

## CITY COUNCIL STUDY SESSION ITEM

### SUBJECT

Discussion regarding process provisions contained in the Draft Light Rail Overlay that would govern permitting for the East Link Light Rail project.

### STAFF CONTACTS

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### POLICY ISSUES

The City Council is considering an amendment to the Bellevue Land Use Code (LUC) in order to create permit processes, development standards and design guidelines specific to light rail facilities. The Draft Light Rail Overlay prepared for Council consideration contains both procedural and substantive code provisions. However, **the focus of discussion during the November 13 Study Session will be limited to the procedural sections of the Overlay.** Sections of the Draft Light Rail Overlay that contain design and mitigation requirements (including the development standards and design guidelines) will be the topic of discussion during the Council Study Session tentatively scheduled for November 26.

A revised Draft Light Rail Overlay has been included in Attachment A to this memorandum. The procedural provisions in the Draft Light Rail Overlay govern who may apply to establish a light rail use, how the application will be processed to ensure context-sensitive design and impact mitigation, and when administrative modifications can be granted. These procedural provisions can be found in the following sections of the Draft Light Rail Overlay:

- LUC 20.25M.010.C – Who May Apply
- LUC 20.25M.030 – Required Permits
- LUC 20.25M.060 – Administrative Modification Process

To frame the Council discussion on November 13, several code sections have been identified with a label indicating “Council Input Needed.” These areas of procedural choice could be resolved through a development agreement between the City Council and Sound Transit. However, a development agreement is not anticipated until 2014. Resolution of these areas of procedural uncertainty through the Light Rail Overlay presents an opportunity to increase predictability in the permit process that could equate to project cost savings.

## DIRECTION NEEDED FROM COUNCIL

<input type="checkbox"/>	Action
<input checked="" type="checkbox"/>	Discussion
<input checked="" type="checkbox"/>	Information

Council input has been identified as necessary where a procedural choice needs to be made, specifically, regarding:

- Whether notice to property owners should be required by the terms of the code amendment prior to light rail permit submittal.
- Whether the alignment (or “use”) approval should be consolidated/merged with design and mitigation approvals.
- What mechanism should be used to apply Light Rail Best Practices during permit review?
- Which Conditional Use Permit procedure should be used to review the light rail alignment for approval?
- Which procedure should be used to review station design for approval?

## BACKGROUND/ANALYSIS

### Available Materials

The agenda materials provided in support of the November 13 Study Session include:

- A revised Draft Light Rail Overlay - Part 20.25M (Attachment A). The draft amendment has been revised to include additional “comment bubbles” that provide information about the source or intent of the draft provisions, or to capture feedback provided by the Council on October 8. In addition, new procedural options have been provided in response to Council questions raised following the October 22 Public Hearing. All revisions to draft code language and new procedural options included in the draft for Council consideration have been made in redline and strike draft format for ease of identification.
- A list of questions raised by Council following the October 22 Public Hearing (Attachment B). Staff plans to update this list after each Council meeting on this topic, and as responses are developed by staff. The list will be updated and available on the City’s webpage for the Light Rail Overlay which can be accessed via the following link: <http://www.bellevuewa.gov/light-rail-overlay.htm>.

In addition to the agenda materials, staff has also compiled reference material in binders for Councilmembers, which you may find helpful as work on the draft code amendment progresses.

The material in the binders includes:

1. Draft Code Amendment prepared for the Public Hearing (provided with October 22 Study Session materials).
2. “Gap Map” described on October 8 and showing discrepancies in existing applicable permit processes.
3. Matrix of Applicable LUC Provisions (provided with October 8 study session materials).
4. Code sections cited in the draft code amendment.

5. Comprehensive Plan Policies regarding Regional Transit.
6. Light Rail Best Practices Final Report.
7. Relevant excerpts from the MOU with Sound Transit.
8. South Bellevue Park and Ride original CUP approval.
9. Essential Public Facility (EPF) code amendment background materials from the City's 2003 EPF amendment.
10. Prior Council meeting materials on the draft code amendment.
11. Responses to Council questions and information requests.

A duplicate binder is available for public review at the City Records Center on the 1<sup>st</sup> floor of Bellevue City Hall, and the binder information is also available on the City's webpage for the Light Rail Overlay which can be accessed via the following link:  
<http://www.bellevuewa.gov/light-rail-overlay.htm> .

### Input Requested

As noted in the policy discussion above, Council input has been identified as necessary where a procedural choice needs to be made. Specifically, Council input is needed to:

- Determine whether the Overlay should include notice requirements that must be met before permits are submitted for any light rail components located on property that has not yet been acquired by Sound Transit or the City. Refer to LUC 20.25M.010.C.
- Determine whether any CUP sought for light rail alignment permits should be required to be consolidated or merged with the design and mitigation permits. Refer to LUC 20.25M.030.B.2.b and 20.25M.030.C.2.
- Determine whether "Expectations of Sound Transit" identified in the Light Rail Best Practices Report should be made applicable to light rail design and mitigation permits through the decision criterion that requires consistency with the Comprehensive Plan, or whether applicable Best Practices should be restated in the Overlay. Refer to LUC 20.25M.030.B.2.c and 20.25M.030.C.3.
- Select an appropriate Conditional Use Permit process (Type I or Type III). Refer to LUC 20.25M.030.B.2.d.
- Select an appropriate Station Design process (Type II Design Review or Council Design Review). Refer to 20.25M.050.A.

Staff has provided procedural options for Council consideration that would create predictability in the permitting process, and staff would appreciate Council input during the November 13 Study Session. If Council concludes that input would be premature prior to consideration of the design and mitigation requirements on November 26, staff would appreciate Council verification that necessary background materials have been provided and options have been adequately described to facilitate Council decisionmaking at a future date.

### **SCHEDULE**

The code amendment continues to track along the schedule presented to Council on July 16. This schedule was developed by working backwards from the year-end code adoption date contained in the MOU, and then setting timeframes to accommodate required notice and environmental review. Important remaining opportunities for public input are identified below.

<b>Scheduled Date/Timeframe</b>	<b>Public Engagement Opportunities</b>
<b>November 13</b> <b>November 26</b> <b>Late November*</b>	Study Session on Process Provisions of the draft code amendment Study Session on Substantive Provisions of the draft code amendment SEPA Threshold Determination on code amendment expected <ul style="list-style-type: none"> <li>• Comments accepted until SEPA determination made</li> <li>• SEPA Determination required prior to Council final action</li> </ul>
<b>December*</b>	Anticipated final Council action on the draft code amendment

\*Timing of the SEPA determination and Council final action reflects a schedule consistent with the MOU. This schedule may be modified to accommodate additional study sessions as necessary for Council to develop an ordinance ready for final action.

**ALTERNATIVES**

1. Provide feedback to staff on one or more of the procedural options where Council input has been identified as necessary; or
2. Verify that the procedural options are adequately described, and necessary background provided, to facilitate Council decision-making after the design and mitigation requirements have been discussed.

**RECOMMENDATION**

Provide feedback to staff on one or more procedural options where Council input has been identified as necessary.

**MOTIONS**

No motion is needed to pursue either of the alternatives presented to Council.

**ATTACHMENTS**

- A. Revised Draft Light Rail Overlay Ordinance
- B. Updated Responses to Council Questions and Information Requests

**AVAILABLE IN COUNCIL OFFICE**

- Light Rail Overlay Reference Binder
- Land Use Code Amendment File

REVISED DRAFT LIGHT RAIL OVERLAY – November 13, 2012

New Part 20.25M – Light Rail Overlay District

20.25M.010 General

A. Applicability

This Part applies to all areas where the use, construction, or installation of a Regional Light Rail Transit Facility (RLRT Facility) or Regional Light Rail Transit System (RLRT System) is proposed, including areas disturbed temporarily during construction and identified for mitigation of permanent and temporary impacts related thereto. Refer to LUC 20.25M.020 for the definitions of RLRT Facility and RLRT System.

B. Purpose

The purpose of this Part is to:

1. Provide certainty and predictability for the City, the regional light rail transit authority, and the public with respect to Land Use Code requirements and processes;
2. Establish a comprehensive and consolidated permit process for RLRT Facilities;
3. Provide a mechanism for addressing any applicable Land Use Code requirements that are impractical or infeasible for an RLRT Facility;
4. Acknowledge the unique characteristics of a regional Essential Public Facility system that is linear in nature and passes through the City of Bellevue touching numerous land use districts and overlay areas;
5. Provide appropriate regulatory oversight for RLRT Facilities located in public rights-of-way, which would otherwise not be regulated by the Land Use Code;
6. Facilitate transparent and efficient decision making and interagency cooperation between the City of Bellevue and the regional light rail transit authority;
7. Ensure the RLRT Facilities incorporate design and mitigation measures appropriate to their impacts and represent a high-quality investment for taxpayers; and
8. Ensure that City review of an application for an RLRT Facility is informed and guided by the "Bellevue Light Rail Best Practices Final Report."

**Comment [CoB1]:** Items 1-4 consistent with MOU 6.1(a), (b), (d), (e).

C. Who May Apply - Council Input Needed

Current Process: In the absence of a LUC amendment, a regional transit authority with condemnation authority such as Sound Transit, would be allowed to apply for permits prior to completing the process to acquire underlying property. This is the same allowance provided to other agencies and public utilities that have condemnation authority (such as the City of Bellevue for transportation and utility projects and Puget Sound Energy).

**Comment [cvh2]: Oct 8 Council Discussion:** Staff to provide legal basis for allowing ST to apply for permits on property prior to condemnation.

LUCA Process Option: Council could chose to require Sound Transit to demonstrate that notification requirements under the condemnation authority have been met prior to permit submittal, or Council could chose to impose specific requirements on Sound Transit to notify underlying property owners prior to permit submittal.

