BEGINNING OF FILE:

ECF 02-141

File 2 of 2

Land Use Application Information

APPLICANT: The Boeing Company

FILE NO.: LUA-02-141, CPA, ECF, EIS

PROJECT NAME: Boeing Comp Plan Amendment and EIS

PROPERTY LOCATION: 800 Park Ave N

PUBLIC HEARING DATE: July 30, 2003

HEARING EXAMINER'S RECOMMENDATION: Dismissed by GMHB

REQUEST FOR RECONSIDERATION:

Date Received:

Response:

APPEAL:

Date Received: Date Response:

CITY COUNCIL APPROVAL:

Date of Approval:

Ordinance/Resolution No.:

Date of Ordinance/Resolution:

MYLAR TO COUNTY FOR RECORDING:

Date:

Mylar Recording:

CROSS REFERENCES: see also LUA03-100 (Fry's CPA)

OTHER REMARKS: ERC meeting March 4, 2003
Draft EIS issued July 8, 2003
Public Hearing held July 30, 2003
Appeal period August 7, 2003
Comp Plan approved November 24, 2003

2 volumes

LUA02-141, CPA, ECF, EIS Boeing Comp Plan Amend.
The Boeing Co. 2003
800 Park Ave. N.
Volume 2 of 2

CITY OF RENTON
PLANNING / BUILDING / PUBLIC WORKS
MEMORANDUM

Date: November 17, 2006

To: City Clerk's Office

From: Holly Graber

Subject: Land Use File Closeout

Please complete the following information to facilitate project closeout and indexing by the City Clerk's Office.

Project Name: **LUA (file) Number:**	Boeing Comp Plan Amendment and EIS LUA-02-141, CPA, ECF, EIS
Cross-References: **AKA's:**	see also LUA03-100 (Fry's CPA) Boeing EIS
Project Manager:	Elizabeth Higgins & Jason Jordan
Acceptance Date:	January 23, 2003
Applicant: **Owner:** **Contact:**	The Boeing Company The Boeing Company Hartland - Laura Lohman
PID Number:	
ERC Approval Date: **ERC Appeal Date:**	March 4, 2003 March 24, 2003
Administrative Denial: **Appeal Period Ends:**	
Public Hearing Date: **Date Appealed to HEX:** **By Whom:** **HEX Decision:**	July 30, 2003 December 15, 2003 Brad Nicholson Dismissed by GMHB **Date:** April 19, 2004
Date Appealed to Council: **By Whom:** **Council Decision:**	**Date:**
Project Description: BOEING COMPREHENSIVE MAP AND TEXT AMENDMENTS	
Location:	800 Park Ave N
Comments: ERC meeting March 4, 2003 Draft EIS issued July 8, 2003 Public Hearing held July 30, 2003 Appeal period August 7, 2003 Comp Plan approved November 24, 2003 Final EIS approved by council on November 24, 2003 Appeal filed December 15, 2003 by Brad Nicholson Growth Management Hearing Board dismissed case on April 19, 2004 Addendum to EIS to Demo Buildings approved July 27, 2004	

CITY OF RENTON

ADDENDUM TO ENVIRONMENTAL DETERMINATION OF SIGNIFICANCE (DS) AND EIS

Pursuant to WAC 197-11-600 (4) (c) and WAC 197-11-625

Addendum to Boeing Renton Comprehensive Plan Amendment EIS as Addended by the City of Renton – The Boeing Company (LUA-02-141 ECF) Determination of Non-Significance (DNS)

Date of Addendum: **August 21, 2006**

Date of Original Issuance of SEPA Threshold Determination: **March 4, 2003**

Proponent: **The Boeing Company**

Application File: **LUA-02-141, CPA, R, ECF**

Project Name: **10-90, 10-80, & 10-71 Building Demolition**

Proposal / Purpose of Addendum: The Boeing Company is proposing to demolish the 10-90, 10-81, 10-80, 10-74, 10-73, 10-72, 10-71, 10-70, 10-31, and 10-21 buildings, which total 518,729 square feet in area. The buildings were formerly utilized for aircraft manufacturing and assembly.

In 2003, the City conducted an Environmental Impact Statement (EIS) process that reviewed the Boeing Company's "Move to the Lake" proposal. In that analysis, it was determined that several manufacturing buildings would become surplus buildings as the Boeing Company consolidated it's properties throughout the Renton area. The original proposal resulted in the issuance of a Determination of Significance (DS), which triggered an EIS. The DS and subsequent EIS was based on consolidation of the Boeing properties, and amending the City's Comprehensive Plan and zoning associated with those properties. The proposed building demolition requires a building (demolition) permit from the City of Renton. Issuance of this permit is reliant upon successful completion of the SEPA Addenda process.

It has been determined that the environmental impacts of the new proposal are adequately addressed under the analysis of significant impacts contained within the previously adopted EIS. Based on WAC 197-11-600(4) c, the addendum process may be used if analysis or information is added that does not substantially change the analysis of significant impacts and alternatives in the existing environmental document.

Therefore, the SEPA addendum process has been utilized for the necessary Environmental Review of the proposed development.

Location: 800 Park Avenue North, Renton, WA 98055; KCA No. 0386600050

Lead Agency: City of Renton, Planning/Building/Public Works Department

Review Process: Individual development proposals for the Boeing Company site will be reviewed under SEPA Rules and City of Renton policies and regulations applicable to the development.

Additional Information: If you would like additional information, please contact Jill Ding, Senior Planner, City of Renton, Development Services Division, Planning/Building/Public Works Department at (425) 430-7219.

ENVIRONMENTAL REVIEW COMMITTEE SIGNATURES:

Gregg Zimmerman — 8/21/06
Gregg Zimmerman, Administrator
Department of Planning/Building/Public Works — **DATE**

Susan A. Bettesch for — 8-21-06
Terry Higashiyama, Administrator
Community Services Department — **DATE**

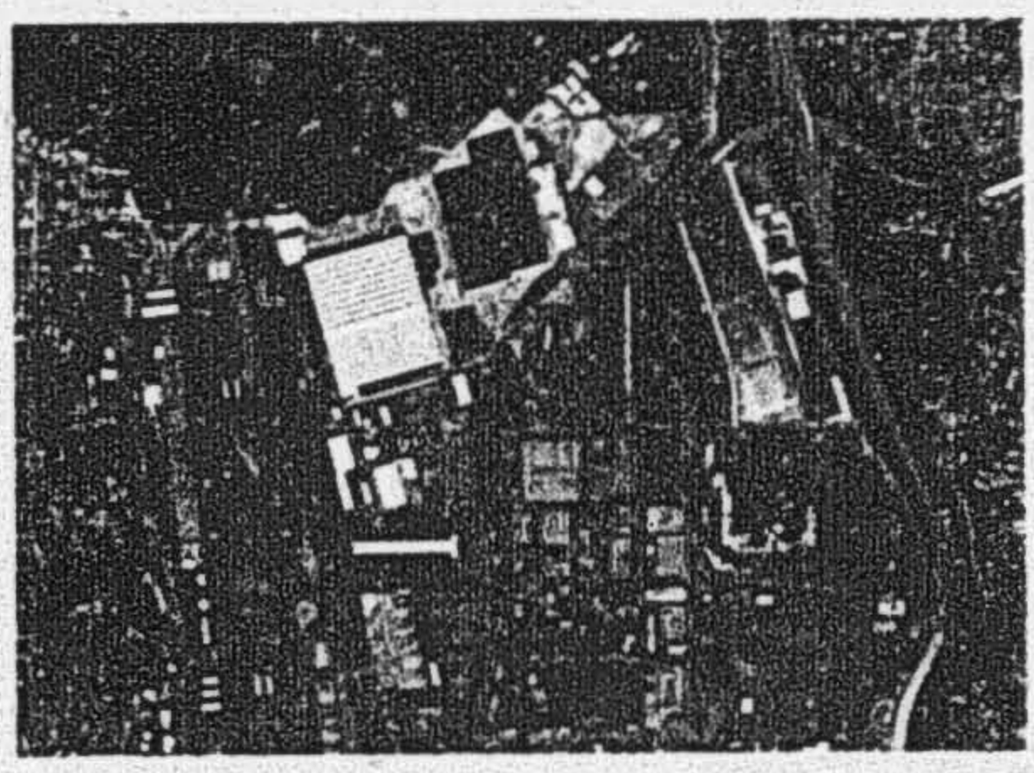
8/21/06
I. David Daniels, Fire Chief
Renton Fire Department — **DATE**

8/21/06
Alexander Pietsch, Administrator
Economic Development/Neighborhoods/Strategic Planning — **DATE**

ENVIRONMENTAL CHECKLIST

CITY OF RENTON
RECEIVED
AUG 15 2006
BUILDING DIVISION

10-90, 10-80 & 10-71 Building Demolition



Boeing – Renton Plant

Rick Ford
Workplace Services
The Boeing Company
P.O. Box 3707, M/C 61-95
Seattle Washington 98124-2207

206 854-1881

February, 2006

ENVIRONMENTAL CHECKLIST

Note: This environmental checklist is being provided to the City of Renton in connection with The Boeing Company's application for demolition permit(s). It is our understanding that this checklist will be used for purposes of an addendum to the 2003 Boeing Comprehensive Plan amendment Environmental Impact Statement ("2003 Boeing EIS"), rather than for purposes of a threshold determination.

A. BACKGROUND

1. ***Name of proposed project, if applicable:***

   10-90, 10-80 and 10-71 Building Demolition

2. ***Name of applicant:***

   The Boeing Company
   P.O. Box 3707, M/S 63-01
   Seattle, WA 98124-2207

3. ***Address and phone number of applicant and contact person:***

   Rick Ford
   Facilities
   The Boeing Company
   P.O. Box 3707, M/S 1W-09
   Seattle, WA 98124-2207
   206 854-1881

4. ***Date checklist prepared:***

   August, 2006

5. ***Agency requesting checklist:***

   City of Renton

6. ***Proposed timing or schedule (including phasing, if applicable):***

   Demolition: Fall 2006

7. ***Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.***

   None planned at this time

8. ***List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.***

The project was considered in 2003 Boeing Comprehensive Plan amendment EIS ("2003 Boeing EIS") and Development Agreement between the City of Renton and Boeing, dated December 1, 2003 ("Boeing Development Agreement")

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

None known at this time

10. List any government approvals or permits that will be needed for your proposal, if known.

Federal:
None known at this time

State of Washington:
Dept. of Ecology:
NPDES

King County:
None known at this time

City of Renton/Local:
State Environmental Policy Act Review
Demolition Permit

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

This project involves demolishing existing buildings in the southern area of the parcel scheduled for sale. Following is a list of buildings scheduled for demolition and their, square footage and use.

10-90	34,586	Cafeteria
10-81	1,930	Chiller Building
10-80	322,237	Office
10-74	1000	Misc Storage
10-73	1000	Misc Storage
10-72	10,175	Engineering Test and Fabrication
[illegible]-71	144,681	Engineering Labs
10-70	1,120	Wash House
10-31	1000	Storage
10-21	1000	Storage

The plan is to demolish the buildings down to and including footings. If piles are discovered to have been used in portions of the structure then the pile caps will be removed and the pilings left in place.

An area within the existing 10-80 has been demolished and then exterior walls were constructed around a 17,000 sf area housing the site's existing fiber optic hub (Renton Permit number B050355). This hub supports all other buildings on site. The rest of the area will be marketed for sale.

The vacant property will be graded and hydra-seeded, and then maintained as other open areas on the site.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

Site address: 800 Park Avenue North
Renton, Washington

Refer to Exhibit A, *Location in Region, Vicinity Map*; and *Site Plan* for exact location.
Refer to Exhibit B for Legal Description

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other . . . ...

Flat; see 2003 Boeing EIS.

b. What is the steepest slope on the site (approximate percent slope)?

1%; see 2003 Boeing EIS

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

Sandy silt loam; see 2003 Boeing EIS.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.
No; see 2003 Boeing EIS.

Seismic Hazard Area

e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

The site will be graded and excavated as required for planting grass or hydro seeding.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

Yes. Precipitation and surface water runoff may cause erosion during clearing and grading. At project completion, erosion impacts are not anticipated. The site will be fully planted, with no excavation left bare and thus no erosion impacts.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

The site is currently a 100% impervious or paved surface and, will continue to be impervious at project completion.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

Appropriate measures, such as silt fences and hay bale filters, will be used to control erosion during demolition and construction. After demolition, and after the parking and dolly storage lots are constructed, exposed soils will be covered with asphalt. Specific erosion control measures will be detailed on the grading plans submitted for permit approval.

2. Air

a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, and industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

During Demolition, vehicle and construction equipment emissions and dust will be released. Portions of the exterior siding may contain asbestos. The asbestos containing siding will be removed prior to building demolition. This material shall be wetted prior to removal and breakage of the siding will be minimized. The removal shall be done be trained and certified asbestos control workers and supervisors. This material will be removed, packaged, labaled and disposed of following EPA and PSCAA regulations.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

No

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

Mitigation measures will be implemented as required to meet or exceed all applicable standards as required by the Puget Sound Air Pollution Control Agency and the Department of Ecology. Additional potential mitigation measures to reduce emissions include ensuring that machines and equipment used during construction are well maintained.

3. **Water**

a. ***Surface:***

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

The Cedar River and Lake Washington are in the vicinity; see 2003 Boeing EIS.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

No

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

None

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

No

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

No

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

No

b. ***Ground:***

1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities if known.

No

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ;agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

None

c. Water runoff (including storm-water):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Storm water runoff will be collected in the existing plant's storm-water control system. No additional impervious surface or runoff will be created by the project.

2) Could waste materials enter ground or surface waters? If so, generally describe.

