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November 5, 2019

Carmen Best
Seattle Police Chief
610 5th Avenue, Floor 8
PO Box 34986
Seattle, WA 98124-4986

RE: Kenmore Air Letter dated August 14, 2019

Dear Chief Best:

The Seaplane Environmental Coalition writes this letter in response to the August 14, 2019, letter from Kenmore Air to Lt. Abram Barker at Harbor Patrol. (Attachment A - Kenmore Letter). The Seaplane Environmental Coalition represents a diverse group of users of the Lake Union basin comprised of thousands of people who enjoy it for its commercial, residential, environmental, natural, wildlife, and recreational resources. We request an opportunity to meet with you and Kenmore Air to collaborate on a path to resolve the number of outstanding environmental, regulatory, and public safety issues related to the continuous uncontrolled expansion of Seaplane operations on Lake Union. In the 1970's there were seven to ten flights a week off Lake Union. In 1989, when the Seaplane Operators, Seaplane Environmental Coalition, and City of Seattle entered into an agreement to lessen the Seaplanes' impacts on Seattle, there were 40 flights a day. (Attachment B – Lake Union Seaplane Agreement). Now, there are often over 100 scheduled flights a day. Kenmore's proposed effort to establish a dedicated runway will increase seaplane activity at the expense of all other users, including the environment.

The Lake Union airstrip (Airport LKE) is operated over state lands and navigable waters, and it appears to be under the proprietary control of the Washington State Department of Transportation. (Attachment C - WSDOT Airport Facilities and Services Report for LKE). Yet, it does not appear that WSDOT provides significant oversight over LKE operations. Similarly, there



are little to no Federal Aviation Administration (FAA) controls, and to date we have not located local land use permits for Kenmore Air or LKE for the water airstrip.

Contrary to Kenmore's assertion in its letter, this is not simply a Seattle Police Department matter. SMC Chapter 16.60, Harbor Code Use of Waterways - Permits, states the Seattle Department of Transportation must issue use permits for the waterways, and the Seattle Municipal Code also states that those use permits are subject to approval by "the State of Washington, Commissioner of Public Lands, the Port of Seattle, and the United States of America, Department of Army, Corps of Engineers; [unless those] agencies have declined jurisdiction or expressed in writing no objection to the erection of such structure." Seaplanes are also subject to regulation by the FAA and Department of Homeland Security. At present, it remains unclear which of these agencies sought public input for and approved the Lake Union seaplane buoy system. In addition, the buoy system is an "airport development" and eligible for review by the FAA prior to installation. 49 USC Section 47102(3); 14 CFR Section 1577. As such, until the current and any other proposed buoy system has been thoroughly reviewed by all regulatory agencies and properly permitted, it should not be allowed.

In addition to regulatory controls, water airstrips are subject to engineering constraints, such as length of runway and approach angles and distances. Seaplanes and seaplane maintenance are also very hard on the environment. Seaplanes remain the last aircraft allowed to use leaded fuel. They are noisy, and as is shown by Kenmore Air's repeated noncompliance with Department of Ecology regulations at its Bothell facility, seaplanes have a direct impact on water quality. Not surprisingly, cities can prohibit Seaplane landings and takeoffs altogether. *See Gustafson v. City of Lake Angelus*, 76 F.3d 778 (6th Cir. 1996) (upholding City of Lake Angelus's ban on seaplane use due to "noise, danger, apprehension of danger, pollution, apprehension about pollution, contamination and infestation from other bodies of water, destruction of property values, and interference with other lawful uses of the lake enjoyed by the great majority of citizens, including boating, sailing, fishing, swimming, and other recreational uses"). Seattle and Lake Union share the same impacts related to life-safety and toxic fumes, making it hard to justify the convenience of people wishing to avoid a 25-minute drive to and from a nearby land-based airport. Seaplanes may be a nostalgic part of our recent history, but privately-owned businesses cannot be permitted to increase operations indefinitely and so dramatically at the expense of Lake Union's critical commercial, recreational, and environmental resource.

Lake Union's shoreline is defined by many different land use categories. Commercial, residential, and manufacturing/industrial zoning surrounds Lake Union. (Attachment D - Zoning Maps). To the extent the lake is zoned Conservancy Navigation, as Kenmore asserts, then the water airstrip is prohibited. SMC 23.60A.240, Table A, Section N.9; SMC 23.84A.038 - "T" ("Transportation facilities, air" are "prohibited"). (Attachment E - Conservancy Navigation Use Table). With so much complexity, and so many different Lake Union users at stake, a

comprehensive land use plan after public input is long overdue. (Attachment F – Seattle Ordinance 119929 Rejecting Water-Based Airports).

Accommodating all the users of Lake Union basin is not an impossible task, but it is a complex one that will require dedicated resources to resolve in an equitable manner. The Seaplane Environmental Coalition looks forward to engaging with all interested parties in a productive and professional manner toward long-term sustainable policies for the users of Lake Union basin. In the meantime, we request that the City of Seattle reject Kenmore's application for the seasonal buoys until such time as a comprehensive land use plan for Lake Union based on public input is implemented.

Thank you for your attention to these very important matters. We look forward to meeting with you.

Best regards,

SCHLEMLEIN FICK & SCRUGGS, PLLC



Darby N. DuComb
Attorneys for Seaplane Environmental Coalition

CC: Todd Banks, Kenmore Air Harbor, LLC
Lt. Abram Barker, Harbor Patrol Chief
Pete Holmes, Seattle City Attorney
Jim Holmes, City of Seattle Office of Planning and Community Development
Robert Shafer, Federal Aviation Administration
David Fleckenstein, Washington State Department of Transportation
Randy Wright, Harbour Air Seaplanes

Enclosures: A – August 14, 2019 letter from Kenmore Air
B – Lake Union Seaplane Agreement 1989
C – WSDOT Airport Facilities Report for LKE, Lake Union Airport
D – Lake Union Zoning Map
E – Conservancy Navigation Land Use Table
F – Ordinance 119929 Rejecting Water-Based Airports

EXHIBIT A

KENMORE AIR[™] *harbor inc.*

6321 NE 175th Street, Kenmore, WA 98028

August 14, 2019

VIA EMAIL AND US MAIL

Lt. Abram Barker
Harbor Patrol Chief
1717 N Northlake Place
Seattle, WA 98103

Re: Kenmore Air Flights on Lake Union

Dear Harbor Patrol Chief:

I write to inform you that effective July 26, 2019 and through September 2, 2019, Kenmore Air has suspended all flight operations including both scheduled and non-scheduled airline flights in and out of Lake Union on Fridays, Saturdays, and Sundays after 2:00PM (the “**No-Fly Times**”). We felt it necessary to make this decision out of concern for the safety of people using Lake Union, including recreational boats, personal watercraft users such as paddleboarders, and our passengers and pilots. We believe the seaplane takeoff and landing buoys, first installed by the City of Seattle in 2018, alone are not achieving their intended purpose during peak times and that the City of Seattle needs to take further action so that Lake Union can continue to be a working lake serving residential, recreational, and commercial users, including seaplanes.

This decision puts our airline in a difficult, uncertain, and unsustainable position and creates hardship for our passengers. It forces passengers who want to use our flight service during the No-Fly Times to travel to and from our operation in Kenmore at the north end of Lake Washington, a 30-45 minute or longer drive during the No-Fly Times. An important part of our value proposition as an airline is to enable people to travel to and from the Seattle metropolitan area, Washington’s San Juan Islands, as well as Vancouver, Victoria and other British Columbia locations in a short period of time. Many of these destinations are remote locations that are otherwise difficult to reach. Our passengers include many who live and work in downtown Seattle and the immediate surrounding neighborhoods who use our service for business and personal travel, as well as tourists staying in Seattle. Importantly, our passengers also include residents of the San Juan Islands and British Columbia who rely on our flight service to access health care and other vital services in Seattle. All of these people depend on a centralized and convenient location for flight departures and arrivals. We know our passengers will be challenged by our shift in operations and we believe we are at risk of losing a significant amount of business. While our current shift in operations is

limited to the No-Fly Times, we believe that without attention to this issue from the City of Seattle, we may in the future be forced to further curtail our operation on Lake Union during other time periods as well.

There are numerous sections of the Municipal Code of the City of Seattle (Municipal Code) that apply to the current situation. First, Section 16.12.010 of the Municipal Code of the City of Seattle authorizes the Chief of Police to (i) enforce the ordinances and regulations of the City of Seattle upon all waters within its limits, which include Lake Union and (ii) designate, indicate the location of and patrol take-off and landing areas for seaplanes. Further, Section 16.20.080 provides that all vessels or water sport craft (e.g. paddleboards) shall keep clear of aircraft landing within any area set aside by law for such purpose. In addition, Section 12A.24.025 of the Code is a criminal law that makes it unlawful to open or possess a receptacle containing alcohol, or consume alcohol, in a public place. For purposes of this law, Lake Union is a public place.

Seaplanes have been using Lake Union for over 100 years, beginning with Bill Boeing's inaugural flight on June 15, 1916. The Municipal Code of the City of Seattle Section 23.60.220 establishes Lake Union as a Conservancy Navigation (CN) Environment:

- a. Purpose. The purpose of the CN Environment is to preserve open water for navigation,
- b. Locational Criteria. Submerged lands used as a fairway for vessel navigation,
- c. Submerged lands seaward of the Outer Harbor Line, Construction Limit Line or other navigational boundary which are not specifically designated or shown on the Official Land Use Map shall be designated Conservancy Navigation.

The Kenmore Air Harbor Seaplane Base (KAH Seaplane Base) located on the southwest edge of Lake Union is Federal Aviation Administration designated public use airport LKE/W55. The KAH Seaplane Base is one of Washington's 16 commercial service airports that provide scheduled passenger service, operating an average of 80 daily arrivals and departures. It also serves as a United States Customs Service port of entry. It serves over 70,000 resident and international passengers annually. The KAH Seaplane Base contributes significantly to the state's economy and is a key participant in the Cascadia Innovation Corridor, an initiative created by Governor Jay Inslee and government official counterparts in Vancouver and Portland.

The City of Seattle has been an active steward of Lake Union for many years, including as a party to the May 3, 1989 Lake Union Seaplane Agreement, the stated purpose of which was to achieve and maintain compatibility of uses of Lake Union among residential, recreational, and business users, including seaplanes. The Lake Union Seaplane Agreement was adopted by the Seattle City Council pursuant to Resolution 28003. The Lake Union Seaplane Agreement identifies the center of Lake Union as the preferred takeoff and landing pattern for seaplanes. More recently, the South Lake Union Height and Density Final Environmental Impact Statement, issued by the City of Seattle in April 2012 in connection with the re-zoning of South Lake Union to support real estate development of that neighborhood, specifically identified a seaplane flight path. The re-zoning included height restrictions for buildings in South Lake Union to ensure continued use of Lake Union by seaplanes. Further, on May 6, 2013, the Seattle City Council adopted Resolution 31449, which states that "The Council supports the efforts by Kenmore Air to secure grant funding from the Washington State Department of Transportation for a system of buoys to signal to boaters when seaplane operations, such as landings and takeoffs, are about to occur and, if necessary, will consider further statements of support for a grant application by Kenmore Air." To honor the City's

long commitment to Lake Union as a working lake that includes seaplane services, its existing laws, including the Municipal Code sections cited above, need to be enforced.

