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October 20, 2020

BY EMAIL to Bio.Park@mercergov.org

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Bio Park, City Attorney
City of Mercer Island
9611 SE 36th Street
Mercer Island, WA 98040

Thomas H. Wolfendale
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925 Fourth Avenue, Suite 2900
Seattle, WA 98104-1158

Re: Mercer Island Transit Integration Project - Permits and Conveyances

Dear Bio and Tom:

I write on behalf of Sound Transit, regarding permits and related conveyances of improvements and property to the City.

Sound Transit is finalizing acquisition of the real property needed to construct the 77th Avenue SE Configuration, and is about to submit to the City the permit applications required for construction of the Mercer Island Transit Integration Project. Over the course of the past few months, Sound Transit and City staff have reviewed together the design plans for the Project and together worked through a number of issues typical for a project of this size and scope. Sound Transit appreciates these cooperative efforts of City staff, but some City comments and positions give rise to the legal issues discussed in this letter.

The City has repeatedly asserted, including during the pre-application conference on October 13, that it may require a Conditional Use Permit (CUP) if Sound Transit does not convey to the City the property on which right-of-way improvements, landscaping and storm water facilities will be constructed. Sound Transit has repeatedly indicated that it is prepared to convey the property, improvements, landscaping and storm water facilities to the City once construction is complete, but the City also asserts that it may prohibit construction from beginning unless the City approves the terms of conveyance before Sound Transit submits its applications for construction permits. These two City assertions are combined in comments CPD12 and CPD 34 in the City's "Submittal Review Comments" on Sound Transit's 90% submittal (copy attached). Here is the City's language from CPD12:

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“ 60% - CPD10 explained that a CUP permit would be needed prior to construction permit for improvements on residentially zoned property and asked for additional information. Sound Transit’s Designer Response was that “Sound Transit plan is to dedicate the property to CMI as right of way. The City has received no proposed conveyance terms or other documentation from Sound Transit since this Designer Response at 60%. If conveyance and operating cost terms are not agreed upon prior to application submittal, the City may include a condition prohibiting all work on the roundabout, its related improvements, and the stormwater vault until Sound Transit obtains City approval of such terms.”

Pursuant to the Settlement Agreement, there are no circumstances under which the City can require a CUP for the Project. Section 14.2 of the Settlement Agreement states:

14.2 The City agrees that the Project is permitted by Title 19 of the MICC (the “City Land Use Code”) and that no additional land use permits, or other City discretionary permits of any kind, are required for the Project.

A CUP is a discretionary land use permit, as the City’s code acknowledges. Table A to MICC 19.15.030 lists a CUP as a Type IV decision, and MICC 19.15.030.D states (emphasis added):

Type IV reviews *require discretion* and may be actions of broad public interest. Decisions on Type IV reviews are only taken after an open record hearing.

Not only is a CUP discretionary, but it requires months to process because it requires a public hearing before a Hearing Examiner. The City’s requirement for a CUP thus also violates Section 14.4 of the Settlement Agreement, where the City made specific commitments to timely process the permits for bus/rail integration:

14.4 . . . upon receipt of any permit application, the City agrees to immediately screen and place the application at the top of the City’s review queue and to notify Sound Transit and its contractors within three business days whether an application is complete. . . . Once an application is complete, the City will issue a decision on the permit within ten days.

The City Council approved the basic terms of the settlement on May 31, 2017. The City Council then approved the specific language of the Settlement Agreement on October 17, 2017, when it passed Resolution No. 1533. The City had months to determine what City regulations apply to the Project, and to make its determination in section 14.2 that “no discretionary permits of any kind, are required for the Project.” In section 14.7 the City also specifically agreed that Section 14 “constitutes a reasonable and informed exercise of the City’s regulatory authority.”

The City’s new position, that it may require a discretionary CUP, is contrary to multiple provisions of Section 14 and is neither reasonable nor informed. It is a new code interpretation that

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contradicts the prior interpretation in the Settlement Agreement that the City Council approved by Resolution No. 1533, that the City Manager signed on behalf of the City, and the City Attorney approved as to form. The City's new, about-face interpretation will receive no deference from a reviewing court. *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 815, 828 P.2d 549 (1992), *Sleasman v. City of Lacey*, 159 Wn.2d 639, 646, 151 P.3d 990 (2007).

Just as a CUP will violate the Settlement Agreement, so will a condition that prohibits construction from beginning until the City approves the "conveyance and operating cost terms" of a conveyance that will not happen until construction is complete more than a year from now. The two properties Sound Transit is acquiring to construct the 77th Avenue SE Configuration are zoned R-8.4 with minimum lot size of 8,400 square feet. After construction of the Project, the remaining property will not be developable under current zoning, and Sound Transit has made it clear that it will comply with a permit condition to convey the property, improvements, and facilities to the City, just as Sound Transit does in similar situations in other jurisdictions. The roundabout will necessarily be part of the City's expanded right-of-way, and presumably the City will want the stormwater facilities transferred to it because these facilities provide water quality and water storage functions for City-maintained right-of-way.

