

March 22, 2012

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L11CU007**

SUSAN WILKINS
ALBERT AND MARIANNE SPENCER AND ROBERT DONATI
Lake Washington School District (STEM School) Conditional Use Permit Appeals

Location: 4301 228th Avenue NE, north of Redmond-Fall City Road (SR 202) east of Redmond

Appellant: **Susan Wilkins**
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SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Deny appeals
Department's Final Recommendation:	Deny appeals, with supplementary condition
Examiner's Decision:	Deny appeals, with supplementary condition

EXAMINER PROCEEDINGS

Pre-hearing Conference:	January 5, 2012
Hearing Opened:	February 27, 2012
Hearing Closed:	March 5, 2012

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 Hearing Examiner's Office.

FINDINGS, CONCLUSIONS AND DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

- On November 10, 2011, the King County Department of Development and Environmental Services (DDES) issued a decision granting a conditional use permit (CUP) with a number of conditions (see exhibit no. 2) for the proposed STEM School development by the Lake Washington School District (LWSD) on 228th Avenue NE in the unincorporated east Redmond area. The Appellants filed two timely appeals of such approval. A pre-hearing conference was conducted on the matter on January 5, 2012 and, after a continuance from the originally scheduled February 2, 2012 hearing date, the matter was heard on four hearing days beginning February 27, 2012 and ending March 5, 2012.
- The subject property is located in the unincorporated Redmond area east of the city limits just north of Redmond-Fall City Road (SR 202), a state highway, on the west side of 228th Avenue NE, at 4301 228th Avenue NE. 228th Avenue NE is a rural neighborhood collector street under the county's road classification system. SR 202 is an arterial road. The property is 21.8 acres in size, currently mostly densely wooded and undeveloped, and has road frontage on the aforementioned 228th Avenue NE on the east and also on SR 202 on the south, with a large notch cut out of what would be the southeast corner so that the property does not occupy the discrete intersection corner of those two roads; instead, the LWSD's Alcott Elementary School site occupies that notch corner area. The LWSD frontage on 228th Avenue NE thus is a cumulative extent of the elementary school frontage and the subject property's frontage to the north.
- The surrounding neighborhood consists of large lot detached single-family residences to the north and northeast, accessed by 228th Avenue NE and by branching offset cross streets NE 46th Street on the west side of 228th Avenue NE serving the *Salish Estates* area and offset slightly further to the north, NE 47th Street on the east side, the southerly access to *Canterbury Woods*. Other local streets branch off of 228th Avenue NE further to the north. The area accessed by this segment of 228th Avenue NE running northerly from SR 202 essentially forms a normal dead end neighborhood area; the only accessible alternative route is north on 228th Avenue NE, eventually intersecting with NE Union Hill Road, an east-west arterial road running from the City of Redmond east to the Snoqualmie Valley, but that alternative is available only on a controlled emergency access basis with Opticon mechanism-controlled gates normally barring through traffic. As noted previously, Alcott Elementary School occupies the northwest corner of the intersection of 228th Avenue NE with SR 202; it has a current student population of 721 students.

The single developed entry access to the Alcott Elementary School lies at the north end of the school's frontage on 228th Avenue NE; no vehicular access directly onto SR 202 is developed. A marked pedestrian crosswalk crosses 228th Avenue NE on the south side of the driveway intersection with the road. Across 228th Avenue NE lies the private preschool/daycare center, the Goddard School. On the south side of SR 202 in the proximity of the intersection of 228th Avenue NE lie minor rural commercial uses. Further to the east along SR 202, on the north side, lies a rural commercial node at 236th Avenue NE, consisting of a supermarket, a gas station, a coffee shop and a self-storage/private postal box office.

4. The proposed STEM School, with a capacity of 675 students and 30 staff, will be a specialized high school devoted to the sciences and engineering, with students selected district-wide. It will not have typical sports facilities and after-school organized sports activities, and will have little, if any, in the way of organized after-school non-sports activity (such as academic clubs, which may be scheduled during the day instead). The proposed school complex is to be constructed in the southeastern portion of the site's frontage on 228th Avenue NE, leaving wooded buffers of approximately 180 feet to the north (except for the area approximately 200 feet closest to 228th Avenue NE, which will be utilized for a school bus loop driveway, a fire lane and a school bus drop-off area as well as a vegetated frontage area) and in excess of 500 feet to the west and southwest.
5. On the south side of the school building accessed by a separate driveway onto 228th Avenue NE will be a large parking area of 200 parking stalls (all full-size, which will allow for conversion to some compact stalls thus gaining some parking spaces if necessary, and the provision greatly exceeding minimum county standards), served by a loop circulation drive which will also provide a lengthy pick-up and drop-off area with extensive vehicle storage (queuing area) on the north side of the parking area in front of the school building and on the south side will lie directly adjacent to the Alcott Elementary School site. A two-story high school building will be developed to the north of the parking lot and west of the bus drop-off area and thus in the northwesterly portion of the discrete construction site.
6. An alternative emergency access route from the school to 228th Avenue NE via the adjacent Alcott Elementary School site is required by a pertinent CUP approval condition.
7. The school operation will be a "closed campus," meaning students are not free to leave the campus during school hours, including lunch, without express permission.
8. School bus service to the school will be provided to/from other schools in the District; since students residing district-wide will attend the school, such service, point to point, is feasible whereas the traditional route system to students' residential areas is not.
9. Metro bus public transit service along the subject greater stretch of SR 202 ends at the intersection of Sahalee Way with SR 202, with bus stops at the intersection, and then turns southerly on Sahalee Way and thus no further east on SR 202 in the area. It does not serve the segment of SR 202 in the proximity of the proposed school on 228th Avenue NE. The distance between the intersections of 228th Avenue NE and Sahalee Way on SR 202 is approximately 1.5-1.7 miles. On the north side of SR 202 from Sahalee Way to 228th Avenue NE (represented to be the most desirable route of pedestrians who may be inclined to walk to the proposed school from the bus stop at Sahalee Way), the road contains shoulders which in some places particularly at bridge crossings and where adjacent to close-by deep ditches are very narrow. Along such stretch of SR 202, the physical road pavement outboard of the travel lane fog line is narrow, a distance of 18 inches to perhaps two feet in many areas.

