

Mount Lake Terrace June 27, 2019 Hearing Summary

Sound Transit Light Rail Station and Guideway Project

Conditional Use Permit, Site Plan and Reasonable Use

PCU-18-0001, PSD-18-0001, & PSE-18-0005

*Note: This hearing summary is provided as a courtesy to those who would benefit from a general overview of the public testimony of the hearing referenced above. The summary is not required or necessary to the decision issued by the Hearing Examiner. No assurances are made as to completeness or accuracy. Nothing in this summary should be construed as a finding or legal conclusion made by the Examiner or an indication of what the Examiner found significant to his decision. A recording of the hearing can be acquired at City Hall.*

Christy Osborn gave the Mountlake Terrace (MLT) Staff presentation overviewing the Staff Report. Ms. Osborn identified herself as the community and economic development director for MLT and she briefly overviewed her qualifications and employment history. James Haney also assisted MLT Staff as legal counsel. [38:33]

Jesse Birchman briefly joined Ms. Osborn to provide testimony about the pedestrian connection between the Veteran's Memorial Park Trail and the Transit Center. Mr. Birchman mentioned that this was one of the only conditions-of-approval inciting disagreement between MLT and ST. Mr. Birchman overviewed the city's opinion on the pedestrian connection as overviewed in exhibits.

At the end of Ms. Osborn's presentation the examiner asked [1:51:30] MLT staff about a series of Public Works papers identified in the Staff Report and if he had to rule on waiver-requests. Ms. Osborn responded stating that the examiner does not have to rule on waiver requests these were just relevant documents.

The examiner asked Ms. Osborn about where accommodations were made as represented in the report and if there were any parts of the project where they had to push the envelope because it was an essential public facility. Ms. Osborn responded that over the course of review there was a consensus that there were only minor accommodation-issues and that these improvements were adequate mitigations.

The examiner asked Staff what they believe to be the most significant impacts of the proposed project and what he should emphasize when thinking about project impacts. Ms. Osborn identified Site B (the station) and Site H (the former school-site being used for construction staging). Ms. Osborn also identified potential impacts to the surrounding neighborhoods as significant. Staff also mentioned the examiner should pay careful attention in his decision to the issue of ADA-access and the proposed trail-addition from and improvements to Veteran's Park.

The examiner asked what the construction time-frames will be if the project moves forward, to which Ms. Osborn responded that revenue-service will begin in 2024. On a daily-basis, the City's construction hours will be from 7am to 10pm during weekdays and weekends will have a modified work-schedule.

[1:56:30] The examiner asked Mr. Haney about the city's jurisdiction stopping at WSDOT's right-of-way. Mr. Haney mentioned that some of the project lies within city's jurisdiction but the individual project sites are outside of the WSDOT's right-of-way.

Clayton Graham and Gwen McCullough led the presentation for Sound Transit (ST) using a PowerPoint overviewing their report and positions. During the presentation, ST staff called several expert witnesses to the stand to comment about the project.

The first ST witness was Mr. Ron Kempkes who identified himself as ST's executive project director for the Lynwood Link Extension Project. Mr. Kempkes testified on the Melody Hills site within this project. The Melody Hills site was identified as a primary staging area needed for the project in 2015. ST acquired the 6.7 acres of property at the Melody Hills site in 2017. Mr. Kempkes described the site as being used for parking, equipment staging, storage, stockpiling, and welding among other uses. Mr. Kempkes overviewed Exhibit ST-45 identifying it as the most current plan that ST has for the Melody Hills site. Mr. Kempkes overviewed Exhibit ST-09, asserting that this letter served over City concurrence with the Transit Station design and that the design approved by the City didn't include a wheelchair ramp in lieu of the stairs. Mr. Graham asked Mr. Kempkes if the access-enhancement agreements (as seen in exhibit ST-06) requires MLT to improve the Veteran's Park trail system, Mr. Kempkes responded that it is not a requirement per the relevant funding agreements. If MLT were to build improvements to the Veteran's Park trail system themselves, Mr. Kempkes mentioned ST would be willing to match the project costs up to \$2,000,000.

