

**BEFORE THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION**

IN RE: STATE ROUTE 5 )  
SR 516 VIC. TO S. 204<sup>th</sup> ST. )  
MP 148.39 TO MP 151.13 )  
LIMITED ACCESS HEARING )

**LIMITED ACCESS  
FINDINGS AND ORDER**

The hearing on the above entitled matter, which is Phase 1 of the SR 509/I-5 Freight and Congestion Relief Project, was held upon due notice to interested parties, beginning at 6:30 P.M. Wednesday, November 19, 2003 at the Tyee High School Auditorium, 4424 South 188<sup>th</sup> Street, SeaTac, Washington, before Administrative Law Judge (ALJ) Mattie Harvin Woode.

The interested persons and organizations were represented as follows:

LIONEL SUN/COLONIAL COMMONS II, by PAULA JOHNSON, Manager, 20816 32<sup>nd</sup> Lane. S., #B, SeaTac, WA, 98198;

K&T ENTERPRISE INC., by TIM DOWNS, President, 60 Carney Ln., Whitehall, MT 59759;

ROBERT ASHMORE, by self, 22810 30<sup>th</sup> Ave. S., # A-104, Des Moines, WA, 98198;

ETHEL DUFF, by JOYCE PRANTE, 23458 30<sup>th</sup> Ave. S., Kent, WA, 98032;

STANLEY V. PIHA, by CURTIS R. SMELSER (Attorney), Ryan Swanson & Cleveland, PLLC, 1201 3<sup>rd</sup> Ave., Suite 3400, Seattle, WA 98101;

CORY A. CARLSON, by CURTIS R. SMELSER (Attorney), Ryan Swanson & Cleveland, PLLC, 1201 3<sup>rd</sup> Ave., Suite 3400, Seattle, WA 98101;

DOUG REPMAN, by CURTIS R. SMELSER (Attorney), Ryan Swanson & Cleveland, PLLC, 1201 3<sup>rd</sup> Ave., Suite 3400, Seattle, WA 98101;

TIBURON SOUTH LLC, by CHAD REDDY, 12819 SE 38<sup>th</sup> St., #49, Bellevue, WA, 98006;

POULSBO RV, by RICHARD WAKAZURU and RANDALL FABER, CPA, CFO, 23051 Military Rd. S., Kent, WA, 98032;

CITY OF DES MOINES, by TIMOTHY HEYDON (Public Works Dept.), 21650 11<sup>th</sup> Ave. S., Des Moines, WA, 98198-6317;

ROBERT DAVIDSON, by S. MICHAEL RODGERS (Attorney), Three Lake Bellevue Dr., Suite 100, Bellevue, WA, 98005-2440;

GAI & GAI PARTNERSHIP, by CURTIS R. SMELSER (Attorney), 1201 3<sup>rd</sup> Ave., Suite 3400, Seattle, WA 98101;

CITY OF KENT, by CHAD BIEREN (Public Works Dept.), 400 W. Gowe / 200 4<sup>th</sup> Ave. S., Kent, WA, 98032-5895;

EMERY D. TORR, by self, 21621 Military Rd. S., SeaTac, WA, 98198;

ARGUS INVESTMENT CO., by R.F. KAPELA, 5652 132<sup>nd</sup> Ave. NE, Bellevue, WA, 98005;

GARY LUNDSTROM, by self, 3214 S. 221<sup>st</sup> St., SeaTac, WA, 98198;

KATHY MACRI / TORR, by self, 3137 S. 211<sup>th</sup> St., SeaTac, WA, 98198;

CARL NIELSEN, by self, 22810 30<sup>th</sup> Ave. S., #A303, Des Moines, WA, 98198;

KEN HEMPEL, by self, 21128 32<sup>nd</sup> Ave. S., SeaTac, WA, 98198;

MARGE FREY, by self, 21202 32<sup>nd</sup> Ave. S., SeaTac, WA, 98198;

KAREN GETTYS, by self, 21146 32<sup>nd</sup> Ave. S., SeaTac, WA, 98198;

