



11930 Cyrus Way
Mukilteo, WA 98275
(425) 263-8000

Notice of Decision
Shoreline Substantial
Development Permit
City of Mukilteo Central Waterfront Interim
Open Space

SH-SDP-2023-001

SUMMARY OF DECISION:

The City of Mukilteo issues this Notice of Shoreline Permit Decision as required by Revised Code of Washington (RCW) 36.70B.130 and Mukilteo Municipal Code (MMC) 17B.13.080, and has made the following decision:

DECISION: The Shoreline Substantial Development Permit (SSDP) is approved, subject to conditions.

NOTICE DATE: May 11, 2023

EFFECTIVE DATE: Project construction (or the use or activity) shall not begin until 21 days from the date of filing (the “effective date”) of the Shoreline Substantial Development Permit (SSDP) with the Department of Ecology (MMC 17B.13.150(E)), or until all review proceedings and appeal processes have been completed, whichever is later.

The earliest effective date is June 1, 2023

SSDP EXPIRATION: Project construction (or the use or activity) shall begin within two (2) years of the effective date (MMC 17B.13.160(2)(a)).

All project construction must be complete (or the use or activity commenced) within five (5) years of the effective date (MMC 17B.13.160(2)(b)).

PROJECT NAME: City of Mukilteo Central Waterfront Interim Open Space (File Nos. SH-SDP-2023-001)

PROPONENT: City of Mukilteo

DESCRIPTION OF PROPOSAL:

The City of Mukilteo is proposing to redevelop the subject property so it can be used as interim public open space. Work includes filling utility vaults with CDF and grading the site level by adding gravel. The existing site is a mix of asphalt and gravel. The City will spread 300 cubic yards of ¾ crushed rock to level the site. No material will be removed from the site and no additional impervious surface area will be added. Following grading, the City will install minor park improvements such as picnic tables and park benches to allow interim use by the public ahead of redevelopment in the future.

The property is located within the 200-foot shoreline urban waterfront area. The property is zoned Open Space (OS).

LOCATION: The subject property is located about 540 feet west of the intersection of Front Street and Park Ave, and is otherwise known as Snohomish County Assessor Parcel No. 29043300402000 and legally described as:

Section 33 Township 29 Range 04 Quarter SE LOT 5 OF CITY MUK BSP 2016-001 REC UND AFN 201701205001 BEING A PTN OF GOVT LOT 1 SD SEC 33 & PTN OF GOVT LOT 1 SEC 4 TWP 28 RGE 4

PROJECT DECISION:

Staff administratively reviewed this project for consistency with the policies, standards, and regulations of the City of Mukilteo. After considering comments by the public and/or other agencies, the SSDP is hereby **approved with conditions** based on the following:

FINDINGS OF FACT

Consistency with Mukilteo Zoning Development Regulations and Permitting Procedures:

1. The applicant submitted a Shoreline Substantial Development Permit application on January 25, 2023, for grading. The application was deemed complete March 21, 2022.
2. The Notice of Application was issued March 9, 2023, which initiated the 30-day Notice of Application public comment period as required by MMC section 17B.13.090(B). The 30-day public comment period concluded April 10, 2023 (4:30 PM).
3. On March 9, 2023, the Notice of Application was posted in a conspicuous place on the subject property to the Substantial Development Permit application. Posting of the property met the Notice of Application public notice requirement of MMC section 17B.13.100 entitled “Public notice requirement.” Additional public notice was provided by US Mail to property owners within approximately 500’ of the subject property proposed for development, advertised in the Herald two times one week apart, posted on the City website and public notice locations, and emailed to agencies and interested parties lists.
4. As provided for in MMC 17B.13.080 a determination of completeness letter dated February 22, 2023, was sent to the applicant within twenty-eight calendar days after receiving a shoreline substantial development permit application.
5. The property is designated “Parks and Open Space” on the City of Mukilteo Comprehensive Plan Future Land Use map and is zoned Open Space (OS).

