

BEFORE THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

IN RE: STATE ROUTE 5)
S. 317th St. HOV Direct Access Interchange)
LIMITED ACCESS HEARING)

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 12, 2001 at Lakota Junior High Library, 1415 SW 314th St., in Federal Way, Washington, before Judge Ernie Heller, Hearing Examiner.

The interested persons and organizations were represented as follows:

DEPARTMENT OF TRANSPORTATION, by Bryce Brown, Assistant Attorney General, PO Box 40113, Olympia, Washington 98504-0113;

FIR ASSOCIATES, by R. Alex Polson, General Partner, 505 Madison St. #209, Seattle, WA 98104-1138;

FEDERAL WAY JOINT VENTURE, by Daniel Casey, Managing General Partner, 800 E. Dimond Blvd., # 3-505, Anchorage, AK 99515;

GATEWAY CENTER INC., by Daniel Casey, 1001 Fourth Plaza, Suite 3200, Seattle, WA 98154;

SALON PARENTE, by Stan Parente, 5309 S. 382 St., Auburn, WA 98023;

WESTFAIR HOME DÉCOR AND GIFTS, by David and Stacy Keen, 31861 Gateway Center Blvd S., Federal Way, WA 98003;

GREAT HARVEST BREAD COMPANY, by Bryan Tacke, 31889 Gateway Blvd. S., Federal Way, WA 98003;

BARLINE'S NATURAL FOODS, MARKET, AND DELI, by Irv Beadle, 32911 Fourth Place South, Federal Way, WA 98003;

PCB RICHARD ELLIS, INC. – ASSET SERVICES, by Brent B. Vanderwilt, Director of Technical Services, 22118 – 20th Avenue SE, Bothell, WA 98021.

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, by Mike Cotten, Urban Corridors Engineering Manager, after which witnesses were called and evidence was recorded by a

Court Reporter who, thereafter, transcribed the verbal testimony. Certain exhibits were duly introduced as 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 Director, Engineering and Environmental Programs makes the following findings:

I

On October 20, 1958, a plan for the establishment of limited access control on State Route 5 entitled, "SR 5, PIERCE COUNTY LINE TO JCT. SSH NO. 5-A, PLAN SHOWING ACCESS, KING COUNTY" was ordered under Commission Resolution No. 734. Plan sheet 3 of 6 entitled, "SR 5, PIERCE COUNTY LINE TO JCT. SSH NO. 5-A, PLAN SHOWING ACCESS, KING COUNTY" dated July 15, 1958 was revised on November 16, 2001. Right of Way plan sheet 10 of 20 entitled, "SR 5, PIERCE COUNTY LINE TO JCT. SSH NO. 5-A, KING COUNTY" dated October 28, 1958 was revised November 16, 2001. These sheets were introduced into evidence marked Exhibit No. 8, which was made a part of the hearing record.

II

The Department of Transportation received from public agencies concerned with the proposed plan their available data on planning, land use, local traffic, and other information required, and thereafter prepared and submitted to the appropriate officials an Access Report showing how those factors have been taken into account and covering other matters required by RCW 47.52. A copy of that report was introduced into evidence marked Exhibit No. 7.

III

On November 16, 2001, the Acting State Design Engineer by Order proposed said plan and set a hearing date in accordance with the provisions of RCW 47.52. The Order of Hearing was introduced into evidence marked Exhibit No. 1.

IV

Julie Meredith, Project Manager, Washington State Department of Transportation, Urban Corridors Office, issued a Notice of Hearing. On November 21, 2001, a copy of this notice was mailed to various agencies and interested parties, and to each of the record owners of property listed on the County Tax Rolls, as depicted in the Affidavit of Service by Mailing, the Notification Letter, and the mailing List, which are marked Exhibit Nos. 2, 3, and 4 respectively. On November 27, 2001 an exact copy of the notice was published in the Seattle Post Intelligencer as shown by the Affidavit of Publication signed by Daniel S. O'Neal, Authorized Agent of the Seattle Times Company publisher of the Seattle Times and representing the Seattle Post-Intelligencer,

separate newspapers. On November 28, 2001, an exact copy of the notice was published by the Federal Way Mirror as shown by the Affidavit of Publication signed by Vance W. Tong, Publisher of the Federal Way Mirror. The Affidavits were introduced into evidence marked Exhibit Nos. 5 and 6 respectively.