No

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

Utilize existing onsite storm water system to mitigate potential runoff water impacts. Appropriate mitigation measures will be initiated during construction to reduce and control surface water runoff impacts. See Exhibit E *"Stormwater Pollution Prevention Plan"*

4. Plants

a. Check or circle types of vegetation found on the site:
deciduous tree: alder, maple, aspen, other
evergreen tree: fir, cedar, pine, other
shrubs, grass, pasture, crop or grain,
wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other water plants: water lily, eelgrass, milfoil
other types of vegetation

None; See 2003 Boeing EIS.

b. What kind and amount of vegetation will be removed or altered?

None

c. List threatened or endangered species known to be on or near the site.

None; see 2003 Boeing EIS.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

NA

5. Animals

a. Circle any birds and animals, which have been observed on or near the site or are known to be on or near the site:

See 2003 Boeing EIS.

Birds and animals which have been observed on or near the site are listed below:

birds:	seagulls, crows
mammals:	none observed rabbits, squirrels
fish:	~~coho salmon, chinook salmon sockeye salmon steelhead and cutthroat trout native char (bull trout) and long fin smelt~~

b. List any threatened or endangered species known to be on or near the site.

None; see 2003 Boeing EIS.

c. Is the site part of a migration route? If so, explain.

Pacific Flyway; see 2003 Boeing EIS.

d. Proposed measures to preserve or enhance wildlife, if any:

Utilize temporary erosion; long-term storm water and hazardous materials control systems and best management practices to prevent contaminated discharges.

6. Energy and natural resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

None

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

No

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

None

7. Environmental Health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

Usual oils, greases, fuel and solvents will be present during demolition.

1) Describe special emergency services that might be required.

No special emergency services will be required. The hazardous materials involved are commonly used and are reasonably expected to be within the capability of existing emergency service operations.

2) Proposed measures to reduce or control environmental health hazards, if any:

None

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

None

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

Temporary noise impacts during demolition and construction are anticipated. Construction projects of this type typically produce noise levels that range from 68 to 98 dba at 50 feet from the specific equipment.

3) Proposed measures to reduce or control noise impacts, if any:

None

8. **Land and shoreline use**

a. ***What is the current use of the site and adjacent properties?***

The site is fully developed as an aircraft manufacturing and final assembly facility. See 2003 Boeing EIS.

b. ***Has the site been used for agriculture? If so, describe.***

No

c. ***Describe any structures on the site.***

The Renton Plant is a large airplane manufacturing and final assembly facility, consisting of many buildings and ancillary uses. The project site is within the Renton Plant. The structures located on the project site are:

10-90	34,586	Cafeteria
10-81	1,930	Chiller Building
10-80	322,237	Office
10-74	1000	Misc Storage
10-73	1000	Misc Storage
10-72	10,175	Engineering Test and Fabrication
10-71	144,681	Engineering Labs
10-70	1,120	Wash House
10-31	1000	Storage
10-21	1000	Storage

All of these buildings are currently vacant.

d. ***Will any structures be demolished? If so, what?***

Yes, see question "c." above

e. ***What is the current zoning classification of the site?***

UCN-1

f. ***What is the current comprehensive plan designation of the site?***

UCN

g. ***If applicable, what is the current shoreline master program designation of the site?***

N/A

h. ***Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.***

No

i. Approximately how many people would reside or work in the completed project?

None

j. Approximately how many people would the completed project displace?

None, the buildings planned for demolition are currently vacant and the affected employees have been relocated to other buildings on the Boeing Renton Plant site.

k. Proposed measures to avoid or reduce displacement impacts, if any:

None

l. Proposed measures to ensure the proposal are compatible with existing and projected land uses and plans, if any:

Compliance with city codes and ordinances and consistent with Conceptual Plan for Subdistrict 1A approved in the Boeing Development Agreement.

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

None

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

None

c. Proposed measures to reduce or control housing impacts, if any:

None

10. Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

N/A

b. What views in the immediate vicinity would be altered or obstructed?

None

c. Proposed measures to reduce or control aesthetic impacts, if any:

None

11. Light and glare

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

None

b. Could light or glare from the finished project be a safety hazard or interfere with views?

No

c. What existing off-site sources of light or glare may affect your proposal?

N/A

d. Proposed measures to reduce or control light and glare impacts, if any:

None

12. Recreation

a. What designated and informal recreational opportunities are in the immediate vicinity?

See 2003 Boeing EIS.

b. Would the proposed project displace any existing recreational uses? If so, describe.

No

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

None

13. Historic and Cultural Preservation

a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

No

b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.

None have been identified on the project site.

c. Proposed measures to reduce or control impacts, if any:

Although previous excavation has disclosed no indications of archaeological significance, if artifacts are uncovered, work in that area will be halted pending notification and response from appropriate agencies.

14. Transportation

a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.
See 2003 Boeing EIS and Boeing Development Agreement.

b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

See 2003 Boeing EIS and Boeing Development Agreement.

c. How many parking spaces would the completed project have? How many would the project eliminate?

No parking stalls will be lost as a part of this action.

d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

No

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

No

f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

None

g. Proposed measures to reduce or control transportation impacts, if any:

None

15. Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

None is anticipated.

b. Proposed measures to reduce or control direct impacts on public services, if any.

None

16. Utilities

a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

Electricity, natural gas, domestic water, refuse service, telephone, sanitary sewer and storm sewerage are currently available.

b. Describe the utilities that are proposed for the project, the utility providing the service and the general construction activities on the site or in the immediate vicinity, which might be needed.

None

C. SIGNATURE

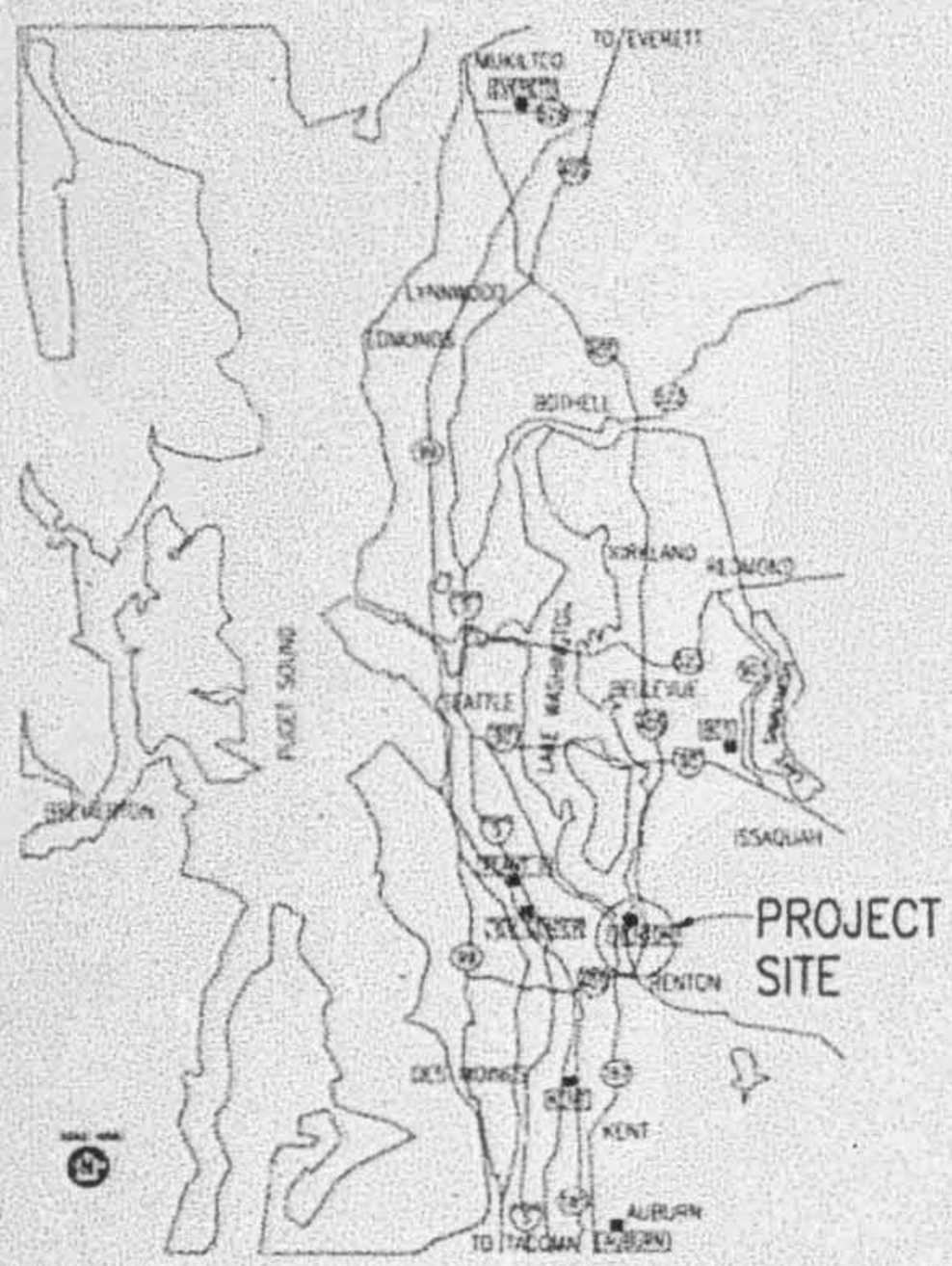
The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

