

BEFORE THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

IN RE: STATE ROUTE 520)	
)	
LAKE WASHINGTON TO SR 405 VICINITY)	LIMITED ACCESS
MP 3.87 TO 6.66)	FINDINGS AND ORDER
<u>LIMITED ACCESS HEARING</u>)	

The hearing on the above entitled matter was held upon due notice to interested parties, beginning at 5:30 PM, Wednesday, July 20, 2011 at Bellevue Christian School Three Points Elementary, 7800 N.E. 28th Street, Multipurpose Room, Medina, Washington, before Administrative Law Judge (ALJ) Jason Grover, Hearing Examiner of the Office of Administrative Hearings.

The interested persons and organizations were represented as follows:

Media

Bellevue Reporter, 919 124th Avenue N.E. Suite 104, Bellevue, WA 98004

List of Legislators

The team worked with WSDOT headquarters to notify the following state and elected officials:

Senator Rodney Tom
220 J. A. Cherberg Building
PO Box 40448
Olympia, WA 98504
(360) 786-7694

Representative Ross Hunter
330 John L. O'Brien Building
PO Box 40600
Olympia, WA 98504
(360) 786-7936

Representative Deb Eddy
132D Legislative Building
PO Box 40600
Olympia, WA 98504
(360) 786-7848

Senator Mary Margaret Haugen
311 J.A. Cherberg Building
PO Box 40468
Olympia, WA 98504

Representative Judy Clibborn
John L. O'Brien Building
Room JLOB 241-A

PO Box 40600
Olympia, WA 98504

List of Government and Local Agencies

City of Bellevue
450 110th Avenue N.E.
Bellevue, WA 98004

City of Clyde Hill
9605 N.E. 24th St.
Clyde Hill, WA 98004

City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033

City of Medina
501 Evergreen Point Road
Medina, WA 98039

Town of Hunts Point
3000 Hunts Point Road
Hunts Point, WA 98004

Town of Yarrow Point
4030 95th Avenue N.E.
Yarrow Point, WA 98004

Federal Highways Administration – Washington State Division
711 S. Capitol Way Suite 501
Olympia, WA 98501
(360) 753-9480

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List of Affected Property Owners

WSDOT							
Sheet #	Parcel #	Owner of Record	Parcel House #	Parcel Street	Parcel City	Parcel State	Parcel Zip
2	1-23165	Greg B. Brown	3201	Evergreen Point Road	Medina	WA	98039
2	1-23199	David E. Martin	3205	Evergreen Point Road	Medina	WA	98039
2	1-22846	Petrisor, Cornell and Rodica	3207	Evergreen Point Road	Medina	WA	98039
3	1-23202	City of Medina	King County Parcel #242504-9088		Medina	WA	98039
3	1-23201	Bellevue School District #405	7800	NE 28th Street	Medina	WA	98039
4	1-23203	Lollo, Loreto	8044	NE 28th Street	Hunts Point	WA	98004
6	1-22894	Khorram, Farzin & Roya	2715	84th Place NE	Bellevue	WA	98004
6	1-22893	Brady, Gary P. & Karyn T.	8410	NE 27th Place	Bellevue	WA	98004
6	1-22892	Convenience Retailers, LLC	2724	84th Avenue NE	Bellevue	WA	98004
6	1-22891	Patterson, David J. & Roberta	2564	Medina Circle	Medina	WA	98039
6	1-22890	Yen, Susan Yao Tsui & Yuan Pi	2562	Medina Circle	Medina	WA	98039
8	1-23205	Bahn, Nicholas	9106	NE 32nd St	Bellevue	WA	98004
8	1-23204	Satyendra, Bahadur	9021	NE 32nd Pl	Bellevue	WA	98004
9	1-22900	Landis, Gregory	8228	Points Drive NE	Yarrow Point	WA	98004
9	1-22898	Schneider, Carol-Sharon	3429	92nd Avenue NE	Bellevue	WA	98004
9	1-22897	Fell, Harold	3407	92nd Avenue NE	Bellevue	WA	98004
9	1-22896	Raheem, Michael & Kami Lemonds	9071	NE 34th Street	Yarrow Point	WA	98004
9	1-22895	Molnar, John	9064	NE 33rd Street	Bellevue	WA	98004
9	1-23164	Gray, Kristofer & Kimberly	9229	Points Drive NE	Bellevue	WA	98004
10	1-22837	Boyle, John T	3205	92nd Avenue NE	Bellevue	WA	98004
10	1-22901	Ford, Michael M	9055	NE 32nd Street	Clyde Hill	WA	98004

