

BEFORE THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

IN RE: STATE ROUTE 5)
INTERSTATE-5/196TH STREET S.W.)
INTERCHANGE)
MP 181.07 TO MP 182.45)
HEARING ON LIMITED ACCESS)

FINDINGS AND ORDER

The hearing on the above entitled matter was held upon due notice to interested parties, beginning at 7:00 p.m., Wednesday, December 1, 1993, in the Lynnwood City Council Chambers, Lynnwood, Washington, before Robert E. Lundgaard, Hearing Examiner. A continuation of the hearing was held at 1:30 p.m., Thursday, December 9, 1993, in the Lynnwood City Council Chambers, Lynnwood, Washington, before Robert E. Lundgaard, Hearing Examiner.

The interested persons and organizations were represented as follows:

DEPARTMENT OF TRANSPORTATION, by Ted Torve, Senior Assistant Attorney General, Temple of Justice, Olympia, Washington 98504;

DEPARTMENT OF TRANSPORTATION, by A.W. (Bill) Carter, Assistant District Administrator for Development, 15700 Dayton Avenue North, PO Box 330310, Seattle, Washington 98133;

CITY OF LYNNWOOD, by Loren J. Sand, Director of Public Works, 19100 44th Avenue West, Lynnwood, WA 98046;

BELL-WALKER ENGINEERS, by Donald L. Hoffman, Manager Engineering Services, 914 140th Avenue Northeast, Suite 100, Bellevue, Washington 98005;

ALDERWOOD MANOR COMMUNITY CHURCH, by Mike Hause, 3403 Alderwood Mall Boulevard, Lynnwood, Washington 98036;

MICHAEL ALEMAN, by self, 12736 Riviera Place Northeast, Seattle, Washington 98125;

CHARLES W. ANDERSON, by self, P.O. Box 1481, Bellevue, Washington 98009;

C.M. BROWN, by self, P.O. Box 294, Clinton, Washington 98236;

EAGLE HARDWARE & GARDEN, INC., by Keith Dearborn, Attorney, Bogle & Gates, 601 Union Street, Seattle, Washington 98101;

EAGLE HARDWARE & GARDEN, INC., by Bill Eager, Consultant, TDA Inc., 615 2nd Avenue, #200, Seattle, Washington 98104;

EAGLE HARDWARE & GARDEN, INC., by Elaine Spencer, Attorney, Bogle & Gates, 601 Union Square, Seattle, Washington 98101;

ENERGY INTERNATIONAL, by Wallace Trana, P.O. Box 561, Lynnwood, Washington 98036;

THOMAS P. KNORR, by self, 17120 13th Avenue West, Lynnwood, Washington 98037;

SHERWOOD B. KORSSJOEN, by self, 2001 Western Avenue, #440, Seattle, Washington 98121;

BILL AND ROBYN L. MONTGOMERY, by self, 19803 Birch Way, Lynnwood, Washington 98036;

LAWRENCE A. NIEDER, by self, 5363 South Kenyon, Seattle, Washington 98118;

MICHAEL A. NIEDER, by self, P.O. Box 578, Coupeville, Washington 98239;

WESTERN REAL ESTATE, INC., by Robert L. Kirchner, Broker, 10655 Northeast 4th Street, #810, Bellevue, Washington 98004;

As a courtesy to interested citizens, the Department of Transportation furnishes a copy of the 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 filing a Notice of Appearance 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.

The meeting was called to order, under the provisions of RCW 47.52 *et seq.*, by A.W. Carter, Assistant District Administrator for Development, after which witnesses were called and evidence was recorded by a court reporter who, thereafter, transcribed the verbal testimony. Certain exhibits were duly introduced into evidence. Based upon the oral evidence and the exhibits introduced into evidence, and acting under the authority of the Secretary of Transportation for the State of Washington, the Assistant Secretary of Environment and Engineering makes the following findings:

I

Prior to April 13, 1961, a plan for the establishment of a limited access highway over a portion of State Route 5 in Snohomish County, Washington, was ordered under Commission Resolution No. 1081 and its amendments.

Such a plan was prepared and entitled "SR 5, ALDERWOOD MANOR INTERCHANGE, MP 181.07 to MP 182.45, SNOHOMISH COUNTY" sheets 1 through 4 of 4. These sheets were introduced into evidence marked as Exhibit Nos. 5A, 5B, 5C, and 5D, which were made part of the hearing record.

