

**IN THE MATTER OF THE PETITION OF THE PORT OF SEATTLE FOR THE  
VACATION OF SUBMERGED SOUTH FOREST STREET LYING WEST OF  
EAST MARGINAL WAY SOUTH AND EAST OF THE EAST MARGIN OF THE  
EAST WATERWAY IN THE DUWAMISH INDUSTRIAL AREA OF SEATTLE**

**Clerk File 307732**

The City Council hereby grants approval of the petition of the Port of Seattle (Port) for the vacation of:

**Submerged South Forest Street lying west of East Marginal Way South and east of the east margin of the East Waterway in the Duwamish Industrial area of Seattle described as: That portion of South Forest Street Within the Southeast Quarter of Section 7, The North Quarter of Township 24, Range 4, W.M., Being a Strip of Land One Hundred (100) Feet in Width and Eight Hundred and Six and One-Tenth (806.1) Feet in Length, Lying West of East Marginal Way South, and South of Lot 5, Block 373, Seattle Tide Lands, King County, Washington.**

The vacation is granted contingent upon the Petitioner meeting the following conditions. The Petitioner shall demonstrate, to the satisfaction of the City, that all conditions imposed by the City Council have been satisfied, all fees have been paid, and all documentation completed, prior to the passage of the street vacation ordinance.

1. The vacation is granted to allow the Petitioner to build a project substantially in conformity with the project presented to the City Council and for no other purpose. The project must be substantially in conformity with the proposal reviewed by the Transportation Committee in April of 2007.
2. All street improvements shall be designed to City standards and be reviewed and approved by Seattle Department of Transportation (SDOT); including all elements of the restoration of East Marginal Way South and other elements of the street improvement plan and required street improvements adjacent to the public access site at 8th Avenue South and South Portland Street. Specific issues to be addressed at East Marginal Way South include:
  - Restoration of East Marginal Way South roadway,
  - Restoration of the sidewalk and bicycle path adjacent to East Marginal Way South; and
  - Addressing any drainage issues related to the restoration.

Specific issues to be addressed at 8<sup>th</sup> Avenue South include:

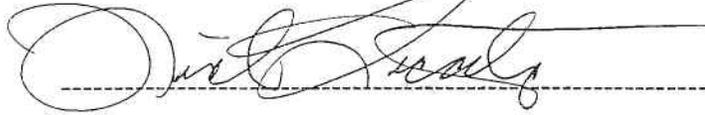
- Sidewalks adjacent to the public access site;
- A crosswalk at 8<sup>th</sup> Avenue South; and
- Passenger load/unload space adjacent to the public access site.

3. The utility issues shall be resolved to the full satisfaction of the affected utility prior to the approval of the final vacation ordinance. Prior to the commencement of any development activity on the site, the Petitioner shall work with the affected utilities and provide for the protection of the utility facilities. This may include easements, restrictive covenants, relocation agreements, or acquisition of the utilities, which shall be at the sole expense of the petitioner. Utilities impacted include:
  - Seattle Public Utilities; and
  - Seattle Department of Transportation retaining wall easement.
4. It is expected that development activity will commence within 18 months of this approval and the development activity will be completed within five years. If the vacation cannot be completed within five years, the Petitioner must request an extension of time from the Transportation Committee. In order to insure timely compliance with the conditions imposed by the City Council, the petitioner shall provide Seattle Department of Transportation with Quarterly Reports, commencing following Council approval of the vacation, providing an update on the development activity and schedule and the progress on meeting the conditions.
5. In addition to the conditions imposed through the vacation process, the project, as it proceeds through the permitting process, is subject to SEPA and to conditioning pursuant to various City codes and through regulatory review processes including SEPA.
6. The Petitioner shall develop and maintain the public access site at 8<sup>th</sup> Avenue South and South Portland Street and the public access site shall include the following features:
  - Shoreline improvements, including natural shoreline enhancements and habitat restoration;
  - Picnicking, benches or seating and resting spots;
  - Landscaping and signage, including signage with historical or education purposes;
  - Regrading of the site to open visual access and landscaping in a manner that does not create hidden spots; and
  - Street improvements at the corner of 8<sup>th</sup> Avenue South and South Portland Street including sidewalks, crosswalk, and load/unload space for passengers.

The Petitioner shall work with SDOT on the final design for the amenities and features at the public access site. SDOT must determine that the final design of the public benefit features is consistent with the requirements of the 1985 Duwamish Public Access Plan and requirements of the City Council. In addition, the Port shall be required to return to the Design Commission for its review and approval of the final design proposal for the public access site. A Property Use and Development Agreement (PUDA) or other

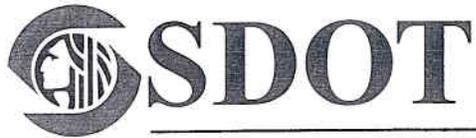
binding mechanism shall be required to insure the public access site remains open and accessible to the public and is well maintained.

Signed by me in open session this 14<sup>th</sup> day of May, 2007.

  
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President \_\_\_\_\_ of the City Council





Gregory J. Nickels, Mayor

*Seattle Department of Transportation*

Grace Crunican, Director

April 13, 2007

Honorable Jan Drago, Chair  
Transportation Committee  
Seattle City Council  
600 Fourth Avenue  
Seattle, Washington 98104

**Subject: Petition for the vacation of submerged South Forest Street lying west of East Marginal Way South and east of the east margin of the East Waterway in the Duwamish Industrial area of Seattle  
Clerk File 307732**

Dear Councilmember Drago and Honorable Members of the Transportation Committee:

We are returning the petition of the Port of Seattle (Port) for the vacation of South Forest Street lying west of East Marginal Way South and east of the east margin of the East Waterway in the Duwamish Industrial area of Seattle. The portion of South Forest Street proposed for vacation is dedicated as a street but is fully submerged.

The area proposed for vacation includes approximately 80,600 square feet, or approximately 1.85 acres of right-of-way.

### **BACKGROUND**

The vacation of South Forest Street was anticipated in the Comprehensive Public Access Plan for the Duwamish Waterway (Plan). The Plan was jointly adopted by the City Council and the Port of Seattle in 1985. The Plan serves as a master planning tool for the Port and the City and identifies projected expansion of the Port's marine cargo facilities, linking changes in marine cargo facilities with public shoreline access improvements. The Plan also provides for the review of water-abutting street vacations proposed by the Port and stipulates specific public shoreline access improvements for construction coincident with each proposed street vacation.

The vacation of South Forest Street and the vacation of Alaskan Way South (CF 307733), currently in environmental review, are the last vacations anticipated in the Plan.

Construction of an internal connection between existing marine cargo facilities at T-25 and T-30 is also an element of the Port's long-range plans for the southeast harbor area contained in the Harbor Development Strategy, adopted by the Port in 1986 and the Container Terminal Development Plan adopted by the Port in 1991.



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## **REASON FOR VACATION**

The Port proposes the vacation of the submerged portion of South Forest Street right-of-way in order to construct a piling supported bridge connecting its marine terminal facilities located on either side of the right-of-way. The construction of the bridge connection will facilitate the Port's movement of container cargo between T-25 and T-30, providing for combined operations at the two facilities, improving the efficiency and productivity of marine cargo activities at the two sites.

