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BEFORE THE HEARING EXAMINER FOR THE CITY OF BELLEVUE

In the matter of an Application for)
Conditional Use Permit and Design)
Review for)
NE 8TH BELLEVUE MEMORY CARE)
For construction of a two-story assisted)
Living facility on NE 8th Street between)
148th Avenue NE and 144th Avenue NE.)

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND DECISION**

**FILE NOS. 16-123859-LB
16-123872-LD**

SUMMARY

1. Decision. The application is approved, subject to conditions.
2. Request. The proposal is to build a two-story assisted living (memory care) facility on 1.5 acres currently used as a surplus parking lot for an adjacent church. The zoning is R-10. The facility will have 30 units of which sixteen will be two-bedroom, for a total of 46 beds. Services will include onsite caregiving, dining and activity areas, therapy, shuttle services, and laundry services. Traffic impacts will be minor. Available urban level utilities have the capacity to serve the development.

3. Procedure.
The CUP application was received on February 2, 2016. The Design Review application was received on February 3, 2016. Notice of application was published, mailed and signed as required by law. A public meeting was held on April 20, 2016. No members of the public attended. No public comment was received.

The Hearing Examiner’s public hearing was held, after due notice, on November 17, 2016. At the hearing the City was represented by Carol Hamlin, Senior Planner. The applicant was represented by Ted Johnson, Marathon Development, Inc. There was no public testimony.

Design Review was conducted by Staff and the Staff Report reflects conformity with Design Review Criteria (LUC 20.30F.145).

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FINDINGS OF FACT

1. The factual matters set forth in the above Summary are adopted by the Examiner as findings. The purpose of the facility is to provide a residence and care for persons suffering from dementia. It will be licensed by the Washington State Department of Health.

2. The site is zoned R-10 and is located within the Wilburton/NE8th Subarea. NE 8th Street borders on the south. 148th Avenue NE is to the east. 144th Avenue NE is to the west. There is a private drive to the north. Stevenson Elementary School lies west of 144th Avenue. The site is within a Transition Area.

3. The property consists of two parcels that are currently covered with asphalt to provide surplus parking for a church adjacent to the east. The site is owned by the Lake Sammamish Foursquare Church. To the north are seven residential properties which will be shielded from the development by existing perimeter trees.

4. The two parcels will be merged into a single lot through a Boundary Line Adjustment. The new parcel will contain approximately 1.5 acres. No demolition of existing structures will be required. A storm water detention vault will be installed for the benefit of existing and proposed parcels.

5. Access to the project will be from NE 8th Street on a new shared driveway. The existing driveway approach will be removed. The new driveway will be widened to allow separate left and right turns out of the site. The project will provide sufficient off-street loading and truck turn-around space. A parking analysis, provided by TranspoGroup, showed that adequate parking for staff and visitors will be provided.

6. The NE 8th Street public sidewalk will be improved with associated street frontage plantings, including street trees. A new five-foot sidewalk leading to the building will be built from the public sidewalk.

7. The building will have limited exterior access so that the residents are secured. However, it will offer spacious interior facilities and access to a courtyard and balconies. In addition to the bedrooms, the building will include family lounges, therapy kitchens, hair/beauty salon, and dining rooms on each floor and associated kitchen facilities. Residential rooms will flank the exterior walls. Family, dining and activity areas will overlook the courtyard.

1 8. The proposed building contains approximately 28,345 gross square feet. It is to be
2 two stories high and of wood frame construction, with a maximum height of 30 feet. The design
3 features varying elevations with board and batten, horizontal lap, and shingle siding. The roof
4 will be asphalt shingle. Building colors are to be light beige, brown, natural wood color, and
5 brick. The roof will be medium gray.

6 9. The main building entrance will be along the south façade facing NE 8th Street. A
7 porte cochere at the entrance will protect residents and visitors on pick-up and drop-off.
8 The building will have gable roof elements for compatibility with adjacent private single family
9 houses.

