

BEFORE THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

IN RE: I-205/MILL PLAIN)	
INTERCHANGE TO NE 18 TH STREET (PHASE II))	LIMITED ACCESS
LIMITED ACCESS HEARING)	FINDINGS AND ORDER
)	

The hearing on the above entitled matter was held upon due notice to interested parties beginning at 6:30 P.M. Thursday, April 12, 2012 at the Southwest Regional Headquarters Office for the Washington State Department of Transportation 11018 NE 51st Circle, Room CR 102, Vancouver, Washington, before Administrative Law Judge (ALJ) Gina Hale.

The interested persons and organizations were represented as follows:

Media

THE COLUMBIAN, PO Box 180, Vancouver, WA 98666-0180

List of Legislators

SEN. MARIA CANTWELL, 915 Second Avenue, Suite 3206, Seattle, WA 98174

SEN. PATTY MURRY, 2988 Jackson Federal Building, 915 2nd Avenue, Seattle, WA 98174

REP. JAMIE HERRERA BEUTLER, O.O. Howard House, 750 Anderson Street, Suite B (Officers Row), Vancouver, WA 98661

SEN. JOSEPH ZARELLI, 204 Irving R. Newhouse Bldg, P.O. Box 40418, Olympia, WA 9850-0418

REP. ANN RIVERS, 469 John L. O'Brien Bldg, P.O. Box 40600, Olympia, WA 98504-0600

REP. ED ORCUTT, 408 John L. O'Brien Bldg, P.O. Box 40600, Olympia, WA 98504-0600

SEN. DON BENTON, 409 Legislative Building, P.O. Box 40417, Olympia, WA 98504-0417

REP. TIM PROBST, 419 John L. O'Brien Bldg, P.O. Box 40600, Olympia, WA 98504-0600

REP. PAUL HARRIS, 427 John L. O'Brien Bldg, P.O. Box 40600, Olympia, WA 98504-0600

SEN. CRAIG PRIDEMORE, 212 John A Cherberg Bldg, P.O. Box 40449, Olympia, WA 98504-0449

REP. SHARON WYLIE, 417 John L. O'Brien Bldg, P.O. Box 40600, Olympia, WA 98504-0600

REP JIM MOELLER, 429B Legislative Bldg, PO Box 40600, Olympia, WA 98504-0600

CITY OF VANOUVER MAYOR TIMOTHY D. LEAVITT, PO Box 1995, Vancouver, WA 98668-1995

CITY OF VANOUVER PUBLIC WORKS DIRECTOR BRIAN CARLSON, P.O. Box 1995, Vancouver, WA 98668-1995

BOARD OF CLARK COUNTY COMMISSIONERS, P.O. Box 5000, Vancouver, WA 98666

EXECUTIVE DIRECTOR/CEO OF C-TRAN JEFF HAMM, P.O. Box 2529, Vancouver, WA 98668-2529

SOUTHWEST WASHINGTON REGIONAL TRANSPORTATION COUNSEL DIRECTOR DEAN LOOKINGBILL, P.O. Box 1366, Vancouver, WA 98666-1366

List of Abutting or Affected Property Owners

MOUNTAIN VIEW PLACE LLC, P.O. Box 8007, Portland, OR 97207

MOOSE LODGE #1774, 11018 NE 18th St, Vancouver, WA 98684

BONNEVILLE POWER ASSOCIATION (BPA), C/O Dawneen Dosert, P.O. Box 3621, Portland, OR 97208-3621

ALVIN W. EILTS, C/O A H Eilts, 400 NW 80th St, Vancouver, WA 98665

PATRICK A & MELENIE J MCCLUER, 1610 NE 109th Ave, Vancouver, WA 98664

ALICE ONEAL (TRUSTEE), C/O O'Neal Living Trust, 10910 NE 18th St, Vancouver, WA 98664

MELVIN & BEVERLY HELLAND, 10821 NE 18TH St, Vancouver, WA 98664

VIKTOR & OLENA KOVALENKO, 1603 NE 107TH Ave, Vancouver, WA 98664

CITY OF VANCOUVER, PO Box 1995, Vancouver, WA 98668

GORDON & ALISON JENSEN, 10703 NE 19TH St, Vancouver, WA 98664

BUSH ENTERPRISES, LLC, P.O. Box 1929, Vancouver, WA 98668

LEONARD & LORETTA KNOPP, 10605 NE 19th St, Vancouver, WA 98664

SUSAN A OSTRER, 10603 NE 19th St, Vancouver, WA 98664

As a courtesy to interested citizens, the Washington State Department of Transportation, hereinafter “the Department,” or alternatively, “WSDOT,” furnishes a copy of these Findings and Order to all persons filing a Notice of Appearance, even though some may not properly be parties to the hearing. For administrative convenience, all persons who provided written or verbal comments, filed a Notice of Appearance, or are listed on the Affidavit of Service by Mailing for the Access Hearing as abutting property owners, are listed above. The Department by including a person in this listing and by furnishing a copy of the Findings and Order, does not acknowledge or necessarily recognize the recipient to be a proper party to the hearing.

