

## SHORELINE CONDITIONAL USE PERMIT REVISION

**Prepared By:** Lauren Balisky, Planning Manager, on October 8, 2021

### General Information

City of Mukilteo File Number:	SH-2013-001	Ecology File Number:	2014-NW-623
Applicant:	Marsha Tolon, Environmental and Permitting Lead, on behalf of Washington State Department of Transportation (WSDOT) (see <b>Exhibit 1</b> )		
Property Owner(s):	WSDOT		
Location:	910 1 <sup>st</sup> Street (new ferry terminal location)		
Tax Parcel No(s):	<ul style="list-style-type: none"> <li>• 29043300401900 (Holding Lanes and Terminal Building)</li> <li>• 00596901400004 (Entrance and Toll Booths)</li> <li>• 00461400003002 (Employee Parking Lot and Transit Center)</li> </ul>		
Legal Description:	<p>Described in the order of parcels, above:</p> <ul style="list-style-type: none"> <li>• Section 33 Township 29 Range 04 Quarter SE LOT 4 OF CITY MUK BSP 2016-001 REC UND AFN 201701205001 BEING A PTN OF GOVT LOT 1 SD SEC 33 &amp; PTN OF GOVT LOT 1 SEC 4 TWP 28 RGE 4 &amp; PTNS OF BLK 1 LEVY'S ADD TO MUK &amp; OF BLK 1 W R HASSARD'S SECOND ADD TO MUK</li> <li>• Section 04 Township 28 Range 04 Quarter NE THOMAS ADD TO MUKILTEO BLK 014 D-04 TR 1 OF CITY MUK BSP 2016-001 REC UND AFN 201701205001 BEING A PTN OF BLK 14 SD PLAT &amp; OF BLK 1 HASSARDS ADD TO MUK</li> <li>• Section 33 Township 29 Range 04 Quarter SE HAGEN WATERFRONT TRACTS BLK 000 D-02 LOT 6 OF CITY MUK BSP 2016-001 REC UND AFN 201701205001 BEING A PTN OF LOT 30 SD PLAT &amp; PTN OF GOVT LOT 1 SD SEC</li> </ul>		
Property Size:	Approximately 15.61 acres (includes adjacent tideland area)		
Request Date:	November 3, 2020		
Date Complete:	April 12, 2021		



# Recommendation to Ecology

Request for Revision to Mukilteo Multimodal Ferry Terminal Approval  
City of Mukilteo File No(s): SH-2013-001  
Shoreline Conditional Use Permit  
Public Address (PA) System ADA Request

## Project Description and Request

The Washington State Department of Transportation (WSDOT) is requesting a revision to its Shoreline Conditional Use Permit (SCUP) for the new Mukilteo Multimodal Ferry Terminal. The revision request is to the April 1, 2014, City of Mukilteo Hearing Examiner (HE) SCUP decision (SH-2013-001) and May 14, 2014, Washington State Department of Ecology (Ecology) approval of the SCUP (Ecology File No. 2014-NW-623) (see **Exhibit 2**). The City processed the SCUP concurrently with an Essential Public Facilities permit request (City Case No: EPF-2013-001).

The WSDOT SCUP revision request is to amend Condition No. 30 of Ecology's SCUP approval to ensure that ferry operations are compliant with the American with Disabilities Act (ADA) standards during all hours of operation.

Condition No. 30 (*emphasis added*) requires WSDOT to:

"30. Submit an operations plan addressing noise impacts on the upland residential neighborhood from loud speakers / intercoms used to announce loading / unloading of the ferry. *Announcements shall be limited to 9 am – 6 pm to protect the quality of life of the upland residents*".

The requested revision would allow WSDOT to make announcements using the Public Address (PA) loud speaker / intercom system (PA System) outside of these hours for individuals needing accommodation under the United States Americans with Disabilities Act (ADA, 42 United States Code § 12101)<sup>1</sup>.

There were no conditions in the Final Environmental Impact Statement (FEIS)<sup>2</sup> Record of Decision or Appendices related to noise from the PA System.

Physical site characteristics, use characteristics, public utilities and services, and other descriptive information is not re-presented as part of this shoreline revision recommendation. This information can be found in the original shoreline conditional use permit and essential public facilities staff report and decision for this proposal.

NOTE: A separate WSDOT SCUP revision request was submitted to the City in order to retain 390 square feet of existing over-water trestle and four 12-inch timber piles at the former ferry terminal location to ensure an adjacent restaurant business retains its

<sup>1</sup> The Americans with Disabilities Act can be found online at:

<https://uscode.house.gov/view.xhtml?path=/prelim@title42/chapter126&edition=prelim>

<sup>2</sup> See Mukilteo Multimodal Final Environmental Impact Statement (June 2013), available online at:

<https://wsdot.wa.gov/sites/default/files/2018/11/07/Mukilteo-Multimodal-Project-Final-Environmental-Impact-Statement.pdf>



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emergency fire egress. This request was processed under a separate SCUP revision, approved by the Washington State Department of Ecology (Ecology) on July 21, 2021.

## Background

In 2020, WSDOT notified the City that due to changes in WSDOT policy and the terms of federal funding provided for the ferry terminal project, WSDOT needed to ensure that ADA-compliant notifications could be provided during all hours of operation (daily from 4:45 AM - 1:05 AM), and not just the limited hours in Condition No. 30 of 9 AM - 6 PM.

The Mukilteo Multimodal Ferry terminal project was granted a temporary Certificate of Occupancy in December 2020 and has verbal authorization from the City to provide ADA-compliant announcements for customers with disabilities until this revision can be formally approved.

## Other Agency and Tribal Review

This request was not required to be reviewed by other agencies.

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## Analysis and Findings

Requirement and Analysis		Finding: MMC Met?
Mukilteo Municipal Code (MMC) <a href="#">17B.13.170</a>	Washington Administrative Code (WAC) <a href="#">173-27-100</a>	
<p>A. A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the master program and/or the policies and provisions of Chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision. When an applicant seeks to revise a permit, local government shall request from the applicant detailed plans and text describing the proposed changes.</p> <p>This is a request to change a specific section of Condition No. 30 of the SCUP related to noise, and therefore requires a permit revision.</p>	<p>A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the master program and/or the policies and provisions of chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision. When an applicant seeks to revise a permit, local government shall request from the applicant detailed plans and text describing the proposed changes.</p>	<b>Yes; permit revision required.</b>
<p>B. If the city determines that the proposed changes are within the scope and intent of the original permit, and are consistent with the applicable master program and the Act, the city may approve a revision.</p>	<p>(1) If local government determines that the proposed changes are within the scope and intent of the original permit, and are consistent with the applicable master program and the act, local government may approve a revision.</p>	<b>Proposal evaluated against all criteria in this section; see below.</b>



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Requirement and Analysis		Finding: MMC Met?
Mukilteo Municipal Code (MMC) <a href="#">17B.13.170</a>	Washington Administrative Code (WAC) <a href="#">173-27-100</a>	
<p>"Within the scope and intent of the original permit" means all of the following:</p> <p>1. No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less;</p> <p>No changes to over water construction are proposed.</p>	<p>(2) "Within the scope and intent of the original permit" means all of the following:</p> <p>(a) No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less;</p>	<b>Provision not applicable.</b>
<p>2. Ground area coverage and height may be increased a maximum of ten percent from the provisions of the original permit;</p> <p>No ground area coverage or height increases are proposed.</p>	<p>(b) Ground area coverage and height may be increased a maximum of ten percent from the provisions of the original permit;</p>	<b>Provision not applicable.</b>
<p>3. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under a variance granted as the original permit or a part thereof;</p> <p>No changes to height, lot coverage, setbacks, or other requirements of the Mukilteo Shoreline Master Program are proposed.</p>	<p>(c) The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under a variance granted as the original permit or a part thereof;</p>	<b>Provision not applicable.</b>
<p>4. Additional or revised landscaping is consistent with any conditions attached to the original permit and with the applicable master program;</p> <p>No changes to landscaping are proposed.</p>	<p>(d) Additional or revised landscaping is consistent with any conditions attached to the original permit and with the applicable master program;</p>	<b>Provision not applicable.</b>

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<i>Requirement and Analysis</i>		<i>Finding: MMC Met?</i>
<i>Mukilteo Municipal Code (MMC)</i> <a href="#">17B.13.170</a>	<i>Washington Administrative Code (WAC)</i> <a href="#">173-27-100</a>	
<p>5. The use authorized pursuant to the original permit is not changed; and</p> <p>No changes to the use are proposed.</p>	<p>(e) The use authorized pursuant to the original permit is not changed; and</p>	<b>Provision not applicable.</b>
<p>6. No adverse environmental impact will be caused by the project revision.</p> <p>The ferry terminal has three PA System Zones (see <b>Exhibit 1b</b> for a "Public Address System Zones" map):</p> <ul style="list-style-type: none"> <li>- <b>Zone 1</b> is located in the indoor, second floor area of the main terminal;</li> <li>- <b>Zone 2</b> is located outdoors and covers the holding lanes plus the restrooms and future vendor area in the maintenance building; and</li> <li>- <b>Zone 3</b> is located in the outdoor, second floor area of the main terminal.</li> </ul> <p>Sound from the PA system in outdoor Zones 2 and 3 has the potential to reach the upland neighbors, and led to the addition of Condition No. 30, which requires WSDOT to,</p> <p>"30. Submit an operations plan addressing noise impacts on the upland residential neighborhood from loud speakers / intercoms used to announce loading / unloading of the ferry. <i>Announcements shall be limited to 9 am – 6 pm to protect the quality of life of the upland residents</i>" (emphasis added).</p> <p>WSDOT has prepared both an operational plan (see <b>Exhibit 1a</b>), ensuring that the volume and direction of the speakers is limited to that necessary to notify the travelling public, and a technical memorandum (see <b>Exhibit 1d</b>) that describes sound testing completed at the ferry terminal site and upland. The technical memorandum presents results from midday testing. No testing was completed prior to 9 AM or after 6 PM.</p> <p>The City of Mukilteo Municipal Code has established noise limitations for certain times and days of the week (<a href="#">MMC 8.18.020</a> and <a href="#">WAC 173-60-040</a>).</p>	<p>(f) No adverse environmental impact will be caused by the project revision.</p>	<b>Yes.</b>



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<p><i>Requirement and Analysis</i></p> <p><i>Mukilteo Municipal Code (MMC)</i> <u>17B.13.170</u></p> <p><i>Washington Administrative Code (WAC)</i> <u>173-27-100</u></p>	<p><i>Finding:</i> <i>MMC Met?</i></p>
<p>depending on the "environmental designation for noise abatement" (EDNA) of the sending (source) property and the receiving property. In this case, the ferry terminal is categorized as a Class C EDNA, and the upland residential properties are classified as a Class A EDNA.</p> <p>During "day" hours (7:00 AM to 10:00 PM Monday through Friday, and 9:00 AM to 10 PM on Saturdays, Sundays and Holidays), the maximum decibels at a Class A receiving property from a Class C source property is 60 decibels. This may be exceeded in any one-hour period as follows:</p> <ol style="list-style-type: none"> <li>1. 5 decibels for a total of 15 minutes total in any given hour (65 decibel maximum);</li> <li>2. 10 decibels for a total of 5 minutes total in any given hour (70 decibel maximum); or</li> <li>3. 15 decibels for a total of 1.5 minutes total in any given hour (75 decibel maximum).</li> </ol> <p>During "night" hours (all other hours), the maximum decibels at a Class A receiving property from a Class C source property is 50 decibels. This may be exceeded in any one-hour period as follows:</p> <ol style="list-style-type: none"> <li>1. 5 decibels for a total of 15 minutes total in any given hour (55 decibel maximum);</li> <li>2. 10 decibels for a total of 5 minutes total in any given hour (60 decibel maximum); or</li> <li>3. 15 decibels for a total of 1.5 minutes total in any given hour (65 decibel maximum).</li> </ol> <p>WSDOT proposes mitigation measures including, but not limited to, (see <b>Exhibits 1 and Exhibits 1a through 1d</b>):</p> <ol style="list-style-type: none"> <li>1. Set the PA system to be between 0 and 3 to maintain approximately 65 decibels at the source within each zone;</li> <li>2. Direct the speakers towards WSF customers and pointed down;</li> <li>3. Follow the Public Address System Operational Plan in compliance with the ADA.</li> </ol>	

