



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

## Notice of Decision

**Mundorf Critical Area Review**  
8xx 8<sup>th</sup> Street

File Nos. CAR-2020-001/SEPA-2020-007

### 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:** Friday, September 10, 2021
- APPEAL PERIOD:** Ends Friday, September 24, 2021 (4:30 p.m.)
- EXPIRATION:** September 10, 2025

**PROJECT NAME:** Mundorf Critical Area Review (File Nos. SEPA-2020-007/CAR-2020-001)

**PROPONENT:** Terrence and Marina Mundorf

### DESCRIPTION OF PROPOSAL:

Proposal is to fill/remove an existing, on-site 3,432 square foot Category IV wetland at approximately 8xx 8th Street to allow for the future construction of a single-family residence and to mitigate the wetland fill/removal by creating an off-site wetland.

On February 13, 2017, the applicant was granted authorization by the Mukilteo City Council to move forward with permitting to fill the on-site wetland and mitigate by creating an off-site wetland in a high-value watershed identified in the City of Mukilteo's Critical Area Mitigation Program (CAMP). The applicant has since received approval from the U.S. Army Corps of Engineers to fill/remove the existing wetland.

The new off-site wetland will be located in Japanese Gulch, within the City of Everett. This work includes the creation of 5,162 sq. ft. of wetland and enhancement of 6,649 sq. ft. of existing wetland buffer. A grading permit from the City of Everett is required to recreate the wetland and complete buffer enhancement.

Environmental review was required under the Washington State Environmental Policy Act (SEPA) for projects undertaken on lands covered by water, including work on wetlands. Specifically, the removal and fill of the wetland located at 8xx 8th Street and the recreation of the wetland and buffer enhancement within Japanese Gulch on City-owned property required SEPA review.

Grading quantities are estimated at 300 cubic yards (CY) for the property located at 8xx 8<sup>th</sup> Street and 10 CY for the City-owned property in Japanese Gulch. The existing soil within the wetland recreation area will be reused to enhance the buffer area. Mulch will be imported for use within the buffer area. Submittal of the building permit for the single-family dwelling will occur at a later date.

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:** 8xx 8th Street, Mukilteo WA 98275; also known as Snohomish County Assessor's Parcel No. 00527503900500, legally described as:

MUKILTEO PLAT OF BLK 039 D-00 LOTS 5,6,7,8

Japanese Gulch Property - Snohomish County Assessor's Parcel No. 00631400000001 legally described as:

GARDEN OF PRAYER (HIGHLAND MEMORIAL PARK) BLK 000 D-01 - CEMETERY

Japanese Gulch Property - Snohomish County Assessor's Parcel No. 28041000201400 legally described as:

SEC 10 TWP 28 RGE 04COM AT SW COR SD NW1/4 10-28-4 TH No2\*01 00E ALG W LN SD NW1/4 549.02FT TAP WH IS INTOF W LN OF SD NW1/4 WITH WLY PROLNG OF NLN OF PLAT OF GARDEN OF PRAYER TH S87\*5900E ALG SD ELY & WLY PROLNG 711.98FT TH S TO S LNOF SD NW1/4 WH PT IS 541.32FT M/L FR W MGN OF GN/RR R/W TH W TO SW CORSD NW1/4 TPB LESS FDT - BEG 1/4 COR OFW BDY SEC TH N 208.17FT TH E 208.71FT TH S 208.71FT TH W 208.71FT POB ALSO LESS PLATS OF GARDEN OF PEACE, GARDEN OFMEMORIES, GARDEN OF PRAYER-HIGHLAND MEMORIAL PARK ALSO LESS S 50FT THOF& TGW FDT - BEG NW COR OF SURV FOR HIGHLAND MEMORIAL PARK REC VOL 12 SURVS PG 54 TH No2\*01 00E ALG W LN SEC 59.64FT TH S87\*59 00E PLW N LN SD SURV421.98FT TH S02\*01 00W PLW W LN SD SEC 59.64FT TO N LN SD SURV TH N87\*59 00W ALG N LN SD SURV 421.98FT TO POB

**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 critical area review 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 for a critical area review on August 17, 2020, to fill/remove an existing, on-site 3,432 square foot Category IV wetland at approximately 8xx 8th Street to allow for the future construction of a single-family residence and to mitigate the wetland fill/removal by creating an off-site wetland. The application became complete on September 14, 2020.
2. The property is zoned Residential Development (RD 7.5).