## **PROJECT DESCRIPTION**

South Forest Street is between the Port's Terminal 25 (T-25) at 3225 East Marginal Way South and Terminal 30 (T-30) at 2715 East Marginal Way South. Both of these terminals have been marine facilities for around thirty years. T-25, with a total cargo terminal area of approximately 41 acres, has been in use as a combined container cargo and cold storage facility since the early 1970s. T-30, with a total cargo use area of approximately 48 acres, has been in use as a combined container cargo, bulk cargo, tug and barge service area, and marine passenger facility since 1980.

In 1980, the T-25 tenant, Matson Navigation Company, leased additional acres at T-30. This expansion necessitated a connection between the two terminals for operational efficiency. At present, the Port uses a portion of public right-of-way at the west side of East Marginal Way South, adjacent to the South Forest Street right-of-way as a one lane, one way, connecting roadway between the two terminals. The existing connection allows the Port to move cargo between T-25 and T-30, using internal cargo equipment, without introducing additional truck and trailer traffic to East Marginal Way South. The Port worked with the City and was granted a street use permit to erect jersey barriers and use a portion of East Marginal Way for this connection.

This connection using East Marginal Way allows for truck access between the terminals but it is not wide enough and does not have sufficient load-bearing strength to support the heavier container cargo handling equipment used at the two existing facilities. This limits the ability of the operator to marshal containers efficiently throughout either facility because the function of loading, stockpiling, and sorting cargo containers requires heavy lift equipment to traverse the two terminals. In addition, the connection using East Marginal Way is only one way, reducing operational flexibility.

The Port has long anticipated the need to connect T-25 and T-30 and in 2005 the Port Commission authorized capital funding for the project. The Port proposes the construction of a 36-foot wide piling-supported bridge crossing over submerged South Forest Street connecting T-25 and T-30. The bridge will provide for two-way traffic and will have the strength and width to support heavy cargo handling and transport equipment. The connecting bridge will allow the two separate facilities to operate as one, more efficient, marine cargo terminal. Combined operations allows for efficient use

of approximately 89 acres of existing area built and committed to marine industrial use, in contrast to two smaller marine cargo areas.

The bridge would be 36 feet wide and approximately 311 feet long overall, allowing for two lanes of travel. The bridge would be supported by up to 85, 24-inch diameter, pre-stressed concrete piling, arranged in groups of six pilings placed approximately 25-30 feet apart. The under-surface of the connecting bridge would be approximately 14 feet above the mean low water line. The piling-supported bridge does not include the placement of fill material. No fill or alteration of the existing bankline is proposed. At one time, fill was considered to connect the two terminals but that proved to be infeasible and the connecting bridge represents an alternative means of combining operations with reduced negative effects on the aquatic environment.

Once the proposed bridge is constructed, the Port will no longer need the connection between the terminals using a portion of East Marginal Way. The jersey barriers can be removed and the dimensions of the right-of-way will be restored, including restoring a center refuge lane, and installing a pedestrian sidewalk and landscaping, with an improved bicycle pathway.

As anticipated by the Comprehensive Public Access Plan for the Duwamish Waterway, the Port's proposed vacation at South Forest Street triggers the corresponding requirement of providing alternative shoreline access at 8<sup>th</sup> Avenue South and South Portland Street on the west shoreline of the Duwamish Waterway, in the South Park neighborhood.

### **CIRCULATION/ISSUE IDENTIFICATION (NOT ISSUE RESOLUTION)**

The proposed vacation was circulated to various City departments, outside agencies and community groups for comments. The comments, closely reproduced below, reflect the statements made by the reviewers and any issues identified during this portion of the review process. The comment section may not reflect the resolution of the issue or subsequent design changes or mitigation. The discussion section will focus on the resolution of any issues or recommended project changes or conditions to address any issues or concerns.

The following comments were received:

#### **City Departments**

**Seattle Police Department (SPD) Traffic:** has no objection to the vacation of South Forest Street, as described.

**Seattle Fire Department (SFD):** This proposal is approved under the provisions of the 2003 Seattle Fire Code with the condition noted: SFD has no objection to this proposal.

There are no anticipated obstructions of fire department access or water supply created by the vacation proposed.

**Seattle Department of Transportation (SDOT) Street Use Division:** Street Use will require the restoration of E. Marginal Way from approximately 400 feet south of the centerline of the S. Forest Street right-of-way to approximately 400 feet north of the centerline of the S. Forest Street right-of-way. The restoration plans must be submitted to SDOT by the Port and are subject to SDOT review and approval per the City of Seattle Street Improvement Manual. Street use permits will be required to construct the restoration.

**SDOT Bicycle and Pedestrian Program:** The restoration of E. Marginal Way must provide a continuous sidewalk on the west side of E. Marginal Way. The plans show what appears to be a pedestrian bridge. This must be at least six feet wide and be a part of the north/south sidewalk along E. Marginal Way. If the bridge is internal to the Port site, a continuous sidewalk must be provided.

The bike lane on west side of E. Marginal Way is in poor shape. Improvements should include new pavement and a review of the drainage to make sure that ponding does not occur in the street, including the new bike lane.

There may be remnants of an old rail crossing in the vicinity of the vacation. If so, it should be removed and the pavement restored as a requirement of the street vacation.

**SDOT Policy, Planning and Major Projects:** Recommends that when the temporary connection currently used by the Port to connect T-25 and T-30 is removed, that the sidewalk, curb and gutter be replaced to the current City standard for sidewalks for pedestrians and bicycles, drainage and related infrastructure.

We support the granting of the vacation. The proposed replacement connection suggested by the Port will improve the efficiency of the connection between the two terminals and enhance their container operations.

**SDOT Capital Project and Roadway Structures:** There is a retaining wall on South Forest Street along the west margin of East Marginal Way. This wall is about 8 feet high and over 350 feet long. The wall is partially submerged in high tide and accessible when the tide is low.

If the wall is to remain as is, the Port should provide an easement providing unhindered permanent maintenance access to the wall a minimum of 10 feet from the water side. Alternatively, the Port can take maintenance responsibility of the wall.

**SDOT Roadway Design; Traffic Signal & Street Light Design; Traffic Operations; and Signal Operations sections:** all had no comments, no concerns.

**SDOT Street Use, Utility and Franchise Permits:** notes that there may be an old 1927 oil/steam pipe crossing S. Forest Street that has never been removed. This pipe was used by the railroad serving the Port at that time.

**Department of Planning & Development (DPD) Planning:** South Forest Street is platted on submerged land and lies between two marine terminal facilities. Currently, there is a temporary connection between these facilities. The Port plans to construct a permanent connection to accommodate increases in the level of activity at these terminals. This street vacation was anticipated by the Comprehensive Public Access for the Duwamish, adopted by the City Council in 1984. This Plan proposes the vacation of South Forest Street for Port uses and identified corresponding public benefit in the form of enhanced public access at South Portland Street and 8<sup>th</sup> Avenue South.

**Public Trust:** Forest Street is located on an industrial shoreline between two terminals operated by the Port. By facilitating increased levels of activity at both terminals, granting the street vacation advances the public trust by supporting activity in an economic sector that is an important source of jobs to the city.

**Land Use Policy:** Vacation of this street end is consistent with land use policies for this area in that it supports expansion of port uses at the site. Relevant policies are included in the Comprehensive Plan, the City's Shoreline Master Program, and the Comprehensive Public Access Plan for the Duwamish.

