



Anne McEnery-Ogle, Mayor
Bart Hansen · Ty Stober · Linda Glover
Laurie Lebowsky · Erik Paulsen · Sarah J. Fox

May 17, 2021 - Vancouver City Council Meeting Minutes

WORKSHOPS

Workshops were conducted remotely over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting via the live broadcast on www.cvtv.org and CVTV cable channels 23 or HD 323, or on the City's Facebook page, www.facebook.com/VancouverUS, or listen via the GoToMeeting conference call.

Councilmember Glover absent.

4:00-6:00 p.m. Heights District Plan Implementation

Rebecca Kennedy, Long Range Planning Manager, 360-487-7896; Greg Turner, Land Use Manager, 360-487-7883

Summary

Staff provided Council with an update on the draft proposed regulatory standards for the Heights District and sought Council feedback on the draft standards.

REGULAR COUNCIL MEETING

This meeting was conducted remotely over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting via the live broadcast on www.cvtv.org and CVTV cable channels 23 or HD 323, or on the City's Facebook page, www.facebook.com/VancouverUS. Public access and testimony on Consent Agenda and Public Hearing items were also

facilitated via the GoToMeeting conference call.

Call to Order and Roll Call

The regular meeting of the Vancouver City Council was called to order at 6:30 p.m. by Mayor McEnerny-Ogle. This meeting was conducted remotely over video conference.

Present: Councilmembers Fox, Paulsen, Lebowsky, Stober, Hansen, Mayor McEnerny-Ogle

Absent: Councilmember Glover

Motion by Councilmember Lebowsky, seconded by Councilmember Paulsen, and carried unanimously to excuse Councilmember Glover.

Also present on the call were the following: Eric Holmes, City Manager; Brian Carlson, Deputy City Manager; Jonathan Young, City Attorney; Amanda Delapena, Assistant to the City Council; Brent Boger, Assistant City Attorney; Lisa Brandl, Deputy Finance Director; Chad Eiken, Community and Economic Development Director; David Galazin, Assistant City Attorney; Julie Hannon, Parks and Recreation Director; Rebecca Kennedy, Long Range Planning Manager; Katherine Kelly, Senior Transportation Policy Advisor; Udobong Obotette, Budget Analyst; Mark Person, Senior Planner; Cara Rene, Communications Director; Greg Turner, Land Use Manager; and members of the public.

Approval of Minutes

Minutes - April 26, 2021

Motion by Councilmember Fox, seconded by Councilmember Hansen, and carried unanimously to approve the meeting minutes of April 26, 2021. Councilmember Paulsen abstained.

Minutes - May 3, 2021

Motion by Councilmember Paulsen, seconded by Councilmember Stober, and carried unanimously to approve the meeting minutes of May 3, 2021. Councilmember Lebowsky abstained.

Community Communication (Item 1)

Mayor McEnerny-Ogle opened Community Communications and, receiving no testimony, closed Community Communications.

Consent Agenda (Item 1)

Motion by Councilmember Stober, seconded by Councilmember Paulsen, and carried unanimously to approve the Consent Agenda.

1. Approval of Claim Vouchers

Request: Approve claim vouchers for May 17, 2021.

Motion approved claim vouchers for May 17, 2021, in the amount of \$12,244,220.33.

Public Hearings (Items 2-4) - see general protocol above

2. HP Section 30 Master Plan

Staff Report 073-21

A RESOLUTION approving the proposed Master Plan for the HP Inc. ("HP") Master Plan development located within the Section 30 Subarea.

Summary

The property, which is located north of SE 1st Street and west of SE 184th Avenue has historically been used for aggregate resource extraction and processing uses. There are no existing structures on the site and very little vegetation except for some trees along the western property line. The proposed Master Plan will provide a framework for future development, which will be subject to site plan review.

Key issues raised during the public process include concerns about potential blocking of views to Mt. St. Helens from English Winery located to the south of HP; potential development of a public trail along the western boundary of the site; and an interest in having the applicant incorporate sustainable and climate-friendly measures into their design and structures.

- Regarding views, there are no maximum building heights in the ECX zoning district and the plan district states that building heights shall not be restricted within the Plan District. There is however a design guideline which is relevant: "Care should be taken to consider the impact of the proposed construction within 500 feet of homes adjacent to the southwest quarry slope on existing views of Mt. Hood." There is no regulation or design guideline that refers to view impacts to Mt. St. Helens, and no view corridor was established. The applicant has located buildings outside of the 500-foot area to comply with the design guideline.*

- *The Section 30 Plan envisions a public trail at the top of the western slope of the subject property. The Development Agreement approved by the City in December of 2019 allowed for construction of a 12-foot wide multi-use path next to SE 184th Avenue from SE 1st Street to SE 9th Street to satisfy the intent of a western trail. HP will construct the multi-use path adjacent to SE 184th Avenue as part of its development, and has stated that once a design and funding for a trail at the top of the western slope are identified, they would be willing to dedicate the area for the trail to the City. Parks staff will continue to work with HP and neighbors to determine how a trail in this location would fit with a broader trail system and potential sources of funding.*
- *HP is nationally recognized for its leadership on environmental sustainability-related issues and corporate environmental stewardship. For example, HP has set a company-wide goal to be carbon neutral in its operations by 2025, and operations will be zero waste in its managed facilities by 2025. HP submitted a detailed list of example sustainable strategies as part of the master plan, which include at least 10% of its stalls will be EV charging stalls, a robust tree canopy, integrated bike facilities, walking paths to transit and buildings, and innovative storm water measures, among others.*

The Planning Commission considered the above issues raised during the public process and determined that the proposed master plan complies with all applicable development standards and approval criteria, and unanimously recommended approval of the master plan to City Council on April 13, 2021.

Request: Subject to a public hearing, adopt a resolution approving the HP Section 30 Master Plan as conditioned in the April 1, 2021, Vancouver Planning Commission Staff Report.

Mark Person, Senior Planner, 360-487-7885

Staff provided an overview of the history of Section 30 Subarea site and development guidelines, an outline of the proposed master plan, and a summary of the public process to date.

Regarding the Section 30 development guidelines pertaining to consideration of the impact of construction to existing views of Mt. Hood, Councilmember Fox asked staff for clarification as to how they would interpret that standard. Mark Person, Senior Planner, explained that the subarea plan specifies consideration of view impacts of construction within 500 feet of neighboring properties, and staff would look at what development is specifically proposed and make an evaluation at that time. Chad Eiken, Community and Economic Development Director, explained that there is not more detailed guidance in

the subarea plan, but at this point, the applicant has not shown any proposed buildings within that 500 foot buffer, and staff would ensure that area remains clear at the time of site plan review.

Councilmember Stober noted this is a good example of something Council should consider with future subarea plans and be sure such development guidance is not this vague so future Councils and staff do not have to try to interpret such guidelines.

Representatives for the applicant, Hewlett-Packard (HP), presented the details of the proposed master plan and the development vision, including an overview HP's sustainability strategies.

Councilmember Stober asked what kind of HVAC technology HP intends to utilize in its buildings, noting it would be preferable to the Council if non-gas forms were relied upon. Todd Smith, representing HP, Inc., stated the company is monitoring the testing of new forms of building standards and is investigating what is possible to reduce energy consumption.

Mayor McEnerny-Ogle opened the public hearing and received the following testimony:

- Marian English, Vancouver, spoke regarding the proposed western perimeter trail and urged the inclusion of access points for the existing neighborhoods that would encourage pedestrian access and reduce vehicle traffic into the site.
- Maren Calvert, representing English Farm and English Estate Winery, spoke in opposition to HP's land use application for Section 30 (written comments and letter submitted on behalf of English Farm attached). Ms. Calvert stated HP's proposed buildings threaten the economic vitality of the winery and the master plan does not acknowledge or consider mitigation of these impacts. She stated because of these reasons, the master plan does not meet the requirement of the City's Comprehensive Plan, and she urged the Council to send the master plan back to the Planning Commission to complete this analysis.
- Don Jennings, Vancouver, spoke regarding the proposed trail on the site and urged the developers to set aside at least a 16-foot wide trail to accommodate pedestrians and bicycles.
- Jennifer Baker, President of Columbia River Economic Development Council, spoke in support of the master plan, stating the development will be a catalyst for unlocking more than 320 acres of employment land, and noting HP has made long-standing investments in Vancouver.

There being no further testimony, Mayor McEnerny-Ogle closed the public hearing.

Mayor McEnerny-Ogle asked whether there would be an opportunity to

prepare the street network internal to HP's development for broadband communication lines. Mr. Person stated that will be a decision left to the developer, as those streets would be private. The City streets surrounding the site would include that infrastructure.

Mayor McEnerny-Ogle asked staff to discuss the issue related to the view standards of Mt. St. Helens and the impacts to the English Winery. David Galazin, Assistant City Attorney, stated the inclusion of the winery in the subarea plan was intentional, as that entire area was to be thought of comprehensively when the plan was adopted. He noted it is typically the case when one thing is singled out, such as the view standards pertaining to existing views of Mt Hood, that the absence of other similar standards is considered to be intentional. He stated the views of Mt. St. Helens had been given no special consideration up to this point of the process, but there may be other considerations at the site plan approval point of the process.

Councilmember Fox expressed concerns about how the view corridors will be interpreted, as the absence of clarity may make property owners assume an unobstructed view should be guaranteed into the future, but such a guarantee could be fatal to the development. She suggested providing clarity about how these will be considered to the benefit of all parties.

Jennifer Bragar, representing the applicant, walked through photos of the site to provide clarification as to the site orientation. She stated approval of the master plan would not block view of any existing properties, as no buildings or heights will be determined at this point in the process. She noted the City's code does not require the applicant to submit proposed building heights at this point, only proposed building footprints. She asked the Council to consider the current and historical context in which the English Winery and any other businesses adjacent to the site have been operating, as the site historically has been used for heavy industrial purposes. She noted that the winery's tasting room currently does not have unobstructed views of Mt. St. Helens due to existing trees. Ms. Bragar referenced communication submitted to the Council (attached) in response to the winery's concerns and stated HP has done as much as possible to be responsive to concerns raised. She stated the applicant will look at the specific building heights and designs during site plan development.

Councilmember Fox stated she would like Council to come up with clarity for HP and neighbors of the Section 30 site related to the consideration of existing Mt. Hood views.

City Attorney Jonathan Young explained the Council has the option of approving the master plan as currently proposed, approving it with conditions, or denying it. He stated Council could ask staff to develop conditions related to the existing views and bring the master plan back to Council at a later date for approval.

Councilmember Paulsen stated he is sympathetic to the English Winery's concerns, but he stated he understands the requirement is to preserve the

economic value of the winery and he is unsure whether maintaining the view corridor would harm that economic value.

Motion by Councilmember Paulsen, seconded by Councilmember Hansen to approve the HP Section 30 Master Plan.

Mr. Young asked for confirmation that the intent of the motion and second was to approve the master plan and conditions as outlined in the Planning Commission staff report dated April 1, 2021. Councilmember Paulsen confirmed that was the intent of his motion. Councilmember Hansen confirmed that was the intent of his second to the motion.

Councilmember Fox stated she would vote in favor of approval but noted Council has not yet provided clarity in regards to consideration of the views, as provided for in the Section 30 subarea plan. She stated she hopes future subarea plans will include more deliberate language and stated Council has discussed this issue specific to Section 30 and it is not the intent to hold anyone to maintaining completely unobstructed views.

Councilmember Stober stated he is also sympathetic to concerns pertaining to the view corridors, but stated he looks at the potential benefits the development and increased density around the winery's property will likely bring to the business with increased potential customers. He stated if the site line issue can be better defined in some way for the future, it would be beneficial.

Motion approved unanimously adopted Resolution M-4126 approving the HP Section 30 Master Plan as conditioned in the April 1, 2021, Vancouver Planning Commission Staff Report.

3. **62nd Street Apartments proposal to change zoning map designation from R-18 to R-30 for a 2.5-acre site comprising three adjacent properties at 6115 NE 72nd Avenue, and 7215 and 7309 NE 63rd Street**

Staff Report 071-21

AN ORDINANCE relating to zoning for the City of Vancouver and Vancouver Municipal Code (VMC) Title 20; amending the Vancouver Zoning map designation for adjacent properties at 6115 NE 72nd Avenue, 7215 NE 63rd Street, and 7309 NE 63rd Street, tax lots 105120000, 105120010, and 105137000; providing for severability; and providing for an effective date.

Summary

The applicant argues that the rezone application would provide additional higher density housing that would increase options in the area and respond to the affordable housing crisis. The proposal would increase the potential

future development density on the site, from a possible 45 units under the existing R-18 zoning to 76 units under the proposed R-30 zoning, but public facilities and services appear adequate to meet the demand. Vehicle traffic would increase from approximately 234 to 415 daily trips, but no congestion or safety problems in the area are anticipated. Local existing middle and high schools can accommodate the additional students generated, and Walnut Grove Elementary School is in the process of being rebuilt with a larger facility. Compliance with City stormwater standards addressing runoff from the site will be required during Site Plan Review of any future apartment proposal. City Public Works staff recently visited the existing City drainage facility immediately west of the rezone site across 72nd Avenue and confirmed it was operating properly and not a likely potential sources of area flooding. Staff will monitor the drainage facility, and the retaining wall alongside 63rd Street. In addition, staff have been in direct communication with the community members that raised the flooding issue at the Planning Commission public hearing, and are working with them to understand and address their concerns.

Locational criteria for higher density residential zoning districts are contained in VMC 20.420.025, last updated in 2005. In 2018 changes were made to standards for reviewing zone changes under VMC 20.285 to eliminate direct reference to locational criteria for these and other zoning districts. The change was made because the locational criteria described how various zones might ideally be located if designing a new urban area for the first time, but were less relevant in evaluating proposed individual site-specific zoning changes in an increasingly developed setting. In addition, they generally do not reflect recent trends related to housing affordability and urbanization that have emerged over the last decade or more. The locational criteria were retained in the code to provide general and historical guidance until they could be revisited in the next major zoning code rewrite, but since 2018 have not been directly invoked as part of site-specific zone change proposals. Locational criteria for each zoning district will be updated as part of a planned Title 20 (Land Use and Development Code) overhaul, which will follow the forthcoming major update of the City's Comprehensive Plan.

Locational criteria for the existing and proposed zone in this case are as follows:

A. R-18 (Higher Density Residential) Zone Location Criteria. The R-18 designation is most appropriate in areas with the following characteristics and relationships to the surrounding area:

1. Areas occupied by a substantial amount of multifamily development, but where factors such as narrow streets, on-street parking congestion, local traffic congestion, lack of alleys and irregular street patterns restrict local access and circulation and make a lower intensity of development desirable.

2. Areas where properties are well-suited to multifamily development, but where adjacent single-family developments or public open space make a transitional scale of development (height and bulk) desirable. There should be a well-defined edge such as an arterial, open space, change in block pattern, topographic change or other significant feature that provides physical separation from the single-family area. (This is not a necessary condition where existing moderate scale multifamily structures have already established the scale relationship with abutting single-family areas).

3. Properties must have access from collector or arterial streets, such that vehicular travel to and from the site is not required to use local access streets through lower density residential zones.

C. R-30 (Higher Density Residential) Zone Location Criteria. The R-30 designation is most appropriate in areas with the following characteristics and relationships to the surrounding area:

1. Areas that are already developed predominantly to the permitted R-30 density, or areas that are within an urban center, or identified in an adopted sub-area plan as appropriate for higher density multifamily housing.

2. Properties in close proximity to major employment centers, open space and recreational facilities.

3. Areas with well-defined edges such as an arterial, open space, change in block pattern, topographic change or other significant feature providing sufficient separation from adjacent areas of small scale residential development, or areas should be separated by other zones providing a transition in the height, scale and density of development.

4. Areas that are served by major arterials, where transit service is good to excellent, and where street capacity could absorb the traffic generated by higher density development.

5. Principal streets in the area shall be sufficient to allow for two (2) way traffic and parking on both sides of the street. Vehicular access to the area shall not require use of streets passing through lower density residential zones.

6. Areas of sufficient size to promote a high quality, higher density residential environment with close proximity (and good pedestrian connections) to public open spaces, neighborhood oriented commercial services, and other residential amenities.

The 2018 changes that reduced the weight of the locational criteria for rezones were also intended to reflect increasing concerns over housing choice and affordability. If considered in isolation, the R-30 locational language in C.1. above might prohibit application of that zone on individual parcels or small groups of parcels, even where compatible with surrounding uses.

The issue of whether the R-30 zone was appropriate on this site given the existing surrounding zoning was raised by a Planning Commissioner at the January 12 workshop. Staff acknowledged that the zone change appears on the map as a new incursion into a larger area of R-18 zoning, but was not necessarily problematic from a policy standpoint.

Request: On Monday, May 17, 2021, subject to second reading and public hearing, approve the ordinance.

Bryan Snodgrass, Principal Planner, 360-487-7946

Mayor McEnerny-Ogle read the title of the ordinance into the record.

City Attorney Jonathan Young stated Council would be hearing a proposal to change the zoning map designation for the 62nd Street Apartments from R-18 to R30 and noted the Council would be sitting as a quasi-judicial body for this hearing. He stated the Council's decision will be based upon the written materials provided to them, the testimony and argument that will be made during the hearing, the record made before the Planning Commission, and the recommendation of the Planning Commission. Mr. Young outlined the process for proceeding with this hearing. He stated the Council would be asked to disclose any ex parte communication or other Appearance of Fairness issues. Following public testimony, Council should discuss and make a decision as to whether it is in agreement with the Planning Commission that the proposed change a) is more consistent with the applicable policies of the Vancouver Strategic Plan and Comprehensive Plan than the existing designation; and b) that a change in circumstances has occurred since the existing designation was established.

Mayor McEnerny-Ogle declared the hearing open.

Mr. Young stated the City Attorney's Office conducted an email search for any emails sent or received by any member of the City Council, starting with the date of the application on this matter, which was May 25, 2020, pertaining to this application, and determined there were no messages requiring disclosure.

Mr. Young then asked each member of the Council to disclose any direct or indirect financial benefit they could derive from the decision to grant or deny the requested rezone; any ex parte communication they have had about the requested rezone since the date of the application on May 25, 2020; and whether they are prepared to listen to all of the testimony and consider all of the evidence presented before making up their mind about the matter.

Councilmember Fox reported nothing to disclose.

Councilmember Paulsen reported nothing to disclose.

Councilmember Lebowsky reported nothing to disclose.

Councilmember Stober reported nothing to disclose.

Councilmember Hansen reported nothing to disclose.

Mayor McEnerny-Ogle reported nothing to disclose.

The hearing was opened to all members of the public present on the video conference or on the phone to provide any testimony regarding any of the Council's Appearance of Fairness disclosures. No testimony was received.

Bryan Snodgrass, Principal Planner, provided an overview of the proposed zoning redesignation.

Councilmember Stober asked when the urban high density designation was adopted for the parcel. Mr. Snodgrass stated that was the County's designation at the time the parcel was annexed into the City at the most comparable zoning designation. Councilmember Stober also asked what the anticipated population of school age residents would be if the development was built as envisioned. Mr. Snodgrass stated the school district did not provide a specific number, but typically developments of this size increase school age population by very minimal amounts.

Councilmember Stober noted previous testimony by the applicant indicated they were making an attempt to purchase the corner lot. He asked what the zoning process would be if that purchase was completed in order to bring it into the development. Mr. Snodgrass stated the applicant could pursue a rezone of the lot or potentially develop only that parcel under the current R-18 zoning. Jayson Taylor, representing the applicant, stated he believes the applicant is no longer pursuing that corner property, but if it was purchased in the future, it would be developed under the R-18 zoning and four to five units could be added to the overall development.

Councilmember Stober asked why access along 72nd Street would be limited to emergency vehicles only. Mr. Snodgrass stated he believes it was proposed by the applicant and evaluated by City transportation staff.

Councilmember Stober stated he assumed this Comprehensive Plan designation has been in place for a long time and the Vancouver housing emergency was declared long after that, but he was not certain. City Manager Eric Holmes stated the property was brought into the city as part of the Van Mall North annexation in 2017 under the City's zoning designation that was equivalent to the County designation at the time. He stated the City declared a housing emergency, but primarily for Council to be able to access a specific voter-approved tax, which is very different from a declaration of a state of emergency like that the City is operating under for the COVID-19 pandemic.

Mayor McEnerny-Ogle opened public testimony and heard the following:

- LeAnne Bremer, representing the applicant, stated the parcel's prior zoning under the County was medium residential. She stated the Affordable Housing Task Force was in place prior to the property being annexed into the City, but the City's Strategic Plan was changed in 2018 to include a need for providing a range of housing options, which the developer believes would be accomplished by this project.
- Travis Johnson, PLS Engineering, representing the applicant, explained the emergency access on the west side of the property was recommended by City transportation staff, as it is in close proximity to 63rd Street. City staff thought it would not be safe nor necessary to have public access at that point.
- Jayson Taylor, PLS Engineering, provided details about the site and proposed development features pertaining to stormwater infrastructure, proposed landscaping and buffers.

Mr. Snodgrass confirmed for Council that the Clark County Urban High Density zoning designation of the parcel prior to annexation into the city existed as far back as 2007.

Councilmember Fox stated her biggest concern is how consistent the proposed R-30 zoning would be with the Comprehensive Plan and Strategic Plan and with the surrounding neighborhood.

Motion by Councilmember Fox, seconded by Councilmember Paulsen to consider approval of rezoning of the properties at 6115 NE 72nd Avenue, and 7215 and 7309 NE 63rd Street to an R-22 zoning designation.

