

December 23, 1997

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

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**REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL**

**SUBJECT:** King County Department of Development and Environmental Services File No. **L97UU003**  
Proposed Ordinance No. 97-679

**KING COUNTY SOLID WASTE DIVISION**  
Unclassified Use Permit Application

**Location:** West central portion of Vashon Island at 18850 – 130<sup>th</sup> Avenue SW  
(Westside Highway Southwest), east of Vashon Highway Southwest

**Applicant:** Department of Development and Environmental Services:  
**John Komorita**, King County Solid Waste Division  
400 Yesler Way #600, Seattle, WA 98104-2637

**SUMMARY OF RECOMMENDATIONS:**

Department's Preliminary:	Approve, subject to conditions
Department's Final:	Approve, subject to conditions (modified)
Examiner:	Approve, subject to conditions (modified)

**PRELIMINARY MATTERS:**

Application submitted:	September 22, 1997
Notice of complete application:	October 20, 1997

**EXAMINER PROCEEDINGS:**

Hearing Opened:	December 18, 1997
Hearing Closed:	December 18, 1997

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

A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**ISSUES ADDRESSED:**

- Land Use Compatibility
- Drainage
- Traffic

**FINDINGS, CONCLUSIONS & RECOMMENDATION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:**

1. General Information:

Applicant:	King County Solid Waste Division, <i>represented by:</i> John Komorita
Location:	West central portion of Vashon Island at 18850 – 130 <sup>th</sup> Avenue SW (Westside Highway SW) east of Vashon Highway SW.
STR:	SW Section 36, TWP 23, Rge 2
Zoning:	RA 5-P [P-suffix, Rural Residential, 1 dwelling unit per 5 acre]
Proposed Use:	Construction of Transfer/Recycling Station and closure of the existing Vashon Landfill. The Station is to be located adjacent to and north of the landfill site. The municipal solid waste and recyclables are to be collected and hauled off Vashon Island.
Community Plan:	Vashon

2. King County Solid Waste Division (the “Applicant”), a Division of the Department of Natural Resources, requests a special use permit to authorize these two land use actions at the existing site of the Vashon Island landfill located in the west central portion of Vashon Island at 18850 – 130<sup>th</sup> Avenue Southwest, east of Vashon Highway Southwest:

A. Landfill Closure: The existing Landfill is a municipal solid waste landfill. The active site includes a weigh station and scale house, landfill refuse area, borrow area, perimeter road, gas collection and scrubber system, storm water system, leachate collection system and aerated pond, groundwater monitoring system and recycling facility. Leachate is trucked to a wastewater treatment plant off Island. Final cover was constructed over a portion of the landfill in 1988-1990. As noted above, the landfill is scheduled to close in 1999, with implementation of the new T/R station. The Applicant is currently in the process of hiring a consultant to perform the design of the landfill’s final closure. The Applicant indicates that the final contours will generally look like the existing northwest corner of the landfill, which has a 3.5 horizontal to 1 vertical slope with modest landscaping. The top elevation will be no higher than the existing northwest corner and will resemble a long mound or hill.

B. Transfer/Recycling Station: The T/R Station is proposed to be located in

the

borrow area and near the northeast corner of the landfill. Most of the site area is currently used as a borrow pit for material used as interim cover at the landfill. Attachment 1 of the Department of Development and Environmental Services' ("DDES" or the "Department") Preliminary Report to the Hearing Examiner dated December 18, 1997 (exhibit no. 1) shows the proposed site development plans, including elevations and conceptual landscape design. The T/R Station plan generally includes the following features:

- A structure to enclose the disposal or tipping/pit;
- Scale house for weighing in loads and accepting disposal fees;
- Six public unloading stalls for municipal solid waste with associated turning and waiting spaces, nine regular and one handicapped parking spaces for recycling;
- Four employee and visitor parking spaces;
- Refuse compaction equipment and trailer loading dock;
- Site attendant facilities;
- Recycling deposit area and baler;
- 150,000 gallons of water storage (contained within 4 separate 37,500 gallon water tanks) for fire protection;
- Septic system;
- Storm drainage system

3. In its final recommendation, the Department accepts modification requests by the Applicant which would effect these changes in the conditions of approval:
  - A. Construction work would be permitted on week-ends if the project falls behind schedule, if the work would only occur in the immediate vicinity of the transfer building and scale house, if the noise berm is completely in place, and no noise generating heavy equipment would be allowed to operate during that period. The Applicant intends to use this flexibility only if the project falls behind schedule.
  - B. Week-end work, if permitted pursuant to subparagraph A, preceding, would be limited to the same construction hours as week-day construction activity.
  - C. The Applicant requests, and the Department recommends approving, that the transfer station operating hour limits should be modifiable by County ordinance.
4. As described in finding no. 3, preceding, the Applicant agrees to the final recommended conditions of approval.
5. The Solid Waste Division has conducted a rigorous alternative site evaluation and community participation process, with participation involving a citizens advisory committee, the Vashon Community Council and Vashon Beachcomber advertisements and articles. Perhaps as a result of this process, no person appeared at this hearing to oppose or express concern regarding this application.

