

March 25, 2016

*Via Email*

Honorable Members, Seattle City Council  
PO Box 34025  
Seattle, WA 98124-4025

Re: *Seattle Mariners Comments on SODO Arena Street Vacation*

Dear Honorable Members of the Seattle City Council:

We represent the Seattle Mariners and submit these comments on their behalf.

The Seattle Mariners strongly support the return of the NBA and the possibility of adding an NHL team to the Seattle area. They have met or spoken with every potential ownership group that has looked at bringing a team to the Seattle area, whether at the SODO site, Key Arena, Bellevue or Tukwila. Losing the Sonics was a tragedy for Seattle, and for all in the sports community here. The Mariners fervently believe that Seattle needs, deserves and will support all major professional sports.

The question is whether it is in the best interests of the community for those teams to be in an arena specifically at the SODO site. The pending street vacation petition brings this issue to a decision point. In its Memorandum of Understanding (MOU) with ArenaCo, the City reserved the right to make this decision independently, after more comprehensive study of alternative sites and the impacts on all potentially affected businesses, neighborhoods and residents in the SODO area and at alternative sites.

The Mariners have participated in this examination from the beginning. They are immediate next-door neighbors of the proposed SODO site and know the area and its traffic patterns, pedestrian flows, and operational needs well. We have attended every Design Review Board and Design Commission meeting on this subject and met on numerous occasions with DPD and SDOT staff. The Mariners met privately with ArenaCo's architects early in their design planning. While we remained concerned about the many challenges that the SODO location presented, and while we continue to believe that other sites are far better suited to this purpose, we offered constructive comments and suggestions aimed at trying to improve the SODO project and reduce operational impacts on Safeco Field, including ways to mitigate potential conflicts with the existing sports venues. As the Mariners pledged from the start, if the City decides this is the best location for an NBA arena, they will continue to offer their best recommendations for making this work as well as possible.

Without doubt, however, the SODO site has many challenges. The immediate proximity of the two existing sports venues, the region's deep water port and container terminal, and much of the City's maritime business and industrial base, with all of the traffic and parking challenges that proximity brings when set off from major highway routes by a highly active railroad line with few east-west routes that cross the railroad tracks, combine to make this site operationally difficult.

Only one U.S. city, Philadelphia, places all three of its major sports venues in a single location. There, they are outside the downtown core, sited next to a large park, adjacent to two major interstate highways with multiple sets of on/off ramps available, and have 23,000 surface parking spaces available to the sports facilities. The Philadelphia Sports Complex website boasts that they handle 380 events with 5.5 million vehicle trips each year. By contrast, Safeco Field and CenturyLink Field have combined parking capacity of fewer than 5,000 spaces, and ArenaCo has suggested that they might possibly add fewer than 1,800 more. In fact, in the area around the existing venues, over 4,000 parking spaces have been lost to development since Safeco Field opened in 1999. The SODO site is not at all prepared to handle the volume of either events or vehicles that Philadelphia has experienced.

At the core of this is event scheduling. If there were no potential conflicts with Mariners games, with the traffic and parking implications of those conflicts, the Mariners would have few concerns with the SODO site. But ArenaCo has indicated its desire to have 200-250 events each year. This is far beyond 41 NBA home games or a similar number of NHL games, and far beyond use principally occurring during the baseball off-season. It implies a Philadelphia-like volume, with many conflicting or overlapping events. We have studied the potential conflicts that would come by overlaying a typical arena event schedule on the schedules already established for Safeco and CenturyLink. Unless the City places scheduling limitations on a SODO arena, there could be significant events at the arena that conflict with as many as 30-50% of Mariners home games.

If both the arena and Safeco are at or near capacity, a conflict of that nature would be like having a Monday night football game 25 or more times each year, with all of the traffic challenges and gridlock that brings. This adversely affects not only SODO, but downtown and all major arterials leading to Seattle.

Unfortunately, the SDOT recommendation on the street vacation petition fails to incorporate or even address the many challenges that were identified by the Mariners and many others who submitted comments throughout the Department's review process. SDOT recommends no meaningful limitations on scheduling, no firm requirement for additional parking, no restriction on closure of S. Massachusetts Street, and ignores the need to have the proposed arena's service road available to replace the function of Occidental Avenue S. in serving the south entrance to the Safeco Field garage, a function deemed necessary by the EIS and deemed an essential condition of approval by the Seattle Design Commission. SDOT also recommends a sidewalk width on 1st Avenue S. that is 8 feet less than what is required to

safely accommodate projected pedestrian volumes, raising serious public safety concerns. The City Council is thus faced with a proposal that presents many unresolved issues.

