce that 29**
18 **residential stalls estimating the demand from the**
19 **residential development at Phinney Flats.**

20 **The fourth study is the first -- the first time they**
21 **have used that concept.**

22 Q The .69 factor?

23 A **The .69 factor.**

24 Q Okay. Go ahead.

25 A **So I wanted to show you specifically about how different**

1 Exhibit No. 67, Page 3, the bottom of the page, the
2 third from the bottom, it says the clear story
3 illustration has been enlarged to relate better to the
4 size and proportion of windows elsewhere on the building,
5 reducing the perceived math of clear stories and allowing
6 more light into the residential zone, which goes directly
7 into the -- or meets the definition of clear stories.

8 The next question, a shadow diagram required by SMC
9 23.47A.012.C.7 concludes that no property to the north is
10 impacted by an additional rooftop feature. I've included
11 not as an exhibit but for purposes of helping the entire
12 text of 23.47A.012 the current code with the highlighted
13 sections that I'll be referring to.

14 Next is a sheet, G0.02B, which is a portion of
15 Exhibit 3. And in looking at the shadow diagram in the
16 lower left-hand corner, when I did my interpretation,
17 this is the shadow diagram that was provided by the
18 applicant. It looked appropriate to me. As you can see,
19 they provided the shadow without the rooftop features and
20 then the shadow with the additional rooftop features
21 showing that a small portion is added in the upper
22 left-hand corner. That is in the right-of-way, and,
23 therefore, does not impact property as I read the code
24 section.

25 The definition of property is not in the code, but

1 frequent transit service corridor under Metro where they
2 are providing bus headways every 15 minutes up to 14
3 hours a day, which is beyond the requirement of the code.

4 I'm not -- in all the reviews I've done and my
5 colleagues have done, we have looked at the bus schedule
6 to determine if frequent transit is met or not. I'm not
7 sure what standard the appellant would want us to look at
8 to determine if it's a frequent transit corridor or not.
9 If reviews can only be done, you know, several months
10 past, that is impractical for determining if it's
11 frequent transit service now and with increased headways,
12 increased number of busses. It's also impractical to
13 allow -- to require the applicant to go through a complex
14 study every time they want to determine if frequent
15 transit is allowed or not.

16 I have included Exhibit -- my No. 15, which would be
17 Exhibit 76, I believe, as the new updated bus schedule
18 that was effective March 11th. This was not addressed in
19 the statistical study submitted yesterday. This is
20 updated with more frequent bus service and additional
21 busses.

22 Next, my No. 16 would be Exhibit 77 is Sheet A-1.00
23 from project -- I'm sorry. Sorry. This is Sheet A-1.00
24 from Exhibit 3 so --

25 MR. EUSTIS: Before we go on to that.

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1 I think my numbering doesn't agree with the City's
2 numbering. Just so it's clear, could we -- could we
3 recap what is 75?

4 EXAMINER: 75 is the definition.

5 MS. CLAWSON: Property. 76 would be
6 the --

7 MR. EUSTIS: Even though this is an
8 excerpt of existing code --

9 EXAMINER: This I don't --

10 MS. KENDALL: It's a couple back.

11 EXAMINER: There were some codes that
12 did not get entered, and they were definitions. This is
13 a different definition.

14 THE WITNESS: I was trying to help
15 clarify --

16 EXAMINER: It is very helpful, and I
17 will have these next to me when I'm making my decision.
18 But for purposes of collecting the record --

19 THE WITNESS: Sorry.

20 MR. EUSTIS: Okay. So I had written
21 that down as 76.

22 THE WITNESS: 76 is the bus schedule.

23 MR. EUSTIS: Okay.

24 THE WITNESS: And then my one exhibit
25 labeled 16 is actually from Exhibit 3, Sheet A-1.00.

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1 This shows the -- the analysis done by the applicant.
2 This is the kind of analysis that we routinely look at to
3 determine frequent transit. It sounds like under the
4 former bus schedule, it may not have met the frequent bus
5 service. But I believe under the new bus schedule with
6 improved service, it does meet the requirement.

7 But that -- the appellant argues that we cannot use
8 the bus schedule to determine frequent transit service.
9 I'm not sure what other standard we would use. That has
10 been used in numerous other projects. I included my No.
11 18, which would be Exhibit 78, I think.

12 EXAMINER: We're on 77 unless you --

13 THE WITNESS: Sorry.

14 MR. EUSTIS: 77 is A.100 or not?

15 THE WITNESS: No, that's 3. That's
16 from 3.

17 EXAMINER: So this is an excerpt.
18 We're not labeling it.

19 THE WITNESS: Right.

20 EXAMINER: I've got 17 for you?

21 THE WITNESS: Right. I'm going to
22 come back for that one. Sorry.

23 EXAMINER: You are going to --

24 THE WITNESS: I'm skipping around.

25 EXAMINER: 18?

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1 THE WITNESS: Yes. And this would be
2 number -- Exhibit 78.

3 EXAMINER: 77.

4 THE WITNESS: 77. This is Sheet A-1.2
5 from project 302-6592, an example of another frequent
6 transit service analysis similar to the one provided by
7 the applicant that shows distance -- another example,
8 this is routinely how we determine frequent transit
9 service if it is being met or not, bus schedules and a
10 map of the locations, just as the applicants provided.