POULSBO RV, by STEVE PERRY, G. M., 2315 N. 51<sup>st</sup> St., Seattle, WA, 98103;

ANNIE IDOM, by self, 3120 S. 211<sup>th</sup> St., SeaTac, WA, 98198;

PAUL SILVERNALE, by self, 21629 Military Rd. S., SeaTac, WA, 98198;

DAVID LEMKA, by self, 21847 32<sup>nd</sup> Pl. S., SeaTac, WA, 98198;

LARRY WALKER, by self, 22713 Military Rd. S. PO Box 4301, Kent, WA, 98089;

MAURILIO GONZALEZ, by self, 21210 32<sup>nd</sup> Ave. S., SeaTac, WA, 98198;

ARNOLD AND ESTHER JENSEN, by selves, 3059 S. 224<sup>th</sup> St., #A, Des Moines, WA, 98198;

UNION OIL OF CALIFORNIA, by HANS BRINKERHOFF, Permit/Land Use Consultant, 10402 Kay Way, Mukilteo, WA, 98275;

TOM AND CINDY HOWELL, by selves, 3206 S. 221<sup>st</sup> St., SeaTac, WA, 98198;

MIKE AND KATHY GRAMANN, by selves, 22601 Military Rd. S., SeaTac, WA, 98198;

RICHARD A. RUSSELL, by self, 21424 33<sup>rd</sup> Ave. S., SeaTac, WA, 98198;

CURT AND DIANE MILLIKEN, by selves, 3057 S. 224<sup>th</sup> St., Des Moines, WA, 98198;

DON AND BECKY EVERETT, by selves, 3312 S. 225<sup>th</sup> Pl., SeaTac, WA, 98198;

LEOPOLD GABAY, by self, 12035 Juanita Dr. NE, Kirkland, WA, 98034;

GRETA CRESWELL, by self, 12035 Juanita Dr. NE, Kirkland, WA, 98034;

JANEL ARMSTRONG, by self, 3204 S. 211<sup>th</sup> St., Seattle, WA, 98198;

OSCAR AND DARLENE LUNDBERG, by selves, 22017 Military Rd. S., SeaTac, WA, 98198;

JOANN BRAULIK, by self, 21244 32<sup>nd</sup> Ave. S., SeaTac, WA, 98198;

KENNETH JORSTAD, by self, 3030 S. 227<sup>th</sup> St., Des Moines, WA, 98198;

LINDA WEBER, by self, 3154 S. 211<sup>th</sup> St., SeaTac, WA, 98198

RUTH S. BROWN, by self, 22119 Military Rd. S., SeaTac, WA, 98198;

ROBERT BENTLER, by self, 3146 S. 211<sup>th</sup> St., SeaTac, WA, 98198;

LIONEL SUN/COLONIAL COMMONS II, by EDMOND MILLER, 20822 32<sup>nd</sup> Lane S., #A, SeaTac, WA, 98198;

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 who provided comments or filed 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 Chapter 47.52 RCW *et seq.*, by Craig Stone, after which witnesses were called. Evidence was taken by a Court Reporter who, thereafter, transcribed the verbal testimony. Certain exhibits were duly introduced and admitted into evidence. Based upon the oral evidence and the exhibits admitted into evidence, and acting under the authority of the Secretary of Transportation for the State of Washington, the Director, Environmental and Engineering Programs makes the following findings:

## I

On July 23, 1953, Commission Resolution No. 95, designated State Route 5 in King County, Washington, as a limited access highway on the Master plan for the establishment of Limited Access Highways. On July 15, 1958 a plan entitled Primary State Highway (PSH) No. 1, PIERCE COUNTY LINE TO JCT. SSH. NO. 5-A, PLAN SHOWING ACCESS, KING COUNTY” was approved. In 2003, a new plan was prepared, entitled: “SR 5, SR 516 VIC. TO S. 204TH ST., KING COUNTY,” Access Hearing Plan as shown on sheets 1 through 21 of 21 sheets, dated October 31, 2003. These plan sheets were admitted into evidence, marked as Exhibit No. 5, and made part of the hearing record.