A regional transit authority authorized under Chapter 81.112 RCW, as may be hereinafter amended, may apply for permits to develop an RLRT Facility, even if that authority is not the owner of the property on which the facility will be located at the time of application.

**D. Applicable Land Use Code Provisions.**

1. Applicable Land Use District and Overlay Sections Incorporated by Reference.

Predictability and certainty with respect to substantive Land Use Code requirements ensures that a RLRT System or Facility design is sensitive to the context of the underlying land use districts and overlays within which it is located, and that temporary and permanent impacts are appropriately mitigated. The following Overlay sections of the Land Use Code are expressly incorporated into the provisions of this Chapter 20.25M and made applicable to a RLRT System or Facility:

**Comment [cvh3]:** Identifies the substantive provisions of the land use code that apply.

- a. Chapter 20.10 – Land Use Districts;
- b. Part 20.25A LUC – Downtown sections shall apply to any above-grade RLRT System or Facility as follows:
  - i. LUC 20.25A.020.A.2 (dimensional standards for building height only, including applicable foot notes);
  - ii. LUC 20.25A.020.B.4 – Height exceptions;
  - iii. LUC 20.25A.040.C – Fences;
  - iv. LUC 20.25A.060 – Walkways and sidewalks;
  - v. LUC 20.25A.100.E.6 – Downtown Core Design District Guidelines – View Preservation Corridors;
  - vi. LUC 20.25A.110.A – Site Design Criteria;
  - vii. LUC 20.25A.110.B – Downtown Patterns and Context;
  - viii. LUC 20.25A.115.A – Design Guidelines – Building/Sidewalk Relationships – General;
- c. Part 20.25B LUC – Transition Area Design District sections as follows:
  - i. LUC 20.25B.040.C – Landscaping, Open Space and Buffers;
  - ii. LUC 20.25B.040.D – Site Design Standards;
  - iii. LUC 20.25B.040.E – Mechanical Equipment;
  - iv. LUC 20.25B.050.B – Design Guidelines;
- d. Part 20.25D LUC – Bel-Red LUC sections as follows:
  - i. LUC 20.25D.010.B – Land Use Districts;

**Comment [CoB4]:** These provisions would generally only apply to the Downtown Station if it moved out of the tunnel for cost savings reasons

**Comment [CoB5]:** These provisions would be used to review the East Main Station and the TPSS at Main and 112<sup>th</sup> Ave NE as applicable to any development proposal submitted by Sound Transit

**Comment [CoB6]:** These provisions would apply to the stations and facilities located in the Bel-Red Corridor

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- ii. LUC 20.25D.070 – Land Use Charts ;
- iii. LUC 20.25D.110.B, C, D, E, F – Various landscape standards;
- iv. LUC 20.25D.110.H – Fences;
- v. LUC 20.25D.120.D – Parking Structure Performance Standards
- vi. LUC 20.25D.130 – Bel-Red Development Standards;
- vii. LUC 20.25D.150 – Design Guidelines;
- e. Part 20.25E LUC – Shoreline Overlay District; and
- f. Part 20.25H – Critical Areas Overlay District.

2. Applicable Procedural and Administrative Sections Incorporated by Reference

Predictability and certainty with respect to procedural Land Use Code requirements ensures effectiveness of permit review and that the level of public participation for individual RLRT Facility applications occurs consistently across all land use districts and overlay areas of the City. The following procedural and administrative sections of the Land Use Code are expressly incorporated into the provisions of this Chapter 20.25M and apply to an RLRT Facility:

**Comment [cvh7]:** Identifies the procedural provisions of the code that apply.

- a. Part 20.30H LUC – Variance to the Shoreline Master Program
- b. Part 20.30R LUC – Shoreline Substantial Development Permit
- c. Chapter 20.35 LUC – Review and Procedures

d. Chapter 20.40 LUC – Administration and Enforcement sections as follows:

- i. LUC 20.40.010 through 20.40.480; and
- ii. LUC 20.40.500 through 510.

e. Chapter 20.50 LUC - Definitions

**Comment [CoB8]:** Section 20.40.490 identifies when an assurance device is required, and has not been included in the Draft Light Rail Overlay. Under the terms of RCW 35A.21.250, cities are prohibited from requiring agencies to post a bond or other security as a condition of permit issuance.

3. Overlay Standards and Guidelines. The General Development Requirements of Chapter 20.20 LUC are either currently inapplicable to a RLRT Facility because of its location in the right-of-way, or are inconsistent with its effective or intended function. Therefore, the specific standards and guidelines contained in section 20.25M.040 through 20.25M.050 of this part supplant and replace the provisions contained in Chapter 20.20 LUC. All words used in this Overlay shall carry their customary meanings, except where specifically defined in Chapter 20.50 LUC (Definitions) or this Part 20.30M LUC (Light Rail Overlay).

**Comment [cvh9]:** Applicable general development standards from Chapter 20.20 LUC for Light Rail uses are identified in the Overlay so the public, Sound Transit and City staff have a clear understanding of the code requirements that must be met as design progresses to construction level of detail.

4. Light Rail Overlay District Applies. This Light Rail Overlay District specifically identifies and regulates RLRT Systems and Facilities. The specific regulations included by reference and contained in this Overlay supplant and replace the general EPF provisions contained in LUC 20.20.350.

**Comment [CoB10]:** Clarity Edit – to describe the relationship to existing EPF provisions. When there are specific EPF regulations, the specific regulations apply. If there are no regulations specific to an EPF use, then the general provisions of LUC 20.20.350 apply. Since the RLRT Overlay will create specific regulations, this clarity edit specifies that the general EPF provisions do not apply.

**20.25M.020 Definitions Applicable to the Light Rail Overlay District**

The following definitions are specific to the Light Rail Overlay District and shall have the following meanings:

- A. **“Regional Light Rail Transit Facility”** is a type of Essential Public Facility, and means a structure, rail track, equipment, or other improvement of a Regional Light Rail Transit System, including but not limited to ventilation structures, traction power substations, utilities serving the Regional Light Rail Transit System, Light Rail Transit stations and related passenger amenities, bus layover and inter-modal passenger transfer facilities, park and rides, tunnel portals, storage track and support facilities, and transit station access facilities.
- B. **“Design and Mitigation Permit”** is the single, consolidated project permit issued by the City in response to an application to develop a RLRT Facility or portion thereof; provided, that a Design and Mitigation Permit does not include a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance approval if required as provided by Part 20.25E, 20.30C, and 20.30H LUC.
- C. **“Regional Light Rail Transit System”** is a type of Essential Public Facility, and means a public rail transit line that operates at grade level or above or below grade level, and that provides high-capacity, regional transit service owned or operated by a regional transit authority authorized under Chapter 81.112 RCW. A Regional Light Rail Transit System may be designed to share a street right-of-way although it may also use a separate right-of-way.

**Comment [cvh11]: Oct 8 Council Discussion:**  
Heavy maintenance base was not contemplated in the MOU project description. Now that the heavy maintenance base is under ST consideration/review, specific Council direction will be needed on whether the Overlay should be drafted to include or exclude this component.

**Comment [cvh12]: Oct 8 Council Discussion:**  
This definition may be overly broad.

**20.25M.030 Required Permits**

**A. Process Roadmap**

1. Use Approval – Two Process Options

- a. Use Permitted by Land Use Code. A Regional Light Rail Transit System and its Facilities are permitted uses in all land use districts, provided that the general location of the RLRT System has been approved by a Bellevue City Council-adopted resolution or ordinance, or by a development agreement authorized by Chapter 36.70B RCW and consistent with paragraph 20.30M.030.B.1 below. Refer to Chart 20.10.440 (Transportation and Utilities Uses in Land Use Districts), Chart 20.25D.070 (Transportation and Utilities Uses in Bel-Red Land Use Districts), and LUC 20.25H.055.B Note 12.
- b. Use Approval Permitted through Conditional Use. Where the City Council has not legislatively adopted a resolution, ordinance, or development agreement permitting the RLRT System and Facility use, Council Conditional

**Comment [CoB13]:** Council Sept 17 Direction to develop Two Process Path. Two types of Use approval available to the Council, subsequent Design and Mitigation review required.

**Comment [cvh14]: Oct 8 Council Discussion:**  
Approval based on general location may be overly broad.



Use Permit approval is required pursuant to the provisions of LUC 20.25M.030.B.2 below.

2. Subsequent Review. Additional design and mitigation review and shoreline permitting shall be required pursuant to LUC 20.25M.030.C and 20.25M.030.D below.

**B. RLRT System and Facilities Use – Decision of the City Council**

**1. Development Agreement – RCW Legislative Process**

- a. Scope of Approval. A RLRT System or Facility use is permitted outright when its general location has been included in a City Council resolution, ordinance, or development agreement authorized pursuant to Chapter 36.70B RCW. If a development agreement is adopted, the City Council may also allow necessary modifications to this Overlay District and to other applicable provisions the Bellevue City Code, and set forth other terms consistent with Chapter 36.70B RCW in order to approve the siting, construction, and operation of a RLRT System or Facility.
- b. Applicable Process. A development agreement adopted by the City Council shall be processed under the authority of and pursuant to the procedures set forth in Chapter 36.70B RCW. Any development agreement adopted by the City Council shall set forth “development standards” as that term is used in Chapter 36.70B.170(3) RCW that govern and vest the development for a specified time duration to this Overlay District and other applicable City regulations, provided that a development agreement may not extend the vesting period for longer than 15 years from the effective date.

**Comment [CoB15]:** Development Agreement process set forth under the Local Project Review Act of state law.

**Comment [cvh16]:** Taken from Exhibit G of the MOU

**2. Conditional Use Permit**

- a. When Required. Development of a RLRT System or Facility requires approval through a Conditional Use Permit (CUP) process when a general location has not been approved in a Council-adopted resolution, ordinance, or development agreement. Refer to Part 20.30B LUC for Conditional Use permit requirements.
- b. Scope of Approval. **Council Input Needed**.