10. The property lies within King County Fire District No. 34, which is staffed by contract by the City of Redmond Fire Department. Nearby fire stations consist of Station 13, which lies approximately 1.5 miles north of NE Union Hill Road on 208th Avenue NE approximately 2.5 miles as the crow flies to the northwest; Station 14 which lies approximately due east of the site and again approximately 2.5 miles from the site as the crow flies, but accessed via SR 202 and an intersection with NE Ames Lake Road and then 264th Avenue NE; Station 16 located west-northwesterly of the site within the Redmond city limits and is just north of SR 202 on 185th Avenue NE; and Station 18 located approximately two miles due north of the site in the *Redmond Ridge* area on Redmond Ridge Drive NE just south of Novelty Hill Road. Due south of the site but accessed somewhat circuitously via the aforementioned Sahalee Way to the west is Station 82 within the City of Sammamish. Of the five stations, only Station 16 within the City of Redmond, which also is approximately 2.5 miles from the site as the crow flies, maintains a ladder truck, and Station 13 to the north northwest is staffed only with aid cars for emergency medical response.
11. The proposed STEM School is intended to be served with sanitary sewer service provided by the Northeast Sammamish Sewer and Water District. Under county code provisions, such sanitary sewer service may not be made available to other uses which lie outside of the designated urban area established by the county under the Growth Management Act (GMA); Chapter 36.70A RCW. [KCC 21A.08.050.B.15 by inference]
12. DDES's CUP approval concluded that the proposal conformed with the applicable decision criteria for CUP approval as made subject to a number of conditions. One of the conditions requires compliance with LWSD resolutions 2094 and 2095 which impose mitigation measures pursuant to the environmental review conducted by the LWSD pursuant to the State Environmental Policy Act (SEPA). The District issued a Determination of Nonsignificance (DNS) as its SEPA procedural determination, which was affirmed on appeal by the LWSD hearing examiner with additional mitigation measures. One of the conditions imposed by the DDES CUP approval, Condition 9.a, incorporates a requirement of the Washington State Department of Transportation (WSDOT), reached after review of the development's traffic impacts on SR 202, that there be a minimum one hour separation between the STEM School and Alcott Elementary School start times, which by operation of a prefatory clause can be lifted by WSDOT's sole approval. The CUP approval also required in Condition 10, but only by reference to the aforementioned District resolutions, that the school *end* times be separated by a minimum of one-half hour as required by WSDOT. Since the end-time separation requirement was not overtly stated in the conditions of approval, DDES recommends that the express CUP conditions of approval be revised to overtly state it.
13. The WSDOT sole authority provision in Condition 9.a conflicts with LWSD Resolutions 2094 and 2095 (incorporating by reference the conditions attached to the LWSD hearing examiner's April 25, 2011 report; see Condition 3 in such report, which does not contain such a sole-approval proviso) and therefore also conflicts with CUP approval Condition 10.
14. Two separate parties filed timely appeals of the CUP approval, Susan Wilkins and a group consisting of Albert and Marianne Spencer and Robert Donati (hereinafter "Spencer/Donati").
15. After a January 5, 2012 pre-hearing conference, the Examiner on January 13, 2012 issued a pre-hearing order delineating the accepted issues/claims on appeal as follows (revised by subsequent order on January 25, 2012):

Wilkins Appeal

- A. The CUP approval is in conflict with the comprehensive plan in that it will have an effect of "stimulat[ing] local demand for urban-level services" [Policy R-325] by the

Applicant's being required by i) a CUP approval condition to coordinate with Metro Transit regarding extension of transit bus service to the school; ii) the required posting of a bond for possible future signal rephasing and channelization restriping at the intersection of SR 202 with 228th Avenue NE; and iii) generally "draw[ing] significant urban growth and services into the rural area," particularly the need for urban-level bicycle lanes/pedestrian walks (sidewalks) on SR 202 between Sahalee Way and 228th Avenue NE.

- B. (Appeal issue dismissed by January 25, 2012 supplemental Examiner Order)
- C. Traffic on SR 202 will be significantly impacted by the construction and operation of the school.

Spencer/Donati Appeal

- A. The Spencer/Donati Appellant party also claims the CUP approval is in conflict with the comprehensive plan, also expressly citing Policy R-325. The accepted appeal claim in the Donati/Spencer appeal is also generally whether the development would "stimulate local demand for urban-level services," *i.e.*, by establishment of the use, the local area (the land uses in the local area, both the particular use under permit review and the existing uses, as an aggregate) would evince a newly identifiable or greater need for urban-level services for appropriate infrastructure support of the local area. The infrastructure services accepted as topical sub-issues of the Spencer/Donati appeal claim of nonconformity with policy R-325 are law enforcement services provided by the King County Sheriff (KCSO), the road network maintained by the King County Department of Transportation (KCDOT); and emergency fire and medical services provided by the City of Redmond through Fire District No. 34 by contract and by mutual aid.
- B. Insufficiently mitigated state highway traffic safety impacts.
- C. Direct emergency access from the high school site to highway SR 202 is not provided. Such direct emergency access is claimed as critical in the event of an emergency blockage of the pertinent section of 228th Avenue NE. The CUP approval is contended to be erroneous because such access alternative is not provided directly and is thus insufficient to be effective. The pertinent CUP approval condition only requires an emergency access route to the adjacent Alcott Elementary School site, and the elementary school development does not provide constructed direct access to SR 202 but only to 228th Avenue NE well north of its intersection with SR 202. The 228th Avenue NE route to SR 202 is of arguably limited passageway and therefore necessary to be provided a full alternative for adequate emergency access for the high school and the surrounding neighborhood on the north side of SR 202.
- D. Crosswalk and walkway facilities on 228th Avenue NE are inadequate. Such facilities are insufficient to provide safe student pedestrian provisions, particularly given likely greater-than-anticipated student driving by car to/from the proposed high school and resultant parking overflow onto 228th Avenue NE.
- E. Student trespass onto neighboring private properties directly from the school grounds is not sufficiently safeguarded against, because the proposed development does not specify physical improvements which would act to inhibit such trespass, such as berms, fences and/or walls.

16. Consideration of comprehensive plan compliance in this appeal is limited to conformity with Policy R-325.

Comprehensive Plan Policy R-325

Preamble: The service area of most schools in the Rural Area is large and relatively sparsely populated. Placing schools in rural cities or Rural Towns allows them to be served with urban-level utilities and fire protection and to be used efficiently for other community activities.

R-325 In the Rural Area, elementary schools may locate where required to serve neighborhoods. New middle/junior high schools and high schools and school facilities are encouraged to locate in rural cities or unincorporated Rural Towns. In reviewing proposals for middle/junior high and high schools and school facilities outside rural cities or Rural Towns, *King County should ensure that any approved project will not stimulate local demand for urban-level services.* In order to support the availability of public facilities and services for educational purposes, public schools and public school facilities may exceed nonresidential development standards as provided for by county code, shall comply at a minimum with applicable surface water design manual standards and may be provided with public sewer services in accordance with F-249. (Emphasis added)

