

The image shows the Corporate Seal of the City of Seattle, which is a circular emblem. It features a central shield with a ship, a plow, and a sheaf of wheat. The shield is surrounded by a ring of smaller shields. The text "CORPORATE SEAL OF THE CITY OF SEATTLE" is inscribed around the top of the seal, and the year "1869" is at the bottom. The seal is set against a background of a grid of small squares.

# **Pioneer Industrial Development District Projects: Policy and Code Change**

**Public Works LLC**  
**[www.public-works.org](http://www.public-works.org)**

**February 16, 2012**



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## SEATTLE INDUSTRIAL DEVELOPMENT PILOT PROJECT

### 1. BACKGROUND

#### Mayors Innovation Project Technical Assistance Program (MIPTAP)

The City of Seattle, Washington, is a member of the Mayors Innovation Project (MIP), a learning network among American mayors committed to "high road" policy and governance, shared prosperity, environmental sustainability, and efficient democratic government. The Mayors Innovation Project was founded in 2005 by former Madison, Wisconsin, Mayor Dave Cieslewicz and Dr. Joel Rogers, a UW-Madison professor and director of the Center on Wisconsin Strategy (COWS) and the Center for State Innovation (CSI).

Over 100 cities throughout the United States have joined MIP since its inception, participating in regular meetings and information exchanges to hear about best practices and innovative responses to the myriad issues facing city leaders. Participating cities include megalopolises like Chicago, Los Angeles, and New York; large cities like Atlanta, Boston, Denver, Milwaukee, and Seattle; and smaller cities like Cincinnati, Des Moines, Portland, Auburn and Scranton.

The Mayors Innovation Project Technical Assistance Program (MIPTAP) was launched in 2011 to provide more customized and hands-on assistance to mayors and their staffs on particular innovations or problems through a combination of applied research, policy analysis, evaluation, and recommendations for action. The Program incorporates both on-site and remote consulting to:

- Address specific policy problems or opportunities identified by individual, or groups of, MIP members.
- Provide best-practice research into model policy solutions adopted in other cities.
- Present city-specific data and evidence to drive fact-based policy design.
- Develop individually tailored solutions and implementation plans for MIP members to address the issue in question.
- Identify potential support for specific policies.

For more information on the Mayors Innovation Project, visit [www.mayorsinnovation.org](http://www.mayorsinnovation.org).

The Mayors Innovation Project grant made available a limited amount of consulting by **Public Works LLC**, one of the leading firms in the country working with agencies and government leaders at the highest level – specializing in strategic planning and improving government management, policy, and efficiency. **Public Works** provides governments with professionals experienced in performance budget analysis, business processing, organizational development and design, policy analysis, program design and implementation.

## 2. SEATTLE'S INDUSTRIAL DEVELOPMENT CHALLENGE

The City of Seattle's Request for Technical Assistance concerned the City's desire to undertake an innovative program, in partnership with the State of Washington, the Port of Seattle, and King County, to support and incentivize revitalization and new sustainable economic growth among the city's industrial and manufacturing sectors. As part of its preliminary efforts to develop such a program, the city is exploring the range of policy and regulatory challenges faced by these sectors and related issues that affect growth in these sectors.

Incorporated in 1855, the City of Seattle has a long history as an economic engine for the Pacific Northwest. First fueled by the lumber industry, its port became a vital shipping and transit hub during the Gold Rush, a major shipbuilding center by World War I, and the global headquarters for design and manufacture of Boeing airplanes by World War II. Since the software boom of the 1990's, which saw the rise of local technology giants like Microsoft and Amazon, Seattle's economy has been driven by a mix of "traditional" industries, including maritime and manufacturing, and a faster-growing "New Economy" of Internet and information technology, biotech research and development, and the business services sector.

The City of Seattle has articulated its long-term interest in ensuring a diverse economic base that includes and retains its traditional industries, even as various pressures – including global competition, economic downturn, and competing land use pressures – have "squeezed" many of these industries out of Seattle, or in some cases out of business altogether. It has been observed that these traditional industries have long been a source of relatively high-paying family-wage jobs in Seattle that do not necessarily require a college education. Furthermore, maintaining diversity in the city's economic base is desirable to buffer the local economy from the impacts of inevitable market fluctuations in any one sector. Seattle's Industrial Manufacturing and Industrial Centers are unique among major cities in their close proximity to the high-density commercial and residential areas of the city's downtown, a feature that the City specifically wants to preserve.

Seattle has two Manufacturing and Industrial Centers (MICs) – the Duwamish MIC and the Ballard Interbay Northend MIC. The Duwamish MIC is bordered on the west by the Duwamish River and Elliot Bay; on the east by Interstate 5; on the north by downtown's Pioneer Square and the Chinatown International District; and on the south by the BNSF Railway and Union Pacific Railroad. The northwest portion of the Industrial District is known as SoDo (from "South of Downtown"), and is also the location of Safeco and Qwest Fields. Most of the district lies on what were once mudflats, which were dredged and filled in the first decade of the 1900's. This area was previously inhabited by members of the indigenous Duwamish Tribe, which form a part of the Lushootseed Coastal Salish nations.

The Ballard-Interbay Manufacturing Industrial Center (BINMIC) was adopted in 1994 as part of the Seattle Comprehensive Plan. BINMIC is located in the northwest part of



Seattle and extends from the northwest corner of downtown to the Ballard neighborhood. The center includes some of the city's most productive working waterfront, wharfs, shipyards, and rail yards.

BINMIC has three major components: Salmon Bay, Interbay, and Smith Cove on Elliott Bay. Salmon Bay is home to "Fisherman's Terminal," one of the largest commercial fishing terminals in the northwest. The Salmon Bay area, stretching from the Ballard Locks to Fremont, also supports intense marine-related industrial and manufacturing uses. The Interbay part of the center, located between Salmon Bay and Elliott Bay, contains one of Seattle's major railroad yards. At the south end of the center, Smith Cove on Elliott Bay is home to Terminal 91 (a large general cargo terminal complex) and Pier 86 (a Port of Seattle export grain terminal).

The City asked **Public Works** to provide supporting research and analysis to identify the regulatory issues and constraints that most directly affect the growth and economic development of these targeted industries. This research consisted of two inter-related components: First, compile and submit a preliminary survey of state and local laws, policies, and regulations that affect shoreline industrial development and operations to inform, and provide context for the qualitative research to follow. (This is attached to this report as Appendix A.) Second, a series of eleven interviews was conducted with representatives of various affected industries identified by the Seattle Office of Economic Development. These interviews provide the basis for the following qualitative discussion of the broad regulatory environment faced by industrial firms, specifically, those issues identified by the respondents as presenting the greatest challenges to the development and growth of the Seattle area's manufacturing and maritime sectors. (An interview-by-interview summary is attached to this report as Appendix B.)

### 3. FINDINGS

#### 3.1. Seattle Manufacturers Do Not Find Regulation Generally to be Burdensome

The respondents as a whole insisted that regulatory compliance was not the most significant challenge faced by their businesses, nor would it be a primary driver of their decisions to stay in Seattle, or to relocate elsewhere.

In fact, the respondents all conveyed pride in their companies' good faith commitment to "playing by the rules," and shared the conviction that businesses should be held to high standards of public stewardship. They gain prestige within their own industries, and esteem from customers, for upholding and exceeding environmental standards. Not one respondent suggested that environmental standards were set too high, even where significant compliance costs were incurred. On the contrary, many expressed frustration that the city was not more supportive of their efforts to set a high bar for environmental responsibility.

### **3.2. Specific Regulatory Problems Burden Seattle Manufacturers**

However, several areas of dissatisfaction, frustration, or concern were raised with regard to particular regulatory issues. In most cases, the burden was perceived to result less from the regulation itself than from the context, manner, or process in which it was applied.

The following examples represent a synthesis of information as reported by the respondents about current or past experiences where regulations have impacted their company's ability to do business efficiently, or which have resulted in excessive expense, time investment, or other resource outlays.

Criticisms of the regulatory regime consistently shared one or more of the following themes:

**A. Uncertainty, or arbitrariness arising from unclear language, competing regulatory authorities, or regulatory regime changes.**

**1. Nucor Steel was unable to invest \$5-6 million in building a new energy efficient steel production plant in Seattle due to uncertainty about the requirements of Initiative 937.**

Nucor Steel is one of Seattle's oldest industrial firms, and the only steel mill in the Seattle area. It employs 290 people in Seattle and is noted for having never laid off a worker. It is also among the largest energy customers in Seattle. In recent years, it has pursued building an innovative new facility that would use the heat generated by its production processes as an efficient source of clean energy, in cooperation with Seattle's electric utility, City Light. City Light was to provide \$2.5 million of the \$7.5-\$8 million total cost of the project, an investment it expected to recoup under Initiative 937, recently-passed state legislation that provides financial incentives to utilities to invest in energy conservation and in meeting their statutory Renewable Portfolio Standard goals. Before investing in the joint project, however, the utility needed assurances that the project would definitely qualify for the available incentive money.

In order to secure City Light's cooperation, Nucor obtained the review and opinion of three independent experts (from the State Department of Commerce and Washington State University, as well as an independent consultant) who each determined that the project would qualify as an Initiative 937 conservation project eligible for state incentives. When City Light's legal department took the position that the definition of "conservation" in the statute was unclear, Nucor and City Light approached the State Auditor's Office, which, as a matter of policy, refused to pre-qualify the



project – leaving it dead in the water. Ultimately Nucor decided to locate the project in Chicago, where its \$5-6 million investment was leveraged by similar incentives that provided more reliable guidance as to qualifying criteria. Nucor and others are currently lobbying the Washington state legislature to clarify the language in Initiative 937.

2. **Harley Marine Services is building a LEED-certified facility as its future world headquarters on the Duwamish River. Obtaining the master use permit on the shoreline to build a new, 65-foot building took over a year because the height limitations in zoning for marine use were extremely vague. After a year of uncertainty, there still were no guarantees that Harley would be able to continue the project.**

Harley Marine Services, a national company founded 25 years ago in Seattle, has made great efforts to lead the barge industry in environmentally friendly practices, including the use of hybrid tugboats. The company desires to build an operation that will stand the test of time and is therefore focused on long-term sustainability. Harley Marine decided that it needed to build its new facility to a height of 65 feet in order to achieve the highest standard in sustainable and energy-efficient features – including natural airflow and natural day lighting – while still allowing ample space to manage the shipyard and moorage and to accommodate future growth. The applicable zoning regulation, under the city's Shoreline Master Use Plan states that no buildings that include office use may be built over 35 feet tall, with exceptions for certain marine uses. Even though Harley Marine maintains barges and tugboats, the definition of "marine use" was sufficiently unclear, and subject to divergent opinions. Ultimately, the building was approved, however the project was delayed by a year, during which time the viability of the project was placed at risk.

3. **Vigor Industrial (formerly Todd Pacific Shipyards) is wary of anticipated new regulations under the auspices of a statewide requirement for the city to update its Shoreline Master Use plan. This uncertainty impedes Vigor's ability to plan and invest in the property.**

The State requires the city to update its Shoreline Master Use Plan, which is intended to balance the protection and restoration of pre-existing environment and habitats with existing maritime uses. Vigor is located on Harbor Island, a man-made land formation that has no identifiable pre-existing environmental condition other than as a shipyard. This results in a lack of clarity about what environmental or habitat standard to which the area will be held under pending the updates to the Plan by the city's Department of Planning and Development (DPD).

Vigor is concerned that the plan is increasingly focused on restrictive building codes affecting structures within 200 feet of the waterline. Vigor owns and operates a number of such structures that are integral to its work with ships and which will require significant upgrades. Additional building



prohibitions and requirements could make it very difficult for Vigor to replace or repair its aging structures to accommodate current and future operational needs.

## **B. Irrational Regulations.**

Certain regulations, while well-intentioned, do not reflect realistic conditions. Instead, they are disincentives to investment and, when enforced in a literal way, do not further their original public purpose. These regulations could likely be refined to better serve the goals they are trying achieve.

