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BEFORE THE HEARING EXAMINER
FOR THE CITY OF MOUNTLAKE TERRACE

In the Matter of the Application by
SOUND TRANSIT for a CONDITIONAL USE
PERMIT, SITE DEVELOPMENT PLAN, AND
CRITICAL AREAS REASONABLE USE
EXCEPTION

NO. PCU-18-0001, PSD-18-0001, and
PSE-18-0005

CITY OF MOUNTLAKE TERRACE'S
PRE-HEARING BRIEF ON PROPOSED
CONDITIONS OF APPROVAL 23(b)
AND 24(c)

I. INTRODUCTION

In this matter, Sound Transit seeks a conditional use permit (“CUP”), site development plan (“SDP”), and critical areas reasonable use exception (“RUE”) for its proposal to: (1) build 2.2 miles of “guideway” (*i.e.*, rail line) within the City of Mountlake Terrace (“City”) for the Lynnwood Link light rail extension; (2) modify the existing Mountlake Terrace Transit Center by adding a light rail station, additional bus bays, and additional circulation; and (3) build associated improvements.

As shown in the City’s staff report, the City finds that this proposal generally complies with the requirements for a CUP, SDP, and RUE. The City therefore recommends approval of the application, with conditions.

With two exception, Sound Transit does not object to the City’s recommended conditions. Those two exceptions are (1) the City’s recommended condition that Sound Transit build a wheelchair-

1 accessible connection, in compliance with the Americans with Disabilities Act (“ADA”), between a
2 portion of an existing pedestrian trail that Sound Transit proposes to relocate and the new transit center
3 (proposed Condition 23(b) in Attachment 4 to the City’s Staff Report) and (2) the City’s recommended
4 condition that Sound Transit install a fence between the trail extension required in Condition 23(b) and
5 the Transit Center in order to ensure trail users’ safety (proposed Condition 24(c) in Attachment 4 to the
6 City’s Staff Report). Because Sound Transit is required under federal law to make this connection ADA-
7 accessible; because ADA-accessibility and user safety is an important component of the project’s
8 compliance with conditional use criteria; and because the Hearing Examiner has broad latitude to impose
9 appropriate conditions on his SDP approval, the Hearing Examiner should condition his approval of
10 Sound Transit’s project on a wheelchair-accessible connection between the transit center and the
11 pedestrian trail and construction of the associated fencing.

12 The remainder of this brief will be devoted solely to the parties’ dispute over these conditions
13 and relevant surrounding facts. The Hearing Examiner can find the City’s analysis regarding the
14 project’s compliance with other standards of approval and the City’s other recommended conditions in
15 the City’s Staff Report.

16 II. FACTS

17 Sound Transit proposes to modify the existing Mountlake Terrace Transit Center to include a
18 new light rail station; to build a bus circulation loop around the perimeter of the site; to add two
19 additional bus bays and active layover space; and to construct related improvements as part of Sound
20 Transit’s plan to extend light rail service to the City of Lynnwood by 2024. The Mountlake Terrace
21 Transit Center (also known as “Site B,” in Sound Transit parlance) lies to the east of I-5, directly north
22 of the “T” shaped intersection formed by the northbound I-5 exit ramp for exit 178 and 236th Street
23 Southwest. The Transit Center currently consists of a Park-n-Ride facility, a parking garage, and several
24 bus bays. The main parking lot for the Transit Center lies in the southeastern corner of the Transit
25 Center site, and the parking lot elevation is below the land directly east of the lot. This elevation
26 differential increases as one moves south along the property line.

1 To the north and east of the Transit Center, contiguous with a portion of the Transit Center’s
2 property line, is Veteran’s Memorial Park. Veteran’s Memorial Park spans the distance between the
3 eastern property line of the Transit Center and the nearest street east of the Transit Center: 58th Avenue
4 West. Veteran’s Memorial Park is a “showpiece” park that provides an important urban resource for
5 the City. Immediately to the north of the Park is the City’s “Civic Center” campus—*i.e.*, the City Hall,
6 Police Department, Library, and Fire Station. Just across 58th Avenue West from the Civic Center
7 campus is a post office, and, on the other side of the same block, to the east, are a number of commercial
8 establishments. This commercial area is an emerging “town center” for the City. Due to its central
9 position in the City, Veteran’s Memorial Park is a point of connectivity between the Transit Center and
10 major City destinations. As the name implies, Veteran’s Memorial Park also contains a veteran’s
11 memorial, meant to honor U.S. servicemembers.

