

WP0473C-ORD
09/29/95

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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4799

AN ORDINANCE approving an amendment to an existing master conditional use permit on application of Jewish Day School/Temple B'nai Torah for construction of approximately 56,000 square feet of synagogue facilities and approximately 12,000 square feet of new school facilities located at 15749 N.E. 4th Street.

WHEREAS, Jewish Day School/Temple B'nai Torah have applied to the City for an amendment to an existing master conditional use permit for construction of approximately 56,000 square feet of synagogue facilities and approximately 12,000 square feet of new school facilities on the 9.5-acre property located at 15749 N.E. 4th Street; and

WHEREAS, on March 16, 1995, a public hearing was held thereon by the Hearing Examiner pursuant to notice required by law; and

WHEREAS, on July 20, 1995, the Hearing Examiner recommended approval, with conditions, of said application and made and entered findings of fact and conclusions based thereon in support of the recommendation; and

WHEREAS, on August 8, 1995, applicant Temple B'nai Torah filed an appeal to the City Council from the recommendation of the Hearing Examiner; and

WHEREAS, on September 5, 1995, the Hearing Examiner issued an Order Correcting Errors; and

WHEREAS, on September 18, 1995, the City Council held a limited public appeal hearing on the recommendation, as corrected; and

WHEREAS, the City Council concurs in the findings of fact and conclusions of the Hearing Examiner except as hereinafter indicated; and

WHEREAS, the City Council desires to amend certain findings and conclusions of the Hearing Examiner, and to enter certain additional findings and conclusions ; and

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WHEREAS, the City of Bellevue has complied with the State Environmental Policy Act and the Bellevue 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 in support of the recommendation to the City Council in this matter as set forth in "Findings, Conclusions and Recommendation of the Hearing Examiner for the City of Bellevue, In the Matter of the Application of Jewish Day School/Temple B'nai Torah To Amend the Existing Master Conditional Use Permit, File No. CUDN 91-11101", dated July 20, 1995, as amended by the Order Correcting Errors, dated September 5, 1995, and as hereafter amended.

The City Council amends, makes, and enters findings of fact and conclusions as follows:

1. Finding of Fact 2.27 is amended to read as follows:

2.27 Pursuant to LUC 20.30B.145, a Conditional Use Permit automatically expires if the Applicants fail to file for a building permit or other necessary development permit within three years of the effective date of the Conditional Use Permit unless, as in the instant case, the Conditional Use Permit is granted for a longer period of time. The Applicants have requested a fifteen-year Conditional Use Permit. Under the provisions of LUC 20.30B.150.B, the DCD Director may grant no more than two extensions, and each extension is limited to one year in duration.

2. Finding of Fact 2.93 is amended to read as follows:

2.93 Community residents also voiced concerns about the cumulative impact of the religious activities that will occur at or near the site, when considered in conjunction with the impact from Church of the Nazarene, Unity Church, Cross of Christ Lutheran, and St. Louise Catholic Church, all of which are within two blocks of the site. These churches, which hold services on Sunday, will be generating traffic, the majority of which will be converging on the intersection of 156th Ave. NE and NE 4th Street. Inquiry was made regarding the hours of the services at these institutions, and whether the hours of services could be staggered to mitigate traffic congestion that would be

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inevitable if services at these religious institutions ended at or about the same time.

Although it was stated at the hearing that data on church service hours could be provided within a week, no additional information was submitted. If conditions arise in the future that will warrant further review of traffic impacts, such review may note the times services begin and typically end at the Temple and the four other referenced religious institutions, and how that may likely affect the ability to maintain reasonable traffic flow in the affected community.

3. The City Council does not adopt Findings of Fact 2.104, 2.105 and 2.106. The Council finds that a walkway is necessary between 156th Ave. NE and 160th Ave. NE to assure safe passage for pedestrians, but that additional frontage improvements are not necessary. The Council further finds that an asphalt walkway will protect the safety of pedestrians as well as a concrete sidewalk with curb and gutters.