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<p><i>Requirement and Analysis</i></p> <p><i>Mukilteo Municipal Code (MMC)</i> <u>17B.13.170</u></p> <p><i>Washington Administrative Code (WAC)</i> <u>173-27-100</u></p>	<p><i>Finding:</i> <i>MMC Met?</i></p>
<p>These measures result in the following decibel levels at adjacent residential and overnight use locations:</p> <ol style="list-style-type: none"> <li>1. 9541 1st Lane: 47 decibels approximately 200 ft. from sound source;</li> <li>2. 1070 1st Lane: 42-47 decibels approximately 200 ft. from sound source;</li> <li>3. Silver Cloud Hotel Parking, 718 Front Street: 45 decibels approximately 400 ft. from sound source (distance incorrect in request); and</li> <li>4. Losvar Condominium Parking, 610 Front Street: 37 decibels approximately 800 ft. from sound source (distance incorrect in request).</li> </ol> <p>The recommended PA system level of 0-3 results in decibel levels that meet the limits for Class A EDNA receiving properties at all times, regardless of time of day.</p> <p>In addition to the above, in a September 22, 2021 email to the City, the applicant supplemented information provided in the "Final Mukilteo Terminal - Public Address System Plan" submitted December 28, 2020.</p> <p>The applicant's December 28, 2020 materials stated that, with regards to the Vehicle Holding Area,</p> <p><b>"Vehicle Holding Area</b> <i>Announcement example - Please return to your vehicles and prepare for boarding.</i></p> <ul style="list-style-type: none"> <li>• To meet the ADA guidelines announcements will made during all operating hours <ul style="list-style-type: none"> <li>o To limit the decibels levels the holding area zone will be set at the minimum allowable level</li> <li>o Restroom decibels levels may be slightly higher to assure the message is audible</li> <li>o Discretion will be employed in determining the need for announcements during early morning/ late night hours of operation"</li> </ul> </li> </ul> <p>Concerning the statement above in the "Vehicle Holding Area" narrative about discretion being employed in determining the need for early morning/late night announcements, the applicant's September 22, 2021 email added,</p>	



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<p>"WSF agrees as there is usually no need to make early morning / late evening announcements. During fall/winter/spring there is less need for announcements and more need during summer due to an increase in tourist ridership."</p> <p>Based on the information provided by the applicant, Staff concludes that no adverse environmental impact will be caused by the project revision.</p>		
<p><i>C. Revisions to permits may be authorized after original permit authorization has expired under WAC 173-27-100. The purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of Chapter 90.58 RCW, this regulation and the local master program. If the proposed change constitutes substantial development then a new permit is required, provided this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.</i></p> <p>The SCUP (and EPF permit) is still valid, and the project is completing active construction as of the writing of this recommendation.</p>	<p><i>(3) Revisions to permits may be authorized after original permit authorization has expired under RCW 90.58.143. The purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of chapter 90.58 RCW, this regulation and the local master program. If the proposed change constitutes substantial development then a new permit is required. Provided, this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.</i></p>	<b>Provision not applicable; permit still valid.</b>
<p><i>D. If the sum of the revision and any previously approved revisions violate the provisions of this section, local government shall require that the applicant apply for a new permit.</i></p>	<p><i>(4) If the sum of the revision and any previously approved revisions under former WAC 173-14-064 or this section violate the provisions in subsection (2) of this section, local</i></p>	<b>Yes</b>

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<p><i>government shall require that the applicant apply for a new permit.</i></p> <p>The sum of this proposed revision and the first revision request relating to retaining 390 sq. ft. of existing over water structure for emergency fire egress for an existing restaurant do not violate the provisions of MMC 17B.13.170 or WAC 173-27-100.</p>		

## Conclusion and Recommendation

Staff concludes that the proposed revision is within the scope of the original permit. As a SCUP, the local government must submit the shoreline revision to the Washington State Department of Ecology ("Ecology") for approval, approval with conditions, or denial.

This recommendation and exhibits will be filed with Ecology for review and a decision. Transmittal of Ecology's decision shall be sent to parties of record upon receipt by the City, per MMC 17B.13.170(F) and WAC 173-27-100(6).

Staff recommends that, if approved, the proposed revision be subject to the following conditions:

1. SCUP Condition No. 30 shall be revised to read as follows:

"30. Submit an operations plan addressing noise impacts on the upland residential neighborhood from loud speakers / intercoms used to announce loading / unloading of the ferry. ~~Announcements shall be limited to 9 AM — 6 PM to protect the quality of life of the upland residents.~~ In order to protect the quality of life of the upland residents, announcements made outside the hours of 9 AM - 6 PM shall be limited to the hours of ferry operation and to those announcements necessary for travelers requiring accommodation under the Americans with Disabilities Act (ADA)."

2. A land use binder shall be prepared and recorded with Snohomish County upon any approval by Ecology referencing the updated Conditions of Approval for the SCUP.
3. The applicant shall comply with all other applicable local, state, and federal rules, policies, and regulations.



# Recommendation to Ecology

Request for Revision to Mukilteo Multimodal Ferry Terminal Approval

City of Mukilteo File No(s): SH-2013-001

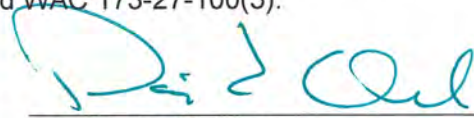
Shoreline Conditional Use Permit

Public Address (PA) System ADA Request

## Decision

The original proposal required a Shoreline Conditional Use Permit, and therefore the City's recommendation on the revision shall be submitted to Ecology for Ecology's approval, approval with conditions, or denial, review and a determination. The final decision whether to approve, approve with conditions or deny this revision shall be made by the Ecology, per MMC 17B.13.170(E) and WAC 173-27-100(5).

Recommendation By:

  
David Osaki, AICP  
Community Development Director  
City of Mukilteo

10/12/2021  
Date

## Appeals

Any person aggrieved by this shoreline permit revision may seek review from the shorelines hearings board by filing a petition for review within twenty-one days of the date that Ecology's final decision is transmitted to local government and the applicant, pursuant to WAC 173-27-100 and RCW 90.58.180.

## Effective Date and Expiration

The revised shoreline permit is effective immediately upon a final decision by Ecology. This revision expires with any expiration of the underlying shoreline permit.

## Distribution

This recommendation and exhibits were distributed to the following parties:

1. Washington State Department of Ecology
2. Marsha Tolon, Environmental and Permitting Lead, Washington State Department of Transportation (Applicant)
3. Tulalip Tribes

Request for Revision to Mukilteo Multimodal Ferry Terminal Approval  
City of Mukilteo File No(s): SH-2013-001  
Shoreline Conditional Use Permit and Essential Public Facility Permit  
PA System ADA Request

# SHORELINE CONDITIONAL USE PERMIT REVISION

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**Exhibit List Prepared By:** Lauren Balisky, Planning Manager, on October 7, 2021

1. Request for Shoreline Permit Modification, prepared by Marsha Tolon, Environmental and Permitting Lead, Washington State Department of Transportation, dated December 28, 2020
  - a. Operational Plan, received December 28, 2020
  - b. PA Systems Zone Map, received December 28, 2020
  - c. PA Systems Speaker Locations, received April 12, 2021
  - d. Mukilteo Public Address System Technical Memorandum, received December 28, 2020
2. Hearing Examiner Decision for City of Mukilteo File Nos. SH-2013-001 and EPF-2013-001 / Ecology File No. 2014-NW-623, dated March 24, 2014

NOTE: City of Mukilteo Case File Nos. SH-2013-001 and EPF-2013-001 and other materials referenced in this recommendation are available for public review at Mukilteo City Hall, Community Development Department, 11930 Cyrus Way during regular City Hall business hours.



# EXHIBIT 1



**Washington State  
Department of Transportation**

WSDOT Ferries Division (WSF)  
2901 3rd Avenue, Ste. 500  
Seattle, WA 98121-3014  
206-515-3400  
TTY: 1-800-833-6388  
[www.wsdot.wa.gov/ferries](http://www.wsdot.wa.gov/ferries)

December 28, 2020



**Received by Email**

2020-12-28

Linda Ritter  
Senior Planner  
Planning & Community Development  
City of Mukilteo  
11930 Cyrus Way  
Mukilteo, WA 98275

RE: Washington State Ferries Mukilteo Multimodal Project  
Shoreline Permit (SH 2013-001) and Essential Public Facilities Permit (EPF  
2013-001) – **Condition No. 30 Relief Request Update**

Dear Linda:

This letter updates the original request dated December 16, 2020 with information resulting from the public address system testing of the new Mukilteo Terminal conducted on December 22, 2020. Pertinent updated data is highlighted in yellow.

Condition number 30 of the City of Mukilteo Hearing Examiner's decision recorded in the 2013 Shoreline (SH 2013-001) and Essential Public Facilities (EPF 2013-001) permits issued for the Mukilteo Multimodal Project (Project) requires revision. It has come to the attention of the Washington State Department of Transportation Ferries Division (WSF) that the daily time limits for public address (PA) system announcements written in condition 30 is not compliant with the U.S. Department of Justice Americans with Disabilities Act (ADA) Standards and the [2018 WSDOT Americans with Disabilities Act \(ADA\) Transition Plan](#). Wherever pedestrian facilities are intended to be a part of the transportation facility, federal regulations ([28 CFR Part 35](#)) require that those pedestrian facilities meet ADA guidelines.

WSF understands the intent of condition 30 was to provide for a certain quality of life for residents' upland to and neighboring the new Mukilteo Terminal. Therefore, this letter requests the City of Mukilteo consider and accept the enclosed Public Address (PA) System Plan for the new Mukilteo Ferry Terminal, and the adaptive measures outlined below for ADA compliance. WSF will implement the following measures to provide ADA compliant service at the terminal and offset potential noise effects to neighboring properties.