Councilmember Paulsen stated he gives deference to the Planning Commission, but going from R-18 to R-30 is a considerable jump in density when looking at the surrounding area of this site, especially as it is transitioning down to a lower density. He stated the Council should strive to create transitional zones between changes in density.

There being no further testimony, Mayor McEnerny-Ogle closed public testimony

Councilmember Hansen stated he would support the motion due to the same reasons stated by other Councilmembers.

Councilmember Stober stated he toured the site and noted the differences in elevations in property, the distances from other uses, and he feels like the proposed development could be integrated at the R-30 designation without significant impacts to the surrounding properties, and therefore he would not be supporting the motion.

Mayor McEnerny-Ogle stated she looked at this big jump in density and at

other areas zoned R-30 and noted the concentrated transit, walkability, access to grocery stores, and other amenities in those areas. She stated she would support the motion.

Mr. Young stated that procedurally, if Council would like to consider the rezone at a designation other than the proposed R-30, Council would need to return the item to staff with that direction so the SEPA process could be repeated at the R-22 zoning. He stated the Council does not have the enacting documents for an R-22 designation before them at this hearing.

Mr. Holmes noted the action would also require a second first reading and second reading once it is returned to Council.

Motion to consider approval of rezoning the subject sites at the R-22 zoning designation approved 4-2. Councilmembers Lebowsky and Stober voted No. Item returned to staff to complete subject SEPA process prior to Council action on the rezone.

4. Six-month extension of temporary moratorium prohibiting the establishment of new, or expansion of existing, large-scale fossil fuel facilities

Staff Report 072-21

AN ORDINANCE further extending for an additional period of six months the moratorium first enacted by Ordinance No. M-4295, and extended by Ordinance No. M-4323, prohibiting the establishment of new, or expansion of existing, large-scale fossil fuel facilities; directing staff to continue efforts to develop recommendations addressing the circumstances necessitating the moratorium; and establishing an effective date.

Summary

The current moratorium prohibits the acceptance, processing, and granting of applications for permits for establishment of new, or expansion of existing, large-scale fossil fuel facilities until June 8, 2021. This provides time for work to continue on updates to the Strategic Plan, VCCV, Title 20 updates, and the drafting of a Climate Action Plan. This extension would keep the current moratorium in place until December 8, 2021.

Request: On Monday, May 17, 2021, subject to second reading and public hearing, approve the ordinance.

Aaron Lande, Policy and Program Manager, 360-487-8612

Mayor McEnemy-Ogle read the title of the ordinance into the record.

Aaron Lande, Policy and Program Manager, provided an overview of the request and remaining work plan.

Councilmember Paulsen asked whether staff anticipates needing an additional extension of the moratorium to complete the work. Mr. Lande stated it is his intent to bring back a policy for Council's action prior to extension of this latest extension, if Council approves it. Councilmember Paulsen stated his support for this extension is contingent on that timeline.

Mayor McEnerny-Ogle opened the public hearing and received the following testimony:

- Teresa Hardy, Vancouver, spoke in support of the moratorium extension.
- Megan Sarkissian, Ridgefield, Washington, spoke in support of the moratorium extension.
- Rebecca Ponzio, Seattle, Washington, representing the Washington Environmental Council, spoke in support of the moratorium extension.
- Den Mark Wichar, Vancouver, spoke in support of the moratorium extension.
- Anita Thomas, Vancouver, spoke in support of the moratorium extension.
- Diane Chan, Vancouver, spoke in support of the moratorium extension.
- Heidi Cody, Vancouver, spoke in support of the moratorium extension.
- Ryan Welch, Vancouver, spoke in support of the moratorium extension.
- Don Steinke, Vancouver, spoke in support of the moratorium extension.
- Alona Steinke, Vancouver, spoke in support of the moratorium extension.
- Jean Avery, Vancouver, spoke in support of the moratorium extension.
- Monica Zazueta, Vancouver, spoke in support of the moratorium extension.
- Mark Leed, Vancouver, spoke in support of the moratorium extension.
- Miya Burke, Portland, Oregon, representing Columbia Riverkeeper, spoke in support of the moratorium extension.
- Cathryn Chudy, Vancouver, spoke in support of the moratorium extension.
- Dan Serres, Portland, Oregon, representing Columbia Riverkeeper, spoke in support of the moratorium extension.

- Tracy Ceravolo, Ridgefield, Washington, spoke in support of the moratorium extension.
- Caroline Ceravolo, Ridgefield, Washington, spoke in support of the moratorium extension.
- Caleb Ceravolo, Ridgefield, Washington, spoke in support of the moratorium extension.
- Michel Maupoux, Vancouver, spoke in support of the moratorium extension.
- Genevieve Fisher, Vancouver, representing The Minority Coalition, spoke in support of the moratorium extension.
- Kate Murphy, Portland, Oregon, representing Columbia Riverkeeper, spoke in support of the moratorium extension.
- Stan Freidberg, Vancouver, spoke in support of the moratorium extension.
- Ryan Tabor, spoke in support of the moratorium extension.

There being no further testimony, Mayor McEnerny-Ogle closed the public hearing.

Motion by Councilmember Stober, seconded by Councilmember Lebowsky, and carried unanimously to approve Ordinance M-4335.

Communications

A. From the Council

B. From the Mayor

C. From the City Manager

a. Interstate Bridge Replacement (IBR) Project Update

Frank Green, IBR Assistant Program Administrator, and Chris Regan, IBR Environmental Manager, provided Council with an update on the Interstate Bridge Replacement Project.

b. Unfreezing Positions

City Manager Eric Holmes updated Council on a proposal to unfreeze and

immediately recruit for twenty vacant City positions that were frozen at the beginning of the pandemic upon approval of the first supplemental budget for 2021 to be considered by Council in June.

Adjournment

10:14 p.m.

DocuSigned by:

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Anne McEnerny-Ogle, Mayor

Attest:

DocuSigned by:

BCF6734E40E94AE...
Natasha Ramras, City Clerk

Meetings of the Vancouver City Council are electronically recorded on audio and video. The audio files are kept on file in the office of the City Clerk for a period of six years.

5/17 City Council Workshop Comments

Maren L. Calvert, on behalf of the English Estate Winery

The Growth Management Act requires City Council to consider all development proposals in the context of – and make sure they are consistent with – the City’s Comprehensive Plan. Because the Section 30 Subarea Plan is part of Vancouver’s Comprehensive Plan, tonight, I will quote several portions of it which demonstrate HP’s proposed development is not ready for a vote.

The City has been laboring for over a decade to coordinate the annexation and development of Section 30. In doing so, the City was very careful to involve the public in the planning process. Documenting that effort, the purpose of the Section 30 Subarea Plan is twofold: it (1) outlines the Section 30 vision and concept plan, and (2) it **“recognizes and respects existing property owner development agreements.”**¹ The Plan expressly recognizes that creating reality from its vision **“must be based on realistic principles that encompass the needs of the city, property owners and adjoining neighbors.”**²

In that vein, the Plan identifies certain properties with **“unique existing uses that plan to remain”**³ and calls them “key properties.”⁴

- The English Winery has a development agreement with the City and is one of those key properties.

In fact, the Subarea Plan explains the English Winery will **“create opportunities for growth and transformation in the future.”**⁵ Furthermore, the Plan says: **“retention of a small vineyard on the site is important to the character of the overall development and provides an aesthetic amenity to the community.”**⁶

The vision for Section 30 expressly recognizes the…… **“benefit[s] from”** convenient shopping, recreation, walking on trails **“and the amenities of interesting vistas, public plazas, and green spaces that promote a healthy, prosperous economy and lifestyle.”**⁷

Page 34 expressly requires developers to consider topography and elevations, noting that tall berms along property lines **“will detract from the overall development potential...because [they] will obscure sight lines....”**⁸

¹ See City of Vancouver, Section 30 Urban Employment Center, dated 10/5/2009, p. 1 (“Section 30 Subarea Plan” or the “Plan”), available at: https://www.cityofvancouver.us/sites/default/files/fileattachments/community_and_economic_development/page/1415

[/section30.pdf](#), accessed on 5/17/2021.

² Page 17

³ Page 18

⁴ Page 5

⁵ Page 22

⁶ Page 23

⁷ Page 17

⁸ Page 34 (sentence continues...” impair internal connectivity, and segregate land uses. That outcome would be inconsistent with this plan.”)

Thus, the Section 30 plan is replete with references to sightlines and vistas for all portions of the Section 30 property. Its protections are not limited to Mt. Hood views, as claimed.

The Section 30 Plan explicitly recognizes the aesthetic value of the English Winery and acknowledges its “retention...**is important.**”⁹

Land Use Policy 21 in the Plan, requires master plans to “[e]ncourage the preservation and economic vitality of the English Vineyard and Winery.”

(Urban Design) UD-13¹⁰ and (Grade Elevation) GE-1,¹¹ as mentioned in our previous written submission, require developers to analyze building orientation and impacts on adjacent properties.

- UD – 1 **Ensure compatibility between different land uses through careful site design.**¹²
- UD – 2 **Recognize existing uses that will not redevelop in the foreseeable future, and provide adequate screening for new development where appropriate.**
- MS – 3 Require a master plan development approach that supports development of all properties by **ensuring compatible development, appropriate buffers or screening**, transitional grades, efficient extension of public utility services, and effective transportation and pedestrian connectivity.

Compliance with these policies is not optional. Master plan policy MS – 2 directs use of the master planning process **to ensure development is consistent with the goals and policies of the Subarea Plan.**¹³

Compliance with these policies is important because, “[f]ailure to coordinate” elevations and grades in Section 30 “**may work for one or two property owners to maximize short-term return, but the long term cost in lost potential for the entire subarea will be substantial.**”¹⁴ Development must “**be fair to all**”¹⁵ and “[c]ooperation between property owners will be a **most important determinate...**” of success.¹⁶

⁹ Page 23

¹⁰ “**Site design should orient building entrances to street frontages, pedestrian ways or plazas in a manner consistent with an overall project concept and complementary with the approach to building orientation in adjacent development.**”

¹¹ “**Master Plans for individual developments should include analysis of grade transitions on development sites and potential impacts on adjacent properties.**”

¹² Page 31

¹³ Page 30 (“Use master planning to direct development proposals over time, consistent with the goals and policies of this plan.”); *see also* Page 65 (“These words must take the form of action to realize the vision and policies of Section 30.”)

¹⁴ Page 34

¹⁵ Page 29

¹⁶ Page 65 (sentence continues with “in the creation of quality urban communities and economic success of any pursued ventures.”)

The English Winery is attempting to cooperate. The Winery is NOT opposing the HP development outright. HP is an important and valued community partner. But cooperation is a two way street.

HP's proposed buildings, in their current location and orientation threaten the economic vitality of the English Winery. HP's Master Plan does not acknowledge this or consider options to mitigate its harms. For these reasons, HP's Master Plan does not meet the requirements of the City's Comprehensive Plan and HP should be required to go back to the Planning Commission to accomplish the mandatory analyses.

HP's development should not be allowed to harm the economic vitality of the English Estate Winery.

Thank you for your time.



BUSINESS
LAND USE
REAL ESTATE
GOVERNMENT STRATEGIES

Maren L. Calvert
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(360) 597-0978 Dir Tel & Fax

May 13, 2021

VIA EMAIL: mark.person@cityofvancouver.us

Mayor Anne McEnerny-Ogle
City Council
City of Vancouver
Attn: Mark Person
Community Development
PO Box 9810
Vancouver, WA 98660-9810

**Re: HP Master Plan – Section 30 – PRJ-165336/LUP-79900
Letter Opposing Application as Drafted**

Dear Mayor McEnerny-Ogle and City Council:

We represent English Farm, LLC, the owner of real property located at 17806 SE 1st Street, Vancouver, Washington 98684, adjacent to and southwest of the proposed HP Section 30 development.¹ The English Estate Winery (the “English Winery”) operates on that property. We write in opposition to the pending HP Master Plan land use application submitted by JLL and HP, Inc., the property owner of Parcels 176376000, 176416000, 176417000, 176424000, 176380000, 176387000 and 176374000 in the City of Vancouver.

The English Winery does not oppose the HP development outright. To the contrary, the Winery recognizes HP’s long-time presence in and contributions to the community. The Winery is excited about the benefits and improvements HP can bring to the community. HP’s Master Plan, though, is not ready for prime time and, contrary to the City’s Staff Report 073-21, is not ready for a City Council vote.²

VMC chapter 20.690

The City’s Staff Report 073-21 does not substantively analyze whether HP’s application meets the Section 30 Subarea master plan requirements. Instead, it relies on the 4/1/2021 Staff Report, issued in preparation for the Planning Commission’s 4/13/2021 hearing on the HP Master Plan.

¹ See Attachment 1, Jennifer English Wallenberg’s Testimony for Vancouver City Council, map at p. 4 (hereinafter “Wallenberg Testimony”).

² See <https://vancouvercity.novusagenda.com/agendapublic/CoverSheet.aspx?ItemID=1924&MeetingID=232>, accessed on 5/11/2021.

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4823-7532-3369, v. 2

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The 4/1 Staff Report properly identified VMC chapter 20.690 as an applicable regulation governing the development of the HP property.³ It did not, however, explain that the explicitly stated purpose of the Section 30 Subarea Plan is to “**maintain and enhance property values...and ensure that each development or project fits with its neighbors** and within the Subarea.” VMC 20.690.010 (emphasis added).⁴

As proposed, the HP development will decrease (and potentially destroy) the English Winery’s property values as a grape- and wine-producing winery. HP’s Master Plan does not meet the purpose of chapter 20.690, because it does not explain whether or how its proposed development “fits” with its neighbors.

The 4/1 Staff Report also does not explain that VMC 20.690.050.B requires a Section 30 Subarea master plan analyze “**impacts [of the proposed development] to the adjacent properties and mitigation proposed**” to relieve those impacts. (Emphasis added).⁵ As explained below, the HP Master Plan does not satisfy this requirement.

HP’s failure to address these mandatory items in VMC chapter 20.690 is not a minor oversight. These omissions violate state law and the City’s Comprehensive Plan and cannot be overlooked.

Growth Management Act and Comprehensive Plan

Washington’s Growth Management Act (the “GMA”) requires all land use applications in the City of Vancouver to be reviewed in the context of and to be consistent with the City of Vancouver Comprehensive Plan. *See* RCW 36.70A.120. The GMA authorizes the City to enact subarea plans as part of its comprehensive planning process. *See* RCW 36.70A.080(2). The City recognizes and utilizes this authority, explaining: “[t]he adoption and incorporation of subarea plans into the Comprehensive Plan **adds greater detail, guidance and predictability to future development.**”⁶

Subarea plans – such as the Section 30 Urban Employment Center – are part of and are incorporated into the City of Vancouver’s Comprehensive Plan by reference.⁷ Consequently, the City is obligated by state law and City Code to consider and address the requirements of the Section 30 Subarea Plan *in addition to* the provisions of VMC chapter 20.690.

³ *See* 4/1 Staff Report at p. 6.

⁴ The 4/1 Staff Report does not mention this section of the City Code.

⁵ *See also* VMC 20.690.060.A (“To fully realize future development opportunities, **thoughtful placement of initial buildings** and parking areas **is essential.**”) (Emphasis added). The 4/1 Staff Report does not address this section of City Code.

⁶ *See* <https://www.cityofvancouver.us/ced/page/subarea-and-action-plans>, accessed on 5/10/2021 (emphasis added).

⁷ *See* City of Vancouver Comprehensive Plan 2011-2030, at p. ii (Comprehensive “Plan policies are implemented through subarea plans and provisions of the Vancouver Municipal Code and other local standards”) and p. 1-7 (Identifying the Section 30 and other subarea plans and stating: “These subarea plans are adopted as part of the Comprehensive Plan by reference.”). The City’s Comprehensive Plan is available at: https://www.cityofvancouver.us/sites/default/files/fileattachments/community_and_economic_development/page/874/vancouver_comprehensive_plan_2011-2030_2018_update1.pdf, accessed on 5/10/2021. *See also* Ordinance No M-3930 (adopting the Section 30 Subarea Plan “as part of the Comprehensive Plan”), a copy of which is attached to Ms. Bragar’s Letter at Attachment 1, pp. 2, 3-4, 6, 33.

Section 30 Subarea Plan

The Section 30 Subarea Plan identifies the English Vineyard and Winery as a “key existing property and use” adjacent to Section 30, that “contribute[s] to the character and the economic base of Section 30.”⁸ The Subarea Plan recognizes the “unique commercial agriculture enterprise” of the English Winery, and acknowledges the “jobs, retail trade and aesthetic contribution” the Winery brings to the City.⁹ In fact, the Section 30 Subarea Plan mentions the Winery no less than 14 times. The Section 30 Subarea Plan expressly establishes a “special” section of Land Use Policies specifically designed to protect the **English Vineyard and Winery**:

LU – 21 **Encourage the preservation and economic vitality of the English Vineyard and Winery.**

LU – 22 Establish guidelines and standards to **reduce possible agriculture impacts** to adjacent residences.¹⁰

HP’s Master Plan and the City’s 4/1 Staff Report to the Planning Commission fail to mention – let alone analyze or consider – these land use policies. In fact, HP’s Section 30 Master Plan Compliance Matrix expressly says these land use policies are “not applicable.”

Even if the English Winery were not explicitly protected in the Section 30 Subarea Plan, the following more general urban design and grading/elevation policies in the Subarea Plan would still apply:

UD - 13 Site design should orient building entrances to street frontages, pedestrian ways or plazas in a manner consistent with an overall project concept and **complementary with the approach to building orientation in adjacent development**.¹¹

GE - 1 Master Plans for individual developments should include analysis of grade transitions on development sites and **potential impacts on adjacent properties**.¹²

⁸ See City of Vancouver, Section 30 Urban Employment Center, dated 10/5/2009, pp. 5 & 13 (“Section 30 Subarea Plan”), available at:

https://www.cityofvancouver.us/sites/default/files/fileattachments/community_and_economic_development/page/1415/section30.pdf, accessed on 5/10/2021.

⁹ *Id.* at p. 13.

¹⁰ *Id.* at p. 28 (emphases added).

¹¹ *Id.* at p. 32 (emphasis added). See also VMC 20.690.060.A (“To fully realize future development opportunities, thoughtful placement of initial buildings and parking areas is essential.”). HP’s Compliance Matrix indicates this policy is addressed in section 2.3 of the Master Plan, but section 2.3 does not address building orientation and the impact of those buildings on the English Winery.

¹² Section 30 Subarea Plan at p. 35 (emphasis added). The elevation difference between the proposed HP development and the vineyard is roughly 42 feet. HP’s Compliance Matrix indicates this policy is addressed in section 2.2 of the Master Plan; section 2.2 admits the English Winery property is at a different elevation but does not address potential impacts of the development on the Winery.

May 13, 2021
 Page 4

HP's Master Plan and the City's 4/1 Staff Report fail to mention – let alone analyze or consider – these policies either.

In response to the English Winery's objections about the impact of the proposed HP development, HP's attorney, Ms. Bragar attempts to reassure City Council by claiming any impact on the Winery would be insignificant.¹³ There are several reasons City Council should not feel reassured.

First, City Code requires HP's master plan to address the issues outlined above. HP's Master Plan does not. Ms. Bragar's Letter does not change that fact. Second, Ms. Bragar's Letter does not identify or discuss any of the four Comprehensive Plan policies listed above. Approving HP's Master Plan in its current form, without considering express Section 30 Subarea Plan policies, would violate the GMA and constitute reversible error. Third, Ms. Bragar's Letter does not consider the English Winery's vested right to continue grape growing, wine producing and event-hosting, under its Development Agreement with the City.

English Family Development Agreement

In 2007, the City Council passed Resolution No. M-3645, approving a pre-annexation Development Agreement between the Carl English Family and the City of Vancouver. The Resolution stated: "the City and the owner wish to provide increased predictability to both parties" regarding Section 30 land use planning and wanted to ensure "vested winery-related uses can continue on the [English Winery] property."¹⁴

In the Development Agreement, the City expressly agreed the English Winery "shall be allowed" to continue growing grapes, producing wine, hosting events (and other listed activities) notwithstanding any future development in Section 30, until the English family decides to abandon such uses.¹⁵

Two years later, the City reaffirmed that promise in 2009 when it required all Section 30 master plans to preserve the "economic vitality of the English Vineyard and Winery" and to meet guidelines and standards to "reduce possible agriculture impacts."

The City is required by its contractual obligations in the Development Agreement and the express land use policies in the Section 30 Subarea Plan to preserve and protect the economic vitality of the English Winery – or at a minimum, the City must at least

DocuSigned by:

Anne McEnerny-Ogle

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¹³ Applicant's Response to Additional Public Comments letter written by Jennifer Bragar to Mayor McEnerny-Ogle and City Council, dated 5/4/2021 ("Ms. Bragar's Letter").

¹⁴ See *id.*, Attachment 6, p. 12.

¹⁵ See *id.*, Attachment 6, p. 13, ¶3.

consider whether HP's proposed Section 30 master plan hinders the Winery's ability to continue operating.¹⁶ Failing to do so would be reversible error.¹⁷

Impact of HP's Proposed Buildings on English Winery

HP proposes to build 1.5 million square feet of buildings up to 93 feet tall, some of which are 436 feet long and/or 124 feet wide. Ms. Bragar asserts these buildings will have an insignificant impact on the English Winery because the Winery can simply build taller buildings or could sell its land and move. These arguments miss the point.