## II

The Department of Transportation received from public agencies concerned with the proposed Phase 1 plan their available data on planning, land use, local traffic, and other information required, and thereafter, the Department prepared and submitted to the appropriate officials an Access Report, showing how those factors have been taken into account as required by Chapter 47.52 RCW. A copy of the October 2003, SR 509/I-5 Freight and Congestion Relief, I-5 South Access, ACCESS REPORT, SR 5, MP 144.44 to MP 150.79 (S. 320th Street to S. 200th Street), was admitted into evidence, marked as Exhibit No. 4.

## III

On October 31, 2003, the State Design Engineer by Order proposed the Phase 1 plan and set the Limited Access hearing date for November 19, 2003 in accordance with the provisions of Chapter 47.52 RCW. The Order of Hearing was admitted into evidence, marked as Exhibit No. 1.

## IV

A Notice of Limited Access Hearing was mailed on November 5, 2003 to interested parties and to each property owner of record, as evidenced by the Affidavit of Service by Mailing, with attached list of abutting property owners; also included in the mailing were: a Notice of Appearance form; Notice of Limited Access Hearing; and Access Hearing Plans entitled: "SR 5, SR 516 VIC. TO S. 204TH ST., KING COUNTY," sheets 1 through 21 of 21 sheets. The mailing packet, consisting of the above noted documents, was admitted into evidence, marked as Exhibit No. 2.

On November 5, 2003 an exact copy of the Notice of Limited Access Hearing was published in The Seattle Times and Seattle Post-Intelligencer, as shown by the Affidavit of Publication with printed ad copy attached, signed by Daniel S. O'Neal, Authorized Agent of Seattle Times Company. The affidavit was admitted into evidence marked as Exhibit No. 3.

## V

The Phase 1 plan proposes the establishment of a limited access facility with Full access control for State Route 5, between STA. 2225+00 P.O.T. and STA. 2371+00 P.O.T. as shown on sheets 1 through 21 of 21 sheets entitled "SR5, SR 516 VIC. TO S. 204TH ST., KING COUNTY." This plan was admitted into evidence, marked as Exhibit No. 5.

## VI

This section of State Route 5 is an important part of the highway system for the State of Washington and represents a substantial expenditure in construction costs. State Route 5 is a part of the National Highway System. State Route 5 is functionally classified as Interstate and Department of Transportation policy provides for access control on highways of this type. The proposed access control within the project limits on SR 5 will be established as Full access control, as shown on the plans entered into evidence as Exhibit No. 5. In doing so, traffic congestion is reduced, traffic safety is increased, and the investment of public funds is protected by preserving the highway for efficient future use.

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 been demonstrated in the past that, as property owners establish approaches to the state highway for their personal use or business use, the optimum operation of the facility 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 interchanges.

It is the declared policy of this state to limit access to the highway facilities of this state in the interest of highway safety and for the preservation of the investment of the public in such facilities.

## VII

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

- Exhibit No. 6 Printed copies of the slides and disk, used during the Phase 1, SR 5, SR 516 Vic. to S. 204<sup>TH</sup> St., MP 148.39 to MP 151.13, Limited Access Hearing.
- Exhibit No. 7 Missing letter, unknown date, from Colonial Commons II. (Comments were paraphrased at the hearing by Ms. Paula Johnson)
- Exhibit No. 8 Written comments submitted on a Notice of Appearance, November 19, 2003 from Tim Downs, representing K&T Enterprise, Inc.
- Exhibit No. 9 Department's response to Exhibit No. 7.
- Exhibit No. 10 Department's response to Exhibit No. 8.
- Exhibit No. 11 Letter, dated November 17, 2003 from S. Michael Rodgers, attorney representing Robert Davidson.
- Exhibit No. 12 Department's response to Exhibit No. 11.

