



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

# Notice of Decision

## Saratoga Heights Major Modification of a Planned Residential Development Permit 8002 53rd Ave W

File No. PPR-2019-001

The City of Mukilteo has issued a Notice of Decision for a Land Use Development Permit as required by Regulatory Reform Act (RCW 36.70B.130) and Mukilteo Municipal Code (MMC) Section 17.13.080, for **APPROVAL** of the following project, subject to conditions:

**Project Name:** Saratoga Heights Major Modification

**Proponent:** Greg Krabbe on behalf of Saratoga 44, LLC

**Project Number:** PPR-2019-001

**Description of Proposal:** This is a proposal for a major modification to a previously approved land use development permit (File No. PPR-2017-002) for a planned residential development project. The previous approval included a second phase for the development that featured 29 townhomes in ten, 3-story buildings. Since approval of the second phase, 14 of the 29 total units were constructed. The proposed major modification revises the building type from townhomes to flat-style condominiums for the remaining 15 dwelling units. As proposed, the units will be built in two, 3-story buildings with a similar road configuration as was previously approved. The total number of dwelling units proposed, 41 total, remains the same. This project is located within the MRD (Multi-Family Residential – 13 Dwelling Units per Acre) zoning district.

**Location of Proposal:** Section 9 Township 28 Range 04 Quarter SW –West & Wheelers Seaview Five Acre Tracts Block 2, Tract 54 & 55 aka Parcel #1 & #2 of City of Mukilteo LLA-2015-002, commonly known as 8002 53rd Ave West, Mukilteo, WA 98275 and by Snohomish County Assessor’s Office parcel identification number 00611600005402.

The specific location of the revision is located west the developed cottages on Parcel #1 and townhomes on Parcel #2 of Mukilteo LLA-2015-002.

<b>Project Decision:</b>	<b>APPROVED</b>
<b>Notice of Decision Date:</b>	<b>Friday, November 22, 2019</b>
<b>End of Appeal Period:</b>	<b>Friday, December 6, 2019</b>
<b>Project Permit Expiration Date:</b>	<b>November 22, 2023</b>

### 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 outside agencies, the project permit is hereby approved with conditions based on the following Findings of Fact.

## Findings of Fact

### Permit Procedures

- The applicant submitted a land use application on January 22, 2019, for a major modification to a previously approved Planned Residential Development (PRD) (File No. PPR-2017-002) to revise the building type for the remaining 15 dwelling units from townhomes to flat-style condominiums. The City of Mukilteo determined the application incomplete on February 15, 2019, and requested additional information. The applicant resubmitted the application on March 18, 2019, and the City of Mukilteo determined the application complete on March 27, 2019.
- Per MMC 17.51.080(C), “a major revision means any proposed change in the base use in a PRD, or any proposed changed in the plans and specification for structures or location of features therein, whereby the character of the approved development will be substantially modified or changed in any material respect or to any material degree”.
  - Staff considers the proposed modification “major” as the development style the remaining 15 units is materially different in character from that approved in the previous land use development permit. This major modification proposes to revise the building type for the remaining 15 dwelling units from townhomes to flat-style condominiums.
- In accordance with Chapter 17.13 MMC, the City of Mukilteo issued a Notice of Application on April 10, 2019, and invited the public and outside agencies to comment on the project.
- The City of Mukilteo received the following public and agency comments for the proposal:

<b>Agency:</b> Snohomish County Department of Public Works, submitted April 10, 2019
<b>Comment:</b> As long as the number of units is unchanged, there will be no impact.
<b>Agency:</b> Mukilteo Water and Wastewater District, submitted April 16, 2019
<b>Comment:</b> This a proposal for a major modification to a previously approved land use development permit (File No. PPR-2017-002) for a multi-family residential development project. The previous approval included a second phase of the development that featured 29 townhomes in ten, 3-story buildings. Since approval of the second phase, 14 of the 29 total units were constructed. The proposed major modification includes revising the building type for the remaining 15 dwelling units from townhomes to flat-style condominiums. As proposed, the units will be built in two, 4-story buildings with a similar road configuration as was previously approved. The total number of dwelling units proposed, 41 total, remains the same. This project is located within the MRD (Multi-Family Residential - 13 Dwelling Units per Acre) zoning district.  The above referenced property lies within the Mukilteo Water and Wastewater District's (District) water and sewer service area boundary. The Developer has entered into a Developer Extension Agreement (DEA) with the District to make the necessary water and sewer improvements to serve the property. The District is aware of the proposed modifications to the Multi-Family Residential project and has no objections.  Service will be provided upon the completion of the water and sewer system improvements and Transfer of Ownership in accordance with the terms of the District's Developer Extension Agreement. Once the DEA is completed the Developer may make application and payment for water and sewer permits and fill out a Water Use Survey.

