



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

January 10, 2005

Ordinance 15112

Proposed No. 2004-0468.2

Sponsors Phillips

1 AN ORDINANCE concurring with the recommendation of
2 the hearing examiner to approve, subject to conditions,
3 reclassification of certain property located west of 468th
4 Avenue Southeast between Southeast 140th Street and
5 Southeast North Bend Way as described in department of
6 development and environmental services file no. L03TY402
7 from Urban Reserve (UR) with Potential Industrial (I) and Special
8 District Overlay (SO-170) to Industrial (I) with P-suffix conditions
9 and a pre-effective condition, at the request of Puget Western;
10 and amending K.C.C. Title 21A, as amended, by modifying
11 the zoning map to reflect this reclassification.

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BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

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SECTION 1. This ordinance adopts and incorporates the findings and

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conclusions of the November 30, 2004, report and recommendation of the hearing

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examiner, filed with the clerk of the council on December 29, 2004, upon the application

18 of Puget Western to reclassify certain property described in department of development
19 and environmental services file no. L03TY402.

20 SECTION 2. The recommendation of the hearing examiner to reclassify the
21 subject property from Urban Reserve (UR) with Potential Industrial (I) and Special
22 District Overlay (SO-170) is hereby adopted, subject to the post-effective conditions and
23 the following pre-effective condition:

24 Within five years of rezone approval the Applicant shall document King
25 County Council approval of a sewer comprehensive plan for the City of
26 North Bend that includes provisions for sewer service extension to the
27 property. Failure to meet this pre-effective condition shall operate to
28 invalidate this rezone approval; provided that, this pre-effective condition
29 shall be deemed waived if within five years King County amends K.C.C.
30 Title 13 to allow on-site wastewater treatment systems to serve the
31 Corporate Park property.

Ordinance 15112

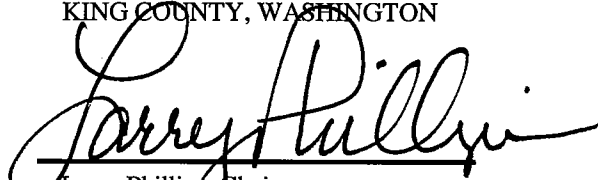
32 Upon this ordinance becoming effective, the land use services division shall amend the
33 official zoning maps of King County to reflect this action.

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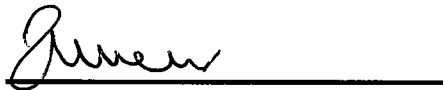
Ordinance 15112 was introduced on 9/27/2004 and passed by the Metropolitan King
County Council on 1/10/2005, by the following vote:

Yes: 12 - Mr. Phillips, Ms. Edmonds, Mr. von Reichbauer, Ms. Lambert, Mr.
Pelz, Mr. Ferguson, Mr. Hammond, Mr. Gossett, Ms. Hague, Mr. Irons, Ms.
Patterson and Mr. Constantine
No: 0
Excused: 1 - Mr. McKenna

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Larry Phillips, Chair

ATTEST:



Anne Noris, Clerk of the Council

Attachments A. Hearing Examiner Report dated November 30, 2004

15112
November 30, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

400 Yesler Way, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654

REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: Department of Development and Environmental Services File No. **L03TY402**
Proposed Ordinance No. 2004-0468

I-90/NORTH BEND CORPORATE PARK
Rezone Application

Location: West of 468th Avenue Southeast between Southeast 140th Street
and Southeast North Bend Way

Applicant: Puget Western, Inc.
represented by Alison Moss, Attorney
2183 Sunset Avenue Southwest
Seattle, WA 98116
Telephone: (206) 923-0816

King County: Department of Development and Environmental Services,
represented by Karen Scharer
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-7114
Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary Recommendation:	Place rezone on hold for up to two years
Department's Final Recommendation:	Place rezone on hold for up to three years
Examiner's Recommendation:	Approve, subject to pre and post-effective conditions

EXAMINER PROCEEDINGS:

Hearing Opened:	October 14, 2004
Hearing Closed:	November 24, 2004

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.

A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.
FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Request: Rezone of approximately 50 acres from Urban Reserve (UR) with Potential Industrial (I) and with a Special District Overlay (SO-170) to Industrial (I) with additional P-suffix limitations for uses allowed in the business park, and retaining restrictions of SO-170 under a P-suffix, except for the elimination of the SO-170 condition requiring primary access from North Bend Way in order to provide primary access from 468th Ave SE. The purpose of the reclassification is to construct a business park.

Location: West of 468th Avenue Southeast between Southeast 140th Street and Southeast North Bend Way.