- Exhibit No. 13 Letter, dated November 21, 2003 from Curtis R. Smelser, Attorney, Ryan Swanson & Cleveland, PLLC, representing Gai & Gai Partnership.
- Exhibit No. 14 Department's response to Exhibit No. 13.
- Exhibit No. 15 Letter, dated November 24, 2003 from Richard Wakazuru and Randall Faber, representing Poulsbo RV.
- Exhibit No. 16 Department's response to Exhibit No. 15.
- Exhibit No. 17 Letter, dated November 25, 2003 from Timothy C. Heydon, Director Public Works, representing the City of Des Moines.
- Exhibit No. 18 Department's response to Exhibit No. 17.
- Exhibit No. 19 Letter, dated November 30, 2003 from Chad Reddy, representing Tiburon South LLC.
- Exhibit No. 20 Department's response to Exhibit No. 19.
- Exhibit No. 21 Letter, dated December 1, 2003 from Curtis R. Smelser and Robin A. Schacter, Ryan Swanson & Cleveland, PLLC, Attorneys representing Stanley Piha, Cory Carlson and Doug Repman.
- Exhibit No. 22 Department's response to Exhibit No. 21.
- Exhibit No. 23 Letter, dated February 12, 2004 from Philip Johnson, representing Sandpiper Ventures.
- Exhibit No. 24 Department's response to Exhibit No. 23.
- Exhibit No. 25 Design graphic, dated November 19, 2003 from Chad Bieren, representing the City of Kent.
- Exhibit No. 26 Department's response to Exhibit No. 25.
- Exhibit No. 27 E-mail, dated November 24, 2003, from Lorraine L. Dubuque.
- Exhibit No. 28 Department's response to Exhibit No. 27.

## VIII

The Director, Environmental and Engineering Programs, has considered the following comments and responds as follows:

1. Ms. Paula Johnson, representing Lionel Sun, owner of Colonial Commons Apartments, Parcel No 1-17468, on pages 55 and 56 of the Limited Access Hearing transcript expressed concerns regarding potential impacts to storage areas, increased noise levels, and the possibility of stormwater runoff entering the parcel. She also specifically requested a 12-foot high sound-proof wall be installed along the property.

As stated in Reserved Exhibit No. 8, while Ms. Johnson's concerns are primarily related to design details and the acquisition process, and not relevant to establishing limited access, it is noted that the January 2003 Noise Technical Memorandum for SR 509 (Appendix I in the January 2003 Final Environmental Impact Statement) indicates that that a 14 to 20 foot high noise barrier meets warrants along the Colonial Commons Apartments parcel boundary with SR 5. Prior to construction, a supplemental noise analysis will be performed to determine the exact wall height and other design details. WSDOT stormwater design policy is to ensure that highway stormwater runoff is captured, treated and discharged without discharge or other impact to adjacent properties. This policy has been applied to all design work related to the SR 5 corridor and the corresponding establishment of limited access.

Any property impacts or damages, including those related to storage areas, will be addressed during the acquisition process, and compensated at fair market value as warranted.

2. Mr. Tim Downs, representing K&T Enterprise, Inc., Parcel No. 1-17384, on pages 57 and 58 of the Limited Access Hearing transcript and in Exhibit No. 8, expressed concern for safety given the proximity to SR 5, potential storage area impacts, increased noise, stormwater runoff and the acquisition process.

As stated in Reserved Exhibit No. 10, while Mr. Downs' concerns are primarily related to design details, and not relevant to establishing limited access, it is noted that the January 2003 Noise Technical Memorandum for SR 509 (Appendix I in the January 2003 Final Environmental Impact Statement) indicates that that a 10 to 18 foot high noise barrier meets warrants along his parcel boundary with SR 5. Prior to construction, a supplemental noise analysis will be performed to determine the exact wall height and other design details. Related to safety, it is WSDOT policy to protect the safety of citizens and their property by providing fencing, walls or other similar barriers to ensure that accidental access to the freeway is not permitted. The details of such design measures will be determined through completion of the design process. WSDOT stormwater design policy is to ensure that highway stormwater runoff is captured, treated and discharged without discharge or other impact to adjacent properties. This policy has been applied to all design work related to the SR 5 corridor and the corresponding establishment of limited access.

