

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

In the Matter of the Petition of)	No. PLN19-0154
)	
Stephannie Karlsson, on behalf of)	Shoreline North/185th Lynnwood
Sound Transit)	Link Extension Project
)	
)	FINDINGS, CONCLUSIONS,
<u>For a Street Vacation</u>)	AND RECOMMENATION

SUMMARY OF RECOMMENDATION

The petition to vacate portions of the NE 185th Street and 7th Avenue NE rights-of-way for the Shoreline North/185th Station site within Sound Transit’s Lynnwood Link Extension Project to be located in the North City neighborhood east of Echo Lake and the Meridian Park neighborhoods is recommended for **APPROVAL** by the City Council. Conditions are recommended to mitigate specific impacts of the proposed vacation.

SUMMARY OF RECORD

Hearing Date:

The Hearing Examiner held an open record hearing on the request on October 9, 2019.

Testimony:

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

Juniper Nammi, City of Shoreline Sound Transit Project Manager
Mary Nicholl, Sound Transit Senior Planner for Applicant
Hope Morgan

Attorney Derek Chen represented the Applicant at the hearing.

Exhibits:

The following exhibits were admitted into the record.

1. Staff Report, dated September 25, 2019
2. Street vacation petition materials
 - a. Street Vacation Petition and Affidavit
 - b. Shoreline Street Vacation, dated July 10, 2019, with legal description, dated July 2, 2019
 - c. Criteria for Street Vacation Approval narrative, dated August 1, 2, 2019
 - d. Quitclaim Deed (No. 8603110515), recorded March 11, 1986

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- e. Letter from Hal Wolfe, Northwest Region, Washington State Department of Transportation, to Whom It May Concern, dated September 6, 2019, with enclosures
- f. Letter from Moises Gutierrez, Sound Transit, to Lorena Eng, dated February 22, 2016, with attachments (Right of Way Acquisition Plan, revised August 21, 2019; Sound Transit-WSDPT Property Transfer Table, dated August 21, 2019; Right of Way Acquisition Plan, Sheets 1 through 48, dated February 9, 2017)
3. City of Shoreline Certification, dated September 23, 2019, with 11 King County Department of Assessments parcel data printouts, updated January 29, 2019
4. City of Shoreline Certification, dated December 23, 2019
5. City Council Resolution No. 446, setting public hearing date before the Shoreline Hearing Examiner, adopted September 16, 2019, with exhibit
6. Public notice
 - a. Declaration of Posting, dated September 24, 2019, with Notice of Public Hearing, undated
 - b. Email from Stephannie Karlsson to Juniper Nammi, dated September 19, 2019, with email string
 - c. Email from Stephannie Karlsson to Juniper Nammi, dated September 19, 2019, with email string
7. Public notice
 - a. Declaration of Posting, dated September 19, 2019, with Notice of Public Hearing, undated
 - b. Declaration of Posting, dated September 19, 2019, with Notice of Public Hearing, undated
8. Public notice
 - a. Declaration of Mailing, dated September 20, 2019, with Notice of Public Hearing, undated
 - b. Mailing labels
9. Utility plans
 - a. Composite Utility Plan Sewer and Water NE 185th St (No. L85-UCP170, Sheet No. 825), dated May 6, 2019
 - b. Composite Utility Plan Sewer and Water NB 1653+00 to NB 1657+75 (No. L85-UCP140, Sheet No. 813), dated May 6, 2019
 - c. Composite Utility Plan Sewer and Water NB 1657+75 to NB 16662+50 (No. L85-UCP141, Sheet No. 814), dated May 6, 2019
10. Memo from Tricia Juhnke to File
11. Sound Transit PowerPoint (nine slides)
12. City of Shoreline PowerPoint (eight slides)
13. Public Comment Log

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

FINDINGS

Background

1. For several years Central Puget Sound Regional Transit Authority (Sound Transit, or Applicant), has been working with other government agencies and local jurisdictions, including the Puget Sound Regional Council (PSRC), the Federal Transit Administration (FTA), the Federal Highway Administration (FHA), King County, and the City of Shoreline (City), to implement the “Lynnwood Link Extension” (LLE). The LLE is an ongoing project to expand the light-rail system north from Seattle to Lynnwood.

The project 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. In 2024, following construction of the LLE, the expanded light-rail system would serve between 63,000 and 74,000 riders each weekday and would provide connections from Lynnwood to Sea-Tac Airport through downtown Seattle and the University of Washington.

