 <p>11930 Cyrus Way Mukilteo, WA 98275 (425) 263-8000</p>	<h2 style="text-align: center;">Notice of Decision</h2> <h3 style="text-align: center;">Islamic Center of Mukilteo (ICOM)</h3> <p style="text-align: center;">3920 Harbour Pointe Blvd (PPR-RUP-HE-2016-001 ENG-2016-005)</p>
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The City of Mukilteo has issued a Notice of Decision for a Project Permit as required by Regulatory Reform Act (RCW 36.70B.130) and Mukilteo Municipal Code (MMC 17.13.080), and has APPROVED the following project:

Project Name: Islamic Center of Mukilteo (ICOM)
Proponent: Fatah Boualamallah on behalf of the Islamic Center of Mukilteo
Project Number: PPR-RUP-HE-2016-001 ENG-2016-005

Description of Proposal: Development of a 2-story 3,796 square foot (approximate) place of worship (mosque) on an approximately 33,000 square-foot lot, which has a Category IV wetland. The wetland and its buffer block access to Harbour Pointe Boulevard. The lot is a reasonable use lot since it would be undevelopable without a reduction in the required buffer. The proposal includes a parking lot with 25 spaces, storm drainage improvements, landscaping, and wetland buffer mitigation.

Location of Proposal: Tract 28 of Evergreen Manor in the SE ¼ of the NW ¼ of Section 27, Township 28N, Range 4, otherwise known as 3920 Harbour Pointe Boulevard

Notice of Approval Date:	November 25, 2020
End of Appeal Period:	December 9, 2020
Project Permit Expiration Date:	December 24, 2024
Project Decision:	Approved, with Conditions

Staff administratively reviewed this project for consistency with the policies, standards, and regulations of the City of Mukilteo. After considering comments by the public and other agencies, the project permit is hereby approved with conditions based on the following Findings of Fact, and subject to the following Conditions of Project Approval.

FINDINGS OF FACT

1. On March 11, 2016 the applicant submitted a Land Use Permit Application and an Engineering Permit Application for construction and site development of a place of worship

with associated grading, parking, storm drainage, landscaping, and wetland buffer mitigation. The application was deemed complete on March 21, 2016.

2. In accordance with Mukilteo Municipal Code (MMC) Chapter 17.13, a Notice of Application was issued on April 22, 2016, and the project was circulated for review in accordance with the City's normal review and permitting procedures.
3. The property is trapezoidal shaped property that is oriented primarily in a north-south direction. It is approximately 33,000 square feet in size and is addressed as 3920 Harbour Pointe Boulevard SW. Access to the property is from a single driveway entrance on Harbour Pointe Boulevard SW that was installed with the Harbour Pointe Boulevard SW Widening Project in 2019/2020.
4. During the review process for this application, the applicant dedicated a 10-foot wide portion of the property extending along the full extent of the Harbour Pointe Boulevard SW frontage as right-of-way for the Harbour Pointe Boulevard SW Widening Project. This slightly reduced the size of the parcel. The City of Mukilteo Harbour Pointe Boulevard SW Widening Project constructed the driveway entrance, sidewalk and other frontage/street improvements in the Right-of-Way adjacent to this property.
5. The contractor for the Harbour Pointe Boulevard SW Widening Project installed a water service and stormwater connection for the proposed development to eliminate the need for utility cuts in the newly resurfaced street. The applicant paid the total cost to install these utilities. During the installation of these utilities, the applicant chose not to install natural gas service to the property.
6. A building permit was not submitted with the application; however, conceptual elevations, floor plans, site plan and other information was submitted. Building code, fire code, certain zoning code and other requirements commonly reviewed with the building permit process shall be done so at the time of a formal building permit application submittal.
7. The property is designated "Commercial" on the City of Mukilteo 2035 Comprehensive Plan ("Comprehensive Plan") Land Use Map. The proposal complies with the intended goals, objectives and policies of the Comprehensive Plan. The following Comprehensive Plan Land Use (LU), Utilities (UT) and Parks and Open Space (PK) policies apply to this project:

LU3: Property rights of landowners shall be respected by protecting those rights from arbitrary and discriminatory actions by the city.

LU9: The City shall manage and regulate development in critical areas and the shoreline to allow reasonable and appropriate uses in those areas while protecting them against adverse effects and shall regularly evaluate these regulations and programs to ensure they continue to use the best available science to protect environmentally sensitive areas from negative impacts associated with development.

LU14: All development shall occur only in areas with adequate public utilities and services including but not limited to water, sewer, storm drainage collection and disposal, solid waste disposal, police and fire protection, or areas into which such utilities and services can be readily extended at no cost to the City of existing users.

UT7 Surface water management planning and operations shall comply with City, State, and Federal surface water regulations and be consistent with the City of Mukilteo Comprehensive Plan.

UT7a: New and reconstructed stormwater collection, conveyance, and treatment systems and the construction and reconstruction of streets shall comply with all NPDES requirements and City design standards.

UT7d Drainage, flooding, and stormwater run-off impacts shall be minimized to the maximum extent practical in land use development proposals and City operations.

PK7: Preserve areas with critical or unique natural features such as stream corridors, steep slopes, wildlife habitats, wetlands, and ravines.

