



## 2012 Annual Amendment Application No. 2012-1 *Container Port Element*

### ASSESSMENT REPORT

|                                    |  |
|------------------------------------|--|
| <b>Application #:</b>              | 2012-1   |
| <b>Applicant:</b>                  | Community and Economic Development Department  |
| <b>Contact:</b>                    | Ian Munce, 573-2478, <a href="mailto:imunce@cityoftacoma.org">imunce@cityoftacoma.org</a>      |
| <b>Type of Amendment:</b>          | Comprehensive Plan Change  |
| <b>Current Land Use Intensity:</b> | High Intensity   |
| <b>Current Area Zoning:</b>        | PMI-Port Maritime Industrial, M-2 Heavy Industrial, M-1 Light Industrial, and shoreline zoning |
| <b>Size of Area:</b>               | Approximately 5,000 acres  |
| <b>Location:</b>                   | Tacoma industrial tideflats and associated freight corridors                                   |
| <b>Neighborhood Council area:</b>  | New Tacoma   |
| <b>Proposed Amendment:</b>         | Adding a new Container Port Element to the Comprehensive Plan                                  |

#### **General Description of the Proposed Amendment:**

The proposed amendment is to add a Container Port Element to the Comprehensive Plan. This work is mandated by a 2009 addition to the State Growth Management Act (ESHB 1959) relating to land use and transportation planning for marine ports (Exhibit A). At this time, it is a mandate that only applies to the cities of Seattle and Tacoma. When adopting the new law the Legislature recognized the importance of container ports to not only the local but also the state and the national economies.

The City is required to work cooperatively with the Port of Tacoma in developing the new policy element. According to State law, the Container Port Element is to: (1) define and protect the core area(s) of container port industrial uses; (2) identify and resolve key land use conflicts at the edges of the core area(s); and (3) ensure access to freight corridors that serve container port industrial uses and recommend necessary transportation improvements.

Key policy discussions primarily will relate to land use and transportation planning that addresses the needs of container port industrial uses and associated activities while ensuring a vibrant city waterfront and adjacent neighborhoods. Other additions would address regional policy direction adopted in Vision 2040; the port industrial area is designated as a regional manufacturing/industrial center.

#### **Additional Information:**

Both the City and the Port have dedicated significant staff resources for the development of the Container Port Element. Additionally, thanks to funding from the State Department of Commerce, AE Blumen Consulting has assisted with the necessary technical studies and analyses. Finally, work on this Container Port Element is being coordinated with other planning efforts, such as the update to the Shoreline Master

Program, the Tideflats Area Transportation Study, and the Port of Tacoma's Comprehensive Scheme of Harbor Improvements.

This proposed Comprehensive Plan Amendment was initially included in the 2011 Annual Amendment cycle but was postponed until the 2012 cycle in order to allow for further informal discussions between City and Port efficiencies.

**Assessment Criteria:**

*In order to assist the Commission in determining which applications should be considered in which amendment cycle, staff provides an assessment of each application pursuant to the following criteria, which are contained in TMC 13.02.045.F.*

**1. Determining if the amendment request is legislative, and properly subject to Commission review, or quasi-judicial, and not properly subject to Commission review.**

By statutory definition, adoption of this Container Port Element is a legislative action and is squarely within the scope of responsibility of the Planning Commission under TMC 13.02.040.

**2. Determining if the request is site-specific (i.e., a land use intensity or a zoning change for a specific parcel(s) likely to be under one ownership).**

Adoption of this Container Port Element is not a site specific quasi-judicial action. However, adoption must include designation of 'core areas' of container port operations in the Comprehensive Plan. 'Core areas' are not limited to Port of Tacoma owned lands but rather are geographic areas that may be subject to future area-wide zoning or regulatory changes.

**3. Receipt by the application deadline, if applicable (a large volume of requests before the deadline may necessitate that some requests be reviewed in a subsequent amendment cycle).**

The Planning Commission was advised of what amounts to a mandatory addition to their work program at their February 17, 2010 meeting.

**4. Order of receipt.**

N/A

**5. Recent study of the same area or issue (this may be cause for the Commission to decline further review).**

The Comprehensive Plan designates a Manufacturing/Industrial Center (M/IC) centered on the Tacoma tideflats. The port industrial area also is designated a regional M/IC in Vision 2040. In 2002, a new zoning classification was established – Port Maritime Industrial (PMI) Zone and the majority of the tideflats were reclassified to this new zoning district. The Planning Commission has just completed a review of policies and regulations for shoreline areas which will affect the areas lying 200 feet landward of the ordinary high water mark along the port waterways. Both the Comprehensive Plan policies and the PMI zoning address many of the issues that must be covered under the amendment to the GMA. However, the GMA requires additional analysis and public process to meet State legislative mandates.