### **1. In King County, a steel mill must be permitted as a solid waste facility in order to use recycled steel filings in production. It is believed that this is the result of a literal interpretation by the county of an error of omission in state statute.**

Steel filings, a byproduct of steel production, are typically classified as a solid waste. The U.S. EPA provides an exclusion for steel filings, which, when recycled for purposes of steel manufacturing, are not classified as a solid waste, or a hazardous waste, but as an input of production. The Washington Department of Ecology has always conformed to this exclusion, even though the state statute itself only excludes recycled steel filings from regulation as a hazardous waste. The King County Health Department, however, insists that, under state law, unlike federal law, recycled steel filings are excepted as a *hazardous waste*, but not specifically as a *solid waste*. As a result, the only steel mill in King County, which use recycled steel filings in its production process, needs to be permitted by the King County Health Department as a solid waste facility.

Nucor Steel asserts that its Seattle plant is the only steel mill in the country subject to regulatory oversight as a solid waste facility, noting that “solid waste” is not typically interpreted to include material that is purchased as a commodity input for industrial production. Nucor has had to file for a number of solid waste permits with the county Health Department. While classified by the department as an “exempt” solid waste facility, this designation puts Nucor into an inappropriate regulatory arena, creating a burdensome layer of regulatory risk and uncertainty.

### **2. Regulatory obstacles prevent Vigor Industrial from making improvements that it would otherwise perform on its antiquated piers.**

Vigor owns some legacy piers that do not meet current Shoreline Master Use Plan requirements. It is prohibited to make repairs to these structures without bringing the entire construction up to code. In some cases, this would require the piers to be demolished and completely replaced, which is cost-prohibitive to Vigor. It is possible that such a result was not the intention of these regulations, and that they could be modified to take very

old pier types into consideration – enabling needed upgrades, with a positive impact on the condition and standards of these structures.

### **3. Environmental citations for technical violations that do not affect environmental quality.**

Delta Marine, a shipbuilder on the Duwamish River, handles several caustic chemicals, including styrene, with legitimate need for regulatory oversight. Delta is proud to operate a very clean, “tight” facility with no substantive violations. Yet it has been written up for violations that it asserts have no basis in environmental protection. For example, Puget Sound Clean Air Agency’s Regulation I, Section 9.15 (“FUGITIVE DUST CONTROL MEASURES”) states that it is unlawful to allow visible emissions of fugitive dust unless reasonable precautions are employed to minimize the emissions. Reasonable precautions include, but are not limited to treating temporary, low-traffic areas with water or chemical stabilizers, reducing vehicle speeds, constructing pavement or rip rap exit aprons, and cleaning vehicle undercarriages to prevent the track-out of mud or dirt onto paved public roadways. Delta has a gravel parking lot, and an air inspector from the Puget Sound Clean Air Agency noticed some dirt on a paved surface that had been tracked in by trucks. Delta noted that time spent defending the reality of dust at a shipyard, in light of far more pressing environmental concerns, is counterproductive to environmental protection for two reasons: It minimizes serious-minded efforts to prevent real environmental risk, and it makes it harder to take regulatory enforcement seriously.

Similarly, a state air inspector discovered a small gap at the bottom of one of two 50-60’-tall doors that open fully to provide clear access. The gap allowed a small amount of air to pass through the door although the air in the building is supposed to vent through a stack. The company was cited for this gap, even though the air going through the stack tested clean and no harmful pollution was emitted. Delta spent several thousand dollars contesting the citation. Issues like these drain time and resources from the business, without serving any clear benefit to the public or the environment.

### **C. Duplicative and/or contradictory regulations under multiple authorities.**

#### **1. Contradictory instructions from public regulatory entities.**

Sabey Corporation, a Seattle-based real estate developer, reports routinely receiving contradictory instructions that delay projects. For example, Sabey was instructed by Seattle Public Utilities that, in order to obtain a permit to occupy their historic Georgetown brewery property, it needed to tear down a structure that the agency determined to be dangerous or unsound. At the same time, the city’s Department of Neighborhoods insisted that the structure be retained in its original form as a matter of historic preservation.

Contradictions of these kinds frequently cause costly delays that leave the business' operations in limbo.

2. **The Army Corps of Engineers closely regulates dredging activities; anticipated attempts by the city to incorporate additional new dredging restrictions into the Shoreline Master Use Plan are seen as duplicative and burdensome.**

The Joint Aquatic Resources Permit Application (JARPA) is required for entities undertaking dredging activities. For Delta Marine, which needs to engage in periodic maintenance dredging to facilitate the transportation of vessels to its moorage on the Duwamish River, JARPA was a 2 ½-year process. It required approval by the Army Corps of Engineers, U.S. Fish & Wildlife, and local Tribes, as well as signoff by other agencies. This lengthy process, which includes mandated notice and public comment periods, could be reasonably shortened without material changes to permitting requirements, according to respondents. Respondents with maritime waterfront activities that engage in periodic dredging activities viewed dredging as far outside the expertise of DPD – the city agency with jurisdiction because it administers the Shoreline Master Use Plan – and the city's oversight of this activity as duplicative regulatory overreach, given that The Army Corps of Engineers is recognized as the preeminent global expert in the field of dredging, a complex engineering activity.

3. **Nucor Steel planned to build a new locker room on its property but obtaining the permit from the city to build a new structure required a \$1 million investment in landscaping around the perimeter of the plant – a 45-acre facility.**

The purpose of streetscaping/landscaping requirements is ostensibly to mitigate the impact of construction activities to the curb. For example, on a typical parcel of land, building a new structure may affect the street, landscaping, or sidewalks. Streetscaping requirements hold businesses accountable to mitigate that impact. In this case, however, the locker room was to be built in the middle of a 45-acre facility, with zero impact upon the curb or street. Nevertheless, the city insisted that the building permit approval was contingent on Nucor re-landscaping the entire perimeter of the property.

After a six-to-eight month delay, Nucor learned that the costly landscaping requirements were no longer applicable if the project were categorized as a renovation instead of a new construction. Therefore, instead of tearing down the old building entirely as originally planned, a corner of it was left intact – rendering the project a “renovation.”

Nucor perceived DPD's invocation of the landscaping clause as purely coercive, since it did not, in this case, serve the understood intent of the requirement. A smaller business without a legal department may not have

identified the renovation “loophole” and thus have been forced to expend significant capital unnecessarily or to forego the project entirely.

**D. Bureaucratic complexity that results in delayed approvals and lack of accountability.**

**1. Even land developers with extensive experience in the region note a high degree of confusion and opacity as to the processes involved in obtaining building permits.**

Sabey Corporation, for example, works through multiple public processes when dealing with land-use and zoning issues. Its activities are subject to approval by a network of bureaucracies, ranging from the state Department of Ecology to the Seattle DPD. Sabey describes these processes as requiring an “incredible” amount of persistence and involving “challenges at every turn.” Duwamish Properties describes the complexities of navigating zoning codes, and the elaborate approval process for moorage involving the Washington Departments of Natural Resources and Ecology, the Muckleshoot Indian Tribe and the federal EPA, which each has its own set of laws and regulations to abide by.

Several respondents echoed the perception that these bureaucracies are not accountable to any authority but their own, resulting in little recourse for appeal when projects falter under bureaucratic “gridlock.” Respondents suggested that a concerted effort to clarify and streamline the building permit process would go far toward alleviating the regulatory burden. Similarly, the ability to project the likely time frame for the receipt of a permit was noted as critical. Sabey noted that other jurisdictions in which it works, such as New York, embody the principle that the city should not pose an obstacle to, or create bottlenecks in, the development process.

**2. Capital Industries needed to take possession of an unimproved right-of-way adjacent to its property (i.e. obtain a street vacation from the Department of Transportation), in order to undertake rebuilding efforts following a fire. This process took an inordinate amount of time.**

Capital Industries is a Seattle-based metal fabrication company that serves the transportation, solid waste, energy, construction, and maritime industries. It owns its site in the SoDo industrial district, which it has developed to capacity over 45 years. Capital felt fortunate to have been able to obtain the street vacation, in spite of the time and resources required. However, the president of Capital Industries described the business as being “at the mercy” of the city throughout the permitting process, particularly with respect to the city’s appraisal, which determined the non-negotiable price to the company. Several respondents echoed the perception that building processes in the outlying areas of Kent and Auburn,

go much more smoothly, where it is understood to be easier to “set up camp.”

3. **Nucor Steel wanted to repair severe erosion affecting an undeveloped area of a small parcel it owns on the Duwamish River. It took two years to get the necessary permits to mitigate damage caused by storms and prevent further erosion. Various regulatory authorities were involved, including the Army Corps of Engineers, state Department of Fish and Wildlife, and the city’s Department of Planning and Development. It was extremely difficult to determine at what phase the process stood or with which agency delays were occurring.**

The shoreline erosion was caused by successive storms, and Nucor wanted to fix the erosion at its own cost. Agencies were supposed to coordinate with each other to approve the project, which continually “fell through the cracks.” The biggest delay was due to a disagreement with the city over how much new landscaping work Nucor would be responsible for as a condition to obtain the permit to repair the erosion. Nucor maintained that the area in question had never been previously vegetated, and therefore this work was outside the scope of the erosion mitigation work it intended to perform. The impasse continued for two years as the erosion got worse with every storm.

After Nucor sought the intervention of an elected official, the city agreed to assume responsibility for improving the shoreline with the vegetation it deemed necessary. The repair work, which involved stabilizing the area with logs according to established erosion control best practices, took a total of 36 hours to complete. After two years of insisting that vegetative landscaping was necessary, and withholding the permit to repair the erosion, the city never followed up on its end of the bargain to perform that work.

#### **E. Third-party advocate is needed to get things done.**

1. **In spite of continued complaints to the city about streets that were in poor condition, it was only through a local business organization that the president of Capital Industries learned he could participate in a public-private partnership to fix them.**

Two streets that border Capital Industries’ plants were in severe need of reconditioning. The area comprised 10,000 feet of streets adjacent to the property, one of which was virtually impassable. While the city’s response was “sympathetic,” Capital was unable to get material assistance from the city to repair the streets. A personal contact at the Manufacturing Industrial Council, a local business advocacy organization, put the president of the company in contact with a state program that facilitates road reconditioning projects through partnerships between private property owners and the DOT. This program finally offered the company some relief from the

impassable streets, although the process was protracted and required the business owner to underwrite \$46,000 of the approximately \$138,000 project. Ultimately, the street was asphalted.

Several respondents voiced concern that some businesses are unaware of, and lack the resources or connections to learn about and pursue, similar opportunities to work with government to get things done.

**2. Companies often feel compelled to engage lobbyists as advocates to seek intervention by city officials, in order to obtain permits that should be a matter of standard procedure.**

Several respondents noted that obstacles to obtaining permits in the scenarios described above were only resolved after a great deal of lobbying and leveraging contacts within the city government. Duwamish Properties, the developing entity responsible for the building of Harley Marine's green, LEED-certified facility, had to resort to third-party intervention finally to obtain its permit to build to its desired height. Nucor Steel worked with its lobbyist to get one of the city administrators to visit the site where it could not obtain a permit to conduct erosion repair. The city administrator sympathized with Nucor's frustration and finally succeeded in catalyzing action among the agencies involved.

**F. Regulations that incur exorbitant or disproportionate costs.**

1. Cascade Designs, a Seattle-based consumer goods manufacturer, designs and builds much of its own custom manufacturing equipment. The city requires that manufacturing equipment be Underwriters Laboratory-listed. However, obtaining UL certification for an individual, custom piece of manufacturing equipment can add thousands of dollars to the cost of that equipment. The regulatory value is dubious because these are not consumer products, and the requirement has imposed roughly \$100,000 of additional costs on the company.
2. Applicants spend more money on consultants, planning, and sampling to meet permit requirements for dredging than they actually spend on physical dredging operations.
3. Respondents whose companies operate in the vicinity of the federal EPA Superfund cleanup site on the Duwamish River report that they must bring "phenomenal" resources to bear – including environmental and remediation consultants – when undertaking any sort of development project, in order to ensure that pre-existing soil and groundwater contaminants from legacy industrial use are not disturbed or released.
4. Several respondents noted water runoff control as being among the most costly regulations with which to comply. Compliance measures include large



underground drainage systems and water control sumps that incur significant construction costs.