Conformity with Policy R-325

17. The test of plan policy compliance in this instance is whether the development would “stimulate local demand for urban-level services.” In other words, the test is whether by the establishment of the STEM School, the local area, consisting of the existing land uses and the proposed use under permit review as an aggregate, would experience a newly identifiable or greater need for urban-level services for appropriate infrastructure support of the local area.
18. As noted previously, the infrastructure services accepted as topical sub-issues of the appeal claims of the development’s precipitating the area’s demand of “urban services” in the consideration of conformity with policy R-325 are law enforcement services provided by KCSO, the road network maintained by KCDOT; emergency fire and medical services provided by the City of Redmond through Fire District No. 34 by contract and by mutual aid; Metro bus service to the general site area; the possible reconfiguration of intersection signaling and lane marking/channelization at the SR 202/ 228th Avenue NE intersection, and the need for urban-level bicycle lanes/pedestrian walks (sidewalks) on SR 202 between Sahalee Way and 228th Avenue NE. (Also as noted previously, extension of sanitary sewer service to the area is exclusively for the use of schools. [KCC 21A.08.050.B.15 by inference] Service to any other uses outside the officially enacted urban area, such as those in the subject area other than the schools, is prohibited by law. Demand for extension of sewer service is thus a moot issue.)
19. A two-story school building housing 705 persons does not *per se* constitute an urban land use. Nor does the proposed STEM School addition to the existing rural development node along the subject stretch of SR 202 catalyze the area into “demanding” urban services. Rural development nodes are common in the rural area, as are large structurally developed rural land uses, some employing numbers comparable or greater than the proposed school population. Schools are not uncommon, and other permitted intensive rural development uses include some industrial plants involving agricultural or wood products processing, farm product warehousing, government and utility facilities, marinas, ski areas, outdoor performance centers, conference centers, wineries, etc. [See, e.g., Chapter 21A.08 KCC generally]
20. The state Growth Management Act (GMA), in addressing what constitutes urban growth, states expressly that “a pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d) [which allows “limited areas of more intensive rural development,” or

LAMIRD's] is not urban growth." The situation here, though not involving a LAMIRD specifically, is analogous in that it involves a rural area with relatively intensive development that does not constitute urban growth.

21. The large rural development types and structures noted above do not *per se* present a demand for urban-level fire suppression services. If specialized equipment more commonly maintained in urban firefighting facilities due to an urban area's greater development density and complexity is occasionally needed in rural areas, such as in fighting multi-story fires, it can be provided under mutual-aid agreements or simply informal cooperation. The addition of the STEM school has not been shown by the evidence to trigger a local area demand for urban level fire services. Of note in this regard is that no fire service authorities have suggested that the proposed use would cause such a phenomenon.
22. Similarly, there has been no showing that urban-intensity law enforcement demand by the local area will be precipitated by the school development. There has been no factual showing that the nature and frequency of emergency and other service calls by the area population, daytime (during school hours) or 24-hour, will elevate to some undefined "urban" level. Much has been made that because of service funding limitations and resultant reduced rural area staffing, KCSO has limited capability of enforcing parking restrictions on 228th Avenue NE, but that has not been shown to be a symptom of *urban-level service demand* by the local area precipitated by the proposed school. No law enforcement authorities have been shown to hold such opinion. It is a logical fallacy that reduced rural service availability equates to an urban-level demand. The subject area is a rural area of more intensity than usual. As noted previously, that is a common situation expressly provided for in some growth management instances; in others, such as the instant one, it is provided by the existing development pattern and the existing zoning implementing the comprehensive plan and in effect the GMA. Parking enforcement does not become an urban law enforcement demand merely because more intensive rural development occurs; it is still a rural parking situation.
23. Appellants' citation to KCDOT Road Services Division's assignment of a hierarchy of "tiering" to the county road system, and prioritizing maintenance and upkeep thereby, as inferring an urban-rural hierarchy is unpersuasive. The tiering protocol makes no express distinction or, more to the point, exclusivity, between rural and urban situations in assigning such tiering. There is nothing in the tiering that would leave one with the impression that because of the STEM School development, the local area will be demanding of urban level road services.
24. With respect to the local area's likelihood of demanding urban Metro bus service upon the school development, no evidence in the record supports such a likelihood. Even if it did, such demand would not *per se* constitute a demand for an "urban" level of transit service. There has been no evidence of what by industry standard constitutes "urban" transit service levels, such as perhaps service frequencies and capacities, and no evidence that would support the Examiner's rendering a judgment in that regard. Metro serves an extensive rural area as well as the urban King County area; there is nothing in the record that suggests anything other than that Metro transit service in rural areas is rural transit service and that the service in urban areas is urban transit service. Extension of Metro service to the subject area, required to be invited in effect by a CUP condition of approval, may eventuate. If indeed it does, as it will be serving a rural area it will be rural transit service.
25. No persuasive evidence is offered to support the notion that the school development will cause the area to generate "urban" levels of cyclists and pedestrians that would in turn comprise an area demand for urban-level cyclist and pedestrian facilities. No factual studies demonstrating such generation are offered, nor any professional standards as to what levels of generation trigger a need for higher-level "urban" facilities, which are unpersuasively argued to be constructed sidewalks vs. road shoulders, and defined bike paths. Pedestrians and cyclists are commonly

accommodated on rural roads, and on some urban roads, by road shoulders, no matter how relatively intense the usage may be. Conversely, it is not uncommon to find some sidewalk construction in rural areas, and similarly defined and sometimes separated bike paths are encountered as well. There has been no persuasive evidence offered supporting a strict differentiation or hierarchy of “rural” and “urban” facilities for these alternative transportation modes.

Traffic Impact on SR 202

26. The sole intersection in dispute as to conformity with traffic impact mitigation requirements, and presenting a safety hazard to vehicular travel is the intersection of SR 202 with 228th Avenue NE, a signalized intersection.
27. The development’s traffic impact on the public road system has been analyzed and reviewed by several private consultant professional traffic engineers and KCDOT and WSDOT. As an initial context for the findings reached below on traffic impact, the Examiner notes that as a general proposition, due deference should be accorded to the professional opinions of agency staff addressing matters under their administrative responsibilities; only in cases where such opinion is shown to be in clear error will it be overruled. [*Mall, Inc. v. City of Seattle*, 108 Wash.2d 369, 385, 739 P.2d 668 (1987)] This principle is exemplified in the county code language addressing traffic impact analyses of intersections: “...Identification of intersection standards being exceeded [shall be made] using analytical techniques and information *acceptable to the* [KCDOT] *director.*” [KCC 14.80.040(A), emphasis added]
28. Secondly, the context is also partly formed by the Appellants’ traffic engineer conducting a safety review of Applicant’s traffic analysis, and offering review testimony often engaging in speculation and supposition, frequently offering opinions using language such as “very well may be,” “could create an adverse safety situation,” “could be longer queuing,” “could be quite different,” and “can be more queuing than modeled,” etc. Such offerings are not persuasive of fact or of error in others’ professional analysis, but only offer question and doubt.
29. In addition, the suggestion that an alternative analytical program be utilized in the instant traffic impact analysis, the subcomponent SIM Traffic program vs. the general SYNCHRO program accepted for use by WSDOT and KCDOT, is unpersuasive. The evidence is compelling that such alternative approach is a micro-situation model more appropriate for utilization in dense traffic areas with closely spaced intersections and spillback queuing, and if utilized in the subject situation would have to be calibrated with actual field data (traffic counts) for reliable accuracy.
30. In the operation of the intersection, the sole critical traffic movement at issue is the eastbound left turn (EBLT) from SR 202 onto northbound 228th Avenue NE, with Appellants Spencer/Donati contending that with the school development, traffic congestion during the critical a.m. peak hour (PH) time period, and more particularly during asserted particularly concentrated time segments of 5-10 minutes within the PH, will result in overfilling the queue storage provided on EB SR 202 for EBLT traffic and cause a resultant intrusion of stopped and/or slow moving left turn traffic into the main EB travel lane, presenting a safety hazard to oncoming EB traffic.
31. The speed limit on SR 202 in the subject area is 55 mph.
32. The Washington State Department of Transportation (WSDOT) is the agency with regulatory jurisdiction over SR 202 and the operation of the intersection. KCC 14.80.050 authorizes interlocal agreements (ILA) governing mitigation of traffic impacts of unincorporated development on state highways and city arterials. Such an ILA has been executed between WSDOT and the County. The King County Department of Transportation (KCDOT), acting in coordination with DDES in the review of development permits such as the instant CUP, acts as the direct county reviewing agency over development traffic impacts.