1. Adjust the PA system volume and direction of sound to be distinct to each of these four zones (see enclosure):
  - a. Great Hall – Indoor -- 001 (Floor 2, Terminal Building)
  - b. Holding Lane /Restroom/Vending -- 002
  - c. Great Hall – Outdoor – 003 (Floor 2, Terminal Building)
  - d. All Zones -- 004
2. Set the speaker volume between 0 and 3 to maintain approximately 65 dBA at the source within each zone.
3. Set the directional position of speakers towards the WSF customers and pointed down.
4. Implement the enclosed *Final Public Address System Operational Plan* developed in accordance with visual paging requirements. ([CFR 49 §37.167\(b\)\(2\)\(f\)](#) and [CFR 36 § 1191.810.7](#)).
5. Sound levels during PA system use and terminal operations will be below 66 dBA, the Federal Transit (FTA) and Federal Highway Administrations (FHWA) threshold for noise impacts from an operating transportation facility:
  - a. 9541 1<sup>st</sup> Lane, 47 dBA (200 distance from sound source, measured 2020)
  - b. 1070 1<sup>st</sup> Lane, 47 -42 dBA (200 distance from sound source, measured 2020)
  - c. Losvar Condominium parking, 37dBA (400 distance from sound source, measured 2013)
  - d. Silver Cloud Hotel parking, 45 dBA (800 distance from sound source, measured 2013)

WSF looks forward to your review of this request and response. Please contact me at 206-515-3876, or by email at [tolonm@wsdot.wa.gov](mailto:tolonm@wsdot.wa.gov) with any questions.

Sincerely,



Marsha Tolon  
Environmental and Permitting Lead

Reference: WSDOT 2018 ADA Transition Plan  
(<https://wsdot.wa.gov/sites/default/files/2016/05/11/WSDOT-OEO-ADA-Transition-Plan.pdf>); 2020 WSDOT ADA Annual Report  
(<https://wsdot.wa.gov/sites/default/files/2016/05/11/OEO-2020-ADA-Annual-Report-Final.pdf>)



Ritter  
November 28, 2020  
Page 3 of 3

Enclosures: 2020 Final Mukilteo Terminal - Public Address System Plan  
Mukilteo Public Address System Sound Monitoring - Technical  
Memorandum, December 28, 2020

cc: Charles Torres, WSF  
Mark Sawyer, WSDOT  
Bryant Bullamore, WSF  
Leonard Smith, WSF  
Project Files

**Final Mukilteo Terminal - Public Address System Plan**

**Design Elements:**

The public address system will meet the ADA decibels requirements to assure transportation communications and information is available per alternate format and technology regulations. Electronic signage, a component of the public address system, will meet the visual paging requirements. ([CFR 49 §37.167\(b\)\(2\)\(f\)](#) and [CFR 36 § 1191.810.7](#))

- Public address system is engineered to provide the audible coverage required for the facility (more speakers = less volume)
- Public address system volume controls set between levels 0 and 3 to maintain approximately 65 dBA in exterior zones.
- Public address system allows for individual zones within the facility to be addressed
  - Great Hall – Indoor -- 001 (Floor 2, Terminal Building)
  - Holding Lane /Restroom/Vending -- 002
  - Great Hall – Outdoor – 003 (Floor 2, Terminal Building)
  - All Zones -- 004
- Speakers are directed away from upland residential area and towards WSF holding lanes
- Electronic message board is installed to provide another means of communicating to the passengers in the vehicle holding area. This message board is integrated with the visual paging system. Pre-programmed audible announcements will also be visible in text format on this sign.

**Operational Plan:**

**Vehicle Holding Area**

*Announcement example – Please return to your vehicles and prepare for boarding*

- To meet the ADA guidelines announcements will made during all operating hours
  - To limit the decibels levels the holding area zone will be set at the minimum allowable level
  - Restroom decibels levels may be slightly higher to assure the message is audible
  - Discretion will be employed in determining the need for announcements during early morning/ late night hours of operation
- Electronic Message Board will be utilized during all hours of operation

**Passenger Terminal Building**

*Announcement example – Now boarding. -Please proceed onto the vessel – Last call for 230 PM departure*

- Public address announcements are required within confines of the terminal building all operating hours
  - Higher decibels will be required within the confines of the passenger terminal building to assure ADA ridership is informed throughout the service process



- Visual Paging system will be utilized all operating hours within the passenger terminal building (ADA requires messages provided over the public address system must also be provided in text for the hearing impaired)

#### **Security \ Emergency Announcements**

*Announcement example – All passengers and vehicles must evacuate the terminal – Please follow the instructions of the staff*

- Announcements related to security or emergency situations will be allowed as required

---

#### **References:**

##### Americans with Disabilities Act Accessibility Standards, Department of Justice ADA Standards (2010)

State and local government facilities must follow the requirements of the 2010 Standards, including both the Title II regulations at 28 CFR 35.151: and the 2004 ADAAG at 36 CFR part 1191, appendices B and D.

Public accommodations and commercial facilities must follow the requirements of the 2010 Standards, including both the Title III regulations at 28 CFR part 36, subpart D: and the 2004 ADAAG at 36 CFR part 1191, appendices B and D.

##### Code of Federal Regulations (CFR) Title 49 Transportation, Part 37—Transportation Services For Individuals With Disabilities (ADA)

##### FTA Circular 4710.1 Americans With Disabilities Act (ADA): Guidance, November 4, 2015, Section 6.7.1 Announcements at Stations and Platforms

Received by Email  
2020-12-28

**KILTEO**

**PUBLIC ADDRESS SYSTEM ZONES**

1 ARCHITECTURAL SITE PLAN

RESTROOMS/VENDING  
ZONE 002

HOLDING LANES  
ZONE 002

GREAT HALL INDOOR  
ZONE 001

GREAT HALL OUTDOOR  
ZONE 003

MAINTENANCE BUILDING

VEHICLE HOLDING LANES

TOLL PLAZA

PROPERTY LINE

TERMINAL BUILDING

VEHICLE TRANSFER SPAN (HIC)

LOADING CAB (HIC)

OVERHEAD LOADING (HIC)

FERRY (HIC)

ALL ITEMS INSIDE DASHED LINE ARE SPECIFIED IN CSI PROJECT SPECIFICATIONS. DASHED LINE IS 5'-0" FROM EDGE OF BUILDING. TYP. SEE SPECIAL PROVISIONS, APPENDIX B.

ALL ITEMS INSIDE DASHED LINE ARE SPECIFIED IN CSI PROJECT SPECIFICATIONS. DASHED LINE IS 5'-0" FROM EDGE OF BUILDING. TYP. SEE SPECIAL PROVISIONS, APPENDIX B.

0' 40' 80'

North Arrow

RESTROOMS/VENDING  
ZONE 002

## PUBLIC ADDRESS SYSTEM ZONES

Received by Email  
2020-12-28



1 ARCHITECTURAL SITE PLAN  
A00.31

# מד

FILE NAME: E:\A\WEST\MonRites\1481121 - Ferry Terminal\CA000\UNIT\UNIT-GENERAL-3018.rvt	4472	REVISIONS	01/18/19	2018	1521	SHEETS
PROJECT NAME: 1481121 - FERRY TERMINAL	4472	REVISIONS	01/18/19	2018	1521	SHEETS
PROJECT NO: 1481121	4472	REVISIONS	01/18/19	2018	1521	SHEETS
PROJECT DATE: 01/18/2019	4472	REVISIONS	01/18/19	2018	1521	SHEETS
SUBMITTAL DATE: 01/18/2019	4472	REVISIONS	01/18/19	2018	1521	SHEETS
DESIGNED BY: H. FITZPATRICK	4472	REVISIONS	01/18/19	2018	1521	SHEETS
ENTERED BY: C. BISHOP	4472	REVISIONS	01/18/19	2018	1521	SHEETS
CHECKED BY: M. FISHER	4472	REVISIONS	01/18/19	2018	1521	SHEETS
DATE: 01/18/2019	4472	REVISIONS	01/18/19	2018	1521	SHEETS
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ENTERED BY: C. BISHOP	4472	REVISIONS	01/18/19	2018	1521	SHEETS



- 1 PROVIDE PULL BOX PER STANDARD PLAN J-90.10-01.
- 2 SEE SHEET ES03.36 FOR BARRIER WALL CONDUIT DETAILS.  
SEE SHEET ES03.37 FOR COMMUNICATION POLE DETAILS.
- 3 SEE SHEET ES03.34 FOR CABINET DETAILS.
- 4 MOUNT WIND SPEED/DIRECTION INSTRUMENT ON LIGHT POLE.  
SEE SHEET EB11.07 FOR SYSTEM BLOCK DIAGRAM.

## LOCATION OF OUTDOOR SPEAKERS



KEY PLAN



 CITY OF MUKILTEO

FILE NAME: F:\PWS\NAR\1140x140x15_FERRYTERMINOS\CDRAW\GROSS\N\42120812.13.dwg						SR 525 MUKILTEO FERRY TERMINAL (PHASE 2) FERRY TERMINAL CONSTRUCTION SITE COMMUNICATIONS PLAN		ES12.13
PRINTED: 3/30/2017 PM 12:22:17 PLOT: 3/30/2017 PM 12:22:17 DESIGNED BY: M. ENCKENBROCKER ENTERED BY: J. MCNABR CHECKED BY: S. HARRIS MAR PROJ. ENGR: C. TORRES DIR TERM ENGR: N. MCINTOSH	FED-AID PROJ. NO. MA-2017-007-00 SECTION NO. 10 STATE WASH CONTRACT NO. 12W123	SHEET 394 OF 1521 SHEETS						

- 1 PROVIDE PULL BOX PER STANDARD PLAN J-90.20-01.
- 2 SEE SHEET ES03.36 FOR BARRIER WALL CONDUIT DETAILS.  
SEE SHEET ES03.37 FOR COMMUNICATION POLE DETAILS.
- 3 SEE SHEET ES03.34 FOR CABINET DETAILS.
- 4 CONNECT CONDUIT DUCTBANK TO EXISTING COMMUNICATIONS VAULT.
- 5 COORDINATE CONDUIT INSTALLATION TO EXISTING PORT OF EVERETT VAULT WITH FRONTIER COMMUNICATIONS.  
SEE DRAWING E811.06 FOR CONTACT INFORMATION.
- 6 FLOW METER REMOTE READOUT.


