

Notice of Decision

for

Snohomish County Evaluation and
Treatment Facility Expansion

Essential Public Facilities Permit

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

Project Name: Snohomish County Evaluation and Treatment Facility Expansion

Proponent: Chris Rubright, on behalf of Snohomish County

Project Number: EPF-2019-001

Description of Proposal: approval for the essential public facilities permit for an 887 sq. ft. addition and interior renovations to the Snohomish County Evaluation and Treatment Facility, a 15-bed, short term acute care unit to evaluate and treat mentally ill patients. The purpose of the project is to upgrade the facility to better serve staff and the patients in their care. The project will result in no increase in occupancy. The project will not increase the number of short-term patients that can be served (15) or the number of staff (5) at the facility. Because the facility is classified as a regional essential public facility, the proposal is subject to the siting and expansion provisions in Chapter 17.18 of the Mukilteo Municipal Code (MMC).

Project Location: 10710 Mukilteo Speedway, Mukilteo, Washington 98275

Project Decision:	Approved
Notice of Decision Date:	Friday, November 15, 2019
End of Appeal Period:	Friday, December 6, 2019
Project Permit Expiration Date:	November 15, 2023

Project Decision

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

The Essential Public Facilities Permit shall be valid for four (4) years from the date of this Notice of Decision. If the building permit is not obtained within this period, the project permit shall become invalid, and a new Essential Public Facilities Permit will be required.

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

Appeals

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

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation. For information regarding property valuations and/or assessments, contact the Snohomish County Assessor's Office at 425.388.3433.

Contact Person: Garrett Jensen
Associate Planner
Planning & Community Development
gjensen@mukilteowa.gov | 425.263.8046



Garrett Jensen
Associate Planner

11/6/19

Date:

