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BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In re: Appeal by

FREMONT NEIGHBORHOOD COUNCIL (No. W-17-014),
Sub Nom
**WALLINGFORD COMMUNITY COUNCIL,
No. W-17-006**

of the City of Seattle Citywide Implementation of
Mandatory Housing Affordability (MHA) Final
Environmental Impact Statement.

Hearing Examiner Consolidated File:
W-17-006 through
W-17-014

**Fremont Neighborhood Council
Preliminary Witness and Exhibit List**

TO: Respondent City of Seattle and to its Seattle Office of Planning and Community Development
(hereafter referred to as OPCD) and its Attorneys,

AND TO: Appellants' Authorized Representatives listed on the accompanying Certificate of Service.

I. INTRODUCTION

Pursuant to the Second Prehearing Order, Appellant Fremont Neighborhood Council (FNC) submits its Preliminary Witness and Exhibit List. These lists are indeed “preliminary.” As of the preparation date of this Preliminary Witness and Exhibit List, in response to document production requests (FNC’s and others), Respondent provided (on March 22, 2018 and March 28, 2018) tens of thousands of pages of documents in zip files, some of which are germane to Appellants' discovery requests, but Appellant's Authorized Representative has not had sufficient time to fully review them.

1 Two categories of documents explicitly requested in FNC’s requests for production—concerning
2 impact analyses outside urban villages and concerning open space and parks—have not been produced
3 at all by the City, nor has the City responded to any of FNC’s eighteen interrogatories (served January
4 5, 2018), nor to the best of our knowledge to the interrogatories propounded by any of the other
5 appellants. All of the City’s discovery responses are due April 11, with the Second Prehearing Order
6 requesting updates to this preliminary list by April 13. FNC will do its best to comply with this very
7 tight schedule.

8 Until FNC and the other appellants have all of the City’s discovery in hand, it is not possible to
9 determine the number and identify of additional witnesses that may need to be added to this list.
10 Given the truncated time for discovery (depositions) and to prepare for hearing in this forum, FNC’s
11 and the other eight appellants’ witnesses and exhibits may not be known until the cut-off date for the
12 final witness list and final exhibit list. As information from the City becomes promptly available, and
13 if the information provided can be quickly digested, then FNC will supplement this Preliminary
14 Witness and Exhibit list as such information becomes available.

15 **II. WITNESSES**

16 FNC reserves the right (a) to call any witness identified by any party, (b) to use any of the
17 documents identified by any other party, (c) to call substitute witnesses if any identified witness
18 becomes unavailable, (d) to call rebuttal witnesses, (e) to call additional witnesses as allowed by
19 Seattle Hearing Examiner Rules, and (f) to supplement this preliminary witness and document list as
20 new or more information becomes available.

21 Regarding the time period for each witness's testimony per Hearing Examiner's Order: The
22 approximate time periods for each witness's direct testimony is indicated at the end of each witness,
23 and does not include time to authenticate documents, argument about the admissibility of documents
if the City will not stipulate to admission of the document(s), nor time for cross examination and re-
direct testimony.

1 **A. Experts**

2 1. Peter Steinbrueck, Steinbrueck Urban Strategies. Mr. Steinbrueck will testify as an expert
3 witness about lack of adequate granularity in the City’s proposed action and the EIS assessment of
4 impacts. He will also testify about the history of neighborhood planning and comprehensive planning
5 to the extent that it is relevant to the MHA proposal and the inadequacy of the MHA EIS disclosure
6 and analysis of land use impacts. Estimated Time: 45 minutes.

7 2. Jeffrey J. Richardson, University of Washington School of Environmental and Forest Sciences
8 Post-Doctoral Researcher. Dr. Richardson is a remote sensing and tree canopy assessment expert, and
9 will testify regarding the City’s tree canopy assessments. Estimated Time: 45 minutes.

10 3. Michael Oxman, Mr. Oxman is a licensed arborist and will testify as an expert witness
11 regarding the City’s past history of and future ability to mitigate for impacts on trees and tree canopy.
12 Mr. Oxman’s Curriculum Vitae is included in Appellant’s exhibit list. Estimated Time: 30 minutes.

13 4. David P. Levitus, Executive Director of LA Forward, a low income housing advocacy NGO.
14 (www.loasangelesforward.org / <https://www.linkedin.com/in/david-levitus-bba6b127/>). Dr. Levitus is
15 an accomplished research and strategy consultant with degrees from USC (Ph.D, History), and New
16 York University (B.A., History and Economics). In addition to founding LA Forward, he co-founded
17 Ciudad Consulting. For almost 3 years, he directed the affordable housing/transit-oriented
18 development campaign of LA Voice, playing a key role in strategy and execution for the ACT-LA
19 coalition's advocacy and policy work. Dr. Levitus may be called to testify on the adequacy of the
20 FEIS, the available alternatives for affordable housing policies and programs that have been
21 implemented elsewhere, and the sufficiency of City’s analysis of the proposal and its stated objectives
22 and goals. Estimated Time: 2 hours.

