
Planning Commission Meeting Date: January 7, 2016

Agenda Item

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Continued Study of Special Use Permit, Legislative Process for Sound Transit Light Rail Stations, Garages, and Facilities and Applicable Development Regulations
DEPARTMENT: Planning & Community Development
PRESENTED BY: Rachael Markle, AICP, Director

Public Hearing
 Discussion

Study Session
 Update

Recommendation Only
 Other

INTRODUCTION

The purpose of tonight's meeting is to continue the discussion from December 17th, debating the various options for processing permits related to Sound Transit's light rail facilities in Shoreline. We will explain the differences between Special Use Permits and Legislative Decisions and how these two processes apply to Sound Transit. We will also explain how the Commission can be involved in the regulation and design of the stations and the garages.

Light rail service is scheduled to begin in 2023. Based on Sound Transit's latest schedule, review of architectural and engineering designs for the stations, garages and other associated light rail facilities will start as early as 2016. When the City adopted the 185th Street Light Rail Station Subarea Plan, a permitting process was put in place in the Development Code to review the stations, garages and associated facilities for compliance with Shoreline's goals, policies and regulations. Further legal review, revealed that process, Development Agreement, is not the appropriate mechanism to approve the use of a light rail system and facilities.

Additionally, the City augmented the existing Commercial design regulations to implement the 185th Street Light Rail Station Subarea Plan. These regulations include building materials, colors, textures, openings, and modulations.

The purpose of this study session is to:

- Provide additional information to the Commission about the Special Use Permit process
- Provide the Commission with more information about the differences between Legislative, Quasi-Judicial, Administrative and Ministerial decision making

6a. Continued Study of SUP, Legislative Process for ST Light Rail Stations and Facilities and Applicable Development Regs.

- Have a collaborative discussion with the Commission about proposed amendments
- Receive additional feedback from the Commission
- Identify if there is a need for additional amendments
- Develop a recommended set of Development Code Amendments for the Public Hearing

DISCUSSION

At the December 17th meeting, the Commission raised concerns regarding the use of a Special Use Permit process to locate the light rail facilities and systems. The main concern seemed to be that a Special Use Permit is determined using a quasi-judicial process instead of a legislative process. At tonight's study session, staff will:

- Explain the statutory reasoning for using a quasi-judicial process instead of a legislative process;
- Explain the different land use decision making models used by government (See Attachment B); and
- Walk the Commission through an example of a Special Use Permit processed to locate North City Water District's new facility maintenance yard in a R-6 zone. The purpose of this discussion will be to learn about the level of detail needed to process a Special Use Permit (site plan level, not detailed architectural or engineering plans) and what SUP decisions typically include.

Special Use Permit

The following is the City's definition of a Special Use Permit:

The purpose of a special use permit is to allow a permit granted by the Hearing Examiner to locate a regional land use, not specifically allowed by the zoning of the location, but that provides a benefit to the community and is compatible with other uses in the zone in which it is proposed. The special use permit is granted subject to conditions placed on the proposed use to ensure compatibility with adjacent land uses.

To put it simply, the SUP is the mechanism to allow the use of a light rail transit facilities and system in the City of Shoreline.

The Special Use Permit process would be used to:

- Locate the light rail systems/facilities as an essential facility in zones where this use would be prohibited;
- Through the application of criteria, condition the light rail systems/facilities to be more compatible with adjacent land uses;
- Establish which regulations apply to Sound Transit projects, especially when the project is located in unclassified land. Unclassified land, is land that is not zoned which is primarily various types of right of way; and
- Approve deviations from the regulations as appropriate to accommodate the light rail systems/facilities as essential public facilities.

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The City's Comprehensive Plan includes an Interim Essential Public Facility "EPF" siting Process in Land Use Policy LU62. No new process has been established to replace this interim process, so this process is still valid. LU62 reads as follows:

LU62: Use this interim Siting Process to site the essential public facilities described in LU60 in Shoreline. Implement this process through appropriate procedures incorporated into the SMC.

