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In the Matter of:



CITY OF KENMORE PUBLIC HEARING

HEARING PROCEEDINGS, VOL 2

03/02/2017



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CITY OF KENMORE

CONSOLIDATED TYPE 4 PUBLIC HEARING  
ON SITE PLAN AND SEPA APPEAL

LODGE AT ST. EDWARD PROJECT

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Daniels Real Estate Group, )  
Applicant. ) No. CSB 160077  
)  
)

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PROCEEDINGS BEFORE HEARING EXAMINER  
THE HONORABLE PHIL A. OLBRECHTS  
VOLUME II

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9:29 a.m.  
March 2, 2017

Kenmore City Hall  
18120 68th Avenue Northeast  
Kenmore, Washington 98028



Reported by: Katie McGinnity Roberts, CCR  
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1 Kenmore, Washington; Monday, March 2, 2017,

2 9:30 a.m.

3 --oOo--

4

5 THE HEARING EXAMINER: Let's get started.

6 Once again, today we're on day two of the site plan  
7 application and FEIS appeal of Lodge at Saint Edwards  
8 project, CSP16-0077. It is 9:30 o'clock in the morning  
9 on March 2nd. We're back to the SEPA appellants'  
10 presentation of the SEPA appeal portion of the  
11 consolidated hearing.

12 Are the SEPA appellants here today?

13 MS. MOONEY: They are coming.

14 THE HEARING EXAMINER: Oh, okay. All  
15 right. Let's give them some time then. I see them  
16 walking in the door right now. Good morning.

17 MS. HIRT: Good morning.

18 THE HEARING EXAMINER: I was just  
19 getting us oriented to what we're doing this morning.  
20 So when you're ready, Ms. Hirt, go right ahead.

21 MS. HIRT: Can I --

22 THE HEARING EXAMINER: Sure. You can  
23 sit down.

24 MS. HIRT: Did you want me here?

25 THE HEARING EXAMINER: That's fine.



1 You're still moving forward with your presentation from  
2 yesterday.

3 MS. HIRT: Yes. Right. Okay. So there  
4 are a couple of things I actually thought I would just  
5 wrap up. And -- but I need to find the papers, so I can  
6 read it. As I said in my introduction of myself, I've  
7 been involved with the park or known about the park and  
8 supported the park in many ways, and I would like -- I  
9 know that we didn't put anything in a brief about the  
10 management plan, because it wasn't until I got something  
11 back from the hearing examiner that, yes, all land use  
12 plans that are in -- excuse me -- all land use plans  
13 that are in effect at that time should be considered.

14 So I would just like to say that some of the  
15 sections -- or some of the problems that we see -- that  
16 I see with the management plan -- and I would like to  
17 qualify myself as someone that does know the management  
18 plan, because I spent two years on the advisory  
19 committee for the CAMP and sat through and participated  
20 in many discussions about the building in that process.  
21 And so I'm very familiar with it.

22 And I was also part of that advisory  
23 committee. And the commissioners themselves approved  
24 this. It was not just approved by the Executive  
25 Director of Parks, which was something that they had not



1 done before. So this was unanimously -- this 2008 plan  
2 was unanimously approved by the State Parks Commission  
3 in 2008. But the --

4 MS. WEHLING: I apologize for  
5 interrupting, but can I just ask for a point of  
6 clarification from the Hearing Examiner. Ms. Hirt, are  
7 you providing a closing argument or are you providing --  
8 are you calling yourself as a witness and providing  
9 testimony?

10 MS. HIRT: I'm calling myself as a  
11 witness.

12 MS. WEHLING: Thank you.

13 DIRECT EXAMINATION

14 BY MS. HIRT:

15 MS. HIRT: Anyway, I would like to read  
16 you some things that have concern to me that any use of  
17 the Seminary building must be, A, subordinate and  
18 complimentary to the primary attraction and use of the  
19 park as a natural sanctuary and place of outdoor  
20 recreation. B, secondary to -- and should be secondary  
21 to and compatible with the outdoor recreation as  
22 specified in the landmark conservation limitations and  
23 rules and policies. And then that was number 8 under  
24 the talk about the building.

25 B was that the priority should -- to use



1 in the Seminary building, which support outdoor  
2 recreation and traditional park activities. I sometimes  
3 question that this project does that.

4 My comment is this project does not really  
5 support outdoor recreation and traditional park  
6 activities but brings in new activities that are not in  
7 keeping with either the history of the building or the  
8 history of the park.

9 And I think that in the Draft EIS or the FEIS  
10 it says it brings in new activity in the park that has  
11 never been there.

12 So certain portions of the building are  
13 of particular value for public use. And these were the  
14 main floor, which is, of course, the grand dining hall,  
15 the former faculty lounge, the classrooms, the  
16 second-floor library, sanctuary to meet in the dining  
17 hall, which is beneath in the basement.

18 And then while there's a lot about this  
19 building that is open to the public -- and it hasn't  
20 been open to the public -- I had to kind of chuckle when  
21 I read something about -- the other night, in one of the  
22 documents -- it hasn't been open to the public for 90  
23 years. Well, that's true. Because for 40 years, it was  
24 a school. It was a seminary. But I had to laugh about  
25 the 90 years.



1                   Anyway, I don't see that this project  
2 opens this building to the public any more than it's  
3 open now. I see it being open only to those who are  
4 paying customers and guests to the building. Well, I  
5 see that, in my opinion, from what I read through, is  
6 that people will be able to come into the building and  
7 probably walk the halls by the classrooms -- and I know  
8 that -- I certainly understand the hotel area not being  
9 open.

10                   But I don't see that people are going to be  
11 welcomed in the building, unless they are coming to the  
12 restaurant, the café, or staying at the hotel, or  
13 they're attending a conference, all of which depends on  
14 the payment.

15                   The use of the Seminary building should  
16 not result in alteration of the seminary grounds. And  
17 then this displacement of the volleyball court, which is  
18 also in the historical record. And it is part of the  
19 historical culture. It's also registered on the  
20 historical registry. It's listed in something I read in  
21 the material -- I'm sorry I do not have all the page  
22 numbers. But it was listed as part of the historical  
23 record. Opposed to a building that was over by the  
24 grotto that I think they tore down. That was from the  
25 historical documents.



1                   So the other thing is uses -- and again,  
2 uses of the building should not materially limit or  
3 distract from current and future outdoor use of the  
4 grounds, trails, and ball field. And, again, I note  
5 back to the displacement of the -- well, it's not a  
6 displacement of the volleyball court, it is a do-away of  
7 the volleyball court. As an example of something on the  
8 historical registry that will be lost -- it's actually a  
9 loss of recreation in that situation.

10                   And then so seek to retain a majority of  
11 the building, being available for public use for a  
12 reasonable fee. Well, we have no idea if this will be a  
13 reasonable fee. All indications are that the targeted  
14 users of this project are those with an income in the  
15 top 5 to 25 percent, not the general public.

16                   So I would say my real concern is that -- in  
17 looking -- as a member of the advisory committee, in all  
18 uses that we looked at -- and believe me, we spent hours  
19 in meetings and hours -- a lot of time on the computer  
20 looking at other parks and what were done. But in  
21 looking at that, our concern was always that the  
22 building not overtake the park.

23                   In my opinion, this project, whatever  
24 goes in the building, will overtake the park. In my  
25 humble opinion, I think that there's a big possibility



1 that could happen here, in spite of the extra 9.9 acres  
2 here that is such wonderful property. That's what I'm  
3 going to say about the management plan. It really  
4 pertains to this project.

5 So the other thing that I want to bring  
6 up and I just eluded to it, is that yesterday -- I'm  
7 sorry. I guess I didn't have enough tea yesterday.

8 THE HEARING EXAMINER: I had the same  
9 problem yesterday.

10 MS. HIRT: In the summary -- or in the  
11 market feasibility study done for Daniels Real Estate,  
12 so it was -- there's a lot of talk about the hotel.

13 MR. RANADE: Mr. Examiner, I'm going to  
14 object to discussion of the market feasibility study.  
15 It is not in the record. It is hearsay, and Ms. Hirt  
16 does not have the ability to lay a proper foundation  
17 here. It's not in the record.

18 THE HEARING EXAMINER: I'll respond to  
19 that. Did Mr. Daniels talk about the market feasibility  
20 yesterday? I don't recall.

21 MR. RANADE: He did not.

22 THE HEARING EXAMINER: He did not.

23 MS. HIRT: I'm sorry. I thought it was  
24 in here. Because I --

25 THE HEARING EXAMINER: I know the



1 commerce study was in there. That was attached as an  
2 exhibit to a motion to dismiss.

3 MS. HIRT: I thought it was in the  
4 draft. That's where I thought I got this information.

5 MR. RANADE: Those are two different  
6 studies. The commerce study, which was done by the  
7 State, is in the record. We have no objection to her  
8 talking about that one. The market feasibility is an  
9 internal document that is not in the record. We do  
10 object to that document.

11 THE HEARING EXAMINER: All right,  
12 Ms. Hirt, why don't you move on. If you think of where  
13 it is in the record, let me know. But, otherwise, if  
14 you would move on to your next point.

15 MS. HIRT: Okay. Well, could I just  
16 bring up one thing that was in the feasibility study?

17 MR. RANADE: I repeat my objection.

18 THE HEARING EXAMINER: What is it that  
19 you want to bring up?

20 MS. HIRT: I want to bring up a standard  
21 that hasn't been mentioned that was from the JLL report.

22 MR. RANADE: I repeat my objection,  
23 again.

24 THE HEARING EXAMINER: Okay. Well, I --

25 MR. RANADE: It is an internal study.



1 It is hearsay. And it is a proprietary document.

2 THE HEARING EXAMINER: I just want to  
3 hear what the standard is to know if it's irrelevant or  
4 not.

5 MS. HIRT: The standard I want to bring  
6 up was that -- this is from JLL and their industry  
7 knowledge that optimal meeting space for a proposed  
8 hotel --

9 THE REPORTER: Optimal what?

10 MS. HIRT: Meeting space. I'm sorry.  
11 That was yesterday. That was different.

12 MR. RANADE: Mr. Examiner, this report  
13 has proprietary information. As I sit here right now, I  
14 don't know if my client -- what contractual obligations  
15 surround this report, so I have a lot of concerns about  
16 the reading out of this report. I'm not even sure I got  
17 it.

18 THE HEARING EXAMINER: But the fact is  
19 she has it. It's out there.

20 MS. HIRT: Can I finish my fact?

21 THE HEARING EXAMINER: I want to hear if  
22 it's relevant or not. Is the point you're trying to  
23 make, Ms. Hirt, this might not be financially feasible,  
24 this project?

25 MS. HIRT: No. I'm not trying to say



1 that. I'm not going there. I'm not stating that  
2 opinion.

3 THE HEARING EXAMINER: Okay. So where  
4 are we going with this information is what I'm trying to  
5 find out?

6 MS. HIRT: Okay. I'm going with the  
7 fact that it says the pro -- for -- okay -- optimal  
8 meeting space would be 80 to 90 square feet of meeting  
9 space per room, and that that would mean 8 to 9,000  
10 square feet of meeting space for a hundred-room hotel.

11 THE HEARING EXAMINER: Okay.

12 MR. RANADE: And this hotel -- or this  
13 project has 16,000 -- that's really -- so the project  
14 has two times the amount of meeting space that -- this  
15 standard, which was the only place I could find a  
16 standard. That's why I used it.

17 THE HEARING EXAMINER: I take it you're  
18 making that point to underlie the fact it just won't be  
19 hotel guests that are using the meeting space?

20 MS. HIRT: Right. That's really the  
21 point I want to make.

22 THE HEARING EXAMINER: Okay. Understood  
23 that it is hearsay. It's not in the record.

24 MS. HIRT: I thought it was in the  
25 record. So it must have come off of -- anyway, I



1 thought it was in the record.

2 MR. RANADE: Mr. Examiner, again, for  
3 the record, I would like to move to strike that off the  
4 record, after consulting with my client about whether or  
5 not we have some contractual obligation here. I just  
6 don't know.

7 THE HEARING EXAMINER: All right.

8 MS. HIRT: Honestly, I don't know -- I  
9 think it was on a website. It was on something early in  
10 this process.

11 THE HEARING EXAMINER: Yeah. I mean,  
12 the fact is, if you had access -- right.

13 MS. HIRT: It wasn't something that was  
14 covertly found. It was something available easily.

15 THE HEARING EXAMINER: I'm assuming you  
16 didn't break into their office at night and steal it out  
17 of a filing cabinet. It looks like it was out in the  
18 public. But I'll let the applicant raise the issue  
19 before the record is closed. Or I can even keep the  
20 record open a couple days, if we need to, so you can  
21 look into that issue.

22 MR. RANADE: I'll have the answer by the  
23 time we're ready to present.

24 THE HEARING EXAMINER: Okay. Sounds  
25 great.



1 MS. HIRT: Anyway. I thought it was in  
2 the -- had come out of here. And I have to admit, I  
3 didn't check.

4 THE HEARING EXAMINER: All right. Let's  
5 move on.

6 MS. HIRT: Okay. The other thing that I  
7 wanted to mention was about the trees that would be cut  
8 down. And there is a picture showing the parking lot.  
9 This is in the Tree Solutions's Consulting Arborist --  
10 that is in the record.

11 MS. WEHLING: Ms. Hirt, could you just  
12 identify which exhibit that is in the record, so it's  
13 easy for us to get to it?

14 MS. HIRT: I'm sorry. I don't know what  
15 page. I don't have all of this record on pages. I have  
16 it in a huge folder.

17 MS. WEHLING: Could you provide the  
18 exhibit number?

19 MS. HIRT: No, I can't, because I've  
20 already taken it out of my file.

21 THE HEARING EXAMINER: Was it a core  
22 exhibit or which --

23 MS. HIRT: This is the Tree Solutions  
24 Consulting Arborist report.

25 THE HEARING EXAMINER: Yeah. You can't



1 tell me if it was something listed in the staff report  
2 or the applicant?

3 MR. MURPHY: Mr. Examiner, I can verify  
4 that is the Applicants' Exhibit No. 34.

5 MS. HIRT: Thank you. I couldn't tell  
6 you which number it was because it was taken out of my  
7 big folder, and I didn't write down the number on the  
8 top of the page.

9 So, anyway, there are 11 trees slated for  
10 this -- they are trees -- they went through a number of  
11 trees. They are -- trees 143 to 153 need to be removed  
12 to accommodate a proposed parking garage. And then  
13 there are two additional trees that should be removed  
14 due to poor structure.

15 Anyway, and it says that, in here, additional  
16 trees may need to be removed to accommodate the parking  
17 garage. I'm sorry. I thought that there was something  
18 in here that the majority of these trees -- well,  
19 anyway.

20 So there are trees to be removed. And the  
21 thing is, Is there a way to do parking without removing  
22 the trees? Here's the picture. It was also in their  
23 report of the trees that need to be removed. There is a  
24 chart that shows that the trees are predominantly  
25 western red cedar, with a few Douglas firs. In fact,



1 there's three Douglas firs and the rest are western red  
2 cedars. So these are not trees that take only a short  
3 time to grow, so that's --

4 I wanted to point that out that that is in the  
5 record, and it is something the trees -- those trees are  
6 a beautiful part of the park. And they are something  
7 that you do look out over. And they are -- so I don't  
8 think they should be completely ignored and should be  
9 considered, Are there other ways to do the parking? So  
10 that's really -- those are really my comments here  
11 today.

12 THE HEARING EXAMINER: Okay. So we'll  
13 move on to cross-examination from the applicant at this  
14 point.

15 MR. RANADE: Thank you, Mr. Examiner.

16 CROSS-EXAMINATION

17 BY MR. RANADE:

18 Q. Good morning, Ms. Hirt. I have a few  
19 questions for you about your testimony. I can't  
20 remember, were you under oath?

21 A. Yes, I was.

22 THE HEARING EXAMINER: Whoever was sworn  
23 in yesterday is still under oath today.

24 Q. (BY MR. RANADE) You made the comment that the  
25 building will not be open to the public any more than



1 it is now. Do you remember saying that a few minutes  
2 ago?

3 A. Yes.

4 Q. That, as a result of this project, the  
5 building will not be any more open to the public than  
6 it is now? So can you just walk into the building  
7 right now?

8 A. I can't walk into the building right now,  
9 because State Parks is --

10 Q. You have to make an appointment to get into  
11 the building; is that right?

12 A. That's correct.

13 Q. Okay. After this project, could you go into  
14 the building, get a cup of coffee, and maybe go for a  
15 walk in the park?

16 A. Yes, I could.

17 Q. Thank you. You talked about the volleyball  
18 court --

19 A. But I would be a paying customer.

20 Q. But you could walk into the building, get a  
21 cup of coffee, and go for a walk in the park?

22 A. My point --

23 Q. I understand your point was you have to buy a  
24 cup of coffee.

25 A. My point is I would not be able to walk -- the



1 people that will be welcomed into this building are  
2 paying customers.

3 Q. Do you have any information that Daniels plans  
4 to charge an admission fee for just walking into the  
5 building?

6 A. No, I do not. I just --

7 Q. So you're guessing that there is going to be  
8 an admission fee just to walk in?

9 A. No, I'm not.

10 Q. Are you assuming there's going to be a bouncer  
11 that's going to kick people out at the door?

12 A. No, I am not. But I've walked into many  
13 hotels, and I know that the lobby and the --

14 Q. Have you ever walked into an open building to  
15 use the bathroom but not, say, bought a cup of coffee?

16 A. I have occasionally, yes.

17 Q. And do you think that is not going to be  
18 possible in this building.

19 A. That might be possible.

20 THE REPORTER: Can you just wait until  
21 he finishes his question before you answer. Thank you.

22 Q. (BY MR. RANADE) You talked about the  
23 volleyball courts being -- suggested that's a material  
24 change to the outdoor use. Do you remember talking  
25 about that?



1 A. Right.

2 Q. In the context of the management plan?

3 A. Right.

4 Q. It's my understanding the volleyball courts  
5 are sand volleyball courts; isn't that right?

6 A. Yes.

7 Q. I think yesterday you said you lived in the  
8 neighborhood for many decades; is that right?

9 A. Yes.

10 Q. How many months of the year would you say it's  
11 kind of like now, or has been for the last few days,  
12 wet, cold, rainy? How many months out of the year,  
13 having lived here so long?

14 A. Well, we know at least six months of the year.

15 Q. At least six months of the year. Do you know  
16 what happens to a sand volleyball court when it's cold  
17 and rainy, especially the rain we get this time of  
18 year?

19 A. I don't play volleyball.

20 Q. Have you ever used those volleyball courts?

21 A. I don't play volleyball.

22 Q. You also expressed a concern this lodge will  
23 overtake the rest of the park. Did I understand that  
24 correctly?

25 A. That is correct.



1 Q. Have you done any independent study or traffic  
2 analysis to support your concern?

3 A. Not independently.

4 Q. Do you dispute the statement by Parks and the  
5 City, that's in the EIS, that there are about 865,000  
6 visitors to the park every year?

7 A. I don't dispute that. I think -- I don't know  
8 what they are quoting, though, and I don't know where  
9 it came from.

10 Q. But you have no reason to dispute it? You  
11 have no contrary information; is that right?

12 A. Right now, yes, I have a contrary opinion.

13 Q. I didn't ask about opinion. We're not  
14 interested in opinion.

15 A. You asked me if I have a contrary opinion.

16 Q. No. I asked if you had contrary information.

17 A. Oh, information.

18 Q. Correct.

19 A. I'm sorry. It's not part of the record.

20 Q. Well, it's a yes or no question.

21 A. I have -- yes, I have information, but it's  
22 not part of the record.

23 Q. Okay. So let me ask you, Have you stood at  
24 the park entrance with a little counter and counted all  
25 the visitors?



1 A. Of course not.

2 Q. So you don't have any contrary information to  
3 what the State Parks and the City have said about how  
4 many visitors there are on an annual basis?

5 A. It depends on what year they're talking about.

6 Q. Is there a year in which you do have  
7 information that is contrary to State Parks and the  
8 City?

9 A. Yes, I do.

10 Q. What year?

11 A. I have information from 2016.

12 Q. Okay. What information is that?

13 A. I have information based on the number of  
14 automobiles coming in. This does not count people who  
15 come in by foot, people who come in by bicycles. And  
16 there are a lot of people that come in by bicycles.  
17 They park in my neighborhood, so that they don't have  
18 to pay the parking fee. And they ride their bicycles  
19 over to the park to use the grounds.

20 Q. So the information you have is some people  
21 park in your neighborhood and you know other people --

22 A. I have information of -- based on the number  
23 of cars that enter. I have information of over half a  
24 million people visited the park.

25 Q. Did you count the half million people



1 yourself?

2 A. No, I did not.

3 Q. So let's go with the 865,000 that State Parks  
4 and the City have established as the average number of  
5 users over a year. Would you say that a 25 percent  
6 increase in the number of users would be something that  
7 overtakes the park?

8 A. I would say that this number is high for  
9 recent years.

10 Q. So what percentage of an increase in the  
11 number of users of the park would you say overtakes the  
12 park?

13 A. It's not that the use of the park overtakes  
14 it. It's the part that the use in the flat court area  
15 of the park is overtaking.

16 Q. But how do you measure when it's overtaking?

17 A. When people, right now --

18 Q. Are you talking about a cultural change?

19 A. Yes.

20 Q. Okay. You're concerned about a cultural  
21 change in the park?

22 A. That's right. That's what I said.

23 Q. Is it your view that lodge guests are not  
24 members of the public?

25 A. No. That is not my view.



1 Q. Is it your view that members of the public  
2 should not be able to use this public park?

3 A. No. That is not my view.

4 Q. You testified to a concern about the trees  
5 being removed in the park. Do you remember that?

6 A. Right.

7 Q. You said you're concerned that there are trees  
8 that might be taken sort of along the northeast edge of  
9 the parking lot -- reconfigured parking lot?

10 A. Yes. There's a possibility of those --  
11 according to the Tree Solutions's consulting arborist,  
12 there are 11 trees that are a possible -- will possibly  
13 be destroyed.

14 Q. And I thought I heard you say you wish there  
15 was some alternative that would preserve those trees?

16 A. Right.

17 Q. Would you please flip to 3.3-9 of the Draft  
18 EIS? This is Core Exhibit 19?

19 THE HEARING EXAMINER: What page number,  
20 again?

21 MR. RANADE: 3.3-9, just to give  
22 everyone context, we're in the section of the Draft EIS  
23 that talks about plants and animals.

24 Q. (BY MR. RANADE) And I'm going to read you  
25 something -- if you'll follow along, I'm going to read



1 you something out of the Draft EIS. This is in the  
2 very bottom paragraph, second sentence. Along the  
3 northwest edge of the lease area where an expansion of  
4 the parking area is proposed, ten measured trees, open  
5 parens, as well as some adjacent unmeasured trees,  
6 closed paren, will likely need to be removed to  
7 accommodate the parking lot entrance off the main road.

8 Is that the concern you were talking about?  
9 Are those the same trees?

10 A. Exactly. Those are the same trees.

11 Q. So you would agree it's in the EIS?

12 A. Yes, I do.

13 Q. And would you please flip a couple pages down  
14 to 3.3-11?

15 A. Uh-huh.

16 Q. Right in the middle, do you see the section  
17 entitled plants?

18 A. Yes.

19 Q. I'm looking at the last sentence in the first  
20 paragraph of that section, and I'll read it.

21 Alternative 2 would allow for the retention of the  
22 approximately 17,500-square-foot area and associated  
23 existing trees and vegetation within that area to the  
24 northeast of the Seminary building and gymnasium,  
25 including the retention of potential removal under



1 Alternative 1.

2 Is this the alternative you said you wish  
3 there was so the trees could be saved?

4 A. Actually, it is.

5 Q. And you agree with me, it's in the EIS?

6 A. Yes, I do.

7 MR. RANADE: I have no further  
8 questions.

9 A. However --

10 THE HEARING EXAMINER: All right,  
11 Ms. Hirt, when they're all finished asking questions,  
12 you can make a statement to explain more of your answers  
13 in detail. With that, let's go to Ms. Wehling.

14 CROSS-EXAMINATION

15 BY MS. WEHLING:

16 Q. Ms. Hirt, I'm pretty far away as these tables  
17 go. Do you need a moment to compose yourself? Are you  
18 doing okay?

19 A. I'm doing just fine.

20 Q. Yesterday when you provided an introduction,  
21 you talked about your history of engagement with this  
22 particular park, but I got just a little bit confused.  
23 I thought you stated in that testimony that you were  
24 one of the founding members of a group called Friends  
25 of Saint Edward State Park?



1 A. I am.

2 Q. But you are here today in your representative  
3 capacity of Citizens for Edward State Park?

4 A. I am.

5 Q. Are those two different organizations?

6 A. Correct.

7 Q. Is there a difference between the two  
8 organizations' missions?

9 A. Friends of Saint Edward State Park was formed  
10 when we were trying to keep the pool open. It was  
11 formed by State Parks. It runs under State Parks  
12 purview. It is to support the park.

13 Yesterday, in the site plan hearing,  
14 Ms. Aagard showed a map and said it was for making  
15 signs. The members of Friends is a member  
16 organization. We do pay dues. The members of  
17 friends -- the members of friends worked for a grant to  
18 do --

19 Q. Ms. Hirt, with all due respect, I don't need  
20 an explanation. I just wanted to know if the two  
21 organizations --

22 A. (Inaudible).

23 Q. If you would let me ask my question so the  
24 court reporter doesn't have us talking over each other.  
25 I just wanted to know if the two organizations had



1 different missions?

2 A. The mission --

3 Q. It's a yes or no.

4 A. Yes. They have two separate missions.

5 They're two different organizations.

6 Q. Thanks. As the Hearing Examiner explained,  
7 when you do redirect of yourself, you can explain if  
8 you would like. But for now, I would like you to just  
9 answer the questions that I'm asking you.

10 A. Okay.

11 Q. My next questions have to do with you're here  
12 today as a representative of Citizens for Saint Edward  
13 State Park?

14 A. Correct.

15 Q. Has Citizens for Saint Edward State Park ever  
16 presented a funded proposal to the Parks Commission for  
17 the use of the Seminary building?

18 A. No.

19 Q. A few minutes ago, you talked about users  
20 parking in your neighborhood to avoid paying the fee.  
21 Do all users of Saint Edward State Park, from the  
22 public, have to pay a fee to use the park?

23 A. A parking fee.

24 Q. Is that the Discover Pass?

25 A. Yes.



1 Q. Does the public have to pay a fee to use the  
2 dining hall?

3 A. Yes. But -- yes.

4 Q. So, Ms. Hirt, you identified that you spent a  
5 lot of time working on the 2008 -- the abbreviation is  
6 CAMP, C-A-M-P?

7 A. Correct.

8 Q. If I could direct you -- and you have a big  
9 binder, not the core exhibits, the list of exhibits  
10 that are the Daniels exhibits, Exhibit No. 26. In that  
11 binder is the 2008 CAMP for Saint Edward State Park.  
12 Are you there?

13 A. Yes.

14 Q. On page 2, there's a list of advisory  
15 committee members. Is that you on the list of advisory  
16 committee members?

17 A. Yes.

18 Q. If you could go to page 7, there's a list of  
19 attendants at the park, and there's a number at the  
20 bottom. Could you just tell me what that attendance  
21 number is?

22 A. In 2007, it was 865,000.

23 Q. So a little bit earlier, you testified you  
24 didn't know where the 865,000-user number came from.  
25 Is this is the source of that user number?



1           A. This is. I questioned the year. I questioned  
2 if it was that year.

3                   MS. WEHLING: Okay. Thank you very  
4 much. I have no further questions.

5                   THE HEARING EXAMINER: Okay.  
6 Mr. Kaseguma.

7                   MR. KASEGUMA: I have no questions.

8                   THE HEARING EXAMINER: All right.  
9 Ms. Hirt, this is your chance to elaborate on any  
10 questions you were asked.

11                                 REDIRECT EXAMINATION

12         BY MS. HIRT:

13                   MS. HIRT: I would like to respond to  
14 the question about not presenting a funded program.  
15 Citizens has come up with ideas for a long time about  
16 how to use the building. However, every time you talk  
17 to the State, someone from State Parks, it has been  
18 resisted.

19                                 You cannot go out and raise funds to do  
20 something that you don't know will go through. People  
21 will not give money to do something in the building when  
22 you're raising funds. And, no, none of us can get paid  
23 to do this on our own.

24                                 However, we would have been very willing to go  
25 out and seek funds from many donors, if we had had any



1 kind of encouragement for any of our proposals. I hope  
2 that answers that question.

3 Let's see. The dining hall, the dining hall  
4 is used for meetings. I have been in meetings for the  
5 dining hall. State Parks uses the dining hall when they  
6 want to. Yes, if you are reserving the dining hall for  
7 a wedding, you do pay a fee. And it is limited to 49 to  
8 50 people, based on the fire code.

9 Let's see. So in the summary, you asked about  
10 Friends and you asked about Citizens. Friends is a  
11 501(c)3, Citizens is a 501(c)4, and it is registered  
12 with the State, as you know. So they are completely  
13 separate. They have members who overlap. I am a  
14 member. Three of our board members are also board  
15 members of Friends. That doesn't mean we can't work on  
16 two missions at the same time. I hope that answers and  
17 clarifies that.

18 Friends is definitely to support projects in  
19 the park, and unfortunately, it's a very small  
20 organization and very few people attend. So, anyway --  
21 and participate.

22 I think I was asked about the volleyball  
23 court. No, I do not play volleyball. My point is that  
24 the volleyball court is part of the historical register,  
25 and it's being deleted for a garden. It doesn't have to



1 be part of this project.

2 Looking -- actually, looking at the map --  
3 well, that would be bringing something in.

4 Where that garden is placed is also where the  
5 Friends of Saint Edward State Park -- where the Friends  
6 of Saint Edward has been holding -- it's a picnic area  
7 close to that -- and that's where Friends of Saint  
8 Edward State Park holds their kids' day in the park  
9 festivities where a lot of activities are done for  
10 children. And I have helped and volunteered with that  
11 and brought my grandchildren. So I hope that clarifies  
12 my concern about the volleyball court.

13 I'm not going to play volleyball. I don't do  
14 this for my own -- but it is there, and it is part of  
15 the historical -- national historical register, just as  
16 the building is. And it's being deleted, and that does  
17 take away summer recreation. Actually, probably takes  
18 it from May until October, so for those who do play  
19 volleyball.

20 And yes, I am concerned about the -- I stated  
21 this many times. As you can see, I use a walking stick.  
22 I can't walk the steep slopes. Hopefully I get rid of  
23 the walking stick, but it hasn't happened yet.

24 Many people use the core of the park for their  
25 exercise. And I don't want that to be -- yes, that is a



1 concern I have of the hotel becoming such a presence.  
2 People will feel they cannot do that. I think that  
3 wraps up --

4 I'm sorry about the feasibility study. I  
5 thought it was in the record.

6 THE HEARING EXAMINER: That's fine. Do  
7 you have any other witnesses you want to present?

8 MS. HIRT: No.

9 THE HEARING EXAMINER: I believe the  
10 applicants wanted to cross-examine Ms. Mooney on the  
11 basis that she's listed as a witness.

12 MR. RANADE: We'll waive that.

13 THE HEARING EXAMINER: Okay. You're not  
14 going to do that. So does the --

15 MS. HIRT: Can Ms. Mooney present  
16 something?

17 THE HEARING EXAMINER: Yes. She was  
18 listed as a witness.

19 MR. RANADE: I guess I'll withdraw my  
20 waiver.

21 MS. HIRT: Then I call Ms. Mooney.

22 THE HEARING EXAMINER: Ms. Mooney, have  
23 you been sworn in?

24 THE WITNESS: I have.

25 THE HEARING EXAMINER: You're still



1 under oath then.

2 DIRECT EXAMINATION

3 MS. MOONEY: I'll be brief and  
4 efficient. I'm lasered.

5 MS. WEHLING: I'm sorry, Ms. Mooney,  
6 before you begin, Mr. Examiner, I know you issued a  
7 ruling on this. But, again, I would just like State  
8 Park's continuing objection to the use of any witness  
9 who did not provide any comment and testimony below.

10 THE HEARING EXAMINER: Okay. Thank you.  
11 All right, Ms. Mooney, go ahead.

12 MS. MOONEY: I have got a map. I just  
13 have a map here that addresses some of what Dr. Bain had  
14 talked about, which has to do with the animals,  
15 including the eagle's nest. And --

16 THE HEARING EXAMINER: Is this a map  
17 that is already in the record somewhere?

18 MS. MOONEY: I believe this is not in  
19 the record, and that's why I'm making sure that it shows  
20 this could have or should have been in the record.

21 MS. WEHLING: Your Honor, I would need  
22 to see this, because we have an obligation under the  
23 Sensitive Wildlife Information and Public Records Act to  
24 protect the nesting locations of listed species. And so  
25 if I could review the document to make sure it is a



1 public document, and that there's not waiver of some  
2 sort of privilege to protect the animals.

3 THE HEARING EXAMINER: That's fine.

4 Before we even get there, though, as I mentioned in the  
5 prehearing order, only exhibits that were identified in  
6 the exhibit list are admissible, except for cause. Why  
7 wasn't this presented in the exhibit list then?

8 MS. MOONEY: I was hoping that when  
9 Dr. Bain was giving his testimony that he would ask if  
10 this public document, which is from Washington Park Fish  
11 and Wildlife, which he mentioned, which we had at the  
12 time, but the print was bad, so you couldn't see the  
13 circle. So the print was in purple. And when he had  
14 it -- and I conversed with Mr. Lance, the printing was  
15 so bad. This is on the website. And I asked the City  
16 staff -- but, of course, that would not have been  
17 appropriate -- to print it so it would be available  
18 yesterday.

19 It's a public document that is evidence that  
20 there is -- document that could have, should have been  
21 in the EIS.

22 THE HEARING EXAMINER: Okay. I'll let  
23 Ms. Wehling take a look at it, and also if there are any  
24 objections to it.

25 MS. MOONEY: Do you want me to walk it



1 over there?

2 MS. WEHLING: That would be great.

3 MS. MOONEY: Thank you.

4 (Discussion off the record.)

5 MR. KASEGUMA: We would like to receive  
6 a copy of this proposed exhibit so we can ask questions.

7 THE HEARING EXAMINER: Will you show it  
8 to Mr. Kaseguma?

9 MR. KASEGUMA: I would like a copy,  
10 please.

11 THE HEARING EXAMINER: Okay.

12 MS. MOONEY: I have three.

13 MR. KASEGUMA: You have three?

14 MS. MOONEY: Yeah.

15 MR. MURPHY: Thank you.

16 THE HEARING EXAMINER: If you move on to  
17 other parts of your testimony, while they look at the  
18 exhibit, we can do it that way.

19 MS. MOONEY: I also brought my CV that  
20 was supposed to be in as a witness that was noted as not  
21 present in the brief before the hearing. It explains  
22 some of what Mr. Kaseguma was asking me yesterday, which  
23 had to do with my education. If you would like that, so  
24 it's complete. It was just missing. So as an exhibit,  
25 if you want my CV.



1 THE HEARING EXAMINER: This is part of  
2 the exhibit you submitted yesterday as part of the site  
3 plan testimony, and you just forgot to include it?

4 MS. MOONEY: No. This was supposed to  
5 be in the brief and in the motion to dismiss or  
6 complaint --

7 MS. HIRT: It is in the -- it was  
8 submitted with the brief because we submitted two  
9 list -- it was an exhibit of witnesses, and then we had  
10 it -- also had a list of speakers. And this would be in  
11 the list of exhibit of witnesses. I think that was in  
12 there.

13 THE HEARING EXAMINER: What I'm trying  
14 to understand is so that document was submitted by you,  
15 as part of one of your email attachments?

16 MR. RANADE: Mr. Examiner, maybe we can  
17 truncate this?

18 THE HEARING EXAMINER: Yes.

19 MR. RANADE: I don't think any of the  
20 parties have an objection to that.

21 THE HEARING EXAMINER: Okay. All right.  
22 We'll put it in there then. In case it's not already in  
23 the record, I'll identify it as Exhibit 48 then. That's  
24 Ms. Mooney's CV.

25 (Exhibit No. 48 marked for



1 identification.)

2 MS. MOONEY: I'll put a number 48 on the  
3 bottom left-hand corner.

4 THE HEARING EXAMINER: All right.

5 MS. MOONEY: And this is an exhibit that  
6 was made reference to yesterday as having highlighting  
7 on it that was objected --

8 THE HEARING EXAMINER: The email?

9 MS. MOONEY: Yes. So I brought  
10 something here that -- I seem to have failed to get the  
11 one. Never mind. I just got the wrong one. Sorry.  
12 That was perfectly planned and incorrectly provided.  
13 Sorry. So then I don't know if I'm allowed to ask this  
14 or say this, but I wanted to mention that, I think of  
15 the EIS as a parenting plan. And that the City and the  
16 Parks and Daniels are the parents in a parenting plan,  
17 because they're not staying together as parents.

18 And my feeling is that due to the confusions  
19 about the projects that include the artificial lighted  
20 turf ball field that the City and Parks say is not  
21 actually a project, that it has caused confusion for the  
22 protection of the metaphorical children, which are the  
23 wildlife at the park.

24 And that is partly because the staff, Michael  
25 Hankinson, told me, that he is --



1 MS. WEHLING: I'm going to object on the  
2 grounds of hearsay.

3 THE HEARING EXAMINER: Okay. Overruled.  
4 Hearsay is allowed. Go ahead.

5 MS. MOONEY: Hearsay is when I talked to  
6 someone personally, right?

7 THE HEARING EXAMINER: No. It's quoting  
8 someone who has spoken to you here, and that person is  
9 not present.

10 MS. MOONEY: So I can say that I thought  
11 that Parks was neutral, in that they would protect the  
12 wildlife just as much as the building. And what I think  
13 Ms. Hirt said during her conversation recently is that  
14 the building -- proposed Seminary building is going to  
15 cause a significant adverse environmental impact to the  
16 wildlife and even the lichen and the plants, because the  
17 EIS -- due to the confusing nature of the two projects,  
18 the EIS was not done properly. Because the whole area  
19 that will have the impacts, due to the Seminary  
20 building, is not taken into comprehensive consideration.

21 And, as evidence of that confusing process, I  
22 will say that the cumulative impact study that is a part  
23 of the FEIS only addressed parking and traffic of  
24 Seminary building as a hotel and ball fields as an  
25 artificial turf lighted project, which bizarrely is not



1 even -- according to State Park's attorney yesterday --  
2 Sorry -- Jodi yesterday, and according to Mr. Hampson  
3 yesterday, is not even, as I understood it, an official  
4 project.

5 MR. RANADE: Mr. Examiner, I'm going to  
6 object to the relevance of this testimony. The ball  
7 field -- potential ball fields project or the interest  
8 is not relevant. It's not part of this project.

9 THE HEARING EXAMINER: I think  
10 Ms. Mooney -- she's arguing that they are a cumulative  
11 impact. Are you almost done with that portion?

12 MS. MOONEY: Yes.

13 THE HEARING EXAMINER: I'll overrule.  
14 But that's her belief that it's a cumulative impact.

15 MS. HIRT: Really, that's pretty much  
16 it. That the City has the obligation as lead agency to  
17 properly and comprehensively cover the entire problems  
18 that could come as a result of the Seminary hotel, and  
19 they failed in doing so.

20 And maybe that's because we haven't even  
21 figured out who is paying for the EIS. I don't even  
22 know to this day if the City is paying for it and then  
23 Mr. Daniels pays them back if he gets the hotel. I did  
24 learn in trying --

25 MR. KASEGUMA: I'll object to this line



1 of comment, and it's not relevant to this proceeding,  
2 who paid for the EIS.

3 THE HEARING EXAMINER: Yes. How is that  
4 relevant, how the EIS is -- you know, has an adequate  
5 analysis.

6 MS. MOONEY: It goes back to my metaphor  
7 about, if you have a divorce and you have a parenting  
8 plan you have a lawyer who is protecting the best  
9 interest of the children. The metaphorical children  
10 here are the wildlife. They are not being fully  
11 protected because of this confusion over how many  
12 impacts are in the wetlands stream ball field, slash,  
13 artificially lighted turf field, which one parent, the  
14 Park, says isn't even an official project. So the City,  
15 the other parent, says, We didn't cover that.

16 And so I don't know how we, as protectors  
17 primarily of the wildlife and the plants and the nature  
18 and the sanctity of the park, which exists right now,  
19 can be content with the EIS that the City was tasked  
20 with doing.

21 And so they erred by omitting what needed to  
22 be done to properly assess the impacts -- the cumulative  
23 impacts.

24 THE HEARING EXAMINER: Right. I think  
25 your argument is kind of a conflict of interest



1 situation.

2 MS. MOONEY: And the cumulative impacts  
3 of the biology were omitted -- or nature. Thank you.

4 THE HEARING EXAMINER: All right. That  
5 was mostly arguments opposed to evidence. But we still  
6 allow cross-examination, since that's the format we have  
7 here. I understand that the applicant wanted to cross.

8 MR. MURPHY: That's right.

9 THE HEARING EXAMINER: She's finished  
10 with her testimony, so go ahead.

11 CROSS-EXAMINATION

12 BY MR. MURPHY:

13 Q. Good morning, Ms. Mooney.

14 A. Good morning.

15 Q. Is it correct that your general objection is  
16 to the ball field -- the artificial turf to the ball  
17 field and the artificial lighting that's proposed for  
18 the ball field, in your opinion?

19 A. The --

20 Q. That's a yes or no, Ms. Mooney.

21 A. Did you say the major?

22 Q. Your major objection relates to the ball field  
23 and previous descriptions of what that renovation may  
24 be?

25 A. It's the straw that broke the camel's back in



1 my opinion.

2 Q. So that's a yes. Thank you. You have  
3 addressed concerns about lichen. Can I get a copy of  
4 your CV?

5 Thank you. Ms. Mooney, I see that you have a  
6 Master's in Fisheries that you obtained in 1991, and I  
7 believe you mentioned yesterday that you have not  
8 pursued that scientific study into a profession since  
9 then?

10 A. Correct.

11 Q. Is lichen a fish?

12 A. No. It's a symbiotic relationship between an  
13 algae and fungus, and it grows on trees. If the --  
14 depending on the air quality. If it's good air  
15 quality, you get certain lichen. If you have pollution  
16 in the air, you can't even find a lichen. I don't  
17 think you'll find lichen anywhere near the City Hall.

18 Q. So a lichen is not part of your formal  
19 education? You didn't study lichen as part of your  
20 fisheries degree.

21 A. No. No. I studied --

22 Q. Thank you. You can follow up later on.

23 THE HEARING EXAMINER: Yeah. Just  
24 answer yes or no, and you can elaborate when it's your  
25 turn.



1 Q. (BY MR. MURPHY) Did you do any field study to  
2 observe and quantify the amount of lichen in the  
3 project area?

4 A. Only casually. I proposed --

5 Q. So, no, you didn't do a field study?

6 A. How do you define a field study? With other  
7 people casually on my walks, did I write down --

8 Q. You don't have a definition of what a field  
9 study is?

10 A. I did a qualitative field study of the lichen  
11 in the --

12 Q. And by that you mean you walked through the  
13 park and looked at things?

14 A. I noticed that there are lichens in the park  
15 and I mentioned that we should do a project with UW on  
16 that.