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WSDOT		Parcel					
Sheet #	Parcel #	Owner of Record	House #	Parcel Street	Parcel City	Parcel State	Parcel Zip
10	1-22902	Torres, Philip R	3131	92nd Avenue NE	Clyde Hill	WA	98039
10	1-22903	Robertson, John & Angela	3114	92nd Avenue NE	Clyde Hill	WA	98039
10	1-22904	Patterson, Sally	3120	92nd Avenue NE	Clyde Hill	WA	98039
10	1-22839	Clifton, James F. & Rachel	3223	93rd Place NE	Clyde Hill	WA	98039
10	1-22905	Clifton, James F	3208	92nd Avenue NE	Clyde Hill	WA	98039
10	1-22845	Ashe, John & Christine	3228	93rd Place NE	Clyde Hill	WA	98004
10	1-23151	City of Clyde Hill	King Count	None Listed	Clyde Hill	WA	98004
10	1-23156	Silva, Bruno & Darsa L.	3216	93rd Place NE	Clyde Hill	WA	98004
10	1-23157	Gadre, Aniruddha & Rupa L.	9312	NE 32nd Street	Clyde Hill	WA	98004
10	1-23158	Casey, D. & McEntyre, M.	9233	NE 32nd Street	Clyde Hill	WA	98039
10	1-23159	Smith, Justin & Megan	9247	NE 32nd Street	Clyde Hill	WA	98039
10	1-23160	Coburn, Virginia	9255	NE 32nd Street	Clyde Hill	WA	98004
10	1-23161	Brehm, Virginia G.	9406	NE 32nd Street	Clyde Hill	WA	98004
10	1-23162	Rongner, Roger & Patricia	9215	NE 32nd Street	Clyde Hill	WA	98004
10	1-23207	Lundgren, Margaret C.	3223	92nd Avenue NE	Clyde Hill	WA	98004
10	1-23163	Wittenberger, Michael R.	9221	NE 32nd Street	Clyde Hill	WA	98004
13	1-23208	Goates, Paul and Kimberly	9632	NE 35th Place	Clyde Hill	WA	98004
15	1-22907	KCO Restaurants Properties	10426	Northup Way	Kirkland	WA	98004
15	1-22906	Yarrow bay Plaza Inc.	10230	Points Drive NE, Suite #110	Kirkland	WA	98004
16	1-22908	Russell, Zachary and Kathryn	3242	103rd Avenue NE	Bellevue	WA	98004
17	1-22909	Zahren, Dianne M & Dean	3128	103rd Avenue NE	Bellevue	WA	98004
17	1-22910	Kim, Sook Ja	3118	103rd Avenue NE	Bellevue	WA	98004
17	1-23147	Van, Jennifer	3106	103rd Avenue NE	Bellevue	WA	98004
17	1-23150	Lake Corporate Campus East	3075, 3023	112th Avenue NE	Bellevue	WA	98004

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Sheet #	Parcel #	Owner of Record	Parcel House #	Parcel Street	Parcel City	Parcel State	Parcel Zip
17	1-22857	The Ridge Bellevue	10400	NE 32nd Place, Unit J-203	Bellevue	WA	98004
18	1-23209	Bravo ! Company /Kindercare Learning Center	10733	Northup Way	Bellevue	WA	98004
18	1-22851	Seattle 10700 BLDG W2007	10700	Northup Way	Kirkland	WA	98033
18	1-22858	Yarrowood Condominium	10826	NE 35th Place, Unit 1, Building 11	Bellevue	WA	98004

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.

Daniel Babuca, Design Engineering Manager for the SR 520 Eastside Transit and HOV Project, called the meeting to order under chapter 47.52 Revised Code of Washington (RCW). Hearing guidelines and legal requirements were provided by ALJ Jason Grover, after which attendees were allowed to offer public testimony. Evidence was taken by a Court Reporter who, thereafter, transcribed the verbal testimony. Exhibits were duly introduced and admitted into evidence. 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

A new Limited Access highway plan was prepared to propose the establishment and modification to the limited access facility including full, partial and modified access control for SR 520:

Between SR 520 right-of-way centerline Station 295+00 P.O.T. to 442+48.20 P.O.C. BK. = Station 344+00 P.O.T. AHD, MP 3.87 to MP 6.66; as shown on:

- Sheets 1 through 22 of the Access Hearing Plan entitled "SR 520, Lake Washington to SR 405 Vicinity, King County, dated June 23, 2011"

These plans are the subject of this limited access findings and order. Under these plans, SR 520 will be altered to improve traffic mobility and safety.

The purpose of this Limited Access hearing process is the administrative action taken by WSDOT pursuant to chapter 47.52 RCW, to (1) construct a new limited access portion of SR 520 and to (2) realign portions of SR 520 and acquire the necessary rights to establish the Limited Access facility, which will pass through the jurisdictions of Medina, Yarrow Point, Hunts Point, Clyde Hill, Bellevue and Kirkland, from approximately the eastern shore of Lake Washington to I-405. Pursuant to the Limited Access hearing process, this Findings and Order describes changes in access onto and from SR 520 in the Eastside corridor area, as well as the necessary access changes to individual abutting properties as a result of this project.

As part of the preparation of the Access Hearing Plan, WSDOT solicited and received from public agencies concerned with the proposed plan their available data on planning, land use, local traffic, and other information. Thereafter, WSDOT prepared and submitted to the appropriate officials an Access Report entitled SR 520 Medina to SR 202 Eastside Transit and HOV Project, dated May 11, 2011, which included as Appendix B, limited access exhibits as follows:

- "SR 520, Eastside Transit and HOV Project, Limited Access Exhibits, MP 3.87 to MP 6.66. Station 295+00 to Station 442+48.20, as shown on sheets 1 through 22.

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 evidence, marked as Exhibit No. 4, and made part of the hearing record.

2. NOTICE OF HEARING

On June 24, 2011, the State Design Engineer by Order proposed said Access Hearing Plans, renamed "SR 520 Lake Washington to SR 405 Vicinity," and set a hearing date for July 20, 2011, 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) a personalized letter, (2) a Notice of Appearance and speaker card, (3) a Limited Access Control Hearing Notice, and (4) the proposed Limited Access Hearing Plans:

“SR 520, Lake Washington to SR 405 Vicinity, King County, dated June 23, 2011,” Access Hearing Plan, Station 295+00 P.O.T. to 442+48.20 P.O.C. B.K. = Station 344+00 P.O.T. AHD, MP 3.87 to MP 6.66, as shown on sheets 1 through 22, dated June 23, 2011.

These Access Hearing materials were mailed July 1, 2011 to the abutting property owners of record, as evidenced by the Affidavit of Service by Mailing signed by Amanda Cox and notarized by Pam Buckley. The list of the recipients of the mailing is attached as Exhibit A to the Affidavit. The signed Affidavit of Service by Mailing was admitted into evidence, marked as Exhibit No.2, and made part of the hearing record.

On July 1, 2011, an exact copy of the “Notice of Limited Access Control Hearing” was published in the Bellevue Reporter, as shown by the Affidavit of Publication with printed ad copy attached, signed by Linda M. Mills, Legal Advertising Representative, Bellevue Reporter, dated July 5, 2011. The Affidavit of Publication was admitted into evidence, marked as Exhibit No.3, and made part of the hearing record.