Mr. Downs' preference to sell all units of his parcel at one time is noted and will be addressed during the acquisition process, with compensation at fair market value, as warranted.

3. Mr. Robert Ashmore, a tenant of Heritage Court Condominiums, Parcel No. 1-17378, on pages 59 and 60 of the Limited Access Hearing transcript, was concerned about increased noise and previous WSDOT commitments for noise barriers, construction timing and structure proximity to the revised limited access boundary, and potential impacts an existing stormwater drainage pond.

Though Mr. Ashmore's concerns are primarily related to design details and the acquisition process, and not relevant to establishing limited access, it is noted that the January 2003 Noise Technical Memorandum for SR 509 (Appendix I in the January 2003 Final Environmental Impact Statement) indicates that a 10 to 18 foot high noise barrier meets warrants along the Heritage Court Condominium parcel boundary with SR 5. Prior to construction, a supplemental noise analysis will be performed to determine the exact wall height and other design details.

Any property impacts or damages, including those to the existing stormwater drainage pond, will be addressed during the acquisition process, and either mitigated or compensated for at fair market value, as warranted. Related to funding and construction timing, the acquisition of required property at Heritage Court Condominiums is within current funding, with the acquisition process beginning during 2004. Any design work related to the potential to mitigate impacts or compensate for damages would occur as a part of the appraisals and negotiations during the acquisition process.

4. Ms. Joyce Prante, speaking on behalf of Ethel Duff, Parcel No. 1-17353, on pages 61, 62 and 63 of the Limited Access Hearing transcript, made a comment that what is shown as a home in the limited access plans is actually a warehouse used as a fellowship hall. She also requested that WSDOT make every attempt to preserve this building, as the project is impacting other buildings that her organization is associated with on adjacent parcels, increasing the importance of the building on Parcel No. 1-17353.

WSDOT's current design, as indicated in the limited access plans, includes impacts to the most northeast corner of the warehouse building. The WSDOT design team will ensure that during the acquisition process, all reasonable options to preserve the building on Parcel No. 1-17353 are investigated and considered. If reasonable avoidance measures are identified, any necessary revisions to the limited access to indicate such will be made during the acquisition process.

5. Mr. Stanley Piha, managing partner of Presidential Estates Apartments, Parcel No. 1-17488, on page 64 of the access hearing transcript, stated that he did not receive notice of an informal Madrona neighborhood community meeting that was held in March 2003, stating that he felt he was denied his due process by not having the opportunity to comment on the revised access design that results in impacts to his parcel.

While WSDOT staff have apologized for any errors in the mailing list for invitees to the March 2003 community meeting, it should be noted that the meeting was held to receive informal feedback, and was not part of the NEPA (Environmental) process or the Washington State Statutes related to the hearing process for the establishment of limited access (RCW 47.52 *et seq.*). It should also be noted that Mr. Piha was invited to and had attended previous NEPA-related hearings, and was invited to and present at the November 19, 2003, SR 5 Limited Access Hearing related to these Limited Access Findings and Order. Mr. Piha also submitted written comments (Exhibit No. 21), which WSDOT has provided responses to in Exhibit No. 22.

Given the notices and materials received by Mr. Piha, as described above, WSDOT has complied with statutory due process for both the development of the design, including alternatives considered, as well as the establishment of limited access.

6. Mr. S. Michael Rodgers, in Exhibit No. 11, notified WSDOT that a vacant parcel owned by Robert Davidson is available for sale to WSDOT as a possible wetland mitigation site or for an additional park-and-ride lot.

As stated in Reserved Exhibit No.12, at this time, the WSDOT has not identified a need for the parcel in question, though WSDOT appreciates being made aware of the opportunity.

7. Mr. Curtis R. Smelser, on behalf of his client Gai & Gai Partnership in Exhibit No. 13, commented that Parcel No.1-17373 is the site of a distribution depot for Franz Bakery. The WSDOT project will take approximately half of the site, splitting the existing building in the middle. The owners feel that the take will destroy the functionality of the property for use as a depot. It is felt that such truck circulation will be impossible after the taking. Therefore, the owner requests that the entire property be acquired or condemned by the WSDOT.