6. The Department's report and recommendation to the council is accurate and uncontested. It is therefore adopted and incorporated here by this reference. Copies of the Department's report (exhibit no.1) will be attached to those copies of this report which are forwarded to the Metropolitan King County Council for their review in their consideration of proposed ordinance number 97-679.

#### CONCLUSIONS:

1. An adequate review pursuant to WAC 197-11-970 of the State Environmental Policy Act (SEPA) was undertaken by the Applicant, the King County Solid Waste Division, who, acting as lead agency, issued a Determination of Nonsignificance (DNS) indicating the subject proposal would not result in probable, significant, adverse environmental impacts. Furthermore, the Applicant modified certain building and site design elements following the SEPA review process to accommodate concerns by surrounding neighbors regarding perceived noise, aesthetic and visual impacts. Particular elements of the environment addressed in specificity include land use, aesthetics, noise, public health, traffic and

*The Applicant's compliance with applicable SEPA requirements is particularly noticeable with respect to RCW 43.21C.030(2)(e) which requires all branches of government in this State, including Counties, to:*

*Study, develop and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources; . . .*

*This requirement, imposed upon government agencies, is additional to and separate from the alternatives analysis required in an environmental impact statement (although one may satisfy the other). This paragraph of the law has received little attention and some agencies do not follow it or document how they have followed it. In this case, the Applicant, King County Solid Waste Division is to be commended for an honest, serious, and effective implementation of RCW 43.21C.030(2)(e). Intentionally or not, the Solid Waste Division had demonstrated that SEPA is best used when it is not merely tacked-on to the planning process, but when it becomes the planning process.*

2. If conditioned as indicated in the recommendation to the Metropolitan King County Council which follows on page 5 of this report, the Vashon transfer/recycling station replacement to the existing landfill will be consistent with the policies contained in the King County Comprehensive Plan.
3. The Department's report (exhibit no.1), particularly on pages 13 through 16, addresses the proposed development's compliance with applicable zoning code requirements. Other than those conditions indicated in the recommendation which follows below, the proposed development fully complies with applicable zoning code requirements.
4. The pre-hearing public review process conducted by the Applicant resulted in numerous public

suggestions which brought to light those potential environmental impacts of greatest public concern. Numerous project modifications resulted from this participation process, resulting in a project which will be compatible with neighboring properties in the community; and, which will create, in many respects, a lesser environmental impact than the existing landfill operation.

RECOMMENDATION:

GRANT the King County Solid Waste Division the SPECIAL USE PERMIT to close the existing Vashon landfill and construct and operate the proposed transfer/recycle station, subject to the following conditions:

1. Site development for the Transfer/Recycling Station Facility shall be in accordance with the SUP plans received September 22, 1997 (Exhibit D-6 in SUP file), EXCEPT as modified by the revised scale house site plan (Exhibit D-7 in SUP file), where the scale house design has been rearranged adding a second scale and providing two access points on either side of the scale house.

Furthermore, site development shall be in accordance with the project proposal description and analysis contained in the following documents submitted by the Applicant in support of the SUP: *Environmental Checklist* (ECL) dated June 1997 and SEPA Determination of Nonsignificance issued June 17, 1997 by the King County Department Natural Resources, Solid Waste Division (KCDNR-SWD); *Special Use Permit (SUP) Information and Justification Questionnaire* received with the SUP application September 22, 1997 (KCDNR-SWD); *Site Selection Report for the Vashon Island Transfer/Recycling Station* (KCDNR-SWD), March 1997; *Vashon Island Transfer/Recycling Station Conceptual Design Report*, (KCDNR-SWD), June 1997; *Geotechnical Report*, prepared by Hong West & Associates, August 1997; SEPA responses and additional noise analysis provided by Applicant, SUP file exhibit nos. 6 and 7.

Additionally, further site design modifications, as necessary, may be allowed to comply with other essential site development, building and/or fire code requirements identified under commercial building permit review. **Provided**, these site design modifications do not result in more than a 10 % increase in dimensions of a particular building/structure (i.e., height, setbacks, building footprint/envelope), and do not diminish any of the proposed project buffers.