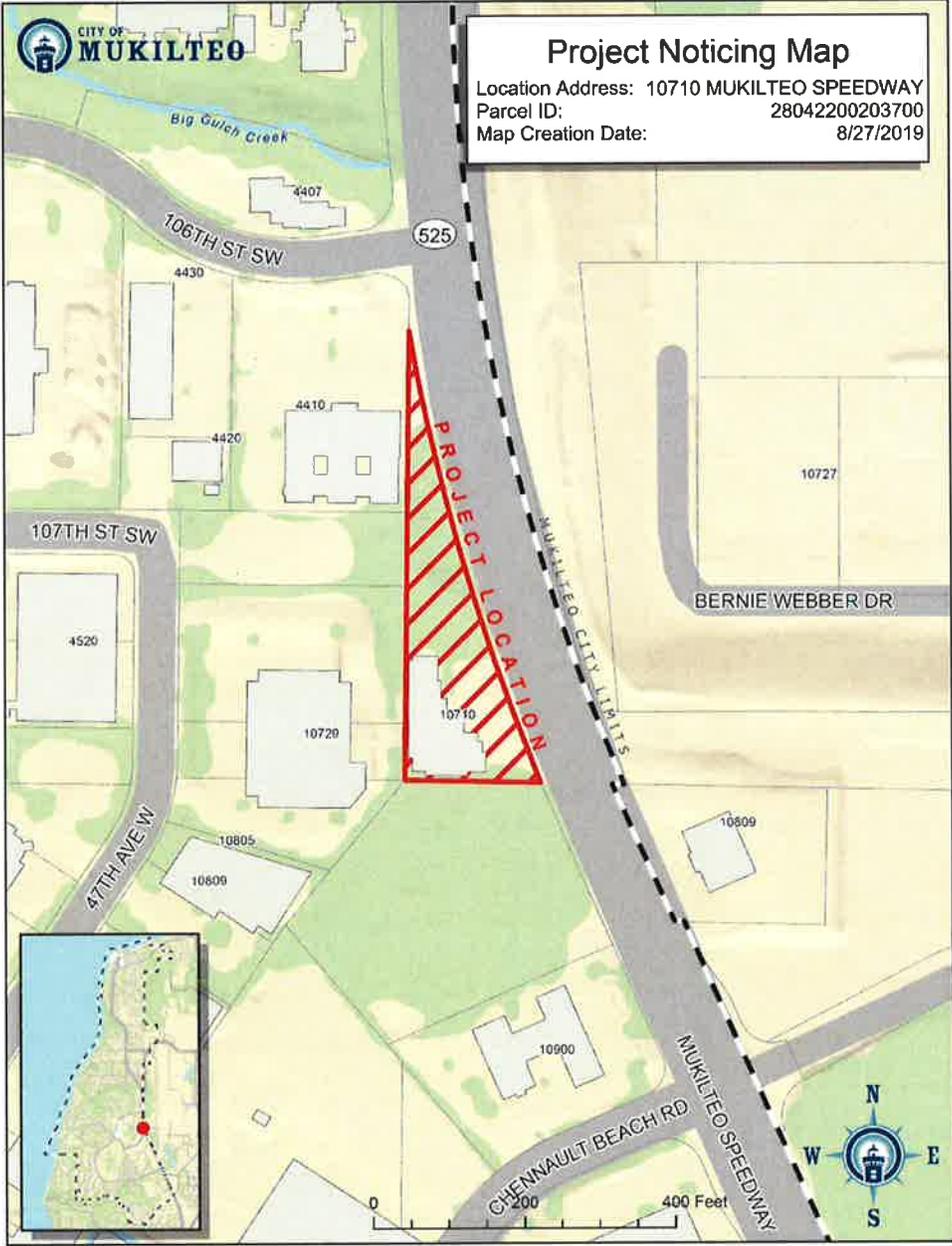


Mick Matheson, P.E.
Public Works Director

11/6/19

Date:

Location Map



pc: Applicant
 Property Owners Within 380'
 Parties of Record (if any)
 Review Agencies

Management Services Director
 Community Development Director
 Permit Services Supervisor

Permit Services Assistants (2)
 File Copy (2)

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

In the Matter of the Application of)	
)	No. EPF 2019-001
Chris Rubright, KMD Architects, on behalf of)	
Snohomish County)	
)	
)	
For a Regional Essential Public Facility)	FINDINGS, CONCLUSIONS,
<u>Permit and Building Permit</u>)	AND DECISION

SUMMARY OF DECISION

The request for an Essential Public Facility Permit and building permit for an 887 square foot addition to the Snohomish County Evaluation and Treatment Facility at 10710 Mukilteo Speedway 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 October 22, 2019.

Testimony:

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

Garrett Jensen, City Associate Planner
Chris Rubright, Architect for the Applicant
Anthony Ulrich, Facilities Manager for the Applicant

Exhibits:

The following exhibits were admitted into the record:

1. City Staff Report, with the following attachments:
 - A. Applications
 - i. Land Use Permit Application, received August 7, 2019
 - ii. Special Use Permit Supplemental Application to the Land Use Permit for Essential Public Facilities, dated July 25, August 6, 2019
 - iii. Project Summary, dated July 24, 2019
 - iv. Building Permit Application, received July 9, 2019

