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BEFORE THE HEARING EXAMINER FOR THE CITY OF BELLEVUE

In the Matter of the Application for)	
)	FILE NO. 15-129513 LB
Bennett Elementary School)	
(Bellevue School District))	
)	FINDINGS OF FACT,
For a Conditional Use Permit for demolition)	CONCLUSIONS OF LAW,
of the present facility and construction of a)	AND DECISION
new facility at 17900 NE 16 th St, Bellevue)	
)	

SUMMARY

Decision. The application is **APPROVED**, subject to conditions.

Proposal. The applicant, the Bellevue School District (BSD), seeks a Conditional Use Permit (CUP) for a project at 17900 NE 16th Street, Bellevue, to demolish the existing Bennett Elementary School and construct a new, terraced, three-story structure of about 85,000 square feet on 9.34 acres. The project also contemplates other changes on the site including new landscaping and reconfiguring of the existing playfield and parking.

Issue Presented. The primary issue in this matter is whether the proposed Bennett Elementary School project meets the criteria for Conditional Use approval under the Bellevue Land Use Code (LUC) LUC 20.30B.140. The record establishes that the proposed project meets the conditional use permit criteria, subject to conditions.

Procedural History. The Bellevue School District applied for a conditional use permit for the proposed removal and replacement of the Bennett Elementary School on December 8, 2015. A notice of application and public meeting was published on February 4, 2016.

A public meeting was held on February 25, 2016. Several members of the public attended this meeting. Seven written comments were submitted. Residents living near the proposed project expressed concerns about safety, traffic, parking, and other issues.

The Bellevue School District (BSD) issued a determination of nonsignificance (DNS) on the Bennett Elementary School Elementary project under the State Environmental Policy Act (SEPA). Notice of this determination was issued on January 26, 2016. The deadline for a SEPA

1 appeal expired on February 9, 2016. The BSD received no public comments or appeals on this
2 environmental determination.

3 A public hearing was scheduled for June 2, 2016, before the undersigned Hearing
4 Examiner.

5 The Director of the Development Services Department recommended approval of this
6 Conditional Use Permit application, subject to conditions (Exhibit 1, DSD Staff Report).

7 **Hearing Examiner Jurisdiction.** The role of the Hearing Examiner in this matter is to
8 hold a public hearing, take testimony on the proposal, and issue a decision based on the record
9 established by Examiner. LUC 20.35.015. The decision must be based on applicable law,
10 regulations, and ordinances

11 At the hearing, several residents who live near the project testified. A resident requested
12 “mitigation” of aspects of the proposed project and seemed to express an interest in negotiation
13 or mediation. The Examiner lacks authority to conduct mediation. However, the City of Bellevue
14 offers mediation services (Website: ci.bellevue.wa.us/mediation.htm).

15 **The Hearing.** This case came before the undersigned Hearing Examiner for a public
16 hearing on June 2, 2016, at 7 PM, in the Bellevue City Hall.

17 Antoinette Pratt, a Senior Land Use Planner with the Development Services Department
18 (DSD), City of Bellevue (“the City”), and Molly Johnson, Senior Development Review
19 Professional for Transportation, DSD, testified on behalf of the City.

20 Joe Nault, Bellevue Police Department; Travis Ripley, Bellevue Fire Department; and
21 Matt Palmer, Gibson Traffic Consultants, also testified on behalf of the City.

22 Jack McLeod, Facilities Manager for the applicant, Bellevue School District, testified on
23 behalf of the applicant, as did Kevin Flanagan, architect with NAC Architecture.

24 The following Bellevue residents also testified under oath on their impressions of the
25 proposed project: Randy Barry, Mark Davis, Steve Jones, and Dian Murray.

26 Sara Gollersrud, manager of the Office of the Hearing Examiner, recorded the
27 proceeding.

28 **Exhibits.** The DSD’s land use staff report on the conditional use application and other
29 file reports were admitted into evidence as Exhibit C1 and the DSD’s Power Point presentation
30 prepared for hearing was admitted as Exhibit C2.

