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Sponsor: DembowskiProposed No.: 2015-0437

R Dem → 8-1 LG 'NO'

1 STRIKING AMENDMENT TO PROPOSED ORDINANCE 2015-0437, VERSION2 1

3 On page 1, beginning on line 5, strike everything through page 29, line 621, and insert:

4 "BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

5 SECTION 1. Findings:

6 A. Pacific Raceways, formerly operated as Seattle International Raceways, is on
 7 a three-hundred-twenty-seven acre site located east of Kent and a quarter mile off of State
 8 Highway 18, and has historically consisted of a two and a quarter-mile road course, a
 9 drag strip, a dirt motocross track and a kart track.

10 B. A racetrack has operated on the Pacific Raceways property for over fifty
 11 years. Throughout the various iterations of King County land use planning and
 12 regulation, the existence and operation of the racetrack has been recognized. While no
 13 longer in effect, both the 1979 Soos Creek Community Plan and its 1991 update provide
 14 valuable information about the racetrack. These past Soos Creek Community Plans
 15 acknowledged the challenges of the racetrack being located in a rural area. In 1998, King
 16 County readopted the Soos Creek Community Plan policy, F-18, pertaining to what was

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17 then referred to as Seattle International Raceway or "SIR." King County's current land
18 use plans and regulations continue to recognize the historic racetrack use.

19 C. The Pacific Raceways property is located in the Growth Management Act-
20 designated rural area. The property has a Rural land use designation and Industrial
21 zoning. The property has a property-specific development condition, also known as a P-
22 suffix, SC-P02, which restricts the use of the property to racetrack uses, consistent with
23 Comprehensive Plan policy CP-1014. It is also subject to a conditional use permit, File
24 No. A-71-0-81, which governs current development and operations.

25 D. The Pacific Raceways property is served by an interchange on SR 18 that
26 allows traffic entering and leaving the Pacific Raceways to travel only a short distance on
27 SE 304th Street.

28 E. Ordinance 17761 authorized the transmittal of a letter from King County
29 supporting the designation of Pacific Raceways as a project of statewide significance.

30 F. The letter sent to the Washington state Department of Commerce by the
31 Metropolitan King County council supporting the designation of Pacific Raceways as a
32 project of statewide significance noted the potential for legislative changes to KCC
33 21A.55.105 and the P-suffix governing development of Pacific Raceways.

34 G. Pacific Raceways has been designated by the Washington state Department of
35 Commerce as a project of statewide significance in accordance with chapter 43.157
36 RCW.

37 H. As a project of statewide significance, the county is authorized to expedite
38 permit processing and environmental review for the project. As a way to expedite permit
39 processing and facilitate open communication between the county and the property

40 owner, project management for review of permits related to a project of statewide
41 significance is proposed to be completed through the regional planning unit within the
42 office of performance, strategy and budget.

43 I. A demonstration project as provided in K.C.C. chapter 21A.55 is intended to
44 be a mechanism to test and evaluate alternative development standards and processes
45 before the adoption of broadly applicable amendments to King County policies and
46 regulations. The amended standards and processes could advance county efforts to
47 support streamlined project review and regional economic development.

48 J. Specifically, K.C.C. 21A.55.010 states, "Alternative development standards
49 might include standards affecting building and/or site design requirements. Alternative
50 processes might include permit review prioritization, alternative review and revision
51 scheduling, or staff and peer review practices."

52 K. Since adoption of Ordinance 17287, the county and the property owner have
53 come to realize that the master planning demonstration project is a large undertaking that
54 will not occur without interim measures. The project of statewide significance
55 designation provides an opportunity to evaluate expedited review mechanisms for a
56 discreet activity within the master planning project.

57 L. The interim use permit is an opportunity to test the master planning process on
58 a smaller scale, to provide a predictable, expeditious permit review process for a discreet
59 portion of the overall master planning project that stands on its own, and that is otherwise
60 permitted by the underlying zoning and P-suffix condition, while also providing
61 consistency with adopted laws and regulations.

62 M. The 1990 Soos Creek Basin Plan shows the raceway within a recommended
63 one-quarter mile rural corridor recommended for major streams. The council recognizes
64 the need to protect the water quality of salmon-bearing streams in the vicinity of the
65 project site, such as Big Soos and Soosette creeks, as well as valuable facilities like the
66 Soos Creek Hatchery that rely upon the maintenance of water quality in those water-
67 bodies. In order to ensure that protection, this ordinance requires any proposed
68 development of the site to comply with surface water retention, infiltration and
69 monitoring requirements, as well as, to establish a critical area buffer from Soosette
70 creek.

71 N. The property owner's participation in this demonstration project is voluntary.
72 The county has had success with demonstration projects in the past. However, in
73 deciding to initiate the master planning process, the property owner will be taking on
74 risks associated with an untested process. The property owner has the option of pursuing
75 development approval through a more traditional process.

76 SECTION 2. Ordinance 17287, Section 3, and K.C.C. 21A.55.105 are each
77 hereby amended to read as follows:

78 A. The purpose of the master planning process demonstration project is to:

79 1. Create a comprehensive but streamlined process for the review of major land
80 use proposals that will be developed over the course of several years by:

81 a. utilizing a concise timeline for project review that incorporates a process for
82 public outreach and input during project review and facility operation;

83 b. executing a development and operating agreement, pursuant to RCW
84 36.70B.170 that establishes:

85 (1) a clearly defined project through a master development plan, which shall
86 include a master site plan;

87 (2) requirements that must be met before approval of each phase of
88 development; and

89 (3) operating standards governing all aspects of the project's operation,
90 including, but not limited to, noise and traffic, hours and days of operation for racing,
91 nonracing uses and number and types of events; and

92 c. establishing a process that ensures timely and efficient review;

93 2. Utilize the hearing examiner, as authorized in K.C.C. 20.24.520, to function
94 as a special master for the purpose of fact finding and reporting on compliance by the
95 applicant with the executed development and operating agreement, as provided in
96 subsection S. of this section; and

97 3. Provide for ongoing monitoring of the executed development and operating
98 agreement by the council to ensure continued future compliance with the executed
99 development and operating agreement.