11 Now, I would like to go back to my No. 18, which
12 would be Exhibit 78, and turn to Page --

13 MR. EUSTIS: Just a second. 78 is No.
14 18, which is this?

15 THE WITNESS: Yes. I can't count
16 today.

17 MR. EUSTIS: You said you were going
18 back to an exhibit, and that confused me.

19 THE WITNESS: Yeah, I know. So this
20 will be 79.

21 EXAMINER: Sorry.

22 MS. CLAWSON: Wait. Which will be 79?

23 EXAMINER: 77 was this last one that
24 you introduced?

25 THE WITNESS: Okay. So I'm at 78.

1 written, whenever it was written, for Exhibit -- sorry.

2 I lost my place -- Exhibit 72?

3 **A Uh-huh.**

4 Q That the City interprets that to not require a setback
5 when there's a split zone lot because that is not a lot
6 in a residential zone?

7 MR. EUSTIS: Objection to the -- to
8 essentially the form of the question.

9 MS. KENDALL: I will rephrase.

10 MR. EUSTIS: Which is the consistent
11 position.

12 EXAMINER: So if you -- she's going to
13 rephrase.

14 Q (By Ms. Kendall) Has it been the consistent --

15 EXAMINER: Sustained.

16 Q (By Ms. Kendall) -- decision of the City to interpret
17 this provision to not require setbacks in split zone
18 lots?

19 **A Yes.**

20 Q Okay. Thank you.

21 I just want to pull your attention to the bottom of
22 Page 4. This code was amended, correct, in 2015?

23 **A Yes.**

24 Q And we understand that the reasoning -- the omnibus
25 legislation is no longer an exhibit, so we won't talk

1 **story below."**

2 Q Okay. So in your opinion based on your interpretation of
3 that definition, it is -- did not create -- this
4 mezzanine does not create an additional story?

5 **A Correct.**

6 Q And the addition of the clear story does not create an
7 additional story?

8 **A Yes.**

9 Q All right. Moving on, attempting to go quickly, on Page
10 8 in terms of the view analysis, now, I heard you testify
11 that the view analysis, and let me see if I can make sure
12 I get your language correct, I don't want to misquote
13 you, that as you stated in your interpretation, the view
14 analysis does not provide a view analysis from all
15 angles --

16 **A Correct.**

17 Q -- correct?

18 **A Yes.**

19 Q Okay. The view analysis that is in Sheet G0.02B, which I
20 believe is the last page of Exhibit 3 that we were
21 looking at --

22 **A The same --**

23 Q -- the study, the same?

24 **A Yeah.**

25 Q Do you have concerns with the accuracy of that view study

1 in and of itself just on that particular view angle?

2 **A No.**

3 Q No. Do you believe that was done correctly?

4 **A Yes.**

5 Q Okay. So when you are talking about angles, you are
6 talking about there could be other angles from different
7 residential buildings that we could have looked at?

8 **A Yes.**

9 Q And as you testified, we provided as part of our -- we
10 didn't introduce it because it hasn't been raised, but we
11 provided as an exhibit to both the appellant and the City
12 an analysis from a different building looking towards
13 Mount Rainier, correct?

14 **A Yes.**

15 Q And did that show a significant view impact --

16 **A No.**

17 Q -- from our project?

18 **A No, it did not.**

19 Q Okay. Moving on quickly to Section 6 in terms of the
20 code provision 23.47A.012.A1 uses the term "otherwise
21 applicable limit." How does the City view that term
22 "otherwise applicable limit"? Is that the straight up 40
23 feet, there's no additional applicable limit or is that
24 the 44 feet that's permitted? I'm sorry. Am I mixing
25 terms? I think I might be mixing terms.

1 intervals?

2 **A I believe that the interpretation dealt with whether we**
3 **can rely on bus schedules or not. I do remember him**
4 **saying that during that limited window in 2016, I**
5 **believe, that they had diverged somewhat from the**
6 **schedule.**

7 Q To the percentages he gave?

8 **A Yes.**

9 Q Okay. You don't have any reason to disagree with those
10 percentages?

11 **A Not at that time, no.**

12 Q Okay. So you are aware, aren't you, that the schedules
13 that were submitted prior -- as part of this application
14 showed 15-minute headways at least?

15 **A Yes, I believe that it did.**

16 Q Okay. And current schedules show 15-minute headways?

17 **A Better than 15 minutes on the schedules, yeah.**

18 Q Okay. And are you aware of any data under the current
19 schedules that would show what the actual operations are?

20 **A No, I'm not.**

21 Q Okay. So you would have -- you would have -- as you sit
22 here, you would have no reason to disagree with a
23 conclusion by Dr. Altschul that the current schedules
24 still would not meet actual headways of 15 minutes?

25 **A I do not agree with that at all. He has no basis for**

1 that. It's impractical to ask an applicant to do a
2 statistical analysis every time they are trying to prove
3 frequent transit. That's why I said it should be relied
4 on bus schedules. I don't think he has any evidence now
5 that supports the conclusion that the headways are still
6 not being met on a consistent basis. He didn't present
7 any evidence to that.