1 Mr. Barry submitted several photos and letters at the hearing and on the day following the
2 hearing. The Examiner reopened the record to include the late filed material from Mr. Barry,
3 who appeared at the hearing on his behalf with representation. This material from Mr. Barry is
4 included in the record as Exhibits B1-B3.

5 **FINDINGS OF FACT**

6
7 1. The factual matters in the foregoing **SUMMARY** are adopted by the undersigned
8 Examiner as findings.

9 2. The site of the proposed project at issue is the Bennett Elementary School at 17900
10 NE 16th Street, Bellevue. The project envisions demolition of the existing Bennett Elementary
11 School and two portables, and construction of a new, terraced, three-story structure of about
12 85,000 square feet on 9.34 acres. (See Staff Report, Exhibit C1, for further details).

13 The new structure will serve kindergarten through fifth-grades students, faculty and staff,
14 and will include classrooms, offices, staff areas, a library, a cafeteria, and a gymnasium. (The
15 classroom design, learning areas, and exterior of the proposed structure are detailed in the staff
16 report and accompanying documents, Exhibit C1.)

17 Site re-development will include reconfiguring of the existing playfield and parking and
18 new landscaping, as detailed in the City's staff report and accompanying materials (Exhibit C1).

19 3. During the 2015-2016 school year, 440 students attended Bennett Elementary School.
20 The school was constructed in 1970 and was originally designed for about 525 students. The new
21 facility is designed for 700 students.

22 In view of this increase at the new facility of more than the 20 percent threshold that
23 originally occupied the school on opening, Bellevue School District is required to file a
24 conditional use application under Land Use Code (LUC) 20.10.440, footnote 25.b.i.

25 The proposal also responds to Initiative-1351, which requires that public schools reduce
26 the number of students per teacher in the classroom.

27 In addition, the proposal not only considers educational needs, but also the "recreational,
28 cultural, social, health and human services needs" of the neighborhood under City of Bellevue
29 Resolution 5840 (1994) (See Staff Report, Attachment A, Exhibit C1). This use of schools such
30 as Bennett Elementary School for these services reduces the built environment by reducing the
need for construction of additional facilities.

1 4. The Bennett Elementary School site is surrounded primarily by adjacent single-family
2 residences, mostly one- or two-story structures. The site is relatively level where the present
3 school is located.

4 The east side of the property is undeveloped and forested with a hillside that slopes up to
5 the east from the area of the present school for an elevation gain of about 30 feet to a plateau
6 (See site maps, Exhibit C1). The slope or topographic bench does not qualify as a protected slope
7 under LUC 20.25H.120. A.2., as revealed by an August 2015 study by Associated Earth
8 Sciences.

9 5. The proposal site rests in the Northeast Bellevue Subarea in an R-3.5 land use district
10 (consistent with the Comprehensive Plan designation of single-family, medium), which permits
11 primary and secondary educational facilities subject to conditional use approval under LUC
12 20.10.440.

13 6. The proposal contemplates a new school that will use more of the eastern side of the
14 site with a structure that steps up the hill to the east. The building will be two stories on the level
15 area of the site and will transition to one-level up and onto the hill to the east.

16 The more public areas—the gym, cafeteria, administration, and library—will be located
17 in the western part of the school, near the main entrance.

18 The building construction will be Type IIb. The building falls within allowable square
19 footage so that fire walls separating the structure are not required.

20 An existing sand field at the northeast corner of the site will be replaced by a new, multi-
21 purpose playfield.

22 Most of the wooded areas to the south, east and north will remain as buffers for
23 neighbors. The site is bounded by NE 16th Street on the south and by NE 18th Street at the
24 northeast corner.

25 7. The proposal also provides for new parking areas. The parking area off NE 16th Street
26 will grow in capacity from the present 51 stalls to 88 stalls and with an added 560 feet of off-
27 street queuing for student drop-off. The proposal includes a fire access drive leading to a 12-stall
28 staff parking lot at the upper, northeast corner of the site, off NE 18th Street.
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1 8. The proposal is designed to address student safety and security, vehicle queuing,
2 programmatic needs of the community, and other eventualities to support the educational and
3 community purposes of the new facility.

