



City of Mukilteo, Washington

Noise Variance Notice of Approval (VAR-ADMIN-2018-002)

for Washington State Department of Transportation

The City of Mukilteo has **APPROVED, with conditions**, a temporary Noise Variance application (City File No. VAR-ADMIN-2018-002) from the Washington State Department of Transportation (WSDOT) under Mukilteo Municipal Code (MMC) Chapter 8.18 “Noise Control”, and Washington Administrative Code (WAC) 173-60-050, “Exemptions”. The purpose of the WSDOT Noise Variance application is to allow certain nighttime construction activities to rehabilitate existing pavement and preserve the integrity of the roadway structure during the hours of nine (9) p.m. to seven (7) a.m. for sixty (60) nonconsecutive days during the period of May 1, 2019 through September 30, 2019.

APPLICANT:

Akberet Ghebreghzabiher
Air Quality, Acoustics and Energy Specialist
Washington State Department of Transportation
15700 Dayton Avenue North
P.O. Box 330310
Seattle, WA 98133-9710

DESCRIPTION OF PROJECT:

WSDOT has applied for a noise variance to complete work outside of the City’s approved construction hours (seven (7) a.m. to nine (9) p.m.) to rehabilitate existing pavement and preserve the integrity of the roadway structure. The overall project will mill and fill the SR 525 Spur (Paine Field Boulevard) and SR 526 with 0.15 ft. or repair with 0.35’ of hot mix asphalt. Work will include delineation and retrofitting of curb ramps to current Americans with Disabilities Act (ADA) standards or to the maximum extent feasible.

Due to heavy traffic volumes during daytime hours, WSDOT cannot close the lanes to do the work because it will cause congestion and significant delays. WSDOT is proposing to have the contractor remove and replace existing pedestrian ADA curb ramps during daytime hours, since this operation is very noisy and can be done with a minor lane closure.