33. WSDOT has accepted the Applicant's traffic studies (as supplemented at WSDOT's request) and has required mitigation of the development's traffic impact on the state highway system. The required mitigation consists of the aforementioned one-hour separation between the start time of the subject STEM School and that of the adjacent Alcott Elementary School, and a one-half hour staggered p.m. end time, establishing a fundamental preclusion of additive or cumulative school-related traffic congestion, and the posting of a \$25,000 bond to WSDOT for a period of three years which may be utilized for signal phasing improvements and/or restriping (of the queue storage area, or "refuge," with attendant road marking tapers, etc.) should any queuing problem arise within three years of the school opening. (The bond must be posted prior to issuance of the respective building permit for the school construction.)
34. The Spencer/Donati Appellants dispute the trip generation rate employed by the Applicant's traffic engineer, but their disputation is in the final analysis undercut by their own consultant's acknowledgement that the Applicant's trip generation projection is reasonable. The Applicant has selected the appropriate trip generation rate in the Institute of Traffic Engineers (ITE) Trip Generation Manual, the standard reference in the profession. The argued need to utilize an alternative projection methodology also articulated in the Manual is not persuasively shown; the subject school is not demonstrated to be so unique that it is inappropriate to use the general standard (which is based on 68 empirical studies of various high school types). And the Applicant has selected the more conservative of the two standard generation factor alternatives in this instance (vehicles per student vs. per square foot of floor area). In an even more conservative approach the Applicant has for analysis purposes tested the modeled trip generation for "sensitivity" given neighborhood concerns about traffic impact, by doubling the selected generation rate to test whether, with intersection signal modifications that would maintain both individual movement and intersection Level of Service (LOS), the critical EBLT movement would have unacceptably lengthy and unsafe queuing. The test analysis shows it would not.
35. Appellants Spencer/Donati also dispute the acceptability of the peak hour factor (PHF) of .71 employed by the Applicant's traffic engineer in determining the adequacy of the queue length provision (lane refuge) for the EBLT movement at the intersection. The traffic engineer has selected .71 as an appropriate conservative approach (normal operation has a default PHF of .92, and the Highway Capacity Manual (HCM), the pertinent professional reference, indicates a PHF of .85 in this instance). Appellants suggest the use of a more conservative factor value such as .50 as more appropriate, to add an additional margin of safety, but do not make a persuasive case that such greater conservatism is compelled. The use of a PHF of .71 has been peer-reviewed by a traffic engineer with a different firm and affirmed as appropriate. It has been accepted by both WSDOT and KCDOT. (It is also noted that even using a PHF of .50 in the traffic projection modeling, review-tested by the Applicant, does not result in the queuing length hazard contended by the Appellants.) The evidence is unpersuasive that the Applicant's use of a PHF of .71 is erroneous.
36. Appellants also argue for using the most congested 5- or 10-minute segments of the peak hour in the PHF formulation, contending that such smaller segments would better reflect the asserted intensified concentration of inbound traffic in the a.m. peak by students tending to arrive at school at the last possible moment, as an asserted typically adolescent "just in time" practice. Such a further reductionist approach is not standard accepted practice in the traffic engineering profession as it reduces statistical validity and can result in skewing of results of the projection program. Indeed, the standard 15-minute-weighted PHF prescribed by the HCM and typically used by private traffic engineering consultants is more conservative than the regulatory standard of the full hour established by the County and WSDOT. As much to the point, no hard evidence of the argued concentration of student traffic has been offered into the record, the only such evidence being anecdotal in form and given in testimony by one of the appellants. Given its source and nature, it cannot be considered objective, persuasive evidence.

37. Appellants also suggest that the queuing problems currently experienced at the existing Redmond High School (RHS) access on Avondale Road should be considered analogous to those feared in the instant case and therefore call for additional examination, but the asserted analogy is not persuasive. There has been no persuasive showing of a compelling similarity between the schools in their traffic impacts and their road and traffic configuration contexts; indeed, the expert testimony is that it would be inappropriate to consider the phenomenon transferable to the subject site and development.
38. Lastly, Appellants contend that sight distance limitations in the EB SR 202 approach to the intersection will create a hazardous situation to drivers at the posted speed limit. The limitation is asserted to be caused by dense platoons of WB vehicles departing the intersection and blocking the clear line of sight of EB drivers of the EB travel lane ahead to the east due to the left curve experienced on the EB approach, the inner portion of which will be occupied by the WB platoons. The contention is not persuasive as it depends on an improbable phenomenon, that the WB platoons will operate in a train-like fashion without gaps between vehicles. Neither that phenomenon, nor the visual effect of its blocking, has been shown by evidence in the record. The likelihood is rather that the gaps will be significant given the 55 mph speed limit (to which the WB platoons will be accelerating from the intersection) and the tendency (indeed, legal requirement) of drivers to maintain a prudent distance between vehicles. Such prudent distance, even if not optimally prudent or fully law-abiding, will provide plenty of gaps in any visibility blocking caused by WB platoons. The stopping sight distance has been evaluated and shown to exceed professional standards (promulgated by the American Association of State Highway and Transportation Officials (AASHTO)); vehicular stopping sight distance approaching the intersection from the west is not shown to be substandard or hazardous. (It was asserted by Appellants that high school drivers need additional sight distance for a margin of safety; no evidence has been presented to support such contention. There is also no evidence presented that traffic accident occurrence is greater in the vicinity of high schools than elsewhere.)
39. In the final analysis, the traffic impact review conducted by the Applicant's consultant is persuasive as a reasonable and accurate projection of traffic trips, peak hour effects, queuing lengths, and ability of the intersection to maintain acceptable Level of Service (LOS "E" per the ILA between the County and WSDOT). The review has not been shown to be in clear error in its analysis and conclusions. Particularly, the available queuing storage in the lane refuge for the EBLT movement has not been shown to be insufficient or hazardous. Even given the absence of demonstrated error in the study and of a probable hazard posed by the queuing length, if after the development traffic is in place and queuing problems are indeed experienced (at most a possibility, not a probability from the record), WSDOT has required a mitigation measure to address that eventuality, incorporated as a CUP condition of approval (and characterized by KCDOT as an "insurance policy").
40. Appellants argue that the additional storage length and signal adjustments should be performed prior to the school development's traffic occurring, to cover the potential for a safety hazard to arise. Merely the presence of an arguable *potential* for a safety hazard to arise provides insufficient *nexus*, or linkage, for imposition of such a condition. There is no justification and no authority to require such improvements without showing a link to a persuasively *probable* adverse effect (aside from the secondary fact that the agency with road jurisdiction, WSDOT, would have to approve such pre-installation). To do so in the absence of sufficient *nexus* would constitute an impermissible regulatory taking and a violation of substantive due process. [*Unlimited v. Kitsap County*, 50 Wn.App. 723, 750 P.2d 651 (1988) and *Nollan v. California Coastal Commission*, 483 U.S. 825, 107 S.Ct. 3141, 97 L.Ed.2d 677 (1987)]
41. In the final analysis, the record is not persuasive of any probable traffic hazard, accident occurrence or unacceptable increased traffic congestion on SR 202 in the vicinity of the site. The SR 202/228th Avenue NE intersection has been shown to be able to operate safely with acceptable