There is no need to reach agreement, before the Project is complete, on specific "conveyance and operating cost terms" because Sound Transit remains responsible for the improvements until such future conveyance.

The City's position that "conveyance and operating cost terms" must be "agreed upon prior to application submittal" is neither reasonable nor consistent with the Settlement Agreement, including the requirements for good faith in the negotiation of future agreements in Subsections 2.2 and 2.3:

2.2 The Parties contemplate that additional agreements, subsequent to execution of this Agreement, may be necessary to fully implement this Agreement. The Parties agree to work cooperatively to negotiate in good faith to develop the final form and contents of such agreements as needed. In the coming years, it is likely that various challenges and opportunities will develop.

2.3 The Parties acknowledge that this Agreement contemplates the execution and delivery of a number of future documents, instruments and permits, the final form and contents of which are not presently determined. The Parties agree to provide the necessary resources and to work in good faith to diligently and timely develop the final form and contents of such documents, instruments and permits.

Prohibiting construction from beginning would also violate Subsection 14.2:

14.3 The Parties agree that this Agreement provides all reasonable and appropriate mitigation for the Project, and the City agrees that there is no basis in fact or law for the

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City to exercise its regulatory authority to impose additional mitigation on the Project. The City will exercise its regulatory authority only to require compliance with specific regulations that apply to the Project . . .

In addition, both at and before the pre-application conference on October 13, City staff asserted that the City may prohibit work on the Project from commencing until the *City Council* first approves conveyance terms and costs for future conveyances. As discussed above, the terms and costs of future conveyances should be determined after construction is complete more than a year from now, not before construction begins. More fundamentally, the City Council has no role under the Settlement Agreement or the City code in the issuance and enforcement of non-discretionary permits. The City operates under the council-manager form of government authorized by Chapter 35A.13 RCW, and it is the responsibility of the City Manager and her subordinates to issue and enforce permits.

City Comment CPD35 also asks Sound Transit to clarify the intended use of the “pull out area” on the north side of North Mercer Way. The City is aware of the intended use of this area as a bus bay for layovers and supplemental passenger drop-offs, because this is how its use is described in the 2019 “Mercer Island Transit Interchange Operational and Configuration Study” prepared by David Evans and Associates at the conclusion of the collaborative process with King County Metro that the City and Sound Transit undertook pursuant to Section 4 of the Settlement Agreement. The City Manager participated in this collaborative process and agreed with the configurations that require this bus bay for layovers and passenger drop-offs.

Sound Transit plans to submit its applications soon. Sound Transit expects the City to abide by the Settlement Agreement and neither require a CUP nor prohibit construction from beginning until the terms and costs of a future conveyance are agreed upon.

Sincerely,

FOSTER GARVEY PC

By 

Patrick J. Schneider
Principal

cc:

Stephen Sheehy, Managing Legal Counsel

SUBMITTAL REVIEW COMMENTS		Page 1 of 16
AE 0072-19 Mercer Island Transit Interchange		
Submittal No./Ref./Title: 90% Submittal	Date Received: 9/18/2020	
AHJ: City of Mercer Island	Date Due: [Due Date to Contractor]	

Item No.	Document	Page	Reviewer	Reviewer's Comments	Designer Response	Response Code ¹
CPD1	Roundabout Design Document	3.10	MPY	Vehicle Turning Movements – This section neglected to discuss fire truck movements. Please add.	Will add to text.	AD
CPD2	Roundabout Design Document	3.10	MPY	Vehicle Turning Movements – This section indicates that the roundabout cannot accommodate a WB-67 driving a full circle and a U-turn. Explain how the design is acceptable or meets standards if it doesn't accommodate a U-turn.	Our design vehicle for a bus was discussed at 30% and 60%. Additional information was provided on WB-67 to show that larger vehicles can also navigate the roundabout. WB-67 u-turns are not a typically required design vehicle movement.	AD
CPD3	Roundabout Design Document	Appendix C	MPY	Appendix C – vehicle turning movement exhibits •Provide turning movement for bus EB "U-turn" movement •Provide turning movement for WB-67 in EB to SB direction •Provide turning movement for Eastside Fire Ladder Truck and Tiller Truck EB and NB "U-turn" movements	<ul style="list-style-type: none"> • Will add • Already provided (page 23/45) • Will add 	AD
CPD4	Roundabout Design Document	Appendix D	MPY	Describe the results of the stopping sight distance presented.	Will add to text.	AD
CPD5	MEF Document	Cover	MPY	Remove Mercer Island logo since it's not our document. Also, sign it before submitting for permits.	Will revise.	AD
CPD6	MEF Document	Pg. 3	MPY	Indicates that slip resistant lids will be installed on ADA ramp on NE side of roundabout (ramp 2). Reflect this on the final design plans.	Provided on Illumination Notes & Schedules sheet.	No Change
CPD7	MOT/Phasing	9/3/20 email	MPY	Please address comments provided in email. These were preliminary based on conceptual plans.	Will revise.	AD