Interim EPF Siting Process

1. Use policies LU60 and LU61 to determine if a proposed essential public facility serves local, countywide, or statewide public needs.
2. Site EPF through a separate multi-jurisdictional process, if one is available, when the City determines that a proposed essential public facility serves a countywide or statewide need.
3. Require an agency, special district, or organization proposing an essential public facility to provide information about the difficulty of siting the essential public facility, and about the alternative sites considered for location of the proposed essential public facility.
4. Processing applications for siting essential public facilities through SMC Transfer of Development Rights (TDR) allows property owners in environmentally or historically significant areas to transfer their right to develop to property owners in areas more suitable for urban development. A successful transaction benefits the seller, who sells the development rights for financial considerations; the buyer, who is able to use the TDR on his/her property; and the public at large, which gains a permanent open space, recreation area, or historically significant site. Section 20.30.330 — Special Use Permit.
5. Address the following criteria in addition to the Special Use Permit decision criteria:
 - a. Consistency with the plan under which the proposing agency, special district or organization operates, if any such plan exists;
 - b. Include conditions or mitigation measures on approval that may be imposed within the scope of the City's authority to mitigate against any environmental, compatibility, public safety or other impacts of the EPF, its location, design, use or operation; and
 - c. The EPF and its location, design, use, and operation must be in compliance with any guidelines, regulations, rules, or statutes governing the EPF as adopted by state law, or by any other agency or jurisdiction with authority over the EPF.

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Therefore, staff has indicated that a Special Use Permit is the most appropriate method of approving Sound Transit's light rail system/facility. Further, Washington State Law directs the City to use a quasi-judicial process such as a Special Use Permit process when making decisions in regards to a specific party. RCW 42.36.010 states:

Quasi-judicial actions of local decision-making bodies are those actions of the legislative body, planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance.

The Special Use Permit is a quasi-judicial decision. The decision to approve, approve with conditions or deny a Special Use Permit is made by the Hearing Examiner and involves the use of discretionary judgment in the review of each specific application.

Quasi-Judicial decisions require findings, conclusions, an open record public hearing and recommendations prepared by the review authority for the final decision made by the Hearing Examiner.

A Quasi-Judicial process resembles a court or a judge who must act in a manner similar to a judge in a court of law. In a quasi-judicial proceeding, the Hearing Examiner is not setting new policy but is making a decision based on set criteria (SCM 20.30.330) at a hearing. In other words, much like a court, the Hearing Examiner is applying the law to facts gathered at the hearing to arrive at its decision.

Quasi-Judicial decisions also require the Hearing Examiner not to consider any information received outside the record (this is called "ex parte communication"). This is so everyone has a fair opportunity to hear the information and provide testimony in response. This includes written and verbal communication, from any source, including residents, other Planning Commission, and City Council members.

A public commenter, voiced concern about using a quasi-judicial hearing process in terms of the effect of the formality on public participation. It could also be the case that more formality could be welcomed by some in regards to maintaining decorum during comment on potentially contentious land use issues (note: staff is not suggesting that a SUP for light rail facilities and systems will be contentious). Further, the Commission could recommend that instead of the Hearing Examiner being the body to hear the Special Use Permit that the Planning Commission or Council could assume that role. The same quasi-judicial rules would apply regardless of the hearing body.

Therefore, granting the right to locate a use that is not allowed in a zone to accommodate an essential public facility, specifically a light rail transit system and

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facilities for a specific party, Sound Transit should be accomplished using a quasi-judicial process.

Legislative Decisions

The following is the City's definition of a Legislative Decision (Type L Permit):

These decisions are legislative, nonproject decisions made by the City Council under its authority to establish policies and regulations regarding future private and public developments, and management of public lands.

Type L actions include Development Code Amendments, Comprehensive Plan Amendments, and Development Agreements. Type L actions do not benefit one specific property owner but usually applies area or city wide. Typically the Commission gathers information at public hearings, from informal conversations with citizens and others, from memoranda prepared by City staff, and from other sources. The Commission typically holds a public hearing and forwards a recommendation to the Council. The Council then deliberates and implements a policy by enacting an ordinance. This is a legislative process by which the Council creates policies or regulations that apply to the whole City, entire zones or to multiple properties.

