

FWLE Development Agreement

Proposed Text for items shown “In Progress” at the T&PW Meeting 11/15/18:

8.2.A Buffering of At-Grade Track Corridor

8.2.1 Buffering of At-Grade Track Corridor. The City grants a departure from SMC 15.530.220(A)(1) that requires at-grade HCT track corridors be screened from adjacent streets and/or nearby development with minimum five (5) foot wide landscape strip(s) of trees, low shrubs and ground cover paralleling the track corridor. The specific locations where this departure applies is depicted in Exhibit E. This departure is being granted because:

- There is not sufficient area to meet the referenced code requirement without requiring additional property impacts to adjacent property owners.
- The future WSDOT SR 509 will be constructed where Sound Transit will be installing temporary seeding in landscape areas that will be removed by WSDOT during SR 509 construction. In areas where Sound Transit will retain permanent control of land surrounding the Light Rail Transit guideway, Sound Transit will plant permanent shrubs and groundcover, consistent Sound Transit’s Vegetation Clear Zone requirements.

Exhibit E depicts the areas where this code departure applies, and areas where landscaping to meet SMC 15.530.220(A)(1) will be provided by Sound Transit. Exhibit E is based on the conceptual plans provided as part of Sound Transit’s Request for Design-Build Contractor Proposals, which is subject to change as Project design proceeds. Any modifications to Exhibit E may be approved administratively by the City’s designee, and Sound Transit’s designee.

8.2.2 Landscaping of Elevated Guideway. The City grants a departure from SMC 15.530.220(A)(2) that requires areas beneath elevated guideways not utilized for other public purposes be landscaped in accordance with Chapter 15.445 SMC with Type IV landscaping. This departure is being granted because of Sound Transit’s need to maintain a Vegetation Clear Zone, and in recognition of landscaping survival rates.

Specifically, this departure applies as follows for all elevated guideway sections:

- 8.2.2.1 To satisfy the Vegetation Clear Zone requirement, no landscaping will be provided within a five-foot clear zone surrounding each column.
- 8.2.2.2 Outside of the five-foot column perimeter, only shrubs and ground cover will be provided under the guideway between columns.
- 8.2.2.3 In areas where Sound Transit holds only a temporary construction easement, Sound Transit will, as part of negotiating the terms of the easement, offer to install vegetation consistent with the referenced City Code, while remaining within the safety constraints of Sound Transit’s Vegetation Clear Zone requirements. In the event the property owner chooses to forego this offer, Sound Transit will provide appropriate documentation to the City of this rejected offer.

- 8.2.2.4 Where future WSDOT SR 509 will be constructed, Sound Transit will provide temporary seeding in landscape areas to be removed by WSDOT during SR 509 construction.

8.3 Wetlands Mitigation Requirements

- 8.3 Regulation of Critical Areas in WSDOT ROW. The Project is located partially within WSDOT (Interstate 5) right-of-way. Recognizing that RCW 47.52.090 gives exclusive regulatory jurisdiction to WSDOT of wetlands impacts within WSDOT rights-of-way, and that wetland impacts within WSDOT rights-of-way will be regulated and mitigated as required by the United States Army Corps of Engineers and the Washington State Department of Ecology, the City will only regulate Critical Areas outside WSDOT rights-of-way. Sound Transit shall provide documentation to the City demonstrating compliance with applicable federal and state regulations for impacts to Critical Areas within WSDOT rights-of-way.
- 8.4 Preliminary Review of Critical Areas Reports. Prior to Sound Transit’s application for Site Engineering plan review, the City will provide preliminary review of Critical Areas Reports provided by Sound Transit. All Critical Areas Reports submitted to the City pursuant to this Section shall include Pre-Final PE level of design, and shall document consistency with all applicable City codes and standards. Furthermore, all Critical Areas Reports, and any subsequent changes, shall be included with Sound Transit’s Site Engineering plan review application.
- 8.5 Acceptance of the Critical Area Report. The City grants a departure from SMC 15.700.100(C) that requires peer review of reports prepared by consultants not on the City’s roster of qualified professionals. The City will accept the results of Critical Areas Reports required pursuant to SMC 15.700.100 (A), and will not require peer review of these reports only if the credentials of the Qualified Professional utilized by Sound Transit to prepare the report meet or exceed requirements of the City’s roster of qualified professionals.
- 8.6 Wetlands Mitigation Requirements. The City recognizes that opportunities for permittee-responsible compensatory mitigation within the City limits is very limited and would likely result in fragmented wetland mitigation. In accordance with SMC15.700.310(E) (2) Sound Transit will utilize the King County In-Lieu Fee mitigation program for permanent wetland and wetland buffer impacts in their jurisdiction and for use of the In-Lieu Fee program to accomplish this mitigation commitment. Additionally, as part of its regulatory authority under SMC 15.700, the City will accept the assessment made in this Agreement that use of the In-Lieu Fee program as compensatory mitigation for impacts caused by the Project is the only practicable action.