8. The subject property is zoned Community Business-South (CB(S)). Places of worship are a permitted use in the Community Business-South zone. *(See Mukilteo Municipal Code (MMC) Table 17.16.040).*
9. The Comprehensive Plan designations, zoning and land uses of surrounding properties are as follows:

Direction	Comprehensive Plan	Zoning	Land Use
North (Across Harbour Point Boulevard)	"Commercial"	Community Business-South	Shopping Center
East	"Commercial"	Community Business-South	Financial Institution
South	"Commercial" and "Industrial"	Community Business-South Light Industrial	Vacant
West	"Commercial" and "Industrial"	Community Business-South Light Industrial	Vacant

10. Technical reports and documents submitted in support of the application include, but are not limited to:
 - Final Stormwater Report signed by Maher Welaye, P.E., Project Engineer, and dated 7/26/2020.

- Construction Stormwater Pollution Prevention Plan received June 5, 2018
 - Final civil plan consisting of ten sheets (various dates) and two bio-retention planting plan sheets (dated January 20, 2016).
 - Critical Area Study and Buffer Averaging Plan dated April 11, 2016 prepared by Wetland Resources, Inc.
 - Revised Mitigation Plan dated April 13, 2020, prepared by Wetland Resources, Inc.
 - Traffic Impact Analysis & Revised Parking Analysis dated Jan. 1, 2016 prepared by Raid Tirhi, PE.
 - Geotechnical Evaluations and Supplemental Memorandums prepared by Nelson Geotechnical Associates, Inc. dated Sept. 19, 2014, November 18, 2016, November 30, 2016, and November 10, 2017.
 - SEPA Checklist dated Feb. 20, 2016.
 - Application for Alternate Material, Design, or Method of construction on July 16, 2019 for relief from Section 3.6.7 of the Mukilteo Development Standards.
 - Application for Alternate Material, Design, or Method of construction on July 16, 2019 for relief from stormwater Minimum Requirement #7 for a small portion of the project, referred to as Basin 'B'.
 - Recorded Statutory Warranty Deed for Right of Way dedication.
 - Detention Vault (structural) Calculations and Structural Plans by Amir Engineering, dated January 15, 2020, as subsequently updated since with certain sheets.
11. A Type IV wetland is located on the site. A critical area study completed in April 15, 2014 identified the wetland as a Type III wetland requiring a 70-foot buffer. Because the Washington State Department of Ecology wetland rating system changed after the 2014 report was completed and before the project application was submitted, the applicants were required to submit a new critical area study. The critical area study dated April 11, 2016, using the new rating system, determined the wetland on site is a Type IV wetland requiring a 40-foot buffer. The City of Mukilteo had its on-call wetland consultant conduct an independent rating of the wetland on site. The consultant determined the wetland on site is a Type IV wetland requiring a 40-foot buffer.
12. When it was initially determined that the on-site wetland required a 70-foot buffer, it was found that a public hearing before the City's hearing examiner would be required as a "reasonable use" lot because the wetland buffer would have, in certain locations, been reduced by more than 50% to accommodate a driveway. However, since it was determined the wetland only requires a 40-foot buffer, accommodating a driveway does not necessitate reducing the buffer by more than 50%. The land use development permit is subject to administrative approval and does not require a public hearing.
13. The applicant proposes the use of (wetland) Buffer Width averaging. MMC Section 17.52B.100(G)(2) under the heading "Buffer areas", addresses buffer averaging to allow reasonable use of a parcel. A review of the criteria with staff analysis (*in italics*) is as follows:

G. Buffer Averaging.

...

2. Averaging to allow reasonable use of a parcel may be permitted when all of the following are met:

a. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.

The April 11, 2016 Wetland Resources Critical Area Study and Buffer Averaging Plan states that no feasible alternative site design could be accomplished without buffer averaging and that buffer averaging will not result in degradation of wetland functions and values.

The Wetland Resources Revised Mitigation Plan dated April 13, 2020 states that that due to the location of an on-site wetland near the entrance to the site, permanent buffer reductions are unavoidable. The wetland and its buffer are near the front of the property and averaging of some type is required to allow for access while avoiding direct wetland impacts. There is no feasible alternative for access into the site that would result in less impact and would achieve the same safety requirements.

- b. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a report from a qualified wetland professional.

As noted above, the April 11, 2016 Wetland Resources Critical Area Study and Buffer Averaging Plan states that no feasible alternative site design could be accomplished without buffer averaging and that buffer averaging will not result in degradation of wetland functions and values.

Both the Critical Area Study and Buffer Averaging Plan dated April 11, 2016 and Revised Mitigation Plan dated April 13, 2020 were prepared by Wetland Resources, a qualified wetland professional firm.

- c. The total buffer area after being averaged is equal to the area required without the averaging.

The April 11, 2016 Wetland Resources Critical Area Study and Buffer Averaging Plan dated April 11, 2016 was updated by an April 13, 2020 Revised Mitigation Plan to take into consideration right-of-way dedication that occurred after the application was submitted.

The April 13, 2020 Revised Mitigation Plan indicates that the buffer area to be reduced is 1,181 square feet. The total area to be added is 2,918 square feet. The averaging plan results in a 2.5:1 mitigation to impact ratio.

- d. The buffer at its narrowest point is never less than fifty percent of the required buffer width.

The April 13, 2020 Wetland Resources Revised Mitigation Plan references that the final buffer retains a minimum 20-foot wide buffer between the portion of the on-site wetland and the driveway, which is 50% of the standard 40-foot buffer. The civil site plan set also shows that the buffer at its narrowest point is 20 feet.

- e. Mitigation sufficient to compensate for the impacts as determined by a qualified specialist is provided for all buffer averaging proposals.

The April 11, 2016 Wetland Resources Critical Area Study and Buffer Averaging Plan provides for a buffer enhancement plan with enhancement plantings and native tree species. New tree plantings will improve screening and protection around the perimeter of the wetland.

