

**BEFORE THE HEARING EXAMINER FOR THE CITY OF MOUNTLAKE
TERRACE**

Phil Olbrechts, Hearing Examiner

RE: Sound Transit Light Rail Station and Guideway Conditional Use Permit, Site Plan and Reasonable Use PCU-18-0001, PSD-18-0001, & PSE-18-0005	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION.
---	---

INTRODUCTION

Sound Transit is requesting approval of a conditional use permit, site development plan and reasonable use exception to construct 2.2 miles of the Lynnwood Link light rail extension along I-5 and the Mountlake Terrace Station to be located at the 236th Street SW park-n-ride. The applications are approved subject to conditions.

The project drew surprisingly little public comment or controversy by the time the hearing on the applications was held on June 27, 2019. The bulk of the hearing was dedicated to experts from the City and Sound Transit disputing the need for an accessible connection from the Transit Center site to a yet to be constructed accessible trail on the adjoining Veteran’s Memorial Park. This decision finds the City’s suggested connection requirement to be valid and conforming to both statutory and constitutional restrictions requiring nexus and proportionality between project impacts and mitigation. However, this decision also finds that two million dollars in matching funds already granted by Sound Transit for accessibility improvements should be applied to the trail connection. Ultimately, the trail connection requirement is sustained but it likely won’t cost Sound Transit anymore money than it has already dedicated for this project. Page 53-54 of this Decision contains the revised condition requiring the trail connection. The legal analysis addressing the trail condition requirements is found at Conclusion of Law No. 10, pages 46-48 of this Decision. Given a condition and project of this complexity, the parties are welcome to request reconsideration if they have modifications in mind that would make it more compatible with their project objectives.

Sound Transit also contested a condition requiring wrought iron fencing in lieu of ten foot high chain link fencing. That condition is also sustained, as reasonable minds would not disagree that chain link fencing is not consistent with the character of the surrounding built and park environment as required by conditional use criteria. The legal analysis supporting this conclusion is at Conclusion of Law No. 6, pages 44-45 of this Decision.

Sound Transit is referenced as “ST” and Mountlake Terrace as “MLT” in this decision. Findings of Fact are sometimes referred to as “FOF” and Conclusions of Law “COL”.

Special acknowledgement is due Christy Osborn, MLT Community and Economic Development Director, for producing such a well-written, organized and accurate staff report. Most of the text of this decision is appropriated from her staff report.

TABLE OF CONTENTS

Introduction	1
Oral Testimony	2
Exhibits	2
Findings of Fact	3
Proposal	3
Adverse Impacts	16
Trail Connection	41
Conclusions of Law	43
Conditional Use	44
Site Plan	49
Reasonable Use	52
Decision	53

ORAL TESTIMONY

A summary of testimony has been prepared and forwarded to City planning staff to be made available to the public. A copy of the recording of the hearing can also be acquired from Mountlake Terrace City Hall at cost.

EXHIBITS

The following documents were admitted during the June 27, 2019 hearing:

All Exhibits identified in the Exhibit List attached as Attachment 1 to the staff report. Exhibit acronyms below are those used in the Exhibit List

MLT 19 – MLT Witness List
MLT 20 – MLT Legal Memorandum
MLT 21 – PowerPoint Presentation from MLT Staff
MLT 22 – Letter from Mary F.
MLT 23 – Email from Brenda W.
MLT 23 – MLT Staff Report with Attachments

ST 36 – ST Staff Report
ST 37 – ST Witness/Consultant List
ST 38 – ST Legal Memorandum over Conditions 23 and 24

- ST 39 – Joint Memorandum on Stipulated Conditions
- ST 40 – Completed Conditional Use Application Form
- ST 41 – Site Development Plan Application Form
- ST 42 – Reasonable Use Exception Applications Form
- ST 43 – Construction Agreement between MLT and ST
- ST 44 – ST Board Resolution
- ST 45 – Site Plan Graphic and Description of Work Areas
- ST 46 – Priority Habitat Tree Mitigation Agreement
- ST 47 – Station Site Vicinity and Veterans Park
- ST 48 – ST Board Motion Relating to Access-Enhancement Funding
- ST 49 – ST PowerPoint
- ST 50 – Resume of Donna Smit

FINDINGS OF FACT

Procedural:

FOF No. 1. Applicant. Sound Transit, 401 S Jackson St., Seattle WA 98104.

FOF No. 2. Hearing. A hearing was conducted on the applications on June 27, 2019 at City Council meeting chambers in Mountlake Terrace City Hall.

Substantive:

FOF No. 3. Site/Proposal Description. Sound Transit is requesting approval of a conditional use permit, site development plan and reasonable use exception to construct 2.2 miles of the Lynnwood Link light rail extension along I-5 and the Mountlake Terrace Station to be located at the 236th Street SW park-n-ride. The project consists of construction of 2.2 miles of elevated and/or at-grade guideway, the Mountlake Terrace Station at the 236th Street SW park-n-ride, other support facilities, and mitigation of impacts to properties within the City.

The proposed light rail alignment follows the I-5 corridor north from the City of Shoreline to the City of Lynnwood. Proposed improvements are located predominantly within WSDOT right-of-way. Guideway and/or support facilities are proposed at 13 individual locations in the City of Mountlake Terrace outside of the WSDOT right-of-way. See the graphic at page 5 for site locations. Work also includes traction power substations (TPSSs) and signal bungalows; construction of associated infrastructure such as roadway and sidewalk reconstruction, traffic signals, roadway illumination systems, stormwater facilities, and retaining walls; demolition of 18 structures on 23 private properties that will be acquired by Sound Transit; significant site grading; utility relocations including water, sewer, gas, street lighting, storm drainage, and underground and overhead electrical and telecommunications infrastructure; landscape and critical areas restoration and mitigation; and the establishment of construction staging areas.

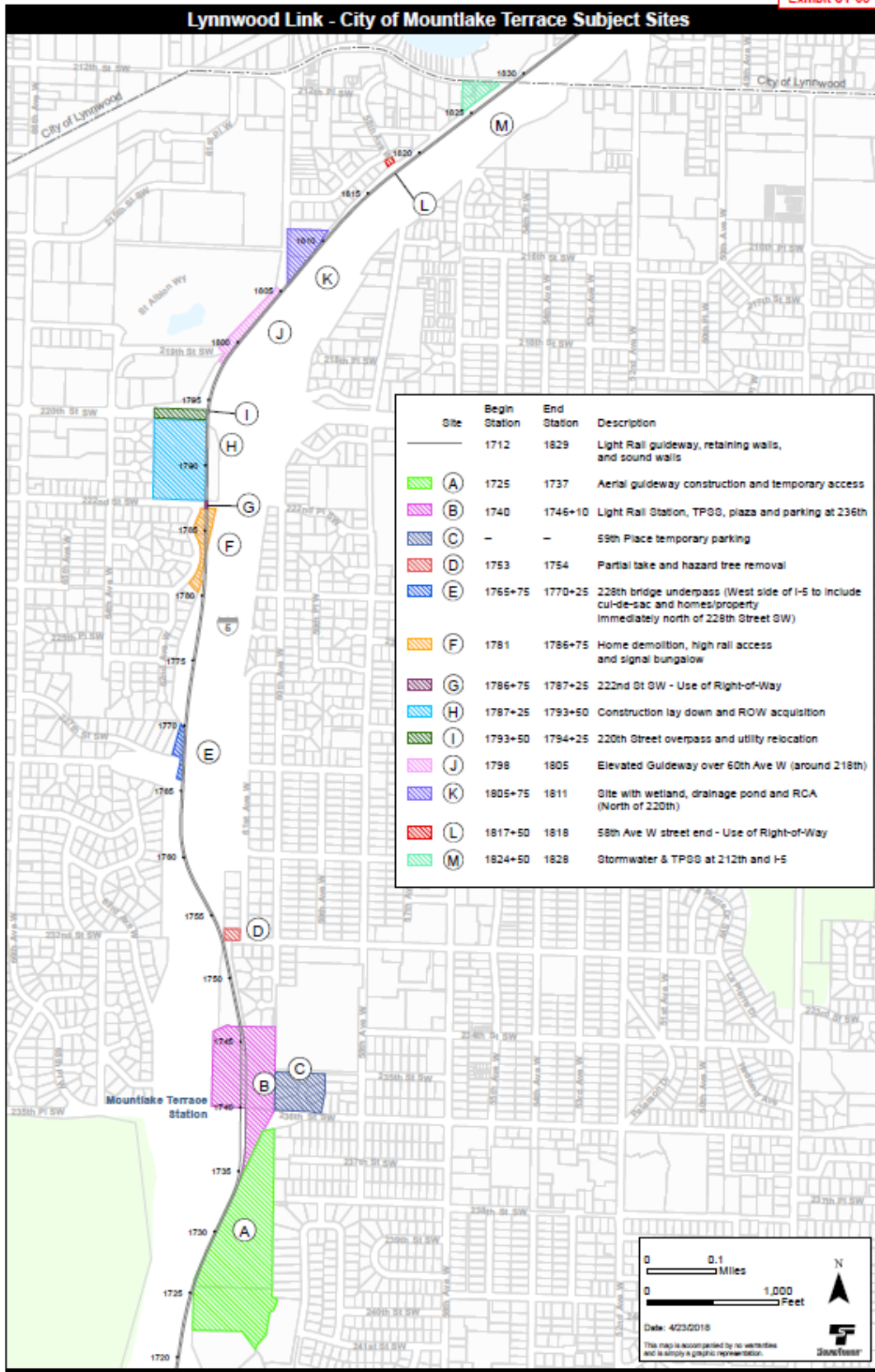
Development for the Mountlake Terrace Station includes modification of the existing surface parking lot on the east side of the station to add a transit-only circulation loop around the

perimeter of the lot; reconfiguration and expansion of the existing bus transit center to provide two active bus bays and layover space; a platform structure containing acoustic panels, noise walls, canopies, and related pedestrian amenities; passenger lobbies and ancillary spaces; and related improvements.

The thirteen sites along the guideway have been designated as Sites A through M. Sites A through M include:

- Site A – Aerial Guideway Construction and Temporary Access
- Site B – Mountlake Terrace Station, TPSS, Plaza, and Parking
- Site C – 59th Place Temporary Parking
- Site D – Partial Take and Priority Habitat Tree Removal
- Site E – 228th Bridge Underpass
- Site F – Home Demolition, High Rail Access, and Signal Bungalow
- Site G – 222nd Street SW Use of Right-of-Way
- Site H – Construction Lay Down and Right-of-Way Acquisition
- Site I – 220th Street Overpass and Utility Relocation
- Site J – Construction of Elevated Guideway over 60th Avenue W
- Site K – Site of Wetland, Drainage Pond, and Resource Conservation Area
- Site L – 58th Avenue W Street End Use of Right-of-Way
- Site M – Stormwater and TPSS at 212th Street SW

A site plan prepared by Sound Transit, Exhibit ST3, identifies the locations of each of these areas in the next page:



Each of the areas depicted in the preceding site plan are individually described as follows:

Site A

Site Description and Existing Improvements – Site A is located south of 237th Street, north of Gateway Place, and is the former location of an elementary school, which was demolished. The site encompasses approximately 632,374 square feet (14.5 acres) of land and includes two parcels (parcel numbers 27043200400700 and 27043200401600) adjacent to, and east of the Washington State Department of Transportation (WSDOT) right-of-way (ROW) within the City of Mountlake Terrace. The site is zoned Freeway/Tourist (F/T).

The topography slopes south and west towards I-5, at gradients ranging from 0.5 to 6.2 percent and is primarily covered in vegetation. Existing vegetation at Site A consists of remnant, unmaintained areas with grasses, shrubs, deciduous and evergreen trees, with many patches of noxious weeds. Vegetation along the western edge of Site A consists of mostly younger deciduous trees, with conifers at the east end of the site. Critical areas on Site A include wetlands, a stream, geologic hazard areas, and a flood hazard area. Additionally, Site A is located within an area of moderate aquifer recharge susceptibility.

Proposed Improvements – Planned improvements include one column on site and five additional columns on the western property line to support the aerial guideway, which will be over or adjacent to Site A in the WSDOT ROW. Curb and gutters removed for construction access will be replaced. Approximately 38 linear feet of retaining walls (one two-foot section and one 36-foot section) will be removed and replaced after construction of the guideway columns. No other hardscape features are planned for the site.

The proposed improvements will require approximately 100 cubic yards of cut and 200 cubic yards of fill for grading (Exhibit ST-A01), removal of 15 significant trees (Exhibit ST-29),¹ and temporary impacts in geologic hazard areas. After construction, disturbed areas will be restored and approximately 6,313 square feet of lawn seeding mix will be planted.

Construction of the Lynnwood Link Extension will take approximately six years. Work at Site A will begin in 2019 and will be completed in phases over the six-year course of construction. Construction uses at Site A include construction access and staging activities for work within or adjacent to the site boundary.

Site B

Description and Existing Improvements – Site B is the Mountlake Terrace Transit Center, located north of 236th Street SW, east of I-5, and west of 59th Place W. The site is approximately 352,555 square feet (8.0 acres) in size and is comprised of tax parcel no. 27043200100200 and

¹ Tree removal is calculated based on the Mountlake Terrace Tree Summary and Inventory by counting all trees not listed as retained. This includes trees noted for removal and trees to be removed “by others.”

adjacent City right-of-way. Existing improvements include the Transit Center, a parking garage, two surface parking lots, bus bays, a bus turn-around queueing area, covered bus shelters, passenger drop-off areas, and bike lockers and racks. The site is zoned Public Facilities and Services (PFS).