4. The City Council does not adopt Finding of Facts 2.185 and 2.186. The Council finds that current plans should be revised to reflect an asphalt walkway between 156th Ave. NE and 160th Ave. NE, and that flexibility should be allowed in the location and width of frontage landscaping.

5. The City Council does not adopt the following findings and recommendations in so far as they are inconsistent with the findings, conclusions and decisions of the Council herein: 2.245, 2.247, 2.247(k), 2.248, 2.248(c), 2.249(b), 2.249(g), and 2.249(i).

6. The City Council does not adopt the first paragraph of Conclusion 3.10 of the Hearing Examiner. The Council concludes that it is reasonable to require an asphalt walkway between 156th Ave. NE and 160th Ave. NE.

7. The City Council concludes that limiting the life of the CUP to five years would impose burdensome financial restraints on the Applicant, and that a reasonable period is 15 years.

8. The City Council concludes that requiring the Applicant to report attendance at religious seminars, or to require coordination of service times among religious institutions, would impose an unreasonable burden on religious exercise.

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9. The City Council concludes that limitations on fluorescent lighting and requirements of drapes and window coverage are not necessary to protect adjoining areas from light impacts.

Section 2. The City Council hereby approves the amendment to the existing master conditional use application of Jewish Day School/Temple B'nai Torah, for construction of approximately 56,000 square feet of synagogue facilities and approximately 12,000 square feet of new school facilities on the 9.5-acre property located at 15749 N.E. 4th Street on property more particularly described as:

That portion of the Southwest quarter of the Northeast quarter of Section 35, Township 25 North, Range 5 East, W.M., in King County, Washington, described as follows:

Beginning at the Northwest corner of said subdivision thence South 88°40'37" East along the North line thereof 440.92 feet to the true point of beginning; thence continuing South 88°20'37" East 722.25 feet; thence South 7°17'27" East 295.34 feet; thence South 9°01'12" West 229.56 feet; thence South 36°22'00" West 230 feet; thence North 53°38'00" West 360 feet; thence South 73°14'12" West 324.99 feet; thence 1°19'23" East 601.98 feet to the true point of beginning.

provided, this approval is subject to the following conditions:

1. Approved uses are restated and shall be limited to the following, which include Standard Land Use Code Reference Numbers for those for which such numbers exist:
 - a. Day Care Centers (629);
 - b. Governmental Services, Protective Functions and Related Activities (672), Excluding Maintenance Shops (673);
 - c. Education, Nursery, Primary, Secondary (681);
 - d. Universities and Colleges (682);
 - e. Religious Activities (Office, Counseling, Religious Education, Worship, etc.) (691);

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- f. Charitable and Social Service Organizations (692)(b)), Charity Groups, Cultural Advancement Groups, Youth and Adult Recreational Groups, Service Organizations, Senior Citizen's Groups, Community Action and Volunteer Organizations, Character Building Groups, Child Care Groups, Counseling Groups, etc.;
 - g. Municipal and Quasi-Municipal Corporations or Groups interested in organizing same;
 - h. Political Groups;
 - i. Business Groups;
 - j. Community Clubs; and
 - k. Recreation Activities: Golf Courses, Tennis Courts, Community Clubs (7411-7449), Athletic Fields, Playfields, Recreation Centers, Swimming Beaches and Pools, Parks, Public and Private, Leisure and Open Space Areas (76).
2. The owners shall have fifteen years from the date the Conditional Use Permit is approved to apply for building permits related to construction of any structures identified in the application for Conditional Use approval. (LUC 20.30b.145.B) Up to two extensions, each not to exceed one year, may be granted at the discretion of the Director of the Department of Community Development, upon written request prior to the expiration of the Conditional Use Permit, or any extension thereof. (LUC 20.30B.145)
3. A written agreement executed by all lot owners, setting forth all reciprocal parking easements and setbacks related to the Conditional Use Permit shall be submitted to the Department of Community Development for approval, prior to recording the short plat.
4. This Conditional Use Permit is granted based on projected school enrollment of 475 students, and average attendance of 200 people for most services at the Temple. High Holy Day Service attendance is projected to be 1,150, with use of event-style or stack parking, supervised by on-site attendants, coupled with off-duty police officers to manage traffic.