100 B. The master planning process demonstration project shall be implemented only
101 for a regional motor sports facility only on the Pacific Raceways property as described in
102 Attachment A to Ordinance 17287.

103 C. The master planning demonstration project shall be initiated by the applicant
104 making a written request to the department for a preapplication meeting to identify the
105 requirements necessary for a complete application under this section.

106 D. A master planning proposal application shall be considered complete when the
107 following information and studies have been submitted and are adequate to review the
108 proposal:

109 1. A proposed development plan that describes the nature, size and scope and
110 phasing of all proposed activities;

111 2. A proposed site plan that identifies the location and dimensions of proposed
112 racing surfaces, access roadways, parking areas, buildings, stormwater facilities, sewage
113 treatment or holding facilities and any off-site traffic improvements;

114 3. A proposed master drainage plan under the surface water design manual;

115 4. A proposed grading plan that identifies or includes:

116 (a) land contours;

117 (b) soil types; and

118 (c) phasing;

119 5. Proposed development conditions relating to:

120 (a) on-site vehicle circulation and off-site traffic control measures;

121 (b) protection for critical areas, especially adjacent to Soosette creek;

122 (c) stormwater flow control and water quality treatment;

123 (d) visual screening from adjoining residential properties;

124 (e) ongoing monitoring and reporting to measure compliance with the
125 development and operating agreements;

126 (f) fire protection; and

127 (g) water supply and service;

128 6. Proposed operating conditions that specify:

- 129 (a) days and hours of operation;
- 130 (b) frequency of events;
- 131 (c) types of activities, including types of motor vehicles; and
- 132 (d) maximum noise levels; and
- 133 7. Any necessary information identified through the preapplication process.
- 134 E. The development and operating agreement shall contain development
- 135 standards and operating conditions related to the development and operation of the site
- 136 and shall include, but shall not be limited to:
- 137 1. A master site plan and detailed conditions establishing the:
- 138 a. location and scope of proposed land uses;
- 139 b. location and size of buildings and structures such as grandstands;
- 140 c. layout and dimensions of racing surfaces and circulation roadways;
- 141 d. site elevations and contours established by a master grading plan;
- 142 e. excavation and processing of materials, including dust control, during
- 143 construction of the facilities;
- 144 f. location and dimensions parking areas;
- 145 g. location of stormwater facilities, sewage treatment facilities, water, and
- 146 related features; and
- 147 h. vegetative screening required in subsection F.1. of this section;
- 148 2. A master drainage plan consistent with the surface water design manual;
- 149 3. A project phasing plan, including threshold requirements that must be met
- 150 before approval of the next phase of development;

- 151 4. Specified types of racing and nonracing activities, and where on the site the
152 activities can occur;
- 153 5, Specified days and times for all racing and nonracing uses;
- 154 6. Specified noise levels for racing and nonracing uses, including but not limited
155 to, how noise levels will be measured and mitigated;
- 156 7. Specified on-site vehicle circulation and other traffic control measures to
157 reduce the impact of congestion on roadways in the vicinity of Pacific Raceways;
- 158 8. Specified development conditions to ensure that permitted alterations
159 provided for in subsection G. of this section achieve the appropriate level of protections;
- 160 9. Specified development conditions to ensure that stormwater flow control and
161 water quality treatment provided for in subsection H. of this section is achieved;
- 162 10. Specified regular ongoing monitoring and reporting to measure compliance
163 with the development and operating agreement requirements relating to noise, traffic, air
164 quality, groundwater quality, stormwater flow control and water quality treatment and
165 water volume and quality in Soosette creek;
- 166 11. Specified process for the receipt and evaluation by the department of
167 inquiries and complaints relating to the operation of the facility, in order to allow for
168 review by the hearing examiner as provided in subsection S. of this section; and
- 169 12. Specified enforcement mechanisms to address any violations of the
170 conditions of the development agreement, including, but not limited to, the following:
- 171 a. a process for monitoring condition violations and for receipt of complaints;
- 172 b. a process for expedited review and remedy of possible violations; and

173 c. a penalty schedule that recognizes the nature and impact of the violation and
174 is sufficient to deter violations that otherwise result in financial benefit to the facility,
175 including, but not limited to, revocation of operating permit and loss of specific days of
176 operation.

177 F. All development under the master plan shall be subject to the following
178 standards relating to screening and building setbacks: as provided in K.C.C.
179 21A.16.030.F, to the maximum extent practical, buildings and other structures shall be
180 constructed on the project to be shielded from view from adjoining residential properties
181 using methods that may include, but are not limited to:

- 182 1. Retention of existing vegetation; and
- 183 2. Placement of new vegetation to augment existing vegetation.

184 G.1. Except as otherwise provided in this subsection G.2. of this section, all
185 development under the master plan shall comply with K.C.C. chapter 21A.24.

