



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

Notice of Decision

Mukilteo Ridge HOA Slope Stabilization Project

Parcel No. 28040300203200

SUMMARY OF DECISION:

The City of Mukilteo issues this Notice of Decision as required by Revised Code of Washington (RCW) 36.70B.130 and Mukilteo Municipal Code (MMC) 17.13.080, and has made the following decision:

DECISION: Approved, subject to conditions

NOTICE DATE: Thursday, December 8, 2022

APPEAL PERIOD: Thursday, December 22, 2022 (4:30 p.m.)

EXPIRATION: December 8, 2026

PROJECT NAME: Mukilteo Ridge HOA Slope Stabilization Project Parcel No. 28040300203200 (File Nos. CAR-2022-007, ENG-2022-006, SEPA-2022-004)

PROPONENT: Gwendolyn (Wendy) McHugh, P.E., Coffman Engineers, Inc., on behalf of Tarvinder (Terry) Hara, President, Mukilteo Ridge Homeowner's Association (HOA)

DESCRIPTION OF PROPOSAL:

There is an open Code Compliance case (CC-2019-017) related to the drainage infrastructure for this property. Resolution of the Code Compliance case includes permanent repairs to the storm drainage pipe failure and the related slope erosion in Tract G of the Kari Short Plat, also known as Snohomish County Assessor Parcel No. 28040300203200, located within the RD 7.5 zoning district.

This proposal is a slope stabilization and repair project, including the installation of new drainage dispersion infrastructure and erosion containment via a gabion dissipater wall, in order to remedy the failing slope downstream of the detention facility for the development. The slope was damaged when an existing drainage conveyance structure failed, leading to the erosion and eventual failure of slopes located within the western buffer of Edgewater Creek, a Type 5 stream.

The proposed slope stabilization project will impact approximately 1,782 square feet of the Category III wetland buffer. As mitigation for the proposed buffer disturbance, the applicant is

proposing to mitigate 2,227.5 square feet of buffer by purchasing the fee-in-lieu credits through the City of Mukilteo Critical Area Mitigation Program (CAMP).

State Environmental Policy Act (SEPA) review is necessary due work within the stream and wetland buffers.

All supporting documents are available on the City of Mukilteo website at <https://mukilteowa.gov/land-use-action-notices/> or by request from the City of Mukilteo Community Development Department via email (permittech@mukilteowa.gov) or phone (425) 263-8000.

LOCATION: Snohomish County Assessor Parcel No. 28040300203200 and legally described as:

Section 03 Township 28 Range 04 Quarter NW TRS A, B, C, D, E, F & G
CITY OF MUK SP NO SP2012-001 REC AFN 201402105001; BEING
PTN NE1/4 NW1/4 OF SD SEC

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 project permit is hereby **approved with conditions** based on the following:

FINDINGS OF FACT

Consistency with Mukilteo Development Regulations and Permitting Procedures:

1. The applicant submitted an application on February 25, 2022, for slope stabilization and repair project, including the installation of new drainage dispersion infrastructure and erosion containment via a gabion dissipater wall, in order to remedy the failing slope downstream of the detention facility for the development. The application became complete on March 29, 2022.
2. The property is zoned RD 7.5.
3. The proposed slope stabilization project will impact approximately 1,782 square feet of the Category III wetland buffer.
4. As mitigation for the proposed buffer disturbance, the applicant is proposing to mitigate 2,227.5 square feet of buffer by purchasing the fee-in-lieu credits through the City of Mukilteo Critical Area Mitigation Program (CAMP).
5. A Notice of Application was issued on April 12, 2022, with a 14-day comment period that closed on April 26, 2022. The City of Mukilteo received two (2) comments in response to the Notice of Application.
 - The first comment is from Peter DeSanto, property owner who resides at 1603 Debrelon Lane, Mukilteo WA 98275. Mr. DeSanto is concerned about the impacts to his property adjacent to the landslide area caused by the drainage failure. Mr. DeSanto has a pump house that supplies his property with water and is currently only four (4) feet from the top of the slope due to the drainage failure.
 - **Staff Response:** The geotechnical report recommended the existing foundations should either be underpinned adequately, or a retaining wall should

be built at the base of the slope to create an adequate setback for the pumphouse. The applicant chose the latter as a retaining wall has been proposed to be installed at the base of the slope to support the slope and existing pumphouse. The setback from the unsupported steep slope area to the south/southeast is now about 16 feet minimum.

