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A PUBLIC HEARING REGARDING  
THE FAIRHAVEN HIGHLANDS  
DRAFT ENVIRONMENTAL IMPACT STATEMENT

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REPORTED BY: SANDRA B. SULLIVAN, RPR, CCR #2647

DATE TAKEN: OCTOBER 20, 2009

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A P P E A R A N C E S

MR. TIM STEWART, Director  
MR. RYAN ANDERSON, Assistant City Attorney  
MS. NICOLE OLIVER, Communications Coordinator  
MS. KIM WEIL, Planner II and Project Manager  
MS. J. LYNNE WALKER, Legislative Coordinator  
MS. FIONA STARR, Office Assistant

For the City of Bellingham

MR. MARK JOHNSON, Senior Planner and Project Manager  
MS. REEMA SHAKRA

For ESA Adolfson

ALSO PRESENT:

Members of the Public

A public hearing was held in the above-referenced matter, pursuant to notice, at 311 Grand Avenue, Council Chambers, City of Bellingham, County of Whatcom, State of Washington, before Sandra B. Sullivan, a Notary Public for the State of Washington, commencing at the hour of 6:04 p.m. on OCTOBER 20, 2009.

1 MR. STEWART: I'd like to call the public hearing to  
2 order. My name is Tim Stewart. I'm the SEPA responsible  
3 official for the City of Bellingham, and tonight's public  
4 hearing is being conducted under the laws and rules of the  
5 State of Washington and the City of Bellingham. We're here  
6 tonight to conduct a public hearing on the draft  
7 environmental impact statement for the Fairhaven Highlands  
8 project, and I'd like to go through a few of the ground  
9 rules for the meeting tonight so that we can all be heard  
10 and that we can all listen to the comments that we are all  
11 going to make.

12 But before we go through the ground rules, I'd like to  
13 introduce you to some of the team that has been working on  
14 this project. To my right is Ryan Anderson, assistant city  
15 attorney, who is the city attorney assigned to the project.  
16 Mark Johnson, senior planner and project manager from ESA  
17 Adolfson, who has been the primary author of the EIS. Reema  
18 Shakra down here is also with ESA and she's been a valuable  
19 part of the team.

20 Kim Weil is the environmental planner and city project  
21 manager for the project. Nicole Oliver, our communications  
22 coordinator, is down in front and she'll be talking to you  
23 more about the lists and the speaking -- the speaking order.  
24 Fiona Starr also with us tonight is our administrative  
25 support. Out in the front and still signing up people is J.

1 Lynne Walker, who is our legislative coordinator for the  
2 City and she's going to help us out. J. Lynne, thank you.

3 Also we have Sandra Sullivan. Sandra is a court  
4 reporter, certified court reporter from Henry Reporting, who  
5 will be undertaking a verbatim transcript of tonight's  
6 public hearing. That verbatim transcript will then be  
7 entered into the record with all of the other comments that  
8 we receive from e-mail or letters or faxes.

9 And I want to tell you that all of the comments that we  
10 receive will be of equal weight. So as we go through this  
11 evening, if you don't have time to make your verbal  
12 testimony, you can submit that to us in writing and it will  
13 -- it will be of the same weight whether we receive it  
14 verbally tonight or in writing at a later date.

15 We're going to limit the comments tonight to three  
16 minutes per speaker. People will be heard in the order that  
17 they signed up and each person may speak only once. Now,  
18 you may yield your three minutes to someone else, but you  
19 must be present when your name is called. So Nicole is  
20 going to be in charge of that and we hopefully will be able  
21 to organize groups or allow groups to speak in a unified  
22 force format as opposed to requiring everybody to come up  
23 and -- and speak their piece.

24 We have a yellow card that will be given when you have 30  
25 seconds left in your time, and then the feared red card,

1 which we'll do when your time is up, and then, after that,  
2 then you will hear the bell (bell ringing).

3 And, after that, after that I'd like you to meet Arne.  
4 And it actually is Arne. It's named for Arne Hannah, the  
5 city mayor I think -- city councilman, and Arne will be  
6 brought out if we have any issues of people that go too far.  
7 And -- and I really would like to encourage that we not  
8 engage in any just loud or disruptive demonstrations of  
9 applause or booing or cheering or whatever, and the reason  
10 for that is very simple. We have freedom of speech in this  
11 country that is very valuable and we should cherish that,  
12 and anyone should be able to get up without fear of being  
13 intimidated or fear of being threatened. So if -- if we do  
14 that, Arne is going to come out and we'll hopefully be able  
15 to move forward without too much disruption.

16 The hearing will be filmed and shown on BTV10 as well as  
17 posted online at the City's private Website within a week.  
18 And there's also, I think everybody when they came in got a  
19 copy of the process chart as well as the detailed rules on  
20 -- on speaking. I'd like to talk a little bit about the  
21 process that this -- this DEIS will lead into.

22 It's important to recognize that tonight's public hearing  
23 is not on the permits that are being -- going to be  
24 reviewed. This is on the environmental impact statement,  
25 which is, as you know, a very big and complex document.

1           Once the FEIS, the draft FEIS is -- goes through the public  
2           process, then we will take that and we will work with our  
3           consultant team and publish a final environmental impact  
4           statement. It is only after the final environmental impact  
5           statement is published that action can be taken on the  
6           permits themselves.

7           And, in this case, the two permits that will be in play  
8           will be the plan permit and the wetland and stream permit.  
9           And, as it says in your handout, both the chair of the  
10          Planning Commission and I have called for a public meeting  
11          when the draft permits are -- are out, so that there will be  
12          another opportunity for the community to comment on the  
13          draft permits before they are issued and finally finalized.  
14          We expect that it will be a number of months before we  
15          complete the FEIS. And stay tuned till -- stay tuned and  
16          we'll keep you posted on when that is all going to happen.

17          Tonight's public hearing will go as long as we can and,  
18          hopefully, everybody will be able to get their three minutes  
19          of comments, either themselves or delegated this evening.  
20          If we can't finish tonight, then we will reconvene tomorrow  
21          evening in the City Council chambers and continue the public  
22          hearing. But I want to caution you, you'll only be given  
23          one three-minute time period, but we want to make sure that  
24          everyone has the right and the opportunity to speak.

25          Another ground rule is that we are not going to be

1 engaging in any debate, we're not going to be answering  
2 questions tonight. Tonight is your opportunity to tell us  
3 what you think about the environmental impact statement and  
4 whether you think that there's deficiencies or errors or  
5 omissions or other things that are contained within this  
6 document so that we can evaluate your comments and see if we  
7 can -- and -- and research them, so that we have the best  
8 information that is possible that will speed the  
9 decision-making process on the permits.

10 So, Nicole, are we ready to call the first speaker?

11 MS. OLIVER: Frank James. For those who are -- for those  
12 who are yielding their time, could you just stand up when  
13 the person is being called as the speaker so we can just  
14 make sure we've got enough people to yield that amount of  
15 time? Thank you.

16 MR. JAMES: My name is Frank James. I live at 3511  
17 Chuckanut Avenue and I've been involved with this issue for  
18 about a decade.

19 WOMAN: Can you speak up, Frank?

20 MR. JAMES: Sure, I can. How's that, is that better?

21 PEOPLE: Yes.

22 MR. JAMES: I'm a shy guy, but not that shy. My name's  
23 Frank James, 3511 Chuckanut Avenue, and I've been involved  
24 with this issue for about a decade. I wanted to kind of  
25 introduce the -- the process from the community's point of

1 view. We're organized, as you may well know, and we also  
2 have invited some experts, people with a decade or two  
3 decades, most of them have 25 years or more of experience,  
4 to share with you some of their insights after reading it.

5 I wanted to point out two areas of inadequacies. The  
6 first area of inadequacy is the process that's going on  
7 tonight. Three minutes to have people who've worked on  
8 topics for a decade is inadequate. 21 days since the  
9 availability of this plan document for review is inadequate.  
10 And it's compounded by the fact that the details within the  
11 DEIS are, in fact, in themselves inadequate, and you will  
12 see that in detail in the comments of a variety of speakers,  
13 both citizens and experts, through the evening.

14 Now, as we move forward, I did want to have one thing.  
15 It's not applause, it's not clapping, it's not nothing, but  
16 I would like everyone who thinks that this project should  
17 not be done to stand up.

18 (People standing.)

19 MR. JAMES: This is similar to the same process that  
20 we've seen in the prior hearings. You've had hundreds of  
21 people who've shown up, four or 500 people two days in a  
22 row. I think that that belies both the citizens' intellect  
23 and of the heart in our community. I want to thank those  
24 that donate -- that donated their time so that I could  
25 speak. I know that some of those people feel very strongly

1 and would like to speak this evening, and I appreciate your  
2 time.

3 Some of the experts that will speak tonight have a  
4 breadth of experience, as I said. The -- the issues around  
5 the environment, there are basically three issues I think  
6 that are critical. One is the environmental impacts and  
7 there are actually -- because we believe they're important,  
8 there are actually a number of experts. Sarah Cooke is the  
9 person who actually developed many of the standards which  
10 are currently used to evaluate wetlands. She actually  
11 trained many of the people that -- that do these  
12 delineations, and she's been working for more than two  
13 decades on this issue of wetlands and what their impacts  
14 are.

15 Llyn Doremus, who has been working for about 25 years,  
16 although she looks much younger than that, in hydrology,  
17 looking at both groundwater and land impacts of what happens  
18 on land and its impacts on water. John McLaughlin, an  
19 incredibly articulate citizen who happens to have a Ph.D.  
20 from Stanford and teaches at the university here will talk  
21 about the impacts on plants and animals. And a -- a  
22 wonderful gentleman is Wayne Daley, who's going to be here  
23 to talk about the impacts on fisheries. As you know, the  
24 headlands of -- the headwaters of several streams, two of  
25 the only three streams that have much of a salmon run in our

1 city, will be impacted by this project.

2 In addition to that, the other area in addition to kind  
3 of the environment is -- is traffic. As many of you know,  
4 we are experiencing what I believe is an unacceptable level  
5 of impact on traffic already, and what is envisioned in this  
6 project is a much more dramatic impact. You can expect to  
7 sit through two stoplights to get from Fairhaven to the  
8 freeway once this happens. I don't think our community  
9 wants to do that. And I don't think the answer is just more  
10 cars and more roads.

11 I think we need to think smart. We need to find public  
12 transit, we need to find ways for bike rides to be part of  
13 any development in our community. It is not okay to simply  
14 say that these traffic impacts are routine, expected and  
15 normal, because they're not. We've been on the Guide  
16 Meridian, we've been on Sunset, and we don't want that  
17 throughout our community.

18 The other impacts, and these are I think not going to be  
19 represented tonight but were represented in this exact  
20 chamber some time ago when we hired Evan Phoeter (phonetic)  
21 to come up and do an economic analysis and study, and that  
22 analysis has never been commented on by the City ever. It  
23 was not shown on Channel 10. It was kept off of Channel 10.  
24 It -- this room was filled up fuller than tonight.

25 Now, what that study showed is that we will pay in taxes

1 a huge amount of money, at a minimum 9 to \$12 million in  
2 subsidies to allow this to go forward. We're going to be  
3 taxed to death, and what Mr. Phoeter showed quite clearly  
4 was, that's the nature of the way that we structure our  
5 development process in the community is so that we will pay  
6 for that destruction of the environment, we will pay for  
7 that increase in traffic. I would like the City -- and I  
8 will introduce formally Mr. Phoeter's report. I would like  
9 a response to that analysis.

10 Those are the three issues really, the treasured  
11 environment that we all treasure and the incredible impact  
12 it's going to have there, the taxes we're all going to pay,  
13 the traffic that's going to impact every single person in  
14 this community. The thing that worries me most about this  
15 project is not about Chuckanut Ridge. It's the fact that  
16 this precedent sets the standard for the entire town, for  
17 the entire city. This is what we can expect throughout our  
18 city and throughout our community if we don't stand up and  
19 say no now.

20 Specifically with regard to the EIS, the EIS identifies  
21 any number of problems, then it does not further specify  
22 exactly what the impacts of those are. For example, it  
23 glosses over some very critical issues. The addition of  
24 traffic to substandard streets that's identified in the EIS,  
25 what the impact of that's going to be on the community is

1 not identified in the EIS, is not -- it's not elucidated,  
2 and we have no knowledge of what the impact is going to be.  
3 As a community, we want to know what the impact's going to  
4 be and what the consequence is and what the mitigation is  
5 going to be. This EIS does not provide that information.

6 Another thing by way of example is, why was -- there's  
7 clearly an impact on wetlands identified on numerous levels,  
8 and yet, when it comes right down to it, we want to know  
9 what are the impacts on the fish in Padden Creek and  
10 Chuckanut Creek? What are the actual impacts on it? The  
11 EIS doesn't say. It's silent on those issues.

12 Now, what you're going to hear are -- is a long list of  
13 these and many other issues on which the EIS is silent. And  
14 when it is silent in that fashion, that means that it's  
15 inadequate; that's something that needs to be fixed. And  
16 there are going to be much more eloquent and much more  
17 informed speakers than me speak to the specifics. You will  
18 hear them and, as citizens, I would call on you to be sure  
19 that the issues you raise or the issues the experts raise  
20 are answered in the EIS. If they're not, quite frankly,  
21 we're going to sue you and we're prepared to do that, so you  
22 need to know. It is ironic that a community like ours sues  
23 itself. That's crazy. I would hope that the SEPA process  
24 would protect us. And I expect you, Mr. Stewart, to do  
25 that. And, if you don't, we'll see you later.



1 in our nation's wetlands. In the same year, in December  
2 '89, Governor Booth Gardner announced that half of the  
3 Washington state's wetlands were gone and 2,000 acres more  
4 were vanishing each year. The governor promised to replace  
5 every wetland area lost with two.

6 In '89 to '90, our Bellingham Mayor Douglas's task force  
7 on wetlands tried to get into step with a new way that we  
8 need to look at wetlands. 20 years later, the vision that  
9 Bush, our governor and our mayor has -- had has not been  
10 distilled. Destruction of wetlands vital to the health of  
11 our city creeks into Bellingham Bay still occurs every year,  
12 and attempts to replicate them are often -- are too often a  
13 failure. I've seen it firsthand, the failure of wetland  
14 protection, resulting in a loss of wetland habitat  
15 throughout Whatcom County and in our southside Bellingham  
16 neighborhoods. Flooding of private and public property,  
17 stream-bank erosion in Padden and Chuckanut creeks, off-site  
18 flooding and subrogation of wetlands has occurred. And  
19 behind the chain-link fence, stormwater ponds have replaced  
20 -- have now replaced complex wetland functions.

21 Both in the Padden and Chuckanut creek watersheds we can  
22 show you many examples. Mitigation sites have been approved  
23 that are too dry, that are flat or isolated to do what the  
24 natural wetland did. The wrong shrubs are planted.  
25 Invasive weeds took over and drove out native plants. Few

1 of the projects have been monitored and few have been  
2 maintained both on private and public lands.

3 At the ridge, Chuckanut Ridge, are two southside  
4 watersheds, and I made a little circle there to show where  
5 those watersheds are. It's a living saddle that is  
6 considered for development, land which protects -- provides  
7 protection for the headwaters of both Chuckanut and Padden  
8 creeks. It's a very unique area. And there are serious  
9 reasons that it hasn't been developed, 'cause it's very wet.  
10 It's a complex landscape of 16 sort of not major but small  
11 wetlands, plus lots of little tiny wetlands. And, if you  
12 went there this weekend, you can see them.

13 If you look at the landscape system together as a whole,  
14 not just one at a time, it is difficult to -- at best to  
15 understand or try to reproduce the biological, hydrological,  
16 chemical and geological conditions that have this wetland --  
17 allow this wetland complex to function in the natural state.

18 So this is a -- a big, natural sponge, a reservoir  
19 protecting Arroyo Park, Chuckanut Creek area as well as  
20 Padden Creek area, which are both salmon-bearing streams  
21 with listed species in them. And my feeling with these  
22 unique --

23 MS. WEIL: Time.

24 MS. SCHERRER: -- wetlands --

25 MS. WEIL: Time.

1 MS. SCHERRER: -- is that we need to limit the -- the  
2 amount of development that is going to occur.

3 MR. STEWART: Thank you, Wendy. If you'd like to submit  
4 additional comments, we'd certainly welcome them.

5 MS. SCHERRER: Yeah, I brought some cards that identified  
6 the species that are in the creeks.

7 MR. STEWART: Okay. Nicole, could we list one or two, so  
8 that we can sort of queue up?

9 MS. OLIVER: Spencer Yande.

10 WOMAN: Yaude.

11 MS. OLIVER: Or Yaude -- Yaude, three minutes, and  
12 followed by Sarah Benn for three minutes.

13 MR. YAUDE: Hi, my name is Spencer Yaude and I'm --

14 MR. STEWART: Hi, Spencer.

15 MR. YAUDE: -- eight years old.

16 MS. WEIL: Talk into the mic.

17 MR. YAUDE: I -- I live at 517 Briar Road in the Edgemore  
18 neighborhood here in Bellingham, and I go to Happy Valley  
19 Elementary School. And I'm concerned that -- about the  
20 salmon, trout and other wildlife that get -- that need good  
21 water quality that comes from the wetlands in the One  
22 Hundred Acre Woods or the Chuckanut Ridge area. And the Pad  
23 -- the -- the Padden and Chuckanut creek are used by a lot  
24 of wild marine animals. Here are a few of them: There's  
25 the coho salmon, the chum salmon, the chinook salmon, the

1 steelhead, the cutthroat and the rainbow trout, and the  
2 giant Pacific salamander. These animals need cool, clean  
3 water for living and reproducing.

4 One of the functions of wetlands is to recharge the  
5 groundwater that provides cool, clean water to the streams,  
6 especially when the water is needed in the late summer.  
7 Impact on the wetlands will affect the water quality in  
8 Padden and Chuckanut creeks. Therefore, wetlands must be  
9 protected in the One Hundred Acre Wood area to protect the  
10 salmon in Padden and Chuckanut creek.

11 Conclusion: I think that, at most, half of the planned  
12 development would be reasonable.

13 MR. STEWART: Thank you very much, Spencer. Well done.

14 MR. YAUDE: You're welcome.

15 (Applause.)

16 MS. BENN: My name is Sarah Benn, 2106 22nd Street. All  
17 the quotes that I'm giving are addressed on the DEIS. I  
18 want to focus on the geology of the site. I have a degree  
19 in geology provided by the faculty of the WWU Geology  
20 Department.

21 Starting quote, "All of the proposed alternatives would  
22 require lowering the knob on the north central side of the  
23 site." According to the topo map provided in the report,  
24 the knob is 70-feet tall. Back -- okay. This section's  
25 called "Slope Barrier." Quote, "This area is underlain by

1 very shallow sandstone bedrock, very steep slopes, and is a  
2 designated landslide hazard area with evidence of slope  
3 instability. Cutting into the steep rock could destabilize  
4 the hillside and fill on the slope. Without a clear charge,  
5 there would also increase -- decrease stability."

6 Still quoting, "Buildings constructed within the setbacks  
7 and on the steep slope areas would decrease slope stability  
8 and would be at a high risk of failure from an earthquake."

9 The next section is blasting. The plan suggests removing  
10 13 to 25 feet from the high point of the knob.

11 Still quoting, "Blasting may be accomplished without  
12 significant on- or off-site impacts. The blasting could  
13 occur in relatively close proximity to existing homes."

14 This is not a quote. I measured and the property lines  
15 of homes on 22nd -- 22nd Street are roughly 30 feet from the  
16 knob and there are five additional homes on south streets  
17 that directly abut the knob that currently have retaining  
18 walls to contain any slope debris in the event of a slope  
19 failure. These properties directly abut the knob.

20 How am I doing on time?

21 MS. WEIL: About a minute.

22 MS. BENN: Well, good. So this is back to the first  
23 alternative, 1-A, which is having an emergency access to the  
24 end of 22nd Street. This was prepared prior to any study  
25 related to geotechnical or ecological conditions of the site

1 and prior -- prior to stormwater analysis. The geotechnical  
2 report advises against construction of the road because of  
3 the adverse impact on stability.