After years of collaboration between the City of Seattle, Kenmore Air and others, the buoy system initiative identified in Seattle City Council Resolution 31449 referred to above culminated with the City of Seattle, in the spring of 2018, securing permission from the Washington State Department of Natural Resources to install a single line of five buoys in the long designated and used landing area in the center of Lake Union. Each buoy provides a statement warning people to stay at least 200 feet east or west of the buoys when yellow buoy lights are flashing, which flash during seaplane operations. But, users of Lake Union are not restricted from any area of Lake Union and our experience is that too many people ignore the warnings. During the summers of 2015 through 2017 and prior to the installation of the buoys, Kenmore Air Harbor made numerous same-day decisions to cease flight operations in and out of Lake Union due to congestion. Even after installation of the buoys, during 2018 we diverted 129 flights to our Lake Washington facility, which affected over 1,000 passengers. As state above, we now have ceased operations for the duration of the No-Fly Times, which impacts approximately 510 of our passengers each week. All of this is evidence that the current buoy system, while incrementally improving the situation, has not solved the problem it was intended to address. We appreciate the many competing demands on the Harbor Patrol staff, but believe that the level of peak summer use, and varied types of use on Lake Union, particularly by recreational boaters and paddleboarders, warrants specific attention to the Lake Union area.

We request that Harbor Patrol give this important matter the highest priority. We request that Harbor Patrol exercise the authority provided to it by the Municipal Code to police Lake Union to keep vessels and water sport craft clear of the seaplane landing buoys. We further believe that enforcement of the “open container” laws would make Harbor Patrol’s responsibility to patrol seaplane takeoff and landing areas under Municipal Code Section 16.12.010 much easier. We must find a solution to this situation.

If Harbor Patrol cannot effectively police the current buoy system full-time, we would like to discuss necessary next steps. Those steps should include at a minimum seeking additional funding to allow for a second, dedicated patrol boat during high-use times (e.g., the afternoon to evenings on the weekends), and further consideration and development of the approach initially proposed by the City of Seattle to the Department of Natural Resources when we began discussions on this topic years ago - a demarcated landing zone area of Lake Union for the exclusive use of seaplanes. There was a substantial amount of work to define and protect a seaplane flight path in the South Lake Union Height and Density Final Environmental Impact Statement. It is only logical that there be a corresponding seaplane landing area on Lake Union. We look forward to re-opening dialogue on this issue and working with you to achieve a mutually satisfactory solution.

Respectfully,



Todd Banks
President, Kenmore Air Harbor, LLC

cc: Mayor Jenny A. Durkan, City of Seattle
Chief Carmen Best, Seattle Police Department
Pete Holmes, Seattle City Attorney
Jim Holmes, City of Seattle OPCD
Robert Shafer, Federal Aviation Administration (SEA FSDO)
David Fleckenstein – Washington State Department of Transportation (Aviation)
Randy Wright – Harbour Air Seaplanes, Canada

EXHIBIT B

Your City, Seattle

Executive Department — Office for Long-range Planning

Richard Yukubousky, Director
Charles Royer, Mayor

May 18, 1989



MAY 18 1989

The Honorable Sam Smith
President, Seattle City Council
1100 Municipal Building
Seattle, Washington 98104

VIA: Ken Bounds, Acting Director
Office of Management and Budget

842094

SUBJECT: Lake Union Seaplane Agreement

Dear President Smith:


Earlier this month, the Lake Union seaplane operators, local residents and business interests, and the Mayor signed an agreement designed to reduce the impact of seaplane operations on the City. With this letter, I am submitting a resolution to the Council to take cognizance of the agreement. I am sure that the Council will wish to share this accomplishment with the Mayor.

The agreement is the product of almost a year long effort and represents a balanced solution that helps protect our neighborhoods and retains the role for seaplane operations as part of the working lake. The agreement establishes hours of operation and commits Lake Union Air, Kenmore Air Harbor, and Chrysler Air to a series of noise abatement flight practices. The agreement does not address the number of flights originating on Lake Union.

The agreement commits the City of Seattle to several activities in support of the agreement. The City is obligated to continue a committee to oversee the agreement and provide continuing interaction between the seaplane operators, the community, and the City. The City has also committed to periodically monitor seaplane operations for adherence to the agreement, to maintain a seaplane information line for both complaints and compliments, and to prepare an informational brochure.

I am confident the the Council will want to join the Mayor in recognizing the City's commitment to fulfilling the terms of this agreement.

Sincerely,


Richard Yukubousky, Director
Office for Long-range Planning

RY:hss/48-680

Enclosures

RESOLUTION _____

- 1 A RESOLUTION recognizing the Lake Union Seaplane Agreement between the
2 City of Seattle, Kenmore Air Harbor, Lake Union Air and Chrysler Air,
3 and members of the Lake Union Seaplane Committee, and establishing
noise abatement practices for seaplane operations from Lake Union.
- 4 WHEREAS, Lake Union, located in the center of the City of Seattle, is an
historic site of seaplane operations; and
- 5 WHEREAS, seaplane operations have increased significantly in frequency and
number; and
- 6 WHEREAS, the noise and number of flights can adversely affect the
7 enjoyment of life in the Lake Union basin, the flight paths, and
the City of Seattle; and
- 8 WHEREAS, noise from commercial and general aircraft operations is a blight
on the City of Seattle; and
- 9 WHEREAS, seaplane operations from Lake Union make a significant
10 contribution to the economic life of the City; and
- 11 WHEREAS, City Council Resolution 27618, adopting the implementation
12 guidelines for the Seattle Shorelines Master Program, establishes
the objective for Lake Union to "Retain the working character of Lake
13 Union by reserving those areas of the Lake's shorelines which are
suitable for water-dependent uses for the use of marine businesses";
and
- 14 WHEREAS, the adverse impacts of seaplane operations can be reduced by
adherence to noise abatement operating practices and curtailment of
15 the hours of operation; and
- 16 WHEREAS, the City created a Lake Union Seaplane Committee in 1988 and
charged the Committee with negotiating an agreement for the use of
Lake Union by seaplanes; and
- 17 WHEREAS, the purpose of the agreement is to achieve and maintain
18 compatibility of uses among the residential, business, and
recreational users of the Lake Union basin; and
- 19 WHEREAS, the Land Use Committee of the City Council, on February 7, 1989,
held a public hearing on seaplane noise; and
- 20 WHEREAS, the Mayor, the commercial operators of seaplanes on Lake Union,
21 the Seaplane Pilots Association, the Seaplane Environmental Coalition,
and representatives of affected communities and business organizations
22 have negotiated and signed such an agreement; Now, Therefore,
- 23 BE IT RESOLVED BY THE CITY COUNCIL, THE MAYOR CONCURRING, THAT:
- 24 1. The City Council recognizes the 1989 Lake Union Seaplane Agreement
as it addresses noise abatement procedures and hours of seaplane
25 operation.
- 26 2. The City Council recognizes that the 1989 Lake Union Seaplane
27 Agreement does not address the number of seaplane flights using Lake
28 Union.

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- 3. The City Council commits the City to uphold the obligation incurred by the City in the agreement:
 - a. to participate in the Lake Union Seaplane Committee,
 - b. to chair, and to provide staff support to the Lake Union Seaplane Committee,
 - c. to maintain and publicize a central location for information about noise abatement practices and seaplane operations that will receive complaints and compliments and to notify the operators,
 - d. to publish a brochure, and
 - e. to monitor seaplane flights for noise abatement practices and hours of operation in accordance with the terms of the agreement.

ADOPTED by the City Council of the City of Seattle this ___ day of _____, 1989, and signed by me in open session in authentication of its adoption this ___ day of _____, 1989.

President of the City Council

Filed by me this ___ day of _____, 1989.

ATTEST: _____
City Comptroller and City Clerk

BY: _____
Deputy

THE MAYOR CONCURRING:

Charles Royer, Mayor

HS:ms
2a-681

RESOLUTION 28003

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A RESOLUTION recognizing the Lake Union Seaplane Agreement between the City of Seattle, Kenmore Air Harbor, Lake Union Air and Chrysler Air, and members of the Lake Union Seaplane Committee, and establishing noise abatement practices for seaplane operations from Lake Union.

WHEREAS, Lake Union, located in the center of the City of Seattle, is an historic site of seaplane operations; and

WHEREAS, seaplane operations have increased significantly in frequency and number; and

WHEREAS, the noise and number of flights can adversely affect the enjoyment of life in the Lake Union basin, the flight paths, and the City of Seattle; and

WHEREAS, noise from commercial and general aircraft operations is a blight on the City of Seattle; and

WHEREAS, seaplane operations from Lake Union make a significant contribution to the economic life of the City; and

WHEREAS, City Council Resolution 27618, adopting the implementation guidelines for the Seattle Shorelines Master Program, establishes the objective for Lake Union to "Retain the working character of Lake Union by reserving those areas of the Lake's shorelines which are suitable for water-dependent uses for the use of marine businesses"; and

WHEREAS, the adverse impacts of seaplane operations can be reduced by adherence to noise abatement operating practices and curtailment of the hours of operation; and

WHEREAS, the City created a Lake Union Seaplane Committee in 1988 and charged the Committee with negotiating an agreement for the use of Lake Union by seaplanes; and

WHEREAS, the purpose of the agreement is to achieve and maintain compatibility of uses among the residential, business, and recreational users of the Lake Union basin; and

WHEREAS, the Land Use Committee of the City Council, on February 7, 1989, held a public hearing on seaplane noise; and

WHEREAS, the Mayor, the commercial operators of seaplanes on Lake Union, the Seaplane Pilots Association, the Seaplane Environmental Coalition, and representatives of affected communities and business organizations have negotiated and signed such an agreement; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL, THE MAYOR CONCURRING, THAT:

1. The City Council recognizes the 1989 Lake Union Seaplane Agreement as it addresses noise abatement procedures and hours of seaplane operation.
2. The City Council recognizes that the 1989 Lake Union Seaplane Agreement does not address the number of seaplane flights using Lake Union.

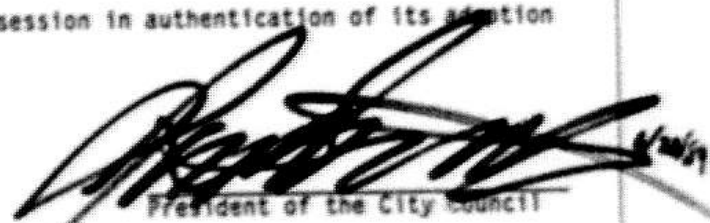
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3. The City Council commits the City to uphold the obligation incurred by the City in the agreement:

- a. to participate in the Lake Union Seaplane Committee,
- b. to chair, and to provide staff support to the Lake Union Seaplane Committee,
- c. to maintain and publicize a central location for information about noise abatement practices and seaplane operations that will receive complaints and compliments and to notify the operators,
- d. to publish a brochure, and
- e. to monitor seaplane flights for noise abatement practices and hours of operation in accordance with the terms of the agreement.