**Comment [CoB17]:** Need to add modification/ amendment provisions consistent with Council input regarding process (Type I or III). Refer to Applicable Process options in 20.25M.030.B.2.d below.

**Comment [CoB18]:** Council Input Needed on procedural consolidation/merger question

*Current Process: In the absence of a LUCA amendment, approval of the CUP would require findings that the proposal is consistent with both the USE requirements, and any applicable DESIGN and MITIGATION requirements.*

**LUCA Process Option:** Council could chose to allow the general location of the USE to be processed separately from the DESIGN and MITIGATION review, as is allowed with Master Development Plans and subsequent design review approvals.

- c. **Decision Criteria.** The City Council may approve or approve with modifications an application for a Conditional Use Permit if:

- i. The conditional use is consistent with the Comprehensive Plan; and

**Current Process:** In the absence of a LUC amendment, Sound Transit would be required to demonstrate pursuant to this decision criterion that the expectations identified in the Light Rail Best Practices had been met. Specific Light Rail Best Practices provisions were not included in the draft Light Rail Overlay, because they already apply through this requirement to demonstrate consistency with the Comprehensive Plan. The Light Rail Best Practices, including the Expectations of Sound Transit, apply to City actions on East Link project applications through Comprehensive Plan Policy TR-75.2 and have the same effect as if they had been fully set forth in the Light Rail Overlay.

**LUCA Process Option:** Council could choose to include the Light Rail Best Practices language in the Overlay itself.

- ii. The design is compatible with and responds to the existing or intended character, appearance, quality of development and physical characteristics of the subject property and immediate vicinity; and
- iii. The conditional use will be served by adequate public facilities including streets, fire protection, and utilities; and
- iv. The conditional use will not be materially detrimental to uses or property in the immediate vicinity of the subject property; and
- v. The conditional use complies with the applicable requirements of the Land Use Code.

- d. **Applicable Process. Council Input Needed**

**Current Process:** In absence of LUC amendment, general Essential Public Facility provisions of LUC 20.20.350 would apply and a Process I Conditional Use Permit would be required. Currently applicable Process I CUP includes a Director recommendation, a Hearing Examiner pre-decision hearing, and final decision by the Hearing Examiner. An appeal of the Hearing Examiner decision would go to the City Council.

**LUCA Process Option:** Council could choose to require Conditional Use Permit review under Process III, which would include a recommendation by the Hearing Examiner

**Comment [cvh19]:** Decision criteria are taken from the Conditional Use Permit decision criteria contained in LUC 20.30B.140.

**Comment [CoB20]:** Council input needed on final decision maker. Refer to Applicable Process options in 20.25M.030.B.2.d below.

**Comment [cvh21]: Oct 8 Council Discussion:** More detailed format may be necessary in decision criteria. For example, there are no references to Light Rail Best Practices.

**Comment [cvh22]: Oct 8 Council Discussion:** Better understanding of this decision criteria is necessary to ensure that implementation during permit review looks at properties impacted by light rail and not just those immediately adjacent to it.

**Comment [cvh23]: Oct 8 Council Discussion:** Council has directed staff to pursue a code simplification amendment, when staff capacity becomes available, that would remove Council from the Quasi-Judicial permit process. Additional consideration of this direction may be needed before Council input is provided.

and final Decision by the City Council (without requirement for an appeal). This process is the one currently used for rezones and for CUPs located within the jurisdiction of the East Bellevue Community Council.

C. Design and Mitigation Review – Decision of the Director

1. When Required. Prior to issuance of any construction permits, Design and Mitigation Review shall be required for any RLRT System or Facility. The Design and Mitigation Review may be merged with or undertaken following use approval of a RLRT System and RLRT Facilities pursuant to 20.25M.030.B.

2. Scope of Design and Mitigation Approval. **Council Input Needed.**

**Current Process:** In the absence of a LUCA amendment, approval of the CUP would require findings that the proposal is consistent with both the USE requirements, and any applicable DESIGN and MITIGATION requirements.

**LUCA Process Option:** Council could chose to allow the general location of the USE to be processed separately from the DESIGN and MITIGATION review, as is allowed for Master Development Plans and the subsequent design review.

3. Decision Criteria. A proposal for a RLRT System or Facility may be approved or approved with conditions provided that such proposal satisfies the following criteria:

- a. The proposal is consistent with the Comprehensive Plan; and

**Current Process:** In the absence of a LUC amendment, Sound Transit would be required to demonstrate pursuant to this decision criterion that applicable expectations identified in the Light Rail Best Practices had been met. Specific Light Rail Best Practices provisions were not included in the draft Light Rail Overlay, because they already apply through this requirement to demonstrate consistency with the Comprehensive Plan. The Light Rail Best Practices, including the Expectations of Sound Transit, apply to City actions on East Link project applications through Comprehensive Plan Policy TR-75.2 and have the same effect as if they had been fully set forth in the Light Rail Overlay.

**LUCA Process Option:** Council could choose to include the Light Rail Best Practices language in the Overlay itself.

- b. The proposal complies with the applicable requirements of this Light Rail Overlay District; and
- c. The proposal addresses all applicable design guidelines of this Light Rail Overlay District in a manner which fulfills their purpose and intent; and

**Comment [CoB24]:** Section needs to be made consistent with Council input received on procedural consolidation/merger question in LUC 20.25M.030.B.2.b above.

**Comment [CoB25]:** Need to add modification/amendment provisions consistent with Council input regarding process (Type I or II). Refer to Applicable Process options in 20.25M.030.B.2.d above.

**Comment [cvh26]:** Based on the decision criteria required for Design Review approval (refer to LUC 20.30F.145).

**Comment [cvh27]: Oct 8 Council Discussion:** More detailed format may be necessary in area of decision criteria. For example, there are no references to Noise Control Code.

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- d. The proposal is compatible with and responds to the existing or intended character, appearance, quality of development and physical characteristics of the subject property and immediate vicinity; and
- e. The proposal will be served by adequate public facilities including streets, fire protection, and utilities; and
- f. The proposal is consistent with any Development agreement or Council conditional use permit approved pursuant to LUC 20.25M.030.B.
- g. When the proposed RLRT Facility will occur in whole or in part in a critical area regulated by Part 20.25H LUC, such facility shall also satisfy the following criteria:
  - i. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer; and
  - ii. The proposal incorporates the performance standards of Part 20.25H LUC to the maximum extent applicable; and
  - iii. The proposal includes a mitigation or restoration plan consistent with the requirements of LUC 20.25H.210; except that a proposal to modify or remove vegetation pursuant to an approved Vegetation Management Plan under LUC 20.25H.055.C.3.i shall not require a mitigation or restoration plan.
- 4. Applicable Process. The Design and Mitigation Permit shall be reviewed through Process II (LUC 20.35.200-250).

**Comment [cvh28]:** Based on the Decision Criteria used for a Critical Areas Land Use Permit approval (refer to LUC 20.30P.140).

**D. Shoreline Substantial Development Permit and Variance**

- 1. Any RLRT Facility proposed or located in the Shoreline Overlay District (Part 20.25E LUC) shall comply with the Shoreline Substantial Development Permit (SSDP) requirements of LUC 20.25E.040. Application for a SSDP shall be processed independently of any application for Design and Mitigation approval under this chapter. Application for a SSDP shall be subject to the decision criteria of LUC 20.30R.155.
- 2. For properties lying within the Shoreline Overlay District, the City may approve a request to exceed the allowable height limit established by LUC 20.25E.080.B.5 through the Variance to the Shoreline Master Program process allowed pursuant to Part 20.30H LUC. Application for a shoreline variance shall be subject to the decision criteria of LUC 20.30H.155.

**Comment [cvh29]: Oct 8 Council Discussion:** Shoreline approval in Draft Code relies on Shoreline Substantial Development Permit. Consideration should be given to the pros and cons of selecting the Substantial Development Permit process versus the Shoreline CUP process.

**20.25M.040 RLRT System and Facilities Development Standards**

**Comment [CoB30]:** Gap Fillers – includes issues not clearly addressed by the code

**A. Dimensional Requirements**

**1. Height Limitations. Council Input Needed**

**Current Substantive Standard.** *In the absence of a LUC Amendment:*

- *Maximum Height Limits of LUC 20.20.010 would apply base on underlying land use district*
- *Code Conflict identified for South Bellevue Park and Ride Structure (described in the MOU as 1400 stalls on up to 5 floors) and Hospital Station (elevation needed to meet alignment height after crossing I-405), which would both exceed height limits for underlying land use districts.*
- *General EPF Standards allow for height increases at permitting stage if applicant demonstrates that:*
  - *The requested increase is the minimum necessary for the effective functioning of the EPF; and*
  - *Visual and aesthetic impacts associated with the EPF have been mitigated to the greatest extent feasible.*
- *Timing uncertainty created. Significant uncertainty and cost would be incurred to design and engineer the South Bellevue Park and Ride and Hospital Station without having a final determination as to whether the height increase will be granted until late in the plan development timeframe.*

**LUCA Conflict Resolution Option.** *Cost savings and certainty would be provided by accommodating the required facility heights for the South Bellevue Park and Ride and Hospital Station as part of this Land Use Code Amendment.*

**2. Setbacks. Council Input Needed**

**Current Substantive Standard.** *In the absence of a LUC Amendment:*

- *Minimum Setbacks on LUC 20.20.010 would apply based on LU District, but application of setbacks to elements of the facility either leads to ambiguity, or to potentially significant requirements for additional property acquisition, especially where elements are proposed for areas outside of existing public right of way.*
- *Cost Savings Conflict identified for Traction Power Substation Elements of the RLRT Facility, which would require land acquisition in excess of that necessary to provide required landscape screening of these unmanned facilities.*

**LUCA Conflict Resolution Option.** *Minimum setbacks could be established for certain specified components of the System (e.g., Traction Power Substations), with setbacks set to the appropriate dimension to accommodate required landscape screening.*

**B. Landscape Development**

**Comment [cvh31]:** Applicable general development standards for Light Rail uses are identified in this section of the Overlay so the public, Sound Transit and City staff have a clear understanding of the code requirements that must be met as design progresses to construction level of detail.