LOS upon the school's operation at full capacity. In the unanticipated event that some revision to signal timing or EBLT queue storage length is discovered to be needed upon such full operation, the WSDOT-directed mitigation measure, bonded for activation within the full operation time period, will be available to address those needs.

Emergency Access

42. Direct emergency access from the high school site to highway SR 202 is not provided. Such direct emergency access is claimed as critical in the event of an emergency blocking the pertinent section of 228th Avenue NE. The CUP approval is contended to be erroneous because such access alternative is not provided directly and is thus insufficient to be effective (as noted, the pertinent CUP approval condition only requires an emergency access route to the adjacent Alcott Elementary School site, and the elementary school development does not provide constructed direct access to SR 202 but only to 228th Avenue NE well north of its intersection with SR 202). The 228th Avenue NE route to SR 202 is contended to be of limited and even potentially obstructed passageway during emergencies and therefore necessary to be provided a full alternative directly to SR 202 for adequate emergency access for the high school and the surrounding neighborhood on the north side of SR 202.
43. Appellants assert that emergency access to the school and neighborhood will be inhibited by the fact that the stretch of 228th Avenue NE running northward from its intersection of SR 202 is heavily congested and even obstructed at critical school pick-up and drop-off periods due to the phenomenon of illegal and unenforced parking and/or stopping to pick-up or drop-off children on the shoulders of 228th Avenue NE, causing additional congestion and conflict on the travel lanes of the roadway due to the interference of maneuvering vehicle movements.
44. The emergency access consideration context required here is emergency access to the proposed STEM school. There is no legal justification for requiring the school to provide an alternative emergency access route for the use of the neighborhood *per se*. As discussed elsewhere regarding other issues of linkage between development impact and mitigation desires, there is insufficient *nexus* for requiring such a provision; in other words, absent compelling proof that the school will block emergency access used by the neighborhood, which as discussed herein is not shown, there is no legal authority to require such a provision (without due compensation, which is not proposed).
45. No official emergency safety concern about emergency access sufficiency has been raised by any pertinent fire, emergency services or law enforcement agency. The KCDOT traffic engineering staff representative testified that his professional opinion is that given the road and shoulder widths along 228th Avenue NE, the general tendency of obstructing traffic to do everything possible to clear a lane for travel, and the ability of emergency vehicles to mount curbing where in place, emergency vehicle access should not be substantially impaired by traffic congestion on the road.
46. The cited past incidence of a difficulty of the fire district's former Station 15 equipment entering the Alcott Elementary School site due to traffic congestion has not been shown to be likely to be presented or aggravated by the STEM school development, nor has it been shown to be due to a common congestion condition. (Station 15 has since been closed and the building converted to the aforementioned Goddard School across 228th Avenue NE from Alcott; no replacement Station 15 is evident in the area.) The assertion of routine heavily obstructing congestion on 228th Avenue NE in the operation of the Alcott school, largely reliant on the upper photograph on Exhibit 77, p.7, is not persuasively supported by such evidence, nor by any other. The photograph is of congestion related to an uncommon school day, a day of double special events, student orientation and parent/teacher introduction at Alcott Elementary School, with the result that parents attended as well as students. A test of reasonableness must be employed in

appraising congestion blocking of access: unusual, uncommon and anomalous extremes of traffic levels cannot be taken to represent the typical, or even typically heavy, situation appropriate to address. In addition, the asserted heavy congestion is not evident to the degree contended; in the distance down (southward) 228th Avenue NE to its SR202 intersection, it is evident from the photograph that a stack of SB vehicles is queued at the intersection, but not egregiously (perhaps six or seven vehicles), and the oncoming (opposite) lane does not appear to be congested to the degree it could be considered obstructed; at best, because the view of the distant segment of the oncoming lane in exh. no. 77 (p.7, top) is somewhat indistinct, and possibly obscured (and not clearly obscured by obstructing traffic), the evidence is inconclusive in such regard.

47. As important as any other factor in determining that the development will not have a substantially adverse effect on emergency access, even for the neighborhood *per se*, is that a gate-controlled secondary access route is available via the northerly extension of 228th Avenue NE to/from Union Hill Road, which incidentally is the most direct route of travel for emergency vehicles from the fire district's Fire Stations 13 and 18 to the subject school and neighborhood area, and appears to be an equal travel time from Station 14. That existing secondary access, controlled by emergency service providers, provides a sufficient alternative emergency access and evacuation route.
48. The example of the use of the Alcott schoolgrounds as an emergency airlift site as arguably demonstrating the need for an alternative emergency access route, aside from presenting a situation where emergency service personnel would be present and available to control traffic if necessary, is obviated by the existence of the Union Hill Road route alternative.