V

The plan proposes the modification of the limited access control for State Route 5 between Sta. FR 32+59.50 and Sta. FR 33+88.10 as shown on sheet 3 of 6 sheets entitled, "SR 5, PIERCE COUNTY LINE JCT. SSH. NO. 5-A, PLAN SHOWING ACCESS, KING COUNTY", dated July 15, 1958, revised November 16, 2001 and as shown on sheet 10 of 20 sheets entitled "SR 5, PIERCE COUNTY LINE TO JCT. SSH. NO. 5-A, KING COUNTY", dated October 28, 1958, revised November 16, 2001.

VI

Currently, the only access from I-5 to the existing Federal Way Park-and-Ride Lot, located at 25th Avenue S. and S. 320th St., or other proposed regional transit facilities in the vicinity, is the I-5/S. 320th St. Interchange. The average weekday traffic on 320th St. has been growing at an annual rate of 5.8 % since 1985. This system has increasingly high traffic congestion, makes travel times less predictable, and reduces the people-carrying capacity of the freeway system for all users by disrupting the traffic flow. In 1990, congestion caused about 45 million person-hours of delay in the central Puget Sound region. For the segment of I-5 at S. 320th St., congestion at peak commute times in 1995 resulted in a Level of Service F, characterized by operation at or near capacity. By 2005, congestion will cause about 75 million person-hours of delay in the central Puget Sound region.

King County Metro, Pierce Transit, WSDOT, City of Federal Way, and Sound Transit have a common interest in an alternative access that would provide more reliable and efficient operation between transit facilities and I-5. HOV direct access would give HOV traffic an alternative to the S. 320th St. corridor. Where they exist, HOV lanes increase the speed and reliability of transit and other HOVs. According to the WSDOT Office of Urban Mobility, HOV direct access ramps are necessary to operate I-5 HOV lanes as part of an HOV network supporting regional transit service between major regional centers that are identified by WSDOT and Sound Transit.

The Right of Way and Limited Access Plans for the modification of the existing limited access control facility on SR 5, introduced into evidence marked Exhibit No. 8, 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 part of the hearing record:

- Exhibit No. 9 Access plan revision on sheet 3 of 6 sheets.
- Exhibit No. 10 Access Hearing Presentation.
- Exhibit No. 11 Reserved Exhibit, City of Federal Way's response to the Access Report. (Not used, no Exhibit submitted)
- Exhibit No. 12 Reserved Exhibit, Department's response to Exhibit No. 11. (Not used)
- Exhibit No. 13 Letter dated December 28, 2001, from Irv and Marlene Beadle, representing Marlene's Market and Deli.
- Exhibit No. 14 Reserved Exhibit, Department's response to Exhibit No. 13.
- Exhibit No. 15 Letters dated December 23, 26 and 28, 2001, from Daniel A. Casey, representing South 320th Federal Way Partnership and Gateway Center Retail Management, Inc.
- Exhibit No. 16 Reserved Exhibit, Department's response to Exhibit No. 15.
- Exhibit No. 17 Letter dated December 27, 2001, from Brent B. Vanderwilt, representing CB Richards Ellis- Asset Services.
- Exhibit No. 18 Reserved Exhibit, Department's response to Exhibit No. 17.
- Exhibit No. 19 Letter dated December 24, 2001, from R. Alex Polsen, representing FIR Associates.
- Exhibit No. 20 Reserved Exhibit, Department's response to Exhibit No. 19.
- Exhibit No. 21 Reserved Exhibit, Department's response to oral testimony from Stan Parente on pages 34-36 of the hearing transcript.
- Exhibit No. 22 Reserved Exhibit, Department's response oral testimony from Stacy Keen on pages 36-37 of the hearing transcript.
- Exhibit No. 23 Reserved Exhibit, Department's response to oral testimony from Brian Tacke on pages 38-39 of the hearing transcript.

VIII

The Director, Environmental and Engineering Programs has considered the following requests and makes the following findings:

1. Irv and Marlene Beadle on pages 41-42 of the hearing transcript and Exhibit No. 13 expressed concerns about the traffic affects to S. 320th St., the pedestrian accessibility and the site location. They requested that the site be moved.

As stated by the Department in Reserved Exhibit No. 14, these concerns and requests expressed were evaluated during the Environmental Process. Gateway Boulevard shall be restricted to right in right out only and the interchange will stay at the proposed location.

2. Mr. Daniel Casey on pages 27-34 of the hearing transcript and Exhibit No. 15 requested the interchange be moved, stated that there will be severe impacts to Gateway Center Access and the project will adversely affect 317th.