4 The construction of the new facility is expected to last one year. Students of Bennett
5 Elementary School will attend another elementary school during this time.

6 9. The proposal, as conditioned, satisfies land use development standards for schools in
7 residential areas under LUC 20.20.740.

8 The proposal meets dimensional standards for schools on building setbacks, lot coverage,
9 and landscaping, and guidelines on site and building design (See Staff Report Chart, page 6,
10 Exhibit C1). Further study of exterior lighting is required.

11 The new building height will range from one to three stories with a 36-foot maximum,
12 and remains under the 40-foot maximum height for academic and administrative areas. The
13 height of programmatic areas such as the library and gym also will be under the 40-foot
14 maximum.

15 The site's topographic variation provides natural building transitions and modulation that
16 lend to the building form.

17 Significant trees through the site will be retained to screen the structure and much of the
18 landscaping will be retained with new additions emphasizing native and drought resistance
19 ornamental plants. Some landscape areas, particularly in parking lots, will be designed as rain
20 gardens to offset storm water infrastructure requirements.

21 10. The applicant carefully studied traffic circulation and parking standards. A required
22 number of parking stalls for educational facilities is not defined in the Land Use Code. See LUC
23 20.20.590F.2.

24 At the behest of the applicant, Gibson Traffic Consultants (GTC) conducted a traffic
25 impact analysis to determine parking needs to comply with land use standards for unspecified
26 uses. The results of the study and how it was conducted are detailed in the record (Exhibit C1).

27 The proposal provides for three access points on NE 16th Street with the westernmost
28 access point for a bus loop that will accommodate six buses and include 16 parking spaces.

29 GTC concluded that 88 parking stalls are required to address the new student population
30 of 700 students. There will be a total of 128 parking stalls on the site. A queuing lane will be 560

1 feet and accommodate 25 vehicles, and there will be 960 feet of queuing between the bus loop
2 and vehicular loop.

3 A new access point will be opened at the northeast corner of the site on NE 18th Street.
4 This area will provide emergency access and staff parking lot with 12 stalls with entry only
5 permitted by card-key at a gate to preclude entry by non-staff users.

6 GTC also assessed pedestrian use at the site during school hours, as detailed in their
7 traffic analysis (Exhibit C1). The study anticipated somewhat higher vehicle volumes and
8 pedestrian traffic with the increase in student population at the new site.

9 The City concurs with the GTC traffic analysis.

10 The proposal also envisions improved NE 16th Street frontage with a wider curb, gutter
11 and sidewalk and reconstructed driveways. A sidewalk around the outside of the queuing area
12 will eliminate the need for on-site crossing guards and improve efficiency.

13 The three driveways on NE 16th Street have adequate sight distance of 250 feet for the 25
14 mile an hour speed limit, as required under the City's Design Manual.

15 The driveway at NE 18th Street does not meet the 250-foot sight distance standard
16 because of a curve to the west on NE 18th Street. However, the driveway meets the modified
17 standard of 150 feet under the Design Manual because the driveway will be used only by
18 emergency vehicles and school staff familiar with the driveway. A gateway will limit access to
19 only a few authorized personnel and the public will not be permitted to enter. In addition, the
20 school zone will be expanded to include this area on NE 18th requiring a speed limit of 20 miles
21 per hour when children are present.

22 11. The design of street frontage will conform to the Americans with Disabilities Act, the
23 Transportation Development Code (BCC14.60), and the provisions of the Transportation
24 Department Design Manual, with improvements in curbs, sidewalks, drainage, driveways,
25 lighting, vehicular access, and other amenities.

26 To facilitate traffic and other issues, the applicant must provide information to parents
27 before the beginning of each school year detailing site operations to avoid problems with the
28 street system including pick-up and drop-off issues.
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1 12. The Utilities Department reviewed the conceptual design of the proposal and noted
2 that the site layout may change to accommodate utilities once utility engineering plans are
3 approved.