**Comment [CoB32]:** Landscape screening requirements do not apply to linear track portions of Light Rail. The intent of this section is to treat linear portions like city streets, with specific frontage planting requirements contained in the Land Use Code and Transportation Design Manual

1. Traction Power Substations (TPSS) shall be screened with 10 feet of Type III landscaping pursuant to the requirements of LUC 20.20.520.G.3.
2. Park and Ride (public parking lot serving a primary use) and Storage Track and Support Facilities.
  - a. Except as set forth in subsection b, these facilities shall be landscaped pursuant to the requirements of LUC 20.20.520.F.2 and F.3. Provisions contained in LUC 20.20.520.F.5 through 8, 20.20.520.G, and 20.20.520.I through K shall also apply.
  - b. When located within an Overlay District identified in LUC 20.25M.010.D, these facilities shall comply with the design and landscape requirements incorporated by reference in LUC 20.25M.010.D.
3. Alternative landscaping may be approved by the Director for TPSS, park and ride, and storage track and support facilities if the requirements of LUC 20.20.520.J are met. The landscape development requirement for TPSS facilities may be reduced or eliminated by the Director when topography and/or existing vegetation provide adequate site screening to meet the intent of these standards.

**C. Fencing**

**Comment [CoB33]:** Based on LUC 20.20.400

Fencing shall be required to meet the applicable requirements of LUC 20.20.400 when Overlay standards and/or design guidelines have not been incorporated by reference in LUC 20.25M.010.D.

**D. Light and Glare**

**Comment [CoB34]:** Based on LUC 20.20.522

1. To protect adjoining uses and vehicular traffic in the right-of-way, the following provisions shall apply to the generation of light and glare from RLRT Facilities:
  - a. All exterior lighting fixtures in parking areas and driveways shall utilize cutoff shields or other appropriate measures to conceal the light source from adjoining uses and rights-of-way. Other lights shall be designed to avoid spillover glare beyond the site boundaries.
  - b. Interior lighting in parking garages shall utilize appropriate shielding to prevent spillover upon adjacent uses and the right-of-way.

**E. Mechanical Equipment**

**Comment [CoB35]:** Based on LUC 20.20.525

Mechanical equipment shall be required to meet the applicable requirements of LUC 20.20.525 when Overlay standards and/or design guidelines have not been incorporated by reference in LUC 20.25M.010.D.

**F. Parking and Circulation**

**Comment [CoB36]:** Clarity Edit consistent with implementation of parking provisions contained in LUC 20.20.590 and applicable overlays.

1. Minimum/Maximum Parking Requirements. RLRT Facilities do not generate parking demand that requires the provision of accessory parking. The provisions of 20.20.590 shall not apply.
2. Employee Vehicle Parking. Parking spaces shall be provided as necessary to accommodate vehicles of security and operational personnel who service a RLRT Facility.
3. Parking and Circulation Improvements and Design. RLRT facilities that provide parking for the public shall meet the requirements of LUC 20.20.590.K.

**G. Recycling and Solid Waste Collection**

1. Solid waste and recyclable material collection areas shall be provided for workers maintaining and operating an RLRT Facility consistent with the terms of LUC 20.20.725.
2. Solid waste and recyclable material collection receptacles shall also be provided for the public who access the station and park and ride facilities of a RLRT System.

**Comment [CoB37]:** Based on LUC 20.20.725

**Comment [CoB38]:** Gap filler – issue not currently address by the code

**H. Critical Areas**

A regional transit authority is not required to demonstrate that no technically feasible alignment or location alternative with less impact exists for any RLRT Facility, provided that the location of the RLRT System and its Facilities has been generally approved by the Bellevue City Council pursuant to an adopted resolution or ordinance, or by a development agreement authorized by Chapter 36.70B RCW and consistent with LUC 20.25M.030.B.1

**Comment [cvh39]: Oct 8 Council Discussion:** Organic recycling may be a desirable option to add to pedestrian facilities.

**Comment [CoB40]:** Operationalizes objective articulated in Exhibit G of the MOU

**Comment [cvh41]: Oct 8 Council Discussion:** Council alignment decisions were given deference by removing requirement to demonstrate no technically feasible alternative when Council had approved an alignment by resolution or ordinance.

**20.25M.050 Design Guidelines**

**A4. Additional Design Guidelines for Light Rail Stations.** In all land use districts, the following design guidelines shall apply to light rail stations: - **Council Input Needed**  
**Current Process:** In the absence of a LUC amendment, Sound Transit would be expected to collaborate with the City to undertake station area design and planning that engages the community about specific issues for each station once the sites are selected. Refer to Light Rail Best Practices Expectations of Sound Transit, page 23 made applicable to East Link through Comprehensive Plan Policy TR-75.2. As is done with every major planning process, staff would check-in with Council and propose an outreach and engagement plan for each individual station design effort to seek concurrence on the proposed approach. Specific code language was not included in the draft Light Rail Overlay regarding the process for station design, so that the City can remain flexible and station design efforts can be tailored to the context and unique characteristics of individual stations.  
**LUCA Process Option:** Council could choose to require Sound Transit to demonstrate that design collaboration had occurred prior to permit submittal like is required when PSE

**Comment [cvh42]: Oct 8 Council Discussion:** Design “guidelines” are a flexible tool for achieving a range of varied and imaginative design solutions. More specificity may be desired in the Light Rail Overlay through use of more directive regulations that mandate a specific outcome by using the word “shall” rather than “should.”

**Comment [cvh43]:** Gap Fillers –includes issues not currently addressed by the code.

proposes a new electrical utility facility. Refer to LUC 20.20.255. In the alternative, Council could chose to impose specific design collaboration or process requirements on Sound Transit through the Light Rail Overlay to engage the community and neighbors in station design. One example of a specific process approach would be to use the City Council Design Review Process that is used for Downtown Pedestrian Bridges. Refer to LUC 20.25A.130.

1a. The station should use context sensitive design to integrate the station into the community. This includes, but is not limited to the following:

Comment [mb44]: Based on CP Policy TR-75.12

- a. The design should incorporate superior urban design, complementary materials, and public art;
- b. The design should provide substantial landscaping at stations, where appropriate, including retained significant trees and transplanted trees that are, at a minimum, saplings.

c. Context sensitive design considerations shall include building materials and texture, building scale relative to nearby structures, and relationship to streets and adjacent uses.

2b. The station design should provide, create, or promote:

Comment [mb45]: Based on CP Policy TR-75.15

- a. Access and linkages to the surrounding community;
- b. Weather protection, including rain, wind, and sun protection, with overhead weather protection covering not less than 30% of the platform area;
- c. A place that works for both large and small numbers of people; and
- d. Design that encourages social interaction among people.

3e. The station design should use available technology to deter crime. Examples include:

Comment [mb46]: Based on CP Policy TR-75.23

- a. Visibility of station platform from adjacent streets and parking;
- b. Open and well-lighted pedestrian connections to parking and adjacent community;
- c. Video surveillance on station platforms and trains; and
- d. Establishing and enforcing a fare-paid zone for station platforms.

4e. Station design should facilitate transfers between different modes of transportation with an emphasis on safety for people transferring between the station platform and the various modes. This should include, where appropriate, well-lighted and secure storage sufficient to accommodate a range of modes (e.g., bicycles and other small motorized and non-motorized vehicles).

Comment [mb47]: Based on CP Policy TR-75.28

B2. Additional Design Guidelines for Other RLRT Facilities. In all land use districts, the following design guidelines shall apply to traction power substations, signal bungalows, ventilation structures, signs, tunnel portals, retaining walls, and acoustical barriers.



1a. The facilities identified in this section, when located above grade, shall use context sensitive design to integrate the facility into the community. This includes, but is not limited to, the following:

- ai. Incorporating superior urban design, complementary materials, and public art;
- bii. Providing substantial landscaping along the alignment, where appropriate, including retained significant trees and transplanted trees; and
- ciii. Incorporating durable materials in design and construction to ensure that the facility retains its appearance, functionality, and community value.

Comment [mb48]: Based on CP Policy TR-75.22

2b. Traction power substations shall be sited, screened, and/or incorporate architectural materials and treatments to minimize visual and operational impacts to surrounding uses.

3e. Ventilation structures shall incorporate context sensitive design that shall incorporate appropriate building materials and texture, building scale relative to nearby structures, and relationship to streets and adjacent uses.

4d. Signs shall comply with the Bellevue Sign Code (Chapter 22B.10 BCC); provided, that departures from the specific requirements of Chapter 22B.10 BCC may be allowed if approved by the Director as part of a master signage plan for an RLRT System.

5e. Retaining walls and acoustical barriers shall, as appropriate, be screened by landscaping, textured, or incorporate artwork where appropriate.

6f. Signal bungalows shall provide innovative façade treatments, e.g. artistic anti-graffiti laminate wraps, as approved by the director.