The English Winery is more than just a tasting room with a view. As explained in the enclosed Historic Inventory Report by the Washington Department of Archaeology & Historic Preservation (DAHP), "[t]he extended period of agricultural use by one family exhibited at the English Farm makes it a unique resource in Clark County."¹⁸ It is the birthplace and childhood home of "noted botanist and landscape architect Carl S. English, Jr."¹⁹ The Winery preserves and continues to utilize several historical buildings and landscape features that are representative of nineteenth century family farms that were once ubiquitous in Clark County. DAHP recommends the Winery be included on the National Register of Historic Places.²⁰ Installing a multi-story modern view tower on this property would drastically diminish its historic value.

Furthermore, the English Winery grows 100% of the grapes it uses to produce its wines. Those grapes depend on proper wind and sun to grow.

Winds from the northeast – precisely the location HP plans to build 1.5 million square feet of buildings – are critical to the terroir and disease-prevention strategy of English Winery's vineyard. Buildings of the size, height, and orientation HP proposes are likely to obstruct or change wind patterns, producing "eddies" which significantly alter wind speed and direction. As the enclosed Wallenberg Testimony reveals, the impact of those changes may be substantial on the English Winery. Eddies may change grape-growing patterns and, if the wind is mostly or entirely blocked, the Winery will be subject to increasing risk of grape diseases.²¹

¹⁶ See RCW 36.70A.040 (city "[d]evelopment regulations must implement comprehensive plans"); RCW 36.70A.120 (each city that creates a comprehensive plan under the GMA, "shall perform its activities...in conformity with its comprehensive plan"); *1000 Friends of Wash. v. McFarland*, 159 Wn.2d 165, 180, 149 P.3d 616, 625 (2006) ("By both explicit goal and by structure, the GMA seeks coordinated planning.").

¹⁷ See *Keystone Dev. v. City of Seattle*, No. 35882-1-I, 1996 Wash. App. LEXIS 360, at *1 (Ct. App. Sep. 9, 1996) (reversing summary judgment in favor of the city because development agreement was an enforceable contract); RCW 36.70A.020 (GMA comprehensive planning goals include (6) protecting property rights from arbitrary and discriminatory actions; (8) maintaining and enhancing agricultural industries, encouraging conservation of "productive agricultural lands, and discourag[ing] incompatible uses"); *City of Redmond v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 136 Wn.2d 38, 59, 959 P.2d 1091, 1099 (1998) (reversing decision that frustrated the stated purposes of the GMA).

¹⁸ Attachment 2.

¹⁹ *Id.*

²⁰ *Id.*

²¹ See Attachment 1.

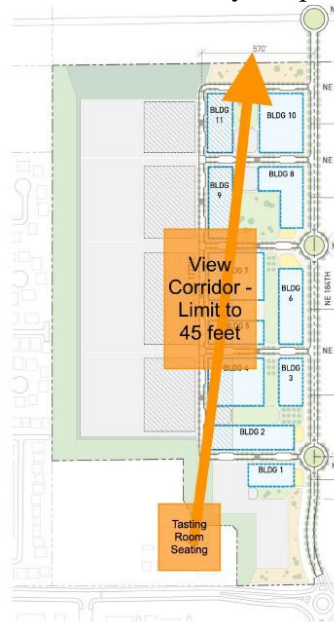
May 13, 2021
 Page 6

HP's Master Plan does not consider any of these concerns, in violation of VMC 20.690.050.B (which requires Section 30 masters plan to analyze the impacts of proposed developments on adjacent properties).²² HP should be required to provide a rendering of the wind eddies and windflow blockages that will occur, with and without the HP buildings present. Such an analysis should depict wind vectors to show any alteration in velocity (direction and speed), across the English Winery property. HP should then propose mitigation measures for any damage its proposed development will cause, as required by section VMC 20.690.050.B.

HP should also be required to provide its morning shadowcast projections (sunrise to solar noon) on the first day of spring, first day of summer, and first day of fall. If the buildings block proper access to sunlight, they obviously will interfere with the English Winery's grape and wine production.²³ HP should also provide mitigation plans to remedy any such harms.

If the buildings are made of exterior reflective material, they might also cause the English Winery's grapes to sunburn. If HP's proposed buildings will increase the chance of sunburning the Winery's grapes, HP should modify its exterior finish plans or propose some other mitigation effort.

Finally, HP cannot deny the orientation of HP's proposed buildings will significantly block the English Winery's view of Mount St. Helens and the surrounding area. The surroundings, views, history, ambience, culture, and natural beauty of a winery is an important part of a wine consumer's experience. As the picture below demonstrates, the open space and mountain views that currently exist from the English Winery will be all but obliterated by the proposed development.



²² See also VMC 20.690.060.A (acknowledging thoughtful building placement is crucial); Section 30 Subarea Plan policy UD-13 (requiring all master plans to ensure buildings are oriented to complement adjacent developments).

²³ Prolonged shadowcast will cause prolonged dew (leaf wetness), cooler temperatures, and higher potential for disease – all of which change the flavor profile and health of grapes.



HP is aware that mountain views are important and has promised to take them into consideration for residential neighbors to the west.²⁴ Ms. Bragar and the Assistant City Attorney argue that because residential views are expressly protected in Design Guideline A.6.1.a, which mentions residential views of Mt. Hood areas but does not mention the English Winery or Mt. St. Helens, mountain views at the English Winery are expressly excluded from protection.²⁵ These conclusions are incorrect.

As explained above, Section 30 Subarea Plan land use policy LU-21 expressly encourages and preserves the economic vitality of the English Winery. **Period.** HP and the City cannot interpret the Design Guideline A.6.1.a in a manner that frustrates the express language of this policy. Nor can HP or the City reasonably argue mountain views do not affect the economic vitality of a consumer/retail business. As the attached opinion from Dr. Stephen S. Meharg, a Certified Specialist of Wine, explains the impacts of the loss of ambience and mountain views from the English Winery will be substantial.²⁶

Ms. Bragar and the Assistant City Attorney also base their opinions on the lack of building height limits for ECX zoned properties in Section 30.²⁷ This is a mistake. The English Winery is not objecting to the height of the buildings per se – but rather the orientation of HP’s proposed buildings and the impact they will have on adjacent properties. These considerations are express requirements and limitations on all

²⁴ HP Greenfield Master Plan, November 3, 2020, at p. 8 (“HP Master Plan”), available at: https://www.cityofvancouver.us/sites/default/files/fileattachments/community_and_economic_development/project/48641/01_master_plan_narrative.pdf, accessed on 5/10/2021.

²⁵ Ms. Bragar’s Letter, p. 3; David A. Glazin, Ass’t City Attorney, Legal Memo re HP Master Plan, 5/11/2021, p. 2. Ms. Bragar also erroneously assumed the Schwabe firm represented the English Winery during the 7/15/2009 Planning Commission hearing. *See* Ms. Bragar’s Letter, p. 4. In fact, the Schwabe firm represented some of the English family members on unrelated matters in 2009, but it did not represent English Farm LLC or the English Estate Winery at the 7/14/2009 Planning Commission hearing.

²⁶ *See* Attachment 3. The English Winery does not bear the burden of demonstrating potential harm to its property and economic vitality from the proposed HP buildings, “The applicant bears the burden of complying fully with applicable land use requirements.” *Friends of the Law v. King Cnty*, 123 Wn.2d 518, 529, 869 P.2d 1056, 1062 (1994) (citation omitted).

²⁷ Ms. Bragar’s Letter at p. 5; Assistant City Attorney Legal Memo at pp. 2-3.

May 13, 2021
Page 8

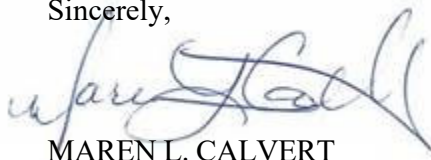
Section 30 Subarea master plans. *See* VMC 20.690.010, -050.B, and -.060.A; Section 30 Subarea Plan policies LU-21, LU-22, UD-13, and GE-1.

In short, HP's proposed buildings present a real risk to English Winery's ability to continue its low-intervention grape farming practices and winery operations, in ways that HP and the City have not even considered. HP's Master Plan does not meet the basic statutory requirements of VMC chapter 20.690 and completely ignores the express policies of the Section 30 Subarea Plan.

Accordingly, the English Winery respectfully requests the City Council refer the HP Master Plan back to the Planning Commission to require the applicant to revise its Master Plan; produce the analyses outlined above; analyze the impact of the orientation of its buildings on the surrounding properties (including the English Winery); and demonstrate its compliance with VMC 20.690.010, -050.B, and -.060.A and Section 30 Subarea Plan policies LU-21, LU-22, UD-13, and GE-1.

Thank you for your time and attention to this important matter.

Sincerely,



MAREN L. CALVERT

Attachments:

1. Jennifer English Wallenberg's Testimony for Vancouver City Council
2. Washington Department of Archaeology & Historic Preservation (DAHP), Historic Inventory Report
3. Dr. Stephen S. Meharg's Letter

cc: Stephen W. Horenstein
Jennifer English Wallenberg

Testimony for Vancouver City Council

Regarding the HP Master Plan for Section 30 – May 17, 2021

Jennifer English Wallenberg, English Farm

Potential Impact of Above-Grade Buildings on Vineyard Health

I am writing today to again direct Council's attention to Land Use Policy LU-21 in the Section 30 Subarea Plan: "Encourage the preservation and economic vitality of the English Vineyard and Winery".

The buildings depicted on page 36 of the HP Master Plan have the potential to cause changes to wind speed and direction that could negatively impact our ability to continue our low-intervention farming methods.

We are blessed at English Estate with gravel-rich soil that is ideal for grapevines, in addition to variable winds from all directions. This unique set of conditions allow us to produce award winning wines from our vineyards with minimal intervention. We do not irrigate the vineyard. We cut weeds by hand and do not use herbicides. To combat powdery mildew, a threat to vineyards worldwide, we use pruning techniques and spray only organic materials when necessary.

We live here, and so do our neighbors. These practices are critical to us. We strongly urge the Council to require any above grade building in the vicinity of the vineyard to be reviewed for its effects on the microclimate in the area, particularly with respect to wind.

In [Understanding Wind, an Underappreciated Part of Wine](#), Roger Morris states: "Whether a gentle breeze or howling tempest, wind is generally an underappreciated part of a vineyard's terroir. Unlike soil, sun and location, you can't see wind. Yet, winds are very important to the quality and quantity of the wine."

The effects of wind in a vineyard vary by the time of year. In Spring, air movement can prevent bud-killing pockets of frost. In summer, winds can dry leaves after rain, reducing the growth of damaging mildews. At the end of the season, when long, slow ripening is desired, winds lower air temperatures, allowing flavors to develop before sugar and pH values grow too high.¹

On April 23rd, Bree Stock, Certified Master of Wine, Director of Education for the Oregon Wine Board and a consultant for the Northwest Wine Coalition, visited English Estate for the first time on her way to PDX. Seeing first-hand the potential building footprints to the North of us, she asked if I had considered potential wind interference and its consequences on our ability to continue our low-intervention, organic farming practices.

¹ [Understanding Wind, an Underappreciated Part of Wine](#), Wine Enthusiast, May 14, 2020.

At Ms. Stock's urging, I decided to look more closely into the issues. I reached out to Michelle Moyer, the Statewide Viticulture Extension Specialist for Washington State University and Greg Jones, Director of the Evenstad Center for Wine Education and a Professor of Environmental Studies at Linfield College.

Dr. Jones concurred that tall buildings would impact the climate generally in the area. He was most concerned about potential impacts from buildings 1 and 2 and suggested I find historical wind data to gauge any potential impacts. On his advice, I reached out to the Office of the Washington State Climatologist.

Ms. Moyer explained: "... as a general statement, a building will either obstruct or change wind — often producing "eddies" which significantly alter wind velocity. A lot of this alteration is related to wind direction (which, even if you have a typical direction, the impact will change as wind direction changes). So if it is obstructing your windflow such that the wind is blocked, that would potentially increase disease pressure at the site."

I asked Dr. Moyer to review this document. Her response: "While I can't be in 'agreement' from a legal perspective (since I've only had a chance to look at what you have presented), I do think that you have done a good job at presenting potential impacts. I especially enjoyed the wind direction data table, which highlights how different wind direction impacts things like relative humidity (which in turn, has a major impact on disease pressure)."

The below illustration² illustrates some fundamentals:

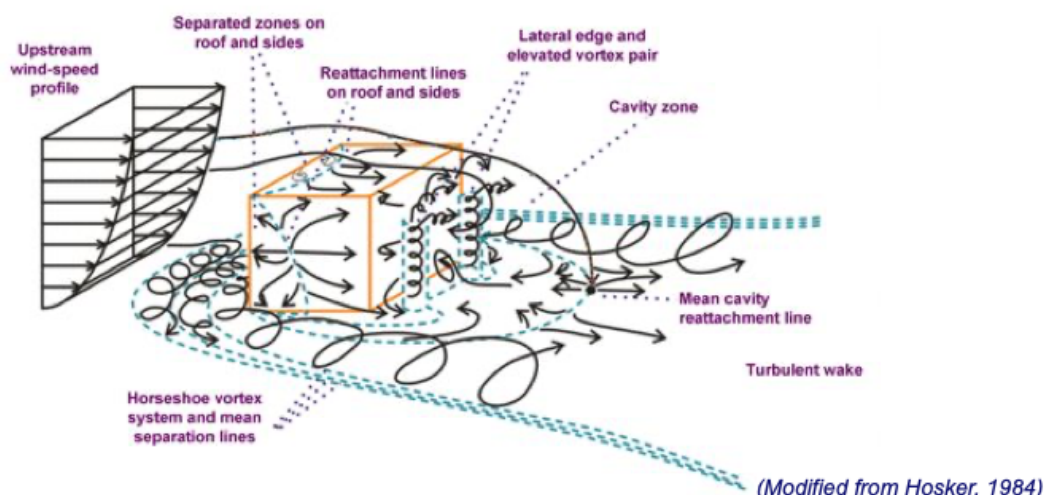
- wind speed increases at higher elevations. Tall buildings "catch" winds and transmit them up, down, and around the building, causing potential disruption to pedestrians near the building.
- remaining winds are catapulted over the building, creating a Quiet zone and a Wake zone on the leeward side.

² Bert Blocken: [Urban Physics: towards sustainable buildings and cities](#)

BASIC RESEARCH

1. ASSESSMENT METHODS

Bluff body aerodynamics is very complex.



Determining real-world effects of tall buildings is complex. To estimate the extent of the Quiet and Wake zones, I refer to Brandle's³ work on windbreaks (regarding solid fences — much simpler structures).

- the Quiet zone occurs between the windbreak and roughly 8 times the height of the structure.
- from the Quiet zone, to roughly 20 times the height of the break, a turbulent Wake zone occurs.
- at about 30 times the height, winds return to normal.

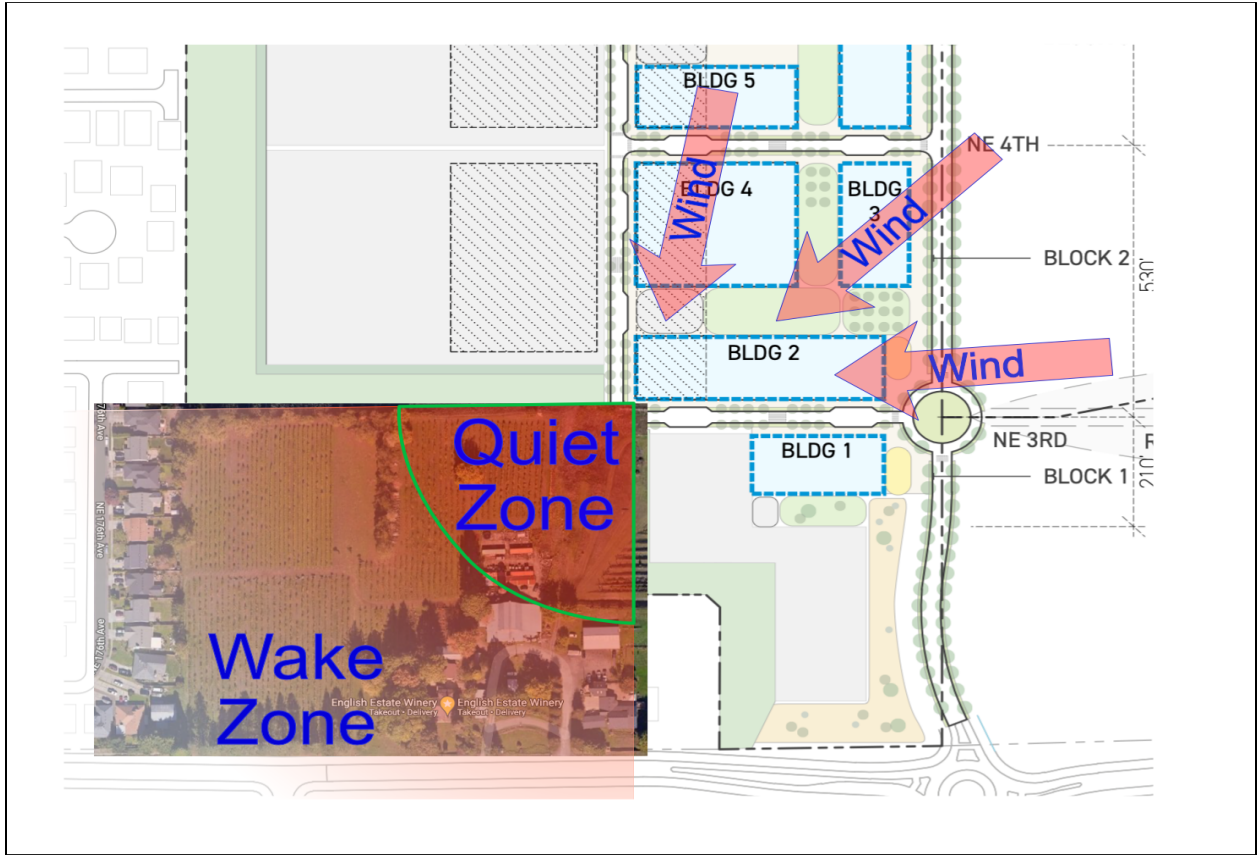
How does the above play out in the Section 30 Master Plan context?

The elevation difference between the proposed development and the vineyard is roughly 42 feet. I am using the building heights depicted on page 36 of the HP Section 30 Master Plan and estimating wind impacts based *only on the portion of the building that extends above the vineyard*. For this discussion, I am concerned only with winds approaching **from** the Northeast Quadrant (0 to 90 degrees on a compass).

³ Brandle, J.R., J. Tyndal, R.A. Sudmeyer, and L. Hodges (2009) [Windbreak Practices](#). In: Garrett, H.E., W.J. Rietveld, and R.F. Fisher (eds.) North American 5 Agroforestry: An Integrated Science and Practice, 2nd edition, American Society of Agronomy, Madison, WI

Building	Height <u>Above</u> Grade	Quiet Zone	Wake Zone
Bldg 1	30 feet	240 feet	900 feet
Bldg 2	51 feet	408 feet	1530 feet

When winds are from the Northeast quadrant, all of the vineyards fall in either the Quiet or the Wake zone of these two buildings. It is worth noting that increased disease pressure in one area of the vineyard is a threat to the entire vineyard since mildew reproduction is exponential.



For historical wind data, I chose a dataset from [Visual Crossing](#), which triangulates data from Portland International Airport, Pearson Airport, and Troutdale Airport to provide hourly observations that approximate winds at English Estate between March 1, 2010 and May 5, 2021. I asked the Office of the Washington State Climatologist if this dataset was a reasonable one to use for this area. They concurred.

Winds originating from the Northeast quadrant account for 26% of wind activity in this area. Each type of wind has unique characteristics, all of which contribute to the vineyard’s health and terroir.

The table below illustrates this with a snapshot of data from a single day. The wind in the morning is from the Northwest quadrant (270–360 degrees). As temperatures rise, humidity starts to decrease. The primary enemy of a vineyard in this area is powdery mildew. Since it thrives in humid environments, lowering it is critical.

The orange band represents a shift to winds coming from the North and then East. In less than two hours, humidity is cut in half, and the heat index drops accordingly. Respites from heat late in the growing season are critical to slow sugar accumulation, allowing time for flavor development in the grape berries during the ripening process. We depend on these intermittent cool winds for them.

Hour	Temp	Heat index	Heat difference	Wind Speed	Wind direction	Gust speed	Humidity
9/7 9:00	66.3			4.4	286		69.23
9/7 10:00	70.1			2.1	299		62.34
9/7 11:00	73.6			4.3	287		54.73
9/7 12:00	76.7			9.2	307		49.68
9/7 13:00	80.8	80.8	0	8.1	316		43.24
9/7 14:00	84.3	83.5	-0.8	7.6	323		39.36
9/7 15:00	87.2	86.1	-1.1	4.7	330		36.86
9/7 16:00	90.2	88.4	-1.8	7.5	6		31.2
9/7 17:00	88.6	84.9	-3.7	23.8	88	33.3	17.69
9/7 18:00	84.7	81.8	-2.9	28.4	88	38.5	19.62
9/7 19:00	81.2	79.4	-1.8	28.4	94	42.4	20.6

Buildings depicted in the Master Plan present a real risk to our ability to continue our low-intervention farming practices. Given that 100% of our fruit is grown here, we ask that buildings above grade be studied for their potential impacts on the vineyards and the conclusions included in the Master Plan.

Additional References

[The Effect of Wind](#), Heidrun Jagoutz, Hessian Agency for Nature Conservation, Environment and Geology. Discusses the importance of wind for vineyards in the Rheingau region of Germany.