All construction of sewer and water facilities will be in accordance with the Standards, Specifications and Regulations of the Mukilteo Water and Wastewater District. The owner would pay the current charges in effect when application is made to connect to the sewer and water system.

- The applicant submitted an Environmental Checklist dated June 13, 2019.
- The City of Mukilteo issued a Revised Determination of NonSignificance on September 9, 2019, and notified agencies (jurisdiction, expertise, services affected, Tribes).
- The subject property has a comprehensive plan designation of Multi-Family Residential – Low Density.
- The subject property has a zoning designation of MRD Multi Family Residential - 13 dwelling units/acre.

### **Background/History**

- The City of Mukilteo approved a land use permit application (File No. PPR-2017-002) on October 16, 2017, for the second phase (“Phase 2”) of a previously approved PRD project (File No. PPR-2013-008). Plans for Phase 2 included construction of 29 townhome units in ten, 3-story buildings and the associated clearing, grading and stormwater utility improvements to accommodate the units.
- In total 14 of the 29 total units that comprise Phase 2 have been constructed, and 15 of the 29 total units for Phase 2 remain to be built.
- As proposed, the remaining 15 dwelling units will be built in two, four-story buildings with a similar road configuration as was previously approved. The total number of dwelling units proposed, 41 total, remains the same. The applicant’s current proposal reverts back to constructing four story buildings that were previously analyzed under SEPA.
- Windward-Saratoga, LLC, recorded a condominium map with Snohomish County (Auditor’s Recording No. 201906195004) and declared Division 3, which includes the 15 flat-style condominiums reviewed for major modification under this permit application, as follows:

*Division 3 – “subject to development rights to add units that will result in a reallocation of allocated interests. All or a portion may be withdrawn from the condominium.”*

### **Applicable Review Criteria**

- Staff administratively reviewed this project for consistency with all applicable requirements of the MMC that apply to the subject property. Based on this review, it has been determined that development of the site 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. Review of specific criteria is provided in the table below.

Regulation [MMC]	MRD District	Proposed
Density [17.51.056]	MRD: 12 units / acre 4.96 acres x 12 = 59.4 (59 units)	Cottages: 8 units Duplex: 4 units Townhomes: 14 units Condominiums: 15 units Total: 41 units
Building Height [17.20.020]	45' on slopes > 8% 30' on slopes ≤ 8%	Condominium building height to be verified at building permit application review. Information provided for the proposed three-story building(s) does not exceed 45'.
Front Setback [17.20.020]	25'	26' (townhomes), 93' (flat-style condos)
Rear Setback [17.20.020]	20'	Not applicable. Rear setback is 25' from top of slope as recommended by geotechnical engineer.
Side Setback(s) [17.20.020]	Three stories: 12'  <i>"Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, then the space between the floor and the ceiling next above it is considered a story. If the finished floor level directly above the basement or cellar is more than six feet above mean ground level, the basement or cellar is considered a story.</i> MMC 17.08.020 Definitions.	12'
Drive Aisle Setback [17.20.020]	Habitable areas: 10' Private garages: 20'	Habitable areas: 20' Private garages: n/a
Lot Coverage [17.20.020]	Maximum Lot Coverage: 40% 4.96 acres x 0.40 = 1.984 acres	Proposed Lot Coverage: 19.8% 0.98 acres / 4.96 acres = 19.75%
Hard Surface Coverage [17.20.028]	Maximum Hard Surface: 80% 4.96 x 0.80 = 3.968 acres	Proposed Hard Surface: 40.5% 2.01 acres / 4.96 acres = 40.52%
Parking [17.56.040]	Cottage: 2.5 spaces per unit Duplex: 2.25 spaces per unit Multi-family: 2.25 spaces per unit	Cottages: 2.5 x 8 = 20 spaces Duplex: 2.25 x 4 = 9 spaces Multi-family: 2.25 x 29 = 66 spaces Total Required: 95 spaces Total Provided: 122 spaces
Landscaping [17.58.047]	Frontage: 5' of Type V Abutting residential designated property: <ul style="list-style-type: none"> <li>▪ Type I and 10 feet of Type II</li> <li>▪ Outside storage or waste areas: Type I</li> </ul>	Frontage: landscaping completed with Phase 1 Abutting residential designated property: <ul style="list-style-type: none"> <li>▪ Type 1 – 6' tall sight-obscuring fence (solid cedar fence) along the north and south property lines.</li> <li>▪ Type II – 10' wide area for plant sight-obscuring screen (Douglas fir, Serbian spruce, Bigleaf hydrangea, etc.) along north and south property lines.</li> </ul>

