

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF SHORELINE**

In the Matter of the Application of)	No. PLN19-0019
)	
Karin Ertl, on behalf of Sound Transit)	
)	
<u>For a Critical Areas Special Use Permit</u>)	FINDINGS, CONCLUSIONS, AND DECISION

SUMMARY OF DECISION

The request for a critical areas special use permit to construct a portion of the elevated guideway structures for the Central Puget Sound Regional Transit Authority’s “Lynnwood Link Extension” light rail project within an area classified as a very high-risk landslide area, along the eastern embankments of the I-5 northbound and SR-104 exit, is **APPROVED**. Conditions are necessary to address specific impacts of the proposed development.

SUMMARY OF RECORD

Hearing Date:

The Hearing Examiner held an open record hearing on the request on April 10, 2019.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Brian Lee, City Senior Planner
Karin Ertl, Applicant Representative
Tim Bailey, P.E.
Juniper Nammi

Exhibits:

The following exhibits were admitted into the record:

- A. Staff Report, dated March 27, 2019
- B. Lynnwood Link Extension, Final Environmental Impact Statement (excerpts), dated April 1, 2015
- C. Lynnwood Link Extension Project, 2018 SEPA Addendum to the FEIS, dated May 3, 2018
- D. Memorandum, Critical Areas Special Use Permit – Very High Risk Landslide Area I-5 NB Off Ramp to SR-104, dated January 23, 2019
- E. Contract L200, HNTB Jacobs, Critical Areas Report, dated July 13, 2018 (separate binder)
- F. Contract L200 City of Shoreline Critical Areas Report, Addendum #1, dated March 6, 2019

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- G. Memorandum, Geologic Hazard Areas Assessment (Contract L300), HNTB Jacobs, dated December 18, 2018
- H. Federal Transit Administration, Lynnwood Link Extension, Record of Decision, dated July 2015
- I. Federal Highway Administration, Lynnwood Link Extension, Record of Decision, dated August 2015
- J. Declaration of Mailing, dated February 6, 2019; Notice of Critical Area Special Use Permit Application, with Site Plan, Vicinity Map, dated February 6, 2019, Affidavit of Publication, *Seattle Times*, dated February 6, 2019; Affidavit of Publication, *Seattle Times*, dated March 26, 2019; Declaration of Mailing, dated March 25, 2019
- K. Sound Transit Neighborhood Meeting Notice, dated June 2018; Affidavit of Mailing Notice of Special Use Permit Application, dated July 23, 2018
- L. Sound Transit summary of neighborhood meeting, dated June 27, 2018, with sign-in sheets, Sound Transit PowerPoint, comment forms and public comments on Post It Notes
- M. Review of Geologic Hazard Areas CASUP Documents, Amec Foster Wheeler Environment & Infrastructure, Inc., dated February 17, 2019
- N. Site plans (Drawings CAR101 – CAR103, Sheet Nos. 1, 2, and 3), dated January 17, 2019
- O. Aerial map, undated
- P. Memo from Karin Ertl to Brian Lee, dated January 24, 2019, with the following attachments:
 - 1. Permit Application, dated January 2019
 - 2. Site Plan (Exhibit N)
 - 3. Tree Retention, Protection, and Planting Plan (Drawings CAR104 – CAR111, Sheet Nos. 4 through 11, dated January 17, 2019)
 - 4. Memorandum, Critical Areas Special Use Permit – Very High Risk Landslide Area I-5 NB Off Ramp to SR 104, dated January 23, 2019 (Exhibit D)
 - 5. Neighborhood Meeting Summary (Exhibits K and L)
 - 6. Memorandum, Geologic Hazard Areas Assessment (Contract L300), HNTB Jacobs, dated December 18, 2018 (Exhibit G)
- Q. Letter from Karin Ertl to Hearing Examiner, dated April 3, 2019
- R. Sound Transit PowerPoint Presentation (10 slides)
- S. City PowerPoint Presentation (20 slides)

