

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

In the Matter of the Application of	)	
	)	
<b>Jim Voetberg, on behalf of</b>	)	NO. EPF 2018-001
<b>Mukilteo Water and Wastewater District</b>	)	SH-CUP 2018-001
	)	
	)	
For an Essential Public Facility Permit, and	)	FINDINGS, CONCLUSIONS,
<u>A Shoreline Conditional Use Permit</u>	)	AND DECISION

**SUMMARY OF DECISION**

The request for an Essential Public Facility Permit and Shoreline Conditional Use Permit to demolish an existing one-story administrative/lab building and construct a new two-story administrative/lab building with the same 1,960 square foot footprint, 25 feet to the west, at 9417 62nd Place SW is **APPROVED**. Conditions are necessary to mitigate specific impacts of the proposed development.

**SUMMARY OF RECORD**

Hearing Date:

The Hearing Examiner held an open record hearing on the request on December 4, 2018.

Testimony:

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

Garrett Jensen, City Associate Planner  
Dave Osaki, City Planning Director  
Jim Voetberg, General Manager of Mukilteo Water and Wastewater District, Applicant  
Barry Baker, P.E., for Applicant

Exhibits:

The following exhibits were admitted into the record:

1. City Staff Report, with the following attachments:
  - A. Location map, undated
  - B. Aerial map, undated
  - C. Zoning Map, undated
  - D. Application Submittal Notification, dated October 1, 2018
  - E. Notice of Application, dated October 8, 2018

*Findings, Conclusions, and Decision; City of Mukilteo Hearing Examiner  
Mukilteo Water and Wastewater District; EPF Permit & Shoreline CUP  
Nos. EPF 2018-001 and SCUP 2018-001*

- F. Land Use Permit Application, received August 29, 2018
- G. Legal Description
- H. Special Use Permit Supplemental Application to the Land Use Permit for Essential Public Facilities, received August 29, 2018
- I. Project Narrative, undated, with letter from Jim Voetberg to Planning and Community Development, dated July 24, 2018
- J. Plan (Sheet 1 of 3 – 30% Design for Permit Review), dated September 2018
- K. Preliminary Sheet Elevations, received September 5, 2018, with building drawing, undated
- L. Plans, dated September 2018
  - 1. Plan (Sheet 1 of 3 – 30% Design for Permit Review)
  - 2. TESC & Stormwater Plan & Profile (Sheet 2 of 3 – 30% Design for Permit Review)
  - 3. Details (Sheet 3 of 3 – 30% Design for Permit Review)
- M. Stormwater Site Plan, Gray & Osborne, Inc., dated August 2018
- N. Application for Alternate Material, Design, or Method of Construction, dated August 27, 2018, granted September 25, 2018
- O. Preliminary Geotechnical Report, PanGeo, Inc., dated July 11, 2018
- P. Critical Area Study, Wetland Resources, Inc., dated July 17, 2018
- Q. MMC Regulations Relevant to the MWW Administration/Laboratory Building
- R. City of Mukilteo Comprehensive Plan (C/P) & Shoreline Management Program (SMP) Policy Compliance Checklist, undated
- S. Determination of Nonsignificance, dated July 23, 2018
- T. Environmental Checklist, dated July 18, 2018
- U. Public notice
  - 1. Declaration of Posting, Public Hearing, dated November 20, 2018
  - 2. Certification of Public Notice – Declaration of Posting, Public Hearing, dated November 20, 2018
  - 3. Certification of Public Notice – Declaration of Mailing, Public Hearing, dated November 20, 2018
  - 4. Certification of Public Notice – Declaration of Posting, Notice of Application, dated October 10, 2018
  - 5. Certification of Public Notice – Declaration of Mailing, Notice of Application, dated October 11, 2018
  - 6. Certification of Public Notice – Declaration of Posting, Notice of Application, dated October 12, 2018
  - 7. Affidavit of Publication, *Everett Daily Herald*, dated October 12, 2018
  - 8. Published Notice of Determination of Nonsignificance, *Everett HeraldNet.com*, posted July 23, 2018.
- 2. Applicant PowerPoint (10 slides), dated December 4, 2018