3. The applicant received authorization from the Mukilteo City Council on February 13, 2017, to use the Critical Area Mitigation Program (CAMP) for wetland creation and buffer enhancement within an identified area located in Japanese Gulch, contingent on approval from the U.S. Army Corps of Engineers (USACE).
4. The applicant received approval from the USACE on March 2, 2018, to fill/remove the wetland on the property located at 8xx 8<sup>th</sup> Street.
5. The applicant submitted a Critical Area Study and Mitigation Plan to the City on August 19, 2020 to create a wetland and do buffer enhancement within Japanese Gulch on City-owned property located within the City of Everett.
6. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind is a regulated activity as described in MMC 17.52B.030.
7. In accordance with Chapter 17.13 MMC, a Notice of Application was issued September 25, 2020, and the project was circulated for review in accordance with the City's normal review and permitting procedures. The comment period ended on October 9, 2020.
8. The City of Mukilteo received three (3) comments in response to the Notice of Application.
  - The first two comments were regarding drainage, building height and placement of the structure for the vacant parcel at 8xx 8th Street. These items will be reviewed during the permitting process for the building permit to ensure they meet applicable requirements.
  - The third comment was regarding the potential to lose natural space within Japanese Gulch for the creation of the wetland. The City of Mukilteo's CAMP provides property owners the flexibility to mitigate project impacts off-site in a pre-determined location. The mitigation for the fill/removal of the wetland at 8xx 8th Street is located within Japanese Gulch at one of these pre-determined locations. Selected sites were determined using the Department of Ecology's Watershed Approach in order to provide additional ecological and biological benefits to the environment.
9. Pursuant to the Washington State Environmental Policy Act and with the concurrence of the City of Everett, the City of Mukilteo assumed lead agency status for review of the proposed development in accordance with WAC 197-11-758. A Mitigated Determination of Non-Significance (MDNS) was issued on June 11, 2021, 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, dated August 14, 2018 and submitted August 19, 2020.
  - U.S. Army Corps of Engineers (USACE) Permit NWS-2017-602, issued on March 2, 2018.
  - Biological Evaluation for Informal ESA Consultation dated June 30, 2017 and submitted August 19, 2020.
  - Small Site Drainage Report Mundorf SFR, prepared by Elias J. Troutman, E.I.T. and checked by Joseph M. Smeby, PE dated January 2020 and submitted August 19, 2020 and revised January 2021.
  - Geotechnical Report prepared by Earth Solutions NW, LLC dated January 4, 2021.
  - Critical Area Study and Mitigation Plan for Mundorf - 8<sup>th</sup> Street, prepared by Wetland Resources, Inc. dated July 21, 2017.

No appeal of the SEPA determination was submitted and the threshold determination stands as issued.

10. 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.
11. This Notice of Decision applies only to the proposed wetland mitigation through the use of the City of Mukilteo's Critical Area Mitigation Program (CAMP). It does not permit any clearing, grading, stormwater, right-of-way, building, removal of wetland or any other activity on Parcel 00527503900500 (8xx 8<sup>th</sup> Street).
12. The applicant is required to submit a building and engineering permit for review and approval for the construction of the single-family residence at 8xx 8<sup>th</sup> Street.

*Consistency with Mukilteo Comprehensive Plan:*

13. The property at 8xx 8<sup>th</sup> Street is designated Residential in the City's 2018 Comprehensive Plan.
14. 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 September 2, 2021 and approved on September 2, 2021. 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. Submittal of a building, clearing, grading, right-of-way, and stormwater permits and approval of the permits is required prior to any work on parcel 00527503900500. The street and drainage improvements shall be designed in accordance with the current City's Development Standards and Mukilteo Municipal Code in place at the time of application submittal.