The Hearing Examiner enters the following findings and conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Background

1. The Central Puget Sound Regional Transit Authority (Sound Transit), for several years, has been working with other government agencies and local jurisdictions, including the Puget Sound Regional Council (PSRC), the Federal Transit Administration (FTA), King

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County, and the City of Shoreline, to implement the “Lynnwood Link Extension” (LLE), a proposal to expand the light-rail system north from Seattle to Lynnwood. The proposal to extend light rail to Lynnwood, through the cities of Shoreline and Mountlake Terrace, would implement part of PSRC’s “VISION 2040 Plan” and Sound Transit’s “Long Range Plan,” both of which call for the eventual extension of mass transit service to Everett. Further, the LLE would implement one of the final stages of the “Sound Transit 2 Plan” (ST2), a funding plan approved by voters in 2008 to expand the mass transit system in the region. *Exhibit A, Staff Report, pages 1 through 3; Exhibit B; Exhibit H.*

2. The LLE would begin at Northgate in Seattle and run north for approximately 8.5 miles, generally following Interstate 5 (I-5) to the Lynnwood Transit Center. According to Sound Transit and the FTA, the proposal would provide “reliable, rapid, and efficient peak and off-peak two-way transit service” between Lynnwood and Seattle; create an “alternative to travel on congested roadways and improve regional multimodal transportation connections”; address “overcrowding caused by insufficient transit capacity”; and create a “reliable alternative to automobile trips on I-5 and State Route (SR) 99, the two primary highways serving the project corridor.” *Exhibit B; Exhibit I.*
3. As explained in more detail below, the LLE proposal underwent extensive project review, including environmental review, by local governments and state and federal agencies throughout the last several years. Ultimately, the agencies and jurisdictions involved selected a route for the LLE that would entail, in part, constructing approximately 3.2 miles of light-rail track through the city of Shoreline. The proposed route through the city would generally follow I-5 and vary in its alignment profile. In places, the LLE would travel at grade, and in other places the LLE would be elevated. The LLE would provide two new light-rail stations within the city: one station would be constructed at the existing North Jackson Park & Ride, north of the NE 145th Street interchange, and another station would be built east of the NE 185th Street interchange. *Exhibit A, Staff Report, page 3; Exhibit B.*

Application and Notice

4. Karin Ertl, on behalf of Sound Transit (Applicant), requests a critical areas special use permit (CASUP) to allow construction of a portion of the elevated guideway for the LLE within a very high-risk landslide hazard area along the eastern embankments of the I-5 northbound and SR-104 exit. The Applicant seeks relief from the requirements of Shoreline Municipal Code (SMC) 20.80.224.F.1, which normally requires a minimum factor of safety¹ of 1.5 for static conditions and 1.2 for dynamic/pseudostatic conditions

¹ In its PowerPoint presentation before the Hearing Examiner, Sound Transit noted that *factor of safety* is “the ratio of resisting forces to driving forces, and in this context, refers to the resisting force from the soil embankment to sliding forces.” *Exhibit R.*

when development occurs within an area classified as a very high-risk landslide hazard area. Here, the existing embankments do not meet the required factor of safety (1.2) for dynamic/pseudostatic conditions: global stability analysis reveals a current factor of safety for the embankments in this area of 0.9. Proposed development would not decrease the existing factor of safety, and it is anticipated that the addition of soldier piles utilized to maintain site stability during construction, which would be cut to final grade after construction and left in-place, and the use of drilled concrete shaft foundations in the steep slopes supporting the elevated guideway, would improve seismic stability at the project site. *Exhibit A, Staff Report, pages 3 through 8; Exhibit D; Exhibit E; Exhibit F; Exhibit G; Exhibit M; Exhibit N; Exhibit P; Exhibit Q; Exhibit R; Exhibit S.*

