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EXHIBIT 12
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May 2, 2013

Erin Martindale, Senior Planner
City of Woodinville
17301 133rd Avenue NE
Woodinville, WA 98072-8534

**RE: ASKO PROCESSING INC.
REASONABLE USE PERMIT RUP12001/SEP12034
15801 & 15701 WOODINVILLE REDMOND ROAD**

Dear Ms. Martindale,

This letter responds to yours of March 14, 2013 which provided comment on ASKO's request for a Reasonable Use determination on the subject property.

Before we address the specific questions raised in your letter, I want to reiterate our request and our dilemma. First and foremost, we are proposing a solution to the site that will both improve water quality protections for the drainage system and achieve the City's policy goals related to industrial development. Our system design will convert a former ditch network into a system that uses best practices to meet the standards of your critical area regulations.

ASKO has owned the subject properties for several years, knowing that it was zoned industrial and expecting that it would be used for future expansion. It purchased the site before the current critical areas regulations were put into effect. The City's policy has always been to foster industrial development in this area. Page 19 of our environmental checklist cites several city policies that seem to promote industrial development "consistent with responsible environmental practices". Our plan does this.

The success of this industrial corridor has prompted interest in the ASKO property, one of the last developable parcels along Woodinville Redmond Road. ASKO's neighbor, BDA, is showing interest in the subject property for possible expansion of its facilities. The company is engaged in several expansion activities in the area, including a pending application to prepare a site for a 200,000 sq. ft. warehouse adjacent to the nearby Sammamish River (City Application No. SEP13014/SDL 13005). Both ASKO and BDA are local success stories which we assume have the city's strong support. ASKO's own future planning and perhaps that of BDA require the ability to construct larger manufacturing facilities.

BDA's need for roughly 80,000 square feet adjacent to its current building is what prompted ASKO's original site analysis. The ability to accommodate this size

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CITY OF WOODINVILLE
DEVELOPMENT SERVICES

building was tested through several site plan alternatives that eventually led to this Reasonable Use request. Whether the future user is BDA, ASKO or a similar industrial use, the plan we have put together under this request is the proper balance between the market requirements for industrial space and the community's requirement for adequate environmental protections.

We discuss our site planning exercise below. In summary, the result was that a site plan that must strictly adhere to the current critical area standard produces a footprint significantly less than that allowed when the property was purchased. It does not meet the expansion needs of BDA and would significantly reduce the market attraction for other users. Alternatively, the Reasonable Use exception allowing relocation of about 0.5 acres of wetland would meet these market needs and would provide better water quality protections in the critical areas.

Addressing the City's March 14 comments:

Planning

The City asked for revisions to our analysis of the Reasonable Use criteria:

- 1.a. *This property is within the Tourist District Overlay (TDO). There have been significant changes to the types of uses proposed and developed within the TDO. The analysis provided for Reasonable Use does not address what a Reasonable Use would be within the TDO.*

Response: "Reasonable Use" in this case does not pertain to the proposed uses on the site, but rather on the scale of development. A Reasonable Use in the TDO would be either a tourism use or an industrial use that is compatible with the TDO design standards. The site plan shows how an industrial use (allowed under the code) can be situated on the site in an environmentally responsible manner, a key goal of the TDO. The site is being constrained beyond what could reasonably be built because of the particular alignment of critical areas on the site. To the extent a TDO use would have similar difficulty configuring a site plan with this critical areas constraint, we assume a Reasonable Use request would be made.

The intended use of the property (industrial) is better achieved by a reconfiguration which – if done according to "responsible environmental practices" -- achieves both the industrial goals of the city without precluding its tourism goals.

We have researched both Chapters 21.04.130 and 21.38.065 (TDO) and can find no obvious conflict with the uses proposed for the ASKO site.

- 1.b. *There is no analysis that the 80,000 square foot is the minimum necessary to provide for Reasonable Use. Provide analysis on what other developments in the area have as far as building square footage, impervious surface (both basic square footages, and as a percentage or floor to area ration of the property).*

Response: As a practical matter, the adjacent owner, BDA, has expressed a need for an 80,000 sq. ft. building pad to allow expansion of its business. The total impervious surface on a developed ASKO site, according to Attachment A would total about 57% of the total land area. City code allows up to 85%.