186 2. The department may approve alterations to critical areas, critical areas buffers
187 and critical area setbacks that are not otherwise allowed as an alteration exception under
188 K.C.C. 21A.24.070 when the applicant demonstrates that:

189 a. the proposal does not pose an unreasonable threat to the public health, safety
190 or welfare on or off the site;

191 b. the proposed impacts to critical areas, critical area buffers and critical area
192 setbacks shall be controlled and compensated for in accordance with the requirements of
193 K.C.C. 21A.24.125;

194 c. for proposed alterations within steep slope or landslide areas:

195 (1) the alterations are necessary to bring existing racing or access road
196 surfaces into compliance with applicable racing association safety standards, or to
197 construct noise barriers or for the placement of spectator seating on the interior portion of
198 the road course; and

199 (2) the alterations can be constructed to maintain the stability of the hazard
200 area through the use of structural mitigations identified through a geotechnical analysis
201 by a licensed and qualified geotechnical professional; and

202 d. for proposed alterations to wetlands or aquatic areas and their buffers:

203 (1) the alterations are necessary to comply with applicable racing association
204 safety standards either for existing racing surfaces or for providing to emergency vehicles
205 access roads to the existing racing surfaces;

206 (2) there is no feasible alternative to the development proposal with less
207 adverse impact on the critical area;

208 (3) the alteration is the minimum necessary to accommodate the development
209 proposal;

210 (4) the alternation has the least possible adverse impact on the critical area
211 and critical area buffer;

212 (5) the critical area is not used as a salmonid spawning area;

213 (6) the director may only approve an alteration in a category III or IV
214 wetland; and

215 (7) the alterations to any wetland shall be mitigated in accordance with an
216 approved mitigation plan by relocating the wetland into a new wetland, with equivalent

217 or greater functions, or into an existing wetland at the ratios specified in K.C.C.
218 21A.24.340 based on the type of mitigation measures proposed.

219 H. Uses proposed under the master planning proposal shall comply with the King
220 County surface water design manual and shall:

221 1. Use enhanced basic water quality measures to treat stormwater and use
222 stormwater infiltration facilities to manage stormwater to protect aquatic life in Big Soos
223 and Soosette creeks and operation of the Soos Creek Hatchery, while protecting
224 groundwater quality. The department shall consider the proposed use in determining
225 whether spill control or special oil control measures in excess of the King County surface
226 water design manual requirements are necessary to achieve the required environmental
227 protections;

228 2. Specify and require facilities and best management practices to insure that
229 auto-related fluids, brake dust, and other products are properly managed and disposed of
230 to avoid contamination of soils, surface water and groundwater;

231 3. Develop and implement a water quality monitoring plan to assure that copper,
232 other metals, hydrocarbons and other contaminants are not elevated in ground and surface
233 waters on- site and in Big Soos and Soosette creeks;

234 4. Conduct flow monitoring in Big and Soosette creeks before, during and after
235 construction to ensure that normal or preexisting flows are being maintained.

236 5. Conduct biotic monitoring in Big Soos and Soosette creeks before, during
237 and after construction;

238 6. If the department determines it to be environmentally beneficial and if it is in
239 compliance with the surface water design manual requirements for discharge to the

240 natural location and is approved through an adjustment, channel surface water from
241 impervious surfaces, including buildings, structures, pit areas or raceways to drain away
242 from Soosette creek and evaluate any impacts to Big Soos and Soosette creeks and to the
243 alternative discharge location; and

244 7. Develop and implement an adaptive management program to correct any
245 flow, surface or ground water quality, or biotic problem in Big Soos or Soosette creeks
246 caused by the development.

247 I. Site development that entails extraction and grading of soils to achieve the final
248 site contours for development shall be subject to the following limits:

249 1. The amount of materials that may be extracted during any specific phase of
250 project construction shall be only as necessary to construct that phase of the project
251 approved for construction; and

252 2. The on-site processing of the extracted materials shall be limited to the
253 sorting of the material into separate dirt, sand and gravel components.

254 J. The master planning proposal shall include site designs and features to reduce
255 the level of noise impacts upon nearby residential neighborhoods.

256 K. The department shall:

257 1. Schedule and conduct a preapplication meeting with applicant within thirty
258 days of the request for such a meeting by the applicant in order to identify the full range
259 of potential issues related to the proposed expansion of Pacific Raceways and to
260 specifically list information or studies needed to adequately evaluate the listed issues.

- 261 2. Provide to the applicant a detailed listing of all project issues and necessary
262 information or studies required under subsection D. of this section within thirty days after
263 the date of the preapplication meeting;
- 264 3. Accept for filing a master planning proposal application submitted by the
265 applicant only if it provides the information and studies required by subsection K.2. of
266 this section;
- 267 4. Determine whether the master planning proposal is a complete application
268 under this section and K.C.C. 20.20.050;
- 269 5. Provide a notice of a complete application under K.C.C. 20.20.060.B. In
270 addition to notice required under K.C.C. 20.20.060.B, the department shall provide
271 mailed notice to:
- 272 a. all parties of record, including community groups or organizations,
273 established during the review of Conditional Use Permit File Nos. A-71-0-81 and
274 L08CU006, Proposed Ordinance 2010-0189 or Ordinance 17287;
- 275 b. persons requesting notification of any county land use action regarding
276 Pacific Raceways; and
- 277 c. residents or property owners of parcels located within twenty-five hundred
278 feet of the boundaries of the Pacific Raceways site;
- 279 6. Not later than seven days after the applicant has filed with the department its
280 master planning proposal, issue a determination of significance and proceed with the
281 environmental review of the master planning proposal under Ordinance 17287, Section 6;
- 282 7. Conduct one or more public meetings on the master planning proposal
283 application to gather information and public input on all aspects of the master planning