3. PRESERVATION OF THE PUBLIC INVESTMENT

State Route 520 is an important part of the State of Washington’s highway system, representing a substantial expenditure of public funds to facilitate public travel. State Route 520 in its current location is functionally classified as a Limited Access Facility and is part of the State Highway System. The Department of Transportation policy permits the establishment of limited access control on highways of this type. The proposed limited access control within the project limits on SR 520 will be established as Full control, Partial control, and Modified control as shown on the proposed Access Hearing Plan entered into evidence, marked as Exhibit 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 highway 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 it has. WSDOT has found 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 and partial or modified private access points in order to preserve a highway’s efficiency and safety.

The Access Hearing Plan, and the Revised Access Hearing Plan for the establishment of the limited access control facility, “SR 520, Lake Washington to SR 405 Vicinity, King County,

Access Hearing Plan, Station 295+00 P.O.T. to 442+48.20 P.O.C. B.K. = Station 344+00 P.O.T. AHD, MP 3.87 to MP 6.66, as shown on sheets 1 through 22, dated June 23, 2011, admitted into evidence, marked as Exhibit No. 5 and Exhibit A of the Findings and Order, respectively, 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 June 24, 2011.
- Exhibit No. 2 Affidavit of Service by Mailing.
- Exhibit No. 3 Affidavit of Publication, dated July 5, 2011.
- Exhibit No. 4 Access Report, dated May 11, 2011.
- Exhibit No. 5 Proposed Access Hearing Plans entitled "SR 520, LAKE WASHINGTON TO SR 405 VICINITY," as shown on sheets 1 through 22, dated June 23, 2011, all in King County.
- Exhibit No. 6 Printed copies of the slides used during the Access Hearing.
- Exhibit No. 7 Letter with attachment, dated August 2, 2011, from Ray Stieger, Director - Public Works Department, City of Kirkland.
- Exhibit No. 8 Letter, dated August 2, 2011, from Goran G. Sparrman, Director - Transportation Department, City of Bellevue.
- Exhibit No. 9 E-mail with attachments, dated July 21, 2011, from Joe Willis, Director - Public Works Department, City of Medina / Town of Hunts Point.
- Exhibit No. 10 E-mailed letter with attachment, dated July 12, 2011, from Mitch Wasserman, City Administrator, City of Clyde Hill.
- Exhibit No. 11 Department response to Exhibit 10, dated September 14, 2011.

5. SPECIFIC RESPONSES

WSDOT SR520 Eastside HOV and Transit Project Engineers have considered the following comments of abutting property owners and public agencies as part of the Access Hearing

process. Below, we have identified the commenter, followed by each of their specific comments and WSDOT's responses:

- A. **City of Medina and Town of Hunts Point**, represented by Joe Willis, P.E, Director of the City of Medina Public Works Department. The comments were received during the Limited Access Hearing comment period by email on July 21, 2011 (Exhibit No. 9) and are regarding the overall project through the City of Medina and the Town of Hunts Point. WSDOT's responses follows:

Plan Sheet 2 of 22:

1. Public viewing area access needed from Evergreen Point Road to overlook associated with Eastside Bridge Landings Project.

WSDOT response: We have coordinated with the SR 520 Floating Bridge and Landings project to determine correct location for viewing area access. Note added on plan sheet 3 of 22.

2. Bellevue Sewer Dept will need access to maintain sewer line along shoreline.

WSDOT response: Bellevue Sewer owns easements from private property owners along the shoreline of Lake Washington. Access to the shoreline will be the same as the existing access is today, using private driveway access. WSDOT will not be providing access to the shoreline through limited access right of way. The existing access note on plan sheet 2 of 22 allows residential and maintenance access under the bridge utilizing the driveway located at Station 299+43, 90' Rt.

Plan Sheet 3 of 22:

3. City of Medina access for stormwater maintenance approx station 313+50 150' LT. and 311+70 150' RT.

WSDOT response: Due to the highway being widened throughout the project area, the location of two of the catch basins that are shown in Utility Permit No.10240 are now planned to be located within WSDOT limited access right of way and only accessible from the highway shoulder. WSDOT will be canceling a portion of Utility Permit No. 10240 where the drainage structures are inaccessible from outside of the WSDOT right of way. In addition, WSDOT will be assuming maintenance responsibility for these structures. WSDOT will contact the City of Medina to cancel a portion of Utility Permit No. 10240 to address the changed condition.

4. Public access from Evergreen lid to Fairweather Park is not described, and Evergreen lid and park & ride access is not correctly described.

WSDOT response: Note added to plan sheet 3 of 22 to allow access between Fairweather Park and Evergreen Lid at Station 306+10+/-, 166' LT. Access Note

citing Station 313+93+/-, 94' RT has been revised to allow access to the transit stop at the edge of the Evergreen lid at Station 309+37, 22' LT.

5. What about utility crossings?

WSDOT response: New utility crossings will be added to the plan at a later date when utility permits are executed. Existing utilities are shown on the plan with a Type C- 21 access approach note. Approach Type C- 21 allows access for utility franchise or permit holders within state-owned right of way subject to the terms in the utility franchise or permit. No access will be allowed to the traveled highway lanes or ramps

Plan Sheet 4 of 22:

6. City of Medina access for stormwater maintenance approx Station 313+50 150' LT. to 319+00 130' LT. to 319+00 160' LT.

WSDOT response: Due to the highway being widened throughout the project area, the location of two of the catch basins that are shown in Utility Permit No.10240 are now planned to be located within WSDOT limited access right of way and only accessible from the highway shoulder. WSDOT will be canceling a portion of Utility Permit No. 10240 where the drainage structures are inaccessible from outside of the WSDOT right of way. In addition, WSDOT will be assuming maintenance responsibility for these structures. WSDOT will contact the City of Medina to cancel a portion of Utility Permit No. 10240 to address the changed condition.