The portion of Site B on the north side of 236th Street SW is relatively flat. The topography to the northeast, north, and south slope away at gradients of 24 to 27 percent. The developed portion of the site is substantially paved, and existing vegetation consists primarily of street trees near the parking area and mature vegetation in undisturbed portion of the site. Critical areas on Site B include wetland and stream areas, wildlife habitat areas, geologic hazard areas, and an area of moderate aquifer susceptibility.

Proposed Improvements – Site B will remain a transit facility and the existing parking garage will remain. The Transit Center will be expanded to include the Mountlake Terrace Light Rail Station. Related site improvements include replacing the existing surface parking, expanding passenger pickup and drop-off areas, a public plaza for transfers, stormwater facilities, a Traction Power Substation (TPSS), and wet and dry utilities.

The proposed station will be elevated on the east side of I-5 at the 236th Street SW overpass. The station guideway and platform structures will be built across 236th Street SW, approximately 33 to 35 feet above ground level. The design of Site B includes a number of vehicular and pedestrian pathways, at-grade public plazas, and bicycle storage. The existing bus transit center will be reconfigured. The project includes construction of several retaining walls to support grade changes, approximately 52,900 square feet of landscaping, and noise walls.

Proposed improvements will require approximately 9,820 cubic yards of cut and 20,700 cubic yards of fill for grading (Exhibit ST-B01) and removal of 169 significant trees (Exhibit ST-29). Approximately 135 trees² will be removed from wildlife habitat areas categorized as priority habitat areas, and temporary impacts will occur in geologic hazard areas categorized as landslide hazard areas. No other impacts to critical areas outside the WSDOT limited access right of way on Site B are anticipated.

Construction of the Lynnwood Link Extension will take approximately six years. Work at Site B will begin in 2019 and will be completed in phases over the six-year course of construction. Construction uses at Site B include construction access and staging activities for work within or adjacent to the site boundary.

Site C

Site Description and Existing Improvements – Site C is located north of 236th Street SW, east of the Mountlake Terrace Transit Center and south of Veterans Park. The site is the location of a small residential development consisting of eight parcels and the 59th Place W right-of-way. Each

² Sound Transit has indicated that approximately 130 trees will be removed on this site, but has not updated application materials to reflect this change. A reduction by five priority habitat trees is consistent with the concurrence letter included in Exhibit ST-09.

parcel is developed with a single-family residence and related site improvements. 59th Place W is a cul-de-sac serving only the eight lots that are part of Site C. The site is zoned Community Business Downtown (CBD).

Site C slopes southward at an average grade of approximately 8.6 percent. Existing vegetation includes coniferous and evergreen trees and shrubs and ornamental landscaping. Critical areas on Site C include wildlife habitat areas categorized as priority habitat areas and geologic hazard areas.

Proposed Improvements – Site C will be used as a temporary surface parking lot with bus bays, layover space, and a bus loop to replace capacity that is unavailable at Site B during construction. The site will be substantially paved and will include approximately 24,571 square feet of temporary landscaping. Retaining walls around the perimeter of the site will support the grade changes necessary for vehicular access. No other above-ground structures are proposed.

The proposed improvements require approximately 37,440 cubic yards of cut and approximately 2,930 cubic yards of fill for grading (Exhibit ST-C01) and removal of approximately 85 significant trees (Exhibit ST-29). All of the trees to be removed are within wildlife habitat areas categorized as priority habitat areas. Temporary impacts will occur to geologic hazard areas classified as landslide hazard areas. No other impacts to critical areas are anticipated.

Construction of the Lynnwood Link Extension will take approximately six years. Work at Site C will begin in 2019 and will be completed within approximately 18 months. After construction of the Lynnwood Link Extension, and the property will be reviewed for potential disposition. Sound Transit does not propose the removal of temporary facilities.

Site D

Site Description and Existing Improvements – Site D is located east of I-5, at the intersection of 232nd Street SW and 61st Avenue W. Site D consists of approximately 10,194 square feet of a privately-owned parcel (no. 00522000302300). The site is developed with a single-family residence and related site improvements. The site is zoned Single-Household Residential (RS-7200).

The eastern (developed) portion of Site D is relatively flat. The western portion slopes steeply away at a grade of approximately 75 percent. Existing vegetation at the site includes native forest interspersed with groupings of deciduous trees on the western half of the site and ornamental landscaping on the eastern half of the site. Critical areas on Site D include wildlife habitat areas categorized as priority habitat and geologic hazard areas.

Proposed Improvements – Site D will be used temporarily during construction for access to adjacent work areas. Subsurface tieback anchors to support the adjacent guideway retaining wall will be installed on Site D. No other structures are proposed.

Site D will require approximately two cubic yards of cut for grading (Exhibit ST-D01). No fill is required. Approximately three trees will be removed, all from the wildlife habitat areas categorized as priority habitat. Temporary impacts will occur to geologic hazard areas categorized

as landslide hazard areas. There have been no documented landslides at or in the vicinity of the project site and, based on soil density and composition, construction of the Lynnwood Link Extension is not anticipated to cause significant landslide hazards. No other impacts to critical areas are anticipated.

Construction of the Lynnwood Link Extension will take approximately six years. Work at Site D will begin in 2019 and will be completed in phases over the six-year course of construction. Construction uses at Site D include access and staging activities for work adjacent to the site boundary. After construction of the Lynnwood Link Extension, the property will be restored with 866 square feet of landscaping.

Site E

Site Description and Existing Improvements – Site E is located at the 228th Street SW bridge underpass and is approximately 23,342 square feet in size. Site E includes the residential lot north of 227th Street SW (parcel no. 00524000000500), vacant land south and west of the cul-de-sac, and a small portion of 228th Street SW. The residential lot is developed with a single-family home and related site improvements. The real property in Site E is zoned Single-Household Residential (RS-7200).

From 228th Street SW, the topography slopes northward down to 227th Street SW at a 50 percent average grade. The north end of Site E slopes southward down to 227th Street SW at a 40 percent average slope. Existing vegetation at Site E consists of coniferous evergreen trees intersperse with groupings of deciduous trees, shrubs, and mowed grassy areas. Critical areas on site include geologic hazard areas and an area of moderate aquifer recharge susceptibility.

Proposed Improvements – Site E will be temporarily used for construction, staging, and access to the light rail guideway. Permanent improvements include enlarging the cul-de-sac to provide adequate room for fire truck turn-around, installing a new fire hydrant and associated water main connection, and installing a new stormwater inlet to collect runoff.

Site E will require approximately 140 cubic yards of cut and approximately 680 cubic yards of fill for grading (Exhibit ST-E01) and removal of approximately 19 significant trees (Exhibit ST-29). Temporary impacts to erosion hazard areas and landslide hazard areas categorized as geologic hazard areas will occur. No other critical areas impacts are anticipated.

Construction of the Lynnwood Link Extension will take approximately six years. Work at Site E will begin in 2019 and will be completed in phases over the six-year course of construction. Construction uses at Site E include access and staging activities for work on or adjacent to the site boundary.

Site F

Site Description and Existing Improvements – Site F is located between 62nd Avenue W on the west side and I-5 on the east side and bounded by 224th Street SW and 222nd Street SW to the south and north. Site F is approximately 66,146 square feet (1.5 acres) and is comprised of seven

residential parcels and City right-of-way. The site is developed with a total of six single-family residences and related site improvements. Real property in Site F is zoned Single-Household Residential (RS-7200).

The site generally slopes gently at a two percent grade from south to north. At the north end, portions of the eastern edge of the properties slope toward I-5 at a grade of 28 percent. Existing vegetation consists of mixed coniferous evergreen and deciduous forest, ornamental vegetation, and lawn areas. Geologic hazard areas are present on the eastern edge of the site.

Proposed Improvements – Proposed improvements at Site F include a portion of guideway along the eastern edge of the site, a signal bungalow and associated maintenance vehicle parking, a high-rail access point for the guideway, street improvements, drainage improvements, and related site improvements. Street improvements include a five-foot sidewalk along the east side of 62nd Avenue W and street lighting. Drainage improvements will be in the form of a bioswale north of the signal bungalow. Approximately 17,437 square feet of landscaping will be installed west of the guideway and approximately 7,615 square feet of landscaping will be installed east of the guideway.

Work at Site F will include approximately 120 cubic yards of cut and 660 cubic yards of fill for grading (Exhibit ST-F01) and removal of approximately 28 significant trees (Exhibit ST-29). Temporary impacts will occur to landslide hazard areas categorized as geologic hazard areas. No other impacts to critical areas are anticipated.

Construction of the Lynnwood Link Extension will take approximately six years. Work at Site F will begin in 2019 and will be completed in phases over the six-year course of construction. Construction uses at Site E include access and staging activities for work on or adjacent to the site boundary.

Site G

Site Description and Existing Improvements – Site G is the easternmost end of 222nd Street SW, adjacent to the I-5 right-of-way. Site G is approximately 8,076 square feet (0.2 acre) in size and is undeveloped and unpaired.

Site G has rolling topography. The north side slopes southward toward the center of the site at a grade of approximately 30 percent, and eastward at an approximate average slope of 12 percent. Existing vegetation includes coniferous evergreen and deciduous trees and grassy areas. Geologic hazard areas are present on Site G.

Proposed Improvements – Site G is located beneath the guideway and no buildings or above-ground structures are proposed. Drainage improvements will be installed to accommodate stormwater from the 62nd Avenue W street improvements at Site F, and will include new drainage catch basins, storm drainpipe, and a new bioretention swale.

Work at Site G will include approximately 50 cubic yards of cut and 450 cubic yards of fill for grading (Exhibit ST-G01) and removal of approximately 10 significant trees (Exhibit ST-29).

Temporary impacts to landslide hazard areas will occur during construction. No other impacts to critical areas are anticipated.

Construction of the Lynnwood Link Extension will take approximately six years. Work at Site G will begin in 2019 and will be completed in phases over the six-year course of construction. Construction uses at Site E include access and staging activities for work on or adjacent to the site boundary.

Site H

Site Description and Existing Improvements – Site H is located at 6205 222nd Street SW, west of I-5 and is comprised of a single parcel (no. 00378200300600). Site H is the location of the former Melody Hill Elementary School, which has been demolished. The site is approximately 293,894 square feet (6.7 acres) in size. The property is now primarily vacant, with some remnants of the school use including a parking area, building foundations, and sports field. The site is zoned General Commercial (CG).

Site H is relatively flat at the center and slopes down to the northwest and southwest with an average slope of approximately 0.5 percent. A mix of coniferous evergreen and deciduous trees grow along the north, west, and east side boundaries. Lawn and shrub areas are interspersed. Critical areas on site are limited to geologic hazard areas in a narrow band through the middle of the site and at the northern edge of the property along 220th Street SW.

Proposed Improvements – Site H is a primary construction staging location for the Lynnwood Link Extension, and will also include a portion of guideway along the eastern edge. Other permanent improvements are limited to retaining walls supporting the guideway, utilities, a new fire hydrant, and stormwater improvements. Temporary construction-related uses could include siting construction trailers, construction worker parking, storage and maintenance of materials and equipment, track welding, and similar activities.

Work at Site H will include approximately 55 cubic yards of cut and 2,280 cubic yards of fill for grading (Exhibit ST-H01) and removal of approximately 54 significant trees (Exhibit ST-29). Temporary impacts to landslide hazard areas categorized as geologic hazard areas will occur during construction.

Construction of the Lynnwood Link Extension will take approximately six years. Work at Site H will begin in 2019 and will continue until revenue service begins in 2024. Construction uses at Site H could include but are not limited to the uses described above. Additional information will be provided by Sound Transit or their selected contractor as construction-related plans are developed. After construction of the Lynnwood Link Extension, the property will be restored with a hydroseed mix.

Sound Transit will retain this property, which is listed as a “provisional” station in the ST3 system expansion.

Site I

Site Description and Existing Improvements – Site I is the eastern terminus of 220th Street SW right-of-way ending at the I-5 ramps and is approximately 49,083 square feet (1.1 acres) in size. The City of Mountlake Terrace does not apply a zoning designation to right-of-way.

Site I is relatively flat and slopes westward at a grade of approximately 5 percent. Existing vegetation is limited to the south side of 220th Street SW and consists of a few coniferous and deciduous trees. Geologic hazard areas are mapped on the east side of Site I, adjacent to Site H.

Proposed Improvements – Site I will be used temporarily for construction staging and access. Permanent improvements include installing a storm drainage connection, re-routing a water line, installing an irrigation meter, and restoration of pavement, sidewalks, and curb and gutter after construction. The guideway will pass over Site I and one guideway column will be constructed at the southeast end of the site.

Work at Site I will require approximately 20 cubic yards of cut and 15 cubic yards of fill for grading (Exhibit ST-I01) and removal of approximately one significant tree (Exhibit ST-29). Landslide hazard areas categorized as geologic hazard areas will be temporarily impacted during construction. No other critical areas impacts are anticipated.

Construction of the Lynnwood Link Extension will take approximately six years. Work at Site I will be performed in stages and will take one to two years to complete. Access to the guideway through Site I is anticipated for the duration of construction.

Site J

Site Description and Existing Improvements – Site J is located north of 220th Street SW, west of I-5 and consists primarily of City right-of-way and a small portion of parcel no. 00747600000100. The real property is zoned General Commercial (CG).

Site J is relatively flat, generally sloping at a grade of one to four percent. The northeast one-third of the site slopes uniformly at a six percent grade and the southeastern corner slopes up at a 10 percent grade. The site is paved, with small areas of existing vegetation along the east side of 60th Avenue W. Critical areas on site include a portion of one wetland and its buffer and geologic hazard areas.

Proposed Improvements – Proposed improvements at Site J include utility relocations, stormwater improvements, roadway illumination system modifications, sidewalk improvements along 60th Avenue W, an access drive on 60th Avenue W for a stormwater vault east of Site J, a new crosswalk, a new fire department connection, and fencing and landscape restoration. Site J will be used for construction staging and access.