The Wetland Resources Revised Mitigation Plan dated April 13, 2020 also describes how the buffer averaging plan provides sufficient mitigation for the minor buffer reduction of 1,181 square feet and provides a mitigation ratio of 2.5:1 which is in excess of the City's requirement.

Based on the above, the proposal meets the requirements for buffer averaging to allow reasonable use of a parcel.

14. The proposal is subject to the reasonable use provisions of MMC section 17.52.025 entitled "Reasonable use provisions". Reasonable use requests require an applicant demonstrate certain criteria. The criteria, and a staff analysis (in italics), is as follows,

1. That no reasonable use with less impact on the critical area and/or the buffer is feasible and reasonable;

The need for buffer averaging is necessitated by the narrowness of the property and the need for the property to have access in some form. The Wetland Resources Revised Mitigation Plan dated April 13, 2020 states that due to the location of an on-site wetland near the entrance to the site, permanent buffer reductions are unavoidable. The wetland and its buffer are near the front of the property and averaging of some type is required to allow for access while avoiding direct wetland impacts. There is no feasible alternative for access into the site that would result in less impact and would achieve the same safety requirements.

2. There is no feasible and reasonable on-site alternative to the proposed activity or use that would allow reasonable use with less adverse impacts to the critical area and/or buffer. Feasible on-site alternatives shall include, but are not limited to: reduction in density or building size, phasing of project implementation, change in timing of activities, and revision of road or parcel layout or related site planning considerations;

The need for buffer averaging is necessitated by the narrowness of the property and the need for the property to have access in some form. The Wetland Resources Revised Mitigation Plan dated April 13, 2020 references that the wetland and buffer are at the front of the property. Due to the location of an on-site wetland near the entrance to the site, permanent buffer reductions are unavoidable. There is no feasible alternative for access into the site that would result in less impact and would achieve the same safety requirements.

3. There are no practical alternatives available to the applicant for development of the property. An alternative is practical if the property or site is available and the project is capable of being done after taking into consideration existing technology, infrastructure, and logistics in light of the overall project purpose;

No practical alternatives are available to the applicant for development of the property. The reasonable use is necessitated by the narrowness of the property and the need for the property to have access in some form. The Wetland Resources April 13, 2020 Revised Mitigation Plan states that due to the location of an on-site wetland near the entrance to the site, permanent buffer reductions are unavoidable.

4. The proposed activity or use will be mitigated to the maximum practical extent and result in the minimum feasible alteration or impairment of functional characteristics of the site, including contours, vegetation and habitat, groundwater, surface water, and hydrologic conditions, and consideration has been given to best available science;

The April 11, 2016 Wetland Resources Critical Area Study and Buffer Averaging Plan provides for a buffer enhancement plan with enhancement plantings and native tree

species. New tree plantings will improve screening and protection around the perimeter of the wetland. This requirement was supplemented by additional landscaping requirements contained in the SEPA Mitigated Determination of Non-Significance issued for the proposal on June 17, 2016.

5. There will be no material damage to nearby public or private property and no material threat to the health or safety of people on or off the property;

No material damage to nearby public or private property and no material threat to the health or safety of people on or off the property will result from the proposal.

6. The proposed activity or use complies with all local, state, and federal laws and the applicant has applied for or obtained all required state and federal approvals; and

The proposed activity or use appears to comply with all local, state, and federal laws for grading activity.

7. The inability to derive reasonable use is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after March 23, 1992.

This is not applicable. The reasonable use is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after March 23, 1992.

15. Pursuant to MMC 17.52B.150(A), wetland mitigation proposals must satisfy requirements for performance monitoring (five year minimum) with the submittal of monitoring reports by August 1st of each year during the monitoring period. Monitoring reports shall follow the recommendations contained in the Department of Ecology's publication "Guidance on Wetland Mitigation in Washington State," Part Two.

16. Pursuant to MMC 17.52B.150(B) an acceptable surety device is required to ensure the applicant's compliance with the terms of the wetland mitigation agreement.

The wetland and mitigation enhancement is to be complete prior to final inspection and approval of ENG 2016-005. If work is not complete with the final civil work associated with ENG 2016-005 due to weather conditions which may negatively affect the success of the project, a performance surety may be used. The surety shall equal one hundred fifty percent of the cost of the mitigation project, and the required improvements shall be installed in a satisfactory manner within six months or less.

17. Pursuant to MMC section 17.52B.150(B) a maintenance surety shall be required on all mitigation projects to ensure that the improvement successfully survives the monitoring required periods as applicable:

a. Wetland Mitigation Projects. The amount of the maintenance surety shall be equal to fifteen percent of the cost of the mitigation project and the term of the surety shall reflect that of the monitoring program.

- b. Buffer Enhancement Projects. The amount of the maintenance surety shall be equal to fifteen percent of the costs of the enhancement project and the term of the surety shall reflect that of the monitoring program.
 - c. Monitoring Deposit. A cash deposit shall be submitted with all sureties prior to final acceptance of the project to cover the estimated city's costs to review the yearly monitoring reports and conduct a site inspection to ensure the performance standards are being met.'
- 18. Pursuant to MMC section 17.52B.150(C), the applicant or their heirs or successors shall be responsible for the long term maintenance of the wetland and its associated buffer. The wetland and buffer shall be kept clear of weeds, invasive plant material, lawn clippings, junk, debris, intrusions or the like.
- 19. The property is vacant and has vegetation and some small trees. A Federal Aviation Administration (FAA) easement, that provides for the ability of FAA to manage (e.g. cut down trees) vegetation on the property, exists. Vegetation management on the property and surrounding properties was conducted, without notice, by the Paine Field/FAA in 2018. This vegetation management work removed the significant trees and some vegetation from the property.
- 20. After removing the trees, without notice, the Paine Field stated.

