Development Services Manual

M 3007.00

Washington State Department of Transportation

Foreword

This Development Services manual is a major component of the Washington State Department of Transportation's (WSDOT) overall strategy to promote a consistent statewide development review process and application of mitigation policies.

This manual reflects departmental policies and outlines a uniform system of procedures and methods for:

- Reviewing proposed developments;
- Assessing development impacts to the state highway system;
- Determining appropriate improvements and/or shared contributions to mitigate the impacts;
- Writing interlocal agreements and other agreements with local agencies and public and private parties;
- Considering access to the state highway system.

This manual specifically outlines WSDOT's authority and provides interpretive guidance on existing statutes as they relate to development impacts to state highways. The guidance provided in this manual allows room for regional variations within a statewide framework of consistency. WSDOT seeks collaboration with local agencies to achieve mutually acceptable solutions to transportation needs.

This manual has been prepared as a guide to WSDOT Development Services personnel. This manual may also be used to provide guidance for local jurisdictions' development services staffs, developers and their consultants in their assessment of development impacts and mitigation to the state highway system. The manual includes numerous appendices of sample and model documents for the development review practitioner.

The primary goal of WSDOT's Development Services process is to help ensure that the state highway system remains safe and has the capacity to move people and goods efficiently. Two important objectives are: to provide a predictable development review process for local governments and the development community; and to clarify WSDOT expectations. Publishing this manual is an important step in meeting these objectives.

Amy L Arnis

Amy Arnis
Deputy Director
Strategic Planning and Programming

Contents

Chapter 1 Introduction 1-1

1.1.00 Purpose of Development Services Manual 1-1
1.1.01 How to Use the Manual 1-1
1.1.02 Manual Updates 1-2
1.1.03 WSDOT Development Review Organization 1-2
1.1.04 Why WSDOT Participates in Local Land Use Review 1-2
1.1.05 WSDOT Development Services Objectives 1-2
1.1.06 WSDOT Review Authority 1-3

Chapter 2 Coordinating Review and Response 2-1

2.1.00 Overview 2-1
PART 1 Long Range Planning and the Development Review Process 2-1
2.1.01 Similarities Between Long Range Planning and Development Review 2-1
2.1.02 WSDOT Highway System Plan (HSP) 2-2
2.1.03 Capital Improvement and Preservation Program (CIPP) 2-2
2.1.04 Route Development Plans and Corridor Plans 2-2
2.1.05 Local Agency Comprehensive Plans 2-2
2.1.06 Local Decision-Making Authority 2-2
2.1.07 WSDOT's Role in Local Development Review 2-3
PART 2 Responding to Land Use Proposals 2-3
2.2.00 WSDOT's Interest in the Proposal 2-3
2.2.01 Evaluating a Land Use/Development Proposal 2-4
2.2.02 Types of WSDOT Responses 2-5
2.2.03 Potential WSDOT Recommendations 2-5
2.2.04 WSDOT Response Letters 2-6
2.2.05 Mitigation in the Form of Conditions of Approval 2-7
2.2.06 Ways to Work Effectively with Local Partners 2-7
2.2.07 Internal Coordination 2-8
2.2.08 Coordination with Other WSDOT Units 2-8
2.2.09 Coordination with Other Groups 2-8
PART 3 Land Use Hearings 2-9
2.3.00 Ways to Participate Effectively in the Local Hearings Process 2-9
2.3.01 Burden of Proof 2-10
2.3.02 Oral Testimony and Written Evidence 2-11
2.3.03 Substantial Evidence 2-11

Chapter 3	**SEPA and GMA**		3-1
	3.1.00	Development Services Interaction with Local Agencies	3-1
PART 1	SEPA		3-1
	3.1.01	Role of SEPA in the Development Review Process	3-1
	3.1.02	History of SEPA and the SEPA Rules	3-1
	3.1.03	Purpose and Intent of SEPA	3-3
	3.1.04	What is a SEPA Proposal?	3-3
	3.1.05	Who Can be a SEPA Lead Agency?	3-4
	3.1.06	What is SEPA Substantive Authority?	3-4
	3.1.07	Which Environmental Impacts Should WSDOT Normally Review?	3-4
	3.1.08	What is a SEPA Environmental Checklist?	3-5
	3.1.09	SEPA Categorical Exemptions—Flexible Thresholds	3-6
	3.1.10	How is WSDOT Notified of Project Proposals?	3-7
	3.1.11	What Are Some of the SEPA Notification Timelines?	3-7
	3.1.12	What is A SEPA Threshold Determination?	3-8
	3.1.13	SEPA Threshold Determination—Assessing Significance	3-9
	3.1.14	Mitigation Must Be Reasonably Related And Proportional To The Development's Impacts	3-9
	3.1.15	SEPA Determination of Nonsignificance (DNS)	3-10
	3.1.16	SEPA Mitigated Determination of Nonsignificance (MDNS)	3-10
	3.1.17	SEPA Determination of Significance/Scoping Notice (DS/Scoping)	3-10
	3.1.18	SEPA Environmental Impact Statement (EIS)	3-10
	3.1.19	What is a Nonexempt License?	3-11
	3.1.20	Can a SEPA Lead Agency Withdraw a DNS, MDNS or a FEIS?	3-11
	3.1.21	Does a SEPA DNS, MDNS, or FEIS Have a Time Limit?	3-11
	3.1.22	SEPA Appeals	3-12
PART 2	GMA		3-12
	3.2.01	Growth Management Act (GMA)	3-12
	3.2.02	Which Counties and Cities are Subject to the Growth Management Act?	3-12
	3.2.03	Growth Management Act Goals	3-13
	3.2.04	Growth Management Act Substantive Mandates	3-13
	3.2.05	Growth Management Act Comprehensive Plans	3-14
	3.2.06	Growth Management Act Comprehensive Plan Elements	3-14
	3.2.07	GMA Comprehensive Plan Transportation Element	3-14
	3.2.08	GMA and Regional Transportation	3-16
	3.2.09	Regional Transportation Planning Duties	3-16
	3.2.10	Requirements for Regional Transportation Plans (RTPs)	3-16
	3.2.11	How Does Development Services Use GMA?	3-17

Chapter 4	**Analyzing Land-use Proposals**		4-1
	4.1.00	Overview	4-1
PART 1	Thresholds for Determining Probable Significant Adverse Impacts		4-1
	4.1.01	Determining Probable Significant Adverse Impacts Is Not Easy	4-1
	4.1.02	Documentation is Critical	4-2
	4.1.03	Determining a Probable Significant Adverse Impact	4-2
	4.1.04	Thresholds For Defining A Probable Significant Adverse Impact	4-2
	4.1.05	Vehicular Trip Thresholds	4-3
	4.1.06	Level of Service (LOS) Thresholds	4-3
	4.1.07	WSDOT Channelization Thresholds	4-4
	4.1.08	Safety Thresholds	4-4

PART 2 Determining the Mitigation for a Probable Significant Adverse Impact 4-5
4.2.01 Obtaining Mitigation from a Developer 4-5
4.2.02 Traffic Mitigation Payment 4-5
4.2.03 Which WSDOT Projects are Candidates for a Traffic Mitigation Payment? 4-5
4.2.04 Which WSDOT Project Costs Should Be Used? 4-6
4.2.05 How are Traffic Mitigation Payments Collected by the WSDOT? 4-6
4.2.06 Time Limits on Collection of Traffic Mitigation Payments 4-6
4.2.07 When Should a Traffic Mitigation Payment be Collected? 4-7
4.2.08 Consistency is Important 4-7
4.2.09 How to Calculate an Intersection Traffic Mitigation Payment 4-7
4.2.10 How to Calculate a Highway Corridor Traffic Mitigation Payment 4-8

Chapter 5 Agreements 5-1
5.0.00 Overview 5-1
PART 1 Coordinating Plan Review 5-1
5.1.01 General 5-1
5.1.02 Time To Process An Agreement 5-1
5.1.03 Reimbursable Account 5-1
5.1.04 Plans Review Process 5-2
PART 2 Developer Agreements 5-3
5.2.01 General 5-3
5.2.02 Types of Developer Agreements 5-3
5.2.03 Developer Agreement Process 5-3
5.2.04 Developer Agreement Plans Review 5-4
5.2.05 Intersection/Channelization Plans 5-4
5.2.06 Construction Plans 5-5
5.2.07 Assembly, Execution, and Archiving of Developer Agreements 5-13
5.2.08 Surety Bond, Assignment of Escrow Account or Savings Account/Certificate of Deposit 5-14
5.2.09 Construction Administration 5-14
PART 3 Interlocal Agreements 5-17
5.3.01 General 5-17
5.3.02 Legal Basis For Interlocal Agreements 5-17
5.3.03 Benefits 5-17
5.3.04 Basic Interlocal Agreement Elements 5-17
5.3.05 Local Jurisdiction Mitigation Commitment 5-18
5.3.06 How It Works 5-18
5.3.07 Who Is Affected? 5-19
5.3.08 When Is It Worth Doing? 5-19
5.3.09 TBD And LID Policy 5-19
5.3.10 Local Transportation Act (RCW 39.92) 5-19
PART 4 Other Agreements 5-19
5.4.00 Overview 5-19
5.4.01 General Permits 5-19
5.4.02 Access Connection Permits 5-20
5.4.03 Developer Agreement: Construction by State At Developer Expense (as a stand-alone project) 5-20
5.4.04 Developer Mitigation Agreement: Collection of Pro Rata Share Contribution Toward a WSDOT Project. 5-20

Chapter 6 Managed Access and Limited Access Highways 6-1
6.0.00 General 6-1
6.0.01 Access Permit Authority 6-1
PART 1 Managed Access Highways 6-1
6.1.01 General 6-1
6.1.02 Managed Access Highway Rules 6-2
6.1.03 Managed Access Definitions/Elements 6-2
6.1.04 Access Connection Permit Process 6-6
6.1.05 Highways Crossing Indian Lands 6-9
6.1.06 Tracking System 6-10
6.1.07 Coordinating Local Development Approval with State Access Approval 6-10
6.1.08 WSDOT Construction Projects 6-11
PART 2 Limited Access Highways 6-12
6.2.01 General 6-12
6.2.02 Modifications For Private Access Approaches 6-13
6.2.03 Modifications for Public At-Grade Intersections 6-15

Chapter 7 Land Use Appeals 7-1
7.1.01 Purpose Of SEPA Appeals Chapter 7-1
7.1.02 Reaching A Successful Decision 7-1
7.1.03 Why Appeal? 7-1
7.1.04 Underlying Governmental Action—What Is It? 7-2
7.1.05 Appeal Requirements For Counties And Cities 7-2
7.1.06 Procedural Appeals and Substantive Appeals 7-3
7.1.07 Level of Appeals 7-3
7.1.08 Administrative Appeals 7-3
7.1.09 Judicial Appeals 7-4
7.1.10 Participating in the Local Land Use Process Prior to an Appeal 7-5
7.1.11 Questions To Ask To Determine If The WSDOT Should Appeal 7-6
7.1.12 Important Tips in Preparing for an Appeal 7-6
7.1.13 The Petitioner, The Respondent, And The Court 7-8
7.1.14 Standing To Appeal 7-9
7.1.15 Exhaustion Of Administrative Remedies 7-9
7.1.16 “The Record”—What Is The Record And Why Is It Important? 7-9
7.1.17 Building A Good Record 7-9
7.1.18 Important Tips for Building a Record 7-10

APPENDICES

Appendix 1: WSDOT Development Services Staff
Appendix 2: Sample Response Letters Showing How Different Type of Recommendations Can Be Conveyed
Appendix 3: Significant Court Case Decisions Affecting Developments and Access Control
Appendix 4: Blank (To be inserted at future updates)
Appendix 5: Example of a Developer Agreement
Appendix 6: Developer Agreement/Access Permit Process Flow Chart
Appendix 7: Example of a Reimbursable Account Form
Appendix 8: Intersection/Channelization Plan for Approval Checklist
Appendix 9: Example of a Roadway Section
Appendix 10: Traffic Signal Permit Form
Appendix 11: A City Or County Interlocal Agreement Model
Appendix 12: Highway Access Management RCW 47.50
Appendix 13: Highway Access Management - Administrative Process WAC 468-51
Appendix 14: Highway Access Management - Access Control Classification System and Standards WAC 468-52
Appendix 15: City Streets As Part of State Highways RCW 47.24
Appendix 16: Limited Access Facilities RCW 47.52
Appendix 17: Limited Access Highways WAC 468-58
Appendix 18: Limited Access Hearings WAC 468-54
Appendix 19: Application For Access Connection
Appendix 20: Access Connection Permit (Form224-005) and Example Including Exhibits
Appendix 21: Blank (To be inserted at future updates)
Appendix 22: Sample Cover Letters When Sending Access Connection Permit Forms
Appendix 23: Example Road Approach Installation Checklist
Appendix 24: Bond forms, Assignment of Savings Account Certificate Of Deposit Form, And Example Bond Release Letter
Appendix 25: Blank (To be inserted at future updates)
Appendix 26: Plan Review Checklist
Appendix 27: Construction Inspection Checklist
Appendix 28: Local Transportation Act
Appendix 29: LOS Standards Set By MPOs/RTPOs for Regionally Significant (non-HSS) State Highways
Appendix 30: Developer Agreement Mitigation Form
Appendix 31: Guideline for Determining Responsibility for Developer-Required Utility Relocation

1.1.00 Purpose of Development Services Manual

The Development Review Manual (*the Manual*) is a reference handbook intended primarily for internal purposes. The Manual is a compilation of information to help WSDOT staff respond to local land-use development proposals that affect state transportation facilities.

The Manual helps staff:

- Understand the regulatory framework for WSDOT's participation in land use and development review.
- Participate effectively in the local land use process.
- Coordinate internally to formulate a recommendation to a local government.
- Consistently apply WSDOT policies and standards to local land use and development reviews.
- Assess the transportation impacts of a land use proposal.
- Understand the options and the legal basis for WSDOT recommendations to local governments.
- Preserve the integrity of the state transportation system as land use changes.

1.1.01 How to Use the Manual

The Manual is organized into seven chapters.

- Chapter 1 provides an overview of WSDOT's Development Review Program.
- Chapter 2 explains the local land use process and gives general guidelines on working effectively with local partners.
- Chapter 3 explains the role of State Environmental Policy Act (SEPA) and the Growth Management Act (GMA) in Development Services Review.
- Chapter 4 explains the technical and policy analysis necessary for WSDOT to make a recommendation on a local land use proposal.
- Chapter 5 explains how to prepare and process various developer and local agency agreements.
- Chapter 6 explains the Access Management and Limited Access laws and access permit review process.
- Chapter 7 includes strategies and guidelines for participating in local land use decisions and building a strong record for a potential appeal.

The Appendices include technical references, sample response letters, sample agreements and a Model Interlocal Agreement with local agencies.

1.1.02 Manual Updates

The electronic WSDOT Intranet version will be updated periodically to keep the Manual current. Web Link: http://www.wsdot.wa.gov/fasc/EngineeringPublications/

It will be important for users of the Manual to assist with keeping information current. Please send your comments and updates to your Region Development Services Manager, the Region Planning Manager or Headquarters Planning Office.

1.1.03 WSDOT Development Review Organization

The Development Review program is administered through WSDOT's six regional offices. Coordinating internal review of land use and development proposals varies among regions. In some regions, the Development Services staff takes the lead whereas in other regions the Planning staff takes the lead in Development Review coordination with local governments and other divisions within the WSDOT. It is important to become familiar with WSDOT's organizational structure for your particular region and to recognize where regional differences are appropriate and where state-wide interests require consistent practices. Appendix 1 contains a list of WSDOT Development Services staff.

1.1.04 Why WSDOT Participates in Local Land Use Review

WSDOT participates in local land use review to help protect the state transportation system by working with local governments to mitigate the significant adverse impacts of development.

The need to protect the state transportation system has become more pressing in recent years due to the rate of population growth. The funding for transportation investments has not kept pace with the state's travel demand. The growth in travel demand, combined with revenue shortfall, has increased the need to protect the existing state transportation system and to ensure that development impacts are mitigated.

1.1.05 WSDOT Development Services Objectives

The objectives of WSDOT's Development Services Review Program are as follows:

- Build positive relationships with our local partners, developers and citizens.
- Provide expertise on development-related WSDOT standards and procedures to local government, property owners and developers.
- Provide professional review of the transportation impacts of proposed land use changes and development projects.
- Provide timely and consistent recommendations for mitigation of traffic impacts to local governments based on local regulations and WSDOT policies and standards, state statutes and administrative rules.
- Work within the local land use process to obtain mitigation that is linked and proportional to a development's impacts.
- Help make decisions that strengthen the connection between land use and transportation.

1.1.06 WSDOT Review Authority

Coordination with WSDOT is sometimes required, i.e. when the proposed development is adjacent to a state highway, but always encouraged when the State Highway is affected by a proposed land use change or development.

Managed Access and Limited Access Laws[1]

Managed Access: RCW 47.50, WAC 468-51, and WAC 468-52 define WSDOT authority, standards, and procedures for the management of access to non-limited access state highway facilities to maintain functional use, highway safety, and preservation of public investment consistent with adopted local comprehensive plans. Access management issues and procedures are specifically addressed in Chapter 6.

Limited Access: RCW 47.52, WAC 468-54, and WAC 468-58, govern WSDOT authority, standards, and procedures for the establishments of Limited Access highways and the purchase of access, light, view and air rights from private property owners.

State Environmental Policy Act (SEPA)[2]

First adopted in 1971, the State Environmental Policy Act (SEPA) under RCW 43.21C chartered Washington State's environmental policy.

SEPA requires state agencies, counties, municipal cities and public corporations to evaluate and determine mitigation for the environmental impacts of land use proposals. Provisions of SEPA require the lead agency to involve agencies, tribes, and the general public in most review processes prior to a final decision being made.

SEPA authorizes WSDOT to require developers to mitigate traffic impacts created by their developments, if WSDOT is the permitting agency i.e. access permits;. Otherwise, WSDOT must work through the local agencies to fashion developer mitigation requirements. Mitigation may be in the form of developer constructed transportation improvements, financial contributions to programmed WSDOT projects, and/or dedication of property for right of way.

Growth Management Act (GMA)[2]

The Washington State Legislature passed the Growth Management Act in 1990, amending it in later years. The GMA requires the fastest growing counties, and the cities within them, to specify plans to mitigate the problems associated with growth.

GMA's Applicability to State Highways:

- **Impact Fees (RCW 82.02)**

  GMA impact fee statutes do not apply directly to state highways because state highways are not included in the definition of public facility under RCW 82.02.090(7). They apply to city streets and county roadways only. The only exceptions are San Juan and Island Counties where the only means of access to the mainland is by state highway or ferry.

---

1 Refer to chapter 6 for more detail
2 Refer to chapter 3 for more detail

- **Level of Service (LOS) and Local Planning**

  The Legislature enacted RCW 47.06.140 in 1998 - the "Level of Service Bill." The main elements of the law are:

  1. Local agencies must include transportation facilities of state-wide significance (including interstate highways, interregional state principal arterials, and state-wide ferry service) in their comprehensive plans consistent with the state-wide transportation plan.
  2. The WSDOT has the sole authority to set the LOS standards for highways of state-wide significance (HSS)[3], but it is required to consult with local governments. For regionally significant state highways (Non-HSS), the LOS is set through a collaborative process with Regional Transportation Planning Organizations (RTPOs) and local governments.
  3. Improvements to facilities and services of state-wide significance identified in the state-wide multi- modal plan are essential state public facilities under RCW 36.70A.200 (see RCW 47.06.140). No local comprehensive plan or development regulation may preclude the siting of essential public facilities (RCW 36.70A.200(5)).

While SEPA is the primary statutory authority for WSDOT to require mitigation from developments that cause significant adverse impacts to state highways, the GMA plays an important role in that it requires local agencies to include the LOS standards for state highways of state-wide significance (HSS) within their comprehensive plans. These LOS standards can then be used in assessing the need for mitigation measures.

- **Concurrency[4]**

  Local agency concurrency requirements do NOT apply to highways of state-wide significance (HSS), except for San Juan and Island Counties, but DO apply to regionally significant state highways (Non-HSS) (RCW 36.70A.070(6)C).

"While state law clearly exempts highways of statewide significance (HSS routes) from local concurrency regulation, it is not clear whether GMA applies concurrency to state-owned facilities that are not of statewide significance. These regionally significant state highways must be addressed in local comprehensive plans, have LOS standards set regionally, but the law is silent in terms of including or exempting them from local concurrency rules. Therefore, each local jurisdiction, with assistance from its legal staff, will decide how to respond to the regional standard. If the regional LOS standard is already compatible with the local standard previously set, then the local jurisdiction may decide to do nothing other than acknowledge the regional LOS standard in its comprehensive plan. Other options for local jurisdiction includes amending its existing concurrency program to reflect the newly established regional LOS standard, modifying its local concurrency program to make it more flexible with regard to regionally significant state highways, or removing the state highway from the local concurrency program."[5]

---

3 For definition and map of HSS highways, go to: http://www.wsdot.wa.gov/ppsc/hsp/HSS.htm

4 Also see "concurrency" in Chapter 3, section 3.2.07

5 From the Puget Sound Regional Council (PSRC) report on "Adopted Level of Service Standards for Regionally Significant State Highways", dated 1/13/2004,

2.1.00 Overview

Proposed developments are looked at from a number of perspectives such as transportation planning, traffic operation, safety, etc. Type and location of the development influences how an individual project is evaluated. This chapter is divided into three parts: Part 1 discusses state and local long range plans affecting the development review process; Part 2 discusses how to evaluate a proposed development and respond to the local agency; and Part 3 discusses how to participate in the local agency's hearing process.

PART 1 Long Range Planning and the Development Review Process

2.1.01 Similarities Between Long Range Planning and Development Review

There are many similarities between the transportation planning and development review. Both processes concern the interaction between transportation and land use and require coordination and cooperation between WSDOT and local jurisdictions. Both analyze traffic conditions and compare these conditions with level of service standards or design criteria to determine if there will be mobility, safety, or environmental deficiencies. Both analyze and identify potential solutions to mitigate or remove these deficiencies. Both concern funding. The planning process prioritizes improvements and is the first step in programming funds for funding projects by the state legislature. Identified solutions in the development review process are used to determine the costs developers will be required to pay to mitigate adverse impacts from the development.

Because of these similarities there is a close relationship between long range planning and development review. For example, if a WSDOT improvement project has recently been completed on a state highway as a result of the planning and programming process, the additional traffic from a newly proposed development may not reduce the level of service below standard and no mitigation from the developer would be required. An identical new development in the vicinity of a different state highway that has not been improved may generate enough traffic to require developer mitigation. The below paragraphs briefly describe WSDOT's Highway System Plan (HSP), the Capital Improvement and Preservation Program (CIPP) and Route Development and Corridor Plans. All of these plans will identify if improvements are being planned on a state facility. The CIPP will also provide an estimate of when the improvements are programmed for funding. One reason to consult these plans concerns WSDOT right-of-way (ROW) needs. The developers should take WSDOT improvement projects into consideration in their final site development. If a proposed development borders on WSDOT's highway which is programmed in the CIPP for improvements within the next six years, part of the mitigation for the new development could be a right-of-way donation or a developer contribution to WSDOT's highway improvement project costs. Large developments that add significant traffic may also result in a need to develop a different project improvement in the next planning or programming cycle.

2.1.02 WSDOT Highway System Plan (HSP)

The Washington State HSP is the element of Washington's Transportation Plan (WTP) that addresses the state's highway system. The HSP is created in cooperation with Metropolitan/Regional Transportation Planning Organizations (MPOs/RPTOs). It includes a comprehensive assessment of existing and projected 20-year deficiencies on our state highway system. It also lists potential solutions that address these deficiencies. The HSP:

- Forecasts future transportation needs based on WSDOT maintenance, operation, preservation, mobility, safety, economic, and environmental programs.
- Specifies objectives and supporting action strategies for our state highway system.
- Serves as the basis for the capital investment goals and strategies and assessment of needs for each program.
- Assists local authorities and tribes in coordinating their comprehensive planning process with future highway needs.

2.1.03 Capital Improvement and Preservation Program (CIPP)

The CIPP, also known as the "10-year Implementation Plan," is the reference point for measuring biennial program delivery. The CIPP includes WSDOT's projected 10-year capital improvement projects and cost estimates. The CIPP also communicates WSDOT's plan to deliver projects funded during the legislative session.

CIPP is presented in CD format and can be found on WSDOT website:
http://www.wsdot.wa.gov/projects/cipp/

2.1.04 Route Development Plans and Corridor Plans

Route Development Plans (RDPs) and Corridor Plans are planning studies on specific state highway facilities to determine future deficiencies and proposed solutions. These studies include analyses of operating conditions, environmental considerations, population, and land-use changes as well as right of way and other issues affecting the future of a state highway and its neighbors.

More information on Route Development Plans is available online at:
http://www.wsdot.wa.gov/ppsc/hsp/RDPlans.htm.

2.1.05 Local Agency Comprehensive Plans

Comprehensive Plans provide local agencies a legally recognizable framework for making decisions about land use, transportation, public facilities, parks and open space. The GMA defines a comprehensive plan as a generalized coordinated land use policy statement of the governing body of a county or city. A comprehensive plan must include land use, housing, capital facilities, utilities and transportation elements. It may include other elements relating to physical development within its boundaries. The plan also provides the basis for local agency development ordinances and capital improvement programs.

2.1.06 Local Decision-Making Authority

Under SEPA and GMA, a local government makes local land use decisions. The local decision-making authority is typically delegated to a hearings officer, planning commission, city council, board of commissioners or administrative body such as a Variance Committee or Design Commission. Each type of land use action has prescribed procedures. Different kinds of procedures are subject to different requirements regarding public notice, participation, approval criteria, hearings and appeal deadlines.

2.1.07 WSDOT's Role in Local Development Review

WSDOT is considered an agency with Environmental Expertise in the local development review process similar to local water, sewer, or fire protection agencies. As an agency that possesses special expertise in the state transportation system, WSDOT has established standards and policies for facility function and performance. These standards, policies and local approval criteria are applied to the applicant's development proposal to form WSDOT's mitigation recommendations to the local government. The responsibility for a local land use decision is with the local governing body. Like other interested parties, WSDOT has the opportunity to appeal the local land-use decision. (See Chapter 7 for additional information on appeals). WAC 197-11-920 specifies which agencies have expertise in various environmental categories.

PART 2 Responding to Land Use Proposals

2.2.00 WSDOT's Interest in the Proposal

When a development application or notice is first received by WSDOT. it is reviewed to determine if the proposal will impact state facilities. Region staff also uses their local knowledge about problematic sections of highway that may have high accident rates, substandard geometrics or other operational issues. Types of land use proposals that are generally of interest to WSDOT are:

1. Development site is adjacent to a state highway;
2. Development proposes access to a state highway;
3. Development site is not adjacent to the state highway but contributes a "significant"[1] number of trips to the highway.
4. Development site is located in the footprint of a future state highway alignment;
5. Land divisions or lot line adjustments for property with frontage on or proposed access to a state highway;
6. Proposed noise-sensitive land uses adjacent to state highways;
7. Development site is located adjacent to a railroad right of way or could affect a rail crossing;
8. Airport expansions;
9. Land use/development proposals that could affect state airport expansions, such as cell towers, or noise-sensitive land uses in the vicinity of public use airports;
10. Aggregate resource sites;
11. WSDOT surplus property sales;
12. WSDOT turn back agreements;
13. Motorist signing and off premise outdoor advertising signs (billboards);
14. Cellular or microwave towers;
15. Comprehensive plan amendments and zone changes, (including map and text amendments affecting transportation);

NOTE: Also see 3.1.07 under SEPA: "Which Environmental Impacts Should WSDOT Normally Review?"

---

1 For definition of "significant", refer to Chapter 4, Section 4.1.03 and 4.1.05.

2.2.01 Evaluating a Land Use/Development Proposal

To assist in evaluating whether a proposed development will have the potential to impact state highways, a set of questions has been developed. Keep in mind, this is a first cut review, and Chapter 4 contains a detailed discussion of how to analyze a land-use/ development proposal.

For proposed development projects:

1. Could the proposal significantly impact a state highway, i.e. trigger signal or left turn warrants; increase AM, PM peak hour trips or average daily traffic (ADT) on the highway; add traffic to an already dangerous intersection or an intersection where mobility standards are not met, or add more drainage into the state storm water system?
2. Does the proposal include a direct access onto a state highway?
3. Will the proposal result in a change to an existing site access that will affect a state highway?

For proposed comprehensive plan amendments or zone change:

Is there a proposed comprehensive plan amendment or zone change that could have a "significant impact" on a state transportation facility?

NO: If the answer is NO to ALL of the above questions, then there is probably no impact to a state facility and no further WSDOT analysis or response is required. The WSDOT may wish to submit a letter to the local agency stating: "WSDOT has no objection to the proposal." This confirms to the local government that WSDOT received notification and conducted a review.

YES: If the answer is YES to ANY of the above questions, then further review is warranted, as follows:

Development Application Without Access to a State Highway

1. Has a Traffic Impact Analysis (TIA) been prepared and is it available? If a TIA has not yet been prepared, is there an opportunity to work with the local agency or developer on preparing a TIA?

Congestion and delay can be evaluated using two different methods:

- If using level of service (LOS): Are there segments of the highway that are below the LOS threshold or will fall below the LOS threshold as a result of the development?
- If using volume/capacity (v/c) ratio: Are there segments of the highway that already exceed or will exceed the v/c ratio-threshold as a result of the development?

2. Will the development overwhelm the local street network, causing traffic to reroute to the state highway? Does the development anticipate future local streets connecting to the state highway? Will the development provide for new streets, particularly those that would offer a parallel, alternative route to the state highway?
3. Will the development trigger turn-lane/signal warrants and require highway improvements.
4. Are there sections of the state highway with safety issues that will be impacted by additional traffic generated by the development?

5. Are there any additional adverse environmental impacts (e.g., storm water, noise)?
6. Will there be any outdoor advertising visible from a state highway?

NOTE: See Sections 2.2.02, 2.2.03, 2.2.04 and Appendix 2 for response examples.

Development Application With Access to a State Highway

In addition to the questions above, also consider:

1. Access Management compliance: How does spacing of the proposed access connection conform to the highway classification set by the Access Management requirements of Chapters 468-51 WAC and 468-52 WAC?
2. Limited Access compliance: Is the proposed access connection within a limited access area? If it is, see Chapter 6, Part 2.
3. Access number and location: Can the development function with a single highway access or can the access be shared or be located along a property line, etc?
4. Access Connection permit: Does the property have an existing, legal access?
5. Alternative accesses: Are there other ways to access the property besides the state highway, such as using local streets or county roads?

2.2.02 Types of WSDOT Responses

WSDOT comments to local governments on land use/development applications are made in the form of recommendations. It is the local government decision-making body that makes the decision whether to require WSDOT requested mitigation measures. In written and oral comments to a local government, make clear whether the WSDOT recommendation(s) is simply a good practice being recommended or whether compliance is supported by planning documents, or is mandatory to be consistent with local code, state and federal law.

Different Types of Responses Will Include:

- Mandatory/required by law (local code, state statutes and rules, and/or federal law and case law).
- Supported by planning documents (HSP, CIPP, and/or Comprehensive Plan).
- Advisory (good practice).
- Informational only (potential future issue, permit coordination/contacts).

NOTE: See Appendix 2 for some examples of WSDOT response letters.

2.2.03 Potential WSDOT Recommendations

- No objection.
- Support proposal.
- Support proposal with certain conditions for approval.
- Object to the proposal, but if possible, recommend a course of action that would make the proposal acceptable to WSDOT. For example, the applicant may be responsible for installing a traffic signal, or work with the local government to amend its comprehensive plan, Local Improvement District or to identify a needed intersection improvement. Funding mechanisms and a timeline for the mitigation measure would be components of the recommendation.
- Object to proposal and recommend denial.

2.2.04 WSDOT Response Letters

In order for WSDOT's input to local governments to become part of the official decision record, WSDOT must submit response letters. The response letters should be formal and be written in terms of WSDOT requirements and applicable local codes, ordinances, etc. The letters should be written to help the local decision-makers understand how state law and WSDOT standards and practices relate to the local approval criteria. If WSDOT's authority is in doubt, see Section 1.1.06 - WSDOT Review Authority.

WSDOT's comments are based on the materials submitted by the applicant and relevant state laws, policies, practices and administrative rules. WSDOT comments include facts, conclusions and recommendations. Because the local government has the authority to interpret its own ordinance, WSDOT staff may want to state . . . "It is WSDOT's understanding that this requirement means that . . ." to help define certain local code provisions. Examples of WSDOT letters to local governments show how different types of recommendations may be conveyed. See Appendix 2.

WSDOT's most common response to the local land use proposal is approval with certain conditions. The conditions allow the applicant the opportunity to modify its plans to meet local and state standards. The most common condition of approval proposed by WSDOT is a requirement that the applicant obtain a state approach permit prior to final development approval (e.g., issuance of the building permit). This helps ensure that WSDOT-related conditions of approval pertaining to access are satisfied before the building permit is issued. In this manner, the local and state regulations are coordinated. Conversely, WSDOT may condition an access permit approval on demonstration of a locally approved site plan that is consistent with the Access Management laws.

Include the following information in WSDOT letters to local governments to help communicate and to establish a legally defensible position:

Local file number and project title.

Include a brief description of the proposal from the official land-use notice. Be clear whether the review is for a new proposal versus a re-submittal by the applicant. If brevity is appropriate, it may suffice to state the general nature of the development and add, "As described in the public notice."

Identify the applicable local approval criteria. The local planner can help provide this information. It is not always apparent or included in the public notice. Quote regulations as appropriate. The code or policy citation number may be adequate for a hearings officer who might have familiarity with the local regulations. It may be beneficial to specifically quote the code or policy language for a citizen commission.

Provide facts that pertain to the approval criteria. Example: "The applicable level of service threshold for this section of state highway is LOS D. Traffic generated by this development will impact a highway segment or an intersection and cause it to fall below the LOS threshold. The proposed number of new trips during the AM peak hour is 500. Build-out of the development is expected to occur in the year 2006." Note: These are all facts with no conclusion.

Provide conclusions that are clearly distinguished from the facts. You may wish to have a section in the letter titled "Conclusions," or you may wish to state the conclusion(s) in the opening paragraph followed by the facts that support the conclusion(s). In this way the decision-makers can more quickly understand the content of the letter. Example: "Based on our analysis the applicable LOS standards of Highway X can support the additional traffic that will be generated by the proposed zoning change. WSDOT has no objection to the proposal."

Attach the traffic analyst's comments if it is a contentious case. When this is done, the cover letter can focus the reader on the impacts of the traffic analysis and the recommended course of action. Attaching the traffic analyst's comments can support the conclusion(s) and recommendation(s) and demonstrates that professional analysis and considered judgment were involved.

Recommend a course of action. Offer options when appropriate. Example: "WSDOT recommends the city do one of the following:"

Provide WSDOT contacts as appropriate. Example: I can be reached at (phone number) should you have any questions. Preferably, there is a single WSDOT spokesperson. You may wish to include a list of WSDOT contacts as a standard part of comment letters as shown in Appendix 2.

If you intend to be present at the hearing, say so in the letter. Example: I intend to give oral testimony at the October 3rd hearing before the Planning Commission and look forward to helping answer transportation related questions.

Request that the WSDOT letter be included in the record.

Request a copy of the written decision.

Copy the applicant and others as appropriate. List internal distribution to minimize who the applicant should contact to resolve concerns. If this practice is not followed, the applicant may contact other WSDOT people without your knowledge.

2.2.05 Mitigation in the Form of Conditions of Approval

Local governments are required to adopt regulations that include: "*A process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities, corridors or sites…*" as a part of implementation of the SEPA.

Typically, either the applicant's Traffic Impact Analysis (TIA) includes recommended mitigation or WSDOT staff recommends mitigation. The state should secure the local government's concurrence on the proposed mitigation.

It is important to identify a mechanism to ensure the applicant is responsible for the identified mitigation. This is usually done through conditions of approval and proposed as part of the applicant's submittal and reflected in the record of decision. If the mitigation is substantial or exceeds the proportionate share of the applicant's impact and the applicant is not willing to make the improvements, other remedies or denial may be appropriate. Section 3.1.14 and Chapter 4 of the Manual discuss mitigation in more detail.

2.2.06 Ways to Work Effectively with Local Partners

The following strategies can help WSDOT work with local partners on land use/ development reviews:

1. Work with local governments to notify WSDOT of major development proposals on a pre-application basis.
2. Attend pre-application meetings. Identify information that needs to be included in the land use application in order for the applicant to address the approval criteria. Provide written comments either brought to the meeting or following the meeting. Provide internal contacts and the best information available. Try to resolve conflicts.
3. Know the local approval criteria. This is essential because it forms the primary basis for the decision. The local approval criteria are the regulations in place at the time of the application submittal. Note that comments do not have to be limited to the criteria identified by the local planning department. Identify laws, policies, plans

and standards that are applicable to WSDOT facilities which need to be included as part of WSDOT's analysis. The approval criteria may include previous conditions of approval that apply to the site. For example, the site may be part of a planned unit development (PUD) or Local Improvement District (LID) that has specific approval criteria that apply at the time of development.

4. Know the review process: timelines, decision-making body and appeal process.
5. Provide timely responses. Respond to the local government in time to get the WSDOT comments included in the staff report and recommendation. You may wish to provide the local staff with an electronic version of your letter so they can easily incorporate WSDOT's comments and recommendations into the staff report.
6. Provide the local staff with the actual condition of approval language versus merely an idea of what is needed. This provides clarity and helps the local staff. The condition language should address when the condition is to be performed. Stating that the condition is to be performed prior to the issuance of the primary building permit usually works well. It may be helpful to discuss the language of the condition with the local staff to see if there are ways the condition can be written to best fit with their development and/or building permit review process. The local staff is authorized to make their own recommendations and offer improved language following the receipt of the WSDOT comments. Having a uniform position with the local staff helps eliminate confusion and enhances WSDOT's chances of securing the decision-making body's approval.

2.2.07 Internal Coordination

For the agency to successfully participate in the local land use process, the responding WSDOT Development Services representative must ensure the agency speaks with one voice. This means contacting other units of WSDOT, as well as managers, prior to submitting a comment letter. The specifics of the development proposal will dictate which of the parties listed below should be brought into the review. Depending upon the impact a development may have, the WSDOT Development Services representative may need to inform the Region Planning Manager and Region staff for their input before submitting the agency's response.

2.2.08 Coordination with Other WSDOT Units

WSDOT is one of the most complex state agencies in terms of roles, responsibilities and regulations. Below are examples of units that may need to be contacted for input or just to discuss problems and possible solutions to a development application. It is preferable to begin with staff at the Regional level.

Traffic Section: The appropriate Regional Traffic Sections should handle all traffic related issues. Traffic Analysis, Channelization Plans, Electrical Design, Traffic Control and signing, both public and private, are the major responsibilities of this group. Regional Traffic is responsible for regulating signs on private property that are visible from the state highway, logo signs for gas, food and lodging, and tourist-oriented directional signs (motorist signing). In some Regions, motorist signing is the Maintenance Section's responsibility.

Hydraulics/Water Quality Section: The Hydraulics Section, a subgroup within the Environmental Section, has staff in both the Regions and Headquarters. This section can assist in assessing drainage and water quality compliance issues. WSDOT Drainage Permits, however, are handled through the Region Utilities Section.

Utilities Section: The Regional Utilities Section is responsible for coordinating with utility providers to locate or re-locate utilities for development projects. It is also responsible for electrical service agreements, permits for utility encroachment onto state highway property, and coordination with Headquarters Utilities Section. It may also be responsible for handling railroad grade crossings and coordinating with the railroads for affected private rail crossings.

Environmental Section: This section has staff both in the Regions and Headquarters. Environmental issues can range from threatened and endangered species to wetlands to historic buildings.

Long Range Planning: The Regions have long-range planners who should be familiar with local government comprehensive plans.

Access and Hearings Section: This section, based at Headquarters, is the approving authority for any encroachment within State limited access right of way.

Real Estate Services Section: This group handles air space leases, easements and real property transactions such as right of way donations and purchases. Most issues are dealt with at the Regional level.

Attorney General's Office: Attorney General's Office is available to assist WSDOT for all legal matters. This could include reviewing developer agreements, hearing preparation, consultation on real estate transactions, public correspondence, politically sensitive issues, etc.

2.2.09 Coordination with Other Groups

WSDOT has increased its commitment to work closely with local governments, other agencies and the general public. This can result in the WSDOT's development review responses extending beyond submitting letters to local government. Larger projects with sensitive issues can require WSDOT staff coordination and interaction with the groups following:

Local Planning and/or Public Works Departments: Local departments offer a wealth of information regarding local plans, policies, land use ordinances and street standards. WSDOT and local staff can work cooperatively to draft conditions of land use approval that meet the requirements of the state and local governments.

Community Groups: Proactive outreach and education of local community groups can provide WSDOT with critical support with regard to politically sensitive projects.

PART 3 Land Use Hearings

2.3.00 Ways to Participate Effectively in the Local Hearings Process

The following tips are intended to help WSDOT participate in the local land use hearings process:

1. To prepare for a hearing, become familiar with the following:
   - Traffic analysis, if any
   - Relevant statutes
   - Local comprehensive plan text and map
   - Relevant ordinance (development code)
   - All materials filed by the applicant

- Staff reports
- Previous proposals on the property
- Other studies, plans and minutes relating to the proposal.

2. Discuss the proposal with the local staff. Try to get a feel for its position on the proposal. You can use this as an opportunity to reach a consensus.
3. View the property.
4. Be familiar with the procedural rules such as the order of presentation of written evidence and oral testimony, local jurisdiction's appeal requirements and review procedure.
5. Know all deadlines for submission of written evidence.
6. Know your audience. Try to find out the interests and inclinations of the local body hearing the development application.
7. The WSDOT staff presentation can be either in writing or oral. You will have a better opportunity to persuade the local hearing body if you are present and can respond to questions. If an oral presentation is given, it should also be submitted in writing.
8. Carefully listen and take notes on the other testimony presented in order to be prepared to rebut any evidence submitted by others that contradicts WSDOT's testimony, whether WSDOT is the proponent or opponent. (See discussion on Burden of Proof in Section 2.3.01).
9. If WSDOT is the proponent of a land use action, listen carefully for any additional criteria raised by the opposition. If additional criteria are raised, staff may need to explain why they are not applicable or submit evidence to show why the proposed change complies with the criteria.
10. If WSDOT is the opponent to the land use decision, do not rely on the local government to identify all applicable criteria. If you believe certain decision criteria apply, but have not been identified by the local jurisdiction, discuss the matter with the local government staff, and be prepared to identify that criteria in testimony.
11. Identify if the development proposal will have a significant adverse impact(s) on transportation facilities per RCW 43.21C (SEPA), and clearly explain how and why.
12. Identify if the development proposal amends a functional plan, acknowledged comprehensive plan or land use regulation, and clearly explain how and why.
13. Use charts, maps and other graphics to explain your position.
14. Identify, by reference to number and name, all applicable statutes, administrative rules, plan provisions and ordinances that are applicable to the land use decision.

2.3.01 Burden of Proof

The proponent of land use/development application has the burden of proof in demonstrating that the application meets all applicable legal standards and review criteria. This applies to the applicant initially and then to the local government whenever a decision approving the proposal is made in full or in part. Professionally prepared traffic impact analyses are often submitted as part of the land-use application to address the burden of proof.

2.3.02 Oral Testimony and Written Evidence

It is extremely important when providing either oral testimony or written evidence, during the local jurisdiction's hearing process, that WSDOT include all the facts, analyses, and conclusions and/or opinions in WSDOT's possession. The oral testimony or written evidence must be clear, accurate, and presented in a logical sequence. It must be complete, since WSDOT may not get a second opportunity to supplement the hearing record or submit additional information or analysis. WSDOT must clearly define what mitigation conditions it is seeking and describe why the conditions are necessary, giving the appropriate facts and analyses upon which WSDOT is basing its opinion. Providing complete information in an understandable manner will assist the hearing judge, panel, or commission in making a decision. In addition, making a clear and complete record will greatly assist should the matter be appealed.

2.3.03 Substantial Evidence

Substantial evidence that the proposed change complies with the applicable criteria must be contained in the record of decision. "Substantial evidence" is evidence a reasonable person would accept as adequate to support a conclusion. The proponent must provide evidence to show that the applicable criteria have been met. The burden then shifts to the opposition to show why this evidence is not substantial, i.e., it does not address the criteria, the person presenting the evidence is not qualified, etc. If the opposition provides evidence that detracts from the proponent's evidence, the burden shifts back to the proponent to bolster his or her evidence. The bottom line is, if you are the opponent, you cannot simply mention applicable criteria and rest. You need to see whether the proponent then provides evidence to show why those criteria are not applicable or have been met. If they do so, you should try to rebut their testimony. Opponents do not always get an opportunity to rebut.

The usual sequence for giving testimony at a land use hearing is:

- Applicant
- Other Proponents
- Opponent
- Applicant's Rebuttal

3.1.00 Development Services Interaction with Local Agencies

In order to effectively carry out the WSDOT development review program, it is very important to have a good understanding of the State Environmental Policy Act (SEPA). It is also necessary to have a general understanding of the Growth Management Act (GMA), the local Comprehensive Plans required by GMA, and the different types of local land use reviews. While most land-use procedures are common among local agencies, no two local governments operate exactly the same way. It is very helpful to familiarize yourself with the various local zoning codes and development regulations in your region.

Making contact and getting to know on a first name basis some of the personnel within the applicable local agencies is a very effective way to learn the local zoning codes, development regulations, and environmental regulations. Searching the local agency internet sites can also provide an effective source of information about that local agency. The Department of Ecology's homepage is a valuable resource for information on SEPA. And of course, your regional environmental staff and web pages (including the various Region Development Services Homepages), can be very useful and beneficial to the statewide Development Services staff.

PART 1 SEPA

3.1.01 Role of SEPA in the Development Review Process

The State Environmental Policy Act (SEPA) Chapter 43.21C RCW provides the statutory basis for protecting the environment of the state. Among other things, this law requires all state and local governments within Washington to:

"Utilize a systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment…" and,
Ensure that "…environmental amenities and values will be given appropriate consideration in decision making along with economic and technical considerations…"

The policies and goals in SEPA supplement the other environmental statutes of all branches of government of this state, including state agencies, counties, cities, districts, and public corporations.

3.1.02 History of SEPA and the SEPA Rules

First adopted in 1971, the State Environmental Policy Act (SEPA) RCW 43.21C is Washington State's basic environmental protection mandate. Prior to its adoption, the public had voiced concern that governmental decisions did not reflect environmental considerations. State and local agencies had responded that there was no regulatory framework enabling them to address environmental issues. SEPA, modeled after the 1969 National Environmental Policy Act (NEPA), was created to fill this need. It permits and requires agencies the tools to allow them to both consider and mitigate for environmental impacts of proposals. Provisions were also included to involve the public, tribes, and interested agencies in most review processes prior to a final decision being made.

SEPA contains a number of broad policy statements, but little specific direction. In 1974, the Council on Environmental Policy was created by the Legislature and instructed to write rules to interpret and implement SEPA. The Council was directed to write consistent procedures, to reduce duplication and wasteful practices, to encourage public involvement, and to promote certainty. These regulations were adopted in 1976 as the SEPA Guidelines, Chapter 197-10 WAC (repealed in 1984 and recodified under Ch. 197-11 WAC). The SEPA Guidelines included specific procedural requirements and introduced the concepts of categorical exemptions, lead agency responsibilities, and the threshold determination process.

In 1981, the Legislature created a second committee, the Commission on Environmental Policy, to evaluate and suggest possible amendments to SEPA and the SEPA Guidelines. The Commission's goals were to reduce unnecessary paperwork, duplication, and delay; simplify the guidelines; make the process more predictable; and improve the quality of environmental decision-making.

The Commission's evaluation resulted in several suggested changes to the SEPA process, including:

- A Mitigated Determination of Non-Significance (MDNS),
- Requirements for shorter, more concise environmental impact statements (EIS),
- A new environmental checklist format, and
- Clarification of SEPA's substantive authority and of appeals procedures.

The work of the Commission formed the basis for the adoption of the current SEPA Rules, Chapter 197-11 WAC, replacing the previous SEPA Guidelines. These rules became effective on April 4, 1984.

The first amendments to the SEPA Rules occurred in 1995 when the Department of Ecology added procedures for the integration of SEPA with the Model Toxics Control Act and provisions for integration of SEPA into the Growth Management Act (GMA). The designation of environmentally sensitive areas was also changed to allow the use of critical area ordinances, adopted under GMA, as the basis for eliminating some categorical exemptions.

In November 1997, the second set of SEPA Rule amendments became effective, implementing the requirements of the 1995 legislation, Chapter 347, Laws of 1995. The goal of Ch. 347 was to establish new approaches to make government regulation more effective, and to make it easier and less costly for citizens and businesses to understand and comply with requirements. With these goals in mind, Ch. 347 amended a number of laws, including the SEPA, Growth Management Act and Shoreline Management Act.

State or local agency decisions are the hub of SEPA. SEPA gives agencies the tools to both consider and mitigate for the environmental impacts of proposals. If there is no agency action, then SEPA is not required. If an agency action is required that involves SEPA, then the SEPA process should be initiated early and done in conjunction with other agency procedures.

3.1.03 Purpose and Intent of SEPA

The purpose of SEPA is to ensure that environmental values are considered during decision-making process by state and local agencies. SEPA Rules direct agencies to:

- Consider environmental information (impacts, alternatives, and mitigation) before committing to a particular course of action;
- Identify and evaluate probable impacts, alternatives, and mitigation measures related to land-use actions (including cumulative, short-term, long-term, direct and indirect impacts);
- Encourage public involvement in decisions;
- Prepare environmental documents that are concise, clear, and to the point;
- Integrate SEPA with existing agency planning and licensing procedures, so that the procedures run concurrently rather than consecutively; and
- Integrate SEPA with agency activities at the earliest possible time to:
    1. Ensure that planning and land-use decisions reflect environmental values,
    2. Avoid delays later in the process, and
    3. Seek to resolve potential problems.

The environmental review process under SEPA is designed to work with other regulations to provide a comprehensive review of a proposal. Most regulations focus on particular aspects of a proposal, while SEPA requires the identification and evaluation of probable impacts for all elements of the environment. Combining the review processes of SEPA with other laws reduces duplication and delay by combining study needs, combining comment periods and public notices, and allowing agencies, applicants, and the public to consider all aspects of a proposal at the same time.

3.1.04 What is a SEPA Proposal?

SEPA authorizes agencies to condition or deny a proposal based on an agency's adopted SEPA policies and environmental impacts identified in a SEPA document. Under SEPA a proposal means a proposed action. A proposal includes both actions and regulatory decisions of agencies as well as any actions proposed by applicants.

Proposals can be either project proposals, such as:

- New construction
- Demolition
- Landfills
- Exchange of natural resources

Or

Proposals can be non-project proposals, such as:

- Comprehensive plans
- Zoning
- Development regulations

Not all proposals are required to have a thorough SEPA review. Some project proposals will be categorically exempted from SEPA review if their size or type of actively is unlikely to cause a significant adverse impact.

3.1.05 Who Can be a SEPA Lead Agency?

For most proposals, one agency is designated as the lead agency under SEPA. The lead agency is the only agency that is:

- Responsible for compliance with SEPA procedural requirements;
- Responsible for compiling and assessing information on all the environmental aspects of the proposal for all agencies with jurisdiction; and,
- Responsible for the threshold determination and for the preparation and content of an environmental impact statement when required.

A "responsible official" represents the lead agency and is responsible for ensuring that an adequate environmental analysis is done and that the SEPA procedural requirements are met. The responsible official should be identified within the agency's SEPA procedures: she or he may be a specific person (such as the planning director or mayor), a designated person within an agency depending on the proposal, or an identified group of people (such as an environmental review committee or the city council).

Most of the SEPA lead agency land-use proposals will be from a county or city, although some proposals will be from a school district or other state agency with lead agency status.

WSDOT will normally be the SEPA lead agency for state highway projects, with the applicable Region Environmental Manager designated as the responsible official. It is the Region's Development Services staff that will review and comment on all non-WSDOT SEPA proposals forwarded to the WSDOT for review and comment.

Under SEPA, federal agencies and tribes have no authority and cannot be a SEPA lead agency. If a federal agency or tribe proposes a project that requires a state or local permit, the federal agency or tribe would then be considered a private applicant under SEPA and would be responsible for only those steps that are normally required of such an applicant.

3.1.06 What is SEPA Substantive Authority?

SEPA Substantive Authority is the regulatory authority granted to all state and local agencies under SEPA to condition or deny a proposal to mitigate environmental impacts identified in a SEPA document. To use SEPA substantive authority, the agency must have adopted agency SEPA polices.

3.1.07 Which Environmental Impacts Should WSDOT Normally Review?

SEPA requires all state and local governmental agencies to consider the environmental impacts of a proposal before making decisions. WSDOT would like to review all proposed projects that may possibly have a significant adverse impact on the state highway system.

The three areas of primary interest to WSDOT, depending on the size and location of the proposal, are:

- Traffic impacts,
- Storm water impacts, and
- Access needs and permitting.

In addition to the three types of impacts listed above, other impacts to the state highway system may occur, such as noise impacts or off-premise outdoor advertising impacts. However, it is the three impacts listed above that will constitute the vast majority of project proposals that the Development Services staff will receive and review.

3.1.08 What is a SEPA Environmental Checklist?

A SEPA Environmental Checklist is a standard form used by all agencies to obtain information about a proposal. It includes questions about the proposal, its location, possible future activities, and questions about potential impacts of the proposal on each element of the environment.

The environmental checklist was designed to be as generic as possible to ensure that it was applicable to every kind of development. The items on the checklist are not weighted. The mention of one or more adverse impacts does not necessarily mean they are significant. In most cases, if the questions are answered accurately and completely, the impacts of a proposal can be ascertained. If necessary, the lead agency may request additional information from the applicant after conducting the initial review of the checklist.

The SEPA Environmental Checklist is comprised of 16 areas of the environment that must be addressed. They are:

1. Earth
2. Air
3. Water
4. Plants
5. Animals
6. Energy and Natural Resources
7. Environmental Health
8. Land and Shoreline Use
9. Housing
10. Aesthetics
11. Light and Glare
12. Recreation
13. Historic and Cultural Preservation
14. Transportation
15. Public Services
16. Utilities

Of the sixteen areas of the environment list above, Water and Transportation are typically the two most important areas Development Services staff must review in detail. Other areas may also be reviewed such as Light and Glare and Utilities, but by far, the two most important areas are Water and Transportation. The Water section will have details about the proposal's surface water runoff while the Transportation section will have details about the proposal's traffic impacts and possible mitigation measures, if any.

While some SEPA lead agencies will forward the environmental checklist to the WSDOT before making their threshold determinations (e.g. DS, DNS, or MDNS), other lead agencies will send the checklist to WSDOT only after making their threshold determinations. In those cases, WSDOT will still have the opportunity to comment on the proposal, but if the delayed checklist submission occurs on a frequent basis, the WSDOT should be proactive to request the checklists be sent before the threshold determinations are made.

If the information provided is incomplete or insufficient for the WSDOT to make an adequate review of the proposal, a request for additional information may be justified. Usually, Development Services staff will request that the SEPA Lead Agency provide a copy of the Traffic Impact Analysis (TIA) that was prepared for the proposal, or staff will ask for a TIA to be prepared if one was not drafted in the first place. Development Services staff may also request that the TIA be modified or updated to include issues of importance to WSDOT. It is not uncommon for WSDOT to request additional information of the proposal.

3.1.09 SEPA Categorical Exemptions—Flexible Thresholds

Categorical Exemptions are types of projects or actions that are typically not subject to SEPA review. Proposals may be categorically exempt if their size or type of activity is unlikely to cause significant adverse impacts. Exemptions apply to minor construction activities and to some specific types of permits. Some WSDOT projects, such as simple paving projects, will most likely be categorically exempt.

Most categorical exemptions use size to determine if a proposal is exempt. The SEPA Rules allow cities and counties to raise the minimum exemption limit for minor new construction to better accommodate the needs in their jurisdictions. For example, the residential development threshold may be raised from the minimum 4 dwelling units to 20 dwelling units, or anywhere in between. These "flexible thresholds" must be designated through ordinance or resolution by the city or county. If this has not been done, then the minimum level stands.

It is important to note that WSDOT will not get the opportunity to SEPA review some proposals because they will be categorically exempted by their size. While the SEPA Rules do allow a lead agency to require a thorough SEPA review for a proposal that would otherwise be categorically exempt, the likelihood of that happening is not very good. A fast food restaurant is a good example of a proposal that may be categorically exempt because the size of the building and parking lot are under the SEPA threshold, especially if the threshold has been raised by the lead SEPA agency as allowed by the SEPA Rules. In those cases, WSDOT may only be able to review the proposal for impacts relating to access management or storm water runoff.

The following are some of the minimum thresholds that may be raised up to the maximum level shown or anywhere in between:

Proposal Threshold	Minimum Exempt Threshold	Maximum Exempt Threshold
Residential development	4 dwelling units	20 dwelling units
Office, school, or commercial structure	4,000 square feet and associated parking for 20 vehicles	12,000 square feet and associated parking for 40 vehicles
Barn or agricultural structure	10,000 square feet	30,000 square feet
Parking lots	20 vehicles	40 vehicles
Landfills or excavations	100 cubic yards	500 cubic yards

If the proposal lies within two jurisdictions, then the lower level threshold controls the total proposal, no matter which agency is lead.

The above "flexible thresholds" do not apply if any portion of the proposal involves work on lands covered by water, or if a license is needed for a discharge to air or water, or if a rezone is required.

3.1.10 How is WSDOT Notified of Project Proposals?

The SEPA review process begins when the Region is made aware of a project proposal. Usually this occurs when the SEPA lead permitting agency sends the project proposal to the WSDOT for review. However, on some occasions the proponent for the proposed project will contact the WSDOT first before formally submitting the project to the lead SEPA agency. The WSDOT may also learn of proposed projects by checking environmental publications, such as the Department of Ecology (DOE) SEPA Register, which may be accessed via its homepage at www.ecy.wa.gov.

While some proposals are brought to the attention of the WSDOT by the proponent or by Development Services Staff reviewing the DOE SEPA Register, the majority of project proposals are first submitted to the WSDOT by the applicable SEPA lead agency. The following are some of the typical submittals the WSDOT will receive:

1. Pre-submission,
2. Notice of application,
3. SEPA environmental checklist,
4. DNS or MDNS,
5. DS and/or scoping notice,
6. DEIS/FEIS/SEIS,
7. Platting and subdivision notices,
8. Zoning notices,
9. Non-SEPA project next to a state highway.

Some SEPA lead agencies do a good job of notifying the WSDOT of proposed projects, while other SEPA lead agencies may not consider submitting the proposal to the WSDOT for review. This may be due in part to the SEPA statutes that only require the SEPA lead agency to solicit comments from those other governmental agencies that it believes may be impacted by the proposed project.

Therefore, it is very important that the Development Services staff proactively make contact with and work with the various SEPA lead agencies within their applicable regions. Opportunities to request mitigations from proposed projects have been missed because a SEPA lead agency did not believe that the WSDOT would have wanted to review a particular project, when in fact WSDOT requested mitigations would have been warranted and justified.

3.1.11 What Are Some of the SEPA Notification Timelines?

SEPA, by statute, has specific timelines that the SEPA lead agency must follow when allowing other applicable agencies to review proposed projects. In most cases the SEPA lead agency will give those other applicable agencies, such as WSDOT, 14 calendar days to review a project. However, this 14-day timeline usually begins the day the lead agency sends the proposed project out for review. As a result, the actual workdays the Development Services staff has to review a proposal will be considerably less than 14 calendar days due to time in mailing, weekends, and the backlog on other projects already in review. It is very important that all incoming SEPA documents are promptly reviewed and the due dates noted.

If there is insufficient time to appropriately review a proposal, or more technical analysis is necessary, WSDOT may request an extension of time from the SEPA lead agency. If an extension is granted, it is very important that the extension be documented in writing (including e-mail) from the lead agency to preserve WSDOT's opportunity to continue to review and comment on the project. Some lead agencies have rejected WSDOT's comments because they were received past the published due date and no extensions of time were requested.

The following lists some of the minimum SEPA timelines and public involvement requirements:

Document	Comment Period	Public Notice Required?	Distribution Required?
Environmental Checklist	Optional	Optional	Optional
Determination of Non-significance (DNS)	14-day comment period may be required	If comment period required	If comment period required
Mitigated DNS (MDNS)	14 days	Yes	Yes
Addendum to a DNS	No	No	Encouraged
Determination of Significance (DS)	21 to 30 days	Yes	Yes
Draft EIS (DEIS)	30 to 45 days	Yes	Yes
Final EIS (FEIS)	No, but 7-day wait period is required before agency action	No	Yes
Draft Supplemental EIS (DSEIS)	30 to 45 days	Yes	Yes
Final Supplemental EIS (FSEIS)	No, 7-day wait period is required before agency action	No	Yes
Addendum to EIS	No	No	Encouraged

3.1.12 What is A SEPA Threshold Determination?

The SEPA Threshold Determination is the formal decision as to whether or not a proposal will result in a probable significant adverse environmental impact for which mitigation cannot be easily identified. A SEPA threshold determination is required for any proposal that is not categorically exempt, but is not required for a planned action.

The issuance of a Determination of Significance (DS), a Determination of Nonsignificance (DNS), or a Mitigated Determination of Nonsignificance (MDNS) is referred to as a Threshold Determination.

3.1.13 SEPA Threshold Determination—Assessing Significance

The SEPA Rules state that significant means a reasonable likelihood of more than a moderate adverse impact on environmental quality. It is often non-quantifiable. It involves the physical setting, and both the magnitude and duration of the impact.

Significant: What is considered significant will vary from one site to another, and from one jurisdiction to another, both because of the conditions surrounding the proposal at a particular location, and because of the judgment of the responsible official.

In evaluating a proposal, the SEPA lead agency reviews the environmental checklist and other information about the proposal, and should consider any comments received from public or other agencies (through consultations, a notice of application, pre-threshold meetings, etc.). Likely adverse environmental impacts are identified and potential mitigation is taken into account, particularly that already required under development and permit regulations. The responsible official must then decide whether there are any probable significant adverse environmental impacts that have not been adequately addressed.

Probable: Probable as defined under SEPA means likely or reasonably likely to occur, as in "a reasonable probability of more than a moderate effect on the quality of the environment." Probable is used to distinguish likely impacts from those impacts that merely have a possibility of occurring, or are remote and/or speculative.

The severity of the impact must be considered as well as the likelihood of occurrence. An impact may be significant if its magnitude would be severe, even if its likelihood were not great.

SEPA Rules also state that the beneficial aspects of a proposal shall not be used to balance the adverse impacts in determining significance.

In determining if a proposal will have a significant impact, the responsible official may consider that a number of marginal impacts may together result in a significant impact. For example, a large development may have marginal impacts to a series of intersections along a state highway, but taken together the overall result could trigger SEPA mitigation requirements for one of the impacted intersections.

Even one significant impact is sufficient to require an environmental impact statement. If significant impacts are likely, a Determination of Significance (DS) is issued and the environmental impact statement process is started.

If there will be no probable significant adverse environmental impacts, a Determination of Nonsignificance (DNS) is issued. If there are probable significant adverse environmental impacts and changes to the proposal or mitigation measures are identified that will reduce the probable significant adverse environmental impacts down to a nonsignificant level, a Mitigated Determination of Nonsignificance (MDNS) is issued.

3.1.14 Mitigation Must Be Reasonably Related And Proportional To The Development's Impacts

On June 24, 1994, the United States Supreme Court ruled on the land use case of Dolan v. City of Tigard (Oregon). This closely watched land use case resulted in further limiting the ability of local governments to impose conditions on development permits.

This case dealt with an expansion of an existing plumbing store. The City's mitigation proposal called for the dedication to the City of all the property lying within the 100-year flood plain (about 10 percent of the property), as well as an additional 15-foot strip for a bike path.

The United States Supreme Court ruled that imposition of conditions on the issuance of a development permit may be unconstitutional if the conditions are not directly related and proportional to the project's impacts. In that case, the Court ruled that the City failed to show a reasonable relationship between the conditions of the permit and the impacts of the development.

The ruling in this case emphasizes the necessity for Development Services staff to adequately document a proposal's impacts, tying them directly to any WSDOT requested mitigation and showing that the requested mitigation is roughly proportional and directly related to the development's impacts. In other words, the proposal is only doing "fair share" mitigation.

3.1.15 SEPA Determination of Nonsignificance (DNS)

A Determination of Non-significance (DNS) is issued when the responsible official has determined that the proposal is unlikely to have significant adverse environmental impacts, or that the mitigation has been identified that will reduce impacts to a non-significant level. The DNS may or may not require a public comment period and circulation to other agencies.

3.1.16 SEPA Mitigated Determination of Nonsignificance (MDNS)

If probable significant impacts are identified that would require the preparation of an EIS, those impacts can be reduced either by the applicant(s) making changes to the proposal or by the lead agency requiring mitigation measures as a condition of approving the project. When changes to the proposal or mitigation measures are identified that will reduce probable significant adverse environmental impacts down to a non-significant level, a Mitigated Determination of Nonsignificance (MDNS) is issued. The mitigating measures are typically shown on the face of the DNS or as an attachment. A 14-day comment period, distribution, and public notice is required by SEPA for any MDNS.

3.1.17 SEPA Determination of Significance/Scoping Notice (DS/Scoping)

A Determination of Significance/Scoping Notice (DS/Scoping) is issued when the responsible official has determined that the proposal will have a probable significant adverse environmental impact on the environment. If a DS is issued, an Environmental Impact Statement (EIS) must be prepared.

3.1.18 SEPA Environmental Impact Statement (EIS)

The primary purpose of an Environmental Impact Statement (EIS) is to provide an impartial discussion of significant environmental impacts, reasonable alternatives and/or mitigation measures that avoid or minimize adverse environmental impacts. This environmental information is used by agency officials—in conjunction with applicable regulations and other relevant information—to make decisions to approve, condition, or deny a proposal.

An EIS is not meant to be a huge, unwieldy document. The text of a typical EIS is intended to be only 30 to 50 pages. It is not to exceed 75 pages unless the proposal is of unusual scope or complexity; in which case, it may not exceed 150 pages. An EIS should provide information that is readable and useful for the agencies, the applicant, and interested citizens.

A Draft Environmental Impact Statement (DEIS) will normally be the first opportunity the general public and affected governmental agencies have to fully review an EIS. Once all the comments have been received and reviewed by the lead agency, a Final Environmental Impact Statement (FEIS) will be published.

Should a proposal be amended such that additional review beyond the FEIS is required, either an Addendum or a Supplemental Environmental Impact Statement (SEIS) must be prepared. The Addendum or SEIS will only be applicable to those areas of the environmental document that need the additional review. No other areas of the EIS are subject to a second review.

An Addendum is usually prepared if just additional analyses or information about a proposal is needed. A SEIS is prepared if there are substantial changes or new information about the proposal that indicate probable significant adverse environmental impacts, including the discovery of misrepresented information, facts, conclusions and/or lack of material disclosure. The Addendum does not require a comment period or public notice while a SEIS will require another round of general public and affected governmental agency review, but only for the specific area of the environment list requiring the additional review. Once the new comments have been received, a Final Supplemental Environmental Impact Statement (FSEIS) will be published.

See the **Section 3.1.11,** "What are some of the SEPA Notification Timelines" for information on the length of comment periods, whether a public notice is required, as well as distribution requirements.

3.1.19 What is a Nonexempt License?

A nonexempt license is any form of written permission given to any person, organization, or agency to engage in any activity, which is required by law or agency rule. A license includes all or part of an agency permit, certificate, approval, registration, charter, or plat approvals or rezones to facilitate a particular proposal. The term does not include a license required solely for revenue purposes.

3.1.20 Can a SEPA Lead Agency Withdraw a DNS, MDNS or a FEIS?

A SEPA lead agency can withdraw a DNS, MDNS, or a FEIS based upon any one of the following three reasons:

- There is a substantial change to a proposal such that the proposal is likely to have a probable significant adverse environmental impact;
- There is significant new information that indicate probable significant adverse environmental impact; or
- The DNS, MDNS, or FEIS was prepared with misrepresented information, facts, conclusions and/or lack of material disclosure.

What is important to note here is that a SEPA lead agency may not withdraw a DNS, MDNS, or EIS on a private proposal if a nonexempt license has already been issued, even though significant new information may be forthcoming indicating the proposal may have a probable significant adverse environmental impact.

3.1.21 Does a SEPA DNS, MDNS, or FEIS Have a Time Limit?

A SEPA determination such as a DNS or a MDNS has no time limit. However, if the SEPA determination is tied to a nonexempt license that has a time limit, such as a plat or a commercial building permit, and the proposal does not meet the nonexempt time limit, then the SEPA determination may be withdrawn. For example, a SEPA lead agency may have conditioned that a Final Plat Approval be recorded within three years. Should it be determined that the preliminary plat has expired because the plat was not recorded within three years (and no extensions were granted), the SEPA determination may be withdrawn. The determination to withdraw a SEPA determination is made at the time a new application was filed on the proposal.

3.1.22 SEPA Appeals

SEPA provides a process the public and other groups and agencies, such as the WSDOT, to challenge both procedural and substantive decisions made under SEPA. Procedural appeals include the appeal of a threshold determination – both the determination of significance (DS) and non-significance (DNS) – and the adequacy of a final environmental impact statement (FEIS). Substantive appeals are challenges of an agency's use, or failure to use, SEPA substantive authority to condition or deny a proposal.

For more detailed information on SEPA appeals see Chapter 7.

PART 2 GMA

3.2.01 Growth Management Act (GMA)

The Washington State Growth Management Act was enacted in 1990 in response to the problems associated with an increase in population in this state, particularly in the Puget Sound region, in the 1980's. These problems included increased traffic congestion, school overcrowding, urban sprawl, and loss of rural lands.

"The legislature finds that uncoordinated and unplanned growth, together with a lack of common goals expressing the public's interest in the conservation and the wise use of our lands, pose a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of this state…" RCW 36.70A.010

GMA requires all cities and counties in this state to do some planning. It calls for the fastest growing counties, and the cities within them, to plan extensively in keeping with the following state goals:

- Conservation of important timber, agricultural and mineral resource lands,
- Protection of critical areas,
- Planning coordination among neighboring jurisdictions,
- Consistency of capital and transportation plans with land use plans,
- Early and continuous public participation in the land planning process.

The basic objective of the legislation is to guide and encourage local governments in assessing their goals, evaluating their community assets, writing comprehensive plans, and implementing those plans through regulations and innovative techniques that encompass their future vision.

3.2.02 Which Counties and Cities are Subject to the Growth Management Act?

The GMA requires all counties, and the cities within those counties, to fully plan under the GMA if the counties meet the following criteria:

- Population of 50,000 or more, and whose rate of population increase was more than 10 percent in the 10 years preceding May 16, 1995, or after that date are growing by more than 17 percent in the last 10 years and cities located within such county and;
- Any county whose rate of population increase has grown more than 20 percent in the last 10 years.

Counties not meeting these criteria may "opt in" under GMA; however, once a county does "opt in" it may not subsequently "opt-out."

Counties and cities that do not fully plan under GMA must still adopt development regulations that designate and protect critical areas. All cities and counties must adopt development regulations that *designate* natural resource lands, but only counties fully planning under GMA must adopt regulations to *conserve* natural resource lands.

As of September 2005, 29 of the state's 39 counties are required to plan fully under GMAand 10 counties are only subject to the Critical Area and Natural Resource Lands requirements.

3.2.03 Growth Management Act Goals

Planning goals must be adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under GMA.

The GMA, as a legislative policy, is expressed by the following 14 goals, which are not listed in any order of priority:

- Urban Growth—encourage urban growth where facilities are adequate to meet service needs.
- Reduce Sprawl—eliminate sprawling, low-density development that is expensive to deliver services to and is destructive to critical areas, rural areas, and resource values.
- Transportation——encourage efficient, multi-model transportation.
- Housing—encourage a variety of affordable housing for all economic segments of the population.
- Economic Development—encourage economic development consistent with resources and facilities throughout the state.
- Property Rights—protect property from arbitrary decisions or discrimination.
- Permits——issue permits in a timely manner and administer them fairly.
- Natural Resources Industries—maintain and enhance resource-based industries.
- Open Space and Recreation—encourage retention of open space and recreation areas.
- Environment—protect the environment and enhance the quality of life.
- Citizen Participation—encourage citizen involvement in the planning process.
- Public Facilities and Service—ensure that adequate public facilities and services are provided in a timely and affordable manner.
- Historic Preservation—identify and encourage preservation of historic sites.
- Shoreline Management—the goals and policies of the Shoreline Management Act.

3.2.04 Growth Management Act Substantive Mandates

As noted above, the GMA goals are not listed in any order of priority. However, "five substantive mandates" of the GMA are revealed when the goals are read together with the specific requirements in subsequent sections of the GMA. They are:

- New growth must be concentrated in urban growth areas (UGAs) that are contiguous with existing urbanized areas and meet other specified standards,
- New development may not be allowed unless adequate transportation facilities and certain other public facilities will be available concurrently with the development,

- Counties and cities may not exclude regionally essential public facilities and must accommodate affordable housing,
- Environmentally critical areas must be designated and protected, and
- Natural resource lands of long-term commercial significance for agricultural, forest product, and mining industries must be designated and protected.

3.2.05 Growth Management Act Comprehensive Plans

Fully planning counties, and the cities within those counties, must each develop comprehensive plans (or comp plans). City comp plans address areas inside incorporated city limits while county comp plans focus only on unincorporated areas.

GMA requires comp plans to be consistent with Countywide Planning Policies (CPPs), consistent with the comp plans of neighboring jurisdictions, and internally consistent. In addition, zoning, development and subdivision regulations must be updated to be consistent with comp plans.

The GMA only mandates that certain elements be included in local and county comp plans. The respective planning offices determine how these are addressed. Specific measures are left up to local jurisdictions, allowing local determination of different implementation strategies and priorities.

3.2.06 Growth Management Act Comprehensive Plan Elements

Comprehensive plans must contain the following elements:

- Land Use,
- Housing,
- Utilities,
- Capital Facilities plan,
- Shorelines (if applicable),
- Transportation,
- Rural (for counties only)
- Urban Growth Area.

Other comp plan requirements include a public participation plan and a designation of open space corridors and lands for public purposes.

