



**DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES
BUILDING SERVICES DIVISION
KING COUNTY, WASHINGTON
900 Oakesdale Avenue Southwest
Renton, WA 98055-1219
(206) 296-6600**

**LAKEPOINTE MIXED USE DEVELOPMENT
COMMERCIAL SITE DEVELOPMENT PERMIT
FILE NO. B96CS005**

APPROVED August 13, 1998

APPEAL PERIOD ENDS 4:30 P.M. August 27, 1998

**LAKEPOINTE COMMERCIAL SITE DEVELOPEMNT PERMIT
TABLE OF CONTENTS**

	<u>Page</u>
I. GENERAL INFORMATION	1
II. FINDINGS	2
A. Background	2
B. Existing Conditions	3
1. Physical Land Characteristics	3
2. Development Existing on the Subject Property	4
3. Development on Adjoining Property	4
C. King County Code (KCC) 21A.41 - Commercial Site Development Permits	4
1. KCC 21A.41.010 Purpose	4
2. KCC 21A.41.020 Applicability	4
3. KCC 21A.41.060 Application of Development Standards	5
4. KCC 21A.41.070 Approval	5
D. Project Elements	6
1. Master Plan	6
2. Northshore Community Plan P-Suffix Conditions	6
a. Mixed-Use Pedestrian Oriented Areas	7
1. Permitted Uses	7
2. Building Development	8
3. Parking	13
4. Transit and Transportation Circulation	16
5. Pedestrian and Bicycle Circulation	17
6. Landscaping and Public Amenities	19
7. Vehicular Access and Circulation	20
8. Public Viewpoints	21
9. Shoreline Enhancement	21
10. Affordable Housing	23
11. Residential Density	24
12. Hazardous Waste Removal	25
13. Fair Share Mitigation	26
14. Phasing Requirements	27
15. Mixed Use Master Plan Submittal Requirements	32
16. Required Elements For Master Plan and Final Development Applications	33
17. Subsequent Applications	35
b. Natural Systems: Seasonal Clearing	35
c. Natural Resource Protection Area: Sammamish River Corridor Habitat	36

**LAKEPOINTE COMMERCIAL SITE DEVELOPEMNT PERMIT
TABLE OF CONTENTS**

	<u>Page</u>
d. Landscaping: Significant Vegetation Retention	37
3. P-Suffix Conversion Project	40
4. Quality Urban Environment (QUE) Demonstration Project	40
E. Development Standards and Mitigation Measures	41
1. Sensitive Areas/Marina	41
a. General Requirements	41
b. Wetlands	41
c. Sammamish River Shoreline	42
d. Lake Washington Shoreline	43
e. Sensitive Area Buffer Trails and Landscape Areas	43
f. Marina	44
g. Geologic Hazards	44
2. Transportation	45
a. Trip Generation	45
b. Road Capacity	45
c. Road Design Standards	46
d. Road Improvement Funding	46
3. Stormwater Design and Construction Standards	47
a. General Design	47
b. Draft Surface Water Drainage Manual Variance	47
c. Toxic Waste Provisions	47
4. Site Development Standards	48
a. Permitted Uses	48
b. Density and Dimensions	48
c. Parking	49
d. Pedestrian and Bicycle Circulation	50
e. Recyclables	50
f. Building Façade Modulation	50
g. Mixed-Use Developments - Percentages of Residential Uses	50
h. Mixed-Use Developments - Building Floor Area	51
i. Landscaping	51
j. Signs	52
k. Noise	52
5. Building Code Standards	53
a. Uniform Building Code	53
b. Barrier Free Accessibility	53
c. Washington State Energy Code	53
6. Fire Code Standards	53
a. Fire Access and Circulation	53
7. Kenmore Air Harbor	54
a. Agreement	54
8. Model Toxics Control Act	54

**LAKEPOINTE COMMERCIAL SITE DEVELOPEMNT PERMIT
TABLE OF CONTENTS**

	<u>Page</u>
a. Ranking and Options for Remedial Action	54
b. Agreed Order or Consent Decree	55
c. Relationship to Approved Permits	55
9. Historic and Cultural Preservation	55
10. Recreation	56
a. Recreation Facilities	56
b. Play Areas	57
c. Trails	57
11. Design Guidelines	57
12. Public Services and Utilities	58
a. Water Service	58
b. Sewer Service	58
c. Solid Waste	58
d. Fire/Emergency Response	59
e. Police Protection	59
f. Schools	59
F. Review Process	59
1. Flexibility and Modification of Commercial Site Development Permit	59
2. Construction Permits	60
3. Further SEPA Review	60
4. Vesting of Development Standards	61
5. Lakepointe Citizens' Advisory Task Force	61
G. General Provisions	61
1. Effective Date, Term, and Buildout	61
2. Compliance with Master Plan	62
3. Other Required Permits	63
4. Site Code Violations	64
a. Solid Waste Violation	64
b. Grading Violation	64
c. Air Quality Violation	65
H. Kenmore Incorporation	65
III. CONCLUSIONS	66
IV. DECISION	66
CONDITIONS	66
GENERAL CONDITIONS	66
SHORELINE PERMIT CONDITIONS	67

**LAKEPOINTE COMMERCIAL SITE DEVELOPEMNT PERMIT
TABLE OF CONTENTS**

	<u>Page</u>
P-SUFFIX PERMITTED USES CONDITIONS	67
P-SUFFIX BUILDING DEVELOPMENT CONDITIONS	68
P-SUFFIX PARKING CONDITIONS	69
P-SUFFIX TRANSIT AND TRANSPORTATION CIRCULATION CONDITIONS	69
P-SUFFIX PEDESTRIAN AND BICYCLE CIRCULATION CONDITIONS	69
P-SUFFIX LANDSCAPING AND PUBLIC AMENITIES CONDITIONS	69
P-SUFFIX VEHICULAR ACCESS AND CIRCULATION CONDITIONS	70
P-SUFFIX PUBLIC VIEWPOINTS CONDITIONS	70
P-SUFFIX SHORELINE ENHANCEMENT CONDITIONS	70
P-SUFFIX AFFORDABLE HOUSING CONDITIONS	71
P-SUFFIX RESIDENTIAL DENSITY CONDITIONS	71
P-SUFFIX HAZARDOUS WASTE REMOVAL CONDITIONS	71
P-SUFFIX FAIR SHARE MITIGATION CONDITIONS	71
P-SUFFIX PHASING REQUIREMENTS CONDITIONS	71
P-SUFFIX REQUIRED ELEMENTS FOR MASTER PLAN AND FINAL DEVELOPMENT APPLICATIONS CONDITIONS	71
P-SUFFIX SUBSEQUENT APPLICATIONS CONDITIONS	71
P-SUFFIX SEASONAL CLEARING CONDITIONS	72
P-SUFFIX SAMMAMISH RIVER CORRIDOR HABITAT CONDITIONS	72
P-SUFFIX SIGNIFICANT VEGETATION RETENTION CONDITIONS	72
SENSITIVE AREAS/MARINA/WILDLIFE/FISH CONDITIONS	72
GEOLOGIC HAZARDS CONDITIONS	74
STORMWATER DESIGN AND CONSTRUCTION STANDARDS CONDITIONS	75
PERMITTED USES CONDITIONS	77
DENSITY AND DIMENSIONS CONDITIONS	77
PARKING CONDITIONS	77
RECYCLABLES CONDITIONS	78
LANDSCAPING CONDITIONS	78
SIGNS CONDITIONS	79
NOISE CONDITIONS	79
UNIFORM CODES/BARRIER FREE ACCESSIBILITY/ENERGY CODE CONDITIONS	80
KENMORE AIR HARBOR AGREEMENT CONDITIONS	80
MODEL TOXICS CONTROL ACT CONDITIONS	80
HISTORIC AND CULTURAL PRESERVATION CONDITIONS	81
SHORELINE ACCESS CONDITIONS	81
RECREATION AND PLAY AREAS CONDITIONS	81
DESIGN GUIDELINES CONDITIONS	82
SCHOOLS CONDITIONS	82
VIOLATIONS - ASBESTOS-CONTAINING MATERIALS CONDITIONS	82
VIOLATIONS - GRADING CONDITIONS	82

**LAKEPOINTE COMMERCIAL SITE DEVELOPEMNT PERMIT
TABLE OF CONTENTS**

	<u>Page</u>
VIOLATIONS - SOLID WASTE CONDITIONS	82
REDLINE NOTES ON PLAN SHEETS	82
ATTACHMENT A - Proposed Site Plan	88
ATTACHMENT B - Persons of Interest and Parties	89
ATTACHMENT C - Right to Appeal	92
ATTACHMENT D - Lakepointe Mixed-Use Development Phasing Plan	93
ATTACHMENT E - Lakepointe Transportation Mitigation Agreement	
ATTACHMENT F - Lakepointe Affordable Housing Provisions	



DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES
BUILDING SERVICES DIVISION
KING COUNTY, WASHINGTON
900 Oakesdale Avenue SW
Renton, WA 98055-1219
(206) 296-6600

**LAKEPOINTE MIXED USE DEVELOPMENT
COMMERCIAL SITE DEVELOPMENT PERMIT
FINDINGS, CONCLUSIONS AND DECISION**

I. GENERAL INFORMATION

File: B96CS005

Applicant: Gary Sergeant, Pioneer Towing Company, Inc.

Location: 6775 NE 175th Street

STR: West 1/2 11-26-04

Zoning: RB-P SODPA (Regional Business with P-Suffix Development Conditions and Special District Overlay Demonstration Project Area)
I-P SODPA (POT RB-P SODPA) (Industrial with P-Suffix Development Conditions and Special District Overlay Demonstration Project Area / Potential Regional Business with P-Suffix Development Conditions and Special District Overlay Demonstration Project Area)

Community Plan: Northshore

Proposal: Approval of a conceptual Commercial Site Development Permit (CSDP) to include approximately 205,588 square feet of professional office space; 438,627 square feet of retail and commercial space (including cinemas and hotel); 1,200 residential units; a marina with 27 boat slips; and 4,464 parking spaces. The proposal also includes a highway bypass connecting SR 522/Bothell Way NE (at approximately

66th AVE NE) with 68th AVE NE (at a location approximately one block south of NE 175th ST).

Application Date: March 25, 1996

Related Files: Master Site Plan (A95P0105)
Shoreline Substantial Development Permit (L96SH107)
Supplemental Environmental Impact Statement (E95E0198)
Drainage Variance (B97A0214)

II. FINDINGS

A. BACKGROUND

The Northshore Community Plan Update and Area Zoning, adopted by the King County Council on February 11, 1993, established the general design and development requirements for the property known as the Kenmore Pre-Mix site. The concept was to develop a mixed-use pedestrian-oriented development that would provide public access to the Lake Washington shoreline and create an "Urban Village" extension of Kenmore.

In 1993 the King County Department of Public Works (now the King County Department of Transportation) and the property owner worked together to analyze traffic conditions and transit options, which resulted in actualizing the potential zoning from Industrial to Regional Business with P-Suffix conditions through the Countywide rezone to implement the 1994 King County Comprehensive Plan.

The P-Suffix conditions adopted for this site require the approval of a Master Site Plan to meet the requirements for phasing, mitigation and development by subdistrict. The Master Site Plan is not a land use or building permit in itself, but is a required document that is being reviewed and approved as part of the Commercial Site Development Permit. The applicant submitted an application for approval of the Master Site Plan on May 5, 1995 (DDES File No. A95P0105).

On November 14, 1995 a SEPA Determination of Significance was issued for the Lakepointe project (DDES File No. E95E0198), which required the preparation of a supplement to the Environmental Impact Statement prepared for the 1993 Northshore Community Plan Update. The Final Supplemental Environmental Impact Statement for the Lakepointe project was published on July 14, 1998.

The Commercial Site Development Permit application was received on March 25, 1996 and vests the project to the codes in effect as of that date, with the exception of the building and fire codes listed in K.C.C. 16.04 and 17.04. The Commercial Site Development Permit is generally a construction permit that would approve construction of all the site development work, such as building pads, roads, drainage systems, landscaping and parking. The applicant requested that this Commercial Site Development Permit application be reviewed as a conceptual design in order to provide for completion of the entitlement process, the environmental review process under SEPA, and vesting of

zoning entitlements without the expense of preparing construction drawings. KCC 21A.41.010 permits the Director to approve a Commercial Site Development Permit without final construction plans if the Commercial Site Development Permit is proposed to be phased over a period of years, as is the case of this application. Therefore approval of this permit would not provide the applicant with the right to proceed with any site alteration or construction.

The Commercial Site Development Permit has been reviewed under applicable provisions of County ordinances based upon the degree of specificity reflected in the plans. Since the application has not (and is not required to) submit detailed construction drawings at this time, final review of the project compliance with applicable codes will need to occur at the construction permit application stage. When this report and decision refers to components of the project being "conceptual" or "conceptually approved," it is intended to indicate that final (and in some cases more detailed) code compliance review will need to occur at the construction permit stage.

A variance request was submitted on January 16, 1997 to utilize some of the provisions of the Draft Surface Water Design Manual under review at the time. The Surface Water Design Manual has since been adopted by the Council, but the variance is still needed because the application is vested to the 1990 Surface Water Design Manual.

A Shoreline Substantial Development Permit application was submitted on October 15, 1996 for review of development along the shoreline of Lake Washington and the Sammamish River (DDES File No. L96SH107). The Shoreline permit is being reviewed concurrently with the Commercial Site Development Permit.

B. EXISTING CONDITIONS

1. Physical Land Characteristics

The approximately 50-acre site consists of four tax parcels forming an irregularly shaped property, which is generally flat with elevations ranging from 23 to 28 feet, with an elevation of approximately 18 feet at the shoreline edge.

The site is a peninsula with the Sammamish River on the south, Lake Washington on the west and a man-made (dredged) harbor to the north. The inner harbor is approximately 150 feet wide and 500 feet long and has been periodically dredged by the U.S. Army Corps of Engineers to maintain commercial navigation. The Sammamish River, which has been channelized by the U.S. Army Corps of Engineers for its entire length, supports runs of a variety of anadromous salmonids. The mouth of the Sammamish River, at the Lakepointe site, provides rearing habitat for salmonids and is a migration corridor for adult and juvenile salmon.

There are two wetlands on site. One is a long, narrow wetland located along the western edge of the site parallel to the Lake Washington shoreline. The second wetland is in the far southeast corner of the site near the Kenmore Bridge on 68th AVE NE.

Most of the site has been cleared of vegetation to accommodate the existing industrial and outdoor storage uses. However there is a narrow band of vegetation along the Sammamish River and Lake Washington shoreline.

2. Development Existing on the Subject Property

Over the past 70 years, the site has undergone numerous physical changes, including the grading of the northern edge of the site for construction of a railroad line, SR 522 in 1916, establishment of a lumber mill in the late 1940's and the expansion of the site to the south by placement of fill behind a jetty in the 1960's.

Current land uses on the site, which are generally characterized as industrial and warehouse in nature, include the Kenmore Pre-Mix Concrete plant (including Sterling Asphalt), car storage for the Bill Pierre Ford dealership, and several light industrial businesses including Sepia Interior Supply, Western Truck School, Pioneer Towing, Waterfront Construction, and Nelbro Packing.

3. Development on Adjoining Property

Land uses in the vicinity include the Kenmore Air Harbor, Davidson Marina, Harbor Village, and Tracy Owen Station (Logboom) Park to the west; a boat launch park and Inglewood Country Club and residential area to the south across the Sammamish River; commercial and light industrial uses to the east across 68th AVE NE; commercial uses to the immediate north, northeast and northwest along Bothell Way NE; and single detached residences up the hill further to the north. A King County (formerly Metro) sewage pump station is located adjacent to the northeast portion of the site.

C. KING COUNTY CODE (KCC) 21A.41 COMMERCIAL SITE DEVELOPMENT PERMITS

1. KCC 21A.41.010 - Purpose.

The purpose of this chapter is to establish an optional comprehensive site review process of proposed commercial development resulting in a permit which can combine any or all of the following:

- A. Site development requirements specified prior to building and/or grading permit applications.
- B. Site review and application of rules and regulations generally applied to the whole site without regard to existing or proposed internal lots lines.
- C. Site development coordination and project phasing occurring over a period of years.
- D. Evaluation of commercially and industrially zoned property for the creation of alteration of lots when reviewed concurrently with a binding site plan application. (Ord. 11621 § 120, 1994).

2. KCC 21A.41.020 - Applicability.

A. An application for commercial site development permit may be submitted for commercial development projects on sites consisting of one (1) or more contiguous lots legally created and zoned to permit the proposed uses.

B. A commercial site development permit is separate from and does not replace other required permits such as conditional use permits or shoreline substantial development permits. A commercial site development permit may be combined and reviewed concurrently with other permits. (Ord. 11621 § 121, 1994).

3. KCC 21A.41.060 - Application of development standards.

An application for commercial site development permit shall be reviewed pursuant to RCW 43.21C, SEPA as implemented by WAC 197-11; K.C.C. 9.04, Surface Water Management; K.C.C. 14.42, Roads Standards; K.C.C. Chapter 16.82, Grading; K.C.C. Title 17, Fire Code; K.C.C. 20.44, County Environmental Procedures; K.C.C. Title 21A, Zoning; Title 25, Shoreline Management; administrative rules adopted pursuant to K.C.C. 2.98 to implement any such code or ordinance provision; King County board of health rules and regulations; county approved utility comprehensive plans; conformity with applicable P-Suffix conditions.

Lot-based standards, such as internal circulation, landscaping signage and setback requirements, are typically applied to each individual lot within the site. However, the director may approve an application for commercial site development where such standards have been applied to the site as if it consisted of one parcel. Lot-based regulations shall not be waived altogether.

The director may modify lot-based or lot line requirements contained within the building, fire and other similar uniform codes adopted by the county, provided the site is being reviewed concurrently with a binding site plan application. (Ord. 11621 § 125, 1994).

4. KCC 21A.41.070 - Approval.

A. The director may approve, deny, or approve with conditions an application for a commercial site development. The decision shall be based on the following factors:

1. Conformity with adopted county and state rules and regulations in effect on the date the complete application was filed, including but not limited to those listed in section 21A.41.060.

2. Consideration of the recommendations or comments of interested parties and those agencies having pertinent expertise or jurisdiction, consistent with the requirements of this title.

B. Subsequent permits for the subject site shall be issued only in compliance with the approved commercial site development plan. Additional site development conditions and site review will not be required for subsequent permits provided the approved plan is not altered.

C. Approval of the proposed commercial site development shall not provide the applicant with a vested right to build without regard to subsequent changes in the building and fire codes listed in K.C.C. 16.04 and 17.04 regulating construction.

D. The director shall mail a copy of the decision to the applicant and any other person who has presented written comment to the department. (Ord. 11621 § 126, 1994).

D. PROJECT ELEMENTS

1. Master Plan

Information regarding the Lakepointe Mixed Use Master Site Plan is contained in the findings for that application, which is being reviewed concurrently with the Commercial Site Development Permit under DDES File No. A95P0105.

2. Northshore Community Plan P-Suffix Conditions:

The Northshore Community Plan Update and Area Zoning, adopted in 1993, established "P-Suffix" conditions that are applicable to the Lakepointe Commercial Site Development Permit. When the zoning was changed from Industrial to Regional Business through the county-wide rezone to implement the 1994 King County Comprehensive Plan, the P-Suffix conditions established under the 1993 Northshore Plan were modified. The Commercial Site Development Permit is vested to those modified P-Suffix conditions.

The Northshore Community Plan applied site-specific P-Suffix conditions to the Lakepointe site, which is called the Kenmore Pre-Mix site in the Plan. These conditions are called "Mixed-Use Pedestrian Oriented Areas", and contain seventeen conditions addressing a range of issues such as permitted uses, design, shoreline enhancement, affordable housing, phasing and required mitigation. In addition to the site-specific P-Suffix conditions, the site is subject to three area-wide P-Suffix conditions: 1) Natural Systems: Seasonal Clearing; 2) Natural Resource Protection Areas: Sammamish River Corridor Habitat; and 3) Landscaping: Significant Vegetation Retention.

The Mixed-Use Pedestrian Oriented Areas condition number 16. i. states that:

"i. The application shall include a description of how proposed mitigation for the project conforms to the requirements of the P-Suffix conditions or, if alternative mitigation is proposed, how such alternative mitigation meets the goals and intent of the P-Suffix conditions and the Northshore Plan. The mitigation plan should identify the project's actual cost of proposed mitigation and its fair share for mitigation. The County may approve such alternative mitigation if it is warranted, based on changed conditions relating to, for example, transit plans, road alignments, pedestrian connections, other planning or capital improvement changes, or infeasibility of proposed mitigation or p-suffix conditions, and if the goals and intent of the P-suffix conditions and the Plan are met.

The P-Suffix conditions incorporate a "site specific mitigation program" to "ensure that all environmental impacts of the proposed development are mitigated." (See introductory discussion to P-Suffix conditions contained in the 1993 Northshore Community Plan and Area Zoning Update.) In other words, the P-Suffix conditions are considered mitigation measures for development of the site. Accordingly, P-Suffix condition 16.i, which allows alternative mitigation if it is warranted and meets

the goals and intent of the P-Suffix conditions and Northshore Community Plan, by its terms permits modification of the P-Suffix conditions if the specified criteria are met.

The provision allowing modification of the P-Suffix conditions was drafted in recognition of the unique opportunities and constraints associated with development of the project site. The project site is a large area and development of it is planned to occur in phases over a relatively long time frame (up to 15 years). In order to achieve the highest quality development on the site possible and to ensure the marketability of the development when it is completed, it is essential that the P-Suffix conditions provide sufficient flexibility to allow the developer of the project to respond to new, more detailed information as it becomes available and to changes in the market and other conditions. Condition 16.i is designed to provide that flexibility while ensuring that the ultimate development of the site meets the goals and intent of the P-Suffix conditions and the Northshore Community Plan.

The following section discusses the Lakepointe project's consistency with the P-Suffix conditions. The italicized text below is the actual P-Suffix language. Following the P-Suffix language is the applicant's assessment of the consistency of the project with the P-Suffix condition. In those instances in which a modification to a P-Suffix condition is proposed, there is a discussion of what modification is being proposed and the applicant's assessment of the modification's consistency with the goals and intent of the P-Suffix conditions and the Northshore Community Plan. Finally, there is an evaluation by the Director of the applicant's assessment of compliance with the P-Suffix conditions.

a. Mixed-Use Pedestrian Oriented Areas

1. Permitted Uses

Permitted uses shall include those uses permitted in the various zones within the overlay district, except the following:

- a. Gasoline service stations*
- b. Drive-through restaurants*
- c. Retail nurseries*
- d. Car washes*
- e. Stores with outdoor storage*
- f. Single retail tenants with a gross floor area in excess of 65,000 square feet*

For properties in the Neighborhood Commercial, Waterfront, and Waterfront Extension Subdistricts (described below), the location of residential dwelling units shall be prohibited on the ground floor, and retail and service uses are encouraged on the ground floor. Other ground floor uses (including parking) may be permitted when designed so as to be compatible with the pedestrian orientation of the development.

Proposed Modifications

No modifications to this P-Suffix condition are proposed.

Applicant's Assessment of Consistency of Project with Condition

The Lakepointe project is consistent with the P-Suffix condition relating to permitted uses. The project includes four sub-districts: the Neighborhood Commercial, Waterfront, Residential and the Waterfront Extension sub-districts.

The Neighborhood Commercial, Waterfront and Residential sub-districts contain the uses permitted in the underlying zone. Uses for the Waterfront Extension are not yet determined but will be consistent with applicable zoning.

Ground floor uses do not include residential dwelling units and are compatible with the pedestrian orientation of the development.

Director's Evaluation

The Director agrees with the applicant's assessment of consistency of project with the condition.

2. Building Development

Orientation to Pedestrian Street

For properties with frontage on the primary pedestrian street, the following building setback requirements shall apply:

Street Setback: maximum of 5 feet; larger setbacks shall be allowed if arcades, street-side outdoor cafes, patios, parks, plazas, or other public spaces are provided along the street.

For properties with frontage on the primary pedestrian street, the primary ground floor building entrance should orient to either the street or public spaces such as plazas, arcades, and parks.

For development located on the primary pedestrian street, a minimum of 75% of the street shall be fronted by buildings at-grade. A minimum of 50% of the buildings on the street shall be fronted by retail or service uses.

Public pedestrian access to the waterfront located at the rear of buildings located on the primary pedestrian street shall be provided a minimum of every 300 feet of street frontage.

Proposed Modifications

No modifications to this P-Suffix condition are proposed.

Applicant's Assessment of Consistency of Project with Condition

NE 174th Street is designed to function as the primary pedestrian street. In addition, the ramps and stairs that lead from NE Lakepointe Boulevard to NE 174th Street and then to the Boardwalk are

intended to function as extensions of the primary pedestrian street. Buildings C-1 and C-2, which front on the primary pedestrian street, will meet the P-Suffix conditions regarding properties with frontage on the primary pedestrian street, including the requirement that at least 50% of the buildings on the street shall be fronted by retail or service uses. Building C-3, which is on the Boardwalk, will also comply with the P-Suffix requirements. Full compliance with the P-Suffix condition should be determined at the building permit stage; however, the applicant also notes that the most recent plan set (Sixth Submittal), Sheet A2.1, includes a note that retail will be provided at the Boardwalk level of Building C-2, that building C-1 will contain office and retail uses and that Building C-3 will contain a restaurant.

Public pedestrian access to the waterfront from NE 174th Street is provided every 140 feet (the two halves of Building C-1 are 140 feet wide), in compliance with the P-Suffix condition regarding spacing of public access points to the waterfront. Public pedestrian accesses to the waterfront spaced no more than 300 feet apart are not required on NE Lakepointe Boulevard because it is not the primary pedestrian street. Nevertheless, public pedestrian access to the waterfront from NE Lakepointe Boulevard is provided, with access points spaced between 240 and 350 feet apart. These access points include 10 foot wide walkways extending from NE Lakepointe Boulevard to NE 174th Street and to the Boardwalk that are intended to function as an extension of the primary pedestrian street. See sheet A2.1, Sixth Submittal. Access to the public open space on Lake Washington (at the west end of the site) and the public open space trail system on the Slough (on the south side of the site) is also provided.

Although NE Lakepointe Boulevard is not the primary pedestrian street, it will include pedestrian facilities, including a pedestrian walkway, planting strip and street trees, as shown on sheet L1.3 of the Sixth Submittal.

Director's Evaluation

The Director agrees with the applicant's assessment of consistency of project with the condition.

Street Facade Requirements

The building street facade of ground floor retail and service uses that front the primary pedestrian street shall include windows and overhead protection. The use of blank walls without facade ornamentation is not permitted along the primary pedestrian street.

Building materials such as concrete, brick, masonry, glass, tile, stone, metal, or wood are required on the building street facade. Sheer, uninterrupted glass curtain walls, all mirrored glass and cinderblocks are not permitted on the building street facade along the primary pedestrian street.

Proposed Modifications

No modifications to this P-Suffix condition are proposed.

Applicant's Assessment of Consistency of Project with Condition

The Lakepointe project complies with the requirements of the P-Suffix condition relating to street facades. Street level buildings fronting the pedestrian street include windows and overhang protection. The Master Plan Design Guidelines define the types of building materials and colors to be utilized. Building materials include concrete, brick, masonry, glass, tile, stone, metal and wood. Sheer, uninterrupted glass curtain walls, all mirrored glass and cinderblocks will not be permitted along the pedestrian street.

Director's Evaluation

The Director agrees with the applicant's assessment of consistency of project with the condition. Compliance with the Design Guidelines will be a condition of approval of this permit.

Height

Maximum heights shall be 92 feet in the northern and central portions of the mixed use development area. A 45-foot height limit shall apply to all development within 100 feet of the channelized edge of the Lake Washington shoreline. The boundary of the channelized edge shall extend to the inner harbor line. A 35-foot height limit shall apply to all development within the first 200 feet, and a 45-foot height limit to all development within the next 100 feet of the Sammamish River shoreline edge and the Lake Washington shoreline edge that is not channelized.

Proposed Modifications

The proposed modifications to these requirements are:

In the west central portion of the site (Building Areas C, D, and E), building heights would be reduced from 92 feet to 72 feet extending in a southerly direction to within 200 feet of the River (in Building Area E).

The 45-foot height limit in the area 200 feet to 300 feet from the Sammamish River would be eliminated.

In the eastern portion of the site, the area of the 92-foot height limit would be extended in a southerly direction from 300 feet to within 200 feet of the River (in Building Area A).

The 45-foot height limit along the northern edge of the inner harbor, in Building Area H, would be increased to 92 feet.

Applicant's Assessment of Consistency of Modifications with Northshore Community Plan

The need for the building height modification stems from a variety of factors. First, the original concept plan for Lakepointe was based on premises of lower building heights and more limited public access in the residential area near the western point of the site. See NSCPU/AZ, pp. 242 (height limitations); p. 256 (public access map). That concept plan massed density in taller towers to the western edge of the development, with private townhome communities (at 45-foot and 35-foot

heights) bordering the Sammamish River. Much of this area was restricted from public vehicular and even pedestrian access. The Lakepointe project as currently designed does not include private townhome areas along the River, reflects a significant reduction in building heights in the western area of the site (from 92 feet to 72 feet maximum), and ensures public access throughout the development (including a major landscaped public boulevard constructed through the center of the site). All of these changes are consistent with the goals of the NSCP P-Suffix conditions. As a result of these changes, and in recognition of the need to achieve a comparable development density, modifications to the P-Suffix conditions are proposed to allow lower heights in the western area of the property, a greater setback of buildings from the Sammamish River and somewhat increased heights along the shoreline.

The modifications meet the goals and policies of the Northshore Community Plan. The P-Suffix conditions are intended to implement the policies of the Northshore Community Plan. None of those policies contain height limitations. Instead, those policies contain general goals for the use and design of the project site, including the following:

- Encourage mixed use development (Policies K-1, K-11);
- Design development to “accentuate the character of the area through the use of style and materials” and to “improve the aesthetics of the center” (Policies CI-4, K-12); and
- Provide public open space and view corridors and provide public access to the Lake Washington and Sammamish River shoreline (Policies CI-4, K-11, K-12, K-16, K-16).

The Northshore Community Plan is based in part on the Kenmore and Woodinville Urban Design Study (1991). The Design Study states that:

In order for a prospective developer to provide the public amenities desired by the county in the Mixed-Use District (substantial public space and access, view corridors, pedestrian connections), yet achieve the high densities needed to both meet the county’s housing goals and assure project feasibility, height restrictions will have to be relaxed. From the standpoint of the overall goals for urban activity center development, high-density, mixed-use development is also preferred in this area as a way of encouraging transit use and promoting pedestrian activity. While taller buildings should be permitted in the northern and central portions of the site, heights should be reduced near the water’s edge.

NSCPU/AZ, Appendix 2, p. 18.

While the specific height limitations recommended by the Design Study were not adopted in the P-Suffix conditions, the height limitations in the P-Suffix conditions reflect the goals of the Design Study with respect to height limitations.

Consistent with the Northshore Community Plan and Design Study, building heights are reduced along the water’s edge in the Neighborhood Commercial, Waterfront and Residential sub-areas. No buildings are proposed within 100 feet of the Sammamish River in those sub-areas. This setback, among other design features of the project, provides public shoreline access and viewpoints.

In addition, building heights in the west central portion of the site are reduced from 92 to 72 feet. The reduction in height improves the aesthetics of the development and provides improved views.

Building heights are even lower measured from finished grade. From street level on Lakepointe Boulevard, the heights of buildings in the eastern portion of the site are approximately 70 feet above street level (because Lakepointe Boulevard is approximately 20 feet above ground level, the first two building levels are below street level). In the western portion of the site, the building heights are approximately 50 feet above street level. The lowered heights improve the aesthetics of the development and provide improved views.

The 92-foot height limit in the Waterfront Extension sub-district would increase the building heights allowed in future phase buildings adjacent to NE 175th Street and NE Bothell Way to meet goals regarding density and to assure project feasibility, consistent with the Design Study and Northshore Community Plan.

Director's Evaluation

The Director agrees with the applicant's assessment of consistency of project with the condition, with the exception of the "10 foot maximum roof element" shown on the Commercial Site Development Permit Plan sheet A2.8 Envelope Criteria Sections. This plan sheet shows an additional ten feet allowed to the building heights shown on Plan sheet A2.6 Envelope Criteria Proposed. This is not acceptable. In addition, there is an inconsistency with the base height restrictions of the Regional Business zone. See this report section E. DEVELOPMENT STANDARDS AND MITIGATION MEASURES, subsection 4.b relating to Density and Dimensions for further discussion.

175th Street Frontage (NOTE: This is now called Lakepointe Way NE)

The frontage of Lakepointe Drive shall be designed as to be attractive to passing road users and to screen surface parking adjacent to the roadway. For example, parking areas fronting on Lakepointe Drive should be screened either by bermed landscaping or buildings. Street trees shall be provided along Lakepointe Drive.

Proposed Modifications

No modifications to this P-Suffix condition are proposed.

Applicant's Assessment of Consistency of Project with Condition

The Lakepointe project is consistent with the requirements of the P-Suffix condition relating to street frontage along the new 175th bypass road. Lakepointe Way NE is the new 175th bypass road. As shown on Sheet L1.3 of the Sixth Submittal, surface parking on Lakepointe Way NE is screened by bermed landscaping. Street trees are also provided along Lakepointe Way NE.

Director's Evaluation

The Director agrees with the applicant's assessment of consistency of project with the condition.

3. Parking

Amount and Location

At full build-out, off-street parking shall be no greater than one space for every 400 square feet of floor area in the waterfront, waterfront extension, and residential subdistricts; provided that during initial phases of development, off-street parking standards may be exceeded in anticipation of future development.

Proposed Modifications

No modification to this P-Suffix condition is proposed.

Applicant's Assessment of Consistency of Project with Condition

On its face, the P-suffix condition regarding amount of parking is ambiguous: the requirement of "one space for every 400 square feet of floor area in the waterfront, waterfront extension and residential subdistricts" could mean one space for every 400 square feet of development in the districts as a whole or it would mean one space for every 400 square feet of development in each of the districts individually.

The applicant believes that the former interpretation should be adopted because the latter interpretation creates a conflict between the P-Suffix condition and King County Code ("KCC"), Section 21a.18. The three subdistricts included in the Commercial Site Development Permit are the Neighborhood Commercial, Waterfront and Residential subdistricts. Each subdistrict has a P-Suffix maximum parking limit as follows: 2,454 spaces in the Neighborhood Commercial subdistrict; 1,355 spaces in the Waterfront subdistrict and 800 spaces in the Residential subdistrict. The maximum parking limit for all the subdistricts together is 4,609 spaces.

Each subdistrict also has a minimum parking requirement under KCC21a.18 as follows: 2,100 spaces in the Neighborhood Commercial subdistrict; 1,708 spaces in the Waterfront subdistrict and 530 spaces in the Residential subdistrict. The minimum parking requirement for all the subdistricts together is 4,338 spaces.

The minimum parking requirement under KCC 21a.18 for the Waterfront subdistrict viewed in isolation is greater than the maximum P-Suffix parking requirement for the subdistrict. Accordingly, if the subdistricts are viewed individually, the P-Suffix conditions conflict with KCC 21a.18.

Under general principles for the interpretation of statutes and local ordinances, however, the provisions of a local ordinance (including zoning) should be harmonized if possible. Accordingly, the P-Suffix condition should be interpreted to apply to the subdistricts in the aggregate rather than individually.

Under this interpretation, the Project is consistent with the P-Suffix condition. A total of 4,464 spaces are proposed. That number is greater than the KCC minimum and smaller than the P-Suffix maximum.

Director's Evaluation

The Director agrees with the applicant's assessment of consistency of project with the condition.

In the Neighborhood Commercial subdistrict, minimum parking requirements for office, retail and commercial uses shall be reduced to one space for every 300 square feet of floor area.

Proposed Modifications

No modification to this P-Suffix condition is proposed.

Applicant's Assessment of Consistency of Project with Condition

In the Neighborhood Commercial sub-district, retail/office parking is provided at the rate of approximately one space for every 265 square feet of floor area. That rate exceeds the minimum parking space to floor area ratio set out in the P-Suffix conditions. Accordingly, the parking is consistent with the P-Suffix conditions.

Director's Evaluation

The Director agrees with the applicant's assessment of consistency of project with the condition.