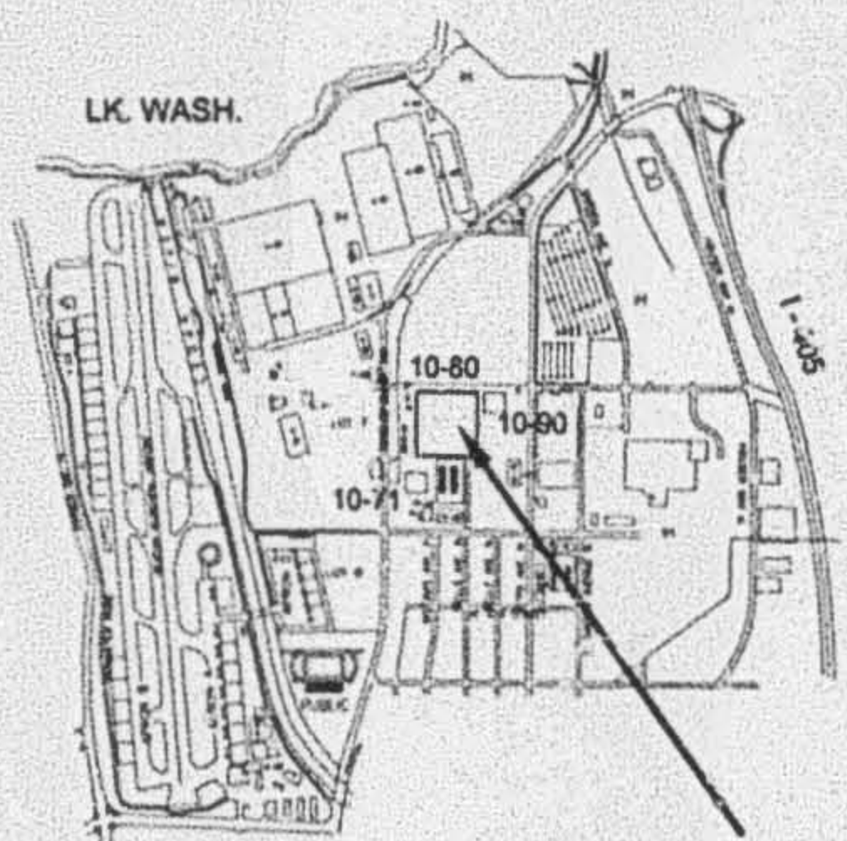
Signature: _____
Richard J. Ford

Date Submitted: 8-15-06

Exhibit A

Location in Region, Vicinity Map, and Site Plan



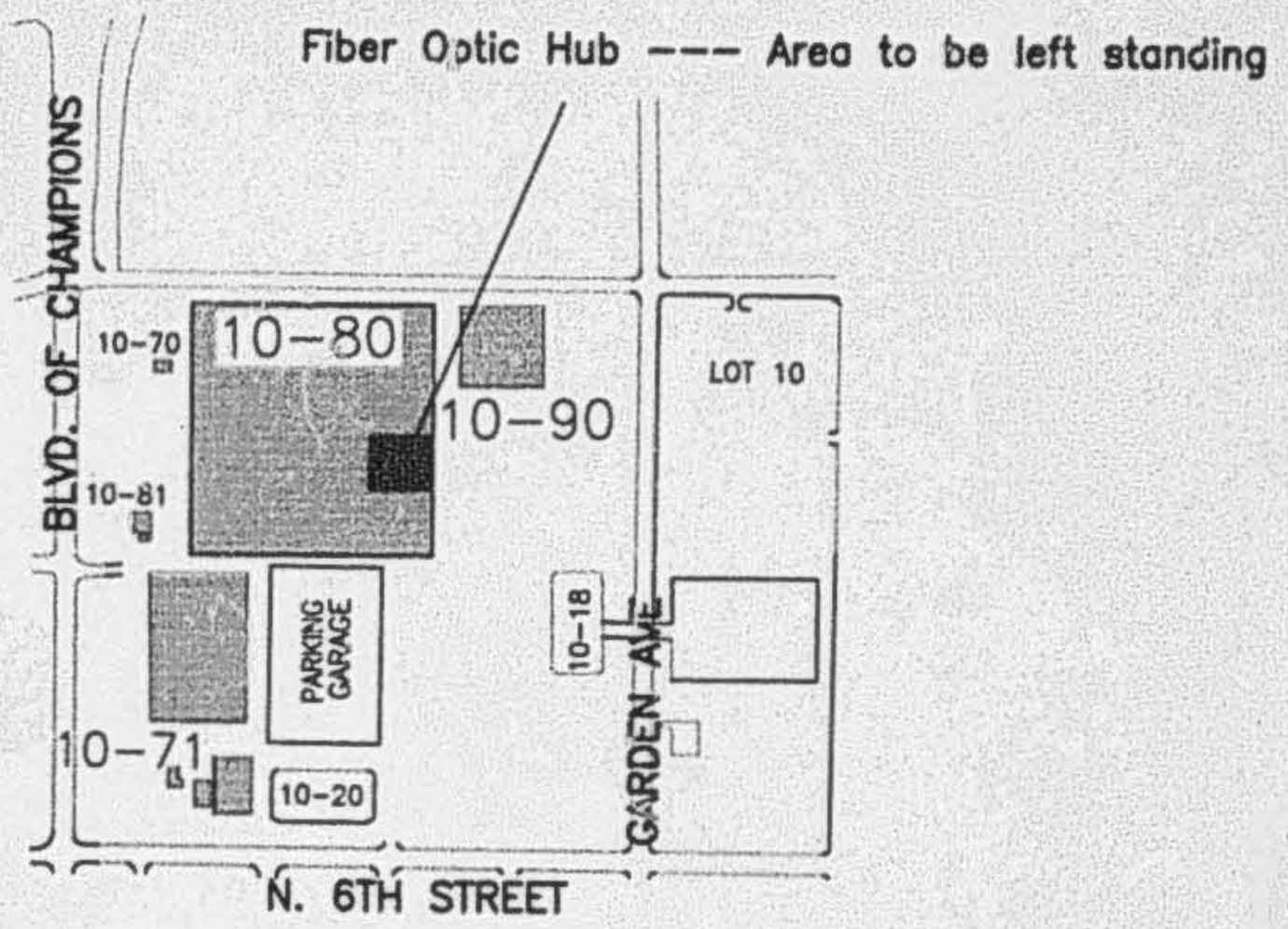


Demolish Existing 10-90, 10-80 & 10-71
and others

VICINITY MAP
RENTON SITE

G0

Demolish Existing 10-90, 10-80 & 10-71 Buildings



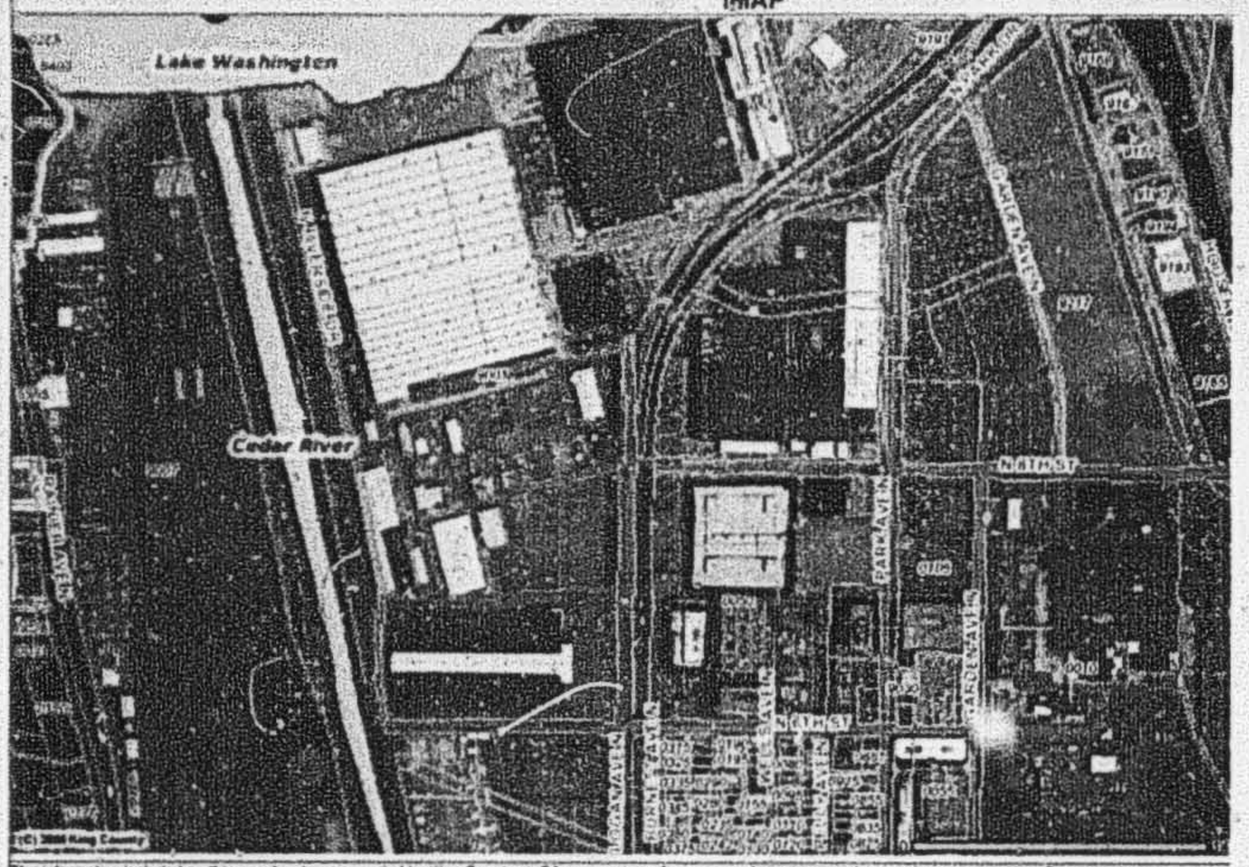
PLAN VIEW

DETAIL MAP
RENTON SITE

D1

King County

iMAP



The information included on this map has been compiled by King County staff from a variety of sources and is subject to change without notice. King County makes no represen
implied, as to accuracy, completeness, timeliness, or rights to the use of such information. King County shall not be liable for any general, special, indirect, incidental, or conseq
limited to, lost revenues or lost profits resulting from the use or misuse of the information contained on this map. Any sale of this map or information on this map is prohibited exc
County.

Date: 8-15-2006 Source: King County iMAP - Property Information (http://www.metrokc.gov/GIS/iMAP)

Exhibit B

Legal Description

DESCRIPTION

OF THE

BOEING COMMERCIAL AIRPLANE COMPANY

RENTON PLANT FACILITY

PARCEL I-80

CITY OF RENTON, KING COUNTY, WASHINGTON

The following described tract of land is the resultant consolidation of Record Title vested in the Boeing Company, a Delaware Corporation and Puget Sound Power & Light Company, a Massachusetts Corporation, covered in the Pioneer National Title Insurance Company, Limited Liability Reports Number A-253801, A-253802, A-253803, A-253804, Unit 13, dated January 11, through January 21, 1980.

ALL BEARINGS ARE REFERENCED TO THE GRID MERIDIAN OF THE WASHINGTON COORDINATE SYSTEM, NORTH ZONE.

THAT PORTION OF GOVERNMENT LOTS 1 AND 3 IN SECTION 7; AND OF GOVERNMENT LOTS 1, 2 AND 3 AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 23 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, IN THE CITY OF RENTON, KING COUNTY, WASHINGTON; AND OF C.H. ADSIT'S LAKE WASHINGTON PLAT AS RECORDED IN VOLUME 8 OF PLATS, PAGE 79, RECORDS OF KING COUNTY, WASHINGTON; AND OF BLOCK C, THIRD SUPPLEMENTAL MAP OF LAKE WASHINGTON SHORE LANDS, AS RECORDED UNDER KING COUNTY AUDITOR'S FILE NUMBER 5927582; AND OF CERTAIN SHORE LANDS OF LAKE WASHINGTON SHOWN ON SHEETS 3 AND 4 OF THE MAP PREPARED BY UDO HESSE UNDER KING COUNTY SUPERIOR COURT CAUSE NUMBER 156371; AND OF VACATED LAKE WASHINGTON BOULEVARD (FORMERLY PARK STREET); AND OF THE ABANDONED BURLINGTON NORTHERN INC. RAILWAY (FORMERLY NORTHERN PACIFIC RAILWAY) RIGHT-OF-WAY, ALL MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH MARGIN OF SIXTH AVENUE NORTH AND THE EASTERLY RIGHT-OF-WAY LINE OF COMMERCIAL WATERWAY DISTRICT NO.2 IN GOVERNMENT LOT 2 OF SAID SECTION 7; THENCE WITH SAID EASTERLY RIGHT-OF-WAY LINE NORTH 12°47'42" WEST 193.18 FEET; NORTH 00°22'54" EAST 454.50 FEET; NORTH 12°47'42" WEST 2394.32 FEET TO THE SOUTHWEST CORNER OF BLOCK C, SAID THIRD SUPPLEMENTAL MAP OF LAKE WASHINGTON SHORE LANDS; THENCE WITH THE BOUNDARIES OF SAID BLOCK C, NORTH 12°47'42" WEST 264.08 FEET TO THE NORTHWEST CORNER THEREOF; THENCE CONTINUING WITH THE BOUNDARIES OF SAID BLOCK C, NORTH 84°25'26" EAST 1299.96 FEET TO THE NORTHEAST CORNER THEREOF, BEING ON THE INNER HARBOR LINE OF LAKE WASHINGTON SHORE LANDS IN SAID SECTION 7; THENCE WITH SAID INNER HARBOR LINE NORTH 46°52'27" EAST 977.56 FEET;

X

PARCEL 1-80 (Continued)

THENCE WITHIN SAID SHORE LANDS SOUTH 43°06'56" EAST 932.91 FEET; SOUTH 46°53'04" WEST 220.00 FEET; SOUTH 31°37'32" EAST 448.37 FEET TO THE NORTHWESTERLY MARGIN OF SAID BURLINGTON NORTHERN, INC. RIGHT-OF-WAY IN GOVERNMENT LOT 2 OF SAID SECTION 8; THENCE WITH SAID RIGHT-OF-WAY SOUTH 50°41'48" WEST 248.33 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT OF RADIUS 12,769.67 FEET; THENCE SOUTHWESTERLY WITH SAID CURVE (THROUGH A CENTRAL ANGLE OF 0°10'00") 37.15 FEET TO THE POINT OF COMPOUND CURVATURE WITH A CURVE TO THE LEFT OF RADIUS 6409.84 FEET; THENCE SOUTHWESTERLY ALONG SAID COMPOUND CURVE (THROUGH A CENTRAL ANGLE OF 0°20'00") 37.29 FEET TO THE POINT OF COMPOUND CURVATURE WITH A CURVE TO THE LEFT OF RADIUS 4289.90 FEET; THENCE SOUTHWESTERLY ALONG SAID COMPOUND CURVE (THROUGH A CENTRAL ANGLE OF 0°30'00") 37.44 FEET TO THE POINT OF COMPOUND CURVATURE WITH A CURVE TO THE LEFT OF RADIUS 3229.93 FEET;

THENCE SOUTHWESTERLY ALONG SAID COMPOUND CURVE (THROUGH A CENTRAL ANGLE OF 0°40'00") 37.58 FEET TO THE POINT OF COMPOUND CURVATURE WITH A CURVE TO THE LEFT OF RADIUS 2593.96 FEET; THENCE SOUTHWESTERLY ALONG SAID COMPOUND CURVE (THROUGH A CENTRAL ANGLE OF 0°50'00") 37.73 FEET TO THE POINT OF COMPOUND CURVATURE WITH A CURVE TO THE LEFT OF RADIUS 2169.97 FEET; THENCE SOUTHWESTERLY ALONG SAID COMPOUND CURVE (THROUGH A CENTRAL ANGLE OF 01°00'00") 37.87 FEET TO THE POINT OF COMPOUND CURVATURE WITH A CURVE TO THE LEFT OF RADIUS 1867.13 FEET; THENCE SOUTHWESTERLY ALONG SAID COMPOUND CURVE (THROUGH A CENTRAL ANGLE OF 01°10'00") 38.02 FEET TO THE POINT OF COMPOUND CURVATURE WITH A CURVE TO THE LEFT OF RADIUS 1639.99 FEET;

THENCE SOUTHWESTERLY ALONG SAID COMPOUND CURVE (THROUGH A CENTRAL ANGLE OF 01°20'00") 38.16 FEET TO THE POINT OF COMPOUND CURVATURE WITH A CURVE TO THE LEFT OF RADIUS 1482.69 FEET; THENCE SOUTHWESTERLY ALONG SAID COMPOUND CURVE, 140.74 FEET TO A POINT ON SAID NORTHWESTERLY MARGIN FROM WHENCE THE CENTER OF SAID CURVE BEARS SOUTH 50°44'31" EAST; THENCE WITHIN SAID RIGHT-OF-WAY NORTH 53°32'36" EAST 854.31 FEET; NORTH 49°53'02" EAST 606.40 FEET; SOUTH 44°22'57" EAST 25.00 FEET TO A POINT ON THE SOUTHEASTERLY MARGIN OF SAID RAILWAY RIGHT-OF-WAY, SAID POINT BEING SOUTHEASTERLY AND RADIAL FROM THE MAIN TRACK CENTERLINE SURVEY STATION 1068+00, SAID POINT BEING ON A CURVE TO THE RIGHT FROM WHENCE THE CENTER BEARS NORTH 44°22'57" WEST 1639.99 FEET; THENCE SOUTHWESTERLY ALONG SAID RIGHT-OF-WAY WITH SAID CURVE (THROUGH A CENTRAL ANGLE OF 00°24'45") 11.81 FEET TO THE POINT OF COMPOUND CURVATURE WITH A CURVE TO THE RIGHT OF RADIUS 1867.13 FEET; THENCE SOUTHWESTERLY ALONG SAID COMPOUND CURVE (THROUGH A CENTRAL ANGLE OF 00°40'33") 22.02 FEET TO A POINT FROM WHENCE THE CENTER OF SAID CURVE BEARS NORTH 43°17'39" WEST, SAID POINT BEING ON THE SOUTHWESTERLY RIGHT-OF-WAY OF PRIMARY STATE HIGHWAY NO.1 (SR 405) NORTH RENTON INTERCHANGE;

PARCEL I-80 (Continued)