Proponent: Puget Western Attn: David Yasuda
 19515 North Creek Parkway, Suite 310
 Bothell, WA 98011
 Contact Number (425) 487-6544

County Contact: Karen Scharer, Program/Project Manager,
 Current Planning Section, LUSD
 Phone # 296-7114 or e-mail at karen.scharer@metrokc.gov

Section/Township/Range: 13-23-08 & 24-23-08
 Parcels: 132308-9020 and 242308-9025

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the November 16, 2004, public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends placing the application on hold for three years pending County approval of the City of North Bend's sewer comprehensive plan.
3. Puget Western has filed an application to rezone approximately 50 acres lying east of North Bend from Urban Reserve with Potential Industrial and Special District Overlay (SO-170) to Industrial with P-suffix conditions. The proposed rezone application would actualize potential zoning on the property as well as remove the SO-170 overlay in order to provide primary site access from 468th Avenue Southeast instead of Southeast North Bend Way. The other portions of the SO-170 overlay that do not deal with access requirements would be retained through a combination of P-suffix and SEPA MDNS conditions.
4. As a rezone application the I-90/North Bend Corporate Park proposal is not vested to the regulations and policies enacted at the time of application submittal, but rather must comply with

requirements in effect at the time of rezone approval. Accordingly, this application is subject to the regulatory changes adopted by the King County Council in October 2004 pursuant to the 2004 Comprehensive Plan Update. As applied to this review, the most critical of these recent changes is the amendment to KCC Title 13 which eliminated an exemption from Urban Growth Area sewage service requirements for development proposals in the North Bend area. As amended, Title 13 now requires all development within the I-90/North Bend Corporate Park to obtain sewer service from the City of North Bend. Because of the uncertainties attendant to the City's provision of sewer service discussed below, DDES staff has recommended that the application be placed on hold for a period of three years pending County Council approval of an amended North Bend sewer comprehensive plan. The Applicant opposes this delay, preferring instead a pre-effective condition deferring implementation of the rezone until the necessary sewer comprehensive plan approval has been obtained. The Applicant has also requested that the rezone approval include a waiver of the pre-effective condition if Title 13 is again later amended to reinstate a provision allowing on-site septic system use on this property.

5. On August 27, 2004, DDES issued a Mitigated Determination of Non-significance for the I-90/North Bend Corporate Park rezone proposal containing 27 conditions. This MDNS imposes an elaborate matrix of use limitations, performance standards and mitigation requirements designed to control development if septic service is permitted on the site; to protect ground water and aquifer resources; and to mitigate for noise impacts to nearby residential properties and for traffic impacts on the surrounding arterial system. Much of the public hearing discussion concerning this proposal focused upon the question of how the SEPA MDNS conditions should be applied within the various rezone approval scenarios under review.
6. In 2002 King County issued permits authorizing the development of a major surface mining site east of the I-90/North Bend Corporate Park on the Cadman property. At that time a decision was made to route gravel trucks to and from the Cadman site via Southeast 146th Street and 468th Avenue Southeast. Four hundred sixty-eighth Avenue Southeast accesses Interstate 90 via ramps located approximately 1000 feet south of the southeast corner of the Corporate Park. The effect of this 2002 permitting decision will be to radically alter the traffic circulation patterns in this neighborhood. Southeast 146th Street, which is currently a dead-end road with minor traffic use, will become the primary access route to the Cadman site. The intersection of 468th Avenue Southeast/Southeast 146th Street will be signalized by Cadman to regulate traffic flows, and 468th Avenue Southeast itself will be widened from two to three lanes. Although Southeast North Bend Way south of the Corporate Park long has been designated a principal arterial, its future function will be severely circumscribed by the expansion of 468th Avenue Southeast required by the Cadman proposal. To avoid conflicts and congestion, it is anticipated that the Washington Department of Transportation will limit left-turn movements at the 468th Avenue Southeast/Southeast North Bend Way intersection in order to accommodate through-traffic movement along 468th Avenue Southeast. In addition, the proximity of the North Bend Way intersection to 468th Avenue Southeast/Southeast 146th Street immediately to the north precludes future installation of a second set of signals at this arterial intersection. Finally, as development of both the Cadman and the Corporate Park sites proceeds, WSDOT has stated its preference that the County reconstruct Southeast North Bend Way at a location further north to align with the Southeast 146th Street intersection. The net effect of these construction and permitting decisions related to development of the Cadman mining site is to greatly reduce the viability of Southeast North Bend Way as an arterial route.

7. The proposed I-90/North Bend Corporate Park property is located atop of the Snoqualmie Valley aquifer within a major recharge area. A major function of the MDNS conditions is to assure that uses that entail a significant risk of aquifer contamination are eliminated and that the remaining uses will be subject to performance standards which assure that toxic releases to the groundwater system will not occur. In addition to the SEPA conditions, development at the Corporate Park site will be subject to recently adopted Critical Areas Ordinance regulations for aquifer recharge protection.
8. The I-90/North Bend Corporate Park property lies within the County's Urban Growth Area within the interim potential annexation area defined for the City of North Bend. North Bend has adopted amendments to its sewer comprehensive plan that conceptually provide for sewer service to be extended to its potential annexation areas, including the subject property. The City is also in the process of increasing its sewage treatment capacity to a level sufficient to provide service to the potential annexation areas. Actual service to the Corporate Park will require the installation of more than two miles of new sewer pipe. The City's current position is that it will commit to providing sewer service to the Corporate Park but will not construct the required sewage conveyance system. A Utility Local Improvement District proposal is in the early stages of being formulated to support the costs of sewer service extension. The City's sewer comprehensive plan amendments that authorize service to the Corporate Park site have yet to be submitted to King County for review and approval, but the City has stated that it intends to commence this process in the near future.