The LLE begins at Northgate in Seattle and runs north for approximately 8.5 miles, generally following Interstate 5 (I-5) to the current Lynnwood Transit Center. According to Sound Transit and the FTA, the project will 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.”

The LLE project underwent extensive project 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 includes constructing approximately 3.2 miles of light-rail track and associated facilities 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 north of the NE 145th Street interchange, at 4701 5th Avenue NE, and another station would be built east of the NE 185th Street interchange, at 710 NE 185th Street. The City took several actions to facilitate implementation of the LLE project. It updated its municipal code and Comprehensive Plan (including the

adoption of several new sections in each) to account for extension of light rail, promulgated “Guiding Principles for Light Rail Facility Design,” and entered into several interlocal/interagency agreements with Sound Transit, including a Transit Way Agreement, Expedited Permitting and Reimbursement Agreement, and a Funding & Intergovernmental Cooperation Agreement (Funding Agreement).

In addition, the City identified the LLE project as a regional transportation facility, which qualifies as an “essential public facility.” The Growth Management Act, in Revised Code of Washington (RCW) 36.70A.200, requires the City to include in its Comprehensive Plan a process for identifying and siting essential public facilities (EPFs). EPFs include those facilities that are typically difficult to site, such as state or regional transportation facilities, as defined in RCW 47.06.140, and regional transit authority facilities, as defined in RCW 81.112.020. State law provides that no local comprehensive plan or development regulation may preclude the siting of EPFs.¹ Accordingly, in addition to the goals and policies cited above, the Comprehensive Plan states that the Special Use Permit (SUP) process must be used to site EPFs. The SUP is designed to ensure consistency with any implementation plan of the agency proposing an EPF, while imposing conditions or mitigation measures that are within the scope of the City’s authority. The SUP also is designed to ensure that the EPF will be in compliance with any ordinances guidelines, regulations, rules, and statutes governing the EPF. SUP approval was previously granted by the City for an LLE station within the city of Shoreline. *City Comprehensive Plan Policy LU 65. Hearing Examiner’s Sound Transit Special Use Permit decision, No. SPL-18-0140 (May 31, 2019).*

Sound Transit is obligated, under a funding agreement, to submit petitions to the City to vacate several streets. *Chapter 12.17 Shoreline Municipal Code (SMC); Chapter 35.79 RCW.* This is the first in a series of these petitions for vacation. *Exhibit 2.a; Exhibit 2.c.*

Current Petition – General Scope

2. Sound Transit filed a petition on August 20, 2019, for the vacation of portions of developed platted rights-of-way—approximately 498 feet of 7th Ave NE, north of NE 185th Street, and a triangular portion of NE 185th Street, between I-5 and 8th Ave NE

¹ SMC 20.20.032 defines a *light rail transit facility* as “a type of essential public facility and refers to any structure, rail track, equipment, maintenance base or other improvement of a light rail transit system, including but not limited to ventilation structures, traction power substations, light rail transit stations, parking garages, park-and-ride lots, and transit station access facilities” and a *light rail transit system* as “a type of essential public facility and refers to any public rail transit line that provides high-capacity, regional transit service owned or operated by a regional transit authority authorized under Chapter 81.112 RCW.”

(Exhibit 2.a).² The petition for vacation of City rights-of-way was submitted consistent with Chapter 12.17 SMC - Street Vacations.

If approved, this vacation would release 24,429 square feet from dedication as rights-of-way. Sound Transit seeks to utilize this area as a portion of the Shoreline North/185th Station site to be occupied by the station, parking garage, public plaza space, bike parking, landscaping, and an access driveway to the proposed transit center on the roof of the parking garage.