3.2.07 GMA Comprehensive Plan Transportation Element

For jurisdictions fully planning under the GMA, transportation is the most important element of the comp plan. Comp plans are required to address a host of sub-elements, designed to directly implement connections between land use and transportation. Unlike most of the other comp plan elements, which are assumed to be in compliance unless appealed, Regional Transportation Planning Organizations (RTPOs) must certify that the transportation element is both consistent with the RTPO Regional Transportation Plan and conforms to the requirements of the GMA.

Concurrency[1]

Like all public facilities, transportation facilities must meet concurrency requirements under the GMA. GMA requires that development not be approved if it will cause existing transportation facilities to fall below level of service standards established in the comp plans. Transportation improvements or strategies for mitigation must be in place at the time of development, or a financial commitment must be in place to complete those strategies/improvements within 6 years. *Concurrency requirements of the GMA do not include highways of statewide significance (HSS) with the exception of counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting consistency requirements. RCW 36.070A.070(6)(a)(iii)(c).*

GMA Comp Plan Transportation Element Subelements

The transportation element must be consistent with and implement the land use element. It must include six sub-elements, which are:

1. **Land-Use Assumptions** used in establishing level of service standards and estimating travel times.
2. **Estimating Traffic Impacts** to state-owned transportation facilities resulting from land use assumptions.
3. **Facilities and Service Needs**, including the following:
   - An inventory of transportation facilities and services, including state owned facilities.
   - Level of Service (LOS) standards for facilities in the inventory. The agency setting LOS standards for the various facilities varies. In the case of local transportation systems, LOS standards are established by local jurisdictions and coordinated by the RTPOs. For transportation facilities and services designated to be of statewide significance, LOS standards are set by the state (WSDOT) in consultation with the RTPOs. For regional state owned transportation systems that are not designated to be of statewide significance, the RTPOs establish the LOS.
   - Corrective actions must be outlined for any transportation facilities currently below LOS standards.
   - A ten-year traffic forecast based on the adopted land use plan.
   - Identification of system needs based on the traffic forecast and current deficiencies. Needs that are identified in the local plans must be consistent with the statewide transportation plan.
4. **A Multiyear Analysis of Financial Resources**, including the following:
   - Identifying funding sources and comparing them with system needs.
   - Developing a multiyear financing plan.
   - Addressing any funding shortfalls, such that if no funding is currently available, and no other sources of additional funding are identified, the land-use assumptions on which the analysis is based will need to be reassessed.

---

1 Also see “concurrency” under section 1.1.06 in Chapter 1

5. **Intergovernmental Coordination Efforts**, including an assessment of the impacts of transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions.
6. **Strategies for Demand Management** such as economic incentives to ride transit or carpools, enhancement of non-SOV alternatives, and land use strategies that reduce the need for auto trips by altering development patterns.

3.2.08 GMA and Regional Transportation

Passed in conjunction with the GMA, the Regional Transportation Planning Program authorizes Regional Transportation Planning Organizations (RTPOs). RTPOs are formed through the voluntary association of local governments within a county or within geographically contiguous counties established to coordinate transportation planning throughout a region. Currently, every Washington's county, with the exception of San Juan County, is a part of an RTPO. In cases where the federal government requires Metropolitan Planning Organizations (MPOs), the RTPO and MPO must be the same organization. Washington State currently in 2005 has ten MPOs.

All transportation projects within the boundaries of an RTPO must be consistent with the regional transportation plan, as well as comp plans of the participating cities and counties. Local jurisdictions comp plans must be consistent with the regional transportation plan and countywide planning policies.

3.2.09 Regional Transportation Planning Duties

Under the Regional Transportation Planning Program, RTPOs designate a lead-planning agency to coordinate preparation of the regional transportation plan and carry out other responsibilities of the RTPO. This agency may be a county, regional council, city, town or WSDOT region office.

The duties of a RTPO are:

- Develop regional transportation strategies.
- Develop a Regional Transportation Plan (RTP).
- Certify CPPs (Countywide Planning Policies) and the transportation elements of comp plans for consistency with the RTP.
- Develop a six-year Regional Transportation Improvement Program (TIP).
- Review Level of Service (LOS) Standards.

3.2.10 Requirements for Regional Transportation Plans (RTPs)

Regional Transportation Plans are required to be based o a least cost planning methodology that identifies the most cost-effective facilities, services, and programs. All transportation projects (including TDM programs) within the region that have an impact upon regional facilities or services must be consistent with the plan and with the adopted regional growth and transportation strategies.

Regional Transportation Plans must include the following:

- Identify existing or planned transportation facilities.
- Establish level of service standards for state highways and ferry routes.
- A financial plan.
- Assess regional development patterns.

- Develop a proposed regional transportation approach.
- Coordinate services and facilities among transit providers.

3.2.11 How Does Development Services Use GMA?

WSDOT has few specific obligations under the GMA. However, WSDOT has an influential role in transportation planning statewide.

WSDOT's formal GMA duties are limited to assisting RTPO's set levels of services for those state-owned facilities and services that are not of statewide significance, setting the levels of services for those facilities and services deemed to be of statewide significance, coordinating transportation planning among the RTPOs, and developing Transportation Improvement programs with local jurisdictions and RTPOs. WSDOT regional offices also may serve as the lead-planning agency for the RTPOs.

While SEPA is the main tool and law governing WSDOT's right to ask for or require proposed land-use project mitigation, the Development Services staff must be aware of the GMA role in transportation planning. Especially important is knowing what Level of Service (LOS) standards have been set for the various state facilities when requesting mitigation measures.

4.1.00 Overview[1]

Analyzing and determining appropriate mitigation for development impacts is the primary role of the Development Services section.

Chapter 3 examines the SEPA process and explains why SEPA is the main legal basis, requiring WSDOT review of and comment on land-use proposals. It also briefly describes what constitutes a probable significant adverse environmental impact from a general viewpoint; and that there must be a nexus between the development impacts and the required mitigation which must be reasonable and proportionate to those impacts.

Part 1 of this chapter, titled "Thresholds for Determining Probable Significant Adverse Impacts," discusses in detail how to determine what constitutes a probable significant adverse impact to the State Transportation System. Minimum vehicular volume thresholds are discussed, as well as minimum Level of Service (LOS) thresholds. In addition, other factors are discussed such as traffic impacts to a High Accident Location (HAL) and/or a High Accident Corridor (HAC).

Part 2 of this chapter, titled "Determining the Mitigation for a Probable Significant Adverse Impact," discusses in detail how to determine what type of mitigation is warranted, if any, and whether it should be a traffic mitigation payment to a WSDOT project; construction of a developer-funded highway improvement; or a property donation/dedication for right of way, etc.

Part 3 of this chapter, titled "Traffic Impact Analysis," is a detailed discussion of what a typical Traffic Impact Analysis (TIA) must include.

PART 1 Thresholds for Determining Probable Significant Adverse Impacts[2]

4.1.01 Determining Probable Significant Adverse Impacts Is Not Easy

Determining probable significant adverse impacts to the state highway system can be difficult, both analytically and sometimes politically. Determining what constitutes a probable significant adverse impact can be as simple as consulting the WSDOT Design Manual for left- or right-turn channelization warrants, or as complicated as system modeling and signal synchronizing analyses. Other factors to be considered may include: number of lanes, topography, functional class, access control criteria, traffic signal spacing, and accident history.

It can be difficult for the WSDOT to achieve consensus with the developer and the local agency in the determination of a fair and reasonable mitigation plan.

For instance, a large development next to a major freeway may have little or no impacts to the state highway system while that same development next to a two-lane state highway is likely to have significant adverse traffic impacts. It may be difficult to convince some local agencies that traffic improvements are needed when they are making a concerted effort to bring in new development. A local agency may see a WSDOT request for mitigation as a deal-breaker that will prevent the developer from locating within its taxing jurisdiction. This can make it difficult for the WSDOT to obtain the needed highway improvement.

1 It is important to remember WSDOT is authorized to directly require mitigation when it is the agency issuing a permit, such as Access Permits (see Chapter 6); however, when a local agency is the permitting authority, it, and not WSDOT, has the sole authority to require developer mitigation. Also refer to Chapter 5, Part 3, Interlocal Agreements.

2 Interlocal agreements between WSDOT and Local Agencies may supercede some Threshold criteria. See

4.1.02 Documentation is Critical

As discussed in the SEPA section of Chapter 3, a probable significant adverse impact can be a subjective determination. The WSDOT may not agree with the methodologies and assumptions used in a developer's Traffic Impact Analysis (TIA). This can be a source of conflict, especially if the TIA, prepared by a Professional Engineer, concludes that a development will not result in significant adverse impacts. Therefore, it is important to have well-reasoned and documented support for decisions that are made. This is especially important when the WSDOT determines that a probable significant adverse impact will occur while the developer's TIA says otherwise.

If both sides disagree, then the ultimate determination is made by the SEPA lead agency after a hearing. A well-documented presentation of WSDOT's engineering decisions is critical to influencing the decision of the hearings examiner or other decision maker. Merely presenting good ideas is not good enough. Engineering decisions and recommendations must be based on department policy, which must be supported by well-documented, consistent practices, such as use of the WSDOT Design Manual, Highway Capacity Manual, adopted WSDOT deficiency thresholds and other professionally credible sources.

When WSDOT requests mitigation for a development's impacts, it is important to adequately tie the requested mitigation to the proposal's impacts. WSDOT must show that the development's impacts are directly related to the requested mitigation measures. In addition, the WSDOT must show the requested mitigation is roughly proportional to the development's impacts.

4.1.03 Determining a Probable Significant Adverse Impact

"Significant Adverse Impact," as used in SEPA, means "a reasonable likelihood of more than a moderate adverse impact on environmental quality."[3] This applies to the development's physical setting, and both the magnitude and duration of the impact. What is considered significant will vary from one site to another because of local sensitivities to certain conditions surrounding a site; "significant" also will vary from one jurisdiction to another because of the subjective judgment of the "responsible official" for the SEPA lead agency.

Determining what constitutes "a reasonable likelihood of more than a moderate adverse impact," i.e., a probable significant adverse impact is easier if predetermined thresholds or other published standards are used. Almost all traffic impact mitigations that are required as a result of WSDOT requests are based on published deficiency and/or impact thresholds/standards.

4.1.04 Thresholds For Defining A Probable Significant Adverse Impact

One of the most effective and defensible ways for the WSDOT to determine a probable significant adverse impact is the application of established deficiency or impact thresholds. The thresholds relate to measurable characteristics of transportation facilities, such as traffic volumes. The following categories of WSDOT deficiency/impact thresholds may be used when reviewing land-use proposals:

- Vehicular Trip Thresholds
- Level of Service (LOS) Thresholds
- Channelization Thresholds
- Safety HAL and HAC Thresholds

---

[3] WAC 197-11-794 (1)

4.1.05 Vehicular Trip Thresholds

WSDOT will typically request that mitigation take the form of either construction of a highway improvement (which often includes the donation/dedication of property for right of way purposes) or contribution of a traffic mitigation payment to a programmed (funded or nearly funded) WSDOT project. On some occasions WSDOT may request both.

WSDOT will consider any development that meets or exceeds either or both of the following vehicular trip criteria to have a probable significant adverse impact to the state highway system.

- Fee-based mitigation: Addition of ten (10)[4] or more AM or PM peak-hour vehicle trips to any state highway intersection or segment of state highway for the purpose of determining whether a traffic mitigation payment (pro-rata share) to a planned and/or programmed WSDOT project should be requested.
- Non fee-based mitigation: Addition of twenty five (25)[4] or more AM or PM peak-hour vehicle trips to any state highway intersection or access connection for the purpose of determining whether a developer funded, designed, and constructed highway improvement should be requested.

4.1.06 Level of Service (LOS) Thresholds

The most common standard for determining traffic impacts on highways is the nationally recognized "Level of Service" (LOS) criterion as defined by the Highway Capacity Manual published by the Transportation Research Board. It is essentially a grading system ranging from A (best) to F (worst) that qualitatively signifies the relative congestion on a highway segment given traffic volume, vehicle mix, roadway geometry, and intersection characteristics. When a development would degrade a highway's LOS below the applicable threshold, the highway segment or intersection would be considered deficient to support the development, and WSDOT and its partners would seek mitigation of the traffic impacts.

The WSDOT will consider any development that exceeds (i.e. degrades) the following Level of Service (LOS) levels as having a probable significant adverse impact to the state highway system. These thresholds are established in the WSDOT *Highway System Plan*.

For Highways of Statewide Significance (HSS):

- Urban Areas: LOS "D"
- Rural Areas: LOS "C"

For Regionally Significant State Highways (non-HSS):

- The LOS thresholds adopted by the local MPO/RTPO shall apply. See Appendix 29. In the absence of an adopted LOS threshold, the LOS for HSS shall apply. Where there is a specific Interlocal Agreement with WSDOT, the applicable LOS threshold levels as established by the agreement shall apply.

Determination of whether a state highway segment is in an urban or rural area may be made by use of the WSDOT State Highway Log listing of functional class—rural or urban—for a given section of highway.

---

4 In some instances, a region may choose to usa a different threshold. If the threshold is changed, the region must document its justification; i.e. through Interlocal Agreements with local agencies. The threshold may be a region-wide policy or may be applied only to specific routes or geographic areas.

When a development affects a highway segment or intersection where the LOS is already below the applicable threshold, then the pre-development LOS is the condition that must be preserved. The time delay associated with the pre-development LOS is used rather than the otherwise applicable deficiency level. For example: If the pre-development and post-development LOS at an intersection is F, with the time delay of 80 and 95 seconds respectively, then the appropriate mitigation is to make the necessary highway improvements to bring the time delay back to 80 seconds or less.

The LOS thresholds apply to intersections. The bases for evaluating LOS are the methodologies defined in the most recent version of the Highway Capacity Manual.

4.1.07 WSDOT Channelization Thresholds

Addition of twenty five (25) or more AM or PM Peak-hour vehicular trips to an intersection or access connection that meets or exceeds the WSDOT Design Manual criteria for channelization will be considered a probable significant adverse impact.

WSDOT Design Manual Chapter 910.07 discusses channelization criteria for left-turn lanes, right-turn lanes and pockets and two-way left-turn lanes (TWLTL). Development Services staff should consider mitigation in the form of a developer constructed intersection improvement.

4.1.08 Safety Thresholds

High Accident Locations and High Accident Corridors (HAL & HAC)

Addition of ten (10) or more AM or PM peak-hour vehicular trips to a High Accident Location (HAL) or High Accident Corridor (HAC) will be considered a probable significant adverse impact.

The WSDOT primarily uses two accident analysis methodologies to identify safety deficiencies on state highways. These are the High Accident Location (HAL) and the High Accident Corridor (HAC) programs. The regions use the HAL and HAC lists to prioritize safety improvement projects in developing their construction programs. The WSDOT Headquarters Traffic Data Office produces HAL and HAC logbooks biannually.

When a development proposal impacts a HAL or a HAC, WSDOT may require reasonable mitigation even if the LOS thresholds are not exceeded or the WSDOT Design Manual channelization warrants are not met. Mitigation may take the form of developer-constructed improvements or traffic mitigation payment to a state project if one is programmed for the HAL/HAC location. Regional Development Services staff should coordinate with Regional Traffic and Program Management staff to create a list of HAL and HAC projects from the biennial logbooks with reasonable solutions and cost estimates for improvements that would mitigate the deficiencies. This project list could provide the basis for mitigation assessments for development impacts.

Other Safety Thresholds

In addition to the minimum safety thresholds mentioned above, the WSDOT may consider other safety threshold requirements. Safety must always be considered when assessing traffic impacts. Sight distance is a critical criterion. Turning movements are also a prime safety concern. While a TIA may conclude that the traffic impacts to a state highway will not exceed LOS thresholds or meet WSDOT Design Manual channelization warrants, the WSDOT Region Traffic Engineer may still request reasonable intersection improvements based on safety deficiencies.

If the Region Traffic Engineer does request a mitigation improvement that does not otherwise meet the thresholds listed in this Chapter, then the Region Traffic Engineer must document the engineering basis and analyses for the improvement in an engineering study or other report that clearly justifies the reasons for requesting the mitigation improvement.

PART 2 Determining the Mitigation for a Probable Significant Adverse Impact

4.2.01 Obtaining Mitigation from a Developer

Mitigation for traffic impacts is usually provided through one of two methods:

- Traffic Mitigation Payment to a Planned and/or programmed WSDOT project, and/or
- Developer Constructed Highway Improvement (Developer Agreement)

Mitigation also may take the form of a dedication/donation of property to the WSDOT for right of way; provision of an easement such as a slope or drainage easement; or developer mitigation credits.

4.2.02 Traffic Mitigation Payment

A traffic mitigation payment is a monetary contribution by a developer to a planned and/or programmed WSDOT project.

Often a development's traffic impacts will affect a section of the state highway that is already programmed for improvement by WSDOT. In such cases, the WSDOT may choose to have the developer mitigate its traffic impact by contributing monetarily towards the cost of the WSDOT project on a proportionate share basis. Such payments also are known as "pro-rata" or "fair-share" payments.

4.2.03 Which WSDOT Projects are Candidates for a Traffic Mitigation Payment?

SEPA allows for the collection of a traffic mitigation payment if the payment will go toward a project that will mitigate the probable significant adverse impacts of the land use proposal. The project candidate must be:

(a) A mobility project that is included in the CIPP, such as two-lane to four-lane highway widening projects, or,

(b) A safety project, or,

(c) A signalization project that is listed in the Signal Priority Array.

Preservation projects, such as asphalt overlay projects, do not normally qualify since the project does not add capacity to the highway or an intersection; thus, they do not mitigate the traffic impacts of a land use proposal.

The WSDOT typically will not seek a traffic mitigation payment contribution toward Mega projects or other major regional projects such as the second Tacoma Narrows Bridge, I-405 widening, or the addition of freeway HOV lanes. WSDOT will consider developer-funded modifications to these types of highway projects if a land use proposal warrants changes to the projects. For example, a land use proposal may warrant additional intersection improvements, such as more turn lanes and/or a traffic signal; more lanes on a freeway on- or off-ramp; or other highway improvements beyond what is funded in the WSDOT project.

Some large land use proposals, such as a regional shopping mall or huge housing development, will warrant stand-alone improvements, such as a new freeway interchange. Such improvements are typically funded entirely by the developer.

It is recommended that each region prepare a list of those WSDOT projects that qualify for receiving traffic mitigation payments. It also is recommended that the per-vehicle traffic mitigation payment be determined in advance for each project. This is similar to what is done for interlocal agreements[5]. Predetermination of traffic mitigation payments streamlines the development review process for WSDOT and local agency staff and helps developers determine the total costs of development.

4.2.04 Which WSDOT Project Costs Should Be Used?

Usually, the WSDOT project cost will include design, right-of-way, and construction costs. Unless required otherwise by a local agency or in a SEPA hearing, only the State funded portion of the project cost is eligible for assessment of a traffic mitigation payment. Federal and local funds are exempt in calculating project costs. The local agency may also be collecting its own traffic mitigation payment. These funds may be applied to the local agency's contribution to the WSDOT project. Therefore the local agency contribution to the project costs also must be exempt in calculating project costs.

Note: SEPA specifically precludes the duplication of impact fees; therefore, it is important to make sure that the WSDOT's and local agency's impact assessments do not overlap.

4.2.05 How are Traffic Mitigation Payments Collected by the WSDOT?

Traffic mitigation payments are usually collected by one of two means. They are:

- Mitigation Agreement, or
- Local Mitigation Agreement (LM Agreement).

Mitigation Agreement: A Mitigation Agreement is a two party agreement between a developer and the WSDOT in which the developer agrees to contribute a predetermined monetary amount directly to the WSDOT. The amount to be collected is usually determined during the SEPA review stage of the project.

Local Mitigation (LM) Agreement: A Local Mitigation Agreement (LM Agreement) is a two party agreement between a Local Agency and the WSDOT. It is used to transfer developer funds collected by the local agency for traffic impacts to the WSDOT. The LM Agreement may have numerous developers listed on it, provided that all funds collected and transferred are going exclusively to the WSDOT project(s) specified in the agreement.

4.2.06 Time Limits on Collection of Traffic Mitigation Payments

In most cases WSDOT will stop requesting SEPA-conditioned traffic mitigation payments upon the Award of the WSDOT project for which the payment was requested.

However, on some bigger projects where construction will occur over an extended length of time, it may be appropriate to request mitigation payments throughout the project's construction phase up to the "Substantial Completion Date." In those cases it is desirable to request the mitigation payment on a sliding or proportionate scale. This method assesses traffic mitigation costs against 100 percent of the project costs at the award date of the project, diminishing to zero at the anticipated completion date of the project

5 Refer to Chapter 5, Part 3, and Appendix 11.

(Substantial Completion Date). Some local agencies will only agree to a sliding scale if the original assessment proportionality will not change even if construction delays occur, and the project lasts longer than anticipated.

4.2.07 When Should a Traffic Mitigation Payment be Collected?

Normally, during SEPA review, WSDOT will request that the traffic mitigation payment is collected at Final Plat approval or at issuance of the building permit. In some cases, payment of the traffic mitigation funds may be a condition of issuance of the occupancy permit, but it is more desirable to tie the payment to the building permit.

4.2.08 Consistency is Important

Statewide experience with local agencies shows that there is no standard formula for assessing and collecting traffic mitigation payments. Formulas may be based on peak hour traffic or Average Daily Traffic (ADT's). They may be based on existing traffic volumes or projected traffic at a future design year. Formulas also may be based on the criteria and thresholds of an area's metropolitan transportation plan.

Therefore, it is important that the WSDOT is uniform and consistent statewide on how it determines a traffic mitigation payment. Unless there is an interlocal agreement that specifies another methodology or formula for determining the mitigation payment, then the following assessment methods should be used to determine a traffic mitigation payment.

4.2.09 How to Calculate an Intersection Traffic Mitigation Payment

Once a decision has been made to collect Traffic Mitigation Payments for a particular WSDOT intersection project, the next step is to determine what that payment should be. As mentioned in previous sections, determining a reasonable and proportionate amount is critical to the success of the request.

Shown below is a methodology that is rather simple and easy to explain to developers. The basic formula is the intersection's improvement project cost times the percent of new traffic the development will be adding to the intersection. For example, if a development will be adding 5% more traffic to an intersection, then that development should contribute 5% towards the cost of the intersection improvement.

The basic intersection formula to be used is as follows:

TMP = (A / B) x C where:

TMP = Traffic Mitigation Payment

A = Total proposal generated PM peak-hour trips entering the intersection (truck traffic should be converted to passenger car equivalents per the Highway Capacity Manual)

B = Acceptable intersection LOS volume at the deficiency threshold as calculated in the Highway Capacity Manual (see Section 4.1.06 LOS Threshold)[6]

C = WSDOT project cost (including design, right-of-way, and construction)

6 If the intersection is already failing or below the acceptable LOS threshold as specified in Section 4.1.06, the pre-development LOS shall be used.

Establishing the acceptable intersection LOS volume - Denominator B in the equation above - can be a complicated analysis. Intersection LOS is based on time delay: total delay for unsignalized intersections and delay for a single movement on signalized intersections. Therefore trip distribution is a critical factor on both types of intersections and signal phasing is critical on signalized intersections. Projection of background traffic in the horizon year is also a critical factor. This issue can be simplified by using the TIA's projection of total volumes entering the intersection in the horizon year for the Denominator B, rather than an idealized estimate of volumes at the threshold level of service, which could be a very subjective exercise. If the TIA is reasonable, this simplified estimate of traffic volumes is usually acceptable to both WSDOT and the developer.

The drawback to using a TIA's horizon year volume for a given development is that these volumes vary as other developments impact an intersection with their respective traffic projections and horizon years. Background and pipeline volumes change as well. However, a TIA's estimate of horizon year volumes is often the best estimate available and is usually acceptable for the purpose of determining a reasonable intersection traffic mitigation payment.

4.2.10 How to Calculate a Highway Corridor Traffic Mitigation Payment

Highway corridor traffic mitigation payments can be much more difficult to determine. The methodology to be used is similar to the intersection formula described in the previous section, but due to the variables involved, greater care must be used or the traffic mitigation payment may end up unrealistically high. This is because corridor projects are usually significantly more expensive than intersection projects. The terrain encountered, whether the project is in an urban or rural area, the amount of right-of-way needed, stormwater requirements, and the length of the project are just a few of the factors that can significantly increase the cost of the WSDOT project and subsequently the traffic mitigation payment request

As mentioned in previous sections, if the resulting mitigation payment is not reasonable and proportionate to the proposed land use project, then there is a significantly greater chance the request will be not supported by the SEPA lead agency or reduced or even denied by the Hearing Examiner. Therefore, on some bigger corridor projects it might be desirable to only use the estimated construction costs rather then including design, right-of-way, and construction cost.

The corridor formula derived below is also based on a few considerations. One of those considerations is that it be simple and easy to understand. If the developer, or even the local lead agency or the Hearing Examiner for that matter, can't understand the reasons for the mitigation request, then the likelihood of it being approved are drastically reduced.

Another is that the goal here is to collect an equitable contribution from a particular development that is fair to both WSDOT and the developer. As a result, the methodology below is not exact in that more precise numbers could be used that would undoubtedly increase the size of the traffic mitigation payment being requested. However, experience has shown that the more precise and exact the formula becomes, it increases the likelihood that the developer, the lead agency, and/or the Hearing Examiner will question the methodology.

As a result, the methodology below only uses through trips on the mainline state highway and does not count side street traffic that only crosses the state highway. It also uses the Highway Capacity Manual ideal conditions when determining the mainline Denominator B service flow rate. While most WSDOT projects would not obtain the ideal conditions service flow rate due to topography or traffic signals or access connections, the ideal

service flow rate allows for a better statewide consistency as well as simplicity. It also allows for an easier defense of the WSDOT request if the methodology can be shown to slightly favor the developer. Using numbers that slightly favor the development can go a long way toward the WSDOT ultimately obtaining the traffic mitigation payment request.

Each Region is responsible to determine which highway corridor projects they will request traffic mitigation payments for as well as how the baseline cost per trip is established.

The basic corridor formula to be used is as follows:

TMP = (A / B) x C where:

A = total proposal generated new PM peak hour trips both directions on a highway segment (truck traffic should be converted to passenger car equivalents per the Highway Capacity Manual).

B = applicable maximum service flow rate for all through lanes both directions for ideal conditions per the Highway Capacity Manual at the highways LOS deficiency threshold (see Section 4.1.06 LOS Threshold and Highway Capacity Manual Chapter 7, Table 7-1).

C = WSDOT project cost (usually including design, right-of-way, and construction).

When using this formula on a WSDOT highway project, it is usually desirable to break the cost down into highway segments. Since the traffic mitigation payment is based on the through movements only, major intersections that have significant turning volumes will make a good segment break. In addition, as mentioned in a previous section, the highway corridor traffic mitigation payment will be based on any segment that has 10 or more PM peak hour new trips in both directions. In addition, for any segment that has 10 or more trips, all trips are counted toward the mitigation calculation.

Listed below is an example of a highway corridor traffic mitigation payment determination:

The WSDOT has a 2.5-mile long corridor mobility project that will widen an existing two-lane highway to four through lanes with a two way left turn lane. The project is designed to have a 50-MPH speed limit when completed and is in an urban area with an estimated cost of:

Design = $1,000,000

Right-of-way = $5,000,000

Construction = $14,000,000

Total = $20,000,000

There are three major intersections along the route. The first major intersection is at the beginning of the project, the next major intersection is ¾ mile into the project, and the third major intersection is two miles into the project.

Based on the above information the project can be divided into three segments based on the three major intersections. Therefore the first segment to be used for determining a traffic mitigation payment is ¾ mile long, the second segment is 1¼ miles long, and third segment is ½ mile long. From the Traffic Impact Analysis prepared for the project, the proposal will add 25 new both direction through trips to the first segment, 30 to the second, and 40 new trips to the last segment.

From the Highway Capacity Manual for a 50 MPH highway the service flow rate per the Highway Capacity Manual Table 7-1 is 1670 vehicles per hour per lane. Since the project will result in four through lanes, the applicable "B" becomes 4 x 1670 or 6680 VPH. It should be noted as mentioned above that this figure could be reduced to include factors such as topography, land widths, signal spacing, etc, but for the sake of making this an easier request to defend in a Hearing the maximum service flow rate for ideal non-interrupted conditions is used.

Therefore, based on the above information the maximum cost per trip for the whole corridor project can be determine to be:

TMP = (A / B) x C where:

TMP = (1 trip / 4 x 1670 = 6680) x $20,000,000 = $2994 rounded to $3,000 per trip over the whole corridor.

Based on the above the maximum cost per trip over the whole corridor is $3,000. Actual costs per trip will ultimately be less since not all new trips travel the whole corridor. However, the main point to made here is that this is a reasonable request in most jurisdictions. Should the Region or the lead SEPA agency feel $3,000 is not a reasonable request, then maybe just the construction costs could be used to reduce cost per trip to a more acceptable figure on that particular region.

However, should $3,000 per trip be acceptable, then the ultimate traffic mitigation for this particular developer proposal would be:

TMP = (A / B) x C where:

Segment 1 - TMP = (A / B) x C = (25 / 6680) x (0.75 / 2.5 x $20,000,000) = $898 per trip rounded to $900 or 25 x $900 = $22,500

Segment 2 - TMP = (A / B) x C = (30 / 6680) x (1.25 / 2.5 x $20,000,000) = $1497 per trip rounded to $1500 or 30 x $1500 = $45,000

Segment 3 - TMP = (A / B) x C = (40 / 6680) x (0.50 / 2.5 x $20,000,000) = $598 per trip rounded to $600 or 40 x $600 = $24,000

Therefore the total traffic mitigation that will be requested from this particular development is $22,500 + $45,000 + $24,000 = $91,500 which when broken down by the maximum number of trips on any segment is $91,500 / 40 trips = $2,287 per trip.

5.0.00 Overview

When the developer review process concludes that a development has significant adverse impacts then mitigation is warranted. The Traffic Impact Analysis usually recommends conceptual improvements that will mitigate the impacts. A Local Agency will typically require that the developer satisfy WSDOT with regard to the details of that mitigation. Such details are usually resolved in an agreement between the developer and WSDOT that permits construction of highway improvements (or traffic mitigation payment to a WSDOT project).

The previous chapter discussed how to analyze a proposal and determine the necessary mitigation measures. Chapter 5 covers various forms of Agreements that permit a developer to construct improvements within the state right of way or make the required traffic mitigation payment. Part 1 covers how to coordinate review and approve the plans that become parts (exhibits) of the agreements. Parts 2-4 discuss the various forms of agreements with developers and local agencies.

PART 1 Coordinating Plan Review

5.1.01 General

When a mitigation determination results in a requirement for highway improvements the agreement process begins. A developer is typically directed by the local agency to coordinate the construction details with the WSDOT.

5.1.02 Time To Process An Agreement

The agreement process requires a technical review and approval of all plans that become part of the agreement. The length of time required to complete an agreement varies depending on the complexity of the project and the number of revisions required for the plans and specifications. In most cases the agreement preparation process requires several months to complete, with most agreements taking four months or longer.

The overall time to complete this process is primarily based on the quality and quantity of plans submitted by the developer. The closer the plans are to WSDOT standards, the more efficiently the review will proceed. Incomplete or poor quality plans and specifications require multiple reviews and take more time.

5.1.03 Reimbursable Account

Why do we need it?

The developer is responsible to compensate the State for its actual (direct and related indirect) costs to review plans and prepare an agreement. Administration of compensation for these review charges is through a reimbursable (JX) account. When a reimbursable account is set up for a proposed development, State forces can charge time and other expenses against it. The developer is billed on a monthly basis for the outstanding balance in the account.

When do we need it?

A quick review of the developer (or a local agency or a federal agency), proposal and SEPA checklist will usually indicate the likelihood of impacts to WSDOT facilities. The reimbursable account is usually established prior to plan review and often prior to TIA review. Reimbursable costs include: TIA reviews, channelization plan reviews, construction plan reviews, agreement preparation and construction inspection, and administrative overhead. These costs vary depending on the complexity of the project, the number of required revisions to plans and the amount of time required for construction inspection. An amount in the range of $2,000 to $50,000, depending upon the estimated level of WSDOT involvement, is usually sufficient to cover reimbursable costs.

WSDOT normally does not charge for review time when:

- There are no review comments from the region office.
- The review only deals with a simple Access Connection Permit application to a farm, single-family residence, or a short plat.
- The review only deals with a simple SEPA checklist, such as a Notice of Application or simple SEPA DNS.
- If the applicant is a local agency or a federal agency, i.e., cities, counties, tribes, FHWA, and NO work is being proposed within the state highway right of way.
- The amount of money chargeable is not worth the cost of collection. An example of this is a project that requires a single one-hour review of a TIA.

Each region should develop an objective set of guidelines that define when a developer must open a reimbursable account. For example, a region may require reimbursable accounts only from developments that are directly adjacent to a state route and generate 10 or more peak-hour trips.

How do we set it up?

Establishment of a reimbursable account requires developer authorization. This is usually done by an authorization letter, which is sent to the developer for signature. A Federal Tax Identification Number (FTIN) or Social Security Number is required to open an account. WSDOT will assign a reimbursable account (JX) number to the project, and return a copy of the executed letter to the developer. The J(x) account number is obtained from the region's financial services office. Examples of a reimbursable account form can be found in Appendix 7.

Project review costs will be billed monthly to the developer. Failure to pay in full each month may result in stopping the review and approval process for the project. To ensure timely payment to WSDOT, a Surety Bond or Assignment of Escrow account may be required depending on the size and scope of the project.

5.1.04 Plans Review Process

Once mitigation has been determined, the development services staff will contact the developer/consultant to request submittal of required plans and specifications for WSDOT review and approval. The staff must determine which support offices are appropriate and route the plans to them for review and approval.

The development services engineer acts as the project engineer in the review and approval of development plans by coordinating, screening and consolidating the review comments. Very few first draft developer plan sets can be approved. When the initial reviews are complete, the development services engineer compiles comments and returns the plans to the developer and/or consultant for revisions.

When all of the review comments have been addressed and plan revisions made, the development services staff will obtain the necessary approvals/signatures for the plans.

PART 2 Developer Agreements

5.2.01 General

There are several forms of agreements that can be used to permit work within state right of way. The most common form for any significant highway improvement is the Developer Agreement.

The Developer Agreement is a contract between WSDOT, the developer and sometimes a local agency, stating each party's rights and responsibilities, and describing the proposed work. It typically includes a standard agreement form, right of way plan sheet(s), and a complete set of specifications and engineering plans. Any alteration to the standard wording on the pre-printed developer agreement form must be approved by the Attorney General's office prior to execution of the agreement.

This section provides general guidance for processing developer agreements, but each region may have its own specific requirements.

5.2.02 Types of Developer Agreements

There are three standard types of Developer Agreements that may be used by developers. These agreements are:

- "**Developer Agreement: Construction by Developer at Developer Expense**" This is the most common type of agreement. It is a two party agreement between the developer and WSDOT.
- "**Developer/Local Agency Agreement: Construction by Developer at Developer Expense**" This agreement is a three-party agreement which involves the developer, a local agency and WSDOT. This type of agreement is required if part of the improvement to be constructed is also located on local agency right-of-way in addition to state-owned right of way.
- **"Developer Agreement: Construction by WSDOT at the Developer's Expense" (as part of an existing WSDOT project)** Under this form, the developer agrees to pay WSDOT to build the highway improvements for the developer, by adding the developer's work to a state contract.

5.2.03 Developer Agreement Process

Overview

The Developer Agreement Process consists of three main stages**:**

- Plans review and approval
- Assembly and execution of the agreement package
- Construction administration

See Appendix 6 for a flowchart of the Development Agreement Process.

5.2.04 Developer Agreement Plans Review

A typical Developer Agreement includes a set of engineering plans and specifications prepared by the developer; i.e., intersection/channelization plans, signal/illumination plans, etc. WSDOT reviews the plans and specifications, and upon approval, assembles the Developer Agreement.

Design Standards

All developer projects must be designed to WSDOT standards. The primary design references for developing plans and specifications (special provisions) are: the Design Manual, WSDOT Standard Specifications, and the Standard Plans.

The WSDOT Design Manual provides guidance for three levels of design for highway projects: basic, modified, and full design. The design matrices within Chapter 325 of the Design Manual are used to identify the design level(s) for a project, the associated design standards, and the processes and approval authority for granting design deviations. The design matrices are intended for use on state projects, but they may be applied to developer projects as well. Contact the region design office to determine the appropriate design criteria for a given project.

Other design resources that may be needed include:

- Construction Manual
- Highway Runoff Manual
- Hydraulics Manual
- LAG Manual (Local Agency Guidelines)
- Manual on Uniform Traffic Control Devices (MUTCD)
- Washington State Modifications to MUTCD
- Plans Preparation Manual
- Sign Fabrication Manual
- Traffic Manual
- Utilities Manual
- Work Zone Traffic Control Guidelines

These references are contained in the Engineering Publications CD Library or they may be downloaded from the WSDOT Engineering Publications homepage: www.wsdot.wa.gov/fasc/EngineeringPublications/library.htm#M.

The list above includes most sources of design and construction standards for WSDOT facilities but it is the developer's responsibility to use whatever resources are necessary to properly design the proposed highway improvement.

5.2.05 Intersection/Channelization Plans

Most projects that require a developer agreement involve intersections. When the mitigation calls for intersection improvements, a new or revised intersection plan (channelization or "chan" plan) is required. Design and drafting of the intersection plan is an important first step in the developer agreement process. The intersection plan is the basis for all of the construction drawings and essentially defines the scope of the project.

The Department's initial review of the Intersection Plan for Approval will take about three weeks before comments are returned. Subsequent reviews of this plan will require up to two additional weeks each time the plan is resubmitted.

The intersection plan includes all the geometric dimensions of the roadway such as lane widths, shoulder widths, taper lengths, corner radii, etc. Design Manual Chapter 910 provides the design criteria for intersections. The intersection plan should also show all existing access connections, both public and private, on both sides of the state highway, and the plan must label what property use each access connection serves. The plan should also include the required design data pertinent to the improvements being proposed. Intersection plans checklist and example plans are provided in Appendix 8.

Any Channelization outside of the state highway right-of-way will require confirmation that the design meets the local agency's design standards. Bus stop pullouts may be required as well.

WSDOT approves the intersection plan by signature and retains the original as the permanent design document on file. A copy of the approved plan is returned to the developer.

5.2.06 Construction Plans

The construction plans for a developer agreement are similar to those that are required for a WSDOT state contract for highway improvements. As such, the same design criteria and materials certifications are required. Developer projects are often not as complex as WSDOT projects, however. The WSDOT development services staff must use judgment in matching the level of plan complexity and review to the level of detail warranted by a developer project. Whereas WSDOT plans preparation conventions may require separate plan sheets for each feature, a developer's consultant may combine several "plans" on a single sheet. Clarity of construction details and specifications is more important in a developer agreement than strict adherence to plans that include preparation conventions.

The plan descriptions below are brief descriptions of plan types that may be required by a developer project. Not all of the plan types will be required for every developer agreement. Neither is the list below a comprehensive list of plan types that may be needed. Again, it is important that the WSDOT development services staff exercise discretion in determining what the appropriate plan requirements are to ensure compliance with WSDOT specifications without placing an undue burden on developers. It is highly recommended that the Plan Review Checklist in Appendix 26 be used to assure appropriate plans are included in developer agreements. For more detailed discussion of plan requirements consult the references listed in the Design Standard section, under 5.2.04. An example set of developer agreement construction plans are included as part of the exhibits within the example Developer Agreement, Appendix 5.

1. **Site Plan**

   A site plan is often included to show the topographic layout of a project and such features as the earthwork "footprint," structures on site, landscaping, or any other important features that do not normally fall into the plan categories below.

2. **Roadway Section**

   When roadway widening is required, a roadway section must be included in the set of plans. A roadway section is a cross section, showing the depths and types of materials to be used and their relative locations in the roadway prism. The roadway section also provides slope criteria and the typical ditch depth. More

than one roadway section may be required if the project is complex. Typically new construction must match existing pavement depths. The existing pavement section and recommended surfacing depths are obtained from the Region Materials Engineer. Shoulders must have the same surfacing depths as the adjacent driving lane. When widening is required, saw cutting or planning is usually required to leave a smooth, clean construction joint.

The Region Materials Engineer must approve roadway sections. See Appendix 9 for an example of a roadway section.

3. **Signal Plan**

Signal plans are required whenever there is a new signal installation or a modification to an existing signal system. Developer Agreements that include signal work may be complex because of the technical details that are required. Signal design is so closely related to the intersection layout that the plans are often developed concurrently.

Signal systems on non-limited access state highways within an incorporated city with the population of 22,500 and over, are owned operated and maintained by the city. In such cases, the signal permit and plan reviews will be processed by the city.

Before signal design review begins, a WSDOT Signal Permit must be obtained. The developer must fill out a 5-part Signal Permit form (see Appendix 10), which requires a signal warrant analysis and other documents. The developer must complete the permit package and submit it to the Development Services office. It is then forwarded to the Region Traffic Office for analysis. Final approval of a signal permit must come from the Region Administrator. Once a signal permit number has been assigned and the channelization plan is approved, review of the signal design may begin.

A signal plan is a plan view of the intersection which includes, but is not limited to, the location of signal controller and service cabinets, all mast arms, signal heads, detection loops, emergency vehicle detection, phase diagram, signal display detail, wiring schedule, breaker schedule, wiring termination diagram, input file and display panel layout, signal standard detail chart, foundation depths with supporting soils report (see Geotechnical Report), and construction notes as required. Written signal technical specifications are also required.

For a new signal installation, it is the developer's responsibility to coordinate and bear the expense of power and telephone connection and to acquire any service agreements through the WSDOT region utilities office. See "Utility Services Connections" under Section 5.2.06(5). The developer may be required to pay the ongoing utility bills for the signal. If so, this should be clearly stated in the Developer Agreement as an on-going obligation. Usually WSDOT will assume full maintenance responsibility for signals after construction. In such cases, an account should be established in the developer's name on a temporary basis during construction. The account will be transferred to WSDOT after final inspection and approval. WSDOT will only accept metered service. All signal poles, junction boxes, electrical service cabinets, etc., must be located within state highway right-of-way.

4. **Illumination Plan**

Basic illumination is required at signalized intersections and/or channelized intersections. Refer to Design Manual and consult with region Traffic Section for requirements. Illumination for new channelized intersections must be operational before the intersection is open to traffic.

An illumination plan will show the location of light standards, mounting height, size, and type of all luminaries, wiring details, size and type of service, source of power, and foundation information. For a simple project, the illumination plan may be combined with other details on a sheet, but not on the intersection plan. Many projects will require a separate illumination plan sheet.

Illumination systems on a non-limited access state highway within an incorporated city or town, regardless of the population is the responsibility of the city or town involved, including the service agreement. However, at a city's request, WSDOT will review and comment on illumination systems.

It is the developer's responsibility to inform the city or town involved that it will be responsible for the maintenance and payment of electric bills upon completion of the illumination system.

The developer is required to maintain existing illumination during construction of new systems, as per Standard Specification 1-07.23(1). This may require temporary connections and/or systems to keep the facilities operational. WSDOT must inspect any new service prior to hook-up. It is the developer's responsibility to contact the appropriate utility for hook-up before final inspection by WSDOT.

When possible it is recommended (or required depending on local jurisdictional ordinance) that directional or shielded illumination be used to preserve night sky darkness and reduce light pollution.

5. **Utility Service Connections**

All utility service connections are handled through a Region's Utility Section. A service agreement is between the developer and the applicable utility company; WSDOT is not responsible for this agreement. Coordination of utility service connections for facilities that require electrical power or telephone service, such as signal and illumination systems, will be the developer's responsibility. The developer must establish the new service account in his/her name, and pay the initial service connection costs and fees. After final inspection and acceptance by the state, the account will be transferred to either WSDOT or the appropriate city or town. The WSDOT will be responsible for transferring any accounts to itself, while the developer is responsible for transferring any accounts to the applicable city or town.

6. **Utility Plan**

It is the developer's responsibility to determine which utilities are within the project limits and to identify them accurately on a utility plan. General information is available from the owners of the utility facilities and from WSDOT records. However it is the developer's responsibility to call for a "locate" of buried utilities and to survey their locations as well as overhead lines and poles relative to WSDOT facilities. In some cases, it may be necessary to dig test holes ("potholing") to locate buried utilities that cannot be detected electronically or which need the exact depth identified.

A utility plan typically includes the following:

- Highway alignment and right-of-way limits.
- Proposed roadway configuration, as shown on the channelization plan, including final location of all driveways and intersecting roads.
- Locations of all existing utility facilities and appurtenances, such as lines, poles, cabinets, vaults, valves, and hydrants. Refer to the Plans Preparation Manual (M22-31) for standard symbols and conventions.

- Design Clear Zone.
- Distance from the proposed outside edge of the traveled lane (fog line).
- Height of lines for overhead utilities.
- Depth for underground utilities.
- Other applicable information, such as pipe size, voltage, size of telecommunication lines, etc.

It is the developer's responsibility to determine the utility conflicts associated with the project, and to work with the owners of the affected utilities to provide relocation strategies that are acceptable to the WSDOT and consistent with the State Utilities Accommodation Policy.

If relocation of utilities will be necessary on the project, the applicable utility relocation forms must be completed and accompany the utility plan. See Appendix 31 for "Guideline for Determining Responsibility for Developer Required Utility Relocation" as a guide for utility relocations. Copies of the Utility Relocation List - Underground Utilities and the Utility Object Relocation Record - Above Ground Objects and the Utility Relocation List - are provided in Appendix 6 of the Utilities Manual.

It is the Department's policy that underground utilities will not normally be located beneath the driving lane, shoulder, or ditch foreslope except for utility crossings. Exceptions for existing utilities will be considered on a case-by-case basis where roadway widening is proposed. All above-ground utility facilities must comply with the WSDOT Utility Control Zone Guidelines in Appendix 5 of the Utilities Manual.

Most utilities exist within the state's right-of-way by utility permit or franchise. Utility permits are required for utilities that cross WSDOT right-of-way and are longitudinal to the highway for no more than 300 feet. A franchise is required when a utility will longitudinally occupy WSDOT right-of-way for more than 300 feet.

In general, the developer will be responsible for utility relocation costs where the roadway improvements are for the benefit of the developer, such as driveways, deceleration and acceleration tapers, auxiliary lanes and turning lanes associated with access to the development. Where roadway improvements are being made that are for the benefit of the general public, such as additional through lanes, the utilities that are under WSDOT utility permit or franchise may be required to relocate at their own cost. Projects will be evaluated on a case-by-case basis. Please see Appendix 31, "Cost Guidelines for Developer Required Utility Relocation."

The Region Utilities Engineer must approve the proposed utility relocations prior to execution of the Developer Agreement.

7. **Hydraulic Report/Stormwater Site Plan**

A hydraulic report with supporting calculations, plans and details showing proposed improvements is needed anytime storm water runoff enters state right of way from a development site, or modifications are proposed for existing facilities' out falling to state facilities. Also a storm water site plan showing the temporary erosion control (TESC) features proposed during the construction activities will be needed. This portion of the documentation shall be on site during all construction activities for use by a contractor, inspector, and any resource agency staff who may request to see it during the construction stage.

The Hydraulic report shall provide information on the existing drainage and site conditions, local drainage requirements (if any), with citation of design criteria applied to the design, discussion and design backup of the proposed drainage and permanent erosion control work to be accomplished, including delineation of drainage catchment areas, calculations for sizing and placement of all storm water and erosion control facilities, plan sheets showing locations, profiles and any details of specialty items to be installed. A listing of contents of the Hydraulic and Storm Water Site Plan (TESC elements) may be found at:

http://www.wsdot.wa.gov/regions/Northwest/RP&S/Enviromental/HWQ/StormwaterReportTemplate.pdf.

The web site includes a template for a Storm Water Report, which should be used for developer projects. The template provides checklists, references to additional materials, as well as indicating which elements are required for WSDOT projects only.

Information called for above supplement by letter with appended attachments.

Drainage design and selection of TESC best management practices (BMPs) shall be done in accordance with the following manuals or the local jurisdiction's storm water standards including any applicable approved basin or action plan, whichever is more stringent, prior to discharge to the state right of way:

- WSDOT's Hydraulic Manual

  http://www.wsdot.wa.gov/fasc/EngineeringPublications/Manuals/HydraulicsManual.pdf.

- Washington State Department of Ecology's Stormwater Management Manual for Western Washington

  http://www.ecy.wa.gov/programs/wq/stormwater/Manual%20PDFs/searchable_file.pdf.

- Washington State Department of Ecology's Stormwater Management Manual for Eastern Washington

  http://www.ecy.wa.gov/programs/wq/stormwater/eastern_manual/index.html.

- WSDOT Highway Runoff Manual

  http://www.wsdot.wa.gov/fasc/EngineeringPublications/Manuals/Highway.pdf.

A field review of the downstream path must be conducted as called for in the above-manuals and documentation provided identifying the features and conditions for the drainage or stormwater path. An analysis shall be provided which ensures and documents that these downstream facilities have adequate capacity and the proposed improvements will not adversely degraded the existing system. Any potential degradation in water quality or increase in the rate of discharge of storm water from the site will require mitigation in accordance with the Washington State Department of Ecology's requirements, or the local jurisdiction's storm water standards if more stringent, prior to the discharge to state right of way.

The storm water site plan portion of the documentation shall identify the best management practices (BMPs) selected and shall be appended with plan sheets showing their proposed locations. BMPs shall minimize and control erosion and sediment transport from the construction site. Construction runoff shall not exceed allowable levels as defined in WAC 13-201A.

More information on completing and submitting a TESC Plan may be found at the web site: http://www.wsdot.wa.gov/eese/environmental/TESCChecklist.pdf.

Documentation will be reviewed for compliance with state and local requirements and more specifically checked to ensure storm water has been treated for detention and water quality prior to discharge to the state facilities, and degradation of downstream facilities do not occur or have been adequately mitigated for.

8. **Air Quality**

Certain types of developer projects have the potential to create both regional and local air quality problems. Traffic mitigation in the form of additional traffic lanes through-lanes, re-striping to create new traffic lanes, channelization/turn lanes, installation of traffic signals and traffic synchronization are the main areas where air quality is a concern. Please follow the process set out in the WSDOT Environmental Procedures Manual, Air Quality chapter, to fulfill the air quality requirements when impacting state highways or local roads that affect state highways. Note that air quality technical studies and conformity determinations must include the current year, the year of opening, and the horizon year for the appropriate regional long-range transportation plan. The Manual can be found at the following web link: http://www.wsdot.wa.gov/fasc/EngineeringPublications/Manuals/EPM/425.pdf

For additional information on air quality see the WSDOT Air Quality web page at: http://www.wsdot.wa.gov/regions/Northwest/rp&s/environmental/aae/default.htm. Contact the WSDOT Air Quality program manager for any questions or concerns.

9. **Noise**

Developments may create traffic volume increases that require mitigation in the form of (1) additional highway lanes, (2) the horizontal or vertical realignment of a highway, (3) the addition of a new highway, or (4) modification of highway right of way topography to reduce shielding to sensitive locations. If any of the four conditions occur as a result of a developer project a technical noise study needs to be conducted by the developer to determine highway noise impacts on sensitive locations. The study will also need to address noise mitigation that may be reasonable and feasible per WSDOT requirements. The policy and procedures for noise study are found on the WSDOT Acoustics web page at: http://www.wsdot.wa.gov/regions/Northwest/rp&s/environmental/aae/policies.htm. The Environmental Procedures Manual, Noise Chapter can be found at:
http://www.wsdot.wa.gov/fasc/EngineeringPublications/Manuals/EPM/446.pdf

Some additional pitfalls of development adjacent to roadways as a result of developer action do occur even when new traffic lanes or alignments are not made on the adjacent highway. Residential developers obtain approval from the local land use authority to construct homes next to the highway. This occurs even though existing or predicted traffic noise levels have made the land incompatible with residential

development. New residents then complain that the highway is too noisy and demand that WSDOT put up noise walls to protect their new investment. WSDOT is not responsible for developer placement of sensitive receivers near roadways and the developer needs to take responsibility to mitigate noise impacts within the development plan as applicable. One method of reducing noise impacts to residential areas is to place outdoor use areas in places that will be shielded by buildings or topographic features. Contact the WSDOT noise program manager for additional information and best management practices as needed.

10. **Pavement Markings (Striping Plan)**

    A pavement-marking plan shows the type, size and location of the pavement markings. It is required if there are any striping changes and/or additions. Pavement markings are based on the approved intersection plan and may sometimes be included on the intersection plan if they do not unduly complicate it. The type of pavement markings should be designated in the developer agreement using the standard terminology listed in Section 8-22 of the Standard Specifications.

11. **Signing Plan**

    A signing plan is required if signs are added, removed, or relocated as a result of the proposed roadway improvement. Most projects do not require a separate signing plan. The signing details can be added to another plan sheet, provided that the plan sheets are legible and titled accordingly.

    If only a few signs are needed, it is acceptable to call out the sign type, size and mounting requirements with a note adjacent to the sign location on the sheet. If multiple signs are required, this information should be noted in a sign schedule table.

    The size, lettering style and spacing, graphics and materials for signs are specified in the Sign Fabrication Manual.

12. **Right of Way Plan**

    In most cases, the required mitigation such as widening for turn lanes or shoulder improvements can be accommodated within existing right-of-way. However, if insufficient right-of-way exists, the developer must donate the necessary land to WSDOT. The right-of-way must provide a wide enough corridor to include drainage facilities (the back of the ditch), all signal and illumination facilities, utilities under franchise, and any other feature that requires access for highway maintenance. WSDOT will not exercise eminent domain authority (condemn property) to obtain right of way for a private development.

    WSDOT can request right of way donation from a developer to mitigate developer traffic impacts to state highway based upon engineering plans, rather than approved right of way plans. However, the donation must have a nexus to the direct impacts and be proportional to these impacts.

    Right-of-way donations must be completed before the Developer Agreement is executed. A right of way plan shall be submitted showing stations and offsets of the proposed donation area (fee or easement area). The Region's Real Estate Services section will prepare the deed and/or easement that transfers title and/or property rights to the state. Right-of-way revisions must be shown on the Channelization (Intersection) Plan and the Utility Plan pending formal revision of the Right of Way plan.

13. **Traffic Control Plans**

    Traffic Control Plans (TCP's) prepared according to the Manual on Uniform Traffic Control Devices (MUTCD) are required for every project within WSDOT right of way. The Region Traffic Control Engineer must approve them. No construction requiring Traffic Control may begin without approved Traffic Control plans.

    Traffic control plans provide a detailed description of traffic operations during construction of the project. The plans must fully address the safety of construction workers and the traveling public while limiting disruption of normal highway operations. The working hours for the traffic control plan will be determined during the review of the traffic control plan needed. They must cover the entire area affected by the construction project, from the advance warning signs, through the work zone, to the termination area. A separate plan is required for each work area and stage of construction that impacts the highway. The length of the traffic control zone depends on highway speeds, lane configurations, intersections, traffic signals and topographic constraints.

    Other construction plans that may be required:

14. **Spill Prevention Control And Countermeasure (SPCC)**

    A Spill Prevention Control and Countermeasure (SPCC) plan may be required for a Developer Agreement in order to minimize the potential for environmental damage. An example of a previously approved SPCC plan can be obtained from the Development Services homepage at: http://www.wsdot.wa.gov/regions/olympic/planning.

    Because the SPCC plan is usually prepared by the contractor hired to construct the highway improvement, WSDOT will allow approval of the SPCC plan to occur after execution of the Developer Agreement, but prior to a pre-construction meeting.

15. **Fugitive Dust**

    In some cases, a fugitive dust plan is required to minimize dust emissions. The "Guide to Handling Fugitive Dust From Construction Projects" is available from the regional development services office. The guide lists some of the regulations that apply and provides a list of best management practices. However, the developer must still contact its local Air Pollution Control Agency, County Health Department and/or Public Works Department to find out the specific requirements for the area in which the project is located.

16. **Asbestos**

    Developers must abide by asbestos regulations and guidelines when demolishing existing infrastructure. Information on asbestos is available through local clean air agencies, the state Department of Ecology, Labor and Industries, and the Federal Environmental Protection Agency. When demolitions are involved with a project the local jurisdiction is responsible to adhere to applicable regulations. The Association of General Contractors provides a "Guide to Handling Asbestos-Containing Materials" brochure and the WSDOT's "Asbestos Operations and Maintenance Manual, M27-80" (August, 1999) may be helpful. The Department of Ecology website provides contact information for all the applicable Clean Air Agencies or Pollution Control Districts with the state at: http://www.ecy.wa.gov/programs/air/local.html.

17. **Geotechnical Report**

    A Geotechnical report may be required if the project involves any of the following:

    - Bridges with cuts and fills greater than 3 feet deep
    - Retaining walls
    - Signals and light standards
    - Sign bridges and cantilever signs
    - Culverts larger than 3 feet in diameter
    - Soft or otherwise unstable soils

    WSDOT Headquarters Materials Laboratory approval of a Geotechnical report is required for the following:

    - All Bridges
    - Retaining walls higher than 10 feet
    - Rock Walls higher than 5 feet
    - Gabion walls higher than 6 feet
    - Culverts larger than 3 feet in diameter
    - Cuts and fills greater than 10 feet deep
    - Fills, structures and culverts on soft soils

    The Geotechnical report must be prepared by a licensed geotechnical engineer and typically includes a brief geologic history of the area, a description of the subsurface materials, drill logs, a discussion of the bearing capacity of the soils, and foundation recommendations. The Region Materials Engineer must approve the Geotechnical report findings.

    Allow extra time in the review and approval schedule if the project requires Materials Laboratory review. Examples of Geotechnical Reports are available upon request.

18. **Survey monumentation**

    Any survey monument disturbed by a developer project must be restored to its original condition at developer's expense.

5.2.07 Assembly, Execution, Routing and Archiving Of Developer Agreements

Assembly and execution: When the engineering/construction plans and specifications are reviewed and approved, the developer services staff adds them to the Developer Agreement form along with a right of way plan and any other required exhibits, completing the agreement package. The developer must first sign the completed Developer Agreement. If required, the developer obtains the appropriate local agency signature. The developer or local agency must return the signed agreement to the Development Services office for WSDOT signature and final execution. Signature authority for Developer Agreements varies among the different regions. See Appendix 5 for an example of a Developer Agreement.

Routing and archiving: Reference the Developer Agreement distribution checklist and put the checklist in an exhibit. The original executed Developer Agreement should be sent to Headquarter Financial Services for filing. Once the Developer's project is completed and closed, the agreement should be kept within Region for six years. All agreements should be filed in numeric order for easy access and finding. Archiving Developer Agreements and back up information after six years is handled differently by each Region.

5.2.08 Surety Bond, Assignment of Escrow Account or Savings Account/Certificate of Deposit[1]

WSDOT requires a surety bond from the developer to ensure timely and proper construction of the project according to the developer agreement. The developer (usually his/her consultant) must provide an itemized estimate of construction costs. WSDOT staff should review the estimate to ensure that it represents typical costs for similar types of work. The amount of the surety bond is based on this cost estimate, including all utility work and may also include a surcharge to cover cost overruns. Bonding for local agency projects is at the discretion of the Department and in most cases will not be required.

Bonding is usually secured through a standard WSDOT bond form, which names the developer and the surety company. A bond certificate is attached to the form. The developer may choose to provide an "assignment of escrow account" or "assignment of savings account/certificate of deposit" in lieu of the bonding. The surety bond, escrow account, or savings account/certificate of deposit is released after final WSDOT inspection and approval of the construction. In some cases, a release of funds may be only after a specified period of time to ensure performance of the improvement. Make sure that the original bond, escrow account, savings account/certificate of deposit clearly states the time of release, such as 30 days after final acceptance, 12 months after final acceptance, etc.

Collection of the bond, or a portion thereof, may be pursued if the work is not completed to the Department's satisfaction. The Department must give 30 thirty days written notice prior to any action to collect on the bond. The notice must include a detailed list of the incomplete items or outstanding payments, and the name and phone number of the appropriate Department contact.

At the discretion of regional development services staff, the bond may be required prior to the execution of the Developer Agreement or, at the latest, at the time of the pre-construction meeting. In any case, no work should be allowed on WSDOT right-of-way until the bond is secured.

"Surety Bond" form, "Assignment of Escrow Account" and "Assignment of Savings Account"/"Certificate of Deposit" forms as well as an example of a bond release letter can be found in Appendix 24.

5.2.09 Construction Administration

After a Developer Agreement is executed, the construction work must be administered much the same as a state contract would be. In some regions the development services manager oversees the construction phase of the project, including materials certification, field inspection, schedule management, and final documentation. In some regions a WSDOT Project Engineer is assigned review oversight of the construction work as with a state contract.

In any case, the appropriate level of attention must be given to developer projects to ensure that they are constructed to WSDOT standards and specifications common to any work performed on state highways.

---

1 WSDOT shall only accept a bond, assignment of escrow account or assignment of savings account/certicateof deposit from the developer, never the developer's contractor. Otherwise, WSDOT may not have financial recourse against the developer.

1. **Materials Certification**

   All materials incorporated into WSDOT facilities must be certified according to the WSDOT Standard Specifications and the special provisions of the Developer Agreement. Materials certification is obtained through developer (or contractor) submittal of Request for Approval of Materials Source (RAMS.) Testing and approval requirements are given in Chapter 9 of the Construction Manual and in the Standard Specifications. While many materials require testing at the Headquarters Materials Lab, the Qualified Products List can streamline this process. Acceptance of some materials by Manufacturer's Certificate of Compliance is also an acceptable practice, especially for the minor quantities associated with many developer projects. Nevertheless, all materials must be approved by the WSDOT on a RAMS form (Form No. 350-071 EF) and all materials must meet WSDOT specifications.

   Hot Mix Asphalt (HMA)

   Hot Mix Asphalt (HMA) is one material that normally requires a lengthy, expensive approval process for state contracts. Many sources and HMA designs in the Puget Sound area are pre-approved by WSDOT and do not require repetitive approvals. On the east side of the state an abbreviated approval process that is acceptable is to allow the use of a mix design and supplier that has been previously used on a state contract. Acceptance may be by manufacturers' certificate of compliance.

   Signals/Illumination

   Electrical materials require technically demanding testing procedures. The use of the Qualified Products List simplifies the approval process. If the developer's contractor does not use pre-approved poles, signal pole shop drawings must be approved by HQ's Bridge/Structures office.

   For signals under WSDOT jurisdiction (cities under 22,500), signal controllers must be tested at the WSDOT Headquarters or Regional Materials Lab (testing responsibility may vary from Region to Region). This typically takes three to six weeks.

   Approved Source for Aggregates

   Aggregates may be approved by manufacturers' certificate of compliance. They must be produced from a WSDOT approved source. This should be communicated, in writing, to the developer or his/her contractor early in the process.

2. **Pre-construction Conference**

   A well-planned pre-construction conference is an important first step to a successful construction project. This meeting is required before construction can begin. The purpose of the pre-construction conference is to introduce the developer's contractor to the WSDOT representative and to review the details of the project. The developer is required to submit a progress schedule and the SPCC plan, when required, at the pre-construction conference. Other recommended attendees include the prime contractor, subcontractors, the consultant engineer and, if applicable, a representative from the local agency. It is especially important to review scheduling, traffic control, outstanding materials certification issues, coordination issues, and any items that are not explicitly detailed in the Developer Agreement. If the surety bond was not secured prior to execution of the Developer Agreement, it should be required no later than the pre-construction conference.

   Guidelines for a pre-construction conference can be found in Sections 1-2.1C through 1-2.2C of the WSDOT Construction Manual.

Liability Insurance

A contractor must have liability insurance for at lease $1,000,000 to work within WSDOT right of way. A certificate of liability insurance naming WSDOT as an insured party should be provided at the pre-construction conference.

3. **Construction Inspection**

The level of field inspection required for a developer project varies with the project complexity and regional policy. In some regions the development services offices have their own inspectors. Other regions assign inspection of developer projects to a WSDOT Project Engineer. Regardless of the complexity of the project, the project manager must ensure that construction of all work on WSDOT facilities is adequately inspected for compliance with the Standard Specifications and special provisions.

Any proposed changes in the project, after execution of the Developer Agreement, must be reviewed and approved by the WSDOT. Changes may be required by the State if on-site conditions do not prove to be as expected. Minor changes may be resolved in the field with adequate documentation by the WSDOT representative. For any significant design change, WSDOT must notify the developer in writing, stating the specific conditions that must be resolved before the project will be approved. The developer must submit a written proposal, with plans and supporting documentation, showing what changes will be made to meet the Department's requirements. Plan revisions and addenda will require support office review as was required for the original plan set.

Documentation

Inspection of the project must be documented. Use of a "Daily Diary" or the WSDOT Inspector's Daily Report (IDR) form is recommended. IDR's and/or "Daily Diaries" must be kept with a project file with materials certification information, compaction reports, photos, and any other information that is pertinent to construction administration.

Certified Traffic Control Supervisor

For large and complex projects, the developer or his contractor must employ a certified traffic control supervisor as detailed in Section 1-10.2(1)B of the Standard Specifications to manage work zone traffic control.

4. **Final Inspection/Acceptance**

At the conclusion of construction, a final inspection must be completed using the Construction Inspection Checklist. See Appendix 27. Upon satisfactory completion of the project, the WSDOT shall write a letter of final acceptance. If the agreement is a Developer/Local Agency Agreement, then acceptance by the local agency is a prerequisite to final acceptance by WSDOT. Bond, escrow account, or savings account/certificate of deposit release may be made in the final acceptance letter, or it may be held for the longer period of time specified on the bond, escrow account, or savings account/certificate of deposit to ensure performance of the improvements.

PART 3 Interlocal Agreements

5.3.01 General

WSDOT, counties and cities have successfully used Interlocal Agreements to provide an equitable and predictable development review process. Appendix 11 provides an Interlocal Agreement model to be used by WSDOT with a city or county. Although the work involved in negotiating these agreements may be time consuming, they can eliminate many issues encountered between local agencies and the Development Services Staff.

5.3.02 Legal Basis For Interlocal Agreements

GMA (the Growth Management Act) mandates that local governments must plan for orderly growth. SEPA (State Environmental Policy Act) requires state and local agencies to review proposed development plans for significant adverse environmental impacts, including impacts to transportation facilities, and to provide for the mitigation of those impacts.

State highways are considered public facilities and an important part of the transportation infrastructure. Local agencies are responsible for informing the WSDOT regional Development Services office about proposed developments that may impact the state highway system.

WSDOT is responsible for reviewing developer proposals in a timely manner. If established traffic thresholds are exceeded[2], WSDOT shall propose appropriate mitigation measures to the local agency as requested conditions of plan approval.

5.3.03 Benefits

An Interlocal Agreement provides a timely and predictable means of determining whether a developer project will cause significant adverse impacts to the state highway system and provides a stream-lined mechanism by which mitigation measures are calculated and required as a condition of plan approval, if necessary, for all parties involved.

- WSDOT benefits by being able to leverage limited funds and advance needed improvements to state highways adversely impacted by new development.
- Local government benefits by having needed transportation improvements constructed.
- Taxpayers benefit by not subsidizing the mitigation of transportation impacts caused by new development.
- Developers benefit by knowing up-front what type of mitigation will be required and what it will cost. Each developer will be treated equitably and the requirement for traffic analysis for smaller developments is eliminated.

5.3.04 Basic Interlocal Agreement Elements

Development Services Staff and local agencies negotiate the terms of each Interlocal Agreement. These agreements may contain elements that are unique to the local jurisdiction. But every Interlocal Agreement contains the framework following:

Notification

The local agency will notify WSDOT of all development proposals that are subject to SEPA review.

Thresholds

The Department and the local agency will agree upon the level of impact, which will trigger WSDOT review of a development proposal. This threshold is normally based on the number of trips, LOS and/or accident history of the section of impacted highway[3]. Having frontage on a state highway also will trigger WSDOT's review of a development plan.

Review Time

The local agency will allow WSDOT an agreed upon minimum review period once a developer plan is received. Regional Development Services staff has the responsibility to thoroughly review the proposal, which may include consultation with staff who have traffic and environmental expertise. The Interlocal Agreement specifies the amount of time that the local agency and/or SEPA will allow for department review. Typically, this ranges from 14 to 21 days for SEPA DNS projects and 21 to 30 days for projects requiring an EIS.

5.3.05 Local Jurisdiction Mitigation Commitment

Provide in the Interlocal Agreement that the local jurisdiction agrees to collect traffic mitigation payments and/or impose certain channelization improvements and/or require right of way dedication/donation on behalf of WSDOT.

5.3.06 How It Works

An Interlocal Agreement establishes city or county and WSDOT procedures for development plan review and determination of transportation impacts. It clarifies when traffic analyses are required and helps to define mitigation measures. The agreement also provides a reasonable timeline for review of development plans.

Interlocal Agreements also provide the following:

- A list of WSDOT improvement projects for the next ten years, subject to amendment updates.
- Mitigation charges based on ADT or Peak-Hour Trip for developer traffic; i.e., Traffic Mitigation Payment, channelization revision, signalization, right of way dedication/ donation, etc.
- A procedure for requiring traffic studies, including a checklist for those studies.
- How intersection LOS requirements will be met and addresses High Accident Location (HAL).
- A procedure for transfer of mitigation payments from local agency to WSDOT.
- A procedure for dedication/donation of right of way to WSDOT and/or provides for establishment of setbacks for future highway projects.
- A method for allowing credits against traffic mitigation payments for developer construction work, and/or right-of-way dedications/donations that benefit the highway or future highway construction projects.
- Reference to appeal process for developers who dispute WSDOT requirements.
- Unilateral termination of the agreement by WSDOT or Local Agency.

5.3.07 Who Is Affected?

Interlocal Agreements apply to: (1) all developments having frontage on OR requiring direct access onto a state highway AND/OR (2) all developments, which will be subject to SEPA review. Single family residences, duplexes, short plats and certain small commercial developments are excluded, consistent with SEPA regulations unless they are located adjacent to a state highway.

5.3.08 When Is It Worth Doing?

Some local agencies are located in areas with rapid population and commercial growth. Developers in high growth counties and cities may generate several projects a year, affecting state highways. In these situations, there is a definite long-term benefit to having an Interlocal Agreement in place.

Interlocal Agreements normally take a significant amount of staff time to set up. There are preliminary negotiations, review of draft agreements, meetings with city councils or county commissioners. All this occurs while your other work continues. But once in place, the agreement soon repays the time invested.

5.3.09 TBD And LID Policy

WSDOT desires to treat developers fairly. In some instances developers have agreed to participate in cost sharing as part of a Traffic Benefit District (TBD) or Local Improvement District (LID). If these contributions are wholly or partially used to mitigate developer impacts to the state highway, WSDOT will not seek further mitigation.

5.3.10 Local Transportation Act (RCW 39.92)

This statutory provision authorizes local governments to develop and adopt programs for the purpose of jointly funding, from public and private sources, transportation improvements necessitated in whole or in part by economic development and growth within their respective jurisdictions. This supplemental authority allows local governments to enact, if certain procedures are followed, ordinances that will set forth the procedures for calculating, assessing and spending transportation impact fees. This procedure can be used only if monies or improvements have not been collected through SEPA and/or RCW 82.02. For more information on this please refer to RCW 39.92 in Appendix 28.

PART 4 Other Agreements

5.4.00 Overview

Other forms of agreements may be used, including custom written agreements between various entities and WSDOT. Whatever form an agreement takes, it must be written to ensure consistent application of WSDOT design standards, access management rules, construction practices, etc. Below are examples of agreements that are sometimes used for developer projects.

5.4.01 General Permits

General permits are another form of agreement for documenting terms for allowing work to be done on state right of way. General permits are often used for improvements initiated and financed by a local agency, for road approach/intersection improvements on limited access highways (in lieu of an access connection permit), or for roadside work that does not fit the normal range of projects for which a developer agreement would apply.

Like developer agreements, general permits use a boilerplate form with accompanying special provisions and are usually supplemented by construction plans or drawings and specifications. The plan development and review process is the same as it is for developer agreements, but it may be greatly simplified, depending on the complexity of the project.

5.4.02 Access Connection Permits

The access connection permitting process is covered in detail in Chapter 6. Most access connection permits are for simple road approaches. But, some are for commercial businesses with high volume, large vehicles, or other special impacts. Such uses warrant considerable design analysis and engineering. For commercial approaches a Developer Agreement is often written as a companion document to the access connection permit to detail the construction requirements. In other cases the permit may include all of the construction plans and specifications. When this is the case, the same plans development and review process must be followed as for a Developer Agreement in order to meet the WSDOT development services objectives.

5.4.03 Developer Agreement: Construction by State At Developer Expense (as a stand-alone project)

Under this agreement form, WSDOT agrees to build the project for the developer as a separate project. The project will have to go through the normal ad and award process. This type of agreement is required by FHWA if the improvements are constructed on the Interstate system and may impact the mainline traffic. An example would be a developer-funded signal installation on an off-ramp where it is likely the construction will impact the mainline traffic. See Appendix 5 for an example.

5.4.04 Developer Mitigation Agreement: Collection of Pro Rata Share Contribution Toward a WSDOT Project.

This is a non-standard agreement that establishes a contract between the WSDOT and the developer whereby the developer can contribute toward a programmed WSDOT project to mitigate impacts to the state highway system. It can be modified to include a third-party when the WSDOT has a joint project with a city or county.

The Developer Mitigation Agreement form can be found in Appendix 30.

6.0.00 General

Access onto *all* state highways is regulated. A state highway may be a limited access highway as defined by RCW 47.52 (see Appendix 16), wherein the state owns the property right of access along the highway, or a managed access highway, wherein either the WSDOT, under RCW 47.50 (see Appendix 12), or a city pursuant to RCW 47.24 (see Appendix 15), has the authority to issue an access permit to an abutting owner for access onto the highway. This includes highways that have been established as limited access and have not yet acquired the right of access from the abutting property owners. A Development Services Representative must follow different procedures when considering an application for access onto a highway, depending upon whether the highway is a limited access highway or a managed access highway. Part 1 covers Managed Access Highways, and Part 2 covers Limited Access Highways.

6.0.01 Access Permit Authority

Limited Access Highways: The approving authority for access onto *any* limited access highway is the Environmental and Engineering Programs (E&EP) Director with concurrence from the Director, Real Estate Services, both located at Headquarters. No access may be permitted onto a limited access highway without the value determination process being completed.

Managed Access Highways Outside Corporate Limits: The approving authority for access permits onto managed access highways outside corporate limits of a city or town is WSDOT at the Regional level. See WAC 468-51(Appendix 13) "Access Permits – Administrative Process" for the permit fee schedule and an application process.