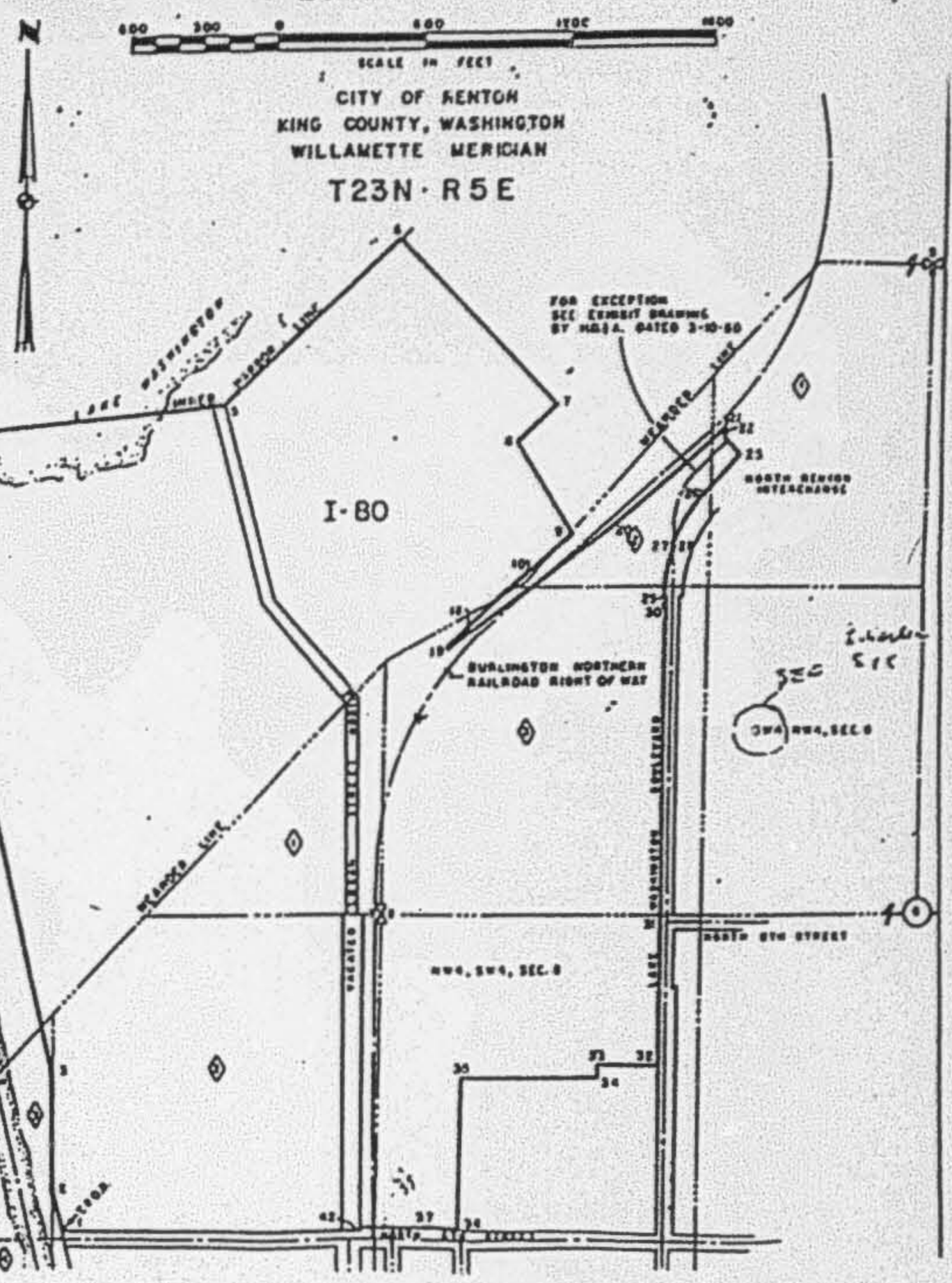
CONTAINING 204.17 ACRES, OR 8,893,560 SQUARE FEET, MORE OR LESS.

REFERENCE IS HEREBY MADE TO OWNERSHIP MAPS, RENTON PLANT FACILITIES, 1980 PROPERTY CONSOLIDATION, SHEETS 1, 2, 3, 4, 5 AND 6 OF 6 SHEETS.

BOEING COMMERCIAL AIRPLANE COMPANY
A DIVISION OF THE BOEING COMPANY
RENTON PLANT FACILITY

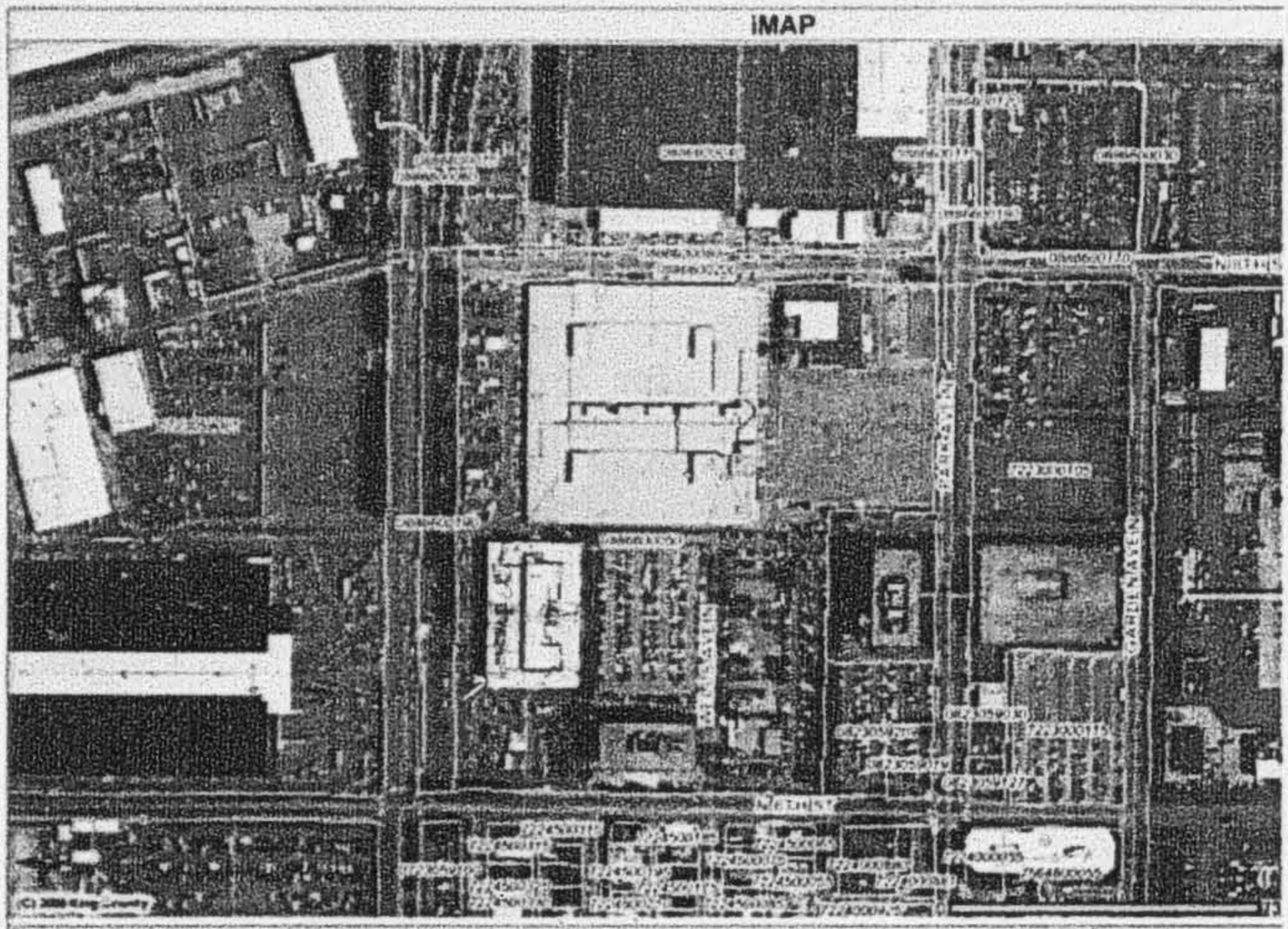
PARCEL I-80

8,893,560 SQUARE FEET
204.17 ACRES



King County

iMAP



The information included on this map has been compiled by King County staff from a variety of sources and is subject to change without notice. King County makes no represen
implied, as to accuracy, completeness, timeliness, or rights to the use of such information. King County shall not be liable for any general, special, indirect, incidental, or conseq
limited to, lost revenues or lost profits resulting from the use or misuse of the information contained on this map. Any sale of this map or information on this map is prohibited ex
County.

Date: 8-15-2006 Source: King County iMAP - Property Information (http://www.metrokc.gov/GIS/iMAP)

Project Narrative
Building Demolitions

Project Name: 10-90,10-80 and 10-71 Building Demolition

Size: Approximately 7.5 acres

Location: West of Park Avenue and north of 8th Street.

Zoning: The site is zoned UC – N1

Current use of the site: Aircraft manufacturing and assembly. The following vacant buildings will be demolished as part of this project.

Building	Square Feet	Use
10-90	34,586	Cafeteria
10-81	1,930	Chiller Building
10-80	322,237	Office
10-74	1000	Misc Storage
10-73	1000	Misc Storage
10-72	10,175	Engineering Test
10-71	144,681	Engineering Labs
10-70	1,120	Wash House
10-31	1000	Storage
10-21	1000	Storage

Special features: None

Soil: The soil is sandy silt loam.

Proposed use: An area within the existing 10-80 has been demolished and then exterior walls were constructed around a 17,000 sf area housing the site's existing fiber optic hub. (Renton Permit number B050355). This hub supports all other buildings on site. The rest of the area will be marketed for sale.

Proposed off-site improvements: None proposed

Estimated Cost: 2.5 million

Excavation and Fill:	Only very minor grading and filling is anticipated, as the site is generally flat.
Trees to be removed:	None
Land dedication:	None
Job Shacks:	Job shacks and equipment storage will use a corner of an existing parking lot where no grading is planned for.
Proposed Modifications:	None proposed
Distance from high water mark to closest area of project site:	1000+ feet
Nature of existing shoreline:	Rocky bank with some berry bush growth.

February, 2006

Construction Mitigation Plan

Proposed Construction Dates – Start demolition in the late summer or early fall of 2006 and finishing before 2007.

Hours and Days of Operation – The work will be accomplished during day light hours, typically starting at 6:30 am and ending at 4:00 pm, Monday through Friday.

Proposed hauling/transportation routes – Contractors will apply for their own hauling permits related to this project.

Demolition Process – Prior to starting the actual demolition of the 10-80 building and the others, the interior of the building will be emptied of all hazardous materials such as asbestos containing materials, and fluorescent light tubes and ballasts. Any 10-80 utilities, e.g. water, power, compressed air, data and telephone which feed other remaining facilities will be rerouted. Once the rerouting of critical utilities is complete, all the utilities which feed the 10-80 will be severed. The 10-80 building may be without fire protection (sprinklers) for a short time. During this period a 24/7 dedicated fire watch will be assigned to the complex.

The actual demolition will be accomplished by a demolition contractor. The demolition is planned to commence in early September 2006 and is expected to last 3-5 months. The areas containing asbestos will be removed prior to demolition and will be disposed of by a specialty subcontractor. Thereafter, the demolition contractor will proceed to pull down the buildings. Salvageable materials such as iron, copper, and wood will be separated from the landfill debris. Once the superstructures are gone, the concrete floor slabs, and foundations will be demolished and recycled for use elsewhere, either by crushing the concrete on site or trucking it to an off site location for processing. The foundation piles will be left in the ground. At the completion of the demolition, the site will be graded and thereafter stabilized as prescribed in the Storm Water Pollution Prevention Plan (SWPPP) to the storm water permit.

Storm Water – Boeing has developed a Storm Water Pollution Prevention Plan (SWPPP) for the contractor to follow. During construction storm water will receive treatment through the use of silt fencing, catch basin filter inserts, straw bales, and other standards of practice methods noted in the SWPPP.

Snow, Ice, Dirt and Mud Removal. - Contractor shall remove snow and ice to the extent necessary to perform the Work. The use of calcium chloride or other chemicals as aids or means to remove snow or ice will not be permitted. Contractor shall assure that vehicles are constructed, loaded, maintained and covered as necessary to prevent the deposition of dirt, mud or other debris on public roadways. Dirt, mud, and debris removal shall be undertaken on a continual basis. Dirt, mud, or debris dropped onto streets by vehicles involved in the Work shall be immediately removed.

Dust Control. - Throughout the entire construction period, Contractor shall take all necessary steps to effectively dust-control the working area, unpaved roads used in the

operations, and other portions of the Site. Such dust control shall not include application of calcium chloride or any other chemicals but shall be accomplished with intermittent watering and sprinkling at such frequency as will satisfactorily settle the dust. Contractor shall also comply with any requirements imposed by law to prevent fugitive dust emissions.

Asbestos Abatement – A licensed asbestos abatement contractor removed all known asbestos containing materials prior to starting demolition which is now complete.

Working Hours – The work will be accomplished during day light hours, typically starting at 6:30 AM.

Protection of People and Property – The area of the work will be enclosed by a fence and will only be accessible to authorized personnel who will be governed by the contractor's job specific safety plan.

CITY OF RENTON

Building Permit

Permit Number. B050355

Permission is hereby given to do the following described work,
according to the conditions hereon and according to the approved plans
and specifications pertaining thereto, subject to compliance with the Ordinances of the City of Renton.