Sound Transit owns the abutting property needed for the proposed light-rail station and ancillary facilities. Additionally, WSDOT has signed a letter of concurrence indicating that they will convey, to Sound Transit, ownership of the abutting I-5 Limited Access Area that would underlie the station site and guideway. Sound Transit received approval of a Special Use Permit (SPL18-0140) for the station project on May 31, 2019. Sound Transit has also submitted most of the required construction permits to the City, which are currently under review by the City. *Exhibit 1, Staff Report, page 3; Exhibit 2.b; Exhibit 2.f.*

3. The proposed street vacation would not affect NE 185th Street traffic circulation or access. All property requiring access to 7th Avenue NE is owned by Sound Transit. The Shoreline Fire Department would not be adversely impacted by the proposed street vacation. Sound Transit would incorporate utility relocations and required easements into the final LLE project design. The City has requested conditions to ensure that easements are reserved for City-owned utilities and that Sound Transit executes a sewer utility easement with Ronald Wastewater District for existing sanitary sewer infrastructure. The street vacation area is not a necessary part of a long-range circulation plan or pedestrian/bicycle plan for the city. *Exhibit 1, Staff Report, pages 7 through 10.*

Notice

4. The City determined that the application was complete on September 6, 2019. The City Council adopted Resolution 446 on September 16, 2019, which set an open record hearing date before the Hearing Examiner of October 9, 2019. The City posted notice of the public hearing within the area proposed for vacation and at City public posting locations (including the public library, Spartan Recreation Center, and city hall) on September 19, 2019. The City also mailed notice to property owners within 500 feet of the area on September 20, 2019. *Exhibit 1, Staff Report, page 5, Exhibit 5; Exhibit 6; Exhibit 7.*

² The right-of-way area proposed for street vacation does not have a parcel number. Adjacent parcels are identified as Nos. 0526049052, 0526049030, 0526049029, 0526049060, 0526049027, 0526049044, 0526049015, 0526049056, 0526049061, 0526049032, and 0526049031. *Exhibit 1, Staff Report, page 2.*

5. The City did not receive any written comments from the public. WSDOT submitted a letter in support of the petition, dated September 6, 2019, noting that the quitclaim deed conveying the rights of way to King County requires that all vacation revenue be used exclusively for road purposes. The North City Water District, Ronald Wastewater, Seattle City Light, and the Shoreline Fire Department had no comments. *Exhibit 1, Staff Report, page 5; Exhibit 2.e.*

SEPA Review

6. Sound Transit acted as lead agency and analyzed the environmental impacts of the entire LLE project, as required by the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and determined that it would have a probable significant, adverse environmental impact. Accordingly, 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 project and potential measures to mitigate for such impacts. Sound Transit issued a Final Environmental Impact Statement (FEIS) in April 2015.³ The FTA issued a Record of Decision (“FTA ROD”) in July 2015, and the Federal Highway Administration issued a Record of Decision in August 2015, documenting this approval. Sound Transit issued a SEPA Addendum to the FEIS on May 3, 2018. *Hearing Examiner’s Sound Transit Special Use Permit decision, No. SPL-18-0140 (May 31, 2019).* The City’s SEPA official determined that the proposed street vacation is categorically exempt from SEPA review. *WAC 197-11-800(2)(ii). Exhibit 1, Staff Report, page 4.*

Comprehensive Plan and Zoning

7. Sound Transit identified the following Comprehensive Plan goals and policies as relevant to the proposed street vacation:
- Land Use Goal LU IV - Work with regional transportation providers to develop a system that includes two light-rail stations in Shoreline and connects all areas of the city to high capacity transit using a multi-modal approach.
 - Policy LU11 – The Station Area 1 (SA1) designation encourages Transit Oriented Development in close proximity of the future light-rail stations at I-5 and NE 185th Street and I-5 and NE 145th Street.
 - Policy LU23 - Collaborate with regional transit providers to design transit stations and facilities that further the City’s vision by employing superior design techniques, such as use of sustainable materials; inclusion of public amenities, open space, and art; and substantial landscaping and retention of significant trees.
 - Policy LU24 - Work with Metro Transit, Sound Transit, and Community Transit to develop a transit service plan for the light-rail stations. The plan should focus

³ The FTA also reviewed the project as the federal lead agency under the National Environmental Policy Act (NEPA). Sound Transit and the FTA jointly issued the FEIS. *Exhibit 3.*

on connecting residents from all neighborhoods in Shoreline to the stations in a reliable, convenient, and efficient manner.