17 Q. Did you see any lichen surrounding the  
18 Seminary building?

19 A. I do not remember that, actually.

20 Q. Can I draw your attention to figure 2-3, I  
21 believe, in the DEIS? That would be Exhibit 19 in the  
22 core documents binder.

23 A. Core documents, Lodge at Saint Edward.

24 Q. That's correct. So it's an image that is kind  
25 of a house shape. There's the main project area and



1 the legend at the bottom, and then there's a yellow box  
2 that says, Potential public parking area?

3 A. What page?

4 Q. It's figure 2-3. It follows -- there's not a  
5 specific page number, but I think it's 2-4.

6 MS. MOONEY: Thank you, David.

7 MR. RANADE: What book are you in?

8 MR. MURPHY: I'm in the core documents  
9 book.

10 MR. MURPHY: It's in the core documents  
11 binder. I believe you are in the -- Ms. Hirt, you have  
12 the appellant exhibit binder. Ms. Mooney, I believe  
13 you're looking at the correct exhibit.

14 Did you observe any lichen in this  
15 house-shaped area in exhibit -- or on figure 2-3?

16 A. I did not look on the Seminary, but often  
17 you'll get a lichen on concrete.

18 Q. So you didn't see any?

19 A. I don't remember looking for or finding any or  
20 making it my goal, no.

21 Q. And previously, just a few moments ago, you  
22 expressed that you were concerned that the cumulative  
23 impacts of the ball field, as it relates to light, are  
24 not considered in the EIS; is that correct?

25 A. The cumulative impacts of the Seminary and the



1 ball field, on the biological entities, is what I'm  
2 saying was not.

3 Q. So the plants and animals?

4 A. Right.

5 Q. Can I direct your attention to page 3.3-12 of  
6 the DEIS, so the same document you're in, just a few  
7 pages after that. 3.3-12, it's in the wetlands,  
8 plants, and animals section. And at the top of that  
9 page, it says, Indirect, slash, cumulative impacts. Do  
10 you see that?

11 A. Yes.

12 Q. I'm going to read it. It says, To the extent  
13 that the proposed Lodge at Saint Edward project occurs  
14 in the vicinity of other development projects in the  
15 site vicinity (i.e. Bastyr University and the ball  
16 field renovation project at Saint Edward State Park...)  
17 -- that's the one you're speaking about --  
18 (...proposed by the City of Kenmore), it could result  
19 in a cumulative impact on plants and animals, within  
20 the overall park are due to the overall cumulative  
21 increase in activity within the park, specifically  
22 impacts from light, noise, and vegetation removal.

23 Did I read that correctly?

24 A. Yes.

25 Q. Are those the concerns that you mentioned?



1           A. Those are some of the concerns, but it omitted  
2 population impacts that go beyond noise, vegetation  
3 and -- it's just not specific.

4           Q. Do you mean increased use of the park?

5           A. Like, overpopulation of the park. I'm saying  
6 it's not comprehensive. I think that's what I meant by  
7 using the word comprehensive. I'm not saying this  
8 isn't great, and I appreciate that it's there.

9                   I was focusing on a portion that addressed the  
10 cumulative impact that emphasized the traffic between  
11 the two.

12           Q. You mean, parking? Foot traffic? What kind  
13 of traffic?

14           A. Car traffic.

15           Q. Car traffic. So you're concerned about the  
16 increase of activity in the park? The overall -- and  
17 I'm quoting here -- the overall cumulative activity  
18 within the park?

19           A. Yes.

20           Q. Thank you. Can I draw your attention to  
21 section 3.8-4? And that's in the same document, the  
22 Draft EIS. Are you there, Ms. Mooney?

23           A. Yes.

24           Q. Under the heading incorrect cumulative  
25 impacts, I believe it is the third full sentence. It's



1 about the middle of the paragraph. It starts with the  
2 ball field.

3 A. Yeah. The ball field renovation --

4 Q. The ball field renovation project would also  
5 increase the use of the areas to the east of the site,  
6 which would result in additional light for mobile and  
7 potentially stationary sources. Field lighting is  
8 included as a proper alternative, subject to future  
9 finding.

10 Is that one of the cumulative impacts you were  
11 concerned about?

12 A. Yes.

13 Q. Can I draw your attention to 3.3-14 of the  
14 same document? This is the section on traffic and  
15 parking.

16 A. Okay.

17 Q. Under the heading of indirect, slash,  
18 cumulative impacts, it says, To the extent that the  
19 proposed Lodge of Saint Edward project occurs in the  
20 vicinity of other development projects in the site  
21 vicinity( i.e. Bastyr University and the ball field  
22 renovation project at Saint Edward State Park, proposed  
23 by the City of Kenmore) it could result in a cumulative  
24 increase in traffic within the park and the site  
25 vicinity.



1                   Does that address the concern you mentioned  
2 about increased cumulative impacts from traffic  
3 described here?

4           A.   Yes.

5                   MR. MURPHY:  Thank you.  Nothing  
6 further.

7           A.  Thank you.

8                   THE HEARING EXAMINER:  Ms. Wehling.

9                   MS. WEHLING:  Mr. Examiner, I would note  
10 for the record that in Exhibit P-5, in the master list,  
11 which is State Park's response to Citizen's, page 5,  
12 lines 6 to 7, we identified each page of the Draft  
13 Environmental Impact Statement, which addresses  
14 cumulative impacts.

15                   And so rather than ask Ms. Mooney to go  
16 through each of those, I would just like to note that  
17 they're already identified in our briefing.

18                   THE HEARING EXAMINER:  Okay.

19                   MS. WEHLING:  I do have one question for  
20 Ms. Mooney.

21   CROSS-EXAMINATION

22           BY MS. WEHLING:

23                   Q.  I would like you to estimate the number of  
24 hours you spent reviewing the Draft Environmental  
25 Impact Statement?



1           A.   A few.   Not many.

2                       MS. WEHLING:   Thank you.

3                       THE HEARING EXAMINER:   All right.

4   Mr. Kaseguma, any questions?

5                       MR. KASEGUMA:   No questions.

6                       THE HEARING EXAMINER:   All right.

7   Great.   Mr. Mooney, you can have the final word.

8                       MS. HIRT:   I think --

9                       MS. MOONEY:   My final word?

10                      MR. KASEGUMA:   Should we take care of  
11   the exhibit that she has proposed?

12                      THE HEARING EXAMINER:   That's a good  
13   idea.   We can do that now.

14                      As I mentioned, it's not in the exhibit list.  
15   But if the parties have no objection, I can put it in.  
16   It's up to you.

17                      MR. KASEGUMA:   The City objects for a  
18   number of reasons.   First and foremost, is that we all  
19   had to abide by your rules, which calls that the  
20   exhibits needed to be identified several days ago and  
21   put on an exhibit list.   And could only be excused if  
22   the exhibit was being looked for or there was a rational  
23   reason why it was not produced at the time.

24                      Ms. Mooney has testified that this is an  
25   exhibit from a website and was obviously available at



1 the time the exhibit list was prepared by the appellant.

2 In addition, however, this exhibit has flaws  
3 in it for purposes of being relevant to this proceeding.  
4 It does not indicate who developed and prepared it, why  
5 it was are prepared. Apparently, it shows a circle that  
6 might be interpreted as a bald eagle's nest at one time.  
7 But we don't know what time that was.

8 So this exhibit is not sufficient enough for  
9 us to analyze what it's talking about and give it the  
10 consideration that it might have if it had more  
11 information in it.

12 So at this point, there's not enough  
13 information concerning it to allow it to be admitted as  
14 an exhibit, even if we were to ignore the rule you all  
15 gave us.

16 THE HEARING EXAMINER: Okay. I've  
17 already given Ms. Mooney an opportunity to address the  
18 good cause. And I really don't see it here, so I'm  
19 going to sustain the objects and exclude the documents.

20 Now, Ms. Mooney, you can -- make a final word  
21 is maybe not a correct way to identify what you have a  
22 right to do right now. That right is to elaborate upon  
23 answers you gave to questions you were given. If you  
24 feel you didn't have a chance to fully answer a  
25 question, then now is the time to do it.



1 MS. MOONEY: To Washington State Parks,  
2 I just want to say that I am not the expert that went  
3 through the Environmental Impact Statement. I largely  
4 looked to the staff, and specifically Michael Hankinson,  
5 and asked for his advice about how to approach such a  
6 mind-boggling effort, which would be to assess a  
7 baseline study of all the animals that are at that park  
8 before Mr. Daniels project came through and before the  
9 artificially lighted turf field that the City was  
10 concomitantly piggybacking onto the Daniels project.

11 I relied and trusted Mr. Hankinson to give me,  
12 what I thought, was neutral advice on how to testify at  
13 the hearings. And by the time I went to Lacey in  
14 January to testify about the ball field, which I thought  
15 was the right thing to do, that's where I finally  
16 learned that I was being -- I was self-fooled, I  
17 guess -- into thinking that the staff at Parks,  
18 Mr. Hankinson, was neutral because he said that he was  
19 the planner --

20 MS. WEHLING: I'm going to object on the  
21 grounds of hearsay. She can discuss her opinions, her  
22 beliefs, but she can't discuss what Mr. Hankinson said  
23 to her.

24 THE HEARING EXAMINER: Again, this is  
25 not a court of law. It's an -- the hearing examiner



1 rules specifically state -- and they are pretty much  
2 uniform in just about every City and County -- that any  
3 hearsay is generally admissible, so go ahead.

4 MS. MOONEY: I relied on our State Park  
5 planner -- and even sat by him at Bastyr's last park  
6 commissioners meeting -- expecting that he would say,  
7 Good job. You talked about cumulative impacts and  
8 brought up the animals.

9 And it was only way later when I was at Lacey  
10 where our council member was in attendance to promote  
11 the lighting of the artificial ball field -- that I  
12 thought our City council member, who is promoting a  
13 little league artificially lighted ball field at, you  
14 know, the Saint Edward Park talking to Mr. Hankinson.

15 And when I asked Mr. Hankinson the next day,  
16 What are you talking about? I thought that was supposed  
17 to be a public hearing? He finally explained that there  
18 was a grant from the mitigation due to the artificially  
19 lighted ball field causing trouble for the animals, and  
20 that there would be a grant. And I asked if he could  
21 help with it.

22 Then I called the city staff member, Ann  
23 Stanton, the next day. And she said that grant is only  
24 there if the City gets their ball field artificially  
25 lighted and turfed.



1           And all I'm saying is that, no, I'm not the  
2 expert. I did not spend a huge amount of my time going  
3 through the Environmental Impact Statement. I luckily  
4 have friends in Ms. Hirt and Mr. Lance, who have taken  
5 months of their time. I have contributed to their --  
6 you know, helping.

7           But, no, I'm not the expert in this. I relied  
8 on my State and my City to do the right thing, and I  
9 feel they have failed miserably in protecting the  
10 animals there that are the treasure of that park. And  
11 if Mr. Daniels can provide a proper hotel, conference  
12 center with minimal impact that doesn't harm the whole  
13 park's nature, that would be better.

14           But the artificially lighted turf field and  
15 the process of commingling these projects and confusing  
16 people like me into driving all the way to Lacey and, in  
17 good faith, giving testimony and seeing my own City is  
18 working with the planner from State Parks, I think it's  
19 unfair. And the animals will suffer, the plants will  
20 suffer, and the future generations will suffer if that  
21 small piece of sanctity is not preserved.

22           And I thank the Citizens at Saint Edward Park  
23 for keeping that hope alive.

24           MR. KASEGUMA: Mr. Examiner, I would ask  
25 that you strike from the record Ms. Mooney's rambling



1 comments, the reference to a city council member at, I  
2 believe, a parks commission hearing.

3 THE HEARING EXAMINER: Well, now, like I  
4 said, one of the premises of the SEPA policy area is a  
5 little bit of conflict where the City is some kind of --  
6 that the ball fields and the proposed renovations are  
7 linked together, and then nepotism is given to one in  
8 order to get something done for the other.

9 You know, I bet that it's very tenuous, but  
10 I'll let them argue their belief on that point, so I'll  
11 allow it.

12 Anyway, are you finished Ms. Mooney?

13 MS. MOONEY: Yes. Thank you.

14 THE HEARING EXAMINER: Ms. Hirt.

15 MS. HIRT: Can I just make a comment  
16 based on her conversation of cumulative impacts, and  
17 what I was told at the scoping meeting for the DEIS? I  
18 don't know if this is the time that -- because I already  
19 made my comments.

20 MS. WEHLING: Mr. Examiner, I'm going to  
21 object. Ms. Hirt already had her opportunity to provide  
22 her direct testimony.

23 THE HEARING EXAMINER: Ms. Hirt is -- I  
24 think she's also the one who is essentially presenting  
25 the appellants and organizing all the testimony. She



1 can make the final comments before she rests her case.  
2 So just wrap it up at this point.

3 MR. RANADE: Before we switch to that  
4 subject, just for the record, on Ms. Mooney's allegation  
5 of a conflict of interest, in the hopes that we're going  
6 to be able to finish this hearing today, I want to note  
7 for the record, there was no allegation of a conflict of  
8 interest in the appeals statement. So there's no issue  
9 that has been properly raised by the appellant on that  
10 subject.

11 Not one of the 25 issues in the appeals  
12 statement says anything about a conflict of interest.  
13 And even the most generous reading of that appeals  
14 statement, cannot be construed to allege a conflict of  
15 interest.

16 And so I'm just trying to avoid having to put  
17 on a case or putting -- the State and the City in the  
18 position of putting on a case on a subject that was not  
19 raised until, well beyond, even the 11th hour.

20 THE HEARING EXAMINER: All right.  
21 Ms. Hirt, did you want to respond to that at all.

22 MS. HIRT: No. Because I think the  
23 place that was raised was dismissed yesterday. There  
24 was something.

25 THE HEARING EXAMINER: Okay. So you're



1 essentially -- you're not going -- you're saying the  
2 SEPA is not going to pursue that argument.

3 MS. HIRT: The statement, and I would  
4 have to find the statement that led to one of the  
5 exhibits we submitted. But that statement was in the  
6 appeal part that was dismissed yesterday.

7 THE HEARING EXAMINER: Well, put it this  
8 way, I haven't seen enough evidence that there was a  
9 conflict of interest that affected the validity of the  
10 FEIS in the case.

11 The fact that it wasn't raised in the appeal  
12 issues --it's an issue that goes towards the weight of  
13 the evidence that applies to each particular issue. I  
14 don't know necessarily it had to be raised, they're just  
15 questioning the strength of the evidence on some key  
16 points. But I just didn't see there was enough evidence  
17 presented to establish a conflict of interest anyway.  
18 So I don't think that needs to be further pursued.  
19 Those will be my findings of that, assuming you're not  
20 going to be addressing anymore conflict of evidence at  
21 this point.

22 MS. HIRT: I have an opinion about it,  
23 but I don't have --

24 THE HEARING EXAMINER: Evidence.

25 MS. HIRT: The evidence I have is not



1 enough to bring forth.

2 THE HEARING EXAMINER: Okay. And that's  
3 fine. I just don't see it would be very constructive to  
4 go down that path.

5 MS. HIRT: You already have the evidence  
6 I had evidence to that.

7 THE HEARING EXAMINER: Yes. And I saw  
8 that evidence. I would say that I don't have enough  
9 information to say that the evidence presented at the  
10 FEIS was affected by a conflict of interest, so we'll  
11 leave it at that.

12 So, Ms. Hirt, your final comments?

13 MR. RANADE: Mr. Examiner, if we're  
14 getting new testimony from Ms. Hirt -- the schedule has  
15 closing arguments later. So if that's what she's doing,  
16 she should follow the schedule. If she's applying new  
17 testimony, I understand and I'm okay with it, but then  
18 we should be given opportunity to cross-examine her on  
19 the new testimony.

20 THE HEARING EXAMINER: That's fine.  
21 That's perfectly fine.

22 MS. HIRT: I only had one comment about  
23 the scope. Should I say it now?

24 THE HEARING EXAMINER: Let's get it  
25 done. We've probably spent more time debating whether



1 you should say it, just say it.

2 MS. HIRT: It's a quick statement. In  
3 the scoping meeting about what goes into a Draft EIS,  
4 what can be included -- you may say this is hearsay --  
5 but this is a conversation I had with Mr. Hankinson  
6 about what goes in it --

7 MR. RANADE: Again, objection; hearsay,  
8 grounds. You can still say it. I just wanted to get it  
9 on the record.

10 THE HEARING EXAMINER: Yeah. Putting it  
11 in the record.

12 MS. HIRT: Anyway, he said cumulative  
13 effects. I said, Is this the time to talk about  
14 cumulative effects? And he said, Yes. And I said, So  
15 you mean that this EIS is the time that we can talk  
16 about the cumulative effects with the ball fields and  
17 mention the cumulative effects that the ball fields and  
18 the project will have? And he said, Yes.

19 So we did put things in our scoping based on  
20 that. There is cumulative -- the cumulative impacts of  
21 both projects because that was what I was told. I want  
22 to clarify that.

23 THE HEARING EXAMINER: That's it for the  
24 SEPA comments?

25 MS. HIRT: That's it.



1 THE HEARING EXAMINER: Anyone want to  
2 cross that? Great. We're done with the SEPA  
3 appellants' presentation at this point. And now we'll  
4 move on to the, I believe, it was the  
5 applicants presentation.

6 MR. RANADE: Mr. Examiner, we ask for a  
7 ten-minute break.

8 THE HEARING EXAMINER: Sure. Let's do  
9 that. We'll take a 10-minute break.

10 (Break taken from 10:45 a.m. to 10:54  
11 a.m.)

12 THE HEARING EXAMINER: The court  
13 recorder is back on. We're still at March 2, 2017,  
14 CSP16-0077. We have now moved on from the SEPA  
15 appellants' portion of the SEPA appeal to the  
16 applicants' presentation.

17 MR. RANADE: Thank you, Mr. Examiner.  
18 We would like to begin with a motion to dismiss some of  
19 the issues/statements that were presented in the appeal  
20 statement in full, and to -- I'm going to call it --  
21 narrow the scope of a couple of the other  
22 issues/statements. And I'll elaborate in a second.

23 The purpose and the real reason I want to do  
24 this is that if we can narrow issues on which the  
25 appellant has presented no evidence or argument



1 whatsoever during the hearing, that will allow us to  
2 excuse at least three witnesses today, and --

3 THE HEARING EXAMINER: Okay.

4 MR. RANADE: Avoid testimony on five  
5 different topics. That's the reason we're asking for  
6 this. The issues/statements on which the appellant  
7 presented no evidence at all and no argument are as  
8 follows:

9 Issue number 4, which dealt with trail traffic  
10 and specifically a concern of the erosion on the trail;  
11 ground water, that's issue number 14; delayed action,  
12 which is issue number 15. And I would also add that  
13 there's a specific section of the Draft EIS that talks  
14 about delayed action, if there is any problem with that;  
15 paragraph 10, which talks about compliance with the  
16 State Park's lease; and paragraph 16, which alleges --  
17 makes allegation of the range of alternatives  
18 considered; and paragraph 20, which was an allegation  
19 dealing with the federal land and water conservation  
20 funds.

21 So, again, we're asking, at this point, for  
22 the hearing examiner to dismiss the allegations and  
23 issues 4, 10, 15 -- I'm sorry -- I spoke out of order.  
24 4, 10, 14, 15, 16, and 20.

25 Further, we're asking the hearing examiner to



1 narrow the scope of issues set out in -- I'm going to  
2 say paragraphs of issues/statements 1 and 2. Those are  
3 the issues/statements that you authorized the appellants  
4 to rewrite. They ended up, as far as we can tell,  
5 they're identical. I think they were literally a cut  
6 and paste, so it's the same issue.

7           And within that issue, there were a number of  
8 topics that the appellants raised. We heard no  
9 testimony and no argument and no documents on the  
10 following issues within the rewritten issues 1 and 2:  
11 Nothing about drainage; nothing about air quality;  
12 nothing about public services to the projects, so I'm  
13 talking police, fire, utilities; nothing about flooding  
14 and floodways; nothing about soil erosion; and, again,  
15 nothing about ground water.

16           And so we would ask just to confirm and narrow  
17 the scope of what's alleged in issues 1 and 2. That  
18 those are also off the table. And if the hearing  
19 examiner will take those off the table now, because  
20 there was no evidence and argument. And, as I said, at  
21 least three witnesses we can send home, hours before  
22 they thought they were going to be able to go home.

23           THE HEARING EXAMINER: Ms. Hirt, you get  
24 to address that request. This is not a time to present  
25 evidence if you didn't before. It's a time to argue



1 that there is evidence and the issue should still be  
2 considered.

3 MS. WEHLING: Mr. Examiner, before we  
4 get there, could I note that State Parks joins in that  
5 motion and would also like to point out that there was  
6 some argument beyond the notice of appeal, it was in the  
7 appeal titled Susan's Appeal, which, Your Honor,  
8 dismissed yesterday.

9 THE HEARING EXAMINER: Okay.

10 MR. KASEGUMA: The City concurs with the  
11 comments made by the State.

12 THE HEARING EXAMINER: Okay. Great.

13 MS. HIRT: I would have trouble arguing  
14 with this. This was put in because some people were  
15 very concerned about the issues. However, they are not  
16 here to speak about -- and it is my mistake that I  
17 forgot to bring up the land and water conservation fund.

18 THE HEARING EXAMINER: Okay. I think  
19 that's. Oh --

20 MS. HIRT: On the other hand, Dr. Bain  
21 is telling me that he did bring that up. And now I do  
22 remember it was in his testimony.

23 THE HEARING EXAMINER: Which issue?

24 MS. HIRT: The land and water  
25 conservation issue, 20. He did talk about the land and



1 water conservation fund.

2 THE HEARING EXAMINER: I don't recall.  
3 What did Dr. Bain say about that?

4 MS. WEHLING: I can address that.

5 THE HEARING EXAMINER: I re-listened to  
6 this testimony this morning, and I don't recall that.

7 MR. BAIN: I mentioned the land and  
8 water conservation fund gave a federal nexus, which  
9 meant that there should have been section seven  
10 consultation --

11 THE HEARING EXAMINER: I thought it was  
12 about section 7. I think issue 20 is concerned about  
13 the conversion.

14 MR. BAIN: No, I didn't address anything  
15 about the conversion.

16 THE HEARING EXAMINER: My understanding  
17 of 20 is -- let's see.

18 MR. RANADE: That's our understanding as  
19 well. That's why we included it in the motion.

20 THE HEARING EXAMINER: Yeah. Okay. So  
21 and -- Ms. Hirt, I appreciate the fact that you are  
22 willing to concede this. I think it will save a lot of  
23 time and help us focus on the issues that are important  
24 to you.

25 MS. HIRT: I have documentation. I have



1 contacted the RCU for public information. But I have  
2 not submitted it, because you would probably call it  
3 hearsay.

4 THE HEARING EXAMINER: Well, it's not a  
5 hearsay issue. It's an issue if it's in the record for  
6 me to review. If you're conceding there is no evidence  
7 on the these issues, which is fine, we have plenty of  
8 other things to deal with.

9 MS. HIRT: Other than being in -- we did  
10 not write in our brief about it, I agree, and so I have  
11 no ground to stand on to keep it there.

12 THE HEARING EXAMINER: All right. So  
13 I'll grant the request then to take out issues 1, 2, 4,  
14 10, 14, 15, 16, and 20. Is that the correct list?

15 MR. RANADE: And we asked that you  
16 narrow issues 1 and 2.

17 THE HEARING EXAMINER: Oh, I'm sorry.  
18 Yeah. I said take out 1 and 2. I should say narrow it,  
19 in terms of taking out issues pertaining to drainage,  
20 air quality, police, flooding, soil erosion, and ground  
21 water. Okay.

22 MR. RANADE: Thank you. And just to  
23 clarify, did you include 16 as dismissed?

24 THE HEARING EXAMINER: I think I did.  
25 But we'll say again, 16.



1 MS. HIRT: 16, yes.

2 MR. RANADE: Thank you. So with that,  
3 we'll call Ron Wright to the stand.

4 You're one of the witnesses that is excused  
5 then. Have a good day.

6 THE HEARING EXAMINER: Sir, have you  
7 been sworn in?

8 THE WITNESS: Yes, I have. Yesterday.

9 MR. MURPHY: Good morning, Mr. Wright.  
10 For the record, this is Andy Murphy for the applicant.

11 THE HEARING EXAMINER: Can we get a  
12 spelling of your name, sir, for the record?

13 THE WITNESS: Ron Wright. R-o-n  
14 W-r-i-g-h-t.

15 DIRECT EXAMINATION

16 BY MR. MURPHY:

17 Q. Mr. Wright, I believe you testified in the  
18 site plan hearing, and you described your professional  
19 experience. Can you briefly remind us of what that is?

20 A. We've been in practice -- I'm the principal in  
21 my own practice. It's been in business for the past 25  
22 years. We have a cumulative total of about \$400  
23 million worth of work that we performed -- got a  
24 commission off of. I think I mentioned that.

25 We do historic restoration projects, housing



1 projects, restaurants. We also do all kinds of  
2 specialized projects.

3 Q. And this is architecture?

4 A. Architecturally related, yes.

5 Q. And I understand your work has garnered some  
6 praise, won some awards. Can you address some of the  
7 awards with regard to historical preservation?

8 A. We received a national historic award for the  
9 restoration of the Union Station. We received a state  
10 award for the restoration of the Pioneer Square  
11 pergola. And I have a national award from a house  
12 project that we did about eight years ago.

13 Q. Congratulations.

14 A. Thank you.

15 Q. Your involvement with the project was  
16 designing the plans for the Seminary?

17 A. Correct.

18 Q. And did you design the project in accordance  
19 with the Department of the Interior standards?

20 A. Yes. We had those as a criterion within the  
21 background of what we were putting together.

22 Q. How familiar are you with the Department of  
23 the Interior standards?

24 A. We have been following the standards now since  
25 we started working with the historic restoration work



1 and have successfully obtained six tax credit projects  
2 which require very intimate knowledge in order to  
3 obtain the tax records. These are federal tax credits.  
4 I would say it's very intimate in knowledge.

5 Q. And over how long have you been working with  
6 them?

7 A. This has been since approximately 1996.

8 Q. What is the purpose of those standards?

9 A. The purpose of the standards is to set --  
10 their guidelines are to set criteria for the  
11 restoration of historic buildings, districts, historic  
12 components, essentially. I say that because it's not  
13 just buildings. It's also neighborhoods and districts.

14 It outlines a methodology for ensuring that  
15 the buildings are -- and districts and historic  
16 elements -- are restored in a manner that will allow  
17 them to essentially be viable for the next 100 years.

18 Q. You mentioned their guidelines. So am I  
19 correct in interpreting that they don't require strict  
20 compliance?

21 A. Correct.

22 Q. It can be loosened necessarily for the  
23 particular project?

24 A. Yes.

25 Q. You were here yesterday during the public



1 comment portion of the site plan; is that right?

2 A. Yes, I was.

3 Q. And to the extent it's relevant to the SEPA  
4 appeal, I believe there were some comments about the  
5 Nuns' Garden and whether that would be developed, how  
6 that would affect it. Do you have any awareness of  
7 what the current status of the Nuns' Garden is?

8 A. My -- when the Nuns' Garden was outlined or  
9 identified in the report, it was identified as  
10 overgrown and virtually nonexistent as far as being  
11 able to tell where it was. And I have not actually  
12 seen any notion of it. In my walk around the site, I  
13 didn't notice it was over there in that area.

14 Q. Given the overgrown nature of the Nuns'  
15 Garden, would the Department of the Interior standards  
16 strictly apply to that area?

17 A. Well, there are instances where you would have  
18 archeological aspects of something that was critical to  
19 the historic nature of the site. My professional  
20 opinion would be, no, the Nuns' Garden would not be of  
21 that nature as far as the historical significance.

22 Q. Is it your opinion that the project, as  
23 proposed, is in compliance as it relates to the Nuns'  
24 Garden?

25 A. Yes.



1 Q. And regarding the area surrounding the  
2 Seminary, and specifically the parking structure, it's  
3 my understanding that the parking structure would  
4 replace where there is currently paved parking. And  
5 Alternative 1 would replace that with a green top that  
6 would be at grade; is that correct?

7 A. Correct.

8 Q. So if Alternative 1 is constructed, as the  
9 lease requires, where park users currently walk over  
10 pavement, they would be able to walk over vegetation,  
11 some landscaping instead?

12 A. Correct.

13 Q. And would that design be consistent with the  
14 Department of the Interior standards?

15 A. Yes. It's quite common to actually have  
16 underground buildings, essentially, to allow for the  
17 above ground building to remain intact and in better  
18 visual condition, essentially, for the viewpoint of the  
19 historic aspect of it.

20 Q. And I would like to change gears a little bit  
21 and talk about building capacity. In your profession,  
22 as an architect, do you work with capacity for spaces?

23 A. Yes. All the time.

24 Q. Can you tell me the difference between fire  
25 code capacity and general facility operation capacity?



1           A. The international building code, which is the  
2 model code that is used by all jurisdictions, it's  
3 adopted by the state of Washington, uses criteria to  
4 determine how many people are in the room. And it is a  
5 very broad natured number that has been shown to work  
6 over various -- every use possible, essentially.

7           So there is a number that is used that is,  
8 essentially, 50 people, and that when you have 50  
9 people in a room, you need to add more life safety code  
10 issues to that room. And there are general  
11 calculations as to how many people constitute uses of a  
12 room based upon a use. So an office use, each person  
13 would be a 100 square feet; in an assembly, each person  
14 would be 15 square feet. This number is used as a  
15 means for determining the life safety requirements that  
16 are built into that room or that space or into the  
17 entire building.

18           Q. And that differs from functional capacity how?

19           A. There is no criteria as far as what you do  
20 with the room and use of the room functionally. They  
21 are completely separate. So the code does not  
22 contemplate, for instance, if you have an office space  
23 that the code says you can only have 40 people in the  
24 room, there's nothing that says you couldn't have 45 or  
25 50 after you're finished. It doesn't go back and look



1 at the actual number.

2 And so there's no correlation between the code  
3 number and the actual number, except in one instance  
4 where you are allowed to count the number of seats in  
5 the restaurant in order to determine the maximum  
6 occupancy of the restaurant.

7 Q. So am I correct in my understanding that a  
8 fire code capacity would be much higher than the actual  
9 capacity, say in a space like a conference room in the  
10 Saint Edward Lodge was being operated?

11 A. Very much so.

12 Q. Much lower?

13 A. Yes. Particularly in a cumulative total,  
14 because you would have -- the code contemplates each  
15 room separately and then determines the maximum for  
16 each room. Which is no relationship to whether you  
17 would use each room at the same time or not.

18 Q. So when you're designing a space for  
19 conference space, you presume that some rooms will be  
20 empty while others will be used for the same  
21 conference?

22 A. That is one criteria that functionally we are  
23 often given. Although it's really dependent on what  
24 the functional program is, not the building life safety  
25 code of the building.



1 Q. And you were here yesterday when Mr. Lance was  
2 testifying about his concerns regarding the capacity at  
3 Saint Edward Lodge; is that right?

4 A. Yes, I was.

5 Q. And were the numbers he referred to the fire  
6 code capacity?

7 A. My understanding upon listening to that, yes,  
8 those were fire code.

9 Q. How often would the Saint Edward Lodge be at  
10 the fire code capacity when operating a conference?  
11 Would it be, in your opinion, a likely occurrence?

12 A. It would be, I would say, highly unlikely.

13 MS. HIRT: I'm sorry. I didn't get  
14 that.

15 Q. I believe you said it would be highly  
16 unlikely; am I correct?

17 A. Highly unlikely, yes.

18 MS. HIRT: I'm sorry. I didn't get  
19 the -- I need clarification of what it was.

20 MR. MURPHY: I believe I asked something  
21 to the extent of -- Madam Reporter, can you read back my  
22 question?

23 MS. HIRT: I think I didn't -- I need  
24 clarification of the question, please.

25 MR. MURPHY: Madam court reporter, can



1 you read back my question?

2 (Discussion off the record while the  
3 court reporter finds the question.)

4 MR. MURPHY: I asked a question about  
5 how likely the conference would operate at fire code  
6 capacity.

7 THE HEARING EXAMINER: Is that how you  
8 recall the question, Mr. Wright?

9 MR. RANADE: Can you just make sure the  
10 court reporter is caught up.

11 THE HEARING EXAMINER: She's back on.

12 A. The question, as I understood it, how likely  
13 would it be that the maximum number of individuals  
14 designated for each room would actually be in each room  
15 all at the same time. And my response is that's highly  
16 unlikely.

17 Q. (BY MR. MURPHY) Moving on to the broader  
18 design of the Seminary building. I understand that  
19 you've done some calculations about the square footage  
20 of lodging space as opposed to conference space; is  
21 that correct.

22 A. Yes, I have.

23 Q. And what's the square footage for lodging  
24 space, approximately?

25 A. The lodging space is approximately 35,000



1 square feet.

2 Q. And what's the square footage for meeting room  
3 and conference space?

4 A. 16,000. And I'm excluding the restaurant and  
5 the support space. 16,000.

6 Q. So if my math is correct, the square footage  
7 for lodging space is more than twice what is allocated  
8 for meeting room and conference space?

9 A. Correct.

10 MR. MURPHY: I have nothing further at  
11 this point.

12 THE HEARING EXAMINER: All right. Do  
13 you have any questions, Ms. Wehling?

14 MS. WEHLING: No.

15 THE HEARING EXAMINER: All right.  
16 Mr. Kaseguma, any questions for this witness?

17 MR. KASEGUMA: No questions.

18 THE HEARING EXAMINER: Ms. Hirt.

19 MS. HIRT: May Peter ask the questions?

20 THE HEARING EXAMINER: That's fine.

21 CROSS-EXAMINATION

22 BY MR. LANCE:

23 Q. Mr. Wright, were you familiar with the seating  
24 chart from Cedar Brook Lodge that was Exhibit 2 that  
25 was presented yesterday?



1 A. I'm not aware of it.

2 Q. May I hand it to you?

3 A. Yes.

4 MR. RANADE: There's a notebook up  
5 there, too. Just so we can all keep track.

6 MR. MURPHY: It's the appellants'  
7 Exhibit 2.

8 A. I have Exhibit 2.

9 Q. (BY MR. LANCE) It should be a seating chart  
10 for the Cedar Brook Lodge. Does that appear -- that's  
11 from their website. And they've given capacities for  
12 the various rooms for the conference spaces. Are they  
13 advertising their fire capacities or are they  
14 advertising their functional use for those rooms?

15 A. I see in the last page here an item --

16 Q. That's my math work. So that summarizes those  
17 tables that you're looking at. Big Cedar, first floor,  
18 Big Cedar, second floor, parlors and dens.

19 A. So the numbers that I see here, I guess, in  
20 response to your question, appear to list the maximum  
21 number that are maximum -- for instance, it says  
22 cocktail seating and it says 300. I would say that's  
23 the maximum number of individuals that could be in a  
24 cocktail seating arrangement. And then says, classroom  
25 seating, 150 for the same room, or conference seating



1 72 for the same room.

2 Q. Are they advertising fire codes or functional,  
3 realistic visitation for these rooms in those various  
4 settings?

5 A. I would say it's very rare --

6 Q. Please answer the question. Are these fire  
7 code minimums or the advertised numbers for --

8 A. I have no way of knowing that.

9 Q. Thank you. I have one other question, and  
10 this comes from the appellants' brief. And this is  
11 something maybe we'll speak more directly to. I'm  
12 going to hand you this, it's our number 12.

13 MR. RANADE: He's got the document in  
14 front of him. If you want to direct him to the exhibit.

15 THE HEARING EXAMINER: Is this your  
16 traffic study you're talking about?

17 MR. LANCE: No. It's our brief.

18 MR. RANADE: It's behind -- it's brief  
19 number 2.

20 A. I have brief number 2.

21 Q. (BY MR. LANCE) Brief 2, page 5, under number  
22 12, from the FEIS Seminary building. The proponent  
23 proposes to rehabilitate the existing Seminary building  
24 for use of a lodge-type hotel. The internationally  
25 recognized historic character of the proposed project



1 would include renovation of the interior of the  
2 building to adapt the facility for use as a lodge -- as  
3 lodging and lodging support. Projected up to 100 guest  
4 rooms would be provided in addition, the building would  
5 include meeting, conference rooms, a total of  
6 approximately 16,600 square feet for approximately 550  
7 people.

8           Is that a fire code number that was produced  
9 or is that an actual functional number of expected  
10 visitors in the conference room application?

11           A. Was this is a number that came from our  
12 preparation of documents? Are you quoting --

13           Q. This presumably came from Daniels -- that they  
14 provided this information about their project. And  
15 then they go on to talk about --

16           A. My understanding in reviewing this is that  
17 that's a functional number that's been presented there.  
18 I say if you add it up -- same as I just -- quickly  
19 looking at the numbers that I saw in the Cedar Brook  
20 that you just showed me, it looks like you could almost  
21 have 1,000 people in that building based upon the  
22 maximum occupancy of every single room.

23           So here I'm looking at 16,000 square feet,  
24 even at approximately 15 occupants per room, you could  
25 have far more than 500 that would be allowed from the



1 fire code.

2 Q. So these are functional numbers -- most likely  
3 functional numbers in your opinion?

4 A. Correct.

5 MR. LANCE: Thank you very much.

6 You ask that question.

7 BY MR. HIRT:

8 Q. Well, I have a question based on --

9 MR. MURPHY: We object to more than one  
10 person questioning per party.

11 MS. HIRT: That's okay.

12 THE HEARING EXAMINER: Mr. Lance, you  
13 can ask the question.

14 MS. HIRT: We just need to confer for a  
15 question.

16 MR. LANCE: Can I ask the question?

17 THE HEARING EXAMINER: Yes. Ask the  
18 question.

19 BY MS. HIRT:

20 Q. My question is just based on -- I have a  
21 couple things. But one is based on the 35,000 square  
22 feet of lodging and 16,000 square feet of conference.  
23 That means that based on a very quick calculation here,  
24 45 percent of this is -- that doesn't come out right.  
25 Excuse me. One moment, please.



1           45 percent is for conference. So does that  
2 sound -- is that what you're saying?

3           A. No. The number I gave you -- the 16,000 does  
4 not include mechanical space, support space, restaurant  
5 space, or kitchen space, or the lounge space adjacent  
6 to the restaurant. So there is a significant amount of  
7 square footage that is not in these numbers that I gave  
8 you.

9           Q. Correct. I agree. But of the lodging, I take  
10 that to be hotel rooms?

11          A. Correct.

12          Q. And then the conference, the 16,000, so when  
13 you're comparing the number of lodging rooms to  
14 conference space, the conference space is 46 percent of  
15 lodging conference combined. Would you agree with  
16 that?

17          A. No. Well, I see -- it's a one third, two  
18 thirds ratio, I guess. So I'm not sure if it's 45  
19 percent. I'm not calculating right here.

20          Q. I used my calculator, so that's what I got  
21 twice. But, anyway, that does show there's a lot of  
22 conference space here based on the lodging -- amount of  
23 lodging space?

24                           THE HEARING EXAMINER: Is that a  
25 question, Ms. Hirt?



1 MS. HIRT: Yes, it is.

2 Q. (BY MS. HIRT) Does that show?

3 A. In my professional opinion in designing  
4 similar facilities, no. It's actually quite relevant  
5 to the size of the entire project that you would have  
6 that portion of spaces that would be there.

7 Q. Since you're the architect, and I don't have a  
8 consulting architect, could you please tell me what is  
9 the standard of conference space -- square footage of  
10 conference space per hotel room when you're designing a  
11 hotel?

12 A. It's entirely based on the functional  
13 requirements that are presented by the client as far as  
14 how much they would like to have that usage as part of  
15 their hotel.

16 And if we are working on a historic hotel in  
17 the middle of the urban city, oftentimes there's less  
18 opportunity for that, particularly if they have an  
19 adjacent facility they can actually use with that  
20 facility.

21 It's entirely dependent on the operator how  
22 much space is dedicated to conference versus hotel.

23 Q. When you're talking about an adjacent  
24 facility, you're talking about a different building  
25 that is adjacent to the hotel?



1 A. Yes. For instance, a convention center.

2 Q. Yes. I understand. This does not have that.

3 So based on -- if you're building -- so what you're  
4 telling me is -- and I just want a yes or no -- that  
5 how much conference space goes into a project that  
6 you're renovating or designing, depends on the  
7 person -- the developer, if they want a lot of  
8 conference -- in other words, there's not an industry  
9 standard?

10 A. Yes.

11 Q. Before this, I gave a -- the only industry  
12 standard I could find -- and I looked at that -- and I  
13 was wondering what is an industry standard, not a  
14 developer -- not depending on the developer -- if the  
15 developer did not tell you, what would be your industry  
16 standard?

17 MR. MURPHY: We object to  
18 mischaracterizing previous testimony.

19 THE HEARING EXAMINER: Can you repeat  
20 the question, Ms. Hirt?

21 Q. (BY MS. HIRT) I just want to know what the  
22 industry standard -- if I'm building a hundred-room  
23 hotel, what would be the industry standard for how much  
24 conference space I would want to allow in my hotel?

25 THE HEARING EXAMINER: Okay.



1 MR. MURPHY: Mr. Examiner, that would be  
2 a feasibility report not an industry standard, and those  
3 are different things.

4 THE HEARING EXAMINER: Okay.

5 MR. MURPHY: The feasibility report  
6 would be as it applies to a specific project, not an  
7 industry standard that applies to all projects.

8 THE HEARING EXAMINER: Well, I'll let  
9 the witness explain that then in response.

10 MS. HIRT: Because I don't understand  
11 this.

12 THE HEARING EXAMINER: Yeah. If there's  
13 no such thing as an industry standard, let us know.

14 A. My understanding, from an architectural design  
15 point of view, there is no such thing as an industry  
16 standard. It's an economic question. And the choice  
17 of whether or not to provide the conference rooms is  
18 based upon the operator's decisions, based upon  
19 regarding the economic viability of the project.

20 And it, of course, would make sense not to  
21 provide them if no one would ever use them. And the  
22 same would be said, if you knew that you had a market  
23 for them, you would provide them. This is the kind of  
24 decision that's given or provided to us prior to us  
25 beginning a design.



1           We are, essentially, given the information as  
2 to what is appropriate or desired to be within the  
3 project, and then we put it in the project. We don't  
4 make the decision as to whether there would be  
5 conference rooms or not. And, again, that would be an  
6 individual developer or owner decision, not ours.

7           Q. (BY MS. HIRT) I understand that. I want to  
8 know if there was a guideline you go by, a rule of  
9 thumb, that you might go by if I come into you and say,  
10 I want to build a hundred-room hotel. I want  
11 conference space. Can you give me what is the rule of  
12 thumb, is there a rule of thumb, on how much conference  
13 space you would put in that hotel?

14           A. I'm not aware of a guideline.

15           Q. Okay. There is not one. There's another  
16 thing I want to mention. Have you been to the Nuns'  
17 Garden? You said you went. When did you go?