CONCLUSIONS:

1. With respect to actualizing Industrial zoning for the I-90/North Bend Corporate Park property, the property is potentially zoned for such use, and the MDNS and P-suffix conditions imposed upon the rezone application assure that such reclassification would be appropriate.
2. The Applicant is requesting removal from the property of the SO-170 Special District Overlay in order to eliminate the following specific requirement:

“Primary vehicular access shall be from a principal arterial road. Secondary vehicular access shall be from a collector arterial road.”

SO-170 was applied to the site in 1997 pursuant to the process of converting KCC Title 21 zoning requirements to the new system embodied by KCC Title 21A. Previously the 1989 Snoqualmie Valley Community Plan and Area Zoning had designated the property AR-5 (Potential MH-P) with a P-suffix condition that required “primary access to the property shall be from either 468th Avenue Southeast or Southeast North Bend Way.” Since 468th Avenue Southeast is classified a collector arterial and Southeast North Bend Way a principal arterial, the SO-170 requirement adopted in 1997 operated to eliminate 468th Avenue Southeast as a primary access option.

3. Emphasizing that the 1997 enactment was designated a conversion process, the Applicant has argued that the SO-170 access requirement should be regarded as scrivener's error and

disregarded in favor of applying the original 1989 requirement. Unfortunately, the overall text of SO-170 does not support this interpretation. The notion that the 1997 amendments were merely formulaic conversions is more myth than reality. A comparison of the 1989 P-suffix conditions with the SO-170 text discloses that a variety of regulatory changes occurred in 1997. These included imposing greater specificity upon the use compatibility determination, enumerating specific use restrictions, adding signage limitations, and providing greater generality regarding the acquisition of new road right-of-way. In short, while the 1997 amendments clearly evolved from the 1989 text, they cannot accurately be described as simply a conversion; rather certain key regulatory provisions were reconsidered and changed. These changes included a modification of the site access requirements.

4. On the other hand, it is abundantly clear that in 2002 development approvals and attendant infrastructure improvements were authorized that will radically alter the conditions and circumstances attendant to access to the Corporate Park property in a manner that was not contemplated at the time of the 1997 amendments. The Cadman approval has converted 468th Avenue Southeast into a primary arterial access connection to the I-90 interchange and effectively eliminated Southeast North Bend Way from continuing to perform a major arterial function at this location. In 1997 it was reasonably anticipated that Southeast North Bend Way would continue to function as a principal arterial in both name and reality, but as the Cadman site develops such principal arterial function increasingly will be usurped by 468th Avenue Southeast. These changes to the arterial network configuration are sufficient to support the rezone request of the Applicant. As noted previously, the elements of SO-170 that do not relate specifically to site access have been preserved within the MDNS and P-suffix conditions appended to the rezone approval.
5. As argued by DDES staff, there is an element of uncertainty as to whether County approval of the amended North Bend sewer comprehensive plan will be conferred in a timely manner, whether such amendments will indeed adequately authorize service extension to the Applicant's property, and whether financing will become available to extend the sewer line from the City's treatment facilities to the site. Based on these considerations, a recommendation for placing the rezone application on hold while these questions are resolved is not an indefensible suggestion. Our conclusion is, however, that the public interest will be better served by conferring rezone approval on the Applicant as requested subject to a pre-effective condition that such approval will expire in five years if County approval of the City's sewer comprehensive plan has not been obtained.

There are reasons for preferring this option. First, due to the pattern of surrounding development and the site's proximity to major transportation corridors, there is no significant future likelihood that the Corporate Park property might revert to non-commercial development if the current proposal cannot be implemented. Accordingly, there are no important planning options to be preserved through a cautious approach to rezone approval. Second, providing the rezone approval as requested will make it easier for the Applicant to secure the funding required to build the sewer facilities necessary to serve the property. Given the commercial future of this neighborhood, the development process is better served by providing the rezone approval now in order to encourage prompt resolution of the remaining problems.

6. The public necessity, convenience and general welfare will be served by the proposed

reclassification.

7. The conditions of approval recommended herein, including dedications and easements, will provide public improvements necessary to serve the reclassified property; are required to make the reclassified property reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

RECOMMENDATION:

APPROVE the reclassification of the subject property to Industrial (I) with P-suffix conditions and a pre-effective condition, in lieu of Urban Reserve (UR) with Potential Industrial (I) and Special District Overlay (SO-170), subject to the following conditions:

Pre-effective Condition

Within five years of rezone approval the Applicant shall document King County Council approval of a sewer comprehensive plan for the City of North Bend that includes provisions for sewer service extension to the property. Failure to meet this pre-effective condition shall operate to invalidate this rezone approval; provided that, this pre-effective condition shall be deemed waived if within five years King County amends KCC Title 13 to allow on-site wastewater treatment systems to serve the Corporate Park property.