II

The Department of Transportation received from the public agencies concerned with the proposed plan their available data on planning, land use, local traffic, and such other information required, and thereafter prepared and submitted to appropriate officials an Access Report showing how those factors have been taken into account and covering other matters required by RCW 47.52, *et seq.* A copy of that report was introduced into evidence marked as Exhibit 4.

III

On November 12, 1993, the State Design Engineer by Order proposed said plan and set a hearing date in accordance with the provisions of RCW 47.52, *et seq.* The Order of Hearing was introduced into evidence marked as Exhibit No. 1.

IV

Clifford E. Mansfield, Design Management Engineer, Washington State Department of Transportation issued a Notice of Hearing. On November 16, 1993, and November 17, 1993, an exact copy of this notice was mailed to Snohomish County, the City of Lynnwood, various agencies and other interested parties, and to each of the owners of property listed on the County Tax Roll, as depicted in the Affidavits of Service by Mailing introduced into evidence marked as Exhibit Nos. 2A and 2B. Exact copies of the notice were published in The Seattle Times on November 16, 1993, as shown by the Affidavit of Publication of Tom Egan, Principal Clerk of said newspaper, which affidavit was introduced into evidence marked as Exhibit No. 3A, and in The Everett Herald on November 17, 1993, as shown by the Affidavit of Publication of Roxann Van Wye, Principal Clerk of said newspaper, which affidavit was introduced into evidence marked as Exhibit No. 3B.

V

The plan proposes the establishment of a limited access facility with full access control for SR 5 at the Alderwood Manor Interchange between Station 492+00 and Station 565+00, as shown on sheets 1 through 4 of 4 sheets entitled "SR 5 ALDERWOOD MANOR INTERCHANGE, MP 181.07 TO MP 182.45, SNOHOMISH COUNTY."

VI

This section of State Route 5 is an important part of the highway system of the state of Washington and represents a substantial expenditure in construction costs. It is functionally classified as Interstate and Department of Transportation Policy provides for fully controlled limited access on highways of this type. In doing so, the investment of public funds is protected by preserving the highway for future use.

The efficiency of the highway as a means of moving a maximum volume of traffic in safety is directly related to the number of access points. It has been demonstrated in the past that, as property owners establish approaches to the highway for their personal use or for business enterprise, the problem becomes increasingly great and the road gradually 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 approaches.

The plan for the establishment of fully controlled limited access facilities for State Route 5 in Snohomish County, introduced into evidence marked as Exhibits 5A, 5B, 5C, and 5D and as modified in section VIII will facilitate travel, reduce accident rates, preserve the public investment and sustain the highway as a modern transportation facility.

VII

In addition to the exhibits previously mentioned, the following exhibits were entered into evidence at or subsequent to the hearing and made a part of the hearing record:

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| Exhibit No. 6A | Hearing Parcel Exhibit. |
| Exhibit No. 6B | Hearing Parcel Exhibit. |
| Exhibit No. 7 | Letter dated October 6, 1993, City of Lynnwood approval of the I-5/196th Street S.W. Interchange Limited Access Report. |
| Exhibit No. 8 | Motion No. 93-356 dated October 20, 1993, Snohomish County approval of the I-5/196th Street S.W. Interchange Limited Access Report. |
| Exhibit No. 9 | I-5/196th Street S.W. Interchange, Draft Environmental Impact Statement. |
| Exhibit No. 9A | I-5/196th Street S.W. Interchange, Draft Environmental Impact Statement, Table S-2, Social, Economic, and Environmental Impacts, submitted by Elaine Spencer in support of testimony made at the hearing. |
| Exhibit No. 10 | Greater Lynnwood/I-5 Transportation Study (December 1987). |
| Exhibit No. 11 | I-5/196th Street S.W. Interchange, Draft Design Report (November 1992). |
| Exhibit No. 12 | I-5/196th Street S.W. Interchange, Traffic Analysis (September 1993). |
| Exhibit No. 13 | I-5/196th Street S.W. Interchange, Traffic Analysis Technical Appendix (April 1993). |
| Exhibit No. 14 | Letter dated September 16, 1993, Review of Revised T-7F Runs & Back-up Data for Pass By and Trip Generation Studies. |