4 13. The Fire Department approved this permit. The Fire Department will conduct
5 technical review in connection with building permits for the project.

6 Travis Ripley, Bellevue Fire Department, testified specifically on the emergency access
7 at NE 18th Street, on gate access there, and on all-weather surfaces for the new parking lot off
8 that access point.

9 14. The Clear and Grade Division reviewed and approved the proposal.

10 15. The Parks Department reviewed and approved the proposal.

11 16. As Senior Land Use Planner Ms. Antoinette Pratt testified, the proposal, as
12 conditioned, will bring the site within the Conditional Use requirements by improving access,
13 queuing, and pedestrian routes, reducing pick up and drop off on NE 16th Street.

14 Ms. Pratt stressed that the existing Bennett Elementary School fails to meet Conditional
15 Use criteria under the Land Use Code because of inadequate on-site car queuing and vehicular
16 spillover into a public street, NE 16th Street, with resulting drop off and pick up in the City's
17 right-of-way. Pedestrian traffic, particularly student crossings on 16th Street, complicates the
18 spillover issue.

19 17. The applicant and the City carefully reviewed the transportation and traffic aspects of
20 the proposal.

21 18. Some neighbors are very concerned about the new access point and parking lot on NE
22 18th Street. A gated driveway is proposed for staff and emergency use only at the entrance of a
23 parking area with 12 stalls for staff only.

24 The driveway entry point at this location does not allow for commercial sight distance
25 requirement of 250 feet, but it meets the modified 150 feet sight distance standard, as noted
26 above. The modification is permitted at this point because of these factors: a) staff only access
27 and no public access; b) situated on a cul-de-sac with low traffic; and c) required low speed in a
28 school zone.

29 Both Senior Land Use Planner Ms. Pratt and Transportation Development Specialist Ms.
30 Molly Johnson testified regarding the proposed changes in parking, including this new feature,

1 and offered their opinion that this improvement will enhance use of the facility. The record
2 indicates that this new feature does not pose a significant threat to traffic flow or safety and also
3 that any issues that arise will be reviewed.

4 Joe Nault, Bellevue Police Department, testified that police will enforce traffic laws and
5 assess behavior and issues that arise with traffic at the new facility. In terms of the new access
6 point on NE 18th Street, Mr. Nault commented that police prefer as many access points as
7 possible.

8 19. An on-going traffic management program at the site will be implemented by the
9 applicant and the City, as Ms. Pratt testified. This program will include traffic monitoring and
10 management at peak times during the day; training for parents on desired traffic behavior; and
11 periodic review with further traffic restrictions if warranted to reduce “impacts.”

12 This on-going traffic management program is designed to address issues that arise with
13 traffic on the site, including issues at the lot or entrance to the new lot at the northeast corner of
14 the site on NE 18th Street.

15 In addition, the new driveway access will be restricted to staff and emergency use only
16 with a controlled gate. That gate will be set back at least 30 feet from the street, as Travis Ripley,
17 Bellevue Fire Department, testified. Mr. Ripley added remarks on the means of controlling the
18 new gate with options including electronic or satellite control. He also described possible surface
19 material for the new lot in response to questions from interested neighbors.

20 20. Randy Barry and Mark Davis, Bellevue residents near the proposal site on the cul-de-
21 sac at NE 18th Street and 179th Place NE, testified about the proposal.

22 Mr. Barry also submitted documents regarding his view of the project (See Exhibits B1-
23 B3). Some neighbors also signed a petition concerning the project.

24 Mr. Barry and Mr. Davis both addressed the new parking area and entrance off NE 18th
25 Street. They stressed issues with increased traffic, safety at the lot entrance, and perceived
26 detriment and interference with the property of present residents who have enjoyed quiet use of
27 their street with little vehicular traffic. The reduced sightlines at the entrance were a particular
28 concern.

29 Mr. Barry expressed his belief that the new entrance would become a drop off/ pick up
30 point for students and thus adversely affect traffic and safety (See Exhibit B1). He also noted the

1 lack of a traffic plan for 180th NE. He described a recent accident on 180th NE in which a child
2 on a bicycle suffered a head injury.