¹ Key: "AD": will be included in Ad-Ready design; CD – discussed and clarified in Designer Response notes; FW – Follow Up Discussion; P - part of Permit Application; S – legal settlement agreement or operations issue not part of physical design review

		Yamashita to Hoffman				
CPD8	Plans	all	MPY	(formerly CPD8). The bookmarking was a helpful start. Please enhance by formatting such that each subject/category can expand and/or roll up (e.g. show all channelization sheets as well as rolling up to show just the category).	At the permit submittal the plan set will be pulled apart depending on permit requirement. This is also not a Sound Transit plan preparation requirement	No Change
CPD9	Plans		MPY	Only a portion of CPD 9 was address. Provide a written description in a separate document discussing the different phases of traffic control/detours, the purpose, and approximate timeframes (hours of operation and number of days) so we can understand the expected impacts, durations, and inspection needs. Lane closures are usually allowed 9am-3:30pm. As part of the ROW permit application, please provide a copy of WSDOT's approval of traffic control plans for work in (or impacting) their right of way. Refer also to my previous email 9/3/20 comments on the MOT.	Traffic control plans have some details Contract Specifications have other details. A written description will be submitted Will submit WSDOT approved Chan Plans and PDA/DA	
CPD10	Plans	11 to 14 of 96	MPY	Show next to each tree the tree#, driplines, size, and species. Also provide a table on the plans that lists all trees on the project, size, species, tree #, and trees to be removed. Some of this is unaddressed from 60% Submittal comment CPD2.	Tree numbers shown in plans. Will include arborist report at Permit Submittal for tree details and information.	AD
CPD11	Plans	16-18	MPY	Show tree protection fencing at tree driplines, not adjacent to the trunks. Show size, species, and tree number.	Fencing per detail in plans based on tree trunk size. Tree information provided in arborist report.	No Change
CPD12	Plans	20, 26, 30, 36, 41, 46, 51, 55, 71, 82, 87, 92 of 96	MPY	60% - CPD10 explained that a CUP permit would be needed prior to construction permit for improvements on residentially zoned property and asked for additional information. Sound Transit's Designer Response was that "Sound Transit plan is to dedicate the property to CMI as right of way." The City has received no proposed conveyance terms or other documentation from Sound Transit since this Designer Response at 60%. If conveyance and operating cost terms are not agreed upon prior to application submittal, the City	Sound Transit's legal counsel will respond	S

				may include a condition prohibiting all work on the roundabout, its related improvements, and the stormwater vault until Sound Transit obtains City approval of such terms.		
CPD13	Plans	25 to 26 of 96	MPY	Show tree #, size, species, dripline. Grading appears to encroach into driplines and if so, will likely harm trees. Tree NE of tree 735 is on adjacent private property and appears to be impacted by grading. Investigate and adjust grading accordingly. Consult with your arborist to determine how to save/protect trees near grading on the two parcels. Minimize impacts to trees.	See response to comment above on CPD10. Trees saved/removed have been coordinated with arborist. Grading to not encroach dripline. Verify grading.	AD
CPD14	Plans	59 to 61 of 96	MPY	I will not be able to approve in the ROW permit the generic TCPs without seeing the specific locations, purposes, and approximate duration of use. Show the TCPs on the site plan in the locations proposed.	Incorporated.	AD
CPD15	Plans	66 to 69 of 96	MPY	Show the pedestrian detour signage on each specific detour sheet to the plan so that it is easier to follow and understand.	Incorporated.	AD
CPD16	Plans	84 to 85 of 96	MPY	Clearly show width of sidewalks/paths on 80th Ave. SE.	Incorporated.	AD
CPD17	Plans	87 of 96	MPY	Do not plant large trees in roundabout near/over underground utilities (e.g. cluster of water valves and water mains). This would create future problems.	Will adjust to 1 or two trees away from utilities.	AD
CPD18	Plans	87 to 89 of 96	MPY	Show the underground utilities on these plans to help identify whether there may be conflicts between utilities and landscape improvements. (e.g. landscaping could impede access to fire hydrants).	Landscaping previously coordinated with CMI fire department. Utilities on landscaping will make plans illegible.	CD
CPD19			MPY	60% - PW12 asked who the responsible party for the SD vault will be. Sound Transit Designer Response explained that Sound Transit planned on dedicating the vault property to the City but did not address the cost of operating the vault. The City has received no proposed conveyance terms or other documentation from Sound Transit since this Designer Response at 60%. If conveyance and operating cost terms are not agreed upon prior to	Sound Transit's legal counsel will respond	S