#### 20.25M.060. Administrative Modification Process

Comment [CoB49]: Operationalizes objective articulated in Paragraph 6.1 of the MOU

Due to the unique nature of a Regional Light Rail Transit System and its Facilities, strict application of LUC provisions will not always be practical or feasible. This is particularly true due to the Growth Management Act requirements relative to essential public facilities and the acquisition policies and requirements utilized by a regional transit authority, which favor the acquisition of the minimum amount of property necessary for the development of its facilities. Therefore, in applying the provisions of this Chapter or any other applicable development standard in the Land Use Code (Title 20) to a RLRT Facility or System, the City, including the Director, shall be authorized to modify or waive the application of such provisions, provided that:

- A. The modification or waiver is the minimum reasonably necessary in accordance with “Bellevue Light Rail Best Practices Report” to make construction or operation of the RLRT Facility or RLRT System practicable and feasible; or

- B. The modification or waiver is reasonably necessary to implement or ensure consistency with other related actions approved by the City Council with respect to the RLRT Facility or RLRT System including Development Agreement modifications, cost saving alternatives, or Street Design Standards amendments.

**Conformance Amendments to Land Use Code needed outside the Overlay**

Chart 20.10.440 Uses in land use districts

20.10.440 – Transportation and Utilities Use Chart

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Transportation and Utilities – Residential Districts											
		R-1	R-1.8	R-2.5	R-3.5	R-4	R-5	R-7.5*	R-10	R-15	R-20	R-30	
4	Transportation, Communications and Utilities												
41	Rail Transportation: Right-of-Way, Yards, Terminals, Maintenance Shops	C	C	C	C	C	C	C	C	C	C	C	C
42 4291	Motor Vehicle Transportation: Bus Terminals, Taxi Headquarters												
4214 422	Motor Vehicle Transportation: Maintenance Garages and Motor Freight Services (23)												
43	Aircraft Transportation: Airports, Fields, Terminals, Heliports, Storage and Maintenance	C 11	C 11	C 11	C 11	C 11	C 11	C 11	C 11	C 11	C 11	C 11	C 11
	Accessory Parking (6) (24)	P 3	P 3	P 3	P 3	P 3	P 3	P 3	P 3	P 3	P 3	P 3	P 3
46	Auto Parking: Commercial Lots and Garages (24)												
	Park and Ride (5) (24)	C	C	C	C	C	C	C	C	C	C	C	C
475	Radio and Television Broadcasting Studios												
485	Solid Waste Disposal (19)												

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Highway and Street Right-of-Way (24)	P	P	P	P	P	P	P	P	P	P	P	P
Utility Facility	C	C	C	C	C	C	C	C	C	C	C	C
Local Utility System	P	P	P	P	P	P	P	P	P	P	P	P
Regional Utility System	C	C	C	C	C	C	C	C	C	C	C	C
On-Site Hazardous Waste Treatment and Storage Facility (7)												
Off-Site Hazardous Waste Treatment and Storage Facility (8)												
Essential Public Facility (20)	C	C	C	C	C	C	C	C	C	C	C	C
Regional Light Rail Transit Systems and Facilities (25)	C/P	C/P	C/P	C/P	C/P	C/P	C/P	C/P	C/P	C/P	C/P	C/P
Wireless Communication Facility (WCF): (without WCF Support Structures)	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21
Communication, Broadcast and Relay Towers Including WCF Support Structures (Freestanding)	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Transportation and Utilities – Residential Districts										
		R-1	R-1.8	R-2.5	R-3.5	R-4	R-5	R-7.5*	R-10	R-15	R-20	R-30
	Satellite Dishes (18)	P	P	P	P	P	P	P	P	P	P	P
	Electrical Utility Facility (22)	A/C 22	A/C 22	A/C 22	A/C 22	A/C 22	A/C 22	A/C 22	A/C 22	A/C 22	A/C 22	A/C 22

Chart 20.10.440

Uses in land use districts

Transportation and Utilities – Nonresidential Districts

STD LAND USE CODE	LAND USE CLASSIFICATION	Professional Office	Office	Office/Limited Business	Light Industry	General Commercial	Neighborhood Business	Community Business	Factoria Land Use District 1	Factoria Land Use District 2	Factoria Land Use District 3
		PO	O	OLB	LI	GC	NB	CB	F1	F2	F3
4	Transportation, Communications and Utilities										
41	Rail Transportation: Right-of-Way, Yards, Terminals, Maintenance Shops	C	C	C	C	C	C	C	C	C	C
42 4291	Motor Vehicle Transportation: Bus Terminals, Taxi Headquarters				P	P		P	P		
4214 422	Motor Vehicle Transportation: Maintenance Garages and Motor Freight Services (23)				P	C					
43	Aircraft Transportation: Airports, Fields, Terminals, Heliports, Storage and Maintenance	C 11	C 12	C 12	C 12	C 12	C 11	C 12	C 12	C 12	C 12
	Accessory Parking (6)(24)	P	P	P	P	P	P	P	P	P	P

46	Auto Parking: Commercial Lots and Garages (24)			C	C	C		C	C	C	C
	Park and Ride (5) (24)	C	C	C	C	C	C	C	C	C	C
475	Radio and Television Broadcasting Studios	P	P	P	P 10	P 10		P	P	P	P
485	Solid Waste Disposal (19)				C						
	Highway and Street Right-of- Way (24)	P	P	P	P	P	P	P	P	P	P
	Utility Facility	C	C	C	C	C	C	C	C	C	C
	Local Utility System	P	P	P	P	P	P	P	P	P	P
	Regional Utility System	C	C	C	C	C	C	C	C	C	C
	On-Site Hazardous Waste Treatment and Storage Facility (7)			A	A	A	A	A	A	A	A
	Off-Site Hazardous Waste Treatment and Storage Facility (8)				C						
	Essential Public Facility (20)	C	C	C	C	C	C	C	C	C	C
	<u>Regional Light Rail Transit Systems and Facilities (25)</u>	<u>C/P</u>	<u>C/P</u>	<u>C/P</u>	<u>C/P</u>	<u>C/P</u>	<u>C/P</u>	<u>C/P</u>	<u>C/P</u>	<u>C/P</u>	<u>C/P</u>

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Wireless Communication Facility (WCF): (without WCF Support Structures)	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21
Communication, Broadcast and Relay Towers Including WCF Support Structures (Freestanding)	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16

Transportation and Utilities – Nonresidential Districts

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Professional Office	Office	Office/Limited Business	Light Industry	General Commercial	Neighborhood Business	Community Business	Factoria Land Use District 1	Factoria Land Use District 2	Factoria Land Use District 3	STD LAND USE CODE REF
		PO	O	OLB	LI	GC	NB	CB	F1	F2	F3	
	Satellite Dishes (18)	P	P	P	P	P	P	P	P	P	P	
	Electrical Utility Facility (22)	A/C 22	A/C 22	A/C 22	A/C 22	A/C 22	A/C 22	A/C 22	A/C 22	A/C 22	A/C 22	

Chart 20.10.440

Uses in land use districts

Transportation and Utilities – Downtown Districts

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Downtown Office District 1	Downtown Office District 2	Downtown Mixed Use District	Downtown Residential District	Downtown Old Bellevue District	Downtown Office and Limited Business District
		DNTN O-1	DNTN O-2	DNTN MU	DNTN R	DNTN OB	DNTN OLB
4	Transportation, Communications and Utilities						
41	Rail Transportation: Right-of-Way, Yards, Terminals, Maintenance Shops						
42 4291	Motor Vehicle Transportation: Bus Terminals, Taxi Headquarters	A	A	A			A
4214 422	Motor Vehicle Transportation: Maintenance Garages and Motor Freight Services (23)	S	S	S			S
43	Aircraft Transportation: Airports, Fields, Terminals, Heliports, Storage and Maintenance	A 11	A 11	A 12			A 11
	Accessory Parking (6) (24)	P 4	P 4	P 4	P 4	P 4	P 4
46	Auto Parking: Commercial Lots and Garages (24)	P 13	P 13	P 13	A	P 13	P 13
	Park and Ride (5) (24)			A			A
475	Radio and Television Broadcasting Studios	P	P	P		P	P
485	Solid Waste Disposal (19)						
	Highway and Street Right-of-Way (24)	P	P	P	P	P	P
	Utility Facility	C	C	C	C	C	C

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	Local Utility System	P	P	P	P	P	P
	Regional Utility System	C	C	C	C	C	C
	On-Site Hazardous Waste Treatment and Storage Facility (7)	A	A	A	A	A	A
	Off-Site Hazardous Waste Treatment and Storage Facility (8)						
	Essential Public Facility (20)	C	C	C	C	C	C
	<u>Regional Light Rail Transit Systems and Facilities (25)</u>	<u>C/P</u>	<u>C/P</u>	<u>C/P</u>	<u>C/P</u>	<u>C/P</u>	<u>C/P</u>
	Wireless Communication Facility (WCF): (without WCF Support Structures)	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21
	Communication, Broadcast and Relay Towers Including WCF Support Structures (Freestanding)	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16

Transportation and Utilities – Downtown Districts

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Downtown Office District 1	Downtown Office District 2	Downtown Mixed Use District	Downtown Residential District	Downtown Old Bellevue District	Downtown Office and Limited Business District
		DNTN O-1	DNTN O-2	DNTN MU	DNTN R	DNTN OB	DNTN OLB
	Satellite Dishes (18)	P	P	P	P	P	P
	Electrical Utility Facility (22)	A/C 22	A/C 22	A/C 22	A/C 22	A/C 22	A/C 22

Add Footnote (25) to “Essential Public Facility” land use classification

(25) Refer to LUC Part 20.25M, Light Rail Overlay District, for specific requirements applicable to EPF defined as a Regional Light Rail Transit Facility or Regional Light Rail Transit System pursuant to 20.25M.020. A conditional use permit is not required when the City Council has approved a Regional Light Rail Transit Facility or Regional Light Rail Transit System by resolution



or ordinance, or by a development agreement authorized by Chapter 36.70B RCW and consistent with LUC 20.30M.030.B.1.