ADOPTED by the City Council of the City of Seattle this 19th day of JUNE, 1989, and signed by me in open session in authentication of its adoption this 19th day of JUNE, 1989.

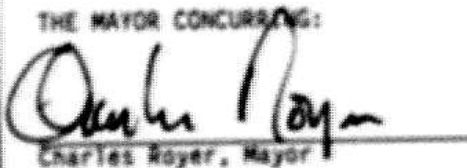

President of the City Council

Filed by me this 26th day of June, 1989.

ATTEST: Norward J. Brooks
City Comptroller and City Clerk

BY: Margaret Carter
Deputy

THE MAYOR CONCURRING:


Charles Royer, Mayor

HS:ms
24-681

Office Of The Mayor
City of Seattle

Charles Royer, Mayor



LAKE UNION SEAPLANE AGREEMENT

May 3, 1989

Parties to the Agreement:

This agreement is entered into by and between the City of Seattle; Lake Union Air, Kenmore Air Harbor, and Chrysler Air, as the owners and operators of commercial seaplanes on Lake Union; the Seaplane Pilots Association; the Seaplane Environmental Coalition; and representatives of the residential communities and business interests surrounding Lake Union and the Ship Canal convened as members of the 1988 Lake Union Seaplane Committee. This agreement is intended to apply to seaplane operators currently using Lake Union; new operators will be encouraged to adopt the same standards and procedures.

Preamble:

This agreement addresses two of the three major issues considered by the 1988 Lake Union Seaplane Committee, i.e., noise abatement procedures and hours of operation. The Committee did not address, through the negotiation process, the number of seaplane flights using Lake Union. Therefore, the number of flights is not addressed in this agreement.

Intent:

The purpose of this agreement is to achieve and maintain compatibility of uses among the residential, business, and recreational users of the Lake Union basin consistent with the City of Seattle Shorelines Policies promoting a "working lake". With regard to issues explicitly addressed herein (see Preamble), seaplane use is recognized as suitable for Lake Union.

Committee:

A Lake Union Seaplane Committee shall be created to monitor compliance with the terms of this agreement.

The Committee shall consist of parties interested in and affected by seaplane operations on Lake Union. At its formation, the Committee shall consist of the following members as each signs the agreement:

- o each commercial operator of seaplanes on, or from, Lake Union;
- o two representatives of the City of Seattle, including a representative of the Marine Unit of the Seattle Police Department;
- o a representative of the Environmental Health Division of the Seattle-King County Health Department;
- o a representative of the Seaplane Pilots Association;
- o a representative of the Seaplane Environmental Coalition;
- o one representative each of the Queen Anne, Wallingford, Eastlake, Magnolia, Sunset Hills, Fremont, and Ballard Community Councils and the Floating Homes Association;
- o one representative each of the Cascade Area Business Neighbors, the Lake Union Association and the Seattle Marine Business Coalition; and
- o one representative of the boating community using Lake Union.

All parties signing this agreement agree to participate as members of the Lake Union Seaplane Committee.

A representative of the City of Seattle shall serve as the chair. The chair may appoint additional members to the Committee with the consent of a majority of the Committee. The committee may form, and operate through, subcommittees.

The Committee shall meet a minimum of three times during the year. Meetings will be scheduled in the months of March, July, and October. The October meeting will include an annual evaluation of this agreement. In addition, the committee shall meet when called by the chairperson. Meetings will be open to the public. The City of Seattle agrees to provide staff support for the Committee.

Public Information:

The City agrees to maintain and publicize a central location for information about noise abatement practices and seaplane operations (including complaints and compliments) as part of the City's general citizen information and participation system. The City will take responsibility for notifying the operators of complaints and compliments within two working days and make the comments available to the public.

The City agrees to publish a brochure, developed and approved by the Lake Union Seaplane Committee, which aids operation of the information system and includes the telephone number for the central information location for seaplane noise abatement information, identification of aircraft, terms of the Lake Union Seaplane Agreement, role of seaplanes in regard to the working lake, and water dependent use policies pertaining to Lake Union. The City commits to update annually and reissue the brochure on, or before, May 1 of each year, to mail copies to the Lake Union Seaplane Committee and the Seaplane Environmental Coalition, and to provide adequate copies for the general public.

Noise Abatement Operations:

Unless justifiable safety concerns dictate otherwise, the signatories agree to the following noise abatement practices on Lake Union:

- o taxiing a minimum of 500 feet away from shore, except when approaching shore facilities;
- o preferred takeoff and landing pattern is near the center line of Lake Union (160-340 degrees magnetic), as identified in the attached map;
- o adherence to flight paths and altitudes shown in the attached maps (except under low ceiling conditions), in a manner consistent with safe operating procedures and with an awareness of noise impacts when crossing the shoreline;
- o takeoffs to the south except when the pilot determines safe operation dictates a northbound takeoff is warranted;
- o aircraft put into service by the commercial operators will have three-blade propellers when allowed by Federal Aviation Administration aircraft modification standards;
- o prohibition of flights involving repeated takeoffs and landings or repeated passes over the lake or within the Lake Union basin;
- o prohibition of "step taxiing" in violation of the 7 knot speed limit provisions of Seattle Municipal Code 16.20.131, except when actually taking off or landing;
- o prohibition of maintenance operations that violate the maximum permissible sound levels set in Sections 25.08.410 and 25.08.420 of the Seattle/King County Noise Code, without reference to Section 25.08.545;
- o prohibition of scheduled takeoffs and landings on Portage Bay;
- o prohibition of scheduled night flights and scheduled night landings; and
- o use of radio frequency 122.9 MHertz to announce pilots' flight intentions.

Hours of Commercial Operation:

Commercial aircraft takeoffs and full power engine "runups" shall not occur before 8:00 a.m. on weekdays and Saturdays or before 9:00 a.m. on Sundays.

Aircraft Identification:

As part of normal maintenance and repainting schedules, each operator will use a color or identification scheme for the aircraft owned by that operator.

Monitoring Flights:

The City will monitor flight operations for noise abatement procedures on a biweekly basis during the three months of the year with the greatest number of flight operations and on a monthly basis during the balance of the year. The City will commence monitoring at 7:00 am and monitor adherence to flight paths, order of takeoff, type of aircraft, direction, operator, and approximate wind speed and direction at the point of observation. Operators will keep records of individual aircraft operations and pilots to facilitate communication with, and feedback to, the pilots.

Private Aircraft:


The Seaplane Pilots Association agrees to notify its membership of the noise abatement operations contained in this agreement. The operators agree to support a petition to the Federal Aviation Administration to incorporate the noise abatement provisions of this agreement, including the unavailability of fuel to transient aircraft, in the Airport/Facility Directory and other appropriate documents. The operators agree not to publicize or advertise the availability of fuel for private aircraft and refrain from providing fuel to transient aircraft not based on Lake Union except in cases of emergency or in connection with United States Customs clearance laws.

Liability:

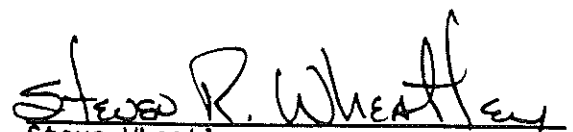
Nothing herein is intended either to supersede the safe operation, takeoff, and landing of seaplanes upon Lake Union, overrule any applicable state or federal laws, regulations, rules, or policies concerning safe aircraft operation, nor create any duty upon any party to enforce this agreement. No party shall, on the basis of this agreement, be liable to the other parties or any third party for damages in any manner whatsoever concerning the operation, takeoff, or landing of aircraft upon Lake Union.

Adoption:


The agreement will take effect upon signing and become binding on each party upon signing. Upon completion, this agreement will be submitted to the City Council for recognition by resolution.