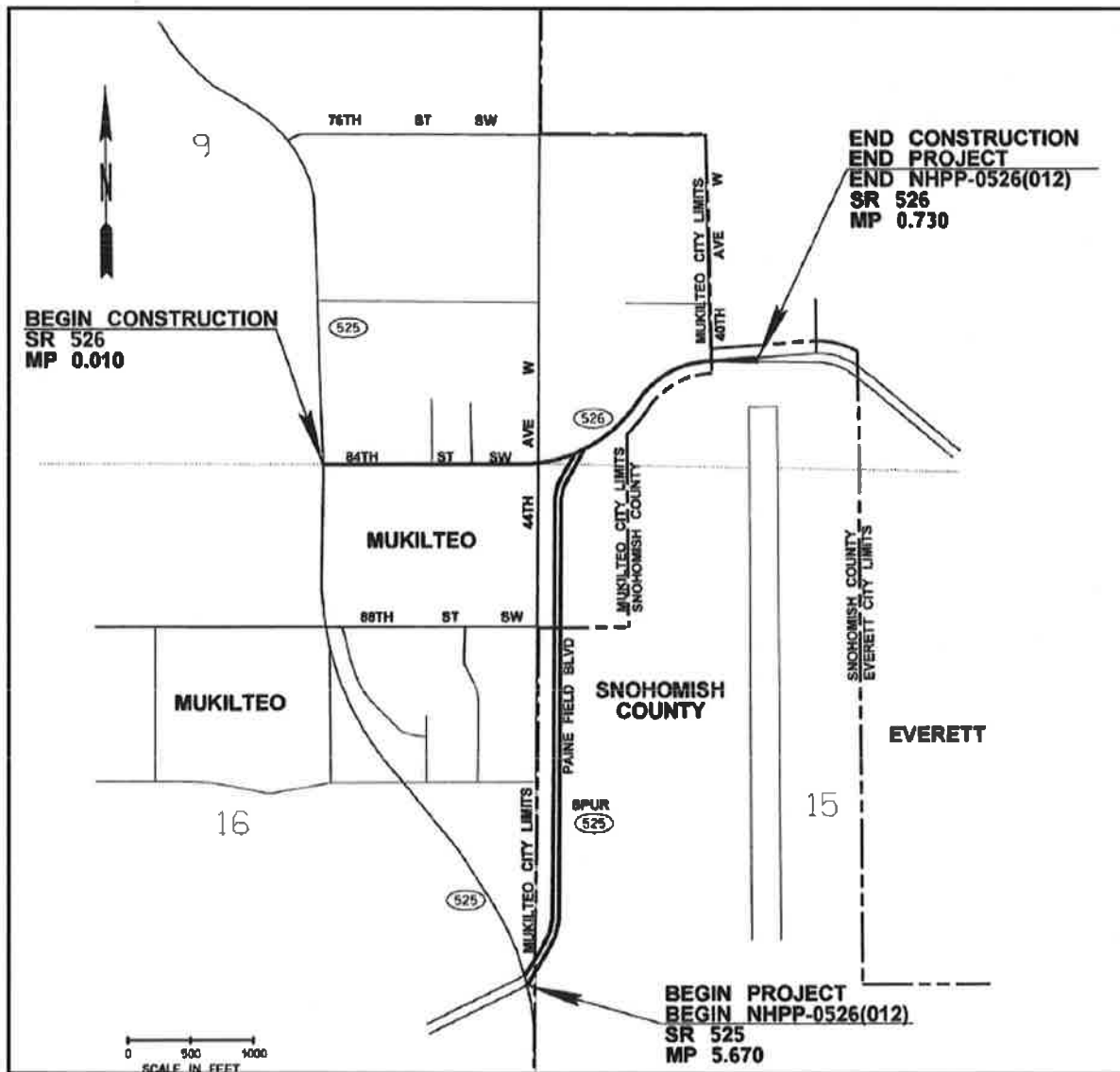
The pavement removal and paving operations are a mobile operation, and will not be at any one particular location for a lengthy period of time. WSDOT expects that at any particular area, there will be two (2) nights for pavement removal and two (2) nights for paving, for a total of four (4) nights. Since the operation is a moving operation it is expected that exposure to noise will not last the entire evening.

WSDOT will provide notification to businesses and to all residents living within 500 feet of the work zone prior to beginning of work. The notification will provide a contact number for individuals in case they have questions or complaints.

WSDOT's noise variance application states that WSDOT will construct night work for 60 non-consecutive nights intermittently throughout the duration of the project. WSDOT anticipates that this project will begin construction by May 1, 2019 and will complete this work by September 30, 2019. Some of the work conducted within the 60 days is outside of the city limits of Mukilteo; this noise variance only addresses the portion of the project inside the City limits.

LOCATION OF PROPOSAL:

A portion of this work is within the City limits of Mukilteo; certain work is outside of the City limits. Work inside the City of Mukilteo is generally on SR 526 between the Mukilteo Speedway (SR 525) and 40th Avenue West (84th Street SW and Cascade Loop) and on Paine Field Boulevard between 88th Street SW (if extended easterly) and SR 526. Work will also take place outside of the City limits on Paine Field Boulevard and portion of SR 526 east of 40th Avenue West. The City's authority to grant a noise variance applies only to that portion of the project inside the City limits. All work will be within Sections 9, 10, 15, and 16, Township 28N, Range 4E, W.M. in Snohomish County, Washington. See map below.



FINDINGS OF FACT:

1. WSDOT submitted a noise variance application request to the City of Mukilteo on July 19, 2018.
2. WSDOT indicates that it is planning lane closures associated with the project where work is to be performed at night. WSDOT states that performing work at night will minimize roadway hazards to workers and the traveling public through the construction zone and minimize traffic backups and delays.
3. WSDOT indicates that lane closures, shoulder closures and ramp closures will be permitted during the following days and times of the week.
 - Sunday 9:00PM to Monday 5:00AM
 - Monday 9:00PM to Tuesday 5:00AM
 - Tuesday 9:00PM to Wednesday 5:00AM
 - Wednesday 9:00PM to Thursday 5:00AM
 - Thursday 9:00PM to Friday 5:00AM
4. The application states that WSDOT will conduct night work for 60 non-consecutive nights to be used intermittently throughout the duration of the project. WSDOT anticipates that this project will begin construction by May 1, 2019 and will complete this work by September 30, 2019.
5. Construction activities on the project include removing existing curb ramps, replacing curb ramps, planing asphalt surfaces, repaving and placing pavement delineation.
6. The pavement removal and paving operations are a mobile operation, so they will not be at any one location for a lengthy period of time. WSDOT expects that at any particular area there will be two (2) nights for pavement removal and two nights for paving, for a total of four (4) nights. Since the operation is a moving operation it is expected that exposure to noise will not last the entire evening.
7. Due to heavy traffic volumes during daytime hours, WSDOT cannot close the lanes to do the work. Closing the lanes will cause congestion and significant delays. WSDOT will be able to allow their contractor limited hours during daytime to remove and replace existing pedestrian ADA curb ramps, since this operation is very noisy and can be done with a minor lane closure.
8. The equipment WSDOT anticipates the contractor will require includes, but may not be limited to, the following:
 - Diesel powered pavement grinders,
 - Diesel powered pavers,
 - Diesel powered dump trucks,
 - Diesel powered backhoes and front loaders,
 - Pneumatic jackhammers,
 - Pickup trucks, and
 - Miscellaneous hand tools.

9. MMC Subsection 9.46.080 (“Construction Noise”), states,

“9.46.080 Construction noise.

- A. Prohibited. It is unlawful for any person, firm or corporation to cause, or for any person, firm or corporation in possession of real property to permit, construction noise which is audible on residential, mixed use or retirement home property beyond the property lines of the property on which the construction activity is conducted as follows:
 - 1. Monday through Friday, prohibited before seven a.m. and after nine p.m.
 - 2. Saturdays/Sundays/holidays (defined in RCW 1.16.050), prohibited before nine a.m. and after seven p.m.
- B. “Construction noise” means any sound caused by construction activity including but not limited to site preparation, mobilization, clearing, grading, assembly, erection, demolition, substantial repair, alteration or similar action.
- C. Exemptions shall be in accordance with WAC 173-60-050 and 173-60-080 as adopted in Chapter 8.18.”

The applicant proposes to conduct construction activities outside of the hours permitted in MMC subsection 9.46.080(A). An exemption request has been requested in accordance with MMC subsection 9.46.080 (C).

10. WAC 173-60-080 “Variances and implementation schedules” states,

“WAC 173-60-080

Variances and implementation schedules.

- (1) Variances may be granted to any person from any particular requirement of this chapter, if findings are made that immediate compliance with such requirement cannot be achieved because of special circumstances rendering immediate compliance unreasonable in light of economic or physical factors, encroachment [encroachment] upon an existing noise source, or because of nonavailability of feasible technology or control methods. Any such variance or renewal thereof shall be granted only for the minimum time period found to be necessary under the facts and circumstances.
- (2) An implementation schedule for achieving compliance with this chapter shall be incorporated into any variance issued.
- (3) Variances shall be issued only upon application in writing and after providing such information as may be requested. No variance shall be issued for a period of more than 30 days except upon due notice to the public with opportunity to comment. Public hearings may be held, when substantial public interest is shown, at the discretion of the issuing agency.
- (4) Sources of noise, subject to this chapter, upon which construction begins after the effective date hereof shall immediately comply with the requirements of this chapter, except in extraordinary circumstances where overriding considerations of public interest dictate the issuance of a variance.”

