

Description

Minutes for W-17-004, Day 4
The Ballard Coalition
Thursday, November 30, 2017

Time: 8:30 a.m.
Examiner: Ryan Vancil
Assistant: Alayna Johnson

Party Representatives:

Pat Schneider, Josh Brower, and Danielle Granatt, for Appellant

Erin Ferguson and Tadas Kiselius, for Department

Matthew Cohen, for Intervenor

Date

11/30/2017

Location

Large Hearing Room

Time	Speaker	Note
8:31:13 AM		Hearing Examiner opens day 4 of the hearing.
8:31:24 AM		Cohen presents a preliminary motion to quash Appellant's subpoena on former Cascade Bicycle Club employee.
8:33:30 AM		Cohen concludes.
8:33:35 AM		Brower responds.
8:34:25 AM		Brower concludes.
8:34:27 AM		Cohen replies.
8:34:41 AM		Cohen presents the e-mail in question between Cascade employees.
8:35:24 AM		Cohen concludes.
8:35:49 AM		Examiner asks when the subpoena was served.
8:39:35 AM		Appellant withdraws subpoena.
8:39:46 AM		Procedural and administrative discussion.
8:50:18 AM		Respondent calls Brad Phillips as a witness and he is sworn in.
8:50:49 AM		Kiselius begins direct examination of Phillips, from Parametrics.
8:51:08 AM		Kiselius asks Phillips to describe his educational and professional background.
8:54:42 AM		Kiselius submits Brad Phillips' resume as an exhibit. It is marked as Exhibit R9 and is admitted.
8:56:22 AM		Kiselius asks Phillips about Respondent exhibit C-1 and it is marked as Exhibit R10.
8:58:47 AM		Kiselius asks Phillips about Exhibit R1, Figure 1-3, plan for trail in the FEIS.
9:01:38 AM		Kiselius asks Phillips about Exhibit A1, 4.2b of Exhibit A1, diagram of Salmon Bay Sand & Gravel driveways.
9:04:34 AM		Kiselius asks Phillips about Respondent exhibit C-2 and it is marked as Exhibit R11.
9:06:05 AM		Kiselius asks Phillips about Respondent exhibit C-19 and it is marked as Exhibit R12.
9:08:19 AM		Exhibits R10, R11, and R12 are admitted.
9:11:02 AM		Kiselius asks to admit Exhibits R13 (Respondent exhibit C-17) and R14 (Respondent exhibit C-12) and they are admitted.
9:14:22 AM		Schneider objects; question unclear. Withdrawn.
9:17:08 AM		Kiselius asks about the sufficiency of design for environmental review.
9:18:33 AM		Kiselius asks about traffic control design and Exhibit A1 (cross section on page 39).
9:20:27 AM		Kiselius asks about speed studies.
9:21:37 AM		Kiselius asks about level of design in this project for the completion of the EIS compared to other completed projects.
9:23:22 AM		Kiselius asks about the current conditions of the area.
9:24:38 AM		Kiselius asks about the auto-turn analysis of Exhibit A1 and Phillips' auto-turn swept path analysis, included in Appendix A of Exhibit R1.
9:30:46 AM		Kiselius asks about Exhibit R7, the freight master plan, Appendix C.