As stated by the Department in Reserved Exhibit No. 16, these concerns and requests expressed were evaluated during the Environmental Process. Gateway Boulevard shall be restricted to right in right out only and the interchange will stay at the proposed location.

3. Mr. Brent Vanderwilt in Exhibit No. 17 expressed concerns about the adverse affects to the Gateway Center Development.

As stated by the Department in Reserved Exhibit No. 18, these concerns and requests expressed were evaluated during the Environmental Process. Gateway Boulevard shall be restricted to right in right out only and the interchange will stay at the proposed location.

4. Mr. R. Alex Polsen on pages 26 -27 of the hearing transcript and in Exhibit No. 19 requested that the interchange be moved, that there are severe pedestrian impacts and access to Gateway will be severely impacted.

As stated by the Department in Reserved Exhibit No. 20, these concerns and requests expressed were evaluated during the Environmental Process. Gateway Boulevard shall be restricted to right in right out only and the interchange will stay at the proposed location.

5. Mr. Stan Parente on pages 34 -36 of the hearing transcript expressed concerns that Gateway Center will become isolated.

As stated by the Department in Reserved Exhibit No. 21, these concerns and requests expressed were evaluated during the Environmental Process. Gateway Boulevard shall be restricted to right in right out only.

6. Ms. Keen on pages 36-37 of the hearing transcript expressed concerns that the project will isolate Gateway Center and adversely affect pedestrians in the area.

A stated by the Department in Reserved Exhibit No. 22, these concerns and requests expressed were evaluated during the Environmental Process. Gateway Boulevard shall be restricted to right in right out only and the interchange will stay at the proposed location.

7. Mr. Tacke on pages 38-39 of the hearing transcript expressed concerns about isolating Gateway Center, the pedestrian affects along the frontage roads and the affects on fire and safety vehicles.

These concerns and requests expressed were evaluated during the Environmental Process. The fire and safety vehicles will not incur any adverse affects from the new interchange. Gateway Boulevard shall be restricted to right in right out only and the interchange will stay at the proposed location.

IX

The Director, Environmental and Engineering Programs has considered evidence on the entire portion of the above entitled highway and finds the plans should be modified as hereinafter set forth:

1. The limited access control on 28th Ave. S. has been revised from Full access control to Partial access control between Sta. FR 34+74 and Sta. FR 35+76 Rt. as shown on sheet 3 of 6 sheets. This plan revision was entered into the record by the Department of Transportation as Exhibit No. 9 at the hearing.
2. Minor revisions that correct ownerships and parcel details, area computations, and right of way details (See sheet 3 of 6 sheets and 10 of 20 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", 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 of the State of Washington

ORDERS:

I

That the section of State Route 5 in King County described as follows is hereby designated as a limited access highway of the Fully controlled type:

Between Sta. FR 32+59.50 and Sta. FR 33+88.10 as shown on sheet 3 of 6 sheets entitled "SR 5, PIERCE COUNTY LINE JCT. SSH. NO. 5-A, PLAN SHOWING ACCESS, KING COUNTY", dated July 15, 1958, revised November 16, 2001 and as shown on sheet 10 of 20 sheets entitled "SR 5, PIERCE COUNTY LINE TO JCT. SSH. NO. 5-A, KING COUNTY", dated October 28, 1958, revised November 16, 2001.

II

That the plan set forth in Exhibit No. 9 for the modification 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 thereof.

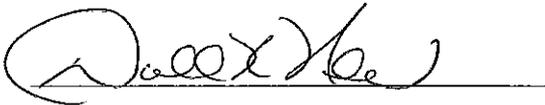
1. Show that the limited access control has been revised on 28th Ave. S. from Full access control to Partial access control between Sta. FR 34+74 and Sta. FR 35+76 Rt. as shown on sheet 3 of 6 sheets.
2. Show minor revisions that correct ownerships and parcel details, area computations, and right of way details. (See sheet 3 of 6 sheets and 10 of 20 sheets)

III

That the entitled, "SR 5, Pierce County Line JCT. SSH. NO. 5-A, Plan Showing Access, KING COUNTY", sheets 3 of 6, and as shown on sheet 10 of 20 sheets entitled "SR 5, PIERCE COUNTY LINE TO JCT. SSH. NO. 5-A, KING COUNTY", as reflected in Exhibit "A", is hereby adopted.

ADOPTED THIS 16th DAY OF May, 2002

DIRECTOR, ENVIRONMENTAL AND
ENGINEERING PROGRAMS



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Approved as to form:



A handwritten signature in cursive script, appearing to read "B. [unclear]", written over a horizontal line.

Assistant Attorney General