**ERGOSYNCH**

## KEY PLAN

SCALE 1" = 40'

[illegible][illegible]

12/15/2017



**Washington State  
Department of Transportation  
WASHINGTON STATE FERRIES**



SR 525

311 523  
MUKILTEO FERRY TERMINAL (PHASE 2)  
FERRY TERMINAL CONSTRUCTION

## SITE COMMUNICATIONS PLAN

ES12.1	SHEET 395 OF 1521 SHEETS
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		 <p>Washington State Department of Transportation WASHINGTON STATE FERRIES</p>	 <p>1/22/2018</p>	<p>SR 525</p> <p>MUKILTEO FERRY TERMINAL (PHASE 2) FERRY TERMINAL CONSTRUCTION</p> <p>TERMINAL - LEVEL 2 - SECTOR B COMMUNICATIONS PLAN</p>	<p>EB12.0'</p> <p>SHEET 1289 OF 1521 SHEETS</p>
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## Memorandum

December 28, 2020

**TO:** Charlie Torres  
Marsha Tolon  
Leonard Smith

TB-83  
TB-32  
TB-32

**Received by Email**

2020-12-28

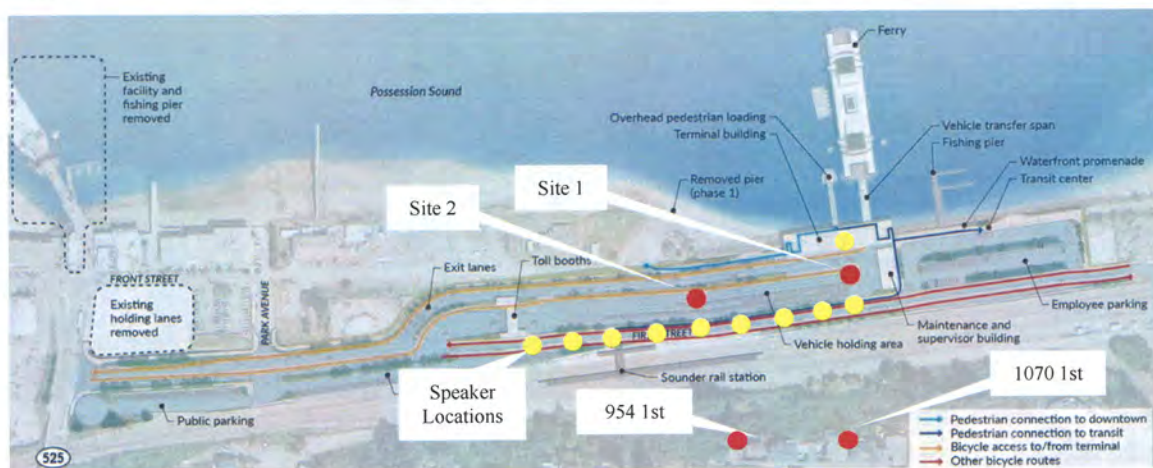
**FROM:** Jim Laughlin (206) 440-4643  
Lindsay Taylor (206)-440-4549

**SUBJECT:** Mukilteo Public Address System Sound Monitoring - Technical Memorandum.

### Public Address System Sound Levels

This memo summarizes the measurements collected while testing the Public Address (PA) System at the new Mukilteo Ferry Terminal holding area. Data was collected for both pure tone signal (1 kHz) and voice level testing at different volume level settings at two locations in the terminal holding area and simultaneously at two locations at the nearest residents on the hill overlooking the terminal (Figure 1). The purpose of this testing was to determine the optimal sound level of the PA system so that passengers in the holding area will be able to hear important announcements for safety purposes while minimizing intrusive sounds to residents on the hill overlooking the new terminal. Measurements were challenging due to ongoing construction activity in the area.

**Figure 1: Locations of the PA sound level monitoring at Mukilteo.**



Two Type 1 Larson Davis LxT noise level meters were located within the holding area each 50 feet from a PA system speaker. The speakers are mounted on poles approximately 20 feet above ground and each pole was approximately 70 feet apart. The speaker on each pole was directed



December 28, 2020

Page 2

away from the residents on the hill and down towards the holding area. The first meter was located at the head of the holding area (Site 1) and the second meter was located approximately 300 feet west of the first meter (Site 2). One-minute A-weighted equivalent sound levels were measured continuously over a 30-minute period while the PA testing was being conducted. A-weighting measures sound levels that mimic what the human ear hears. Equivalent sound levels are a type of time weighted averaging that smooths out the high and low peaks giving a better representation of the results.

**Figure 2: Photo of Site 2 monitoring location showing speaker locations at Mukilteo.**



Simultaneously two Svantek 958 noise meters were also recording one second LAeq levels to determine the corresponding sound levels at the residential locations on the hill overlooking the terminal.

## Measurements

Measurements for the first test using a pure tone (1 kHz) signal followed the scheme in Table 1. The signal was broadcast continuously for the first test with the PA level increased after one minute at each PA level. The measurements at both sites show a general increase as the PA level increases incrementally. The exception is for PA Level 9 which showed a decrease in sound levels due to some of the construction equipment being temporarily shut off at this time. Site 1 was also 7 to 10 dBA louder than Site 2 presumably because Site 1 was closer to construction equipment and the speakers outside the terminal building.

**Table 1. Measured sound levels during first test at the holding and residential areas.**

PA Level	Time	Site 1 LAeq (dBA)	Site 2 LAeq (dBA)	954 1 <sup>st</sup> Lane LAeq (dBA)	1070 1 <sup>st</sup> Lane LAeq (dBA)
-7	11:47 AM	69	59	42	47
-5	11:48 AM	69	59	51	47
-3	11:49 AM	71	64	51	49
0	11:50 AM	75	68	47	47
3	11:52 AM	76	66	47	42
5	11:53 AM	82	71	58	48
7	11:54 AM	83	73	51	46
9	11:55 AM	76	69	59	49

Background sound levels at the two homes at the top of the hill were measured over a one week period during the late March to early April 2020 shut down of construction due to the COVID-19 pandemic. The background sound levels measured at that time were 60 dBA for daytime and 59 dBA for nighttime and weekends. The normal background sound levels in this community fluctuate 15 to 20 decibels during the daytime due to rail traffic below the hill, aircraft overflights to Paine Field and local traffic.

The pure tone tests for the first test measured at 954 1<sup>st</sup> Lane and 1070 1<sup>st</sup> Lane were all below background sound levels (Table 1). The human voice tests for the second test scenario at these two residential locations were all below background sound levels (Table 1).

A second test of the PA system was conducted using human voice broadcasts. The test scheme for this is shown in Table 2. Unfortunately, the actual PA level was not recorded for this test so they were qualitatively classified as shown. Basic Compression, a setting on the speaker controls, reduces the overall volume of the loudest sounds to manage the various volume levels that different people would use in their normal speech. The final test measurement at 954 1<sup>st</sup> Lane was influenced by some unknown external source which resulted in sound levels higher than in the holding area. All measured test levels at the two residential locations were below the 59 dBA to 60 dBA background sound levels.



**Table 2. Measured sound levels during second test at holding and residential areas.**

PA Level	Time	Site 1 LAeq (dBA)	Site 2 LAeq (dBA)	954 1 <sup>st</sup> Lane LAeq (dBA)	1070 1 <sup>st</sup> Lane LAeq (dBA)
Normal	11:58 AM	65	60	45	48
Loud	12:00 PM	67	67	51	43
Louder	12:04 PM	64	71	49	45
Basic Compression	12:07 PM	68	69	42	*

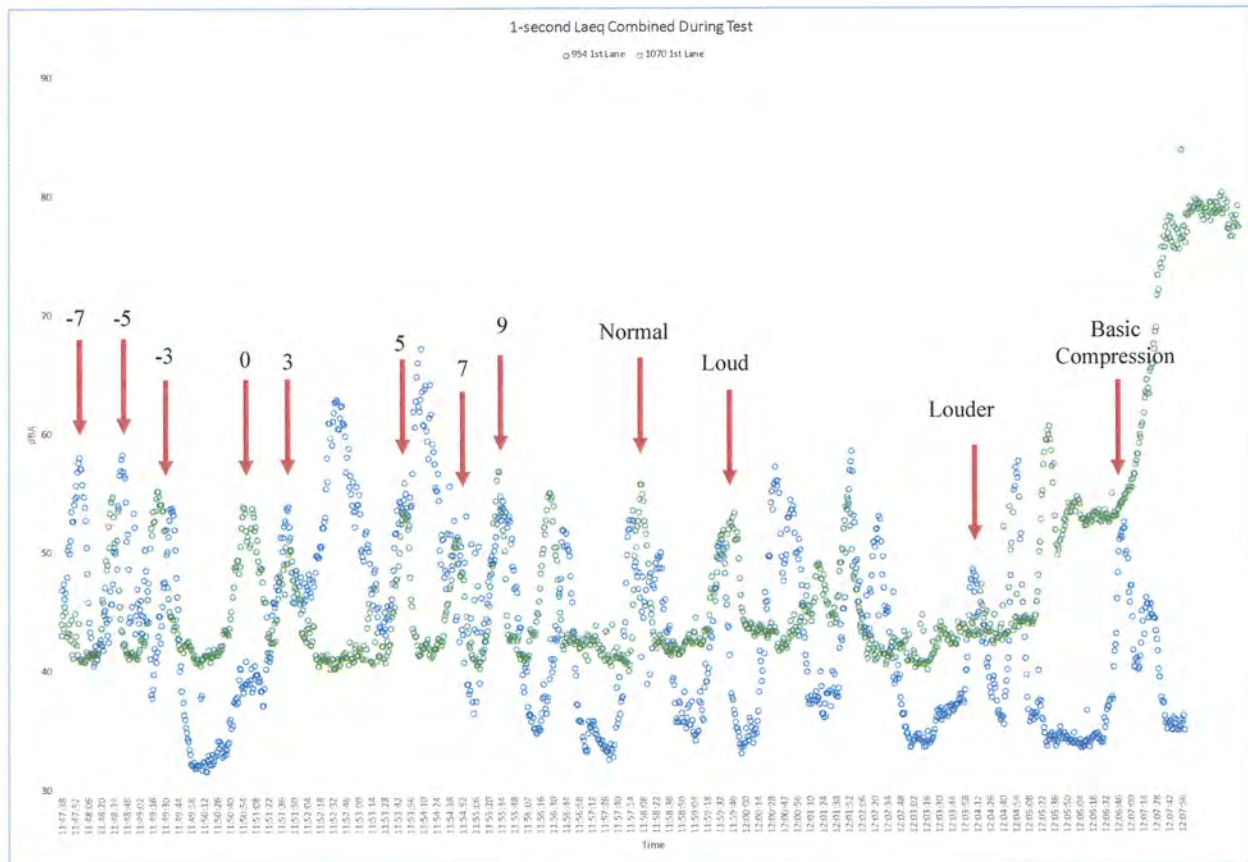
\*Data influenced by unknown external source.

Figure 3 shows the 1-second LAeq measured at 954 1<sup>st</sup> Lane and 1070 1<sup>st</sup> Lane on the hill. The arrows indicate when the PA system was tested in relation to these measurements. As can be seen there is a fair amount of variability in the normal sound levels for the two locations and there were local sound sources that were relatively louder than the test levels. None of the test levels for either test exceeded the 59 dBA to 60 dBA sound levels. There can also be some variability in the arrival time of the signal at each location causing a shifting of the timing due to different distances from the source.

December 28, 2020

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**Figure 3: Locations of the PA sound level monitoring at Mukilteo.**



The PA system should not exceed 6 dBA above the background sound level at the nearest residential property line. Therefore, the following formula can be used to mathematically determine this.

$$PA_{only} = 10 * \log(10^{(B/10)} - 10^{(A/10)})$$

Where A is the background sound level (59 dBA) and B is the PA + background sound level. Since the measured sound levels at 954 1<sup>st</sup> Lane were generally louder during the PA testing possibly due to atmospheric conditions or terrain differences there is also less of a difference between background and test sound levels. All measured test levels were well below background (Table 3).



**Table 3. Difference of measured test levels compared to background.**

PA Level	954 1 <sup>st</sup> Lane LAeq (dBA)	954 1 <sup>st</sup> Ln Difference Compared To Background (dB)	1070 1 <sup>st</sup> Lane LAeq (dBA)	1070 1 <sup>st</sup> Ln Difference Compared To Background (dB)
-7	42	-17	47	-12
-5	51	-8	47	-12
-3	51	-8	49	-10
0	47	-12	47	-12
3	47	-12	42	-17
5	58	-1	48	-11
7	51	-8	46	-13
9	59	-0	49	-10

Secondarily, the sound levels at the source should never exceed 85 dBA to avoid potential hearing loss by State workers on site or be less than 65 dBA to ensure that announcements can be heard over background sound levels in the holding area. Since Site 2 was less affected by construction noise we should use this site as the best justification for setting the PA Level (Table 4).