12 A pedestrian trail runs roughly east-west across Veterans Memorial Park, from a pedestrian park
13 entrance off 58th Avenue West to the eastern edge of the main Transit Center parking lot (“the Pedestrian
14 Trail”). There are also several informal trails running from other points on the park boundary to the
15 main east-west trail.

16 The Pedestrian Trail is not currently wheelchair accessible, but the City intends to redesign and
17 construct the trail to meet ADA standards in the near future. In fact, the City received funding from
18 Sound Transit as part of Sound Transit’s Transit System Access Policy and Access Enhancement
19 funding program to pave this Pedestrian Trail and make it wheelchair accessible. The parties’ funding
20 agreement can be found in Exhibit ST-06 and the attached Exhibit A to Exhibit ST-06. This agreement
21 requires the City to make this trail wheelchair-accessible by the time Sound Transit begins revenue
22 service. Moreover, achieving wheelchair accessibility for the Pedestrian Trail has been part of the City’s
23 core vision for parks development for decades, as expressed in the City’s 1988 Recreation, Parks and
24 Open Space Master Plan (“RPOS Master Plan”) and all subsequent updates.¹

25
26 ¹ The most recent RPOS Master Plan (from 2015) is available at <https://www.cityofmlt.com/DocumentCenter/View/2067/Recreation-Parks-and-Open-Space-Master-Plan-2015?bidId=>. Discussion of Veteran’s Memorial Park planned upgrades may be found at page 64. The 2016 Supplement to the RPOS Master Plan may be found at <https://www>.

1 There is currently a short stairway (consisting of several stairs spanning four or five feet of
2 elevation change) running down from the current southwestern terminus of the Pedestrian trail to the
3 eastern edge of the Transit Center parking lot. Because of these stairs, this connection point (“the Trail
4 Connection”) between the Transit Center and the Pedestrian Trail is not wheelchair-accessible.

5 Sound Transit initially proposed simply replacing these stairs with new stairs in the same location
6 as part of its redesign of the Transit Center. The City objected to this proposal because replacement
7 stairs would not be wheelchair-accessible² and because keeping the Trail Connection in the same place
8 would present safety hazards to pedestrians, since there was no crosswalk across the proposed new bus
9 loop at this location, nor a safe, marked path through the parking lot. In response to these concerns,
10 Sound Transit proposed to move the Trail Connection farther south along the shared Veteran’s Memorial
11 Park/Transit Center property line (roughly halfway between the old Trail Connection point and 236th
12 Street Southwest) so that it would align with a crosswalk across the bus loop and a pedestrian walkway
13 across the parking lot. Sound Transit’s revised proposal still relied on stairs, however, and was therefore
14 not wheelchair-accessible.

15 Since a non-wheelchair-accessible Trail Connection would defeat the City’s long-planned
16 upgrades to the Pedestrian Trail and also not comply with Sound Transit’s obligations under the ADA,
17 the City proposed that Sound Transit build a wheelchair-accessible extension running from the
18 southwestern end of the relocated Pedestrian Trail south to 236th Street Southwest, where it would join
19 up with the 236th Street Southwest sidewalk (which is also wheelchair-accessible and ADA-compliant).
20 The City emphasized that adopting this plan would both satisfy Sound Transit’s obligations under the
21 ADA and provide equitable access to major civil and commercial destinations within the City of
22 Mountlake Terrace. Because the proposed trail extension will be elevated above the Transit Center (and

23
24 cityofmlt.com/DocumentCenter/View/10504/2016-Supplement-to-the-RPOS?bidId=. Items 87 and 88 on page 5 of
the supplement address Veteran’s Memorial Park upgrades.

25
26 ² This original proposal was not wheelchair-accessible both because it relied on stairs and because it would direct trail
users directly onto a row of compact parking spaces, with no room for wheelchair passage between cars.

1 supported by a retaining wall), the City also requested that Sound Transit install wrought iron³ fencing
2 along the western edge of this trail extension to prevent trail users from falling due to the elevation
3 difference between trail and bus loop. The City requested that this trail run the entire length of the trail
4 extension, including the point where the crosswalk crosses the bus loop (where Sound Transit proposes
5 to build its non-wheelchair-accessible Trail Connection), because the City is concerned that allowing
6 pedestrians to cross an active bus lane is a safety hazard.