"This tree removal operations was conducted on behalf of the FAA. During a recent FAA feasibility study on one of Snohomish County Airport's instrument approach procedures, numerous airspace penetrations were identified as trees in several lots located south of the approach end of runway 34L. ...

Paine Field contracted Asplundh Tree Company to remove all tree's *[sic]* that were identified as current or future airspace penetrations."

No replacement vegetation was proposed or offered by Paine Field.
- 21. Requiring planting of tall growing trees would eventually conflict with Paine Field/FAA requirements, especially as Paine Field has begun commercial flights from Paine Field since the time of the application.
- 22. Staff administratively reviewed Engineering Permit (File No. ENG-2016-005) for consistency with all applicable requirements of MMC 12.04.030, MMC 13.12.160 and MMC15.16.050, and Mukilteo's Development Standards, including but not limited to drainage, clearing, grading, erosion control, access and street standards.
- 23. The Drainage Report meets the City's design standards per the Washington State Department of Ecology's Stormwater Management Manual for Western Washington (2012), as amended in 2014.
- 24. The project proposes to install flow control and water quality improvements as mitigation for stormwater impacts in accordance with the 2014 Department of Ecology Stormwater Manual. The project proposes to meet a portion of its water quality requirement with a

proprietary Bayfilter device, approved under Department of Ecology's Technology Assessment Protocol- Ecology (TAPE) program, for General Use Level Designation.

25. The project site has been determined to have a high sediment transport damage potential. The applicant has indicated a desire to clear and grade in the wet weather (defined as between October 1st and April 30th). Wet Weather Erosion Control Plans are required to be submitted to the City if a project involves clearing or grading between October 1st and April 30. The Wet Weather Erosion Control Plan must meet the requirements of Mukilteo 2019 Development Standards, Section 3.5.4.2.
26. Utilities are available to serve the subject property. Water and sewer is available from the Alderwood Water and Wastewater District. Electricity is available from Snohomish County PUD. Natural Gas is available from Puget Sound Energy. The applicant has not yet submitted a building permit nor provided evidence of utility plan approval from the Alderwood Water and Wastewater District (AWWD). AWWD utility plan approval shall be required prior to building permit issuance.
27. Updated water and sewer availability certificates and power certificate shall be provided, if necessary, from the AWWD and Snohomish County PUD prior to issuance of the Engineering Plans (File No. ENG-2016-005) or with submittal of the building permit application, as determined by the City
28. A Certificate of Concurrence was issued by the City in November 2016 for the project proposal in accordance with MMC 1715, Ordinance No. 1131, effective July 27, 2005.
29. Transportation Impact fee trips were calculated in November 2016 as 2.09 pm peak trips based on the conceptual building plan and building size provided by the applicant at the time. At building plan submittal, the traffic mitigation shall be reviewed again if there are changes in building size, the proposed use or traffic mitigation fee rates.
30. The pavement along Harbour Pointe Boulevard SW was resurfaced as part of the Harbour Pointe Boulevard SW Widening Project in May 2020 and is subject to a five-year pavement cut moratorium as outlined in Mukilteo Development Standards Section 4.3.10 entitled "Pavement Cut Moratorium For Utility Work".
31. The applicant submitted a Traffic Impact Analysis and Revised Parking Analysis dated January 9, 2016. The analysis concluded that the practical capacity or maximum attendance that could be accommodated at the site is 53 attendees and that based on the parking code, 14 parking spaces is required.
32. Bulk and other applicable development standards including, but not limited to, building setbacks, lot coverage, building height, landscaping (landscaping that was not reviewed with ENG2006-005) shall be reviewed/verified with the building permit submittal.
33. Fire Department requirements including but not limited to, sprinklering of the building, addressing, fire protection systems, and hydrant requirements shall be reviewed with the submittal of the building permit in accordance with applicable Fire Code Development Standards and International Fire Code requirements.

34. Based on the Bernard Dunkelberg & Company FAR Part 150 Noise Exposure Update on the Paine Field website, the property lies within the 55 DNL noise contour of Paine Field Airport.
35. On June 24, 2016, the City of Mukilteo issued the final Mitigated Determination of Non-Significance (MDNS) on the proposal with three mitigation measures and a 14 day appeal period. No appeal of the SEPA determination was submitted and the threshold determination stands as issued. The MDNS contained mitigation measures to protect the wetland on site.
36. Approximately 20 comment letters were received by the City in response to the Notice of Application and the MDNS. Most comments were concerned about matters related to traffic, protection of the wetland, protection of wildlife that visit the site, the use of loudspeakers and associated noise, parking, the nature of the use and the Islam religion. These comments were reviewed and considered while reviewing the project. A condition to address noise impacts is appropriate.
37. One agency comment was from the Federal Aviation Administration (FAA). The FAA letter requested that the applicant run at least a portion of the building through the FAA Notice Criteria tool on the FAA website to determine if a study is required. Evidence that this has been done will be required with the building permit application.

CONDITIONS OF PROJECT APPROVAL

1. All improvements shall be constructed in accordance with the approved civil construction drawings dated January 29, 2020, with replacement sheet 1 of 10 dated 9/10/2020; replacement sheets 3 of 10, 6 of 10, 7 of 10, and 9 of 10 dated June 4, 2020; and bioretention planting plans dated 1-16-2020 on file with the City. Minor modifications of the construction plans may be approved by the Community Development Director or Public Works Director if the modifications do not substantively change the Findings of Fact or the Conditions of Approval.

