BEFORE THE CITY OF FIFE

IN RE: SR 5, PORT OF TACOMA ROAD INTERCHANGE VICINITY STA. 3547+59.67 TO 3575+00 LIMITED ACCESS HEARING	**LIMITED ACCESS FINDINGS AND ORDER**

The hearing on the above entitled matter was held upon due notice to interested parties, beginning at 6:00 P.M. on Wednesday, January 14, 2015 at Fife Municipal Court, Fife Criminal Justice Center, 3737 Pacific Highway East, Fife, Washington, before Administrative Law Judge (ALJ) Lisa Dublin.

Interested persons and organizations who received notice of the hearing are as follows:

Media
The News Tribune, 1950 South State Street, Tacoma, WA 98405

List of Legislators
Sen. Bruce Dammeier, 205 Irv Newhouse Bldg., PO Box 40425, Olympia, WA 98504-0425

Rep. Dawn Morrell, 306 John L. O'Brien Bldg, PO Box 40600, Olympia, WA 98504-0600

Rep. Hans Zeiger, 468 John L. O'Brien Bldg., PO Box 40600, Olympia, WA 98504-0600

Rep. Elect Melanie Stambaugh, PO box 40600, Olympia, WA 98504-0600

Government Agencies
City of Fife, 5411 23rd Street East, Fife, WA 98424

City of Fife, Mayor's Office, 5411 23rd Street East, Fife, WA 98424

City of Tacoma, Tacoma Municipal Building, 747 Market Street, Tacoma, WA 98402

Port of Tacoma, PO Box 1837, Tacoma, WA 98401

Pierce Transit, PO Box 99070, 3701 96th Street SW, Lakewood, WA 98496-0070

Puyallup Tribe, 5722 66th Avenue East, Puyallup, WA 98371

Pierce County, 930 Tacoma Ave. South, Room 737, Tacoma, WA 98402-2171

Tacoma Fire Department, 901 Fawcett Avenue, Tacoma, WA 98402

Tacoma Public Utilities, 3628 S. 35th Street, Tacoma, WA 98409

Environmental Protection Agency, Region 10, 1200 6th Ave., Ste 900, Seattle, WA 98101

Federal Highway Administration (FHWA), 711 S. Capitol Way, Suite 501, Olympia, WA 98501

Puget Sound Regional Council – Transportation Policy Board, 1011 Western Avenue, Suite 500 Seattle, WA 98104-1035

US Army Corps of Engineers (USACE), PO Box 3755, Seattle WA 98124-3755

US Fish and Wildlife Service (USFWS), Western Washington Office, 510 Desmond Drive SE, Suite 102, Lacey, WA 98503-1263

Washington State Department of Archaeology and Historic Preservation (DAHP), PO Box 48343, Olympia, WA 98504

Washington State Department of Ecology (Ecology), PO Box 47600, Olympia, WA 98504-7600

Washington Department of Fish and Wildlife (WDFW), 600 Capitol Way North, Olympia, WA 98501-1091

List of Abutting Property Owners

Parcel 3-10554
Tuck Holdings, LLC, 3077 20th St E, Ste. B, Fife, WA 98424

Parcel 3-10555
Spearman Wilson Holdings, LLC, 3323 20th St E, Fife, WA 98424

Parcel 3-10556
Petrocard Systems, Inc., 730 Central Ave S, Kent, WA 98032

Parcel 3-10557
AMB US Logistics Fund LP, 60 State St. Ste 1200, Boston, MA 02109
AMB Property Corp, Pier One, Bay One, San Francisco, CA 94111

Parcel 3-10558
Spearman Wilson Holdings, LLC, 3323 20th St E, Fife, WA 98424

Parcel 3-10559
Resource Assets, Inc., C/O James Cole, PO Box 24065, Seattle, WA 98124

Parcel 3-10560
Pacific Hotels, Inc., 3100 Pacific Hwy E, Fife, WA 98424

Parcel 3-10561
The City of Fife, 5411 23rd St E, Fife, WA 98424

Parcel 3-10562
F W Evans, Evans Fife, LLC, 7638 NE Bothell Way, Kenmore, WA 98028
Evans Fife, LLC, 9330 Balboa Ave., San Diego, CA 92123
Steve Wazny, AJP Enterprises, LLC, 5005 Pacific Highway East, Suite 12, Fife, WA 98424 (Tenant).