7 Sound Transit has nonetheless refused to alter its proposal or to acquiesce to the City's proposed
8 conditions.

9 III. LAW AND ANALYSIS

10 A. Sound Transit's proposed Trail Connection violates the ADA because it is 11 not wheelchair-accessible.

12 The core requirement of Title II of the Americans with Disabilities Act is that "no qualified
13 individual with a disability shall, by reason of such disability, be excluded from participation in or be
14 denied the benefits of the services, programs, or activities of a public entity, or be subjected to
15 discrimination by any such entity." 42 U.S.C. § 12132.

16 Federal regulations expound on this principle. Section 35.151 of Title 28 C.F.R. provides that
17 all new construction and all alterations built by a public entity after January 26, 1992 must "be readily
18 accessible to and useable by individuals with disabilities." 28 C.F.R. 35.151(a)(1), (b)(1). More
19 specifically, with regard to alterations:

20 Each facility or part of a facility altered by, on behalf of, or for the use of a public entity
21 in a manner that affects or could affect the usability of the facility or part of the facility
22 shall, to a maximum extent feasible, be altered in such a manner that the altered portion
23 of the facility is readily accessible to and useable by individuals with disabilities.

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25
26 ³ The City proposes wrought iron fencing because the rest of the site is bordered by wrought iron fencing, and the City wishes to ensure aesthetic continuity.

1 28 C.F.R. § 35.151(b)(1).⁴ The federal regulations define “facility” as “any portion of buildings
2 structures, sites, complexes, equipment, rolling stock, or other conveyances, roads, walks, passageways,
3 parking lots or other real or personal property” 28 C.F.R. § 35.104.

4 While the federal regulations do not define “readily accessible to and useable by individuals with
5 disabilities,” courts have held that compliance with the ADA’s technical standards satisfies the “readily
6 accessible” requirement in section 35.151(b)(1). *See Kirola v. City & Cty. of S.F.*, 74 F. Supp. 3d 1187,
7 1199 (N.D. Cal. 2014), *aff’d in part, rev’d in part on other grounds*, 860 F.3d 1164 (9th Cir. 2017)
8 (quoting *Tennessee v. Lane*, 541 U.S. 509, 532 (2004)). Altered public facilities must strictly comply
9 with the ADA’s technical requirements and not merely be “accessible when viewed in [their] entirety”—
10 the standard that applies to pre-1992 facilities. *See Ability Ctr. of Greater Toledo v. City of Sandusky*,
11 133 F.Supp.2d 589, 591 (N.D. Ohio 2002) (“While regulations for existing facilities allow compliance
12 ‘when viewed in their entirety’, the standard for new construction or altered streets is more stringent.”);
13 *see also Disabled in Action of Pa. v. S.E. Pa. Transp. Auth.*, 635 F.3d 87, 92 (3d Cir. 2011) (“In other
14 words, if a public entity chooses to make changes rising to the level of ‘alterations’ to a facility, it
15 ordinarily must use that opportunity to make the altered part of the facility accessible, as well.”)
16 (interpreting parallel provisions specific to transit facilities in 42 U.S.C. § 12147).

17 The ADA’s technical standards vary depending on the date of the alteration. Alterations built
18 after 2012 must comply with the 2010 ADA standards, which are codified in Appendices B and D of
19 Part 1191 of Title 36 C.F.R. and in 28 C.F.R. § 35.151 itself. *See* 28 C.F.R. 35.150(c)(3); *see also* 28
20 C.F.R. § 35.104 (defining the “2010 Standards”).

21 The ADA’s technical guidelines generally consist of two types of standards: “facility-specific”
22 standards, which apply based on the type of facility at issue, and “feature-specific” standards, which

23 ⁴ Section 35.151 applies to all “services, program, and activities provided or made available by public entities.”
24 28 C.F.R. § 35.102(a). Section 35.151 does not apply “[t]o the extent that public transportation services . . . are
25 covered by subtitle B of title II of the ADA.” 28 C.F.R. § 35.102(b). Subtitle B of title II of the ADA applies to
26 “designated public transit,” which excludes commuter rail (such as Sound Transit). 42 U.S.C. § 12141(2); 42 U.S.C.
§ 12161(2); 49 U.S.C. § 24102(4). Section 35.151 therefore applies to Sound Transit. And, even if Sound Transit
were instead regulated under subtitle B of title II, that subtitle contains nearly identical provisions regarding the
accessibility of alterations to public transit facilities. *See* 42 U.S.C. § 12147.