- Exhibit No. 15 Photograph, No. 1 - Preferred Alternative (Collector-Distributor Option).
- Exhibit No. 15A Photograph, No. 2 - Preferred Alternative (Collector-Distributor Option).
- Exhibit No. 16A Photograph, No. 3 - Aerial Photo of project (Collector-Distributor Option).
- Exhibit No. 16B Photograph, No. 4 - Aerial Photo of project (Collector Distributor Option).
- Exhibit No. 16C Photograph, No. 5 - Aerial Photo of project (Collector-Distributor Option).
- Exhibit No. 17 Reserved Exhibit, Department's response to questions asked by Elaine Spencer regarding Exhibit No. 9A. (Not used)
- Exhibit No. 17A Reserved Exhibit, Eagle Hardware response to Reserved Exhibit No. 17. (Not used)
- Exhibit No. 18 Reserved Exhibit to reply to cross-examination of Department officials by Elaine Spencer, Attorney for Eagle Hardware.
- Exhibit No. 18A Reserved Exhibit, Eagle Hardware response to Reserved Exhibit No. 18. (Not used)
- Exhibit No. 19 Reserved Exhibit, I-5/195th St S.W. Interchange, Limited Access Control Report (February 1993).
- Exhibit No. 20 Memorandum of Available Alternatives, submitted by Elaine Spencer in support of testimony made at the hearing.
- Exhibit No. 20A Reserved Exhibit to reply to Exhibit No. 20. (Not used)
- Exhibit No. 21 Chart of Existing Split Diamond at 44th Ave. W and 196th St SW, submitted by Bill Eager in support of testimony made at the hearing.
- Exhibit No. 21A Chart of Ramp Changes Proposed by WSDOT, submitted by Bill Eager in support of testimony made at the hearing.
- Exhibit No. 22 Chart of the Impact of Poplar Way, submitted by Bill Eager in support of testimony made at the hearing.
- Exhibit No. 23 Simplified Chart of Alternative Alignment for 198th St SW, submitted by Bill Eager in support of testimony made at the hearing.
- Exhibit No. 24 Intersection Level of Service (LOS) based on Transyt 7-F PM Peak Hour, dated August 27, 1993, submitted by Bill Eager in support of testimony made at the hearing.
- Exhibit No. 25 Simplified Chart showing Extent of Limited Access Control, submitted by Bill Eager in support of testimony made at hearing.
- Exhibit No. 26 Proposed Eagle Access Plan, submitted by Bill Eager in support of testimony made at the hearing.
- Exhibit No. 27 Trip Generation Rates for Seattle-Area Eagle Hardware Stores, submitted by Bill Eager in support of testimony made at the hearing (March 23,1993).
- Exhibit No. 28 Pass-By and Diverted Linked Trips Seattle-Area Eagle Hardware Stores, submitted by Bill Eager in support of testimony made at the hearing (March 23,1993).
- Exhibit No. 29 City of Lynnwood Traffic Report prepared for Eagle Hardware on April 15, 1993, submitted by Bill Eager in support of testimony made at the hearing.

- Exhibit No. 30 WSDOT Traffic Report prepared for Eagle Hardware on April 15, 1993, submitted by Bill Eager in support of testimony made at the hearing.
- Exhibit No. 31 Snohomish County Title 26B Traffic Report prepared for Eagle Hardware on April 15, 1993, submitted by Bill Eager in support of testimony made at the hearing.
- Exhibit No. 32 Letter, dated September 27, 1993, to Hi Bronson, Snohomish County Community Development from WSDOT, submitted by Bill Eager in support of testimony made at the hearing.
- Exhibit No. 33 Letter, dated July 15, 1993, to Loren Sand from TDA, Inc., submitted by Bill Eager in support of testimony made at the hearing.
- Exhibit No. 34 Reserved Exhibit, Departments's response to Exhibit Nos. 21 - 33. (Not used)
- Exhibit No. 35 No-Build Alternative, 1988 vs. 2010, submitted by James MacIssac in support of testimony made at the hearing.
- Exhibit No. 36 2010 Build vs. 2010 No-Build, submitted by James MacIssac in support of testimony made at the hearing.
- Exhibit No. 37 Travel Forecast Aberrations (December 10, 1993), submitted by James MacIssac in support of testimony made at the hearing.
- Exhibit No. 38 LID Builds Substantial Overcapacity, submitted by James MacIssac in support of testimony made at the hearing.
- Exhibit No. 39 Eagle Access/Poplar Way Intersection, submitted by James MacIssac in support of testimony made at the hearing.
- Exhibit No. 40 Summary/Conclusion (December 10, 1993) of MacIssac Testimony, submitted by James MacIssac in support of testimony made at the hearing.
- Exhibit No. 41 Reserved Exhibit to reply to Exhibit Nos. 35 - 40. (Not used)
- Exhibit No. 42 Reserved Exhibit to respond to the testimony of Bert Hambleton (Not used).
- Exhibit No. 43 Major Retail Requirement, submitted by Sherwood Korssjoen in support of testimony made at the hearing.
- Exhibit No. 44 Economic Development Council of Snohomish County contact with Sherwood Korssjoen, submitted by Sherwood Korssjoen in support of testimony made at the hearing.
- Exhibit No. 45 Comprehensive Plan, Department of Planning and Community Development, Planning Division, Snohomish County, submitted by Sherwood Korssjoen in support of testimony made at the hearing.
- Exhibit No. 46 Access Hearing Plan Sheets 1 through 4 of 4 sheets, submitted by Keith Dearborn in support of testimony made at the hearing.
- Exhibit No. 47 I-5/196th Street S.W. Feasibility Study Lynnwood Circulation Plan (June 1991), submitted by Loren Sand in support of testimony made at the hearing.
- Exhibit No. 48 Lynnwood Legacy: Making the Vision a Reality (June 1993), submitted by Loren Sand in support of testimony made at the hearing.

