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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4334

AN ORDINANCE approving the conditional use permit application of Wright Runstad and Company (Sunset Park) for construction and operation of a 5.29 acre park adjacent to the west side of SE 139th Street.

WHEREAS, Wright Runstad and Company has applied to the City for a conditional use permit to allow construction and operation of a 5.29 acre park adjacent to the west side of SE 139th Street, in conjunction with its Sunset Park development located at 13900 SE Eastgate; and

WHEREAS, on December 19, 1991, a public hearing was held thereon by the Hearing Examiner Pro Tempore pursuant to notice required by law; and

WHEREAS, on January 21, 1992, the Hearing Examiner Pro Tempore recommended approval, with conditions, of said application and made and entered findings of fact and conclusions based thereon in support of his recommendation; and

WHEREAS, the City Council concurs in the findings of fact and conclusions of the Hearing Examiner; and

WHEREAS, the City of Bellevue has complied with the requirements of the State Environmental Policy Act and the City Environmental Procedures Code; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The City Council adopts the findings of fact and conclusions made and entered by the Hearing Examiner Pro Tempore in support of his recommendation to the Council in this matter as set forth in "Findings, Conclusions and Recommendation of the Hearing Examiner Pro Tempore for the City of Bellevue, In the Matter of the Application of Wright Runstad and Company (Sunset Park) for Approval of a Conditional Use, File No. CUDN 91-608".

Section 2. The City Council hereby approves the conditional use permit application, with conditions, of Wright Runstad and Company for construction and operation of a 5.29 acre park on property adjacent to the west side of SE 139th Street and more particularly described as:

Lot 3, BLA-90-5248 (King County Department of Records and Elections Rec. No. 9012049030)

Lot 5, BLA-91-6989 (King County Department of Records and Elections Rec. No. 9109249C09)

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provided this approval is subject to the following conditions:

A. The following conditions (1-17) are imposed to ensure compliance with provisions of cited Code or to mitigate adverse environmental impacts which are otherwise not addressed through applicable code provision. These conditions must be complied with prior to issuance of any clear and grade permit for the proposal.

1. NOISE ATTENUATION REQUIRED: To mitigate adverse construction noise impacts on nearby residents and uses, the following mitigating measures shall be listed by the applicant on the face of the drawings submitted to the City for clear and grade permit approval:

- a. The contractor shall provide certification that all diesel, gasoline and air-powered equipment is properly muffled or silenced.
- b. All construction activity occurring within 300 feet of a residential use and/or the Bellevue Community College campus shall be limited to between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and prohibited on weekends.
- c. These conditions shall be prominently displayed at or near the entrance to the site in view of contractors and the public.
- d. Upon request by the applicant, these conditions may be modified by the DDD on a case-by-case basis for specific purposes and for designated dates, if the DDD determines such modification is justified.

(BCC 22.02.005; Comprehensive Plan Policy 21.G.100.B.1)

2. AIR QUALITY IMPACT MITIGATION REQUIRED: To mitigate adverse air impacts due to dust during dry weather, the following mitigating measures shall be listed by the applicant on the face of the drawings submitted to the City for clear and grade permit approval:

- a. Construction areas shall be watered to suppress dust entrainment; chemical dust suppressants shall not be used;
- b. Stockpiles shall be covered with plastic;
- c. Ground cover shall be replanted after construction is complete.

(BCC 22.02.005)

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3. SITE ACCESS RESTRICTED FOR LABOR CREWS: The drawings approved for the clearing and grading permit shall include a note prohibiting access to the site by the labor crews from Kamber Road. The applicant shall make every reasonable effort to inform contractors of this restriction. This shall include the posting of signs on Kamber Road near the proposed intersection with 139th Avenue SE, and posting of signs at the job shack or construction trailer on the site. The signs shall be posted prior to the commencement of site development allowed by the clearing and grading permit. The restriction shall remain in effect as long as the site is being developed. (BCC 22.02.005)