5. The City of Shoreline (City) determined the application was complete on January 24, 2019.² The City issued a “Notice of Critical Area Special Use Permit Application” on February 6, 2019, with a comment deadline of February 20, 2019. On the same day, the City posted notice at the west end of NE 200th Street, mailed notice to property owners and residents within 500 feet of the site, and published notice in the *Seattle Times*. On March 25, 2019, the City mailed notice of the open record hearing associated with the application to the mailing-list addresses and, the next day, published notice in the *Seattle Times*. The City received no comments in response to its notice materials. *Exhibit A, Staff Report, pages 5 and 6; Exhibit J.*

Comprehensive Plan and Zoning

6. The property is designated Public Facility by the City’s Comprehensive Plan. This designation applies to a number of current and proposed facilities within the community. If the use becomes discontinued, the underlying zoning remains, unless adjusted by a formal amendment. *Comprehensive Plan, Land Use Policy LU-18.* The City has adopted several Comprehensive Plan policies specific to light-rail expansion, including restoring adjacent streams, creeks, and other environmentally sensitive areas through redevelopment opportunities associated with light-rail expansion, which includes improving public access to such areas and providing public education about the functions and values of these areas. *Comprehensive Plan, Land Use Policy LU-41. Exhibit A, Staff Report, page 4.*
7. The site is located between the Echo Lake and Ballinger neighborhoods, just south of the Shoreline/Mountlake Terrace boundary at the King-Snohomish County line. The property is not zoned but, rather, is an unclassified right-of-way owned by the

² Sound Transit held a pre-application meeting with City staff on June 19, 2017, as required by SMC 20.30.080, and held a neighborhood meeting on June 27, 2018, as required by SMC 20.30.090. The Applicant prepared a summary of the neighborhood meeting addressing questions and concerns raised at the meeting. *Exhibit A, Staff Report, pages 5 and 6; Exhibit K; Exhibit L.*

Washington State Department of Transportation (WSDOT). *SMC 20.40.060.D*. The nearest designated zoning district, bordering on the east, is zoned “R6” (Residential, 6-units per acre). The off-ramp is adjacent to areas with predominantly residential uses. *Exhibit A, Staff Report, pages 4 and 5; Exhibit O*.

Environmental Review

8. Sound Transit acted as lead agency³ and analyzed the environmental impacts of the entire LLE project and determined that it would have a probable significant, adverse environmental impact. Sound Transit issued a Draft Environmental Impact Statement in July 2013, as required by the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, assessing the environmental impacts of the proposal and potential measures to mitigate for such impacts. Numerous agencies, municipalities, and tribal entities were consulted during the environmental review process of the LLE project, including the Federal Highway Administration (FHA); the Washington State Department of Transportation (WSDOT); the Army Corps of Engineers (Army Corps); the U.S. Fish and Wildlife Service; the Environmental Protection Agency; the Federal Emergency Management Agency (FEMA); the National Park Service; the Washington Department of Archaeology and Historic Preservation; the Washington State Department of Fish and Wildlife (WSDFW); the Washington State Department of Ecology (DOE); the Cities of Edmonds, Lynnwood, Mountlake Terrace, Seattle, and Shoreline; and King and Snohomish Counties. *Exhibit A, Staff Report, page 5; Exhibit B; Exhibit H; Exhibit I*.
9. During the environmental review process, Sound Transit and FTA considered several alternative routes for the LLE, provided various opportunities to comment on the project, and assessed multiple options to mitigate impacts from the proposal. Ultimately, the current alignment of the proposed LLE and several potential mitigation measures were approved, and Sound Transit issued a Final Environmental Impact Statement (FEIS) in April 2015.⁴ The FTA issued a Record of Decision (ROD) in July 2015, and the Federal Highway Administration issued a ROD in August 2015, documenting this approval. *Exhibit A, Staff Report, page 5; Exhibit B; Exhibit H; Exhibit I*.
10. Following additional planning and project review, Sound Transit issued a SEPA “Addendum” to the FEIS on May 3, 2018, describing proposed design refinements to the

³ The first agency receiving an application for, or initiating, a nonexempt proposal must determine the lead agency for that proposal, unless the lead agency has been previously determined, or the agency receiving the proposal is aware that another agency is determining the lead agency. The lead agency is determined by using the criteria in WAC 197-11-926 through 197-11-944. *WAC 197-11-924(1)*. When an agency initiates a proposal, it is the lead agency for that proposal. *WAC 197-11-926(1)*.