- The second comment was from Washington State Department of Fish and Wildlife (WDFW) stating a hydraulic permit will be required for the proposed work.
 - **Staff Response:** This will be a condition of the permit.
6. Pursuant to the Washington State Environmental Policy Act, the City of Mukilteo was designated as the lead agency for review of the proposed development. A Mitigated Determination of Non-Significance (MDNS) was issued on September 9, 2022, for the proposal pursuant to WAC 197-11-350 and MMC 17.84.100. The MDNS was based on the following:
 - *Environmental Checklist* prepared by Jeff Mallahan, Senior Wetland Ecologist of Wetland Resources, Inc on January 31, 2022.
 - *Mukilteo Ridge HOA Mitigation Plan* prepared by Jeff Mallahan, Senior Wetland Ecologist of Wetland Resources, Inc dated February 3, 2021.
 - *Geotechnical Evaluation Report* prepared by American Geoservices dated April 18, 2018.
 7. No appeal of the SEPA determination was submitted and the threshold determination stands as issued.
 8. Staff administratively reviewed this project for consistency with all applicable requirements of the Mukilteo Municipal Code that apply to the subject property. Based on this review, 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. Staff administratively reviewed this project for consistency with all applicable requirements of Mukilteo's 2019 Development Standards, including but not limited to drainage, clearing, grading, erosion control, access and street standards.

Consistency with Mukilteo Comprehensive Plan:

10. The property is designated Industrial in the City's 2018 Comprehensive Plan.
11. Staff administratively reviewed this project for consistency with the goals, objectives and policies of the Comprehensive Plan. Based on this review, staff has determined that development of the project will conform to the following applicable Comprehensive Plan policies:
 - 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.

- LU9a: These wetlands and other critical areas which contribute to the City's stormwater management program should be protected by delineating their locations, adopting relevant land use regulations, purchasing of development rights, and other protective techniques.
- LU9b: Maintaining the natural hydrological functions of each watershed, and where appropriate and possible, restoring them along with freshwater and marine habitats to a more natural state and ecological functionality should be a consideration of all City of Mukilteo actions.
- UT7: Surface water management planning and operations shall comply with City, State, and Federal surface water regulations and be consistent with the City of Mukilteo Comprehensive Plan.
- UT7d: Drainage, flooding, and stormwater run-off impacts shall be minimized to the maximum extent practical in land use development proposals and City operations.
- UT8: Streams and wetlands should be an integral part of the stormwater management program, provided they are protected from the negative impacts created by altered flow regimes and pollutant sources.

CONDITIONS OF PROJECT APPROVAL

The City may attach conditions to the approval of permits as necessary to ensure consistency of the project with the City regulations and the comprehensive plan (MMC 17.13.080).

When permit approval is based on conditions, such conditions shall be satisfied prior final approval of the construction, use or activity (MMC 17.13.030(F)). Any violation of the conditions below are considered a violation of the permit and may be subject to the City's code enforcement procedures.

General

1. All improvements shall be constructed in accordance with the Site Plan submitted on February 25, 2022 and approved on October 17, 2022. Minor modifications of the plans submitted may be approved by the Community Development Director if the modifications do not change the Findings of Fact or the Conditions of Approval.
2. All improvements shall be constructed in accordance with the Engineering Plans submitted on February 25, 2022 and approved on August 24, 2022. Minor modifications of the plans submitted may be approved by the Public Works Director if the modifications do not change the Findings of Fact or the Conditions of Approval.
3. An onsite preconstruction meeting is required prior to start of any work to review sediment transport potential.
4. The applicant shall apply for and obtain a Hydraulic Permit Approvals (HPA) by the Washington State Department of Fish and Wildlife prior to permit issuance by the City. A copy of the HPA permit shall be submitted to the City.
5. The city will require a leakage test for the existing and newly placed drainpipe prior to backfill. The results of this test shall be submitted to the city prior to drainpipe backfill.

6. Per recommendations in the geotechnical Report prepared by American Geoservices, dated April 18, 2018. Construction shall take place during summer or dry seasons (May through September) of the year.
7. Following the Geotechnical Report prepared by American Geoservices, dated April 18, 2018. All special inspections shall be submitted to the city prior to final approval of the project.
8. Special inspections shall be conducted for the retaining wall(s) construction by the Design Structural Engineer, or their designee. The reports shall be completed and submitted to the City for the property file. The reports shall verify that the wall(s) were built per the approved Engineered design, or if deviations were done that were approved by the Structural Engineer of record.