10 10. Because the site is within a Transition Area adjacent to single-family zoning, Design
11 Review is required. The Staff Report analyzes the proposal in light of Design Review criteria
12 and concludes that the project, as conditioned, will be consistent with the criteria. The Hearing
13 Examiner endorses this conclusion.

14 11. The proposal was reviewed under the State Environmental Policy Act (SEPA) and a
15 Determination of Non-Significance (DNS) was issued on November 3, 2016. The DNS was not
16 appealed.

17 12. The proposed development is within the assumptions of the Transportation Facilities
18 Plan Final Environmental Impact Statement Addendum. Payment of a transportation impact fee
19 will adequately mitigate for long-term traffic impacts. Traffic generated will be less than 30 new
20 p.m. peak hour trips and therefore no traffic concurrency analysis is required.

21 13. Storm water from the site drains to the southwest corner of the site where it
22 discharges to an existing conveyance system along the north side of NE 8th Street. Domestic
23 public water connections are an 8 inch main in 144th Avenue and a 6 inch main in NE 8th street.
24 A new sewer main extending west along the north side of the property will connect to the
25 existing public sewer. The capacity of public utilities is adequate to accommodate the
26 development.

27 14. The application was reviewed by Staff for compliance with the criteria for
28 Conditional Use approval. The Staff determined that the project, as conditioned, will meet the
29 requirements for Conditional Use approval. The Hearing Examiner concurs with this analysis
30

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1 and adopts the same. The Staff Report is by this reference incorporated herein as though fully set
2 forth.

3 15. The proposal will be compatible with its setting, both visually and in terms of the
4 impacts of development. No detriment to uses or property in the immediate vicinity has been
5 identified. The dimensional and aesthetic requirements of the Land Use Code will be met.
6 Applicable design guidelines have been addressed in a manner which fulfills their purpose and
7 intent.

8 16. Any conclusion herein which may be deemed a finding is hereby adopted as such.

9 **CONCLUSIONS OF LAW**

10 1. The Hearing Examiner has jurisdiction over this proceeding. LUC 20.35.015,
11 20.35.080.

12 2. The requirements of SEPA have been met.

13 3. The applicant has satisfied all of the requirements of the Land Use Code. The
14 preponderance of evidence is that the project complies with the applicable requirements for
15 approval. See LUC 20.30C.155, LUC 20.30F.145.

16 4. Any finding herein which may be deemed a conclusion is hereby adopted as such.

17 **CONDITIONS**

18 **A. GENERAL CONDITIONS:** The following conditions apply to all phases of
19 development.

20 **UTILITIES CONCEPTUAL APPROVAL**

21 Utility Department approval of the Design Review application is based on the conceptual
22 design only. Changes to the site layout may be required to accommodate the utilities after
23 utility engineering is approved. The water, sewer, and storm drainage systems shall be
24 designed per the current City of Bellevue Utility Codes and Utility Engineering
25 Standards. Utilities Department design review, plan approval, and field inspection is
26 performed under Utilities Permit Processes. All connection charges will be due with
27 Utility permits prior to issuance. BCC 24.02, 24.04, 24.06

28 **LAND USE DIVISION CONDITIONS (GENERAL)**

29 **1. MODIFICATION OF APPROVED PLANS**

30 Any modification to this approval shall be documented as an Amendment per LUC
20.30B.175 and LUC 20.30F.175. The applicant shall demonstrate compliance with the
Land Use Code in effect at the time of issuance of any modification. Any modification of

1 the project design must be reviewed for consistency with the design intent as stated in
2 Section I.B. of this report. Conditions of Approval run for the life of the project. LUC
3 20.30B.175, LUC 20.30F.175

4 **2. VESTING STATUS OF LAND USE APPROVAL**

5 Under Land Use Code 20.40.500, the vested status of the Design Review approval shall
6 expire two years from the date of the City's final decision, unless a completed building
7 permit application is filed before the end of the two year term. Upon issuance of a
8 building permit, the vested status of a land use permit or approval shall be automatically
9 extended for the life of the project. LUC 20.50.500