Detailed in the attachment to this letter are the concerns with the vacation that the Mariners have consistently raised over the last three years, but which have not yet been resolved by ArenaCo or the SDOT recommendation. In addition to considering those detailed comments, we ask the Council to give weight to the concerns expressed in the letter from the Washington State Major League Baseball Stadium Public Facilities District, the public entity that owns Safeco Field. We support the further analysis provided in their letter.

In sum, we urge the Council to remain open to other potential sites for the arena, and to send this petition back to the City departments for a more thorough review and more detailed recommendations before the fundamental decision is made to give up a street that serves a vital public function. But if the Council decides to proceed with this street vacation, at a minimum the following issues should be addressed in specific street vacation conditions:

- Since so many of the transportation and parking issues are closely related to event scheduling, the Council should place scheduling limitations on the arena, just as it placed similar limitations on Safeco Field and CenturyLink Field.<sup>1</sup> The arena should not be permitted to have a major event (one with more than 5,000 attendees) that would be within three hours of a major sports event or concert at the existing venues.
- A permanent easement must be granted to the Public Facilities District that owns Safeco Field, guaranteeing free and open use of the full two-lane service road along the back of the arena property at any time that the Safeco Field garage is filling or emptying from an event that generates 500 parked cars or more.
- ArenaCo should be required to construct new parking facilities which provide approximately 2,300 parking spaces (the project shown on Figure 2-153 in Appendix E to the Final EIS), so that smaller conflicting events that are allowed do not absorb the limited parking inventory that remains today.
- Two travel lanes on S. Massachusetts Street east of 1st Avenue S. shall be kept open at all times during and after construction of the arena in order to provide access to the Safeco Field driveway.

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<sup>1</sup> ArenaCo must fulfill its obligation under Section 21 of the MOU to coordinate with the Mariners, Sounders, Seahawks, and the public entities that own Safeco Field and CenturyLink Field to minimize conflicting and overlapping events among the venues. To date, ArenaCo has made no meaningful attempt to do so.

- The arena shall provide an effective sidewalk width of 26.5 feet on 1st Avenue S. adjacent to the arena site.<sup>2</sup> This effective width area shall be maintained and kept clear of all permanent obstructions at all times, and in addition, no tables or chairs or other temporary obstructions may be located within this effective width area that interfere with pedestrian volumes for major events at Safeco or CenturyLink.
- There should be a reasonable time limit on the validity of preliminary approval and fulfillment of conditions of approval. If those deadlines are not met, the vacation decision should provide that the preliminary approval will expire. A public street should not be given away forever unless all conditions of approval are met in a timely manner consistent with the MOU.

We appreciate your consideration of these important issues. We remain convinced that better locations for the NBA/NHL arena exist in our region, locations that present far fewer transportation and operational challenges. The SODO site requires many compromises. No one in the SODO neighborhood — not the Mariners, not the Port or maritime businesses, not CenturyLink, and not the new arena itself — will be able to operate to full advantage if the arena is located in SODO, as compared to elsewhere. If the City nonetheless decides to proceed with this location, the Mariners will continue to work with City officials to find a way to operate in a manner that is least compromised for all concerned.

Very truly yours,

*Melody B. McCutcheon*

Melody B. McCutcheon

cc: Lish Whitson, Central Staff  
Beverly Barnett, SDOT  
Seattle Mariners  
Washington State Major League Baseball Stadium Public Facilities District  
Washington State Public Stadium Authority

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<sup>2</sup> An explanation of the need for this sidewalk width is contained in the attachment at pages 10-11.

## DETAILED COMMENTS ON SODO ARENA VACATION

### A. Substantive Concerns with the Vacation

#### 1. Scheduling Restrictions Are Not Resolved.

Every aspect of the arena's traffic and parking impacts depend on how the schedule of events in the arena relate to the events in Safeco Field and CenturyLink.

The 2012 MOU recognized the importance of arena scheduling and *put the onus on ArenaCo to work out scheduling with the existing venues*. ArenaCo has had more than three years to try and get this done, and yet has made no serious attempt to do so. ArenaCo continually tells the City that scheduling is an issue for "later" but it is an issue that must be resolved now. We urge you require ArenaCo to fulfill its obligation under the MOU before Council acts on the vacation – the issue of scheduling is that important.

The existing venues met with City staff several times to provide detailed information about how scheduling of events works in the existing venues. The SDOT recommendation includes some scheduling principles (see p. 46), but contrary to the MOU, essentially puts it on the arena and the two existing venues to work it out. SDOT Recommendation, p. 56. The Mariners put forward its views on scheduling back in June 2015, but ArenaCo has never responded. In any case, the scheduling principles outlined by SDOT are not final (they are explicitly superseded by what SDCI includes in the Master Use Permit decision), and even if they are to be considered, they are not meaningful.