7. Public trail access from 80th Ave NE to Regional Trail is not described.

WSDOT response: The Access Note on plan sheet 4 of 22 sheets will be revised to provide: "Non-motorized traffic will be permitted to enter via trail entering on the left at Sta. 318 +65+/-, 149' LT.; Sta. 319+22+/-, 171' LT.; and Sta. 324+88+/-, 253' LT. No access will be permitted between the trail and the traveled highway lanes." This note describes the public path access point from 80th Avenue N.E (Stations 318+65 and 319+22) and Fairweather Place (Station 324+88).

8. Public trail access from 80th Ave NE to Fairweather Place not described correctly.

WSDOT response: The Access note on sheet 4 of 22 sheets will be revised to provide: "Non motorized traffic will be permitted to enter via trail entering on the left at Sta. 318 +86 +/-, 159' LT., and Sta. 324+93+/-, 239' LT. No access will be permitted between the trail and the traveled highway lanes." This note describes the public path access point from 80th Avenue N.E (Stations 318+65 and 319+22) and Fairweather Place (Station 324+88).

9. What about utilities access for maintenance from 80th to Fairweather Pl.?

WSDOT response: New utility crossings will be added to the plan at a later date when utility permits are executed. Existing utilities are shown on the plan with a Type C- 21

access approach note. Approach Type C- 21 allows access for utility franchise or permit holders within state-owned right of way subject to the terms in the utility franchise or permit. No access will be allowed to the traveled highway lanes or ramps.

10. What about utility crossings under the freeway?

WSDOT response: New utility crossings will be added to the plan at a later date when utility permits are executed. Existing utilities are shown on the plan with a Type C- 21 access approach note. Approach Type C- 21 allows access for utility franchise or permit holders within state-owned right of way subject to the terms in the utility franchise or permit. No access will be allowed to the traveled highway lanes or ramps.

11. City of Medina access for stormwater maintenance approx Station 319+20 110' RT.

WSDOT response: Station 319+52+/-, 100' RT has been added to the Access Approach Schedule. The access for the cross culvert is associated with Franchise No.10240 and will be subject to the terms of the utility franchise or permit. No access will be permitted to the traveled highway lanes.

12. How is the Points Loop Trail along NE 28th Street right-of-way handled?

WSDOT response: Right of way for Points loop trail along NE 28th Street is owned by City of Medina and Town of Hunts Point. No new highway right of way acquisitions will be made to accommodate the local jurisdiction trail.

Plan Sheet 5 of 22:

13. Note of Non-Motorized access 332+56 133' LT and 333+63 354' LT is not accurate.

WSDOT response: Access Note will be revised. The access point at Station 333+63 354' LT will be revised to show non-motorized traffic to be permitted via the trail entering at Station 334+44+/-, 366' LT, and adding an access point at Station 336+00+/-, 381' LT. No access will be permitted to the traveled highway lanes. Station 332+56, 133' LT will be deleted due to the relocation of the Points Loop Trail.

14. Town of Hunts Point wants public access 333+62 349' LT to 335+70 388' LT. for Town Hall access.

WSDOT response: WSDOT will grant to the Town of Hunts Point a Type C Approach at Station 335+25+/-, 381' LT for a width to be agreed upon, solely to be used for town hall purposes. The access deed shall contain a reversionary interest in the state that if the current town hall use of the approach is modified for whatever reason, the Type C approach shall automatically revert to the state's ownership and that the grantee or its successors or assigns shall have no right of access at Station 335+25+/-, 381' LT.

15. What about utility maintenance and crossings?

WSDOT response: New utility crossings will be added to the plan at a later date when utility franchise or permits are executed. No access will be allowed to the traveled highway lanes or ramps.

16. What about public trails that cross the lid and also run parallel to the freeway north of the lid?

WSDOT response: The public trails run parallel to the highway and are only noted at places where they cross the hachured limited access line, which are denoted on the plan at Station 334+44+/-, 366' LT and Station 336+00+/-, 381' LT.

Plan Sheet 6 of 22:

17. Note of Non-motorized traffic access points doesn't appear to be correct. There are several trails and sidewalks to consider: NE 28th R/W 326+97 to 332+15, south on 84th to Point B, south on 84th to Point C, NE 28th from 332+85 to 335+29 on both sides of the street.

WSDOT response: The access points are only noted at locations where the path/sidewalk/trail cross the hachured limited access line. The sidewalks do not cross the limited access hachure except on the N.E. 28th Street Cul-de-sac area at Station 326+93, 152' RT. The Access note will be revised to include a private access to perpetuate an existing access to the path along 84th Avenue N.E. at Station 331+86+/-, 394' RT.

18. What about utilities?

WSDOT response: New utility crossings will be added to the plan at a later date when utility franchise or permits are executed. No access will be allowed to the traveled highway lanes or ramps.

Plan Sheet 7 of 22:

19. Note of Non-motorized traffic access point isn't correct Station 337+51 254' RT should be 254' LT.

WSDOT response: Access Note revised to show Station 337+51 254' LT.

20. Public path access needed 337+00 350' LT. for path access from Town Hall to Points Loop Trail.

WSDOT response: Access Note added to plan sheet 5 of 22. Access will be allowed at Station 334+44+/-, 366' LT.

21. What about Points Loop Trail running along north side of the R/W?

WSDOT response: The access point is noted at the location where the trail crosses the hachured limited access line at Station 337+51+/-, 254' LT. The trail does not cross the limited access hachure line except at this specified location.

22. What about utilities?

WSDOT response: New utility crossings will be added to the plan at a later date when utility permits are executed. Existing utilities are shown on the plan with a Type C- 21 access approach note. Approach Type C- 21 allows access for utility franchise or permit holders within state-owned right of way subject to the terms in the utility franchise or permit. No access will be allowed to the traveled highway lanes or ramps.

23. Hunts Point needs stormwater maintenance access 344+50 98' RT.

WSDOT response: Access Note added to plan. Maintenance access to be permitted at Station 344+92+/-, 98' RT.