Parcel 3-10563
F W Evans, Evans Fife, LLC, 7638 NE Bothell Way, Kenmore, WA 98028
Evans Fife, LLC, 9330 Balboa Ave., San Diego, CA 92123
Marine View Ventures, Inc., 1409 Alexander Ave E, Fife, WA 98424 (Tenant).

Parcel 3-10564
Frank and Janis Pupo, 9615 22nd Ave NW, Gig Harbor, WA 98332
James and Lucille Vig, 13920 51st Ave E, Tacoma, WA 98446
Goodyear Tire and Rubber, PO box 48, Fort Smith, AR 72902 (Tenant)
Goodyear Auto Service Center #8827, 200 Innovation Way, D616 Loc 4AS, Akron, OH 44316 (Tenant)

Parcel 3-10565
Dean L. Rider, M.D., Trustee of the 2006 Mary Berry Pitzer Revocable Trust, 350 Parnassus Ave., San Francisco, CA 94117

Parcel 3-10566
Stryder II, LLC, 1201 Pacific Ave, Ste 1400,Tacoma, WA 98402

Parcel 3-10567
Emanuel, Inc., 1720 S 272nd St, Des Moines, WA 98198

Parcel 3-10568
Kyu Dae Lee, Kye Bong Lee, and Hyun Suek Hong, 8601 S. Hosmer St, Tacoma, WA 98444

Parcel 3-10569
Loves Travel Stop & Country Stores, Inc., 10601 N. Pennsylvania Ave., Oklahoma City, OK 74135
Burke and Associates, LLC, 3336 E 32nd St, Ste 217, Tulsa, OK 74135

Parcel 3-10570
Simon Johnson-Pacific Hwy, 1019 Pacific Ave, Ste 1119, Tacoma, WA 98402

Parcel 3-10571
K & P Investments, LLC, 5121 Ripley Lane N, Renton, WA 98056

Parcel 3-10572
Hae C Lee, 3401 Pacific Hwy E, Fife, WA 98424

Parcel 3-10573
Kaybee II, LLC, 1230 W Intl. Airport Rd, Anchorage, AK 99518
Chuck Kim, Kaybee, II LLC, 19401 SE 16th Street, Sammamish, WA 98075

Parcel 3-10574
KS Family, LLC, PO Box 1255, Milton, WA 98354
KS Family, LLC, 3520 Pacific Hwy. E., Fife, WA 98424

Other Property Owners within Project Area but outside Limited Access Area

Brian Steel and Ann Hungar-Steel, 10007 Eagle Place, Anderson Island, WA 98303-9633

Philip D. Waldner, Kempwald Enterprises, LLC, 1313 34th Avenue East, Fife, WA 98424-1103

Richard Wescott, Wescott Investments, LLC, 3402 12th St E, Fife, WA 98424-1128

As a courtesy to interested citizens, the City of Fife, hereinafter "the City," furnishes a copy of these Findings and Order to all persons who provided written or verbal comments, or who filed 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, and are listed on the Affidavit of Service, or otherwise received written notice of the Access Hearing, are listed above. The City, 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.

Russ Blount, Public Works Director for the City of Fife, 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 ALJ Lisa Dublin, after which witnesses were called. Evidence was taken by Court Reporter Diane M. Cullivan, 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 chapter 47.52 RCW, the Fife City Council and Public Works Director for the City of Fife make the following findings:

1. PROCEDURAL FINDINGS

State Route (SR) 5 is part of the National Highway System (NHS) and is designated a Highway of Statewide Significance (HSS). SR 5 is designated a full control limited access highway as required for interstate highways in Washington. Port of Tacoma Road, 34th Avenue East, 12th Street East, 20th Street East, and Pacific Highway East are classified as arterials with rolling terrain with posted and design speeds of at least 25 mph. The City manages access control on these roadways.

On December 18, 2014, a limited access hearing plan was prepared to establish full and modified limited access control for new Right of Way boundaries in the vicinity of the Port of Tacoma

Interchange with SR 5. This access hearing plan, titled "SR 5, PORT OF TACOMA ROAD INTERCHANGE VICINITY, ACCESS HEARING PLAN, STA. 3547+59.67 TO 3575+00," sheets 1 through 6, was admitted into evidence, marked as Exhibit No. 5, and made part of the hearing record ("Access Hearing Plan").

The proposed Access Hearing Plan (Exhibit 5) is the subject of this Limited Access Findings and Order.