8 Q You mean under current circumstances?

9 A **Yes.**

10 Q Okay.

11 A **The current bus schedule, which is different than the
12 schedule in September.**

13 Q But you're aware of no data that gives actual headways
14 currently under the current schedule?

15 A **That's correct. All we have to rely on is the bus
16 schedule.**

17 Q Okay.

18 A **And without anything else, that's what we have to rely
19 on.**

20 Q Okay. For purposes of your interpretation, did you
21 consider the -- under the schedule whether actual
22 headways would meet an average of within 15 minutes?

23 A **I did not. Averages are not allowed to be considered.**

24 Q Next I would like to turn to a number of documents in the
25 appellant's exhibit list.

1 recommendation meetings.

2 The -- one thing I point out is when one reads this
3 is that we had four meetings, which is not totally
4 unusual, but for a project this size maybe more than
5 would be the average for these meetings. But there was a
6 tremendous amount of public interest and an extensive
7 turnout. I think we had 40 some people signed up at the
8 first meeting. There were obviously more people than
9 that. So it was a proposal of great interest to the
10 people of that neighborhood.

11 And I think we took it very seriously from that
12 point that we were going to have a significant continued
13 interest in the project, and not only from that, but that
14 even prior to the first meeting we had, letters that came
15 to the department about the proposal.

16 And at the end of the first meeting, the board asked
17 to come back for a meeting of early design guidance but
18 did summarize or give the guidelines which were of
19 particular priority for the project, and those start on
20 Page 6 and run for several pages. I haven't gone through
21 and tried to figure out what was left out, but it's
22 pretty much the abundance of whatever is provided in
23 the -- both the general guidelines and in the -- the
24 Greenwood/Phinney guidelines.

25 And among those that were singled out by the -- by

1 the board of being particular attention to be paid to is
2 the relationship of this project to the existing
3 character of the neighborhood and to the -- in terms of
4 scale, character, architectural context and -- so that
5 was what the applicant was given to work with at the
6 first meeting. And at that time no departures from
7 regulations were requested.

8 The second meeting took place on January 11th, 2016.
9 And the notes focus on the applicant's responses to the
10 early design guidance, the first early design guidance
11 meeting and then go into the public comments. I think
12 the -- I'll just characterize one thing I think about in
13 terms of my own experience, the applicants and the
14 architects of the applicants made a significant attempt
15 to respond to each meeting with the comments and the
16 direction and guidance of the board and were very
17 responsive and quickly responsive to those -- to the
18 board's comments. That doesn't mean that the board
19 always agreed with the public comments that were being
20 made. And I think that because they were, you know, not
21 necessarily which the board I think pointed out on
22 several occasions under their purview.

23 I think one of the burning questions from the first
24 moment and the first letters we received was the lack of
25 parking being provided by this project. And the board at

1 each of the meetings tried to respond that they had --
2 they had no jurisdiction over parking requirements, and
3 that wasn't in their purview. But it did not dissuade
4 the people in attendance from discussing parking at any
5 of those meetings.

6 On Page 17, we're already at the first
7 recommendation meeting on August 1st, 2016, and we can go
8 through where the project had been, but I -- this
9 coordinates I think most readily for somebody trying to
10 follow the project with the packet that was provided for
11 that meeting. And so the public comment is listed, and I
12 think there was a feeling that the design had not
13 responded completely to the board's guidance. And the
14 board at the end of that recommendation meeting specified
15 their own hot button issues in terms of what was going
16 on, some of it picking up the neighbors' responses,
17 others in terms of the history of their own comments on
18 the project.

19 So the board's direction at the end of that meeting
20 was -- was an interesting one because it had said that
21 the board members had too long a list to finish up or
22 resolve, it reminds me perhaps of our situation here, of
23 a lot to talk about, and we're coming trying to get it
24 all in. But by a vote of 4 to 0, they wanted the
25 board -- the applicants to come back for a final

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1 recommendation, what turned out to be a final
2 recommendation.

3 And that was September 26th, 2016. So the
4 applicants went through their responses to the board's
5 considerations, and then the public was allowed once
6 again to make their concerns. And the board ended by
7 giving their recommendations for the project, some things
8 they still wanted to see, but ended up with a decision
9 4-0 to approve the project.

10 And as we all know that if the board -- by the code,
11 if the board recommends unanimously or a vote of 4-0, the
12 director must show reason that they have specifically
13 heard not to go along with the decision of the design
14 review board.

15 The board got -- ended with four conditions they
16 wanted on the project. It is our intention to
17 incorporate those into the plan set for the project as
18 notations. And that in order to issue the -- the master
19 use permit, those things will have to be incorporated
20 into the plans.

21 In addition, there were two recommendations that the
22 board gave, not conditions, but recommendations.

23 On Page 22, the analysis of the decision involving
24 waiting for design review, the board recommended four
25 members who were the four attending that meeting

1 recommended that this -- the project be approved. And so
2 the decision of the director is that the design review
3 board reflected that the board can only overrule the
4 board if it can be shown that the board's decision
5 reflects inconsistent application of design review
6 guidelines or they exceed the authority of the design
7 review board or conflicts with SEPA conditions or other
8 regulatory requirements or conflicts with the
9 requirements of state or federal law.

10 So subject to the recommended conditions, the design
11 of the proposed project was found by the design review
12 board to adequately conform to the applicable design
13 guidelines. And the board recommended approval with
14 conditions, and the final director agrees with the design
15 review board's conclusion.

