

# The Development of Redevelopment— The Changing Face of Infill Development

Moderated/Presented by

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Environmental and Land Use Midyear Meeting  
and Seminar

Washington State Bar Association

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# NEWS

## THE CITY

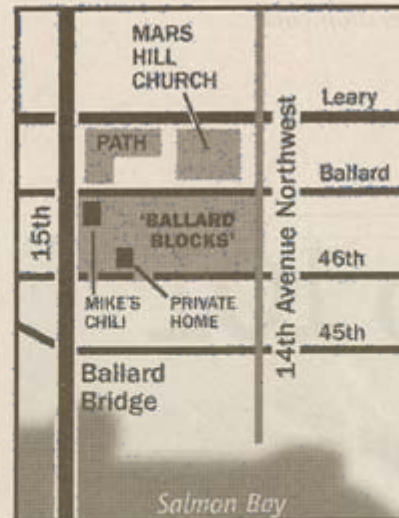
# Chili Ballard Reception

The working class watches with concern as an industrial area is transformed.

BY MIKE SEELY



Mike's Chili: "catering to the Industrial workers."



There's but one window on the southerly wall of Mike's Tavern & Chili Parlor at the base of the Ballard Bridge. It's back by the Golden Tee machine and a juke-

development on land formerly occupied by a disposal company. The development will feature, among other entities, a Trader Joe's supermarket, a health club, and a 468-stall parking structure that will abut Semandiris'

extent, the 14th Avenue project could be at odds with standards adopted by the Ballard Interbay Northend Manufacturing and Industrial Center (BINMIC), one of only two industry-preservation areas (the other be-

Fourteenth Avenue Northwest is a mile-long, freight-friendly arterial that stands to get a major face-lift if some residents get their way.

## BUZZ

### BUSINESS



A first reading of U.S. District Judge **Marsha Peckham's** Friday, April 21, decision of *Costco Wholesale Corp. v. Hoen* shows the giant Issaquah-based discount retailer **winning virtually every point** in its battle with the state **liquor commission**. If Peckham's decision survives appeal, sellers of wine will be able to order freely from in-state or out-of-state producers, **bypass wholesalers** and brokers, warehouse their own backlogs, charge any price they choose, and **change prices at will**—practices forbidden in the past as somehow threatening the sobriety of the citizenry. The only thing Costco's lawyers asked for but didn't get was the right to sell to other retailers. Media coverage of the decision so far has concentrated on two things: First, the possibility that cutting out the middleman could result in lower beer and wine prices. The truth is **no one knows** what a free market will do. Second, the ability of big wine and beer operations to offer deep discounts raises concern that midproduction breweries and wineries might be wiped off the shelf. This is possible, but the idea ignores the fact that the pricing of crafted beverages is not a race to the bottom. As for the liquor commission itself, a big share of its mandate has been removed at a stroke, but don't expect it to exit. It still **controls distribution and sale of hard liquor** in Washington (nearly **\$650 million** gross sales in 2005). **ROGER DOWNEY**

### TRANSPORTATION

**Seattle City Council** member **Peter Steinbrueck** might start a **citizens initiative** drive for November's ballot that would call for replacing the dangerous **Starliner** with a safer, more modern train.

A2 News | The Seattle Times | SUNDAY, APRIL 30, 2006

## Eye Openers

Economist, diplomat,  
writer Galbraith dies

OBITUARY |

Critic's Notebook

# Outgrowing Jane Jacobs

# Redevelopment of Existing Development



Charles R. Wolfe, Attorney at Law



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# Amid Today's Issues and Expectations...

- More Height
- More Affordable Housing
- Less Traffic
- Less Parking
- Less Sprawl
- Address Site Constraints
- Private Burden for Public Benefit

City spaces could become scarce

"It blows me away that they want to cut more parking because it's so precious right now. It's a huge disconnect."  
- Steve Shulman, Luché Food Mart's owner

North Bay project moves ahead

Developments are rising along the Interstate 5 corridor between Marysville and Burlington as fast as the increasingly heavy traffic, and not everyone thinks it's a good thing.