Work on Site J will include approximately 30 cubic yards of cut and 20 cubic yards of fill for site grading (Exhibit ST-J01) and removal of approximately five significant trees (Exhibit ST-29). Temporary impacts to the on-site wetland and its buffer and to the landslide hazard area categorized as a geologic hazard area will occur during construction. No other critical areas impacts are anticipated. After construction, the wetland impacts will be mitigated pursuant to MTMC 16.15.400 and the site will be restored to pre-construction condition or better.

Construction of the Lynnwood Link Extension will take approximately six years. Work at Site J will be performed in stages and will take one to two years to complete. Access to the guideway through Site J is anticipated for the duration of construction.

Site K

Site Description and Existing Improvements – Site K is located west of I-f, south of 214th Street SW and east of 60th Avenue W. The site is comprised of two parcels (no. 00619900005000 and 0069900004800) and City right-of-way. Site K is undeveloped and is zoned General Commercial (CG).

Site K is relatively flat with a low area in the center and is covered with mature trees and vegetation. Existing vegetation consists primarily of stands of conifers mixed with deciduous trees and interspersed shrubs. Critical areas at Site K include a wetland, a stream, and small areas of geologic hazard areas.

Proposed Improvements – Site K will be used for temporary construction staging, guideway construction access, stormwater detention, resource conservation area (RCA) mitigation, and wetland and combined wetland/stream buffer mitigation in the form of enhancement where practical. Stormwater detention includes a stormwater pond, access road, and storm drainpipes. Frontage improvements will be installed along 60th Avenue W and will include street trees, illumination, sidewalk improvements, a new crosswalk, and landscaping. Site K wetlands and buffers will be enhanced by removing invasive species throughout the entire wetland, planting native vegetation, including trees, within the temporarily impacted wetland and its buffer area, and installing habitat features such as brush piles, snags, and large woody debris.

Work on Site K will require approximately 120 cubic yards of cut and 665 cubic yards of fill for site grading (Exhibit ST-K01) and removal of approximately nine significant trees (Exhibit ST-29). Temporary impacts will occur in the on-site wetland and its buffer and will be mitigated pursuant to MTMC 16.15.400. Approximately 0.011 acres of permanent wetland vegetation conversion will occur within the wetland on the eastern edge of Site K near the guideway. Approximately 0.078 acre of the wetland and 0.468 acre of the wetland buffer will be temporarily impacted by construction activities for the stormwater pond. Approximately 0.209 acre of the wetland buffer will be permanently impacted to construct the stormwater pond, access road, and sidewalk improvements. Removal of trees within the buffer area will cause a functional loss of 0.082 acre of the buffer. Mitigation consists of replacing trees on site and enhancing 0.358 acre of the wetland to ensure overall functional lift. Temporary impacts will be restored. Temporary impacts to geologic hazard areas will occur during construction. No other impacts to critical areas are anticipated.

Construction of the Lynnwood Link Extension will take approximately six years. Work at Site K will begin in 2019 and will be performed in stages for the duration of the project. Access to the guideway through Site K is anticipated for the duration of construction.

Site L

Site Description and Existing Improvements – Site L is the eastern end of 58th Avenue W, adjacent to I-5, and is approximately 4,900 square feet (0.11 acre) in size. The right-of-way is vacant. The City of Mountlake Terrace does not apply a zoning designation to right-of-way.

Site L is relatively flat and slopes uniformly northwest at a grade of approximately seven percent. Existing vegetation is limited to unpaved portions, which are covered with shrubs and low groundcovers. Critical areas on Site L include portions of geologic hazard areas along the edges of the site.

Proposed Improvements – Proposed improvements at Site L include an emergency access path to the guideway. Minimal site grading is proposed, and no trees will be removed. After construction, the site will be restored to pre-construction condition or better. Temporary impacts to landslide hazard areas categorized as geologic hazard areas will occur during construction.

Construction of the Lynnwood Link Extension will take approximately six years. Work at Site L will be completed over the course of several weeks toward the end of the project. Access to the guideway through Site L is anticipated for the duration of construction.

Site M

Site Description and Existing Improvements – Site M is located northwest of I-5, south of 212th Street SW, and east of 58th Avenue W. Site M is approximately 37,709 square feet (0.9 acre) in size and is comprised of four parcels (no. 27042800202100, 27042800202200, 27042800202300, 27042800202400) and City right-of-way on 212th Street SW. The site is developed with three single-family residences, a cul-de-sac roadway, and related site improvements. The real property in Site M is zoned Medium Density Multi-Household (RMM).

Site M slopes moderately northward at an average slope of 13 percent and the eastern portion of the site slopes toward I-5. Existing vegetation consists of mixed coniferous evergreen and deciduous forest, ornamental landscaping, and lawn. Portions of Site M are located within geologic hazard areas. There are no other critical areas on site.

Proposed Improvements – Site M will be developed with multiple retaining walls, a screening wall, a traction power substation (TPSS), a stormwater facility, lighting, and utility upgrades. The retaining walls will support the grade changes necessary for access and construction. Retaining walls on the north side will serve as screening for on-site improvements. The stormwater facility is a detention vault and requires maintenance access.

Work on Site M will require approximately 6,700 cubic yards of cut and 340 cubic yards of fill for site grading (Exhibit ST-M01) and removal of 15 significant trees (Exhibit ST-29). Temporary impacts to landslide hazard areas categorized as geologic hazard areas will occur during construction. No other critical areas impacts are anticipated.

The Applicant's reasonable use request is composed of several requested waivers to Critical Area Ordinance requirements as follows:

Site	Request	Summary of Impact
A	Class IV Landslide Hazard Areas	Construction access and staging, columns and aerial guideway, replacement of curb and gutter, access road apron
	Critical Seismic Hazard Areas	
B	Class IV Landslide Hazard Areas	Parking, bus loop
	Critical Wildlife Habitat Areas	Tree removal
C	Class IV Landslide Hazard Areas	Temporary parking lot, retaining walls, site grading
	Critical Wildlife Habitat Areas	Tree removal
D	Class IV Landslide Hazard Areas	Tieback anchors, construction access
	Critical Wildlife Habitat Areas	Tree removal
E	Class IV Landslide Hazard Areas	Expansion of 227 th Street SW, installation of guideway retaining wall tieback anchors, and construction access
F	Class IV Landslide Hazard Areas	Construction of signal bungalow, stormwater features, streetscape elements, and construction access
G	Class IV Landslide Hazard Areas	Grading (fill), stormwater improvements, construction staging
H	Class IV Landslide Hazard Areas	Construction staging and laydown yard, guideway
I	Class IV Landslide Hazard Areas	Stormwater and street frontage improvements, construction access and staging
J	Class IV Landslide Hazard Areas	Utility relocations, sidewalk improvements, stormwater vault and access, fencing, landscaping
K	Class IV Landslide Hazard Areas	Construction and staging, guideway access, stormwater detention and drainage, mitigation
L	Class IV Landslide Hazard Areas	Guideway access, grading and restoration, emergency access
M	Class IV Landslide Hazard Areas	Construction and staging, retaining walls, grading, TPSS, stormwater flow control
	Critical Seismic Hazard Areas	

FOF No.4. Environmental Review. In coordination with the City, Sound Transit prepared an environmental impact statement (EIS), as well as other environmental documents, as lead agency for the Project. In the Permit Agreement, consistent with WAC 197-11-600, the City agreed to use and rely on the following project environmental documents to satisfy its SEPA responsibilities for review and decisions on permit applications related to the project:

- North Corridor Transit Project Alternatives Analysis Report and SEPA Addendum (September 2011)
 - Project Draft Environmental Impact Statement (July 26, 2013)
 - Project Final Environmental Impact Statement (April 1, 2015)
 - Federal Transit Administration Record of Decision (July 10, 2015)

- Federal Highway Administration Record of Decision (August 31, 2015)

The Final Environmental Impact Statement has since been supplemented by a SEPA Addendum, which was issued by Sound Transit in May 2018 to cover project-wide changes. WAC 197-11-625 authorizes modifications or additions to an issued FEIS with an addendum. The May 2018 SEPA Addendum identifies the following project refinements in Mountlake Terrace: the relocation of Stream SMT1 south of the Mountlake Terrace Station, trail enhancements at Veterans Memorial Park, and the alignment shift north of the Mountlake Terrace Station where the elevated guideway crosses I-5.

FOF No. 5. Adverse Impacts. All significant adverse impacts have been mitigated to the maximum extent practicable. Pertinent impacts are addressed below:

- A. Compatibility. The proposal is compatible with surrounding uses to the extent practicable. Overall, the project is designed as much as possible to blend in with the established character of the surrounding community and the landscape. The guideway alignment makes use of the I-5 corridor as much as possible, with limited encroachments onto real property in the City of Mountlake Terrace. The guideway and station locations are the City’s preferred alignment and location alternatives.

Measures taken to ensure compatibility within the most significantly disturbed areas of the project are as follows

- i. Guideway

The guideway was developed with an integrated design strategy that provides multi-modal access and connections and creates a community amenity. Design features complement the existing transportation network by minimizing disruptions to arterial roadways and integrating city streetscape landscaping and furnishing requirements into the design. Landscaping plans complement the existing landscape by protecting trees and mitigation for tree removal. The alignment complements the existing communities by blending into the I-5 corridor and providing noise mitigation.

- ii. Mountlake Terrace Station (Site B)

The station will be co-located at the Mountlake Terrace Transit Center and will maintain this current use as a transit facility. The design of the station includes aesthetic treatments (material selection, scale, and modulation of the station, provision of public plazas and art) to ensure the station does not adversely impact the surrounding residential neighborhood. Signage will be integrated into the station design. Landscaping impacts will be limited through the protection and enhancement of existing mature vegetation wherever possible.

During construction, Sound Transit will provide temporary and interim parking facilities that will mitigate impacts to parking around the station. The existing surface parking lot will be replaced after construction and will be functionally improved. No additional parking will be provided.

Construction of the station includes improvements to pedestrian connections and sidewalks, new bicycle storage facilities, garbage and recycling receptacles, and amenities for system users (seating, weather protection, restrooms).

Pedestrian Access. Pedestrian access to the Mountlake Terrace Transit Center is currently provided by a multi-use trail through Veterans Park. Sound Transit needs to close a portion of the trail during construction to safely construct the project. Closure of the trail between Veterans Park and the Transit Center may result in illicit use; securing the closed section of the trail for the duration of construction on Sites B and C is essential to protect public safety. Conditions of approval require the secured closure.

Sound Transit proposes the use of chain-link fencing around the site, including areas that are publicly accessible or visible to the general public. Chain-link fencing is a utilitarian fencing style inconsistent with high-quality design and is undesirable for the pedestrian experience in a very public space such as the station. The use of chain-link fencing is inconsistent with the vision in the Town Center design standards. While site security is important to protect the public, fencing should blend aesthetically with the surroundings and provide an open, welcoming, and beautiful space for system users. Wrought iron fencing is also located on all other sides of Veteran's Memorial Park and chain link fencing would not be consistent either with the rest of this fencing. A condition of approval requires more aesthetic fencing.

As currently designed, utility elements are inadequately screened or treated to blend into the site and surrounding community. Visible and untreated utility vaults are unsightly and inconsistent with the Town Center's intent to encourage visual interest on the ground level in support of a pedestrian-oriented streetscape. Utility elements should be screened to blend into the background or be wrapped to provide an element of visual interest and reduce aesthetic impacts on the community. Additional screening is required as a condition of approval.

Existing fused glass art tiles at the Mountlake Terrace Transit Center are not anticipated to be removed or otherwise disturbed by Sound Transit (Exhibit ST-34). A condition of approval will ensure that the art is preserved and reused if plans change during construction.

Electric Vehicle Charging Stations. There are 20 existing electric vehicle charging stations that will be relocated by Sound Transit when the existing surface parking lot at the Mountlake Terrace Transit Center is demolished. Sound Transit intends to relocate the charging stations to the 20-stall surface parking lot south of the garage, which will not be disturbed during construction. To continue supporting the use of electric vehicles, a conditions of approval requires the charging stations remain operable for the duration of construction. The charging stations will be allowed to be inoperable for no more than nine months during relocation.

iii. Temporary Parking Lot (Site C)

The temporary parking lot will mitigate for the temporary loss of the surface parking lot at the Mountlake Terrace Transit Center (used as staging during construction). The temporary parking lot will have no impact on the surrounding residential neighborhood. The temporary parking lot will be similar in size to the surface parking lot demolished at the Mountlake Terrace Transit Center and traffic, noise, and lighting within the neighborhood are not anticipated to change in intensity. Additional screening vegetation will mitigate impacts related to the temporary expansion of the transit use. After demolition of the temporary parking lot, the parcel will be redeveloped as a use consistent with the Town Center vision and design standards. Vegetation and signage will be maintained. There will be an increase in parking temporarily while the station is under construction. There will be no impacts to fencing, walkability, or other public amenities. Construction-related impacts will be adequately mitigated through the conditions of approval.

iv. Signal Bungalow (Site F)

Proposed improvements at Site F include at-grade guideway, a signal bungalow with driveway and parking, infrastructure improvements, a high-rail access point, and related noise and retaining walls. These proposed site improvements will not adversely impact the established character of the community. The signal bungalow will be screened, and landscaping will be installed around the signal bungalow and the site. Trees removed from Site F will be mitigated through replacement in other parts of the city. There will be no signage, parking, fencing, walkability, or public amenities impacts from the improvements.

Site F is comprised of single-family properties and is located within a residential neighborhood. A portion of the properties will be dedicated as right-of-way and portions of the remnant will be used for wayside facilities and a high-rail maintenance access point. Wayside facilities include a signal bungalow and surface parking for maintenance vehicles. The signal

bungalow is a modular building and is proposed to be screened with an eight-foot-high chain-link fence with vine plantings.