10 **3. CONSTRUCTION NOISE HOURS**

11 Noise related to construction is allowed from 7:00 a.m. to 6:00 p.m. Monday through
12 Friday and 9:00 a.m. to 6:00 p.m. on Saturday, except for Federal holidays and as further
13 defined by the Bellevue City Code. Exceptions to the construction noise hours limitation
14 contained in the Noise Control Code MAY be granted pursuant to 9.18.020C.1 when
15 necessary to accommodate construction which cannot be undertaken during exempt
16 hours. Written requests for exemption from the Noise Control Code must be submitted
17 two weeks prior to the scheduled onset of extended hour construction activity. Such
18 request shall include a noise analysis prepared by a noise consultant, including
19 recommendations for achieving the noise limitations of the Noise Ordinance for new
20 residential construction. The applicant shall provide documentation that residential
21 construction meets BCC 9.18.045.B for reducing the maximum noise levels for interior
22 units: 40 dBA or lower for sleeping areas; and 45 dBA or lower for non-sleeping areas.
23 Bellevue City Code 9.18.020, .040 .045.B

24 **4. USE OF BEST AVAILABLE NOISE ABATEMENT TECHNOLOGY**

25 The use of best available noise abatement technology consistent with feasibility is
26 required during construction to mitigate construction noise impacts to surrounding uses.
27 Bellevue City Code 9.18.020F

28 **5. AIR POLLUTION FROM CONSTRUCTION VEHICLES AND
29 EQUIPMENT**

30 Construction vehicles and heavy construction equipment shall emit the least amount of
air pollution possible. While on city streets, construction vehicles shall meet the
requirements of the Revised Code of Washington 46.61.655 for covered loads. State
Environmental Policy Act, Bellevue City Code 23.76,
Revised Code of Washington 46.61.65

6. PROJECT PLANS

The project is subject to the plans submitted with the Conditional Use/Design Review
applications and included with this staff report as Attachment A.
LUC 20.30B, LUC 20.30.F

1 **TRANSPORTATION DEPARTMENT CONDITIONS (GENERAL)**

2 **7. PROVISIONS FOR LOADING**

3 The property owner shall provide an off-street loading space which can access a public
4 street. This must include an off-street location for garbage pick-up, which must be
5 acceptable to the garbage hauler. On-street loading and unloading in addition to backing
6 onto the public roadway will not be permitted. LUC 20.20.590.K.4; BCC 14.60.180

7 **B. PRIOR TO CLEARING & GRADING (CG) PERMIT**

8 The following conditions are imposed to ensure compliance with the relevant decision
9 criteria and Code requirements and to mitigate adverse environmental impacts not
10 addressed through applicable Code provisions. These conditions must be complied with
11 on plans submitted with the Clearing & Grading (GD) or Demolition permit application:

12 **LAND USE DIVISION CONDITIONS (GD)**

13 **1. BOUNDARY LINE ADJUSTMENT**

14 Prior to clearing and grading permit approval, the applicant shall receive approval of a
15 Boundary Line Adjustment and provide a recorded copy to the city. An access easement
16 will be required that provides access rights to both parcels for the portion of the driveway
17 not located on their property. LUC 20.20.010

18 **2. INTERNAL WALKWAY**

19 The applicant shall provide a minimum internal walkway width of 4 feet from the public
20 sidewalk to the building entrance. LUC 20.590.K.8

21 **3. PERIMETER LANDSCAPING**

22 The final landscape plan shall include shrubs and groundcover along the west and north
23 perimeters. The north perimeter shall provide an additional 100 square feet of Transition
24 Buffer landscaping. LUC 20.20.520, LUC 20.25B.040

25 **4. LANDSCAPE PLAN**

26 (a) Contact Tom Kuykendall at the Parks & Community Services Department
27 (425-452-7924 or tkuykendall@bellevuewa.gov) regarding irrigation service
28 along NE 8th Street. The street tree type and location will be identified during
29 clearing and grading review.