When the City approved a street vacation for Safeco Field, it required a four-hour buffer between major events (such as games) at Safeco Field and major events at the neighboring sports venue (then, the Kingdome). This condition was mirrored in the CenturyLink Field Master Use Permit. A similar condition must be required for arena event scheduling. The existing sports venues were approved at their current locations because this limitation was acceptable to both the Mariners and Seahawks, and both teams knew they could work with this limitation, as they had when they shared the Kingdome. Both teams knew that simultaneous or overlapping events would cause major traffic and parking issues, and had to be avoided. With experience and consultation with Seattle Police, the Mariners and Seahawks have discovered that they can make a three-hour buffer period work. SPD can empty the crowd from the first event in approximately one hour, then reversing traffic patterns to give the second event a two-hour window to bring fans to the area.<sup>3</sup>

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<sup>3</sup> This does make it difficult for employees of the venue hosting the second game to get to work on time, as they are fighting against the traffic flow of the exiting crowd.

Under the existing scheduling agreement between the Mariners and First & Goal, there are meaningful limitations on event scheduling and time-specific dual events. Both parties make best efforts to avoid any conflicts, and limit potential overlapping events to twice per year on weekdays and twice per year on weekends.<sup>4</sup> We acknowledge that there are widely-felt traffic and parking impacts on those couple of occasions. The SDOT scheduling principles for the arena would allow that situation to exist dozens of times per year, every year.

For example, SDOT's suggested principles allow the arena to have weekday events with attendance of 15,000 people, even with a capacity event at Safeco Field, as long as both events start a minute after 7:00 p.m. A near-capacity event at Safeco Field, combined with a near-capacity event at the arena, would mean enormous delays in fans accessing the area, and backups that would hamper rush hour for many in the region. The resulting traffic and parking impacts would hurt the fans of both venues, as well as seriously inconvenience those throughout the City using the transportation system. Clearly, the concept of event restrictions on the arena needs much more thorough consideration.

As the Council directs ArenaCo to live up to its MOU obligations, we want to re-state our views. The arena's scheduling restrictions will need to respect the permits and scheduling rights already in place for the existing venues. Neither the arena itself, nor the street vacation or Master Use Permit for the arena, can modify or abrogate those permits or scheduling rights. The current venues are the existing conditions to which the arena must respond, not vice versa.

Please note that we do not mean to suggest that all dual events between the ballpark and arena are impossible. Overlapping small events in both venues would not create unacceptable traffic and parking impacts. If the arena vacation is approved, then a condition of approval should be that the arena not schedule major events in the arena (i.e. those with projected attendance over 5,000) when a major event (such as a game or concert) has been scheduled in the ballpark or CenturyLink based on the existing priorities of ballpark and CenturyLink events as historically allowed under those facilities' permits and scheduling agreements. Unless the arena is restricted from having major events when there are major events at Safeco and CenturyLink, the arena is not workable in the SODO location because of the unacceptable traffic and parking impacts it would create for attendees at the existing venues and for the City at large.

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<sup>4</sup> This narrow exception to the previously-existing absolute prohibition became necessary when the Sounders began playing games at CenturyLink. All of the parties involved do their best to avoid these conflicts, and the full number of exceptions has never been used.

**2. Access to Safeco Field Is Impaired Unless Adequate Mitigation Is Imposed.**

The most basic function of a street is to provide access. The City's Street Vacation Policies recognize that fundamental principle and state that a vacation may *only* be approved if negative circulation and access effects can be mitigated:

Vacations may be approved only if they do not result in negative effects on both the current and future needs for the City's vehicular, bicycle, or pedestrian circulation systems or on access to private property, unless the negative effects can be mitigated.

Street Vacation Policies, Policy 1 – Circulation and Access, p. 7.

Throughout the arena vacation process, the Mariners have noted the ways in which the arena proposal impairs access to Safeco Field. Our concerns, and the potential solutions to them, have been expressed in detail in numerous letters. Unfortunately, the SDOT recommendation imposes no measures to mitigate the adverse access impacts of the arena vacation on Safeco Field. Without such measures, the Vacation Policies should lead you to deny the vacation or send it back to the Departments for further analysis of ways that negative access impacts can be mitigated.

**a. Massachusetts Street Must Remain Open at All Times.**

To understand how important Massachusetts Street is to Safeco Field, some context is helpful. The Safeco Field parking garage, surface parking area, and service road for all back-of-house functions all rely heavily on access from Massachusetts Street, east of 1st Avenue S. Massachusetts Street has a short length and it terminates in a driveway on the ballpark property, adjacent to the arena site.