- B. **City of Bellevue**, represented by Goran G. Sparrman, P.E, Director of the City of Bellevue Transportation Department. The comments were received during the Limited Access Hearing comment period by letter, dated August 2, 2011, (Exhibit No. 8) regarding the overall project through the City of Bellevue. WSDOT's responses follow:

Plan Sheets 13 and 14 of 22:

1. The City concurs with WSDOT's proposed adjustment to the Limited Access, Full Access Control, along the proposed north Right-of-Way limit of the former Lake Washington Boulevard.

WSDOT response: Thank you for your comment. Comment noted.

2. The City further concurs with WSDOT's identified need and taking of a portion of the Lake Washington Boulevard Right-of-Way beginning at Station 387+00, 125.30' RT to 390+91.11, 131.76' RT, for highway improvements in accordance with RCW 52.52.210, Property title designation upon construction of limited access highways.

WSDOT response: Thank you for your comment. Comment noted.

Plan Sheet 14 of 22:

3. The City concurs with WSDOT's proposed adjustments to the Limited Access, Full Access Control, along the existing and proposed Right-of-Way Limits shown. As noted on the Plan sheet, non-motorized access shall be allowed over and across the trail, which is to be constructed along the south side of the proposed eastbound off-ramp to Bellevue Way.

WSDOT response: Thank you for your comment. Comment noted.

4. The City has provided WSDOT with information supporting the City's position that WSDOT presently owns a portion of the south 30' of the former Lake Washington Boulevard (see WSDOT Franchise Permit 10370 Consolidation, approved May 6, 1999). This area should be shown as WSDOT Right-of-Way and, if to be relinquished to the City of Bellevue, identified as such.

WSDOT response: Although not a question regarding limited access, WSDOT has consulted with our Real Estate Services group and the Office of the Attorney General on this matter. We have reviewed the franchise permit and the 1960's right of way plan for the original construction of SR 520. In our research, we have not found any evidence that WSDOT ever owned this area of Lake Washington Blvd. or that the City of Bellevue deeded this portion of City-owned right of way to the WSDOT. The issuance of Franchise permit No. 10370 does not establish that WSDOT owns an interest in the property right. Therefore, it is our position that WSDOT does not own the right of way in question.

5. Upon execution of a future Turnback Agreement and conveyance of Right-of-Way, WSDOT and the City of Bellevue should amend the existing Franchise Permit to reflect final Right-of-Way and Limited Access limits.

WSDOT response: Although not a question regarding limited access, as a part of the Utility relocation program, our intention is to issue new Utility Franchise/ Permit agreements with individual Utility owners, including the City of Bellevue, to reflect state right of way ownership and jurisdiction.

Plan Sheet 15 of 22:

6. The City concurs with WSDOT's proposed adjustments to the Limited Access, Full Access Control, along the existing and proposed Right-of-Way Limits.

WSDOT response: Thank you for your comment. Comment noted.

7. The City supports the proposed identified relinquishments of Right-of-Way to the City of Bellevue, subject to the proposed Right-of-Way being free of any encumbrances or contaminated soils that may exist from previous land use or occupancy of the former property, which was acquired by WSDOT.

WSDOT response: Although not a question regarding limited access, WSDOT will work with the City of Bellevue to resolve any encumbrances that are within the Turnback area shown on Sheet 15. Any contaminated soils that WSDOT's Design Builder excavates in the performance of its field work will be disposed of.

8. The City recommends that WSDOT adjust, to the south, the existing Right-of-Way limits at the crossing of Bellevue Way NE. This adjustment and recommendation will ensure the proposed traffic signal equipment, including signal poles and bases, primary northbound traffic loops, and associated signal system appurtenances as shown on Plan sheet SG02 of the Request for Proposals, will be located within City of Bellevue Right-of-Way. Subsequent to WSDOT's concurrence, the additional area should also be identified for relinquishment to

the City of Bellevue. Further, upon execution of a future Turnback Agreement and conveyance of Right-of-Way, WSDOT and the City of Bellevue should amend any existing Utility or Franchise Permits to reflect final Right-of-Way and Limited Access limits.

WSDOT response: WSDOT will coordinate with the City of Bellevue to determine the logical limits of the Turnback area.

Plan Sheet 16 of 22:

9. The City concurs with WSDOT's project adjustments to the Limited Access, Full Access Control, as shown.

WSDOT response: Thank you for your comment. Comment noted.

10. The City supports the proposed identified relinquishments of Right-of-Way to the City of Bellevue, subject to the proposed Right-of-Way being free of any encumbrances that may exist from the previous land use.

WSDOT response: Although not a question regarding limited access, the Turnback area shown on Sheet 16 is not encumbered by any easements.

11. The leader to the pie shaped parcel remnant on the east side of 103rd Place Northeast, which is proposed to be relinquished, should read "For Relinquishment to the City of Bellevue".

WSDOT response: Leader callout will be adjusted to read "For Relinquishment to the City of Bellevue."

12. Based on current and conceptual plans for the proposed SR 520 Eastside Transit and HOV Project, the City recommends that WSDOT review the northern Right-of-Way limits and Limited Access limits for 103rd Ave Northeast. This suggestion is provided as it appears that portions of the existing roadway end and appurtenances fall within WSDOT's Right-of-Way. Should WSDOT concur, please review with City staff any proposed adjustments and relinquishments not presently shown.

WSDOT response: WSDOT will review Eastside Corridor Constructor's latest designs with the City of Bellevue and determine what the logical Turnback limits will be.

13. The City of Bellevue previously held public easement rights for storm drainage purposes over and across the south 5' of parcel 14 of Lake Wash. Springhills Div. 1. It is not yet clear how WSDOT has proposed to acquire or address the City's existing easement rights and provide for long term maintenance of the existing utility. Said easement rights existed prior to WSDOT's acquisition of the property for right-of-way purposes.