4 Back to my pet peeve, which is infill, and three -- three  
5 definitions. One, the use of native lands and property  
6 within a built-up area for the construction development.  
7 Number two, building in spaces between buildings. The  
8 development of vacant places between existing buildings.

9 MS. WEIL: 30 seconds.

10 MS. BENN: Three, infill residential -- infill  
11 residential development does not require the subdivision of  
12 green-filled lands, natural areas or prime agricultural  
13 lands. Existing infrastructure may mean road expansion for  
14 utility or other services.

15 How'd I do?

16 MR. STEWART: You did great. Thank you, Sarah.

17 MS. OLIVER: Ross Tilghman. For those here yielding  
18 their time to Ross, he's number 11, please stand up.

19 (People standing.)

20 MS. OLIVER: Thank you. Followed by Herbert Brown.  
21 You have 15 minutes, Ross.

22 MR. TILGHMAN: Thank you and good evening. I'm Ross  
23 Tilghman.

24 WOMAN: Talk really loud.

25 MAN: Can't hear you, Ross.

1 WOMAN: Use the other mic. It's louder.

2 MR. TILGHMAN: See how this works. Is that better?

3 PEOPLE: Yes.

4 MR. TILGHMAN: I'm Ross Tilghman, transportation planning  
5 consultant and part of the Tilghman Group in Seattle.

6 PEOPLE: Can't hear.

7 WOMAN: That other mic is better. The mic on the other  
8 one.

9 (Discussion off the record.)

10 MR. TILGHMAN: There we go. Again, Ross Tilghman,  
11 transportation planning consultant with the Tilghman Group  
12 based in Seattle. So I'd like to talk this evening about  
13 some of the broad transportation issues related to this  
14 proposed development.

15 And the first issue is the fundamental challenge posed by  
16 the location of this project. Being at the southern end of  
17 the community, it has only -- it limits the transportation  
18 options. It has only one, possibly two roads to carry all  
19 traffic from the site. There is no transit service to the  
20 site. Consequently, 95 percent of the project's traffic  
21 goes to and from the north. There's no other choice.

22 The existing streets, such as Chuckanut Drive, a two-lane  
23 highway, Old Samish, a narrower two-lane roadway, and 30th  
24 Street, a narrow rolling two-lane roadway, have very limited  
25 capacity to handle this extra traffic. And, again, this is

1 a substantial development that burdens these roads.

2 Now, this is not news because, in fact, obviously, the  
3 City recognized the problems or the need for greater access  
4 when this area developed when it did the Comprehensive Plan.  
5 And, therefore, it established some prerequisites for  
6 development in this area dealing with transportation, which  
7 included fixing Fairhaven Bridge, the bridge over Padden  
8 Creek, and extending 24th so that it makes a connection  
9 between Old Fairhaven Parkway and Chuckanut Drive.

10 It also recog -- and it made those two issues priorities.  
11 They're in bold face in the transportation chapter of the  
12 Comprehensive Plan as prerequisites. The Comprehensive Plan  
13 also recognized the need to improve 30th as development  
14 occurs.

15 Now, the proposed project offers no alternative that  
16 would fully comply with the prerequ -- excuse me, the  
17 prerequisites. Alternative 1-B would widen the Fairhaven  
18 Bridge, although the EIS makes it seem this would be  
19 extremely unlikely as this has been determined to be  
20 financially infeasible. I think by that it simply means  
21 very expensive and sources of funding haven't been  
22 identified for it.

23 1-C and 3-D propose to extend 24th, but not the bridge.  
24 And none of the other alternatives comply with either of the  
25 prerequisites, so four of the seven proposed alternatives do

1 not comply at all.

2 Now, the consequences of this, without the 24th Street  
3 extension, congestion occurs at Chuckanut Drive and  
4 Hawthorn, that intersection immediately south of the bridge.  
5 Those alternatives that do not have the extension exceed  
6 Level of Service E at that location. Those that do have it  
7 exceed Level of Service C. The alternatives without the  
8 extension add traffic then along Samish and up 30th. Again,  
9 roads that are really inadequate to take additional volumes  
10 on such a regular basis.

11 Furthermore, the project would use a considerable share  
12 of Chuckanut Drive's capacity. In fact, it leaves little  
13 room for future growth because in the area of Viewcrest, the  
14 primary entry to the project, the project would more than  
15 double the daily traffic volume on that section of Chuckanut  
16 Drive. And when it reaches the bridge, it would be a  
17 50-percent increase over the current volumes.

18 And, indeed, while it hasn't gotten to this point,  
19 looking at concurrency based on the most recent concurrency  
20 report of 2009, it's clear that this project would consume  
21 virtually every bit of the main person trips in this area.  
22 And, again, there's no transit service. There's a limited  
23 trail network that could accommodate some bicycle traffic,  
24 but that tends to be a tiny percentage of total project  
25 trips. This is essentially an auto-driven project.

1           Now, if a 24th Street extension is not accomplished with  
2 this project, how does it happen? It's not included in the  
3 current six-year transportation improvement plan, which runs  
4 through 2014, 2015, and yet, the project's impacts would  
5 begin to occur much sooner, so there's no -- there's no  
6 mechanism to fund 24th Street.

7           The EIS does not address the need to upgrade the existing  
8 portion of 24th Street where it narrows from just north of  
9 Cody Avenue down to where the connector would enter the  
10 site. That is up in the 700-foot section. That's an  
11 extremely narrow street. It is really -- it's not -- it's  
12 not a street, it's a rural lane. It's inadequate to carry  
13 any traffic from the project, although the EIS identifies  
14 that up to 80 percent of the project's traffic could use  
15 that street depending upon the alternatives. So the EIS  
16 should disclose and then evaluate the impacts of improving  
17 that section of 24th Street. It should also identify who's  
18 responsible for making the upgrades to carry that traffic.

19           Another point, the EIS relies on traffic counts that are  
20 now well over two years old. Now, the traffic analysis was  
21 most recently updated in March of this year. It should,  
22 therefore, have updated the traffic counts to provide the  
23 most accurate and current base possible. It's a simple  
24 matter to test, at least at selected intersections, what the  
25 current counts are to see if there's been a difference

1 beyond expectations from when the previous counts were done  
2 in the middle of 2007.

3 Also, the project is said to be a phased project, yet  
4 there's no definition of what those phases might be and  
5 there's no analysis of their impact. This is a significant  
6 omission 'cause we don't know when the impacts are to occur,  
7 we don't know what appropriate mitigation would be. We  
8 don't know what it is for build-out and it needs to be known  
9 on a phase-by-phase basis.

10 So, in short, the project is simply too large to approve  
11 without the necessary transportation improvements to fully  
12 address the impacts consistent with the Comprehensive Plan  
13 and the SEPA.

14 Thank you.

15 MR. STEWART: Thank you, Ross.

16 MS. OLIVER: Herbert Brown. Herbert Brown.

17 MR. STEWART: And who's on next, Nicole?

18 MS. OLIVER: And Rick Chartrand is on deck.

19 MR. STEWART: Thank you.

20 MR. BROWN: My name's Herbert Brown. I live at 521 Lyla  
21 Lane, which is just a short ways away from the Fairhaven  
22 Highlands, and I've lived in this area for about 41 years  
23 and a good time of recreation and dog walking has occurred  
24 there in -- in this area that's intended for development.

25 I'm a retired professor of biology at Western Washington

1 University and -- and I've utilized this area for this  
2 period of time both for my research and recreation. I'm  
3 more concerned with the potential of this area here as a  
4 learning resource and a protection for wildlife. I  
5 understand the traffic problems and the costs that could be  
6 included here for its development and put upon the  
7 community, but I see it as a shame that we would lose so  
8 much of the wetlands and a mixed coniferous forest community  
9 there that -- that holds so many interesting plants and  
10 animals.

11 Probably about 12 years ago, I discovered with a simple  
12 dip net some fairy shrimp were living in there. And I  
13 consulted with the Forest Service and asked if they could  
14 tell me about the fairy shrimp in the area, and they -- they  
15 had no knowledge of fairy shrimp. I later heard Mr. David  
16 Mason, a retired professor from Western who specialized on  
17 fairy shrimp, that he didn't know that they were there or  
18 recognized them occurring in the -- in the Bellingham area.

19 And I tried to find out more information about them and  
20 only very recently have discovered that it has properly been  
21 designated as the species organ -- organism and distributes  
22 itself from British Columbia to California. But, really,  
23 what do we know of its distribution within Washington? I've  
24 looked at the scientific literature and just can't find  
25 information about this fascinating animal.

1 I've taken it to many of my classes in the past and --  
2 and the students have really appreciated I think an animal  
3 that they knew little about. We may be familiar with the  
4 ordinary saltwater shrimp that's used for feeding fish,  
5 tropical fish and whatever, but to find something in nature  
6 that we know so little about and would -- would easily be  
7 lost here with the development of the -- of homes and  
8 condominiums in such a place as this.

9 I always take my camera with me and enjoy just a  
10 leisurely walk and the recreation and beauty of the area,  
11 and I see it, as has already been commented upon here, as a  
12 connectivity between Fairhaven Park and Arroyo Park, because  
13 particularly the wetlands at -- at the Fairhaven Highlands I  
14 think is so unique. You can't find another situation for  
15 people living in the Bellingham area to visit a park that  
16 has such a -- a combination of forest and wetlands there.  
17 There's just a tremendous biological diversity of -- of  
18 plants in particular, plants that are -- are rare.

19 Just this past summer, for the first time, I found a  
20 phantom orchid there. Many years ago, in leading a -- a  
21 field trip on Sehome Hill, I -- I asked the arboretum ward  
22 to designate -- designate this Sunday afternoon walk as in  
23 search of the phantom orchid. I'd never seen one before.  
24 Living in the area for 15 to 18 years and -- and just  
25 knowing that they do occur here, I said, let's call it in

1 search of the phantom orchid. We found one up there on  
2 Sehome Hill. And probably another five or six years passed  
3 before I found another one on Sehome Hill. And if you look  
4 on the Internet for the phantom orchid, in British  
5 Columbia it's a highly sought-after plant and it is  
6 protected there.

7 I don't know how many other phantom orchids occur on the  
8 Fairhaven Highlands. This is a plant that doesn't have  
9 chlorophyll. It lives underground but only comes to the  
10 surface to flower. We have other orchids there that have a  
11 same or a similar lifestyle. And then there's Indian pipe  
12 and I've seen some colonies up there I'm just amazed with,  
13 particularly that northern central area of the high slope  
14 where there's I think a very clayish area of soil where just  
15 a tremendous development occurs. These are examples in the  
16 plant world of -- of unique organisms that often, with my  
17 brief contact with someone who accidentally walks by, I have  
18 a conversation and they're totally amazed with this.

19 It's a learning resource. Our school children and -- and  
20 population ought to be alerted to what are the opportunities  
21 for visiting the situation and seeing these kinds of  
22 organisms and those that live in the dark boggy waters of  
23 the wetlands there. They ought to be kept for future  
24 generations. We should care about this valuable resource  
25 that's so close. I can't think of another park in -- in

1 Bellingham that has such a --

2 MS. WEIL: Time.

3 MR. BROWN: -- diversity of -- of organisms and a  
4 pleasant atmosphere for visiting it.

5 Thank you.

6 MR. STEWART: Thank you, Herbert.

7 (Applause.)

8 MS. OLIVER: Rick Chartrand.

9 MR. CHARTRAND: I believe I have six minutes.

10 MS. OLIVER: You do.

11 MR. CHARTRAND: My name is Rick Chartrand, not speed  
12 water. I -- I consider the traffic impacts generated by the  
13 proposed development to be critical. Based on a careful  
14 review of a perception management traffic report by the  
15 Transpo Group, I believe their findings in several areas to  
16 underes -- to understate the proposed traffic impacts caused  
17 by a development that will generate 5,000 to 7,000 trips  
18 daily, thus swaying their conclusions.

19 The assumptions in detailed charts provided in their  
20 report seem to indicate no traffic impact. From careful  
21 analysis of their March 2009 traffic report, I believe they  
22 have underestimated the traffic impact. The Transpo report,  
23 if accepted, dramatically minimizes the effect of proposed  
24 traffic volumes on major streets in south Bellingham. This  
25 is critical to all of us. I believe it is also true that

1 the City uses the Transpo Group regularly for their own  
2 traffic analysis.

3 I -- I conducted, as a private citizen, a recent, yet  
4 professional and detailed, traffic study with -- that refute  
5 several key elements in their report and lead me to disagree  
6 with several of their assumptions and conclusions. As a  
7 statistician with a bachelor's and master's degree in  
8 quantitative methods and statistics, and over 20 years as a  
9 senior Boeing executive responsible for corporate national  
10 and international traffic analysis, I feel my findings,  
11 analysis and conclusions are credible and should be  
12 carefully reviewed and considered.

13 Key -- key areas of my concern concerning Transpo's  
14 findings and report will be provided you in a written report  
15 by November 12th as -- as requested. My -- my initial  
16 observations, regardless of the details that I find lacking  
17 in the Transpo report, are this: A) The proposed main  
18 entrance to the development at the Chuckanut/Viewcrest --  
19 Viewcrest Road intersection has severe problems. There are  
20 real impaired sight problems, especially for  
21 northbound/southbound traffic leaving and entering the  
22 development and for the speeding northbound Chuckanut State  
23 Route 11 traffic. I recommend and suggest a caution light  
24 be placed there and an extensive northbound merge lane for  
25 the Fairhaven Highlands existing traffic is mandatory.

1           B) I am opposed to any option that creates a major  
2 arterial and commercial bypass or connector for State Route  
3 11 through the proposed development, thus using 24th Street.  
4 I'm not opposed to using 24th Street as an alternative  
5 emergency access road, though. I do not believe there are  
6 any state routes that have been diverted through a major  
7 housing development in the state. It seems idiotic. This  
8 is insane with all the ramifications inherent to this  
9 option. If a State Route 11 bypass is truly needed, then  
10 let the DOT and the City pay for it and not require the  
11 developer to implement that.

12           C) The widening of the 12th Street Bridge, as we all  
13 know, has difficulties both in expense and planning.

14           MS. WEIL: 30 seconds.

15           MR. CHARTRAND: Out of six minutes? Okay. My last  
16 observation is, with creative planning, the 14th Street  
17 Bridge alternative has real merit and should be explored  
18 with more intensity. I will be offering a detailed design  
19 plan for that in my written report.

20           MS. WEIL: Time.

21           MR. CHARTRAND: Thank you very much.

22           MR. STEWART: Thank you, Richard. Well done.

23           MR. CHARTRAND: You bet.

24           MS. OLIVER: Wayne Daley. Will you stand up if you're  
25 yielding your time to Wayne, please?

1 (People standing.)

2 MS. OLIVER: Thank you. Followed by Robert Gibb.

3 MR. DALEY: 12 minutes; is that correct?

4 MS. WEIL: Yes.

5 MR. DALEY: Thank you. My name is Wayne Daley. I live  
6 at 1646 Jeannette Place on Bainbridge Island. Although I  
7 live outside the area, I'm not a stranger to this area in  
8 terms of my expertise. I'm a certified fisheries  
9 professional with the American Fisheries Society, a fellow  
10 of the American Institute of Fisheries Research Biologists,  
11 and I've been practicing as a bioengineer and a fishery  
12 scientist in this area for the last 30 years.

13 Particularly, I am definitely very familiar with this  
14 site, because right adjacent to your building right here is  
15 a fish passage on Whatcom Creek that was constructed by a  
16 group of Corps -- Job Corps individuals, teenagers and young  
17 people, with jackhammers. That particular fish passage was  
18 designed by me and I oversaw -- I was overseeing the -- the  
19 actual work that was done, and I was the bioengineer and the  
20 responsible party for the conversion of your sewage  
21 treatment plant to a fisheries facility for the nonprofit  
22 organization.

23 I have a very severe and a very sincere interest in what  
24 happens in this region as well as the rest of the state of  
25 Washington that I've lived in for the last 60 -- 60-some

1 years. This is about watersheds. It's not only about  
2 Padden Creek or Chuckanut Creek. And one of the things that  
3 I've learned, and particularly in the last 30 years in doing  
4 fisheries consulting and fisheries restoration on habitat,  
5 shorelines and streams, is that we have to think in a much  
6 broader perspective. It's about -- as I said, about  
7 watersheds. And watersheds includes all of the area that  
8 immediately surrounds an individual stream. It includes all  
9 of the areas that impact that stream, and those things that  
10 are of critical importance are particularly impacted by  
11 wetlands as well as the communities around them.

12 In this region throughout the Pacific Northwest, I  
13 constantly see areas where streams adjacent to commercial  
14 development and residential development are experiencing a  
15 -- a significant impact from runoff. Stormwater runoff is  
16 probably one of the greatest detrimental impacts to our  
17 streams within this region.

18 An example, Clover Creek in Tacoma, an area that I worked  
19 with the Clover Creek Council, the nonprofit organization,  
20 they contacted me because, for some reason, with the first  
21 rainfall that would come through that area, which is south  
22 of the city of Tacoma, and -- and the Clover Creek actually  
23 flows underneath the airport of McChord Air Force Base, that  
24 first rainfall in the fall, the fish that were in Clover  
25 Creek downstream of -- of Highway Interstate 5 would die.

1 You would see 30 or 40 juvenile fish that would just turn  
2 over and die with that first rainfall.

3 Wildfellow Creek in the city of Seattle, it's a west  
4 Seattle watershed, we see on a regular basis the last five  
5 to seven years, they spent \$2 million to connect Wildfellow  
6 Creek to the saltwater through the old steel mill that's  
7 existed right at the shoreline of Elliott Bay, with the  
8 first flush in the fall of rainfall, bright shiny coho  
9 salmon adults swimming in pools just upstream of the  
10 saltwater would start swimming in circles, and within a  
11 matter of hours they would die.

12 This is stormwater impact from residential and commercial  
13 development. It's a combination of the runoff from the  
14 yards, it's the runoff from the streets, and it's the impact  
15 of individual citizens who want a green yard. They want to  
16 make sure they have no weeds in their lawn, they want to  
17 make sure that their flowers are bright and beautiful, and  
18 they want to make sure that there's nothing impacting that  
19 environment around their house. The herbicides, pesticides,  
20 and fertilizers that they use reach these stormwater  
21 systems. So it's an environmental situation that we  
22 oftentimes overlook. We just don't realize the importance  
23 of the broader aspect of the watershed.

24 I had an opportunity to read through this document, this  
25 draft environmental impact statement, from a perspective of

1 what are the impacts on the fisheries issues. And as has  
2 been identified, you have two streams that are part of this  
3 watershed. It's the stream of Padden Creek and it's the  
4 stream of Chuckanut Creek. They don't originate on this  
5 site, but it's the water from this site, it's from the  
6 watershed that these streams can be severely impacted if  
7 it's not dealt with in the proper manner.

8 As I have read through the document, in a number of areas  
9 I find the statement that best management practices would be  
10 utilized for the efforts in terms of retention of  
11 stormwater, of direction of stormwater, and protection of  
12 wetlands. This draft environmental impact statement has not  
13 identified any specific details on the design or  
14 construction of treatment facilities to deal with the  
15 increased runoff.

16 This wet -- wetland habitat is terribly dependent upon a  
17 slow percolating water flow through the trees to the ground  
18 and not a rush of sudden rainfall that washes through the  
19 area rapidly. When you remove this canopy, then you  
20 significantly alter the hydrology of those wetlands, so  
21 you're now going to see a change in the way they function.

22 My experience in the consulting industry is that best  
23 management practices work in some cases, but best management  
24 practices are written for ideal applications. This is not  
25 an ideal site. This is a very unusual site. We have to

1 carefully protect and look at exactly what we're doing with  
2 this stormwater. The fact that the first wetlands located  
3 are dependent upon this forested habitat, that it needs this  
4 gradual disbursement and these issues are not clearly  
5 identified in this document.