Managed Access Highways Within Corporate Limits: The approving authority for access permits onto managed access highways inside the corporate limits of a city or town is with the city or town. RCW 47.50.020 gives cities or towns jurisdiction over Access Managed state highways within incorporated areas. RCW 47.50.030(3) requires local jurisdictions to adopt standards for access permitting which meet or exceed WSDOT standards. WSDOT may act as a permitting agent for the city or county if there is an appropriate intergovernmental agreement in place. The agreement must include a "hold harmless" clause to protect the department from actions associated with access permits and connections within the incorporated area. The agreement should also be reviewed by the Attorney General's Office prior to its execution.

PART 1: Managed Access Highways

6.1.01 General

In 1991, the Washington State legislature passed an additional law to regulate access onto state highways: RCW 47.50 "Highway Access Management." This law required the WSDOT to develop new sets of rules to be included into Washington Administrative Code (WAC) for those state highways. RCW 47.50 created a new type of state highway designation called Controlled Access highways or Access Managed highways for those highways not already acquired as Limited Access highways.

The Highway Access Management law is intended to help preserve the safe and efficient operation of state highways. Every owner of property that abuts the state highway system, where limited access rights have not been acquired, has a right to reasonable access. If access can be provided to another public road, which abuts the property, access to the state highway may be restricted. The right to access is regulated by laws described in RCW 47.50, WAC 468-51, and WAC 468-52 (Appendix 14).

No connection to a state highway shall be constructed or altered without obtaining an access connection permit in advance of such action. All costs including construction or alteration of a connection shall be borne by the permittee unless the relocation or alteration is made at the request of WSDOT or pursuant to a WSDOT project. RCW 47.50.040(2).

6.1.02 Managed Access Highway Rules

- WAC 468-51 "Access Permits – Administrative Process," applies to non Limited Access state highways outside the incorporated limits of a town or city. It established the permit fee schedule and an application process for all access connections to the state highway system. See page 6-6 for Permit Fee Schedule.
- WAC 468-52 " Access Control Classification System and Standards," established a classification system and design standards for all Managed Access Highways, including state highways located within the incorporated limits of a town or city.

6.1.03 Managed Access Definitions/Elements

Access Classification

The highway classification system includes five classes, ranging from the most restrictive Class 1, to the least restrictive Class 5. These classes establish the criteria for permitting public and private approaches. Each Region's Highway Access Management Access Control Classification is found in: http://www.wsdot.wa.gov/EESC/Design/Access/Open_AccessMgmt.FP5

Access Categories

Each connection permit issued to a property owner or developer, is dependent on the amount and type of traffic, which will use the connection. Access connections are divided into four categories:

Category I (Minimum Connection)—agriculture, utility, residential (up to ten (10) homes) and small commercial sites which generate less than 100 Average Weekday Vehicle Trip Ends (AWDVTE).

Category II (Minor Connection)—any access generating 1,500 or less, trips per day, but not included in Category I.

Category III (Major Connection)—High volume traffic generators expected to have an AWDVTE exceeding 1,500.

Category IV (Temporary Connection)—provides a temporary time limited connection to a state highway for a specific property for a specific use with a specific traffic volume. Such uses include, but are not limited to logging, forestland clearing, temporary agricultural uses, temporary construction and temporary emergency access and access in areas of established limited access control where property rights have not been purchased by the state.

Conforming and Nonconforming Accesses

An access is defined as "conforming" if it meets or exceeds current department location, spacing and design criteria. An access is defined as "nonconforming" if it does not meet current department location, spacing and design criteria. The distinction between a conforming and nonconforming access is important because a nonconforming access may be subject to relocation or removal at the department's discretion.

Important Note*:* A December 17, 1996 memorandum from the Access and Hearings Engineer clarified that all approaches on Class 1 and Class 2 highways must be defined as "nonconforming." Also, WAC 468-52-040 states that access connections to Class 1 and Class 2 highways must be removed if and when other "reasonable" access becomes available. (Refer to DM Chapter 1435, this has additional references for the Class 1 and Class 2 connections.)

Variance

Variance permit means a special nonconforming or additional connection permit, issued for a location not normally permitted by current department standards, after an engineering study demonstrates, to the satisfaction of the department, that the connection will not adversely affect the safety, maintenance or operation of the highway in accordance with its assigned classification. This permit will remain valid until modified or revoked by the WSDOT or where applicable, the city or town.

Variance permits are not issued for:

- Class 1 highways
- Approaches not meeting corner clearance criteria (WAC 468-52.040). See DM Chapter 1435 for this information.

What is the difference between a Nonconforming Permit and a Variance Permit?

- A "nonconforming" permit is issued when the access does not meet current department location, spacing and design criteria AND the property has no other means of accessing the public road System. Conditions impacting the use of a "nonconforming" access include but are not limited to traffic volumes, future alternate access, and identification of all users.
- A "variance" permit is issued at WSDOT's discretion. Although other means of access are available, other issues such as land locked property, improving site circulation for safety and the location of their legal access easements can be reasons for a variance to be considered by WSDOT. Conditions include but are not limited to traffic volumes and identification of all users.

Grandfathered Connections

After the passage of the RCW 47.50 "Highway Access Management," permits were required for approaches onto Managed Access highways. Approaches in existence and in active use prior to July 1,1990, are exempted from permitting. These "grand fathered" approaches do not require an access connection permit if both the use and highway volumes remain the same as July 1, 1990. When the land use, the land access location, or the physical configuration of the access points change, or the highway volumes increase, the property owner must apply for an Access Connection Permit from the department. If the permit is not obtained, the connection may be closed pursuant to RCW 47.50.040.

The attached table references the appropriate RCWs or WACs for some of the key elements for the guidance of access permitting to Access Managed highways.

Criteria	RCW or WAC
Access Classifications	WAC 468-52-040
Categories of approaches	WAC 468-51-040
Grandfathered connections	RCW 47.50.080, WAC 468-51-130
Contiguous Parcels	WAC 468-52-020
Conforming/nonconforming	WAC 468-51-020, WAC 468-52-020, WAC 468-51-100
Variance	WAC 468-51-020, WAC 468-52-020, WAC 468-51-105
Change in use	WAC 468-51-110
Jurisdiction/authority	RCW 47.24, RCW 47.50.030, WAC 468-51-010, WAC 468-51-060
Bonding and permit fees	WAC 468-51-070
Adjudicative procedures	WAC 468-51-150

Highway Classification & Definition	Permits Allowed			Minimum Access Spacing	Access Limitations
	Non-Conforming	Variance	Conforming		
Class 1* **Mobility** is primary function	Yes	No	No	1320’	1 access only to contiguous parcels under same ownership. Private direct access not allowed unless no other reasonable access exists. (Must use county road system if possible.)*
Class 2* **Mobility Favored** over Access	Yes	Yes	No	660’	1 access only to contiguous parcels under same ownership unless frontage > 1320’. Private direct access not allowed unless no other reasonable access exists. (Must use county road system if possible.)*
Class 3 **Balance** between **Mobility** and **Access** in areas with less than Maximum Build out	Yes	Yes	Yes	330’	1 access only to contiguous parcels under same ownership. Joint access for subdivisions preferred, but private direct access allowed with reason.
Class 4 **Balance** between **Mobility** and **Access** in areas nearing Maximum Build out	Yes	Yes	Yes	250’	1 access only to contiguous parcels under same ownership.
Class 5 **Access** needs **may have priority over Mobility** needs	Yes	Yes	Yes	125’	More than 1 connection per ownership allowed with reason.

* “Per WAC 468-52-040, the access connection shall continue until such time that other reasonable access to a highway with a less restrictive access control classification or acceptable access to the general street system becomes available and is permitted.”

6.1.04 Access Connection Permit Process

The typical Access Connection Permit process is shown in the flowchart found in Appendix 6 and is described in the following eight steps.

Step 1 — Determination of Need and Authority for Access Connection Permit

The permit process may be initiated based on an action or request by a property owner or development proposal. The application is for access onto a Managed Access state highway, Class 1-Class 5. If a Managed Access highway is within an incorporated city or town, the local jurisdiction is the approving authority for the permit. The local jurisdictions, by state law (RCW 47.50.030(3)), are required to adopt access standards that meet or exceed WSDOT standards. If the request is proposing to access onto a Limited Access section of highway, refer to Part 2, Limited Access Highways of this chapter.

During the initial contact with the applicant, general information is exchanged to determine the need for direct access to the state highway. This contact may be in the form of a telephone call, email, direct contact, or in response to a SEPA development proposal. Essential information needed from the applicant for evaluation includes the state highway, approximate milepost, the type of land use action, and the availability of access to an adjacent public road. This information is used to pre-screen applications. For example, if the parcel is within the city or town, refer the applicant to the city or town. Or, if the parcel has access to another public road, direct access to the highway is generally not provided.

If the proposed connection is within WSDOT jurisdiction and meets the initial criteria for access to the state highway, the owner must complete the "Application for Access Connection" (WSDOT Form 224-694, currently Rev.7/99) and submit the appropriate fee (see table below). This permit fee is non-refundable. See Appendix 19 for copy of access application.

Access Connection Fee Schedule

CATEGORY I (Minimum Connection)	Fee***
Field (Agricultural, Forest Lands, Utility Operations and Maintenance).	$ 50
For each residential dwelling unit (up to 10 units) utilizing a single connection point	$ 50
Other, with 100 AWDVTE* or less	$ 500
Fee per additional connection point	$ 50

Category II (Minor Connection)**	
Less than 1,000 AWDVTE*	$ 1,000
1,000 to 1,500 AWDVTE*	$ 1,500
Fee per additional connection point	$ 250

Category III (Major Connection)**	Cost
1,500 to 2,500 AWDVTE*	$ 2,500
Over 2,500 AWDVTE*	$ 4,000
Fee per additional connection point	$ 1,000

Category IV (Temporary Connection)	
Base fee per connection	$ 100

* AWDVTE - Average Weekday Vehicle Trip Ends.

** Require a traffic analysis, signed by a professional engineer, licensed in accordance with RCW 18.43.

*** Fee structure is derived from WAC 468-51-070.

Step 2 — Review of Permit Application

Review the application for completeness. **WAC 468-51-060** specifies the minimum information that must be contained on the application. Category I and Category IV connections normally require only the minimum information. Category II and III connections require more detailed information, such as a Traffic Impact Analysis. Regardless of Category, all applications must be complete and accurate. If the application is incomplete, the applicant must provide the missing information before WSDOT can complete the review.

Step 3 — Establish Location and Status of Access

Following review of the access application, the location and status of the proposed approach must be verified. Check the location to determine if this is a new, existing permitted, or grandfathered approach. Initially this task is done within the office. Resources available include SR View, right-of-way plans, aerial strip maps, RAMPS or other database, and contract as-built plans.

Step 4 — Determine Access Classification

Determine the access classification of the highway (Class 1-5) at the location of the proposed approach. See the Highway Classification Description Table in this chapter.

Important Note: Check the "Access Management Tracking System" to determine whether the highway has been "either acquired or established" as a limited access highway. "Established" is defined as planned limited access right of way adopted by the Legislative commission. For state highways that have been "established" as a Limited Access Highway, but the access rights have not yet been purchased by the WSDOT, the property owner's rights are regulated through the Access Connection permitting process of the managed access program.

Step 5 — Initiate Formal Review

A field review of the site is required. The approach shall be evaluated to see if it meets WSDOT design criteria for the access classification. Design criteria are based on corner clearance, "driveway" and public connection spacing, and sight distance. The sight distance is dependent on the posted speed limit.

Based on the application, determine the appropriate road approach design template from the Design Manual Section 920, Road Approaches. Verify if the approach can be constructed in accordance with the appropriate design template.

Solicit review of access connection application from various support groups. Maintenance, Real Estate Services, Headquarters Access and Hearings Unit, Traffic, Environmental, Utilities and Project Engineers may have specific requirements beyond the typical storm drain culvert and mailbox turnout.

Step 6 — Final Determination

If the proposed approach connection meets all criteria after the field review and input from the support groups, complete the Access Connection Permit **(**Form 224-005). In addition to the permit form and general provisions, the following exhibits are required:

- Special Provisions
- Approach Design Templates (Design Manual: Figures 920-3, 920-4 and 920-5)
- Other appropriate exhibits, as needed (e.g. removal details, guardrail details, sign details, site plan, right-of-way plan sheet and mailbox turnout).

Upon completion, send two (*amount at Region's discretion)* complete permit packages**,** to the owner for signature. Within the letter to the property owner, include all pertinent information and request the surety bond (or assignment of savings) in the amount required by your Region. Per WAC 468-51-080, the owner has thirty (30) days to sign and return the permit. See Appendices 20 and 22 for an example letter, permit, and exhibits.

Step 7 — Construction Bonding

Bonding is required for the construction of all road approaches. This bond amount is generally based on the estimated cost of the road approach construction. As an alternative, some Regions have opted to use an "Assignment of Savings Account/ Certificate of Deposit" for the purpose of fulfilling the requirement of bonding collateral.

WAC 468-51-070 Fees and surety bonds sets the non-refundable fee structure, and references bonding requirements for the access connection permit process. This rule also addresses any additional fees that may be assessed to the applicant. Fees can be assessed for the actual costs incurred by the WSDOT in the review and administration of the applicant's proposal that exceed the required base fees.

Copies of the appropriate bond form, Assignment of Savings/Certificate of Deposit form and example Bond Release letter are provided in Appendix 24.

Step 8 — Execution of Permit

Once the access connection permit has been signed by the owner and returned to the Department (with bond or assignment of savings), the permit is considered executed after signature by the Department. An original signed permit is sent to the owner. The other original permit is retained for our records. A copy of the permit is sent to the respective Area Maintenance Superintendent. The Department representative administering the construction of the access should receive a copy of the permit as well. The permittee has 90 days to begin work and 120 days to complete the work after permit issuance. Time extensions can be granted at the Region's discretion. The construction work should be coordinated with the respective Area Maintenance office or project inspector. Once the access construction is completed, a checklist or letter is typically returned to the Region indicating the work has been completed and meets all requirements. (See Appendix 23 for Example-Road Approach Installation checklist) At that point, a bond release letter should be sent to the bonding company or the property owner.

Depending on the complexity of the approach, it may be necessary to retain the bond for a longer period to address any performance issues.

In the event the approach is not constructed within the required time, or does not meet the conditions of the access permit, the Department may act on one or more of the following:

- Extend time;
- Notify the property owner about the deficiencies;
- Cancel the permit and close road approach; and/or
- Utilize the bond to correct the deficiency.

Actions taken shall be in compliance with the conditions of the permit and WAC 468-51-120.

Step 9 — Denial of Access Connection; Adjudicative Proceedings

The adjudicative proceedings for access denial or closure is outlined in the Design Manual 1435.10 and WAC 468-51-150.

Any person who has standing to challenge any of the following department actions may request an adjudicative proceedings (an appeal to an Administrative Law Judge) within thirty (30) days of the department's written decision:

- Denial of an access connection permit application pursuant to WAC 468-51-080
- Permit modifications pursuant to WAC 468-51-120
- Permit revocation pursuant to WAC 468-51-120
- Closure of permitted access connection pursuant to WAC 468-51-120
- Closure of grand-fathered access connection pursuant to WAC 468-51-130
- Permit conditions pursuant to WAC 468-51-150

In such cases, a letter must be sent to the applicant informing them of the decision. Per the WAC, the letter must include the following information: the specific reasons for denying the access, the process for submitting an amended application, and informing the applicant they have "30 days to request an adjudicative proceeding" if they disagree with the decision to deny the access connection. See Appendix 2 for an example of a denial letter for Managed Aceess.

NOTE: Contact the Headquarters Access and Hearings Unit for assistance; do NOT contact the Attorney General's office directly as it may legally compromise their ability to assist you.

6.1.05 Highways Crossing Indian Lands

When determining whether WSDOT has authority to regulate access onto state highways that cross Indian Lands, it should first determined whether there are any restrictions on state action that are provided for in the Real Estate Services documents that provide for the state highway's location over the Indian Land. This is the same process used to review underlying deeds for property owners who may have a reserved access property right (e.g.. Type B, farm approach). Researching highway grants may be quite difficult since they could be by letter, Bureau of Indian Affairs (BIA) agreement, permit, in addition to more formal documentation, such as easements and quit claim deeds. If there are no restrictions found while researching the underlying documents in Real Estate Services, then the WSDOT would apply the Managed Access and Limited access statutes and rules in the same manner as it does for non-Indian Land.

If a right of access has been reserved or if grants, deeds, easements or other forms of conveyance cannot be established, lands belonging to federally registered Indian Tribes, which presumes to include the highway, are acknowledged to have sovereign immunity. Sovereign immunity is immunity from lawsuits generated in judicial systems that have no jurisdiction over tribes because of their sovereign right to govern themselves.

Access Management statutes from state highways to tribal land would not have any legal significance unless the Tribe gives the state its consent to be sued. The Tribe would have to agree to waive its sovereign immunity from suit for the limited purpose of permitting WSDOT to enforce the terms of the access connection permit. A legally enforceable permit can be accomplished by including an exhibit or special provision within the access permit providing this waiver of immunity. The following is an example special provision that may be used:

Consent to be Sued

"The (Registered Tribe Name) agrees to waive its sovereign immunity from suit for the limited purpose of permitting the Washington State Department of Transportation to enforce the terms of this access connection permit, including all conditions. This limited waiver of sovereign immunity shall not be for, nor shall it be construed as for, the benefit of any other person or entity, and the Tribe does not waive its immunity with respect to any action brought by, or on behalf of, any other entity or person. Jurisdiction over any dispute involving this access permit shall be in the state courts and state administrative forums of the State of Washington."

It is unlikely that a Tribe would give up any rights without seeking mutual benefit or compensation. Therefore, the use of such a waiver is limited and discretionary.

When encountering any "gray areas" involving Managed Access Highways crossing Indian Lands, consult with HQ Real Estate Services Office, or if deemed necessary by RES, the Attorney General's Office early in the process.

6.1.06 Tracking System

Road Access Management Permit System, or RAMPS, was implemented in 2000 to be used as a statewide database to track and assign access connection permits for Access Managed highways. RAMPS provides a uniform numbering system statewide. This database is often used to complement other tracking systems used by each region. Please contact your Regional Information Technology center to have RAMPS installed.

The RAMPS system is owned by the Headquarters' Access and Hearings Unit. All inquiries regarding the database use and operation should be directed to this office. Training classes may also be available through this office.

6.1.07 Coordinating Local Development Approval with State Access Approval

While WSDOT desires to have the access and development approval processes be coordinated, there may be times when they do not occur at the same time. This section explains the differences between the local land use/development review process and the state Access Connection Permit process. While there may be differences in the timing of the processes, it is still understood that both WSDOT and the local government are aware of the proposed development and request for state highway access.

Both local and state approvals are required to develop a parcel of land with proposed access to a state highway. The state approval is in the form of a WSDOT state highway Access Connection Permit regulated by RCW 47.50 (Appendix 12) and WAC 468.51 (Appendix 13) and WAC 468.52 (Appendix 14) and administered through WSDOT for managed access highways. The local approval is the land development review process. The questions and answers below help explain how the two processes provide flexibility in the sequence of gaining approval.

1. **Can the local land use approval be obtained prior to state highway access approval?**

   Yes on managed access highways, however the applicant runs the risk of having the state deny the access, requiring the applicant to either revise the site plan through the local review process or appealing the state's decision to deny the approach road. Flexibility is set forth in WAC 468-51-050.

2. **Is the applicant required to obtain state approval prior to the local land-use approval?**

   No. Depending upon what the local land-use authority allows, a property owner may apply for an Access Connection Permit before, after or during the local land-use review process. The applicants should decide for themselves the best course of action. In cases where a local land-use action is pending, a property owner may apply for an Access Connection Permit. WSDOT may then give *conceptual* approval per WAC 468-51-050 or a *letter of intent* per WAC 468-51-030 if the local agency agrees with the proposed access. See Appendix 2 for an example of a "Conceptual Approval" letter. It should be noted that the *conceptual* approval would be based upon the original site plan, which must mirror the site plan that follows a land use decision. In such cases, the state and local governments must coordinate their reviews and have assurances that the same set of site plans are being approved.

3. **Does WSDOT recommend applicants obtain state access approval prior to local approval?**

   Obtaining conceptual approval for access from the state highway, prior to the local approval for the land use development is encouraged. WSDOT staff can help identify access locations and types that can be supported to aid in development site layout. This helps the applicant understand the state rules pertaining to access prior to submitting either the state or local application.

4. **What happens if the state approves an access location and the local government objects?**

   The applicant must take steps to address the local government's issues. WSDOT will only allow an access when the provisions of Access Management and/or limited access laws are satisfied.

5. **What happens if more time is needed to work through the local or state issues?**

   If more time is needed to work through issues, a request to place the state application on hold may be requested. The developer may also choose to extend the statutory review deadlines on their land use application until the access issue is resolved.

6.1.08 WSDOT Construction Projects

During construction of WSDOT projects, connections will be provided as replacements for existing approved permitted connections that are consistent with all current WSDOT spacing, location, and design standards pursuant to WAC 468-51. Un-permitted connections not considered as "Grandfathered" require a new access permit. All other access procedures and considerations for WSDOT projects are outlined in WAC 468-51-140.

PART 2: Limited Access Highways

6.2.01 General

Limited Access is established to preserve the safety and efficiency of specific state highways and to preserve the public investment. Control is affected by purchasing the right of access from abutting property owners, and by selectively limiting approaches to the highway.

A good understanding of what limited access is and how it applies to Development Services is essential. Development proposals on occasion will request access onto state limited access right of way. This section summarizes general information needed to process these requests from a developer or property owner.

WSDOT Design Manual Chapter 1430 explains in detail what limited access is, why we need it and how it is established. RCW 47.52 and WAC 468-58 (see Appendix 17) govern limited access control on state highways. It is highly recommended that anyone working with limited access issues read and understand both the laws that govern limited access and the processes outlined in the Design Manual. Contact the Headquarters Access and Hearing Unit for assistance.

Highways regulated by limited access are termed limited access highways, and are further distinguished as having full, partial or modified access control.

These three types of access control are established under the authority of the State Transportation Commission through State Design Engineer in Headquarters and the State Access and Hearings Manager. Many factors are considered in the establishment of a limited access highway, such as type of access control, number of existing access points, type of property use, intersection spacing, functional classification, future and present land use, character of traffic, frontage road locations and more.

The access criteria for limited access highways (as described in WAC 468-58-040) are as follows:

FULL CONTROL LIMITED ACCESS HIGHWAY

- Access to interchanges at selected public roads, rest areas, viewpoints, or weigh stations can be allowed at WSDOT's discretion. At-grade crossings are prohibited.
- No private connections are allowed.
- Limited Access control limits typically extend back on the crossroad a minimum distance of 300 feet. See Design Manual, Chapter 1430.03(3).
- Type 'F' Permits for wireless communication sites are allowed (WAC 468-58-010)

PARTIAL CONTROL LIMITED ACCESS HIGHWAY

- Public roads, some crossings, and some private approaches are allowed. The property deeds have the conditions that specify the land use or number of users allowed to use the approach.
- Commercial approaches are not allowed within the limits of partial access control.
- Limited Access control limits typically extend back on the public road a minimum distance of 300 feet. See Design Manual Chapter 1430.04(3).
- Type 'F' Permits for wireless communication sites are allowed (WAC 468-58-080)

MODIFIED CONTROL LIMITED ACCESS HIGHWAY

- Public roads and some private residential approaches are allowed. Commercial approaches that were existing and in use at the time of establishment of limited access may be allowed. The property deeds have conditions that specify the land use or number of users allowed to use private connections.
- Any new commercial access must be from the local road network through public road intersections.
- Limited Access control limits typically extend back on the crossroad a minimum distance of 130 feet. See Design Manual, Chapter 1430.05(3).

6.2.02 Modifications For Private Access Approaches

Examples of access modification to limited access facilities requested by development include additional road approaches, changes in the permitted use, or number of users of existing road approaches. See DM 1430.10(2).

Requirements

Plan revisions, which provide for additional access to individual ownerships after the department has purchased the access rights are normally not considered. However, these revisions may be considered if it can be established that:

- The efficiency and safety of the highway will not be significantly affected,
- There are no other reasonable alternatives,
- The existing situation causes extreme hardship on the owner(s), and
- The revision is consistent with the limited access standards for the class of highway and level of existing or planned future limited access.
- The applicant concurs with and pays value determination to the department.

Procedures

A written request from the local agency for public access or the property owner for private access is received. The request will include an item-by-item analysis of the factors listed in DM 1430.10 (2b), along with:

- ✓ **Why**? Provide the background & history for request.
- ✓ **What** other alternatives have been looked at?
- ✓ **What** type of impacts will the break create?
- ✓ **How** to mitigate those impacts?

Once the written request has been received, Region initiates a preliminary engineering review of the requested modification to for a break in limited access. The HQ Access and Hearings Section will conduct this preliminary review to determine if conceptual approval may be granted for the request. If conceptual approval cannot be granted, a letter denying the request is sent to the proponent. See Appendix 2 for an example of a denial letter for break in limited access. See Appendix 2 for an example of a Denial letter for break in limited access. If conceptual approval can be granted then:

Region initiates an engineering review of the requested modification. If from a safety and engineering stand point the break can be allowed, then:

Region Real Estate Services (RES) can produce an estimate of the fair market value if the proponent wishes, but the actual value determination will only be finalized after the approval of the break in access by the Environmental and Engineering Policy (E&EP) Director or designee. If the proponent wishes to continue to pursue the break in access, then:

- Region prepares and submits to Headquarters Plans Branch a preliminary limited access right of way plan revision together with a recommendation for approval by the E&EP Director. If the access break involves an Interstates Highways, FHWA has final approval authority.

Final Processing

- If available, Region Real Estate Services (RES) informs the requestor of the estimated fair market value for the access change or access break.
- If requestor is still interested, region RES prepares a “Surplus Disposal Package” for Region, Real Estate Services Headquarters and FHWA review; and State Design Engineer approval. (Many offices in HQ and Region review the request)
- At the same time, the preliminary limited access plan revision previously transmitted is processed for State Design Engineer approval.
- Region RES will conduct an appraisal of the access break, Headquarters RES will review the appraisal and notify the requestor of the actual cost of the break in access.
- After the department collects the payment from the requestor, the region issues a permit for the construction, if required.
- Headquarters Real Estate Services Office prepares and records a deed granting the change to the access rights.

6.2.03 Modifications for Public At-Grade Intersections

Requirements

- Public at-grade intersections on partial control limited access highways serve local arterials that form part of the local transportation network.
- Requests for new intersections on limited access highways must be made by or through the local governmental agency to WSDOT. The region will forward this request, including the data referenced in Design Manual, Chapter 1430.11(1) and (2)(a).
- New intersections require full application of current limited access acquisition and conveyance to the WSDOT. The access acquisition and conveyance must be completed prior to beginning construction of the new intersection. The new intersection will meet WSDOT design and spacing criteria.

Procedures

- Region evaluates the request and contacts the HQ Access and Hearings Unit for conceptual approval.
- Region submits an intersection plan for approval (Chapter 910) and a right of way and limited access plan revision request (*Plans Preparation Manual*). This plan revision request includes the limited access design criteria applicable to the proposed public at-grade intersection.
- State Design Engineer approves the intersection plan.
- E&EP Director approves the access revision.
- Region submits the construction agreement to the State Design Engineer. *(*See the *Agreements Manual.*)
- E&EP Director approves construction agreement.

Valuation Determination

- When a requested public at-grade intersection will serve a local arterial that immediately connects to the local transportation network, compensation will not be required.
- When a requested public at-grade intersection will serve only a limited area, does not immediately connect to the local transportation network, or is primarily for the benefit of a limited number of developers, compensation for the access change will be addressed in the plan revision request. In these situations, compensation is appropriate and a fair market value will be determined as outlined in Design Manual, Chapter 1430.11(2)(c) above.

NOTE: The Office of the Attorney General must be consulted before finalizing a decision to appeal a land-use determination by a local agency.[1] There are short timelines in which to file appeals; so, the AGO must be contacted as soon as an appeal is considered. A time delay could prejudice WSDOT'S right to appeal.

7.1.01 Purpose Of SEPA Appeals Chapter

Occasionally the land use proposal proponent will appeal a WSDOT requested SEPA mitigation. On a few other occasions the WSDOT has appealed a lead agency's SEPA decision. This chapter was prepared to assist the Region and their Development Services staff to better understand the SEPA appeal process of local land use decisions.

This chapter includes steps on how to work with local governments to resolve issues short of an appeal. It also covers how to prepare for an appeal to ensure the WSDOT has a good chance of a successful outcome.

7.1.02 Reaching A Successful Decision

There is often a built-in conflict between what the local government or developer wants for its community and what WSDOT needs for the state highway system. Balancing the needs of the state highway system with the local land use regulatory framework calls for working closely with local governments and developers.

All parties need to openly discuss their positions, paying particular attention to the distinction between what is required versus what is desired. Often, a middle ground can be reached that satisfies all. From the WSDOT perspective, coordination entails working with and educating the local agency personnel and developers on the legal and policy framework within which WSDOT works. In fact, in most cases a successful compromise that satisfies all parties' needs can be reached prior to an appeal.

It is a delicate matter to look at each case individually and still provide an overall consistent message from one land use application to another. In some situations it will not be possible to reach a mutually successful conclusion. For example, a developer may not be willing to mitigate for the traffic increase it will generate. On other occasions, though less frequent, the lead SEPA agency may not be willing to support the WSDOT requested SEPA mitigation. For those instances where a SEPA land use appeal is inevitable, this chapter provides the tools to ensure a successful appeal.

See Appendix 3 for "Significant Court Case Decisions Affecting the Development and Access Control."

7.1.03 Why Appeal?

The WSDOT, as a state agency that may be directly impacted by a local governmental land use action decision, has an obligation to appeal that local governmental land use decision if it will adversely affect the state transportation system. An appeal is first brought at the local level or administrative level, and if unsuccessful, further action may be taken in the court system.

---

1 Contact Elizabeth Lagerberg, AAG for Development Services.

A consistent approach to land use appeals is important. This chapter provides the major factors used to make the decision whether to appeal in a specific instance. It also outlines the basic internal coordination process to verify the appropriateness of an appeal.

While an appeal is an option that the WSDOT may eventually choose, the WSDOT's intent is to avoid or minimize appeals of local land use decisions and strive to solve these issues within the local land use process, short of an appeal. The combination of working with all interested parties and the state's ability to appeal when WSDOT issues are not adequately considered has kept appeals to a minimum. WSDOT's option to appeal has resulted in many productive discussions that have led to agreements and solutions. The judicious use of appeals is a very important tool for WSDOT in protecting transportation interests and investments throughout the state.

7.1.04 Underlying Governmental Action—What Is It?

The underlying governmental action is the action that must be taken by an agency to authorize a proposal. Actions include the issuing of a permit or license, the approval of funding, the adoption of a plan, ordinance, or rule, or other actions defined in the SEPA Rules.

7.1.05 Appeal Requirements For Counties And Cities

Under the Local Project Review Chapter (Chapter 36.70B RCW), each county and city is allowed to have no more than one "open record hearing" and one "closed record appeal" on the underlying governmental action (e.g. permit decisions).

An "open record hearing" is a hearing, conducted by a single hearing body or officer authorized by the local government to conduct such hearings, that creates the local government's record through testimony and submissions of evidence and information, under procedures prescribed by the local government by ordinance or resolution. An open record hearing may be held prior to a local government's decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing" if no open record pre-decision hearing has been held on the project permit.

A "closed record hearing" is an administrative appeal on the record to a local government body or officer, including the legislative body, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

In summary, an open record hearing is one at which testimony is received and a record is created. A closed record appeal is based on the record created at the open hearing with no or limited new evidence or information.

An open record hearing can be either:

A pre-decision hearing (held prior to county/city's decision to approve or deny a project), or An appeal hearing (held after the decision).

If the county or city allows a SEPA administrative appeal, the appeal must be heard at the open record hearing. Any SEPA appeal (procedural or substantive) that is not heard at the open record hearing of the underlying governmental action may not be later considered in a subsequent local hearing.

Agencies should be particularly aware of the consolidation requirements if they have chosen to hold open record pre-decisional hearings. The SEPA substantive determinations (project denials or attachment of mitigating conditions) are not made until the agency makes its decision on the underlying governmental action (e.g. permit approval). Since an agency cannot hold a second open record hearing on the SEPA substantive determinations (if an agency allows for substantive SEPA appeals), it is essential that testimony on substantive SEPA issues be allowed at any pre-decision hearing. This hearing is the only time for an administrative appeal of substantive issues and creates the record for any subsequent closed record to a local legislative body. Administrative appeals offered by counties or cities must also comply with the time limits set in RCW 36.70B.110.

The limitation on appeals restricts the practice of filing one appeal after another to delay a proposal.

7.1.06 Procedural Appeals and Substantive Appeals

SEPA provides a process for citizens and others, including the WSDOT, to challenge both procedural and substantive decisions made under SEPA.

Procedural appeals include the appeal of a threshold determination – both determinations of significance (DS) and nonsignificance (DNS) – and of the adequacy of a final environmental impact Statement (EIS).

Substantive appeals are challenges of an agency's use, or failure to use, SEPA substantive authority to condition or deny a proposal. SEPA substantive authority is the regulatory authority granted to all state and local agencies under SEPA to condition or deny a proposal to mitigate environmental impacts identified in a SEPA document.

7.1.07 Level of Appeals

Appeals may also be heard at two levels:

- Administrative appeals, heard by agencies; and
- Judicial appeals, which are heard by courts when the administrative appeal process is either not available or has been exhausted.

Administrative appeals, when offered, provide the first opportunity to appeal a SEPA decision and are normally used before the judicial appeal process. However, not all agencies provide an administrative appeal process, or they may provide for a substantive appeal or a procedural appeal but not both. In this case, the first appeal may be a judicial appeal.

Anyone interested in appealing a SEPA procedural issue should contact the lead agency to determine what administrative appeal, if any, will be allowed. Questions on the availability of administrative appeals for substantive decisions should be directed to the agency that made the decision (i.e. to deny, condition, or not to condition a permit or other approval).

Appeals will almost always require a fee. The appeal fee will usually range from about $100 to over $1000 depending on the jurisdiction involved.

7.1.08 Administrative Appeals

Each SEPA agency must decide whether or not to offer administrative appeals. If an agency offers an administrative appeal, the agency must specify its appeal procedure by ordinance, resolution, or rule.

An agency may provide appeals of some but not all reviewable SEPA decisions. The only decisions that may be appealed at the agency level are a final threshold determination or EIS (including a final supplemental EIS), and SEPA substantive decisions. Other decisions, for example the applicability of categorical exemptions, may only be appealed to the courts.

A DS, DNS, or EIS are each subject to a single administrative appeal proceeding. Successive reviews within the same agency are not allowed. For example, a Hearing Examiner's decision on the appeal of a DS cannot be further reviewed by the local legislative body. Further consideration is limited to review by a court as part of a judicial appeal.

Procedural and substantive SEPA appeals in most instances must be combined with a hearing or appeal on the underlying governmental action (such as the approval or denial of a permit). If a SEPA appeal is held prior to the agency making a decision on the underlying action, it must be heard at a proceeding where the person(s) deciding the appeal will also be considering what action to take on the underlying action.

SEPA appeals that do not have to be consolidated with a hearing or appeal on the underlying action are related to:

- A determination of significance (DS)
- An agency proposal
- A non-project action, or
- The appeal of a substantive decision to local legislative bodies.

A local agency must also decide whether or not to allow an appeal of a non-elected official's decision to use SEPA substantive authority to condition or deny a proposal. If the local agency chooses not to allow an appeal to a local legislative body, the agency must clearly state that decision in its procedures.

While an administrative appeal does not require the assistance of the Attorney General's Office (AGO), the legal advice and direction provided by the AGO may be very helpful if an administrative appeal is pursued.

7.1.09 Judicial Appeals

Judicial appeals are those appeals heard in court. A judicial appeal in most instances must be of the underlying governmental action (permit decision, adoption of a regulation, etc.) and the SEPA document (DNS or a final EIS). If the agency allows a SEPA administrative appeal, it must be used prior to initiating judicial review.

The time limit for filing a judicial appeal will depend on several factors:

- Time limit on underlying governmental action (issuance of permit, adoption of a plan, etc). If there is a time limit established by statute or ordinance for appealing the underlying governmental action, then appeals raising SEPA issues must be filed within that time frame.
- Time limit with optional notice of action. If there is no time limit for appealing the underlying governmental action, the notice of action in RCW 43.21C.080 may be used to establish a 21-day appeal period.

If there is no time limit for appealing the underlying governmental action and the notice of action is not used, then the SEPA does not provide a time limit for judicial appeals. However, the general statutes of limitation or the common law may still limit appeals. The limitation on appeals restricts the practice of filing one appeal after another to delay a proposal.

All judicial appeals involving the WSDOT are handled under the direction and guidance of the Attorney Generals Office (AGO).

7.1.10 Participating in the Local Land Use Process Prior to an Appeal

Conveying WSDOT's position early in the SEPA review process gives the applicant and interested parties time to work out solutions. As solutions are sought, the Development Services staff member is responsible for leading the effort to establish the framework for a successful appeal. Before an appeal is ever considered, it is the Development Services staff who has established the relationships, built the record, established standing to appeal by appearing before the local government either in person or in writing, and basically set the stage for the final outcome of an appeal. Much of the work for a successful appeal is completed before the appeal is even contemplated, which is why it is important to establish a set of best practices, including developing and keeping a record, writing good findings and keeping track of the various other permit issues that may be related to the land use appeal.

There are several important aspects of "keeping on top" before an appeal occurs. They are:

- Recognizing when a land use decision is potentially contrary to WSDOT's interests.
- Establishing "standing" in a land use case in order to preserve the right to appeal.
- Knowing related procedures that could impact the outcome of a land use decision, including access management issues.
- Knowing the hearing date scheduled for the appeal.
- Compiling complete and accurate data, maps, traffic impact studies, correspondence, findings and other information for the local government record.
- Having the right WSDOT staff "up to speed" and ready to testify at a hearing such as the Region Traffic Engineer.
- Knowing the local jurisdiction's procedural requirements for appearing at hearings and getting information into the local government record.
- Recognizing a "final decision."
- Knowing when to contact your Attorney General's Office (AGO) representative to preserve WSDOT's right to appeal or to seek their assistance and guidance.

If the WSDOT is the party appealing, then the Attorney's General's Office will prepare the legal documents for the appeal, and assist in any mediation or negotiation processes. However, it is still up to the Development Services staff to work closely with the AGO on the preparation of the documentation needed for the WSDOT requested appeal.

7.1.11 Questions To Ask To Determine If The WSDOT Should Appeal

Deciding if the WSDOT should appeal a SEPA land use decision is a very tough decision to make. A lot of thought must go into the decision on whether to appeal or not. Appeals can be very time consuming and expensive when you add up the time and resources necessarily to properly prepare for and present at an appeal. If the WSDOT decides to appeal, it is generally because the local SEPA lead agency has made a final decision that is significantly contrary to WSDOT's interests.

Before deciding to appeal a local land use decision, region staff should go through a series of questions. These questions relate to previous steps taken to resolve the conflict, whether the land use decision is inconsistent with or violates existing plans, rules or statutes, and the risk of precedence. Specific questions are as follows:

- Are the proposed actions of the case inconsistent with SEPA, WSDOT policy, Highway Access Management, adopted state transportation plans, or local transportation and comprehensive plans?
- Will a ruling in the case provide needed interpretation of ambiguous statute or rule?
- Has staff worked diligently with property owners, developers and local governments to reach acceptable solutions that minimize the conflicts with state transportation plans and adopted standards?
- Is there another way to resolve the conflict, such as dispute resolution or technical assistance? Are the applicants willing to delay the land use decision?
- Has the Attorney General's Office (AGO) been contacted for legal advice and direction?
- Would the decision result in development that would negatively affect the safety or operation of the state transportation system?
- Does the decision to appeal have region management support?

7.1.12 Important Tips in Preparing for an Appeal

Managing the state's transportation system is becoming more expensive and more difficult to fund with continued growth and development pressures adding to a system that, in many locations, is already beyond capacity. Add to this the recognition that the legal and regulatory arena in which WSDOT operates is becoming increasingly complex.

This section outlines some of the lessons learned to prepare for and survive a legal challenge.

1. **Understand the action.** Recognize that there may be separate ongoing issues, such as a permit application and a zoning change application. Be able to separate these distinct concurrent processes. For example, access management negotiations and land use actions may be taking place at the same time, with the same people. The hearing may only be about the land use actions, not the access management issues. It is important to be able to separate the issues in order to know which information is important to which issue. Make sure the information pertinent to the legal action is made part of the record.
2. **Know the timelines.** Do not miss filing deadlines or other due dates. The lead SEPA agency may have set specific dates for when information is required of the WSDOT. Missing due dates may not only cause information to not be allowed to be submitted, it can also delay or hurt the lead agency's preparation for a hearing.

3. **The record.**

   a. **Know the contents of the record.** It is important to know the entire contents of the local government record, including maps, previous plan amendments, local government decisions, WSDOT actions and any other relevant material. Knowledge of the contents of the record is particularly important when an opponent tries to enter information that is new or different from the record. If WSDOT is unaware of the contents of the record, it is at a disadvantage in keeping out incorrect, misleading or irrelevant information.

   b. **Build the record.** Do not assume that the local government will build the record for WSDOT. The local government's interest may not necessarily be the same as WSDOT's. WSDOT staff should go to the city or county to review the record.

   c. **Make sure the TIA is in the record.** Ask the consultant to provide two copies, one for the office and one for the appeal record.

   d. **Get the entire record.** In some instances, there may be several phases to an application or legal issue. Be sure that the records and documentation from the earlier phases are included in the record. These earlier phases may contain records and information critical to the present issue.

4. **Local Approval Criteria.** Written or oral responses must include how the development fails to meet the local approval criteria. WSDOT must specifically identify the provisions where it believes that the proposal does not comply, explain how the Department reached that conclusion, and may need to submit additional technical data.

5. **Develop a narrative or outline of WSDOT's interests.** Take the time to establish, in clear language, WSDOT's interests in the matter. Do not assume that the hearings officer, judge, opposing parties or anyone else involved in the case understands WSDOT's position. For example, if there is an ongoing access connection permit issue and a land use issue, describe each, clarify which issue is before the tribunal, describe the data or information pertinent to the hearing and, most important of all, describe the results that WSDOT wants. Describe the state's interests in mobility, safety or whatever the issue may be. Do not describe the detail without explaining where the detail fits into the overall picture.

6. **Use good visual aids.** Make sure to have good visual aids, including accurate maps, as part of the record and for presentations to the hearings body.

7. **Cite SEPA** whenever a land use change significantly affects the state highway.

8. **Become familiar with the local jurisdiction's codes and ordinances.** There may be procedural or substantive requirements in the code that could harm WSDOT's interests, or on the other hand, it could be that the local jurisdiction did not comply with their own code provisions, which could be a benefit to WSDOT.

9. **Coordinate internally throughout the process.** Develop a method or process for internal WSDOT coordination. For example, if right-of-way is also involved in an aspect of the process, make sure that there is some form of frequent communication so that you know when and if another WSDOT section is taking action that could impact the outcome of the appeal. It is important to identify specific outcomes to other branches.

10. **Develop tools to protect WSDOT's interests during phased development.** If the action is to take place in phases, develop some way to enforce the limitations to development of later phases until after the earlier phases have met the requirements.

11. **Balance WSDOT and developer expectations.** Look at the big picture. For example, do Developer Agreement highway improvements need to be completed before the land use proposal should obtain their Certificate of Occupancy (CO) from the local jurisdiction? Is there a way in which the developer can obtain the CO prior to completion of the highway improvements? WSDOT needs to be flexible while working with both the local jurisdiction and developers in completing the highway improvements.
12. **Document, document, document.** Keep notes of conversations, meetings, decisions and phone calls. Document everything you and everyone associated with the action says. A note made today may save you a lot of time and headaches at a future date.
13. **Continue to try to resolve the issue with the applicant.** Learn, understand and use all available means for alternative dispute resolution. Remember that resolving a dispute short of judicial resolution does not mean, "giving in" on important issues. WSDOT may have some room to maneuver or the developer may agree to modify the site plan or land use.
14. **Learn how to use citations.** It is important to correctly cite various statutes, rules, codes and other documentation. For example, SEPA, Highway Access Management, WSDOT policy, zoning codes, etc.
15. **Knowledge is power.** Become familiar with and know the facts and history of the action. Sometimes a case can turn on what one might perceive to be a tiny technical detail. Being familiar with the case and the record will allow representatives for the agency to know when the opposing party's argument is specious, or just incorrect. If you know the details of the case, you will be able to keep the record straight with more confidence and credibility.

7.1.13 The Petitioner, The Respondent, And The Court

There are always at least three parties involved in a land use appeal beyond the local appeal process: the petitioner, the respondent and the court.

- The petitioner is the complaining party who files the action with the court.
- The respondent is the party being sued, who responds to the complaint.
- The court is the forum where the arguments will be heard and a ruling will be made.

WSDOT is almost always the respondent in land use appeals, defending an action that was requested by the WSDOT of the petitioner through the local lead SEPA agency process. However, the WSDOT can also be the petitioner. WSDOT can also be involved in legal action outside of the courts and those actions are handled differently. An example would be a Highway Access Management Adjudicative Proceeding.

7.1.14 Standing To Appeal

To appeal a SEPA decision, WSDOT must establish "standing" to appeal the local decision. WSDOT has standing to appeal a land use decision if it "appeared before the local government, special district or state agency orally or in writing". Standing to appeal may be achieved either through oral testimony (speaking at the hearing – it is not enough to merely show up) or in written form, through a memorandum, letter, petition or other document. The written document must be submitted to the local government during the course of the proceedings before the record is closed. The record is typically closed during the hearing before the hearings body deliberates on its decision.

7.1.15 Exhaustion Of Administrative Remedies

Before a judicial appeal can be filed, the petitioner must "exhaust all administrative remedies". This means that WSDOT has followed all local government administrative requirements and has appealed the decision to the highest decision-maker at the local level. It is important to know the local government's decision-making structure and follow it to the letter.

7.1.16 "The Record"—What Is The Record And Why Is It Important?

The "record" is the formal file made before the city, county, or state agency whose decision is appealed. The record is the recorded oral testimony and written documentation submitted to the decision-maker upon which an appeal decision will be based. The responsibility for preparing the record is on the local government. However, it is important for the Development Services staff member to see that the record contains the correct information from WSDOT's perspective. The record should include all written testimony and all exhibits, maps, documents or other written materials specifically incorporated into the record or placed before, and not rejected by, the final decision maker, during the course of the proceedings before the final decision maker. Keeping good records and making sure those records (maps, letters, correspondence, comments, traffic impact studies) get into the formal local government "record" should start at the very beginning of a file. It is important to establish a set of best practices to obtain, retain and transmit appropriate information to the local government so that if an appeal does arise, WSDOT is prepared.

7.1.17 Building A Good Record

All correspondence, maps, traffic impact studies, meeting notes and records of conversations are part of WSDOT's decision-making history. As such, this information should be kept in some logical order so that it can later be made part of the formal local government record.

- Letters and documents for the record. WSDOT staff may submit written information in the form of letters, memoranda, staff reports, recommendations and findings. Be sure to include a request that the written information be made part of the record. This written documentation must be submitted prior to the close of the record. The submittals need to reference how the materials relate to the logical approval criteria for the land use application at hand.
- Public Hearing Testimony. WSDOT staff may also testify in person at hearings and may bring and request to have entered into the record any written material. Again, these must relate to the local approval criteria.
- Record Keeping. WSDOT must keep records of agency correspondence, both internal and external, notices from local jurisdictions, and the local staff reports, findings and decisions. These are a valuable source of information when preparing an appeal.
- Keeping a Journal. Keeping a written record of conversations, internal communications and meeting outcomes can be a valuable tool. The written record of conversations does not have to be word for word, but should note important features such as the subject matter, date and persons talked to. Care should always be taken to keep any journals professional by nature, so that if the material is submitted as part of the local government record, it will not contain entries embarrassing to the writer or to WSDOT.

7.1.18 Important Tips for Building a Record

The following is a list of tips for building a record.

- Establish good record-keeping practices in all cases.
- If the data or information is important to WSDOT, get it in the record. If it is not in the record, it will not be used in the decision-making.
- The local government is the "keeper of the record." It is up to you to see that the information gets placed into their record.
- Placing information into the record means that you must formally request, either orally at a hearing or as part of any written correspondence, that the information be made part of the record. For example, if information is submitted to the planning commission and then appealed to the city council, make sure that the planning commission record, including your information, is placed before the city council.
- Make sure that any Traffic Impact Analysis (TIA) and any updates are placed in the record. It is often a good idea to request two copies in order to make sure one is available for the record. All of this requires that the Development Services staff member has detailed knowledge about each particular land use application, including local government regulations and hearing dates.

HEADQUARTERS PLANNING 310 Maple Park Ave SE, Olympia, WA 98504-7370			
Name	**Area of Expertise**	**Telephone**	**E-mail**
Alan Harger	Development Services	(360) 705-7593	hargera@wsdot.wa.gov

EASTERN REGION 2714 N. Mayfair, Spokane, WA 99207			
Name	**Area of Expertise**	**Telephone**	**E-mail**
Greg Figg	Transportation Planner	(509) 324-6199	figgg@wsdot.wa.gov

NORTH CENTRAL REGION 1551 North Wenatchee Avenue, Wenatchee, WA 98801			
Name	**Area of Expertise**	**Telephone**	**E-mail**
Bill Gould	Assistant Planning Engineer	(509) 667-2909	gouldw@wsdot.wa.gov

NORTHWEST REGION 15700 Dayton Avenue North, Seattle, Washington 98133-9710			
Sno-King Area			
Name	**Area of Expertise**	**Telephone**	**E-mail**
King County Unit			
Ramin Pazooki	Local agency and Development	(206) 440-4710	pazooki@wsdot.wa.gov
vacant	Local Agency and Development	(206) 440-4711	
Felix Palisco	Development/ Local Agency Engineer	(206) 440-4713	palisof@wsdot.wa.gov
John Sutherland	Development/ Local Agency Engineer	(206) 440-4712	sutherj@wsdot.wa.gov
Edward Giraud	Developer Construction Liaison Engineer	(206) 440-4709	giraude@wsdot.wa.gov
Snohomish County Unit			
George Chambers	Development/Local Agency Engineer	(206) 440-4912	chambgw@wsdot.wa.gov
Sandra Kortum	Assistant Development/ Local Agency Engineer	(206) 440-4911	kortums@wsdot.wa.gov
Steve Benenati	Assistant Development/ Local Agency Engineer	(206) 440-4915	benenas@wsdot.wa.gov
Mike Gallop	Developer Construction Liaison Engineer	(206) 440-4913	gallopm@wsdot.wa.gov

Mount Baker Area 1043 Goldenrod Road, Suite 101, Burlington, Washington 98233-3415			
Lee Conrad	Area Operations Manager	(360) 757-5960	conradl@wsdot.wa.gov
Roland Storme	Development Services Engineer	(360) 757-5961	stormer@wsdot.wa.gov
Rebecca Rosencrans	Assistant Development Services Engineer	(360) 757-5964	rosencb@wsdot.wa.gov
Mike Gallop	Developer Construction Liaison Engineer	(360) 757-5967	gallopm@wsdot.wa.gov

OLYMPIC REGION

P.O. Box 47440, Olympia, WA 98504-7440

Name	Area of Expertise	Telephone	E-mail
Dale C. Severson, PE	Development Services Engineer	(360) 357-2736	seversd@wsdot.wa.gov
Trudy Johnson	Development Services Technician	(360) 357-2667	johnstr@wsdot.wa.gov
Dan Carruth	Development Services Senior Reviewer	(360) 357-2706	carrutd@wsdot.wa.gov
Leroy Patterson	Development Services Senior Reviewer	(360) 357-2727	patterl@wsdot.wa.gov
Alana Hess	Development Services Senior Reviewer	(360) 357-2725	Hessa@wsdot.wa.gov

SOUTH CENTRAL REGION

2809 Rudkin Rd., Union Gap, WA 98903

Name	Area of Expertise	Telephone	E-mail
Rick Holmstrom	Development Services Engineer	(509) 577-1633	holmstr@wsdot.wa.gov
John Gruber	Transportation Planner	(509) 577-1636	gruberj@wsdot.wa.gov

SOUTHWEST REGION

4200 Main St., Vancouver, WA 98663

Name	Area of Expertise	Telephone	E-mail
Jeff Barsness	Development Services Engineer	(360) 905-2059	barsnej@wsdot.wa.gov
George Humphrey	Reimbursable Agreements, Developer Agreements	(360) 905-2296	humphrg@wsdot.wa.gov
Don Owings	Technical Design Review and Donation Process	(360) 905-2093	owingsd@wsdot.wa.gov
Rick Henderson	Access Connection Permits, Utilities	(360) 905-2299	henderr@wsdot.wa.gov

Washington State Department of Transportation

Douglas B. MacDonald
Secretary of Transportation

Northwest Region
15700 Dayton Avenue North
P.O. Box 330310
Seattle, WA 98133-9710

(206) 440-4000
TTY: 1-800 833-6388

Example Letter 1: Response to Development Under SEPA

April 1, 2004

Ms. Jennifer Watson
Whatcom County
Planning & Development Services
5280 Northwest Drive, Suite B
Bellingham, Washington 98226

SUBJECT: SR-542 MP 2.73 CS 3705
Proposed Mixed Use Development
County SEPA No. SEP00-08952
Proponent: North Valley Developments
SEPA Checklist/ MDNS Review Comments

Dear Ms. Watson:

Thank you for giving us the opportunity to review the SEPA Checklist and the Mitigated Determination of Non-Significance (MDNS) documents for the proposed mixed used development including commercial facilities and multi and single family dwellings. The subject 17-acre property is located along north side of SR-542 (Sunset Drive/ Mount Baker Highway) at Milepost 2.73 in unincorporated Whatcom County.

Based on our review of the SEPA Checklist and MDNS documents we would like provide you with the following comments:

1. **Traffic Study:** The proposed development will generate more than 25 Peak Hour Trips affecting the above SR-542 intersection and the state highway system. A Traffic Impact Study will need to be prepared for this project to discuss potential impacts of the proposed development on SR-542 and determine if and what mitigation measures will be necessary. A Traffic Impact Study Checklist is attached to this letter for preparation of the traffic study. The traffic study will also need to discuss and calculate

Ms. Jennifer Watson
Page 2
June 18, 2003

the pro-rata share for our proposed widening of SR-542. Presently, we have a programmed capacity improvement project titled *"SR-542, Orleans Street to Britton Road Widening"* between approximate Mileposts 0.32 and 2.96, *PIN # 154201A*. It is estimated that this project will cost about $2,761,000.00 and has a proposed ad/ shelf date of March 11, 2002.

2. **Access Connection Permit**: If the proponent still wishes to gain access for the proposed development from SR-542, then they will need to apply for a Category II Access Connection Permit from SR-542 in order to have access from this highway. The completed application along with the appropriate fee and the Traffic Impact Study will need to be submitted to WSDOT for review and approval. Access Connection Permit Application is also attached to this letter. Again, it should be noted that a Traffic Study is required for all Categories II and III Access Connection Permits.

3. **Stormwater and Drainage Plans:** We would also like to review the stormwater & drainage plans and any other hydraulics data and calculations for the subject proposal, to determine the potential impacts and additional runoff to WSDOT's right-of-way and drainage facilities in the area and to assure that the drainage impacts are adequately mitigated.

4. **Right of Way Donation:** It should also be noted that if additional right-of-way were needed for our widening project, we would also require right-of-way donation.

If you have any further questions or if the proponent needs additional information for submittal of the required traffic impact study, drainage report and plans and the access connection application, please contact Reno Calhoun of our Developer Services section at (206) 345-6789.

Sincerely,

JOHN A. SMITH, P.E.
Area Administrator

Attach.
PS/ps

Whatcom00\corresp\WH542273.doc

Washington State Department of Transportation

Douglas B. MacDonald
Secretary of Transportation

Northwest Region
15700 Dayton Avenue North
P.O. Box 330310
Seattle, WA 98133-9710

(206) 440-4000
TTY: 1-800 833-6388

Example Letter 2: Conceptual Approval Of Access (Use Only If Requested By The Applicant)

April 1, 2004

Planner's Name and Title _____
Jurisdiction _____
Address _____

RE: (**Development Name, SR, MP, CS, Charge No.**) _____

Dear _____:

(**Describe proposed action**) The proposed two-lot short plat is adjacent to SR169 (Maple Valley Highway). (**Describe WSDOT interest**) Maple Valley Highway is a WSDOT facility and according to 47.50 RCW, vehicular access and connections to or from the state highway system shall be regulated by the permitting authority. The permitting authority means WSDOT for connections in unincorporated areas or a city or town within incorporated areas, which are authorized to regulate access to state highways pursuant to chapter 47.24 RCW. As such, WSDOT has Access Connection Permit authority to regulate access connections for this section of the state highway system. (**Provide WSDOT's objective**) In order to meet the applicable standards, this short plat needs to be served by one access to avoid numerous turning conflict points and a substandard approach. (**Summarize WSDOT recommendation**) Based on the applicable standards, we recommend the following condition(s) be imposed:

(**Findings**) Findings

(**Provide WSDOT and/or local standards**) This segment of SR 167 is two-lane, Class 2 highway and therefore the minimum spacing allowed between driveways is 660 feet[1]. Based on the speed limit of 40 mph, the minimum sight distance is 560 feet[2]. (**Explain in lay** Planner's Name and Title**terms as necessary**) This is the minimum allowed distance between driveways. (**Identify possible remedies**) It appears there is no alternative access to the site (as currently configured) and that the proposed

[1] WAC 468-52-040(2)(b)(ii)(B).
[2] WSDOT Design Manual Figure 910-18a.

Planner's Name and Title
Page 2
June 25, 2003

access location does not meet the above noted spacing requirements. Under current access management law, the existing parcel configuration would be limited to one access or no access if alternative access exists. Therefore, provisions for joint access to the proposed two-lot short plat needs to be a condition of the access connection permit. The proposed access, if approved, could remain at the location shown on your plan until such time that other reasonable access to a highway with less restrictive access control classification or acceptable access to the general street system becomes available and is permitted. Based on SRView, WSDOT's Highway System Videolog, the proposed driveway appears to meet the minimum sight distance requirements.

Presumably, only one access will be allowed however, it will be necessary for the applicant to go through the permit process. It is my understanding that the minimum joint access width should be a minimum of 20 feet wide based on Figure 920-4 of the WSDOT Design Manual.

(**Provide A Conclusion**) Conclusion
WSDOT has permit authority to regulate access to this section of the state highway. The current site would be allowed only one access. Provisions for joint access should be a condition of the access connection permit while both parcels are owned and controlled by the applicant.

1. (**Clearly state expectation and when condition is to be performed**) A joint-access easement shall be prepared and recorded to serve and benefit both properties as a part of the final plat. WSDOT must receive a copy of the recorded easement prior approval of the access connection permit.
2. (**Request access connection permit application**) The property owner shall submit a WSDOT Access Connection Permit application package which should include required fees and supplemental information i.e. site plans, assessors maps, traffic study, etc .

If you choose to proceed with this permit process, please provide me with an access connection permit application package. If you have any questions regarding the above comments, I can be reached at (**phone number and e-mail address**).

Sincerely,

(**Name and Title**)

cc: (**Region staff and applicant's representative**)

Washington State Department of Transportation

Douglas B. MacDonald
Secretary of Transportation

Northwest Region
15700 Dayton Avenue North
P.O. Box 330310
Seattle, WA 98133-9710

(206) 440-4000
TTY: 1-800 833-6388

Example Letter 2a: Conceptual Approval Of Access (Use Only If Requested By The Applicant)

August 7, 2000

Mr. Jon Sutter
Anderson, Sutter & Kelly P.S.
500 Railview Ave.
Metrotown, WA 98694
Fax: (239) 671-3893

Subject: SR-999 MP 484.30 CS 6432 Access Permit No. 270B

Dear Mr. Sutter:

This letter is written to confirm the Washington State Department of Transportation (WSDOT)'s position, our understanding relative to the above referenced permit, and your client's (Orion County Fire District No. 1, hereinafter referred to as "District") acquisition of a three-acre parcel that is to be served by the access relocated under the above referenced permit.

It is our understanding that the District will be acquiring a three-acre portion of the existing eight-acre parcel contemporaneous with the relocation of the existing agricultural access allowed by the above permit. Following the District's acquisition of the subject property, it is our understanding that the District will apply for a permit to upgrade the relocated non-conforming access to a commercial access to solely serve this use, a fire station.

We also understand that your client requires confirmation by the WSDOT that the WSDOT is prepared to process and approve, subject to design and similar engineering requirements, the upgrade of the relocated access to a commercial access to serve the District's fire station at this site. By this letter, the WSDOT would confirm that it is prepared to process and issue a permit for the upgrade of the relocated access, subject to the submittal of an acceptable design and satisfaction of engineering and similar requirements.

Mr. Jon Sutter
Page 2
August 7, 2000

If you are in need of any further information or confirmation, please contact Marshall King of our Developers Services section at 398-393-2323. Otherwise, we await the submission of the permit application for the upgrade of the access.

Sincerely,

R. ALAN ROBERTSON, P.E.,
Regional Administrator

JS:ps
cc: file 00060037
whatcom00\access\00060037memo.doc

Washington State Department of Transportation

Douglas B. MacDonald
Secretary of Transportation

Northwest Region
15700 Dayton Avenue North
P.O. Box 330310
Seattle, WA 98133-9710

(206) 440-4000
TTY: 1-800 833-6388

Example Letter 3: Denial Letter For Break In Limited Access

September 14, 2001

Mr. Richard A. Davis
7338 Highway 3 SW
Port Orchard, WA 98367

Re: Application for Access Connection
SR 3, Mile Post 29.24

Dear Mr. Davis:

The Department has reviewed your Application for an Access Connection Permit for your property. It has been determined that the Department must deny your request for the access permit.

With State laws; Revised Code of Washington (RCW) 47.50 and Washington Administrative Code (WAC) 468-51 and 468-52, the Department established an Access Control Classification System to the State Highways. As a part of the RCW, WAC and Access Control Classification System process the State purchased existing and future access rights to all parcels abutting state highway.

According to the Department's right of way records, when the State purchased the access rights to this section of land along SR 3, this property was granted the right to one, single "Type B," on and off approach, for the normal operation of a farm, but that it shall not include any roadside marketing or operation use. A farm approach is restricted to farming usage only, but may include a single family residence. Additionally, this "Type B" approach is restricted to a maximum width of 20 feet and must be located between specifically recorded highway stationings 288+00 to 300+00.

The operation of a home based small construction company is not consistent with the specific limited rights of ingress and egress documented for this property. The existing approach is not only in violation of the allowable type of usage, but it is also much larger than the approved approach width.

Mr. Richard A. Davis
Page 2
September 4, 2001

To attempt a change in use of this access would require that you do the following:

1. Request in writing a break in the limited access for the proposed change in use. For this break in access to be even considered for approval there must be justification that demonstrates a benefit to the general traveling public.
2. Purchase and/or reimburse the Department of Transportation for the access rights.
3. Mitigate traffic impacts caused by the proposed change in use. Mitigation could include, but not be limited to acceleration lanes, deceleration lanes, channelization, etc.

Please note that negotiations regarding access control are also very time consuming and that most requests for a break in limited access tend to be denied because it is difficult to justify that the general traveling public benefits by a break in access.

If you have any further questions, or if you decide you wish to pursue any of the above options, please contact me at (360) 357-2667.

Sincerely,

DALE C. SEVERSON, PE
Development Services Engineer
WSDOT, Olympic Region

DCS
TAJ

cc:

Washington State Department of Transportation

Douglas B. MacDonald
Secretary of Transportation

Northwest Region
15700 Dayton Avenue North
P.O. Box 330310
Seattle, WA 98133-9710

(206) 440-4000
TTY: 1-800 833-6388

Example Letter 3a: Denial Letter For Managed Access

April 5, 2005

Naeem Iqbal
P. O. Box 822
Lynnwood, WA 98046
Subject: SR 9 MP + 1.96 & 1.98 Vic. CS 3132
Land Use Change and Access to SR 9
County File No.: 03-105213

Dear Mr. Iqbal:

This letter is to discuss the access connections to 20607 SR 9 SE. When you purchased this property prior to 1992, it was a single-family residence with two driveways; you are now operating a nursery and landscaping business. You have requested an access permit for both the existing access connections (driveways) located at MP 1.96 and MP 1.98 on SR 9.

We reviewed the proposal and made the decision to deny the permit for the south access at MP 1.96. In compliance with WAC 468-51-150, we are providing you the specific reasons for denying your connection application, the process for submitting an amended application and informing you of your right to appeal the denial of access.

Reasons for denying your south access:

- Per WAC 468-50-030 As a access Class 3 highway "No more than one access shall be provided to an individual parcel or to contiguous parcels under the same ownership"
- In the last 3 years, there were 10 accidents in the subject vicinity from MP 1.86 to 2.08.
- Both access connections are located within the 2004 High Accident Corridor (HAC), SR 9 from MP 1.50-MP 7.49-- SR 524 to north of SR 96.

Process for submitting an amended application:

- You may submit a revised application that responds to the department comments and concerns for the denial within 30 calendar days.
- Submitting a revised permit is not a prerequisite for requesting an adjudicative proceeding.

You have the right to appeal WSDOT's denial of your south access:

- You may apply in writing for an adjudicative proceeding within thirty days of the date the initial determination of the department is sent by certified mail.
- If you fail to apply for an adjudicative proceeding within 30 days, the department's initial determination is adopted as its final determination.
- Failure to attend or otherwise participate in an adjudicative proceeding may result in a finding of default.

Should you have any questions, please contact Mr. George Chambers (206) 440-4912 or Ms. Sandra Kortum (206) 440-4911 of my Developer Services section.

Sincerely,

Ramin Pazooki
Local Agency and Development Services Manager

Washington State Department of Transportation

Douglas B. MacDonald
Secretary of Transportation

Northwest Region
15700 Dayton Avenue North
P.O. Box 330310
Seattle, WA 98133-9710

(206) 440-4000
TTY: 1-800 833-6388

Example Letter 4: Finding Of No Significant Impact

April 1, 2004

(**Planner's Name**) (**Title**)
King County Planning Department
100 Pine St., Room 200
Boomtown, WA 00000-0000

Dear (**Planner's Name**):

Per the (**local jurisdiction**)county's request and public notice dated March 15, 2002, we have reviewed the land-use proposal, File KNG-02-27, an application for a zone change from Open Space Reserve to Single-Family Residential for 2.50-acre site. The subject property is located on the west side of Miller Ann Road, approximately 1450 feet north of 108th Ave. SE (SR 515), a WSDOT facility. Based on our analysis, the proposal will have no significant affect on 108th Ave. SE. WSDOT has no comments on this proposal.

If you have any questions regarding this matter, please contact (**Name**), WSDOT Development Services Representative at (**phone number**) or me at (**phone number**).

Sincerely,

(**WSDOT Planner, Title**)

cc: (**Applicant's Representative**)
(**WSDOT Internal contacts**)

Compilation of Development Impact Cases
January 2003
(not all inclusive)

Note: In reviewing these case synopses, remember that WSDOT imposes Traffic Mitigation Payments, Land Donations/Dedications, and Highway Improvement Exactions based upon SEPA (RCW 43.21.C.060), not based upon RCW 82.02, and the following cases *mostly* rely on RCW 82.02 et seq for their authority to charge impact fees. In addition, these case holdings are good only as of January 2003, and the courts may review, change or reverse decisions after this date, and there could be Legislative action, as well.

1. Must Have Nexus Between Exaction and Development Impact.

   In Nollan, the California Coastal Commission required, as a condition of a permit for a beach house, that the property owners provide an easement for beach travelers to cross the lot from one public beach to another. The U.S. Supreme Court held that the development condition (exacting the easement) violated the Takings Clause of the U.S. Constitution because it did not further the legitimate state interest of protecting the ocean view of passers by. There was no *Nexus* between the condition and the problem that the government sought to solve. Nollan v. Cal. Coastal Comm'n, 483 U.S. 825 (1987).

2. Must Have Proportionality Between Exaction and Development Impact.

   In Dolan, the City of Tigard, Oregon, conditioned approval of a store expansion on dedication of land to provide a public greenway to combat flooding and to provide a pedestrian and bicycle path. The U.S. Supreme Court did find the necessary *Nexus* between the condition and the public problem, but it held that the government must also show that the condition required is *Roughly Proportional* to the development's impact on the problem that forms the government's legitimate interest. Dolan v. City of Tigard, 512 U.S. 374 (1994).

3. Nexus and Proportionality are Required Whether the Exaction is Money or Land.

   The City conditioned the development permit on the developer making half-street improvements to a street adjoining the project; however, the City failed to show that the condition was *Proportional* to the development's impact on the street. Thus, the court invalidated the requirement. Benchmark v. Battle Ground, 103 Wn. App. 721 (2000).

4. Proportionality and Traffic Mitigation of Direct Impacts.

   The City of Brier determined that its general street grid needed to be upgraded because of the collective impact of new subdivisions. It proportionally assessed each developer according to the number of lots in the project for a global street project. However, it did not look at each project's direct impact to the street network. Castle Homes appealed a $3,000/lot assessment. 75 % of the traffic from the development would directly exit into Mountlake Terrace and at most 25% of the traffic would enter Brier's street system, with only 8 percent staying in Brier for more than two blocks.

The court reversed the assessments and remanded the case to the City to recalculate its assessments based upon the development's direct traffic impacts. Castle Homes v. Brier, 76 Wn. App. 95 (1994).

5. Transportation Impact Fees (TIFs).

   TIFs must be calculated when the development is to occur, meaning at the time of the building permits and not at the time the development application is made. New Castle Investments v. City of LaCenter, 98 Wn. App. 224, 237 (1999).

6. Cannot Collect "Reimbursement" Costs.

   The court ordered the City to pay back to apartment building developer the proportionate costs to construct sidewalks adjoining the development because the improvements were constructed *before* the developer acquired the property and were not installed with regard to the proposed development impacts. The City had conditioned the building permit upon payment of the reimbursement costs which was disallowed by the court. View Ridge Park v. Mountlake Terrace, 67 Wn. App. 588 (1992).

7. Payment In Lieu of Dedication.

   The court upheld a voluntary payment *in lieu* of a dedication of land. View Ridge Park v. Mountlake Terrace, 67 Wn. App. 588, 599 (1992).

8. Payment In Lieu of Dedication Must be Based on Land Value.

   Bothell charged a subdivision $400/lot in lieu of a dedication of land for park purposes (not an impact mitigation fee). The court found that if a fee were to be imposed in lieu of a dedication of land, the only rational, nonarbitrary way of determining the amount of the fee is to relate it to the value of the land which Bothell could require the developer to dedicate. The burden is on the city to demonstrate that the fee is related to the value of the land. Thus, Bothell was required to refund the $400/lot fee. Vintage Constru. Co. v. Bothell, 83 Wn. App. 605 (1996), affirmed 135 Wn. 2d 835 (1998).

9. May Require Actual Construction In Lieu of Fees:

   The court upheld the City of Lacey's requirement that the developer actually make the street improvements, rather than enter into a voluntary agreement for the developer to pay impact fees. However, the economic value of the construction must equate to the what fees would have been assessed. Southwick, Inc. v. Lacey, 58 Wn. App. 886 (1990).

10. Substantial Evidence Standard.

    The City required the developer to improve North Parkway, which borders the development but does not provide direct access to the development. The state court applied the United States Supreme Court's test that an exaction (whether money or land) must be based upon (1) a *nexus* between the exaction and the development and (2) the exaction must be roughly *proportional* to the impact. In addition, the court required the City to produce *substantial evidence* to support its permit requirements. However, the court found no substantial evidence to support the City's position since North Parkway did not meet the City's road standards even before the development was proposed and that the required expenditure for the street improvements was not directly related to the traffic generated by the development. The Benchmark Land Company v. City of Battle Ground, 146 Wn. 2d 685 (2002).

11. Cannot Charge Fees Outside Jurisdiction.

    City did not have statutory authority to impose impact fees on projects outside of its borders. In Nolte, Olympia and Thurston County adopted a comprehensive plan that called for the City, not the County, to fund parks and roads in the unincorporated Urban Growth Area (UGA). To cover the cost, the City was to "collect impact fees" from new developments in the UGA, and the City passed an ordinance to this effect. The court found that an impact fee can only be imposed as a condition of development approval; necessarily then, an impact fee must be imposed by the entity with authority to approve or disapprove a change in the use of land on which the project will be built. In Nolte, it was the County that held the building permit authority, not the City. Nolte v. City of Olympia, 96 Wn. App. 944 (1999).

12. Can Require Road Improvements Outside Jurisdiction (Qualified).

    Developer submitted a plat to develop 144 multifamily units. The EIS projected an additional 778 vehicle trips per weekday on adjacent roads, resulting in a 22% increase in traffic on Golf Course Road and a 360% increase on Melody Lane. Port Angeles conditioned approval of the plat, in part, on the developer (1) improving Melody Lane to 28 feet with curb, gutter and sidewalk on the north side and storm drainage (the applicability of this condition was subject to either the county road's annexation by the City or Clallam County road improvement approval); and (2) pay certain costs of the improvement of Golf Course Road, based upon the estimated cost of the street project and the ADTs generated by the development; in addition, each dwelling unit was assessed $416 (both monetary calculations and charges for Golf Course Road were upheld by the court). Both plat conditions were upheld by the court. The court found that since the City was required by RCW 58.17.110 (Boundaries & Plats) to consider adequate access to and within a proposed subdivision. Therefore, the court held that the City was authorized to require the improvement of Melody Lane outside its territorial jurisdiction if it conditioned it upon the requirement that it be either annexed by the City or receive County approval. [This case can be distinguished from the Nolte case, above, because Port Angeles had the plat approval authority where in Nolte, Olympia did not. Miller v. Port Angeles, 38 Wn. App. 904 (1984).

13. Fees Cannot be Imposed Without Statutory Authority.

    Impact fees cannot be imposed without statutory authority. Nolte v. City of Olympia, 96 Wn. App. 944, 950 (1999), citing San Telmo Assocs. V. Seattle, 108 Wn. 2d 20, 23 (1987).

14. Fees May Only be Spent on Identified Improvements.

    Bothell charged a flat $400/lot park fee. However, the court found that the City had not complied with the provisions of RCW 82.02.020(1) [which does not apply to WSDOT] that states that impact fees "may only be expended to fund a capital improvement agreed upon by the parties to mitigate the identified, direct impact." Bothell had failed to (1) identify the direct impacts caused by the developments on the City park system. It also failed to (2) consult with the developers prior to spending the funds collected; (3) failed to spend the fees on capital improvements designed to mitigate an identified, direct impact of the developments; and (4) improperly spent some of the park fees collected on items other than on capital improvements. Bothell was required to return $106,000 in fees plus pay prejudgment interest at 12%. Henderson Homes v. Bothell, 124 Wn. 2d 240 (1994).