WSDOT response: Although not a question regarding limited access, WSDOT will not acquire the drainage easement across the south 5' of parcel 14 of Lake Wash. Springhills Div. 1. The plan sheet will be revised to show the easement.

Plan Sheet 17 of 22:

14. The City concurs with WSDOT's project adjustments to the Limited Access, with the following provisions:
 - 14.1. Limited Access be defined as Modified Access and that the Plans reflect that Bellevue Way NE is a Principle Arterial and gateway corridor, and has unique street urban design criteria that provides for route continuity in meeting local arterial street standards. These local arterial street standards shall apply to Bellevue Way corridor improvements within the proposed Limited Access modifications and may not fully meet WSDOT Design Criteria;
 - 14.2. Along the east side of Bellevue Way the City is not waiving its right to prescriptive rights as the current roadway and sidewalk is open and notorious in their current use for public access and subject to the City exercising said prescriptive rights; and,
 - 14.3. The northbound acceleration lane and northbound access entry point to Bellevue Way NE for the development located on the east side of Bellevue Way is substantially located on private property. Full Access Control or reduced access widths provided under the approach definitions will substantially reduce or eliminate the access that presently exists.

WSDOT response: (14.1) WSDOT design standards will apply inside of WSDOT Right of Way. The street right of way will remain in the possession of the City of Bellevue. The Right of Way line denoted on the plan, beginning at Station 409+52.21 and offset 677.04' RT and continuing at Station 410+91.60 and offset 718.63' RT, is the southern limit of WSDOT's Right of Way. Any improvements within WSDOT's Right of Way, north of said line, shall meet WSDOT design standards; unless a deviation request is submitted for approval through the Department's State Design Engineer. (14.2) This plan does not limit the City of Bellevue's claim of prescriptive rights to property on the east side of Bellevue Way. (14.3) WSDOT will acquire the rights of access, light, view and air from the Ridge Bellevue Condominiums property, except for a Type C approach at approximately Station 412+17, 926' RT. to Station 411+06, 738' RT., to allow for the current use of the driveway acceleration lane and U-Turn pocket along the northbound direction of Bellevue Way NE.

Plan Sheet 18 of 22:

15. The City concurs with WSDOT's Project adjustments to the Limited Access, Full Access Control, as shown.

WSDOT response: Thank you for your comment. Comment noted.

16. The City supports the proposed identified relinquishments of Right-of-Way to the City of Bellevue, subject to the proposed Right-of-Way being free of any encumbrances that may exist from previous land use.

WSDOT response: Thank you for your comment. Comment noted.

17. The City recommends that WSDOT adjust to the south the existing and proposed Right-of-Way limits crossing the southern leg of 108th Avenue Northeast. This recommendation

provides that the proposed Traffic Signal equipment including signal cabinet, contactor cabinet, signal poles and bases, primary northbound traffic loops, and associated signal system appurtenances as shown on sheet SG04 in the Request for Proposals, be located within City of Bellevue Right-of-Way. With WSDOT's concurrence, the additional area should be identified for relinquishment to the City of Bellevue. Further, upon execution of a future Turnback Agreement and conveyance of Right-of-Way, WSDOT and City of Bellevue should amend any existing Utility or Franchise Permits to reflect final Right-of-Way and limited Access limits.

WSDOT response: WSDOT will review Eastside Corridor Constructor's latest designs with the City of Bellevue and determine what the logical Turnback limits are.

Plan Sheet 19 of 22:

18. The City concurs with WSDOT's Project adjustments to the Limited Access, Full Access Control, as shown.

WSDOT response: Thank you for your comment. Comment noted.

Plan Sheet 20 of 22:

19. The City concurs with WSDOT's Project adjustments to the Limited Access, Full Access Control, as shown.

WSDOT response: Thank you for your comment. Comment noted.

Plan Sheet 21 of 22:

20. The City concurs with WSDOT's Project adjustments to the Limited Access, Full Access Control, as shown north of Station 426+48.17, 270' RT, and Modified Access Control south of Station 426+48.17, 270' RT to 427+16.91, 263.87' RT.

WSDOT response: Thank you for your comment. Comment noted.

- C. **City of Kirkland**, represented by Ray Steiger, P.E., Director of the City of Kirkland's Public Works Department. The comments were received during the Limited Access Hearing comment period by letter, dated August 2, 2011 (Exhibit No. 7). The comments are regarding the maintenance access to the City of Kirkland's sewer system. WSDOT's response follows:

Plan Sheet 15 of 22:

1. As discussed with you by staff, Kirkland's sewer utility has facilities within the area proposed for revised limited access conditions. Kirkland currently has unlimited access to maintain the public utilities in this area. For all 520 improvements at this location, and as a matter of consequence from the limited access changes proposed by the State, the City of Kirkland must maintain complete access to the existing sanitary sewer manhole west of Bellevue Way, south of the curb of NE Points Drive, and west of the parcel acquired by the State for a storm water detention pond (see the enclosed exhibit). Could the State provide a

draft agreement expressing a commitment for this concern? Access to the manhole would include regular service vehicles such as trucks and cars, and more infrequently, larger vehicles such as vactor and eductor trucks. Additionally, field operations staff must continue to have direct access to the manhole by foot.

If you could provide a draft agreement regarding this perpetual utility access for our review, and if we could aim to complete this agreement forthwith, Kirkland would not oppose the proposed limited access changes currently offered by the State.

WSDOT response: WSDOT staff will be in contact to coordinate a new utility franchise with the City to accommodate the sewer line in WSDOT right of way. New utility crossings will be added to the plan at a later date when utility franchise or permits are executed. No access will be allowed to the traveled highway lanes or ramps.

D. **David E. Martin**, abutting property owner, parcel no. 1-23199 on plan sheet 2 of 22. Mr. Martin's comments were received during the Limited Access Hearing, transcript pages 33-34. WSDOT's responses follow.