16 And the director agrees that it's a design that best
17 meets the intent of the design review guidelines and
18 confirms the recommendation of the board. The third part
19 of this is the SEPA analysis.

20 Just briefly to go through that, I think the
21 short-term impacts that we're looking at are those that
22 are traditionally identified with any kind of a
23 construction plan of this size, short-term impacts,
24 construction impacts, greenhouse gas emissions, which
25 we're required to at least mention, although we have no

1 viewed it adjacent to her father's property. And in the
2 final analysis, there was, what, a five-foot setback at
3 the ground level and then there's, what, an additional
4 setback -- a very slight setback up above. Is that
5 correct?

6 **A I wouldn't call it a slight setback.**

7 Q Okay.

8 **A But if I could look at the plans, I could tell you**
9 **exactly what it is.**

10 Q But I think we've already had testimony. This deals with
11 what is called the brick volume.

12 So you would agree with the characterization that
13 essentially the design does not carry the first level
14 courtyard all the way through to the north side of the
15 building?

16 **A That's correct.**

17 Q Okay. And does it remain your opinion that by not
18 continuing the courtyard through to the north side of the
19 building still is consistent with the design review
20 guidelines?

21 **A Yes.**

22 Q Okay. And I take it you would -- I asked Mr. Janette
23 about this. Would your reasoning be similar to his or
24 would you have different reasoning?

25 **A It would probably be similar to his. I would think of**

1 that in an abundance of design review projects. And it's
2 what those people on the board are weighing with. It's
3 holding -- holding the street lines is very important.
4 And this is a corner -- a prominent corner site. And
5 that rounding that corner and holding that edge of the
6 street is -- is important.

7 And, you know, if you look at the guidelines
8 carefully, there are a lot of countervailing objectives
9 in the --

10 Q Okay.

11 A And they have to be weighed and balanced. And the board
12 is doing that all the time. And there's not always
13 necessarily 100 percent agreement among the board. What
14 is the most important thing here. But I think they were
15 very clear in their directives what they wanted.

16 Q So could you point to a countervailing design review
17 guideline that would, I guess, elevate the importance of
18 rounding the corner of the building, et cetera, over the
19 provision that calls for appropriate transition or
20 complement to adjacent zones?

21 A Well, let's start with CSII, urban pattern and form
22 strengthen the most desirable forms, characteristics and
23 patterns of the street, block faces and open spaces in
24 the surrounding area.

25 I would say that in relationship to the block corner

1 **sites in CSII C, so that would be for starters.**

2 Q So you would agree that those are quite general in
3 nature?

4 **A All the guidelines are quite general in nature I would**
5 **say.**

6 Q So before the design review board, specifically did
7 pulling back the northeast corner of the building, the
8 so-called brick volume, pulling that back a greater
9 distance, you know, extending the courtyard all the way
10 to the north side of the building, was that a topic
11 specifically discussed by members of the design review
12 board?

13 **A Yes.**

14 Q Pulling -- extending the courtyard?

15 **A No, not extending the courtyard, no.**

16 Q That wasn't specifically discussed?

17 **A No, I don't think that was an issue.**

18 Q That wasn't an issue?

19 **A No. I think the --**

20 Q You don't recall Ms. Johnson raising that?

21 **A She was not a member of the board. I thought you were**
22 **talking --**

23 Q No.

24 **A -- about the board.**

25 Q No, before the board, as an issue before the board.

1 **A** There were -- yes, there was -- there were several
2 comments about that. I think the board was weighing --
3 weighing those values, and they were the ones who
4 insisted that separation from the garage --

5 Q Five feet?

6 **A** -- was 5 feet in the EDG, and it got -- I think by the
7 third plan, it was only 3 feet wide. And the board was
8 very insistent that that had to be 5 feet.

9 Q Adding two additional feet?

10 **A** Yes.

11 Q Okay. And the upper story would be --

12 **A** And I was insistent to the applicant that that had to be
13 5 feet.

14 Q Okay. So two additional feet?

15 **A** Yes.

16 Q So then for the upper story, the total was 10 feet?

17 **A** Yes.

18 Q Okay. And did the -- did the design review board
19 specifically discuss the issue of whether it should be 10
20 feet or whether it should be, I think it is, 25 feet
21 which would result from extending the courtyard to the
22 north?

23 **A** I think the -- they responded positively to the form that
24 was the L-shaped form --

25 Q That was kept --

1 **A -- for part of the building.**

2 Q Okay. But apparently you don't recall any specific
3 discussion as to extending the courtyard the full length
4 of the building?

5 **A On the part of the board, no.**

6 Q Okay. Thank you.

7 On Page 22 on your recap of the board's decisions in
8 the -- you list four conditions, Page 22 of your
9 decision.

10 **A Yes.**

11 Q Do you see that?

12 **A Yes.**

13 Q And the light shading of the south wall is not among
14 those conditions; is that correct?

15 **A Yes.**

16 Q So in that sense, you don't disagree with Ms. Reymore's
17 reading of this decision?

18 **A And what is her reading of this decision?**

19 Q She didn't find -- she didn't find that the light shading
20 of the south wall was included in those conditions, if
21 you recall her testimony.