Surface parking shall be located to the greatest degree possible in the rear of buildings that front the primary pedestrian street. Any parking which cannot be accommodated in the rear of the building may be provided on the side of the building.

At full build-out, on-site surface parking shall consume a maximum of 50% of the total site area in the Neighborhood Commercial subdistrict, and 25% of the total site area in the Waterfront, Waterfront Extension, and Residential subdistricts. The remaining off-street parking requirements shall be accommodated using one or a combination of the following:

- On-site parking structure*
- On-street parking spaces*
- Off-site common parking facility*

At full build-out, 75% of the parking in the Waterfront, Waterfront Extension, and Residential subdistricts shall be provided in structures or on-street.

Proposed Modifications

No modification to this P-Suffix condition is proposed.

Applicant's Assessment of Consistency of Project with Condition

Less than 50 percent of the Neighborhood Commercial sub-district site area, and less than 25 percent of the Waterfront sub-district site area, is occupied by on-site surface parking.

At build-out, approximately 90% of the parking in the Waterfront and Residential sub-districts will be provided in parking garages, exceeding the 75% minimum required by the P-Suffix conditions. Additionally, some street parking will be provided for convenience and visitor parking.

Director's Evaluation

The Director agrees with the applicant's assessment of consistency of project with the condition.

In the Neighborhood Commercial subdistrict of the Pre-Mix site, a maximum of 60 parking stalls are permitted in any one surface parking lot. At a minimum, parking lots must be separated by buildings, streets, or 12 feet of type two landscaping.

Proposed Modifications

The proposed modifications to these requirements are to increase the number of vehicles permitted within each surface lot, increase the amount of landscaping and disperse the landscaping throughout the lot rather than in isolated 12-foot buffers.

Applicant's Assessment of Consistency of Modifications with Northshore Community Plan

The proposed modifications meet the goals and intent of the P-Suffix conditions and the Northshore Community Plan. The P-Suffix requirements regarding surface lot characteristics are intended to minimize conflicts between automobile and pedestrian access and circulation. *See NSCPU/AZ, p. 39 (Policy CI-4); NSCPU/AZ, Appendix 2, p. 23 (Design Study).* The proposed modifications meet this goal by allowing the location of parking areas on elevated decks along Lakepointe Way NE to serve those parcels anticipated to generate higher volumes of vehicular traffic. The location of parking areas on elevated decks along Lakepointe Way NE minimizes the vehicular traffic which flows into the central portions of the Lakepointe site, rendering the central portions of the site more "pedestrian-friendly." In addition, the layout of the lots, combined with the increased and dispersed landscaping, provides clear circulation and enhanced aesthetic qualities that will minimize potential conflicts between automobile and pedestrian access and circulation near and within the lots.

Director's Evaluation

The Director conceptually agrees with the applicant's assessment of consistency of project with the condition, but no detailed parking lot and landscaping design has been submitted for review. This will be required at the time of building permit review. While the P-Suffix may have intended to minimize conflicts between automobile and pedestrian access and circulation, as interpreted by the applicant, the P-Suffix condition was also written to address visual impacts created by large parking

lots. Therefore the parking lot design submitted at building permit application must address visual impacts, as well as conflicts between automobile and pedestrian access and circulation.

Design

All parking areas that front sidewalks (except along Lakepointe Drive) shall be screened by a streetwall and landscaping.

Retail uses shall be provided on the first floor of the street side edges of parking structures.

Proposed Modifications

No modifications to this P-Suffix condition are proposed.

Applicant's Assessment of Consistency of Project with Condition

The Lakepointe project complies with the requirements of the P-Suffix condition relating to parking design. Parking facilities at grade are hidden behind building frontages (such as retail restaurants, cafes, and residential lobbies) or enclosed and architecturally treated to enhance the streetscape.

Screening of at-grade parking facilities is illustrated on Sheet A3.4, Sections G-G and H-H and Sheet A3.6, Section Q-Q of the Sixth Submittal. To the extent more detailed information is required, the applicant proposes that the additional information be required at the time of building permit review.

Director's Evaluation

The Director conceptually agrees with the applicant's assessment of consistency of project with the condition, but full compliance with this P-Suffix will be determined at the time of building permit review.

4. Transit and Transportation Circulation

Mitigation for development of the Pre-Mix site should emphasize enhancement of transit and non-vehicular use and improvement of local access and circulation within the Kenmore area. Therefore, mitigating conditions (as specified in paragraph 14 below) include dedication and construction of Lakepointe Drive, signalization of the intersection of this road with 68th Avenue and with SR 522, dedication and improvement of a transit stop on SR-522, contribution to development of a pedestrian bridge crossing SR-522, construction of a pedestrian street, provision of commuter parking, the construction of Lakepointe Drive and improvements to a new intersection at 65th Avenue NE, and development and enforcement of a transportation management plan on site.

Fair share participation in applicable projects listed in the current Mitigation Payment System Program, as well as contribution towards other transportation projects identified through the Master Plan and development plan approval process.

Furthermore, the requirement that residential development occur throughout the various phases of development of the Pre-Mix site will ensure that transit and transportation linkages occur from the very beginning of development.

Proposed Modifications

No modifications to this P-Suffix condition are proposed.

Applicant's Assessment of Consistency of Project with Condition

The Lakepointe project conforms to the requirements of the P-Suffix condition relating to transit and transportation circulation. The project includes construction of Lakepointe Way NE, signalization of Lakepointe Way NE with SR-522 and 68th Avenue NE, contribution of a fair-share component of the funding for the construction of a pedestrian bridge on SR-522, construction of a pedestrian street, development and implementation of a transportation management plan, and payment of the required Mitigation Payment System fee.

The applicant will also construct two enhanced transit stops on the north side and the south side of the SR 522 right-of-way. The applicant is responsible for funding all of the costs of constructing the stops. King County is responsible for acquiring adequate easements and additional right-of-way to permit construction of the stops.

The applicant will provide 50 commuter parking stalls or will contribute a fair share to a new park and ride facility in the Kenmore area.

In addition, the project is designed so that pedestrians can traverse the site from the retail areas along the esplanade to the park settings on the south side of the site. A total of approximately 6,400 linear feet of walkways and pedestrian areas are provided on the site.

The Transportation Mitigation Agreement and Phasing Plan, which will be finalized prior to the issuance of the CSDP, will ensure that transit and transportation linkages occur from the beginning of the project, consistent with the P-Suffix condition.

Director's Evaluation

The Director agrees with the applicant's assessment of consistency of project with the condition.

5. Pedestrian and Bicycle Circulation

Design of the Mixed-Use District shall emphasize public pedestrian access and linkages to the transit facilities and adjacent sites. This includes contribution to development of a pedestrian bridge across SR-522, as specified in Condition 14 below, if approved by King County and WSDOT. Required primary public pedestrian and bicycle routes are shown on Map B. Other, minor pedestrian routes shall be identified through the Master Planning and building permit review processes.

All pedestrian walkways and connections, including shoreline pedestrian routes, shall be accessible and open to the general public. Public vehicular access may be limited to the Residential area. Pedestrian access within the Residential area shall be limited to two public access corridors across the subdistrict.

Bicycle and pedestrian linkages to the Burke-Gilman Trail, and to the transit hub required as part of Condition 14 below, shall be provided. See Map B. Location of these linkages is subject to the review and approval of King County.

Bicycle parking facilities shall be provided at all major public destination points.

Proposed Modifications

No modifications to this P-Suffix condition are proposed.

Applicant's Assessment of Consistency of Project with Condition

The Lakepointe project conforms to the requirements of the P-Suffix condition relating to pedestrian and bicycle circulation. The periphery of the site is dedicated to pedestrians and other non-vehicular uses (i.e., bicycles). Bicycle and pedestrian linkages between the Burke-Gilman Trail and the public spaces of the Lakepointe development are publicly accessible, barrier-free and readily identifiable. Bicycles are allowed throughout the pedestrian areas; however, where trails are not considered wide enough to safely accommodate bicyclists, bicyclists will be required to walk their bikes.

The trail along the Sammamish River incorporates native vegetation and opportunities for natural habitat viewing and interpretive information. All pedestrian walkways and connections are accessible and open to the general public.

The Lakepointe project's pedestrian and bicycle routes are connected at grade across 175th Street to the Burke-Gilman Trail. A stairway adjacent to the elevated roadway leads pedestrians to the future transit hub and pedestrian bridge crossing SR 522 (the future transit hub and pedestrian bridge are not a part of the proposal; however, the applicant will contribute a fair-share component of the funding for the pedestrian bridge). Public access to the waterfront is provided from the primary pedestrian street (NE 174th Street) and the Boardwalk/Marina area on one side of the property and from NE Lakepointe Boulevard and the public trail system on the other side of the property. Pedestrian and bicycle circulation is shown on Sheet A2.3a/A2.3a(alt) of the Sixth Submittal.

The applicant will provide bicycle parking facilities at all major public destination points as required by KCC 21A.18.030.

Director's Evaluation

The Director agrees with the applicant's assessment of consistency of project with the condition, with the exception that the transit hub is required to be a part of this proposal and is included in the Transportation Mitigation Agreement.

6. Landscaping and Public Amenities

All properties that front the pedestrian street must provide sidewalk landscaping and other amenities (street furniture, street trees, and special lighting).

20% of the entire mixed use development shall be designated as public open space for the general public. Major public activity nodes are identified on Map B. A public gathering place which accommodates a minimum of 50 people shall be provided on the site. See Map F and G. These public open space areas shall be easily accessible to the pedestrian, and shall be considered in the pedestrian circulation plan. Waterfront access areas, public parks and sensitive area buffers may be utilized to calculate the 20% requirement. Internal pedestrian walkways, public streets, and private open space areas shall not be utilized to calculate the 20% requirement. Public access shall be provided around the entire waterfront edge of the site, See Map B.

Street trees shall be provided in all roads constructed with the development. The normal landscaping requirements of the code, with the exception of parking area landscaping, are hereby waived.

Proposed Modifications

No modifications to this P-Suffix condition are proposed.

Applicant's Assessment of Consistency of Project with Condition

The Lakepointe project conforms to the requirements of the P-Suffix condition relating to landscaping and public amenities. The project includes a total of 21.2 acres of open space (defined to include all areas outside building footprints and roadways), approximately 47 percent of the site. The on-site open space includes approximately 5.5 acres in natural landscaping, 15.7 acres in public park area, pedestrian walkways and trails and paved public space. Even excluding internal pedestrian walkways, public streets, and private open space areas, the open space provided would exceed 20% of the Lakepointe site. The open space areas are intended to create a pedestrian friendly community which would orient to the existing shoreline and marine environment.

Director's Evaluation

The Director conceptually agrees with the applicant's assessment of consistency of project with the condition. "Open space" is not defined in the P-Suffix condition. Therefore using the applicant's definition, the Director agrees with the applicant's assessment that approximately 47 percent of the site is proposed as open space. The applicant has included internal streets and sidewalks (walkways) in the calculation as well as stormwater drainage facilities and what may become private open spaces adjacent to residential units, which have been identified as "potential residential recreation" areas on plan sheets L1.2 (Alt.) of the Sixth Submittal of the Commercial Site Development Permit plans dated and received May 22, 1998. However if those areas are excluded, it conceptually appears that 20% of the site would still be open space. Full compliance with this P-Suffix condition will be required at the time of construction permit review and approval.

NOTE: The P-Suffix condition states that the landscaping requirements of the code are waived. This P-Suffix condition was written prior to the adoption of K.C.C. 21A. The Lakepointe Commercial Site Development Permit application is subject to K.C.C. 21A.38.030D, which states that "Property-specific development standards shall not be used to expand permitted uses or reduce minimum requirements of this title." Therefore the project must comply with the landscaping requirements of K.C.C. 21A.16. Anything in the P-Suffix condition which is more restrictive than K.C.C. 21A.16, such as the requirement for street trees along all roads, will be required because a P-Suffix condition can set more restrictive conditions than the code.

7. Vehicular Access and Circulation

Driveways on the primary pedestrian street shall be limited to an average of one for every two hundred lineal feet.

The on-site vehicular circulation system shall contribute to pedestrian movement and safety by including all of the following items that are feasible, considering the overall design of the development:

- *Pedestrian crosswalks at key crossing areas*
- *Signage that clearly communicate the location of vehicular and pedestrian*
- *Designated passenger drop-off areas*
- *Parking on interior roads, to slow down vehicular traffic*
- *The primary pedestrian street shall be built in the Waterfront subdistrict. Location of this pedestrian route as shown in Map B is conceptual. Actual location may vary based on road and signalization design. The street shall be built to the general specifications of the illustrative street section in Map C and Map D.*

Proposed Modifications

No modifications to this P-Suffix condition are proposed.

Applicant's Assessment of Consistency of Project with Condition

The Lakepointe project is consistent with the P-Suffix condition relating to vehicular access and circulation. NE 174th Street, the primary pedestrian street, is located in the Waterfront subdistrict. The street will include pedestrian crosswalks at key crossing areas; signage that differentiates pedestrian and vehicular areas; designated pedestrian drop-off areas; and limited on-street parking which would help to reduce vehicular speeds. NE 174th Street also includes pedestrian connections to the Boardwalk/waterfront area. Finally, driveways from NE 174th Street will be provided at an average of no more than one every 200 lineal feet.

Driveways from Lakepointe Boulevard are provided at an average of one every 240 feet.

Director's Evaluation

The Director agrees with the applicant's assessment of consistency of project with the condition.

8. Public Viewpoints

Public viewpoints, linked with the pedestrian routes, shall be provided. Public viewpoints shall provide views of the Sammamish River and Lake Washington. See Maps B, E, F and G. Public viewpoints shall be integrated into the pedestrian plan for the site and shall be easily accessible to the public. Development of the public viewpoint areas shall include pedestrian amenities such as seating and signage.

Proposed Modifications

No modifications to this P-Suffix condition are proposed.

Applicant's Assessment of Consistency of Project with Condition

The Lakepointe project complies with the requirements of the P-Suffix conditions relating to public viewpoints. Public viewpoints, which provide views of the Sammamish River and Lake Washington, are provided along the shoreline trail in the Shoreline Park, at the amphitheater and along the esplanade. All of the viewpoints are accessible to the general public and will include pedestrian amenities such as seating and signage.

Director's Evaluation

The Director agrees conceptually with the applicant's assessment of consistency of project with the condition. It has been agreed between the applicant and DDES that three view platforms will be constructed along the Sammamish River. These view platforms must be designed to be consistent with the King County Sensitive Areas Trails Public Rule.

9. Shoreline Enhancement

The shoreline edge of the Sammamish River and Lake Washington shall be improved to enhance water quality and wildlife and marine habitat. A wetland and riparian enhancement plan subject to the review and approval of King County, shall be performed by a qualified wetland biologist. Setbacks shall be subject to the King County Sensitive Areas Ordinance and the Shoreline Master Program with a minimum 100-foot setback for structures from the river's edge. Variations to adopted setbacks, may require off-site mitigation, to be determined in the Master Plan process. No disturbance of the Sensitive Areas Ordinance required buffers is permitted, except at minimum 300 foot intervals, wildlife viewing trails extending into the buffer may be allowed if no significant impact to the wildlife and marine habitat is anticipated to occur. The use of moorage developed in the barge channel shall be limited to private use. Public moorage shall be provided, if feasible, on the Lake Washington frontage of the site, subject to approval under the King County Sensitive Areas Ordinance, the Shoreline Master program and other agencies with jurisdiction. Approval of all water moorage is subject to mitigation of marine/air conflicts. A special study shall be performed to

determine if boat moorage will have a negative impact on salmon runs entering the Sammamish River or feeding at the River mouth. If it is found that moorage and associated boat traffic may have an impact, boat moorage shall not be provided. At the time of the creation of this condition package, no setbacks are required along the inner harbor line. Regulations adopted subsequently may require setbacks within this area.

Proposed Modifications

No modifications to this P-Suffix condition are proposed.

Applicant's Assessment of Consistency of Project with Condition

The Lakepointe project complies with the requirements of the P-Suffix conditions relating to shoreline enhancement. The project includes expansion of the vegetated shoreline along the Sammamish River and Lake Washington and enhancement of the existing plant communities by removal of invasive, non-native plant species and replacement with native shrub and ground cover species. The vegetated Sammamish River shoreline buffer respects the 100-foot shoreline buffer distance and, in some areas, extends beyond that distance.

The Fifth Submittal included swales, stream confluences and a small island on the Conceptual Landscape Master Plan. In addition, the interpretive trail extended west nearly to the end of Building E-1. In response to comments by King County, the applicant modified the proposal in the Sixth Submittal, Sheet L1.0, as follows:

- The stream confluences and small island were removed from the plans;
- Alternate plans, one including the swales and the other eliminating the swales, were provided;
- Alternate plans, one including a trail extending west nearly to the end of Building E-1 and the other including a trail extending west to approximately the beginning of Building E-1, were provided.

King County may select the alternate plans that it determines best meet the P-Suffix conditions and other requirements. Other elements of the shoreline enhancement Plan remain as described in the draft environmental impact statement ("EIS") for the project.

The modified proposal meets the requirements of the P-Suffix condition because it provides for appropriate shoreline enhancement pursuant to a plan that is subject to King County review and approval.

The proposal includes a marina with 53 moorage slips (27 of these are included under the Commercial Site Development Permit). No live-aboards or general public short-term moorage is allowed (short-term moorage is limited to hotel guests and guests of permanent residents). The Lakepointe Technical Report on Natural Resources, prepared in connection with the Draft EIS for the project, meets the requirement for a special study to determine marina and boat traffic on salmon

runs. Based on the findings of the Lakepointe Technical Report on Natural Resources, the proposed marina, and associated boat traffic, would not be anticipated to result in significant impacts to salmonid fish or air/boat traffic utilizing the lake provided the mitigation measures identified in the SEIS are implemented as conditions of approval for this permit.

Director's Evaluation

The Director agrees with the applicant's assessment of consistency of the project with the P-Suffix condition provided the CH2M Hill study, dated May 1998 is also recognized as part of the required special study and the conclusions and mitigation identified in that study are applied to this project.

10. Affordable Housing

Affordable housing units amounting to 10% of the total number of units in the development shall be provided. Compliance with this requirement shall be required (a) upon occupancy of the first 400 units at the Pre-Mix site, and (b) thereafter, upon the completion of each additional 260 residential units at the site. Compliance may be achieved through construction of affordable units or provision of adequate security to the County to ensure their future development. The affordable units need not be provided within the development, but must be provided within the Northshore planning area. Units may be either rented or sold. Affordable housing shall be calculated as follows: Rented units shall be provided only to households earning less than 50% of the median income. Monthly rents shall be no greater than 30% of the monthly income from households earning 50% of the median income. Sold units shall be sold to first-time buyers (i.e. person not having owned a home in the past three years) earning less than 80% of the median income. Home prices shall be Affordable based on FHA lending standards. Covenants shall be established which guarantee the fulfillment of this obligation.

Proposed Modifications

No modifications to this P-Suffix condition are proposed.

Applicant's Assessment of Consistency of Project with Condition

The Lakepointe project will be required to comply with the requirements regarding affordable housing. The project applicant and the County will execute an agreement to provide approximately 120 affordable housing units (10 percent of the total proposed residential units). The location of the affordable housing units will be determined during the execution of the agreement between the County and the applicant. The units will be located either on the site or off-site, within the Northshore Planning Area. The affordable housing units will be priced, either for sale or rent, consistent with the prescribed household income levels.

Director's Evaluation

The P-Suffix Condition and the Affordable Housing Provisions for the Lakepointe Development outline the process for Lakepointe to provide 120 affordable housing units either on or off-site within

the Northshore planning area. The County, at its discretion, can withhold issuing building permits and certificates of occupancy until affordable housing requirements for each phase of the Lakepointe development are met. The required number of affordable units, throughout the development process, will remain unoccupied until occupied by a household eligible for affordable housing or until Lakepointe makes off-site affordable units available for occupancy. Lakepointe and the County must develop a covenant for the affordable housing units before building permits are issued in the first phase of the development. The Affordable Housing Provisions are included as Attachment F to this report.

11. Residential Density

Residential density at full build-out shall be calculated at the following levels per acre for the gross land area of each subdistrict in the development:

	<u>Minimum</u>	<u>Maximum</u>
<i>Neighborhood Commercial</i>	<i>12 du/ac</i>	<i>48 du/ac</i>
<i>Waterfront & Waterfront Extension</i>	<i>12 du/ac</i>	<i>24 du/ac</i>
<i>Residential</i>	<i>24 du/ac</i>	<i>48 du/ac</i>

Residential uses in the mixed use area shall not exceed 75% and shall not fall below 50% of the total built floor area of the development at full build-out. Where feasible, buildings with non-residential uses (in particular, large buildings), shall include residential uses as well. A minimum of 25% of total floor area of each phase of development shall be residential.

Proposed Modifications

The applicant proposes a modification to this P-Suffix condition to allow Phases 3 and 6 to contain no residential units.

Applicant's Assessment of Consistency of Project with Condition

The project complies with the maximum and minimum residential densities specified in the P-Suffix conditions. The P-Suffix condition regarding Phasing requires that the project site be divided into four subdistricts and provides that the Neighborhood Commercial subdistrict should contain approximately 12 to 18 acres; the Waterfront subdistrict should contain approximately 10-14 acres; and the Residential Subdistrict should contain approximately 10-14 acres. (The P-Suffix conditions emphasize that the size and locations of the subdistricts are approximate.) Those acreage figures were carried forward into the EIS and Commercial Site Development Permit. Now, based on the scaled plans for the Commercial Site Development Permit, it is possible to determine the acreage of the subdistricts with greater specificity. The Neighborhood Commercial subdistrict contains approximately 21 acres; the Waterfront subdistrict contains approximately 10 acres; and the Residential subdistrict contains approximately 11 acres. Exact calculations of the acreages are not possible due to the scale of the plans and the irregularity of the subdistricts' borders.

The P-Suffix condition requires 12 to 48 dwelling units per acre in the Neighborhood Commercial subdistrict. Thus, the total number of units required in the approximately 21-acre district is

approximately 252 to 1,008 units. The proposed number of units in the subdistrict is 640, within the range required by the P-Suffix condition.

The P-Suffix condition requires 12 to 24 dwelling units per acre in the Waterfront subdistrict. Thus, the total number of units required in the approximately 10-acre district is approximately 120 to 240. The proposed number of units in the subdistrict is 240, within the range required by the P-Suffix condition.

The P-Suffix condition requires 24 to 48 dwelling units per acre in the Residential subdistrict. Thus, the total number of units required in the approximately 11-acre district is approximately 264 to 528. The proposed number of units in the subdistrict is 320, within the range required by the P-Suffix condition.

The total proposed building floor area is 1,844,215 square feet. With 1,200 residential units at 1,000 square feet per unit, the residential floor area would be 1,200,000 square feet, or 65% of the total floor area. This falls within the 75% maximum and 25% minimum established by the P-Suffix condition.

The applicant proposes a modification to the requirement that a minimum of 25% of the total floor area of each phase of development must be residential to permit Phases 3 and 6 to contain no residential uses (although Phase 3 includes hotel uses). This modification is consistent with the goals and intent of the Northshore Community Plan and P-Suffix conditions. The goal and intent of the P-Suffix condition and Northshore Community Plan is to ensure that the development of the site is of a mixed use character from the beginning of development; i.e., that the commercial buildings are not constructed first. The project as proposed includes 440 units in the first Phase (72% of the floor area in that Phase), thus ensuring that the project will have a mixed use character from its inception. Also, Phase 2 of the project has 880 residential units, totaling 72% of the floor area for that phase, and Phases 4 and 5 are entirely residential. Thus, the project as a whole ensures that the uses on the site will be mixed from the beginning of development, consistent with the goal and intent of the P-Suffix conditions and Northshore Community Plan.

Director's Evaluation

The Director agrees with the applicant's assessment of consistency of the project with the condition. The entire site must also comply with the density allowed under K.C.C. 21A.12 for the Regional Business zone, which establishes a base density of 36 units per acre. Therefore on an approximately 45 acre site, the maximum number of units allowed in the Regional Business zone is 1,620 units. The proposal is for 1,200 units, which is consistent with K.C.C. 21A.12.

12. Hazardous Waste Removal

Prior to any development, the applicant shall conduct additional environmental assessment as specified by King County and, if contamination is found, shall prepare a remediation plan and schedule acceptable to the King County Executive. Prior to development of any phase of the project, contamination (if any) on the portion of the site to be developed in that phase shall be remediated in

accordance with the remediation plan and all legal requirements. The remainder of the site shall be cleaned up on accordance with the remediation schedule.

Proposed Modifications

No modifications to this P-Suffix condition are proposed.

Applicant's Assessment of Consistency of Project with Condition

The project site has been found by the Washington State Department of Ecology ("DOE") to contain toxic and hazardous materials, which must be remediated in accordance with the Model Toxics Control Act. The applicant has been working with DOE to develop an agreed-upon clean-up plan for the site; however, a remediation plan has not yet been finalized. The P-Suffix condition requires remediation prior to development. Approval of the Commercial Site Development permit will not allow any actual site work or construction to be undertaken. Prior to the issuance of construction permits, those portions of the site being developed will be remediated in accordance with a plan approved by DOE.

Director's Evaluation

The Director agrees with the applicant's assessment of consistency of the project with the condition, however the P-Suffix condition requires that the remediation must also be acceptable to King County. King County has agreed to allow the applicant to work with DOE in developing the clean-up plan. This Commercial Site Development Permit is being reviewed and approved without knowledge of what the final clean-up plan will require. Therefore if there is a conflict between the final approved clean-up plan and the approved Commercial Site Development Permit, the permit will have to be modified to match the approved clean-up plan. If the modification required to bring the permit into conformance with the approved clean-up plan exceeds the scope of approved modifications allowed to a Commercial Site Development Plan under K.C.C. 21A.41.110, a new Commercial Site Development Plan will be required. The remediation can be done as part of the building permit, but the plan on how the remediation will be accomplished must be finalized prior to the issuance of any permit that will allow site alteration or construction.

13. Fair Share Mitigation

In applying the above conditions on individual properties, mitigation shall be at a reasonable level related to each proposed development.

Proposed Modifications

No modifications to this P-Suffix condition are proposed.

Applicant's Assessment of Consistency of Project with Condition

The Lakepointe project complies with the requirements of the P-Suffix conditions regarding reasonable mitigation. Reasonable mitigation measures are required in connection with the approval of the project.

Director's Evaluation

The Director agrees with the applicant's assessment of consistency of project with the condition.

14. Phasing Requirements

The approved Master Site Plan for and all approvals for development of phases of the Pre-Mix site, shall satisfy the following requirements for phasing, provision of mitigation, and development by subdistrict.

a. Subdistrict Development. The Pre-Mix site shall be divided into four subdistricts, as shown on Map A. The location of the subdistrict boundaries may vary somewhat from Map A; the final boundaries for each subdistrict will be determined in the master plan process. Development in each subdistrict is subject to all P-Suffix conditions of the zone set forth above, as well as the subdistrict-specific conditions described below and any mitigation's identified through the Master Site Plan approval process. The Residential Subdistrict may overlap with the adjacent subdistricts for the purpose of distributing density across the site, as set forth under the approved Master Plan. This plan contemplates that ultimate development of the outright RB-zoned portion of the Pre-Mix site (not including the Waterfront Extension Subdistrict) will include approximately 1000 units of residential development and approximately 500,000 square feet of commercial (including approximately 250,000 square feet of office/professional service, and 250,000 square feet of retail and entertainment) development.

(1) Neighborhood Commercial (approximately 12-18 acres). This area will serve as the focus of neighborhood-scale retail and commercial development, because of its proximity to road and transportation infrastructure. It may also include entertainment uses, and will incorporate residential development, though at a lower density than the remainder of the Mixed-Use District. Where feasible, residential uses will be included in the same structure as retail and office uses. Some vertical integration of residential and retail/office uses shall occur in this area.

(2) Waterfront (approximately 10-14 acres). This subdistrict will emphasize pedestrian-scale access and development, both at and near the channelized edge of the inner harbor. Development will be mixed-use, with a higher density of residential than in the Neighborhood Commercial Subdistrict. Enjoyment of the urban shoreline environment and pedestrian connections throughout the site will be stressed.

(3) Residential (approximately 10-14 acres). The residential subdistrict will be the center of residential development on the site. This area will be linked to the neighboring commercial and waterfront subdistricts, as well as to the transit hub, by pedestrian corridors, bridges, and other linkages. Residential development will respect the natural shoreline of the Sammamish River, where public access will be provided.

(4) *Waterfront Extension (approximately 4--8 acres). This future phase (potentially-zoned RB-P) will develop after the discontinuation of the existing industrial use.*

b. *Phasing. There are no restrictions on when or where development may occur within the Pre-Mix site, so, long as it is in accordance with the approved master plan.*

c. *Mitigation Phasing Requirements. The purpose of identifying mitigation phasing requirements in the area zoning is to insure that adequate mitigation is in place for development of each portion of the mixed-use development site. These requirements are designed to insure that most of the capital-project roadway mitigation's for the entire Pre-Mix site shall occur at the beginning of development. Thus most of the roadway related capital infrastructure and amenities will be in place in connection with initial development to support full development of the Pre-Mix site. Certificates of occupancy shall not be issued for a particular subdistrict until the mitigation requirements of that subdistrict have been satisfied or adequate security to ensure their satisfaction has been provided King County (unless these P-Suffix conditions or the approved Master Plan set forth a different timetable for completion of the mitigation).*

Mitigation provided under these conditions shall be credited where appropriate against mitigation requirements otherwise applicable to the project through the SEPA process or under County codes. The property owner may fund mitigation improvements based upon agreements for reimbursement of portions of such costs by public agencies or other benefited private parties.

The intersection of SR-522 and 68th Avenue currently operates at LOS F. Significant mitigation of this intersection is not possible, and therefore mitigation for the development of the Pre-Mix site must be directed to improving access and circulation in other ways. Satisfaction of the linkage requirements set forth below shall be construed as satisfying the County's concurrence and intersection standards for the overall project.

(1) *Overall Project Mitigation. The following items shall be provided in connection with initial development of the Pre-Mix site. Certificates of occupancy shall not be issued for development on the Pre-Mix site until the following mitigation requirements have been satisfied or adequate security to ensure their satisfaction has been provided King County.*

(a) *Full signalization of the intersection of 68th Avenue and Lakepointe Drive (listed in the CIP), and intersection improvements to include a northbound left-turn and left-turn/pass-through lanes on 68th Avenue but not including improvements to the 68th Avenue Bridge over the Sammamish River;*

(b) *Dedication of right-of-way adequate for a five lane principal arterial on-site for Lakepointe Drive, connecting 68th Avenue to SR 522 at the northwest corner of the Pre-Mix site;*

(c) *Construction of Lakepointe Drive on-site in a five-lane cross-section with landscaped median within the dedicated right-of-way, connecting 68th Avenue to SR 522;*

(d) Provide for signalization and reconfiguration of the intersection of SR 522 and Lakepointe Drive (listed in the CIP), once signal installation authority has been obtained from the State of Washington by King County;

(e) Provide for realignment of existing 175th Street with a grade-separated crossing under Lakepointe Drive (listed in the CIP), as set forth in Map B;

(f) Construction of two enhanced transit stops (to be listed in the CIP), which shall be located on the north and south side of SR-522 and north of the Burke-Gilman Trail and shall include seating areas, weather protection, and specially-designed landscaping and walkway surfaces. The transit stop may be in-lane or pull-out, and King County shall be responsible for land acquisition and for obtaining approvals for the transit stops;

(g) The developer shall be responsible for achieving SOV trip reduction for the project by providing 50 commuter parking stalls in a location accessible to the southern enhanced transit stop or by contributing its fair share to the construction of a new park and ride facility in the Kenmore area, as determined in the approved Transportation Management Plan.

(h) Payment of fair share mitigation fees, including those for a fair share contribution to the transit lane improvements planned on SR 522 with credit, if applicable, for the system improvements (e.g., Lakepointe Drive) constructed for the project;

(i) Pedestrian access from the developed area to the transit stop and the 68th Avenue/SR 522 intersection;

(j) Provision of other minor roadway improvements identified by the Master Plan, such as signal phasing, lane realignment, etc.;

(k) Provide a touchdown location on-site for the proposed pedestrian bridge crossing SR-522;

(l) Provide for a grade-separated connection for the Burke-Gilman Trail under the to-be constructed Lakepointe Drive, that is compatible with the design of the Burke-Gilman Trail undercrossing at 68th Avenue. The Trail shall have a 12-foot clear height and project design shall seek to enhance linkages between the Trail and pedestrian routes in the project and reasonably to minimize grade change along the Trail. A curb-cut shall be provided on SR-522 east of 65th Avenue N.E. for access to a parking structure, and the Trail-level portion of the parking structure shall include retail or pedestrian services or open space oriented to the Trail (subject to WSDOT approval);

(m) The developer shall provide cash incentives, such as transit subsidies, parking fees, or rent abatement for transit use, in residential leases, if called for under the approved transportation management plan;

(n) *The developer shall maintain access on the existing 175th Street for the off-site lots adjacent to the northeast corner of the project site, as long as the design and function of such access is acceptable to the owners of the off-site lots and will not result in adverse impacts to the use of these lots;*

(o) *Development of shoreline enhancement, including public recreation and access areas on the Sammamish River shoreline of the Mixed-Use District. Development in the initial phase shall include parking, public restrooms, trailhead facilities, vehicle turnaround, public viewpoint, construction of shoreline interpretive trail, enhancement of the riparian edge of the Sammamish River, and provision of a public viewpoint;*

(p) *Prior to any development, the applicant shall conduct additional environmental assessment as specified by King County and, if contamination is found, shall prepare a remediation plan and schedule acceptable to the King County Executive. Prior to development of any phase of the project, contamination (if any) on the portion of the site to be developed in that phase shall be remediated in accordance with the remediation plan and all legal requirements. The remainder of the site shall be cleaned up on accordance with the remediation schedule.*

(q) *The developer shall appoint an on-site transportation coordinator, and provide cash incentives, such as transit subsidies, parking fees, or rent abatement for transit use, in residential leases in the residential subdistrict, if called for under the approved TMP;*

(2) *Neighborhood Commercial Subdistrict Mitigation. The requirements for the Neighborhood Commercial Subdistrict are satisfied with the initial phase development. Therefore, additional mitigation requirements are not set forth for further development in the neighborhood commercial subdistrict. Although single-use commercial buildings are not prohibited in this subdistrict, residential and commercial uses in various structures should be integrated to the greatest degree possible, through the use of walkways and other functional connections between buildings. Further, the prohibition on ground floor residential units will encourage the inclusion of mixed uses in residential structures. A conceptual plan for a portion of the neighborhood commercial area is shown on Map J.*

(3) *Waterfront Subdistrict Mitigation. Additional mitigation requirements for the Waterfront Subdistrict, identified below, are focused on enhancing open space opportunities in this portion of the mixed-use district and on emphasizing pedestrian connections within the development. Development shall satisfy the following criteria, in addition to the standards of the underlying zoning:*

(a) *The pedestrian street shall be constructed. See Maps C and D. Construction of the street shall be phased so that the street is constructed in conjunction with development of adjacent buildings. The pedestrian street shall be developed to County road standards as a business access street including two traffic lanes, two 8-foot parallel parking strips, and two 10-foot sidewalk areas.*

(b) *The harborside promenade shall be constructed. See Map E. Like the pedestrian street, the construction of the harborside promenade shall be phased to occur in conjunction with development of adjoining buildings. The harborside promenade shall be constructed as a 20-foot wide hard-surfaced pedestrian walkway, beginning at the channelized edge, and shall include pedestrian features such as seating, landscaping, sidewalk cafes, and pedestrian amenities.*

(c) *Upon completion of the pedestrian street, a public parking area shall be developed at the southern end of the pedestrian street. The parking area shall provide parking for approximately 20 vehicles.*

(d) *A harborside viewpoint shall be constructed in conjunction with the harborside promenade, at a location identified in the approved master plan. See Map E.*

(e) *A lakeside viewpoint shall be developed at the southern end of the site, at a location identified in the approved master plan. Development of the lakeside view point shall occur upon completion of the pedestrian street. See Map B and F.*

(f) *A public gathering place shall be developed at the southern end of the pedestrian street, adjacent to the lakeside viewpoint and in a location identified in the approved master plan. See Map F. The major public gathering place shall provide area for gathering of at least fifty people. It shall be developed upon completion of the pedestrian street.*

(4.) *Residential Subdistrict Mitigation. Additional mitigation/linkage requirements for the residential subdistrict are geared toward enhancing pedestrian connections within the site, reducing reliance on single-occupancy vehicles, and enhancing transit use. Development shall satisfy the following criteria, in addition to the standards of the underlying zoning:*

(a) *Internal pedestrian connections from the residential subdistrict to the transit hub shall be provided;*

(b) *A pedestrian bridge over SR 522 shall be provided (subject to WSDOT approval) when fair-share funding for construction is available from sources other than the developer. The developer shall be required to pay its fair share toward the cost of the bridge;*

(c) *At build-out of the Residential District, the developer shall provide a shuttle service to connect the development with the transit hub, if called for under the approved TMP;*

(5.) *Waterfront Extension Stage Mitigation. Mitigation requirements for the waterfront extension stage are provided in connection with development of the other subdistricts. Therefore, additional mitigation requirements are not set forth for development in the Waterfront Extension Subdistrict. Development in this subdistrict may not proceed until mitigation for the overall development and Waterfront subdistrict have been provided.*

Proposed Modifications

No modifications to this condition are proposed.