9:38:49 AM	Kiselius asks about frequency of use of vehicles and designing to accomodate them.
9:40:34 AM	Kiselius asks about auto-turn analyses in Exhibit A1 and the design vehicles used.
9:45:33 AM	Kiselius asks about project conditions versus current conditions.
9:46:50 AM	Kiselius asks about design treatments for accomodation of vehicles.
9:47:15 AM	Kiselius asks about Figure 2.2B of Exhibit A1.
9:50:02 AM	Kiselius asks about Figure 5.5B of Exhibit A1.
9:54:57 AM	Kiselius asks about incursion zones and warning zones.
9:58:35 AM	Kiselius asks about Exhibit A6, the blind spot diagram.
10:06:32 AM	Kiselius asks about driveway design changes with the project.
10:07:39 AM	Kiselius asks about Exhibit R1, Appendix A, page A-3 to discuss the intersections and curb aprons.
10:11:05 AM	Kiselius asks about page 115 of the EIS as it relates to curb aprons and lane off-sets.
10:17:42 AM	Kiselius asks about page 47 of Exhibit A1 and the concept of elevated trail construction.
10:19:56 AM	Kiselius asks about page 46 of Exhibit A1.
10:21:02 AM	Kiselius asks if anything said or submitted by the Appellants changed Phillips's opinion on the work he did on the EIS and the adequacy of the EIS.
10:21:50 AM	Kiselius concludes.
10:22:05 AM	Schneider begins cross-examination of Phillips.
10:24:09 AM	Schneider asks about Phillips's experience working with Hirschey.
10:24:12 AM	Kiselius objects; relevance. Overruled.
10:28:24 AM	Schneider asks if there are studies that contradict other studies that conclude two-way sidepaths are more dangerous than other facilities.
10:30:18 AM	Schneider asks about ADA requirements for an elevated trail.
10:30:55 AM	Examiner asks for a proposal from the Appellants for allocation of time.
10:33:43 AM	Break. Back at 10:45.
10:46:02 AM	Back on the record.
10:46:06 AM	Schneider continues cross examination of Phillips.
10:49:07 AM	Schneider asks about the warning zones depicted in the EIS.
10:53:04 AM	Schneider concludes.
10:53:08 AM	Kiselius begins re-direct examination of Phillips.
10:53:24 AM	Kiselius asks about the concept of warning zones.
10:56:13 AM	Kiselius concludes.
10:56:23 AM	Examiner asks questoins of Phillips.
11:02:03 AM	Examiner asks about driveway design standards.
11:03:39 AM	Examiner asks about design vehicles.
11:04:09 AM	Examiner asks about materials that would be used for design elements.
11:05:00 AM	Examiner concludes.

11:05:04 AM	Schneider begins recross examination of Phillips.
11:05:45 AM	Kiseliu objects; re-stating witness testimony.
11:06:27 AM	Overruled.
11:07:58 AM	Kiseliu objects; relevance.
11:08:10 AM	Schneider responds.
11:08:30 AM	Overruled.
11:09:04 AM	Schneider concludes recross.
11:09:12 AM	Respondent calls Ryan LeProwse as a witness and he is sworn in.
11:09:43 AM	Kiseliu begins direct examination of LeProwse, of Parametrics.
11:10:00 AM	Kiseliu asks about LeProwse's education and training.
11:12:36 AM	Kiseliu submits Ryan LeProwse's resume and it is marked as Exhibit R15.
11:13:03 AM	Kiseliu moves to submit Exhibit R15 and it is admitted.
11:14:08 AM	Kiseliu asks if LeProwse agrees with Ellig's testimony.
11:14:20 AM	Kiseliu asks about methodology in the Transportation Discipline Report and parking analysis in Exhibit R3 and how those compare to those done for other EISs.
11:19:47 AM	Kiseliu asks about Respondent exhibit C-33, marked as Exhibit R16.
11:21:41 AM	Kiseliu moves to admit Exhibit R16 and it is admitted.
11:22:17 AM	Kiseliu asks about the parking studies performed.
11:27:42 AM	Kiseliu asks about regulated versus unregulated parking.
11:33:35 AM	Kiseliu continues questions regarding parking loss.
11:42:45 AM	Recording stopped at 11:19, hearing did not stop until 11:38. Last 20 minutes of hearing will be re-done.
11:43:48 AM	Kiseliu re-moves to submit Exhibit R16. R15 and R16 are admitted.
11:44:12 AM	Kiseliu asks about the parking supply analysis in the parking studies performed.
11:49:03 AM	Kiseliu asks about identifying impacts to parking.
11:49:34 AM	Kiseliu asks about regulated versus unregulated parking.
11:51:55 AM	Kiseliu asks about impacts to parking and whether they are significant.
11:57:08 AM	Kiseliu asks about parking loss versus parking utilization.
11:58:57 AM	Kiseliu asks about the loading zone analysis.
12:00:31 PM	Kiseliu asks about the loading zone loss with the preferred alternative.
12:02:26 PM	Kiseliu asks if anything submitted or said by the Appellant's witnesses changed LeProwse's opinions on the work he did for the EIS and the adequacy of the EIS.
12:02:55 PM	Kiseliu concludes direct examination of LeProwse.
12:02:56 PM	Schneider begins cross examination of LeProwse.
12:04:49 PM	Schneider asks about City standards for parking studies.
12:19:47 PM	Schneider asks about study areas for parking analysis.
12:20:58 PM	Schneider concludes.