4. EARTH MATERIAL EXPORTATION RESTRICTED ON KAMBER ROAD: The drawings approved for the clearing and grading permit shall include a note prohibiting the use of Kamber Road for the exportation of earth material. The applicant shall make every reasonable effort to inform contractors of this restriction. This shall include the posting of signs on Kamber Road near the proposed intersection with 139th Avenue SE, and posting of signs at the job shack or construction trailer on the site. The signs shall be posted prior to the commencement of the site development allowed by the clearing and grading permit. This restriction shall remain in effect as long as exportation of earth material continues. This restriction shall not apply to exportation of earth materials resulting from the construction of 139th Avenue SE. Further, any route used for hauling of materials shall be an "approved haul route" as designated by the Public Works/Transportation Division, and the applicant shall obtain necessary right-of-way use permits to use those approved haul routes. (BCC 22.02.005)

5. LANDSCAPE PLAN REVISIONS REQUIRED: Prior to the issuance of a clearing and grading permit, the applicant shall submit a revised landscape plan to the DDD for review and approval incorporating the following changes:

- a. Trees planted within the OLB portion of the park shall have a minimum caliper of 1-1/2 inches;
- b. Screening along Kamber Road (on both sides of 139th Avenue SE) shall incorporate the following tree sizes: Evergreen trees: No more than one-third shall have a height of 8-10 feet, no more than one-third shall have a height of 10-12 feet, and the rest shall have a height of at least 12-14 feet. Deciduous trees: Shall have a minimum caliper of 2-3 inches.
- c. Shrubbery required along Kamber Road may be satisfied through the proposed retention of existing vegetation, supplemented by proposed vine maple clump plantings. This will be verified in the field after grading and installation of

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landscaping shown on approved plans. If it is determined by the DDD that these measures do not provide adequate screening, additional shrubbery will be required.

- d. If the Phase III detention pond shown on the proposal drawings is to be surrounded by a fence, the park shall provide dense plantings of trees and shrubs to screen the fence from view from the park.
- e. The proposed Reed Canary Grass shall be removed from the proposed "Tall Grass" mix. Its removal shall be compensated for by increasing the Meadow Foxtail and Tall Fescue to 3 lbs./acre each.
- f. "Tall Grass" mix shall not be used under the London Plane trees proposed in lawn areas. This mix may be substituted with shrubs (maximum height of 3 feet) or ornamental grasses.
- g. Crab apples shall be added to the median in 139th SE and irrigated.
- h. Irrigation shall be provided for the clover mix and tulip trees along SE 30th Street.
- i. Information/specifications shall be provided for the proposed "hydrogrow" to be utilized in the grassrings paving system (Sheet 5.3R, Detail 4).

(LUC 20.25C.040.B.4, 20.30B.140; Ordinance No. 4010)

6. **SIGNIFICANT TREE RETENTION AND PROTECTION:** Details for retention and protection of significant trees during construction shall appear on the drawings submitted for clearing and grading permit approval. At a minimum, the following conditions should appear:

- a. Inspection of temporary fencing: Four business days prior to commencement of earthwork, the applicant shall notify the SSWU and the DDD to obtain inspection and written approval of flagged trees and temporary protection fencing around trees to be saved as per the approved clearing and grading plan;
- b. Root exposure: Roots of trees to be saved which are exposed during construction shall be treated with tree wound healant if over 1-1/2 inch diameter, temporarily covered with damp burlap or wood shavings to prevent drying and covered with earth as soon as possible. Alternative measures to treat and protect exposed or damaged roots may be applied if, in the

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discretion of the SSWU, those measures will result in equal or better root preservation.

- c. Work within driplines: Only limited intrusion into tree dripzones will be allowed as shown on the plans approved by the SSWU and the DDD. Intrusions by filling, excavating, or clearing shall be accomplished by hand methods only. No material stockpiling shall occur in the protected dripzone areas.

(LUC 20.20.520; BCC 23.76)

7. **MINIMIZE IMPACT TO CORRIDOR NORTH OF MEADOW**: Prior to the issuance of a clearing and grading permit, the applicant and the SSWU shall review the feasibility of using retaining walls near the base of the side slope north of the open meadow as a means of limiting or avoiding disruption to the riparian corridor which extends through that area. If disruption cannot be feasibly avoided, in the judgment of the SSWU, the corridor could be relocated provided that such relocation is performed in a manner which maintains the present drainage and flood control functions of the existing corridor and provides habitat of equal or greater value than that of the existing corridor. If relocation is allowed, the new corridor shall be located at the base of the fill slope and shall be constructed in a manner which protects the base of the slope from erosion. (Comprehensive Plan Policy B-5; BCC 23.76; BCC 22.02.005)