Nature of Work:

BOEING 10-80 BLDG -CONSTRUCT INTERIOR BEARING WALL AROUND FIBER OPTIC COMM. HUB

Job Address:

737 LOGAN AVE N

Owner:

BOEING COMPANY THE
100 N RIVERSIDE M/C 5003-4027
CHICAGO IL 60606

Tenant:

10-80 BLDG

Contractor:

BOEING COMPANY, THE
100 N RIVERSIDE
CHICAGO, IL
60606-1596

Contractor License BOEINC*294ML
Contractor Phone 312-544-2535
City License 1031

Const Lender:

Other Information:

Date of Issue 12/06/2005
Date of Expiration 06/04/2006
Construction Value $850,000.00
Parcel Number 0723059001
BOEING JOB #14098901

UBC Type of Construction
Building Height 0
Story Count 0
Building Sq. Ft. 0
Dwelling Count 0
Occupancy Group

I hereby certify that no work is to be done except as described above and in approved plans, and that work is to conform to Renton codes and ordinances.

Subject to compliance with the Ordinances of the City of Renton and information filed herewith permit is granted.

Applicant X

Larry Meekling

Building Official

BD3214a 12/00 bh

CITY OF RENTON

Building Permit

Permit Number: **B050355**

Permission is hereby given to do the following described work, according to the conditions hereon and according to the approved plans and specifications pertaining thereto, subject to compliance with the Ordinances of the City of Renton.

Nature of Work:

BOEING 10-80 BLDG -CONSTRUCT INTERIOR BEARING WALL AROUND FIBER OPTIC COMM. HUB

Job Address:

737 LOGAN AVE N

Owner:

BOEING COMPANY THE
100 N RIVERSIDE M/C 5003-4027
CHICAGO IL 60606

Tenant:

10-80 BLDG

Contractor:

BOEING COMPANY, THE
100 N RIVERSIDE
CHICAGO, IL
60606-1596

Contractor License BOEINC*294ML
Contractor Phone 312-544-2535
City License 1031

Const Lender:

Other Information:

Date of Issue 12/06/2005
Date of Expiration 06/04/2006
Construction Value $850,000.00
Parcel Number 0723059001
BOEING JOB #14098901

UBC Type of Construction
Building Height 0
Story Count 0
Building Sq. Ft. 0
Dwelling Count 0
Occupancy Group

I hereby certify that no work is to be done except as described above and in approved plans, and that work is to conform to Renton codes and ordinances.

Subject to compliance with the Ordinances of the City of Renton and information filed herewith permit is granted.

Applicant X

Larry Meekling

Building Official

BD3214a 12/00 bh

Kathy Keolker-Wheeler, Mayor

CITY OF RENTON
Planning/Building/Public Works Department
Gregg Zimmerman P.E., Administrator

July 29, 2004

Rick Ford
The Boeing Company
PO Box 3707 MC 63-01
Seattle, WA 98124-2207

SUBJECT: 10-50 Building Demolition
LUA02-141, CPA, R, ECF

Dear Mr. Ford:

This letter is written on behalf of the Environmental Review Committee (ERC) and is to advise you that they have completed their review of the subject project. The ERC amended the 2003 EIS as requested.

If you have any questions or desire clarification of the above, please call me at (425) 430-7219.

For the Environmental Review Committee,

Jason E. Jordan
Senior Planner

cc: Tia Brotherton Heim, Walter Warden, Laura N. Whitaker / Parties of Record

Enclosure

Mailed 7/30/04 pmf

1055 South Grady Way - Renton, Washington 98055

This paper contains 50% recycled material, 30% post consumer

RENTON
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CITY OF RENTON

ADDENDUM TO ENVIRONMENTAL DETERMINATION OF SIGNIFICANCE (DS) AND EIS

Pursuant to WAC 197-11-600 (4) (c) and WAC 197-11-625

Addendum to Boeing Renton Comprehensive Plan Amendment EIS as Addended by the City of Renton – The Boeing Company (LUA-02-141 ECF) Determination of Non-Significance (DNS)

Date of Addendum: **July 27, 2004**

Date of Original Issuance of SEPA Threshold Determination: **March 4, 2003**

Proponent: **The Boeing Company**

Application File: **LUA-02-141, CPA, R, ECF**

Project Name: **10-50 Building Demolition**

Proposal / Purpose of Addendum: The Boeing Company is proposing to demolish the 1.2-million square foot 10-50 building, which was formerly utilized for aircraft manufacturing and assembly. In addition, the applicant is proposing to demolish the 2,500 square foot 10-120 building and a 2,000 square foot chiller room, both formerly utilized in the aircraft manufacturing process.

In 2003, the City conducted an Environmental Impact Statement (EIS) process that reviewed the Boeing Company's "Move to the Lake" proposal. In that analysis, it was determined that several manufacturing buildings would become surplus buildings as the Boeing Company consolidated it's properties throughout the Renton area. The original proposal resulted in the issuance of a Determination of Significance (DS), which triggered an EIS. The DS and subsequent EIS was based on consolidation of the Boeing properties, and amending the City's Comprehensive Plan and zoning associated with those properties. The proposed building demolition requires a building (demolition) permit from the City of Renton. Issuance of this permit is reliant upon successful completion of the SEPA Addenda process.

It has been determined that the environmental impacts of the new proposal are adequately addressed under the analysis of significant impacts contained within the previously adopted EIS. Based on WAC 197-11-600(4) c, the addendum process may be used if analysis or information is added that does not substantially change the analysis of significant impacts and alternatives in the existing environmental document.

Therefore, the SEPA addendum process has been utilized for the necessary Environmental Review of the proposed development.

Location: 800 Park Avenue North, Renton, WA 98055; KCA No. 0823059079

Lead Agency: City of Renton, Planning/Building/Public Works Department

Review Process: Individual development proposals for the Boeing Company site will be reviewed under SEPA Rules and City of Renton policies and regulations applicable to the development.

Additional Information: If you would like additional information, please contact Jason Jordan, Senior Planner, City of Renton, Development Services Division, Planning/Building/Public Works Department at (425) 430-7219.

ENVIRONMENTAL REVIEW COMMITTEE SIGNATURES:

Gregg Zimmerman 7/27/04

Gregg Zimmerman, Administrator
Department of Planning/Building/Public Works — **DATE**

Lorna L. Betrau for 7/29/04

Dennis Culp, Administrator
Community Services Department — **DATE**

C. Lee Wheeler 7-27-04

Lee Wheeler, Fire Chief
Renton Fire Department — **DATE**

Y

ENVIRONMENTAL REVIEW COMMITTEE
MEETING NOTICE
July 27, 2004

To:	Gregg Zimmerman, Planning/Building/Public Works Administrator Dennis Culp, Community Services Administrator Lee Wheeler, Fire Chief
From:	Jennifer Henning, Development Planning
Meeting Date: **Time:**	Tuesday, July 27, 2004 9:00 AM
Location:	Sixth Floor Conference Room #620
Agenda listed below.	

THE FOLLOWING IS A CONSENT AGENDA

Oakesdale Commerce Center Addendum ***(Flala)***

LUA03-089, SA-H, SM, ECF, BSP

An addendum to the environmental checklist for the above referenced application (Oakesdale Commerce Center) has been requested. The applicant is requesting approval for buffer averaging for a Category 2 wetland located on the eastern parcel of the subject property. The wetland was to remain as existing with the required 50 ft. buffer. In November of 2003, a DNS-M was issued for the construction of 13 buildings for commercial, light industrial and light distribution businesses on a 35 acre site as part of a binding site plan. Additionally, the buffer averaging is needed to allow for modification to the site plan whereby Building E5 and a wetpond would be "reversed." The modification is being review separately.

Addendum to Boeing Renton Comprehensive Plan Amendment ***(Jordan)***

LUA02-141, ECF

The Boeing Company is proposing to demolish the 1.2-million square foot 10-50 building, which was formerly utilized for aircraft manufacturing and assembly. In addition, the applicant is proposing to demolish the 2,500 square foot 10-120 building and a 2,000 square foot chiller room, both formerly utilized in the aircraft manufacturing process.

cc: K. Keolker-Wheeler, Mayor
J. Covington, Chief Administrative Officer
A. Pietsch, EDNSP Administrator ®
B. Wolters, EDNSP Director ®
J. Gray, Fire Prevention
N. Watts, P/B/PW Development Services Director ®
F. Kaufman, Hearing Examiner
S. Engler, Fire Prevention ®
J. Medzegian, Council
S. Meyer, P/B/PW Transportation Systems Director
R. Lind, Economic Development
L. Warren, City Attorney ®

CITY OF RENTON
PLANNING/BUILDING/PUBLIC WORKS
MEMORANDUM

DATE: July 22, 2004

TO: Environmental Review Committee

FROM: Jason E. Jordan, Senior Planner, x7219

SUBJECT: **Boeing Renton Comprehensive Plan Amendment, LUA-02-141 ECF**

The following document is an addendum to the DS/EIS for the subject property. The applicant is requesting to demolish the 10-50 building complex along with the 10-120 building and a chiller room.

If you concur with the staff recommendation to approve, please sign the addendum.

If you have any comments or questions, please contact me at x7219 or email: jjordan@ci.renton.wa.us

CENTRAL PUGET SOUND
GROWTH MANAGEMENT HEARINGS BOARD
STATE OF WASHINGTON

RECEIVED
APR 20 2004
WARREN BARBER & FONTES, PS

BRAD NICHOLSON,	)	
	)	
Petitioner,	)	**Case No. 04-3-0004**
	)	
v.	)	**ORDER OF DISMISSAL**
	)	
CITY OF RENTON,	)	***(NICHOLSON)***
	)	
Respondent,	)	
	)	
and	)	
	)	
THE BOEING COMPANY,	)	
	)	
Intervenor.	)	

I. PROCEDURAL BACKGROUND

On January 22, 2004 the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review (**PFR**) from Brad Nicholson (**Petitioner or Nicholson**) dated September 6, 2003, with four exhibits attached. The matter was assigned Case No. 04-3-0004. Petitioner challenges the City of Renton's (**Respondent** or the **City**) adoption of Ordinance Nos. 5026, 5027, 5028, 5029, 5030, 5031, 5032, 5034, 5038, 5039 (the **Ordinances**) and Resolution 3669 (the **Resolution**), all concerning "...a rezoning action designated LUA-02-141, CPA, R, EIS." The basis for the challenge is noncompliance with the Growth Management Act (**GMA** or **Act**), the State Environmental Policy Act (**SEPA**) and RCW 82.02.

Petitioner requests the Board find that the Ordinances and Resolution fail to comply with the GMA and SEPA and declare the Ordinances and Resolution invalid. Petitioner requests the Board delay establishing a schedule in this matter "...to complete the city proceedings prior to establishing a schedule..." The Board interprets the "city proceedings" to be a matter pending before the City of Renton Hearing Examiner entitled The Boeing Comprehensive Plan Amendments 2003 – Nicholson Appeal No. LUA 02-141, ECF, CPA, R, EIS (**Petitioner's EIS Appeal**) as described in the Hearing Examiner's Order dated January 19, 2004, a copy of which was attached to the PFR as an exhibit.

On January 23, 2004 the Board received a "Notice of Appearance" from the Boeing Company.

Central Puget Sound
Growth Management Hearings Board
900 4th Avenue, Suite 2470, Seattle, WA 98164
Tel. (206) 389-2625 Fax (206) 389-2588

On February 2, 2004 the Board issued a Notice of Hearing (the **Notice**) in the above-captioned case. The Notice set a date for a prehearing conference (**PHC**) and established a tentative schedule for the case.

On February 3, 2004, the Board received a "Notice of Appearance" from the legal counsel for the City.

On February 11, 2004 The Board received "Index to Respondent City of Renton's Record" (the **Index**) listing 600 exhibits.

On February 17, 2004 the Board received "Petitioner's Board Requested Restatement of Issues" (**Restatement of Issues**).

On February 18, 2004 the Board received "Motion to Intervene by the Boeing Company" (**Boeing Motion to Intervene**) with two attachments.

On February 23, 2004, the Board conducted the prehearing conference on this matter in the Training Room adjacent to the Boards office at Suite 2470, Bank of California Center, 900 4th Avenue, Seattle. Present for the Board were Joseph W. Tovar and Bruce C. Laing, Presiding Officer. Representing the petitioner *pro se* was Brad Nicholson. Lawrence J. Warren represented the City. Galen G. Schuler represented the Boeing Company, a proposed intervenor. Also present were Laura Heisler and Ketil Freeman, externs with the Board.

The Board discussed with the parties the documents in the Board's file on this matter. In response to questions by the Board, Petitioner stated that City of Renton Ordinance 3100 cited in the PFR was inadvertently omitted from the attachments to the PFR. In response to questions by the Board, Counsel for Renton stated the City does not oppose The Boeing Motion to Intervene. Petitioner indicated he had not decided whether or not to oppose the Motion. The presiding officer stated that the deadline for Response to the Boeing Motion to Intervene is Monday March 1, 2004. The presiding officer set a deadline of Thursday March 4, 2004 for Reply to Response to the Motion to Intervene. The presiding officer asked counsel for the Boeing Company to participate in the Prehearing Conference discussions as a proposed intervenor.

The Board discussed with the parties the scope and procedural significance of the Petitioner's EIS Appeal pending before the City of Renton Hearing Examiner. Counsel for the City stated the Hearing Examiner has thirty (30) days after the close of the appeal hearing, scheduled for Tuesday February 24, 2004, to enter his decision on the appeal. There is a ten day period for parties to request the Examiner to reconsider his decision. Petitioner and Counsel for the City disagree on whether or not the Renton City Council would consider an appeal from the Examiner's decision on Petitioner's EIS Appeal. The parties and the Board discussed alternative approaches to reconciling the timing to the City's EIS process and the Board's scheduling requirements within the 180 day time limit for the Board to issue a Final Order on the PFR in this case. Counsel for the City suggested a sequence in which the Petitioner, after the Examiner's decision on the

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Petitioner's EIS Appeal, could by motion propose additional EIS issues and other parties could respond. The parties and the Board agreed to the following sequence: By April 7, 2004, Petitioner may submit a Motion to add SEPA issues which arise out of the proceedings of the City Hearing Examiner on Petitioner's EIS Appeal and are not included in Petitioner's Restatement of the Issues; The deadline for response to Petitioner's Motion to add SEPA issues is April 14, 2004.