⁴ The FTA also reviewed the proposal as the federal lead agency under the National Environmental Policy Act (NEPA). Sound Transit and the FTA jointly issued the FEIS. *Exhibit B*.

LLE proposal and new information related to construction and mitigation. In the Addendum, Sound Transit determined that project refinements would not substantially change the analysis of significant impacts and alternatives evaluated in the FEIS or result in new probable significant environmental impacts. Sound Transit determined that no supplemental EIS would be required for the proposal. *Exhibit A, Staff Report, page 5; Exhibit C.*

Critical Areas

11. As noted above, a portion of the LLE project would include development of elevated guideway structures supported on concrete columns along the eastern embankments of the I-5 northbound off-ramp to SR-104.⁵ The side slopes of the I-5 embankments, originally constructed with fill, are generally inclined at approximately 50 percent (2H:1V) and vegetated with trees and brush. SMC 20.80.220.B.2 classifies slopes greater than 40 percent as very high-risk landslide areas. SMC 20.80.224.F.1 normally requires a minimum factor of safety of 1.5 for static conditions and 1.2 for dynamic/pseudostatic conditions when development occurs in such areas. *Exhibit A, Staff Report, pages 3 and 4; Exhibit G; Exhibit M.*
12. HNTB|Jacobs Trusted Design Partners prepared a Geologic Hazard Areas Assessment (GHAA) for Sound Transit, dated December 18, 2018. The GHAA determined that the dynamic/pseudostatic conditions have a low factor of safety of 0.9 in sections of the project area. Because WSDOT owns the right-of-way, Sound Transit determined that it was not within Sound Transit's authority or the scope of the project to undertake additional ground stability measures to increase the factor of safety to 1.2, as would be required under SMC 20.80.224.F.1. Temporary and permanent impacts to the landslide hazard area from the proposal would include vegetation removal, excavation of cut slopes, installation of retaining structures, and revegetation of the site area following construction. Sound Transit is requesting release from the City's Design Criteria for Alteration of Very High Risk Landslide Hazard Areas factor-of-safety requirements. *SMC 20.80.22.F.1.* The City determined that these activities would not decrease the factor of safety for landslide occurrences below existing conditions. *Exhibit A, Staff Report, pages 3 and 7; Exhibit E; Exhibit F; Exhibit G; Exhibit N; Exhibit P.*

Mitigation Proposal

13. HNTB|Jacobs Trusted Design Partners prepared a Critical Areas Report (CAR) for Sound Transit, dated July 13, 2018. The CAR identified and characterized all critical areas within the vicinity of the LLE project with the City, including the McAleer Creek Basin, wetland PWSH5, and landslide hazard areas. Section 3.0 of the CAR contains Sound

⁵ The guideway is the flat area and the structures constructed to support the light rail tracks. *Exhibit A, Staff Report, page 3.*

Transit's mitigation plan, including mitigation goals, objectives, and performance standards, monitoring, maintenance, contingency measures, and financial guarantee, as required by Chapter 20.80 SMC. Impacts to the off-ramp landslide hazard areas would include vegetation removal, excavation of cut slopes, and construction of retaining structures. In addition to landslide hazard areas, other critical areas within the off-ramp area are limited to an erosion hazard area. The GHAA determined that the risk of damage from the project, both on-site and off-site, is minimal, subject to the GHAA conditions, and that, provided that appropriate Best Management Practices are implemented to protect exposed soils from rainfall and erosion during construction, no further erosion hazard mitigation is required. The GHAA also determined that the project would not increase surface water discharge or sedimentation, either on-site or to adjacent properties, beyond pre-development conditions. *Exhibit A, Staff Report, page 7; Exhibit B; Exhibit D; Exhibit E; Exhibit F; Exhibit G; Exhibit M.*