3 Mr. Davis stressed his view that, even if the proposal for the NE 18th access point meets
4 Code standards, it is still not safe.

5 Mr. Davis questioned Travis Ripley, Bellevue Fire Department, about the design of the
6 proposed gate and surface materials for the new parking lot. Mr. Ripley described possible gate
7 designs using electronic or radio control. He added that the gate would be set back at least 30
8 feet from the street.

9 Mr. Davis also contended that the City and applicant had not shown an “overriding need”
10 for the new lot and access point. He described the slope of the street and problems with traffic
11 that could arise, particularly during winter weather on the rise toward the planned access point.

12 Mr. Barry suggested that, rather than creating 12 staff spaces and the new lot, these
13 spaces could be added to the main lot along NE 16th Street and that the new entrance on NE 18th
14 could be used only for emergency access (See also Exhibit B1). He discussed the new parking
15 configuration and number of stalls in detail and concluded that there was an excess of stalls for
16 parking in the plan in view of the present limited use of even fewer stalls at the existing facility.

17 However, Steve Jones, a resident to the south of the proposal site, testified that he agreed
18 with the placement of a staff lot at the northeast corner of the site because that lot would relieve
19 some traffic on the south side of the school, along NE 16th Street.

20 Ms. Pratt and Ms. Johnson explained the plan for the new parking area and gated access
21 and both agreed with the findings of the traffic analysis submitted by the applicant. They both
22 emphasized that the new area at NE 18th Street conforms to the Code and Design standards. Ms.
23 Pratt also noted that the City agreed with the design decision not to use the southeast corner for
24 more parking.

25 Ms. Johnson, an expert on traffic issues, also testified that the access point on NE 18th
26 was safe and compliant with pertinent standards. She added that parents and neighbors would be
27 informed of restrictions of use and other matters related to traffic and indicated that adjustments
28 to improve use could be possible when problems arise.

29 Matt Palmer, a traffic engineer with Gibson Traffic Consultants, testified about the traffic
30 study and concluded that traffic was slow presently (under 25 miles per hour) in the area on NE

1 18th Street, and the addition of a dozen daily trips in and out of the new lot would not add
2 appreciably to the traffic issues in the area. He added that the traffic impact of the new
3 configuration would be “minimal.” The City agreed with this analysis.

4 Again, the record reveals that use of the NE 18th Street driveway and lot will be limited to
5 emergency vehicles and a limited number of staff. Public use is not permitted.

6 It does not seem that this new access point will become a useful pick-up and drop-off off
7 point. The traffic study revealed no significant traffic issues at this location and predicted that the
8 traffic impact of the new access would be minimal.

9 Further, the City and applicant have arranged for a program of education on use of the
10 site for parents and neighbors. And Mr. Nault, Bellevue Police Department, testified that the
11 Police Department would enforce traffic laws and would continually assess behavior of drivers
12 and pedestrians to determine if any changes would be needed.

13 21. The Examiner finds that the new parking lot and access point on NE 18th Street
14 comply with applicable standards.

15 Alternatives to this design were also considered. If issues develop in this area, law
16 enforcement and DSD will consider changes in the use and behavior and work to reduce any
17 problems with traffic-related issues.

18 22. Dian Murray, a Bellevue resident, testified about her past use of the wooded area on
19 the east side of the proposal site. She stressed her concern about loss of flora and the grove of
20 trees in the wooded area on east side of the existing site.

21 Mr. Flanagan, the proposal architect, testified that the building had to intrude into some
22 of the presently forested area on the east side of the site to meet guidelines for the new facility in
23 the relatively small area of the site of less than 10 acres. The proposal provides, however, that
24 significant trees and landscaping will be retained, and new landscaping will be used relying on
25 native and ornamental plants. Much of the tree cover will remain and screen the school structure
26 from the surrounding neighborhood.

27 23. The Examiner finds that, although some of the grove described by Ms. Murray will be
28 lost to new construction, the efforts at tree retention and landscaping comply with applicable
29 standards under the Land Use Code, and much of the present foliage will remain or be improved
30 with new landscaping.