Regulation [MMC]	MRD District	Proposed
Active or Passive Recreation Areas [17.20.090(A)]	350 sf per unit 41 units x 350 sf = 14,350 sf	Open space: 12,100 sf <u>Recreation area:</u> 13,888 sf Total: 25,988 sf
	<i>"Open space, active" means all common space designated and intended for the purposes of recreation and active use, such as parks, plazas, playgrounds, and sport courts.</i> <i>"Open space, passive" means all common open space not meeting the definition of active recreational open space, including, but not limited to, critical areas and their associated buffers, and LID facilities.</i> <p style="text-align: right;"><i>MMC 17.08.020 Definitions.</i></p>	

- The number of stories determines side setback requirements in the MRD zone. The City of Mukilteo determines that the proposed structures are three stories, as the mean floor level of parking level is less than six feet above mean ground level. The City of Mukilteo will evaluate mean ground and mean floor levels during building permit application review to confirm.
  - Notice of Application issued on April 10, 2019, stated the proposed buildings are four stories.
  - Based on additional information submitted, the mean floor level of parking level is less than six feet above mean ground level and does not meet the definition of a story. Therefore, the proposed buildings are three stories.
- The proposal complies with development standards in geologic sensitive areas specified in MMC 17.52A:
  - Applicants proposing development on undeveloped lots within a geologic sensitive area shall comply with the building setback and buffer recommendation presented in the geotechnical analysis. In no case shall the critical slope setback be less than 25' from a steep slope (40- percent or 22-degree angle) unless allowed through the "reasonable use" provisions of the Mukilteo Municipal Code and supported by a geotechnical report and approved by the public works director.
  - Amended geotechnical report confirms the recommended 25' setback
- Staff administratively reviewed this project for consistency with Mukilteo Municipal Code 13.12.160 and the Washington State Department of Ecology's Stormwater Management Manual for Western Washington (2012) as amended in 2014.
- This project shall pay mitigation fees for transportation, park, and school impacts in accordance with MMC Title 3.
- Utilities are available to serve the subject property. Water and sewer is available from the Mukilteo Water Wastewater District. Electricity is available from Snohomish County PUD. Natural Gas is available from Puget Sound Energy.
- The property lies outside the 55 DNL noise contour of Paine Field Airport.
- Development of the site will be subject to the requirements of the 2015 International Building Code.

- Staff administratively reviewed this project for consistency with applicable requirements of Mukilteo Municipal Code 15.08 Fire Code, adopted 2015 International Fire Code and Mukilteo Fire Development Standards that apply to the subject property.
- Staff administratively reviewed this project for consistency with all applicable requirements of Mukilteo's Development Standards Resolution #2016-19, including but not limited to drainage, clearing, grading, erosion control, access and street standards.
- The City previously approved and issued Engineering Permits #ENG-2013-029 and ENG-2017-017 that pertain to improvements associated with this application. These Engineering Permits are still open.
- The original PPR (PPR 2013-008) contained this condition which has not yet been met:
 