Pedestrian Safety on 228th Avenue NE

49. The accepted pedestrian safety appeal issues in this case are limited. They do not include pedestrian safety *per se* on any road segments other than 228th Avenue NE in the vicinity of the school. The Spencer/Donati appeal limited its pertinent claim to that road segment, so the concerns expressed by Spencer/Donati at hearing about pedestrian safety on the SR 202 stretch from 228th Avenue NE to the commercial node at 236th Avenue NE are inapt and cannot be considered. And although Ms. Wilkins offered evidence and testimony regarding the adequacy and safety of pedestrian and cyclist provisions on SR 202 from Sahalee Way to 228th Avenue NE, the consideration of her presentation in that regard must be limited to the context of her accepted appeal issues. The context in which pedestrian/cyclist facilities along such road segment were raised in her appeal is her urban services demand claim. Ms. Wilkins's only other accepted appeal claim, that "traffic along SR 202 will be significantly impacted by the construction and operation of the STEM school," is limited to impact on *vehicular* traffic, which is the common understanding of the term "traffic" and the typical universe of standard regulatory "traffic impact" consideration, and cannot be extended to impacts on pedestrian and cyclist safety; there was no expression in that appeal claim about pedestrian and cyclist safety *per se* as a traffic impact issue. (As an aside, Appellant Wilkins's complaint that no party has been "held responsible" in this case for researching pedestrian and cyclist safety on SR 202 is an inappropriate attempt to shift the burden of proof in the appeal proceeding and cannot be considered by the Examiner.)
50. Pedestrian safety on 228th Avenue NE is asserted to be adversely affected by the proposed development and its traffic. A primary contextual consideration in this regard is that the currently experienced traffic and pedestrian situation experienced with the operation of the Alcott Elementary School is not analogous to or cumulative with the operation of the STEM school. There are several operational factors that lead to the general conclusion that the operation of the STEM school will not have an effect of aggravating or increasing any adverse nature of the existing Alcott situation.

51. First, and critically, the required staggered start and end times mean that there will be little overlap between the respective schools' directly related vehicular and pedestrian traffic. Second, the traffic impact of the STEM School will be quite different from the existing Alcott situation. The STEM school operation will have far more bus usage (currently, only kindergarteners at Alcott are bused) and will have a great number of students driving themselves to school as well as carpooling. (The anecdotal claims that bus usage will not be as great as projected due to unpopularity, inconvenience and/or expense are not supported by any persuasive evidence in the record.) One consequence of those phenomena is that there will proportionately be far fewer parent pick-up and drop-offs of STEM students and thus a fundamentally less possibility of related conflicts on 228th Avenue NE.
52. Third, STEM school-related vehicular traffic's potential of adverse effect on pedestrian safety will be largely ameliorated by the installation of the STEM property's frontage improvements, including extended curbing that will preclude parking on frontage walkways, and by full internal accommodation of STEM buses and student vehicles onsite through the provision of generous parking capacity and substantial interior circulation for passenger vehicle and bus pick-up and drop-off, reinforced by the district's intended vehicle use and parking rule enforcement.
53. Indeed, the STEM school development may ameliorate some of the currently experienced traffic impacts by the District's intended utilization of the internal STEM circulation area for Alcott-related pickup and dropoff, which if anything would tend to reduce the current level of Alcott-related pickup and dropoff on 228th Avenue NE and resultant conflicts and problems. Also, the placement of extruded curbing along the STEM school frontage will inhibit Alcott-related road parking along the STEM frontage; parent-waiting further north, to the north of the STEM frontage, does not seem reasonably likely due to what seems an unattractively remote distance from the Alcott school building.¹
54. Queuing backups of traffic on 228th Avenue NE waiting to enter the STEM school site will be greatly ameliorated if not usually fully precluded by three major factors: the provision of sufficient and separated internal bus loading and circulation areas, the provision of generously sufficient and separated internal passenger vehicle circulation, pickup-dropoff area and parking areas; and the longer length of 228th Avenue NE from SR 202 to the STEM driveways, particularly the bus ingress drive at the far northern end of the STEM road frontage. In addition, by no means can it be found from the evidence that there will be parking overflow onto 228th Avenue NE by STEM School-related traffic.
55. The KCDOT traffic engineering staff representative rendered his professional opinion in testimony that even if STEM-related vehicles engage in pickup-dropoff and parking on the portions of the 228th Avenue NE roadsides which are not barricaded by the extended curbing to be installed on the STEM frontage (such as to the north of the frontage on the west side which was stated as a particular concern by Appellants), by virtue of the existing mostly paved shoulder widths of 8-10 feet, exceeding county road standards, there will be sufficient room for pedestrian accessibility and safe navigation around any blocking vehicles. Just as in any typical rural situation of road shoulder pedestrian ways rather than sidewalks or separated pedestrian paths, pedestrians are contextually alerted to maintain sufficient traffic awareness and exercise due care. (In such regard, the safety of younger and therefore more vulnerable elementary school student pedestrians stated as a particular concern is rendered effectively moot by the staggered school start and end times; from the record presented, it would be unusual for elementary schoolchildren to be walking to/from their school during STEM School-related heavy traffic periods.)

¹ There may also be some amelioration effect by the anticipated future reduction of the Alcott Elementary School's current student population of 721 students, which is projected to drop to 639 students in Fall 2012 and with demographic shifts expected to drop further in the 2017-2018 school year to 536 students.

Student Trespass Barriers

56. No exterior fencing or other perimeter obstructions such as berms or walls are proposed to be constructed with the school development, either on the exterior perimeter property line or around the inner perimeter of the discrete school facility and developed grounds area.
57. Appellants Spencer/Donati contend that trespass onto adjacent single-family residential properties will occur, particularly from the possibility of students parking their private vehicles on neighborhood streets and cul-de-sacs to the north along the north property line of the property. An incident which precipitated such concern is that surveyors employed by the Applicant to conduct field work on the school property trespassed on an adjacent private residential property from the north in order to access the property on foot. Appellants Spencer/Donati contend that student trespass onto neighboring private properties will not be sufficiently inhibited by the proposed development because of the proposed absence of any perimeter fencing, berms and/or walls.
58. But there is nothing presented into the record that provides any evidentiary support for the asserted tendency of student trespass in such circumstances. What has been presented is evidence of one trespass occurrence by a non-student party, which was motivated to enter the property by its professional engagement to conduct field examinations of the property. The remainder of the assertions of concern consist merely of supposition, none of which rises to the level of demonstrating that student parking in such areas is probable (see above regarding STEM student parking tendencies; certainly there is no factual basis for finding that parking overflow will occur from the STEM school site and thus spur student search for nearby alternative parking locations), and therefore that student trespass is probable.