Shankar Rajaram was the next ST witness speaking on the issue of noise in the construction and operation phases of the project. Mr. Rajaram is the engineering manager for trains at ST and has a Ph.D. in Material Sciences as well as a wide-range of relevant professional experiences.

Ken Cummins was the next ST witness and spoke on safety and security. Mr. Cummins is the Director of Public Safety at ST. Mr. Cummins described that ST has a rigorous process for evaluating safety and security and that the station can not open unless relevant safety mitigations are met. Mr. Cummings mentioned that during construction, the contractor is responsible for producing a security and safety plan which ST reviews, passes judgement on, and holds the contractor responsible for. Mr. Cummings included in his testimony that when the station is fully-functioning, ST works closely with local jurisdictions to ensure security and assist local law enforcement in their ability to effectively supply transit-users with a safe experience aboard ST.

Gwen McCullough, a project manager for ST, was the next expert witness to testify. [2:38:32] Ms. McCullough was hired for this project three years ago. Ms. McCullough mentioned that the

trail extension from Veteran's Park was proposed as an idea during the design process. Ms. McCullough clarified that, from her standpoint, the trail extension was proposed as an "idea" but more recently was included as a condition of approval. Ms. McCullough stated that ST designed the facility to meet ADA-standards in mind. Ms. McCullough believes ST has included sufficient wheelchair-accessible routes to the station-site.

Ms. McCullough believes that the Veteran's Park trail is neither ADA nor wheelchair accessible. Ms. McCullough testified that ST does not intend for people with wheelchairs to use this route to the station. Ms. McCullough mentioned that there is an existing stairwell at the transit center that the project will be modifying; however, they also needed to replace a portion of the trail that the project will impact and in design-coordination the City asked for ST to extend the trail down to meet the pathway and replace the stairwell. Ms. McCullough agreed that ST could have left the stairwell as is if the City had approved. Ms. McCullough mentioned that the absence of the ramp should not be a surprise to MLT staff.

Looking at a displayed graph, Ms. McCullough mentioned that For ST to comply with City's condition to connect the blue and yellow lines of the graph, ST would need to, among other potential endeavors, gain permission to construct on WSDOT property, design an extension, put a change-order into the existing contract, construct the trail as well as a retaining wall, and add a set of stairs to maintain access to utility-vaults. Ms. McCullough stated that all these potential additions would increase project expenses and have the potential to create project-delays. Ms. McCullough would not consider this requested trail addition part of her project nor an addition to the project-site meaning she believes it should be a separate project. Ms. McCullough does not think this trail extension would benefit ST's project. Ms. McCullough does **not** think creating this route would actively help wheelchair-users access the project because if they were to continue along the route they would still be faced with a stairwell in order to enter the station. Ms. McCullough agreed that wheelchair users would be able to access the entrance to the Veteran's Park trail; however, this would mean the creation of an ineffective wheelchair path to the station.

The next ST witness was Donna Smith identified as ST's manager of accessibility services. Ms. Smith has worked with ST since May 2018. Alongside this, Ms. Smith has over a decade of work experience dealing with the implementation of ADA standards in transportation. Ms. Smith works across every ST department to make sure ADA-standards are being upheld and that accessibility is being promoted. Ms. Smith's resume was added to the record an exhibit, affirming her status as an expert on the ADA, its implementation, and its requirements (ST-50).

Ms. Smith mentioned that public transit agencies are responsibility for access under the ADA and the ADA in several places suggests ST having to comply with employment-standards under Title I and Title II, including Part B of Title II which targets public transportation specifically. ST is also accountable for implementing ADA-accessible designs per the design guide adopted in 2010 by the USDOT for transportation regulations. Ms. Smith clarified that ST is the type of public entity that must comply with ADA-standards.

Ms. Smith is familiar with the access-plan being discussed in the hearing as well as the proposed layout of the MLT Station. Ms. Smith affirmed that this station plan has been developed with ADA-considerations. Ms. Smith mentioned that ST has a design-construction manual that contractors must follow; moreover, Ms. Smith mentioned ST has built ADA-requirements into its construction manual. This manual includes the 2010 ADA guidelines. Ms. Smith described the MLT Station as going to be built under ST construction standards.