As part of the preparation of the above-described Access Hearing Plan, the City 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 City prepared and submitted to the appropriate officials an Access Report, entitled "ACCESS HEARING REPORT, Interstate 5 – Port of Tacoma Interchange Project, December 2014." This Access Report shows that such data has been taken into account by the City 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 December 18, 2014, the Washington State Department of Transportation ("WSDOT") in conjunction with the City of Fife, issued an order setting a hearing date for the Access Hearing Plan for January 14, 2015, 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 City prepared and mailed copies of relevant Access Hearing material, including (1) an introductory cover letter, (2) a blank Notice of Appearance form, (3) a Notice of Limited Access Control Hearing, and (4) the proposed Access Hearing Plan. These Access Hearing materials were mailed on December 29, 2014, to a list of interested parties and abutting property owners of record, as evidenced by the Affidavit of Service by Mailing signed by Kelly Robinson and notarized by Kelly Sheil, both on December 29, 2014. The list of the recipients of the mailing is attached as Exhibit A to the Affidavit of Service by Mailing. The signed Affidavit of Service by Mailing with access hearing materials was admitted into evidence, marked as Exhibit No. 2, and made part of the hearing record.

On December 31, 2014, notice of the Limited Access Control Hearing was published in The News Tribune, as shown by the Affidavit of Publication with printed ad copy attached, signed by Janice Wassenar, Principal Clerk of The News Tribune and notarized by Kari F. Lambert, both on December 31, 2014. The Affidavit of Publication was admitted as evidence, marked as Exhibit No. 3, and made part of the hearing record.

3. PRESERVATION OF THE PUBLIC INVESTMENT

The interchange of Port of Tacoma Road with SR 5 is located just east of the Puyallup River Bridge in the City of Fife. This interchange is an integral element of the freight and truck operations of both the City and the Port of Tacoma (Port). As its name suggests, Port of Tacoma Road is the main access between the Port and SR 5; the road also connects to major arterials, such as State Route 509 (SR 509) and Pacific Highway East. Between SR 509 and 20th Street East, Port of Tacoma Road is a principal arterial fronting local businesses.

The existing interchange of Port of Tacoma Road with SR-5 is a Partial Cloverleaf B4 interchange, with the single loop ramp in the southeast quadrant, which serves the northbound SR 5 to northbound Port of Tacoma Road movement. Problems with the current configuration include closely spaced intersections and heavy congestion. Currently, the horizontal alignment of the southbound off-ramp and on-ramp of the Port of Tacoma Road interchange do not meet design standards for exiting and entering SR 5 at freeway speeds. Between 2002 and 2008, six fatal accidents have occurred in the project vicinity. High truck volumes and peak-hour congestion, coupled with very closely spaced intersections between Pacific Highway East and 20th Street East, make it difficult for vehicles and freight to smoothly access this area.

The project proposes to replace the existing configuration of the interchange with a diamond couplet interchange to improve access, safety, and route reliability. As part of the proposed project, 34th Avenue East and Port of Tacoma Road will become a set of paired one-way streets; 34th Avenue East will become a one-way street going north and a portion of Port of Tacoma Road will become a one-way street going south. The northbound and southbound SR 5 ramps will connect to this couplet through four new synchronized, signalized intersections, providing all directional movements on the interchange. Additional local road improvements will widen 12th Street East and 20th Street East, and add a right turn lane to Pacific Highway East at 34th Avenue East.

The interchange of Port of Tacoma Road with SR 5 is an important and heavily used part of the state highway system, representing a substantial expenditure of public funds to facilitate public travel. SR 5 is part of the National Highway System (NHS) and is designated a full control limited access highway. WSDOT policy provides for limited access control on interchange ramps, frontage roads, and interchange crossroads for highways of this type. The proposed access control within the project limits will be established as Full and Modified as shown on the proposed Access Hearing Plan entered into evidence, marked as Exhibit No. 5. In limiting access as shown on 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 SR 5 and the identified city streets, utilized as a means of moving a maximum volume of traffic in an optimal and safe manner, is directly related to the number and spacing of access points. It has been demonstrated in the past that as property owners establish approaches to a highway and/or street for their personal use or business use, the optimum operation of the highway and/or street facility gradually diminishes, and the highway and/or street facility, itself, may become obsolete. Therefore, access points, both public and private, should be kept to a minimum consistent with allowing local traffic adequate use of the highway and/or street facility at properly designed intersections in order to preserve the highway's and street's efficiency and safety.