5. When Seattle City Light needs to conduct utility work at an industrial site, the business is required to pay for the overtime labor in order to expedite the job and minimize the impact on business operations. One respondent stated that this feels like “greasing the palm” of the local utility to perform its job.

### 3.3. Industrial Zoning Protections Are a Double-Edged Sword

While industrial zoning was not initially a focus of this analysis, the respondents were consistent in raising the issue as central to the context in which their businesses operate. In December 2007, the Seattle City Council passed a law to protect 5,000 acres of industrial land with strict zoning limitations against any incursions of office, retail, or residential use of this land. Commonly referred to as “the down-zone,” this controversial move was intended to halt real estate speculation by developers and others that contributed to driving up the prices of industrial land, much of which is located in the district south of downtown Seattle known as SoDo, and Harbor Island, a man-made land formation which has been in industrial use since its creation in the early 1900’s. Rising underlying property values in Seattle were pricing industrial users out of the market, and encouraging them to relocate to outlying areas with lower costs of land. Furthermore, the down-zone was intended to prevent the proliferation of office or residential uses deemed incompatible with industrial activities in these areas.

Despite this, the respondents described an ongoing exodus of industrial manufacturing from Seattle, especially to areas south of the city, including Kent, Renton, and Auburn for myriad reasons, of which lower cost of real estate is only one. **The range of non-zoning related considerations affecting manufacturing businesses in the Seattle Industrial Zone include:**

- The existing building stock and infrastructure in these areas are extremely old, and increasingly inadequate-to-obsolete for modern industrial use. Many businesses need more space to accommodate growth and to conduct efficient operations and movement of goods. However, it is not cost-effective to initiate renovations or new construction in these areas, as a return on investment cannot be realized. New buildings, built to accommodate modern industries, including wider streets and truck-turnarounds, are abundant in outlying areas. New construction of custom facilities can also be undertaken at a fraction of the cost.
- Lower tax rates are available in surrounding cities; Kent, for example does not levy a B&O tax, as Seattle does.
- While energy is relatively inexpensive in Seattle, the local utility does not offer the same concessions to industrial users as many other cities. Industrial users have borne the brunt of recent rate hikes.



- Traffic congestion in the city is “strangling” and cited as a major strategic drawback to continuing operations in proximity to the high-density downtown area. Poor road conditions and general lack of street maintenance is also a common complaint.
- Skilled manufacturing labor is in short supply. As experienced workers retire, there are few qualified to replace them. While experienced industrial workers earn relatively high wages, the wages for entry-level trainees is low relative to other jobs in Seattle and do not attract the most qualified workers.
- Lack of affordable housing in Seattle means that many industrial employees live in the South End, anyway – further adding to the significant burden and expense imposed by traffic congestion – and providing a more attractive labor pool outside the city limits.

In other words, the down-zone has not addressed the underlying economic and logistical factors responsible for the manufacturing exodus. While the down-zone has stemmed the rise of property values, the cost of land in the Seattle industrial zone is still significantly higher than in competing industrial areas, while other compelling factors in the decision for manufacturers to relocate elsewhere, and in the lack of new industrial development, remain unaddressed.

The consensus among the respondents was that while the down-zone has successfully kept non-industrial users out, it has not succeeded at keeping manufacturers in. Many of the respondents had already moved some or all of their operations out of the district, were considering doing so in the future, or stated that they would if they could.

Furthermore, respondents consistently asserted that the down-zone has not attracted a single new industrial venture. On the other hand, it has had negative consequences for businesses that own their own property and find that while they can no longer remain competitive in Seattle, neither can they find another qualified industrial user to buy or lease their property.

For instance, Alaskan Copper, a metal-fabricating company with a near 100-year history in Seattle, recently moved its operations to Kent, for the reasons noted above, in addition to the fact that their industrial customer base is also increasingly located in the South End. Now, as a landowner, it is “stuck” with over 100,000 square feet of space in four vacant buildings that were designed for 1930s–1950s era trucking and are functionally obsolete for modern industrial purposes. The unique space has attracted interest from companies that are, however, prohibited by zoning rules from operating there, including:

- Sports and recreation: an indoor soccer field, climbing gym with trampolines, and mountain biking course.
- Car dealerships.
- Wholesalers and “Big Box” retailers.

- Recycling waste stream manufacturing with major durables retail and accessory office space.

In the belief that the recycled goods manufacturer presented a promising candidate to lease the vacant industrial-zoned space, Alaskan Copper engaged an attorney and an architect to work with the city's Department of Planning and Development (DPD) to find an appropriate layout that could meet land use requirements for the zone. After several months of fruitless negotiations, the interested party made plans to locate its business in Kent, instead. While the location near downtown was ideal for the recycler/manufacturer to collect a recyclable waste stream, the City was unable to provide any flexibility to permit the adjoining retail and accessory office space the company desired, as well. It would have employed about 25 people at the Seattle site. Alaskan Copper does not believe it ever will be able to lease the space for any productive use until some flexibility in the zoning rules is adopted.

Several respondents noted that other cities, especially Portland and San Francisco, have provided flexibility in zoning regulations that proved successful in attracting new and innovative businesses more suited to the existing buildings and infrastructure. Some respondents expressed the opinion that zoning flexibility to enable these transformations in SoDo would be a net positive, and that certain restrictions could be retained to protect existing traditional industries from truly incompatible land uses.

Limited zoning flexibility would reflect the reality that the current stringent zoning controls cannot keep all industries that have a strategic interest in moving outside the city from doing so, nor, on their own, attract other industrial firms. In combination with other efforts to retain existing industries (such as road repair or targeted worker training and placement programs), allowing mixed uses could actually preserve the industrial nature of the district, while maximizing the economic efficiency of land use. Examples of potentially compatible industries currently excluded by zoning restrictions include startups and those with need for large open spaces in addition to office space for backroom work and R&D – like global information systems (GIS), satellite technologies and underwater mapping, and publishing and media production companies).

The Port of Seattle and its workers' union were perceived by some respondents as among the main political proponents of the down-zone. The Port of Seattle controls a significant proportion of Seattle's industrial waterfront and there is a perception that The Port has an interest, and influence, in keeping adjacent property values low so that it can more easily acquire adjacent property for future expansion in a tightly land-constrained area – for super-container storage, for example. However, while The Port of Seattle supports the goals of the down-zone and the preservation of an industrial waterfront, The Port itself holds a portfolio of industrial-zoned real estate that is not suitable for any viable industrial use. Like other landowners, The Port has found itself "stuck" with underutilized properties that have been rendered economically unproductive. [NB: No individual respondent claimed to represent the official position of The Port of Seattle.]

### **3.4. Manufacturers Do Not Need Alternative Pilots – They Need a More Helpful Bureaucracy Across-the-Board**

Respondents generally reacted negatively to the idea of a “pilot” program designed to alleviate regulatory burdens. This may seem like a counterintuitive response from industry, but it highlights a central frustration of industry respondents who perceive themselves to be operating in an uncertain economic environment, and also under a good deal of regulatory uncertainty. While businesses are apt to take advantage of incentive programs that support their current activities, **pilot programs are unlikely to influence business and investment decisions because of the inherent uncertainty of their duration and applicability.**

Business leaders are risk-averse when making investment decisions, and would prefer to act in an environment of predictability as to whom rules and regulations apply, who is entitled to benefits, and with assurance that such programs or incentives will not shift or be subject to new interpretations in time or under different political leadership. Businesses want predictable and rational regulatory structures, not “special treatment.”

Rather, a recurring theme among respondents was a sense that city leadership lacked a real desire to encourage economic growth. Some expressed the perception that certain factions within city government displayed more of an interest in consolidating their own influence and authority than in the larger goal of promoting or enabling the success of industry in Seattle or in attracting and keeping jobs. Many businesses viewed themselves as demonstrating leadership, whether through investments in their long-term commitment to their Seattle location or in meeting and exceeding the highest environmental standards. In an environment where cities are “rolling out the welcome mat” to compete for jobs and economic investment, these leaders expressed dismay that business initiatives they expect to be welcomed and recognized by the city are hamstrung by bureaucracy and inflexibility instead of accommodation and encouragement.

## **4. RECOMMENDATIONS**

### **4.1. Rewrite all applicable regulations in clear, simple language.**

Washington State has been noted as being at the forefront of “plain language” initiatives designed to ensure that rules and regulations are clear and easy to understand by the people that use them. These efforts have a measurable impact: In 2003, the Washington State Department of Licensing rewrote one standard form letter to plain language standards and found that its hotline calls were reduced by 95 percent. In March 2005, Governor Christine Gregoire issued an executive order requiring all state agencies to adopt principles of “plain talk” so that all letters, applications and instructions are written in a language that is understandable to citizens. While impressive strides have been made in the use of plain language at the state level, a coordinated city-wide effort should also be

undertaken to ensure that all municipal agencies meet plain language standards in their guidance, rules, and regulations.

- New York City issued “Easy to Read NYC” – available at <http://home2.nyc.gov/html/oath/pdf/Easy-to-Read%20NYC.pdf> – a nine-step guide for city agencies to engage in clear and effective communication. Notably, the guide was informed by the Washington State Department of Labor and Industries, a leader in plain language guidelines.
- Terms that have commonly understood meanings may lack a precise, legal definition, which can create vagueness in a regulatory context. Examples here include “marine use” and “conservation.” Precise definitions of common terms should also be developed, in plain language, for clarity.

#### **4.2. Regularly review all regulations to make sure that they reflect, and are being carried out in accord with, their true intent. Revise or sunset that those that are not.**

Acknowledging that regulatory complexity and uncertainty present major business constraints, several states have undertaken concerted efforts to streamline regulatory processes.

- The Tennessee Commissioners of Economic Development and Revenue work together to streamline its business-friendly “No Surprises” regulatory policy – contributing to the state’s #1 ranking for business regulatory environment in a recent report by the U.S. Chamber of Commerce and National Chamber Foundation. Another leading example is New York’s Governor’s Office of Regulatory Reform (GORR). Its purpose is to coordinate a single regulatory review effort among state and local agencies to improve permitting processes, to advise the state on desirable regulatory changes, and to create a more business-friendly regulatory environment.
- Rhode Island’s Office of Regulatory Reform was opened in 2010. The mission of the new office is to assist small and medium-sized businesses to more efficiently navigate state and municipal regulatory processes, to coordinate state and local efforts to improve permitting processes, to advise the state on desirable regulatory changes, and to create a more business-friendly regulatory environment.

#### **4.3. Eliminate overlapping regulations and conflicting interpretation amongst City agencies, and between City and county or state agencies.**

- In 1993, California created the Certified Unified Program Agency (“CUPA”) system in order to simplify the process of regulating and managing certain hazardous materials. Rather than having numerous state and local agencies regulating a single business, the enforcement of several different

environmental regulations was consolidated under the administration of one local agency called a CUPA.

The city, in cooperation with the state, should create a similar “one-stop” regulatory oversight structure – whether citywide or limited to the Industrial Development District. This local entity would be responsible for coordinating interagency resolutions when their rules, requirements, or determinations are found to be at odds.

- The City also should adopt conforming language wherever possible. For example, the Department of Ecology (DOE) should adopt EPA regulatory language wherever such standards are not intended to substantively exceed those of the EPA. Variances in language create room for multiple interpretations, and create confusion among regulatory agencies and businesses as well.

#### **4.4. Provide a Single Point of Contact for businesses in dealing with the city.**

The State of Colorado streamlined services by providing state office space free of charge to non-profit and federal entities offering small business assistance. The state houses Small Business Development Centers, non-profit lending organizations, as well as workforce training programs and information on state business incentives. By providing all business services under one roof, the state has made programs for businesses and entrepreneurs more accessible and increased coordination among entities involved in business development.