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

*Findings, Conclusions, and Decision; City of Mukilteo Hearing Examiner  
Mukilteo Water and Wastewater District; EPF Permit & Shoreline CUP  
Nos. EPF 2018-001 and SCUP 2018-001*

## FINDINGS

### Application and Notice

1. Jim Voetberg, on behalf of the Mukilteo Water and Wastewater District (MWWWD) (Applicant), requests an Essential Public Facility Permit<sup>1</sup> and Shoreline Conditional Use Permit<sup>2</sup> to demolish an existing one-story administrative/lab building and construct a new two-story administrative/lab building with the same 1,960 square foot footprint, 25 feet to the west. The property, also known as the Big Gulch Wastewater Treatment Facility, is located at 9417 62nd Place SW.<sup>3</sup> *Exhibit 1, Staff Report, page 1; Exhibit 1.F; Exhibit 1.H; Exhibit 1.I; Exhibit 1.J; Exhibit L.*
2. The City of Mukilteo (City) determined that the application was complete on October 1, 2018. The City posted the notice of application at official locations for City notices on October 10, 2018, and on the following day, mailed or emailed notice to interested agencies and to owners of property within 380 feet of the subject property. On October 12, 2018, the City published notice in the *Everett Daily Herald* and posted notice on-site, with a comment deadline of November 12, 2018. On November 20, 2018, the City posted notice of the open record hearing for the application on the subject property, published notice in the *Everett Herald*, and mailed or emailed notice to property owners and interested parties. The Mukilteo School District and Mukilteo School District Transportation responded that they had no comments. *Exhibit 1, Staff Report, pages 31 and 32; Exhibit 1.E; Exhibit 1.U.*

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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.*

MMC 17B.16.100.C.1 requires a special use permit before any local essential public facility is located or expanded within the city of Mukilteo. Exhibit 1.H is the Applicant’s Special Use Permit Supplemental Application to the Land Use Permit for Essential Public Facilities. *Exhibit 1.H.*

<sup>2</sup> The public hearing notice and staff report referred to an Essential Public Facility permit, a Shoreline Substantial Development Conditional Use Permit, and a Shoreline Conditional Use Permit. *Exhibit 1, Staff Report, page 1, and Exhibit 1.U.* The staff report also included review criteria for CUP’s under MMC 17.64.010. *Exhibit 1, Staff Report, page 28.* At the hearing, the City and Applicant agreed that the proposed project should be reviewed as an essential public facility (EPF) and a shoreline conditional use permit (SCUP).

<sup>3</sup> The property is identified as Assessor Parcel No. 28041700401300. *Exhibit 1.A; Exhibit 1.I.* A legal description is provided with the land use permit application (Exhibit 1.F) and Exhibit 1.G.

### State Environmental Policy Act Review

3. The MWWD acted as lead agency and analyzed the environmental impacts of the proposal, as required by the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). The MWWD reviewed its SEPA Environmental Checklist and other available information on file. The Applicant's Environmental Checklist lists hawks, herons, eagles, songbirds, crows, deer, beaver coyotes, squirrels, raccoons, salmon, and trout, as observed or known to be on or near the site. No threatened or endangered species were identified as on or near the site. The MWWD determined that the proposal would not have a significant adverse impact on the environment. The MWWD issued a Determination of Nonsignificance (DNS) on July 23, 2018, with a 14-day comment period. The DNS was not appealed. *Exhibit 1, Staff Report, pages 31 and 32; Exhibit 1.S; Exhibit 1.T.*