15. Specific Agreement to Fund a Particular Improvement.

    King County's fee in lieu of land dedication was upheld by the court because the County required the fees to be used within the development's park service area. Although there was not a specific agreement between the developer and the County as to what particular capital improvement would be made with the fees, the developer was not precluded from recommending or seeking a particular improvement within the park service area. Trimen Development v. King County, 124 Wn. 2d 261 (1994).

16. "Voluntary" Agreement.

    Developer complained that he did not enter into a "voluntary" impact mitigation agreement because the agreement was a condition of his plat approval. The court disagreed. Under RCW 82.02.020, the word "voluntary" means that the developer had a choice of either (1) paying for those reasonably necessary costs which are directly attributable to the project or (2) losing preliminary plat approval. The court noted that just because the developer's choices may not be between perfect options does not mean that the agreement was "involuntary" under the statute. The developer could agree to the fees, get his plat approval, and afterwards contest the fee amounts exacted. Cobb v. Snohomish County, 64 Wn. App. 451 (1991); Cobb v. Snohomish County, 86 Wn. App. 223 (1997).

17. Level of Service (LOS) Exactions.

    Snohomish County argued that a developer must pay its proportionate share of an *entire* intersection improvement, although the project would directly impact only one leg of the intersection of 234th St. SW and Highway 99 (LOS C/D). The court found that the project contributed some traffic to LOS C traffic lanes, but none whatsoever to the LOS D traffic lanes. Since by County ordinance and its "Highway Capacity Manual's" definitions, relating to traffic design, flow and operation did not require improvements to be made to LOS C traffic lanes, the developer owed zero dollars in mitigation. Cobb v. Snohomish County, 64 Wn. App. 451 (1991).

18. Late Comer Fees.

    RCW 35.72 et seq., allows a City or County (not WSDOT) to assess latecomer costs for street improvement. However, there are many hoops through which a City or County must jump before such provision will be upheld by the courts.
    see Woodcreek Partnerships v. Puyallup, 69 Wn. App. 1 (1993).

Appendix 4 Blank (To be inserted at future updates)

Blank (To be inserted at future updates)

Washington State Department of Transportation

Developer Agreement Construction by Developer At Developer Expense			Developer and Address Mr. Ron Porter Eddie's Diner P.O. Box 328 Mukilteo, WA 98275
Agreement Number UC 3388			Section / Location MP 51.52, Highway 99
State Route No. 99	Control Section No. 3102	Region Northwest	Description of Work Construct curb, gutter, sidewalk and associated widening and a right-in/right-out access connection (Permit No. AC 97090112)
Surety Bond $20,000.00	Work Hours 9:00 A.M. to 3:30 P.M.		

This AGREEMENT, made and entered into this 4 th day of June, 1998, between the STATE OF WASHINGTON, Department of Transportation, acting by and through the Secretary of Transportation, hereinafter called the "STATE", and the above named organization, hereinafter called the "DEVELOPER".

WHEREAS, the DEVELOPER wishes to construct an intersection and/or related improvements within the STATE's rights-of-way, and

WHEREAS, the STATE and DEVELOPER now wish to define responsibility for construction and maintenance of the proposed improvements.

WHEREAS, the STATE and the DEVELOPER now wish to define responsibility for construction and maintenance of the proposed improvements.

NOW THEREFORE, by virtue of Title 47.50 RCW, it is mutually agreed between the parties hereto as follows:

1. The STATE agrees to grant the DEVELOPER permission to construct the above described work within STATE right-of-way at the location described in Exhibit "A", attached hereto and by this reference made a part of this AGREEMENT.

2. The DEVELOPER agrees to construct the project as shown on Exhibit "B", at 100 percent DEVELOPER expense and responsibility. Exhibit "B" is attached hereto and by this reference made a part of this AGREEMENT.

   The responsibility of the DEVELOPER for performance, safe conduct, and adequate policing and supervision of the project shall not be lessened or otherwise affected by the STATE's approval of plans, specifications, or work, or by the presence at the worksite of the STATE's representative(s), or by compliance by the DEVELOPER with any requests or recommendations made by such representative(s)

3. Any change of work from that shown on Exhibit "B" must be approved by the STATE prior to beginning such work. Plan revisions may be required by the STATE if design standards change between the time of the AGREEMENT approval and the beginning of construction.

4. Upon receipt of this AGREEMENT by the DEVELOPER the STATE may request a construction schedule showing critical dates and activities that will lead to the timely completion of the work required under this AGREEMENT.

   Failure by the DEVELOPER to provide the construction schedule within 30 days may cause cancellation of the AGREEMENT. Cancellation of this agreement will not lessen the DEVELOPER'S responsibility to reimburse the STATE for those costs agreed to by item 13.

5. Prior to beginning of construction, a preconstruction conference shall be held with the STATE, DEVELOPER, and the DEVELOPER's contractor.

6. Should the DEVELOPER choose to perform the work outlined herein with other than its own forces, a representative of the DEVELOPER shall be present at all times unless otherwise agreed to by the Region Administrator. All contact between the STATE and DEVELOPER's contractor shall be through the representative of the DEVELOPER. Where the DEVELOPER chooses to perform the work with its own forces, it may elect to appoint one of its own employees engaged in the construction as its representative. Failure to comply with this provision shall be grounds for restricting any further work by the DEVELOPER within STATE right-of-way, until said requirement is met.

   The DEVELOPER, at its own expense, shall adequately police and supervise all work on the above described project by itself, its contractor(s), subcontractor(s), agent(s), and others, so as to not endanger or injure any person or property.

7. Work within STATE right-of-way shall be restricted to the above specified hours and no work shall be allowed on the right-of-way Saturdays, Sundays, or Holidays, unless otherwise authorized by the STATE.

8. In the construction and/or maintenance of this facility, the DEVELOPER shall comply with the "Manual on Uniform Traffic Control Devices for Streets and Highways", current edition. Any closures or restrictions of the highway shall require a STATE approved traffic control plan.

9. All material and workmanship shall conform to the Washington State Department of Transportation Standard Specifications for Road, Bridge, and Municipal Construction, current edition, and shall be subject to inspection by the STATE.

10. All disturbed right-of-way shall be seeded, fertilized, mulched, and protected from erosion.

11. The DEVELOPER shall provide an executed surety bond acceptable to the STATE in the amount stated above. the bond shall:

    Be signed by a surety that is registered with the Washington State Insurance Commissioner and appears on the current authorized list published by the Office of the Insurance Commissioner.

    Be conditioned upon faithful performance of the AGREEMENT.

    Guarantee that the surety shall idemnify and defend the STATE against any loss resulting from the DEVELOPER's failure to faithfully perform all the terms under this AGREEMENT.

    Guarantee that the DEVELOPER or the contractor of the DEVELOPER shall pay all laborers, mechanics, subcontractors, and materialmen, or any person who provides supplies or provisions for carrying out the work.

    The surety bond shall remain in full force and effect until released in writing by the STATE.

    The STATE will recover from the DEVELOPER and its sureties such damages as the STATE may sustain by reason of the DEVELOPER's failure to comply with the provisions of this AGREEMENT.

12. The DEVELOPER shall obtain and keep in force for the duration of the work under this AGREEMENT, public liability and property damage insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW. The STATE shall be specifically named as an insured in a policy with the same company which insures the DEVELOPER or by an endorsement to an existing policy. The amount of coverage shall be not less than a single limit of $1,000,000 for bodily injury, including death and property damage per occurrence. The DEVELOPER shall furnish the STATE proof of insurance prior to undertaking any work covered by this AGREEMENT.

13. The DEVELOPER shall reimburse the STATE for all actual direct and related indirect costs necessitated by this AGREEMENT. Such costs include, but are not limited to, agreement preparation, plan review, and construction inspection.

    The DEVELOPER agrees to make payment for the work to be done by the STATE within thirty (30) days from receipt of billing from the STATE. Payment not made within thirty (30) days after receipt of billings shall bear interest at the rate of one percent per month or fraction thereof until paid pursuant to RCW 43.17.240.

14. The STATE shall have ownership and control of the completed facility within the STATE right-of-way and related traffic signal induction loops outside the STATE's right-of-way, all subject to final acceptance by the STATE with the exception that the DEVELOPER, his assigns, and successors, shall be responsible for the construction and maintenance of the private connections and appurtenances between the shoulder line of the highway and the right-of-way line inclusive of surfacing and drainage, when applicable. Future construction or maintenance within the areas of responsibility by the DEVELOPER, his assigns, and successors which will affect the traffic signal induction loops and related appurtenances shall require STATE review and approval.

15. Any breach of the terms and conditions of this AGREEMENT, or failure on the part of the DEVELOPER to proceed with due diligence and in good faith in the construction and maintenance work provided for herein, shall subject this AGREEMENT to be cancelled and, at the option of the STATE, may require the DEVELOPER to remove all or part of the facilities constructed hereunder at the DEVELOPER's sole expense.

16. The DEVELOPER shall idemnify and hold the STATE, and its agents, employees and/or officers harmless from and shall process and defend at its own expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the STATE, its agents, employees and officers arising out of, in connection with, or incident to the execution of this AGREEMENT and/or the DEVELOPER's performance or failure to perform any aspect of this AGREEMENT. Provided, however, that if such claims are caused by or result from the concurrent negligence of (a) the DEVELOPER and (b) the STATE, its agents, employees and/or officers, this idemnity provision shall be valid and enforceable only to the extent of the negligence of the DEVELOPER, and provided further, that nothing herein shall require the DEVELOPER to hold harmless or defend the STATE, its agents, employees and/or officers from any claims arising from the sole negligence of the STATE, its agents, employees, and/or officers.

17. In the event that any party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the parties hereto agree that any such action or proceedings shall be brought in a court of competent jurisdiction situated in Thurston County, Washington.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the day and year first above written.

DEVELOPER	STATE OF WASHINGTON DEPARTMENT OF TRANSPORTATION
By: Robert H Brennan	By: David L [illegible]
Title: Chairman	Title: Deputy Right of Way Adm.
Date: 6-4-98	Date: 6/4/98

DOT Form 224-054 EF
Revised 6/95

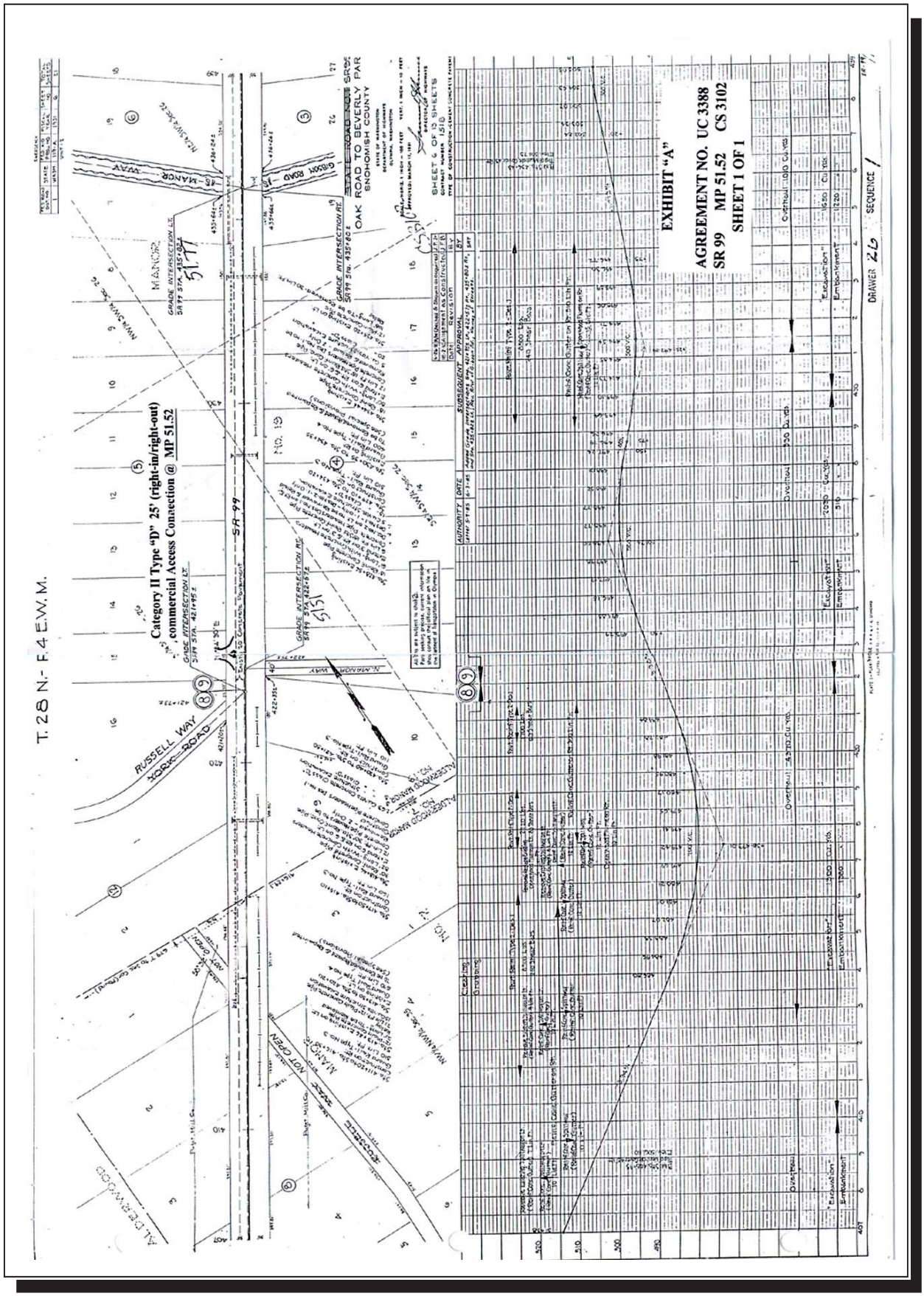
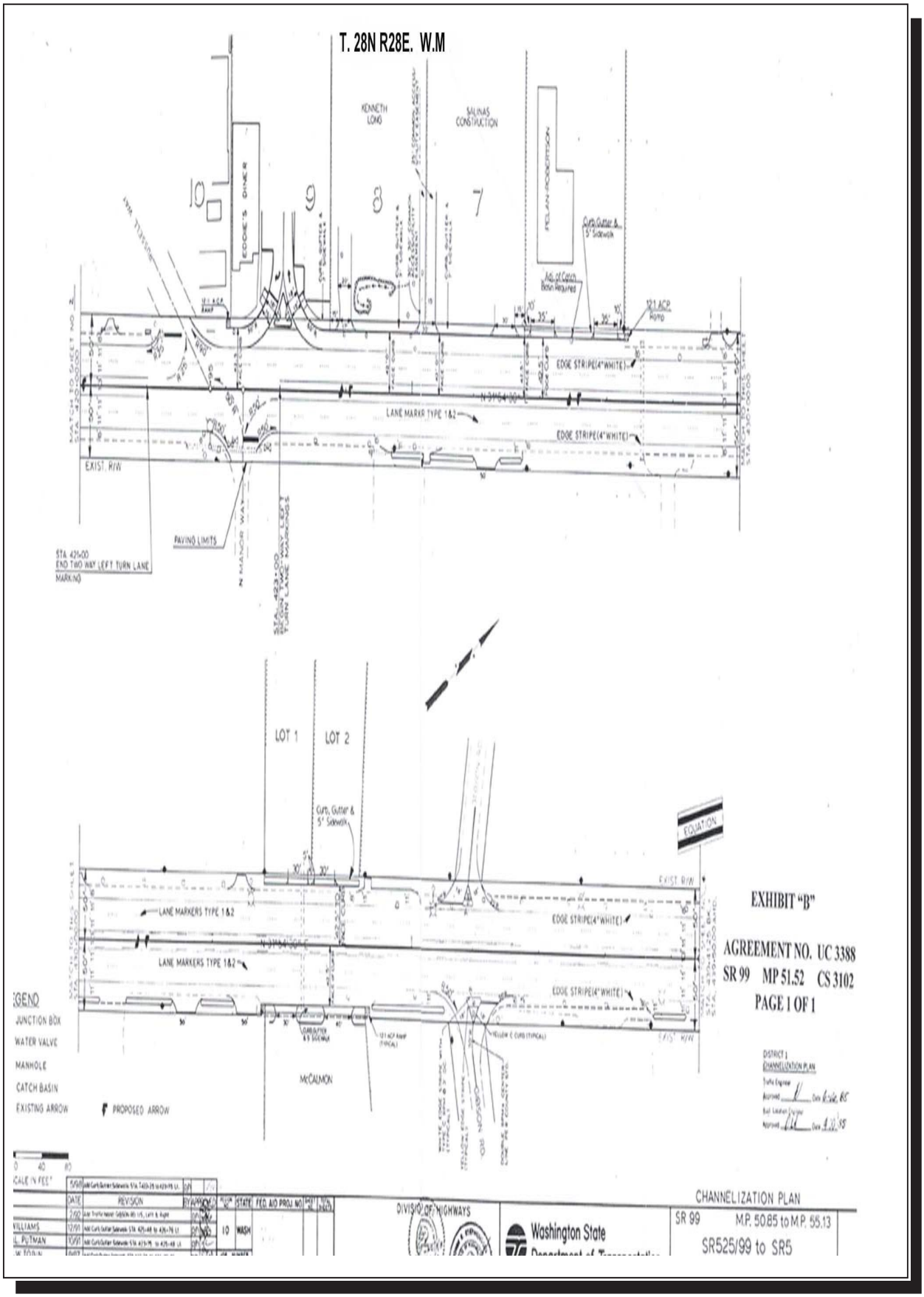
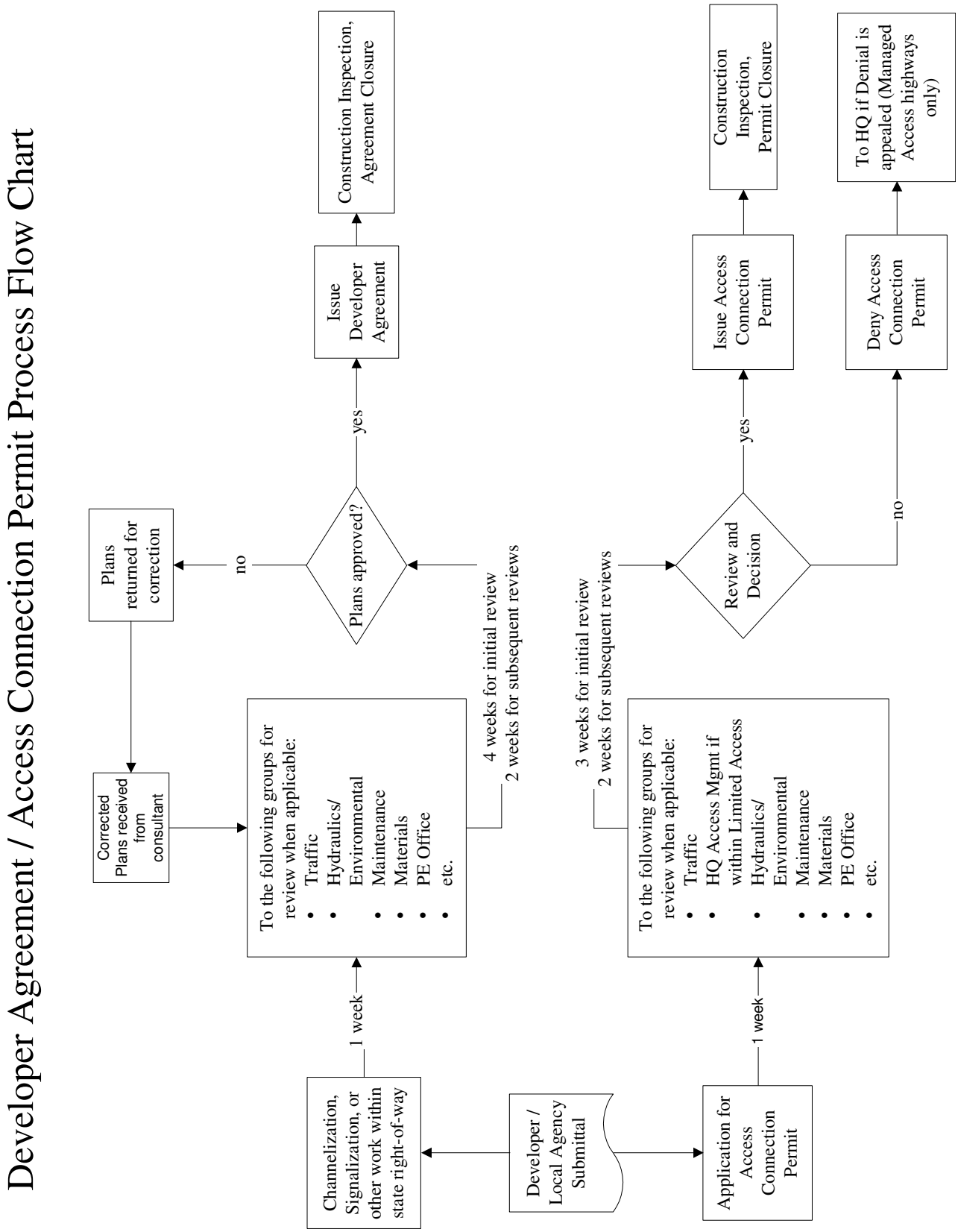


EXHIBIT "A"
AGREEMENT NO. UC 3388
SR 99 MP 51.52 CS 3102
SHEET 1 OF 1
Category II Type "D" 25' (right-in/right-out)
commercial Access Connection @ MP 51.52
T. 28 N. - R. 4 E.W.M.
SR-99
RUSSELL WAY
YORK ROAD
MANOR WAY
GIBSON ROAD
STATE ROAD NO. SR99
OAK ROAD TO BEVERLY PAR
SNOHOMISH COUNTY
SHEET 6 OF 10 SHEETS
DRAWER 26
SEQUENCE 1


T. 28N R28E. W.M
KENNETH LONG
SALINAS CONSTRUCTION
EDDIE'S DINER
EDGE STRIPE(4"WHITE)
LANE MARKER TYPE 1&2
EXIST. R/W
PAVING LIMITS
STA. 421+00 END TWO WAY LEFT TURN LANE MARKING
LOT 1
LOT 2
Curb, Gutter & 5' Sidewalk
EQUATION
LANE MARKERS TYPE 1&2
McCALMON
JUNCTION BOX
WATER VALVE
MANHOLE
CATCH BASIN
EXISTING ARROW
PROPOSED ARROW
EXHIBIT "B"
AGREEMENT NO. UC 3388
SR 99 MP 51.52 CS 3102
PAGE 1 OF 1
DISTRICT 1
CHANNELIZATION PLAN
CHANNELIZATION PLAN
SR 99 M.P. 50.85 to M.P. 55.13
SR525/99 to SR5
DIVISION OF HIGHWAYS
Washington State
REVISION
DATE
STATE
FED. AID PROJ. NO.
WASH


Developer Agreement / Access Connection Permit Process Flow Chart
Channelization, Signalization, or other work within state right-of-way
1 week
To the following groups for review when applicable:
• Traffic
• Hydraulics/ Environmental
• Maintenance
• Materials
• PE Office
• etc.
4 weeks for initial review
2 weeks for subsequent reviews
Plans approved?
yes
Issue Developer Agreement
Construction Inspection, Agreement Closure
no
Plans returned for correction
Corrected Plans received from consultant
Developer / Local Agency Submittal
Application for Access Connection Permit
1 week
To the following groups for review when applicable:
• Traffic
• HQ Access Mgmt if within Limited Access
• Hydraulics/ Environmental
• Maintenance
• Materials
• PE Office
• etc.
3 weeks for initial review
2 weeks for subsequent reviews
Review and Decision
yes
Issue Access Connection Permit
Construction Inspection, Permit Closure
no
Deny Access Connection Permit
To HQ if Denial is appealed (Managed Access highways only)

APPLICATION FOR JA ACCOUNT

Washington State
Department of Transportation
Douglas M. MacDonald
Secretary of Transportation

_____ Region
Sno-King Development Services
15700 Dayton Ave. N
P.O. Box 330310
Seattle, WA 98133

September 1, 2005

Ms. Charlene Hope
Hope & Parker Spas
667 Towster Ave.
My town, WA Zip

Subject: SR 50 MP ± 13.13 Vic. CS 1234
Hope & Parker Spas

County File No.: _____

Dear Ms. Hope:

A charge account number, JA _____, has been opened by this office to cover our actual costs for reviewing and commenting on submitted engineering data, plans, attending meetings with developer/Local Agency and consultants and construction inspection.

PROJECT TITLE:	
LOCATION:	
DESCRIPTION OF WORK:	
ESTIMATE COST :	Approximately: $ _____.00 (**actual costs may vary;** approval required for exceeding cost estimate)

By filling out and signing the application Local Agency/Developer agree(s) to pay, all WSDOT costs related to your development/project, including administrative costs, until this project is accepted by WSDOT as complete. **Please do not send funds at this time,** an invoice will be submitted to you each month with the charges that are incurred. Payment is due within 30 days of receipt of each invoice. Interest of 1% per month may be charged on past due accounts.

Local Agency/DEVELOPER INFORMATION

local agency/Company Name	**Phone Number**
Billing Address	**Federal ID Number or SSN**
Suite or Office Number	**Authorized Representative (Please Print or Type)**
City, State, Zip code	**Title**

Signature

To avoid delays, please return this completed application as soon as possible, to the following address:

Washington State Department of Transportation
Attention: ***Ima Thinker***
Region Development Services, MS 221
P.O. Box 330310
Seattle, WA 98133

If you have any questions, please feel free to contact Ima Thinker, of my Developer Services section at (206) 555–1234.

Sincerely,

Wally Washdot

For Department Use Only

Ima Thinker / _____	JA _____	_____
WSDOT Representative / Org Number	Job Number	Work Op

Sample JA for manual.doc

GENERAL REQUIREMENTS

- ☐ Use latest version of Manual on Uniform Traffic Control Devices (MUTCD) and WSDOT Design Manual
- ☐ Plan scale 1” = 50’. Plan sheets not to exceed 22” x 34”
- ☐ Show 300 feet (100 m) of existing highway beyond the proposed changes
- ☐ Plan prepared in accordance with Plans Preparation Manual
- ☐ Have deviations/EUs been approved, if applicable
- ☐ Submit a full size mylar copy for final approval.

DESIGN DATA BOX

- ☐ Highway Design Class (Modified: MDL1-14; Full: Principal Arterial, Minor Arterial or Collector)
- ☐ City/County Design Classification for crossroads
- ☐ Access Control
- ☐ Land use
- ☐ ADT
- ☐ Percent Trucks (if applicable for turn storage)
- ☐ Design Vehicle
- ☐ Posted Speed and Design Speed

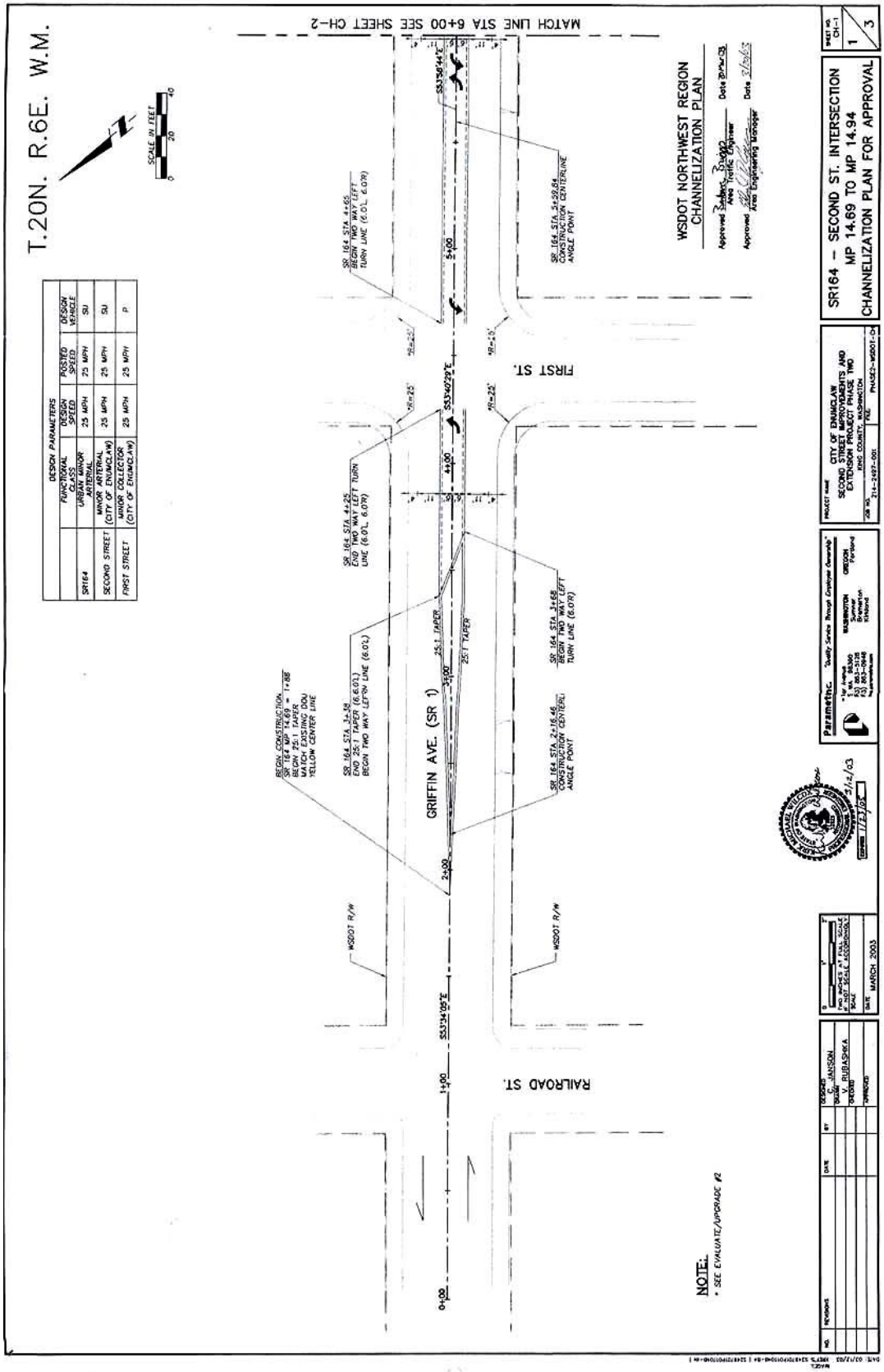
TRAFFIC SCHEMATIC DRAWING

- ☐ Current ADT and design year ADT
- ☐ DHV for turning movements for current and design year

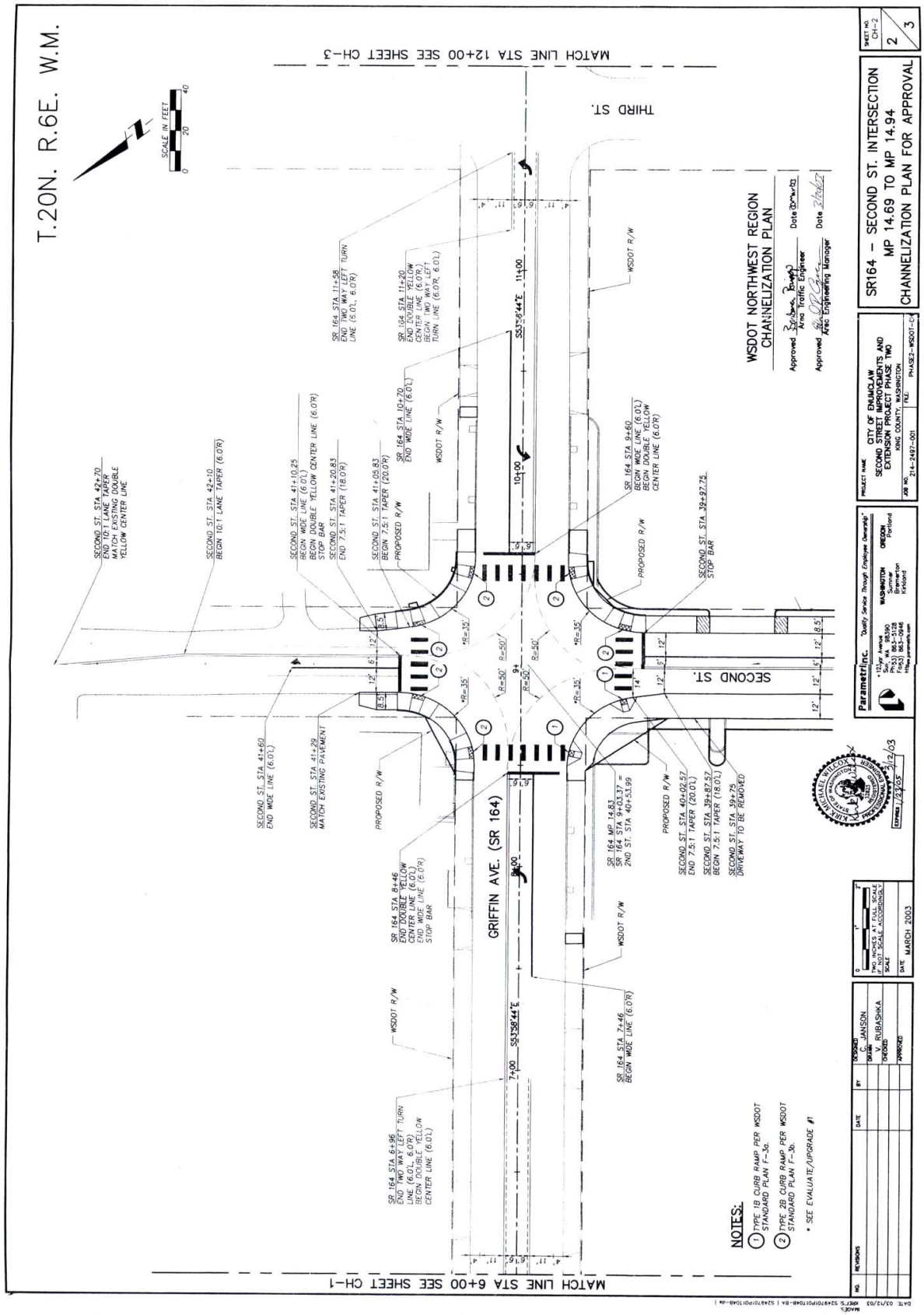
PLAN SHEET

- ☐ Project Title, State Route number, SR Milepost in title block
- ☐ Township, Range, Section, North Arrow, scale bar, legend, county
- ☐ Street and Highway names
- ☐ Existing topographic features (edge of pavements, utility poles, fire hydrants, retaining walls, etc.)
- ☐ Right of Way lines (main line and crossroad)
- ☐ Limited Access Control and turnback lines if applicable
- ☐ Construction centerline, bearing, stationing or milepost
- ☐ Begin/end stations and mileposts of roadway widening
- ☐ Station, or milepost, and equations at centerline intersection of intersecting roads and approaches
- ☐ Angle of intersection
- ☐ Curve data for each curve (curve radius, curve and tangent lengths, delta angle, PC, PI, PT and superelevation)
- ☐ Vertical alignment - required if alignments are new or revised or if existing highway is in a vertical curve or highway grades are greater than 5%.

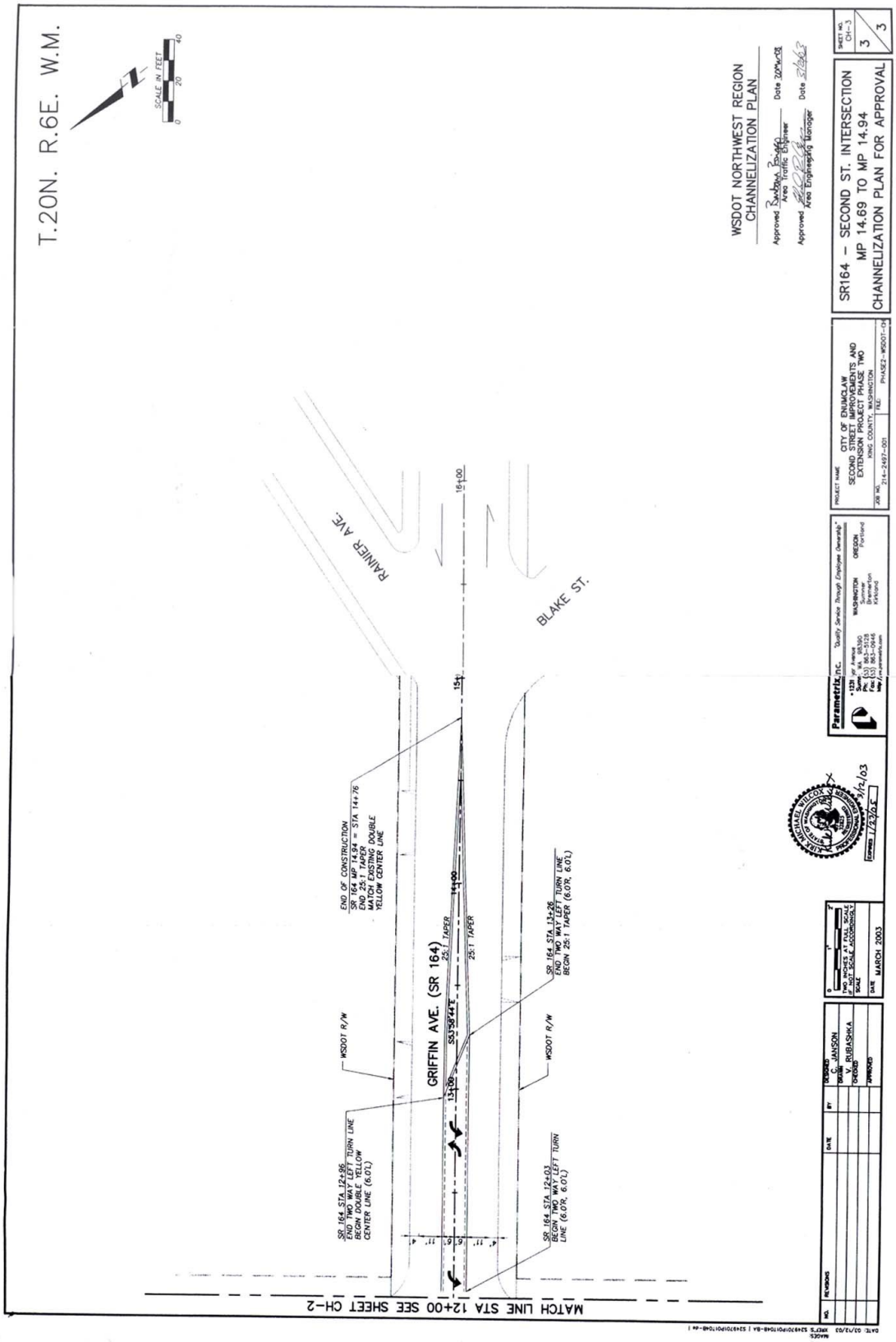
- ☐ Widths of lanes, turn lanes, shoulders, medians, curb & gutter, bike lanes, sidewalks, and bus pullouts if applicable
- ☐ Begin/end stations of channelization storage
- ☐ Taper rates for lane transitions
- ☐ Right turn corner radius for intersecting roadways and approaches
- ☐ Intersection left turn radius
- ☐ Show connecting road or private approach for at least 100’ from edge of highway
- ☐ Location and type of channelization
- ☐ Details for raised islands showing square footage, type of curb, etc.
- ☐ Block approval signature and date
- ☐ Block for stamping, signing and dating by registered professional engineer


T.20N. R.6E. W.M.
SCALE IN FEET
0
20
40
DESIGN PARAMETERS
FUNCTIONAL CLASS
DESIGN SPEED
POSTED SPEED
DESIGN VEHICLE
SR164
URBAN MINOR ARTERIAL
25 MPH
25 MPH
SU
SECOND STREET
MINOR ARTERIAL (CITY OF ENUMCLAW)
25 MPH
25 MPH
SU
FIRST STREET
MINOR COLLECTOR (CITY OF ENUMCLAW)
25 MPH
25 MPH
P
MATCH LINE STA 6+00 SEE SHEET CH-2
WSDOT NORTHWEST REGION
CHANNELIZATION PLAN
Approved
Area Traffic Engineer
Date
Approved
Area Engineering Manager
Date
SR164 – SECOND ST. INTERSECTION
MP 14.69 TO MP 14.94
CHANNELIZATION PLAN FOR APPROVAL
SHEET NO. CH-1
1
3
CITY OF ENUMCLAW
SECOND STREET IMPROVEMENTS AND EXTENSION PROJECT PHASE TWO
KING COUNTY, WASHINGTON
PHASE2-WSDOT-01
Parametrix
Quality Service Through Employee Ownership
WASHINGTON
OREGON
MARCH 2003
DESIGNED
DRAWN
REVIEWED
APPROVED
DATE
BY
REVISIONS
NO.
SR 164 STA 4+65
BEGIN TWO WAY LEFT TURN LINE (6.0'L, 6.0'R)
SR 164 STA 3+39.54
CONSTRUCTION CENTERLINE ANGLE POINT
FIRST ST.
SR 164 STA 4+25
END TWO WAY LEFT TURN LINE (6.0'L, 6.0'R)
SR 164 STA 3+68
BEGIN TWO WAY LEFT TURN LINE (6.0'R)
BEGIN CONSTRUCTION
SR 164 MP 14.69 – 1+88
BEGIN 25:1 TAPER
MATCH EXISTING DOU
YELLOW CENTER LINE
SR 164 STA 3+58
END 25:1 TAPER (6.6.0'L)
BEGIN TWO WAY LEFT TURN LINE (6.0'L)
25:1 TAPER
25:1 TAPER
GRIFFIN AVE. (SR 1)
SR 164 STA 2+16.46
CONSTRUCTION CENTERL ANGLE POINT
WSDOT R/W
WSDOT R/W
RAILROAD ST.
NOTE:
* SEE EVALUATE/UPGRADE #2

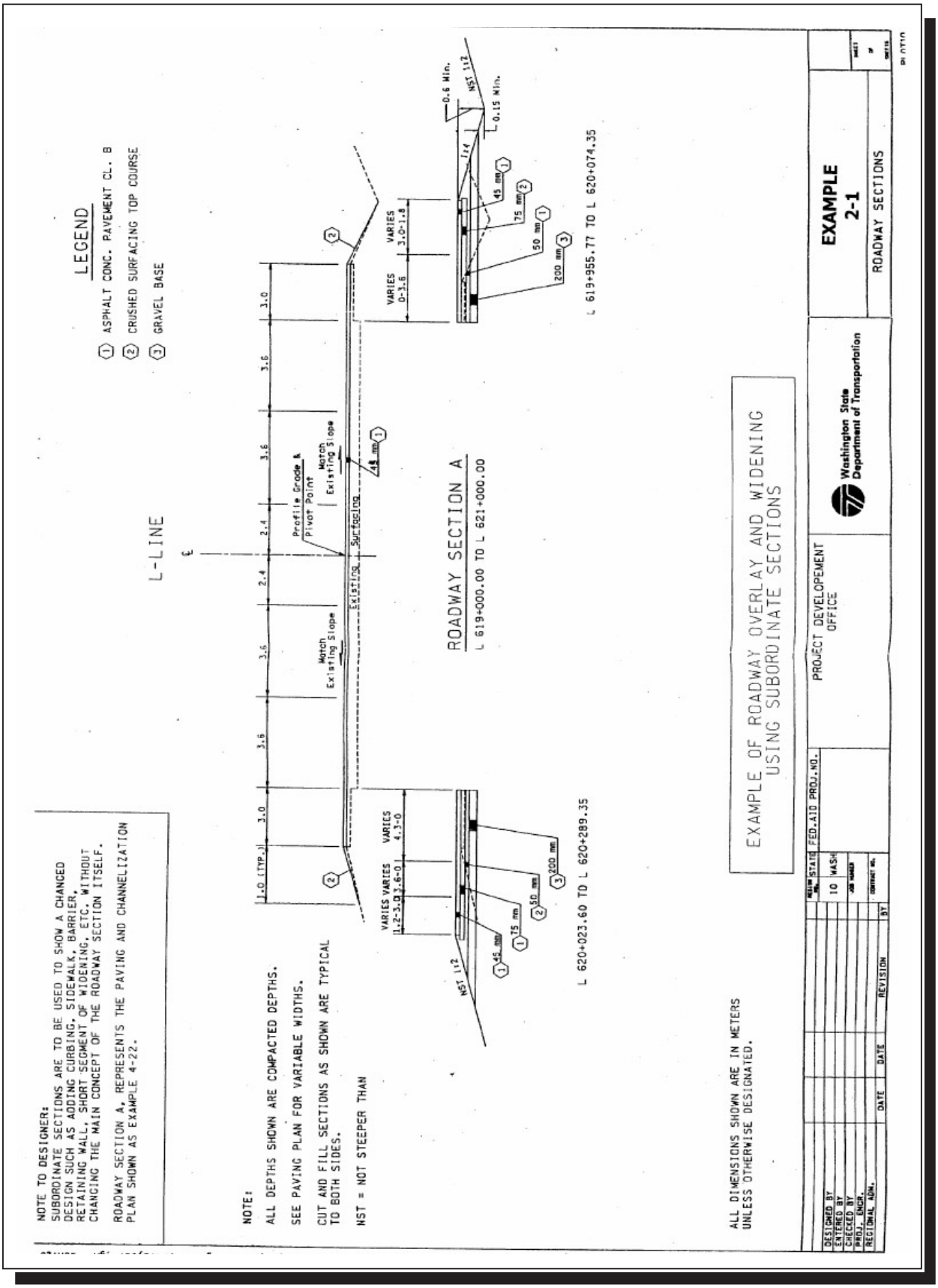
EXAMPLE


T.20N. R.6E. W.M.
SCALE IN FEET
MATCH LINE STA 12+00 SEE SHEET CH-3
MATCH LINE STA 6+00 SEE SHEET CH-1
THIRD ST.
SECOND ST.
GRIFFIN AVE. (SR 164)
WSDOT NORTHWEST REGION
CHANNELIZATION PLAN
SR164 – SECOND ST. INTERSECTION
MP 14.69 TO MP 14.94
CHANNELIZATION PLAN FOR APPROVAL
SHEET NO. CH-2
2 / 3
CITY OF ENUMCLAW
SECOND STREET IMPROVEMENTS AND
EXTENSION PROJECT PHASE TWO
KING COUNTY, WASHINGTON
JOB NO. 214-2497-001
FILE PHASE2-WSDOT-CH
Parametrix, Inc.
"Quality Service Through Employee Ownership"
112nd Avenue
Suite 400
Bellevue, WA 98590
Phone 425-822-3160
Fax 425-822-3699
http://www.parametrix.com
WASHINGTON
Summer
Bremerton
Kirkland
OREGON
Portland
SECOND ST. STA 42+70
END 10:1 LANE TAPER
MATCH EXISTING DOUBLE
YELLOW CENTER LINE
SECOND ST. STA 42+10
BEGIN 10:1 LANE TAPER (6.0'R)
SECOND ST. STA 41+10.25
BEGIN WIDE LINE (6.0'L)
BEGIN DOUBLE YELLOW CENTER LINE (6.0'R)
STOP BAR
SECOND ST. STA 41+20.83
END 7.5:1 TAPER (18.0'R)
SECOND ST. STA 41+05.83
BEGIN 7.5:1 TAPER (20.0'R)
PROPOSED R/W
SR 164 STA 10+70
END WIDE LINE (6.0'L)
WSDOT R/W
SR 164 STA 11+58
END TWO WAY LEFT TURN
LINE (6.0'L, 6.0'R)
SR 164 STA 11+20
END DOUBLE YELLOW
CENTER LINE (6.0'R.)
BEGIN TWO WAY LEFT
TURN LINE (6.0'R, 6.0'L)
S53°58'44"E
SR 164 STA 9+60
BEGIN WIDE LINE (6.0'L)
BEGIN DOUBLE YELLOW
CENTER LINE (6.0'R)
SECOND ST. STA 39+97.75
STOP BAR
SECOND ST. STA 41+60
END WIDE LINE (6.0'L)
SECOND ST. STA 41+29
MATCH EXISTING PAVEMENT
SR 164 STA 8+46
END DOUBLE YELLOW
CENTER LINE (6.0'L)
END WIDE LINE (6.0'R)
STOP BAR
SR 164 STA 6+96
END TWO WAY LEFT TURN
LINE (6.0'L, 6.0'R)
BEGIN DOUBLE YELLOW
CENTER LINE (6.0'L)
SR 164 STA 7+46
BEGIN WIDE LINE (6.0'R)
SR 164 MP 14.83
SR 164 STA 9+03.37 =
2ND ST. STA 40+53.99
SECOND ST. STA 40+02.57
END 7.5:1 TAPER (20.0'L)
SECOND ST. STA 39+87.57
BEGIN 7.5:1 TAPER (18.0'L)
SECOND ST. STA 39+25
DRIVEWAY TO BE REMOVED
NOTES:
1 TYPE 1B CURB RAMP PER WSDOT STANDARD PLAN F-30.
2 TYPE 2B CURB RAMP PER WSDOT STANDARD PLAN F-30.
* SEE EVALUATE/UPGRADE #1
DATE MARCH 2003
DRAWN C. JANSON
CHECKED V. RUBASHKA
APPROVED
DATE 03/12/03

Example


T.20N. R.6E. W.M.
SCALE IN FEET
0 20 40
WSDOT NORTHWEST REGION
CHANNELIZATION PLAN
Approved Area Traffic Engineer Date 12/04/03
Approved Area Engineering Manager Date 12/04/03
SR164 – SECOND ST. INTERSECTION
MP 14.69 TO MP 14.94
CHANNELIZATION PLAN FOR APPROVAL
SHEET NO. CH-3
3 / 3
PROJECT NAME
CITY OF ENUMCLAW
SECOND STREET IMPROVEMENTS AND
EXTENSION PROJECT PHASE TWO
KING COUNTY, WASHINGTON
JOB NO. 214-2497-001
TITLE PHASE2-WSDOT-CH
Parametrix, Inc.
"Quality Service Through Employee Ownership"
1231 SW Jefferson Avenue
Suite 100
Portland, OR 97205
Tel: (503) 96-5000
Fax: (503) 965-5555
WASHINGTON
Summer
Bremerton
Kirkland
OREGON
Portland
EXPIRES 1/23/05
3/12/03
DATE MARCH 2003
DRAWN C. JANSON
CHECKED V. RUBASHKA
APPROVED
MATCH LINE STA 12+00 SEE SHEET CH-2
SR 164 STA 12+86
END TWO WAY LEFT TURN LINE
BEGIN DOUBLE YELLOW
CENTER LINE (6.0'L)
WSDOT R/W
GRIFFIN AVE. (SR 164)
13+00
S53°58'44"E
25:1 TAPER
25:1 TAPER
14+00
15+00
15+
END OF CONSTRUCTION
SR 164 MP 14.94 = STA 14+76
END 25:1 TAPER
MARK FOR DOUBLE
YELLOW CENTER LINE
SR 164 STA 13+26
END TWO WAY LEFT TURN LINE
BEGIN 25:1 TAPER (6.0'R, 6.0'L)
WSDOT R/W
SR 164 STA 12+03
BEGIN TWO WAY LEFT TURN
LINE (6.0'R, 6.0'L)
RAINIER AVE.
BLAKE ST.

Example


NOTE TO DESIGNER:
SUBORDINATE SECTIONS ARE TO BE USED TO SHOW A CHANGED DESIGN SUCH AS ADDING CURBING, SIDEWALK, BARRIER, RETAINING WALL, SHORT SEGMENT OF WIDENING, ETC. WITHOUT CHANGING THE MAIN CONCEPT OF THE ROADWAY SECTION ITSELF.
ROADWAY SECTION A, REPRESENTS THE PAVING AND CHANNELIZATION PLAN SHOWN AS EXAMPLE 4-22.
NOTE:
ALL DEPTHS SHOWN ARE COMPACTED DEPTHS.
SEE PAVING PLAN FOR VARIABLE WIDTHS.
CUT AND FILL SECTIONS AS SHOWN ARE TYPICAL TO BOTH SIDES.
NST = NOT STEEPER THAN
LEGEND
1 ASPHALT CONC. PAVEMENT CL. B
2 CRUSHED SURFACING TOP COURSE
3 GRAVEL BASE
L-LINE
ROADWAY SECTION A
L 619+000.00 TO L 621+000.00
L 620+023.60 TO L 620+289.35
L 619+955.77 TO L 620+074.35
Profile Grade & Pivot Point
Match Existing Slope
Existing Surfacing
VARIES 0-3.6
VARIES 3.0-1.8
VARIES 1.2-3.0
VARIES 3.6-0
VARIES 4.3-0
NST 1:2
0.6 Min.
0.15 Min.
45 mm
75 mm
50 mm
200 mm
1.0 (TYP.)
3.0
3.6
2.4
EXAMPLE OF ROADWAY OVERLAY AND WIDENING USING SUBORDINATE SECTIONS
ALL DIMENSIONS SHOWN ARE IN METERS UNLESS OTHERWISE DESIGNATED.
PROJECT DEVELOPEMENT OFFICE
Washington State Department of Transportation
EXAMPLE 2-1
ROADWAY SECTIONS
FED.AID PROJ.NO.
DESIGNED BY
ENTERED BY
CHECKED BY
PROJ. ENGR.
REGIONAL ADM.
DATE
REVISION
BY
CONTRACT NO.
JOB NUMBER

Washington State Department of Transportation

Traffic Signal Permit

Check Appropriate Box:
- ☐ Permit Application (Complete Parts A and B)
- ☐ Report of Change (Complete Parts A, E, and F)
- ☐ Report of Installation (Complete Parts A, D, and F)

F **Permit No.**
To be Assigned by Olympia Service Center

A — Applying or Reporting Agency

State Route	Milepost	Control Section	WSDOT Region	70% Rule By ☐ Speed ☐ Population

Location / Cross Street	County	City	City Population

Signal Type - Check Appropriate Boxes
- ☐ Conventional
- ☐ Emergency Vehicle
- ☐ Intersection Control Beacon
- ☐ Moveable Bridges
- ☐ Ramp Meter
- ☐ Reverse Lane
- ☐ School
- ☐ Temporary
- ☐ Other (Specify)

B — Applying Agency Application information

Agency	Applicant Name	Date

Address	City	State	Zip Code

Warrant Checklist — Hours Met
- ☐ 1. Minimum Vehicular Volume _____
- ☐ 2. Interruption of Continuous Traffic _____
- ☐ 3. Minimum Pedestrian Volume _____
- ☐ 4. School Crossings
- ☐ 5. Progressive Movement
- ☐ 6. Accident Experience
- ☐ 7. Systems
- ☐ 8. Combination of Warrants
- ☐ 9. Four Hour Volume
- ☐ 10. Peak Hour Delay
- ☐ 11. Peak Hour Volume
- ☐ 12. Non-MUTCD Warrant _____
- ☐ 13. Other _____

Support Data Checklist - Check appropriate boxes and describe the problem being addressed by this installation
- ☐ Vehicular Volume Counts
- ☐ Pedestrian Volume Counts
- ☐ Intersection Sketch
- ☐ Warrant Analysis
- ☐ Projected Volumes
- ☐ Gap Study
- ☐ Speed Study
- ☐ Accident Study

Problem Statement

C — Region Authorization

Under authority of RCW 46.61.085, the above described installation is authorized.

Regional Adminstrator Signature _____ Approval Date _____

Conditions of Permit

D — Operating Agency

Report of Installation (Fill in Agreement Number if Owning Agency does not operate and/or maintain the signal)

Turn-On Date	Agency Owning Signal	Agency Operating Signal

Control Type ☐ Cyclic ☐ Flashing	Agency Maintaining Signal	Agreement Number

E — Operating Agency

Report of Change (Report change in Type of Signal, Type of Control, or if signal was removed)

Signal Type Changed From	To	Date Changed
Control Type Changed From	To	Date Changed

Date Signal Removed	Reported By	Title	Date

DOT Form 242-014 EF
Revised 11/98

Distribution:
- ☐ Olympia Service Center Record of Permit, Report of Installation, or Report of Change
- ☐ Region Record of Authorized Permit, Report of Installation, or Report of Change
- ☐ Applicant Record of Authorized Permit, Report of Installation, or Report of Change

INTERLOCAL AGREEMENT BETWEEN WASHINGTON STATE DEPARTMENT OF TRANSPORTATION AND [COUNTY/CITY] FOR MITIGATION OF LAND DEVELOPMENT IMPACTS

1. PARTIES

This Interlocal Agreement ("Agreement") is made and entered into this _____day of _____, 200_____ by and between the Washington State Department of Transportation ("STATE") and [__COUNTY/CITY_] [("COUNTY"_ "CITY")].

2. PURPOSE AND AUTHORITY

2.1 The purpose of this Agreement is to provide a means to fund and construct improvements to State transportation facilities made necessary by traffic impacts caused by the construction of new developments. It is the intent of this Agreement to furnish a framework within which the parties will work together and with developers to provide an equitable balance in the bearing of costs for these improvements and to provide a predictable method of assessing traffic mitigation payments.

2.2 The parties have the authority to enter into this Agreement pursuant to Chapter 39.34 RCW, Interlocal Cooperation Act, wherein the legislature has authorized governmental units to make the most efficient use of their individual powers by enabling them to cooperate on a basis of mutual advantage for public benefit.

2.3 The STATE has the authority and obligation to perform all duties necessary for the planning, locating, designing, constructing, improving, repairing, operating and maintaining of State highways, bridges and other structures pursuant to Title 47 RCW and rules promulgated there under, Title 468 WAC.

2.4 The [_____] has the authority and obligation to plan for and manage growth within its jurisdiction, to review new development plans and grant building permits, and to provide for the mitigation of development impacts pursuant to Chapter 36.70A RCW (Growth Management Act), Chapter 36.70B RCW (Local Project Review), Chapter 36.75 RCW (Roads and Bridges), and Chapter 58.17 RCW (Subdivisions). [as provided by law and/or] [Ordinance Nos. _____]

2.5 Pursuant to Chapter 43.21C RCW (State Environmental Policy Act - SEPA), the parties are obligated to identify the significant adverse environmental effects, if any, of new development on State transportation facilities and to provide for the mitigation of such adverse effects as long as such mitigation measures are reasonable and capable of being accomplished.

NOW, THEREFORE, in accordance with the above-noted statutes and in consideration of the terms and conditions contained herein,

IT IS MUTUALLY AGREED AS FOLLOWS:

3. SCOPE OF AGREEMENT AND DEVELOPMENTS COVERED[1]

This Agreement applies to all developments: (1) having frontage on OR requiring direct access onto a State highway AND/OR (2) all developments which will be subject to SEPA review. Single-family residences, duplexes, short plats and certain small commercial developments are excluded, consistent with SEPA regulations unless they are located adjacent to a State highway.

4. DEFINITIONS

4.1 Average Daily Trip (ADT): The volume of traffic passing a point or segment of a highway, in both directions, during a period of time, divided by the number of days in the period and factored to represent an estimate of traffic volume for an average day of the year.

4.2 Development Approval: Any written authorization from a county, city or town that authorizes the commencement of development activity.

4.3 High Accident Location (HAL): An intersection, on-ramp or other point on a State highway with documented high accident rates.

4.4 Level of Service (LOS): A measure of traffic congestion along a roadway or at an intersection identified by a declining letter scale from "A" to "F."

4.5 Mitigation: Changes or contributions to changes made to the State transportation system, either by facility construction, payment, or dedication/donation of right of way, to offset or lessen a development's impacts on the traffic system.

4.6 Peak Hour: The hour during the morning or afternoon that experiences the most critical level of service for a particular roadway or intersection.

4.7 Programmed Project: A State highway project to improve highway capacity. See **Exhibit C,** attached.

4.8 Substantial Completion Date: The day the State representative determines the STATE has full and unrestricted use and benefit of the facilities, from both the operational and safety standpoints, and only minor incidental work, replacement of temporary substitute facilities, or correction or repair remain for the physical completion of the total contract.

4.9 Transportation Demand Management (TDM): Employer traffic reduction incentive plans, e.g., carpool, transit.

4.10 Traffic Mitigation Payment: The proportionate share portion of the cost of public facility improvements that is reasonably related to the service demands and needs of new development.

5. [_____] RESPONSIBILITIES

The [_____] agrees that for every development application to which this Agreement applies in accordance with **Section 3**, above, the [_____] will take the actions following:

[1] Sections 5.2, 6.1, 7.2, 7.4 and 11 require the parties to negotiate and then insert the correct Agreement Terms.

5.1 The [_____] shall provide the developer with copies of the Traffic Impact Analysis Checklist, **Exhibit B**, attached, in accordance with **Section 7.2** and the Channelization Plan Checklist, **Exhibit D**, attached, at or before the pre-submittal conference between the [_____] and a developer. The [_____] shall require the developer to submit the appropriate Traffic Impact Analysis Checklist and/or Channelization Plan Checklist with its development application. [_____] shall require the developer to submit additional information if requested by the STATE.

5.2 The [_____] shall give the STATE written notice of the proposed development and provide the STATE with a minimum of [TIMES NEGOTIABLE: 14-21 days for a SEPA DNS and 21-30 days for a SEPA EIS] to review, comment, consult, and participate in the [_____]'s development review and approval process in relation to any development impacts to the State's transportation system.

5.3 The [_____] shall inform the developer that the STATE may require the developer to pay the actual cost of reviewing and inspecting the development plans and that the STATE may bill the developer directly for those review costs. Developers may contact the STATE to estimate the approximate cost of any development review.

5.4 The [_____] shall recommend imposing the STATE's requested mitigation measures as a condition of the [_____]'s development approval to the extent that such mitigation measures are reasonably related and proportional to the development's impact on State transportation facilities. Should the [_____] wish to modify or not recommend the STATE's requested mitigation measures, the [_____] will work with the STATE to resolve any differences before approving any development proposal.

5.5 a All traffic mitigation payments collected from a developer to mitigate traffic impacts on State transportation facilities shall be held by the [_____] in a separate account. Payments shall be paid prior to the granting of any building permit unless the development is a subdivision or short subdivision, in which case payment is required prior to the recording of the subdivision plat or short subdivision plat; Provided, that where no building permit will be associated with a special use permit, then payment is required as a precondition to approval. In the alternative, traffic mitigation payments may be due as specified by the [_____]. The [_____] shall provide to the STATE on a quarterly basis a statement of all developer payments held by the [_____] for all STATE Programmed Projects.

5.5 b The STATE shall request and the [_____] shall transfer mitigation payments to the STATE through a Developer Mitigation Payment for Transfer to State by Local Agency Agreement. See **Exhibit A**, attached.

5.5 c Mitigation payments, or portions thereof, held by the STATE, but not expended within five (5) years for STATE programmed projects, shall be returned to the [___ _____] and the [_____] shall return the funds to the developer pursuant to the provisions of **Section 6.6** of this Agreement and the Developer Mitigation Payment for transfer to the STATE by Local Agency agreement. See **Exhibit A**.

5.5 d Mitigation Payments, or portions thereof, held by the _____, but not expended within five (5) years for STATE Programmed Projects, Shall be returned to the developer by the _____

5.6 The parties understand that any person aggrieved by a decision imposing mitigation measures in accordance with this Agreement may appeal such decision as provided by law and/or [_____] Ordinance Nos.[_____].

5.7 [_____] shall comply with the provisions of **Section 6.5**, with respect to access connections to State facilities and any construction within limited access facilities.

5.8 [_____] shall comply with the provisions of **Section 7.7**, with respect to the determination and application of credits against developer proportionate share mitigation obligations.

5.9 [_____] shall comply with the provisions of **Section 7.8**, with respect to any STATE and developer agreement for the mitigation of impacts to State facilities.

5.10 [_____] shall be responsible for establishing setback requirements with respect to the right of way line if the developer has dedicated/donated property as a mitigation measure.

5.11 [_____] shall file this Agreement with the [_Name of County_____ _] County Auditor pursuant to RCW 39.34.040.

6. STATE RESPONSIBILITIES

6.1 The STATE shall review the documents and proposed development as provided by the [_____] pursuant to **Section 5.2**, and shall provide to the [_____] written recommendations, if any, specifying the mitigation measures necessary to mitigate the proposed development's impacts on the State's transportation system. STATE requested mitigation measures shall be in accordance with **Section 7** and reasonably related and proportional to the proposed development's impacts to the State's transportation system. The STATE will respond within [TIMES NEGOTIABLE: 14-21 days for a SEPA DNS and 21-30 days for a SEPA EIS] from the date of the notice of the development application. The STATE will provide explanations and technical assistance to developers with respect to any STATE requested mitigation measures.

6.2 STATE requested impact mitigation measures will be in accordance with **Section 7** and shall include:

a. Negotiated construction improvements;

b. Negotiated payment in lieu of construction of improvements;

c. Traffic mitigation payment;

d. Dedication or Donation of property;

e. Installation of traffic signal(s);

f. Channelization revision(s); and/or

g. Frontage improvements.

STATE shall determine applicable developer mitigation credits in accordance with **Section 7.7**, for construction of improvements and/or for dedication/donation of property.

6.3 Should the STATE not comply with the provisions of **Section 6.1**, the [_____] may assume that the STATE has no comments or information relating to potential impacts of the development on State transportation facilities and may not require developer mitigation therefor. In addition, should the STATE not comply with the provisions of **Section 6.1**, the STATE shall not file a SEPA appeal for that development application. The provisions of this section do not apply should the [___ _____] fail to comply with the provisions of **Section 5.2**. Nothing herein precludes the [_____] from determining specific adverse development impacts on State transportation facilities and requiring mitigation consistent with this Agreement; Provided, that the [_____] first obtains the STATE's written approval prior to imposing such mitigation as a condition of development approval; and Provided further, that the [_____] imposes no duplicative mitigation measures as a condition of development approval.

6.4 STATE shall be responsible for supporting the STATE's requested mitigation measures at [_____] hearings or other proceedings. Such support may include the provision of written analyses, declarations, testimony, or other documentation.

6.5 STATE shall maintain all traffic mitigation payments received from the [_____] pursuant to **Section 5.5** in an accounting format which will permit tracing of any expenditure of the mitigation payment to ensure that the expenditure is made in accordance with the provisions of this Agreement and within five (5) years of the [_____]'s receipt of the payments. If any moneys received have not been expended as provided herein, the STATE shall return the moneys to the [_____] and the [_____] shall return the moneys to the developer. Nothing herein shall preclude a developer from waiving, at any time, its potential right to a refund. Records of traffic mitigation payments shall be maintained in accordance with generally accepted accounting practices and shall be made available for inspection during normal business hours to the [_____], developer, or any authorized agent or representative thereof, upon giving the STATE reasonable notice of such request.

6.6 Access Connections: All requests for access connections onto a State highway shall be provided for as follows:

NOTE: CHOOSE BETWEEN THE BELOW "6.6.a" PARAGRAPHS, DEPENDING UPON WHETHER WSDOT IS CONTRACTING WITH A CITY OR COUNTY:

a. On Access Managed State Highways Within City Limits: CITY shall review and process all requests for access connections onto access managed State highways that are considered to be city streets pursuant to chapter 47.24 RCW. The CITY also shall provide that each access connection meets or exceeds the State's Highway Access Management regulations as provided pursuant to chapter 47.50 RCW and WAC 468-51; 468-52**.** Should State and City access requirements conflict, CITY and STATE shall negotiate a resolution. Appeals of access decisions shall be pursuant to CITY ordinance.

OR

a. On Access Managed State Highways Within County Limits: STATE shall review and process all requests for access connections onto managed access State highways that are located within the COUNTY. Appeals of access decisions shall be pursuant to STATE regulation.

b. On Limited Access State Highways: STATE shall review and process all requests made to the [_____] for access connections onto limited access State highways. The STATE shall use chapter 47.52 RCW, WAC 468-58, and its *Design Manual* criteria for said access review, and if the access is approved, the developer shall be required to pay compensation to purchase the STATE's access rights.

6.7. The STATE shall have the sole responsibility and control to permit and/or oversee any improvements to be constructed within the right-of-way of a limited access State highway.

7. STATE MITIGATION POLICIES AND PROCEDURES

7.1 STATE will not request, nor will the [_____] recommend, any mitigation measures that fall outside the scope of **Section 7**. In order to determine and mitigate impacts generated by a proposed development to the State transportation system, the STATE shall identify any development impacts to the State facilities and shall determine the appropriate mitigation measures based upon the policies and procedures outlined herein. The STATE shall request the mitigation measures that are reasonably related and proportional to a development's impact on State transportation facilities.

7.2 Traffic Analysis: The [_____] shall require a developer to submit a Traffic Impact Analysis Checklist (**Exhibit B**, attached) and a Channelization Plan Checklist (**Exhibit D**, attached) as part of the developer's development application. See **Section 5.1**. At a minimum, the traffic analysis shall consist of Section 1 of the checklist, fully completed and signed by the developer. The

STATE may only require a traffic study consistent with Section 2 of the checklist if one of the following two conditions is met: (1) the development generates more than [NEGOTIABLE: e.g., 25 PM] peak-hour trips; or, (2) the development will add [NEGOTIABLE: e.g., ten (10)] or more PM peak-hour trips to a "deficient"[2] LOS standard at a State highway intersection or HAL location. Only the STATE may waive the requirement for traffic analysis studies.

a. STATE will use [_____] approved trip reduction credits for TDM measures in determining traffic impacts on State transportation facilities.

b. STATE may request supplemental information and analysis as necessary to determine development impacts, if any, on State transportation facilities. Supplemental information may include explanatory information, detailed documentation or further analysis to clarify or expand on data provided in the traffic analysis.

7.3. Traffic Mitigation Payments: STATE may request that a condition of Development Approval be the developer's payment of its traffic mitigation payments to a programmed project, as listed in **Exhibit C**, attached, to mitigate development impacts, pursuant to the following:

---

[2] An LOS is considered "deficient" if it is below thresholds set by:
- WSDOT for HSS highways: LOS "D" for Urban Areas and LOS "C" for Rural Areas
- Local MPO/RTPO's for Regionally Significant State Highways (Non-HSS)

a. The STATE has determined a rate schedule (**Exhibit C**, attached), based on ADT for State transportation facilities which have been programmed for capacity improvements (i.e., widening, new signalization, interchange, or channelization). The ADT schedule may be periodically updated by the STATE, and the STATE shall provide a revised copy of **Exhibit C** to the [_____]. Based on a traffic analysis, a development's proportionate share obligation may be calculated by multiplying the rate by the number of development-generated ADTs that impact each State programmed capacity improvement. A traffic mitigation payment or property dedication/donation may be made in lieu of constructing mitigation improvements solely at the STATE's option.

b. The STATE shall request traffic mitigation payments up to the Substantial Completion Date of the projects identified in Exhibit C.

c. The STATE shall not use any mitigation received under this Agreement for any State projects other than those identified in Exhibit C.

7.4 Level of Service (LOS) and Safety (HAL): Any development which will (1) [NEGOTIABLE: add ten (10) or more PM] peak-hour trips (a) to an identified safety problem location listed in the State's High Accident Location (HAL) log or (b) to an existing "deficient" LOS condition at a State highway intersection; or (2) generate [NEGOTIABLE: twenty five (25) or more PM peak-hour trips] which will cause a "deficient" LOS condition at a State highway intersection, will be subject to the conditions following:

a. The STATE will request that conditions of development approval require that a development maintain the existing "deficient" LOS condition at its pre-development condition, maintaining it in no worse a condition with respect to estimated intersection delays. However, if improvements are required to mitigate an existing "deficient" LOS condition, the intersection improvements shall be constructed pursuant to State specifications and accepted by the STATE within time frames as provided by [_____] regulation.

b. The STATE will request that a development not be approved if the development causes an LOS "F" condition at a State highway intersection unless the developer funds or constructs intersection improvements needed to maintain an LOS "E," or better, condition.

c. If the [_____] determines, after consultation with the STATE, that for reasons beyond the control of the developer, construction of the traffic improvements required under this Agreement cannot be completed prior to approval for occupancy or final inspection, the [_____] may allow the developer to provide a performance bond, assignment of savings account/ certificate of deposit, or escrow account in favor of the STATE for the required traffic improvements. See **Exhibits F** and **G**, attached.

d. Installation of Traffic Signal: The STATE may request that a condition of Development Approval be the installation of a traffic signal to mitigate LOS or HAL impacts as identified by a traffic analysis. Additionally, a developer or [_____] may request signalization which shall only be approved by the STATE if the spacing guidelines under WAC 468-52 and at least one Manual on Uniform Traffic Control Devices (MUTCD) signal warrant is met.

e. Channelization Revision: The STATE may request that a condition of Development Approval be the construction of channelization improvements to mitigate LOS or HAL impacts, or in conjunction with the approval of an access connection, or if warranted, pursuant to the *Washington State Department of Transportation Design Manual*. Improvements shall be constructed pursuant to State specifications and approved by the STATE. Additionally, a developer may request channelization as part of its development application, such requests shall be submitted through the [_____] to the STATE for STATE's approval. All such requests shall be accompanied by a channelization plan and Channelization Plan Checklist **Exhibit D**, attached, and the STATE shall have sole authority to approve such plans.

f. The STATE may designate State highway intersections as being at ultimate capacity where the STATE determines that additional expenditure of funds is not warranted to maintain the LOS, or where, for example, the only LOS solution is dependent upon traffic signal spacing requirements. The STATE will not request traffic mitigation improvements to maintain an LOS for an intersection at its ultimate capacity; however, the STATE may request mitigation to address intersection operational and safety issues.

g. The STATE may request safety improvements, constructed pursuant to State specifications and accepted by the STATE, within time frames as provided by [_____] regulation, to mitigate development impacts on HAL locations.

h. The STATE will not object to a development that impacts a designated LOS "F" intersection or HAL location when there is absolutely no mitigation improvement that can be made.