Applicant's Assessment of Consistency of Project with Condition

The Phasing Plan and Transportation Mitigation Agreement developed for the project satisfy the requirements of the P-Suffix condition relating to phasing. The Phasing Plan divides the project into several phases and identifies the proposed timing of development of each phase. The Transportation Mitigation Agreement ensures that transportation improvements occur concurrent with development and consistent with the P-Suffix condition relating to phasing.

Director's Evaluation

This P-Suffix condition is being evaluated under the Master Plan permit (DDES File No. A95P0105).

15. Mixed Use Master Plan Submittal Requirements

Before development can occur, a Master Plan shall be completed and approved. The following requirements apply to the process for obtaining Master Plan approval for development of the Pre-Mix site. The Master Plan application shall be subject to review and approval by DDES. The Master Plan application shall establish vehicular, pedestrian and open space connections within the entire development. These vehicular, pedestrian and open space connections and transportation mitigation's shall be binding. Approval of the Master Plan shall assure:

- a. the Mixed Use development area in its entirety meets the goals, policies and criteria of the Northshore Community Plan;*
- b. that there is adequate environmental review of the cumulative impacts of all mixed use development in Kenmore;*
- c. that there is detailed project level review of environmental impacts of the phase or phases that comprise the development application;*
- d. that there is adequate mitigation developed for the project level review;*
- e. that specific criteria of the Northshore Area Zoning and these P-Suffix conditions are met;*
- f. that each phase of development will adequately meet the expressed goals for the mixed use area, and adequately mitigate for its impacts at the time of development.*

Proposed Modifications

No modifications to this P-Suffix condition are proposed.

Applicant's Assessment of Consistency of Project with Condition

The Lakepointe project is consistent with the Master Plan submittal requirements set out in the P-Suffix condition. The applicant has submitted a Master Plan meeting the P-Suffix requirements. Consistency with the P-Suffix condition is evaluated in more detail in connection with the Master Plan permit.

Director's Evaluation

This P-Suffix condition is being evaluated under the Master Plan permit (DDES File No. A95P0105).

16. Required Elements For Master Plan and Final Development Applications

The following elements are required of the Master Plan applications in the mixed use development area. This application may include development approval for one or more phases of the entire mixed use area. The discussion of the following elements should be conceptual in nature in the preliminary master plan application, except for phases for which final development approval is sought.

- a. Environmental documents assessing project level impacts of the development. Appropriate mitigation necessary for site-specific impacts should be identified.*
- b. Housing units for all phases shall be identified by number and type for each phase including affordable housing requirements of item 10 of the area zoning. Any phase included in a final development application shall also identify location and value of housing units in that phase, if applicable.*
- c. Retail/Commercial uses for all phases shall be identified by square footage per phase. Any phase included in a final development application shall also identify major tenant types and building locations in that phase.*
- d. Office uses for all phases shall be identified by square footage. Any phase included in a final development application shall include building footprints and employment data for that phase.*
- e. Public and private facility improvements shall be identified for the entire mixed use development area. Appropriate size or capacity, location, operational characteristics and relationship should be estimated or defined in further detail as defined in other sections of the mixed use requirements.*
- f. Open space shall be identified for all phases and broken down by the amount per phase and type of facility. Specific improvements should be identified for the phase of a final development application.*

g. *Vehicular circulation and access shall be identified for all phases. Any phase included in a final development application shall include locations of driveways and parking and a plan for internal circulation.*

h. *A map and text identifying pedestrian and bicycle circulation through the entire Mixed Use Development Area is required. Major routes are identified on Map B. Major pedestrian and bicycle connections identified by King County through the staff report shall be binding for subsequent building permits, unless revised. Detailed design of facilities within any phase applying for final development approval shall be included for that phase.*

i. *The application shall include a description of how proposed mitigation for the project conforms to the requirements of the P-Suffix conditions or, if alternative mitigation is proposed, how such alternative mitigation meets the goals and intent of the P-Suffix conditions and the Northshore Plan. The mitigation plan should identify the project's actual cost of proposed mitigation and its fair share for mitigation. The County may approve such alternative mitigation if it is warranted, based on changed conditions relating to, for example, transit plans, road alignments, pedestrian connections, other planning or capital improvement changes, or infeasibility of proposed mitigation or P-Suffix conditions, and if the goals and intent of the P-Suffix conditions and the Plan are met.*

j. *An agreement identifying timing and funding of public and private funding commitments for identified capital and transit improvements shall be prepared by King County. This agreement shall also include funding commitments necessary to mitigate impacts for the phase or phases proposed in the development application. The plan shall be consistent with the P-Suffix conditions. If the application proposes funding or construction of improvements in excess of the developer's fair share, the application shall also include a plan that describes how such excess contributions can be recaptured from public or private sources and/or credited against mitigation required for development of future phases, including the waterfront extension district.*

k. *A transportation management plan shall be created for the entire site to reduce single occupancy vehicle trips related to the project. Strategies to be considered shall include transit subsidies, parking fees, and rent abatement. Mitigation's should not be required in excess of the project's overall fair share.*

l. *King County shall be required to conduct SEPA review of the Master Plan. King County and the applicant have completed the transportation analysis for the project, and the transportation-related P-Suffix conditions are based on this analysis and are intended to mitigate the impacts of the development. This transportation study will be incorporated in the SEPA review for this area zoning. Future SEPA review for the Master Plan and more specific elements of the project should rely on previously-conducted analysis where appropriate and should be scoped so as to focus review on impact areas not previously reviewed.*

Proposed Modifications

No modifications to this P-Suffix condition are proposed.

Applicant's Assessment of Consistency of Project with Condition

The Lakepointe project complies with the application requirements set out in the P-Suffix condition. The Master Plan application for the project includes the specified items. Consistency with the P-Suffix condition is evaluated in more detail in connection with the Master Plan permit.

Director's Evaluation

This P-Suffix condition is being evaluated under the Master Plan permit (DDES File No. A95P0105).

17. Subsequent Applications

The following elements are required of subsequent development applications within the mixed use development area:

a. *Developer shall make application to DDES for final development approval of portions of the site prior to actual construction. The application shall include the information identified in Section 16 above for final development plans and shall also include building elevations for review of mixed-use and pedestrian-oriented requirements of these P-Suffix conditions. The final development plan shall be approved if it is consistent with the Master Plan.*

b. *Revisions to the Master Plan may be approved by King County in connection with future development of the site, as long as the revisions to the Master Plan conform to the goals and intent of the P-Suffix conditions and the Northshore Plan.*

Proposed Modifications

No modifications to this P-Suffix condition are proposed.

Applicant's Assessment of Consistency of Project with Condition

The Lakepointe project is consistent with the P-Suffix condition relating to subsequent applications. Subsequent applications submitted in connection with the Lakepointe project will comply with the P-Suffix condition relating to subsequent applications.

Director's Evaluation

This Commercial Site Development Permit does not constitute approval of final development plans. Subsequent permits will be required before any site alteration or construction will be allowed on the Lakepointe site.

b. Natural Systems: Seasonal Clearing

A. *Seasonal restrictions. Clearing and grading shall not be permitted between October 1 and March 31. All bare ground must be fully covered or revegetated between these dates.*

B. *Exemptions. The following activities are exempt from the clearing and grading seasonal restrictions:*

1. *Emergencies that threaten the public health, safety and welfare.*
2. *Routine maintenance of public agency facilities.*
3. *Routine maintenance of existing utility structures as provided in the Sensitive Areas Ordinance, K.C.C. 21.54.030.D.*
4. *Clearing and grading where there is 100 percent infiltration of the surface water runoff within the site in approved and installed construction-related drainage facilities.*
5. *Clearing and grading where all state water quality standards are met including turbidity. SWM shall develop an administrative process before such exemptions are allowed.*
6. *Landscaping of single-family residences.*
7. *Class II and III forest practices.*
8. *Quarrying or mining within sites with approved permits.*
9. *Clearing and grading for utility hook-ups on approved residential and commercial building permits.*
10. *Completion of any final clearing/grading work for construction activities that meet all applicable permit conditions and best management practices for a period of time, not to exceed two weeks in the month of October if dry weather conditions are present.*

Applicant's Assessment of Consistency of Project with Condition

The Lakepointe project is consistent with the P-Suffix condition relating to clearing and grading. Construction of the Lakepointe project will comply with the requirements of the P-Suffix conditions relating to seasonal clearing.

Director's Evaluation

The Director agrees with the applicant's assessment of consistency of project with the condition. The Seasonal Clearing restrictions will be required as a condition of approval of this permit.

c. Natural Resource Protection Area: Sammamish River Corridor Habitat

Within the Sammamish River Corridor Habitat area as shown on the Natural Resource Protection Area map, short subdivision, formal subdivisions, and commercial permits must conduct special wildlife studies to identify Great Blue Heron nesting, roosting, and feeding areas of the site. These studies shall be done by a wildlife biologist. Any feeding habitat identified on-site must be designated as a Sensitive Areas setback area and an additional 50 foot buffer on each side of the Sensitive Areas Setback Area shall be established. Use of the 100-year floodplain for computation of site densities shall be consistent with the Sensitive Areas Ordinance. The additional 50 foot buffer may be used to calculate site densities. The additional 50 foot buffer shall be planted with dense native plant material to discourage human intrusion into floodplain and feeding areas.

Applicant's Assessment of Consistency of Project with Condition

The Lakepointe project complies with the Sammamish River Corridor Habitat requirements of the P-Suffix condition. A special wildlife study was conducted in connection with the Draft EIS. No Great Blue Heron roosting or nesting sites were identified on the site; however, the Herons may feed in the shallow water habitat along the Lake Washington shoreline and in the inner harbor. The feeding area will be buffered as provided in the P-Suffix conditions. See Draft EIS, pp. 3-50 to 3-51 (existing conditions); 3-65 to 3-67 (impacts); 3-78 (mitigation); Appendix B (wildlife study).

Director's Evaluation

The Director agrees with the applicant's proposal contained in the alternative plan sheets contained in the Sixth Submittal dated and received May 22, 1998.

The vegetated area along the Sammamish River shoreline, which averages about thirty feet in width, is considered the feeding habitat and is, therefore, the Sensitive Areas setback area. Both the feeding habitat and required 50 foot buffer overlap with, and are contained within, the 100 foot buffer required along the Sammamish River as a Class 1 stream with salmonids. The applicant's proposal to develop swales within the Sammamish River buffer to provide a means to discharge storm water is unacceptable if it requires the removal of existing, healthy native vegetation, especially trees. This condition is separate from the Landscaping: Significant Vegetation Retention P-Suffix condition. Therefore the existing, healthy vegetation that must be retained for compliance with the Natural Resource Protection Area: Sammamish River Corridor Habitat P-Suffix condition, may contain vegetation, including trees, which do not meet the definition of a significant tree in the Landscaping: Significant Vegetation Retention P-Suffix condition.

Protection of Great Blue Heron nesting, roosting and feeding habitat required by this P-Suffix condition must be developed in accordance with the wetland and riparian enhancement plan required by the Mixed-Use P-Suffix condition 9, Shoreline Enhancement, the significant vegetation retention plan required by the Landscaping: Significant Tree Retention P-Suffix condition and the buffer restoration plan required pursuant to K.C.C. 21A.24.380 for restoring a degraded stream buffer.

d. Landscaping: Significant Vegetation Retention

Significant trees shall be retained on grading permits, formal subdivisions and multifamily, commercial, industrial or institutional developments as follows until such time as equivalent or more stringent countywide regulations are adopted.

1. *All significant trees located within required perimeter landscaping area;*
2. *Five percent of the significant trees in the remaining site area including Sensitive Area Setback Areas, of a commercial or industrial development;*
3. *Ten percent of the significant trees in the remaining site area including Sensitive Area Setback Areas, of a formal subdivision, or institutional development;*

4. Ten percent of the significant trees on individual lots for single detached dwelling, if any portions of such lot contains erosion hazard areas.

5. Utility developments shall be exempt from the tree retention requirements of this chapter;

6. Fifty percent of the significant trees within sensitive areas or surface water management bio-filtration system areas may be used to satisfy the tree retention requirement;

7. Except as provided in subsection H, significant trees to be retained shall not include significant trees that are:

(a) Damaged or diseased;

(b) Safety hazards due to potential root, trunk or limb failure.

8. At the discretion of King County, damaged or diseased or standing dead trees may be counted toward the significant tree requirement if the applicant demonstrates that such trees will provide important wildlife habitat.

A. Significant tree retention plan. A tree retention plan shall be submitted concurrent with a grading or building permit or preliminary subdivision application, whichever is reviewed and approved first. The tree retention plan shall consist of:

1. A tree survey that identifies the location, size and species of all significant trees on a site. The tree survey:

(a) Shall not include significant trees that are:

(1) Damaged or diseased;

(2) Safety hazards due to potential root, trunk or limb failure.

(b) May be conducted using standard timber cruising methods to reflect general locations, numbers and grouping of significant trees.

(c) Shall show the location and species of each significant tree of 18 inches or greater in diameter, regardless of survey method used.

2. A development plan identifying the significant trees that are proposed to be retained, transplanted or restored.

3. For subdivisions with individual lots containing erosion hazard areas, the face of the plat map shall further stipulate for such lots that development plans consistent with KCC 21.14.130. are to be submitted by each lot owner at the time of development, if lot clearing is to be deferred until individual lot development occurs.

B. Incentive Criteria for retaining significant trees. Each significant tree that is retained and located outside of the area for perimeter landscaping, sensitive areas and Sensitive Area Setback Areas, and that meets one or more of the following criteria may be credited as two trees in complying with the retention requirement of this chapter:

1. Exceeds 60 feet in height or 24 inches in diameter;

2. Located in groupings of at least five trees with canopies that touch or overlap;

3. *Provides energy savings through winter wind protection or summer shade due to their location relative to buildings;*

4. *Belongs to a unique or unusual species of native or non-native tree not usually found locally; or*

5. *Are located within 25 feet of any required Sensitive Area Setback Area.*

C. *Protection of Significant Trees. To provide the best protection for significant trees:*

1. *No clearing shall be allowed on a site until approval of tree retention and landscape plans.*

2. *A limit of disturbance generally corresponding to the drip line of the significant tree shall be identified during the construction stage with either a:*

(a) *Temporary five-foot high fence, or*

(b) *Line of five-foot high, orange colored two-by-four inch stakes placed no more than ten feet apart.*

3. *No impervious surfaces, fill, excavation, or storage of construction materials shall be permitted within the area defined by such fencing or stakes.*

4. *A rock well shall be constructed if the grade level around the tree is to be raised by more than one foot. The inside diameter of the well shall be equal to the diameter of the tree trunk plus five feet.*

5. *The grade level shall not be lowered within the larger of the two areas defined as follows:*

(a) *The drip line of the tree(s), or*

(b) *An area around the tree equal to one foot diameter for each inch of tree trunk diameter measured four feet above the ground.*

6. *Alternative protection methods may be used if determined by the manager to provide equal or greater tree protection.*

7. *If significant trees as described in KCC 21.14.160.A and B were previously located in a closed, forested situation, an adequate buffer of smaller trees shall be retained or replaced on the fringe of such significant trees.*

D. *Restoration of significant trees. When the required number of significant trees cannot be retained, significant trees that are removed shall be restored with:*

1. *Transplanted significant trees;*

2. *New trees measuring three inch caliper or more at a replacement rate of one and one-half (1.5) square inches for every one square inch of basal area; or*

3. *New trees measuring less than three inch caliper at a replacement rate of two square inches for every one square inch of basal area.*

E. *Performance bonds or other appropriate security (including letters of credit and set aside letters) shall be required for a period of one year after the planting or transplanting of vegetation.*

F. *Definition of significant tree:*

Significant tree: an existing healthy tree which, when measured four feet above grade, has a minimum diameter of:

1. *Eight inches for evergreen trees,*

2. *Twelve inches for deciduous trees, or*

3. *A grouping of 3 or more existing trees, each having a diameter of at least 3" measured at 4' above grade, may be substituted for each required significant tree.*

Applicant's Assessment of Consistency of Project with Condition

The Lakepointe project complies with the significant vegetation requirements of the P-Suffix condition. The site contains approximately 165 significant trees in the shoreline area. The project removes three significant trees. The removal of those trees will not significantly impact habitat because the majority of the existing trees along the shoreline are retained and available for perching and shading. The project retains the three cottonwood trees located within the vegetated strip along the shoreline that meet the Department of Fish and Wildlife's definition of potential eagle perch trees. The project includes new plantings in buffer areas. Draft EIS, pp. 3-48 (existing conditions); 3-64 to 3-65 (impacts); 3-78 (mitigation measures).

Director's Evaluation

The Director agrees with the applicant's assessment of the project's compliance with this P-Suffix condition provided that only three significant trees are to be removed. These three trees are located along the Lake Washington shoreline near the proposed Amphitheater and are identified on the Grading Plan Sheet L1.1 (Alt.). The significant tree retention plan required by this P-Suffix condition must be developed in accordance with the wetland and riparian enhancement plan required by the Mixed-Use P-Suffix condition 9 Shoreline Enhancement, and the buffer restoration plan required pursuant to K.C.C. 21A.24.380 for restoring a degraded stream buffer. In addition, these plans must be coordinated with the Natural Resource Protection Area: Sammamish River Corridor Habitat P-Suffix which requires the protection of Great Blue Heron nesting, roosting and feeding areas.

3. P-Suffix Conversion Project

In 1995 King County adopted zoning classifications to implement the new zoning code (Title 21A) and the 1994 King County Comprehensive Plan. The first phase of this zoning conversion from Title 21 (the original zoning code adopted in 1963) to Title 21A carried forward many of the existing P-Suffix conditions for consideration under the new zoning code. Ordinances 12822, 12823 and 12824, adopted on August 18, 1997, completed the second phase of the zoning code conversion to Title 21A by repealing, replacing or converting all existing P-Suffix conditions.

Applicants with projects vested prior to the phase two zoning code conversion have been given the option to use the amended or repealed P-Suffix conditions if the director of DDES determines that the amended P-Suffix or new development regulations provides equivalent development standards or conditions as the development regulations to which the project is vested, and that the applicant agrees to waive the statutory permit review time frame.

The P-Suffix conditions for the Lakepointe site have been carried forward with few modifications. The applicant has not requested the option to utilize the amended or repealed P-Suffix conditions adopted under the phase two P-Suffix conversion project.

4. Quality Urban Environment (QUE) Demonstration Project

The Lakepointe site has been designated a Demonstration Project Area under the Quality Urban Environment (QUE) Demonstration Project. The QUE Demonstration Project is a mechanism to test and evaluate alternative development standards and processes prior to amending King County policies and regulations.

Alternative development standards reviewed under a QUE Demonstration Project permit might include standards affecting building and/or site design requirements, while alternative processes might include permit review prioritization, alternative review and revision scheduling, or staff and peer review practices.

The deadline for submitting an application for a QUE Demonstration project was December 31, 1997, however the director may extend the date for filing a QUE Demonstration Project permit for a maximum of a single one year period. The applicant did not submit an application for a QUE Demonstration Project permit and is not proposing to utilize this project through the Commercial Site Development Permit.

E. DEVELOPMENT STANDARDS AND MITIGATION MEASURES

1. Sensitive Areas/Marina

a. General Requirements

The applicant must comply with all provision of the Sensitive Areas Ordinance as outlined in K.C.C. 21A.24, including, but not limited to, providing a 15-foot building setback from the edge of all sensitive areas buffers, as required pursuant to K.C.C. 21A.24.200; sensitive areas markers, signs and fencing, as required pursuant to K.C.C. 21A.24.160; Notice on Title of the existence of sensitive areas and buffers on site, as required pursuant to K.C.C. 21A.24.170; and financial guarantees, as required pursuant to K.C.C. 21A.24.140.

b. Wetlands

A long, narrow wetland about 0.25 acres in size extends along the Lake Washington shoreline abutting the site. This wetland would be classified as a Palustrine forested/scrub-shrub wetland, and would be a Class 2 wetland regulated under the King County Sensitive Areas Ordinance requiring a 50-foot undisturbed buffer and a 15-foot building setback.

A second wetland is located in the far southeast corner of the site near the 68th AVE NE bridge. The wetland totals about 1.5 acres in size, but only about 0.006 acres are located on the Lakepointe site. This wetland would be classified as a Palustrine wetland, and would also be a Class 2 wetland regulated under the King County Sensitive Areas Ordinance requiring a 50-foot undisturbed buffer and a 15-foot building setback.

The proposed Amphitheater and portions of the Waterfront Promenade/Emergency Fire Lane extend into the wetland buffer and building setback along the wetland adjacent to Lake Washington. K.C.C.

21A.24.320 allows buffer averaging “if it will provide additional protection to wetlands or enhance their functions, as long as the total area contained in the buffer on the development proposal does not decrease.” The applicant will be required to submit a buffer averaging plan at the time of development permit review to demonstrate that the buffer averaging proposal complies with K.C.C. 21A.24.320. The wetland buffers, which are currently degraded because of the industrial development on the site, will be required to be restored pursuant to K.C.C. 21A.24.340 and the Mixed-Use P-Suffix Condition 9, Shoreline Enhancement.

c. Sammamish River Shoreline

The Sammamish River is classified as a Class 1 stream under the King County Sensitive Areas Ordinance requiring a 100-foot buffer and a 15-foot building setback. The Lakepointe proposal includes pathways and interpretative trails within the Sammamish River buffer. In addition, several landscaped lawn areas are located within the buffer.

K.C.C. 21A.24.360 allows buffer averaging “if it will provide additional natural resource protection, as long as the total area contained in the buffer on the development proposal does not decrease.” The applicant will be required to submit a buffer averaging plan at the time of development permit review to demonstrate that the buffer averaging proposal complies with K.C.C. 21A.24.360. The stream buffer, which is currently degraded because of the industrial development on the site, will be required to be restored pursuant to K.C.C. 21A.24.380 and the Mixed-Use P-Suffix Condition 9, Shoreline Enhancement.

The applicant is proposing to construct swales within the buffer as a means to discharge storm water to the Sammamish River and “to provide enhanced habitat and aesthetic improvement” to the shoreline. The King County Sensitive Areas Ordinance does not allow the construction of swales within sensitive areas buffers for storm water discharge. When storm water is being discharged to a stream, it must be conveyed through a buried pipe through the buffer.

The Commercial Site Development Permit plan sheets showing development along the Sammamish River include two versions of the same plan sheet: one shows the swales within the buffers and a more extensive trail system, and the other sheets, labeled “(Alt.)” do not show the swales and have a different trail system. The Director is approving the “(Alt.)” version of these plan sheets. Therefore the following Plan sheets, in their entirety, contained in the Sixth Submittal dated and received May 22, 1998 are not approved:

Plan Sheet A2.0	Master Plan Working Model
Plan Sheet A2.1	Site Characteristics
Plan Sheet A2.3a	Primary Site Circulation
Plan Sheet A2.3c	Barrier Free Access Details
Plan Sheet C1.1	Grading Plan
Plan Sheet L1.0	Conceptual Landscape Master Plan
Plan Sheet L1.1	Grading Plan
Plan Sheet L1.2	On-Site Recreation Plan

In addition, the “stream confluences, small island and wetland deltas” discussed in technical reports and shown on earlier submittals of the Commercial Site Development Permit are not approved.

d. Lake Washington Shoreline

An Amphitheater, including a stage area, and the public promenade/emergency firelane are located within the 100-foot shoreline of Lake Washington. Acceptability of these land uses will be reviewed under the Shoreline Permit (DDES File No. L96SH107).

A large amount of debris has been dumped in the water along the Lake Washington shoreline adjacent to this site. In order to improve the shoreline to "enhance water quality and wildlife and marine habitat", as required by the Mixed-Use P-suffix condition 9, Shoreline Enhancement, this debris must be removed. The applicant will be required to remove the debris located on the Lakepointe property and will be encouraged to work with neighboring property owners to achieve a complete clean-up. A shoreline restoration special study report and plan for the Lake Washington shoreline must be submitted for review and approval which would include a plan for removal of the debris on the Lakepointe property and revegetation of the shoreline. To protect the restored shoreline, navigation buoys will be required to be placed in the water to alert boaters of the presence of a sensitive near shore wetland and salmon habitat.

e. Sensitive Area Buffer Trails and Landscaped Areas

The Northshore Community Plan P-Suffix conditions contain a number of requirements to provide public access to the shorelines. Specifically, Mixed-Use P-Suffix condition 8. Public Viewpoints ; Mixed-Use P-Suffix condition 9. Shoreline Enhancement; and Mixed-Use P-Suffix condition 14.c.(1)(o) Phasing Requirements all require some form of viewpoints or access to the Sammamish River and Lake Washington shorelines. (See above for exact wording of the P-Suffix conditions.)

K.C.C. 21A.24.370 allows public and private trails within stream buffers and K.C.C. 21A.24.330 allows public and private trails within wetland buffers if designed in accordance with the King County Sensitive Areas: Public and Private Trails Public Rule. This Public Rule, promulgated in accordance with K.C.C. 2.98, requires that public and private trails be located in the outer one-third of a wetland or stream buffer, however viewing platforms need not be within the outer third of the buffer. Also, trails must be aligned so that regulated trees are not cut or removed. Compliance with this Public Rule will require some modification to the On-Site Recreation Plan (Sheet L1.2 (Alt.)).

The applicant and King County staff agreed that three wildlife trails and viewing platforms extending into the Sammamish River buffer were acceptable, provided impacts to wildlife and marina habitat were minimized. The Sixth Submittal of the Commercial Site Development Permit dated and received May 22, 1998 contains an On-Site Recreation Plan (Sheet L1.2) and an alternative On-Site Recreation Plan (Sheet L1.2 (Alt.)). The difference between the two plans is that the alternative plan has removed the trails within the Sammamish River buffer on the western third of the shoreline, as well as the storm water swales discussed above.

Additional trails shown on both Plan Sheet L1.2 and L1.2 (Alt.) as cross-hatched and labeled "Additional Revised Pathway" were added after the applicant and King County had agreed conceptually on the buffer trail and view platform design. King County is willing to allow some of

these additional trails if the looped buffer trail on the western third of the Sammamish River buffer is removed along with some of the "Lawn Area" which is located within the Sammamish River buffer. Therefore the Sammamish River buffer trails and view platforms identified on the alternative On-Site Recreation Plan (Sheet L1.2 (Alt.)) dated and received May 22, 1998 are conceptually approved, provided the 4,500 square foot Lawn Area located within the loop trail just north of the goose nesting easement is removed. A trail connection may be allowed back to the Public Promenade/Emergency Firelane, as hand drawn on the On-Site recreation Plan (Sheet L1.2 (Alt.)). The On-Site Recreation Plan (Sheet L1.2) is not acceptable. The trails and "Lawn Area" on all other Plan Sheets must be consistent with the trails and "Lawn Area" identified on the On-Site Recreation Plan (Sheet L1.2 (Alt.)).

f. Marina

The marina on the south side of the inner harbor is included in the Commercial Site Development Permit. Development of the north side of the marina is proposed to occur at a later date and is included in the Shoreline Substantial Development Permit. The marina on the south side of the inner harbor consists of one fixed dock with two pile-supported wharf structures and fixed access ramps. The wharf structures will provide public lookout platforms for views of Lake Washington. A floating dock is also provided. Approximately twenty-seven boat slips are proposed with slip lengths ranging from forty-five to one hundred feet in length. This would accommodate approximately thirty-four thirty-foot, or longer, boats.

The inner harbor is along the migration route of fish that spawn in the Sammamish River and Cedar River watersheds. Since migrating fish tend to follow along the shoreline rather than taking the most direct route, it is estimated that millions of fish pass through the mouth of the Sammamish River and the inner harbor on their way through the ship channel to Puget Sound. The Supplemental Environmental Impact Statement has identified a number of impacts to fisheries resources as a result of the development of the marina. Specifically, the development of over-water structures, which creates shading for non-native predator fish. To mitigate this impact, the use of grating or glass prisms to achieve 50% light passage on all docks will be required. In-water pilings also attract predator fish so the marina will be designed to use a minimum number of pilings and many existing pilings will be removed for an overall net loss of in-water pilings. In addition, if floating docks are separated by between 10 to 15 feet from the fixed wharf, the prey fish would be outside of the striking range of a predator fish. The distance of separation will be determined at the time of HPA permit review and approval. A near shore restoration plan for the inner harbor will be required that eliminates the use of quarry spalls, which are unacceptable habitat.

To protect water quality, a waste holding tank pump station must be provided and liveaboards will be prohibited in the marina. Many of the amenities normally found at public marinas, such as showers and cable television, will not be allowed to also help assure that liveaboards are not allowed. Also, no underwater cleaning of any boat will be allowed in the inner harbor.

g. Geologic Hazards

The potential geologic hazard issues for this site, as defined by King County Code and identified through the studies prepared for the Supplemental Environmental Impact Statement, are primarily related to settlement and lateral spreading of soils due to seismic liquefaction, soil settlement due to the consolidation of fill and peat soils, shallow-seated slope movement in shoreline areas and soil erosion during construction phases.

K.C.C. 21A.24 establishes the requirements for mitigation or elimination of these hazards before a construction permit can be issued. Because the Commercial Site Development Permit is only approving a conceptual design, and does not have detailed construction plans, these hazards will be addressed at the time of building permit review when actual designs have been prepared.

2. Transportation

a. Trip Generation

The Lakepointe property was granted Regional Business zoning in 1994 based on a transportation analysis which assumed that development on the site would generate approximately 14,200 average daily trips. The Lakepointe Master Plan has been credited with trip reductions based on the provision of transit mitigation and senior housing in an effort to keep trips generated below the assumed daily average of 14,200. The number of trips proposed for the Commercial Site Development Permit is 12,700 new trips, slightly below the assumed trip generation. If adequate mitigation is provided, including encouraging residents and patrons of the Lakepointe site to use transit rather than personal vehicles, and if it can be guaranteed that the number of senior dwelling units assumed at the time of building permit approval will be maintained as senior housing in perpetuity, it is expected that the Lakepointe development will not exceed 14,200 average daily trips.

A Transportation Management Plan (TMP) is required to be created for the entire site to reduce single occupancy vehicle trips. The strategies to be considered are transit subsidies, parking fees and rent abatement for people working and living on the site.

Once the commercial development is constructed, a Commute Trip Reduction Plan may be required pursuant to K.C.C. 14.60 to reduce the vehicle miles traveled per employee and the single occupancy vehicle rate. Affected employers will be required to submit a Commute Trip Reduction program to show how they will comply with these regulations.

b. Roadway Capacity

The intersections of SR 522/68th AVE NE and SR 522/SR 104 are projected to operate at LOS F in the AM and PM peak hours in the year 2005, even without the development of the Lakepointe proposal. No additional capacity can be created at these intersections without major right-of-way acquisitions and disruption of local businesses. Construction of Lakepointe Way NE will divert traffic away from SR 522/68th AVE NE, thus reducing the project impacts at that intersection. At the same time, however, additional stop lights at Lakepointe Way NE/68th AVE NE and Lakepointe Way NE/SR 522 will add to existing queuing backups. Turn lanes, signal timing and other road improvements will be required to address the queuing delays.

c. Road Design Standards

Lakepointe Way NE would be a new 4-lane principal arterial connecting NE Bothell Way to 68th AVE NE to serve as a bypass around the intersection of NE Bothell Way and 68th AVE NE. The right-of-way would be approximately 120 wide and would have two lanes in each direction, turn lanes at intersections and a planted median strip. The western end of this street near 65th AVE NE and NE Bothell Way would be elevated to pass over NE 175th Street and the Burke-Gilman Trail, which would both need to be lowered by approximately three feet. Lakepointe Way NE would intersect with 68th AVE NE approximately 300 feet south of the current NE 175th Street intersection. The intersection of NW 175th Street and 68th AVE NE would remain.

NE Lakepointe Boulevard will be the primary vehicular access to the development. This 1,200-foot long street would feature two lanes in each direction, access to and from parking garages for residential and commercial uses, a planted median, on-street parking and three traffic circle features. While NE Lakepointe Boulevard would not function as a Principal Arterial, it most closely resembles a Principal Arterial based on its design. Therefore NE Lakepointe Boulevard would be required to be designed to Principal Arterial standards, although variances would be required.

NE 175th Street is currently classified as a Principal Arterial in the King County Arterial Plan, but the design most closely resembles a Collector Arterial due to the anticipated volumes of traffic. Therefore NE 175th Street will be required to be constructed to Collector Arterial standards.

The internal streets may be constructed as private streets and will be designed in accordance with the King County Road Standards.

d. Road Improvement Funding

The applicant is exploring mechanisms for financing the construction of Lakepointe Way NE, NE Lakepointe Boulevard and other transportation improvements, which are estimated to total more than \$29 million. The options that have been discussed are establishment of a Road Improvement District (RID), the creation of a Transportation Benefit District (TBD) or financing through tax-exempt bonds issued by the King County Economic Enterprise Corporation.

In order for an RID to be established, it would have to be approved by the Metropolitan King County Council prior to incorporation by the City of Kenmore. A Transportation Benefit District (TBD) could be established by either King County or the City of Kenmore, before or after incorporation, with an interlocal agreement between the two. Either type of district would allow public funds to be used for roadway improvements and would make provision for assessing property owners who benefit from the roadways. The tax-exempt bonds would result in the least amount of financial liability for the County but is the least attractive for the applicant, who must secure interim financing for the road improvements.

The approval of the Commercial Site Development Permit is not contingent on the applicant securing financing for the road improvements. This section is included for informational purposes only.

3. Storm Water Design and Construction Standards

a. General Design

At full buildout of the site, approximately 27 acres, or 60 percent, would be developed with impervious surfaces. All runoff generated by the proposed impervious surfaces would be collected and treated (through oil/water separators, two-celled ponds, or sand filtration/biofiltration swales) by a storm drainage system. The two-celled pond is proposed to be located on the north side of the site just west of the existing sanitary sewer pump station. No on-site storm water detention will be required. After treatment in the two-celled pond and biofiltration systems, storm water would be discharged at three locations along the Sammamish River shoreline and one location at the eastern end of the inner harbor. All storm water outfalls will be protected from erosion through a combination of armoring and hydraulic energy dissipating devices.

While K.C.C. 21A.41.110 allows some modification to an approved Commercial Site Development Permit, a modification is allowed if it does not increase the total impervious surface area. Therefore any increase in impervious surface area will require a new Commercial Site Development Permit.

b. Draft Surface Water Drainage Manual Variance

A variance request was submitted on January 16, 1997 to Section 1.2.3 – Biofiltration; Section 1.3.5 – Special Water Quality Controls; and Section 1.2.4.3 – Conveyance System of the February 1996 Draft Surface Water Design Manual (DDES File No. B97A0214). The variance request is to utilize the proposed water quality design standards of the draft Manual, which will provide the water quality treatment equivalent of the standards in effect when the Commercial Site Development Permit application was submitted, but with more site specific flexibility. In addition, the variance request is to utilize pump stations in lieu of a gravity storm drainage system which would allow pipes to be at a shallow depth to avoid construction in contaminated soils.

c. Toxic Waste Provisions

In 1992 the Washington State Department of Ecology (DOE) issued a Site Hazard Assessment report for the Lakepointe site resulting in a ranking of 1 (highest) on the Site Hazard Assessment List as a result of contamination from the years of industrial activities on the site. A further discussion of this issue is contained in the Model Toxics Control Act section of this report. The investigation and cleanup of contaminated sites is governed by the Washington State Model Toxics Control Act (MTCA) (RCW 70.1050) and overseen by the Washington State Department of Ecology (DOE).