### Comprehensive Plan and Zoning

4. The subject property is identified as "Industrial" in the City Comprehensive Plan.<sup>4</sup> The City determined that the Big Gulch Wastewater Treatment Facility should be reviewed as a local essential public facility. The Essential Public Facilities Element in the Comprehensive Plan is relevant to this proposal: "Essential public facilities are facilities that are typically difficult to site but are necessary and important in the provision of public systems and services for the region." *Comprehensive Plan, page 28.* In addition, the Comprehensive Plan Utility Element UT5 provides that the City shall encourage and work with the Mukilteo Water & Wastewater District to help improve its systems and efficiencies. *Comprehensive Plan, pages 68; Exhibit 1, Staff Report, pages 2, 5, 7, 27, and 32.*
5. The subject property is located within the "Heavy Industrial" (HI) zoning district. Water and sewer treatment plants are allowed in the HI as a conditional use. *MMC 17.16.040.A.* The City determined that the proposed project would meet the setback, maximum building height, parking, lighting, landscaping, utilities, hard surface limits, and stormwater improvement requirements of the HI zone. Property to the north is designated Parks and Open Space, and Single Family Residential – Low Density, and zoned Open Space and Single Family Residential/RD 12.5, with Big Gulch Park and single-family residential uses. Big Gulch Park is also located to the east, designated Parks and Open Space, and zoned Open Space. Property to the south is designated Parks and Open Space, and zoned Open Space and Single Family Residential/RD8.4, with Big Gulch Park and single-family residential uses. Property to the west is designated Single Family Residential – Low Density, and is zoned Single Family Residential RD 12.5, RD 12.5(S) Single Family residential. *Exhibit 1, Staff Report, pages 6 and 10 through 16.*

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<sup>4</sup> The City staff identified the following Comprehensive Plan policies as relevant to the proposed facility: Land Use: LU9b; Utilities: UT1, UT1b, UT4, UT5. *Exhibit 1, Staff Report, pages 28 and 29.*

### Site Conditions, Location, and Access

6. The MWWD's Big Gulch Wastewater Treatment Plant is located on approximately 4.75 acres at the lower (westerly) end of the City of Mukilteo's Big Gulch Trail Park. In addition to the wastewater treatment plant, the site contains a one-story, 1,960 square foot administrative/lab building for five full-time employees. Employee access is provided from 62nd Place SW, a local street. There is no public access to the site. *Exhibit 1, Staff Report, page 5; Exhibit 1.I; Exhibit 2.*

### Proposed Facility

7. The existing administrative/lab building would be demolished, and a new two-story administrative/lab building would be built, with a 1,960 square footprint, approximately 25 feet to the west of the existing facility. The movement to the west would allow larger tractor-trailer vehicles to turn around on the site. A new facility would also alleviate the existing crowded conditions for staff. *Exhibit 1, Staff Report, pages 1, 3, 8, and 9; Exhibit L; Exhibit 2.*
8. Wetland Resources, Inc., prepared a Critical Area Study (CAS) for the Applicant, dated July 17, 2018. The CAS evaluated the 4.75-acre property. The site is located within a ravine to the east of Puget Sound, with several areas of steep slopes on the property. Big Gulch Creek, a Type 3 stream with a 150-foot buffer, runs along the northern boundary of the parcel. Wetland A, a Category III wetland with a 165-foot buffer, is located in the northwest corner of the property. Wetland B, a Category IV wetland with a 40-foot buffer, is located along the southeast portion of the property. The existing facility is located within the buffer of Wetlands A and B, and Big Gulch Creek. Proposed actions in a buffer may be permitted as long as there is no increase in the degree of nonconformity. *MMC 17B.52B.070.M.* Here, the proposed building would be constructed with the same footprint as the existing building over an area of existing asphalt. The CAS determined that no impacts would occur to any wetlands, streams, or areas of vegetated buffer on the site. No additional mitigation is proposed. *Exhibit 1, Staff Report, pages 14 and 15; Exhibit 1.P.*

### Shoreline Management Master Program and Regulations

9. 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 Conservancy shoreline environment. The purpose of the Urban Conservancy shoreline environment is to protect and improve wherever possible the ecological functions of the shoreline and nearshore in an urban setting, while allowing the retention of existing railroad tracks, the modification of existing railroad tracks necessary to optimize freight, passenger, and commuter rail service and the benefits of the Mukilteo commuter rail station, the provision of utilities, existing residences, and a variety of water-oriented public access and recreational

activities together with their related structures. *MMC 17B.12.030A*. The MWWD’s Big Gulch Wastewater Treatment Plant is listed as an essential public facility (EPF). *MCC 17B.16.100.A.10*. A local EPF is allowed as a conditional use in the Urban Waterfront environment. *MMC 17B.16.040.A Table 1 Permitted Use Matrix. Exhibit 1, Staff Report, page 5; Exhibit 1.H*.

