



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

## Notice of Decision

**Mukilteo School District  
Conditional Use Permit**  
10801 Harbour Pointe Boulevard

The City of Mukilteo has issued a Notice of Decision for a Conditional Use Permit as required by Regulatory Reform Act (RCW 36.70B.130) and Mukilteo Municipal Code (MMC 17.13.080), and has APPROVED the following project:

**Project Name:** Mukilteo School District

**Proponent:** Laura Brent on behalf of the Mukilteo School District

**Project Number:** CUP-2019-001

**Description of Proposal:** Construction of a new 1,924 s.f. storage building to provide more accessible and efficient storage for field and team equipment. Additional improvements to meet voter-approved bond commitments were proposed to the existing field house under a separate Tenant Improvement (TI) permit. Improvements under the TI include reconfiguring the interior of the building, adding a small exterior canopy, and adjusting the fencing to improve emergency access.

**Project Location:** Parcel No. 28042100400500, located at 10801 Harbour Pointe Boulevard

<b>Project Decision:</b>	Approved
<b>Notice of Decision Date:</b>	Friday, November 15, 2019
<b>End of Appeal Date:</b>	Friday, December 6, 2019 (4:30 PM)
<b>Project Expiration Date:</b>	November 15, 2021

## **Project Decision**

A public hearing was held before the Hearing Examiner on October 22, 2019, for a Conditional Use Permit Application. After considering comments by the public, City staff, and outside agencies, the Hearing Examiner approved the project with conditions based on and subject to the attached Findings of Fact, Conclusions and Decision.

The Conditional Use Permit shall be valid for two (2) years from the date of this Notice of Decision. If a building permit, as permitted by the Conditional Use Permit, is not obtained within this period, the project permit shall become null and void, and a new Conditional Use Permit will be required.

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

## **Appeals**

A Party of Record must file an appeal of this decision within twenty-one (21) calendar days from issuance of this Notice of Decision. Appeals must be delivered to the Snohomish County Superior Court by **Friday, December 6, 2019**, at 3000 Rockefeller Ave., Everett, WA 98201.

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.

**Staff Contact:** Linda Ritter, Senior Planner

(425) 263-8043

Email: [lr Ritter@mukilteowa.gov](mailto:lr Ritter@mukilteowa.gov)