7.5 Frontage Improvements: The STATE may request, as a condition of Development Approval, that frontage improvements (e.g., curb, gutter, sidewalk, paved shoulder and associated roadway widening) be constructed along the development's frontage on the State facility as mitigation measures, consistent with the following:

a. Frontage improvements shall be based upon identified impacts to the State transportation system, shall conform to State construction specifications, shall be approved by the STATE, and shall be timely completed in accordance with [_____] regulation.

b. The STATE may require that frontage improvement mitigation be constructed as full standard, interim, or minimum, based upon engineering reasons, which are outlined under **Section c** below. When an engineering reason precludes the construction of full standard frontage improvements, interim or minimum frontage improvements may be required. Interim frontage improvements shall be determined by the STATE and the [_____]. Minimum frontage improvements shall consist of paved driveway aprons at each access point along the development's frontage, and where necessary, a shoulder shall be constructed for ten feet along the departure side of the driveway to provide a refuge area for pedestrians and/or a pullout area for service vehicles. The shoulder shall be up to eight feet wide, as determined by the STATE and the [_____], and shall include a 3:1 paved transition taper which, where necessary, will be constructed beyond the development's frontage as right of way allows.

c. Engineering Reasons: Engineering reasons, which may preclude the construction of full standard frontage improvements, may include the following:

1. Horizontal realignment of the highway precludes the building of full frontage improvements in their ultimate horizontal location.
2. Vertical realignment of the highway precludes the building of full frontage improvements in their ultimate vertical location.
3. The property abuts an arterial road that will ultimately include four or more lanes and construction of full frontage improvements at their ultimate location would create an undesirable discontinuity along the highway.
4. The highway is programmed for construction and it would be more efficient for the STATE to construct the full frontage improvements as part of an overall project.
5. The STATE and [_____] determine that there are other significant reasons not to require full standard frontage improvements at the time of the development.

7.6 Right of Way Dedication/Donation: The STATE may request as a condition of Development Approval that a developer dedicate/donate property as a mitigation measure when (1) a property is located adjacent to a State highway that is programmed for capacity or safety improvements; (2) additional right of way is needed for improvements in accordance with **Sections 7.4** and **7.5**; or (3) it is necessary to conform the development site to the ultimate width or design of the State facility. The dedicated/donated property may be transferred either to the STATE or to the [_____] as determined by the STATE. The [_____] shall determine the timing of the property dedication/donation.

a. The STATE may not require a property dedication/donation for future highway projects when such is not reasonably required by the development impacts; however, the STATE will provide the developer with information about the STATE's plans and designs for future highway construction.

b. Nothing in this Agreement precludes the STATE and a developer from executing a separate agreement for a property dedication or donation needed by the STATE for future highway expansion.

7.7 Credits Against Traffic Mitigation Payment: Developers shall receive credit against their traffic mitigation payment obligations as determined pursuant to **Section 7.3** where the value of their mitigation improvements and/or property dedications/donations required in accordance with **Sections, 7.4, 7.5,** and **7.6** are part of the cost of capacity projects included in **Exhibit C**, attached. The STATE shall determine credits for mitigation construction and property dedication/donation and apply them as follows:

a. The value of property dedications/donations shall be based upon comparable sales consistent with the values used by the STATE to estimate the right of way costs for the projects included in **Exhibit C**. As an alternative, the value of property dedications/donations may be based upon an approved appraisal that is no more than two years old and which has been performed by a qualified appraiser licensed in the State of Washington.

b. The value of any mitigation construction shall be the actual costs expended by the developer and supported by invoices or other acceptable documentation.

c. Application of Credits: The value of the mitigation credits as determined above shall be applied as follows:

1) First: to the property dedication/donation; and

Second: to the mitigation construction, such as for frontage improvements, channelization, and/or signalization. Developer shall pay any remaining balance.

2) Nothing in this Agreement shall preclude the [_____] from entering into a contract with a developer for the reimbursement of a portion of the uncredited costs (latecomer agreement) pursuant to chap. 35.72 RCW.

7.8 Mitigation Agreements: Nothing in this Agreement shall preclude the STATE and a developer from entering into a mitigation agreement to provide for the mitigation of development impacts to State facilities consistent with **Exhibit E**, attached. [_____ ____] shall not assess duplicative impact fees for the same system improvements in violation of RCW 43.21C.065.

7.9 References: Policies, standards and criteria for access, mitigation measures and construction applicable to this Agreement include, but are not limited to, the documents listed below. The edition used for review of an application shall continue to apply for the duration of any approval or permit only to the extent that it is an element of the approval or permit.

a. MS22-01, Washington State Department of Transportation (WSDOT) Design Manual.

b. MS22-87, WSDOT Utilities Manual.

c. MS23-03, WSDOT Hydraulics Manual.

d. M21-01, WSDOT Standard Plan.

e. M41-01, WSDOT Construction Manual.

f. M51-02, WSDOT Traffic Manual.

g. M26-01, WSDOT Right-Of-Way Manual.

h. Highway Capacity Manual (Special Report 209), Transportation Research Board.

i. MUTCD, Federal Highway Administration Manual On Uniform Traffic Control Devices.

j. WAC 468-51 & WAC 468-52, Washington Administrative Codes—Highway Access Management.

k. Trip Generation Manual, Institution of Transportation Engineers.

8. RELATIONSHIP TO EXISTING LAWS AND STATUTES

This Agreement in no way modifies or supersedes existing laws and statutes. In meeting the commitments encompassed in this Agreement, all parties will comply with the requirements of the State Environmental Policy Act, Growth Management Act, Open Meetings Act, Annexation Statutes and other applicable State or local laws.

9. RELATIONSHIP TO FUTURE PLANNING AND RECIPROCAL IMPACT MITIGATION AGREEMENTS

The STATE and the [_____] understand and agree that many multi-jurisdictional planning and growth management issues will need to be addressed as growth continues. Both parties also agree and understand that joint planning agreements will be required to accomplish the planning and plan implementation requirements of the Growth Management Act of 1990 as amended. Such agreements may focus on particular issues and delineate specific responsibilities that are beyond the scope of this Agreement.

10. DEVELOPMENT AND REVIEW OF STANDARDS AND POLICIES

The [_____] and the STATE agree to work toward the establishment of coordinated transportation system development standards and development mitigation policies and requirements as required by State law. The [_____] and the STATE will periodically review their existing mitigation policies for consistency and coordination in the implementation of this Agreement and will promptly notify the other in the event of any material change in such policies. In that event, the parties agree to amend this Agreement as appropriate.

11. EFFECTIVE DATE, DURATION, AMENDMENT AND TERMINATION

11.1 This Agreement shall become effective five (5) days after both the STATE and the [_____] approve and sign this Agreement and after the Agreement is filed with the County Auditor, pursuant to **Section 5.11**.

11.2 This Agreement shall apply to all developments, as defined in **Section 3**, that the _____ determines to comprise a complete application on or after the effective date of this Agreement through the termination date of this Agreement.

11.3 This Agreement may be modified only by written amendment executed by both parties.

11.4 This Agreement shall remain in effect until terminated by either party, in whole or in part, upon thirty (30) days advance written notice directed to .

11.5 In the event that this Agreement is terminated by either party, the sections of this Agreement that govern the expenditure or reimbursement of developer mitigation payments that have been paid, but not expended, shall survive its termination. The parties agree to expend or reimburse developer mitigation payments under the same terms and conditions in effect under this Agreement as when such payments were collected. The parties further agree that property acquired by dedication/donation during the term of this Agreement shall insure to that party in whose name it was acquired.

12. *LEGAL RELATIONS*

12.1 The provisions of this Agreement shall be administered by the Washington State Department of Transportation for the STATE and the Departments of Public Works and Planning and Community Development for the [_____]. All real and personal property and funds shall be acquired, held, administered, and disposed of by the STATE or the [_____] in its own name in accordance with applicable laws.

12.2 Each party shall be responsible for its own administrative determinations and actions taken in the performance of this Agreement.

12.3 The STATE agrees to make State staff available for support in any challenges to State-requested mitigation measures. The STATE agrees to cooperate with the [_____] in the defense of challenges to any land development condition, mitigation measure, payment or other decision made at the STATE's request or based on STATE's review or recommendation.

12.4 Each party shall protect and hold harmless the other party, its officers, officials, employees, and/or agents from and against all claims, suits or actions arising from an intentional or negligent act or omission of that party, its officers, officials, employees, and/or agents while performing under the terms of this Agreement. In the event of a claim for damages of any nature whatsoever arising out of the performance of this Agreement caused by the concurrent actions of the parties, their officers, officials, employees, and/or agents, each party shall provide its own defense and be liable for damages, costs, fees or other amounts only to the extent of its individual actions that are the basis for the imposition of liability or damages. The provisions of the section shall survive the termination of this Agreement.

13. NO THIRD PARTY BENEFITS

This Agreement is made for the sole benefit of the STATE and the [_____] and not for any third party's benefit.

14. SEVERABILITY

If any provision of this Agreement or its application to any person or circumstance is held invalid, the remainder of the provisions and/or the application of the provisions to other persons or circumstances shall not be affected.

IN WITNESS WHEREOF, the parties have signed this Agreement, effective on the date established in **Section 11** of this Agreement.

Washington State Department of Transportation (WSDOT)	[COUNTY/CITY]
_____	_____
Name:	Name:
_____	_____
Title:	Title:
_____	_____
Dated this ___ day of _____ 200_	Dated this _____ day of _____ 200_
Approved as to form:	Approved as to form:
_____	_____
Name:	Name:
_____	_____
Assistant Attorney General Attorney for the WSDOT	Attorney for [_____]

Washington State
Department of Transportation

Local Agency Participating Agreement Developer Mitigation Payment For Transfer to State by Local Agency			Local Agency Name and Address
Agreement Number LM			Project Name and Description
State Route No.	Control Section No.	Region	

Mitigation Payments Collected

Development Name	Developer/Company Name	Date Collected	Amount

Total Developer Mitigation Payments Transferred to STATE for This Project $

This agreement is made and entered into this _____ day of _____, _____, between the STATE OF WASHINGTON, Department of Transportation, acting by and through the Secretary of Transportation, hereinafter called the "STATE," and the above-named Local Agency, hereinafter called the "AGENCY."

WHEREAS, the AGENCY has collected developer mitigation payments as provided by Ch. 43.21C RCW that the parties agree have an expiration date of five (5) years from the date of collection, and

WHEREAS, the AGENCY desires to transmit these mitigation payments to the STATE for use in constructing the above-referenced project, and

WHEREAS, the STATE has programmed above project,

NOW THEREFORE, in consideration of the terms, conditions, covenants, and performances contained herein, or attached and incorporated and made a part hereof, IT IS MUTUALLY AGREED AS FOLLOWS:

GENERAL

The STATE will apply all mitigation payments collected by the AGENCY pursuant to Ch. 43.21C RCW to the programmed project shown above. In the event the STATE does not utilize all or a portion of the funds within five (5) years from the date of collection, the STATE shall refund the unused portion of the mitigation payments to the AGENCY. The AGENCY shall then refund the mitigation payments to the developer.

II
PAYMENT

Upon execution of this agreement, the AGENCY shall transfer to the STATE the amount of mitigation payments shown in the heading as "Total Developer Mitigation Payments Transferred to STATE for this Project."

III
LEGAL RELATIONS

No liability shall be attached to the STATE or the AGENCY by reason of entering into this agreement except as expressly provided herein.

The STATE will hold the AGENCY harmless and defend at its expense any failure by the STATE to refund the unused portions of the mitigation payments to the AGENCY as provided herein. The AGENCY will hold the STATE harmless and defend at its expense any failure of the AGENCY to refund the unused portions of the mitigation payments to the developer; provided that the STATE has fulfilled its obligations under Section 1 herein.

IV
EFFECTIVE DATE

This agreement shall become effective on the date executed by the parties hereto, and continue until the project is completed or the funds are returned to the developer.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the day and year first above written.

AGENCY

By:
Title:
Date:

STATE OF WASHINGTON DEPARTMENT OF TRANSPORTATION

By:
Title:
Date:

For Developments Within [County/City]

SECTION 1

This form, completed and signed, is to be attached to the initial development application.

1. Name of Development: _____
2. Description of Location: _____
3. Attach vicinity map that shows the location of the development project.
4. Type of Development: _____
5. Development Trip Generation:

   5(a). Average daily traffic (ADT) generated: _____

   5(b). Peak Hour traffic generated: _____ AM _____ PM
6. Is the Peak Hour traffic generated twenty five (25) or greater? Yes ☐ No ☐

   OR
7. Is the development likely to add ten (10) or more Peak-Hour trips to any LOS "F" or HAL location?
   Yes ☐ No ☐

If "Yes" to Nos. 6 or 7:

☐ Traffic Impact Analysis Checklist **Section (2)** is required.

If "No" to Nos. 6 and 7:

☐ A Mitigation Agreement For Land Development Impacts to State Transportation Facilities (see **Exhibit E**) may be required.

Prepared by:_____ Date:_____

Name: _____

Company: _____

SECTION 2
TRAFFIC IMPACT STUDY

Note: All applicable elements shown on this checklist must be included in your traffic impact analysis. If an element is missing, the analysis will not be reviewed but will be returned without any action. A Traffic Impact Study shall be submitted to the [_____] (hereinafter called the ["County"_"City"] as part of your development application which will be forwarded to the State.

Definitions: "Intersection" refers only to (1) State/State Intersection or (2) State/ [_____] Roadway Intersection.

NOTE: **Section IV** requirements are waived if:

(1) The development generates less than 50 Peak-Hour trips;

(2) All impacted State intersections operate at LOS "E" or better; and

(3) The list of LOS for all State intersections impacted by ten (10) or more Peak-Hour trips is submitted with this form and the Traffic Impact Study.

This development meets the above criteria. The LOS list of the impacted intersections is attached.

I. Project Description, PROVIDE:

☐ Location (vicinity map and site plan), type and size of development.

☐ Horizon Year

II. Trip Generation, PROVIDE:

☐ Whether the current *ITE Trip Generation Manual* and its supplement(s) was used or whether previously approved WSDOT or [_____] specific survey data was used.

☐ (1) ADT, (2) AM and PM Peak-Hour Trips, and (3) justify any reduction for pass-by trips, diverted-linked trips and Traffic Demand Management (TDM) measures consistent with *ITE Trip Generation Manual* and its supplement(s), unless previously approved WSDOT or [_____] specific survey data was used.

III. Trip Distribution, PROVIDE:

☐ Distribution percentages on vicinity map/diagram.

☐ Weekday AM and PM Peak-Hour and daily assignments.

☐ Development ADT impacting any State improvements as programmed by the WSDOT. See **Exhibit C**.

IV.A. Level of Service (LOS) for All State Intersections Impacted By Ten (10) or More, But Less Than 50 Peak-Hour Trips, PROVIDE:

☐ The existing Peak-Hour Counts which have been taken within 18 months of the date of the development application, and

☐ The LOS for all State intersections impacted by ten (10) or more new development-generated Peak-Hour trips. This information may be available from the State or [_____]. Include left turn, right turn, and through movements.

NOTE: LOS calculation sheets, except for intersections where the LOS has been provided by the State or the [_____], must be calculated as follows:

☐ Signalized intersections: LOS must be calculated based on the overall intersection LOS.

☐ Unsignalized intersections: LOS must be calculated based on LOS of worst approach or lane group.

IV.B. For Developments Generating 25 or More Peak-Hour Trips, PROVIDE:

☐ The annual growth-rate factor (percentage) used and its source.

☐ Projected ADT and Peak-Hour trips at horizon year with and without the project.

☐ Projected LOS, with and without project, at horizon year at any intersection impacted by ten (10) or more Peak-Hour trips. The State uses Transit 7F Software to calculate LOS of coordinated, signalized intersections; however, the consultants may use other methods acceptable to the State. Before using a different software system, first obtain State approval.

NOTE: The 95th percentile queues at signalized intersections may be requested by the State following its review of the Traffic Impact Study.

V. Accident Analysis for all High Accident Locations (HAL) and Intersections Impacted by ten (10) or more Peak-Hour trips; HAL locations are available from State or [_____], PROVIDE.

☐ An accident analysis at all proposed direct access connections to State highways.

☐ An accident analysis at all State intersections where developer mitigation is proposed.

☐ A listing of HAL and/or impacted intersections' three-year accident history.

☐ A collision diagram.

☐ A discussion of the predominant accident types and their locations, accident patterns, an assessment of the development's traffic safety impact and mitigation for its safety impact.

Accident information can be obtained by writing to:

Washington State Department of Transportation

Address: _____

_____

_____

VI. State Highway Access Connection Reviews, PROVIDE:

☐ Investigation of all possible alternative access points other than State highways.

☐ Sight distance measurement(s).

☐ Mile Post(s) or Highway Engineer's Station(s).

☐ Distance from adjacent driveways and intersections.

☐ Type of any proposed access(es) onto a State highway (e.g., unrestricted, right-in/right-out only, right-in/right-out and left-in only or right-in only).

☐ LOS analysis for proposed access connection(s) onto a State highway.

☐ Accident analysis per Section V, 1/10 mile on either side of proposed access point(s).

VII. Suggested Mitigation Recommendations Necessary to Relieve Development Traffic Impacts, PROVIDE:

☐ Correction of LOS deficiencies.

☐ Frontage improvements and/or channelization revisions.

☐ Traffic mitigation payment based on daily trips to all impacted State projects.

☐ Dedication/donation of right of way.

☐ Assessment of clear zone if widening State highway.

☐ Possible shared mitigation measures with other developers.

☐ Proposed changes to State highway channelization shall require submittal of a complete channelization plan for State's review and approval. The channelization plan must be prepared according to the WSDOT Channelization Plan Checklist, **Exhibit D**.

VIII. Miscellaneous, PROVIDE:

☐ Two (2) copies of Traffic Impact Study.

☐ Traffic Impact Study must be signed and stamped by a professional engineer.

NOTE 1:Following the State's review of the Traffic Impact Study, the State may request supplemental information and analysis as necessary to determine the impacts of the development. Supplement information may include explanatory information, detailed documentation or further analysis to clarify or expand on data provided in the Traffic Impact Study.

NOTE 2: WSDOT Development Services is available to be directly contacted by developers or their consultants to answer questions about the Traffic Impact Study requirements.

PROGRAMMED WSDOT PROJECTS FOR THE [_____] AS OF _____, 200___

No.	SR	Project Name/ Description	Project Work Order No.	Total Cost (M)	Design/ Const. Year	Traffic Mitigation Payment Per Development Generated ADT

Intersection/Channelization Plan for Approval Checklist

GENERAL REQUIREMENTS

- ☐ Use latest version of Manual on Uniform Traffic Control Devices (MUTCD) and WSDOT Design Manual
- ☐ Plan scale 1” = 50’. Plan sheets not to exceed 22” x 34”
- ☐ Show 300 feet (100 m) of existing highway beyond the proposed changes
- ☐ Plan prepared in accordance with Plans Preparation Manual
- ☐ Have deviations/EUs been approved, if applicable
- ☐ Submit a full size mylar copy for final approval.

DESIGN DATA BOX

- ☐ Highway Design Class (Modified: MDL1-14; Full: Principal Arterial, Minor Arterial or Collector)
- ☐ City/County Design Classification for crossroads
- ☐ Access Control
- ☐ Land use
- ☐ ADT
- ☐ Percent Trucks (if applicable for turn storage)
- ☐ Design Vehicle
- ☐ Posted Speed and Design Speed

TRAFFIC SCHEMATIC DRAWING

- ☐ Current ADT and design year ADT
- ☐ DHV for turning movements for current and design year

PLAN SHEET

- ☐ Project Title, State Route number, SR Milepost in title block
- ☐ Township, Range, Section, North Arrow, scale bar, legend, county
- ☐ Street and Highway names
- ☐ Existing topographic features (edge of pavements, utility poles, fire hydrants, retaining walls, etc.)
- ☐ Right of Way lines (main line and crossroad)
- ☐ Limited Access Control and turnback lines if applicable
- ☐ Construction centerline, bearing, stationing or milepost
- ☐ Begin/end stations and mileposts of roadway widening
- ☐ Station, or milepost, and equations at centerline intersection of intersecting roads and approaches
- ☐ Angle of intersection
- ☐ Curve data for each curve (curve radius, curve and tangent lengths, delta angle, PC, PI, PT and superelevation)
- ☐ Vertical alignment - required if alignments are new or revised or if existing highway is in a vertical curve or highway grades are greater than 5%.

- ☐ Widths of lanes, turn lanes, shoulders, medians, curb & gutter, bike lanes, sidewalks, and bus pullouts if applicable
- ☐ Begin/end stations of channelization storage
- ☐ Taper rates for lane transitions
- ☐ Right turn corner radius for intersecting roadways and approaches
- ☐ Intersection left turn radius
- ☐ Show connecting road or private approach for at least 100’ from edge of highway
- ☐ Location and type of channelization
- ☐ Details for raised islands showing square footage, type of curb, etc.
- ☐ Block approval signature and date
- ☐ Block for stamping, signing and dating by registered professional engineer

EXAMPLE

MITIGATION AGREEMENT
FOR LAND DEVELOPMENT IMPACTS
TO STATE TRANSPORTATION FACILITIES

This Agreement is made this ____ day of _____, 200____, by and between the Washington State Department of Transportation ("WSDOT") and _____and its heirs, successors and assigns ("DEVELOPER").

WHEREAS, WSDOT has the authority to perform all duties necessary for the planning, locating, designing, constructing, improving, repairing, operating and maintaining of State highways, bridges and other structures pursuant to Title 47 RCW and rules promulgated thereunder, Title 468 WAC; and

WHEREAS, WSDOT is required to identify significant adverse environmental impacts of new development on the State's transportation system and to provide for the mitigation of those land development impacts pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C RCW; and

WHEREAS, WSDOT has the authority pursuant to Title 47 RCW, Title 468 WAC, and Chapter 43.21C RCW to require DEVELOPER to mitigate its land development impacts to the State's transportation system as long as the required mitigation measures are reasonably related and proportional to said impacts; and

WHEREAS, DEVELOPER intends to develop the property (hereinafter called the "DEVELOPMENT") with (describe DEVELOPMENT and provide address)

reviewed under [_____] (hereinafter called the [_____]) File Number _____; and

WHEREAS, DEVELOPER'S development has a significant adverse impact on the State's transportation system and such impact must be mitigated as part of the DEVELOPMENT plan,

NOW, THEREFORE, in accordance with the above-cited laws and the policies enacted thereunder, and in consideration of the terms and conditions contained herein,

IT IS MUTUALLY AGREED AS FOLLOWS:

I. PURPOSE

The purpose of this Agreement is to provide a mechanism by which the DEVELOPER agrees to mitigate the traffic impacts to the State highway transportation system caused by its DEVELOPMENT. DEVELOPER agrees that the mitigation measures contained in this Agreement are proportional and reasonably related to the impacts caused by its DEVELOPMENT. Based upon DEVELOPER's promise to fully comply with the terms of this Agreement, WSDOT shall permit, where appropriate, or shall not oppose the [_____]'s grant of the DEVELOPER's DEVELOPMENT application.

II. MITIGATION MEASURERS

1. Mitigation of Development Impacts on State Transportation Facilities

WSDOT has identified, pursuant to DEVELOPER's Traffic Impact Study, the DEVELOPMENT's traffic impacts to the State's transportation facilities that are reasonably related and proportional to the DEVELOPMENT and which require capacity mitigation improvements necessary to support DEVELOPER's new DEVELOPMENT.

1.A. If DEVELOPMENT abuts a State highway facility, the WSDOT requires Developer Traffic Mitigation Measures as follows:

(1) Construct Frontage Improvements. Describe Improvements:

_____

_____ **and/or**,

Pay the lump sum estimated cost of constructing the frontage improvements.
Enter the estimated Cost $ _____ **and/or,**

(2) Construct off-site highway improvements to mitigate LOS deficiencies and impacts on HAL locations (e.g., signalization and turn pockets).

Describe Improvements _____

_____ **and/or**,

Pay the lump sum estimated cost of constructing the off-site improvements.

Enter the estimated Cost $ _____**and/or,**

(3) Dedication/Donation of property for right of way use: Describe Property:

Enter the estimated value $ _____

_____**and/or**,

(**Note**: The value of property dedications/donations shall be based upon comparable sales consistent with the values used by the WSDOT to estimate the right of way costs for the projects included in **Exhibit C**. As an alternative, the value of property dedications/donations may be based upon an approved appraisal that is no more than two years old and which has been performed by a qualified appraiser licensed in the State of Washington.)

(4) Pay the traffic mitigation payment per Average Daily Trip (ADT)
(Note: The calculation of this payment is set forth below).
Enter the Cost $_____.

1.B. If DEVELOPMENT does not abut a State highway facility, the WSDOT requires the Developer Traffic Mitigation Measures as follows:

(1) Construct off-site highway improvements to mitigate LOS deficiencies and impacts on HAL locations (e.g., signalization and turn pockets). Describe Improvements: _____
_____**and/or**

Pay the lump sum estimated cost of constructing the frontage improvements. Enter the estimated Cost $_____**and/or,**

(2) Pay the traffic mitigation payment per Average Daily Trip (ADT) (Note: the calculation of this payment is set forth below). Enter Cost $ _____

NOTE: If DEVELOPER elects to construct improvement, DEVELOPER and WSDOT shall enter into a second agreement (Developer Agreement: Construction by Developer) that will provide for plans, specifications, actual construction and inspection of the improvements.

The Developer's traffic mitigation per ADT payment is calculated as follows:

WSDOT Programmed Projects (list all that apply)	ADTs Impacting Projects	Project- Cost per ADT	Traffic Mitigation Payment
1.		$	$
2.		$	$
3.		**$**	$
		Total	$

II. CREDITS

Where the value of the DEVELOPER-constructed mitigation improvements required and/or the value of the property to be dedicated/donated to the WSDOT is part of the costs of a WSDOT programmed capacity project, DEVELOPER shall only receive credit against its traffic mitigation payment for DEVELOPER-constructed improvement or property as follows:

Value of Frontage Improvements $ _____(1)

Value of off-site Highway Improvements $ _____(2)

Value of Dedicated/Donated Property $ _____(3)

Total Credits $ _____(4)

IV. SUMMARY

Traffic Mitigation Payment Total Due	$_____(5)
Total Credits (Line 4 above)	$_____(6)
Net Amount of Traffic Mitigation Payment due (Line 5–Line 6)	$_____(7)

(If Line 6 > Line 5, then Line 7 = 0)

The DEVELOPER agrees to a voluntary payment in lieu of construction to mitigate impacts of the DEVELOPMENT on WSDOT facilities equal to (Line 7 above): **$**_____

The traffic mitigation payment agreed to herein shall be paid prior to the granting of any building permit unless the DEVELOPMENT is a subdivision or short subdivision, in which case payment is required prior to recording of the subdivision plat or short subdivision plat; Provided, that where no building permit will be associated with a special use permit, then payment is required as a precondition to approval. In the alternative, traffic mitigation payments may be due as specified by the [_____].

Any portion of the traffic mitigation payments made pursuant to this Agreement and directly paid to the WSDOT shall be refunded to the DEVELOPER in the event that the WSDOT does not utilize any or all of the funds within five (5) years of the date of payment.

The WSDOT agrees that the mitigation measures as detailed in this Agreement will constitute DEVELOPER compliance with its obligation to mitigate its DEVELOPMENT's traffic impacts to the State highway system.

Washington State Department
of Transportation (WSDOT)

_____

Name:

_____

Title:

Dated this _____ day of _____ 200_

DEVELOPER

_____

Name:

_____

Title:

Company: _____

Dated this _____ day of _____
200_

Pre-approved as to form, April 1, 2003
by Ann E. Salay, AAG:

Any material modification requires
Additional approval of the Office of the
Attorney General

Acknowledgment -– Individual

STATE OF WASHINGTON)

)ss

COUNTY/CITY OF _____)

This is to certify that I know or have satisfactory evidence that _____ is/are the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) is/are the person(s) who signed this instrument, and is/are authorized to execute this instrument, as the _____ of _____, and (he/she/they) acknowledged it to be (his/her/their) free and voluntary act for the uses and purposes mentioned within the instrument.

Dated: _____

_____

NOTARY PUBLIC in and for the State of

Washington _____

residing at _____

My appointment expires_____

Acknowledgment - Corporation/Partnership

STATE OF WASHINGTON)

)ss

COUNTY/CITY OF _____)

I certify that I know or have satisfactory evidence that _____ signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

NOTARY PUBLIC in and for the State of

Washington _____

residing at _____

My appointment expires_____

Washington State Department of Transportation

Individual Bond for Agreement

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS**:** That we, _____ _____ County _____ _____ as Principal, and _____ as Surety, are jointly and severally bound unto the STATE OF WASHINGTON in the sum of _____ DOLLARS, for payment of which to the State of Washington, we jointly and severally bind ourselves, our heirs, executors, administrators, and assigns, firmly by these presents.

WHEREAS, the Principal in pursuance of its operations has requested the permission of the Washington State Department of Transportation, to construct improvements within the state's right of way, and

WHEREAS, the Washington State Department of Transportation, has agreed to allow the Principal to construct these improvements on a portion of State Route No. _____ in _____ County, Washington, under the provisions of the agreement between these two parties hereinafter identified as agreement number _____ and charge account number _____.

NOW, THEREFORE, the condition of this obligation is such that if all the conditions of said agreement including the proper restoration of slopes, slope treatment, topsoil, landscape treatment, drainage facilities and cleanup of right of way, are complied with according to the terms contained in said agreement by said Principal, through a period ending not more than _____ year(s) after date of completion of construction and upon receipt of a written discharge from the State, then this obligation shall become null and void, otherwise this bond to remain in full force and effect.

WITNESS our hands and seals this _____ day of _____, _____

NOTE: Please type or print below the signatures the names of parties executing this Bond, together with official title of each.

Principal: _____

Address: _____

_____

_____

Telephone: _____

By: _____

Title: _____

Surety: _____

Address: _____

_____

_____

Telephone: _____

By: _____

Title _____

WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION

_____

By: _____

Title: _____

Date: _____

Washington State
Department of Transportation

ASSIGNMENT OF SAVINGS ACCOUNT/CERTIFICATE OF DEPOSIT

This assignment is for the purpose of fulfilling the requirement of bonding collateral for Permit _____. The undersigned does hereby assign, transfer, and set over unto the State of Washington all right and title to $ _____ on _____ (Account No.) in the _____ Branch, _____ Bank, in the name of _____ with full power and authority to demand, collect, and receive said deposit and to give receipt and a quittance therefore for the uses and purposes prescribed above. It is understood and agreed that _____ Branch_____ Bank holds the certificate covering said account in its possession and agrees to hold $ _____ until release of this assignment from the State of Washington is received. The interest shall be payable to _____.

Signed and dated at _____, Washington this _____ day of _____, 200__.

_____
Signature

_____
Address

ACCEPTANCE

The undersigned hereby accepts the foregoing Assignment of Savings Account/Certificate of Deposit, Account or $ _____ this _____ day of _____, 200__.

_____
Bank

_____
Signature

_____
Title

Chapter 47.50 RCW
HIGHWAY ACCESS MANAGEMENT

SECTIONS

47.50.010 Finding--Access.

47.50.020 Definitions--Access.

47.50.030 Regulating connections.

47.50.040 Access permits.

47.50.050 Permit fee.

47.50.060 Permit review process

47.50.070 Permit conditions.

47.50.080 Permit removal.

47.50.090 Access management standards.

RCW 47.50.010
Findings -- Access.

(1) The legislature finds that:

(a) Regulation of access to the state highway system is necessary in order to protect the public health, safety, and welfare, to preserve the functional integrity of the state highway system, and to promote the safe and efficient movement of people and goods within the state;

(b) The development of an access management program, in accordance with this chapter, which coordinates land use planning decisions by local governments and investments in the state highway system, will serve to control the proliferation of connections and other access approaches to and from the state highway system. Without such a program, the health, safety, and welfare of the residents of this state are at risk, due to the fact that uncontrolled access to the state highway system is a significant contributing factor to the congestion and functional deterioration of the system; and

(c) The development of an access management program in accordance with this chapter will enhance the development of an effective transportation system and increase the traffic-carrying capacity of the state highway system and thereby reduce the incidences of traffic accidents, personal injury, and property damage or loss; mitigate environmental degradation; promote sound economic growth and the growth management goals of the state; reduce highway maintenance costs and the necessity for costly traffic operations measures; lengthen the effective life of transportation facilities in the state, thus preserving the public investment in such facilities; and shorten response time for emergency vehicles.

(2) In furtherance of these findings, all state highways are hereby declared to be controlled access facilities as defined in RCW 47.50.020, except those highways that are defined as limited access facilities in chapter 47.52 RCW.

(3) It is the policy of the legislature that:

(a) The access rights of an owner of property abutting the state highway system are subordinate to the public's right and interest in a safe and efficient highway system; and

(b) Every owner of property which abuts a state highway has a right to reasonable access to that highway, unless such access has been acquired pursuant to chapter 47.52 RCW, but may not have the right of a particular means of access. The right of access to the state highway may be restricted if, pursuant to local regulation, reasonable access can be provided to another public road which abuts the property.

(4) The legislature declares that it is the purpose of this chapter to provide a coordinated planning process for the permitting of access points on the state highway system to effectuate the findings and policies under this section.

(5) Nothing in this chapter shall affect the right to full compensation under section 16, Article I of the state Constitution.

[1991 c 202 § 1.]

NOTES:

Captions not law -- 1991 c 202: "Section captions and part headings as used in this act do not constitute any part of the law." [1991 c 202 § 22.]

Effective date -- 1991 c 202: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991." [1991 c 202 § 24.]

Severability -- 1991 c 202: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 202 § 25.]

RCW 47.50.020
Definitions -- Access.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Controlled access facility" means a transportation facility to which access is regulated by the governmental entity having jurisdiction over the facility. Owners or occupants of abutting lands and other persons have a right of access to or from such facility at such points only and in such manner as may be determined by the governmental entity.

(2) "Connection" means approaches, driveways, turnouts, or other means of providing for the right of access to or from controlled access facilities on the state highway system.

(3) "Permitting authority" means the department for connections in unincorporated areas or a city or town within incorporated areas which are authorized to regulate access to state highways pursuant to chapter 47.24 RCW.

[1991 c 202 § 2.]

NOTES:

Captions not law -- Effective date -- Severability -- 1991 c 202: See notes following RCW 47.50.010.

RCW 47.50.030
Regulating connections.

(1) Vehicular access and connections to or from the state highway system shall be regulated by the permitting authority in accordance with the provisions of this chapter in order to protect the public health, safety, and welfare.

(2) The department shall by July 1, 1992, adopt administrative procedures pursuant to chapter 34.05 RCW which establish state highway access standards and rules for its issuance and modification of access permits, closing of unpermitted connections, revocation of permits, and waiver provisions in accordance with this chapter. The department shall consult with the association of Washington cities and obtain concurrence of the city design standards committee as established by RCW 35.78.030 in the development and adoption of rules for access standards for city streets designated as state highways under chapter 47.24 RCW.

(3) Cities and towns shall, no later than July 1, 1993, adopt standards for access permitting on streets designated as state highways which meet or exceed the department's standards, provided that such standards may not be inconsistent with standards adopted by the department.

[1991 c 202 § 3.]

NOTES:

Captions not law -- Effective date -- Severability -- 1991 c 202: See notes following RCW 47.50.010.

RCW 47.50.040
Access permits.

(1) No connection to a state highway shall be constructed or altered without obtaining an access permit in accordance with this chapter in advance of such action. A permitting authority has the authority to deny access to the state highway system at the location specified in the permit until the permittee constructs or alters the connection in accordance with the permit requirements.

(2) The cost of construction or alteration of a connection shall be borne by the permittee, except for alterations which are not required by law or administrative rule, but are made at the request of and for the convenience of the permitting authority. The permittee, however, shall bear the cost of alteration of any connection which is required by the permitting authority due to increased or altered traffic flows generated by changes in the permittee's facilities or nature of business conducted at the location specified in the permit.

(3) Except as otherwise provided in this chapter, an unpermitted connection is subject to closure by the appropriate permitting authority which shall have the right to install barriers across or remove the connection. When the permitting authority determines that a connection is unpermitted and subject to closure, it shall provide reasonable notice of its impending action to the owner of property served by the connection. The permitting authority's procedures for providing notice and preventing the operation of unpermitted connections shall be adopted by rule.

[1991 c 202 § 4.]

NOTES:

Captions not law -- Effective date -- Severability -- 1991 c 202: See notes following RCW 47.50.010.

RCW 47.50.050
Permit fee.

The department shall establish by rule a schedule of fees for permit applications made to the department. The fee shall be nonrefundable and shall be used only to offset the costs of administering the access permit review process and the costs associated with administering the provisions of this chapter.

[1991 c 202 § 5.]

NOTES:

Captions not law -- Effective date -- Severability -- 1991 c 202: See notes following RCW 47.50.010.

RCW 47.50.060
Permit review process.

The review process for access permit applications made by the department shall be as follows: Any person seeking an access permit shall file an application with the department. The department by rule shall establish application form and content requirements. The fee required by RCW 47.50.050 must accompany the applications.

[1991 c 202 § 6.]

NOTES:

Captions not law -- Effective date -- Severability -- 1991 c 202: See notes following RCW 47.50.010.

RCW 47.50.070
Permit conditions.

The permitting authority may issue a permit subject to any conditions necessary to carry out the provisions of this chapter, including, but not limited to, requiring the use of a joint-use connection. The permitting authority may revoke a permit if the applicant fails to comply with the conditions upon which the issuance of the permit was predicated.

[1991 c 202 § 7.]

NOTES:

Captions not law -- Effective date -- Severability -- 1991 c 202: See notes following RCW 47.50.010.

RCW 47.50.080
Permit removal.

(1) Unpermitted connections to the state highway system in existence on July 1, 1990, shall not require the issuance of a permit and may continue to provide access to the state highway system, unless the permitting authority determines that such a connection does not meet minimum acceptable standards of highway safety. However, a permitting authority may require that a permit be obtained for such a connection if a significant change occurs in the use, design, or traffic flow of the connection or of the state highway to which it provides access. If a permit is not obtained, the connection may be closed pursuant to RCW 47.50.040.

(2) Access permits granted prior to adoption of the permitting authorities' standards shall remain valid until modified or revoked. Access connections to state highways identified on plats and subdivisions approved prior to July 1, 1991, shall be deemed to be permitted pursuant to chapter 202, Laws of 1991. The permitting authority may, after written notification, under rules adopted in accordance with RCW 47.50.030, modify or revoke an access permit granted prior to adoption of the standards by requiring relocation, alteration, or closure of the connection if a significant change occurs in the use, design, or traffic flow of the connection.

(3) The permitting authority may issue a nonconforming access permit after finding that to deny an access permit would leave the property without a reasonable means of access to the public roads of this state. Every nonconforming access permit shall specify limits on the maximum vehicular use of the connection and shall be conditioned on the availability of future alternative means of access for which access permits can be obtained.

[1991 c 202 § 8.]

NOTES:

Captions not law -- Effective date -- Severability -- 1991 c 202: See notes following RCW 47.50.010.

RCW 47.50.090
Access management standards.

(1) The department shall develop, adopt, and maintain an access control classification system for all routes on the state highway system, the purpose of which shall be to provide for the implementation and continuing applications of the provision of this chapter.

(2) The principal component of the access control classification system shall be access management standards, the purpose of which shall be to provide specific minimum standards to be adhered to in the planning for and approval of access to state highways.

(3) The control classification system shall be developed consistent with the following:

(a) The department shall, no later than January 1, 1993, adopt rules setting forth procedures governing the implementation of the access control classification system required by this chapter. The rule shall provide for input from the entities described in (b) of this subsection as well as for public meetings to discuss the access control classification system. Nothing in this chapter shall affect the validity of the department's existing or subsequently adopted rules concerning access to the state highway system. Such rules shall remain in effect until repealed or replaced by the rules required by this chapter.

(b) The access control classification system shall be developed in cooperation with counties, cities and towns, the department of community, trade, and economic development, regional transportation planning organizations, and other local governmental entities, and for city streets designated as state highways pursuant to chapter 47.24 RCW, adopted with the concurrence of the city design standards committee.

(c) The rule required by this section shall provide that assignment of a road segment to a specific access category be made in consideration of the following criteria:

(i) Local land use plans and zoning, as set forth in comprehensive plans;

(ii) The current functional classification as well as potential future functional classification of each road on the state highway system;

(iii) Existing and projected traffic volumes;

(iv) Existing and projected state, local, and metropolitan planning organization transportation plans and needs;

(v) Drainage requirements;

(vi) The character of lands adjoining the highway;

(vii The type and volume of traffic requiring access;

(viii) Other operational aspects of access;

(ix) The availability of reasonable access by way of county roads and city streets to a state highway; and

(x) The cumulative effect of existing and projected connections on the state highway system's ability to provide for the safe and efficient movement of people and goods within the state.

(d) Access management standards shall include, but not be limited to, connection location standards, safety factors, design and construction standards, desired levels of service, traffic control devices, and effective maintenance of the roads. The standards shall also contain minimum requirements for the spacing of connections, intersecting streets, roads, and highways.

(e) An access control category shall be assigned to each segment of the state highway system by July 1, 1993.

[1995 c 399 § 124; 1991 c 202 § 9.]

NOTES: Captions not law -- Effective date -- Severability -- 1991 c 202: See notes following RCW 47.50.010.

Chapter 468-51 WAC
HIGHWAY ACCESS MANAGEMENT
ACCESS PERMITS -- ADMINISTRATIVE PROCESS

Last Update: 2/25/99

WAC SECTIONS

468-51-010 Purpose
468-51-020 Definitions.
468-51-030 General provisions.
468-51-040 Connection Categories.
468-51-050 Conceptual review.
468-51-060 Application requirements and procedures.
468-51-070 Fees and surety bond.
468-51-080 Application submittal,
468-51-090 Construction requirements.
468-51-100 Nonconforming connection permits.
468-51-105 Variance connection permits.
468-51-110 Changes in property site use.
468-51-120 Permit modification, revocation, closure of permitted connections.
468-51-130 Closure of unpermitted connections.
468-51-140 Department construction projects.
468-51-150 Adjudicative proceedings.

WAC 468-51-010
Purpose.

This chapter is adopted for use by the Washington state department of transportation to implement chapter 47.50 RCW for the regulation and control of vehicular access and connection points of ingress to, and egress from, the state highway system within unincorporated areas that are under the jurisdiction of the Washington state department of transportation. However, this chapter and chapter 468-52 WAC may be used, as a default, by cities that are the permitting authorities if they have not adopted an enacting ordinance as required under chapter 47.50 RCW.

This chapter describes the connection permit application process and procedures, including a preapplication conceptual review process, and requirements for closure of unpermitted and nonconforming connections to the state highway system.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-010, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-010, filed 6/24/92, effective 7/25/92.]

WAC 468-51-020
Definitions.

For the purposes of this chapter, the following definitions of terms shall apply unless the context clearly indicates otherwise:

(1) "Application" means an application form supplied by the department and completed by the applicant, a certified check or money order for the required application fee, and related property site, driveway, roadway, and traffic information.

(2) "Average daily traffic (ADT)" means the volume of traffic passing a point or segment of a highway, in both directions, during a period of time, divided by the number of days in the period and factored to represent an estimate of traffic volume for an average day of the year.

(3) "Average weekday vehicle trip ends (AWDVTE)" means the estimated total of all trips entering plus all trips leaving the applicant's site based on the final stage of proposed development.

(4) "Conforming connection" means a connection that meets current department location, spacing, and design criteria.

(5) "Connection" means approaches, driveways, turnouts, or other means of providing for the right of access to or from controlled access facilities on the state highway system.

(6) "Connection category" means a permit category of all state highway connections, in accordance with the type of property served and the estimated traffic generated by the applicant's site based on rates accepted by the department.

(7) "Connection permit" means a written authorization given by the department for a specifically designed connection to the state highway system at a specific location for a specific type and intensity of property use and specific volume of traffic for the proposed connection, based on the final stage of proposed development of the applicant's property. The actual form used for this authorization will be determined by the department.

(8) "Controlled access facility" means a transportation facility (excluding limited access facilities as defined in chapter 47.52 RCW) to which access is regulated by the governmental entity having jurisdiction over the facility. Owners or occupants of abutting lands and other persons have a right of reasonable access to and from such facility at such points only and in such manner as may be determined by the governmental entity.

(9) "Department" means the Washington state department of transportation.

(10) "Development approval" means an official action by a governmental land use planning authority authorizing the developer or land owner to begin construction of any permanent improvements on the property.

(11) "Governmental entity" means, for the purpose of this chapter, a unit of local government or officially designated transportation authority that has the responsibility for planning, construction, operation, maintenance, or jurisdiction over transportation facilities.

(12) "Joint use connection" means a single connection point that serves as a connection to more than one property or development, including those in different ownerships or in which access rights are provided in the legal descriptions.

(13) "Limited access facility" means a highway or street especially designed or designated for through traffic, and over, from, or to which owners or occupants of abutting land, or other persons have no right or easement, or only a limited right or easement of access, light, view or air by reason of the fact that their property abuts upon such limited access facility, or for any other reason to accomplish the purpose of a limited access facility.

(14) "Median" means the portion of a divided highway or divided connection separating vehicular traffic traveling in opposite directions; not including speed change lanes, storage lanes for left turning or U-turning vehicles, or two way left turn lanes.

(15) "Median opening" means either a full opening in a continuous median for the specific purpose of allowing vehicles to make a left turn maneuver into or out of a property abutting the highway, to facilitate U-turns, or to allow for a vehicle to totally cross the road, or a directional opening allowing for left turn maneuvers into the property and U-turn maneuvers, but not allowing for left turns or cross movements out of the property.

(16) "Nonconforming connection" means a connection not meeting current department location, spacing, or design criteria.

(17) "Permit" means written approval issued by the department, subject to conditions stated therein, authorizing construction, reconstruction, maintenance, or reclassification of a state highway connection and associated traffic control devices on or to the department's right of way.

(18) "Permitting authority" means the department or any county, municipality, or transportation authority authorized to regulate access to their respective transportation systems.

(19) "Reasonable access" means an access connection that is suitable for the existing and/or proposed property use and does not adversely affect the safety, operations or maintenance of the highway system.

(20) "Right of way (R/W)" means a general term denoting land or interest therein, acquired for or designated for transportation purposes. More specifically, land in which the department, a county, or a municipality owns the fee simple title, has an easement devoted to or required for use as a public road and appurtenant facilities, or has established ownership by prescriptive right, or lands that have been dedicated for public transportation purposes.

(21) "Shoulder" means the portion of the highway contiguous with the traveled lanes for the accommodation of stopped vehicles for emergency use, and for lateral support of base and surface courses and for other uses as allowed by law.

(22) "State highway system" means all roads, streets, and highways designated as state routes in compliance with chapter 47.17 RCW.

(23) "Temporary connection" means a permitted connection for a specific property use, conditioned to be open for a specific purpose and traffic volume for a specific period of time with the right of way to be restored by the permit holder to its original condition upon connection closure.

(24) "Variance permit" means a special nonconforming or additional connection permit, issued for a location not normally permitted by current department standards, after an engineering study demonstrates, to the satisfaction of the department, that the connection will not adversely affect the safety, maintenance or operation of the state highway in accordance with its assigned classification. This permit will remain valid until modified or revoked by the permitting authority.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-020, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-020, filed 6/24/92, effective 7/25/92.]

WAC 468-51-030
General provisions.

(1) When connection permits required. Every owner of property which abuts a state highway, or has a legal easement to the state highway, where limited access rights have not been acquired has a right to reasonable access, but may not have the right to a particular means of access, to the state highway system. The right of access to the state highway may be restricted if, in compliance with local regulation, reasonable access to the state highway can be provided by way of another public road which abuts the property. These public roads shall be of sufficient width and strength to reasonably handle the traffic type and volumes that would be accessing that road. All new connections including alterations and improvements to existing connections to state highways shall require a connection permit. Such permits, if allowed, shall be issued only after written development approval where such approval is required, unless other interagency coordination procedures are in effect. However, the department can provide a letter of intent to issue a connection permit if that is a requirement of the agency that is responsible for development approval. The alteration or closure of any existing access connection caused by changes to the character, intensity of development, or use of the property served by the connection or the construction of any new access connection shall not begin before a connection permit is obtained from the department. Use of a new connection at the location specified in the permit is not authorized until the permit holder constructs or modifies the connection in accordance with the permit requirements. If a property owner or permit holder who has a valid connection permit wishes to change the character, use, or intensity of the property or development served by the connection, the department must be contacted to determine whether a new connection permit would be required.

(2) Responsibility for other approvals. Connection permits authorize construction improvements to be built by the permit holder on department right of way. It is the responsibility of the applicant or permit holder to obtain any other local permits or other agency approvals that may be required, including satisfaction of all environmental regulations. It is also the responsibility of the applicant to acquire any property rights necessary to provide continuity from the applicant's property to the state highway right of way if the applicant's property does not abut the right of way, except where the connection replaces an existing access as a result of department relocation activity.

(3) Early consultation. In order to expedite the overall permit review process, the applicant is strongly encouraged to consult with the department prior to and during the local government subdivision, rezoning, site plan, or any other applicable predevelopment review process for which a connection permit will be required. The purpose of the consultation shall be to determine the permit category and to obtain

a conceptual review of the development site plan and proposed access connections to the state highway system with respect to department connection location, quantity, spacing, and design standards. Such consultation will assist the developer in minimizing problems and delays during the permit application process and could eliminate the need for costly changes to site plans when unpermittable connection proposals are identified early in the planning phase. The conceptual review process is further detailed in WAC 468-51-050.

(4) Cost of construction.

(a) Permit holder. The cost of construction or modification of a connection shall be the responsibility of the permit holder, including the cost of modification of any connection required as a result of changes in property site use in accordance with WAC 468-51-110. However, the permit holder is not responsible for alterations made at the request of the department that are not required by law or administrative rule.

(b) Department. Existing permitted connections impacted by the department's work program and which, in the consideration of the department, necessitate modification, relocation, or replacement in order to meet current department connection location, quantity, spacing, and design standards, shall be modified, relocated, or replaced in kind by the department at no cost to the permit holder. The cost of further enhancements or modification to the altered, relocated, or replaced connections requested by the permit holder shall be the responsibility of the permit holder.

(5) Notification. The department shall notify affected property owners, permit holders, business owners and/or emergency services, in writing, where appropriate, whenever the department's work program requires the modification, relocation, or replacement of their access connections. In addition to written notification, the department shall facilitate, where appropriate, a public process which may include, but is not limited to, public notices, meetings or hearings, and/or individual meetings. The department shall provide the interested parties with the standards and principles of access management.

(6) Department responsibility. The department has the responsibility to issue permits and authority to approve, disapprove, and revoke such permits, and to close connections, with cause.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-030, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-030, filed 6/24/92, effective 7/25/92.]

WAC 468-51-040
Connection categories.

All connections, public or private shall be determined by the department to be in one of the following categories:

(1) "Category I - minimum connection" provides connection to the state highway system for up to ten single family residences, a duplex, or a small multi-family complex of up to ten dwelling units, which use a common connection. The category shall also apply to permanent connections to agricultural and forest lands, including field entrances; connections for the operation, maintenance, and repair of utilities; and connections serving other low volume traffic generators expected to have an average weekday vehicle trip ends (AWDVTE) of one hundred or less.

(2) "Category II - minor connection" provides connection to the state highway system for medium volume traffic generators expected to have an AWDVTE of one thousand five hundred or less, but not included in Category I.

(3) "Category III - major connection" provides connection to the state highway system for high volume traffic generators expected to have an AWDVTE exceeding one thousand five hundred.

(4) "Category IV - temporary connection" provides a temporary, time limited, connection to the state highway system for a specific property for a specific use with a specific traffic volume. Such uses include, but are not limited to, logging, forest land clearing, temporary agricultural uses, temporary construction, and temporary emergency access. The department reserves the right to remove any temporary connection at its sole discretion and at the expense of the property owner after the expiration of the permit. Further, a temporary connection permit does not bind the department, in any way, to the future issuance of a permanent connection permit at the temporary connection location.

(5) "Nonconforming connection" designation may be issued for Category I through IV permits after an analysis and determination by the department that a conforming connection cannot be made and a finding that the denial of a connection would leave the property without a reasonable means of access to the public road system. In such instances, the permit shall be noted as nonconforming and contain specific restrictions and provisions, including limits on the maximum vehicular use of the connection, the future availability of alternate means of reasonable access for which a conforming connection permit could be obtained, the removal of the nonconforming connection at the time the conforming access is available, and other conditions as necessary to carry out the provisions of chapter 47.50 RCW.

(6) "Variance connection" means a special nonconforming or additional connection permit, issued for a location not normally permitted by current department standards, after an engineering study demonstrates that the connection will not adversely affect the safety, maintenance or operation of the highway in accordance with its assigned classification. This permit will remain valid until modified or revoked by the permitting authority.

(7) "Median opening" includes openings requested for both new connections and for existing connections. New median openings proposed as part of a new driveway connection shall be reviewed as part of the permit application review process. Request for the construction of new median openings to serve existing permitted connections shall require a reevaluation of the location, quantity, design of existing connection, and traffic at the existing connections. The property owner must file a new connection permit application, for the proper connection category, showing the new proposed median opening location and design and its relationship to the existing or modified driveway connections. Nothing contained herein shall be construed to prohibit the department from closing an existing median opening where operational or safety reasons require the action. The department shall notify affected property owners, permit holders and tenants, in writing, thirty days in advance of the closure of a median opening unless immediate closure is needed for safety or operational reasons.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-040, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-040, filed 6/24/92, effective 7/25/92.]

WAC 468-51-050
Conceptual review.

Prior to filing a connection permit application and prior to receipt of development approval, all permit applicants, but in particular those applying for Category II and Category III connections, are strongly encouraged to request, in writing, a conceptual review of the site plan and proposed connection locations with the department and other local governmental agencies as appropriate. The purpose of the conceptual review is to expedite the overall review process by establishing the permit category, number, type, and general location of connections to the property early in the planning stages of a proposed development or a proposed significant change in property site use, or to determine that the connection as requested cannot be permitted. The conceptual review does not constitute final department approval of the location and design of the connection. If deemed appropriate, especially on the more complex proposals, the department shall establish the date for a conceptual review meeting to be held within two weeks of the receipt of the written request unless a later date is requested by the applicant. If a meeting is scheduled, representatives of the local governmental land use planning authority will be invited to attend. Within four weeks following the conceptual review meeting, or receipt of the request if no meeting is scheduled, the department will provide the applicant written notice of the department's conceptual review findings, provided all needed information to complete the review has been received from the applicant. These findings are nonbinding on the department and the developer. Additional detailed information received during the application process, changes in the proposed development, or changes in the existing or planned operational characteristics of the state highway system may necessitate modifications of the connections agreed to in the conceptual approval. The conceptual review findings can be used by the developer in the site plan review/approval process with the local government having jurisdiction over the development as indicating coordination of connection location, quantity, and design with the department and of preliminary department findings on the proposed connections.

[Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-050, filed 6/24/92, effective 7/25/92.]

WAC 468-51-060
Application requirements and procedures.

This rule shall be used where the department is the permitting authority. Where the local governmental entity is the permitting authority, the applicable procedures of the local governmental entity must be followed. If the local governmental entity has no procedures then this rule may apply.

(1) Connection permit application and information. The appropriate application form and the application information are available from the designated local department offices. An application shall consist of the above form; application fee, as specified in WAC 468-51-070; plans; traffic data; and connection information specified in this section.

All connection and roadway design documents for Category II and III permits shall bear the seal and signature of a professional engineer, registered in accordance with chapter 18.43 RCW.

(2) Information required - all permits. The following information is required of all applicants for all permit categories, unless the department determines that specific information will not be required on individual applications. Additional information required of Category II, III, and IV permit applications is specified in this chapter. In all cases it would be prudent, prior to submittal of the application, for the applicant to inquire of the department whether the application needs additional information. The department reserves the right to request clarification or additional information during the application review process. Failure to provide the requested information within the time limits specified in the request shall result in withdrawal of the permit application.

(a) Identification and signature of property owner and applicant. The current complete names, mailing addresses, and telephone numbers of the property owner(s), the developer(s), the applicant, the transportation and legal consultants representing the applicant (if any), and the local government representative(s) responsible for processing the development's approval shall be provided as part of the application. If the property owner desires to have a representative sign the application, a notarized letter of authorization from the applicant is to be provided with the application. When the owner or applicant is a company, corporation, or other public agency, the name, address, and telephone number of the responsible officer shall be furnished. The names of all individuals signing the application and their titles shall be typed or printed directly below the signature.

(b) Property uses and traffic information. The ultimate planned property uses shall be indicated in sufficient detail to determine the appropriate permit classification. Estimated average weekday vehicle trip ends to be generated by the development, based on the planned property use, consistent with the latest trip generation information published by the Institute of Transportation Engineers, Washington, D.C., (ITE) shall be included as appropriate. If local or special trip generation rates are used, instead of the ITE rates the latest and best information shall be used and all documentation for the rate development shall be submitted with the application. For residential developments with ten or fewer units, ten trips per day per unit may be assumed. The requirement for an average weekday vehicle trip ends estimate may be waived for agricultural uses where no retail marketing is proposed.

(c) Site plan. The application shall include a plan to scale, or a schematic drawing showing critical dimensions (allowable on Category I permits only), the location of the property, and existing conditions and the character and extent of work proposed. The location of existing and proposed on-site development with respect to the existing and proposed driveway location(s) and the highway shall be shown. Minimum information on the plan shall include:

(i) Road information.

- State route number.
- County or local road name.
- Highway pavement type.
- Cross section.
- Posted speed limit.

- The existence and location of any existing and/or future proposed public or private road abutting or entering the property; the horizontal and vertical curvature of the road(s) noting the location of existing and proposed connections and any other pertinent information.

(ii) Property information.

- Location of all existing and proposed buildings, and other structures, such as gasoline pumps, lights, trees, etc., with respect to the existing and proposed property and right of way lines.
- Any adjacent properties that are owned or controlled by the applicant, or in which the applicant has a financial interest, and indicate whether these properties will be accessed by means of the proposed connection(s).
- Proof of legal ownership or legal easement.
- The application shall include a boundary survey. The requirement for a boundary survey may be waived for Category I connections, at the discretion of the department.
- Any existing or proposed parcels segregated from the applicant's property for separate development also shall be clearly designated on the plan.

(iii) Connection location information.

- The proposed connection milepost and highway engineer's station, if available.
- Location of the highway centerline with respect to existing and proposed property lines.
- Distance of proposed public or private access connection to intersecting roads, streets, railroads.
- Existing or proposed median openings (crossovers) and connections on all sides of the state highway and other roads within six hundred sixty feet of the proposed connection location in urban areas and one thousand three hundred twenty feet in nonurban (rural) areas.
- Location of existing or proposed public or private retaining walls, fences, poles, sidewalks, bike paths, drainage structures and easements, traffic control devices, fire hydrants, utilities, or other physical features, such as trees, landscaping, green belts, and wetlands, that could affect driveway location.
- It shall be the responsibility of the applicant to physically identify the location of the proposed connection at the proposed site.

(iv) Connection design information.

- Proposed connection and approach improvements including its profile approaching the state highway, width, radii, angle to the highway, auxiliary pavement.
- Existing and proposed grading (or contouring that affects the natural drainage pattern or runoff impacting the state highway and the proposed connection).
- Drainage calculations and other pertinent data.

- Driveway, auxiliary lanes and crossover pavement design, including subgrade, base, surface materials, and thicknesses.
- Specific requirements for design information on individual Category I permit applications may be relaxed, or waived, at the discretion of the department.

(v) Joint driveway use.

- If the driveway is to serve more than one property, the plan shall detail information for all properties using the connection and the application shall include copies of legally enforceable agreements of concurrence for all property owners on joint driveway usage.
- Joint driveway use serving adjoining properties is encouraged on all highways and may be required on some highways, in compliance with rules adopted by the department.

(3) Additional information required, Category II and Category III permits. The following is a list of additional information that may be required for each phase of the development from the applicant. Prior to the submittal of the application, the applicant shall coordinate with the appropriate designated local office of the department on the level of detail and the analysis techniques to be used.

(a) Circulation plans. All parking, interior drives, and internal traffic circulation plans.

(b) Connection users. All internal and external adjacent parcels which will use the requested connection. All existing and proposed connecting roadways and potential means of alternate access through the final buildout stage of development shall be shown on the plans submitted with the application.

(c) Traffic control devices and illumination. Proposed traffic control devices and lighting locations.

(d) Sight distance. Analysis of horizontal and vertical sight distance on the state highway with respect to the proposed connection.

(e) Traffic data and analysis. Traffic data submitted by the applicant shall be signed and sealed by a qualified professional engineer, registered in accordance with chapter 18.43 RCW. The following traffic study information may be required:

(i) Turning movements. Vehicle turning movements for present and future traffic conditions.

(ii) Volume and type. Amount and type of traffic that will be generated by the proposed development including a breakdown of anticipated peak hour traffic and an analysis of the impact on the level of service on the state highway.

(iii) Parking and circulation. Analysis of off-street parking and traffic circulation, including distances to secondary access points on the connection roadway and their impact on the operation of the state highway.

(iv) Traffic signal data. If a traffic signal is requested, the following studies may be required: Traffic signal warrants; phasing and timing analysis; signal progression analysis; signalization, signing, and lighting plans in compliance with department standards. A separate department traffic signal permit is required.

(v) Off-site improvements. A traffic analysis to determine the need for off-site related roadway and geometric improvements and mitigation requirements.

(vi) Traffic control plan. A traffic control plan conforming to current department standards set forth in the "Manual on Uniform Traffic Control Devices," documenting how the permit holder will provide for safe and efficient movement on the state highway system during the construction of the connection.

(4) Additional information required, Category IV permits. Permit applications must contain the specific dates that the connection is to be open and must contain assurances acceptable to the department that the shoulder, curbing, sidewalks, bikeways, ditch, right of way, and any other amenities will be restored to their original condition at the permit holder's expense upon closure of the temporary connection.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-060, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-060, filed 6/24/92, effective 7/25/92.]

WAC 468-51-070
Fees and surety bond.

(1) Fee structure. The following nonrefundable fee structure is established for department application processing, review, and inspection. Full payment of base fees must accompany the permit application. Due to the potential complexity of Category II and Category III connection proposals, and required mitigation measures that may involve construction on the state highway, the department may require a developer agreement in addition to the connection permit. The developer agreement may include, but is not limited to: Plans; specifications; maintenance requirements; bonding requirements; inspection requirements; division of costs by the parties, where applicable; and provisions for payment by the applicant of actual costs incurred by the department in the review and administration of the applicant's proposal that exceed the required base fees in the following schedule:

(a)	Category I base fees for one connection.		
(i)	Field (agricultural), forest lands, utility operation and maintenance .	$	50
(ii)	Residential dwelling units (up to 10) utilizing a single connection point	$	50
per dwelling unit			
(iii)	Other, with 100 AWDVTE or less .	$	500
(iv)	Fee per additional connection point.	$	50
(b)	Category II base fees for one connection.		
(i)	Less than 1,000 AWDVTE	$	1,000
(ii)	1,000 to 1,500 AWDVTE	$	1,500
(iii)	Fee per additional connection point	$	250
(c)	Category III base fees for one connection.		
(i)	1,500 to 2,500 AWDVTE	$	2,500
(ii)	Over 2,500 AWDVTE	$	4,000
(iii)	Fee per additional connection point	$	1,000
(d)	Category IV base fee per connection	$	100

(2) Surety bond. Prior to the beginning of construction of any connection, the department may require the permit holder to provide a surety bond as specified in WAC 468-34-020(3).

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-070, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-070, filed 6/24/92, effective 7/25/92.]

WAC 468-51-080
Application submittal, review, conditions.

(1) Application submittal. The application shall be submitted to the designated local department office serving the area. The application shall be properly prepared, clearly completed, and signed. Information on the specific number of copies to be provided and other submittal information is available from the designated local department office.

(2) Application review, processing, and approval. Upon receipt of the application, the application shall be reviewed consistent with the provisions of this chapter. If the department identifies errors in the application or if additional information is required, the department will notify the applicant. Applicants must provide such information or correct errors within thirty days of the notification. If the applicant determines that the time to provide additional or corrected information is insufficient, the applicant shall contact the department in writing to request additional time be approved. If the additional or corrected information has not been received by the department within thirty days or the approved time period agreed to, the application will be withdrawn.

(a) Review. Upon timely receipt of all required information, or upon expiration of the time period for receipt of additional or corrected information, the location and design of the connection shall be examined for consistency with current department location, quantity, spacing, classifications, and department design standards. The review shall also include an analysis of the impact of the site's existing and projected traffic on the operation and safety of the state highway.

(b) Concurrence or denial, notice. If the department concurs in the location and design of the proposed connection, written notification of that concurrence will be sent to the applicant and to the local governmental land use planning authority having jurisdiction over the development. If the applicant has gone through the voluntary conceptual review process, the written notice of concurrence will indicate whether or not there have been any changes in the number, location, or design of the connection required by the department. No construction may commence on the department's right of way until all necessary department and local governmental permits are issued in accordance with (c) of this subsection. If the department does not concur in the connection location, quantity, or design, both the applicant and the local governmental land use planning authority having jurisdiction over the development approval shall be notified, in writing, indicating the department's intent to deny the connection as proposed in the application. The written notification shall state the specific reasons for the intent to deny the connection, the process for submitting an amended application, and the appeal rights of the applicant. The applicant may submit a revised application within thirty days based on department comments and concerns as stated in the notification. The submittal of a revised application within thirty days shall not require the payment of any additional application fees. Submittal of a revised permit is not a prerequisite for a request for an adjudicative proceeding in compliance with WAC 468-51-150.

(c) Permit issuance. The department shall issue the connection permit after review and concurrence that the application and the location and design of the connection comply with the requirements of this chapter, and after either:

(i) The applicant has received development approval from the appropriate local governmental land use planning authority; or

(ii) Other interagency coordination procedures in effect are satisfied for development approval by the local governmental land use planning authority.

The department shall provide the applicant with the connection permit for signature, and the applicant shall sign and return the permit to the department within thirty days after the mailing date. If the department does not receive the signed permit back from the applicant within thirty days after the mailing date or within an agreed upon time, the permit will be void and the application fee will be forfeited. The permit is not valid and construction on the access cannot begin without a completed permit that is signed by both the department and the applicant.

Additionally, the applicant must be in compliance with the surety bond requirements specified in the permit prior to construction, in compliance with WAC 468-51-070.

(d) Request for adjudicative proceedings. In the event of a denial of a connection permit as proposed in the application, the applicant may apply for an adjudicative proceeding in compliance with WAC 468-51-150.

(3) Permit conditions. Any special requirements or provisions for the connection including off-site mitigation shall be clearly and specifically identified as part of the permit. Failure by the applicant or permit holder to abide by the permit provisions shall be sufficient cause for the department to initiate action to alter the connection or to revoke the permit and close the connection at the expense of the permit holder. The permit requirements shall be binding on the permit holder, the permit holder's successors, heirs and assigns, the permit application signatories, and all future owners and occupants of the property. The applicant may challenge the permit conditions by applying for an adjudicative proceeding in compliance with WAC 468-51-150.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-080, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-080, filed 6/24/92, effective 7/25/92.]

WAC 468-51-090
Construction requirements.

(1) Preconstruction conference. The department may require a preconstruction conference prior to any work being performed on the department's right of way. When required by provisions in the permit, the department will schedule a preconstruction conference. The preconstruction conference should be attended by the necessary personnel to assure compliance with the terms and provisions of the permit.

(2) Time limit. Substantial construction of the connection shall begin within ninety days of the effective date of the permit, unless a longer time is approved by the department or a time extension is requested by the applicant and approved by the department. Construction shall be completed within one hundred twenty days of the date of issuance of the permit, unless a time extension is approved by the department. As a condition of the permit, the department may further limit construction time, if the department determines that such limitation is warranted. Failure to comply with the time limits specified in the permit shall result in an automatic expiration of the permit following written notification to the permit holder. For any permit which expires for failure to begin construction or to complete construction within the specified time limits, the department may require a new application, including the payment of the required application fee prior to the initiation of any construction.

(3) Posting of permit. The approved connection permit shall be displayed in a prominent location, protected from the weather, within the vicinity of the connection construction.

(4) Disruption of traffic. All construction and/or maintenance within department right of way shall conform to the provisions of the connection permit, the "Manual on Uniform Traffic Control Devices" (MUTCD); the department's current "Design Manual," and the current "Standard Specifications for Road, Bridge, and Municipal Construction." The department may require or restrict hours of construction to minimize disruption of traffic on the state highway system. If construction activity within the department's right of way causes undue disruption of traffic or creates safety hazards on a state highway, or if the construction activity is not in compliance with the traffic control specifications in the permit, the department shall advise the permit holder or the permit holder's contractor of the need for immediate corrective action, and may order immediate suspension of all or part of the work if deemed necessary. Failure to comply with this provision may result in permit modification or revocation.

(5) Traffic signals and other traffic control devices. Traffic signals and other traffic control devices installed by the permit holder shall conform to MUTCD and department design and construction standards. The permit holder is responsible for securing any state and local permits needed for traffic signalization and regulatory signing and marking.

(6) Connection construction inspection. For Category II and Category III connections, the department may require the permit holder, the developer, or landowner to provide inspection of construction and certification that connection construction is in accordance with permit provisions and appropriate department standards by a professional engineer, registered in accordance with chapter 18.43 RCW, or the department may do the inspection at the applicant's expense, as provided in the developer agreement.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-090, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-090, filed 6/24/92, effective 7/25/92.]

WAC 468-51-100
Nonconforming connection permits.

The department may issue a permit for a connection not meeting department location and spacing criteria standards if it finds that a conforming connection is not attainable at the time of the permit application submittal and that denial would leave the property without a reasonable access to the public road system. The department may issue a connection permit requiring a legally enforceable joint-use connection when determined to be in the best interest of the state for restoring or maintaining the operational efficiency and safety of the state highway. Nonconforming connection permits shall specify conditions or limits including:

(1) Traffic volume. The maximum vehicular usage of the connection shall be specified in the permit.

(2) Future alternate access. The permit shall specify that a conforming connection be constructed when future alternate means of access become available, and that the nonconforming connection be removed.

(3) Users. The permit shall specify the properties to be served by the connection; and any other conditions as necessary to carry out the provisions of chapter 47.50 RCW.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-100, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-100, filed 6/24/92, effective 7/25/92.]

WAC 468-51-105
Variance connection permits.

Variance permits may be issued, at the discretion of the department, for certain connections not meeting the access classification location and spacing or that exceed the number of connections allowed by the standards adopted for a particular highway segment. These permits may be allowed if conditions warrant and are demonstrated to the satisfaction of the department by a traffic analysis, signed and sealed by a qualified professional engineer who is registered in accordance with chapter 18.43 RCW, which is included with the connection permit application. The variance permit will remain in effect unless a new permit is required due to changes in property site use in compliance with WAC 468-51-110 or unless permit modification, revocation, or closure of the variance permitted connection is required as provided for in WAC 468-51-120. The department

may issue a connection permit requiring a legally enforceable joint-use connection when it is determined to be in the best interest of the state for restoring or maintaining the operational efficiency and safety of the state highway. Variance connection permits shall specify conditions or limits including, but not limited to:

(1) **Traffic volume.** The maximum vehicular usage of the connection shall be specified in the permit.

(2) **Users.** The permit shall specify the properties to be served by the connection, and any other conditions as necessary to carry out the provisions of chapter 47.50 RCW.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-105, filed 2/25/99, effective 3/28/99.]

WAC 468-51-110
Changes in property site use.

The connection permit is issued to the permit holder for a particular type of land use generating specific projected traffic volumes at the final stage of proposed development. Any changes made in the use, intensity of development, type of traffic, or traffic flow of the property requires the permit holder, his or her assignee, or property owner to contact the department to determine if further analysis is needed to determine if the change is significant and would require a new permit and modifications to the connection. An engineering study, signed and sealed by a professional engineer registered in accordance with chapter 18.43 RCW, may be required to document the extent of the change. If modification of the existing connection is required, based on a significant change as determined by the department, the permit holder, his or her assignee, or the property owner shall obtain a new permit prior to the initiation of any on-site construction to the connection or to the property.

(1) Significant change. A significant change is one that would cause a change in the category of the connection permit or one that causes an operational, safety, or maintenance problem on the state highway system based on objective engineering criteria or available accident data. Such data shall be provided to the property owner and/or permit holder and tenant upon written request.

(2) Notification. Failure to contact the department to determine the need for connection modifications or to apply for a new permit for such modifications prior to initiation of property improvements, land use changes or traffic flow alteration actions shall result in notification to the property owner and/or permit holder and tenant of intent to revoke the existing permit and closure of the connection to the property.

(3) Costs. The permit holder is responsible for all costs associated with connection removal, relocation, or modification caused by increased or altered traffic flows necessitated by changes to facilities, use, or to the nature of the business on the property.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-110, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-110, filed 6/24/92, effective 7/25/92.]

WAC 468-51-120
Permit modification, revocation, closure of permitted connections.

(1) Revocation criteria. All connection permits issued by the department prior to the effective date of this chapter remain valid until revoked. The department may initiate an action to revoke any permit if significant changes have occurred in the use, design, or traffic flow of the property or of the state highway, requiring the relocation, alteration, or closure of the connection; if the connection was not constructed at the location or to the design specified in the permit; if the permit provisions were not met; or if the connection causes a safety, maintenance, or operational problem on the state highway system. The process to be followed by the department in the revocation of permits shall be consistent with the requirements of chapter 34.05 RCW and WAC 468-51-150. The notification process is as follows:

(a) Notification, correction of deficiencies. The department shall serve notice, in accordance with rules adopted in compliance with chapter 34.05 RCW, to the permit holder, permit holder's successors or assigns, or property owner with a copy to the occupant, for any connection found to be in noncompliance with the conditions of the permit or this chapter. The notice will identify and request that the deficiencies be corrected within thirty days of service of the notice. The notice shall further advise that the department's determination of noncompliance or deficiencies shall become final and conclusive thirty calendar days following service of the notice unless the violations are corrected or an adjudicative proceeding in compliance with chapter 34.05 RCW and WAC 468-51-150 is requested by the permit holder, permit holder's successor or assigns, or the property owner.

(2) Costs. The permit holder, permit holder's successor or assignee, or property owner shall be responsible for the costs of closure due to revocation of a connection permit in compliance with WAC 468-51-120 except when the closure is required by changes to the state highway.

(3) Emergency action. This chapter shall not restrict the department's right to take immediate remedial action, including the closure of a connection if there is an immediate and serious danger to the public health, safety, and welfare, in compliance with chapter 47.32 RCW. In such event, the department shall conform to the provisions for emergency adjudicative proceedings in RCW 34.05.479 and rules adopted thereunder.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-120, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-120, filed 6/24/92, effective 7/25/92.]

WAC 468-51-130
Closure of unpermitted connections.