1. I have two questions. One is we're talking about limited access. We also would like to limit your access to my property too, and right now in the area that the work is being conducted, the limitation amounts to a plastic fence. That's unacceptable and is an absolute magnet for potential property damage from parked cars. And the park-and-ride is supposed to be temporary. I would like an established visible physical fencing in keeping with the standards of my property.

WSDOT response: Thank you for your comment. Comment noted. WSDOT will provide a temporary chain link fence with privacy screening at the border of your property that will remain in place until construction of the Eastside project is completed.

2. Item 2, we have a common sewer line that runs on the property that was purchased from the Barbees (phonetic) immediately to the south of us. I have an easement right to go under that property in order to maintain access to that sewer line. I would to make sure that that continues in effect. Thank you.

WSDOT response: Thank you for your comment. Comment noted. A final decision on design has not been made at this time; however WSDOT will assure that you have continued access to the sewer line for maintenance.

E. **Mike Wittenberger**, abutting property owner, parcel no. 1-23163 on plan sheet 10 of 22. Mr. Wittenberger's comments were received during the Limited Access Hearing, transcript page 34. WSDOT's response follows.

And my question principally is up there, it says that you would continue to have access as you currently have it. How do we know that there's not going to be some change in the future that would change that, and all of a sudden, we don't have access out of our neighborhoods? I mean, we could have a subsequent taking of our property if you change the

fact that we have that access. And I understand we probably can't change what our current condition is, but we don't want to be all of a sudden where we can't get in and out. So is that something that can be answered now or later?

WSDOT response: Thank you for your comment. Comment noted. If the WSDOT was to further limit access in the future, it would be required to assess the effects that it would have on your property. You would be compensated for the monetary loss in value to your property, if any, as a result of an additional limitation.

- F. **Greg Brown**, abutting property owner, parcel no. 1-23165, on plan sheet 2 of 22. Mr. Brown's comments were received during the Limited Access Hearing, transcript page 35. WSDOT's response follows.

I'm Greg Brown, living at 3201 Evergreen Point Road, property number 1-23165. And my questions really relate to the same questions that Mr. Martin just raised, and that is access to our property may be compromised by future decisions made by you, and how protected am I against that kind of future decision-making sort of on the piggyback of decisions that are made tonight? Are they already made? And that's basically it. I leave the answer to his two questions, and I guess I can submit them directly or should just – how would you recommend that?

WSDOT response: Thank you for your comment. Comment noted. The decision to limit your access to the SR520 mainline has already been made. If the WSDOT was to further limit access in the future, it would be required to assess the effects that it would have on your property. You would be compensated for the monetary loss in value to your property, if any, as a result of an additional limitation.

- G. **James F. Clifton**, abutting property owner, parcel nos. 1-22839 and 1-22905 on plan sheet 10 of 22. Mr. Clifton's comments were received during the Limited Access Hearing, transcript page 36. WSDOT's response follows.

Simple thing, would it be possible to get sheets that have the red markings on them? Because the sheets than we got, the black and white ones, there's no way to distinguish, really, the red hatching versus the black hatching.

WSDOT response: Thank you for your comment. Comment noted. WSDOT personally provided to you a copy of the color exhibits that were developed for the Limited Access hearing on July 28, 2011 at the Department's project office.

- H. **Yasmin Khalil**, abutting property owner, parcel no. 1-22837 on plan sheet 10 of 22. Ms. Khalil's comments were received during the Limited Access Hearing, transcript page 37. WSDOT's response follows.

My question is, if the property is subdivided in the future, will there be – could there be an easement granted for the same driveway to be used for both properties and will any square footage of the lot be taken in the process of expansion?

WSDOT response: Thank you for your comment. Comment noted. WSDOT will be purchasing the property rights of access, light, view and air from your property. The deed will show that your property will retain ownership of a Type A access which will be limited for a single family residence use only. If you were to subdivide your property in the future, access for the additional parcels would be required from a location outside the limits of access acquired.

- I. **John Molnar**, abutting property owner, parcel no. 1-22895 on plan sheet 9 of 22. Mr. Molnar's comments were received during the Limited Access Hearing, transcript pages 37-38. WSDOT's response follows.

My question is, as the real estate professional alluded to, you're going to come in and offer some value for this giving up our rights to what we can do with our property. And I'm just wondering who determines that, how it's determined, and how do you factor in, you know, the future? You know, right now, I have a fairly significantly sized property and if the zoning changes to where that could be subdivided, now you're limited me to not be able to do that. And I don't know how you're going to determine that value. I'm just wondering if there's an answer to that.

WSDOT response: Thank you for your comment. Comment noted. Although not a question regarding limited access, WSDOT will provide an appraisal of the property rights acquired during the Real Estate Services acquisition process.

- J. **Trisha Rongner**, abutting property owner, parcel no. 1-23162 on plan sheet 10 of 22. Ms. Rongner's comments were received during the Limited Access Hearing, transcript pages 38-39. WSDOT's response follows.

My question is: 32nd is a private road. The Wittenbergers live behind us, and the Cliftons abut on it. I don't understand what the access means. That means that you're going to come in our driveway, our private road, and take part of the driveway. We'll lose part of our property, because we own to the middle of the road. So I'm not sure. I don't even know why I'm here. So that was my question, is what do you think you're going to do for our property?

WSDOT response: Thank you for your comment. Comment noted. The Limiting of Access with respect to your property means that WSDOT will acquire all property rights of access onto 92nd Avenue N.E. from your shared driveway (private road easement). Except, you will retain a Type C-22 access onto 92nd Avenue N.E. A Type C-22 access is for the properties that are benefited by the driveway (private road easement). This access will continue as long as the driveway (private road easement) remains to serve the residentially benefited properties, like yours. Your driveway (private road easement) access will remain the same; however, if the use of your property should change from a single family residential use, for example, to a commercial use, commercial access would not be allowed. It is WSDOT's intent to control the number of vehicles accessing 92nd

Avenue N.E. This access limitation will keep the number of vehicles accessing 92nd Avenue N.E. in proximity to the SR 520, 92nd interchange ramp the same as today.