*Linda Ritter*

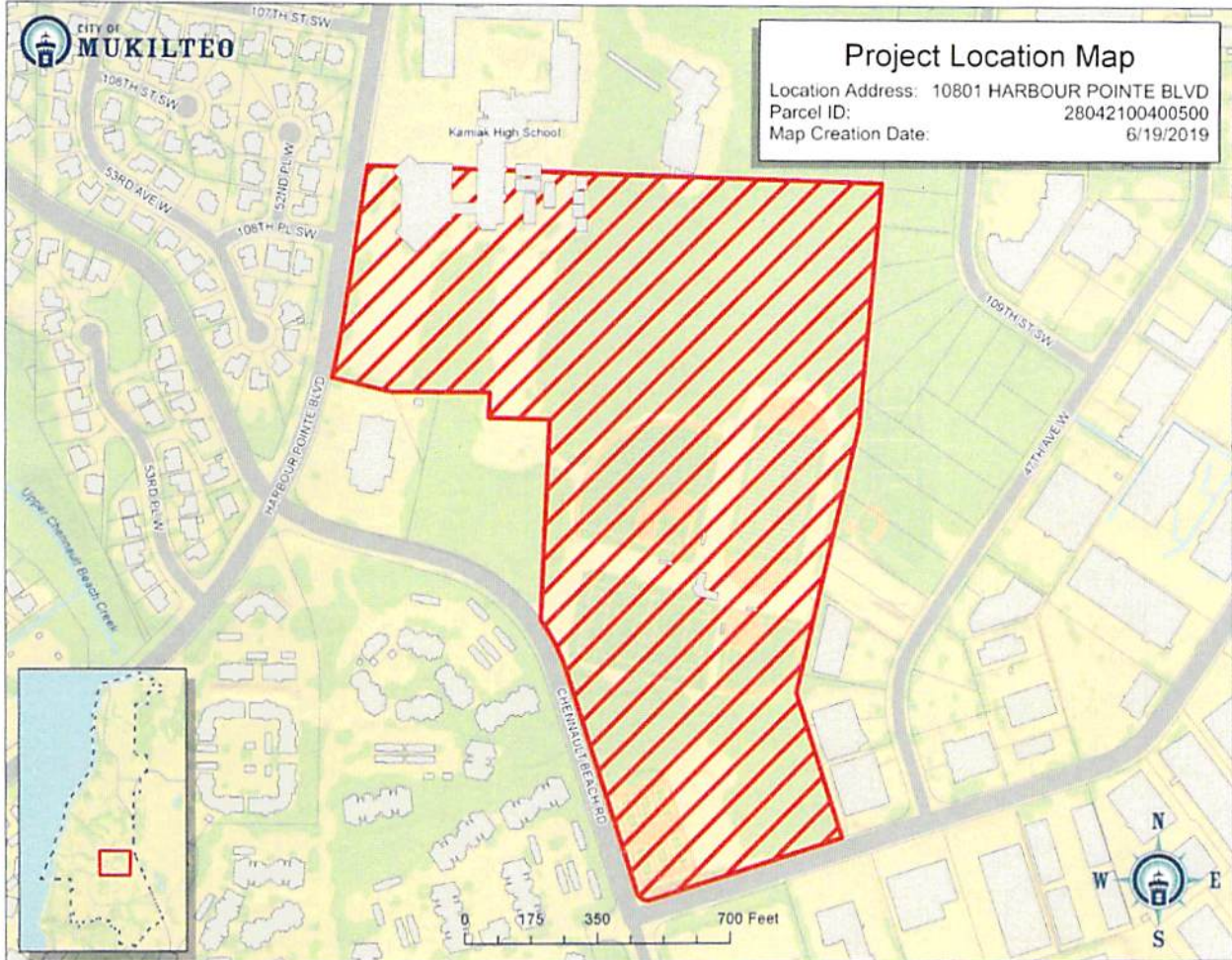
Linda Ritter,  
Senior Planner  
Planning Department

11/12/19  
Date:

*Mick Matheson*

Mick Matheson, P.E.  
Public Works Director

11/12/19  
Date:



Location Map

pc: Applicant/Representative  
Reviewing Agencies  
Interested Parties

CDD Director  
Permit Services Assistants (2)

Property File  
Property Owners (300')

**BEFORE THE HEARING EXAMINER  
FOR THE CITY OF MUKILTEO**

In the Matter of the Application of )	No. CUP 2019-001
)	
<b>Laura Brent, Brent Planning Solutions,</b> )	
<b>On behalf of the Mukilteo School District</b> )	
)	FINDINGS, CONCLUSIONS,
<u>For Approval of a Conditional Use Permit</u> )	AND DECISION

**SUMMARY OF DECISION**

The request for a conditional use permit to allow for the construction of a 1,924 square foot storage building in the Multi-Family Residential District at Kamiak High School, 10801 Harbour Pointe Boulevard, is **GRANTED**. Conditions are necessary to mitigate specific impacts of the proposal.

**SUMMARY OF RECORD**

**Hearing Date:**

The Hearing Examiner held an open record hearing on the request on October 22, 2019.