Clearing & Grading:

2. Prior to issuance of a clearing and grading permit:
 - A. An off-site and an on-site pre-construction meeting is required. The on-site pre-construction meeting shall involve the City inspector and the contractor to review clearing limits and erosion control prior to installing erosion control measures.
 - B. A Wet Weather Erosion Control Plan shall be submitted to the City for review and approval a minimum of 30 days in advance of grading activity if the project involves clearing or grading between October 1st and April 30. The Wet Weather Erosion Control Plan must meet the requirements of Mukilteo 2019 Development Standards, Section 3.5.4.2.

3. Prior to clearing or grading activity, the applicant shall provide a traffic control plan/haul route for review and approval by the City. The traffic control plan/haul route shall address, as applicable:

- A. Proposed haul route for earthwork (grading cut and fill);
- B. General location and type of warning lights, safety devices, signs and barricades intended to protect vehicular or pedestrian traffic at the site;
- C. How emergency access will be maintained to the subject property and other properties served by the public road leading to the site and the private access road on the site.

This requirement shall also apply to work performed under the building permit.

4. Prior to clearing or grading activity:

- A. A performance guarantee for erosion and sediment control, including final site stabilization, is required per Mukilteo Development Standards section 1.6.1 and shall be submitted to the City. The erosion and sediment control measures shall follow methods found in the 2012 Stormwater Management Manual for Western Washington, Volume II, Construction Stormwater Pollution Prevention. The performance guarantee shall be equivalent to 150% of an engineer's estimated cost for sediment control and final site stabilization.
- B. The clearing limits of the approved plans shall be clearly delineated in the field with barrier fencing to be maintained for the duration of the project. The delineated clearing limits and erosion control measures shall be inspected and approved.
- C. The boundary of areas to the wetland and the wetland buffer shall be clearly marked in the field with fencing and required signage, approved by City inspector, and be maintained for the duration of the project. Where such limits are in proximity to property boundaries or associated with site-sensitive areas, barrier fencing or siltation fencing shall be installed before site disturbance in accordance with the approved Temporary Erosion and Soil Control Plan.
- D. All property corners shall be staked and marked and maintained throughout the duration of the project.
- E. The applicant shall provide the disposal location for any material that is hauled off the site.

5. Siltation and erosion control measures shall be employed per the approved Stormwater Pollution Prevention Plan and/or the Temporary Erosion and Sediment Control Plan and as necessary to ensure appropriate on-site and off-site water quality control. Site runoff during construction shall be handled and treated as to quantity and quality impacts by utilizing Best Management Practices, as defined in the current DOE Stormwater Management Manual for Western Washington and the current Department of Ecology National Pollutant Discharge Elimination System (NPDES).

6. All work activity shall physically take place on the property. Any use of adjoining properties for construction work shall not be allowed unless the City is provided with a construction easement meeting the requirements of the City. Should field inspection find that work is taking place on adjoining properties, then work shall be required to cease immediately, and the adjoining property shall be restored to pre-construction conditions as soon as possible.
7. If at any time during clearing, grading and the entire duration of construction the streets are not kept clean and clear, all work shall stop until the streets are cleaned and maintained in a manner acceptable to the Public Works Director.

Retaining Walls:

8. Special inspections shall be conducted for the construction of the retaining wall(s) by the Design Structural Engineer, or their designee. The reports shall be completed and submitted to the City. These reports shall verify that the wall(s) were built per the approved Engineered design, or that any deviations were approved by the Structural Engineer of record.
9. All backfill materials for walls shall be approved by a licensed geotechnical professional prior to being placed on site. The approval shall be documented and submitted to the City.
10. Prior to any asphalt or concrete work on the site testing reports, showing approval by a licensed geotechnical professional of structural fill placed in the wall area, shall be submitted to the City.
11. No construction personnel or equipment shall access any adjacent property during the construction process, including construction of the walls or any utilities, without having secured legal permission for access from the neighboring property(ies), such as a Temporary Construction Easement, signed by the neighboring property owner. No construction materials shall be placed or disposed of on the neighboring properties.
12. All work shall be done in accordance with the Geotechnical Evaluation dated Sept. 19, 2014 prepared by Nelson Geotechnical Associates, Inc. and the Retaining Wall and Infiltration Memorandum-Revised dated November 10, 2017 prepared by Nelson Geotechnical Associates, Inc.

Parking:

13. If the off street parking area is constructed in advance of the building permit, it (off-street parking area) shall only be available for public use when the building is completed. Use of the parking area for general parking purposes shall not be allowed until a use (e.g. building) is constructed on the property or unless authorized by a City approved parking agreement with another property. The City may require the applicant to install features to prohibit public access and use of the parking area until an allowed use is established.

Critical Areas:

14. No construction debris shall be placed or disposed of in the Native Growth Protection Areas and/or Native Growth Protection Easements.