- Policy LU25 - Encourage regional transit providers to work closely with affected neighborhoods in the design of any light-rail transit facilities.
- Policy LU26 - Work with neighborhood groups, business owners, regional transit providers, public entities, and other stakeholders to identify and fund additional improvements that can be efficiently constructed in conjunction with light rail and other transit facilities.
- Policy LU27 - Maintain and enhance the safety of Shoreline's streets when incorporating light rail, through the use of street design features, materials, street signage, and lane markings that provide clear, unambiguous direction to drivers, pedestrians, and bicyclists.
- Policy LU37 – Assist with land assembly and redesign rights-of-way to improve intersections for redevelopment.
- Policy ED4 – Encourage and support revitalization and construction spending.
- Policy LU44 - Consider a flexible approach in design of parking facilities that serve light-rail stations, which could be converted to other uses if demands for parking are reduced over time.
- Policy LU53 - Work with transit providers to site and develop park and rides with adequate capacity and in close proximity to transit service.
- Community Design Goal I - Promote community development and redevelopment that is aesthetically pleasing, functional, and consistent with the City's vision.
- Policy CD1 - Encourage building design that creates distinctive places in the community.
- Policy CD13 - Encourage the use of native plantings throughout the city.
- Policy CD22 - Consider Crime Prevention through Environmental Design (CPTED) principles when developing mixed-use, commercial, and high-density residential uses.
- Policy CD24 - Encourage building and site design to provide solar access, as well as protection from weather.
- Policy CD27 - Where appropriate and feasible, provide lighting, seating, landscaping, and other amenities for sidewalks, walkways, and trails.
- Policy CD30 - Provide pedestrian gathering spaces to unify corners of key intersections involving principal arterials.
- Policy CD33 - Encourage the use of visual barriers and sound absorption methods to reduce impacts from the freeway to residential neighborhoods.
- Transportation Design Goal T IV - Work with transit providers and regional partners to develop and implement an efficient and effective multi-modal transportation system to address overall mobility and accessibility that maximizes the people-carrying capacity of the surface transportation system.

- Transportation Design Goal T VIII - Coordinate the implementation and development of the city's transportation system with neighboring transit systems and regional partners.
- Policy T3 - Reduce the impact of the city's transportation system on the environment through the use of technology, expanded transit use, and non-motorized transportation options.
- Policy T5 - Communicate with and involve residents and businesses in the development and implementation of transportation projects.
- Policy T11 - Site, design, and construct transportation projects and facilities to avoid or minimize negative environmental impacts to the extent feasible.
- Policy T30 - Work with transportation providers to develop a safe, efficient, and effective multi-modal transportation systems to address overall mobility and accessibility. Maximize the people-carrying capacity of the surface transportation system.
- Natural Environment Goal NE V - Protect clean air and the climate for present and future generations through reduction of greenhouse gas emissions and through promotion of efficient and effective solutions for transportation, clean industries, and development.
- Policy NE25 - Strive to achieve a level of no net loss of wetlands function, area, and value within each drainage basin.
- Policy NE27 - Focus on wetland and habitat restoration efforts that will result in the greatest benefit for areas identified by the City as priority for restoration.
- Policy NE 29 - Stream alterations, other than habitat improvements, should only occur when it is the only means feasible, and should be the minimum necessary.

Exhibit 1, Staff Report, pages 11 through 13.

8. City staff determined that its fundamental Comprehensive Plan does not have specific goals or policies that address street vacation. Therefore, City staff looked to the City's Transportation Master Plan, which provides that public right-of-way street vacations should be evaluated to ensure they cannot serve as a pedestrian connection. The proposed street vacations are not listed as potential pedestrian connections in the Transportation Master Plan. *Exhibit 1, Staff Report, page 13.*
9. City staff determined that the proposed street vacation would meet the City's Engineering Development Manual Street Matrix for frontage improvement cross sections. *Exhibit 1, Staff Report, page 13.*
10. The specific rights of way do not have zoning designations because City rights of way are not classified into zones, with limited exceptions that do not apply to this application. Adjacent parcels to the east and north are zoned Mixed Use Residential (MUR-70'). Significant portions of the project, especially the guideway corridor, would be constructed in unclassified City rights-of-way and within WSDOT rights-of-way. Light-

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rail facilities are allowed in each of these zoning areas, subject to a Special Use Permit, under SMC 20.40.140 and .160. A Special Use Permit was previously approved for the station itself. *SMC 20.40.060. Hearing Examiner's Sound Transit Special Use Permit decision, No. SPL-18-0140 (May 31, 2019); Exhibit 1, Staff Report, page 3.*