Wayside facilities and related improvements should fit aesthetically within the neighborhood or should be adequately screened to mitigate aesthetic impacts on community character. The signal bungalow is a prefabricated aluminum building, which is inconsistent with the architectural character of the community. Sound Transit proposes to screen the signal bungalow with an eight-foot-high chain-link fence with evergreen clematis vine plantings. It is unclear if the fence/vine combination is intended to provide 100 percent sight-obscuring screening; the City anticipates that the fence/vine combination will not achieve this level of screening. The aesthetics of the modular building require full and complete screening; additional screening provided by a masonry wall is necessary to mitigate aesthetic impacts as required by the conditions of approval.

According to project drawings, the signal bungalow includes exterior mechanical equipment (Exhibit ST-24). Noise from the mechanical equipment should not increase ambient noise levels outside the Site F property boundaries, i.e. should not reach neighboring residential properties as required by the conditions of approval.

Site F includes screening and ornamental landscaping intended to soften the appearance of noise walls and the signal bungalow. This and other tree planting throughout the city will mitigate for the proposed tree removal.

v. Melody Hill Staging Area (Site H)

Site H is located in the Melody Hill neighborhood. Single-family homes surround the site on the south and west; Site H shares a property line with eight residential properties on the west side.

Site H will be used temporarily for construction staging and a portion of the guideway will be built on the easternmost side of Site H, adjacent to the I-5 right-of-way. Construction staging is a broad category of uses that could include any or all of the following: site office, coordination, and worker meeting location; materials/equipment staging and storage; equipment and vehicle servicing; debris collection and storage; worker parking; fabrication or assembly of components; and other uses. Each of these uses includes potential noise, vibration, lighting, odors, aesthetic, transportation, and air quality impacts that need to be adequately mitigated for the community.

Sound Transit wants to maintain flexibility for its contractor to use the site and no detailed information about the intended specific construction staging use(s) of the site has been provided. Without understanding the specific staging activities that will or may occur on Site H, the City considers any and all construction staging uses and has proposed conditions of approval to mitigate highest potential impacts of proposed uses. Conditions of approval require adequate buffering for surrounding residences for any type of construction staging use, including both vegetation and a solid visual and noise barrier. This will address potential impacts from noise, vibration, lighting, odors, aesthetics, and, to a limited extent, air quality resulting from activity occurring in the staging area. Limiting construction vehicle traffic in the residential neighborhood by restricting access to the north driveway will protect the neighborhood from transportation impacts, including vehicular traffic and walkability. Limiting the duration of use of the site to the Lynnwood Link Extension's Mountlake Terrace segment will ensure impacts remain temporary and do not create long-term impacts to residents for segments unrelated to the immediate community. Requirements are also recommended to ensure temporary site or work lighting is aimed downward to avoid trespass onto neighboring properties.

Conditions also require a site-specific Staging Area Management Plan identifying the types of activities and estimated phasing and duration of use on Site H. A site-specific Staging Area Management Plan will help in coordination between the City and Sound Transit and will enable both the City and Sound Transit to more accurately respond to questions, comments, or complaints from affected residents.

vi. North TPSS Site (Site M)

Work at Site M will include retaining walls, a screening wall, a TPSS, a stormwater facility, and the relocation of a fire hydrant and water main. The TPSS and related facilities will be screened from the street by the retaining walls and/or vegetation. There will be no adverse impact to surrounding building character, landscaping, signage, parking, fencing, walkability, or public amenities.

Site M is comprised of single-family properties and is located in a residential neighborhood. Proposed improvements include a traction power substation (TPSS), site walls, and related improvements. The TPSS is a prefabricated building composed of galvanized steel sheet panels, which is inconsistent with the architectural character of the community. Sound Transit proposes to screen the TPSS with a 12-foot-high decorative concrete block wall (also called a polished-face block wall in application materials).

According to project drawings, the TPSS includes exterior mechanical equipment (Exhibit ST-24). Noise from HVAC, generator, or other

mechanical equipment associated with the TPSS should be attenuated to mitigate auditory impacts on neighboring properties. It is anticipated that noise will be adequately attenuated by the concrete wall.

vii. Construction.

In addition to the design features addressed above, staff has recommended a series of mitigation measures designed to ensure compatibility during project construction. These mitigation measures are based upon recommended mitigation from the environmental review documents (see Finding of Fact No. 6) in addition to additional measures found necessary by staff to assure compliance with pertinent permit review criteria. The construction mitigation measures recommended by staff are adopted by this decision.

- B. Noise, Vibration and odors. The proposal is adequately designed and mitigated to prevent any significant noise, vibration and odor impacts to the extent practicable. Sound Transit has designed and located the Lynnwood Link Extension within the I-5 right-of-way as much as possible, reducing long-term operational impacts on the community. Permanent noise mitigation includes noise walls, acoustical panels, and similar methods constructed at the guideway where noise is anticipated to be loudest. Sound Transit has also identified vibration mitigation such as the use of resilient materials like rubber or specially designed trackway sections.

City staff anticipates that most noise, vibration, and odor-related impacts will be caused by construction. Sound Transit has identified 143 single-family homes and four apartment buildings within 250 feet of the project that are likely to experience increased noise, vibration, or odors associated with the project. Table 1, below, summarizes the number of impacted residences by site:

Table 1: Residences anticipated to be impacted by construction noise, vibrations, or odors.³

Site	Impacted Residences (w/in 250 feet)
Site A	20
Site B	4
Site C	16
Site D	17
Site E	6
Site F	16
Site G	3

³ Impacted residence count based on information presented in site-specific narratives. Refer to Exhibits ST-A01, ST-B01, ST-C01, ST-D01, ST-E01, ST-F01, ST-G01, ST-H01, ST-I01, ST-J01, ST-K01, ST-L01, and ST-M01.

Site H	30
Site I	5
Site J	4 ⁴
Site K	6
Site L	10
Site M	10
Total	143 single-family homes 4 apartment buildings

Sound Transit has proposed construction-related noise and vibration mitigation but has not provided sufficient detail for the City to determine if these impacts will be adequately mitigated. As addressed under compatibility, above, this decision adopts conditions of approval recommended by staff to reduce and eliminate these impacts on the community to the extent practicable.

Any changes to odors in the vicinity of the project are expected to be related to construction, rather than operation of the light rail. Odors will be caused by equipment, machinery, vehicles, and materials used for construction and will be localized to a given site. Odors will dissipate as equipment, machinery, and vehicles are turned off and as materials dry, cure, or are cleaned. No additional mitigation is necessary.

Specific impacts are addressed as follows:

i. Construction.

Construction mitigation will include temporary noise barriers, and vehicle broadband backup alarms or smart alarms. Other mitigation measures may be used as appropriate. Temporary noise barriers will replace removed permanent noise walls where feasible, and may be placed in other locations where existing noise walls do not occur along the corridor to mitigate noise impacts during construction. Construction activity will be scheduled to restrict noisy activity to daytime hours as much as reasonable. Night work is necessary due to Maintenance of Traffic requirements on I-5 and arterial roadways and noise control will be implemented where feasible.

A Construction Noise and Vibration Mitigation and Monitoring Plan will be prepared by the contractor and will specify construction activities, monitoring locations, equipment procedures, characterization of equipment noise, schedule of measurement, reporting methods, and response to community concerns.

⁴ Apartment buildings

Potential short-term odors could occur from construction materials and equipment. Odors are localized and will dissipate when work is completed in each area.

ii. Guideway.

Sound Transit has assessed and is mitigating noise and vibration impacts associated with construction and operation of the project. Operational noise mitigation includes acoustic panels integrated into the final design of guideway structures or adjacent noise walls. Operational vibration mitigation includes using resilient materials or alternative track slab configurations where necessary.

Long-term odors are consistent with other transportation facilities and are not expected to adversely impact the community.

iii. Mountlake Terrace Station

The Mountlake Terrace Transit Center, where the Mountlake Terrace Station will be located, has existing noise levels consistent with a noisy urban residential area. Sound Transit is acquiring the residences likely to be impacted by increased noise levels at the station as part of Site C, and no other residences are anticipated to experience operational noise impacts. The station is designed to reduce noise from I-5, and includes a noise wall to be constructed along the station platform. A noise wall extending at least nine feet above the parking lot surface along the east side of the site will also reduce impacts on existing homes. Permanent noise walls will be provided along the guideway alignment consistent with the ROD.

Odors associated with the surrounding community are related to I-5. Any odors associated with Sites B and C will be consistent with other transportation facilities and are not expected to adversely impact the community.

iv. Signal Bungalow (Site F)

Site F has existing noise levels consistent with a suburban/urban environment. There are 16 residences within 250 feet of Site F that may be impacted by noise and vibration during construction. A temporary noise barrier will be installed along the perimeter of Site F during construction, and permanent noise impacts are not anticipated.

Odors associated with the surrounding community are related to I-5. Any permanent odors associated with the signal bungalow will be consistent with other transportation facilities and are not expected to adversely impact the community.

v. Melody Hill Staging Area (Site H)

Site H has existing noise levels consistent with the I-5 corridor and a suburban/urban environment. There are 30 residences within 250 feet of Site H that may be impacted by noise and vibration during construction. Impacts on Site H are primarily related to construction and construction impacts that will be mitigated through the provision of temporary noise barriers; permanent noise impacts are not anticipated.

Odors associated with the surrounding community are related to I-5. Any permanent odors from long-term operation of the project will be consistent with other transportation facilities and are not expected to adversely impact the community.

Site H, as a major staging area, is likely to cause more acute noise, vibration, and odor impacts on the surrounding residential community. Construction is anticipated to occur at night and may also involve particularly noisy activities. The use of large machinery may increase vibrations felt by surrounding residents. Odors related to the equipment, materials, or activities used or conducted on the site may also impact surrounding residents. Sound Transit estimates 30 homes will be impacted by work at this site. In addition to the general conditions of approval, adopted site-specific conditions require Sound Transit to install adequate buffers and temporary noise barriers around the perimeter of the property and limit vehicle traffic in the residential neighborhood.

vi. North TPSS Site (Site M)

Site M has existing noise levels consistent with the I-5 corridor and an urban environment. There are 10 residences within 250 feet of Site M that may be impacted by noise and vibration during construction and temporary noise barriers will be provided to mitigate such impacts. Permanent noise impacts are not anticipated.

Odors associated with the surrounding community are related to I-5. Any permanent odors from long-term operation of the project will be consistent with other transportation facilities and are not expected to adversely impact the community.

- C. Traffic. The proposal will not create significant adverse traffic impacts and, of course, will overall improve upon traffic conditions as that is its primary purpose. Sound Transit completed a traffic engineering report (Exhibit ST-13) confirming that key intersections around all sites will perform at adopted level of service (LOS) standards during construction and after revenue service begins.

City staff anticipates traffic-related impacts to occur during construction and after starting revenue service based on the EIS and application documents. During construction, impacts will occur at all project sites to a greater or lesser degree. After starting revenue service, impacts are anticipated to occur primarily around the Mountlake Terrace Transit Center (Site B).

Construction will impact many City roads through lane closures, detours, temporary blockages by equipment or vehicles, and similar activities occurring in the City right-of-way that are necessary to build the Lynnwood Link Extension. Sound Transit has proposed mitigation measures consistent with the ROD but has not provided adequate detail to fully understand when and how impacts will occur and the degree or duration of those impacts. Conditions of approval are adopted for activities occurring in the right-of-way, including establishing when and how the right-of-way can be used, requiring review and approval of various traffic mitigation plans, requiring ample communication with City staff and residents, and requiring adherence to safety measures and best management practices. See discussion under compatibility, above, and Attachment 4 to the staff report.

Sound Transit has identified mitigation for many impacts, but additional conditions have also been imposed as recommended by staff and discussed below:

i. Guideway

Prior to construction, Sound Transit will develop detailed construction phasing and access plans, final haul routes, a traffic control plan, and a maintenance of traffic plan to mitigate traffic impacts occurring during construction. Mitigation measures will be implemented as necessary and may include use of flaggers, minimizing closures for motorized and non-motorized traffic, limiting closures to non-peak traffic flow hours, coordinating with affected agencies and emergency services, and providing advance notice of closures to the public.

City staff anticipates that traffic impacts from the guideway will be limited to construction activities only. The guideway makes use of the WSDOT right-of-way and avoids the Mountlake Terrace street grid as much as possible. Adverse traffic-related impacts are not anticipated after revenue service begins. Requirements in the ROD

and adopted conditions of approval will adequately mitigate construction impacts.

ii. Mountlake Terrace Station (Site B)

Traffic around Site B is associated with the I-5 corridor, the existing transit center, and residential neighborhoods. Site B is zoned PFS, which is supportive of transportation and other public facilities. Sound Transit anticipates an increase in traffic at Site B from buses and other vehicles but does not anticipate this increase to have an adverse effect on the surrounding community. Levels of service at key intersections will meet adopted LOS standards.

iii. Signal Bungalow (Site F)

Traffic surrounding Site F is consistent with a residential neighborhood and the I-5 corridor. No permanent impacts to traffic are anticipated. Levels of service at key intersections will meet adopted LOS standards.

iv. North TPSS Site (Site M)

Traffic surrounding Site M is consistent with a residential neighborhood and the I-5 corridor. There may be an increase in traffic during construction. No long-term traffic impacts are anticipated. Levels of service at key intersections will meet adopted LOS standards.

D. Public Health, Safety and Welfare; Neighborhood Circulation. The proposal has been adequately mitigated and designed to avoid endangering public health, safety and welfare and creating obstacles to neighborhood circulation to the extent practical.