Post-effective Conditions:

A. SEPA conditions.

General Use Limitations

In order to assure uses allowed under the "I" zone classification are limited so not to create long term significant impacts to the neighborhood and planning area, the following mitigation will be provided.

1. Use(s) on any portion of the property shall be limited to those uses listed as "Allowed" on the Use and Impact Assessment Table. All uses are subject to the limitations and restrictions contained within the table.

Authority for SEPA mitigation is contained in the King County Comprehensive Plan, including policies: CP-924, CP-927; CP-929. Authority for SEPA mitigation is also contained in 21A.04.170.

Groundwater/Aquifer Protection

In order to assure the protection of ground water/aquifer resources and implement the policies of the King County Comprehensive Plan regarding these resources in the local area and as identified by the City of North Bend, the following mitigation will be provided.

2. Until such time as sanitary sewer is available, uses on the west 2/3rds of the site as shown on the Sewer Phasing Map (Attached) shall not include the manufacturing land uses or other high risk uses identified on the Use and Impact Assessment Table.

These Manufacturing/High Risk Uses identified may only be located on the eastern 1/3rd of the developable area per the Sewer Phasing Map until the property (as described under L03TY402) is connected to sewer.

3. All uses shall be evaluated for impacts to ground water quality. Any specific use of the property shall be further conditioned, limited, restricted or not be allowed, if at the time of development permit(s) the conditions contained under this mitigation together with other applicable regulations are determined not to sufficiently protect ground water quality.
4. The Groundwater/Aquifer Protection conditions/mitigation contained herein do not limit requirements of the Surface Water Drainage Manual (SWDM), Health Codes and other regulations in effect at the time of application for development permit(s), but are to supplement requirements.
5. Outdoor storage of hazardous materials (i.e., solvents, fuels, metals, and other hazardous chemicals) shall be prohibited. All storage of hazardous materials shall be in accordance with all other applicable regulations.
6. All "Manufacturing Land Uses" identified as "Uses Allowed" on the Use and Impact Assessment Table shall be conducted within enclosed buildings. No Manufacturing Land Use may operate outdoors.
7. All Tenant Improvement (TI), Occupancy, Grading, Clearing or other applications for site improvements or usage shall be reviewed by Seattle / King County Public Health Department, Environmental Health Division, Wastewater Services; DDES, LUSD; and DNRP to determine compliance or need for improvements to assure a site will remain in compliance with these conditions and all other applicable regulations.
8. All storm drains shall be labeled stating that no waste fluids may be discharged into the drains.
9. In order to ensure that no processed water will be directed to the onsite sewage systems and storm drains, Covenants, Conditions, and Restrictions ("CC&Rs") shall be adopted and recorded to prohibit connection of interior building floor drains to septic drainfields and storm drains. CC&R's shall require appropriately sized interior grease trap holding tanks.
10. Grease trap holding tank sizing calculations shall be submitted to the County during review of building permit applications based on the specific use of the facility to allow for adequate storage and containment within the grease trap holding tank for a minimum time interval.
11. The applicant shall prepare an Operation and Maintenance Manual, including a detailed description of all components of the storm drainage facilities, onsite sewage system, and interior floor drain/containment systems. The Operations and

Maintenance Manual must be incorporated into the management agreement for the local business association to be established for the corporate park. The Operation and Maintenance Manual shall include a condition that requires a licensed third-party contractor to provide regular cleaning and maintenance of the interior floor drains, grease trap holding tanks, and onsite sewage systems based on the frequency determined from the sizing calculations and report. The third-party contractor shall prepare a maintenance and inspection report for submittal to King County twice yearly until such time as building sewers on site are connected to sanitary sewer. Copies of the maintenance and inspection report will be submitted to the Seattle/King County Public Health Department, Environmental Health Division, Wastewater Services; DDES, LUSD; DNRP; the property owner; and, the building tenants. The report will include the identification of any spills, damaged or non-functioning systems, or illegal connections to the onsite sewage or storm system and any recommended corrective work.

12. The applicant shall prepare a Spill Prevention Control and Countermeasure (SPCC) Plan incorporating Best Management Practices (BMP) for implementation and use by the property owner(s) and tenants of the buildings, including, but not limited to the BMP's for Businesses contained in the Stormwater Pollution Control Manual (July 1995) and as may be updated.
13. CC&R's and the management agreement shall clearly outline the allowable uses, development restrictions, and maintenance responsibilities of the Property Owner Association, property owner(s) and tenants.
14. Leases and purchase and sale agreements shall include a description of the general operation of the storm drainage and onsite sewage system facilities, describe the sensitive nature of the groundwater issues and require that tenants and purchasers provide to their employees a general training program for normal maintenance and operation of the storm and septic systems and SPCC plan.
15. Prospective tenants and purchasers shall be provided with educational materials such as King County fact sheets, CC&R's and SPCC to inform them of appropriate disposal practices.
16. Primary design and containment of hazardous materials and manufacturing operations shall be reviewed for compliance with building and fire codes as part of King County's building permit review.
17. The water quality facility(s) shall be lined to prevent seepage of water into the ground water prior to treatment.
18. Oil-water separators shall be installed as a best management practice for stormwater runoff.
19. Plate-type oil water separators shall be used to treat street and parking area runoff. A "quick shut-off" valve for the parking area runoff system, prominently signed to view

(and operable) from the parking lot shall be provided, to allow preventative measures being taken immediately when spills occur in the parking lot. Details shall be explained within the SPCC Plan.