- LU269 establishes area objectives for Shorelines of Statewide Significance, including the shoreline where Forest Street is located. Among the objectives for this section of the Duwamish is "...encouraging industrial and port uses in this area, where such uses are already concentrated, while also protecting migratory fish routes."
- The City's Shoreline Master Program classifies this shoreline as Urban Industrial. The purpose of this shoreline designation is "...to provide for efficient use of industrial shorelines by major cargo facilities and other water-dependent and water-related industrial uses (SMC 12.60.220.10)." In addition, within this shoreline environment, "...views shall be secondary to industrial development and public access shall be provided mainly on public lands or in conformance with an area-wide Public Access Plan.
- The vacation of South Forest Street was anticipated by the Comprehensive Public Access Plan for the Duwamish, adopted by the City Council on July 16, 1984. The proposed street vacation and corresponding offsite public access improvements are identified in this Plan.

**Public Benefit:** In addition to the benefits of increased port activity is the benefit of the offsite public access improvements. The Plan lists public access improvements at South Portland Street and 8<sup>th</sup> Avenue South, this includes:

- Shoreline improvements including bank stabilization and revegetation with native grasses.
- Picnic facilities.
- Landscaping and signage.
- An extension of the public access site north to connect with S. Riverside Drive.

Granting of the vacation request should be contingent on providing these public access improvements, as set out in the public access plan.

**Seattle City Light (SCL):** stated it had no comments, no issues.

**Seattle Public Utilities (SPU):** Although SPU has no infrastructure within the proposed vacation area, there is a twelve-inch reinforced concrete sewer mainline and a twenty-four inch reinforced concrete storm mainline just outside the east property line of the Port.

SPU understands that the Port will not fill the vacated street right-of-way (ROW) because of its commitment to the Muckleshoot Tribe, SPU Sewer and Drainage recommends that a 10-foot easement west of the ROW line for a possible future drainage outfall be required.

**Department of Parks and Recreation:** has no objection to the vacation of S. Forest Street. Parks is aware of concerns raised by citizens living near the substitute (public benefit) public access at 8<sup>th</sup> Ave South and South Portland Street as it was thought to be a public park development.

**Seattle Design Commission:** reviewed this project at its regular meetings of February 6, 2006 and March 16, 2006 and took the following actions.

February 2, 2006 Action: The Design Commission approves the partial street vacation for South Forest Street based on a vote of 6:2 with several conditions:

- It would like proponents to return at a later date with more details on management of the pedestrian/bike access way by East Marginal Way.
- The Commission is concerned about preservation of views from East Marginal Way and requests that the proponents return with more detailed plans of the proposed changes by the existing bridge, particularly as it relates to views from East Marginal Way and the adjoining bike path.
- Public Benefit Package

- The Commission believes that the public benefits package that includes pedestrian and bicycle improvements by the Port property and upgrading South Portland Street are adequate.
- It encourages stronger connections to Riverside Drive at the north end of the park.
- The Commission recommends against including false marine artifacts at the South Portland site.
- The Commission also urges the team to ensure improvements are consistent with neighboring needs.

March 16, 2006 Action: The Commission appreciates the comments made and changes to the public benefits package associated with the street vacation since the last briefing. In a vote of 6 to 1, it recommends approval of the public benefits. The Commission:

- Appreciates how much has changed since the last review
- Agrees the community members did a good job of conveying concern for lack of safety in the neighborhood
- Agrees the public benefit package is adequate as presented today with the following comments:
- On-site Benefits:
  - Streetscape connections and improvements should relate to existing trail at north/south
  - Bridge guardrail should be as low as possible and more of a screening element than opaque to respond to concern for views
- Off-site Benefits:
  - Encourage greater public access to shoreline with improvements that are appropriate
  - Recommends team simplify design relative to setting
  - Supports long term connection to Riverside Drive, over time it will strengthen safety in the future but understands it is not immediately practical
  - Recognizes that safety, not design is key issue, so encourages team to look at site from CPTED principles
  - Urges team to consider more pedestrian oriented materials at turn around
  - Agrees long-term maintenance and lighting are key to safety

Note: 1 dissenting opinion from a Commissioner who believes public benefits are not commensurate with the vacation.

**Outside Agencies:**

**Qwest Communications:** Qwest has no facilities in the area to be vacated so there are no conflicts.

**King County Wastewater Treatment Division:** King County Wastewater and Treatment Division has a regulator station (Lander RS) on the corner of Lander and East Marginal Way S including an outfall pipe located North-Northwest from the regulator station to the East Waterway. It appears the vacation petition area lies south of this conveyance line, thus we have no objection and recommend the Petitioner's request be approved.

**King County Department of Transportation:** Staff has completed review of the information provided and has determined that Transit doesn't oppose the proposed street vacation as it should have no impact on transit operations.

**Puget Sound Energy (PSE):** has conducted a review of existing gas facilities within the subject portion of S. Forest Street between the East Waterway and East Marginal Way S. PSE has no existing or proposed gas facilities impacted by the proposed vacation.

**Community Comments:** In addition to the following comments specifically on the proposed vacation and public access site, the file contains a number of additional letters directed to the Port, the Design Commission or other City department but forwarded to SDOT. These letters address the overall project, the SEPA determination, or other elements and reflect both support and opposition to the project.

#### **Community Comments in Support of the Proposal**

**Chuck Bergstrom:** I strongly support the Port proposal for 8<sup>th</sup> Ave and S Portland Street including the access to Riverside Drive. I walk my dog through this area at least 5 times a week and do not see any heavy traffic at any time at 8<sup>th</sup> Ave and S Portland Street. It is unusual to see three vehicles use this intersection. The heavy traffic flow in this area is along S Kenyon Street between 8<sup>th</sup> Ave S and 5<sup>th</sup> Ave S and along 5<sup>th</sup> Ave S between S Kenyon Street and S Holden Street.

Most of the people who will use this park (other than people working in this area) will use it after hours and weekends when traffic is very light.

**Charlie Cuniff; ECOSS:** I advocate for both industrial business and residential neighborhood issues, putting me squarely in the crosshairs of this issue. I believe that the Park improvements at the 8<sup>th</sup> Ave Gateway are a good idea, while the walkway to S Riverside Drive is a bad idea or at least an unnecessary element of the park.

South Park needs more parks that people will use. The Port's plan will make 8<sup>th</sup> Ave more useable and probably safer, since the mound will be removed and all areas of the park will be more visible from the street. I do not think that the improvements in the park will lead to an increase in crime, vandalism, prostitution or theft. I do believe that this improvement will be utilized and enjoyed by member of the residential and industrial communities of our neighborhood.

Contrary to the desires of some, I do not believe the walkway should extend to S Riverside Drive. That would encourage walkers or bike riders to exit onto a street that is substandard and is in heavy use by the industrial community. It is not a street for pedestrian use.

South Park has a solid history of both industrial and residential uses. It is part of the charm but it poses problems when there are conflicts like this. Both sectors of the community need and use parks. In order for both sectors to continue to thrive, each sector will need to continue to work together for the mutual betterment of the neighborhood. A small project like this will not dramatically change anyone's life, but in the long run, with a few changes and a prudent design, it will be a neighborhood asset in a neighborhood that needs more assets and improvements.

**Buna Faircloth:** I strongly support the Port plan and in exchange the development of 8<sup>th</sup> Avenue S. I agree that South Park is really in need of any and all improvements available. I would love to see the revitalization that happened in Columbia City happen here in South Park.