WHERE ELSE WILL 100,000 NEWCOMERS A YEAR GO NOW?

Lynnwood **REDUX**

BY WILLIAM DIETRICH / PHOTOGRAPHED BY STEVE RHIGMAN

# Getting from Here....







To Here



**And There**



# While Addressing Site Constraints





# The Literal and Figurative Drivers

- Approaching 20 Years of GMA
- Density and Changing Neighborhood Character
- Developable Land Limitations: Critical Areas, Brownfields
- Deemphasis on Classic Use Separation and Parking and Automobile

# The Redevelopment Challenge: Balancing the Marketplace, Affordability and Quality of Life

- Rational land assembly and regulatory compliance while assuring feasibility
- Implementation of infill redevelopment costs more!
  - Blending of old and new
  - Addressing neighborhood character
  - Public sector-mandated regulatory consistency, resource and human health protection

# Implementation Issues

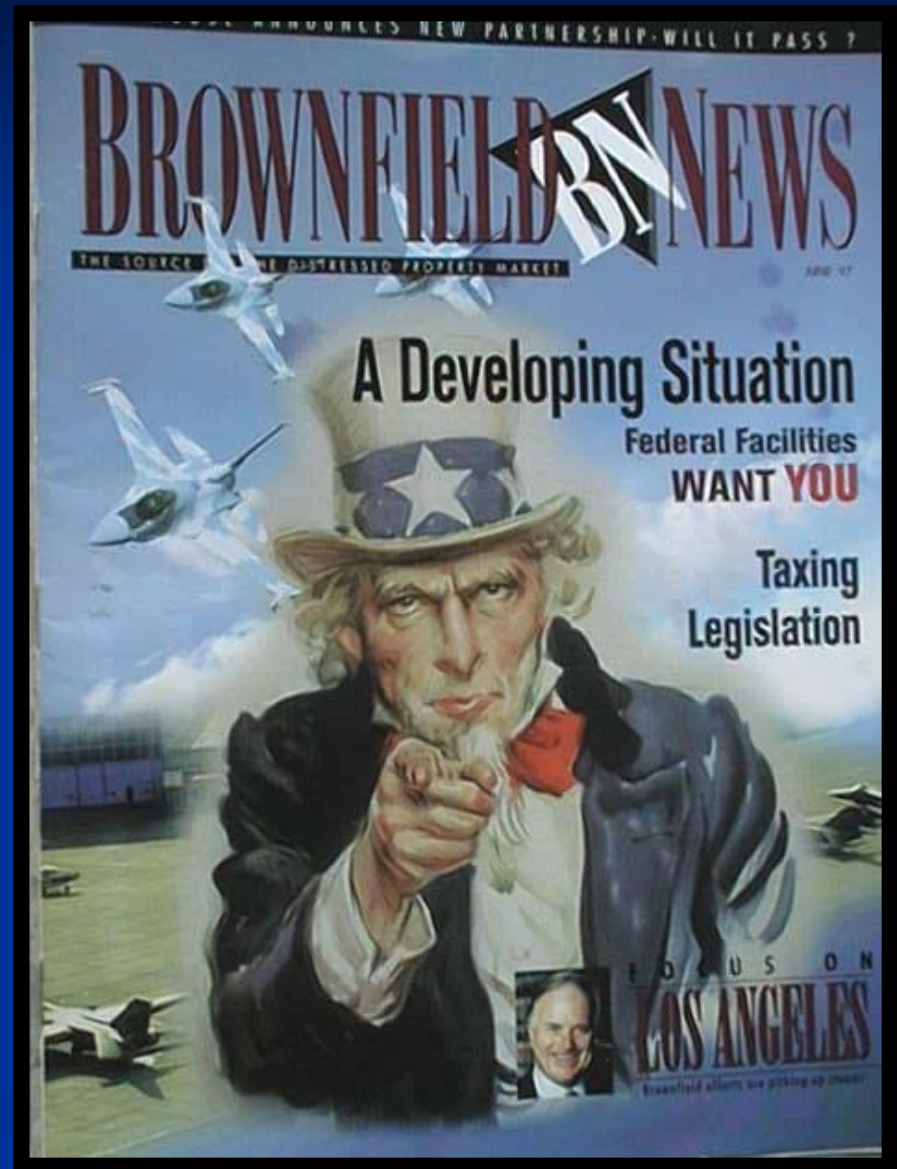
- Plan/regulatory amendments to avoid “Euclidean” tradition
- Development regulations/SEPA may mandate view preservation
- Impacts on historic buildings
- Cost effective compliance with building, seismic and fire codes; “green” building considerations
- Management of impacts on neighbors: regulatory/public perception standpoints