20. Required with submittal of any permit to determine compliance with codes:
- a. List of chemicals potentially to be used or stored as part of operation of a business on the property;
 - b. Report documenting the type and size of grease traps for use(s) or building proposed; and,
 - c. Changes in the O&M manual, SPCC Plan and Inspection report content.

Authority for SEPA mitigation is contained in the King County Comprehensive Plan, including policies: E-107, E-116, E-117, E-126 and E-149. The existing SO-170 Special District Overlay further clarifies the need for limitations/mitigation to assure groundwater protection.

Noise Impacts

Potential significant impacts of a 5 dBA noise increase over to the predevelopment noise level were identified. In order to address these impacts, the following mitigation will be provided.

21. All land uses identified on the Use and Impact Assessment Table as a potential risk to significantly increasing noise levels impacting nearby residentially zoned property, shall either:
- a. Conduct all use, business and/or repair within enclosed buildings with doors and openings facing away from residential zoned property, or,
 - b. Locate all use, business and/or repair no less than the minimum distance necessary (measured in feet) so that sound level(s) at residentially zoned property do not exceed a level greater than 5 dBA when compared to the predevelopment noise level, nor exceed the King County Noise Code (whichever is less). Any necessary reduction in sound level(s) may also be accomplished by using properly designed noise abatement techniques.

To utilize this provision (subsection b), predevelopment sound levels must be supplied by the developer for review by King County Health Department, Environmental Health Section prior to or in conjunction with the first development permit application for the property under L03TY402.

At the time of application for building permit, tenant improvement permit, occupancy permit, or any other permit which would allow or change use of the property or portion of the property, the applicant shall have the option and may choose to submit a noise analysis verifying noise of a use proposed will not exceed a level greater than 5 dBA (of the pre-existing sound levels) nor exceed the noise code standards (whichever is less). Should the Health Department confirm and agree that the noise levels outlined in this condition/mitigation are not exceeded, DDES may issue

permits to establish the use, business or repair on the property as requested.

Authority for SEPA mitigation is contained in the King County Comprehensive Plan, including policies: E-107, E-116, E-117, E-126 and E-149.

Traffic

In order to assure 1) significant impacts to both Highways of Statewide Significance for Washington State and the local arterial road system are mitigated, 2) policies of the King County Comprehensive Plan regarding transportation and site development are implemented, and 3) Transportation impacts identified by the City of North Bend are addressed, the following mitigation will be provided.

22. Monitoring - Monitoring of the impacts on the 468th Avenue SE corridor from SE 140th St. south to and including the Interstate 90 eastbound ramps which includes both King County and WSDOT jurisdiction is necessary to assure mitigation is appropriately implemented in a timely manner. The Applicant shall prepare a series of supplemental traffic impact analyses meeting King County requirements. These analyses shall be submitted in conjunction with the building permits that would result in each of the following cumulative floor areas (i.e. cumulative development yields):
- a. 215,000 square feet
 - b. 430,000 square feet
 - c. 645,000 square feet
 - d. 778,000 square feet
 - e. 800,000 square feet

With no guaranteed schedule of construction of buildings, these traffic impact analyses shall be submitted on an annual basis notwithstanding the need for analysis when the floor area threshold is reached with submittal of a building permit, until submittal of building permits for the final building in the Corporate Park Center.

These analyses will monitor "actual" versus "forecasted" base line traffic volumes and compare "actual" with "predicted" trip generation of the uses on the site, levels-of-service at the identified impacted intersection, signal warrant analyses at the I-90 eastbound on/off ramps, and status and schedule regarding the implementation of off-site mitigation measures along 468th Avenue SE. (KCC 14.80.030A and .030B)

23. Mitigation at I- 90 E/B on/off ramps / 468th Avenue SE - Mitigation of the significant adverse impact of the LOS F condition the development will have at the intersection of Interstate 90 E/B on/off ramps / 468th Avenue SE has been requested by King County/WSDOT South Central Region. The applicant shall pay a pro-rata share of the cost of a multi-phase traffic signal system. The estimated pro-rata share, payable to Washington State DOT prior to issuance of the first development permit application on the site, will be \$62,500 – representing 25% of the \$250,000 estimated cost of signaling the intersection. These funds will be used to install portions of the traffic signal system programmed with a WSDOT project scheduled for 2005 and to cover

- design costs associated with the full signal system. (KCC 14.80.030A and .030B)
24. Mitigation at Intersection of North Bend Way/ 468th Avenue SE- Mitigation of the significant adverse impact of the LOS E condition the development will have at the intersection of North Bend Way/ 468th Avenue SE has been identified by WSDOT South Central Region. Mitigation is needed as the LOS declines. The development yield of 778,000 square feet was identified in the TIA prepared as the threshold when mitigation is warranted.