1 24. The proposal is supported by Comprehensive Plan goals and policies. LUC
2 20.30B.140.

3 25. The Conditional Use is consistent with the Comprehensive Plan for the site at issue in
4 the Northeast Bellevue Subarea.

5 The Comprehensive Plan designation of Single-Family, Medium, for the proposal site is
6 consistent with the zoning classification for the property of R-3.5. The new facility, a well-
7 designed structure with advanced architecture, will enhance and improve the neighborhood as it
8 addresses educational and community needs. See Policies S-NE-1, -3 and -23.

9 The proposal limits clearing and grading to the necessary minimum under Policy 2-NE-7,
10 and also retains natural vegetation to minimize erosion and to remain as a significant design
11 feature of the area under Policy S-NE-8. Most of the forested area of the eastern section of the
12 site is retained except for part of the mid-section of that area where the eastern end of the new
13 building will stand.

14 As the City determined, the proposal goes well beyond the minimum tree retention
15 requirement of 15 percent under the Bellevue City Code, and the site retains existing canopy that
16 enhances the adjacent neighborhood.

17 Further, the placement of the new northeast parking area limits encroachment into the
18 treed area.

19 Mr. Barry and other neighbors suggested eliminating the proposed northeast lot and
20 instead creating a lot at the southeast corner of the site. The applicant BSD studied that option
21 and found that this approach would adversely affect the retained forest area by removing trees
22 that enhance the residential neighborhood by providing a visual screen to the bulk of the
23 structure that steps up the east side rise.

24 The new facility will benefit students, educators, school staff, and the community at
25 large, under Policy HS-9 and the Parks Plan which create a BSD-Parks partnership that envisions
26 joint use of school facilities to widen and supplement the range of City services to the public
27 with schools as “community centers” for neighborhoods.

28 26. The proposal design is compatible with the character, appearance, development
29 quality and physical characteristics of the site and immediate vicinity. The proposed facility will
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1 be sensitive to structures in the existing neighborhood and the colors and materials are designed
2 to complement adjacent single-family residences.

3 27. The Conditional Use will be served by adequate public facilities, including streets,
4 fire protection and utilities. The improvements in traffic management for pick-up and drop-off,
5 traffic circulation, vehicle access points, pedestrian connections, and more, will respond to
6 existing problems and bring the new project into compliance with Comprehensive Plan goals and
7 policies. LUC 20.30B.140.

8 The Transportation Department recommended approval of the Conditional Use on the
9 condition that the traffic improvements and traffic management policies detailed in the staff
10 report are implemented. However, if traffic congestion from the school “is seen to create
11 significant, ongoing interference with through traffic on adjacent streets or create safety
12 problems, then the City may require school district cooperation in considering and implementing
13 other options.” (See Staff Report, p. 20, Exhibit C1) In this manner, the City will address future
14 concerns about safety, parking, traffic, and other concerns that have been raised by neighbors.

15 28. The Conditional Use will not be materially detrimental to the uses of property in the
16 immediate vicinity of the subject property. Development will be contained for the most part
17 within the footprint of the existing structure with the addition of the wing that steps up the east
18 side rise.

19 Building location and architectural design limit the effect of the new building on adjacent
20 single-family structures. Further, most of the forested area on the upper plateau will be
21 preserved, thus screening much of the building from view, particularly from residents to the east
22 of the site.

23 Construction noise, traffic, hours, and other concerns during the course of construction
24 are addressed by the conditions for approval of the Conditional Use (See Conditions, below).

25 Neighbors have raised concerns about material detriment to property values, particularly
26 with the new access point on the northeast and perceived traffic issues as well as the possibility
27 that the new school may be visible to neighbors to the east and northeast of the site and thus
28 depress property values. The Examiner appreciates these concerns raised by nearby property
29 owners.
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1 The record, however, establishes that traffic will increase only minimally at the new
2 access point and that the City and the applicant will address traffic issues as they arise. Further,
3 the presence of the new, well-designed school in the area is more likely to enhance the
4 neighborhood than materially harm the value, use and enjoyment of the adjacent properties. This
5 site has been used for an elementary school for more than four decades and neighbors certainly
6 are aware of this use.