As stated in Reserved Exhibit No. 14, WSDOT can only indicate what is reasonably required for public use to construct the proposed improvement. Any discussion of potential damages to value or property use are part of the appraisal and negotiations process conducted during property acquisition and is not relevant to the delineation and establishment of limited access.

8. Mr. Richard Wakazuru and Mr. Randall Faber, representing Poulsbo RV in Exhibit No.15, commented that as presented at the hearing, both parcels were included in the category of properties where the limited access to local roads would be unchanged, with indication that there would be a partial property acquisition for right of way and limited access. The owner's representatives feel that the property to be acquired for the 228<sup>th</sup> Street extension and the northbound SR 516 (proposed I-5 expansion) collector/distributor lanes would likely require demolishing the two buildings on Poulsbo RV's property where they conduct business. Without the use of the two buildings, the owners feel it would not be economically feasible to operate the business at this location, and a total property acquisition would appear to be in order.

As stated in Reserved Exhibit No. 16, the concerns expressed on behalf of Poulsbo RV relate to the property acquisition process and are not relevant to the delineation and establishment of limited access. Any discussion of potential damages to value or property use are part of the appraisal and negotiations process conducted during property acquisition.

9. Mr. Timothy C. Heydon, Director of Public Works representing the City of Des Moines in Exhibit No. 17, has requested that the plans be revised to show a cul-de-sac on South 220<sup>th</sup> Street similar to the ones shown for the adjacent South 221<sup>st</sup> and South 224<sup>th</sup> Streets in Des Moines.

As stated in Reserved Exhibit No. 18, sheet 12 of 22 sheets in the Right of Way and Limited Access Plans entitled: "SR 5, SR 516 VIC. TO S. 204<sup>TH</sup> ST., KING COUNTY," has been revised to incorporate a cul-de-sac street the end of South 220<sup>th</sup> Street as requested by the City of Des Moines. This revision is a design feature that does not affect the delineation and establishment of limited access.

10. Mr. A. C. Reddy, representing Tiburon South LLC in Exhibit No. 19, voiced concern that there are ten 4-plex apartments and one single-family home on the property and that WSDOT's plan calls for one of the 4-plex apartments to be demolished to expand I-5. The proximity of I-5 would

increase the amount of traffic noise, and the construction disturbances would also affect the remaining units. Mr. Reddy believes that these impacts would likely make the apartment complex less desirable to live in, and thereby, the highway expansion would reduce the current value of the property. Tiburon South LLC asserts that it would be appropriate for WSDOT to acquire the entire property and re-sell it to an investor willing to accept the risks associated with the expansion of I-5.

As stated in Reserved Exhibit No. 20, the concerns expressed on behalf of Tiburon South LLC relate to the property acquisition process and are not relevant to the delineation and establishment of limited access. Any discussion of potential damages to value or property use are part of the appraisal and negotiations process conducted during property acquisition.

11. Curtis R. Smelser and Robin A. Schachter, attorneys representing Mr. Stanley Piha of Presidential Estates Apartment Associates LLC (parcel 1-17488); Mr. Cory Carlson of Willow Lake LLC (Willow Lake Apartments parcel 1-17498); and Mr. Doug Repman of Quantum Property Management (Sandpiper Apartments parcel 1-17471) in Exhibit No. 21, made a General Comment that the project office previously presented alternatives at public meetings that did not impact access from SR 99 to the properties in question and that the design presented at the November 19, 2003 meeting was dramatically altered from the previous alternatives. It is alleged that the revised access essentially denies access to the apartment complexes due to a more circuitous route provided by the revised access. Other comments allege as follows:

- a. The proposed access to the apartment complexes via South 204<sup>th</sup> Street present considerable safety concerns. They believe that fire, ambulance, police and other emergency response vehicles will have difficulty in locating the addresses and maneuvering around the residential side streets that will become the new main access routes;
- b. The proposed access route will make it difficult for existing and potential tenants, guests and delivery personnel to locate apartment addresses;
- c. The proposed access route will result in substantial additional traffic on the local street system: all of the traffic that now exits South 208<sup>th</sup> Street directly to SR 99 over a short, straight distance will be forced to travel more than a mile along smaller local roads to reach SR 99 via South 204<sup>th</sup> Street or other through-streets, increasing travel time, wear and tear on local streets, and accidents; and
- d. There will be a traumatic and corresponding decrease in property values for all of the properties affected by the closure of South 208<sup>th</sup> Street.