Leon Winger, Area Engineer for the Vancouver Area Engineering Office, called the meeting to order under the provisions of chapter 47.52 Revised Code of Washington (RCW). Hearing guidelines and legal requirements were provided by Administrative law Judge Gina Hale. Evidence was taken by Court Reporter Tanya L McCreary, who, thereafter, transcribed the verbal testimony. Certain exhibits were duly introduced and admitted into evidence. Additional exhibits were added as necessary to respond to comments received at or subsequent to the hearing. Based upon the oral evidence, the exhibits introduced into evidence, and the additional exhibits entered into the record subsequent to the hearing, and acting under the authority of the Secretary of Transportation for the State of Washington, the Assistant Secretary of Engineering and Regional Operations makes the following findings:

1. PROCEDURAL FINDINGS

On August 1, 1968, Washington State Commission Resolution No. 2000 designated SR 205 MP 0.00 to MP 10.95 Columbia River to Jct SR 5 in Clark County, Washington as a Limited Access facility.

In 2012, a new plan was prepared, superseding a portion of the above Plans, entitled “SR 205, NE 18TH ST VICINITY.” This Access Hearing Plan (Full and Modified Control) is shown on sheet 1 of 1, approved and adopted on March 1, 2012 (hereinafter “Access Hearing Plan”). This plan was admitted into evidence, marked as Exhibit No.5 and made part of the hearing record.

This plan is the subject of this Limited Access Findings and Order.

As part of the preparation of the above-described proposed Access Hearing Plan, the Department solicited and received from public agencies concerned with the proposed plan their available data on planning, land use, local traffic, and other information. Thereafter, the Department prepared and submitted to the appropriate officials an Access Report entitled, “Mill Plain Interchange to NE 18th Street Project, Access Hearing Report,” dated January 2012. This report shows that such data has been taken into account by the Department as required by chapter 47.52 RCW. A copy of the Access Report was admitted into the evidence, marked as Exhibit 4, and made part of the hearing record.

2. NOTICE OF HEARING

On March 8, 2012, the State Design Engineer by Order proposed said Access Hearing Plan and set a hearing date for April 12, 2012, in accordance with the provisions of chapter 47.52 RCW. The Order of Hearing was admitted into evidence, marked as Exhibit No. 1, and made part of the hearing record.

As part of the Notice of Access Hearing, the Department prepared and mailed copies of relevant Access Hearing materials, including (1) an introductory cover letter, (2) a blank Notice of Appearance form, (3) Notice of Limited Access Hearing, (4) Channelization Plan, and (5) proposed Access Hearing Plan:

- “SR 205 NE 18TH ST VICINITY,” Clark County, Access Hearing Plan, Full and Modified Control, sheet 1 of 1, dated March 1, 2012

These Access Hearing materials were mailed on March 28, 2012 to the abutting property owners of record, as evidenced by the Affidavit of Service by Mailing signed by Douglas Hinzmann and notarized by Serena Lawrence, both on March 28, 2012. The list of recipients of the mailing is attached as Exhibit A to the Affidavit. The signed Affidavit of Service by Mailing and the Access Hearing materials were admitted into evidence, marked as Exhibit No. 2, and made part of the hearing record.

On March 28, 2012, a copy of the “Notice of Limited Access Control Hearing” was published in The Columbian, as shown by the Affidavit of Publication with printed ad copy attached, signed by Judy Moody, Principal Clerk of the Printer of The Columbian. A copy was also published in The Oregonian, as shown by the Affidavit of Publication with the printed ad copy attached, signed by G. Hatter, Principal Clerk of the Publisher of The Oregonian. These Affidavits of Publication were admitted into evidence, marked as Exhibit No. 3, and made part of the hearing record.

3. PRESERVATION OF PUBLIC INVESTMENT

This section of State Route (SR) 205 (I-205) is an important and heavily used part of the State of Washington’s highway system, representing a substantial expenditure of public funds to facilitate public travel. SR 205 is functionally classified as an interstate highway and is part of the National Highway System. Department of Transportation policy provides for the establishment of limited access control on highways of this type. The proposed access control within the project limits on SR 205 will be established as Full and Modified control as shown on the proposed Access Hearing Plan entered into evidence, marked as Exhibits No 5. In limiting access as shown on the proposed Access Hearing Plan, traffic congestion is reduced, traffic safety is increased, and the highway is preserved for efficient future use, protecting the investment of public funds.