The Applicant shall implement the following measures:

- a. As requested by WSDOT South Central Region, the Applicant shall pay a pro-rata share of the construction costs of a realignment of North Bend Way. The Applicant shall submit a cost estimate of these improvements and an estimated pro-rata share calculation to King County and WSDOT no later than the 50% development yield (430,000 square feet). Upon acceptance of the calculation of the pro-rata share, the Applicant shall provide these funds via a suitable funding mechanism (i.e. bond, agreement to pay) or agreement to share costs via a multi-party private agreement, to WSDOT and King County no later than the 645,000 square foot threshold (i.e. prior to the supplemental traffic analysis required for the 778,000 square foot development yield). The estimated pro-rata share shall be based upon the estimated 590 PM project peak hour trips entering the 468th Avenue NE/North Bend Way intersection, as measured against background traffic from all other sources (e.g. Ken's Truck Town/TravelAmerica, Cadman, Snoqualmie Valley School District, etc.) benefiting from the proposed improvement.
- b. When the intersection degrades to a LOS D during the PM peak hour, provide funding directly to WSDOT and construct the physical barrier to prohibit:
- i) northbound left turns from 468th Avenue SE onto westbound North Bend Way, and
 - ii) eastbound left turns from North Bend Way onto northbound 468th Avenue SE.

And, provide signage on North Bend Way and 468th Avenue SE. to alert and guide drivers regarding available routes of access.

As approved by WSDOT and King County DOT, the funds provided by the Applicant for the improvements in "b.i" and "b.ii." of this mitigation may be used as a portion of the Applicant's pro-rata share of the cost of the improvements identified in Section "a." of this mitigation (KCC 14.80.030A and .030B, and realignment of North Bend Way in lieu of the potential right-of-way dedication identified in SO-170).

25. The Applicant shall, submit plans and construct the following improvements in conjunction with the first building permit:

- a. In conjunction with the urban Collector Arterial improvements across the entire frontage (KCRS Dwg 1-002, Planter Strip – i.e. separated sidewalk -- alternative permitted under KCRS 5.03B, and KCRS 1.03) on 468th Avenue Southeast.
 - b. A northbound left turn lane meeting applicable King County Road Standards, providing storage for a minimum of two (2) WB-63 vehicles, together with appropriate transitions to the three-lane section of 468th Avenue SE to the south of the project site. (KCC 14.80.030B)
 - c. A realignment of SE 140th Street-468th Avenue SE, at the intersection with SE Middle Fork Road, to provide horizontal curvature consistent with the KCRS requirements for a Collector Arterial roadway, 45 MPH design speed (Table 2.1 of the KCRS), unless otherwise approved by Variance by the King County Road Engineer. (SO-170, and KCRS 1.03 adopted at KCC 14.42).
 - d. A realignment of 468th Avenue SE, near the southerly property line at/near the intersection with SE 144th Street, to provide horizontal curvature consistent with the KCRS requirements for a Collector Arterial roadway, 45 MPH design speed (Table 2.1 of the KCRS), unless otherwise approved by Variance by the King County Road Engineer. (KCRS 1.03 adopted at KCC 14.42)
 - e. A minimum four (4)-foot wide paved roadway shoulder on the southerly side of SE 140th Street, from the westerly property boundary to the realigned intersection of SE 140th Street-468th Avenue SE at SE Middle Fork Road. (KCRS 1.03 adopted at KCC 14.42)
26. To provide adequate pedestrian accessibility, and reduce vehicle trip generation for local trips, at least two (2) pedestrian tract/easement connections improved with a hard-surface shall be provided between the project internal access road and the abutting land uses: Ken's Truck Town/Travel America site and the anticipated Highway Oriented Development zoned RB-SO-170 Parcel 2423089022 and Parcel 1323089126. (Private non-motorized accessibility in lieu of the potential right-of-way dedication identified in SO-170)
27. Physical restrictions shall be provided at the driveway entrance onto SE North Bend Way that restricts use of the driveways by truck traffic in conjunction with the first development permit on the site. (KCC 14.80.030B)

Authority for SEPA mitigation is contained in the King County Comprehensive Plan, including policies: F-216, T-113, T-115, T-211, T-212, T-213, T-305, T-306, T-309, T-321. The existing SO-170 Special District Overlay further clarifies the need for limitations/mitigation to assure issues regarding access and traffic circulation are addressed. King County Road Standards and Title 14 of the King County Code also provide authority for implementation of mitigation. Additionally, Washington State Engrossed House Bill 1433, effective June 10, 2004 designated Highways of Statewide Significance for Washington State that are impacted by the proposed development.