7 29. The Conditional Use, as conditioned, complies with applicable requirements of the
8 Land Use Code for perimeter landscaping (LUC 20.25B.040C.2.C); vehicular and pedestrian
9 circulation (LUC 20.20.590.8.c); site design standards (LUC 20.25B.040D.1 and 2); mechanical
10 equipment (LUC 20.25B.040.E); refuse equipment (LUC 20.25B.040.F); site design guidelines
11 (LUC 20.25B.050.A); building design guidelines (LUC 20.25B.050.B); and playfields (LUC
12 20.20.740.A.8) (See detailed discussion of LUC requirements in Staff Report, pp. 21-23, Exhibit
13 C1).

14 The record establishes that the proposal will enhance the neighborhood by providing
15 better traffic circulation, tree retention, new landscaping, and a visually interesting and
16 environmentally-sensitive building compatible with the area, among other improvements.

17 30. Existing public utilities will serve the site, and the Departments for Utilities,
18 Transportation, and Fire have reviewed the project and found that it conforms to their codes or
19 will with required improvements as necessary.

20 31. The project maintains existing use of the site and will not be detrimental to uses or
21 property in the immediate vicinity. Indeed, the existing facility will be upgraded and improved.

22 32. The testimony offered by Land Use Planner Ms. Pratt and Transportation
23 Development Specialist Ms. Johnson was credible and consistent with these findings, the
24 determinations in the Staff report, and the other record evidence.

25 33. The Development Services Department presented evidence, as discussed in its staff
26 report, that the Bennett Elementary School proposal meets the criteria for approval of a
27 Conditional Use Permit under LUC 20.30B.140.

28 34. The undersigned Examiner concurs with the DSD's findings and recommendations
29 on the conditional use application, as conditioned, for the Bennett Elementary School project.

30 35. Any conclusion herein, which may be deemed a finding, is adopted as such.

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CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding.
The application is subject to Process I procedures. LUC 20.35.015.

2. Requirements under the State Environmental Policy Act have been satisfied.

3. The Examiner, as required, has accorded substantial weight to the recommended approval of the conditional use permit by the Development Services Department Director. LUC 20.35.250(F).

4. The proposed project complies with the Land Use Code Dimensional Standards at LUC 20.20.

5. The proposed project for Bennett Elementary School, as conditioned, is consistent with all of the criteria for a conditional use permit under LUC 20.30B.140 as follows:

The City may approve or approve with modifications an application for a Conditional Use Permit if:

- A. The conditional use is consistent with the Comprehensive Plan; and
- B. The design is compatible with and responds to the existing or intended character, appearance, quality of development and physical characteristics of the subject property and immediate vicinity; and
- C. The conditional use will be served by adequate public facilities including streets, fire protection, and utilities; and
- D. The conditional use will not be materially detrimental to uses or property in the immediate vicinity of the subject property; and
- E. The conditional use complies with the applicable requirements of this Code.

6. The Examiner concurs with and adopts the findings and the recommendation of the Development Services Department in its May 2016 land use staff report (Exhibit C1).

7. The conditional use permit for a new facility and related work at the Bennett Elementary School is approved with conditions.

8. Any finding of fact deemed to be a conclusion of law is adopted as such.

1 **CONDITIONS OF APPROVAL**

2 The following conditions apply to all phases of the proposed project and shall be imposed
3 to insure compliance with Conditional Use Permit criteria and Code provisions, and to mitigate
4 adverse impacts that are otherwise not addressed by Code provisions. The conditions noted in the
5 staff report are incorporated by reference (Exhibit C1).

6 1. The applicant shall comply with all conditions of approval listed in the Development
7 Services Department Staff Report on the conditional use permit (Staff Report, Section XI)
8 including the following conditions (as further detailed in the staff report).

