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November 23, 2015

Honorable Larry Phillips, Chair
King County Council
516 Third Ave, Room 1200
Seattle, WA 98104

RE: Proposed Ordinance 2015-0437

Dear Council Chair Phillips:

I am writing to express my serious concerns about Proposed Ordinance 2015-0437.

Four years ago, as staff with the Department of Permitting and Environmental Review (DPER), I devoted many months working with King County Council staff, Executive Staff, the facility operator and surrounding property owners to craft legislation that responded to concerns of Pacific Raceway that it needed to modernize it's facility and concerns of adjacent property owners about the manner in which the facility was being operated and the impacts of the proposed expansion. After countless meetings, innumerable hours and multiple drafts, the King County Council adopted Ordinance 17287 in 2012. I doubt any of those involved were entirely satisfied with the final ordinance, but it received the general support of all of those actively involved in its development. A key element of the compromise from the surrounding property owners' perspectives, and in my view from the Executive Branch's perspective, was the requirement that an EIS under the State Environmental Policy Act (SEPA) would be required as part of any expansion. Understandably, Pacific Raceways was not excited about this requirement, but it consented.

Around the same time, Pacific Raceways sought a zoning change to one parcel to allow better access to its property. That change was approved by the County Council in the 2012 Comprehensive Plan Update, conditioned on recording a conservation easement that should have been recorded in 2000. It still has not recorded the conservation easement, which is now 15 years overdue.

Since 2012, Pacific Raceways has done nothing towards implementing the Demonstration Project. Instead, it spent three years in a fruitless effort to overturn decisions by DPER and the Hearing Examiner that it was out of compliance with its existing permits.

Now, after losing in the courts, Pacific Raceways has returned to the County Council to overturn the compromise reached in 2012 and grant it nearly the same development that was rejected then without a requirement that it first prepare an EIS. The new proposal is dressed up as a Project of Statewide Significance, but nothing in the substantive provisions of Proposed Ordinance 2015-0437 appears to have any relationship to such a project.

The rationale for the new ordinance is apparently based on a determination by the property owner and someone in the county, who is unclear, that the demonstration project process is too complicated. Many other local governments in Washington State have implemented master use permit processes with great success. For example, Everett and the Boeing Company used a process

quite similar to the demonstration project to redevelop the area around Paine Field. Master Use Permits are a common feature of large scale developments in Seattle.

Instead of starting the process and seeing where it might need to be adjusted, which is the entire purpose of a demonstration project, the response here is to break the project into smaller elements. The result would eviscerate the protections for the environment, including valuable salmon habitat, for water quality, and for surrounding property owners that were incorporated into the demonstration project. A proposal like this might be reasonable if it were based on actual experience with the existing ordinance. Instead, it seems to be based on nothing more than the fear of Pacific Raceways of the results of a complete environmental review of its proposal.

For these reasons alone, the King County Council should reject Proposed Ordinance 2015-0437 and allow the Demonstration Project to proceed as adopted in 2012.

In addition to this fundamental flaw in the Proposed Ordinance, there are several additional reasons for either rejecting or delaying action on the Proposed Ordinance. I outlined several of those in my comments to Committee Chair Dembowski for the November 3 hearing of the TrEE Committee. Other issues include the following:

Public Participation. As introduced, Proposed Ordinance 2015-0437 had many problems, including issues relating to consistency with the King County Comprehensive Plan and the King County Zoning Code. Late Thursday, November 19, Committee Chair Dembowski's staff circulated a draft striking amendment that addressed some of the issues with original ordinance, but it retained the fundamental flaws of the original.

As I write these comments on Sunday evening, a final version of the striking amendment has not been posted to the Council's website and has not been circulated to interested parties. As a result, neither I nor any other members of the public who have been following this proposal have had a reasonable amount of time to review the proposal under consideration by the County Council today.

The Growth Management Act (GMA) requires the county to "establish ... a public participation program ... providing for early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations. The procedures shall provide for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, communication programs, information services, and consideration of and response to public comments." RCW 36.70A.140.

The process the King County Council has followed so far with respect to Proposed Ordinance 2015-0437 falls far short of the robust public participation process envisioned by the GMA. The first public hearing on the Proposed Ordinance was held barely one week after the introduction of the ordinance with no outreach to members of the public who have had a long-standing interest in development of the racetrack property. Then, a draft striking amendment was circulated to interested parties, but not posted on the County Council's website, three days before the County Council hearing on the proposed ordinance.

The procedure followed to date in the rush to pass Proposed Ordinance 2015-0437 is in stark contrast to the procedure the County Council followed when it adopted the Regional Motor Sports

Demonstration Project in 2012. During the development of that ordinance, the Transportation, Economy, and Environment Committee held several hearings over the course of four months before sending the proposed ordinance to the County Council. Councilmember von Reichbauer also held a community meeting near the facility to gather public input. The County Council held at least four hearings over the course of six months. This was the type of public participation the GMA requires.

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. Neither Ordinance 17761 nor the letter approved by the County Council by that ordinance make clear the basis on which King County was supporting designating Pacific Raceways as a Project of Statewide Significance. The state statute provides several different criteria. The expedited review procedures authorized by RCW 43.157.030 only apply to designated projects. Proposed Ordinance 2015-0437 requires no demonstration by the applicant that the project that it is proposing actually falls within the requirements of the state statute and no requirement that DPER determine whether the project as proposed actually meets the state statute's definition.

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.

State Environmental Policy Act (SEPA). The SEPA checklist submitted by the County Council to DPER responds in the negative to the question of whether there are "any plans for future additions, expansion, or further activity related to or connected with this proposal?" This is not correct. The TrEE Committee Staff report on Proposed Ordinance 2015-0437 includes the following statement:

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The activities proposed by PO 2015-0437 are the first part of a two-prong approach that has been discussed with the property owner. The first prong is amending the existing Ordinance to allow interim use as discussed above. For the second prong, the property owner will consider options for future use of the property through either the demonstration project ordinance or seek review by the Council as part of the 2016 Comprehensive Plan update. This second prong could include looking at the underlying zoning of the property, modification or removal of the P-suffix condition, and considering whether to allow mineral extraction in Industrial zones, either outright or under certain conditions.

SEPA does not allow for piecemeal review of projects. SEPA is designed to ensure that when decision makers take an action that may have a significant adverse impact on the environment, they do so knowing what those impacts are. It is clear from both the findings of Proposed Ordinance 2015-0437, with many references to the designation of a Project of Statewide Significance, and from the Committee Staff report, that the proposed ordinance is part of a bigger project, presumably the Pacific Innovation Center mentioned in the staff report. As such, the SEPA Checklist should have disclosed that project and should have disclosed the potential impacts of the entire project.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harry Reinert".

Harry Reinert

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