14. Amec Foster Wheeler conducted a third-party review and concurred with the HNTB/Jacobs assessment of the slope conditions, including the factor-of-safety assessments for pre- and post-construction, and recommended acceptance of the CAR and mitigation plan. City staff and the City's consultant engineers agreed that the proposed mitigation meets the intent of the City's Critical Areas provisions. Sound Transit's Environmental Impact Statement determined that no additional mitigation is feasible or necessary for the geologic hazards on-site. *Exhibit A, Staff Report, page 7; Exhibit B; Exhibit D; Exhibit E; Exhibit F; Exhibit G; Exhibit M.*

Critical Areas Special Use Permit

15. A CASUP may be approved to allow development in a critical area or buffer by a public agency when the strict application of the critical areas standards would unreasonably prohibit the provision of public services. *SMC 20.30.333.A.* To obtain a CASUP, an applicant must meet the decision criteria of *SMC 20.30.333.B.1* through *.7.*⁶ *Exhibit A, Staff Report, page 4.*
16. City staff analyzed the proposal for consistency with the requirements for a CASUP, including consideration of relief from the provisions of the critical areas code described above, and determined that the proposal would meet the criteria for approval of a CASUP under *SMC 20.30.333.B.* Specifically, staff determined:
 - The LLE proposal would benefit the public. Although alignment of the project within the embankments would have unavoidable impacts on critical areas along I-5, strict application of the City's critical areas regulations would unreasonably restrict Sound Transit's ability to provide benefits to the public. As designed, the

⁶ The City determined that *SMC 20.30.333.B.4* was not applicable. *Exhibit A, Staff Report, page 10.*

project would not increase the risk of hazard to people or property, on- or off-site. *SMC 20.30.333.B.1.*

- Sound Transit evaluated several alternatives, selected a preferred alternative, and refined the design to minimize impacts to critical areas. *SMC 20.30.330.B.2.*
- The proposal would not create a health or safety hazard, on or off the development site, and would not be materially detrimental to the property or improvements in the vicinity. The light-rail system would be constructed in accordance with design standards from the International Building Code, American Association of State Highway and Transportation Officials, and Sound Transit. *SMC 20.30.333.B.3.*
- Sound Transit has submitted a mitigation plan for both temporary and permanent impacts to the geological and landslide hazard areas. *SMC 20.30.333.B.5.*
- The proposal attempts to protect existing critical area functions and values consistent with the best available science and to mitigate adversely impacted critical area functions as fully as possible. *SMC 20.30.333.B.6.*
- The proposal would be consistent with other applicable regulations and standards. Consistency with all applicable regulations and standards would be verified through relevant site development and right-of-way use permit applications and through strict adherence to decision conditions. *SMC 20.30.333.B.7.*

Exhibit A, Staff Report, pages 6 through 11.

Testimony

17. Sound Transit Environmental Manager Karin Ertl testified that Sound Transit is requesting relief from SMC 20.80.224.F.1 and the requirement that a minimum factor of safety of 1.2 be met for dynamic/pseudostatic conditions to perform work and install permanent improvements within a very high-risk landslide hazard area. She testified that the off-ramp embankments currently have a 0.9 minimum factor of safety. Ms. Ertl noted that the embankments along I-5 were constructed, with fill, over 60 years ago and have performed well over time. She testified that none of the proposed construction or permanent site improvements would increase the hazard risk below existing conditions, and it is anticipated that the addition of soldier piles utilized to maintain site stability during construction, which would be cut to final grade after construction and left in-place, and the use of drilled concrete shaft foundations in the steep slopes supporting the elevated guideway, would improve seismic stability at the project site. *Testimony of Ms. Ertl.*
18. Tim Bailey, P.E., testified for the Applicant and explained the engineering principles behind minimum factors of safety and noted that these factors involve a balance between driving forces (such as seismic events) and resisting forces (such as gravity). With a static factor of safety of 1.0, the existing soil has essentially achieved stasis between the driving and resisting forces. With dynamic/pseudostatic conditions, a factor of safety of 0.9 means that, during a dynamic event (such as an earthquake), driving/dynamic forces