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- v. Project Narrative, dated July 24, 2019
- vi. Environmental Checklist, prepared August 1, 2019
- vii. Site Plan (Sheet A1.00), dated July 8, 2019
- viii. General Notes (Sheet A5.01), dated July 8, 2019
- ix. Overall Floor Plan (Sheet A2.00), dated July 8, 2019
- x. Project Summary, received July 9, 2019
- xi. Structural Calculations, DCI Engineers, dated July 8, 2019
- B. Determination of Incompleteness, dated July 24, 2019; Determination of Completeness, dated August 19, 2019
- C. Notice material
 - i. Notice of Application, dated August 30, 2019, with location map
 - ii. Certification of Public Notice, Declaration of Mailing, dated August 30, 2019
 - iii. Certification of Public Notice, Declaration of Posting, dated August 23, 2019
 - iv. Certification of Public Notice, Declaration of Posting, dated August 30, 2019
- D. Agency comments
 - i. Email from Ann Feaster to Garrett Jensen, dated September 5, 2019
 - ii. City of Mukilteo Request for Comments, dated August 30, 2019, with Mukilteo School District response, dated September 5, 2019
 - iii. Letter from Jason Zyskowski, Snohomish County PUD, to Garrett Jackson, dated September 26, 2019
- E. Notice material
 - i. Notice of Public Hearing, dated October 11, 2019
 - ii. Certification of Public Notice, Declaration of Mailing, dated October 8, 2019
 - iii. Certification of Public Notice, Declaration of Public Notice, Declaration of Posting, dated October 11, 2019
 - iv. Certification of Public Notice, Declaration of Posting, dated October 11, 2019
 - v. Affidavit of Publication, *Everett Daily Herald*, dated October 11, 2019, and classified proof, published October 11, 2019
- F. Three (3) photos, undated
- G. Memorandum from Mick Matheson, P.E., to Garrett Jensen, dated October 14, 2019
- H. City determination of categorical exemption, dated October 15, 2019
- I. City PowerPoint presentation (12 slides)

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

FINDINGS

Application and Notice

1. Chris Rubright, KMD Architects, on behalf of Snohomish County (Applicant), requests an Essential Public Facility Permit¹ (EPFP) and building permit for an 887 square foot addition and for interior renovations to the Snohomish County Evaluation and Treatment Facility (existing facility). The purpose of the project is to provide new, code-compliant seclusion rooms; reconfigure administrative spaces; and reconfigure clinical support space to better serve operational needs for staff and patients. No increase in the number of patients is proposed. The existing facility is located at 10710 Mukilteo Speedway.² *Exhibit 1, Staff Report, pages 1 and 2; Attachment A.*

2. The City of Mukilteo (City) determined that the application was complete on August 19, 2019. On August 29, 2019, the City posted notice of the application at the City's designated posting locations, including the Rosehill Community Center, the Harbour Pointe Shopping Centre, US Post Office, and Mukilteo City Hall, with a comment deadline of September 13, 2019. The next day the City mailed or emailed notice to property owners and interested parties on an attached list and posted notice on-site.³ On October 10, 2019, the City mailed or emailed notice to property owners and interested parties on an attached list. The next day the City posted notice of the open record hearing on site and at the City's designated posting locations, including the Rosehill Community Center, the Harbour Pointe Shopping Centre, US Post Office, and Mukilteo City Hall, and published note in the *Everett Daily Herald*. The Mukilteo School District responded that it had no comments. The Snohomish County PUD commented that the PUD had sufficient electrical system capacity to serve the proposed development, although District facilities may require upgrading. No comments from the public were received. *Exhibit 1, Staff Report, page 3; Attachment C; Attachment E.*

State Environmental Policy Act Review

3. Snohomish County prepared a State Environmental Policy Act (SEPA) Environmental Checklist, for the existing facility, dated April 25, 1991, and issued a Determination of

¹ 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.

² The property is identified as Assessor Parcel No. 28042200203700. *Exhibit 1, Staff Report, page 3.* A legal description is provided with the permit application material. *Attachment A.v.*

³ Public notice was provided as required by MMC 17.13.050. *Exhibit 1, Staff Report, page 3.*

Nonsignificance (DNS) on April 26, 1991. Snohomish County prepared an Environmental Checklist, for the proposed request, on August 1, 2019. The City issued a Notice of Application on August 30, 2019, noting that the City would issue a Revised DNS and set a comment deadline of September 13, 2019. City Associate Planner Garrett Jensen testified that, after his review, he determined that the proposal would be exempt from SEPA review. Mr. Jensen prepared a SEPA exemption memorandum, dated October 15, 2019, documenting his analysis and conclusion that the proposal is exempt from SEPA review under WAC 197-11-800(1) as “Minor new construction – Flexible thresholds.” *Exhibit 1, Staff Report, pages 1, 3, and 8; Attachment H; Testimony of Mr. Jensen.*

