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December 22, 2020

VIA EMAIL: pat.schneider@foster.com

Patrick J. Schneider
Foster Garvey PC
1111 Third Avenue, Suite 3000
Seattle, WA 98101

Re: Mercer Island Transit Integration Project

Dear Patrick,

I write in response to your letter dated December 4, 2020. Regarding the Conditional Use Permit (CUP) issue, Eric Beckman has likely informed you that during the December 16, 2020, Level One dispute resolution meeting, City Manager Jessi Bon informed Mr. Beckman that the City would not be requiring a CUP based on Sound Transit's permit application 2010-186 ("Application 2010-186"). The CUP was initially raised as an issue when it was not clear how the proposed stormwater facilities would compare with those evaluated at the time of the Settlement Agreement and whether Sound Transit was going to convey the residential lots as right-of-way.

Your letter also makes several assertions about a Site Development Permit that under your interpretation would authorize the work Sound Transit has applied for on the two residential lots north of North Mercer Way. Please note, however, that the Mercer Island City Code (MICC) does not describe any substantive criteria for a Site Development Permit under which work included in Application 2010-186 could be authorized.

Finally, your letter makes an unfortunate reference to "private property that *may* become right-of-way" (emphasis added) and also that "any conveyance or dedication must be done in compliance with applicable Federal and State requirements that apply to Sound Transit's disposition of property." This is the first time Sound Transit has even alluded to Federal or State requirements that may not allow Sound Transit to convey the two residential lots to the City as right-of-way, or delay the same. If this is indeed the case, I will assume you will provide additional details. In the meantime, the City will issue its decision on Application 2010-186 based on the information it has been provided during the City's review process.

It is the City's understanding that in November 2020 Sound Transit settled the condemnation case it filed for the Sneathen/Hancock property and that Sound Transit was not required to file a condemnation case

Patrick J. Schneider
Foster Garvey PC
December 22, 2020
Page 2

to obtain the Woo property. From these facts, Sound Transit should be able to obtain title and convey same to the City prior to any work under Application 2010-186 being performed on these two lots. Both owners have also submitted documents to the City explaining that Sound Transit agreed not to begin construction on their respective lots until after January 31, 2021.

The City has been processing Application 2010-186 in compliance with the 2017 Settlement Agreement, the MICC, and the transparency required by both. The City's record of the review process for Application 2010-186 speaks for itself. Should Sound Transit disagree with the decision issued by the City, there are procedures in place to adjudicate the decision.

Sincerely,

/s Bio Park

Bio Park
City Attorney

cc: Malaika Eaton, Legal Counsel for City of Mercer Island
Stephen Sheehy, Managing Legal Counsel for Sound Transit