Counsel for the City expressed the opinion that the Board has jurisdiction over appeals of the adequacy of City's EIS and that court would require such an appeal be reviewed by the Board, and joined with any related issues under GMA, before the court would consider the matter.

The Board then reviewed its procedures for the hearing, including the composition and filing of the Index to the Record Below; Exhibit Lists and Supplemental Exhibits; Dispositive Motions; the Legal Issues to be decided; and a Final Schedule of deadlines.

The Board discussed with the parties the City's Index, the nature of the action's taken under Renton Ordinance Nos. 5026, 5027, 5028, 5029, 5030, 5031, 5032, 5034, 5038, 5039 and Resolution 3069, and the Board's need for Core Documents. The Board requested that parties who believe the City's Index should be amended to reflect inadvertently omitted items, discuss with the counsel for the City the possibility of a corrected Index as an alternative to Motions to Supplement the Record. Counsel for the City indicated the City is amenable to correcting the Index when appropriate and that the City would review the Index for completeness as it relates to the City Council actions cited in the PFR. The Board requested counsel for the City to submit copies of the following Core Documents: The Renton Comprehensive Plan; pertinent chapters of planning policy documents and implementing measures related to the actions of the City Council cited above; and copies of the maps amended or adopted by the City Council actions cited above.

On February 27, 2004 the Board issued a Prehearing Order setting a Final Schedule for proceedings in this matter and containing a Statement of Legal Issues.

On March 2, 2004 the Board issued an Order on Intervention granting the Boeing Motion to Intervene.

On March 8, 2004 the Board received Core Documents requested by the Board during the Prehearing Conference. *Supra* at 3.

On March 12, 2004 the Board received "Dispositive Motion of the City of Renton" (**Renton Dispositive Motion**) with seven (7) attached exhibits.

On March 12, 2004 the Board received "Revised Index to Respondent City of Renton's Record" (**Revised Index**).

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On March 15, 2004 the Board received "Boeing's Motion to Dismiss" **(Boeing Dispositive Motion)** with one (1) attached exhibit.

On March 29, 2004 the Board received "Petitioner's Response and Brief to Dispositive Motions for Dismissal" **(Response to Dispositive Motions)** with twelve (12) attached exhibits. The Board notes that on March 22, 2004 the City of Renton Hearing Examiner issued a decision denying Mr. Nicholson's appeal of the City's Final Environmental Impact Statement and affirming the adequacy of that Statement. Exhibit 12 of attached Exhibits.

On April 2, 2004 the Board received "Rebuttal by City of Renton to Petitioner's Response and Brief to Dispositive Motions for Dismissal" **(Renton Reply on Dispositive Motion)**.

On April 5, 2004 the Board received "Boeing Reply in Support of Motion to Dismiss and in Opposition to Petitioner's Proposals to Add New Issues, Supplement the Record, and Request Summary Judgment" **(Boeing Reply on Dispositive Motion)**.

On April 13, 2004 the Board received "Boeing's Opposition to Review of SEPA Issues Based on Petitioner's Lack of Standing" **(Boeing's Response on SEPA Issues)**.

On April 13, 2004 the Board received "Renton's Joinder in Boeing's Opposition to review of SEPA Issues Based on Petitioner's Lack of Standing, and Renton's Objection to Addition of SEPA Issues for Failure to Follow Board Procedure" **(Renton's Response on SEPA Issues)**.

II. DISCUSSION

Appended to this order are the following items: Appendix A – Original Statement of Legal Issues as presented in PFR; Appendix B – Board's instructions to Petitioner on re-stating Legal Issues and Board's Guidelines for Framing Legal Issues; and Appendix C - Petitioners Restatement of Issues.[1] Respondent Renton and Intervenor Boeing each submitted motions to dismiss all of the Petitioner's legal issues and with them the PFR. Petitioner Nicholson responded to the motions and included one new GMA issue and three new SEPA issues in the response. Renton and Boeing each replied. Both Renton and Boeing submitted additional motions regarding SEPA issues.

RCW 36.70A.290 provides in relevant part.

> (1) All requests for review to a growth management hearings board shall be initiated by filing a petition that includes *a detailed statement of issues* presented for resolution by the board. Emphasis added.

[1] The Legal Issues in the PHO are the same as the issues in the Petitioner's Restatement of Issues.

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Growth Management Hearings Board
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The Board's Rules of Practice and Procedure reflect this statutory direction to petitioners and provide:

> WAC 242-02-210 ... *A petition for review shall substantially contain... (2) ... (c) A detailed statement of the issues presented for resolution by the board that specifies the provision of the act or other statute allegedly being violated and, if applicable, the provision of the document that is being appealed;*

(Emphasis supplied)

The Board holds that the term "detailed" as used in RCW 36.70A.290(1) and WAC 242-02-210(2)(c) means: concise, to the point and containing the essential components that appear in the Board's guidelines for framing legal issues. See Appendix-B, *infra*. "Detailed" does not mean "lengthy" or including argument and evidence within the body of the issue statement. A legal issue is an allegation[2], not an argument[3]. The appropriate place for argument is in the briefs, not the issue statement.

The Board's rules also provide:

> WAC 242-02-720 ... Any action may be dismissed by a board: ... (4) Upon a board's own motion for failure by the parties to comply with these rules or any order of the board.

The Petition for Review contains thirteen (13) issues. Appendix-A, *infra*. The Board's Notice of Hearing (NOH) directed the Petitioner to submit a re-statement of Legal Issues specifying which specific provisions of the challenged action are not in compliance with which specific sections(s) of the Growth Management Act. The NOH directed the Petitioner to the Board's "Guidelines for Framing Legal Issues." Appendix-B, *infra*. Petitioner submitted a Restatement of Issues containing twenty-one (21) issues. Appendix-C, *infra*. During the prehearing conference the Board indicated that, while the Petitioner has the right to frame the issues as he chooses, the Restatement of Issues includes subjects over which the Board does not have jurisdiction. Petitioner indicated he preferred to pursue the Legal Issues as they are worded in the Restatement of Issues. The Legal Issues in the Prehearing Order are those framed by the Petitioner in his Restatement of Issues.

In the PFR, Petitioner challenged 10 different ordinances and a resolution adopted by the City of Renton. These ordinances and resolution: amended the City's Plan; created new zoning districts; amended and established new development regulations; rezoned certain

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[2] Allegation: The assertion, claim, declaration or statement of a party to an action, made in a pleading, setting out what he expects to prove. Black's law Dictionary, Fifth Edition, 1979, at 68.

[3] Argument: An effort to establish belief by a course of reasoning. *Id.*, at 98.

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properties; and authorized execution of a development agreement. Each of these actions conceivably falls within the Board's jurisdiction to review.

Try as it might, the Board could not decipher, from the Petition for Review, Revised Legal Issues, or the briefing on motions, what issues, within the Board's jurisdiction, the Board was being called upon to resolve. Had the Petitioner clearly and concisely set forth discrete issues indicating which specific land use change accomplished by which specific ordinances or resolution failed to comply with which specific goal or requirement of the GMA, the Board could have proceeded on this matter. To Petitioner's detriment, and to the City's benefit, he failed to do so.

It is obvious to the Board that the petitioner expended significant time and energy in the preparation of the PFR and related materials. However, in the Board's review and discussion of the materials submitted, including the 21 Legal Issues framed by Petitioner, specifically GMA citations, the Board could glean possibly 4 or 5 Legal Issues that may have related to compliance with the GMA. However, even in light of the sparse GMA citations, there was no indication of which action the City of Renton took that ran afoul of a GMA goal or requirement.

III. CONCLUSIONS

The appeal does not comply with RCW 36.70A.290(1) or the Board's Rules regarding the content of a Petition for Review, specifically WAC 242-02-210(2)(c). Therefore, the appeal lacks legal merit and warrants dismissal without further proceedings under the provisions of WAC 242-02-720(4).

Future Petitioners should take to heart the Board's dismissal of this case, and be certain to articulate in their petition for review "a detailed statement of the issues presented for resolution by the Board *that specifies the provision of the [GMA] allegedly being violated, and if applicable, the provision of the document that is being appealed.*" WAC 242-02-210. Failure of a party to comply with the Board's rules of practice and procedure or a Board order, may lead to dismissal of an action on the Board's own motion. WAC 242-02-720.

More is not always better, in terms of numbers of issues or numbers of sentences in each issue. In some cases, such as this one, the sheer volume and convolution of the issue statements make it impossible for the Board to discern the essential elements of a justiciable issue.

IV. ORDER

Based upon review of the Petition for Review, the briefs and materials submitted by the parties, the Act, Board rules, and prior decisions of this Board and other Growth Management Hearings Boards, the Board enters the following Order:

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Nicholson v. City of Renton, CPSGMHB Case No. 04-3-0004 is **dismissed with prejudice.** All further scheduled hearings on this matter are **cancelled** and the case is **closed**.

So ORDERED this 19th day of April, 2004.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Bruce C. Laing, FAICP
Board Member

Edward G. McGuire, AICP
Board Member

Joseph W. Tovar, FAICP
Board Member

Note: This Order constitutes a final order as specified by RCW 36.70A.300 unless a party files a motion for reconsideration pursuant to WAC 242-02-832.

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Appendix A

Original Statement of Legal Issues as presented in PFR

LEGAL ISSUE NUMBER 1:
Can the City Rezone the Subject property and while the only justification that has been provided indicates that it would benefit only the proponent and sales tax revenue, while its own comprehensive plan provisions indicate a requirement to sustain and expand the current industrial and manufacturing employment base?

LEGAL ISSUE NUMBER 2:
Is it not Arbitrary and Capricious and Clearly erroneous to proceed with a rezone in this case and when the proponent has utterly failed to prove that the condition of the public morals has changed at all since the last time the property was zoned and argues to exclude substantive evidence and when in fact there is no rational public interest justification for the general economic welfare therefore constituting defiance of the Growth Management Act?

LEGAL ISSUE NUMBER 3:
Can the City or the proponent show that industry and manufacturing are no longer desirable to Renton and Washington citizens and amend its zoning map and when approximately 13,000 people are presently employed at Boeing, and when the state has now offered the Company over three billion dollars and more in state tax value as an incentive to continue to do business in this state?

LEGAL ISSUE NUMBER 4:
Can a rezone and map amendment that would allow a large shopping center and condominiums proceed to replace industry and manufacturing and when the proponent has expressed no plans to terminate their present operations, be allowed under the Growth Management Act and the city comprehensive plan?

LEGAL ISSUE NUMBER 5:
Can the subject property be rezoned and when there has been no specific articulation as to the condition and details as to how the proposal furthers a maximum economy pursuant to the public safety, health, morals and general welfare or the objectives for economic development?

LEGAL ISSUE NUMBER 6:
Can the City council approve a rezone on the Boeing Consolidated operations portion of the subject site and when it has been specifically stated that there are no plans to change the use of the site for the foreseeable future and that the application was made only for the purpose of consideration and when there has been no expression of the need to perform the planning in accordance with the Growth Management Act and its objectives?

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LEGAL ISSUE NUMBER 7:
Can the City amend and proceed with a code and development regulations change and when their own code requires impact fee statutes to be readopted as Growth Management fees and when the existing code ignores the plain and unambiguous language of RCW 82.02 and 36.70A.070 RCW?

LEGAL ISSUE NUMBER 8:
Can the City amend its code and development regulations and for the purpose of a converting industrial manufacturing to large retail shopping center and condominiums while alleging that there would be less pollution generated from vehicles and asphalt using the 1990 King County Manual in lieu of maximum extent practicable and best available science regulations and while conveying storm water into Lake Washington and when there are so many sensitive and endangered species immediately adjacent to the subject site and when they have not expressed the rationale for their departure from the science based recommendation contained within the record created before them?

LEGAL ISSUE NUMBER 9:
Can the City proceed without using Best Management Practices contained in the Ecology manual and when there are no factual findings contained in the official record indicating that the City intends to protect habitat for endangered salmon utilizing best management practices or substantive evidence justifying their departure from best available science requirements?

LEGAL ISSUE NUMBER 10:
Can the City Hearing Examiner order, and Proponent and Respondent argue and litigate to exclude evidence of social and economic and other consequences and then still not be subject to an order of invalidation and when it has therefore not demonstrated compliance with objective number 5 and other objectives of the act?

LEGAL ISSUE NUMBER 11:
Are the Zoning ordinances listed above consistent with and do they implement the City economic development element objective as is required by the act without requiring that the City sustain and expand the current manufacturing and industrial employment base and if not should they be invalidated because they do not implement such comprehensive plan provisions?

LEGAL ISSUE NUMBER 12:
Is the City comprehensive plan an internally consistent document as is required by the act if the map amendments are included into the plans and development regulations?

LEGAL ISSUE NUMBER 13:
Are these ordinances, zoning, development regulations, new zoning map, and identified issues articulated herein compliant and guided by the exclusive goals and objectives of the Growth Management Act and SEPA, with particularity the environmental objective 10, economic objective 5, and the public participation objective and without inclusion of

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legal justification for departing from the legal requirements articulated in the attached exhibit originating as a motion to the City Hearing examiner or described in the record or this petition?

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Appendix B

Board's Instructions to Petitioner for Re-stating Legal Issues
and
Board's Guidelines for Framing Legal Issues

The Notice of Hearing for this matter contained the following instructions to the Petitioner:

> By **Tuesday February 17, 2004**, the Petitioner is directed to submit to the Board, with a copy to the City, a **re-statement of Legal Issues**. The re-statement of legal issues shall specify which specific provisions of the challenged action are not in compliance with which specific section(s) of the Growth Management Act, Chapter 36.70A RCW. Petitioner is directed to the "Guidelines for Framing Legal Issues" which is appended to this notice.