City staff anticipates that health, safety, welfare, and neighborhood circulation impacts are most likely to occur during construction. The environmental review process adequately addresses the design and operation of the Lynnwood Link Extension to avoid, reduce, and mitigate health, safety, and welfare impacts. The project's use of an existing transportation corridor will eliminate impacts to neighborhood circulation.

i. Construction Impacts.

Prior to beginning construction, Sound Transit will approve a Site Safety and Security Plan for each site to address on-site safety and protection of the public when work is occurring in areas with public access. Vehicular

and pedestrian traffic circulation will be maintained throughout construction in accordance with the MUTCD and maintenance of traffic plans.

Sound Transit has delegated a number of construction safety elements to its selected contractor, providing general guidance that the contractor will need to adhere to. Without specific plans, City staff cannot fully evaluate potential impacts and determine if they have been adequately mitigated to protect the public health, safety, and general welfare and to reduce obstacles to neighborhood circulation. Sound Transit is requiring the following plans related to public health, safety, and welfare to be prepared by its contractor for review and approval by Sound Transit: noise mitigation and monitoring plan; site safety and security plan; hazardous and contaminated waste management plan; spill prevention, control, and countermeasures plan; stormwater pollution prevention plan; and temporary erosion and sediment control plan. The City will review and approve these plans prior to Sound Transit beginning construction activities to ensure they include adequate measures to protect public health, safety and welfare. Additional conditions of approval require adequate site maintenance to mitigate nuisances and require work in critical areas to incorporate recommendations set forth in the critical areas report.

Sound Transit is requiring the following plans related to maintenance of vehicular and pedestrian circulation to be prepared by its contractor for review and approval by Sound Transit: traffic control plan; maintenance of traffic plan; construction worker parking plan. The City will review and approve the plans prior to Sound Transit beginning construction activities to ensure they include adequate measures to avoid creating obstacles to neighborhood circulation. Additional conditions of approval restrict truck travel to specific haul routes, require certified flaggers to assist with construction-related vehicle maneuvers, require construction-related vehicles to be parked on a construction site, and require communication with the City and affected residents when circulation is impacted.

ii. Operational Impacts

The guideway has been designed with one public access point (at the Mountlake Terrace Station/Site B), where safety personnel will be present during hours of operation once revenue service begins. The remainder of the guideway will be fenced with secure access points for approved maintenance personnel and emergency services. Emergency exits are proposed at Mountlake Terrace Station and 58th Avenue W, and a high-rail maintenance access point is proposed at 62nd Avenue W. The guideway is elevated above arterial corridors. The project includes pedestrian access paths.

The Site B station will maintain and expand the current transit facility use. The station is designed to incorporate Crime Prevention through Environmental Design (CPTED) principles and to prioritize the health, safety, and welfare of patrons. The design includes improving pedestrian movements, accounting for increased vehicular traffic, and landscaping improvements designed for clear sight lines. Emergency safety features include egress stairs, emergency phones, safety signage, fire alarms, and automatic fire sprinklers. Fences, walls, and other barriers will keep patrons out of operational areas to improve the safety of system users. Audible alarm systems will be used at the station to prevent unauthorized access to the guideway.

- E. Adequate Public Facilities. The proposal will be served by adequate public facilities. Staff have reviewed the availability of facilities and found that the proposal will be served by existing public facilities where possible and includes upgrades, enhancements, or extensions of public facilities where existing public facilities are inadequate. Electrical service for the guideway, station operations, and wayside facilities has been coordinated with the Snohomish Public Utility District. Standard utility service connections to existing municipal utility mains provide adequate capacity. Fire suppression for the guideway and station included flow tests to confirm adequate capacity in the event of an emergency. Stormwater runoff will be managed on-site at facilities owned and operated by Sound Transit. The light rail system will complement and enhance existing transportation facilities. The project will incorporate improvements to existing public facilities as necessary. The project includes provisions for stormwater management, wet and dry utilities, waste receptacles, and pedestrian and vehicular access. Frontage improvements and pedestrian improvements as designed or through conditions of approval will provide adequate capacity to access the station and wayside facilities by patrons and maintenance workers.
- F. Critical Areas. The project will alter the following regulated critical areas: wetlands, streams, wildlife habitat areas, geologic hazard areas. Staff recommended conditions of approval, adopted by this decision, assures that the proposal complies with the City's critical area regulations to the extent practicable and therefore assures adequate protection of critical areas.

As identified in Finding of Fact No. 3, Sound Transit has requested an extensive number of reasonable use waivers to some Critical Area Ordinance requirements. Pertinent factual issues related to the reasonable use requests are addressed as follows:

i. Geologic Hazard Areas

Pursuant to MTMC 16.15.430, alterations to class IV landslide hazard areas are prohibited without a reasonable use exception. Alterations to other geologic hazard areas, including class I-III landslide hazard areas and seismic hazard areas, can be approved based on the degree to which significant risks posed by critical hazard areas to public and private property and to public health and safety can be mitigated.

Where potential impacts cannot be effectively mitigated, or where risk to public health, safety, and welfare, public or private property, or important natural resources is significant notwithstanding mitigation, a reasonable use exception is required. The critical areas report evaluated potential impacts to the geologic hazard areas and determined that the “finished project will result in either no impact or improved stability in potential landslide hazard areas, seismic hazard areas, and erosion hazard areas” (Exhibit ST-08 pg. 50). Mitigation measures for work in the geologic hazard areas include the following:

- Implementation of temporary erosion and sediment control (TESC) plans, including monitoring to address potential erosion and siltation during construction.
- Regrading and/or replanting and/or restoration of temporarily disturbed areas as soon as practical to minimize the risk of erosion and to provide permanent slope stability.
- Design of project components to withstand the effects of seismic ground shaking, including design standards based on the occurrence of a rare and large seismic event.
- Design of project components in compliance with standards to reduce risks set forth in the International Building Code (IBC), American Association of State Highway and Transportation Officials (AASHTO), and Sound Transit design standards.

By restoring vegetation in geologic hazard areas and complying with geotechnical design standards, Sound Transit considers the project to be self-mitigating with respect to geologic hazard areas (Exhibit ST-08, pg. 50). Sound Transit does not propose any other mitigation measures for geologic hazard areas.

Third-party review of the critical areas report found it is in conformance with the requirements set forth in MTMC 16.15.430(D) (Exhibit MLT-09). Geologic hazard area buffers and setbacks have not been delineated as part of the critical areas report or project due to the need for alterations within the geologic hazard areas.

ii. Wildlife Habitat Areas

Pursuant to MTMC 16.15.420(D), alterations of critical wildlife habitat areas are prohibited without a reasonable use exception. Secondary wildlife habitat can be altered subject to the mitigation requirements set forth in MTMC 16.15.420(E). The critical areas report determined that impacts are anticipated in a biodiversity/terrestrial priority habitat area designated by WDFW within the City of Mountlake Terrace (Exhibit ST-08 pg. 43). Impacts are related to the removal of approximately 218 trees within the project area.

Mitigation

Mitigation of these impacts is required, and Sound Transit followed mitigation sequencing provisions set forth in MTMC 16.15.210(A). The project, as designed, avoided wetlands and stream impacts where practicable by siting project elements away from critical areas as much as possible and by incorporating best management practices (BMPs) for implementation during construction and operation of the project to minimize sedimentation to wetlands and streams and pollutants within stormwater runoff. Sound Transit is proposing to mitigate the removal of 218 trees within the wildlife habitat area by providing a payment to the City in lieu of Sound Transit installing, monitoring, and maintaining trees. The funding amount assumed a tree replacement ratio of 3:1 for each tree removed including nonsignificant trees. This ratio was approved by the City of Mountlake Terrace in a concurrence letter (Exhibit ST-09). A total of 654 trees will be planted at areas identified by the City of Mountlake Terrace (Exhibit ST-08, pg. 60).

Third-party review of the critical areas report found it is in conformance with the requirements set forth in MTMC 16.15.420(C) (Exhibit MLT-10).

iii. Alternatives to Reasonable Use Requests

Sound Transit indicated that the guideway and wayside facilities have been designed and located to avoid and minimize impacts to critical areas to the extent possible. As an Essential Public Facility (EPF), locations for siting the Lynnwood Link Extension and necessary wayside facilities are limited. Operational requirements for light rail necessitates certain design configurations and there are no other reasonable alternative methods of developing the light rail system.

iv. Profitability.

Profitability is not a factor considered in this decision's application of reasonable use criteria.

v. Hardship

Staff made uncontested findings that application of critical areas regulations would unreasonably restrict the ability of Sound Transit to provide transit services to the public. The final alignment and design of the project elements were selected after a thorough evaluation of alternatives. Strict adherence to the critical areas regulations for geologic hazard areas and wildlife habitat areas would make the project infeasible to design, locate, and construct. Hardship is more specifically addressed as follows:

Site A – Class IV Landslide Hazard Areas and Seismic Hazard Areas

The proposed access point is the most reasonable construction access point. The class IV landslide hazard areas would be affected regardless of the construction access point.

Site B – Wildlife Habitat Areas and Class IV Landslide Hazard Areas

The entire site area is needed to support development of the LLE Mountlake Terrace Station.

Site C – Wildlife Habitat Areas and Class IV Landslide Hazard Areas

The entire site area is needed to support development of the temporary surface parking lot and load/unload areas and bus layover space.

Site D – Wildlife Habitat Areas and Class IV Landslide Hazard Areas

The entire site area is needed to provide access to construct the guideway.

Site E – Class IV Landslide Hazard Areas

The proposed access point is the most reasonable construction access and staging area needed to construct the guideway.

Site F – Class IV Landslide Hazard Areas

The site is needed to accommodate wayside facilities. This location is ideal for the necessary spacing of stormwater flow control and a signal bungalow.

Site G – Class IV Landslide Hazard Areas

The proposed access point is the most reasonable construction access point. The class IV landslide hazard areas would be affected regardless of the construction access point.

Site H – Class IV Landslide Hazard Areas

The site is ideal for construction staging and laydown because it is undeveloped, centrally located, and large enough to accommodate staging and laydown of large equipment.

Site I – Class IV Landslide Hazard Areas

The area is necessary to accommodate project facilities.

Site J – Class IV Landslide Hazard Areas

The site is needed to accommodate stormwater flow control and for construction.

Site K – Class IV Landslide Hazard Areas

The area is necessary to accommodate stormwater facilities, Resource Conservation Area (RCA) mitigation, and construction access.

Site L – Class IV Landslide Hazard Areas

The proposed access point is the most reasonable construction access point. The emergency access pathway and construction access are crucial for construction and operation of the light rail system.

Site M – Class IV Landslide Hazard Areas and Seismic Hazard Areas

The site is needed to accommodate wayside facilities. This location is ideal for the necessary spacing of stormwater flow control and a TPSS.

vi. Practical Alternatives.

There are no practical alternatives to the proposed development with less impact on critical areas. The final alignment and design of the project elements were selected after a thorough evaluation of alternatives in the EIS. None of the alternatives evaluated would result in complete avoidance of impact to critical areas, and the final alignment was selected because it minimizes impacts on the community as much as possible while maximizing safety and efficiency. The use of specific sites for construction access and staging is essential to building the project. There are no practical or feasible alternatives for construction access and staging that would have less impact on the critical areas given the prevalence of critical areas along the entire alignment and WSDOT right-of-way. Construction in landslide hazard areas, seismic hazard areas, and wildlife habitat areas are unavoidable.

Alternatives are more specifically addressed as follows:

Site A – Class IV Landslide Hazard Areas and Seismic Hazard Areas

Construction access from adjacent alternative areas is not suitable. The landslide hazard areas will be affected regardless of the access point. Work within and adjacent to Site A is a necessary part of the project and is therefore unavoidable.

Site B – Wildlife Habitat Areas and Class IV Landslide Hazard Areas

The majority of the site is developed. Additional area needed for the expansion required as part of this project is relatively small and the only undeveloped areas of the site are mapped as Priority Habitat and class IV landslide hazard areas. Improvements at Site B are a necessary part of the project and work is therefore unavoidable.

Site C – Wildlife Habitat Areas and Class IV Landslide Hazard Areas

Site C is the only available property that can accommodate the size and configuration of the required temporary parking facilities, load/unload areas, and bus layover spaces. Adjacent alternative areas would have either more impacts to priority habitat/landslide hazard areas and/or be too far away from the Mountlake Terrace Transit Center. Work within Site C is a necessary part of the project and is therefore unavoidable.

Site D – Wildlife Habitat Areas and Class IV Landslide Hazard Areas

Site D is adjacent to the project alignment. Adjacent alternative areas would have either more impacts to priority habitat/landslide hazard areas or more impacts to residential properties. Work within Site D is a necessary part of the project and is therefore unavoidable.

Site E – Class IV Landslide Hazard Areas

Site E is adjacent to the project alignment. Adjacent alternative areas would have either more impacts to landslide hazard areas or more impacts to residential properties. Work within Site E is a necessary part of the project and is therefore unavoidable.

Site F – Class IV Landslide Hazard Areas

Site F is located adjacent to the project alignment. Adjacent alternative areas would have either more impacts to landslide hazard areas or more impacts to residential properties. Work within Site F is a necessary part of the project and is therefore unavoidable.

Site G – Class IV Landslide Hazard Areas

Site G is located adjacent to the project alignment. Construction access from alternative areas is not suitable. The landslide hazard areas will be affected regardless of the access point. Work within and adjacent to Site G is a necessary part of the project and is therefore unavoidable.

Site H – Class IV Landslide Hazard Areas

The entire site area is necessary to accommodate the project facilities and construction of the guideway. There are no reasonable alternatives available; adjacent areas would have either more impacts to landslide hazard areas or more impacts to residential properties. Work within Site H is a necessary part of the project and is therefore unavoidable.

Site I – Class IV Landslide Hazard Areas

Site I is located adjacent to the project alignment. Adjacent alternative areas would have more impacts to landslide hazard areas. Site I is the most reasonable construction access point. Work within Site I is a necessary part of the project and is therefore unavoidable.