Mayor Charles Royer
City of Seattle



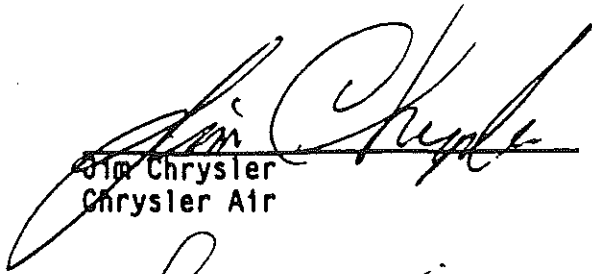
Steve Wheatly
Lake Union Air

for 

Dr. Bud Nicola
Seattle-King County Health
Department

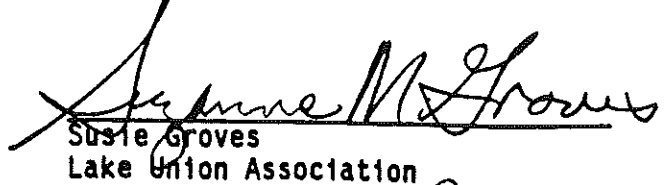


R. B. Munro
Kenmore Air Harbor

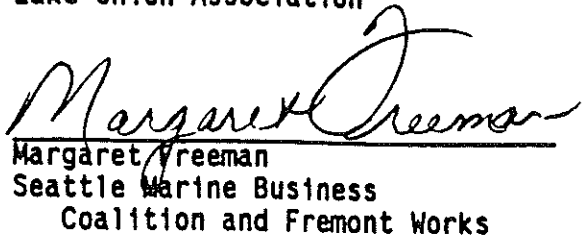

Jim Chrysler
Chrysler Air


Marin Faure
Seaplane Pilots Association


Lynda Caine
Seaplane Environmental Coalition

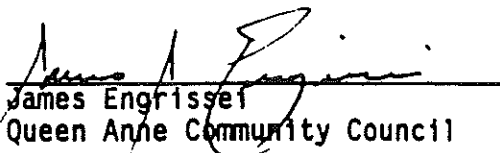

Susie Groves
Lake Union Association

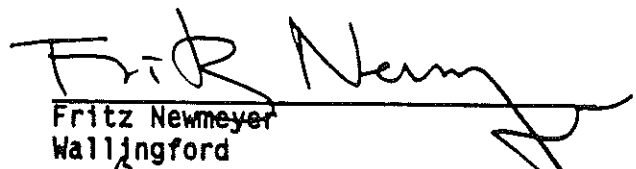

Bill Keasler
Floating Homes Association

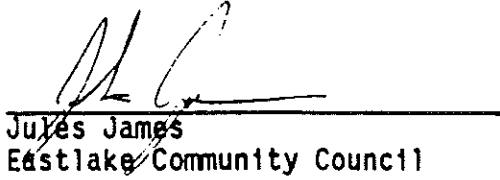

Margaret Freeman
Seattle Marine Business
Coalition and Fremont Works

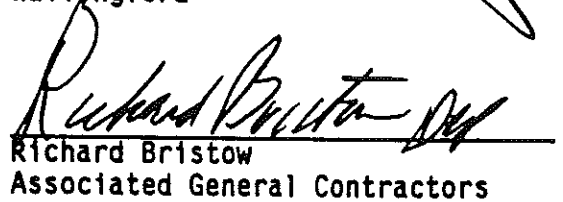

Tom Susor
Floating Homes Association

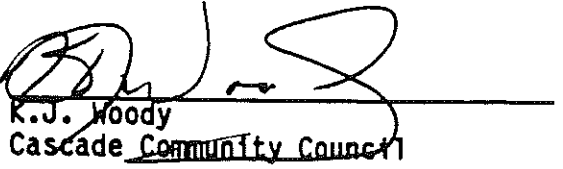

Jerry Percival
Cascade Business Neighbors

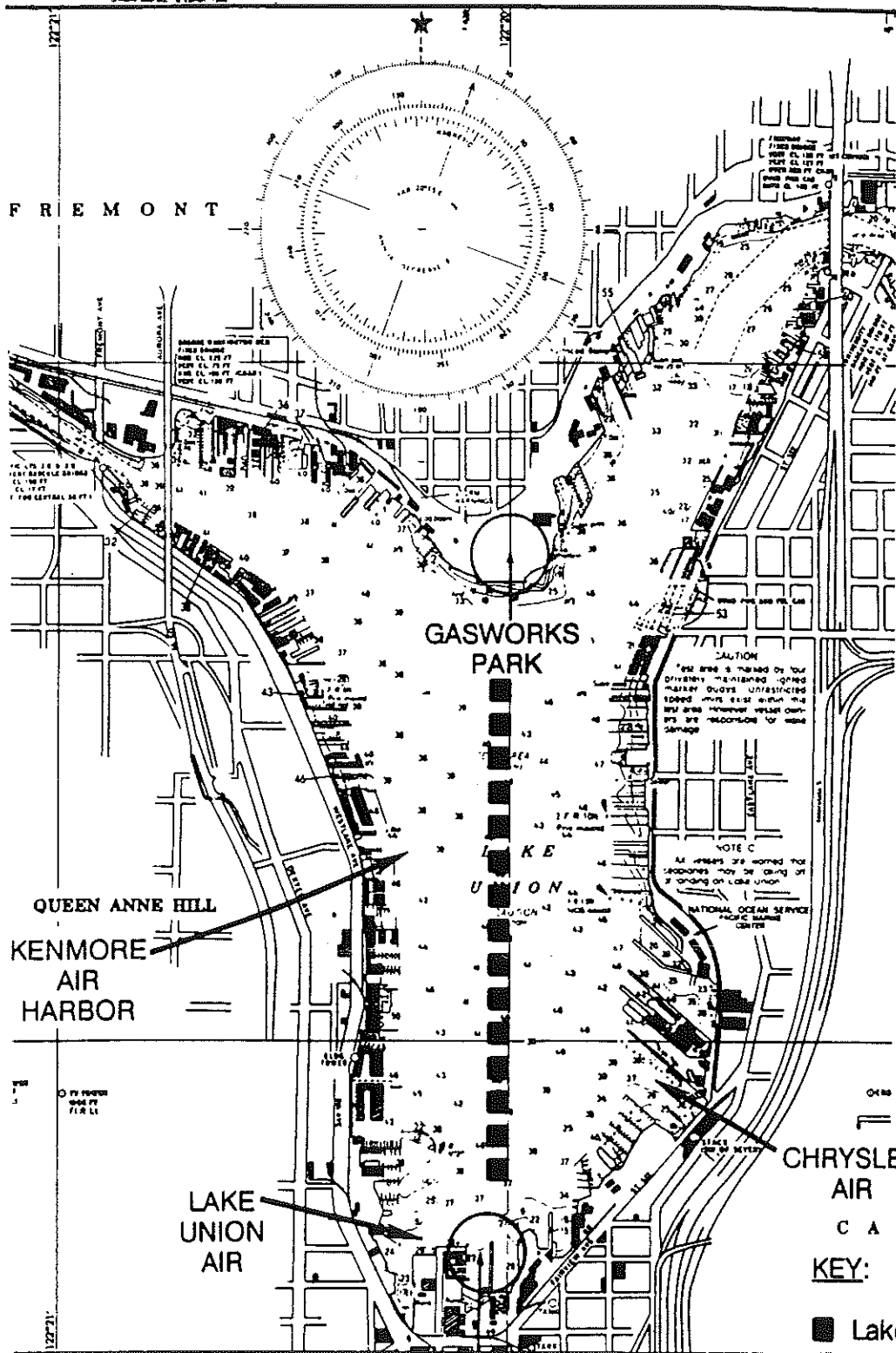

James Engrissel
Queen Anne Community Council


Fritz Newmeyer
Wallingford


Jules James
Eastlake Community Council

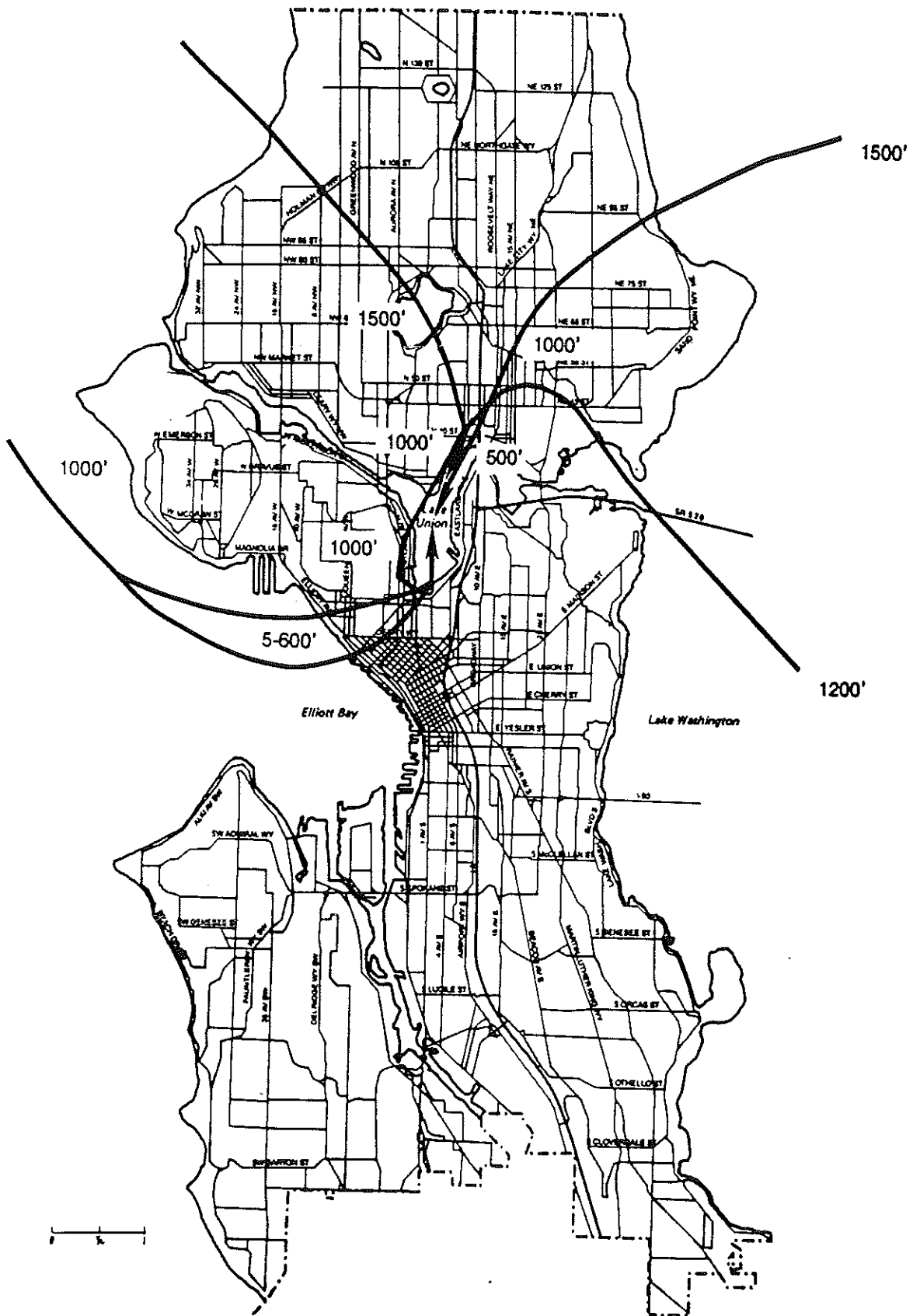

Richard Bristow
Associated General Contractors


K.J. Woody
Cascade Community Council

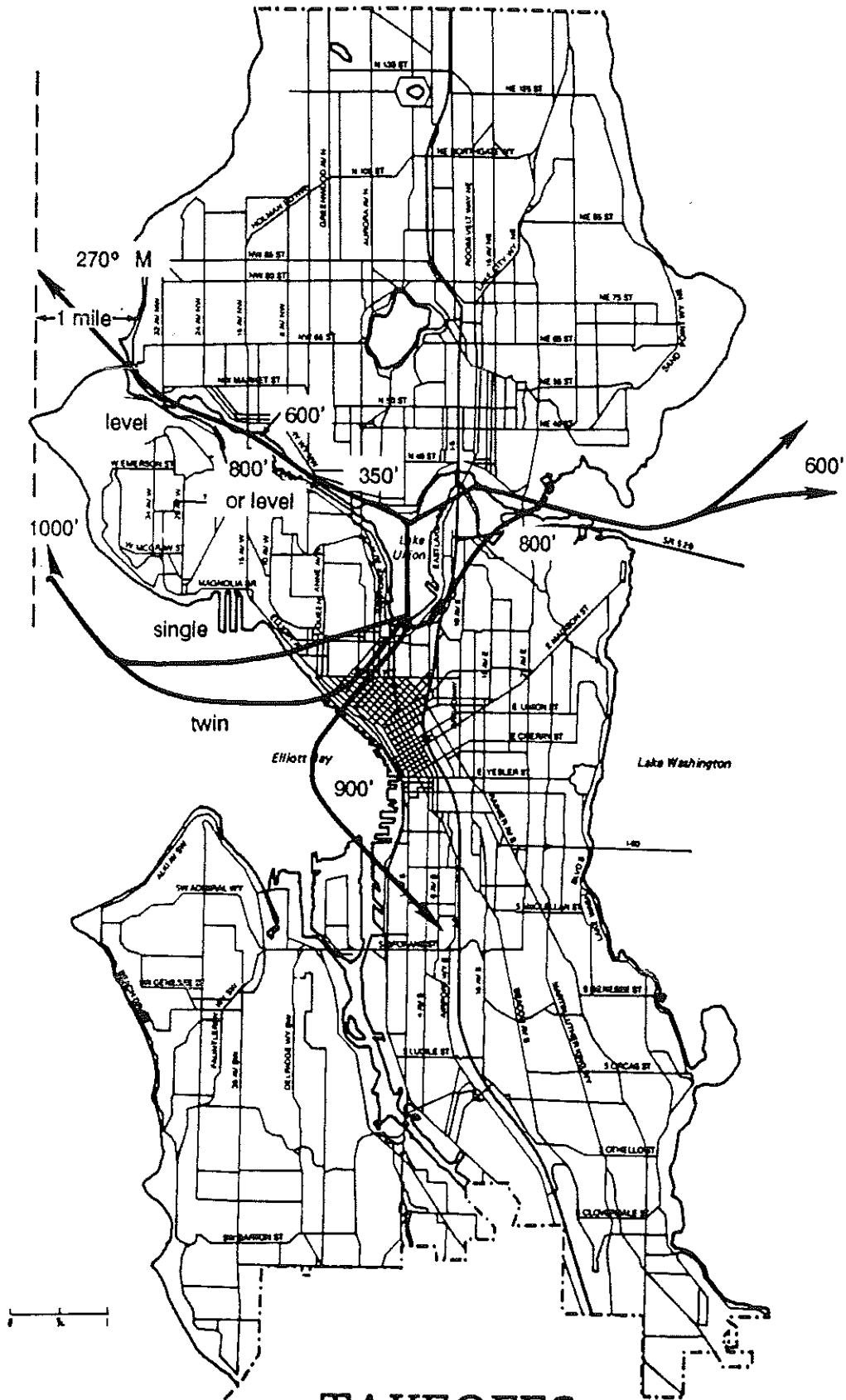


KEY:

- Lake Union
- center line
- 160-340°
- magnetic



LANDINGS



TAKEOFFS

EXHIBIT C



Airport Facilities and Services Report

Provides a full listing of airport facility and services information for the year 2019, as captured in WSDOT's Aviation System Plan Database

Airport Identification Information

Airport Name Kenmore Air SPB (W55) Lake Union (LKE)

FAA Site Number 26395.5*C

Airport Identifier W55

MPO

RTPO Puget Sound Regional Council

Special Emphasis Region Puget Sound

FAA Associated City Seattle

Proximity to Associated City 1 Mile(s)

Owner/Sponsor Gregg Munro

Owner Type Privately Owned

Physical Airport Address 950 Westlake Avenue

City, State, Zip Seattle, WA 98109

County King

Affected Legislative District

36th District

Affected Congressional District

7th District



Airport Facilities and Services Report

Airport Identification Information

Phone (425) 486-1257
Alternate Phone
FAX Number (425) 485-4774
Owner Street Address PO Box 82064
City, State, Zip Kenmore, WA 98028
Website www.kenmoreair.com
Directions to the Airport

Facilities and Services

Total Acreage of the Airport (Estimate)	1
Estimated Aeronautical Use Area (Acres)	1
Total Aircraft Storage Area (Acres)	
Air Cargo Processing Building Area (sq ft)	0
Air Cargo Apron Area (sq ft)	0
Aircraft Parking Apron Area (sq ft)	0
Tiedowns for Based Aircraft	0
Tiedowns for Transient Aircraft	0
Publicly Owned Hangar Units (Small Aircraft)	0
Privately Owned Hangar Units (Small Aircraft)	0
Publicly Owned Hangar Units (Large Aircraft)	0
Privately Owned Hangar Units (Large Aircraft)	0
Aircraft Rescue and Fire Fighting Facility (ARFF)	No



Airport Facilities and Services Report

Fuel Storage Availability	
Fuel Type	Fuel Tank Capacity Range
80 LL	
100 LL	Under 12,000 gallons
MoGas	
Jet A	Under 12,000 gallons
Helicopter Fuel	

Utilities Available
Water
Sewer
Telephone
Electric Power
Gas
Fiber Optic
Cable
Wireless Internet

Facilities Available
Security Camera
Security Lighting
Public Restroom
Public Telephone
Passenger/Pilot-Waiting Room
Passenger Terminal



Airport Facilities and Services Report

Weather Reporting Services Available

None

Fixed Base Operator Services

Number of FBOs 0

Services Available

US Customs

Aviation Activities

Charter Service

Aerial Tours

Transient Aviation Activities

Charter Service

Aerial Tours

Other Significant Activities and Services



Airport Facilities and Services Report

Airport Activity	
Based Aircraft	
Single Engine	0
Multi Engine	0
Jet	0
Helicopter	0
Glider	0
Military	0
Ultralight	0
Seaplane	0
Total	0
Annual Operations	
<u>General Aviation</u>	
Local	5,000
Itinerant	800
<u>Commercial</u>	
Air Carrier	0
Air Taxi/Commuter	31,000
<u>Military</u>	
Local	0
Itinerant	0
Total	36,800



Airport Facilities and Services Report

Annual Operations	
Number of Peak Hour Operations	
Percent that were Instrument Approaches	0
Percent that were Air Cargo Operations	
Passenger Terminal	
Capacity	8
Demand	8
Percent of Utilization	100
Aircraft Storage	
Capacity	
Demand	0
Percent of Utilization	
Airfield Operations	
Capacity	0
Demand	0
Percent of Utilization	
Air Cargo Operations	
Capacity	0
Demand	0
Percent of Utilization	
Air Cargo	
Is there Air Cargo Activity?	Yes
Annual Air Cargo	



Airport Facilities and Services Report

<u>Air Cargo Volume (Tons)</u>	
Total Volume	0
Enplaned	0
Deplaned	0
Domestic	0
International	0
Freight	0
Express	0
Mail	0
Belly Cargo	0
All Cargo	0
Large Widebody	0
Medium Widebody	0
Narrow Body	0
Small	0
Air Cargo Operations	
<u>All Cargo Operations</u>	
Large Widebody	0
Medium Widebody	0
Narrow Body	0
Small	0
Total	0



Airport Facilities and Services Report

Other Cargo Information							
Number of Cargo Carriers							1
Other Cargo Activity							None
Types of Cargo Activity at the Airport							
Inter-Modal							
Commodities which are shipped from the airport:						<u>% of Total Volume (Estimated)</u>	
Commercial Activity							
Does the Airport have Commercial Activity							Yes
Total Annual Enplanements							70,000
Total Weekly Seat Departures							
Total Weekly Aircraft Departures							
Number of Non-Stop Destinations							
Commercial Airlines Annual Enplanements							
Airline Name						Annual Enplanements	
Airport Infrastructure Information							
Runways							
Approved	Designation	Type	Length	Width	Design Strength	Surface Type	Lighting
Yes	16/34	Primary Runway	5,000	500		Water	
Taxiways							
Approved	Designation	Surface Type	Taxiway Type	Length	Width		



Airport Facilities and Services Report

Design Strength		Lighting		
Aprons				
Approved	Designation	Area	Surface Type	Tiedowns
Airport Reference Code				
	Aircraft Approach Category	Airplane Design Group	Critical Aircraft	
Existing	A: < 91 knots	Small Aircraft (< 12,500 lbs) - < 49' (15m); < 20' (6.1m)	single engine seaplanes	
Future	A: < 91 knots	Small Aircraft (< 12,500 lbs) - < 49' (15m); < 20' (6.1m)	same	
Airport Location				
Elevation				14
Latitude				
Longitude	-122.338666667			
Airport Reference Guide Notes				
Airport Communications				
Name	Frequency	Description		
ATIS		Automatic Terminal Information Service		
TWR		Tower		
GND		Ground Control		
CL DEL		Clearance Delivery		
CTAF	122.900	Common Traffic Advisory Frequency		
UNICOM		Radio Advisory		



Airport Facilities and Services Report

Airport Communications			
Name	Frequency	Description	
PCL		Pilot Controlled Lighting	
Runway Design Standards			
	Design Standard	Existing Condition	Compliant
Runway Designation -- 16/34			
Distance from Runway Centerline to Parallel Runway Centerline			No Information Available
Distance from Runway Centerline to Parallel Taxiway Centerline			
Distance from Runway Centerline to Aircraft Parking Line			
Required Runway Shoulder Width			
Required Blast Pad Width			
Required Blast Pad Length			
Required Runway Safety Area Width			
Required Runway Safety Area Length			
Required Object Free Area Width			
Required Object Free Area Length			
Required Turnaround Radius			



Airport Facilities and Services Report

Runway Ends, Part 77 and Controlling -- Design vs. Existing

	Design Standard	Existing Condition	Compliant
--	-----------------	--------------------	-----------

Runway 16/34 -- End Number 16

Blast Pad Width			
Blast Pad Length			
Runway Safety Area Width			
Runway Safety Area Length			
Object Free Area Width			
Object Free Area Length			
Hold Line Distance			
Turnaround Radius			

Runway 16/34 -- End Number 34

Blast Pad Width			
Blast Pad Length			
Runway Safety Area Width			
Runway Safety Area Length			
Object Free Area Width			
Object Free Area Length			
Hold Line Distance			
Turnaround Radius			

Runway Ends, Parts 77 & Controlling -- Basic Information

Runway 16/34 -- End Number 16

Dimension for Runway Protection Zone	
Airport Ownership of the RPZ	None
Is the RPZ protected by zoning or an aviation easement?	



Airport Facilities and Services Report

Runway Ends, Parts 77 & Controlling -- Basic Information	
Elevation	0
Latitude	0.000000000
Longitude	0.000000000
Displaced Threshold	
Relocated Threshold	
<i>Approach Information</i>	
Does the airport have an instrument approach?	No
Does the airport have Runway End Identification Lights (REIL)?	No
Is there a visual guidance system?	
What is the controlling obstruction?	
Height of Obstruction	
Distance of Obstruction from Runway End	
Approach Type	Visual
Approach Category	
Visiblity Minimum	1 mile
Required Slope	20:1
Actual Slope	
Supports 50:1	No
Which approach requirements apply to the standard threshold siting surface for the airport?	
Is the approach compliant?	No
Runway 16/34 -- End Number 34	
Dimension for Runway Protection Zone	
Airport Ownership of the RPZ	None



Airport Facilities and Services Report

Runway Ends, Parts 77 & Controlling -- Basic Information

Is the RPZ protected by zoning or an aviation easement?

Elevation 0

Latitude 0.000000000

Longitude 0.000000000

Displaced Threshold

Relocated Threshold

Approach Information

Does the airport have an instrument approach? No

Does the airport have Runway End Identification Lights (REIL)? No

Is there a visual guidance system?

What is the controlling obstruction?

Height of Obstruction

Distance of Obstruction from Runway End

Approach Type Visual

Approach Category

Visibility Minimum 1 mile

Required Slope 20:1

Actual Slope

Supports 50:1 No

Which approach requirements apply to the standard threshold siting surface for the airport?