### **Mitigated Determination of Non-Significance (MDNS)**

3. The wetland creation and buffer enhancement shall be per the approved Critical Area Study and Mitigation Plan for Mundorf- 8<sup>th</sup> Street prepared by Wetland Resources, Inc. dated July 21, 2017.
4. Work shall be done in accordance with the approved U.S. Army Corps of Engineers Permit NWS-2017-602.
5. The applicant shall provide the City of Mukilteo a copy of all permits obtained from the City of Everett prior to the installation of the mitigation plantings.
6. Mitigation plantings shall be installed in accordance with the approved Critical Area Study and Mitigation Plan for Mundorf- 8<sup>th</sup> Street prepared by Wetland Resources, Inc. dated July 21, 2017, and shall be subject the following:
  - a. The mitigation and/or buffer enhancement site(s) shall be monitored for a minimum of five (5) years. The monitoring period required may be extended an additional two (2) years if the wetland or stream buffer is not performing as expected by the mitigation or enhancement plan. The monitoring reports shall be submitted on August 1st of each year during the monitoring period. Monitoring reports shall follow the recommendations contained in the Department of Ecology's publication "Guidance on Wetland Mitigation in Washington State," Part Two.
  - b. The applicant shall be responsible for ensuring that the monitoring reports are prepared, submitted to the City of Mukilteo, and any corrections are made as required by the reports.
  - c. Prior to final inspection, all plantings associated with a project permit shall require the submittal of an acceptable maintenance agreement to warrant all required plantings against defects in labor and materials for a period of five (5) years after acceptance of those improvements by the City of Mukilteo.
  - d. All plantings shall be maintained in healthy growing condition. A final inspection will be performed at the end of the five (5) year period by the City of Mukilteo and any dead, dying or diseased plant material shall be replaced prior to release from the agreement.
7. Minor modifications of the Mitigation Plan submitted may be approved by the City of Mukilteo Community Development Director at his/her discretion and provided that the minor modification is supported by additional critical areas analysis.

8. The applicant shall submit a Performance Bond to the City of Mukilteo in the amount of one hundred and fifty percent (150%) of the estimated cost for mitigation upon approval of the Critical Area Review.
9. The applicant shall submit a Maintenance Bond to the City of Mukilteo in the amount of fifteen percent (15%) of the actual cost for mitigation upon completion of the mitigation installation.
10. The applicant shall submit a Monitoring Deposit to the City of Mukilteo prior to final acceptance of the mitigation project to cover the City's estimated costs to review the yearly monitoring reports and conduct a site inspection to ensure the performance standards are being met.
11. Construction noise for the wetland mitigation is not allowed between the hours of six (6) p.m. to seven (7) a.m. on weekdays, and no construction is allowed on weekends and holidays.
12. An addendum to the Geotechnical Report shall be submitted with the building permit for construction of the new single-family residence on the property located at 8xx 8<sup>th</sup> Street.
13. All work associated with the fill/removal of the wetland at 8xx 8<sup>th</sup> Street and the creation of the wetland and the buffer enhancement work within Japanese Gulch on property owned by the City of Mukilteo shall be completed be no later than March 18, 2022.
14. If the authorized work has not been completed by March 18, 2022 and the applicant has commenced or is under contract to commence this activity before March 18, 2022, the applicant has until March 18, 2023 to complete the activity under the terms and conditions of the USACE Permit NWS-2017-602.
15. The applicant shall comply with other applicable codes and requirements for the City of Everett for the work being done within the Japanese Gulch area and the City of Mukilteo for the work being done at 8xx 8<sup>th</sup> Street.

## **EXPIRATION**

1. If a grading permit from the City of Everett is not obtained within four (4) years from this this Notice of Decision (MMC 17.13.030(G)) for the CAMP mitigation, the project permit shall become null and void.
2. 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 approval.

## **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., Friday, September 24, 2021.**

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).