The [Effect of Wind on the Performance of the grapevine](#) discusses the complexity of wind's influence in the vineyard and the design of windbreaks.

Regarding Urban Buildings and Wind

It seemed clear to me that disrupting wind could be a problem, but I needed to educate myself about building aerodynamics. I was able to find a series of [lectures by Bert Blocken](#) (Department of the Built Environment at the Eindhoven University of Technology in The Netherlands and the Department of Civil Engineering at Leuven University in Belgium).



Historic Inventory Report

Location

Field Site No. HR-2

DAHP No.

Historic Name: English Farm

Common Name: English Estate Winery

Property Address: 17806 SE 1st St, Vancouver, WA 98684

Comments:

Tax No./Parcel No. 176382000

Plat/Block/Lot #19 SEC 30 T2NR3EWM 1A

Acreage 1.0

Supplemental Map(s)

Township/Range/EW	Section	1/4 Sec	1/4 1/4 Sec	County	Quadrangle
T02R03E	30	SW		Clark	CAMAS

Coordinate Reference

Easting: 1131344

Northing: 111508

Projection: Washington State Plane South

Datum: HARN (feet)

Identification

Survey Name: City of Vancouver SE 1st Street: 164th Avenue to 192nd Avenue Improvements Project **Date Recorded:** 11/12/2013

Field Recorder: Andrea Blaser

Owner's Name: Jennifer English Wallenberg and Johan Jacob Freder

Owner Address: 17806 SE 1st Street

City: Vancouver

State: Washington

Zip: 98684

Classification: Building

Resource Status:

Comments:

Survey/Inventory

Within a District? No

Contributing?

National Register:

Local District:

National Register District/Thematic Nomination Name:

Eligibility Status: Not Determined - SHPO

Determination Date: 1/1/0001

Determination Comments:



Historic Inventory Report

Attachment 2
page 2

Description

Historic Use: Agriculture/Subsistence - Farmstead

Plan: L-Shape

Stories: 2

Changes to Plan: Slight

Changes to Original Cladding: Slight

Changes to Other: Unknown

Other (specify):

Style:

Other - Eclectic/Mixed

Cladding:

Veneer - Stucco

Roof Type:

Hip - Cross Hipped

Roof Material:

Asphalt / Composition - Shingle

Foundation:

Concrete - Poured

Form/Type:

Single Family

Narrative

Study Unit

Agriculture

Other

Date of Construction:

1917 Built Date

Builder: English, Carl S.

Engineer: N/A

Architect: Unknown

Property appears to meet criteria for the National Register of Historic Places: Yes

Property is located in a potential historic district (National and/or local): No

Property potentially contributes to a historic district (National and/or local): No

**Statement of
Significance:**

The 1917 house at 17806 SE 1st Street is recommended to be eligible for listing in the National Register of Historic Places (NRHP). Constructed in an eclectic style that mixes Craftsman elements popularized during the early twentieth century with features reminiscent of rustic revival styles or Italian villas, the house anchors a farmstead resource that encompasses three contiguous land parcels; the land parcel on which the subject house is situated at 17806 SE 1st Street, a parcel to the north that is anchored by a 1915 barn at 17808 SE 1st Street, and a parcel to the east that is anchored by a circa 1931 house at 17908 SE 1st Street. These three land parcels, all of which are still owned by the English Family, account for approximately 12 acres of what was originally a 200 acre land tract purchased by Carl S. English in 1903 (Clark County Department of Assessment, Vancouver, Washington 1903: Deed Book 55:92). Carl, along with his children, wife Betah, and brother Jude, moved from Michigan to Washington in 1902 (Fairhurst 2008). The English family cleared the land of trees and stumps to plant prunes and potatoes, but when a 1916 ice storm destroyed the prune orchard, the focus of the farm quickly became potatoes (Fairhurst 2008; The Lynden Tribune 1916). Later pursuits undertaken by the family included dairying (circa 1930s), stock raising and Christmas tree cultivation (circa 1970s), and the planting of wine grapes beginning in 1980 (English Estate Winery 2014; U.S. Bureau of the Census 1930). The wine business is now the focus of the farm, which is currently referred to as English Estate Winery.



Historic Inventory Report

The extended period of agricultural use by one family exhibited at the English Farm makes it a unique resource in Clark County. This area of Washington was once dotted with farmsteads that, similar to the English Farm, were established during the late-nineteenth or early-twentieth centuries but have since been disappearing from the landscape due to a steady encroachment of commercial and residential development. Agricultural use of lands in Clark County was a major driver of the economy during the early- to mid-twentieth century and helped to shape the early appearance of communities throughout southwest Washington. The English Farm, with its 1917 house and 1915 barn in addition to 12 other buildings, structures, and objects, is highly representative of this broad pattern of history. It is also distinctive due to the eclectic styling of the 1917 house and the attributes of its surrounding landscaping elements, much of which was planted by the noted botanist and landscape architect Carl S. English, Jr. Born on the farm in 1905, Carl Jr. built a greenhouse on the property, the foundation of which has been re-purposed for use as a covered bocce ball court. He collected seeds from around the world to raise in the greenhouse, many of the resulting plants of which were placed around the 1917 house and along the southern boundary of the English Farm resource during the early- to mid-twentieth century (Jennifer English, personal communication 2014). Carl Jr. later lived in Portland, Oregon, and Seattle, Washington, where he was a commercial grower and contributed to efforts such as the publication of the 1947 *Rhododendron Yearbook* (The Oregonian 1947). His most noted work is the Carl S. English, Jr. Botanical Garden at the NRHP-listed Hiram M. Chittenden Locks in Seattle (Potter 1977). Carl Jr. started work on the garden in 1931, when he began his 43-year tenure as a first horticulturist for the Army Corps of Engineers at the locks (U.S. Army Corps of Engineers 2014). Over those 43 years he placed 573 species of plants in an area that was originally an open lawn, transforming it into a garden featuring both recognizable and rare specimens of plants, such as the eight dawn redwoods that Carl Jr. was able to plant from seeds acquired from China (U.S. Army Corps of Engineers 2014).

Due to the distinctive qualities exhibited at the English Farm in association with broad patterns of local history under Criterion A, the English Farm is recommended to be eligible for listing in the NRHP. It is representative of early-twentieth century farmsteads that were once ubiquitous to the landscape of Clark County but have become few in number during the modern era as land has become more valuable for development than for agriculture. The same family continues to operate the farm, and its agricultural use continues to the present day.

Some integrity issues do exist at the farm; vinyl windows have modified the fenestration of the 1917 house and 1915 barn, and other changes were observed to historic buildings on the three land parcels. In addition, the size of the farm has been reduced over time as commercial and residential development have encroached from the south and west and a surface mining operation has been underway to the east of the farm since the late twentieth century. Despite the resource's diminished integrity of materials and setting, it still retains its historical appearance and character through its integrity of location, design, workmanship, feeling, and association.

A total of 14 buildings, structures, and objects were identified on the three land parcels within the resource boundary, 4 of which are recommended to contribute to the NRHP eligibility of the English Farm. They include the 1917 house at 17806 SE 1st Street, a 1915 barn at 17808 SE 1st Street, and a circa 1930 chicken coop and circa 1930 milk house that are situated on the same land parcel as the 1915 barn. Buildings, structures, and objects recommended to be non-contributing to the NRHP eligibility of the resource include a circa 1960s garage, a former circa 1920s greenhouse, a circa 1915 pump house, a circa 1931 Vernacular house, circa 1940 metal gate posts marking the main entry to the 1917 house, and 5 modern structures. The boundary of the resource was delineated by existing land parcel boundaries where agricultural and residential buildings are situated and that are still in use for crop cultivation and associated activities. Historic-period designed landscape features are considered to be a character-defining feature of the property that help to convey the historic-period setting of the resource despite the encroachment of modern development; even if such features overlap adjacent road right-of-way, they should still be considered as within the boundary of the NRHP-eligible property.



Historic Inventory Report

Description of Physical Appearance:

The English Farm resource is situated on three contiguous land parcels north of SE 1st Street. Fourteen total buildings, structures, and objects were identified, nine of which were constructed during the historic period and 5 of which are of modern construction. Four of the nine historic-period buildings, structures, and objects identified are recommended for consideration as features that contribute to the NRHP eligibility of the farm resource; they include the 1917 Eclectic house, a 1915 barn, a circa 1930 chicken coop, and a circa 1930 milk house. A sketch map detailing the location of all buildings, structures, and objects identified within the resource boundary has been included as a photograph in this resource form; this map also identifies which of these features contribute to the historical significance of the property and its eligibility for listing in the NRHP under Criterion A. The numbers used to identify each of these features on the included sketch map have been used to order the discussion of contributing and non-contributing features below. This discussion of identified features is followed by a summary description of designed landscape features observed at the English Farm.

Contributing Feature 1: 1917 Eclectic House. The 1917 house is of a predominately Craftsman style but incorporates some differing elements to give the house the appearance of a rustic Italian villa. These differing elements include the use of stucco to clad the exterior walls, the incorporation of a small hip-roofed entry porch at the south facade, and the use of a low-pitched cross-hip roof to cap the house. Historic-period photographs provided by the owner indicate that the house was erected in 1917 using wood-frame construction methods; these photographs also indicate that the house has been clad with stucco since at least 1928. The house rests on a poured concrete foundation and its form has been slightly modified through the enclosure of a second-story porch at the southwest corner of the house and first- and second-story porches at the northeast corner of the house. The most visible change made to the house has been the replacement of original wood double-hung windows with modern vinyl sashes. Approximately half of all windows in the house have been replaced, including large picture windows that were once present on the south facade. They had been removed and bay windows put in their place by the previous owner; the current owner has restored the original exterior wall surface but used vinyl sashes of the same size and shape as the original wood windows to restore the historic-period appearance of the south facade (Jennifer English, personal communication 2014). Entry points to the house on the south-facing facade feature both decorative and functional poured concrete plinths that have inset river rocks; these features are likely original to the construction of the south facade entry and are visible in a 1928 photograph of the house. Also visible in 1928 photographs of the house is a paved walkway that lined the south and east portions of the house perimeter; this walkway remains intact, but a section of the walkway that extended from the main south facade entry towards the former location of a metal gate at the property entrance to the south was recently removed by the current owner due to its poor condition (Jennifer English, personal communication 2014). The metal posts for this circa 1940 gate are still present and were recorded as a historic-period object in association with the English Farm resource. The posts are recommended to be non-contributing to the significance of the resource and are discussed in further detail below.

Contributing Feature 2: Circa 1930 Chicken Coop. The circa 1930 chicken coop is situated to the north of the 1917 house and is immediately adjacent to a circa 1960s garage that is recommended to be a non-contributing feature of the property. The structure is rectangular in shape, rests on a poured concrete foundation, and is capped with a shed roof with a clerestory. It is clad with a mixture of horizontal wood boards and T-1-11 siding and retains its original fixed wood window sashes and six-light wood hopper windows. The structure continues its original use as a chicken coop.

Contributing Feature 3: Circa 1930 Milk House. The milk house is situated immediately east of the chicken coop and was constructed circa 1930 when dairy operations were undertaken at the English Farm. It is rectangular in shape, rests on a poured concrete foundation, and is capped with a gable roof that is clad with standing seam metal and pierced by a cupola for ventilation. Original multi-light wood windows have been retained but a modern door has been installed at the north elevation to provide access. The milk house is clad with original wood drop siding.



Historic Inventory Report

Contributing Feature 4: 1915 Barn. The 1915 barn has incurred modifications since it was originally constructed; most notably, the footprint expanded through the addition of a milking parlor to the south elevation circa 1940s when the English Family operated a dairy. This milking parlor addition to the barn is constructed of concrete block and has steel four-light windows with the exception of one six-light wood window. This portion of the barn is now used as a wine tasting room, and is therefore accessed by modern French doors. Modern vinyl windows were observed on the south elevation of the barn, as was a modern wood deck. Modern board-and-batten siding clads the open end of the gable roof that caps the milking parlor addition, matching most all other portions of the barn that are now clad with either modern board-and-batten siding or T-1-11 siding. The exact construction dates of additions observed to the west and east elevations of the barn are unknown, but the west elevation addition is evenly aligned with the circa 1940s milking parlor and is of contrasting wood frame construction, indicating that it was likely constructed during the historic period prior to the 1940s and that the mirrored addition to the east was constructed at the same time. The central portion of the barn is easily discernible as the original barn constructed at the farm in 1915. It retains its original form and is capped with a gambrel roof with a gabled hay hood.

Non-Contributing Feature 5: Circa 1940 Gate Posts. Two metal gate posts are situated near SE 1 Street that frame what was formerly a paved walkway to the 1917 house. The current landowner still has the gate in her possession; it is a simple rectangular gate with chain link fencing between metal tubing. It is unknown if the gate was part of a larger fencing system at this location during the historic period.

Non-Contributing Feature 6: Circa 1960s Garage. The garage is located between the 1917 house to the south and the circa 1930 chicken coop to the north. It is rectangular in shape, is capped with a gable roof, and is clad with wood lap siding on its body and T-1-11 siding in the gable ends. The original windows, which were likely aluminum sliders, have since been replaced with vinyl sliding sashes.

Non-Contributing Feature 7: Circa 1920s Greenhouse. This structure is currently used as a bocce ball court but has been included within the count of historic-period buildings, structures, and objects as its foundation was poured circa 1920s to form the base of a greenhouse. The greenhouse was constructed by Carl S. English, Jr. when he was a young man; Fairhurst (2008) reports that the greenhouse had an underground wood and duct heating system, therefore indicating that it may still be in place since the foundation has not been removed. Above the ground surface only the foundation is visible; it was recently capped with an open wood-frame structure with a gable roof to provide shelter for visitors playing bocce ball. If efforts are undertaken to restore the greenhouse to its original appearance, it could possibly contribute to the NRHP eligibility of the English Farm under Criterion A.

Non-Contributing Feature 8: Circa 1915 Pump House. The pump house is no longer used for that function and is instead used for the family winery business. The structure is rectangular in shape, rests on a poured concrete foundation, and is now clad with stucco but was originally clad with a decorative rock and concrete veneer similar to that observed on plinths at the south facade entry points of the 1917 house (Jennifer English, personal communication 2014). This veneer was removed as it was no longer watertight and accumulated moisture was beginning to undermine the structure. The original windows have been replaced with modern vinyl sashes, and modern doors access the south facade and north elevation. The pump house is one of the oldest remaining structures at the English Farm.

Non-Contributing Feature 9: Circa 1970s Machine Shed. This structure is utilitarian in nature and is situated north of a circa 1970s metal silo. It rests on a poured concrete foundation, is capped with a gable roof, and is clad with plywood.

Non-Contributing Feature 10: Circa 1970s Silo. The silo rests on a poured concrete foundation and is constructed of welded and riveted metal sections. At this time the silo is considered to be non-contributing due to its modern date of construction.

Non-Contributing Feature 11: Circa 2009 Pole Barn. This structure was erected circa 2009 to replace a historic barn that was situated in the same location. It is rectangular in shape, rests on a poured concrete foundation, is capped with a gable roof with standing seam metal, is clad with T-1-11 siding and board-and-batten siding, and has a minimal fenestration of fixed vinyl windows and modern doors.



Historic Inventory Report

Non-Contributing Feature 12: Circa 2006 Shop Building. This structure was not observed during the field survey and is considered to be non-contributing to the NRHP eligibility of the English Farm due to its modern date of construction.

Non-Contributing Feature 13: Circa 1934 Vernacular House. This building has been historically used for residential purposes by members of the English family, as the 1917 house did not provide enough living space for multiple branches of the family to reside there. The construction date of the house was derived from remnants observed of its former Tudor revival styling and from repair reporting forms available from the Clark County Assessor's GIS Maps Online website that note the house as being 52 years old in 1983. As early as 1930 census records indicate that a second and separate household of English family members was located at the farm; in 1930 the head of this household is Roy E. English and in 1940 the head of household is Ferris E. English (United States Bureau of the Census 1930, 1940). The house has been extensively modified during the modern era; its footprint has been expanded through additions giving it an irregular shape, the original second story of the house has been removed, only one original three-light fixed window was observed, and some brickwork has been retained on the south elevation but has been obscured through the construction of a secondary wall enclosure intended to protect the brick from water damage. Faux river rock has been placed on the original chimney, and much of the original siding of the house appears to have been replaced during the 1970s and 1980s with wood lap boards. The house no longer retains its historical appearance and is therefore recommended to be a non-contributing feature of the English Farm.

Non-Contributing Feature 14: Circa 1975 Shed. This structure is of simple wood-frame construction and has been used since its erection to sell goods from the farm and the roadside. Some version of this kind of structure has been at this location throughout the historic period, but the current iteration is only known to have been there since the 1970s (Jennifer English, personal communication 2014). It is capped with a gable roof with standing seam metal and is clad with wood lattice panels.

Designed Landscape Features: Along the southern boundary of the English Farm resource various designed landscape plantings were observed that appear to date to the historic period. These include holly trees that line the easternmost driveway of the property, hedgerows that frame the entry to the 1917 house from SE 1st Street, a line of evergreen trees near a field of wine grapes to the west of the house, and other assorted plantings that appear to be of a mature age and arranged as part of an evolving landscape design. Further work would be required to discern the varieties of plants at the farm and their age, but their presence provides a critical link to the historic-period setting of the farm resource.



Historic Inventory Report

Attachment 2
page 7

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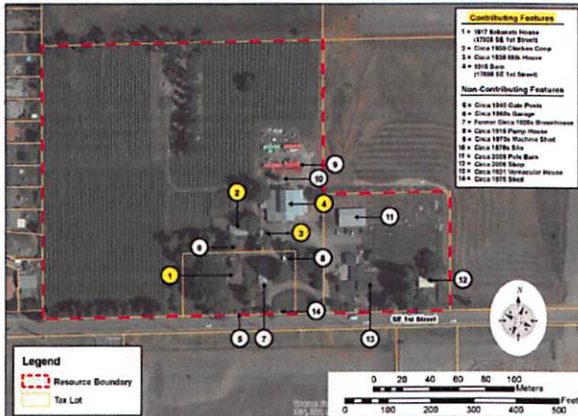
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Historic Inventory Report

Attachment 2
page 8

Photos



Sketch map prepared in 2014 for accompanying report (Blaser et al. 2014).
Contributing and non-contributing features of the English Farm.
2014



The view is towards the north-northeast.
The south facade of the 1917 house (Contributing Feature 1).
2014



The view is towards the southeast.
The west and north elevations of the 1917 house (Contributing Feature 1).
2014



The view is towards the southwest.
The east and north elevations of the 1917 house (Contributing Feature 1).
2014



Historic Inventory Report



The view is towards the northeast.
The circa 1930 chicken coop (Contributing Feature 2).
2014



The view is towards the southwest.
The circa 1930 milk house (Contributing Feature 3).
2014



The view is towards the northeast.
The south and west elevations of the 1915 barn (Contributing Feature 4).
2014



The view is towards the southeast.
The north elevation of the 1915 barn (right), the circa 1970s silo (middle, Non-Contributing Feature 10) and circa 1970s machine shed (left, Non-Contributing Feature 9).
2014





Historic Inventory Report

Attachment 2
page 10

The view is towards the northwest.
The south facade and east elevation of the 1915 barn.
2014



The view is towards the east-northeast.
The south elevation of the circa 1931 house at 17908 SE 1st Street.
2014



The view is towards the southwest.
The circa 1960s garage (middle, Non-Contributing Feature 6) between the circa 1930 chicken coop (right) and the 1917 house (left).
2014



The view is towards the southeast.
The west elevation of the circa 1931 house at 17908 SE 1st Street (Non-Contributing Feature 13).
2014



The view is towards the northwest.
The circa 1915 pump house (Non-Contributing Feature 8).
2014





Historic Inventory Report

Attachment 2-
page 11



The view is towards the west.

The circa 1940 metal gate posts (Non-Contributing Feature 5) adjacent to SE 1st Street.

2014



The view is towards the south.

Holly trees planted by Carl S. English, Jr. during the historic period.

2014

The view is towards the south.

The former 1920s greenhouse (Non-Contributing Feature 7); the foundation has been reused to create a covered bocce ball court.

2014



The view is towards the east. The 1917 house is at left obscured by vegetation.

Designed landscape elements at the southern resource boundary.

2014



The view is towards the north from the westernmost driveway at the English Farm. The large tree at center was sprouted in the circa 1920s greenhouse and planted by Carl S. English, Jr.

The former circa 1920s greenhouse (left), the 1915 barn (center), and the circa 1915 pump house (right).

2013



Historic Inventory Report

Attachment 2
page 12



The view is towards the northwest from SE 1st Street. Designed landscape elements present at the southern resource boundary of the English Farm.

2013



The view is towards the northwest.

The south elevation of the circa 1931 house at 17908 SE 1st Street.

2013



The view is towards the northwest. Photograph courtesy of Jennifer English.

The Eclectic house under construction in 1917.

1917



The view is towards the north-northeast. Undated photograph courtesy of Jennifer English.

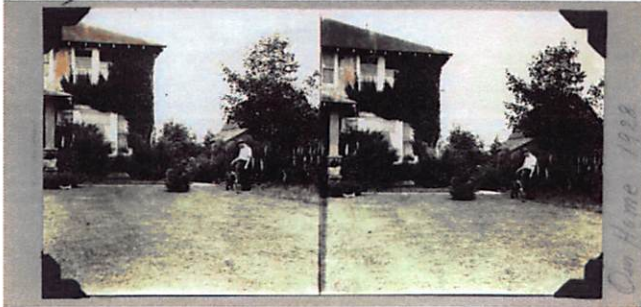
The 1915 barn and the circa 1920s greenhouse.