Submitted below is an aerial photo of the immediate vicinity of the ASKO/BDA properties showing high levels of impervious surfaces. Most properties exceed the requested 57% and closely approximate (or exceed) the 85% maximum.



- 1.c. *The proposal includes a two-story building; this zone is allowed to build to forty-five feet. Provide analysis on why a Reasonable Use would not include a taller building with a smaller impact.*

Response: WMC 21.04.130 outlines the purposes of the industrial zone which are “to provide for the location and grouping of industrial enterprises” and “to protect

the industrial land base for industrial economic development and employment opportunities". "These purposes are accomplished by:...(c) Limiting residential, institutional, service, office and other nonindustrial uses to those necessary to directly support industrial activities". The city's industrial zoning is clear in its intent to maximize and accommodate industrial uses.

Successful industrial development is heavily dependent on maximum *ground floor area* for efficient production, loading docks, overhead pulley systems, large scale fork lifts, conveyor systems, goods movement and other equipment. Multi-story buildings do not work well for industrial uses.

To further respond to this question, we have provided on the attached site plan (Attachment B) an analysis of a building foot print which essentially avoids *any* impact to the existing critical area. The effect of this "avoidance" is that the maximum ground floor area is reduced to 30,000 sq. ft. This does not really reduce the impact of impervious surfaces because of the parking lot, fire access lanes, loading areas and other required features of the plan (50,000 sq. ft. total). The greatest effect is on actual production area, which must be located on one floor. Again, this significantly affects the market attraction for this last remaining site in the City's industrial corridor. Allowing a ½ acre relocation of the current drainage course (ditch), will allow this ground floor area to be maximized while clearly improving the environmental conditions on the site.

- 1.d. *Provide analysis on why a Reasonable Use would not include under-the-building or some type of structured parking.*

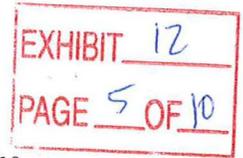
Response: As shown in the critical areas report (Nelson Geotechnical Associates, November 2012), there is subsurface geology that does not lend itself to subsurface parking and excavation.

- 2.a. *The arborist report shows trees on the subject property that are not shown on the site plan. Please correct the site plan. In addition, if there is an encumbrance due to these trees being planned by the neighboring property, it must be legally resolved prior to land use project approval.*

Response: We have adjusted the site plan (Attachment A). Any final plans submitted for construction will show legal resolution of any tree adjustments.

- 2.b. *Provide Analysis that removal of all the on-site trees is required.*

Response: The issue is that few significant trees exist on the site. The aerial photo shows a site primarily covered by grasses and brush. From the arborist report:



“The subject parcels are basically void of significant trees, with the exception of a few willows, a small cluster of young black cottonwood, two young wild crabapples and a small grove of young native bitter cherry trees in the southwest corner...Currently, tree establishment on the subject parcels is limited due to the dense infestations of reed canary grass, Scots broom and Himalayan blackberry.” (Page 2)

The arborist finds that the proposed wetland mitigation plan will result in more significant and beneficial vegetation being provided as part of the critical area relocation:

“The proposal is to remove all significant and non-significant trees in the developable area and mitigate their removal with tree plantings/wetland enhancement in the northwest portion of the property. The current tree density is well below the required minimum. Tree cover will actually be enhanced with the development of the parcel.

Prior to development, a risk assessment of the mature bitter cherry trees in the railway easement is recommended. The majority of these lean heavily towards the subject property”. (Page 2)

2.c. *Show the tree typing recommendation required in WMC 21.15.060(6).*

Response: The tree types per WMC 21.15.060(6)(a)(i) can be found on the Tree Summary Tables at the back of the IFC report, last column on the right. Mr. Layton typed all parcel trees as Type 3, primarily because removal is unavoidable due to the anticipated development activity. This is true for the native grouping of small bitter cherry trees as well. According to the consultant, bitter cherry, which is a short-lived pioneer species does not and should not meet the criteria of Type 1 tree status.