5. The following conditions must be included on plans submitted for building permit application and be complied with prior to issuance of any clear and grade permit for this proposal.

The following condition is imposed under the authority of the Conditional Use Permit Process. Specific citations are given in parentheses.

- a. Phasing Landscaping Requirement

Site area proposed for structures not included in the initial construction phase which is cleared, graded or currently paved shall be landscaped in a manner to define a finished appearance until later construction is undertaken. Such interim landscaping shall be included in initial landscape plans submitted for the first phase of construction. (LUC 20.30B.140.A)

The following condition is imposed under the authority of the State Environmental Policy Act as referenced in the DNS for this proposal.

- b. Dust Suppression Required

To mitigate adverse air impacts due to dust during dry weather, construction areas shall be controlled to suppress dust entrainment. To reduce potential surface and ground water contamination, and to minimize use of municipal water, dust suppressants shall be approved by Bellevue Utilities Department prior to use. (Comp. Plan EN-39)

- c. Geotechnical Review Required

To mitigate potential adverse impacts to site grading and slopes due to unstable fill soil, site earthwork and structural design of foundations and retaining walls shall be reviewed and approved by a professional geotechnical engineer prior to Clear and Grade Permit approval. To ensure conformance with recommendations, site earthwork and construction of foundations and retaining walls shall be monitored by a professional geotechnical engineer and reported to the DCD as required by the Clear and Grade inspector. (Comp. Plan EN-21 and 22)

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The following condition is imposed under authority of City Utility Codes. Specific authority is given in parenthesis.

d. Utility Design Standards

All design review, approvals, and construction inspection will occur through the Developer Extension Agreement process for the water and storm drainage utility improvements. The utility systems shall be designed per the editions of the City of Bellevue Water and Sewer Engineering Standards and the Development Standards which are current at the time of application for the Preliminary Short Plat. The developer may choose to design plat drainage system components under the new code expected to be adopted in 1995, or later versions. (BCC 24.02.120; 24.04.120; 24.06.120)

e. Oil-Water Separation Required

In order to mitigate adverse impacts to water quality, a spill control type oil/water separator shall be installed for runoff collected from all new parking areas. (BCC 24.06.060)

f. Applicable Area of Detention

In order to mitigate adverse impacts to surface waters due to increased runoff, stormwater detention facilities may be provided for all new (sic) impervious areas only, and sizing of detention for those areas will be based on the City of Bellevue Development Standards Section 4B.02.a.i. (BCC 24.06.120)

g. Utility Easements Required

Storm drainage easements must be provided to up-slope properties which currently drain through this property. Prior to approval of the Final Short Plat, easements must be provided for all utilities that are intended to provide service through any newly created lot. (BCC 24.02.120; 24.04.120; 24.06.120)

The following condition is imposed under the authority of the general provisions of the Land Use Code and City of Bellevue Development Standards. Specific authority is given in parentheses.

h. Mechanical Equipment Location

Location of mechanical equipment, including HVAC equipment, shall conform to setback and screening requirements. (LUC 20.20.525)

i. Tree Retention Measures Required

The Site, Grading, Utility, and Landscape Plans shall be modified to protect the integrity of the "Hillaire Arboretum" and all specimen plantings within the perimeter 50 feet of the site, to the greatest extent practicable. Specimen trees within the interior of the site should be retained if possible. Installation of utilities within the Arboretum area should avoid damage to trees, and attempts to preserve trees shall be made where disturbance is unavoidable.

To mitigate adverse impacts to trees, the following conditions shall appear on the face of, or be referenced on the face of the Clearing and Grading, Temporary Erosion and Sedimentation Control, and Landscaping Plans. (LUC 20.20.520)

Clearing limits shall be established in the field at or outside of drip lines of trees to be retained. The location of the clearing limit shall be inspected by the Storm and Surface Water inspector, and approved fencing shall be installed at the clearing limits prior to initiation of clearing and grading.