NOH at 4.

State of Washington
Central Puget Sound Growth Management Hearings Board
Guidelines for Framing Legal Issues

- A legal issue should be stated in the form of a question that the Board can answer "yes" or "no".

- A legal issue is an allegation that a local government (city or county) action either *fails to comply* with specific goals and/or requirements of the Growth Management Act (GMA), the Shoreline Management (SMA) or State Environmental Policy Act (SEPA) (as to GMA and SMA actions) or is *inconsistent* with some GMA-adopted enactment, such as countywide planning policies, a comprehensive plan, or a development regulation.

- A legal issue should cite which specific provisions of the local government action are alleged not to comply with which specific provisions of which statute; or which specific provisions of a local government action are inconsistent with which specific provisions of which GMA-adopted enactment.

- A legal issue may include a phrase that briefly identifies the reason for the allegation of noncompliance and/or inconsistency. However, legal issue statements should

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generally be brief, devoid of argument or evidence, both of which will be presented by the respective parties in the written briefs and during oral argument at the hearing on the merits.

Examples

1. Did the City/County adoption of its comprehensive plan fail to comply with the requirements of RCW 36.70A.140 because it did not provide for early and continuous public participation?

2. Does Transportation Policy T-2 of the City/County Comprehensive Plan fail to comply with the requirements of RCW 36.70A.070(6) because it does not include an analysis of funding capability?

3. Is Land Use Policy LU-101 of the City/County Comprehensive Plan inconsistent with County-wide Planning Policies (CPPs) because it prevents the City from accommodating the population target allocated by CPP FW-22?

4. Does the City/County Comprehensive Plan fail to comply with RCW 36.70A.070(preamble) because the Land Use Element in inconsistent with the Housing Element?

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Appendix C

Petitioner's Restatement of Issues

Legal Issue 1

Whether some, most, or all of the enumerated ordinances and their associated zoning map at issue herein and disputed before this board in the Petition for Review, are unlawfully adopted by the City of Renton; because they violate the substantive and procedural requirements of the GMA and SEPA; are therefore subject to an order under 36.70A.300 RCW and a determination of non-compliance and remand and/or invalidity under 36.70A.302 RCW because of failure to comply with requirements outlined in 36.70A.130(b) RCW and 43.21C.030(1)(2)(a) RCW; and the negative restraints arising therefrom; and from facts already evident; included into the record that prove that these actions constitute arbitrary and capricious spot zone in violation of the intent and purpose of provisions of State legislative enactments, State administrative rules, and of Article 11 § 11, and Article 1 § 12 of our State Constitution according to interpretations by our State courts of Law, and are subject to the supremacy principle of the United States Constitution ?

Legal Issue 2

Do the enumerated ordinances and associated zoning map at issue herein fail to be guided by the goals of 36.70A.020 RCW (1),(2),(3),(5),(10) when their EIS demonstrates material substantial evidence within the record indicating and proving that it would benefit only their exclusive and unilateral proponent objectives, and exclusive City sales tax revenue goals (outside of the act and without regard to the requirements of citizens)?

Legal Issue 3

Whether legitimate and simultaneous State legislation and City comprehensive plan Economic Development Elements and provisions require a continued commitment to "sustain and expand the current industrial and manufacturing employment base" according to adopted City comprehensive planning because 36.70 RCW requires maximum economics and health, safety, morals, and general welfare requirements to be satisfied as required by 43.21C.030 RCW and as required by the consistency requirements of chapter 36.70A RCW ?

Legal Issue 4

Is the City comprehensive plan non-compliant with the various consistency provisions of 36.70A RCW because the purported City Land use element is inconsistent with the adopted and valid City Economic development element and therefore because of such non-compliance with the act is it subject to remand or invalidation ?

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Legal Issue 5

Did the City fail to comply with the consistency and implementation requirements of 36.70A.040 RCW, 36.70A.070 RCW, 36.70A.080 RCW, and 36.70A.130(b) RCW when it adopted the ordinances enumerated in the petition, its zoning map, and implementing measures while the comprehensive plan economic development element states its goal is to sustain and expand the current industrial employment base while the valuable industrial operations at the site are continuing ?

Legal issue 6

Does the purported City Land use element and related development regulations violate SEPA 43.21C.020 RCW, 43.21C.030 RCW and the subject intent and purpose of 36.70A.3201 RCW requiring full consideration of local circumstances, and implementation of harmony; implementation of State requirements and laws, and for one reason (among others) because the State citizens have expressed their conviction with over three billion dollars and more in state tax value as incentive for aerospace manufacturing to continue in this state and if so, should that land use element and subsequent development regulations then be invalidated for non-compliance or remanded for compliance pursuant to the responsibilities outlined in 43.21C.020(1)(a)(b)(c)(2)(a)(b) RCW in order to fulfill the social, economic, and all those requirements of Washington citizens ?

Legal Issue 7

Is it not true that the City amendments and regulations fail to be guided by the Economic and social goals of 36.70A.020(5)(10)(11) RCW, when the facts of record indicate only that the City and the Proponent have litigated to exclude a reasonably thorough discussion of those social and economic impacts that are neither remote nor speculative and are therefore noncompliant with the act and therefore should be either invalidated or remanded for compliance ?

Legal Issue 8

Does the purported adoption of the enumerated ordinances, associated zoning map, and their development regulations fail to be guided by the provisions of 36.70A.020(10)(11) RCW and 36.70A.035 RCW, or fail to be compliant with related provisions requiring early and continuous public participation; when petitioner requested discussion of social, economic, and other consequences; and City argued; and limited issues; and excluded such discussion and important material facts; those facts indicating that the procedural requirements of 43.21C.020(1)(c) were violated; and in the process the City and Proponent effectively refused to acknowledge or encourage the thoughtful comments or responses of Petitioner (a citizen of Renton) ?

Legal Issue 9

Is it not true that because the City purports to plan under 36.70A.040 RCW, it must comply with 36.70A.130(b) RCW; and amend and update its Capital facilities element pursuant to 36.70A.070(3)(a)(b)(c)(d)(e) in order to be guided by 36.70A.020(12) RCW, effectuate 43.21C.030 RCW including the legal mandates of 82.02 RCW to insure that

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adequate infrastructure will be available at the time the future developments might be available for occupancy (if the property is so zoned) ?

Legal Issue 10

Whether citizenry should be required to mitigate transportation impacts after projects are complete; under 36.70A.070 RCW; because the EIS and the credit trips extended set the trips for a large scale retail shopping center covering 280 acres of industrially zoned land at only around 5 or 6 thousand additional trips per day, (unfairly and irrationally)(supposedly after the developments are ready for occupancy) and also because the City has not adopted or implemented development regulations that would legally address mitigation of cumulative impacts ?

Legal Issue 11

Are the City development regulations non-compliant with the consistency requirements and 36.70A.070 RCW without change or amendment; and inclusion of terms of 82.02 RCW; (nexus and proportionality limits) into their plans and development regulations; and also due to the fact that according to their own ordinance 3100, ordinance 2913 they must be readopted under the GMA; effectuating 43.21C.030 RCW and its legal requirements; without amendment according to 36.70A.130(b) with those amended regulations compliant with the plain and unambiguous language of 82.02 RCW and their own ordinances and therefore subject to an order of remand or invalidation requiring compliance ?

Legal Issue 12

Do the City development regulations and comprehensive planning fail to be guided by 36.70A.020(12); RCW without inclusion of a regulation that requires cumulative transportation impacts to be reasonably mitigated in furtherance of a legitimate and amended capital facilities element and an impact fee ordinance compliant with 36.70A.070 according to 82.02 RCW because 43.21C.030 RCW requires compliance with Washington laws ?

Legal Issue 13

Do the enumerated ordinances fail to be guided by 36.70A.020(2)(3)(12) RCW because they would cause, (among other reasons) unnecessary increased commuting, probable loss of many jobs in the City and State, and contribute to urban sprawl against the goals of the act; and while it is obvious that eventually industry would need to be redeveloped outside of the urban growth area in order to maintain a sustainable and maximum economy ?

Legal Issue 14

Are the development regulations and Comprehensive planning non-compliant or violative of 36.70A and 43.21C RCW because the capital facilities element is inconsistent with the land use element and are they therefore subject to remand or invalidation under the authority of the act ?

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Legal Issue 15

Is the City capital facilities element invalid, volatile, or non-compliant because it does not contain all of the elements required of it under 36.70A.070 RCW and must it therefore be remanded for amendment or reversal ?

Legal Issue 16

Is it not true that this board has the authority to require amendment to these growth management planning and land use regulation issues under 36.70A.130(b) RCW and 43.21C.030 RCW because Renton development regulations regarding impact fee mitigation and other identified issues clearly do not contain the provisions required by Washington Laws ?

Legal Issue 17

Should this board require the City to amend its Comprehensive plan and Storm water management development regulations and design manual, (RMC 4-6-030) (1990 King County Manual) because 36.70A.130(b) RCW requires all amendments to comply with the act, and 36.70A.172 RCW requires the Best Available Science to be used to protect the quality of Lake Washington and Cedar river and the salmonid species that inhabit them ?

Legal Issue 18

Whether the City revise its development regulation to be equivalent to the 2001 Ecology Manual because it was recommended in its EIS, because it is required in order to implement NPDES phase II, 4(d) rule, and United States Code 33 U.S.C. Chapter 26 § 1251, and Environmental Protection Agency rules and regulations, and while because it is also required by its own policy for the Protection of Salmonid Species, and because it is required to do so pursuant to 43.21C.030 RCW and 36.70A.130(b) RCW; and the City has expressed no rational basis for departure from those requirements and those empirical scientific bases are a specific and particular requisite of the GMA ?

Legal Issue 19

Should the City comprehensive plan environmental element be amended to add and require the use of Best Available Science requirement of 36.70A.172 RCW and language and the maximum extent practicable requirement of 43.21C.020(2) to protect the valuable water resources belonging to citizens under the requirement of 36.70A.130(b) RCW ?

Legal Issue 20

Does the Storm water Planning and regulation of the city fail to be guided by the provisions of 36.70A.020(10) because it failed or refused to include an explanation of the rationale for the departure from the Best Available Science recommendation included in their EIS pursuant to 36.70A.172 RCW to protect State waters and therefore does not observe the Best Available Science requirement and should it therefore be remanded or invalidated ?

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Legal Issue 21

Do the enumerated ordinances and the rezoning fail to be guided by 36.70A.020 (10)(11) RCW and should they be reversed or invalidated according to Washington Laws and the GMA because the decision makers failed to discuss or address or make factual findings with regard to my (Petitioner) comments; that clearly prove and demonstrate that the "felt necessities of the public, the ethical and moral demands of social and economic institutions, and even the prejudices that we share", "have a good deal more to do with it"; that circumstances have not changed because Boeing is to continue to operate their business on the subject property for the "foreseeable future"; their conclusions being unsubstantiated, and also because of the fact they have disregarded and neglected and perpetrated violations of their responsibilities outlined by 43.21C.020(1)(a)(b)(c) RCW, and should they then therefore be determined to be unlawful and subsequently invalidated or remanded for compliance ?

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CPSGMHB Case No. 04-3-0004
Brad Nicholson v. City of Renton
DECLARATION OF SERVICE:

I certify that I mailed a copy of the **Order of Dismissal** to the persons and addresses listed hereon, postage prepaid, in a receptacle for United States mail at Seattle, Washington, on **April 19, 2004.**

Signed: Karl Boom

P (Nicholson) 425-445-0658 <brad827@hotmail.com>

Brad Nicholson
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WARREN HARPER & ELDRIDGE

PRESIDING OFFICER BRUCE LAING
Hearing Date: June 3, 2004
Hearing Time: 10:00 am

CENTRAL PUGET SOUND
GROWTH MANAGEMENT HEARINGS BOARD
STATE OF WASHINGTON

BRAD NICHOLSON, Petitioner, v. CITY OF RENTON, Respondent, And THE BOEING COMPANY, Intervenor.	NO. 04-3-0004 BOEING'S MOTION TO DISMISS

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I. RELIEF REQUESTED

Intervenor, the Boeing Company ("Boeing"), requests that the Central Puget Sound Growth Management Hearings Board (the "Board") dismiss all of petitioner, Brad Nicholson's ("Mr. Nicholson"), claims for relief set forth as 21 legal issues in Mr. Nicholson's Restatement of Issues, dated February 17, 2004 ("Restatement of Issues"). Mr. Nicholson's claims should be dismissed because: (A) the Board lacks subject matter jurisdiction over several issues; (B) several issues are barred by the statute of limitations; (C) all of the issues fail to state a claim for which relief may be granted; and (D) all issues arising under the State Environmental Policy Act ("SEPA") are not ripe until Mr. Nicholson exhausts his appeal before the City of Renton (the "City"). A summary of the issues and grounds for dismissal is attached hereto as Exhibit A.

If there are issues that the Board does not dismiss, Boeing respectfully requests that the Board again require Mr. Nicholson to provide a more definite statement of the remaining issues that may ultimately be reviewed by the Board. Mr. Nicholson should be required to do so in conjunction with any motion to amend his petition for review and add issues concerning the adequacy of the environmental impact statement prepared by the City. (Due April 7, 2004).

II. BACKGROUND

On January 22, 2004, Mr. Nicholson filed a petition for review ("PFR") listing 13 legal issues for review. Mr. Nicholson's statement of the legal issues for review was, at best, difficult to understand. In its Notice of Hearing, dated February 2, 2004 ("Notice of Hearing"), the Board required Mr. Nicholson to restate his legal issues by February 17, 2004. The Notice of Hearing directed Mr. Nicholson to "specify which specific provisions of the challenged action are not in compliance with which specific section(s) of the Growth

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Management Act, Chapter 36.70A RCW." Notice of Hearing, p.4 (emphasis in original).

