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BEFORE THE HEARING EXAMINER FOR THE CITY OF BELLEVUE

In the Matter for an Application for a)
Conditional Use Permit for)
)
WILBURTON ELEMENTARY)
SCHOOL)
)
For construction of a new elementary)
School at 12300 Main Street)

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

**FILE NOS: 16-126128 LB
16-126129 LO**

SUMMARY

1. Decision. The application is approved, subject to conditions.
2. Request. The proposal is to build a new two-story 83,725 square-foot elementary school (prekindergarten through 5th grade), designed for up to 650 students, on an undeveloped 9.34 acre site, across Main Street from the School District Service Center. Two ingress/egress access points are proposed from Main Street – one for busses and the other for student drop-off and pick-up with queueing space. A playfield and landscaping will be provided, as well as 91 parking stalls. Wetland and stream areas will largely be avoided.

3. Procedure. The Conditional Use Permit (CUP) application was received on March 3, 2016. Notice of application was made by signage, publication and mailing as required by law. The School District held three public meetings. The City held two. The main subjects of public comment were traffic and site access.

The Hearings Examiner’s public hearing was held, after due notice, on March 9, 2017. At the hearing the City was represented by Antoinette Pratt, Senior Planner. The applicant School District was represented by Jack McLeod, Facilities Manager. Staff and consultant testimony was provided by Nick Whipple, Associate Land Use Planner, Molly Johnson, Development Review Manager for the Transportation Department, Sergeant Michael Shovlin, Bellevue Police Department, Michelle Brown, Traffic Consultant, and Tim Brockway, Civil

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1 Engineer. Public testimony was given by Jesse Pacem, Michael Diederich, Kelli Jardine, Darryl
2 Nance, Daniel Renn, Irene Kearns, Nicole Hepworth, Judy Buckmaster, Beth Hamilton and
3 Carolyn Maxim.

4
5 **FINDING OF FACT**

6 1. The factual matters set forth in the foregoing Summary are adopted by the Examiner
7 as findings.

8 2. The proposed school will occupy a sizable unoccupied parcel known as the “Galano
9 Property” which was purchased by the School District in 1972. The 9.34 acre site lies north and
10 west of the corner of Main Street and 124th Avenue NE. To the immediate south is the School
11 District Service Center. To the southwest is the Bellevue Botanical Garden. West of the site is
12 an existing office park, housing the Bellevue School District offices. To the north are single
13 family residences. To the east and southeast is the Wilburton Hill Community Park. To the
14 northeast is a large neighborhood of single family homes.

15 3. The center of the site where the school will be built is a relatively level ridge area
16 which slopes toward Main. East of this ridge to 124th Avenue NE there is a downward slope of
17 about 14 feet. West of the ridge, there is a downward elevation change of about 26 feet to the
18 adjacent office park.

19 4. Along the east side of the property is a sizable longitudinal wetland. Through and
20 from this area a stream flows south, crossing Main Street near the southeast corner of the
21 property. The design of the project will encroach somewhat on the wetland’s buffer, but in the
22 main this natural area will be preserved. The wetland buffer will not be breached by site
23 vehicular or bus access. A walkway will be built along 124th Avenue NE, providing pedestrian
24 access to the site and school building.

25 5. Review of the project was conducted pursuant to the State Environmental Policy Act
26 (SEPA). The School District issued a Declaration of Non-Significance (DNS) on November 10,
27 2015. The DNS was not appealed.

28 6. The relatively minor intrusion into critical areas was authorized administratively
29 through, a Critical Areas Land Use Permit (CALUP) (File No. 16-126129 LO). The CALUP
30

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1 allows reduction of prescribed buffers for site development and required frontage improvements
2 along 124th Avenue NE. There were no appeals of this administrative approval.

3 7. The presence of the new Wilburton Elementary School will result in the creation of a
4 new school boundary, intended to reduce student populations at Woodridge, Clyde Hill and
5 Enatai Elementary Schools, all of which are now significantly over capacity. Included in the
6 new school's population will be students living in the downtown, but the largest group of
7 students will come from neighborhoods to the east of the school site.