22 **A It's being proposed by the architects. It's a part of**
23 **the plan set. It will be there when the building is**
24 **built.**

25 Q All right. You spoke in terms of traffic mitigation. So

1 interest of time since the language of the document
2 speaks to themselves, I won't go through the language of
3 the document. But I would move the admission of Exhibit
4 81.

5 EXAMINER: Any objections from City or
6 the applicant?

7 MS. CLAWSON: No objection.

8 EXAMINER: Exhibit 81 is admitted.

9 MR. EUSTIS: Again, in the interest of
10 time, I will wrap up my questions of Mr. Dorcy.

11 EXAMINER: Okay.

12 MR. EUSTIS: Thank you.

13 EXAMINER: Thank you, Mr. Eustis. So
14 we would go then to redirect city applicant appellants.
15 Before we do that, I have some questions for you,
16 Mr. Dorcy.

17 THE WITNESS: Sure.

18 EXAMINER: I asked the same question
19 of Mr. Janette, and I want to see if you concur or have a
20 different response. Is there any type of prioritization
21 between the application of the design review guidelines
22 for a project?

23 There's multiple guidelines. And as they are
24 applied to a project, is there any prioritization between
25 them or how is that addressed?

1 THE WITNESS: I think practicably it's
2 addressed by the board, and in many instances the board
3 is very selective in what they -- and that's one of the
4 case -- select what they consider to be important
5 guidelines.

6 But the code does say that all the guidelines are
7 applicable. So they can select the ones of priority, and
8 so they can do that. In this instance, I think the board
9 has -- has not been very selective. I didn't go through
10 what was left out, but I think the only ones that were
11 left out wouldn't have any applicability to that site or
12 that project.

13 EXAMINER: So that's part of how they
14 prioritize is they will identify which ones -- which
15 design guidelines are of primary concern to them? I
16 don't remember which phase they did that in, but they
17 will call them out for --

18 THE WITNESS: That would be the early
19 design guidance meeting normally.

20 EXAMINER: All right. And through
21 that process, there is some prioritization on the part of
22 the DRB to --

23 THE WITNESS: That's right. But there
24 comes a point where if they don't do that, it's hard to
25 perceive what the prioritization might be.

1 Q You were here for all three days?

2 **A Yes.**

3 Q Yes. Okay.

4 So you were here for the testimony of
5 Mr. Koltonowski and Mr. Crippen?

6 **A Yes.**

7 Q Okay. And you were here for the testimony of Mr. Crippen
8 today talking about -- I was questioning him related to
9 residential peak parking demand and when counts were done
10 in the neighborhood. I think that was kind of the line
11 of questioning.

12 **A I do recall some questions to Mr. Crippen along those
13 lines.**

14 Q Do you have any light to shed on the issue of residential
15 peak parking demand versus when counts should be done in
16 a neighborhood with commercial uses?

17 **A Yes, I think Mr. Crippen did speak to some of this. And
18 I agree with some of what he said.**

19 **Residential parking demand typically peaks
20 overnight. Plenty of studies would show that. In a
21 neighborhood where the other developments are almost
22 exclusively or very primarily residential, the likely
23 time of existing peak demand on the street is probably
24 also overnight. In mixed areas such as this project, it
25 is certainly likely that an existing peak demand for**

1 on-street parking might be at some other time. And in
2 fact, Gibson Traffic Consultants' survey did show that
3 the peak demand on street between 6:00 and 7:00 was
4 noticeably higher than the peak demand that they had
5 previously measured at midnight.

6 But I think it's good to distinguish two concepts.
7 One is the peak demand of the proposed development. In
8 this case, that would be overnight because the large
9 majority of parking generated by this development is from
10 the residential component. There's some commercial, but
11 the bulk of it is going to be from the residents. So
12 that would occur overnight irrespective of what the
13 on-street demand shows.

14 The existing parking supply can be measured at any
15 time of day, and it was identified as peaking between
16 6:00 and 7:00, at least in the time periods that were
17 measured. So it's not unusual for a project to have one
18 demand -- one peak demand that is specifically related to
19 the project and in the context in which the study is done
20 in the environment in which the project is being placed,
21 the peak time period for existing parking supply might be
22 at a different time of day. And that's what occurred
23 here.

24 Q Okay. And so were you involved with the -- the creation
25 of the correction notices for parking and transportation

1 **A Yeah.**

2 Q And do you recall whether that application took the bike
3 lane into account?

4 **A Not in their initial parking study, no.**

5 Q Great.

6 In your practice of determining pipeline projects,
7 how do you factor in, you know, whether a bike lane
8 should be or should not be included in a pipeline project
9 analysis, a future analysis?

10 **A We use the same sort of criteria we would use for judging**
11 **whether or not a capital improvement for a transportation**
12 **analysis should be included. If it's funded, if there's**
13 **some level of funding commitment, if there's design**
14 **details showing that the project has been fairly far**
15 **advanced, it is likely appropriate to include it.**

16 If it is a proposal that's part of a planning
17 document but does not have funding or associated design
18 detail associated with it, we typically would not include
19 it.

20 Q Do you know whether bike lanes require SEPA
21 determinations by SDOT?

22 **A Offhand, I don't know.**

23 Q Okay. Do you know in the Roosevelt project whether that
24 bike lane decision included a SEPA determination of the
25 bike lane project?

1 **A I don't know that either.**

2 Q Okay. You were here for the testimony of Mr. Crippen
3 related to an 85 percent capacity issue as being the
4 standard at which parking is considered to be full?