The efficiency of the SR 205 as a means of moving a maximum volume of traffic in an optimal and safe manner is directly related to the number of access points onto the highway. It has been demonstrated in the past that as property owners establish approaches onto a highway for their personal use or business use, the optimum operation of the facility gradually diminishes and becomes obsolete. Therefore, access points should be kept to a minimum consistent with allowing local traffic adequate use of the facility at properly designed intersections in order to preserve a highway’s efficiency and safety.

The proposed Access Hearing Plan for the establishment of Full and Modified limited access control as shown on the plan entitled, "SR 205, NE 18th ST. VICINITY," Sheet 1 of 1, dated March 1, 2012, admitted into evidence marked as Exhibit No 5, will facilitate travel, reduce accident rates, preserve the public investment, and sustain the highway as a modern transportation facility.

4. EXHIBITS

The following exhibits were identified and entered into evidence at or subsequent to the hearing and are also made part of the hearing record:

- Exhibit No. 1 Order of Hearing, dated March 8, 2012
- Exhibit No. 2 Affidavit of Service by Mailing, dated March 28, 2012
- Exhibit No. 3. Affidavits of Publication, The Oregonian, dated March 29, 2012 and The Columbian, dated March 28, 2012
- Exhibit No. 4 Access Report, Mill Plain Interchange to NE 18th Street Project, dated January 2012
- Exhibit No. 5 Proposed Access Hearing Plan entitled, "SR 205, NE 18TH ST. VICINITY," sheet 1 of 1, CLARK COUNTY, dated March 1, 2012.
- Exhibit No. 6 Limited Access Hearing, Presentation Slides, dated April 12, 2012
- Exhibit No. 7 Comment Sheet, containing the written comments of Heather Crumbaker, a non abutting property owner, dated April 12, 2012
- Exhibit No. 8 Letter with email attachment, dated April 26, 2012, from Matt Ransom, Manager, Project Development and Policy, City of Vancouver, Parcel No. 4-08367
- Exhibit No. 9 Email, dated April 25, 2012, from Jim Quintana, Senior Manager of Development and Public Affairs of C-TRAN

5. SPECIFIC ACCESS RESPONSES

The Assistant Secretary for Engineering and Regional Operations has considered the following comments of abutting or affected property owners and public agencies as part of the Access Hearing process and responds to each as follows:

1. **Mr. Matt Ransom**, representing the City of Vancouver, by letter, dated April 26, 2012, Exhibit 8. Following Mr. Ransom's comments are the Department's responses:

- a. *"...WSDOT access control plan should note the plan for full/controlled access at that location. Roadway widening will occur at future construction and the Access Plan should align with the new roadway cross section dimensions to be built by Vancouver."*

WSDOT Response: We are only able to update our plans based on current projects. If other project are funded and built, in the future, the Access will have to be adjusted at that time.

- b. *"Please consider a note on the plans indicating this planned improvement and that revisions may be needed in the future based on planned work and will occur through mutual consultation."*

WSDOT Response: We are only able to update our plans based on current projects. If other project are funded and built in the future the Access will have to be adjusted at that time.

- c. *"Please revise the note stating "for relinquishment to County" to "for relinquishment to City of Vancouver."*

WSDOT Response: WSDOT has made this plan change, shown on Exhibit A.

- d. *"Please add an access note for parcels: 4-08367; 4-08354; 4-08353; 4-08366; and each of the three individual Bonneville Power Administration (BPA) parcels (or where BPA has use easements) south of NE 18th street (unnamed in the draft Access Plan) to allow for pedestrian only access breaks into the limited access control area. The purpose for this need is to facilitate future pedestrian/ sidewalk/ multi-use trail connections from the adjacent parcels noted above, accessing onto the sidewalk/Trail within the NE 18th Street ROW and limited access area."*

WSDOT Response: WSDOT has made these plan changes, shown on Exhibit A. Thank you for your comments.

2. **Heather Crumbaker**, non-abutting property owner, on a Comment Sheet submitted at the Access Hearing on April 12, 2012, Exhibit No. 7, representing herself, made multiple comments shown below. Following Ms. Crumbaker's statements are the Department's responses:

- a. *"Terriable [sic] idea!"*

WSDOT Response: WSDOT traffic data supports this project. If you would like more information, please contact our office for further information on the traffic analysis.