2. King County commercial building permit approval is required prior to commencement of development. Detailed site development review regarding traffic, grading, building and fire code, public health, and drainage is required in conjunction with the building permit. Any conditions of the commercial building permit shall be considered conditions of the SUP.
3. The Applicant shall prepare and implement a minimum 3 year landscape monitoring plan to ensure the proposed landscaping establishes successfully. A copy of the plan shall be provided prior to issuance of the building permit.
4. The proposal shall adhere to the King County Noise Code 12.88.020, in part, with respect to permissible maximum sound levels. The Rural standards shall be applied to the operations of the T/R Station Facility, and shall apply to the property lines of all the rural receiving properties, i.e., along the entire perimeter of the 145acre King County property boundary. The Rural noise

standard is 49 dBA daytime/39 dBA nighttime. The exception to this is the construction noise level which is exempt from the 49/30 dBA standard. The Applicant proposes to schedule construction activities from 7 A.M. to 5:30 P.M. weekdays only, and operational hours 8:00 A.M. to 5:30 P.M. weekdays only. All noise mitigation's identified and discussed in the staff report as well those identified by the Applicant shall be implemented. These include:

- A 10-foot tall absorptive noise barrier block wall shall be constructed at a distance of 10 to 20 feet from the generator, **or**, the generator shall be relocated at least 300 feet from the DNR property line;
  - A 10-foot high, 400 foot long noise berm shall be located along the north and northeast sides of the T/R Station;
  - Construction hours from 7:00 A.M. to 5:30 P.M. weekdays only, except as indicated below.
  - T/R facility construction work may only be allowed during these same hours only under the following conditions: (1) construction work falls behind schedule, (2) work can only occur in the immediate vicinity of the transfer building and scale house, (3) the noise berm is completely in place, and (4) no noise generating heavy equipment is allowed to operate during this period.
  - Transfer station operating hours shall be from 8:00 a.m. to 5:30 p.m. weekdays and weekends, closed Thanksgiving, Christmas, and New Years, except as may be modified by County ordinance.
5. As requested by the Seattle-King County Department of Public Health, the drainage and surface water run-off from the storage area for full trailers shall be contained and discharged to the landfill leachate system. Furthermore, a methane barrier or venting in all enclosed structures shall be required pursuant to Board of Health Title 10 Regulations, Chapter 10.76, subject to the review and approval of the SKCDPH during building permit review.
6. As stipulated by DDES' Traffic Engineer and detailed in the 1993 King County Road Standards, the minimum sight distance for entering the T/R Station site shall be 620 feet.

RECOMMENDED this 23<sup>rd</sup> day of December, 1997.

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R. S. Titus, Deputy  
King County Hearing Examiner

TRANSMITTED this 23<sup>rd</sup> day of December, 1997, to the parties and interested persons on the attached list

NOTICE OF RIGHT TO APPEAL

AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before January 6, 1998**. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before January 13, 1998**.

Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal. Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

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

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

**MINUTES OF THE DECEMBER 18, 1997, PUBLIC HEARING ON FILE NO. L97UU003 – KING COUNTY SOLID WASTE DIVISION SPECIAL USE PERMIT APPLICATION.**

R. S. Titus was the Hearing Examiner in this matter. Participating at the hearing were John Komorita, Kevin Kiernan and Nancy Hopkins.

The following exhibits were offered and entered into the hearing record:

- No. 1 Department of Development and Environmental Services STAFF REPORT, with attachments, dated December 18, 1997
- No.2 APPLICATION FOR SPECIAL USE PERMIT, dated received September 22, 1997
- No. 3 ENVIRONMENTALCHECKLIST
- No. 4 DETERMINATION OF NONSIGNIFICANCE, dated June 17, 1997
- No. 5 AFFIDAVITS OF PUBLICATION:
  - a) Notice of application, Seattle Times, received 11-10-97  
Vashon Maury Island Beachcomber, received 12-17-97
  - b) Notice of Hearing, Seattle Times, received 12-17-97  
Vashon Maury Island Beachcomber, received 12-27-97
- No. 6 AFFIDAVITS OF POSTING:
  - Notice of Application, posted 10-31-97; Notice of Hearing, posted 11-19-97
- No. 7 APPLICANT'S PROJECT PLANS, dated received September 22, 1997
- No.8 APPLICANT'S REVISED SCALE HOUSE SITE PLAN, dated received November 26, 1997
- No.9 APPLICANT'S SITE SELECTION REPORT, dated revised September 22, 1997, dated March 1997, prepared by KCDNR-Solid Waste Division

- No.10 ASSESSOR'S MAPS
- No.11 LEGAL DESCRIPTION OF SITE with map, dated received September 22, 1997
- No.12 SUP INFORMATION & JUSTIFICATION QUESTIONNAIRE, dated received September 22, 1997
- No.13 DDES file no L97UU003 / KC Solid Waste Division's Vashon Island Transfer Station
- No.14 MEMO, dated December 17, 1997, from John Komorita/KC Solid Waste, to J.N. O'Connor/Hearing Examiner
- No.15 (6) FORM LETTERS, dated November 12, 1997, from Vashon Island residents, to Ron Sims/KC Executive

RST:vam

Attachment

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