Notes:

- a. *The 2000 King County Comprehensive Plan policies are referenced above, not the current 2004 Comprehensive Plan policies. Development with a*

septic/drainfield is not presently permitted by the Comprehensive Plan and Title 13.

- b. Attachments and references to tables stated within the above mitigations are part of the MDNS but have not been appended to this report.*

B. General conditions of P-suffix rezone approval:

28. The development and use of the property are subject to the limitations and restrictions contained within the following P-suffix conditions and to the provisions of KCC Title 13 as such exists at the time of development. Title 13 currently requires development on this site to be served by sewers.
29. Uses on the property shall be limited to those listed as “allowed” on the use and impact assessment table attached to the SEPA MDNS (which is also appended to exhibit no. 39, the final DDES recommendation, as attachment 1). All uses are subject to the limitations and requirements contained within said table.
30. A property owners’ association or other workable organization shall be established to the satisfaction of DDES which provides for the continued implementation of the P-suffix conditions on the reclassified property.
31. If at a future date KCC Title 13 is amended to allow development without connection to a sewer system, the following additional conditions shall apply:
 - A. A dry sewer system shall be installed within the Corporate Park connecting all lots and buildings in order to facilitate sewer connection to the North Bend sanitary sewer system once it is constructed to a location within 200 feet of any portion of the property; and
 - B. At such time as sanitary sewer service is available within 200 feet of the property, the sewage lines required by subsection A above shall be connected to the sanitary sewer system.
32. The SEPA conditions stated above shall be interpreted in the following manner at such time sewer service becomes available to the property:
 - A. SEPA condition no. 2 shall become a P-suffix condition; and
 - B. References within conditions 8, 11 and 14 to “onsite sewage systems” shall be deemed inoperative.
33. The sewer phasing map identified within the SEPA conditions is the site plan attached to exhibit no. 39, the final DDES recommendation, as attachment no. 2.
34. The traffic monitoring specified within condition no. 22 shall only be required during any year in which a building permit for site construction has been requested.

35. Within condition no. 24 the computation of peak-hour trips shall be based on actual traffic counts, where available.
36. A minimum 50-foot wide Type II landscape buffer shall be provided along all property lines abutting Southeast 140th Street and a minimum 50-foot wide Type I landscape buffer abutting parcels 132308-9200, 132308-9199, 132308-9198, and 132308-9121, as long as such parcels remain residentially zoned. In the event they are reclassified to a non-residential zone, landscaping shall comply with KCC 21A.16. Landscaping along all other property lines abutting streets and other properties, and landscaping of parking areas shall comply with KCC 21A.16. The Applicant may choose to utilize natural vegetation to comply with landscaping requirements.
37. Buildings, parking, and use on the property shall have a minimum setback of 50 feet from Southeast 140th Street and abutting parcels 132308-9200, 132308-9199, 132308-9198; and 132308-9121, as long as such parcels remain residentially zoned. In the event they are reclassified to a non-residential zone, setbacks shall comply with KCC 21A.12.
38. Those portions of structures and buildings located within 100 feet of Southeast 140th Street shall not exceed a base height of 45 feet. Those portions of structures and buildings within 100 feet of abutting parcels 132308-9200, 132308-9199, 132308-9198; and 132308-9121 shall not exceed a height of 30 feet, so long as such parcels remain residentially zoned. In the event they are reclassified to a non-residential zone, height limits shall comply with KCC 21A.12.
39. Outdoor lighting shall be focused downward and configured to minimize intrusion of light into nearby residential areas to the north.
40. Business signs shall be limited to those allowed in the NB zone classification. Ground supported signs shall not exceed five feet in height. Signs within 100 feet of Southeast 140th Street and/or parcels 132308-9200, 132308-9199, 132308-9198, and 132308-9121 and facing north (and/or facing the four parcels described) shall not be internally illuminated, except for signs not exceeding five feet in height.
41. Refuse collection/recycling areas and loading or delivery areas shall be located at least 100 feet from residential areas and screened with a solid view-obscuring barrier.
42. Should one or more of the adjoining parcels (132308-9200, 132308-9199, 132308-9198, and 132308-9121) request reclassification from Residential/Urban Reserve (UR) to Industrial (I), the Applicant may grant easement(s) through the Landscape Buffer allowing access through the subject property to avoid access off Southeast 140th Street.

ORDERED this 30th day of November, 2004.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 30th day of November, 2004, to the parties and interested persons of record:

Salah Al-Tamimi
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Barghausen Consulting Engr.
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Kent WA 98032

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North Bend WA 98045

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MS KSC-NR-0600

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Mark Mitchell
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Carol Rogers
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Karen Scharer
DDES/LUSD
MS OAK-DE-0100