Pure tone signals, particularly in the 1 kHz range, can be quite annoying to the human ear. Therefore, we recommend that the PA Level settings should be kept as close to 65 dBA as possible and should be set at either 0 or 3.

**Table 4. Recommended PA Levels compared to 65 dBA at the source.**

PA Level	Site 2 LAeq (dBA)	Recommended?
-7	59	No
-5	59	No
-3	64	No
0	68	Yes
3	66	Yes
5	71	No
7	73	No
9	69	No
Normal	60	No
Loud	67	Yes
Louder	71	Yes
Basic Compression	69	Yes

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Page 7

### **Conclusions**

The results of Table 4 show that the sound levels produced at the holding area should be set at a PA Level of 0 or 3 to ensure that announcements can be heard over background sound levels. Because the PA speakers at the holding area are pointed away from and down towards the ground relative to the residents on the hill it appears that the sound levels from the PA system will not cause an increase of 6 dB or more above the background sound levels. For a point source such as a speaker, sound attenuates at rate of 6 dB per doubling of distance. Therefore, since residents on the hill located approximately 200 feet south of the nearest speaker are not experiencing excessive noise levels, it is expected that the Silver Cloud Inn located approximately 400 feet northwest of the nearest speaker and the Losvar condominiums located approximately 800 feet west of the nearest speaker will also not experience excessive noise levels.

If you have any questions please call me at (206) 440-4643.

(jl):(jl)

Attachments

cc: file



EXHIBIT 2

RECEIVED

MAR 25 2014

CITY OF MUKILTEO

BEFORE THE HEARING EXAMINER  
FOR THE CITY OF MUKILTEO

In the Matter of the Application of	)	NO. EPF 2013-001
	)	SH 2013-001
<b>The Washington State Ferries</b>	)	
	)	FINDINGS, CONCLUSIONS,
	)	AND DECISION
For an Essential Public Facilities Permit and	)	
<u>A Shoreline Conditional Use Permit</u>	)	

**SUMMARY OF DECISION**

The request for an Essential Public Facilities Permit and Shoreline Conditional Use Permit to replace the Mukilteo Ferry Terminal with a new terminal and multimodal facility, located on First Street in Mukilteo, is **APPROVED**. Conditions are necessary to mitigate specific impacts of the proposed development and to ensure compliance with existing city ordinances.

**SUMMARY OF RECORD**

Hearing Date:

The Hearing Examiner held an open record hearing on the request on February 25, 2014. The Applicant agreed to allow additional time to prepare the decision because there were voluminous exhibits to review.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Patricia Love, City Community Development Director  
Nicole McIntosh, WSDOT, Ferry Division, Design Engineer Manager  
Burt Miller, WSDOT/Ferry Division, Environmental Division  
Sandy Glover, Project Manager for Applicant Consultant Team  
Steve Schmalz  
Dan Strandy, NOAA Project Planning  
Kevin Stoltz  
Steve Nickerson  
Charlie Pancerwiski  
Christine Schmalz  
Sharon Smith  
Jennifer Baxter  
Jennifer Gregerson

Exhibits:

*Findings, Conclusions, and Decision*  
*City of Mukilteo Hearing Examiner*  
*Washington State Ferries EPF Permit & Shoreline CUP,*  
*Nos. EPF 2013-001 and SH 2013-001*

The following exhibits were admitted into the record:

1. City Staff Report, with the following attachments:
  - A. MMC Regulations Relevant to the WSF Terminal, undated
  - B. City of Mukilteo CompPlan & SMP Policy Compliance Checklist, undated
  - C. Location Map, undated
  - D. Aerial Map, undated
  - E. Site Layout Plan (Sheet 4 of 84), dated November 11, 2013; Optional Site Layout Plan (Sheet 5 of 84), dated November 11, 2013
  - F. Land Use Permit Application, received October 18, 2013; Supplemental Application Form, received October 18, 2013; Floodplain Permit Application, received November 6, 2013
  - G. Mukilteo Multimodal Project Narrative, dated August 16, 2013
  - H. Building elevations and layout (Sheets 53 to 63 of 84), dated November 11, 2013
  - I. Quit Claim Deed (Grantor USA/Grantee Port of Everett) and protective covenants, recorded October 4, 2013
  - J. Memorandum of Agreement, unsigned, dated January 7, 2014
  - K. Civil plan drawings (Sheets 6 to 51 and 70 to 84 of 84), dated November 11, 2013
  - L. BergerABAM, Drainage Plan/Stormwater Site Plan, draft submittal, dated August 2013
  - M. GeoEngineers, Liquefaction and Lateral Spreading Evaluation Report, dated March 26, 2008
  - N. BergerABAM, Preliminary landscape plans (Sheets 64 to 69 of 84), dated November 1, 2013
  - O. Jones and Jones, Shoreline Permit Plans Landscape & Building Elements, revised October 2013
  - P.1\* Agency and public comment
  - Q.1\* CD with the following documents:
    - Final Environmental Impact Statement
    - Cultural Discipline Report
    - Ecosystem Discipline Report
    - Hazardous Materials Discipline Report
    - Noise and Vibration Discipline Report
    - Transportation Discipline Study
  - P.2.\* Affidavits of Notice
  - Q.2.\* Additional Public Comments
  - R. City's PowerPoint (16 slides)
  - S. Applicant's PowerPoint (26 slides)
  - T. Letters of Support from City
  - U. Joint Aquatic Resources Permit Application (JARPA) form, unsigned and undated; CD with the following documents
    - FEIS (on separate CD)
    - DMMP SAP

*Findings, Conclusions, and Decision  
City of Mukilteo Hearing Examiner  
Washington State Ferries EPF Permit & Shoreline CUP,  
Nos. EPF 2013-001 and SH 2013-001*



- Hydrodynamic Study
- Haz Mat DR
- BA
- Sediment Sampling Data Report
- Cultural Resource DR

V. Letter from Terry Preshaw to Patricia Love, dated February 25, 2014

W. Application Submittal Notification, dated October 18, 2013

*\* Although the file contained advance exhibits marked Exhibit P and Q, City staff introduced exhibits at the hearing that were also marked Exhibit P and Q.*

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and exhibits admitted at the open record hearing:

## FINDINGS

### Application and Notice

1. Burt Miller, on behalf of the Washington State Ferries (WSF) (Applicant), requests an Essential Public Facilities (EPF)<sup>1</sup> Permit and a Shoreline Conditional Use Permit (SCUP) to replace the existing ferry terminal with a new Mukilteo Ferry Terminal and Multimodal Facility (MMF)(facility). The property is located on First Street, north and east of the existing ferry terminal.<sup>2</sup> *Exhibit 1, Staff Report, page 1; Exhibit 1.F; Exhibit 1.K.*

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<sup>1</sup> The City Code defines an “essential public facility” as:

A facility that is typically difficult to site, such as an airport, a state education facility, a state or regional transportation facility as defined in RCW 47.06.140, a state or local correctional facility, a solid waste handling facility, or an inpatient facility, including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020. The term “essential public facility” includes all facilities listed in RCW 36.70A.200, all facilities that appear on the list maintained by the State Office of Financial Management pursuant to RCW 36.70A.200(4), and all facilities listed as essential public facilities in the Mukilteo Comprehensive Plan.

*Mukilteo Municipal Code (MMC) 17.08.020.*

<sup>2</sup> The property subject to the applications is identified in the JARPA Application as Assessor Parcel Nos. (in-water) 29043300400500, 00461400000100, 28040400203400, and 28040400200100; and (upland) 00450900200100, 00450900200300, 0451300100100, 005969001601, 00596901400000, and 28040400102900. *Exhibit 1.U.* The Land Use Permit Application identified, in addition, Parcel No. 2904300300100. *Exhibit 1.F.* The legal description of the subject property is included with the EPF application. *Exhibit 1.F.* The Applicant also submitted an unsigned Joint Aquatic Resources Permit Application (JARPA) for the SCUP, as well as a Floodplain Permit Application and a Binding Site Plan Application. The Floodplain Permit and Binding Site Plan Applications are not before the Hearing Examiner. *Exhibit 1.F.*

2. The City of Mukilteo (City) determined that the application was complete on October 18, 2013. The City published notice of the applications in the local newspaper on November 8 and 15, 2013; mailed notice to interested agencies and owners of property within 500 feet of the subject property; and posted notice on-site and at official locations for City notices. The City posted notice of the open record hearing for the application on the subject property on February 13, 2014; published notice in *The Herald* on February 14, 2014; and mailed notice to owners of property within 300 feet of the subject property and interested parties on February 25, 2014. *Exhibit 1, Staff Report, page 21; Exhibit 1.P.2; Exhibit 1.W.*

#### Environmental (SEPA) Review

3. WSF prepared a combined National Environmental Policy Act (NEPA) and State Environmental Policy Act (SEPA) Environmental Impact Statement (EIS) and published the Final EIS in June 2013. *Exhibit 1, Staff Report, page 21; Exhibit 1.G, page 5; Exhibit 1.Q.1.*

#### Comprehensive Plan and Zoning

4. The subject property is identified as “Commercial” in the City Comprehensive Plan.<sup>3</sup> The Essential Public Facilities Element in the Comprehensive Plan is relevant to this proposal. The Essential Public Facilities Element notes that the City currently hosts the Washington State Ferries Mukilteo-Clinton Ferry Terminal, identified as an EPF, and that any future EPF permit should not be denied, but conditioned as appropriate to mitigate adverse impacts.

The subject property is located within the Waterfront Mixed Use zoning district. Ferry terminals and parking areas are an allowed use within the district. Commercial property is located to the west and zoned Downtown Business (DB). Property to the south contains single-family residences and is zoned SFR High Density. A barge rail facility and single-family residences lie to the east. Puget Sound is to the north and west. *Mukilteo Municipal Code (MMC) Table 17.16.040; Comprehensive Plan (adopted October 15, 2012), pages 32 and 33; Exhibit 1, Staff Report, pages 2 and 3.*

#### Site Conditions, Location and Access

5. The proposed facility would be located approximately 1,800 feet east of the existing terminal on the former U.S. Air Force Tank Farm (Mukilteo Tank Farm), the James Mongrain property, and the paved parking portion of the A&J Enterprises property in the vicinity of Front Street. The proposed site is a relatively level area of artificial fill

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<sup>3</sup> The City staff identified the following Comprehensive Plan policies as relevant to the proposed facility: Land Use: LU16, LU18, LU19, LU20, LU26 to LU28, LU33, LU38, LU41, LU44, LU52; Critical Areas, CA4; Shoreline: SH11 to SH13, SH16, SH18 to SH20, SH22; Urban Waterfront Use: UW6 to UW15, UW17; Transportation: TR3 to TR5, TR25, TR26, TR36, TR37; Economic Development, ED11; and Capital Facilities, CF17. *Exhibit 1.A.*



constructed at the base of a slope and extending into Puget Sound. *Exhibit 1.G, page 5; Exhibit 1.K; Exhibit 1.M.*