8. **TYPE B CORRIDOR RELOCATION REQUIRED**: Prior to the issuance of a clearing and grading permit, the applicant shall submit a plan for review and approval by the SSWU showing the relocation of the Type B corridor disturbed by construction of the open meadow. The plan shall indicate that the relocated corridor will be generally located below the fill slope along the west side of the open meadow, but shall also indicate that the exact location of the corridor will be determined in the field, as approved by the SSWU. (Comprehensive Plan Policy 21.D.1-D.6; BCC 22.02.005)

9. **CORRIDOR RELOCATION PLAN REQUIRED**: Plans submitted by the applicant for clearing and grading permit approval shall include a stream relocation and restoration plan for the new corridors flowing through and around the open meadow. The plan shall be prepared by a professional experienced in stream relocation and re-establishment work who has been approved by the SSWU. This plan shall include the grading and revegetation of stream channel and banks as well as the riparian corridor. In addition, it shall include provisions to ensure the stability of the stream in its new location, to protect new fill slopes from erosion. The drawings shall be submitted to the SSWU for review and approval. (Comprehensive Plan Policy 21.D.1-D.6; BCC 22.02.005)

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10. CONSTRUCTION SEQUENCE: Prior to the issuance of a clearing and grading permit, the applicant shall submit a detailed, written construction sequence to the SSWU for review and approval. Said approved construction sequence shall be included in the permit conditions. (BCC 23.76)

11. GEOTECHNICAL CONDITIONS: The geotechnical engineer of record, Hart Crowser, Inc., or another geotechnical engineer approved by the SSWU, shall review all plans including clearing, grading, design and drainage, to determine if they accurately interpret and adequately incorporate the geotechnical recommendations identified in the geotechnical reports submitted for the project. A letter from the geotechnical engineer certifying that the final civil plans for this phase have been reviewed and that they comply with his recommendations is required to be submitted prior to issuance of the clearing and grading permit. (BCC 23.76)

12. CLEARING AND GRADING LIMITS: Clearing and grading limits during development shall be clearly identified on construction plans. Prior to commencing construction, all clearing limits shall be staked (including toes of fill slopes) and/or flagged in the field. Said clearing limits shall be reviewed and approved by the SSWU prior to commencing construction. The clearing limits shall be fenced as required by permit conditions. Wetland protected area setback boundaries and riparian corridors shall be fenced by a six-foot-high chain link fence during construction. Said wetland protection fencing shall be installed under direct supervision of a qualified wetland biologist. Other clearing and grading limits shall also be protected by a six-foot-high chain link fence, except where the SSWU and the DDD approve a suitable alternative, such as the use of brightly colored safety net fencing. The extent of clearing and grading for utility corridors shall be minimized. (BCC 23.76)

13. HPA PERMIT REQUIRED: The applicant is required to obtain a Hydraulic Project Approval from the State of Washington Department of Fisheries or Department of Wildlife for any improvements proposed within streams. Said Hydraulic Project Approval is required to be submitted to the SSWU prior to issuance of clearing and grading permits, and said HPA conditions shall be attached as a condition of the applicable clearing and grading permits. (BCC 23.76)

14. TEMPORARY EROSION AND SEDIMENT CONTROL PLANS: A Temporary Erosion and Sediment Control Plan encompassing all areas to be disturbed as part of Phase II shall be submitted for approval to the SSWU prior to issuance of a clearing and grading permit. The SSWU shall inspect erosion control devices and Native Growth Protection Easement fences prior to the beginning of clearing and grading activity. The applicant shall notify the SSWU for inspection a minimum of four days prior to beginning construction or the need for inspection. (BCC 23.76)

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15. WATER QUALITY REQUIREMENTS: In addition to meeting other City water quality standards, all work is required to meet the following water clarity standards during construction. These standards shall be included on the face of the Temporary Erosion and Sediment Control plans:

- a. Turbidity in Richards Creek tributaries downstream of site construction activity shall not increase by more than 5 NTU (if background turbidity is less than or equal to 50 NTU), or
- b. Turbidity levels shall not increase by 10% for background turbidity levels that are greater than 50 NTU.