*53<sup>rd</sup> Avenue W. pavement disturbed by sanitary sewer installation and other development activity shall be restored to City of Mukilteo Development Standards. The minimum width of restoration shall be the width of the trench plus two feet beyond the edges of the trench. Also, the full width of the 53<sup>rd</sup> Avenue W. pavement from 84<sup>th</sup> Street SW. to the project site shall be overlaid with 2-inches of asphalt. The City of Mukilteo Public Works Director may require more extensive repairs to the 53<sup>rd</sup> Avenue W. pavement if the damage to the existing pavement extends beyond the trench edges plus two feet.*
- On October 31, 2016, the City received a Performance Bond from the Applicant for the completion of the 53rd Street HMA overlay, Phase I final HMA lift; completion of the south half of loop road including final lift, curb, gutter, and sidewalks associated with the road, and Phase II Landscaping. As well as any deficiencies observed during the scheduled August 25th inspection, construction of paved access road to vault areas, to include any necessary stormwater alterations, final lift, curb and gutter; and utility adjustment and grout of stormwater structure rims that will be affected by future road installation. This work has yet to be completed. This bond expires on October 25, 2021.
- The City has not yet received the required Easements according to Mukilteo Municipal Code 13.12.160.F.

### **Conditions of Approval**

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1. All improvements shall be constructed in accordance with the approved Site Layout Plan dated August 8, 2019, and the approved Civil Plan(s) dated August 8, 2019. Minor modifications of the plans submitted may be approved by the Community Development Director or Public Works Director if the modifications do not significantly modify the character of the proposed development.
2. All development shall proceed in accordance with the recommendations listed in the Geotechnical Report, prepared by E3RA, dated September 30, 2013, and amended by The Riley Group Inc., dated January 14, 2019. The cost of special inspections, if any, as recommended by the report shall be the responsibility of the applicant.
3. Landscaping shall be installed in accordance with the approved landscaping plan revised by Lane & Associates and submitted on August 20, 2019, shall be subject the following:

- a. All landscaping associated with a project permit shall require the submittal of an acceptable warranty surety to warrant all required landscaping improvements against defects in labor and materials for a period of twenty-four (24) months after acceptance of those improvements by the City. The warranty amount shall be fifteen (15) percent of the costs of the improvements, as determined by the City. The surety shall be submitted to and approved by the City of Mukilteo and executed before occupancy of the final building.
  - b. All landscaping shall be maintained in healthy growing condition. A final landscape inspection will be performed at the end of the two (2)-year period and any dead, dying or diseased plant material shall be replaced.
  - c. Minor modifications of the landscaping plans submitted may be approved by the Community Development Director if the modifications meet the requirements of MMC 17.58 Landscaping.
4. Engineering permits (ENG-2019-003) for clearing and grading, right-of-way and/or stormwater shall be approved prior to release of any approved building permits.
  5. All conditions and outstanding inspections found in ENG-2013-029 and ENG-2017-017 apply to this project.
  6. 53<sup>rd</sup> Avenue W. pavement disturbed by sanitary sewer installation and other development activity shall be restored to City of Mukilteo Development Standards. The minimum width of restoration shall be the width of the trench plus two feet beyond the edges of the trench. Also, the full width of the 53<sup>rd</sup> Avenue W. pavement from 84<sup>th</sup> Street SW. to the project site shall be overlaid with 2-inches of asphalt. The City of Mukilteo Public Works Director may require more extensive repairs to the 53<sup>rd</sup> Avenue W. pavement if the damage to the existing pavement extends beyond the trench edges plus two feet.
  7. The Applicant must notify the City no later than August 1, 2021 if the improvements outlined in the current Performance Bond will not be completed by October 25, 2021. The Applicant will be responsible for providing an updated Performance Bond prior to October 25, 2021 to cover any work remaining related to Condition #6 above. Any updated Performance Bond submitted shall include the provisions for a Maintenance Bond.
  8. Prior to approval of any building permits, the Applicant must provide Easements according to MMC 13.12.160.F. An easement and maintenance covenant for the private parties is required, in addition to a city access easement for the stormwater improvements.
  9. The project shall comply with all other applicable code, regulations, and ordinances.

### **Project Approval Timeframe**

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

**Appeals**

A Party of Record must file an appeal of this project decision within fourteen (14) calendar days from issuance of this Notice of Decision. 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).

Appeals must be delivered to the City Clerk by mail, personal delivery, or other method, during normal business hours by 4:30 p.m., Friday, December 6, 2019, at City Hall, 11930 Cyrus Way, Mukilteo, Washington 98275. Appeals shall be in writing on the approved form with the required information provided, accompanied by an appeal fee as outlined in the city's most current fee resolution, and shall include the appellant's signature.

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.

