

July 31, 2014

Ms. Diane Sugimura  
Director  
City of Seattle Department of Planning and Development  
700 Fifth Ave., Ste. 1800  
P.O. Box 34019  
Seattle, WA 98124

Re: Washington State Department of Ecology Conditional Approval of City of Seattle Shoreline Master Program Update

Dear Ms. Sugimura:

We appreciate the opportunity to comment on the Shoreline Master Program update. The companies, organizations and the Port staff represented in this letter worked in close partnership with your department and City Council to achieve passage of Ordinance 124105 in December 2012.

We believed the legislation reflected our common interests in protecting shoreline resources under state law and fostering a healthy maritime industry that creates jobs and economic opportunities for our community.

In June we received materials related to the state Department of Ecology's findings and conclusions, required and recommended changes in the adopted SMP. We reviewed these materials and found many changes are helpful and provide additional clarity, as do revisions in the use tables and use standards.

But it was with surprise and frustration that we found a number of potentially substantive changes in the SMP Update recommended by the City. These recommended changes could add further constraints on the ability of the businesses and the Port to utilize shoreline property and create new regulatory uncertainty. These topics were the subject of substantial discussion and negotiation among the parties leading to the adoption of the SMP Update, and our concerns are identified below.

We appreciate your willingness to accept our request for a meeting with you and your staff for a focused discussion to help us understand the city's proposed changes and the rationale behind those changes after adoption of the legislation.

The Port of Seattle has already submitted comments to DPD in a letter dated July 7, 2014. We endorse the comments concerning regulation of shorelines setbacks under the Critical Areas Ordinance (Item 109-C), inconsistent terminology for dredge material disposal sites (Items 13-C and 14-c) and survivability of mitigation vegetation planting percentages (Items 16-C and 17-C).

Further concerns have arisen in subsequent conversations:

Item 73-C: The setback for non-water dependent and non-water related uses is increased from 35 feet to 60 feet in the Urban Industrial environment under SMC 23.60A.490. The rationale for this change says, "The City requested the identified change to correct an error that was inadvertently made between version 6 and 7 of the updated SMP, during the City Council review." This is a major change. We understood the setback to be 35 feet, not an error. The 60-foot setback unnecessarily restricts industrial uses, and we request that the City keep the 35-foot setback as passed by City Council.

Item 12-C: The vegetation mitigation section is revised to add a secondary preference for planting "adjacent to existing vegetation" in SMC 23.60A.167.E(6). The rationale for this change is to "prioritize the placement of riparian vegetation...adjacent to existing vegetation to enhance the existing ecological functions at the site." In some areas, there might be existing vegetation surrounded by the built environment. We want to be sure that the City cannot require relocation of existing structures or uses, to facilitate planting adjacent to existing vegetation. Consider changing the section to read, "...and secondly adjacent to existing vegetation where possible without altering the built environment or established uses."

Item 94-C: The City requested a new definition of "feasible" when the word is used in the phrase "no feasible alternative location exists" for utility service use, utility line, or sewage treatment plant. The new definition goes on to cite to a case for the relevant analysis. This definition is problematic for two reasons. First, it is unnecessary to add a new definition for when an alternative location is not feasible. The term "feasible" is already defined in the code, and if something does not fit into the definition of "feasible," then presumably it is not feasible. Second, it is inappropriate to cite to a case for the relevant analysis. This citation makes the code inaccessible to the general public (there is also an error in the case citation).

Item 4-C: A city-requested change would expand the requirement to protect views from residential uses "*adjoining*" the shoreline district to residential uses "*adjoining and within*" the shoreline district. This is an expansion of the protection of shoreline views in the SMA (RCW 90.58.320) which protects views "on areas *adjoining* such shorelines." Property owners will find it difficult to meet the standard *within* the shoreline district, and we recommend the city use the language of the statute.

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We would like to extend our thanks to your staff for their continued work on the SMP update. We look forward to meeting with you soon to discuss these important issues.

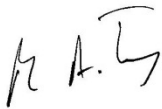
Sincerely,



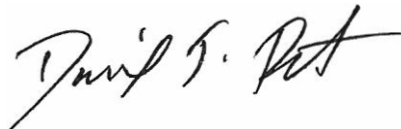
Stephanie Jones-Stebbins  
Port of Seattle



Ed Owens  
CalPortland Co.



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Vigor Shipyard



Daniel J. Peters  
Ash Grove Cement Co.



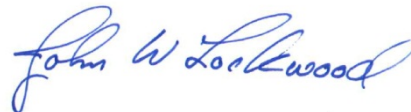
Eugene Wasserman  
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Patrick Jablonski  
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