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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 First
Amended 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 First Amended Preliminary Witness and Exhibit List. For ease of use, none of the content of the original is removed. In this introduction, changes are underlined like this. In the lists, the paragraph numbers and witness names *only* are underlined. 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

1 thousands of pages of documents in zip files, some of which are germane to Appellants' discovery
2 requests, but Appellant's Authorized Representative has not had sufficient time to fully review them.

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

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

17 **II. WITNESSES**

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

23 Regarding the time period for each witness's testimony per Hearing Examiner's Order: The
approximate time periods for each witness's direct testimony is indicated at the end of each witness,
and does not include time to authenticate documents, argument about the admissibility of documents

1 if the City will not stipulate to admission of the document(s), nor time for cross examination and re-
2 direct testimony.

3 **A. Experts**

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

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

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

15 4. David P. Levitus, Executive Director of LA Forward, a low income housing advocacy NGO.
16 (www.loasangelesforward.org / <https://www.linkedin.com/in/david-levitus-bba6b127/>). Dr. Levitus is
17 an accomplished research and strategy consultant with degrees from USC (Ph.D, History), and New
18 York University (B.A., History and Economics). In addition to founding LA Forward, he co-founded
19 Ciudad Consulting. For almost 3 years, he directed the affordable housing/transit-oriented
20 development campaign of LA Voice, playing a key role in strategy and execution for the ACT-LA
21 coalition's advocacy and policy work. Dr. Levitus may be called to testify on the adequacy of the
22 FEIS, the available alternatives for affordable housing policies and programs that have been
23

1 implemented elsewhere, and the sufficiency of City’s analysis of the proposal and its stated objectives
2 and goals. Estimated Time: 2 hours.

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

7 6. William Reid, real estate development economist, will testify concerning the EIS’s assessment
8 of economic impacts of the proposed action, including displacement. Estimated Time: 90 minutes.

9 7. Darel Grothaus, former Director of the City's "Department of Community Development," will
10 testify regarding the EIS analyses of displacement and related aspects of housing and development.
11 Estimated Time: 1 hour.

12 8. Sharon Lee, will testify regarding the EIS analyses of displacement and related aspects of
13 housing and development. Estimated Time: 1 hour.

14 9. David Sherrard, planner, will testify regarding the adequacy of the EIS’s framing of the action,
15 development of alternatives, analyses of impacts, and adequacy of mitigation. Estimated Time: 90
16 minutes.

17 10. Tim Motzer, retired project manager for Seattle Parks & Recreation, will testify regarding the
18 adequacy of the analysis of impacts and mitigation for parks and open space. Estimated Time: 1 hour.

19 11. Rick McLaughlin, entrepreneur and small business owner, will testify regarding the adequacy
20 of the EIS analysis of impacts on small business and neighborhood commercial districts. Estimated
21 Time: 45 minutes.

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1 **B. Fact Witnesses**

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

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

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

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

17 5. Miranda Berner, president of the Wallingford Community Council, will testify regarding City
18 engagement and impacts on her neighborhood (including East Fremont in the Wallingford UV).
19 Estimated Time: 30 minutes.

20 6. Jennifer Brailey, resident of Wallingford/East Fremont, will testify concerning likely impacts
21 of the City’s action on her neighborhood. Estimated Time: 30 minutes.

22 7. Tawny Bates, resident of Wallingford/East Fremont, will testify concerning likely impacts of
23 the City’s action on her neighborhood. Estimated Time: 30 minutes.

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 Viet Shelton

14 Leslie Price

15 Robert Feldstein

16 Steve Walker

17 Laura Hewitt Walker

18 **D. Others**

19 1. One or more of the authors indicated in the City’s Response to FNC’s Discovery of the document
20 “Statement of Intent for Basic Framework for Mandatory Inclusionary Housing and Commercial
21 Linkage Fee document, dated July 13, 2015”

22 **III. EXHIBITS**

1 FNC reserves the right (a) to use any of the documents identified by any other party, (b) to
2 introduce exhibits for use on rebuttal, and (c) to supplement this preliminary exhibit list as new or
3 more information becomes available. In light of the volume of material produced in response to
4 appellants' requests for production, FNC has not been able to review the many thousands of
5 documents produced to determine which it would like to use as exhibits. Documents that are entified
6 as likely exhibits will be indicated to the City as soon as they are determined.

- 7 1. Gentrification, Displacement and the Role of Public Investment: A Literature Review, Miriam
8 Zuk et al., University of California, Berkeley 2015
- 9 2. Housing Production, Filtering And Displacement: Untangling The Relationships, Zuk and
10 Chapple, Institute Of Governmental Studies, University Of California, Berkeley, 2016
- 11 3. Seattle's Central District, 1990-2006: Integration or Displacement, Henry W. McGee, Jr.,
12 Urban Lawyer, Vol. 39, p. 2, Spring 2007
- 13 4. "Confronting The "G Word" In Columbia City," South Seattle Emerald, July 11, 2015
- 14 5. "Riding the gentrification wave in South Seattle," Joshua McNichols, KUOW.org, August 22,
15 2016
- 16 6. "Red Apple, at heart of black Seattle, likely to close, making way for Vulcan," Joshua
17 McNichols, KUOW.org, August 15, 2016
- 18 7. "How Columbia City (and Seattle) became richer and whiter," Outside City Hall, George
19 Howland, Jr., January 24, 2018
- 20 8. "An epic battle against gentrification: As the legacy of Black homeownership fades in Seattle's
21 Central District, one family fights to hold on," Naomi Ishisaka, Crosscut, April 2, 2018
- 22 9. "Addressing Displacement in the New York Metro Region Requires New Strategies," Oksana
23 Mironova, NextCity.org, January 31, 2018