#### Proposed Facility

6. The proposed facility is identified as “Modified Elliot Point 2 – Preferred Alternative” in the Mukilteo Multimodal Project Final Environmental Impact Statement released in June 2013. The proposed facility would be constructed in phases. The major project elements include:
- Removal of the Tank Farm pier
  - Construction of a new signal and intersection on SR 525, just north of the SR 525 Bridge, and a new traffic signal at the entrance of the ferry terminal facility
  - A new road extension leading eastward toward to the relocated Ferry Terminal and Multimodal Facility
  - Removal of the existing ferry terminal structures/facilities, and demolition of the passenger building unless a different arrangement is made
  - Construction of the new ferry terminal and multimodal facility according to the Modified Elliot Point 2 – Preferred Alternative layout contained in the Final Environmental Impact Statement, dated June 2013
  - Construction of the waterfront pedestrian promenade, 15 to 25 feet wide
  - Demolition of tank farm walls, structures, above-ground piping, and miscellaneous buildings, and removal of foundations as needed

The proposed facility would be phased as follows:

- Phase I – Removal of pier in two construction seasons (anticipated 2014 – 2016)
- Phase II – Construction of the new terminal site (anticipated 2017-2019)
- Phase III – Demolition of the existing ferry facilities (anticipated 2019)

The Port of Everett’s existing pier and seasonal day moorage located next to the existing ferry terminal would be demolished once the existing ferry terminal is removed. The fishing pier and day moorage would be relocated near the proposed facility. The Applicant, with NOAA, would be allowed to either relocate or co-locate the fishing pier and day moorage without re-opening the shoreline permit. *Exhibit 1, Staff Report, pages 1 and 19; Exhibit 1.A, page 13; Exhibit 1.K.*

#### Shoreline Management Master Program and Regulations

7. On December 12, 2011, the City Council updated its Shoreline Master Program and adopted regulations under the State Shoreline Management Act. These are codified as Title 17B MMC and govern uses and development of all shorelines of the city, including the waters extending to the middle of Puget Sound from the shoreline of the city between its northern and southern limits and two hundred feet landward of such waters. *MMC 17B.04.030.* The proposed facility is located in the Urban Waterfront shoreline environment. The Urban Waterfront encompasses the waterfront mixed-use and

downtown business zoning districts. The purpose of the Urban Waterfront designation is to provide for development and redevelopment of high-intensity, water-oriented commercial and recreational activities, and to provide for transportation and essential public facilities while protecting existing ecological functions and improving ecological functions in areas that have been previously degraded. *MMC 17B.12.020.A; City SMP, page 15.* A state EPF is allowed as a conditional use in the Urban Waterfront environment. *MMC 17B.16.040.A Table 1 Permitted Use Matrix.*

8. City staff reviewed the proposed facility and determined that, with conditions, City ordinances would not preclude the proposed facility. City staff testified that the proposed facility is consistent with the shoreline development regulations for the archaeological/historical district (MMC 17B.16.050) and with land subdivision regulations through a separate Binding Site Plan process (MMC 17B.16.060). City staff testified that, with conditions, the proposed facility would also comply with the clearing, grading, and fill regulations (MMC 17B.18.030); the dredging and dredge disposal regulations (MMC 17B.18.040); and shoreline stabilization regulations (MMC 17B.18.060). The proposed facility would protect fish and wildlife habitat conservation areas (MMC 17B.52C), prohibit uses in critical saltwater habitat (MMC 17B.52C.050), and prohibit development in flood hazard areas (Chapter 17B.52D MMC). The proposal, with conditions, would ensure off-street parking is available (MMC 17B.56.060) and would comply with landscaping requirements for parking lots (MMC 17B.58.040)).  
*Exhibit 1.A.*

#### Essential Public Facilities

9. MMC 17B.16.100 contains regulations to ensure the appropriate siting of Essential Public Facilities. Patricia Love, City Community Development Director, testified that the City agrees with the statements of the Applicant in Exhibit A, entitled “MMC Regulations Relevant to the WSF Terminal”; Exhibit B, “City of Mukilteo CompPlan & SMP Policy Compliance Checklist,” and Exhibit G, “Mukilteo Multimodal Project Narrative.” These exhibits detail the proposal and how it would comply with City ordinances. The City determined that the proposed facility would reduce queue length and help alleviate congestion, would not generate additional demand for public services or public service responders, would have all capital costs provided for by the Washington State Legislature, would not unreasonably increase noise levels in residential areas,<sup>4</sup> and would use a design approach that mitigates visual impacts. The Applicant prepared a National Environmental Policy Act (NEPA) final Environmental Impact Statement (FEIS), which specifies detailed mitigation measures that would reduce potentially significant adverse environmental impacts, including any temporary or long-term loss of ecological functions of the shoreline area that benefit marine life. *MMC 17B.04.100.D.4; Exhibit 1, Staff Report, pages 6 to 22; Exhibit 1.A; Exhibit 1.Q.1; Testimony of Ms. Love.*

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<sup>4</sup> Unless the Applicant requests an exemption, construction noise would not be allowed between the hours of 6:00 PM and 7:00 AM on weekdays, and 5:00 PM and 9:00 AM on Saturdays, and no construction would be allowed on Sundays and holidays. *Exhibit 1, Staff Report, page 30.*



Geotechnical, Stormwater Management, and Landscaping

10. GeoEngineers prepared a Liquefaction and Lateral Spreading Evaluation report for the Applicant, dated March 26, 2008. The report identified liquefaction hazards at the site and proposed structural solutions to mitigate the liquefaction hazard. *Exhibit 1.M.*
11. BergerABAM prepared a draft of a Drainage Plan/Stormwater Site Plan, dated August 2013. The proposed facility would result in 8.11 acres of impervious surfaces (excluding the terminal building) and 2.25 acres of pervious surface. Stormwater would be treated using Best Management Practices (BMPs), which may include ponds, vegetated areas, biofiltration swales, filters, constructed wetlands, or other features. Stormwater would be captured by Filterra Retention System treatment vaults and discharged through two new outfall pipes into Puget Sound. *Exhibit 1, Staff Report, pages 14 and 15; Exhibit 1.G, pages 26 to 27; Exhibit 1.L, pages 3 and 17.*
12. BergerABAM prepared a preliminary landscaping plan for the Applicant, dated November 1, 2013. Jones and Jones prepared design directions, revised October 2013, for the proposed MMP. The Applicant would provide 37,600 square feet of landscaping. *Exhibit 1, Staff Report, page 16; Exhibit 1.N (Sheets 1 to 6); Exhibit 1.O.*
13. Water and sewer are available from the Mukilteo Water and Wastewater District. A new gravity sewer collection system would be constructed on site. The Applicant would provide a waste disposal plan to the Snohomish Health District that would include the management of contaminated soils, dredged materials, and treated wood. *Exhibit 1.A; Exhibit 1.G.*

Pier Removal and Dredging

14. The Applicant would remove the existing Tank Farm Pier, supported by approximately 3,900 piles, using barges to help reduce shoreline impacts. The proposed facility would require 23,500 cubic yards of dredging to provide a navigation channel through a sediment mound that has accumulated beneath the Tank Farm Pier. Dredge material would be disposed of at a Dredge Material Management Program in-water disposal site, if suitable, or to an upland disposal area. *Exhibit 1.G, page 10.*

Traffic and Infrastructure Improvements

15. The proposed facility would improve existing congestion at Front Street and at the entrance to Lighthouse Park by moving ferry traffic away from this intersection toward the east, which would improve the level of service rating from E to B. A new signal and intersection would be constructed at SR-525/First Street, which would shorten the ferry queue along SR-525, with an expected level of service of A in 2040. The intersections of SR-525/88<sup>th</sup> Street SW and SR-525/5<sup>th</sup> Street are projected to operate below City

- standards by 2040. Under proposed Condition 17, the Applicant would either obtain a Certificate of Concurrency from the City prior to Phase II permit issuance in accordance with Ordinance 1131, effective July 27, 2005, or negotiate an agreement between the Applicant and the City for traffic mitigation. *Exhibit 1, Staff Report, pages 19 and 27.*
16. First Street would be realigned and extended as a four-lane roadway. It would descend to near existing grade at Park Avenue, continue to a signalized entrance to the proposed ferry terminal, and then continue as a two-lane roadway to a new bus transit facility. First Street would feature sidewalks and bike lanes. *Exhibit 1, Staff Report, page 4; Exhibit 1.K.*
17. The Applicant would remove approximately 26 on-street parking spaces due to the widening and realignment of First Street. The Applicant would construct a new parking lot south of the First Street/Park Avenue intersection for an increase of 54 spaces. The Applicant would also construct a 40-space parking lot for ferry employee parking. *Exhibit 1, Staff Report, pages 9 and 10; Exhibit 1.K.*
18. A 15- to 25-foot wide waterfront promenade would run along the proposed transit facility, and a separate promenade would run along the holding area. *Exhibit 1, Staff Report, page 4; Exhibit 1.K.*
19. A condition of approval proposed by City staff would require the Applicant to provide a pedestrian safety and access plan showing pedestrian routes along SR-525 and Front Street during construction. The plan would include a traffic control officer during the peak traffic period for the duration of the construction period. *Exhibit 1, Staff Report, page 27.*

#### Public Comments and Applicant Response

20. Several citizens submitted written comments and/or testified at the open record hearing about concerns with and support for the proposed facility. Terry Preshaw submitted a comment letter, dated February 25, 2014. She suggested faulty data was used to project a 73 percent ridership increase by 2030 in the Mukilteo-Clinton route. She noted that existing Old Town businesses will suffer loss of property values due to construction and operation of the proposed facility. She advocates renovating the current ferry terminal to save taxpayer dollars. Laure Carlson submitted an email, dated February 25, 2014, expressing concerns about BNSF train noise, pedestrian safety, and health impacts. Steve Schmalz testified about his concerns with pedestrian safety on a 41-inch wide sidewalk along SR-525. Kevin Stoltz submitted an email, dated February 24, 2014, expressing his concerns about pedestrian safety along SR-525. He requested a separate access point to Lighthouse Park and wider sidewalks. He also noted that piers used by birds for resting and nesting would be removed and that a replacement area for bird nesting and resting should be considered. Steve Nickerson testified about the height of the proposed building design and asked whether the roof pitch could be lowered. Charlie Pancerwiski testified to his concerns about traffic impacts from adding another stop light on SR-525. Christine

Schmalz expressed her opinion that SR-525 is the only way to get to and from the ferry and that the proposed facility will not improve traffic to alleviate the difficulty of pedestrian access to the waterfront. She also proposed moving the proposed Art Building to the existing holding area to help retain businesses and the artists that work in that building. Sharon Smith identified herself as a scuba diver and requested that workers using barges to remove the existing piers be made aware of scuba activity in the area to avoid injuries to divers. Jennifer Baxter recommended a barrier between cars and the proposed promenade to soften the pedestrian experience. Jennifer Gregerson testified in support of improving or replacing the SR-525 bridge because the bridge makes it difficult for pedestrians to reach the shoreline, and it can become a “choke point” for traffic going to the ferry and to downtown businesses. Dan Strandy testified that NOAA operates its own pier for vessel mooring and expressed concerns about a 25-foot height limitation on property north of the ferry terminal where NOAA plans to build a 35-foot tall building. *Exhibit 1.Q.2; Exhibit 1.V; Testimony of Mr. Schmalz, Mr. Stoltz, Mr. Nickerson, Mr. Pancerwiski, Ms. Schmalz, Ms. Smith, Ms. Baxter, Ms. Gregerson, and Mr. Strandy.*