8 8. Representatives of the affected existing schools testified at the hearing, emphasizing
9 the critical need to relieve present overcrowding. Plans were announced for another new school
10 within five to ten years to be located farther north at 2150 120th Avenue NE, the former
11 Safeway Bread site, in the Bel-Red subarea.

12 9. The design of the new school building involves 83,725 square feet of space on two
13 floors with 29 general and special instruction spaces and four early childcare rooms. The
14 northern end of the campus will be given over to synthetic turf and hard surface play areas. On-
15 site parking will be provided on the south and east edges of the building.

16 10. Automobile delivery of students to and from the school will be accomplished
17 through a single driveway off of Main Street from the south which will lead to queueing space
18 on the south and east side of the school building. Analysis shows that on-site queueing will be
19 ample. Another entry and exit drive off Main Street at the west end of the site will serve school
20 busses.

21 11. The District prepared a site diligence study which evaluated five different possible
22 alternatives to ingress and egress from the site. The City staff after much deliberation selected
23 the configuration described above. In so doing they rejected options involving access from the
24 west. Such access would involve the use of the presently unimproved 1st Street. The City
25 concluded that access from NE 1st would create confusion and the potential for site spillover in
26 the Main Street neighborhood and would not provide significant benefits. The options involving
27 NE 1st Street did not improve the level of service to the surrounding street system. In addition,
28 there is a wetland that would be affected if NE 1st Street were used.

29 12. At the hearing, public testimony advised that the NE 1st Street options are favored by
30 residents of the neighborhood. It was urged that the use of this access by busses be reconsidered.

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1 The opinion expressed was that the selected access configuration is unsafe and will likely lead to
2 accidents involving schoolchildren.

3 13. The City's presentation included a number of steps that will be taken to ensure
4 safety. The immediate area will be placed within a School Zone, with a speed limit of 20 miles
5 per hour when lights are flashing. Testimony from a police officer was that speed is not
6 presently a problem on 124th, but that School Zone status will likely act as a significant deterrent
7 to speeding. An off-duty officer will be hired to monitor and regulate driver behavior in the
8 School Zone. A 200-foot right-turn pocket will be provided along the north side of Main Street
9 in the area leading to the automobile entry to the school property. Also on Main Street a
10 pedestrian-activated flashing beacon crosswalk will be installed.

11 14. Further, the City advised that it is entering into a Memorandum of Understanding
12 with the School District establishing a Transportation Monitoring Plan which will involve data
13 collection on traffic experienced at the site and, if needed, provide for increasing safety
14 measures, including exploring revisions to school access such as the use of NE 1st Street.

15 15. The testimony of the professional traffic consultant retained for this project was that
16 the NE 1st Street options offer no advantage. Since most of the students will come from east of
17 the school, use of NE 1st would involve getting around to the other side of the school using
18 existing streets.

19 16. The City provided convincing evidence that the street system in the vicinity of the
20 school does not present sight distance problems.

21 17. Based on the entire record, the Examiner is persuaded that the access plan settled
22 upon by the City should be approved. It was not shown that NE 1st Street offers a superior
23 means of access, either from the standpoint of safety or of congestion. The adoption of a
24 monitoring plan is an appropriate response to the concerns raised about this issue.

25 18. The Staff Report analyzes the project in light of the Conditional Use Permit approval
26 criteria and determines that, as conditioned, the project will meet the criteria. The Hearing
27 Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference
28 incorporated herein as though fully set forth.

29 19. Any conclusion herein which may be deemed a finding is hereby adopted as such.
30

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1 **CONCLUSIONS OF LAW**

2 1. The Hearing Examiner has jurisdiction over this proceeding. It is a Process I decision.
3 LUC 20.35.015B)(1).

4 2. The requirements of SEPA have been met.

5 3. The project, as conditioned, meets the approval criteria for a Conditional Use Permit.
6 LUC 20.30.B.140.

7 4. The preponderance of evidence is that the traffic analysis performed for this project
8 was accurate and credible.