6 A more significant oversight in the DEIS is mitigation  
7 requirements concerning use of herbicides, pesticides and  
8 fertilizers. My experience, again, is that I have been  
9 involved writing habitat management plans for city and  
10 county governments requiring that there be a vegetation plan  
11 and no herbicides, pesticides or fertilizers used on the  
12 property. Yet, when I go back to the sites five years  
13 later, I see that the agencies, the city governments, the  
14 county governments have not had the manpower to enforce  
15 those requirements, even though they were placed on the  
16 property owner in order to get a permit. And so, it's --  
17 it's wonderful to say we're going to place these  
18 requirements on these people, but are we going to enforce  
19 it? And that's a huge issue, and particularly when you  
20 start talking about 750 or 760 units in such a sensitive  
21 site.

22 This is not a typical site and it will require very  
23 serious, careful consideration in -- in what's done with how  
24 we handle that stormwater. And what I'm seeing in the  
25 document, to me, what I see is, you're going to see storm

1 events that will completely overwhelm the design that's --  
2 or the considerations that have been shown in this document.  
3 That immediate runoff will getting to Clover -- to Chuckanut  
4 Creek and it will get to Padden Creek. The impacts to the  
5 fishery and those systems is significant.

6 What happens when these chemicals reach those creeks? As  
7 I've identified, you'll see mortality. You'll see the  
8 influence of all of that fertilizer in the creek, completely  
9 destroying the ability of the stream to maintain aquatic  
10 insect populations to support juvenile fish. It's the  
11 juveniles that we continue to overlook. We make all those  
12 provisions for adults to get upstream, just as I did down  
13 here. On the Columbia River, we put in all these wonderful  
14 fish ladders to get adults upstream. We ignored and we  
15 neglected the juveniles and they were dying on the way  
16 downstream and, consequently, the entire salmon industry in  
17 this region has collapsed since I came here.

18 When I started fishing in Elliott Bay in the 1960s, it  
19 wasn't unusual at all to catch four chinook salmon in a  
20 matter of two or three hours. Now you're lucky to catch  
21 four chinook salmon in a season. So it's critically  
22 important to protect these small streams. They can't be  
23 left ignored and they must be dealt with in a -- in a manner  
24 that we ensure and we guarantee that the habitat for these  
25 streams are protected.

1 Thank you.

2 MR. STEWART: Thank you very much, Wayne.

3 (Applause.)

4 MR. STEWART: Please hold -- if you could refrain from  
5 applause, I would very much appreciate it.

6 MS. OLIVER: Robert Gibb. Please stand up if you're here  
7 for Robert Gibb.

8 (People standing.)

9 MS. OLIVER: Thank you.

10 MS. WEIL: You have 12 minutes.

11 DR. GIBB: I won't take 12 minutes. I am -- I'm here and  
12 I speak as an 87-year-old physician, former healthcare  
13 provider and -- of emergency services and former Whatcom  
14 County Medical Examiner. I live at 204 Viewcrest Road in  
15 Bellingham, one block from the proposed development.

16 My comments will be restricted to Section 3.11 entitled,  
17 "Public Service and Utility," pages 3-345, 3-360 to 362, and  
18 3-373. It is stated that the fire department goal is to  
19 meet a medical response time of four minutes 90 percent of  
20 the time. In 2008 in the Fairhaven Highlands area, that  
21 goal was met 13 percent of the time. That means that old  
22 people like me are expendable. I accept that based upon  
23 some personal experience in the last six weeks. What I do  
24 not accept is that the 450 students in the Fairhaven Middle  
25 School are also expendable. They are our future.

1           When the 12th Street Bridge goes into traffic gridlock,  
2           as it does every morning and every afternoon, these students  
3           are at high risk in the event of a fire, a shooting, or any  
4           other incident requiring emergency response. Within the  
5           past month, a neighbor of mine, while at the school to pick  
6           up her son at about 3 p.m., witnessed an ambulance, the  
7           sirens screaming, lights flashing, totally stopped in the  
8           middle of the bridge, unable to move. Such incidents may  
9           help explain the medical four-minute response of 13 percent.

10           While I was still medical examiner, I am aware of a death  
11           related to a medical response time greater than the  
12           four-minute standard because of traffic gridlock. I would  
13           sign the death certificate as negligent homicide. And I  
14           would recommend to the county prosecutor that the mayor, the  
15           City Council, the head of the public service, and the  
16           Planning Department be so charged. The EIS report  
17           recognizes the delays. The response times will be adversely  
18           impacted by all the alternatives except the no-action  
19           alternative.

20           On page 3-373, they list mitigation measures that include  
21           sprinklers, aerial access, whatever that means, speed bumps,  
22           impact fees for the school district, and adequate water and  
23           wastewater connections. And then had the audacity to claim  
24           that if these are implemented there will be, quote, "no  
25           significant unavoidable adverse impacts." That conclusion

1 is either the result of stupidity or flagrant fraud.

2 Time permitting, I would like to also comment just on the  
3 proposed development as a conglomerate of code attacks of  
4 which -- with -- of which, with a fire occurring at the  
5 opening, become death traps. Some cities have enacted laws  
6 prohibiting that. And this is nothing but a conglomerate of  
7 code attacks, and those are some of -- one of which -- only  
8 one of which is mentioned in the report.

9 Thank you.

10 MR. STEWART: Thank you, Robert.

11 (Applause.)

12 MR. STEWART: (Using gavel.) Okay, folks. I am going to  
13 insist that we refrain from -- from applause. So if we do  
14 this again, we'll call a recess. And if it repeats, we'll  
15 call repeated recesses. So I'd like to get through this as  
16 quickly as we can with respect for everyone.

17 Okay. Nicole.

18 MS. OLIVER: It's been requested that Llyn Doremus go  
19 next. Could you stand up if you're here to yield your time  
20 to Llyn, please? She's number 33.

21 MAN: She can have some of my time.

22 MR. STEWART: How much time do we have, Nicole?

23 MS. OLIVER: I think you've got nine minutes, Llyn.

24 MS. DOREMUS: Thank you. As you know, my name is Llyn  
25 Doremus. I'm a resident of Bellingham. I'm also a licensed

1 hydrogeologist and I've worked on water and groundwater  
2 issues for the last 25 years. I'm going to speak  
3 specifically to the earth and water elements of the draft  
4 environmental impact statement and talk about the very  
5 unique aspects of this site that have already been  
6 mentioned.

7 The geology of the site is extremely important in how  
8 water is stored, distributed and transported as well as  
9 discharged from the site. The entire site is underlain by  
10 rock that water seeps through extremely slowly, so water  
11 tends to accumulate near the surface as wetlands, as has  
12 been commented on before, and migrate laterally or sideways  
13 through the shallows of the sediments. The soil layers have  
14 higher capacity to infiltrate and move water, and so they  
15 are extremely important in the balance of the hydrogeology  
16 of the site.

17 There are a number of impacts related to the geology that  
18 are going to significantly alter the -- this delicate  
19 balance between the water and rock on the site, the first of  
20 which that I'll mention is blasting. As you may be aware,  
21 there are proposals to remove up to 25 vertical feet of  
22 material from the site through blasting. The explosions  
23 that will be used to remove that rock will affect both the  
24 rock that's broken down as well as the surrounding rock that  
25 will remain after the blast.

1           That blasting will decrease the competence and  
2           destabilize the steep slopes in the area. It will also open  
3           up new cracks in the existing rock and change the pathways  
4           for water migration. Of course, the instability will  
5           increase the landsliding slope layers on the site and to the  
6           steep slopes to the north and the homes and infrastructure  
7           in that area. That will release sediments for transport  
8           accumulation of the wetlands on the site and contribute to  
9           sediment loading downstream to the water bodies, Chuckanut  
10          Creek, Padden Creek, and Bellingham Bay. These impacts were  
11          not identified in the draft environmental impact statement.

12           COURT REPORTER: I'm sorry, ma'am, could you slow down  
13           just a little bit? I'm sorry.

14           MS. DOREMUS: Okay.

15           COURT REPORTER: Thank you.

16           MS. DOREMUS: I'm trying to make my nine minutes.

17           MR. STEWART: We'd be happy to help.

18           MS. DOREMUS: So landslides along Chuckanut Drive --  
19           landslides along Chuckanut Drive are very well-known to  
20           residents here. They are a long-standing problem. They  
21           often close the road for extended periods as we remove the  
22           rock that's accumulated from them. Chuckanut formation,  
23           from which these landslides derive, is the same rock  
24           formation that underlies this site and is, in fact, known to  
25           be landslide prone given the history of the sliding onto

1 Chuckanut Drive.

2 This existing impact condition was not considered in the  
3 EIS -- DEIS in the assertion on page 312 that stated, "No  
4 evidence of historical instability or rock sliding is  
5 present."

6 (Laughter.)

7 MR. STEWART: (Using gavel.) Thank you. Go ahead.

8 MS. DOREMUS: In clearing and grading the site, all six  
9 alternatives will entail removal of a significant quantity  
10 of soil and rock. Between 200 and 3 -- 230,000 cubic yards  
11 will be excavated and, of that quantity, depending on the  
12 alternative, between 120,000 or 140,000 cubic yards will be  
13 removed from the site. Removal of such large portions of  
14 the ground will completely disrupt the natural patterns of  
15 water movement at the ground surface and in the subsurface.  
16 The impacts of the excavation and removal of the soil on the  
17 water bodies on site and downstream has not been evaluated  
18 in the DEIS.

19 Further, there will be vegetation removed from the site.  
20 Over two-thirds of the site is proposed for vegetation  
21 removal. Vegetation takes up a significant portion of the  
22 precipitation that lands on the site through the  
23 transpiration process. The average estimate for that amount  
24 of tran -- of water that's transpired is half the annual  
25 precipitation. The removal of that vegetation proposed will

1 cause a significant increase in the volume of water that  
2 flows off the site as surface and groundwater. The impacts  
3 to the wetlands and downstream surface water bodies from  
4 this has also not been evaluated in the DEIS.

5 I'm going to talk a little bit about the water components  
6 of hydrology. I think I've mentioned that there's quite a  
7 delicate balance between the geology and the hydrology of  
8 the site. The water movement or water processes on the site  
9 are balanced between infiltration, shallow subsurface  
10 movement, and discharge to surface water bodies. The  
11 modifications will occur from the site clearing that we  
12 discussed that will cause an increase in the water that's  
13 available for discharge from the site.

14 Filling of the wetlands, which is proposed for some of  
15 the on-site wetland treatments, will result in a decrease in  
16 the water stored on the site. And the infiltration capacity  
17 will be removed -- will be reduced with the removal of the  
18 surface soils. Increase of the impacts -- excuse me, the  
19 impacts of the increased water that's likely to discharge  
20 from the site resulting from these changes to the  
21 geomorphology of the habitat and the species that Wayne  
22 Daley talked about has not been assessed in the DEIS.

23 In construction of impervious surface, over 25 to 35  
24 percent of the site is also going to create a very rapid  
25 transport of precipitation falling on the site into the

1 stormwater drain system and the surrounding surface water  
2 bodies. I think we've heard enough about this problem, so I  
3 don't need to mention it again. That deserves better  
4 treatment in the DEIS.

5 Finally, the water quality impacts, again, I think have  
6 been pretty well identified by Wayne Daley. The fact that  
7 we have two downstream water bodies, Padden Creek and  
8 Chuckanut Creek, that are currently identified by the  
9 Department of Ecology as violating water quality standards  
10 for fecal bacteria content and dissolved oxygen content that  
11 impacts Padden Creek high temperatures has not been  
12 considered with respect to the downstream impacts from  
13 runoff on the site.

14 I'm going to close with a general statement about the  
15 treatment of these impacts in the DEIS. While I -- in  
16 reading the DEIS, I see that they ident -- many of these  
17 impacts have been identified, the actual quantification,  
18 calculation and analysis of those impacts to the various  
19 hydrologic and geologic systems has not been done. That key  
20 piece of information that's supposed to provide the basis  
21 from which a decision on the approval of the process or the  
22 mitigation measures or the efficacy of those mitigation  
23 measures to reduce or remove those impacts is lacking. And  
24 -- and those things must be components of the DEIS to make  
25 it an adequate tool for evaluation of the project's

1 environmental impacts.

2 MR. STEWART: Thank you very much, Llyn.

3 Who's up next?

4 MS. OLIVER: Sarah Cooke.

5 MR. STEWART: Sarah Cooke.

6 MS. OLIVER: Could you stand if you're here to yield your  
7 time to Sarah, please?

8 MS. COOKE: Sarah Cooke.

9 MS. OLIVER: Three, four, five.

10 MS. COOKE: Good evening. My name is Sarah Cooke and I  
11 reside at 4231 Northeast 110th Street in Seattle, and I have  
12 a doctorate in forest ecology and statistics and a master's  
13 in botany from the University of Washington and McGill  
14 University, Canada. I've been a wetland scientist in  
15 Washington state for 23 years, and I'm a professional  
16 wetland scientist and one of seven international fellows  
17 from the Society of Wetland Scientists. I am submitting a  
18 more detailed report that will cover all the nitty-gritty of  
19 what my thoughts --

20 MR. STEWART: Thank you very much.

21 MS. COOKE: -- are on the DEIS in November, so I'm just  
22 going to be going over some general concepts tonight. I  
23 really won't have any time for everything else. But I'm  
24 going to be discussing either four or five issues, and I  
25 apologize that I have to go by my notes, but I haven't had a

1 lot of time to review all this. We did a site visit today  
2 and I added some additional things after the site visit, so  
3 in order to make sure, in the short time I have allotted,  
4 that I cover everything, I need to refer to this. And the  
5 computer was the best way to do that 'cause what I printed  
6 up is kind of moot at this point.

7 So the first of my issues is, is the fact that all the  
8 alternatives being considered, it seems they're deficient to  
9 me, because I find that, with the exception of the no-action  
10 alternative, all the alternatives include the same number of  
11 residential units regardless of the amount of critical areas  
12 that are on the site. And it seems odd that a reduction of  
13 units as a way to create no impacts to critical areas wasn't  
14 considered as an alternative for the -- for the EIS that was  
15 proposed, that was submitted.

16 Reasonable use is not a maximum use of a public site. It  
17 should be maximum use without impacts to critical areas.  
18 Why is it that the proposal's objectives include a specific  
19 number of parcels that can be developed and not a maximum  
20 unit density at a minimum environmental cost? I do not see  
21 why the City's director felt that nine units per acre was a  
22 fair density on the site with so many critical areas. There  
23 is a reason land so close to the city has remained  
24 undeveloped all these years, 'cause the site is not  
25 conducive for typical development. The site is underlain by

1           unstable geology, as we've heard previously, that are both  
2           exposed to be -- proposed to be excavated and blasted.

3           The wetlands are located and scattered throughout the  
4           site and not clumped in a corner that would make it more  
5           conducive for development. And all of the proposals involve  
6           filling wetlands and reducing the necessary buffers that  
7           will be needed to protect the remaining wetlands.

8           The second issue I'd like to discuss is protection of the  
9           highest quality wetlands. Although the project, after four  
10          years, is finally recognizing the presence of five mature  
11          forested wetlands, the wetlands that have now received a  
12          Category 1 classification, I've also noted that in the EIS  
13          two of those five wetlands have now been subdivided. This  
14          is important 'cause Category 1 wetlands that are mature  
15          forested wetlands are afforded additional protections  
16          through the widening of the buffer that's been required to  
17          be placed on them.

18          Mature forested wetlands are some of the most valuable  
19          wetland areas and -- of the wetland type that we have. And  
20          the state and local governments have recognized this and  
21          decided back in the '70s to -- to protect these habitats  
22          because they provide so many positive functions in our  
23          environment, habitats for all kinds of animals, birds,  
24          mammals, amphibians, insects, and soil microbes that don't  
25          occur in some of the other wetland types.

1           The reason that these are provided more protection than  
2 pond-type wetlands is that we can't replace them in our  
3 lifetime. That's the whole definition of a mature or  
4 old-growth forested system. The trees in the habitat that  
5 form them take decades to develop, and so each -- each step  
6 in the habitat maturation provides for a different type of  
7 habitat for different animals, because the characteristics  
8 of the habitat change over time. And so, these particular  
9 systems are afforded more protection and they're more  
10 fragile.

11           Wetlands JJ and CC have been subdivided. These have --  
12 up until the production of the EIS have been considered  
13 single -- single wetlands -- wetlands. And in the EIS, each  
14 of these wetlands have been subdivided into J -- JJ-1 and  
15 JJ-2 and CC-1 and CC-2. This means that a portion of the  
16 wetlands is afforded the maximum protection of a Category 1  
17 wetland where they get a 100-foot buffer, even though those  
18 buffers have been proposed to be reduced in some of the  
19 instances. But the other part of the wetland is no longer  
20 going to be protected. They've both been afforded Category  
21 2 status, which means they have a 50-foot buffer and, all of  
22 a sudden, they're -- the potential for filling them is  
23 there, which they wouldn't necessarily have as Category 1  
24 wetlands.

25           I went out on the site today to look at both of these

1 wetlands and Wetland JJ is definitely one of one system, not  
2 two, as is recorded in the EIS. The developer's consultant  
3 has taken a portion of the east or closest portion of that  
4 wetland to the development and stated that this portion is  
5 Category 2 wetlands. This is very convenient, because now  
6 the buffer is closer to the development and now it's been  
7 reduced to 50 feet.

8 The Washington state wetlands manual for rating wetlands,  
9 which is what we're using here to categorize or identify  
10 these wetlands, as well as the Bellingham, has -- has --  
11 specifically states in the protocol for determining wetlands  
12 and how to delineate a boundary within a wetland that is to  
13 be related, they state that the entire wetland within the  
14 delineated boundary is to be rated as one. And that small  
15 areas within a wetland, such as the footprint of an impact,  
16 cannot be rated separately.

17 Why Wetland JJ was suddenly divided into two portions is  
18 beyond me, especially after looking at it in the field,  
19 because from looking at one slide, it says that's the  
20 beginning of JJ-1 and the other slide that's the end of  
21 JJ-2, it's pretty clear to me the vegetation was uniform,  
22 the soils were uniform. And, you know, we don't really see  
23 the hydrology this time of year, but one could only assume  
24 that the hydrology is the same. So there really is no  
25 justification for separating this extra road with Wetland

1 JJ. Obviously, this has a repercussion on what would happen  
2 for all the alternatives, because a road is proposed to be  
3 placed on there between Wetland JJ and KK, and even under  
4 the alternative where it's just an emergency road, it's  
5 still important, because if the buffer is larger, that road  
6 becomes problematic.

7 For Wetland CC, it's been subdivided by stating that  
8 they're actually separate wetlands. Suddenly, aft -- since  
9 9 -- since 2005 in the original delineation, Wetland CC was  
10 one wetland. Now suddenly it's two wetlands. And there's  
11 one small area, basically the area between me and the wall  
12 over there, that now suddenly divides them. It has suddenly  
13 come up.

14 So we went out today to look at it and, again, just as in  
15 Wetland JJ, there's absolutely no justification for stating  
16 that this isn't a continuous wetland. There is -- it is in  
17 the area between the two lows that is supposed to be upland.  
18 There's skunk cabbage and water parsley, both of which are  
19 about as wet wetland plants as you can find. The soils are  
20 black, extremely dark, organic, rich wetland soils and  
21 they're -- I have photographs. There is no way that that  
22 area is upland, and the only thing I can figure is that the  
23 state -- it states in the EIS soils did not meet wetland  
24 criteria, but I don't know where they were coring, because I  
25 went in that area and it's definitely connected.

1           So the repercussion with this is that Wetland CC-2  
2 extends up into the development. If it receives the  
3 Category 1 protection, under every one of the alternatives,  
4 either the entire wetland load CC-2 or a part of the wetland  
5 load is proposed to be filled. We're not just talking a  
6 buffer reduction here. We're talking about filling a  
7 wetland. If that portion of the wetland maintains Category  
8 1 protection, that would not be possible and that entire  
9 area filled could not occur. So, obviously, this has some  
10 pretty large ramifications.

11           Okay. Let's scroll down through (using computer). Oops.  
12 Okay. Next, there is a connection, a hydrologic connection,  
13 between Wetlands KK and JJ. Right now under all  
14 alternatives, including Alternative 2-A, which reduces the  
15 road to just an emergency access road, there is a road  
16 proposed to go through this area. I visited this area today  
17 and discovered that a large portion of the area that is  
18 supposed to be buffer is, in fact, likely wetland.