284 proposal. The first meeting shall be held within thirty days after the applicant has filed
285 its master planning proposal application with the department and may be combined with
286 a public meeting required under Ordinance 17287, Section 5.D.4. At that public meeting,
287 the applicant shall present its master planning proposal. At each public meeting, the
288 public shall be provided an opportunity to comment on the master planning proposal.
289 The department shall record all public meetings and make a written summary of the
290 meetings available on its website within fourteen days after the meeting. The department
291 may hold additional public meetings as it conducts its review of the master planning
292 proposal application and shall provide an opportunity for the applicant to respond to
293 questions at each public meeting;

294 8. Issue the final environmental impact statement within eighteen months of
295 either issuing to the applicant a notice of complete application or the master planning
296 proposal is deemed a complete application under K.C.C. 20.20.050.B. The consultant
297 may request additional time to prepare the final environmental impact statement;

298 9. Not later than thirty days after the final environmental impact state is issued,
299 propose for public review and comment a development and operating agreement
300 consistent with this section. The department shall provide notice of the proposed
301 development and operating agreement in the same manner as it provided the notice of
302 application under subsection K.5. of this section. The department shall present the
303 proposed development and operating agreement at a public meeting within fourteen days
304 after the notice is provided under this subsection K.9; and

305 10. Within sixty days after the public meeting required by subsection K.9. of
306 this section:

307 a. transmit to the hearing examiner the department's recommended
308 development and operating agreement, together with a proposed ordinance authorizing
309 the executive to execute the development and operating agreement;
310 b. publish its recommended development and operating agreement on the
311 department's website; and
312 c. provide notice of its recommended development and operating agreement in
313 the same manner as it provided the notice of application under subsection K.5.a. through
314 c. of this section and to those governmental agencies listed in K.C.C. 20.20.090.A. The
315 notice shall also advise :

316 (1) that the department's recommendation is subject to an open record public
317 hearing before the hearing examiner;

318 (2) the date that the department's recommendation has been transmitted to the
319 hearing examiner; and

320 (3) that interested persons may appear as parties at the open record public
321 hearing by filing a notice of appearance with the hearing examiner within fourteen days
322 of the date that the department's recommendation has been transmitted to the hearing
323 examiner. The applicant will be presumed to be a party without having to file a notice of
324 appearance.

325 L.1. Before the transmittal of the department's recommended development and
326 operating agreement to the hearing examiner, the transportation, economy and
327 environment committee or its applicable successor may request reports or briefings from
328 the department and applicant regarding how the demonstration project is proceeding.

329 The department shall solicit input from those identified in subsection K.5.a. through c. of
330 section to inform the committee in the report and briefing.

331 2. If the department or the applicant is unable to meet a timeline established by
332 this section as part of the process for review of the master planning proposal, the
333 department shall provide written notice to the council within fourteen days after the
334 missed deadline in the form of a letter to the chair of transportation, economy and
335 environment committee or its applicable successor describing the causes for the delay,
336 and the steps or actions needed to be taken by the department or the applicant to continue
337 timely processing of the proposal.

338 M.1. No sooner than fourteen days after receiving the department's
339 recommended development and operating agreement, the hearing examiner shall set the
340 date for the prehearing conference and notify the parties of interest.

341 2. Unless otherwise agreed to by those that appear as parties, the hearing
342 examiner shall conduct an open record public hearing within ninety days of the
343 prehearing conference and, if necessary, shall hold the public hearing over consecutive
344 days.

345 3. When the hearing examiner sets the department's recommended development
346 and operating agreement for an open record public hearing, the department shall
347 coordinate and assemble the reviews of other departments and governmental agencies
348 having an interest in the application and shall prepare a report summarizing the factors
349 involved and the department's recommendation. At least fourteen calendar days before
350 the scheduled hearing, the department shall file the report with the hearing examiner and
351 mail copies to those identified in subsection K.5.a. through c. of section.

352 4. The hearing examiner's recommendation may be to approve or reject the
353 department's recommended development and operating agreement, or the examiner may
354 recommend that the council adopt the department's recommended development and
355 operating agreement with such conditions, modifications and restrictions as the examiner
356 finds necessary to carry out applicable state laws and regulations and the regulations,
357 including chapter 43.21C RCW, policies, objectives and goals of the Comprehensive
358 Plan, the zoning code K.C.C. Title 21A and other laws, policies and objectives of King
359 County.

360 5. Within fourteen days after the conclusion of the open record public hearing,
361 the hearing examiner shall issue a written recommendation and shall transmit a copy
362 thereof to all persons who appeared as parties in the open record public hearing. The
363 recommendation shall include findings of fact and conclusions from the record that
364 support the decision and the findings and conclusions shall set forth and demonstrate the
365 manner in which the recommendation is consistent with, carries out and helps implement
366 applicable state laws and regulations, the regulations, policies, objectives and goals of the
367 comprehensive plan and Ordinance 17287.

368 6. To appeal the hearing examiner's recommendation, an aggrieved party must
369 file a notice of appeal with the clerk of the council within fourteen days of the date of the
370 mailing of the hearing examiner's recommendation. The clerk shall notify the hearing
371 examiner and the parties of record to the hearing examiner's open record public hearing in
372 writing of the council's receipt of the appeal. The clerk shall also cause to have posted on
373 the council's web page the notice of the appeal. The appellant shall file a statement of
374 appeal with the clerk within twenty-one days of filing its notice of appeal, together with

375 proof of service of the statement of appeal to the other parties of record. The statement of
376 appeal must specify the basis for the appeal and any arguments in support of the appeal.
377 Failure to file a statement of appeal shall result in the dismissal of the appeal. The clerk
378 shall cause to have the statement of appeal posted on the council's web page. Any
379 written responsive statements or arguments to the appeal, together with proof of service
380 on the other parties of record, must be filed with the clerk within fourteen days after the
381 filing of the statement of appeal. The clerk shall cause to have these responsive
382 statements and arguments posted on the council's webpage.