Closure criteria, permit requirements. Any unpermitted connections to the state highway system which were in existence and in active use consistent with the type of connection on July 1, 1990, shall not require the issuance of a permit and may continue to provide connection to the state highway system, unless the property owner had received written notification initiating connection closure from the department prior to July 1, 1990, or unless the department determines that the unpermitted connection does not meet minimum acceptable standards of highway safety and mobility based on accident and/or traffic data or accepted traffic engineering criteria, a copy of which must be provided to the property owner and/or permit holder and tenant upon written request. The department may require that a permit be obtained if a significant change occurs in the use, design,

or traffic flow of the connection or of the state highway. If a permit is not obtained, the department may initiate action to close the unpermitted connection point in compliance with RCW 47.50.040. Any unpermitted connection opened subsequent to July 1, 1990, is subject to closure by the department. The process to be followed by the department in the closure of an unpermitted connection shall be consistent with chapter 34.05 RCW and rules adopted thereunder. The notification process is as follows:

(1) Notification. The department shall serve notice, in accordance with rules adopted in compliance with chapter 34.05 RCW, upon the property owner of a connection to a state highway which is found by the department to be unpermitted. This notice shall clearly describe the highway connection violation and shall establish a thirty-day time limit for either applying for a connection permit or requesting an adjudicative proceeding in compliance with chapter 34.05 RCW. The notice will further advise the property owner that failure to act in either of the prescribed ways within the time period will result in department closure of the unpermitted connection.

(2) Permit application. If a permit application is filed within the thirty days, and the application is denied, the department shall notify the property owner of the denial. The property owner may then proceed with the permit application revision process set forth in WAC 468-51-080 or request an adjudicative proceeding in compliance with WAC 468-51-150 within thirty days. Failure to act in either of those prescribed ways within the time period set forth in the rules will result in department closure of the unpermitted connection. If the location and design of the connection in the permit application are acceptable to the department, the existing connection may continue to be used for a specified period of time or until the connection specified in the permit application is constructed.

(3) Approval conditions. Modifications, relocation, or closure of unpermitted connections may be required by the department as a requirement of permit approval, subject to the adjudicative proceedings provisions of WAC 468-51-150.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-130, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-130, filed 6/24/92, effective 7/25/92.]

WAC 468-51-140
Department construction projects.

During construction of department projects, connections will be provided as replacements for existing approved permitted connections, that are consistent with all current department spacing, location, and design standards, based on the following conditions:

(1) Nonconforming connections. All nonconforming connections will be examined to determine if the construction project will require relocation, alteration, or closure of the connection to make it conforming.

(2) Application of current standards. The number and location of connections shall be modified to the maximum extent possible to meet current department spacing, location, and design standards. Where current department standards cannot be met, the connection shall be classified as nonconforming.

(3) New connections, modifications. The department shall allow new or require modification of existing connections if a connection permit application is made and approved.

(4) Replacement of existing connections. When connections are made as part of a department construction project replacing existing connection points without material differences, no additional permit shall be required. Costs shall be borne by the department.

(5) New connections -- Cost. The construction of new connection points, if approved by the department, shall be done at the owner's expense by either the department's contractor as part of the roadway improvement or by the owner's contractor at the department's option.

(6) Modifications -- Cost. If the modification of the connection point, that are based on the owner's request, is more extensive than the routine replacement of an existing connection, the owner shall also participate in the differential cost.

(7) Work by permit holder's contractor. The department shall require that work done by the owner's contractor be accomplished at the completion of the department's contract or be scheduled so as not to interfere with the department's contractor. The department may require a surety bond prior to construction of the connection in accordance with WAC 468-51-070. When the number, location or design of existing access connections to the state highway are being modified by a department construction project, the resulting modified access connections shall provide the same general functionality for the existing property use as they did before the modification, taking into consideration the existing site design, normal vehicle types, and traffic circulation requirements.

Notification. The department shall notify affected property owners, permit holders, business owners and/or emergency services, in writing, where appropriate, whenever the department's work program requires the modification, relocation, or replacement of their access connections. In addition to written notification, the department shall facilitate, where appropriate, a public process which may include, but is not limited to, public notices, meetings or hearings, and/or individual meetings. The department shall provide the interested parties with the standards and principles of access management.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-140, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-140, filed 6/24/92, effective 7/25/92.]

WAC 468-51-150
Adjudicative proceedings.

(1) Application. Any person who has standing to challenge the denial of a permit application in compliance with WAC 468-51-080; a permit with conditions in compliance with WAC 468-51-080; a notice of permit modification, revocation, or closure of permitted connection in compliance with WAC 468-51-120; or notice of closure of an unpermitted connection in compliance with WAC 468-51-130 may apply for an adjudicative proceeding on the matter in compliance with chapter 34.05 RCW, rules adopted thereunder, and department rules within thirty days of the date the initial determination of the department is sent by certified mail.

(2) Conduct. Thereafter, and within the times set forth by chapter 34.05 RCW, rules adopted thereunder, and department rules, the department shall convene an adjudicative proceeding. The proceeding shall be conducted in compliance with chapter 34.05 RCW, rules adopted thereunder, and department rules.

(3) Failure to apply. Failure to apply for an adjudicative proceeding within the times set forth in subsection (1) of this section shall result in the adoption of the department's initial determination as its final determination.

(4) Failure to participate. Failure to attend or otherwise participate in an adjudicative proceeding may result in a finding of default.

(5) Reasonableness of access. The department in its regulation of connections in compliance with chapter 47.50 RCW and these regulations shall allow reasonable access. If the department's final order denies reasonable access, the appellant shall be entitled to just compensation in compliance with RCW 47.50.010(5). Access which is not reasonable is not compensable.

[Statutory Authority: Chapter 47.50 RCW. 99-06-034 (Order 187), § 468-51-150, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 92-14-044, § 468-51-150, filed 6/24/92, effective 7/25/92.]

Chapter 468-52 WAC
HIGHWAY ACCESS MANAGEMENT-- ACCESS CONTROL CLASSIFICATION SYSTEM AND STANDARDS

Last Update: 2/25/99

WAC SECTIONS

468-52-010 Purpose.
468-52-020 Definitions.
468-52-030 General.
468-52-040 Access control classification system and standards.
468-52-050 Application of access control classifications system standards.
468-52-060 Assignment of access control classifications to highway segments.
468-52-070 Review and modification of classifications.

WAC 468-52-010
Purpose.

This chapter is adopted in accordance with chapter 47.50 RCW for the implementation of an access control classification system and standards for the regulation and control of vehicular ingress to, and egress from the state highway system.

[Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 93-03-033 (Order 135), § 468-52-010, filed 1/13/93, effective 2/13/93.]

WAC 468-52-020
Definitions.

For the purposes of this chapter, the following definitions of the terms shall apply unless the context clearly indicates otherwise:

(1) "Average daily traffic (ADT)" means the volume of traffic passing a point or segment of a highway, in both directions, during a period of time, divided by the number of days in the period and factored to represent an estimate of traffic volume for an average day of the year.

(2) "Conforming connection" means a connection that meets current department location, spacing, and design criteria.

(3) "Connection" means approaches, driveways, turnouts, or other means of providing for the right of access to or from controlled access facilities on the state highway system.

(4) "Connection permit" means a written authorization given by the department for a specifically designed connection to the state highway system at a specific location for a specific type and intensity of property use and specific volume of traffic for

the proposed connection, based on the final stage of proposed development of the applicant's property. The actual form used for this authorization will be determined by the department.

(5) "Contiguous parcels" means two or more pieces of real property under the same ownership with one or more boundaries that touch and have similarity of use.

(6) "Controlled access facility" means a transportation facility (excluding limited access facilities as defined in chapter 47.52 RCW) to which access is regulated by the governmental entity having jurisdiction over the facility. Owners or occupants of abutting lands and other persons have a right of access to and from such facility at such points only and in such manner as may be determined by the governmental entity.

(7) "Corner clearance" means the distance from an intersection of a public or private road to the nearest connection along a controlled access facility. This distance is measured from the closest edge of the traveled way of the intersecting road to the closest edge of the traveled way of the connection measured along the traveled way (through lanes).

(8) "Department" means the Washington state department of transportation.

(9) "Governmental entity" means, for the purpose of this chapter, a unit of local government or officially designated transportation authority that has the responsibility for planning, construction, operation, maintenance, or jurisdiction over transportation facilities.

(10) "Intersection" means an at grade connection on a state highway with a road or street duly established as a public road or public street by the local governmental entity.

(11) "Joint use connection" means a single connection point that serves as a connection to more than one property or development, including those in different ownerships or in which access rights are provided in the legal descriptions.

(12) "Limited access facility" means a highway or street especially designed or designated for through traffic, and over, from, or to which owners or occupants of abutting land, or other persons have no right or easement, or only a limited right or easement of access, light, view, or air by reason of the fact that their property abuts upon such limited access facility, or for any other reason to accomplish the purpose of a limited access facility.

(13) "Nonconforming connection" means a connection not meeting current department location, spacing, or design criteria.

(14) "Permit" means written approval issued by the department, subject to conditions stated therein, authorizing construction, reconstruction, maintenance, or reclassification of a state highway connection and associated traffic control devices on or to the department's right of way.

(15) "Permitting authority" means the department or any county, municipality, or transportation authority authorized to regulate access to their respective transportation systems.

(16) "State highway system" means all roads, streets, and highways designated as state routes in compliance with chapter 47.17 RCW.

(17) "Reasonable access" means an access connection that is suitable for the existing and/or proposed property use and does not adversely affect the safety, operations or maintenance of the state highway system.

(18) "Variance permit" means a special nonconforming or additional connection permit, issued for a location not normally permitted by current department standards, after an engineering study demonstrates, to the satisfaction of the department, that the connection will not adversely affect the safety, maintenance or operation of the highway in accordance with its assigned classification. This permit will remain valid until modified or revoked by the permitting authority.

[Statutory Authority: Chapter 47.50 RCW. 99-06-035 (Order 188), § 468-52-020, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 93-03-033 (Order 135), § 468-52-020, filed 1/13/93, effective 2/13/93.]

WAC 468-52-030
General.

The connection and intersection spacing distances specified in this chapter are minimums. Greater distances may be required by the department on individual permits issued in accordance with chapter 468-51 WAC to provide desirable traffic operational and safety characteristics. If greater distances are required, the department will document, as part of the response to a connection permit application in compliance with chapter 468-51 WAC, the reasons, based on traffic engineering principles, that such greater distances are required. Nonconforming permits may be issued in accordance with chapter 468-51 WAC allowing for less than minimum spacing where no other reasonable access exists, or a variance connection permit may be issued where it can be substantiated by a traffic analysis, to the satisfaction of the department, through the permit application process that allowing less than the minimum spacing or more than the maximum number of connections, would not adversely affect the desired function of the state highway in accordance with the assigned access classification, and would not adversely affect the safety, maintenance or operation of the state highway.

[Statutory Authority: Chapter 47.50 RCW. 99-06-035 (Order 188), § 468-52-030, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 93-03-033 (Order 135), § 468-52-030, filed 1/13/93, effective 2/13/93.]

WAC 468-52-040
Access control classification system and standards.

This section provides an access control classification system consisting of five classes. The functional characteristics and the access control design standards for each class are described. The classes are arranged from the most restrictive, class one, to the least restrictive, class five. This access control classification system does not include highways or portions thereof that have been established as limited access highways in compliance with chapter 47.52 RCW. For state highways that are planned for the establishment of limited access control in accordance with the Master Plan for Limited Access Highways, an access control classification will be assigned to each highway segment to remain in effect until such time that the facility is established as a limited access facility.

On all access classes, property access shall be located and designed to minimize interference with transit facilities and/or high occupancy vehicle (HOV) facilities on state highways where such facilities exist or where such facilities are proposed in a state, regional, metropolitan, or local transportation plan. In such cases, if reasonable access is available from the general street system, primary property access shall be provided from the general street system rather than from the state highway.

(1) Class one.

(a) Functional characteristics:

These highways have the capacity for safe and efficient high speed and/or high volume traffic movements, providing for interstate, interregional, and intercity travel needs and some intracity travel needs. Service to abutting land is subordinate to providing service to major traffic movements. Highways in this class are typically distinguished by a highly controlled, limited number of public and private connections, restrictive medians with limited median openings on multilane facilities, and infrequent traffic signals.

(b) Access control design standards:

(i) It is the intent that the design of class one highways be generally capable of achieving a posted speed limit of fifty to sixty-five mph. Spacing of intersecting streets, roads, and highways shall be planned with a minimum spacing of one mile. One-half mile spacing may be permitted, but only when no reasonable alternative access exists.

(ii) Private direct access to the state highway shall not be permitted except when the property has no other reasonable access to the general street system. The following standards will be applied when direct access must be provided:

(A) The access connection shall continue until such time that other reasonable access to a highway with a less restrictive access control classification or access to the general street system becomes available and is permitted.

(B) The minimum distance to another public or private access connection shall be one thousand three hundred twenty feet. Nonconforming connection permits may be issued to provide access to parcels whose highway frontage, topography, or location would otherwise preclude issuance of a conforming connection permit; however, variance permits are not allowed. No more than one connection shall be provided to an individual parcel or to contiguous parcels under the same ownership.

(C) All private direct access shall be for right turns only on multilane facilities, unless special conditions warrant and are documented by a traffic analysis in the connection permit application, signed and sealed by a qualified professional engineer, registered in accordance with chapter 18.43 RCW.

(D) No additional access connections to the state highway shall be provided for newly created parcels resulting from property divisions. All access for such parcels shall be provided by internal road networks. Access to the state highway will be at existing permitted connection locations or at revised connection locations, as conditions warrant.

(iii) A restrictive median shall be provided on multilane facilities to separate opposing traffic movements and to prevent unauthorized turning movements.

(2) Class two.

(a) Functional characteristics:

These highways have the capacity for medium to high speeds and medium to high volume traffic movements over medium and long distances in a safe and efficient manner, providing for interregional, intercity, and intracity travel needs. Direct access service to abutting land is subordinate to providing service to traffic movement. Highways in this class are typically distinguished by existing or planned restrictive medians, where multilane facilities are warranted, and minimum distances between public and private connections.

(b) Access control design standards:

(i) It is the intent that the design of class two highways be generally capable of achieving a posted speed limit of thirty-five to fifty mph in urbanized areas and forty-five to fifty-five mph in rural areas. Spacing of intersecting streets, roads, and highways shall be planned with a minimum spacing of one-half mile. Less than one-half mile intersection spacing may be permitted, but only when no reasonable alternative access exists. In urban areas and developing areas where higher volumes are present or growth that will require signalization is expected in the foreseeable future, it is imperative that the location of any public access be planned carefully to ensure adequate signal progression. Addition of all new connections, public or private, that may require signalization will require an engineering analysis signed and sealed by a qualified professional engineer, registered in accordance with chapter 18.43 RCW.

(ii) Private direct access to the state highway system shall be permitted only when the property has no other reasonable access to the general street system or if access to the general street system would cause traffic operational conditions or safety concerns unacceptable to the local governmental entity. When direct access must be provided, the following conditions shall apply

(A) The access connection shall continue until such time that other reasonable access to a highway with a less restrictive access control classification or acceptable access to the general street system becomes available and is permitted.

(B) The minimum distance to another public or private access connection shall be six hundred sixty feet. Nonconforming connection permits may be issued to provide access to parcels whose highway frontage, topography, or location would otherwise preclude issuance of a conforming connection permit. No more than one connection shall be provided to an individual parcel or to contiguous parcels under the same ownership unless the highway frontage exceeds one thousand three hundred twenty feet and it can be shown that the additional access would not adversely affect the desired function of the state highway in accordance with the assigned access classification, and would not adversely affect the safety or operation of the state highway.

(C) Variance permits may be allowed if conditions warrant and are demonstrated to the satisfaction of the department by a traffic analysis, signed and sealed by a qualified professional engineer, who is registered in accordance with chapter 18.43 RCW, which is included with the connection permit application.

(D) All private direct access shall be for right turns only on multilane facilities, unless special conditions warrant and are demonstrated, to the satisfaction of the department, by a traffic analysis, signed and sealed by a qualified professional engineer, who is registered in accordance with chapter 18.43 RCW, included with the connection permit application and only if left turn channelization is provided.

(E) No additional access connections to the state highway shall be provided for newly created parcels resulting from property divisions. All access for such parcels shall be provided by internal road networks. Access to the state highway will be at existing permitted connection locations or at revised connection locations, as conditions warrant.

(iii) On multilane facilities a restrictive median shall be provided to separate opposing traffic movements and to prevent unauthorized turning movements; however, a nonrestrictive median or a two way left turn lane may be used when special conditions exist and mainline volumes are below 20,000 ADT.

(3) Class three.

(a) Functional characteristics:

These highways have the capacity for moderate travel speeds and moderate traffic volumes for medium and short travel distances providing for intercity, intracity, and intercommunity travel needs. There is a reasonable balance between direct access and mobility needs for highways in this class. This class is to be used primarily where the existing level of development of the adjoining land is less intensive than maximum buildout and where the probability of significant land use change and increased traffic demand is high. Highways in this class are typically distinguished by planned restrictive medians, where multilane facilities are warranted, and minimum distances between public and private connections. Two-way left-turn-lanes may be utilized where special conditions warrant and mainline traffic volumes are below 25,000 ADT. Development of properties with internal road networks and joint access connections are encouraged.

(b) Access control design standards:

(i) It is the intent that the design of class three highways be generally capable of achieving a posted speed limit of thirty to forty mph in urbanized areas and forty-five to fifty-five mph in rural areas. In rural areas, spacing of intersecting streets, roads, and highways shall be planned with a minimum spacing of one-half mile. Less than one-half mile intersection spacing may be permitted, but only when no reasonable alternative access exists. In urban areas and developing areas where higher volumes are present or growth that will require signalization is expected in the foreseeable future, it is imperative that the location of any public access be planned carefully to ensure adequate signal progression. Where feasible, major intersecting roadways that may ultimately require signalization shall be planned with a minimum of one-half mile spacing. Addition of all new connections, public or private, that may require signalization will require an engineering analysis signed and sealed by a qualified professional engineer, registered in accordance with chapter 18.43 RCW.

(ii) Private direct access:

(A) No more than one access shall be provided to an individual parcel or to contiguous parcels under the same ownership unless it can be shown that additional access points would not adversely affect the desired function of the state highway in accordance with the assigned access classification, and would not adversely affect the safety or operation, of the state highway.

(B) The minimum distance to another public or private access connection shall be three hundred thirty feet. Nonconforming connection permits may be issued to provide access to parcels whose highway frontage, topography, or location would otherwise preclude issuance of a conforming connection permit.

(C) Variance permits may be allowed if conditions warrant and are demonstrated to the satisfaction of the department by a traffic analysis, signed and sealed by a qualified professional engineer, who is registered in accordance with chapter 18.43 RCW, which is included with the connection permit application.

(4) Class four.

(a) Functional characteristics:

These highways have the capacity for moderate travel speeds and moderate traffic volumes for medium and short travel distances providing for intercity, intracity, and intercommunity travel needs. There is a reasonable balance between direct access and mobility needs for highways in this class. This class is to be used primarily where the existing level of development of the adjoining land is more intensive and where the probability of major land use changes is less probable than on class three highway segments. Highways in this class are typically distinguished by existing or planned nonrestrictive medians. Restrictive medians may be used as operational conditions warrant to mitigate turning, weaving, and crossing conflicts. Minimum connection spacing standards should be applied if adjoining properties are redeveloped.

(b) Access control design standards:

(i) It is the intent that the design of class four highways be generally capable of achieving a posted speed limit of thirty to thirty-five mph in urbanized areas and thirty-five to forty-five mph in rural areas. In rural areas, spacing of intersecting streets, roads, and highways shall be planned with a minimum spacing of one-half mile. Less than one-half mile intersection spacing may be permitted, but only when no reasonable alternative access exists. In urban areas and developing areas where higher volumes are present or growth that will require signalization is expected in the foreseeable future, it is imperative that the location of any public access be planned carefully to ensure adequate signal progression. Where feasible, major intersecting roadways that may ultimately require signalization shall be planned with a minimum of one-half mile spacing. Addition of all new connections, public or private, that may require signalization will require an engineering analysis signed and sealed by a qualified professional engineer, registered in accordance with chapter 18.43 RCW.

(ii) Private direct access:

(A) No more than one access shall be provided to an individual parcel or to contiguous parcels under the same ownership unless it can be shown that additional access points would not adversely affect the desired function of the state highway in accordance with the assigned access classification, and would not adversely affect the safety or operation of the state highway.

(B) The minimum distance to another public or private access connection shall be two hundred fifty feet. Nonconforming connection permits may be issued to provide access to parcels whose highway frontage, topography, or location would otherwise preclude issuance of a conforming connection permit.

(C) Variance permits may be allowed if conditions warrant and are demonstrated to the satisfaction of the department by a traffic analysis, signed and sealed by a qualified professional engineer, who is registered in accordance with chapter 18.43 RCW, which is included with the connection permit application.

(5) Class five.

(a) Functional characteristics:

These highways have the capacity for moderate travel speeds and moderate traffic volumes for primarily short travel distances providing for intracity and intracommunity trips primarily for access to state highways of higher classification. Access needs may generally be higher than the need for through traffic mobility without compromising the public health, welfare, or safety. These highways will generally have nonrestrictive medians.

(b) Access control design standards:

(i) It is the intent that the design of class five highways be capable of achieving a posted speed limit of twenty-five to thirty-five mph. In rural areas, spacing of intersecting streets, roads, and highways shall be planned with a minimum spacing of one-quarter mile. Less than one-quarter mile spacing may be permitted where no reasonable alternative exists. In urban areas and developing areas where higher volumes are present or growth that will require signalization is expected in the foreseeable future, it is imperative that the location of any public access be planned carefully to ensure adequate signal progression. Where feasible, major intersecting roadways that may ultimately require signalization shall be planned with a minimum of one-quarter mile spacing. Addition of all new connections, public or private, that may require signalization will require an engineering analysis signed and sealed by a qualified professional engineer, registered in accordance with chapter 18.43 RCW.

(ii) Private direct access:

(A) No more than one access shall be provided to an individual parcel or to contiguous parcels under the same ownership unless it can be shown that additional access points would not adversely affect the desired function of the state highway in accordance with the assigned access classification, and would not adversely affect the safety or operation of the state highway.

(B) The minimum distance to another public or private access connection shall be one hundred twenty-five feet. Nonconforming connection permits may be issued to provide access to parcels whose highway frontage, topography, or location would otherwise preclude issuance of a conforming connection permit.

(C) Variance permits may be allowed if conditions warrant and are demonstrated to the satisfaction of the department by a traffic analysis, signed and sealed by a qualified professional engineer, who is registered in accordance with chapter 18.43 RCW, which is included with the connection permit application.

(6) Corner clearance. Corner clearances for connections shall meet or exceed the minimum connection spacing requirements of the applicable access class where the highway segment has been assigned a classification. A single connection may be placed closer to the intersection, in compliance with the permit application process specified in chapter 468-51 WAC, and in accordance with the following criteria:

(a) If, due to property size, corner clearance standards of this chapter cannot be met, and where joint access meeting or exceeding the minimum corner clearance standards cannot be obtained, or is determined by the department to be not feasible because of conflicting land use or conflicting traffic volumes or operational characteristics, then the following minimum corner clearance criteria may be used:

CORNER CLEARANCE AT INTERSECTIONS

With Restrictive Median

Position	Access Allowed	Minimum (feet)
Approaching intersection	Right In/Right Out	115
Approaching intersection	Right In Only	75
Departing intersection	Right In/Right Out	230*
Departing intersection	Right Out Only	100

Without Restrictive Median

Position	Access Allowed	Minimum (feet)
Approaching intersection	Full Access	230*
Approaching intersection	Right In Only	100
Departing intersection	Full Access	230*
Departing intersection	Right Out Only	100

*For Access Class 5 and for speeds less than thirty-five mph, one hundred twenty-five feet may be used.

(b) In cases where connections are permitted under the above criteria, the permit issued in compliance with chapter 468-51 WAC shall contain the following additional conditions:

(i) There shall be no more than one connection per property frontage on the state highway.

(ii) When joint or alternate access meeting or exceeding the minimum corner clearance standards becomes available, the permit holder shall close the permitted connection, unless the permit holder shows to the department's satisfaction that such closure is not feasible.

(iii) Variance permits are not allowed.

[Statutory Authority: Chapter 47.50 RCW. 99-06-035 (Order 188), § 468-52-040, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 93-03-033 (Order 135), § 468-52-040, filed 1/13/93, effective 2/13/93.]

WAC 468-52-050
Application of access control classification system standards.

(1) Review of permits on classified highway segments. Connection permit applications on controlled access facilities of the state highway system received on a particular segment that has been classified in accordance with this chapter shall be reviewed subject to the requirements of this chapter in compliance with the permit application process specified in chapter 468-51 WAC.

(2) Prior approvals. Connections permitted prior to the adoption of this chapter and unpermitted connections that do not require closure in accordance with WAC 468-51-030 are not required to meet the interim standards or the standards of assigned access classifications adopted in compliance with this chapter.

(3) New permits required by chapter 468-51 WAC. All new connection permits required due to significant changes in property site use in compliance with WAC 468-51-110, or permit modification in compliance with WAC 468-51-120 shall be reviewed subject to the requirements of this chapter.

(4) Permits approved under interim standards. Connection permits that were issued in accordance with the interim standards in WAC 468-52-040 on a highway segment where an access classification had not been adopted shall remain in effect after adoption of an access classification on that highway segment unless a new permit is required due to changes in property site use in compliance with WAC 468-51-110 or unless permit modification, revocation, or closure of the permitted connection is required in compliance with WAC 468-51-120.

(5) Nonconforming permits. Nonconforming permits may be issued in accordance with WAC 468-51-100 for certain connections not meeting the interim standards in WAC 468-52-040 or the access classification location and spacing standards adopted for a particular highway segment.

(6) Variance permits. Variance permits may be issued in accordance with WAC 468-51-105 for certain connections not meeting the access classification standards for location, spacing or exceed the number of connections allowed by the standards adopted for a particular highway segment. These permits may be allowed if conditions warrant and are demonstrated to the satisfaction of the department by a traffic analysis, signed and sealed by a qualified professional engineer who is

registered in accordance with chapter 18.43 RCW, and included in the connection permit application, and will remain in effect unless a new permit is required due to changes in property site use in compliance with WAC 468-51-110 or unless permit modification, revocation, or closure of the permitted connection is required in compliance with WAC 468-51-120.

[Statutory Authority: Chapter 47.50 RCW. 99-06-035 (Order 188), § 468-52-050, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 93-03-033 (Order 135), § 468-52-050, filed 1/13/93, effective 2/13/93.]

WAC 468-52-060
Assignment of access control classifications to highway segments.

The assignment of an access control classification to all controlled access segments of the state highway system shall be the responsibility of the department. The process to be followed in assigning the classifications is as follows:

(1) Defining segments. The determination of the length and termini of segments shall be the responsibility of the department working in cooperation with the Regional Transportation Planning Organizations, Metropolitan Planning Organizations, and the appropriate local governmental entities.

(a) Segments of highways to be assigned to a particular access control classification shall be defined by the department in cooperation with local governments. The length and termini of segments shall take into consideration the mobility and access needs of the traveling public, the access needs of the existing and proposed land use abutting the highway segment, and the existing and desired mobility characteristics of the roadway. The number of classification changes occurring along a particular highway shall be minimized to provide highway system continuity, uniformity, and integrity to the maximum extent feasible. The segments shall not necessarily be confined by local jurisdictional boundaries. Points of transition between classifications along a particular route should be located on boundaries, or coincident with identifiable physical features.

(2) Assignment of classifications. All segments of all controlled access facilities on the state highway system shall be assigned to one of the access control classes one through five. The assignment of a classification to a specific segment of highway shall be the responsibility of the department. The classification shall be made in cooperation with the Regional Transportation Planning Organization, Metropolitan Planning Organization, and the appropriate local governmental entities. For city streets that are designated as state highways in compliance with chapter 47.24 RCW, the department will obtain concurrence in the final class assignment from the city or town for those state highways where the city or town is the permitting authority. The assignment of a classification shall take into consideration the following factors:

(a) Local land use plans, zoning, and land development regulations as set forth in adopted comprehensive plans;

(b) The current and potential functional classification of the highway;

(c) Existing and projected future traffic volumes;

(d) Existing and projected state, local, and metropolitan planning organization transportation plans and needs including consideration of new or improved parallel facilities;

(e) Drainage requirements;

(f) The character of the lands adjoining the highway;

(g) The type and volume of traffic requiring access;

(h) Other operational aspects of access, including corridor accident history;

(i) The availability of reasonable access to the state highway by way of county roads or city streets as an alternative to a connection to the state highway;

(j) The cumulative effect of existing and projected connections on the state highway system's ability to provide for the safe and efficient movement of people and goods within the state.

(3) Changes in jurisdiction. When the boundaries of an incorporated city or town are revised to include a portion of a controlled access state highway resulting in a change in the permitting authority from the department to the city or town in accordance with chapter 47.24 RCW, the access classification of that portion of the state highway shall remain unchanged unless modified in accordance with WAC 468-52-070.

[Statutory Authority: Chapter 47.50 RCW. 99-06-035 (Order 188), § 468-52-060, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 93-03-033 (Order 135), § 468-52-060, filed 1/13/93, effective 2/13/93.]

WAC 468-52-070
Review and modification of classifications.

(1) Department initiated action. The department may, at any time, initiate a review of the access control classification of any segment of any state highway. When a major change occurs in any of the factors noted in WAC 468-52-060(2), the department shall review the access classification for the specific segments of any state highway affected by the change. Prior to the initiation of any change in classification of a highway segment, the department shall notify in writing the appropriate Regional Transportation Planning Organization, Metropolitan Planning Organization, and local governmental entities. The department will consult with the RTPO, MPO, and local governmental entities and shall take into consideration, any comments or concerns received during the review process. For city streets that are designated as state highways in compliance with chapter 47.24 RCW, the department will obtain concurrence in the final class assignment from the city or town for those state highways where the city or town is the permitting authority. The department shall notify the RTPO, MPO, and local governmental entities in writing of the final determination of the reclassification action.

(2) Requests for departmental review. A Regional Transportation Planning Organization, Metropolitan Planning Organization, or local governmental entity may request, in writing, at any time that the secretary of transportation initiate a review of the access control classification of a specific segment or segments of a state highway(s). Such written request shall identify the segment(s) of state highway for which the review is requested and shall include a specific recommendation for the reclassification of the highway segment(s) involved. Justification for the requested change shall be provided in the request taking into account the standards and criteria in WAC 468-52-040 and 468-52-060. The department will consult with the RTPO, MPO, and local

governmental entities involved and shall take into consideration, any comments or concerns received during the review process. The department shall notify the RTPO, MPO, and local governmental entities in writing of the final determination of the reclassification action.

Other interested persons or organizations who wish to initiate a review of the access control classification of a specific highway segment shall do so through the local governmental entity, MPO, or RTPO.

[Statutory Authority: Chapter 47.50 RCW. 99-06-035 (Order 188), § 468-52-070, filed 2/25/99, effective 3/28/99. Statutory Authority: RCW 47.01.101 and chapter 47.50 RCW. 93-03-033 (Order 135), § 468-52-070, filed 1/13/93, effective 2/13/93.]

Chapter 47.24 RCW
CITY STREETS AS PART OF STATE HIGHWAYS

SECTIONS

47.24.010 Designation - Construction, maintenance - Return to city or town.
47.24.020 Jurisdiction, control.
47.24.030 Acquisition of rights of way - Condemnation proceedings.
47.24.040 Street fund - Expenditures on streets forming part of state highway.
47.24.050 Aid on streets by state or county - Payment

NOTES:

City streets

parkways, boulevards, generally: Title 35 RCW
sidewalks, etc.: Chapters 35.68 through 35.79 RCW.

Design standards committee for city streets: Chapter 35.78 RCW.
Off-street parking

cities: Chapter 35.86 RCW.

towns: RCW 35.27.550 through 35.27.590.

Platted streets as public highways: RCW 58.08.035, 58.08.050.
Speed limits in cities: RCW 46.61.415, 46.61.430, 46.61.440.
Viaducts, bridges, elevated roadways, tunnels, etc., in cities: Chapter 35.85 RCW.

RCW 47.24.010
Designation -- Construction, maintenance -- Return to city or town.

The transportation commission shall determine what streets, together with bridges thereon and wharves necessary for use for ferriage of motor vehicle traffic in connection with such streets, if any, in any incorporated cities and towns shall form a part of the route of state highways and between the first and fifteenth days of July of any year the department of transportation shall identify by brief description, the streets, together with the bridges thereon and wharves, if any, in such city or town which are designated as forming a part of the route of any state highway; and all such streets, including curbs and gutters and street intersections and such bridges and wharves, shall thereafter be a part of the state highway system and as such shall be constructed and maintained by the department of transportation from any state funds available therefor: PROVIDED, That the responsibility for the construction and maintenance of any such street together with its appurtenances may be returned to a city or a town upon certification by the department of transportation to the clerk of any city or town that such street, or portion thereof, is no longer required as a part of the state highway system: PROVIDED FURTHER, That any such certification that a street, or portion thereof, is no longer required as a part of the state highway system shall be made between the first and fifteenth of July following the determination by the department that such street or portion thereof is no longer required as a part of the state highway system, but this shall not prevent the department and any city or town from entering into an agreement that a city or town will accept responsibility for such a street or portion thereof at some time other than between the first and fifteenth of July of any year.

[1998 c 245 § 97; 1979 ex.s. c 86 § 2; 1977 ex.s. c 151 § 57; 1973 c 95 § 3; 1961 c 13 § 47.24.010. Prior: 1959 c 160 § 1; 1957 c 83 § 2; 1955 c 179 § 2; 1949 c 220 § 5, part; 1945 c 250 § 1, part; 1943 c 82 § 10, part; 1937 c 187 § 61, part; Rem. Supp. 1949 § 6450-61, part.]

NOTES:

Severability -- 1979 ex.s. c 86: See note following RCW 13.24.040.

RCW 47.24.020
Jurisdiction, control.

The jurisdiction, control, and duty of the state and city or town with respect to such streets is as follows:

(1) The department has no authority to change or establish any grade of any such street without approval of the governing body of such city or town, except with respect to limited access facilities established by the commission;

(2) The city or town shall exercise full responsibility for and control over any such street beyond the curbs and if no curb is installed, beyond that portion of the highway used for highway purposes. However, within incorporated cities and towns the title to a state limited access highway vests in the state, and, notwithstanding any other provision of this section, the department shall exercise full jurisdiction, responsibility, and control to and over such facility as provided in chapter 47.52 RCW;

(3) The department has authority to prohibit the suspension of signs, banners, or decorations above the portion of such street between the curbs or portion used for highway purposes up to a vertical height of twenty feet above the surface of the roadway;

(4) The city or town shall at its own expense maintain all underground facilities in such streets, and has the right to construct such additional underground facilities as may be necessary in such streets. However, pavement trenching and restoration performed as part of installation of such facilities must meet or exceed requirements established by the department;

(5) The city or town has the right to grant the privilege to open the surface of any such street, but all damage occasioned thereby shall promptly be repaired either by the city or town itself or at its direction. Pavement trenching and restoration performed under a privilege granted by the city under this subsection must meet or exceed requirements established by the department;

(6) The city or town at its own expense shall provide street illumination and shall clean all such streets, including storm sewer inlets and catch basins, and remove all snow, except that the state shall when necessary plow the snow on the roadway. In cities and towns having a population of twenty-two thousand five hundred or less according to the latest determination of population by the office of financial management, the state, when necessary for public safety, shall assume, at its expense, responsibility for the stability of the slopes of cuts and fills and the embankments within the right of way to protect the roadway itself. When the population of a city or town first exceeds twenty-two thousand five hundred according to the determination of population by the office of financial management, the city or town shall have three years from the date of the determination to plan for additional staffing, budgetary, and equipment requirements before being required to assume the responsibilities under this subsection. The state

shall install, maintain, and operate all illuminating facilities on any limited access facility, together with its interchanges, located within the corporate limits of any city or town, and shall assume and pay the costs of all such installation, maintenance, and operation incurred after November 1, 1954;

(7) The department has the right to use all storm sewers on such highways without cost; and if new storm sewer facilities are necessary in construction of new streets by the department, the cost of the facilities shall be borne by the state and/or city as may be mutually agreed upon between the department and the governing body of the city or town;

(8) Cities and towns have exclusive right to grant franchises not in conflict with state laws and rules, over, beneath, and upon such streets, but the department is authorized to enforce in an action brought in the name of the state any condition of any franchise which a city or town has granted on such street. No franchise for transportation of passengers in motor vehicles may be granted on such streets without the approval of the department, but the department shall not refuse to approve such franchise unless another street conveniently located and of strength of construction to sustain travel of such vehicles is accessible;

(9) Every franchise or permit granted any person by a city or town for use of any portion of such street by a public utility must require the grantee or permittee to restore, repair, and replace any portion of the street damaged or injured by it to conditions that meet or exceed requirements established by the department;

(10) The city or town has the right to issue overload or overwidth permits for vehicles to operate on such streets or roads subject to regulations printed and distributed to the cities and towns by the department;

(11) Cities and towns shall regulate and enforce all traffic and parking restrictions on such streets, but all regulations adopted by a city or town relating to speed, parking, and traffic control devices on such streets not identical to state law relating thereto are subject to the approval of the department before becoming effective. All regulations pertaining to speed, parking, and traffic control devices relating to such streets heretofore adopted by a city or town not identical with state laws shall become null and void unless approved by the department heretofore or within one year after March 21, 1963;

(12) The department shall erect, control, and maintain at state expense all route markers and directional signs, except street signs, on such streets;

(13) The department shall install, operate, maintain, and control at state expense all traffic control signals, signs, and traffic control devices for the purpose of regulating both pedestrian and motor vehicular traffic on, entering upon, or leaving state highways in cities and towns having a population of twenty-two thousand five hundred or less according to the latest determination of population by the office of financial management. Such cities and towns may submit to the department a plan for traffic control signals, signs, and traffic control devices desired by them, indicating the location, nature of installation, or type thereof, or a proposed amendment to such an existing plan or installation, and the department shall consult with the cities or towns concerning the plan before installing such signals, signs, or devices. Cities and towns having a population in excess of twenty-two thousand five hundred according to the latest determination of population by the office of financial management shall install, maintain, operate, and control such signals, signs, and devices at their own expense, subject to approval of the department for the installation and type only.

When the population of a city or town first exceeds twenty-two thousand five hundred according to the determination of population by the office of financial management, the city or town shall have three years from the date of the determination to plan for additional staffing, budgetary, and equipment requirements before being required to assume the responsibilities under this subsection. For the purpose of this subsection, striping, lane marking, and channelization are considered traffic control devices;

(14) All revenue from parking meters placed on such streets belongs to the city or town;

(15) Rights of way for such streets shall be acquired by either the city or town or by the state as shall be mutually agreed upon. Costs of acquiring rights of way may be at the sole expense of the state or at the expense of the city or town or at the expense of the state and the city or town as may be mutually agreed upon. Title to all such rights of way so acquired shall vest in the city or town: PROVIDED, That no vacation, sale, rental, or any other nontransportation use of any unused portion of any such street may be made by the city or town without the prior written approval of the department; and all revenue derived from sale, vacation, rental, or any nontransportation use of such rights of way shall be shared by the city or town and the state in the same proportion as the purchase costs were shared;

(16) If any city or town fails to perform any of its obligations as set forth in this section or in any cooperative agreement entered into with the department for the maintenance of a city or town street forming part of the route of a state highway, the department may notify the mayor of the city or town to perform the necessary maintenance within thirty days. If the city or town within the thirty days fails to perform the maintenance or fails to authorize the department to perform the maintenance as provided by RCW 47.24.050, the department may perform the maintenance, the cost of which is to be deducted from any sums in the motor vehicle fund credited or to be credited to the city or town.

[2001 c 201 § 8; 1993 c 126 § 1; 1991 c 342 § 52; 1987 c 68 § 1; 1984 c 7 § 150; 1977 ex.s. c 78 § 7; 1967 c 115 § 1; 1963 c 150 § 1; 1961 c 13 § 47.24.020. Prior: 1957 c 83 § 3; 1955 c 179 § 3; 1953 c 193 § 1; 1949 c 220 § 5, part; 1945 c 250 § 1, part; 1943 c 82 § 10, part; 1937 c 187 § 61, part; Rem. Supp. 1949 § 6450-61, part.]

NOTES:

Effective dates - 1991 c 342: See note following RCW 47.26.167.

Severability - 1984 c 7: See note following RCW 47.01.141.

RCW 47.24.030
Acquisition of rights of way -- Condemnation proceedings.

The department is authorized to acquire rights of way, by purchase, gift, or condemnation for any such streets, highways, bridges, and wharves. Any such condemnation proceedings shall be exercised in the manner provided by law for condemnation proceedings to acquire lands required for state highways.

[1984 c 7 § 151; 1961 c 13 § 47.24.030. Prior: 1949 c 220 § 5, part; 1945 c 250 § 1, part; 1943 c 82 § 10, part; 1937 c 187 § 61, part; Rem. Supp. 1949 § 6450-61, part.]

NOTES:

Severability - 1984 c 7: See note following RCW 47.01.141.

Right of way donations: Chapter 47.14 RCW.

RCW 47.24.040
Street fund - Expenditures on streets forming part of state highway.

All funds accruing to the credit of incorporated cities and towns in the motor vehicle fund shall be paid monthly to such incorporated cities and towns and shall, by the respective cities and towns, be placed in a fund to be designated as "city street fund" and disbursed as authorized and directed by the legislative authority of the city or town, as agents of the state, for salaries and wages, material, supplies, equipment, purchase or condemnation of right of way, engineering or any other proper highway or street purpose in connection with the construction, alteration, repair, improvement or maintenance of any city street or bridge, or viaduct or underpassage along, upon or across such streets. Such expenditure may be made either independently or in conjunction with any federal, state or any county funds.

[1961 c 13 § 47.24.040. Prior: 1949 c 220 § 4; 1947 c 96 § 1; 1943 c 82 § 9; 1939 c 181 § 8; 1937 c 187 § 60; Rem. Supp. 1949 § 6450-60.]

RCW 47.24.050
Aid on streets by state or county - Payment.

If a city or town, whether or not any of its streets are designated as forming a part of a state highway, is unable to construct, repair, or maintain its streets for good cause, or if it is in need of engineering assistance to construct, repair, or maintain any of its streets, it may authorize the department to perform such construction, repair, or maintenance, or it may secure necessary engineering assistance from the department, to the extent of the funds credited or to be credited in the motor vehicle fund for payment to the city or town. Any sums due from a city or town for such purposes shall be paid on vouchers approved and submitted by the department from moneys credited to the city or town in the motor vehicle fund, and the amount of the payments shall be deducted from funds which would otherwise be paid to the city or town from the motor vehicle fund. The department may in certain special cases, in its discretion, enter into an agreement with the governing officials of the city or town for the performance of such work or services, the terms of which shall provide for reimbursement of the motor vehicle fund for the benefit of the state's share of the fund by the city or town of the cost thereof from any funds of the city or town on hand and legally available for the work or services. The city or town may, by resolution, authorize the legislative authority of the county in which it is located, to perform any such construction, repair, or maintenance, and the work shall be paid for by the city or town at the actual cost thereof as provided for payment for work performed on city streets, and any payment received therefor by a county shall be deposited in the county road fund to be expended under the same provisions as are imposed upon the funds used to perform the construction, repair, or maintenance.

[1984 c 7 § 152; 1961 c 13 § 47.24.050. Prior: 1951 c 54 § 1; 1949 c 220 § 6; 1943 c 82 § 11; 1937 c 187 § 63; Rem. Supp. 1949 § 6450-63.]

NOTES:

Severability -- 1984 c 7: See note following RCW 47.01.141.

CITY STREETS

AS PART OF STATE HIGHWAYS

GUIDELINES REACHED
BY THE
WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
AND THE
ASSOCIATION OF WASHINGTON CITIES
ON THE INTERPRETATION OF SELECTED TOPICS
OF RCW 47.24 AND FIGURES OF WAC 468-18-050 FOR THE
CONSTRUCTION, OPERATIONS AND MAINTENANCE RESPONSIBILITIES OF
WSDOT AND CITIES FOR SUCH STREETS

April 30, 1997

CITY STREETS AS PART OF STATE HIGHWAYS

The jurisdiction, control, and duty of the state and city or town for city streets that are a part of state highways is specified in RCW 47.24.020; however, the implementing WAC's, directives and manuals have been subject to interpretation. This report documents agreed upon guidelines that have been reached by the Washington State Department of Transportation (WSDOT) and the Association of Washington Cities (AWC) on the interpretation of construction, operations and maintenance responsibilities of WSDOT and cities for such city streets.

These agreed upon guidelines are derived from:

The draft Task Force Report on City Streets As Part Of State Highways.

Response to the legislative change that increased the 15,000 city population threshold to a 22,500 population threshold for state versus city responsibilities for certain maintenance responsibilities contained in RCW 47.24.

Additional discussions by the Department, AWC and several cities on the interpretation of state versus local agency maintenance responsibilities that are illustrated in figures contained in WAC 468-18-050 and on other maintenance responsibilities for city streets that are part of state highways.

These guidelines are designed to facilitate the allocation of maintenance responsibilities between the WSDOT and Washington Cities pursuant to RCW 47.24. The guidelines of this report are not intended to reflect past practices but to apply to future practices. They are general in nature and do not preclude the WSDOT and individual cities from entering into agreements to address particular circumstances.

These agreed upon guidelines will be incorporated in WSDOT manuals and related guidance for maintenance, operations, and construction activities. AWC will distribute copies of this report to their members.

AGREED UPON GUIDELINES

The agreed upon guidelines of State and city responsibilities for city streets that are part of state highways are contained in the following tables:

- Table 1, City/State Maintenance Responsibilities For City Streets As Part Of The State Highway System

- Table 2, City/State Maintenance Responsibilities Of Bridges That Convey Non-Limited Access State Highways That Are Also City Streets (Unless Otherwise Covered Under A Separate Agreement)
- Table 3, State Owned Bridges That Convey City Or County Traffic Over A Limited Access Or Non-Limited Access Highway Corridor (Does Not Apply To City Or County Owned Bridges). The following is an explanation of selected items of the above tables that are related to specific sections of RCW 47.24 and to WAC 468-18-050:

1. Guardrail (Barriers) Maintenance

   Background: RCW 47.24.020(2) states that "The city or town shall exercise full responsibility for and control over any such street beyond the curbs and if no curb is installed, beyond that portion of the highway used for highway purposes." The statement "...used for highway purposes..." has led to differing interpretations of WSDOT and local agency responsibilities for the maintenance of guardrail.

   Agreed Upon Guideline: Traffic barriers installed on state highways in areas without curbs shall be maintained by the WSDOT. Traffic barriers installed beyond the curb shall be maintained by the cities. Curb in the context of RCW 47.24.020(2) refers to a standard curb and gutter and not to extruded curb such as those placed on fill sections for erosion control. Guardrail, concrete barriers, impact attenuators and similar devices are all considered to be traffic barriers.

2. Parallel Ditches and Cross Culverts

   Background: The issue is clarification of what is meant by the RCW 47.24.020(2) statement "...for highway purposes..." for use in interpreting responsibilities of WSDOT and local agencies for maintenance of parallel ditches and cross culverts. Also at issue is responsibility for grass lined swale construction for water treatment purposes as compared to a ditch solely for drainage purpose. In addition a distinction needs to be made between cross culverts related to streams and maintaining natural flows as opposed to those constructed for storm drainage.

   Agreed Upon Guideline:. Within all cities, regardless of population, the state shall solely maintain the structural integrity of box culverts, multiplates and individual culverts greater than 60 inches in width that are within rights of way and are not part of an enclosed drainage system. These are the size appropriate to identify natural stream flows. These structures that are less than 60 inches in width will be maintained by the cities. Cities shall maintain all other parallel roadside ditches and road approach culverts. Grass-lined swales constructed by the state solely for state highway runoff will be maintained by the WSDOT.

3. Betterments - Pavement Markings

   Background: RCW 47.24.020(13) provides that cities and towns having a population greater than 22,500 are responsible to install, maintain, operate and control all traffic control devices. This has been interpreted to mean that the city or town must replace pavement markings and similar devices when a street is resurfaced (i.e., these markings are not included in the project costs). The issue is that a WSDOT project may destroy very recently installed pavement markings that, especially if they are durable markings (e.g., thermoplastic, raised pavement markers, etc.), involve expense to the city. The cities recommend that in-kind replacement of these markings be a part of the project costs.

Agreed Upon Guideline: As a part of State reconstruction/resurfacing projects the State will replace in-kind at no cost to the local agency only pavement markings that are damaged or removed as a result of the reconstruction or resurfacing project. This does not apply to durable pavement markings that have exceeded their useful life. Installation of higher quality pavement markings will be at the expense of the city.

Early communication and plan reviews between WSDOT and the city is essential to enable local agencies to avoid installation of pavement markings, especially the more durable markings, shortly before the construction activity takes place.

4. Snow Plowing

Background: At issue is the meaning of the phrase in RCW 47.24.020(6) that states "...except that the state shall when necessary plow the snow on the roadway." This statute states that the city or town, at its expense, is responsible for snow removal. The meaning of "when necessary" and responsibility of snow plowing versus snow removal needed clarification.

Agreed Upon Guideline: RCW 47.24.020(6) provides that the cities have responsibility for snow removal within their jurisdiction and that the State shall, when necessary, plow the snow on the roadway. The meaning of "when necessary" is that the State will plow snow, with city concurrence, on the traveled lane of the state highway on the way through the cities not having adequate snow plowing equipment.

City/State Maintenance Responsibilities For City Streets As Part Of The State Highway System

Table 1

Maintenance Item	Cities Over 22,500	Cities Under 22,500
Roadway Surface	State	State
Roadway Shoulders	State	State
Stability of Cut & Fill Slopes	City	State
Sidewalks	City	City
Curbs	State	State
Parallel Roadside Ditches	City	City
Road Approach Culverts	City	City
Cross Culverts	City [3]	City [3]
Snow Plowing	See Note [4]	See Note [4]
Sanding & De-icing	City	City
Snow Removal	City	City
Sand Removal	City	City
Channelization	City [1]	State
Crosswalks	City [1]	State
Striping	City [1]	State
Directional Signs/ Route Markers	State	State
Parking Signs	City	City
Regulatory Signs	City	State
Stop Signs (Intersecting Streets)	City	State [7]
Signals	City	State
Guardrail, Concrete Barrier, Impact Attenuators, etc.	State/City [2]	State/City [2]
Illumination	City [6]	City [6]
Street Cleaning	City	City
Street Sweeping	City	City
Vegetation	City	City
Noxious Weeds	City [5]	City [5]
R/W Encroachments	City	City
R/W Cleanup	City	City
Utility Franchises	City	City
Underground Facilities	City	City

[1] As a part of State reconstruction/resurfacing projects the State will replace in-kind at no cost to the local agency only pavement markings that are damaged or removed as a result of the reconstruction or resurfacing project. This does not apply to durable markings that have exceeded their useful life. Installation of higher quality pavement markings will be at the expense of the city. Early communication and plan reviews between WSDOT and the city is essential to enable local agencies to avoid installation of pavement markings, especially the more durable markings, shortly before the construction activity takes place.

[2] Traffic barriers installed on state highways in areas without curbs shall be maintained by the WSDOT. Traffic barriers installed beyond the curb shall be maintained by the cities. Curb in the context of RCW 47.24.020(2) refers to a standard curb and gutter and not to extruded curb such as those placed on fill sections for erosion control. Guardrail, concrete barriers, impact attenuators and similar devices are all considered to be traffic barriers.

[3] Within all cities, regardless of population, the state shall solely maintain the structural integrity of box culverts, multiplates and individual culverts greater than 60 inches in width that are within rights of way and are not part of an enclosed drainage system. These are the size appropriate to identify natural stream flows. These structures that are less than 60 inches in width will be maintained by the cities. Cities shall maintain all other parallel roadside ditches and road approach culverts. Grass-lined swales constructed by the state solely for state highway runoff will be maintained by the WSDOT.

[4] RCW 47.24.020 (6) provides that the cities have responsibility for snow removal within their jurisdiction and that the State shall, when necessary, plow the snow on the roadway. The meaning of "when necessary" is that the State will plow snow, with city concurrence, on the traveled lane of the state highway on the way through the cities not having adequate snow plowing equipment.

[5] RCW 47.24.020(2) states the city or town shall exercise full responsibility for and control over any such street beyond the curbs and, if no curb is installed, beyond that portion of the highway used for highway purposes and, thus, are responsible for noxious weed control.

[6] The state has responsibility for maintenance of illumination systems within fully access controlled areas. In addition, the State may, with city concurrence, maintain and operate luminaires at locations where the electrical service powers electrical equipment under both State and City responsibility.

[7] WSDOT, with city concurrence, may install stop signs and posts to the city's standards or may contract with the city to have them perform these installations.

City/State Maintenance Responsibilities Of Bridges
That Convey Non-Limited Access State Highways That Are Also City Streets (Unless Otherwise Covered Under A Separate Agreement)

(This table provides an interpretation of the figures of WAC 468-18-050)

Table 2

Maintenance Item	Cities Over 22,500	Cities Under 22,500
Structural Related Bridge Maintenance	State	State
Bridge Condition Inspections	State	State
L/C Overlays on Structures	State	State
Bridge Deck Membranes	State	State
Structural Asphalt Overlay on Bridge	State	State
Non-Structural Asphalt Overlay on Bridge	State	State
Approach Slab	State	State
Bridge Deck Joints	State	State
Bridge Railing	State	State
Graffiti	City	City
Deck Sweeping	City	City
Bridge Drains/Drainage	City	State
Striping	City	State
Illumination	City [2]	City [2]
Snow Plowing	See Note [1]	See Note [1]
Snow Removal	City	City

[1] RCW 47.24.020(6) provides that the cities have responsibility for snow removal within their jurisdiction and that the State shall, when necessary, plow the snow on the roadway. The meaning of "when necessary" is that the State will plow snow, with city concurrence, on the traveled lane of the state highway on the way through the cities not having adequate snow plowing equipment.

[2] The state has responsibility for maintenance of illumination systems within fully access controlled areas. In addition, the State may, with city concurrence, maintain and operate luminaires at locations where the electrical service powers electrical equipment under both State and City responsibility.

State Owned Bridges That Convey City Or County Traffic Over A Limited Access Or Non-Limited Access Highway Corridor (Does Not Apply To City Or County Owned Bridges)

(This table provides an interpretation of the figures of WAC 468-18-050)

Table 3

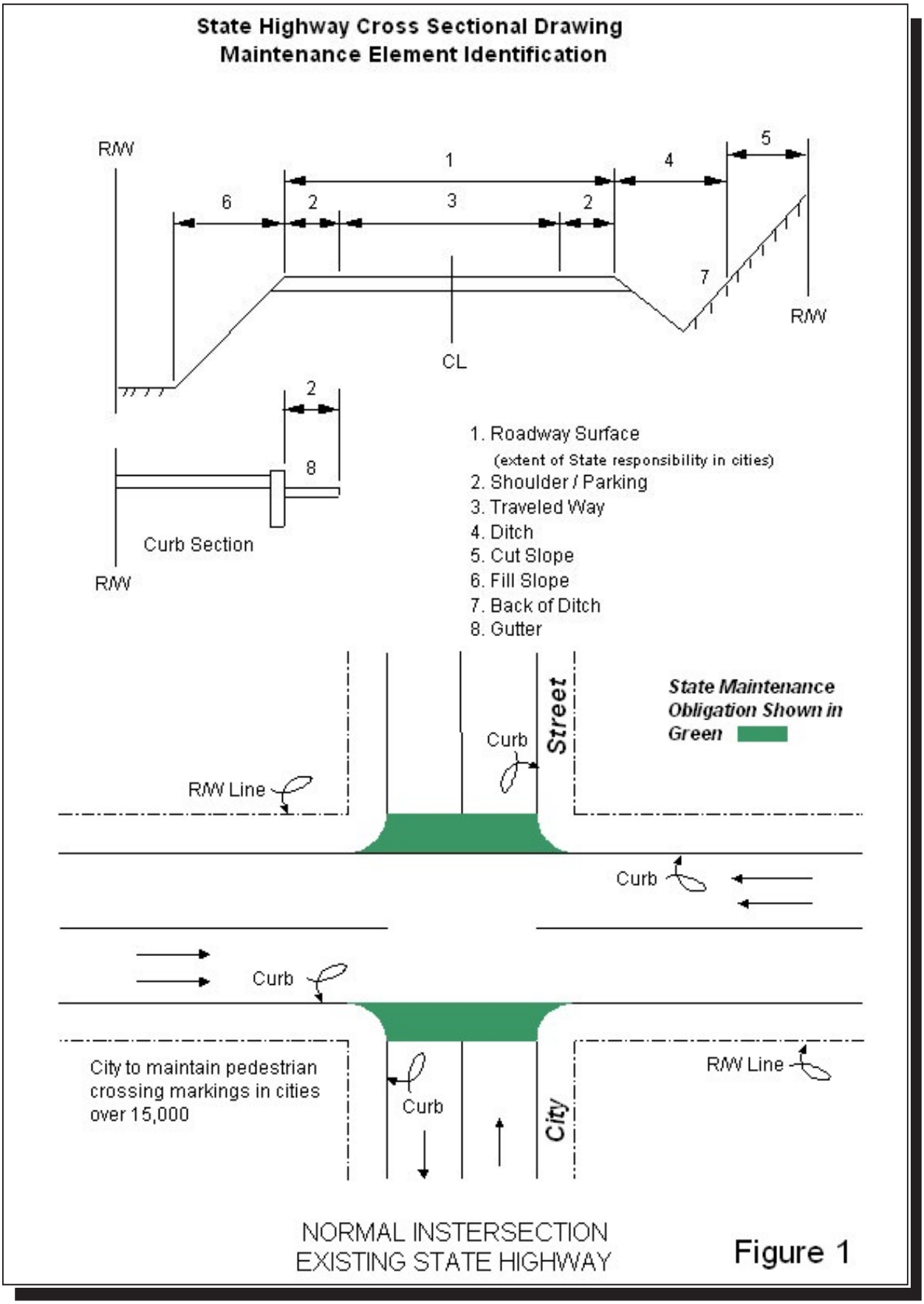
Maintenance Item	City/State	County/State
Structural Related Bridge Maintenance	State	State
Bridge Condition Inspections	State	State
LMC Overlays on Structures	State	State
Bridge Deck Membranes	State	State
Structural Asphalt Overlay on Bridge	State	State
Non-Structural Asphalt Overlay on Bridge	City [1]	County [1]
Approach Slab	City [2]	County [2]
Bridge Deck Joints	See Note [3]	See Note [3]
Bridge Railing	State	State
Graffiti	City	County
Deck Sweeping	City	County
Bridge Drains/Drainage	City	County
Striping	City	County
Illumination	City	County
Snow Plowing	City	County
Snow Removal	City	County

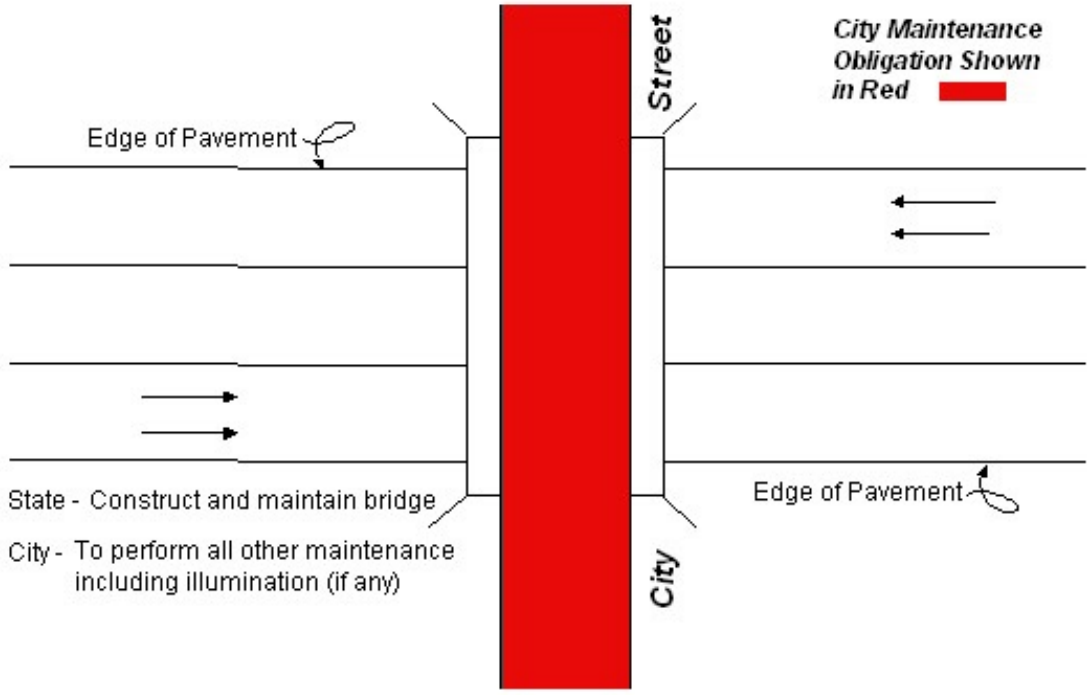
[1] Cities/counties should obtain the states concurrence prior to performing non-structural asphalt deck overlays on state owned structures.

[2] Approach slab maintenance is the primary responsibility of the city/county. In the case where the state performs a structural overlay on the bridge deck, the state may extend the overlay onto the approach slab to smooth traffic flow.

[3] Joints located on the bridge deck are the responsibility of the state. Back of pavement seat joint repairs are the responsibility of the city/county unless they affect the structural integrity of the bridge.

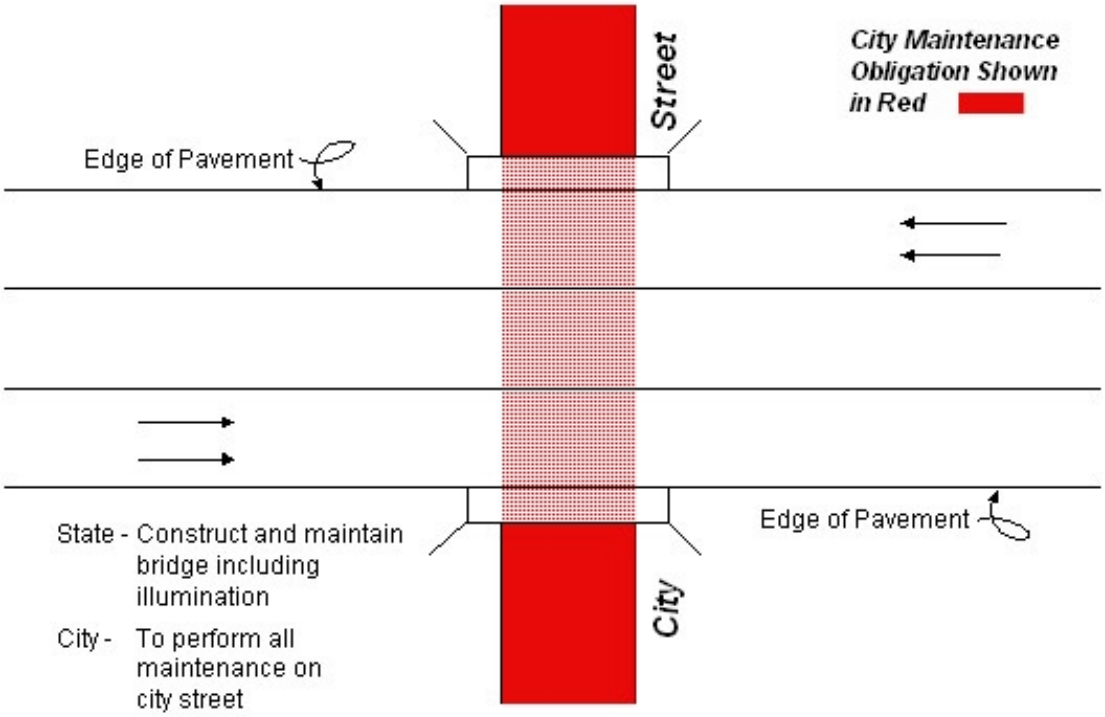
The State has full maintenance responsibility for bridges conveying a State Route or Interstate traffic in a limited access corridor (unless otherwise covered under a separate agreement).


State Highway Cross Sectional Drawing
Maintenance Element Identification
R/W
1
4
5
6
2
3
2
7
R/W
CL
2
8
Curb Section
R/W
1. Roadway Surface
(extent of State responsibility in cities)
2. Shoulder / Parking
3. Traveled Way
4. Ditch
5. Cut Slope
6. Fill Slope
7. Back of Ditch
8. Gutter
Street
State Maintenance Obligation Shown in Green
Curb
R/W Line
Curb
Curb
City to maintain pedestrian crossing markings in cities over 15,000
Curb
City
R/W Line
NORMAL INSTERSECTION
EXISTING STATE HIGHWAY
Figure 1



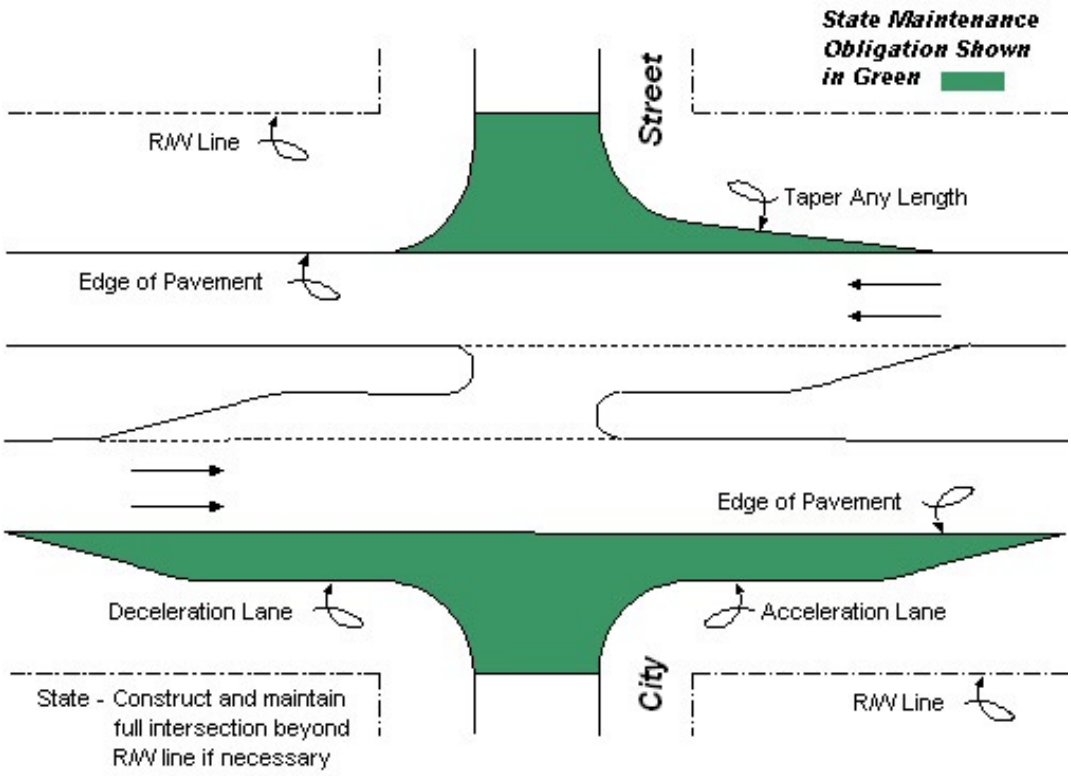
EXISTING CITY STREET CROSSED BY NEW STATE HIGHWAY UNDERPASS

Figure 2



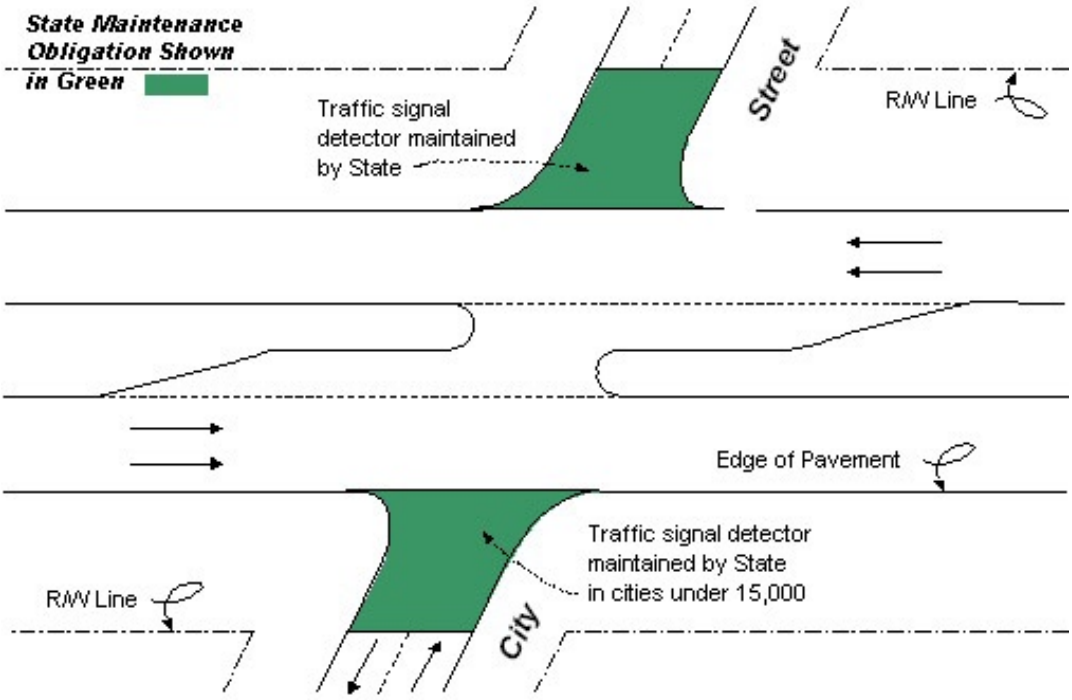
EXISTING CITY STREET CROSSED BY NEW STATE HIGHWAY OVERPASS

Figure 3



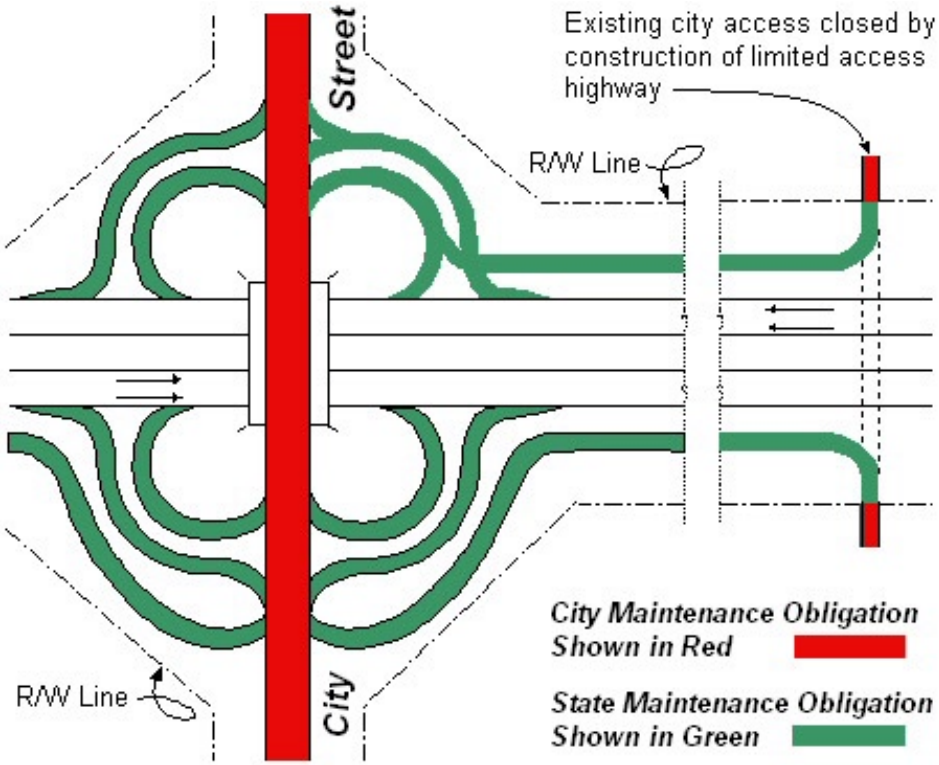
EXISTING CITY STREET CROSSED AT GRADE BY NEW STATE HIGHWAY

Figure 4



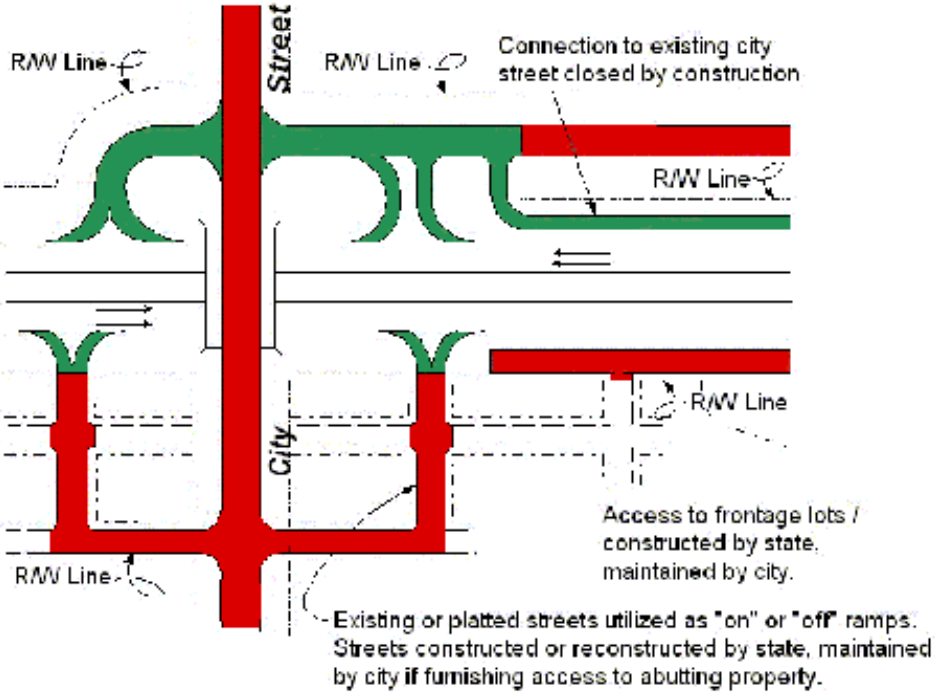
CHANNELIZED INTERSECTION NEW STATE HIGHWAY

Figure 5



TYPICAL LIMITED ACCESS HIGHWAY

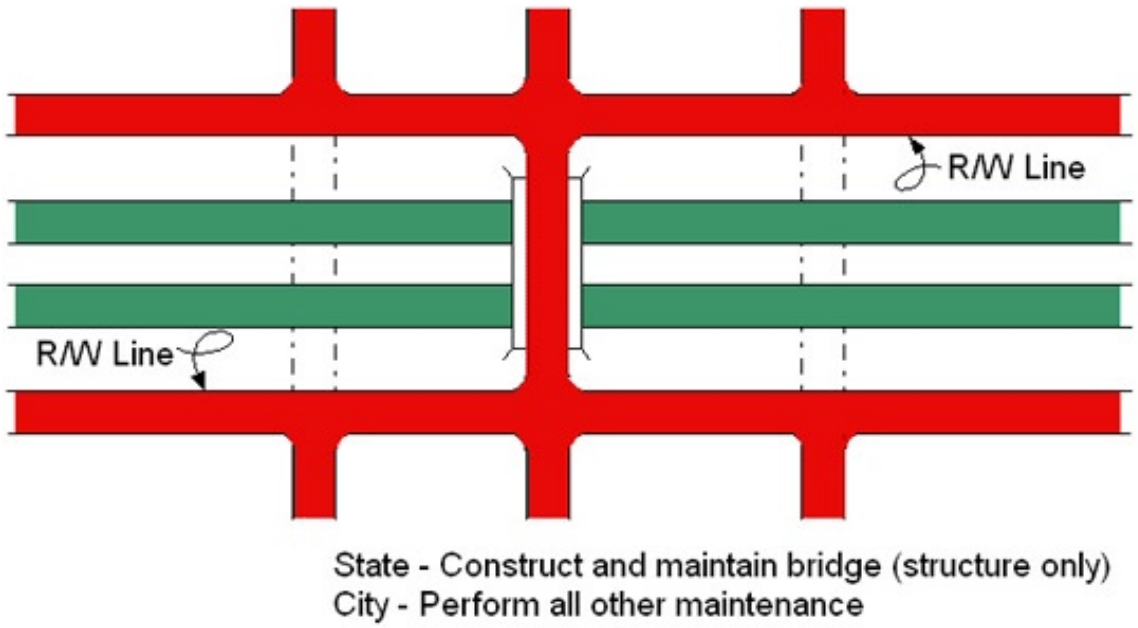
Figure 6



TYPICAL LIMITED ACCESS HIGHWAY UTILIZING CITY STREETS AS "ON" AND "OFF" RAMPS

City Maintenance Obligation Shown in Red
State Maintenance Obligation Shown in Green

Figure 7



DEPRESSED LIMITED ACCESS HIGHWAY
LOCATED BETWEEN CITY STREETS

City Maintenance Obligation Shown in Red
State Maintenance Obligation Shown in Green

Figure 8

CONCURRENCES:

With the concurrence of WSDOT Executive Management, this report will be transmitted to WSDOT Assistant Secretaries and Regional Administrators and to the Association of Washington Cities for implementation of the agreed upon guidelines.