4. The property contains a palustrine forested wetland of approximately 3,470 square feet, with a 50-foot buffer. The wetland was delineated during the initial development of the existing facility in 1991. The proposed project would be located outside of the wetland and wetland buffer. *Exhibit 1, Staff Report, page 4.*

Comprehensive Plan and Zoning

5. The subject property is identified as “Commercial” in the City Comprehensive Plan. The City Comprehensive Plan and Chapter 17.18 of the Mukilteo Municipal Code (MMC) have classified the existing facility as an essential public facility. The “Essential Public Facilities Element” in the Comprehensive Plan provides that “(e)ssential 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.* Because the existing facility is owned, operated, or sponsored by Snohomish County and serves the countywide population, or an area that is greater than a county, the City has further classified the existing facility as a regional essential public facility. *MMC 17.18.030. Exhibit 1, Staff Report, pages 1 and 5.*
6. The subject property is located within the Community Business South (CB(S)) zoning district. The City’s “Essential Public Facilities” code chapter provides that state and regional essential public facilities shall not be located in any residential zoning district unless there is no other feasible location for the facility. Here, the proposed addition to the existing facility would occur in a non-residential zoning district. The City reviewed the CB(S) bulk regulation zoning requirements and determined that the proposed setbacks (front, 62 feet; rear, 5 feet; and interior, 10 feet) meet the setback requirements in the underlying zone and that the height of the proposed building (30 feet) would comply with the 35-foot height limit. The proposed lot coverage of 15 percent is below the 50 percent maximum allowed in the underlying zone. The property is screened from the properties to the south and west by a six-foot wood fence. The Applicant submitted a separate application for an administrative fence modification to construct a 10-foot 3/8-inch, anti-climb, chain-link fence with privacy screening along the south and west property lines. No landscaping is required. Eight parking spaces are required, and a total of 17 parking spaces would be provided. *Chapter 17.58 MMC; MMC 17.56.040. Exhibit 1, Staff Report, pages 4 through 6; Attachment A.vii.*

7. Property to the north is designated Commercial – Mixed Use and is zoned Planned Community Business South (PCB(S)), with a medical clinic use. Property to the west is designated Industrial and is zoned Industrial Park (IP), with light manufacturing uses. Property to the south is designated Commercial and zoned CB(S) and is currently vacant. Property to the east is in unincorporated Snohomish County. *Exhibit 1, Staff Report, pages 1 and 6.*

Site Conditions, Location, and Access

8. On March 29, 1991, Snohomish County Human Services Department submitted a commercial building permit application to Snohomish County to construct the existing facility in unincorporated Snohomish County as a 15-bed, short-term, acute-care unit to evaluate and treat mentally ill patients. The City of Mukilteo annexed a 3.7-acre area, including the 1.07-acre subject site, on March 31, 1992 (Harbour Pointe Annexation, Ordinance No. 691). The City and Snohomish County entered into an interlocal agreement on April 4, 1991, and Snohomish County approved the building permit on August 20, 1991. The existing facility was built in 1992. Access to the existing facility is from Mukilteo Speedway. Electrical, natural gas, water, refuse service, telephone, and sanitary sewer services are currently provided to the site. City Public Works Director/City Engineer Mick Matheson, P.E., determined that the existing sidewalk and driveway along the property frontage do not meet current ADA standards due to excessive cross slopes exceeding 2 percent. The City recommends a condition to require compliance, per MMC 15.04.060, with associated construction of improvements. *Exhibit 1, Staff Report, page 2; Attachment A.vi; Attachment G.*

Essential Public Facilities

9. The City has classed the existing facility as a regional essential public facility (EPF). *MMC 17.18.010.* MMC 17.18.030 contains regulations to ensure the appropriate siting of state and regional EPFs. The EPF hearing provided reasonable opportunity for the public to provide comments and testimony on the proposed addition and the underlying building permit application. *MMC 17.18.030.A.* The property is not located in a residential zone and meets the regulations for the CB(S) zone. *MMC 18.030.B and .C.* The Hearing Examiner has included reasonable conditions in this decision. *MMC 17.18.030.D. and .E.* City staff determined that:
 - Frontage improvements are a reasonable and necessary condition.
 - No increase in capacity is proposed.
 - Capital costs would be provided through a Washington State Department of Commerce grant.
 - No increase in capacity or changes in services are proposed that would increase noise levels.
 - The Applicant has applied for a separate administrative fence modification.
 - The City prepared a separate SEPA exemption memo.