Ms. Smith was asked to discuss the stairwell. Ms. Smith testified that if MLT were to make improvements to the trail, they would be required to comply with ADA regulations. Ms. Smith is not aware of any plan to install a ramp by the stairwell. Ms. Smith described “structural impracticability” as an element of the ADA that applies to this stairwell-situation. [2:56:00] Ms. Smith mentioned that the terrain and built-environment can be evaluated to determine if it is feasible to build a ramp or any other relevant ADA-implementation. In this situation, where the stairwell is proposed, Ms. Smith mentioned that there is a rise of 11ft. that would require a ramp of over 150ft. including four 6ft. segments for landing. The landings are particularly important resting sites for people with disabilities and would be needed for individuals using equipment or mobility devices to regain energy and strength to go up sections of the ramp. Ms. Smith mentioned that the ramp would require over 750sq.ft. of space for construction. Ms. Smith described that there is not enough space on the site to do this. Ms. Smith stated that using a ramp of this size would still be difficult, and in some cases unattainable, for many people with mobility-impairments and disabilities. Ms. Smith mentioned that if the proposed ramp was slippery or icy it would be even more difficult to utilize.

Ms. Smith mentioned that the ST proposed stairway is ADA-compliant but is not wheelchair accessible. ST has proposed modifying stairs in a manner so that ambulatory people with disabilities would be able to utilize them; however, the stairs would not be wheelchair accessible. Proposed implementations such as handrails and correct step-heights bring the proposed stairway into ADA-compliance. Ms. Smith clarified that having an ADA-approved stairwell that does not have a ramp, in this case, does not mean the proposed project is in violation of the ADA. The ADA would not mandate using a ramp because a ramp is not structurally practicable. Ms. Smith is not aware of any non-ADA codes or policies applicable to this project that would mandate implementing a ramp. Likewise, Ms. Smith expressed she is unaware of any code or policy outside of the ADA that would mandate making changes to the extension to the Veteran’s Park Trail.

Ms. Smith believes there are enough places for wheelchair users to access the station. Ms. Smith testified that ST’s access-plan for the site complies with the ADA. Ms. Smith expressed that the MLT Station will be considered fully-accessible for disabled people. Ms. Smith expressed ADA-adherence means the project would be responsible for connecting accessible routes with each other. Ms. Smith agreed that the general goal should be having accessible routes to reach to public streets. Ms. Smith stated that the ADA does not require connections to adjacent properties. Ms. Smith believes the station will be wheelchair accessible without the proposed

Veteran's Park extension. Ms. Smith does not believe ST should have responsibility to work toward implementing the Veteran's Park extension but it could be a great element for MLT to add on its own to create more routes to the station. Ms. Smith does not believe the proposed trail extension should be considered part of the ST project. Ms. Smith does not see a great deal of benefit for wheelchair users in the Veteran's Park extension and sees it more as a benefit for MLT.

Bill James, the traffic engineering task lead for the design-consultant team, was the final ST expert witness to testify. Mr. James has more than 35 years of traffic engineering experience. [3:05:05] Mr. James discussed the traffic-safety review and expressed that improvements will be made to create more safe conditions. Mr. James described how the design, as is, exceeds standards of safety.

Public testimony began with Albert Beso-Harris-Jr. Mr. Harris expressed concerns over the Melody Hills School site and the finalization of the project. Mr. Harris owns property south of the site. Mr. Harris wants to know what will happen with the Melody Hills School Site and if there will be sound barrier or visual barrier of sorts in the area.

Mark Klein asked a question about Site C asking if properties are being purchased outright or under the threat of eminent domain. Mr. Klein wanted to know how properties around the site are being taken and given to condo-developers. Mr. Klein expressed concerns about property-rights and if sites are being purchased before, they are even being sold.

Evelyn O'Hara—who has lived next to the where the site is being implemented—asked a question about Sites F, G, and H and if retaining walls along the freeway will remain. Ms. O'Hara does not like the proposed chain-link fence and would rather have a greenspace open to the public. Ms. O'Hara wants the project to consider implementing community-spaces.