**Joseph E Pasquarella Smith:** I have lived in South Park for over 11 years. On a nearly daily basis I travel in both directions on East Marginal Way S, crossing the point where S Forest Street intersects. I am writing to support the Port plans to vacate the street end at S Forest Street and provide an improved public access site in the Duwamish Waterway at 8<sup>th</sup> Ave S. I think this will be a valuable asset for the South Park neighborhood and an improvement to the transportation corridor along our waterfront.

**J.D. Leza:** I have been working in social services in South Park for the last five years. We have all experienced tremendous pain and suffering, including multiple teen murders and intractable crime and intimidation. Teens list deadend streets among the most dangerous and undesirable places in South Park.

In addition, we've experienced inspirational community bonding, organizing, strategic planning and realized physical improvements. I have read and heard about the benefits and community support for the 8<sup>th</sup> Ave streetend improvements. If there is opposition, it seems to be relatively isolated.

The proposed improvements seem like a continuation of broader community improvements that are making South Park a stronger, better place to live and raise children. Please count me among the many community members who have already written in support of these important neighborhood improvements.

**Lou Kings:** South Park could really use any and all improvements. Especially a community that has been challenged over the decades and it would really be much aligned with Seattle's reputation for leading the country in environmental initiatives.

**Carol Kane:** I am a 15 year home owner and dog walker of the South Park neighborhood. I was thrilled when I saw the proposed land use sign go up to make a real park at the end of 8<sup>th</sup>. It's a great plan and one that you should definitely proceed with. Having a pleasant river park can only be a good thing.

**Paulina Lopez:** Please consider my voice of support for the Port plan in South Park. On behalf of the Hispanic community we know it will be a great, valuable asset for the South Park neighborhood.

**Elizabeth McFeely:** I am a South Park resident and homeowner. I wish to express my support of the proposal to develop the street end park at 8<sup>th</sup> Avenue S. South Park is a great community that is in great need of more parks and beautification. These projects will help clean up the neighborhood and make these areas useable by our community.

**Cathy Chase:** I support the Port plan in South Park.

**Greg and Marla Fields:** As homeowners in South Park, we would like to go on record as supporting the proposed River Access Park at 8th Ave S. It would benefit the neighborhood and not cause significant problems to the industrial residents.

**Tim and Deborah McNeil:** We support the Port plans to vacate the street end at Forest St. and provide an improved public access site at 8<sup>th</sup> Ave S. We think this will be a valuable asset for the South Park neighborhood.

**Bill Pease:** As homeowner and small business owner, I chose to move to South Park because of the mix of residential and industrial zoning. I have been to 3 meetings about the shoreline development of 8<sup>th</sup> Ave S. I know that it is directly tied to the Forest Street vacation and the Port's desire to develop a facility on a site that has no value as shoreline access. Here in South Park we are trying to create more access to the river for our residents and create more viable estuarine habitat for our wildlife.

This project will grade the shoreline and plant for the benefit of wildlife; the topography and lighting are designed to be unwelcoming to unlawful activities; and no privately owned land is ceded by neighboring businesses.

This seems like a win-win situation. The Port gets its development on Forest with no loss of viable habitat at that site. South Park residents get better river access. Fish and birds get better habitat. I'm having trouble seeing negative aspects for the neighboring businesses. There are no zoning changes involved, there is no "land grab", and there are no restrictions on conducting business as usual.

I do believe that putting a children's play area at the site would be unwise. The scale of the industrial activity is such that it could be a hazard for children. I would also say that due to the poor condition of the roadway and the heavy industrial traffic that a path to Riverside Drive is not appropriate at this time.

**Joel Clement:** I urge you to move forward with the street-end improvements at 8<sup>th</sup> Ave S. After attending a public meeting and seeing the proposal I am convinced that this small green space will add a great deal to the neighborhood's orientation to the Duwamish River, provide park space for residents and employees of local industry to relax, create wildlife habitat along Seattle's only river, and improve an area that is currently used only for illegal activity. As we have seen, if we get out and use these underutilized spaces the opportunities for petty criminals to get away with nefarious behavior are fewer. Frankly, I don't understand why anyone would think that such an improvement in access and lighting would bring an increase in illegal activity. I would expect just the opposite.

In the interest of safety, take a 2-step approach. First establish the site and create the green space and as a second phase could establish the trail to Riverside Drive. The complete package would be a park the Port and the City can brag about.

Everything the Port and City can do to help the residents and industry of South Park improve the streets, curbs and sidewalks would be much appreciated. If we can invest in green spaces to make the area more welcoming, the least we can do is improve the infrastructure that our industry needs to operate efficiently.

**Jeannette Steiner:** I too support the Port plan in South Park.

**Kelly Boyker:** It has come to my attention that a small group of business owners and residents are attempting to block the Port's new street end park in South Park. I find it astonishing that this would even be possible. Street ends are public property. PERIOD! Currently this street end is neglected. It is my understanding that the other street end that would be included in the proposed park is currently being leased to someone who is parking old semi trucks. I rode my bike to that area. The lot is filled with trash and is in a state of disrepair. How can the City possibly believe that the interest of one business owner somehow outweighs the interests of our entire community? We have few parks in South Park and even fewer natural resources. Our neighborhood is struggling with improving places for our children. South Park is already handicapped by encroaching businesses, junk yards and dumps. Please do not deny us this opportunity for improvement and beautification. Access to the river should be available to the entire community.

**Deborah Salas:** As a resident of South Park who cares deeply about the quality of life in our community, I am shocked that anyone would oppose improving the 8<sup>th</sup> Ave street end. As the only Seattle neighborhood on the Duwamish River we should do everything possible to enhance the environmental beauty of and community access to the river. A street end filled with trash and blackberries does nothing but attract unwanted elements.

Please do not allow a few self-serving opponents to this improvement project-one that will benefit both South Park and Georgetown- stop SDOT from developing a much needed public access site.

**Ahlyshawndra Means:** These street vacations really need to happen. Not only to do they make the neighborhood a better place to live and work but they help the river in maintaining the quality of life for fish, shellfish, and other aquatic life. They allow for a direct connection between our neighborhoods and the Duwamish River-they are important!

**Kathy Nyland:** Though I am not a resident of South Park I want to support the 8<sup>th</sup> Ave project. I live in nearby Georgetown and these neighborhoods work so hard for any and all improvements-8<sup>th</sup> Ave S is no different. That street end deserves improvement. I hope the efforts thus far are not ignored. I hope the vision is not altered or abandoned.

The south end has its fair share of urban blight. It's a refreshing change to work toward improving a park-we simply need more of them.

**Morgan Watson:** I am writing to let you know that I support the Port's expansion of the public access park at 8<sup>th</sup> Ave in South Park and the Port's street vacation at S Forest Street. I hope SDOT will take this into consideration when making a decision about these projects.

**Jody Golingo:** I am a 12-year resident of South Park and I would like to share my voice to strongly support the plan to improve the site by the river. We HAVE to support these improvements so we can develop a safe and desirable habitat for us and the wildlife here on the river.

**Geoff Belau:** I am writing to register my support for the park improvements at the 8<sup>th</sup> Ave S and S Portland Street site in South Park.

**Mark Johnson:** South Park is a neighborhood of residential and industrial inhabitants. Many of us who live here love the combination of the two; seeing blue herons together with cranes and barges, and salmon jumping between tugboats. It is a beauty special to few places. Streetends are a public opportunity for both factions of the community to enjoy this environment while providing a much needed habitat area for migrating birds and other river wildlife.