#### **4.5. Create a business ombudsman who can break logjams and address issues on appeal.**

There should be a business ombudsman’s office providing technical advice to, and assisting each individual business in resolving problems and questions with regard to both state and local requirements and regulations; reporting industrial business concerns and recommendations to the appropriate agency head for review and action; and breaking regulatory logjams in the state’s permitting process for new developments – especially where project requirements fall under the jurisdiction of multiple state and/or local authorities. The Ombudsman should be empowered to initiate review by both state and local agencies into areas of needed regulatory review and reform based on recurring problems faced by businesses.

- As part of its plan to protect and grow its industrial base, New York City created a new Industrial Ombudsman Program that operates out of NYC Business Solution Centers (BSC’s) located in industrial and mixed-industrial zones. BSCs provide an “on the ground” ombudsman to assist local businesses as necessary. The role of the ombudsman is to:

- Develop strong relationships with the business community to understand, identify and respond to area problems;
- Serve as the first point of contact for questions or issues as they arise;
- Provide direct access to incentive and assistance programs offered by SBS and other City agencies;
- Help resolve maintenance or regulatory issues.

#### **4.6. Create better customer-service systems for business.**

“Focus on Customers: Operate government at the speed of business” is one component of the five-point Strategic Plan released by Ohio’s Department of Development in 2008. The Department set forth the goal of responding with a “sense of urgency” to help create a competitive business environment in the state. The strategies set forward by the Department to achieve this goal include:

- A customer response line: The Department of Development, working with other state agencies, led the creation of a new toll free response line for businesses seeking general information or assistance regarding technical, financial, or regulatory support. The Customer Response Line is designed to supplement and customize the information made available on the Ohio Business Gateway portal. The new policy is that every business inquiry to the state will be answered centrally, at a single point of contact, and a response provided within one business day. The Office of Economic Development, or another appropriate city department, also should set up an “Industry Hotline” to assist industrial business owners to locate necessary information concerning licenses and permits, regulatory requirements, obtaining services from the city, as well as provide other beneficial information. This information should be clearly printed on all required forms and documents – in addition to the Web site – so that small businesses with fewer administrative and regulatory support staff also become familiar with the resource.
- In order to understand and improve the business “customer” experience, Ohio’s Department of Development conducts an Annual Customer Experience Survey to measure and monitor the performance, and to guide needed changes. The purpose is to determine whether the desired customer experience is consistently achieved, and to identify the components of service that are most important to its business customers.

#### **4.7. Streamline the permitting process and set firm deadlines for permitting decisions.**

- The time and expense of securing regulatory and building permits should be shortened by creating a coordinated system that simplifies and speeds up permitting, and expands licensing programs. A national model is the City of



Indianapolis CivicNet Online Permitting System, which streamlined the City's permitting and zoning process by placing the entire permit application process online. First time applicants must be pre-approved by the Compliance Division, but once approved, applicants can apply, pay and submit the application online. Applicants are notified by e-mail whether their application has been accepted or rejected. This online process simplifies and reduces the time it takes to issue and receive permits, and greatly improves customer service.

- Performance metrics and systems should be introduced, such as a permit tracking system, to measure and report the time required to process different types of permits – with a clear customer-service orientation. The five-point Strategic Plan released by Ohio's Department of Development in 2008 includes an Annual Customer Experience Survey to measure and monitor the performance, and to guide needed changes.
- The California EPA developed a permit applicants' "Bill of Rights" as part of a major effort to streamline bureaucracy and alleviate regulatory burden on industry. A similar permitting bill of rights was proposed in the Washington state legislature in 2005 by Rep. Jeff Morris, but gained little traction. With or without a change in state law, the following rights can serve as a model for reforming the process of any local permitting agency whose processes are found to be burdensome to industry:
  - The right to know who will be reviewing the application and the time required to complete the full review process.
  - The right to know the projected fees for review of applications, how any costs will be determined and billed, and procedures for resolving any disputes over fee billings.
  - The right of access to complete and clearly written guidance documents that explain the regulatory requirements and criteria used to determine whether the submission is adequate.
  - The right of timely completeness determinations for their applications.
  - The right of a timely decision on each permit application. The agencies are required to establish time limits for permit reviews.
  - The right to appeal any permit review time limits that have been violated without good cause.
  - The right to work with a single lead agency whenever multiple approvals are needed.
  - The right to assistance in explaining regulatory and permit requirements. All agency programs maintain an Ombudsman to work directly with



applicants.

#### **4.8. Create a “Performance Track” allowing regulatory flexibility for businesses with a track record of attainment beyond regulatory compliance.**

- A number of states – including Oregon, Wisconsin, and New Jersey, in addition to federal agencies like the EPA – have adopted “Performance Track” programs to reward facilities that comply consistently and exceeded the minimum standards required by regulations. Performance Tracks allow agencies to give recognition, access, and flexibility that may translate into business value for industrial firms. They create a regulatory environment that fosters trust and dialogue, and enable agencies to identify proven high performers for whom reporting, inspection, and other oversight costs of regulation may be reduced. Certification in such a program can offer incentives including any, or a combination of, the following:
  - Public recognition.
  - Opportunities to help inform and shape future regulatory decisions.
  - Expedited permitting.
  - Reduced or waived fees.
  - Regulatory flexibility when flexibility can be demonstrated to benefit both participants, and the environment. For example, some of the most advanced environmental management systems do not lend themselves to regulations designed for standard, legacy facilities.
- “Makin it easy to be green”: The California EPA Environmental Management System (EMS) Initiative was launched among facilities in the beverage, metal finishing, wastewater treatment, computer, wine, and defense sectors, which conducted EMS projects in partnership with the state regulatory agency. The primary requirements for participation were willingness to develop and pursue strong environmental practices in tandem with regulators, and a good compliance record. The principal incentives were opportunities to develop partnerships with regulators and to participate in framing future environmental policy decisions. In addition, Cal/EPA may work with members to allow flexibility in existing regulations where flexibility can be demonstrated to benefit both participants, and the environment – guided by a strategic, performance-based approach.

#### 4.9. Change Industrial Zoning.

The respondents generally agree that the goal of fostering a diverse economic base of traditional and emerging industries is a good one. Most, however – including companies with no intent to leave Seattle – lamented a “one-size-fits-all” approach to zoning that has “gone too far” by preventing industrial landowners from making good economic decisions for their properties. Many viewed this result as counterproductive to the underlying goal of fostering a diverse industry base. Respondents noted several likely benefits of a more “nuanced” and flexible industrial zoning regime that would take real market forces into consideration:

- Increased zoning flexibility in SoDo could dramatically increase the number of jobs in the area – in particular construction jobs – by allowing the potential for a return on investment in construction and renovation improvements to the land. Improvements to the land, including upgrades to outdated facilities, are needed in any event to make the district viable for modern manufacturing operations.
- Attracting fast-growing and innovative non-traditional industries to the city, in particular startups and those with need for large open spaces for backroom work and R&D – like global information systems (GIS), satellite technologies and underwater mapping, and publishing and media production companies – would present no inherent conflict with traditional industries but would represent a source of needed new jobs and economic growth.
- Zoning specifically to allow some affordable housing in the industrial district “would go as far as anything” in helping traditional industries to sustain a viable labor pool in Seattle.
- Allowance for some retail and mixed-use commercial within a fixed radius of major transit hubs (such as the new light rail station) would enable city residents to do more business in the city without the use of their cars – reducing traffic congestion.
- Allowing industrial businesses that can no longer compete in Seattle to move elsewhere in the greater Seattle area, and sell or lease its land to a company that can use it productively to create revenues and jobs would be better than forcing the company out of business altogether.

## ADDENDUM: INTERVIEWS OF KEY STAKEHOLDERS

### 1. CASCADE DESIGNS

Pete Haggerty, VP Technology, Board of Directors.

Cascade Designs is a Seattle-based maker of outdoor recreation products. Founded in 1972 by two former Boeing engineers, who were avid backpackers, today Cascade Designs is the parent company of several well-known brands of backpacking and sporting gear, including Therm-a-rest and Platypus. Cascade's peak employment is around 400 people, with seasonal fluctuations; more are employed in production during the winter months for a spring retail push. While 80 to 85 percent of the business is consumer retail, the company also provides some military personnel equipment under government contracts. Cascade has expanded its business into European markets, and operates a wholly owned subsidiary in County Cork, Ireland.

The manufacturing facility at 4000 1st Avenue South, Seattle, consists of four buildings, which house manufacturing, product development, and administrative functions. Cascade's location near downtown Seattle has grown to be a disadvantage, given that the formerly industrial neighborhood has become more mixed-use over the past decade, and property values have increased relative to other industrial zones outside the city. Traffic congestion is challenging and is likely to get worse with the upcoming replacement of the Viaduct. Rail and trucking traffic is accelerating in the vicinity, attributed to the Port of Seattle and its increasing shipping volume. Taxes are also a bit higher in the city limits.

On the other hand, Seattle has a good quality of life, and some employees enjoy living in the city and not having to commute long distances; many find it convenient to bicycle to work.

Cascade Designs has been doing relatively well in the down economy, which is attributable to an increasing interest in low-cost recreation activities like hiking and camping. In light of good sales, Cascade Designs is considering expansion, of a scope to be determined. As Cascade Designs grows, it needs larger and more efficient manufacturing buildings, whereas existing buildings in the neighborhood tend to be smaller and quite old. Neighboring suburbs of Renton and Kent have newer manufacturing buildings that are production-ready, with infrastructure in place, and can handle manufacturing and distribution at a fraction of the costs. Cascade Designs is weighing the options of moving the operation to a suburb like Renton or Kent against expanding in the SoDo (South of Downtown) neighborhood, as well as the possibility of opening satellite operations elsewhere.

Other challenges include the cost of manufacturing in Seattle versus Asian-sourced bids. Cascade Designs has experienced years of a very tight competitive situation, which has the potential to threaten the viability of the company. Another challenge is the availability of workers with good manufacturing skills, manufacturing engineers, and consumer product design experts who understand the processes necessary to deliver

the goods. With the exceptions of Boeing (aerospace) and shipyards, Seattle is not a consumer products manufacturing hub and has a limited labor pool in this field.

Cascade Designs tends to design and build its own custom manufacturing equipment. In order to meet municipal requirements that manufacturing equipment be UL-listed, underwriter lab approval is needed. However, certifying an individual, one-off, custom piece of manufacturing equipment to UL standards can add thousands of dollars to the cost of that equipment. The regulatory value is dubious because these are not consumer products, and it amounts to an arbitrary \$100,000 “harpoon” to the company.

Wastewater discharge is regulated on concentration of discharge and not on volume discharged. For example, dumping [spit filling] in the toilet is illegal without a permit, but dumping a million gallons of the same substance at a slightly higher dilution is not. Cascade Designs had to get the necessary permits, although the amount of discharge is minute relative to other industries. Regulators couldn’t offer a reasonable explanation of why that makes sense; it’s not strategic.

Industrial zoning can help keep manufacturing at a critical mass. Exceptions to zoning regulations – such as those obtained by Costco – have caused a lot of encroachments into SoDo, driving up the cost of property, and property taxes. Another issue driving up the cost of property values in the area is a “loophole” in Immigration law, which allows foreign citizens who own or invest a significant amount of money in U.S.-based businesses to qualify for Green cards. A Seattle immigration lawyer has helped a number of foreign citizens to buy properties in industrial zones together as an LLC, to qualify as business “investors” in-name-only for immigration purposes; many of these properties remain vacant or not in productive use.

## 2. SABEY CORPORATION

Clete Casper, Director of Real Estate

Sabey Corp. is a Seattle-based commercial real estate developer that owns around 5 million square feet of property. Sabey has substantial holdings in the Puget Sound Region and the City of Seattle – including the original Rainier Brewery in Georgetown (circa 1903) – and have been a significant provider of space for Boeing in King County over the last 25 years. In addition, Sabey develops and manages properties in Eastern Washington, Washington, DC, and New York. The company is continually interested in creating new value in its existing properties, breathing “new life” into historical assets, and in new acquisitions with value-add development potential.