				application submittal, the City may include a condition prohibiting all work on the stormwater vault until Sound Transit obtains City approval of such terms.		
CPD20			MPY	60% - PK13 asked which agency will maintain the plantings on the new ROW properties. Sound Transit Designer Response explained that Sound Transit planned on dedicating the ROW to the City but did not address the cost of maintaining the plantings. Maintenance terms must be addressed by Sound Transit or the City may condition any permit with requirements for same.	Sound Transit's legal counsel will respond	S
CPD21			MPY	60% - PK16 explained that the proposed landscape will require more maintenance than the current landscape and explained need for cost adjustment. Sound Transit Designer Response provided that Sound Transit was discussing maintenance responsibility with WSDOT. The City has received no information regarding cost of maintenance from Sound Transit since this Designer Response at 60%. These costs must be addressed by Sound Transit or the City may condition any permit with requirements for same.	As discussed with Mercer Island, ST will maintain the landscaping along 77 th and 80 th as part of our station. Mercer Island will continue to maintain the landscape along the ROW on North Mercer Way under agreement with WSDOT. Sound Transit's legal counsel will respond regarding costs.	
CP224	Final Stormwater Report	23	RD	Provide the structural calculations and design for the flow control vault.	Typically done during construction once contractor selects manufacturer.	
CPD23	90% Plan	26, 27	RD	The slopes along the edges of new sidewalks are exceeding 3:1. walls are needed for those areas.	Will update the wall lengths to meet slope requirements	AD
CPD24	90% Plan	27	RD	Currently, parcel 2291-78 th Ave. SE and parcel 2297 78 th Ave. SE have a shared side sewer. The shared side sewer is on 2297 78 th Ave. SE Parcel, then connects to the city sewer main on N. Mercer Way. The construction of the storm drainage system, sidewalk and roadway and demolition of the existing house may require removing the shared side sewer. Please investigate this issue and provide a side sewer design for parcel 2291-78 th Ave. SE.	After discussion with City, we received updated plans showing this. We will keep existing side sewer in place.	CD
CPD25	90% Plan	26, 27	RD	The new grading will encroach into the private properties to the north (2291 78 th Ave. SE and 2248	Grading currently goes to existing fence line and does not encroach on	No Change

				77 th Ave. SE), construction easements might be required. Investigate and adjust accordingly.	properties to north. No easements needed.	
CPD26	90% Plan	34	RD	Provide invert and rim elevations for new CB 11.	Provided on CDV002.	AD
CPD27	90% Plan	33-40	RD	Revise wording "Detention Vault" to "Flow Control Structure".	Will do.	AD
CPD28	90% Plan	39	RD	Provide the following for the flow control vault: <ol style="list-style-type: none"> 1. The structural design for the vault. 2. Show the control structure on the plan view. 3. Provide detail design for the ventilation pipe, pipe connections to the concrete wall, ladder. 4. Top elevation of the vault 5. Slope of the vault bottom. 6. Does the vault height in the calculation include the sediment storage? 7. Is there a notch (note says NA, detail shows)? 8. Shear gate detail. 9. All necessary information for the construction. 	Some details to be provided during submittal review for vault once contractor selects vault product. Others to be included into plans.	AD/CD
CPD29	90% Plan	41	RD	Note 2 "Relocate Existing Utility", this existing utility is the Double Detector Check Valve Assembly for the irrigation meter. It is a part of the irrigation meter system. Please provide detail design for the relocated DDCVA and how the new location will work in conjunction with the existing meter.	Will coordinate DDCV.	AD
CPD30	90% Plan	87	RD	The 4-man boulders located at the center island will affect the operation/access to the city water main valves, please remove.	Will do.	AD
CPD31	90% Plan	92	RD	Would all new irrigation system(s) be connecting to the existing park's irrigation meter or a new water meter? Would an upsize of the existing water meter be needed? Please clearly show where the new	To be incorporated.	AD

				irrigation system is connecting and if a new water meter is needed.		
CPD32	90% Plan	92	RD	Please clarify who will be responsible for the irrigation system and ownership of the water meter.	Currently a city water meter and will remain a city water meter. Sound Transit will control the meters at the stations for irrigation of 77 th and 80 th station frontages.	
CPD33			DIR	There was no response to 60% - CPD33 comment. It stated, "Please provide documentation establishing Sound Transit's authority to build and to own / operate infrastructure in the City's right of way. For franchise utilities, their authority comes through franchise agreements. What is the statutory basis for Sound Transit's authority?". Address this comment.	Sound Transit's authority derives from multiple sources, including the Settlement Agreement itself, in which the City chose the 77 th Avenue SE Configuration after participating in the planning for this Configuration since at least 2014. The 77 th Avenue SE Configuration is an Essential Public Facility under the Growth Management Act, and RCW 81.112.100 and RCW 35.58.330 authorize Sound Transit to construct and maintain its regional facilities in public rights-of-way "without first obtaining a franchise from the county or city having jurisdiction over the same."	S
CPD34			DIR	60% - CPD34 explained that a CUP permit would be needed prior to construction permit for improvements on residentially zoned property and asked for additional information. Sound Transit's	Sound Transit's legal counsel will respond	S