30 (b) To ensure that interior plants will thrive, provide a water schedule to show
 how plants will be cared for during the establishment period and thereafter.

 (c) The applicant shall include a detail for soil preparation within the right-of-way
 on the clearing and grading permit plans, City of Bellevue, Type 2 Soil
 Preparation, Attachment B.

 LUC 20.20.520

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2 **TRANSPORTATION DEPARTMENT CONDITIONS (GD)**

3 **5. RIGHT-OF-WAY USE PERMIT**

4 Prior to issuance of any construction or clearing and grading permit, the applicant shall
5 secure applicable right-of-way use permits from the City's Transportation Department,
6 which may include:

- 7 a) Designated truck hauling routes.
8 b) Truck loading/unloading activities.
9 c) Location of construction fences.
10 d) Hours of construction and hauling.
11 e) Requirements for leasing of right of way or pedestrian easements.
12 f) Provisions for street sweeping, excavation and construction.
13 g) Location of construction signing and pedestrian detour routes.
14 h) All other construction activities as they affect the public street system.

15 In addition, the applicant shall submit for review and approval a plan for providing
16 pedestrian access during construction of this project. Access shall be provided at all times
17 during the construction process, except when specific construction activities such as
18 shoring, foundation work, and construction of frontage improvements prevent access.
19 General materials storage and contractor convenience are not reasons for preventing
20 access.

21 The applicant shall secure sufficient off-street parking for construction workers before
22 the issuance of a clearing and grading, building, a foundation or demolition permit.

23 BCC 11.70 & 14.30

24 **6. CIVIL ENGINEERING PLANS – TRANSPORTATION**

25 Civil engineering plans produced by a qualified engineer must be approved by the
26 Transportation Department prior to issuance of the clearing and grading permit. The
27 design of all street frontage improvements and driveway accesses must be in
28 conformance with the requirements of the Americans with Disabilities Act, the
29 Transportation Development Code, the provisions of the Transportation Department
30 Design Manual, and specific requirements stated elsewhere in this document. All
relevant standard drawings from the Transportation Department Design Manual shall be
copied exactly into the final engineering plans. Requirements for the engineering plans
include, but are not limited to:

- a) Traffic signs and markings.
b) Curb, gutter, sidewalk, and driveway approach design. The engineering plans
shall be the controlling document on the design of these features; architectural
and landscape plans must conform to the engineering plans as needed.
c) Installation or relocation of streetlights and related equipment.

- d) Sight distance. Show the required sight triangles and include any sight obstructions, including those off-site. Sight distance triangles must be shown at all driveway locations and must consider all fixed objects and mature landscape vegetation. Vertical as well as horizontal line of sight must be considered when checking for sight distance.
- e) Landings on sloping approaches are not to exceed a 7% slope for a distance of 30 feet approaching the back edge of sidewalk. Driveway grade must be designed to prevent vehicles from bottoming out due to abrupt changes in grade.
- f) City standards for driveway widths range from 30 to 36 feet on arterial streets, and 26 to 30 feet for local streets. Driveway aprons must be constructed in accordance with Design Manual Standard Drawing DEV-7F.
- g) Location of fixed objects in the sidewalk or near the driveway approach.
- h) Street frontage improvements including installation of a 4-foot wide planter, an 8-foot wide concrete sidewalk, street trees, spray irrigation from a private metered water source, root barrier, street lighting to Bellevue's standards, and relocation of the existing overhead flashing beacon.

Construction of all street and street frontage improvements must be completed prior to closing the clear and grade permit and right of way use permit for this project. A Design Justification Form must be provided to the Transportation Department for any aspect of any pedestrian route adjacent to or across any street that cannot feasibly be made to comply with ADA standards. Design Justification Forms must be provided prior to approval of the clear and grade plans for any deviations from standards that are known in advance. Forms provided in advance may need to be updated prior to project completion. For any deviations from standards that are not known in advance, Forms must be provided prior to project completion.