18           A. I have walked the site, both around the  
19 building and then around all of the adjacent buildings,  
20 and even through the trails. Within the last -- the  
21 last time I was there was probably three months ago.  
22 But I think the last time I was outside walking was six  
23 months ago.

24           Q. So you're not aware that this fall there was a  
25 huge clean up in the Nuns' Garden, and it's no longer



1 overgrown. This was the effort of volunteers at the  
2 park?

3 A. I'm not aware of that.

4 Q. Okay. So that -- when you saw it, it was  
5 overgrown. But now, according to volunteers who worked  
6 on this, it has been cleaned up since you were there?

7 A. I think my statement is I didn't observe it.  
8 I didn't even see it.

9 Q. Right. I understand that. Those are -- let  
10 me see. That was my question on the Nuns' Garden.  
11 Okay. The other question I have is, we were -- it's  
12 based on a hundred rooms and the amount of conference  
13 space in this hotel. Would it not take more people  
14 staying at the Lodge than those staying in the lodge to  
15 fill conference rooms, or to use conference rooms  
16 effectively for the space. You have 100 rooms. I have  
17 attended many conferences and -- that doesn't mean  
18 you'll have 200 people at a conference. So based on  
19 the large number of rooms, my opinion is conference  
20 members -- people will come from local, not just hotel  
21 guests. Would you agree with that?

22 A. I guess, I'm being asked a functional  
23 question. I don't know that I would agree or disagree  
24 with that since it's not my expertise. I design  
25 buildings.



1 Q. But this hotel conference center has more  
2 capacity than -- for conferences than that of just  
3 hotel guests -- accommodating hotel guests. Would you  
4 agree with that?

5 A. No. I have been -- myself, been to a number  
6 of conferences in what I would characterize as resort  
7 areas where the entire conference in the resort was the  
8 group of people at the hotel and that was it.

9 Only from my own personal experience, I would  
10 say, no, that's not the case. That, in fact, a  
11 facility similar to the one proposed could easily be a  
12 standalone facility that is not reliant upon outside  
13 guests.

14 Q. But that's your personal experience, that's  
15 not your --

16 A. Right. I'm an architect.

17 Q. I know you're an architect. My question,  
18 though, is based on a hundred-room hotel, there is more  
19 excess capacity of conference space than there is  
20 allowed -- than just the hotel guests? So you could  
21 have a local conference and hotel-guest conference at  
22 the same time?

23 A. That, again, is more of a functional decision  
24 on how the building is used than actual use.

25 Q. But there's enough space to do that?



1 A. Theoretically, yes. There would be.

2 Q. Yes. Okay. Thank you. So there is enough  
3 space to have a local conference and just -- not just  
4 limited to hotel -- people staying at the hotel. Okay.

5 MS. HIRT: I think that's all my  
6 questions.

7 THE HEARING EXAMINER: Okay. All right.  
8 Back to the applicants for redirect.

9 MR. MURPHY: Yes.

10 REDIRECT EXAMINATION

11 BY MR. MURPHY:

12 Q. Mr. Lance drew your attention to a section in  
13 this brief where they talk about maximum capacity.  
14 That was on page 5 of, I believe, it's brief 2.

15 A. I got it.

16 THE HEARING EXAMINER: It's S13, is the  
17 exhibit number.

18 Q. And my question for you is, How likely would  
19 it be that there would be hundred percent occupancy of  
20 all the space with no overlap of the guests using that  
21 space?

22 A. Again, I would say it would be highly unlikely  
23 in it would -- the amount of support space in the  
24 building would likely be taxed, restrooms, et cetera,  
25 and so forth.



1 Q. My second question is in response to the  
2 unsubstantiated claim that the Nuns' Garden has been  
3 rehabilitated. If that is the case, would it change  
4 your opinion about whether the project complies with  
5 department interior standards as it would affect the  
6 Nuns' Garden?

7 A. No. And if I can elaborate?

8 Q. Sure.

9 A. The guidelines are written -- particularly in  
10 the instance of adapted reuse -- to allow for a -- I  
11 won't call it a sacrifice -- that for the good of the  
12 whole, there is often the need to take away some aspect  
13 that is historic.

14 And I think, an example I use all the time, is  
15 a building where MOHAI is now that we worked on where  
16 there was a grant -- this is down in South Lake  
17 Union -- there was a grant to provide a greenroom on a  
18 historic building. And the greenroom would be the  
19 funding to carry the whole entire project forward. And  
20 the State preservation officer agreed and actually  
21 stated to us that it was -- in the instance of one  
22 creating the benefit for the other, it was okay that  
23 sacrifices be made.

24 And so the point of that is that oftentimes  
25 you need do -- you have to sacrifice something in order



1 to get the entire project through. And that applies to  
2 life safety issues and to a lot of modern day things  
3 that you have to do to make a building from 1931 code  
4 compliant.

5 So sacrificing an entity of a small entity of  
6 a larger picture is certainly within reason within the  
7 National Park Service guidelines.

8 Q. So there are no requirements in the Department  
9 of the Interior standards? They are just guidelines?

10 A. They're just guidelines. There are no  
11 requirements.

12 MR. MURPHY: Thank you. Nothing  
13 further.

14 THE HEARING EXAMINER: Thank you,  
15 Mr. Wright. I appreciate your testimony. Next witness.

16 MR. MURPHY: We would like to call  
17 Jessica Logan. But given she is a State Parks witness,  
18 we think it's appropriate for Ms. Wehling to do that  
19 direct evidence, while reserving our ability to call  
20 additional witnesses.

21 THE HEARING EXAMINER: Certainly.  
22 Ms. Logan, have you been sworn in?

23 THE WITNESS: I have.

24 DIRECT EXAMINATION

25 BY MS. WEHLING:



1 Q. Would you please provide your title and a  
2 brief job description for the record?

3 A. I am the environmental program manager for  
4 State Parks and the SEPA-responsible official. I  
5 oversee all of the SEPA decisions that we make at the  
6 state level, and I coordinate regulatory compliance  
7 throughout the state.

8 Q. So in the interest of sufficiency, I'm going  
9 to point you to a few of the documents. I would like  
10 to start with what's been identified in the big black  
11 binder as Exhibit No. 13. And I would like to direct  
12 you to pages 3 to 4 of that exhibit. I would just like  
13 for you -- are you there?

14 A. Yes.

15 Q. Look at that and say, Does that do an accurate  
16 description of the actions that the State has taken to  
17 repair and maintain Saint Edward State Park since it  
18 was acquired in 1977?

19 A. Yes, it does.

20 Q. And if you go a few pages back to pages 11  
21 through 17, does that provide a more thorough summary  
22 of the actions taken by the State?

23 A. Yes, it does.

24 Q. And now if you look at page 6 of that same  
25 exhibit, which is Exhibit 13, it identifies the annual



1 maintenance cost for Saint Edward State Park. Could  
2 you identify what those are?

3 A. For management options?

4 Q. The annual maintenance cost. And then if you  
5 would briefly discuss some of those different costs  
6 that go with the various management options.

7 A. On page 6?

8 Q. Yes, ma'am.

9 A. Table one?

10 Q. Yes, ma'am.

11 A. So the adaptive reuse and lease is \$8,912,000,  
12 plus ongoing operational costs. To mothball the  
13 property, would be \$1.4 million per decade. The  
14 no-action option would be \$100,000 a year. A partial  
15 demolition option would be \$1,280,000. That would be a  
16 one-time expense. The full demolition option would be  
17 the same, \$1,280,000, which is a one-time expense. And  
18 then to vacant the premises, to vacate the building  
19 \$26,000.

20 Q. Does Parks have an unlimited budget?

21 A. No, they do not.

22 Q. Would these costs be significant impacts to  
23 Park's budget?

24 A. Very much so, yes.

25 Q. The next question I'm going to ask you about



1 is the CAMP, the 2008 CAMP. Can you turn to Exhibit 26  
2 in the same binder? Can you describe CAMP?

3 A. A CAMP, which is a classification and land  
4 management plan, is a plan that State Parks does for a  
5 park or regional area of parks that provides a  
6 long-term boundary. And it's basically our internal  
7 zoning documents, so it provides classifications for  
8 appropriate activities in different areas of the park.  
9 And also provides a management plan for issues that  
10 were brought up during the CAMP planning process by the  
11 public and other stakeholders.

12 Q. When was this CAMP adopted?

13 A. This CAMP was adopted in October 20, 2008.

14 Q. Did Parks receive stakeholders input on the  
15 CAMP before it adopted it?

16 A. Yes, it did.

17 Q. On page 2, I asked Ms. Hirt about this  
18 earlier, is that the list of advisory committee members  
19 that provided that input?

20 A. Yes, it is.

21 Q. Could you just describe, generally, the type  
22 of different stakeholders that were invited to  
23 participate in this project?

24 A. We have adjacent landowners, private property  
25 owners. We have -- we have Park staff. We have a park



1 commissioner on this list. We've got someone from the  
2 union on this list. We have city staff, tribal members  
3 were invited to participate -- the Muckleshoot Tribe.  
4 Citizens for Saint Edward's participated, a local  
5 neighborhood association, and Friends of Saint Edwards.  
6 Oh, as well as the Audubon Society and Bastyr  
7 University.

8 Q. Would you describe that as a diverse group of  
9 stakeholders and representing the diverse interest for  
10 the park as a whole?

11 A. Yes, I would.

12 Q. I would like you to look at Appendix A, which  
13 is on page 29 of the CAMP. You said that the CAMP acts  
14 like a zoning code and there's different  
15 classifications. Is the Seminary building in the  
16 heritage classification?

17 A. Yes, it is.

18 Q. And could you describe what the heritage  
19 classification includes?

20 A. Would you like me to read this?

21 Q. I would.

22 A. Heritage areas are designated for  
23 preservation, restoration, and interpretation of unique  
24 and unusual archeological, historical, scientific  
25 and/or cultural features in traditional cultural



1 properties which are of statewide and national  
2 significance.

3 Q. Now, are the ball fields also in the heritage  
4 category or in the recreation category?

5 A. I believe -- I'm not sure.

6 Q. Are there different categories of  
7 classification on the park as a whole?

8 A. Yes, there are.

9 Q. And is the eastern half of the property in the  
10 resource recreation classification?

11 A. Yes, it is.

12 Q. Is that a different sort of use than the  
13 heritage classification?

14 A. Yes, it is.

15 Q. And is the western half of the property in the  
16 natural forest classification?

17 A. Yes, it is.

18 Q. Is that also a different classification than  
19 the heritage classification?

20 A. Yes, it is.

21 Q. Would each of those classifications be  
22 described and identified on page 29 of the CAMP?

23 A. Yes, they are.

24 Q. So as you're aware, there were some  
25 allegations that the Seminary proposal was not



1 consistent with the CAMP. I would like to direct you  
2 to pages 17 and 18 of that document where it identifies  
3 11 different goals. I'm not going to ask you about  
4 these one at a time. I'm going to ask you about them  
5 in the way that the appellants have classified their  
6 concerns.

7           So I'm going to start with the concern that  
8 the Seminary is subordinate to the use of the remainder  
9 of the park. Would you describe this Seminary as the  
10 dominate use of the property?

11           A. No, it's not.

12           Q. How many users are there in the park for the  
13 Seminary versus the reminder of the park?

14           A. The majority -- the vast majority of the users  
15 in the park, at this time, are for the rest of the  
16 park.

17           Q. And so we've heard a lot about the number of  
18 rooms and the use of the conference space. And, in  
19 your opinion, even if the Seminary was operating at  
20 full capacity, would that exceed the number of public  
21 uses for the recreational portion of the park?

22           A. No, it would not.

23           Q. So one of the other concerns identified by the  
24 appellants was priority needed to be given to outdoor  
25 recreation. Did Daniels dedicate space in the Seminary



1 building to outdoor recreation?

2 A. Yes, it did.

3 Q. Is there currently space in the building  
4 dedicated to outdoor recreation?

5 A. No, there's not.

6 Q. So the Daniels proposal would increase space  
7 dedicated to outdoor recreation after the proposal is  
8 completed?

9 A. Yes.

10 Q. Will the proposal for the Seminary building  
11 rehabilitation result in a decrease of outdoor  
12 recreation for the public in any way?

13 A. No.

14 Q. Did Parks have any other options to use this  
15 building solely for outdoor recreation?

16 A. None that were viable.

17 Q. So I'm going to talk about the next concern  
18 raised by the appellants which has to do with limits of  
19 public access to the main floor.

20 Is the use of the upper floors for the guest  
21 rooms consistent with the historical use of the  
22 building?

23 A. Yes, it is.

24 Q. Could you just briefly describe what those  
25 rooms on the upper floors have been used for over time?



1           A. Those rooms were created as dorm rooms for  
2 students. We have had Park staff in them. That is my  
3 understanding of the use of those floors.

4           Q. How much of the building is currently open to  
5 the public?

6           A. At this moment, none, except for by  
7 appointment.

8           Q. And so by appointment, is there a fee required  
9 to use the building?

10          A. No. There is not a fee for tours that I'm  
11 aware of. I could be wrong about that. When the  
12 dining hall was opened, that was by reservation, so  
13 there was a fee for that.

14          Q. But there's a fee to come to the park and  
15 park?

16          A. Yes. There is a fee to come to park, period.

17          Q. Now, based on what you've heard over the last  
18 day and a half, is this proposal going to result in  
19 more of the building being open to the public than the  
20 current use by reservation or by rental only?

21          A. Yes.

22          Q. So having more of the building open, will that  
23 provide more access to the public than Parks has been  
24 able to provide in its 40-year history of ownership?

25          A. Yes.



1 Q. The next concern raised by the appellant had  
2 to do with the loss of the volleyball court. Could you  
3 describe what they're alleging?

4 A. My understanding is that the concern is we are  
5 wiping out a protected cultural and relevant landscape  
6 feature.

7 Q. What's going to happen to that volleyball  
8 court with the proposal?

9 A. The volleyball court will be turned, in part,  
10 to a cultural -- culinary interpretive garden. The  
11 volleyball courts will be managed appropriately through  
12 using the secretary of interior standards. So likely  
13 there will be mitigation, insofar as educational signs  
14 or interpretive panels to document those volleyball  
15 courts.

16 Q. So the interior standards require  
17 documentation. They don't prohibit the removal of the  
18 volleyball courts?

19 A. No, they do not.

20 Q. In addition to the concerns about alteration  
21 of the volleyball courts, there was also concern  
22 expressed about the parking lot and the Nuns' Garden  
23 and the consistency with those of the CAMP.

24 Did the CAMP anticipate that parking  
25 development would occur concurrently with the future



1 development of the Seminary building?

2 A. Yes, it did.

3 Q. Can the parks commission change a CAMP for a  
4 particular park if it wants to?

5 A. Yes, it can.

6 Q. So I've got a little more detail I would like  
7 to ask you about for other attempts to use the Seminary  
8 building. Is this proposal from Daniels the very first  
9 time Parks has ever attempted to make use of the  
10 Seminary building during its ownership?

11 A. No.

12 Q. Did Parks use the building to house the youth  
13 core from 1978 to 1980?

14 A. Yes.

15 Q. Was there interest from a school district in  
16 using the building in 1981?

17 A. Yes.

18 Q. Was there an interest in the building being  
19 dedicated to a community center in 1984?

20 A. Yes.

21 Q. Did McMenamins express some interest in  
22 acquiring the building in 2006?

23 A. Yes.

24 Q. Did a cyber security firm express interest in  
25 the building in 2013?



1 A. Yes.

2 Q. Did Bastyr express some interest in the  
3 building in 2014?

4 A. Yes.

5 Q. Has the building been used for Ranger housing?

6 A. Yes.

7 Q. Were any of those prior uses of -- did they  
8 come to fruition or were they self-sustaining in the  
9 sense they were able to pay for themselves for the use  
10 of the building?

11 A. None of them were self-sustaining, no.

12 Q. Are the costs for rehabilitation of the  
13 building a limiting factor on the use of the building?

14 A. Yes.

15 Q. So you used the term viable earlier. What  
16 makes a proposal viable?

17 A. State Parks Commission uses a number of  
18 criteria to determine viability. We used five -- six  
19 criteria, I believe. And it is based on a number of  
20 things, including our own mission, the city zoning, the  
21 feasibility study that was conducted. There's a couple  
22 others.

23 What we were looking for was not something  
24 that was simply economically feasible, but also viable  
25 and could occur in a timely manner. So there were a



1 number of criteria that were used to determine that  
2 viability. And none of the proposals that had been  
3 brought forth, other than the Daniels proposal, met the  
4 rules for viability.

5 Q. So just to make sure the record is clear. Has  
6 Parks received any viable proposals, other than from  
7 the Daniels Group, in the last three years for the use  
8 of the building?

9 A. No.

10 Q. Did it receive a proposal -- a viable proposal  
11 for an environmental learning center or for a nonprofit  
12 use of the building in the last three years?

13 A. No.

14 Q. So the commission has taken some different  
15 actions over the last few years about the Seminary  
16 building. I want to talk about a few of these. I'm  
17 going to start with November 2013. At that time, did  
18 the commission take some action that directed parks  
19 staff to actively seek out public or private  
20 partnerships to rehabilitate the building?

21 A. Yes.

22 Q. And so based on the testimony you just  
23 provided, did parks staff identify any public or  
24 private partnerships, other than the Daniels proposal,  
25 that would have allowed it to rehabilitate the



1 building?

2 A. No.

3 Q. In September 2014, the commission provided a  
4 one-year deadline to staff to find either a partnership  
5 or vacate the building; is that correct?

6 A. Yes.

7 Q. Was the direction to Park staff to vacate the  
8 building at the end of that year if the deadline wasn't  
9 met?

10 A. Yes.

11 Q. Was a DNS issued for that decision?

12 A. Yes.

13 Q. Was it appealed?

14 A. No.

15 Q. In September of 2015, a year later, the  
16 commission took another action. And, at that point, it  
17 extended the proposal to rehabilitate the Seminary.  
18 Was the reason for that extension because the only  
19 proposal that had been received was the Daniels  
20 proposal and the commission wanted to further pursue  
21 that?

22 A. Yes. But it was open to any proposal, as  
23 well.

24 Q. Did any other proposal come in?

25 A. No.



1 Q. Was a DNS issued for that decision?

2 A. Yes.

3 Q. Was it appealed?

4 A. No.

5 Q. A year later, in September 2016, the  
6 commission took action based on the commerce study.  
7 Could you just briefly describe what the commerce study  
8 was?

9 A. During the 2016 legislative sessions, Parks  
10 sought a position that would allow us to engage in a  
11 lease that was longer than 15 years by simple majority  
12 vote. The existing statute allowed us a 50-year  
13 maximum lease with anything over 20 years being a  
14 unanimous vote. The bill, Engrossed Second Substitute  
15 House Bill 2667, was enacted that would allow state  
16 park lodgings to engage in a lease up to 62 years,  
17 contingent upon: First, the commerce study report  
18 which was required to identify any economically  
19 feasible options for nonprofit use of the Seminary  
20 building; and, second, an affirmative vote by the  
21 commission that there were no economically viable  
22 options for the building.

23 Q. And I've just done an unpleasant thing to you,  
24 as my client, which is ask you to recall that from  
25 memory rather than directing you to Exhibit No. 3 in



1 the binder in front of you. If I could direct you  
2 there now to page number 2, I won't test your memory  
3 again for this next question.

4 A. Well, thanks.

5 Q. What the study asks for was -- one of the  
6 things it identified was the baseline cost to restore  
7 the building. On page 2 of this study, is that amount  
8 \$23.4 million?

9 A. Yes, it is.

10 Q. Okay. So following the publication of the  
11 commerce study, the commission took action again in  
12 September 2016. Was their action there to find there  
13 was no viable public or nonprofit alternative use for  
14 the Seminary building?

15 A. Yes.

16 Q. Did the commission have a DNS to support that  
17 decision?

18 A. Yes.

19 Q. Was that DNS appealed?

20 A. No.

21 Q. I'm going to ask you now a few more questions  
22 about the EIS at issue here. There has been some  
23 confusion about Park's use of the EIS, as well as the  
24 City's use of the EIS. So I'm going to ask you to  
25 focus on State Park's use of the EIS.



1           Did Parks rely on this Environmental Impact  
2 Statement for its separate decision to lease the 5.5  
3 acres to the Daniels Group?

4           A. Yes.

5           Q. In that decision, the commission held a  
6 meeting on January 5th. Was that the meeting where  
7 they took public comment? And by January 5th, I mean,  
8 January 5, 2017, out of all the many, many public  
9 meetings on the project.

10          A. Yes, it was.

11          Q. Did the commission make its decision to  
12 approve the lease on January 9, 2017?

13          A. Yes.

14          Q. Had the EIS been completed by the time the  
15 commission made its decision on January 9, 2017?

16          A. Yes.

17          Q. Did the State issue separate notices of  
18 adoption from the Final EIS and for the addendum to the  
19 Final EIS?

20          A. Yes.

21          Q. Did the EIS that is before us today include  
22 all of the potential impacts for the lease decision  
23 from the Daniels proposal?

24          A. Yes.

25          Q. When the commission made its decision on



1 January 9, 2017, did it have any other viable proposals  
2 in front of it for the use of the Seminary building?

3 A. No.

4 Q. Was the decision to lease -- the signature of  
5 the lease and the adoptions of the FEIS and of the  
6 addendum, were either of those appealed?

7 A. No.

8 Q. Yesterday, the hearing examiner requested some  
9 clarification on whether any decisions remain with the  
10 Parks Commission. I would like to ask you to look at  
11 Exhibit 25. And page 4 of Exhibit 25 -- so page 4 is  
12 the agenda for the January 9, 2017, Parks Commission  
13 meeting.

14 Page 4 has five requested actions of the  
15 commission. Did the commission take those actions on  
16 January 9th?

17 A. Yes.

18 Q. Are there any other approvals that the  
19 commission needs to issue regarding the lease with the  
20 Daniels Group for the rehabilitation of this building?

21 A. Not that I know of.

22 Q. So now that the lease has been signed with  
23 Daniels, will the commission continue to consider other  
24 options for the Seminary building?

25 A. No.



1 Q. There have been concerns raised during this  
2 hearing about the speculative use of the trails on the  
3 property at night. So the last questions that I want  
4 to ask you about have to do with the trail use.

5 Are the hours of trail use in state parks  
6 governed by WAC 352-32-050?

7 A. Yes.

8 Q. So in Saint Edward State Park, does the park  
9 currently close at dusk?

10 A. That is my understanding.

11 Q. Does State Parks encourage night use of the  
12 trails in Saint Edward State Park?

13 A. No.

14 Q. Following the -- if the Daniels Seminary  
15 project goes forward, will State Parks likely change  
16 its position and encourage the lodge users to use the  
17 trails at night?

18 A. No.

19 Q. Will parks reduce the current level of trail  
20 maintenance on the park as a whole due to the Saint  
21 Edward Seminary project?

22 A. No.

23 Q. Will the addition of the 9.9 McDonald property  
24 allow the users to continue to use those trails?

25 A. Yes.



1 Q. And I apologize, I do have one other question  
2 for you that has to do with the Nuns' Garden cleanup  
3 that Ms. Hirt mentioned previously.

4 Did that cleanup have anything to do with the  
5 Daniels Project?

6 A. No.

7 MS. WEHLING: I have no further  
8 questions.

9 THE HEARING EXAMINER: Actually, I have  
10 one quick question. I'll interject.

11 Ms. Logan, I don't know if you know the answer  
12 to this, but I was curious. If endangered species  
13 habitat was found in the State Park, like the marbled  
14 murrelet, for example, does the Park have any policies  
15 about use of public trails in that area?

16 From personal experience, I know like at  
17 Marymoor Park where they have blue heron, they just wall  
18 off areas for heron habitat. Does Parks do a similar  
19 response if the endangered species habitat is found?

20 A. We do manage endangered species. We rely on  
21 the Department of Fish and Wildlife and U.S. Fish and  
22 Wildlife to identify those habitats in our properties.  
23 There is no marble murrelet habitat identified at Saint  
24 Edward Park.

25 THE HEARING EXAMINER: Yeah. I know



1 that. Great. Thank you. We'll move on to applicant  
2 questions if any.

3 CROSS-EXAMINATION

4 BY MR. MURPHY:

5 Q. Just to briefly summarize, you are the  
6 SEPA-responsible official for Parks?

7 A. Yes.

8 Q. And you concluded that the EIS adequately  
9 disclosed all likely environmental impacts?

10 A. Yes.

11 Q. And that the mitigation proposed was adequate  
12 in your opinion?

13 A. Yes.

14 MR. MURPHY: Thank you.

15 THE HEARING EXAMINER: Mr. Kaseguma, do  
16 you have any questions?

17 MR. KASEGUMA: None.

18 THE HEARING EXAMINER: All right.

19 Ms. Hirt.

20 MS. WEHLING: Ms. Hirt, while you're  
21 getting your papers together, Mr. Examiner, I would just  
22 note it's noon. And so depending on the number of  
23 questions Ms. Hirt has, whether your preference would be  
24 to allow her to question or take a lunch break and then  
25 ask the questions after.



1 THE HEARING EXAMINER: Let me ask, How  
2 many do you have?

3 MS. HIRT: I have a number of questions.  
4 It may go quickly.

5 THE HEARING EXAMINER: What do most  
6 people want? We started at 9:30, so I was thinking --

7 MR. RANADE: Why don't we get through  
8 this witness?

9 THE HEARING EXAMINER: Yeah. I think  
10 so, too. 12:30 at the latest maybe. Go ahead,  
11 Ms. Hirt.

12 MS. HIRT: Yes, I do have a number of  
13 questions.

14 CROSS-EXAMINATION

15 BY MS. HIRT:

16 Q. You answered -- well, I'm not sure what you  
17 answered. But I would like to know -- I'm going to  
18 repeat a question. How many use the Seminary  
19 currently?

20 A. How many people are currently in the Seminary?

21 Q. How many people currently use the Seminary?

22 A. As of right now, no one is using the Seminary  
23 outside of tours. That's my understanding.

24 Q. I wanted to clarify that. Is it not true that  
25 the reason to not use it, the Seminary, for outdoor



1 recreation, is because State Parks has not implemented  
2 a use for this?

3 A. I don't understand the question.

4 Q. Is it not true that -- there was a question  
5 about the building not being used for outdoor  
6 recreation. My question is, Is it not true that one of  
7 the reasons that this is not been used in any form for  
8 outdoor recreation, other than birthday celebrations  
9 and things like that, is that State Parks has not used  
10 the building for programs that would pertain to outdoor  
11 recreation?

12 A. State Parks has worked with Daniels Real  
13 Estate to ensure --

14 Q. I'm talking in the past. I'm talking about in  
15 the past, for the 40 years, is it not true that State  
16 Parks has not done anything to use the building for  
17 something related to outdoor education other than Earth  
18 Day presentations by Friends or something like that?

19 A. The specific programming in historic use of  
20 the park, I can't speak to. I do know we have  
21 historically only allowed the dining hall area to be  
22 used, because we had Capital Project ensure its safety.  
23 I know that much is considered safe for public use.

24 Q. So you don't see that -- so you don't -- so is  
25 the dining hall the only space in the building that's



1 considered safe for public use?

2 A. We had Capital Project that did some work in  
3 the dining hall. And there is an associated office  
4 there that, I think, we actually had Park staff in at  
5 one point. We do have some Park lodging. At one point  
6 we stopped using it as Park lodging because there were  
7 safety concerns. I think we've done some more work,  
8 since then, to be allowed as lodging again for Park  
9 staff.

10 Q. And the classrooms on the first floor, what is  
11 the status of the classrooms on the first floor?

12 A. I don't know.

13 Q. So isn't it true that more of the building  
14 could be used or am I hearing you -- is it only the  
15 dining hall that can be used?

16 A. That's my understanding, but I don't know.

17 Q. All right. So your understanding is the  
18 classrooms on the first floor cannot be used?

19 A. I don't know.

20 Q. And you haven't been -- you don't have a  
21 history of them ever being used? You have all the --  
22 you don't have anything in the history of the use of  
23 the building that indicates the classrooms were ever  
24 used by State Parks?

25 A. I don't know.



1 Q. There are three large classrooms on the first  
2 floor. Are you aware of that?

3 A. Mm-hmm. Yes.

4 Q. So those rooms could have been used for  
5 outdoor recreation or outdoor education, recreation,  
6 nature studies?

7 A. I do not --

8 MS. WEHLING: This question has been  
9 asked and answered, Mr. Examiner.

10 THE HEARING EXAMINER: Ms. Hirt, I think  
11 it has been.

12 MS. HIRT: No.

13 THE HEARING EXAMINER: You're asking her  
14 what the rooms have been used for, she said -- I think  
15 she answered the question.

16 MS. HIRT: She said, as far as she knew,  
17 they had been used. I'm asking, Could they have been  
18 used?

19 THE HEARING EXAMINER: Okay. All right.  
20 Could they have been used?

21 A. I don't know if those rooms are appropriate to  
22 be used or if they have been used, I do not know.

23 Q. (BY MS. HIRT) That's the lack of knowledge  
24 that -- okay. Thank you. So do you have any knowledge  
25 of how the building has been used in the past?



1 A. Yes. To some extent.

2 Q. Okay. Can you give me a couple of examples?

3 A. I know that we use the dining hall. We rent  
4 it out for weddings and such. I know that we've had  
5 Ranger lodging in the building in the past. I know  
6 that staff used the office space periodically for  
7 meetings.

8 Q. And you're aware of the environmental school  
9 that used the building for a number of years for  
10 classes?

11 A. I've heard that. I'm not personally aware of  
12 that, no. I should say I read about that.

13 Q. You have read about that -- you have some  
14 acknowledgment that that did take place in the  
15 building? The building was used for the environmental  
16 school?

17 A. Yes.

18 Q. I have questions about the map in the Nuns'  
19 Garden. So if you could go to the map and show us  
20 where the Nuns' Garden is?

21 A. It's in this area.

22 Q. Okay. Now show us where the parking lot -- on  
23 this map overlays or -- how does it fit in with --

24 A. This map is denoting this parking space right  
25 here.



1 Q. I'm just going to join you.

2 A. See this parking.

3 Q. Yes, I know that's parking. This big space  
4 that's going to be expanded. When you expand this,  
5 where will it be on this map?

6 MS. WEHLING: I'm going to object; it  
7 assumes facts that are not in evidence.

8 MS. HIRT: But the map is up here. We  
9 should be able to --

10 THE HEARING EXAMINER: Let's limit it to  
11 the question on where is the map located on the aerial  
12 photograph.

13 MS. HIRT: How does this fit on here?

14 MS. WEHLING: I'm going to object,  
15 again. There's no indication that those two posters are  
16 to scale, and that they're designed to be the same size.

17 THE HEARING EXAMINER: I think that's  
18 what she is asking. How would you scale it so --

19 MS. HIRT: It's not a size question.  
20 It's a question of, There's a new asphalt parking lot  
21 here. Where does that go? It's going to be bigger than  
22 this. And --

23 THE HEARING EXAMINER: If you could show  
24 us where the parking lot is going to be located?

25 MS. HIRT: There's a proposal to cut



1 down trees. Where are those trees? If it's close to  
2 the Nuns' Garden, how close is it to the Nuns' Garden?  
3 That's the type of thing --

4 MS. WEHLING: I'm going to object,  
5 again. There's a compound question in there, and it  
6 assumes facts that are not in evidence from Ms. Logan's  
7 testimony.

8 MS. HIRT: So who do I ask that question  
9 to?

10 MR. RANADE: I'm going to object on  
11 relevance grounds. This goes to the merits of the  
12 project and not to the question of the adequacy of the  
13 EIS. The testimony in the record is that the trees --  
14 Ms. Hirt herself testified that the potential for the  
15 removal of those 11 trees is disclosed in the EIS. I'm  
16 just wondering what the relevance of this line of  
17 questioning is.

18 MS. HIRT: The relevance of the question  
19 is trying to understand what's in the EIS about this  
20 parking lot and --

21 THE HEARING EXAMINER: I think it  
22 doesn't -- it seems to be a fairly straightforward  
23 question: Where is the parking lot depicted in the site  
24 plan on the aerial photograph? If you can show that to  
25 us, Ms. Logan? That's it at this point. That shows --



1 that helps clarify the extent of the interruption of the  
2 Nuns' Garden. I think it's a fair question. If you  
3 don't know, Ms. Logan, that's fine.

4 A. Mr. Hearing Examiner, I didn't draw that site  
5 plan. I don't know how that can be superimposed onto  
6 an aerial. That could be a very different scale.

7 THE HEARING EXAMINER: All right.  
8 That's the final question.

9 MS. HIRT: I understand the scale thing.  
10 You must have an idea if it's going to go from here to  
11 here or it's going to go --

12 THE HEARING EXAMINER: Okay.  
13 Ms. Hirt -- no --

14 A. I can make assumptions.

15 THE HEARING EXAMINER: No. Do you know  
16 where the parking lot is going to be? Can you show us  
17 on the aerial photograph where the parking lot is going  
18 to be?

19 A. I do not know the outline of the proposed  
20 parking lot, no.

21 THE HEARING EXAMINER: She doesn't know  
22 the answer.

23 MS. HIRT: Well. That's different if  
24 you don't know. Well, I've looked at this -- anyway.

25 THE HEARING EXAMINER: Let's go on to



1 the next question.

2 Q. (BY MS. HIRT) I wanted clarification of --  
3 that was my question, and she doesn't have the answer,  
4 so I'm a little disappointed.

5 Are you aware of the restrictions and  
6 limitations -- the commerce study was mentioned. Are  
7 you aware of the limitations that were put on the  
8 Department of Commerce when they did the study?

9 A. Could you explain the limitations that you  
10 talk about?

11 Q. One was time. One was the limitation of the  
12 projects that it could look at -- evaluate. And one  
13 was the time constraint.

14 MS. WEHLING: I'm going to object,  
15 again. This is not a challenge to the adequacy of the  
16 commerce study but a challenge to the adequacy of the  
17 Environmental Impact Statement.

18 MS. HIRT: It goes to the choices that  
19 the State Park Commission made on January 9.

20 THE HEARING EXAMINER: I realize issue  
21 16 was stricken, which dealt with the alternatives. But  
22 then the Parks Department talked about the management  
23 choices they had any way, which I think opened the door.  
24 It doesn't reopen the issue. But since they presented  
25 testimony on what decisions were made and what options



1 they considered, I think it's fair game for  
2 cross-examination.

3 Q. (BY MS. HIRT) Are you aware of the  
4 limitations of time and there was a limit on what they  
5 could look at?

6 A. Yes.

7 Q. Okay. And you agree there were limitations to  
8 the commerce study?

9 A. I don't know that I would define them as  
10 limitations. The commerce study was given parameters.

11 Q. Definitely. Okay. Thank you. I think there  
12 was a comment made that there was no city ball field  
13 project. Did you make that comment or did someone  
14 else?

15 A. We have not received an application for a ball  
16 field project, no.

17 Q. You have not received the application. Okay.  
18 So that's the clarification of that.

19 A. Yes.

20 Q. There may be a project out there, but State  
21 Parks has not received it?

22 A. Right.

23 Q. Okay. Let's see. Related to the park closing  
24 at dusk and the use of the trails was also something  
25 that was brought up that you were asked about. If --



1 how would that be monitored? What type of thing --  
2 what type of arrangement is there to monitor trail use  
3 at night by hotel guests? Who will monitor and who  
4 will enforce?

5 A. I don't believe there's an agreement to that  
6 at this point.

7 Q. Okay. I remember something about park rules  
8 given to hotel guests.

9 A. Mm-hmm. Yeah.

10 Q. So that's the only -- is that the only thing  
11 you're aware of that would be done right now?

12 A. Yes.

13 MS. HIRT: Okay.

14 MR. MURPHY: I have a few questions for  
15 Ms. Logan.

16 THE HEARING EXAMINER: All right. And  
17 then, of course, Ms. Wehling gets final redirect. You  
18 go ahead.

19 RE-CROSS-EXAMINATION

20 BY MR. MURPHY:

21 Q. Ms. Logan, can I draw your attention to figure  
22 2-3, in the DEIS, which is Core Document 19. You're in  
23 the appellants exhibits. Many, many binders on that  
24 table.

25 A. Is it this one?



1 Q. I believe it's a black binder.

2 MS. DEWEESE: This one.

3 Q. (BY MR. MURPHY) And is it your understanding  
4 this is the scope of the leased area?

5 A. Yes.

6 Q. And that the potential public parking is in  
7 the yellow?

8 A. Yes.

9 Q. And the area that was previously discussed is  
10 towards the top right of it?

11 A. Yes.

12 Q. Do you see that there are some trees within  
13 that yellow box?

14 A. Yes.

15 Q. Does it align with your understanding that  
16 those may be the trees that might be removed?

17 A. Yes.

18 Q. Just those trees within the yellow box?

19 A. Yes.

20 Q. Thank you. There were some questions about  
21 the restrictions that were placed on the commerce  
22 study.

23 A. Mm-hmm.

24 Q. Is it accurate to say those restrictions were  
25 imposed by the legislature when they passed the statute



1 directing the commerce study to be conducted?

2 A. Yes.

3 Q. So it's the State legislature?

4 A. The State legislature.

5 Q. And regarding the uses that could have been  
6 had in the Seminary building, is it fair to say that is  
7 due to a lack of available funding? The lack of use  
8 because Parks just didn't have the money for it?

9 A. Absolutely.

10 Q. If Parks had a blank check from the  
11 legislator, would it be fair to say that Parks would  
12 rehabilitate the building itself and offer programs  
13 that align with its mission by itself?

14 A. Of course.

15 Q. It's just that Parks doesn't have the money,  
16 and there's only one funded proposal that it's  
17 received?

18 A. Yes.

19 Q. And that's the Daniels proposal?

20 A. Yes.

21 MR. MURPHY: Thank you, Ms. Logan.

22 THE HEARING EXAMINER: Ms. Wehling.

23 MS. WEHLING: I have no redirect.

24 THE HEARING EXAMINER: You have none.

25 Okay, Ms. Logan. So let's take our lunch break until



1 1:15.

2 (Hearing recessed at 12:17 p.m., to be  
3 reconvened at 1:15 p.m.)  
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AFTERNOON SESSION

1:15 p.m.

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THE HEARING EXAMINER: Back on the record. March 2, 2017, 1:15 p.m., of the site plan and SEPA appeal, Lodge of Saint Edward CSP16-0077. We're in the applicants' portion of the SEPA appeal hearing and moving on to the applicants' next witness.

MR. RANADE: Thank you. I've got one housekeeping matter before we start with the next witness. I've spoken to all of the parties, and I think they would really like to finish today. And so my hope is, of course, that we get done as soon as we can, but if it goes past 5:00, we're all willing to stay.

THE HEARING EXAMINER: That's fine by me, too.

MR. RANADE: Ms. Wang is our next witness.

DIRECT EXAMINATION

BY MR. RANADE:

Q. And you were introduced yesterday, but would you remind us what is your role with Daniels Real Estate?

A. I'm the vice president responsible for a



1 number of historic -- the historic building side. And  
2 my role on this project is the project manager.

3 Q. And you've been sitting here today and  
4 yesterday listening to a lot of testimony, so the focus  
5 of my examination will be to address some of the things  
6 that have been discussed.

7 One thing I'm going to start with is this  
8 hypothetical ball field project we heard quite a lot  
9 about it. Does Daniels have an official position on  
10 the ball field project?

11 A. We are neutral.

12 Q. Do you have a view as to how that project  
13 should be viewed in relation to this project?

14 A. Our project is separate from the ball field  
15 project.

16 Q. Is it your preference that this project is  
17 viewed on its own merits and independent of the other  
18 project?

19 A. Absolutely.

20 Q. Let's talk about this project. You've heard  
21 quite a lot about this project. But would you please  
22 describe for us what is programatically intended with  
23 this lodge?

24 A. This lodge, we're intended to have 80 to 100  
25 rooms in this lodge. And, like with national park



1 lodges, you have different amenities that you are  
2 expected to have, like probably a spa room, you have a  
3 nice restaurant, perhaps a café or a bar, and also  
4 probably should have an exercise room for the guests --  
5 indoor exercise room. And then any remaining area  
6 could be used as offices for the staff or some  
7 administrative space.

8           And you're supposed to have a big enough-sized  
9 kitchen to serve the restaurant and the café and  
10 perhaps help the bar to have some food, and a proper  
11 loading area, and any other space would probably be  
12 used as a flexible meeting space.

13           Q. Is your objective to develop the facility, the  
14 layout and the use, in a manner that is consistent with  
15 the existing structure of the building?

16           A. Yes. Because we look at every historic  
17 building based on its former use before and also based  
18 on the layout of all the different floors that it was  
19 used for.

20           For instance, in this particular project, we  
21 have three floors up above that was used as  
22 dormitories, so we're trying to figure out a way to use  
23 those spaces as closely as possible -- because this is  
24 nationally registered building, and it has a lot of  
25 primary significant facades that needed to be retained



1 in a certain way, we're trying to match the use with as  
2 few alterations as possible to those spaces.

3 Q. So the existing structure is, in some respect,  
4 driving the way you allocate space between hotel rooms,  
5 conference rooms, restaurants, and all the other  
6 facilities?

7 A. Correct. Because of the doorways and all  
8 that.

9 Q. And I know you heard reference to a  
10 feasibility study that's not in evidence, but you heard  
11 reference to it, correct?

12 A. Correct.

13 Q. Do you have a sense of what's -- the study  
14 that's being referenced, it's called the JLL  
15 feasibility study?

16 A. I did not read the whole study. I am aware of  
17 the existence of that.

18 Q. Great. Is the conclusion of that study, in  
19 terms of how many square feet of conference rooms that  
20 need to be available for this project, is the goal to  
21 tell you whether or not the project could pencil out  
22 economically?

23 A. Yeah. For every project that we do, we  
24 usually do a feasibility study to make sure certain  
25 assumptions will work.



1 Q. Okay. And so is the allocation of conference  
2 room space that has been proposed for this project and  
3 the allocation of room space, according to that study,  
4 does the allocation that's proposed pencil out?

5 A. Yes.

6 Q. So is the conclusion of the study that the  
7 project, as proposed, is economically feasible?

8 A. Yes.

9 Q. And so what you have is a study that tells you  
10 it's economically feasible?

11 A. Correct.

12 Q. And a design preference and philosophy to try  
13 to use the structure as it currently exists, not to  
14 knock down walls if you can avoid it?

15 A. Correct.

16 Q. You said that the overall objective is to  
17 provide lodging consistent with its historic use. Does  
18 this project include any changes outside the leasing  
19 area?

20 A. Changes? You mean --

21 Q. Are you redoing any trails?

22 A. No. Not the trails.

23 Q. Are you knocking down trails outside the  
24 leasing area?

25 A. The only thing that I can talk about changes



1 will be probably the addition of the parking spaces  
2 that are --

3 Q. I'm talking about outside of the lease. Do  
4 you need a map of the leasing area?

5 A. No. I know where the leasing area is. That's  
6 five and a half acres, yes.

7 Q. Oh, I see what you're saying. Let me clarify  
8 this in the record. Yeah. Would you flip to figure  
9 2-3 in the Draft EIS? That's tab 19, Core Document  
10 Exhibit 19.