The legislation mandates that the Container Port element be completed on the timeline established in

GMA for the required review of comprehensive plan and development regulations. Currently that deadline is June 2015.

**6. Amount of analysis necessary (if a large-scale study is required, an application may have to be delayed until a future amendment cycle due to work loads, staffing levels, etc.).**

The amount of analysis necessary is set forth in the statute (Exhibit A). Much of this analysis has been completed under a City contract with the State Department of Commerce. This contract provided for consultant services, services provided by AE Blumen, and was matched by City and Port in-kind staff resources.

**7. Available incorporation into planned or active projects.**

State law requires that a Container Port Element be adopted by the time the City completes its next mandated complete update to its Comprehensive Plan and development regulations, currently required to be completed by June 2015. It is a stand-alone project but one that can be integrated and coordinated with other proposed Plan amendments for 2012; however, since the State mandated deadline has been extended to 2015, the adoption of the proposed element could be scheduled for inclusion in future amendment cycle if conditions warrant such a change.

**Recommendation:**

*The Planning Commission will review the assessment and make its decision as to: (1) whether or not the application is complete or what information is needed to make the application complete; (2) which amendment application(s) will be considered and in which amendment cycle; and (3) whether or not to prepare alternative proposed amendment(s) that either expand or contract the scope of the original proposed amendment (TMC 13.02.045.F).*

Staff recommends that the Container Port Element as required by the Growth Management Act be included in the 2012 amendment cycle to ensure that the statutory mandates and timeframes are met.

**Exhibit:**

A. ESHB 1959 (approved May 15, 2009)

CERTIFICATION OF ENROLLMENT

**ENGROSSED SUBSTITUTE HOUSE BILL 1959**

Chapter 514, Laws of 2009

61st Legislature  
2009 Regular Session

MARINE CONTAINER PORTS--USES AND PLANNING

EFFECTIVE DATE: 07/26/09

Passed by the House April 24, 2009  
Yeas 94 Nays 0

FRANK CHOPP

\_\_\_\_\_  
**Speaker of the House of Representatives**

Passed by the Senate April 22, 2009  
Yeas 48 Nays 0

BRAD OWEN

\_\_\_\_\_  
**President of the Senate**

Approved May 15, 2009, 2:34 p.m.

CHRISTINE GREGOIRE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1959** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

\_\_\_\_\_  
**Chief Clerk**

FILED

May 18, 2009

**Secretary of State  
State of Washington**

---

**ENGROSSED SUBSTITUTE HOUSE BILL 1959**

---

AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

**State of Washington                      61st Legislature                      2009 Regular Session**

**By** House Local Government & Housing (originally sponsored by Representatives Simpson, Rodne, Williams, and Armstrong; by request of Governor Gregoire)

READ FIRST TIME 02/20/09.

1            AN ACT Relating to land use and transportation planning for marine  
2 container ports; reenacting and amending RCW 47.06.140; adding a new  
3 section to chapter 36.70A RCW; and creating new sections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** (1) The legislature finds that Washington's  
6 marine container ports operate within a complex system of marine  
7 terminal operations, truck and train transportation corridors, and  
8 industrial services that together support a critical amount of our  
9 state and national economy, including key parts of our state's  
10 manufacturing and agricultural sectors, and directly create thousands  
11 of high-wage jobs throughout our region.

12            (2) The legislature further finds that the container port services  
13 are increasingly challenged by the conversion of industrial properties  
14 to nonindustrial uses, leading to competing and incompatible uses that  
15 can hinder port operations, restrict efficient movement of freight, and  
16 limit the opportunity for improvements to existing port-related  
17 facilities.

18            (3) It is the intent of the legislature to ensure that local land  
19 use decisions are made in consideration of the long-term and widespread

1 economic contribution of our international container ports and related  
2 industrial lands and transportation systems, and to ensure that  
3 container ports continue to function effectively alongside vibrant city  
4 waterfronts.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW  
6 to read as follows:

7 (1) Comprehensive plans of cities that have a marine container port  
8 with annual operating revenues in excess of sixty million dollars  
9 within their jurisdiction must include a container port element.

10 (2) Comprehensive plans of cities that include all or part of a  
11 port district with annual operating revenues in excess of twenty  
12 million dollars may include a marine industrial port element. Prior to  
13 adopting a marine industrial port element under this subsection (2),  
14 the commission of the applicable port district must adopt a resolution  
15 in support of the proposed element.