BCC 14.60; Transportation Department Design Manual; Americans with Disabilities Act

C. PRIOR TO BUILDING PERMIT (BB)

The following conditions are required by City Code. Unless specified otherwise below, these conditions must be complied with on plans submitted with the Building Permit application:

LAND USE DIVISION CONDITIONS (BB)

1. BUILDING MATERIALS/DETAILS AND COLOR SAMPLES

The development is subject to the building materials/details and color samples as submitted with the Conditional Use/Design Review applications. LUC 20.30B, LUC 20.30.F

2. LIGHT AND GLARE

In order to mitigate potential impacts to adjacent properties, exterior lights shall use cut off shields or an equivalent to prevent light and glare. LUC 20.20.522.

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3. KITCHEN VENTS

Kitchen exhaust vents shall be located and designed to avoid pedestrian impacts. Odors shall not affect public ways or outdoor plazas. The applicant shall provide certification by a noise consultant that the noise from the exhaust fans will not exceed 60 dBA, and a determination from the noise consultant that the velocity and direction of airflow from the exhaust system within pedestrian areas not exceed 500 CFM. This shall be submitted with the building permit application. BCC 9.18

4. MECHANICAL SCREENING

Roof plans submitted for the building permit application shall indicate locations of mechanical equipment, including any communication equipment such as satellite dishes. The applicant shall demonstrate that screening for rooftop mechanical equipment is architecturally integrated with the building. Screening shall be provided so that rooftop mechanical equipment is not visible from adjacent streets, public sidewalks, or above. All HVAC rooftop equipment shall be consolidated and screened, including painting of equipment/screening as necessary.

Power, telephone, traffic control, or other equipment shall not be located in above ground cabinets in sidewalk areas. Such equipment shall be located in underground vaults, in a building, or substantially screened per the approval of the Development Services Department.

Any at grade grills/grates or panels shall be the minimum size necessary, be ADA compliant and flush with the sidewalk or driveway in which it is installed. Review and approval of these locations and grates will be through the building permit review process.

LUC 20.20.525, LUC 20.25B.040.E

TRANSPORTATION DEPARTMENT CONDITIONS (BB)

5. TRANSPORTATION IMPACT FEE

Payment of the traffic impact fee will be required at the time of building permit issuance. If multiple building permits will be issued, the impact fee will be tied to the primary above-ground permit. BCC 22.16

6. EXISTING EASEMENTS

Any utility easements contained on this site which are affected by this development must be identified. Any negative impact that this development has on those easements must be mitigated or easements relinquished. BCC 14.60.100

7. EASEMENTS FOR SIGNAL CONTROL AND STREET LIGHT BOXES AND VAULTS

The applicant shall provide easements to the City for location of signal and street light facilities such as above-grade boxes and below-grade vaults between the building and sidewalk within the landscape area. BCC 14.60.100

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8. SIDEWALK/UTILITY EASEMENTS

The applicant shall provide sidewalk and utility easements to the City such that sidewalks outside of the City right of way along the property frontage are located within a pedestrian easement area. The easement shall extend 1-foot behind the pedestrian facilities. BCC 14.60.100

D. PRIOR TO ISSUANCE OF ANY CERTIFICATE OF OCCUPANCY (CO)

LAND USE DIVISION CONDITIONS (CO)

1. LANDSCAPE INSTALLATION ASSURANCE DEVICE

If a Temporary Certificate of Occupancy is requested prior to completion of the landscaping installation the applicant shall file with PCD a landscape installation assurance device equal to 150% of the cost of labor and materials for any landscaping that has not yet been installed. LUC 20.40.490

2. LANDSCAPE MAINTENANCE ASSURANCE DEVICE

The applicant shall file with the PCD a landscape maintenance assurance device in the form of an assignment of savings or letter of credit for 20% of the cost of labor and materials for all landscaping on the site. LUC 20.40.490

3. RECORDING

The applicant shall record with King County the required document that this assisted living use will remain for the life of the project as senior housing, per LUC 20.10.440 Residential Chart Note (4). LUC 20.10.440 Residential Chart Note (4)