Site J – Class IV Landslide Hazard Areas

Site J is located adjacent to the project alignment. Adjacent alternative areas would have either more impacts to landslide hazard areas or more impacts to residential properties. Work within Site J is a necessary part of the project and is therefore unavoidable.

Site K – Class IV Landslide Hazard Areas

Site K is located adjacent to the project alignment. Adjacent alternative areas would have either more impacts to landslide hazard areas or more impacts to residential properties. Work within Site K is a necessary part of the project and is therefore unavoidable.

Site L – Class IV Landslide Hazard Areas

Site L is located adjacent to the project alignment. Adjacent alternative areas would have either more impacts to landslide hazard areas or more impacts to residential properties. Work within Site L is a necessary part of the project and is therefore unavoidable.

Site M – Class IV Landslide Hazard Areas and Seismic Hazard Areas

Site M is located adjacent to the project alignment. Adjacent alternative areas would have either more impacts to landslide hazard areas or more impacts to residential properties. Work within Site M is a necessary part of the project and is therefore unavoidable.

vii. Material Threat

The project does not pose an unreasonable threat to the public health or safety on or off the development proposal site and will not be materially detrimental to the property or improvements in the vicinity. Planned improvements are designed in conformance with the critical areas report, including geotechnical analysis and recommendations. Sound Transit facilities are designed in accordance with IBC, AASHTO, and Sound Transit design standards as appropriate to meet all safety requirements.

The project is designed in conformance with the critical areas report and recommendations and applicable international, federal, state, and local code requirements for buildings, light rail guideways, stations, and wayside facilities. The project includes consultation with numerous professional engineers licensed to practice in the State of Washington (including geotechnical engineers, structural engineers, traffic engineers, and others) and qualified professionals such as arborists, wetland scientists, landscape architects, architects, planners, and others. The project, as designed and conditioned and as verified during construction, will not pose an unreasonable threat to public health, safety or welfare.

The project is a community amenity and public benefit, providing light rail access within the City of Mountlake Terrace to significant regional destinations in King and Snohomish Counties. Construction will occur in conformance with recommendations from licensed engineers set forth in the critical areas report and will not be materially detrimental to the property or properties and improvements in the vicinity.

Public health and safety impacts are individually addressed as follows:

All Class IV Landslide Hazard Areas and Seismic Hazard Areas

Based on the geotechnical information, the project will not decrease the factor of safety for landslide occurrences. Slopes and retaining structures are designed for adequate stability using appropriate techniques such as limiting slope inclination, limiting surcharge loading, or adding slope reinforcement.

Sites B-D Wildlife Habitat Areas

Site B is already used for transit purposes, and the light rail station will provide an additional transit service to benefit the public. All facilities on Sites B-D are designed to meet all federal safety standards and uniformed Sound Transit police and security officers patrol all light rail trains and stations.

viii. Mitigation based upon best available science and MTMC 16.15.310

Sound Transit will protect and mitigate impacts to existing critical area functions and value consistent with the review criteria in MTMC 16.15.310 and best available science to the fullest extent possible in the following ways:

Sites B-D Wildlife Habitat Areas

Sound Transit will provide funding for the City of Mountlake Terrace to purchase, plant, and maintain/monitor replacement trees for off-site compensatory mitigation. This approach enables the City to create or supplement a new forested ecosystem that will provide habitat for multiple plant and animal species, including state- and federally-listed species. Replacement trees will be provided at a ratio of 3:1 to compensate for permanent loss of trees on-site and temporal loss of habitat functions and values as the replacement trees mature. On-site restoration and off-site mitigation are expected to improve habitat functions and values. At a minimum, no net loss of habitat functions and values is expected.

All Class IV Landslide Hazard Areas and Seismic Hazard Areas

Sound Transit will mitigate unavoidable temporary impacts to landslide hazard areas by regrading and planting vegetation after construction is complete to provide final slope stability that meets or exceeds current conditions. Temporary landscape protection fencing will be installed around the clearing limits as necessary to preserve steep slopes. Disturbed areas will be replanted with a mixture of trees, shrubs, and groundcovers to provide erosion control. This approach lessens the risk of sloughing, erosion, and sediment transport within the site boundary. No net loss of functions and values associated with the landslide hazard areas is expected.

Best management practices will be used during construction as indicated in the geotechnical recommendations report.

Site A – Class IV Landslide Hazard Areas and Seismic Hazard Areas
Minimal grading is proposed on Site A. For areas where impacts cannot be avoided, most grades will be restored to prior condition and seeded for slope protection. A fill area north of the access drive has a designed slope of 12:1 to 15:1, which is flatter than existing slopes and reduces the amount of landslide hazard area.

Site B – Class IV Landslide Hazard Areas

Grading is proposed on Site B. For areas where impacts cannot be avoided, grades are proposed with a slope of no more than 3:1, which is flatter than existing slopes.

Site C – Class IV Landslide Hazard Areas

Sound Transit will install retaining walls around the west, north, and east edges of the Site C boundary, which will temporarily replace steep slopes with flatter slopes.

Site D – Class IV Landslide Hazard Areas

Grading is proposed at Site D. For areas where impacts cannot be avoided, the proposed grades will not exceed a slope of 3:1, which is flatter than existing slopes.

Site E – Class IV Landslide Hazard Areas

Grading is proposed at Site E. For areas where impacts cannot be avoided, the grades will be restored to previous conditions and native vegetation and mulch will be installed for slope protection.

Site F – Class IV Landslide Hazard Areas

All of Site F will be disturbed. Impacts are unavoidable, but grades will be restored as much as possible to previous conditions and vegetation and mulch will be installed for slope protection. Minor regrading is planned adjacent to the guideway at a gradient of 4:1 to 25:1. This will not increase the amount of landslide hazard area within the site.

Site G – Class IV Landslide Hazard Areas

The guideway traverses Site G. Proposed grading within the site will not exceed a slope of 3:1 and alters the stormwater flow to be a sheet-flow condition instead of a swale condition to reduce erosion hazards.

Site H – Class IV Landslide Hazard Areas

Most of Site H will be disturbed. Impacts are unavoidable, but grades will be restored as much as possible to previous conditions and vegetation and mulch will be installed for slope protection. Minor regrading is planned adjacent to the guideway at a gradient of 4:1 to 25:1. This will not increase the amount of landslide hazard area within the site.

Site I – Class IV Landslide Hazard Areas

Grading at Site I is limited to areas where utility and sidewalk improvements occur. Where impacts are unavoidable, grades will be restored to previous conditions or flatter and native shrubs, groundcover, and seeding will be installed for slope protection.

Site J – Class IV Landslide Hazard Areas

Grading at Site J is limited to a service roadway connection to 60th Avenue W for the drainage vault on WSDOT right-of-way and minor grading adjacent to the guideway abutment. For areas where impacts are unavoidable, grades will be restored to previous condition or flatter and native shrubs, groundcover, and seeding will be installed for slope protection.

Site K – Class IV Landslide Hazard Areas

Grading is proposed at Site K. For areas where impacts cannot be avoided, the grades will be restored to a maximum steepness of 3:1 and disturbed areas will be replanted with a mixture of trees, shrubs, and groundcovers to provide erosion control.

Site L – Class IV Landslide Hazard Areas

Disturbance at Site L is limited to unpaved areas from construction activities. For areas where impacts are unavoidable, grades will be restored to previous conditions and seeding will be installed for slope protection.

Site M – Class IV Landslide Hazard Areas and Seismic Hazard Areas

All of Site M will be disturbed. For areas where impacts are unavoidable, proposed grades will not exceed a steepness of 4:1, which is not considered an erosion risk. A large portion of the site is contained within retaining walls that prevent sediment transport to adjacent areas. Some disturbed areas will be replanted with a mix of trees, shrubs, and groundcovers to provide erosion control. An asphalt driveway and gravel pad cover the detention vault area and will prevent erosion in that area.

ix. Minimum Necessary

The requested alterations are the minimum necessary to accomplish the project as designed and proposed in the application materials. Sound Transit has applied mitigation sequencing requirements throughout project design and has prepared mitigation plans to address unavoidable impacts. The mitigation plans are consistent with requirements set forth in MTMC 16.15 for geologic hazard areas and wildlife habitat areas. Conditions of approval will ensure the applicant follows the mitigation plans.

x. Protect and Mitigate

Sound Transit has located and designed the project to avoid or minimize impacts to real property in Mountlake Terrace as much as possible. The critical areas report (Exhibit ST-08) and the Final EIS document mitigation sequencing analyzed through the location and design process. The proposal protects and mitigates impacts to existing critical areas functions as much as possible consistent with MTMC 16.15.210 and best available science:

a) Avoid Impacts Altogether

The project avoids impacts as much as possible through locating in previously-developed portions of the City of Mountlake Terrace. Wetland and stream impacts, especially, were avoided where practicable through placement of specific project elements. Wayside facilities and related infrastructure improvements are located outside of identified critical areas where practicable.

b) Minimize Impacts

The project minimizes impacts as much as possible where avoidance is not feasible by designing certain project elements to reduce potential impacts, such as installing a retaining wall instead of a using a fill slope to support the guideway. Construction BMPs are required by Sound Transit and the City of Mountlake Terrace to

minimize sedimentation and polluted runoff, stabilize bare soils and slopes, and prevent leaks or spills during construction.

c) Rectify Impacts

Where temporary impacts will occur, the area will be immediately restored after construction activities are complete in compliance with the recommendations in the critical areas report.

d) Reduce or Eliminate Impacts Over Time

Some impacts are temporary and are limited to a short-term duration. Restoration of these impacts will include removing fill and other construction-related materials from the site, lofting and loosening soils compacted by construction activities, amending soils as necessary, and replanting affected areas with a mix of native vegetation. Approximately 0.975 acres of temporary impacts to wetlands and buffers will be mitigated in this manner.

Sound Transit will be required to protect affected critical areas through fencing and/or signage and will be required to monitor slopes and vegetation during operation of the light rail system over time. These actions will reduce impacts related to operation of the project.

e) Compensating for the Impact

Permanent and temporary impacts to wetlands and/or wetland and stream buffer areas will occur as part of the project and will be mitigated through permanent compensatory actions as follows:

- Purchasing credits through the King County Wetland Mitigation Reserves Program which is implemented through an in-lieu fee program;
- Enhancing wetlands and buffers by removing invasive species and replanting with native vegetation
- Replanting temporarily cleared areas with an appropriate variety of short-statured trees and other vegetation;
- Stockpiling downed trees and installation of said trees as large woody debris or smaller brush piles to improve habitat functions;
- Restoring temporarily impacted wetlands and buffers to pre-construction conditions or better
- Replacement of trees in-kind at a ratio of 3:1; and/or
- Removal of invasive species.

The project, as mitigated, will achieve no net loss of critical area function through appropriately-applied mitigation sequencing and best available science.

xi. Other Applicable Standards

Sound Transit provided an analysis of project components on Sites A-M in code compliance matrices attached to each of the site narratives (Exhibits ST-A01, ST-B01, ST-C01, ST-D01, ST-E01, ST-F01, ST-G01, ST-H01, ST-I01, ST-J01, ST-K01, ST-L01, and ST-M01). From these documents staff have determined that the project is consistent with applicable regulations and standards as much as possible. Conditions of approval address impacts wherever the project is inconsistent with code requirements.

FOF No. 6. Transit Station Trail Connection. A major point of disagreement between the City and Sound Transit litigated at the permit hearing was staff recommended condition No. 23b, which would require Sound Transit to create an accessible ramp linking a yet to be constructed accessible trail in Veteran's Memorial Park to the pedestrian facilities in the Transit Center site. Findings of fact necessary to resolved the validity of condition No. 23b are made as follows:

- A. The sole point of disagreement between the City and Sound Transit on conditions of approval is over Staff recommended conditions 23 and 24 of Attachment 4 to the staff report. Condition No. 23 requires that Sound Transit replace stairs connecting the Transit Center main parking lot to a trail on an adjoining City park with a handicap accessible trail extension. Condition No. 24 requires fencing along this trail extension.
- B. Veteran's Memorial Park is the park adjoining the Transit Center main parking lot. The parking lot elevation is below that of the Park, thus necessitating the current stair connection between the parking lot and the Park. The main parking lot lies in the southeastern corner of the Transit Center site. The Park adjoins the Transit Center to the north and east.
- C. Due to its central position in the City, Veteran's Memorial Park is a point of connectivity between the Transit Center and major City destinations. Veteran's Memorial Park spans the distance between the eastern property line of the Transit Center and the nearest street east of the Transit Center: 58th Avenue West. Immediately to the north of the Park is the City's "Civic Center" campus-i.e., the City Hall, Police Department, Library, and Fire Station. Just across 58th Avenue West from the Civic Center campus is a post office, and, on the other side of the same block, to the east, are a number of commercial establishments. This commercial area is an emerging "town center" for the City. As the name implies, Veteran's Memorial Park also contains a veteran's memorial, meant to honor U.S. servicemembers.
- D. The stairs at issue connect to a pedestrian trail that runs roughly east-west across Veterans Memorial Park, from a pedestrian park entrance off 58th Avenue West to the eastern edge of the main Transit Center parking lot. There are also several informal trails running from other points on the park boundary to the main east-west trail.