No excavation or clearing shall be performed within drip lines of retained trees, except as specifically approved on plans. All such work shall be done by hand to avoid damage to roots.

j. Driveway Design and Marking

The two one-way driveways on N.E. 4th Street shall be constructed with the following pavement markings and traffic signs:

- A "ONE WAY ONLY" sign at each driveway.
- A one-way arrow placed on the pavement at each driveway.

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(Dev. Stds. 3A/B.22; 3A.06A)

k. Street Frontage Improvements Required

The Applicants are required to install an asphalt walkway between 156th Ave. NE and 160th Ave. NE. The DCD shall allow flexibility in the location and width of frontage landscaping and walkway so that the walkway and landscaping are both functional and an amenity to the surrounding neighborhood. No other street frontage improvements are required.

l. Site Area Lighting

All site area lighting shall be fully shielded. No exposed lamps shall be permitted. All fixtures shall be reviewed and approved by the DCD prior to installation. (LUC 20.30B.140)

The following condition is imposed under the authority of the Right-of-Way Use Permit Ordinance:

m. Right-of-Way Use Permit Required

Prior to the issuance of a clear and grade permit or any construction on public right-of-way, the Applicants shall secure a right-of-way use permit from the City's Transportation Department, which may include:

1. Designated truck hauling routes;
2. Truck loading and unloading activities;
3. Location of construction fences;
4. Hours of construction and hauling;
5. Maintenance of pedestrian access;
6. Provisions for street sweeping, excavation and construction;

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7. Location of construction signing and pedestrian detour routes; and
8. All other construction activities as they affect the public street system.

(BCC 14.30)

The following condition is imposed under the authority of the Bellevue Noise Code:

n. Construction Noise Limitations

To mitigate adverse construction noise impacts on nearby residents, the following mitigating measures shall be listed by the Applicants on the face of the construction drawings submitted to the City for building permit approval.

All contractors shall comply with the City of Bellevue Noise Ordinance regarding construction noise and hours of construction, summarized as follows:

Contractors shall not operate or permit the operation of any diesel, pneumatic or gasoline-powered equipment that is not equipped with a sound-reducing or noise-attenuating device.

Sounds created by construction equipment and emanating from construction sites are exempt from the provisions of the Noise Ordinance between the hours of 7:00 a.m. and 6:00 p.m. on weekdays (excluding weekends and federal holidays), except expanded hours of operation may be authorized by the Director, if appropriate, after timely written request. Sound produced by construction at any other time is not exempt and is subject to the limitations of the Bellevue City Code at 9.18.

6. The following condition must be complied with prior to issuance of any building permit for the proposal:

Transportation Impact Fee

The Applicants will be required to pay the Transportation Impact Fee in effect when the building permit is issued. The proposed development is within the Impact Fee Area #9. The impact fee shall be calculated by the Transportation Department prior to the issuance of the building permit. (BCC 22.16.070, .080, .090)

7. The following conditions must be complied with prior to any certificate of occupancy for any portion of the proposal:

The following condition is imposed under the authority of the City of Bellevue Noise Ordinance.

HVAC Noise Levels

To mitigate adverse noise impacts from mechanical equipment, all mechanical equipment shall be certified by the contractor that all equipment will conform to City of Bellevue EDNA requirements. Such certification shall be made prior to issuance of any mechanical permit for the project. (BCC 9.18)

8. The following conditions are imposed under the authority of the Conditional Use Permit. Specific authority is given in parentheses.

Parking Management Program (LUC 20.30B.140.C; Comp. Plan Policy TR-36)

The Applicants shall prepare a Parking Management Plan to be implemented and continuously managed by the Temple for the life of the proposed facility. The plan shall be designed to limit Temple-related parking to approved on- and off-site locations, and to eliminate spillover parking on residential streets. This plan shall be in the form of an agreement with the City of Bellevue, shall be submitted to the City for review prior to request for occupancy, and shall contain, at a minimum, provisions intended to implement the following:

- a. The Applicants shall provide on-site parking attendants when anticipated attendance exceeds 300 people or when total project parking demand exceeds 114 vehicles. If demand for

parking exceeds the parking supply on-site, the Applicants shall provide additional private parking off-site. The Applicants shall supply two off-duty police officers to facilitate safe pedestrian and vehicular movements at the site driveways and the intersection of 156th Avenue N.E. and N.E. 4th Street during events when anticipated attendance is expected to exceed 520 people or parking demand exceeds 200 vehicles. Attendants shall be trained.