20.20.010 – Notes: Uses in land use district - Dimensional Requirements

Note 17 [Placeholder – Code Language To Be Drafted]

Amend note 17 to require minimum setback from property owned by a regional transit authority for the purpose of operating an RLRT Facility.

**Comment [cvh50]: Oct 8 Council Discussion:**  
Further evaluation regarding effect of nonconforming status and/or acquisition costs may be necessary.

Part 20.25A Downtown

Right-of-Way Special Dedications. [Placeholder – Code Language To Be Drafted]

Amend LUC 20.25A.020.D to allow property owners to make special dedications to Sound Transit and retain FAR as is currently allowed for uncompensated dedications for right of way.

Part 20.25D – Bel-Red

Chart 20.25D.070

Transportation and Utilities Uses in Bel-Red Land Use Districts.<sup>1</sup>

STD LAND USE CODE    LAND USE REF    CLASSIFICATION		Transportation and Utilities – Bel-Red Districts						
		Bel-Red Medical Office/Node	Bel-Red Office Residential/Nodes	Bel-Red Residential Commercial Nodes	Bel-Red Residential	Bel-Red General Commercial	Bel-Red Commercial Residential	Bel-Red Office Residential Transition
		BR-MO/ MO-1	BR-OR/ OR-1 OR-2	BR- RC-1 RC-2 RC-3	BR-R	BR-GC	BR-CR	BR-ORT
4	Transportation, Communications and Utilities							
41	Rail	C/C	C/C	C	C	C	C	C

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	Transportation: Right-of-Way, Yards, Terminals, Maintenance Shops							
42 4291	Motor Vehicle Transportation: Bus Terminals, Taxi Headquarters					C		
4214 422	Motor Vehicle Transportation: Maintenance Garages and Motor Freight Services (15)	C/	C/			C		
43	Aircraft Transportation: Airports, Fields, Terminals, Heliports, Storage and Maintenance	C 1	C 1					
	Accessory Parking (2,3,16)	P/P	P/P	P	P 4	P	P	P
46	Auto Parking Commercial Lots and Garages (5, 16)	/P	/P	P				
	Park and Ride (6, 16)		C/C	C				
475	Radio and Television Broadcasting Studios							
485	Solid Waste Disposal (7)							
	Highway and Street Right-of-	P	P/P	P	P	P	P	P

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Way (8, 16)								
Utility Facility	C	C/C	C	C	C	C	C	C
Local Utility System	P	P/P	P	P	P	P	P	P
Regional Utility System	C	C/C	C	C	C	C	C	C
On- and Off-Site Hazardous Waste Treatment and Storage Facilities								
Essential Public Facility (9)	C	C/C	C	C	C	C	C	C
<u>Regional Light Rail Transit Systems and Facilities (17)</u>	<u>C/P</u>	<u>C/P</u>	<u>C/P</u>	<u>C/P</u>	<u>C/P</u>	<u>C/P</u>	<u>C/P</u>	<u>C/P</u>
Wireless Communication Facility (WCF): (without WCF Support Structures)	10, 11, and 12	10, 11, and 12	10, 11, and 12	10, 11, and 12	10, 11, and 12	10, 11, and 12	10, 11, and 12	10, 11, and 12
Communication, Broadcast and Relay Towers Including WCF Support Structures (Freestanding)	10, 11	10, 11	10, 11	10, 11	10, 11	10, 11	10, 11	10, 11
Satellite Dishes (13)	P	P/P	P	P	P	P	P	P
Electrical Utility Facility (14)	A C/A C	A C/A C	A C	A C	A C	A C	A C	A C

....

Add Footnote (17) to “Essential Public Facility” land use classification

(17) Refer to LUC Part 20.25M, Light Rail Overlay District, for specific requirements applicable to EPF defined as a Regional Light Rail Transit Facility or Regional Light Rail Transit System pursuant to 20.25M.020. A conditional use permit is not required when the City Council has approved a Regional Light Rail Transit Facility or Regional Light Rail Transit System by resolution or ordinance, or by a development agreement authorized by Chapter 36.70B RCW and consistent with LUC 20.30M.030.B.1.

**Part 20.25D – Bel-Red**

**Right-of-Way Special Dedications. [[Placeholder – Code Language To Be Drafted]]**

Amend to LUC 20.25D.080.D.2 to allow property owners to make special dedications to Sound Transit and retain FAR as is currently allowed for uncompensated dedications for right of way.

**Part 20.25H – Critical Areas Overlay District**

**20.25H.055.B Uses and Development Allowed within Critical Areas**

The following chart lists uses and development that may be allowed in a critical area, critical area buffer, or critical area structure setback. The sections noted in the chart for each use or activity and critical area refer to the applicable performance standards that must be met.

		Type of Critical Area				
		Streams	Wetlands	Shorelines	Geologic Hazard Areas <sup>1</sup>	Areas of Special Flood Hazard
<b>Allowed Use or Development</b>	Repair and maintenance of parks and parks facilities, including trails <sup>1,2</sup>	20.25H.055.C.1 20.25H.080.A	20.25H.055.C.1 20.25H.100	20.25H.055.C.1 20.25E.080.B 20.25E.080.P	20.25H.055.C.1 20.25H.125	20.25H.055.C.1 20.25H.180.C 20.25H.180.D.2
	Repair and maintenance of utility facilities, utility systems,	20.25H.055.C.1 20.25H.080.A	20.25H.055.C.1 20.25H.100	20.25H.055.C.1 20.25E.080.B 20.25E.080.U	20.25H.055.C.1 20.25H.125	20.25H.055.C.1 20.25H.180.C

stormwater facilities and essential public facilities <sup>1,2</sup>						
Repair and maintenance of public rights-of-way, private roads, access easements, surface parking areas, and driveways <sup>1,2</sup>	20.25H.055.C.1 20.25H.080.A	20.25H.055.C.1 20.25H.100	20.25H.055.C.1 20.25E.080.B 20.25E.080.H 20.25E.080.R	20.25H.055.C.1 20.25H.125	20.25H.055.C.1 20.25H.180.C	
Repair and maintenance of bridges and culverts <sup>1,2</sup>	20.25H.055.C.1 20.25H.080.A	20.25H.055.C.1 20.25H.100	20.25H.055.C.1 20.25E.080.B 20.25E.080.R	20.25H.055.C.1 20.25H.125	20.25H.055.C.1 20.25H.180.C	
Construction staging <sup>1,2,11</sup>	20.25H.055.C.1 20.25H.080.A	20.25H.055.C.1 20.25H.100	20.25H.055.C.1 20.25E.080.B 20.25E.080.H	20.25H.055.C.1 20.25H.125	20.25H.055.C.1 20.25H.180.C	
Existing agricultural activities <sup>2</sup>	20.25H.055.C.1 20.25H.055.C.3.a 20.25H.080.A	20.25H.055.C.1 20.25H.055.C.3.a 20.25H.100	20.25H.055.C.1 20.25H.055.C.3.a 20.25E.080.B 20.25E.080.C	20.25H.055.C.1 20.25H.055.C.3.a 20.25H.125	20.25H.055.C.1 20.25H.055.C.3.a 20.25H.180.C	
Emergency actions	20.25H.055.C.3.b	20.25H.055.C.3.b	20.25H.055.C.3.b	20.25H.055.C.3.b	20.25H.055.C.3.b	
New or expanded utility facilities, utility systems, stormwater facilities <sup>3</sup>	20.25H.055.C.2 20.25H.080.A 20.25H.080.B	20.25H.055.C.2 20.25H.100	20.25H.055.C.2 20.25E.080.B 20.25E.080.U	20.25H.055.C.2 20.25H.125	20.25H.055.C.2 20.25H.180.C	

REVISED DRAFT LIGHT RAIL OVERLAY – November 13, 2012

	New or expanded essential public facilities (12)	20.25H.055.C.2 20.25H.080.A 20.25H.080.B	20.25H.055.C.2 20.25H.100	20.25H.055.C.2 20.25E.080.B	20.25H.055.C.2 20.25H.125	20.25H.055.C.2 20.25H.180.C 20.25H.180.D.3
<b>Allowed Use or Development</b>	Public flood protection measures <sup>4</sup>	20.25H.055.C.2 20.25H.055.C.3.c 20.25H.080.A 20.25H.080.B	20.25H.055.C.2 20.25H.055.C.3.c 20.25H.100	20.25H.055.C.2 20.25H.055.C.3.c 20.25E.080.B	20.25H.055.C.2 20.25H.055.C.3.c 20.25H.125	20.25H.055.C.2 20.25H.055.C.3.c 20.25H.180.C 20.25H.180.D.5
	Instream structures <sup>5</sup>	20.25H.055.C.2 20.25H.055.C.3.d 20.25H.080.A 20.25H.080.B	20.25H.055.C.2 20.25H.055.C.3.d 20.25H.100	20.25H.055.C.2 20.25H.055.C.3.d 20.25E.080.B	20.25H.055.C.2 20.25H.055.C.3.d	20.25H.055.C.2 20.25H.055.C.3.d 20.25H.180.C
	New or expanded public rights-of-way, private roads, access easements and driveways	20.25H.055.C.2 20.25H.080.A 20.25H.080.B	20.25H.055.C.2 20.25H.100	20.25H.055.C.2 20.25E.080.B 20.25E.080.R	20.25H.055.C.2 20.25H.125	20.25H.055.C.2 20.25H.180.C 20.25H.180.D.4
	New or expanded bridges and culverts	20.25H.055.C.2 20.25H.055.C.3.e 20.25H.080.A	20.25H.055.C.2 20.25H.055.C.3.e 20.25H.100	20.25H.055.C.2 20.25H.055.C.3.e 20.25E.080.B 20.25E.080.R	20.25H.055.C.2 20.25H.055.C.3.e 20.25H.125	20.25H.055.C.2 20.25H.055.C.3.e 20.25H.180.C
	New or expanded private nonmotorized trails	20.25H.055.C.2 20.25H.055.C.3.f 20.25H.080.A	20.25H.055.C.2 20.25H.055.C.3.f 20.25H.100	20.25H.055.C.2 20.25H.055.C.3.f 20.25E.080.B 20.25E.080.G	20.25H.055.C.2 20.25H.055.C.3.f 20.25H.125	20.25H.055.C.2 20.25H.055.C.3.f 20.25H.180.C
	New or expanded City and public parks	20.25H.055.C.3.g 20.25H.080.A	20.25H.055.C.3.g 20.25H.100	20.25H.055.C.3.g 20.25E.080.B 20.25E.080.P	20.25H.055.C.3.g 20.25H.125	20.25H.055.C.3.g 20.25H.180.C 20.25H.180.D.2
	Existing landscape maintenance <sup>2</sup>	20.25H.055.C.3.h 20.25H.080.A	20.25H.055.C.3.h 20.25H.100	20.25H.055.C.3.h 20.25E.080.B 20.25E.080.G	20.25H.055.C.3.h 20.25H.125	20.25H.055.C.3.h 20.25H.180.C