19           It's a site where there's an existing hiking path through  
20 that area. It looks like it might have been a logging road  
21 or something, and that area floods. Citizens have been out  
22 and have photos from where that area floods, and we're not  
23 just talking in the winter. I've been told there are photos  
24 showing that the area floods in May.

25           COURT REPORTER: Excuse me one second, ma'am.

1 (Discussion off the record.)

2 COURT REPORTER: Thank you. Go ahead, thank you.

3 MS. COOKE: And -- and so, the -- the flooding in this  
4 area is important, because it shows there is a hydrologic  
5 connection. Regardless of whether or not the area is  
6 wetland, there is a connectivity between these two wetlands.

7 Removal of that connectivity by placing a road through  
8 them, no matter how you coated it, can have some pretty  
9 large repercussions on the hydrologic regime of the two  
10 wetlands. One would assume that no matter how the water  
11 goes back and forth, there would be a wetland that's  
12 contributing water and a wetland that's receiving water. If  
13 you cut off that connection, then the integrity of the  
14 wetlands after the road is put in would definitely be  
15 decreased and, you know, this is not discussed in the EIS.

16 In fact, the EIS states that they're in the sub-basin,  
17 but during the winter or during high-volume storm events,  
18 they become at an el -- they come to an elevation where they  
19 are actually hydrologically connected. And so, this is an  
20 issue that needs to be discussed and identified. And I'm  
21 sure the citizens group would be glad to -- to submit their  
22 photographs and their site observations.

23 I would also say that I think that the wetland extends  
24 past the road, though the wetlands boundary of Wetland KK  
25 extends across the road that would be west towards JJ. And

1 that in measuring the distance of where that wetland buffer  
2 starts and the wetland that's JJ starts, we -- we  
3 approximated it to only be 66-feet wide. And it would be  
4 very difficult, with the 100-foot proposed buffers, to -- on  
5 both of those wetlands to push a road through of any type.

6 Next is the issue of buffers, and I've mentioned buffers  
7 and I want to explain why they're important and what they  
8 are. Buffers are upland areas around critical areas that  
9 are meant to protect the critical areas from harm. Harm can  
10 come in many forms. Physical harm, flooding, drought,  
11 shading, noise protection, habitat provision are -- are just  
12 a few of the functions that -- that buffers provide for  
13 wetlands.

14 The Department of Ecology did a two-year study on current  
15 knowledge of why buffers are important, and this particular  
16 study can be found online on the Department of Ecology site.  
17 And, in this study, they looked at current science and they  
18 recommended buffers that are in excess of even the current  
19 sensitive Critical Areas Ordinance in the city, let alone  
20 the 1990 one that the project proponents are saying this  
21 project is held to.

22 The buffers recommended by old code are significantly  
23 less than we know by new current science is necessary to  
24 protect wetlands, especially Category 1's, mature wetlands.  
25 The mature forested wetland buffers that are proposed are

1 the widest, because they're so fragile. Anyone that's cut  
2 into the forest stand, wetland or upland, has witnessed over  
3 the next few years what happens to those trees and one  
4 notices that they come down. And the reason that they come  
5 down is that trees that are growing in the interior of  
6 forest stands have very different tensile -- tensile  
7 strengths than those that grow up in a habitat where they're  
8 used to receiving wind.

9 I have a project that I've been working on in the city of  
10 Issaquah where, very similar to the Fairhaven project, the  
11 area was entirely forested. And, after they developed it,  
12 they cut down the adjacent buffers and left a very narrow  
13 buffer. And, basically, all the trees came down, both in  
14 the buffer and in the wetland, because the buffer was  
15 totally deficient. Some people were shocked and it was  
16 like, you know, "I told you guys that this would happen."  
17 This is what happens.

18 And so, by reducing the buffer width on a mature forested  
19 wetland, we -- we leave them at a minimum of 100 feet and  
20 the Department of Ecology recommends 150 feet, because the  
21 trees do come down. And even if you have 50 feet of trees  
22 coming down, hopefully you still have at least 50 feet of  
23 buffer remaining that are intact.

24 Another thing that happens with mature buffers is that  
25 most of the critters that live in mature forested wetlands

1 don't just utilize the wetlands. They utilize the uplands  
2 for different parts of their life cycle. We leave that wide  
3 a buffer because things like marbled murrelets and a lot of  
4 the other animals that live in a forested mature type of  
5 system require a very large territory. And when you  
6 restrict the territory to what you think is a legal -- would  
7 be legally adequate, it's not as necessarily adequate for  
8 the animals in the area.

9 The Department of Ecology didn't just pick these buffer  
10 widths out of the air. They -- they are based on science  
11 and investigation from looking and examining what all types  
12 of wildlife need and for water quality improvement and for  
13 hydrologic -- we call it attenuation, which is buffering the  
14 -- the effects --

15 (Timer ringing.)

16 MS. COOKE: -- of the adjacent things.

17 And, finally, I just want to talk quickly about the EIS.  
18 It's severely inadequate, as you've heard before. It  
19 doesn't discuss the -- what's going to happen as a result of  
20 altering the terrain, taking away the capacity of the area  
21 to -- to buffer the -- the changes in the -- the water  
22 regime on the site. We do not know what's going to happen  
23 in these particular wetlands as a result of each of the  
24 alternatives. It just isn't discussed.

25 MS. WEIL: Time.

1 MS. COOKE: And I'll submit the rest in writing.

2 MR. STEWART: Thank you very much, Sarah. We really  
3 appreciate it.

4 MS. OLIVER: David Bricklin. Would you stand up if  
5 you're yielding your time to David, please? Raise your  
6 hands.

7 (Hands raised.)

8 MS. OLIVER: Okay. Thank you.

9 MR. STEWART: So, Nicole, the time we have?

10 MS. OLIVER: You've got 20 -- 21 minutes, David.

11 MR. STEWART: Very good. Welcome.

12 MR. BRICKLIN: Thank you. My name's Dave Bricklin. I'm  
13 the land use environmental lawyer that the Responsible  
14 Development citizens group has retained to assist them with  
15 this project. Thank you for the time. Thank you also for  
16 those who have given up their time to allow me to have extra  
17 time. I want to talk a little bit about the environmental  
18 review process and to put this EIS and the -- this evening's  
19 public hearing into perspective, and then talk about the  
20 impact statement's discussion of the alternatives and the  
21 impacts.

22 The environmental impact statement is the product of our  
23 state's premiere environmental law, the State Environmental  
24 Policy Act, SEPA, and that law embodies a look-before-you-  
25 leap approach, that we disclose environmental impacts before

1 we make decisions on whether permits should be issued. And,  
2 if permits are going to be issued, what the conditions would  
3 be. We're going to examine alternatives to the proposal  
4 before we make decisions on whether to issue permits.

5 And, in the environmental impact statement, the -- the  
6 important information is supposed to be highlighted.  
7 Environmental impact statements are not supposed to be  
8 documents large enough to -- like this one, where you can't  
9 find the needle in the haystack. They're supposed to  
10 highlight the important information for decision-makers.  
11 And to the extent that there is any significant information  
12 in this document, it's darn hard to find it. And that it's  
13 not serving its purpose when an impact statement is  
14 organized and as long as -- as this one is.

15 An impact statement is not supposed to be a puff piece  
16 for the developer. It's supposed to be an honest,  
17 good-faith disclosure of impacts. Let the chips fall where  
18 they may. Now, I -- I guess you might begin to understand  
19 why this reads more like a puff piece in places when you  
20 realize who wrote it. The City didn't write this. City  
21 staff did not write this impact statement. It has the  
22 City's name on it, but this was written by the consultant's  
23 paid developers. And they got paid a lot of money to  
24 prepare this and it reads like it, because, as some of the  
25 speakers already have mentioned, as I will mention, as

1 others will mention, time and again, the -- the most  
2 important impacts are either not disclosed at all, they're  
3 half disclosed, or they're buried in a lot of fine print.  
4 And that is not doing the decision-makers in City government  
5 a service. It's not doing the public a service.

6 Now, the City, after it received this, the draft from the  
7 developer's consultant, is supposed to do an independent  
8 evaluation and make sure that the puffery is pulled out of  
9 it, that it provides an honest, good-faith analysis. And I  
10 know City staff is, you know, short. I know budget  
11 constraints limit what the City can do. But I think before  
12 the final comes out, you need to redouble your efforts and  
13 give this a much harder scrub than it's been given to this  
14 point. It's also not surprising, I've been told that these  
15 drafts of this document were not just paid for by the  
16 developer, but then were reviewed by the developer's lawyer  
17 before they were provided to the City.

18 MR. STEWART: I can tell you that's not true.

19 MR. BRICKLIN: Okay. Glad to hear that. Not the  
20 information that was -- that -- that I've heard, so glad to  
21 hear that.

22 Part of the SEPA process is to assure, as I say, that we  
23 have good decisions before we make -- that we have good  
24 information before we make decisions. And it concerns me  
25 that both in this document and in some of the comments from

1 staff this evening, it sounds like decisions are already  
2 being made.

3 One example was, Mr. Stewart, you talked about issuing a  
4 draft permit. Who's to say that there should be any permit  
5 for this project? One of the options before you is supposed  
6 to be denying the permit. Where is that in your thinking?  
7 I didn't hear any reference to the possibility that this  
8 project is not going to meet the requirements of City Code.  
9 And until you get a good-faith complete analysis in this  
10 environmental document, you can't know whether your decision  
11 is going to be a recommendation of denial or something else.  
12 And that's also reflected in the alternatives that are in  
13 this EIS.

14 The alternatives section of an EIS has been described by  
15 the courts as the heart of the EIS. It's where the  
16 decision-maker can judge one proposal vs. another and decide  
17 what's best, where the balance should be struck. As one of  
18 the other speakers mentioned, there's no reasonable range of  
19 alternatives here. Other than the do-nothing approach,  
20 every alternative involves the same number of units. Now, I  
21 recognize that this is a private project and there needs to  
22 be consideration of what the developer's objectives are.  
23 But the City also needs to consider the possibility that the  
24 developer's objectives may not be allowed under City Code.  
25 And what's the fall-back position? Where's that fall-back

1 position? Other than an all or nothing proposition, where's  
2 that fall-back position analyzed in the EIS? There's no  
3 intermediate positions analyzed and that's a fatal flaw in  
4 this document. This developer has no entitlement to a  
5 permit in this situation.

6 The -- Mr. Tilghman addressed the transportation issues,  
7 he noted that there are prerequisites identified in the City  
8 Code that have to be met before a project of this type can  
9 be permitted. Those prerequisites have not been met. A  
10 good-faith analysis at this point would say, in all  
11 likelihood, I'm going to have to deny this application,  
12 because those prerequisites can't be met.

13 They're seeking a variance from some of the subdivision  
14 requirements. Variances are supposed to be very  
15 infrequently granted and under only very unusual conditions.  
16 Where is the analysis as to the likelihood that they're  
17 going to be able to obtain a variance?

18 The wetlands ordinance in -- in the city would not allow  
19 the impacts to the wetlands that you just heard Sarah Cooke  
20 describe. The -- time and time again, if you have an  
21 objective analysis of this application, you can see that  
22 it's going to be hard-pressed to ever get a permit. And so,  
23 it becomes critical that the environmental review take that  
24 into account and that staff take that into account and not  
25 be going down the path prematurely of saying, oh, it's just

1 a question of what the conditions are going to be, but as to  
2 whether there's going to be a permit at all.

3 The -- and an example of the bias in this report as it is  
4 is the portion of the document that talks about what  
5 happens if the project isn't approved. And rather than  
6 saying that might be a good thing, for all the reasons we've  
7 heard about already, the -- the document doesn't say that.  
8 The document says, well, you know, if this project doesn't  
9 go forward, that might lead to sprawl out in the hinterlands  
10 and that could have its own set of bad environmental  
11 impacts. Well, that's a heck of an unbiased view of the  
12 world.

13 The -- you know, the City of Bellingham, I'm sure you  
14 know, Mr. Stewart, as the planning director, has done land  
15 capacity analysis, has identified that there is  
16 opportunities for a lot more absorption of additional  
17 development in the city in the urban villages that haven't  
18 yet been fleshed out in the zoning. But if you're talking  
19 about the long-term absorption of development density in the  
20 city, there's a lot of opportunity for that. And to say,  
21 well, in this document to poison the -- the alternative of  
22 denying the permit by saying, well, if we do deny the  
23 permit, that means we're going to pave over the countryside,  
24 when you know that there are opportunities for more  
25 development in the city is the result of a -- of a biased

1 presentation of -- of this analysis and isn't fair to the  
2 decision-makers, isn't fair to the public.

3 The analysis of impacts in this EIS has, as I said  
4 before, many of the impacts ignored or stated in very -- you  
5 know, identified in very obscure terms or with all sorts of  
6 qualifications. And let me give you a couple of examples,  
7 some of which you may have heard about already tonight.

8 The EIS says that Fairhaven Highlands would generally be  
9 con -- "would be consistent with policies to promote housing  
10 compatible with the overall style and character of the  
11 established neighborhood."

12 (Laughter.)

13 MR. BRICKLIN: Fairhaven Highlands would be consistent  
14 with the overall style and character of the established  
15 neighborhood? Are you serious? Who wrote this? Who  
16 reviewed this? We're talking about clear-cutting much of  
17 this parcel, talking about blasting the top off the ridge,  
18 you're talking about putting multi-family development as a  
19 predominant land use, you're talking about high-rises. This  
20 is compatible with the style and character of the  
21 established neighborhood?

22 The EIS goes on to say one of the alternatives, 3-D,  
23 "would result in additional impacts to the buffer of Wetland  
24 JJ for the construction of the 24th Street connector."  
25 Well, first of all, I want to stop here. Who -- who came up

1 with these names for these wetlands? JJ, it sounds like --  
2 you know, I hear JJ and CC, I think I'm talking to my  
3 teenage kids about the rappers that they listen to. Wetland  
4 JJ is said to -- it's going to be impinged on, it's going to  
5 be destroyed essentially, by the 24th Street connector.  
6 There's no discussion in that analysis of what those impacts  
7 are going to be. There's no discussion when -- when the EIS  
8 says, okay, we're going to invade this buffer of this  
9 wetland about what that means to the water quality, the  
10 functions of that wetland.

11 You've heard Sarah Cooke and others talk about how the  
12 buffers are important to filter the wat -- filter the  
13 pollutants out of the water. What happens when you put a  
14 road right down the side of that buffer or of that wetland?  
15 What does that do to the water purification ability of that  
16 wetland? What does that in turn mean for the fish that are  
17 living downstream in that watershed? Where is that analysis  
18 in the EIS? It's not there.

19 Elsewhere, the EIS says -- there's another one that  
20 regards the impact on open space and -- and the habitat  
21 that's related to that open space. The EIS can't quite get  
22 to say this is going to be bad for open space, it's going to  
23 be bad for habitat. You know what it says? It couches it  
24 this way, it says, "The development may be perceived as a  
25 significant adverse impact on open space and connected

1 habitat."

2 May be perceived? Let's just lay the chips on the line,  
3 folks. This is going to be bad news for open space and  
4 habitat. Why qualify it with this "may be perceived"  
5 language? What do you have against just saying it like it  
6 is? Giving that information to the public, giving that  
7 information to the decision-makers. And then the EIS goes  
8 through a series of environmental impacts, and one after the  
9 other reaches the incredible conclusion that there are no  
10 significant unavoidable impacts.

11 Traffic, you've heard Mr. Tilghman talk about traffic.  
12 You're going to hear other people talk about traffic. This  
13 EIS concludes, after a long song and dance about traffic, it  
14 says, "no significant unavoidable impacts." From thousands  
15 of more car trips? No -- and, no less, without improving  
16 the bridge or possibly putting in 24th, there's not going to  
17 be significant adverse impacts?

18 It reaches the same conclusion on water resources, which  
19 includes wetlands and fish. No significant adverse impacts.  
20 And the same thing incredibly regarding recreation. Now,  
21 you all know that there's an incredible recreational value  
22 on those lands, a maze of trails. And to say that the --  
23 that this development isn't going to have a significant  
24 adverse impact on recreation? Now, maybe it will and that's  
25 allowed. Maybe it's -- it will have a big impact and that's

1           okay, because we're going to accomplish something else. But  
2           let's not hide the truth and pretend that there's not going  
3           to be a significant impact. Say it like it is.

4           On -- on water, it's interesting. The EIS almost gets to  
5           the point of acknowledging that there's significant impacts  
6           on water, but not quite. It qualifies it. It says, "There  
7           won't be significant impacts to water quality if the systems  
8           we're proposing work as expected."

9           Well, first of all, what are those systems? As Wayne  
10          Daley noted, there's vague reference and generalities to  
11          best management practices, which is sort of like when I tell  
12          my kids, you know, "Sweep up the room and make your bed in  
13          the morning." But where are the details as to how you're  
14          going to actually manage the stormwater to avoid the water  
15          quantity and quality impacts, the pollution impacts on the  
16          wetlands and the streams downstream?

17          The history of -- of these manmade systems that try to  
18          mimic nature are woeful, and I suspect you know that. And  
19          they're especially woeful where you turn them over to a  
20          private homeowner's association to maintain them over time.  
21          Now, to my knowledge, there's no provision and no  
22          expectation here that the City's going to be managing the  
23          stormwater systems on site, and correct me if I'm wrong.  
24          But when was the last time that you had faith that a  
25          homeowner's association was going to be able to manage

1 stormwater systems a year, five years, 15 years, 25 years  
2 down the line? Where is -- where is that evidence?

3 In fact, I'm familiar with a recent study done in  
4 Snohomish County. Snohomish County staff has recently  
5 recognized that it's -- it's folly to expect these kinds of  
6 systems to be maintained over time by homeowner's  
7 associations. And to the extent that Snohomish County or  
8 this County or this City is putting its faith in long-term  
9 maintenance of these systems by a private homeowner's  
10 association, you need to disclose in the EIS that there's a  
11 huge risk that that's not going to work. And not say that  
12 the water won't be impacted if the systems work as expected,  
13 but, rather, it'll be a miracle if these systems work as  
14 expected and here are the adverse impacts in the more likely  
15 event that they don't.

16 The process that you've provided here, as Frank James  
17 started out by saying at the beginning, leaves something to  
18 be desired. You saw Ms. Cooke here a moment ago scrambling  
19 because of the limited amount of time that's been provided  
20 to all of us to present and prepare our comments. I don't  
21 recall exactly how long it took the consultant and how much  
22 -- how many hundreds of thousands of dollars they had to  
23 develop this document, but you then give the public a couple  
24 weeks and, you know, to try to analyze this and provide you  
25 with meaningful feedback, it's really not fair. And I

1 understand that there's a longer period for written comments  
2 and we will do our best within those 45 days to provide you  
3 with what we can.

4 I -- I want to echo, though, what -- what Frank James  
5 said at the beginning, that Responsible Development is going  
6 to sponsor their own public meeting on November 4th at 7  
7 p.m. at Fairhaven Middle School. Fairhaven Middle School,  
8 November 4th, 7 p.m., where there will be an opportunity for  
9 a dialogue where many of the same consultants that the group  
10 has retained will be present again to talk about these  
11 issues. They will then have the benefit of more time and  
12 they will be able to have a more free-flowing give and take.  
13 And we hope that members of the City staff and the  
14 consultant team avail themselves of that opportunity to  
15 learn more about the project and the inadequacies of the  
16 impact statement at that time.

17 In conclusion, I know I've been direct and blunt, and  
18 maybe more so than is comfortable for everybody, and I'm  
19 sorry if it's come across that way. I frankly would like it  
20 if you were as direct and blunt in the EIS, and if -- if  
21 there are problems with this project, lay it out and -- and  
22 then let's see what kind of decisions can be made.

23 Thank you.

24 MR. STEWART: Thank you, Mr. Bricklin.

25 MS. OLIVER: Dana Lyons.



1 the main reasons is because of our spectacular geography and  
2 our spectacular parks.

3 In a time when all other initiatives are voted down, how  
4 does Bellingham vote on Greenways? Landslide, landslide,  
5 landslide, landslide. We love our parks. We live for our  
6 parks. It's -- we love -- we live in a place where coyotes  
7 walk through every neighborhood, even downtown. There's  
8 deer, it's incredible. There's bald eagles. This is  
9 amazing.