1 contain technical specifications for a specific type of feature, but do not address when that feature is
2 permitted and when it is not. *See generally Kirola*, 860 F.3d at 1178-82.

3 Within these technical guidelines, there are several provisions relevant to the Sound Transit's
4 proposed trail connection:

5 **Appendix B:**

- 6 • 206.2.1 Site Arrival Points. At least one accessible route shall be provided within the site
7 from accessible parking spaces and accessible passenger loading zones; public streets and
8 sidewalks; and public transportation stops to the accessible building or facility entrance they
9 serve. [Emphasis added].
- 10 • 206.2.2 Within a Site. At least one accessible route shall connect accessible buildings,
11 accessible facilities, accessible elements, and accessible spaces that are on the same site.
12 [Emphasis added].
- 13 • 206.2.4 Spaces and Elements. At least one accessible route shall connect accessible building
14 or facility entrances with all accessible spaces and elements within the building or facility
15 which are otherwise connected by a circulation path unless exempted by 206.2.3 Exceptions
16 1 through 7. [Emphasis added].
- 17 • 206.4.4 Transportation Facilities. In addition to the requirements of 206.4.2, 206.4.3, and
18 206.4.5 through 206.4.9, transportation facilities shall provide entrances in accordance with
19 206.4.4.
 - 20 ○ 206.4.4.2 Direct Connections. Direct connections to other facilities shall provide an
21 accessible route complying with 404 from the point of connection to boarding
22 platforms and all transportation system elements required to be accessible. Any
23 elements provided to facilitate future direct connections shall be on an accessible
24 route connecting boarding platforms and all transportation system elements required
25 to be accessible. [Emphasis added].

26 **Appendix D:**

- 21 • 403.1 General. Walking surfaces that are a part of an accessible route shall comply
22 with 403.
- 23 • 403.3 Slope. The running slope of walking surfaces shall not be steeper than 1:20.
24 The cross slope of walking surfaces shall not be steeper than 1:48.
- 25 • 403.4 Changes in Level. Changes in level shall comply with 303.
- 26 • 303.4 Ramps. Changes in level greater than ½ inch (13 mm) high shall be ramped,
and shall comply with 405 or 406.

1 Under these provisions, the Pedestrian Trail itself, the connection between the Pedestrian Trail
2 and the Transit Center, and the Transit Center itself are all “facilities.” Sound Transit is “altering” these
3 facilities as part of its proposed project. Sound Transit is therefore required to make these facilities
4 “readily accessible to and useable by individuals with disabilities.” This includes providing an
5 “accessible route” between other components of its Transit Center and the Pedestrian Trail because:

- 6 • Under 206.2.1, the Pedestrian Trail is a “sidewalk,” and Sound Transit is therefore required
7 to construct an accessible route to this arrival point.
- 8 • Under 206.2.2, the Pedestrian Trail will soon be an “accessible facility,” and Sound Transit
9 is therefore required to provide one accessible route connecting other accessible facilities on
10 its site to the accessible Pedestrian Trail.
- 11 • Under 206.2.4, Sound Transit is required to build an accessible route connecting the
12 accessible entrance to the Pedestrian Trail facility and other accessible spaces in the Transit
13 Center (*e.g.*, bus bays, light rail station) that are connected to the Pedestrian trail via the
14 pedestrian walkway transecting the main parking lot (under Sound Transit’s proposal) or to
15 the 236th Street Southwest sidewalk (under the City’s).
- 16 • Under 206.4.4.2, Sound Transit is required to provide an accessible route from its boarding
17 platforms to other facilities, namely, the Pedestrian Trail.

18 As shown in Sections 403.1, 403.3, 403.4 and 303.4, an “accessible route” is a route that is
19 wheelchair-accessible, because all elevation changes on “accessible route” greater than ½ an inch must
20 be ramped. Sound Transit’s proposed staircase connection between Pedestrian Trail and Transit Center
21 clearly does not meet this standard, and it is patently inaccessible to people who use wheelchairs or other
22 wheeled mobility aids. Sound Transit’s current proposal therefore does not comply with the ADA.