2014

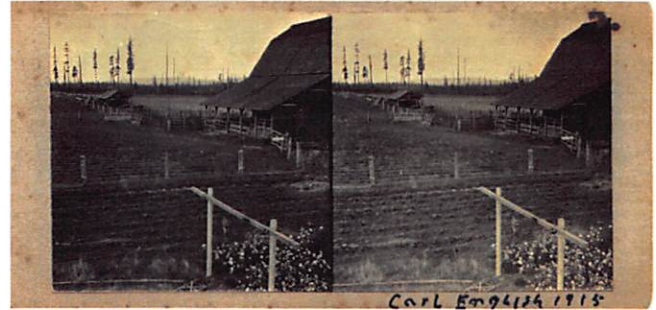


Historic Inventory Report

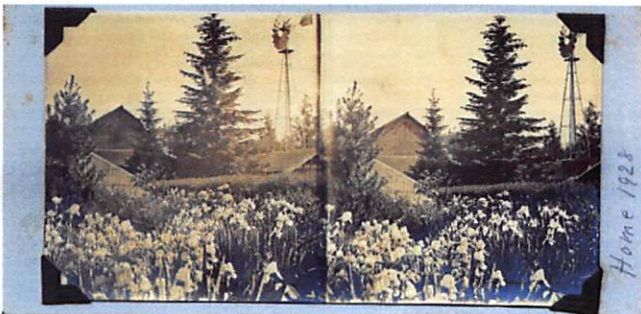
Attachment 2
page 13



The view is towards the north. Photograph courtesy of Jennifer English.
The 1917 house and south lawn; the 1915 barn is at right.
1928



Photograph courtesy of Jennifer English.
The 1915 barn and adjacent garden plots.
1915



The view is towards the north-northeast. Photograph courtesy of Jennifer English.
The circa 1920s greenhouse (left), 1915 barn (middle), and circa 1915 pump house (right).
1928



945 -11th Avenue Suite A | Longview, WA 98632

April 15, 2021

To: Mayor Anne McEnerny-Ogle and Members of the Vancouver City Council

re: English Estate Winery

I am a wine educator and tour guide based in Longview, focusing on promoting Southwest Washington wines and wineries. I am also pleased to serve as the Membership Chair and on several subcommittees of the SW Washington Winery Association.

English Estate Winery is both an historic and iconic landmark within Clark County, producing premium wines from their own estate vineyards. This is a rare gem for our region and, in part, one of reasons the Winery Association is pursuing international recognition as a certified viticultural area. English Estate also provides an increasingly rare opportunity for revisiting the rich rural and agricultural history of this area within a short drive of heavily urbanized areas. It remains a unique oasis of tranquility, attracting visitors with stunning territorial views of the region.

It has come to my attention that consideration of Section 30 development involves construction of tall industrial buildings adjacent to the English Estate property. Notwithstanding the importance of attracting businesses and economic opportunity, I understand the placement and height of proposed structures would not only alter the ambience of guest experiences at English Estate, but would significantly obstruct views of Mt. St. Helens, another historic and important geographical feature of our area.

I would respectfully point out that Washington State is the second largest premium wine producer in the United States, providing a total economic impact of 8.4 billion dollars to our state. Tech firms such as HP also have substantial impacts, but I urge you not to underestimate the value of the wine industry and related tourism in the state and our region. This is worth protecting, and small wineries such as English Estate are among the nearly 1,100 individual producers contributing to this impact.

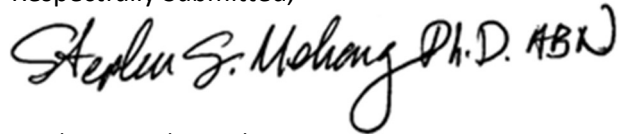
The construction of proposed buildings would adversely impact the business and ambience of English Estate. If this farm grew turnips or raised hogs, there may not be much discussion. Wine grapes tend to be grown only in the most beautiful places. Please keep in mind that consumers are not drawn to estate wineries simply in search of alcohol. Consumers are seeking an experience. The surroundings, history, ambience, culture, and natural beauty of the environment is often as or more important than what they are consuming. What they see and feel is equally important as what they taste.

People come to wineries to relax, socialize, laugh, cry, do business, appreciate natural landscape, escape urbanized life, celebrate important events, strengthen bonds, propose, and get married. There are reasons why these environments need to remain exquisite. English Estates has preserved and offered these experiences for decades. It remains among the few such places left in our area, offering a strong counterpoint and alluring alternative to the highly industrialized Vancouver waterfront tasting rooms. While both experiences have their place, the threat of losing *this* environment and the experience it offers for our community is no small matter. English Estate is completely valid in their concern that the industrial construction, as proposed, will not only significantly and adversely impact their business but also represent a loss and detriment to the quality of life in the region.

I urge you to act to prevent this loss, ideally by relocating this development or at least modifying and/or restricting the plans to substantially preserve the tranquility and territorial views offered from the English Estate property.

Thank you for your time and consideration.

Respectfully Submitted,

A handwritten signature in black ink that reads "Stephen S. Meharg Ph.D. ABN". The signature is fluid and cursive, with the initials "ABN" written in a slightly different style at the end.

Stephen S. Meharg, Ph.D. ABN, CSW

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 Society of Wine Educators
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May 17, 2021

BY EMAIL mark.person@cityofvancouver.us

Mayor and City Council Members, City of Vancouver
c/o Mark Person
P.O. Box 1995
Vancouver, WA 98668-1995

Re: Applicant's Response to English Farm, LLC's May 13, 2021 Testimony
HP Master Plan – PRJ-165336/LUP-79900

Dear Mayor McEnerny-Ogle and Council Members:

As you know, this office represents HP Inc. ("HP") in its submission of the HP Master Plan. Please include this letter in the record as response to English Farm, LLC's ("English Farm") comment letter submitted May 13, 2021 (the "May 13 EF Testimony"). This letter, along with all prior HP submittals during the public review process, and the application materials support approval of the Master Plan as conditioned in the April 1, 2021 Staff Report.

HP and its employees are part of the Vancouver community and for over four decades the company has provided a great place to work, and an investment across broad City sectors. The impact of HP's presence includes support of local non-profits both financially and through volunteer time of its employees; as mentors to generations of youth interested in science, technology, engineering and mathematics; and as an inspiration for entrepreneurs to begin complimentary technology and service based businesses throughout Vancouver. This deeply steeped connection to the community is one of the important reasons that HP entered the City-HP Development Agreement ("DA") and pursued this Master Plan as the next planning step for up to 1.5 million gross square feet of development of employment-focused space within Section 30.

As the Master Plan states, when HP reaches the design phase, it will give consideration to its neighbors. This is a serious commitment by HP and has already been in place since HP took ownership of the property. HP has set up a dedicated e-mail address for neighbors and members of the public to communicate any concerns with the grading activities and hydroseeding that has taken place over the last year. This proactive engagement enabled its project team to promptly respond to all inquiries. Further, HP has responded and continues to respond to all of the testimony that has been submitted during this public review. It is in this spirit of HP's good neighbor approach to planning that it will consider the input received during this public review process when it is ready to submit a site plan.

TOMASI SALYER MARTIN
City of Vancouver City Council
May 17, 2021
Page 2

Significantly, HP has not proposed any combined site plan review with the current Master Plan application because it has not made any decisions about the scale, type, or target employees who would occupy any of the buildings. In this regard, the City's planning process is compatible with HP's internal considerations in formulating a Master Plan from an overall design perspective that compliments the myriad of factors that the company will consider, including the mix of uses allowed in the ECX zone and consistent with the DA – office, research and development, industrial services, manufacturing and production, and light industrial uses, with potential for occupant-supported small scale retail, restaurant, accessory uses.

In this context, we turn to the May 13 EF Testimony that raised several concerns about potential impacts to its vineyards and cited to certain City Code provisions, and Section 30 Employment Center Plan ("Subarea Plan") provisions as grounds for its request that the City Council return the Master Plan review to the Planning Commission for further consideration. English Farm has submitted testimony since January 13, 2021 in this file, had ample opportunity to raise the concerns in the May 13 EF Testimony before the Planning Commission but waited until this late date to do so. As set forth below, there are no grounds to support the request to delay the City Council's review, particularly when the City Council is the sole decision making authority for a Master Plan.¹

The common theme in this response is that the City's Planning Documents – Subarea Plan, Design Guidelines, and Code provisions – have competing policies and instructions. The City Council, as the decision maker, is tasked with balancing these competing goals and determining whether the application as a whole implements the Subarea Plan and meets the intent of the Design Guidelines. HP's Master Plan and submittals have described competing policies and described why it weighed its proposal in a particular manner. This letter provides further support for those decisions, and additional reasons to support the City's findings on these matters.

I. HP's Master Plan considers neighboring properties.

The basis for all of English Farm's comments about height impacts, inclusive of the May 13 EF Testimony is a single cross-section included on page 36 of the Master Plan, as updated in HP's March 22, 2021 letter to the Planning Commission.² This cross-section was provided as a point of reference to show that HP's buildings will be constructed at the base of the current basin and utilize the below grade area for much of the massing. The scale of the cross-section in the Master Plan is very rough, at about 1:3500, and was not meant to calculate heights. This is consistent with the City Code requirements that only require building footprints and not heights.

As the current application contains no site plan, the cross-section was meant to illustrate one of the ways in which the HP Master Plan takes into consideration views from western

¹ VMC 20.210.020(B)(4).

² HP's March 22, 2021 Letter, Attachment 6, p. 50.

TOMASI SALYER MARTIN
 City of Vancouver City Council
 May 17, 2021
 Page 3

property owners, and also to show that the plan is consistent with the City's Planning Documents that call for situating buildings close to 184th Avenue, and to create active pedestrian streetscapes.³ Other portions of the Master Plan also reflect HP's good neighbor approach to planning:

- No new large trees are planned for the top of the slope or slopes;
- A low evergreen hedge along the western top of slope boundary will provide a landscape buffer without blocking views, as its mature height will be three feet;
- Utilization of below grade elevation to plan buildings in a manner that takes into account views of Mt. Hood in response to the Design Guidelines;
- The long vista from HP's western property line to the proposed buildings will also mitigate the view impact, and much of the foreground view will be dense tree canopy planted within the parking area that is up to 50 feet below grade;
- Parking as proposed in the Master Plan, is located away from 184th Avenue to ensure that a tree canopy can effectively be planted to screen visual impacts nearest western neighbors, and to prevent visual impact to pedestrians along 184th Avenue;⁴
- Neither HP's grading activities to date, nor the elevations in the Master Plan materially increase the basin floor elevation; and
- Proposed building footprints are located as far from western occupants as possible.

Thus, HP has undertaken these mitigations to reduce view impacts while still achieving the density and urban form desired in the Subarea Plan.

II. HP's Master Plan meets all the City Code submittal requirements and approval criteria.

The May 13 EF Testimony focuses on a few City Code provisions that it mistakenly asserts are not satisfied in this application. The referenced Code sections are VMC 20.690.050(B)(7), and the purpose sections under VMC 20.690.010 and VMC 20.690.060(A). These sections, when properly interpreted in the context of the goals of the Subarea Plan and structure of the Code chapter, provide additional reasons to approve the Master Plan.

³ Design Guidelines, B.2 and B.6.

⁴ Design Guidelines, A.2 and B.6. Contrary to other comments previously submitted by English Farm's manager, the parking lot does not dominate the site because HP has focused pedestrian oriented development along 184th Avenue and included a tree canopy over the parking areas. The Master Plan layout meets this goal. The Design Guidelines, especially B.6.1 referencing surface parking lots contains recommendations, not requirements. Further, HP considered Figure 12 in the Design Guidelines but the approach for building parking structures into the boundary slopes is impractical given the infiltration needs of HP, and other Section 30 property owners, and the City's need to maintain capacity in the planned public stormwater system, among other reasons. Thus, HP's proposal does not violate the Design Guidelines.

TOMASI SALYER MARTIN
City of Vancouver City Council
May 17, 2021
Page 4

A. HP's Master Plan analyzes impacts to adjacent properties under VMC 20.690.050(B)(7).

Under VMC 20.690.050(B)(7) the Master Plan submittal is required to include:

"Analysis of impacts to the adjacent properties and *mitigation proposed to achieve development envisioned in the Section 30 Employment Center Plan* including future streets, roundabouts, grading, utility service, site drainage, trails and open space and land use location."⁵

The City Council should make its own interpretation of this provision. First, this provision is primarily focused on the development of useable infrastructure on the subject property given the Subarea Plan's infrastructure considerations as Section 30 land uses redevelop. As set forth above, the location of buildings near 184th Avenue, and away from western property owners guides the placement of buildings onsite. The balance of the Master Plan shows that infrastructure as listed in the above Code section is available for HP and for other property owners who develop within Section 30, inclusive of English Farm. Thus, the HP Master Plan meets the standard under this interpretation.

A second, alternative interpretation, addresses a broader view to take into account an analysis of impacts to adjacent properties. But this broader view of analysis of impacts is contextualized by the additional phrase "mitigation proposed to achieve development envisioned in the Section 30 Employment Center Plan." In this regard, the only mitigation to impacts on adjacent properties that could be imposed are those that would also achieve the development envisioned in the Subarea Plan. Notably, the development envisioned is an employment center to be designed as a compact urban form, with the expectation of higher densities and taller buildings.⁶ Therefore, not all impacts, or potential impacts, need to be mitigated. The HP Master Plan has mitigated impacts to adjacent properties in its assessment of the Design Guidelines and will continue to consider neighboring properties in its site plan process.

If English Farm had its way, another property owner would be granted something akin to a veto power by requesting mitigations that would restrict the City's ability to achieve the development envisioned in the Subarea Plan. The City Council need not and cannot abdicate its decision-making authority to another property owner, as requested by English Farm.

Significantly, the HP Master Plan itself does not create any of the impacts asserted in the May 13 EF Testimony because no development is proposed. Once the site planning occurs, HP will consider the vineyards, as well as other comments raised in the public review process.⁷ For

⁵ Emphasis added. Notably, this is a submittal requirement, not an approval criteria.

⁶ See generally the Subarea Plan and applicant's prior letters submitted in the record.

⁷ English Farm contends that the mere fact that contributing historic features are located on its property justifies a requirement that height be restricted on HP's property. Note, these features are located interior to the English Farm property. May 13 EF Testimony, Attachment 2, p. 8. Since these features are located offsite, HP's Master Plan

TOMASI SALYER MARTIN
 City of Vancouver City Council
 May 17, 2021
 Page 5

example, HP will need to continue to balance competing goals, such as sustainable outcomes and perceived potential impacts to English Farm's vines. HP needs to retain flexibility to choose building design and materials that will help meet its sustainability goals, and consider how those choices could also reduce perceived potential impacts to English Farm's vines.

Based on the foregoing, both interpretations support the City Council finding that HP met the submittal requirement to analyze impacts to adjacent properties and the HP Master Plan includes mitigation proposed to achieve the development envisioned in the Subarea Plan.

B. Statements of purpose are not approval criteria.

The May 13 EF Testimony raises two purpose sections within the City Code to further argue that its perspective on potential impacts need to be specifically addressed and mitigated. However, declarations of policy in an act do not have operative force in and of themselves, but serve as a guide in determining the intended effect of the operative sections.⁸ As guides to the relevant approval criteria, the purpose sections in VMC 20.690.010 and 20.690.060(A) support approval of the HP Master Plan.

1. Property values are maintained and enhanced by the HP Master Plan.

Under VMC 20.690.010, the purpose of the Section 30 Employment Center Plan District is set forth:

"The Section 30 Employment Center Plan District (Plan District) intends to promote and *guide* private development as directed by the vision, goals, and policies of the adopted Section 30 Employment Center Plan (M – _____); provide clear objectives for those proposing to develop in the Section 30 Plan area; maintain and enhance property values; promote economic provision of public services; and ensure that each development or project fits with its neighbors and within the Subarea."⁹

As a guide to private development, the focus of the purpose section is necessarily as a guide to the individual applicant. Thus, the maintenance and enhancement of property values is focused on analysis of the applicant's property.

Even if property values referenced in this Code section were more broadly interpreted to include English Farm's property values, the City Council can find that HP's catalyzing

correctly concludes that development on HP's property will not have any direct impacts on English Farm's historic resources. See HP Master Plan, Appendix C. English Farm's continued reference to historic values associated with its property appears as another attempt to claim that heights on HP's property should be restricted, but that claim is defeated by the failure of English Farm to enter a covenant or deed restriction to protect its desired view. See HP's May 4, 2021 Letter, and the City Attorney's May 11, 2021 Memorandum.

⁸ *HJS Dev. v. Pierce Cty.*, 148 Wash. 2d 451, 480-81, 61 P.3d 1141 (2003).

⁹ Emphasis added.

TOMASI SALYER MARTIN
 City of Vancouver City Council
 May 17, 2021
 Page 6

development will increase English Farm's property value. The highest and best use for the English Farm property is redevelopment, evidenced by the option to purchase recorded on English Farm's property, and English Farm's retention of the ability to develop its property in compliance with current code provisions in its own development agreement.¹⁰

Moreover, English Farm never made any agreement to maintain the vineyard and winery in perpetuity. Thus the assessment of property value is not, as the May 13 EF Testimony suggests, a comparison to English Farm's current use.¹¹ But even if it were, such focus on current use as a measure of value would be subjective, especially in light of no development being authorized in this application. In HP's perspective the winery is likely to see increased patronage as a result of adding employees to an otherwise mostly vacant or heavy industrial focused uses across Section 30.

This interpretation is consistent with the case cited in the May 13 EF Testimony. In *City of Redmond v. Central Puget Sound Growth Mgmt. Hearings Bd.*, the court denied a zone change from agriculture to urban use under the Growth Management Act ("GMA"),¹² and described:

" Presumably, in the case of *agricultural land*, it will always be financially more lucrative to develop such land for uses more intense than agriculture. Although some owners of agricultural land may wish to preserve it as such for personal reasons, most. . . will seek to develop their land to maximize their return."¹³

This is exactly what happened here, English Farm's property was annexed to the City and rezoned to ECX guaranteeing that its owners can reap the financial benefits of redevelopment.

Importantly, the City never made any obligation to provide for the ongoing operation of the winery.¹⁴ The obligation the City made in the English Farm Development Agreement is to allow a continuation of a nonconforming agricultural use. The length of that continuing nonconforming use is solely in the discretion of English Farm. Further, the Subarea Plan makes

¹⁰ See HP's May 4, 2021 letter to City Council.

¹¹ The City should be surprised at this adjustment in English Farm's argument to measure property value in terms of current use, when Ms. English Wallenberg's (English Farm's manager) April 19, 2021 e-mail to City Council stated, in part, "It is not my economic livelihood to maintain this farm..."

¹² *City of Redmond v. Central Puget Sound Growth Mgmt. Hearings Bd.*, 136 Wn.2d 38, 959 P.2d 1091 (1998). Contrary to the May 13 EF Testimony claiming in reliance on *City of Redmond* that the GMA applies directly, the decision on HP's Master Plan is not a GMA decision, but rather a quasi-judicial decision subject to the City's legislative review process. The City's consideration of the HP Master Plan involves application of approval criteria to this request for approval of a site-specific master plan.

¹³ *Id.* at 52.

¹⁴ The May 13 EF Testimony relies on an unpublished opinion, *Keystone Dev. v. City of Seattle*, 1996 Wash.App. LEXIS 360 (2006), that cannot be cited in court, to threaten the City with a violation of the English Farm Development Agreement if the HP Master Plan is approved. However, English Farm points to no provision within its development agreement to substantiate the threat.

TOMASI SALYER MARTIN
 City of Vancouver City Council
 May 17, 2021
 Page 7

no binding obligation to guaranteed continuation of English Farm's current uses.¹⁵ English Farm has already sold a portion of its property to HP that was otherwise anticipated as part of the City's encouragement of English Farm's preservation. The Subarea Plan expected the property to be used as an amphitheater and entertainment space, but that will not be the outcome of English Farm's private decision to sell that portion of its property.

Based on the foregoing, the purpose of maintaining and enhancing property values is not an approval criteria. To the extent this purpose guides the City in reviewing the approval criteria under VMC 20.690.050(C), the purpose is supported by the Master Plan as enhancing HP's property values, and those of surrounding properties, including English Farm's property.

2. HP has thoughtfully considered placement of initial buildings and parking areas.

Under VMC 20.690.060(A), the purpose section for the Full Site Utilization Plan ("FSUP") states, in part:

"To fully realize future development opportunities, thoughtful placement of initial buildings and parking areas is essential."

Again, as a guide to the City's review criteria under VMC 20.690.060(D), this thoughtfulness is at the discretion of the applicant so long as the proposal includes a realistic assessment of future building types, sizes, and parking needs; the areas for future building pads and structured parking; and has the potential to achieve the street grid and requirements under the Code; and meets the intent of the Design Guidelines. Significantly, the placement of initial buildings is consistent with the conceptual layout included in the DA.¹⁶

None of the points raised in the May 13 EF Testimony challenge the FSUP for failure to meet the approval criteria VMC 20.690.060(D). Based on the foregoing, including consistency with the DA, HP meets the purpose to be thoughtful with placement of initial buildings and parking areas because the Master Plan successfully lays out a plan to meet HP's goals to develop 1.5 million gross square feet as set forth in the DA; to implement the job creation aim of the Subarea Plan; and meets the FSUP approval criteria.