5 **A Yes.**

6 Q Do you -- does -- has the department determined a number
7 at which parking is considered to be full for the
8 purposes of SEPA?

9 MR. EUSTIS: Objection -- objection;
10 form of the question, "full." I think the term is used
11 at capacity.

12 Q (By Ms. Clawson) Oh, you can just -- you can substitute
13 it so I don't have to ask again.

14 EXAMINER: Substituting "capacity" for
15 "full"?

16 MS. CLAWSON: Yeah, that's fine.

17 EXAMINER: Okay.

18 THE WITNESS: The department
19 historically has used a metric of 85 percent of -- let me
20 rephrase that.

21 The department historically has considered that when
22 within a subject area 85 percent of the on-street parking
23 spaces are occupied, that that has the potential for
24 resulting in impacts. It doesn't necessarily mean there
25 are impacts. It just is an alert that parking is

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1 becoming more difficult to find and may lead to impacts.

2 I think it's more reasonable to say at capacity is
3 at 100 percent. I would be -- I think it's a misuse of
4 the term "capacity" to say 85 percent is capacity. It's
5 not. There are still spaces available, but it may be
6 harder for somebody to find them.

7 EXAMINER: We'll stop here.

8 MS. CLAWSON: Okay.

9 EXAMINER: All right. So, Mr. Shaw --
10 or Dr. Shaw, you are back on tomorrow. We're still in
11 direct. This is direct, correct?

12 MS. CLAWSON: Yes.

13 EXAMINER: Okay. So from the
14 applicant and then from the appellant and then we will
15 have redirect.

16 We have no other witnesses. Do we want to start at
17 9:00 or earlier? Is there any benefit in that to make
18 sure we get done? I can go to 8:30 if you want.

19 MR. EUSTIS: It seems --

20 EXAMINER: 9 is --

21 MR. EUSTIS: -- we have Mr. Shaw. Is
22 that it?

23 EXAMINER: That's it.

24 MR. EUSTIS: I would think that
25 whatever -- whatever is the end point of the morning, I

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1 think that we can have Mr. Shaw -- I think he's fully
2 able, you know, to do his testimony in that time if we
3 begin at 9 o'clock.

4 EXAMINER: All right.

5 MS. CLAWSON: I'm fine with whatever.

6 MR. EUSTIS: Okay. We'll all be
7 returning at 9 o'clock tomorrow. Thank you.

8 MS. CLAWSON: Thanks.

9 (Hearing recessed.)

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EXHIBIT D

**Verbatim Transcript of Proceedings
(From Audio Recording)**

In RE Livable Phinney
MUP 17-009 (DR, W)



Byers and Anderson, Inc.
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BEFORE THE HEARING EXAMINER

FOR THE CITY OF SEATTLE

In the Matter of the Appeal of:)
)
)
)
)
Livable Phinney, a Washington) No. MUP 17-009 (DR, W)
non-profit corporation)
) DCI Reference:
From a Department of Construction) 3020114
and Inspections decision)
)
)

VERBATIM RECORD OF PROCEEDINGS, VOLUME IV
(FROM AUDIO RECORDING)

May 5, 2017

Seattle, Washington

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For Department SDCI:

Michael Dorcy
David Graves

1 department, what were your conclusions related to the
2 study?

3 **A That it reasonably reflected the likely parking demand of**
4 **the project in that time period and then adding to that**
5 **parking demand to the on-street demand already existing,**
6 **as well as taking into account pipeline projects, that it**
7 **reasonably forecast future on-street demand.**

8 Q Great.

9 There's been discussion about TIP 117.

10 **A Yes.**

11 Q Which was Exhibit 35 A.

12 Can you just explain the department's use of TIP 117
13 when we do these parking studies? TIP 117 says it's
14 parking waivers for accessory dwelling units, and it's
15 your understanding that we have no accessory dwelling
16 units in the building, correct?

17 **A It's my understanding that there are no accessory**
18 **dwelling units.**

19 Q Okay.

20 **A The TIP, as I understand it, it predates my tenure at the**
21 **department, my understanding is that this TIP was**
22 **developed for accessory dwelling units and specifies a**
23 **methodology for calculating on-street parking demand.**

24 It has since been used much more broadly to estimate
25 or provide a tool for estimation of on-street parking

1 utilization for a wide variety of projects. It's a
2 standard --

3 Q And I'm sorry. When you mean parking utilization, do you
4 mean actual cars that are on the street when you do the
5 counts?

6 A Yes, yes.

7 Q Okay.

8 A The TIP provides a method for identifying the amount of
9 parking supply that would exist along a block front. And
10 that's obviously a key component in identifying parking
11 utilization. You can count the cars fairly easily, but
12 you also need to know what the supply of parking spaces
13 is.

14 In most areas of the city, curb spaces are not
15 marked with parking spaces. When they are, it's easy to
16 count them. When it's not, the methodology in TIP 117 is
17 used to come up with a reasonable calculation of parking
18 supply for a given area.

19 So the methodology for doing parking counts and
20 calculating existing utilization is clearly described in
21 TIP 117. I think a number of agencies and consultants
22 have used it over the years to provide information to the
23 city documenting their -- the existing parking
24 utilization conditions.