23 Sound Transit may argue that, because its proposed stairs comply with the feature-
24 specific technical specifications for stairways section 504 of Appendix D (which requires that stairways,
25 meet certain depth, height, tread surfacing, and nosing requirements), its proposal is ADA-compliant.
26 But section 504 of Appendix D merely provides the technical specifications for stairways when
stairways are permitted. Section 504 does not allow Sound Transit to evade the accessible-route
requirements of Chapter 2 in Appendix B.

1 Sound Transit may also argue that a wheelchair-accessible connection is not “feasible,” and that
2 it is therefore not required to construct a wheelchair-accessible connection under 28 C.F.R. § 35.151(b).
3 First, in any permit application, the applicant bears the burden of showing that it complies with
4 applicable law; Sound Transit therefore has the burden of demonstrating that a wheelchair-accessible
5 connection would be infeasible. Sound Transit has not explained why the City’s proposed ADA-
6 accessible connection is infeasible—Sound Transit has only complained that the connection would be
7 costly. Cost is not a basis for infeasibility under 28 C.F.R. § 35.151. *See, e.g., Kinney v. Yerusalim*, 9
8 F.3d 1067, 1071 (3d Cir. 1993); *cf. also Roberts v. Royal Atlantic Corp.*, 542 F.3d 363, 371 (2d Cir.
9 2008) (interpreting parallel provisions regarding alterations to public accommodations and commercial
10 establishments in 28 C.F.R. § 36.402); *Disabled in Action of Penn.*, 635 F.3d at 92 (interpreting parallel
11 provisions regarding alterations in public transit facilities).⁵

12 Moreover, the City’s proposed accessible connection is entirely feasible because it is a relatively
13 straightforward matter to construct a trail extension running from the Pedestrian Trail’s southwest
14 terminus to 236th Street Southwest. In fact, Sound Transit submitted a conceptual plan illustrating the
15 City’s proposed wheelchair-accessible Trail Connection, showing that this connection is entirely
16 feasible. Finally, even if a wheelchair-accessible trail extension were “infeasible,” Sound Transit would
17 still be required to install a platform lift. *See* 2010 ADAAG, Appx. B. to 36 C.F.R. pt. 1191, § 206.7.5.

18 The City is aware that there may be other ADA-compliant alternatives for creating a wheelchair-
19 accessible connection between the Pedestrian Trail and the Transit Center. The City would be open to
20 hearing other alternatives. Sound Transit has proposed none. Having proposed none, Sound Transit

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22 ⁵ Sound Transit may argue that cost is a relevant factor under the Growth Management Act’s dictate that local
23 governments not preclude essential public facilities by rendering them “impracticable.” *See* RCW 36.70A.200(5).
24 First, this statute applies directly to comprehensive plans and development regulations in a GMA challenge before the
25 Growth Management Hearings Board, not to project-specific applications before a Hearing Examiner. Second, this is
26 not the ordinary case of a municipality discriminating against an essential public facility under the guise of code
compliance; Sound Transit is required under federal law to build a wheelchair-accessible connection, and the City is
merely attempting to ensure that Sound Transit meets its obligations to provide equitable access to an essential public
facility. Moreover, given the substantial scope of Sound Transit’s redesign project, the City is highly skeptical that a
single trail extension is the straw that will break this project’s back, rendering it “impracticable.”

1 can hardly complain that the City’s proposed solution—a solution that should really have been Sound
2 Transit’s duty to devise—is “infeasible.”

3 Because Sound Transit is altering a public facility, Sound Transit has an obligation to make that
4 facility fully compliant with ADA standards. This includes provided a wheelchair-accessible Trail
5 Connection between the Pedestrian Trail and other accessible facilities on the Sound Transit Site.

6 **B. The Hearing Examiner should condition his approval of Sound Transit’s**
7 **CUP and SDP on Sound Transit constructing a wheelchair-accessible Trail**
8 **Connection, and on Sound Transit securing this Trail Connection with**
9 **appropriate fencing.**

10 The Hearing Examiner should adopt the City’s recommended Conditions 23(b) and 24(c)
11 because Conditions 23(b) is necessary to ensure that Sound Transit’s redevelopment complies with the
12 ADA and the City’s conditional use criteria, and because Condition 24(c) is a necessary and appropriate
13 conditions to ensure trail users’ safety.

14 In this consolidated hearing on Sound Transit’s CUP, SDP, and RUE, the Hearing Examiner
15 reviews all three applications for compliance with applicable code provisions in the first instance. *See*
16 MTMC 18.05.340.A.2 (Hearing Examiner conducts initial review of CUP applications); MTMC
17 18.05.350 (when an applicant seeks multiple approvals as part of the same proposal, all approvals are
18 consolidated into a single review unless the applicant elects otherwise).