Is the approach compliant? No

Taxiway Design Standards



Airport Facilities and Services Report

	Design Standard	Existing Condition	Compliant
Apron Facilities			



Airport Facilities and Services Report

Capital Improvement Program Tracking				
Project Title:	Kenmore Air Harbor Airport Layout Plan			
Project Description:	Initial Airport Layout Plan for Kenmore Air Harbor on Lake Washington.			
Start Year:	2014	Status:	Planned	
Budget and Funding Breakdown				
FAA	State	Local	Total	
0	0	0	0	
Fulfills state performance objective(s)	State will require Airport Layout Plan for any future improvements.			
Project Types				
Planning				
Work Purposes				
Planning				
Work Components				
Planning				
Work Types				
Master Plan				



Airport Facilities and Services Report

Environmental Information	
Are there wetlands on airport property?	No
How many acres of wetlands?	
Source of Wetland Classification	
Have noise contours been prepared for the airport?	No
If so, for what year?	
Does the 65 DNL contour extend beyond the airport property?	No
Is there a Stormwater Management System at the airport?	Yes
Primary Stormwater Facility Type	Open system (ditches/holding ponds)
Does the system utilize best management practices as defined in the Stormwater Guidance Manual?	No
Are there underground storage tanks?	Yes
Is there a washdown pad?	No
Washdown System Description	
Other Environmental Comments	N/A

Land Use Planning	
Is a FAR Part 77 map prepared?	Yes
Predominant Zoning Classification	
Actual Zoning Classification	
Is the airport within an urban growth boundary?	Yes
Does the airport have avigation easements?	No



Airport Facilities and Services Report

City Jurisdictions	
The City of Seattle:	
Recognizes the Airport as an Essential Public Facility	No
Includes the Airport in the Transportation System Inventory	No
Recognizes the significance of the airport for economic development	No
Includes policies that discourage the development of incompatible land uses	No
Has zoning in place to discourage the development of incompatible land uses	No
Has zoning in place to regulate height hazards	No
Has regulations to prohibit penetration of FAR Part 77 surfaces	No
Requires an Aviation Activity Notice	No
County Jurisdictions	
Affected Tribes	



Airport Facilities and Services Report

Ground Transportation

Available Ground Transportation Services

Bus Service

Taxi Service

Shuttle

Limo/Town Car

Other Ground Transport Service Available

Other - shuttle service to airport.

Airport Access

Type of Major Highway Closest to the Airport

Interstate

Name of the Closest Highway

I-5

Distance from the Airport (Miles)

1

Type of Road Providing Direct Primary Access to the Airport

Arterial

Name of the Primary Direct Access Road

Westlake Avenue North

Airport Fees

Hangar Rental Information

Average Rate / Month (Including Leasehold Tax)

<50' Individual Hangar

>=50' Individual Hangar

Remarks

Average Rate / Month (Including Leasehold Tax)

<50' Open Hangar

>=50' Open Hangar

Remarks

How many people on waiting list?

Waiting List Fee



Airport Facilities and Services Report

Land Lease Information

Aeronautical Land (Price/Sq Ft/Year)

Standard Lease Terms

Standard Lease Rate Policy

Comments

Industrial/Commercial Non-aeronautical Land
(Price/Sq Ft/Year)

Standard Lease Terms

Standard Lease Rate Policy

Comments

Landing Fees

Minimum Landing Fee	\$0.00
---------------------	--------

Fee Per 1,000# (MCGLW)	\$0.00
------------------------	--------

Fee Per 12,500# (Non Commercial)	\$0.00
----------------------------------	--------

Comments

Tiedown Fees

Single Engine (Daily)	\$0.00
-----------------------	--------

Single Engine (Weekly)	\$0.00
------------------------	--------

Single Engine (Monthly)	\$0.00
-------------------------	--------

Single Engine (Annual)	\$0.00
------------------------	--------

Multi Engine (Daily)	\$0.00
----------------------	--------

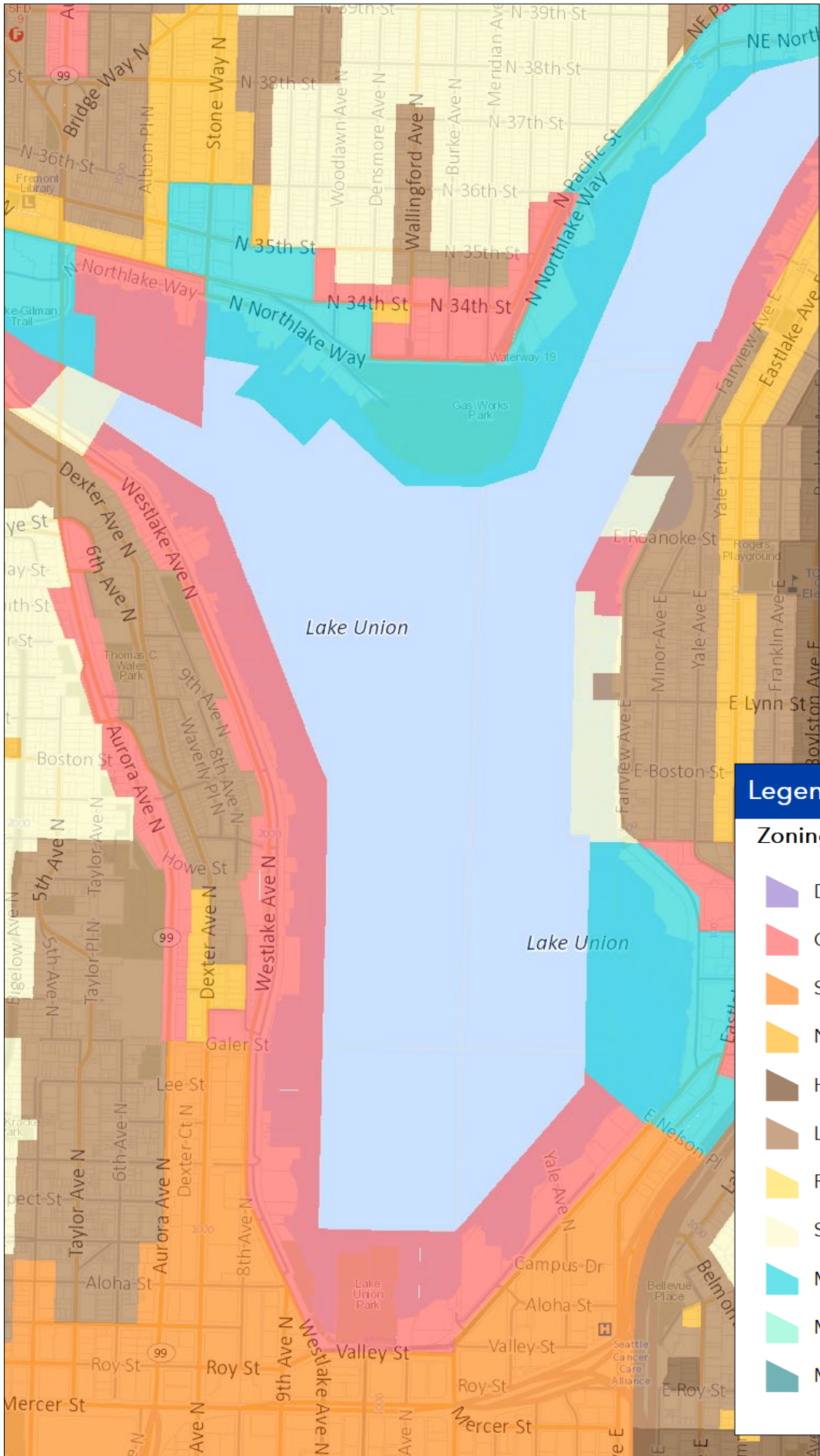
Multi Engine (Weekly)	\$0.00
-----------------------	--------

Multi Engine (Monthly)	\$0.00
------------------------	--------

Multi Engine (Annual)	\$0.00
-----------------------	--------

Comments

EXHIBIT D



Legend

Zoning

- Downtown
- Commercial
- Seattle Mixed
- Neighborhood Commercial
- High-Density Multi-Family
- Lowrise Multi-Family
- Residential Small Lot
- Single Family
- Manufacturing/Industrial
- Master Planned Community
- Major Institutions

EXHIBIT E

Table A for 23.60A.240 Uses in the CN Environment	
A. AGRICULTURAL AND FOREST PRACTICE	X
B. CEMETERIES	X
C. COMMERCIAL USES	X
D. HIGH-IMPACT USES	X
E. INSTITUTIONAL USES	X
F. LIVE-WORK UNITS	X
G. MANUFACTURING USES	X
H. PARKS AND OPEN SPACE USES	See subsection 23.60A.240.B
I. PUBLIC FACILITIES	See Section 23.60A.207
J. RESEARCH USES, Aquatic, Scientific, Historic, Cultural, and Educational	See Section 23.60A.210
K. RESIDENTIAL USES	X
L. RESTORATION AND ENHANCEMENT USES	See Section 23.60A.211
M. STORAGE USES	X
N. TRANSPORTATION FACILITY USES	
N.1. Bridges and tunnels	See subsection 23.60A.240.C
N.2. Cargo terminals	X
N.3. Moorage	X

Table A for 23.60A.240
Uses in the CN Environment

N.4. Navigational locks	X
N.5. Parking	X
N.6. Passenger terminals	X
N.7. Rail transit facilities	P
N.8. Navigational aids including channel markers and anchor buoys	P
N.9. Transportation facilities, air	X
N.10. Vehicle storage and maintenance	X
N.11. Tugboat services	X
N.12. Railroads	See subsection 23.60A.240.C
N.13. Streets	See subsection 23.60A.240.C
O. UTILITY USES	X
P. UTILITY LINES	SU

Key to Table A for 23.60A.240

CU = Shoreline Conditional Use

P = Allowed by permit

SU - Special Use

X = Prohibited

EXHIBIT F

ORDINANCE **119929**

AN ORDINANCE relating to land use and zoning, amending Sections 23.60.092, 23.60.662 and 23.60.668 of the Seattle Municipal Code to prohibit the location of water-based airports in the Urban Harborfront Environment.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 23.60.092 of the Seattle Municipal Code, as last amended by Ordinance 116907, is further amended as follows:

SMC 23.60.092 Accessory uses.

B. Uses prohibited as principal uses but customarily incidental to a use permitted in a shoreline environment may be permitted as accessory uses only if clearly incidental and necessary for the operation of a permitted principal use unless expressly permitted or prohibited as accessory uses. Examples of accessory uses include parking, offices and caretaker's quarters not exceeding eight hundred (800) square feet in living area. For purposes of this section, landfill, water-based airports, heliports and helistops shall not be considered to be accessory to a principal use and shall only be permitted as provided in the applicable shoreline environment.

Section 2. Section 23.60.662 of the Seattle Municipal Code, as last amended by Ordinance 113466, is further amended as follows:

23.60.662 Special uses permitted on waterfront lots in the UH Environment.

The following uses may be authorized over water or on dry-land portions of waterfront lots in the UH Environment by the Director as either principal or accessory uses if the special use criteria of Section 23.60.032 are satisfied:

~~A. Airport, water-based;~~

~~BA.~~ The following utilities:

1. Communication utilities that require a shoreline location,
2. Utility service uses that require a shoreline location, and
3. Utility lines;

~~CB.~~ The following shoreline protective structures:

1. Natural beach protection, and
2. Bulkheads to support a water-dependent or water-related use, or to enclose a permitted landfill area, or to prevent erosion on Class II or Class III beaches, when natural beach protection is not a practical alternative;

~~DC.~~ Dredging when necessary for water-dependent and water-related uses or to install utility lines;

~~ED.~~ The following types of landfill:



- 1 1. Landfill on dry land where necessary for a permitted use and as part of an approved
development,
- 2 2. Landfill on submerged lands which does not create dry land, where necessary for a
water-dependent or water-related use or for the installation of a bridge or utility line.