10 We have an opportunity here. We have an amazing  
11 opportunity to create a new jewel, a new jewel for our whole  
12 city. I've been working on this issue since I moved here in  
13 1991. The people of Bellingham have been trying to save  
14 Chuckanut Ridge since the mid-'80s. I've lived in six  
15 neighborhoods. In every neighborhood I've lived in, I  
16 worked to save Chuckanut Ridge. It's a very special place.  
17 Now, Chuckanut Ridge, there are other special places in town  
18 that deserve to be saved. And the -- the tax dollars need  
19 to be given out evenly amongst the neighborhoods. That's  
20 only fair and we need more jewels, more precious gems in our  
21 city.

22 The way we're going to win this, and I'm going to predict  
23 that we are going to win this, is by exercising our right as  
24 citizens of a democracy and holding our -- our elected  
25 officials' feet to the fire. This will probably take a

1 while. The other way is in the courts. We're going to need  
2 to raise money to pay our lawyers to sue whoever we have to  
3 or need to sue to protect this gem. We need to hold our  
4 elected officials' feet to the fire, but, most of all, we  
5 need to turn out like this. We need to stay organized.

6 This was an outstanding organizational effort. I  
7 received four phone calls, four phone messages telling me  
8 about this. That's a sign, that's a sign of love, and  
9 there's no way -- when we started this fight, I thought  
10 there's no way we're going to lose. If we do lose, we  
11 should be ashamed, because the city will lose one on the  
12 southside of the city, which will destroy the character of  
13 our neighborhood, I'm sorry. I'm sorry, but it's just,  
14 that's just a simple fact. It's like we're -- we're  
15 fighting for the integrity and life of our neighborhood.  
16 It's nothing short of that on the southside. That's  
17 one-third of the population. A pretty significant electoral  
18 influence. In the rest of the city, I bet we'd add at least  
19 85 to 95, 90 percent support as long as they knew that their  
20 neighborhoods would get a fair shake of the tax dollars,  
21 too.

22 So this EIS is a necessary part of the minutia where  
23 extremely wealthy developers and banks put a huge amount of  
24 pressure on government, but, in the end, if the people stay  
25 united and we turn out, we will win. And our party, I want

1 to tell you a little bit about our party.

2 (Laughter.)

3 MR. LYONS: It's going to be held in the Fairhaven Park  
4 and there's going to be a lot of children running around and  
5 we're going to have a big green ribbon about this thick.  
6 And on one -- one side, Frank James is going to hold one  
7 side and on the other side the head of --

8 MS. WEIL: 30 seconds.

9 MR. LYONS: -- Horizon Bank is going to be holding on to  
10 it, and Mayor Pike will be in his second term and he's going  
11 to have big scissors. And there's going to be teenagers  
12 biking over these big ramps, and the deer and the coyotes  
13 are going to be watching from the side. And we're all going  
14 to be there and the deer are going to be happy, and there's  
15 going to be lots of music and I'm going to be playing, "If I  
16 Had a Hammer," and --

17 (Laughter.)

18 MR. LYONS: -- we'll take donations for the party after  
19 we pay for the lawyers.

20 Thank you.

21 (Laughter and applause.)

22 MR. STEWART: Thank you very much. Why don't we take a  
23 10-minute break here?

24 (A brief recess was taken.)

25 MR. STEWART: We're waiting for BTV to return. As soon

1 as Lars returns, we'll get them.

2 We're all set?

3 MS. OLIVER: John, you're up.

4 MR. LESOW: Good evening. John Lesow, 317 Madrona Place,  
5 Point Roberts, Washington, proud member of Responsible  
6 Development and I oppose any development of the Chuckanut  
7 Ridge. Just now a memo was given to me and perhaps this  
8 might help elucidate some of the statements that were made  
9 earlier about the developer's attorney reviewing the  
10 materials before the City gets them. So I'll submit this  
11 short paragraph and then submit it into the record.

12 This is a memo from Kim Weil, copy Fiona Starr, re  
13 Fairhaven Highlands to John Hadden. "John, I don't get due  
14 dates for report arrivals because the EIS consultant is  
15 waiting for them from the Applicant. In this case,  
16 Mr. Tull's law office, so he doesn't know either. The EIS  
17 consultant knows who studied what and where they are  
18 approximately in the process. But he gets the information  
19 once it's sent by the Applicant."

20 Okay. Besides being a member of Responsible Development,  
21 I also am a second-term member of the Whatcom County  
22 Planning Commission representing District 3. I do not speak  
23 on behalf of the Planning Commission, but I was present for  
24 the Planning Commission's 43 public meetings and work  
25 sessions on the Bellingham UGA in 2005 and 2006. And the

1 subject of infill within the city limits was actively  
2 discussed. The Fairhaven Highlands proposal falls short of  
3 any rational definition of infill. To categorize it as such  
4 is inaccurate and unprofessional.

5 From a practical standpoint, Sehome Hill is a more  
6 appropriate location for infill for high-density housing.  
7 Sehome Hill is similar in size to Chuckanut Ridge. Sehome  
8 Hill has fewer environmental constraints and it's closer to  
9 city infrastructure. But no one seriously considers Sehome  
10 Hill for development, because it is a civic treasure. Like  
11 Stanley Park in Vancouver, Sehome Hill is a forested parcel  
12 of real estate that wise, thoughtful people, thoughtful  
13 people, set aside a long time ago for the good of the  
14 community. There is Greenways money available to purchase  
15 Chuckanut Ridge. We should use it now and preserve this  
16 environmental asset for future generations.

17 Just outside of this building, just 50 feet away from  
18 where you are, there's a tree, a dawn redwood. It's a rare  
19 tree that was known only from fossil remains dating back 70  
20 million years until a few live specimens were discovered in  
21 China in 1944. A Bellingham resident obtained seeds and  
22 planted a seedling on these courthouse grounds back in 1953.

23 In 1990, plans for remodeling this courthouse called for  
24 that tree to be cut down. And I'm sure at the time there  
25 were technical bureaucratic arguments for removing that

1 tree, arguments that we now hear in the building industry  
2 for allowing construction in all kinds of inappropriate  
3 places; but County Executive Shirley Van Zanten and our  
4 Parks Department saw the significance of this rare and  
5 beautiful tree. She directed the architect to reconfigure  
6 this building and preserve the tree for the enjoyment of  
7 future generations.

8 I encourage you to look at this tree when you leave the  
9 building tonight. It is one of the largest living dawn  
10 redwoods in the United States. I encourage you to visit  
11 Chuckanut Ridge in the coming days and weeks and ask  
12 yourself, is this environmental asset also worth preserving?  
13 And do we, like Shirley Van Zanten, have the courage and the  
14 political will to preserve those dwindling environmental  
15 assets that make Bellingham and Whatcom County this  
16 wonderful place to be called home?

17 Thank you.

18 MR. STEWART: Thank you, John.

19 MS. OLIVER: John McLaughlin. Could you stand up if  
20 you're yielding your time to John McLaughlin, please?

21 (People standing.)

22 MS. OLIVER: Thank you.

23 DR. McLAUGHLIN: Hi, my name is John McLaughlin. I  
24 essentially live in my office in Western Washington  
25 University and I speak on behalf of myself, trying to offer

1 some of my own scientific expertise to improve the  
2 environmental review of the town. And I'd like to thank the  
3 people who yielded time and I strongly encourage you to  
4 express your own values and ideas in whatever form you're  
5 allowed. And I'd like to thank you for the opportunity to  
6 comment on the draft environmental impact statement. I  
7 commend you for your attention and for your patience. I  
8 hope you'll recognize the numerous, even passionate comments  
9 here tonight as evidence this community shares your strong  
10 interest in your home and your commitment to stewardship.

11 I'll provide detailed comments on the DEIS in written  
12 form. I'll not occupy your time or that of my fellow  
13 citizens with those details here. Instead, I want to  
14 emphasize several themes from my comments that, if heeded,  
15 will support a need to obtain an adequate EIS and I'm going  
16 to focus on impacts to plants and animals in Section 3.4. I  
17 have seven points to make.

18 First, there was an immense volume of information  
19 provided in the EIS scoping hearing back in January of 2008.  
20 That information came at substantial cost in public time,  
21 effort and thought. Much of that information was ignored,  
22 dismissed or otherwise not addressed in this EIS. I'd like  
23 to speak for myself. Most of the comments I made on 32  
24 pages was ignored or dismissed or not addressed. That  
25 represents an affront to the public whom you are supposed to



1 see what it is.

2 Fourth, consequences to wetland impacts. Here I'm going  
3 to quote from Washington Department of Wildlife biologist  
4 Ryan Lynx when he commented on the Bellingham draft Critical  
5 Areas Ordinance back in October 2005. His comments  
6 addressed stream buffers, but it applies equally to wetland  
7 buffers. And he said, "The stream buffer widths were  
8 developed through WDFW's review of the best available  
9 science to protect, enhance and maintain a structural and  
10 functional integrity of riparian habitat and associated  
11 aquatic systems. Whenever these stream buffer  
12 recommendations are compromised, it should be done with the  
13 full knowledge that the structural and functional integrity  
14 of riparian habitat and associated aquatic systems is also  
15 being compromised."

16 So back in 2005 when the draft CAO was converted into the  
17 final CAO that we now enjoy protection of, the planning  
18 staff largely ignored Ryan's warnings when it came to many  
19 of the Category 1 wetland buffers. And so, as a result, the  
20 current Critical Areas Ordinance compromised the best  
21 available science, as Ryan Lynx described it. That's  
22 compromise number one.

23 Buffers in the old Wetland and Stream Ordinance prior to  
24 the adoption of the current one, the current Critical Areas  
25 Ordinance, under which the Fairhaven Highlands project

1 claims vesting, compromises on the current Critical Areas  
2 Ordinance. First, the old Wetland/Stream Ordinance has half  
3 the buffer width of the current Critical Areas Ordinance for  
4 Category 1 wetlands. That's compromise number two.

5 Fairhaven Highlands development alternatives violate even  
6 those minimal 100-foot buffers for Category Number 1  
7 wetlands, and that's compromise number three. So that means  
8 that the minimum wetland protection required by or dictated  
9 by the best available science would be compromised to the  
10 third order in this proposal.

11 Further wetland impacts include wetlands built on by  
12 construction, including in Category 1 wetlands, isolating  
13 the remaining wetlands from each other, surrounding them by  
14 high-intensity development which will be consisting of  
15 buildings, pavement and resulting in contaminated runoff.

16 So the EIS should be honest about wetland impacts. The  
17 development proposals would degrade an integrated forested  
18 wetland system supporting sensitive plants and animals, and  
19 degrade that system into several isolated mud puddles  
20 containing a few urban tolerant plant species. Let's be  
21 honest about what we're talking about.

22 Fifth, my comments on the EIS scope and on the wetland  
23 and stream application provided detailed critiques of the  
24 flawed methodology and conclusions of the technical document  
25 supporting the EIS. Those included warnings of the many

1 wetlands -- that many wetlands are Category 1, which proved  
2 true.

3 When -- I teach a wildlife ecology course in which I  
4 teach students how to do a wildlife survey, largely based on  
5 my own work doing wildlife research, and when I mentioned to  
6 students that the bird surveys in this report included  
7 collecting data after noon in July, you should see the jaws  
8 of my students drop, because they know what is standard  
9 practice and they recognize how seriously that standard  
10 practice has been violated.

11 Unfortunately, the DEIS did not correct most of those  
12 errors, but, rather, incorporates those documents almost  
13 without question. There are some questions, but most of  
14 them not. This means that the analyses of the impacts are  
15 based on incomplete and unreliable information, and its  
16 assessments cannot be considered reliable for the plants and  
17 animals. That means we do not know what rare or sensitive  
18 species may be using the site.

19 SEPA, under WAC Chapter 197, Section 11-080, requires  
20 that this information be obtained and included in the EIS.  
21 If you look at it and if you don't have surveys of  
22 vertebrates, you don't have surveys of your plants, the bird  
23 surveys are entirely inadequate. The mammal surveys are  
24 haphazard, which is not credible at all. So every single  
25 asset is considered inadequate.

1           If that's not there, then SEPA requires the information  
2           be obtained and included. But if the lead agency decides  
3           that the appropriate flora and fauna surveys cannot be done  
4           or would be exorbitant, SEPA dictates that the EIS apply a  
5           worst-case analysis. For this site, that would include  
6           potential marbled murrelet nesting on site and impacts to  
7           that federally-protected species. So rather than worrying  
8           about nesting murrelets on the site, instead the agency  
9           could require an appropriate and complete flora and fauna  
10          survey in the EIS.

11          I had another comment about the division of Wetland CC,  
12          but Sarah Cooke already addressed that far better than I  
13          would, so I'll leave that.

14          And number seven, on foreclosed options regarding  
15          mitigation of hydrologic impacts of climate change, which I  
16          haven't heard yet tonight. The wetlands on the site are  
17          cold, clean water, especially at low summer flows when  
18          they're most needed in Padden and Chuckanut creeks. Climate  
19          change forecasts for our region imply that those low flows  
20          will decrease markedly with substantial climate-reduced  
21          impacts on streams. There's not a whole lot we can do about  
22          global climate. We can do our part, but what we can do is  
23          to allow those wetlands to provide some mitigation for those  
24          climate impacts that will be imposed upon us.

25          If the Fairhaven Highlands is developed, then we

1 foreclose on that option with severe consequences for the  
2 creeks and the salmon and other aquatic biota they support,  
3 and SEPA requires consideration of foreclosed options and  
4 it's not in the DEIS.

5 And then, finally, number eight, my own regional analysis  
6 revealed that Chuckanut Ridge is a keystone habitat, as  
7 described in my own EIS scoping comments. Development there  
8 would impact flora and fauna throughout the region,  
9 particularly southern Bellingham, as well as on land.

10 Incredibly, the EIS must evaluate those regional impacts,  
11 but the EIS fails to do so. So two questions: How many  
12 amphibians are going to go extinct in Connelly Creek? How  
13 many of those coyotes throughout town would make it to their  
14 places now because that place gets developed and it shuts  
15 off this gateway? The Chuckanut Ridge is a key hub or  
16 keystone habitat that is critical to the wildlife  
17 connectivity throughout southern Bellingham, and the DEIS  
18 has not addressed those impacts.

19 So, in conclusion, I'll refer to one of my favorite  
20 childhood books, Bill Pete's "Farewell to Shady Lake." It's  
21 a touching story about animals facing bulldozers about to  
22 destroy their forested wetland home. The story has a happy,  
23 fairytale ending when the animals ride a passing freight  
24 train to a new home. Unfortunately, we do not live in a  
25 fairytale and no such option is available to wildlife at

1 Chuckanut Ridge. All of the common urban species will  
2 perish, but the DEIS obscures this outcome with obtuse  
3 generalities.

4 Worse, we may never know what is at stake because the  
5 DEIS is based on flawed and incomplete studies done by the  
6 consultants. Relying on it for environmental review is  
7 asking us to throw away a treasure without checking what it  
8 contains. Please go back and do the EIS right.

9 Thank you.

10 MR. STEWART: Thank you, John.

11 MS. OLIVER: Michael Botwin. Do we have someone who  
12 yielded your time?

13 (Hand raised.)

14 MS. OLIVER: Thank you. Six minutes.

15 MR. BOTWIN: Thank you. Good evening. My name is  
16 Michael Botwin. I reside at 349 Cove Road in Bellingham.  
17 I've been a prosecutor for the California Attorney General's  
18 Office for over 33 years until I retired and moved to  
19 Bellingham about seven years ago. And I'm here to address  
20 the effect that the 1994 FDIC order against Horizon Bank  
21 should have on you, the Planning Department, and you, Mr.  
22 Stewart, and on the City, and on the very process in which  
23 you're undergoing here tonight and the future processes  
24 involving permitting of this project.

25 The FDIC, in 1994, issued an order against Horizon Bank,

1       which I will give to Nicole Oliver and that's going to be  
2       part of the record. This order limited Horizon Bank, quote,  
3       "to the development of real estate intended for  
4       single-family residential use." I repeat, this order  
5       limited "the development of real estate intended for  
6       single-family residential use."

7       Now, it seems quite clear that Horizon Bank is violating  
8       that order. All one has to do is look at the environmental  
9       -- the draft environmental impact study and it shows that,  
10      of the 739 homes that are proposed, 558 are multi-family and  
11      only 181 are single family. Now, the City Code itself  
12      defines the multi-family housing under Section 17.82.010 as  
13      four or more dwelling units designated for permanent  
14      residential occupancy resulting from new construction.

15      The FDIC's order is still in full force and effect 15  
16      years later and it's as good today as it was back in 1994.  
17      Now, the purpose of the order is not to put idle ink on  
18      paper. It has a purpose. It has a cost. It's there for a  
19      reason. It's there to stop this speculative real estate  
20      development that just very recently brought our entire  
21      nation to the precipice of another great depression.

22      Now, I know that members of the City are aware of this  
23      order, because on May 22nd of this year, 2009, copies of the  
24      order were sent to Mayor Pike and to the financial director  
25      John Carter, and to you, too, Mr. Stewart.

1           Now, I don't know whether you or the mayor actually read  
2 your e-mail. I suppose you read it and I suppose you saw  
3 it, but I don't know for sure; but I do know that John  
4 Carter saw it and commented back to that e-mail, basically  
5 saying that the FDIC order is just really, in effect -- I'm  
6 sort of paraphrasing his words, but, in effect, is a matter  
7 between Horizon Bank and the FDIC and it really doesn't  
8 affect the City or its processes.

9           Now, with this, I cannot agree. Whether you're for the  
10 project or against the project, there is a federal order.  
11 And, in my mind and in my opinion, you are aiding and  
12 abetting the -- the Horizon Bank to violate an order of a  
13 federal agency. And I don't think that that should be the  
14 function of government.

15           Now, I don't know whether you personally are subject to  
16 criminal or civil sanctions. It's a matter you could  
17 discuss with your city attorney and it's not a matter of  
18 interest to me. I'm interested in the political  
19 consequences if any governmental officials aid and abet a  
20 private business to violate a federal order. That is  
21 serious business. It is -- I do know that is bad policy,  
22 it's bad governance, and it's bad planning.

23           I think if you were to take a survey of the citizens of  
24 this area, you would find that Bellingham residents do not  
25 want their elected officials and those appointed by elected

1 officials to assist others to violate federal orders. It's  
2 serious business. It undermines the confidence in  
3 government. I'm sure that you would not like planning code  
4 violations or -- or other code vio -- code enactments by --  
5 by the City government to be violated.

6 So you should be giving the same respect to the federal  
7 order that you expect other people to give respect to City  
8 ordinances and planning codes. It certainly is not a good  
9 example to be taught to our children in civics courses in  
10 our public schools.

11 Now, I know the City is very concerned about litigation.  
12 And, as a matter of fact, it seems like, on many important  
13 decisions, rather than look at the merits of a particular  
14 project, they -- they decide, "Gee, we're going to get sued;  
15 therefore, we're going to cave," regardless of whether it's  
16 good for the citizens of this community or not.

17 But if you use that test in this incident, it -- it does  
18 not favor Horizon Bank. Horizon -- the City cannot be  
19 harmed. The City is not subject to damages, in my opinion,  
20 in an action brought by Horizon Bank, because Horizon Bank  
21 cannot be damaged from being either prevented or delayed in  
22 bringing a project that, by federal order, is illegal under  
23 that order. They cannot get an injunction against the City,  
24 because they can't come to court -- a court with clean  
25 hands. On the other hand, shareholders in the City are.

1 The City is subject to litigation by shareholders of the  
2 bank in a derivative lawsuit for damages that could be  
3 caused by the causation of the City's participation in  
4 helping the bank engage in this illegal activity.