(i.e., the seismic load) outweigh the static forces keeping the soil in place and the potential for landslide hazards increases. Mr. Bailey stressed that, here, the proposal would not decrease the factor of safety for dynamic/pseudostatic conditions and that, with project improvements, the project would potentially increase the factor of safety for the embankments. *Testimony of Mr. Bailey.*

19. Juniper Nammi, who currently serves as the City's Sound Transit Project Manager, testified that Sound Transit has already applied for construction permits and intends to move forward with construction as soon as possible. *Testimony of Ms. Nammi.*
20. City Senior Planner Brian Lee testified about the proposed project and how the proposed mitigation would satisfy the requirements of the critical areas code. Mr. Lee noted that invasive vegetation is not a major issue in the project area but agreed that the preferred order of invasive vegetation control would be (1) the use of mechanical or hand control, followed by applications of mulch; (2) the use of other non-chemical methods of control (e.g., cardboard or biocontrols; then (3) the use of herbicides. *Testimony of Mr. Lee.*

Staff Recommendation

21. Mr. Lee testified that City staff recommends approval of the proposal, with conditions. Ms. Ertl testified that the Applicant would adhere to the conditions of approval. *Exhibit A, Staff Report, pages 6 through 11; Exhibit Q; Testimony of Mr. Lee; Testimony of Ms. Ertl.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is authorized to conduct public hearings and issue final decisions for land use applications that are required to have a public hearing. *SMC 2.15.060.B.* Quasi-judicial decisions, or "Type C" decisions, involve "the use of discretionary judgment in the review of each specific application" and are heard by the City Council or Hearing Examiner. *SMC 20.30.060.* *SMC 20.30.060* dictates that the Hearing Examiner hear applications on critical area special use permits. *SMC 20.30.060; SMC 20.30.333.*

Criteria for Review

The Hearing Examiner may grant a critical areas special use permit only if the utility or public agency demonstrates that:

- The application of the critical areas regulations, Chapter 20.80 SMC, Critical Areas, would unreasonably restrict the ability of the public agency or utility to provide services to the public;
- There is no other practical alternative to the proposal by the public agency or utility which would cause less impact on the critical area;
- The proposed development does not create a health or safety hazard on or off the development site, will not be materially detrimental to the property or improvements in the vicinity;

- ...
- Any alterations permitted to the critical area are mitigated in accordance with SMC 20.80.082 and relevant mitigation standards for the impacted critical area(s);
 - Consistent with SMC 20.80.050, Alteration of Critical Areas, the proposal attempts to protect the existing critical area functions and values consistent with the best available science and attempts to mitigate adversely impacted critical area functions and values to the fullest extent possible; and
 - The proposal is consistent with other applicable regulations and standards.

SMC 20.30.333.B.