				<p>Designer Response was that "Sound Transit plan is to dedicate the property to CMI as right of way." The City has received no proposed conveyance terms or other documentation from Sound Transit since this Designer Response at 60%. If conveyance terms and operating cost terms are not agreed upon prior to application submittal, the City may include a condition prohibiting all work on the roundabout, its related improvements, and the stormwater vault until Sound Transit obtains City approval of same .</p>		
CPD35	Plans	17, 21, 27, 34, 42, 47, 52, 55, 63, 83, 88, 93 of 96	DIR	<p>60% - CPD35. This was a comment in the 60% design and it still applies. No specific response was provided. The comment said, "The settlement agreement (provision 4.2.a.) indicates that: "...all bus drop-off/pick-up and layover areas (other than those for local Mercer Island buses) will be located on the south side of North Mercer Way. (bold added)" Sheets CRP002, CMP002 reflects a new, approximately 140' pull out area on the north side of North Mercer Way. Please clarify the intended use of this pull out area."</p>	Sound Transit's legal counsel will respond	S
CPD36	SEPA		DIR	<p>60% - CPD37 response indicates the following: -Reference chart from Q&A -KCM expects there will be about half as many bus trips to Mercer Island under the Settlement Agreement compared with the FEIS Addendum estimates. -ST will provide documentation with permit application Please provide with permit application.</p>	<p>Chart attached, appendix to "19-06-12 Additional Questions from MI..." document. Q&A provide information as well for example: "The FEIS Addendum (April 2017) has a volume of 40 buses in the peak hour. Only 20 bus trips in the peak hour can fit in the Optimal Configuration"</p>	
CPD37	SEPA		DIR	<p>60% - CPD38 says, "The 2017 SEPA Addendum (77th Ave configuration) indicates that 320 buses will stopping daily on Mercer Island. Please confirm that the current design and operations are consistent with the previously issued SEPA determination in the 2017 SEPA Addendum." The</p>	<p>Chart attached, appendix to "19-06-12 Additional Questions from MI..." document. The Mercer Island Transit Integration Operational and Configuration Study</p>	

				<p>response says, "KCM expects there will be about half as many bus trips to Mercer Island under the Settlement Agreement compared with the FEIS Addendum estimates"</p> <p>Please provide referenced chart and describe whether the "half" is based on total trips per day, <u>during peak hours</u>, or other comparison.</p>	<p>from March 2019 also documents the number of bus trips in peak and daily travel both today; and under the proposed configuration.</p> <p>Please see pages 4-13 of the three agency study (including CMI)</p>	
CPD38	90% Plans	20, 26, 30, 36, 41, 46, 51, 55, 71, 82, 87, 92 of 96	DIR	<p>60% - CPD 39. Sound Transit's response said, "Sound Transit plan is to dedicate the property to CMI as ROW". The comment was not fully addressed regarding part c, "If the property will be dedicated as public right-of-way, please describe how dedication will occur". The City has received no proposed conveyance/dedication terms or other documentation from Sound Transit since this Designer Response at 60%. If conveyance terms are not agreed upon prior to application submittal, the City may include a condition prohibiting all work on the roundabout, its related improvements, and the stormwater vault until Sound Transit obtains City approval of conveyance terms.</p>	<p>Sound Transit's legal counsel will respond</p>	
CPD39	90% Plans	E07-LHP003 & various other sheets	DC	<p>IBC 1106 pertains to parking with Section 1106.4 clarifying that accessibility is required when parking is provided. Section 1106.6 requires the accessible parking space to be located on the shortest route possible to the building entry, which would be this new parking space on 80th currently designated for service vehicles. This space needs to be accessible unless you can justify it meets the exception to 1106.4. However, this exception appears to apply to delivery vehicles and emergency vehicles but not service vehicles, which could be ST or contractors having a disability. Note - the city reviews for compliance with state disability requirements only, the applicant is solely responsible for compliance with ADA regulations and cautioned to contact ADA.</p>	<p>Revised stairs to curb ramp for accessibility.</p>	AD
CPD40	90% Plans	E07-PPP001	DC	<p>Separate permits are required for the demolition of the existing single-family dwellings.</p>	<p>This is a contract requirement for the contractor to obtain separate permits.</p>	

CPD41	90% Plans	E07-UCP001	DC	<p>Clarify the excavation for the vault is provided with one of the following:</p> <ol style="list-style-type: none"> 1. Provide elevations and dimensions that clarify the excavation can be kept within a 1-H to 1-V slope to the adjacent property line. 2. Geotechnical engineering justification that temporary slope criteria is such that the excavation can be safely made within the property line. 3. An engineered shoring design and details with calculations. 	Will review	AD
CPD42	Plans & Geo report	missing	DC	Design/details for the modular block wall and bus shelter referenced in the geo report are not provided.	Gravity block wall details provided on Page 8 & 9 of the Geotechnical Report. All of the King County Metro shelter improvements are designed in accordance per the plans and special provisions, including the King County Metro Standard Plans for those facilities.	CD
CPD43	Geo report		DC	<p>The geotechnical report shall address the following items:</p> <ol style="list-style-type: none"> 1. Provide a statement of minimum risk. 2. Resolve conflict between the coefficient of friction specified within the geo report and that utilized in the calculations. 	Will review/address	AD
FIRE1	90% Submittal	E07-CRP003 22/96 and 60% Response	JH	Include Standpipe and FDC locations in drawing for 80 th street. Should be located next to Fire Hydrant per discussions.	Fire hydrant has been installed and surveyed, which is shown on plans. FDC was not installed during survey. Will include in plans and reference estimated location for FDC	AD