An abandoned streetend- one that is obscured by poor access and has attracted unsavory activities is not a community amenity. A streetend that is occupied by stored vehicles and garbage is also not a community amenity-for the residential or industrial community. A redesigned, inviting streetend at 8<sup>th</sup> Avenue will invite the ENTIRE community to occupy a place once frequented by drug users and prostitutes.

We have an opportunity right now for a park to be designed and built without any funds from the city or community. We would be foolish not to accept this opportunity.

Please take this message as strong support for the vacation and the exchange for the development of 8<sup>th</sup> Ave S. I also support the S Riverside streetend for habitat restoration or pedestrian access.

**Jennifer Nye:** Through neighborhood meetings I found out about the 8<sup>th</sup> Ave Project. A few weeks ago I checked out the site myself. The potential there is undeniable.

I was thrilled with the vision of community access to the river and enhancing the native wildlife there. I saw a place destined for communal enjoyment, peaceful tranquility and the vitality of industry, all without losing sight of public safety. Please note my full support.

**Lora Suggs:** I am a resident and homeowner in South Park. I am writing you today to express that I am absolutely 100% in favor of the Port's proposal to develop the street end park at 8<sup>th</sup> Ave S. It would be a great asset to both the residential and industrial factions of the South Park community as well as a much needed step in the right direction toward habitat restoration of the Duwamish River.

I have been to every meeting between the Port and the community regarding this plan. The Port has been responsive to the community's concerns and comments. At the end of the last meeting, I was under the impression that the residents and the industrial business owners had come to better understand each others concerns and needs. I felt that fair compromises had been achieved and accepted by both groups. I was excited by this partnership, however; at this point I am pretty perplexed to hear about the opposition to this neighborhood improvement. Please, record that I am strongly in favor of this project.

**Brian Anderson:** I don't understand how anyone could be against this project. We in South Park have been working hard to improve our neighborhood and this project would be a welcomed boost and addition.

I enthusiastically support the South Park New Street End Park Proposal!

**Wendy Woldenberg:** After attending the last meeting held by the Port I am STRONGLY IN FAVOR OF THE PROPOSAL AS IT STANDS. At that meeting the entire room was in favor of the 8<sup>th</sup> Ave improvements, except for 3 people. It was a frustrating meeting, because HOW CAN PEOPLE NOT WANT A BETTER, MORE ACCESSIBLE, SAFER PARK?

As a 10 year resident of South Park, I very much want to see that spot improved. The group in opposition is very small and the group of supporters is far and wide through the neighborhood, including business owners and residents. We have been waiting for the park to come to fruition for many years now. I can't stand to think that our chances are at

risk because of a business owner who wants her trucks to be able to stay parked in front of the park.

**Anna Kemnitz:** As a resident of South Park who has attended at least one community meeting with the Port on the 8<sup>th</sup> Ave street end, I would like to be counted as STRONGLY supporting moving forward with the plan to improve this site on the river.

**Marty Oppenheimer:** I am a business owner in South Park. I am on the executive board of Friends of Street Ends; I am also the steward of the South Willow Street end in Seward Park.

The Port proposal the vacation of S Forest and mitigation via development of the 8<sup>th</sup> Avenue site into a waterfront community park is a win-win for the port, city and the community. I have attended meetings on the project and I understand the issues involved.

Development of the 8<sup>th</sup> Ave site should also include the adjacent S Riverside street end. This is a natural to the improvement of the area. The expanded park will be a major community enhancement. Currently the street end of S Riverside is under permit to an adjacent business. Unfortunately, they are not actually using the site. They are renting it to another business at a profit.

Please record my support for the project and do not let a small minority of the community scuttle it.

**Jody Golingo:** I am a 12 year resident of South Park and I would like to share my voice to strongly support the plan to improve the site by the river. We HAVE to support these improvements so we can develop a safe and desirable habitat for us and the wildlife here on the river.

**Jeff and Jenelle Hayes:** Please take this message as strong support for the vacation of South Forest Street and in exchange the development of 8<sup>th</sup> Avenue S. I also support the vacation of S Riverside Drive streetend for habitat restoration or pedestrian access. Current conditions are poor and attract bad activity. Why keep it that way?

**People for Puget Sound:** We are a nonprofit citizen's organization whose mission is to protect deep water habitat. The proposed new bridge will create new overwater coverage at the end of Slip 27. We have the following specific comments:

1. We are generally in favor of the proposed project at 8<sup>th</sup> Avenue South that will be completed as part of the 1985 Plan agreed to by the Port and City in return for the vacation of South Forest Street. This site represents an excellent opportunity for the restoration of needed habitat that will support salmon and other species of the Duwamish River as well as a good public access site. We are concerned that the replacement site be approved by

the neighbors and community before a street vacation is granted.

Currently, there are some neighbors who are concerned about crime at that location. We feel the Port staff is making a strong effort to work with all of the neighbors and community members to work out the issues but this process is still underway.

2. In addition, an adjacent street end site (Riverside Drive) should be considered as part of the new park at 8<sup>th</sup> Avenue. The adjacent site would make a good upland habitat site as well.
3. The proposed bridge at the South Forest Street vacation location will create overwater coverage that will shadow nearshore habitat on the south side of Slip 27. We feel the Port should add features to the bridge that will allow ambient light through, such as fiber optic systems.
4. Finally, we are concerned about the omission of shallow water habitat being proposed for the east side of Slip 27. It is a shallow water area that currently has a vertical bulkhead and the new proposed overwater bridge is going to degrade further that end of the slip.

**Bob Anderton:** I own a house in South Park and live in it. I strongly support the Port's proposal for street end improvements on 8<sup>th</sup> Avenue. I understand that this is linked to the South Forest Street vacation on the east waterway. I also understand that the Forest Street work will facilitate a more efficient port, I support this. And, more importantly, work there will result in improvements in South Park.

There is a vocal minority in South Park who oppose the street end improvements. My understanding is that these people are not thinking of the greatest good for the greatest number, but are either mistaken in their beliefs or have self-serving motives. One business owner has a street end permit that she is using to lease the space for non-waterway-linked truck parking. Another opponent owns property in South Park but does not live here.

We need parks in South Park and the vast majority of South Parkians are overjoyed at the prospect of a safer, more accessible park.

### **Community Comments in Opposition to the Proposal**

**Alison Reagan:** As a business owner at 605/604 S Riverside and 511 S Webster, my husband and I are opposed to the proposed park development, which seems redundant as there is already a nice one at 10<sup>th</sup> and Elmgrove, just a couple of blocks away.

We have owned businesses in the area for a long time and think that putting in a new park would be a waste of precious public financial resources. It would be better to upgrade the parks we already have than to put one in an industrial area where large trucks and heavy equipment frequently drive and park. The roads in that area are not very good and we know from experience that the cost of upgrading falls on the business owners, not the City or DOT.

Additionally, we don't need more places where crime can flourish comfortably. The studies I have read in relation to this project address its construction not maintenance or after-hours safety. Has anyone studied how much burden this will add to public safety departments?

**M. C. Halvorson:** I have lived in Seattle since 1965 and have owned property in South Park since 1967.

You will, no doubt, receive emails from the same 24 people out of 1500 in South Park that favors the Park. They are a very vocal minority.

I am not against improving a street end. I am opposed to this street end because it will create a hazard and is unnecessary as there is a Park, scarcely patronized, two blocks away. This proposal does not comply with the existing Safety Rules and Regulations of Seattle which state that an activity area should be 150 feet from the water, any water, not just river water and fenced. There is a very good reason for this: viz., to avoid having people fall into the water and possibly drown. A further hazard is created by opening the Park to Riverside Drive, an industrial area with potholes in the street where big trucks have enough of a time negotiating their rigs without coping with bikes, tykes and people.