3.a. *Provide analysis that the Reasonable Use criteria (for critical areas) have been met.*

Response: Two considerations are offered: the Critical Areas alteration requirements (See 3.C below); and the Reasonable Use criteria of WMC 21.24.080 (2).

A strict application of the criteria listed in WMC 21.24.080 (2), does not show that all Reasonable Use of the property is denied. There are development options available that don't impact critical areas. As explained earlier, however, the applicant owns land within a designated industrial area where City policy is to “protect the industrial land base for industrial economic development and

employment opportunities consistent with responsible environmental practices". A relocation of ½ acres of an artificially created drainage channel (ditch) into a CAO-compliant wetland, should produce a better environmental result than merely designing around the existing situation.

- 3.b. *Provide analysis that the buffer reduction criteria are met.*

Response: The design of the building and parking areas on the property is in compliance with the buffer reduction criteria listed in WMC 21.24.330 (1). This involves reducing the 50' buffer down to 25' by providing enhancement that improves habitat. A buffer enhancement plan has been prepared by a qualified biologist, and this will improve functions and values.

We are aware that the Department of Ecology discourages reductions of 50% and are prepared to make our case once the Reasonable Use issue is decided. We will demonstrate that the environmental benefit of this reduction is greater than maintaining the existing condition.

- 3.c. *Provide Analysis that the requirements for a critical area alteration and mitigation have been met. Per WMC 21.24.340 and 350.*

Response: The proposed design of the building and parking areas on the property is in compliance with the critical area alteration criteria listed in WMC 21.24.340 (1). The mitigation for this project will improve wildlife habitat, natural drainage, and groundwater recharge functions in the wetland. The road crossing minimizes wetland impacts and no alternative access is practical. The proposed design followed the mitigation sequence listed in WMC 21.24.350 (1) by avoiding and minimizing impacts to the extent possible. The mitigation is consistent with Ecology guidelines for replacing lost functions and values, will enhance wetlands on-site, and will follow the required replacement ratios.

- 3.d. *Provide a finding on the presence of streams on-site.*

Response: Both the City of Woodinville and Muckleshoot Indian Tribe have expressed concerns with a stream mapped along the southern edge of the ASKO property. Although this stream appears on a critical area map, we found no evidence of an open channel. We assume this stream is piped under the parking lot of the adjacent warehouse and no longer exists.

Public Works

1. *No comments on the Reasonable Use permit. Full review will be completed with the Land Use Project Approval*

Response: Comment Acknowledged

Washington State Department Of Archaeology And Historic Preservation

1. *Provide a professional archeological survey of the project area prior to ground disturbing activities. Also, provide consultation with the concerned Tribes' cultural committees and staff regarding cultural resource issues. Please send all correspondence or comments from concerned tribes or other parties concerning cultural resource issues that you receive.*

Response: Acknowledged. We assume this means that a survey will be required as part of development review *after* a decision is made on the Reasonable Use exception.

Muckleshoot Tribe

1. *Additional information is needed regarding the on/offsite ditch (or potentially streams) on the project site. The Critical Areas report provides very little information about the stream flowing across the southern border of parcel 1526059095 and provides no information regarding potential impacts.*

Response: See response 3.d above. There is no evidence of an established stream on the site. Wetland A bisects the property, with the only surface water feature being a man-made ditch built prior to 1936. The other questions from the Muckleshoot Tribe assume presence of a stream and are therefore moot. We welcome their representatives to verify this information by visiting the site with our wetland scientist.

Water District

1. *Please provide Developer Extension Agreements for any modification to the existing water and sewer at the site.*

Response: Acknowledged. These will be provided if and when development plans are submitted.

Department of Ecology

1. Please address the following concerns:
 - a. *As currently designed, this project would trigger an Individual 401 Water Quality Certification because the proposed wetland fill exceeds ½ acre.*

Response: Acknowledged as a permit requirement.