21. Nichole McIntosh responded for the Applicant to the public comments presented at the open record hearing. She stated that that WSF will work with the City to address pedestrian safety. She agreed that the SR-525 bridge needs to be replaced, but testified that there are no current plans to do so. She clarified that the projected 73 percent increase in ferry ridership by 2030 is primarily for walk-on traffic, not vehicles. She testified that WSF would pay to re-locate the Art Building and that the existing ferry holding area would be sold as surplus property. Sandy Glover, Project Manager for the Applicant Consultant Team, also testified that the 73 percent increase is in pedestrian use, not vehicle use. Burt Miller, Environmental Division of WSF, testified that WSF would consider providing resting places for birds displaced due to removal of existing piers. Ms. Love testified that the City will host a public meeting with WSF to help define traffic mitigation measures and that many traffic mitigation measures would be put in place prior to issuance of any permits. *Testimony of Ms. McIntosh, Sandy Glover, Mr. Miller, and Ms. Love.*
22. Ms. Love, City Community Development Director, recommended approval of the EPF and SCUP with 54 conditions. The City identified the following conditions as ones intended to mitigate impacts that are unique to the proposed facility:
  - a. No. 2 – Requirement for a protective covenant and a Tribal MOA (Exhibit 1.I);
  - b. No. 4 – Construction start within six years of state and federal permit approval;
  - c. No. 6 – Requirement for removal of hazardous material;
  - d. No. 7 – Requirement for barge removal of existing pier;
  - e. No. 8 – Requirement to submit approved waste disposal plan to City for review;
  - f. No. 9 – Requirement to submit final engineering drawings to City for final review and approval;
  - g. No. 10 – Requirement for realignment of a portion of First Street;



- h. No. 17 – Requirement to obtain a Certificate of Concurrency or negotiated agreement prior to Phase II permit issuance;
- i. No. 19 – Requirement that no permits be issued until Binding Site Plan has been recorded;
- j. No. 21 – Requirement for relocation of tall trees if parking garage is funded;
- k. No. 24 – Requirement that applicant be responsible for all special inspection fees;
- l. No. 39 – Requirement to submit final art plan to City;
- m. No. 44 – Requirement to screen all above ground utility boxes;
- n. No. 45 – Requirement that building and landscaping designs comply with Shoreline Permit Plans Landscape and Building Elements, dated October 23103, and MOA (Exhibits 1.J. and 1.O);
- o. No. 46 – Requirement to submit final promenade design to City for approval;
- p. No. 49 – Requirement to record a Land Use Binder with Snohomish County; and
- q. No. 53 – Requirement to restrict noise from construction.

Ms. Love testified that all conditions imposed as conditions of approval would apply to both the EPF and the SCUP, and that the City would forward the entire decision to the Department of Ecology for review, noting that Ecology approval is required for a SCUP. *Exhibit 1.R; Testimony of Ms. Love.*

## **CONCLUSIONS**

### Jurisdiction

The Hearing Examiner has jurisdiction to hold a public hearing and approve the Special Use Permit for Essential Public Facilities permit application with conditions as necessary, so long as those conditions do not preclude the siting or expansion of any state or regional essential public facility in the City of Mukilteo. *RCW 36.70B.040; Mukilteo Municipal Code (MMC) 2.38.030; MMC 17.18.030.D; MMC 17.18.030.E;<sup>5</sup> MMC 17B.16.100.D.3 and .4.*

The Hearing Examiner also has jurisdiction to hear and decide Shoreline Conditional Use Permit applications. *MMC 17B.13.130.Table 26.*

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<sup>5</sup> Under RCW 36.70A.200(5): “No local comprehensive plan or development regulation may preclude the siting of essential public facilities.” The City Code states:

The hearing examiner shall not impose conditions in such a manner as to preclude the siting or expansion of any state or regional essential public facility in the city of Mukilteo. In the event that a state or regional essential public facility cannot, by the imposition of reasonable conditions of approval, be made to mitigate the impacts described in subsection D of this section, the hearing examiner shall approve the siting or expansion of the state or regional essential public facility with such reasonable conditions of approval as may mitigate such impacts to the maximum extent practicable.

*MMC 17.18.030.E.*

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Criteria for Review  
*Shoreline Management Act*

Applicable policies of the Shoreline Management Act include those to foster “all reasonable and appropriate uses”; protect against adverse effects to the public health, the land and its vegetation and wildlife; and to give priority to single-family residences and appurtenant structures in authorizing alternations to the natural condition of the shoreline. Permitted shoreline uses must be designed to “minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public’s use of the water.”  
*RCW 90.58.020.*

*Shoreline Management Act Regulations*

The Department of Ecology shoreline regulations are located in chapters 173-26 and 173-27 of the Washington Administrative Code (WAC). Chapter 173-26 WAC sets forth procedures and guidelines for local adoption of shoreline master programs that are not applicable to the Applicant’s permit request.

Chapter 173-27 WAC specifies permitting procedures and permit criteria. WAC 173-27-160 states that the purpose of a conditional use permit is to provide a system within the master program that allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the local government or the department to prevent undesirable effects of the proposed use and/or to assure the project’s consistency with the act and the local master program.

WAC 173-27-160(1) provides that uses that are classified or set forth in the applicable master program as conditional uses may be authorized, provided that the Applicant demonstrates all of the following:

- (a) That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;
- (b) That the proposed use will not interfere with the normal public use of public shorelines;
- (c) That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;
- (d) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
- (e) That the public interest suffers no substantial detrimental effect.

*WAC 173-27-160(1).*

In the granting of all conditional use permits, consideration must be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment. *WAC 173-27-160(2).*

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*City Shoreline Master Program and Regulations*

The City Shoreline Master Program (City SMP) contains seven shoreline elements: economic development, public access, circulation, shoreline land use, conservation, historical/cultural values, and flood hazard reduction. *City SMP (December 2011), page 19.*

Section 17B.64.030 of the City Shoreline Regulations provide:

The purpose of a conditional use permit is to provide a system within the master program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the city or the Department of Ecology to prevent undesirable effects of the proposed use and/or to ensure consistency of the project with the act and the local master program.

*MMC 17B.64.030.*

The City's Shoreline Regulations contain criteria for siting state EPFs within the shoreline jurisdiction. Any proposal for the siting or expansion of a state or regional essential public facility must follow the procedures established by chapter 17B.13 MMC for the underlying permit. State and regional essential public facilities must not be located in any residential zoning district identified in MMC Table 17B.16.040 except as provided in this subsection. State and regional essential public facilities must meet all provisions of this code for development within the zoning district in which they are proposed to be located, including but not limited to the bulk regulations of chapter 17B.20 MMC, except as provided in this subsection. If a state or regional essential public facility does not meet all such provisions, the Applicant must demonstrate to the Hearing Examiner that compliance with such provisions would preclude the siting of all similar facilities anywhere within the city. If the Applicant is able to make such a demonstration, the Hearing Examiner must authorize the essential public facility to deviate from the provisions of this code to the minimum extent necessary to avoid preclusion. *MMC 17B.16.100.D.1. to D.3.*

The Hearing Examiner is instructed to impose reasonable conditions upon the essential public facility in order to ensure that:

- a. Necessary infrastructure is or will be made available to ensure safe transportation access and transportation concurrency;
- b. Necessary infrastructure is or will be made available to ensure that public safety responders have capacity to handle increased calls or expenses that will occur as the result of the facility;
- c. The project sponsor has the ability to pay for all capital costs associated with on-site and off-site improvements;
- d. The facility will not unreasonably increase noise levels in residential areas, especially at night;
- e. Visual screening will be provided that will mitigate the visual impacts from streets and adjoining properties; and

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- f. Any and all probable significant adverse environmental impacts are mitigated.
- g. The hearing examiner shall not impose conditions in such a manner as to preclude the siting or expansion of any state or regional essential public facility in the city of Mukilteo. In the event that a state or regional essential public facility cannot, by the imposition of reasonable conditions of approval, be made to mitigate the impacts described in subsection D of this section, the hearing examiner shall approve the siting or expansion of the state or regional essential public facility with such reasonable conditions of approval as may mitigate such impacts to the maximum extent practicable.

*MMC 17B.16.100.D.4.*

The criteria for review adopted by the City Council are designed to implement the requirement of chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

#### Conclusions Based on Findings

1. **With conditions of approval, the proposed facility would comply with MMC 17B.16.100.D State Essential Public Facility provisions.** The Applicant would meet most of the provisions of the City's Urban Mixed Use district. The Applicant has demonstrated, however, that due to the nature of the proposed facility, height restrictions and setbacks cannot be met. Therefore, the Applicant should be allowed to deviate from these restrictions. Ferry traffic would move away from the entrance to Lighthouse Park to help alleviate congestion and is expected to shorten the queue along SR-525, improving the access along the SR-525 corridor to residential neighborhoods and local businesses. The proposed facility would not generate additional demand for public services or public service responders. The Washington State Legislature would provide all capital costs. The proposed facility would not unreasonably increase noise levels in residential areas. The Applicant would use a design approach that mitigates visual impacts. Conditions of approval are necessary to ensure compliance with stormwater and erosion control measures; to require that the intersections of SR-525/88<sup>th</sup> Street SW and SR-525/5<sup>th</sup> Street are improved; and to ensure that the Applicant meets building and landscape design requirements. *Findings 1-22.*
2. **With conditions, the proposed facility would comply with the Shoreline Management Act; Washington Administrative Code 173-27 provisions; the City of Mukilteo's Shoreline Master Program; and City Shoreline Management regulations.** The City provided notice of the EPF and SCUP applications, and provided an adequate opportunity for the public to comment. The Applicant prepared an Environmental Impact Statement detailing measures to mitigate probable significant adverse environmental impacts. Ferry terminals and parking areas are allowed as a conditional use within the City's Urban Mixed Use zoning district. Shoreline areas designated as Urban Waterfront also allow for the

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proposed facility. Best Management Practices would be implemented during construction to ensure the proposed facility does not have an adverse impact on water quality.

Conditions of approval are necessary to ensure compliance with stormwater and erosion control measures; to make certain no construction takes place on Sundays and holidays; and to ensure that the Applicant meets building and landscape design requirements.

*Findings 1-22.*

## **DECISION**

Based on the preceding Findings and Conclusions, the request for an Essential Public Facilities Permit and Shoreline Conditional Use Permit to replace the Mukilteo Ferry Terminal with a new terminal and multimodal facility is **APPROVED**, subject to the following conditions:<sup>6</sup>

Essential Public Facilities and Shoreline Conditional Use Approval

1. The Essential Public Facilities and Shoreline Conditional Use Permit application request by Burt Miller on the behalf of Washington State Ferries for the Multimodal Project is approved subject to the substantial compliance with the Modified Elliot Point 2 Plan submitted on November 6, 2013. As design move from 30% plans to 100% plans, minor changes are allowed as long as the plans meet the requirements outlined in the Final Environmental Impact Statement dated June 2013 or the Record of Decision and the conditions of the Essential Facility and Shoreline Substantial Conditional Use permits.
2. All development is subject to the protective covenant and Tribal MOA (Exhibit I).
3. A major permit revision will be required if substantive changes are proposed to the design or conditions of this approval. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the master program and/or the policies and provisions of chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision. If the Applicant seeks to revise this permit, detailed plans and text describing the proposed changes shall be submitted. If the City determines that the proposed changes are within the scope and intent of the original permit, and are consistent with the applicable master program and the act, the revision may be approved. "Within the scope and intent of the original permit" means all of the following:
  - ☐ Ground area and overwater coverage may be increased a maximum of ten percent (10%) from the provisions of the original permit;
  - ☐ Additional or revised landscaping is consistent with any conditions attached to the original permit and with the applicable master program;
  - ☐ The use authorized pursuant to the original permit is not changed; and
  - ☐ No adverse environmental impact will be caused by the project revision.