At this time, little is known about the proposed site remediation plan. Therefore modifications to the Commercial Site Development Permit may be necessary when the details of the site remediation are available. Modifications needed to bring the approved Commercial Site Development Permit into conformance with the MTCA Remediation Plan which exceed the scope of approved modifications to a Commercial Site Development Plan pursuant to K.C.C. 21A.41.110 shall require a new Commercial Site Development Permit.

4. Site Development Standards

a. Permitted Uses

The Lakepointe Mixed Use Development can include any allowable use in the Regional Business zone, with the exception of those uses prohibited under the Northshore P-Suffix condition Mixed-Use Pedestrian Oriented Areas. The Commercial Site Development Permit is not proposing any uses that are not allowed in the Regional Business zone or prohibited by the Northshore P-Suffix conditions. Full compliance with the permitted uses will be determined at the time of building permit review and approval when specific information is available on the proposed uses of each building.

b. Density and Dimensions

King County Code 21A.12.040 establishes a base height for structures in the Regional Business zone at 65 feet for mixed use developments. However structures may exceed the base height when portions of the structure building which exceed the base height limit provide one additional foot of street and interior setback for each foot above the base height limit.

All of the buildings proposed on the Lakepointe Site, which are located outside of the shoreline jurisdiction, exceed the base height of the Regional Business zone, but they have failed to meet the required additional street and/or interior setback. Therefore the buildings must either be reduced in height or redesigned to meet the required setback. The redesign may include stepping to setback only the portions of the buildings that exceed the building base height. In addition, the "10 foot maximum roof element" shown on The Commercial Site Development Permit Plan Sheet A2.8 Envelope Criteria Sections dated and received May 22, 1998 is not acceptable as it would allow an additional 10 feet of building height.

For buildings on the Lakepointe Site located within the shoreline jurisdiction, the base height is 35 feet, except that K.C.C. 25.16.030.B allows buildings to exceed that height if "the view of a substantial number of residences will not be obstructed, if permitted by the applicable provisions of the underlying zoning, and if the proposed development is agricultural, water related or water dependent."

The buildings on the Lakepointe Site that are within the shoreline jurisdiction meet the underlying zoning base height of 65 feet for mixed use developments in the Regional Business zone. The building height restrictions of the shoreline jurisdiction will be reviewed under the Shoreline Substantial Development Permit (DDES File No. L96SH107).

There is a conflict between the building height limits shown on the Envelope Criteria Proposed Sheet A2.6, which shows that building heights within two hundred feet of the Sammamish River will not exceed thirty-five feet, and the Sections Sheet A3.1 and A3.2, which show buildings within two hundred feet of the Sammamish River exceeding thirty-five feet. The Final SEIS evaluated environmental impacts based on building heights not exceeding thirty-five feet along the Sammamish River. Therefore the Commercial Site Development Permit approves building heights not to exceed

thirty-five feet within two hundred feet of the Sammamish River. If subsequent building permits include buildings exceeding thirty-five feet within two hundred feet of the Sammamish River, additional environmental review will be required and a revision to the Shoreline Permit will be required.

Several of the buildings on the Lakepointe Site do not appear to meet the minimum street setback of 10 feet in the Regional Business zone. The Mixed-Use P-Suffix condition 2. Building Development sets a maximum street setback of 5 feet along the primary pedestrian street; larger setbacks are allowed if arcades, street-side outdoor cafes, parks, plazas, or other public spaces are provided along the street. While K.C.C. 21A.38.030 states that "Property-specific development standards (P-Suffix) shall not be used to expand permitted uses or reduce minimum requirements of this title", requiring a maximum setback through a P-Suffix condition to achieve a pedestrian oriented development is not viewed as reducing the minimum requirements of Title 21A related to street setbacks. Therefore the buildings fronting on the main pedestrian streets must observe the setback requirements of the Mixed-Use P-Suffix condition 2 for Building Development. Buildings not fronting on the main pedestrian streets must meet the setback requirements of K.C.C. 21A.12. Full compliance with the density and dimension standards of K.C.C. 21A.12 will be determined at the time of building permit review and approval and may require a modification of the Commercial Site Development Permit.

The Commercial Site Development Permit plan sheet A2.2 (Site Statistics) demonstrates that conceptually, the proposed Lakepointe Commercial Site Development Permit meets the requirements of both K.C.C. 21A.12 and the Northshore P-Suffix conditions for residential density. Full compliance with the residential density requirements will be determined at the time of building permit review and approval and may require a modification of the Commercial Site Development Permit.

c. Parking

The Mixed-Use P-Suffix condition 3 - Parking sets a maximum parking ratio of one space for every 400 square feet of floor area in the waterfront, waterfront extension, and residential subdistricts and a minimum parking requirement of one space for every 300 square feet of floor area in the neighborhood commercial subdistrict. K.C.C. 21A.18 establishes the minimum parking spaces required based on the land use proposed. For some land uses there is a conflict between the maximum parking allowed by the P-Suffix condition and the minimum parking spaces required by K.C.C. 21A.18.

When the entire site is reviewed as a comprehensive, integrated pedestrian development, the Commercial Site Development Permit is consistent with both K.C.C. 21A.18 and the P-Suffix conditions. K.C.C. 21A.18 would require a minimum of 4,338 parking spaces and the P-Suffix ratios would set a maximum of 4,609. The Commercial Site Development Permit is proposing to construct 4,464 parking spaces, which meets the minimum number of spaces required by K.C.C. 21A.18 and does not exceed the maximum allowed by the P-Suffix condition.

However, within the Waterfront subdistrict, the proposal fails to meet the minimum parking required by K.C.C. 21A.18 but at the same time exceeds the maximum allowed by the P-Suffix condition.

Obviously there is a conflict between the two regulations. K.C.C. 21A.18.030.B states that "An applicant may request a modification of the minimum number of parking spaces by providing that parking demand can be met with a reduced parking requirement. In such cases, the director may approve a reduction of up to 50 percent of the minimum required number of spaces." The applicant is proposing to establish approximately 85% of the minimum parking spaces required by K.C.C. 21A.18, which is acceptable by the Director. The number of proposed parking spaces within the Waterfront subdistrict will exceed the maximum allowed by the P-Suffix by about 100 spaces or less than 1%, which is not viewed as a significant disparity.

d. Pedestrian and Bicycle Circulation

The Commercial Site Development Permit plan sheet A2.3a (Alt) - Primary Site Circulation, dated and received May 22, 1998 demonstrates that conceptually, the proposed Lakepointe Commercial Site Development Permit meets the requirements of K.C.C. 21A.18 for pedestrian and bicycle circulation and access. Pedestrian walkways are not shown on the Commercial Site Development Permit Plan Sheet A2.3a (Alt.) Primary site Circulation along NE Lakepointe Boulevard, although the cross-section of this street shown on Plan Sheet L1.3 Roadway/Surface Parking Plans and Sections shows a 10-foot wide pedestrian walkway as does the roadway cross-section for NE Lakepointe Boulevard in the Design Guidelines (December 23, 1996, page 13). Pedestrian walkways will be required along the full length of NE Lakepointe Boulevard. Full compliance with the pedestrian and bicycle circulation requirements will be determined at the time of building permit review and approval and may require a modification of the Commercial Site Development Permit. Plan sheet A2.3a is not approved because it shows the additional trails within the western third of the Sammamish River buffer. See discussion regarding Sensitive Area Buffer Trails and Landscaped Areas in this report.

e. Recyclables

The proposed Lakepointe Commercial Site Development Permit has not shown how the proposal will meet the requirements for storage space and collection points for recyclables as required by K.C.C. 21A.14.210. Compliance with these provisions will be determined at the time of building permit review and approval.

f. Building Façade Modulation

The proposed Lakepointe Commercial Site Development Permit has not shown how the proposal will meet the requirements for building façade modulation as required by K.C.C. 21A.14.090. Compliance with these provisions will be determined at the time of building permit review and approval.

g. Mixed Use Developments – Percentages of Residential Uses

K.C.C. 21A.14.110 allows a maximum of seventy-five percent of the total building floor area for residential uses in mixed use developments in the Regional Business zone. The Lakepointe Commercial Site Development Permit proposes approximately 1,844,215 square feet of building

floor area, of which 1,200,000, or about sixty-five percent is for residential. Full compliance with these provisions will be determined at the time of building permit review and approval.

h. Mixed Use Developments – Building Floor Area

K.C.C. 21A.14.130 allows a building floor area ratio of 4.0/1 in the Regional Business zones in a mixed use development which utilizes at least 50 percent of its floor area for residential uses. The Lakepointe Commercial Site Development Permit site is 45 acres, which will allow up to 7,840,800 square feet of floor area (Calculation: 45 acres x 43,560 square feet per acre x 4 = 7,840,800 square feet). The proposal is for approximately 1,844,215 square feet of floor area. Full compliance with these provisions will be determined at the time of building permit review and approval.

i. Landscaping

The Lakepointe Commercial Site Development Permit Plan Sheet L1.0, Conceptual Landscape Master Plan, is not acceptable as designed because it includes the proposal for conveying storm water runoff through swales within the sensitive areas buffer along the Sammamish River shoreline, which is not allowed under the King County Sensitive Areas Ordinance.

Additional trails shown on both Plan Sheet L1.0 and L1.0 (Alt.) as cross-hatched and labeled “Additional Revised Pathway” were added after the applicant and King County had agreed conceptually on the buffer trail and view platform design. King County is willing to allow some of these additional trails if the looped buffer trail on the western third of the Sammamish River buffer are removed along with some of the “Lawn Area” which is located within the Sammamish River buffer. Therefore the Sammamish River buffer trails and view platforms identified on the alternative Conceptual Landscape Master Plan (Sheet L1.0 (Alt.)) dated and received May 22, 1998 are conceptually approved, provided the 4,500 square foot Lawn Area located within the loop trail just north of the goose nesting easement is removed. A trail connection may be allowed back to the Public Promenade/Emergency Firelane, as hand drawn on the On-Site Recreation Plan (Sheet L1.2 (Alt.)). The Lakepointe Commercial Site Development Permit Plan Sheet L1.0, Conceptual Landscape Master Plan, is not approved.

The Lakepointe Mixed-Use Development parking lots must provide trees at the edge of every parking row adjacent to the traveled lane, as proposed on the Commercial Site Development Permit Plan Sheet A2.9a, dated and received May 22, 1998, as a justification for an alternative parking lot design. In addition, a landscaped area for shrubbery and ground cover must be provided perpendicular to the parking rows at an interval of no less than every six stalls. The proposed landscaping identified on Plan Sheet L1.3 must be provided, including that shown in the typical (plan view and cross-section) for landscaping along NE Lakepointe Boulevard and Lakepointe Way NE.

If there is a conflict between the landscaping requirements of K.C.C. 21A.16 and the proposed landscaping contained in the Commercial Site Development Permit, the more restrictive shall apply. When a phase of development proposes to accommodate a portion of the required parking in a surface lot located on a building pad reserved for a future phase, landscaping consistent with K.C.C.

21A.16 or this permit, whichever is more restrictive, must still be provided. No relief from these standards shall be allowed in anticipation of future development.

j. Signs

Signs within the Lakepointe Mixed Use Development shall conform with the sign provisions for the Regional Business zone, as established in K.C.C. 21A.20. One additional residential identification sign not exceeding 32 square feet is allowed for mixed use developments. DDES interprets this provision of the code to allow one additional sign not exceeding 32 square feet for each building that contains residential units is allowed, not one additional residential sign for the entire Lakepointe development.

k. Noise

KCC 12.88 through 12.100 regulates noise based on the districts or land use zones of the noise source and the receiving location. The most stringent rules apply to sound levels received by residential uses. Sound levels received on residential sites from commercial sites must not exceed 57 dBA during the day and 47 dBA at night, and noise levels from industrial sites must not exceed 60 dBA during the day and 50 dBA at night. Noise from seaplanes is regulated similar to watercraft, except for "Noise from aircraft in flight" as defined by the FAA and King County. Sound levels impacting residential sites originating from watercraft must not exceed 74 dBA during the day and 64 dBA at night. Noise originating from traffic traveling on public roads and from temporary daytime construction activities are exempt from these maximum permissible sound levels.

Residents in the Kenmore community and on the Lakepointe site will be subjected to noise from several sources with implementation of the Lakepointe mixed-use development project -- construction noises including pile driving, use of heavy equipment, and transport of construction materials; industrial activities at the Kenmore Pre-Mix site; traffic noise from SR 522 and 68th Ave NE; and seaplane operations at the Kenmore Air Harbor. The Environmental Impact Statement (EIS) for the Lakepointe proposal indicates that noise levels from all of these sources will exceed the maximum permissible sound levels. While construction and traffic noise are exempt from KCC standards, the predicted sound levels identified in the EIS from these as well as other sources are sufficiently high to warrant mitigation. Therefore the permitting agency shall have the option of requiring the following mitigation measures:

- (1) During each phase of construction, when building permits are submitted for review and approval, an analysis shall be performed by an acoustical consultant to assess the impacts to specific residential units, both on the site and off site. Based on that analysis, (a) construction shall be sequenced and conducted in a manner that will reduce interior noise in occupied residential units to acceptable residential levels during construction, and (b) residential units proposed for construction shall be designed and construction materials provided to reduce interior noise to acceptable residential levels during construction and after project buildout. "Acceptable" may be defined as sound levels established by the EPA guidelines or by the Federal Highway Administration standards (see Draft Supplemental EIS, Chapter 3).

- (2) Any of the mitigation measures listed in Chapters 1 and 2 of the Final Supplemental EIS or Chapter 3 of the Draft Supplemental EIS.
- (3) Other mitigation measures identified by the permitting agency as warranted.

5. Building Code Standards

a. Uniform Building Code

The Lakepointe Commercial Site Development Permit was conceptually reviewed under the 1994 Uniform Building Code, as amended by KCC 16.04. However KCC 21A.41.070C states "Approval of the proposed site development shall not provide the applicant with a vested right to build without regard to subsequent changes in the building and fire codes listed in KCC 16.04 and 17.04 regulating construction." Therefore subsequent permits will be reviewed under the Uniform Building Code in effect as of the date a complete application is filed.

b. Barrier Free Accessibility

RCW 70.92 establishes minimum standards for buildings and structures to accommodate the physically disabled and elderly persons. The applicant has submitted a conceptual plan for barrier-free accessibility within the site and to the transit stops at Lakepointe Way and SR 522. This conceptual design is shown on plan sheets A2.3b. and A2.3c. (Alt.) of the Sixth Submittal dated and received May 22, 1998. Compliance with the state Barrier Free Accessibility Code will be required through building permit review and approval.

c. Washington State Energy Code

The purpose of the Washington State Energy code (WAC 51-11) is to provide minimum standards for new or altered buildings and structures or portions thereof to achieve efficient use and conservation of energy. There has been no review for compliance with the Washington State Energy Code under the Lakepointe Commercial Site Development Permit. Compliance with the Washington State Energy Code will be required with building permit review and approval.

6. Fire Code Standards

a. Fire Access and Circulation

The Lakepointe Commercial Site Development Permit was conceptually reviewed under the 1994 Uniform Fire Code, as amended by KCC 17.04. However KCC 21A.41.070C. states "Approval of the proposed site development shall not provide the applicant with a vested right to build without regard to subsequent changes in the building and fire codes listed in KCC 16.04 and 17.04 regulating construction." Therefore subsequent permits will be reviewed under the Uniform Fire Code in effect as of the date a complete application is filed.

Emergency access routes from SR 522 and 68th AVE NE would consist of proposed Lakepointe Way and the existing NE 175th ST. Within the site, emergency access would occur via NE Lakepointe Boulevard through the center of the site and fire lanes around all of the structures. Portions of the pedestrian trails/sidewalks on the site would be considered fire lanes and would be designed to accommodate fire fighting equipment, including sufficient radius to turn around the fire equipment. Fire Flow of approximately 5,000 gallons per minute would be provided on site with the extension of water mains.

Other fire protection systems will also be required such as :

- Automatic sprinkler systems;
- Standpipes;
- Hydrants every 300 feet on-center;
- Smoke and heat detection systems;
- Fire alarm systems;
- Pressurizing of stairwells;
- Fire department automatic notification and communication systems;
- Automatic elevator recall and
- Other applicable requirements.

7. Kenmore Air Harbor

a. Agreement

The Lakepointe site is located at the northern tip of Lake Washington, adjacent to the Kenmore Air Harbor, which is the largest operating seaplane base in the state. The Lakepointe Commercial Site Development Permit includes a 27-slip marina, which could result in increased boat conflicts with existing Kenmore Air Harbor operations. To mitigate these impacts, the marina will be limited to moorage for boats 30-feet or longer, to eliminate fast, highly maneuverable boats, such as runabouts and jet skis, which are the primary safety concern of seaplanes during takeoffs and landings. In addition, overwater marina structures will be designed low enough to allow a seaplane main wing to pass over the structure.

The applicant has entered into an agreement with Kenmore Air Harbor which would allow only three types of moorage in the inner harbor marina: 1) moorage for permanent residents; 2) moorage for guests of permanent residents; and 3) moorage for the hotel guests. No moorage for daily/hourly boat traffic will be allowed in the inner harbor. Signage is required to notify boaters that daily/hourly boat moorage is not allowed at the marina.

8. Model Toxics Control Act

a. Ranking and Options for Remedial Action

In 1992 the Washington State Department of Ecology (DOE) issued a Site Hazard Assessment report for the Lakepointe site resulting in a ranking of 1 (highest) on the Site Hazard Assessment List as a result of contamination from the years of industrial activities on the site. The investigation and

cleanup of contaminated sites is governed by the Washington State Model Toxics Control Act (MTCA) (RCW 70.1050) and overseen by DOE.

Currently there are six options for DOE's involvement in remedial actions: Consent Decree, Prospective Purchaser Consent Decree, De Minimum Consent Decree, Agreed Order, Independent Remedial Action, and Enforcement Order.

b. Agreed Order or Consent Decree

It is anticipated that the site will be remediated under an Agreed Order or Consent Decree negotiated between DOE, the State Attorney General and the landowner. An Agreed Order is a legally binding, administrative order issued by DOE and agreed to by the landowner. It is not filed in court and requires no settlement. If the applicant follows the activities laid out in the Agreed Order for various phases of work, DOE will not take any enforcement action against the landowner. However, an Agreed Order does not protect a party from being sued and DOE can require additional remedial work not included in the original order. Agreed Orders are subject to public review and comment according to RCW 70.105D.030(2)(a).

A Consent Decree is a formal legal agreement filed in court. The work requirements in the decree and the terms under which it must be done are negotiated and agreed by the potentially liable party (or the applicant), Ecology and the state Attorney General's Office. Before consent decrees can become final, they must undergo a public review and comment period that includes a public hearing. Consent Decrees protect the potentially liable party (or other applicant) from being sued for "contribution" by other persons that incur cleanup expenses at the site.

If neither an Agreed Order nor a Consent Decree is signed, it is possible that DOE could require site remediation under an Enforcement Action.

c. Relationship to Approved Permits

The options for remediation action range from removal of the material to an approved disposal site to isolation or containment. The applicant has indicated that his preferred remediation action would be isolation and containment under an engineered cap. An engineered cap is an impervious layer established over the contaminated materials to prevent contact between the material and surface waters and human contact. The engineered cap would consist of the proposed buildings, roads and parking areas. The Commercial Site Development Permit is being reviewed concurrently with a Master Plan and a Shoreline Substantial Development Permit. None of these permits will allow any site alteration or construction. Since detailed construction drawings cannot be prepared without knowing what the remediation plan consists of, no permits authorizing any site alteration or construction can be issued until after the Agreed Order or Consent Decree is signed by DOE and the landowner.

9. Historic and Cultural Preservation

There have been no historic or archaeological resources identified on the Lakepointe site. However the Kenmore bridge on 68th AVE NE near the site's southeast corner is included on the King County inventory of potential County landmarks. The King County Office of Historic Preservation must be notified upon application for any permits that will impact the Kenmore bridge.

It is unlikely that significant archaeological or cultural resources will be found on the site during construction. However if any such resources are discovered, the King County Office of Historic Preservation, the State Office of Archaeological and Historic Preservation, and appropriate tribes would be notified, and the significance of such findings would be determined.

10. Recreation

a. Recreation Facilities

The Commercial Site Development Permit contains an On-Site Recreation Plan (Sheet L1.2) and an alternative On-Site Recreation Plan (Sheet L1.2 (Alt.)), both included in the Sixth Submittal dated and received May 22, 1998. The difference between the two plans is that the alternative plan shows additional trails within the Sammamish River buffer on the west side of the shoreline.

The On-Site Recreation Plans both include the following:

Sammamish River Shoreline Park and Connecting Corridors	368,000 sq. ft.
Lake Washington Shoreline Trail and Amphitheater	53,000 sq. ft.
Marina Boardwalk	79,000 sq. ft.
Fragrant Garden	<u>12,000 sq. ft.</u>
	512,000 sq. ft.

Based on the number of residential units proposed, the recreation space requirement is approximately 139,200 square feet.

In assessing the applicant's proposal, the entire 368,000 square foot Sammamish River Shoreline Park and Connecting Corridors cannot be credited as recreation space because much of it is contained within the required 100-foot sensitive areas buffer and 15-foot building setback area of the Sammamish River. Sensitive areas buffers and building setbacks do not meet the criteria for recreation space, which requires that the space be "of a grade and surface suitable for recreation." (K.C.C. 21A.14.180) The sensitive areas buffer is a protection mechanism for the sensitive area, and access to the buffer is allowed only on approved trails designed in accordance with the King County Sensitive Areas: Public and Private Trails Public Rule. Therefore only the trails designed in accordance with the Public Rule are acceptable to be credited as recreation space within the 100-foot buffer and 15-foot building setback area of the Sammamish River, and only if they are public trails.

Also, the "connecting corridors" shown within the Sammamish River Shoreline Park and Connecting Corridors recreation space appear to be streets, sidewalks and ramps leading from the Public Access Trail along the Sammamish River to the traffic circles on NE Lakepointe Boulevard. Unlike trails, streets and sidewalks do not qualify as recreational space. In addition, the biofiltration swale does not meet the criteria for recreation space since it is not located within a tract, as required by K.C.C. 21A.14.180, and it will not be "of a grade and surface suitable for recreation."

The Lake Washington Shoreline Trail and Amphitheater, the Marina Boardwalk and Fragrant Garden conceptually meet the requirements for recreation space, provided they remain open to the public. The applicant will be required to record an easement for public access at the time these facilities are developed. Any areas within these recreation spaces that limit access in any way are not acceptable as meeting the recreational space requirements of K.C.C. 21A.14.180. For example, sidewalk areas used for retail sales, sidewalk cafes, outdoor restaurant seating or private patios should be considered circulation, commercial or private residential space, not public recreation space. Likewise, members only health club or privately leased moorage facilities do not meet the public recreation space requirement.

b. Play Areas

The On-Site Recreation Plan (Sheet L1.2) and the alternative On-Site Recreation Plan (Sheet L1.2 (Alt.)), included in the Sixth Submittal dated and received May 22, 1998, both show "Potential Residential Recreation" areas close to buildings that will include residential uses. These areas have been identified to demonstrate that there is sufficient area to accommodate the play area requirements of K.C.C. 21A.14.190, which requires that the play areas be at least 400 square feet in size, with no dimension less than 20 feet, and adjacent to main pedestrian paths or near building entrances. If play apparatus is provided, the apparatus must meet the Consumer Product Safety Standards for equipment, soft surfacing and spacing.

Conceptually, the "Potential Residential Recreation" areas appear to be able to accommodate the play area requirements of K.C.C. 21A.14.190. Conditions of approval of the Commercial Site Development Permit will require that a play area be provided for every residential building and that appropriate amenities in the form of play equipment be included.

c. Trails

All sensitive areas buffer trails must be constructed in accordance with the King County "Sensitive Areas: Public and Private Trails" Public Rule, promulgated in accordance with K.C.C. 2.98. See the discussion of this issue under the Sensitive Area Buffer Trails and Landscaped Areas section of this report.

The Burke-Gilman Trail, a regional multipurpose trail, is located along the north edge of the property. With the construction of Lakepointe Way NE, the Burke-Gilman Trail will need to be regraded to a lower elevation. While this regrading would temporarily inconvenience trail user, the redesign would eliminate the existing road crossing of the trail at 65th AVE NE. The applicant will be required to work with the King County Parks Department during the redesign and construction of the Burke-Gilman Trail.

11. Design Guidelines

The developer has prepared Design Guidelines for the Lakepointe Mixed-Use Development as a way to create a harmonious relationship between all of the elements that make up this complex development. To quote from the introduction to the Design Guidelines:

These guidelines do not prescribe a particular architectural style which all structures must emulate. Rather, a variety of architectural expressions and experiences is encouraged based on the wide variety of building types, open spaces, and frontages proposed. While individuality and diversity of expression is valued, it must be congruous with the other components of the Lakepointe Development. Terms such as "Northwest Eclecticism" and "Regionalism" connote the spirit of the desire to create a whole, greater than the sum of its parts. The sheer size of Lakepointe, as well as its commonality of massing and organizing elements and chronology of development, will provide an inherent harmony and relative sameness. It is from this framework that individuality of architectural expression thrives. (Not different architecture for the sake of simply being different). To characterize a host of different experiences, the following serve as examples: a neighborhood commercial frontage that is vibrant while presenting a tasteful series of facades; a spirited, animated marina without visual clutter; an urban central boulevard that responds to the fact that this is home to over 1,000 residents; and the definition of a park's edge, a quarter mile in length with housing facades which are passive and respectful, but not sleepy. Lakepointe must create an environment that is worthy of its importance to the community of Kenmore.

The Design Guidelines were not required by code or prepared as mitigation. However they have been presented as part of the Master Plan and Commercial Site Development Permit applications and subsequent building permit review and approval will be required to conform with these guidelines.

12. Public Services and Utilities

a. Water Service

Water service to the Lakepointe Mixed Use Development will be provided by the Northshore Utility District. A Certificate of Water Availability was issued for the Commercial Site Development Permit on March 5, 1996, which indicated that there is sufficient quantity and fire flow ability to serve the proposed development.

b. Sewer Service

Sanitary sewer service to the Lakepointe Mixed Use Development will be provided by the Northshore Utility District. A Certificate of Sewer availability was issued for the Commercial Site Development Permit on February 7, 1996 which guaranteed the district's ability to serve the proposed development.

c. Solid Waste

Garbage collection and solid waste recycling for glass, aluminum, tin, cardboard, mixed paper, newspaper and plastic bottles will be provided by Eastside Disposal, a private company franchised through the Washington State Utilities and Transportation Commission.

d. Fire and Emergency Response

Fire and emergency response to the Lakepointe Mixed Use Development will be the responsibility of the City of Kenmore. It is anticipated that Kenmore will contract with King County Fire District 16 to provide fire protection and emergency response. King County Fire District 16 has mutual aid agreements with neighboring jurisdictions.

e. Police Protection

Police protection for the Lakepointe Mixed Use Development will be the responsibility of the City of Kenmore. It is anticipated that Kenmore will contract with the King County Sheriff's Department, North Precinct No. 2 to continue to provide police protection. The King County Sheriff's Department has mutual aid agreements with neighboring jurisdictions.

f. Schools

The Lakepointe Mixed Use Development will be served by the Northshore School District. The schools serving the site vicinity currently are Kenmore Elementary, Kenmore Middle School and Inglemoor High School. According to the District's 1996 Capital Facilities Plan, the District lacked the capacity to adequately serve the existing enrollment. A number of capital improvements are planned, and the construction of these facilities will reduce the school capacity deficits throughout the district.

KCC 21A.28 allows King County to collect impact fees to fund capital and system improvements. Fees may be collected through a building permit for multifamily housing, but there are no provisions to allow collection of impact fees under a Commercial Site Development Permit. Building permits will be applied for through the City of Kenmore. If the City has not adopted school impact fees, there will be no code authority for the City to collect school impact fees, on behalf of the Northshore School District, for this project. Since the addition of new students to the Northshore School District has been identified as an environmental impact that needs to be mitigated, the requirement to pay school impact fees at the time of building permit application will be a required condition of approval of this permit.

F. REVIEW PROCESS

1. Flexibility and Modification of Commercial Site Development Permit

21A.41.110 Modification to an approved permit. A subsequent building permit application may contain minor modifications to an approved commercial site development plan provided a modification: does not increase the building floor area by more than 10%; does not increase the number of dwelling units; does not increase the total impervious surface area, provided that,

relocatable facilities for schools shall be exempt from this restriction; does not result in an insufficient amount of parking and/or loading; does not locate buildings outside an approved building envelope, provided that, relocatable facilities for schools shall be exempt from this restriction; does not change the number of ingress and egress points to the site; does not significantly increase the traffic impacts of peak hour trips to and from the site; does not significantly increase the quantity of imported or exported materials or increase the area of site disturbance. Modifications which exceed the conditions of approval as stated in this section and require a new review as determined by the director shall only be accomplished by applying for a new commercial site development permit for the entire site. The new application shall be reviewed according to the laws and rules in effect at the time of application. (Ord. 11621 § 130, 1994).

Any proposed modifications to the approved Commercial Site Development Permit will be reviewed for compliance with K.C.C. 21A.41.110.

2. Construction Permits

Early on in the review process, it was determined that the approval granted under the Commercial Site Development Permit would be for a conceptual design only to allow the developer to determine what site improvements would be required without requiring a substantial investment in construction drawings. Therefore all parties agreed that no site disturbance or construction would be allowed under the Commercial Site Development Permit.

In April 1996, the applicant provided a memorandum detailing their understanding of the permitting process for Lakepointe which stated in part as follows: "Following approval of the Commercial Site Development Plan, actual project construction is implemented through grading and building permits." The applicant reconfirmed in a September 30, 1997 letter "Thus, there is no dispute between us that (quoting from the September 2 letter) 'issuance of the Lakepointe Commercial Site Development Permit pursuant to the application would not authorize the owner or developer to proceed with any site disturbance or construction without subsequent permits.' "

The agreed understanding that no site disturbance or construction is authorized under the Commercial Site Development Permit will be a condition of approval.

3. Further SEPA Review

The Supplemental Environmental Impact Statement (SEIS) prepared for the Lakepointe Commercial Site Development Permit, Master Plan, Shoreline Substantial Development Permit (and potentially a Road Improvement District) is intended to fulfill State Environmental Policy Act (SEPA) requirements for the project buildout. King County, or the City of Kenmore, will review future building permit applications for consistency with the level and type of development evaluated in the SEIS, and will determine whether the level of evaluation provided in the SEIS is sufficient to meet the County's, or City's, responsibility under SEPA. Based on that review, King County, or the City of Kenmore, may determine that no further SEPA review is necessary for a given construction proposal. However if new information or modifications to the proposal are identified during future

building permit review that suggest the probability of new significant adverse environmental impacts are likely, additional environmental review will be required.

4. Vesting of Development Standards

King County Code section 21A.41.070.A.1 provides that the Director's decision on a Commercial Site Development Permit shall be based on the adopted County and State rules and regulations in effect on the date the complete application was filed. A complete application for the Commercial Site Development Permit for the Lakepointe project was filed on March 25, 1996. Pursuant to that section, this Director's Decision is based on the adopted County and State rules and regulations in effect on that date.

King County Code section 21A.41.070.B provides that "subsequent permits for the subject site shall be issued only in compliance with the approved commercial site development plan. Additional site development conditions and site review will not be required for subsequent permits provided the approved plan is not altered."

Finally, King County Code section 21A.41.070.C provides that "approval of the proposed commercial site development shall not provide the applicant with a vested right to build without regard to subsequent changes in the building and fire codes listed in K.C.C. 16.04 and 17.04 regulating construction." Consistent with this section, subsequent applications for construction permits for the Lakepointe project shall be reviewed under the building and fire codes in effect when the subsequent permits are submitted.

5. Lakepointe Citizens' Advisory Task Force

A Lakepointe Citizens Advisory Task Force (Task Force) was formed in October 1995 to work with the applicant, King County and Kenmore citizens to create an overall master plan concept for the site. The Task Force was initiated at the suggestion of Councilmember Maggi Fimia; it is funded by the applicant and is facilitated by the King County Dispute Resolution Center. The Task Force provides guidance on development of the Master Plan within the framework of county, state and federal regulations.

The mission of the Task Force is to "facilitate a collaborative process between the community, the developer, and the County, to assure the highest quality project which is economically viable and a major asset to Kenmore, while being sensitive to the environmental features of the site."

Periodic meetings with the Task Force have been held over the past three years to obtain input on the project design issues, project features and necessary improvements. The future of the Task Force is unknown at this time. The continued participation of the Task Force will be determined by the City of Kenmore.

G. GENERAL PROVISIONS

1. Effective Date, Term, and Buildout

The project must be constructed in accordance with the approved Phasing Plan, which is included in this report as Attachment D. The Phasing Plan requires that the Phases be developed sequentially, beginning with Phase 1 and ending with Phase 6. In order to assure that the infrastructure needed to support the development, such as streets, pedestrian and bicycle circulation, fire access, barrier-free accessibility, storm water facilities and parking, are available when the buildings are occupied, the Phasing Plan requires that these basic improvements be complete prior to issuance of a certificate of occupancy for a building.

The project buildout is expected to occur over a period not exceeding fifteen years. The applicant must submit an application for some portion of Phase 1 within one year of the date of approval of the Master Plan. The next phases must follow sequentially, but there is no time limit set for when each Phase must be complete.

The phasing plan must be modified if the Commercial Site Development Permit is modified pursuant to K.C.C. 21A.41.110 (Modifications to an approved permit).

2. Compliance with Master Plan

The Northshore Mixed-Use Pedestrian Areas Development P-Suffix conditions for the Pre-Mix site requires the development and approval of a Master Plan which sets forth the blueprint for development of the site. The Master Plan specifically sets forth the requirements for phasing, mitigation and development by subdistrict. Approval of the Master Plan must assure that:

- a. the Mixed Use development area in its entirety meets the goals, policies and criteria of the Northshore Community Plan;
- b. that there is adequate environmental review of the cumulative impacts of all mixed use development in Kenmore;
- c. that there is detailed project level review of environmental impacts of the phase or phases that comprise the development application;
- d. that there is adequate mitigation developed for the project level review;
- e. that specific criteria of the Northshore Area Zoning and these P-Suffix conditions are met;
- f. that each phase of development will adequately meet the expressed goals for the mixed use area, and adequately mitigate for its impacts at the time of development.

Review and approval of the Master Plan is being done concurrently with the Commercial Site Development Permit and Shoreline Substantial Development Permit. The Findings, Conclusions and Decision of the Master Plan are contained in a separate report.

All permits for the Lakepointe site, including the Commercial Site Development Permit and Shoreline Substantial Development Permit, must be consistent with the approved Master Plan. Modifications to the Master Plan shall also require a modification to all other approved permits for the site.

If modifications to the approved Commercial Site Development Permit, Shoreline Substantial Development Permit or subsequent development permits are requested by the applicant or required by King County, or the City of Kenmore, which result in an inconsistency with the Master Plan, the modification requests will be reviewed for consistency with the requirements set forth in the Northshore P-Suffix conditions for the Master Plan, and if consistent with the Northshore P-Suffix conditions, the Master Plan shall be amended at the time the development permit is approved or amended.

Modifications to the Commercial Site Development Permit, Shoreline Substantial Development Permit or subsequent development permits that are requested by the applicant or required by King County, or the City of Kenmore, which result in an inconsistency with the Master Plan and are also inconsistent with the Northshore P-Suffix conditions shall not be approved.

Modifications to the Commercial Site Development Permit, Shoreline Substantial Development Permit or subsequent development permits which are not inconsistent with the Master Plan may be approved without a Modification to the Master Plan.

Any modification to the Commercial Site Development Permit which exceed the conditions of approval as stated in K.C.C. 21A.41.110 and require a new review as determined by the director shall only be accomplished by applying for a new commercial site development permit for the entire site. The new application shall be reviewed according to the laws and rules in effect at the time of application.