8.13 Column Type

- 8.13 Column Type. Sound Transit will use the Rectangular (formerly known as the “tulip” column type) for all portions of Project elevated guideway in the City. Any alternate column types proposed by Sound Transit may be considered by the City. Any proposed alternative column type must transition/integrate aesthetically and architecturally with the rectangular “tulip” column design used on the balance of the elevated guideway within the City. Architectural renderings detailing column transition areas, the crossing over State Route 99 and a typical segment of the guideway shall be submitted for City approval. Under no circumstances shall

round column types be utilized. Additionally, any proposed measures intended to offset the aesthetic of alternate column types shall also be described to the City at the time of request.

8.14 International Boulevard Crossing

- 8.14 International Boulevard Crossing. Sound Transit and the City acknowledge that the elevated trackway is a dominant structural element throughout the City and that opportunities may exist to provide community-centric enhancements where the structure crosses State Route 99 (both north and south ends). Sound Transit and the City commit to exploring opportunities, in good faith, that are intended to create an improved sense of place and community within the City.

9.10 Project Permitting Plan

- 9.10 Project Permitting Plan: The Parties recognize the mutual benefit of establishing an efficient and expedited process for seeking and obtaining permits to construct the Project in the City.

Accordingly, Sound Transit will develop and submit a Project Permitting Plan as one of the earliest critical activities, utilizing the Preliminary Permitting Plan as guidance, as attached in Exhibit I and incorporated herein. This plan shall be approved by the City. As part of the City's input and the approval process for the Final Permitting Plan, Sound Transit and the City will together calculate the total permit fees for all known Project permits and permit-related costs. These fees and costs shall be paid to the City by Sound Transit on a schedule agreed-to as part of the Project Permitting Plan.

Sound Transit shall submit a Project Permitting Plan for City review and approval. Sound Transit and the City shall work cooperatively to develop a final Permitting Plan that is implementable by the Design-Build Contractor.

11.1 S 208th Street Dollar Amount

In progress

12.0 Minor Revisions to Project Approvals

The City's Public Works Director in conjunction with the City's environmental official and Building Official is authorized to approve minor revisions to the Project and this Development Agreement that are necessary and are consistent with the terms of this Agreement, the original scope and intent of the Project, and the scope of the Project environmental documents. All requests shall be documented. However, such authorization shall not include approval of any departures for City Code.

16.3 Certificates of Insurance

- 16.3 Certificates of Insurance. Sound Transit shall file with the City's Risk Manager a formal letter of self-insured status, or when commercial insurance is used, Certificates of Insurance reflecting evidence of the required insurance and naming the City its officers, agents and employees as a primary noncontributory additional insureds covering the entire term of this agreement. The coverage maintained by Sound Transit under this Agreement shall not be canceled until at least thirty (30) days' prior written notice has been given to the City.

16.4 Commercial Insurance

In progress

17.3 Claim of Ownership

17.3 Claim of Ownership: Nothing in this Agreement shall be deemed to give, and the City hereby expressly waives, any claim of ownership in and to any part or the whole of the Project except as may be otherwise provided herein.

Additional Items In Progress since T&PW Meeting

- Vesting
- Stormwater