**Testimony:**

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

Linda Ritter, City Senior Planner  
Laura Brent, Applicant Representative  
Mitch Kent, Applicant Architect

**Exhibits:**

The following exhibits were admitted into the record:

1. Staff Report, with the following attachments:
  - A. Project Location Map, created June 19, 2019
  - B. 10801 Harbour Pointe Blvd. map, created October 4, 2019
  - C. Zoning district map, created August 22, 2019
  - D. Applications
    - i. Land Use Permit Application, dated April 26, 2019
    - ii. Conditional Use Permit Supplemental Application Form, received April 29, 2019, with Attachment A, Legal Description
  - E. Site plan
    - i. Overall Site Plan (Sheet CUP-4), dated August 28, 2019
    - ii. Enlarged Site Plan (Sheet CUP-4.1), dated August 28, 2019
  - F. Existing Site Condition photo, undated
  - G. Elevations (Sheet CUP-9), undated

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- H. Attachment B Project Narrative, received April 29, 2019
- I. Determination of Completeness, dated June 28, 2019
- J. Notice of Application, undated, and Project Location Map
- K. Agency comments
  - i. Letter from Jason Zyskowski, Snohomish PUD, to Linda Ritter, dated June 23, 2019
  - ii. Email from Amanda Zych, Snohomish Health District, to Cheryl Martinis, dated July 11, 2019, with email string
  - iii. Email from Elbert Esparza, Snohomish County Department of Public Works, to Cheryl Martinis, dated July 10, 2019, with email string
- L. Public notice of application
  - i. Affidavit of Publication, *Everett Daily Herald*, dated July 12, 2019, with classified proof, *Everett Daily Herald*, published July 12, 2019
  - ii. Certification of Public Notice - Declaration of Posting, dated July 12, 2019
  - iii. Certification of Public Notice - Declaration of Posting, dated July 10, 2019
  - iv. Certification of Public Notice - Declaration of Mailing, dated July 10, 2019
- M. Public notice of hearing
  - i. Certification of Public Notice – Declaration of Mailing, dated October 10, 2019
  - ii. Certification of Public Notice – Declaration of Posting, dated October 10, 2019
  - iii. Certification of Public Notice – Declaration of Posting, dated October 14, 2019
  - iv. Affidavit of Publication, *Everett Daily Herald*, dated October 11, 2019, with classified proof, *Everett Daily Herald*, October 11, 2019
- N. Memorandum from Brian Wirt to Linda Ritter, dated October 21, 2019
- O. City PowerPoint presentation (nine slides)

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. Laura Brent, of Brent Planning Solutions, on behalf of the Mukilteo School District (Applicant), requests a conditional use permit (CUP) to allow for the construction of a 1,924 square foot storage building in the Multi-Family Residential District. The proposed use would be located at Kamiak High School, 10801 Harbour Pointe

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Boulevard.<sup>1</sup> *Exhibit 1, Staff Report, page 1; Attachment D; Attachment E; Attachment G; Attachment H.*

2. The City of Mukilteo (City) determined that the application was complete on June 28, 2019. On July 10, 2019, the City mailed or emailed notice of the application to property owners within 380 feet of the property and to interested agencies and interested parties. The City also posted notice at designated posting locations, including the Rosehill Community Center, Harbour Pointe Shopping Centre, US Post Office, and Mukilteo City Hall. The notice provided a comment deadline of July 26, 2019. On July 12, 2019, the City posted notice on or near the site and published notice in the *Everett Daily Herald*. On October 10, 2019, the City posted notice of the open record hearing at the City's designated posting locations, including the Rosehill Community Center, Harbour Pointe Shopping Centre, US Post Office, and Mukilteo City Hall. The next day the City mailed or emailed notice of the open record hearing to property owners within 380 feet of the property and to interested agencies, and also published notice in the *Everett Daily Herald*. On October 14, 2019, the City posted notice on or near the site. *Exhibit 1, Staff Report, pages 5 and 12; Attachment I; Attachment L; Attachment M.*

The City received three Snohomish County agency responses to the notices. The Snohomish County PUD commented that the district has sufficient electrical system capacity to serve the proposed development, although existing facilities may require upgrading. The Snohomish County Department of Public Works determined that there would not be an impact to County roads. The Snohomish Health District had no objections. In addition, Brian Wirt, the City's Surface Water Technician, submitted a memo dated October 21, 2019, requesting the following condition be attached to any approval of the request: "This project will require a stormwater permit application be submitted and all requirements from the 2012 Stormwater Management Manual for Western Washington be met prior to permit issuance." No public comments were received. *Exhibit 1, Staff Report, page 12; Attachment K; Attachment N.*