REVISED DRAFT LIGHT RAIL OVERLAY – November 13, 2012

Vegetation management <sup>8</sup>	20.25H.055.C.3.i 20.25H.080.A	20.25H.055.C.3.i 20.25H.100	20.25H.055.C.3.i 20.25E.080.B 20.25E.080.G	20.25H.055.C.3.i 20.25H.125	20.25H.055.C.3.i 20.25H.180.C
Habitat improvement projects	20.25H.055.C.3.j 20.25H.080.A	20.25H.055.C.3.j 20.25H.100	20.25H.055.C.3.j 20.25E.080.B 20.25E.080.G	20.25H.055.C.3.j 20.25H.125	20.25H.055.C.3.j 20.25H.180.C
Forest practices	20.25H.055.C.3.k 20.25H.080.A	20.25H.055.C.3.k 20.25H.100	20.25H.055.C.3.k 20.25E.080.B	20.25H.055.C.3.k 20.25H.125	20.25H.055.C.3.k 20.25H.180.C
Aquaculture	20.25H.055.C.3.l 20.25H.080.A	20.25H.055.C.3.l 20.25H.100	20.25H.055.C.3.l 20.25E.080.B 20.25E.080.D	20.25H.055.C.3.l	20.25H.055.C.3.l 20.25H.180.C
Stabilization measures	20.25H.055.C.3.m 20.25H.080.A	20.25H.055.C.3.m 20.25H.100	20.25E.080.B 20.25E.080.E	20.25H.055.C.3.m 20.25H.125	20.25H.055.C.3.m 20.25H.180.C
Expansion of existing single-family primary structures	20.25H.055.C.3.n 20.25H.080.A	20.25H.055.C.3.n 20.25H.100	20.25H.055.C.3.n 20.25E.080.B 20.25E.080.Q	20.25H.055.C.3.n 20.25H.125	20.25H.055.C.3.n 20.25H.180.C <sup>9</sup> 20.25H.180.D.1 20.25H.180.D.7
Reasonable use exception <sup>8</sup>	20.25H.080.A	20.25H.100	20.25E.080.B	20.25H.125	20.25H.180.C 20.25H.180.D.7
Recreational vehicle storage <sup>10</sup>					20.25H.180.C 20.25H.180.D.6
Additional shoreline-specific uses or development					

Add Footnote (12) to “Essential Public Facility” land use classification

**(12) Refer to LUC Part 20.25M, Light Rail Overlay District, for specific requirements applicable to EPF defined as a Regional Light Rail Transit Facility or Regional Light Rail Transit System pursuant to 20.25M.020. A conditional use permit is not required when the City Council has approved a Regional Light Rail Transit Facility or Regional Light Rail Transit System by resolution or ordinance, or by a development agreement authorized by Chapter 36.70B RCW and consistent with LUC 20.30M.030.B.1.**

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**Chapter 20.35 – Review and Appeal Procedures**

**20.35.015 – Framework for decisions [Placeholder – Code Language To Be Drafted]**

Amend to add Design and Mitigation Permit under Process II.

**20.35.020 – Pre-Application Conferences [Placeholder – Code Language To Be Drafted]**

Amend to add Design and Mitigation Permit to list of applications that required a pre-application conference

**20.35.030 – Applications [Placeholder – Code Language To Be Drafted]**

Amend to add public agencies with condemnation authority to the list of parties who may apply for a permit.

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**Chapter 20.40 – Administration and Enforcement**

**20.40.500 Vesting [Placeholder – Code Language To Be Drafted]**

Amend to acknowledge extended vesting allowed in Downtown, or pursuant to a Master Development Plan approval or Development Agreement.

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**20.50 - Definitions**

**20.50.036**

**Nonconforming.** A use, structure, site, or lot which conformed to the applicable codes in effect on the date of creation but which no longer complies because of changes in Code requirements, or annexation, or property acquisition for public rights-of-way or Regional Light Rail Transit Facility or Regional Light Rail Transit System as defined in LUC 20.25M.020.

**Nonconforming Site.** A lot which does not conform to site development regulations, including but not limited to, the landscaping, parking, fence, driveway, street opening, pedestrian amenity, screening, and curb cut regulations of the district in which it is located due to changes in Code requirements, condemnation, or annexation, or property acquisition for public rights-of-way or a Regional Light Rail Transit Facility or Regional Light Rail Transit System as defined in LUC 20.25M.020.

**Nonconforming Structure.** A structure which does not conform to the dimensional regulations, including but not limited to, setback, height, lot coverage, density, and building configuration



regulations of the district in which it is located due to changes in Code requirements, or annexation, or property acquisition for public rights-of-way or a Regional Light Rail Transit Facility or Regional Light Rail Transit System as defined in LUC 20.25M.020. For structures not conforming to Building Code requirements, see ~~UBC Section 104~~ [BCC 23.05.080 \(Duties and Powers of the Building Official\)](#).

**Comment [cvh51]:** Cross reference update not specifically related to Light Rail.

**Questions Raised and Information Requested following the October 22 Public Hearing****1. How is the Optional DNS Process applied to this light rail overlay code amendment process?**

The City is conducting environmental review required under the State Environmental Policy Act (SEPA) at the same time it is developing the Draft Light Rail Overlay amendment to the Land Use Code (LUC). This is referred to as an “integrated process” that is commonly used for legislative actions such as code amendments. SEPA requires that a threshold determination be made on all “actions” that are not specifically identified as exempt from environmental review. This means that the environmental coordinator must make a determination as to whether an action will have probable significant adverse environmental impacts that would require preparation of an EIS, or whether a determination of nonsignificance (DNS) is appropriate. In the context of a LUC amendment, the Council will be taking what is referred to as a “non-project action” which is a decision on a policy, plan or program. A generalized SEPA checklist is prepared for these types of actions, and the vast majority of code amendments and policy actions taken by the City Council do not require an EIS.

The “Optional DNS Process” for the issuing the threshold determination is being used on the Draft Light Rail Overlay amendment. The “Optional DNS Process” is one way to comply with the obligation under SEPA to make a threshold determination. This process is used in circumstances where the environmental coordinator has predicted that a DNS will be issued (meaning an EIS is not necessary). This prediction is based on an evaluation of the documents in the project file including the SEPA checklist and the draft land use code amendment, and information included on the East Link Land Use Code Amendment website (<http://www.bellevuewa.gov/light-rail-overlay.htm>). The information provided in the project file allows the Environmental Coordinator to determine that it is appropriate to use the Optional DNS Process for the proposed code amendment. The draft light rail land use code amendment before the Council “consolidates” otherwise applicable land use code and policy guidance into a single code section to ensure that a comprehensive and consolidated set of provisions will apply to a light rail use where ever it is proposed or constructed. A code amendment action of this type has virtually always received a DNS.

The optional DSN process requires that the City inform the public early in the process that a DNS is anticipated. This process is used to provide the additional transparency that the public has requested. From the start of the code amendment project, staff described to the public how the process is anticipated to unfold. The intention of this disclosure is to encourage stakeholders to participate in development of the amendment. Staff is seeking to avoid a circumstance where people refrain from participating early in the process because they mistakenly assume that an EIS will be prepared later when it is not likely to be necessary. The optional DNS process still provides an opportunity for the public to comment on both the draft code amendment and the associated environmental review. Any appeal of the SEPA determination on the legislative action would go to the Growth Management Hearings Board together with an appeal of the amendment itself. For legislative actions on code amendments there is no administrative SEPA appeal opportunity provided to the Hearing Examiner under the Bellevue Environmental Procedures Code (irrespective of whether the optional DNS process is used or not). Use of the optional DNS process on the land use code amendment (legislative non-project

action) does not change how SEPA will apply to later applications for East Link permits (project specific actions).

**2. How are the Comprehensive Plan Policies and Light Rail Best Practices incorporated into the draft Land Use Code Amendment and applied through the permitting process?**

See discussion of the “consistency with Comprehensive Plan decision criterion” for establishing a light rail use and for design and mitigation permits included in the Draft Light Rail Overlay amendment; pages 6 and 7 of Attachment A to the November 13 agenda memo.

**3. Why is the South Bellevue Park and Ride located outside of Shoreline Jurisdiction and wetland coverage under the Critical Areas Overlay?**

Council discussion at a future meeting (either November 26 or December 3, depending on time required) will focus on substantive requirements applicable to light rail through the Draft Light Rail Overlay amendment, including critical areas mitigation requirements. Additional information about the South Bellevue Park and Ride and the proposed parking structure will be discussed at those subsequent meetings.