25 Q Going -- jumping back for one more question for Exhibit

1 56, either the first or the second page, it doesn't
2 matter, the last three lines, 12 through 14, are
3 scratched out. And I think it was Mr. Koltonowski's
4 testimony that those last three lines, and Mr. Crippen's
5 as well, had to do with potential projects that could be
6 presumed related to the zone capacity of the area.

7 **A Uh-huh.**

8 Q Is it the department's practice to require a project
9 applicant to determine pipeline projects in -- in a
10 parking study for just zone capacity?

11 **A No.**

12 Q Why not?

13 **A It would be speculative. We don't know what those**
14 **projects are going to consist of. We don't know if**
15 **development capacity on any given site will be fully**
16 **built out, if so by what uses, what parking supply might**
17 **or might not accompany that development. It's entirely**
18 **hypothetical as to what type of development might occur**
19 **on any of these sites. They would have to be uses that**
20 **exist in the zones, but otherwise we really couldn't say**
21 **anything about what they might be.**

22 Q And -- but you do require some review of pipeline
23 projects in traffic and parking studies, correct?

24 **A Yes. As is the case with traffic studies, in a generally**
25 **accepted professional practice with traffic studies,**

1 **A Yes.**

2 Q Okay. So in figuring the -- in figuring the impact of
3 the project at the time of peak hour demand, would it be
4 appropriate to then lower the rate of on-street parking
5 during the peak hour by .69?

6 **A By the rate of on-street parking, you mean the actual
7 counts that were done?**

8 Q No, by the .69 factor that appears in an ITE table
9 generated from a number of national studies apparently.

10 **A It's certainly appropriate to reduce the expected parking
11 demand of the proposed project by a factor that tries to
12 reflect the accurate estimate of demand during that time.**

13 Q For that project?

14 **A For that project.**

15 Q But if you have a figure for the peak hours, 6:00 to
16 7:00, in terms of determining the impact -- the impact of
17 the added cars to be projected from this project,
18 certainly you would use the actual peak hour car counts
19 for that peak hour, wouldn't you, as opposed to using a
20 reduced figure that would come from a table by the ITE?

21 **A That's correct, and that's my understanding of what
22 Mr. Koltonowski did. I don't believe he reduced the 249
23 count in any way.**

24 Q Okay. In determining -- in doing vehicle counts,
25 Mr. Koltonowski did not make -- based upon his testimony,

1 he did not make adjustments for cars parking --
2 essentially illegal parking, cars parking too close to
3 driveways, too close to hydrants, too close to stop
4 signs, overstaying one-hour parking? In doing his
5 vehicle counts, he did not make any adjustments for that?

6 **A Yes, my understanding is that he counted the vehicles**
7 **that were observed, whether or not they were parked, say,**
8 **too close to a fire hydrant.**

9 Q Okay. And in your review of parking studies, do you ask
10 that the vehicle count in terms of determining available
11 parking spaces be reduced to reflect illegal parking?

12 **A No, because that would artificially reduce the actual**
13 **demand on the street, and it would give -- it would**
14 **present a lower estimate of parking demand than is**
15 **actually occurring.**

16 Q Demand --

17 **A We need to make sure all the cars are counted.**

18 Q -- utilization.

19 **A Yeah, we need to make sure all the cars are counted. If**
20 **they happen to be parking illegally, they should still be**
21 **counted because they reflect demand on the street.**

22 Q Okay. So in terms of illegal parking then, is that
23 something that factors into the 281 figures -- the 281
24 figure? Again, I'm making reference to Exhibit 69.

25 **A Well, as the title for that row indicates in the column**

1 **to the left, those are capturing legal parking spaces.**

2 Q So those would reflect an adjustment for stop signs, fire
3 hydrants, driveways, et cetera?

4 A **Yes, the guidelines in TIP 117, which Mr. Koltonowski's**
5 **firm followed in collecting the information, gave**
6 **appropriate clearances from those -- from those elements**
7 **of the street.**

8 Q Okay. But in terms of determining actual utilization,
9 then it's your position that utilization should not be
10 discounted for illegal parking?

11 A **My position is that the number of cars on the street**
12 **shouldn't be discounted, and that if a car is parked**
13 **illegally, it still should be counted. If that is**
14 **somehow subtracted out of the count, it would be**
15 **inappropriately reducing the demand on the street and**
16 **giving us an artificially low number.**

17 Q Okay. And so in terms of coming up with a number for
18 legal parking spaces, there are areas that -- because
19 this is -- these streets are also within a commercial
20 area, there are areas that have one-hour, two-hour
21 parking. Mr. Richards testified to that.

22 So in terms of doing -- determining available
23 parking spaces, would there be a reduction or some
24 recognition for limitations by one- and two-hour parking?

25 A **There may be if an area has parking limits during the**

1 insure that they can work together, they all support the
2 city's overall transportation plan.

3 So I don't know that it would be fair to
4 characterize it as a long-range plan. It probably speaks
5 to projects that might occur before a long-range time
6 horizon, but it is a planning document. It is not an
7 implementation document.

8 EXAMINER: And it's produced by SDOT?

9 THE WITNESS: Yes.

10 EXAMINER: Okay. Is it adopted in any
11 way by the council?

12 THE WITNESS: I believe it is, yes.

13 EXAMINER: Okay. And -- so what's the
14 threshold then for including a planning document like
15 that or not in the analysis of a project? When do you
16 say yes, when do you say no? Maybe I'm asking you to
17 repeat the same answer you gave before, but I'm -- I
18 don't -- I'm not -- I don't know where that distinction
19 is.