The proposed activity may be conditioned, as necessary, to mitigate the impacts to critical areas and to conform to the standards required by Chapter 20.80 SMC. *SMC 20.30.333.C.*

The criteria for review adopted by the City Council are designed to implement the requirement of chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusions Based on Findings

With conditions, the proposal would comply with the requirements for a critical areas special use permit under SMC 20.30.333.B. The City provided reasonable notice and an opportunity to comment on the proposal. The Applicant and the Federal Transit Administration prepared environmental impact statements and evaluated alternatives as required under the State and Federal Environmental Policy Acts. Alignment of the LLE proposal is generally within the I-5 right-of-way and would create unavoidable, permanent impacts to existing critical areas. Strict application of the City’s critical areas regulations for a 1.2 minimum factor of safety for dynamic/pseudostatic conditions would restrict Sound Transit’s ability to extend high-capacity regional transit service through the region. No other practicable alternatives were identified with fewer impacts. The proposal would not create a health or safety hazard or increase surface water discharge or sedimentation on-site or to adjacent properties. It is anticipated that the addition of soldier piles utilized to maintain site stability during construction, which would be cut to final grade after construction and left in-place, and the use of drilled concrete shaft foundations in the steep slopes supporting the elevated guideway, would improve seismic stability at the project site.

The LLE proposal has been designed to protect and/or avoid critical areas to the fullest extent possible. Sound Transit would implement minimization and avoidance measures, as required by Shoreline Municipal Code (SMC) 20.80.050 and .053, to reduce such impacts by ensuring the LLE alignment is placed as close to I-5 as possible and elevating the guideway. Sound Transit

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would implement Best Management Practices to address construction impacts and replant areas disturbed by construction activities. Sound Transit submitted a mitigation plan addressing goals, objectives, performance standards, monitoring methods, maintenance requirements, and contingency plans as required by SMC 20.80.082. Compliance with all applicable regulations and standards would be verified through relevant permit applications and strict adherence to the permit conditions.

Conditions are necessary to address impacts related to the proposed project, including those to ensure that Sound Transit obtains all required local, state, and federal permit approvals prior to any development activity; submits any changes to the project proposal for review and approval by the City; carries out the mitigation as noted in the Critical Areas Report; and carries out stormwater control, quality treatment, and erosion and sedimentation control measures. *Findings 1 – 21.*

DECISION

Based upon the preceding findings and conclusions, the request for a critical areas special use permit to construct a portion of the LLE light rail project within an area classified as a very high-risk landslide area, along the eastern embankments of the I-5 northbound and SR-104 exit, is **APPROVED**, with the following conditions:

1. This decision is based on the 100% Submittal site plans (Drawing No. CAR101 through CAR103, dated January 17, 2019 and February 13, 2018) and the 100% Tree Retention, Protection, and Planting Plans (Drawing No. CAR104 through CAR111, dated January 17, 2019). Any changes to these plans shall be submitted to the City under the applicable Site Development permit application for review and approval of such modifications, by the City.
2. Prior to any development activity, all required local, state, and federal permit approvals applicable to the specific proposal shall be obtained, including but not limited to: City Master and Work Zone Site Development Permits, NPDES, and WSDOT permits.
3. All mitigation, including measures to avoid and minimize impacts to critical areas, monitoring, and maintenance, as noted in the Critical Areas Report dated July 13, 2018, pages 50-79, shall be implemented.
4. This decision is based upon representations made and exhibits contained in the CASUP application. If Sound Transit desires to modify the project from that shown on the submitted site plan dated February 13, 2018 and January 17, 2019 (Exhibit N) and the mitigation, restoration, monitoring plans contained in the Critical Areas Report dated July 13, 2018 (Exhibit E), Sound Transit shall submit a request for review and approval of such modifications to the City for the issuance of a new or amended CASUP.

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5. All stormwater control, quality treatment, and erosion and sedimentation control measures shall be implemented in accordance with Shoreline Municipal Code, Shoreline Engineering Development Manual and adopted references, and WA Department of Ecology Surface Water Manual.
6. This authorization is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition to the approvals granted and is a continuing requirement of such approvals. For all development activities authorized by this CASUP, Sound Transit shall comply with such laws, regulations, and ordinances relevant to those activities. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, Sound Transit shall promptly bring such development or activities into compliance within 30-days.

DECIDED this 24th day of April 2019.



ANDREW M. REEVES
Hearing Examiner
Sound Law Center