FIRE2	90% Submittal	E07-CMP004 49/96	JH	Paint curbs red. Follow CoMI Fire Lane standards and stripe Fire Access-with red paint. Recommend that service vehicle area match (with white paint). IFC 503	Curb at emergency curb will be painted red. Curb at ST service pullout will be painted white.	AD
FIRE3	90% Submittal	E07-CMN00 2 45/96	JH	Fire Access Signs per CoMI Standards and IFC D103.6	Will add	AD
FIRE4	60% Response	60% Response	JH	Provide Auto-Turn Data for Fire Apparatus. Per 60% response this was to be included in the 90% submittal. We just want to make sure we address any early issues with Fire Apparatus.	Fire apparatus information provided in Roundabout Report	No Change
FIRE5	60% Response	60% response	JH	Provide point loading information- confirm aerial apparatus outriggers will be supported by of Emergency Vehicle Access Points- might be easier to show area of exclusion if any.	Road surface is owned by WSDOT. The bridge deck will continue to support all existing loading requirements.	No Change
PW1	90% Plans	9/92 CRY002	TRF	60% - PW 5 comment has not been addressed in the 90% design. The plan views (e.g. CMP001) correctly shows the west side (southbound) bike lane on 77th Ave SE. Revise cross-section to be consistent with the plan view.	Will revise.	AD
PW2	90% Plans	12/96 CXP002	TRF	60% - PW 6 comment has not been addressed in the 90% design. Include in the site prep a note to remove the FH at approx. sta 11+52 north side. Since FH relocation is noted on utility plan, add note to Site Prep to relocate per UCP001.	Utilities are not within site prep/Demo plans. General note references UCP sheets for utility relocations, which include fire hydrant notes.	No Change
PW3	90% Plans	13/96 CXP003	TRF	Site prep note for 17 is missing or labels should be numbered 3.	Revised.	AD
PW4	90% Plans	15/96- 16/96 CTP001	TRF	60% - PW 9 comment has not been addressed in the 90% design. Add inlet protect for other CBs just outside the 'project limit' but potentially impacted by runoff. These include: <ul style="list-style-type: none"> • 80th Ave SE at 4+75 LT on east side. • 77th Ave SE within 'kiss-n-ride' • 77th Ave SE at 4+40 on west side near ramp. 	<ul style="list-style-type: none"> • Lid slopes towards west side on 80th so structure on east side is "uphill". • Do not see CB here- jbox? • Structure is in landscaped area outside of project limits – no need as no work in this planter area. 	AD
PW5	90% Plans	42/96 UCP002	TRF	60% - PW 16. Water note at 12+00 LT points to E facility.	Its an Irrigation Control Valve.	AD

PW6	90% Plans	45/96 CMN00 2	TRF	Emergency/ST parking signage on 80th Ave SE. Revise signage from "No Parking" to "No Stopping or Parking".	Will review verify with 77th signage and ST signage	AD
PW7	90% Plans	46/96 CMP001	TRF	<p>60%- PW 10 comment has not been addressed by the 90% design or 60% response. The roundabout design is incomplete. It does not provide an adequate connection between the MTS Trail and the existing northbound and southbound bicycle lanes on 77th Ave SE.</p> <p>77th Ave SE is the primary north-south bicycle facility through downtown to the MTS Trail It is identified in both the City of Mercer Island's Comprehensive Plan and Pedestrian and Bicycle Facilities Plan.</p> <p>The current design directs NB bike lane users on 77th Avenue to enter the roundabout travel lane from which they cannot access the MTS trail without mounting a curb on the north side of North Mercer Way or making a "hard left" into the east leg crosswalk.</p> <p>Add a designated bicycle ramp for the NB bike lane to access the east leg crosswalk of the roundabout at the SW corner of the 77th Ave SE and N Mercer Way intersection. Include wayfinding signage and green thermoplastic to direct bicycles to the MTS Trail.</p> <p>For bicyclists to access the southbound bike facilities on 77th Ave NE from the MTS Trail, the design requires bicyclists to travel within the station entrance area, mixing with pedestrians and drop-off/pick-up activity. The design does not provide an adequate crossing of 77th Ave SE to access the southbound bike lane.</p>	<p>Please note that according to WSDOT there are not bike lanes on the LID, there is just a shoulder. Acknowledging the City's interest in this bike route on 10/7/20 we met with CMI to discussion the best solution for NB on 77th. We concluded at this point we should create a curb cut south of the kiss and ride area for bikes to access the shared path. Preliminary design for this solution is underway. This work is outside of the MITI project limits and can be completed outside of this project.</p> <p>For southbound cyclists on 77th, we will include signage as described in the CMI comment "Potential options could include providing wayfinding for eastbound MTS Trail users to direct them to use 76th Ave SE and the I-90 trail (south of I-90) to access downtown and the southbound bike lanes on 77th Ave SE" this can also be done outside the MITI project"</p>	

