

HARRY REINERT
ATTORNEY AT LAW
4007 1st AVE NW
SEATTLE, WA
98107
206/633-4004

Honorable Rod Dembowski, Chair
King County Council Transportation, Economy and Environment Committee
516 Third Ave, Room 1200
Seattle, WA 98104

RE: Proposed Ordinance 2015-0437

Dear Committee Chair Dembowski:

I am writing to express my serious concerns about Proposed Ordinance 2015-0437. I spent the majority of my professional career at the state and county level working to protect the environment and further the goals and objectives of the Growth Management Act (GMA). King County has in the past been a strong proponent of the GMA and of environmental protection. It has been recognized around the state and country as a leader in implementing measures to ensure that growth takes place in the urban areas with the infrastructure to support that growth and measures to protect rural and natural resource areas from inappropriate development that will lead to adverse impacts to those areas.

Proposed Ordinance 2015-0437 is a step in the opposite direction. It will allow inappropriate development in the rural area and in an area with significant environmental values. As the Council has heard in the past, the operation of the racetrack already impacts surrounding property owners. The expansion of the racetrack as contemplated by the proposed ordinance will multiply those impacts.

King County Comprehensive Plan. Proposed Ordinance 2015-0437 is inconsistent with the King County Comprehensive Plan (KCCP). The KCCP defines "rural growth" as "growth that is scaled to be compatible with and maintains the traditional character of the Rural Area" and that "new rural industrial development in the Rural Area needs to be of a scale and nature that is distinct from urban industrial development."

The industrial development contemplated by Ordinance 2015-0437 is in conflict with these policies.

The Council addressed these issues previously when it adopted Ordinance 17287 in 2012. The original version of that ordinance would have allowed the property owner to construct hundreds of thousands of square feet of industrial and commercial facilities. The Council rejected the proposal. Instead, the adopted ordinance, which is amended here, stated that the master use demonstration project is limited to

safety improvements and uses that are accessory to a racetrack. These uses are intended to be subordinate to the primary use of the facility as a racetrack and to primarily provide services to participants in events at the facility and not to provide services to the general public.

This conclusion was consistent with the KCCP. The property owner now comes forward with what appears to be an almost identical proposal. It should be rejected again for the same reasons as before.

Project of Statewide Significance. RCW Chapter 43.157 establishes the procedure for designating projects of statewide significance. Following the adoption of Ordinance 17761, the King County Council supported the request of the property owner for the designation of its proposed Pacific Innovation Center as a Project of Statewide Significance. One of the requirements for that designation in King County is that the

project will provide a net environmental benefit as evidenced by plans for design and construction under green building standards or for the creation of renewable energy technology or components or under other environmental criteria established by the director in consultation with the director of the department of ecology.

RCW 43.157(5)(b)(iii)(J)(IV). Without having the entire project available for review, it is impossible know how the proposed addition of 400,000 square feet of automobile racing garages fits into the plan for the Pacific Innovation Center or whether the project would ever meet the standards for a Project of Statewide Significance.

Environmental Protection. Ordinance 17287, which created the demonstration project amended by Proposed Ordinance 2015-0437, established a number of goals and objectives for the demonstration project, including recognition for the need to protect critical areas in the area surrounding the property.

The council recognizes the need to protect the water quality of salmon-bearing streams in the vicinity of the project site, such as Big Soos and Soosette creeks, as well as valuable facilities like the Soos Creek Hatchery that rely upon the maintenance of water quality in those water-bodies.

The need to protect the water quality of Big Soos and Soosette creeks remains today. And there may be even more need in the future as our region's climate changes due to Global Warming. The scope of development contemplated by Proposed Ordinance 2015-0437 has the potential for significant impacts to hydrology in the area. Ordinance 17287 required important protections the applicant would be required to meet and it required analysis of the environmental impacts through an EIS.