12:21:02 PM	Kiselius begins re-direct examination of LeProwse.
12:21:13 PM	Kiselius asks about Figure 5-1 and the area of the parking study for the preferred alternative.
12:23:43 PM	Kiselius concludes.
12:25:56 PM	Break for lunch. Back at 1:45.
1:46:24 PM	Back on the record.
1:46:30 PM	Procedural discussion.
1:52:01 PM	Respondent calls Mark Johnson as a witness and he is sworn in.
1:52:22 PM	Ferguson begins direct examination of Johnson, environmental consultant with Environmental Science Associates.
1:54:17 PM	Ferguson submits Mark Johnson's resume and it is marked as Exhibit R17.
1:54:24 PM	Exhibit R17 is admitted.
1:56:42 PM	Ferguson asks Johnson about the difference between a NEPA Environmental Assessment and a SEPA EIS, and significant impacts found for other projects he has worked on.
2:00:09 PM	Ferguson asks what Johnson's role was in preparing the EIS.
2:01:25 PM	Ferguson asks about preparation of a land use analysis for an EIS.
2:03:35 PM	Ferguson asks about Respondent exhibit C-3, excerpt from the Seattle 2035 Comprehensive Plan.
2:05:29 PM	Johnson reads a segment of the comprehensive plan.
2:08:54 PM	Ferguson asks if Johnson's general land use analysis was used for this EIS.
2:10:19 PM	Ferguson asks Johnson about Exhibit R1, chapter 4, page 4-8 and 4-9, plans, policies, and regulations that apply to the study area.
2:11:57 PM	Ferguson asks Johnson about respondent exhibits C-4, C-5, and C-6, marked as Exhibits R19, R20, and R21 respectively.
2:14:36 PM	Ferguson asks Johnson about Appendix F, page 27 of the Land Use Discipline Report, of Exhibit R3.
2:18:03 PM	Ferguson asks if the new comprehensive plan changed Johnson's opinion about this project.
2:18:26 PM	Ferguson asks how Johnson considered the maritime industrial nature of the area in his land use analysis.
2:19:36 PM	Ferguson asks where in the EIS the nature of the area is taken into account.
2:21:57 PM	Ferguson asks where in the EIS it is taken into account that the road is a truck route.
2:24:19 PM	Ferguson asks about water dependent versus water related areas.
2:26:20 PM	Ferguson asks Johnson what policies listed in the Land Use Discipline Report the project was not consistent with.
2:28:42 PM	Ferguson asks which policies it was consistent with.
2:31:51 PM	Ferguson asks how knowledge of individual properties or businesses is used in a land use analysis.
2:41:10 PM	Ferguson asks if Johnson believes the EIS adequately disclosed the land use impacts.
2:41:14 PM	Ferguson concludes.