I oppose the vacation of the street end the Port wants because this will cause more harm than good.

**M.C. Halvorson:** (comments regarding the Design Commission review) I totally oppose putting a park at that location because:

1. It is incompatible with the zoning, which is industrial.
2. There is already a park at 10<sup>th</sup> Ave S, two blocks away which is sparsely patronized.
3. There is already a kayak launch and picnic tables at 10<sup>th</sup> Ave S, so there is no need for another.
4. 1500 people live in South Park and only 24 want this.
5. It creates a dangerous situation as this is an area of large trucks and industrial activity.
6. If someone falls in the water, he/she could drown.

George Blomberg, Port, knew our objections but did not notify us of a meeting which the Port had with the Design Commission. Thus there was no public hearing and that Commission just gave the Port everything it wanted. I think this is illegal. If it is not reconsidered, I will be forced to challenge it in Court.

I object to the Port vacating that street end at such a terrible price to the industrial community. Normally, I think there are instances when it makes sense to vacate a street

end but if the price is taking any street to beautify in return with total disregard of the zoning and the wishes of the majority of the people, I object.

**Jeff Darling:** We recognize and support the Port's need to move ahead with the proposed bridge linking Terminal 25 and Terminal 30 but the "offsetting action" of park improvements one block from our business (in an industrial park) makes little sense we (along with a number of local businesses) **oppose this action.**

Currently there is already a park two blocks away that provides neighborhood access to the Duwamish Waterway. Spending money for additional access through an industrial neighborhood at this proposed site makes little sense.

The development at 8<sup>th</sup> Ave S would only put citizen's safety at risk, with cargo container movement, truck traffic, welding and construction activity in the area on an on-going basis. Vandalism and crime is an increasing concern in the neighborhood and another park will only invite transient types, homeless people and drug users to the area after dark (we had a meth lab left on our property and had to decontaminate our property, a stolen van was set afire next to our building causing \$55,000+ in damages).

We ask that the efforts be redirected to a different, more logical setting that will not have the potential negative impacts on people, their safety and business productivity in the area.

**Robert Graham:** We oppose any act that will take away scarce industrial land. If you were to visit our little area you would notice that we have virtually no available space. Has anyone from DOT pulled an available land report? I have an idea, has anyone addressed rezoning a broader area for industrial use?

We may have been in a better position had the port not purchased every inch of available space as well as taking space from companies forced to relocate to South Park. As a trucking company where would you suggest we relocate? Pacific? We do our work at the port. I would hope that one of your agencies have a view of the 'Big Picture' and are working on a plan.

## **POLICY FRAMEWORK**

Street vacation decisions are City Council decisions as provided by State statute and have not been delegated to any City department. There is no right under the zoning code or elsewhere to vacate or to develop public right-of-way. Vacation of public right-of-way requires discretionary legislative approval that must be obtained from the City Council, and the Council may not vacate public right-of-way unless it determines that to do so is in the public interest. The decisions must assure that potential development and use of the vacated right-of-way is in the public interest. The Council may be guided by adopted land use policies, but the Council is not limited by land use policies and codes in making

street vacation decisions and may condition or deny vacation as necessary to protect the public interest.

Rights-of-way are dedicated in perpetuity for use by the residents of Seattle for purposes of public travel and transportation of goods. The dedication carries with it certain public rights to circulation, access, utilities, light, air, open space, and views. City government acts as the public's trustee in administering streets and alleys. The City Council first adopted Street Vacation Policies in 1986 and a few sections of the policies were revised in 1991 in Resolution 28605. Significant revisions were made to the Vacation Policies in 2004 in Resolution 30702.

## **ANALYSIS**

The City's Street Vacation Policies provide that vacation requests may be approved only when they significantly serve the public interest. The Street Vacation Policies provide for a three-step review of any vacation petition in order to determine if the vacation is in the public interest.

The Policies define the components of public interest as:

1. Protection of the public trust;
2. Protection from adverse land use impacts; and
3. Provision of public benefit.

The Street Vacation Policies provide that during the review of the petition, the public trust and land use effects of a vacation should be weighed against the mitigating measures and the public benefits provided by the vacation to determine whether the vacation is in the public interest. In balancing these elements of the public interest, primary importance should be placed upon protecting the public trust in rights-of-way.

**Protection of Public Trust:** The Policies define the public trust functions of rights-of-way as being circulation, access, utilities, light, air, open space, and views. Policy 1 of the Street Vacation Policies addresses the basic purpose of streets. Streets are created to provide for the free movement of people and goods throughout the City, to provide access to individual properties, and to provide space for utility services.

Through the vacation process, an adjacent property owner acquires public street right-of-way for private use or development purposes. Since the vacation is generally about the loss of some portion of street, the review process must evaluate the loss of that street segment. The review normally looks at the impact on the grid pattern in the area, the impact on the provision of utility services, how the circulation pattern is altered and how that impacts pedestrians, bicyclists, vehicular movements; emergency services, and commercial activity.

**Transportation Impacts:**

South Forest Street is not just unimproved right-of-way, it does not actually exist. The street, while dedicated as a street, is fully submerged in the location of the proposed vacation. As such, it obviously does not function as a part of the circulation network or provide access to the adjacent parcels. The loss of the right-of-way will have no transportation impacts. Following the vacation, the right-of-way will be improved for a transportation purpose, a connecting bridge, between the two terminals but it will be a private transportation purpose between two locked and secured facilities with heavy industrial uses. The vacation is intended to facilitate the use of the two terminals by providing a permanent internal cargo handling connection. Similar uses will continue to occur on the site but the bridge connection will provide the Port with improved container cargo handling efficiency and coordinated cargo movement between two existing use areas and deep draft vessel piers.

Once the Port is able to complete the new bridge connection, it will no longer need to use a portion of East Marginal Way South as the connection between the T-25 and T-30. The Port currently has a permit to use a portion of East Marginal Way South. Traffic lanes and a pedestrian /bicycle pathway in East Marginal Way South were realigned in 1996 to provide for the Port's 14-foot wide connecting roadway. Vehicle travel lanes in East Marginal Way South were adjusted to 12 feet in width, a portion of the center refuge lane was eliminated and a pedestrian/bicycle pathway, eight feet wide, was striped in existing paved right-of-way between the concrete barrier and vehicle lanes.

The Port will remove the jersey barriers and restore East Marginal Way South to public uses. The will include restoration of a travel lane, completion of sidewalk and bike path, street trees and providing for drainage. All this work must meet City standards as set out in the Street Improvement Manual and must be approved by SDOT. This will help with traffic flow on a very busy arterial and provide a safer connection for bicycle commuters. This area is heavily used by bicycle commuters from West Seattle heading into downtown and work here will provide continuous, safe pedestrian and bicycle access along East Marginal Way South from Alaskan Way to Southwest Spokane Street. The vacation should be conditioned on the Port completing this work along East Marginal Way South.

#### Utility Impacts:

No utilities are located in the area of South Forest Street. However, Seattle Public Utilities (SPU) does have facilities located just outside the east property line of the Port property. SPU will require an easement from the Port to enter Port property to access these utility lines. SPU anticipates that a 10-foot easement will be required. The completion of the easement should be a condition of the vacation.