20 THE WITNESS: Sure. It's a
21 case-by-case consideration, but it would really focus on
22 the specific projects that might be identified in a plan,
23 and it would -- typically what is considered is whether
24 or not a project is part of SDOT's capital improvement
25 projects list, which is a five-year list of projects to

1 which the city has committed funding.

2 EXAMINER: Okay.

3 THE WITNESS: There may be a parallel
4 list of bicycle or, say, pedestrian facilities that
5 wouldn't be captured by the CIP. The CIP is
6 traditionally a roadway project list. I don't know if
7 they have a combined list or a parallel list. But it
8 would be that level of commitment from SDOT over an
9 identified time horizon.

10 EXAMINER: So it really is tied to
11 capital and funding?

12 THE WITNESS: Yes.

13 EXAMINER: Okay. And why is it that,
14 say, something in a planning document adopted by council
15 is discounted even though it's -- when it is not funded,
16 why is that distinction adopted and followed in practice?

17 THE WITNESS: Because we don't know
18 when these projects will be built, if at all. Projects
19 can be listed in plans and not get built for a variety of
20 reasons. Because without design details, we would not
21 necessarily know what the physical impact of modifying
22 the infrastructure would be. I think that those are the
23 two primary reasons.

24 EXAMINER: Okay. You've been asked
25 about TIP 117. I guess I'm wondering as it's been

1 trying to determine is once that comes up in the
2 analysis, is there something more that the department
3 asks for in the analysis? Is there something -- is there
4 additional steps that need to be taken because -- I mean,
5 as you say, I mean, if we're talking about a cup, you
6 slow down, you pour a little slower, you watch it. You
7 don't talk to your friend.

8 What -- hopefully. What does the department do at
9 that point when you reach that level? Is there something
10 more that's required in the analysis?

11 THE WITNESS: Typically there hasn't
12 been something more required in the analysis, although,
13 it might depend on a variety of factors around a
14 particular project.

15 If we're seeing that a project is generating
16 increased parking demand and some traffic issues and
17 maybe some other issues that ought to be further
18 investigated, we certainly could ask for additional
19 analysis.

20 But our typical practice is to receive the
21 information, review it for accuracy, and if it looks as
22 if parking utilization and increase in parking demand is
23 a legitimate project impact, we would start considering
24 whether or not mitigation would be appropriate.

25 We typically would not ask for additional analysis

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 hereby certify:
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5 That the foregoing proceedings dated May 5, 2017, were
6 transcribed from an audio recording to the best of my
7 ability; that the foregoing transcript is a full, true and
8 accurate transcript of the proceedings and testimony taken
9 in this matter.

10 That I am not a relative, employee, attorney or counsel
11 of any party to this action or relative or employee of any
12 such attorney or counsel and that I am not financially
13 interested in the said action or the outcome thereof;

14 That I am herewith securely sealing the said deposition
15 and promptly delivering the same to Jessica Clawson.

16 IN WITNESS WHEREOF, I have hereunto set my signature on
17 the 24th day of May, 2017.

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EXHIBIT D



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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June 5, 2017

TO: TCP File (Phinney Flats)

FROM: Donna Musa
Ecology NWRO Initial Investigations Coordinator

SUBJECT: Initial Investigation: No Further Action (NFA) Determination
Phinney Flats
6726 Greenwood Ave N
Seattle, WA 98103
Parcel # 9468200032
ERTS # 666612

Ecology has conducted an Initial Investigation of the above-referenced property, including review of the following information:

- Phase I Environmental Site Assessment, 6726 Greenwood Ave N, Seattle, WA. The Riley Group, Inc., Bothell, WA. March 26, 2015.
- Phase II Subsurface Investigation, Phinney Flats Property, Seattle, WA. The Riley Group, Inc., Bothell, WA. April 17, 2015.
- Memorandum: Phinney Flats Property, Seattle, Washington. The Riley Group, Inc., Bothell, Washington. October 26, 2016.
- Preliminary Assessment, Greenwood Parcel 9468200032, Seattle, WA. Prepared for USEPA by Ecology and Environment, Inc., Seattle, WA. April 2017.
- Guidance on Sampling and Data Analysis Methods, Publication No. 94-49. Washington State Department of Ecology Toxics Cleanup Program. January 1995.
- *Hazard Evolution: From flammable solvents to nonflammable solvents, and back again.* Cleaning Up the Dry Cleaning Standard, Nancy Pearce, National Fire Protection Association website, 2017. (<http://www.nfpa.org/news-and-research/publications/nfpa-journal/2014/march-april-2014/features/dry-cleaning>)

Ecology has determined that no further action is necessary (at the Initial Investigation stage). The above document is sufficient to show there has been no release or threatened release originating on this property.

The document listed above, this NFA Memo, and the Initial Investigation Field Report for this Initial Investigation will be kept in the Central Files of the Northwest Regional Office of Ecology (NWRO) for review by appointment only. An appointment can be made by calling the NWRO resource contact at (425) 649-7235 or sending an email to nwro_public_request@ecy.wa.gov.