CONCLUSIONS:

1. The conditional use permit approval criteria are as follows:
 - A conditional use permit shall be granted by the county, only if the applicant demonstrates that:
 - A. The conditional use is designed in a manner which is compatible with the character and appearance of an existing, or proposed development in the vicinity of the subject property;
 - B. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;
 - C. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;
 - D. Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title;
 - E. The conditional use is not in conflict with the health and safety of the community;
 - F. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood;
 - G. The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities; and

- H. The conditional use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this title. [KCC 21A.44.040]
2. The criteria pertinent to the issues raised on appeal are criteria E-H.
 3. The burden of proof in this appeal consideration rests on the Appellants. They must show by a preponderance of the evidence that the administrative decision is erroneous.
 4. In many instances, Appellants make much of arguably better design alternatives for developing the school. These desires are irrelevant in the strict legal sense to the consideration of the CUP appeals. The conditional use process is not a site selection or an alternative design review process. The County must consider a development proposal as it is proposed by an applicant in determining whether it conforms to applicable development regulations. Although DDES and other county departments are certainly free to engage in a somewhat collaborative approach in discussing options and alternatives in order to guide an applicant toward achieving regulatory compliance, and other interested parties are free to attempt to engage a developer in voluntary design discussions, in the final analysis an applicant is free to propose whatever design is desired and have it reviewed and decided upon as proposed. The Examiner on appeal, and DDES in its original administrative jurisdiction, have no authority to impose a different design attribute merely because it may be considered “better” or “more acceptable” from the perspective of other parties, or their own, unless there is clear and compelling factual and legal justification for doing so.²
 5. As shown by the above findings of fact and subject to the Condition 9.a revision and supplementation below (see Conclusions 10 and 11 below), the proposed STEM School use is not in conflict with the health and safety of the community with respect to the issues accepted on appeal.
 6. As shown by the above findings of fact and subject to the Condition 9.a revision and supplementation below, pedestrian and vehicular traffic associated with the school use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood with respect to the issues accepted on appeal, and have been fully addressed and mitigated under the applicable development regulations contained in county code and as required by the Washington State Department of Transportation (WSDOT).
 7. As shown by the above findings of fact and subject to the Condition 9.a revision and supplementation below, with respect to the issues accepted on appeal the STEM School use will be supported by adequate public facilities and services and will not adversely affect public services to the surrounding area, or conditions are established to mitigate adverse impacts on such facilities.

² Unless otherwise expressly authorized, only the minimum standards of applicable laws and code regulations may be imposed in land use decisions. One of the legal premises underlying the land use planning and regulatory system in Washington State is that decisions on individual applications must be based upon adopted ordinances and policies rather than upon the personal preferences or general fears of those who may currently live in the neighborhood of a property under consideration. [*Department of Corrections v. Kennewick*, 86 Wn. App. 521, 937 P.2d 1119 (1997); *Indian Trail Prop. Ass'n v. Spokane*, 76 Wn. App. 430, 439, 886 P.2d 209 (1994); *Maranatha Mining v. Pierce County*, 59 Wn. App. 795, 805, 801 P.2d 985 (1990); *Woodcrest Investments v. Skagit County*, 39 Wn. App. 622, 628, 694 P.2d 705 (1985)] The evaluation of this conditional use permit on appeal therefore must be based upon officially adopted county ordinances, plans and policies and applicable state law and rule, as well as legally accepted principles. Also, the legislative wisdom of state and county lawmakers must be respected “as is,” i.e., as enacted, in deciding the application, since policy decisions are the province of the legislative branch; a quasi-judicial decisionmaker cannot substitute the decisionmaker’s judgment for that of the legislative body “with respect to the wisdom and necessity of a regulation.” [*Cazzanigi v. General Electric Credit*, 132 Wn. 2d 433, 449, 938 P.2d 819 (1997); *Rental Owners v. Thurston County*, 85 Wn. App. 171, 186-87, 931 P.2d 208 (1997)]

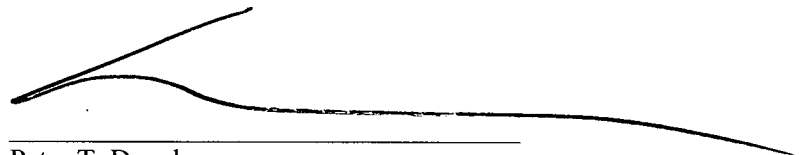
8. As shown by the above findings of fact, with respect to the issues accepted on appeal the proposed use is not in conflict with comprehensive plan policy R-325.
9. As the proposed STEM School use, subject to the additional condition imposed below, is found to conform to the conditional use permit approval criteria governing the accepted issues on appeal, the Appellants have not met their burden of proving error in the CUP approval. Their appeals are therefore not sustained and accordingly shall be denied. The conditional use permit issuance by DDES, subject to the Condition 9.a revision and supplementation below, is correct with respect to the accepted issues of appeal and shall be affirmed.
10. As noted at hearing, the requirement of a one-half hour separation of the afternoon school end times of the subject STEM School and the adjacent Alcott Elementary School should be expressed overtly in the conditions for clarity and shall be therefore be added as an additional condition.
11. In addition, since the above findings and conclusions regarding the sufficiency of pedestrian safety on 228th Avenue NE are in part dependent on the separated school times, both starting and ending, the Examiner shall remove the provisional clause in Condition 9.a of the CUP approval that allows the start time separation requirement to be lifted solely by WSDOT approval. (The WSDOT sole authority provision also conflicts with LWSD Resolutions 2094 and 2095 (incorporating by reference the conditions attached to the LWSD Hearing Examiner's April 25, 2011 report; see Condition 3 in such report, which does not contain such a sole-approval proviso), and therefore also conflicts with CUP approval Condition 10.) Any revision of the pertinent school start and end time separation conditions must be undertaken through the County conditional use permit regulatory process.

DECISION:

The APPEALS of the conditional use permit approval issued November 10, 2011 by DDES for the subject STEM School proposal are DENIED and the CONDITIONAL USE PERMIT decision AFFIRMED, subject to the aforementioned revision and supplementation to the conditional use permit conditions of approval as follows:

Condition 9.a of the November 20, 2011 DDES conditional use permit approval is revised and supplemented by deleting the opening clause "Unless otherwise approved by the Washington State Dept. of Transportation," and adding to the remainder of the sentence "and a minimum of one-half hour separation between the school end times."

ORDERED March 22, 2012.



Peter T. Donahue
King County Hearing Examiner

NOTICE OF RIGHT TO APPEAL

The Examiner's decision on appeal shall be final and conclusive unless proceedings for review of the decision are properly commenced in King County Superior Court within 21 days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE FEBRUARY 27 AND 28, MARCH 2, 2012, PUBLIC HEARING ON DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L11CU007.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Albert and Marianne Spencer, Eric Laschever, Kimberly Claussen, Susan Wilkins, Katie Walter, Robert Donati, Laurie Pfarr, Edward Koltonowski, Eric Johnston, Craig Comfort and Chris Forster and Forrest Miller.