Sabey views Seattle as a dynamic West Coast portal city that is a hub for technology, and which also sustains a vital, regional manufacturing base. Zoning liberalization would present an opportunity for the firm to develop and create new value that has been stifled by bureaucratic processes.

A volatile economic environment – and the accompanying widespread upheaval of real estate markets and their demand characteristics – has been one of Sabey’s primary

challenges in recent years. The market for office space in Seattle is changing, and the industrial market has been suffering from a flat economy; the primary demand for industrial real estate in the region, from Sabey's perspective, fluctuates with Boeing. Adding to these challenges are a general environment of market uncertainty, on top of challenging zoning and permitting rules.

Sabey Corp. works through multiple public processes that require an "incredible" amount of persistence, and involve "challenges at every turn" when dealing with land-use and zoning questions. The company must deal with a network of bureaucracies and entities with different agendas – from the WA Department of Ecology to the Seattle Department of Planning and Development. It seems that these bureaucracies don't answer to anyone – in other words, there is little opportunity for recourse or appeal – effectively resulting in "gridlock." **A clear understanding of city and county permit approval processes across the board, and the ability to project and pre-determine the likely time frame for the receipt of a permit (from DPD, for example) would go far toward alleviating the regulatory burden.**

Sabey "constantly" receives contradictory instructions from public regulatory entities. For example, at the historic Georgetown brewery property, the company was instructed by the Department of Engineering to tear down a structure the agency determined to be dangerous or unsound, in order to get a permit to occupy the building. Another entity responsible for historic landmarks insisted that it not be destroyed, and instead retained in its original form. These sorts of contradictions cause costly delays that leave business operations in limbo.

Sabey would benefit from a clear and directed effort to streamline the development permit process. **A clear top-down message and motivation from the administration to the agencies that the City wants to help spur business is needed.** Right now, it is not clear that the City truly does. Other jurisdictions in which Sabey works – urban and non-urban alike – have a principle to not be an obstacle to the development process. These local governments make an effort to never be a bottleneck in the development timeline.

With regard to the historic Rainier brewery owned by Sabey, the historic nature of the property lends itself to higher and better uses than manufacturing. The historic building in the Seattle industrial basin is surrounded by a blue-collar environment that appeals to young, creative businesses, like Internet technologies, and software, that are not attracted to a traditional corporate office park setting. But, the zoning is structured in such away that only industrial and limited use category businesses are allowed there, even though such historic buildings are functionally obsolete for industrial purposes today. It would make sense to allow a zoning overlay that allows a broader class of use for such buildings, that recognizes the special historic nature of the property and what it now has the potential to be, versus what it used to be.

Local governments need to demonstrate greater understanding of the business perspective on what Seattle neighborhoods – including industrial neighborhoods – were, and what they are going to be. The administration's focus has been on retaining the past for historic, traditional land users to an extent that may not make sense going

forward. In SoDo, for example, which was traditionally a trucking and industrial distribution center near the Port, the City takes the view that the area must be maintained as such. However, this is not realistic. Many of these buildings are functionally obsolete for these purposes. The cost of upgrades to antiquated buildings to allow for efficient distribution and operations, in combination with city taxes and other associated costs, are virtually prohibitive for attracting and keeping these kinds of businesses. From a real estate developer's perspective, the more important question is not what was, but what can be – and where businesses can realize the greatest return on their investment dollar. It does not make business sense to have the tail wagging the dog; these areas are already ideal for, and appeal to fast-growing companies in biotech, and Internet technologies like Salesforce.com. Trying to promote “traditional” industry in an area no that longer supports the industrial market is in conflict with spurring business growth in the city. The successful economic resurgence of SoMa (South of Market) district in San Francisco – once similar in character to SoDo in Seattle – for example, presents a telling juxtaposition.

### **3. DUWAMISH PROPERTIES/ (REPRESENTING HARLEY MARINE SERVICES)**

David Alhadeff, Director of Development

Duwamish Properties is a family trust of the owner, Harley Franco, owner of Harley Marine Services. Franco is a landowner who is ready to further develop the site where the company operates, under Duwamish Properties. Harley Marine Services is a growing operation that is “busting at the seams” of its current three-acre site, and excited to move into the new building, currently scheduled to be completed in January 2013. Harley Marine employs about 50 people in Seattle, and 500 nationwide, maintaining a fleet of 40 barges and 40 tugboats. There are also operations in Alaska; Portland; San Francisco, Alameda, and Long Beach, CA; Houston and the Gulf of Mexico in Texas, and New York.

Harley Marine is an older business, with deep roots in Seattle, however it is not well known to the public. It works in an industry that may be classified as a “dirty” business (gas and oil energy). Nonetheless, Harley Marine has made grand efforts to be a “friend” to the environment, and to Seattle, and to be a leading sustainable company. Harley Marine has won many environmental awards in recent years recognizing its efforts, which include using hybrid tugboats. Its future world headquarters on the Duwamish is being built as a LEED certified shop, with an electric car charging station, advanced water quality systems, and other sustainable features designed for long-term efficiency.

The property currently under development is situated on the East waterway of the Duwamish River. The river is navigable to cruise ships, tugboats, barges, and tankers, features that are invaluable to Harley Marine, allowing it to perform its three primary functions from one location: 1) Moving oil in double-hulled fuel barges from pipeline to California; 2) Ship assist, using tugboats to pick up large boats, tankers, and container ships and bring them to port; and 3) Mobile fueling with a barge in tow to meet and refuel



tankers or cruise ships. Maintenance and storage of the vessels used for all these purposes, takes place in an on-site yard, and shop, alongside the company's administrative office.

The project has had to navigate zoning codes, the approval process with the Department of Natural Resources for moorage, the Muckleshoot Indian Tribe, the Department of Ecology, and the federal EPA, which each has its own set of laws and regulations to abide by. These are intended to ensure protections for natural resources, habitat, view corridors, fishing, engineering standards, and contamination containment. The company recognizes these as valuable assets to the region and is committed to their protection and preservation.

Harley Marine is thankful, however, that no over-water work was required for its new building, which would have complicated the process even more. If the permitting process for over-water work were not so complex, Harley may have considered extending the pier or docks, and provided some landscaping there – but Duwamish Properties has learned that not doing any over-water work is far simpler.

There have been two major obstacles to the development of the new headquarters.

1. **Soil contamination.** The mouth of the Duwamish River at Harbor Island is a major Superfund site. All the dirt on the property is fill from when the Duwamish River was dredged, and is considered highly contaminated. Extreme caution must be used to protect the ground water when breaking the ground cap in place to contain the contamination, and it must be re-capped to prevent contaminants from reaching the river.

Harley Marine and Duwamish Properties have brought “phenomenal” resources to bear, including environmental and remediation consultants (such as Winward Environmental) who have assisted them in bringing a scientific approach to the development project.

2. **Building Height Restrictions.** Obtaining the master use permit on the shoreline to build a new building to 65 feet tall took an entire year. Harley Marine is marine-use, and needed the additional height to allow for future growth, and to incorporate the sustainability needs of the LEED-certified building, including natural airflow and natural day lighting, while still affording enough room to manage the ship yard and moorage. The height limitations in zoning for marine use were extremely vague. The regulations state that no buildings that include office use may be built over 35 feet tall, unless it is for marine use. But, what can be considered “marine-use” if not working on barges? There are a lot of “opinions” amongst regulatory agencies and the “marine-use” definition requires clarity. After a year of uncertainty, there were no guarantees Duwamish Properties would be successful in obtaining its permit to build. It took a great deal of lobbying, and using the company's contacts in city government.



In a time when nothing was growing in the city, and jobs were leaving, one would think the City would want to bend over backward to help businesses that are committed to staying in Seattle for the long term, and creating jobs for people here. Duwamish feels that it should not have taken a year to obtain that permit. In the process, however, Duwamish Properties created some great relationships that have proved their worth, and ultimately reached a win-win result. The City's Office of Economic Development (OED) was a fantastic help and has been "on their side" since Day One. OED wants to push for jobs and small businesses. Sometimes other factions in the city seem to have more of an interest in dragging things out.

**The City should offer more help and support when it comes to LEEDS-certified developments, or any green building project, for that matter.** If companies are going out of their way to be leaders, and set to the bar by holding their projects to the highest recognized environmental and efficiency standards – even when they have not yet been proven to pay off, dollar-for-dollar, to the company – the county and city governments should do what they can to help and not hinder. [Note: Duwamish Properties did receive a (small) \$15,000 grant from King County, which was useful and appreciated.]

Priority for expedited permitting should be given to these kinds of projects that are LEED-certified to meet and exceed the highest environmental standards. The first part of the permitting process is an initial eight-week review, followed by a four-week response period, then another four weeks for corrections, and then another four weeks for something else, and so on. The City Green Building Program was supposed to provide a "two-week benefit," but it was not noticeable or much of a help.

#### 4. ALASKAN COPPER (ALASCOP)

Doug Rosen, VP Corporate Development

Alaskan Copper, a family-owned business, has a nearly 100-year history in the Seattle area as a metals manufacturer and distributor. After serving 50 years as a metals fabrication and distribution center, the parcel of land at 3223 6<sup>th</sup> Ave South in SoDo has been virtually vacant for at least seven months since the company moved the operation to a new 300,000 square foot facility in Kent, about 20 miles away. Alaskan Copper moved its operations A) to better serve its industrial customers – many of whom have also relocated to smaller cities south of Seattle, and B) due to lack of maneuverable space; this has to do with trucks and logistics, not regulations.

Alaskan Copper continues to search for a suitable lessee for the property. There has not been one inquiry by a qualified manufacturing company, nor is one expected; there has not been a new manufacturing company to move into this area in 15 years. Industrial users in Harbor Island/SoDo face massive expenses and obstacles, from insufficient employee parking and expensive housing, more litigation risks, and layers of city taxes. On the other hand, there is vast competition outside of Seattle providing pure industrial real estate. B&O Taxes do not apply in Kent, where manufacturing businesses can save hundreds of thousands in business and real estate taxes. Much of Alaskan's industrial customer base has moved there, and Alaskan has followed suit. Other localities outside

of Seattle, like Gig Harbor, are saying to businesses, “Please come here,” with tax incentives, and the added benefit of low housing prices.

Alaskan Copper’s 10,000 square foot warehouse distribution center was designed for crossdock loading suitable for 1930’s, 40’s, and 50’s trucking industry. There is no truck maneuverability to back in from the street. The streets and buildings were not built to accommodate modern sized trucks, which are now 40 to 80 foot rigs. There are four other buildings on the property, totaling around 100,000 square feet. The buildings are “stuck” in SoDo. While ideal for wholesale, recreational, recycling centers, or multi-use, these large buildings are functionally obsolete for modern manufacturing or metal distribution. Now Alaskan Copper is holding this tremendous and underutilized asset – one of the largest contiguous industrial parcels in Seattle – and it will remain vacant without zoning flexibility to allow businesses that actually can use this space.

The only industrial advantage of the 6<sup>th</sup> Ave S location is its proximity to the Port of Seattle and to downtown. Recycling facilities, for example, which must collect a waste stream would have an interest in being close to downtown. Businesses that have expressed interest in operating on the property include:

- Sports and recreation: Indoor soccer field, Climbing gym with trampolines, Mountain biking course
- Car dealerships – not allowed under use grid. Airport Way landowners have “spot zoning” for car dealerships – these landowners want to maintain a monopoly on this land use.
- Wholesale retailing
- Recycling waste stream with major durables retail and accessory office space.

DPD imposes use restrictions and size restrictions that, when overlaid, create a “crazy checkerboard” of allowable use that has no relationship to reality. One potential lessee was interested in the space for recycling processes, some retail sales of major (recycled) durables, and an office considered accessory to retail. Alaskan engaged attorneys and architects to work with the City and the recycling/durable goods firm to find an appropriate layout to meet land use requirements, but all proposals to find a win-win solution that meets zoning requirements were rejected (due to too much retail and office space). Unable to comply with zoning rules, that company also plans to locate Kent. It would have employed about 25 people at the Seattle site.