10. City staff reviewed the proposed facility and determined that the proposed facility would be consistent with the SMA, the City’s SMP, and the MMC 17B.04 review criteria for SCUPs. The City determined that the proposed project would not interfere with the normal public use of public shorelines, that the proposed use of the site and design of the project would be compatible with other authorized uses within the area, that the proposed use would cause no significant adverse effects to the shoreline environment, and that the public interest would suffer no substantial detrimental effect. The City also determined that there have been no recent SCUPs issued in the area and that substantial adverse cumulative effects to the shoreline environment would not result from this SCUP approval. No one presented any written or verbal testimony to refute the determinations of the City. *Exhibit 1, Staff Report, pages 21 through 25*.

#### Essential Public Facilities

11. MMC 17B.16.100 contains regulations to ensure the appropriate siting of essential public facilities (EPFs). A City of Mukilteo Comprehensive Plan (C/P) & Shoreline Management Program (SMP) Policy Compliance Checklist (Exhibit 1.S) and the EPF application (Exhibit 1.H) detail the proposal and how it would comply with City ordinances. The City determined that the Applicant demonstrated the need for the proposed building, that additional transportation improvements are not warranted, that funding for the proposal is programmed in the MWWD capital facilities budget, that there would be no unreasonable increase in noise levels, that the existing wooded area would screen the new administrative/lab from adjoining streets and properties, and that the project would meet all building and zoning regulations within the HI zoning district. No one presented any written or verbal testimony to refute the determinations of the City. *Exhibit 1, Staff Report, pages 26 to 28*.

#### Geotechnical and Stormwater Management

12. PanGeo, Inc., prepared a Preliminary Geotechnical Report (PGR) for the Applicant, dated July 11, 2018. The PGR revealed groundwater at about seven feet deep in two test borings on May 31, 2018, and about three feet deep at a previous test boring near the site. The PGR determined that the potential for soil liquefaction at the site is high and that conventional footings are not appropriate for the proposed development unless aggregate piers, compaction grouting, or a deep foundation system is utilized. The PGR included “Geotechnical Recommendations,” including seismic design considerations, foundation support alternatives, and floor slabs. The PGR also included “Construction Considerations,” including temporary dewatering, temporary sloped excavations, structural fill and compaction, wet weather earthwork recommendations, and erosion and drainage considerations. Surface runoff would be controlled by careful grading practices.

Temporary erosion control may require the use of geotextile silt fences and hay bales on the downhill side of the project. Permanent control of surface water would be incorporated in the final grading design to collect runoff to be directed to a suitable outlet. *Exhibit I.O.*

13. Gray & Osborne, Inc., prepared a Stormwater Site Plan (SSP) for the Applicant, dated August 2018. The Big Gulch WWTP is located in the Big Gulch Drainage Basin (WRIA 8 – Cedar/Sammamish) that drains to Possession Sound, approximately 200 feet downstream of the project location. Stormwater runoff from the replaced hard surfaces would follow the existing path to Big Gulch Creek to the north. Because the total impervious area of the facility would remain the same and no work is proposed outside of the existing asphalt and perimeter fence, the City granted a deviation from the Department of Ecology's 2014 Stormwater Management Manual for Western Washington, which would have required a flow dispersion trench to be constructed within a few feet of Big Gulch Creek. The City determined that an existing oil/water separator with discharge to Big Gulch Creek is present on-site. All new impervious surfaces, including roof drains, will be routed to the existing treatment system and outfall. *Exhibit M; Exhibit N.*
14. Water and sewer are available from the Mukilteo Water and Wastewater District. Electricity is provided by the Snohomish Public Utility District. *Exhibit I, Staff Report, page 4.*

#### Testimony

15. City Associate Planner Garrett Jensen testified in general about the project and approval criteria. He testified that the City has reviewed the criteria for EPFs in both its zoning code, Chapter 17.18 MMC, and its shoreline code, Chapter 17B.16.100, and determined that the criteria are nearly identical in each and that the criteria in the shoreline code should be referenced. He explained that the proposed project would also meet the criteria for a SCUP and that the proposal would be a benefit to the public because the biosolids are transported and used on fields and forests in Eastern Washington.