# Understanding Development

- **Urban Expectations of Project Panaceae: Affordable Housing and Transportation**
  - Resolution within pro forma
  - Balancing funds between housing/transportation and design/constructability decisions on complex sites
    - Constrained sites/demolition
    - Quality of materials

# Contamination and Brownfields

- The “Marketplace” Driver v. “permanence to the maximum degree practicable”
- Assurance v. enforcement
- Forms of assurance
- Staff availability
- Recent Developments
  - State (*e.g. Pending VCP Changes, Lien Bill*)
  - Federal (*AAI/Aviall*)
- Cutting Edge Issues (*e.g. Stakeholders, Residential Redevelopment*)



# Project Design and Integration with Cleanup

- **Early Roadmapping: Roads to Protectiveness/Stakeholder Satisfaction**
- **Interface with Liability Solutions: What is Acceptable Risk?**
- **Removal versus Containment**
- **Protective Development Features**
- **Restrictive Covenants**

# Stakeholder Perspectives

- **Special Issues and Risk Avoidance**
  - Legalities, the Marketplace and Practicalities
  - Governmental Tools and Perspectives
  - The Developer's Perspective
  
- **Example: EHA/ASARCO**
  - Housing Authority, City and Private Parties
  - Multiple Consent Decrees
  - Grant Resources
  - Facilitating Cleanup, Housing and Property Reuse

# Step 1

Asarco

- EHA buys 15 Asarco Houses for \$2+M
- Asarco uses the \$ to remove soil above 3000 ppm in the Fenced Area in 2004

Everett Housing Authority



# Step 2

Asarco

- EHA buys Fenced Area for \$1+ M after Ecology cert (8/04)
- Asarco uses the \$ to: (a) remove soil in Fenced Area & (b) clean rest of R-2 zone to residential standards at all 15 Asarco Houses and 22 non-Asarco Houses

Everett Housing Authority



# Step 3

Asarco

- Asarco caps Fenced Area with 2+ feet of topsoil; Ecology certifies cleanup to residential standards to EHA
- EHA rehabs & sells 8-15 Asarco Houses (\$150K+ ea) for \$1-2 M
- EHA sells Fenced Area lots (\$30K ea) for \$3M

Everett Housing Authority



# Agreements & Approvals Needed

## City Actions/Agreements

- EHA/City agreement & contingent loan agreement for repayment of line of credit
- City designations of blight, community renewal area, and EHA as community renewal agency (so EHA can sell the cleaned up property)
- *Later:* City approval of community renewal plan/project & processing of R-1A rezone, subdivision applications, etc.

## Key EHA Approvals Needed

- Purchase & Sale and Remediation Agreements with Asarco (for Asarco to sell the property & do the cleanup)
- Prospective Purchaser Agreements with Ecology (to limit liability); deed restrictions
- EPA and Ecology grant and trust fund approvals
- EPA approval order for disposal of all soils at Asarco Tacoma

# Infill Redevelopment: Some Practice Pointers

- **Change Means Proactivity**
  - Sustainability, Built Green and Compact Development
  - The Neighborhood and Outreach
  - What is Allowed: Plan/Regulatory Amendments
- **Early Involvement, Strategy and Integration of Team**
- **Higher Probability of Exacted Solutions: How to Offset Expectations**
  - Classic Burden/Benefit Analysis
  - Nexus, Practicability and Confiscation
- **Developable Land Limitations: Critical Areas, Brownfields and Other Agencies**
- **Lawyer as Counselor and Facilitator**



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