11 A. And figure?

12 Q. 2-3. I should speak more precisely and make  
13 sure we're --

14 A. Yes.

15 Q. What we see here is an aerial photograph of  
16 the project site; is that right?

17 A. Yes.

18 Q. And there's -- I'm going to call it a house  
19 shape --

20 A. Pentagon shape.

21 Q. Pentagon. Thank you. A pentagon-shaped  
22 outline. And along the right edge of this  
23 pentagon-shaped outline, there's a sort of yellow area?

24 A. Correct.

25 Q. So outside of the boundaries of these lines,



1 so I'm talking about both the black and the yellow, so  
2 think of the biggest possible pentagon you can draw, is  
3 Daniels doing anything to the park outside of those  
4 lines?

5 A. No, we're not.

6 Q. Do you have -- I certainly don't need a  
7 precise number, maybe rounded around the 5 million --  
8 what it will cost to rehabilitate?

9 A. \$40 to \$45, I would say.

10 Q. \$40 to \$45 million. Is that funded now? Is  
11 it a funded project?

12 A. It is funded.

13 Q. And I'm not saying, Do you have money sitting  
14 in the bank? I'm saying you have the --

15 A. Are we capable of undertaking this project?  
16 Yes.

17 Q. What would you say is the primary function  
18 from a program standpoint with this facility? What is  
19 the primary function?

20 A. The primary function is for us to rehabilitate  
21 this project -- this building and provide lodging.

22 Q. And as the representative of the applicant, is  
23 it your view that the conference rooms are an accessory  
24 use to the lodging function?

25 A. Correct. They are.



1 Q. You may have heard some testimony today  
2 about -- at least suggesting that only paying members  
3 of the public would be allowed into the building. Do  
4 you have a view on that?

5 A. I would say that that's absolutely not  
6 correct. We are -- we do not have any intention of  
7 excluding the public going into the building.

8 Just from personal experience, that -- this is  
9 before I worked for Daniels Real Estate. I am  
10 responsible for the rehabilitation of the Kent Street  
11 Station, representing the City of Seattle. The train  
12 station, like a lot of public buildings, you would like  
13 people to actually visit and view this historic  
14 structure after it has been rehabilitated.

15 Even though the Seminary will become -- will  
16 be privately funded, this building -- Mr. Daniels has  
17 done many other projects that provide public benefit  
18 for the public. For instance, like the church that we  
19 are working on in downtown Seattle. He purchased that  
20 building in March of 2008. But because of the market  
21 crash, that building sat empty for many, many years.  
22 Until the boom happened, and then we can basically  
23 develop the parcel next to it.

24 But during that period of time, he's had 60 to  
25 70 free public concerts for the public to come and



1 enjoy that beautiful building. And he basically told  
2 me that he sent out fliers to all the neighborhood  
3 buildings and also posted information on the website  
4 and newspapers, so that everybody would know there's  
5 free organ concerts in there, and they can come and  
6 enjoy it. And I have personally gone to a couple of  
7 those.

8 Q. Daniels' relationship with State Parks is a  
9 leasing arrangement; is that right?

10 A. That's correct.

11 Q. So you're leasing -- it's more than the  
12 building and the land and structures that you're  
13 renovating and using are -- you're leasing them?

14 A. Correct. We are leasing them.

15 Q. The state of Washington still owns that land?

16 A. Yes.

17 Q. So it's still, technically, public property?

18 A. Yeah. Yeah.

19 Q. You heard testimony earlier today about a  
20 Nuns' Garden. Do you remember that?

21 A. Yes.

22 Q. Can you tell me a little bit about Daniels'  
23 view on the Nuns' Garden? Who uses it or who do you  
24 see using it?

25 A. In all my visits to the park, and this is just



1 me -- first of all, I wasn't even aware -- I was not  
2 aware there was even a Nuns' Garden on-site. I am not  
3 sure who actually will use that.

4 Q. And this project includes the development of  
5 an organic garden; is that right?

6 A. Yes.

7 Q. Can you tell me, Who do you plan to allow to  
8 use the organic garden?

9 A. Yes. That organic garden is, basically, about  
10 half a acre area that is south of the pool area that we  
11 are intending to develop into, what we call, a culinary  
12 garden to provide fresh produce and ingredients for the  
13 restaurant and for the café to use, make salads and  
14 stuff like that.

15 And we're hoping to work with Bastyr, because  
16 they have the expertise to perhaps help take care of  
17 the garden and also to provide education for the  
18 public. Because we can -- we're envisioning probably  
19 Bastyr can help us work on the yard and give tours to  
20 the public to enjoy the garden as well.

21 Q. You may have heard Ms. Logan on behalf of  
22 State Parks testify that it's possible that there might  
23 need to be some sign documenting the existence of the  
24 sand volleyball court in this general area. Do you  
25 remember hearing that?



1 A. Yes.

2 Q. Does Daniels have an objection to documenting  
3 the existence of the --

4 A. Absolutely not.

5 Q. I'm going to ask you to flip, in that same  
6 binder in front of you, to the page immediately  
7 previous, figure 2-2.

8 A. Yes.

9 Q. And this is sort of a, I call it, a zoom-out  
10 view of the project site. It's the whole park. And in  
11 the upper left-hand corner of the park, so this would  
12 be the northwest corner, there's an area of land  
13 identified as the McDonald property. Do you see that?

14 A. Mm-hmm. I do.

15 Q. Can you tell us, as a representative of  
16 Daniels Real Estate, which happens to be a developer,  
17 do you see development value in this property? What  
18 would you do with this property if you just owned it,  
19 and this project wasn't in the equation? What could  
20 you do with it?

21 A. You can develop that into many building lots.

22 Q. If this proposal is not approved, if this  
23 doesn't go through in some way, what happens to that  
24 property? Does it still become part of the park?

25 A. No. If this doesn't go through, the McDonalds



1 will retain ownership of the property.

2 Q. And I thought I heard Mr. Daniels testify that  
3 when he contacted the McDonalds, they were about to  
4 close on a sale to a different developer?

5 A. Actually, I was the one who made the call to  
6 the lawyer representing the McDonalds' property. They  
7 were about to sign a purchase and sales agreement with  
8 a developer who was going to turn that property into  
9 multiple building lots.

10 Q. Okay. There was testimony earlier about an  
11 environmental learning center. There seems to be an  
12 assumption that there will be one or ought to be one.  
13 Do you remember hearing that, in general terms, in the  
14 last couple of days?

15 A. Yes.

16 Q. Is there some sort of environmental learning  
17 center that is part of this project?

18 A. State Parks has reserved some space for their  
19 use in this project, but we don't have any say as to  
20 what is going to be used for that.

21 Q. That's entirely up to State Parks, correct?

22 A. Yes.

23 Q. I asked you earlier the relationship between  
24 Daniels and the State is one of the -- it's a leasing  
25 relationship, right?



1 A. Yes.

2 Q. Is it your understanding that one of the  
3 conditions of the lease is that Daniels implement and  
4 comply with all the mitigation sent out in the EIS?

5 A. Yes.

6 Q. Is it Daniels' intention to comply with all  
7 the mitigation set out in the EIS?

8 A. Yes. We will comply with all of them.

9 MR. RANADE: Thank you.

10 THE HEARING EXAMINER: That's it.  
11 Ms. Wehling, any questions?

12 MS. WEHLING: I do have a couple of  
13 questions. Sorry. I'm a little bit disorganized.

14 CROSS-EXAMINATION

15 BY MS. WEHLING:

16 Q. I would like to ask you a couple follow-up  
17 question about the Nuns' Garden. And I apologize if  
18 you just answered this, but were you aware of the  
19 general location of the Nuns' Garden location on the  
20 property?

21 A. No.

22 Q. So the Nuns' Garden is not within the 5.5-acre  
23 Pentagon that constitutes the leased area to Daniels?

24 A. (Witness moves head from side to side.)

25 Q. In the EIS, if I could send you to --



1 MR. RANADE: You need to say yes or no  
2 for the record.

3 THE HEARING EXAMINER: Yeah. I think  
4 Ms. Wang just shook her head. So, said no. Okay.

5 A. No.

6 Q. (BY MS. WEHLING) If I could first direct you  
7 to the Daniels' -- the big black binder that is in  
8 front of you, Exhibit No. 1, tab number 1. And then  
9 it's a little part on the pagination, there is an --  
10 its identified as section number 7, page 3 of 9.

11 And this is the national register of historic  
12 places. It's the application that was submitted to  
13 have portions of the property listed. Just let me know  
14 when you get there.

15 THE HEARING EXAMINER: I just want to  
16 clarify for the record: Whenever Ms. Wehling is  
17 referring to the big black binder, that's the  
18 applicants' notebook of exhibits. Those would be the  
19 A-1s through whatever.

20 MS. WEHLING: Thank you very much,  
21 Mr. Hearing Examiner.

22 Q. (BY MS. WEHLING) I want to ask you if that  
23 page contains a description of the Nuns' Garden?

24 A. Yes, it does.

25 Q. And now, after you've gone to all that trouble



1 to get to that page, I would like to send you back to  
2 the Draft Environmental Impact Statement that is in the  
3 Core Documents Exhibit 19.

4 A. Yes.

5 Q. And I'm going to send you to Appendix C, which  
6 is very far in the back. Okay. And then I'm going to  
7 continue the challenge of navigating through these  
8 documents. There's actually two different sets of  
9 agenda items here, and the first category is from  
10 September 18, 2014, it's pages 1 through 25, and then  
11 it starts over again with page 1. And so I want you to  
12 go to the second set of documents that start with page  
13 1 that is September 22, 2016.

14 A. I'm looking at it right now.

15 Q. And if you go to page 21 in that agenda,  
16 there's a heading that says, Listing on the national  
17 register 2006, and then there's a column that is the  
18 summary of resources. And then there are different  
19 resources listed. Is the Nuns' Garden one of those  
20 resources listed?

21 A. It is.

22 MS. WEHLING: That's all my questions.  
23 Thank you.

24 THE HEARING EXAMINER: Thank you,  
25 Ms. Wehling. Mr. Kaseguma, any questions?



1 MR. KASEGUMA: No.

2 THE HEARING EXAMINER: Okay. Ms. Hirt,  
3 your turn.

4 CROSS-EXAMINATION

5 BY MS. HIRT:

6 Q. While you're looking at that, in Appendix C,  
7 page 13. This is of the DEIS.

8 A. Page 13. Is that this one?

9 Q. No. It's page 13. It's under C -- yeah.  
10 It's Appendix 2, but it's number 11 of that -- I'm  
11 sorry. Number 13 of that section.

12 A. Appendix 2.

13 Q. That's it. Thank you.

14 Since -- I just wanted to see if you confirm  
15 with me that the Nuns' Garden is on the list of summary  
16 of resources in the listing in national registered in  
17 2016. Do you see that it is listed as historic and  
18 contributing?

19 A. Yes, I do.

20 Q. And the volleyball court, how is it listed?

21 A. According to this document, it says that the  
22 volleyball court is historic and contributing.

23 Q. Thank you. You're talking about the building  
24 being open to the public. So what will be open to the  
25 public? What parts of the building will be open to the



1 public if they're not using the restaurant, the café,  
2 the bar, hotel guest or conference center?

3 A. People are welcome to come inside the  
4 Seminary -- I'm sorry -- the lodge, the first floor of  
5 the building, and they can also go downstairs to the  
6 basement.

7 Q. What will they find in the basement?

8 A. They are welcome to use our restrooms. They  
9 are welcome to wander around and look at all the,  
10 hopefully, beautifully restored interior spaces of the  
11 building.

12 I find, for historic buildings, the general  
13 public is very interested in looking at them. My  
14 personal experience working on the train station, you  
15 don't have to be a person who wants to work the train  
16 to use Amtrak, go to the train station to take a look  
17 at it.

18 When we opened that building up -- everybody  
19 comes into the building just to basically look at the  
20 features of the building: Anywhere from the marble  
21 walls that have been removed and now reinstalled, the  
22 glass tiles that we had a lot of trouble finding that  
23 are now back in the King Street Station. From the  
24 light fixtures -- unfortunately the original ones were  
25 gone. We had to get replicas for those -- to the



1 original terrazzo floor that we painstakingly stitched  
2 back together because we had to install seismic steel  
3 along the perimeter. We had to catalogue every piece  
4 of the terrazzo and put it back together.

5 I think these buildings tell a story that the  
6 public would be very interested in seeing, regardless  
7 of whether you want to -- whether you are paying or  
8 not.

9 Q. I just wondered what -- thanks for the  
10 description. But I was wondering, So the first floor  
11 and the basement would be open to the public?

12 A. Correct.

13 Q. To walk through and see these things?

14 A. Yes.

15 Q. And then in the -- I have, of course, been in  
16 the building. Toured it. In fact, we toured it  
17 recently. As we know, the rooms are very small. And  
18 we also know that there's only a single sex bathroom  
19 that's community, and it's small, too.

20 Configuration of the -- this is almost a  
21 personal question -- curiosity. Are you putting two  
22 rooms together to make a big enough room for a hotel  
23 room?

24 A. That's something that we will consider,  
25 talking to the architect. You're talking about the



1 upper floors?

2 Q. Yes. I'm talking about hotel rooms?

3 A. Yeah. The current rooms, as they are, are not  
4 big enough to be a reasonable hotel or lodge room.

5 Q. Right.

6 A. So it's possible that we will need to combine  
7 maybe three of them into two or something of that  
8 order. And it also depends on how many suites we are  
9 intending to create. Because you can have a larger  
10 size room or suite on the configuration. That's  
11 something we need to decide.

12 Q. That's still being decided? I hear you say  
13 that's still being decided?

14 A. Correct. That's why we have 80 to 100 rooms.

15 Q. Right. I understand that. I thought I had --  
16 oh, the organic garden. Remember reading something  
17 about -- the park is open. There are no fences in this  
18 park?

19 A. Right.

20 Q. The only place where there's some kind of  
21 barrier is at the playground to keep the kids in. It  
22 doesn't work all the time. You know there is a  
23 barrier?

24 A. Yeah. Yeah.

25 Q. To mark the playground and also helps keep the



1 children inside the playground when they're using it.  
2 I read somewhere in one of the documents about fencing  
3 the garden to protect it. And is that in the plan?

4 A. Our thoughts about basically putting a fence  
5 around it is so if there are dogs running around, they  
6 won't run in the garden and dig up the garden.

7 Because in order for Bastyr or our operator to  
8 keep an organic garden, they have to ensure it is done  
9 in a certain way. My understanding is that. So that's  
10 part of the reason why. I think that should -- that  
11 does not mean that it's not open to the public.

12 Q. I guess I wasn't saying it wasn't.

13 A. Yeah.

14 Q. Okay. How would it be open to the public if  
15 it's fenced?

16 A. You can install it in a way there's a gate  
17 that you can open --

18 Q. Okay.

19 A. -- and walk in and the dogs cannot just push  
20 and go in.

21 Q. That answered that question, so thank you.  
22 We've established that the Nuns' Garden is not in the  
23 lease property?

24 A. Correct.

25 Q. Also, when you're talking about rehabbing the



1 building and knowing what it was used for in the past,  
2 how are you -- how in the rehab -- because you are  
3 combining rooms, so I'm not going to go as a guest and  
4 see these small rooms that these young men lived in  
5 with one sink and a small closet.

6           So it's not going to be -- you're doing an  
7 historical building, but the historical configuration  
8 of the building is being changed, correct. I mean,  
9 it's not going to be configured as it was. It's going  
10 to be -- the configuration of those three floors will  
11 be changed?

12           A. The upper floors, yes, they are likely to be  
13 changed for the adaptive use of this project.

14           Q. So the historical use of the building, as a  
15 dormitory, how would that be portrayed to the public or  
16 the guests using it?

17           A. We could have some educational or information  
18 that we can work collaboratively with the National  
19 Parks -- the State Parks on that. And some information  
20 inside the lodge that can show -- or even outside the  
21 lodge -- that can show everybody what that has been  
22 used for.

23           We certainly have some -- I think we might  
24 have some old photographs of that that we can share  
25 with the public. And we would love to work with you



1 guys to figure out a way to share with the public what  
2 can be displayed to let everybody know the history of  
3 the building.

4 I mean, I have some detailed records of what  
5 had been done in the past. It would take time to sift  
6 through all that information.

7 Q. I'm the one questioning, but I will give you  
8 the information, based on doing the signs for Saint  
9 Edward park --

10 MR. KASEGUMA: Can I make a comment on  
11 this?

12 THE HEARING EXAMINER: Yes.

13 MR. KASEGUMA: Can I have the examiner  
14 ask how much longer we're going to be pursuing this line  
15 of questioning about the rooms themselves? Because the  
16 EIS considers the impacts of a hundred rooms, and it's  
17 not relevant how they're configured or how --

18 THE HEARING EXAMINER: Okay. Ms. Hirt,  
19 how much longer?

20 MS. HIRT: That's the end of my  
21 questions.

22 THE HEARING EXAMINER: Let's move on.

23 MS. HIRT: I want to give her the  
24 information. That's all. Thank you.

25 THE HEARING EXAMINER: Thank you.



1 MR. RANADE: The applicant has no  
2 redirect.

3 THE HEARING EXAMINER: You're done with  
4 all your questions, Ms. Hirt?

5 MS. HIRT: Yeah. I don't see anything  
6 else that I wanted to ask.

7 THE HEARING EXAMINER: I wanted to make  
8 sure I understood correctly.

9 MS. HIRT: Thank you for asking again.

10 THE HEARING EXAMINER: Okay. I think  
11 the applicants will have some questions for you.

12 Yeah. Just keep sitting for a little bit  
13 longer.

14 MR. RANADE: We have no redirect.

15 THE HEARING EXAMINER: My  
16 misunderstanding. So who is your next witness?

17 MR. RANADE: We'll ask Nel Lund to come  
18 up, please.

19 [!EZ SPEAKER 300]: Hello. My name is  
20 Nel Lund.

21 MR. RANADE: I think it's on.

22 [!EZ SPEAKER 300]: I was sworn in  
23 yesterday. Does that carry through?

24 THE HEARING EXAMINER: Yes.

25 ///



## 1 DIRECT EXAMINATION

2 BY MR. RANADE:

3 Q. Good afternoon, Ms. Lund. You introduced  
4 yourself. Can you summarize your educational  
5 background for us?6 A. Sure. I have a bachelor of science in  
7 biology, a professional wetland and management  
8 certificate from the UW, and I'm a certified  
9 professional wetland scientist with the Society for  
10 Wetland Scientists.11 Q. Would you summarize your professional work  
12 history, please, following college?13 A. Sure. Well, if I'm going to start with  
14 college, I did some biomedical work professionally  
15 before I got my wetlands certificate. I got that in  
16 2006, and immediately that summer started working at  
17 the Watershed Company, which is a small environmental  
18 consulting firm. And I've been there for over ten  
19 years to present.

20 Q. And what's your role at the Watershed Company?

21 A. I'm -- my title is ecologist. I do primarily  
22 wetland and stream studies. But we work with private  
23 and public clients. I do a lot of peer review at this  
24 point in my career. Help people with everything from  
25 existing conditions, study mapping, to helping them

1 comply with regulations for permitting and mitigation  
2 design, monitoring, the whole gamut.

3 Q. And does your work -- I know you said you  
4 focus on wetlands. Does your work take you to other  
5 elements of the environment as well?

6 A. Yeah. Absolutely. We have a few staff  
7 members that have more of a wildlife background, and I  
8 do field work with them routinely. And we incorporate  
9 wildlife habitat observations and screening for  
10 priority species and clinical work.

11 Q. Those colleagues that you said work on the  
12 animal and wildlife habit, did they participate with  
13 you on the Watershed's work on this project?

14 A. Absolutely. I did the field work with Jasmine  
15 Palmer. She has a master of science in biology, and  
16 she also has the U.S. Fish and Wildlife marbled  
17 murrelet knowledge and certification, since that came  
18 up. In her focus, she did a lot of bird surveys and  
19 bird studies as part of her master's studies.

20 And then Sarah Sandstrom oversaw the project.  
21 And she has a master's in fisheries, biology.

22 Q. I don't need a precise number here, but just  
23 to give us a sense of all of it. How many  
24 Environmental Impact Statements would you say, during  
25 your time at Watershed, Watershed has worked on?



1           A. That's a great question. So we most commonly  
2 provide the technical reports that inform EIS  
3 documentation. But we have been directly involved with  
4 EIS studies. I personally have been involved with a  
5 handful or more. The company itself, you know, more  
6 than that, but I couldn't throw out a number.

7           Q. As a scientist in this field, do you consider  
8 somebody who has a bachelor's degree in a general  
9 science to have sufficient expertise to provide expert  
10 opinions on any project's impact on wildlife?

11          A. Well, I think, you know, of anyone of any  
12 background is welcome to comment.

13          Q. I'm talking about rendering an expert witness,  
14 not just public comment.

15          A. Okay. Yeah. I don't think that would be  
16 equivalent to the level of analysis that we've done as  
17 professionals preparing our documentation.

18          Q. And is it true, then, that I understand  
19 Watershed was retained to take a look at the wetlands  
20 and study the impacts of this study on plants and  
21 animals; is that correct?

22          A. That is correct.

23          Q. And you've had a chance to review the draft  
24 Environmental Impact Statement and the decision that's  
25 in there pertaining to wetlands and plants and animals?



1 A. I have.

2 Q. And in your view, is the discussion in the  
3 Draft Environmental Impact Statement consistent with  
4 the conclusions that Watershed drew on these subjects?

5 A. Yes.

6 Q. And did Watershed play a role in preparing the  
7 responses to the comments that were received on the  
8 Draft Environmental Impact Statement?

9 A. Yes. I personally worked on that.

10 Q. We're going to get into some of your  
11 conclusions. But I would like to start by talking  
12 about the methodology employed.

13 Can you tell us, generally, what was the  
14 methodology you used to study this site?

15 A. Sure. So our existing conditions study of the  
16 stream and wetland and lineation study and the habitat  
17 assessment did have different study areas to adequately  
18 address potential issues that would reflect back on the  
19 lease area, that five-and-a-half-acre area we've all  
20 been focused on.

21 So for wetlands and streams to capture any  
22 potential regulatory buffers under city code, we  
23 extended out 300 feet beyond that lease area, which  
24 exceeds, I believe, the highest potential buffer under  
25 city code. So we took a conservative approach with



1 that respect.

2 And then for wildlife, we followed WDFW,  
3 Washington Department of Fish and Wildlife,  
4 recommendations to guide us in establishing an  
5 appropriate study area.

6 We selected 900 feet. So just viewing the  
7 priority habitat status and species mapping, which is  
8 available online from WDFW. For the priority species  
9 mapped in the area, the largest potential buffer was  
10 660 feet. But we're aware of some higher buffers, such  
11 as for herons, so we went out 900 feet to be  
12 conservative.

13 Q. So in both instances, your study area was 50  
14 percent greater than what is recommended?

15 A. That's about accurate.

16 Q. Did you look at any aerial photographs or any  
17 mapping that was done by anybody else?

18 A. Well, routinely for these studies, we look at  
19 public domain information, such as the priority species  
20 habitat mapping that I mentioned from WDFW. There's  
21 also the U.S. Fish and Wildlife national inventory.  
22 And there are NRCS soil maps.

23 THE REPORTER: NRCOS?

24 [!EZ SPEAKER 300]: NRCS. I say that  
25 one all the time. I don't know if I can accurately



1 deconstruct that.

2 A. As well as city maps and other public  
3 available information.

4 And we do that ahead of our field work to make  
5 sure we're keyed into potential areas that might need  
6 further scrutiny in the field.

7 Q. Did you, speaking of the field, was there a  
8 site visit done?

9 A. Absolutely. There were a few site visits  
10 done.

11 Q. Okay. Did you work with an arborist or  
12 perhaps do a tree inspection?

13 A. Well, we inspect the trees. I walked the site  
14 with Jasmine Palmer and looked at snags and woody  
15 debris and general composition of the forest from a  
16 habitat perspective. But we didn't do a formal  
17 arborist assessment.

18 Q. You sat here yesterday through David Bain's  
19 testimony? I thought I saw you in the audience.

20 A. That's correct.

21 Q. You heard quite a bit about the marbled  
22 murrelet?

23 A. Correct.

24 Q. It seemed as though the concern was that this  
25 bird could nest somewhere in this park at some point.



1 And my question to you is it appropriate scientific  
2 methodology, with respect to these types of studies, to  
3 limit your analysis to the study area or are you  
4 required to look at all 316 acres?

5 A. Well, we defined our study area as described  
6 on the lease area, which was the project area that we  
7 were given for our review, and so it was focused on  
8 that. And I think we were thorough on that basis, and  
9 that was appropriate.

10 Q. If I recall reading the discussion in the EIS,  
11 on endangered species in particular, even though you  
12 limited your study to 900 feet, I believe, you still,  
13 nevertheless, identified the bald eagle site even  
14 outside that lease area?

15 A. I'm sorry. Say that again?

16 Q. In reference to endangered species, in  
17 particular -- I'm flipping to it now -- you  
18 identified -- actually, do you have the Draft EIS in  
19 front of you?

20 A. Yes. I believe this is it, Exhibit 19.

21 Q. Exhibit 19. Can you flip to page 3.3-8?

22 A. Okay.

23 Q. Do you see the section there that's entitled  
24 threatened and endangered species?

25 A. Yes.



1 Q. Can you read us into the record the very first  
2 sentence of the second paragraph?

3 A. No federal or state listed threatened or --

4 Q. No. I'm sorry. The second paragraph.

5 A. In addition to review of PHS, data indicates  
6 one bald eagle nest has been mapped in Saint Edward  
7 State Park approximately 350 feet outside of the study  
8 area and a quarter mile outside the lease area.

9 Q. Is it fair for me to conclude from that  
10 sentence that you had a study area that's 50 percent  
11 greater than what Fish and Wildlife says is  
12 appropriate? And, in fact, actually, you went even  
13 broader than that and looked for endangered species  
14 well beyond the enhanced study area that you looked at.  
15 It seems pretty thorough to me.

16 A. Some of the broader review was more -- we  
17 wanted to include documentation that we found in our  
18 office, our desk research. In terms of boots on the  
19 ground, we were more in that 900-foot range.

20 Q. Sure. But your study accounts for even more  
21 than 900 feet?

22 A. That's correct.

23 Q. Can you tell us what you concluded in terms of  
24 existing conditions with respect to wetlands -- if it's  
25 helpful for you, I'll refer you to a map. It's figure



1 3.3-1.

2 A. I don't suppose you know where it falls in the  
3 page sequence?

4 Q. It's a few pages before you were reading.  
5 Figure 3.3-1. If that's helpful for your discussion, I  
6 thought you should have it in front of you. Can you  
7 tell us what you conclude about existing conditions in  
8 terms of wetlands?

9 A. Sure. So just on the outer fringe of our  
10 300-foot study area for wetlands and streams, we  
11 identified three wetland areas and two streams.

12 Q. Did you identify any wetlands or streams in  
13 the project area?

14 A. None.

15 Q. How about plants, what conclusions did you  
16 draw about plants existing conditions?

17 A. Well, the forest -- intact forested portion of  
18 the park is mixed conifers, but there are some invasive  
19 species in patches. There are snags and woody debris.

20 In terms of the lawn area and the lease area  
21 that you can see on the aerial, those are just  
22 well-maintained mowed lawns with some more  
23 landscape-style trees. So it was more of a maintained  
24 environment.

25 Q. I'm certainly not an expert, but I will ask



1 you -- it looks to me like there's two maybe three  
2 large -- largish trees inside the project area, all in  
3 this sort of right-hand and lower part of the project  
4 area; is that correct?

5 A. That is correct.

6 Q. And the rest of it is lawn and pavement and  
7 building?

8 A. Yeah. There are a few shrubs and things, but  
9 that's pretty much it.

10 Q. Did you encounter any endangered or threatened  
11 plant species in your study area?

12 A. No. And none are mapped.

13 Q. How about animals, what were your conclusions  
14 about existing conditions with respect to animals?

15 A. Well, the park, of course, provides habitat  
16 for a diversity of animals. But in terms of listed  
17 protected species, we found none. There is pileated  
18 woodpecker, which WDFW has management recommendations  
19 for, but those are outside of the lease area.

20 Q. And you did note the bald eagle that's 350  
21 feet outside your study area?

22 A. Correct. We assumed they stick closer to the  
23 shoreline portion of the park. We didn't observe any  
24 during our field visit, but they may certainly fly over  
25 periodically.



1 Q. Did you encounter any marbled murrelets?

2 A. No.

3 Q. Any signs of marbled murrelets?

4 A. No.

5 Q. Let's talk a little bit about your conclusion  
6 with the respect to this project. What was your  
7 conclusion with respect to the impact of this project  
8 on wetlands?

9 A. We found no impact to the wetlands.

10 Q. And there's no stream or wetland in the  
11 project area, correct?

12 A. Correct.

13 Q. Just to button one thing up, you didn't find  
14 any fish in the project area?

15 A. No.

16 Q. Any fish in the study area?

17 A. No. Those stream segments were identified as  
18 non-fish bearing.

19 Q. With respect to plants, what was your  
20 conclusion regarding the impact of the project on  
21 plants?

22 A. Other than those few trees that you noted, it  
23 looks like the impact areas were primarily  
24 characterized by mowed lawns, so the significant  
25 habitat is -- the vegetative structure would be left



1 intact.

2 Q. So you did conclude, though, that the changes  
3 to the parking lot might take out ten trees? That was  
4 part of your conclusion, correct?

5 A. Correct.

6 Q. And that does appear in the DEIS on page  
7 3.3-9. If you need to flip to it to check, please do.  
8 Page 3.3-9, in the bottom paragraph, under the plants  
9 section. I'll read it into the record:

10 Along the northwest edge of the lease area  
11 where an expansion of the parking lot is proposed, ten  
12 measured trees (as well as some adjacent unmeasured  
13 trees and trees in poor condition) will likely need to  
14 be removed to accommodate the parking lot entrance of  
15 the made road.

16 That's what you're talking about when they say  
17 trees need to be removed?

18 A. Correct.

19 Q. Do you know if there is a, if you recall, a  
20 different impact under Alternative 2 -- if it would  
21 help you, you can flip to 3-3.11. And, in particular,  
22 the last sentence of the first paragraph, under the  
23 section heading.

24 A. Alternative 2 states that vegetation would  
25 remain as is.



1 Q. Let's talk about animals. Did you have any  
2 conclusions -- or what were your conclusion of the  
3 impacts of this project to animals?

4 A. Because the forested habitat is remaining  
5 intact and the use is maintained in a developing area,  
6 we did not identify any significant impacts.

7 Q. Would you flip to page 3.3-10 of the DEIS, the  
8 same document?

9 A. Okay.

10 Q. I'm going to draw your attention to a couple  
11 of sentences under the animals heading. Last sentence  
12 in the first paragraph, Construction activities would  
13 be limited to daylight hours. Temporary increases in  
14 noise could temporarily disturb wildlife adjacent to  
15 the project area within approximately 375 feet.

16 Is that consistent with your conclusion and  
17 findings?

18 A. Yes.

19 Q. So you have disclosed that construction could  
20 affect -- construction noise could affect the animals?

21 A. Yes.

22 Q. The very next sentence says, Operational noise  
23 and light from the proposed project --

24 MR. RANADE: It's my turn to clear my  
25 throat here. I'll start over.



1 Q. Operational noise and light could also affect  
2 wildlife in the site vicinity. Is that consistent with  
3 your findings and conclusion?

4 A. That is correct. Yes.

5 Q. And so would you agree with me that the DEIS  
6 documents disclose that noise and light from the lodge  
7 operating, in fact, could affect wildlife in the area?

8 A. That's correct.

9 Q. One more sentence out of this section.  
10 Further down, same photograph, second to last sentence  
11 reads, In addition, increased traffic at night may  
12 create a new hazard for reptiles and amphibians in the  
13 area. Do you see that?

14 A. I do.

15 Q. Is that consistent with your findings and  
16 conclusion?

17 A. It is.

18 Q. So the DEIS does talk about traffic at night,  
19 perhaps, affecting the animals?

20 A. True.

21 Q. Did you discuss or analyze potential  
22 cumulative impacts of this project? If you want to  
23 flip to 3.3-12 to refresh your recollection, you can do  
24 that.

25 A. Okay. I'm at that section.



1 Q. Did you have any conclusions about the  
2 cumulative impacts of this project in operation and  
3 Bastyr University?

4 A. Just a moment, I should probably read through  
5 this.

6 Q. Let me just to try to move this along. Let me  
7 ask the question in a different way. The cumulative  
8 impacts that are discussed in the section entitled  
9 indirect/cumulative impacts talk about an increase --  
10 increased lighting and noise as a result of Bastyr,  
11 this potential ball field project, and obviously,  
12 operations at the lodge.

13 A. Right.

14 Q. Is that consistent with your analysis and  
15 conclusion or is that -- or do you disagree and don't  
16 think there would be cumulative impacts?

17 A. No. I agree with these cumulative impacts.

18 Q. I had a question about mitigation measures,  
19 and you'll see that discussion under mitigation  
20 measures starts on the same page. Would you flip to  
21 the next page? There was a concern -- I don't know --  
22 I think you were in the room -- somebody talked about  
23 trying to limit activities during the nesting season  
24 for the birds. Do you remember that concern?

25 A. I do.



1 Q. Would you please read the second bullet point  
2 on 3.3-13?

3 A. Avoid or limit construction activities during  
4 February through July to minimize disturbances to  
5 nearby breeding birds as feasible.

6 Q. And is it your professional opinion, as long  
7 as this mitigation measure is followed, there shouldn't  
8 be a significant impact to breeding birds in the area?

9 A. Yes.

10 MR. RANADE: I have no further questions  
11 at this time.

12 THE HEARING EXAMINER: Okay. I have a  
13 couple questions myself. In terms of the light and  
14 noise impacts, how far outside of the belt area would  
15 you think that would affect wildlife -- and maybe  
16 wildlife is too broad of a term. How far out would you  
17 go out before you didn't notice the light and noise of  
18 the developed portion of the site at night.

19 A. Right. Well, I don't have hard data on that.  
20 But given the setting of that Seminary building, it is  
21 surrounded by intact forest, the decibels of sound do  
22 decrease over distance and the vegetation does help  
23 damper that somewhat. I did a little bit of reading  
24 and discussion with my colleague Sarah Sandstrom about  
25 noise relative to wildlife disturbance, and it was --



1 kind of getting up to speed, I'm not used to reading  
2 the decibel ranges. But based on that sort of  
3 preliminary overview, the ambient noise would have to  
4 increase 20 to 25 decibels for it to disturb species,  
5 such as marbled murrelet, although, as stated, they're  
6 not currently present on the site.

7           And over the many hundreds of feet between  
8 sort of the shoreline forested area versus the Seminary  
9 building itself, in terms of Seminary use, I think it's  
10 unlikely that that there would be an impact.

11           In terms of trail use, that is an existing  
12 use. And I think it's important to note that the U.S.  
13 Fish and Wildlife guidelines about noise and wildlife  
14 disturbance talks about the increase over the existing  
15 baseline. So that should be something to consider.

16           THE HEARING EXAMINER: You'll recall  
17 from Dr. Bain's testimony, it sounded like he based a  
18 lot of concern about impacts on nighttime trail use that  
19 would occur because of the project. And I was thinking,  
20 I guess, from a reasonable standpoint, at night people  
21 aren't going to be going on hikes in the dark on trails  
22 at night. They might be going nearby the project.

23           But marbled murrelet, if they were to nest at  
24 this park, would they nest close to the project site or  
25 would they chose to nest in more remote areas of the



1 park where people aren't going to walk at night. Kind  
2 of follow that?

3 A. I do follow that line of questioning. I do  
4 want to preface this is highly speculative, because we  
5 don't have the current habitat conditions present. But  
6 I would think, based on their aversion to disturbance,  
7 they would be more likely to choose nesting sites that  
8 are already located closer to the shoreline and  
9 potentially away from some of the interior trails that  
10 are frequently used.

11 Q. Now, Dr. Bain testified -- I think he  
12 testified it was his opinion it was likely that, at  
13 least after 20 years, marbled murrelet would nest in  
14 this area. Do you have any opinion on that?

15 A. Again, I feel like that's a little difficult  
16 to speculate. I do understand sort of the desire to  
17 look longer term. But I feel like the arborist might  
18 be able to speak to that a little bit more than I  
19 would. They do need old-growth trees, at least 150 to  
20 200 years old, to have specific criteria for nesting,  
21 as well as surrounding habitat.

22 You just have to see if those conditions  
23 develop or not, and that's a big question.

24 THE HEARING EXAMINER: Okay. Great.  
25 Ms. Wehling, any questions.



1 MS. WEHLING: No, sir.

2 THE HEARING EXAMINER: Mr. Kaseguma?

3 MR. KASEGUMA: None.

4 THE HEARING EXAMINER: All right.

5 Ms. Hirt, your turn.

6 MS. HIRT: Thank you for the  
7 information.

8 CROSS-EXAMINATION BY THE APPELLANT

9 BY MS. HIRT:

10 Q. One of the concerns that's been expressed is  
11 the headlight movement, which you eluded to. How do  
12 you see that affecting animals in the park?

13 A. Again, I just -- you mean -- can you clarify  
14 what you mean by that?

15 Q. Well, concern is the effect of the light on  
16 nocturnal animals that live in the park. Right now,  
17 it's dark, except a couple lights at night. So the  
18 headlights of the cars entering and exiting in the  
19 dark, what damage would that cause animals?

20 A. I would think that it's likely to cause  
21 avoidance behavior of that corridor, potentially. But  
22 I don't have any hard data on that.

23 Q. So you don't have hard data on the effect of  
24 the extra light in the park due to this project on  
25 wildlife, except right around the building?



1 A. Correct.

2 Q. And you see no -- do you see any effect of the  
3 light around the building on the animals?

4 A. We have identified that in the EIS's  
5 accumulative impact and suggested mitigation measures.

6 Q. And will down lighting, that is suggested,  
7 address that? In your opinion, will the down  
8 lighting --

9 A. I think it would minimize that.

10 Q. Okay. One of the questions is -- excuse me --  
11 page -- excuse me -- 3.3-13. That list of mitigation  
12 sort of control -- limit disturbances.

13 A. Okay.

14 Q. Direct lighting. So the line item under the  
15 control, that's the direct lighting.

16 A. Mm-hmm.

17 Q. This reads, Direct lighting away from natural  
18 areas. Use downcast lighting and limit or exclude  
19 night lighting where feasible.

20 Can you please define what feasible means?

21 A. I think that's yet to be determined. I assume  
22 it's based on public safety.

23 Q. You think it's public safety is what it's  
24 based on?

25 A. That's my assumption, but it's an assumption.



1 Q. Okay. It's an assumption. Okay.

2 MS. HIRT: Please confer for just a  
3 moment --

4 THE HEARING EXAMINER: Okay.

5 MS. HIRT: To see if my -- oh, he's  
6 here. Okay. Just a moment.

7 THE HEARING EXAMINER: I didn't explain  
8 myself before when there was an objection about having  
9 multiple questioners, but I think it's just more  
10 efficient to allow you to ask questions from your area  
11 of expertise. And, also, I recognize the appellants  
12 have been subject to a barrage of questions from three  
13 separate parties, so I don't see it as completely  
14 negligible --

15 MR. RANADE: We don't object.

16 THE HEARING EXAMINER: So, anyway, go  
17 ahead.

18 BY DR. BAIN:

19 Q. The hearing examiner was trying to figure out  
20 if people went out at night, where would they go and  
21 would that be the same place that the birds would be  
22 going. So behind you there's a map that shows  
23 neighborhoods surrounding the park and Bastyr  
24 University. And with that in mind, where would  
25 sensitive species like marbled murrelet go if they



1 wanted to get away from human development, which parts  
2 of the park?

3 A. Well, again, I think it's highly speculative  
4 to state where species that is not currently present in  
5 the park would be. It is a park with an organized  
6 environment, so usually an interior space would be a  
7 logical retreat.

8 Q. Okay. And are the interior spaces as close to  
9 the lodge as anywhere else? You got neighborhoods to  
10 the south and east and north.

11 A. I'm not sure I understand the question.

12 Q. I'm just trying to figure out if you're a bird  
13 and you want to get as far away from developed  
14 landscape, you know, I kind of look and maybe toward  
15 the northwest corner of the park and maybe the  
16 south-central portion of the park, you're as far as  
17 away from people as you can get. But would you agree  
18 with that?

19 A. That seems logical.

20 Q. Does that look like it's terribly far from  
21 where people would be spending the night?

22 A. Yeah. So the bald eagle nest that I mentioned  
23 a few times is -- is in the northwest corner. And we  
24 identified that as a quarter mile from the lodge, the  
25 leasing area. So the area to the south is even further



1 than that.

2 THE WITNESS: Okay. Thank you.

3 THE HEARING EXAMINER: Are those all the  
4 questions?

5 BY MS. HIRT:

6 Q. I think my only question would be based on  
7 your background, your expertise, your field studies,  
8 there's concern about animals in the forest on the edge  
9 of this development. Do you see -- I know that you  
10 covered a lot of this for the site and you looked at it  
11 and it was a larger area than was expected -- I  
12 understand that.

13 What impact do you see on animals that are now  
14 living in that forest close to the intended  
15 development? Do you see a change, impact from the  
16 things that we've listed?

17 MR. RANADE: If I may help the witness,  
18 just to move this along. She could look at page 3.3-12,  
19 the fourth paragraph down, might speak to this question.  
20 Particularly the last sentence of this paragraph,  
21 perhaps.

22 A. Sure. So, thank you. I think this summarized  
23 the point nicely. I would expect some animals would  
24 avoid the area, particularly nocturnal animals, because  
25 of the increased use and light.



1 Q. (BY MS. HIRT) This reads that this could  
2 affect forage and production, communication, and other  
3 behaviors?

4 A. Right. So I think that they would avoid the  
5 areas to minimize those potential impacts.

6 Q. Go deeper into the forest?

7 MR. RANADE: I'm sorry. I didn't  
8 understand that.

9 Q. (BY MS. HIRT) They would go deeper into the  
10 forest?

11 A. Well, they would avoid area that has light  
12 that has --

13 Q. That's what I'm saying. They would move  
14 further into the forest?

15 A. That seems logical.

16 MS. HIRT: Thank you.

17 THE HEARING EXAMINER: Okay. Thank you,  
18 Ms. Hirt. Any redirect?

19 REDIRECT EXAMINATION

20 BY MR. RANADE:

21 Q. There was a question asked about -- you said  
22 you found a bald eagle in the northwest corner there?

23 A. It's mapped by WDFW. We didn't physically see  
24 it.

25 Q. Right. It was mapped. And I believe Dr. Bain



1 asked you whether the northwest corner would be a  
2 fairly attractive place for a future marbled murrelet  
3 or perhaps the bald eagle that was mapped. Can you  
4 take a look at that map over your left shoulder and  
5 tell me what you see in the northwest corner?

6 A. I see an intact forest and an existing trail.

7 Q. Do you see the white box and the words  
8 McDonald property over it?

9 A. I do.

10 Q. Were you in the room when Trevina Wang  
11 testified about the McDonald property?

12 A. Yes. I understand it would be added to the  
13 park.

14 Q. Did you hear the part where she said if that  
15 deal, the edition of the McDonald property, couldn't  
16 happen unless this project went forward. Did you hear  
17 that part?