Due to COVID-19, City Hall is currently open for limited hours on Tuesdays, Wednesdays and Thursdays from 9 AM-3:30 PM. The building is closed for lunch from 12-1PM. Appeals must be delivered by in person, mail, or personal delivery to the drop box outside City Hall. 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 for receipt of 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.*

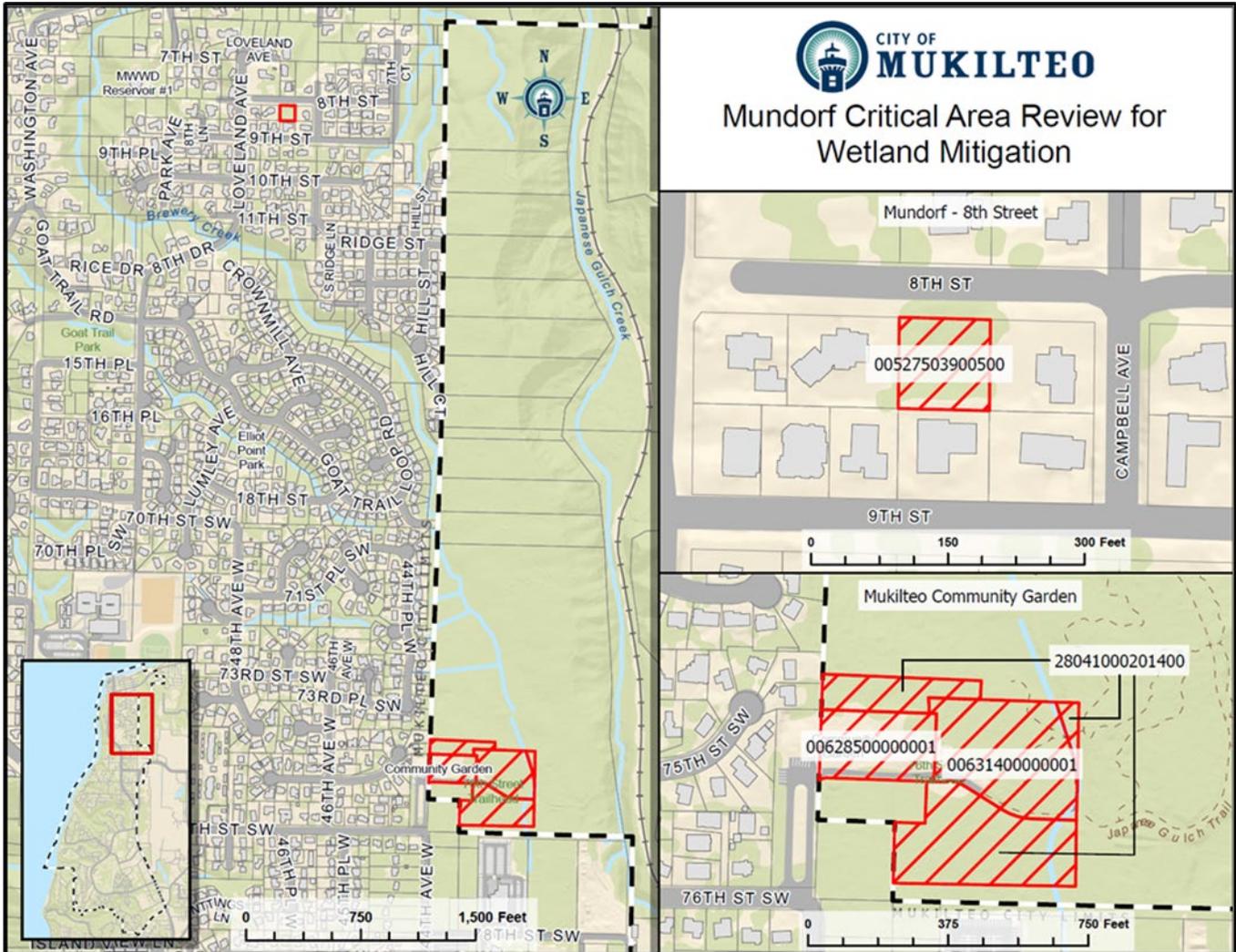
*Linda Ritter*

September 3, 2021

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Linda Ritter, Senior Planner, Planning & Community Development

Date



**Location Map**

**Date Issued:** Friday, September 10, 2021  
**Date Advertised:** Friday, September 10, 2021  
**End Comment Period:** Friday, September 24, 2021

pc:	Applicant/Representative	CDD Director	Property File
	Reviewing Agencies	Permit Services Coordinator	Property Owners (300')
	Interested Parties	Permit Services Assistants (2)	

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