The proposed Access Hearing Plan admitted into evidence as Exhibit No. 5 and titled SR 5, PORT OF TACOMA ROAD INTERCHANGE VICINITY, ACCESS HEARING PLAN, STA. 3547+59.67 TO 3575+00, will establish Full and Modified limited access control as shown. It will also facilitate travel, reduce accident rates, preserve the public investment, and sustain the highway and/or streets 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 December 18, 2014.
Exhibit No. 2	Affidavit of Service by Mailing, dated December 29, 2014.
Exhibit No. 3	Affidavit of Publication, dated December 31, 2014.
Exhibit No. 4	Access Hearing Report, Interstate 5 – Port of Tacoma Road Interchange Project, December 2014.
Exhibit No. 5	Proposed Access Hearing Plan, titled "SR 5, PORT OF TACOMA ROAD INTERCHANGE VICINITY, ACCESS HEARING PLAN, STA. 3547+59.67 TO 3575+00," as shown on sheets 1 through 6 of 6 sheets, approved and adopted December 18, 2014.
Exhibit No. 6	Limited Access Hearing Presentation Slides, dated January 14, 2015, Slides 1-53.
Exhibit No. 7	Notice of Appearance by Kempwald Enterprises, LLC, represented by Philip D. Waldner (Partner), a non-abutting property owner.
Exhibit No. 8	Notice of Appearance by Fife Service and Towing, Inc., represented by Justin Kemp-Waldner (Vice President), a non-abutting property owner.
Exhibit No. 9	Notice of Appearance by Kyu Dae Lee, Kyu Bong Lee, and Hyun Suek Hong, represented by Kyu Dae Lee, owners of Parcel No. 3-10568.
Exhibit No. 10	Notice of Appearance by Rick and Linda Wescott (Wescott RV), represented by Randy L. Gerhke, General Manager, and Karl Woodruff, Assistant General Manager, non-abutting property owners.
Exhibit No. 11	Notice of Appearance by K & P Investments, represented by owner Kevin Iden, Parcel No. 3-10571.
Exhibit No. 12	Notice of Appearance by Frank D. Pupo/Pupo Vig Properties, LLC, represented by D. Stephen DiJulio, Parcel No. 3-10564.
Exhibit No. 13	Notice of Appearance by Associated Petroleum Products, Inc., represented by J. Bradley Buckhalter, Parcel No. 3-10565.
Exhibit No. 14	Comment Form with attached letter, diagram and photo, dated January 26, 2015, from Kyu D. Lee, owner of Parcel No. 3-10568.

Exhibit No. 15	Undated letter from Philip Waldner on behalf of Fife Towing, Inc. and Kemp-Wald Enterprises, LLC, non-abutting tenant and property owner.
Exhibit No. 16	January 28, 2015 letter from J. Bradley Buckhalter, General Counsel, representing Associates Petroleum, Inc. and Frank Pupo, Sr., with Exhibit A analysis from Transportation Solutions, Inc. and Exhibit B biography, , Parcel Nos. 3-10564 (owner Pupo) and 3-10565 (tenant Associated Petroleum, Inc.).
Exhibit No. 17	Comment Form with comments, received January 28, 2015, from Melissa Aguilera, representing Jack-in-the Box (tenant), Parcel No. 3-10562.
Exhibit No. 18	Response letter from Russ Blount, Fife Public Works Director, to Philip D. Waldner, non-abutting tenant and property owner, dated February 12, 2015.

5. SPECIFIC ACCESS RESPONSES

The Public Works Director for the City of Fife 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. Kyu D. Lee, owner of Parcel No. 3-10568, submitted a letter, dated January 26, 2015, Exhibit No. 14. Mr. Lee's comments are noted below, with the City' responses:

   I'm confident we will see great improvement with traffic in Fife and we welcome the project. However we expect fairness by having 34th Avenue East should be equally divided and remain in the same current natural path road layout. We object on only one parcel (Parcel 3-10568) being the only contributor, therefore an equal division from the adjacent parcel is expected (Parcel 3-10572).