Other Considerations for Review of a Street Vacation Request

Rights-of-Way

11. The Washington State Legislature delegated street vacation powers to the City. *Chapter 35.79 RCW.* City street vacation procedures are set forth in Chapter 12.17 of the Shoreline Municipal Code. In a January 10, 1984, Quitclaim Deed, the State of Washington conveyed fee title interests of the rights-of-way involved in this proposed street vacation to King County, which were then conveyed to the City following its incorporation. *Exhibit 1, Staff Report, page 4.*
12. Eight parcels owned by the Sound Transit are located to the east and north. To the west, 7th Avenue NE is bordered by a WSDOT Limited Access Area right of way (ROW). An additional parcel to the north has access from 7th Ave NE but is not adjacent to the public ROW. The portion of NE 185th Street proposed to be vacated is bordered to the north by three parcels owned by Sound Transit and to the south by 40 feet of remaining 185th Street ROW to the centerline of the existing public ROW.

Sound Transit purchased the adjacent parcels between September 2016 and March 2018. These parcels total over two acres in area and are contiguous with additional parcels acquired by Sound Transit for the Shoreline North/185th Station. Single-family homes on these parcels were demolished in 2018. Sound Transit proposes to vacate 24,429 square feet (0.56 acres) of improved right-of-way that served the single-family residences prior to their demolition. No remaining residences, businesses, or other facilities are serviced by 7th Avenue NE north of 185th street.

7th Avenue NE does not connect through to NE 185th Street from the south. 5th Ave NE is proposed to realign to the east with a new signalized entrance to the Shoreline North/185th transit center. The remaining 40 feet of improved right-of-way is developed as NE 185th Street, a minor arterial, and would be reconstructed between I-5 and 8th Ave NE as part of the LLE Project.

The area proposed for vacation is not adjacent to any body of water, wetlands, or fish and wildlife habitat conservation areas. The existing roadway fill for NE 185th Street and 7th Avenue NE are classified as moderate to high landslide hazard areas and would be replaced with retaining walls to construct the guideway and station structures. *Exhibit 1, Staff Report, pages 3 and 4; Exhibit 2.b; Exhibit 2.f.*

Shoreline North Station and Parking Garage

13. The Shoreline North/185th Station would be located on a 3-acre site just north of NE 185th Street and east of the I-5 overpass. The station site would include an at-grade center guideway and side station platforms, station access stairs, elevators, pedestrian overpass bridges, an ancillary station building, a parking garage (approximately 500 spaces), a passenger pick-up and drop-off area and public gathering space, a public plaza between the station and garage, and a bus transit center on the roof of the garage. The station site is proposed to be located within former WSDOT right-of-way, on a portion of 7th Avenue NE from its intersection with NE 185th Street to its terminus (subject to vacation by the City), and on parcels zoned for mixed-use residential development. *Hearing Examiner’s Sound Transit Special Use Permit decision, No. SPL-18-0140 (May 31, 2019).*

Testimony at Hearing

14. Sound Transit Senior Planner Mary Nicholl presented PowerPoint slides at the hearing and described the proposed street vacation petition and how the petition would meet the City’s street vacation criteria. She noted that the proposed street vacation petition would meet the City’s Comprehensive Plan goals as articulated in the staff report. Ms. Nichol agreed with the conditions proposed by City staff that would be included as part of approval of the street vacation. *Testimony of Ms. Nicholl; Exhibit 11.*
15. City Light Rail Project Manager Juniper Nammi also presented PowerPoint slides at the hearing. She testified that the street vacation petition is merely one element of the Sound Transit project and should be viewed as in the public interest as part of that project. She confirmed that the proposed street vacation is also considered to be one aspect of an Essential Public Facility. She noted that, because the proposed street vacation is part of a regional project as well as an EPF, the Criterion A for granting a petition for a street vacation would be met.⁴

She testified that, if Conditions 1 and 2 concerning utility easements are imposed, the remaining criteria (B, C and D) for approval of a street vacation petition would also be met. She testified that the proposed vacation would not be detrimental to traffic

⁴ SMC 12.17.050 specifies the four criteria that must be met to approve a petition for a street vacation. They are:

- A. The vacation will benefit the public interest;
- B. The proposed vacation will not be detrimental to traffic circulation, access, emergency services, utility facilities, or other similar right-of-way purposes;
- C. The street or alley is not a necessary part of a long-range circulation plan or pedestrian/bicycle plan; and
- D. The subject vacation is consistent with the adopted comprehensive plan and adopted street standards.