5 What good government demands and what you should do is  
6 stay all the proceedings, including this environmental  
7 impact study, until such time as Horizon Bank can come  
8 before you --

9 MS. WEIL: Time.

10 MR. BOTWIN: -- with a modified order from the FDIC that  
11 allows you to go ahead with this project.

12 MR. STEWART: Thank you, Michael.

13 MR. BOTWIN: Thank you.

14 MS. OLIVER: Dudley Evenson. You've got six minutes,  
15 Dudley.

16 MS. EVENSON: I'm Dudley Evenson, and I must say that I  
17 have been involved in this project for 19 years. In 1990,  
18 in December, our esteemed colleague here, Robert Tull,  
19 called a meeting for the then considered Chuckanut Ridge  
20 development that was owned by a group of people led by or  
21 including Roger Sahlin. And there was a huge turnout at  
22 Fairhaven Middle School that came. And, since then, we  
23 organized in an organization called Interurban Neighbors and  
24 we said, we don't know what's going to happen, we don't know  
25 how effective we're going to be, but we knew that this

1 development was totally inappropriate at the time. And, at  
2 the time, they wanted to put 1400 houses on the 100 acres.  
3 Since then, they gave away, oh, I think it was 18 acres to  
4 the City, which couldn't be built on anyway, 'cause it's  
5 definitely Class 1 wetlands. We said, we don't know what's  
6 going to happen, but we do know one thing is for sure, we're  
7 going to get to know our neighbors, and that's what's  
8 happened and I feel that here.

9 And I also want to include Lori Evans and Bill Stein and  
10 Robert Tull, because they're part of our neighborhood, too.  
11 You know, they're part of our neighbors. These are the  
12 developer, the bank that want the money or the houses. I'm  
13 not sure how they did that, but we've got the community here  
14 who have been living in a democracy. And I guess if it were  
15 a true democracy, we'd vote and we would not have this  
16 development.

17 I -- I -- I know that people have spent a tremendous  
18 amount of time and energy over the past 19 years and we'll  
19 continue for the next 19 years. I see our hair is getting  
20 gray and some of it's getting white. Dr. Gibb is 83 or so,  
21 87, 8. My goodness. You know, this man has better things  
22 to do with his time, but he's still out here protesting this  
23 development, which is inappropriate.

24 I constantly hear about the natural impacts and the  
25 traffic and so many other things, the taxes. It just goes

1 on and on. So I think what we need to do is look at how we  
2 can make a shift here that we're -- 'cause somehow it's  
3 creating a win-win. Well, Dee and I have made multiple  
4 videos over the years, trying to educate people, let people  
5 know what it is, had specialists and guardians come in, just  
6 like they're coming in today. And so, we're trying to learn  
7 about what it is that we need to do here. How can we  
8 respect these people's property rights? Yes. And we all  
9 have -- you know, we want to not have somebody tell us what  
10 to do with our property, but we also know that we can't  
11 build a nuclear power plant in our back yard and we can't do  
12 certain other things that impact our community. And so, I  
13 think that's what we need to consider here, that there's  
14 going to be ways that we can creatively make a shift.

15 And we mounted a second Greenways levy. We mounted a  
16 third Greenways levy. One of the things that Ken Hertz, one  
17 of the people in our -- one of our videos suggested, why  
18 don't we identify places around the community that we want  
19 to preserve? Because then the developers could go ahead and  
20 do what they need to do and provide the homes for people,  
21 and we did that. So we were able to identify it, and this  
22 is one that we definitely want to preserve. There are  
23 others in other parts of the city, but this is the one  
24 that's available and used by people in all parts of the  
25 city, not just the southside. People keep saying, "Oh, the

1 southside has a lot of parks." The point is, this is on the  
2 edge of town.

3 And I think that brings me to the point of talking about  
4 the idea of preserving open space and preventing sprawl.  
5 Now, I noticed in the impact statement, the draft impact  
6 statement, that it talks about this is a conflict. How do  
7 we resolve this conflict? Well, I think we need to look at  
8 the intent of the Critical Areas Ordinance and the  
9 Bellingham Comprehensive Plan and what is it about. It's  
10 about protecting critical areas, and this is, by every  
11 single person and by all accounts, a critical area, every  
12 single part of it. Even in the impact statement, it says  
13 that most of the area is critical areas.

14 In fact, we went for a walk in the woods years ago,  
15 Robert Tull came with us, and a number of the neighbors and  
16 Patricia Decker, who was then the planning director, she  
17 came. And she said, well, what they need to do is go back  
18 to the drawing board and they need to look at what areas are  
19 critical and what should not be built on. And I think they  
20 came back with a map that had about 30 percent that was  
21 available to be built on. And, even in the statement, it  
22 said most of the area is critical areas. And not only that,  
23 the flat areas, which is where you would be most likely to  
24 build, are wetlands. And, if they're not wetlands, they're  
25 wetland buffers.

1           So what we need to do is make a decision as a community,  
2           and I really pray that our Planning Department and our City  
3           government will, because I don't -- I don't know. You make  
4           all the impact statements you want, you can have all these  
5           reports and so on and so forth, but it's not going to change  
6           the fact that this community does not want this development  
7           to happen, and there are reasons for it. We're not just,  
8           "Oh, we don't like it." There are reasons that impact the  
9           whole entire community.

10           One of the things I noticed that statement said is that,  
11           oh, if you don't let them build, you know, their  
12           700-and-some houses here, they'll go out to the county.  
13           Well, guess what, folks? In a little bit, we're not even  
14           going to have petroleum to let ourselves go out to the  
15           county. It's just not going to be happening. And we  
16           already are moving toward the idea that we --

17           MS. WEIL: 30 seconds.

18           MS. EVENSON: After six minutes? We need to create urban  
19           villages. We need to create a Comp -- a Comprehensive Plan  
20           that really supports the community that works in harmony  
21           with itself and with the environment. So I hope that we can  
22           make the right decisions here. This is going to go on  
23           forever if we don't make the decisions now.

24           MR. STEWART: Thank you, Dudley.

25           COURT REPORTER: Nicole. Nicole.

1 MS. OLIVER: Gerry Wilbour.

2 COURT REPORTER: Just one second.

3 (Discussion off the record.)

4 MS. OLIVER: Who's here for Gerry Wilbour?

5 (People standing.)

6 COURT REPORTER: Thank you.

7 MR. WILBOUR: It's 15 minutes more than I need. Thank  
8 you for the opportunity to comment.

9 MR. STEWART: Sorry, Gary?

10 MR. WILBOUR: Gerry Wilbour.

11 MR. STEWART: Gerry.

12 MR. WILBOUR: 705 Chuckanut Drive North.

13 MR. STEWART: Thank you, Gerry.

14 MR. WILBOUR: Thanks for the opportunity to comment and  
15 thanks to those who yielded their time to me. A few  
16 comments first about earth-work quantities in the DEIS. The  
17 estimate in the DEIS is 120 to 140,000 cubic yards of  
18 exported material. And that appears only to include  
19 excavation quantities and not clearing and grubbing  
20 quantities.

21 To begin the project, hundreds of loaded log trucks will  
22 roll -- roll past Fairhaven Middle School and across the  
23 12th Street Bridge. And then what about the stumps, the  
24 forest stuff and the topsoil that has to be trucked off,  
25 too? Similar developments of similar size in western

1 Washington produce about 700,000 cubic yards of this stuff  
2 or about 60,000 dump-truck loads. It's what we in the  
3 earth-work trade call strippings, because it has to be  
4 stripped off before the real excavation and grading work can  
5 begin. It's essentially the biomass that supports the 185  
6 species that live here, and the biomass that makes the  
7 maturing northwest forests so effective at sequestering  
8 carbon on a rapidly accelerating basis as they mature.

9 The DEIS vastly underestimates the earth-work quantities  
10 needed to construct this project. The 60,000 dump-truck  
11 loads that I spoke of aren't estimates. They're actually  
12 what's happened on developments of similar size in similar  
13 environments. The DEIS low estimate of only 10 -- 10,000  
14 dump-truck loads across the 12th Street Bridge is outrageous  
15 enough, but, unfortunately, it's low by a dramatic margin.  
16 And I think the difference there is you're only considering  
17 excavation quantities and not clearing and grubbing  
18 quantities specifically.

19 The conceptual grading plan -- plans, the examination of  
20 the geologically hazardous areas in the blasting section of  
21 the DEIS point to a fatal flaw in all seven of the  
22 development alternatives. The observation on 3-2 is that,  
23 and I quote, "The sandstone is extremely variable in  
24 weathering orientation and rock quality," unquote. That --  
25 that statement is correct. Everything from decomposed

1 sandstone that is rock that has turned to sand, has turned  
2 back to sand, and the hard cohesive vertical sandstone faces  
3 exist in the area.

4 On page 3-12, after noting these variations in the DEIS,  
5 it concludes, and I quote, "There are no signifi -- there  
6 are no sufficient bedrock exposures at the site to predict  
7 the bedding and evaluate rock stability," unquote. The only  
8 logical conclusion that can be made from this information is  
9 that it is risky, at best, to place large buildings proposed  
10 by all the site plans on top of existing steep sandstone  
11 ridges since the ridges could fail.

12 We all know that significant failures of sandstone  
13 bedrock are common along Chuckanut Drive and many other  
14 areas. In many winters, the highway is closed because of  
15 it. Dramatically exacerbating this problem is the need for  
16 extensive blasting of the bedrock by all the development  
17 alternatives for building building pads, roads and utility  
18 trenches.

19 The utility trenches are particularly problematic,  
20 because they're something that's excavated into the subgrade  
21 after everything else is placed there. And when you blast  
22 the utility trench, the volumes of explosives that you have  
23 to use are much higher simply to get the -- the material to  
24 excavate from the trench.

25 The most extreme site plans would require massive

1 open-pit mines type blasting in the middle of the city.  
2 Even the least aggressive plan would require extensive  
3 blasting. The proposed blasting itself has many potential  
4 public safety, noise, air quality, and other problems that  
5 aren't identified in the DEIS, that the materials from the  
6 explosives are -- are poisonous.

7 The shock wave from the blasting not only affects the  
8 rock that is being removed, at least half of the energy will  
9 go into the surrounding bedrock that is being left to  
10 support the roads and large buildings. That powerful shock  
11 wave will destabilizing -- destabilize the remaining  
12 sandstone. The steepest ridges, like the one directly above  
13 South Avenue, are at greatest risk because, one, they have  
14 steep, sometimes vertical exposed faces directly above  
15 existing housing, and these steep faces already have  
16 observable landslides.

17 The steep face -- two, the steep faces indicate that the  
18 existing rock is hard and coherent; therefore, it's likely  
19 to require the most blasting. In other words, some of the  
20 sandstone you can break up by mechanical means and sometimes  
21 you get into the sandstone and all you do is dimple it when  
22 you try to break it with breakers and whatnot. And therein  
23 lies the problem of these major excavations and the need for  
24 blasting. As the DEIS accurately points out, part of the  
25 variation in the sandstone is that there are areas that

1 can't be removed by any other method.

2 The shock wave will negatively affect the remaining rock  
3 in three ways. One, it will create microfractures  
4 throughout the remaining bedrock and, therefore, accelerate  
5 water percolation and weathering, potentially dramatically  
6 accelerating it. Two, the shock wave will reverberate off  
7 of bedding planes in the sandstone, which will cause large  
8 sections of rock to lose their cohesion with other large  
9 sections of -- sections of rock.

10 In time, this will allow water to percolate through many  
11 more fissures in the rock, which in turn can produce the  
12 lubrication that will create soil and bedrock failures,  
13 failures potentially underneath the large proposed buildings  
14 and roads. Rock stabilization measures, such as bolting,  
15 may not be available in some areas, and the affected area  
16 would include other private land.

17 The shock wave reaching the steep exposed faces will  
18 reverberate back into the rocks, since only a fraction of  
19 the energy can be absorbed by less dense materials, like  
20 air. In other words, the blast wave comes out of the edge  
21 of the rock, which has a tendency to go back in, because it  
22 can't be absorbed in the air. This produces a turbulence,  
23 much like water waves bouncing off a rocky point, and  
24 substantially increases fracturing. It's a well-know way to  
25 create gravel on the edge of a blast.

1           These are significant and negative impacts of all seven  
2 site development plans and it's physically impossible to  
3 mitigate them. Only the no-action alternative avoids them.  
4 I was a licensed blaster for 25 years, and so I've seen a  
5 lot of rock break and the results of it, and some of it  
6 remains competent after you shoot it. Sandstone and  
7 conglomerates simply don't. They fall apart. You can't  
8 depend on them once it's shot, so much of the shock wave  
9 goes into the rock.

10           I've used the Hundred Acre Woods as a recreation area for  
11 more than 25 years, jogging, walking, mountain biking. I've  
12 used it often with my family. It has become a fairly busy  
13 urban wildland. When I began to go jogging here in the  
14 mid-1980s, an extensive trail system had already been  
15 established by horseback riders from nearby stables. I  
16 lived in central Bellingham at the time and was looking for  
17 an alternative location to Lake Padden for jogging and  
18 mountain biking.

19           For many years, the Hundred Acre Wood allowed me more  
20 time outdoors and enough time to get my daily exercise  
21 because of its close proximity. Chuckanut Ridge is less  
22 than a 20-minute walk for about one quarter of Bellingham's  
23 population, less than a 20-minute walk for several of the  
24 densest neighborhoods between Everett and the Canadian  
25 border. It's in an area that is currently well below the

1 City's adopted level of service for parks.

2 The area has a variety of uses from people walking from  
3 their neighborhoods to the Fairhaven commercial area or to  
4 schools, adults out for an evening or weekend -- weekend  
5 stroll, people just out to enjoy the nature, joggers,  
6 mountain bikers, including a dedicated group of teens and  
7 young adults testing their riding skills on tight trails,  
8 bank turns, and ramp jumps. How many opportunities for  
9 positive interactions for our children with the great  
10 outdoors will we lose if we develop this place?

11 How much more time will our children be spending in front  
12 of their Play Stations and elect -- other electronic  
13 distractions if they don't have this opportunity? How will  
14 the Fairhaven Middle School students deal with the Horizon  
15 Bank and their community leaders and other adults in their  
16 community when the One Hundred Acre Woods comes rolling past  
17 their school on hundreds of loaded log trucks?

18 These aren't just arguments about passion for urban  
19 natural areas. The DEIS has badly underestimated the  
20 recreational use and value of this place. It fails to  
21 recognize that many -- the many harms that its development  
22 will cause to our quality of life and to our health and  
23 economic well-being and the economic well-being of the  
24 southside and its contribution to the area's economy. It  
25 also fails to recognize the many studies that have shown

1 that preserving such places in the -- in cities is critical  
2 to creating quality urban density. Rather than forcing  
3 people out of the city, its preservation will draw people  
4 into the city.

5 Many studies also show that preserving such places and  
6 creating trail systems in them improves the health of the  
7 surrounding area, and saves much more in -- in community  
8 healthcare costs and the costs of its preservation.  
9 Conversely, if you eliminate trails, you will increase  
10 healthcare costs and many of the other benefits that go  
11 along with preserving spaces like this.

12 We also know that attracting and retaining quality jobs  
13 and businesses is dependent on the quality of life of the  
14 surrounding area. Many businesses are located in this area  
15 that are really footloose on the world economy. They could  
16 be almost anywhere, but they choose Bellingham and,  
17 specifically, many of them choose the southside, including  
18 my own. And once that quality of life descends, then  
19 businesses do not move in. They move out instead.

20 Any of the development options being considered will send  
21 that quality of life into a tailspin. These studies were  
22 recently nicely summarized in the Trust for Public Lands  
23 report called, "The Economic Benefits of Park and -- Parks  
24 and Open Space." And if you want to see some of the other  
25 studies that I'm referring to, there's a -- a great resource

1 page on the American Trails Website.

2 Thank you.

3 MR. STEWART: Great. Thank you, Gerry.

4 MS. OLIVER: Nancy Joseph.

5 MR. STEWART: Any yielded time?

6 MS. OLIVER: Appears not.

7 MR. STEWART: And next?

8 MS. OLIVER: And, after that, we have Brad Rose.

9 MS. JOSEPH: I'm Nancy Joseph. I live at 503 Clark Road.  
10 When I was reviewing the SEPA checklist, I -- when it first  
11 came out, I was really surprised, as a former responsible  
12 official for SEPA for eight years, that the City allowed  
13 that to go forward. It was -- it missed many of the  
14 elements that, in my comments, I said continually about  
15 incorrect and incomplete information, and it didn't look at  
16 the total proposal of the project. And I was very surprised  
17 that the City accepted it and vested the proposal at that  
18 time. And when I look at the EIS, I see some of those same  
19 elements missing and they really haven't been improved.

20 For example, transportation. When they looked at it in  
21 the SEPA checklist, the bridge on Padden Creek wasn't even  
22 addressed and then the fact that there was impacts on  
23 transportation outside of the project area were not  
24 addressed. And, really, the transportation really hasn't  
25 been addressed very well and just marginally looked at.

1 Stormwater runoff, protection of wetlands, erosion, we  
2 talk about a phased project and timber harvest. If timber  
3 harvest is going to take place all at one time and phased  
4 later, how is erosion going to be addressed then?

5 And looking at transportation also with the project, the  
6 SEPA checklist, just as the EIS, doesn't look at the impacts  
7 outside of the project. As was mentioned, the construction  
8 transportation, all of the materials that have to be brought  
9 in and taken out through those corridors, which won't be  
10 built yet, through the middle school, through the  
11 neighborhood, a tremendous impact that was not addressed in  
12 the EIS and needs to be.

13 Another thing that wasn't addressed are the needs for  
14 some permits, and in my comments previously, I noted the --  
15 noted the need for a forest practice permit. I know that  
16 the City of Bellingham doesn't recognize forest practices  
17 happening in the city, but by not making a forest practice  
18 permit a requirement, you are violating the Forest Practice  
19 Act, which is State law. And there will be different  
20 variables for buffers, both on riparian areas and wetlands  
21 with a forest practice permit.

22 Also, an HPA will be required, because you're working in  
23 and over water. That was not addressed in the SEPA  
24 checklist. So those are two permits that are needed that  
25 are not addressed that will have -- will affect the outcome

1 of the permit.

2 Also, one of the things when you're looking at  
3 transportation is the issue of concurrency with GMA. Where  
4 is concurrency? And the other issue is that you really have  
5 eluded alternatives. You're really asking, do you want  
6 coffee or tea with milk or sugar? And you're really not  
7 looking at the broad spectrum of alternatives, which really  
8 need to be addressed in the EIS.

9 Thank you.

10 MR. STEWART: Great. Thank you, Nancy.

11 MS. OLIVER: Brad Rose. Will you stand up, please, if  
12 you're yielding your time to Brad?

13 (People standing.)

14 MS. OLIVER: One, two, three.

15 MR. ROSE: Good evening. Brad Rose, 420 Parkridge Road,  
16 and president of the Edgemore Neighborhood Association. I'm  
17 here to speak for the Edgemore Neighborhood Association and  
18 also provide some personal comments about the draft EIS.  
19 I'll start off with the more Edgemore perspective.

20 Among the many adverse impacts that the Edgemore  
21 residents are concerned about, I'm going to address the main  
22 one, which will be the 12th Street Bridge with respect to  
23 public safety. 12th Street Bridge is a critical connector  
24 for Edgemore to the rest of the city. It was built in 1932  
25 and its latest inspection report identifies the one bridge

1 deck exposed aggregate and transverse hairline cracks in  
2 several areas, evidence of past repairs is visible, as are  
3 exposed rebar in the deck under -- or overhangs. In  
4 addition, over the years, the creek underneath has  
5 experienced many changes in its path due to flooding, which  
6 currently has it going directly over the bridge supports.  
7 The question is, can it handle the construction traffic?

8 According to the DEIS report, we can expect 14,000  
9 truckloads of fill alone to be removed from the site, all of  
10 which will have to travel over the 77-year-old civil aged  
11 support bridge. If that is projected from today to the  
12 project build-out date of 2022, it would mean 3.2  
13 fully-loaded trucks going over the bridge every single day  
14 for the next 12 years. Now, if -- if we use Gerry Wilbour's  
15 numbers of 60,000, that'll put it up to 13.8 trips per day  
16 from today to the end of this project.