**4. How will Noise Control code be applied through the permitting process?**

In the absence of any change to the Bellevue City Code, technical codes such as the City’s Noise Control Code that are currently applicable to Sound Transit will continue to apply following amendments to the Land Use Code (LUC). The particular circumstances that trigger application of a Bellevue City Code (BCC) provision vary between technical codes. Some codes are triggered by a “permit application” – these include the Construction Codes from Title 23 BCC that address issues such as Building, Mechanical, and Plumbing. Some codes are triggered by an “activity” – these include many of the Health and Safety codes from Title 9 BCC that address issues such as Nuisances and Noise Control. Other codes are triggered by both permit applications and activities unrelated to a permit – these include the Utilities Codes from Title 24 BCC that address issues such as Water Utilities and Storm and Surface Water Utilities.

All permit applicants, and individuals engaged in regulated activities, are required to comply with code provisions that apply to that specific permit or activity. Applicable code provisions are either enforced through technical code review prior to issuance of a permit or through an enforcement action when a code violation has occurred. No technical code requires cross-referencing in the LUC to apply or to be effective. Each technical code operates independently of the LUC based on the triggers and requirements contained in that specific technical code. That is why the permit decision criteria for “land use” permits (e.g., Conditional Use Permits, Administrative Conditional Use Permits, Design Reviews, etc.) only require consistency to be demonstrated with the LUC. Consistency with the Bellevue City Code is not required before a “land use” permit can be issued. However, each “land use” permit does include a standard condition requiring adherence to all applicable Bellevue City Code provisions. This

condition is included to ensure that all interested parties are placed on notice that additional codes will apply as the project moves forward to construction and operation.

The Draft Light Rail Overlay follows the current approach used for all “land use” permit approvals, and requires a regional transit authority to demonstrate that they have complied with applicable policies of the Comprehensive Plan and provisions of the LUC. Consistency with other city codes, such as the Noise Control Code, will need to be demonstrated when the above-described triggers come into play.

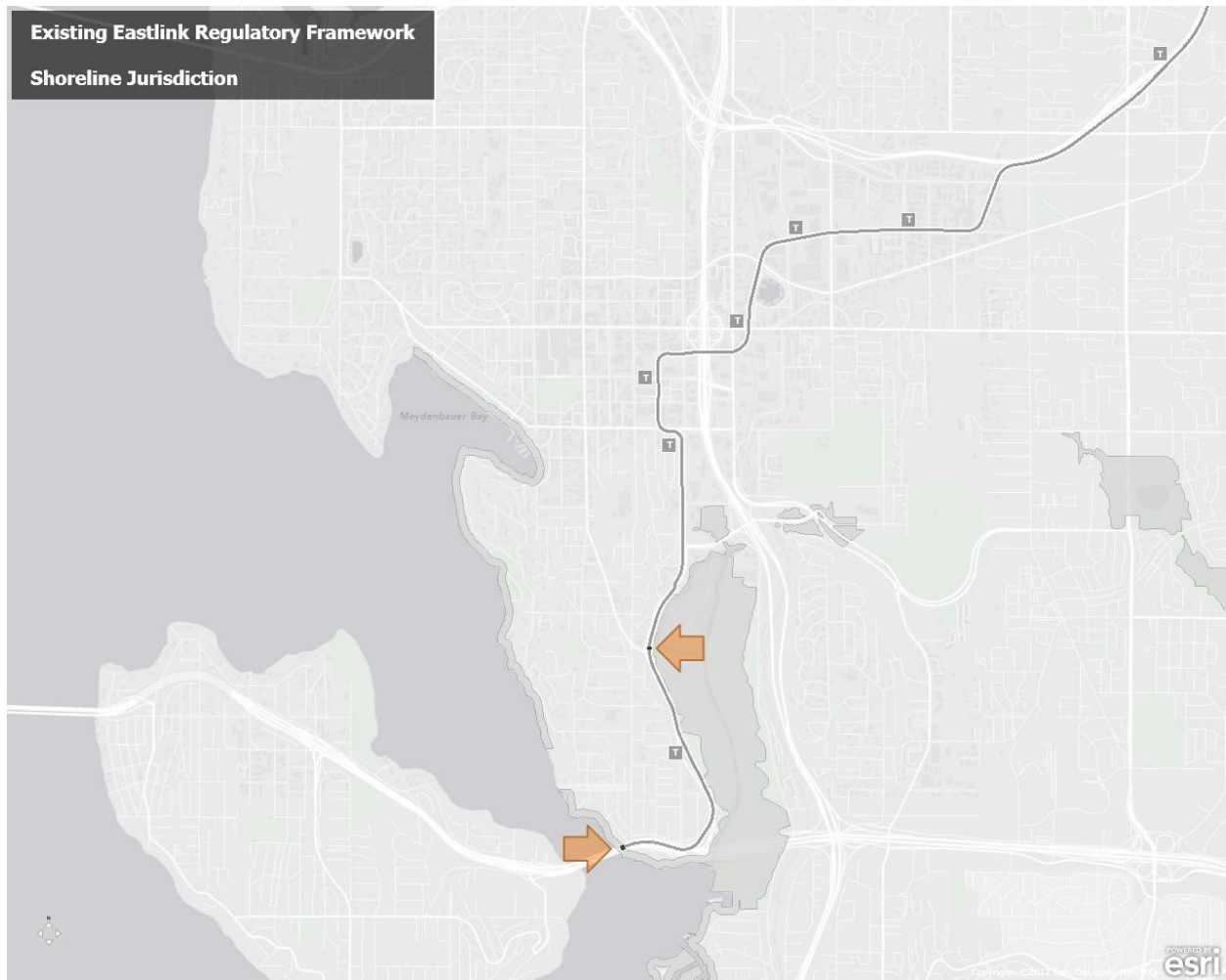
**5. How are the Shoreline Master Program and Critical Areas Overlay provisions incorporated into the draft Land Use Code Amendment and applied through the permitting process?**

The Shoreline Management Act (SMA) applies to those areas within 200 feet of shorelines of statewide significance and associated wetlands. Compliance with Shoreline Master Program provisions is required through the shoreline permit process, which requires a substantial development permit, for any portion of the alignment within shoreline jurisdiction. These permits will be processed according to the requirements of 20.25E of the Land Use Code. A copy of the Shoreline Jurisdiction Map for the East Link Alignment was presented to Council during the October 22 Public Hearing, and a copy has been included below for Council reference.

The Draft Light Rail Overlay incorporates by reference Part 20.25H (Critical Areas Overlay) and requires that any proposal comply with the provisions of that overlay. Through the permitting process, Sound Transit will be required to show the location and extent of any critical areas within the boundaries of its project. Any work within a critical area or buffer will require mitigation and restoration pursuant to Critical Area Overlay requirements that will be imposed during the Design and Mitigation Review described in section 20.25M.030.C of the Draft Light Rail Overlay amendment.

The Draft Light Rail Overlay includes one modification to part 20.25H. Under the existing Critical Areas Overlay, new public infrastructure (like roads and utilities) are allowed within critical areas if no other technically feasible alternative exists. The Draft Light Rail Overlay does not require this technical feasibility analysis if the alignment has already been approved by the City Council through some other action (i.e. adoption of the proposed alignment through the MOU).

A similar exception to the technical feasibility analysis is included in the Draft Shorelines Master Program update and related critical areas overlay amendments under consideration by the Planning Commission. As currently drafted, these changes would apply to City infrastructure projects or parks projects that have been the subject of a separate, Council-approved, planning process.



## 6. How will citizens be involved in Station Design and Station Area Planning?

Opportunities for citizen involvement in Station Area Planning are described in Response 15 to the October 8 Council Questions. The method of engagement may vary from one station area to another due to differences in station area characteristics and issues, but in all cases the planning will include a robust public engagement component. Staff will check in with Council with a public outreach plan for each effort to seek concurrence on the proposed approach.

With respect to public involvement in Station Design, staff fully expects Sound Transit to engage citizens in station design development. In other jurisdictions this has typically occurred starting in the early stages of design development (around 30% complete) which allows citizens to influence and gain a sense of ownership in the eventual station design. The proposed amendment could be modified to require Sound Transit, as part of an application for a Design and Mitigation Permit, to demonstrate that design engagement and collaboration with the community has occurred (similar to what the City requires of PSE for new or expanded electrical utility facilities located on sensitive sites identified in the Comprehensive Plan).

**7. How is the Maintenance Facility regulated under the draft Land Use Code amendment?**

This question was originally posed by Council during its October 8 Study Session. At that time, staff responded that the Draft Light Rail Overlay Code Amendment was developed to specifically address project elements identified in the Memorandum of Understanding (MOU) between the City of Bellevue and Sound Transit (November 2011). There was no heavy maintenance facility identified in the MOU, nor in the terms of the Collaborative Design Process. As a result, the draft code amendment did not specifically address this project component. Conversation regarding the need for a Heavy Maintenance Facility by Sound Transit began simultaneously with the release of the first draft and could not be incorporated prior to the October 22 Public Hearing Draft Light Rail Overlay.

The language defining a “Regional Light Rail Transit Facility” specifically includes project components identified in the MOU, but extends to other unidentified project components without limitation. Refer to Draft Land Use Code Amendment section 20.25M.020. As currently drafted, provisions contained in the Light Rail Overlay would apply to the Heavy Maintenance Facility if it were to be proposed as a component of the East Link project on a site located in Bellevue. The Heavy Maintenance Facility is also an Essential Public Facility, and the City must ensure that its policies and regulations do not preclude components of a light rail facility. The City Council could direct staff to include additional design guidelines and mitigation standards that would address the unique characteristics of such a facility.