There are 550 to 600 trucks per month during the baseball season that use the portion of Occidental to be vacated, Massachusetts Street, and ballpark driveway. With the vacation of Occidental, Massachusetts becomes even more critical for ballpark access. Even outside the baseball season, there are still about 200 trucks per month that depend on Massachusetts Street in order for Safeco Field to function. Massachusetts Street is essential for ballpark deliveries and load-in and load-out truck traffic at all hours of the day and night, often days before or after events at Safeco Field or CenturyLink.

In addition, Massachusetts Street provides access for event staging at both Safeco Field and Century Link at least 100 days per year. It is also the essential street for emergency vehicle access to the ballpark, access to ballpark ADA parking north of Massachusetts Street, and access to ADA/senior drop off locations for Safeco events.

If the arena vacation is approved, Massachusetts Street would be the only public street left open for direct access from the south to the ballpark garage/surface parking area, and

service road. It is essential that Massachusetts Street remain open to vehicles accessing Safeco Field. We stress this point because at various times during the street vacation process, ArenaCo has described the closure of Massachusetts Street (when fans gather before or after arena events, or closure due to Arena events).

In our June 22, 2015 letter to SDOT, we asked for this to be a “clear and absolute condition of approval” if the vacation is recommended for approval. This was completely ignored for no reason of which we are aware. If access from S. Massachusetts Street is not assured, then the vacation must be denied per the Street Vacation Policies, since the adverse access impacts on Safeco Field cannot be mitigated.

To address this issue, a condition should be imposed to assure that two travel lanes on S. Massachusetts Street east of 1st Avenue S. shall be kept open at all times during and after construction of the arena. Limited exceptions may be allowed based on advance consultation with the Mariners regarding the access needs of their driveway, and subject to advance approval of a Street Use Permit.

**b. An Alternative Access Road to the Ballpark Must Be Provided.**

There is no question but that the vacation of Occidental Avenue S. has a significant adverse impact on access and circulation. The SDOT Recommendation claims the vacation of Occidental has no adverse effects on access, but that opinion is directly contradicted by the Final EIS itself. Here is what the Final EIS says:

- The vacation of Occidental is listed as a Significant Unavoidable Adverse Impact, meaning that loss of its street function cannot be fully mitigated. Final EIS, 3.8-221 and Appendix E, P. 2-268.
- The vacation of Occidental “would result in the permanent interruption of a parallel route to 1st Avenue S.” – again listed as a Significant Unavoidable Adverse Impact, i.e. a significant impact that cannot be mitigated. *Id.*
- The portion of Occidental proposed for vacation currently accommodates 3,700 vehicles per day and 460 vehicles during the morning peak hour alone. Final EIS, Appendix E, p. 2-255.<sup>5</sup>

In recognition that the vacation would remove a street that provides critical access to Safeco Field, the provision of an access road on the east side of the arena site for vehicles

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<sup>5</sup> As significant as these figures are, they are a gross under-estimate of vehicles on Occidental. The vehicle counts on Occidental, and analysis of the impacts of the vacation, were based on traffic counts in **December** 2013. Final EIS, Appendix E, p. 2-264. December is the least busy time of the year in this location.

exiting the Safeco Field garage was identified as an essential mitigation measure for the vacation. For example:

- The Final EIS described this road as mitigation: “The impact of eliminating the Occidental Avenue S. connection to S. Holgate Street could be mitigated by the Arena Proposal to replace it with a north-south drive connecting S. Holgate Street with the extension of S. Massachusetts Street, which could provide access to the Safeco Field garage, surface parking, and service roadway.” Final EIS, Appendix E, p. 2-266.
- The Final EIS noted that the road on the east side of the arena site, connecting S. Holgate Street to the Safeco Field property was a mitigation measure with “a high influence on this transportation element.” Final EIS, Appendix E, P. 2-190.
- The Final EIS noted that the road on east edge of the Arena “would be maintained” and “could help support emergency vehicle access to the Safeco Field garage during event periods.” Final EIS, p. 3.8-121.
- In approving the urban design merit of the vacation, the Design Commission imposed a condition of approval that ArenaCo “finalize a shared-use agreement with the Public Facilities District that allows Safeco Field event attendees to use the proposed access road east of the Arena... .” Seattle Design Commission Minutes, Meeting of May 21, 2015. The provision of this road for Safeco Field use was so important to the Design Commission that it stipulated that the urban design merit of the petition would need to be re-visited if Safeco Field use of the access road was not ensured.