III. The HP Master Plan is consistent with the Subarea Plan.

The City Code requires overall consistency with the Subarea Plan, not compliance with every aspirational statement.¹⁷ Similarly, the approval criteria under VMC 20.690.050(C)(1)

¹⁵ See also discussion under Section III, *infra*.

¹⁶ See DA, Exhibit 5. Approval of the DA was not challenged.

¹⁷ VMC 20.690.050(A), (B)(5)(a), and (B)(12). See also *Weyerhaeuser v. Pierce County*, 124 Wn.2d 26, 873 P.2d 498 (1994). In *Weyerhaeuser*, the county code specifically required a solid waste facility to "meet. . . any

TOMASI SALYER MARTIN
 City of Vancouver City Council
 May 17, 2021
 Page 8

speaks to implementing the Subarea Plan, which is focused on "flexible plan implementation approaches that reflect market conditions and interests with the Plan's anticipated 20 to 30 year build out period."¹⁸ This overall consistency with the Subarea Plan is met by references throughout the HP Master Plan to each of the applicable plan policies.

Further, the City Council performs the balancing of competing plan policies to determine the applicant's overall consistency with the plan. As a general matter, given the overarching goal to create a new employment center with a compact urban form, it is reasonable for the City Council to find that it will elevate these employment-related policies over any of the specific policies raised in the May 13 EF Testimony. Nonetheless, the following analysis is provided so that the City Council can adopt complete findings in relation to the policies raised.

The May 13 EF Testimony questions whether the City made adequate findings regarding Subarea Plan policies LU-21, LU-22, UD-13, and GE-1. As a preliminary matter, policies LU-21, UD-13, and GE-1 use aspirational language like "encourage," and "should." Policies that do not use mandatory language are not binding approval criteria that apply directly to an application for a Master Plan.¹⁹ This aspirational language supports the balancing that the City Council is instructed to do in assessing consistency with the Subarea Plan, and as a mechanism the City used in drafting the Code implementing the plan.

- A. Master plan applicants are not tasked with meeting LU-21, but even if directly applicable to HP, preservation and economic vitality of the English vineyard and winery is encouraged in the HP Master Plan.

HP reasonably concluded that LU-21's policy to, "Encourage the preservation and economic vitality of the English Vineyard and Winery," is properly viewed as a City policy and one that the City implements. Even if individual applicants were required to address this policy, HP views its proposed Master Plan as the next step toward realizing development that will bring employees to Section 30 which may increase patronage to the winery. Further, the HP Master Plan says that neighboring properties will be considered during the site plan process, and that is the appropriate time to consider whether any of the potential impacts in the May 13 EF Testimony would occur.

None of the potential impacts that English Farm raised – wind interference where tall buildings will reduce wind flow to the English Farm; impact to microclimate; interference with historic resource protection on the English farm site;²⁰ concerns about potential shadow on the English Farm vineyard from HP development; and impacts from exterior reflective material on HP buildings that could cause grapes to sunburn – can be assessed now because no site plan has

comprehensive plan." *Id.* at 43. The court recognized that meeting the comprehensive plan only requires consistency with the comprehensive plan because the plan is no more than a general policy guide. *Id.* at 44.

¹⁸ Subarea Plan, p.1, with a focus on job creation at pp. 10-11, and 14-16.

¹⁹ *Spokane County v. E. Wash. Growth Mgmt. Hearings Board*, 173 Wn.App. 310, 341-342, 293 P.3d 1248 (2013).

²⁰ See footnote 7, *supra*.

TOMASI SALYER MARTIN
 City of Vancouver City Council
 May 17, 2021
 Page 9

been proposed.²¹ HP has reviewed the concerns raised in its May 13 EF Testimony and will take them into consideration at site plan review.²²

B. Subarea Plan policy LU-22 does not apply to HP's Master Plan.

The May 13 EF Testimony also cites to LU-22 that states, "Establish guidelines and standards to reduce possible agriculture impacts to adjacent residences." The language is clear that the focus of this policy is on English Farm and direction to the City to establish guidelines and standards to reduce agricultural impacts on adjacent residents. Nothing in the language imposes a duty on HP as a Master Plan applicant to control English Farm operations that could

²¹ *Spokane County v. E. Wash. Growth Mgmt. Hearings Board*, 173 Wn.App. at 339.

²² Although wind may currently have some benefit to the vines as English Farm claims, the bulk of the literature cited in the May 13 EF Testimony suggests that limiting wind also has many benefits:

"[w]ind can have a detrimental effect on the physical condition of the vine through the breaking of young shoots, the blowing away of pollen and the effect it has on stomatal closure. The latter will result in the reduction of photosynthesis, which will eventually decrease the amount of soluble solids and carbohydrates in the berries." Pienaar, Jacobus "The effect of wind on the performance of the grapevine," pp. 9-10 (2005).

This study also finds that some physical differences occurred between grapevines sheltered from wind and those exposed to wind, such as leaf size on primary shoots and length of shoots but no significant differences were found when it came to cane diameter, pruning mass, or canopy densities. *Id.* at 50-52. Further, the study found no significant differences regarding the yield of grapes when sheltered or exposed. *Id.* at 63. However, the study found that better overall quality of wine was produced by the sheltered grapevines. *Id.* at 66-67.

Similarly, another article cited by English Farm finds:

"[t]his beneficial distinct climate of the alleys and leaves is destroyed by wind. The warmer and more humid air within the vineyard is mixed with cooler air or just blown away. The wind cools the leaves. The distinct climate within a vineyard is disrupted by wind speeds exceeding 1 m per second parallel to the rows and 2 m per second across the rows (VOGT & SCHRUF 2000)." Jagoutz, Heidrun, "The Effect of Wind," p. 42 (2010).

Yet another article cited by English Farm generally reaches many conclusions about the benefits of windbreaks. Windbreaks increase temperatures in sheltered zones, and this is generally beneficial to crop growth, development, and yield. Brandle, James, et. al., "Windbreak Practices," pp. 80, 82-83, and 85-86 (2009). Windbreaks protect against frost damage. *Id.* at pp. 80-81. Windbreaks increase soil moisture which in turn benefits early season plant growth, conserves water, and allow plants to make better use of the available moisture over the growing season. *Id.* at pp. 81-82. In most cases this increase in humidity in sheltered areas normally does not contribute to higher incidences of disease. *Id.* at 81. In fact, windbreaks protect against the spread of bacterial and fungal diseases and aphid-transmitted viruses. *Id.* at 86-87. Further, windbreaks protect against physical damage to crops caused by the wind itself. *Id.* at 84-85. This physical damage could otherwise be a point of entry for pathogens. *Id.* at 86. Orchard and vineyard crops in sheltered zones show increased levels of pollination and fruit formation. *Id.* at 83 and 91. Finally, windbreaks protect soil from wind erosion. *Id.* at 88-90.

Thus, even if HP's ultimate design at site plan review has wind impacts to English Farm, such as the blocking of wind that English Farm claims, such shelter from wind could be beneficial to the vineyard.

TOMASI SALYER MARTIN
City of Vancouver City Council
May 17, 2021
Page 10

impact adjacent residences. In fact, HP cannot control English Farm's operations, nor would it claim a right to do so under this policy.

C. The HP Master Plan satisfies the site design suggestions under policy UD-13.

Subarea Plan policy UD-13 states:

"Site design should orient building entrances to street frontages, pedestrian ways or plazas in a manner consistent with an overall project concept and complementary with the approach to building orientation in adjacent development."

This policy is implemented by the Design Guidelines under A.2 and A.4. The April 1, 2021 Staff Report includes responsive findings on page 13.

In addition, HP chose this location to be a catalyst for new development and possible redevelopment of heavy industrial uses nearby, as well as to encourage continued use of surrounding land, such as the English Farm property. The orientation of building entrances and the connectivity planned through the public trail on NE 184th Avenue will connect the HP property to the surrounding Section 30 neighborhood, including English Farm. The Subarea Plan speaks to including design elements to create "a sense of place that makes it convenient and comfortable to walk around,"²³ and Design Guideline A.2.1.b suggests that there should be clear pedestrian access between plazas and courtyards to the street. The Master Plan meets these goals by linking the trail along 184th Avenue to multiple entry points to the buildings within the HP property and focusing architectural elements on that streetscape to help create a sense of place in Section 30. In addition, the HP Master Plan's focus on pedestrian oriented access to the buildings along 184th Avenue will activate the main thoroughfare through Section 30.

Thus, the City Council can find the HP Master Plan meets UD-13.

D. The HP Master Plan includes grade transitions to ensure connectivity with adjacent properties.

The Subarea Plan contains policy GE-1 that states:

"Master Plans for individual developments should include analysis of grade transitions on development sites and potential impacts on adjacent properties."

The April 1, 2021 Staff Report makes findings addressing this policy on page 12, as implemented by Design Guidelines A.1.

²³ Subarea Plan, p. 38.

TOMASI SALYER MARTIN
 City of Vancouver City Council
 May 17, 2021
 Page 11

In addition, the context for this policy is found on pages 33-35 of the Subarea Plan and explains that the policies are aimed at grade transitions to establish connectivity across Section 30. HP is utilizing the basin instead of filling the basin to an even grade with English Farm to reduced development impacts to the vineyards and winery, and other surrounding neighbors. The proposed grades show that a street and public trail network will connect HP to the adjacent properties. This policy is not mandatory and even if it were mandatory, HP's Master Plan ensures that connectivity exists between grade transitions in relation to English Farm.

E. English Farm provides no basis for imposing a height limit or any other restriction on the HP Master Plan, as the perceived potential impacts will be considered during site plan.

Nothing presented in the May 13 EF Testimony provides a basis for imposing a height limit where no authority for such a restriction is found in the Code. In fact, the Code expressly states that "Building heights shall not be restricted within the ECX zoned properties of the Plan District."²⁴ The appropriate time to challenge a height limit was when the Subarea Plan and applicable Section 30 Code amendments were adopted in 2009. The same is true for protection of specific views of Mt. St. Helens from anywhere within or surrounding Section 30. Similarly, if English Farm wanted to guarantee that LU-21, UD-13, or GE-1 were mandatory requirements of the Subarea Plan, then the time to challenge the use of aspirational language in the Subarea Plan was also in 2009.

The May 13 EF Testimony relied on *1000 Friends of Washington v. McFarland*, to call for the requirement of coordinated land use planning.²⁵ That case involved an unlawful attempt to overturn a land use ordinance implementing the GMA by referendum. In fact, the court noted that the leader of the referendum, McFarland, had failed to appeal the passage of the land use ordinance through the GMA authorized channels.²⁶ English Farm is suffering the same fate as McFarland by not having mounted a challenge in 2009, but it is also reaping the benefits of that strategic choice. Here, English Farm benefits from the annexation, benefited from the approval of HP's DA, and stands to continue to benefit from the catalyst that HP's Master Plan will bring to Section 30. This all boils down to one property owner's continued attempt to hang on to a view that was not protected by English Farm through a reserved view protection covenant or deed restriction.

Nonetheless, the May 13 EF Testimony raises some interesting aspects about vineyard management that HP will consider as part of its design for site plan review. As the April 1, 2021 Staff Report and the HP Master Plan describe, HP's site plans will be reviewed for consistency with the Design Guidelines and the Master Plan. Consistency will necessarily require HP to take into consideration impacts to its neighbors, including English Farm.

²⁴ VMC 20.690.040(B).

²⁵ *1000 Friends of Wash. v. McFarland*, 159 Wn.2d 165, 180, 149 P.3d 616 (2006).

²⁶ *Id.* at 170-171, and 180.

TOMASI SALYER MARTIN
City of Vancouver City Council
May 17, 2021
Page 12

CONCLUSION

The applicant has met its burden of compliance with the submittal requirements, and the Master Plan meets the approval criteria, is consistent with the Subarea Plan, and meets the intent of the Design Guidelines. The HP Master Plan proposes no development and does not include any proposed heights, or authorize any construction that would negatively impact English Farm. The May 13 EF Testimony provides no basis for referral back to the Planning Commission. Further, the DA indicates that City would take a streamlined approach to review of land use applications. English Farm's decision to submit this latest testimony on May 13 with nebulous concerns about potential impacts to grape growing should not be rewarded with any delay.

HP views this letter as a form of final written argument and requests the City Council adopt the interpretations contained herein as express findings, along with the May 4, 2021 HP letter, and May 11, 2021 City Attorney memorandum. However, should the City Council decide to keep the record open, or HP determine that public testimony requires additional response time, HP does not waive its right to make final argument. The aforementioned letters and memorandum taken together with the April 1, 2021 Staff Report and its conditions of approval, provide the City Council with the necessary interpretations and responses to all of the public comment raised to date. Based on the foregoing responses to public comments, and all of the information in the record, HP respectfully requests that the City Council approve the Master Plan.

Sincerely,



Jennifer M. Bragar

cc: (all by email)
client
Greg Turner
Chad Eiken
David Galazin
Jonathan Young



July 17, 2020

Vancouver City Council
415 W 6th St
Vancouver, Washington 98660

Dear Mayor McEnerney-Ogle and Council Members:

Thank you for the opportunity to offer our comments on Ordinance No. M-4295, which declared an emergency and adopted a six-month moratorium on the establishment of new, or the expansion of existing, large-scale fossil fuel facilities. These comments are offered on behalf of Columbia Riverkeeper, Washington Physicians for Social Responsibility, Climate Action of SW Washington, Oregon Physicians for Social Responsibility, Cascadia Wildlands, Sierra Club Loo Wit Group, The Lands Council, Oregon Conservancy Foundation, Stop Zenith Collaborative, Stop Fracked Gas PDX, Climate Action Coalition, Alliance for Community Engagement (ACE), Friends of the Columbia Gorge, Washington Environmental Council, Washington Conservation Voters, Stand.earth, and Puget Soundkeeper Alliance. We appreciate and support the City of Vancouver's efforts to adopt a moratorium on the construction of new, or expansion of existing, large-scale fossil fuel facilities. The moratorium is consistent with the City of Vancouver's

climate policies and plans as well as the laws and policies of the state of Washington. Additionally, the moratorium on the construction of large-scale fossil fuel facilities is consistent with the City's obligation to provide for the health and well-being of the public as the existence of these facilities pose numerous threats to the City and its residents. We offer the following comments as general support for Ordinance No. M-4295 and to provide additional evidence that we believe will support the Council's decision.

I. The Ordinance is Consistent with Prior Climate Commitments Made by the City

Through sustainability planning and its opposition to the massive proposed Tesoro-Savage oil train project, the City of Vancouver has demonstrated its commitment to mitigate the harms caused by the combustion of fossil fuels and the global climate crisis. The current moratorium on large-scale fossil fuel facilities is consistent with the City's earlier efforts to mitigate climate harm. Over the last decade, Vancouver has taken significant steps towards achieving a more sustainable community—particularly with the adoption of its 2009 report, “Creating a More Sustainable Vancouver.”¹ As part of this effort, the city pledged to prioritize reducing emissions from large emission sources over which it has the greatest control.² The moratorium on new or expanded development of large-scale fossil fuel facilities is clearly consistent with this pledge. Furthermore, Vancouver is a signatory to the U.S. Mayors Climate Protection Agreement, under which the City has pledged to meet the Kyoto Treaty requirements—including a commitment to reduce its greenhouse gas emissions to seven percent below its 1990 levels.³ Ordinance No. M-4295 is a necessary step toward meeting the City's climate obligations and commitments.

Vancouver's continuing efforts to reduce emissions and to provide a healthy environment for its residents is reflected in the City's 2016-2021 Strategic Plan.⁴ The fossil fuel moratorium is consistent with the priorities and goals set forth in the Strategic Plan, the first goal of which is to “ensure our built urban environment is one of the safest, most environmentally responsible and well maintained in the Pacific Northwest.”⁵ The moratorium on the development of new large-scale fossil fuel facilities is a vital and necessary step for the City to meet its goals and remain consistent with its stated climate policies.

¹ See e.g., *Creating a More Sustainable Vancouver* (2007) (<https://bit.ly/2OvCpa0>).

² *Id.* at 27.

³ U.S. Mayors Climate Protection Agreement (<https://www.usmayors.org/mayors-climate-protection-center/>).

⁴ City of Vancouver, 2016-2021 Strategic Plan (<https://www.cityofvancouver.us/sites/default/files/2018StrategicPlan/index.html>)

⁵ *Id.* at 13.

II. The Fossil Fuel Moratorium is Consistent with the Laws, Policies and Climate Plans espoused by the State of Washington

Vancouver's moratorium on large-scale fossil fuel facilities is consistent with the state of Washington's larger efforts to provide for the health and well-being of its citizens by transitioning away from fossil fuels. The laws and policies of Washington State clearly show that responding to, and mitigating the harm of, climate change is a state priority of the highest importance. The elected leaders of Washington State have consistently signaled that transitioning away from fossil fuels is an effort vital to the health and long-term well-being of the state's residents. For example, the Washington State Legislature has statutorily mandated that the state reduce greenhouse gas emissions in the state by forty-five percent below 1990 levels by 2030 and achieve net-zero emissions by 2050. RCW 70.235.020. Additionally, Governor Jay Inslee has consistently recognized the harm caused by climate change and has called for state agencies to enact policies with the aim of reducing greenhouse gas emissions.⁶ Vancouver's moratorium is necessary to align the City with these broader state policies and directives.

In a 2012 report, the Washington State Department of Ecology (Ecology) acknowledged that "rising levels of carbon dioxide and other heat-trapping gases have warmed the earth and are already causing wide-ranging impacts," including rising sea levels, melting snow and ice, as well as drought and incidences of extreme rainfall.⁷ Moreover, the document acknowledged that these effects—if allowed to continue unabated—pose significant risks to human health, forest health, agricultural activities, freshwater supplies, the state's coastlines, and to other natural resources vital to the State's economy, environment, and way of life.⁸ Studies cited by Ecology estimated that the potential economic costs to Washington from climate change impacts might reach nearly \$16 billion per year by 2040.⁹ These economic and environmental costs pose a significant threat to the State of Washington and City of Vancouver. The devastating long-term impacts of climate change show that inaction is not an option. The City of Vancouver must take action, consistent with the laws and policies of Washington State, to protect its residents from the harmful externalities of climate change. The City's moratorium on fossil fuel facilities is a necessary step toward achieving these goals by creating a long-lasting reduction of greenhouse emissions.

⁶ Executive Order 14-04, Washington Carbon Pollution Reduction and Clean Energy Action (April 2014) (https://www.governor.wa.gov/sites/default/files/exe_order/eo_14-04.pdf) (recognizing that the impacts associated with climate change will bring about significant negative consequences for the state's economy, infrastructure, natural ecosystems, and to human health and establishing a "Carbon Emissions Reduction Taskforce.")

⁷ WA Dept. of Ecology, *Preparing for a Changing Climate* (April 2012) (<https://fortress.wa.gov/ecy/publications/publications/1201004.pdf>).

⁸ *Id.*

⁹ *Id.* at 17.

III. The Moratorium is Consistent with the City's Obligation to Provide for the Health and Safety of its Residents

The City of Vancouver has an obligation to provide for the health and well-being of its residents.¹⁰ Since the City is geographically located near several active fault lines, the siting of large-scale fossil fuel facilities within the City puts the health and safety of its residents at even greater risk. Even a minor leak or failure at one of these facilities as the result of a large earthquake would pose a critical threat to the city's water supplies.

The Washington Department of Natural Resources (DNR) has recognized that “damaging earthquakes much larger than any in the historical record are possible [in the Vancouver area] and that it will be necessary to employ a wide variety of mitigation measures to minimize economic losses and casualties resulting from these future earthquakes.”¹¹ DNR's research makes it clear that it is not a matter of if Vancouver will face a damaging earthquake, but when: “[i]t is certain . . . that damaging earthquakes will be a part of the Vancouver area's future.” Furthermore, a report issued by the United States Geological Survey (USGS) suggested that the geography of the Portland/Vancouver area—specifically the abundance of loose sand, silt and clay deposits—would likely amplify the damaging effects of any large earthquake.¹² The Clark County “Hazard Identification and Vulnerability Analysis” has also recognized the dangers posed to the area by earthquakes, including “hazards such as pipeline leaks and ruptures, hazardous materials releases, train derailments, and fires.”¹³

As the Clark County Hazard Report recognizes, a large-scale earthquake would almost certainly cause extensive damage to any fossil fuel facilities in the area. Such damage would most likely result in the release of hazardous materials from pipelines and other fossil fuel facilities. This poses a special risk to Vancouver because the city's water is entirely supplied from groundwater.¹⁴ The U.S. Environmental Protection Agency (EPA) lists a number of potential contaminants of Vancouver's source water, including “petroleum products, metals, and chemical contaminants.”¹⁵ EPA has stated that, even in the absence of an earthquake, “commercial and industrial hazardous substances pose the largest threats to Vancouver's drinking

¹⁰ See Article XI, section 11 of the Washington State Constitution, which provides state municipalities the authority to enact ordinances in furtherance of the public safety, health and welfare.

¹¹ Relative Earthquake Hazard Map for the Vancouver, Washington Urban Region (Dec. 1994) (https://www.dnr.wa.gov/Publications/ger_gm42_eq_haz_urban_vancouver_24k.pdf).

¹² USGS, Assessing Earthquake Hazards and Reducing Risk in the Pacific Northwest, Volume 2 (1998) at 61 (<https://pubs.usgs.gov/pp/p1560/p1560po.pdf>).

¹³ Clark County Hazard Identification Vulnerability Analysis (2011) at 19 (<http://cresa911.org/wp-content/uploads/2014/06/ClarkHIVA2011.pdf>).