circulation, would not impede emergency vehicle access, would not disrupt utility facilities, and would not negatively impact other right-of-way purposes. She testified that the Transportation Master Plan of the City identifies this area as the location of a future light-rail station and therefore would be consistent with the Comprehensive Plan and adopted street standards of the City. She noted that, according to the Transportation Master Plan, any request for vacation of public right-of-way should be evaluated to ensure the street cannot serve as a pedestrian connection, that the proposed vacation area is not an identified potential pedestrian connection location, and that any remaining right-of-way meets or exceeds the adopted street standards. She testified that, in compliance with WSDOT's agreement with the City, all revenue resulting from vacation of this property would be used exclusively for road purposes. *Testimony of Ms. Nammi; Exhibit 12.*

16. Public testimony was presented by Hope Morgan. She testified that her house is directly across from the entry to the construction site. She noted that she now has no parking in front of her house, because of construction workers, and that workers are also parking in her driveway and making truck turns onto her lawn. She also expressed concerns about the traffic from 500 cars and 34 buses that will come along with the North Station project.

Ms. Nammi responded to these concerns on behalf of the City. She stated that the Sound Transit station will take access off 8th Avenue NE, not 7th Avenue NE, so Ms. Morgan should not experience the impact of traffic to and from the station, once it is completed. As to the impacts from the construction workers, Ms. Nammi stated that the City would enforce the requirement that workers not park off the existing ROW. Ms. Nammi explained that the City code enforcement process can be utilized to ensure that Ms. Morgan's driveway is not blocked and that turns are not made on her lawn in the future. *Testimony of Ms. Morgan and Ms. Nammi.*

Staff Recommendation

17. City staff recommended approval of the street vacation petition, with five conditions. The conditions include a recognition that the street vacation be subject to the reservation of any and all easements for City-owned utilities; a requirement that Sound Transit grant and execute a temporary easement to the sanitary sewer utility owner, Ronald Wastewater District, for the existing sanitary sewer infrastructure in the areas of street vacation; a requirement that Sound Transit provide and pay for a boundary survey of the revised combined portions of right-of-way of 7th Avenue NE and NE 185th Street that are vacated; a requirement that Sound Transit provide and pay for an appraisal of the revised combined portions of right of way of 7th Avenue NE and NE 185th Street that are vacated while accounting for the value of the reserved easements; and a requirement that Sound Transit provide for just compensation of properties taken for public use in accord with Chapter 12.17 SMC. *Exhibit 1, Staff Report, page 14.*

CONCLUSIONS

Jurisdiction

The City Council granted jurisdiction to the Hearing Examiner to hear this street vacation petition in Resolution No. 446, adopted on September 16, 2019. The Hearing Examiner is required to issue findings and conclusions regarding the consistency of the petition with the criteria for approval and to make a recommendation to the City Council for final action.

Criteria for Review

The Shoreline Municipal Code requires that the Hearing Examiner and City Council find that each of the following criteria is satisfied in making a recommendation and decision:

- A. The vacation will benefit the public interest;
- B. The proposed vacation will not be detrimental to traffic circulation, access, emergency services, utility facilities, or other similar right-of-way purposes;
- C. The street or alley is not a necessary part of a long-range circulation plan or pedestrian/bicycle plan; and
- D. The subject vacation is consistent with the adopted comprehensive plan and adopted street standards.

SMC 12.17.050.

The criteria for review adopted by the City Council implements 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 developments to ensure consistency with City 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

1. **With conditions, the proposed street vacation would benefit the public interest.** The City provided reasonable notice of the street vacation petition and hearing and provided adequate opportunity for members of the public to comment on the petition. The findings made above support a conclusion that the street vacation, with conditions, is part of an essential public facility (the LLE) that would benefit the public interest of the citizens of the city, as well as those of the region. The LLE is part of the regional Link Light Rail System, a critical part of a region-wide effort to meet the public need for relief of traffic congestion in daily commutes. It will provide a transit option between Seattle and Lynnwood and will promote strong, multi-modal connections between light rail, high-capacity transit, and non-motorized circulation by providing bicycle storage, parking stalls, passenger drop-off loops, parking for shared vehicle services, and multiple pedestrian access paths to each station. Given the growing volume of traffic in the area, a reliable method of public transportation benefits the city and the region. The proposed street vacation will facilitate the implementation of the LLE, which will allow for reduced reliance on single-occupancy vehicles, thereby reducing traffic volumes and

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allowing the City to fulfill its commitment to reducing emissions. The proposed north station is contingent on the use of this ROW being vacated and incorporated into the station site. In addition, compensation would be made to the City for the full appraised value of the vacated area, with proceeds dedicated to road purposes. Thus, in several ways, the street vacation will be in the public interest.