A key element of Ordinance 17287 was the requirement for the preparation of an EIS under SEPA at the beginning of the project. The Council declared that the project "based on the potential uses that may be included in the master planning proposal, there is likely

significant adverse environmental impact necessitating the preparation of an environmental impact statement, in accordance with chapter 43.21C RCW and chapter 197-11 WAC.” Proposed Ordinance 2015-0437 subverts that declaration by creating an entirely new process for review of this proposal, with the direction that environmental review must be completed within 60 days after a community meeting is held.

There might also be an inconsistency between this proposed ordinance and Proposed Motion 2015-0446 on the TrEE Committee Agenda today. The Proposed Motion speaks to the importance of protecting and conserving stream and riparian corridors as it directs the Executive to prepare a conservation plan. Proposed Ordinance 2015-0437 seems to go in the opposite direction by allowing levels of development that are inconsistent with that goal and allows the potential destruction of valuable corridors that will likely have an adverse effect on downstream water quality.

Permit Review. One of the arguments made in support of Ordinance 17287 was that the property owner needed assurance that permit review would move forward on a clear timeframe and reach a decision in a reasonable amount of time. The property owner alleged that the Department of Permitting and Environmental Review (DPER) and its predecessors took too long to process permits and was constantly asking for additional information in ways that was unreasonable and unnecessary. My perspective from being on the inside of the agency during that period is that the DPER generally bent over backwards to accommodate the property owner and that the problems the property owner had were almost entirely of its own making.

Ordinance 17287 imposed stringent timeframes on County decision making processes as a means of providing the property owner some certainty about the permit review process. The first step was that DPER identify SEPA consultants within 60 days after the ordinance was adopted. DPER met that deadline and submitted the approved consultants to the property owner as required by the ordinance. From that point on, the property owner has not any taken action to initiate the permit review.

Instead, the property owner has spent the last two to three years wasting its money - and the taxpayers' - on attorneys' fees on failed challenges to code enforcement actions. If the property owner had instead spent that money on developing the master use plan contemplated by Ordinance 17287 it could be operating under the new permits with upgraded facilities that it has been arguing for. And by doing so, it would have gained good will from the surrounding community that would help it in the future.

Climate Change. The King County Cities Climate Collaborative (K4C) developed commitments that the county and cities believe are necessary to achieve county wide Greenhouse Gas Targets adopted by the Growth Management Planning Council. Those commitments include a direction to “Focus new development in vibrant centers that locate jobs, affordable housing, and services close to transit, bike and pedestrian options so more people have faster, convenient and low GHG emissions ways to travel.” This commitment is endorsed by the County Council in the Strategic Climate Action Plan scheduled for adoption by the Council on Monday, November 2.

Honorable Rod Dembowski
November 3, 2015
Page 4

The siting of a major industrial development in the rural area is inconsistent with this commitment. Locating new industrial development at this site, even if one accepts the idea that is focused on developing "green-friendly" race cars, will be detrimental to the climate. Massive amounts of GHGs will be emitted during the mining of the site and the hauling of the sand and gravel. Add to that the added vehicle traffic that will be generated by those working at the industrial facilities on the site who will need to drive, probably in single-occupancy vehicles, because transit service is extremely limited.

Master Use Demonstration Project. The purpose of the Master Use Demonstration Project was to see if through thorough planning and review at the beginning of a major development project, it would be possible to set firm timelines for permit review. The proposed ordinance undermines that process by seemingly allowing the property owner to proceed with what could be some of the most damaging aspects of the development proposal without complying with the standards of the demonstration project set by the County Council. As noted previously, the property owner has never given this process a chance, instead squandering its time and resources on futile challenges to enforcement actions.

Under the Master Use Demonstration Project process, once the permits are approved, the applicant has certainty that the project can proceed. In addition, the process can include measures to ensure that the mitigation measures are in place prior to any development. Proposed Ordinance 2015-0437 fails to provide any mechanism to ensure that the Pacific Innovation Center will be developed after construction of the racing car garages.

For these reasons, I recommend that that TrEE Committee recommend that proposed Ordinance 2015-0437 not be approved. Ordinance 17287 allows this project to go forward while protecting water quality and neighboring property owners.

Sincerely,

Harry Reinert
harry.f.reinert@gmail.com