1 5. Gordon Lagerquist, architect with extensive experience designing single and multi-family
2 housing and commercial projects in Seattle, and participating in historic building conservation and
3 design review systems development and project specific review. He will testify concerning the EIS's
4 assessment of land use impacts in Fremont and other neighborhoods. Estimated Time: 45 minutes.

5 **B. Fact Witnesses**

6 1. Steve Zemke. Mr. Zemke resides in the City of Seattle and serves on the City's Urban Forestry
7 Commission. He will testify concerning the City's history of policies and ordinances regarding
8 conservation of trees and tree canopy, and the City's process for updating those policies and
9 ordinances. Estimated Time: 30 minutes.

10 2. Erik Pihl, a resident of Fremont, will testify concerning the land use, economic, and quality of
11 life impacts from development. Estimated Time: 15 minutes.

12 3. Linda Clifton, a resident of Fremont, will testify concerning the land use, economic, and
13 quality of life impacts from development. Estimated Time: 15 minutes.

14 4. Toby Thaler, has been a resident of Fremont since 1972, is currently president of the Fremont
15 Neighborhood Council, and has been active in land use and related governance issues in Fremont and
16 Seattle for many years. He served on the Seattle Neighborhood Planning Advisory Committee (2009-
17 10), and served on the HALA MHA Focus Group (2016). Mr. Thaler will testify regarding the City's
18 neighborhood planning and related policy decision making, and regarding the impacts of development
19 on the Fremont community and how these have and have not been assessed and/or mitigated.
20 Estimated Time: 30 minutes.

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1 **C. City Employees**

2 FNC plans to examine a number of City employees. Until the vast number of documents produced in
3 discovery has been reviewed, and the City’s responses to interrogatories has been received, a
4 complete list cannot be provided. At this time, we believe the following current City employees may
5 be requested by FNC to be produced for examination:

6 Samuel Assefa

7 Geoffrey Wendtlandt

8 Tom Hauger

9 Nicolas Welch

10 Kathy Nyland

11 Jesseca Brand

12 John G. Shaw

13 **III. EXHIBITS**

14 FNC reserves the right (a) to use any of the documents identified by any other party, (b) to
15 introduce exhibits for use on rebuttal, and (c) to supplement this preliminary exhibit list as new or
16 more information becomes available.

- 17 1. Gentrification, Displacement and the Role of Public Investment: A Literature Review, Miriam
18 Zuk et al., University of California, Berkeley 2015
- 19 2. Housing Production, Filtering And Displacement: Untangling The Relationships, Zuk and
20 Chapple, Institute Of Governmental Studies, University Of California, Berkeley, 2016
- 21 3. Seattle's Central District, 1990-2006: Integration or Displacement, Henry W. McGee, Jr.,
22 Urban Lawyer, Vol. 39, p. 2, Spring 2007
- 23

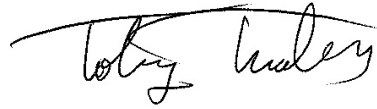
- 1 4. "Confronting The "G Word" In Columbia City," South Seattle Emerald, July 11, 2015
- 2 5. "Riding the gentrification wave in South Seattle," Joshua McNichols, KUOW.org, August 22,
- 3 2016
- 4 6. "Red Apple, at heart of black Seattle, likely to close, making way for Vulcan," Joshua
- 5 McNichols, KUOW.org, August 15, 2016
- 6 7. "How Columbia City (and Seattle) became richer and whiter," Outside City Hall, George
- 7 Howland, Jr., January 24, 2018
- 8 8. "An epic battle against gentrification: As the legacy of Black homeownership fades in Seattle's
- 9 Central District, one family fights to hold on," Naomi Ishisaka, Crosscut, April 2, 2018
- 10 9. "Addressing Displacement in the New York Metro Region Requires New Strategies," Oksana
- 11 Mironova, NextCity.org, January 31, 2018
- 12 10. "The East New York Rezoning, One Year Later," Samar Khurshid, GothamGazette.com,
- 13 March 23, 2017
- 14 11. City of Seattle maps showing proposed up-zone and zoning to the Fremont neighborhood
- 15 including the Fremont Hub Urban Village, the portion of the Wallingford UV west of Stone Way, and
- 16 those portions of Fremont outside both UVs south of N. 50th St, west of Stone Way, and east of 8th
- 17 Ave. NW.
- 18 12. Fremont Neighborhood Plan, 1999.
- 19 13. Fremont Neighborhood Plan Approval and Adoption Matrix with City responses, September
- 20 29, 1999.
- 21 14. Neighborhood Planning Advisory Committee, Validation Subcommittee Report (12/1/09)
- 22 (Including Neighborhood Planning Office "Phase II Guidelines for Validation," and NPO "Phase II
- 23 Guidelines for Public Involvement Checklist," both December 1996.)