383 7. At least fourteen days before the closed record hearing by the council of the
384 appeal, the clerk will provide the parties of record with written notice of the hearing time
385 and date. The council's consideration of the appeal shall be based upon the record as
386 presented to the hearing examiner at the open record public hearing and upon written
387 appeal statements and arguments submitted by the parties that are based on the open
388 record public meeting. The council may allow the parties to the appeal a period of time
389 for oral argument based on the record. Consistent with RCW 36.70B.020(1), before or at
390 the appeal hearing and upon the request of the council, county staff may provide a written
391 or oral summary, or both, of the appeal record, issues and arguments presented in an
392 appeal and may provide answers, based on the record, to questions with respect to issues
393 raised in an appeal asked by council members at the appeal hearing. Nothing in this
394 subsection shall be construed as limiting the ability of the council to seek and receive
395 legal advice regarding a pending appeal from the office of the prosecuting attorney or
396 other county legal counsel either within or outside of the hearing.

397 8. If, after consideration of the record, written appeal statements and any oral
398 argument the council determines that:

399 a. An error in fact or procedure may exist or additional information or
400 clarification is desired, the council shall remand the matter to the hearing examiner for
401 further hearing to receive additional information or further consideration; or

402 b. The recommendation of the hearing examiner is based on an error in
403 judgment or conclusion, the council may modify or reverse the recommendation of the
404 hearing examiner.

405 9. a. The council's final action on any recommendation of the hearing examiner
406 shall be by ordinance, which shall include findings of fact and conclusions from the
407 record of the hearing examiner's public hearings. The findings and conclusions shall set
408 forth and demonstrate the manner in which the council's decision is consistent with,
409 carries out and helps implement applicable state laws and regulations, the regulations,
410 policies, objectives and goals of the comprehensive plan and Ordinance 17287. The
411 council may adopt as its own all or portions of the hearing examiner's findings and
412 conclusions.

413 b. Any ordinance also may contain reasonable conditions, in accordance with
414 state law and county ordinances, which must be satisfied before the ordinance becomes
415 effective. The ordinance shall also designate the time period within which any such
416 conditions must be satisfied. All authority pursuant to such ordinance shall expire if any
417 of the conditions are not satisfied within the designated time period and the property shall
418 continue to be subject to all laws, regulations and zoning as if the ordinance had not been
419 adopted. The council may extend the period for satisfaction of the conditions if, after a

420 public hearing by the examiner, the council finds an extension will be in the public
421 interest and the extension was requested by the applicant within the initial time period.

422 N. If the hearing examiner's recommendation is not appealed pursuant to
423 subsection M. of this section:

424 1. The clerk of the council shall place a proposed ordinance that implements the
425 examiner's recommended action on the agenda of the next available council meeting for
426 adoption;

427 2. No final action to amend or reverse the hearing examiner's recommendation
428 shall be taken at that meeting and notice to parties shall be given before the adoption of a
429 substitute or amended ordinance that amends or reverses the examiner's recommendation;

430 3. The council may either:

431 a. Refer the matter to the transportation, economy and environment or its
432 successor for further consideration deemed necessary before the council takes final action
433 on the matter or remand the matter to the hearing examiner for further hearing to receive
434 additional information or further consideration; or

435 b. Adopt the hearing examiner's recommendation by an ordinance satisfying
436 the requirements of subsection M.9. of this section.

437 4. Any final action by the county council may be reconsidered by the council
438 pursuant to K.C.C. 20.24.250; and

439 5. Any appeal of the council's final action shall comply with the requirements of
440 K.C.C 20.24.240.A.

441 O.1. The design and operating conditions specified in any agreement adopted and
442 executed pursuant to the process established in this section shall prospectively control the

443 operations and design for the site and supersede the design and operating conditions
444 established under Conditional Use Permit File Nos. A-71-0-81 and L08CU006.
445 However, any such development and operating agreement will not have retroactive
446 effect. Any enforcement actions relating to compliance with the design and operating
447 conditions established under Conditional Use Permit File Nos. A-71-0-81 and L08CU006
448 regarding activities that occurred before the execution of a development agreement shall
449 not be affected.

450 2. A master plan development and operating agreement approved by the council
451 shall be in effect for a period of ten years from the effective date of the ordinance
452 approving the master plan development and operating agreement and authorizing the
453 executive to execute the development and operating agreement;

454 3.a. An approved master plan development and operating agreement may be
455 renewed one time for not more than ten years.

456 b. The applicant shall apply to the department for renewal of the development
457 and operating agreement at least twelve months before the agreement expires. The
458 department shall provide a notice of the renewal request under subsection K.5.a. through
459 c. of this section and shall conduct at least one public meeting on the request as provided
460 in subsection K.7. of this section.

461 c. The department shall make its recommendation to the council on the
462 proposed renewal together with any recommended changes to the agreement not later
463 than ninety days before the development and operating agreement expires.

464 d. If the agreement is not renewed by the council:

465 (1) the operating conditions established in the agreement shall remain in
466 effect; and

467 (2) any subsequent development permit application shall be subject to laws in
468 effect at the time the subsequent application is filed.

469 P. During the period a development and operating agreement is in effect, any
470 subsequent development on the site shall be consistent with the approved development
471 and operating agreement.

472 Q.1. Except as otherwise provided in subsection Q.2. of this section, the laws in
473 effect on the date the council adopts the ordinance authorizing the execution of the
474 development and operating agreement shall apply to subsequent permits necessary for the
475 uses authorized by the development and operating agreement.