18 A. I did hear that testimony.

19 Q. Did you hear her say that if that property did  
20 not become part of that park, it's going to be turned  
21 into a residential subdivision. Did you hear that  
22 part?

23 A. Yes.

24 Q. In your professional opinion, would it be  
25 better for the bald eagle that's been mapped and this



1 hypothetical marbled murrelet some day -- would it be  
2 better for those birds if that property was part of  
3 this project or would it be better for the birds if  
4 that was turned into a residential subdivision?

5 A. Maintaining it intact is better for wildlife.

6 MR. RANADE: Okay. Thank you. I have  
7 no further questions.

8 THE HEARING EXAMINER: Okay, Ms. Lund.  
9 Next witness.

10 MR. KASEGUMA: May I ask a couple  
11 questions?

12 THE HEARING EXAMINER: Sure.

13 CROSS-EXAMINATION

14 BY MR. KASEGUMA:

15 Q. You were asked a question about the fourth  
16 paragraph on 3.3-12 of the DEIS.

17 A. Yes.

18 Q. And, you know, this is a sentence concerning  
19 increased orientation or disorientation from artificial  
20 lights on animals -- the effect of that on animals. My  
21 question is, Would the intensity of the light glare  
22 make any difference upon that effect upon animals?

23 A. Yes, it would. And that's identified in the  
24 mitigation measures.

25 Q. How about the extended time of the light and



1 glare, would it make a difference if the time of light  
2 and glare was, for example, only during the first hours  
3 of the evening as opposed to all night? Is there a  
4 difference in the impact on the animals on the  
5 different length of times, circumstances?

6 A. Yes. I don't have a quantifiable answer to  
7 that. But that's why the mitigation measures say that  
8 lights will be turned off, as feasible, or not used, as  
9 feasible.

10 Q. So your comments here are general comments,  
11 and you weren't presenting any specific scenarios  
12 concerning the length of time for the light anywhere or  
13 intensity of the light glare; is that correct?

14 A. That's correct.

15 MR. KASEGUMA: Thank you.

16 THE HEARING EXAMINER: Anyone else?

17 Thank you, Ms. Lund.

18 MR. MURPHY: We would like to call Scott  
19 Baker.

20 THE HEARING EXAMINER: All right.

21 Mr. Baker, you're still under oath.

22 DIRECT EXAMINATION

23 BY MR. MURPHY:

24 Q. Good afternoon, Mr. Baker. At some point in  
25 your testimony, we are going to refer to your arborist



1 report which is in that giant black folder in front of  
2 you with the blue sheets, and it is Exhibit No. 34.

3 Mr. Baker, I understand that you have 40 years  
4 of experience in arboriculture; is that correct?

5 A. That is.

6 Q. And one of your specialties is urban forest  
7 issues?

8 A. Yes. That would be correct.

9 Q. Can you describe to us the education you  
10 obtained to have that specialty and your training in  
11 arboriculture?

12 A. I'm currently the founder and one of the  
13 principal consultants at Tree Solutions, Inc., in  
14 Seattle. My background in arboriculture began as a  
15 commercial arborist when I was still in college. So my  
16 education is a bachelor of arts from the Evergreen  
17 State College. And then, subsequently, a lifelong  
18 learner studying the field of arboriculture.

19 So currently I'm a registered consultant  
20 arborist through the American Society of Consulting  
21 Arborists, and a board-certified Master Arborist  
22 through the International Society of Arboriculture, and  
23 I'm a qualified tree risk assessor, and I'm an  
24 instructor for the international qualification in tree  
25 risk assessment, and I also hold a Washington State



1 pesticides consultant permit. And my main, you know,  
2 background is that I've studied trees and worked in  
3 them my whole adult life.

4 Q. For those of us who are less familiar with the  
5 field of arboriculture, can you describe what it takes  
6 to become a registered consultant arborist?

7 A. At the time that I did, it required proving a  
8 master's degree educationally, which I did, through all  
9 the continuing education, conferences, et cetera, that  
10 I've attended, which I've done steadily throughout my  
11 career.

12 And then you had to attend a week-long school,  
13 essentially. And then have scenario reports -- produce  
14 scenario reports based on scenarios and also submit  
15 redacted reports of your own to show that you're  
16 capable.

17 Q. And what does it take to become a master  
18 arborist -- a certified master arborist?

19 A. That's, essentially, the highest credential  
20 the ISA has right now. And, essentially, you have to  
21 demonstrate a broad knowledge of arboriculture and pass  
22 fairly difficult tests, and then keep up with  
23 continuing education.

24 And once you become a board-certified  
25 arborist, you have to show that you continue to educate



1 yourself in seven subcategories of arboriculture.

2 Q. Have you maintained your education in those  
3 seven different categories?

4 A. I have.

5 Q. And I understand that you, with Tree  
6 Solutions, Incorporated, consults on various  
7 arborist-related needs, and that you pride yourself on  
8 neutrality; is that correct?

9 A. We do. It's been my experience that the best  
10 way to do our job and to help people is to be, as best  
11 we can, strict science-based consultants. In other  
12 words, I see our jobs as consultants to provide the  
13 client with scientific-based information, and the  
14 opinion should be clearly labeled as such.

15 And our goal is to not make the decisions, but  
16 to give the client the tools they need to make their  
17 decisions regarding tree and vegetation management.

18 Q. Drawing your attention to your report in front  
19 of you, can I take you to page 12. It's Appendix B;  
20 it's the methods. And this is the report done for the  
21 project that we're all here to talk about, correct?

22 A. That is correct.

23 Q. And are these methods that you used for your  
24 arborist report?

25 A. Yes. This describes what we did on the



1 property.

2 Q. And are these the typical methods used and  
3 that are accepted by arborist -- expert arborists?

4 A. They would be typical, except for the last two  
5 paragraphs. Our firm is the leader in use of  
6 technology tools to assess trees, so most arborists  
7 would not have access to those tools.

8 Q. So is it fair to summarize these methods are  
9 typical with some cutting-edge developments?

10 A. Yeah. Or typical with high-level consultants  
11 in arboriculture.

12 Q. And let's go to the summary. It's the first  
13 page. The second paragraph states that the City of  
14 Kenmore requires a tree density of 30 trees per acre,  
15 which would require a tree density of at least 210  
16 units; is that correct.

17 A. That's correct.

18 Q. And am I correct that your conclusion was that  
19 by potentially removing the ten trees that have been  
20 previously discussed, that would leave 325.2 tree  
21 credit?

22 A. Yes. Per the Kenmore code, that would be  
23 correct.

24 Q. It would exceed the amount required by the  
25 Kenmore City code?



1           A. It would exceed it, not counting any planting  
2 that might be done as part of the project, which would  
3 bring the credits up higher.

4           Q. You did a site visit in order to produce these  
5 results?

6           A. Pardon me?

7           Q. Did you visit the site?

8           A. Yes, I visited the site several times.

9           Q. And you did that personally?

10          A. Actually, in this case, yes, with one of my  
11 associate consultants, Katherine Taylor.

12          Q. Did you find any threatened or endangered  
13 species within the study area?

14          A. No.

15          Q. Let me take you to the DEIS, which I hope is  
16 the document to your right. I'm sorry -- there we are.  
17 And can you please go to section 3.3?

18          A. Got it.

19          Q. Do you still have the arborist report in front  
20 of you?

21          A. I do.

22          Q. So the sentence you read said there was a tree  
23 tensity of 30 trees per acre. Should that have said  
24 that it was a tree density of 30 tree units per acre?

25          A. I believe that's correct.



1 Q. Just to clarify, tree units not trees?

2 MS. HIRT: What page are you on?

3 MR. RANADE: For the question I just  
4 asked? That was page 1 of the arborist report, the  
5 summary.

6 MS. HIRT: I just --

7 MR. MURPHY: I jumped around a little  
8 bit. We are now going to be discussing 3.3-9.

9 MS. HIRT: Thank you. I was trying to  
10 find you.

11 MR. MURPHY: Are you there?

12 MS. HIRT: Yes.

13 Q. (BY MR. MURPHY) So this describes the impact  
14 under Alternative 1. Have you reviewed this section  
15 before?

16 A. I have.

17 Q. Is this consistent with your expert report?

18 A. I believe it is. Yes.

19 Q. And it identifies potential removal of ten  
20 trees?

21 A. Based on preliminary planning that we looked  
22 at prior to the subsequent or site visit, that's  
23 correct.

24 Q. Can I have you flip two pages forward to page  
25 3.4-11? This describes impacts under Alternative 2.



1 A. 3.3-11?

2 Q. Page 3.3-11.

3 A. Okay.

4 Q. Do you see the heading?

5 A. I do.

6 Q. Have you reviewed this section?

7 A. I have.

8 Q. And is this consistent with your expert  
9 report?

10 A. It is.

11 Q. Are you familiar with the marbled murrelet?

12 A. I am.

13 Q. How do you have your familiarity with that  
14 bird?

15 A. Well, I'm not a scientist studying the marbled  
16 murrelets, but good friends of mine were amongst the  
17 tree climbers that determined where they actually  
18 nested. It was quite a mystery for some time.

19 But I'm entrusted in forest management and  
20 forest preservation in the Northwest. And so anybody  
21 who has followed that knows the marbled murrelet is  
22 something you want to know about and understand.

23 So in my work with Tree Solutions, I do get  
24 into -- over forest on occasion, and I was fascinated  
25 to see that this subject came up during this project.



1 Q. Are you familiar with the habitat that the  
2 marbled murrelet requires?

3 A. I am.

4 Q. And am I correct that marbled murrelets  
5 require old-growth trees to nest?

6 A. Yes. It's generally -- you know, they're  
7 talking about trees hundred plus, 250 years old. But  
8 it's more the forest characteristic and age of the  
9 trees, so old-growth is the term often used.

10 Q. And you visited the site area as you mentioned  
11 before?

12 A. I'm familiar with the entire site. Bastyr  
13 University is a client of ours, and I'm a user of the  
14 park, so yes.

15 Q. Are there any trees in the lease area that  
16 could potentially become old-growth trees within the  
17 next 50 years?

18 A. I would say no.

19 Q. All right. Next 100 years?

20 A. Within the lease area, the conditions will  
21 probably never occur, unless you just stopped mowing  
22 and let everything revert back to forest, because those  
23 are trees in a mowed-turf-area landscape really.

24 So the habitat for the murrelet requires a  
25 complexity of a complete forest of some size, and as



1 we've heard from the real experts, the murrelet  
2 proximity to their green habitat.

3 Q. Are there any trees that you've identified in  
4 Saint Edward State Park that potentially might become  
5 marbled murrelet habitat in the near future?

6 A. You have to define near feature.

7 Q. 20 years?

8 A. No. I'd say not 20 years.

9 Q. 30 years?

10 A. Probably a little bit more than that. But it  
11 would be hard to say. I think, generally, the forest  
12 there, we all agree, the place was logged in the 1920s.  
13 So we're talking about a forest approaching 100 years  
14 of age. It's also a forest surrounded by an urban  
15 area. And it's a forest that has plenty of issues  
16 regarding species of plants that wouldn't be normally  
17 found in a native forest, so-called invasive species.

18 Q. Speaking of invasive species that are present  
19 in Saint Edward Park would that make it a less  
20 attractive habitat for the marbled murrelet?

21 A. Possibly. I couldn't say for sure. But  
22 English ivy, or hibernica particularly, takes out --  
23 out-competes a lot of other vegetation. So it's going  
24 to be a forest that's -- if that's not controlled or  
25 managed, you'll have a forest that's lacking some of



1 the features that would normally be in an older forest.

2 Q. Am I correct that old-growth doesn't refer to  
3 an individual tree. It's a broader habitat; is that  
4 correct?

5 A. I think that's generally correct. You'll hear  
6 people, myself included, find a tree and say that's an  
7 old-growth tree. There are old-growth fragments that  
8 are seen in OO Denny Park, Seward Park, Lincoln park.  
9 But these are handfuls of trees that don't have a  
10 large, complete forest sitting around them.

11 Q. So given your familiarity with the trees that  
12 may be suitable for the marbled murrelet and the park,  
13 do you think it's likely that the marbled murrelet will  
14 nest near the Seminary area?

15 A. I suppose that if the birds -- if the forest  
16 does continue to grow there, which would be a wonderful  
17 thing, and to keep holly and English ivy and other  
18 species at bay, if the birds did come, as was asked of  
19 the previous witness, they probably would not be  
20 nesting proximate to any of the areas that have much  
21 activity, so not near the University and probably not  
22 near the lodge area. They would be nesting in the more  
23 peripheral areas or down towards the water, would be my  
24 guess.

25 Q. Do you have any other projects involving the



1 marbled murrelet?

2 A. No. I have two projects involving aging of  
3 forest and commenting on the forest characteristics  
4 with the question being asked: Is this old-growth  
5 forest?

6 MR. MURPHY: Thank you, Mr. Baker. Oh,  
7 before you go, can I ask you about the mitigation? Back  
8 to the EIS, can I have you go to page 3.3-13? I'm  
9 looking at the last two bullet points there. In your  
10 opinion, if these mitigation measures are enacted, would  
11 it avoid any significant impact to trees.

12 A. The two measures that are suggested here: One  
13 set is consider the removal of invasive plant species  
14 and/or install native vegetation in areas currently  
15 maintained as lawn to provide additional wildlife  
16 habitat and function as a buffer between developed and  
17 undeveloped areas.

18 And the second one is consider the  
19 installation of snags, downed wood, rock piles,  
20 year-round water features and nesting platforms or  
21 boxes to encourage wildlife use.

22 So I believe if those ideas were carried out,  
23 it would help mitigate the loss of the new trees that  
24 might come out as part of the project.

25 Q. Can I also have you look at the two bullet



1 points above that. The ones that start with, Any  
2 excavation required in the critical root zone...and the  
3 one below that that says, Prior to commencing any  
4 grading or clearing?

5 A. Yeah. This is, I believe, taken from our work  
6 from the report that's in the exhibit here. And this  
7 would be specific to, for instance, the parking lot  
8 expansion that's been talked about.

9 Our firm is a specialist in preserving trees.  
10 So this is directed to the new parking lot of Bastyr's  
11 dorms where we worked on the edge to keep the forest  
12 right up to the edge of the parking lot, which does  
13 involve removing trees that will be damaged or pose a  
14 risk to the parking lot.

15 So you're basically taking out some of the  
16 larger stems and leaving trees to come back in. And  
17 the use of the pneumatic tool allows knowing where you  
18 have root and careful root pruning, if you have to do  
19 that.

20 And the second bullet point there is all  
21 talking about fairly typical tree preservation  
22 approaches that are used here in jurisdictions in the  
23 Northwest, and those are very effective in retaining  
24 trees.

25 The biggest issue that affects trees in sites



1 like this is basically grading or disturbance of  
2 surface soils near the trees.

3 Q. So in your expert opinion, these would be  
4 effective mitigation measures?

5 A. I believe they would be, yes.

6 MR. MURPHY: Thank you.

7 THE HEARING EXAMINER: Ms. Wehling, any  
8 questions.

9 CROSS-EXAMINATION

10 BY MS. WEHLING:

11 Q. Mr. Baker, you testified that the forest in  
12 Saint Edward State Park was logged in the 1920s. Do  
13 you know if the forest was replanted or was it allowed  
14 to naturally regenerate?

15 A. I believe that it's a naturally regenerated  
16 forest. It would have been quite uncommon to see a  
17 replanting in that area in that era.

18 Q. Is there a difference in the amount of time  
19 that it takes for forest to develop the structural  
20 characteristics of old-growth habitat for marbled  
21 murrelets, depending on the management that goes into  
22 that forest?

23 I apologize for the unartful wording of that,  
24 but I hope you get my drift.

25 A. I do. And I just completed a project on





1 at it closely, I think you will see that there is a --  
2 it shows many trail areas throughout the state park.  
3 Do you see that?

4 A. I do.

5 Q. And I think I heard you testify that you  
6 visited the state park many times, so should I assume  
7 that you're aware of the trails and their existence?

8 A. I am.

9 Q. With respect to the marbled murrelet, would  
10 the existence of the trails -- and assuming there are  
11 hundreds of trail users each year to the park -- and  
12 the use of these trails by those visitors have an  
13 impact or affect the possibility that the murrelets  
14 would establish the park as a nesting area?

15 A. Well, I suppose that would possibly be the  
16 case. I've read a lot of papers and research on the  
17 murrelet, and they are considered to really like their  
18 privacy. And the way they nest is proof of that. If  
19 you ever saw some of those nests, it's just a great  
20 thing.

21 But I do believe the trail use probably has an  
22 impact on critters in general in the park. On the  
23 other hand, it doesn't feel urban when you're in the  
24 park. To me, this is an urban park. And it's  
25 surrounded by a very dense area with people.



1           So I do believe that if the birds did show up  
2 and nest, they would be as far away from people as they  
3 could get. I base that on the other testimony of the  
4 other witnesses and my knowledge of the birds.

5           MR. KASEGUMA: Thank you.

6           THE HEARING EXAMINER: Is that it,  
7 Mr. Kaseguma?

8           MR. KASEGUMA: Thank you. That's it.

9           THE HEARING EXAMINER: Ms. Hirt.

10          MS. HIRT: All right. All right.

11                   CROSS-EXAMINATION BY THE APPELLANT

12          BY MS. HIRT:

13                Q. Earlier I talked about the ten trees that  
14 would be cut down, destroyed for the additional parking  
15 in Alternative 1. I would like to know the status of  
16 those trees. Are they all healthy?

17                A. I believe there were two trees there that we  
18 felt had structural issues that might pose some risk  
19 and not necessarily an unhealthy tree, a tree that is  
20 high risk and really healthy.

21                   The other trees were in good condition. The  
22 trees on the park property get no maintenance at all  
23 for the most part, and these would fall into that  
24 category. Since the place has been benignly maintained  
25 since the Seminary closed, that whole area, the woods



1 have filled in and moved into the property. But, yes,  
2 those trees are perfectly good trees.

3 Q. And I'm not looking at the chart -- well, I  
4 think there's either six or seven red cedars. How long  
5 does it take a red cedar to grow?

6 A. These trees are less than a hundred years old.  
7 Those trees could be anywhere up to hundred -- up to 90  
8 years old or something like that.

9 Q. But isn't it true that -- the other tree was a  
10 hemlock -- I'm doing this from memory.

11 A. Okay.

12 Q. -- and they grow faster?

13 A. Hemlock is considered an early successional  
14 species. It's the shortest lived of our native  
15 conifers. But no less of a good tree, in my opinion,  
16 despite that.

17 But I think the forest there is pretty evenly  
18 aged. You're going to have some variation. You'll  
19 have younger trees, particularly in that park, where  
20 areas that were once cleared are being reforested and  
21 have younger seedling trees and you work your way back  
22 and have older trees the further in you go.

23 Q. Comparing these trees, are the red cedars more  
24 important than the hemlocks, as far as value of a tree.  
25 Do you know which one --



1           A. Well, I appraise trees all the time. So,  
2           sadly, a red cedar would be worth more than a western  
3           hemlock, for no real good reason. But in terms of  
4           value, I think the interest here in their value is upon  
5           the component of the forest system. And both trees can  
6           harbor animals. And once they're old enough, will  
7           eventually have a collection of epithetic plants that  
8           live on them, like lichen, et cetera. I'm not sure if  
9           I answered your question.

10          Q. You did answer it. What I'm hearing, in  
11          addition to the question I asked, was the trees have  
12          value now as they stand because of being habitat for  
13          birds and lichen and some of the wildlife?

14          A. I don't think anybody can argue against that.  
15          Even the trees interior to the property, some of which  
16          have some pretty big breakouts, et cetera which  
17          encourage nesting habitat, those trees also harbor the  
18          same kind of critters and what I call the associates of  
19          trees.

20          Q. So taking down ten trees does disturb some of  
21          the habitat of the animals?

22          A. Yes. There's always impact when you remove  
23          trees. It's unequivocal. In this case, because they  
24          have a good project team, we would avoid some of the  
25          downstream impacts, which often occur, which is to say



1 that I know the team will make sure the trees will be  
2 removed carefully without grubbing stumps and thus  
3 damaging trees that are nearby that are going to be  
4 left. That's a common problem you see. A tree that's  
5 retained but it's not really, because it's been badly  
6 damaged during the construction. It will last for a  
7 while and then go away. That's something I like to  
8 avoid in projects.

9 Q. Would you mind pointing out where these trees  
10 are on this map over here that's bigger?

11 A. Sure. There's two areas where they might  
12 be -- you can see from what I can see -- I don't know  
13 if these are to scale. Here is the original triangle  
14 lot and then this area here, kind of a lawn area with a  
15 little bit of parking, and there's some trees that will  
16 be removed or altered for safety for the new parking  
17 lot. And a group of more significant trees would come  
18 out around this corner.

19 I believe -- I'm pretty sure that the Nuns'  
20 Garden, that has come up, is outside the leased area.

21 Q. I know it's outside the lease area.

22 A. Will have some effect from the tree removal,  
23 but I don't think it would be a negative effect to that  
24 garden continuing to grow.

25 Q. Thank you.



1 A. Good enough?

2 Q. Thank you. Yes. A lot more than yes or no,  
3 and I appreciate it. Thank you.

4 MS. HIRT: Do you have any -- well, just  
5 tell me the question.

6 BY DR. BAIN:

7 Q. It sounds like you're quite familiar with  
8 trees, well beyond the boundary of the park. I was  
9 wondering if you knew other stands of relatively old  
10 trees within ten miles of the shore on the east side of  
11 the Puget Sound?

12 A. I know of one fragment in OO Denny Park very  
13 close to the site.

14 Q. How large is that one?

15 A. I don't know in acres. Probably in the  
16 few-acres range. Most people don't know these trees  
17 exist. They're very large and very old, but they are  
18 shorter than you might expect.

19 Then there's a tiny fragment, actually maybe  
20 bigger than OO Denny, would be Seward Park, which I  
21 would say is beginning to have the characteristics you  
22 might need for nesting of murrelet. Although, that  
23 park has a huge amount of use, and it's not -- there's  
24 no place you can hide. Not as big as Saint Edward, in  
25 other words.



1 Q. So if you were updating the recovery plan and  
2 trying to say here's where we're going to end up with  
3 murrelets eventually on the east side of the Puget  
4 Sound, without going all the way to the foothills, is  
5 Saint Edward among the top five spots?

6 A. That's a little outside my expertise. I'm up  
7 here to comment, so --

8 THE HEARING EXAMINER: Wait. I have to  
9 hear from Ms. Wehling.

10 A. If the park sits there for a --

11 MR. RANADE: We have an objection.

12 THE HEARING EXAMINER: She waved me  
13 away, so go ahead.

14 A. I'm lost now.

15 THE HEARING EXAMINER: You can continue  
16 to answer your question. That's where we're at.

17 A. It's my opinion that if the park is managed to  
18 keep invasive species out and minimize the use, which  
19 is difficult to keep people on trails, that eventually  
20 you might see marbled murrelets and other critters come  
21 back there.

22 What I also believe is that the renovation of  
23 the building and the leased area of land, would  
24 probably have no impact on that. That's my educated  
25 guess.



1 Q. (BY Dr. Bain) All right. Any impact would  
2 have to be because of the way people going to and from  
3 that land behave, it's not what goes on within the  
4 leased area itself?

5 A. I think that's a legitimate statement.

6 THE WITNESS: Thank you.

7 THE HEARING EXAMINER: For the record,  
8 that was Dr. Bain asking the questions there. Are there  
9 any other questions?

10 MS. HIRT: No.

11 THE HEARING EXAMINER: We'll move back  
12 to redirect. And then after that, we'll take stock of  
13 where we are in today's proceedings and then take a  
14 break.

15 REDIRECT EXAMINATION

16 BY MR. MURPHY:

17 Q. Mr. Baker, I believe I just heard you say that  
18 you would need to minimize use in the area in order to  
19 support the marbled murrelet in the future; is that  
20 correct?

21 A. I think that the question of use is  
22 legitimate, and not necessarily related to the project  
23 we're talking about. The area is growing like crazy.  
24 And all our wooded park lands are experiencing higher  
25 use than they have in the past. I don't think this



1 place would be any different than that.

2 Q. Would you consider 865,000 people in a year  
3 minimized use that would support marbled murrelet?

4 A. I can't speak for the murrelets. But I know  
5 the park is very well used and well loved. And that's  
6 always a dilemma for your preservationist who really --  
7 many people say keep the people out altogether. That's  
8 not going to work in a state park in an urban area.

9 Q. I believe you said that the park may support  
10 marbled murrelet if decades passed, and this park would  
11 take more time than others to become old-growth forest,  
12 that use was minimized, that the endangered species was  
13 managed, and people stayed on trails outside the leased  
14 area; is that correct?

15 A. That's essentially what I said, yeah.

16 MR. MURPHY: Thank you.

17 THE HEARING EXAMINER: Okay. How many  
18 more witnesses do the applicants intend to have at this  
19 point?

20 MR. RANADE: We have three witnesses.  
21 Although, I suspect at least one of those will overlap  
22 heavily with the City, and that would be Bryan Hampson.  
23 Our proposal would be --

24 Are you inclined to take a short break?

25 THE HEARING EXAMINER: Yes.



1 MR. RANADE: After that, we would call  
2 Jennifer Barnes, the traffic department consultant.  
3 Then we would call Jeff Ding, who headed up the  
4 general -- overall preparation of the EIS. And then we  
5 would call Mr. Hampson. And I suspect the City has a  
6 substantial number of questions for Mr. Hampson. So  
7 there's probably bit of overlap on that. That would be  
8 it for us.

9 MR. KASEGUMA: The City does not have a  
10 lot of questions for Mr. Hampson. We will call Mr. Zach  
11 Richardson, but will probably take around three or four  
12 minutes for him.

13 THE HEARING EXAMINER: Ms. Wehling, do  
14 you have any witnesses you intend on calling?

15 MS. WEHLING: No, sir.

16 THE HEARING EXAMINER: Four more  
17 witnesses --

18 MR. RANADE: I'm feeling optimistic.

19 THE HEARING EXAMINER: Yeah. I think we  
20 can just --

21 MR. KASEGUMA: Mr. Examiner, can I ask  
22 you a procedural question, and ask you how we are going  
23 to carry out the rest of the proceedings today? As  
24 Mr. Examiner knows, you were requested by the applicants  
25 to change the order of the last three items on the



1 agenda. Currently as it stands, city responds and  
2 closing, applicant rebuttal and closing, and then  
3 appellant rebuttal and closing. And the applicant has  
4 asked to switch the last two.

5 THE HEARING EXAMINER: And I denied that  
6 in my email response.

7 MR. KASEGUMA: Oh, did you? Okay.

8 THE HEARING EXAMINER: Yeah. Because  
9 the appellants, since they have the burden of proof,  
10 they have the right to go first and last as to the whole  
11 due process.

12 Otherwise, if I switch the order, the  
13 applicant will then have an opportunity to respond to  
14 the appellant's opening presentation and then rebut  
15 their closing, which kind of tips the whole proceeding  
16 upside down. Because, as I mentioned, as you know in a  
17 typical criminal case or code enforcement case, the  
18 person with the burden of proof usually goes first and  
19 last.

20 MR. KASEGUMA: The second thing I want  
21 to confirm is that after the City's witnesses, you then  
22 would expect us to give our closing argument before the  
23 rebuttal testimony.

24 THE HEARING EXAMINER: That's right. If  
25 you're more comfortable deferring your closing until



1 later, I think that's fair because you didn't get to  
2 hear all the evidence presented. I will allow that if  
3 that's what you prefer.

4 MR. KASEGUMA: I would prefer to wait  
5 until the end.

6 THE HEARING EXAMINER: Let's take a  
7 10-minute break and then power through.

8 (Break taken from 3:01 p.m. to 3:10  
9 p.m.)

10 THE HEARING EXAMINER: All right. Back  
11 on the record. March 2, 2017, about 10 after 3 p.m.  
12 We're in the Saint Edward Park project 16-0077. We're  
13 in the applicant portion of the SEPA appeal portion of  
14 the hearing. And just to be clear in terms of -- before  
15 we went to break, I agreed to a modification of the  
16 format today. Let me be clear about that.

17 Once the applicant is finished presenting  
18 their evidence -- call them responsive evidence -- then  
19 we'll move on to the City, and they can present their  
20 witnesses. Then the appellants will be able to close by  
21 presenting their rebuttal witnesses.

22 And then after that, we'll go into a separate  
23 closing phase. That's not what was in my preorder. And  
24 the order of closing arguments will be City, then Parks,  
25 then applicant, then appellants.



1                   And at that time, we can discuss whether or  
2 not we want to do that in writing as opposed to  
3 verbally. Your mind may change, depending on how late  
4 it is by the time we get there, but we'll see. So  
5 anyway, with that, we'll move on to the applicant's next  
6 witness.

7                   MR. RANADE: Thank you.

8                   DIRECT EXAMINATION

9                   BY MR. RANADE:

10                  Q. Good afternoon, Ms. Barnes. Did you take the  
11 oath yesterday?

12                  A. Yes, I did.

13                  Q. Thank you. Would you please introduce  
14 yourself and summarize your educational background?

15                  A. My name is Jennifer Barnes. J-e-n-n-i-f-e-r  
16 B-a-r-n-e-s. I am a licensed civil engineer,  
17 specializing in transportation, licensed in Washington  
18 State. I received my bachelor's degree in civil  
19 engineering from Iowa State University and master's  
20 degree in civil engineering with an emphasis in  
21 transportation from University of Washington.

22                  THE HEARING EXAMINER: In case there's  
23 any confusion on this, this is a consolidated hearing,  
24 so any testimony that Ms. Barnes provided during the  
25 site plan doesn't have to be repeated. It's considered



1 to be subject to this appeal hearing as well.

2 MR. RANADE: I'm going to do my best to  
3 avoid --

4 A. I did not say my educational background  
5 yesterday.

6 Q. (BY MR. RANADE) Right. I think you said  
7 you're employed by Heffron?

8 A. I am. I've been with the company for about  
9 six and a half years of 20-plus years of transportation  
10 experience.

11 Q. And Heffron was retained to do the  
12 transportation and parking analysis in the DEIS?

13 A. Actually, prior to the DEIS.

14 Q. And just ballpark, how many environmental  
15 analysis -- sorry -- strike that.

16 Just ballpark, how many environmental analysis  
17 projects would you say you've done over your career?

18 A. So out of my career, I've been doing work  
19 along these lines for about 14 years. Eight years  
20 before the company with Heffron, which was an actual  
21 environmental consulting company. It's hard to count,  
22 but in the ballpark of 100 or more.

23 Q. You and your company wrote a technical  
24 memorandum, I believe, about this project; is that  
25 right?



1 A. Yes.

2 Q. And does that technical memorandum appear --  
3 or was it attached to the DEIS of Appendix H?

4 A. Yes.

5 Q. And did you initial that memorandum?

6 A. Yes. I prepared that technical memorandum.

7 Q. Is it your job, on a project like this, to  
8 calculate the number of parking spaces?

9 A. It's not my job to calculate the code  
10 requirements for parking spaces, but it's my job to  
11 evaluate their potential parking demand and assess the  
12 adequacy of the parking, whether it be the code  
13 required or what is proposed to require that demand.

14 Q. If a client comes to you and says, I want to  
15 build a school. How many parking spots do I need? How  
16 do you answer that question?

17 A. Usually I start with how many parking spaces  
18 can you build, and then do an assessment to  
19 determine -- there are code requirements. So the first  
20 answer would be, talk to the architects or the land-use  
21 planner and find out what the code plans are.

22 A lot of time our analysis -- what is proposed  
23 may or may not meet code requirements. For us, it's  
24 good information. But what we evaluate is the demand  
25 and the adequacy of the parking to accommodate that



1 demand.

2 Q. Is it fair to say that your conclusion on a  
3 project like this is to assess whether or not the  
4 proposed parking is enough. And if it's not, tell us  
5 what might need to be done to deal with parking?

6 A. Correct.

7 Q. Did you have a hand in the preparation of the  
8 Draft EIS?

9 A. Yes. I wrote the Draft EIS section.

10 Q. That's the transportation section?

11 A. The transportation section of the Draft EIS.

12 Q. And for the record, that's section 3.12.

13 Did you also have a hand in preparing  
14 responses to comments that were made on the Draft EIS?

15 A. Yes. I prepared responses to many  
16 transportation and parking comments on the Draft EIS  
17 for the FEIS.

18 Q. As I understand this section -- and I'm  
19 looking at section 3.12 of the Draft EIS -- it looks to  
20 me like you organized your analysis into several  
21 categories. And the first one, it starts on page  
22 3.3-12, is travel volumes.

23 A. Yes.

24 Q. And as I understand the way you've organized  
25 this, you start by talking about what's described as a



1 2020 No-Action Alternative, and then you look at  
2 Alternative 1 and Alternative 2. So what I would like  
3 to do is walk you through each one of those.

4 A. Okay.

5 Q. Let's start with the no-action alternative.

6 And to --

7 MR. LANCE: I'm having trouble finding  
8 the Draft EIS.

9 MS. HIRT: I got it.

10 Q. (BY MR. RANADE) I'm going to have you flip to  
11 page 3.12-5.

12 A. Yes.

13 Q. And here's a section called Year 2020  
14 No-Action Traffic Volumes. Do you see that?

15 A. Yes.

16 Q. I'm going to have you flip back a page before  
17 we get to this narrative. There's a table on the  
18 middle of page 3.12-4. Do you see that?

19 A. Yes.

20 Q. Can you tell us what that table is telling us?

21 A. That is summarizing the level of service that  
22 the results of the operational analysis -- at the  
23 intersection of Juanita Drive and Northeast 145th  
24 Street -- for existing conditions based on counts that  
25 were conducted at that intersection for both the a.m.



1 morning peak commute hour and the evening peak hour.

2           The reason we do the peak hour analysis is  
3 it's the highest traffic volume. So all the analysis  
4 is done for -- traffic analysis is done for those  
5 periods because it's the worst-case condition.

6           Q. It says -- I'm going to ask if I'm  
7 understanding this correctly. We see two sections to  
8 this table. One says Existing (2016) and then Future  
9 (2020) No Action?

10          A. Correct.

11          Q. So is that telling us the LOS today is B, and  
12 the LOS four years from now, nothing at all happens,  
13 will be C?

14          A. So I would say, yes, the level of service  
15 under existing conditions is B. The level of service,  
16 which is the measure of the traffic operation, which  
17 can be A through F. What we're looking at is to see if  
18 the level of service is at or better than the City's  
19 adopted standards for that location. And the City  
20 standard is D.

21                 What the future (2020) no-action analysis  
22 reflects, is without the project -- so if nothing  
23 happened at the project site, but it does take into  
24 account growth that would be expected to occur from  
25 other uses that access Northeast 145th Street, namely,



1 Bastyr University. And this also takes into account  
2 for the potential ball fields project that the City is  
3 considering.

4 Q. Am I correct then that your conclusion is  
5 today it's level of service B and that if this project  
6 never happened, it will still be likely level service  
7 of C in four years?

8 A. Correct.

9 Q. And you said that you looked at a bunch of  
10 data to reach that conclusion. I'm going to walk you  
11 through some of that data and make sure we have it  
12 clear on the record.

13 Before I get there, on the current traffic  
14 volumes -- you said that you actually did traffic  
15 counts. I see under this table 3.12-1, notation of  
16 Source: Heffron Transportation, Inc., September 2016.  
17 Is that when you took the traffic counts?

18 A. No. That's when we did the level of service  
19 analysis.

20 Q. So when did you take the traffic counts?

21 A. The morning peak hour was taken, I believe, in  
22 January of 2016 of that year. The evening peak hour we  
23 actually used the count that was conducted by the City  
24 of Kenmore, because it was conducted in May. And we  
25 wanted to capture the -- because the p.m. peak hour --



1 the worst of the worst-case condition.

2 We wanted to make sure that our existing count  
3 captured recreational activity at Saint Edward State  
4 Park. So the City conducted this count on a nice day  
5 in May when there was a lot of activity in the park and  
6 there was practice at the baseball field -- or the ball  
7 fields that are already on the site -- and a ball game.

8 Q. May of which year?

9 A. 2016.

10 Q. So both counts were done last year?

11 A. Yes.

12 Q. One other question for you about your  
13 conclusion before we get into your methodology. As I  
14 understand this table, it seems to conclude that even  
15 if the project never went anywhere, that there would be  
16 an increase in delay both at the a.m. period and the  
17 peak p.m. period?

18 A. Well, there's a reasonable expectation. We do  
19 expect -- there's traffic growth because of regional --  
20 so we also apply components of growth rates on Juanita  
21 Drive to account of the no-action scenario to account  
22 for just traffic growth that occurs from year to year  
23 as more development occurs in the city.

24 That was based on growth rates that came from  
25 forecasts that the City of Kenmore provided to their



1 comprehensive plan that takes into account all the  
2 future planned growth in the City of Kenmore through  
3 2035.

4 Q. So -- no. Go ahead.

5 A. So with reason -- we want to be conservative  
6 when we do our analysis. As we'll talk about shortly,  
7 is the basis for -- this is what we add our project  
8 trips to, to evaluate the project impacts.

9 So to be conservative, we make sure we account  
10 for growth consistent with what the City's forecasts  
11 are due to the regional growth.

12 Bastyr does have a master plan that plans for  
13 growth in campus population, so we reviewed that,  
14 looked at what their growth objectives were. We looked  
15 at historical growth actually at Bastyr University, and  
16 we estimated a growth that was more conservative than  
17 the observed or the planned growth, again, to be  
18 conservative.

19 And while the ball field project is not an  
20 adopted project at this point, if it were to move  
21 forward, traffic generated by that project would also  
22 be using 145th Street as an access road. To make sure  
23 that we're conservative and that we are considering  
24 cumulative impacts -- cumulative traffic impacts, we  
25 also took into account the additional traffic that



1 would be generated by that project if it were built.

2 Q. Thank you. And so you looked at the City's  
3 comp plan, which dealt with regional growth, the  
4 Bastyr's master plan, and you looked at a separate  
5 traffic study that was done for the ball field, and I  
6 think I heard you say, to establish a baseline?

7 A. Correct.

8 Q. And off of that baseline, we would then  
9 analyze the impact of this project?

10 A. Correct.

11 Q. So let's do that. Alternative 1. The section  
12 begins on 3.12-6. The conclusion, as I understand it,  
13 is mostly summarized, I think, on a table 3.12-10.  
14 It's table 3.12-4. I want to start there, and then we  
15 can talk about how you got there?

16 A. So the conclusion is that the trips that would  
17 be generated by the project would add delay to the  
18 intersection. But the intersection would continue to  
19 operate at level service C, which is well below the  
20 city standard level of service B. And, therefore, no  
21 mitigation would be required for traffic operational  
22 impacts.

23 Q. Thank you. So I now have questions about the  
24 methodology you used to reach that conclusion. At the  
25 bottom -- I'm going to have you flip backwards in the



1 book to 3.12-6 -- sort of rewind, I guess.

2 A. I know this section well.

3 Q. Under the traffic volume section, last  
4 paragraph, I'm going to summarize it. You estimated  
5 trip generation using a combination of nationally  
6 recognized rates developed by the Institute of  
7 Transportation of Engineers and detailed accounts at  
8 Cedar Brook. And we've heard quite a bit about Cedar  
9 Brook, and we heard quite a bit about the ITE, so I  
10 don't want to belabor the point.

11 Except to say that yesterday we heard  
12 testimony from Mr. Lance that if the ITE has metrics,  
13 they should be used. So my question to you is, Did you  
14 use ITE's metrics?

15 A. We used ITE's metrics when they were the  
16 most -- instead of metrics, I would say rates. We used  
17 the trip generation rates from ITE where they were  
18 higher than Cedar Brook. And we used the trip  
19 generation rate from Cedar Brook in the one case, peak  
20 hour, when it was higher than ITE.

21 Q. Now, most of the criticism of your report and  
22 analysis has been focused on the propriety of using the  
23 Cedar Brook data and the reliability of Cedar Brook and  
24 how it translates, so I want to talk a little bit about  
25 that. First, why did you use the Cedar Brook data at



1 all?

2 A. We used the Cedar Brook data -- I'll start  
3 with the ITE, if that's okay.

4 Q. Sure.

5 A. What ITE rates are based on -- ITE has a  
6 variety -- hundreds of categories of land use and  
7 provides trip rates based on measures of size of these  
8 different land uses. And those are based on counts of  
9 driveway trips of similar facilities. So the hotel  
10 category, as defined by ITE -- I'm going to find my  
11 little --

12 Q. The definition, I think, is on 3.12-2.

13 A. Place of lodging that provides sleeping and  
14 accommodation and supporting facilities such as  
15 restaurants, cocktail lounges, meetings and banquet  
16 rooms or convention facilities, limited recreational  
17 facilities, such as a pool or fitness room, and/or  
18 other retail and service shops.

19 So the ITE rates are an average rate based on  
20 counts of hotels that have this definition of  
21 combination of elements. But there are averages. As  
22 has been a lot of discussion, any two hotels are going  
23 to have different relative sizes, possibly. A  
24 conference room versus restaurant and use them in  
25 different ways.



1           What we seek in trip generation estimates is a  
2 typical estimate. And what we're aiming for is the  
3 high end, kind of a reasonable range of the typical  
4 trip generation.

5           What Cedar Brook allowed us to do -- because  
6 Cedar Brook, when we did the counts in 2013, was a  
7 facility that was very, very similar to what is being  
8 proposed at the Lodge in Saint Edward. So, basically,  
9 it gave us another data point so that we could  
10 corroborate what was in ITE, which is the average of  
11 number of sites.

12           But because we did our own data collection for  
13 this, we could also separate out conditions with or  
14 without a conference. Whereas, ITE is just kind of a  
15 typical facility that -- conference generated trips are  
16 implicit in these typical rates. But Cedar Brook  
17 allowed us to drill down to what the differences would  
18 be with or without a conference.

19           Q. So it lets you be a little more precise  
20 perhaps about a situation? To analyze the possibility  
21 of there being significant conference, more precisely?

22           A. Yeah. It allowed us to evaluate the effects  
23 of a conference versus not having a conference. If we  
24 had just gone straight with the ITE, we would have  
25 been -- it's standard practice -- it would have been a



1 very solid analysis, and we'll get to this, I would  
2 have reached the same conclusions.

3           What Cedar Brook allowed us to do is answer  
4 some of these questions about how big is big with a  
5 conference. And we would not have been able to do that  
6 with just the straight ITE rates.

7           Q. And you testified earlier that, I think you  
8 said, you've done over a hundred analyses. Do you  
9 normally use ITE rates?

10          A. We would always look first to ITE. There are  
11 sometimes where there's an unusual use that doesn't fit  
12 into one of the categories in ITE, and there are a  
13 number of options. Generally, yes, we would use ITE.

14          Q. And I want to highlight something that you  
15 said a couple of times, but I think it needs to be  
16 brought out very clearly, because the Cedar Brook issue  
17 and the capacity of Cedar Brook and capacity of the  
18 lodge has been put into issue.

19                 The data out of the ITE averages and the data  
20 you took out of Cedar Brook, those are expressed as  
21 rates; is that correct?