The large economic entities get what they want. Zoning is clear, except when it involves Costco, a major political force. Then ridiculously specific language allowing “one-time expansions” is drafted to allow that company’s development and its development only.

The Port Unions are politically dominant in blocking zoning flexibility. The Port wishes to avoid new traffic in the area that could interfere with Port operations, and seek down-zoning in adjacent lands to keep costs low so that it can ultimately be acquired

inexpensively for needed container storage as the Port expands; a Supercontainer Port on Harbor Island is envisioned. Ultimately better road access and better container handling is needed at the Port – including rail-to-road at the port, instead of trucking containers to rail. These physical limitations at the Port affect the entire Harbor Island/SoDo industrial district.

Buildings have been demolished and the area is devolving into raw land and empty buildings, but nothing new can be built to an acceptable return on capital under “pure industrial” zoning requirements. There are low job counts, no revenue to the city (i.e. from sales tax), and vacant properties that are perfect for retail adjacent to high-density downtown Seattle. Vacancy rates are listed at 4 percent, which is not true. The government and the Port own 60 percent of the properties in the area and the vacancy rate for non-government/Port buildings is closer to 20 percent. These properties would otherwise all be leased, but they are zoned out of productive economic activity. There should be a flexible zoning multiuse space for software and tech that would ideally love to be close to downtown. Some of Mr. Rosen’s recommendations include:

- Emulate the Pearl District in Portland and SoMa in San Francisco, where industrial zoning policies were liberalized in order to allow businesses to make a return in those areas.
- Rezone for hi-tech and biotech as was done on South Lake Union in the mid 1990’s, when Amazon came on the scene.
- Rezone at least some of the re-grade area (Harbor Island) for residential and mixed-use to support the downtown workers, create more affordable housing for industrial workers, and to minimize commuting and worsening traffic problems.
- Support mixed-use zoning spiraling out from the transit hub, where light rail and mass transit carry thousands of commuters through this neighborhood daily.
- Let Spokane Street be a natural defining line; liberalize zoning north of Spokane Street and maintain industrial zoning south of Spokane Street where there is a newer, more modern building stock of value to industry.

## 5. CAPITAL INDUSTRIES, INC.

Ron Taylor, President

Capital Industries, located at 5801 3rd Ave S, is a metal fabrication company that serves the transportation, solid waste, energy, construction, aerospace and maritime industries. A family owned business, the SoDo property was purchased 45 years ago by Ron Taylor’s father. Capital Industries has expanded over the years, developing on its current site, and is “out of room here.” If Capital were to continue to expand to any extent, the company would consider setting up shop in another part of King County.

It would be difficult for Capital Industries to move from its current location, because of its very large and heavy manufacturing equipment; one piece weighs 300 tons. This machinery has large foundations that extend into the ground. Capital has a few machines of that nature on site, which are very expensive to make, and has acquired a great deal of heavy manufacturing equipment over the years. Aside from the truckloads of materials that would have to be moved, the “de-rigging” – breakdown, rebuilding, and reinstallation of this equipment would be a humongous expense. If it were just a matter of warehouse operations that could be moved anywhere, Capital Industries would no longer be in Seattle. A fair number of businesses in this area, if they had to do it over again, would be someplace else. Some of the main challenges of operating in Seattle are:

1. **Getting into and out of the city (Traffic Congestion).** Strained commuting access into, through, or out of the city really restricts the pool of qualified employees. At least one valued employee was lost specifically because he lived in South end and fretted the daily commute, which caused him to look for work in other places farther south. Others make the commute because they want to continue to work here, but it is not easy for them. Some go to extremes to time their travel based on their knowledge of traffic patterns.
2. **Challenging to find skilled workers (Labor Pool).** Entry-level pay for trainees is low relative to other industries in Seattle, even though the pay for skilled workers in the industry is high relative to other jobs that don't necessarily require a college degree. As skilled workers are retiring it is harder to attract entry-level trainees willing to work at low wages until they acquire valued skills. Everybody is facing this problem in manufacturing; it is difficult to attract *qualified* employees.
3. **Condition of the streets.** Two streets that border the North and South sides of the plants (1<sup>st</sup> and 4<sup>th</sup> Avenues South) were in severe need of reconditioning. The area comprised 10,000 feet of street adjacent to the property, one of which was virtually impassable. City representatives were sympathetic, but could not provide any relief. A local business advocacy organization, the Manufacturing Industrial Council, put Mr. Taylor in connection with representatives at the state DOT last spring, which introduced to him to a partnership program that allowed him to restore the streets to a passable condition. The program enabled a partnership between the property owner (Mr. Taylor) and the DOT, whereby Mr. Taylor had to underwrite a significant portion of the cost. This program finally enabled the company to get some relief from the impassable streets, but it took quite a bit of time, and required the business owner to underwrite a \$46,000 project (although the total cost was three times that). Mr. Taylor took the bull by the horns, and the work ultimately got done, though it took a great deal time away from his business, and a lot of patience. The result was not a paved street, but it was asphalted.
  - Mr. Taylor asks: Is underwriting street repair something a business owner should have to do? He would have preferred if the City could have

contacted him instead saying, “Hey, we notice your streets are really bad and that you’re calling us all the time to repair potholes. Here is a state DOT program where we can work together to fix this.” Instead, Mr. Taylor “stumbled” upon the program by sheer luck and his personal associations. Other business owners without similar resources and connections may not even have that opportunity.

- Mr. Taylor noted that, while he supports efforts to promote bicycling and alternative transportation in the city, it seems that priorities are misplaced when there are resources to create lots of new bicycle paths, but not to fix impassable city streets.
4. **Building Permits (DPD) and Street Vacation (DOT).** Following a fire in 2004, Capital Industries needed a Street vacation from DOT (to take possession of an unimproved right of way adjacent to the property) in order to undertake rebuilding efforts. The process to obtain the street vacation from the City took an inordinate amount of time. The City does not do a lot of street vacating with property owners, and Capital was fortunate to be able to do it; it involved a great deal of “give and take” with the City. The last step of the permitting process in order to receive the vacation was an appraisal on the property, which, at the discretion of the city’s appraiser, determined the non-negotiable price of the right-of-way. Capital Industries was “at their mercy.” Mr. Taylor’s understanding is that the building process in the outlying areas of Kent and Auburn goes much more smoothly. It is understood to be much easier to “set up camp.”
  5. Water runoff control in the form of large underground drainage systems and water control sumps required significant construction costs.
  6. While regulations, including environmental regulations, seem burdensome at times, Capital Industries can still conduct business within their parameters. Unfortunately, businesses like Capital have to live with “sins of the past,” in this location. Generations of industrial soil and groundwater contamination remain, as businesses come and go. Fifty years ago, there were no such stringent environmental regulations as exist today. It was laissez faire and industry was allowed to do pretty much anything it pleased. Landowners today must deal with the expenses and requirements of mitigating those results.

The City has zoning restrictions as to how much and what kind of office space and warehousing space is allowed in certain properties. There is a group of landowners who are active in protesting the city’s restrictions as to how landowners can use their property. In 50 years, the next generation may well decide that manufacturing in the city limits is a dead end. Mr. Taylor feels that property owners should not be restricted; industry will take care of itself. The City should not be in the business of regulating how landowners use their land, as long as the activity is legal – whether that use is warehousing, manufacturing, commercial, or residential. The market best determines these activities and how landowners choose to use their land. It is understood that the

City wants to keep family-wage jobs in the city limits, but the market controls where those jobs go, not zoning regulations. Mr. Taylor asks, “Is it better to leave the property vacant?”

Mr. Taylor makes the comparison to foreign competition; market forces dictate that some of Capital’s customers will choose to buy in China. While this is regrettable, Capital recognizes that it has to find other ways to compete for the business it wants – the company has nothing to do with, and cannot try to “control” China’s prices.

Capital Industries can still use its property the way it needs to because it is a manufacturing industry. But, if the business owner had to do it over again knowing what he now knows, he probably would have bought land in Auburn or Kent. Capital could not have anticipated the amount of growth the business would experience. Mr. Taylor recently went through land purchase records over the last 45 years, and determined that purchases were made from 18 different property owners – through cumbersome processes – to reach Capital’s current total area of 192,000 square feet.

The City has some work to do to make industrial businesses feel like they are really wanted here. Obtaining permits from DPD for building and expanding is extremely laborious and bureaucratic. And, when City Light has to conduct utility work at the site, the business needs to pay for the overtime labor in order to expedite the job and minimize the impact on business operations. To Mr. Taylor, this really feels like “greasing the palm.”

## **6. VIGOR INDUSTRIAL (VIGOR SHIPYARDS, FORMERLY TODD PACIFIC)**

Paul Torrey, Director of Facilities and Logistics

Vigor Shipyards, a wholly-owned subsidiary of Vigor Industrial, has a long history in the Seattle maritime industry. Better known since 1916 as Todd Pacific Shipyards, Todd Pacific now operates under the name Vigor Shipyards since its recent acquisition by Vigor Industrial, a company with a large presence in the Puget Sound and Pacific Northwest, and operations in Seattle, Bremerton, Everett, Tacoma, Port Angeles, and Portland. Vigor Shipyard constructs new ships, provides ship repair services, conversions – including industrial fabrication and repair – and also provides services to the U.S. Navy under government contract. An ISO-certified company, Vigor has received numerous environmental awards – including multiple awards from the WA Department of Natural Resources for exemplary compliance with Dockwater and Stormwater systems – and has been repeatedly cited for excellence in environmentally responsible best practices.

Business has been good, even in the down economy, due to a rise in shipping exports (with the fall of U.S. dollar against foreign currencies). Vigor envisions the need for expansion. Vigor Shipyards operates out of a rather old structure, and buildings on the site are almost 100 years old. Given the foreseeable need to upgrade at some point, some of the rules that Vigor understands the City is seeking to implement are expected to make expansion hard and expensive, if not prohibitive.



The biggest influence the City has on Vigor's operations and expansion plans is building codes related to waterfront use under the Shoreline Master Use Plan. Under state law, the city must develop and update this plan to regulate activities along the waterfront, including building piers, repairing bulkheads, and building constructions and renovations near the water. The City is currently engaged in a massive rewrite of its Shoreline Master Use plan, and is trying to implement some fairly tight restrictions on developments along the shoreline that could potentially harm Vigor's ability to expand on the site.

1. **Restrictions on dredging.** Dredging is a complex engineering activity that is far outside the city's expertise and purview. The Army Corps of Engineers is the acknowledged world expert and authority in all aspects of this field; dredging activities are regulated closely by this authority already. The City's significant concern is, and should be, residential and commercial development; The City does not do a lot of in-depth work with maritime waterfront activities. City government does not, and cannot be expected to, have the specialized expertise to understand and regulate the complexities of dredging. Attempting to do so is duplicative of what federal authorities already do.
2. **Pier construction and types.** There are some extremely old piers on Vigor's waterfront property that do not meet current code; they could be improved, but there are obstacles to repairing them. In many cases it is prohibited to make any repairs without bringing the entire construction up to current code – in other words – demolished and completely replaced, which is quite frankly, cost prohibitive.
3. **Rules regarding buildings within 200 feet of the waterline.** Vigor has a number of buildings within the 200-foot shoreline area that are integral to the company's operations and its work with ships. Vigor is wary of anticipated new regulations under the auspices of a statewide requirement for the city to update its Shoreline Master Use plan. Increased prohibitions and requirements could make it very difficult for Vigor to do business when it comes time to replace or repair its very old buildings.
  - The State requirement for a Shoreline Master Use Plan is very clear: the plan is not only about protecting the environment but also about protecting existing maritime uses. The City seems more interested in restoring preexisting environmental conditions at the cost of protecting existing uses.
  - Harbor Island is a man-made island that didn't exist until the city graded the Mercer-Denny area and created Harbor Island using the fill. There really is no preexisting environmental condition or habitat other than as a shipyard, which was its original use.

These are issues that will impact all maritime users currently operating in the City.