- E. The stairs span four or five feet of elevation change running down from the current southwestern terminus of the trail to the eastern edge of the transit center parking lot. Because of these stairs, this connection point between the transit center and the trail is not wheelchair-accessible. Sound Transit initially proposed simply replacing these stairs with new stairs in the same location as part of its redesign of the transit center. The City objected to this proposal because replacement stairs would not be wheelchair-accessible and because keeping the trail connection in the same place would present safety hazards to pedestrians, since there was no crosswalk across the proposed new bus loop at this location, nor a safe, marked path through the parking lot. In response to these concerns, Sound Transit proposed to move the trail connection farther south along the shared Veteran's Memorial Park/transit center property line (roughly halfway between the old trail connection point and 236th Street Southwest) so that it would align with a crosswalk across the bus loop and a pedestrian walkway across the parking lot. Sound Transit's revised proposal still relied on stairs, however, and was therefore not wheelchair-accessible. Since a non-wheelchair-accessible trail connection would defeat the City's long-planned upgrades to the trail and also not comply with Sound Transit's obligations under the ADA, the City proposed that Sound Transit build a wheelchair-accessible extension running from the southwestern end of the relocated Pedestrian Trail south to 236th Street Southwest, where it would join up with the 236th Street Southwest sidewalk (which is also wheelchair-accessible and ADA-compliant).
- F. Because the proposed trail extension will be elevated above the Transit Center (and supported by a retaining wall), the City also requested that Sound Transit install wrought iron fencing along the western edge of this trail extension to prevent trail users from falling due to the elevation difference between trail and bus loop. The City requested that this trail run the entire length of the trail, including the point where the crosswalk crosses the bus loop (where Sound Transit proposes to cross an active bus lane is a safety hazard. Sound Transit has nonetheless refused to alter its proposal or to acquiesce to the City's proposed conditions.
- G. The trail is not currently wheelchair accessible. The City intends to redesign and construct the trail to meet ADA standards in the near future. Achieving wheelchair accessibility for the trail has been part of the City's core vision for parks development for decades, as expressed in the City's 1988 Recreation, Parks and Open Space Master Plan ("RPOS Master Plan") and all subsequent updates.
- H. The City has qualified for matching funding from Sound Transit as part of Sound Transit's Transit System Access Policy and Access Enhancement funding program to pave the trail and make it wheelchair accessible. Sound Transit partnered with each Lynnwood Link city during project final design to identify and implement appropriate pedestrian, bicycle and vehicular enhancements generally focused within a quarter mile of each station. In Motion No. M2017-93, Sound Transit's board authorized funding assistance for such access enhancements in each city-essentially providing matching funds for city-driven access enhancements. The City of Mountlake Terrace is eligible for \$2 million in Sound Transit funding under this motion, as confirmed in a separate Access Enhancements Funding Agreement between Sound Transit and the City. In this

Agreement, Sound Transit and the City agreed that improvements to the Veteran's Park Trail System would be eligible for these matching funds. See Access Enhancements Funding Agreement, ST-06, at Ex. A ("Multimodal Access Improvement Projects") and B ("List of City Projects for Matching Funds"). If the City wishes to qualify for the \$2 million, the agreement requires the City to make the trail wheelchair-accessible by the time Sound Transit begins revenue service.

CONCLUSIONS OF LAW

Procedural:

COL No. 1: Authority of Hearing Examiner. MTMC 18.05.610 (conditional use) and MTMC 16.15.360 (reasonable use) provide that conditional use and reasonable use permits are to be decided by the City's Hearing Examiner after an open record hearing. MTMC 18.05.610 provides that site plans are to be approved by the Director of Community and Economic Development. The site plan application has been consolidated with the conditional use permit and reasonable use application for hearing examiner review pursuant to MTMC 18.05.350.

Substantive:

COL No. 2: Zoning Designation. The sites of the project have the following comprehensive plan and zoning designations:

SITE	COMPREHENSIVE PLAN	ZONING
I-5	N/A (WSDOT ROW)	N/A (WSDOT ROW)
A	Freeway/Tourist (F/T)	Freeway/Tourist (F/T)
B	Public Facilities and Services (PFS)	Public Facilities and Services (PFS)
C	Town Center (TC)	Community Business Downtown (BC/D)
D	Urban Low Residential (ULR)	Single-Household Residential (RS7200)
E	Urban Low Residential (ULR)	Single-Household Residential (RS7200)
F	Urban Low Residential (ULR)	Single-Household Residential (RS7200)
G	N/A (ROW)	N/A (ROW)
H	General Commercial (CG)	General Commercial (CG)
I	N/A (ROW)	N/A (ROW)
J	General Commercial (CG)	General Commercial (CG)
K	General Commercial (CG)	General Commercial (CG)
L	N/A (ROW)	N/A (ROW)
M	Urban Medium Residential (UMR)	Medium Density Multi-Household (RMM)

COL No. 3: Review Criteria/Essential Public Facility "Practicable" Standard. The proposal is a Type A Essential Public Facility (EPF) pursuant to the definition in MTMC 18.15.020 and RCW

47.06.140. Pursuant to MTMC 18.15.050(A), Type A essential public facilities are subject to a conditional use permit application. MTMC 19.110.220 requires large scale site plan review for nonresidential projects involving 5,000 square feet or more. Sound Transit is required to apply for a reasonable use exception as governed by MTMC 16.15.360 for its requested waivers to critical area ordinance regulations. MTMC 19.110.200(D) governs the criteria for conditional use permit approval. MTMC 19.110.220(C) governs the criteria for large scale site plans. MTMC 16.15.360 governs the criteria for reasonable use exceptions. MTMC 18.05.560(A) and (B) lists required findings for all permits reviewed by the examiner. The review criteria for all applicable criteria are quoted below in italics and applied through corresponding conclusions of law.

The proposal is a Type A Essential Public Facility pursuant to the definition in MTMC 18.15.020 and RCW 47.06.140. Pursuant to WAC 365-196-550(6)(d), the combination of any existing development regulations and any new conditions may not render impossible or impracticable the siting, development, or operation of an essential public facility. The review criteria quoted below are applied to the maximum extent reasonably practicable.

Conditional Use Permit

MTMC 19.110.200(D) Conditional Use Criteria:

(1) The proposal is in accordance with the goals and policies and relevant land uses designations of the Comprehensive Policy Plan;

COL No. 4: This criterion is satisfied for the reasons identified in Section V, p. 28-29 of the staff report.

(2) The proposal will not adversely impact the established character of the surrounding vicinity. For purposes of this section, "character" shall mean:

a. The distinctive features or attributes of buildings and site design, including but not limited to building facade, scale, building modulation, tree cover, landscaping, size and location of signs, amount and location of parking, fencing and walkability;

b. The level of noise, vibrations or odors; and

c. The type of vehicular traffic and traffic patterns associated with the permitted uses in the zoning district.

COL No. 5: The criterion above are met for the reasons identified in Finding of Fact No. 5A, 5B and 5C.

COL No. 6: Condition 24c is one of only two recommended conditions challenged by Sound Transit. Condition 24c requires wrought iron fencing along the Veteran's Memorial Park as it adjoins the boundary of the Transit Station site. The wrought iron fencing is found necessary to prevent adverse impacts to the character of the surrounding vicinity, as required by the criterion above.

As noted in Footnote 3 of the City’s pre-hearing brief, the park site is surrounded on all other sides with wrought iron fencing. Finding Fact 5Aii also notes as follows regarding the fence:

Sound Transit proposes the use of chain-link fencing around the site, including areas that are publicly accessible or visible to the general public. Chain link fencing is a utilitarian fencing style inconsistent with high-quality design and is undesirable for the pedestrian experience in a very public space such as the station. The use of chain-link fencing is inconsistent with the vision in the Town Center design standards. While site security is important to protect the public, fencing should blend aesthetically with the surroundings and provide an open, welcoming, and beautiful space for system users. Wrought iron fencing is also located on all other sides of Veteran’s Memorial Park and chain link fencing would not be consistent either with the rest of this fencing.

As determined in the finding of fact, the chain link fencing is not consistent with the character of surrounding land use or the existing fencing around Veteran’s Memorial Park. For these reasons, Condition 24c is necessary to maintain established character of the surrounding vicinity as required by the conditional use criterion quoted above.

Sound Transit also argues in its prehearing brief that Condition 24c fails to comply with constitutional and RCW 82.02.020 nexus and proportionality. Details on applicable statutory and constitutional requirements in that regard are identified in Conclusion of Law No. 10. There is no nexus/proportionality violation found for Condition 24b since the chain link fencing proposed by Sound Transit is clearly not consistent with surrounding land use character and development. The wrought iron fence condition is necessary to mitigate the compatibility problem created by Sound Transit’s proposed chain link fence.

(3) *The proposed use will not endanger the public health, safety, and general welfare of the community or create obstacles to neighborhood circulation;*

COL No. 7: The proposal won’t endanger public health, safety and general welfare or adversely affect neighborhood circulation for the reasons identified in Finding of Fact No. 5D.

(4) *The proposal complies with the purpose and all requirements of the zone classification in which it is located and with the general provisions of the municipal code;*

COL No. 8: As outlined in page 10 of the staff report, staff have determined that the proposal complies with all applicable zoning code standards.

(5) *The proposal will be served by existing public facilities as may be necessary. This standard may be met if the applicant pays the cost of or installs any additional facilities needed;*

COL No. 9: As determined in Finding of Fact No. 5E, as conditioned, the proposal will be served by adequate public facilities.

COL No. 10: As outlined in Finding of Fact No. 6, the only point of disagreement between Sound Transit and the City is over staff recommended conditions 23b and 24. Condition No. 23b is addressed by this conclusion of law, as it is implicated by the “necessary” public facility criterion quoted above. Condition No. 23b requires Sound Transit to replace a set of stairs with a lengthy handicap accessible ramp to connect a yet to be constructed handicap accessible trail in Veteran’s Memorial Park to the adjoining Transit Center site. Sound Transit asserts these conditions fail to comply with the nexus and proportionality requirements of RCW 82.02.020 and the takings clause of the federal constitution. It is determined that with some modification, Conditions 23b meets nexus and proportionality. In line with the nexus/proportionality analysis, since the requested accessibility improvements are found to be “necessary” mitigation for impacts created by the proposal, those improvements are for the same reason “necessary” public facility improvements as required by the conditional use criterion above.

As noted in Sound Transit prehearing briefing, RCW 82.02.020 and judicial takings opinions require that development conditions cannot be imposed absent a showing that the condition is “*reasonably necessary as a direct result of the proposed development...to mitigate a direct impact that has been identified as a consequence of proposed development..*” See RCW 82.02.020. Appellate court takings decisions also require that any such conditions be proportional to impacts created. See *Dolan v. City of Tigard*, 512 US 374 (1987). Most troubling related to staff recommended condition No. 24b is the holding that “[w]hile Dolan disregarded precise calculations in analyzing development impacts, it ruled that local government must make some effort to **quantify** its findings to support its permit conditions.” *Sparks v. Douglas County*, 127 Wn. 2d 901 (1995)(emphasis added).

There is little question that Condition No. 23b is reasonably necessary as a result of the development. As readily acknowledged by Sound Transit witnesses during the permit hearing, Sound Transit strives to make itself accessible and provide an important service to the disabled. By its own admission, Sound Transit will be attracting disabled users to its facility. As identified in Finding of Fact No. 6C, the ramp required by Condition No. 23b will connect the Transit Station site to a handicap accessible trail that provides direct linkage to numerous significant public services, such as the City's "Civic Center" campus-i.e., the City Hall, Police Department, Library, and Fire Station; a post office, and a number of commercial establishments, not to mention Veteran’s Memorial Park itself. Sound Transit will be contributing disabled user traffic to the linkages created by the Veteran’s Memorial Park trail system. In short, Sound Transit will be increasing demand upon both a pedestrian transportation system and a recreational facility. Sound Transit’s failure to provide direct accessible linkage to that trail system will compromise the utility and efficiency of the system by forcing disabled users to take alternative routes to both the Transit Center and the public and commercial services near and in the City’s civic campus. In order to avoid creating that direct consequence of development, Sound Transit must install the ramp requested by the City.

Whether or not the City has the authority to impose the ADA (which was extensively addressed in prehearing briefing), the ADA certainly can serve as a compelling guideline as to how much handicap access to a public facility is enough. The requirements of the ADA need not be addressed to resolve the accessibility mitigation required of this project. The impacts of concern are not limited to adequacy of access to the transit center but to the overall functioning of the Veteran’s

Memorial Park accessible trail and its linkages to public and private services beyond. As previously concluded, Sound Transit's failure to provide direct linkage to the Veteran's Memorial Park accessible trail will impair the utility of that trail, which in itself qualifies as a direct adverse impact of development.

As previously noted, Washington case law requires some "quantifiable" justification for meeting proportionality requirements. This "quantifiable" standard comes from *Sparks v. Douglas County*, infra, which arguably serves as the lower threshold of what level of analysis is necessary to establish rough proportionality. *Sparks* ruled that required right of way dedications for frontage short plat improvements was adequate to meet rough proportionality as follows:

While Dolan disregarded precise calculations in analyzing development impacts, it ruled that local government must make some effort to quantify its findings to support its permit conditions. In this case, the findings made by the County were more than mere conclusory statements of general impact. They were the result of the kind of individualized analysis required under Dolan. The report prepared by the Planning Office for each of the short plats documented the deficiencies in right-of-way width and surfacing of the adjoining streets. Douglas County's records also reflect calculation of increase in traffic and the specific need for dedication of rights-of-way based upon the individual and cumulative impacts of the series of short subdivisions.