19 In the Hearing Examiner’s CUP review, he has the power to impose any “conditions he . . . feels
20 necessary to ensure that the designated uses or activities are compatible with other uses in the same land
21 (or zoning) district and in the vicinity of the subject property.” MTMC 19.110.200.C. Furthermore, the
22 general criteria for a conditional use include “not . . . creat[ing] obstacles to neighborhood circulation,”
23 and “compl[ying] with . . . the general provisions of the municipal code.” MTMC 19.110.200.D.3, .4.
24 The municipal code authorizes the City to require land development permit applicants to address
25 compliance with ADA requirements in their application materials. *See* MTMC 19.110.030.F.14. In the
26 Hearing Examiner’s SDP review, the Hearing Examiner has broad latitude to impose any conditions
necessary on his approval of Sound Transit’s SDP. *See* MTMC 19.110.070.B.1.

1 The Hearing Examiner should adopt the City's proposed Condition 23(b) in his approval of
2 Sound Transit's CUP and SDP in order to both assure compliance with the ADA and assure that the
3 Transit Center meets conditional use permit requirements.⁶ For the CUP application, a wheelchair-
4 accessible connection between Pedestrian Trail and Transit Center is necessary to ensure compatibility
5 between the adjacent park and the Transit Center, since one of the core functions of Veteran's Memorial
6 Park is to provide a scenic, nature-rich gateway between the City's civic and commercial core and a key
7 transit hub. Making this function accessible to only some residents does not ensure "compatibility."
8 Moreover, the CUP criteria explicitly require that conditional uses "not create obstacles to neighborhood
9 circulation." MTMC 19.110.200.D.3. A staircase is most certainly an "obstacle" to a person in a
10 wheelchair or other wheeled mobility aid. Finally, the application requirements in the land development
11 provisions clearly envision that ADA compliance is within the scope of permit review, since they allow
12 the City to require applicants to demonstrate ADA compliance in their application materials. *See*
13 MTMC 19.110.030.F.14.

14 The Hearing Examiner should also condition Sound Transit's SDP approval on constructing a
15 wheelchair-accessible connection between Pedestrian Trail and Transit Center, given the Hearing
16 Examiner's broad latitude to impose appropriate conditions in an SDP review. A condition requiring
17 Sound Transit to build a wheelchair-accessible connection to the soon-to-be-wheelchair-accessible
18 Pedestrian Trail simply makes sense; without such a condition, the accessibility upgrades to the
19 Pedestrian Trail the City has sought to build for so long will simply create a "trail to nowhere" for the
20 City's wheelchair users.

21 Finally, the Hearing Examiner should condition his approval of both the CUP and SDP on the
22 construction of a fence, as provided in the City's proposed Condition 24(c), in order to ensure the safety
23 of those using the wheelchair-accessible Trail Connection as they traverse the elevated trail past the

24 _____
25 ⁶ Condition 23(b) requires Sound Transit to build the City's proposed connection (consisting of a trail extension
26 running north-south from the southwest end of the Pedestrian Trail to the sidewalk on 236th Street Southwest).
However, if the Hearing Examiner is so inclined, a generic condition requiring Sound Transit to simply build some
connection that is wheelchair-accessible and compliant with the ADA would be appropriate.

1 sheer drop-off to the adjacent Transit Center. This fence should likewise prevent pedestrian access to
2 the Transit Center at Sound Transit's proposed Trail Connection point to ensure pedestrian safety.

3
4 **IV. CONCLUSION**

5 Because Sound Transit has a clear duty to build a wheelchair-accessible Trail Connection
6 between the Pedestrian Trail and its altered Transit Center, because a wheelchair-accessible connection
7 and appropriate safety fencing are essential to ensure compliance with the CUP and SDP standards, and
8 because the Hearing Examiner has the power to impose these conditions as part of his CUP and SDP
9 approvals, the Hearing Examiner should adopt the City's proposed Conditions 23(b) and 24(c) as part
10 of his approval of Sound Transit's CUP and SDP applications.

11 DATED this 27th day of June, 2019.

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13
14 OGDEN MURPHY WALLACE, P.L.L.C.

15
16 By


James E. Haney, WSBA #11058
Attorney for the City of Mountlake Terrace