   City's Response: The realignment of 34th Avenue East at the intersection of Pacific Highway East between Parcel 3-10568 and 3-10572 as shown on the Access Hearing Plans was chosen in order to avoid impacts to the motel building on Parcel 3-10572 and the drive-thru Jack-in-the-Box restaurant building on Parcel 3-10562. Shifting 34th Avenue East west at that location also allows for a longer and safer off ramp to 34th Avenue from SR 5 southbound. Taking an equal amount of land from Parcel 3-10568 and 3-10572 would not avoid the building impacts and would substantially increase the overall land acquisition costs. With respect to issues involving land acquisition, Federal and State laws require just compensation to be paid for the purchase of property or property rights, including access. If less than an entire parcel is acquired, just compensation also includes losses in value or damages, if any, to the remaining property. These issues will be addressed by the appraiser during the appraisal process. This

Findings and Order only addresses the establishment of limited access and not the payment of just compensation for the land acquired for this project.

2. Melissa Aguilera, commenting on behalf of Jack-in-the Box, tenant on Parcel No. 3-10562, submitted a comment form, received January 28, 2015, Exhibit No. 17. Mrs. Aguilera's comments are noted below, with the City's responses:

The proposed taking will likely have a significant impact on this site because the proposed work will close off the primary entrance/exit point for this site which will make it more difficult for vehicle to access the restaurant and disrupt vehicular circulation on the site.

City's Response: The existing driveway at Engineer's Station F 21+22 is in conflict with the location of the proposed intersection of 34th Avenue East and Pacific Highway East. If the driveway were to remain in its current location, it would lie within the intersection's proposed southeast curb return. The intersection must be free of driveways within the curb return areas to facilitate traffic flow and to function safely.

Additionally, the one remaining entrance to the site is not actually on the property leased by Jack in the Box.

City's Response: The east access to the Jack-in-the-Box located at Engineer's Station F 22 + 73.24 (50' Rt.) on the Access Hearing Plan is primarily located on Parcel No. 3-10562, but a small portion of approximately one to two feet is located on neighboring Parcel No. 3-10563. This access will be changed to a Type D commercial approach. The width of the driveway on the Jack-in-the-Box side is approximately 30 feet, so Jack in the Box does not need legal access off of Parcel No. 3-10563. Joint access isn't necessary at Station F 22 + 73.24 (50' Rt.) for Parcel No. 3-10563 either because it has another access on the east side of its parcel that is outside of the limited access area.

It appears that the proposed closure of the primary entrance/exit will eliminate the drive-thru exit, thereby eliminating the drive-thru. The drive-thru is a significant source of sales.

City's Response: The potential elimination of the drive-thru or the need to reconfigure the property is a property valuation question which not related to the establishment of limited access pursuant to the Access Hearing Process. Federal and State laws require just compensation to be paid for the purchase of property or property rights, including access. If less than an entire parcel is acquired, just compensation also includes losses in value or damages, if any, to the remaining property. These issues will be addressed by the appraiser during the appraisal process.

In addition to the closure of the primary entrance/exit, even if we were to use the secondary entrance off the Jack in the Box property, adding the median on Pacific Highway East will effectively deter customers from coming in to the site (because

it will not be as easy to enter/exit the site) and thereby eventually causing a significant decrease in sales.

City's Response: The addition of the median on Pacific Highway is a traffic control measure and not related to the establishment of limited access. The City has the legal authority to manage its streets in the interests of public health, safety, and welfare. The addition of the median is necessary for the safety of the traveling public approaching the SR 5 interchange. However, the City will change the Project plans to allow left turns *into* the east access to the Jack-in-the-Box located at Engineer's Station F 22 + 73.24 (50' Rt.), but left turns out will not be allowed. By making this change, the City does not waive or otherwise relinquish its legal authority and right to extend the raised median or restrict traffic movement in this location after the Project is completed, if conditions warrant a closure of the left turn in movement in the future for public safety. The remainder of this response involves potential impacts to Parcel No. 3-10562: Federal and State laws require just compensation to be paid for the purchase of property or property rights, including access. If less than an entire parcel is acquired, just compensation also includes losses in value or damages, if any, to the remaining property. These issues will be addressed by the appraiser during the appraisal process. As previously mentioned, this Findings and Order only addresses the establishment of limited access and not the payment of just compensation for the land and/or access acquired for this project.

In the event we can reconfigure the drive-thru, we will lose a significant amount of parking further hurting traffic and sales.

City's Response: This statement involves potential impacts to Parcel No. 3-10562. Federal and State laws require just compensation to be paid for the purchase of property or property rights, including access. If less than an entire parcel is acquired, just compensation also includes losses in value or damages, if any, to the remaining property. These issues will be addressed by the appraiser during the appraisal process. As previously mentioned, this Findings and Order only addresses the establishment of limited access and not the payment of just compensation for the land and/or access acquired for this project.