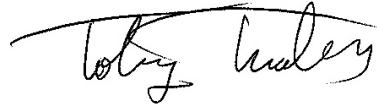
- 1 10. "The East New York Rezoning, One Year Later," Samar Khurshid, GothamGazette.com,
2 March 23, 2017
- 3 11. City of Seattle maps showing proposed up-zone and zoning to the Fremont neighborhood
4 including the Fremont Hub Urban Village, the portion of the Wallingford UV west of Stone Way, and
5 those portions of Fremont outside both UVs south of N. 50th St, west of Stone Way, and east of 8th
6 Ave. NW.
- 7 12. Fremont Neighborhood Plan, 1999.
- 8 13. Fremont Neighborhood Plan Approval and Adoption Matrix with City responses, September
9 29, 1999.
- 10 14. Neighborhood Planning Advisory Committee, Validation Subcommittee Report (12/1/09)
11 (Including Neighborhood Planning Office "Phase II Guidelines for Validation," and NPO "Phase II
12 Guidelines for Public Involvement Checklist," both December 1996.)
- 13 15. Neighborhood Planning Advisory Committee, Neighborhood Plan Updates Subcommittee
14 Report (12/15/09)
- 15 16. Introduction to Neighborhood Planning, Seattle Planning Commission, October 2009
- 16 17. Documents produced from Public records request: C024436-022718 "A series of documents
17 concerning the HALA/MHA and Comprehensive Plan event hosted by OPCD at Hale's Palladium on
18 October 26, 2017..." (not available as of deadline for this document)
- 19 18. Briefing Memo - Impact Fees 2015-03-31.docx (City production no. COS0073465)
- 20 19. Impact Fee Park Calculation Memo FINAL.docx (City production no. COS0073488)
- 21 20. Briefing Memo - Impact Fees 2017-03-13.docx (City production no. COS0073471)
- 22 21. 141092_Open Space Nexus_Final_2015_10_27.pdf (City production no. COS0073510)
- 23

- 1 22. 3-7_OS_Rec_MHA_DEIS_2017_Only 2017 Development Plan.docx (City production no.
2 COS0073420)
- 3 23. SEPA DNS for Ordinance 123495 dated April 22, 2010.
- 4 24. Checklist dated April 5, 2010 amending checklist dated June 30, 2008 supporting the DNS for
5 Ordinance 123495.
- 6 25. Selected maps accompanying Ordinance 123495 showing
7 (http://clerk.seattle.gov/~archives/Ordinances/Ord_123495.pdf)
- 8 26. Documents brought to hearing by City witnesses in response to request in lieu of subpoena
9 duces tecum.
- 10 27. Historical Survey and Planning Study of Fremont's Commerical Area, Carol Tobin, 1991.
- 11 28. Historic Resources Survey Report: Fremont Neighborhood Residential Buildings, Katheryn H.
12 Kraft, 2010.
- 13 29. Investing in Democracy, Chapter 3, Neighborhood Empowerment and Planning: Seattle,
14 Washington, Carmen Sirianni, 2009.
- 15 30. City Answers to Interrogatories propounded to the City by any party.
- 16 31. Documents produced in response to Requests for Production propounded to the City by any
17 party. Specific documents will be identified prior to the deadline for final submittal and service.
- 18 32. Survey of trees in East Fremont being prepared by residents under the guidance of Michael
19 Oxman.
- 20 33. Resumes or CVs of the experts listed above.

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1 DATED this 13th day of April, 2018.

2 FREMONT NEIGHBORHOOD COUNCIL

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4 By _____
Toby Thaler, WSBA 8318

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6 **Declaration of Service**

7 Toby Thaler declares:

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

12 Geoffrey Wentlandt <Geoffrey.wentlandt@seattle.gov>
<MHA@seattle.gov>
13 Jeff Weber <jeff.weber@seattle.gov>
Daniel B. Mitchell <daniel.mitchell@seattle.gov>
14 Alicia Reise <alicia.reise@seattle.gov> (courtesy copy)
Tadas A. Kisielius <tak@vnf.com>
15 Dale Johnson <dnj@vnf.com>
Clara Park <cpark@vnf.com>
16 Cara Tomlinson <ctomlinson@vnf.com> (courtesy copy)

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

18 Wallingford Community Council (W-17-006): Lee Raaen <lee@lraaen.com>
Morgan Community Association (W-17-007): Deb Barker <djb124@earthlink.net>
19 Friends of Ravenna Cowen (W-17-008): Judith Bendich <jebendich@comcast.net>
West Seattle Junction Neighborhood Organization (W-17-009): Rich Koehler
20 <rkoehler@cool-studio.net>
Seattle Coalition for Affordability, Livability, and Equity (W-17-010): Claudia Newman
21 <newman@bnd-law.com>
22 Seniors United for Neighborhoods (W-17-011): David Ward <booksgalore22@gmail.com>
Beacon Hill Council (W-17-012): Mira Latoszek <mira.latoszek@gmail.com>
23 Friends of North Rainier Neighborhood Plan (W-17-013): Marla Steinhoff
<masteinhoff@gmail.com>

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

DATED this 13th day of April, 2018, at Seattle, Washington.

Toby Thaler [electronic signature]