22          A. Correct.

23          Q. And so that's expressed by cars for occupied  
24 room?

25          A. Correct.



1 Q. And then so if the occupancy is higher, you  
2 apply the rate, and the number of cars would be higher.  
3 And vice versa, if the occupancy is lower, the number  
4 of cars would be lower, right?

5 A. Right.

6 Q. So because it's expressed as a rate, in your  
7 professional opinion, does it matter whether the count  
8 is done at a peak period or peak season versus a low  
9 season or if the analysis is taking place in a peak  
10 season versus a low season?

11 A. No. It doesn't matter what -- I mean, it  
12 would matter if you counted an empty hotel. But the  
13 Cedar Brook --

14 Q. What assumption are you making about the hotel  
15 here?

16 A. Well, our analysis assumes -- we applied these  
17 rates that are a per-occupied room to an assumption of  
18 100-occupied room.

19 So everything in our analysis assumes -- has  
20 projections that are based on a fully occupied hotel.  
21 So it would be as full as you can get, is fully  
22 occupied.

23 Q. And the rate analysis, as I understand,  
24 appears in the EIS on page 3.12-7; is that correct?

25 A. Yes.



1 Q. And I want to highlight something that I think  
2 you said. I think you said you erred on the  
3 conservative side of things?

4 A. Correct.

5 Q. There's narrative right before you get to the  
6 table that talks about the data collected by Cedar  
7 Brook and the ITE. And is that what you mean by you  
8 erred on the side of being conservative that you used  
9 the higher rate?

10 A. Yes. And what that paragraph is getting to  
11 is -- I'll make two points here. One, is these rates  
12 are based on driveway counts, and so -- that might be  
13 in the previous paragraph. But these trips rates, even  
14 though they're per occupied room -- the rooms are  
15 really the measure of the size of the hotel. A bigger  
16 hotel is going to have more rooms, and a smaller hotel  
17 is going to have fewer rooms. So that's the measure  
18 that works the best for measuring the size of a hotel.

19 But the trips are all of the trips that are  
20 generated by the uses on the site, because they're  
21 based on driveway counts. So the trips that are  
22 implicit in those rates are anything that's generated  
23 by guests staying at the hotel, by conference users  
24 that may or may not be staying in the hotel, by  
25 restaurant users who may or may not be staying at the



1 hotel. All of those uses in the hotel, as it's defined  
2 by ITE, are implicit in those rates.

3 And what we're saying in that paragraph that  
4 you referenced about the Cedar Brook Lodge, we too were  
5 aware that the Cedar Brook Lodge in its proximity to  
6 SeaTac Airport is in a different setting than the Lodge  
7 at Saint Edward, which is a suburban park.

8 But the conclusion -- what we found is that  
9 the Cedar Brook rates that we counted were a little  
10 bit -- they're in the ballpark of ITE, but they were  
11 higher. But the proximity of Cedar Brook to SeaTac  
12 actually -- probably results in a higher trip rate  
13 because there is likely more use of taxis and shuttles.

14 And so for every trip -- if you drive and park  
15 your car, right, and you want to leave, that's -- you  
16 just drive your car out and that's one trip. But if  
17 you take a taxi, there's an empty taxi that comes in,  
18 that's one trip. And then a full taxi that comes out,  
19 and that's a second trip.

20 So the proximity to those kinds of services  
21 actually results in a higher trip rate that probably  
22 would not be the case with the Lodge at Saint Edward.  
23 However, because the Cedar Brook rate was higher,  
24 possibly for these reasons, we still used it because it  
25 was more conservative.



1 Q. And I want to look at this table now and just  
2 sort of make very clear that what you got here, it  
3 looks like -- I see some footnotes next to the  
4 categories: Footnote 1 and a footnote 2. It looks  
5 like you've expressed as the daily rate is 8.92 cars  
6 per occupied room, a.m. peak hours .67, p.m. peak hour  
7 without conference guests is .70.

8 And I want to translate that for a second or  
9 compare it to the one you have above. I see a  
10 reference there to the ITE rate of .70 per occupied  
11 room and it looks like Cedar Brook had rate of .68  
12 trips per occupied room. So is this demonstrating in  
13 the table that you picked the more conservative figure?

14 A. Yes.

15 Q. And then you've got this final element p.m.  
16 peak hour with conference of .83 per occupied room.  
17 And that's derived from the Cedar Brook study; is that  
18 correct?

19 A. Correct. It's higher than ITE.

20 Q. Let's do some math. The next page, table  
21 3.12-3. I want to make sure we're on the same page  
22 here. This is the application of the rates to a fully  
23 occupied Lodge at Saint Edward; is that correct -- at  
24 100 occupied rooms?

25 A. Correct. So there was a range of 80 to 100



1 rooms. Again, to be conservative, we always applied  
2 our rates to the upper end of that range.

3 Q. So you're estimating 890 trips and you took  
4 trips off there?

5 A. We rounded 10 for daily trips. We rounded to  
6 the nearest 10.

7 Q. I see the 67 a.m. peak trips, and I see the 83  
8 p.m. peak trips. So you picked, for the p.m. peak  
9 rates, you picked the highest of the high for your  
10 data?

11 A. Correct.

12 Q. And that translates into your level of service  
13 and delay analysis that we've talked about, the table  
14 3.12-4; is that correct?

15 A. Right. So we added the project trips to the  
16 no-action trips, and then calculated the level of  
17 service. And the results of table 3.12-4 are the level  
18 of service results for both scenarios. We showed the  
19 no-action there just for comparison. And it was the  
20 same values in the previous table.

21 Q. When you say you added the trips to the  
22 no-action, is that expressed in these sort of Mac  
23 drawings that are figure 3.12-2?

24 A. Yes. So 3.12-1 had the existing trips and had  
25 the no-action with the different growth assumptions



1 that I described previously. Figure 3.12-2 has the net  
2 new project trips, which are the distributed trips from  
3 that trip summary table. And then the second part of  
4 that is the total trips with project, which is adding  
5 those project trips to the no-action trips.

6 Q. Okay. So the conclusion, then, will have the  
7 same level of service, but there will be increase in  
8 delays based on two data sets, one of which allowed you  
9 to reach a more conservative conclusion if you would  
10 have standard ITE approach. But, ultimately, the  
11 conclusion here is same level of service, but there  
12 would be an increase in delay?

13 A. Yes.

14 Q. Did you have a different conclusion or the  
15 same conclusion when it comes to traffic for  
16 Alternative 2?

17 A. There's no difference between Alternative 1  
18 and 2 from a traffic standpoint. The size of the  
19 facility is the same under either alternative.

20 Q. Let's talk about parking.

21 A. Okay.

22 Q. Would you turn to page 3.12-11. As I  
23 understand it, this table expresses -- and then there's  
24 narrative. The table expresses your conclusions about  
25 parking. Is it your conclusion that there will be



1 enough spaces in this project to accommodate overnight  
2 parking in most situations for a fully occupied hotel?

3 A. Yes.

4 Q. And is it your conclusion that in most  
5 circumstances that there will be enough parking on site  
6 to accommodate daytime use when there's a conference  
7 and a fully occupied hotel?

8 A. Under typical conditions, we concluded that  
9 the parking should be adequate.

10 Q. Is it your conclusion that it is possible that  
11 there will be events that are large enough that the  
12 lodge operator will need to make off-site parking  
13 arrangements?

14 A. The conclusion was that it is possible that --  
15 yes. With -- I guess the addition, the operator would  
16 need to mitigate, which would be off-site parking or  
17 could be something like valet parking. It depends on  
18 how much parking you need.

19 Valet parking allows you to pack more cars in  
20 the same amount of space. So if you're over by a  
21 little, you can address that with valet parking,  
22 likely. At Cedar Brook, in one of the days that our  
23 firm collected data, did exactly that on the one day  
24 their parking exceeded their on-site supply.

25 But if you had a large potential overspill,



1 then there would be a need of off-site parking to  
2 mitigate that.

3 Q. One of the criticisms we heard over the last  
4 couple days is there isn't a discussion of the, I'll  
5 call it, the 1,000-person scenario, where there's 550  
6 conference goers, all the rooms are full, the  
7 restaurant is full, and no overlap between any of those  
8 people. Is that scenario -- apart from its  
9 unlikeliness, is it accounted for in your conclusions?

10 A. Yes. Because we have acknowledged and  
11 disclosed that there's a potential that a large event  
12 could result in parking demand that exceeds the on-site  
13 supply, in which case mitigation would be needed.  
14 There's a lot of scenarios of what could possibly  
15 happen. We have disclosed that possibility.

16 Q. Okay. Let's talk a little bit about the  
17 methodology that you used to reach these conclusions.  
18 First of all, did you assume the hotel was fully  
19 occupied?

20 A. Yes.

21 Q. All 100 rooms?

22 A. Yes.

23 Q. And, again, did you use the ITE and Cedar  
24 Brook data to determine your rates?

25 A. Yeah. So for the overnight rate, we used ITE.



1 This is also described in the DEIS. But the flip side  
2 of the logic is that the Cedar Brook-observed trips  
3 would be higher because of the potential use of taxis  
4 and shuttles compared to a site in a suburban location.

5 And I should add, the ITE trip generation  
6 manual explicitly says that the data for hotel sites is  
7 primarily suburban. So the ITE rates reflect a  
8 suburban setting. The Cedar Brook reflects a setting  
9 that had more stuff around it.

10 Q. Just to demonstrate that you picked the more  
11 conservative rate, I want to refer you back -- before I  
12 refer you back, I see you got a rate of .89 vehicles  
13 per occupied room, at the top of your table there on  
14 3.12-5.

15 A. That came from ITE. Because in a case of a  
16 parking rate, the ITE was higher. And we would expect  
17 because -- with a suburban location, there's going to  
18 be fewer, less use of taxis and shuttles, so there's  
19 going to be more people who park on the site and fewer  
20 that would use taxis and shuttles.

21 So for parking analysis, the more conservative  
22 rate was the ITE suburban rate. That was higher from  
23 what was observed at Cedar Brook.

24 Q. And the Cedar Brook rate, it's stated in your  
25 Draft EIS, was .74 vehicles per occupied room?



1 A. That sounds right. Yeah.

2 Q. Tell us how you determined lodged -- during a  
3 conference event?

4 A. Because -- we did use the Cedar Brook data for  
5 that because we had observations with or without a  
6 conference, so we were able to estimate, based on our  
7 observed data, a vehicle per conference attendee. And  
8 this comes up several times, and I will expect it will  
9 again pretty soon.

10 There are a lot of combinations, right, of  
11 different kinds of combinations of events and overnight  
12 guests on the site. It's not practical or even needed  
13 to try to evaluate every scenario.

14 So what we did, given we already concluded  
15 there's going to be -- there's at least potential that  
16 occasions could happen where there's too much parking  
17 demand for the proposed supply -- we evaluated a  
18 scenario that assumed full occupancy of the hotel, with  
19 hundred rooms of guests that were staying in the hotel.  
20 We calculated the daytime parking demand that would  
21 result from that. We looked at the different parking  
22 spaces that were, basically, left, if you assume the  
23 full occupancy, and how many -- based on our  
24 observations at Cedar Brook -- how many conference  
25 guests could be supported with the rest of the parking



1 spaces.

2           And really that was just a scenario meant to  
3 illustrate with a tipping point between enough parking  
4 and not enough parking. There is certainly scenarios  
5 where some conference guests are staying at the lodge.  
6 So you could have a higher number of conference guests.  
7 But this was -- we consider to be a conservative  
8 scenario where you got these two things happening  
9 independently of each other, and concluded in that  
10 case, the parking could accommodate conference or  
11 meeting size of about 120 participants.

12           That was really meant to give an order of  
13 magnitude to the conclusion we already made that there  
14 could be times where parking would be -- overspill  
15 would be a potential.

16           Q. So the 120 figure is -- I understand there's  
17 lots of ways, combinations in which there can be  
18 overlap between the purposes of the trip. But it's  
19 kind of the rule of thumb, a guide post if you will, to  
20 give the operator and the City and State the sense of,  
21 you know, what kinds of events might be large enough  
22 that arrangements would need to be made?

23           A. Right. How big is big when we're saying a big  
24 event? In this case, attendants of 120 participants,  
25 beyond that, with a fully occupied hotel and no



1 overlap. That's what that number represents.

2 Q. If you had considered a scenario where there's  
3 1,000 people in the building all independently using  
4 different uses, would your conclusion have been any  
5 different?

6 A. No. Because we concluded, if there's a larger  
7 event, then there will be mitigation needed.

8 Q. And by concluding what you did and using this  
9 illustration -- or laying out this illustration, are  
10 you not, in fact, telling the reader that it's likely  
11 that far short of 1,000 people in the building is going  
12 to require mitigation? So you're giving them a better  
13 sense of when there's going to have to be some sort of  
14 mitigation?

15 A. Right. Right. And I'll say, I mean, 120,  
16 that's a moderately-sized event. Our conclusion is, on  
17 most days, this is a reasonable number. And it could  
18 be a little bit higher if there's not a fully occupied  
19 hotel or some of these participants are staying at the  
20 hotel. It gives some oomph to the conclusion of what  
21 we are calling a moderately-sized event or a typical  
22 event that can be accommodated by this amount of  
23 parking.

24 Q. Thank you. There has been a fair amount of  
25 discussion, particularly in Mr. Lance's presentation,



1 about sort of this idea of no net loss of parking. How  
2 many spots are in the park right now -- public parking  
3 spots?

4 A. Public parking in the park is 220 stalls.

5 Q. When this project is complete, how many  
6 parking spots will be available?

7 A. 220 stalls.

8 Q. And is that your understanding as to what is  
9 meant by no net change in parking spots?

10 A. Right. No net loss in parking supply of  
11 public parking.

12 Q. Now, on the question of parking, is your  
13 conclusion the same or is it different with respect to  
14 Alternative 2?

15 A. It's the same. Because the only difference is  
16 the configuration of parking, but the total supply is  
17 the same for both alternatives.

18 Q. You wrote the transportation part of this  
19 report, correct?

20 A. Correct.

21 Q. Did you take a look -- would you flip to  
22 3.12-2?

23 A. Okay.

24 Q. And I want to direct your attention to the  
25 section Transit and Nonmotorized Transportation. Are



1 you there?

2 A. Not on 3.12-2.

3 Q. 3.12-2. I'm sorry. 3.12-12.

4 A. Yes. There it is.

5 Q. There's two paragraphs under that heading. Do  
6 you see that?

7 A. Yes.

8 Q. Would you please read aloud the first sentence  
9 of the second paragraph?

10 A. It is expected that lodge guests would take  
11 advantage of the recreational trails provided at the  
12 adjacent Saint Edward State Park. But Alternative 1 is  
13 expected to generate very little amount of motorized  
14 demand on the surrounding street system.

15 Q. So is that -- are you concluding there that  
16 you expect lodge guests to use the trails?

17 A. Yes. In the first half of that. And the  
18 second half is making it clear to be conservative in  
19 our traffic operational analysis. And because we think  
20 it's a realistic scenario that we didn't assume people  
21 would be biking to the lodge or walking to the lodge.  
22 Even though some could, we assume all the trips  
23 generated by the lodge would be by vehicle. But that  
24 users of the lodge would take advantage of the  
25 recreational trails in the park.



1 Q. Would you please flip to 3.12-14?

2 A. Okay.

3 Q. Can you tell us right at the top of that page,  
4 top half of the page, what are you discussing there?

5 A. Describing, basically, what I described  
6 earlier that our traffic operational analysis is a  
7 cumulative analysis in that it takes into account  
8 regional growth due to development. It takes into  
9 account additional campus growth, the traffic that  
10 would be generated by additional traffic growth  
11 generated by Bastyr University. It takes into account  
12 the potential trips that would be generated by the ball  
13 field project.

14 So everything that could potentially add to  
15 that intersection, was all added together and analyzed  
16 cumulatively, so we were evaluating cumulative traffic  
17 impacts.

18 Q. You sat through Mr. Lance's testimony  
19 yesterday, correct?

20 A. Yes.

21 Q. Did you hear him acknowledge that certain  
22 large events, even now, use the ball field as parking?

23 A. Yes.

24 Q. I know one of your mitigation measures here is  
25 that for events of a sufficient size, there would have



1 to be off-site parking, and you specifically talked  
2 about doing a deal with Bastyr. Do you remember that  
3 in your report?

4 A. Yes.

5 Q. Would using the ball fields in the same way as  
6 the summer concert series does, would that be  
7 consistent with the mitigation you were talking about?

8 A. If there was an agreement.

9 Q. Assuming it's legal and approved?

10 A. The reason we pointed that out is --  
11 basically, we're saying, if there's a large event  
12 that's large enough that exceeds the parking, either  
13 valet to some extent would be able to address that.

14 If there's a very large event, there will need  
15 to be off-site parking, and the lodge would need to  
16 make an agreement with somebody to provide that.

17 And the reason we mention Bastyr is because  
18 it's right there and there's all these parking spaces.  
19 And it's been our observation that a lot of the larger  
20 events that would happen at this would be something  
21 like a wedding when -- which would happen on a weekend  
22 when the Bastyr parking demand is not going to be as  
23 high.

24 But the essence of that is there would need to  
25 be off-site parking.



1 Q. The discussion of Bastyr is just illustrative,  
2 correct?

3 A. Right. That's a possibility.

4 Q. And there are other options of off-site  
5 parking?

6 A. Right. And my understanding is that the  
7 mitigation that was identified in the transportation  
8 section of the DEIS is a condition of the lease between  
9 State Parks and Saint Edward Lodge. If parking on the  
10 Bastyr campus did not turn out to be practical in  
11 certain conditions, then the applicant would still have  
12 the responsibility to find some kind of equivalent to  
13 that.

14 Q. I just want to make sure that the record is  
15 abundantly clear. If you had considered the  
16 1,000-per-full-capacity scenario, your conclusions  
17 would be the same as they are in your report; is that  
18 correct?

19 A. That is correct.

20 MR. RANADE: Thank you. I have no more  
21 questions.

22 THE HEARING EXAMINER: I have a couple.  
23 Then we'll move on. Is there an ITE parking generation  
24 category for conference centers? There is definitely  
25 not one for trip generation.



1           A. I don't think there's one for conference  
2 centers.

3                         THE HEARING EXAMINER: If this were just  
4 a pure meeting facility, there wouldn't be an ITE  
5 category that would apply of any kind?

6           A. I can tell you for sure there's not a trip  
7 generation category for a conference center -- parking  
8 generation. And that would be a case -- say we had to  
9 evaluate something that doesn't fit within an ITE  
10 category, we would need to go find something that is  
11 similar.

12                        THE HEARING EXAMINER: What about a  
13 convention center category?

14           A. No, there's not.

15                        THE HEARING EXAMINER: That's  
16 surprising.

17           A. They're unusual uses. This proposal is really  
18 the textbook definition, literally, of how ITE defines  
19 a hotel. For me, I had no need to look beyond this  
20 category, because this category fits the definition of  
21 what's being proposed in this case.

22                        THE HEARING EXAMINER: Okay. Got it.  
23 Moving on. Ms. Wehling, have any questions?

24                        MS. WEHLING: No, sir.

25                        THE HEARING EXAMINER: Mr. Kaseguma.



1 MR. KASEGUMA: I have a few.

2 CROSS-EXAMINATION

3 BY MR. KASEGUMA:

4 Q. Ms. Barnes, were you present this morning and  
5 this afternoon during Ms. Hirt's testimony?

6 A. Yes.

7 Q. Do you recall her stating that meetings are  
8 currently being held in the dining hall of the Seminary  
9 building?

10 A. I did hear that happens on occasion.

11 Q. And do you know where these attendees park  
12 when they're attending these functions in the dining  
13 hall?

14 A. It's not something we evaluated. But it would  
15 have to be in the parking that's available, which I  
16 assume is the public parking.

17 Q. Would you agree after this project is  
18 completed and implemented that the attendees in the  
19 restaurant of the building would be parking in the  
20 project's parking structure or spaces?

21 A. Yes. And any meetings that happen in the  
22 lodge would have to be accommodated by the lodge -- by  
23 the lodge parking.

24 Q. And so, therefore, would you agree that this  
25 project -- proposed project will be moving impending



1 need for the existing parking stalls that are currently  
2 available to the public?

3 A. I will say yes, in the case that that happens,  
4 that would be the situation. How frequently that there  
5 is demand, I don't have information for that.

6 And we -- I'll say, another conservative  
7 estimate is taking no -- even if something happened  
8 occasionally on the site, we didn't give it any credits  
9 for removing trips. But, yes, in our analysis, because  
10 it's more conservative, not to do that. But, yes.

11 Q. I heard you say repeatedly, today and also  
12 yesterday, that your study is based upon 100 guest  
13 rooms?

14 A. Yes.

15 Q. Not 80?

16 A. Not 80.

17 Q. Have you had a chance to look at the  
18 preliminary diagrams for the use of the lodge facility?

19 A. Not in any detail, no.

20 MR. KASEGUMA: I have nothing further.

21 THE HEARING EXAMINER: Ms. Hirt.

22 CROSS-EXAMINATION BY THE APPELLANT

23 BY MR. LANCE:

24 Q. I'm going to have -- sorry, to appear to have  
25 a free-flowing train of thought here -- questionnaire.



1 A. That's okay.

2 Q. When you did the Cedar Brook study back in  
3 January of 2013 and you generated 120 people average  
4 visitors in the conference center -- when you did your  
5 analysis and you had your visitation to the conference  
6 center at Cedar Brook January 2013, what would have  
7 happened to your multiplier numbers that week, which  
8 was a very low capacity -- many times, as many  
9 people -- conferences -- that's the question.

10 What if the visitation had been double in the  
11 conference center, would that have changed your  
12 numbers?

13 A. It would have changed the numbers, except that  
14 wasn't the -- it wouldn't have changed the numbers of  
15 the trips per conference attendee, because that's how  
16 -- or the vehicles are parked, because we calculated  
17 per conference attendee.

18 Q. When you made your parking projections for  
19 Saint Edward, did you base that off of the Cedar Brook  
20 observations from January 2013?

21 A. We applied the rates that we derived. As I  
22 said earlier, we applied the rates from ITE for  
23 overnight guests, because that was more conservative,  
24 and then we applied the conference rate per attendee  
25 from Cedar Brook, because that was more conservative.



1 Q. If during the week, you had done your  
2 observations, the conference attendants would be double  
3 or triple, would your observed need for parking  
4 calculation have changed for Saint Edward?

5 A. I can't tell you that, because you can only  
6 calculate against what you observe. So based on the  
7 rates we observed, if the attendance had been double,  
8 then the trips we would have counted would have been  
9 double, and then that would be divided out and come up  
10 with the same rate.

11 Q. This is all per conference attendee?

12 A. For the conference attendee. And that's where  
13 we used the Cedar Brook data.

14 Q. Was to just calculate the Cedar Brook data  
15 then for 2013 -- just to help me out here, the Cedar  
16 Brook data from January 2013 was used to develop  
17 traffic per conference attendee?

18 A. Yes.

19 Q. And it was not used --

20 A. So it was calculated to -- well, are you  
21 talking about trip or parking?

22 Q. I'm trying to talk about both and --

23 A. So you need to ask them separately, because  
24 they're different sets of assumptions.

25 Q. When you projected the parking requirements



1 for Saint Edward Lodge, did you -- was one of your  
2 metrics to extrapolate from the January 2013 observed  
3 parking at Cedar Brook?

4 A. Yes. We did use that data as part of our  
5 analysis.

6 Q. And if at that time, Cedar Brook had twice as  
7 many attendees, just because it could have happened,  
8 would you have concluded that we -- the Lodge at Saint  
9 Edward would need twice as much parking?

10 A. I can't tell you that. We count the attendees  
11 and count the trips that go with that.

12 Q. I'm not talking about parking right now?

13 A. The whole point is to count the trips and to  
14 count the attendees that went with it.

15 Q. Okay. Then looking at your table, for .90 per  
16 conference attendee, is the number for your parking  
17 demand calculation?

18 A. That's because we were able to observe  
19 conditions with and without a conference, and count the  
20 total parking in demand in both of those conditions.  
21 We were able to estimate this .9 vehicle per daily  
22 conference guest, because we could observe the  
23 condition with a conference and the condition without a  
24 conference.

25 Q. Then help me out here. With your estimation



1 for the parking needs during a conference --  
2 actually -- did you create an overall demand across the  
3 year for Daniels' lodge? I just don't see it in here.  
4 How many trips per year would you expect the lodge to  
5 generate, conference conditions and hotel conditions?

6 A. That's not part of this trip -- we look at the  
7 worst-case condition on a typical day and the potential  
8 implications for special events that could change that  
9 conclusion for a typical day.

10 Q. When an operator, such as this, has a lodge  
11 and a conference situation, what percentage of the time  
12 would you expect, under typical ITE recommended  
13 conditions, that the operator have parking on-site for  
14 all visitors?

15 A. ITE guidelines and designs standards will  
16 dictate that you do not design for extreme conditions.

17 Q. That wasn't my question. What percentage of  
18 the time would ITE expect a lodge and hotel to be able  
19 100 percent -- to accommodate all the visitors at that  
20 time? 50 percent occupancy? 25 percent occupancy? 75  
21 percent occupancy of the project. Would you expect --

22 A. ITE doesn't provide information in that way.

23 Q. Do you have any ideas how often the lodge at  
24 Saint Edward will have a spillover event?

25 A. That's an operational question. I don't even



1 think the lodge knows that. It hasn't been designed.

2 Q. There's no market research done at this point  
3 to project -- I'm asking, is there market research that  
4 you can rely upon or have seen?

5 A. That is outside of my purview. What we  
6 analyze is a typical -- the high end of a typical  
7 condition on any given day, and then we analyze what  
8 the potential increases could be if there is an  
9 untypical condition.

10 In this case, an untypical condition would be  
11 a large event where Saint Edward would not be able to  
12 accommodate all of its parking. In which case, we  
13 identified when and if that happens, there needs to be  
14 mitigation to accommodate that.

15 The number of days, that is not relevant.  
16 What's relevant is that either they can accommodate  
17 their parking traffic or they can't. And our  
18 conclusion is, Usually they should be able to, based on  
19 a moderately-sized event and full occupancy of the  
20 hotel.

21 And we disclosed that with a large event,  
22 which there's no information at this time to be able to  
23 say how often it happens. But if it does happen, then  
24 we identified that mitigation would be needed for  
25 parking.



1 Q. I'm sure you're familiar with the 550 figure  
2 for conference attendees -- 240 is the peak activity  
3 calculation that Daniels provided us. If you even --  
4 what would happen if you operated that facility at  
5 half?

6 A. Half of what?

7 Q. 225 conference attendees, 120 restaurant  
8 visitors?

9 A. That's not how hotels usually work. But the  
10 trips do not assume --

11 Q. I'm talking about parking right now?

12 A. Right. But for parking -- for any of these  
13 rates, when you have a facility that has rooms and  
14 meetings rooms and restaurants and maybe a bar and some  
15 other shops, you don't have a situation typically,  
16 where you've got every inch of space, shoulder to  
17 shoulder, with people. That's not a typical event,  
18 right?

19 Because people who are staying at the lodge go  
20 to the hotel. Even if you have an event that uses  
21 meeting rooms -- some meeting -- they might be in one  
22 room for one thing, and they might have breakout  
23 sessions to other rooms.

24 So what ITE -- this is a typical use of a  
25 hotel with the combination of uses. So when the ITE



1 rates -- they're reflecting that type of typical  
2 situation.

3           Now to answer your question, if you have  
4 something higher that puts us in the realms that we did  
5 identify in the EIS, that if you have an event where  
6 you've got higher attendance and a higher combination  
7 of uses that are going to exceed your parking demand,  
8 then mitigation is needed.

9           Q. Okay. So it's unknown how often this lodge is  
10 likely to exceed its designed parking capacity?

11          A. It depends on -- the answer for any kind of  
12 use is that it's going to vary from day to day. And  
13 you can't predict who is going to book in a hotel that  
14 doesn't exist yet.

15          Q. The reason this become important is the issue  
16 of lodge visitors using the public parking. And this  
17 has been a promise to the project: There will be no  
18 loss of public parking.

19                 And when large conference attendees are using  
20 the public parking and choosing to park in the public  
21 lot, despite all the incentives the lodge operator  
22 gives, we are going to experience a loss of public  
23 parking that was promised to not go away?

24          A. I'll tell you that it is in nobody's best  
25 interest for that to be the situation. It's not in my



1 best interest -- our job, the reason why we're hired is  
2 to evaluate the parking, what the parking demand is  
3 expected to be for different facilities, right?

4 My reputation and our firm's reputation is  
5 built on giving those types of estimates. It's in our  
6 best interest -- please let me say this through.

7 The applicant, it's in their best interest to  
8 have parking that's adequate to meet their demand. And  
9 it's in the City and State's best interest to have  
10 parking that does not overflow to -- resource. So  
11 that's why we have identified mitigation to address  
12 that potential impact.

13 Q. Yesterday -- I'm not going to repeat my very  
14 real concerns about the mitigation being reasonable.  
15 We've already been down that path. Even if the ball  
16 field is available for parking, it's only seasonal  
17 parking. It's not available all year round. It's not  
18 available now, not in the springtime, because it's wet  
19 and soggy. People are going to be parking off site.

20 In many ways, this is starting to feel like a  
21 shoot-ready-aim project, where we're going to build the  
22 hotel and build the lodge and figure out the parking  
23 later.

24 MR. RANADE: Is there a question in  
25 there?



1 MR. LANCE: She did not answer my  
2 question. She didn't actually calculate parking demand.

3 MR. RANADE: Again, is there a question  
4 in there?

5 MR. LANCE: I don't really.

6 THE HEARING EXAMINER: Get to the  
7 question then.

8 MS. HIRT: I have questions that Peter  
9 can give during redirect.

10 MR. LANCE: They covered that.

11 MS. HIRT: No, she didn't.

12 MR. LANCE: Yeah. It's covered.

13 MS. HIRT: No, it's not.

14 CROSS-EXAMINATION

15 BY MS. HIRT:

16 Q. Okay. You mentioned the growth of the region,  
17 and you mentioned Kenmore comprehensive plan and you  
18 used Kenmore. Are you aware that the Kenmore -- the  
19 Kirkland's line is on Northeast 145th? The Kirkland  
20 city -- Kirkland-Kenmore line is at the edge of the  
21 park?

22 A. So that doesn't -- so Kenmore's comprehensive  
23 plan takes into account growth. The intersection is in  
24 the City of Kenmore.

25 Q. Correct.



1           A. And Kenmore's comprehensive plan forecasts  
2 future traffic growth on all the Kenmore's streets  
3 based on growth, not only in Kenmore but in the region.

4           Q. I asked, Did you take into consideration in  
5 the area that it is south of the park that provides  
6 traffic at that intersection? You used Kenmore, but  
7 traffic is not just in the City of Kenmore on Juanita  
8 Drive?

9           A. That's right. You are correct.

10          Q. Did you take into consideration the traffic  
11 coming to that intersection from the south, which is  
12 not Kenmore?

13          A. Yes. Because the City does take that into  
14 account as well. So using City data is the best way to  
15 take that into account, because the City's projections  
16 take what's happening also in neighboring jurisdictions  
17 into account as well as what is happening in the  
18 Kenmore city limits.

19          Q. So they've applied the grown in the Fin  
20 Hill --

21          A. Definitely.

22          Q. -- Kirkland --

23          A. That's what comprehensive plans do.

24          Q. That answers my question. Thank you.

25                 You have a conference time of 11:45 to 3:45



1 p.m. That's what's on here, on chart 13 -- 3.12.

2 A. That's the time of day for peak demands  
3 related to conferences.

4 Q. Okay. How is that derived?

5 A. That was derived from observing Cedar Brook of  
6 the eight days of conferences that happened in the nine  
7 days of data collection.

8 Q. And there's no study about conferences that go  
9 all day like from 8:00 to 5:00 or --

10 A. So both in parking and traffic conditions, we  
11 look at peak conditions because that's the worst case.  
12 So whatever your conclusion is for the peak condition,  
13 the worst condition, it's going to be better for a  
14 non-peak condition.

15 So what this is saying is that conferences  
16 happen all day, but the peak parking demand, when  
17 everybody is most likely to be there, is between 11:45  
18 and 3:45, because people kind of trickle in and they  
19 kind of trickle out.

20 So what we look at for all of our analyses is  
21 a peak condition because that's the worst-case  
22 condition.

23 Q. So there is nothing -- that's the  
24 worst-case -- I take that is the worst-case position at  
25 Cedar Brook?



1           A. That's for a conference. I mean, what you do  
2 with traffic and parking analysis, right? We are  
3 projecting for something that doesn't exist yet, right?

4           Q. Yes.

5           A. We have to do analysis and draw conclusions  
6 about something that is not there right now. So what  
7 the standard practice is -- and this is the Institute  
8 of Transportation Engineers -- this is how you do  
9 traffic impact analysis is that you observe trips or  
10 parking, and/or depending on what you need to analyze  
11 for similar facilities.

12                   And, yes, it's based on counts on certain  
13 days. But we counted several days, and then we  
14 compared that to ITE for several sites against the  
15 country. And all of these rates were similar to each  
16 other. They were in the same ballpark.

17                   So the Cedar Brook data that we counted in  
18 great detail and derived rates, we compare that to ITE  
19 that does the same thing for facilities all over the  
20 place in suburban locations, and they're close to each  
21 other. So that's good. That kind of corroborates each  
22 other, but that's more data, which is good. And we use  
23 that to project conditions for the similar facility.  
24 That's how you do traffic impact analysis.

25           Q. My root question is the timing of 11:45 to



1 3:45 for a peak time.

2 A. Right.

3 Q. That's a time that you have a lower hotel  
4 parking rate of guests?

5 A. Right. Because they're off doing tourist  
6 stuff.

7 Q. Right. And I don't know you went into --  
8 comparing with across the country, and I don't know if  
9 that's the peak time all across the country or just at  
10 Cedar Brook. My question --

11 A. Do you want me to answer that?

12 Q. Answer that, and then I'll go with the rest of  
13 the question based on that answer.

14 A. So this is why using the Cedar Brook data was  
15 a good thing. It helped -- it added to our data set.  
16 If I had relied entirely on ITE -- ITE would have said,  
17 on a typical day -- it does say on ITE parking  
18 generation, on a typical day, it doesn't break out  
19 between -- with and without conference.

20 It's just this is a typical day for a facility  
21 that has meeting rooms and all these other elements  
22 that we've been talking about.

23 And, then, what ITE parking generation says is  
24 that the peak demand -- the peak parking demand is  
25 overnight on the typical day. Because the peak parking



1 demand is when you've got all the guests staying at the  
2 lodge.

3           And then the next part, the next kind of worst  
4 time is there's a profile in the middle of the day. If  
5 I relied only on ITE, my conclusion would have been the  
6 same. It would have -- but we understand the context  
7 of this data, and we consider it when we're drawing our  
8 conclusions.

9           So if I had relied only on ITE, that would  
10 have been standard practice. We would have been  
11 totally fine. I would reach the same conclusions. But  
12 ITE would have said, based on its rates, the worst time  
13 of day is going to be overnight, and the next worst  
14 time of day would be midday, but it was going to be  
15 less.

16           And my conclusion would have been, based on  
17 ITE, on a typical day, just like it was, the parking  
18 should be adequate. But I would have recognized the  
19 limitation of the ITE data, in that it is a typical day  
20 and there can be worse than typical, right? There  
21 could be a big event that may not be typical, and it  
22 does happen. And I would have concluded exactly what I  
23 concluded.

24           It's just having Cedar Brook allowed us to  
25 provide more numbers to back up those same conclusions



1 that were completely consistent with what the ITE  
2 manuals were showing, as well.

3 Q. Given what you just said, I'll ask my question  
4 in a different way. Since a.m., overnight, so 8:00  
5 a.m., for example, parking was probably, from the  
6 hotel, would still be at the high level, chances are.

7 Then the accounting for a conference that  
8 starts at 8:00 a.m., to contain the parking within the  
9 spaces that the -- you know, the hotel has, would that  
10 constrain the hotel from being able to have an 8:00  
11 a.m. conference because they didn't have enough parking  
12 spaces in their area and it would have to go to public  
13 parking. Would that constrain the hotel?

14 In other words, would you have too many cars  
15 parked at 8:00 a.m. with an off-site conference and all  
16 the rooms filled?

17 A. So people are leaving and coming, you know,  
18 all together, right?

19 Q. Yes.

20 A. What would happen to a conference that was  
21 large enough that there would be a potential problem --  
22 these things don't happen spontaneously, right? A big  
23 conference just doesn't happen at a hotel. They know  
24 it's coming.

25 Q. Correct.



1           A. That's a very precise question. The bigger  
2 answer is that if you've got that kind of event where  
3 you've got an overflow situation, then there is a need  
4 to mitigate. And maybe if there's going to be some  
5 kind of overlap where there's not quite enough parking,  
6 then the mitigation that we identified for valet  
7 parking would resolve that.

8           But it will be the operator of the hotel's  
9 responsibility to determine when events are occurring  
10 that are going to cause those kinds of problems to  
11 mitigate those problems. Does that answer your  
12 question?

13          Q. Yeah. It does. And it answered the next  
14 question, too. So, good. The other question I had is  
15 how many more cars can be parked when you do valet  
16 parking? I have no idea what the rule is there? What  
17 the idea is.

18          A. I can give you the rule of thumb.

19          Q. That's fine.

20          A. It depends on the configuration of the parking  
21 garage, but we've done some research on other hotel  
22 projects and found something that cited 1.4 to 1.7  
23 greater parking. But it very much depends --

24          Q. So about 40 percent higher?

25          A. 40 to 70 percent higher. That's just a rule



1 of thumb, just to give you an idea.

2 Q. That's all I ask for. Let's see. You  
3 answered the other question. So I think my other  
4 question goes back to the restaurant. When you have  
5 restaurant patrons coming to the hotel, that you have  
6 the parking lot pretty full, that is the concern we  
7 have of those restaurant patrons using the public parks  
8 section and those 220 parking spaces -- stalls not  
9 being available to park users. I'm not saying all 220.  
10 I'm saying get to the point where it's saturated with  
11 -- because the park goers can't find a place to park  
12 because restaurant patrons are parking in the public,  
13 but they really came for the lodge?

14 A. So the parking generation rates take into  
15 account the restaurant uses as well. The way those  
16 rates are derived -- just like I was saying the trips  
17 are counting who is coming in and out of the driveway.  
18 You don't know who is an employee, who is your  
19 overnight guest. The parking rates are derived the  
20 same way.

21 Only now we're counting the cars that are in  
22 the parking lot. There is interaction between these  
23 uses. And a pretty robust data set between the ITE and  
24 our own counts that those parking generations, even  
25 though it's a per occupied room, that's just the



1 measure of the side of the hotel. And that rate is  
2 taking into account patrons who are just coming to the  
3 restaurant and not staying at the hotel. All of the  
4 different uses, the combination of uses, are implicit  
5 in those rates.

6 Q. In your rate here of .89 vehicles per  
7 occupied, includes someone like me who would just go to  
8 the restaurant and not staying in the hotel?

9 A. Definitely. And that was what was good about  
10 Cedar Brook, because Cedar Brook had a restaurant and  
11 the meeting rooms and conferences. And so all your  
12 counts were capturing, and the ITE counts, because it's  
13 based on counts of these types of facilities as well,  
14 are capturing all of those trips.

15 You can't, when you're out there counting,  
16 know this car is a restaurant or an overnight guest.  
17 But you know for this mix of uses, here's what the  
18 demand is, and so all those are implicit in those  
19 rates.

20 MS. HIRT: Okay. Thank you.

21 BY MR. LANCE:

22 Q. Okay. So I just want to ask, at the end of  
23 the day, does it really matter how many parking spaces  
24 are there? Because when parking is short, it's got to  
25 be mitigated? Is that the relief of --



1           A. I would say, it matters in that -- we did  
2 enough analysis to conclude with full occupancy at the  
3 hotel and pretty decent -- 120 is not a tiny event.  
4 And that's just a rule -- only most days with typical  
5 conference conditions that the parking would be  
6 adequate. If there was less parking, I know that  
7 tipping become less if there's more. So it does matter  
8 in that sense.

9           We do believe that, based on our analysis that  
10 the parking will generally be able to be accommodated  
11 on-site.

12          Q. How did you determine typical for the Lodge at  
13 Saint Edward State Park?

14          A. I don't understand the question.

15          Q. How do you decide what a typical conference is  
16 going to be for that lodge?

17                 MR. RANADE: Mr. Examiner, this has been  
18 asked and answered several times.

19                 THE HEARING EXAMINER: I don't think it  
20 has. And I was going to ask it if he wasn't. The  
21 entire --

22                 MR. RANADE: The entire testimony --

23                 THE HEARING EXAMINER: Pardon?

24                 MR. RANADE: The entire methodology she  
25 used that we spent --



1 THE HEARING EXAMINER: She just  
2 explained that her methodology is based on number of  
3 parking spaces per guest, but she has no information on  
4 how many guests are going to be at the conferences. So  
5 how do you determine from 120 parking spaces available  
6 for conferences that that's going to meet the demand for  
7 conferences when you don't know how many people are  
8 going to the conferences? That's the part I don't  
9 understand either. I'm really curious.

10 Because there's a sentence you have here in  
11 your EIS that says, under table 3.12-5, Proposed on-site  
12 parking is expected to accommodate most demand under  
13 most conditions under Alternative 1.

14 How do you come to that conclusion if you  
15 don't know how big the conferences are going to be,  
16 typically? And you just told Mr. Lance that under  
17 typical conference conditions, there's sufficient  
18 parking. How do you know what a typical conference  
19 condition is? That has to be related to how many people  
20 are attending, doesn't it?

21 A. Okay. Okay. I understand your question. So  
22 120 was the number that we arrived at in a conservative  
23 condition.

24 THE HEARING EXAMINER: Right.

25 A. And based on Cedar Brook, we looked at --



1 there was conferences that were between 100 and 200,  
2 and had average attendants of 150 over the period that  
3 we observed, and those are moderately-sized conferences  
4 that we would call typical.

5 I guess maybe the question -- the challenge as  
6 I think everybody is struggling with is you can't --  
7 for one thing, the lodge isn't designed yet. So as far  
8 as what the actual capacity is, it's not necessarily  
9 the fire code. I mean, it depends on layout, depends  
10 on kitchen size.

11 So based on our conclusion analysis that shows  
12 120, and probably more, because we assumed no  
13 interaction between a fully occupied hotel could be  
14 accommodated by what is being proposed.

15 THE HEARING EXAMINER: What is your idea  
16 of what a typical conference is? Is it the same as the  
17 100 to 200 -- and that's from the Cedar Brook conference  
18 attendance; is that right.

19 A. Yes. And the size of the hotel. It's not a  
20 really big hotel. This isn't a convention center. If  
21 you've ever been to a 500-person conference, they're  
22 not being held at these kinds of places. They're being  
23 held at the Westin or downtown Seattle.

24 Without trying to look into a crystal ball,  
25 what we want to say maybe under reasonable



1 circumstances -- I mean, we use typical. We kind of  
2 define typical conditions.