3. Other Required Permits

The following permits or approvals will be required for the Lakepointe project (others may also be required):

Planning/Land Use

- Master Plan (DDES approval)
- Shoreline Substantial Development (DDES/DOE permit)
- Binding Site Plan (DDES permit)
- Boundary Line Adjustments (DDES permit)

Building

- Building (DDES permits)
- Fire Systems (sprinklers, alarms, water main and hydrants, etc.) (DDES permits)
- Mechanical (DDES permits)
- Signs (DDES permits)
- Electrical (Washington State Department of Labor and Industries)

Site

- Clearing and Grading (DDES permits)
- Variance to Surface Water Design Manual (DDES/WLRD approval)

Water/Shoreline

- Wetlands - Section 404/Section 10 (Army Corps of Engineers permit)
- Hydraulic Project Approval (State Fish and Wildlife/Department of Natural Resources permits)
- Water Use from Lake Washington (Department of Ecology and Department of Natural Resources permits)

Roadway/Traffic

- Roadway Access Permit (SR522) (WSDOT permit)
- Roadway Design Memorandum/Report (WSDOT approval)
- Roadway Design Memorandum - Lakepointe Way (KCDOT approval)
- Street Dedication - 175th AVE NE (KCDOT approval)
- King County Road Standards variance Lakepointe Way (KCDOT approval)
- Right-of-Way Use Permits (DDES permits)
- Metro Transit Stops (KCDOT and WSDOT)
- Burke Gilman Trail (DDES permit/KC Parks approval)

Environmental

- Hazardous Material Remedial Investigation (DOE approval)
- Hazardous Material Feasibility Study (DOE approval)
- Hazardous Material Consent Decree or Agreed Order (DOE approval)
- Water Quality Certification (DOE approval)
- Air Quality Standards (WSDOT approval)

4. Site Code Violations

a. Solid Waste Violation

On August 22, 1995, lessee Jake Stout, Kenmore Roof Recyclers, obtained a permit to recycle wood shake roofing waste on the Lakepointe site. Over time he brought on site other unrecyclable waste including asphalt roofing and solid waste (paper, plastic, metal debris, aluminum cans, styrofoam and fiberboard). On January 19, 1996, a Notice of Violation was issued to Jake Stout, followed by an April 17, 1996, Notice and Order and a May 23, 1996, Enforcement Letter. The property owner agreed to cleanup the solid waste by September 30, 1996. A great deal of the solid waste was removed. But, the pile of asphalt roofing waste remains and ground roofing waste and garbage were spread over several acres of the property. The spread solid waste is between six inches and one foot deep. At the perimeter of the spread material, approximately 20 feet from Sammamish River, the material appears to be 3 to 4 feet deep. The property owner was advised on proper disposal of the solid waste. He has indicated that, since the site will be capped, he sees no reason to remove the waste. A March 4, 1998, site visit showed no change had occurred. The solid waste violation must be resolved to the satisfaction of the Seattle-King County Department of Health prior to issuance of any permit that would allow site alteration or construction.

b. Grading Violation

On October 10, 1995, the King County DDES Site Alteration Section received a complaint that grading had occurred on the Lakepointe site. A follow-up investigation substantiated that earth movement in excess of 100 cubic yards was occurring on the site without an approved permit, which was a violation of K.C.C. 16.82.050-060.

Historically, the operations on this site were exempt from the requirements of a grading permit because earth material was imported to the site, mixed with other material (processed), and exported as a product off the site. This activity would not result in alteration of the topography by permanently filling or grading.

The materials imported to the site between 1992 and 1995, under the Health Department permit, and the tenant's importation of additional materials to the site, discussed above, constituted filling. The property owner filed an application for a grading (filling) restoration permit, which was approved, and which remains an active permit until the filled material is certified as acceptable cover material or removed from the site at the direction of the King County Health Department.

c. Air Quality Violation

On September 29, 1997, in connection with the importation of materials to the site discussed above, the Puget Sound Air Pollution Control Agency (PSAPCA) issued a Notice Of Violation (No. 4-4341) to the property owner for having Asbestos Containing Waste Material (ACWM) on the site for more than 10 days in uncontrolled areas. The Lakepointe site is not an authorized disposal and storage site for ACWM.

The property owner provided a Corrective Action Response, which outlined the proposed cleanup plan. In accordance with the Corrective Action Response, the property owner removed 125,000 pounds of residual material to an approved disposal site by January 31, 1998. On February 26, 1998, PSAPCA notified the applicant that they had conducted a site inspection and were closing the violation and would take no further enforcement action. However, the letter stated, "Be advised that the sections cited in Notice of Violation No. 4.4341 are confirmed and closing this matter does not mean that the site is asbestos free nor does it preclude PSAPCA from taking additional enforcement action(s) should other deficiencies be documented in the future."

PSAPCA has requested that conditions be placed on this permit that acknowledge that additional action may result if suspect asbestos-containing material is exposed or encountered during construction activities.

H. KENMORE INCORPORATION

The Lakepointe project is located within the boundaries of the newly incorporated City of Kenmore. The effective date of incorporation will be August 31, 1998. After that date, Kenmore will be responsible for all development permit reviews and approvals. It is anticipated that the City of Kenmore will contract with King County for building permit review, but would do their own land use permit review. A King County transition team has been working with the City of Kenmore on the details of the future review of the Lakepointe project.

III. CONCLUSIONS

The propose Commercial Site Development Permit meets the requirements of the development standards listed in K.C.C. 21A.41.060, the Northshore Community Plan and the 1994 King County Comprehensive Plan.

IV. DECISION

The conceptual Lakepointe Mixed Use Development Commercial Site Development Permit Sixth Submittal dated and received May 22, 1998 is hereby **APPROVED**, subject to the following conditions:

GENERAL CONDITIONS

- A. Approval of the Commercial Site Development Permit shall not authorize any site alteration or construction without approval of subsequent development permits.
- B. The environmental review conducted on this Commercial Site Development Permit assumed that trip generation from the proposed uses would be approximately 13,600 average daily trips. Any proposed modification to this permit which would result in a significant increase in the traffic impacts of peak hour trips to and from the site, as determined by the City of Kenmore, will require a new Commercial Site Development Permit.
- C. Subsequent permits shall conform generally to the approved Commercial Site Development Permit contained in the Sixth submittal of file B96CS005 dated and received May 22, 1998.
- D. Minor modifications to the Commercial Site Development Permit are authorized provided they meet the provisions of K.C.C. 21A.41.110 and are consistent with the approved Master Plan. Modifications which exceed the scope of authorized modifications established under K.C.C. 21A.41.110, or the conditions of approval established in this report, shall be accomplished only by applying for a new Commercial Site Development Permit. Modifications which are inconsistent with the Master Plan shall require a modification to the Master Plan.
- E. The Commercial Site Development Permit shall be amended to reflect any conditions or modifications established by the State Shoreline Hearings Board or the Hearing Examiner through an appeal of the Shoreline Permit (DDES File L96SH107) or the Commercial Site Development Permit. These amendments shall not require a new Commercial Site Development Permit.
- F. Any changes to the Master Plan initiated by the applicant that are inconsistent with the approved Commercial Site Development Permit shall require a modification to the Commercial Site Development Permit. Modifications which exceed the scope of authorized modifications established under K.C.C. 21A.41.110, or the conditions of approval established in this report, shall be accomplished only by applying for a new Commercial Site Development Permit.
- G. The Commercial Site Development Permit shall be amended to reflect any conditions or modifications required to bring the Commercial Site Development Permit is conformance with the approved MTCA Remediation Plan. Modifications which exceed the scope of

- authorized modifications established under K.C.C. 21A.41.110, or the conditions of approval established in this report, shall be accomplished only by applying for a new Commercial Site Development Permit.
- H. This permit shall become void if the applicant fails to conform with the approved Phasing Plan, which is included as Attachment D to this report.
 - I. The Commercial Site Development Permit shall comply with the approved Transportation Mitigation Agreement, which is included as Attachment E to this report.
 - J. Additional environmental review shall be required for subsequent development permits if it is determined that the development proposal is inconsistent with the level and type of development evaluated in the Lakepointe Final Supplemental Environmental Impact Statement published July 14, 1998, and that the development proposal is likely to generate significant adverse environmental impacts that have not been analyzed.
 - K. The following Plan Sheets, in their entirety, contained in the Sixth Submittal dated and received May 22, 1998 are not approved:
 - Plan Sheet A2.0 Master Plan Working Model
 - Plan Sheet A2.1 Site Characteristics
 - Plan Sheet A2.3a Primary Site Circulation
 - Plan Sheet A2.3c Barrier Free Access Details
 - Plan Sheet C1.1 Grading Plan
 - Plan Sheet L1.0 Conceptual Landscape Master Plan
 - Plan Sheet L1.1 Grading Plan
 - Plan Sheet L1.2 On-Site Recreation Plan
 - L. If any of these conditions, as originally written or as altered or amended by an administrative agency with jurisdiction, or any condition imposed by King County in the Shoreline Substantial Development Permit (File No. L96SH107) or the Master Plan (File No. A95P0105), or through appeals or the courts, is in conflict with any other condition, then the most restrictive of the conditions, as determined by the City of Kenmore, shall control.

SHORELINE PERMIT CONDITIONS

- A. The Commercial Site Development Permit shall comply with all conditions established under the Shoreline Substantial Development Permit File Number L96SH107, as it may hereafter be amended.

P-SUFFIX PERMITTED USES CONDITIONS

- A. Only those uses included in KCC 21A.08 for the Regional Business zone are allowed except the following uses are prohibited:
 - 1. SIC # 753 Automotive repair;
 - 2. SIC # 754 Automotive service;
 - 3. SIC # 58 Eating and drinking places with drive-through service; and
 - 4. SIC # 5261 Retail nurseries, Lawn and Garden Supply Stores.
- B. All retail uses shall be conducted within an enclosed building and there shall be no outdoor storage of materials. Outdoor seating for restaurants and cafes is permitted.
- C. A single retail tenant shall not occupy a gross floor area of more than 65,000 square feet.

- D. Residential dwelling units shall not be allowed on the first floor of any building in the Neighborhood Commercial, Waterfront, or Waterfront Extension Subdistricts.
- E. General services land uses located in KCC 21A.08.050, Government/Business services land uses located in KCC 21A.08.060, and Retail land uses located in KCC 21A.08.070 should be encouraged to be located on the first floor of buildings in the Neighborhood Commercial, Waterfront, and Waterfront Extension Subdistricts.
- F. All first floor land uses, in the Neighborhood Commercial, Waterfront, and Waterfront Extension subdistricts, shall be compatible with the pedestrian orientation of the development.

P-SUFFIX BUILDING DEVELOPMENT CONDITIONS

- A. The primary pedestrian streets are NE 174th Street and the side streets connecting NE 174th Street to NE Lakepointe Boulevard.
- B. A maximum setback of 5 feet shall be established along the primary pedestrian streets. Setbacks in excess of 5 feet shall only be allowed if arcades, street-side outdoor cafes, patios, parks, plazas or other public spaces are provided. A variance shall not be required to KCC 21A.12 for street setbacks to comply with this condition.
- C. For buildings located along the primary pedestrian streets, the primary first floor building entrances should orient toward the primary pedestrian streets or to public spaces , such as outdoor cafes, patios, parks or plazas.
- D. A minimum of 75% of the primary pedestrian streets shall be fronted by buildings at grade. This shall be calculated by measuring from the north edge of the center traffic circle along the centerline of the west side street connecting NE 174th Street and NE Lakepointe Boulevard, following along the centerline of NE 174th Street, and along the centerline of the east side street connecting NE 174th Street to NE Lakepointe Boulevard and concluding at the north edge of the east traffic circle.
- E. A minimum of 50% of the street fronting building floor space on the primary pedestrian streets, as measured in condition D above, shall contain land uses located in KCC 21A.08.050 General services land uses, KCC 21A.08.060 Government/Business service land uses, and KCC 21A.08.070 Retail land uses permitted use tables.
- F. Public pedestrian access to the waterfront located at the rear of buildings located on NE 174th Street shall be provided at a minimum of every 300 feet of street frontage.
- G. Windows and overhead protection shall be included on the retail and service uses along the primary pedestrian streets.
- H. Sheer, uninterrupted glass curtain walls, all mirrored glass and cinderblocks are not permitted along the building façade along the primary pedestrian streets.
- I. Building materials, such as concrete, brick, masonry, glass, tile, stone, metal or wood shall be used on the building façade along the primary pedestrian streets.
- J. The building height shall conform with the height limitations shown on the Envelope Criteria Proposed Plan Sheet A2.6 dated and received May 22, 1998. The "10" Max. Roof Element" shown on the Envelope Criteria Sections Plan Sheet A2.8 dated and received May 22, 1998 is not approved.
- K. Surface parking adjacent to Lakepointe Way NE shall be screened.

- L. This P-Suffix condition shall also be implemented through the approved Transportation Mitigation Agreement.

P-SUFFIX PARKING CONDITIONS

- A. Parking shall be provided generally at the rate and in the location outlined on the Site Statistics Plan Sheet A2.2; the Proposed Parking Modification Plan Sheets A2.9.a. and A2.9.b.; and the Phasing Plan Sheets A4.0 through A4.9.6 dated and received May 22, 1998.
- B. Modifications to the parking rate and location outlined on the Plan Sheets identified above, which does not result in an insufficient amount of parking as required by KCC 21A.18, does not increase the amount of impervious surface area and does not conflict with this P-Suffix condition, may be done as a modification to the Commercial Site Development Permit. Modifications which exceed these thresholds will require a new Commercial Site Development Permit for the entire site.
- C. All parking areas that front sidewalks shall be screened by a streetwall and landscaping.
- D. Retail uses, or other pedestrian-oriented uses, shall be provided on the first floor of the street side edges of parking structures.

P-SUFFIX TRANSIT AND TRANSPORTATION CIRCULATION CONDITIONS

- A. The Transit and Transportation Circulation mitigation shall be implemented through the approved Transportation Mitigation Agreement.

P-SUFFIX PEDESTRIAN AND BICYCLE CIRCULATION CONDITIONS

- A. The Pedestrian and Bicycle Circulation mitigation shall be implemented through the approved Transportation Mitigation Agreement.

P-SUFFIX LANDSCAPING AND PUBLIC AMENITIES CONDITIONS

- A. All properties fronting the primary pedestrian streets, as identified above, shall provide street landscaping and other amenities, such as street furniture, street trees, and special lighting.
- B. If the Lakepointe Project qualifies for funding from the 1% for Public Arts Program, consider including an artist on the design team when building, site development and landscaping plans are prepared.
- C. Twenty percent of the entire site shall be designated as public open space. The applicant shall provide an open space plan which demonstrates compliance with this condition prior to issuance of the first permit authorizing site disturbance or construction. Implementation of the open space plan may be phased in accordance with the project phasing.
- D. The following can be included in calculating public open space:
 - 1. Public Promenade/Emergency Firelane,
 - 2. Marina Boardwalk,
 - 3. Lake Washington Shoreline Trail and Amphitheater,
 - 4. Fragrant Garden,
 - 5. Sensitive areas buffers,

6. Plazas or outdoor seating areas not associated with a specific business,
 7. The Children's Play Area in the southeast corner of the site, and
 8. Sidewalks along both public and private streets.
- E. The following cannot be included in calculating public open space:
1. Sensitive areas,
 2. Trails within the sensitive areas buffers if the entire buffer has already been counted,
 3. Outdoor seating for restaurants, cafes or coffee shops,
 4. Private recreation areas,
 5. Storm water ponds or biofiltration swales, and
 6. Internal walkways and public and private streets.
- F. The Amphitheater shall be considered meeting the requirement for a public gathering place which accommodates a minimum of 50 people, as required by this P-Suffix condition.
- G. The Public Promenade/Emergency Firelane, Marina Boardwalk and Lake Washington Shoreline Trail shall be considered meeting the requirement for public access around the entire waterfront edge of the site, as required by this P-Suffix condition.
- H. The Lakepointe project shall comply with the landscaping conditions outlined in this report as well as the landscaping requirements of K.C.C. 21A.16. The landscaping requirements of K.C.C. 21A.16 are not waived.

P-SUFFIX VEHICULAR ACCESS AND CIRCULATION CONDITIONS

- A. The Vehicular Access and Circulation mitigation shall be implemented through the approved Transportation Mitigation Agreement.

P-SUFFIX PUBLIC VIEWPOINTS CONDITIONS

- A. Public viewpoints of Lake Washington and the Sammamish River shall be provided as generally shown on the Commercial Site Development Permit Plan Sheets dated and received May 22, 1998.

P-SUFFIX SHORELINE ENHANCEMENT CONDITIONS

- A. The shoreline enhancement plan shall consist of the conditions established below for Sensitive Areas/Marina.
- B. Trails within the sensitive areas buffers are allowed only as conceptually shown on the On-Site Recreation Plan Sheet L1.2 (Alt.) contained in the Commercial Site Development Permit dated and received May 22, 1998. The trails must be constructed in accordance with the King County Sensitive Areas: Public and Private Trails Public Rule.
- C. Moorage in the inner harbor shall be allowed only as established below under the Kenmore Air Harbor Agreement conditions.
- D. The *Final Lakepointe Technical Report on Natural Resources* (Beak Consultants 1997) and the *Fisheries Resources Analysis* (CH2M Hill, dated May 1988) constitute the required special studies needed to determine if boat moorage will have a negative impact on salmon.
- E. No setback from the inner harbor is required, except as required under the Shoreline Master Program.

P-SUFFIX AFFORDABLE HOUSING CONDITIONS

- A. The applicant shall comply with the Affordable Housing Provisions included in this report as Attachment F.

P-SUFFIX RESIDENTIAL DENSITY CONDITIONS

- A. Residential density shall not exceed 36 dwelling units per acre, established for the Regional Business zone, unless the residential density provisions of K.C.C. 21A. 34 are utilized. There is no minimum density for the Regional Business zone.
- B. Residential density must be at least 12 dwelling units per acre in the Neighborhood Commercial and Waterfront Subdistricts.
- C. Residential density must be at least 24 dwelling units per acre in the Residential Subdistrict.
- D. Residential uses shall not exceed 75% or be less than 50% of the total built floor area.
- E. The timing of residential development shall be generally in conformance with the Phasing Plan included as Attachment D to this report.

P-SUFFIX HAZARDOUS WASTE REMOVAL CONDITIONS

- A. Hazardous waste remediation shall be in accordance with the Washington State Model Toxics Control Act (MTCA) (RCW 70.1050) as administered by the Department of Ecology.

P-SUFFIX FAIR SHARE MITIGATION CONDITIONS

- A. All mitigation shall be at a reasonable level related to each proposed development.

P-SUFFIX PHASING REQUIREMENTS CONDITIONS

- A. The Lakepointe Mixed-Use Development shall conform to the Phasing Requirements outlined in the approved Master Plan (DDES File No. A95P0105) and the Phasing Plan included as Attachment D to this report.

P-SUFFIX REQUIRED ELEMENTS FOR MASTER PLAN AND FINAL DEVELOPMENT APPLICATIONS CONDITIONS

- A. The Lakepointe Mixed-Use Development shall conform to the Required Elements For Master Plan and Final Development Applications outlined in the approved Master Plan (DDES File No. A95P0105).

P-SUFFIX SUBSEQUENT APPLICATIONS CONDITIONS

- A. This Commercial Site Development Permit does not constitute final development plans for the Lakepointe Mixed Use Development.

P-SUFFIX SEASONAL CLEARING CONDITIONS

- A. The following note shall be placed on every plan sheet for every site alteration or construction permit: "Clearing and grading shall not be permitted between October 1 and March 31 unless approved by King County or the City of Kenmore."
- B. All bare ground must be fully covered and vegetated between October 1 and March 31.
- C. Only those exemptions contained in this P-Suffix condition are allowed.

P-SUFFIX SAMMAMISH RIVER CORRIDOR HABITAT CONDITIONS

- A. The *Final Lakepointe Technical Report on Natural Resources* (Beak Consultants 1997) shall constitute the required special wildlife study to identify Great Blue Heron nesting, roosting, and feeding areas on the site.
- B. The band of vegetation along the Sammamish River shoreline, which averages about thirty feet in width, shall be considered the feeding habitat, and is the Sensitive Areas setback area.
- C. The required fifty-foot buffer and feeding habitat overlap with, and are contained within, the one hundred foot buffer required along the Sammamish River as a Class 1 stream with salmonids.
- D. The buffer restoration special study report and plan required below under the Sensitive Areas/Marina conditions shall include dense native plant material to discourage human intrusion into the Great Blue Heron feeding area. (SEPA MITIGATION - PLANTS AND ANIMALS #2)

P-SUFFIX SIGNIFICANT VEGETATION RETENTION CONDITIONS

- A. The Tree Inventory included on the Lakepointe Site Topography Plan Sheet A1.2 dated and received May 22, 1998 constitutes the required tree survey.
- B. The Grading Plan Sheet L1.1 (Alt.) dated and received May 22, 1998 constitutes the required development plan identifying the significant trees that are to be retained, transplanted or restored.
- C. The vegetative buffer along the Lake Washington and Sammamish River Shorelines shall be preserved, expanded and enhanced to provide a visual buffer between the site and off-site areas to the south and west. (SEPA MITIGATION - AESTHETICS, LIGHT & GLARE # 2)
- D. The significant tree inventory shall be included on all subsequent site alteration or construction permit plan sheets.
- E. Protection of the significant trees shall be in accordance with the provisions outlined in this P-Suffix condition. Alternative methods may be used if approved by the director. The protection mechanisms shall be included on the construction plan sheets.
- F. The three cottonwood trees located within the vegetated strip along the Sammamish River shoreline, which meet the Department of Fish and Wildlife definition of potential eagle perch trees, shall be retained. (SEPA MITIGATION - PLANTS AND ANIMALS # 4)

SENSITIVE AREAS/MARINA/WILDLIFE/FISH CONDITIONS

Prior to issuance of any permit that would allow site alteration or construction, the following special studies and revisions to the Master Plan Sheet 2.0 (Alt.); Site Characteristics Plan Sheet A.2.1 (Alt.); and Marina Plan Sheets M1.0 and M1.1 shall be submitted and approved. The following special studies and redlined plan revision requirements include:

- A. A buffer averaging plan that graphically indicates all buffer debit/credit areas associated with streams and wetlands on the project site. (SEPA MITIGATION - PLANTS AND ANIMALS #1)
- B. A temporary erosion and sediment control plan that establishes surveyed clearing limits outside of all significant trees and wetlands.
- C. Burying all storm water pipes through stream buffers.
- D. Addition of the trail leg drawn on the redlined plans.
- E. A buffer restoration special study report and plan that pertains to all sensitive area buffers and includes the following elements:
 - Native plant species, sizes and densities (SEPA MITIGATION - PLANTS AND ANIMALS # 3)
 - A vegetation management plan (SEPA MITIGATION - PLANTS AND ANIMALS # 19)
 - An irrigation plan
 - A maintenance plan
 - A completed bond quantities worksheet
 - A five-year monitoring plan and schedule to assess plant establishment
 - Contingency plan
- F. A maintenance bond.
- G. A fencing plan for the edge of all wetland/stream buffers.
- H. Removal of grassy area as drawn on the redlined plans.
- I. A shoreline restoration special study report and plan for the Lake Washington shoreline that provides for:
 - Near shore debris removal on the Lakepointe site (SEPA MITIGATION - PLANTS AND ANIMALS # 17)
 - Revegetation using hardstem bullrush (*Scirpus acutus*) and similar reference site species.
- J. Buoy signs to alert boaters to the presence of sensitive areas near shore wetland and salmon habitat.
- K. A near shore restoration plan for the inner harbor that eliminates the use of quarry spalls. (SEPA MITIGATION - PLANTS AND ANIMALS #13 - 16)
- L. Use of grating or glass prisms to achieve 50% light passage on all docks. (SEPA MITIGATION - PLANTS AND ANIMALS #13)
- M. Ten to fifteen feet, to be determined through the HPA permit, of separation between the fixed wharf and floating docks. (SEPA MITIGATION - PLANTS AND ANIMALS # 21)
- N. A waste holding tank pump station shall be provided (SEPA MITIGATION - WATER # 24)
- O. No live-aboards are allowed in the marina. The applicant shall record this restriction with the King County Records and Elections Division as a Notice on Title prior to final approval of the marina. (SEPA MITIGATION - WATER # 12/PLANTS AND ANIMALS #7)
- P. No underwater cleaning of any boat shall be allowed in the inner harbor. The applicant shall record this restriction with the King County Records and Elections Division as a Notice on Title prior to final approval of the marina. (SEPA MITIGATION - WATER # 19/PLANTS AND ANIMALS #12)

- Q. Boat fueling facilities shall be prohibited. The applicant shall record this restriction with the King County Records and Elections Division as a Notice on Title prior to final approval of the marina. (SEPA MITIGATION - WATER # 13/PLANTS AND ANIMALS #6)
- R. The applicant shall either prepare a new or submit an existing informational brochure to DDES or the City of Kenmore for review and approval regarding the regulations concerning illegal discharge of waste holding tanks. The brochure shall be provided to all boat owners at the time of lease agreements for boat slips in the marina. (SEPA MITIGATION - WATER # 18/PLANTS AND ANIMALS #11)
- S. In-water construction within the Ordinary High Water Mark is prohibited during the juvenile salmonid outmigration period. The specific dates shall be determined by the State Department of Fish and Wildlife. (SEPA MITIGATION - PLANTS AND ANIMALS # 9)
- T. Construction of a breakwater or wave board arrangement shall include shoreline openings for unimpeded fish passage. (SEPA MITIGATION - PLANTS AND ANIMALS # 8)

GEOLOGIC HAZARDS CONDITIONS

- A. Future development permit applications shall comply with the geologic hazard regulations contained in K.C.C. 21A.24. (SEPA MITIGATION - EARTH #1)
- B. Additional geotechnical engineering studies shall be conducted at the time of development permit review to provide detailed foundation design recommendations and appropriate pile test programs. (SEPA MITIGATION - EARTH #3)
- C. Precast concrete or steel displacement-type pilings shall be used to reduce the amount of soil cutting and erosion potential and would be compatible with the DOE MTCA Clean-up Plan. (SEPA MITIGATION - EARTH #4)
- D. Overexcavation and replacement of unsuitable fill soil beneath utilities shall be required when determined necessary to accommodate the possible settlement of soils. Flexible connections shall be provided where utilities connect to the project structures. (SEPA MITIGATION - EARTH #5)
- E. Suitable fill soils shall be provided under paved areas to provide a stable surface for pavement support, and reduce potential degradation due to settlement of soils. Geogrid reinforcement shall be provided, where appropriate, beneath pavement and sidewalk sections to reduce potential impacts from differential settlement of soils. (SEPA MITIGATION - EARTH #6)
- F. Additional engineering studies shall be conducted at the time of development permit review to address methane gas presence. Possible measures could include:
- a "plug" of low-permeability backfill in utility trenches;
 - a low-permeability seal around driven piles;
 - a vapor barrier and increased crawl space ventilation beneath enclosed structures; and
 - an HVAC design which includes active ventilation of all ground floor rooms so that gas accumulation does not occur. (SEPA MITIGATION - EARTH #7)
- G. Off-site structures adjacent to the proposed pile driving activities shall be monitored with detected vibration compared to acceptable ground surface accelerations for various structures. Existing conditions of adjacent structures shall be documented through photograph, surveys and measurement of existing cracks. Prior to the initiation of pile driving, a test program shall be implemented to determine the most efficient pile and hammer types and to determine

the need for possible bracing or reinforcement of nearby structures. (SEPA MITIGATION - EARTH #8)

STORMWATER DESIGN AND CONSTRUCTION STANDARDS CONDITIONS

- A. The Final SEIS may contain limitations or mitigation measures which, if implemented, may impact the exact location of the drainage facilities. This may require submittal of a revised Technical Information Report (TIR) and Drainage Plan.
- B. The Lakepointe project is mapped, according to the SWM Manual maps, as being within the "Basic Water Quality Treatment Areas" and "Level 1 Flow Control Area." Retention/Detention (R/D) is not required because the project drains directly to Lake Washington, which is a major receiving water.
- C. K.C.C. Title 21A.41.110 "Modification of an approved permit" provides that "A subsequent building permit application may contain minor modifications to an approved Commercial Site Development plan provided a modification: does not increase the total impervious surface area..." Additional impervious surface, above that identified in the current TIR, would require a new Commercial Site Development Permit.
- D. The developer, property owner or their designee will be responsible for the maintenance and operation (as required by TIR condition) of the on-site storm water conveyance systems, storm water detention system and the biofiltration facilities, in perpetuity, unless otherwise approved by King County or the City of Kenmore. (SEPA MITIGATION - WATER #7)
- E. The stormwater design shall be in conformance with the Surface Water Design Manual Variance (DDES File B97A0214). (SEPA MITIGATION - WATER #9)
- F. Metal roofs without treatment to prevent leaching, added during the building design, must be considered as additional Pollution Generating Impervious Surfaces (PGIS) and added to those PGIS considered in the current TIR and drainage design. This may increase the required Water Quality (WQ) Treatment capacity and require a redesign of these facilities.
- G. Pollution Generating Pervious Surfaces (PGPS) defined/identified on future Landscaping plans must be added to the current TIR and drainage design. This may increase the required Water Quality (WQ) Treatment capacity and require a redesign of these facilities.
- H. Existing storm drainage pipes, and other utilities, must be relocated out from under buildings and parking structures. Existing storm drainage pipes must be located within a drainage easement dedicated to the City of Kenmore, if maintenance is assumed by the City, or a private drainage easement if privately maintained. All such easements must be located outside the minimum five-foot setback from all structures.
- I. Any runoff from the underground and covered parking areas must not be discharged to the sanitary sewer, and must be treated for water quality.
- J. Final construction drawings of the Water Quality Treatment facilities must be designed to treat the "Water Quality Design Flow", defined to be 60% of the developed two-year peak flow rate, as determined using the King County Runoff Time Series (KCRTS) model.
- K. Final construction drawings must include, in each splitter structure, a "Spill Control" which is designed to capture any flows up to, and including, the 10-year, 24-hour event. This design may consist of double Tee outlets (with a collar on the larger, open-top outlet to Lake Washington), or equal. An "Oil Control" facility must be installed upstream from each Water Quality Treatment Facility that receives runoff from a "High Use" area. The complete project

is defined as a "High Use" site and, therefore, all paved areas subject to vehicular traffic are included as "High Use" pavement. This includes installation of coalescing plate oil/water separator upstream of each of the currently shown bioswales. (SEPA MITIGATION - WATER #10 - 11)

- L. The existing storm drains and sanitary sewers within the "footprint" of proposed structures must be removed, or properly abandoned in place, prior to construction of buildings and other structures. All existing storm drains and sanitary sewers, which may be located in areas of contaminated soils, as identified by the Department of Ecology, must be removed, or properly abandoned in place.
- M. All new storm water conveyance facilities must be located in private drainage easements that are located a minimum of 5 feet away from all structures. Where conveyance facilities are proposed to be located under, or through structures, a specific design needs to be submitted along with a SWM Variance Request.
- N. All private drainage facilities must be located on private property and not within public right-of-way.
- O. Final construction plans for drainage must include conveyance facilities to accommodate the lower Burke-Gilman Trail under crossing of Lakepointe Way NE to the north of the project site.
- P. Final construction plans must clarify how the access road bioswale, with a bottom elevation of 33 feet and a top elevation of 35 feet, per Typical Section A2 on Sheet C1.3, and the 25 foot level underground structure shown on Sheets C1.1 and C1.2 will occupy the same area. The bioswale must be located within a private drainage easement with a minimum width of 10 feet and located a minimum of 5 feet back from the structure. NE 173rd Place may be considered as the 10 foot minimum width access road required if maintenance vehicles can access the bioswale directly.
- Q. The fire lane adjacent to the other (more western) bioswale may be used as the bioswale maintenance road if maintenance vehicles can access the bioswale directly. This bioswale must be placed in a private drainage easement and this private drainage easement must be a minimum of 5 feet from the structure.
- R. Any drainage pipes that penetrate the hazardous waste cap must be sealed and pressure tested systems to prevent leakage into or out of the contaminated soils.
- S. Construction runoff (e.g. concrete wastes, equipment oils) shall be collected in sumps (catchment areas with no outlets) and disposed with in an approved off-site location. (SEPA MITIGATION - WATER #4a.)
- T. The Temporary Erosion and Sedimentation Control Plan (TESCP) shall include a water quality/TESCP inspector as part of the plan. (SEPA MITIGATION - WATER #4b.)
- U. Sediment ponds shall be used during construction to retain runoff. Swales (with silt fencing or straw bale barriers) shall be used to convey overflow to surface waters. (SEPA MITIGATION - WATER #4c.)
- V. A schedule shall be prepared for the trucking of materials to the site during non-peak hour traffic hours. The schedule shall be submitted for review at the time of development permit review and approval. (SEPA MITIGATION - AIR QUALITY #4)
- W. The engineering plans shall include notes detailing how dust will be reduced during construction. (SEPA MITIGATION - AIR QUALITY #5)

- X. Runoff from rooftops shall bypass water quality facilities to increase facility treatment capacity for runoff from roadways and parking lots. (SEPA MITIGATION - WATER #14)
- Y. If biofiltration swales are to be located in contaminated soils (as determined by DOE), a modified underdrain, as shown in Figure 6.3.1c of the 1996 Draft Manual, with an impervious membrane separating the contaminated soil from the underdrain "drain rock" shall be required as an alternative to the standard design. (SEPA MITIGATION - WATER #15)

PERMITTED USES CONDITIONS

- A. Only those uses included in KCC 21A.08 for the Regional Business zone are allowed, except the uses prohibited by the P-Suffix Prohibited Uses condition.

DENSITY AND DIMENSIONS CONDITIONS

- A. The "10 foot maximum roof element" shown on the Commercial Site Development Permit Plan Sheet A2.8 Envelope Criteria Sections dated and received May 22, 1998 is not approved.
- B. The buildings must be either reduced in height to comply with the sixty-five foot base height limit for mixed use developments in the Regional Business zone, or redesigned so that the portions of the building that exceeds the base height are set back one foot for every one foot of building height in excess of sixty-five feet.
- C. Building heights shall not to exceed thirty-five feet within two hundred feet of the Sammamish River. If subsequent building permits include buildings exceeding thirty-five feet within two hundred feet of the Sammamish River, additional environmental review shall be required and a revision to the Shoreline Permit shall be required.
- D. The primary pedestrian streets are NE 174th Street and the side streets connecting NE 174th Street to NE Lakepointe Boulevard. A maximum setback of 5 feet shall be established along the primary pedestrian streets. Setbacks in excess of 5 feet shall only be allowed if arcades, street-side outdoor cafes, patios, parks, plazas or other public spaces are provided. A variance shall not be required to KCC 21A.12 for street setbacks to comply with this condition.
- E. The Site Statistics Plan Sheet A2.2 dated and received May 22, 1998 is conceptual only. Approval of the Commercial Site Development Permit does not constitute approval of compliance with K.C.C. 21A.12 for the Regional Business zone, K.C.C. 21A.14.110 for mixed use developments or the Northshore P-Suffix conditions relating to subdistrict residential density. Full compliance with the residential density standards shall be required at the time of development permit review and approval.
- F. Residential density shall not exceed 36 dwelling units per acre, established for the Regional Business zone, unless the density incentive provisions of K.C.C. 21A.34 are utilized. There is no minimum density for the Regional Business zone.
- G. Residential density must be at least 12 dwelling units per acre in the Neighborhood Commercial and Waterfront Subdistricts.
- H. Residential density must be at least 24 dwelling units per acre in the Residential Subdistrict.
- I. Residential uses shall not exceed 75% or be less than 50% of the total built floor area.

PARKING CONDITIONS

- A. Parking shall be provided generally at the rate and in the location outlined on the Site Statistics Plan Sheet A2.2; the Proposed Parking Modification Plan Sheets A2.9.a. and A2.9.b.; and the Phasing Plan Sheets A4.0 through A4.9.6 dated and received May 22, 1998.
- B. Modifications to the parking rate and location outlined on the Plan Sheets identified above, which does not result in an insufficient amount of parking as required by KCC 21A.18, does not increase the amount of impervious surface area and does not conflict with this P-Suffix condition, may be done as a modification to the Commercial Site Development Permit. Modifications which exceed these thresholds will require a new Commercial Site Development Permit for the entire site.

RECYCLABLES CONDITIONS

- A. The applicant shall contract with Eastside Disposal, or its successor company, to arrange for recycling service to the site. Compliance with this condition shall be demonstrated prior to occupancy of the first residential dwelling unit. (SEPA MITIGATION - SEWER/SOLID WASTE #3)
- B. Compliance with K.C.C. 21A.14.210 for storage space and collection points for recyclables shall be required at the time of development permit review and approval.