#### State Environmental Policy Act

3. City staff determined that the request would be exempt from environmental review, under the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW), in accord with Washington Administration Code (WAC) 197-11-800(6)(a), as minor new construction less than 30,000 square feet. *WAC 197-11-800(6);*<sup>2</sup>

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<sup>1</sup> The property is identified by tax account number 28042100400500. A legal description is provided on the Land Use Permit Application. *Attachment D.i.* The CUP application lists Brent Planning Solutions, LLC as the Applicant and the Mukilteo School District No. 6 as the property owner. *Attachment D.ii.*

<sup>2</sup> WAC 197-11-800(1)(d) provides: "The maximum exemption levels applicable to (c) of this subsection are. . . storage building . . . 30,000 square feet and 90 parking spaces." WAC 197-11-800(6) provides: "The following land use decisions shall be exempt: (a) Land use decisions for exempt projects." *Exhibit 1, Staff Report, page 11.*

*Mukilteo Municipal Code (MMC) 17.84.070(D). There are no critical areas on-site. Exhibit 1, Staff Report, pages 3, 11, and 13; Attachment J.*

Comprehensive Plan, Zoning, and Surrounding Property

4. The City Comprehensive Plan designates the property as “Multi-Family Residential High Density.” The Comprehensive Plan contains goals and policies relevant to the proposed use. City staff determined that the following Comprehensive Plan Land Use (LU) policy LU 2e is applicable to this project. That policy provides that a purpose of the Comprehensive Plan is “to provide for smooth and compatible transitions between areas of different land use intensity.” *Exhibit 1, Staff Report, pages 5 and 6.*
5. The proposed use would be located on the Kamiak High School grounds, which is approximately 37.95 acres. The City approved a Conditional Use Permit to build the high school in 1992 on property zoned Multi-Family Residential (MR) and heavy industrial (HI). The proposed storage building would be constructed on the MR portion of a parcel zoned MR and HI. The City determined that the proposed use was similar to a moved-in building, which requires a CUP within a residential zone. *MMC Table 17.16.040.* In addition, an expansion to the school property also requires a CUP. *Exhibit 1, Staff Report, page 4.*
6. The City reviewed the MR zoning requirements and determined that (1) the proposed setbacks (front, 185 feet; rear, 461 feet; side (east), 1,023 feet); (2) the proposed building height (12 feet 8 inches); and (3) the building separation requirements (40 feet) would meet the development standards in the underlying zone. The proposed lot coverage of 15 percent is below the 35 percent maximum allowed in the underlying zone. Adequate parking and landscaping exists on the subject property, and no additional parking or landscaping is proposed. *Exhibit 1, Staff Report, pages 10 and 11; Attachment E.*
7. Property to the north is zoned Heavy Industrial (HI)/Multi-Family Residential (MR). Property to the west is zoned MR and Single Family Residential (RD 8.4). Property to the south is zoned Industrial Park (IP)/Multi-Family Residential (MR/Light Industrial (LI)). Property to the east is zoned Open Space (OS) and Industrial Park (IP). *Exhibit 1, Staff Report, page 3.*

Conditional Use Permit

8. The proposed building location is flat, previously graded land. The storage building would be used for storage of athletic equipment. The building would have electricity for lighting but would not be heated. Access to the site is from Harbour Pointe Boulevard and Chennault Beach Road, which are “Urban Collectors.” *Exhibit 1, Staff Report, pages 3, 4, and 10; Attachment K.i.*

Testimony

9. City Senior Planner Linda Ritter testified generally about the application and, specifically, about how the application would satisfy the CUP criteria of MMC 17.64.020. She testified that the Applicant submitted a Site Plan (Attachment E), which the City has approved. She explained that the City determined that the proposed use would require a drainage review. The City determined that:
- The proposal would comply with the goals and objectives of the Comprehensive Plan.
  - No additional parking or landscape screening is required.
  - No additional traffic impacts will occur, and no additional parking or lighting is proposed.
  - The area of the site is adequate to accommodate the proposed use.
  - The proposal would meet dimensional regulations for the MF zone, including setbacks.
  - There are no new policy issues involved in the proposal that would warrant sending it to the Planning Commission for a recommendation.
- Exhibit 1, Staff Report, pages 5 through 9; Testimony of Ms. Ritter.*