3 But the reason I did the analysis the way I  
4 did is exactly for the reasons that you're questioning.  
5 That we don't want to just arbitrarily pick some number  
6 and say this is it, because we don't know that yet.  
7 Instead, we backed into a number that, under a very  
8 conservative condition, we concluded could be  
9 accommodated with this parking. And then concluded  
10 that -- I mean, there is mitigation. We did identify  
11 there's a potential that there could be overflow.

12 THE HEARING EXAMINER: Got it.

13 Q. (BY MR. LANCE) In your calculation of typical,  
14 did you ever make any effort to correct for seasonal  
15 changes and perhaps changes in the local economy over  
16 time that conferences may be more popular, more larger?  
17 Was there any correction for that? Because typical  
18 seems to be based on -- if you beg my pardon -- January  
19 2013, 9 days.

20 A. It's not relevant, because we assumed a fully  
21 occupied hotel. So that's not -- that's as full as you  
22 can get it, right? And then we evaluated what -- so  
23 what you're saying is it's more likely that you would  
24 have a larger conference sometime in the future?

25 Q. Seasonality was my question. Seasons and for



1 the change of economy?

2 A. We didn't need to correct, because we  
3 basically concluded that there is a potential. We  
4 didn't say this was going to happen five times under a  
5 certain economy. We said there is a potential that  
6 larger events can occur. And if they do, there's  
7 mitigation needed, and the lodge would need to address  
8 that.

9 Q. Would it be more correct instead of using the  
10 word typical that the model of January 2013 is being  
11 applied to the Lodge at Saint Edward State Park?

12 A. Remember that what we did is we evaluated a  
13 rate, right? So because it was a rate, it doesn't --  
14 it drops out how many people there actually were  
15 because it's based on a rate.

16 And I will also add, there's not -- we have an  
17 observed vehicle per daily guest, but you can have  
18 events that have different people per car. If you have  
19 a wedding on a weekend, your average vehicle -- you're  
20 going to have more people in the car and be able to --  
21 you'll have more people for fewer cars.

22 So really what this analysis is doing -- we  
23 can't predict every possibility of an attendance of a  
24 special event, so we --

25 Q. We're concerned about typical right now.



1 Excuse me.

2 A. Right.

3 Q. And typical seems to have been based on  
4 January 2013. Did you go back to Cedar Brook  
5 management and ask for records of conference  
6 attendances over the weeks that have gone on since?

7 A. The typical was based on us backing into 120,  
8 and saying this was a moderate-sized event that --  
9 maybe reasonable is a better word than typical.

10 Q. Excuse me. Did the data for your typical  
11 calculation come from the table in the back of your  
12 report?

13 A. Some of it did, and some of it didn't. Some  
14 of it came from ITE.

15 Q. In the back of your report, there's a table  
16 that seems to indicate --

17 MS. HIRT: Is this the parking analysis?

18 MR. LANCE: The very back page.

19 Q. (BY MR. LANCE) You seem to get your typical  
20 range of trips and visitors -- and really my  
21 question -- Alaska Airlines, 125 people on 1/11 of the  
22 following Monday. 186 guests, 177 guests, 175, 182,  
23 and 119, these are the visitations in that week of  
24 January?

25 A. That the rates were derived upon.



1 Q. And is it from these numbers that we derive  
2 the word typical attendance for -- and project for the  
3 Lodge at Saint Edward State Park?

4 A. I want to go to what my conclusion actually  
5 said.

6 MR. RANADE: It's on page 3.12-11.

7 A. So what we concluded -- I did not use typical  
8 in my conclusions. I said that proposed on-site  
9 parking is expected. We did say under most conditions  
10 with Alternative 1, because we concluded that with the  
11 scenario that we analyzed with 120 guests in a hotel of  
12 this size, that was -- that was a reasonable -- a  
13 conservative scenario. Because you could have more  
14 than 120 guests with a combination of circumstances.

15 But the -- for the purpose of the EIS, the  
16 purpose of the EIS is to identify the potential impact.  
17 And we did identify a potential impact of parking  
18 overspill. And we did identify mitigation to address  
19 parking overspill.

20 So how often that happens is all speculation  
21 at this point, because it's not a facility that exists  
22 yet. But we've covered the bases for here 's kind of a  
23 tipping point of what would be accommodated by this  
24 project. There's the potential that something larger  
25 could happen. And here are two potential mitigation



1 measures that either valet, if you have some overspill,  
2 or off-site parking, if you've got a lot of overspill,  
3 to address those occasions that there is overspill if  
4 it happens.

5           And it would be the operator's responsibility  
6 to determine the size at which that becomes enough of a  
7 problem -- potential problem that that mitigation would  
8 be implemented.

9           Q. Is there any mitigation for the event when the  
10 lodge guests are using the public parking?

11           A. The point -- the responsibility of the lodge  
12 is to accommodate its parking. So then the lodge guest  
13 has no reason to park -- I mean, that's why we call any  
14 parking overspill that we considered as an impact. And  
15 there are -- I mean, people are paying for their  
16 parking.

17           It's in the lodge's best interest to  
18 accommodate its parking. It's bad business if someone  
19 is using their lodge and they can't park.

20           Q. When this happens, will it be an unmitigated  
21 event?

22           A. I would not agree with when this happens,  
23 because they're required, as the term of their lease,  
24 to mitigate -- to provide measures to manage their  
25 parking.



1 MR. LANCE: I have no more questions.

2 THE HEARING EXAMINER: That's it for the  
3 SEPA appellants then? All right. Redirect?

4 MR. RANADE: I've got three topics to  
5 cover here.

6 REDIRECT EXAMINATION

7 BY MR. RANADE:

8 Q. I want to make this abundantly clear, because  
9 it appears to me there's a lot of confusion about sort  
10 of the parking impacts. I want to cover three things.  
11 I want to start with the data itself. And the data is  
12 expressed as a rate, correct?

13 A. Correct.

14 Q. And so that means it's cars, we're talking  
15 parking, trips, we're talking per person, correct?

16 A. Or per room.

17 Q. Or per room?

18 A. Right.

19 Q. Let's go with the attendee question. If the  
20 number of attendees at an event doubles, would you  
21 expect the number of trips to also -- not necessarily  
22 double, we don't know -- but increase in some relation  
23 to the increase in attendees?

24 A. Yes.

25 Q. And so the rate, it might change marginally,



1 but the rate is going to be basically the same,  
2 correct?

3 A. Yes.

4 Q. If you derived eight consecutive days of data  
5 to establish the rate and the rate is consistent with  
6 the nationally recognized rate, in your experience, is  
7 that data reliable?

8 A. Yes.

9 Q. And, again, we're talking about a rate. And  
10 by talking about a rate, are we making the actual  
11 occupancy irrelevant?

12 A. Yes. Well, for the rooms, because there is a  
13 constraint on how many rooms can be occupied. And all  
14 of our analysis assumes fully occupied rooms.

15 Q. Okay. Let's talk about parking impact for a  
16 second. This always -- I want to make sure this is  
17 completely clear. I'm going to read your conclusion in  
18 full. And then I've got some questions for you. This  
19 is page 3.12-11, last paragraph.

20 Based upon the rates presented in table  
21 3.12-5, the table at the top of the page, a peak  
22 overnight demand of 89 vehicles is expected, which  
23 would be easily accommodated by the 153 spaces proposed  
24 for the lodge.

25 So my understanding is what you're saying is



1 you expect there to be 89 cars at night when the lodge  
2 is fully occupied. And assuming that's what happens,  
3 there's more than enough space?

4 A. Yes.

5 Q. Let's look at the next sentence. During  
6 midday when peak conference generated demand is  
7 expected, the on-sites applied is projected to  
8 accommodate parking for about 120 conference guests  
9 with the lodge at full capacity for overnight guests --  
10 and then there's a math formula there. You've taken  
11 the full 153 paces, you've backed out the number of  
12 spaces that would have been allocated to the number of  
13 guests and employees, and then applied -- divided the  
14 difference by the conference rate?

15 A. Yes.

16 Q. And that's how you calculated the tipping  
17 point in a typical situation if the hotel is fully  
18 occupied?

19 A. Right.

20 Q. If you want to use the word typical, it is.

21 A. That's not typical. But in the conservative.

22 Q. Right. And that's what I want to be clear  
23 about. This is a breaking point. If the hotel is  
24 fully occupied and nobody in the hotel is attending a  
25 conference, it's just a completely unrelated conference



1 going on, what you're telling the reader is, if that  
2 happened -- there's enough parking for 120 guests. If  
3 the even is going to be bigger than 120, the lodge  
4 operator is going to do something to mitigate,  
5 otherwise there will be an impact?

6 A. Right.

7 Q. And that's what the final sentence says, the  
8 proposed on-site parking is expected to accommodate  
9 demand under most conditions with Alternative 1.

10 What you're saying there is, just a minute  
11 ago, it's pretty unusual that you're going to have a  
12 fully booked hotel and nobody at that hotel that's  
13 staying overnight is involved in the conference -- and  
14 that there are 120 or more completely unrelated people  
15 showing up to a conference. That's unusual?

16 A. Right. That's a purposefully conservative  
17 scenario for the purpose of coming up with a tipping --  
18 kind of the order of magnitude estimate.

19 Q. But the information that ought to be hopefully  
20 cleared is, we have a tipping point, and we have a  
21 sense of when the lodge operator is going to have to do  
22 something if they want to mitigate parking impacts?

23 A. Right.

24 Q. The final topic I want to touch upon is this  
25 concern that lodge users are going to use the park's



1 public parking.

2 A. Yes.

3 Q. You said at the beginning of your testimony  
4 that you participated in and maybe even drafted the  
5 responses to comments of the Draft Environmental Impact  
6 Statement?

7 A. Yes.

8 Q. This issue was raised in a comment, if you  
9 might recall. I would like to take you to your  
10 response to that comment. It's in the Final EIS  
11 document which is Exhibit 11 of the Core Documents.  
12 Same binder, just flip to tab 11. And when you get to  
13 that document, please flip to 3-35.

14 A. Okay.

15 Q. Are you there?

16 A. Yep.

17 Q. I'm going to draw your attention to the bottom  
18 part of the page under 14?

19 A. Yep.

20 Q. Here's what I read it saying -- well, let me  
21 ask you this first, Did you write the response on  
22 number 14?

23 A. I wrote the response after consulting with  
24 Daniels.

25 Q. And it says, It is acknowledged that the



1 proposed lodge would not be able to prohibit guests in  
2 the Saint Edward State Park public parking spaces if  
3 they should choose to pay. But the following elements  
4 would provide a cost and convenience incentive for  
5 guests to use parking provided by the lodge, and  
6 disincentive for guests to use parking provided for the  
7 park. And then you go on to list four bullet points of  
8 incentives to use the lodge as parking; is that  
9 correct?

10 A. Right.

11 Q. So this impact, this concern that lodge guests  
12 might choose to, I don't know, buy a Discover Pass or  
13 pay the daily fee to park in public parking, it's been  
14 disclosed, correct?

15 A. Correct.

16 MR. RANADE: I have no further  
17 questions.

18 THE HEARING EXAMINER: Thank you,  
19 Ms. Barnes. Move on to the next witness then.

20 MR. MURPHY: We call Jeff Ding.

21 DIRECT EXAMINATION

22 BY MR. MURPHY:

23 Q. Good afternoon, Mr. Ding. Can you spell your  
24 name for the benefit of the court reporter?

25 A. My name is Jeff Ding, D-i-n-g.



1 Q. And have you been sworn in?

2 A. Yes.

3 Q. Can you briefly describe your professional  
4 education?

5 A. Yeah. I graduated with a bachelor's degree  
6 from University of Washington in geography. I've been  
7 doing land-use-type planning for about the last 16  
8 years. Most of that time, I've worked in my current  
9 position doing environmental review for EA Engineering.

10 Q. How many EIS statements have you worked on  
11 while you were at EA?

12 A. Approximately, 60, I would say.

13 Q. And you were the project manager for this EIS?

14 A. Yeah. I helped manage it along with one of my  
15 colleagues, yes.

16 Q. When you are preparing an EIS, how do you  
17 decide what data to collect and analyze?

18 A. Well, usually we start with an EIS scoping  
19 process just to determine what kind of elements we're  
20 looking at in the document itself. We had a scoping  
21 process at the beginning of this whole project.

22 In, I believe, early July, we identified what  
23 the scope of the EIS would be, what elements, and those  
24 were included in the EIS document. As part of that  
25 scoping process, we identified --



1 THE REPORTER: Hold on. You identified  
2 what?

3 [!EZ SPEAKER 300]: Air quality.

4 Q. (BY MR. MURPHY) And that was in response to  
5 the scoping comments --

6 A. That was in response to scoping comments we  
7 received. During the scoping period, we added the  
8 second Alternative, which was the modified parking  
9 layout, to provide another layout to compare to  
10 Alternative 1 in terms of the Environmental Impact  
11 Statement studied.

12 Q. You mentioned categories of environmental  
13 impact. Are you familiar with any environmental impact  
14 statement issued under SEPA that evaluated child safety  
15 as a categorical element?

16 A. No. I've never had child safety as an element  
17 that was studied in the documents I've done. My  
18 colleagues, as well, have been doing this for 25,  
19 30-plus years, and they've never had one that analyzed  
20 that either.

21 Q. Was the data collection process that occurred  
22 for the preparation for this EIS consistent with the  
23 practices that you've done in your other 60 EIS and  
24 that EA does for many more?

25 A. Yes. It was very typical to what we usually



1 do for projects. We conducted a site visit ourselves  
2 several times to get familiar with the site. The  
3 conditions that are on there as part of our analysis,  
4 we rely on technical experts for various elements of  
5 the environment, things like transportation, wetlands,  
6 plants and animals, and things like that. So, yes, I  
7 would say it was a typical EIS process for us.

8 Q. Moving on to the cumulative impacts. Most of  
9 them, with the exception of traffic, discuss Bastyr and  
10 the ball field. In your opinion, is that an  
11 appropriate limitation for cumulative impacts?

12 A. I would say for most of the elements, it is  
13 because for cumulative impacts, we're looking for  
14 impacts that are most proximate to the site that have a  
15 likelihood of occurring for elements like land use,  
16 noise, things like that.

17 The uses that are most approximate to the site  
18 are the ones that are most likely to have cumulative  
19 impacts. As Jennifer from Heffron Transportation  
20 mentioned, cumulative traffic impacts generally look at  
21 a little bit wider range.

22 Q. Just a little slower for her.

23 A. Sorry. They generally give a little bit wider  
24 range, which is where that 1.1 percent growth factor  
25 went in. Because traffic from a wider range area can



1 be more of a cumulative impact than other elements.

2 Q. Is that kind of cumulative impact analysis  
3 consistent with your understanding of the practice of  
4 preparing the EIS?

5 A. Yes. That's how we look at cumulative  
6 impacts.

7 Q. Moving on to mitigation. What level of  
8 identification of mitigation is appropriate for an EIS  
9 statement? Do you have to propose something that is  
10 going to be binding, or is it more -- what kind of  
11 mitigation is identified?

12 A. We identify mitigation to address the impacts  
13 that we've identified in the EIS. In terms of a  
14 binding nature of these impacts, that usually comes  
15 through as part of conditions of approval on a project  
16 or something like that where they can incorporate the  
17 mitigation factors that we've identified --

18 THE REPORTER: Can you slow down.

19 A. -- they can incorporate the mitigation factors  
20 that we've identified for those impacts as part of  
21 their conditions of approval on the project, and those  
22 would be binding in that nature.

23 Q. (BY MR. MURPHY) When you are responding to  
24 comments, what's the process for preparing those  
25 responses?



1           A. Our typical process for responding to comments  
2 is we'll go through and read each one of the comment  
3 letters or email or whatever the form they come in. We  
4 will identify discrete comments within each letter, so  
5 then we can assign it to whoever should be the  
6 responsible person, be it a technical expert or  
7 whatnot.

8           As you heard previously, transportation  
9 comments we assign to the transportation expert,  
10 because we deem them the most appropriate person to  
11 answer those responses. So we divide them up in that  
12 fashion, so each response gets an accurate and  
13 appropriate response in the Final EIS.

14          Q. So the process is designed so that the person  
15 who is most qualified to write the response, writes the  
16 response?

17          A. Exactly.

18          Q. And were all those comments submitted to the  
19 EIS, did they receive a response?

20          A. Yes. We actually had one comment letter that  
21 was inadvertently admitted in the Final EIS, which was  
22 the reason for producing the EIS addendum to write  
23 responses to that comment to make sure all comment  
24 letters had some kind of response to them.

25          Q. Let's move on to the light and glare impact.



1 The hearing examiner asked about how the light would  
2 spill out into forest. Did you evaluate the light and  
3 glare impacts from the project?

4 A. We did, yes.

5 Q. And what was the methodology that you used to  
6 assess the light and glare impacts?

7 A. What we typically do on most projects, we did  
8 a qualitative analysis of light and glare. We observed  
9 kind of what the existing light conditions were on the  
10 site. For this particular project, there's some  
11 lighting associated with vehicle lighting, vehicles  
12 coming to the site, parking light lighting. But as  
13 mentioned before, the park is closed at dusk, so  
14 light -- there's minimal amounts of light that are  
15 currently on the site, so we used that as part of our  
16 description of what the existing light conditions are  
17 currently.

18 And then part of our impact analysis, we've  
19 identified what types of new light sources could be  
20 generated as part of the project. That could be  
21 exterior building lights, pedestrian pathways, parking  
22 lot lighting, and things like that.

23 Q. So you evaluate a baseline, and then you see  
24 what light sources may increase from that from the  
25 project?



1 A. Yes.

2 Q. And is that kind of process typical and  
3 accepted for a light and glare analysis?

4 A. Yes. That's a process that we typically use  
5 for a lot of our projects.

6 Q. Let's go to the DEIS, which is tab 19 of that  
7 binder, I believe. And we'll start with section 3.8-2.  
8 Are you there?

9 A. Yes.

10 Q. So under construction impacts for Alternative  
11 1, about halfway, that paragraph after the parenthesis  
12 including Bastyr University, it says, Construction  
13 lighting at night could result in light spillage to the  
14 adjacent forest area and associated nocturnal and  
15 crepuscular (which means active during dusk) wildlife  
16 habitat, but would be short-term, lasting only during a  
17 portion of the construction and rehabilitation of the  
18 existing structure.

19 So that's an impact that you disclosed that  
20 there might be light spillage into the surrounding  
21 area?

22 A. Yes. That's correct.

23 Q. And moving onto the direct operational  
24 impacts. It says, The proposed Lodge at Saint Edward  
25 project would increase development levels on-site which



1 would result in associated light and glare from both  
2 stationary and mobile sources in comparison to current  
3 conditions, which has only minimal on-site lighting at  
4 night due to the park closing at dusk.

5 So you are disclosing that there will be  
6 increased light in the surrounding area?

7 A. That's correct.

8 Q. Once the project is complete?

9 A. Once the project is operational.

10 Q. Moving on to about halfway down, it says,  
11 Light spillage from the project site could affect  
12 existing wildlife that is immediately adjacent to the  
13 project site area. And then directs the reader to the  
14 section regarding plant and animals for additional  
15 information. But then goes on, The lighting decision  
16 for the project intended to be consistent with City of  
17 Kenmore requirements.

18 So, again, another area where the EIS is  
19 disclosing that there will be light spillage that could  
20 affect wildlife?

21 A. Yes.

22 Q. There are additional impacts that relate to  
23 that. I want to take you to Alternative 2 on the next  
24 page, which says, starting on that second paragraph,  
25 right before the bottom of the page. The light and



1 glare associated with Alternative 2 would be similar or  
2 slightly reduced when compared to the discussions  
3 under -- which is discussed under Alternative 1; is  
4 that right?

5 A. Yes.

6 Q. Then moving onto the cumulative impacts, the  
7 last sentence there, is one that says, The cumulative  
8 increase in light sources, as part of the proposed  
9 Lodge at Saint Edward project and other developments,  
10 particularly the ball field renovation project, would  
11 result in a cumulative increase in potential light  
12 spillage to adjacent forested areas of the park and the  
13 associated wildlife habitat areas.

14 So, again, acknowledging there will be light  
15 spillage to the areas that could affect wildlife?

16 A. Yes.

17 Q. And then the proposed mitigation is that the  
18 construction lighting would be shielded and directed to  
19 off-site areas, and, generally, that it would be  
20 consistent with the City of Kenmore regulations?

21 A. Correct.

22 Q. And in your opinion, is that sufficient to  
23 mitigate the impacts for light and glare?

24 A. Yes. That's my opinion.

25 MR. MURPHY: I have no more questions at



1 this time.

2 THE HEARING EXAMINER: Ms. Wehling.

3 MS. WEHLING: No.

4 THE HEARING EXAMINER: Mr. Kaseguma.

5 MR. KASEGUMA: No.

6 THE HEARING EXAMINER: All right.

7 Ms. Hirt.

8 CROSS-EXAMINATION

9 BY MS. HIRT:

10 Q. I do see on page 3.8-4, you do say that  
11 there's a significant adverse effect from glare of  
12 light, correct? At the bottom of the page 3. -- the  
13 page we were just on, 3.8-4. And I'm looking at the  
14 3.8.4. And it results in the increase of light and  
15 glare -- increased potential for light and glare in the  
16 surrounding areas of the park, including forest  
17 adjacent to the project site. And it goes on to say  
18 there's -- or noted above. So there will be light  
19 spillage? There will be light spillage into the  
20 forest?

21 A. We do acknowledge that there will be some  
22 potential for light spillage. We don't classify it as  
23 a significant impact, though, because of the issues  
24 that are mitigation measures that are noted in section  
25 3.8-3.



1 Q. So right now it's dark in the forest, so there  
2 will be some impact?

3 A. There will be some potential for light  
4 spillage. But the mitigation measures are anticipated  
5 to limit that light spillage.

6 Q. And are these the usual mitigation measures  
7 for this type of light near a forest?

8 A. These are typical mitigation measures for  
9 lighting from parking lots, things like that, to try to  
10 shield them, direct them to the project area so they're  
11 not spilling onto a forest or residential area or  
12 things like that.

13 Q. It would be the same for residential as a  
14 forest?

15 A. Correct.

16 Q. Even, though, some of the animals are more  
17 nocturnal than our neighborhoods?

18 A. Yes.

19 Q. I don't think I have another question. It was  
20 really about light. Child safety is not something that  
21 you usually evaluate?

22 A. No. We have not evaluated child safety  
23 impacts for any impacts that I've worked previously or  
24 my colleagues.

25 Q. Even in a park?



1 A. No.

2 MS. HIRT: I don't think I have any more  
3 questions.

4 THE HEARING EXAMINER: Thank you,  
5 Mr. Ding. Appreciate your testimony. Next witness.

6 MR. MURPHY: We call Bryan Hampson.  
7 This will be our last witness.

8 THE HEARING EXAMINER: You can stay  
9 there if you want. That's fine.

10 DIRECT EXAMINATION

11 BY MR. MURPHY:

12 Q. Mr. Hampson, I understand that you were the  
13 SEPA-responsible official for the City of Kenmore of  
14 this EIS?

15 A. Correct.

16 Q. And when you reviewed the EIS, which included  
17 the DEIS, FEIS, and the addendum to the FEIS, did you  
18 conclude that they adequately exposed the environmental  
19 impacts from the proposal?

20 A. Yes.

21 Q. Did you conclude the comments received an  
22 adequate response?

23 A. Yes.

24 Q. Did you provide notice to the public regarding  
25 the issuance of these documents?



1 A. Yes.

2 Q. Did that include notice to federal and state  
3 agencies?

4 A. Yes.

5 Q. Did you hear anything from the U.S. Fish and  
6 Wildlife Service?

7 A. No.

8 Q. Is there an obligation for you to directly  
9 contact that particular federal agency?

10 A. If I don't hear anything?

11 Q. Correct.

12 A. No.

13 Q. You're relying on them to contact you, based  
14 on the notice provided to the public?

15 A. That's correct.

16 Q. Moving on to compliance with city code. Is  
17 there any land use requirement under city code to keep  
18 the passive park use?

19 A. No.

20 Q. Is there any requirement to keep the Seminary  
21 area a passive park use?

22 A. No.

23 Q. And pointing out what a design in the design  
24 review process that the City will weigh in on it?

25 A. Yes.



1 Q. And will the City insist that the design  
2 complies with city code before issuing any approvals or  
3 permits?

4 A. Yes.

5 Q. In your opinion, was the designation of hotel  
6 the appropriate designation for Kenmore city code?

7 A. Yes.

8 Q. How did you come to that?

9 A. It meets the definition for a hotel.

10 MS. MOONEY: I'm sorry to interrupt.  
11 Mr. Hampson, do you have your microphone on?

12 [!EZ SPEAKER 300]: Yes.

13 THE HEARING EXAMINER: While we're  
14 interrupting, just for the record, you were sworn in,  
15 correct?

16 [!EZ SPEAKER 300]: That's correct.

17 Q. (BY MR. MURPHY) I understand the initial use  
18 that was proposed was temporary lodging; is that right?

19 A. That's correct.

20 Q. And you reviewed the project and determined  
21 the more appropriate designation was hotel?

22 A. That's correct.

23 Q. Moving on to the ball field. That is an  
24 entirely separate project from this proposal?

25 A. That's correct.



1 Q. If necessary, it will be subject to its own  
2 SEPA process?

3 A. Yes.

4 MR. MURPHY: I have nothing further at  
5 this time.

6 THE HEARING EXAMINER: Ms. Wehling, any  
7 questions?

8 MS. WEHLING: No.

9 THE HEARING EXAMINER: All right.  
10 Mr. Kaseguma.

11 MR. KASEGUMA: No.

12 THE HEARING EXAMINER: All right.  
13 Ms. Hirt.

14 MS. HIRT: I'm not sure Mr. Hampson can  
15 answer my question.

16 THE HEARING EXAMINER: Go ahead and ask  
17 it.

18 CROSS-EXAMINATION

19 BY MS. HIRT:

20 Q. Why would the city code trump the history, the  
21 deed, all this for the land being purchased for passive  
22 outdoor recreation? And why would, although the  
23 project is in the active part of the park, the majority  
24 of the park is passive compared to an active park --

25 MR. KASEGUMA: Object to the form of the



1 question.

2 Q. (BY MS. HIRT) Why does the city code rule a  
3 state park?

4 THE HEARING EXAMINER: Mr. Kaseguma.

5 MR. KASEGUMA: I'll object to the form  
6 of the question, and ask it be restated in parts.

7 THE HEARING EXAMINER: Yeah. You have  
8 two questions.

9 Q. (BY MS. HIRT) Why is the city code -- or city  
10 comprehensive plan, why is that above a regional park  
11 that serves a lot of other areas, not just the city?

12 MR. RANADE: I'm going to object to the  
13 question as -- I think she's making a legal argument or  
14 asking to render a legal opinion.

15 THE HEARING EXAMINER: Well, I mean,  
16 Mr. Hampson was asked all sorts of ordinance application  
17 questions. So if it's within your expertise as a  
18 planner, Mr. Hampson...

19 A. I'll say I don't understand the question.

20 Q. (BY MS. HIRT) The question is, You have stated  
21 compliance under city code. You were asked if this is  
22 passive park use, and your answer was, no, there is no  
23 passive park use. And I'm questioning that what the  
24 City is saying for Saint Edward State Park and what  
25 Saint Edward State Park was purchased for, what a lot



1 of documents say, is passive use.

2 I'm questioning, Why does the City get to say  
3 it's not passive use?

4 MR. KASEGUMA: I'll object to the form  
5 of the question. It requires Mr. Hampson to make a  
6 number of presumptions that are not even in question or  
7 in the record.

8 THE HEARING EXAMINER: Yeah. Ms. Hirt,  
9 you're going to have to be a little more direct. You're  
10 presuming the city code is --

11 Q. (BY MS. HIRT) Does the City determine whether  
12 the park is passive use or not?

13 A. No.

14 Q. Okay. So what was meant by the reply, Does  
15 the city code say that this park is passive use, and  
16 you said, no.

17 A. I --

18 Q. I don't understand.

19 A. There's nothing in the city code that says  
20 this has to be a passive park.

21 Q. But there's nothing in the city code -- is  
22 there anything in the city code that it has to be an  
23 active park?

24 A. No.

25 Q. Is there anything in the city code that says



1 it's a community park?

2 A. No.

3 Q. Thank you.

4 THE HEARING EXAMINER: Great. Thank  
5 you, Mr. Hampson. All right. Is that it from the  
6 applicant?

7 MR. RANADE: That is it from the  
8 applicant.

9 THE HEARING EXAMINER: Okay. We'll move  
10 on to the City. Ms. Kaseguma, you have one witness,  
11 Mr. Richardson, I believe?

12 MR. KASEGUMA: Yes.

13 THE HEARING EXAMINER: Mr. Richardson,  
14 have you been sworn in.

15 THE WITNESS: Yes, I have.

16 THE HEARING EXAMINER: All right.

17 DIRECT EXAMINATION

18 BY MR. KASEGUMA:

19 Q. Mr. Richardson, I believe when you spoke  
20 yesterday, you didn't give your education and work  
21 experience background. If you could please quickly  
22 tell us about that.

23 A. Of course. I graduated from the University of  
24 Washington with a bachelor's in civil and environmental  
25 engineering. And I'm a licensed professional engineer,



1 and I've been practicing engineering for over ten  
2 years, and six years' experience doing development  
3 review with the City of Kenmore.

4 Q. Were you present this afternoon when  
5 Ms. Jennifer Barnes spoke?

6 A. Yes, I was.

7 Q. Do you have any comments about her comments or  
8 testimony?

9 A. No. Generally, I concur with what she said in  
10 that the industry standard was well followed; in fact,  
11 her level of care was above what I typically observed  
12 in my role here in the City. The incorporation of  
13 Cedar Brook data was actually above what the industry  
14 standard would have been to, as --

15 THE REPORTER: You're going to have to  
16 slow down.

17 A. -- as she said, just using the ITE manual  
18 would have met industry standards. And so the  
19 incorporation of the Cedar Brook data was above that  
20 standard.

21 Q. Do you have any other comments about room  
22 capacity, determining parking spaces, or traffic  
23 impact?

24 A. Yeah. Parking design is done to balance --  
25 it's not done for absolute peak times always. It's



1 done to balance the environmental impact. Generally,  
2 parking lots are viewed as unaesthetic. It can be  
3 invasive on the environment.

4 So we try not to just go out and create the  
5 largest parking lot that man can imagine. We try to  
6 narrow it to what we truly think the need is. And I  
7 think, an example of that, we don't really have to look  
8 any further than the room we're in currently.

9 This room combined and open like this has a  
10 capacity of 550 people, the exact number we're talking  
11 about for the lodge project. And it's having a  
12 functional setup right now with over 100 people, but  
13 clearly, we don't have 100 or 600 parking stalls  
14 available at City Hall. We already worked out similar  
15 mitigation measures that are proposed by the project.  
16 Such as, we have shared parking --

17 MS. MOONEY: Ms. Hirt -- I'm sorry --  
18 can you please take your call out. This is a good  
19 opportunity, if you have your phones, can you silence  
20 them.

21 MS. HIRT: I'm sorry about that. I  
22 needed to let them know I was not going to make that  
23 appointment.

24 A. So I was talking about how this room currently  
25 has an occupancy of over 550 people. And we have a



1 functional setup right now that exceeds 100 people, but  
2 clearly, we don't have 100 stalls here at City Hall.

3           We have similar mitigation measures to what is  
4 proposed for the project. We have shared parking  
5 agreements across the city on city-owned property. And  
6 we also send out emails ahead of time to get staff to  
7 open up available city parking by using those areas.  
8 And, additionally, we also try to time special events  
9 in the evening and weekends to the times when employees  
10 are not filling these parking spots.

11           That's very similar to what's being proposed  
12 by the use for Bastyr to the ball field for overflow  
13 parking and the valet. It seems to me that the project  
14 has met a good balance of meeting what is anticipated  
15 parking needs, but limiting the amount of environmental  
16 impacts that the mitigation requires.

17           Q. And when you gave those examples, you  
18 mentioned Bastyr University. Are you referring to the  
19 fact that considerations or the mitigations that you're  
20 talking about is a result of the SEPA process and  
21 review?

22           A. Correct. The mitigations for the overflow  
23 parking mentioned in the EIS.

24           Q. And those mitigations, are you also saying  
25 that the mitigation was a requirement of a condition of



1 approval of any permits or approvals for your examples  
2 you made?

3 A. No. It was not a condition of approval. It's  
4 our role in managing our own parking. Parking  
5 management falls to the private property owner as it  
6 would in this project. So our role as managers of our  
7 own parking is to do those things in order to make  
8 things function and to benefit everybody, the same as a  
9 business would have to do.

10 Conferences, if they can't park their guests,  
11 are not going to -- well, doesn't it have adequate  
12 parking. Sorry. I think that answers the question.

13 Q. It did. Thank you.

14 MR. KASEGUMA: I have nothing further.

15 THE HEARING EXAMINER: Ms. Wehling, any  
16 questions?

17 MR. KASEGUMA: No.

18 THE HEARING EXAMINER: Applicants, Ms.  
19 Hirt.

20 MS. HIRT: No. I --

21 CROSS-EXAMINATION

22 BY MS. HIRT:

23 Q. Just to clarify, I heard you say if they can't  
24 park their guests, they're not going to have the event  
25 or the conference?



1 A. Just from a --

2 Q. Practical.

3 A. -- practical standpoint, yes, a conference  
4 isn't going to want to book in a location where they  
5 can't get their quests in.

6 Q. That, in a way, answers a question earlier  
7 from Ms. Barnes about would they be able to have that  
8 conference, so thank you.

9 MS. HIRT: I don't have any other  
10 questions.

11 THE HEARING EXAMINER: Okay. So I take  
12 it that the applicants and Parks don't have any  
13 rebuttal, just Mr. Richardson's testimony? As we  
14 anticipated up front, that was likely.

15 MR. RANADE: That's correct.

16 THE HEARING EXAMINER: So, Ms. Hirt, any  
17 final rebuttal? Do you have any rebuttal witnesses to  
18 present?

19 MS. HIRT: My head is splitting.

20 THE HEARING EXAMINER: So you're done.

21 MS. HIRT: I don't know that I'm done.  
22 Do I have a rebuttal witness?

23 THE HEARING EXAMINER: Yes. That's  
24 right.

25 MS. HIRT: First let me ask Mr. Lance.



1 Were your questions answered? Do you have any that you  
2 said that you want to -- I haven't had a chance to talk  
3 to my witnesses to see --

4 THE HEARING EXAMINER: We'll give you a  
5 minute. Let's take a short three-minute break.

6 MS. HIRT: That would be nice.

7 MR. RANADE: Mr. Examiner, while they're  
8 conferring, I would like to do a closing and just be  
9 done with this today.

10 THE HEARING EXAMINER: That's fine. If  
11 that's what everybody wants to do. Yes.

12 MR. RANADE: Thank you.

13 (Break taken from 5:11 p.m. to 5:14  
14 p.m.)

15 THE HEARING EXAMINER: So I was asking  
16 Ms. Hirt if she has any rebuttal witnesses. It doesn't  
17 look like she does. I think your rebuttal witness would  
18 be primarily Dr. Bain, given his expert testimony, and  
19 he's not here anymore, correct?

20 MS. HIRT: He gave me a comment for my  
21 summary.

22 THE HEARING EXAMINER: For your closing?  
23 Great. And as to the question for written or verbal  
24 briefs, I think I'm going to let majority rule here. It  
25 looks like three of the four parties want to do it



1 verbal, so we'll do it verbal then. And as I mentioned,  
2 we'll start off with the City first with any comments  
3 they have.

4 MR. KASEGUMA: Thank you, Mr. Examiner.  
5 My comments are going to be very brief, hopefully three  
6 to five minutes. But I want to begin with the review of  
7 the standards that apply to this appeal.

8 As stated by the hearing examiner in the  
9 prehearing order, the EIS must present a reasonably  
10 thorough discussion of significant aspects of probable  
11 and environmental consequences of the upcoming City  
12 decision by the City council. And the EIS need not  
13 address every conceivable effect or alternative of the  
14 project.

15 It needs to include information that is  
16 sufficiently beneficial to the decision-making process,  
17 which ends with a city council decision on the hearing  
18 examiner's recommendation.

19 The impacts or alternatives which have  
20 insufficient cause or relationship or likelihood or  
21 reliability or that will not influence the  
22 decision-making process or the decision-makers that are  
23 remote or speculative -- and I emphasize those two words  
24 -- do not need to be addressed or discussed in an EIS.

25 Or stated another way, the question is whether



1 the environmental impacts sufficiently disclose and  
2 substantiate, by support of opinion and data, what is in  
3 the text of the EIS itself. In other words, the EIS  
4 must provide the city council with sufficient  
5 information to allow it to make an informed decision.

6 Therefore, the essential issues before us,  
7 after all of this testimony and argument and discussion,  
8 are two, which are: Are the environmental impacts of  
9 the proposed lodge sufficiently disclosed and discussed  
10 in the EIS? And on that point -- as the hearing  
11 examiner knows, the City has prepared a table entitled  
12 table appellant's appeal issues and EIS, which is City's  
13 No. 15, or as I understand it No. 14 of your combined  
14 exhibit list. And that is a very good reference.

15 Even after all the testimony that has occurred  
16 in the last almost two days, which for time, the  
17 allegations that had been made by the appellants to the  
18 portions of the EIS, in the City's opinion, that answer  
19 the question: Does the EIS address and discuss the  
20 points that the appellants had made with respect to the  
21 adequacy of the EIS?

22 And the City's position is that when you look  
23 at this table, that every allegation that has been made  
24 by the appellants with respect to elements of the  
25 environment have been adequately addressed and discussed



1 in the EIS.

2 And because it is a document that is not just  
3 a couple of pages, we are referring the hearing examiner  
4 to this comparison, which, by the way, also shows the  
5 hearing examiner the connection between the comments  
6 that were made, and the responses to the comments.

7 And it also indicates for every single  
8 allegation made by the appellants, the mitigation that  
9 is proposed for mitigating the impacts that have been  
10 addressed or the significant proper adverse  
11 environmental impacts that have been identified in the  
12 EIS. So we'll refer the hearing examiner to that.

13 The second question is whether the EIS  
14 provides the city council with sufficient information to  
15 allow it to make an informed decision. And on those two  
16 questions, our answer is yes and yes to both.  
17 Therefore, the hearing examiner should deny the appeal  
18 and allow the EIS be moved forward to the city council  
19 so that the city council can make a decision on the  
20 project application, which is a site plan application as  
21 we have discussed in the previous hearing.

22 The appellants are making a couple -- or,  
23 actually, three essential arguments. I would like to  
24 combine them together. The first is that the mitigation  
25 that is in the environmental impact statement is not



1 complete or enforceable. And the complaint is, Well,  
2 many of the mitigation descriptions use the word could  
3 or use the word would.

4 The appellants fundamentally misunderstand the  
5 purpose of stating mitigation in an EIS. That  
6 mitigation is to be developed so that decision-makers,  
7 in this case the city council, can take the suggested  
8 mitigation and apply it, if the city council decides to  
9 do so.

10 As the hearing examiner is aware, the city  
11 council has an opportunity to expand on the mitigation  
12 or change it. The fact that the mitigation in the EIS  
13 uses the word could or should or indicates the traffic  
14 impacts or the parking space impact, the EIS says, Well,  
15 that mitigation is subject to an agreement that is to  
16 occur in the future, that doesn't mean the EIS is  
17 inadequate.

18 What that means is the city council has the  
19 opportunity to apply mitigation that could be an  
20 offshoot or an elaboration of, in the case of parking  
21 spaces, an agreement with some other entities to take  
22 care of overflow parking, in the circumstances where  
23 they're not going to happen very often, but where there  
24 is a need for overflow parking mitigation.

25 The appellants also say that the information



1 in analysis in the EIS is wrong, in the appellant's  
2 opinion. I take that to mean they are admitting that  
3 the information and discussion in the EIS is adequate.  
4 So we've taken that issue of the adequacy off the table,  
5 apparently.

6 The difficulty with the claims made by the  
7 appellants challenging the discussion, assumptions, and  
8 conclusions in the EIS is that the appellants have  
9 failed to produce a single report or a single technical  
10 memo or single opinion of an expert in the areas of the  
11 elements of environment, accept for Dr. Bain.

12 Dr. Bain's testimony used terms speculative,  
13 speculation, or remoteness. His testimony was  
14 speculative and remote. For example, Dr. Bain stated  
15 that the impact he's concerned about of this project  
16 right now is he anticipates there might be lodge guests  
17 who will use the trails. But in answering the question  
18 from me, he admitted that the 100 users per day that he  
19 mentioned was speculative. And that is very typical of  
20 the arguments that have been made by the appellants.

21 The other argument that they made or arguments  
22 they have made are misunderstandings or wrong  
23 conclusions that are drawn from the EIS language or from  
24 the reports. And so those conclusions or  
25 misunderstandings don't argue against the fact that the



1 EIS is adequate.

2 That is all I'm going to say today. My  
3 understanding is that the applicants are going to  
4 address in greater detail the specific allegations and  
5 claims made by the appellants and also going to address  
6 some of the legal issues arrived at in both the city  
7 code and SEPA regulations.

8 THE HEARING EXAMINER: Okay. Great.  
9 One question for you. Some of the jurisdictions I work  
10 with, I get staff recommendations for parking monitor  
11 plans and circumstances where it's a little unclear  
12 because of the uniqueness of the use of parking will, in  
13 fact, be adequate to know where they require the  
14 applicant to, essentially, you know, pick the two  
15 biggest days they have the biggest conferences and  
16 assess whether the parking is adequate. And then if  
17 not, then the staff has discretion to require  
18 mitigation.

19 Is that something, in your opinion, that could  
20 work in Kenmore, that would even be a defensible  
21 condition? Do you have any opinion on that?

22 MR. KASEGUMA: It can work. If it's not  
23 addressed in the EIS, it does not mean the EIS is  
24 inadequate.

25 THE HEARING EXAMINER: Right. Right.



1 MR. KASEGUMA: It's certainly something  
2 the City could take into consideration in making a  
3 presentation at the hearing examiners recommendation to  
4 the city council.

5 THE HEARING EXAMINER: Yes. I haven't  
6 studied the parking standards. If that might be  
7 something more appropriate under the site plan  
8 recommendation. I was just curious to see if the City  
9 had done something like that before.

10 MR. KASEGUMA: I don't know. I haven't  
11 asked my city folks. At this point, are you asking me  
12 to make a comment on that?

13 THE HEARING EXAMINER: Actually, no. If  
14 you haven't dealt with that here, that's good enough.  
15 Thank you. All right. Ms. Wehling.

16 MS. WEHLING: The appellants failed to  
17 identify any -- include any testimony that identified  
18 impacts of the project that were not disclosed in the  
19 Environmental Impact Statement. What citizens have left  
20 is one issue for State Parks. And that's their issue  
21 number 17, and it regards the consistency with the CAMP.

22 In Ms. Logan's testimony, she addressed each  
23 of the citizen's concerns and explained why this project  
24 is consistent with Park's own 2008 CAMP for Saint Edward  
25 State Park.



1 I would ask the hearing examiner to defer to  
2 the agency's own interpretation of its document for  
3 consistency, rather than the opinion of a third party.