Greg Sancewich responded to Mr. Klein stating that properties on Site C were being purchased under threat of eminent domain.

Mr. Haney cross-examined Mr. Kempkes asking him about the concurrence letter (ST-09). MLT staff asked Mr. Kempkes to clarify if he was earlier referring to the second letter in the document to which Mr. Kempkes responded that he had a letter dated May 25, 2017. Mr. Kempkes read the first paragraph of this out loud. Mr. Kempkes affirmed that this letter related to parking and landscape plans. Mr. Kempkes also affirmed that the letter mentioned LID meaning low-impact-development. Mr. Kempkes believes that Item #6 in letter has relevant information in the letter about the stairwell and trail access but not that the city is requiring an extension. Mr. Kempkes was asked to give further information about the image depicted in the email. Mr. Kempkes agreed that the letter of concurrence shows no relevant trail access. Mr. Kempkes was not involved in details of design and the development toward wanting the trail extension.

Mr. Graham asked Mr. Kempkes if a ramp would be a major undertaking which Mr. Kempkes affirmed. Mr. Kempkes affirmed that a trail extension would indeed alter elements of the project design. Mr. Kempkes thinks omitting the “parkscape” for the design in the trail connection is a significant omission [3:42:35].

Mr. Haney asked Ms. McCullough when she first learned of MLT’s “concept” for a trail to which she responded that she can not be sure of the timing but it was likely between “60 to 90 percent design.” Ms. McCullough denied knowledge that the idea of the trail was a formal comment MLT made at 60 percent design. Ms. McCullough first found out about MLT requiring the trail when ST reviewed the conditions of approval. Ms. McCullough iterated that, before this, she had never learned of the trail as a requirement but rather just an idea.

During cross, Ms. McCullough affirmed that the Veteran’s Park is currently not wheelchair-accessible and that she was aware that the Veteran’s Park has been referred to as a potential access-improvement project that ST is partnering with MLT to match-funds toward. Ms. McCullough mentioned that she was involved in the negotiation of access-enhancements agreement funds. Ms. McCullough agreed that the access-enhancement is something ST agreed to provide funding for as written in the agreement. Ms. McCullough suggested that not each of the project listed in the agreement need be implemented as a requirement. Ms. McCullough affirmed that if the city were to get the funding, they would have to improve the access-projects before revenue services began. At the time of the agreement, Ms. McCullough knew that the Veteran’s Park improvements were listed as one of the potential projects but did not believe this meant that the improvements were distinctly an agreed to requirement or a necessity to be enveloped within the ST project. Ms. McCullough gave potential-affirmation to the idea that if the portion of the trail that currently exists was made ADA-accessible and ST were to build a connecting trail extension, wheelchair users may be able to access the station via this trail. Ms. McCullough stated that if the trail extension from ST is not built, wheelchair users of the trail would not be able to access the station.

Mr. Graham asked Ms. McCullough if the city has made promises to upgrade the park to ADA standards to which she suggested she does not read the materials in that fashion. Ms. McCullough believes that MLT has not promised ST that the city will upgrade the trail. Ms. McCullough affirmed that from her experience as a project manager it would not be best practice to assume that MLT will make improvements that do not formally exist in the planning and do not have to be completed.

Mr. Haney crossed Ms. Smith asking about her testimony on the feasibility of the ramp and the substitution of the ramp for a proposed stairwell. Ms. Smith affirmed that there would be no wheelchair access down the stairway from the trail. Ms. Smith mentioned that there are various features involved in making stairwells more complaint under the ADA. Ms. Smith mentioned that if the Veteran’s Park trail was made ADA accessible and an ST-funded extension was added to that wheelchair users would have access to the **236th**-sidewalk leading them to the station. Ms. Smith was unfamiliar with the access-enhancements agreement. Ms. Smith mentioned that

landings are not always requirements on ramps to be ADA-compliant, but that certain ramps need them and thus requirements exist.

Mr. Graham asked Mr. Birchman to describe the general condition of the Veteran's Park trail. Mr. Birchman describe the trail as "passable" and mentioned he has witnessed people using it.