10. Applicant Representative Laura Brent testified as the land use consultant for the Mukilteo School District. She stated her opinion that the proposed use is consistent with the School District's Facility Plan. She testified that the proposed storage building would have no impact on the neighborhood and agreed with the proposed conditions of approval, including the need to meet the 2012 Stormwater Management Manual for Western Washington. *Testimony of Ms. Brent.*
11. Mitch Kent, Architect for the Mukilteo School District, testified for the Applicant that the proposal is part of a 2014 voter-approved school bond election. He stated that the building would be close to the athletic field and would be used to store athletic equipment, as well as maintenance equipment for the track. The building would be similar to other buildings on the subject property. *Testimony of Mr. Kent.*

#### Staff Recommendation

12. City staff reviewed the application and recommended that the application be approved, with conditions. *Exhibit 1, Staff Report, pages 2, 5 to 7, 9, 11, and 13.*

### **CONCLUSIONS**

#### Jurisdiction

The Hearing Examiner is authorized to conduct an open record hearing on the conditional use permit request, and to approve, approve with conditions, or deny the request. *MMC 2.38.030.A.1; MMC 17.13.070 Table 4.*

#### Criteria for Review

City code provides that conditional use permits shall be granted or denied by the City after due consideration has been given to the performance standards set forth in Title 17 MMC and after

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the Applicant has shown that the conditional use would not impinge on the health, safety, welfare, and rights of the residents of the city. *MMC 17.64.010.*

In order to approve a CUP, the Hearing Examiner must determine that the proposed use complies with the following criteria:

- A. All conditional uses must be in accordance with the goals and objectives of the comprehensive plan and they must not violate the purpose of the district in which they will locate.
- B. It must be demonstrated that all conditional uses if located as proposed would not be injurious or detrimental to the character of the zone or to its abutting or adjoining neighbors.
- C. The conditional use must employ reasonable measures of fencing, buffering, traffic restraints, sign and light controls, and any other appropriate measures to protect the surrounding properties and adjoining districts.
- D. All conditional uses must have adequate site area to accommodate the use. The minimum site area for a conditional use is no less than that permitted in the underlying district.
- E. All conditional uses must conform to the dimensional regulations in the individual districts, except that additional restrictions may be imposed to ensure the uses are compatible within the district.
- F. All conditional uses having a site area in excess of one acre must provide a buffer of trees and shrubs around the perimeter of lots abutting a residential zone.
- G. All applications for conditional uses must be accompanied by layout and development plans drawn to an appropriate scale which show at least the following: which show at least the following:
  - 1. Site plans showing landscaping, paving, parking, access, relationship of building to site, outdoor lighting, proposed fencing and topography;
  - 2. Sections and elevations of proposed structure;
  - 3. Vicinity map showing property, zoning and access;
  - 4. Provision for sewage disposal, storm drainage and surface runoff.
- H. All conditional uses must comply with the parking regulations in Chapter 17.56 MMC.
- I. In the course of reviewing the conditional use permit application, the City staff may request a recommendation by the planning commission on matters under its permit authority related to the conditional use permit. The matters may include but are not limited to the comprehensive plan or the nature and intent of the zone in which the conditional use permit is requested.

*MMC 17.64.020.*

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The criteria for review adopted by the Mukilteo 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 proposed development. *RCW 36.70B.040.*

#### Conclusions Based on Findings

- 1. With conditions, the proposed use would be in accordance with the goals and objectives of the Comprehensive Plan and would not violate the purpose of the district in which the use will be located.** The proposal is consistent with the Comprehensive Plan Land Use policy to provide for smooth and compatible transitions between areas of different land use intensity. Here, the proposed storage building would be located on school grounds close to the existing athletic field in a fenced area with adequate existing landscaping, as a buffer from adjacent residential uses.