Lastly, they request that the Department restore some form of direct access to South 208<sup>th</sup> Street from SR 99 such as the underpass/overpass options that have been depicted on previous alternatives.

As stated in Reserved Exhibit No. 22, the property managers' General Comment is not relevant to establishing limited access; however, WSDOT notes that the General Comment is not entirely accurate. The existing access to South 208<sup>th</sup> Street has been specifically shown as being impacted, with revised access, on all graphics related to the current design since the October, 2002 Design Hearing. Beginning with the issuance of the January, 2002 Revised Draft Environmental Impact

Statement, no published project graphics have indicated the ability to retain the current access to South 208<sup>th</sup> Street.

The revised access provides both non-motorized and motorized access to all existing apartment complexes. The additional travel distance for non-motorized travel is approximately 440 feet. Since the revised access provides two (2) motorized access routes connecting to SR 99 to replace the one (1) existing route, additional motorized travel distances are between approximately 1,900 feet and 2,900 feet. It should also be noted that access to the apartments from South 200<sup>th</sup> St. (at 32<sup>nd</sup> Ave. S.), which represents a large portion of the traffic into this neighborhood, is actually reduced by 820 feet.

- a. The reason for the revised access providing two (2) access routes to SR 99 in replacement of the one (1) existing route is to satisfy City of SeaTac codes related to acceptable distances for emergency services access (such as for fire, ambulance and police response vehicles). The City has reviewed the current design and concurred that the revised access meets all applicable codes and regulations. Related to maneuverability, the new connector road, which links the remainder of South 208<sup>th</sup> Street to the existing South 211<sup>th</sup> and South 204<sup>th</sup> Streets, provides a cross-section that is as wide or wider than the existing city streets it connects to, and meets all City of SeaTac standards for roadway width.
- b., c., d. . The concerns expressed under b., c. and d., above, except as already responded to herein, relate to potential damages to the value or use of the properties and are part of the property appraisal and acquisition process. These concerns are not relevant to the delineation and establishment of limited access.

WSDOT, in coordination with the City of SeaTac Public Works Department, originally developed four alternatives to provide revised access to the apartment complexes on South 208<sup>th</sup> Street. One of the alternatives investigated attempted to provide direct access to South 208<sup>th</sup> Street from SR 99, similar to what currently exists.

The version of this alternative that did not involve numerous additional relocations and social impacts was found to have safety deficiencies related to sub-standard grade (too steep) and sight distance approaching the SR 99 intersection, both of which were not acceptable. A version of the alternative was looked at which provided for sight distance and grade that met minimum safety standards. That version of the alternative eliminated the existing access to Willow Lake Apartments. To provide access back to Willow Lakes would have required additional relocations and significant impacts to parking; impacts which could be avoided with other alternatives identified. Thus, the alternative requested by the property managers was found to be deficient related to either public safety or non-compliance with NEPA (environmental) guidance, and thus was screened from further consideration. WSDOT is unaware of any graphics explicitly indicating that this type of direct connection to SR 99 was possible, outside of very preliminary conceptual graphics from 1998.

12. Mr. Philip Johnson, on behalf of Pacific Realty Partners, LLC (Sandpiper Ventures parcel 1-17471) in Exhibit No. 23, had 30 comments, related to many aspects of the of the highway project, including comments related to notice to the property owner; the environmental process; the relative costs of the design alternative (C2) chosen; property impacts and valuations; signalization and turn

lanes at local intersections; construction timing and staging; design elements of the project; landscaping and landscape design; posted speed limits on local streets; emergency services access in relation to local parking and street lighting; temporary construction housing; relocation assistance; and the relationship between the project's design features and the Americans with Disabilities Act. Each of the comments are not relevant to the delineation and establishment of limited access. However, the WSDOT will respond to these comments under separate cover.