3. Steve Wazny of AJP Enterprises LLC, tenant on Parcel No. 3-10562, gave oral testimony at the Access Hearing (pages 47- 48 of the Access Hearing Transcript), Mr. Wazny's comments are noted below, with the City's responses:

My concern is the entrance and exit that is getting – is basically being removed. It is also the entrance to the drive-thru. So that's going to – no driveway really leads to our restaurant. So the other – the other concern is that with the island there, we have a lot of people that turn left as they're going east on Pacific Highway, and so that's going to also create some issues. My concern is really what does it do to the volume of the restaurant.

City's Response: State limited access highway design standards require that the existing driveway at Engineer's Station F 21+22 be closed due to its proximity to the new 34th Avenue East off-ramp from SR 5 to support traffic movement and for the safety of the traveling public.

The addition of the median on Pacific Highway is a traffic control device and not related to the establishment of limited access. The City has the authority to manage its streets in the interests of public health, safety, and welfare. The addition of the median is necessary for traffic safety approaching the SR 5 interchange. However, the City will change the Project plans to allow left turns *into* the east access to the Jack-in-the-Box located at Engineer's Station F 22 + 73.24 (50' Rt.), but left turns out will not be allowed. By making this change, the City does not waive or otherwise relinquish its legal authority to extend the raised median or restrict traffic movement in this location after the Project is completed, if conditions warrant a closure of the left turn in movement in the future for public safety. The remainder of Mr. Wazny's oral testimony involves economic impacts to Parcel No. 3-10562. Federal and State laws require just compensation to be paid for the purchase of property or property rights, including access. If less than an entire parcel is acquired, just compensation also includes losses in value or damages, if any, to the remaining property. These issues will be addressed by the appraiser during the appraisal process. This Findings and Order only addresses the establishment of limited access and not the payment of just compensation for the land and/or access acquired for this project.

4. Philip Waldner, representing Kemp-Wald Enterprises, LLC and Fife Towing, Inc., owner and tenant of property located at 1313 34th Ave East outside of the limited access control area to be established by this Findings and Order, gave oral testimony at the Access Hearing (pages 49-52 of the Access Hearing Transcript), and submitted written comments, Exhibit No. 15. Mr. Waldner's comments are related to impacts to his property and business due to the proposed one way designations for Port of Tacoma Road, 34th Avenue East, and 12th Street East, and are not related to the establishment of limited access or the decisions to be made as a result of the Access Hearing Process. The City responded to Mr. Waldner's comments by letter dated February 12, 2015, a copy of which is identified as Exhibit No. 18.

5. J. Bradley Buckhalter, representing Associated Petroleum Products, Inc. tenant of Parcel 3-10565, and Pupo-Vig Properties, LLC, owner of Parcel No. 3-10564, gave oral testimony at the Access Hearing (pages 43-46 of the Access Hearing Transcript, and submitted a letter, dated January 28, 2015, with Exhibits A and B, Exhibit No. 16. Mr. Frank Pupo, owner of Parcel No. 3-10564 also gave oral testimony at the Access Hearing (pages 46-47 of the Access Hearing Transcript), relying on the statements of Mr. Buckhalter as applicable to Parcel No. 3-10564. Mr. Buckhalter's comments as relating to both Parcel No. 3-10564 (Pupo and Parcel No. 3-10565 (tenant Associated Petroleum Projects, Inc.) are noted below, with the City's responses:

   Briefly stated, from the perspective of the business located on Parcels 2-10564 and 3-10565, operated as "the Facility," the proposed turn restrictions will require Goodyear's and Associated's customers to make U-turns at the Facility if they wish to exit the Facility to continue traveling the direction in which they entered the Facility. Given the size and design of the Facility, however, it is difficult if not impossible for large commercial trucks and truck-trailer combinations to make U-turns at the Facility. Given the resulting access limitations and inconvenience caused by the proposed limitations, customers could be forced to find alternatives for tire and fuel service, causing significant business losses for Goodyear (which

losses also likely will have future impacts on the Pupo-Vig Properties, LLC, parcel) and Associated.

Additionally . . . the access limitations proposed by the City and WSDOT could negatively affect public safety, which is contrary to the City's and WSDOT's stated goals in imposing the access limitations. The weaving traffic maneuvers that would be required to access the Facility, along with the downstream left-hand turns across traffic flows or utilization of private property for turnarounds by large commercial trucks and truck-trailer combinations wishing to access the Facility will have negative effects on traffic flow in the area, will inconvenience private property owners, and could cause a corresponding increase in traffic safety concerns.