LANDSCAPING CONDITIONS

- A. The Lakepointe Commercial Site Development Permit Plan Sheet L1.0, Conceptual Landscape Master Plan, is not approved.
- B. The Lakepointe Commercial Site Development Permit Plan Sheet L1.0 (Alt.) is conceptually approved, provided the 4,500 square foot Lawn Area located within the loop trail just north of the goose nesting easement is removed.
- C. The Lakepointe Mixed-Use Development parking lots must provide trees at the edge of every parking row adjacent to the traveled lane, as proposed on the Commercial Site Development Permit Plan Sheet A2.9a, dated and received May 22, 1998, as a justification for an alternative parking lot design.
- D. A landscaped area for shrubbery and ground cover must be provided perpendicular to the parking rows at an interval of no less than every six stalls, as proposed on the Commercial Site Development Permit Plan Sheet A2.9a, dated and received May 22, 1998, as a justification for an alternative parking lot design.
- E. The proposed landscaping identified on Plan Sheet L1.3 must be provided, including that shown in the typical (plan view and cross-section) for landscaping along NE Lakepointe Boulevard and Lakepointe Way NE.
- F. Street trees shall be provided along both sides of NE 174th Street, NE 173rd Place, NE 175th Street and the side streets connecting NE 174th Street with the center and east traffic circles. The trees shall be spaced to provide a continuous canopy. Only a species approved by King County or the City of Kenmore is allowed if planted within street right-of-way.
- G. When a phase of development proposes to accommodate a portion of the required parking in a surface lot located on a building pad reserved for a future phase, landscaping must be provided as follows:

1. Landscaping consistent with K.C.C. 21A.16 and this permit, whichever is more restrictive; or
 2. An alternative landscaping plan may be submitted for review and approval which will provide adequate screening from the developed portion of the site and provide visual relief from the hardscaped parking lot. Alternatives may include providing landscaping in containers, which can be reused elsewhere on site, a combination of landscaping and fencing, or any other alternative that meets the intent of this condition.
 3. No landscaping will be required if, at the time a certificate of occupancy is issued for buildings adjacent to the parking lot, a building permit has been applied for on the building pad where the parking is located.
- H. If there is a conflict between the landscaping requirements of K.C.C. 21A.16 and the proposed landscaping contained in the Commercial Site Development Permit, the more restrictive shall apply.
- I. A landscaping plan consistent with K.C.C. 21A.16.115 shall be submitted for review and approval with each phase of development.
- J. Financial guarantees shall be required consistent with K.C.C. 27A.

SIGNS CONDITIONS

- A. Signs within the Lakepointe Mixed Use Development shall conform with the sign provisions for the Regional Business zone, as established in K.C.C. 21A.20.
- B. One additional residential identification sign not exceeding 32 square feet is allowed for each building that contains residential units.

NOISE CONDITIONS

- A. A Notice on Title shall be recorded with the King County Department of Records and Elections prior to issuance of the first certificate of occupancy for residential units on the Lakepointe site advising residents of the Avigation Easement (Recording Number 9608301783) recorded August 30, 1996 between the Grantor, Pioneer Towing and the Grantee, Kenmore Air Harbor, Inc. The Avigation Easement allows Kenmore Air Harbor, Inc. to continue normal operations in the airspace over the Kenmore site. The Notice on Title shall be recorded in a manner to assure that every resident, whether owner or renter, and every owner of residential units is aware of the existence of the Avigation Easement. (SEPA MITIGATION - NOISE #13)
- B. During each phase of construction, when building permits are submitted for review and approval, an analysis shall be performed by an acoustical consultant to assess the impacts to specific residential units, both on the site and off site. Based on that analysis, (a) construction shall be sequenced and conducted in a manner that will reduce interior noise in occupied residential units to acceptable residential levels during construction, and (b) residential units proposed for construction shall be designed and construction materials provided to reduce interior noise to acceptable residential levels during construction and after project buildout. "Acceptable" may be defined as sound levels established by the EPA guidelines or by the Federal Highway Administration standards (see Draft Supplemental EIS, Chapter 3).

- C. Any of the mitigation measures listed in Chapters 1 and 2 of the Final Supplemental EIS or Chapter 3 of the Draft Supplemental EIS.
- D. Other mitigation measures identified by the permitting agency as warranted.

UNIFORM CODES / BARRIER FREE ACCESSIBILITY / ENERGY CODE CONDITIONS

- A. Approval of the Commercial Site Development Permit shall not provide the applicant with a vested right to build without regard to subsequent changes in the building and fire codes listed in K.C.C. 16.04 and 17.04 regulating construction.
- B. Plan Sheets A2.3b and A2.3c (Alt.) dated and received May 22, 1998 is conceptual only. Approval of the Commercial Site Development Permit does not constitute approval of site improvements for compliance with the State Barrier Free Accessibility Code, 70.92 RCW. Full compliance with the State Barrier Free Accessibility Code shall be required at the time of development permit review and approval.
- C. Plan Sheet C1.2 dated and received May 22, 1998 is conceptual only. Approval of the Commercial Site Development Permit does not constitute approval of site improvements for compliance with fire access and circulation. Full compliance with the fire access and circulation regulations shall be required at the time of development permit review and approval.
- D. Compliance with the Washington State Energy Code (WAC 51-11) shall be required at the time of building permit review and approval.

KENMORE AIR HARBOR AGREEMENT CONDITIONS

- A. There shall be three types of moorage allowed in the channel: a) moorage for permanent residents; b) moorage for the guests of permanent residents; and c) moorage for the hotel guests. (SEPA MITIGATION - TRANSPORTATION # 18)
- B. There shall be no moorage for daily/hourly boat traffic in the channel. The applicant is required to provide signage to notify boaters that daily/hourly boat moorage is not allowed at the marina.
- C. Over-water marina structures nearest the Kenmore Air Harbor terminal shall be constructed to no more than the maximum height above the water surface to allow the main wing of a seaplane to pass over the structure. (SEPA MITIGATION - TRANSPORTATION #20)

MODEL TOXICS CONTROL ACT CONDITIONS

- A. The applicant shall provide documentation prior to the issuance of the first development permit authorizing site alteration or construction showing that measures to prevent contaminated materials from coming into contact with humans, surface water and ground water have been identified, evaluated and required as part of the Model Toxics Control Act (MTCA) remediation plan. (SEPA MITIGATION - TOXIC AND HAZARDOUS MATERIALS # 2)
- B. All requirements of the MTCA remediation plan shall also be requirements of the Commercial Site Development Permit.

- C. If there is an inconsistency between the approved Commercial Site Development Permit and the remediation plan, the Commercial Site Development Permit shall be amended to comply with the remediation plan. If the modifications required to bring the permit in conformance with the remediation plan exceed the thresholds established in K.C.C. 21A.41.110, a new Commercial Site Development Permit shall be required.

HISTORIC AND CULTURAL PRESERVATION CONDITIONS

- A. If historic or cultural resources are discovered during construction, the applicant shall contact the King County Cultural Resources Division, the State Office of Architectural and Historic Preservation and appropriate tribes to determine the significance of the findings. (SEPA MITIGATION - HISTORIC AND CULTURAL PRESERVATION # 1)
- B. Significant findings shall be addressed in accordance with the adopted rules, regulations and policies prior to further alteration of the historic or cultural resource.

SHORELINE ACCESS CONDITIONS

- A. A public trail system shall be provided as conceptually shown on the On-Site Recreation Plan Sheet L1.2 (Alt.) contained in the Commercial Site Development Permit dated and received May 22, 1998. The public trail system shall include: the Public Access Trail/Fire Lane; the Lake Washington Shoreline Trail & Amphitheater; the Marina Boardwalk; the Fragrant Garden; the Sammamish Shoreline Interpretive Trails, additional Revised Pathways and View Platforms.
- B. The trail system shall be improved with each phase of development to provide a continuous access route along the entire shoreline.
- C. A public access easement shall be recorded over the trail system constructed within each phase of development, as set forth in the Transportation Mitigation Agreement.

RECREATION AND PLAY AREAS CONDITIONS

- A. A detailed recreation plan shall be submitted for review and approval for compliance with K.C.C. 21A.14 prior to issuance of any building permit for residential units.
- B. The following areas do not qualify as recreation space: storm water facilities, including biofiltration swales; landscaped areas unless they provide for active recreation; sensitive areas and their buffers; sidewalks constructed adjacent to streets or retail shops; outdoor seating for restaurants or cafes; members only health clubs; and privately leased moorage facilities.
- C. The recreation plan shall include amenities, such as play equipment meeting the Consumer Product Safety Standards, soft surfacing and spacing; picnic tables; benches; public restrooms; trailhead facilities; and interpretive signs.
- D. The recreation plan shall demonstrate compliance with the play area requirements of K.C.C. 21A.14.190. Every building containing residential units, except for buildings consisting entirely of senior housing in perpetuity, shall provide a play area that is at least 400 square feet in size with no dimension less than twenty feet and is adjacent to main pedestrian paths or near building entrances.

DESIGN GUIDELINES CONDITIONS

- A. All development permits shall be designed in conformance with the Design Guidelines prepared by Callison Architecture, Third Submittal dated December 23, 1996.
- B. Modifications or amendments to the Design Guidelines may be approved by the City of Kenmore without requiring an amendment or modification to the Commercial Site Development Permit or Master Plan.

SCHOOLS CONDITIONS

- A. The applicant shall pay school impact fees to the Northshore School District to address the impact of additional students generated by the Lakepointe development. (SEPA MITIGATION - PUBLIC SERVICES - SCHOOLS # 3)
- B. The school impact fees shall be assessed in accordance with the provisions of K.C.C. Title 21A.28, Title 21A.43 and Title 27.

VIOLATIONS- ASBESTOS-CONTAINING MATERIAL CONDITIONS

- A. All soil evacuation and other construction activities are subject to the Puget Sound Air Pollution Control Agency (PSAPCA) Regulation III, Article 4 - Asbestos Control Standards and Regulation I, Section 9.15 - Fugitive Dust Standards.
- B. Suspect asbestos-containing material that is exposed or encountered during construction activities, such as excavation and grading, shall be subject to a survey by an Asbestos Hazard Emergency Response Act (AHERA)-certified inspector prior to further disturbance. If asbestos-containing material is found, the property owner shall develop a follow-up sampling protocol with PSAPCA.
- C. All asbestos containing materials identified shall be handled and disposed of in accordance with PSAPCA Regulation III, Article 4.
- D. Section 5.05(e) of PSAPCA Regulation I requires that the owner or operator develop an operation maintenance plan to assure continuous compliance with PSAPCA Regulation I, Section 9.15 - Fugitive Dust Standards.

VIOLATIONS - GRADING CONDITIONS

- A. All conditions of the grading violation (DDES File No. L96G0220) shall be met prior to the issuance of any permit that will allow site alteration or construction.

VIOLATIONS - SOLID WASTE CONDITIONS

- A. The solid waste violation shall be resolved to the satisfaction of the Seattle-King County Health Department prior to the issuance of any permit that will allow site alteration or construction.

REDLINE NOTES ON PLAN SHEETS

The following notes have been hand-written on the Plan Sheets of the Sixth Submittal of the Commercial Site Development Permit dated and Received May 22, 1998:

Plan Sheet A0.1

In the project description, correct the number of proposed boat slips from 52 to 27.

Plan Sheet A2.0

Not approved.

Plan Sheet A2.0 (Alt.)

The following note is added in reference to the Lake Washington shoreline:

“Provide near shore debris abatement and habitat restoration plan and report.”

Plan Sheet A2.1

Not approved.

Plan Sheet A2.1 (Alt.)

The following General Notes are deleted:

- Fire Protection will be provided by standpipe connections at building exteriors.
- Water distribution for fire protection shall be by building standpipe system. Refer to civil drawings for proposed routing and standpipe locations.
- All buildings shall be provided with fire protection capability via standpipe and sprinkler system.

The following note is added in reference to the Lake Washington shoreline:

“Provide near shore debris abatement and vegetation restoration plan.”

The following note is added in reference to the inner harbor shoreline:

“Provide near shore restoration plan.”

The following note is added in reference to the floating docks:

“Provide grated floating docks and ramps.”

The following note is added in reference to the Lake Washington shoreline buffer and the Sammamish River shoreline buffer:

“Provide buffer credit/debit plan for wetland and stream.”

The following note is added in reference to the Sammamish River shoreline buffer:

“Provide vegetation management plan.”

The following note is added in reference to the grassy area within the loop trail north of the goose nesting easement:

“Remove.”

The following note is added showing a connection of the shoreline trail back to the pedestrian promenade/fire lane:

“Add trail.”

The following note is added in reference to the Sammamish River shoreline buffer:

“Provide buffer restoration and enhancement plan including fencing and irrigation.”

The following note is added in reference to the Lake Washington shoreline:

“Provide navigational exclusion (buoys)

Plan Sheet A2.2

Delete the residential density information for the Waterfront Extension Subdistrict. Adjust numbers. Correct the residential density for the Regional Business zone from 48 DU/acre to 36 DU/acre. Adjust numbers.

Rewrite the following note: "Where any parcel parking requirement is not met within that parcel, the deficit will be satisfied by either the previous or subsequent parcel parking surplus" to read as follows: "Where any parcel parking requirement is not met within that parcel, the deficit will be satisfied by the previous parcel parking surplus."

Change boat slips to 27, parking to 13 - adjust numbers.

Plan Sheet A2.3a

Not approved.

Plan Sheet A2.3a (Alt.)

Add pedestrian facilities as follows:

1. Pedestrian facilities along both sides of NE Lakepointe Boulevard, including completely around all the traffic circles.
2. Pedestrian and bicycle facilities along both sides of Lakepointe Way NE, unless a variance is obtained.
3. Pedestrian facilities along both sides of NE 175th Street, from Lakepointe Way NE to 68th AVE NE.
4. Pedestrian and bicycle facilities along the east side of 68th AVE NE fronting the site.
5. A raised pedestrian walkway from the at-grade crossing of SR 522, or the pedestrian bridge crossing SR 522, to the transit stops on both the north and south side of SR 522.

Plan Sheet A2.3b

The following note is added in reference to the two 24-hour dedicated elevators to provide handicap access from the 45' level to the 25' level; from the 35' level to the 25' level; and from the 45' level to the 35' level:

"Actual design of elevator structure will be reviewed under individual building permits, as well as barrier free accessibility to each elevator within the individual building envelopes."

A general note is added to read:

"The accessible route of travel (barrier free) must comply with Section 1106.4, WAC 51-30 (i.e. clear height, width, slope, changes in level, surface, etc.)."

Plan Sheet A2.3c

Not approved.

Plan Sheet A2.8

The "10' max roof element" is not approved.

Plan Sheet A3.1

Building heights shall not exceed thirty-five feet within two hundred feet of the Sammamish River without additional environmental review and an amendment to the Shoreline Permit.

Plan Sheet A3.2

Building heights shall not exceed thirty-five feet within two hundred feet of the Sammamish River without additional environmental review and an amendment to the Shoreline Permit.

Plan Sheet A3.4

A note is added in reference to Sections J-J and K-K to read as follows:

“Fire lanes must be a minimum 20 foot clear width.”

Plan Sheet A4.3.3

The following note is added to read as follows:

“Provide a stair in the retaining wall from the temporary fire lane on the 25’ level to the ramp on the 35’ level on the west side of Building B to provide emergency fire access to the west side of Building B from the west side of the Phase 1 boundary.”

Plan Sheet A4.8.3

The following note is added in reference to the ramps from the 45’ level down to the 35’ level on both the east and west sides of Building C-2; to the length of NE 174th Street; to the ramp down from the 45’ level at the east traffic circle to the 35’ level connecting to NE 173rd Place; and to the ramps from the 45’ level down to the 35’ level at the intersection of NE 173rd Place and 68th AVE NE:

“Where a private vehicular way extends beyond the building envelopes and where an accessible route of travel crosses or adjoins a private vehicular way, the (barrier free) accessible route of travel must comply with Section 1106.4, WAC 51-30 (i.e. marked cross walks, curb ramps, detectable warning devices, etc.) and must be reviewed under a separate building permit.”

Plan Sheet M1.0

The following note is added in reference to the two new pile supported wharf structures and ramps accessing them and the ramp leading to the new floating dock:

“Edge of promenade, wharf access ramping, access bridge to wharf structure and wharf structure must provide protective guard railings in compliance with Section 509, UBC. The (barrier free) accessible route of travel, via the access ramping, access bridge and wharf structure, shall comply with Sections 1106.4, 1106.5, 1106.6, 1106.7, 1106.8, WAC 51-30.

****NOTE:** The above site (structural) features (i.e. ramp, bridge, wharf structure) which are located outside the building envelopes, must be reviewed under a separate building permit. Reference building envelopes at elevation 25’ level on Sheet A4.5.1.”

The following note is added in reference to the floating and fixed docks and the note reading “Public access and controlled guest moorage dock, fixed dock, Elev 2.7.”:

“Both the floating moorage dock and fixed dock structure must be reviewed under a separate building permit. Both are outside of building envelopes. Reference Sheet A4.5.1.”

The following note is added in reference to the ramps accessing the fixed dock:

“Provide ADA compatible grating or glass prisms to achieve 50% light passage or mitigation.”

The following note is added in reference to the inner harbor shoreline:

“Provide near-shore substrate & restoration plan.”

Plan Sheet M1.1

The following note is added in reference to Section A (South Shore) 6" quarry spalls:

"Remove quarry spalls. Place substrate materials."

The following note is added in reference to Section A (South Shore) 10' wide mooring dock:

"Provide 50% light passage grating or glass prism detail."

The following note is added to Section B (Existing Bulkhead):

"Provide 10 - 15 feet of separation, as determined through the HPA."

The following note is added to Section B (Existing Bulkhead) 8' wide moorage float:

"Provide detail for grated or glass prism 50% light passage."

The following note is added to Section C Public Outlook:

"Provide detail for grating/prisms."

The following note under the Marina Features - Moorage is deleted:

"Permanent (one month or longer)"

The following note is added to the Marina Features - Moorage:

"Moorage leases shall be for permanent residents, moorage for guests of permanent residents and moorage for hotel guests."

The following note is added to the Marina Features - Structures:

"Grated or glass prism 50% light passage."

The following note is added to the Marina Features - Safety/Environmental Features:

"Spill response plan and booms."

The following amendment is made to the Marina Features - Safety/Environmental Features:

Delete "exists on adjacent property" and replace with "shall be provided."

The following is deleted from the Marina Features - Safety/Environmental Features:

"Shower facilities within buildings."

Plan Sheet C1.1

Not approved.

Plan Sheet C1.1 Alt.

The following note is added:

"No site disturbance or construction is authorized under this permit."

Plan Sheet L1.0

Not approved.

Plan Sheet L1.0 Alt.

The 4,500 SF lawn area within the loop trail north of the goose nesting easement is deleted.

Plan Sheet L1.1

Not approved.

Plan Sheet L1.2

Not approved.

Plan Sheet L1.2 (Alt.)

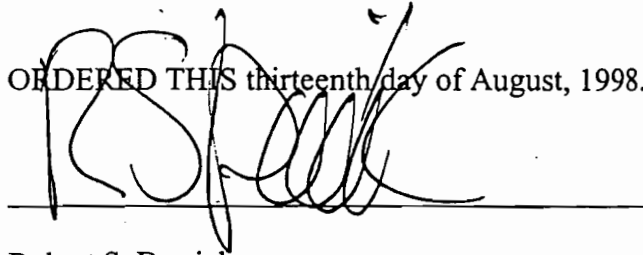
The following is deleted from the recreation plan description in the upper left corner:

“(only 50% of biofiltration swales count toward total)”

The 4,500 SF lawn area within the loop trail north of the goose nesting easement is deleted.

A trail connection is added back to the public access trail/ fire lane near the west view platform.

ORDERED THIS thirteenth day of August, 1998.

A handwritten signature in black ink, appearing to read 'R. S. Derrick', is written over a horizontal line. The signature is stylized and cursive.

Robert S. Derrick
Director

TRANSMITTED to the following Persons of Interest/Parties:
See Attachment B.

ATTACHMENTS:

Attachment A - Proposed Site Plan

Attachment B - Persons of Interest/Parties

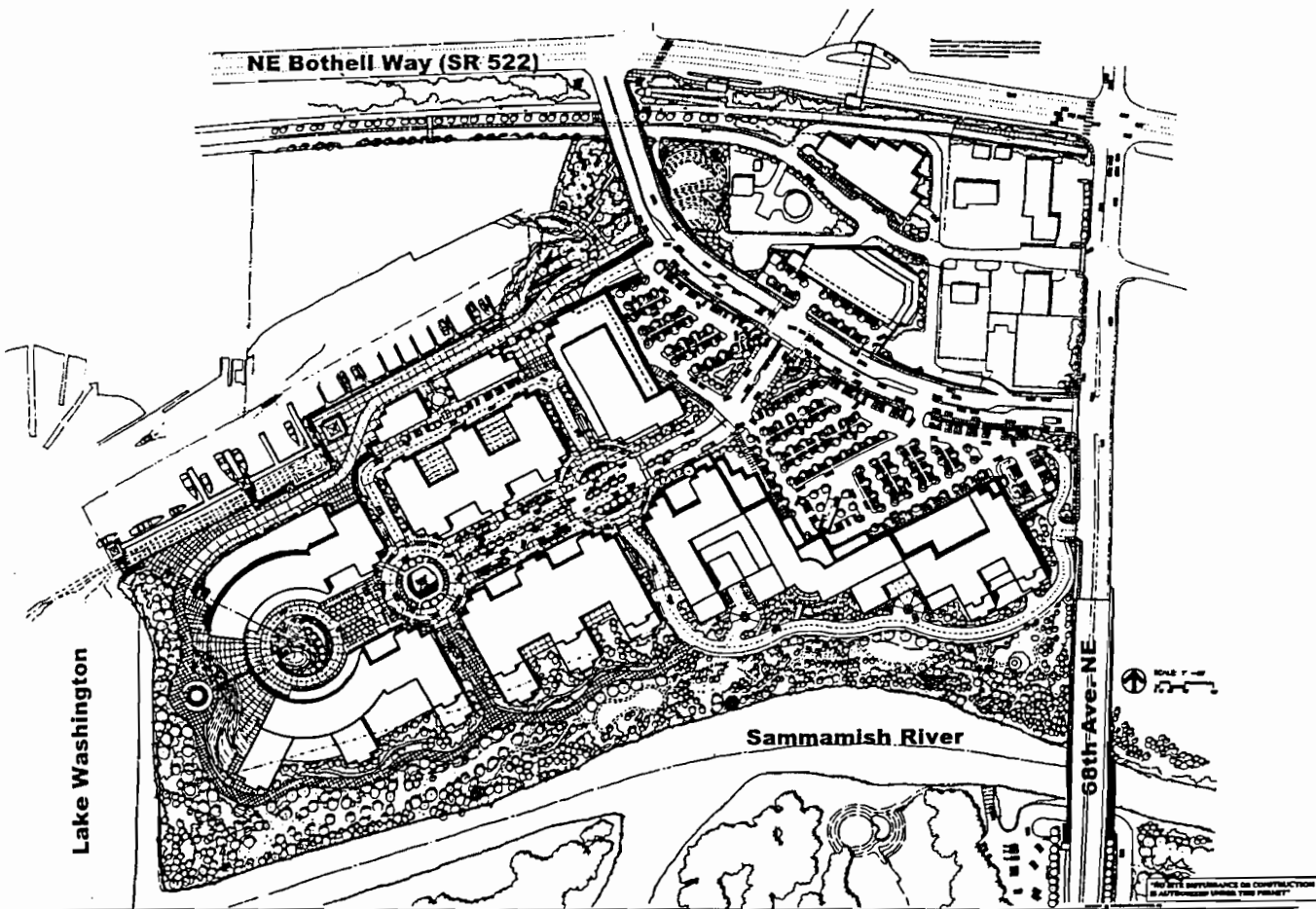
Attachment C - Right to Appeal

Attachment D - Lakeointe Mixed-Use Development Phasing Plan

Attachment E - Lakeointe Mixed-Use Development Transportation Mitigation Agreement

Attachment F - Affordable Housing Provisions

ATTACHMENT A
PROPOSED SITE PLAN



LAKEPOINTE DEVELOPMENT
PIONEER TOWING COMPANY
KENMORE, WASHINGTON

City of Bothell, WA
1000 1st Ave, Suite 100
Bothell, WA 98021
7 206-485-1000



Scale: 1/4" = 1'-0"
North Arrow

Commercial Site Development Permit
Master Plan
Working Model
Project Number: 1986.00
A2.0 (A)

ATTACHMENT B

PERSONS OF INTEREST AND PARTIES

Federal Agencies

Army Corps of Engineers
Department of Housing and Urban Development
Environmental Protection Agency
Federal Aviation Administration
Fish and Wildlife Service

Washington State Agencies

Department of Ecology
Department of Fish and Wildlife
Department of Natural Resources
Parks & Recreation Commission
Department of Transportation
Department of Community, Trade and Economic Development
Utilities and Transportation Commission

King County Government

Department of Natural Resources - Solid Waste Division
Department of Natural Resources - Wastewater Treatment Division
Department of Natural Resources - Water and Land Resources Division
Department of Parks and Recreation
Department of Public Safety - Marine Unit
Department of Public Safety - Sheriff
Department of Transportation - Road Services Division
Department of Transportation - Transportation Planning Division
Fire Marshall
Metropolitan King County Council
Office of Cultural Resources - Landmarks and Heritage Program
Office of Cultural Resources - Public Art Program
Strategic Planning Functions - Economic Development
Strategic Planning Functions - Growth Management

Regional/Local Agencies

Bothell Water & Sewer Department
Fire Protection District No. 4 (Shoreline)
Fire Protection District No. 5 (Lake Forest Park)
Fire Protection District No. 16 (Bothell)

Fire Protection District No. 36 (Woodinville)
Fire Protection District No. 41 (Kirkland)
Lake Forest Park Water Department
Northshore School District No. 417
Northshore Utility District
Puget Sound Air Pollution Control Agency
Puget Sound Regional Council
Puget Sound Energy
Redmond Sewer District
Regional Transit Authority
Seattle-King County Department of Public Health
Shoreline School District No. 412
Shoreline Wastewater Management District
Shoreline Water & Sewer District
Water District No. 83

Cities

Bellevue
Bothell
Kenmore
Kirkland
Lake Forest Park
Redmond
Seattle
Shoreline
Woodinville

Tribes

Duwamish Indian Tribe
Lummi Nation
Muckleshoot Indian Tribe
Puyallup Tribe
Snoqualmie Tribe
Suquamish Tribe
Swinomish Tribal Community
Tualip Tribe
Upper Skagit Indian Tribe

Libraries

Bellevue Library

Bothell Library
Kenmore Library
King County Library System
Kingsgate Library
Kirkland Library
Lake Forest Park Library
Muckleshoot Library
Redmond Library
Richmond Beach Library
Seattle Public Library
Shoreline Library
Woodinville Library

Newspapers

Daily Journal of Commerce
Eastside Week
Issaquah Press
Journal-American
Morning News Tribune
Northshore Citizen
Seattle Post-Intelligencer
Seattle Times
Snoqualmie Valley Reporter
Valley Daily News
Woodinville Weekly

Community Groups

Cascade Bicycle Club
Friends of Northshore
Kenmore Incorporation Committee
Lakepointe Citizen's Advisory Task Force
Seattle Audubon Society
Washington State Environmental Council
Woodinville Chamber of Commerce

Individuals

The Notice of Decision was sent to approximately 1,700 individuals on the Lakepointe Persons of Interest and Parties list. A copy of this list is available at the King County Department of Development and Environmental Services.

ATTACHMENT C

RIGHT TO APPEAL

This action may be appealed in writing to the King County Hearing Examiner, with a fee of \$125 (check payable to King County Office of Finance).

As required by KCC 20.20.090.B and 20.24.090.A, appeals must be filed within fourteen (14) calendar days from the date of issuance of a decision.

Filing requires actual delivery to the King County Building Services Division prior to the close of business (4:30 p.m.) on the date due, and a copy must be provided to the Office of the Hearing Examiner. Prior mailing is not sufficient if actual receipt by the Division does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Division 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.

Once a Notice of Appeal has been filed, the appellant shall file a statement of appeal within twenty-one (21) calendar days from the date of issuance of the decision. The statement of appeal shall identify the decision being appealed (including file number) and the alleged errors in that decision.

The statement of appeal shall state: 1) specific reasons why the decision should be reversed or modified; 2) the harm suffered or anticipated by the appellant; and 3) the relief sought. The scope of an appeal shall be based principally on matters or issues raised in the statement of appeal. Failure to timely file a notice of appeal, appeal fee, or statement of appeal deprives the Examiner of jurisdiction to consider the appeal.

Appeals must be submitted to the Department of Development and Environmental Services, addressed as follows:

COMMERCIAL SITE DEVELOPMENT PERMIT APPEAL
Building Services Division
Department of Development and Environmental Services
900 Oakesdale Avenue SW
Renton, WA 98055-1219

ATTACHMENT D

LAKEPOINTE MIXED-USE DEVELOPMENT PHASING PLAN

This document constitutes the Phasing Plan for the Lakepointe project.

1. Phasing Requirements. This Phasing Plan is provided in compliance with the Northshore Community Plan P-Suffix Conditions and the King County Code.

a. P-Suffix Conditions. The P-Suffix conditions contain phasing requirements for the development of the Lakepointe site. The P-Suffix condition regarding phasing requires, in summary, that the Lakepointe project site be divided into four subdistricts: the Neighborhood Commercial, Waterfront, Residential and Waterfront Extension subdistricts. The condition identifies detailed mitigation phasing requirements for the project as a whole, which must be completed in the initial phase of development, and for each of the subdistricts. No additional mitigation measures beyond those required for the project as a whole are required for the Neighborhood Commercial subdistrict but the condition identifies additional mitigation for each of the other subdistricts. Finally, the condition provides that “there are no restrictions on when or where development may occur within the Pre-Mix site, so long as it is in accordance with the approved master plan.”

b. King County Code. The King County Code provides that the term of a Commercial Site Development Permit (“CSDP”) with a phasing plan is governed by the phasing plan. Specifically, King County Code 21A.41.100 provides that: “A commercial site development permit approved with a phasing plan shall be null and void if the applicant fails to meet the conditions and time schedules specified in the approved phasing plan.” On the other hand, the CSDP will continue to be in force, and construction permits will be issued consistent with it, if the applicant adheres to the Phasing Plan.

2. Description of Phases. The following is a description of the development to be conducted in each Phase. Refer to Sheet A2.6 (Envelope Criteria Proposed) of the Sixth Submittal of the CSDP, dated and received May 22, 1998 and incorporated by reference herein, for the locations of the Building Envelopes.

a. Phase 1. Phase 1 will include site grading and utility infrastructure work in preparation for and including the construction of the elevated bypass roadway, the modification of grades and transition along 175th Street and the on-grade extension of the 175th feeder and service road onto the site. The by-pass roadway construction will also include the completion of intersections at SR-522 and at 68th Avenue. Subsequent to the construction of the roadways and other infrastructure, Phase 1 will also include the development of Building Envelopes A and B.

Building Envelope A will include approximately 44,082 square feet of food store, approximately 20,000 square feet of drug store and approximately 23,587 square feet of miscellaneous retail space. The residential component of this Building Envelope will house 200 independent senior housing apartments, 200 assisted living senior housing apartments and 240 standard market adult apartments.

Building Envelope A will have one surface parking deck and one parking level on grade to accommodate 1,202 cars.

Building Envelope B will include approximately 50,075 square feet of cinema space, approximately 49,258 square feet of miscellaneous retail and food court space, and approximately 60,000 square feet of office space. This Building Envelope will have one surface parking deck and two lower level parking floors to accommodate 743 cars.

Additional required parking will be provided during this phase for Building Envelopes A and B in an approximately 187,690 square foot surface lot in Building Envelope C-2.

The balance of Phase 1 will include: approximately 79,100 square feet of plinth area surrounding Building Envelope A; approximately 79,790 square feet of Lakepointe Boulevard extending to the first traffic circle; approximately 31,180 square feet of fire lane constructed on the plinth area of Building Envelope A; approximately 127,500 square feet of boardwalk along the marina edge; approximately 17,450 square feet of gallery walk along the frontage of Building Envelopes A and B; approximately 117,780 square feet of shoreline park adjacent to Building Envelope A; and approximately 24,310 square feet of surface water quality detention pond area to collect the surface water runoff from the elevated by-pass roadway, the 175th access road at grade, the elevated boulevard and surface parking decking adjacent to Building Envelopes A and B.

Phase 1 shall also include the Phase 1 transportation mitigation identified in the approved Transportation Mitigation Agreement.

b. Phase 2. Phase 2 will include the construction of Building Envelopes C-1, C-2 and C-3. Building Envelope C-1 will include approximately 53,466 square feet of specialty retail and professional office space. Building Envelope C-3 will have approximately 3,000 square feet of restaurant space. Building Envelope C-2 will include approximately 37,889 square feet of specialty retail, 100 condominium units and 140 apartment units. All parking for this Building Envelope will be within the building's garage and include one grade level and two lower levels of garage to accommodate 874 cars. Parking requirements for Building Envelopes C-1 and C-3 will also be accommodated in the parking garage provided in Building Envelope C-2. Additional required parking shall be provided during this phase in a surface lot in Building Envelope E-2.

Phase 2 shall also include the Phase 2 transportation mitigation identified in the approved Transportation Mitigation Agreement.

c. Phase 3. Phase 3 will include the construction of Building Envelopes D and F as well as the extension of approximately 99,590 square feet of the elevated boulevard and utilities, the extension of approximately 96,090 square feet of the boardwalk, amphitheater park and open space, the extension of approximately 96,690 square feet of the shoreline park and approximately 17,480 square feet of the fire lane to the southwest edge where it meets Lake Washington.

Phase 3 will include a 161,781 square feet boutique hotel of approximately 150 rooms and an approximately 35,589 square foot health club in Building Envelope D. Phase 3 will also include 26

boat slips along the south side of the inner harbor in Building Envelope F. The hotel and health club will require 554 parking stalls. The marina will require 26 stalls. Parking is provided by two levels of garage to accommodate 554 stalls for the hotel and health club and 26 stalls for the boat slips.

Phase 3 shall also include the Phase 3 transportation mitigation identified in the approved Transportation Mitigation Agreement.

d. Phase 4. Phase 4 will include 100 condominium units constructed in Building Envelope E-1. The condominiums in Building Envelope E-1 will require approximately 200 parking stalls. Parking is provided on two levels of garage to accommodate the 200 required stalls.

Phase 4 shall also include the Phase 4 transportation mitigation identified in the approved Transportation Mitigation Agreement.

e. Phase 5. Phase 5 will include the construction of Building Envelope E-2, the approximately 117,780 square foot completion of the shoreline park and approximately 31,180 square feet of the fire lane facilitating the connection of the shoreline park and fire lane completed in Phase 1 with the same completed in Phase 3. Building Envelope E-2 will include 220 condominiums and a two-level parking garage to accommodate 432 cars.

Phase 5 shall also include the Phase 5 transportation mitigation identified in the approved Transportation Mitigation Agreement.

f. Phase 6. Phase 6 will include the construction of Building Envelopes G-1 and G-2 and the balance of approximately 51,900 square feet of open space. Building Envelope G-1 will include approximately 105,488 square feet of professional office. Building Envelope G-2 will include the construction of a parking garage to provide the 433 required stalls.

Phase 6 shall also include the Phase 6 transportation mitigation identified in the approved Transportation Mitigation Agreement.

3. Sequence and Timing of Development. This Phasing Plan is intended to provide the applicant with sufficient flexibility to respond to changing market conditions and unanticipated construction delays inherent in the development, and construction of a large phased development, while, at the same time, providing a fixed term Phasing Plan that is sufficiently definite to allow for monitoring and implementation.

a. Sequence of Development. The applicant shall develop the Phases sequentially, beginning with Phase 1 and ending with Phase 6. Construction of the Phases may occur concurrently provided that the infrastructure needed to support each individual building is complete prior to issuance of a Certificate of Occupancy for the building and provided that the concurrent construction does not result in isolated, noncontiguous infrastructure.

Infrastructure included in and needed to support each Phase of development, including, but not limited to, fire access roads, barrier free access facilities, pedestrian and bicycle connections, parking

and storm water facilities, must be completed before a Certificate of Occupancy for a building in that Phase is issued.

b. Timing of Development.