15. Prior to final inspection and approval of Engineering Permit ENG2016-005, the applicant shall record a document, acceptable to the City, implementing the requirements of MMC section 17.52.035 entitled "Native growth protection areas (NGPAs) and buffers". This document shall preserve the wetland and wetland buffer through a permanent protective mechanism acceptable to the City, incorporating the language contained in that code section.
16. In accordance with MMC section 17.52.035(D),
 - A. During periods of construction, clearing, or grading, or excavation, temporary sign(s) shall be placed at the boundary of all native growth protection areas during periods of construction, clearing, grading, or excavation on adjacent property. The sign(s) shall describe the limitations of on-site disturbance and development within the native growth protection area and/or easement.
 - B. Prior to final inspection and final approval of work associated with ENG 2016-005 permanent sign(s) shall be placed at the boundary of the native growth protection areas and/or easements describing the limitation on development, spaced 50 feet on center around the periphery of the critical area.
17. The April 11, 2016 Critical Areas Study and Buffer Averaging Plan provides for a buffer enhancement plan that includes "Planting Notes". All applicable buffer enhancement and Planting Note recommendations of the Critical Areas Study and Buffer Averaging Plan dated April 11, 2016, as modified by the City's SEPA determination dated June 17, 2016, shall be met. This shall constitute the conceptual buffer enhancement mitigation plan. Any modifications shall require City approval upon recommendation from a qualified wetland ecologist provided by the applicant.
18. Landscaping of the wetland buffer area shall be in accordance with the Wetland Resources Inc. April 11, 2016 Wetland Resources Critical Area Study and Buffer Averaging Plan, as modified by the June 24, 2016 SEPA mitigation measures and shall be subject the following:
 - A. All plantings shall be installed by the applicant, inspected, and approved by the City of Mukilteo prior to final inspection and approval of the work authorized under Engineering Permit No. ENG 2016-005.
 - B. All plantings associated with a project permit shall require the submittal of an acceptable warranty surety to warrant all required plantings against defects in labor and materials for the monitoring period after acceptance of those improvements by the City. The warranty amount shall be fifteen (15) percent of the costs of the improvements, as determined by the City. The surety shall be submitted to and approved by the City of Mukilteo and executed prior to final inspection and approval of the work authorized under Engineering Permit No. ENG 2016-005.
 - C. The mitigation and/or buffer enhancement site(s) shall be monitored for a minimum of five (5) years. The monitoring period required by the city may be extended an additional two (2) years if the wetland or buffer is not performing as expected by the mitigation or enhancement plan. The monitoring reports shall be submitted on August 1st of each year during the monitoring period. Monitoring reports shall follow the recommendations contained in the Department of Ecology's publication "Guidance on Wetland Mitigation in Washington State," Part Two.

- D. A deposit shall be submitted prior to the final inspection and approval of the work authorized under Engineering Permit No. ENG 2016-005. Submittal for sureties shall cover the estimated City's costs to review the yearly monitoring reports and conduct a site inspection to ensure the performance standards are being met.
- 19. Prior to the City's final inspection/approval of the improvements identified in the Engineering Permit No. ENG2016-005, a final wetland buffer enhancement mitigation plan, prepared by a qualified wetland ecologist and meeting the requirements of MMC 17.52B.140, shall be submitted to the City.
- 20. The applicant shall have a licensed Landscape Architect prepare and/or supervise the preparation of As-Built drawings of the wetland buffer landscaping.

Stormwater

- 21. The stormwater design accounts for 0.04 acres (1,742 square feet) of roof area and 0.39 acres (16,988 square feet) of paved parking and driveway area. If the total roof area and parking area exceeds 0.43 acres (18,730 square feet), a new stormwater design will be required for City review and approval.
- 22. Special inspections shall be conducted by the Design Structural Engineer, or their designee, for the stormwater vault construction and the reports completed and turned into the City. These reports shall verify that the vault was built per the approved design, or if deviations were made, they were approved by the Structural Engineer of record.
- 23. If the project has not started construction prior to July 1, 2022, the applicant will be required to submit a new stormwater permit application that meets the then current stormwater design regulations for review and approval by the City, or to comply with the City's NPDES Phase II Permit, which may be amended from time to time. In this case, "started construction" shall be the definition in the City's NPDES Phase II Permit.
- 24. Prior to stormwater punch list inspection, the property owner shall grant (signed and recorded) the City an access easement allowing inspection to verify maintenance conditions of the stormwater improvements (BMPs).
- 25. Prior to stormwater punch list inspection, the property owner shall sign and record a covenant for maintenance of stormwater improvements (BMPs). No certificate of occupancy shall be granted prior to City acceptance of the covenant.
- 26. A Performance Bond shall be required for 12 months' worth of post-construction inspections and the cost of cartridge replacement for the proprietary Bayfilter water quality treatment device.
 - A. Prior to Stormwater Permit issuance, the Applicant shall submit cost estimates for the bond.
 - B. The inspections shall be conducted by qualified personnel, follow manufacturer's guidelines, and must use methods capable of determining either a decrease in treated effluent flowrate and/or a decrease in pollutant removal ability.

- C. The bond is due at the time of the Stormwater Punch List Inspection and shall cover the cost to conduct monthly inspections from the start of post-construction operation to determine site-specific inspection/maintenance schedules and requirements during the wet season (7 total), and every other month during the dry season (2 total). (The wet season in western Washington is October 1 to April 30.) The cost shall cover replacement of the filter media.
- D. The inspection reports shall be submitted to City.
- E. Maintenance shall be performed according to the inspection results.

Streets and Transportation Impact Fees:

27. Prior to issuance of the building permit, Transportation Impact Fees are shall be paid. (MMC 3.107) As noted in the Findings of Fact #29, the estimated number of new pm peak hour trips was calculated in 2016 as 2.09. The fees will be based on the adopted fee schedule at the time of payment. The number of trips is based on the building size and shall be reevaluated if the building increases or decreases in size or change of use.

Fire:

28. Additional Fire Department requirements shall be reviewed with the submittal of the building permit in accordance with Fire Code Development Standards and International Fire Code requirements.