- b. *"The I-205/Mill Plain West is Extremely dangerous! You are doing nothing to address this issue. 18th is a very Bad idea ALWAYS HAS Been AND it will only make the traffic congestion worse."*

WSDOT Response: Traffic modeling indicates that the proposed improvements will improve traffic congestion. If you would like more information, please contact our office for further information on the traffic analysis.

c. *“Portland is in the process of Doubling the width of the Airport Way on Ramp to I-205 North this will make I-205 a parking lot.”*

WSDOT Response: This is a concern you will need to address with the Oregon Department of Transportation.

d. *“The access roads, running parallel to I-205 will remove the mounds of Dirt [that] were made to reduce pollution and noise. Removal of these barriers will increase pollution, sound and expose property owners to invasive car collisions.”*

WSDOT Response: This project utilizes environmental studies, including a noise study, to support its highway plans. Noise walls will be constructed where the data warrants them. The project will comply with environmental regulations. All WSDOT highway design and construction are coordinated with an experienced Environmental team.

e. *“These Access Roads do nothing to address the “Rear-end collisions at the I-205 NB offramp to Mill Plain Boulevard”*

WSDOT Response: Traffic analysis does not support this assertion. Thank you for your comments.

3. **Mr. Jim Quintana, representing C-TRAN, by email, dated April 25, 2012, Exhibit 9.** Following Mr. Quintana’s statements are the Department’s responses:

“C-TRAN fully supports the I-205/Mill Plain to NE 18th Street Project. We appreciate and look forward to working with Washington State Department of Transportation staff to identify a potential site(s) suitable for a new C-TRAN park and ride in the project areas.”

WSDOT Response: No changes to the Access Plan are requested by C-TRAN. WSDOT will continue to coordinate with C-TRAN.

Thank you for your comments.

6. PROPOSED LIMITED ACCESS PLAN MODIFICATION

The Assistant Secretary of Engineering and Regional Operations has considered the evidence on the entire portion of the “SR 205 NE 18TH ST. VICINITY,” Access Hearing Plan (Full an Modified Control), sheet 1 of 1, dated March 1, 2012, and finds that the plan as admitted into evidence, marked

Exhibit No. 5, should be modified as hereinafter set forth and marked as Exhibit A to this Limited Access Findings and Order, as follows:

1. Revise plan sheet 1 of 1 to the notes providing "FOR RELINQUISHMENT TO COUNTY" to providing "FOR RELINQUISHMENT TO CITY OF VANCOUVER."
2. Revise plan sheet 1 of 1 to correct station offset at WE6 23+46 LT from RT designation to LT designation.
3. Revise plan sheet 1 of 1, Access Note to read: "PEDESTRIANS AND BICYCLES WILL BE PERMITTED USE OF DESIGNATED PEDESTRIAN OR MIXED USE FACILITIES BETWEEN STA WE6 12+31.20 AND STA WE6 26+88."

7. ORDER

The Assistant Secretary of Engineering and Regional Operations specifically finds in the case of each abutting ownership that the adoption of the plan making said highway a limited access facility, said plan being attached hereto and marked Exhibit A, with the revisions as listed herein, are required for public convenience and necessity.

Based upon the foregoing findings and the evidence supporting them, the Assistant Secretary of Engineering and Regional Operations for the Department of Transportation of the State of Washington,

ORDERS:

A.

That the identified section of State Route 205 in Clark County, Washington is hereby designated as a limited access highway of Full and Modified control type:

Between SR 205 Right of Way centerline Sta. LR 241+00 to Sta. LR 267+00 as shown on sheet 1 of 1 of the Access Hearing Plan entitled "SR 205, NE 18TH S. VICINITY," Clark County, dated March 1, 2012.

B.

That the plan set forth in Exhibit No. 5 for the establishment and modification of access control of said highway be revised as follows, and as further shown on Exhibit A, hereto attached and by this reference made a part hereof:

1. Revise plan sheet 1 of 1 to change the notes providing "FOR RELINQUISHMENT TO COUNTY" to providing "FOR RELINQUISHMENT TO CITY OF VANCOUVER."
2. Revise plan sheet 1 of 1 to correct station offset at WE6 23+46 LT from RT designation to LT designation.
3. Revise plan sheet 1 of 1 Note to read, "PEDESTRIANS AND BICYCLES WILL BE PERMITTED USE OF DESIGNATED PEDESTRIAN OR MIXED USE FACILITIES BETWEEN STA WE6 12+31.20 AND STA WE6 26+88."

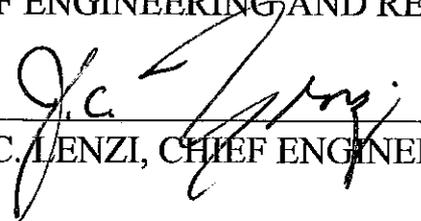
C.

That the Access Hearing Plan (Full and Modified Control) entitled,

"SR 205, NE 18TH ST VICINITY," sheet 1 of 1, Clark County, sheet 1 of 1, dated March 1, 2012, as reflected in Exhibit A, is hereby adopted.

ADOPTED THIS 30th DAY OF July, 2012

ASSISTANT SECRETARY
OF ENGINEERING AND REGIONAL OPERATIONS



J.C. LENZI, CHIEF ENGINEER

APPROVED AS TO FORM:



ASSISTANT ATTORNEY GENERAL