(1) **Commencement of Construction.** Construction on any phase of the project shall not commence until the applicant obtains all final permits and approvals required by Federal, State and local law for the construction in that phase of the project.

(2) **Project Buildout.** The buildout of the project will occur over a period not exceeding 15 years from the date of approval of the Master Plan.

(3) **Monitoring of Compliance.** For purposes of monitoring of compliance with the Phasing Plan by King County, the following phasing schedule shall apply:

- The applicant shall submit a building permit application for some portion of Phase 1 within one year of the date of approval of the Master Plan.
- No Certificate of Occupancy for a building in a Phase may be issued until all the infrastructure, including, but not limited to, fire access roads, barrier free access facilities, pedestrian and bicycle connections, parking and storm water facilities, required for the building is complete.

(4) **Tolling.** The time period listed in subsection (3) above shall be tolled during the pendency of an administrative or judicial appeal of the Commercial Site Development Permit or Shoreline Substantial Development Permit, during the pendency of litigation related to the project or to the property comprising the project site, and in the event of a force majeure. Force majeure means extraordinary natural elements or conditions, war, riots, King County labor disputes or other causes beyond the reasonable control of the applicant.

4. **Amendment of Phasing Plan.** If the CSDP is modified pursuant to King County Code 21A.41.110 (Modifications to an approved permit), then the Phasing Plan shall automatically be modified to be consistent with the CSDP without further action by the applicant or King County. In addition, Sections 3.b.(2) and 3.b.(3) of this Phasing Plan may be modified to permit additional time for project buildout and for submission of the first building permit application for Phase 1 if the applicant is proceeding diligently and if the modification is acceptable to King County. Any request to extend the project buildout must be submitted by the applicant to King County in writing no less than one year prior to expiration of the otherwise applicable timelines. The total of all such extensions shall not exceed two years. Any request to extend the time for submittal of the first building permit application must be submitted by the applicant to King County in writing no less than thirty days prior to expiration of the otherwise applicable deadline. The total of all such extensions shall not exceed six months.

5. **Prior Plans.** This Phasing Plan supersedes all inconsistent provisions of any other phasing plan or phasing information submitted in connection with the Lakepointe project, including but not limited to, the Plan Sets for the CSDP.

6. **General.** References to King County in this Phasing Plan, shall mean the jurisdiction with permitting authority.

ATTACHMENT E

TRANSPORTATION MITIGATION AGREEMENT LAKEPOINTE

THIS TRANSPORTATION MITIGATION AGREEMENT (the Agreement) is entered into effective the sixth day of August, 1998, by KING COUNTY, a Washington home rule charter county (referred to hereafter as the County), PIONEER TOWING COMPANY, INC., a Washington Corporation, and LAKEPOINTE, INC., a Washington corporation, (collectively referred to hereafter as Lakepointe) to provide for a comprehensive transportation mitigation program for the Lakepointe project on the terms set forth herein.

RECITALS

A. Lakepointe is the owner of the real property described in Exhibit A attached hereto (Lakepointe Project Site).

B. Lakepointe has applied to the County for approval to develop a mixed-use residential, commercial, and entertainment urban village development. (Project or Lakepointe Project) on the Lakepointe Project Site, as described and depicted in the documents and plans on file with the County in file numbers A95P0105 and B96CS005.

C. The County has prepared and issued a draft and final supplemental Environmental Impact Statement (EIS) for the Project. The EIS identifies several transportation-related mitigating measures intended to address the impacts of the Project.

D. The County finds that with the transportation mitigation described herein, the Lakepointe Project meets the transportation objectives of the King County Comprehensive Plan and the Northshore Community Plan.

E. The P-suffix conditions adopted in the Northshore Community Plan for the Lakepointe Project require the completion of this Transportation Mitigation Agreement in order to set forth the final transportation mitigation plans for the Project.

F. The County has adopted a Capital Improvement Program (CIP) and Transportation Needs Report which identify transportation facility improvements needed throughout the County.

G. Based upon the transportation analysis prepared as part of the County's environmental review of the Lakepointe Project, the County has determined that the Lakepointe Project will generate traffic which contributes to the need to construct and provide improvements to area transportation facilities.

H. The Lakepointe Project Site is currently located in unincorporated King County but, on or about August 31, 1998, it will be within the corporate limits of the newly incorporated City of Kenmore (Kenmore).

I. Lakepointe desires to mitigate the traffic impacts generated by the Lakepointe Project by undertaking the obligations set forth herein. The obligations may be satisfied by, among other things: (1) Lakepointe participation in the formation of a Road Improvement District (RID) under Chapter 36.88 RCW or Local Improvement District (LID) under Chapter 35.43 RCW for construction of certain transportation improvements, (2) Lakepointe solely providing for the construction of certain improvements, and (3) Lakepointe providing fair-share mitigation payments for the cost of other such improvements.

J. Lakepointe has petitioned the County to form an RID to construct Lakepointe Way NE and NE Lakepointe Boulevard.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby covenant and agree as follows:

AGREEMENT

1. **Purpose.** This Agreement sets forth the transportation improvements and mitigation requirements for the Lakepointe Project. The provisions of this Agreement implement the Northshore Community Plan, the P-suffix conditions for the Lakepointe Property, the County's Integrated Transportation Program, the State Environmental Policy Act (SEPA), and related authority for transportation mitigation. The mitigation described in this Agreement is consistent with mitigation set forth in the EIS.

2. **Phasing.** The Transportation Improvements set forth in Section 3 of this Agreement shall be constructed in accordance with the Phasing Plan approved for the Lakepointe Project. References made to Phases in this agreement shall mean the Phases set forth in the approved Lakepointe Phasing Plan.

3. **Transportation Improvements.** The following transportation projects are necessary to mitigate the transportation impacts of the Lakepointe Project (not including Parcel H of the Project Site, as described in the EIS). The environmental review for the Lakepointe Project assumes a Project aggregate of approximately 13,600 vehicle trips per day (VTD). If Kenmore determines that a given application for development of a portion of the Lakepointe Project would lead to more than 13,600 VTD for the Lakepointe Project, then Lakepointe shall be required to undergo further environmental review and possible additional mitigation requirements. These

improvements include transportation improvements for which Lakepointe shall have the primary responsibility for funding and construction and other transportation improvements that may be constructed in the future by the County or others, subject to fair-share participation by the Lakepointe Project. For those improvements to be constructed by Lakepointe, Lakepointe will have the responsibility for design and construction in accordance with County road standards unless an RID or LID is formed pursuant to Section 4 of this Agreement.

3.1 Lakepointe Way NE. Lakepointe Way NE will be designed and constructed as a five-lane principal arterial with turn channels and pockets. Lakepointe Way NE may be a structure, elevated over approximately 75% of its length, connecting SR 522 at approximately 65th Avenue NE to 68th Avenue NE. As part of construction of Lakepointe Way NE, a two-lane, multi-dwelling access street shall be built at surface level below the structure to provide for local access. The specific required design standards include:

3.1.1 A landscaped median shall be provided.

3.1.2 Bicycle facilities and sidewalks shall be provided, unless a variance is obtained.

3.1.3 Street trees shall be provided along Lakepointe Way NE at an interval of every 35 feet on center, as shown on Plan Sheet L1.3, and in accordance with the King County Road Standards Drawing 5-009.

(a) **Phasing.** The conditions listed in Section 3.1 shall be satisfied prior to issuance of the first certificate of occupancy in Phase 1 of the Project.

(b) **Funding.** Lakepointe is responsible for funding all of the costs of this improvement, subject to possible funding modification under Section 4 below. Lakepointe is also responsible for the funding of acquisition and dedication of adequate right-of-way, easements, and other property necessary, if any, for the construction, operation, and maintenance of this improvement.

(c) **Construction Obligations.** Lakepointe is responsible for construction of this improvement, subject to possible modification under Section 4 below

(d) **Ownership of Improvements.** Upon completion of construction of this improvement, Lakepointe will own the improvement, except as provided herein. If the construction of the improvement is financed by a RID, Lakepointe will dedicate the improvement to Kenmore.

3.2 Lakepointe Way NE at SR 522. The specific required design standards include:

3.2.1 The intersection shall be reconfigured and signalization provided.

3.2.2 Dual, north-to-west, left-turn lanes and a single, north-to-east, right-turn lane shall be provided.

3.2.3 A separate right-turn lane on eastbound SR 522 south of the transit-only lane shall be constructed.

3.2.4 Crosswalks on the south and east approaches to the intersection shall be provided, if required by Kenmore.

3.2.5 Pedestrian-actuated phasing, as determined by King County or the City of Kenmore and the Washington State Department of Transportation (WSDOT) shall be provided.

3.2.6 Restrict turning movements at NE 65th Avenue on the north side of SR 522 to right-in, right-out only.

(a) **Phasing.** The conditions listed in Section 3.2 shall be satisfied prior to issuance of the first certificate of occupancy in Phase 1 of the Project.

(b) **Funding.** Lakepointe is responsible for funding all of the costs of this improvement, subject to possible funding modification under Section 4 below. Lakepointe is also responsible for the funding of acquisition and dedication of adequate right-of-way, easements, and other property necessary, if any, for the construction, operation, and maintenance of this improvement.

(c) **Construction Obligations.** Lakepointe is responsible for construction of this improvement, subject to possible modification under Section 4 below.

(d) **Ownership of Improvements.** Upon completion of construction of this improvement, Lakepointe will dedicate the improvement to Kenmore or WSDOT, as appropriate.

3.3 **Lakepointe Way NE at 68th Avenue NE.** The specific required design standards include:

3.3.1 The intersection shall be improved and signalization provided.

3.3.2 Northbound, a left-turn lane, a left-through lane, and a through lane shall be constructed on 68th Avenue NE.

3.3.3 68th Avenue NE shall be widened within the existing right-of-way from the north end of the Kenmore Bridge to Lakepointe Way NE.

3.3.4 Single left-turn and double right-turn lanes shall be constructed on the eastbound approach.

3.3.5 Pedestrian-actuated phasing, as determined by King County or the City of Kenmore and WSDOT, shall be provided.

(a) **Phasing.** The conditions listed in Section 3.3 shall be satisfied prior to issuance of the first certificate of occupancy in Phase 1 of the Project.

(b) **Funding.** Lakepointe is responsible for funding all of the costs of this improvement, subject to possible funding modification under Section 4 below. Lakepointe is also responsible for the funding of acquisition and dedication of adequate right-of-way, easements, and other property necessary, if any, for the construction, operation, and maintenance of this improvement.

(c) **Construction Obligations.** Lakepointe is responsible for construction of this improvement, subject to possible modification under Section 4 below.

(d) **Ownership of Improvements.** Upon completion of construction of this improvement, Lakepointe will dedicate the improvement to Kenmore.

3.4 61st Avenue NE at SR 522. The specific required design standards include:

3.4.1 An exclusive south-bound to east-bound, left-turn lane shall be constructed on the north leg of 61st Avenue NE with SR 522 intersection.

3.4.2 A south-bound to west-bound, right-turn phase overlap shall be implemented.

3.4.3 Signal modifications may be required, as determined by WSDOT.

(a) **Phasing.** The conditions listed in Section 3.4 shall be satisfied prior to issuance of the first certificate of occupancy in Phase 1 of the Project.

(b) **Funding.** Lakepointe is responsible for funding all of the costs of this improvement. Lakepointe is also responsible for the funding of acquisition and dedication of adequate right-of-way, easements and other property necessary, if any, for the construction, operation, and maintenance of this improvement.

(c) **Construction Obligations.** Lakepointe is responsible for construction of this improvement.

(d) **Ownership of Improvements.** Upon completion of construction of this improvement, Lakepointe will dedicate the improvement to Kenmore or WSDOT, as appropriate.

3.5 68th Avenue NE and NE 170th Street. The specific required design standards include:

3.5.1 A single phase overlap for south-bound to east-bound, left-turn lane and the west-bound to north-bound, right-turn lane shall be provided at the intersection of 68th Avenue NE and NE 170th Street.

(a) **Phasing.** The conditions listed in Section 3.5 shall be satisfied prior to issuance of the first certificate of occupancy in Phase 1 of the Project.

(b) **Funding.** Lakepointe is responsible for funding all of the costs of this improvement. Lakepointe is also responsible for the funding of acquisition and dedication of adequate right-of-way, easements, and other property necessary, if any, for the construction, operation, and maintenance of this improvement.

(c) **Construction Obligations.** Lakepointe is responsible for construction of this improvement.

(d) **Ownership of Improvements.** Upon completion of construction of this improvement, Lakepointe will dedicate the improvement to Kenmore.

3.6 68th Avenue NE at SR 522. The specific required design standards include:

3.6.1 The southbound approach at the north leg of the intersection of 68th Avenue NE with SR 522 shall be restriped to provide separate left-turn and right-turn lanes. It is assumed by the parties that this work may be accomplished within existing right-of-way.

(a) **Phasing.** The condition listed in Section 3.6 shall be satisfied prior to issuance of the first certificate of occupancy in Phase 1 of the Project.

(b) **Funding.** Lakepointe is responsible for funding all of the costs of this improvement, subject to possible funding modification under Section 4 below. Lakepointe is also responsible for the funding of acquisition and dedication of adequate right-of-way, easements, and other property necessary, if any, for the construction, operation, and maintenance of this improvement.

(c) **Construction Obligations.** Lakepointe is responsible for construction of this improvement.

(d) **Ownership of Improvements.** Upon completion of construction of this improvement, Lakepointe will dedicate the improvement to Kenmore or WSDOT, as appropriate.

3.7 SR 522 and 68th Avenue NE frontage. The specific required design standards include:

3.7.1 Frontage improvements on the Lakepointe Project Site shall be provided along 68th Avenue NE, including sidewalks.

3.7.2 Raised pedestrian walkways shall be provided from the at-grade crossing of SR 522, or the pedestrian bridge crossing of SR 522, to the transit stops on the north side of SR 522.

(a) **Phasing.** The conditions listed in Section 3.7 shall be satisfied prior to issuance of the first certificate of occupancy in Phase 1 of the Project.

(b) **Funding.** Lakepointe is responsible for funding all of the costs of this improvement. Lakepointe is also responsible for the funding of acquisition and dedication of adequate right-of-way, easements, and other property necessary, if any, for the construction, operation and maintenance of this improvement.

(c) **Construction Obligations.** Lakepointe is responsible for construction of this improvement.

(d) **Ownership of Improvements.** Upon completion of construction of this improvement, Lakepointe will dedicate the improvement to Kenmore or WSDOT, as appropriate.

3.8 NE 175th Street. NE 175th Street will be designed as a collector arterial between Lakepointe Way NE and the east property line, with sidewalks on both sides of the street. The specific required design standards include:

3.8.1 NE 175th Street shall be lowered to provide acceptable clearance beneath Lakepointe Way NE.

3.8.2 Pedestrian facilities shall be provided along both sides of NE 175th Street from the east property line to 68th Avenue NE, unless a variance is obtained.

(a) **Phasing.** The conditions listed in Section 3.8 shall be satisfied prior to issuance of the first certificate of occupancy in Phase 1 of the Project, except condition 3.8.2 shall be satisfied prior to issuance of certificates of occupancy in Phase 6 of the Project.

(b) **Funding.** Lakepointe is responsible for funding all of the costs of this improvement. Lakepointe is also responsible for the funding of acquisition and dedication of adequate right-of-way, easements, and other property necessary, if any, for the construction, operation, and maintenance of this improvement.

(c) **Construction Obligations.** Lakepointe is responsible for construction of this improvement.

(d) **Ownership of Improvements.** Upon completion of construction of this improvement, Lakepointe will dedicate the improvement to Kenmore.

3.9 NE Lakepointe Boulevard. NE Lakepointe Boulevard will be designed and constructed as an urban principal arterial. The specific required design standards include:

3.9.1 An eight-foot landscaped median shall be provided.

3.9.2 Parallel parking shall be provided.

3.9.3 Street trees shall be provided at an interval of every 35 feet on center within a six-foot planting strip, as shown on Plan Sheet L1.3 and in accordance with the King County Road Standards Drawing 5-009.

3.9.4 Sidewalks shall be provided on both sides of NE Lakepointe Boulevard, including completely around the traffic circles.

(a) **Phasing.** NE Lakepointe Boulevard from Lakepointe Way to, and including, the first traffic circle shall be constructed prior to issuance of the first certificate of occupancy for Phase 1 of the Project. For the remainder of NE Lakepointe Boulevard, the conditions listed in Section 3.9 shall be satisfied prior to issuance of the first certificate of occupancy in Phase 3 of the Project.

(b) **Funding.** Lakepointe is responsible for funding all of the costs of this improvement, subject to possible funding modification under Section 4 below. Lakepointe is also responsible for the funding of acquisition and dedication of adequate right-of-way, easements, and other property necessary, if any, for the construction, operation, and maintenance of this improvement.

(c) **Construction Obligations.** Lakepointe is responsible for construction of this improvement, subject to possible modification under Section 4 below.

(d) **Ownership of Improvements.** Lakepointe Boulevard will be a private street unless constructed pursuant to an RID, LID, or other public finance mechanism. If this street is so constructed pursuant to a public finance mechanism, then, upon completion of construction of the improvement, Lakepointe will dedicate the improvement to Kenmore. Upon completion of payments of the public finance bonds, Lakepointe shall, if requested by Kenmore, agree to vacation of the right-of-way and to take title to all street improvements and related structures pursuant to a tri-party agreement as set forth in Section 15.13. The obligations of this paragraph shall survive termination of this Agreement.

3.10 Lakepointe Way NE at NE Lakepointe Boulevard. The specific required design standards include:

3.10.1 Dual, left-turn lanes for traffic exiting the Lakepointe site shall be constructed.

3.10.2 New access roads to replace the east leg of the NE 175th Avenue NE intersection shall be constructed.

3.10.3 The intersection shall be signalized and provided with pedestrian-actuated phasing.

(a) **Phasing.** The conditions listed in Section 3.10 shall be satisfied prior to issuance of the first certificate of occupancy in Phase 1 of the Project.

(b) **Funding.** Lakepointe is responsible for funding all of the costs of this improvement, subject to possible funding modification under Section 4 below. Lakepointe is also responsible for the funding of acquisition and dedication of adequate right-of-way, easements, and other property necessary, if any, for the construction, operation, and maintenance of this improvement.

(c) **Construction Obligations.** Lakepointe is responsible for construction of this improvement, subject to possible modification under Section 4 below.

(d) **Ownership of Improvements.** Upon completion of construction of this improvement, Lakepointe will own the improvement, except as provided herein. If the construction of the improvement is financed by an RID, LID, or other public financing mechanism, Lakepointe will dedicate the improvement to Kenmore.

3.11 NE 174th Street (Primary Pedestrian Street). NE 174th Street will be designed and constructed as a business access street, with two traffic lanes, eight-foot parallel parking lanes and ten-foot wide sidewalks on each side. The specific required design standards include:

3.11.1 Pedestrian facilities shall be provided along the side streets connecting NE 174th Street with NE Lakepointe Boulevard.

3.11.2 Driveways onto NE 174th Street and the side streets connecting NE 174th Street to NE Lakepointe Boulevard shall be limited to an average of one driveway for every 300 linear feet.

(a) **Phasing.** The conditions listed in Section 3.11 shall be satisfied prior to issuance of the first certificate of occupancy in Phase 2 of the Project.

(b) **Funding.** Lakepointe is responsible for funding all of the costs of this improvement. Lakepointe is also responsible for the funding of acquisition and dedication of adequate right-of-way, easements, and other property necessary, if any, for the construction, operation, and maintenance of this improvement.

(c) **Construction Obligations.** Lakepointe is responsible for construction of this improvement.

(d) **Ownership of Improvements.** NE 174th Street shall be a private street, unless constructed pursuant to an RID, LID, or other public finance mechanism. If this street is so constructed pursuant to a public finance mechanism, then, upon completion of construction of the improvement, Lakepointe will dedicate the improvement to Kenmore. Upon repayment of the public finance bonds, Lakepointe shall, if requested by Kenmore, agree to vacation of the right-of-way and to take title to all street improvements and related structures pursuant to a tri-party agreement, as set forth in section 15.13. The obligations of this paragraph shall survive termination of this Agreement.

3.12 Enhanced Transit Stop Improvements. Enhanced transit stops shall be constructed, subject to the approval of WSDOT, on the north and south sides of SR 522 between Lakepointe Way NE and 68th Avenue NE, including seating areas, weather protection, landscaping, and walkways. The specific required design standards include:

3.12.1 Access from the transit stops to the Burke-Gilman Trail and residential areas on the Lakepointe site shall be provided consistent with King County Code and WSDOT standards.

3.12.2 The improved transit shelter areas shall be similar to those presently existing at the Northgate Transit Center.

3.12.3 The transit stops may be in-lane or pull-out.

3.12.4 King County shall be responsible for land acquisition and approvals for the transit stops, but Lakepointe will bear all costs thereof.

(a) **Phasing.** The conditions listed in Section 3.12 shall be satisfied prior to issuance of the first certificate of occupancy in Phase 1 of the Project.

(b) **Funding.** Lakepointe is responsible for funding all of the costs of this improvement. Lakepointe is also responsible for the funding of acquisition and dedication of adequate right-of-way, easements, and other property necessary, if any, for the construction, operation, and maintenance of this improvement.

(c) **Construction Obligations.** Lakepointe is responsible for construction of this improvement, however, King County may elect to do the construction.

(d) **Ownership of Improvements.** Upon completion of construction of this improvement, Lakepointe will dedicate the improvement to the County, Kenmore, or WSDOT, as appropriate.

3.13 **Commuter Parking Stalls.** The applicant shall either provide a fair-share contribution to the construction of a new park-and-ride facility in the Kenmore area, or provide fifty commuter parking stalls in a location accessible to the southern enhanced transit stop, as determined by the approved Transportation Management Plan.

(a) **Phasing.** The condition listed in Section 3.13 shall be satisfied prior to issuance of the first certificate of occupancy in Phase 1 of the Project.

(b) **Funding.** If Lakepointe provides a fair share contribution to the construction of a new park-and ride facility in the Kenmore area, Lakepointe's fair share contribution will be equal to the lesser of: (1) the actual cost of providing 50 additional surface parking stalls in a park-and-ride facility in the Kenmore area; or (2) the average cost to the County of construction of a surface parking stall at park-and-ride lots in King County, multiplied by 50. In all cases, the County shall use such funds to enhance and improve commuter parking facilities in the City of Kenmore. If Lakepointe does not provide a fair-share contribution to the construction of a new park-and ride- lot in the Kenmore area, Lakepointe will be responsible for providing 50 commuter stalls on the Lakepointe Project Site in a location accessible to the southern enhanced transit stop adjacent to SR 522 at an acceptable standard and location to King County.

(c) **Construction Obligations.** King County is responsible for construction of any park-and-ride spaces off the Lakepointe property. Lakepointe is responsible for construction of any commuter park-and-ride spaces provided on Lakepointe property.

(d) **Ownership of Improvements.** The County will own the park-and-ride facility. Lakepointe will own the commuter parking stalls on the Lakepointe Project Site. Stalls on the Lakepointe Project Site will be available for park-and-ride use during the weekday commute and work hours, and will be reserved for use by Lakepointe during other hours.

3.14 Burke-Gilman Trail. The Burke-Gilman Trail shall be constructed as a grade-separated crossing under Lakepointe Way NE with a minimum twelve-foot clearance. Grade changes along the trail shall be minimized as much as possible.

(a) **Phasing.** The condition listed in Section 3.14 shall be satisfied prior to issuance of the first certificate of occupancy in Phase 1 of the Project.

(b) **Funding.** Lakepointe is responsible for funding all of the costs of this improvement. Lakepointe is also responsible for funding the acquisition and dedication of adequate right-of-way, easements, and other property necessary, if any, for the construction, operation, and maintenance of this improvement.

(c) **Construction Obligations.** Lakepointe is responsible for construction of this improvement.

(d) **Ownership of Improvements.** Upon completion of construction of this improvement, Lakepointe will dedicate the improvement to the County.

3.15 Pedestrian Bridge Over SR 522. The applicant shall provide a fair-share contribution for the construction of a pedestrian bridge over SR 522 in the vicinity of the transit stops, subject to the approval by WSDOT. A touch-down location shall be provided on the Lakepointe site for the pedestrian bridge. An at-grade crossing of SR 522 shall be provided if funding is not secured for the construction of the pedestrian bridge in Phase 1.

(a) **Phasing.** Either the pedestrian bridge or an at-grade-crossing of SR 522 listed in Section 3.15 shall be satisfied prior to issuance of the first certificate of occupancy in Phase 1 of the Project. If the pedestrian bridge is not built in Phase 1, the applicant shall continue to work with the County, Kenmore, and WSDOT throughout the development of the Project to secure funding for the pedestrian bridge.

(b) **Funding.** Lakepointe is responsible for funding its fair share of the total cost of this improvement, including, but not limited to, the costs of design, construction, and acquisition of property off the Lakepointe Project Site. Lakepointe's fair share of the cost of this

improvement shall be 20% of the cost of this improvement, or \$500,000, whichever is greater. In addition to paying its fair share of the cost of this improvement, Lakepointe will provide a touch-down location for the improvement on the Lakepointe Project Site. Lakepointe's obligations hereunder are contingent upon the government authority with jurisdiction acquiring adequate easement, right-of-way, or other property necessary, if any, to permit construction of this improvement. The County agrees to participate with Kenmore in joint grant applications for this project.

(c) **Construction Obligations.** The governmental authority with jurisdiction is responsible for constructing this improvement, unless it authorizes the construction to be done otherwise.

(d) **Ownership of Improvements.** Upon completion of construction of this improvement, the ownership of the improvement shall be determined by the parties participating in its financing (subject to the requirements of law).

3.16 Pedestrian and Bicycle Circulation. In addition to the specific Transportation Improvements set forth in this section, the following pedestrian and bicycle provisions are required for compliance with King County Code, the Northshore P-Suffix conditions and the Commercial Site Development Permit:

3.16.1 Pedestrian and bicycle circulation, parking, and storage shall be provided in accordance with K.C.C. 21A.18.

3.16.2 Pedestrian and bicycle facilities shall be provided as shown on the Primary Site Circulation Plan Sheet A2.3.a. (Alt.) of the Sixth Submittal of the Commercial Site Development Permit dated and received May 22, 1998.

3.16.3 The following pedestrian movement and safety features shall be applied, where feasible:

- a. Pedestrian crosswalks at key intersections.
- b. Signage that clearly communicates the location of vehicular and pedestrian routes.
- c. Designated drop-off areas.
- d. Parking on interior roads.

3.16.4 The applicant shall provide a written assessment at the time of construction permit review outlining which pedestrian movement and safety features are proposed and why those that are not proposed are not feasible.

(a) **Phasing.** The conditions listed in Section 3.16 shall be satisfied throughout the Phasing in accordance with the pedestrian and bicycle circulation plan in the Commercial Site Development Permit.

(b) **Funding.** Lakepointe is responsible for funding all of the costs of this improvement.

(c) **Construction Obligations.** Lakepointe is responsible for construction of this improvement. Design criteria for this improvement are set forth in the approved project plans on file with the County.

(d) **Ownership of Improvements.** Upon completion of construction of each phase of this improvement, Lakepointe will continue to own the improvements and, at the request of Kenmore, will convey to Kenmore an easement permitting public use of this improvement during daylight hours, subject to reasonable rules and restrictions regarding the time and manner of its use.

3.17 Harborside Promenade. The harborside promenade shall be constructed as follows:

3.17.1 The harborside promenade shall be 20-foot wide, hard-surfaced pedestrian walkway, beginning at the channelized edge of the harbor.

3.17.2 The pedestrian features shall include seating, landscaping, sidewalk cafes, and pedestrian amenities.

3.17.3 The harborside promenade shall be constructed, generally, in conformance with the Sixth Submittal of the Commercial Site Development Permit dated and received May 22, 1998.

3.17.4 A public access easement (as described in subsection (d) below) shall be recorded prior to issuance of a certificate of occupancy, as provided under the Phasing Plan.

(a) **Phasing.** The conditions listed in Section 3.17, as applicable to Phase 1, Phase 2, and Phase 3, shall be satisfied prior to issuance of a certificate of occupancy for that particular phase.

(b) **Funding.** Lakepointe is responsible for funding all of the costs of this improvement.

(c) **Construction Obligations.** Lakepointe is responsible for construction of this improvement. Design criteria for this improvement are set forth in the approved project plans on file with the County.

(d) **Ownership of Improvements.** Upon completion of construction of each phase of this improvement, Lakepointe will continue to own the improvements and, at the request of Kenmore, will convey to Kenmore an easement permitting public use of this improvement during daylight hours, subject to reasonable rules and restrictions regarding the time and manner of its use.

3.18 Public Parking Area. Free public parking for approximately 30 vehicles shall be provided in building D or E-1, or binding arrangements shall be made to provide such parking at another location that is accessible to NE 174th Street.

(a) **Phasing.** The condition listed in Section 3.18 shall be satisfied prior to issuance of the first certificate of occupancy for Building D or E-1.

(b) **Funding.** Lakepointe is responsible for funding all of the costs of this improvement.

(c) **Construction Obligations.** Lakepointe is responsible for construction of this improvement. Design criteria for this improvement are set forth in the approved project plans on file with the County.

(d) **Ownership of Improvements.** Upon completion of construction of each phase of this improvement, Lakepointe will continue to own the improvements and, at the request of Kenmore, will convey to Kenmore an easement permitting public use of this improvement during daylight hours, subject to reasonable rules and restrictions regarding the time and manner of its use.

3.19 Harborside Viewpoint. The public lookout located at the west end of the marina shall be constructed. A public access easement (as described in subsection (d) below) shall be recorded prior to issuance of a certificate of occupancy for Phase 3 of the Project.

(a) **Phasing.** The condition listed in Section 3.19 shall be satisfied prior to issuance of a certificate of occupancy for Phase 3 of the Project.

(b) **Funding.** Lakepointe is responsible for funding all of the costs of this improvement.

(c) **Construction Obligations.** Lakepointe is responsible for construction of this improvement. Design criteria for this improvement are set forth in the approved project plans on file with the County.

(d) **Ownership of Improvements.** Upon completion of construction of each phase of this improvement, Lakepointe will continue to own the improvements and, at the request of Kenmore, will convey to Kenmore an easement permitting public use of this improvement during daylight hours, subject to reasonable rules and restrictions regarding the time and manner of its use.

3.20 A Lakeside Viewpoint and Public Gathering Place. The public amphitheater located along the Lake Washington shoreline shall be constructed. A public access easement (as described in subsection (d) below) shall be recorded prior to issuance of a certificate of occupancy for Phase 3 of the Project.

(a) **Phasing.** The condition listed in Section 3.20 shall be satisfied prior to issuance of a certificate of occupancy for Phase 3 of the Project.

(b) **Funding.** Lakepointe is responsible for funding all of the costs of this improvement.

(c) **Construction Obligations.** Lakepointe is responsible for construction of this improvement. Design criteria for this improvement are set forth in the approved project plans on file with the County.

(d) **Ownership of Improvements.** Upon completion of construction of each phase of this improvement, Lakepointe will continue to own the improvements and, at the request of Kenmore, will convey to Kenmore an easement permitting public use of this improvement during daylight hours, subject to reasonable rules and restrictions regarding the time and manner of its use.

4. Modifications to Obligations

4.1 Modified Funding and Construction Obligation. Lakepointe has petitioned King County to form an RID to construct Lakepointe Way NE and NE Lakepointe Boulevard. In the event the County forms the RID and proceeds with the construction of these improvements through the RID, Lakepointe will be responsible for the funding (through RID assessments) of the improvements to be constructed by the RID. In such an event, the obligation for mitigation imposed upon Lakepointe under this Agreement for Lakepointe Way NE and NE Lakepointe Boulevard is an obligation for payment of certain funds pursuant to the RID and dedication of right-of-way, easements, and other property interests on the Lakepointe Project Site necessary for the construction, operation, and maintenance of Lakepointe Way NE and NE Lakepointe Boulevard. Nothing in this Agreement requires the County to construct Lakepointe Way NE or NE Lakepointe Boulevard through an RID.

4.2 Nothing in this Agreement shall be construed to require Kenmore to participate in formation of any RID. The Kenmore City Council may, pursuant to law, elect to form an LID to finance any of these improvements.

5. **County Financial Contributions to RID.** The County has, by previous action, committed certain funds for the completion of transportation improvements in the Northshore area. Approximately \$960,000 in the CIP has been programmed for the Lakepointe Way NE project as the total county participation in the proposed RID. The County will provide additional funds only to meet RID guaranty fund requirements under Chapter 36.88 RCW and King County Resolution 13558. In the event that Lakepointe Way NE is not constructed through an RID, the County shall have no obligation to commit any funding to financing any of the improvements described in this Agreement.

6. **Off-Site Property Acquisition.**

6.1 In certain instances above, the obligation of Lakepointe to construct an improvement will require acquisition of right-of-way, easements, or other property off the Lakepointe Project Site adequate to construct, operate, and maintain the proposed improvement. If such property is owned by King County, the County will consider donation of property or other improvements by Lakepointe in exchange for the County property. For property not owned by King County, the parties contemplate that the government authority with jurisdiction will assist Lakepointe in the acquisition of necessary right-of-way, easements, or other property off the Lakepointe Project Site. For privately owned property, this assistance may include the exercise of the power of eminent domain by the government authority with jurisdiction following a good-faith attempt by Lakepointe to purchase the needed right-of-way, easement, or other property; however, the Phasing Plan shall not be changed without approval of the City of Kenmore. All cost associated with such acquisition, including without limitation, just compensation, court costs, attorneys' fees, and expert witness fees shall be borne by Lakepointe.

6.2 With respect to the improvements identified in section 3.7.2 and 3.12 above, Lakepointe shall submit to the County a preliminary design for the improvements within 180 days of the date of issuance of the commercial site development permit for the Project, and the County shall endeavor to review and approve the improvement plans within 90 days. If, for reasons beyond the control of Lakepointe, the construction of such improvements has not been completed prior to the issuance of the first certificate of occupancy for Phase 1, certificates of occupancy for Phase I may be issued if Lakepointe provides the County with adequate security (in form and substance satisfactory to the County) to cover completion of the construction of such improvements, provided that all other conditions in the Phasing Plan for the issuance of certificates of occupancy for Phase I have been satisfied. Certificates of occupancy for Phase II and later phases may not be issued until the improvements identified in Section 3.7.2 and 3.12 have been constructed and all other requirements of the Phasing Plan have been satisfied.

7. **Concurrency.** A certificate of transportation concurrency was issued for the Lakepointe Project by King County on March 26, 1996.

8. Transportation Mitigation Payments. In addition to its financial responsibility for the improvements described herein, Lakepointe will pay an amount to mitigate the traffic impacts of the Project on the other roads that will carry the traffic generated by the Project. The City of Kenmore and King County shall work together to develop an interlocal agreement for the reciprocal collection of transportation impact fees consistent with King County's Mitigation Payment System (MPS) as described in Chapters 14.65. and 14.75 of the King County Code. If such an agreement is in effect at the time of issuance of the first building permit for the Project, Lakepointe shall at that time pay MPS fees calculated consistent with the fee schedule and model in effect at that time. If such an interlocal agreement is not in effect at the time building permits are ready to be issued, Lakepointe shall pay the sum of \$200,000 to the City of Kenmore as SEPA mitigation prior to issuance of the first building permit. Said SEPA mitigation amount shall be used for transportation projects in Kenmore which are impacted in part by the Lakepointe Project. Lakepointe will pay either an MPS fee or \$200,000 SEPA mitigation to Kenmore, but not both.

9. Transportation Demand Management. The Transportation Management Plan (TMP) for the Lakepointe Project shall be as set forth in Exhibit B attached hereto. Lakepointe shall fully fund all elements required under the TMP. Lakepointe shall operate all programs and construct all physical elements of the TMP and retain ownership and liability associated with the TMP.

10. Current Mitigation. The environmental review and preliminary engineering work for the improvements has been included as part of the draft and final supplemental environmental impact statement (Lakepointe SEIS) for the Lakepointe Project. The Lakepointe SEIS also included the transportation impact analysis for development of the Lakepointe Project. This Agreement is based upon previous transportation studies conducted for the Lakepointe Project, and has been updated to reflect modifications in the master plan proposal for the Lakepointe Project. Possible additional mitigation may be required (1) if the Project generates more than 13,600 VTD, (2) in the event of an appeal to the King County Hearing Examiner under Title 20 of the King County Code, or (3) in connection with the issuance of future permits for the project, if modifications to the project are likely to result in new significant adverse environmental impacts not previously reviewed under SEPA.