2:41:19 PM	Schneider begins cross examination of Johnson.
2:47:09 PM	Ferguson objects; issue has been dismissed.
2:47:38 PM	Withdrawn.
2:50:16 PM	Schneider asks Johnson to read a portion of his deposition transcript.
2:54:41 PM	Ferguson objects; counsel is testifying.
2:55:10 PM	Overruled.
2:57:07 PM	Schneider asks Johnson to read portion of his transcript regarding the removal of information from the draft EIS.
2:59:01 PM	Schneider asks how an EIS is used once it is completed.
3:03:35 PM	Schneider concludes.
3:03:38 PM	Hearing Examiner asks questions of Johnson.
3:06:13 PM	Examiner asks about the concept of blight.
3:11:30 PM	Examiner concludes.
3:11:34 PM	Ferguson begins re-direct examination of Johnson.
3:13:50 PM	Ferguson asks about significant impacts.
3:15:27 PM	Ferguson concludes.
3:15:31 PM	Schneider begins recross examination of Johnson.
3:20:40 PM	Ferguson asks to admit R18, R19, R20, and R21 and they are admitted.
3:21:32 PM	Break. Back at 3:40.
3:40:33 PM	Back on the record.
3:41:00 PM	List of driveways used from Ellig will be submitted by Tuesday. Revised video from Appellants will also be submitted.
3:41:19 PM	Schneider continues recross.
3:45:49 PM	Ferguson objects; asking witness to testify to an analysis he didn't do; exceeds what was in cross. Overruled.
3:47:13 PM	Schneider concludes.
3:47:39 PM	Respondent calls William Schultheiss as a witness.
3:48:31 PM	Schultheiss is sworn in.
3:48:55 PM	Kiselius begins direct examination of Schultheiss.
3:49:34 PM	Kiselius asks about Schultheiss's professional background with non-motorized trail design.
3:55:17 PM	Kiselius submits Schultheiss's resume and it is marked as Exhibit R22.
3:55:54 PM	Brower requests to review Schultheiss's notes.
3:57:07 PM	Kiselius asks about potential conflicts of interest.
3:57:59 PM	Kiselius asks about Schultheiss's work on the EIS.
4:00:21 PM	Kiselius asks if the design level was sufficient for safety analysis.
4:01:57 PM	Kiselius asks Schultheiss about Hirchey's report.
4:02:58 PM	Kiselius asks if there is a single methodology for analyzing safety.
4:04:11 PM	Kiselius asks about Respondent exhibits C-15 through C-19. C-15 is marked as Exhibit R23, C-16 is marked as Exhibit R24, C-17 is already admitted as Exhibit R13, C-18 is marked as Exhibit R25, and C-19 is already admitted as Exhibit R12.

4:12:05 PM	Kiselius offers Exhibits R22, R23, R24, and R25 and they are admitted.
4:12:23 PM	Kiselius asks if Schultheiss agrees with how Hirschey used the ASHTO guidelines.
4:19:18 PM	Kiselius asks if there is a standardized methodology for assessing sidepath safety.
4:19:49 PM	Kiselius asks about the American Bicycling Education Association.
4:25:02 PM	Kiselius asks about other sources used by Hirschey.
4:31:06 PM	Kiselius asks Schultheiss about the Boulder study referred to by Hirschey.
4:36:11 PM	Kiselius asks about more reliable studies on bicycle safety on sidepaths.
4:36:33 PM	Kiselius submits Respondent exhibit C-23 and it is marked as Exhibit R26.
4:39:23 PM	Kiselius asks to admit Exhibit R26 and it is admitted.
4:44:42 PM	Kiselius asks about Respondent exhibit C-24, an article from Elsevier, and it is marked as Exhibit R27.
4:46:17 PM	Kiselius moves to admit Exhibit R27 and it is admitted.
4:46:36 PM	Kiselius asks about respondent exhibit C-26 US DOT document, and it is marked as Exhibit R28.
4:49:35 PM	Kiselius asks about truck aprons, on page 20 of Exhibit R28.
4:50:40 PM	Kiselius asks about designing roadways for large trucks.
4:54:49 PM	Kiselius moves to admit Exhibit R28 and it is admitted.
4:55:01 PM	Kiselius asks about Respondent exhibit C-29. It is marked as Exhibit R29 and admitted.
5:00:09 PM	Kiselius stops for end of day.
5:00:44 PM	Hearing Examiner closes day 4 of the hearing.