- Exhibit No. 49 City of Lynnwood Ordinance No. 1784, Lynnwood Comprehensive Arterial and Street Plan: Basic Six-Year Construction Program, 1991-1996, submitted by Loren Sand in support of testimony made at the hearing.
- Exhibit No. 50 Concomitant Zoning Agreement (Area C South of 196th) dated May 14, 1993, submitted by Loren Sand in support of testimony made at the hearing.
- Exhibit No. 51 Letter, dated May 12, 1993, to Mayor Hrdlicka, City of Lynnwood, from David Heerensperger, submitted by Loren Sand in support of testimony made at the hearing.
- Exhibit No. 52 Letter, dated May 28, 1993, from Mayor Hrdlicka, City of Lynnwood, to David Heerensperger, submitted by Loren Sand in support of testimony made at the hearing.
- Exhibit No. 53 Public Meeting Summary, dated October 6, 1993, submitted by Loren Sand in support of testimony made at the hearing.
- Exhibit No. 54 Poplar Way Realignment proposal, submitted by Loren Sand in support of testimony made at the hearing.
- Exhibit No. 55 Reserved Exhibit to supplement Exhibit No. 54, to be submitted by City of Lynnwood.
- Exhibit No. 55A Preferred Alternative Poplar Way Alignment submitted by the City of Lynnwood.
- Exhibit No. 56 Reserved Exhibit to reply to Exhibit No. 55, and Exhibit No. 55A.
- Exhibit No. 57 Memorandum requesting limited access hearing be continued, submitted by Elaine Spencer in support of testimony made at the hearing.
- Exhibit No. 58 Reserved Exhibit to reply to Exhibit No. 57. (Not used)
- Exhibit No. 59 Reserved Exhibit to reply to Testimony of Sherwood Korssjoen.
- Exhibit No. 60 Reserved Exhibit to reply to Testimony of Neil McCrackin.
- Exhibit No. 61 Reserved Exhibit to reply to Testimony of Keith Dearborn.
- Exhibit No. 62 Reserved Exhibit to reply to Testimony of Ted Bell. (Not used)
- Exhibit No. 63 Reserved Exhibit to reply to Testimony of Don Hoffman. (Not used)
- Exhibit No. 64 Reserved Exhibit to reply to Testimony of Loren Sand. (Not used)
- Exhibit No. 65A Reserved Exhibit to reply to Exhibit No. 70.
- Exhibit No. 65B Reserved Exhibit to reply to Exhibit No. 70.
- Exhibit No. 66 Letter, dated December 10, 1993, from Jon C. Peterson, property owner, requesting additional information on access and driveway locations.
- Exhibit No. 67 Letter, dated December 23, 1993, from Jon C. Peterson, property owner, summarizing responses to Exhibit No. 66.
- Exhibit No. 68 Letter, dated December 22, 1993, from Elaine Spencer, lawyer for Eagle Hardware, withdrawing all objections to the preferred alternative and EIS.
- Exhibit No. 69 Reserved Exhibit to reply to Terry Olsen's request for additional access to Parcel No. 1-15339 made at the hearing on pages 56 and 57 of the hearing transcript.

VIII

The Assistant Secretary of Environment and Engineering has considered evidence on the entire portion of the above entitled highway and finds the plan introduced into evidence marked Exhibit 5A, 5B, 5C, and 5D should be modified as hereinafter set forth as shown on Exhibit "A" attached.