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<sup>6</sup> This decision includes conditions required to reduce unique project impacts as well as conditions required to meet Municipal code standards. The conditions in this decision are taken verbatim from those recommended by City staff, with the exception of Conditions 55 and 56 that were added after the hearing. The Applicant testified that they agreed with the conditions recommended by the City.

4. Construction shall start within six (6) years of the effective date of approval for all State and Federal permits and the Section 106 (Tribal Consultation) finalized. The pier shall be fully removed by the end of year three (3) and an engineering permit shall be issued by the end of year six (6). Provided, that the City may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology.
5. Construction shall not begin and is not authorized until twenty-one (21) days from the date of approval of the Shoreline Conditional Use Permit by the Department of Ecology, or until all review proceedings and appeal processes have been completed.

**Phase I**

6. Removal of hazardous material per the Hazardous Material Discipline Report dated June 2013.
7. The existing pier removal shall be conducted using equipment operated from barges. If removal requires work to be done from the shore or upland area, WSF shall apply for the appropriate City permits, i.e., right-of-way, and provide a detailed haul route for the debris removal.
8. A copy of the approved waste disposal plan shall be submitted to the City for review prior to pier removal.

**Phase II and III**

**Civil Plans**

9. Final engineering drawings depicting the project design shall be submitted to the City's Public Works Director for final review and approval before issuance of any grading permits. The improvements shall be designed in accordance with the City's Development Standards. The 60% and 90% civil plans shall be made available for review by the public on the City's website.
10. Approval of the Shoreline and Essential Public Facility Permit includes the roadway alignment Option B, which moves the new portion of First Street south if the parking can be relocated without a major modification to the permit.
11. Siltation and erosion control measures shall be employed per the approved Temporary Erosion and Sediment Control Plan (TESCP) 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) permit.
12. The stormwater detention design and stormwater discharge shall utilize the Best Management Practices of the current DOE Stormwater Management Manual for Western Washington or



Highway Runoff Manual and the current Department of Ecology National Pollutant Discharge Elimination System (NPDES).

13. There shall be no above ground detention ponds for this project.
14. The approved traffic control plan and haul route plan shall be implemented per the approved civil plans, including requirements for any and all proposed street closures, staging areas, detours, signage, flaggers, and construction schedules.
15. The Applicant shall have a licensed Civil Engineer prepare and/or supervise the preparation of record 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 blue line drawing and one (1) 11"x17" reduced copy of the drawings shall be submitted prior to final approval of the proposed facility.
16. Prior to final approval, the Applicant shall execute a maintenance agreement with the City of Mukilteo that ensures that the public improvements is installed and maintained in acceptable condition against defects in labor and materials for a period of 24 months after final approval of the project by the City. If the improvements are found to be defective or negatively affects the public health, welfare, and safety during the two year maintenance period, the Applicant shall make any and all such repairs as needed to meet the City's safety concerns at no cost to the City. The City shall prepare the agreement for the WSF's signature.
17. SR 525/88th Street SW intersection and the SR 525/5th Street intersection are projected to operate below City of Mukilteo standards by the year 2040. WSF will work with the City of Mukilteo to develop agreements that define the specific improvements needed to reduce delay at these intersections and identify the proportion of WSF responsibility based on ferry traffic growth. The Applicant shall either obtain a Certificate of Concurrence from the City prior to Phase II permit issuance in accordance with Ordinance 1131, effective July 27, 2005 or an agreement, as a result of negotiations, between the Applicant and the City for traffic mitigation.
18. Provide a pedestrian safety and access plan showing pedestrian routes along SR525 and Front Street during construction. The plan shall include:
  - ☐ A traffic control officer during the peak traffic period for the duration of the construction period provide by WSF; and
  - ☐ Plans to elevate congestion at the Front Street/SR 525 intersection. Work with the City to determine hours of operation during the Farmer's Market and the Lighthouse Festival.
19. Binding Site Plan  
No permits shall be issued until the Binding Site Plan has been recorded and the properties transferred or right of entry has been given.

- Landscaping
20. Landscaping shall be installed in accordance with the approved Landscaping Plan, the Shoreline Permit Plans Landscape and Building Elements document and the protective covenants.
  21. If the parking garage is funded, the landscape requirements of 1 tree per 4 stalls may not be met. As a condition of the Essential Public Facility permit approval, the number of trees required for the parking garage may be relocated to another area on the site to accommodate the multimodal parking facility.
  22. Prior to final approval, the Applicant shall execute a maintenance agreement with the City of Mukilteo that ensures that landscaping is installed and maintained in acceptable condition against defects in labor and materials for a period of 24 months after final approval of the project by the City. If the improvements are found to be defective or negatively affects the public health, welfare, and safety during the two year maintenance period, the Applicant shall make any and all such repairs as needed to meet the City's safety concerns at no cost to the City. The City shall prepare the agreement for WSF's signature.
- Environmental
23. Construction, grading, and associated site development must follow recommendations presented in the geotechnical and stormwater BMP's set forth in the Final Environmental Impact Statement, Record of Decision and mitigation measures reports prepared for the Mukilteo Multimodal project dated June 2013.
  24. If special inspections are required for the development of the multimodal project, the Applicant shall be responsible for all fees associated with the special inspections. Neither the Building Official nor jurisdiction shall be liable for expenses entailed in the requirements of special inspections or the removal/replacement of any material required to allow for inspections.
  25. Copies of all inspections performed by the geotech shall be submitted to the City.
  26. Copies of all State and Federal permits for this project shall be submitted to the City prior to Phase I and II engineering permit issuance.
  27. All development shall proceed in accordance with the approved Hydraulic Permit Approval (HPA) issued by the Washington State Department of Fish and Wildlife.
  28. All development shall proceed in accordance with the approved Section 10/404 permit issued by the U.S. Army Corps of Engineers.
  29. All development shall proceed in accordance with the approved Coastal Zone Management consistency determination and 401 Water Quality Certification issued by the Department of Ecology.
  30. Submit an operations plan addressing noise impacts on the upland residential neighborhood from loud speakers/intercoms used to announce loading/unloading of the ferry.

Announcements shall be limited to 9 am – 6 pm to protect the quality of life of the upland residents.

Relocated Fishing Pier

31. Permit approval allows WSF the option of doing a joint application with NOAA to install the fishing pier. The WSF Shoreline Permit process will not be reopened, separate Shoreline, State and Federal permits shall be submitted for the joint relocation of the fishing pier with NOAA.

Fire

32. The following requirements shall be adhered to during construction and completed before occupancy of any structure in accordance with Fire Code Development Standards and 2006 International Fire Code:
- ☐ A water supply capable of supplying the required fire flow for fire protection must be provided;
  - ☐ Fire Hydrants shall be installed as per fire flow and spacing requirements specified for the type of development with regards to distances to structures;
  - ☐ Fire hydrants shall be equipped four- (4) inch quarter-turn Storz adapters
  - ☐ An access route, for firefighting apparatus, must 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;
  - ☐ 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.

Lighting

33. All exterior facility lighting shall be arranged so as to reflect away from surrounding properties and streets.
34. Street lights on First Street shall be a downtown decorative design and shielded to direct light away from businesses and residential property.
35. The Applicant shall prepare a streetlight plan, to be approved by the Public Works Director. All exterior lighting, including the parking area and property surrounding the building, shall be arranged so as to reflect away from surrounding properties and streets.
36. Street lights shall meet the design standards outlined in the downtown business plan. Street light designs shall be submitted to the City for review and approval.

Signage and Artwork

37. All signs shown for the Multimodal Facility are for illustrative purposes only. Pursuant to chapter 17.80 MMC, a sign permit must be obtained for the placement of any non-exempt



signage. Application for that sign permit shall include an approved site plan specifying the location of all signs.

38. The Applicant shall submit a signage plan for review and approval.
39. A member of the Arts and Park Commission shall be placed on the team to determine artwork for the multimodal project. Final arts plan shall be submitted to the City for review and the opportunity to comment by the Parks and Art and Planning Commission. The Applicant shall follow the process outlined in the Memorandum of Agreement.
40. Signage and educational awareness campaign shall be prepared by WSF and approved by the City of Mukilteo prior to Phase II permitting promoting ferry riders to be courteous to the upland residential neighborhoods by reducing emissions and noise levels.

#### Utilities

41. The Applicant shall relocate any utilities affected by the construction of the Mukilteo Multimodal Project improvements at no cost to the City of Mukilteo.
42. All utility improvements shall be placed underground unless otherwise approved by the Public Works Director. Required relocation of utilities shall be made at no cost to the City of Mukilteo.
43. Construction of sewer facilities shall be in accordance with the standards, specifications and regulations of Mukilteo Water and Wastewater District.
44. All above ground utility boxes shall be screened with landscaping or other architectural features.

#### Design

45. Building and landscaping design are subject to the design criteria listed in Shoreline Permit Plans Landscape and Building Elements dated October 2013 and the Memorandum of Agreement (MOA) with final approval by the City prior to permit issuance (Exhibit J and O).
46. Final design of the promenade, i.e., design, materials and planting plan are subject to final approval by the City.
47. Small retail and vendor usage will be permitted and encouraged for the upper floor of the terminal building.

#### Other

48. The Applicant shall submit plans showing the design and materials used for the proposed security fence to be approved by the City of Mukilteo prior to permit issuance.
49. Prior to Phase II permit issuance, a Land Use Binder shall be prepared and recorded with Snohomish County stating the Conditions of Approval for the Essential Public Facility and Shoreline Conditional Use Permit.

50. All construction equipment, building materials, and debris shall be stored on the Applicant's property or an approved off-site location, out of the public right-of-way. If a temporary stockpile area is required on-site, the location of the stockpile shall be determined in the field with the approval of the Planning and Public Works Director, on the recommendation of a geotechnical engineer. 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.
51. All contractors and subcontractors working on the project described herein shall obtain a business license from the City before initiation of any site work.
52. If at anytime during clearing, grading and construction the streets are not kept clean and clear, all work will stop until the streets are cleaned and maintained in a manner acceptable to the Public Works Director.
53. Construction noise is not allowed between the hours of six (6) p.m. and seven (7) a.m. on weekdays, and five (5) p.m. to nine (9) a.m. on Saturdays. No construction is allowed on Sundays and holidays. WSF may request exemptions from the no-work times for special and unusual circumstances. The City requires a 10-day notice for such a request.
54. The Applicant and their contractor shall attend a pre-construction meeting with City staff to discuss expectations and limitations of the project permit prior to the start of construction or site improvements.
55. The Applicant shall consider providing replacement resting and nesting places for birds that currently rest and nest on the existing pier.
56. Prior to issuance of any permits, the Applicant shall host a public meeting with the City and its citizens to help identify specific traffic mitigation measures to address citizen concerns during construction and operation of the proposed facility.

DECIDED this 24<sup>th</sup> day of March 2014.

  
THEODORE PAUL HUNTER  
Hearing Examiner  
Sound Law Center