- b. *The applicant is required to demonstrate avoidance and minimization of impacts to the on-site wetlands*

Response: As noted in 3.c above, the proposed design followed the mitigation sequence listed in WMC 21.24.350 (1) by avoiding and minimizing impacts to the extent possible.

1. Avoidance was attempted per Attachment B.
2. Minimization involved only relocating critical areas immediately impacted by an industrial footprint (Attachment A) bounded by an adjacent industrial property, railroad tracks, Woodinville-Redmond Road and the replacement wetland area. The industrial footprint was the minimum necessary to meet access, loading, fire land, parking and other requirements of the City.

Mitigation was accomplished by meeting the critical areas requirements of the City, enhancing the critical area and buffers to meet habitat and water quality standards; and providing replacement vegetation to ensure a higher level water quality result than exists now.

- c. *Ecology does not support reductions in buffers to exceed 25% of the standard buffer.*

Response: We understand the Ecology policy and are prepared to make our case once the Reasonable Use issue is decided. As noted, we will discuss our position that the environmental benefit of this reduction is greater than maintaining the existing condition. This will occur after a decision is made on the Reasonable Use request.

- d. *Given that the remaining wetland area is proposed for mitigation would be surrounded on four sides by intensive development, Ecology recommends that the applicant seek an off-site mitigation area that is outside the UGA for long-term protection to ensure adequate mitigation success.*

Response: We look forward to discussing this with Ecology and the City. We would note that property to the west, above the BNSF railroad, is a drainage protection easement required as part of the adjacent residential development (Hawthorne Condominiums, est. 1997). This protective easement separates the more intensive residential area from the applicant's property. We have designed the wetland replacement area to connect with

this protected, off-site area. The Hawthorne easement lies upslope from the applicant's site.

SR 202 (Woodinville Redmond Road) provides separation from the downstream properties to the east, properties which would not impact the enhanced stream system.

Finally, referring to Attachment B, the existing ditch and wetlands would be as surrounded by intensive development under a no-change alternative as with the requested plan.

Snoqualmie Indian Tribe

1. *Please provide an Inadvertent Discovery Plan due to the location of the project.*

Response: We agree to provide this plan, but would ask that it be a permit condition *after* approval of the Reasonable Use request, when we have a better idea of how it would be based on the final site plan.

Stillaguamish Tribe Of Indians

1. Due to the project site's close proximity to pre-historic burials and the site's high-end position on the DAHP Risk Assessment Model, it is our request that the following measures be taken:

- a. *Perform an archaeological survey on the project APE*

Response: We agree, but again would ask that this be made a condition after approval of the Reasonable Use request.

- b. *Provide an Inadvertent Discovery Plan*

Response: See response to the Snoqualmie Tribe.

- c. *Allow for the option of tribal monitors being present during ground disturbance*

Response: We would accommodate this request as part of future construction.

Woodinville Fire & Rescue

1. *No documented concerns or objections. Reachable for comment and review.*

Response: Comment acknowledged.

City Of Woodinville

1. *Please provide adequate handicapped parking. Based on data, 123 parking spaces equals 5 handicapped spaces.*

Response: This is now reflected on the revised site plan (Attachment A).

Public Comments

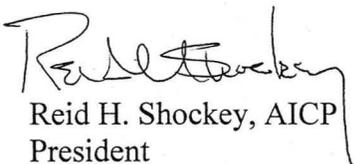
No public comments have been received.

Thank you for your ongoing assistance in ASKO's efforts to define a reasonable use for its property, in line with your industrial development, TDO and critical area protection policies. We firmly believe that allowing adjustment of critical areas mitigation will serve a multitude of purposes and provide the best outcome for all.

If you have further questions, please contact me at any time.

Sincerely,

SHOCKEY PLANNING GROUP


Reid H. Shockey, AICP
President

cc: Mike Kelly, ASKO Processing Inc.

Attachments:

Attachment A: Requested Reasonable Use Site Plan
Attachment B: No-Impact Site Plan