17 Of course, truck traffic will be concentrated to certain  
18 periods of the development, which makes potentially for  
19 hundreds of trips during a given day. Now, throw that --  
20 throw in the empty trucks returning to get another load and  
21 the thousands of other heavy-load vehicles this development  
22 will require, specifically logging trucks, concrete mixers,  
23 dump trucks, concrete pumps, excavators, bulldozers,  
24 graders, rollers, pavers, cranes, building supply trucks,  
25 contractor trucks, moving trucks, and then eventually the

1 5,000-plus car trips a day, it all puts into question the  
2 ability of this 77-year-old structure to handle it all.

3 There's no mention in the report about the true age,  
4 condition and ability of this structure to handle the  
5 construction traffic burden that will be put upon it. If  
6 there's more than one of these fully-laden trucks on the  
7 structure at the same time, you have a recipe for failure.  
8 Throw in a school bus or two, and you have a recipe for  
9 catastrophe. What is the plan if that happens? What about  
10 the effect that the construction of the project auto traffic  
11 will have on Fairhaven Middle School? None of that is in  
12 the report.

13 As for public safety, it is stated many times, Dr. Gibb  
14 addressed this earlier as well, that the increased traffic  
15 that the project will put on the intersection on either side  
16 of the bridge will increase response times for emergency  
17 services to Edgemore if the bridge becomes impassable. The  
18 DEIS states, "There will be no significant unavoidable  
19 adverse impacts to public services and utilities associated  
20 with the proposed Fairhaven Highlands development  
21 alternatives."

22 That's great for them; however, there is a serious  
23 downplay of the unavoidable adverse impacts to the Edgemore  
24 neighborhood, which is a major concern to our neighborhood.  
25 We are the -- or where we were expected -- okay. Question,

1           what are the expected increased response times? Can we  
2           expect the emergency service that our tax dollars have paid  
3           for will be adequate in the future? I think the residents  
4           of Edgemore deserve specifics 'cause we're the ones that are  
5           going to be most affected by this project.

6           Now on some personal observations, two items I'll briefly  
7           talk about are traffic and infill vs. sprawl. The traffic  
8           aspect, the level of service worksheets included in the  
9           Transpo report from 2007, which is used as a basis for the  
10          traffic counts for all of the alternatives, all have the  
11          date of June 14th, 2007. Is this the date the traffic  
12          counts were made or the date the LOS worksheets were  
13          tabulated? It is unclear.

14          If it's the date the traffic counts were taken, then an  
15          important portion of our population would not have been  
16          counted as Western would have already ended for spring  
17          quarter. I feel that the future of south Bellingham's  
18          traffic infrastructure should not be -- be determined based  
19          on one day's study. If this is the tabulated date, then it  
20          would be important to get the traffic count worksheets and  
21          dates include -- with dates included as part of this EIS  
22          record.

23          As for the traffic counts themselves, in looking at the  
24          no-action alternative traffic counts, which is the benchmark  
25          for the percentage impact each other alternative is based

1 on, I notice a major discrepancy in the counts across the  
2 12th Street Bridge, specifically the p.m. peak traffic  
3 counts going northbound from the Chuckanut/Hawthorn/  
4 Parkridge intersection across the bridge has 620 cars  
5 entering the bridge with only 485 leaving to 12th Street.  
6 That's a loss of 22 percent of the traffic. While  
7 southbound p.m. peak counts have 640 entering the bridge  
8 from the north while 755 emerge on the other side, that's 18  
9 percent more. This discrepancy brings into question the  
10 accuracy of the counts conducted and, thus, the accuracy of  
11 the projected impact of each alternative.

12 The other deficiency in the traffic analysis is the under  
13 -- is the underestimated use of the Old Samish/30th Street  
14 alternative route to the freeway. The distances from the  
15 Viewcrest/Chuckanut site entrance to the freeway is almost  
16 identical whether you go north across the 12th Street Bridge  
17 and then east on Old Fairhaven Parkway or you go south to  
18 Old Samish Road and then on to 30th Street.

19 There's minimal mention of -- minimal mention of this  
20 alternative and no realistic assessment of its increased  
21 use, particularly if the intersections identified incur  
22 significant levels of service disintegration or designation,  
23 I don't know what the actual term would be, occurs. So, put  
24 it another way, if the traffic going across the 12th Street  
25 Bridge and up Old Fairhaven Parkway becomes bad enough, what

1 happens if significant project traffic and the existing  
2 neighborhood traffic utilize the potentially unsafe  
3 alternative of 30th Street? What will that do to the safety  
4 of those that live on that hilly, narrow road? Can that  
5 road even handle the increased traffic given the topography  
6 and width? And that's not -- none of that is addressed in  
7 the DEIS, so use the old bridge or a notoriously dangerous  
8 road to handle this neighborhood-size development.

9 There are other items of concern I have with respect to  
10 the traffic analysis and the proposed limited mitigation,  
11 but I will submit those with my written comments.

12 The last item I'd like to talk about is the infill vs.  
13 sprawl. Stated in the major conclusions section of the  
14 DEIS, Section 1.3.2.1, preserving open space and prevent  
15 sprawl, that the trade-off of not developing the Fairhaven  
16 Highlands and leaving it in pristine natural open space --  
17 space could be that development would occur in nearby towns  
18 and in unincorporated areas of the county, thus implying  
19 that not building Fairhaven Highlands would result in  
20 greater net greenhouse emissions due to the increased car  
21 trips.

22 There's no mention of putting this high-density type  
23 development where it belongs, near the services and jobs  
24 that are needed to support it. In Bellingham's case,  
25 downtown, Fairhaven, Barkley, and the new urban centers that

1 the City is planning will be much better suited to handle  
2 this scale of high-density development than the project  
3 site. There's no mention of this possibility in the report,  
4 only that, if you don't build it, it'll all go in the county  
5 and that's just not true.

6 The project site is about one mile from the Fairhaven  
7 core. Adding in internal site distances from the major --  
8 distances from the major family -- multi-family sections to  
9 the entry point and the distances to the Fairhaven core are  
10 more like 1.5 miles. That is not infill. It's more like  
11 sprawl. Putting it another way, this puts a high-density  
12 multi-family development 1.5 miles from the nearest services  
13 while destroying second-growth forests and Category 1  
14 wetlands and valuable wildlife habitat in the process, which  
15 fits the profile of sprawl as opposed to infill, even if the  
16 project site is within the city limits and you stack the  
17 residents in high-rise buildings.

18 I'll wrap up my comments for the evening. Thank you for  
19 letting me speak tonight, and I will submit full written  
20 comments on the November 12th deadline.

21 MR. STEWART: Great. Thank you very much, Brad.

22 MS. OLIVER: Michael Chiavario.

23 MR. CHIAVARIO: My name is Michael Chiavario. I'm just  
24 going to comment primarily on the recreation section, 3.9,  
25 of the DEIS. In Section 3.9.2, the narrative uses the term

1 "informally established trails" to define what I would call  
2 high value wildland trails. The section notes that  
3 no-trespassing signs are in place at several of the trail  
4 entrances to the sites. It is commonly known that these  
5 wildland trails have been widely used by pedestrians,  
6 horseback riders, and mountain bike riders for decades.  
7 Nowhere in Section 3.9 is the potential prescriptive right  
8 of the public to continue to use these trails mentioned.

9 Figure 3.34 maps trails on the site and leaves out at  
10 least a mile of existing trails. An accurate map will show  
11 that almost all the trails pass through the site from the  
12 technically public to the technically private property. Any  
13 of the proposed alternatives for development will destroy  
14 the continuity of these trails. Paved roads and sidewalks  
15 are not trails and are not the primary reason why most  
16 people use the trails; therefore, roads and sidewalks cannot  
17 be mitigation as the DEIS proposes.

18 Further, Figure 3.34 classifies the trails on site as  
19 minor trails, and reclassifies them as secondary trails, a  
20 higher classification, as soon as they cross the line onto  
21 public property. To be fair, other sections of 3.9 clearly  
22 ascribe a value placed on these trails by users, but I found  
23 this general type of inconsistency throughout the DEIS; that  
24 is, contradictory descriptions and conclusions pertaining to  
25 the same areas of study. And I'm confused, because I

1       supposed the DEIS to be an objective and science-based  
2       document.

3             Section 3.9.2.3, the existing level of service section,  
4       mentions in one sentence that users appreciate the site as  
5       it exists, but nowhere in 3.9 or elsewhere in the DEIS is  
6       the actual recreational use by any of the user groups  
7       quantified in any way. No pedestrian trail user counts, no  
8       survey of equestrians, no documentation of the existence of  
9       an extensive mountain bike skills park. This is a major gap  
10      in the database that cannot be fairly surveyed in the winter  
11      months between now and March when the EIS is supposed to be  
12      finalized.

13            This same section describes the requirements for acreage  
14      by the pro plan in relation to the population of South  
15      neighborhood. My calculations, which could be off a little  
16      bit, yield a result of 71 acres in parks and open space  
17      that'll have to be provided for a built-out project. If we  
18      assume that South neighborhood will eventually accommodate  
19      an equivalent population to a built-out Fairhaven Highlands,  
20      albeit in more appropriate locations, it seems absurd to  
21      eliminate 88 acres of existing open space that is already  
22      widely used from people -- by people from many neighborhoods  
23      in the city.

24            Section 3.9.2.2 lists goals of the 1995 open space parks  
25      and recreation plan and the South Neighborhood Plan. They

1 conclude, to paraphrase, ensuring an open space system which  
2 ensures quality of life for residents and is visually  
3 attractive, environmentally sound, and provides an  
4 interconnected system of trails, parks, scenic views, and  
5 that this should be done, quote, "wherever practical and  
6 environmentally desirable."

7 None of the development alternatives proposed can  
8 accommodate these goals. The South plan calls for the,  
9 quote, "marsh areas along the Interurban Trail right-of-way  
10 to be retained in its natural condition." Development  
11 alternatives 1-C and 3-D violate the South plan by calling  
12 for a 24th Street connector road that will encroach on the  
13 marshes.

14 Section 3.95, the concluding section of the recreation  
15 portion of the DEIS begins with this sentence: "No  
16 significant unavoidable adverse impacts on recreation  
17 resources are expected to result from any of the proposed  
18 alternatives." The next six sentences go on to describe  
19 very significant recreational impacts.

20 This description of adverse impacts is followed by this  
21 final sentence, quote, "The significance of that impact must  
22 also be weighed in light of comprehensive planning that has  
23 long anticipated the development of this property and that  
24 is itself aimed at preserving rural open space and resource  
25 lands by encouraging growth to occur within the urban growth

1 area."

2 Setting aside the fact that the opinions in that  
3 statement are highly debatable, why must the supposed  
4 objective and science-based impacts described be weighed  
5 against this opinion and assertion? I would note that this  
6 opinion, which asserts that, if Fairhaven Highlands is not  
7 developed, other forest and agricultural lands will be lost,  
8 is repeated many times in the DEIS document as well as in  
9 the public statements of the various interest groups who are  
10 proponents of this development.

11 MS. WEIL: 30 seconds.

12 MR. CHIAVARIO: This, for me, greatly detracts from the  
13 credibility of the entire document.

14 Thank you.

15 MR. STEWART: Thank you, Michael.

16 MS. OLIVER: Susan Scanga, followed by Christopher  
17 Grannis.

18 MS. SCANGA: I'm a Bellingham resident for over 37 years  
19 and I've lived off -- off 30th Street now, off that scary  
20 dangerous road, for 22-plus years. I want to comment on the  
21 -- the -- some political aspects of this project.

22 I'm offended, even sickened, by the City's arrogance that  
23 somehow allows them not to follow the laws, whether on a  
24 federal level or their own municipal code. The City has a  
25 long history of this. Somewheres back, I believe under the

1 Douglas administration, the federal government told us we  
2 had to upgrade our sewage treatment plants. The City fought  
3 this tooth and nail.

4 If the Army Corps of Engineers has determined that the  
5 Chuckanut Ridge area is a Class 1 wetland, then it's Class 1  
6 wetland, period. Why should an entity like the City Council  
7 make a different determination? This developer has a  
8 history of illegal activity, yet he is granted variance  
9 after variance after variance and other special treatment,  
10 and that word is in the first point on the process chart  
11 that was handed out tonight.

12 I went through the City's home rehab program and I was  
13 held to the letter of the law regarding the codes, so much  
14 so that my house is ruined, also built in 1932, trying to  
15 bring it up to code. I do know from personal experience  
16 that incompetence exists with both in the staff and in that  
17 program. So if there's incompetence in one division of a  
18 department, is it not likely that there will be incompetence  
19 in another division of that department?

20 Why as a single individual should I be held to the letter  
21 of the law while the developer is not? This uneven  
22 application of the law is just not right. It doesn't  
23 instill confidence in the process, nor in the people making  
24 the decisions within that process.

25 MS. WEIL: 30 seconds.

1 MS. SCANGA: Thanks.

2 MR. STEWART: Thank you, Susan.

3 MS. OLIVER: Christopher Grannis.

4 MS. GRANNIS: My name is Christopher Grannis.

5 MS. OLIVER: You've got nine minutes, Christopher.

6 MR. GRANNIS: I am president of the South Neighborhood  
7 Association. I was very disappointed to see that there was  
8 no reference whatsoever in this draft EIS of what the  
9 neighborhood thinks of this project. It's clear from the  
10 Fairhaven Highlands EIS -- DEIS that the only alternative  
11 that's acceptable is the no-action alternative. All of the  
12 other alternatives are contrary to the goals in the  
13 Bellingham Comprehensive Plan and our South Neighborhood  
14 Plan.

15 The Bellingham Comprehensive Plan policy is to protect  
16 environment and neighborhood character. The Fairhaven  
17 Highlands development would destroy both. The Comprehensive  
18 Plan encourages growth in areas where infrastructure and  
19 public services are in place, especially in urban villages.  
20 There is no infrastructure in Chuckanut Ridge wetland  
21 forest. Fairhaven Highlands would destroy the most valuable  
22 ecological treasure in Bellingham. Taxpayers would  
23 subsidize the development to the tune of \$9 million or more.  
24 Horizon Bank's development would build isolated high-density  
25 housing where residents would be dependent on cars to shop

1 or go to work. This is called sprawl.

2 Those who would dismiss our neighborhood as being opposed  
3 to taking our share of infill should know we have an urban  
4 village designoted -- designated in the Comprehensive Plan.  
5 We welcome high-density housing there and infill along  
6 Fairhaven Parkway where the infrastructure and transit  
7 services exist.

8 The first paragraph in the South Neighborhood Plan  
9 describes the steep forested hills that define our  
10 neighborhood character and provides a green backdrop in  
11 south Bellingham. The developer would remove all the trees,  
12 shrubs and topsoil, blast the top off Chuckanut Ridge, and  
13 haul away -- well, we've had a couple speakers talk about  
14 the quantities, maybe 60 or 70,000 truckloads of the Hundred  
15 Acre Wood. The forested backdrop to Bellingham would be  
16 replaced with five-story or taller buildings, depending on  
17 which alternative is chosen. The Fairhaven Highlands  
18 development would cram in more multi-story residential  
19 buildings than any other development in the history of  
20 Bellingham.

21 Page 4 of our neighborhood plan calls for steep hillsides  
22 and marsh areas along the Interurban Trail to be maintained  
23 in their natural state. Fairhaven Highlands would blast and  
24 fill the steepest hillsides and turn the interurban marsh  
25 into a storm sewer. Both Padden Creek and Chuckanut Creek

1 would be degraded. The Washington state Partner for --  
2 Partnership for Puget Sound's first rec -- the Washington  
3 state Partnership for Puget Sound's first recommendation for  
4 preserving the Puget Sound is to preserve natural  
5 watersheds. The no-action alternative is the only one that  
6 preserves the watershed.

7 The reason to do an environmental impact statement is to  
8 disclose the environmental impacts of a project and to  
9 explore alternatives that would minimize or avoid adverse  
10 impacts on the environment. This DEIS does neither. During  
11 a time of massive worldwide loss of biodiversity, this  
12 DEIS -- DEIS states that habitat would be lost, yet fails to  
13 disclose the extent or the significance of the loss.

14 At the scoping hearing almost two years ago, there were  
15 requests for a baseline study to be done on the biology of  
16 the wetlands so the developer could be held accountable for  
17 the destruction to biodiversity. That request was ignored.  
18 On behalf of the South Neighborhood Association, I again  
19 request that the baseline studies be done.

20 The justification given for this development is that if  
21 this high-density housing is not built, people will move to  
22 county locations and commute to Bellingham. That argument  
23 is simply bogus. Given the economic situation, the  
24 projected numbers of immigrants might not come at all.  
25 Bellingham's population was flat for the first half of the

1 last century and it might be flat for the next 50 years.  
2 You might know the Waldron Building in Fairhaven, that was  
3 originally built in 1890 and it was just finished a couple  
4 of years ago, more than 100 years.

5 What are the alternatives to destroying an ecosystem if  
6 the population does continue to increase? This DEIS states  
7 that exploring alternatives for providing housing are not in  
8 the scope, but the purpose of an EIS is to explore  
9 alternatives to environmental degradation. I urge the  
10 Planning Department to explore the many alternatives for  
11 infill and adopt the no-action alternative for Chuckanut  
12 Ridge.

13 I would like to remind everybody who is still here that  
14 -- of the meeting at Fairhaven Middle School on November the  
15 4th that will be the real public hearing put on by the  
16 public.

17 Thank you.

18 MR. STEWART: Thank you, Christopher.

19 MS. OLIVER: Larry Freeman.

20 MR. STEWART: And who's next?

21 MS. OLIVER: Bill Hinely and then Steve Wilson.

22 MR. FREEMAN: We're all tired and I've watched you all  
23 listen very attentively and I know what hard work that is,  
24 and I know that because I'm a psychiatrist. I do it all day  
25 long. And what it does is, it taxes our brains. And what

1 restores our brains is the natural environment and healthy  
2 relationships with other people. That's how we're put  
3 together, that is human nature. It's not debatable any  
4 longer that that is how we work.

5 Because that is the case, we must consider the internal  
6 environment of each human being who's impacted by this whole  
7 concept as well as all the social systems relevant to this  
8 development. So I'm going to propose to you that we  
9 consider this in the following manner: That we have an  
10 opportunity to speak the truth based on what we know about  
11 human nature. Now, there are two main areas that I'd like  
12 to address. First, the process that is involved here, but  
13 prior to here, and also the experiences we have with nature.

14 There are many concerns that have been expressed, but  
15 some -- but they can be summarized with the following:  
16 First, concerns about the directions the City is taking, its  
17 spirit, its commitment, its values, its processes, its  
18 impacts on future generations. Is Bellingham a green city?  
19 Second, concerns about the public's relations to governing  
20 bodies, loss of trust, unfairness, loss of reasonableness,  
21 outrage, public unaware of what the development will really  
22 entail.

23 Do people know that 25 feet of the top of the ridge are  
24 going to be blown off? Do they know that there's anywhere  
25 between 15,000 and 60,000 heavy vehicles that are going to

1 be traveling on the highways every day?

2 Third, specific concerns leading to anxiety, fear, stress  
3 and grief. Traffic, noise, emergency services, schools, ten  
4 years of ongoing development or more, and impacts on the  
5 natural environment, wetlands, fish and so forth. And,  
6 finally, there's the whole process of this DEIS itself. The  
7 claim that it is greed has been spoken to already and I will  
8 say nothing further about it.

9 Failure to specify consequences that it's expected to do  
10 has not -- has occurred. It has failed to respond to  
11 specific concerns voiced both in the scoping hearing and  
12 since that time. And if you just look at the quality of the  
13 developer, in two years' time or more, with the quality of  
14 the comments you've heard in two weeks, you can see the  
15 quality of the document before you. And what that should do  
16 is create in you a feeling of dissonance and disharmony that  
17 is harmful to your health. That's how our brains work.

18 So what does that mean? This is a public health issue.  
19 Not only yours, not only mine, everybody's. So what  
20 happens? What have we learned about the brain? Well, we  
21 have learned that our brains are changed by experience. Our  
22 brains are not static. Our brains are changed by  
23 experience. Initially, your brain changes are merely  
24 functional. After a while they become fixed, embedded in  
25 our brains. Only different experiences can change those

1 specific effects.