The Commission has much experience with Legislative actions as the Commission just recently considered the 185th Street Light Rail Station Subarea Plan. Within the Plan were Development Code regulations such as dimensional standards for development in the Mixed Use Residential (MUR) zones, density, site design standards, and building design standards.

The Commission is being asked as part of this amendment package (Attachment A) to gather community input and determine the specific Development Code regulations that will apply to light rail systems and facilities. This is how we are also addressing the design of stations, garages and associated facilities through a legislative process in addition to the quasi-judicial Special Use Permit process. Staff has identified existing regulations that should be applicable to light rail stations, garages and associated facilities. If the Commission feels that additional regulations are needed to ensure that the design of the stations, garages and associated facilities meets Shoreline's expectations then now is the time to suggest amendments. If it would be helpful, staff could walk the Commission through the list of Code sections proposed to apply to light rail facilities and systems at the meeting.

Staff will also present to the Commission the kick-off, 30%, 60% and 90% Open House concept approved by the Council to provide specific input to Sound Transit on the designs of the stations, garages and associated facilities. This process will involve the greater community of Shoreline so that everyone can participate in the design process of the stations, garages and associated facilities. The public is invited to open houses to give input on the proposed station design and parking structures. The public is free to meet with staff, Planning Commissioners, and the City Council to make sure that their

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voice is being heard in the process. If you want additional information on the open house concepts please refer to the [November 11, 2015 City Council Memo](#).

TIMING AND SCHEDULE

- January 21, 2016 - Planning Commission Public Hearing
- February 8, 2016 - City Council discussion
- February 29, 2016 - City Council adoption

RECOMMENDATION

No recommendation is provided for this study session.

ATTACHMENT

Attachment A – Draft Development Code Amendments related to Light Rail
Systems/Facilities

Attachment B – Types of Land Use Decisions

20.30.330 Special use permit-SUP (Type C action).

A. Purpose. The purpose of a special use permit is to allow a permit granted by the City to locate a regional land use on unclassified lands, unzoned lands, or when not specifically allowed by the zoning of the location, but that provides a benefit to the community and is compatible with other uses in the zone in which it is proposed. The special use permit ~~is~~ may be granted subject to conditions placed on the proposed use to ensure compatibility with adjacent land uses.

B. Decision Criteria (applies to all Special Uses). A special use permit shall be granted by the City, only if the applicant demonstrates that:

1. The use will provide a public benefit or satisfy a public need of the neighborhood, district or City or region;
2. The characteristics of the special use will be compatible with the types of uses permitted in surrounding areas;
3. The special use will not materially endanger the health, safety and welfare of the community;
4. The proposed location shall not result in either the detrimental over-concentration of a particular use within the City or within the immediate area of the proposed use, unless the proposed use is deemed a public necessity;
5. The special use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood;
6. The special use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts;
7. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the special use shall not hinder or discourage the appropriate development or use of neighboring properties;
8. The special use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this title; and

6a. Attachment A - Draft Development Code Amendments Related to Light Rail Systems/Facilities

9. The special use is not in conflict with the standards of the critical areas regulations, Chapter 20.80 SMC, Critical Areas, or Shoreline Master Program, SMC Title 20, Division II.

Table 20.40.140 Other Uses

NAICS #	SPECIFIC USE	R4- R6	R8- R12	R18- R48	TC-4	NB	CB	MB	TC-1, 2 & 3
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REGIONAL										
	School Bus Base	S-i	S-i	S-i	S-i	S-i	S-i	S-i	S-i	
	Secure Community Transitional Facility							S-i		
	Transfer Station	S	S	S	S	S	S	S	S	
	<u>Light rail transit facility/system</u>	<u>S-i</u>	<u>S-i</u>	<u>S-i</u>	<u>S-i</u>	<u>S-i</u>	<u>S-i</u>	<u>S-i</u>	<u>S-i</u>	<u>S-i</u>
	Transit Bus Base	S	S	S	S	S	S	S	S	
	Transit Park and Ride Lot	S-i	S-i	S-i	S-i	P	P	P	P	
	Work Release Facility							S-i		