Conditions are necessary to ensure that approval of the street vacation will require that Sound Transit will be subject to the reservation of any and all easements for City-owned utilities; that Sound Transit will grant and execute a temporary easement to the sanitary sewer utility owner, Ronald Wastewater District, for the existing sanitary sewer infrastructure in the areas of street vacation; that Sound Transit will provide and pay for a boundary survey of the revised combined portions of right-of-way of 7th Avenue NE and NE 185th Street that are vacated and the required easements; that Sound Transit will provide and pay for an appraisal of the revised combined portions of right of way of 7th Avenue NE and NE 185th Street that are vacated while accounting for the value of the reserved easements; and that Sound Transit will provide for just compensation of property taken for public use in accord with Chapter 12.17 of the SMC. *Findings 1-7, 12-17.*

2. **With conditions, the proposed vacation will not be detrimental to traffic circulation, access, emergency services, utility facilities, or other similar right-of-way purposes.** Sound Transit has demolished the houses with access to 7th Avenue NE. Emergency services would not be adversely affected. No other similar right-of-way purposes were identified for the streets to be vacated. *Findings 1-7, 12, 16-17.*
3. **The street or alley is not a necessary part of a long-range circulation plan or pedestrian/bicycle plan.** The City did not identify any long-range circulation plan or pedestrian/bicycle plan requiring retention of the right-of-way area. *Findings 1-7, 9, 16, 17.*
4. **The subject vacation is consistent with the adopted comprehensive plan and adopted street standards.** The City determined that the Comprehensive Plan does not itself include specific goals or policies that address street vacations. The City determined that the City's Transportation Master Plan, however, does include such goals and policies. That plan requires that any requested street vacation be reviewed to ensure the street requested to be vacated does not and will not serve as a pedestrian connection. The Transportation Master Plan itself does not, nor does any other City plan or policy, identify the subject area as a potential pedestrian connection. *Findings 1-7, 16, 17.*

RECOMMENDATION

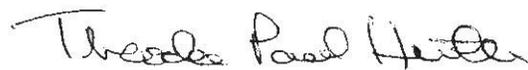
Based upon the preceding findings and conclusions, the Hearing Examiner recommends that the City Council approve the petition to vacate portions of NE 185th Street and 7th Avenue NE

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rights-of-way, with the following conditions:

1. The street vacation shall be subject to the reservation of any and all easements for City-owned utilities, including surface water drainage, with the exact extent and location to be determined and executed based on the as-built surveys of these utilities to be completed for the LLE Project. Once executed, these easements shall be recorded with the King County Recorder's Office at Sound Transit's sole cost and expense.
2. Sound Transit shall grant and execute a temporary easement to the sanitary sewer utility owner, Ronald Wastewater District, for the existing sanitary sewer infrastructure in the areas of street vacation. The City further reserves the right for a permanent utility easement for the Ronald Wastewater's relocated and remaining sewer infrastructure after completion and based on the as-built survey to be completed for the LLE Project. Once executed, the permanent easement shall be recorded with the King County Recorder's Office at Sound Transit's sole cost and expense.
3. Sound Transit shall, in addition to all other duties and expenses of vacation as set forth in Chapter 12.17 SMC, provide and pay for a boundary survey of the revised combined portions of right of way of 7th Ave NE and NE 185th Street that are vacated and the required easements. Such surveys shall be performed by a land surveyor licensed to practice in Washington State and shall be recorded with King County consistent with Chapter 58.09 RCW.
4. Sound Transit shall, in addition to all other duties and expenses of vacation as set forth in Chapter 12.17 SMC, provide and pay for an appraisal of the revised combined portions of right of way of 7th Ave NE and NE 185th Street that are vacated and accounting for the value of the reserved easements.
5. Sound Transit shall provide for just compensation pursuant to Chapter 12.17 SMC.

DECIDED this 23rd day of October 2019.



THEODORE PAUL HUNTER
Hearing Examiner
Sound Law Center