- K. **City of Clyde Hill**, represented by Mitch Wasserman, City Administrator. The comment was received during the Limited Access Hearing comment period (Exhibit No. 10), regarding a turn back area on 96th Avenue NE, in Clyde Hill. WSDOT's response follows.

Thank you for clarifying the details of the July 20th limited access control hearing. During that meeting we discussed the process of returning a portion of the right-of-way, adjacent to 96th Avenue NE, in Clyde Hill. As a follow-up to that discussion, I would like to formally request that the State consider returning that portion of the existing highway right-of-way back to the City. The State portion currently goes to the middle of 96th Avenue as shown on the attached map.

WSDOT Response: Although not a question regarding limited access, WSDOT responded to the City through a Letter of Understanding, dated September 14, 2011, which was concurred by the City on September 20, 2011 (Exhibit No. 11). Pursuant to the Letter of Understanding, the WSDOT has investigated and is intending to surplus a portion of state-owned right-of-way to the City upon completion of the highway project, in accordance with RCW 47.12.063. In addition, at the request of the City of Clyde Hill in previous coordination meetings, WSDOT is relinquishing the westerly 30 feet of 96th Avenue N.E., as shown on sheet 12 of 22 sheets.

6. ORDER

The Assistant Secretary for Engineering and Regional Operations specifically finds in the case of each abutting ownership that the adoption of the plans making said highway a limited access facility, said plans 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 for Engineering and Regional Operations for the Department of Transportation of the State of Washington,

ORDERS:

A.

That the identified section of State Route 520 in King County, Washington is hereby designated as a limited access highway of the Full, Partial and Modified control type:

Between SR 520 right-of-way centerline Station 295+00 P.O.T. to 442+48.20 P.O.C. B.K. = Station 344+00 P.O.T. AHD., MP 3.86 to MP 6.66, as shown on:

- Sheets 1 through 22 of the Access Hearing Plan entitled "SR520, Lake Washington to SR 405 Vicinity," King County, dated June 23, 2011.

B.

That the plan set forth in Exhibit 5 for the establishment or 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 2 of the "SR 520, Lake Washington to SR 405 Vicinity" plan set to revise Limited Access along the shoreline on the Petrisor property (parcel no. 1-22846), add parcel lines and detail A to the Brown property (parcel no.1-23165), revise the source for survey information, add access notes, and add the Access Approach Schedule.
2. Revise plan sheet 3 of the "SR 520, Lake Washington to SR 405 Vicinity" plan set to revise and add access notes, delete topographic features (removed pedestrian bridge and trail), and revise Access Approach Schedule.
3. Revise plan sheet 4 of the "SR 520, Lake Washington to SR 405 Vicinity" plan set to revise and add access notes, as well as revise the Access Approach Schedule.
4. Revise plan sheet 5 of the "SR 520, Lake Washington to SR 405 Vicinity" plan set to revise and add access notes, delete topographic features (removed pedestrian/bicycle trail), and add Access Approach Schedule for driveway for Town of Hunts Point (Parcel 1-22202).
5. Revise plan sheet 6 of the "SR 520, Lake Washington to SR 405 Vicinity" plan set to revise access note.
6. Revise plan sheet 7 of the "SR 520, Lake Washington to SR 405 Vicinity" plan set to revise and add access note, and revise Access Approach Schedule.
7. Revise plan sheet 9 of the "SR 520, Lake Washington to SR 405 Vicinity" plan set to add an access note, and revise Access Approach Schedule.
8. Revise plan sheet 10 of the "SR 520, Lake Washington to SR 405 Vicinity" plan set to add an access note, and revise Access Approach Schedule.
9. Revise plan sheet 12 of the "SR 520, Lake Washington to SR 405 Vicinity" plan set to define limits of area of relinquishment to City of Clyde Hill at vicinity of 96th Ave. NE and remove stormwater treatment area boundary from plan.
10. Revise plan sheet 13 of the "SR 520, Lake Washington to SR 405 Vicinity" plan set to add match line to sheet 14.
11. Revise plan sheet 14 of the "SR 520, Lake Washington to SR 405 Vicinity" plan set to add match line to sheet 13.

12. Revise plan sheet 15 of the "SR 520, Lake Washington to SR 405 Vicinity" plan set to add an access note and add a for relinquishment to City of Bellevue boundary callout at vicinity of Points Drive NE at station 402+55.82 , 465.13' LT, and revise Access Approach Schedule.
13. Revise plan sheet 16 of the "SR 520, Lake Washington to SR 405 Vicinity" plan set to add an existing drainage easement, and clarify area for relinquishment to City of Bellevue, both at vicinity of 103rd Place NE, add an access note, and revise Access Approach Schedule.
14. Revise plan sheet 17 of the "SR 520, Lake Washington to SR 405 Vicinity" plan set to add an access note and add a Type C approach at Station 412+17, 926' RT to Station 411+06, 738' RT for parcel no. 1-22857 (The Ridge Bellevue Condominium) to the Access Approach Schedule.
15. Revise plan sheets 21 and 22 of the "SR 520, Lake Washington to SR 405 Vicinity" plan set to make minor corrections to street label for 112th Ave NE.

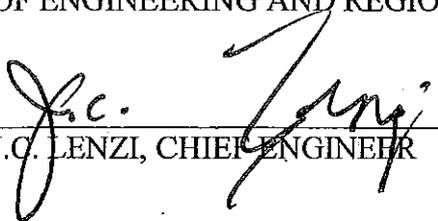
C.

That the plans entitled

"SR 520, Lake Washington to SR 405 Vicinity," King County, sheets 1 through 22, as reflected in Exhibit A, are hereby adopted.

ADOPTED THIS 5th DAY OF December, 2011

ASSISTANT SECRETARY
OF ENGINEERING AND REGIONAL OPERATIONS



J.C. LENZI, CHIEF ENGINEER

APPROVED AS TO FORM:



ASSISTANT ATTORNEY GENERAL