With all of this emphasis on the importance of the eastern access road, it would have been logical and imperative for SDOT to recommend shared use of that road as a condition of street vacation. But all the SDOT recommendation says is that transportation circulation will “improve” *if* the access road is usable by Safeco Field. SDOT Recommendation, p. 44. First, circulation will not *improve* with shared use of the access road; it would be much more beneficial to keep Occidental Ave S. as the critical pedestrian and vehicle access route that it is. Secondly, the access road is just the bare minimum of what is necessary mitigation to offset the very real adverse effects of the vacation on access to Safeco Field.<sup>6</sup>

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<sup>6</sup> Interestingly, the Street Vacation Policies state that: “When the traffic functions of a street are necessary to the operation of the circulation system, the street will be retained as dedicated right-of-way” and it is not acceptable to provide vehicular traffic functions “by agreement across private property.” Street Vacation Policies, Guideline 1.6, p. 11. But that is exactly what is being contemplated here. The critical traffic function of Occidental is proposed to be mitigated through an agreement for Safeco Field access across the arena property. In this circumstance, the Vacation Policies would actually require denial of the Occidental vacation.

In our June 22, 2015 letter to SDOT, we requested further analysis as to how the access road would work with both arena and ballpark traffic, since the Final EIS did not contain that information and no details had been provided about how the access road would work. We asked for that analysis before SDOT issued its recommendation to Council. SDOT did not provide any further analysis or information on how the access road might work for mitigation.

Our June 22, 2015 letter also requested that ArenaCo commit to meeting certain minimum criteria in order for the access road to have at least basic functionality for ballpark traffic, given the loss of Occidental. Our letter spelled out the four basic items the access road would need to include: granting of a permanent easement; the road must have two lanes with a driving surface of at least 20 feet in width; requirements to keep the access road clear of obstacles and vehicles at least three hours before, and until at least two hours after, any event at the ballpark or CenturyLink that is anticipated to generate 500 or more cars in the ballpark garage/surface parking area, and by pre-arrangement at any other times that access to Holgate Street is reasonably required; and vehicle access and loading for the arena must be designed to ensure the road is available to the ballpark property as described by the preceding items. These items were also endorsed by the Public Facilities District, the public entity that owns Safeco Field.

The SDOT Recommendation does not include any of the necessary items. Moreover, although we know SDOT provided our letter to ArenaCo, ArenaCo has never initiated discussions with the Mariners or the Public Facilities District as to whether those four items could be accommodated, nor has ArenaCo provided any guarantee that the access road will in fact be available to Safeco Field. Thus, at this late date, we still do not know if there is any mitigation for the loss of Occidental Avenue S. Without such mitigation requirements, the Street Vacation Policies would call for denial of the vacation.

### **3. Pedestrian Safety Is Not Assured.**

#### **a. The Loss of Occidental Avenue S. for Pedestrians.**

The existing sports venues manage pedestrian flow through their event scheduling protocols that avoid overlapping events and also because they have Occidental Avenue S. available as a primary pedestrian path. An arena at the SODO site creates unique challenges for pedestrian flow and safety, given the other venues that already exist in close proximity to the SODO site and because the SODO site requires that a well-used street be vacated. Those unique circumstances do not apply at alternative sites.

The arena street vacation would eliminate a critical street used by pedestrians for events at Safeco Field and Century Link. For example, following a representative game at Safeco Field, there are 2,800 pedestrians on the portion of Occidental Avenue proposed for vacation in the peak one-hour, post-event period. If the vacation is approved and the arena

built, pedestrians from Safeco Field and CenturyLink will be forced instead to use the 1st Avenue S. sidewalk in front of the arena.

The Mariners have commented throughout the process that the sidewalk width on 1st Avenue S. is not adequate to accommodate the increased pedestrian volumes that will result from the vacation. If the 1st Avenue sidewalk is not wide enough, those pedestrians may choose to or have to walk in the adjacent traffic lane along 1st. But that traffic lane is critical to clearing traffic egressing the stadium area, particularly if a new parking garage is constructed south of S. Holgate Street. This issue still has not been resolved, and as a matter of basic public safety, no decision should be made on the vacation until it is resolved.

In response to our comments, SDOT realized that the 1st Avenue S. sidewalk width proposed by the arena was not adequate, and the SDOT recommendation calls for a larger portion of the 1st Avenue S. sidewalk to be clear of obstruction (18.5 feet)<sup>7</sup> (see p. 51 of Recommendation). However, this 18.5-foot width is less than that recommended by the arena's own traffic consultant and less than the minimum width of 23 feet identified in the EIS Addendum for pedestrian safety. Not only did the SDOT recommendation fail to provide the right dimension for the clear sidewalk width, but the Recommendation fails to impose *any* condition to require an adequate clear sidewalk width.