9 5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

10 **CONDITIONS**

11 **General Conditions**

12 **Compliance with the Bellevue City Codes and Ordinances:** The applicant shall comply
13 with all applicable Bellevue City Codes and Ordinances including but not limited to:

14 **1. Vehicular Access Restrictions:** All vehicular access to and from the site is intended to
15 be via two driveways on Main Street. Vehicle queuing space totaling 1400 feet shall be
16 provided on the site. If vehicle queues extend from the site into the street, turning restrictions
17 may be required at the driveways to prevent impacts to through-traffic. BCC 14.60.050, 060,
18 150, 180; Comprehensive Plan Policy TR 38

19 **2. Provisions for Loading:** The property owner shall provide an off-street loading space
20 which can access a public street. This must include an off-street location for garbage pick-
21 up, which must be acceptable to the garbage hauler. On-street loading and unloading will not
22 be permitted. Use of the loading zone is prohibited during morning and afternoon drop-
23 off/pick-up times. LUC 20.20.590.K.4; BCC 14.60.180

24 **3. Signs:** A separate sign package shall be submitted to DSD for staff review and approval.
25 Any proposed sign shall be architecturally compatible with the existing building. BCC
26 22B.10.040.B.1,2

27 **4. Land Use Exemption (LUX):** If the applicant revises the building materials, details or
28 colors for this proposal, the revision shall be processed via the LUX process for
29 Development Services Department review and approval. LUC 20.30B.175.A

30 **5. Native Growth Protection Easement (NGPE):** The wetland enhancements and
additional buffer as noted on Sheets W1.0 and W5.0 will maintain the critical areas in their
natural with the identified mitigations implemented for this site. These buffers shall be
shown on the civil, landscape and architectural drawings as a Native Growth Protection
Easement (NGPE). Additionally, wetland and stream monitoring shall occur for a 5-year
period with submittals to the DSD for annual review. LUC 20.25H.230

1 **Prior to issuance of any Clear and Grade Permit**

2 **1. Right of Way Use Permit:** Prior to issuance of any construction or clearing and grading
3 permit, the applicant shall secure applicable right-of-way use permits from the City's
4 Transportation Department, which may include:

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

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

19 The applicant shall secure sufficient off-street parking for construction workers before
20 the issuance of a clearing and grading, building, a foundation or demolition permit.
21 BCC 11.70 & 14.30

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

- 31 a. Traffic signs and markings.
- 32 b. Curb, gutter, sidewalk, and driveway approach design. The engineering plans
33 shall be the controlling document on the design of these features; architectural and
34 landscape plans must conform to the engineering plans as needed.
- 35 c. Boardwalk design including structural peer review.
- 36 d. Off-site pedestrian improvements on 118th Avenue NE, Main Street, and NE 2nd
37 Street.
- 38 e. Right-turn channelization lane and crosswalk with associated signage and
39 marking.
- 40 f. Curb ramps, crosswalk revisions, and crosswalk equipment such as pushbuttons.

- 1 Reference ADA compliance or provision of MEF form.
2 g. Installation or relocation of streetlights and related equipment.
3 h. Street lighting.
4 i. Installation of a RRFB at the crosswalk and flashing warning signage.
5 j. School zone flashing beacons and signage on Main Street and 124th Avenue NE.
6 k. Wireless hub for school zone flasher operations.
7 l. Undergrounding of existing overhead utility lines, which should be coordinated
8 with adjacent sites. Transformers and utility vaults to serve the building shall be
9 placed inside the building or below grade, to the extent feasible.
10 m. Location of fixed objects in the sidewalk or near the driveway approach.
11 n. Trench restoration within any right of way or access easement.

12 Construction of all street and street frontage improvements must be completed prior to
13 closing the clear and grade permit and right of way use permit for this project. A
14 Maximum Extent Feasible (MEF) form must be provided to the Transportation
15 Department for any aspect of any pedestrian route adjacent to or across any street that
16 cannot feasibly be made to comply with ADA standards. MEF forms must be provided
17 prior to approval of the clear and grade plans for any deviations from standards that are
18 known in advance. MEF forms provided in advance may need to be updated prior to
19 project completion. For any deviations from standards that are not known in advance,
20 MEF forms must be provided prior to project completion.