476 2. The following regulations in effect on the date of a complete application for
477 any permits necessary for a use authorized by the development and operating agreement
478 shall apply:

- 479 a. surface water management standards under K.C.C. Title 9;
- 480 b. public health and safety codes under K.C.C. Title 13;
- 481 c. road standards under K.C.C. Title 14;
- 482 c. building codes under K.C.C. Title 16; and
- 483 d. fire codes under K.C.C. Title 17.

484 R. During the effective period of the development and operating agreement, the
485 applicant may request in writing and the department may propose a modification of the
486 development and operating agreement. The applicant's request and the department
487 initiated proposal shall be made by June 1 of each year for implementation in the

488 following year. The department shall provide notice of the request or proposed
489 modification as provided in subsection K.5.a. through c. of this section. The department
490 shall submit to the hearing examiner its recommendation on the request not later than
491 August 1.

492 S. The hearing examiner shall conduct the following annual monitoring and
493 reporting activities for the council:

494 1. No later than October 15 of each year, the hearing examiner shall conduct a
495 public meeting in the vicinity of the project site for the purpose of gathering community
496 input on the operation of facility during the preceding year and on any modifications to
497 the development and operating agreement. The department shall provide a notice of the
498 meeting as provided in subsection K.5.a. through c. of this section.

499 2. Beginning on December 31 of the year after the effective date of the ordinance
500 authorizing the execution of the development and operating agreement, and for each
501 subsequent year, the hearing examiner shall prepare and submit to the council a report
502 that:

503 a. describes the current status of the phases of the development;

504 b. evaluates compliance with development and operation agreement conditions
505 during the preceding year;

506 c. identifies issues and concerns that have been brought forward by the
507 community, Pacific Raceways and the department;

508 d. evaluates proposed modifications to the development and operating
509 agreement; and

510 e. outlines potential steps to ensure compliance with the development and
511 operating agreement.

512 3. The report shall be presented in a briefing by the hearing examiner to the
513 transportation, economy and environment committee, or its applicable successor, at
514 which the department and project operator shall be present.

515 T. The director shall submit a report on the master planning demonstration
516 project to the council within sixty days of the council's adoption of the ordinance
517 approving the development and operating agreement. The report shall evaluate the
518 efficacy of the master planning process and may include recommended changes to the
519 master planning process to address problems or deficiencies in the process identified by
520 the department. The department shall solicit comments from the applicant, the hearing
521 examiner, and the public, identified in subsection K.5.a. through c. of this section, on the
522 master planning process and include a synopsis of those comments in the report. A paper
523 copy and an electronic copy of the report shall be filed with the clerk of the council, who
524 shall retain the paper original and shall forward electronic copies to each councilmember.

525 U. Before the application for a master planning proposal application, the
526 applicant shall be permitted to undertake the following activities, subject to an interim
527 use permit:

528 1. Construct up to four hundred thousand square feet of buildings, including
529 required excavation and processing of materials, for uses allowed for a regional motor
530 sports facility as set forth in K.C.C. 21A.06.973C, and associated required site
531 improvements; and

532 2. Excavation and processing of materials shall be subject to the following limits:

533 a. Under the interim use permit ,the amount of materials shall be only as is
534 necessary to construct the buildings and any required site improvements associated with
535 the construction of the buildings, subject to review by the department;

536 b. The on-site processing of the extracted materials shall be limited to the
537 sorting of the materials into separate dirt, sand and gravel components, and crushing and
538 washing of those components that will be used for on-site construction of the buildings
539 and required site improvements; and

540 c. The on-site processing shall be limited to 9:00 a.m. to 5:00 p.m. Monday
541 through Friday.

542 V. A preapplication meeting shall be required for the interim use permit. The
543 applicant shall submit the following information to the department with a request to
544 schedule a preapplication meeting:

545 1. Affidavit of application, on a form approved by the department;

546 2. Project narrative and questions for department staff;

547 3. Preliminary site plan, which shall include:

548 a. location of the property, with a vicinity map showing cross street;

549 b. address, if an address has been assigned;

550 c. parcel number or numbers;

551 d. zoning of parcel or parcels and adjacent parcel or parcels;

552 e. north arrow and scaled dimensions;

553 f. existing and proposed building footprints, with overhangs and projections;

554 g. existing and proposed grade contours;

555 h. site area in square feet or acres of the project site;

556 i. area of either disturbance or development, or both, including utilities, septic
557 and internal circulation, as needed;

558 j. existing and proposed easements, including ingress, egress, utilities or
559 drainage; and

560 k. critical areas and their buffers; and

561 4. Preliminary building plan.

562 W. An interim use permit application shall be considered complete when the
563 following information and studies have been submitted and are adequate to review the
564 proposal:

565 1. A proposed site plan that identifies the location and dimensions of the
566 proposed buildings, vehicular circulation and parking areas, critical areas and buffers,
567 landscaping, stormwater facilities, utilities and fire protection;

568 2. A proposed drainage plan under the surface water design manual for the
569 improvements proposed under the interim use permit;

570 3. A proposed grading plan that complies with the submittal, operating and
571 performance requirements in K.C.C. chapter 16.82;

572 4. A proposed restoration plan that complies with this section;

573 5. A deposit as required by K.C.C. 27.02.210 for review of the interim use
574 permit; and

575 6. Any necessary information identified through the preapplication process.