				<p>Revise the design to provide an adequate connection from the MTS Trail to the southbound bike lanes at the roundabout or at another location.</p> <p>Potential options could include providing wayfinding for eastbound MTS Trail users to direct them to use 76th Ave SE and the I-90 trail (south of I-90) to access downtown and the southbound bike lanes on 77th Ave SE. For westbound MTS Trail users, provide wayfinding from the MTS Trail, through the station entrance area, and improve the crosswalk at the north leg of the Sunset Hwy/77th Ave SE intersection to include RRFB and other crossing treatment. This would also connect bicyclists leaving the station with the southbound 77th Ave SE bicycle facilities.</p>		
PW8	<p>90% Submittal and ST/DEA April 22, 2020</p> <p>Memorandum Re: Addressing Mercer Island Concerns in 60% Physical Design Deliverable</p>	<p>47/96 CMP002 Memo 3-3/4</p>	TRF	<p>Consistent with the 4/22/20 memo (last paragraph), the 90% design should show improvements and changes to the north side of N Mercer Way between 77th Ave SE and 80th Ave SE to indicate new signage and lighting, landscape changes, changes to bike lockers/racks, and potential removal of bus shelters if no north side bus loading is to occur.</p>	<p>Landscape, lighting and bike lockers on included on 80th Ave NE and 77th Ave NE; which is closer to the station. ST does not intend to add additional bike lockers on NMW and will use existing facilities.</p>	
PW9	<p>90% Submittal and ST/DEA April 22, 2020</p> <p>Memorandum Re: Addressing Mercer Island Concerns in 60% Physical Design Deliverable</p>	<p>49/96 CMP004 Memo 2/4</p>	TRF	<p>The Memo states that the existing crossing at N Mercer Way/80th Ave SE will be widened. The 90% design shows the crosswalk width is 10' similar to existing conditions. Widen the crosswalk width to 14' to match the 14' trail width on 80th Ave SE. This will be a busy pedestrian crossing between the station and Park and Ride.</p>	<p>Change striping from 10' to 14'</p>	AD

PW10	ST/DEA April 22, 2020 Memorandum Re: Addressing Mercer Island Concerns in 60% Physical Design Deliverable	Memo 3/3	TRF	The Memo states that project team is coordinating with WSDOT for changes to the signal timing at N Mercer Way/80th Ave SE. The signal phasing shall be changed to restrict northbound left turns to a protected-only phase when the northbound (west leg) pedestrian crossing is activated in order to maximize pedestrian safety.	This would occur outside of plan set. This is a WSDOT intersection. Upon completion of construction work – this signal phasing can happen at any time by WSDOT and Mercer Island. ST can work with WSDOT/CMI of this signal phasing change as we complete the project as needed.	
PW11	90% Plans	8 of 96	CEM	Roundabout Section. Curbing at front of truck apron is shown as precast. City has concern of long-term stability of precast curb blocks in this area vs. the WSDOT Std Plan F-10.18-01 Section B, which shows poured-in-place rolled curb. What will keep blocks in place in event of impact (i.e. snow plow) or heavy lateral wheel loadings? City understands the need for precast curbing on top of the bridge deck. Why can't poured-in-place curb be used for the remaining perimeter of the roundabout (that is not on bridge deck)?	After discussion with Mercer Island on 10/2/20; Will switch to cast in place when not on bridge deck the CIP curb will not be a standard curb as section height needs to match the precast section	AD
PW12	90% Plans	8 of 96	CEM	Roundabout Section. Curbing at back of truck apron. Drawing appears to show the central island curbing as being pinned to a concrete panel that drops underneath the curbing. Please explain the need for this cross-section vs. WSDOT Std Plan F-10.18-01 Section B.	Part of the central island curb in on the existing bridge deck. Std curb needs to be thicker/deeper on bridge deck to extend from FG elevation at the top to top of bridge deck below. If standard curb was used, 0-3" of CSBC would be required between top bridge deck and bottom of curb. Areas off of the approach slab would have WSDOT standard curbing.	No Change
PW13	90% Plans	8 and 9 of 96	CEM	HMA Sidewalk is called out as 3" thick, placed in one lift. City's standard for HMA walkways is 4" of HMA, placed in two lifts. Depth of crushed rock can be reduced from 6" to 4" if HMA is increased to 4" thickness.	HMA trail section was based on Geotechnical recommendations. Will revise HMA to two lifts and 4".	AD
PK 1	90% Plans	11	AS/P W	Trees 688 and 689 on the north side of NMW are newly planted trees that we have previously asked to be salvaged and delivered to CMI. Please create a new note to this effect.	Will add note.	AD