The Board provided Mr. Nicholson with "Guidelines for Framing Legal Issues," which were attached to the Notice of Hearing.

Despite clear guidance from the Board, Mr. Nicholson submitted a Restatement of Issues that adds issues not found in the PFR and further confuses the issues for review rather than clarifying and simplifying his claims. The Restatement of Issues now lists 21 issues with multiple sub-issues rather than the 13 issues set forth in his PFR. The Restatement of Issues also raises new questions concerning constitutional provisions, statutes, and actions not included within the scope of the original 13 issues of the PFR. For example, the Restatement of Issues added no less than 12 issues raising claims under SEPA even though SEPA is not referenced even once within the original 13 issues of the PFR. See PFR pp. 33-37.

Because Mr. Nicholson is a pro se litigant, the Board has fairly afforded him the opportunity to restate his proposed legal issues for review. However, the proposed issues are still fatally flawed and should be dismissed with prejudice.

III. STATEMENT OF ISSUES

A. Should Restated Legal Issues 1, 3, 9, 11, 12, and 18 be dismissed with prejudice for lack of subject matter jurisdiction?

B. Should Restated Legal Issues 3, 4, 6, 7, 9, 11, 12, 14, 15, 16, 17, 18, 19, and 20 be dismissed with prejudice because they are barred by the statute of limitations?

C. Should Restated Legal Issues 1 through 21 be dismissed with prejudice for failure to state a claim upon which relief can be granted?

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D. If not dismissed with prejudice, should Restated Legal Issues 1, 3, 6, 8, 9, 10, 11, 12, 14, 16, 18, 19, and 21 be dismissed without prejudice because they assert claims under SEPA that are not ripe for review?

E. Should the Board require Mr. Nicholson to provide a more definite statement of any issues that are not dismissed by the Board?

IV. EVIDENCE RELIED UPON

This motion is based upon Mr. Nicholson's Petition for Review, dated January 22, 2004, the Board's Notice of Hearing, and Mr. Nicholson's Restatement of Issues, dated February 17, 2004.

V. ARGUMENT

The Growth Management Act ("GMA") provides that the Board's review should be based on "a petition that includes a detailed statement of issues presented for resolution by the board." RCW 36.70A.290(1). The detailed statement of issues included in a petition for review should "specif[y] the provision of the act or other statute allegedly violated and, if applicable, the provision of the document that is being appealed." WAC 242-02-210(2)(c).

In this appeal, the Board has provided Mr. Nicholson with the opportunity to substantially comply with the GMA requirement for a detailed statement of issues that specifies the claims for review. However, Mr. Nicholson's Restatement of Issues has failed to satisfy even the minimum requirements for invoking the Board's jurisdiction and review.

The 13 issues for review identified in the PFR have grown to 21 issues raising new questions not included in the PFR. Within each of the 21 issues, there are multiple allegations with references to multiple statutes presenting intermingled claims. The Restatement of Issues frustrates the purposes of this Board's review under the GMA and it prejudices the City and Boeing. The Board, the City, and Boeing should not bear the burden

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of reforming Mr. Nicholson's vague concerns into reviewable questions. Because Mr. Nicholson was afforded a reasonable opportunity to state the issues for review, the Board should presume that each issue is stated in non-severable parts. Because the Board should not be placed in the position of reinterpreting and salvaging fragments of issues on behalf of Mr. Nicholson, any single defect in an issue requires dismissal of the entire issue.

The Board should dismiss all of Mr. Nicholson's claims because: (A) the Board lacks subject matter jurisdiction over several issues, (B) several issues are barred by the statute of limitations; (C) all of the issues fail to state a claim for which relief may be granted; and (D) all issues arising under SEPA are not ripe for review.

A. The Board Lacks Subject Matter Jurisdiction Over Issues 1, 3, 9, 11, 12, and 18.

Mr. Nicholson's Restatement of Issues asks the Board to decide claims that are outside the jurisdiction of the Board. The GMA specifically limits the Board's jurisdiction to the City's compliance with the GMA and SEPA. RCW 36.70A.280(1); Wenatchee Sportsmen Ass'n v. Chelan County, 141 Wn.2d 169, 178, 4 P.3d 123 (2000). The Board does not have jurisdiction to review questions arising under the Washington Constitution or U.S. Constitution. See, e.g., Salish Village Homeowners Ass'n v. City of Kirkland, CPSGMHB Case No. 02-3-0022 (March 19, 2003); Home Builders Ass'n of Kitsap County v. City of Bainbridge, CPSGMHB Case No. 01-3-0019 (Oct. 18, 2001). The Board also does not have jurisdiction to review compliance with a statute other than the GMA or SEPA. RCW 36.70A.280(1); Gutschmidt v. City of Mercer Island, CPSGMHB, Case No. 92-3-0006 (1993). Accordingly, all of Mr. Nicholson's issues that allege violations of the Washington Constitution, the U.S. Constitution, federal statutes and regulations, or state

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statutes other than the GMA and SEPA should be dismissed with prejudice for lack of jurisdiction. Specifically, Boeing requests that the following legal issues be dismissed:

Legal Issue Number 1:

- Mr. Nicholson alleges violations of unspecified "State legislative enactments, State administrative rules," specified sections of the Washington Constitution, and unspecified provisions of the U.S. Constitution, all of which are outside the jurisdiction of the Board.

Legal Issue Number 3:

- Mr. Nicholson alleges an issue based on requirements of unspecified "State legislation" and requirements of the Planning Enabling Act, RCW 36.70, which are outside the jurisdiction of the Board.

Legal Issue Number 9:

- Mr. Nicholson alleges a violation of RCW 82.02, which is outside the jurisdiction of the Board.

Legal Issue Number 11:

- Mr. Nicholson alleges a violation of RCW 82.02, which is outside the jurisdiction of the Board.

Legal Issue Number 12:

- Mr. Nicholson alleges a violation of RCW 82.02, which is outside the jurisdiction of the Board.

Legal Issue Number 18:

- Mr. Nicholson alleges violations of the federal Clean Water Act and its implementing regulations and permits (NPDES phase II) and he alleges a

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violation of the Endangered Species Act "4(d) rule", all of which are beyond the Board's jurisdiction.

The Board should dismiss with prejudice issues 1, 3, 9, 11, 12 and 18.

B. Issues 3, 4, 6, 7, 9, 11, 12, 14, 15, 16, 17, 18, 19, and 20 Are Barred by the Statute of Limitations.

The statute of limitations for appeals to the Board is 60 days. RCW 36.70A.290(2). According to the PFR, Mr. Nicholson is appealing actions taken by the City on November 24, 2003. However, most of Mr. Nicholson's legal issues make no reference to specific actions taken by the City on November 24, 2003. Instead, the issues propose a general review of City planning and land use regulation for a variety of topics. Such a review would require the Board to consider City actions taken prior to the adoption of ordinances on November 24, 2003. The statute of limitations bars review of these prior actions. Montlake Community Club v. Central Puget Sound Growth Mgmt. Hearings Board, 110 Wn. App. 731, 737-38, 43 P.3d 57 (2002) (affirming dismissal of appeal because GMA statute of limitations constrained scope of review to specific City amendments to comprehensive plan and development regulations and barred broader review of pre-existing comprehensive plan and development regulations). Consequently, Boeing requests that the following legal issues be dismissed with prejudice.

Legal Issue Number 3:

- Mr. Nicholson questions whether the City's comprehensive plan satisfies certain requirements, but he makes no reference to any specific amendment to the plan adopted on November 24, 2003.

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Legal Issue Number 4:

- Mr. Nicholson questions whether the City's comprehensive plan fails to comply with GMA consistency requirements, but he makes no reference to any specific amendment to the plan adopted on November 24, 2003.

Legal Issue Number 6:

- Mr. Nicholson alleges that the "City Land use element and related development regulations" violate SEPA and the GMA, but the issue does not identify any specific City actions taken on November 24, 2003.

Legal Issue Number 7:

- Mr. Nicholson alleges that "the City amendments and regulations" violate GMA goals, but the issue does not specify amendments or regulations adopted on November 24, 2003.

Legal Issue Number 9:

- Mr. Nicholson questions the City's compliance with Washington law when "the City purports to plan" under the GMA, but the issue does not identify a City action taken on November 24, 2003.

Legal Issue Number 11:

- Mr. Nicholson asks whether City "development regulations" are non-compliant "without change or amendment," but the issue does not allege deficiencies in a specific development regulation adopted or amended on November 24, 2003.

Legal Issue Number 12:

- Mr. Nicholson asks whether the City's "development regulations and comprehensive planning" fail to be guided by GMA goals, but the issue

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does not allege deficiencies in a specific development regulation or comprehensive plan provision adopted or amended on November 24, 2003.

Legal Issue Number 14:

- Mr. Nicholson asks whether the City's "development regulations and Comprehensive planning" violate or fail to comply with Washington law. However, the issue does not allege deficiencies in a specific development regulation or comprehensive plan provision adopted or amended on November 24, 2003.

Legal Issue Number 15:

- Mr. Nicholson alleges that the City's capital facilities plan violates the requirements of RCW 36.70A.070. The capital facilities plan was adopted prior to and was not amended on November 24, 2003.

Legal Issue Number 16:

- Mr. Nicholson asks the Board to order the City to amend existing regulations "regarding impact fee mitigation," but he does not state a claim on the basis of any action taken by the City on November 24, 2003.

Legal Issue Number 17:

- Mr. Nicholson alleges that the Board should require changes to the City's stormwater management and critical area regulations. Both the stormwater management and critical area regulations were adopted prior to November 24, 2003 and they were not amended on November 24, 2003.

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Legal Issue Number 18:

- Mr. Nicholson claims that the City's "development regulations" must be revised, but he does not allege a violation or legal requirement based on a specific action taken by the City on November 24, 2003. Rather, he seeks review of development regulations adopted before November 24, 2003.

Legal Issue Number 19:

- Mr. Nicholson asks whether the City's existing Comprehensive plan should be amended to require "best available science," but the issue does not state a claim on the basis of a specific action by the City on November 24, 2003. Rather, he seeks review of a comprehensive plan element adopted before November 24, 2003.

Legal Issue Number 20:

- Mr. Nicholson alleges violations of law based on stormwater regulations that were not amended as part of the City's action on November 24, 2003. Rather, he seeks review of stormwater regulations adopted before November 24, 2003.

The Board should dismiss with prejudice issues 3, 4, 6, 7, 9, 11, 12, 14, 15, 16, 17, 18, 19, and 20 because they are barred by the statute of limitations.

C. Issues 1 Through 21 Fail to State a Claim Upon Which Relief May be Granted.

All of Mr. Nicholson's legal issues should be dismissed for failure to state a claim upon which relief may be granted. To invoke the jurisdiction of the Board, Mr. Nicholson must, at a minimum, allege the basic elements of an issue for review under the GMA or SEPA. All of Mr. Nicholson's issues fail to meet this initial burden necessary for review.

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A petitioner must set forth both the legal basis upon which a claim is based and some facts alleging violation of the legal basis. Postema v. Pollution Control Hearings Bd., 142 Wn.2d 68, 92, 11 P.3d 726 (2000) ("CR 12(b)(6) and CR 8(a)(1) together provide that the complaint shall contain a short and plain statement of the claim showing the pleader is entitled to relief.").

> [T]his means that the complaint must contain either direct allegations on every material point necessary to sustain a recovery on any legal theory, even though it may not be the theory suggested or intended by the pleader, or contain allegations from which an inference fairly may be drawn that evidence on these material points will be introduced at trial.

Havsy v. Flynn, 88 Wn. App. 514, 518, 945 P.2d 221 (1997) (quotation marks and citations omitted). The Board should dismiss any issue that does not identify a specific action by the City and ask whether the challenged action complies with a specific requirement of the GMA or SEPA. City of Tacoma v. Pierce County, CPSGMHB, Case No. 94-3-0001 (1994); see also Berge v. Gorton, 88 Wn.2d 756, 759, 567 P.2d 187 (1977) ("Where it is clear from the complaint that the allegations set forth do not support a claim, dismissal is proper.").

All of Mr. Nicholson's legal issues fail to state a claim for one or more of the following reasons:

(1) Several issues allege violations of the GMA or SEPA without identifying a specific section of the GMA or SEPA that supports a claim.

(2) Several issues generally allege that the City has not complied with the GMA or SEPA, but the issues do not identify a specific reviewable action by the City that is the cause of the alleged violation.

(3) Several issues allege violations of sections of the GMA or SEPA that cannot be violated by the City under any alleged facts.

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(4) Several issues allege violations of sections of the GMA or SEPA, but they do not allege any facts necessary to establish the basic elements of the alleged violation. Because Mr. Nicholson has failed to state a claim, all of his issues should be dismissed with prejudice.

1. Mr. Nicholson generally alleges violations of the GMA or SEPA without identifying a specific section of the GMA or SEPA that supports a claim.

The Board's Notice of Hearing clearly required that Mr. Nicholson's Restatement of Issues must "specify which specific provisions of the challenged action are not in compliance with which specific section(s) of the [GMA,]." Notice of Hearing, p. 4; accord WAC 242-02-210(2)(c). Nevertheless, many of Mr. Nicholson's issues for review fail to reference specific sections of the GMA or SEPA. These issues should be dismissed with prejudice for failing to state a claim for review by the Board.

Legal Issue Number 1:

- Mr. Nicholson alleges that the City's actions "violate the substantive and procedural requirements of GMA and SEPA" without identifying the sections of statute where those requirements are found.

Legal Issue Number 3:

- Mr. Nicholson alleges a claim based on requirements of the Planning Enabling Act and the GMA without identifying specific statutory sections where those requirements are to be found.

Legal Issue Number 4:

- Mr. Nicholson fails to cite to a specific section of the GMA that the City allegedly violated.

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