More recently, the Seattle Department of Constructions and Inspections (SDCI) has tried to tackle this issue. The SDCI January 14, 2016 correction notice requires that the arena plans be modified to provide a 23 ft. sidewalk space between railings to face of wall or bollards. The problem here, it appears, is that this width does not account for the "shy distance" which would add an additional 3.5 feet to a safe sidewalk width, for a clear width of 26.5 feet. That "shy distance" applies so that pedestrians do not brush up against walls or trip over railings or bollards. Moreover, the correction notice just deals with permanent obstructions, and not whether tables and chairs can be put out on the 1st Avenue S. sidewalk at times of Safeco Field and CenturyLink events. Those tables and chairs would impede pedestrian access, but are not "permanent obstructions" prohibited by the correction notice.

So, what is the clear sidewalk width or effective width that the arena must maintain? Is it 18.5 feet, 23 feet, or 26.5 feet? This matters not only because of pedestrian safety, but also because expanding the clear width originally proposed by the arena, but now rejected, has implications for the width of the arena site, the design elements in the 1st Avenue right-of-way that were counted as public benefits, and the width of the right-of-way. The Final EIS

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<sup>7</sup> A "clear sidewalk width" (or "effective width" to use the term accepted by transportation engineers) is much smaller than the total sidewalk width. The total width includes landscaping and street furniture that reduce the area available for pedestrians to walk in. Also, "effective width" accounts for the buffer that pedestrians need to avoid accidentally stepping off the curb or brushing up against buildings or other obstructions (called the "shy distance"). What is critical for pedestrian safety is the "effective width" that is free of all obstructions and provides the "shy distance" recommended by transportation engineers for safety.

Addendum said the 23-foot width may be located within the public right-of-way or a combination of public right-of way and the arena property. Addendum, p. 1-3. So far as we are aware, the method by which extra width will be provided has not been identified. And moreover, the underlying issue is whether an adequate clear width has been provided by either the SDOT or SDCI statements, since 26.5 feet of clear width is required in order to be consistent with standard transportation engineering recommendations.

There are additional problems with the inconsistent statements about sidewalk width on 1st Avenue S. One required element for public benefit was “permanent pedestrian seating” on that street. SDOT Recommendation, p. 62. Condition No. 17 requires such seating. *Id.* at 60. However, the SDCI correction notice prohibits any permanent obstructions within a 23-foot wide portion of the sidewalk (which really should be 26.5 feet in width). Unless there is an assurance that permanent pedestrian seating can be provided outside the 26.5-foot sidewalk area, the required public benefits cannot be provided. Therefore, the vacation should be re-referred to the Design Commission, prior to Council action, so that a proper public benefit package can be defined, and reviewed by the Council.

**b. The Pedestrian Bridge over S. Holgate Is An Essential Element of the Arena Proposal.**

Given the active railroad tracks within S. Holgate St., it is essential that the arena provide a pedestrian bridge over those railroad tracks. The bridge is an essential element of the arena project because it is necessary to mitigate the impact the arena causes of putting additional pedestrians in close proximity to active railroad tracks. In fact, the Design Commission considered the bridge to be such an integral arena element, they recommended that if the bridge is not required or built, the Commission would need to reexamine the merit of the street vacation. Design Commission Minutes, Meeting of May 21, 2015, p. 6.

The SDOT Recommendation requires this bridge (see pages 55-56), but fails to carry forward the strong recommendation of the Seattle Design Commission as to the timing of bridge construction. The SDOT Recommendation merely says that the timing will be determined by SDCI in the Master Use Permit decision on the arena. But that is not enough. The street vacation needs to specify the required timing of bridge construction since the bridge is an essential project element. The Design Commission required that the bridge be built and ready for use prior to issuance of a Certificate of Occupancy for the arena. Design Commission Minutes of May 21, 2015, p. 6.

At a minimum, if the vacation is approved, it ought to be with a requirement that the pedestrian bridge be constructed and operational prior to issuance of a Certificate of Occupancy for the arena. In addition, Council approval of the term permit for the bridge ought to be a condition that must be met prior to final vacation approval.

#### **4. The Arena Should Be Required to Provide Additional Parking.**

Parking demand is governed, to a large degree, by what scheduling restrictions the City places on the arena. If, for example, the arena only operated when Safeco and CenturyLink Fields were dark, no new parking would be required. In that circumstance, the area has sufficient parking to meet the arena's need for approximately 7,000 parking spaces. (See parking demand in Final EIS, Appendix E, pages 2-215 and 2-217.) If, however, any overlapping events at all are to be permitted, new parking is needed. The current sports venues fully exhaust the existing inventory when they are at or near capacity.