No one presented any written or verbal testimony to refute the determinations of the City. *Exhibit 1, Staff Report, pages 5 through 8.*

Testimony

10. 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 its zoning code, Chapters 17.18 and 17.20 MMC. He testified that many of the EPF approval criteria are not relevant to the proposed expansion and remodel proposal. Of those that are relevant, he testified that the proposal would be consistent with the criteria.

He noted that the Applicant also submitted a building permit application, received July 9, 2019. The description of work included interior renovations, interior finish replacement, 833 square feet of new addition and minor parking lot modifications. Mr. Jensen testified that MMC 17.18.030 requires any proposal for a state or regional essential public facility to have a public hearing on any underlying permit, such as a building permit, in order to obtain public input. He clarified that the Hearing Examiner does not approve the building permit, but provides the opportunity for the permit to go forward. He testified that there are no specific building permit approval criteria, other than compliance with the City code. *Attachment A.iv; Testimony of Mr. Jensen.*

11. Project Architect Chris Rubright testified that he agrees with the process of moving forward with the building permit application, with the approval of the Hearing Examiner, and agrees with the proposed conditions. Anthony Ulrich, facility manager, testified that expansion would allow the existing facility to provide better patient care up to its 16-person capacity. The internal changes include food services, living quarters, and additional rooms. *Testimony of Mr. Rubright; Testimony of Mr. Ulrich.*
12. City staff reviewed the proposal and determined that, with conditions, the proposed addition to the existing facility would meet the siting and expansion criteria for regional essential public facilities, as well as the City's Comprehensive Plan and City code. The conditions require frontage improvements to meet the ADA and the City's 2017 development standards; compliance with Snohomish County PUD policy; compliance with all other applicable code, regulations, and ordinances; and completion of work in a timely fashion. *Exhibit 1, Staff Report, page 8.*

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 regional essential public facility in the City of Mukilteo. *RCW 36.70B.040; Mukilteo Municipal Code (MMC) 2.38.030; MMC 17.18.030.*

Criteria for Review

- A. Any proposal for the siting or expansion of a state or regional essential public facility shall follow the procedures established by Chapter 17.13 for the underlying permit, e.g., building permit, subdivision, binding site plan, etc.; provided, that a public hearing shall be held prior to the issuance of any such permit in order to obtain public input on the permit criteria and conditions of approval. If the underlying permit ordinarily requires a public hearing, the public hearing required by this section shall be consolidated with the required public hearing and heard by the same hearing body or officer. If the underlying permit does not ordinarily require a public hearing, the hearing examiner shall conduct the public hearing and shall thereafter be the approval authority for such underlying permit. Notice of the application and the required public hearing shall be given as provided in Section 17.13.050. Notices shall be posted on-site, posted at the city's designated posting places, advertised in the city's official newspaper, and mailed to property owners within three hundred feet.

- B. State and regional essential public facilities shall not be located in any residential zoning district identified in Table 17.16.040 except as provided in this subsection. If the land on which a state or regional 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.

- C. State and regional essential public facilities shall meet all provisions of this code for development within the zoning district in which they are proposed to be located, including but not limited to the bulk regulations of Chapter 17.20, except as provided in this subsection. If a state or regional essential public facility does not meet all such provisions, the applicant must demonstrate to the hearing examiner 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.