4 Citizens' concerns raised about night use of  
5 the trails and marbled murrelet are speculative. SEPA  
6 authority does not require that an Environmental Impact  
7 Statement include remote or speculative impacts. That  
8 addressed by Professor Settle, at page 14-19, of his  
9 handbook, under the heading Standards for EIS Adequacy  
10 The Rule of Reason, he specifically summarizes the case  
11 law and states, that where there is insufficient causal  
12 relation, likelihood, or reliability to influence  
13 decision-makers -- not quoting -- those impacts are  
14 remote or speculative and may be excluded from an EIS.

15 The City and Parks did not err by declining to  
16 include every conceivable future impact that might occur  
17 on the property, but limited its analysis to the project  
18 that was before it.

19 The citizens have not identified an element of  
20 the bill from the natural environment that was not  
21 adequately addressed in the cumulative effect analysis  
22 of the Environmental Impact Statement.

23 And what Parks would request is that you  
24 either uphold this Environmental Impact Statement as  
25 sufficient or make a recommendation to the city council



1 that the EIS be upheld because it did disclose, discuss,  
2 and substantiate the effects of this proposal on Saint  
3 Edward State Park.

4 THE HEARING EXAMINER: All right. Thank  
5 you. Okay, Mr. Ranade.

6 MR. RANADE: Thank you. I'll do my very  
7 best to consolidate and truncate. We've been here for  
8 two days and heard from a lot of people. We heard from  
9 the appellants. We heard from other members of the  
10 public that support the appellant's concerns. And what  
11 I heard was a lot of concern about the potential impacts  
12 of this project, concerns about lichen, noise on  
13 wildlife, concerns about traffic, concerns about trees  
14 being removed, concerns of competition of parking spots.  
15 And it's not for me or anyone in this room to decide  
16 what to do about those concerns. That's, ultimately,  
17 the city council's job.

18 What I didn't hear is an allegation that those  
19 concerns haven't been disclosed, and that's really what  
20 this is about. The role of the EIS is to disclose, not  
21 dispose. And I think, very methodically, we tried to go  
22 through every concern that was expressed by a witness  
23 and take them to the place in the EIS where that concern  
24 was disclosed.

25 And in each instance, the witness that



1 expressed the concern, agreed the statement in the EIS  
2 reflects that concern. And I think in the simplest way,  
3 a way to address what's going on here, and that's the  
4 sole question, Is the EIS adequate?

5 The burden here is on the appellant. The  
6 burden of proof is the burden of persuasion. And, of  
7 course, we all know the City found the EIS to be  
8 adequate. That was in Mr. Richardson's testimony. And  
9 that finding is entitled to substantial weight. That's  
10 RCW 43.21C.090. It's entitled to substantial weight.  
11 And there was nothing in the evidence that should tip  
12 the scales the other way.

13 I want to address a few of the issues that  
14 have come up and try to summarize where we are and  
15 clarify a few issues. And I'll start with Mr. Lance's  
16 presentation.

17 One of the principal concerns is that the  
18 project has been misdesignated as a hotel, when, in his  
19 view, it should be a conference center. This question  
20 of what kind of designation this facility should have is  
21 relevant in two different ways. And I think it's  
22 important to remember the two different ways.

23 The first way that it's relevant is in how the  
24 City of Kenmore will view this project for purposes of  
25 applying the Kenmore land use code. And that's relevant



1 in terms of compliance with parking requirements, for  
2 example, code requirements.

3 It's also relevant separately -- of course,  
4 it's related -- but separately, in terms of how the  
5 parking analysis, the parking analyst -- that's Heffron  
6 and Ms. Barnes -- how they view the project so that they  
7 know -- in terms of how they analyze its impact. So  
8 this question is relevant in two different ways.

9 The answer is the same, however. In both  
10 scenarios, the appropriate designation of this project  
11 is hotel. The Kenmore municipal code, at definition  
12 section, it's 18.20 -- and it defines hotel at  
13 18.20.1375. The definition of the hotel includes, among  
14 other things, in that definition a central kitchen and  
15 dining room, and accessory shops and services catering  
16 to the general public may be provided. That is in the  
17 definition.

18 Of course, the primary part of that is  
19 providing lodging space for transient -- transient  
20 rental spaces for city purposes. But the definition  
21 acknowledges that there can be a kitchen, dining room,  
22 accessory shops and services.

23 There is a separate definition in the Kenmore  
24 land use code for conference center. And that's at  
25 18.20.560. Conference center is defined as an



1 establishment developed primarily as a meeting facility,  
2 including only facilities for recreation, overnight  
3 lodging, and related activities provided for conference  
4 participants.

5           So what they're saying is that if you've got a  
6 conference center and it's got some rooms attached to it  
7 that could be for conference users, that would be a  
8 conference center.

9           If there's a question about which use is  
10 predominate, the Kenmore municipal code has a definition  
11 in the land use code for accessory use. That's at  
12 18.20.035. And it defines accessory use as the use  
13 typically subordinate in size to the principal use; that  
14 would not contribute significantly to traffic  
15 generation, noise, or nuisance; and that supports the  
16 primary use operation without displacing it.

17           We had testimony from the architect, the  
18 project architect, that says the hotel space -- the  
19 planned hotel space is approximately 35,000 square feet.  
20 I think it's an undisputed point, everybody has said,  
21 that the anticipated occupancy space is 16,600 feet.  
22 Simple math, the conference space is subordinate to the  
23 hotel room space.

24           We have testimony from Trevina Wang talking  
25 about the intentions here, that the spirit of this



1 project, that the rooms -- and very specific testimony  
2 that the lodging rooms -- the hotel rooms are available  
3 to the general public. Renting a hotel room is not  
4 conditioned on being a conference-goer. Anybody can  
5 rent those rooms. The conference rooms, as she  
6 testified, are just another amenity, like the restaurant  
7 and the spa and the wellness center.

8           These definitions -- her testimony and  
9 Mr. Wright's testimony, apply to the land use code and  
10 should make it clear that under the Kenmore land use  
11 code, this is a hotel and that's exactly how the City  
12 viewed it. And the City's interpretation of its own  
13 code is, of course, entitled to deference.

14           Now, Mr. Lance, when we talked about this, had  
15 no knowledge of any conditions placed on renting the  
16 rooms. He had no knowledge, at the time, how many  
17 square foot of guest rooms there were compared to  
18 meeting space.

19           In redirect, they went through an exercise of  
20 trying to compare meeting space by ignoring all the  
21 floors with the rooms on it. If you ignore all the  
22 floors with the rooms on it, of course, the conference  
23 space is predominate.

24           But the undisputed testimony here is a  
25 predominate use, in terms of square footage, is the



1 conference center. And that is consistent -- and the  
2 intention of the arrangement here is that this is  
3 primarily a lodge. So the City correctly designated  
4 this as a hotel.

5 For the traffic and parking analysis,  
6 everybody who talked about traffic and parking has  
7 acknowledged that the ITE standards are the industry  
8 standard and that the rates and the data are appropriate  
9 to use here. ITE has a land use code 310 definition of  
10 hotel use, and Ms. Barnes read that into the record and  
11 testified that, in here experience, this is textbook  
12 definition of hotel use.

13 And, of course, the project description, which  
14 is on page 1-1 of the Draft EIS, fits squarely with that  
15 definition. This is a hotel with up to 100 rooms, 80 to  
16 100 rooms, meeting spaces, a restaurant, a café, a spa.  
17 And Ms. Wang confirmed, that's still the plan.

18 There was no testimony from anyone disputing  
19 that project description, so that's the project  
20 description. It fits clearly with the land use code  
21 definition of the hotel land use. So it was appropriate  
22 to use the hotel use designation in analyzing parking  
23 and traffic.

24 Mr. Lance had concerns about mitigation  
25 issues. He was concerned that Heffron didn't collect



1 enough data on what is going on at Cedar Brook. He was  
2 concerned that there wasn't enough data collected on  
3 parking solutions, other than what was in Heffron's  
4 analysis. And there wasn't data to -- there wasn't  
5 enough analysis on the probability of success in terms  
6 of finding off-site parking.

7           As the hearing examiner knows as well, part of  
8 the rule -- the reason is that you don't have to address  
9 every possible scenario. And, certainly, the lack  
10 themselves, the SEPA rules say that in analyzing  
11 significant impacts and mitigation measures of  
12 significant impacts in the EIS -- I'm quoting now -- may  
13 discuss their technical feasibility and economic  
14 practicability if there is concern about whether a  
15 mitigation measure is capable of being accomplished. So  
16 talking about whether there is any real possibility of  
17 getting off-site parking, it's optional.

18           We did talk about it, though. The witnesses  
19 talked about it. And the evidence shows it's not  
20 actually not uncommon to find off-site parking in  
21 Kenmore to deal with these situation. Mr. Lance himself  
22 acknowledged that the ball field are used as overflow  
23 parking during the concert series, so that precedent is  
24 there.

25           The questions pertaining to Heffron's



1 analysis, that was another issue raised by Mr. Lance,  
2 particularly the Cedar Brook work. I think first it's  
3 important to note, as Mr. Kaseguma noted, there is no  
4 other competing traffic and parking report of any kind.  
5 And Mr. Lance admitted, right up front, he was not a  
6 parking expert. He was layperson.

7           Let's talk about those data gaps at Cedar  
8 Brook. Even there, I think it's important to recognize  
9 that Cedar Brook data is not necessary to have prepared  
10 an appropriate traffic study. It was not necessary  
11 to -- it wouldn't have led to a different conclusion in  
12 terms of the impact of this project and appropriate  
13 mitigation. And for that reason, the City found that  
14 the study and the analysis and the conclusion were all  
15 adequate. And, again, that's a finding that's entitled  
16 to substantial weight.

17           The data, both Cedar Brook and the ITE, is  
18 expressed in rates. That's cars per occupied room or  
19 cars per conference guest. And so that data will scale  
20 up or down depending on the busy season and the not-busy  
21 season. The rate doesn't change substantially.

22           That rate was applied to this project as if it  
23 was a fully occupied hotel. And, in fact, the analysis  
24 goes above and beyond that by assuming it's a fully  
25 occupied hotel and tells us what would happen -- how



1 many conference-goers could we have in this parking that  
2 are not using the hotel as a lodging place. What's the  
3 tipping point if the hotel is full, how many can we  
4 accommodate? That's the conclusion in the EIS. It's  
5 not projecting how many people are going to show up or  
6 how often the parking lot is going to be full.

7           What it's telling us is this lot could fill --  
8 if the hotel is full and there's a conference of nobody  
9 using a hotel room, we can have 120 guests. And beyond  
10 that, you're going to need to make arrangements for  
11 parking. That's what the EIS is telling us.

12           And Mr. Kaseguma said that information --  
13 that's adequate information. And that's information  
14 city council can take into account when it makes its  
15 decision on the site plan application. And if it wants  
16 to impose specific mitigation, it has the information it  
17 needs. And that's the purpose of the EIS.

18           This full-occupancy scenario, this  
19 1,000-person -- hotel is full, restaurant is full,  
20 there's 550 conference-goers with no overlap, Mr. Lance  
21 admitted that's a remote scenario. And all the experts  
22 also said that's a very remote Scenario.

23           As Mr. Kaseguma pointed out, you don't need to  
24 consider every remote scenario in the EIS. But as it  
25 happens, this EIS actually gives us the information we



1 need to deal with that scenario.

2           What it says, If you're going to have 1,000  
3 people at any given moment and that kind of parking  
4 need, you're going to need to provide off-site parking.  
5 The city council is going to get that information, and  
6 that's what the point of this EIS is.

7           On the question of no net loss of parking, we  
8 have testimony from both Ms. Heffron and Mr. Lance that  
9 there are 220 spaces now, there will be 220 spaces after  
10 this project is over.

11           We also had a concession from Mr. Lance that  
12 the disclosure to Phyllis Inslee in response to her DEIS  
13 comment, and I went through that specifically with  
14 Ms. Barnes, he conceded that was an accurate response  
15 when the whole quote was read. So nobody is here saying  
16 that we can't prevent -- that we won't -- no part of the  
17 lodge guests will park in public parking. We're not  
18 saying that. But that's not what an EIS requires. What  
19 it requires is we disclose that, and it's been  
20 disclosed. So, again, city council and State Parks are  
21 going to get that information.

22           He, in his brief, also raised issue number 12,  
23 but then subsequently withdrew that issue, so it's my  
24 understanding that issue is off the table.

25           Unless, you have questions about Mr. Lance, I



1 was going to address Tracy Hendershott.

2 THE HEARING EXAMINER: No. Go ahead.

3 MR. RANADE: So Ms. Hendershott had a  
4 handful of issues as well. She contended that she has  
5 no expertise of night light or noise on the animals and  
6 did no independent study or analysis on either topic.

7 Her chief concern is trail use at night, and  
8 it relies on an unfounded assumption that there's no use  
9 at night now. That's what she wrote in her brief. She  
10 did, however, acknowledge there's something called  
11 "social trails" that seem to be coming from various  
12 residential properties that abut the park, which  
13 suggests some of the neighbors abutting the park today  
14 might be walking around the trails at night.

15 There's no reason to assume -- assuming that  
16 lodge guests are using the trails at night is requiring  
17 an assumption that lodge users alone are going to break  
18 the rules, that Parks is going to do nothing about it,  
19 or Parks is going to change its rules.

20 We have testimony that Parks is not changing  
21 the rules and they're not changing how they're going to  
22 enforce the rules. The assumption that only lodge  
23 guests are going to break the rules is not a reasonable  
24 assumption.

25 There is general concern she expressed about



1 the overall increase in trail use. First I have to  
2 note, in page 3.7-3 of the Draft EIS, I took her through  
3 the language in the Draft EIS that acknowledges that  
4 lodge guests are likely to use the trails. So this  
5 concern, which you know may be valid. I wouldn't  
6 quibble that the lodge quests are going to use the  
7 trails. It's disclosed, and that's what matters.

8 We also have to put this concern in context.  
9 Dr. Bain estimated the lodge may generate 100 users more  
10 a day than what is going on now. If we do the math, 100  
11 users a day is 36,500 users a year. The park has  
12 865,000 users a year already. So the increase that  
13 they're concerned about is a 4.2 percent annual increase  
14 -- or increase on an annual basis.

15 I think it's also important to keep in mind  
16 that these new users are also themselves members of the  
17 public. And we shouldn't lose sight of the fact that  
18 this is a public park. And that the public should be  
19 able to use it. So more members of the public using the  
20 park is not a bad thing. That's the point of having the  
21 park.

22 She expressed concerns about lights at night.  
23 And we, very meticulously, walked her through three  
24 separate places in the Draft EIS on pages 3.8-2, 3.3-10,  
25 and 3.3-12 where the EIS disclosed that the lights at



1 night are going to have some effect on wildlife. And we  
2 can do some things to mitigate it, but it's going to  
3 have some effect. Again, that's all that's required  
4 here.

5 She made a comment about noise impacts. Now,  
6 the SEPA-responsible officials specifically commented on  
7 that. It's in the Final EIS, which is Core Document  
8 Exhibit 11. The response is at page 3-45. And the  
9 response says that the noise analysis relied on  
10 Washington State noise standards. We heard no testimony  
11 from Ms. Hendershott or anyone else that compliance with  
12 Washington State noise standards is appropriate. And  
13 that would be obvious, because it's not inappropriate.  
14 That's why it's in the Washington State noise standards.

15 In truth -- and her testimony did a really  
16 good job of summarizing this -- in truth, she didn't  
17 dispute that the impacts are undisclosed. She just  
18 doesn't like the impacts. And that's fair. But that's  
19 not what is at issue here. What is at issue is the  
20 question of disclosure.

21 If you don't have any questions, I'll address  
22 Dr. Bain.

23 THE HEARING EXAMINER: No.

24 MR. RANADE: So Dr. Bain is a killer  
25 whale expert. And, I'll be honest, if I have a case



1 involving killer whales, I'm going to pick up the phone  
2 and call him. But I wouldn't call him if I have a case  
3 about the marbled murrelet. I don't think the hearing  
4 examiner needs to make any determination whether he's an  
5 expert or not.

6           Because it's clear from his testimony that --  
7 he's talking about -- his own testimony, he's talking  
8 about a bird that's not likely to be interested in a  
9 park for at least another 20 years and acknowledges  
10 there are no trees in the project area that are  
11 candidates for these birds. And he acknowledges, based  
12 on a litany of other assumptions, about the future of  
13 this park, that may or may not come to pass. That is a  
14 classic remote and speculative scenario that doesn't  
15 need to be addressed, similarly with fish.

16           He admits that if this project complies with  
17 the storm water requirements -- the storm water design  
18 manual, that will resolve water quality and drainage  
19 issues that might affect fish. He admits there are no  
20 fish in the project area, as he must. And that his real  
21 concern for fish is someone at night with a flashlight  
22 will be walking on the trail up to the edge of the lake  
23 and flash that light into the lake or river and  
24 illuminate fish, and that some predator is going to jump  
25 out when they see the fish and eat them. Now, if that's



1 not a remote or speculative scenario, I don't know what  
2 is.

3           As far as the other animals, I asked him if he  
4 thinks we need to brainstorm every possible  
5 endangered/threatened species that might one day be  
6 interested in the park, and he acknowledged that  
7 basically is the standard he's trying to hold this  
8 process to. That's certainly not the standard here.

9           We heard from Nel Lund, the plant and animal  
10 habitat expert, on the analysis that was done. She used  
11 the state standards to determine a study area. And, in  
12 fact, when it came to the endangered and threatened  
13 species, she used available data that went outside the  
14 study area to acknowledge what's there, that bald eagle  
15 site that is 350 feet outside the study area. So,  
16 again, the analysis that was done here was consistent  
17 with state standards. And, in fact, when it comes to  
18 endangered species, goes beyond that.

19           The need -- Dr. Bain seems to think that we  
20 need to assess impacts to the entire park, even though  
21 the project is really just five and a half acres in the  
22 middle of the park that is already developed. If you  
23 look at any of these drawings, in the park area, it's  
24 mostly lawn, pavement, and buildings.

25           Dr. Bain raised a concern in his briefing



1 about a noise study. And when I pointed him to the  
2 noise study in the Draft EIS and the appendix, he  
3 conceded that point. So, again, what we've got here is  
4 concerns about the impact of the project. And it's not  
5 for any of us to say whether those concerns are valid or  
6 not. That's not the issue here. The question is were  
7 these impacts disclosed? And the answer to that  
8 question is yes.

9 Now this appeal, the appellants have presented  
10 in their initial appeal statement, 24 issues. And we  
11 made some efforts to try to narrow that. I want to walk  
12 through the issues to make it clear where we are in  
13 terms of evidence and argument, hopefully to make your  
14 job a little easier.

15 The appellants were given the opportunity to  
16 rewrite issues 1 and 2 to clarify them. Near as I can  
17 tell, they wrote the exact same issue/statement for 1  
18 and 2, so we'll address them as the same thing.

19 A number of the -- they listed a long laundry  
20 list of elements, some of which are consistent with WAC  
21 197.14.44 defining elements of the environment, and some  
22 of them aren't. But the evidence was focused almost  
23 exclusively on parking.

24 And then this issue of child safety. And when  
25 I'm referring to child safety, I'm actually talking



1 about the site planning testimony. I didn't catch the  
2 first name. But Ms. Anderson was raising the question  
3 of child safety. When she was speaking, she asked a  
4 question about the parking area and the playground. And  
5 when it was explained to her that the new parking area  
6 is actually on the other side of the building from the  
7 playground, she withdrew that comment -- or at least  
8 backed down on her concern. That's the evidence on  
9 child safety, to the extent that the hearing examiner  
10 might think that's even an appropriate element to  
11 address.

12 On parking -- we talked a little bit about  
13 that. That's raised more specifically in several other  
14 issues. So the issue with 1 and 2 should be dismissed.  
15 There's no evidence on them. There's nothing there.

16 On issue number 3, identification analysis and  
17 mitigation impacts to the natural environment, we heard  
18 from Tracy Hendershott and Dr. Bain, again. And I've  
19 spoken already about the testimony they provided. It  
20 really -- this concern -- their concerns are  
21 speculative, and they're disclosed -- the impacts, other  
22 than the marbled murrelet, of course. But the impacts  
23 to the wildlife are disclosed, and neither one of them  
24 disputed that fact.

25 Issue 4, they raise an issue -- they were



1 concerned about erosion on the trails due to increased  
2 traffic. That was the issue statement. We heard  
3 absolutely no evidence whatsoever on that subject.  
4 None. That issue should be dismissed entirely for lack  
5 of evidence.

6 Issue number 5 was an allegation that we --  
7 impacts to existing parking are understated. This is,  
8 again, that concern there is going to be competition  
9 with the existing public parking. Mr. Lance conceded  
10 that there's no net loss. There's 20 spaces before;  
11 there's 20 spaces now -- 220 spaces. I'm sorry.  
12 Ms. Barnes confirmed that in her testimony.

13 Mr. Kaseguma actually asked what I thought was  
14 an interesting and good question -- that a number of  
15 people who are using the banquet hall now and using some  
16 of these 220 spaces, those are going to become lodge  
17 users in the future, and so they'll be using the new  
18 lodge space. And that means we're going to free up  
19 parking in the 220 spaces that are part of the park.  
20 So, if anything, this is going to create parking. But  
21 you don't have to go there. The fact of the matter is,  
22 the impacts to existing parking are not understated in  
23 the EIS.

24 And that gets to issue number 6, which is the  
25 attack on the Heffron study, the transportation study.



1 Again, I spoke in great detail why that issue should be  
2 dismissed. The study was appropriate, it was accepted  
3 by the city, and we heard nothing today that indicates  
4 an undisclosed impact or a scenario the city council  
5 won't have guidance on what to do about.

6 The disagreement that the appellant really has  
7 with the study is with this conclusion and the substance  
8 of its conclusion. They don't like the impact. It's  
9 not like they don't like the disclosure; they don't like  
10 the impact. And whether you like the impact or not,  
11 that's not here today.

12 On traffic and parking impact fees, we raised  
13 this issue in prior briefings saying impact fees are not  
14 part of this process. And the hearing examiner narrowed  
15 that issue down to the question of whether parking  
16 impact would be underrepresented because the parking  
17 study underrepresents parking impact. This is  
18 essentially tying issue 6 and 7.

19 And because there's no basis to conclude that  
20 the Heffron study is inaccurate or doesn't reasonably  
21 disclose parking impacts, that's the same thing and  
22 applies to 7, and 7 should be dismissed.

23 Issue 8 talks about the feasibility of  
24 off-site parking access. As we said a couple of times,  
25 discussion of feasibility and mitigation is optional.



1 There is plenty of testimony from Mr. Richardson and  
2 Mr. Lance that off-site parking already happens for  
3 special events in the park and the city.

4           The same thing can be said of issue number 9.  
5 There is no -- there's no evidence to suggest that the  
6 City wouldn't require this mitigation condition to  
7 provide off-site parking. And, in fact, it's part of  
8 the lease. The lease requires Daniels to comply with  
9 all mitigation. So no matter what the City does, if  
10 Daniels wants to continue to occupy the building and  
11 operate it, it's going to have to provide the mitigation  
12 because of the lease.

13           Issue 10 was dismissed earlier today, so I  
14 won't speak to that one.

15           Issue number 11 -- this comprehensive  
16 accounting, the full scenario, the 1,000 occupants -- we  
17 have testimony from Mr. Wright, from Mr. Lance, from  
18 Ms. Barnes all saying that is highly unlikely. And, of  
19 course, you don't need to consider most scenarios. And,  
20 as I said earlier, it's actually covered by the EIS.  
21 That says if you have a fully occupied hotel and a  
22 conference of 120 unrelated guests, you're going to have  
23 to start looking at alternative parking. That would be  
24 exactly what applies to this comprehensive accounting  
25 scenario.



1           The allegation that this project was not  
2 analyzed in a reasonable contest. Mr. Lance conceded  
3 that point during his cross-examination, so that,  
4 obviously, should be withdrawn.

5           Issue 13, was about the ball fields project.  
6 We went through every single one of the cumulative  
7 impact discussions in the Draft EIS and pointed out the  
8 ball fields project is acknowledged as a potential  
9 contributing factor to cumulative impacts. The primary  
10 witness that the appellant offered -- in fact, the only  
11 witness the appellant offered was Elizabeth Mooney. Her  
12 testimony was, she kind of actually liked this project.  
13 Her real concern is with the ball field. Well, the ball  
14 field is not at issue here. That has nothing to do with  
15 this project.

16           Issues 14, 15, and 16 were dismissed earlier  
17 today.

18           Issue 17, Ms. Wehling, Assistant Attorney  
19 General, covered it, and I thought she covered it well.  
20 We agree with her.

21           On 18, the sufficiency of mitigation measures.  
22 This is, again, Mr. Lance's argument and testimony. I  
23 think one of the things that needs to be recognized here  
24 is that the law doesn't require mitigation measures that  
25 would reduce impacts to nonsignificant levels. The



1 Residents Opposed to Kittitas Turbine's Case 165 Wd.2nd  
2 275 at page 312: The case -- the point is, there's no  
3 requirement that you mitigate things to a nonsignificant  
4 level. That's not what's required to make an EIS  
5 adequate.

6 There's also actually no evidence in the  
7 record that the proposed parking mitigation is  
8 ineffective. It's just speculation, again. That's  
9 another issue that should be dismissed.

10 Issue 19 was a complaint that comments -- that  
11 the citizens comments received inadequate response from  
12 the SEPA-responsible official. The only evidence on  
13 that point is Tracy Hendershott's brief and testimony.  
14 She's the only one to say that her comments were not --  
15 or to allege that.

16 But again, we went through her concerns and  
17 comments one by one and acknowledged they were actually  
18 addressed in the comments and in the EIS itself.

19 The remaining issues: 20, dealing with the  
20 land and water conservation was dismissed earlier; 21  
21 and 22, dealing with substance and mitigation and lead  
22 agency was also dismissed; 23, which we said was -- this  
23 was the one that cited the threshold determination. If  
24 you sort of read the text, it could be considered to  
25 apply to adequacy. If you read it that way, those are



1 broad statements about the rest of their appeal, really.  
2 And so now it should be dismissed because the rest of  
3 the appeal ought to be dismissed, and; issue 24 was  
4 withdrawn.

5           So I've gone through all of the issues, and I  
6 hope the enduser will see, they don't have any evidence.  
7 Almost all of it is based on speculation. And there's  
8 no disagreement really that the EIS discloses the  
9 impacts. The disagreement or concern is they don't like  
10 the impacts. That's not what the issue is here. So we  
11 think the right result is to deny this appeal and send  
12 the EIS, as it presently exists, up to the city council,  
13 along with the site plan recommendations, so this  
14 project can move forward.

15           THE HEARING EXAMINER: All right.  
16 Ms. Hirt.

17           MS. HIRT: I'm very tired. I know  
18 there's a lot to respond to. I'm very tired. I think  
19 that the impact traffic of the -- the impact of the  
20 off-site -- I'm sorry. Let me get my thoughts together.  
21 Let me go to the next one.

22           In talking about the number of parking spaces,  
23 it was not the number of parking spaces that we were  
24 saying were not adequate at 220 now and 220 existing  
25 after, so no net loss of existing parking spaces. The



1 real issue there is loss of access for park users, who  
2 come to the park, to not be able to access those because  
3 they're being used by people who are using the lodge.

4           In all of the things that were given and the  
5 response in number 10, it acknowledges that there is no  
6 way to keep lodge patrons from parking in the parked --  
7 these 220 spaces. I think that from that the park  
8 website -- that I didn't mention. But it states under  
9 the park website under camping -- not camping. I'm  
10 sorry -- picnics, events at Saint Edward State Park,  
11 please carpool because of tight parking. So that  
12 acknowledges that parking at the park with 220 spaces  
13 when you have 865,000 people attending -- coming to the  
14 park, using your figures, is a very tight parking  
15 situation, currently.

16           So, currently, given that we have a lot of  
17 people that come to the park, and we only have 220  
18 parking spaces -- and people do circulate looking for a  
19 place to park, currently -- not in the winter, but they  
20 can certainly do that April through September -- then I  
21 think there is a concern -- a valid concern about the  
22 lodge users parking in those 220 spaces and lack of  
23 access for current park users and others who will come  
24 to the park and not go to the lodge -- new park  
25 visitors, who are not coming to the lodge but are coming



1 to use the park, not having a place to park. And that  
2 is the concern that you will not have access to these.  
3 That is the reason for our parking analysis; while not  
4 an expert, we vowed not -- we can do the math. And we  
5 can look at things. And we have an explanation. I  
6 still think that there are problems. Even though I know  
7 it was conservative, there are weaknesses in that  
8 parking report that do not address what could happen --  
9 where will this off-site parking -- I would think before  
10 you say the EIS is complete, and maybe it is just -- you  
11 said it's reasonable. Yeah. It's reasonable to say  
12 off-site parking. We have a tipping point. But the  
13 mitigations are not something that I would trust as  
14 being something that will happen, except valet parking.

15           So I think we've shown there's not a whole lot  
16 of places for off-site parking, unless the City of  
17 Kenmore can provide it. I don't think Bastyr could.  
18 They have their own weekend events. They're not  
19 completely empty every weekend, and most of those are --  
20 well, spring, summer and fall. Most of their weekend  
21 events they have are spring, summer, fall, don't have  
22 whole weekend events. Of people who use Bastyr for  
23 events, like there's a Kenmore art fair that's been at  
24 Bastyr. Okay. So that's one thing that I have to say.

25           The other is -- excuse me. You'll have to



1 bear with me. This is not my expertise. I have a few  
2 notes.

3           You made a -- as far as discussing  
4 Ms. Hendershott's comments, there was a comment that  
5 there was nothing -- it's speculation that people will  
6 be walking on the parks. I would like to add, it is  
7 also speculation that neighbors walk in the park at  
8 night and use the trails at night as stated -- well,  
9 that, you thought, might be happening. That is also  
10 speculation. So that is just as much speculation as  
11 hotel guests using the park. There is no proof. It is  
12 speculation.

13           Let's see. Excuse me. We know lights at  
14 night will have some effect. I think the thing that  
15 people wanted to know, Is this the best mitigation and  
16 how can we even improve that? There is a real concern  
17 about the animals at night.

18           Since the park has been closed, there have not  
19 been lights in that area for 40 years. And I doubt  
20 there were very many lights in that area during the  
21 Seminary years. So this is definitely a new thing.  
22 And, yes, there will be impact and there is concern  
23 about that impact. Is it completely covered in the EIS?  
24 I'm not one to determine that.

25           Let's see. As far as -- nope. As far as not



1 having specific answers, I think that an answer that was  
2 quoted by someone that -- and I can't remember when --  
3 but I know I quoted it when I rewrote number 19 about  
4 not having a response. To me, this -- the topic of "XXX  
5 is duly noted" -- it means nothing. And I probably  
6 should have asked the question of someone, I didn't know  
7 who to ask it to, of, What does this mean? So that was  
8 part of our nonresponse. That's the nonresponse to the  
9 public. They don't know what that means. Sure, if it's  
10 a one -sentence saying, "I disapprove or I approve,"  
11 well, that's duly noted. You can tell.

12 But if it's a question or a comment that  
13 people are questioning or have a concern about, "This is  
14 duly noted," is not an appropriate answer from a  
15 layperson's perspective. It should be written so a  
16 layperson can understand it. So that was some of that.

17 And I know I addressed it in 19, in fact, I  
18 showed where I thought my questions weren't answered.  
19 But you didn't bring that up, because I didn't testify  
20 to that, but I did submit that when I rewrote 19. I  
21 used my letter as an example. I could not go through  
22 all the letters in the short time I had to reply to that  
23 to see what other questions I did not think had  
24 appropriate answers.

25 We also gave you -- well never mind. That one



1 is not important.

2           So I think -- I have a comment from Dr. Bain  
3 and his comment is, Regardless of whether you think  
4 his -- and I would like to back up, even though  
5 Mr. Olbrechts should not have to determine whether  
6 Dr. Bain is an expert -- but it was said again he's only  
7 an expert in whales -- Dr. Bain has stated that he  
8 testified as an expert for the marbled murrelet at other  
9 instances. And so -- and he has all these  
10 qualifications. And if he would speak -- at the  
11 master's degree, he would be writing his thesis on this  
12 bird. So you don't have to be a professional expert to  
13 know and learn things.

14           And, my gosh, I hope that this world does not  
15 stop learning when they get their bachelor's and  
16 master's degrees. And then that makes them an expert  
17 just because they have a degree. And I have two of  
18 them, so I can be an expert in two things.

19           I would like to read Dr. Bain's: State Parks  
20 acknowledge they need to discuss murrelets with the U.S.  
21 Fish and Wildlife Service. They should do that during  
22 the SEPA process while design changes can prevent cost  
23 of mitigation in the future, not when quick action drawn  
24 from limited options would be needed. That is why it  
25 should not have been omitted from consideration in the



1 EIS. And a project should look out to the future.

2 When I was on the advisory committee for the  
3 CAMP, which now you do not like, I -- we were looking to  
4 the future. We weren't just looking at today or  
5 yesterday. We were looking at the future for the Saint  
6 Edward State Park for 10 or 20 years.

7 This project is going to be there for a long  
8 time. And the effect and the impact it has on this park  
9 will last for a long time. It will change the character  
10 of the park, therefore, that is our concern.

11 Concern throughout this has been: What are we  
12 leaving for our grandchildren. If we do all this  
13 development today, what will our grandchildren and  
14 future generations have when they need to go to a quiet  
15 outdoor place? This is definitely a concern.

16 So, yes, there is concern about noise. There  
17 is concern about the change in culture. So Dr. Bain  
18 also said, Lease requires compliance with mitigation in  
19 the EIS, therefore, it is essential that the EIS is  
20 comprehensive. So is this EIS comprehensive enough?  
21 Does this EIS tell us about -- yes, there will be  
22 available off-site parking instead of the speculative  
23 that this can be arranged with Bastyr that -- that's  
24 just -- that could happen, but we don't know it's going  
25 to happen. So I would like to see that not dismissed.



1           And I would like to see this become something  
2 that has to be solved before the -- in a way, that fits  
3 into the EIS but gives more direction of what will  
4 happen. Because EIS, granted is not the law, there's  
5 codes, there's all this other stuff. But I, as a  
6 layperson, should be able to pick up the EIS and  
7 understand what's behind it. And this one is not  
8 understandable in some of these aspects, and that's why  
9 we are here.

10           As far as the management plan and the CAMP  
11 guests, parks commission is -- they can do what they  
12 want to. They usually do. But this land use and the  
13 things in the management plan are still -- until they  
14 rescind it, it is what it is in use. So, therefore, my  
15 comments about not complying and my concern about  
16 overtaking the park and not complying with the building  
17 part of the management plan, I think are still valid.

18           So that's it. I think that's it. I think  
19 I've -- I thought I had one more thing underlined.

20                   THE HEARING EXAMINER: You did pretty  
21 well.

22                   MS. HIRT: You think so?

23                   THE HEARING EXAMINER: Yes. Everyone  
24 has. Let me deal with the scheduling of the decision  
25 that I issue now, as the final matter and make some



1 quick final comments. My understanding, from talking to  
2 Mr. Hampson, is it's the staff's goal to get to the city  
3 council on April 17th, and so we'll need everything  
4 finalized by April 3rd, is that correct, everything two  
5 weeks in advance?

6 MR. HAMPSON: That's correct.

7 THE HEARING EXAMINER: And I've been  
8 told by both of the court reporters that the earliest  
9 they can get the transcripts to me is a week from this  
10 Friday, the 10th. And I would like to have two weeks to  
11 be able to write my decision when I get that  
12 information. The transcripts are a pretty important  
13 part of my decision, because it's really important to  
14 convey all the concerns I've heard in this hearing to  
15 the council so that they're adequately apprised. Of  
16 course, the council will have access to the transcripts,  
17 too. But I want to be as complete as I can. So that  
18 gets my decision out on the 24th.

19 I don't recall if the Kenmore code has any  
20 time limits on the recommendation. Hopefully that works  
21 with everybody. My only concern is -- and I don't want  
22 to give anybody ideas. You can come up with it on your  
23 own -- if I get motions for reconsideration, then I just  
24 have one week to distribute it for a response to comply  
25 to get a revision to council by April 3rd.



1                   Mr. Hampson, what happens in that scenario?  
2 Is there any possibility that reconsideration requests  
3 come in that we can submit that as an addendum to  
4 whatever is put to the packets to counsel.

5                   MR. HAMPSON: There is. We could submit  
6 something until the Friday before the Monday council  
7 meeting event.

8                   THE HEARING EXAMINER: I don't want to  
9 encourage motions for consideration. If there was,  
10 clearly, an obvious error or something, I think the  
11 council would appreciate my input on how that fits in  
12 with the rest of my decision.

13                   So anyway, does anyone have any problems with  
14 those time frames then? Expect a decision from me on  
15 the 24th. And no long speeches from me. I think you're  
16 very anxious to get home at this point.

17                   I want to say, I've done very contentious  
18 hearings throughout the State, and I really do  
19 appreciate the civility of everyone that's been involved  
20 here. I've seen it much worse in other places. I think  
21 that really reflects well on the City of Kenmore and  
22 concerned citizens, as well as the attorneys that didn't  
23 beat up on the defenseless citizens too much. I think  
24 you were pretty nice.

25                   And, Ms. Hirt, I can't imagine sitting here



1 and looking -- just lawyers everywhere. I mean, that's,  
2 you know, a hamster in the venom viper situation.

3 MS. HIRT: I thought I was going to take  
4 a final.

5 THE HEARING EXAMINER: Yeah. That's  
6 right. I thought you handled yourself very well. And  
7 when you needed the technical expertise on the standing  
8 motions -- I mean, I've dismissed other cases under  
9 similar circumstances -- but you came up with good case  
10 law. I don't know how you got that information, but  
11 however you did it, that really helped in that case.

12 Just a couple preliminary comments. The top  
13 two issues on this case, I think, clearly, it's the  
14 parking and it's the marbled murrelets.

15 And on the parking issue, I mean, yeah, we  
16 need the EIS to have a reasonable discussion of the  
17 environmental consequences. When parking is put into  
18 the scoping and expected to be analyzed in the EIS, I  
19 think what's most useful for the city council, what they  
20 should reasonably expect, is there no parking at this  
21 site?

22 I mean, looking at it from the SEPA-appellant  
23 standpoint -- and I can see it to a certain extent --  
24 the parking analysis in the EIS is saying, Well, at full  
25 capacity, we have 120 parking spaces. We can't tell you



1 if that's enough to accommodate the parking demand at  
2 the site, because we don't know how many people are  
3 going to the conferences on a regular basis. It's not  
4 telling us if there's adequate parking or not. I can't  
5 say that's a reasonably, thorough discussion of impacts  
6 there.

7           On the other side, though, I realize this is  
8 backup analysis from the ITE average, you know,  
9 category. And that's, under a lot of circumstances,  
10 under professional standards of methodology finds to use  
11 that average. And that average does, you know, tell us,  
12 you know, it's based on average, so that tells us what  
13 we can expect for average hotel use.

14           On the flip side of that is the fact that, I  
15 mean, even the applicant's traffic consultant recognized  
16 it's pushing it a little far to use a general hotel  
17 category for as many -- as much conference space as this  
18 does. So then you factor into the fact that, frankly,  
19 even though there's a lot of discussion that it didn't  
20 matter what the actual usage rates were, it did sound  
21 like the traffic consultant did base, at least part of  
22 her analysis, on the fact that, Hey, it's very unlikely  
23 that we're going to exceed the capacity of the parking  
24 spaces because Cedar Brook, a facility of somewhat  
25 similar size, they don't have conferences that are that



1 large, usually.

2 So anyway, those are the factors that I have  
3 to look at, giving due deference and substantial weight  
4 to the findings of the SEPA-responsible official.

5 Also, giving deference to the fact that the  
6 only expert witness testimony we have is from  
7 Ms. Barnes, you know, it's a somewhat complicated mix.

8 On the marbled murrelet issue, that is -- I've  
9 done a lot of cases with endangered species, mostly  
10 salmon but also marbled murrelet and gophers down in the  
11 Thurston and Mason County. This is the first time I've  
12 actually had a case where someone is not alleging there  
13 are endangered species, but there might be 20 years  
14 down, so it's a unique issue.

15 It has some merit, though, because there are  
16 some unique circumstances here. I mean, there just  
17 aren't many places for the marbled murrelet to go where  
18 you have over 60 acres, that's close to the water, and  
19 only five miles from Puget Sound. I think the fact that  
20 the marbled murrelet could be there in the future, that  
21 could serve as a basis for consideration.

22 But then the second step, I think the more  
23 troubling one, is beyond the issue of, you know, it will  
24 be there in the future, how probable, how significant  
25 are these impacts? And all I have on that really is



1 that we recognized, during the day, there are people  
2 crawling all over this park. So really how this  
3 proposed development makes a difference is that you  
4 might have people running around the trails at night.  
5 And so you have to consider, Well, are there really  
6 going to be that many people running round at night? If  
7 there is a marbled murrelet nest or two or three at this  
8 park, is it going to be so close to the project site  
9 that people are going to be getting to that point at  
10 night, running around with their flashlights or whatever  
11 they're doing? That's where the, you know, speculation  
12 and remoteness issue comes in. And that's where I have  
13 a bit of difficulty on that issue.

14 I mean, if this were constructing a whole new  
15 site, a whole new project, that would be a different  
16 scenario. But we're really not making any exterior  
17 alterations. We're talking about some additional light  
18 and noise and then, beyond that, people running around  
19 on the trails. Like I said, that's -- it's hard to push  
20 that all the way into something that needs to be in the  
21 EIS, but I'll seriously consider it.

22 I thought those were the two most significant  
23 ones. And I have a lot of other things to consider.  
24 And, like I said, I'll be pouring over the transcripts,  
25 and I'll make sure that all of the concerns and issues



1 get presented to the council, with my recommendations as  
2 well. And, again, thank you so much for sitting through  
3 all of this. And, I guess, we're finally done.

4 Board adjourned.

5 MR. RANADE: Thank you.

6 (Hearing concluded at 6:23 p.m.)

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## C E R T I F I C A T E

1  
2  
3 I, Katie McGinnity Roberts, the undersigned  
4 Certified Court Reporter pursuant to RCW 5.28.010,  
5 authorized to administer oaths and affirmations in and  
6 for the State of Washington, do hereby certify that the  
7 sworn testimony and/or proceedings, a transcript of  
8 which is attached, was given before me at the time and  
9 place stated therein; that any and/or all witness(es)  
10 were duly sworn to testify to the truth; that the sworn  
11 testimony and/or proceedings were by me stenographically  
12 recorded and transcribed under my supervision, to the  
13 best of my ability; that the foregoing transcript  
14 contains a full, true, and accurate record of all the  
15 sworn testimony and/or proceedings given and occurring  
16 at the time and place stated in the transcript; that I  
17 am in no way related to any party to the matter, nor to  
18 any counsel, nor do I have any financial interest in the  
19 event of the cause.

20 WITNESS my hand in Seattle, County of King, State  
21 of Washington, this 10th day of March, 2017.

22 

23 Katie McGinnity Roberts, CCR #3309,  
24 Court Reporter in and for the State  
25 of Washington. Commission expires  
April 21, 2017.



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