Respectfully submitted for acceptance,

/s/ Dave Dye
Maintenance Engineer
Field Operations Support
Service Center

/s/ Dennis B. Ingham
Assistant Secretary
TransAid Service Center

/s/ Craig Olson
Transportation Coord.
Assoc. of Washington Cities

CONCURRENCES WITH RECOMMENDATIONS FOR ACCEPTANCE:

/s/ John Conrad
Assistant Secretary
Field Operations Support
Service Center

/s/ E. R. "Skip" Burch
Assistant Secretary
Environmental & Engineering
Service Center

RECOMMENDATIONS ACCEPTED:

/s/ Stan Finkelstein
Executive Director
Assoc. of Washington Cities
Final Report – April 30, 1997

/s/ S. A. Moon
Deputy Secretary for Operations
Department of Transportation

CONCURRENCES:

With the concurrence of WSDOT Executive Management, this report will be transmitted to WSDOT Assistant Secretaries and Regional Administrators and to the Association of Washington Cities for implementation of the agreed upon guidelines.

Respectfully submitted for acceptance,

Dave Dye Date	Dennis B. Ingham Date	Craig Olson Date
Maintenance Engineer	Assistant Secretary	Transportation Coord.
Field Operations Support	TransAid Service Center	Assoc. of Washington
Service Center		Cities

CONCURRENCES WITH RECOMMENDATIONS FOR ACCEPTANCE:

John Conrad Date	E. R. "Skip" Burch 30 April 97 Date
Assistant Secretary	Assistant Secretary
Field Operations Support	Environmental & Engineering
Service Center	Service Center

RECOMMENDATIONS ACCEPTED:

Stan Finkelstein Date	S. A. Moon 4/30/97 Date
Executive Director	Deputy Secretary for Operations
Assoc. of Washington Cities	Department of Transportation

Chapter 47.52 RCW
LIMITED ACCESS FACILITIES

SECTIONS

47.52.001 Declaration of policy.
47.52.010 "Limited access facility" defined.
47.52.011 "Existing highway" defined.
47.52.020 Power of highway authorities -- State facility, county road crossings.
47.52.025 Additional powers -- Controlling use of limited access facilities -- High occupancy vehicle lanes.
47.52.026 Rules -- Control of vehicles entering--Ramp closure, metering, or restrictions--Notice.
47.52.027 Standards and rules for interstate and defense highways -- Construction, maintenance, access
47.52.040 Design -- Entrance and exit restricted -- Closure of intersecting roads.
47.52.041 Closure of intersecting roads -- Rights of abutters.
47.52.042 Closure of intersecting roads -- Other provisions not affected.
47.52.050 Acquisition of property.
47.52.060 Court process expedited.
47.52.070 Establishment of facility -- Grade separation -- Service roads.
47.52.080 Abutter's right of access protected -- Compensation.
47.52.090 Cooperative agreements -- Urban public transportation systems -- Title to highway -- Traffic .. regulations -- Underground utilities and overcrossings -- Passenger tranaportation -- Storm sewers -- City street crossings.
47.52.100 Existing roads and streets as service roads.
47.52.105 Acquisition and construction to preserve limited access or reduce required compensation.
47.52.110 Marking of facility with signs.
47.52.120 Violations specified -- Exceptions -- Penalty.
47.52.121 Prior determinations validated.
47.52.131 Consideration of local conditions -- Report to local authorities -- Conferences --Proposed plan.
47.52.133 Local public hearing -- Notices.
47.52.134 When access reports and hearings not required.
47.52.135 Hearing procedure.
47.52.137 Adoption of plan -- Service of findings and order -- Publication of resume -- Finality --Review.
47.52139 Local approval of plan -- Disapproval, request for review.
47.52.145 Modification of adopted plan without further public hearings, when.
47.52.150 State facility through city or town -- Board of review, composition and appointment.
47.52.160 State facility through city or town -- Hearing -- Evidence -- Determination of issues.
47.52.170 State facility through city or town -- Hearing -- Procedure.
47.52.180 State facility through city or town -- Hearing -- Findings of board -- Modification of proposed plan by stipulation.
47.52.190 State facility through city or town -- Hearing -- Assistants -- Costs -- Reporter.
47.52.195 Review and appeal on petition of abutter.

47.52.200 Law enforcement jurisdiction within city or town.
47.52.210 State facility within city or town -- Title to city or town streets incorporated therein.

NOTES:

Description, plans of highways, filing: RCW 47.28.025, 47.28.026.
Port districts, toll facilities: Chapter 53.34 RCW.
Speed limits on limited access facilities: RCW 46.61.430.

RCW 47.52.001
Declaration of policy.

Unrestricted access to and from public highways has resulted in congestion and peril for the traveler. It has caused undue slowing of all traffic in many areas. The investment of the public in highway facilities has been impaired and highway facilities costing vast sums of money will have to be relocated and reconstructed. It is the declared policy of this state to limit access to the highway facilities of this state in the interest of highway safety and for the preservation of the investment of the public in such facilities.

[1961 c 13 § 47.52.001. Prior: 1951 c 167 § 1.]

RCW 47.52.010
"Limited access facility" defined.

For the purposes of this chapter, a "limited access facility" is defined as a highway or street especially designed or designated for through traffic, and over, from, or to which owners or occupants of abutting land, or other persons, have no right or easement, or only a limited right or easement of access, light, air, or view by reason of the fact that their property abuts upon such limited access facility, or for any other reason to accomplish the purpose of a limited access facility. Such highways or streets may be parkways, from which vehicles forming part of an urban public transportation system, trucks, buses, or other commercial vehicles may be excluded; or they may be freeways open to use by all customary forms of street and highway traffic, including vehicles forming a part of an urban public transportation system.

[1967 c 108 § 10; 1961 c 13 § 47.52.010. Prior: 1951 c 167 § 2; 1947 c 202 § 1; Rem. Supp. 1947 § 6402-60.]

NOTES:

Urban public transportation system defined: RCW 47.04.082.

RCW 47.52.011
"Existing highway" defined.

For the purposes of this chapter, the term "existing highway" shall include all highways, roads and streets duly established, constructed, and in use. It shall not include new highways, roads or streets, or relocated highways, roads or streets, or portions of existing highways, roads or streets which are relocated.

[1961 c 13 § 47.52.011. Prior: 1951 c 167 § 3.]

RCW 47.52.020
Powers of highway authorities -- State facility, county road crossings.

The highway authorities of the state, counties, and incorporated cities and towns, acting alone or in cooperation with each other, or with any federal, state, or local agency, or any other state having authority to participate in the construction and maintenance of highways, may plan, designate, establish, regulate, vacate, alter, improve, construct, maintain, and provide limited access facilities for public use wherever the authority

or authorities are of the opinion that traffic conditions, present or future, will justify the special facilities. However, upon county roads within counties, the state or county authorities are subject to the consent of the county legislative authority, except that where a state limited access facility crosses a county road the department may, without the consent of the county legislative authority, close off the county road so that it will not intersect such limited access facility.

The department may, in constructing or relocating any state highway, cross any county road at grade without obtaining the consent of the county legislative authority, and in so doing may revise the alignment of the county road to the extent that the department finds necessary for reasons of traffic safety or practical engineering considerations.

[1984 c 7 § 239; 1961 c 13 § 47.52.020. Prior: 1957 c 235 § 2; prior: 1953 c 30 § 1; 1951 c 167 § 4; 1947 c 202 § 2, part; Rem. Supp. 1947 § 6402-61, part.]

NOTES:

Severability -- 1984 c 7: See note following RCW 47.01.141.

RCW 47.52.025
Additional powers -- Controlling use of limited access facilities -- High-occupancy vehicle lanes.

Highway authorities of the state, counties, and incorporated cities and towns, in addition to the specific powers granted in this chapter, shall also have, and may exercise, relative to limited access facilities, any and all additional authority, now or hereafter vested in them relative to highways or streets within their respective jurisdictions, and may regulate, restrict, or prohibit the use of such limited access facilities by various classes of vehicles or traffic. Such highway authorities may reserve any limited access facility or portions thereof, including designated lanes or ramps for the exclusive or preferential use of public transportation vehicles, privately owned buses, or private motor vehicles carrying not less than a specified number of passengers when such limitation will increase the efficient utilization of the highway facility or will aid in the conservation of energy resources. Regulations authorizing such exclusive or preferential use of a highway facility may be declared to be effective at all time or at specified times of day or on specified days.

[1974 ex.s. c 133 § 1; 1961 c 13 § 47.52.025. Prior: 1957 c 235 § 3; prior: 1951 c 167 § 5; 1947 c 202 § 2, part; Rem. Supp. 1947 § 6402-61, part.]

NOTES:

High-occupancy vehicle lanes: RCW 46.61.165.

RCW 47.52.026
Rules -- Control of vehicles entering -- Ramp closure, metering, or restrictions -- Notice.

(1) The department may adopt rules for the control of vehicles entering any state limited access highway as it deems necessary (a) for the efficient or safe flow of traffic traveling upon any part of the highway or connections with it or (b) to avoid exceeding federal, state, or regional air pollution standards either along the highway corridor or within an urban area served by the highway.

(2) Rules adopted by the department pursuant to subsection (1) of this section may provide for the closure of highway ramps or the metering of vehicles entering highway ramps or the restriction of certain classes of vehicles entering highway ramps (including vehicles with less than a specified number of passengers), and any such restrictions may vary at different times as necessary to achieve the purposes mentioned in subsection (1) of this section.

(3) Vehicle restrictions authorized by rules adopted pursuant to this section are effective when proper notice is given by any police officer, or by appropriate signals, signs, or other traffic control devices.

[1984 c 7 § 240; 1974 ex.s. c 133 § 3.]

NOTES:

Severability -- 1984 c 7: See note following RCW 47.01.141.

RCW 47.52.027
Standards and rules for interstate and defense highways -- Construction, maintenance, access.

The secretary of transportation may adopt design standards, rules, and regulations relating to construction, maintenance, and control of access of the national system of interstate and defense highways within this state as it deems advisable to properly control access thereto, to preserve the traffic-carrying capacity of such highways, and to provide the maximum degree of safety to users thereof. In adopting such standards, rules, and regulations the secretary shall take into account the policies, rules, and regulations of the United States secretary of commerce and the federal highway administration relating to the construction, maintenance, and operation of the system of interstate and defense highways. The standards, rules, and regulations so adopted by the secretary shall constitute the public policy of this state and shall have the force and effect of law.

[1977 ex.s. c 151 § 62; 1961 c 13 § 47.52.027. Prior: 1959 c 319 § 35. Formerly RCW 47.28.160.]

NOTES:

Nonmotorized traffic may be prohibited: RCW 46.61.160.

RCW 47.52.040
Design -- Entrance and exit restricted -- Closure of intersecting roads.

The highway authorities of the state, counties and incorporated cities and towns may so design any limited access facility and so regulate, restrict, or prohibit access as to best serve the traffic for which such facility is intended; and the determination of design by such authority shall be conclusive and final. In this connection such highway authorities may divide and separate any limited access facility into separate roadways by the construction of raised curbings, central dividing sections, or other physical separations, or by designating such separate roadways by signs, markers, stripes, and the proper lane for such traffic by appropriate signs, markers, stripes and other devices. No person shall have any right of ingress or egress to, from, or across limited access facilities to or from abutting lands, except at designated points at which access may be permitted by the highway authorities upon such terms and conditions as may be specified from time

to time: PROVIDED, That any intersecting streets, roads or highways, not made a part of such facility, shall be deemed closed at the right of way line by the designation and construction of said facility and without the consent of any other party or the necessity of any other legal proceeding for such closing, notwithstanding any laws to the contrary.

[1961 c 13 § 47.52.040. Prior: 1955 c 75 § 1; 1947 c 202 § 3; Rem. Supp. 1947 § 6402-62.]

RCW 47.52.041
Closure of intersecting roads -- Rights of abutters.

No person, firm or corporation, private or municipal, shall have any claim against the state, city or county by reason of the closing of such streets, roads or highways as long as access still exists or is provided to such property abutting upon the closed streets, roads or highways. Circuity of travel shall not be a compensable item of damage.

1961 c 13 § 47.52.041. Prior: 1955 c 75 § 2.]

RCW 47.52.042
Closure of intersecting roads -- Other provisions not affected.

RCW 47.52.040 and 47.52.041 shall not be construed to affect provisions for establishment, notice, hearing and court review of any decision establishing a limited access facility on an existing highway pursuant to chapter 47.52 RCW.

[1961 c 13 § 47.52.042. Prior: 1955 c 75 § 3.]

RCW 47.52.050
Acquisition of property.

(1) For the purpose of this chapter the highway authorities of the state, counties and incorporated cities and towns, respectively, or in cooperation one with the other, may acquire private or public property and property rights for limited access facilities and service roads, including rights of access, air, view and light, by gift, devise, purchase, or condemnation, in the same manner as such authorities are now or hereafter may be authorized by law to acquire property or property rights in connection with highways and streets within their respective jurisdictions. Except as otherwise provided in subsection (2) of this section all property rights acquired under the provisions of this chapter shall be in fee simple. In the acquisition of property or property rights for any limited access facility or portion thereof, or for any service road in connection therewith, the state, county, incorporated city and town authority may, in its discretion, acquire an entire lot, block or tract of land, if by so doing the interest of the public will be best served, even though said entire lot, block or tract is not immediately needed for the limited access facility.

(2) The highway authorities of the state, counties, and incorporated cities and towns may acquire by gift, devise, purchase, or condemnation a three dimensional air space corridor in fee simple over or below the surface of the ground, together with such other property in fee simple and other property rights as are needed for the construction and operation of a limited access highway facility, but only if the acquiring authority finds that the proposal will not:

(a) impair traffic safety on the highway or interfere with the free flow of traffic; or

(b) permit occupancy or use of the air space above or below the highway which is hazardous to the operation of the highway.

[1971 ex.s. c 39 § 1; 1961 c 13 § 47.52.050. Prior: 1947 c 202 § 4; Rem. Supp. 1947 § 6402-63.]

NOTES:

Award of costs in air space corridor acquisitions: RCW 8.25.073.
Right of way donations: Chapter 47.14 RCW.

RCW 47.52.060
Court process expedited.

Court proceedings necessary to acquire property or property rights for purposes of this chapter shall take precedence over all other causes not involving the public interest in all courts to the end that the provision for limited access facilities may be expedited.

[1961 c 13 § 47.52.060. Prior: 1947 c 202 § 5; Rem. Supp. 1947 § 6402-64.]

RCW 47.52.070
Establishment of facility -- Grade separation -- Service roads.

The designation or establishment of a limited access facility shall, by the authority making the designation or establishment, be entered upon the records or minutes of such authority in the customary manner for the keeping of such records or minutes. The state, counties and incorporated cities and towns may provide for the elimination of intersections at grade of limited access facilities with existing state or county roads, and with city or town streets, by grade separation or service road, or by closing off such roads and streets at the right of way boundary line of such limited access facility; and after the establishment of any such facility, no highway or street which is not part of said facility, shall intersect the same at grade. No city or town street, county road, or state highway, or any other public or private way, shall be opened into or connect with any such limited access facility without the consent and previous approval of the highway authority of the state, county, incorporated city or town having jurisdiction over such limited access facility. Such consent and approval shall be given only if the public interest shall be served thereby.

[1961 c 13 § 47.52.070. Prior: 1951 c 167 § 10; 1947 c 202 § 6; Rem. Supp. 1947 § 6402-65.]

RCW 47.52.080
Abutter's right of access protected -- Compensation.

No existing public highway, road, or street shall be constructed as a limited access facility except upon the waiver, purchase, or condemnation of the abutting owner's right of access thereto as herein provided. In cases involving existing highways, if the abutting property is used for business at the time the notice is given as provided in RCW 47.52.133, the owner of such property shall be entitled to compensation for the loss of adequate ingress to or egress from such property as business property in its existing condition at the time of the notice provided in RCW 47.52.133 as for the taking or damaging of property for public use.

[1983 c 3 § 127; 1961 c 13 § 47.52.080. Prior: 1955 c 54 § 2; 1951 c 167 § 11; 1947 c 202 § 7; Rem. Supp. 1947 § 6402-66.]

RCW 47.52.090
Cooperative agreements -- Urban public transportation systems -- Title to highway -- Traffic regulations -- Underground utilities and overcrossings -- Passenger transportation -- Storm sewers -- City street crossings.

The highway authorities of the state, counties, incorporated cities and towns, and municipal corporations owning or operating an urban public transportation system are authorized to enter into agreements with each other, or with the federal government, respecting the financing, planning, establishment, improvement, construction, maintenance, use, regulation, or vacation of limited access facilities in their respective jurisdictions to facilitate the purposes of this chapter. Any such agreement may provide for the exclusive or nonexclusive use of a portion of the facility by street cars, trains, or other vehicles forming a part of an urban public transportation system and for the erection, construction, and maintenance of structures and facilities of such a system including facilities for the receipt and discharge of passengers. Within incorporated cities and towns the title to every state limited access highway vests in the state, and, notwithstanding any other provision of this section, the department shall exercise full jurisdiction, responsibility, and control to and over the highway from the time it is declared to be operational as a limited access facility by the department, subject to the following provisions:

(1) Cities and towns shall regulate all traffic restrictions on such facilities except as provided in RCW 46.61.430, and all regulations adopted are subject to approval of the department before becoming effective. Nothing herein precludes the state patrol or any county, city, or town from enforcing any traffic regulations and restrictions prescribed by state law, county resolution, or municipal ordinance.

(2) The city, town, or franchise holder shall at its own expense maintain its underground facilities beneath the surface across the highway and has the right to construct additional facilities underground or beneath the surface of the facility or necessary overcrossings of power lines and other utilities as may be necessary insofar as the facilities do not interfere with the use of the right of way for limited access highway purposes. The city or town has the right to maintain any municipal utility and the right to open the surface of the highway. The construction, maintenance until permanent repair is made, and permanent repair of these facilities shall be done in a time and manner authorized by permit to be issued by the department or its authorized representative, except to meet emergency conditions for which no permit will be required, but any damage occasioned thereby shall promptly be repaired by the city or town itself, or at its direction. Where a city or town is required to relocate overhead facilities within the corporate limits of a city or town as a result of the construction of a limited access facility, the cost of the relocation shall be paid by the state.

(3) Cities and towns have the right to grant utility franchises crossing the facility underground and beneath its surface insofar as the franchises are not inconsistent with the use of the right of way for limited access facility purposes and the franchises are not in conflict with state laws. The department is authorized to enforce, in an action brought in the name of the state, any condition of any franchise that a city or town has granted. No franchise for transportation of passengers in motor vehicles may be granted on such highways without the approval of the department, except cities and towns are not required to obtain a franchise for the operation of municipal vehicles or vehicles operating under franchises from the city or town operating within the corporate limits of a city or town and within a radius not exceeding eight miles

outside the corporate limits for public transportation on such facilities, but these vehicles may not stop on the limited access portion of the facility to receive or to discharge passengers unless appropriate special lanes or deceleration, stopping, and acceleration space is provided for the vehicles.

Every franchise or permit granted any person by a city or town for use of any portion of a limited access facility shall require the grantee or permittee to restore, permanently repair, and replace to its original condition any portion of the highway damaged or injured by it. Except to meet emergency conditions, the construction and permanent repair of any limited access facility by the grantee of a franchise shall be in a time and manner authorized by a permit to be issued by the department or its authorized representative.

(4) The department has the right to use all storm sewers that are adequate and available for the additional quantity of run-off proposed to be passed through such storm sewers.

(5) The construction and maintenance of city streets over and under crossings and surface intersections of the limited access facility shall be in accordance with the governing policy entered into between the department and the association of Washington cities on June 21, 1956, or as such policy may be amended by agreement between the department and the association of Washington cities.

[1984 c 7 § 241; 1977 ex.s. c 78 § 8; 1967 c 108 § 11; 1961 c 13 § 47.52.090. Prior: 1957 c 235 § 4; 1947 c 202 § 8; Rem. Supp. 1947 § 6402-67.]

NOTES:

Severability -- 1984 c 7: See note following RCW 47.01.141.

Urban public transportation system defined: RCW 47.04.082.

RCW 47.52.100
Existing roads and streets as service roads.

In connection with the development of any limited access facility the state, county or incorporated city or town highway authorities are authorized to plan, designate, establish, use, regulate, alter, improve, construct, maintain and vacate local service roads and streets, or to designate as local service roads and streets any existing road or street, and to exercise jurisdiction over service roads in the same manner as is authorized for limited access facilities under the terms of this chapter. If, in their opinion such local service roads and streets are necessary or desirable, such local service roads or streets shall be separated from the limited access facility by such means or devices designated as necessary or desirable by the proper authority.

[1961 c 13 § 47.52.100. Prior: 1947 c 202 § 9; Rem. Supp. 1947 § 6402-68.]

RCW 47.52.105
Acquisition and construction to preserve limited access or reduce required compensation.

Whenever, in the opinion of the department, frontage or service roads in connection with limited access facilities are not feasible either from an engineering or economic standpoint, the department may acquire private or public property by purchase or condemnation and construct any road, street, or highway connecting to or leading into any other road, street, or highway, when by so doing, it will preserve a limited access facility or reduce compensation required to be paid to an owner by reason of reduction

in or loss of access. The department shall provide by agreement with a majority of the legislative authority of the county or city concerned as to location, future maintenance, and control of any road, street, or highway to be so constructed. The road, street, or highway need not be made a part of the state highway system or connected thereto, but may upon completion by the state be turned over to the county or city for location, maintenance, and control pursuant to the agreement as part of the system of county roads or city streets.

[1984 c 7 § 242; 1967 c 117 § 1; 1961 c 13 § 47.52.105. Prior: 1955 c 63 § 1.]

NOTES:

Severability -- 1984 c 7: See note following RCW 47.01.141.

RCW 47.52.110
Marking of facility with signs.

After the opening of any new and additional limited access highway facility, or after the designation and establishment of any existing street or highway, as included the particular highways and streets or those portions thereof designated and established, shall be physically marked and indicated as follows: By the erection and maintenance of such signs as in the opinion of the respective authorities may be deemed proper, indicating to drivers of vehicles that they are entering a limited access area and that they are leaving a limited access area.

[1961 c 13 § 47.52.110. Prior: 1947 c 202 § 10; Rem. Supp. 1947 § 6402-69.]

RCW 47.52.120
Violations specified -- Exceptions -- Penalty.

After the opening of any limited access highway facility, it shall be unlawful for any person (1) to drive a vehicle over, upon, or across any curb, central dividing section, or other separation or dividing line on limited access facilities; (2) to make a left turn or semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation, or line; (3) to drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation section, or line; (4) to drive any vehicle into the limited access facility from a local service road except through an opening provided for that purpose in the dividing curb, dividing section, or dividing line which separates such service road from the limited access facility proper; (5) to stop or park any vehicle or equipment within the right of way of such facility, including the shoulders thereof, except at points specially provided therefor, and to make only such use of such specially provided stopping or parking points as is permitted by the designation thereof: PROVIDED, That this subsection shall not apply to authorized emergency vehicles, law enforcement vehicles, assistance vans, or to vehicles stopped for emergency causes or equipment failures; (6) to travel to or from such facility at any point other than a point designated by the establishing authority as an approach to the facility or to use an approach to such facility for any use in excess of that specified by the establishing authority. For the purposes of this section, an assistance van is a vehicle rendering aid free of charge to vehicles with equipment or fuel problems. The state patrol shall establish by rule additional standards and operating procedures, as needed, for assistance vans.

Any person who violates any of the provisions of this section is guilty of a misdemeanor and upon arrest and conviction therefor shall be punished by a fine of not less than five dollars nor more than one hundred dollars, or by imprisonment in the city or county jail

for not less than five days nor more than ninety days, or by both fine and imprisonment. Nothing contained in this section prevents the highway authority from proceeding to enforce the prohibitions or limitations of access to such facilities by injunction or as otherwise provided by law.

[1987 c 330 § 748; 1985 c 149 § 1; 1961 c 13 § 47.52.120. Prior: 1959 c 167 § 1; 1947 c 202 § 11; Rem. Supp. 1947 § 6402-70.]

NOTES:

Construction -- Application of rules -- Severability -- 1987 c 330: See notes following RCW 28B.12.050.

RCW 47.52.121
Prior determinations validated.

Any determinations of an authority establishing a limited access facility subsequent to March 19, 1947, and prior to March 16, 1951, in connection with new highways, roads or streets, or relocated highways, roads or streets, or portions of existing highways, roads or streets which are relocated, and all acquirements of property or access rights in connection therewith are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such authority, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings.

[1961 c 13 § 47.52.121. Prior: 1951 c 167 § 12.]

RCW 47.52.131
Consideration of local conditions -- Report to local authorities -- Conferences -- Proposed plan.

When the department is planning a limited access facility through a county or an incorporated city or town, the department or its staff, before any hearing, shall give careful consideration to available data as to the county or city's comprehensive plan, land use pattern, present and potential traffic volume of county roads and city streets crossing the proposed facility, origin and destination traffic surveys, existing utilities, the physical appearance the facility will present, and other pertinent surveys and, except as provided in RCW 47.52.134, shall submit to the county and city officials for study a report showing how these factors have been taken into account and how the proposed plan for a limited access facility will serve public convenience and necessity, together with the locations and access and egress plans, and over and under crossings that are under consideration. This report shall show the proposed approximate right of way limits and profile of the facility with relation to the existing grade, and shall discuss in a general manner plans for landscaping treatment, fencing, and illumination, and shall include sketches of typical roadway sections for the roadway itself and any necessary structures such as viaducts or bridges, subways, or tunnels.

Conferences shall be held on the merits of this state report and plans and any proposed modification or alternate proposal of the county, city, or town in order to attempt to reach an agreement between the department and the county or city officials. As a result of the conference, the proposed plan, together with any modifications, shall be prepared by the department and presented to the county or city for inspection and study.

[1987 c 200 § 1; 1984 c 7 § 243; 1965 ex.s. c 75 § 1.]

NOTES:

Severability -- 1984 c 7: See note following RCW 47.01.141.

RCW 47.52.133
Local public hearing -- Notices.

Except as provided in RCW 47.52.134, the transportation commission and the highway authorities of the counties and incorporated cities and towns, with regard to facilities under their respective jurisdictions, prior to the establishment of any limited access facility, shall hold a public hearing within the county, city, or town wherein the limited access facility is to be established to determine the desirability of the plan proposed by such authority. Notice of such hearing shall be given to the owners of property abutting the section of any existing highway, road, or street being established as a limited access facility, as indicated in the tax rolls of the county, and in the case of a state limited access facility, to the county and/or city or town. Such notice shall be by United States mail in writing, setting forth a time for the hearing, which time shall be not less than fifteen days after mailing of such notice. Notice of such hearing also shall be given by publication not less than fifteen days prior to such hearing in one or more newspapers of general circulation within the county, city, or town. Such notice by publication shall be deemed sufficient as to any owner or reputed owner or any unknown owner or owner who cannot be located. Such notice shall indicate a suitable location where plans for such proposal may be inspected.

[1987 c 200 § 2; 1981 c 95 § 1; 1965 ex.s. c 75 § 2.]

RCW 47.52.134
When access reports and hearings not required.

Access reports and hearings on the establishment of limited access facilities are not required if:

(1) The limited access facility would lie wholly within state or federal lands and the agency or agencies with jurisdiction of the land agree to the access plan; or

(2) The access rights to the affected section of roadway have previously been purchased or established by others; or

(3) The limited access facility would not significantly change local road use, and all affected local agencies and abutting property owners agree in writing to waive a formal hearing on the establishment of the facility after publication of a notice of opportunity for a limited access hearing. This notice of opportunity for a limited access hearing shall be given in the same manner as required for published notice of hearings under RCW 47.52.133. If the authority specified in the notice receives a request for a hearing from one or more abutting property owners or affected local agencies on or before the date stated in the notice, an access report shall be submitted as provided in RCW 47.52.131 and a hearing shall be held. Notice of the hearing shall be given by mail and publication as provided in RCW 47.52.133.

[1987 c 200 § 3.]

RCW 47.52.135
Hearing procedure.

At the hearing any representative of the county, city or town, or any other person may appear and be heard even though such official or person is not an abutting property owner. Such hearing may, at the option of the highway authority, be conducted in accordance with federal laws and regulations governing highway design public hearings. The members of such authority shall preside, or may designate some suitable person to preside as examiner. The authority shall introduce by competent evidence a summary of the proposal for the establishment of a limited access facility and any evidence that

supports the adoption of the plan as being in the public interest. At the conclusion of such evidence, any person entitled to notice who has entered a written appearance shall be deemed a party to this hearing for purposes of this chapter and may thereafter introduce, either in person or by counsel, evidence and statements or counterproposals bearing upon the reasonableness of the proposal. Any such evidence and statements or counterproposals shall receive reasonable consideration by the authority before any proposal is adopted. Such evidence must be material to the issue before the authority and shall be presented in an orderly manner.

[1982 c 189 § 5; 1981 c 67 § 29; 1977 c 77 § 2; 1965 ex.s. c 75 § 3.]

NOTES:

Effective date -- 1982 c 189: See note following RCW 34.12.020.
Effective dates -- Severability -- 1981 c 67: See notes following RCW 34.12.010.

RCW 47.52.137
Adoption of plan -- Service of findings and order -- Publication of resume -- Finality -- Review.

Following the conclusion of such hearing the authority shall adopt a plan with such modifications, if any, it deems proper and necessary. Its findings and order shall be in writing and copies thereof shall be served by United States mail upon all persons having entered a written appearance at such hearing, and in the case of a state limited access facility, the county commissioners of the county affected and the mayor of the city or town affected. The authority shall also cause a resume of such plan to be published once each week for two weeks in one or more newspapers of general circulation within such county, city or town beginning not less than ten days after the mailing of such findings and order. Such determination by the authority shall become final within thirty days after such mailing unless a review is taken as hereinafter provided. In case of an appeal, the order shall be final as to all parties not appealing.

[1965 ex.s. c 75 § 4.]

RCW 47.52.139
Local approval of plan -- Disapproval, request for review.

Upon receipt of the findings and order adopting a plan, the county, city, or town may notify the department of transportation of its approval of such plan in writing, in which event such plan shall be final.

In the event that a county, city, or town does not approve the plan, the county, city, or town shall file its disapproval in writing with the secretary of transportation within thirty days after the mailing thereof to such mayor or county commissioner. Along with the written disapproval shall be filed a written request for a hearing before a board of review, hereinafter referred to as the board. The request for hearing shall set forth the portions of the plan of the department to which the county, city, or town objects, and shall include every issue to be considered by the board. The hearing before a board of review shall be governed by RCW 47.52.150 through 47.52.190, as now or hereafter amended.

[1977 ex.s. c 151 § 63; 1965 ex.s. c 75 § 5.]

RCW 47.52.145
Modification of adopted plan without further public hearings, when.

Whenever after the final adoption of a plan for a limited access highway by the transportation commission, an additional design public hearing with respect to the facility or any portion thereof is conducted pursuant to federal law resulting in a revision of the design of the limited access plan, the commission may modify the previously adopted limited access plan to conform to the revised design without further public hearings providing the following conditions are met:

(1) As compared with the previously adopted limited access plan, the revised plan will not require additional or different right of way with respect to that section of highway for which the design has been revised, in excess of five percent by area; and

(2) If the previously adopted limited access plan was modified by a board of review convened at the request of a county, city, or town, the legislative authority of the county, city, or town shall approve any revisions of the plan which conflict with modifications ordered by the board of review.

[1981 c 95 § 2; 1977 c 77 § 1.]

RCW 47.52.150
State facility through city or town -- Board of review, composition and appointment.

Upon request for a hearing before the board by any county, city, or town, a board consisting of five members shall be appointed as follows: The mayor or the county commissioners, as the case may be shall appoint two members of the board, of which one shall be a duly elected official of the city, county, or legislative district, except that of the legislative body of the county, city, or town requesting the hearing, subject to confirmation by the legislative body of the city or town; the secretary of transportation shall appoint two members of the board; and one member shall be selected by the four members thus appointed. Such fifth member shall be a licensed civil engineer or a recognized professional city or town planner, who shall be chairman of the board. In the case both the county and an included city or town request a hearing, the board shall consist of nine members appointed as follows: The mayor and the county commission shall each appoint two members from the elective officials of their respective jurisdictions, and of the four thus selected no more than two thereof may be members of a legislative body of the county, city, or town. The secretary of transportation shall appoint four members of the board. One member shall be selected by the members thus selected, and such ninth member shall be a licensed civil engineer or a recognized city or town planner, who shall be chairman of the board. Such boards as are provided by this section shall be appointed within thirty days after the receipt of such a request by the secretary. In the event the secretary or a county, city, or town shall not appoint members of the board or members thus appointed fail to appoint a fifth or ninth member of the board, as the case may be, either the secretary or the county, city, or town may apply to the superior court of the county in which the county, city, or town is situated to appoint the member or members of the board in accordance with the provisions of this chapter.

[1977 ex.s. c 151 § 64; 1963 c 103 § 3; 1961 c 13 § 47.52.150. Prior: 1959 c 242 § 3; 1957 c 235 § 7.]

RCW 47.52.160
State facility through city or town -- Hearing -- Notice -- Evidence -- Determination of issues.

The board shall fix a reasonable time not more than thirty days after the date of its appointment and shall indicate the time and place for the hearing, and shall give notice to the county, city, or town and to the department. At the time and place fixed for the hearing, the state and the county, city, or town shall present all of their evidence with respect to the objections set forth in the request for the hearing before the board, and if either the state, the county, or the city or town fails to do so, the board may determine the issues upon such evidence as may be presented to it at the hearing.

[1984 c 7 § 244; 1963 c 103 § 4; 1961 c 13 § 47.52.160. Prior: 1957 c 235 § 8.]

NOTES:

Severability -- 1984 c 7: See note following RCW 47.01.141.

RCW 47.52.170
State facility through city or town -- Hearing -- Procedure.

No witness's testimony shall be received unless he shall have been duly sworn, and the board may cause all oral testimony to be stenographically reported. Members of the board, its duly authorized representatives, and all persons duly commissioned by it for the purpose of taking depositions, shall have power to administer oaths; to preserve and enforce order during such hearings; to issue subpoenas for, and to compel the attendance and testimony of witnesses, or the production of books, papers, documents and other evidence, or the taking of depositions before any designated individual competent to administer oaths, and it shall be their duty so to do; to examine witnesses; and to do all things conformable to law which may be necessary to enable them, or any of them, effectively to discharge the duties of their office.

[1961 c 13 § 47.52.170. Prior: 1957 c 235 § 9.]

RCW 47.52.180
State facility through city or town -- Hearing -- Findings of board -- Modification of proposed plan by stipulation.

At the conclusion of such hearing, the board shall consider the evidence taken and shall make specific findings with respect to the objections and issues within thirty days after the hearing, which findings shall approve, disapprove, or modify the proposed plan of the department of transportation. Such findings shall be final and binding upon both parties. Any modification of the proposed plan of the department of transportation made by the board of review may thereafter be modified by stipulation of the parties.

[1977 ex.s. c 151 § 65; 1977 c 77 § 3; 1961 c 13 § 47.52.180. Prior: 1957 c 235 § 10.]

RCW 47.52.190
State facility through city or town -- Hearing -- Assistants -- Costs -- Reporter.

The board shall employ such assistance and clerical help as is necessary to perform its duties. The costs thereby incurred and incident to the conduct of the hearing, necessary expenses, and fees, if any, of members of the board shall be borne equally by the county, city, or town requesting the hearing and the department. When oral testimony is stenographically reported, the department shall provide a reporter at its expense.

[1984 c 7 § 245; 1963 c 103 § 5; 1961 c 13 § 47.52.190. Prior: 1957 c 235 § 11.]

NOTES:

Severability -- 1984 c 7: See note following RCW 47.01.141.

RCW 47.52.195
Review and appeal on petition of abutter.

An abutting property owner may petition for review in the superior court of the state of Washington in the county where the limited access facility is to be located. Such review and any appeal therefrom shall be considered and determined by said court upon the record of the authority in the manner, under the conditions and subject to the limitations and with the effect specified in the Administrative Procedure Act, chapter 34.05 RCW, as amended.

[1965 ex.s. c 75 § 6.]

RCW 47.52.200
Law enforcement jurisdiction within city or town.

Whenever any limited access highway facility passes within or through any incorporated city or town the municipal police officers of such city or town, the sheriff of the county wherein such city or town is situated and officers of the Washington state patrol shall have independent and concurrent jurisdiction to enforce any violation of the laws of this state occurring thereon: PROVIDED, The Washington state patrol shall bear primary responsibility for the enforcement of laws of this state relating to motor vehicles within such limited access highway facilities.

[1961 c 122 § 1.]

RCW 47.52.210
State facility within city or town -- Title to city or town streets incorporated therein.

(1) Whenever the transportation commission adopts a plan for a limited access highway to be constructed within the corporate limits of a city or town which incorporates existing city or town streets, title to such streets shall remain in the city or town, and the provisions of RCW 47.24.020 as now or hereafter amended shall continue to apply to such streets until such time that the highway is operated as either a partially or fully controlled access highway. Title to and full control over that portion of the city or town street incorporated into the limited access highway shall be vested in the state upon a declaration by the secretary of transportation that such highway is operational as a limited access facility, but in no event prior to the acquisition of right of way for such highway including access rights, and not later than the final completion of construction of such highway.

(2) Upon the completion of construction of a state limited access highway within a city or town, the department of transportation may relinquish to the city or town streets constructed or improved as a functional part of the limited access highway, slope easements, landscaping areas, and other related improvements to be maintained and operated by the city or town in accordance with the limited access plan. Title to such property relinquished to a city or town shall be conveyed by a deed executed by the secretary of transportation and duly acknowledged. Relinquishment of such property to the city or town may be expressly conditioned upon the maintenance of access control acquired by the state and the continued operation of such property as a functional part of the limited access highway.

[1981 c 95 § 3; 1977 ex.s. c 78 § 3.]

Chapter 468-58 WAC
LIMITED ACCESS HIGHWAYS

Last Update: 12/20/89

WAC SECTIONS

468-58-010 Definitions.

468-58-020 Revision to limited access highway facilities.

468-58-030 Limited access highway -- Policies on commercial approaches, common carrier and school bus stops, mail box locations and pedestrian crossings.

468-58-050 Prohibition of nonmotorized traffic on fully controlled limited access highways.

468-58-060 Regulations for bicyclists traveling in a group or caravan on partially controlled limited access

468-58-080 Guide for control of access on crossroads and interchange ramps.

468-58-090 Guide for application of access control of state highways.

468-58-100 Guide for the application of modified access control on existing state highways.

DISPOSITIONS OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

468-58-040 Use of space beneath structures on limited access highways. [Statutory Authority: RCW 47.52.020 79-08-061 (Order 34), § 468-58-040, filed 7/23/79. Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-58-040, filed 12/20/78. Formerly WAC 252-20-035.] Repealed by 81-19-052 (Order 65), filed 9/11/81. Statutory Authority: RCW 47.01.101(5) and 47.12.120.

468-58-070.Stalled or disabled vehicles as a danger to safety -- Removal. [Statutory Authority: 1977 ex.s. c 151.79-01-033 (DOT Order 10 and Comm. Order 1,Resolution No. 13), § 468-58-070, filed 12/20/78. Formerly WAC 252-20-045.] Repealed by 90-01-100 (Order 69), filed 12/20/89, effective 1/20/90. Statutory Authority: Chapter 34.05 RCW.

468-58-110 State Route 5.[Statutory Authority; 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution 13) § 468-58-110, filed 12/20/78. Formerly WAC 252-34A-030.] Repealed by 84-05-044 (Order 88), filed 2/21/84. Statutory Authority; RCW 34.04.010.

WAC 468-58-010
Definitions.

The following definitions shall designate limited access highways and shall indicate the control of access to be exercised by each:

(1) "Fully controlled limited access highway" is a highway where the right of owner or occupants of abutting land or other persons to access, light, air, or view in connection with the highway is controlled to give preference to through traffic by providing access connections with selected public roads only, and by prohibiting crossings or direct private driveway connections at grade.

(2) "Partially controlled limited access highway" is a highway where the right of owner or occupants of abutting land or other persons to access, light, air, or view in connection with the highway is controlled to give preference to through traffic to a degree that, in addition to access connections with selected public roads, there may be some crossings and some private driveway connections at grade. Commercial approaches to partially controlled limited access highways are allowed only to

frontage roads or by means of public road intersections. A partially controlled limited access highway may be designed to provide for separation of a part or all road crossings and the elimination of a part or all direct private driveway connections under a stage plan of future construction.

(3) "Modified controlled limited access highway" is a highway where the right of owner or occupants of abutting land or other persons to access, light, air, or view in connection with the highway is controlled to give preference to through traffic to such a degree that most approaches, including commercial approaches, existing and in use at the time of the establishment, may be allowed.

(4) "An expressway limited access highway" is a partially controlled limited access highway of four or more traffic lanes with the opposing lanes of travel separated by a median strip of arbitrary width.

(5) "A freeway limited access highway" is a fully controlled limited access highway of four or more traffic lanes with the opposing traffic lanes separated by a median strip of arbitrary width.

[Statutory Authority: RCW 47.52.020. 79-08-061 (Order 34), § 468-58-010, filed 7/23/79. Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-58-010, filed 12/20/78. Formerly WAC 252-20-010.]

WAC 468-58-020
Revision to limited access highway facilities.

Subject to the requirements for public hearings, the transportation commission may adopt revisions to duly established limited access highway facilities, or may delegate authority for such revisions to the secretary of transportation. The secretary, at his discretion, may further delegate such authority.

[Statutory Authority: RCW 47.52.133, 47.52.145, 47.52.210 and chapter 95, Laws of 1981. 81-19-088 (Order 27, Resolution No. 123), § 468-58-020, filed 9/17/81. Statutory Authority: RCW 47.52.020. 79-08-061 (Order 34), § 468-58-020, filed 7/23/79. Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-58-020, filed 12/20/78. Formerly WAC 252-20-020.]

WAC 468-58-030
Limited access highways -- Policies on commercial approaches, common carrier and school bus stops, mail box locations and pedestrian crossings.

(1) **Fully controlled limited access highways:**

(a) No commercial approaches shall be permitted direct access to main roadway but only to frontage roads when these are provided in the access plan or to the crossroads of interchanges outside the limits of full access control.

(b) No common carrier bus stops other than required by law shall be permitted except at locations provided by the state on the interchanges or, in exceptional cases, along the main roadway where pedestrian separation is available.

(c) School bus stops shall not be permitted except as in subparagraph (b) of this subsection.

(d) No mail boxes shall be permitted except on frontage roads.

(e) Pedestrian crossings shall not be permitted at grade.

(2) **Partially controlled limited access highways:**

(a) No commercial approaches shall be permitted except on frontage roads provided in the access plan or at intersections.

(b) Bus stops for both common carriers and school buses shall not be permitted other than as required by law on either two or four lane highways, except as follows:

(i) At locations of intersections, with necessary lanes to be constructed by the state;

(ii) Where shoulder widening has been provided for mail delivery service;

(iii) For a designated school bus loading zone on the traveled lane or adjacent thereto which has been approved by the department of transportation.

(c) Pedestrian grade crossings will be permitted only where a grade crossing is provided, except that pedestrian crossings will be permitted on two lane highways at mail box locations or at points designated for school children to cross as provided in subparagraph (d) of this subsection.

(d) Pedestrian crossings are prohibited in the immediate vicinity of school bus loading zones which are located adjacent to the traveled way. Pedestrian crossings may be permitted:

(i) On two lane highways not less than one hundred feet from a school bus loading zone adjacent to the traveled lane, if school district and department of transportation personnel determine that stopping in the traveled lane is hazardous.

(ii) On two lane highways at the school bus when stopped on the traveled lane to load or unload passengers and the proper sign and signal lights displayed.

(e) School bus loading zones on partially controlled access highways shall be posted with school bus loading zone signs, in accordance with the latest edition of the Manual on Uniform Traffic Control Devices.

(f) The list of designated school bus loading zones approved by the department of transportation will be kept on file and maintained by the headquarters traffic engineer.

(g) Mail boxes shall be located on frontage roads or at intersections, with the following exceptions for properties which are served by Type A or B approaches:

(i) Mail boxes for Type A or B approaches on a four lane highway shall be located only on the side of the highway on which the approach is provided;

(ii) Mail boxes for Type A or B approaches on a two lane highway shall all be located on that side of the highway which is on the right in the direction of the mail delivery.

(3) **Modified control limited access highways**:

(a) Commercial approaches to modified controlled limited access highways may be permitted only where and in the manner specifically authorized at the time the plan is established and access rights are obtained.

(b) Bus stops and pedestrian crossings may be permitted as follows:

(i) In rural areas, bus stops and pedestrian crossings shall be subject to the same restrictions as on partial controlled limited access highways.

(ii) In urban areas bus stops for both commercial carriers and school buses may be permitted without restrictions other than those required by law.

(c) Mail boxes may be located adjacent to or opposite all authorized approaches as follows:

(i) Mail boxes on a four-lane highway shall be located only on the side of the highway on which the approach is provided.

(ii) Mail boxes on a two-lane highway shall all be located on that side of the highway which is on the right in the direction of the mail delivery.

[Statutory Authority: RCW 47.52.020. 79-08-061 (Order 34), § 468-58-030, filed 7/23/79. Statutory Authority: RCW 47.36.050. 79-08-060 (Order 33), § 468-58-030, filed 7/23/79. Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-58-030, filed 12/20/78. Formerly WAC 252-20-030.]

WAC 468-58-050
Prohibition of nonmotorized traffic on fully controlled limited access highways.

(1) All nonmotorized traffic shall be prohibited on state highways which have been established and constructed as fully controlled limited access facilities, and signs giving notice of such prohibition shall be posted upon all such highways.

(2) This prohibition of nonmotorized traffic on fully controlled limited access highways shall not apply to:

(a) Pedestrian overcrossings and undercrossings or other facilities provided specifically for the use of such traffic.

(b) Bicycles utilizing the right-hand shoulders; except where the secretary of transportation or his designee has prohibited such use. Signs giving notice of such prohibition shall be posted for those sections where such usage is prohibited.

[Statutory Authority: RCW 47.52.025 and 46.61.160. 82-01-029 (Order 70), § 468-58-050, filed 12/14/81. Statutory Authority: RCW 47.36.050. 80-05-027 (Order 53), § 468-58-050, filed 4/15/80. Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-58-050, filed 12/20/78. Formerly WAC 252-20-040.]

WAC 468-58-060
Regulations for bicyclists traveling in a group or caravan on partially controlled limited access highways.

(1) Riding single file on the usable shoulder is encouraged.

(2) Care and caution as well as compliance with rules of the road and traffic control devices - signs, signals and markings shall be exercised by bicycle operators when traveling upon state highways.

(3) No person operating a bicycle shall stop on a bridge or other structure, except on a sidewalk or other area not less than three feet wide separated from the traveled roadway by a painted stripe or a physical barrier.

(4) When traveling in a large group, caravan or expedition, the size of travel units shall be limited to a maximum of six bicyclists per unit.

(5) The maximum number of units in a group, caravan or expedition shall not exceed twenty-five.

(6) Travel units of bicyclists shall maintain a minimum spacing between travel units of 500 feet to provide passing opportunities for motor vehicle operators.

Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-58-060, filed 12/20/78. Formerly WAC 252-20-060.]

WAC 468-58-080
Guides for control of access on crossroads and interchange ramps.

(1) Fully controlled highways, including interstate.

(a) There shall be no connections to abutting property or local service or frontage roads within the full length of any "off" or "on" interchange ramp from a fully controlled limited access highway. Such ramp shall be considered to terminate at its intersection with the local road which undercrosses or overcrosses the limited access facility, provided that in urban areas "off" and "on" ramps may be terminated at local streets other than crossroads where necessary to service existing local traffic.

(b) There shall be no direct connections from the limited access facility in rural areas to local service or frontage roads except through interchanges.

(c) In both urban and rural areas access control on a fully controlled highway shall be established along the crossroad at an interchange for a minimum distance of three hundred feet beyond the centerline of the ramp or terminus of transition taper. If a frontage road or local road is located in a generally parallel position within three hundred fifty feet of a ramp, access control should be established along the crossroad and in addition for a minimum distance of one hundred thirty feet in all directions from the center of the intersection of the parallel road and crossroad.

(d) Full control of access should be provided along the crossroad from the centerline of a ramp or terminus of a transition taper for a minimum distance of three hundred feet. Upon determination by the department, full control of access may be provided for the first one hundred thirty feet from the centerline of the ramp or terminus of a transition taper and partial control or modified control of access may be provided for the remainder of the distance to the frontage road or local road for a total minimum distance for the two types of control of three hundred feet. Type A, B, C, D and E road approaches, as defined hereafter under subsection (3) of this section, "general," may be permitted on that portion of the crossroad on which partial or modified control of access is established.

(2) Partially controlled highways.

(a) There shall be no connections to abutting property or local service or frontage roads within the full length of any "off" or "on" interchange ramp from a partially controlled limited access highway. Such ramp shall be considered to terminate at its intersection with the local road which undercrosses or overcrosses the limited access facility, provided that in urban areas "off" and "on" ramps may be terminated at local streets other than crossroads where necessary to service existing local traffic.

(b) In both urban and rural areas access control on a partially controlled highway shall be established along the crossroad at an interchange for a minimum distance of three hundred feet beyond the centerline of the ramp or terminus of transition taper. If a frontage road or local road is located in a generally parallel position within three hundred fifty feet of a ramp, access control should be established along the crossroad and in addition for a minimum distance of one hundred thirty feet in all directions from the center of the intersection of the parallel road and crossroad.

(c) Access control limits at the crossroads on a partially controlled highway should be established along the crossroad at a grade intersection for a minimum distance of three hundred feet from the centerline of the nearest directional roadway. If a parallel road is located within three hundred fifty feet of said grade intersection, access control should be established along the crossroad and in addition for a minimum distance of one hundred thirty feet in all directions from the center of the intersection of the parallel road and crossroad. Type D and E approaches may be permitted closer than one hundred thirty feet from the center of the intersection only when they already exist and cannot reasonably be relocated.

(d) Access control limits at intersections on modified control highways should be established along the cross road for a minimum distance of one hundred thirty feet from the centerline of a two-lane highway or for a minimum of one hundred thirty feet from centerline of the nearest directional roadway of a four-lane highway. Type D and E approaches should be allowed within this area only when no reasonable alternative is available.

(3) General.

(a) Access control may be increased or decreased beyond or under the minimum requirements to fit local conditions if so determined by the department.

(b) Type A, B, C, D and E approaches are defined as follows:

(i) Type A approach. Type A approach is an off and on approach in legal manner, not to exceed thirty feet in width, for sole purpose of serving a single family residence. It may be reserved by abutting owner for specified use at a point satisfactory to the state at or between designated highway stations.

(ii) Type B approach. Type B approach is an off and on approach in legal manner, not to exceed fifty feet in width, for use necessary to the normal operation of a farm, but not for retail marketing. It may be reserved by abutting owner for specified use at a point satisfactory to the state at or between designated highway stations.

(iii) Type C approach. Type C approach is an off and on approach in legal manner, for special purpose and width to be agreed upon. It may be specified at a point satisfactory to the state at or between designated highway stations.

(iv) Type D approach is an off and on approach in a legal manner not to exceed fifty feet in width for use necessary to the normal operation of a commercial establishment. It may be specified at a point satisfactory to the state at or between designated highway stations.

(v) Type E approach is a separated off and on approach in a legal manner, with each opening not exceeding thirty feet in width, for use necessary to the normal operations of a commercial establishment. It may be specified at a point satisfactory to the state at or between designated highway stations.

(c) Under no circumstances will a change in location or width of an approach be permitted unless approved by the secretary. Noncompliance or violation of these conditions will result in the immediate closure of the approach.

(d) Commercial approaches shall not be permitted within the limits of access control except where modified access control has been approved by the department.

(e) All access control shall be measured from the centerline of the ramps, crossroads or parallel roads or from the terminus of transition tapers. On multiple lane facilities measurement shall be from the centerline of the nearest directional roadway.

Place illustration here.

Place illustration here.

Place illustration here.

[Statutory Authority: RCW 47.01.101(5). 87-15-021 (Order 109), § 468-58-080, filed 7/8/87. Statutory Authority: RCW 47.52.020. 79-08-061 (Order 34), § 468-58-080, filed 7/23/79. Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-58-080, filed 12/20/78. Formerly WAC 252-20-051.]

WAC 468-58-090
Guides for application of access control of state highways.

(1) Fully controlled limited access highways:

(a) All interstate highways shall require full access control.

(b) All principal arterial highways requiring four or more through traffic lanes within a twenty-year design period, shall require full control of access, unless approved for partial or modified access control on existing highways by the secretary of transportation or his designee.

(2) Partially controlled limited access highways:

(a) Principal arterial highways requiring two through traffic lanes where the estimated traffic volumes exceed three thousand average daily traffic within a twenty-year design period shall require partial control of access, unless approved for modified access control on existing highways by the secretary of transportation or his designee.

(b) Rural minor arterial highways on both new and existing location and urban minor arterial highways on new location, requiring four or more through traffic lanes within a twenty- year design period, or requiring only two through traffic lanes where the estimated traffic volumes exceed three thousand average daily traffic within a twenty-year design period, shall require partial control of access; however, modified access control may be applied on existing location when approved by the secretary of transportation or his designee.

(c) Collector highways on new location requiring four or more through traffic lanes in a twenty-year design period shall require partial control of access.

(d) Other rural minor arterial highways with only two lanes may be considered for partial or modified control of access if the control can be acquired at a reasonable cost; if the route connects two highways of a higher classification; if the potential land development would result in numerous individual approaches such as may be encountered in a recreational area; or if the highway traverses publicly owned lands where access control seems desirable.

(e) Partial access control will not normally be used in urban areas, or inside corporate limits on existing principal arterial or minor arterial highways where traffic volumes are less than seven hundred design hour volume if required levels of urban service, including operating speeds, can be maintained for the estimated traffic under existing and estimated future conditions, including traffic engineering operational improvements. If not, the route should be relocated or reconstructed in accordance with the modified or partial access control standards.

(f) Existing collector highways will normally be considered for access control only where all of the following conditions apply:

(i) The highway serves an area which is not directly served by a higher class of highway.

(ii) Existing or planned development will result in traffic volumes significantly higher than the warrants for access control on minor arterials.

(iii) Partial or modified access control may be established without a major impact on development of abutting properties within the constraints of zoning established at the time access control is proposed.

(g) Termini of access control sections should be at apparent logical points of design change.

(3) Modified access control - Access control on existing highways:

(a) Modified access control may be established on existing highways. The degree of control applied will be such that most approaches, including commercial approaches, existing and in use at the time of the establishment, may be allowed. Commercial approaches for future development may also be considered in order to avoid economic land locking. No commercial approaches will be allowed other than those included in the plan at the time access control is established and access rights are acquired.

(b) Selection of facilities on which modified access control will be applied, will be based upon a design analysis considering but not limited to traffic volumes, level of service, route continuity, population density, local land use planning predicted growth rate established by the planning agency having jurisdiction, economic analysis, and safety. A comparison of these factors based on modified access control versus full or partial control shall be the basis of the decision by the secretary of transportation or his designee to establish modified access control on a section or sections of highway.

(c) Where modified access control is to be established on existing highways, commercial areas may be excepted from control when all or most of the abutting property is developed to the extent that few, if any, additional road approaches would be required with full development of the area. Such exceptions will not normally extend to corporate limits or to urban area boundaries.
Nothing in this policy should be construed to prevent short sections of full, partial, or modified control of access where unusual topographic, land use, or traffic conditions exist. Special design problems should be dealt with on the basis of sound engineering-economic principles.

Because specific warrants cannot be logically or economically applied in every circumstance, exceptions may be considered upon presentation to the secretary of transportation or his designee of justification for reasonable deviation from this policy.

[Statutory Authority: RCW 47.52.020. 79-08-061 (Order 34), § 468-58-090, filed 7/23/79. Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-58-090, filed 12/20/78. Formerly WAC 252-20-080.]

WAC 468-58-100
Guides for the application of modified access control on existing state highways.

(1) Definitive standards for road approaches on modified access controlled highways shall be as follows:

(a) The type of approach for each parcel shall be commensurate with the present and potential land use and be based on appraisals which consider the following:

(i) Local comprehensive plans, zoning and land use ordinances.

(ii) Property covenants and/or agreements.

(iii) City or county ordinances.

(iv) The highest and best use of the property.

(v) Highest use and best use of adjoining lands.

(vi) Change in use by merger of adjoining ownerships.

(vii) All other factors bearing upon proper land use of the parcel.

(b) The type of approaches* to be considered are:

(i) Type A (residential).

(ii) Type B (farm).

(iii) Type C (special use).

(iv) Type D (commercial single 50 feet width).

(v) Type E (commercial double 30 feet width).

(c) Once established, the type, size and location of the approach may be modified by the secretary of transportation or his designee.

(d) When Type D or E approaches have been established, interim use of Type A or B approaches will be allowed.

(2) Design. The number and location of approaches on a modified access control highway shall be carefully planned to provide a safe highway compatible with present and potential land use. The following will be applied:

(a) Parcels which have access to another public road or street as well as frontage on the highway will not normally be allowed direct access to the highway.

(b) Approaches located in areas where sight limitations create undue hazard shall be relocated or closed.

(c) The number of access openings shall be held to a minimum. Access openings are limited to one approach for each parcel of land with the exception of extensive frontages where one approach is unreasonable or for Type E approaches which feature separate off and on approaches.

(d) Joint use of access approaches shall be considered, where feasible.

(e) New approaches will be considered at the time of plan adoption to prevent a physical "landlock" by reason of access taking.

(f) Existing access points not meeting the test of these rules as described in this section, will be closed.

*Refer to WAC 468-58-080 for definitions.

Statutory Authority: RCW 47.52.020. 79-08-061 (Order 34), § 468-58-100, filed 7/23/79. Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-58-100, filed 12/20/78. Formerly WAC 252-20-090.]

Chapter 468-54 WAC
LIMITED ACCESS HEARINGS

Last Update: 8/27/91

WAC SECTIONS

468.54.010 Definitions.
468.54.020 Establishment of limited access facilities -- Initiation.
468.54.040 Notice of hearing.
468.54.050 Conduct of hearing.
468.54.065 Hearing officer.
468.54.070 Hearing -- Finding or order --Finality.
468.54.080 Copies of transcripts of limited access hearings.

DISPOSITIONS OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

468.54.030 Initiation of proposal by department of transportation. [Statutory Authority: 1977 ex.s. c 151. 79-01- .... 033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-54-030, filed 12/20/78. Formerly WAC 252-06-040.] Repealed by 81-19-088 (Order 27, Resolution No. 123), filed 9/17/81. Statutory Authority: RCW 47.52.133, 47.52.145, 47.52.210 and chapter 95, Laws of 1981.

WAC 468-54-010
Definitions.

As used in these rules:

(1) "Fully controlled limited access highway" is a highway where the right of owner or occupants of abutting land or other persons to access, light, air or view in connection with the highway is controlled to give preference to through traffic by providing access connections with selected public roads only, and by prohibiting crossings or direct private driveway connections at grade.

(2) "Partially controlled limited access highway" is a highway where the right of owner or occupants of abutting land or other persons to access, light, air or view in connection with the highway is controlled to give preference to through traffic to a degree that, in addition to access connections with selected public roads, there may be some crossings and some private driveway connections at grade. Commercial approaches to partially controlled limited access highways are allowed only to frontage roads or by means of public road intersections. A partially controlled limited access highway may be designed to provide for separation of a part or all road crossings and the elimination of a part or all direct private driveway connections under a stage plan of future construction.

(3) "Modified controlled limited access highway" is a highway where the right of owner or occupants of abutting land or other persons to access, light, air, or view in connection with the highway is controlled to give preference to through traffic to such a degree that most approaches, including commercial approaches, existing and in use at the time of the establishment, may be allowed.

(4) "An expressway limited access highway" is a partially controlled limited access highway of four or more traffic lanes with the opposing lanes of travel separated by a median strip of arbitrary width.

(5) "A freeway limited access highway" is a fully controlled limited access highway of four or more traffic lanes with the opposing traffic lanes separated by a median strip of arbitrary width.

(6) "Party" is any person, county, city or town who is entitled to notice of a limited access hearing and who has entered a written appearance at the hearing.

[Statutory Authority: RCW 47.52.020. 79-08-059 (Order 32), § 468-54-010, filed 7/23/79. Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-54-010, filed 12/20/78. Formerly WAC 252-06-010.]

WAC 468-54-020
Establishment of limited access facilities -- Initiation.

Proceedings to establish a limited access facility may be initiated by interested persons owning property in the vicinity of the proposed facility or by the department of transportation. If the secretary of transportation ascertains that there is merit in the proposal, he will prepare an order designating the portion of the highway, road or street where the limited access highway may be established. When a public hearing is required, the secretary shall by order fix the date and place where the proposal may be heard.

[Statutory Authority: RCW 47.01.071. 91-18-023 (Order 73), § 468-54-020, filed 8/27/91, effective 9/27/91. Statutory Authority: RCW 47.52.133, 47.52.145, 47.52.210 and chapter 95, Laws of 1981. 81-19-088 (Order 27, Resolution No. 123), § 468-54-020, filed 9/17/81. Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-54-020, filed 12/20/78. Formerly WAC 252-06-030.]

WAC 468-54-040
Notice of hearing.

Notice of the proposal to establish a limited access highway facility shall be given to the owners of property abutting the section of any existing highway being established as a limited access facility, as indicated in the tax rolls of the county and to the county and/or city or town in which the facility is proposed to be established. The notice shall be by United States mail setting forth a time and place for the hearing to be held not less than fifteen days after mailing the notice. Notice of such hearing shall also be published not less than fifteen days prior to the hearing in one or more newspapers of general circulation within such county, city or town. Such notice shall indicate a suitable location where plans for such proposal may be inspected. Notice given as herein provided shall be deemed sufficient as to any owner or reputed owner or any unknown owner or owner who cannot be located and to the county, city or town. A single hearing may be held for a proposed facility which is located in more than one county, city or town, provided that notice is given to each county, city or town.

Statutory Authority: RCW 47.01.071. 91-18-023 (Order 73), § 468-54-040, filed 8/27/91, effective 9/27/91. Statutory Authority: RCW 47.52.020. 79-08-059 (Order 32), § 468-54-040, filed 7/23/79. Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-54-040, filed 12/20/78. Formerly WAC 252-06-050.]

WAC 468-54-050
Conduct of hearing.

At such hearing the secretary of transportation shall preside, or the secretary may designate some suitable person to preside as examiner. The hearing may, at the option of the secretary, be conducted in accordance with federal laws and regulations governing highway design public hearings. The department shall introduce by competent evidence a summary of the proposal for the establishment of a limited access facility and any evidence that supports the adoption of the plan as being in the public interest. At the conclusion of the evidence presented by the department, evidence and statements or counterproposals bearing upon the reasonableness of the proposal may be introduced. Such evidence must be material to the issues before the secretary and shall be presented in an orderly manner. Any such evidence and statements or counterproposals shall receive reasonable consideration by the secretary before any proposal is adopted.

[Statutory Authority: RCW 47.01.071. 91-18-023 (Order 73), § 468-54-050, filed 8/27/91, effective 9/27/91. Statutory Authority: RCW 47.52.133, 47.52.145, 47.52.210 and chapter 95, Laws of 1981. 81-19-088 (Order 27, Resolution No. 123), § 468-54-050, filed 9/17/81. Statutory Authority: RCW 47.52.020. 79-08-059 (Order 32), § 468-54-050, filed 7/23/79. Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-54-050, filed 12/20/78. Formerly WAC 252-06-060.]

WAC 468-54-065
Hearing officer.

The secretary of transportation may designate any suitable person as examiner with respect to hearings on any limited access proposal. Subject to later review and ruling by the secretary, such examiner may:

(1) Examine witnesses, and receive evidence;

(2) Admit evidence which possesses probative value commonly accepted by reasonable, prudent men in the conduct of their affairs, giving effect to the rules of privilege recognized by law and excluding incompetent, irrelevant, immaterial and unduly repetitious evidence;

(3) Rule on offers of proof and receive relevant evidence;

(4) Regulate the course of the hearing;

(5) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(6) Dispose of procedural requests or similar matters;

(7) Accept statements as to the reasonableness of the proposal; and

(8) Establish time limits for speakers, when necessary to assure that all persons attending will have an opportunity to present relevant and material statements without undue repetition.

[Statutory Authority: RCW 47.01.071. 91-18-023 (Order 73), § 468-54-065, filed 8/27/91, effective 9/27/91. Statutory Authority: RCW 47.52.133, 47.52.145, 47.52.210 and chapter 95, Laws of 1981. 81-19-088 (Order 27, Resolution No. 123), § 468-54-065, filed 9/17/81. Statutory Authority: RCW 47.52.020. 79-08-059 (Order 32), § 468-54-065, filed 7/23/79. Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-54-065, filed 12/20/78. Formerly WAC 252-06-065.]

WAC 468-54-070
Hearing -- Findings or order -- Finality.

At the conclusion of such hearing the secretary of transportation shall consider the evidence taken at such hearing and shall make specific findings in the case of each proposal or counterproposal and shall adopt a plan with such modifications, if any, he deems proper and necessary. The secretary may order the adoption of any proposal or counterproposal in its entirety or in part, or may modify or reject any such proposal or counterproposal. The secretary's findings or order shall be in writing and copies thereof shall be served by United States mail upon all persons having entered a written appearance at such hearing and upon the county commissioners of the county affected and/or the mayor of the city or town affected. The secretary shall also cause a resume of such plan to be published once each week for two weeks in one or more newspapers of general circulation within such county, city or town beginning not less than ten days after the mailing of such findings and order. Such determination by the secretary shall become final within thirty days after such mailing unless a review is taken as by statute provided. In case of an appeal by any party the order shall be final as to all parties not appealing.

[Statutory Authority: RCW 47.01.071. 91-18-023 (Order 73), § 468-54-070, filed 8/27/91, effective 9/27/91. Statutory Authority: RCW 47.52.133, 47.52.145, 47.52.210 and chapter 95, Laws of 1981. 81-19-088 (Order 27, Resolution No. 123), § 468-54-070, filed 9/17/81. Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-54-070, filed 12/20/78. Formerly WAC 252-06-070.]

WAC 468-54-080
Copies of transcripts of limited access hearings.

Copies of transcripts and other hearing documents may be obtained from the headquarters office of the department of transportation. Charges for such copies shall be at the rates established for copying other public records of the department, as authorized by RCW 42.17.300. An additional charge may be imposed for certifying to any copy furnished.

[Statutory Authority: RCW 47.52.020. 79-08-059 (Order 32), § 468-54-080, filed 7/23/79. Statutory Authority: 1977 ex.s. c 151. 79-01-033 (DOT Order 10 and Comm. Order 1, Resolution No. 13), § 468-54-080, filed 12/20/78. Formerly WAC 252-06-100.]

Application for Access Connection

For Department Use Only

Preapplication Conceptual View? ☐ Yes ☐ N/A

Nonconforming Connection? ☐ Yes ☐ No ☐ Variance

Category I - Minimum Connection	Category II - Minor Connection
☐ Field (Agricultural), Forest Lands, Utility Operation and Maintenance ($50) ☐ Each Residential Dwelling unit (up to 10 units) utilizing a single connection point ($50 each) ☐ Other, with 100 AWDVTE or less ($500) ☐ Fee per additional connection point ($50)	☐ Less than 1,000 AWDVTE ($1,000) ☐ 1,000 to 1,500 AWDVTE ($1,500) ☐ Fee per additional connection point ($250)
Category III - Major Connection	**Category IV - Temporary Connection**
☐ 1,500 to 2,500 AWDVTE ($2,500) ☐ Over 2,500 AWDVTE ($4,000) ☐ Fee per additional connection point ($1,000)	☐ Base Fee per connection ($100)
☐ Includes Median Opening	
Proposed Use	

State Highway Number	Mile Post	County

_____ 1/4 of the _____ 1/4 Section _____ Township _____ Range _____ E/W

Fees in the amount of $ _____ are paid herewith to defray the basic administrative expense incident to the processing of this application according to WAC 468-51, RCW Chapter 47.50, and/or RCW Chapter 47.32, and amendments thereto. The applicant further promises to pay additional amounts as shall be billed, if any, in reimbursement of the actual costs of the Department.

The undersigned submits said application and accepts the conditions as set forth.

Applicant, Owner (Print Full Name)		
Address		
City	State	Zip Code
Telephone Number		
Applicant Authorized Signature		
Print or Type Name		
Title		
Federal Tax ID No. or Soc. Sec. No. (Optional)		
Dated this _____ day of _____ , _____		

Checks or Money Orders are to be made payable to "Washington State Department of Transportation"

For Consultant Use Only		
Consulting Firm		
Address		
City	State	Zip Code
Telephone Number		
Consultant's Representative		
Print or Type Name		
Title		

DOT Form 224-694 EF
Revised 7/99

Washington State Department of Transportation

Access Connection Permit

Name and Address of Applicant:	Permit Number		
	SR	MP	L/R
	KP	Region	
	County	Tax Parcel Number	
	Government Lot Number		
Phone (Optional)	_____ 1/4 of _____ 1/4 of S _____ , T _____ , R _____		

Permit Category

- ☐ 1 - Minimum Connection
- ☐ 2 - Minor Connection
- ☐ 3 - Major Connection
- ☐ 4 - Temporary Connection

Current Highway Classification

- ☐ 1 - 1320' Minimum Approach Spacing Required
- ☐ 2 - 660' Minimum Approach Spacing Required
- ☐ 3 - 330' Minimum Approach Spacing Required
- ☐ 4 - 250' Minimum Approach Spacing Required
- ☐ 5 - 125' Minimum Approach Spacing Required

Access Connection meets current Department location, spacing, and design criteria: ☐ Conforming ☐ Non-Conforming ☐ Variance

The Applicant, hereinafter referred to as the "Permit Holder," having applied for a permit to construct/upgrade, use, and maintain an access connection to serve:

The Washington State Department of Transportation or its designee, herein after referred to as the "Department," hereby orders that this permit be granted, subject to the terms and provisions stated upon the General Provisions hereof and Exhibits attached hereto and by this reference made a part hereof:

Exhibit "A" - Special Provisions for Highway Encroachments, Page(s)

This permit shall be void unless the construction herein contemplated is started within 90 days of issuance and completed within 120 days of issuance, unless otherwise provided herein.

This permit is accepted and approved by the Permit Holder subject to the terms and provisions as herein set forth.

PERMIT HOLDER	DEPARTMENT OF TRANSPORTATION
By: _____	By: _____
Title: _____	Title: _____
Date: _____	Date: _____

DOT Form 224-005 EF
Revised 7/99

General Provisions

1. The Permit Holder, its successors and assigns, agrees to protect the State of Washington, its officers and employees and save them harmless from all claims, actions or damages of every kind and description which may accrue to or be suffered by any person, persons, or property by reason of the acts or omissions of the Permit Holder, its assigns, agents, contractors, licensees, employees or any person whomsoever, in connection with ermit Holder's, its assigns', agents', contractors', licensees' or employees' construction, installation, maintenance, operation, use or occupancy of the right of way or in the exercise of this permit. In case any suit or action is brought against the State of Washington, its officers and employees, arising out of or by reason of any of the above causes, the Permit Holder, its successors or assigns will, upon notice of such action, defend the same at its sole cost and expense and satisfy any judgement against the State of Washington, its officers, or employees: PROVIDED, that if the claims or damages are caused by or result from the concurrent negligence of (a) the State of Washington's agents or employees and (b) the ermit Holder or Permit Holder's agents or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Permit Holder or the Permit Holder's agents or employees.