The arena has avoided any commitment to building new parking to fulfill the demand it creates for 7,000 parking spaces. And the SDOT Recommendation does not add certainty as to the amount of new parking the arena must build, saying the Code requirement of 1,750 spaces can be reduced if other parking is secured for the arena. SDOT recommendation, pp. 4, 45 and 55. We are all left without any idea of how many new spaces the arena will build to offset its parking demand of 7,000 spaces. In a best case scenario that all Code-required spaces are new, the unmet parking demand of the arena is still over 5,000 spaces.

Another deficiency in the SDOT recommendation is that it ignores adopted City policy on a project's need to mitigate its parking impact. The SDOT recommendation cites a Comprehensive Plan policy that encourages non-car modes of transportation (see p. 45), but then ignores the SEPA Policies adopted by the City Council to mitigate parking impacts. For example, Section 25.05.675.M.2.a of the City's SEPA Ordinance states: "It is the City's policy to minimize or prevent adverse parking impacts associated with development projects." In making SEPA decisions, the City has the authority to require more parking, along with other strategies to reduce the amount of new parking that is needed. *See* 25.05.675.M.2.d.

The Council is not just making a street vacation decision; since that decision requires compliance with SEPA, the Council is also making a SEPA decision on mitigation of the impacts of the vacation which is an essential element of the arena. Before a decision is made on the vacation, the Council needs to consider how it will implement City policy to mitigate parking impacts. We do not suggest that you require 7,000 new spaces to be built, unless the City allows overlapping major events to take place. However, if the vacation is approved with the scheduling limitations we have suggested, we ask that the new parking facilities studied in the EIS be required (total of approximately 2,300 spaces south of Holgate per Figure 2-153 in Appendix E to Final EIS). This capacity would permit the arena to hold smaller events of up to 5,000 people simultaneous with events at Safeco or CenturyLink Fields, which we feel is a reasonable compromise.

Councilmembers may wonder whether the Safeco Field or CenturyLink garages could be used for events at the arena. Although ArenaCo initially assumed it could use those garages, they had not done their homework. Parking spaces in both of the existing garages are already committed by City permits and covenants for events at those two venues. Events at the ballpark require committed parking at the ballpark garage and also at the CenturyLink

garage; events at CenturyLink require committed parking at the CenturyLink garage and also in the ballpark garage. In recent years, the ballpark garage has been fully committed to Safeco Field and CenturyLink approximately 160 to 180 days per year (fully committed about 110 days and partially committed 50 to 70 days). That number of days is likely to increase in future years, with the exact dates each year determined with varying amounts of lead time.

The ballpark garage could be available for some events at the arena when those events do not conflict with ballpark or CenturyLink events. But neither garage has the degree of availability required by the Code to meet the arena's Code parking requirement. And practically speaking, a third of the year, they are not available to meet the actual demand for spaces created by the arena.

Please note further that we emphasize *new* parking spaces need to be provided by the arena. The arena has in the past proposed to meet its 7,000 space demand through some unknown amount of new parking, but mostly through existing spaces within walking distance. However, that parking is only available if there are not events at Safeco Field or CenturyLink filling those parking spaces. Moreover, since the time Safeco and CenturyLink were approved with partial reliance on available parking in the vicinity, the available parking inventory has declined by over four thousand spaces. A capacity event at Safeco Field or CenturyLink uses the available inventory. Thus, unless the arena does not hold major events at the arena when there are major events at Safeco Field or CenturyLink, there simply are not going to be available spaces for arena patrons, and the arena should be required to build 2,300 new parking spaces to mitigate its parking impact.

## **B. Inadequacies of Existing Review**

In addition to the missing information and analysis of the vacation, the EIS is not legally adequate to form the basis for the City's evaluation of the arena vacation and funding decision. The decision on the vacation itself is subject to State Environmental Policy Act (SEPA) requirements and those requirements have not been met.

### **1. The Alternative of Remodeling Key Arena Must Be Evaluated Through Environmental Review Before Council Acts on the SODO vacation.**

Section 5 of the MOU required a "full SEPA review, including consideration of one or more alternative sites." Thus, from the beginning, the Council set up the SEPA process as a combined consideration of the SODO site and alternative sites. The decisions on whether to publicly fund the SODO site, and to vacate the street necessary for a SODO arena, thus inherently involve a consideration of the environmental impacts of alternative sites. Is SODO the right location or would there be fewer environmental impacts at an alternative location?