9 **A. General Conditions of Approval**

10 1. Vehicular Access Restrictions. Bellevue City Code (“BCC”) 14.60.050., -060, .150,
11 and -180: Comprehensive Plan Policy TR 38.

12 2. Provisions for Loading. LUC 20.20.590.K.4 and BCC 14.60.180.

13 3. Signs. BCC 22B.10.040.B.1-2.

14 4. Land Use Exemption. LUC 20.30B.175.C

15 **B. For Issuance of Clearing and Grading Permit**

16 1. Right of Way Use Permit. (Including applicant plan for pedestrian traffic during
17 construction and proof of sufficient off-street parking for workers during construction
18 before issuance of permits for clearing and grading, building and demolition.) BCC 11.70
19 and 14.30.

20 2. Civil engineering plans—Transportation Department. BCC Title 14.

21 3. Building and Site Lighting Fixtures. LUC 20.20.522.

22 4. Final Utilities Approval. BCC 24.02, 24.04, 24.06

23 5. Developer Extension Agreement. BCC 24.02, 24.04, 24.06.

24 6. Construction Hours. BCC 9.18.040. (Applicant BSD must apply for separate noise
25 permit for review and approval by staff.)

26 **C. Prior to Building Permit Issuance**

27 1. Building and Site Plans—Transportation. BCC 14.60.060, -110, -120, -150, -180, -190,
28 -240, -241.

29 2. Existing Easements. BCC 14.80.100.

30 3. Sidewalk/ Utility Easements. BCC 14.60.100

1 **D. Prior to Issuance of Certificate of Occupancy**

2 1. Street Frontage Improvements. BCC 14.60; Comprehensive Plan Policy UT-39;
3 Transportation Department Design Manual---and Design Manual Standard Drawings.
4 (See Staff Report for Specific Provisions).

5 2. Pavement Restoration. BCC 14.60.250; Design Manual Design Standard #23.

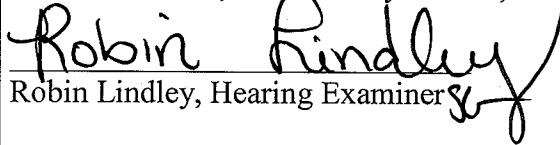
6 3. Transportation Management Program. (The applicant BSD and Bennett Elementary
7 School administration shall implement a transportation management program to
8 accommodate pick-up and drop-off and vehicle queuing as much as feasible to minimize
9 off-site traffic effects. Before occupancy, the applicant shall submit a detailed
10 transportation management program with policies for City review and approval,
11 including all of the features detailed in the DSD Staff Report, page 29. This program will
12 be reviewed and revised by the applicant to facilitate transportation management issues.
13 The program shall include a method to address school-related traffic issues raised by
14 nearby residents.) BCC 14.60.180.

15 4. Parking Lot Signage. LUC 20.20.590.F.2.

16 **DECISION**

17 The requested Conditional Use application
18
19 n is approved, subject to the above stated conditions.

20 **SO ORDERED**, this 20th day of June, 2016.

21 
22 Robin Lindley, Hearing Examiner

23
24
25 **NOTICE OF RIGHT TO APPEAL**

26 **RIGHT TO APPEAL—TIME LIMIT**

27
28 A person who submitted written comment to the Director before the hearing, or submitted
29 written comments or made oral comments during the hearing on this matter, may appeal the
30 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

1 later that 14 calendar days following the date that the recommendation was mailed. The appeal
2 must be received by the City Clerk by **5:00 p.m., on July 5, 2016.**

3 **TRANSCRIPT OF HEARING—PAYMENT OF COST**

4 An appeal of the Hearing Examiner’s decision requires the preparation of a transcript of
5 the hearing before the Hearing Examiner. Therefore, the request for appeal must be
6 accompanied by an initial deposit of \$100 for each tape. Should the actual cost be less than the
7 amount of the deposit, any credit due shall be reimbursed to the appellant. Should the cost for
8 transcript preparation be more than the deposit, the appellant will be additionally charged.

9 **WAIVER OF TRANSCRIPTION FEE**

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