3
4 **Section 3.** Section 23.60.668 of the Seattle Municipal Code, as last amended by Ordinance
5 113764, is further amended as follows:

6 **23.60.668 Prohibited uses on waterfront lots in the UH Environment.**

7 The following uses are prohibited as principal uses on waterfront lots in the UH Environment:

- 8 A. Residential uses;
- 9 B. The following commercial uses:
 - 10 1. Medical services,
 - 11 2. Animal services,
 - 12 3. Automotive retail sales and service,
 - 13 4. Lodging, except existing hotels,
 - 14 5. Mortuary services,
 - 15 6. Offices at wharf/street level,
 - 16 7. Adult motion picture theaters and panorams,
 - 17 8. Parking, principal use,
 - 18 9. Nonhousehold sales and services,
 - 19 10. Mini-warehouses,
 - 20 11. Personal transportation services,
 - 21 12. Cargo terminals, except breakbulk,
 - 22 13. Transit vehicle bases,
 - 23 14. Heliports, ((and))
 - 24 15. Airports, land-based((:)), and
 16. Airports, water-based;
- C. Salvage and recycling uses;
- D. The following utilities:
 1. Solid waste transfer stations,
 2. Power plants, and
 3. Sewage treatment plants;
- E. General and heavy manufacturing;
- F. The following institutional uses:
 1. Schools, elementary or secondary,
 2. Hospitals,
 3. Religious facilities, and
 4. Private yacht, boat and beach clubs;
- G. Public facilities or projects that are nonwater-dependent except those that are part of
public improvement plan for the harborfront adopted by the Council;
- H. High-impact uses;
- I. Agriculture uses except aquaculture;

- J. Groins and similar structures which block the flow of sand to adjacent beaches, except drift sills or other structures which are part of a natural beach protection system; and
- K. Landfill which creates dry land.

Section 4. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 8th day of May, 2000, and signed by me in open session in authentication of its passage this 8th day of May, 2000.

Margaret Peeler
President _____ of the City Council

Approved by me this 11 day of MAY, 2000.

Paul Sawyer
Mayor

Filed by me this 11th day of May, 2000.

Janith E. Papp
City Clerk

(Seal)





City of Seattle

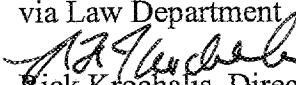
Paul Schell, Mayor

Department of Design, Construction and Land Use

R. F. Krochalis, Director

MEMORANDUM

TO: City Council President Margaret Pageler
via Law Department

FROM: 
Rick Krochalis, Director

DATE: March 30, 2000

SUBJECT: Prohibition of Water-based Airports (for Seaplane Operations) on the
Downtown Waterfront

Transmittal

With this memorandum we are transmitting for City Council consideration a proposed ordinance to amend the shoreline portion of the Land Use Code to prohibit the establishment of "airport, water-based" uses, as defined in SMC 23.84.038, within the "Urban Harborfront Environment". Such uses may now be authorized by the Director of the Department of Design, Construction and Land use as "special uses" (SMC 23.60.662).

Background And Summary Of Recommendations

In January 1999 the Seattle City Council passed, and the Mayor signed, Ordinance 119328 establishing a temporary moratorium on accepting new applications for seaplane operation facilities (water-based airports) along the downtown waterfront extending from Bay Street south to S. Jackson Street. (Ordinance 119677 enacted subsequently extended the temporary moratorium until November 1, 2000.)

The work program adopted by Council as part of the temporary moratorium, and its subsequent extension, directed DCLU to gather information, to analyze the information and issues, and to prepare recommendations on how to proceed. This information would assist the City Council in its consideration of whether or not the Seattle central waterfront is an appropriate location for seaplane operations and facilities. The Council directed DCLU to research Seattle's experience with seaplane operations on Lake Union and other jurisdictions' experience with seaplanes. This research was to be directed to two main areas of impact: noise and vessel traffic on Elliott Bay.

A prohibition of water-based airports on Elliott Bay would eliminate the possibility of sight seeing trips taking off from the downtown waterfront and the accompanying economic benefits. However, such operations are not an essential service that must be provided. From a public policy point of view, the argument is a strong one that Seattle is encouraging downtown residential use and any added noise is a deterrent to downtown living. Although the exact effects of seaplane operations on Elliott Bay, especially noise impacts on desired residential uses, is unknown, it is unlikely to be beneficial and appears that it could be detrimental. While it may be possible to establish conditions to mitigate these impacts, it is not known whether or not these measures would be sufficient. Without additional evidence of the effectiveness of these measures, and given the harmful impact on residential uses that could result from seaplane operations, it makes sense from a public policy standpoint to avoid establishing this activity in the first place. DCLU, therefore, recommends that the City Council prohibit water-based airports along the downtown harborfront.

SEPA

DCLU has conducted environmental review on this proposal and issued a Determination of Non-Significance (no environmental impact statement required) on February 24, 2000. No appeals of the determination were filed during the appeal period that ended on March 16, 2000.

Non-Financial Legislation

The proposed legislation has no financial implications.

If you have any questions about the proposed legislation, please contact Cliff Marks by email at cliff.marks@ci.seattle.wa.us or by phone at (206) 684-8372.

Attachments:

Proposed legislation

Director's Report



City of Seattle

DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE
DIRECTOR'S REPORT AND RECOMMENDATION

Proposed Land Use Code Amendments to Prohibit Water-based Airports
on the Downtown Waterfront

March 29, 2000

BACKGROUND

This report presents the Department of Design, Construction and Land Use recommendation on whether or not the downtown central waterfront is an appropriate location for seaplane operations and facilities. It is the result of DCLU's research and analysis of this issue as requested by the City Council when the temporary moratorium on new seaplane operations was established last year. We are recommending that such uses not be permitted in Elliott Bay.

In January 1999 the Seattle City Council passed, and the Mayor signed, Ordinance 119328 establishing a temporary moratorium on accepting new applications for seaplane operation facilities (water-based airports) along the downtown waterfront extending from Bay Street south to S. Jackson Street. (Ordinance 119677 enacted subsequently extended the temporary moratorium until November 1, 2000.) The City had previously received an application from Kenmore Air to establish such a use on Pier 54 to provide sightseeing flights for tourists.

Water-based airports are "Special Uses" in the Urban Harborfront Environment* as set forth in the shoreline section of the Land Use Code. The Director of the Department of Design, Construction and Land Use (DCLU) may approve them as long as certain general criteria (SMC 23.60.032) are met. (Approval Criteria address consistency with the Shoreline Policies; noninterference with the normal public use of public shorelines; compatibility with other permitted uses within the area; effects to the shoreline environment; and effect on the public interest.)

The City's temporary moratorium on the acceptance of new applications permitted the Kenmore Air application to proceed but only allowed one summer of operation.

* The Urban Harborfront Environment is a shoreline overlay zone. The moratorium applied to the underlying zoning, the Downtown Harborfront 1 and Downtown Harborfront 2 zones. However, uses permitted in the underlying zones (SMC 23.49.300 and SMC 23.49.318) are determined by the shoreline overlay zone (Urban Harborfront Environment) regulations. Therefore, the recommended regulatory changes are more appropriately made to the Urban Harborfront Environment provisions.



The Council noted, in the temporary moratorium ordinance, that in response to the Kenmore Air proposal:

The City has received comments from citizens, organizations, and governmental agencies expressing concerns about the wisdom of allowing seaplane operations along the central waterfront. These concerns include issues of public safety, resulting from the potentially hazardous congestion of vessels and seaplanes in the area, and public health and welfare, resulting from the noise of seaplanes taking off and landing. Concern exists regarding potential cumulative adverse impacts from several seaplane operations, as well as the general appropriateness of such a use along the central waterfront.

To respond to these concerns, the City Council adopted a work program and directed DCLU to gather information, to analyze the information and issues, and to prepare recommendations on how to proceed. This information would assist the City Council in its consideration of whether or not the Seattle central waterfront is an appropriate location for seaplane operations and facilities. Since one proponent had submitted an application for a seaplane operation on the waterfront, the work program included an evaluation of the actual impacts of this activity. It was envisioned that this information would be useful in deciding whether such uses are appropriate to the waterfront.

In spring 1999, DCLU approved the Kenmore Air permit for a temporary trial period. The approval of the temporary permit was appealed to the State Shorelines Hearing Board and the permit application was subsequently withdrawn. Therefore, we do not have a period of actual operations in Elliott Bay by which to judge impacts, especially noise and vessel traffic safety. The study conclusions and recommendations contained in this report are therefore based on the following:

- Analysis carried out by DCLU in reviewing and approving the Kenmore Air application
- Public and agency comments received both on the temporary moratorium proposal and the Kenmore Air application
- Other jurisdictions' experience and publications
- Public policy analysis

SUMMARY OF RESEARCH AND IMPACT EVALUATION

The work program adopted by Council as part of the temporary moratorium, and its subsequent extension, directed DCLU to review existing City goals, policies and regulations that might apply to the waterfront area. It also directed DCLU to research Seattle's experience with seaplane operations on Lake Union and other jurisdictions' experience with seaplanes. This research was to be directed to two main areas of impact: noise and vessel traffic on Elliott Bay. As noted, an analysis of the actual impacts of the proposed Kenmore Air operation was also to have played a major role in this analysis; however, this was not possible since the Kenmore Air application was withdrawn. This

section of the Director's Report summarizes this research. Background data from interviews of agency representatives and reports prepared by other jurisdictions are available at DCLU.

Existing City Plans, Policies, and Regulations

Seattle has very little in the way of policies that apply directly to seaplanes. However, there are City policies in the Comprehensive Plan adopted in 1994, the Land Use and Transportation Plan for Downtown Seattle adopted in 1985 and revised in 1995, and recently adopted neighborhood plan(s), that encourage residential uses downtown. To the extent that seaplanes could cause adverse impacts, such as noise, that might make living downtown less desirable, these policies are relevant to the issue of the appropriateness of seaplane operations in Elliott Bay. Speakers at the public hearing on the temporary moratorium voiced their objection to adding another noise source to an already noisy neighborhood when the City is encouraging residential uses downtown.

The Downtown Urban Center Planning Group is an umbrella organization that developed the Urban Center Plan for the five downtown urban villages. The following is included in the Downtown Urban Center Neighborhood Plan that has been acknowledged by the City Council:

Policy HO-3: INCREASE LIVABILITY OF DOWNTOWN AS A NEIGHBORHOOD.

Implementation Guideline 1 City Investment

Invest in facilities, residential parking structures, green streets and other amenities that attract developers and attract/retain residents and enhance residential "feel" and quality of life in downtown neighborhoods.

Implementation Guideline 2 Neighborhood Services

Increase recognition/responsiveness of city service departments to downtown mixed use 24 hour neighborhoods - such as enforcing noise ordinances, keeping streets/alleys clean, improving resident safety and maintaining existing landscaping.

The Neighborhood Planning Approval and Adoption Matrix (under "Increase the Supply of Downtown Housing") contains the following:

HS-12 Implement a program of aggressive design, regulatory, enforcement actions and operations policies to reduce noise levels, keep streets and alleys clean and to improve safety within all downtown neighborhoods.

The Executive comment in the Matrix notes the fact that DCLU was provided with funding for additional noise enforcement staffing in 1999. However, as noted below, seaplanes are not subject to the City's noise ordinance.