At a minimum, the following requirements shall be met:

- A. The proposed place of worship shall be sprinklered;
- B. A water supply capable of supplying the required fire flow for fire protection shall be provided;
- C. As applicable, fire hydrants shall be installed as per fire flow and spacing requirements specified for the type of development with regards to distances to structures;
- D. Fire hydrants, if required, shall be equipped four- (4) inch quarter-turn Storz adapters;
- E. An access route, for fire fighting apparatus, shall be provided at the start of construction. Minimum access route requirements include a 20' width, 13'6" vertical height clearance, and the ability to support a load up to 75,000 pounds;
- F. All buildings must be addressed visibly and legibly from the road. When buildings are not visible from the street, appropriate provisions must be made to identify clearly which road or drive serves the appropriate address including private roads.
- G. Fire protection systems including, but not limited to the following: sprinkler systems, standpipe systems, fire extinguisher systems, fire hydrants, and fire detection or alarm systems shall be installed in accordance with Fire Code Development Standards and International Fire Code.
- H. Provide a Washington State certification number for any work done on fire protection systems, i.e. sprinkler systems, standpipe systems, fire detection/alarm systems or any underground for the fire protection system.
- I. If applicable, one (1) blue, square (Type II) raised grade or permanent marker shall be installed in the roadway to indicate each fire hydrant location. It shall be placed directly across from the hydrant location, off set one (1) foot from the roadway center toward the hydrant.

Utilities and Right-of-Way:

29. Updated water and sewer availability certificates and power certificate shall be provided, if requested by the City, from Alderwood Water and Wastewater District and Snohomish County PUD prior to issuance of the Engineering Permit (File No. ENG-2016-005) or submitted with the building permit application, as determined by the City.

30. Prior to building permit issuance:

- A. The applicant shall enter into a "Developer Extension Agreement" or other applicable agreement with the Alderwood Water & Wastewater District ("District"). All construction of water and sewer facilities shall be in accordance with the standards, specifications and regulations of the District.
- B. Utility and construction easements, if needed, from property owners for utilities, shall be obtained and recorded.

31. The cost of any work, new or upgrade, to the existing electric system and facilities that is required to connect the project to the Snohomish County PUD electric system shall be in accordance with applicable Snohomish County PUD policies.

32. All construction equipment, building materials, and debris shall be stored on the applicant's property, out of the public right-of-way. In no case shall the access to any private or public property be blocked or impinged upon without prior consent from the affected property owners and the City of Mukilteo.

33. As noted in the Findings of Fact #30, Harbour Pointe Boulevard SW has a pavement cut moratorium until May 2025 unless allowed under Section 4.3.10 of the Mukilteo Development Standards. If a utility cut is required during the moratorium, a full street overlay shall be required per Section 5.15 of the Mukilteo Development Standards. All other pavement restoration shall meet the requirements of Section 5.15 of the Mukilteo Development Standards.

34. A traffic and/or pedestrian control plan shall be submitted to the City for review and approval prior to any work occurring in the right of way that impacts or obstructs the sidewalk, driveway entrance or travel lanes. A separate right-of-way permit shall be obtained by the applicant if the right of way work is scheduled after final inspection and approval of Engineering Permit (File No. ENG-2016-005). (i.e. This requirement shall also apply to the building permit.)

Other:

35. Noise from construction activity that is audible beyond the property lines of the project site shall not be allowed between the hours of nine (9) p.m. to seven (7) a.m. on weekdays, and between seven (7) p.m. to nine (9) a.m. on Saturdays, Sundays and holidays.

36. The mailbox location must be approved by the U.S. Postal Service prior to issuance of the building permit. The applicant shall contact the U.S. Postal Service Growth Management Coordinator to arrange an appointment.

37. The applicant shall have a licensed Civil Engineer prepare and/or supervise the preparation of As-Built drawings to be reviewed, approved and signed by the City Engineer upon satisfactory installation of the constructed infrastructure improvements and site work. One (1) reproducible, one (1) signed Mylar drawing and one (1) 11"x17" reduced copy of the drawings shall be submitted prior to final approval of the proposed project.
38. Landscaping, not associated with the wetland or wetland buffer, shall be installed in accordance with the plan dated July 8, 2017 and bioretention planting plan dated January 16, 2020, except that revisions to non-wetland landscaping is allowed to address the revised driveway design and right-of-way dedication. A final landscape plan shall be submitted prior to final approval of the Engineering Permit 2016-005. In addition,
- a. All landscaping associated with a project permit shall require the submittal of an acceptable warranty surety to warrant all required landscaping improvements against defects in labor and materials for a period of twenty-four (24) months after acceptance of those improvements by the City. The warranty amount shall be fifteen (15) percent of the costs of the improvements, as determined by the City. The surety shall be submitted to and approved by the City of Mukilteo and executed before final inspection and approval of Engineering Permit No. ENG2006-005 or occupancy of the building, whichever occurs first.
 - b. All landscaping shall be maintained in healthy growing condition. A final landscape inspection will be performed at the end of the two (2)-year period and any dead, dying or diseased plant material shall be replaced.
 - c. Minor modifications of the landscaping plans submitted may be approved by the Community Development Director.
39. All building, fire and other construction related code requirements shall be reviewed with the building permit. Bulk and other standards shall be verified with the building permit including but not limited to lot coverage, traffic impact fees, off-street parking dimensions, setbacks, signage, and building height. Building permit plans shall reflect the right-of-way that was dedicated. Modifications to work approved under Engineering Permit No. ENG2016-005 resulting from review of the building permit and other permits shall require either a new engineering permit application or revision, as determined by the Public Works Director.
40. No outside amplified audio systems shall be allowed on the site. Interior amplified audio systems are allowed provided the sound cannot be heard from adjacent property or right-of-way.
41. All outside storage containers, including dumpsters, shall be enclosed by a sight obscuring fence.
42. All contractors and subcontractors working on the project described herein shall obtain a business license from the City before initiation of any site work.