General Manager Jim Voetberg testified for the MWWD. He provided a PowerPoint presentation showing the crowded conditions of the current one-story building. He also testified that the existing building location inhibits the turn-a-round operations of trucks used in transporting biosolids away from the facility. Biosolids are an end product from the treatment process, which are then loaded in a trailer and hauled to a location near Mansfield, WA. Currently, tractor-trailers used for transport are limited in size due to the inability to turn vehicles around on-site. Since 2012, the District is on its third biosolids hauling company, due to tractor-trailer size limitations and the challenges of not being able to efficiently turn tractor-trailers around. He testified that there would no increase in staff and that no additional noise would be generated from the new building. The site is heavily screened from sight and is not in a residential zone. He noted that a SEPA DNS was issued and was not appealed.

Barry Baker, P.E., Gray & Osborne, Inc., testified for the Applicant that minimal grading would be needed for the proposed building and that only five vehicles come to the site. City Planning Director Dave Osaki testified for the City. He requested that an additional condition (included now as Condition 22) be added to require compliance with all rules and regulations. *Testimony of Mr. Jensen, Mr. Baker, Mr. Voetberg, and Mr. Osaki.*

## CONCLUSIONS

### Jurisdiction

The Hearing Examiner has jurisdiction to hold a public hearing and approve an essential public facilities permit application, with conditions, as necessary, so long as the conditions do not preclude the siting or expansion of any local essential public facility in the City of Mukilteo. *RCW 36.70B.040; Mukilteo Municipal Code (MMC) 2.38.030; MMC 17B.16.100.C.3 and .4.*

The Hearing Examiner also has jurisdiction to hear and decide Shoreline Substantial Development and Shoreline Conditional Use Permit applications. *MMC 17B.13.130.Table 2.*

### Criteria for Review

#### *Shoreline Management Act*

Applicable policies of the Shoreline Management Act include those to foster “all reasonable and appropriate uses”; to protect against adverse effects to the public health, the land, and 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 173-27-150 states:

- (1) A substantial development permit shall be granted only when the development proposed is consistent with:
  - (a) The policies and procedures of the act;
  - (b) The provisions of this regulation; and
  - (c) The applicable master program adopted or approved for the area. Provided, that where no master program has been approved for an area, the development shall be reviewed for consistency with the provisions of chapter 173-26 WAC, and to the extent feasible, any



- draft or approved master program which can be reasonably ascertained as representing the policy of the local government.
- (2) Local government may attach conditions to the approval of permits as necessary to assure consistency of the project with the act and the local master program.

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).*

#### *City Shoreline Master Program and Regulations*

The City's 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.*

*Findings, Conclusions, and Decision; City of Mukilteo Hearing Examiner  
Mukilteo Water and Wastewater District; EPF Permit & Shoreline CUP  
Nos. EPF 2018-001 and SCUP 2018-001*

The City's Shoreline Regulations contain criteria for siting local EPFs within the shoreline jurisdiction:

4. A special use permit for a local essential public facility shall be approved upon a determination that:
  - a. The project sponsor has demonstrated a need for the project, as supported by a detailed written analysis of the projected service population, an inventory of existing and planned comparable facilities, and the projected demand for the type of facility proposed;
  - b. The project sponsor has reasonably investigated alternative sites, as evidenced by a detailed explanation of site selection methodology, as verified by the city and reviewed by associated jurisdictions and agencies;
  - c. Only water-dependent essential public facilities shall be allowed over water;
  - d. Necessary infrastructure is or will be made available to ensure safe transportation access and transportation concurrency;
  - e. 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;
  - f. The project sponsor has the ability to pay for all capital costs associated with on-site and off-site improvements;
  - g. The facility will not unreasonably increase noise levels in residential areas, especially at night;
  - h. Visual screening will be provided that will mitigate the visual impacts from streets and adjoining properties;
  - i. The local essential public facility is not located in any residential zoning district identified in Table 17B.16.040, except as provided in this subsection. If the land on which a local essential public facility is proposed is located in any such residential zoning district, the applicant must demonstrate to the hearing examiner that there is no other feasible location for the facility and that the exclusion of the facility from the residential districts of the city 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 shall authorize the essential public facility to be located in the residential zoning district;
  - j. The local essential public facility meets all provisions of this code for development within the zoning district in which it is proposed to be located, including but not limited to the bulk regulations of Chapter 17B.20, except as provided in this subsection. If a local essential public facility does not meet all such provisions, the

applicant must demonstrate 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 shall authorize the essential public facility to deviate from the provisions of this code to the minimum extent necessary to avoid preclusion; and

- k. Any and all probable significant adverse environmental impacts are mitigated.
5. If the hearing examiner determines that any one or more of the decision criteria set forth in subsection (C)(4) of this section is not met by the proposal, the hearing examiner shall impose such reasonable conditions on approval of the special use permit as may be necessary in order to enable the facility to meet the decision criteria.

*MMC 17B.16.100.C.*

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, the proposed facility would comply with MMC 17B.16.100.C Local Essential Public Facility provisions.** The City provided reasonable opportunity to comment on the proposal; no public comments were received. The Applicant demonstrated a need for the project in a written analysis showing that the current building/lab contains insufficient space and that the truck turn-a-round area is constricted. The proposed new building would be constructed on-site, on an existing paved portion of the facility. It is not an over water project. No additional traffic would be generated, no increase in noise levels would result, and existing visual screening is sufficient. The facility is part of the WMMD capital facilities plan and is not located in a residential zone. The proposed building would meet all the development provisions within the HI zone. The Applicant issued a SEPA DNS, which was not appealed, and no additional mitigation is required.

Conditions are necessary to ensure that the final engineering drawings are submitted to the City for final review and approval prior to issuance of any grading permits; that all improvements are constructed in accordance with the approved Site Plan; that special inspection is conducted for piling and floor slab installation by the Geotechnical Engineer; that stormwater is handled and treated under the 2014 Department of Ecology Stormwater Management Manual for Western Washington, recognizing the deviation approved by the City; that there is adherence to Fire Code Development Standards and the 2015 International Fire Code; and that there is no construction activity that is audible beyond the property lines of the project site between the hours of 6:00 PM to 7:00 AM on

*Findings, Conclusions, and Decision; City of Mukilteo Hearing Examiner  
Mukilteo Water and Wastewater District; EPF Permit & Shoreline CUP  
Nos. EPF 2018-001 and SCUP 2018-001*

weekdays, and between 6:00 PM to 9:00 AM on Saturdays, Sundays, and holidays.  
*Findings 1-15.*

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 reasonable opportunity to comment on the proposal; no public comments were received. The Applicant issued a SEPA DNS for comment, and it was not appealed. The proposed site for the new building would be located within 200 feet of Possession Sound, within the jurisdiction of the State Shoreline Management Act and City SMP. Water and sewer treatment plants and modifications are allowed in the Urban Conservancy shoreline environment with approval of a SCUP. Best Management Practices would be implemented during construction to ensure the proposed facility does not have an adverse impact on water quality. The proposed project would not interfere with the normal public use of public shorelines. The proposed use of the site and design of the project would be compatible with other authorized uses within the area. The proposed site of the new building would occupy an identical 1,960 square foot footprint on an existing pavement. The existing building is non-conforming and located within wetland buffers. Because no additional impacts to the wetland buffer would occur, no additional mitigation is required for the proposed project. The proposed use would have no significant adverse effects on the shoreline environment, and the public interest would suffer no substantial detrimental effect. No recent SCUPs were identified that had been issued in the area. Therefore, adverse cumulative effects to the shoreline environment would not result from this SCUP approval. As noted in Conclusion 1, above, conditions are necessary to ensure compliance with the SMA and SMP. *Findings 1-15.*