Plan sheets 1 through 4 of 4 sheets dated November 12, 1993 will be replaced with new plan sheets with the same title. Sheets 1 through 4 will include the following changes:

1. Poplar Way has been realigned between Sta. PW 17+87.89 and Sta. PW 27+37.61 to the west of its current alignment as shown on plan sheets 1 and 2 of 4 sheets. This realignment will reduce the impacts on Parcels No. 1-15332, 1-15339 and 1-15340. Parcel Nos. 1-15339 and 1-15340 have been deleted from the plan as they are no longer needed. This revisions was requested by the City of Lynnwood in Exhibit No. 55 and is recommended by the Department of Transportation in Reserved Exhibit No. 56.
2. Added a Type C approach for Parcel No. 1-15324 between Sta. 507+00 and Sta. 508+00 Lt. on the N-E Ramp as shown on plan sheet 2 of 4 sheets. This approach will allow Snohomish County P.U.D. access to an existing substation located off the N-E ramp. This revision was requested by the City of Lynnwood in Exhibit No. 70 and is recommended by the Department of Transportation in Reserved Exhibit No. 65A.
3. Relocate the right of way and limited access lines between Sta. LL 504+50 and Sta. FB 163+31.10 on the left as shown on plan sheet 2 of 4 sheets. This relocation was recommended by the Department of Transportation to lessen the impacts on Parecel Nos. 1-15313 and Parcel No. 1-15315.
4. Added a Type C approach for Parcel No. 1-15335 between Sta. PW 22+00 and Sta. PW 25+00 Lt. as shown on plan sheet 2 of 4 sheets This approach will allow access to an existing tower and antenna located on this parcel. This approach was requested by the City of Lynnwood in Exhibit No. 70 and is recommended by the Department of Transportation in Reserved Exhibit No. 65B.
5. Minor revisions that correct ownerships and parcel details, area computations, and right of way details. (See plan sheets 1 through 4 of 4 sheets).

IX

The Assistant Secretary of Environment and Engineering also considered the following requests and makes the following findings:

1. Mr. Terry Olsen at the hearing on pages 56 and 57 of the hearing transcript requested additional access to Parcel No. 1-15339.

As stated by the Department in Reserved Exhibit No. 69, additional access will not be provided to Parcel No. 1-15339 along Poplar Way.

X

The Assistant Secretary for Environment and Engineering 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", is required for public convenience and necessity.

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

ORDERS:

I

That the section of State Route 5 in Snohomish County described as follows is hereby designated as a limit access highway of the fully controlled type:

Between Station 492+00 and Station 565+00 as shown on sheets 1 through 4 of 4 sheets entitled "SR 5 ALDERWOOD MANOR INTERCHANGE, MP 181.07 TO MP 182.45, SNOHOMISH COUNTY"

II

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

Plan sheets 1 through 4 of 4 sheets, dated November 12, 1993, will be replaced with new plan sheets, 1 through 4 of 4 sheets, using the same title but reflecting in Exhibit "A" the changes specified below:

1. Show the Poplar Way has been realigned between Sta. PW 17+87.89 and Sta. PW 27+37.61; that Parcel Nos. 1-15339 and 1-15340 have been deleted from the plan as shown on plan sheets 1 and 2 of 4 sheets.
2. Show that the Type C approach has been added to the plan for Parcel No. 1-15324 between Sta. 507+00 and Sta. 508+00 Lt. on the N-E Ramp as shown on plan sheet 2 of 4 sheets.
3. Show that the right of way and limited access lines have been relocated between Sta. LL 504+50 and Sta. FB 163+31.10 on the left as shown on plan sheet 2 of 4 sheets.
4. Show that the Type C approach has been added to the plan for Parcel No. 1-15335 between Sta. PW 22+00 and Sta. PW 25+00 Lt. as shown on plan sheet 2 of 4 sheets
5. Minor revisions that correct ownerships and parcel details, area computations, and right of way details. (See plan sheets 1 through 4 of 4 sheets)

That the plan entitled, "SR 5 ALDERWOOD MANOR INTERCHANGE, MP 181.07 TO MP 182.45, SNOHOMISH COUNTY," sheets 1 through 4 of 4 sheets, as revised reflected in Exhibit "A", is hereby adopted, and further

That the following plans are hereby superseded:

"SR 5 E. 200TH ST. TO SWAMP CREEK, KING AND SNOHOMISH COUNTY", Right of Way and Limited Access, sheet 7, 8, and 9(Pt.) of 12 sheets, approved March 28, 1961.

ADOPTED THIS 03 DAY OF April, 1995

ASSISTANT SECRETARY OF
ENVIRONMENT AND ENGINEERING

E. R. Burch

Approved as to form:

Assistant Attorney General