6. The Shoreline Environment designation, Comprehensive Plan Map designation, zoning and land uses of surround properties are:

Direction	Shoreline Environment Designation	Comprehensive Plan Map Designation	Zoning	Land Use
<i>North</i>	Puget Sound	Puget Sound	Puget Sound	Puget Sound
<i>East</i>	Urban Waterfront	Commercial – Mixed Use	Downtown Business District	Ferry Terminal (WSDOT Owned)
<i>West</i>	Urban Waterfront	Commercial – Mixed Use	Downtown Business District	Former NOAA Building (Port of Everett Owned)
<i>South (across Front Street)</i>	N/A; Outside of the shoreline jurisdiction	Commercial – Mixed Use	Downtown Business District	Holding Lane for Ferry Terminal

7. Project is exempt from the State Environmental Policy Act under the flexible thresholds for categorical exemption as the fill amount is less than one thousand cubic yards (MMC 17.84.070).
8. Staff has determined that development of the project will conform to all applicable zoning and development standards, and that as conditioned, the project will have no adverse impacts to the public health, safety and general welfare.
9. The project complies with the requirements of Mukilteo’s 2019 Development Standards, including but not limited to access and street standards.
10. Existing utilities serve the subject property. Water and sewer are currently provided by the Mukilteo Water & Wastewater District. Electricity is provided by Snohomish County PUD. Natural gas is provided by Puget Sound Energy. The approved activity will not have any impact on any of these utilities.
11. The property lies outside the 55 Day-Night Average Sound Level (DNL) noise contour of Paine Field Airport.

Consistency with Mukilteo Comprehensive Plan:

12. The property is designated “Parks and Open Space” in the City’s Comprehensive Plan Future Land Use map.
13. Development of the project will conform to the following applicable Comprehensive Plan policies:

LU5a: A Waterfront Master Plan shall be developed that reflects the direction of the Shoreline Master Program, accommodates the preferred alternative for the relocated Washington State Ferry facility, and addresses the operations and maintenance of city facilities envisioned for the waterfront. Subsequent land use decisions for the waterfront shall conform to the recommendations in the adopted Waterfront Master Plan.

Staff Finding: A review of the proposal against the 2016 Downtown Waterfront Master Plan (“Plan”) this property is planned as open space or a park. This development is an interim improvement to make the site safe for the

public to use until the property is redeveloped in the future based on plans adopted by the City.

- LU5c: Redevelopment of Mukilteo’s waterfront should include exceptional pedestrian and recreation facilities that include a waterfront promenade and a chain of waterfront parks, and a visitor dock, all with pedestrian-oriented amenities.

Staff Finding: These improvements are meant to create an interim open space facility on the shoreline. This will not impact any future use of the property.

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

Staff Finding: The subject site is within the shoreline, but no other critical areas exist onsite. The proposed activities will not have any adverse impacts on the shoreline and will prevent erosion and sedimentation when opened to the public. Best management practices will be used to prevent any possible impacts to the shoreline during construction.

- LU11: Development and redevelopment in the downtown business district shall be guided so as to create a unique identity for the area that is pedestrian-centric as provided for in the Downtown Business District Subarea Plan.

Staff Finding: Improvements will encourage public use and improve the pedestrian environment between the ferry dock and lighthouse park.

Consistency with Washington State Shoreline Management Act:

14. The Shoreline Management Act (SMA) requires jurisdictions located along the shorelines of Washington or with waters of statewide significance to develop Shoreline Master Programs (SMPs).

Staff Finding: The City of Mukilteo reviewed the proposed activities proposed in the permit comply with the requirements of the SMP. The improvements will improve the public’s ability to access the shoreline by making the property safe enough to allow public use.

Consistency with Mukilteo Shoreline Master Program:

15. The project is consistent with the goals, objectives and policies of the Mukilteo Shoreline Master Program (SMP).

The Urban Waterfront Shoreline Environment Designations include properties within the Downtown Business (DB) zone:

- The Urban Waterfront Shoreline Environment designation includes the area along the north side of the BNSF Railroad tracks including Front Street starting at the Losvar Condominiums and eastward through and to the east portion of the former Tank Farm.

Based on this review, staff has determined that development of the project will conform to the following applicable SMP policies for the Urban Waterfront Shoreline Environment:

Shoreline Management Program Goals	
GD 1:	Encourage City entryways, commercial development, and redevelopment near the urban waterfront to reflect the City's waterfront in a manner that will enhance the public enjoyment and access to the waterfront.
	<i>Staff Finding: The proposed improvements will make a significant area of the waterfront available to the public by making the property safe for public access. The work will also reduce the risk of erosion and sedimentation to better protect the shoreline area.</i>
GD 2:	Ensure compatibility of adjacent land uses through the use of buffer, landscaping, and quality building design to mitigate impacts and enhance the City's unique identity and distinctive entryways.
	<i>Staff Finding: The proposed use of public open space does not require a buffer from the adjacent uses. There are no proposed buildings.</i>
GD 3:	Promote economic development and redevelopment to provide for a tax base that is balanced so the tax burden is shared among residential, commercial, and industrial properties.
	<i>Staff Finding: No change is proposed to the land use or zone of the commercial property.</i>
GD 4:	Provide cost-effective and efficient public infrastructure and services that are sensitive to the environment; and that balance the use of a variety of modes of transportation.
	<i>Staff Finding: The proposal is a cost-effective method of creating interim open space on the shoreline from a property which is otherwise currently unsafe and unsightly. The improvements will also improve the pedestrian environment.</i>
GD 5:	Protect and enhance the City's critical areas and shoreline management zones to support fish and wildlife resources, maintain water quality and protect visual and aesthetic qualities.
	<i>Staff Finding: Proposed activities does not expand the area of pavement on the lot, increase the amount of impervious surface on the property, change drainage patterns, alter vegetation or natural areas on or off-site, result in the disturbance of a critical area or buffer, or cause substantial adverse effects to shoreline resources or environment.</i>
GD 6:	Provide a system of parks, recreational, and cultural facilities that incorporates both public entities (City, County, State, Port of Everett, and schools), and private assets in order to expand opportunities within the City, views of the water and mountain scenery and public access along the shoreline.

	<i>Staff Finding: The proposal will take a vacant parcel and create a recreational amenity and will create new public access along the shoreline.</i>
GD 7:	Promote economic development and redevelopment to provide for a tax base that is balanced so the tax burden is shared among residential, commercial, and industrial properties.
	<i>Staff Finding: The improvements will encourage redevelopment by creating additional public amenities and readying the property for more intensive redevelopment in the future.</i>
Shoreline Management Program – General Policies	
SH 1:	Work with the Port of Everett, the City of Everett, Snohomish County, BNSF, and other entities, and private landowners to; <ul style="list-style-type: none"> a) develop direct linkages to the waterfront; and, b) provide recreational opportunities and restore ecological functions through use of innovative approaches.
	<i>Staff Findings: The proposed interim open space will create a more direct connection to the shoreline for users in the area and create a recreational opportunity on what is currently unusable property.</i>
Shoreline Management Program – Public Access and Recreation Policies	
SH13:	Encourage cooperation and joint use between public and private agencies and landowners to increase and diversify shoreline recreation opportunities.
	<i>Staff Finding: The proposal encourages cooperation and joint use by providing a public access for enjoyment on the waterfront along the waterfront, including park users, restaurant patrons and employees, ferry riders, commuters, etc.</i>
Shoreline Management Program – Use and Circulation Policies	
SH14:	Generally limit new development within shoreline jurisdiction to water-dependent, water-related or water-enjoyment uses, public access, ecological restoration activities, or to essential regional public facilities that cannot feasibly be located elsewhere. Shops and services supporting the needs of commuters and visitors are also appropriate.
	<i>Staff Finding: The proposal allows public access to and enjoyment of the waterfront. At present, the condition of the site makes it unsafe for public access.</i>
SH15:	With the exception of pedestrian, bicycle, and emergency vehicle access, locate ferry vehicle staging, shared parking spaces, vehicle circulation and parking systems which are not related to shoreline-dependent uses or serving the multimodal station as far from the shoreline as possible.
	<i>Staff Finding: No such uses are proposed. The entire site will be used for water-enjoyment public access.</i>

Shoreline Management Program – Urban Waterfront/Urban Waterfront Park Shoreline Environments – Priority of Land and Water Uses	
UW1:	Priority shall be given to water-dependent uses, including ferry terminals and boat launches, in the Urban Waterfront Shoreline Environment. Water-related and water-enjoyment uses shall be given second priority.
	<i>Staff Finding: The proposed use is public access which is a water-enjoyment use. The use is an interim so any future needs would remain possible.</i>
UW2:	Non-water-oriented uses shall not be allowed except as: <ul style="list-style-type: none"> • part of mixed-use developments; • in existing developed areas supporting water-dependent uses; or • in limited situations where there is no direct access to the shoreline.
	<i>Staff Finding: N/A. The public access is water oriented.</i>
UW3:	Non-water-dependent uses that are auxiliary to, and necessary for, multimodal/intermodal public transportation shall be allowed, provided no other feasible alternative exists.
	<i>Staff Finding: N/A.</i>