576 X. The interim use permit shall contain development conditions related to the
577 grading activities and buildings and shall include, but not be limited to:

578 1. An approved site plan and conditions that establish:

579 a. location, size and proposed uses of the buildings;
580 b. location and dimensions of vehicular circulation and parking, including
581 required parking for the existing uses;
582 c. location of stormwater facilities, sewage treatment facilities, water, and
583 related features;
584 d. landscaping requirements, as required by K.C.C. chapter 21A.16;
585 e. location of on-site critical areas. Development or operations are not allowed
586 within critical areas or their buffers, and alterations of critical areas or their buffers are
587 not permitted, as part of the activities allowed with the interim use permit or related
588 construction permits; and
589 f. necessary on-site and off-site traffic control for construction impacts on
590 vehicular circulation and on roadways in the vicinity of the project site;
591 2. An approved grading plan in compliance with the requirements of K.C.C.
592 chapter 16.82;
593 3. An approved drainage plan in compliance with the surface water design
594 manual;
595 4. A restoration plan in compliance with the following requirements:
596 a. Final grades shall generally conform to standards in KCC 16.82.100 and the
597 following:
598 (1) be such so as to encourage the uses permitted within the primarily
599 surrounding zone or, if applicable, the underlying or potential zone classification; and
600 (2) result in drainage patterns that reestablish natural conditions of aquifer
601 recharge, water velocity, volume and turbidity within six months of restoration and that

602 precludes water from collecting or becoming stagnant. Suitable drainage systems
603 approved by the department shall be constructed or installed where natural drainage
604 conditions are not possible or where necessary to control erosion. All constructed
605 drainage systems shall be designed consistent with the Surface Water Design Manual;

606 and

607 b. All areas subject to clearing, grading or backfilling shall:

608 (1) be planted with a variety of trees, shrubs, legumes and grasses indigenous
609 to the surrounding area and appropriate for the soil, moisture and exposure conditions;

610 and

611 (2) except for roads and areas incorporated into drainage facilities, be
612 surfaced with soil of a quality at least equal to the topsoil of the land areas immediately
613 surrounding, and to a depth of the topsoil of land area immediately surrounding six
614 inches, whichever is greater;

615 5. A condition requiring that all grading and construction activities be
616 completed within sixty months of the effective date of this ordinance, except as allowed
617 to be extended in accordance K.C.C. 20.20.105.

618 Y. For the interim use permit, the executive shall appoint a special project
619 manager.

620 1. The special project manager shall either be an employee of, or hired as a
621 consultant by, the regional planning unit of the office of performance, strategy and
622 budget.

623 2. The Pacific Raceways property has been designated as a project of statewide
624 significance under chapter 43.157 RCW.

625 3. The special project manager will coordinate the reviews with the department
626 and other agencies, be the primary point of contact for the applicant and interested
627 parties, and ensure that the timelines established for review of the interim use permit in
628 this section are met.

629 4. The special project manager shall evaluate, and provide a recommendation to
630 the executive, regarding the efficacy of options, such as review by another jurisdictions
631 or using outside staff to complete the substantive review, for expediting the permit review
632 process. As part of this review, the special project manager shall ensure that any
633 recommended option will produce a review that complies with this chapter and other
634 applicable laws, regulations and adopted policies.

635 Z.1. In reviewing the interim use permit, the department shall:

636 a. process the interim use permit as a Type 3 land use permit. K.C.C. chapter
637 20.20 shall apply, except as modified by this section;

638 b. conduct a mandatory preapplication meeting within fourteen days of the
639 applicant's request for a preapplication meeting;

640 c. within twenty one days of the preapplication meeting, provide a detailed
641 listing of the required information or studies required for review of the interim permit, in
642 conformance with this section, the other building, construction and environmental
643 permits that will be required, and an estimate of cost for review of the interim use permit;

644 d. accept the interim use permit application if the applicant provides the
645 information and studies required by the detailed listing provided in subsection Z.1.c. of
646 this section;

647 e. determine whether the interim use permit application is complete within
648 seven days of filing by the applicant, pursuant to K.C.C. 20.20.050, and subject to the
649 application requirements in subsection W. of this section;
650 f. provide a notice of complete application under K.C.C. 20.20.050, within
651 seven days of determining that the application is complete;
652 g. provide a notice of application under K.C.C. 20.20.060 within fourteen days
653 of providing the notice of complete application. In addition to the notice required by
654 these two sections, the department shall provide mailed notice to:
655 (1) all parties of record, including community groups or organizations,
656 established during the review of Conditional Use Permit File Nos. A-71-0-81 and
657 L08CU006, Proposed Ordinance 2010-0189 or Ordinance 17287;
658 (2) persons requesting notification of any county land use action regarding
659 Pacific Raceways; and
660 (3) residents or property owners of parcels located within twenty-five
661 hundred feet of the boundaries of the Pacific Raceways site;
662 h. complete environmental review on the interim use and activities authorized
663 by the interim use permit;
664 i. transmit to the hearing examiner the department's recommendation on the
665 interim use permit and provide notice of the recommendation under K.C.C. 20.20.090.
666 The recommendation shall be based on the conformance of the proposal with the
667 requirements of this section; and;

668 (1) For a determination of nonsignificance or mitigated determination of
669 nonsignificance, transmit the recommendation within forty five days of the end of the
670 comment period on threshold determination;

671 (2) For a determination of significance, transmit the recommendation within
672 forty five days of the end of the appeal period for the final environmental impact
673 statement; and

674 j. coordinate and assemble the reviews of other departments and governmental
675 agencies having an interest in the application and shall prepare a report summarizing the
676 factors involved and the department's recommendation. At least seven calendar days
677 before the scheduled hearing, the department shall file the report with the hearing
678 examiner and mail copies to those identified in subsection Z.1.g. of this section.