¹⁴ U.S EPA, Washington: Vancouver, Local Water Protection in Vancouver (Jan. 2010) (<https://bit.ly/3ezGp41>).

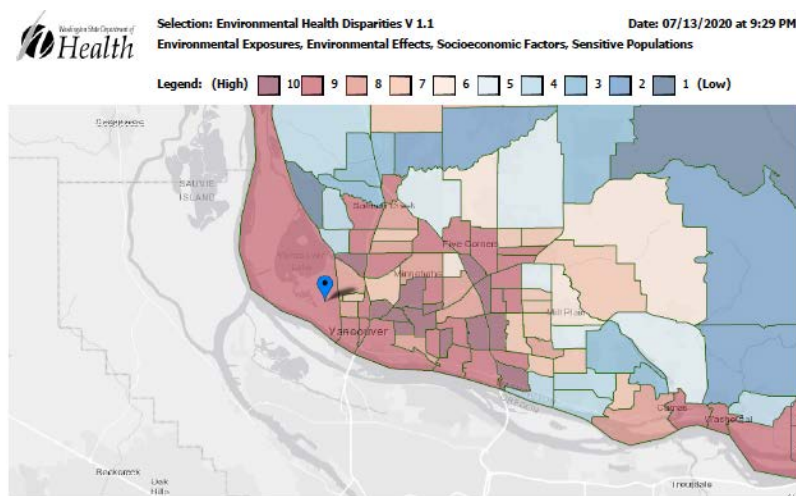
¹⁵ *Id.*

water.”¹⁶ In the event of a large earthquake these existing threats to Vancouver’s water supply would certainly be exacerbated.

The geological facts are incontrovertible. Together, the existence of fossil fuel facilities and the threat of an earthquake pose a significant threat to Vancouver’s drinking water, which in turn threatens the health and safety of all Vancouver residents. These facts strongly support the City’s decision to impose a moratorium on new or expanded, large-scale, fossil fuel facilities.

IV. The Moratorium Would Help Vancouver Avoid Pollution That Would Contribute to Environmental Justice Concerns in The City

In introducing the moratorium resolution, Council Member Lebowsky observed that large-scale fossil fuel facilities and the pollution they create most often impact low-income communities and communities of color. This environmental justice impact is a key concern for Vancouver, where data from the Washington Department of Health suggest that environmental health disparities are already pronounced for low-income communities and communities of color. Visualizations available from the Washington Department of Health’s Health Disparities Mapping Tool help to demonstrate that certain areas of Vancouver—notably the same areas that would likely see major impacts from a large-scale fossil fuel facility—face elevated environmental health risks.¹⁷



Environmental Health Disparities Map. Pin centered on Fruit Valley Elementary.

Source: <https://fortress.wa.gov/doh/wtn/WTNIBL/>

¹⁶ *Id.*

¹⁷ Washington Department of Health. Environmental Health Disparities Map. Version 1.0. January 2019. <https://fortress.wa.gov/doh/wtn/WTNIBL/>.

The Department of Health describes its model for environmental health disparities, explaining that the model factors in both pollution as well as other risk factors that contribute to the negative impact of the pollution:

Threat is represented by indicators that account for pollution burden, which is a combination of environmental effects and environmental exposures in communities. Environmental effects include indicators that account for adverse environmental quality generally, even when population contact with an environmental hazard is unknown or uncertain. Environmental exposures include the levels of certain pollutants that populations come into contact with.

Vulnerability is represented by indicators of socioeconomic factors and sensitive populations for which there is clear evidence that they may affect susceptibility or vulnerability to an increased pollution burden. Indicators in socioeconomic factors measure population characteristics that modify the pollution burden itself. Sensitive populations refer to those who are at greater risk due to intrinsic biological vulnerability to environmental stressors.

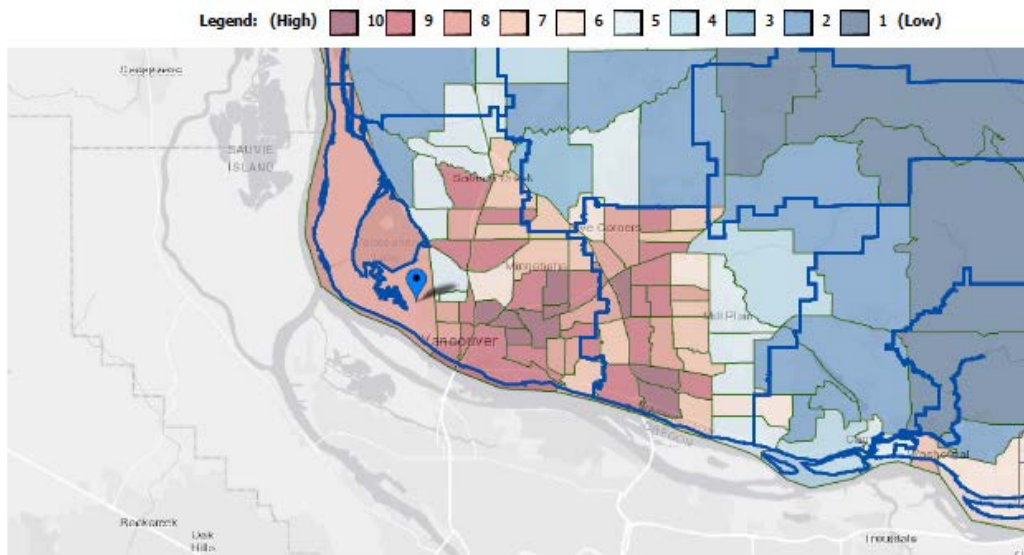
In the model, threat is multiplied by vulnerability in order to reflect the scientific literature that indicates population characteristics often modify and amplify the impact of pollution exposures on certain vulnerable populations. The rankings help to compare health and social factors that may contribute to disparities in a community.¹⁸

In Vancouver's case, the map shows that parts of the city face significant environmental health disparities. Some of these areas of Vancouver would face increased air, noise, and water pollution risks if a large-scale fossil fuel facility were to be constructed and operated in the city, particularly those areas closest to the Columbia River and potential fossil fuel train routes. Information from the Washington Department of Health provides a compelling basis to sustain the moratorium and to consider a permanent policy restricting new large-scale fossil fuel facilities, which can be major sources of NO_x, SO_x, VOCs, low-level ozone (smog), particulate matter, diesel exhaust, and toxic air pollutants.

In public testimony, several commenters expressed concern about the Fruit Valley Neighborhood. Fruit Valley's exposure to air pollution and other environmental risk factors, combined with demographic data showing a high proportion of low-income and minority communities present in the neighborhood, makes a strong case that Vancouver should avoid projects that increase environmental health disparities in this area of the city. During its review of the controversial Tesoro-Savage oil train terminal in 2017, the Washington Energy Facility Siting Council (EFSEC) concluded that the Fruit Valley neighborhood is an environmental justice

¹⁸ *Id.*

community.¹⁹ The Council also found that the project and its introduction of up to five loaded and five empty fossil fuel (crude oil) trains each day “would disproportionately impact minority or low-income populations at Fruit Valley” due to diesel particulate emissions.²⁰ To further illustrate this point, the following map shows the current disproportionate diesel pollution impacts centered in the Fruit Valley neighborhood, in the absence of the new oil train terminal.



Diesel Pollution and Disproportionate Impact. Centered on Fruit Valley Elementary. Generated Through Washington Department of Health Environmental Health Disparities Map.

Source: <https://fortress.wa.gov/doh/wtn/WTNIBL/>

Further, the Final Environmental Impact Statement (FEIS) of the Tesoro-Savage oil terminal project concluded that people in the Fruit Valley Neighborhood “could be at risk for health impacts, injury, or fatality” in the event of a major accident.²¹ Because most large-scale fossil fuel facilities, such as a liquefied petroleum gas (LPG) terminal or liquified natural gas (LNG) storage facility, would convey major fire and safety risks on Fruit Valley, we can anticipate that some of the issues identified by EFSEC relating to the Tesoro-Savage project would translate to these other types of large-scale fossil fuel projects. Vancouver learned through its experience in defending Fruit Valley from the impacts of the Tesoro-Savage project that there are types of development that pose unacceptable risks for communities that are already facing elevated environmental risks. The moratorium on large-scale fossil fuel facilities helps to translate this lesson into more durable protection for the community.

¹⁹ Washington EFSEC. Final EIS for the Tesoro Savage Oil Train Terminal. November 2017. P. ES-24.

²⁰ *Id.* at P. ES-30.

²¹ *Id.* at P. 4-131.

V. The Local Benefits of the Moratorium Far Outweigh Any Potential Impact on Interstate Commerce

Based on the City of Portland's experience with its own Fossil Fuel Terminal Zoning Amendments, it is possible that opponents of this policy will argue that Vancouver's moratorium conflicts with the Dormant Commerce Clause—an analysis that requires a balancing of the local goals and benefits expected from the action against any effects that action may have on interstate commerce.²²

As discussed at length above, Vancouver has numerous compelling reasons to prohibit the development of new fossil fuel infrastructure within the City—all of which outweigh any negative effects the moratorium may have on interstate commerce. The moratorium will not only assist the state in meeting its broader greenhouse gas emissions goals, but it is also directly connected to the City's desire to protect the health and safety of its residents—particularly those environmental justice communities that will be most directly impacted by the construction of these facilities.

We strongly support the Council in adopting a permanent moratorium on new or expanded fossil fuel infrastructure within the City of Vancouver and thank you for the opportunity to provide these comments.

Sincerely,



Erin Saylor
Staff Attorney
Columbia Riverkeeper

On behalf of:

Columbia Riverkeeper

Don Steinke, Climate Action of SW Washington

Nick Manning, Climate & Health Program Organizer, Washington Physicians for Social Responsibility

²² See *Pike v. Bruce Church, Inc.*, 397 U.S. 137, 90 S.Ct. 844 (1970) (noting that the state or local legislation must not be “clearly excessive in relation to the putative local benefits.”)

Damon Motz-Storey, Healthy Climate Program Director, Oregon Physicians for Social Responsibility

Dylan Plummer, Grassroots Organizer, Cascadia Wildlands

Mark Leed, Chair, Sierra Club Loo Wit Group

Matt Krogh, Campaign Director, Stand.earth

The Lands Council

Rebecca Ponzio, Washington Environmental Council/Washington Conservation Voters

Ryan Rittenhouse, Conservation Organizer, Friends of the Columbia Gorge

Stop Zenith Collaborative

Stop Fracked Gas PDX

Climate Action Coalition

Alliance for Community Engagement (ACE)

Oregon Conservancy Foundation

Puget Soundkeeper Alliance



May 17, 2021

Vancouver City Council
415 W 6th St
Vancouver, Washington 98660

Dear Mayor McEnerney-Ogle and Council Members:

Thank you for the opportunity to offer our comments on Ordinance No. M-4295, which declared an emergency and adopted a six-month moratorium on the establishment of new, or the expansion of existing, large-scale fossil fuel facilities. In this letter, we wish to renew and reiterate our support for the work that Vancouver's staff are doing to build a meaningful program to address climate pollution in Vancouver. Addressing the risk of bulk fossil fuel terminals, such as coal or LNG-by-rail facilities, is a key step in building a more resilient Vancouver. Attached is the July 2020 letter from a coalition including Columbia Riverkeeper, Washington Physicians for Social Responsibility, Climate Action of SW Washington, Oregon Physicians for Social Responsibility, Cascadia Wildlands, Sierra Club Loo Wit Group, The Lands Council, Oregon Conservancy Foundation, Stop Zenith Collaborative, Stop Fracked Gas PDX, Climate Action Coalition, Alliance for Community Engagement (ACE), Friends of the Columbia Gorge, Washington Environmental Council, Washington Conservation Voters, Stand.earth, and Puget Soundkeeper Alliance, all of whom support your effort.

We appreciate and support the City of Vancouver's efforts to extend a moratorium on the construction of new, or expansion of existing, large-scale fossil fuel facilities. The moratorium is consistent with the City of Vancouver's climate policies and plans as well as the laws and policies of the state of Washington. Additionally, the moratorium on the construction of large-scale fossil fuel facilities is consistent with the City's obligation to provide for the health and well-being of the public as the existence of these facilities pose numerous threats to the City and its residents.

As we have noted in our previous letter, the Ordinance is consistent with prior climate commitments made by the City. The City of Vancouver has demonstrated its commitment to

mitigate the harms caused by the combustion of fossil fuels and the global climate crisis. The current moratorium on large-scale fossil fuel facilities is consistent with the City's earlier efforts to mitigate climate harm. Continuing Ordinance No. M-4295 is a necessary step toward meeting the City's climate obligations and commitments. Further, the Ordinance is consistent with the laws, policies and climate plans espoused by the State of Washington. The State's just-passed climate bill will change the landscape for clean energy in Washington, and Vancouver is wise to be thinking ahead. Additionally, the moratorium is consistent with the City's obligation to provide for the health and safety of its residents. The City of Vancouver has an obligation to provide for the health and well-being of its residents, and continuing the moratorium serves the purpose of making Vancouver more resilient to seismic and extreme weather events by preventing the buildup of volatile, toxic materials close to neighborhoods, businesses, and schools.

Finally, continuing the moratorium will assist Vancouver in avoiding pollution that would contribute to environmental justice inequities in the City. Vancouver's effort to make communities open, resilient, and safe must address first and foremost how BIPOC and other frontline communities may be harmed by the establishment of more fossil fuel infrastructure and pollution. Vancouver's moratorium gives the City the space to assess this problem carefully.

We strongly support the Council in extending the current moratorium and adopting a permanent moratorium on new or expanded fossil fuel infrastructure within the City of Vancouver, and we thank you for the opportunity to provide these comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Erin Saylor".

Erin Saylor
Staff Attorney
Columbia Riverkeeper

To: Vancouver City Council and Staff

Re: Item #4 Fossil Fuel Moratorium Extension/May 17th, 2021/Cathryn Chudy

Thank you for continuing the Moratorium on large scale fossil fuel facilities in Vancouver.

Just yesterday the Columbian published an article detailing how railroads are now operating longer and longer freight trains (sometimes stretching for miles) while drastically reducing staffing levels.

<https://www.columbian.com/news/2021/may/16/u-s-rail-industry-defends-safety-record-amid-staffing-cuts/>

The industry wants us to believe that the staff cuts are being made to “improve efficiency and remain competitive.” They insist that what they are doing to increase profits is not being done at the expense of safety, but it does not take a rocket scientist to recognize the ticking time bomb encased in carmen having 60 seconds to inspect each car in a train (down from 3 minutes) and less-trained crews often handling those inspections. Railroad signalmen who have seen their territories grow by 150% with little time to do maintenance work after completing required tests, are in the crosshairs of lurking disasters.

“Inconclusive safety data” on the impact of these cuts does not mean the staffing levels are safe for anyone, railroad employees or citizens of the rail communities; it means the lurking disaster may be just around the corner. Vancouver does not need to put its population in the crosshairs by enabling the permitting of large scale fossil fuel facilities that, if allowed, will bring an increase in hazardous cargoes into and through Vancouver.

Three significant train derailments (Illinois on May 11, Minnesota on May 15, and Iowa yesterday) raise questions as to how misleading this assertion is that “inconclusive data on safety” should reassure us that putting profits over safety is a good idea for anyone.

When Tesoro Savage was pushing the oil terminal proposal at our Port, BNSF told the Port that safety was their main concern - while at the same time BNSF was lobbying in Washington against safety measures for improving braking systems on unit trains that would bring hazardous crude oil into Vancouver. Fortunately our elected representatives saw through the industry PR reassurances and we do not have an oil terminal at the Port and our city has an ordinance protecting us from this kind of bulk facility for crude oil.

It is common sense that the safety, public health, equity and well being of our community is currently protected by extending the Moratorium that adds other volatile fossil fuels to the existing ordinance restricting bulk crude oil facilities. The question facing Vancouver being severely impacted by a rail disaster is most likely not “if” but “when.” We cannot afford to take any unnecessary risk, and we rely on you as our representatives to be proactive and timely with the decisions you make for us.

I appreciate the work plan that provides for an updated ordinance to be completed within the next 6 months and urge you to prioritize a strong ordinance that puts public health, safety and equity for Vancouver residents first.

Delapena, Amanda

From: Jean M. Avery [REDACTED] >
Sent: Friday, May 14, 2021 6:48 AM
To: City of Vancouver - Office of the City Manager
Subject: Fwd: Comment for 5/17 City Council meeting

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----- Forwarded message -----

From: Jean M. Avery [REDACTED] >
Date: Wed, May 12, 2021, 8:29 PM
Subject: Comment for 5/17 City Council meeting
To: JMA [REDACTED] >

Good evening, Madam Mayor and City Council Members,

I am delighted to be able to speak in favor of a fossil fuel moratorium. Why delighted? Because this is a huge milestone in the years-long effort to improve the livability of our city.

To look at the Waterfront area today, it is hard to imagine that it almost became the site of a huge oil terminal. Instead, we have modern buildings, a park for picnics and strolls, and a modern pier that captures the attention of residents and visitors alike. This is what progress looks like.

In addition, the City has a climate strategy. The only real choice now is to extend the fossil fuel moratorium -- and eventually make it permanent.

I do have a suggestion to improve the Waterfront. There needs to be a way to reach the Waterfront without a car. Please consider a bus or shuttle from downtown--or even a cute trolley. That way, the Waterfront can be more pedestrian-friendly, as we strive toward a more walkable city.

Thank you for all you do!

Jean M. Avery
Vancouver

From: [Sarah Terry](#)
To: [City of Vancouver - Office of the City Manager](#)
Subject: Bulk Fossil Fuel Storage
Date: Monday, May 17, 2021 12:29:42 PM

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How will we reduce our carbon footprint if we continue to expand our bulk Fossil fuel storage? I want to see the technology and job growth associated with new clean energy in our community not just the stagnation of jobs and old, unhealthy energy sources.u

From: [Primus Prostremus](#)
To: [City of Vancouver - Office of the City Manager](#)
Subject: City Council 5/17 item #4 moratorium
Date: Monday, May 17, 2021 11:42:43 AM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

I'm writing in strong support of the extension of the moratorium on fossil fuel projects. It is the right thing to do. I applaud you on your forward thinking. Washington can lead the nation in setting and meeting or exceeding our climate goals. As a mother, and an educator, please vote to extend the moratorium now and indefinitely for a sustainable clean energy future in Vancouver and SW Washington. My Clark College students agree!

Prof. Sally Keely

[REDACTED]

Woodland WA 98674

From: [Cambria Keely](#)
To: [City of Vancouver - Office of the City Manager](#)
Subject: City Council 5/17/2021 Item #4 Moratorium
Date: Monday, May 17, 2021 11:37:33 AM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

I am writing in support of the moratorium extension. It is the right thing to do to protect Vancouver and the greater PNW region from the establishment or expansion of large-scale dirty fossil fuel industries.

Cambria Keely

[REDACTED]

Woodland, WA 98674

VANCOUVER AUDUBON SOCIETY

P.O. Box 1966 Vancouver, WA 98668-1966
www.vancouveraudubon.org



May 17, 2021

Vancouver City Council
cmo@cityofvancouver.us

Testimony regarding six-month extension of the temporary moratorium prohibiting the establishment of new, or expansion of existing, large-scale fossil fuel facilities

The Vancouver Audubon Society supports the proposed extension of the moratorium prohibiting the establishment of new, or expansion of existing, large-scale fossil fuel facilities in Vancouver.

The moratorium provides the necessary time for the City of Vancouver to develop a permanent policy to address large-scale fossil fuel facilities. The moratorium also creates the opportunity to consider future large-scale fossil fuel facilities within the context of its broader plans for climate change and resiliency planning.

We urge the City of Vancouver to complete the ordinance, as outlined in the Six Month Work Plan, and adopt it in December 2021 without any further extensions.

We support the ordinance language and we urge the City Council to keep the ordinance strong as it moves towards adoption.

We must act for our climate. Two-thirds of North American birds are at increasing risk of extinction from global temperature rise. The National Audubon Society's ground-breaking report, *Survival by Degrees: 389 Bird Species on the Brink*, shows that the majority of North American bird species are at risk of extinction from climate change – including bird species that occur right here in Vancouver. The report also shows that if we take action now we can help improve the survival chances for the majority of species at risk—but we have to move quickly.

By stabilizing carbon emissions and preventing additional warming above pre-industrial levels, 76 percent of vulnerable species will be better off, and nearly 150 species would no longer be vulnerable to extinction from climate change. Renewing the moratorium now and adopting the ordinance by December 6, 2021, will enable the City of Vancouver to move forward on taking action for our climate.

Sincerely,

Susan Saul
Conservation Chair

May 17, 2021

Support for the Fossil Fuel Moratorium Extension

Heidi Cody

[REDACTED]
Vancouver WA 98664

Hello everyone my name is Heidi Cody.

Vancouver's location along the Columbia, and our train tracks, make us a perfect route to get oil and fracked gas to Asia. There are two aspects of this: the trains that bring these hazardous products through and into our community; and the transfer points, terminals and storage tanks that new fossil fuel infrastructure would require. Both carry huge risks.

Over the past several years rail companies have been cost-cutting to increase profits. Trains have been getting longer; braking technology has not improved; inspection times for train cars have been slashed; a lot of jobs have been cut, and overtime has increased. It's obvious, but it's a bad idea for fatigued employees to inspect or drive explosive trains that can be up to 2 miles long.

A big new terminal here would mean a lot more train traffic. But even if no terrible train event happens – no derailments, no fires – the smelly fumes from a new gas or oil terminal would ruin our air quality. We should not risk ruining Vancouver with the toxic pollution and dangers that come with new fossil fuel infrastructure.