- 1 15. Neighborhood Planning Advisory Committee, Neighborhood Plan Updates Subcommittee
2 Report (12/15/09)
- 3 16. Introduction to Neighborhood Planning, Seattle Planning Commission, October 2009
- 4 17. Documents produced from Public records request: C024436-022718 “A series of documents
5 concerning the HALA/MHA and Comprehensive Plan event hosted by OPCD at Hale's Palladium on
6 October 26, 2017...” (not available as of deadline for this document)
- 7 18. Briefing Memo - Impact Fees 2015-03-31.docx (City production no. COS0073465)
- 8 19. Impact Fee Park Calculation Memo FINAL.docx (City production no. COS0073488)
- 9 20. Briefing Memo - Impact Fees 2017-03-13.docx (City production no. COS0073471)
- 10 21. 141092_Open Space Nexus_Final_2015_10_27.pdf (City production no. COS0073510)
- 11 22. 3-7_OS_Rec_MHA_DEIS_2017_Only 2017 Development Plan.docx (City production no.
12 COS0073420)
- 13 23. SEPA DNS for Ordinance 123495 dated April 22, 2010.
- 14 24. Checklist dated April 5, 2010 amending checklist dated June 30, 2008 supporting the DNS for
15 Ordinance 123495.
- 16 25. Selected maps accompanying Ordinance 123495 showing
17 (http://clerk.seattle.gov/~archives/Ordinances/Ord_123495.pdf)
- 18 26. Documents brought to hearing by City witnesses in response to request in lieu of subpoena
19 duces tecum.
- 20 27. Historical Survey and Planning Study of Fremont's Commerical Area, Carol Tobin, 1991.
- 21 28. Historic Resources Survey Report: Fremont Neighborhood Residential Buildings, Katheryn H.
22 Kraft, 2010.
- 23

1 29. Investing in Democracy, Chapter 3, Neighborhood Empowerment and Planning: Seattle,
2 Washington, Carmen Sirianni, 2009.

3 DATED this 2nd day of April, 2018.

4 FREMONT NEIGHBORHOOD COUNCIL

5 

6 By _____

Toby Thaler, WSBA 8318

7
8 **Declaration of Service**

9 Toby Thaler declares:

10 That on the 2nd day of April, 2018, I filed with the Hearing Examiner and delivered by email
11 as allowed by the Second Pre-hearing Order of February 16, 2018, Appellant FNC's Preliminary
12 Witness and Exhibit List to the City of Seattle and to counsel for the City of Seattle at the following
13 email addresses:

14 Geoffrey Wentlandt <Geoffrey.wentlandt@seattle.gov>

<MHA@seattle.gov>

15 Jeff Weber <jeff.weber@seattle.gov>

Daniel B. Mitchell <daniel.mitchell@seattle.gov>

16 Alicia Reise <alicia.reise@seattle.gov> (courtesy copy)

Tadas A. Kisielius <tak@vnf.com>

17 Dale Johnson <dnj@vnf.com>

Clara Park <cpark@vnf.com>

18 Cara Tomlinson <ctomlinson@vnf.com> (courtesy copy)

19 Copies were sent to co-appellants at the following email addresses:

20 Wallingford Community Council (W-17-006): Lee Raaen <lee@lraaen.com>

Morgan Community Association (W-17-007): Deb Barker <djb124@earthlink.net>

21 Friends of Ravenna Cowen (W-17-008): Judith Bendich <jebendich@comcast.net>

West Seattle Junction Neighborhood Organization (W-17-009): Rich Koehler

<rkoehler@cool-studio.net>

22 Seattle Coalition for Affordability, Livability, and Equity (W-17-010): Claudia Newman

23 <newman@bnd-law.com>

1 Seniors United for Neighborhoods (W-17-011): David Ward <booksgalore22@gmail.com>
2 Beacon Hill Council (W-17-012): Mira Latoszek <mira.latoszek@gmail.com>
3 Friends of North Rainier Neighborhood Plan (W-17-013): Marla Steinhoff
4 <masteinhoff@gmail.com>

5 I declare under penalty of perjury under the laws of the state of Washington that the foregoing
6 information is true and correct.

7 DATED this 2nd day of April, 2018, at Seattle, Washington.

8 Toby Thaler [electronic signature]