Much has rightly been made of the fact that the City had information on the feasibility of remodeling Key Arena (the AECOM study), but failed to correct the conclusion in the Draft EIS that remodeling of Key Arena was not feasible. We urge you to correct this now.<sup>8</sup>

It matters not that the AECOM study was a document separate from the EIS. The MOU, and the EIS itself, combined the consideration of the SODO site with alternative sites. Once having combined them, it is not legally possible to separate them and take the stance that blinders can be put on as to new information about remodeling Key Arena.

Here are the plain facts: the Draft EIS did not evaluate remodeling Key Arena because a preliminary study found the floor plate was not large enough to accommodate hockey and could not be enlarged for hockey. Draft EIS, p. 2-6. Prior to publishing the Final EIS, the Council had preliminary information that called into question the accuracy of that Draft EIS conclusion. And shortly after issuance of the Final EIS, the Council had the final AECOM report on the feasibility of a Key Arena remodel for hockey.

**What does SEPA require the City to do with the new information about the feasibility of remodeling Key Arena? The answer is: the City must take it into account as part of environmental review documents.**

The City's Environmental Policies and Procedures Ordinance tells the City what needs to happen when new information is discovered that is relevant to environmental review. If an environmental document is no longer accurate or reasonably up to date, then it cannot be used without preparation of further environmental analysis. SMC 25.05.600.B. In addition, a new or Supplemental EIS is required if there is new information showing that environmental impacts are not covered by the range of alternatives and impacts analyzed in the existing EIS. SMC 25.05.600.C.

Here, the EIS did not even address the environmental impacts of a Key Arena remodel, so the environmental impacts of that alternative were certainly not covered by the range of alternatives in the EIS. This deprives the public and City decision makers from having the ability to compare the environmental impacts of the SODO alternative with a Key Arena remodel alternative. Comparison of the environmental impacts of alternatives is a critical component of the EIS process and SEPA's legal requirements.

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<sup>8</sup> This is not the first time we have brought this issue to the City's attention. We urged DPD to correct this deficiency in a November 13, 2015 comment letter on the EIS Addendum. (DPD prepared an Addendum to correct some of the errors in the EIS about pedestrian volumes. The Final EIS picked one of the lowest-attended games on record since Safeco Field opened, and thus severely underestimated event pedestrian flows. For example, the actual number of pedestrians using the portion of Occidental to be vacated is more than 21 times greater than the analysis used in the Final EIS.) In commenting on the Addendum, we urged DPD to correct the many other deficiencies in the Final EIS, including the out-of-date dismissal of the Key Arena option. DPD could have fixed this EIS deficiency then, or even nine months earlier when the new information surfaced.

In the prior court case concerning the MOU, the City steadfastly maintained that the MOU did not commit the City to approve the SODO arena and that all options remained open. Based on those representations, the court upheld the MOU, noting “The city and county remain free to change course. The memorandum of understanding does not commit them to action.” *International Longshore and Warehouse Union, Local 19 v. City of Seattle, King County, and WSA Properties, III, LLC*, 176 Wn. App. 511 (2013).

However, in order for the City to live up to its representations in court that the MOU did not foreclose non-SODO options, it is essential that other options be evaluated fairly and accurately in the environmental document the City is relying on for its decision making. A Key Arena remodel alternative must be included in order to meet SEPA legal requirements.

## **2. Information on Other Reasonable Alternative Sites Needs to be Included in the New or Supplemental EIS.**

The MOU and EIS both acknowledge that the decision on whether to fund the SODO site necessarily requires consideration of alternative sites. The question of whether to contribute public funding to the SODO site inherently requires an assessment of whether there is another, better site to accommodate basketball and hockey. Having taken the approach that alternative sites matter, it is essential that the full range of reasonable alternative sites be analyzed in a new or Supplemental EIS.

This is not only important for Seattle, but also for King County since siting a new arena has been set up as a regional decision, not a strictly Seattle decision. Both the City of Seattle and King County will make decisions about funding a new arena, based on the EIS.

The Final EIS states that the City and County’s objective is to decide whether to participate in in the SODO site or to pursue an arena at a different site, while noting that no specific proposal has yet come forward at another site. Final EIS, p. 1-1. However, since publication of the Final EIS, there is a specific proposal for another site in the County, i.e. the Tukwila site, and interested parties have also come forward with regard to a Bellevue site.

Thus, not only does the new or Supplemental EIS need to address a Key Arena remodel to be adequate for City decision making, but that document also must assess other sites in the County in order to be adequate for the County’s SEPA decision. To ignore examination of the very sites that other potential team owners thought worthy of exploring will undermine the MOU and its commitment to fully explore all alternatives.