The following Exhibits were offered and entered into the record on February 27, 2012:

Exhibit no. 1	DDES File No. L11CU007
Exhibit no. 2	DDES reports for file no. L11CU007, 1) CUP decision dated November 10, 2011 and 2) Staff report to the Hearing Examiner dated February 2, 2012
Exhibit no. 3	CUP application
Exhibit no. 4	Lake Washington School District resolutions 2094 and 2095
Exhibit no. 5	State Environmental Policy Act Declaration of Non-significance dated February 14, 2011, addendum dated March 4, 2011
Exhibit no. 6	Affidavit of posting
Exhibit no. 7	Site plan
Exhibit no. 8	Water availability certificate
Exhibit no. 9	Traffic Study
Exhibit no. 10	Lake Washington School District response
Exhibit no. 11	Appeal statements
Exhibit no. 12	DDES witness list
Exhibit no. 13	WSDOT letter dated July 26, 2011
Exhibit no. 14	WSDOT letter dated February 17, 2012
Exhibit no. 15	WSDOT email sent September 14, 2011
Exhibit no. 16	<i>Not submitted</i>
Exhibit no. 17	<i>Not submitted</i>
Exhibit no. 18	<i>Not submitted</i>
Exhibit no. 19	<i>Not submitted</i>
Exhibit no. 20	<i>Not submitted</i>
Exhibit no. 21	Katie Walter resume
Exhibit no. 22	LWSD Wildlife Habitat & Plant Communities pictorial
Exhibit no. 23	Letter from Shannon & Wilson dated March 3, 2011
Exhibit no. 24	Letter from Shannon & Wilson dated March 16, 2011
Exhibit no. 25	Shannon & Wilson list of species on subject property
Exhibit no. 26	Laurie Pfarr resume
Exhibit no. 27	LPD site plan depicting perimeter berm
Exhibit no. 28	LPD site plan depicting perimeter fence
Exhibit no. 29	Site plan showing clearing and building parking lot
Exhibit no. 30	Site plan showing frontage
Exhibit no. 31	Graphic showing curb
Exhibit no. 32	Brian F. Carter's curriculum vitae
Exhibit no. 33	Edward Koltonowski resume
Exhibit no. 34	Withdrawn

Exhibit no. 35	Chris Forster resume
Exhibit no. 36	STEM school brochure
Exhibit no. 37	King County tax parcel map
Exhibit no. 38	Map of Redmond, Sammamish and Duvall
Exhibit no. 39	Listing of Choice Schools within the LWSD as downloaded from the LWSD website
Exhibit no. 40	Map of walk route from Sahalee Way bus stop to subject property, with references to the locations of photographs depicting roadway conditions and Metro Bus 216 stops on or near Redmond-fall City Road; map showing route of Metro bus 216 and 269 in subject area
Exhibit no. 41	Photographs 1a and 1b of SR 202 and Sahalee Way intersection
Exhibit no. 42	Photographs 2b and 2c depicting walking conditions heading SR202 towards subject property
Exhibit no. 43	Photographs 3a and 3b depicting walking conditions heading SR202 towards subject property
Exhibit no. 44	Photograph depicting walking conditions heading east on SR202, crossing bridge over Evan Creek
Exhibit no. 45	Photograph 4 depicting walking conditions heading east on SR 202 at area along highway as pointed out on FEMA floodplain map
Exhibit no. 46	Photograph 5 depicting walking conditions heading SR202 towards subject property at bridge over Rutherford Creek
Exhibit no. 47	Photographs 6b and 7 depicting walking conditions heading east on SR 202
Exhibit no. 48	Letter regarding enrollment lottery from LWSD to Susan Wilkins dated February 15, 2012
Exhibit no. 49	Susan Wilkins' collection of excerpts from the King County Comprehensive Plan Chapter 3, Section IV and April 26, 2011 Hearing Examiner report on SEPA appeal
Exhibit no. 50	Susan Wilkins' collection of excerpts from Exhibit 22 of the Hearing Examiner SEPA appeal hearing record
Exhibit no. 51	King County Sheriff's Office 5-Year Strategic Plan 2009—2014
Exhibit no. 52	Email string between Marianne and Albert Spencer and James Spray between October 13, 2011 and February 21, 2012
Exhibit no. 53	Aerial photograph of subject area with annotations on 228th Avenue NE
Exhibit no. 54	Redmond Fire Department map
Exhibit no. 55	Screen clips from King County Fire District 34 website
Exhibit no. 56	East Redmond rural area neighborhood subarea plan zoning map
Exhibit no. 57	King County Department of Transportation Strategic Plan for Road Services, December 2010
Exhibit no. 58	King County Road Services Division webpage "Tiered service levels map" as downloaded February 20, 2012
Exhibit no. 59	King County Road Services Division webpage "New Service levels" as downloaded February 20, 2012
Exhibit no. 60	Leslie Andrews letter, notarized February 21, 2012
Exhibit no. 61	LWSD Overall Site Plan dated March 10, 2011

The following Exhibits were offered and entered into the record on February 28, 2012:

Exhibit no. 62	King County Road Services Division webpage "New service levels for King County roads" as downloaded February 27, 2012
Exhibit no. 63	Eric Johnston Resume
Exhibit no. 64	Shea, Carr, Jewell Memorandum to Citizens Advocating Responsible School Sites dated February 2, 2012 regarding LWSD STEM School Traffic Safety
Exhibit no. 65	SEPA Second Addendum to the February 14, 2011 Determination of Nonsignificance for the Redmond High School Addition

- Exhibit no. 66 Transportation Engineering NorthWest March 21, 2011 Memorandum re: traffic impact analysis addendum Redmond High School Addition
- Exhibit no. 67 Gibson Traffic Consultants Technical Memorandum dated February 10, 2012 re: Supplemental information to address appeal comments
- Exhibit no. 68 LWSD bus route summary 2010-2011
- Exhibit no. 69 LWSD Pupil transportation report 2010-2011
- Exhibit no. 70 Choice School bus data for 2010-2011
- Exhibit no. 71 Transportation Engineering NorthWest February 16, 2012 Memorandum re: LWSD STEM School traffic study peer review

The following Exhibits were offered and entered into the record on March 2, 2012:

- Exhibit no. 72 Letter to Peter T. Donahue from J. Richard Aramburu dated March 1, 2012
- Exhibit no. 73 STEM School program description
- Exhibit no. 74 Parking regulations
- Exhibit no 75 Report on the distribution of students on public transportation for school year ending August 31, 2011
- Exhibit no. 76 Letter to Sherie Sabour from Marianne Spencer dated January 10, 2000
- Exhibit no. 77 Photographs with insets of 228th Avenue NE

The following Exhibits were offered and entered into the record on March 5, 2012:

- Exhibit no. 78 Design plans from WSDOT of the facilities on 202
- Exhibit no. 79 Screen show of KC tier program
- Exhibit no. 80 Excerpts from the State Statutes
- Exhibit no. 81 WSDOT's bicycle and pedestrian safety policies
- Exhibit no. 82 Email from Rick Roberts to Edward Koltronowski dated March 2, 2012
- Exhibit no. 83 Aerial showing where emergency access to STEM school and adjacent neighborhood
- Exhibit no. 84 Document from the Washington State Legislature RCW 28A.160.160 & WAC 392-141-340
- Exhibit no. 85 School Siting and Children's Health report prepared for the King County School Siting Task Force by Anne Bilke dated March 1, 2012
- Exhibit no. 86 *Not admitted*

PTD/vsm