   The Permit Holder, and on behalf of its assigns, agents, licensees, contractors and employees agrees to waive any claims for losses, expenses, damages or lost revenues incurred by it or its agents, contractors, licensees, employees or customers in connection with Permit Holder's, its assigns', agents', contractors', licensees' or employees' construction, installation, maintenance, operation, use or occupancy of the right of way or in the exercise of this permit against the State of Washington, its agents or employees except the reasonable costs of repair to property resulting from the negligent injury or damage to Permit Holder's property by the State of Washington, its agents, contractors or employees.

2. During the progress of the work, such barriers shall be erected and maintained as may be necessary or as may be directed for the protection of the traveling public; the barriers shall be properly lighted at night.

3. Except as herein authorized, no excavation shall be made or obstacle placed within the limits of the State highway in such a manner as to interfere with the travel over said road.

4. If the work done under this permit interferes in any way with the drainage of the State highway, the Permit Holder shall wholly and at its own expense make such provision as the Department may direct to take care of said drainage.

5. Permit Holder hereby authorizes the Department to enter upon their lands where necessary to construct or reconstruct the permitted access connection and/or construct and maintain traffic control devices and appurtenances.

6. The access connection shall be maintained between the right of way line and the shoulder line of said (highway, frontage service road of said highway, highway and/or frontage service road, "-" Line of said highway) by the Permit Holder, their heirs, successors or assigns.

7. On completion of said work herein contemplated, all rubbish and debris shall be immediately removed and the roadway and roadside shall be left neat and presentable and satisfactory to the Department.

8. The cost of construction or modification of a connection shall be the responsibility of the Permit Holder, including the cost of modification of any connection required as a result of changes on property site use in accordance with WAC 468-51-110.

9. The Department hereby reserves the right to order the change of location or the removal of any structure or structures authorized by this permit at any time, said change or removal to be made at the sole expense of the party or parties to whom this permit is issued, or their successors and assigns.

10. Existing permitted connections impacted by the Department's work program and which, in the consideration of the Department, necessitate modification, relocation, or replacement in order to meet current Department connection location, quantity, spacing, and design standards, shall be modified, relocated, or replaced in kind by the Department at no cost to the Permit Holder. The cost of further enhancements or modification to the altered, relocated, or replaced connections desired by the Permit Holder shall be the responsibility of the Permit Holder.

11. If any changes are made or proposed in the land use, intensity of development, type of traffic, or traffic flow of the property served by this connection permit, the Permit Holder is required to contact the Department to determine if further analysis is needed to determine if the change is significant and would require a new permit and modifications to the connection.

12. All such changes, reconstruction, or relocation by the Permit Holder shall be done in such manner as will cause the least interference with any of the Department's work, and the Department shall in no wise be held liable for any damage to the Permit Holder by reason of any such work by the Department, its agents or representatives, or by the exercise of any rights by the Department upon roads, streets, public places, or structures in question.

13. This permit or privilege shall not be deemed or held to be an exclusive one and shall not prohibit the Department from granting other permits or franchise rights of like or other nature to other public or private companies or individuals, nor shall it prevent the Department from using any of its roads, streets, or public places, or affect its right to full supervision and control over all or any part of them, none of which is hereby surrendered.

14. The Department may revoke, amend, or cancel this permit or any of the provisions thereof at any time by giving written notice to the Permit Holder. The Permit Holder shall immediately remove all facilities from the right of way. Any facilities remaining upon the right of way 30 days after written notice of cancellation shall be removed by the department at the Permit Holder's expense.

15. It is the responsibility of the applicant or Permit Holder to obtain any other local permits or other agency approvals that may be required, including satisfaction of all environmental regulations. It is also the responsibility of the Permit Holder to acquire any property rights necessary to provide continuity from the applicant's property to the Department's right-of-way if the Permit Holder's property does not abut the right of way.

16. The party or parties to whom this permit is issued shall maintain at its or their sole expense the structure or object for which this permit is granted in a condition satisfactory to the Department.

17. Any breach of any of the conditions and requirements herein made, or failure on the part of the Permit Holder of this permit to proceed with due diligence and in good faith after its acceptance, with construction work hereunder, shall subject this permit to cancellation as herein provided.

18. This permit is subject to all applicable provisions of 468-51 WAC, Chapter 47.50 RCW, Chapter 47.32 RCW, and/or Chapter 47.44 RCW, and amendments thereto.

DOT Form 224-005 EF
Revised 7/99

Washington State Department of Transportation

Access Connection Permit

Name and Address of Applicant:	Permit Number: AC00050027		
Charles T. Walter 32554 S. Lyman Ferry Rd. Sedro-Woolley, WA 98284 RECEIVED JUN 13 2000 MT. BAKER AREA OPERATIONS	SR: 9	MP: 61.20	L/R: L
	KP:	Region: Northwest	
	County: Skagit	Tax Parcel Number:	
	Government Lot Number:		
Phone (Optional) 360-826-3148	SE 1/4 of NE 1/4 of S 36, T 36N, R 4E		

Permit Category

- ☒ 1 - Minimum Connection
- ☐ 2 - Minor Connection
- ☐ 3 - Major Connection
- ☐ 4 - Temporary Connection

Current Highway Classification

- ☐ 1 - 1320' Minimum Approach Spacing Required
- ☒ 2 - 660' Minimum Approach Spacing Required
- ☐ 3 - 330' Minimum Approach Spacing Required
- ☐ 4 - 250' Minimum Approach Spacing Required
- ☐ 5 - 125' Minimum Approach Spacing Required

Access Connection meets current Department location, spacing, and design criteria: ☐ Conforming ☒ Non-Conforming ☐ Variance

The Applicant, hereinafter referred to as the "Permit Holder," having applied for a permit to construct/upgrade, use, and maintain an access connection to serve:

Maintain a 20-foot minimum Category I **"MINIMUM CONNECTION"**, Nonconforming, Noncommercial Road Approach Type "A" for 1 single family residence.

*This access is non-conforming because it does not meet the minimum spacing of 660 feet for a Class II Highway required by the Highway Access Management WAC 468-52-040.

The Washington State Department of Transportation or its designee, herein after referred to as the "Department," hereby orders that this permit be granted, subject to the terms and provisions stated upon the General Provisions hereof and Exhibits attached hereto and by this reference made a part hereof:

Exhibit "A" - Special Provisions for Highway Encroachments, Page(s) 1-3

Exhibit "B" - Right of Way Plan Titled "SR 9, MP 57.17 to MP 66.88, Sedro Woolley Vic. to Whatcom County Line, Sheet 12 of 22", Sheet 1 of 2.
Exhibit "B" - Noncommercial Approach Design Template A, Design Manual Figure 920-3, Sheet 2 of 2.
Exhibit "C" - Site Plan provided by the Grantee, Sheet 1 of 1.

This permit shall be void unless the construction herein contemplated is started within 90 days of issuance and completed within 120 days of issuance, unless otherwise provided herein.

This permit is accepted and approved by the Permit Holder subject to the terms and provisions as herein set forth.

PERMIT HOLDER	DEPARTMENT OF TRANSPORTATION
By: Charles T. Walter	By:
Title: PRES	Title: MT. BAKER AREA ADMINISTRATOR
Date: 6/5/00	Date: 6/16/00

DOT Form 224-005 EF
Revised 7/99

General Provisions

1. The Permit Holder, its successors and assigns, agrees to protect the State of Washington, its officers and employees and save them harmless from all claims, actions or damages of every kind and description which may accrue to or be suffered by any person, persons, or property by reason of the acts or omissions of the Permit Holder, its assigns, agents, contractors, licensees, employees or any person whomsoever, in connection with ermit Holder's, its assigns', agents', contractors', licensees' or employees' construction, installation, maintenance, operation, use or occupancy of the right of way or in the exercise of this permit. In case any suit or action is brought against the State of Washington, its officers and employees, arising out of or by reason of any of the above causes, the Permit Holder, its successors or assigns will, upon notice of such action, defend the same at its sole cost and expense and satisfy any judgement against the State of Washington, its officers, or employees: PROVIDED, that if the claims or damages are caused by or result from the concurrent negligence of (a) the State of Washington's agents or employees and (b) the ermit Holder or Permit Holder's agents or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Permit Holder or the Permit Holder's agents or employees.

   The Permit Holder, and on behalf of its assigns, agents, licensees, contractors and employees agrees to waive any claims for losses, expenses, damages or lost revenues incurred by it or its agents, contractors, licensees, employees or customers in connection with Permit Holder's, its assigns', agents', contractors', licensees' or employees' construction, installation, maintenance, operation, use or occupancy of the right of way or in the exercise of this permit against the State of Washington, its agents or employees except the reasonable costs of repair to property resulting from the negligent injury or damage to Permit Holder's property by the State of Washington, its agents, contractors or employees.

2. During the progress of the work, such barriers shall be erected and maintained as may be necessary or as may be directed for the protection of the traveling public; the barriers shall be properly lighted at night.

3. Except as herein authorized, no excavation shall be made or obstacle placed within the limits of the State highway in such a manner as to interfere with the travel over said road.

4. If the work done under this permit interferes in any way with the drainage of the State highway, the Permit Holder shall wholly and at its own expense make such provision as the Department may direct to take care of said drainage.

5. Permit Holder hereby authorizes the Department to enter upon their lands where necessary to construct or reconstruct the permitted access connection and/or construct and maintain traffic control devices and appurtenances.

6. The access connection shall be maintained between the right of way line and the shoulder line of said (highway, frontage service road of said highway, highway and/or frontage service road, "-" Line of said highway) by the Permit Holder, their heirs, successors or assigns.

7. On completion of said work herein contemplated, all rubbish and debris shall be immediately removed and the roadway and roadside shall be left neat and presentable and satisfactory to the Department.

8. The cost of construction or modification of a connection shall be the responsibility of the Permit Holder, including the cost of modification of any connection required as a result of changes on property site use in accordance with WAC 468-51-110.

9. The Department hereby reserves the right to order the change of location or the removal of any structure or structures authorized by this permit at any time, said change or removal to be made at the sole expense of the party or parties to whom this permit is issued, or their successors and assigns.

10. Existing permitted connections impacted by the Department's work program and which, in the consideration of the Department, necessitate modification, relocation, or replacement in order to meet current Department connection location, quantity, spacing, and design standards, shall be modified, relocated, or replaced in kind by the Department at no cost to the Permit Holder. The cost of further enhancements or modification to the altered, relocated, or replaced connections desired by the Permit Holder shall be the responsibility of the Permit Holder.

11. If any changes are made or proposed in the land use, intensity of development, type of traffic, or traffic flow of the property served by this connection permit, the Permit Holder is required to contact the Department to determine if further analysis is needed to determine if the change is significant and would require a new permit and modifications to the connection.

12. All such changes, reconstruction, or relocation by the Permit Holder shall be done in such manner as will cause the least interference with any of the Department's work, and the Department shall in no wise be held liable for any damage to the Permit Holder by reason of any such work by the Department, its agents or representatives, or by the exercise of any rights by the Department upon roads, streets, public places, or structures in question.

13. This permit or privilege shall not be deemed or held to be an exclusive one and shall not prohibit the Department from granting other permits or franchise rights of like or other nature to other public or private companies or individuals, nor shall it prevent the Department from using any of its roads, streets, or public places, or affect its right to full supervision and control over all or any part of them, none of which is hereby surrendered.

14. The Department may revoke, amend, or cancel this permit or any of the provisions thereof at any time by giving written notice to the Permit Holder. The Permit Holder shall immediately remove all facilities from the right of way. Any facilities remaining upon the right of way 30 days after written notice of cancellation shall be removed by the department at the Permit Holder's expense.

15. It is the responsibility of the applicant or Permit Holder to obtain any other local permits or other agency approvals that may be required, including satisfaction of all environmental regulations. It is also the responsibility of the Permit Holder to acquire any property rights necessary to provide continuity from the applicant's property to the Department's right-of-way if the Permit Holder's property does not abut the right of way.

16. The party or parties to whom this permit is issued shall maintain at its or their sole expense the structure or object for which this permit is granted in a condition satisfactory to the Department.

17. Any breach of any of the conditions and requirements herein made, or failure on the part of the Permit Holder of this permit to proceed with due diligence and in good faith after its acceptance, with construction work hereunder, shall subject this permit to cancellation as herein provided.

18. This permit is subject to all applicable provisions of 468-51 WAC, Chapter 47.50 RCW, Chapter 47.32 RCW, and/or Chapter 47.44 RCW, and amendments thereto.

DOT Form 224-005 EF
Revised 7/99

Washington State Department of Transportation

Special Provisions for Highway Encroachments

Permit No. AC00050027

Applicable provisions are denoted by (☒)

☒ 1. No work provided for herein shall be performed until the Grantee is authorized by the following Department representative:

Mr. Wayne Starck, Asst. Maintenance Superintendent
WSDOT Maintenance Area 2
4100 Cedardale Road
Mount Vernon, Washington 98273
Phone: 360-428-1424

☒ 2. Prior to the beginning of construction, a preconstruction conference shall be held at which the Department and the Grantee and Grantee's engineer, contractor, and inspector shall be present.

☒ 3. Should the Grantee choose to perform the work outlined herein with other than its own forces, a representative of the Grantee shall be present at all times unless otherwise agreed to by the Department representative. All contact between the Department and the Grantee's contractor shall be through the representative of the Grantee. Where the Grantee chooses to perform the work with its own forces, it may elect to appoint one of its own employees engaged in the construction as its representative. Failure to comply with this provision shall be grounds for restricting any further work by the Grantee within the State right of way until said requirement is met. The Grantee, at its own expense, shall adequately police and supervise all work on the above described project by itself, its contractor, subcontractor, agent, and others, so as not to endanger or injure any person or property.

4. A copy of the permit must be on the job site and protected from the elements at all times during any of the construction authorized by said permit.

☒ 5. This permit does not give the Grantee or any agent or contractor of the Grantee any rights to cut, spray, retard, remove, destroy, damage, disfigure or in any way modify the physical condition of any vegetative material located on the highway right of way, except by written permission from the Department or for purposes as described by No. 6 if denoted below. All restoration shall be done to the satisfaction of the Department at the sole expense of the Grantee.

☒ 6. If necessary to increase sight distance, brush shall be removed from both sides of the access connection and stumps shall be removed. The indiscriminate cutting of merchantable timber or disfiguring of any feature of scenic value shall not be permitted.

☐ 7. The access connection(s) shall be constructed in accordance with the attached
Sufficient length of -inch diameter culvert pipe shall be placed in ditch and laid to a true line and grade.
The access connection(s) shall be surfaced to the limits as shown on the plan with a 6-inch minimum compacted depth of gravel base material and a 3-inch compacted depth of crushed surfacing top course. Asphalt paving will not be required. Finished grade of the access connection shall be in accordance with the profile control as shown on the attached plan. Directing of surface water from private property to Department right of way will not be permitted, unless otherwise approved by the Department.

☒ 8. The access connection(s) shall be constructed in accordance with the attached Exhibits B and C.
Sufficient length of 12 -inch diameter culvert pipe shall be placed in ditch and laid to a true line and grade.
The access connection(s) shall be surfaced to the limits as shown on the plan with a 6-inch minimum compacted depth of gravel base material a 3-inch minimum compacted depth of crushed surfacing top course and paved with a 3-inch minimum compacted depth of Asphaltic Concrete Class B unless otherwise specified by the Department. Any existing oil mat on shoulder or roadway shall be removed and new pavement laid to a butt joint with existing pavement. Finished grade of new pavement shall be in accordance with the profile control as shown on attached plan. Directing of surface water from private property onto Department right of way will not be permitted, unless otherwise approved by the Department.

☒ 9. All buildings and appurtenances shall be so located at a distance from the right of way line of any State Highway that none of the right of way therefore is required for use of the patrons or customers of any such establishment. Grantee shall comply with local building codes. Set-back requirements for the location of buildings in relation to the right of way line are a function of local authorities, and they should be consulted regarding requirements that must be adhered to.

DOT Form 224-713 EF
8/94

Page 1

Exhibit "A"

10. The Grantee agrees to schedule the work herein referred to and perform said work in such a manner as not to delay the Department's contractor in the performance of his contract.

☒ 11. Work within the right of way shall be restricted to between the hours of 9:00 AM and 3:30 PM, and no work shall be allowed on the right of way Saturday, Sunday, or holidays, unless authorized by the Department. Any lane closures must be submitted for approval in advance of use. The hours of permitted closure may differ from the above noted hours.

☒ 12. The shoulders, where disturbed, shall be surfaced with crushed surfacing top course 4 - inch minimum compacted depth, or as directed by the Department. The surface of the finished shoulder shall slope down from the edge of pavement at the rate of 1/2 inch per foot unless otherwise directed. The restored shoulder must not have any strips or sections less than 2 feet wide. The restored shoulder shall be surfaced with ACP Class B or as directed during the Pre-construction meeting.

☒ 13. The Grantee shall be responsible for constructing and maintaining the access connection(s) and appurtenances between the shoulder line of the highway and the right of way line inclusive of surfacing and drainage. The Department has the right to inspect all installations at the time of construction and at any time afterward and to require that necessary changes and repairs be made. Unsatisfactory work will be corrected by the Department, at the Grantee's expense, or access may be removed at the Grantee's expense. Directing of surface water from private property onto Department right of way will not be permitted.

☒ 14. The access connection shall be sufficiently surfaced back an adequate distance from the edge of the pavement to prevent any tracking of material onto the highway. Any tracking of material onto the highway shall be subject to enforcement of Chapter 46.61.655 RCW and shall be immediately cleaned up by the Grantee or the Grantee's agent.

☒ 15. Standard highway warning signs designated as "Truck Crossing" sign, plate W11-6, shall be placed and maintained at Grantee's expense on each side of the access connection. Signs shall be in evidence only when access is actually being used. If necessary, flagmen shall be provided. Sufficient parking space shall be provided by the Grantee outside Department right of way so no vehicles will be parked on said right of way.

☐ 16. All manholes, valve covers, and like appurtenances shall be constructed at such an elevation to conform to the shoulder slope from the edge of pavement or as directed by the Department.

☒ 17. All slopes, slope treatment, top soil, ditches, pipes, etc., disturbed by this operation shall be restored to their original cross section and condition. All hazards shall be marked by warning signs, barricades, and lights. If necessary, flagmen shall be employed for the purpose of protecting the traveling public. Roadside operations shall be specified by the Department's representative.

☒ 18. During the construction and/or maintenance of this facility, the Grantee shall comply with the Manual on Uniform Traffic Control Devices for Streets and Highways. If determined necessary by the Department, the Grantee shall submit a signing and traffic control plan to the Department's representative for approval prior to construction or maintenance operations.

☐ 19. Bond coverage required to ensure proper compliance with all terms and conditions of said permit will be furnished by a Blanket Surety Bond held at Headquarters in Olympia.

☒ 20. A surety bond in the amount of $ 2,000 written by a surety company authorized to do business in the State of Washington, shall be furnished to ensure compliance with any and all of the terms and conditions of this permit and shall remain in force until all work under this permit has been completed and approved by the Department.

☐ 21. Relative to advertising adjacent to all State highways, we wish to call your attention to the Scenic Vistas Act of 1971, Chapter 47.42 RCW and State Transportation Commission ruling Chapter 468-66 WAC. Violation of this section of the statutes will be sufficient cause for cancellation of this permit. On-premise signs are allowed.

☒ 22. The Grantee shall notify the Department's representative upon completion of the work under this permit so that a final inspection can be made.

☒ 23. No lane closures shall be allowed except as approved by the Department representative. Approvals may cause revision of special provisions, including hours of operation.

☒ 24. The responsibility of the Grantee for proper performance, safe conduct, and adequate policing and supervision of the project shall not be lessened or otherwise affected by Department approval of plans, specifications, or work, or by the presence at the work site of Department representatives, or by compliance by the Grantee with any requests or recommendations made by such representatives.

☒ 25. All material and workmanship shall conform to the Washington State Department of Transportation Standard Specifications for Road, Bridge and Municipal Construction, current edition, and amendments thereto, and shall be subject to inspection by the Department.

DOT Form 224-713 EF 8/94 Page 2 **Exhibit "A"**

SPECIAL PROVISIONS FOR HIGHWAY ENCROACHMENTS

x26. The subject approach shall be constructed as specified on the attached exhibits.

x27. This permit is non-conforming because it does not meet the minimum the spacing between driveways. This portion of SR-9 is Class II Highway according to Highway Access Management WAC 468-52-040, and the required minimum spacing between driveways is 660 feet. Therefore, this access connection shall continue until such time that other reasonable access to a highway with a less restrictive access control or acceptable access to the general street system becomes available and is permitted.

x28. This permit is to be used to access one single family residence only and is limited to 100 or less AWDVTE. If more than one business/commercial access is needed in the future, a revised permit for such access shall be obtained from this office at that time.

x29. Access for any future subdivisions of the subject property shall only permitted through the subject driveway and no additional access points will be allowed.

Exhibit "A" Page 3 PERMIT NO. AC00050027

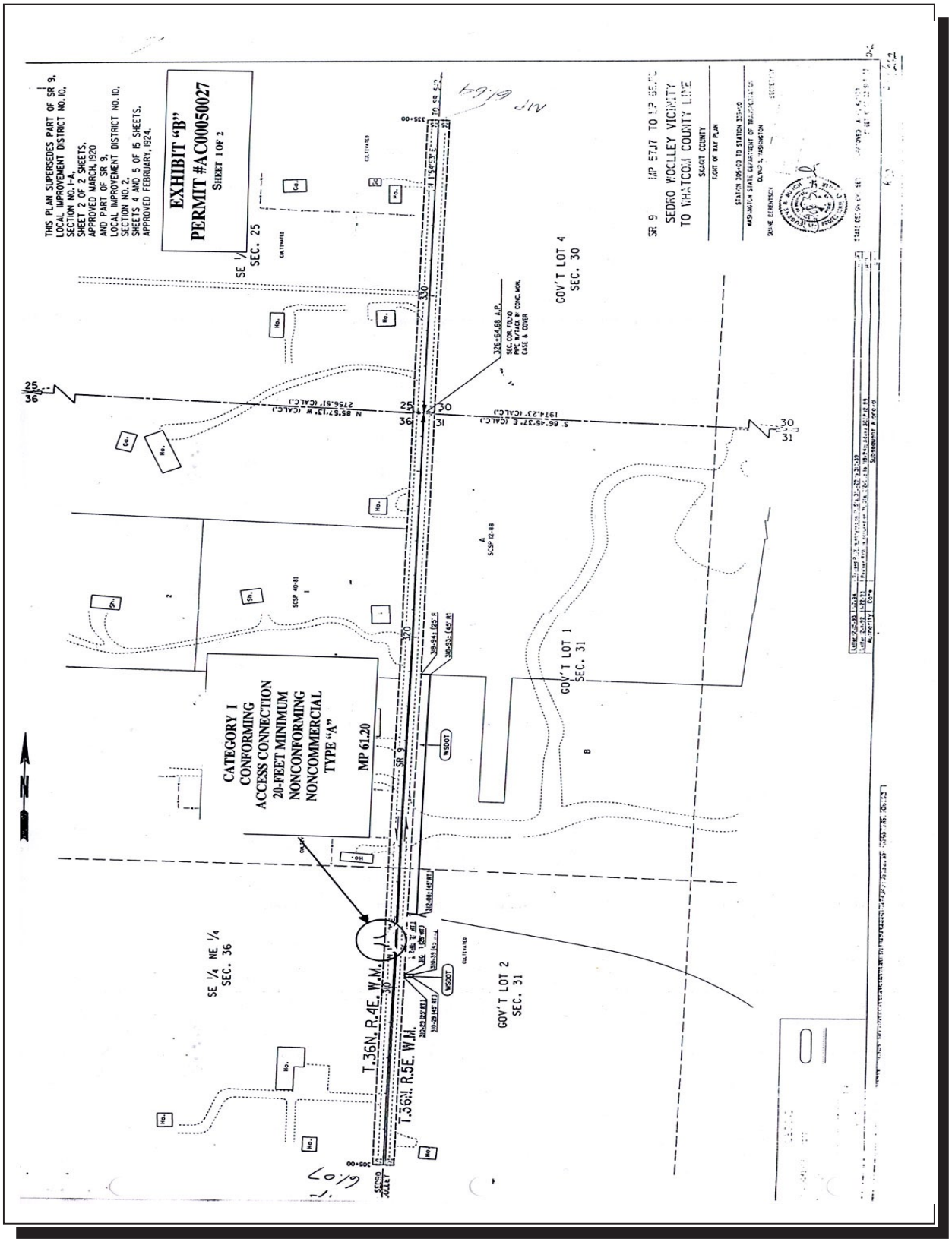
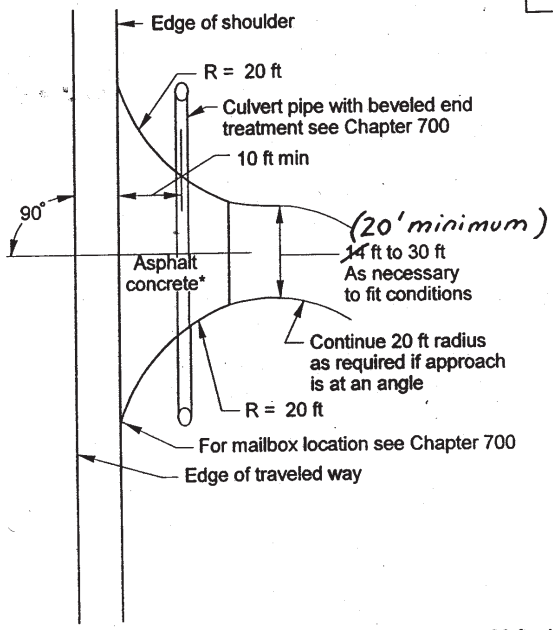
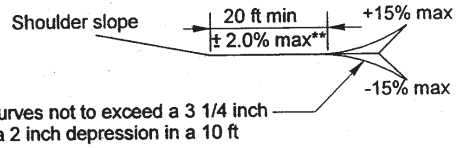

THIS PLAN SUPERSEDES PART OF SR 9, LOCAL IMPROVEMENT DISTRICT NO. 10, SECTION NO. 1-4, SHEET 2 OF 2 SHEETS, APPROVED MARCH, 1920 AND PART OF SR 9, LOCAL IMPROVEMENT DISTRICT NO. 10, SECTION NO. 2, SHEETS 4 AND 5 OF 15 SHEETS, APPROVED FEBRUARY, 1924.
EXHIBIT "B"
PERMIT #AC00050027
SHEET 1 OF 2
SR 9
SEDRO WOOLLEY VICINITY
TO WHATCOM COUNTY LINE
SKAGIT COUNTY
FLOW OF WAY PLAN
STATION 305+00 TO STATION 331+00
WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
OLYMPIA, WASHINGTON
SECRETARY
SEDRO WOOLLEY
GOV'T LOT 4
SEC. 30
GOV'T LOT 1
SEC. 31
GOV'T LOT 2
SEC. 31
SE 1/4 NE 1/4
SEC. 36
SE 1/4
SEC. 25
T.36N. R.4E. W.M.
T.36N. R.5E. W.M.
CATEGORY I
CONFORMING
ACCESS CONNECTION
20-FEET MINIMUM
NONCONFORMING
NONCOMMERCIAL
TYPE "A"
MP 61.20
SR 9
WSDOT
N 85°57'13" W (CALC.)
2756.51' (CALC.)
S 86°45'37" E (CALC.)
1974.23' (CALC.)
326+64.68 A.P.
SEC. CON. TO/O PIPE W/TACK W CONC. WCHL CASE & COVER
305+00
330+00
320
310
300
25
36
30
31

EXHIBIT "B"
PERMIT # AC00050027
SHEET 2 OF 2





*When the travel lanes are bituminous, a similar type may be used on the approaches.
**Difference from shoulder slope.

Noncommercial Approach Design Template A
Figure 920-3

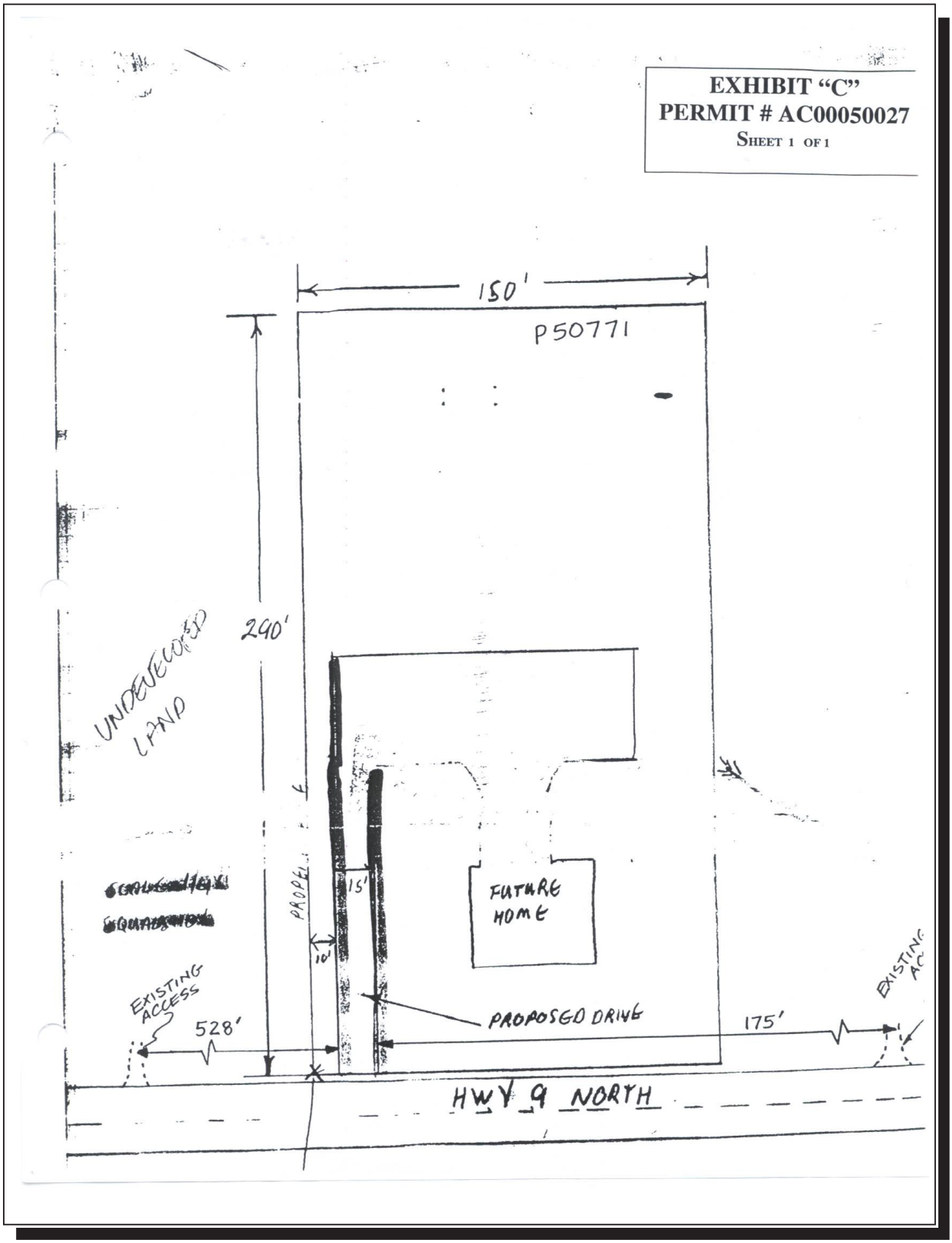


EXHIBIT "C"
PERMIT # AC00050027
SHEET 1 OF 1
150'
P50771
290'
UNDEVELOPED LAND
PROPERTY
15'
10'
FUTURE HOME
EXISTING ACCESS
528'
PROPOSED DRIVE
175'
EXISTING AC
HWY 9 NORTH

Example

Date

Owner
Address
City, WA ZIP

RE: Access Connection Permit XXXXX
SR XXX, MP X.XX RT

Dear "Owner:"

This letter approves your request for a Category I road approach to serve your residential parcel of land at the above-referenced location. Current regulations mandate that this connection be improved to WSDOT standards. Please see the attached Exhibit "C" for construction and paving details.

In order to complete this permit, please submit the following materials to our office within 30 days:

- The two (2) signed copies of the permit
- A surety bond in the amount of $X,000

We will then fully execute the permits and return one to you for your records. Your permit will become effective the day that it is signed by the Washington State Department of Transportation.

If we can be of any assistance, please contact "WSDOT representative" at (XXX) XXX-XXXX.

Sincerely,

Approving authority's name
Title

cc: Area Maintenance
File: AC permit

EXAMPLE

DATE

OWNER
ADDRESS
CITY, STATE ZIPCODE

SUBJECT: STATE ROUTE MILEPOST RTE.
ACCESS CONNECTION PERMIT NUMBER

Dear "OWNER:"

Enclosed is the fully executed copy of the referenced access permit for constructing and maintaining a driveway for a (PROPOSED LAND USE). Also attached is a copy of the $XXXX.XX Surety Bond No. XXXXX with (NAME OF SURETY BONDING COMPANY) for your records.

Please note that it will be necessary to hold a pre-construction meeting with our (LOCATION) Maintenance Office prior to commencing any construction activity for the subject driveway. Please contact (WSDOT REPRESENTATIVE) at (XXX) XXX-XXXX to arrange for this meeting.

The construction of this facility should start within 90 days and be completed within 120 days of issuance of this permit. If an extension is needed, please contact our office.

If you have any questions or need additional information, please contact (WSDOT DEVELOPMENT SERVICES REPRESENTATIVE) at XXX-XXX-XXXX of our Developer Services section.

Sincerely,

Approving Authority's Name
Title

cc: Maintenance Area MS

Enclosure

INSTRUCTIONS

Prior to constructing or reconstructing an approach to a State Highway in the State of Washington you are required by RCW 47.32 to obtain a permit from the Department of Transportation. The permit must be in the name of the property owner where the approach is located. No work is authorized on the approach until a permit has been granted and fully executed by both the Department and the property owner.

To assist in processing your request, please fill out the application completely and include all of the following data:

1. Legal description of your complete parcel, including the county tax parcel number, and described to at least the 1/16 Section (quarter of the quarter).
2. Proof of property ownership or easement (e.g. copy of County Property Tax Statement, Real Estate Contract, Warranty Deed, etc.
3. Description of intended use of the property AND a site plan.
4. One or more of the following:
   a. Approved building permit.
   b. Approved short plat or subdivision.
   c. Environmental clearance or approval.
   d. Any other approvals obtained.
5. Drainage plan with calculations, if available.

The location of the proposed approach shall be marked in the field in order to assist the Department's personnel in their review.

The Department prefers that no direct access to a State Highway be provided if the parcel has access to another road. We encourage adjacent properties to obtain a joint permit for access to a common point.

Because of the increased traffic on all State Highways, we are reviewing each approach application and may recommend that the approach location be moved to provide the safest location for both the applicant and the traveling public.

If you have any questions please call Olympic Region Development Services in Tumwater at (360) 357-2644.

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

* *

- **Send the completed application and additional data to the Department of Transportation at the address indicated below:**

W.S.D.O.T. – Olympic Region
Development Services
P. O. Box 47440
Olympia, WA 98504-7440

ROAD APPROACH INSTALLATION CHECKLIST

Permit Number_____**CS**_____**SR** _____**Area** _____

Maintenance Superintendent _____

PERMIT HOLDER _____

Representative's Name _____**PHONE**_____

Contractor _____

DATE reviewed_____

DATE Started_____

DATE Completed _____

DATE PERMIT HOLDER contacted State's representative before beginning work _____

NAME OF STATE REPRESENTATIVE_____

Remarks _____

_____

DATE paving BEGAN_____

ENDED_____

Remarks_____

_____

BUILT according to the permit _____

LOCATION PER PERMIT_____

Remarks_____

_____

EVALUATE THE QUALITY OF WORK _____

Remarks_____

_____

_____

***NOT BUILT according to the permit** _____

Remarks_____

_____

_____

Field Review **and remarks by :** _____**Date:**_____

PLEASE RETURN TO REGIONAL PLANNING OFFICE WHEN COMPLETE.

*** Please add any comments or attachments needed for permanent documentation of this approach.

*** If the approach is not completed, please list the dates the PERMIT HOLDER was contacted, brief description of conversation, and pictures of approach.

rev. 10/99

ASSIGNMENT OF SAVINGS/CERTIFICATE OF DEPOSIT

This assignment is for the purpose of fulfilling the requirement of bonding collateral for Permit _____. The undersigned does hereby assign, transfer, and set over unto the State of Washington all right, title and interest in and to _____ on_____(Account No.) in the _____ Branch, _____ Bank, in the name of _____, with full power and authority to demand, collect, and receive said deposit and to give receipt and acquaintance therefore for the uses and purposes prescribed above. It is understood and agreed that _____Branch, _____ Bank holds the Certificate covering said account in its possession and agrees to hold _____ until a release of this assignment from the State of Washington is received. The interest shall be payable to _____ _____.

Signed and dated at _____, Washington this _____ day of _____, 200_.

_____
Signature

_____
Address

ACCEPTANCE

The undersigned hereby accepts the foregoing Assignment of Savings Account/ Certificate of Deposit or Certificate Number _____, in the amount of this _____ day of _____, 200_.

_____
Bank

_____
Signature

_____
Title

Requested by Washington State Department of Transportation in lieu of surety bond.

_____
Troy A. Suing, P.E.
(509) 577-1630

Washington State
Department of Transportation

Example

Date

Bonding Company
Address
City, State + ZIP

ATTN: XXXX XXXX

RE: Access Connection permit XXXXX - Account Number XXX-XXXXXX-X
SR XXX MP X.XX, owners name

Dear Bonding Company name,

The intent of this letter is to notify you that the work on the above referenced access connection has been completed to the department's satisfaction.

We are hereby requesting the release of the above referenced Certificate of Deposit and/or Surety bond.

If you should have any questions please feel free to contact me at (XXX) XXX-XXXX.

Thank you in advance for your time.

Sincerely,

XXXXX
Region Planning office

cc: owner

Washington State Department of Transportation

Individual Bond for Franchise and Permit

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS: That we, _____

of _____ County _____ as Principal, and

_____ as Surety, are jointly and severally bound unto the STATE OF WASHINGTON

in the sum of _____ DOLLARS, for payment of which to the State of Washington,

we jointly and severally bind ourselves, our heirs, executors, administrators, and assigns, firmly by these presents.

WHEREAS, the Principal in pursuance of its operations has filed with the Washington State Department of Transportation, under the provisions of Chapter 47.50 RCW and/or Chapter 47.32 RCW and/or Chapter 47.44 RCW and amendments thereto, applications for franchise/permit number _____ on a portion of State Route No. _____ in _____ County, Washington.

NOW, THEREFORE, the condition of this obligation is such that if all the conditions of said franchise/permit, including the proper restoration of slopes, slope treatment, topsoil, landscape treatment, drainage facilities, and cleanup of right of way, are complied with according to the terms contained in said franchise/permit by said Principal, through a period in accordance with Chapter 468.34.020 (3) WAC and upon receipt of a written discharge from the State, then this obligation shall become null and void; otherwise, this bond to remain in full force and effect.

WITNESS our hands and seals this _____ day of _____ , _____ .

NOTE: Please **type or print below the signatures** the names of parties executing this bond, together with official title of each.

Principal: _____

Address:

Telephone: _____

_____

By: _____

Title: _____

Surety: _____

Address:

Telephone: _____

_____

By: _____

Title: _____

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

_____

By: _____

Title: _____

Date: _____

DOT Form 224-048 EF
Revised 6/95

Washington State Department of Transportation

Individual Bond for Agreement

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS: That we, _____

of _____ County _____ as Principal, and

_____ as Surety, are jointly and severally bound unto the STATE OF WASHINGTON

in the sum of _____ DOLLARS, for payment of which to the State of Washington,

we jointly and severally bind ourselves, our heirs, executors, administrators, and assigns, firmly by these presents.

WHEREAS, the Principal in pursuance of its operations has requested the permission of the Washington State Department of Transportation, to construct improvements within the state's right of way, and

WHEREAS, the Washington State Department of Transportation, has agreed to allow the Principal to construct these improvements on a portion of State Route No. _____ in _____ County, Washington, under the provisions of the agreement between these two parties hereinafter identified as agreement number _____ .

NOW, THEREFORE, the condition of this obligation is such that if all the conditions of said agreement including the proper restoration of slopes, slope treatment, topsoil, landscape treatment, drainage facilities and cleanup of right of way, are complied with according to the terms contained in said agreement by said Principal, through a period ending not more than _____ year(s) after date of completion of construction and upon receipt of a written discharge from the State, then this obligation shall become null and void, otherwise this bond to remain in full force and effect.

WITNESS our hands and seals this _____ day of _____ , _____ .

NOTE: Please **type or print below the signatures** the names of parties executing this Bond, together with official title of each.

Principal: _____

Address:

Telephone: _____

_____

By: _____

Title: _____

Surety: _____

Address:

Telephone: _____

_____

By: _____

Title: _____

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

_____

By: _____

Title: _____

Date: _____

DOT Form 224-049 EF
Revised 6/95

PLAN REVIEW CHECKLIST

DEVELOPER _____
PROJECT _____
SR _____ MP-_____ CS-_____ UC-_____ JA-_____

1. Roadway Section:

a. Paving Depths Shown? YES _____ NO _____ N/A_____

b. Ditch Section Shown? YES _____ NO _____ N/A_____

c. Overlay Entire Roadway? YES _____ NO _____ N/A_____

1. Grind Both Ends? YES _____ NO _____ N/A_____

2. Petro Mat Required? YES _____ NO _____ N/A_____

3. Crack Seal Required? YES _____ NO _____ N/A_____

d. Full Depth Paved Shoulders? YES _____ NO _____ N/A_____

e. Private Lab Inspection Required? YES _____ NO _____ N/A_____

f. Cross-Sections every 100 feet? YES _____ NO _____ N/A_____

g. Existing Access Connections Shown/Paved to R/W? YES _____ NO _____ N/A_____

h. Profiles of Access Connections Shown? YES _____ NO _____ N/A_____

i. Minimum 2 Ft. Wide CSTC Shoulder from EOP? YES _____ NO _____ N/A_____

2. **Drainage**:

a. Region Hydraulics Approved? YES _____ NO _____ N/A_____

b. Beveled End Sections Shown? YES _____ NO _____ N/A_____

c. Quarry Spalls around end of Pipes Shown? YES _____ NO _____ N/A_____

d. Designation of Pipe Type Shown? YES _____ NO _____ N/A_____

e. Existing CBs Shown to be adjusted to face of new curb? YES _____ NO _____ N/A_____

f. Temporary and Permanent Erosion Control Plan? YES _____ NO _____ N/A_____

3. **Channelization**:

a. Traffic Operations Approved? YES _____ NO _____ N/A_____

b. HQs Approved? YES _____ NO _____ N/A_____

c. Match existing Channelization at either end? YES _____ NO _____ N/A_____

d. Raised Pavement Markings Required/Shown? YES _____ NO _____ N/A_____

e. MMA Pavement Markings Required/Shown? YES _____ NO _____ N/A_____

f.	Stop Bar & Signal Detection Loops for Left-Turn-Lane Staggered Back?	YES _____	NO _____	N/A_____
g.	Striping Legend?	Yes _____	NO _____	N/A _____
4.	**Electrical**:			
a.	Electrical Design Office Approved?	YES _____	NO _____	N/A_____
b.	Service Agreement Obtained from	YES _____	NO _____	N/A_____
c.	Special Provisions for Signals/Illumination Included?	YES _____	NO _____	N/A_____
d.	Electrical Connection Requested from Utility Company?	YES _____	NO _____	N/A_____
5.	**Utilities**:			
a.	Various Utilities Shown?	YES _____	NO _____	N/A_____
b.	Power Poles/Underground Wiring Require Relocation?	YES _____	NO _____	N/A_____
	1. Utility Notified?	YES _____	NO _____	N/A_____
	2. Region Utilities Office Notified?	YES _____	NO _____	N/A_____
c.	Telephone Poles/Underground Wiring Require Relocation?	YES _____	NO _____	N/A_____
	1. Utility Notified?			
	2. Region Utilities Office Notified?			
d.	Fire Hydrants Shown to be Relocated?	YES _____	NO _____	N/A_____
e.	Water Meters/Valves Shown to be Adjusted?	YES _____	NO _____	N/A_____
f.	Telephone Riser Boxes to be Relocated?	YES _____	NO _____	N/A_____
g.	Mailboxes Shown/Relocated?	YES _____	NO _____	N/A_____
6.	**Signing**:			
a.	Signing Plan Submitted/Approved by Region Traffic Operations Office?	YES _____	NO _____	N/A_____
b.	Sign Type (Message and Specification Designation) Shown?	YES _____	NO _____	N/A_____
c.	Height of Signs Shown?	YES _____	NO _____	N/A_____
d.	Size and Type of Post Shown?	YES _____	NO _____	N/A_____
e.	Double Headed Arrow Sign for "I" Intersections?	YES _____	NO _____	N/A_____
	1. Object Marker Required/Shown?	YES _____	NO _____	N/A_____
7.	**Access Connections**:			
a.	Permit to be Inspected by Development Services Const. Rep.?	YES _____	NO _____	N/A_____
b.	Type "D" Commercial Access Designed to Existing Conditions?	YES _____	NO _____	N/A_____
c.	Right-In/Right-Out Traffic Islands Signed and Stripped Properly?	YES _____	NO _____	N/A_____
d.	Type "C" Traffic Curb Required?	YES _____	NO _____	N/A_____
e.	Proper Signing Included in Plans?	YES _____	NO _____	N/A_____

8. Traffic Control

a. Traffic Control Plan(s) Submitted for Approval? YES _____ NO _____ N/A_____

b. Traffic Control Supervisor Required for Project? YES _____ NO _____ N/A_____

9. Retaining Walls

a. Rock Wall: Region Material Approved? YES _____ NO _____ N/A_____

b. Conc/Soldier Pile: HQ Bridge Approved? YES _____ NO _____ N/A_____

c. Private Inspection Required? YES _____ NO _____ N/A_____

For more information click below:
<Appendex25PPP>

INSPECTION CHECKLIST

DEVELOPER _____

PROJECT _

SR-_____ MP-_____ CS-_____ UC- _____ JA _____

PRE-FINAL _____ NUMBER _____ FINAL _____

ITEM	COMPLETED			COMMENTS
Drainage Pipes and/or Ditches s	YES	NO	N/A	
Catch Basin & Manholes	YES	NO	N/A	
Curbs/Gutters	YES	NO	N/A	
Sidewalks	YES	NO	N/A	
ADA Curb Ramps	YES	NO	N/A	
Access Connection	YES	NO	N/A	
Utility Relocations	YES	NO	N/A	
Asphalt Relocations	YES	NO	N/A	
Striping (painted or MMA)	YES	NO	N/A	
MMA Stop Bars	YES	NO	N/A	
MMA Crosswalks and/or Arrows	YES	NO	N/A	
Raised Pavement Markers	YES	NO	N/A	
Signing	YES	NO	N/A	
Guardrail	YES	NO	N/A	
Shoulders	YES	NO	N/A	
Signalization System	YES	NO	N/A	
Illumination System	YES	NO	N/A	
Landscaping	YES	NO	N/A	
Miscellaneous	YES	NO	N/A	

WSDOT DEVELOPER/LOCAL AGENCY CONSTRUCTION REPRESENTATIVE DATE

Chapter 39.92 RCW
LOCAL TRANSPORTATION ACT

SECTIONS

39.92.010 Purpose

39.92.020 Definitions.

39.92.030 Local programs authorized.

39.92.040 Transportation impact fee.

39.92.050 Interlocal cooperation--Consistency and assistance.

39.92.900 Severability--Prospective application--1988 c 179

39.92.901 Section caption--1988 c 179

RCW 39.92.010
Purpose.

The legislature finds that there is an increasing need for local and regional transportation improvements as the result of both existing demands and the foreseeable future demands from economic growth and development within the state, including residential, commercial, and industrial development.

The legislature intends with this chapter to enable local governments to develop and adopt programs for the purpose of jointly funding, from public and private sources, transportation improvements necessitated in whole or in part by economic development and growth within their respective jurisdictions. The programs should provide a fair and predictable method for allocating the cost of necessary transportation improvements between the public and private sectors. The programs should include consideration of public transportation as a method of reducing off-site transportation impacts from development. The legislature finds that the private funds authorized to be collected pursuant to this chapter are for the purpose of mitigating the impacts of development and are not taxes. The state shall encourage and give priority to the state funding of local and regional transportation improvements that are funded in part by local, public, and private funds.

The authority provided by this chapter, RCW 35.43.182 through 35.43.188, and 36.88.072 through 36.88.078 for local governments to create and implement local transportation programs is intended to be supplemental, except as expressly provided in RCW 39.92.030(9), 82.02.020, and 36.73.120, to the existing authorities and responsibilities of local governments to regulate development and provide public facilities.

[1988 c 179 § 1.]

RCW 39.92.020
Definitions.

The definitions set forth in this section apply throughout this chapter.

(1) "Developer" means an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other person undertaking development and their successors and assigns.

(2) "Development" means the subdivision or short platting of land or the construction or reconstruction of residential, commercial, industrial, public, or any other building, building space, or land.

(3) "Direct result of the proposed development" means those quantifiable transportation impacts that are caused by vehicles or pedestrians whose trip origin or destination is the proposed development.

(4) "Local government" means all counties, cities, and towns in the state of Washington and transportation benefit districts created pursuant to chapter 36.73 RCW.

(5) "Off-site transportation improvements" means those transportation capital improvements designated in the local plan adopted under this chapter that are authorized to be undertaken by local government and that serve the transportation needs of more than one development.

(6) "Transportation impact fee" means a monetary charge imposed on new development for the purpose of mitigating off-site transportation impacts that are a direct result of the proposed development.

(7) "Fair market value" means the price in terms of money that a property will bring in a competitive and open market under all conditions of a fair sale, the buyer and seller each prudently knowledgeable, and assuming the price is not affected by undue stimulus, measured at the time of the dedication to local government of land or improved transportation facilities.

[1988 c 179 § 2.]

RCW 39.92.030
Local programs authorized.

Local governments may develop and adopt programs for the purpose of jointly funding, from public and private sources, transportation improvements necessitated in whole or in part by economic development and growth within their respective jurisdictions. Local governments shall adopt the programs by ordinance after notice and public hearing. Each program shall contain the elements described in this section.

(1) The program shall identify the geographic boundaries of the entire area or areas generally benefited by the proposed off-site transportation improvements and within which transportation impact fees will be imposed under this chapter.

(2) The program shall be based on an adopted comprehensive, long-term transportation plan identifying the proposed off-site transportation improvements reasonable and necessary to meet the future growth needs of the designated plan area and intended to be covered by this joint funding program, including acquisition of right of way, construction and reconstruction of all major and minor arterials and intersection improvements, and identifying design standards, levels of service, capacities, and costs applicable to the program. The program shall also indicate how

the transportation plan is coordinated with applicable transportation plans for the region and for adjacent jurisdictions. The program shall also indicate how public transportation and ride-sharing improvements and services will be used to reduce off-site transportation impacts from development.

(3) The program shall include at least a six-year capital funding program, updated annually, identifying the specific public sources and amounts of revenue necessary to pay for that portion of the cost of all off-site transportation improvements contained in the transportation plan that will not foreseeably be funded by transportation impact fees. The program shall include a proposed schedule for construction and expenditures of funds. The funding plan shall consider the additional local tax revenue estimated to be generated by new development within the plan area if all or a portion of the additional revenue is proposed to be earmarked as future appropriations for such off-site transportation improvements.

(4) The program shall authorize transportation impact fees to be imposed on new development within the plan area for the purpose of providing a portion of the funding for reasonable and necessary off-site transportation improvements to solve the cumulative impacts of planned growth and development in the plan area. Off-site transportation impacts shall be measured as a pro rata share of the capacity of the off-site transportation improvements being funded under the program. The fees shall not exceed the amount that the local government can demonstrate is reasonably necessary as a direct result of the proposed development.

(5) The program shall provide that the funds collected as a result of a particular new development shall be used in substantial part to pay for improvements mitigating the impacts of the development or be refunded to the property owners of record. Fees paid toward more than one transportation improvement may be pooled and expended on any one of the improvements mitigating the impact of the development. The funds shall be expended in all cases within six years of collection by the local government or the unexpended funds shall be refunded.

(6) The program shall also describe the formula, timing, security, credits, and other terms and conditions affecting the amount and method of payment of the transportation impact fees as further provided for in RCW 39.92.040. In calculating the amount of the fee, local government shall consider and give credit for the developer's participation in public transportation and ride-sharing improvements and services.

(7) The administrative element of the program shall include: An opportunity for administrative appeal by the developer and hearing before an independent examiner of the amount of the transportation impact fee imposed; establishment of a designated account for the public and private funds appropriated or collected for the transportation improvements identified in the plan; methods to enforce collection of the public and private funds identified in the program; designation of the administrative departments or other entities responsible for administering the program, including determination of fee amounts, transportation planning, and construction; and provisions for future amendment of the program including the addition of other off-site transportation improvements. The program shall not be amended in a manner to relieve local government of any contractual obligations made to prior developers.

(8) The program shall provide that private transportation impact fees shall not be collected for any off-site transportation improvement that is incapable of being reasonably carried out because of lack of public funds or other foreseeable impediment.

(9) The program shall provide that no transportation impact fee may be imposed on a development by local government pursuant to this program when mitigation of the same off-site transportation impacts for the development is being required by any government agency pursuant to any other local, state, or federal law.

[1988 c 179 § 3.]

RCW 39.92.040
Transportation impact fee.

The program shall describe the formula or method for calculating the amount of the transportation impact fees to be imposed on new development within the plan area. The program may require developers to pay a transportation impact fee for off-site transportation improvements not yet constructed and for those jointly-funded improvements constructed since the commencement of the program.

The program shall define the event in the development approval process that triggers a determination of the amount of the transportation impact fees and the event that triggers the obligation to make actual payment of the fees. However, the payment obligation shall not commence before the date the developer has obtained a building permit for the new development or, in the case of residential subdivisions or short plats, at the time of final plat approval, at the developer's option. If the developer of a residential subdivision or short plat elects to pay the fee at the date a building permit has been obtained, the option to pay the transportation impact fee by installments as authorized by this section is deemed to have been waived by the developer. The developer shall be given the option to pay the transportation impact fee in a lump sum, without interest, or by installment with reasonable interest over a period of five years or more as specified by the local government.

The local government shall require security for the obligation to pay the transportation impact fee, in the form of a recorded agreement, deed of trust, letter of credit, or other instrument determined satisfactory by the local government. The developer shall also be given credit against its obligations for the transportation impact fee, for the fair market value of off-site land and/or the cost of constructing off-site transportation improvements dedicated to the local government. If the value of the dedication exceeds the amount of transportation impact fee obligation, the developer is entitled to reimbursement from transportation impact fees attributable to the dedicated improvements and paid by subsequent developers within the plan area.

Payment of the transportation impact fee entitles the developer and its successors and assigns to credit against any other fee, local improvement district assessment, or other monetary imposition made specifically for the designated off-site transportation improvements intended to be covered by the transportation impact fee imposed pursuant to this program. The program shall also define the criteria for establishing periodic fee increases attributable to construction and related cost increases for the improvements designated in the program.

[1989 c 296 § 1; 1988 c 179 § 4.]

RCW 39.92.050
Interlocal cooperation -- Consistency and assistance.

Local governments are authorized and encouraged to enter into interlocal agreements to jointly develop and adopt with other local governments the transportation programs authorized by this chapter for the purpose of accomplishing regional transportation planning and development. Local governments shall also seek, to the greatest degree practicable, consistency among jurisdictions in the terms and conditions of their programs for the purpose of increasing fairness and predictability on a regional basis. Local governments shall seek comment, in the development of their programs, from other affected local governments, state agencies, and governments authorized to perform public transportation functions. Local governments are also encouraged to enter into interlocal agreements to provide technical assistance to each other, in return for reasonable reimbursement, for the purpose of developing and implementing such transportation programs.

[1988 c 179 § 5.]

RCW 39.92.900
Severability -- Prospective application -- 1988 c 179.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. This act is intended to be prospective, not retroactive, in its application.

[1988 c 179 § 17.]

RCW 39.92.901
Section captions -- 1988 c 179.

Section captions used in this act do not constitute any part of the law.

[1988 c 179 § 18.]

Level Of Service Thresholds for State Highways Set by RTPOs

February 20, 2004

	LOS for Non-HSS[1]		LOS for HSS[2]	
	Urban	Rural	Urban	Rural
(PSRC) Puget Sound Regional Council - TMA/MPO/RTPO				
King County	Tier 1 is Mitigated E_4		D	C
Pierce County	Tier 2 is D_4		D	C
Snohomish County	Tier 3 is C_4		D	C
Kitsap County[3]			D	C
(SRTC) Spokane Regional Transportation Council - TMA/MPO/RTPO				
Spokane County	D	C	D	C
(RTC) Southwest Washington Regional Transportation Council - TMA/MPO/RTPO				
Clark County	E	C	D	C
Skamania County	E	C	D	C
Klickitat County	E	C	D	C
(TRPC) Thurston Regional Planning Council - MPO/RTPO				
Thurston County	High density corridors/core areas E_5 Elsewhere in Urban Growth Area D_5 Outside Urban Growth Area C_5		D	C
(WCCOG) Whatcom Council of Governments - MPO/RTPO				
Whatcom County	D	C	D	C
(YVCOG) Yakima Valley Conference of Governments - MPO/RTPO				
Yakima County	D	C	D	C
(BFCG) Benton-Franklin Council of Governments - MPO/RTPO				
Benton County	D	C	D	C
Franklin County	D	C	D	C
Walla Walla County	D	C	D	C
(CWCOG/SWRTPO) Cowlitz-Wahkiakum Council of Governments - MPO/RTPO				
Cowlitz County	D	C	D	C
Wahkiakum County	D	C	D	C
Lewis County	D	C	D	C
Pacific County	D	C	D	C
Grays Harbor County	D	C	D	C
(NCRTPO) North Central - RTPO				
Chelan County	D	C	D	C
Douglas County	D	C	D	C
Okanogan County	D	C	D	C
(N.E.W. RTPO) North East Washington - RTPO				
Ferry County	D	C	D	C
Stevens County	D	C	D	C
Pend Oreille County	D	C	D	C
(Pal RTPO) Palouse - RTPO				
Columbia County	D	C	D	C
Garfield County	D	C	D	C
Whitman County	D	C	D	C
Asotin County	D	C	D	C
(PRTPO) Peninsula - RTPO				
Mason County	D	C	D	C
Jefferson County	D	C	D	C
Clallam County	D	C	D	C
Kitsap County[3]	See PSRC above	See PSRC above	D	C
(QUADCO) Quad County - RTPO				
Kittitas County	D	C	D	C
Grant County	D	C	D	C
Lincoln County	D	C	D	C
Adams County	D	C	D	C
(S/I RTPO) Skagit/Island - RTPO				
Skagit County	D	C	D	C
Island County	E	D	E	D

Notes:

1. *RTPOs have authority to set LOS Thresholds for Non HSS. LOS is based on Peak-Hour except where noted* [4, 5]
2. *LOS is based on Congestion Index 6 is approximately equal to LOS "C", 10~LOS "D", 12~LOS "E"*
3. *Kitsap County belongs to both PSRC and PRTPO*

4. *LOS will be measured consistent with the latest edition (preferred) of the Highway Capacity Manual and based on a one-hour p.m. peak period.*
Tier 1 : For this process, the "inner" urban area is generally defined as a 3-mile buffer around the most heavily traveled freeways (I-5, I-405, SR 167, SR 520, and I-90), plus all designated urban centers (most are located in the freeway buffer already). The proposed standard for Tier 1 routes is LOS "E/mitigated," meaning that congestion should be mitigated (such as transit) when p.m. peak hour LOS falls below LOS "E."
Tier 2 : These routes serve the "outer" urban area - those outside the 3-mile buffer - and connect the "main" urban growth area (UGA) to the first set of "satellite" UGA's (e.g., SR 410 to Enumclaw). These urban and rural areas are generally farther from transit alternatives, have fewer alternative roadway routes, and locally adopted LOS standards in these areas are generally LOS "D" or better. The proposed standard for Tier 2 routes is LOS "D."
Tier 3: Rural routes are regionally significant state routes in rural areas that are not in Tier 2. The proposed standard for rural routes is LOS "C," consistent with the rural standard in effect for those routes once they leave the four counties in the PSRC region, such as SR 530 entering Skagit County.
The LOS standards do not change within a city. For example, the change from Tier 1 to Tier 2 on SR 516 occurs at the Kent/Covington city limit boundary.
http://www.psrc.org/projects/mtp/los/los.htm

5. *TRPC regional goals are based on a two-hour PM peak. Urban Growth Areas are based on the Growth Management Act.*

MITIGATION AGREEMENT
FOR LAND DEVELOPMENT IMPACTS
TO STATE TRANSPORTATION FACILITIES

This Agreement is made this ____ day of _____, 200____, by and between the Washington State Department of Transportation ("WSDOT") and _____ and its heirs, successors and assigns ("DEVELOPER").

WHEREAS, WSDOT has the authority to perform all duties necessary for the planning, locating, designing, constructing, improving, repairing, operating and maintaining of State highways, bridges and other structures pursuant to Title 47 RCW and rules promulgated thereunder, Title 468 WAC; and

WHEREAS, WSDOT is required to identify significant adverse environmental impacts of new development on the State's transportation system and to provide for the mitigation of those land development impacts pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C RCW; and

WHEREAS, WSDOT has the authority pursuant to Title 47 RCW, Title 468 WAC, and Chapter 43.21C RCW to require DEVELOPER to mitigate its land development impacts to the State's transportation system as long as the required mitigation measures are reasonably related and proportional to said impacts; and

WHEREAS, DEVELOPER intends to develop the property (hereinafter called the "DEVELOPMENT") with (describe DEVELOPMENT and provide address) _____

_____

reviewed under [_____] (hereinafter called the [_____]) File Number _____; and

WHEREAS, DEVELOPER'S development has a significant adverse impact on the State's transportation system and such impact must be mitigated as part of the DEVELOPMENT plan,

NOW, THEREFORE, in accordance with the above-cited laws and the policies enacted thereunder, and in consideration of the terms and conditions contained herein,

IT IS MUTUALLY AGREED AS FOLLOWS:

I. PURPOSE

The purpose of this Agreement is to provide a mechanism by which the DEVELOPER agrees to mitigate the traffic impacts to the State highway transportation system caused by its DEVELOPMENT. DEVELOPER agrees that the mitigation measures contained in this Agreement are proportional and reasonably related to the impacts caused by its DEVELOPMENT. Based upon DEVELOPER's promise to fully comply with the terms of this Agreement, WSDOT shall permit, where appropriate, or shall not oppose the [_____]'s grant of the DEVELOPER's DEVELOPMENT application .

II. MITIGATION MEASURERS

1. Mitigation of Development Impacts on State Transportation Facilities

   WSDOT has identified, pursuant to DEVELOPER's Traffic Impact Study, the DEVELOPMENT's traffic impacts to the State's transportation facilities that are reasonably related and proportional to the DEVELOPMENT and which require capacity mitigation improvements necessary to support DEVELOPER's new DEVELOPMENT.

1.A. If DEVELOPMENT abuts a State highway facility, the WSDOT requires Developer Traffic Mitigation Measures as follows:

(1) Construct Frontage Improvements. Describe Improvements:

_____

_____**and/or**,

Pay the lump sum estimated cost of constructing the frontage improvements. Enter the estimated Cost $ _____**and/or,**

(2) Construct off-site highway improvements to mitigate LOS deficiencies and impacts on HAL locations (e.g., signalization and turn pockets).

Describe Improvements:_____

_____ **and/or,**

Pay the lump sum estimated cost of constructing the off-site improvements.

Enter the estimated Cost $ _____**and/or,**

(3) Dedication/Donation of property for right of way use: Describe Property:

Enter the estimated value $_____

_____**and/or**,

(**Note**: The value of property dedications/donations shall be based upon comparable sales consistent with the values used by the WSDOT to estimate the right of way costs for the projects included in **Exhibit C**. As an alternative, the value of property dedications/donations may be based upon an approved appraisal that is no more than two years old and which has been performed by a qualified appraiser licensed in the State of Washington.)

(4) Pay the traffic mitigation payment per Average Daily Trip (ADT) (Note: The calculation of this payment is set forth below). Enter the Cost $_____.

1.B. If DEVELOPMENT does not abut a State highway facility, the WSDOT requires the Developer Traffic Mitigation Measures as follows:

(1) Construct off-site highway improvements to mitigate LOS deficiencies and impacts on HAL locations (e.g., signalization and turn pockets). Describe Improvements: _____

_____**and/or**

Pay the lump sum estimated cost of constructing the frontage improvements. Enter the estimated Cost $ _____**and/or,**

(2) Pay the traffic mitigation payment per Average Daily Trip (ADT) (Note: the calculation of this payment is set forth below). Enter Cost $_____._____

NOTE: If DEVELOPER elects to construct improvement, DEVELOPER and WSDOT shall enter into a second agreement (Developer Agreement: Construction by Developer) that will provide for plans, specifications, actual construction and inspection of the improvements.

The Developer's traffic mitigation per ADT payment is calculated as follows:

WSDOT Programmed Projects (list all that apply)	ADTs Impacting Projects		Traffic Mitigation Payment
1.		$	$
2.		$	$
3.		$	$
		Total	$

III. CREDITS

Where the value of the DEVELOPER-constructed mitigation improvements required and/or the value of the property to be dedicated/donated to the WSDOT is part of the costs of a WSDOT programmed capacity project, DEVELOPER shall only receive credit against its traffic mitigation payment for DEVELOPER-constructed improvement or property as follows:

Value of Frontage Improvements $ _____(1)

Value of off-site Highway Improvements $ _____(2)

Value of Dedicated/Donated Property $ _____(3)

Total Credits $ _____(4)

IV. SUMMARY

Traffic Mitigation Payment Total Due $_____(5)

Total Credits (Line 4 above) $_____(6)

Net Amount of Traffic Mitigation Payment due (Line 5–Line 6) $_____(7)

(If Line 6 > Line 5, then Line 7 = 0)

The DEVELOPER agrees to a voluntary payment in lieu of construction to mitigate impacts of the DEVELOPMENT on WSDOT facilities equal to (Line 7 above): **$**_____

The traffic mitigation payment agreed to herein shall be paid prior to the granting of any building permit unless the DEVELOPMENT is a subdivision or short subdivision, in which case payment is required prior to recording of the subdivision plat or short subdivision plat; Provided, that where no building permit will be associated with a special use permit, then payment is required as a precondition to approval. In the alternative, traffic mitigation payments may be due as specified by the [_____].

Any portion of the traffic mitigation payments made pursuant to this Agreement and directly paid to the WSDOT shall be refunded to the DEVELOPER in the event that the WSDOT does not utilize any or all of the funds within five (5) years of the date of payment.

The WSDOT agrees that the mitigation measures as detailed in this Agreement will constitute DEVELOPER compliance with its obligation to mitigate its DEVELOPMENT's traffic impacts to the State highway system.

Washington State Department of Transportation (WSDOT)	DEVELOPER
_____	_____
Name:	Name:
_____	_____
Title:	Title:
	Company: _____
Dated this _____ day of _____ 200_	Dated this _____ day of _____ 200_

Pre-approved as to form, April 1, 2003 by Ann E. Salay, AAG:

Any material modification requires Additional approval of the Office of the Attorney General

Acknowledgment -– Individual

STATE OF WASHINGTON)

)ss

COUNTY/CITY OF _____)

This is to certify that I know or have satisfactory evidence that _____ is/are the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) is/are the person(s) who signed this instrument, and is/are authorized to execute this instrument, as the _____ of _____, and (he/she/they) acknowledged it to be (his/her/their) free and voluntary act for the uses and purposes mentioned within the instrument.

Dated: _____

NOTARY PUBLIC in and for the State of Washington residing at_____

My appointment expires_____

Acknowledgment - Corporation/Partnership

STATE OF WASHINGTON)

)ss

COUNTY/CITY OF _____)

I certify that I know or have satisfactory evidence that _____ igned this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

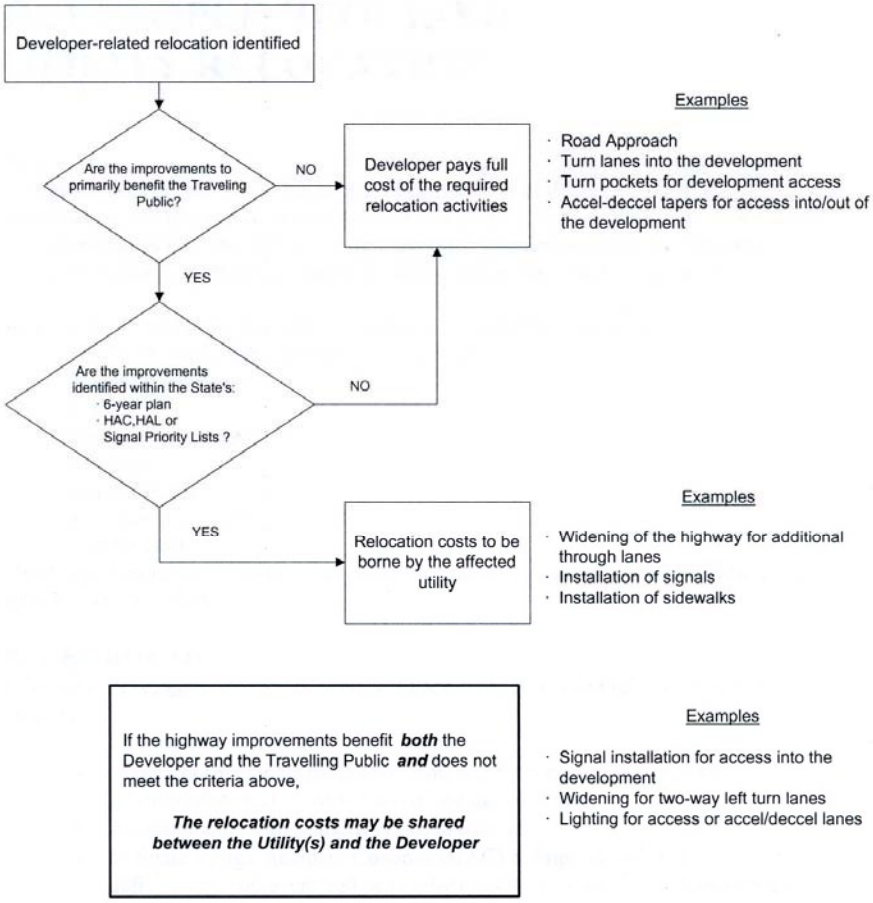
Dated: _____

NOTARY PUBLIC in and for the State of Washington residing at_____

My appointment expires_____

Guidelines for Determining Responsibility for Developer-Required Utility Relocation

Decision Diagram



1/30/98

COST GUIDELINE FOR DEVELOPER REQUIRED UTILITY RELOCATION

Purpose

Differences in law and policy have created a great deal of misunderstanding and delay in coordinating utility relocations over the last few years. This guideline provides a renewed understanding of how the utility and transportation agencies will handle these essential utility relocations and highway improvements when necessitated by private development.

This guideline has been developed in cooperation with representatives from:

WSDOT, Northwest and Olympic Regions

Puget Sound Energy

GTE

Snohomish County

US West

King County

Cascade Natural Gas

Master Builders

These agencies intend to follow this guideline and encourage all utilities, developers and agencies to also follow it.

BACKGROUND

The agencies development requires altering adjacent roadways and relocating utilities in order to:

- Provide access into the development
- Make improvements to adjacent and nearby impacted roadways to accommodate traffic into or out of the development.
- Accommodate future highway improvements.
- Mitigate a High Accident Corridor (HAC) or High Accident Location (HAL) deficiency on adjacent and/or nearby roadways to which the development traffic contributes.
- Mitigate a Level of Services (LOS) deficiency on adjacent and/or nearby roadways to which the development traffic contributes.

State Highways

Status

Utilities are allowed in the state highway right of way under a franchise or permit that requires the utility to relocate their facility "when necessary for the construction, alteration, repair or improvement of the highway and at the expense of the franchise holder" (RCW 47l44). The franchise holder is generally required to relocate utilities that are in the way of highway improvements in a timely manner, whether the project is being constructed by the state or by a developer. (*Exception:* driveways and other improvements that are solely or the advantage of the development.) Utilities continue to question if it is reasonable for them to bear the entire cost of relocation for highway improvements that have only small benefit to the overall state route.

Proposed Guidelines

The following guidelines generally have been agreed to by all parties. They are ***not*** intended to change any law, regulation, agreement and partnership necessary for all to manage the growth of development and infrastructure in a timely manner.

Utility relocation costs would be paid by the **developer** on highway improvement that:

- Primarily benefits the development.

Examples include: Road approaches, turn lanes into the development, turn pockets for development access, accel-decel tapers for access into and out of the development.

Utility relocation costs would be born by the **utility** if:

- Developer improvement provides a benefit to the traveling public and
- Developer improvement is included in the State or Local Agencies six year plan or
- Developer improvement is included in the State or Local Agencies list of High Accident Corridor (HAC), High Accident Location (HAL) or signal priority list and is expected to be funded for improvement within six years.

Examples include: widening of the highway for additional through lanes, installation of signals, sidewalks.

Utility Relocation Costs may be shared if:

- Improvements benefits both the development and the traveling public and,
- Does not meet the above criteria for costs to be paid by the developer or the utility.

  Examples may include: signal installation for access into the development, widening for two-way left turn lanes, lighting for access or accel-decel lanes.

If the parties disagree on who should pay for utility relocation all parties have agreed to meet and cooperatively work to solve the issue of cost or any problems that may have come up.

In all cases, to speed the utility relocation process, it is important for the developer to include all probable environmental impacts of utility relocation in their environmental documentation and permits.

The Developer needs to provide evidence to WSDOT that coordination with all utilities has occurred.

Status

Cities and counties also franchise and/or permit utilities on their road rights o way. The language in their franchises or permits often is more specific than the state's, and usually requires the utility to be burdened with the cost for the city or county projects. However, developer improvements are sometimes required to carry the cost of all utility relocation, whether to the benefit of the roadway or the development.

Proposed Guidelines

Although the principles used for State Highways could be applied here as well, franchise situations vary from city to city and county to county. Because of the differences in franchise language throughout the region, it is probably impossible to set uniform guidelines.

Individual agreements will have to be followed in each case. This can be complicated when utility relocation involves both local roads and a state highway. All parties must cooperatively determine how to share the costs for utility relocation. Because the city or county is the permitting agency, negotiate a solution with the city or county permit/ planning staff.