Mitigated Determination of Non-Significance (MDNS)

9. The clearing/grading of this area shall be accomplished in such a manner as to prevent the transport runoff of silt and sediment into the storm drainage system and onto adjacent or downstream properties. Erosion control measures shall be implemented as necessary to accomplish this erosion control. No clearing/grading or any activity that exposes bare soil to the precipitation or wind shall be accomplished without implementing a Temporary Erosion Control Plan that employs Best Management Practices (BMP's) to prevent erosion and sedimentation.
10. The planting and other recommendations of the Mukilteo Ridge HOA Mitigation Plan prepared by Jeff Mallahan, Senior Wetland Ecologist of Wetland Resources, Inc dated February 3, 2021 shall be met. Other Mukilteo Municipal Code critical areas requirements not specifically addressed in the Mitigation Plan including, but not limited to, acceptable surety devices and long-term maintenance shall also be met.
11. All development shall proceed in accordance with the recommendations listed in the Geotechnical Evaluation Report prepared by American Geoservices dated April 18, 2018. The applicant shall comply with other applicable codes and requirements.

Mitigation

12. Minor modifications of the Mitigation Plan submitted may be approved by the Community Development Director at his/her discretion and provided that the minor modification is supported by additional critical areas analysis.
13. The applicant shall submit a Performance Bond in the amount of one hundred and fifty percent (150%) of the estimated cost for mitigation upon approval of the Critical Area Review prior to permit issuance.
14. The applicant shall submit a Maintenance Bond in the amount of fifteen percent (15%) of the actual cost for mitigation upon completion of the mitigation installation.
15. The applicant shall submit a Monitoring Deposit in the amount of \$700.00 prior to final acceptance of the project to cover the estimated city's costs to review the yearly monitoring reports and conduct a site inspection to ensure the performance standards are being met.

Critical Area Mitigation Plan (CAMP) Payment

16. The applicant shall pay to the City the fee-in-lieu of credit for 2,227.5 square feet of buffer mitigation in the amount of \$11,917.13 prior to permit issuance.

Miscellaneous

17. All construction equipment, building materials, and debris shall be stored on the applicant's property, out of the public right-of-way. In no case shall the access to any private or public property be blocked or impinged upon without prior consent from the affected property owners and the City of Mukilteo.
18. All contractors and subcontractors working on the project described herein shall obtain a business license from the City before initiation of any site work.
19. If at any time during 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.
20. Noise from construction activity that is audible beyond the property lines shall not be allowed between the hours of nine (9) p.m. to seven (7) a.m. on weekdays, and seven (7) p.m. to nine (9) a.m. on weekends and holidays.
21. The applicant shall have a licensed Civil Engineer prepare and/or supervise the preparation of As-Built drawings to be reviewed, approved and signed by the City Engineer upon satisfactory installation of the constructed infrastructure improvements and site work. One (1) reproducible, one (1) signed Mylar drawing and one (1) 11"x17" reduced copy of the drawings shall be submitted prior to final approval of the proposed project.

EXPIRATION

1. A grading or building permit must be obtained within four (4) years from the date of this Notice of Decision (MMC 17.030.030(G)).
2. If a building permit, grading permit or occupancy permit is not obtained within this period, the project permit shall become null and void, and a new project permit application is required.
3. The Community Development Director may grant an extension to the approval date for a period of one (1) year if such is requested prior to the expiration of the project permit.

Appeals

Any Party of Record may appeal this project decision by filling out the appeal form and submitting it with the appeal fee to the City of Mukilteo Community Development Department, 11930 Cyrus Way, Mukilteo, WA 98275 by mail, personal delivery to the drop box outside City Hall, or other method, during normal business hours by **4:30 p.m., Thursday, December 22, 2022.**

Parties of record include the applicant, any person who testified at the open record hearing on the application (if a public hearing was held), and/or any person who submitted written comments concerning the application (excluding persons who have only signed petitions or mechanically produced form letters).

City Hall is currently open Monday and Wednesday from 7:30 AM-5:00 PM, Tuesday and Thursday from 10:30 AM – 5:00 PM. The building is closed for lunch from 12-1 PM and closed to the public on Fridays. Comments must be delivered by in person, mail, personal delivery to the drop box outside City Hall or by email to lritter@mukilteowa.gov. City Hall is located at 11930 Cyrus Way, Mukilteo, WA 98275. Please call City Hall (425) 263-8000 during regular business hours and arrangements can be made to submit an appeal.