In addition, SDOT will require an easement from the Port to access an existing retaining wall located along the west margin of East Marginal Way. This wall is about 8 feet high and over 350 feet long. SDOT will need to access Port property to perform maintenance

or repair work on this retaining wall and will require an easement for the entire length of the retaining wall. Such an easement should be a condition of the vacation.

Light, air, open space and views:

There is currently no land or structures in the South Forest Street right-of-way. The area is totally open and does provide views of the East Waterway. After the vacation, a connecting bridge will be constructed; no other development is planned for the vacation area. As a new element, the bridge will have an impact on the views. The void that was open to the water will now contain an at-grade bridge structure; however, this is a heavily industrial area with no adjacent residential or commercial uses that would attract the public. The views can be seen by vehicles on East Marginal Way and by the bicycle commuters heading downtown but by few others. The proposed public access site at 8<sup>th</sup> Avenue South is intended to provide replacement shoreline access for any loss to the public from the vacation of the street.

**Protection from adverse land use impacts:** The second step in the review process is to evaluate the land use impacts of the proposed vacation and subsequent development. The land use portion of the Policies, Policy 4, is concerned mainly with ensuring that post-vacation development is consistent with the land use pattern in the area and with City policies and codes. The Policies specifically state that proposed vacations may be approved only when the development potential that is attributable to the vacation would be consistent with the land use policies adopted by the City Council. The vacation decision will be based on the policies applicable for the type of area where the development is proposed.

The area where South Forest Street is located is zoned as General Industrial including IG1/U85 and IG2/U85 designations; this zoning pattern extends throughout the Duwamish Industrial area and north, south, and east of this site. South Forest Street is within the Urban Industrial (UI) shoreline environment, consistent with the industrial uses prescribed for the area.

Industrial zones are intended to support existing industrial activity and related business. The IG1 and IG2 zoning designations are intended for manufacturing and industrial uses and related activity, where these activities are already established and viable and their accessibility by rail and/or waterway make them a specialized and limited land resource. The Port use of the site for container cargo and related purposes is a use consistent with the zoning designation created by the City.

This project site is within the boundaries of the Duwamish Manufacturing and Industrial Center Neighborhood Plan. General goals of the plan include supporting manufacturing and industrial growth. Specific goals include:

- Retain existing businesses and promote their viability and growth. (EC1.3)

- Work to achieve the growth targets of at least 10,800 new family-wage jobs...by the year 2014. (EC1.5)
- Preserve land in the Duwamish M and I Center for industrial activities such as manufacturing, warehousing, marine uses, transportation...and other related industrial sectors. (EC1.6)
- Maintain and enhance intermodal freight connections between the State highway systems, rail yards...Port terminals and facilities, airports and warehouse/distribution centers. (T3.6)

No adverse land use impacts were identified with this proposed vacation and the use proposed is consistent with both City policies and zoning.

**Provision of Public Benefit:** The Street Vacation Policies note that vacations must provide a long-term public benefit. Vacations will not be approved to achieve short-term public benefits or for the sole benefit of individuals. It is anticipated that the public benefit will include specific and tangible physical elements as the Policies provide that facilitating economic development, meeting code requirements for development or mitigating defined impacts is not a sufficient public benefit.

The Port is in a unique position in having reached an agreement with the City Council that established specific public benefit requirements for a number of anticipated Port projects. This work goes back to the early 1980s during a time of major industrial expansion on the Duwamish waterway.

In 1983, the City Council noted that over two-thirds of the street ends abutting the Duwamish River had been vacated over the years. The City also noted that the Port and others anticipated growth in marine terminals and other industrial facilities in the area. The City expressed concern that if all the anticipated industrial expansion and vacations occurred, there would be few opportunities to create public access to the water. In Resolution 26964, the City Council adopted a moratorium on the vacation of public right-of-way abutting the Duwamish waterway until the adoption of a comprehensive plan for public access to the Duwamish waterway.

The City and the Port then began a major planning effort that included input from private citizens, public agencies and various interest groups. This effort led to the preparation of the 1985 Comprehensive Public Access Plan for the Duwamish Waterway. The Plan noted that the vacation of rights-of-way along the Duwamish River might be desirable to promote maritime commercial and industrial development but it would not be in the public interest to vacate additional street rights-of-way unless comparable public access was provided.

The Plan discussed vacations that would likely be pursued by the Port and outlined for each proposed vacation the requirement of a specific alternative public access site. A specific public access site was identified for each potential vacation and a list of anticipated amenities to be included at each site was also provided. The Plan was

adopted by the City Council in 1984 in Resolution 27127 and by the Port Commission in Resolution 2949 in 1985 and a joint Port/City agreement was signed in 1985. The agreements specify that the vacations are subject to the usual discretionary review by the City Council and are not automatically granted, but if the Council grants the vacation compliance with the public access requirements in the Plan constitute adequate replacement public access and compensation for the vacation.

The Plan identified eight replacement sites distributed throughout the area with the goal of meeting a broad range of public interests and providing sites with different views and uses. The sites used a mix of Port property and City right-of-way and maintenance obligations were determined by the Plan. While the Plan provided that the City would assume maintenance obligations for this site, the Port has an established maintenance program for the other sites and the Port has committed to providing maintenance for the 8<sup>th</sup> Avenue South site as well.

Most of the sites selected for public access were adjacent to the Port development site or in the immediate vicinity. The site at 8<sup>th</sup> Avenue South and South Portland Street is located the farthest distance from a Port project. The Plan notes that this site was specifically selected because there was an identified shortage of access to the Duwamish River in the South Park community and this site could help resolve that shortage.

The Plan provides that for the vacation of South Forest Street the Port shall be required to provide replacement public access at 8<sup>th</sup> Avenue South and South Portland Street. This site includes approximately 4,000 square feet of City street right-of-way and approximately 13,000 square feet of Port property; the public access site is approximately 0.4 acre in size. The site uses street right-of-way that is platted into the Duwamish River and has never been improved for street purposes.

Port ownership at the public access site is the result of construction of the Duwamish Waterway between 1910 and 1920. Much of the Port property is steep bank. The parcel is essentially a remnant from creating the channel for the river and has never been used for any industrial purpose.

Traveling north on 8<sup>th</sup> Avenue South (a north/south street) the street improvements end at South Portland Street (an east/west street). The public access site would lie just to the north of this intersection extending to the river. One block north of South Portland Street is another east/west street, South Riverside Drive, which also ends in the river. The Plan specifies that the site should include the following elements:

- Shoreline improvements,
- Picnicking,
- Landscaping and signage; and
- Extend to the north and connect with South Riverside Drive.

The current proposal from the Port provides the basic amenities as required by the Plan with a couple of updates. There has been a change in emphasis over time and the proposal now is much more focused on restoring a more natural shoreline and providing for more habitat restoration. This impacts the shoreline path and places a greater emphasis on providing for habitat rather than providing a linear pedestrian path along the entire shoreline.

In addition, the Port will follow newer crime prevention design standards and work to reduce the elevated berm on the site and provide for a very open public access area. These changes will result in a more open site so that pedestrians walking down 8<sup>th</sup> Avenue South can see into the entire site and see who is at the site and what activity is occurring. It will also result in a more natural shoreline with the landscaping and design elements geared toward protecting the habitat and natural features.

Street improvements include a new cross walk at 8<sup>th</sup> Avenue South, a sidewalk adjacent to the public access site and a passenger load/unload space. These improvements will enhance the site and provide for a safe transition from the street into the public access site.