11. On August 31, 2018, the City of Mukilteo provided notice to property owners in the area of the proposed noise variance work. No written comments were received. A resident came in to City Hall and stated his objection to the proposed Noise Variance but did not submit a written comment.
12. In accordance with WAC 173-60-080, the City finds that:
 - a) WSDOT has requested the construction noise variance and has submitted the information necessary to review the request.
 - b) WSDOT has requested this variance as night work to minimize roadway hazards to workers and the traveling public through the construction zone and minimize traffic backups and delays.
 - c) WSDOT has provided a schedule for its construction activities. The noise variance is being granted for a 60 day non-consecutive period between May 1, 2019 and September 30, 2019.
13. WSDOT has proposed and will be implementing the following mitigation measures during construction:
 - a) The contractor shall distribute nighttime work mail notification to residents within 500 feet of the work zone. The City shall review and approve the form and content of any notification, prior to distribution by the contractor. The contractor shall provide the notification draft to the City for review at least 14 working days prior to start of the nighttime work.
 - b) Truck tailgate banging is prohibited. All trucks shall be secured to prevent excessive noise from banging.
 - c) All trucks performing export haul shall have well maintained bed liners as inspected and approved by WSDOT's engineer.
 - d) A copy of noise exemption shall be kept on the project site at all times.
 - e) Provide a WSDOT complaint number as well as a list of designated contact persons for the purpose of forwarding complaints.
 - f) Stationary equipment, such as light plants, generators, and compressors shall utilize WSDOT approved noise mitigation shields, noise blankets, skirts or other means available as approved by the WSDOT engineer.
14. The Mukilteo Community Development Director may grant a variance to the construction noise regulations in accordance with MMC subsection 9.46.080(C) (under the section entitled "Construction Noise") and finds the improvements to the State corridor to be essential to the operation of the overall highway system.

PROJECT DECISION:

The project was reviewed for consistency with the standards and regulations of the City of Mukilteo and State of Washington Administrative Code and is hereby **APPROVED** subject to the following conditions:

1. WSDOT shall provide residents and businesses within 500 feet of the work zone with at least seven (7) *calendar* days notification prior to the beginning of any work. The notification shall provide a name and contact number for residents/businesses to call in case they have questions or complaints.
2. The City shall have the opportunity to review and comment on the form and content of the notification identified in item 1 above, prior to distribution. A draft notification shall be provided to the City for review at least 14 *working* days prior to start of the nighttime work.
3. Truck tailgate banging is prohibited. All trucks shall be secured to prevent excessive noise from banging.
4. All trucks performing export haul shall have well maintained bed liners as inspected and approved by the engineer.
5. A copy of noise exemption shall be kept on the project site at all times.
6. The public shall be provided with a WSDOT complaint number as well as a list of designated contact persons for the purpose of forwarding or responding to questions or complaints.
7. Stationary equipment, such as light plants, generators, and compressors shall utilize WSDOT approved noise mitigation shields, noise blankets, skirts or other means available as approved by the WSDOT engineer.

APPEALS:

Any person aggrieved by the granting of this variance may appeal the decision to the Pollution Control Hearings Board, pursuant to RCW 43.21B under the procedures of WAC 371-08.

Copies of the Notice of Approval are available from the City of Mukilteo, Community Development Department, 11930 Cyrus Way, Mukilteo, WA 98275. Contact: Linda Ritter, Senior Planner (425) 263-8043.

CONTACT PERSON:

Linda Ritter
Senior Planner
City of Mukilteo
11930 Cyrus Way
Mukilteo, WA 98275
(425) 263-8043

RESPONSIBLE OFFICIAL:

David Osaki
Community Development Director
City of Mukilteo
11930 Cyrus Way
Mukilteo, WA 98275
(425) 263-8042

WSDOT CONTACT:

Akberet Ghebregzabier
Air Quality, Acoustics and Energy Specialist
Washington State Department of Transportation
15700 Dayton Avenue North
P.O. Box 330310
Seattle, WA 98133-9710
(206) 579-7562

DATE OF ISSUANCE:

October 3, 2018

Signature: David Osaki Date: 10.03.18
David Osaki
Community Development Director

PC: Applicant Community Development Director Permit Services Supervisor File Copy (2)
Parties of Record Fire Chief Permit Services Assistant (2) Police Chief