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: Linda Ritter

(425) 263-8043

Linda Ritter

12/5/2022

Linda Ritter, Senior Planner, Planning & Community Development

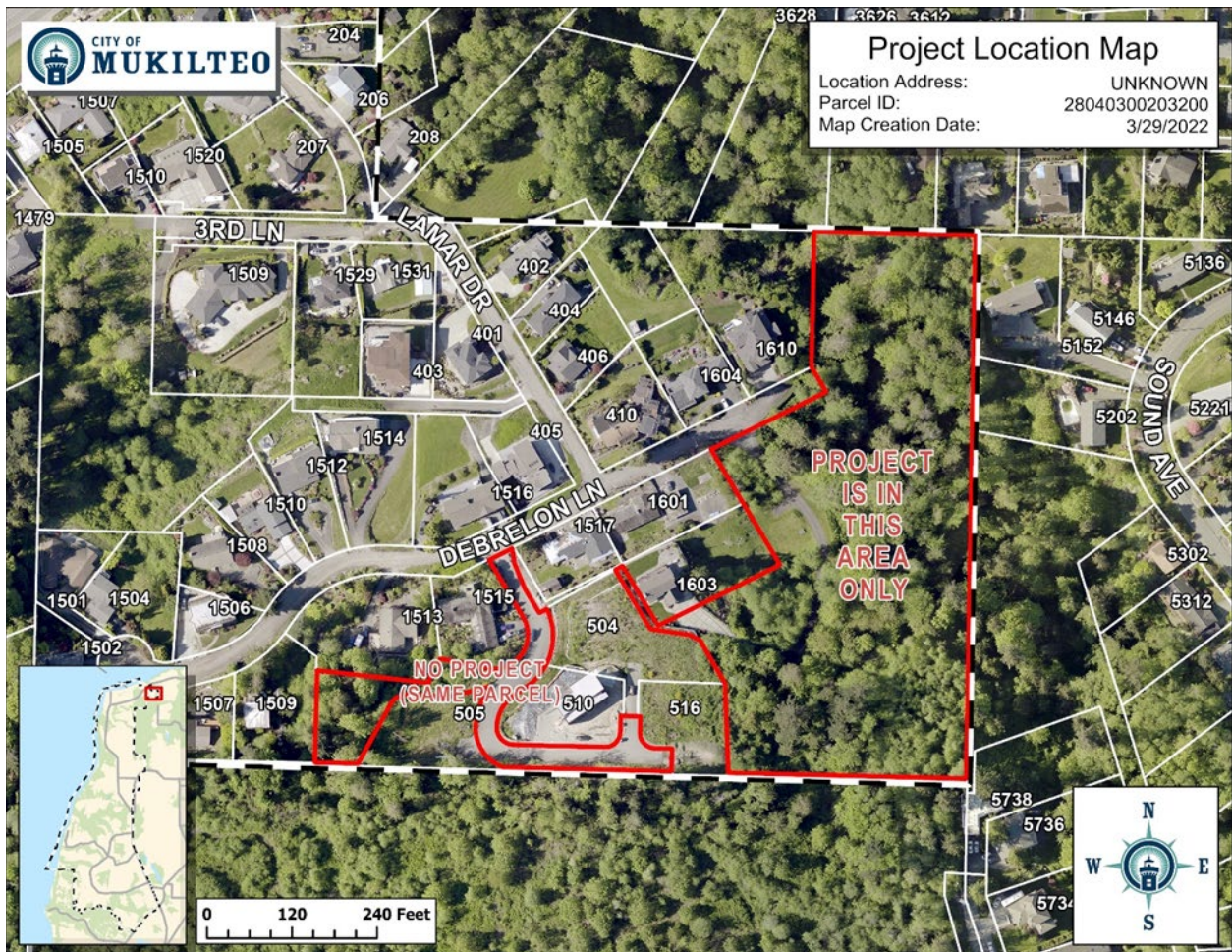
Date

Matt Nienhuis

12/08/2022

Matt Nienhuis, Director, Public Works

Date



Location Map

pc: Applicant/Representative
Reviewing Agencies
Interested Parties

CDD Director
Permit Services Coordinator
Permit Services Assistants (2)

Property File
Property Owners (300')