P = Permitted Use	S = Special Use
C = Conditional Use	-i = Indexed Supplemental Criteria

20.40.160 Station area uses.

Table 20.40.160 Station Area Uses

NAICS #	SPECIFIC LAND USE	MUR-35'	MUR-45'	MUR-70'
OTHER				
	Animals, Small, Keeping and Raising	P-i	P-i	P-i
	Light Rail Transit System/Facility	<u>P-i S-i</u>	<u>P-i S-i</u>	<u>P-i S-i</u>
	Transit Park and Ride Lot		S	P
	Unlisted Uses	P-i	P-i	P-i

Supplemental Index Criteria

20.40.438 Light rail transit system/facility.¹

A. A light rail transit system/facility shall be approved through a development agreement Special Use Permit as specified in SMC 20.30.355. (Ord. 706 § 1 (Exh. A), 2015).

B. A Light Rail Transit System/Facility stations and parking garages shall conform to the required standards below:

1. SMC 20.50.020(2) - Dimensional standards of the MUR-70' Zone;
2. SMC 20.50.220 through 20.50.250 – Commercial design standards;
3. SMC 20.50.290 through 20.50.370 – Tree conservation, and clearing and site grading standards;
4. SMC 20.50.380 through 20.50.440 – Parking, access, and circulation;
5. SMC 20.50.450 through 20.50.520 - Landscaping;
6. SMC 20.50.530 through 20.50.610 – Signs for the MUR-70' Zone;
7. SMC 20.60 Adequacy of Public Facilities;
8. SMC 20.70 Engineering and Utilities Development Standards; and
9. SMC 20.80 Critical Areas.

6a. Attachment A - Draft Development Code Amendments Related to Light Rail Systems/Facilities

C. The Light Rail Transit System/Facility improvements located between the stations shall comply with the applicable sections below:

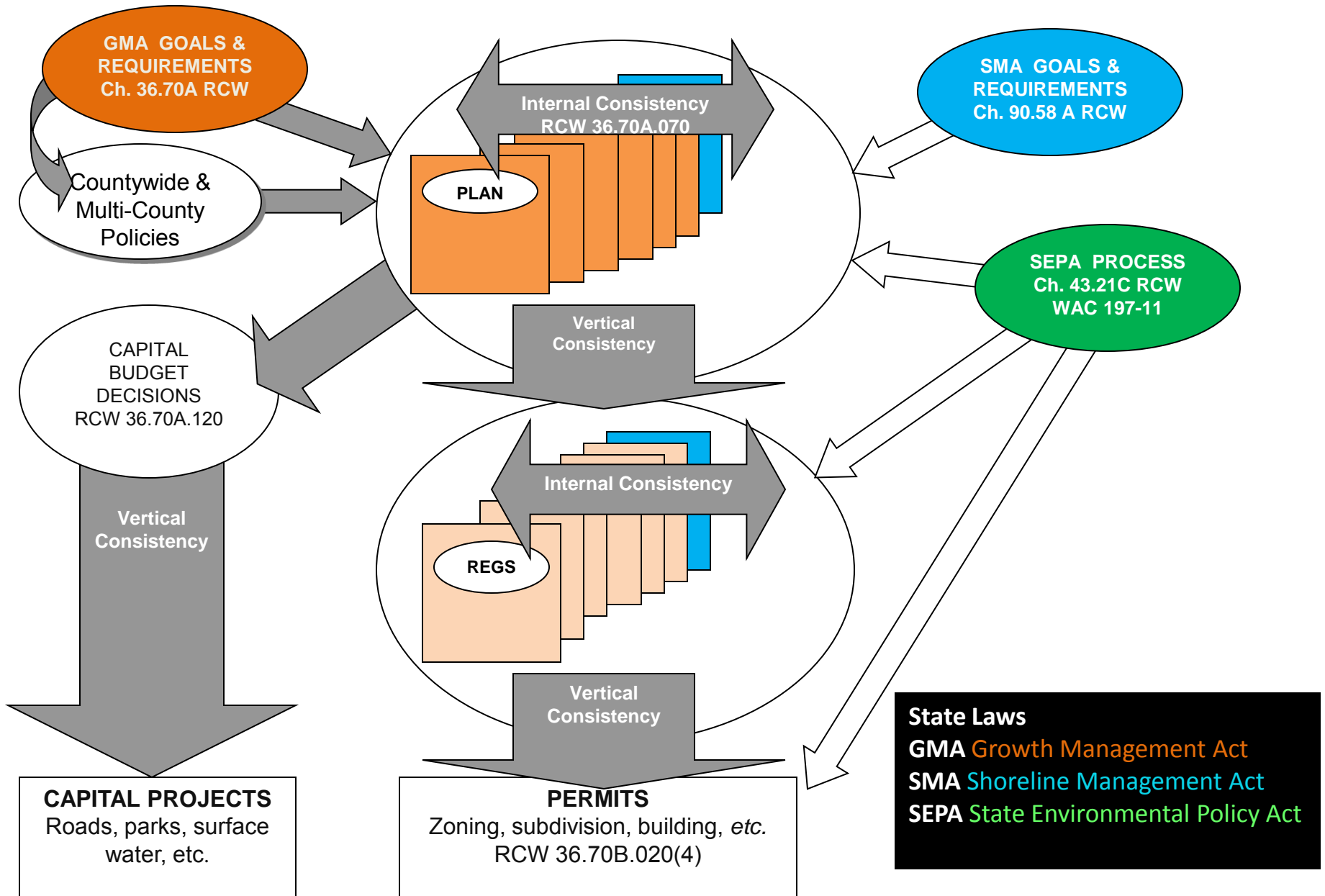
1. SMC 20.50.290 through 20.50.370 – Tree conservation, and clearing and site grading standards;
2. SMC 20.50.450 through 20.50.520 – Landscaping;
3. SMC 20.60 Adequacy of Public Facilities;
4. SMC 20.70 Engineering and Utilities Development Standards; and
5. SMC 20.80 Critical Areas.