- D. The hearing examiner shall impose reasonable conditions upon the state or regional essential public facility in order to ensure that:

1. Necessary infrastructure is or will be made available to ensure safe transportation access and transportation concurrency;
 2. Necessary infrastructure is or will be made available to ensure that public safety responders have the capacity to handle increased calls and expenses that will occur as the result of the facility, including but not limited to insurance costs, public awareness and public education costs. The facility will not adversely affect public safety;
 3. The project sponsor has the ability to pay for all capital costs associated with on-site and off-site improvements;
 4. The facility will not unreasonably increase noise levels in residential and commercial areas and school zones;
 5. Visual screening will be provided that will mitigate the visual impacts from streets and adjoining properties; and
 6. Any and all probable significant adverse environmental impacts including but not limited to air quality, habitat, soil quality and soil stability of neighboring properties and light pollution are mitigated.
- E. The hearing examiner shall not impose conditions in such a manner as to preclude the siting or expansion of any state or regional essential public facility in the city of Mukilteo. In the event that a state or regional essential public facility cannot, by the imposition of reasonable conditions of approval, be made to mitigate the impacts described in subsection D of this section, the hearing examiner shall approve the siting or expansion of the state or regional essential public facility with such reasonable conditions of approval as may mitigate such impacts to the maximum extent practicable.

MMC 17.18.030.

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 expansion of the existing 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 expansion and renovation of the existing facility is needed to better serve the existing facility at its current capacity. The proposed expansion would be constructed on-site. It is not an over-water project and would not be located within any wetland or wetland buffer. No additional traffic would be generated, no increase in noise levels would result,

*Findings, Conclusions, and Decision; City of Mukilteo Hearing Examiner
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and the proposed expansion and renovation of the existing facility would not adversely affect public safety. A 10-foot privacy fence would be constructed along the south and west property lines. No new landscaping is required. The expansion and renovation would be part of the existing Snohomish County Evaluation and Treatment Facility, a regional essential public facility, which is not located in a residential zone. The project sponsor has the ability to pay for all capital costs. The proposed building would meet all the development provisions within the CB(S) zone. The City determined that the proposal was exempt from SEPA review.

Reasonable conditions are necessary, requiring frontage improvements to meet ADA and the City's 2017 development standards; compliance with Snohomish County PUD policy; compliance with all other applicable code, regulations, and ordinances; and completion of work in a timely fashion. *Findings 1-12.*

2. **The Applicant's building permit application is approved for future City review.** No written comments or testimony were received in opposition to issuance of a building permit nor were any concerns raised in written comment or testimony. Therefore, the duty of the Hearing Examiner is to approve the building permit application for further processing by the City subject to City review, approval and any necessary conditions that may be applied by the City Building Official or designee. *Findings 1-12.*

DECISION

Based on the preceding findings and conclusions, the Applicant's building permit application is **APPROVED** for future City review. The request for an Essential Public Facility Permit for an 887 square foot addition and for interior renovations to the Snohomish County Evaluation and Treatment Facility at 10710 Mukilteo Speedway is **APPROVED**, subject to the following conditions:⁴

1. Per MMC 15.04.060, a portion of the frontage shall be replaced in compliance with the standards of the Americans with Disabilities Act (ADA) of 1990 and City of Mukilteo 2017 Development Standards. Frontage improvements include replacement of the sidewalk, driveway, and portions of curb and gutter where required from the south property line to the northern limit of the driveway entrance to the facility. The length of the required replacement is approximately 180 lineal feet and is adjacent to the developed portion of the parcel.
2. Cost of any work, new or upgrade, to existing utility facilities that is required to connect the proposed development to the Snohomish County PUD system shall be in accordance with the applicable Snohomish County PUD policy.
3. The property owner and/or essential public facility operator shall comply with all other

⁴ This decision includes conditions required to reduce unique project impacts as well as conditions required to meet municipal code standards.

applicable code, regulations, and ordinances.

4. The EPF permit shall expire and become null and void if a grading or building permit is not obtained within two years of permit approval. *MCC 17.13.030.*

DECIDED this 4th day of November 2019.



THEODORE PAUL HUNTER
Hearing Examiner
Sound Law Center