2 Nature, that's -- experiences in nature have beneficial  
3 effects on dysfunctional patterns in the brain. That's how  
4 it works. We also know that the brain has effects on  
5 physical health, whether we're talking about blood pressure,  
6 stroke, cardiovascular disease, mental health, you name it.

7 Thirdly, we need to talk about public health as well, and  
8 by "public health," I refer to two main concerns. First,  
9 dysfunction. Public health issues need to be addressed in  
10 the context of understanding that the frontiers of our  
11 knowledge should guide our current decisions. 30 years ago,  
12 there was no concern about, for example, chlorofluorocarbons  
13 and the impact on the ozone layer. If those things are not  
14 addressed now, we would be utterly negligent as well as  
15 slitting our own throats.

16 So the frontiers of knowledge now show us that the  
17 dysfunction that can occur from the betrayals that are  
18 embedded in this process as well as the loss of the natural  
19 habitat are betrayals of trust, noise from the development,  
20 traffic, grief and fragmentation of the society. All of  
21 those are dysfunctional outcomes that will have specific  
22 public health effects.

23 Secondly, there are also losses of health benefits. It  
24 has been determined that 20 minutes in the natural  
25 environment is more effective than any medication for the

1 treatment of ADD. How many people know that? So my basic  
2 point is the following: That the esthetic experience is  
3 programmed into our brains, that the esthetic experience is  
4 enhanced by being in the presence of a coherent relationship  
5 with others, and the lack of a coherent relationship with  
6 others creates incoherence in the self, and this has adverse  
7 effects on our health, and this is an environmental impact  
8 that has not been addressed.

9 Thank you.

10 MR. STEWART: Great. Thank you very much.

11 MS. OLIVER: Bill Hinely. Then Steve Wilson. All right.  
12 Ken Wilcox. Six minutes for Ken.

13 MR. WILCOX: Nice of you to yield a little bit of time.  
14 Thank you. Ken Wilcox, I live at 3900 Fraser Street in  
15 Bellingham, the east side of town. I've been here since  
16 1982. I work as a recreation and environmental planning  
17 consultant, and I was asked to comment on a few things. So  
18 I realize it's late. I'm not going to belabor some of the  
19 points that have already been made. I'll try to work  
20 through this as quickly as I can.

21 I have to agree with some of the -- I guess the overall  
22 characterizations of this. Even though it's 500 pages or  
23 whatever, it really doesn't get to some of the nitty-gritty  
24 that we would expect to see in a DEIS. So, specifically,  
25 I'll kind of work through a few of these comments that I've

1 written up.

2 Section 1.2, I'm concerned, as Dave Bricklin mentioned  
3 earlier, that there isn't really a scaled-down version.  
4 It's either an all or nothing kind of proposal that's being  
5 evaluated here, and I think that's kind of missing the  
6 boat. I think that if we looked at a smaller, you know,  
7 proposal with fewer units, smaller building footprints, see  
8 less demand for public services, improved environmental  
9 multi-phase protection, you know, a lot of concerns are  
10 going to start to -- to dissipate here, not entirely. But  
11 it would also give us another baseline to look at this  
12 thing.

13 You know, there's obviously a lot of interest in this  
14 property, a lot of talk about trying to acquire some portion  
15 of it or perhaps all of it for open space through the  
16 Greenways program, and that reality that everybody knows  
17 about is almost like it's like a secret and we're not going  
18 to really put it out there in the DEIS, and it should be  
19 there. And if there was another kind of middle-ground  
20 alternative that was evaluated in the EIS, we could actually  
21 acknowledge that reality; that, yes, people are interested  
22 in acquiring this; yes, there is a need for open space,  
23 additional public open space in that part of the city; and,  
24 yes, we are concerned about all the impacts to the  
25 environment that -- that the full build-out, you know, would

1 promise. As Sarah mentioned earlier, Sarah Cooke I believe,  
2 you know, why not look at something that doesn't have  
3 obvious and significant impacts to all of the environmental  
4 issues that are out there, the critical areas concerns?

5 The comment about -- and this repeats what others have  
6 said, but I think it's really important. This trade-off,  
7 this, quote, "trade-off" between preserving open space and  
8 preventing sprawl is really a loaded statement. You know,  
9 we have good planning out there. The GMA does not require  
10 that high-value open space or the sensitive environments  
11 within the city be sacrificed in order to reduce sprawl  
12 outside the city. Inter-city sprawl can be just as  
13 damaging, if not more so, than sprawl out at the city's  
14 edge.

15 You know, really, the -- the guiding principles here are  
16 going to be open-space policies, regulations, and land use,  
17 you know, regulations rather than some big speculation about  
18 how not developing the site is going to cause sprawl. Those  
19 -- those comments, and they are throughout the DEIS, they  
20 really don't belong in there I don't believe.

21 None of the alternatives I think adequately illustrate  
22 public facilities for recreation or nonmotorized travel, nor  
23 how they might link to existing or proposed facilities in  
24 the surrounding area. So I think it would be helpful if we  
25 had more detail on the site plans. A lot was left to your

1 imagination. There's just kind of broad statements made  
2 about how we're going to provide bike and pedestrian  
3 facilities, but no real characterization of what that means,  
4 no -- and no qualitative or quantitative follow-up in terms  
5 of impact or mitigations.

6 I would also add that, you know, the City made some --  
7 makes a statement that -- that nine units per acre and 739  
8 acres -- or 739 units on this property at a density of nine  
9 units per acre is, quote, "sufficiently low." I don't think  
10 there's any real basis to that. That's just an opinion that  
11 either needs to be backed up or removed. You know, if --  
12 realistically, if a good chunk of this site was going to be  
13 transferred into public open space, a park for the city,  
14 then density really shouldn't be calculated based on the  
15 public open space. So we just end up with a much  
16 higher-density development but far fewer units potentially.

17 I don't want to run out of time. How much time do I  
18 have?

19 MS. WEIL: About a minute and 15 seconds.

20 MR. WILCOX: Okay. I want to address recreation briefly.  
21 There were some important points that were made there about  
22 the current use of the site, and that is the -- that is  
23 demand, you know, that's out there every day. My wife and I  
24 recreate there. You know, we come across town to enjoy that  
25 area and the trails in the vicinity, but there's really not

1 -- it's just kind of glossed over in the DEIS in terms of  
2 what that use actually is, what -- how that relates to  
3 demand that's already there, how that demand is going to in  
4 -- be increased by this development, and how it's going to  
5 be served in the future. There needs to be much more detail  
6 and analysis on recreation, particularly with relation to  
7 trails. And the same applies to nonmotorized  
8 transportation.

9 There's lots of opportunities for the site. This is a  
10 clean slate, a huge property. If there's going to be some  
11 development, then, you know, let's go out of our way to make  
12 sure that it encourages nonmotorized travel. I mean, that's  
13 a -- that's a high priority for this community. You know,  
14 let's -- let's do it. Let's not just accept, you know, the  
15 minimum requirements. Let's -- let's really optimize what  
16 we can do in an area like this if -- you know, presuming  
17 it's going to get developed to some extent. And level of  
18 service is part of that mix. It's not really addressed in  
19 the -- in the document.

20 MS. WEIL: Time.

21 MR. WILCOX: So I will follow up with a full and  
22 more-detailed response that addresses page by page and  
23 section by section.

24 MR. STEWART: Great. Thank you very much, Ken.

25 MS. OLIVER: Peter Hallett.

1 MR. HALLETT: Good evening. Peter Hallett, 1712 Larrabee  
2 Avenue. I have a couple of anecdotes that I want to share  
3 and then something specifically from the report. The first  
4 was pertaining to the recreational use of this property,  
5 this land. I have a teenager who doesn't drive, but he  
6 rides his bike a lot and they go up to the Hundred Acre Wood  
7 every weekend. So, as far as I'm concerned, there's a high  
8 statistical correlation between that availability of my son  
9 being able to play in nature without having to get into a  
10 car, and that's a really good use of space as far as I'm  
11 concerned. And many other young students, early teens who  
12 don't drive use this property in that way.

13 The second thing was, in the draft environmental impact  
14 statement there is mention of all the ecolog -- ecological  
15 impacts of wastewater, but I was just thinking about water  
16 supply. If I recall correctly, this summer there were  
17 several weeks when we had essentially water rationing  
18 because of the algae on the source or something about the  
19 valves coming from our water supply. So we're already in a  
20 situation where water is a little bit scarce in our  
21 infrastructure. So here we have a need for a whole lot more  
22 water supply and I'm curious how the City will respond to  
23 that.

24 But looking specifically at the report, I have two kids  
25 in school, so I zoned right in on school capacity. You

1 know, there were many experts dealing with ecology, but I  
2 was looking at the school side. And on page 348 in the  
3 Section 3.11.23, it talks about school capacity,  
4 specifically elementary school. And it has a description of  
5 the facilities for elementary schools that would be used by  
6 the residents of Fairhaven Highlands, and it lists Happy  
7 Valley School and Wade King Elementary School as the two  
8 target schools for the residents of this particular  
9 property.

10 However, when I looked at the counts, I see that Happy  
11 Valley Elementary is currently over capacity by 134  
12 students. And if you put those 134 students to Wade King,  
13 there's only 21 students available -- 21 student seats left  
14 available at Wade King. So it looks like the elementary  
15 school capacity is basically saturated on the south side of  
16 town already, and I note that the school impact fee is \$721  
17 for a condo, \$1211 for a house. Essentially, all the people  
18 that live there, if they put all those fees together, they  
19 could buy a house, but not a school for an elementary  
20 school.

21 Thank you.

22 MR. STEWART: Thank you, Peter.

23 MS. OLIVER: Jim Kent.

24 MR. KENT: Good evening. My name is Jim Kent. I've  
25 resided in Bellingham for some 30 years. I live in

1 Chuckanut Village, which is downslope from the proposed  
2 development. Well, it's at sea level, so it's downslope  
3 from everything for that matter.

4 I've been most appreciative of the comments made this  
5 evening, particularly the scientific expertise that's been  
6 made available. I would like to offer a decidedly  
7 nonscientific -- I'm no scientist, a nonscientific, simple,  
8 brief, but fervently-felt statement supportive of the  
9 no-action option regarding this project. So I'd like to  
10 read this into the record, if I may.

11 Our national parks immediately come to mind whenever we  
12 think of valuable wildlands preservation. As a former  
13 National Park Service employee, I proudly applaud our  
14 nation's collective wisdom in protecting these areas.  
15 Nonetheless, our most valuable wildlands are those closest  
16 to home. Visiting Olympic National Park requires several  
17 hours driving. The Sehome Arboretum, however, is next to  
18 the Western Washington University campus in the population  
19 center of Whatcom County and no car required. For a couple  
20 dollars, a person can ride the WTA to the arboretum from  
21 most anywhere in the county.

22 We now have another -- obviously, another opportunity to  
23 protect our valuable local wildlands. Greenbriar and  
24 Horizon Bank offer a modest proposal. Their Fairhaven  
25 Highlands plan would convert nearly 100 acres of forested

1 wetlands off Chuckanut Drive into housing for thousands of  
2 people. Greenbriar's secret code word is infill. This  
3 Freudian concept has been thrown nearly open enough to  
4 justify condos in the Grand Canyon. Bankers and developers  
5 are experiencing hard times now, just --

6 MS. WEIL: 30 seconds.

7 MR. KENT: -- like everyone else. Hard times, however,  
8 don't justify atrocities. Destroying the Notre-Dame  
9 Cathedral or the Fairhaven Highlands forest and wetlands  
10 should be unthinkable unless people are dying for want of  
11 building materials to build shelter. For the Fairhaven  
12 Highlands, the line of chainsaws and the roar of bulldozers  
13 don't signify the highest and best use. Our exquisite local  
14 wildlands heritage deserves much better and so do we all.

15 Thank you.

16 MR. STEWART: Thank you, Jim.

17 MS. OLIVER: We have no more people signed up.

18 MR. STEWART: Is there anyone else in the audience who  
19 would like to come forward and offer testimony this evening?

20 MAN: Sure.

21 MR. STEWART: Could I get an idea of how many other  
22 people would like to testify?

23 (Hands raised.)

24 MR. STEWART: One, two, three. Three. Four. Yes, hands  
25 again, please.

1 (Hands raised.)

2 MR. STEWART: One, two, three, four. Okay. Thank you.

3 MR. BEATTIE: Hue Beattie, 2104 McKenzie. I moved here  
4 in '73 and used to go to council meetings all the time, and  
5 around '80 they developed a Comprehensive Plan for the City  
6 and they did zoning and such, and the area was zoned I  
7 thought at two homes per acre. And if you look at the  
8 topography and the plants and wetlands and stuff, you'll see  
9 over on 30th Street, it's two homes per acre. And then as  
10 you come down towards Chuckanut Drive, all of a sudden  
11 there's this little spot zone where it's upzoned, and we  
12 didn't even know about it. It happened at the last night of  
13 the hearing on the Comprehensive Plan, and one of the  
14 councilors snuck it into the plan as far as I'm concerned.  
15 And, at the same time, they did a little deal to allow  
16 another friend to acquire some upzoning on Fairhaven  
17 Parkway, too.

18 Anyway, you got the zoning wrong almost 30 years ago and  
19 it's never been downzoned. It should be two per acre, two  
20 units per acre, not nine per acre. And it would be nice if  
21 the Planning Department would actually tell the City Council  
22 downzone it.

23 MR. STEWART: Thank you, Hue.

24 MS. BRACHY: Thank you for letting me speak. My name's  
25 Laura Leigh Brachy (phonetic). I live down --

1 MR. STEWART: Laurie?

2 MS. BRACHY: Laura Leigh Brachy.

3 MR. STEWART: Laura Leigh, thank you.

4 MS. BRACHY: I live down Chuckanut Drive, so my comments  
5 pertain to the traffic and safety. Generally speaking,  
6 public policy is to protect existing populations' safety,  
7 human health and safety in the case of a -- a catastrophe or  
8 emergency. And people have talked about the numerous slides  
9 on Chuckanut Drive. There is only one way in and out.  
10 There's no alternative traffic corridor for people that live  
11 down Chuckanut, unless, of course, at the Samish Way, you  
12 can go up and over 30th Street, which has no sidewalks, no  
13 lighting, is not safe and it's up and down. People have  
14 died on that road using it as an alternate to get into town.

15 The bridge is essential to address. And Dr. Gibb was  
16 right on. You need to plan for the unplannable. When  
17 somebody needs to get an ambulance and get to a hospital,  
18 we're already 20 minutes to a hospital down Chuckanut. You  
19 get traffic on there, no one's getting through. That's not  
20 protecting the existing residents' human health and safety.  
21 This is private profit. We can't put the safety of the  
22 people that are already here. You absolutely need some real  
23 alternatives in this environmental impact statement, which  
24 means decreasing the density of their proposal, not just  
25 whether or not they'll put a connector here or there.

1 Those are my comments now, so thank you very much.

2 MR. STEWART: Thank you, Laura Leigh.

3 Who's next? And so, maybe it would move the line if you  
4 could sort of come on down and get -- get beyond that  
5 circle, that would help.

6 MR. D'ANGELO: Hello, it's late. I wanted to make  
7 sure --

8 MS. OLIVER: Your name.

9 MR. D'ANGELO: Keith D'Angelo, 2014 Julia Avenue, about  
10 three blocks from the proposed project. My comment is about  
11 the process. I address this comment to Tim Stewart, and how  
12 do you feel now about having selected this consultant that  
13 was half the price of the nearest competitor? Do you feel  
14 that you're getting your money's worth? 'Cause I don't  
15 think any of the people here feel that they are. We don't  
16 feel this is an unbiased environmental impact statement. We  
17 don't understand why the City would choose a consultant that  
18 was half the price of everybody else. I would like to see  
19 that addressed.

20 I'd also like to say to Horizon Bank and the developers  
21 that we don't appreciate what you've brought to our  
22 community. We'd all like to be home with our families right  
23 now instead of addressing a ridiculous proposal for  
24 development that is not wanted or needed in our community.  
25 And I think that you all know that.

1           And, finally, I'd like you -- to invite you all to the  
2           November 4th meeting at Fairhaven Middle School. I want to  
3           especially invite all of you to attend 'cause I know you're  
4           going to find out more about this project than you are from  
5           reading this document. And we encourage that, because  
6           that's the only way we can address this as a community. I  
7           extend that invitation to you, sir, as the developer and  
8           co-developer. And then, Mr. Tull, I'd appreciate it if you  
9           would attend as well.

10          Thank you.

11          MR. STEWART: Thank you, Keith.

12          MR. MULVANY: My name is Burke Mulvany. I reside at the  
13          corner of Fairhaven --

14          MR. STEWART: I'm sorry, could I --

15          MR. MULVANY: Burke, B-U-R-K-E, --

16          MR. STEWART: Burke.

17          MR. MULVANY: -- Mulvany and I reside at 24th and  
18          Fairhaven Parkway. I just wanted to take a moment to  
19          include the folks that couldn't make it tonight. There were  
20          dozens of people that weren't able to come and be here, but  
21          their comments will be coming to you and I wanted to make  
22          sure that was spoken to.

23          MR. STEWART: Yes, thank you. We -- I just want to let  
24          you know, we have received a number of comments already and  
25          we look forward to receiving more.

1 MR. MULVANY: And, unofficially, I'd like to speak  
2 quickly on behalf of the animal critters. I had the good  
3 fortune of sitting on my porch tonight and watching animals  
4 come down 24th Street and cross Fairhaven Parkway and go up  
5 into the property that we're talking about. I have seen  
6 many coyotes and also a bobcat recently. I've seen raccoons  
7 and many other animals, deer, of course, coming through  
8 there. Their voice really isn't here tonight. I just  
9 wanted to say that unofficially. And I walk in that space  
10 just every about day and it absolutely -- it absolutely,  
11 absolutely would break my heart to see anything happen. So  
12 zero growth is what I'd say in that space. And thank you  
13 for the opportunity.

14 The one last question I have is, what happens, with the  
15 state of the economy in flux the way it is, if Horizon Bank  
16 is spearheading the financial flow to make this project  
17 happen, if for whatever reason you decide to give the  
18 permits to make this happen, and they start funneling money  
19 to clear-cut that space and make these changes and putting  
20 in systems, what happens after, say, a year or so and the  
21 money's not there anymore? If something happens and these  
22 decisions have been made and these permits have been given  
23 and clear-cutting done, how do we change that? What -- what  
24 kind of -- I just want to know what the process is in the  
25 environmental impact statement if -- what happens if the

1 money runs out? That's just a really important question  
2 that I'd like to see addressed.

3 Thank you.

4 MR. STEWART: Thank you, Burke.

5 MS. STAHL: My name is Dee Stahl, I live at 1717  
6 Fairhaven Avenue and Chuckanut Drive, and I have not yet  
7 read the draft environmental impact statement. But I  
8 haven't heard anyone speak to whether or not Chuckanut  
9 Village and the impact on that small area is -- is discussed  
10 at all. And I would like to say that, right now, the  
11 traffic of non-villagers that goes up and down the road, up  
12 and down Fairhaven Avenue on a weekend, sometimes it's  
13 almost bumper to bumper to get down to the beach where they  
14 turn around and go back. And that concerns me a lot is how  
15 much more traffic is going to be down at the beach, how much  
16 more activity there will be down on the beach.

17 And, also, just the impact on the wildlife and also the  
18 -- the pollution of Chucka -- of Chuckanut Bay right there  
19 at the head of the bay. No one's even spoken to that, and I  
20 hope that if one of the proposals does go through that  
21 somehow the -- the pollution of that enormous jewel or small  
22 jewel that we have right now, the wetlands down there, can  
23 be prevented.

24 Thank you.

25 MR. STEWART: All right. Thank you, Dee.





1 STATE OF WASHINGTON )  
2 COUNTY OF WHATCOM ) ss: C E R T I F I C A T E

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I, SANDRA B. SULLIVAN, a Court Reporter and Notary Public in and for the State of Washington, do hereby certify that the foregoing 136 pages comprise a true and correct transcript of the proceedings had in the within entitled matter, recorded by me by stenotype on the day(s) herein written, and thereafter transcribed into printing by computer-aided transcription.

Dated this 3rd day of NOVEMBER 2009.

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