D. Modification of 20.40.438 (B) and (C) Requirements. If the applicant demonstrates that compliance with one or more of the requirements set forth in this Section 20.40.438(B) and (C) is impracticable, would result in reduced public benefits, or alternative actions could meet or exceed the intended goals of such requirements, then the City may waive or modify such requirements as part of the Special Use Permit process.

20.50.480 Street trees and landscaping within the right-of-way – Standards.

- A. When frontage improvements are required by Chapter 20.70 SMC, street trees are required ~~in~~for all commercial, office, public facilities, industrial, multifamily ~~zones~~developments, and for single-family subdivisions on all arterial streets.
- B. Frontage landscaping may be placed within City street rights-of-way subject to review and approval by the Director. Adequate space should be maintained along the street line to replant the required landscaping should subsequent street improvements require the removal of landscaping within the rights-of-way.
- C. Street trees and landscaping must meet the standards for the specific street classification abutting the property as depicted in the Engineering Development Guide including but not limited to size, spacing, and site distance. All street trees must be selected from the City-approved street tree list. (Ord. 581 § 1 (Exh. 1), 2010; Ord. 406 § 1, 2006; Ord. 238 Ch. V § 7(B-3), 2000).

State laws, Comprehensive Plans, Regulations, Permits, Capital Budgets and Projects



TYPES OF LAND USE DECISIONS

MORE

LESS

Degree of discretion in making decision

Impact of public comment

Comprehensive Plan

Shoreline Master Plan

Development Regulations

Rezone (Area-Wide Map Change)

LEGISLATIVE DECISIONS

Policy Decisions
"The Rules"

Rezone (Site-Specific Map Change)

Master Development Plan Permit

Subdivision (10 or more lots)

Special Use Permit

Street Vacation Application

QUASI-JUDICIAL DECISIONS

Project Permits or Permissions

Must be consistent with adopted Policies and Regulations

Variance

Conditional Use Permit

Administrative Design Permit

Substantial Development Permit

Short Plat (9 or fewer lots)

Right of Way Permit

Building Permit

MINISTERIAL & ADMINISTRATIVE DECISIONS