679 2. The exceptions to permit review timelines descried in K.C.C. 20.20.100.C.
680 shall apply to the review period deadlines outlined in subsection Z. of this section. If the
681 department is unable to meet the time limits established by this section, it shall provide
682 written notice of this fact to the applicant. The notice shall include a statement of reasons
683 why the time limits have not been met and an estimated date for issuance of the notice of
684 recommendation to the hearing examiner. In no case shall the review of the interim use
685 permit, from the date a complete application is filed through the date the department
686 issues the recommendation to the hearing examiner, excluding the timeframes outlined in
687 K.C.C. 20.20.100.C, exceed one hundred twenty days, unless the parties agree to an
688 extension.

689 AA.1. The hearing examiner shall:

690 a. within fourteen days of receiving the department's recommendation on the
691 interim use permit, set the date for the prehearing conference and notify the interested
692 parties.

693 b. within seven days of the prehearing conference, issue a prehearing order that
694 includes a tentative schedule and order of proceedings for the hearing required under this
695 subsection.

696 c. conduct an open record public hearing within thirty days of the prehearing
697 conference;.

698 d. within ten days of the public hearing, issue a decision on the interim use
699 permit. The examiner's determination may be to grant or deny the application, and may
700 include any conditions, modifications and restrictions as the examiner finds necessary to
701 carry out the provisions of this section. The examiner's decision may be appealed to the
702 council according to K.C.C. 20.24.210.

703 2. When reasonably required to enable the attendance of all necessary parties at
704 the hearing, or the production of evidence or to otherwise assure that due process is
705 afforded and the objectives of this chapter are met, the periods in subsection AA.1. of this
706 section may be extended by the examiner at the examiner's discretion for an additional
707 thirty days. With the consent of all parties, the periods may be extended indefinitely.
708 The reason for the deferral shall be stated in the examiner's decision. Failure to complete
709 the hearing process within the stated time shall not terminate the jurisdiction of the
710 examiner.

711 BB. Issuance of the interim use permit by the county under this section does not
712 relieve the applicant of its obligations to obtain other approvals required under state and
713 federal law.

714 CC. The applicant shall pay fees to the county to cover the actual cost of
715 providing project management, review and inspection services for the interim use permits
716 and including environmental review, in accordance with K.C.C. 27.02.100."
717

718 **EFFECT: Amendment S1 makes the following changes to the ordinance:**

- 719 • **Findings:** Modifies findings regarding P-suffix, CP policies, active permits, and
720 projects of statewide significance; removed irrelevant findings; added findings
721 regarding interim use permit (IUP) testing the master planning process.
- 722 • **Change "racing garages" to "race related uses":** Ties the 400,000 sf to the
723 definition of a regional motor sports facility.
- 724 • **Relationship of grading to buildings:** Leaves it as necessary for construction,
725 and subject to review by permitting agency. Rework order of language, to clearly
726 tie the grading to that required for construction of the buildings.
- 727 • **Mandatory preapplication meeting:** Requires and sets submittal requirements
728 for the preapplication meeting.
- 729 • **Submittal requirements:** Adds to submittal requirements for IUP, to include
730 restoration plan, deposit for hourly rates, and information identified through
731 preapplication process.
- 732 • **Remove mining references:** Cuts out references to and requirements of 21A.22.
- 733 • **Add in requirement for restoration**
- 734 • **Mining on steep slopes, stream buffer, landslide hazard:** Makes it clear
735 development and operation not permitted in critical areas and their buffers as part
736 of the IUP.
- 737 • **Time limit on how long the IUP is valid:** Makes the IUP valid for 60 months
738 from the effective date of this Ordinance. Extensions as allowed in 20.20.105.
- 739 • **Designate a special project manager:** either in the Regional Planning Unit, or a
740 consultant.
- 741 • **Add option for another avenue to do substantive review for IUP:** Makes it a
742 task of the special project manager to evaluate the efficacy of options, such as
743 review by another jurisdiction, or outside staff acting as peer review, to expedite
744 the permitting process.

- **Appeal of SEPA Determination to Hearing Examiner:** Specifies the IUP is a Type 3 permit (as modified by the ordinance), which will trigger the appeal process in KCC 20.44.120, which includes an appeal to the examiner.
- **Make it clear construction permits (building, grading, etc.) are also required**
- **Timeline for issuance of detailed requirements after preapplication meeting:** Increases the timeline from 14 to 21 days to issue the detailed list of requirements for the IUP and other required permits, after the preapplication meeting.
- **Corrected citation for issuing a complete application**
- **Timeline for issuance of notice of application:** Increases timeline from 7 to 14 days to issue NOA after a complete application determination is done.
- **Make timelines related to SEPA clearer:** Changes timelines around environmental review and recommendation to Hearing Examiner. Require the recommendation from the department to be transmitted within forty five days (increased from thirty days) of the end of the comment period for a SEPA determination of nonsignificance, or the end of the appeal period if an EIS is completed.
- **Address concern that time frames don't take into account existing code for tolling of clock:** Pulls in language from K.C.C. 20.20.100.C regarding tolling of review periods, include requirement for department to provide notice if timeframes aren't met, set maximum review timeframe at 120 days.
- **Add deadline and content for Hearing Examiner prehearing order:** Requires a prehearing order, with a tentative schedule and order of proceedings, within 7 days of prehearing conference.
- **Make the interim use permit (IUP) appealable to Council**
- **Add in time for longer process at Hearing Examiner:** Allows for longer time frame at Hearing Examiner, subject to criteria.
- **Add in obligation to obtain state and federal permits**
- **Fees for IUP & SEPA:** Requires applicant to pays fee for review time. Refer to hourly fee language in 27.02.100.