(BCC 23.76)

16. APPLICANT SHALL FUND THE COST OF A CLEARING AND GRADING PERMIT INSPECTOR: In addition to the SSWU inspection provided for in the clearing and grading permit fees, the applicant shall fund the cost of an on-site clearing and grading permit inspector who shall be supervised by the City's SSWU. (BCC 23.76)

17. CONFORMANCE WITH PARKS DEPARTMENT STANDARDS REQUIRED: Specific design features within the park, including play equipment, surface materials, and irrigation design, shall conform to Parks Department standards pertaining to maintenance, safety, and structural integrity concerns. Catalog cut sheets of proposed play equipment shall be submitted for review and approval. Wood chips used for play area surfacing shall be cedar. If the irrigation system for the park is to be installed as a design-build element, the applicant shall fund the cost of an inspector to ensure conformance with City standards. (Development Standards Chapter 7)

B. The following conditions (18-22) are imposed to ensure compliance with provisions of cited Code or to mitigate adverse environmental impacts which are otherwise not addressed through applicable code provision. These conditions must be complied with at the time indicated in each condition:

18. IN STREAM FLOW WORK: To minimize the adverse water quality impacts from in-stream construction, work shall be done only during low flow conditions and the flow shall be bypassed around the work area. Care shall be taken to avoid water contact with uncured concrete or mortar. Equipment shall not be cleaned in or near any streams. Excess concrete shall be disposed of at least 25 feet away from any area which is part of the storm water conveyance system, such as a detention pond or stream. Wording to this effect shall appear on the drawings submitted to the City for clearing and grading permit approval. This condition shall apply throughout the duration of the construction period. (BCC 23.76)

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19. REVIEW OF CROSSWALK LOCATIONS: Specific number, location and design of crosswalks serving the park shall be reviewed and approved by the Public Works Department/Transportation Division as part of the review of 139th Avenue SE channelization plans. (LUC 20.20.529.K.8)

20. REQUIRED TIMING OF PARK COMPLETION: Development of the park shall be completed prior to the issuance of permits for the construction of no more than 500,000 gross square feet of office space. (Ordinance No. 4010)

21. PARK/SIDEWALK EASEMENT CONVEYANCE REQUIRED: Upon completion of park construction, the applicant shall convey an easement to the City allowing for the perpetual use of the park, as well as the portions of the sidewalk system lying within the park, by the public, and operation and maintenance of the park by the City. (Ordinance No. 4010)

22. SIGN PERMIT REQUIRED: Prior to the installation of any sign identifying the park, the applicant shall submit and receive approval for detailed sign drawings through the City's "SIDD" (Sign in Design District) review process. All signage proposed shall demonstrate conformance with the City of Bellevue Sign Code, Chapter 22B.10. If, in the future, a park identification sign is proposed to be located at the south end of the park, it shall conform with the requirements of 20.25C.040.C.2. General signage design shall be consistent with the signage proposed with this Conditional Use Permit application. (BCC 22.B.1; ordinance No. 4010; LUC 20.25C.040)

C. In order to facilitate timely permit issuance, any submittal required by condition for approval by the City of Bellevue prior to issuance of any permit or prior to any (Final or Partial) Certificate of Occupancy shall be submitted for review by the appropriate department a minimum of 30 days prior to the anticipated permit issuance date.

Section 3. This ordinance shall be recorded with the King county Department of Records and Elections.

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Section 4. This ordinance shall take effect and be in force five days after its passage and legal publication.

PASSED by the City Council this 27th day of February 1992, and signed in authentication of its passage this 27th day of February, 1992.

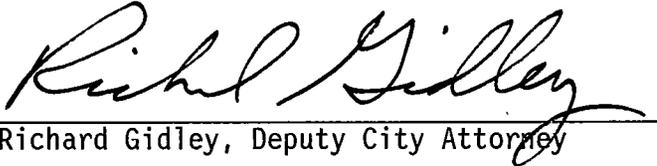
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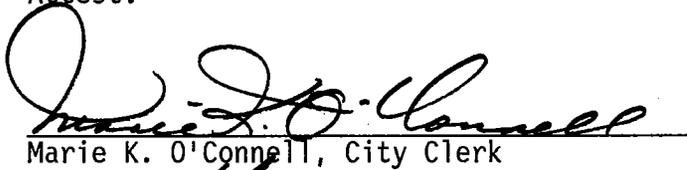
Cary Bozeman, Mayor

Approved as to form:

Richard L. Andrews, City Attorney


Richard L. Andrews, City Attorney

Attest:


Marie K. O'Connell, City Clerk

Published February 28, 1992