Conditions are necessary to ensure that the Applicant constructs the storage building in conformance with the approved Site Plan; records a Land Use Binder with the Snohomish County Auditor prior to issuance of a building permit; ensures that all contractors and subcontractors working on the project obtain a City business license; complies with Snohomish County PUD policies; complies with all other applicable rules, regulations, and ordinances; meets the requirements of the 2012 Stormwater Management Manual for Western Washington; and completes work in a timely fashion. *Findings 1-13.*

- 2. With conditions, the proposed use would not be injurious or detrimental to the character of the zone or surrounding uses.** The proposed structure would be located on the Kamiak High School grounds, close to the existing athletic field in a fenced area with adequate existing landscaping. No additional parking or landscaping is required. No additional traffic impacts were identified. The City provided reasonable notice of the application and open record hearing. The City addressed agency comments, and no public comments expressing any concerns were received. As detailed above in Conclusion 1, conditions are necessary to ensure that the proposal satisfies all requirements under the municipal code. *Findings 1, 3-13.*
- 3. The proposed use would employ reasonable measures of fencing, buffering, traffic restraints, sign and light controls, and any other appropriate measures to protect the surrounding properties and adjoining districts.** The property has fencing around the proposed storage building site. There would be no off-site impacts from the proposed use, and no additional outdoor lighting would be installed. *Findings 1, 3-13.*
- 4. The property subject to the application provides an adequate site area for the proposed use.** The Kamiak High School property is approximately 37.95 acres, which

is more than the minimum lot size requirement. There is adequate space on-site to construct the storage building. *Findings 1, 7, 11, and 13.*

5. **The proposed use would conform to the dimensional regulations of the Multi-Family Residential zone.** The proposed building would meet the City's MF zoning setbacks. *Findings 1, 7, and 13.*
6. **The proposed use is located on property that measures less than one acre and does not abut a residential zone.** *Findings 8, 9, and 11.*
7. **The Applicant provided a complete CUP application.** The City determined that the Land Use Permit Application and Conditional Use Permit Supplemental Application forms were complete on June 28, 2019. The application materials included a scaled site plan, which was approved by the City. *Findings 2 and 10.*
8. **The proposed use complies with required parking regulations.** No additional parking is required. *Finding 10.*
9. **City staff has not requested a recommendation from the planning commission because City staff determined that it was unnecessary.** *Finding 10.*

#### **DECISION**

Based on the preceding findings and conclusions, the request for a conditional use permit to authorize construction of a 1,924 square foot storage building in the Multi-Family Residential District at Kamiak High School, 10801 Harbour Pointe Boulevard, is **GRANTED**, with the following conditions:<sup>3</sup>

1. The storage building shall be constructed in substantial conformance with the approved Site Plan dated August 28, 2019.
2. Prior to issuance of a building permit, a Land Use Binder of the Hearing Examiner's decision and conditions shall be recorded with the Snohomish County Auditor before permits are issued.
3. All contractors and subcontractors working on the project described herein shall obtain a business license from the City before initiation of any site work.
4. The cost of any work, new or upgrade, to the existing electric system and facilities that is required to connect the project to the Snohomish County PUD electric system shall be in accordance with applicable Snohomish County PUD policies.

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<sup>3</sup> Conditions include both legal requirements applicable to all developments and requirements to mitigate the specific impacts of this development.

5. The Applicant shall comply with all other applicable rules, regulations, and ordinances.
6. This project will require a stormwater permit application be submitted and all requirements from the 2012 Stormwater Management Manual for Western Washington be met prior to permit issuance.
7. The CUP permit shall expire and become null and void if a grading or building permit is not obtained within two years of permit approval. *MCC 17.13.030.*

DECIDED this 4<sup>th</sup> day of November 2019.



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THEODORE PAUL HUNTER  
Hearing Examiner  
Sound Law Center

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