127 Wn. 2d 915.

The City has the burden of proof in establishing nexus and proportionality under both takings law and RCW 82.02.020. *Isla Verde Int'l Holdings, Inc. v. City of Camas*, 146 Wn.2d 740, 755-56 (2002); *Dolan v. City of Tigard*, 512 US 374 (1994). The City provided no quantifiable justification for Condition No. 23b. There is no information on the number of disabled persons who will use the Veterans Memorial Park trail or what proportion of those users will be using the light rail system. However, the basis for the condition is far more substantiated than the utterance of mere conclusory statements as referenced in the *Sparks* opinion. Logic and common sense show that the light rail system proposed by Sound Transit will be of significant benefit to persons with disabilities and further that the linkages provided by the trail to the afore-mentioned public and commercial services will make the trail an attractive alternative to disabled light rail users from the sidewalks that would otherwise have to be used to traverse similar distances. Sound Transit's agreement to match \$2,000,000 in City funds for making the trail accessible is a tacit acknowledgement that disabled light rail users will be significant users of the trail. Although the ramp may be one of the more expense portions of the trail improvements due to the grading work involved, it still only comprises a small fraction of the overall trail that will be improved. The City may have the burden of proof to establish proportionality but it is not beyond a reasonable doubt. Substantial evidence in the record and the preponderance of evidence are both met in showing that the accessibility improvements recommended by the City are proportionate to the impacts created by the proposal. To further assure adequate proportionality, staff recommended condition 24b has been revised by this decision to eliminate the trail extension requirement if it exceeds proportionate share, unless the City is willing to pay the difference.

Although there is adequate nexus and proportionality to require the trail improvements, Sound Transit has likely already met its obligation to fund those improvements via its ST-06 matching program. As outlined in Finding of Fact No. 6H, the Sound Transit Board has authorized two million dollars in matching funds for the construction of accessibility improvements to the Veteran's Memorial Park trail. These funds were clearly authorized for the purpose of improving accessibility to the Transit Center site. The City, in its prehearing briefing, stated that the ST-06 funds would be used for making the trail accessible. As shall be discussed, this assurance is one of the reasons why construction of the trail is deemed reasonably foreseeable enough to meet nexus/proportionality requirements. For these reasons, the funding authorized by ST-06 is construed as targeted at trail accessibility improvements and considered to be As part of the Sound Transit proposal. In short, "as proposed," Sound Transit has already included required mitigation for trail accessibility. Staff recommended condition No. 24b has been revised to require the matching funds to be used for 24b mitigation.

Sound Transit also challenges Condition 23b on the basis that the Veteran's Memorial Park trail isn't currently accessible and there's no indication that it will be anytime in the near future. Sound Transit's argument is based upon *Burton v. Clark County*, 91 Wn. App. 505 (1998)(known as the "road to nowhere" case), where the court invalidated a road stub requirement under nexus/proportionality for a subdivision because the County failed to show that the road stub would connect to a road any time in the foreseeable future. This case is distinguishable because as outlined in the findings of fact the City has \$2,000,000 in matching funds available to it for the accessibility improvements if they're installed prior to Sound Transit commencing revenue service. The trail improvement are also identified in the City's Recreation, Parks and Open Space Master Plan. However, to ensure that Sound Transit is not compelled to make accessibility improvements for a "road to nowhere," staff recommended condition No. 24b is revised to give Sound Transit the option of making the City responsible for constructing the requested accessibility improvements as part of its trail accessibility project. Under the revised condition, Sound Transit will not be responsible for funding the improvements if the City fails to complete all the trail accessibility improvements within the matching fund deadline.

Sound Transit's ADA expert, Debbie Smith, testified in some detail that the ramp requested by the City would be excused under the ADA as "structurally impracticable." As previously noted, ADA compliance can serve as a guide as to what constitutes "necessary" infrastructure under the conditional use criteria. Further, if the ramp is in fact not reasonably possible to construct, it will not meet the proportionality requirement under RCW 82.02.020 or takings law. However, Ms. Smith is not an engineer. Further, her testimony at least in part appeared to be based upon the premise that the ramp would need landings and in cross-examination she acknowledged that landings are not always required for accessibility ramps. Project drawings such as ST-49 also show at least 100 feet available in the trail extension for a ramp and additional space could be provided in the existing trail if necessary. Overall, although Ms. Smith's testimony was largely uncontested, her lack of expertise as an engineer and the project drawings do not create a compelling argument that the required ramp would be impracticable. In any event, staff recommended condition 24b has been revised by this condition to waive the required trail extension should it prove to not be possible or exceed proportionate share costs of overall trail accessibility improvements.

Site Plan

MTMC 19.110.220(C): *The Planning Commission may approve a site development plan only if the request conforms to all of the following criteria. The Commission shall enter findings of fact and conclusions for the record which support their decision.*

1. *Type of Land Use. The proposal is in accordance with the goals and policies of the Comprehensive Plan and the type of land use that is permitted in the zone;*

COL No. 11: The criterion is met for the reasons identified in Conclusion of Law No. 4.

2. *The level of development is consistent with the Comprehensive Plan and zoning;*

COL No. 12: For the reasons identified in Conclusion of Law No. 4, the level of development is consistent with the comprehensive plan. The light rail system will provide city residents with an alternative mode of transportation and will contribute to the revitalization of Town Center as the catalyst for mixed-use and transit-oriented development. The station, at its proposed location, is envisioned in the Comprehensive Plan.

3. *Development Standards. The proposal complies with all requirements of the zone classification and general provisions of this title, except in the case where a variance has been approved in accordance with the requirements of MTMC 19.110.210;*

COL No. 13: For the reasons identified in Conclusion of Law No. 8, the criterion is met.

4. *Infrastructure. The proposal will be served by existing public facilities as may be necessary. This standard may be met if the applicant pays the cost of or installs any additional facilities needed;*

COL No. 14: For the reasons identified in Conclusion of Law No. 9 and 10, the criterion is met.

Generic Permitting Criteria

MTMC 18.05.560(A): *As appropriate, the Hearing Examiner . . . shall conduct a public hearing on development proposals over which it has final jurisdiction and approve, approve with conditions, or deny for the purpose of taking testimony, hearing evidence, considering the facts germane to the proposal, and evaluating the proposal for consistency with the City's codes, adopted plans and regulations, including the following:*

(1) *Type of land use;*

COL No. 15: The proposal is authorized as a conditional use in its applicable zoning district and it is found to be appropriate and compatible with surrounding residential uses for the reasons identified in Finding of Fact No. 5.

(2) *The density or intensity of the use;*

COL No. 16: No applicable as no residential use is proposed.

(3) *The availability and adequacy of public facilities;*

COL No. 17: As determined in Finding of Fact No. 5E, the proposal will be served by adequate public facilities.

(4) *Compliance with specific development and Comprehensive Plan standards;*

COL No. 18: As previously concluded, the proposal is consistent with applicable comprehensive plan and zoning code standards.

(5) *That the environmental impacts are consistent with applicable development regulations or, in the absence of applicable regulations, the adopted Comprehensive Plan; and*

COL No. 19: As determined in Finding of Fact No. 5, the proposal will not create any significant adverse impacts to the extent practicable, including environmental impacts.

(6) *Other factors relevant to the proposal, i.e., previous approvals, engineering standards, other City codes, regulations and standards.*

COL No. 20: All relevant impacts of the proposal are addressed by this decision as outlined in Finding of Fact No. 5.

MTMC 18.05.560(B) Criteria

The appropriate authority shall not approve or deny a proposed development unless it first makes findings of fact and conclusions of law consistent with the evidence and determination made. The findings of fact and conclusions of law shall address:

(1) *The development is consistent or is not consistent with Comprehensive Plan goals and policies.*

COL No. 21: As previously determined, the proposal is consistent with the Comprehensive Plan.

(2) *The development meets or does not meet the requirements and intent of the applicable City ordinances.*

COL No. 22: As previously determined, the proposal is consistent with applicable development standards.

(3) *The development makes or does not make adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks*

and recreation facilities, playgrounds, sites for schools and school grounds as applicable.

COL No. 23: As determined in Finding of Fact No. 5E, the proposal will be adequately served by public services and facilities.

(4) The development adequately mitigates or does not adequately mitigate impacts identified under the Critical Areas Ordinance and SEPA determination.

COL No. 24: As determined in Finding of Fact No. 5, as conditioned by this decision, all potential significant impacts have been adequately mitigated to the maximum extent practicable.

(5) The development is or is not beneficial to the public health, safety and welfare and is in the public interest.

COL No. 25: The proposal is beneficial to the public health safety and welfare and is in the public interest for the reasons identified in COL No. 12.

(6) The development does or does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the Comprehensive Plan. If the development results in a level of service lower than those set forth in the Comprehensive Plan, the development may be approved if improvements or strategies to raise the level of service to meet or exceed the minimum standard are made concurrent with the development. For the purpose of this section, “concurrent with the development” is defined as the required improvements or strategies are in place at the time of occupancy, or a financial commitment is in place to complete the improvements or strategies within six years of approval of the development.

COL No. 26: As determined in Finding of Fact No. 5C, the proposal’s trip generation is consistent with the City’s traffic level of service standards. Transit facilities are not subject to the City’s park level of service standards.

(7) The area, location and features of any land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development, and are proportional to the impacts created by the development.

COL NO. 27: The dedications required by the project are all necessary to mitigate project impacts, most notably the dedication required by Condition No. 24b is reasonably needed to mitigate the effect of development for the reasons identified in Conclusion of Law No. 10.

(8) The development satisfactorily addresses or does not satisfactorily address criteria for review and consideration set forth in subsection B or C of this section as applicable.

COL No. 28: The proposal satisfactorily addresses the criteria established in MTMC 18.05.560(A) and (B) as established in the conclusions of law above.

Reasonable Use

MTMC 16.15.360A1: *A reasonable use exception shall only be granted if no other reasonable alternative method of development is provided, subject to review and criteria under this section.*

COL No. 29: The criterion is met for the reasons identified in Finding of Fact No. 5Fiii.

MTMC 16.15.360A2: *The fact that property may be utilized more profitably than allowed based on strict interpretation of this title shall not be an element of consideration in any review of a reasonable use request. Reasonable use exceptions shall not be permitted for the subdivision of land.*

COL No. 30: The criterion is met for the reasons identified in Finding of Fact No. 5Fiv.

MTMC 16.15.360C1: *The application of the critical areas regulations would unreasonably restrict the ability to provide utility services to the public;*

COL No. 31: The criterion is met for the reasons identified in Finding of Fact No. 5Fv.

MTMC 16.15.360C2: *There is no other practical alternative to the proposed development with less impact on the critical areas;*

COL No. 32: The criterion is met for the reasons identified in Finding of Fact No. 5Fvi.

MTMC 16.15.360C3: *The proposal does not pose an unreasonable threat to the public health or safety on or off the development proposal site and will not be materially detrimental to the property or improvements in the vicinity;*

COL No. 33: The criterion is met for the reasons identified in Finding of Fact No. 5Fvii.

MTMC 16.15.360C4: *The proposal attempts to protect and mitigate impacts to the existing critical area functions and value, consistent with MTMC 16.15.310, Alteration of critical areas, and best available science to the fullest extent possible;*

COL No. 34: The criterion is met for the reasons identified in Finding of Fact No. 5Fviii. In addition, the staff findings and conclusions regarding conformance to MTMC 16.15.310B are adopted as if set forth in full.

MTMC 16.15.360C5: *Any impacts or alterations permitted to the critical area are the minimum necessary and will be mitigated consistent with relevant mitigation standards in this chapter;*

COL No. 35: The criterion is met for the reasons identified in Finding of Fact No. 5Fix.

MTMC 16.15.360C6: *The proposal attempts to protect and mitigate, consistent with MTMC 16.15.210 and best available science, the existing critical area functions; and*

COL No. 36: The criterion is met for the reasons identified in Finding of Fact No. 5Fx.

MTMC 16.15.360C7: *The proposal is consistent with other applicable regulations and standards.*

COL No. 37: The criterion is met for the reasons identified in Finding of Fact No. 5Fxi.


DECISION

As conditioned, the proposal meets all the review criteria for the conditional use, site development plan and reasonable use applications for the reasons identified in the Conclusions of Law above. The applications are approved subject to the conditions of approval identified in Attachment 4 to the staff report, as modified by Exhibit ST-39, the Joint Recommendation Regarding Conditions of Approval for Sound Transit CUP. In addition, the following subsections are added to Condition 23b:

- vi. If Sound Transit constructs the improvements, it shall be reimbursed from the matching funds of the Access Enhancement Funding Agreement (AEFA) between ST and MLT.
- vii. In lieu of constructing the improvements itself, Sound Transit may require the City to include the improvements as part of its accessibility improvements to the Veteran's Memorial Park trail connecting the Transit Center to the City's civic campus. Beyond the AEFA matching funds, Sound Transit will not be responsible for the costs of the improvements unless the cost of the improvements exceeds the amount of matching funds to the extent that amount is still within Sound Transit's proportionate share as determined in Condition 24bviii below.
- viii. The Sound Transit improvements shall not exceed its proportionate share of total trail accessibility improvements. The value of the overall improvements will be the total of all accessibility improvements made by the City and the trail extension required of Sound Transit. Sound Transit's proportionate share shall be based upon the proportion of light rail trail disabled trail users to the total number of disabled trail users. Should Sound Transit and the City not agree upon proportionate share, the parties shall base proportionate share upon the study of a mutually agreeable consultant paid by Sound Transit.
- ix. Should the cost of the improvements required of Sound Transit exceed its proportionate share, the improvements shall not be required unless the City pays for the difference. If the trail extension costs exceed two million dollars, Sound Transit shall pay the difference up to its proportionate share. If the improvements should prove not possible due to site constraints, the improvements shall not be required.

- x. Sound Transit shall only be required to construct or fund the improvements if the City completes its trail improvements in time to qualify for AEFA matching funds, unless circumstances reasonably beyond the control of the City prevent it from completing construction in time. Lack of funding will not serve to excuse timely completion.

Dated this 15th day of July 2019.



Phil A. Olbrechts

City of Mountlake Terrace Hearing Examiner

Appeal Right and Valuation Notice

This decision is final and subject to judicial appeal to superior court as governed by Chapter 36.70C RCW. Reconsideration may be requested within ten days of issuance of this decision pursuant to the requirements of MTMC 19.110.110.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.