As explained in Exhibit A, Mr. Pupo and Associated request a design modification that would reduce the length of the raised center island that, as designed, will prevent left turns into and out of the Facility from Pacific Highway East. By adopting the suggested design change modifications the City and WSDOT would not only mitigate the negative effects that the proposed limited access would have on the Facility but would also avoid the potential unintended public safety consequences identified in Exhibit A.

City's Response: Traffic modeling indicates that the Project will improve traffic congestion and increase public safety. The establishment of limited access along a roadway restricts the location and type of access abutting properties have onto the adjacent roadway. Limited access should not be confused with the installation of traffic control devices, such as a median, within the roadway. Thus, location of a raised median and restriction of traffic movement to or from an abutting property is outside the scope of the Access Hearing process. However, the City has reviewed the requested design modification and will change the Project plans to reduce the length of the raised center median along Pacific Highway E. to allow left turns into and out of the Type D commercial access at F 13+09.54 (50' Lt) used by Parcel Nos. 3-10564 and 3-10565. By making this change, the City does not waive or otherwise relinquish its legal authority to extend the raised median or restrict traffic movements at this location, if conditions warrant a closure of the left turn movements in the future for public safety.

6. Jason Jordan, Director of Environmental and Planning Programs for the Port of Tacoma, a non-abutting property owner, gave oral testimony at the Access Hearing (pages 52-53 of the Access Hearing Transcript) supporting the Project. The City thanks Mr. Jordan for his comments and appreciates the support.

7. Kym van Dyke, representing Loves Travel Stop & Country Stores Inc., owner of Parcel No. 3-10569, gave oral testimony at the Access Hearing (pages 60- 61 of the Access Hearing Transcript), regarding issues unrelated to limited access. The City responded to Mr. van Dyke's comments at the Access Hearing (pages 61-62 of the Access Hearing Transcript).

8. Virginia Nell, representing K & P Investments, owner of Parcel No. 3-10571, gave oral testimony at the Access Hearing (pages 56- 57 of the Access Hearing Transcript), asking how

long the Project will take. The City responded to Ms. Nell's comments at the Access Hearing (pages 57-59 of the Access Hearing Transcript).

9. Alex Spearman, owner of Parcel Nos. 3-10558 and 3-10555, gave oral testimony at the Access Hearing (pages 62-64 of the Access Hearing Transcript), regarding issues unrelated to limited access. The City responded to Mr. Spearman's comments at the Access Hearing (pages 61-62 of the Access Hearing Transcript).

6. PROPOSED LIMITED ACCESS PLAN MODIFICATION

The City Public Works Director has considered the evidence on the entire portion of the "SR 5, PORT OF TACOMA ROAD, INTERCHANGE VICINITY, ACCESS HEARING PLAN, STA. 3547+59.67 TO 3575+00" and finds that the plans as admitted into evidence, and marked Exhibit No. 5 should be modified as hereinafter set forth, and the City Council concurs with this determination:

1. Revise plan sheet 5 of 6 to add an access note for a Type D*** approach signifying the approach is restricted for use by traffic as left and right in and right out only. This addition is made to accommodate a change in in the project plans to allow left turns into the east access to Parcel No. 3-10562 located at Engineer's Station F 22 + 73.24 (50' Rt.).

2. Revise plan sheet 5 of 6 to change the access type on the Access Approach Schedule for Parcel No. 3-10562 located at Engineer's Station F 22 + 73.24 (50' Rt.) from Type D* (right in, right out only) to a Type D*** (left and right in, right out only). This plan revision is in response to comments from Steve Wazny of AJP Enterprises LLC, the tenant on Parcel No. 3-10562, at the Access Hearing (pages 47- 48 of the Access Hearing Transcript), and written comments from Melissa Aguilera, representing Jack-in-the Box, tenant on Parcel No. 3-10562, received January 28, 2015, Exhibit No. 17.

3. Revise plan sheet 5 of 6 to change the access type on the Access Approach Schedule for the access located at F 13+09.54 (50' Lt) used by Parcel Nos. 3-10564 and 3-10565 from Type D* (right in, right out only) to Type D (no turn restrictions). This plan change is in response to J. Bradley Buckhalter, representing Associated Petroleum Products, Inc. tenant on Parcel 3-10565, and Pupo-Vig Properties, LLC, owner of Parcel No. 3-10564, to comments made at the Access Hearing (pages 43-47 of the Access Hearing Transcript), and by letter, dated January 28, 2015, with Exhibits A and B, Exhibit No. 16.