We are also in the Cascadia subduction zone and overdue for a massive earthquake. That alone should automatically disqualify Vancouver from these projects. Having more gas and oil storage or terminals here is inviting catastrophe.

Please extend this moratorium, and let's make it a permanent ban as soon as we can.

Thank you,

A handwritten signature in black ink that reads "Heidi Cody". The signature is written in a cursive, flowing style.

Heidi Cody

From: [Don Steinke](#)
To: [City of Vancouver - Office of the City Manager](#)
Subject: Don Steinke's moratorium comment May 17, 2021
Date: Monday, May 17, 2021 11:51:36 AM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To the City Council: Hello everyone, I'm Don Steinke

On June 2, of 2014, the Vancouver City Council meeting was held in the Hilton Ballroom. 650 attended to express support of your resolution in opposition to the proposed Tesoro Savage Oil Terminal.

Thanks to all of you who voted for it.

Several of us are back tonight to support your new moratorium regarding fossil fuels.

I was told by the lobbyist for Tesoro-Savage; that they are just responding to demand, implying it's our fault not theirs. I replied that demand is created. There is no such thing as innate demand for any commercial product.

We were also told by the oil companies, oil is not going away anytime soon. There will always be a need for oil which may be true, but not for combustion.

Last Thursday, Harvard published research on the messaging used by the oil industry over the years.

Harvard highlights the same messaging I heard, the shifting of blame to individuals with their Rhetoric of consumer "demand", and there will always be a need for oil.

The Harvard study highlights other deceptive messages used by the oil and gas industry, but they haven't kept up with their latest tactic of renewable gases which is a bait and switch message.

I urge extension of the moratorium because a dozen applications for new projects could show up tomorrow without it.

I hope you will continue to allow on-line public participation after the Covid crisis is over. Doing that will reduce demand for fossil fuels, new roads, parking spaces. Thanks for all you do.

From: [Joann Derie](#)
To: [City of Vancouver - Office of the City Manager](#)
Subject: Extending the moratorium on large bulk fossil-fuel storage
Date: Monday, May 17, 2021 9:57:07 AM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

City Council,

I strongly urge the city to complete this ordinance update without any further extensions beyond this one. If we invest in these fossil fuel facilities, we cannot reduce our emissions to the 2030 goal established by our legislature. Besides keeping our community safer, we need to do our part and set an example to other cities.

Fossil-fuel pollutants have an adverse effect on children's educational performance. There has been a significant increase in climate-related disasters such as rising seas, storms and as we experienced last year, wildfires, as a result of a high-carbon economy. This results in a surge of climate migrants within our own country and from other countries.

We need to do all we can to pivot to a low-carbon economy. Extending the moratorium on new or increased capacity for large bulk fossil-fuel storage facilities and ultimately passing the ordinance would be step in this direction.

Thank you,

Joann Derie

Sent from my iPad

From: [Nancy M. Helget](#)
To: [City of Vancouver - Office of the City Manager](#)
Subject: Fossil fuel moratorium
Date: Monday, May 17, 2021 10:27:01 AM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor and City Council members,

Please vote to extend the moratorium on bulk fossil fuel facilities. The moratorium is an essential component of the climate action plan the city ultimately adopts. It's particularly important in light of the extensive existing and proposed waterfront development. Bulk fossil fuel facilities are inconsistent with that development and the vision of Vancouver as a healthy, liveable city.

Our city can and must develop economically and in a sustainable way that doesn't rely on fossil fuels. The city should act to attract non-polluting businesses in order to attract residents who more and more want to live in a clean and healthy community. The moratorium promotes and furthers that purpose.

Thank you for your efforts to protect our climate. Our children and grandchildren depend on those efforts.

Nancy Helget



Vancouver

From: [Henry Sessions](#)
To: [City of Vancouver - Office of the City Manager](#)
Subject: Fossil fuels moratorium 5/17 agenda
Date: Monday, May 17, 2021 10:01:56 AM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To Vancouver City Council:

I would like to register support for extending the Vancouver fossil fuels moratorium for another six months (and ultimately indefinitely). The community has spoken clearly about its wish to keep oil and gas terminal facilities out of our city. I have lived in Vancouver for 11 years and have seen the city change for the better in many ways, with encouragement of a vibrant downtown and uptown business and restaurant/bar community, the waterfront development, plans for a Terminal 1 public market, and smart development plans such as rapid transit on Fourth Plain and the vision for the Tower Mall area on Mill Plain. Locating an oil or gas terminal in the heart of our community would be taking us backwards in terms of progress, not to mention the dangers from explosions, leaks, catastrophic earthquakes, etc. Vancouver needs to continue its progressive development trajectory, and be a leader in moving to a clean energy future. Please extend this fossil fuels moratorium and start working toward a permanent moratorium.

Respectfully,

Henry Sessions

[REDACTED]

Vancouver, Wa 98661

[REDACTED]

From: [jerry rolling](#)
To: [City of Vancouver - Office of the City Manager](#)
Cc: [Peter Fels](#); [Sara Rolling](#); [ted Gathe](#)
Subject: Fossil fuels moratorium
Date: Monday, May 17, 2021 8:59:13 AM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I am writing to support efforts to impose a moratorium on fossil fuels facilities in Vancouver

The use, transportation, extraction and storage of fossil fuels produces polluting, sometimes noxious, and climate changing gases.

We are now in sight of providing our energy needs without recourse to fossil fuels. Solar, wind and technologies yet to be developed are the way of the future and more in line with our shared vision for Vancouver. Hydrogen in particular will enable us to use the Columbia River's unused capacity, acting like a battery, and producing ultra clean energy

Celebrate the future; moratorium the past!

Sent from my iPad

Delapena, Amanda

From: Steve Foster <s[REDACTED]>
Sent: Friday, May 14, 2021 6:58 AM
To: City of Vancouver - Office of the City Manager
Subject: May 17 Council Mtg Comment

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello:

I'm writing to comment on future fossil fuel facilities in Vancouver. The state legislature has established the goal of reducing emissions 45% below 1990 levels by 2030, and we cannot reduce emissions by investing in more fossil fuel facilities. The current moratorium on fossil fuel facilities should be maintained. There should be no new or expansions of existing large bulk fossil-fuel storage facilities in Vancouver.

Thanks,
Steve Foster
Vancouver WA

Delapena, Amanda

From: John Bruce Liles <[REDACTED]>
Sent: Friday, May 14, 2021 6:55 AM
To: City of Vancouver - Office of the City Manager
Subject: Extend the moratorium

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

This is an email in support of extending the moratorium on new or expansions of existing large bulk fossil-fuel storage facilities.

John Bruce Liles

[REDACTED]
Vancouver

Delapena, Amanda

From: Rick Marshall <ca[REDACTED]>
Sent: Sunday, May 16, 2021 5:52 AM
To: City of Vancouver - Office of the City Manager
Subject: Item #4 Consent Agenda -- Moratorium on Fossil Fuel Facilities

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Vancouver City Council and Staff,

Just a reminder that the current Moratorium has done much to protect upstream rail communities. Rail communities like Camas and Washougal have very little ability to stop hazardous rail shipments that pass right through our cities. We often see oil trains chugging through downtown Camas and it would be tragic if that traffic were to dramatically increase. I urge the Council to extend the Moratorium and make the ban permanent as soon as possible. Your upstream neighbors very much appreciate your help in keeping all of us safe. Thanks!

Rick Marshall
[REDACTED]
Camas, WA 98607
[REDACTED]

From: [M. Keely](#)
To: [City of Vancouver - Office of the City Manager](#)
Subject: Moratorium Extension Please
Date: Monday, May 17, 2021 11:58:44 AM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

I am Mark Keely. My address is [REDACTED], Woodland, WA.
Fossil fuel trains should never be allowed. Especially in or around any cities. It's like equating them to Russian Roulette. Should you want to extend the train size. That would be like adding another bullet in the chamber. The only people who would gain from any train size are the fossil fuel industries at your expense. Especially if an accident should (& when) happens. And accidents happen all the time. So if you feel like taking chances with other peoples life's for the fossil fuel industries, find somewhere else to put it all. It's an insane idea & never should be considered. Common sense says, Put an extension on the moratorium and never give it a second thought, you'll be glad you did. Thank You.

Delapena, Amanda

From: City of Vancouver - Office of the City Manager
Sent: Monday, May 17, 2021 12:03 PM
To: Delapena, Amanda
Subject: FW: Support for Six-month extension of temporary moratorium prohibiting the establishment of new, or expansion of existing, large-scale fossil fuel facilities

Testimony for council meeting

Kerry Peck | Administrative Assistant



CITY OF VANCOUVER, WASHINGTON
City Manager's Office/Administrative Assistant
P: (360) 487-8616

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From: Helen Ost [REDACTED]
Sent: Friday, May 14, 2021 12:43 PM
To: City of Vancouver - Office of the City Manager <CMO@cityofvancouver.us>
Subject: Support for Six-month extension of temporary moratorium prohibiting the establishment of new, or expansion of existing, large-scale fossil fuel facilities

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To: the Mayor and City Council

From: Helen Ost, Vancouver resident

RE: Support for renewal of the six-month extension of the establishment of new, or expansion of existing, large-scale fossil fuel facilities

This action is preventive. Approval prohibits any new processes for permits for expanded fossil fuel facilities such as LNG storage facilities or more gasoline storage tanks.

The staff report notes that in addition to allowing the City a wider choice of future development, it allows time for all the public processes, environmental review, and consideration for the work on the Strategic Plan and Climate Action Plan before any approval of the fossil fuel facilities.

The budget impact is minimal, and assures that any future expansion follow the work that is in process.

I support the staff report that lists the advantages of promoting that our urban environment is one of the safest, most environmentally responsible and is well maintained.

I request the renewal be approved.

Helen Ost


Vancouver WA 98664



We need acts of restoration, not only for polluted waters and degraded lands, but also for our relationship to the world... to receive the respectful acknowledgment of the rest of the earth's beings."

– Robin Wall Kimmerer, *Braiding Sweetgrass: Indigenous Wisdom, Scientific Knowledge, and the Teachings of Plants*

Delapena, Amanda

From: Dorethea Simone <[REDACTED]>
Sent: Saturday, May 15, 2021 4:31 AM
To: City of Vancouver - Office of the City Manager
Subject: extension of M 4323

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Vancouver City Council members:

Thank-you for your attention to this matter.

Please, extend the moratorium, Ordinance # M-4323 because the longer the extension, then better chance we have of finding cleaner, alternative fuel and green energy. Our children and Grandchildren need every extra action we can take to bring them a healthier future.

Washington State can be a great example for other states that are already polluted almost beyond redemption.

Thank-you!

Dorethea Simone

[REDACTED]

Camas, WA 98607-9204

[REDACTED]

Delapena, Amanda

From: City of Vancouver - Office of the City Manager
Sent: Monday, May 17, 2021 12:02 PM
To: Delapena, Amanda
Subject: FW: written testimony for fossil fuel moratorium vote on May 17th

Testimony for council meeting

Kerry Peck | Administrative Assistant



CITY OF VANCOUVER, WASHINGTON
City Manager's Office/Administrative Assistant
P: (360) 487-8616

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From: shana sundstrom <s[REDACTED]>
Sent: Friday, May 14, 2021 12:54 PM
To: City of Vancouver - Office of the City Manager <CMO@cityofvancouver.us>
Subject: written testimony for fossil fuel moratorium vote on May 17th

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council,

I strongly support extending the moratorium on all large and new bulk fossil fuel storage facilities. It is critically important that we take clear steps towards reducing and ultimately eliminating our reliance on fossil fuels.

Our legislature has established the goal of reducing emissions 45% below 1990 levels by 2030, and we cannot reduce emissions by vesting more fossil fuel facilities.

Thank you,

Shana Sundstrom, PhD (ecologist)

From: [Jim C](#)
To: [City of Vancouver - Office of the City Manager](#)
Subject: Support: Extending the bulk fossil fuel moratorium
Date: Monday, May 17, 2021 10:09:46 AM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To: Vancouver City Council

I encourage you to extend Vancouver's moratorium on further bulk fossil fuel infrastructure in Vancouver pending completion of Vancouver's climate change related planning.

We face prolific evidence of rapidly accelerating climate change. It is imperative that we act to moderate climate warming influences quickly. I look forward to the City completing its climate change planning and moving forward with efforts to respond to these needs.

Thank you,

James Clute

 Vancouver, WA 98685

From: [Peter L. Fels](#)
To: [City of Vancouver - Office of the City Manager](#)
Subject: Vote to Extend Fossil Fuel Storage Moratorium
Date: Sunday, May 16, 2021 10:07:17 PM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor and Councilors,

I hope you will permanently prohibit the storage of bulk fossil fuels in the City. Vancouver can be so much more than a hub for fossil fuel storage and transportation. Fossil fuels are dangerous, smelly and polluting. Large storage facilities will discourage other businesses and both new and existing residents. Storage facilities also tend to be placed near communities of color and lower income people, thus exacerbating inequality.

I understand staff has not had time to complete work to make the ban permanent, so in the meantime please approve the current proposal to extend the moratorium.

Thank you,

Peter Fels

Sent from my iPad

Delapena, Amanda

From: City of Vancouver - Office of the City Manager
Sent: Friday, May 14, 2021 12:02 PM
To: Delapena, Amanda
Cc: Lande, Aaron
Subject: FW: fossil fuel facilities

Follow Up Flag: Follow up
Flag Status: Completed

For council

Kerry

-----Original Message-----

From: Mardi Wood <[REDACTED]>
Sent: Friday, May 14, 2021 11:44 AM
To: City of Vancouver - Office of the City Manager <CMO@cityofvancouver.us>
Subject: fossil fuel facilities

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Our legislature has established the goal of reducing emissions 45% below 1990 levels by 2030.

We cannot reduce emissions by vesting in more fossil fuel facilities!

Thank you,
Mardi Wood

From: [Arthur Ungar](#)
To: [City of Vancouver - Office of the City Manager](#)
Subject: Written comments for City Council meeting May 17 Item 4
Date: Monday, May 17, 2021 12:40:59 PM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I'm writing in support of the Six-month extension of temporary moratorium prohibiting the establishment of new, or expansion of existing, large-scale fossil fuel facilities

As described by the staff, this would allow more time for the completion of the Climate Action Plan. More fossil fuel facilities will contradict the State mandate to reduce carbon emissions.

Art

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 Vancouver WA 98660

From: [Janice Ritter](#)
To: [City of Vancouver - Office of the City Manager](#)
Subject: Written comments for City Council meeting
Date: Monday, May 17, 2021 10:02:57 AM

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello, my name is Janice Ritter. I appreciate the effort going into the planning, but still disappointed in the attitudes of some of the planners. I have many things to say and very little time for detail so..

1. Mill Plain. You say that take our word, Mill Plain will be safe with parallel parking. Mill Plain is a main arterial between I5 and 205 with more traffic being added with your development. The bus goes in the travel direction and exits on the passenger side. Parallel parking delays traffic and though space is provided, it is not feel safe when cars buzz by. Are you creating a bottleneck along Mill Plain? Parking along Devine and MacArthur make sense.
2. How well have you coordinated with the school districts? The schools are being developed for the current population. What will happen when you add all the additional people to this area? Are you expecting them to be childless as well as carless? You said you plan to use the school parking for overflow parking, but the school has events also that use the parking.
3. Parking should be available within the development and not spill out into the neighborhoods. It sounds like an old song and dance, but we still fear out safe quiet neighborhoods invaded by vehicles that should be provided into the neighborhood. Your parking ratios for multifamily units are too small. Most have 2 family incomes and need access to work.
4. TDMs are not the answer to lowering parking ratios. How effective is it really? Why are we the Guinea pigs? Many of them have flaws. You are worried that parking will take up too much space in the future, but your idea of free bus passes can be quickly wiped away. Having reduced rent for someone who doe does not have a vehicle will cause a problem then they move, and the next people do not have a place for their vehicle. And what about visitors? Then there is the overflow from big events, like Saturday Market or concerts that you are planning. We have a safe neighborhood to walk and see neighbors. You will be taking that away with parking in our neighborhoods because of your poor planning now.
5. I like the idea of limiting bike parking and allowing them to park inside their room. Bike theft is serious. We personally had a bike stolen.
6. I am concern with the densities you are insisting on will be vacant in the future when the tide turns back to suburbs because of the affect Covid will have on the people living thru it.

There are many concerns with this plan, but the neighborhoods have limited their voice to building heights and parking. We hope you can give up some of your ideals to encompass our concerns.

Janice Ritter
Dubois Neighborhood



Holli Johnson
Manager NW Region

May 17, 2021

Via Email:
cmo@cityofvancouver.us

Mayor Anne McEnerny-Ogle and
Vancouver City Council Members
Post Office Box 1995
Vancouver, Washington 98668-1995

**Re: Western States Petroleum Association Comment on proposed ordinance
extending the six-month moratorium first enacted by Ordinance No. M-4295, and
extended by Ordinance No. M-4323, for an additional period of six months**

Dear Mayor McEnerny-Ogle and City Council Members:

Western States Petroleum Association ("WSPA") appreciates the opportunity to provide comments on the proposed subject ordinance that would extend the moratorium enacted by Ordinance No. M-4295, which prohibits the establishment of new, or expansion of existing, large-scale fossil fuel facilities (the "Moratorium") for an additional six months. WSPA is a nonprofit trade association representing companies that explore for, produce, refine, transport, and market petroleum and petroleum products in five western states, including Washington. WSPA members operate petroleum terminals in the City of Vancouver (the "City") and oppose the Moratorium and proposed extension thereof.

WSPA members have operated in the City for years. This area provides key energy and emergency infrastructure as recognized by various city, state, and federal documents. WSPA members believe that the Moratorium constrains existing operations and projects for current and near-future regional needs for energy, including the need for lower-emission fuels. With the current economic uncertainty, any additional and unnecessary regulations—such as the Moratorium—should be avoided to allow economic recovery to occur.

**The Extension of the Moratorium Will Cause Significant Adverse Impacts on Regional
Energy Supply, Transition to Lower-Emission Fuels, and Seismic and
Groundwater Safety**

The Moratorium is counterproductive. It creates barriers to fuel facility upgrades, including fuel facilities' use of evolving fuel types as the region grows, technology advances, and fuel standards change. Each time fuels with lower emissions are developed or required by a governmental entity, new or updated infrastructure is needed to provide that fuel. The Moratorium prohibits

Mayor Anne McEnerny-Ogle and
Vancouver City Council Members
May 17, 2021

improvements and beneficial innovation to the City's fuel infrastructure. Its effect is to freeze the current fuel supply system in place.

Specifically, the Moratorium affects the City's fuel facilities in the following ways:

- Prevents fuel facility equipment upgrades necessary to meet market demand or comply with lower-emission federal and state fuels law;
- Discourages fuel facility safety upgrades, which most often occur concurrently with market-based infrastructure expansion and improvement;
- Prevents fuel facility efficiency upgrades that generally reduce greenhouse gas emissions, in contravention to the Moratorium's climate change prevention goals;
- Discourages the City's fuel facilities' transition to newer, lower-carbon-fuel sources;
- Thwarts the introduction of future technologies that do not fit within the current fossil fuel infrastructure framework;
- Prevents new fuel facilities that can deliver fuel more efficiently and with lower emissions;
- Prevents new fuel tanks for blended fuels that transition toward lower-carbon-fuel sources;
- Prevents fuel facility upgrades that would trigger seismic safety improvements and retrofits; and
- Forces fuel facilities to stay in areas with heightened seismic and groundwater risk by prohibiting fuel suppliers from relocating facilities to areas that have lower seismic risk and lower risk of impacting City groundwater resources.

In short, the Moratorium freezes existing infrastructure in place and prohibits beneficial changes to fuel infrastructure. If the Moratorium had been passed 20 or 30 years ago, the City would have missed out on years of safety and emissions improvements, which would have resulted in higher emissions and less-safe facilities today. The effect of the Moratorium is to increase emissions and decrease safety over time. The Moratorium fails to deliver, and in fact hinders, its intended benefits of reducing emissions and improving local safety.

The proposed extension of the Moratorium will keep in place these substantial barriers to the progressive evolution of the City's fuel industry. The Moratorium and the proposed extension also suffer from an incorrect understanding of how greenhouse gas emissions occur in the fuel supply chain and how seismic improvements and other safety improvements occur within this type of critical energy infrastructure.

The Moratorium does not reduce the regional demand for fuel. Fuel is a product with inelastic demand. There are few to no supplements for most types of fuel, so consumers will continue to demand fuel, even if it must be delivered through less-efficient modes with greater cost and emissions. As regional demand for fuel quantity grows and demand for types of fuel changes (including increased demand for fuel with less carbon), that fuel will need to be supplied through

Mayor Anne McEnerny-Ogle and
Vancouver City Council Members
May 17, 2021

a new facility or by additional fuel trucks on the road coming from existing facilities. Forcing fuel distribution through older facilities and trucks increases the cost and emissions of fuel distribution while discouraging seismic, environmental, and safety upgrades. For these and all the other reasons above, the City should decline to extend the Moratorium.

Thank you for your consideration of WSPA's comments. If you have any questions or comments, please contact me at hjohnson@wspa.org or 360-239-2248.

Sincerely,

A handwritten signature in blue ink that reads "Halli Johnson". The signature is written in a cursive, flowing style.

cc: Eric Holmes, City Manager (eric.holmes@cityofvancouver.us)
Jonathan Young, City Attorney (vanlaw@cityofvancouver.us)
Jessica Spiegel, WSPA
Jodie Muller, WSPA