### Other Major Issues:

- **Transportation and infrastructure.** Congestion is strangling in the city, and the roads are in poor shape. This affects business and employees.
- **Cost of housing.** Many or most of Vigor Shipyard's employees live outside of the city. Even though Vigor pays family wages, it is still hard for employees to live in Seattle "proper" making \$60,000 to 70,000 a year. For this reason, most employees must commute from outside Seattle. Efforts toward creating affordable housing for workers in the city would go as far as anything to helping industries to sustain themselves here in Seattle.

## 7. PORT OF SEATTLE

Mark Griffin, Real Estate Manager

The Port of Seattle is a major landowner in Seattle that has to trough through the city's building and development approval processes like any other landowner. The Port is faced with the same challenges as other commercial and industrial landowners, of ensuring that its development projects are consistent with city and neighborhood's plans and goals. The DPD is the primary permitting agency that the Port's real estate division has to deal with, but other agencies and city departments are involved in any land use review, particularly on sites with a number of stakeholders, such as community residents.

Ideally, the city could move projects through the review and permitting the process sooner, but the larger challenge is in the regulations themselves. If more time were to be spent up-front on writing and reviewing the regulations themselves, they could likely be refined to be more in-line with the goals the City is trying achieve. A redraft of land use regulations is needed, informed by a real sense of what is happening in the market.

The City was able to preserve its industrial land as such with the down-zone, which some have touted as a success in protecting industrial lands. But, it has not spurred any new industrial development. The success of the down-zone is somewhat hard to assess, because the zoning regulations have only been in effect during a period of economic downturn. Nonetheless, in the booming years preceding the down-zone, Seattle was not seeing any new industrial development either. Mr. Griffin observes that the City:

- Is not seeing new industrial development on the land it has protected through zoning for that purpose. The market is saying, "We can't make it pencil," in other words, the economics are not favorable to industrial use.

- Needs to understand what is driving that reality from a market standpoint, and give landowners the ability to make productive and rational decisions, while preserving the traditional industrial economic base.
- Should refine its strategy for preserving industrial property in light of real market forces, instead of blindly trying to “protect” traditional industry by prohibiting other uses of that land. For example, even traditional industries need new, modern buildings to be competitive.

Like other landowners, the Port is “stuck” on the question of how to make industrially zoned land productive, because it doesn’t make economic sense to invest money in improving it for that purpose.

The Port of Seattle has supported the down-zone in terms of its goal, in that the Port has an interest in protecting its core seaport operations, and the movement of freight from container terminals, by discouraging new sources of traffic and congestion from incursions by residential and commercial land use in the vicinity. Nevertheless, the Port owns other properties that are not tied to its core port operations. Like other landowners, the Port would like to be able to make good economic decisions about land that is not used for, or does not impact its core port purposes.

In Mr. Griffin’s opinion, the down-zone went too far. This is not an official position of the Port of Seattle, but the fact is that it “pinches” the Port on other parts of its real estate portfolio and investments. The City needs a more refined approach than the heavy-handed, one-size-fits-all approach to preserving every inch of industrial land, even if it is not suited to realistic, current industrial needs.

Warehousing distribution functions are largely occurring outside the city due to land constraints, and the land in close proximity to the Port is largely already in use. The City’s industrial vacancy rate is, on the face of it, very low, at less than five percent. Even in a land-constrained environment like Seattle, one would think that there is an opportunity for developments that would accommodate that land that is not in productive use. But that is not what is occurring; those functions (like warehousing) are occurring outside the city because land is cheaper to build on and to make distribution facilities work. It is not cost-effective to redevelop the older, less state of the art, and in many cases obsolete, building stock for industrial purposes because it is not an ideal location for industry, and the returns landowners could otherwise get from commercial and residential tenants are much higher. In spite of zoning, these economics drive the underlying land values.

The City’s goal of fostering a diverse economic base of traditional and emerging industries, as well as mixed-use developments is a good one. There should be room for traditional industry. However, government should pay more attention to the market forces affecting land use instead of pursuing a regulatory clamp-down that does not allow landowners to make good economic use of their properties. The approach has been to tighten zoning control, because industry has not been thriving under the existing economic constraints. The reality is that industrial development is still not occurring, and the reason is that landowners will continue to make economically rational decisions.

Given the City's goal of a diverse economic base, the inflexible approach to zoning is counterproductive.

## 8. NUCOR STEEL

Bart Kale, Environmental Health & Safety Director

Nucor Steel is one the largest steel producers and recyclers in the country – recycling 21 million tons of steel annually – and is one of Seattle's oldest industrial firms. With 290 employees in Seattle, Nucor is noted for never having laid off a worker. Nucor is among Seattle's largest energy customers, and the largest recycler.

- 1. Nucor was unable to invest \$5-6 million in building a new energy efficient production plant in Seattle due to the vagueness of Initiative 937 language on RPS incentives; Nucor's funding for that investment went to Chicago instead.**

Nucor has developed a pioneering system to generate electricity from the waste heat created by its manufacturing process. The company attempted to get Seattle City Light to sign on to the project, which would have resulted in \$2.5 million in money from the utility for developing the project in order to help City Light meet its statutory RPS (renewable portfolio standard). The utility needed assurances, however, that the project would qualify for the state incentive money by meeting the requirement of the statute. Nucor obtained the review and opinion of three independent experts (including from the State Department of Commerce, an expert from Washington State University, and an independent consultant) who each determined that project would qualify as an Initiative 937 conservation project eligible for state incentives. Seattle City Light's position was that the definition of "conservation" in the language of the statute was "fuzzy," and insisted on multiple corroborating opinions. After three independent reviews by legitimate entities that found the project would meet the statutory requirements for the RPS incentives, City Light said it would not participate without a written guarantee from the State Auditor's office. Nucor and City Light approached the Auditor's office, which, as a matter of policy does not pre-qualify projects – leaving the project dead in the water. City Light has zero risk tolerance, and would not participate if it perceived any risk that it would not be eligible for the \$2.5 million incentive money, and thus, forfeit its investment.

In the meantime, Nucor Steel built the efficiency project, investing \$5-to-6 million of its own capital, in Chicago. That money is already gone, but there is still interest within the company to do a similar project in Seattle. Nucor is currently lobbying the Washington state legislature, with a lot of support, to clarify the language in Initiative 937. When and if the bill makes it through the legislative process, Nucor will be able to consider undertaking another such project in Seattle, assuming the company does not invest the money elsewhere in the meantime. Wasted time and energy tend to leave a bad

taste in people's mouths, especially when the company is bringing so much of its own capital to bear on a project that would benefit the entire region. The Seattle project has a chance to succeed, if the clarifying language is passed quickly.

**2. King County is the only place in the country where a steel mill must be permitted as a solid waste facility in order to use recycled steel filings in production.**

The U.S. EPA provide an exclusion for steel filings, which for purposes of steel manufacturing are not classified as a solid waste, but as a commodity, when recycled and used in the production of steel. The Washington Department of Ecology has always conformed to this federal exclusion. The King County Health Department, however, insists that by the letter of the (state) law, this exclusion does not apply locally, and that steel filings are a solid waste. Therefore steel mills that use recycled steel filings in their production process need to be permitted (in King County) as solid waste facilities. Nucor notes that "solid waste" does not typically include material that is purchased as a commodity input for industrial production.

By state law, steel filings used as a raw material in production are exempt from hazardous waste regulations in conformity with federal law. However, likely due to an error of omission in the language of the statute, it was not specified as also being exempt from solid waste regulations as is in the federal statute. The state takes this view, and only at the most local level (King County), is the law interpreted to mean that steel filings may be regulated as solid waste. Nucor asserts that it is the only steel mill in the country that has to obtain a solid waste permit from the health department for its use of recycled steel in its production process.

Nucor has had to file for a number of solid waste permits with the Health Department. As a steel mill, Nucor has been classified by the Health Department as a solid waste facility-exempt. While classified as "exempt," the designation as a solid waste facility does not directly affect Nucor's operations, but puts Nucor into a regulatory arena it does not belong in, creating of an inappropriate layer of regulatory risk and uncertainty. This sets a dangerous precedent— especially after decades spent by the steel industry in working with the EPA to not regulate steel filings re-used in production as "waste."

**3. Requiring inappropriate or irrelevant streetscaping and/or landscaping, as a condition for obtaining certain permits, is coercive.**

A. Nucor had plans to build a new locker room on its property, until it learned that obtaining the permit from the city to build a new structure would require a \$1 million investment in landscaping around the plant – a 45-acre facility. The purpose of such a requirement is ostensibly to mitigate impact to the curb. For example, on a typical parcel of land, building a

new structure may impact the streetscape and sidewalks; by requiring landscaping upgrades, businesses are held accountable to mitigate that impact. However, the locker room was to be built in the middle of a 45-acre facility, nowhere near any curb or street. Nevertheless, the city demanded that as part of building permit approval that Nucor re-landscape the entire perimeter of the property.

After some legal research (resulting in a six-to-eight month delay), it was determined that all of those costly landscaping requirements disappeared if, instead of tearing down the old building entirely, a corner of the original structure was left intact in the new construction. This would render the project a “renovation” instead of a “new structure.” Nucor ended up leaving what was described as a “ridiculous” corner of the building and avoided all the extra costs of making landscaping improvements to parts of the property unaffected by the construction.

This use of regulations can be seen as a “hammer” to get companies to pay for improvements to the streets. If the intent of the rule is for apartments or buildings on streets to clean up their mess and leave the street better than before construction took place, this rule makes sense. In the case of a construction in the middle of a vast site that has zero impact on the street, it does not. The message sent by the city in invoking such a clause in this case is purely one of coercion – an extremely frustrating situation.

- B. Nucor owns a small, partially developed parcel of land on the Duwamish River. The undeveloped area was very badly eroded by a number of successive storms in recent years. Nucor wanted to fix the erosion at its own cost. It took two years to get the necessary permits to mitigate the damage and prevent further erosion, due to a fight with the city over how much vegetative landscaping Nucor would be responsible for installing, in order to get the permit to repair the erosion. Various agencies including federal Army Corps of Engineers, the state Department of Fish and Wildlife, and the City Shoreline Master Plan, were involved; nobody could agree to approve the Nucor’s work plan, and it was extremely difficult to determine at what phase of approval the project was in, or with which agency the holdup lay. Agencies were unable to coordinate with each other and the project faltered. The project couldn’t move forward for two years, apparently due to a lack of coordination or external accountability among these agencies.

The erosion problem got worse with every storm. One would think that the city would be anxious to see the problem fixed, especially since a private company was prepared to foot the entire bill, but that work could not be done without the proper permit from the city. Nucor worked with its lobbyist to get one of the city administrators to come onto the site, and to identify the right person to see what was causing the delay. The city

administrator sympathized with Nucor's frustration and finally succeeded in "getting the ball moving."

Ultimately, the erosion repair that Nucor wanted to undertake on its own land took only 36 hours of labor to complete. An area of 15 x 15 yards was stabilized with logs, according to accepted best practice and "everything we were supposed to do." The final negotiation was that the city would be responsible for improving the shoreline with vegetation it deemed to be required. This was an area of shoreline that had never been vegetated prior. After two years of insisting that vegetative landscaping was necessary, and withholding the permit to repair the erosion, the city never followed up on its end of the bargain to come in and perform that work. No one was surprised.

## 9. AMERICAN LIFE

Henry Liebman, Co-Founder

American Life is a developer of prime real estate, property manager, and real estate investment broker. Mr. Liebman estimates hold about 30 percent of the publicly available properties in Seattle (excluding government-owned and Port of Seattle-owned land), in addition to investments in Los Angeles and Miami.

The purpose of the down-zone in 2008 was ostensibly to preserve traditional, industrial jobs, but there are no new industrial jobs coming to this area. Zoning in Seattle is "terrible." SoDo is zoned such that nothing new can be built. The buildings are old and out of date. The truck turnarounds weren't built for modern 60- foot trucks. They were built for 20- foot trucks in the 1930's. Some were built for horses. Modern industries won't move to this area because they would have to physically knock down the buildings and build the infrastructure and conveniences they need from scratch. Modern industries have gone to Kent, where land is cheaper and more plentiful. There, buildings are new and ready-to-go, and new buildings can be built to specification at a far cheaper cost. Seattle is not going to get more traditional industry here; that is the economics of it and no zoning can help that.