Seattle Noise Ordinance. Since noise is a major issue concerning seaplane operations, Seattle's Noise Ordinance (Chapter 25.08 of the Seattle Municipal Code) should be

noted. While watercraft noise is regulated by this ordinance (seaplanes are considered as "watercraft" when on the water), the code states that "Sounds created by the operation of commercial, non-recreational watercraft are exempt at all times" from provisions of the Noise Ordinance. (SMC 25.08.485C) In addition, the City of Seattle does not have jurisdiction over noise issues when seaplanes are airborne.

Seattle and Other Cities' Operational Experience: Noise

The main source of seaplane noise occurs when the planes are preparing for take off. Community groups and individuals that were once concerned with the noisy operations on Lake Union report that there does not seem to be much concern at present. There is a feeling that Kenmore Air has abided by the agreement to reduce noise impacts, especially by complying with the agreement not to fly in the early morning and evening hours. However, in light of this, some speakers at public hearings on the temporary moratorium argued that Queen Anne residents have complained about the noise and that others just may have given up complaining.

Experience in other jurisdictions indicates that noise can be a problem when take-offs are conducted close to residential uses. However, we have not found any specific noise standard that any jurisdiction has applied to seaplanes. There is no agreed upon standard. In fact, there does not appear to be any regulation of seaplane noise, per se, by any local jurisdiction.

Victoria, B.C. appears to be the city that has done the most research and study of this issue; this is documented in several reports including Victoria Harbour Noise Study, March 1998. However, the physical characteristics of Victoria's harbor, with a very limited area for take-offs located extremely close to residential units, is very different than Seattle's Elliott Bay where seaplanes would be able to taxi far out into the Sound and take off at some distance from residential uses. One of the conditions that DCLU imposed when granting the Kenmore Air temporary permit was to limit all daytime take-offs to a minimum distance of 2,000 feet from the shoreline, and evening and weekend take-offs to a distance of 3,000 feet. Whether or not the conditions imposed by DCLU would have been sufficient to mitigate noise impacts cannot be known since these operations will not now take place. In the summer of 1999 when Kenmore Air was conducting required testing of its operations on Elliott Bay in order to obtain FAA approval, there were a couple of complaints to DCLU that there was undesirable noise; however, no actual measurements of noise were taken at that time.

Seattle and Other Cities' Operational Experience: Vessel Traffic

The Seattle Harbor Patrol reports that seaplane operations have not caused navigational safety or other problems on Lake Union. In fact, Kenmore Air has an exemplary safety record in its operations on Lake Union. The area of operation on Lake Union is smaller than Elliott Bay and there are probably more small recreational boats using Lake Union, but fewer large vessels such as ferries as compared to Elliott Bay.

The Coast Guard and other jurisdictions report that seaplanes operate safely in many locations. The two jurisdictions that we surveyed in the greatest detail (Victoria and Vancouver, B.C.) did not report any problems from a vessel safety standpoint. However, since so much depends on the specific circumstances regarding the size of area for seaplane take-offs and landings and other vessel traffic, it is difficult to make generalizations. Concerning potential operations on Elliott Bay, the Coast Guard believed the key to avoiding or preventing safety problems was adequate communication with other vessels.

However, others have disagreed as negative comments have been made on this issue. The Washington State Department of Transportation believed that the proposed flight operations would have had a significant negative impact on ferry operational safety, ferry maneuvering, and the ferry system's ability to meet tight schedules. A recent report, The Washington State Ferries Risk Assessment, prepared in June, 1999 for the Blue Ribbon Panel on Washington State Ferry Safety and Washington State Transportation Commission found that the risk of collisions between state ferries and other vessels would increase slightly as new fast ferries are added. However, the study did not look specifically at the issue of seaplane operations.

Impact Analysis of Actual Operations on Elliott Bay

Because Kenmore Air withdrew its application and no other applications are allowed under the terms of the temporary moratorium, there will be no analysis of the actual impacts of seaplane operations on Elliott Bay.

OPTIONS FOR DEALING WITH THE ISSUE

There are three basic alternatives to deal with this issue of seaplane operations on Elliott Bay:

1. No Change – leave water-based airports and seaplane operations in Elliott Bay as a Special Use in the Land Use Code
2. Amend the Land Use Code to establish more specific criteria to address the impacts of seaplane operations, especially dealing with noise and vessel traffic safety, as well as establish specific conditions of operation
3. Amend the Land Use Code to prohibit water-based airports for seaplane operations in Elliott Bay

No Change Alternative

This alternative would leave water-based airports as "special uses" that could be approved by the Director of DCLU. Under this alternative future applications by seaplane operations could be approved with the potential for noise, vessel safety, and other impacts. Residential uses in the downtown waterfront area could be negatively affected.

Establish Detailed Criteria and Conditions for Seaplane Operations

Under this alternative certain additional criteria would be added to the Land Use Code. These criteria would guide the future review of permit applications; decisions would be based on clearer criteria that were specifically developed to address issues relating to seaplane operations, probably resulting in better impact mitigation. The intention of Council's decision in enacting the moratorium to allow the temporary permit for a seaplane operation was to provide a "test" of the types of conditions that could address noise and safety concerns. Examples would be conditions that establish certain noise levels that could not be exceeded, or operational requirements that seaplanes take off a certain distance from the shoreline, or other mitigation measures to deal with noise or safety impacts. Under this alternative there could be significant impacts on DCLU resources required to monitor the impacts and enforce conditions, assuming citizen complaints were on-going.

Prohibit Water-based Airports Along the Downtown Harborfront

This alternative would be the most straight forward approach. It would be based on the vision of the downtown harborfront as a mixed-use neighborhood that includes and encourages residences. Since facilities for seaplane operations would not be allowed on Elliott Bay, potential negative impacts, especially noise impacts on residential uses, would clearly be avoided. Also, there would be no need for extensive evaluations of impacts whenever an application were submitted, and on-going monitoring and possibly enforcement actions by DCLU would not be required. It would also avoid the difficult issue of how to deal with cumulative impacts of more than one operation.

RECOMMENDATION

DCLU recommends that the City Council adopt the third alternative approach and prohibit water-based airports along the downtown harborfront. From a public policy point of view, the argument is a strong one that Seattle is encouraging downtown residential use and any added noise is a deterrent to downtown living. The element of perceptions is important here. One could argue at great length about actual noise levels, and conduct extensive noise monitoring with appropriate meters. However, if residents perceive that this is another affront on their ability to enjoy living downtown this, in itself, is an important consideration. And, in fact, since we don't know exactly what noise levels can be expected or what mitigation measures would be needed to avoid these impacts, seaplane operations could be seen as incompatible with residential uses downtown. This is especially true since the City's Noise Ordinance does not cover seaplane operations.

The potential negative impacts must be weighed against the benefits of seaplane operations. Potential benefits to tourists and others of sightseeing excursions would be lost. Also, a Victoria study (Economic Impacts, Benefits and Costs of Harbour Float

Planes by Dr. Robert L. Bish) argues that significant economic benefits are the major reason for float plane usage of the harbor.

It is true that a prohibition of water-based airports on Elliott Bay would eliminate the possibility of sight seeing trips taking off from the downtown waterfront and the accompanying economic benefits. However, such operations are not an essential service that must be provided. In contrast to the Vancouver-Victoria situation, where there is a need for an easy connection between British Columbia's largest city and its capitol, no similar need exists in Seattle for tourist seaplane operations on Elliott Bay. Also, seaplanes were operating for many years in Victoria and Vancouver prior to the increase in nearby residential uses (especially in Victoria). Again, such is not the case in Seattle. Also, since seaplanes use Lake Union at present, there is a location in the city where sightseeing flights could take off from.

Lastly, the principle of "prudent avoidance" should be mentioned since it is an appropriate public policy consideration in this instance. Although the exact effects of seaplane operations on Elliott Bay, especially noise impacts on desired residential use, is unknown, it is unlikely to be beneficial and appears that it could be detrimental. Although it may be possible to establish conditions to mitigate these impacts, it is not known whether or not these measures would be sufficient. Without additional evidence of the effectiveness of these measures, and given the harmful impact on residential uses that could result from seaplane operations, it makes sense from a public policy standpoint to avoid establishing this activity in the first place.





Seattle City Council



PUBLIC HEARING SIGN-UP SHEET

Prohibition of Seaplanes on Seattle's Central Waterfront

INFORMATION ON THIS SIGN-UP SHEET IS PUBLIC RECORD

#	(PLEASE PRINT) NAME	ORGANIZATION	(OPTIONAL) ADDRESS	ZIP	(OPTIONAL) PHONE/FAX
+1.	MIKE REES	SEATTLE COUNCIL ON AIRPORT AFFAIRS	3213 W. WHEELER ST #146 SEATTLE WA	98199	
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+3.	Catherine Vandenberg	Sound Rights			

STATE OF WASHINGTON - KING COUNTY

118350
City of Seattle, City Clerk

-ss.

No. FULL ORDINAN

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:119929 ORDINANCE

was published on

05/18/00

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

A. Patterson

Subscribed and sworn to before me on

05/18/00

M. O'Quinn

Notary Public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 115925

AN ORDINANCE relating to land use and zoning, amending Sections 23.60.092, 23.60.662 and 23.60.668 of the Seattle Municipal Code to prohibit the location of water-based airports in the Urban Harborfront Environment.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

SECTION 1. Section 23.60.092 of the Seattle Municipal Code, as last amended by Ordinance 116907, is further amended as follows:

SMC 23.60.092 ACCESSORY USES.

B. Uses prohibited as principal uses but customarily incidental to a use permitted in a shoreline environment may be permitted as accessory uses only if clearly incidental and necessary for the operation of a permitted principal use unless expressly permitted or prohibited as accessory uses. Examples of accessory uses include parking, offices and caretaker's quarters not exceeding eight hundred (800) square feet in living area. For purposes of this section, landfill, water-based airports, heliports and helistops shall not be considered to be accessory to a principal use and shall only be permitted as provided in the applicable shoreline environment.

SECTION 2. Section 23.60.662 of the Seattle Municipal Code, as last amended by Ordinance 113466, is further amended as follows:

23.60.662 SPECIAL USES PERMITTED ON WATERFRONT LOTS IN THE UH ENVIRONMENT.

The following uses may be authorized over water or on dry-land portions of waterfront lots in the UH Environment by the Director as either principal or accessory uses if the special use criteria of Section 23.60.032 are satisfied:

A. Airport, water-based;

BA. The following utilities:

1. Communication utilities that require a shoreline location,
2. Utility service uses that require a shoreline location, and
3. Utility lines;

CB. The following shoreline protective structures:

1. Natural beach protection; and
2. Bulkheads to support a water-dependent or water-related use, or to enclose a permitted landfill area, or to prevent erosion on Class II or Class III beaches, when natural beach protection is not a practical alternative;

DC. Dredging when necessary for water-dependent and water-related uses or to install utility lines.

ED. The following types of landfill:

1. Landfill on dry land where necessary for a permitted use and as part of an approved development,
2. Landfill on submerged lands which does not create dry land, where necessary for a water-dependent or water-related use or for the installation of a bridge or utility line.

SECTION 3. Section 23.60.668 of the Seattle Municipal Code, as last amended by Ordinance 113764, is further amended as follows:

23.60.668 PROHIBITED USES ON WA-