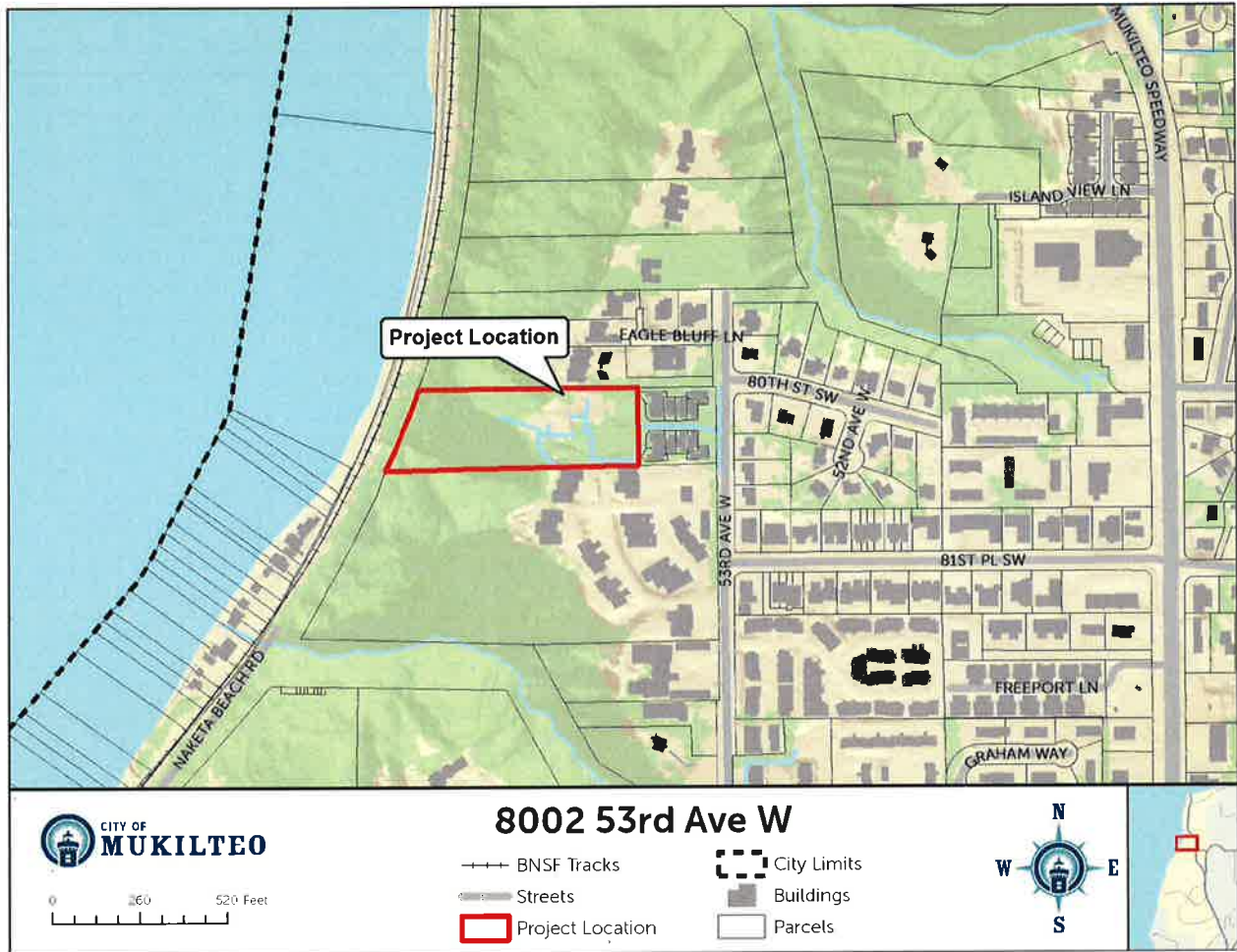
**Staff Contact:** Garrett Jensen, Associate Planner  
T: (425) 263-8046  
E: gjensen@mukilteowa.gov

Signature:  \_\_\_\_\_  
Garrett Jensen, Associate Planner

Date: 11/22/19



**Location Map**



**Date Issued:** Friday, November 22, 2019  
**End of Appeal Period:** Friday, December 6, 2019  
**Project Permit Expiration Date:** November 22, 2023

pc: Applicant/Representative  
 Reviewing Agencies  
 Interested Parties

CDD Director  
 Planning Manager  
 Permit Services Supervisor

Permit Services Assistants (2)  
 Property File