11. Term. The term of this Agreement shall be 15 years from the date of execution hereof.

12. **Recording.** Lakepointe agrees to pay all costs of recording this Agreement with the King County Department of Records and Elections. This agreement shall run with the land described on Exhibit A, and be binding upon Lakepointe and their successors in interest and assigns with respect to the real property so described.

13. **Assignment.** All rights and obligations of Lakepointe under this Agreement are fully assignable to any purchaser of the Lakepointe Project Site or any portion thereof without prior approval by the County. The obligations contained in this Agreement shall transfer to and be binding upon subsequent owners of the Lakepointe Project Site in any sale of the property or any portions thereof.

14. **Latecomers Fees.** Nothing herein shall in any way limit or impair the rights of Lakepointe to request that the County approve a latecomers' agreement to allow Lakepointe to collect latecomers' payments from the owners or developers of other properties determined by the County to derive benefit from the construction of the improvements described in Section 3 above. Nothing herein shall require the County to enter into such an agreement.

15. **Miscellaneous.**

15.1 **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Washington.

15.2 **Interpretation: Severability.** The parties intend this Agreement to be interpreted to the full extent authorized by law as an exercise of the County's authority to enter into such agreements, and this Agreement shall be construed to reserve to the County that police power authority which is prohibited by law from being subject to a mutual agreement with consideration. If any provision of this Agreement is determined by a court of law to be unenforceable or invalid, the parties shall confer to seek agreement to amend this Agreement to implement the mutual intent of the parties to the maximum allowed by law. If the parties are unable to reach agreement on any material provision deemed unenforceable or invalid, any dispute between the parties shall be decided by the court. The court shall place the parties in as near a similar position as they had before the provision was deemed unenforceable or invalid.

15.3 **Authority.** The County and Lakepointe each represent and warrant it has the respective power and authority, and is duly authorized, to execute, deliver, and perform its obligations under this Agreement.

15.4 **Integration.** This Agreement represents the entire agreement of the parties with respect to the subject matter hereof. There are no other agreements, oral or written, except as expressly set forth herein.

15.5 Amendment. This Agreement may be amended only by an instrument in writing, executed by both parties hereto. Approval of such amendment shall not require or constitute an amendment or modification to the approved master plan or commercial site development permit for the Project. The parties acknowledge that development of the Project is intended to be phased over many years and that unpredictable circumstances may make implementation of the mitigation obligations set forth herein unfeasible or unreasonably expensive. In such a case, it is the intention of the parties that the obligations set forth in this Agreement be modified to achieve mitigation of the transportation impacts of the Project by alternative means that protect the public health, safety and general welfare, and the parties agree to negotiate in good faith toward a mutually agreed-upon amendment concerning any such proposed modifications.

15.6 Default And Remedies. No party shall be in default under this Agreement unless it has failed to perform under this Agreement for a period of thirty (30) days after receipt of written notice of default from the other party. Each notice of default shall specify the nature of the alleged default and the manner in which the default may be cured satisfactorily. If the nature of the alleged default is such that it cannot be reasonably cured within the thirty (30) day period, then commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure. Any party not in default under this Agreement shall have all rights and remedies provided by law including without limitation damages, specific performance or writs to compel performance or require action consistent with this Agreement.

15.7 No Waiver. Waiver of any breach or default shall not constitute a waiver of any prior or subsequent breach or default, and shall not constitute an amendment to this Agreement.

15.8 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties hereto and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

15.9 Interpretation. This Agreement has been reviewed and revised by legal counsel for all parties and no presumption or rule that ambiguity shall be construed against the party drafting the document shall apply to the interpretation or enforcement of this Agreement.

15.10 Notice. All notices and demands of any kind that a party under this Agreement requires or desires to give to any other party shall be in writing and either (i) delivered personally, (ii) sent by reputable overnight courier delivery service, such as Federal Express, or (iii) deposited in the U.S. mail, certified mail postage prepaid, return receipt requested, and addressed as follows:

If to the County: King County Department of Transportation, Attn: Director
Exchange Building
821 Second Avenue
Seattle, WA 98104

with copy to: King County Office of the Prosecuting Attorney, Attn: Chief Civil Deputy
Transportation and Administration Services Section
3900 Key Tower
700 Fifth Avenue
Seattle, Washington 98104

If to Lakepointe: Lakepointe, Inc., Attn: Gary Sergeant
P.O. Box 82298
Kenmore, WA 98028-0298

with a copy to: Phillips McCullough Wilson Hill & Fikso, Attn: John C. McCullough
2025 First Avenue, Suite 1130
Seattle, WA 98121-2100

Notice by hand delivery shall be effective upon receipt. If sent by overnight courier service, notice shall be deemed delivered one (1) business day after sent. If deposited in the mail, notice shall be deemed delivered three (3) business days after deposited. Any party at any time by notice to the other party may designate a different address or person to which such notice or communication shall be given.

15.11 Cooperation. The parties shall not unreasonably withhold requests for information, approvals, or consents provided for in this Agreement. The parties agree to take further actions and execute further documents, either jointly or within their respective powers and authority, to implement the intent of this Agreement. The County shall use its eminent domain powers to facilitate implementation of this Agreement, subject to the County's independent exercise of judgment following all applicable procedures necessary to use eminent domain power.

15.12 Delays. If either party is delayed in the performance of its obligations under this Agreement due to *Force Majeure*, then performance of those obligations shall be excused for the period of delay. "Force Majeure" means extraordinary natural elements or conditions, war, riots, labor disputes or other causes beyond the reasonable control of the obligated party. However, such delays shall not change the Phasing Plan.

15.13 Tri-party Agreement. If road improvements are constructed pursuant to an RID or other public finance mechanism, the County and Lakepointe agree to negotiate a tri-party agreement with Kenmore covering the following topics relating to the Projects within the RID or other public financing mechanism: indemnification, leases of the areas under the traveled portion of the right-of-way, ownership and maintenance of the roadway and related structures, and assumption of County responsibilities under this Agreement by Kenmore. If after good faith negotiations the parties are unable to reach agreement by November 1, 1998, the County may terminate any RID or other public finance mechanism as set forth in Section 4.1 of this Agreement.

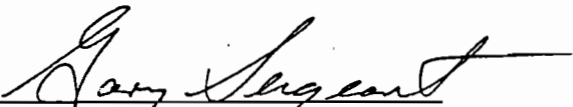
15.14 **Alteration of Conditions.** If any of these conditions as originally imposed, or as altered or amended by an administrative agency with jurisdiction, or any condition imposed by King County in the Shoreline Substantial Development Permit, the Master Plan or the Commercial Site Development Permit is in conflict with any other condition, then the most restrictive of the conditions, as determined by Kenmore, shall control.

DATED this sixth day of August, 1998.

LAKEPOINTE, INC.


Gary Sergeant, President

PIONEER TOWING COMPANY, INC.


Gary Sergeant, President

KING COUNTY


Ron Sims, King County Executive

Approved as to form:



Deputy Prosecution Attorney

EXHIBIT A

THAT PORTION OF GOVERNMENT LOTS 1 AND 2 IN SECTION 11, TOWNSHIP 26 NORTH, RANGE 4 EAST W.M., AND OF SECOND CLASS SHORE LANDS ADJOINING LYING SOUTHERLY OF A 40 FOOT COUNTY ROAD AS CONVEYED BY DEEDS RECORDED UNDER RECORDING NOS. 2964353 AND 3904751 WHICH ADJOINS THE SOUTHERLY LINE OF THE NORTHERN PACIFIC RAILWAY RIGHT-OF-WAY AND LYING NORTHERLY OF A LINE AS DESCRIBED IN DEED DATED OCTOBER 26, 1939, FILED DECEMBER 17, 1939, UNDER RECORDING NO. 5113469, AND LYING EASTERLY AND SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF SAID 40 FOOT COUNTY ROAD WITH A LINE DRAWN PARALLEL TO AND 207.00 FEET EAST OF THE LINE BETWEEN SAID GOVERNMENT LOTS 1 AND 2 (SAID DISTANCE BEING MEASURED AT RIGHT ANGLES TO SAID LINE);
THENCE SOUTH 01°35'06" WEST, ALONG SAID PARALLEL LINE, 307.69 FEET;
THENCE SOUTH 39°50'29" WEST 968.83 FEET TO THE NORTHEASTERLY ANGLE POINT ON THE INNER HARBOR LINE OF LAKE WASHINGTON AS SHOWN ON SHEET NO. 2 OF PLAT OF LAKE WASHINGTON SHORE LANDS OF SEPTEMBER 19, 1921 (THE COURSES IN THE ABOVE DESCRIPTION BEING REFERRED TO THE MERIDIAN USED IN SAID SHORE LAND PLAT);

EXCEPT THE EAST 30 FEET THEREOF DEEDED TO KING COUNTY FOR 68TH AVENUE N.E.;

AND EXCEPT THAT PORTION THEREOF LYING NORTH AND EAST OF A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF SAID 40 FOOT COUNTY ROAD WITH THE WEST LINE OF THE JUANITA HIGHWAY (68TH AVENUE NORTHEAST);
THENCE SOUTH, ALONG SAID HIGHWAY LINE, 608.75 FEET TO THE SOUTHEAST CORNER OF A TRACT DESCRIBED UNDER RECORDING NO. 790271003;
THENCE WEST, AT RIGHT ANGLES TO SAID HIGHWAY, 248.41 FEET TO THE SOUTHWEST CORNER OF SAID TRACT;
THENCE NORTH, PARALLEL TO SAID HIGHWAY, 192.77 FEET, MORE OR LESS, TO A POINT 400 FEET SOUTH OF SAID 40 FOOT ROAD KNOWN AS POINT "A" OF SAID TRACT;
THENCE WESTERLY 58.17 FEET, MORE OR LESS, TO A POINT 305 FEET WEST OF THE WEST LINE OF SAID HIGHWAY;
THENCE NORTH 192.91 FEET, MORE OR LESS, TO THE SOUTH MARGIN OF N.E. 175TH STREET AS CONVEYED TO KING COUNTY BY INSTRUMENT RECORDED UNDER RECORDING NO. 5429742;
THENCE NORTHWESTERLY, ALONG SAID SOUTH MARGIN ON A CURVE TO THE RIGHT HAVING A RADIUS OF 311.48 FEET, THE RADIAL CENTER OF WHICH BEARS NORTH 05°41'49" EAST, THROUGH A CENTRAL ANGLE OF 29°17'40" AN ARC DISTANCE OF 159.26 FEET TO THE SOUTHEAST CORNER OF THAT TRACT OF LAND CONVEYED TO THE MUNICIPALITY OF METROPOLITAN SEATTLE BY INSTRUMENT RECORDED UNDER RECORDING NO. 5671305;
THENCE NORTH 87°28'06" WEST ALONG THE SOUTH LINE OF SAID TRACT 290.00 FEET TO THE SOUTHWEST CORNER OF SAID METRO TRACT;
THENCE NORTH 02°33'43" EAST ALONG THE WEST LINE OF SAID METRO TRACT 173.23 FEET TO A POINT ON THE SOUTHERLY MARGIN OF SAID 40 FOOT ROAD AND THE END OF SAID LINE;

AND EXCEPT ANY PORTION THEREOF LYING NORTHERLY OF THE SOUTHERLY MARGIN OF N.E. 175TH STREET AS CONVEYED TO KING COUNTY BY DEED RECORDED UNDER RECORDING NO. 5429742;
AND EXCEPT THAT PORTION CONVEYED TO CUSTOM INDUSTRIES BY DEEDS RECORDED UNDER RECORDING NOS. 7609200436 AND 7707140957, DESCRIBED AS FOLLOWS:

THAT PORTION OF SAID GOVERNMENT LOT 1:

BEGINNING AT THE INTERSECTION OF THE WESTERLY MARGIN OF 68TH AVENUE N.E. WITH THE SOUTHERLY MARGIN OF THE NORTHERN PACIFIC RAILROAD RIGHT-OF-WAY;
THENCE SOUTH 02°33'43" WEST ALONG SAID WESTERLY MARGIN 470.00 FEET TO THE TRUE POINT OF BEGINNING OF SAID EXCEPTION;
THENCE CONTINUING SOUTH 02°33'43" WEST 143.69 FEET;
THENCE NORTH 87°26'17" WEST AT RIGHT ANGLES TO SAID MARGIN 233.00 FEET;
THENCE NORTH 02°33'43" EAST 157.00 FEET
THENCE NORTH 87°26'17" WEST 70.00 FEET TO A POINT HEREINAFTER REFERRED TO AS POINT "A";
THENCE NORTH 02°33'43" EAST 40.00 FEET;
THENCE SOUTH 87°26'17" EAST 100.00 FEET
THENCE NORTH 02°33'43" EAST 96.69 FEET;
THENCE SOUTH 87°26'17" EAST 60.00 FEET
THENCE SOUTH 02°33'43" WEST 150.00 FEET
THENCE SOUTH 87°26'17" EAST 145 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING OF SAID EXCEPTION;

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

PARCEL B:

THAT PORTION OF GOVERNMENT LOTS 1 AND 2 IN SECTION 11, TOWNSHIP 26 NORTH, RANGE 4 EAST W.M., AND SECOND CLASS SHORE LANDS, AS CONVEYED BY THE STATE OF WASHINGTON, SITUATE IN FRONT OF, ADJACENT TO OR ABUTTING THEREON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THE WEST 1,030 FEET OF SAID GOVERNMENT LOT 2 WITH THE SOUTH LINE OF A 40 FOOT ROAD ADJOINING THE NORTHERN PACIFIC RAILWAY RIGHT-OF-WAY ON THE SOUTH AS CONVEYED BY DEEDS RECORDED UNDER RECORDING NO. 2964353 AND 3904751; THENCE EASTERLY ALONG SAID ROAD LINE TO AN INTERSECTION WITH A LINE PARALLEL TO AND 480 FEET (MEASURED AT RIGHT ANGLES TO THE LINE BETWEEN SAID GOVERNMENT LOTS 1 AND 2) EAST OF THE EAST LINE OF THE WEST 1,030 FEET OF SAID GOVERNMENT LOT 2;

THENCE SOUTH ALONG SAID PARALLEL LINE 300 FEET;
THENCE APPROXIMATELY SOUTH 59°00'00" WEST 980 FEET, MORE OR LESS, TO AN ANGLE POINT ON THE INNER HARBOR LINE OF LAKE WASHINGTON;
THENCE NORTH 83°00'00" WEST ALONG SAID HARBOR LINE, OF LAKE WASHINGTON, 160 FEET, MORE OR LESS, TO AN INTERSECTION WITH THE CENTER LINE OF DREDGED CHANNEL LEADING FROM LAKE WASHINGTON INTO SAID GOVERNMENT LOT 2;
THENCE NORTHEASTERLY ALONG SAID CENTER LINE OF SAID CHANNEL TO AN INTERSECTION WITH SAID EAST LINE OF WEST 1,030 FEET OF SAID GOVERNMENT LOT 2, PRODUCED;
THENCE NORTH TO THE POINT OF BEGINNING AND THAT PORTION OF THE EAST 100 FEET OF THE WEST 980 FEET OF GOVERNMENT LOT 2 IN SAID SECTION 11, AND THE SECOND CLASS SHORE LANDS AS CONVEYED BY THE STATE OF WASHINGTON, SITUATE IN FRONT OF, ADJACENT TO OR ABUTTING THEREON BOUNDED ON THE NORTH BY THE SOUTH LINE OF A 40 FOOT ROAD ADJACENT TO AND SOUTH OF THE NORTHERN PACIFIC RAILROAD RIGHT-OF-WAY CROSSING SAID GOVERNMENT LOT; AND

BOUNDED ON THE SOUTH BY THE NORTH LINE OF DREDGED CHANNEL LEADING FROM LAKE WASHINGTON INTO SAID GOVERNMENT LOT 2;

AND THAT PORTION OF THE BED OF SAID DREDGED CHANNEL BETWEEN THE CENTER LINE THEREOF AND THE NORTH LINE THEREOF AND BETWEEN THE SIDE LINES OF SAID EAST 100 FEET AS ABOVE DESCRIBED;

EXCEPT THEREFROM THE FOLLOWING DESCRIBED PORTION:

BEGINNING AT A POINT ON THE WEST LINE OF SAID EAST 100 FEET OF THE WEST 980 FEET OF GOVERNMENT LOT 2, 385 FEET SOUTH OF THE NORTHWEST CORNER THEREOF;
THENCE EASTERLY 25 FEET;
THENCE SOUTHERLY 50 FEET
THENCE WESTERLY 28 FEET
THENCE NORTHERLY 65 FEET TO THE POINT OF BEGINNING;

AND THAT PORTION OF THE EAST 50 FEET OF THE WEST 1,030 FEET OF GOVERNMENT LOT 2 IN SAID SECTION 11, AND THE SECOND CLASS SHORE LANDS AS CONVEYED BY THE STATE OF WASHINGTON, SITUATE IN FRONT OF, ADJACENT TO OR ABUTTING THEREON, BOUNDED ON THE NORTH BY THE SOUTH LINE OF A 40 FOOT ROAD ADJACENT TO AND SOUTH OF THE NORTHERN PACIFIC RAILROAD RIGHT-OF-WAY CROSSING SAID GOVERNMENT LOT AND BOUNDED ON THE SOUTH BY THE NORTH LINE OF DREDGED CHANNEL LEADING FROM LAKE WASHINGTON INTO SAID GOVERNMENT LOT 2;

AND THAT PORTION OF THE BED OF SAID DREDGED CHANNEL BETWEEN THE CENTER LINE THEREOF AND THE NORTH LINE THEREOF, AND BETWEEN THE SIDE LINES OF SAID EAST 50 FEET AS ABOVE DESCRIBED;

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON

PARCEL C:

THAT PORTION OF GOVERNMENT LOT 1 IN SECTION 11, TOWNSHIP 26 NORTH RANGE 4 EAST OF W.M., LYING SOUTHERLY OF A LINE 40 FEET SOUTHERLY OF AND CONCENTRIC WITH THE SOUTHERLY LINE OF RIGHT-OF-WAY OF THE NORTHERN PACIFIC RAILROAD, AS CONVEYED BY DEED RECORDED UNDER RECORDING NO. 13204 AND NORTHEASTERLY OF A TRACT CONVEYED TO KING COUNTY FOR NORTHEAST 175TH STREET BY INSTRUMENT RECORDED UNDER RECORDING NO. 5429742;

EXCEPT THE EAST 335 FEET THEREOF;

TOGETHER WITH THAT PORTION OF VACATED NORTHEAST 175TH STREET (VACATED UNDER VAULT FILE NO. 4246676 AND VOLUME 73 OF COMMISSIONER'S RECORDS, PAGE 35) ADJOINING, WHICH, UPON VACATION, ATTACHES TO SAID PROPERTY BY OPERATION OF LAW;

EXCEPT THAT PORTION OF SAID VACATED STREET, IF ANY, LYING WESTERLY OF THE EXTENSION NORTHERLY OF THE WESTERLY LINE OF THE METRO TRACT AS CONVEYED BY DEED RECORDED UNDER RECORDING NO. 5671305;

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

PARCEL D:

THAT PORTION OF THE NORTHEAST ¼ OF SECTION 11, TOWNSHIP 26 NORTH, RANGE 4 EAST W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A TACK IN LEAD MONUMENT AT THE INTERSECTION OF THE CENTERLINE OF N. E. 175TH STREET AND 68TH AVENUE N.E., SAID POINT BEING ON THE EAST LINE OF THE NORTHEAST ¼ OF SAID SECTION 11 WHICH IS SOUTH 02°33'43" WEST 1797.24 FEET FROM THE NORTHEAST CORNER THEREOF; THENCE CONTINUING ALONG SAID EAST LINE AND ROAD CENTERLINE SOUTH 02°33'43" WEST 119.82 FEET;
THENCE NORTH 87°26'17" WEST 30.00 FEET TO A POINT ON THE WESTERLY MARGIN OF SAID 68TH AVENUE N.E. WHICH IS 320 FEET SOUTHERLY, AS MEASURED ALONG SAID MARGIN, FROM ITS INTERSECTION WITH THE SOUTHERLY MARGIN OF THE NORTHERN PACIFIC RAILROAD RIGHT-OF-WAY;
THENCE CONTINUING NORTH 87°26'17" WEST 145.00 FEET TO THE TRUE POINT OF BEGINNING;
THENCE SOUTH 02°33'43" WEST 150 FEET;
THENCE SOUTH 87°26'17" EAST 145.00 FEET TO THE WESTERLY MARGIN OF SAID 68TH AVENUE N.E.;
THENCE SOUTH 02°33'43" WEST ALONG SAID MARGIN 138.75 FEET
THENCE NORTH 87°35'56" WEST 348.41 FEET
THENCE NORTH 03°01'58" EAST 192.77 FEET TO A POINT HEREINAFTER REFERRED TO AS POINT "A";
THENCE SOUTH 87°26'17" EAST 41.83
THENCE NORTH 02°33'43" EAST 96.69 FEET;
THENCE SOUTH 87°26'17" EAST 60.00 FEET TO THE TRUE POINT OF BEGINNING;
SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

EXHIBIT B

LAKEPOINTE TRANSPORTATION MANAGEMENT PLAN (TMP)

TMP ELEMENTS

The elements of this plan are measures intended to increase the proportion of alternative mode use among site residents, employees, and visitors to the site to achieve a minimum 15 percent reduction in vehicle trips.

REQUIRED MEASURES

Phase I

1. Mandatory Mixed-Use Development. Consistent with the P-suffix conditions for the Lakepointe Project, development of the Lakepointe Project shall be mixed-use in nature to ensure potential for improved jobs/housing balance in the Kenmore area and to provide enhanced recreational and commercial opportunities proximate to existing population.

2. Transportation Coordinator. A project transportation coordinator (PTC), who has received specific training in transportation demand management measures, will be assigned to manage this plan. The PTC shall be provided with sufficient time and budget to fully implement and monitor this plan. The PTC shall:

- a. Arrange at least two promotional events each year to encourage alternative mode choice among residents, employees, and tenants of the site.
- b. Conduct an annual survey to determine whether or not the TMP is making progress toward achieving the trip reduction goal of this plan. In some cases measures other than surveying may be used to provide evidence of program effectiveness. Such measures may include, for example, records of on-site transit pass sales and registered carpools.
- c. Conduct site traffic counts in combination with the survey and other evidence to determine whether or not the trip reduction goal assumed in the conditioning of the site is being achieved.
- d. Work with King County or its successor's staff to achieve the goal of this plan.

3. Commute Trip Reduction. Any tenant meeting the definition of an affected employer under the Commute Trip Reduction (CTR) requirements of King County or its successor will work with the PTC to coordinate their required CTR program with other onsite trip reduction activities. Surveying, promotions, and other work done specifically associated with CTR requirements may be used, in part, to meet the requirements of this TMP and need not be duplicated under the TMP, provided that employees, residents and tenants other than those affected by CTR shall be dealt with separately. Results of CTR surveys and other work will be shared freely with the PTC in order to allow the PTC to determine overall site compliance with the trip reduction requirements of this TMP.

4. **Transportation Information Center.** A transportation information center will be provided in each major building, designed and located as agreed to by King County or its successor.

5. **Ridematch Services.** Onsite and/or regional ridematch services will be provided for residents and employees in the project.

6. **Carpool and Vanpool Parking.** Carpool and vanpool parking will be located convenient to building entrances/garage elevators. Reduced rate parking for carpools and vanpools will be offered to office tenants as part of their lease arrangements. The PTC or other designated personnel will regularly monitor and enforce use of such parking.

7. **Pedestrian Circulation.** The project will include extensive pedestrian features to enhance connectivity in the area, as set forth in the approved Commercial Site Development Permit. Maps and other signs will be used to direct pedestrian traffic and encourage non-vehicular access on the site.

8. **Loading Areas.** All truck loading and service activities will take place onsite, with sufficient area provided for access, loading/unloading in the truck loading berths onsite.

9. **Bicycle Parking.** Onsite covered, secure bicycle parking will be provided at locations throughout the site. Shower/locker room facilities available to onsite employees will be provided in major buildings onsite.

10. **Vehicle Trip Reduction Goal.** Two years after the TMP is implemented, a 15 percent reduction in projected vehicle trip generation shall be achieved. If not achieved, the PTC shall work with King County or its successor to implement additional transportation management measures designed to achieve the reduction goal. Thereafter annual monitoring will be used to gauge reduction maintenance as the site grows and to implement additional measures until such time as reductions are achieved.

Phase II

1. **Shuttle Services.** Lakepointe will operate an onsite shuttle, providing service within the Lakepointe Project site. The shuttle will initially be operated between the hours of 6 a.m. and 7 p.m., seven days per week (not including holidays). After three months of operation, the shuttle schedule and operations will be examined by the PTC and King County or its successor to determine whether the service should be expanded, reduced or otherwise modified to achieve the objectives of this plan.

2. **Bicycle Training.** Onsite bicycle training programs will be provided.

3. Phase I TMP Measures. Phase I TMP measures will be maintained and enhanced as needed to achieve vehicle trip reductions. The PTC will continue to implement measures to promote vehicle trip reductions.

4. Monitoring. A regular monitoring program, as described in item 10 above, will be continued.

ATTACHMENT F

LAKEPOINTE MIXED-USE AFFORDABLE HOUSING PROVISIONS

These Affordable Housing Provisions set out the conditions under which Pioneer Towing Company and Lakepointe, Inc. (collectively, "Lakepointe") will comply with affordable housing requirements of the Northshore Community Plan applicable to the Lakepointe project, which provide:

Affordable housing units amounting to 10% of the total number of units in the development shall be provided. Compliance with this requirement shall be required (a) upon occupancy of the first 400 units at the Pre-Mix site, and (b) thereafter, upon the completion of each additional 260 residential units at the site. Compliance may be achieved through construction of affordable units or provision of adequate security to the County to ensure their future development. The affordable units need not be provided within the development, but must be provided within the Northshore planning area. Units may be either rented or sold. Affordable housing shall be calculated as follows: Rented units shall be provided only to households earning less than 50% of the median income. Monthly rents shall be no greater than 30% of the monthly income from households earning 50% of the median income. Sold units shall be sold to first-time buyers (i.e. person not having owned a home in the past three years) earning less than 80% of the median income. Home prices shall be affordable based on FHA lending standards. Covenants shall be established which guarantee the fulfillment of this obligation.

1. Definitions

1.1 Affordable Housing. "Affordable housing" is defined as housing units offered for rent at no more than 30 percent of a household's gross income or for purchase at rates that are affordable based on FHA lending standards.

1.2 King County. "King County" or "County" means the King County Department of Community and Human Services.

1.3 Median Income. "Median income for King County" is that level of income determined by King County based on U.S. Department of Housing and Urban Development household income data. King County will notify Lakepointe of the median income for King County as of the date that the Commercial Site Development Permit for the Project is approved and of any adjustments to the median income that occur subsequent to that date.

1.4 Lakepointe. "Lakepointe" means Pioneer Towing Company and Lakepointe, Inc..

1.5 Project. "Project" means the Lakepointe project.

2. Affordable Housing Requirements. In order to satisfy the affordable housing requirements for the Lakepointe project, affordable housing units must meet the following criteria:

2.1 Location: The affordable housing units may be located on the Lakepointe Project site or, if Lakepointe identifies off-site locations, anywhere in the Northshore Community Planning Area. Lakepointe currently plans to locate the affordable housing units within the Lakepointe project. If Lakepointe identifies one or more off-site locations prior to locating required affordable housing units on site, then Lakepointe may locate the units at the off-site location(s). In addition, if Lakepointe identifies one or more off-site locations after locating required affordable housing units on site, then at the time that the affordable housing units are developed and available for occupancy off-site, an equal number of on-site affordable rental units or unsold affordable ownership units may convert to market rate units. Lakepointe may convert on-site affordable housing units to market rate units in this manner at any time prior to the date that the final housing unit in the Lakepointe project is available for occupancy.

2.2 Relocation Assistance. If any on-site affordable rental units are converted to market rate units and are occupied at the time of conversion, then Lakepointe will offer to rent an off-site affordable housing unit to the then-current tenant of the on-site unit. Lakepointe will make the offer in writing and send the offer to the tenant by U.S. mail no less than 60 days prior to the expiration of the tenant's lease agreement for the on-site affordable rental unit. If the tenant does not enter into a rental agreement within 30 days of the date the unit is offered to the tenant, then Lakepointe will offer to rent the unit to other qualifying persons. Lakepointe will also offer all tenants who relocate upon the conversion of on-site affordable rental units to market-rate units, whether to the off-site affordable housing made available by Lakepointe or to another residence, a Relocation Assistance Package consisting of cash or in-kind payment for: (1) moving expenses; (2) first and last month's rent at the tenant's new residence; and (3) any required utility deposits; provided, however, that the cash or in-kind payment shall not exceed \$2,000 per household. The offer of a Relocation Assistance Package will be made in writing and sent to the tenant by U.S. mail no less than 60 days prior to the expiration of the tenant's lease agreement for the on-site affordable rental unit to be converted to a market rate unit.

2.3 Rental Units: Rental units must be occupied by, and affordable to, households earning no more than fifty percent (50%) of the median income for King County.

2.4 Ownership Units: Ownership units must be purchased by, and affordable to, households earning no more than eighty percent (80%) of the median income for King County. In addition, ownership units must be purchased by first-time home buyers (i.e., persons not having owned a home in the past three years). Affordable ownership housing resale restrictions shall be developed in connection with the housing

covenant discussed in Section 4.1, below. The restrictions shall be mutually agreeable to Lakepointe and King County. The restrictions should allow the first time home buyer to gain equity in his or her home purchase but not benefit from a windfall on resale of the home.

3. Phasing

3.1 Phasing Requirements. Upon occupancy of the first 400 residential units in the Lakepointe project, ten percent (10%) of those units must be affordable. Thereafter, for every 260 residential units completed on-site, ten percent (10%) of those units must be affordable. Ten percent of the first 400 residential units, and ten percent of each residential 260 units thereafter, shall remain unoccupied until occupied by a household eligible for affordable housing or until Lakepointe makes off-site affordable housing available for occupancy pursuant to Section 2.1, above.

3.2. Phasing Plan. The Phasing Plan for the Lakepointe project was approved in connection with the Commercial Site Development Permit for the Project. The Phasing Plan contemplates that the Project will be developed in six phases. Phase One includes 640 residential units, including 240 apartments and 400 senior housing units. Phase Two includes 240 residential units, including 100 condominiums and 140 apartments. Phase Three includes no residential units. Phase Four includes 100 condominiums. Phase Five includes 220 condominiums. Phase Six includes no residential units. If the Phasing Plan is amended, then the provisions of this Section 3 shall be automatically amended to correspond to the amended Phasing Plan with no further action by the parties.

3.3. Phasing of Affordable Units. The number of affordable housing units included in each Phase is set forth below. The Phasing Plan does not include a specific schedule for the provision of affordable housing, however. Instead, the schedule for the provision of affordable housing is governed by the P-Suffix condition quoted in the first paragraph of these Affordable Housing Provisions. A reporting and monitoring schedule designed to ensure that the affordable housing requirements and schedule contained in the P-Suffix conditions are satisfied appears in Section 4.2, below.

(a) **Phase One:** Phase One will include 40 affordable housing units. The affordable housing units will be among the first 400 residential units that are available for occupancy pursuant to the schedule set out in Section 4.2.

(b) **Phase Two:** Phase Two will include 48 affordable housing units pursuant to the schedule set out in Section 4.2.

(c) **Phase Three:** Phase Three will include no affordable housing units.

(d) **Phase Four:** Phase Four will include no affordable housing units.

(e) **Phase Five:** Phase Five will include 32 affordable housing units pursuant to the schedule set out in Section 4.2.

(f) **Phase Six:** Phase Six will include no affordable housing units pursuant to the schedule set out in Section 4.2.

3.4. Location of Units. Affordable housing units may be located anywhere on the Lakepointe project site or, if Lakepointe identifies off-site locations, anywhere in the Northshore Community Planning Area. In order to satisfy all or a portion of the affordable housing requirement for a later phase of development, Lakepointe may convert market rate housing in an earlier phase to affordable housing. For example, in order to satisfy the affordable housing requirement of 32 units in Phase Five, Lakepointe may, at its option, either provide those units within Phase Five or convert 32 market rate units in Phase One, Two or Four to affordable units. Market rate rental units may be converted to affordable housing at the time the lease for the rental unit expires. Market rate ownership units may be converted to affordable housing if unsold and vice versa.

3.5 Rental and Ownership Units. Lakepointe anticipates that eventually the only affordable housing units located on-site will be ownership units; however, the units may be rental units depending on phasing and market factors. Affordable housing units located off-site may be either rental or ownership units, depending on the market and the opportunities for development of affordable housing that are available at the time the housing is developed and constructed.

4. Reporting and Monitoring Schedule

4.1 Covenant. Lakepointe and King County will execute a legally binding covenant regarding affordable housing that will be recorded and run with the land for the parcel or parcels within the Lakepointe project on which affordable housing will be developed. The agreement or covenant will be executed and recorded prior to the issuance of the first building permit for Phase One.

4.2 Reporting and Monitoring by Phase. In order to assure that the affordable housing requirements for the Lakepointe project are satisfied, Lakepointe will submit a written Affordable Housing Status Report to the County on the following schedule. If the Phasing Plan for the project is amended, then the reporting and monitoring obligations shall correspond to the amended Phasing Plan.

(a) **Phase One:** Prior to the issuance of a Certificate of Occupancy for the 400th residential unit in Phase One, Lakepointe will submit an Affordable Housing Status Report to the County demonstrating that 40 of the 400 residential units are affordable (some or all of the affordable housing units may be provided off-site pursuant to Paragraph 2.1 of these Affordable Housing Provisions).

(b) **Phase Two:** Prior to the issuance of a Certificate of Occupancy for the 20th residential unit in Phase Two, Lakepointe will submit an Affordable Housing Status Report to the County demonstrating that a total of 88 residential units within Phases One and Two are affordable (some or all of the affordable housing units may be provided off-site pursuant to Paragraph 2.1 of these Affordable Housing Provisions). The Affordable Housing Status Report shall include: (1) For occupied units, (a) the number of persons in the household; (b) the household income; (c) the rent, including utilities, or the purchase price; and (d) the building and unit number; (2) For unoccupied units, a statement that the required number of affordable housing units shall remain unoccupied until occupied by a household eligible for affordable housing or until Lakepointe makes off-site affordable housing available for occupancy pursuant to Section 2.1, above.

(c) **Phase Three:** No reporting and monitoring requirements apply to Phase Three because no affordable housing units are required in this Phase.

(d) **Phase Four:** No reporting and monitoring requirements apply to Phase Four because no affordable housing units are required in this Phase.

(e) **Phase Five:** Prior to the issuance of a Certificate of Occupancy for the 160th residential unit in Phase Five, Lakepointe will submit an Affordable Housing Status Report to the County demonstrating that a total of 120 residential units within Phases One, Two, Four and Five are affordable (some or all of the affordable housing units may be provided off-site pursuant to Paragraph 2.1 of these Affordable Housing Provisions).

(f) **Phase Six:** No reporting and monitoring requirements apply to Phase Six because no affordable housing units are required in this Phase.

4.3 Enforcement. If Lakepointe fails to submit an Affordable Housing Status Report demonstrating compliance with the affordable housing requirements contained in these Affordable Housing Provisions, then the County may at its discretion withhold issuance of Certificates of Occupancy and building permits for subsequent residential units in the Project until the affordable housing requirements are satisfied, continue to issue Certificates of Occupancy and building permits but require supplemental Affordable Housing Reports showing that Lakepointe will achieve compliance within a reasonable time or take other appropriate and lawful action to enforce the recorded covenant between Lakepointe and King County. Pursuant to King County Code section 16.04.05025, no building or structure shall be used or occupied until a Certificate of Occupancy (or temporary Certificate of Occupancy) is issued. A note must be included on all construction drawings for residential units in the Lakepointe project that reads as follows: "Certificate of Occupancy shall not be issued until the applicant has demonstrated that the Affordable Housing Provisions and the recorded covenant required by these Affordable Housing Provisions has been achieved to the extent required by the County."