4. Revise plan sheet 5 of 6 to change owner name for Parcel No. 3-10564 to Pupo-Vig Properties, LLC on the Access Approach Schedule. This plan change is in response to comments from J. Bradley Buckhalter, representing Associated Petroleum Products, Inc. tenant on Parcel 3-10565, and Pupo-Vig Properties, LLC, owner of Parcel No. 3-10564, by letter, dated January 28, 2015, with Exhibits A and B, Exhibit No. 16.

7. ORDER

The City Council and Public Works Director specifically find in the case of each abutting ownership that the adoption of the plan making said street/highway a limited access facility, said plan being attached hereto and marked Exhibit A, with the revisions as listed herein, is in the public interest and required for public convenience and necessity.

Based upon the foregoing findings and the evidence supporting them, the City Council of the City of Fife, a Washington Municipal Corporation,

ORDERS:

A

That the section of SR 5, in City of Fife, Pierce County, Washington is hereby designated as a limited access highway of the Full and Modified control type:

> Between Sta. 3547+59.67 P.O.T and Sta. 3575+00 P.O.T as shown on sheets 1 through 6 of 6 total sheets of the right of way and limited access plan entitled "SR 5, PORT OF TACOMA ROAD, INTERCHANGE VICINITY, ACCESS HEARING PLAN STA. 3547+59.67 TO 3575+00," approved December 18, 2014.

B

That the plan set forth in Exhibit No. 5 for the establishment of access control on said street/highway be revised as follows, and as further shown on Exhibit "A," attached hereto:

1. Revise plan sheet 5 of 6 to add an access note for a Type D*** approach signifying the approach is restricted for use by traffic as left and right in and right out only. This addition is made to accommodate a change in in the project plans to allow left turns into the east access to Parcel No. 3-10562 located at Engineer's Station F 22 + 73.24 (50' Rt.).

2. Revise plan sheet 5 of 6 to change the access type on the Access Approach Schedule for Parcel No. 3-10562 located at Engineer's Station F 22 + 73.24 (50' Rt.) from Type D* (right in, right out only) to Type D*** (left and right in, right out only). This plan revision is in response to comments from Steve Wazny of AJP Enterprises LLC, the tenant on Parcel No. 3-10562, at the Access Hearing (pages 47- 48 of the Access Hearing Transcript), and written comments from Melissa Aguilera, representing Jack-in-the Box , tenant on Parcel No. 3-10562, received January 28, 2015, Exhibit No. 17.

3. Revise plan sheet 5 of 6 to change the access type on the Access Approach Schedule for the access located at F 13+09.54 (50' Lt) used by Parcel Nos. 3-10564 and 3-10565 from Type D* (right in right out only) to Type D (no turn restriction). This plan revision is in response to J. Bradley Buckhalter, representing Associated Petroleum Products, Inc. tenant

of Parcel 3-10565, and Pupo-Vig Properties, LLC, owner of Parcel No. 3-10564, to comments at the Access Hearing (pages 43-47 of the Access Hearing Transcript), and by letter, dated January 28, 2015, with Exhibits A and B, Exhibit No. 16.

4. Revise plan sheet 5 of 6 to change owner name for Parcel No. 3-10564 to Pupo-Vig Properties, LLC on the Access Approach Schedule. This plan change is in response to comments from J. Bradley Buckhalter, representing Associated Petroleum Products, Inc. tenant on Parcel 3-10565, and Pupo-Vig Properties, LLC, owner of Parcel No. 3-10564, by letter, dated January 28, 2015, with Exhibits A and B, Exhibit No. 16.

C.

That the plan entitled "SR 5, PORT OF TACOMA ROAD, INTERCHANGE VICINITY, ACCESS HEARING PLAN, STA. 3547+59.67 TO 3575+00," Pierce County, dated December 18, 2014, sheets 1 through 6 of 6 total as reflected in Exhibit "A" is hereby adopted.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON ON MARCH 24, 2015, BY RESOLUTION NO. 1657.

CITY OF FIFE

By: _____
Russ Blount, Public Works Director

APPROVED AS TO FORM:

_____
Gregory F. Amann
Assistant City Attorney