43. All exterior lighting, as applicable, including the parking area and property surrounding the building, shall be arranged so as to reflect away from surrounding properties and streets.
44. Submittal of the building permit application shall be accompanied with evidence of coordination with the FAA/Paine Field, including documentation that the applicant has used the FAA Notice Criteria tool on the FAA website to determine if a study is required. If a study is required, it (study) shall be submitted with the building permit application.
45. Development shall comply with the mitigation measures associated with the SEPA MDNS for the proposal issued June 24, 2016.
46. The applicant shall comply with all other applicable codes, ordinances and requirements.

Validity

The project permit shall be valid for four (4) years from the date of this Notice of Decision. If a building permit, grading permit, or occupancy permit is not obtained within this period, the project permit shall become null and void, and a new project permit application would need to be submitted. The Community Development Director may grant an extension to the approval date for a period of one (1) year if such extension is requested prior to the expiration of the project permit.

Any violation of the Conditions of Approval shall be considered a violation of the project permit and shall be subject to the City's code enforcement procedures.

Appeals

A Party of Record must file an appeal of this project decision within fourteen (14) calendar days from issuance of this Notice of Decision. Appeals must be delivered to the City Clerk by mail, personal delivery, or other method, during normal business hours by **4:30 p.m., December 9, 2020**, at City Hall, 11930 Cyrus Way, Mukilteo, WA 98275.

City Hall is currently closed to walk in public visitors in response COVID-19. Materials related to the application may be viewed at the City of Mukilteo website at www.mukilteowa.gov. A limited number of large size hard copies of the civil plan sheets can be made available for review upon request.

Appeals may be submitted prior to the appeal deadline. Please call City Hall (425) 263-8000 during regular business hours and arrangements can be made for receipt of an appeal.

Appeals shall be in writing on the approved form with the required information provided, accompanied by an appeal fee as outlined in the city's most current fee resolution, and shall include the appellant's signature.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation. For information regarding property valuations and/or assessments, contact the Snohomish County Assessor's Office at (425) 388-3433.

Contact Person: David Osaki


(425) 263-8000



11/25/2020

David Osaki, Director, Planning & Community Development

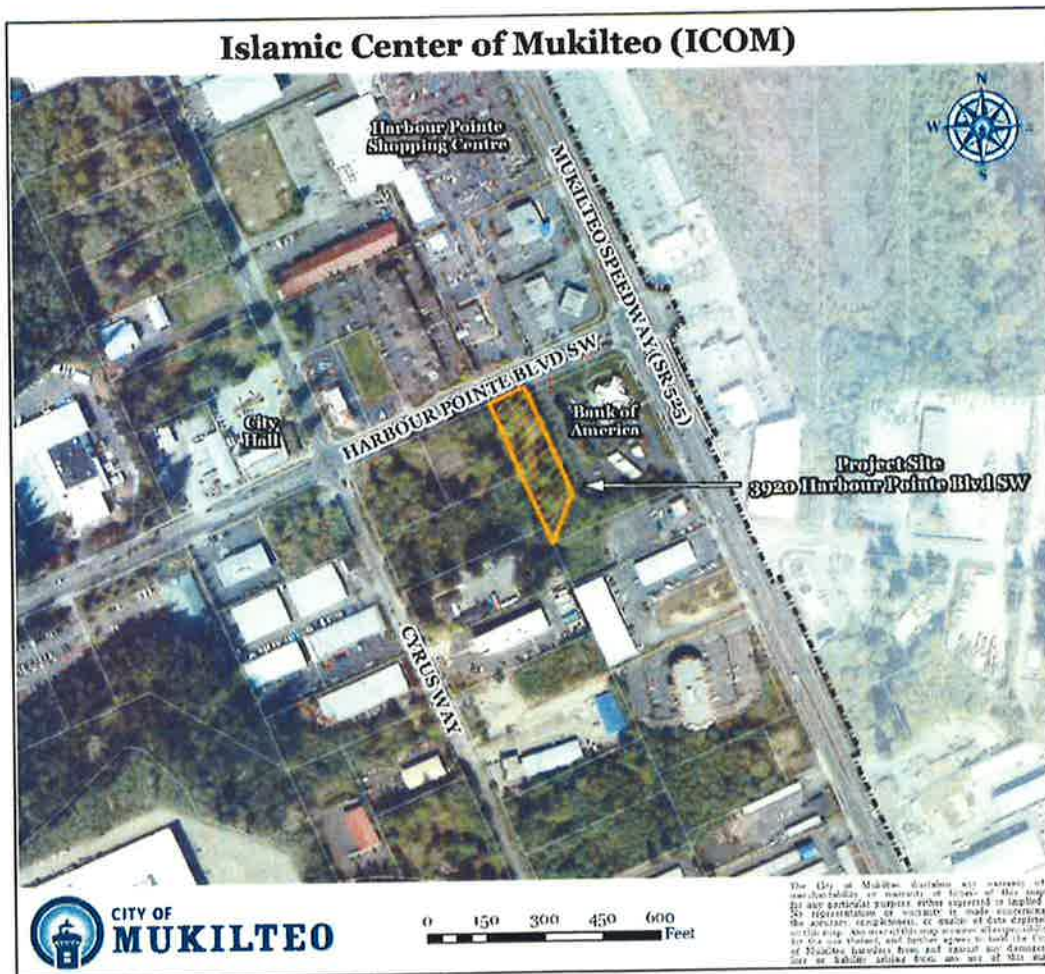
Date



11/25/2020

Andrea Swisstack, Director, Public Works

Date



pc: Applicant/Representative
 Reviewing Agencies
 Interested Parties

CDD Director
 Permit Services Coordinator
 Permit Services Assistants (2)

Property File
 Property Owners (300')