

August 14, 2014

VIA EMAIL: margaret.glowacki@seattle.gov

Maggie Glowacki
City of Seattle
Department of Planning and Development
700 Fifth Ave, Suite 1800
Seattle, WA 98124-4019

**Re: Seattle Shoreline Master Plan Update
Ecology's Required and Recommended Changes**

Dear Ms. Glowacki:

As you know, this firm represents the Fremont Dock Co. ("FDC") which owns property along the Ship Canal in Fremont designated Urban General ("UG") under the updated Shoreline Master Plan. FDC requests that the City of Seattle ("City") maintain the 15 foot setback in the UG environment that the City Council has already approved. The Washington State Department of Ecology's ("WDOE") position that a 35 foot setback in the UG environment is required under the Shoreline Management Act is without merit and based on a flawed reading of the City's Cumulative Impact Analysis ("CIA").

FDC owns the Quadrant Lake Union Center which straddles the Fremont Bridge. The property is not only host to tenants such as Google, Adobe and Tableau, but also has a significant segment of the Burke-Gilman multipurpose trail along the ship canal frontage which separates the uplands from the shoreline. A 35 foot setback along the ship canal unnecessarily encompasses many of the buildings in the Quadrant Lake Union Center.

Increasing the setback to 35 feet in the UG environment is not required as WDOE contends. WDOE asserts that City is required to increase the setback in the Urban General Environment from 15 to 35 feet because the "record does not support a 15-foot setback." Specifically, WDOE alleges that the City's

Cumulative Impact Analysis (“CIA”) bases its no net loss conclusion on a 35 setback in the UG environment, among other things. We disagree.

The changes to UG environment relevant to the protection of ecological functions are substantively discussed on pages 21 and 22 of the CIA. Notably, the discussion only references a 15 foot setback in the UG Environment, not the 35 foot setback that Ecology demands:

Require a 15-ft shoreline setback in the UG shoreline environment. This shoreline environment contains lots that are separated from the shoreline and there is no access to the water; therefore, water dependent uses are generally not located in this shoreline environment.

WDOE bases its conclusion that the CIA assessed a 35-foot buffer by referencing a summary table at the conclusion of the CIA. Specifically, on page 43 the summary table states that the shoreline setback is 35 feet in the Urban Commercial (“UC”) and UG environments. The summary table’s reference to a 35 foot setback in the UG environment is at odds with the substantive text and is clearly an error. The error is likely the result of conflating the UC and UG environments into a single summary discussion in the table. Indeed the CIA’s substantive discussion of the UC environment references both a 15 foot buffer and additional 20 foot setback.

Finally, a 35 foot setback along this segment of the Ship Canal is not needed to ensure no net loss of shoreline ecological functions. As we have stated previously in earlier comment letters, the Lake Union Ship Canal is an engineered waterway that is heavily armored and developed. The immediate shoreline was designed to preserve the waterway for navigation and therefore, lacks many of the ecological attributes of natural waterways. Indeed, the CIA refers to Lake Union and the Ship Canal as “heavily urbanized” with “few natural sections of shoreline”. Moreover, the paved Burke-Gilman multiuse trail interrupts the benefits a 35 foot setback would have along the shoreline, if any. Thus, a 35 foot setback along this engineered shoreline does nothing to preserve existing functions. Rather, a 35 foot setback only imposes enhancement and restoration obligations on landowners which exceeds the City’s authority under the SMA as well as the state and federal constitutions.

Contrary to WDOE’s position, a 15 foot setback in the UG environment is supported by the CIA. Accordingly, we respectfully request that the City maintain the 15 foot setback for the UG environment and reject WDOE’s demand

that it be increased to 35 feet. We further request that the Department of Planning and Development continue to fulfill its promise that the SMP update will be developed in close collaboration with interested parties by providing an opportunity for the public to meaningfully comment on WDOE's proposed changes before legislation is sent to the Mayor and City Council.

I welcome the opportunity to discuss this issue with you further at your convenience.

Sincerely,



John T. Cooke

Cc: Client (via email)