16 (3) Port elements adopted under subsections (1) and (2) of this  
17 section must be developed collaboratively between the city and the  
18 applicable port, and must establish policies and programs that:

19 (a) Define and protect the core areas of port and port-related  
20 industrial uses within the city;

21 (b) Provide reasonably efficient access to the core area through  
22 freight corridors within the city limits; and

23 (c) Identify and resolve key land use conflicts along the edge of  
24 the core area, and minimize and mitigate, to the extent practicable,  
25 incompatible uses along the edge of the core area.

26 (4) Port elements adopted under subsections (1) and (2) of this  
27 section must be:

28 (a) Completed and approved by the city according to the schedule  
29 specified in RCW 36.70A.130; and

30 (b) Consistent with the economic development, transportation, and  
31 land use elements of the city's comprehensive plan, and consistent with  
32 the city's capital facilities plan.

33 (5) In adopting port elements under subsections (1) and (2) of this  
34 section, cities and ports must: Ensure that there is consistency  
35 between the port elements and the port comprehensive scheme required  
36 under chapters 53.20 and 53.25 RCW; and retain sufficient planning  
37 flexibility to secure emerging economic opportunities.

1 (6) In developing port elements under subsections (1) and (2) of  
2 this section, a city may utilize one or more of the following  
3 approaches:

4 (a) Creation of a port overlay district that protects container  
5 port uses;

6 (b) Use of industrial land banks;

7 (c) Use of buffers and transition zones between incompatible uses;

8 (d) Use of joint transportation funding agreements;

9 (e) Use of policies to encourage the retention of valuable  
10 warehouse and storage facilities;

11 (f) Use of limitations on the location or size, or both, of  
12 nonindustrial uses in the core area and surrounding areas; and

13 (g) Use of other approaches by agreement between the city and the  
14 port.

15 (7) The department of community, trade, and economic development  
16 must provide matching grant funds to cities meeting the requirements of  
17 subsection (1) of this section to support development of the required  
18 container port element.

19 (8) Any planned improvements identified in port elements adopted  
20 under subsections (1) and (2) of this section must be transmitted by  
21 the city to the transportation commission for consideration of  
22 inclusion in the statewide transportation plan required under RCW  
23 47.01.071.

24 **Sec. 3.** RCW 47.06.140 and 2007 c 516 s 11 and 2007 c 512 s 2 are  
25 each reenacted and amended to read as follows:

26 (1) The legislature declares the following transportation  
27 facilities and services to be of statewide significance: Highways of  
28 statewide significance as designated by the legislature under chapter  
29 47.05 RCW, the interstate highway system, interregional state principal  
30 arterials including ferry connections that serve statewide travel,  
31 intercity passenger rail services, intercity high-speed ground  
32 transportation, major passenger intermodal terminals excluding all  
33 airport facilities and services, the freight railroad system, the  
34 Columbia/Snake navigable river system, marine port facilities and  
35 services that are related solely to marine activities affecting  
36 international and interstate trade, key freight transportation  
37 corridors serving these marine port facilities, and high capacity

1 transportation systems serving regions as defined in RCW 81.104.015.  
2 The department, in cooperation with regional transportation planning  
3 organizations, counties, cities, transit agencies, public ports,  
4 private railroad operators, and private transportation providers, as  
5 appropriate, shall plan for improvements to transportation facilities  
6 and services of statewide significance in the statewide multimodal  
7 transportation plan. Improvements to facilities and services of  
8 statewide significance identified in the statewide multimodal  
9 transportation plan, or to highways of statewide significance  
10 designated by the legislature under chapter 47.05 RCW, are essential  
11 state public facilities under RCW 36.70A.200.

12 (2) The department of transportation, in consultation with local  
13 governments, shall set level of service standards for state highways  
14 and state ferry routes of statewide significance. Although the  
15 department shall consult with local governments when setting level of  
16 service standards, the department retains authority to make final  
17 decisions regarding level of service standards for state highways and  
18 state ferry routes of statewide significance. In establishing level of  
19 service standards for state highways and state ferry routes of  
20 statewide significance, the department shall consider the necessary  
21 balance between providing for the free interjurisdictional movement of  
22 people and goods and the needs of local communities using these  
23 facilities. When setting the level of service standards under this  
24 section for state ferry routes, the department may allow for a standard  
25 that is adjustable for seasonality.

26 NEW SECTION. **Sec. 4.** If specific funding for the purposes of this  
27 act, referencing this act by bill or chapter number, is not provided by  
28 June 30, 2009, in the omnibus appropriations act, this act is null and  
29 void.

Passed by the House April 24, 2009.

Passed by the Senate April 22, 2009.

Approved by the Governor May 15, 2009.

Filed in Office of Secretary of State May 18, 2009.