Consistency with Mukilteo Shoreline Development Regulations:

- a. The property is located in the Urban Waterfront Shoreline Environments.
- b. The proposal meets the definition of “development” in MMC 17B.08.020, since it involves adding fill to the site.
- c. The proposal does not qualify for an exemption under MMC 17B.13.020 or Washington Administrative Code (WAC) 173-27-040 through WAC 173-27-045, and therefore a Shoreline Substantial Development Permit (SSDP) is required.
- d. Matrix (MMC 17B.16.040(A))Public Parks are allowed in the Urban Waterfront designation.
- e. Shoreline Substantial Development Permits are a Type I Administrative Decision, and no public hearing is required. The planning director or designee has authority to issue a decision on a Type I SSDP.

Imposing Conditions of Approval

16. The City may attach conditions to the approval of permits as necessary to ensure consistency of the project with the city regulations, the comprehensive plan, the Shoreline Management Act, and the Mukilteo Shoreline Master Program (MMC 17B.13.110(E)).
17. When permit approval is based on conditions, such conditions shall be satisfied prior final approval of the construction, use or activity (MMC 17B.13.160(A)(5)). Any violation of the conditions below are considered a violation of the permit and may be subject to the City’s code enforcement procedures.

DECISION

Based on the application and facts and findings of this decision, the City of Mukilteo's Shoreline Substantial Development Permit application to allow for an interim public open space within the Urban Waterfront Shoreline Environment designation is hereby APPROVED, subject to the following conditions:

General

1. All improvements shall be constructed in accordance with the Site Plan submitted on January 25, 2023. Minor changes are allowed as long as the plans meet the requirements outlined in the Shoreline Substantial Development permit.
2. 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 SMP and SMA, the revision may be approved. "Within the scope and intent of the original permit" means all of the following:
 - Filling existing vaults with appropriate fill material.
 - Spreading gravel over the site which is already paved.
 - Placement of park appurtenances such as picnic tables and park benches.
3. Project construction (or the use or activity) shall not begin until 21 days from the date of filing (the "effective date") of the Shoreline Substantial Development Permit with the Department of Ecology (MMC 17B.13.150(E)), or until all review proceedings and appeal processes have been completed, whichever is later.
4. Temporary erosion control measures shall be implemented during placement of the gravel and after placement until rain events no longer produce significant sediment in runoff.
5. Construction noise for the project shall be allowed between the hours of seven (7) a.m. to six (6) p.m. on weekdays. Construction shall be allowed on Saturdays from nine (9) a.m. to six (6) p.m. No construction shall be allowed on Sundays and holidays due to the close proximity of the neighboring residential area.
6. Prior to initiation of any site work, all contractors and subcontractors working on the project described herein shall obtain a business license from the City of Mukilteo.
7. 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 Community Development and Public Works Directors. 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.

8. If at any time during the construction process 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.

EXPIRATION

1. Project construction (or the use or activity) must begin within two (2) years of the effective date of a shoreline permit (MMC 17B.13.160(A)(2)(a)).
2. Authorization to conduct development activities shall terminate five (5) years after the effective date of a shoreline permit (MMC 17B.13.160(A)(2)(b)).
3. The effective date is 21 days after the date of filing of the Shoreline Substantial Development Permit (SSDP) with the Department of Ecology (MMC 17B.13.150(E)), or until all review proceedings and appeal processes have been completed (MMC 17B.13.160(A)(3) and (A)(4)), whichever is later.
4. 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.

APPEALS

An appeal of this decision must be filed by a Party of Record within 21 calendar days of the “date of filing” with the Department of Ecology (Ecology) as defined in RCW 90.58.140(6). Appeals must be delivered to the State Shoreline Hearings Board by the above date at P.O. Box 40903, Olympia WA 98504-0903.

Any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state pursuant to RCW 90.58.140 may seek review from the shorelines hearings board by filing a petition for review within twenty-one days of the date of filing of the decision as defined in RCW 90.58.140(6).

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

Contact Person:

T: (425) 263-8084

E: agaluska@mukilteowa.gov

Signature: _____

Andrew Galuska,
Community Development Director

Date: 5/11/2023



Location Map

pc: Applicant/Representative
Reviewing Agencies
Interested Parties

CDD Director
Permit Services Coordinator
Permit Services Assistants (2)

Property File
Property Owners (300')