Mr. Johnson further comments that the proposed access revisions are not equivalent to the existing access. He comments that the existing access is 800 feet from SR 99, the primary arterial, and that the proposed access routes via South 211<sup>th</sup> St. and South 204<sup>th</sup> St. are both over 3,000 feet from the property entrance. The revised access adds two 90-degree turns between SR 99 and the property entrance which do not exist today. In addition, Mr. Johnson asserts that residents will have to travel substantially farther from SR 99 to get to the property than they now travel (circuitry of access/travel).

As stated in Reserved Exhibit No. 24, existing vehicular access is approximately 950 feet from SR 99, the primary arterial, and the proposed vehicular access routes via South 211<sup>th</sup> St. and South 204<sup>th</sup> St. are approximately 2,940 and 3,810 feet, respectively, from the property entrance. Access to the property from the existing traffic signal at South 200<sup>th</sup> St. and 32<sup>nd</sup> Ave. S. is reduced from the existing 4,765 feet to 3,945 feet. The two traffic signals within the existing route from the South 200<sup>th</sup> St. and 32<sup>nd</sup> Ave. S. intersection are also reduced to one stop sign. While some of the proposed vehicular access routes are greater than the existing, the access options for the property residents are increased from the one (1) current rout along South 208<sup>th</sup> St. to three (3) routes from South 204<sup>th</sup> St., South 211<sup>th</sup> St. and 32<sup>nd</sup> Ave. S.

Circuitry of access or having to travel farther to a destination is a comment related to property valuation and will be addressed during the appraisal and acquisition process; Circuitry of access/travel is not relevant to the determination of limited access delineation or establishment.

## IX

The Director, Environmental and Engineering Programs, has considered the evidence on the entire portion of the above entitled highway and finds the plans admitted into evidence, marked Exhibit No. 5, should be modified as hereinafter set forth:

Plan sheets 1 through 21 of 21 sheets entitled "SR 5, SR 516 VIC. TO S. 204TH ST., KING COUNTY," dated October 31, 2003 will be replaced with a new plan with the same title, sheets 1 through 22 of 22 sheets. Sheets 1 through 22 of 22 sheets will include the following changes:

1. Plan sheets have been 4 and 5 have been revised to relocate the right of way and limited access line between Sta. 2238+60 Lt. and Sta. 2243+30 Lt. to eliminate the impact on Parcel No.1-17347.
2. Minor plan revisions, to correct ownerships and parcel details, area computations, and minor right of way details are shown on plan sheets 1 through 22 of 22 sheets.

## X

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

Based upon the foregoing findings and the evidence supporting them, the Director, Environmental and Engineering Programs, for the Department of Transportation, State of Washington,

### ORDERS:

#### I

That the section of State Route 5 in King County, Washington is hereby designated as a limited access highway with Full control:

Between STA. 2225+00 P.O.T. and STA. 2371+00 P.O.T. as shown on sheets 1 through 22 of 22 sheets of the Right of Way and Limited Access Plan entitled "SR 5, SR516 VIC. TO S. 204TH ST., KING COUNTY."

#### II

That the plans set forth in Exhibit No. 5 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.

1. Show that plan sheets 4 and 5 of 22 sheets have been revised to relocate the right of way and limited access line between Sta. 2238+60 Lt. and Sta. 2243+30 Lt.
2. Show minor revisions that correct parcel details and right of way details. (See sheets 1 through 22 of 22 sheets).

#### III

That the plan entitled, "SR 5, SR 516 VIC. TO S. 204TH ST., KING COUNTY," sheets 1 through 22 of 22 sheets, as reflected in Exhibit "A", is hereby adopted.

ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2004

DIRECTOR,  
ENVIRONMENTAL AND ENGINEERING PROGRAMS

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Approved as to form:

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Assistant Attorney General