### **DECISION**

Based on the preceding findings and conclusions, the request for an for an Essential Public Facility Permit and Shoreline Conditional Use Permit to demolish an existing one-story administrative/lab building and construct a new two-story administrative/lab building with the same 1,960 square foot footprint, 25 feet to the west, at 9417 62nd Place SW is **APPROVED**, subject to the following conditions:<sup>5</sup>

#### Essential Public Facilities and Shoreline Conditional Use Approval

1. 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 Washington State Department of Ecology, or until all review proceedings and appeal processes have been completed.
2. 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

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<sup>5</sup> This decision includes conditions required to reduce unique project impacts as well as conditions required to meet municipal code standards.

- permits. The improvements shall be designed in accordance with the City's Development Standards.
3. All improvements shall be constructed in accordance with the approved Site Plan dated August 29, 2018. Minor modifications of the plan submitted may be approved by the Community Development Director if the modifications do not substantively change the Findings of Fact and the Conditions of Approval are not changed.
  4. Special Inspections shall be conducted for the piling and floor slab installation by the Geotechnical Engineer. Copies of the completed reports shall be submitted to the City for the file. These reports shall verify that the pilings and floor slab were installed and built per the approved engineered design, or if deviations were done, they were approved by the Geotechnical or Structural Engineer of record.
  5. Per the International Building Code, the Building Official may require that the property owner obtain a special inspection (such as topography, foundation types, unstable conditions, or soil types) prior to City approval. The cost of these inspections will be the responsibility of the property owner.
  6. The clearing limits of the approved Site Plan shall be clearly delineated in the field.
  7. The City of Mukilteo does not allow equipment with steel tracks on pavement, the Permittee and their contractors shall use rubber tire equipment only.
  8. All development shall proceed in accordance with the recommendations listed in the Geotechnical Report prepared by PanGeo Incorporated dated July 11, 2018.

#### Stormwater

9. Stormwater pollution prevention measures shall be employed per the approved Stormwater Pollution Prevention Plan and as necessary to ensure appropriate on-site and off-site water quality control. Site runoff during construction shall be handled and treated as to quantity and quality impacts by utilizing Best Management Practices, as defined in the current DOE Stormwater Management Manual for Western Washington and the current Department of Ecology National Pollutant Discharge Elimination System (NPDES).
10. A wet weather Stormwater Pollution Prevention Plan is required to be submitted to the City for review and approval if the project is clearing or grading between October 1st and April 30th.
11. The stormwater detention design and stormwater discharge shall utilize the Best Management Practices of the current DOE Stormwater Management Manual for Western Washington and the current Department of Ecology National Pollutant Discharge Elimination System (NPDES).

### Fire

12. The following requirements shall be adhered to during construction and completed before occupancy of any structure in accordance with Fire Code Development Standards and 2015 International Fire Code:
- 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.
  - A Type I or Type II building shall not require a fire protection system.

### Utilities

13. 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.

### Miscellaneous

14. A maximum of seven (7) parking spaces shall be provided for the Sewer Treatment Facility. All parking spaces shall be clearly delineated on-site.
15. All exterior facility lighting shall be arranged so as to reflect away from surrounding properties and streets if installed on the outside of the building.
16. 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.
17. All contractors and subcontractors working on the project described herein shall obtain a business license from the City before initiation of any site work.
18. If at any time 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.

19. Noise from construction activity that is audible beyond the property lines of the project site shall not be allowed between the hours of six (6) PM to seven (7) AM on weekdays, six (6) PM to nine (9) AM on Saturdays, Sundays and holidays.
20. The Applicant and contractor shall attend a pre-construction meeting with City staff to discuss expectations and limitations of the project permit before starting the project.
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.
22. The Applicant shall comply with all local, state, and federal rules and regulations.

DECIDED this 14<sup>th</sup> day of December 2018.



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THEODORE PAUL HUNTER  
Hearing Examiner  
Sound Law Center