TRANSPORTATION DEPARTMENT CONDITIONS (CO)

4. STREET FRONTAGE IMPROVEMENTS

All street frontage improvements and other required transportation elements must be constructed by the applicant and accepted by the City Inspector. These improvements include:

- A four foot wide planter.
- Street trees, root barrier, and a spray irrigation system from a private metered water source.
- Any portion of the concrete curb and gutter that is deficient shall be replaced.
- An eight foot wide concrete sidewalk.
- Remove existing driveway approach and widen shared driveway approach to a minimum 36-foot width per DEV-7F.
- Driveway shall meet fixed object and sight distance requirements.
- Bring driveway approach, partially located in the southwest corner of the site, up to current City and ADA standards.
- Street lighting per Bellevue standards.

- Public access easements shall be required for portions of the sidewalk located on private property.
- NE 8th Street is classified as a “No Cut” restoration roadway. Restoration requirements will be provided in the Right of Way Use permit and shall be a minimum 50-foot grind and overlay. Overlay limits to be determined in the field by the Right of Way inspector.
- Access easements are required for the shared driveway, proposed to be located on two parcels.
- A school zone flashing beacon mast arm shall be relocated to allow frontage improvements. The existing mast arm and pole may be used but may need to be modified or replaced to meet City standards and the alignment with NE 8th Street westbound lanes.

All existing street light and traffic signal apparatus affected by this development, including traffic controllers, pedestrian signal poles, traffic signal poles, and power sources, must be relocated as necessary. All required improvements must be constructed as per the approved plans or as per direction of the Transportation Department inspector.

BCC 14.60; Comprehensive Plan Policy UT-39; Transportation Department Design Manual and Transportation Department Design Manual Standard Drawings.

5. PAVEMENT RESTORATION

Pavement restoration on NE 8th Street will require a minimum 50-foot grind and overlay. Limits to be determined in the field by the Right of Way inspector. BCC 14.60. 250; Design Manual Design Standard #23

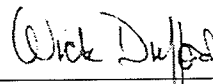
6. SIGN PERMITS

The applicant shall apply for and receive approval of sign permits. Signs shall be architecturally compatible with the building design. BCC 22.10

DECISION

The Conditional Use Permit (16-123859 LB) for the NE 8th Bellevue Memory Care facility is approved. The Examiner concurs with and endorses the associated approval of Design Review (16-123872 LD). Both approvals are made subject to the Conditions of Approval set forth above.

DONE, this 1ST, day of December, 2016.



Wick Dufford, Hearing Examiner

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NOTICE OF RIGHT TO APPEAL

RIGHT TO APPEAL—TIME LIMIT

A person who submitted written comment to the Director before the hearing, or submitted written comments or made oral comments during the hearing on this matter, may appeal the decision of the hearing examiner to the Bellevue City Council by filing a written appeal statement of the Findings of Fact or Conclusions being appealed, and paying any appeal fee, no later than 14 calendar days following the date that the recommendation was mailed. The appeal must be received by the City Clerk by **5:00 p.m., on December 15, 2016.**

TRANSCRIPT OF HEARING—PAYMENT OF COST

An appeal of the hearing examiner’s decision requires the preparation of a transcript of the hearing before the hearing examiner. Therefore, the request for appeal must be accompanied by an initial deposit of \$100 per hearing hour. Should the actual cost be less than the amount of the deposit, any credit due shall be reimbursed to the appellant. Should the cost for transcript preparation be more than the deposit, the appellant will be additionally charged.

WAIVER OF TRANSCRIPTION FEE

Upon request, the City Clerk will waive transcription fee upon submission by an appellant of the following documentation: a) an affidavit stating that the appellant’s net financial worth does not exceed \$20,000; b) an affidavit stating that the appellant’s annual income does not exceed \$5,200; c) a brief statement of the issues sought to be reviewed; d) a designation of those parts of the record the party thinks are necessary for review; e) a statement that the review is sought in good faith.