PK 2	90% Plans	11	AS/P W	Trees 603 and 604 on the SW corner of 77 th & NMW need to be removed. They are shown as replanted on Sheet 87.	Removed trees.	AD
PK 3	90% Plans	13	AS/P W	Note 11 says to replace root barrier wherever found during construction of curb ramps. Request that this be expanded. Note would read "Contractor to mark up plans with locations of root barriers wherever found during the demolition of the existing trail. Contractor to replace root barrier with new barrier along the new trail location as specified prior to paving."	Will incorporate.	AD
PK 4	90% Plans	19	AS/P W	Note 8: we have no knowledge of a gravel base course being an adequate root zone protection measure. Please remove.	Removed	AD
PK 5	90% Plans	41	AS/P W	The irrigation controls have Note 2 "relocate existing utility" applied to them. We request a new note specific to irrigation. That would include "contractor is responsible for supplying adequate water for plant growth to irrigated landscapes when irrigation is disconnected for more than 48 hours."	Will incorporate	AD
PK 6	90% Plans	41	AS/P W	Is there going to be a new water meter here for irrigating ST plantings in the parcels?	No, meter will cover all	No Change
PK 7	90% Plans	43	AS/P W	Show new water meter on composite utility plan as shown on Sheet 94.	Will do.	AD
PK 8	90% Plans	54	AS/P W	Light pole is not the same as in Town Center. Was this change approved?	Light pole matches East Link station frontage on 77th.	CD
PK 9	90% Plans	71-77	AS/P W	Soldier pile wall – propose concrete and steel finishes that will be compatible with surrounding hardscape	Will used utilize decorative finish.	AD
PK 10	90% Plans	71	AS/P W	Will proposed cedar fence block sightlines?	Plans replace existing fence in approx. same location. No revisions to sightlines proposed.	No Change
PK 11	90% Plans	71	AS/P W	The existing fence has boards missing from it for neighborhood access to the Park and Ride. Has ST considered establishing a route to accommodate this desireline?	Missing boards are outside of project limits.	No Change
PK 12	90% Plans	81	AS/P W	Note 15: Please make this Note 1. Please add to this "Contractor is responsible for watering	Will do.	AD

				landscape plants to maintain their growth until irrigation is restored. Plants damaged from lack of water must be replaced by the contractor."		
PK 13	90% Plans	87	AS/P W	Remove trees 731 and 732 on 78 th for visibility to path. We do want some screening plantings here that do not block visibility between motorists and cyclists approaching this intersection.	Will do.	AD
PK 14	90% Plans	87	AS/P W	Bed between main trail and spur trail to 78 th /24 th . This bed is crowded with utilities. The dogwood will block sightlines. Substitute Persian Spire Parrotia. No groundcover, just mulch.	Will incorporate	AD
PK 15	90% Plans	87	AS/P W	Please no crushed gravel landscape surfacing on parcels. Gravel permanently compromises the soil media. Instead, we propose that the trees be in linear mulched beds, one along the path and the other along the fenceline. In between have lawn. If you are trying to save budget, we would suggest that no groundcovers are needed in mulched beds and lawn can be unirrigated.	Will do	AD
PK 16	90% Plans	87	AS/P W	Extend double row of trees along trail to the east to the stormwater vault.	Incorporated per tree replacement ratios per parcel.	AD
PK 17	90% Plans	87	AS/P W	Along the SW corner of the 77 th intersection there is an odd strip of sod. Suggest replacing with mulch.	Will revise	AD
PK 18	90% Plans	87	AS/P W	Landscape plant selection in the traffic circle is good. Three incense cedars grouped together will become too crowded. Suggest reducing to one tree.	Will incorporate	AD
PK 19	90% Plans	87	AS/P W	Will there be compacted or uncompacted subgrade in portions of the traffic circle bed that are not above pavement? This affects moisture capacity to some degree.	Will review	AD
PK 20	90% Plans	87-89	AS/P W	Will landscapes constructed by ST have an establishment period for maintenance by the contractor, regardless of agency responsible for eventual maintenance?	Specs list establishment period of 1 year.	AD/CD
PK 21	90% Plans	91	AS/P W	It is not clear where these soil prep details are to be applied.	Will revise	AD

PK 22	90% Plans	92	AS/P W	Along with item number PK 15 above, request overhead irrigation of tree beds along north side of trail and along parcel boundaries.	All irrigation to be revised to overhead	AD
PK 23	90% Plans	92	AS/P W	Need irrigation on SW corner of 77 th /NMW for new trees.	Existing present. Will add note to restore.	AD
PK 24	90% Plans	92	AS/P W	This traffic circle will need irrigation to perform well. Cross section from Sheet 8 seems to indicate that there will be 18-30 inches of soil in this bed. Similar beds on nearby overpasses depend on irrigation for adequate growth.	Will incorporate	AD
PK 25	90% Plans	92	AS/P W	Indicate approximate location of existing irrigation main lines	Will include	AD
PK 26	90% Plans	92	AS/P W	Show location of new irrigation clock/ pedestal. Indicate that new location must serve all irrigation zones (new and existing). New clock should be Rain Master Eagle RME18SPED-T with EGP-ICENTRAL.	Will include	AD
PK 27	90% Plans	92-94	AS/P W	Indicate areas that require connection with/capping of existing irrigation system.	Will include	AD