In terms of new business, this district has great appeal to companies that need the amenities of both office space, and also large open space. These kinds of companies include media production companies that need room for backroom work, publishing companies, underwater mapping, Global Information Systems (GIS), and satellite technologies that need room for R&D work. These are the kinds of businesses in that are filling up the new building that American Life recently built to specification. (This was only possible because the development was underway before the downzone.) One tenant is a distillery, which, interestingly does qualify it as an industrial user under the zoning regulations, while the other kinds of businesses previously mentioned do not. Big Box retailers also want a presence there to serve residents that live and work downtown. People want to shop and not have to drive, and this also makes sense to alleviate widespread traffic congestion, which is problematic for all businesses in the city.



The down-zone has hurt the industries it purported to help, too. A business owner who runs a company his whole life and wants to sell the business, or pass it along to a family member, has no one to sell it to because it cannot grow here. Nor can he pick up and move his business to a more conducive location because no one wants to invest in his property. A developer can only buy these properties on “bet” that there will one day be a re-zone. For example, the property around the train station would be great to do mixed-use commercial and residential development, given the flow of commuters, and the demand for residential housing near transit hubs, but those uses are currently prohibited.

Mr. Liebman calls on the city to reverse the down-zone and revert to a more liberalized zoning regime. He notes that, since the down-zone, Seattle has “taken the welcome mat away,” and American Life has been unable to pursue any new developments in Seattle except for the area of the stadium overlay, which was excluded from the down-zone. Instead, American Life is focusing its investments on opportunities in Los Angeles, Miami, and Atlanta. Mr. Liebman also notes that it is not only American Life that has ceased to pursue investments in the area. He claims that there has not been any new development at all in the entire area of the down-zone except what was underway before the zone change, and the economic bust. While the Port of Seattle has significant real estate holdings in this district, there is little heavy industry left in this area, and the land zoned for exclusive use by heavy industry is underutilized. Of these industries, the ones that are thriving are nonetheless hampered by cramped quarters, and physically unable to expand; nor can the businesses get any money out of their investments in the land.

If Seattle wants growth, the City needs to allow the real estate market to respond to demands, and to be priced accordingly.

## 10. DELTA MARINE

Doug Greason, Project Manager

Delta Marine is a yacht building and vessel repair company with an 18-acre shipyard located on the Duwamish River at S 96<sup>th</sup> Street, near Boeing Field. Delta has operated at that location since it was founded in 1966. Delta has also opened a second location in King County at Seatac Marina, south of the 1<sup>st</sup> Ave Bridge. The company currently employs 350 people in the Seattle area.

Having been at the primary Duwamish River location for 45 years, Delta has the advantage of a custom-built facility designed for maneuvering large yachts of several thousand tons, requiring special ground reinforcements and other physical improvements made over the years. Both of Delta’s facilities are located in convenient proximity to each other on the dredged portion of the Duwamish River. The first five miles of which were dredged by the Army Corps of Engineers, which affords Delta the ability to move large vessels in and out of the waterway. Delta’s location on a navigable waterway is essential to its ability to operate, and the company has been heavily involved with federal agencies to keep that portion of the river dredged. Mr. Greason has also been on a Duwamish River advisory committee for 14 years, where he has

been active in ensuring that the drawbridge would not be rebuilt as a low bridge, which would effectively put Delta out of business.

The economic downturn has been a primary challenge to Delta in recent years, given that its customers are primarily luxury purchasers, and this market is sensitive to changes in discretionary income. After a two-year contraction, during which Delta was forced to lay off some workers, the company is now growing again and hiring those workers back.

Secondary to the economy, Delta's main challenge comes from operating in the environment of a Superfund site, which means a high degree of interface with federal regulatory agencies, including the Army Corps of Engineers, the EPA, and the U.S. Fish and Wildlife Service, in addition to local authorities. Delta is fortunate that its property tests "clean," however, so the company is not directly involved in the Superfund cleanup.

1. **Dredging Permits.** Delta is responsible for obtaining its own dredging permit to maintain its dock at the company's expense. Some of Delta's competitors in other regions are subsidized by federal and local assistance programs, which cover some or all of such associated dredging costs. Delta has never lobbied for such assistance. Delta now has a 10-year standing permit in effect that allows them to perform maintenance dredging. The Joint Aquatic Resources Permit Application (JARPA) was a 2 ½ year-process. It required approval by the Army Corps of Engineers, U.S. Fish & Wildlife, local Tribes, as well as signoff by other agencies. Mr. Greason feels this lengthy process – mandated notice and public comment periods notwithstanding -- could be reasonably shortened. Once Delta completed the entire permitting process, Mr. Greason notes that Delta has spent more money on consultants, planning, and sampling to meet permit requirements than is actually spent on physical dredging operations – which are required every two to two-and-a half years to maintain the waterway.
2. **Air Quality.** Regulatory compliance has been an issue for Delta, though it should not be. Delta handles several caustic chemicals with legitimate need for regulatory oversight, including styrene. Delta is proud to operate a very clean, "tight" facility with no substantive violations. Yet Delta has been written up for violations that have no apparent basis in environmental protection. For example, Delta has a gravel parking lot, and an air inspector from Puget Sound Clean Air noticed some dirt on paved surface that had been tracked in by trucks. Mr. Greason noted that when time is taken away from business to argue over some dust at an industrial shipyard, it makes it harder to take the regulatory agency seriously.

An air inspector discovered a small gap at the bottom of one of two 50- or 60-foot tall doors that open fully to provide clear access. The gap allowed a small amount of air to pass through at the bottom of the door although the air in the building is supposed to vent up through a stack. The company was cited for this gap, even though the air passing through the stack tested clean. Delta spent several thousand dollars contesting the citation. Delta has worked

through the issue with the agency, and has worked to develop and maintain a good relationship with Puget Sound Air. However, issues like these drain time and resources from the business, without serving any clear benefit to the public or the environment.

3. **EPA Reporting.** Delta is paying off a settlement with the EPA due to missed report filings from a few years ago. There were no environmental violations or discharges, but due to an internal oversight, Delta lost track of a reporting requirement, and as a result owed thousands of dollars in fines.
4. **Water runoff controls.** Compliance was costly, not because Delta has excessive discharge, but because of the cost in upgrading the physical operation to control runoff. Now compliance is no longer issue because Delta invested in a water control system that is self-correcting.
5. **Building Improvements.** When it is time to do an improvement, the building permitting process has been cumbersome. The pace and timeliness of response has been a problem. Delta is not currently planning construction work, but Mr. Greason hopes that when the time comes, the process will have been streamlined somewhat from what has been experienced in the past.

Delta is “one hundred percent on board” with regulations that keep the river and air clean. Delta is proud to operate a model business, and marine industry representatives have come from around the country to observe its best environmental practices. Delta would not like to see any reduction of an environmental regulatory standard whatsoever. Mr. Greason notes, however, that it would be nice to see some recognition by the local regulatory agencies of the fact that Delta has taken extreme measures to run a phenomenally green, clean, and professional, world-class operation, instead of being cited for dust from a gravel driveway, and non-substantive technical issues.

## 11. THE BOEING COMPANY

Susan Champlain, Director, State and Local Government Operations, NW Region

Boeing is the world's largest aerospace company and leading manufacturer of commercial jetliners and defense, space and security systems, supporting airlines and U.S. and allied government customers in 150 countries. Founded in Seattle in 1916, Boeing's first airplane factory was located in Seattle on the lower Duwamish Waterway (now known as Boeing Plant I). In the 1940's and 1950's, production was expanded to Renton and another plant was built in Everett in 1966. Some work still continues at Plant I on the Duwamish site, where Boeing's P8 737 military planes are manufactured, but this represents a very small part of Boeing's production.

Boeing relocated its headquarters from Seattle to Chicago in 2001, but remains one of the largest employers in the state. Boeing employs over 170,000 people worldwide, and over 80,000 people in Washington. Recently, Boeing announced a four-year extension



of its contract with the International Association of Machinists union in anticipation of expanding its production of the new 737 MAX, in addition to other airplane models. Increased production is anticipated at its Renton plant, in particular.

Boeing's greatest current challenge is new international competition. While the company has long competed with Europe, today China and India are seeking to enter the aerospace market, and Brazil and Canada already have emerged as major competitors.

The main advantages to Boeing of continuing the bulk of its production in the Seattle area include the specialized, skilled workforce developed over decades of Boeing's regional presence, which would be difficult to replicate anywhere else in the world. Nevertheless, the cost of doing business in the region is high relative to other parts of the country – specifically, the cost of workers' compensation and unemployment insurance, and environmental regulations. Furthermore, the regulatory burden, especially the time required to obtain necessary permits, is high. Boeing employs approximately 700 environmental health and safety professionals, in addition to its environmental legal team. Whenever possible, Boeing strives to be engaged in the stakeholder process as rules are developed.

Boeing has also worked closely with City of Seattle on the Duwamish Waterway cleanup. Ms. Champlain noted that the company has a very positive partnership with the city on the ongoing effort to remediate contamination on the Duwamish.

Environmental permits are the primary manifestation of regulation that Boeing works through on a regular basis. Some examples of regulatory issues that present particular challenges for Boeing include state sediment cleanup standards, provisions for stormwater permits, limited water body listing criteria, and Shoreline Regulations. These can take significant time and be challenging when Boeing faces compressed production rate schedules.

In particular, permitting under the Washington Administrative Code (WAC 173-400: General Regulations for Air Pollution Sources) and Puget Sound Clean Air Agency Regulation I have entailed lengthy processes and a high resource burden, even in cases where the environmental impact in question is negligible.

- The State's new industrial stormwater permitting rule is Boeing's "issue of the moment" in Washington. The new process uses very strict numeric limits, as opposed to the previous "narrative" limits that allowed companies to address areas of potential noncompliance on a case-by-case basis. Limits on fecal coliform, a kind of bacteria associated with animal wastes, are intended for the agricultural and cattle farming industries. Boeing is clearly not an agricultural company, but does have sites that are adjacent to Lake Washington. Boeing has been exceeding the numeric limits on fecal coliform due to wild goose and duck waste flowing onto company property and into its stormwater runoff. The state Department of Ecology (DoE) has agreed to help Boeing on this specific problem, but it is an example of the kinds of issues created by the new stormwater rules.

- Recently, Boeing had to reach out to the state DoE for assistance in expediting air permits for its plants in Renton and Everett in order to increase its production line. Going through the normal, prescribed channels would have taken too long to obtain the permits and also fulfill production deadlines. Because “we’re Boeing,” the Department worked with the corporation to provide expedited service; smaller businesses however, would not have gotten the extra attention and expedited help. The DoE administers EPA regulations, and also “loops in” the Puget Sound Clean Air in issuing permits.
- Toxic Chemical Bans – internationally and in Washington specifically -- are continually a problem for Boeing. Well-meaning efforts to ban toxic chemicals in order to keep them out of retail consumer products has impacted Boeing’s ability to manufacture certain safety features on airplanes that are not destined for retail consumption. A few years ago Boeing had to work hard to obtain exemption from the ban on PBDE’s –chemicals used in the flame retardant required on an airplane’s emergency escape slide.
- Another example of unintended regulatory consequences is the application of regulations stemming from crane safety legislation passed several years ago to address problems on construction sites. However, certain manufacturing cranes used in maintenance and repair at manufacturing sites are held to inappropriate standards that are relevant for building construction, not airplane manufacturing worksites.
- An example of a vague requirement is the “Best Available Control Technology” under state and federal air quality regulations. There is never certainty about what is considered by the state to be “best available technology” until after the permit is obtained. Example: The WAC 173-441 Requirement for greenhouse gas reporting, which conflicts with federal reporting as to what must be reported by whom.

Ms. Champlain noted that reporting to multiple jurisdictions – including federal EPA, the Army Corps of Engineers, the state’s Department Ecology, and Department of Fish and Wildlife, the City of Seattle, among others – is an overarching challenge of note.