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) *on or before December 14, 2004*. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before December 21, 2004*. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all

necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

MINUTES OF THE NOVEMBER 16, 2004, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L03TY402.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Karen Scharer, Kristen Langley and Ken Johnson, representing the Department; Alison Moss and David Yasuda, representing the Applicant; and Larry Stockton, David Markley, Galan McInelly and Nancy Parsons.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DDES file L03TY402
- Exhibit No. 2 DDES Preliminary Report for L03TY402 prepared 11/01/04 with the following attachments:
 - 1 P-suffix Use Limitation Table
 - 2.1 Site plan design
 - 2.2 GIS area zoning map
 - 2.3 SO-170 and P-suffix zoning in local area
 - 3 Certificate of Water Availability signed 04/03/03
 - 4.1 Letter from Lawrence Stockton, City of North Bend, date 10/11/04
 - 4.2 Email from Larry Stockton, City of North Bend, dated 10/20/04
 - 4.3 Letter from Kenneth Hearing, City of North Bend Mayor, dated 10/28/04
 - 5 Letter from Salah Al-Tamimi, WSDOT, dated 07/28/04
 - 6 2000 aerial photograph
- Exhibit No. 3 Application for Land Use Permit/Zone reclassification no. L03TY402, received 03/13/04
- Exhibit No. 4 Environmental Checklist, received 03/13/04
- Exhibit No. 5 SEPA Mitigated Determination of Non-Significance (MDNS) dated 10/27/04
- Exhibit No. 6 Affidavit of Posting indicating a posting date of 03/18/04, received 03/25/04
- Exhibit No. 7 Assessors maps (5):
 - a SW 13-23-08 and SE 13-23-08
 - b NW 24-23-08, NW 19-23-09 and SW 18-23-09
- Exhibit No. 8 I-90 North Bend Corp. Park revised Site Plan, received 02/02/04
- Exhibit No. 9a Zoning History for L03TY402 prior to 09/15/1989
- 9b Zoning History for L03TY402 in re: to Ordinance. no. 9118 effective 09/15/1989
- 9c Zoning History for L03TY402 in re: to Ordinance no. 11653, effective 02/02/1995
- 9d Zoning History for L03TY402 in re: to Ordinance no. 12823, effective 08/18/1997
- Exhibit No. 10 GIS Comp Plan Land Use map; plot date 10/12/04
- Exhibit No. 11 GIS Zoning map of area; plot date 10/12/04
- Exhibit No. 12 GIS aerial of subject area; plot date 10/12/04
- Exhibit No. 13 Oversized conceptual plan of alternative North Bend Way intersection with 468th Avenue SE & SE 146th Street, prepared by DDES
- Exhibit No. 14 iMap conceptual plan of alternative North Bend Way intersection with 468th Avenue SE and SE 146th Street, prepared by DDES

- Exhibit No. 15 Letter from Kenneth Hearing, City of North Bend Mayor, dated 11/15/04
- Exhibit No. 16 Revisions to DDES Preliminary Report; dated 11/15/04
- Exhibit No. 17 Traffic Impact Analysis Update by Transportation Solutions, Inc., dated 06/04
- Exhibit No. 18 Wildlife Study by Barghausen Consulting Engineers, Inc., revised 11/12/03
- Exhibit No. 19 Letter from Brian Rogers in support of rezone, dated 02/11/03
- Exhibit No. 20 Letter from Harry Buhler in support of rezone, dated 02/11/03
- Exhibit No. 21 Letter from Tom Weber in support of rezone, dated 09/10/04
- Exhibit No. 22 Letter from Laurence Stockton, City of North Bend, re: septic system; dated 03/03/04
- Exhibit No. 23 Letter from Laurence Stockton, City of North Bend, re: Traffic, Land Use, Landscaping, Design & Septic System; dated 12/10/03
- Exhibit No. 24 Letter from Laurence Stockton, City of North Bend, re: Transportation, Land Use, Landscaping, Design & Septic System; dated 06/05/03
- Exhibit No. 25 Letter from Salah Al-Tamimi, WSDOT, re: rezone comments; dated 02/12/04
- Exhibit No. 26 Letter dated 10/11/04 from Larry Stockton , City of North Bend, with attachments regarding sewer extension
- Exhibit No. 27 Email dated 11/15/04 from George Bonini (with reply from Karen Scharer, DDES)
- Exhibit No. 28 Applicant's Requested Revisions to P-Suffix Conditions
- Exhibit No. 29 Applicant's Requested Revisions to Pre-Effective Condition
- Exhibit No. 30 Applicant's Brief – The Basis for Adoption of the Current Potential Zoning
- Exhibit No. 31 Applicant's Brief – Outline of Changed Circumstances
- Exhibit No. 32 Aerial photograph of site
- Exhibit No. 33 Site access plan
- Exhibit No. 34 Resume of David D. Markley
- Exhibit No. 35 Resume of Galan W. McNelly
- Exhibit No. 36 Groundwater Quality Impact Evaluation report by GeoEngineers, Inc., dated 03/10/03
- Exhibit No. 37 GeoEngineers, Inc., 11/12/03 Response to Comments on Groundwater Quality Impact Evaluation Report
- Exhibit No. 38 Applicant's list of acceptable sewer and sewage system conditions

The following exhibits were admitted administratively on November 24, 2004:

- Exhibit No. 39 Final DDES recommendation
- Exhibit No. 40 Letter from Attorney Alison Moss, dated 11/22/04