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

22 **3. Building and Site Lighting Fixtures:** More information is necessary regarding exterior
23 lighting (building and parking lot). Prior to issuance of the Clear and Grade Permit, the
24 applicant will be required to submit lighting details (cutouts) of all proposed lighting for the
25 site. Said lighting shall be confined to the site with no spillover to adjacent single-family
26 residences. LUC 20.20.522

27 **4. Final Utilities Approval:** The Utilities Department approval of the Administrative
28 Conditional Use application is based on the preliminary utility design. Final civil
29 engineering of the utility design may require changes to the site layout to accommodate the
30 utilities. BCC Title 24.02, 24.04, 24.06

5. Developer Extension Agreement: The water, sewer, and storm drainage systems shall
be designed per the current City of Bellevue Utility Codes and Utility Engineering Standards.
Utilities Department design review, plan approval, and field inspection is performed under
the Developer Extension Agreement and Utilities Permit Processes.
BCC Title 24.02, 24.04, 24.06

6. Construction Hours: Normal hours for construction related noises are from 7:00 a.m. to
6:00 p.m. Monday through Friday and 9:00 a.m. to 6:00 p.m. on Saturday. No deliveries
shall be scheduled prior to 7:00 a.m. or after 6:00 p.m. Exceptions for construction related
noise limitations contained in the Noise Control Code MAY be granted pursuant to
9.18.020C.1 when necessary to accommodate construction on schools which cannot be
undertaken during exempt hours. No blanket exemption exists. Allowances for short term
work outside of normal hours for construction related noise shall be limited and will be
reviewed on a case by case basis to verify necessity and ensure appropriate noise mitigation

1 is utilized to protect surrounding uses and properties. If expanded hours are necessary to
2 accommodate a specific component of the school construction, **the District must apply for a**
3 **separate noise permit for review and approval by staff.** In this time period, the site shall
4 be posted on all street frontages prior to the start of construction activity. BCC 9.18.040

4 **Prior to issuance of any Building Permit**

5 **1. Building and Site Plans – Transportation:** Building plans, landscaping plans, and
6 architectural site plans must accommodate on-site traffic markings and signs and driveway
7 design as specified in the engineering plans. Building plans, landscaping plans, and
8 architectural site plans must comply with vehicle and pedestrian sight distance requirements,
9 as shown on the engineering plans. BCC 14.60.060; 110; 120; 150; 180; 181; 190; 240; 241

9 **2. Existing Easements:** Any utility easements contained on this site which are affected by
10 this development must be identified. Any negative impact that this development has on those
11 easements must be mitigated or easements relinquished. BCC 14.60.100

11 **3. Sidewalk/Utility Easements:** The applicant shall provide sidewalk and utility
12 easements to the City such that sidewalks outside of the City right of way along the property
13 frontage are located within a pedestrian easement area. BCC 14.60.100

13 **Prior to issuance of any Certificate of Occupancy**

14 **1. Street Frontage Improvements:** All street frontage improvements and other required
15 transportation elements, including street light and traffic signal revisions, must be
16 constructed by the applicant and accepted by the City Inspector. All existing street light and
17 traffic signal apparatus affected by this development, including traffic controllers, pedestrian
18 signal poles, traffic signal poles, and power sources, must be relocated as necessary. Existing
19 overhead lines must be relocated underground. All required improvements must be
20 constructed as per the approved plans or as per direction of the Transportation Department
21 inspector. Bonding or other types of assurance devices will not be accepted in lieu of
22 construction, unless the City requires a delay. BCC 14.60; Comprehensive Plan Policy UT-
23 39; Transportation Department Design Manual; and Transportation Department Design
24 Manual Standard Drawings

22 **2. Pavement Restoration:** Pavement restoration associated with street frontage
23 improvements or to repair damaged street surfaces shall be provided as follows:

24 Main Street and 124th Avenue NE are classified as Overlay Required.
25 For any asphalt street surface classified as Overlay Required, any
26 trenching or construction-related damage to the street surface generally
27 requires a grind and overlay at least 50 feet long for the full width of
28 any affected lane. Details will be specified in the right of way use
29 permit for this project.