The site itself currently has an elevated berm that hides visual access into the site. This will be regraded and replaced with a visually open area with an art or structural element suitable as a shoreline activity area, surrounded by a low seating wall. The site will also include a path leading to river access and a path that ends short of South Riverside Drive with a bench and a picnic table. The entire shoreline area will be "naturalized". The shoreline area extending north is proposed for habitat restoration and the area will not provide a pedestrian trail to the end of the site. Native upland and riparian shrubs, bushes, trees, and marsh grasses will be used throughout the site. Signage with information about the Duwamish industrial area or the natural environment will be provided.

The proposed public access site appears to have broad support from the adjacent South Park community. The Port held a number of community meetings and considered input from many community voices as the design for the site was developed. Many comment letters were received that supported the public access site and the design of the improvements. However, the adjacent industrial community has expressed strong concern about the proposal.

The comments in opposition overall seem to express concern that the encroachment of non-industrial uses into an industrial community can affect the viability of the industrial community. Concern was expressed that it was not appropriate to take property out of industrial use for park purposes. Concern was expressed that inviting the public into an industrial area was unsafe and the park area would attract criminal activity such as drug dealing or would encourage encampments. Comments noted that the area already had problems with criminal activity. Other comments stated that heavy truck traffic and

other industrial activity are inherently incompatible with pedestrians, especially young children.

Industrial businesses are critically important to the overall economy of the city and these businesses have little flexibility in where they can locate and where they can find sufficient space and appropriate zoning for their needs, space constraints are particularly acute for water related or water dependent uses. Concerns raised by the industrial community merit careful consideration.

In this instance, SDOT would conclude that the proposed public access site is appropriate in this location and can be safely designed and used by the public. Much of this site is comprised of public street right-of-way. Right-of-way is not property that is in use for industrial activities nor can it be used for such purposes. Right-of-way is public property that is designated for public purposes which would include public access. This proposed public access site does not take any industrial property out of industrial use. Whether or not the Port proceeded with the improvements, the area remains as public street right-of-way and available for use by the general public.

The Port parcel is a remnant from the construction activity that created the Duwamish River and has never been in use as a site for industrial activity.

The improvements proposed will visually open up the site and this should help reduce any use of the site for illegal purposes. Increased use of the site by the general public and an increase in "eyes on the site" should also help to discourage any inappropriate use of the site.

A number of the citizen comments on the vacation noted that South Park is a unique mix of industrial and residential. The public access site in this location is a reflection of this diversity of uses. 8<sup>th</sup> Avenue South contains both residences and industrial uses currently and these diverse uses have all learned to coexist. A Metro bus stop is located just a block or two down the street from the shoreline access site. A park and a community center are also just two blocks away. There is a concentrated core of industrial uses just to the west of the site, but access to the park does not require anyone to move through this industrial core.

A separate element of concern about the shoreline improvements has been the idea of connecting the public access to South Riverside Drive. South Riverside Drive ends in the Duwamish River but uplands it is a key street within the middle of the industrial uses. The proposed trail connection raised concern that the public would be invited to walk the path and then be led into an industrial area where it might be unsafe to walk. This concern should be resolved by the current design. The current design emphasizes shoreline and habitat restoration along the edge of the site and a pedestrian path is not planned to connect with South Riverside Drive at this time.

It should be noted, however, that the City may consider additional opportunities for shoreline and habitat restoration that would include portions of South Riverside Drive. The City's "Restore our Waters" project promotes restoration and environmental stewardship of shoreline areas. This project may consider additional work in this area building upon the restoration work started by the Port.

Overall, the proposal is consistent with the adopted Plan and is consistent with more current standards for safe design and shoreline and habitat restoration. Once completed, this site should be well-used and make a positive contribution to the South Park community.

It will be important for the Petitioner to continue to work with SDOT as the final design for the listed public benefits continues to evolve. The final design of the public benefit package must be accepted by SDOT.

### **RECOMMENDATION**

It is recommended that the vacation be granted upon the petitioner meeting the following conditions. The petitioner shall demonstrate that all conditions imposed by the City Council have been satisfied prior to the passage of the street vacation ordinance.

1. The vacation is granted to allow the petitioner to build a project substantially in conformity with the project presented to the City Council and for no other purpose. The project must be substantially in conformity with the proposal reviewed by the Transportation Committee in April of 2007.
2. All street improvements shall be designed to City standards and be reviewed and approved by Seattle Department of Transportation (SDOT); including all elements of the restoration of East Marginal Way South and other elements of the street improvement plan and required street improvements adjacent to the public access site at 8th Avenue South and South Portland Street. Specific issues to be addressed at East Marginal Way South include:
  - Restoration of East Marginal Way South roadway,
  - Restoration of the sidewalk and bicycle path adjacent to East Marginal Way South; and
  - Addressing any drainage issues related to the restoration.

Specific issues to be addressed at 8<sup>th</sup> Avenue South include:

- Sidewalks adjacent to the public access site;
- A crosswalk at 8<sup>th</sup> Avenue South; and
- Passenger load/unload space adjacent to the public access site.

3. The utility issues shall be resolved to the full satisfaction of the affected utility prior to the approval of the final vacation ordinance. Prior to the commencement of any development activity on the site, the Petitioner shall work with the affected utilities and provide for the protection of the utility facilities. This may include easements, restrictive covenants, relocation agreements, or acquisition of the utilities, which shall be at the sole expense of the petitioner. Utilities impacted include:
  - Seattle Public Utilities; and
  - Seattle Department of Transportation retaining wall easement.
4. It is expected that development activity will commence within 18 months of this approval and the development activity will be completed within five years. If the vacation cannot be completed within five years, the Petitioner must request an extension of time from the Transportation Committee. In order to insure timely compliance with the conditions imposed by the City Council, the petitioner shall provide Seattle Department of Transportation with Quarterly Reports, commencing following Council approval of the vacation, providing an update on the development activity and schedule and the progress on meeting the conditions.
5. In addition to the conditions imposed through the vacation process, the project, as it proceeds through the permitting process, is subject to SEPA and to conditioning pursuant to various City codes and through regulatory review processes including SEPA.
6. The Petitioner shall develop and maintain the public access site at 8<sup>th</sup> Avenue South and South Portland Street and the public access site shall include the following features:
  - Shoreline improvements, including natural shoreline enhancements and habitat restoration;
  - Picnicking, benches or seating and resting spots;
  - Landscaping and signage, including signage with historical or education purposes;
  - Regrading of the site to open visual access and landscaping in a manner that does not create hidden spots; and
  - Street improvements at the corner of 8<sup>th</sup> Avenue South and South Portland Street including sidewalks, crosswalk, and load/unload space for passengers.

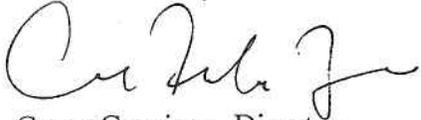
Honorable Jan Drago

04/13/07

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The Petitioner shall work with SDOT on the final design for the amenities and features at the public access site. SDOT must determine that the final design of the public benefit features is consistent with the requirements of the 1985 Duwamish Public Access Plan and requirements of the City Council. A Property Use and Development Agreement (PUDA) or other binding mechanism shall be required to insure the public access site remains open and accessible to the public and is well maintained.

Sincerely,



*for* Grace Crunican, Director  
Seattle Department of Transportation

GC:bb

Enclosures