28 BCC 14.60. 250; Design Manual Design Standard #23

29 **3. Transportation Monitoring Plan and Memorandum of Understanding:** Prior to the
30 opening of the school, the Bellevue School District shall implement a Memorandum of
Understanding with the City of Bellevue that will outline the monitoring of future traffic
operations in a Transportation Monitoring Plan (TMP). The TMP will require reporting in

1 October and April, and will be in place for a period of at least four years after the opening of
2 the school.

3
4 As part of the TMP and prior to initial occupancy of the building,
5 the school district shall produce a Pre-Opening Day Activities Plan,
6 an Opening Day Plan, and an Access Management Plan. These or
7 other educational materials will be provided to all parents in the
8 attendance area.

9 Refer to the Draft MOU in Attachment E. The TMP will require that
10 any issues identified post-opening by BSD in their reporting, by the
11 Transportation Department, or by Bellevue Police Department will be
12 immediately investigated and mitigated as appropriate. The TMP
13 shall identify a list of mitigation options to be considered by BSD that
14 provide a range of increasing intensity from education to enforcement
15 to constructing alternative access. These measures shall be reviewed
16 and approved by the City as required per the Bellevue City Code.
17 BCC 14.60.180

18 **4. Pedestrian Crossing and Speed Monitoring on Adjacent Streets:** The BSD shall
19 contact BPD to obtain information to contract with an agency for an off-duty officer to aid
20 students in crossing Main Street and 124th Avenue NE. This should be detailed within the
21 forthcoming MOU as a pedestrian mitigation. Additionally, one to two weeks prior to the
22 opening of WES, the BSD shall also contact BPD to begin conducting speed analysis of the
23 adjacent street. LUC 20.20.590.K.8.a

24 **5. Parking Lot Signage:** Parking lot signage and pavement markings shall be provided
25 throughout the parking lot. Designated areas for staff, visitor, and Early Learning Center
26 parking is necessary to reduce congestion within the parking lot. LUC 20.20.590.F.2

27 **Conditions post occupancy**

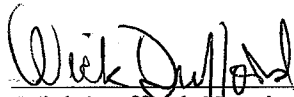
28 **1. Future Transportation Condition if Significant Traffic Safety or Congestion
29 Problems are Identified:** If necessary to address specific concerns with safety, pedestrian
30 access, off-site traffic impacts, or other issues associated with school operations, the Bellevue
School District will mitigate impacts in accordance with the protocol established in the MOU
with the City of Bellevue and associated TMP. BCC 14.60.050, 060, Comprehensive Plan
Policy TR 35

2. Playfield Start Time Limitation: To respond to these concerns, the District will place
start time constraints on all user groups of the new field. Start time for recreational activities
will be 9:00 a.m. BCC 9.18.020.E

1
2 **DECISION**

3 The requested Conditional Use Permit for the new Wilburton Elementary School (File
4 No. 16-126128 LB) is **APPROVED**, subject to the conditions set forth above.

5 **DONE**, this 24th day of March, 2017.

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7 
8 Wick Dufford, Hearing Examiner
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13 **NOTICE OF RIGHT TO APPEAL**
14 (Pursuant to Resolution No. 5097)

15 **RIGHT TO APPEAL-TIME LIMIT**

16 A person who submitted written comments to the Director prior to the hearing, or
17 submitted written comments or made oral comments during the hearing on this matter, may
18 appeal the decision of the Hearing Examiner to the Bellevue City Council by filing a written
19 appeal statement of the Findings of Fact or Conclusion being appealed, and paying any appeal
20 fee, no later than 14 calendar days following the date that the decision was mailed. The appeal
21 must be received by the City Clerk by **5:00 p.m. on April 7, 2017.**

22 **TRANSCRIPT OF HEARING-PAYMENT OF COST**

23 An appeal of the Hearing Examiner's decision requires the preparation of a transcript of
24 the hearing before the Hearing Examiner. Therefore, the request for appeal must be
25 accompanied by an initial deposit of \$100. Should the actual cost be less the amount of the
26 deposit, any credit due shall be reimbursed to the appellant. Should the cost for transcript
27 preparation be more than the deposit, the appellant will be additionally charged.

28 **WAIVER OF TRANSCRIPTION FEE**

29 Upon request, the City Clerk will waive transcription fees upon submission by an
30 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 review is
sought in good faith.

The transcription fee waiver is available to individuals over eighteen (18) years of age
and is not available to corporations, companies, partnerships, or any business, enterprise,
community club or and social recreational organization.

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