- b. The Temple shall obtain a lease or agreement for use of at least 122 parking stalls associated with an institutional use within 1,000 feet of the Temple site for a term of use of not less than three years. Such lease shall be for at least the periods needed for High Holy Days, and allow the Temple at least six months to find an alternate location prior to expiration or termination of the lease.

If an off-site facility is unavailable due to conflicts, the Property Owner shall provide written notice of an alternative site that has been secured; notice shall be delivered to DCD at least 30 days prior to the event for which off-site parking will be needed.

- c. Services or events requiring 100 or more parking spaces shall be separated between the end of one event and the scheduled beginning of the next by not less than 30 minutes. This separation may be modified in the future based on analysis of parking lot operation.
- d. Failure to effectively manage parking to eliminate spillover shall be grounds for the City to, at its discretion, commence reconsideration of the Parking Management Program for the Temple and to impose additional conditions as may be needed to eliminate spillover.

9. Rental Use of Facilities

Rental use of the Temple or school facilities is subject to the same parking requirements and restrictions as service use or school use of the premises. (LUC 20.30B.140.C)

10. The Applicants shall provide written notice to property owners within 200 feet of the subject site and conduct two meetings with community residents to obtain community input during the design development process prior to submitting plans for approval and issuance of a building permit for each development phase of the project.
11. Applicants shall provide specific warrant analysis regarding installation of a signal light at 156th Ave. NE and NE 4th Street. If a signal is needed and installed, the Applicant shall no longer be required to provide an off-duty police officer to provide manual control at this intersection as set forth in Condition 9.a.

When the analysis is performed, the consultant shall, to the extent relevant to a signal warrant analysis, note the hours of the religious services on Saturdays and Sundays at the Temple, Church of the Nazarene, Unity Church, Cross of Christ Lutheran Church, and Saint Louise.

The Applicants shall not be responsible for the cost of installing a traffic signal if warranted under current conditions, as the need for the signal light will have been generated by factors which preceded redevelopment of the site.

12. The parking lot shall be redesigned to provide a pick-up/drop-off lane.
13. One freestanding sign each for school and Temple use shall be allowed.
14. Rental use of the facility by anyone other than the Temple, the Jewish Day School or their respective successors-in-interest shall be prohibited between 4:00 p.m. and 6:00 p.m., Monday through Friday.
15. Any sewer line in the east parking area shall be relocated during development of Phase I if relocation is necessary.
16. The Applicants shall add plantings of small trees, evergreen shrubs or fencing and hedges to provide a sight screen to enhance the privacy of homes abutting the project site, without adversely impacting views from those homes.

17. Building lighting design shall be reviewed on the Building Permit application and shall emphasize use of lighting types, levels, and nighttime light levels comparable to residential standards for the western exposure windows on the property.
18. The Applicants shall display site appropriate transit and ridesharing information in prominent locations. The Applicants shall also provide secure bicycle parking within 100 feet of the school's main entrance.
19. The property owner shall execute a new Concomitant Agreement with the City of Bellevue, incorporating the amended terms and conditions referenced in Conclusion 3.10, together with all conditions approved by the City Council.
20. To facilitate timely permit issuance, any submittal document required by the following conditions of approval shall be submitted for review by the appropriate department a minimum of 30 days prior to the anticipated permit step referenced in the condition. Any submittal or revision to the submittal to comply with the following conditions shall include direct and specific reference to the condition of approval being addressed. Documents required by condition to be recorded with King County and/or with Bellevue City Clerk shall also require a copy of the recording with the stamped Auditor's File Number on it to be delivered to the DCD for inclusion in the project file.

PROVIDED that this approval of said conditional use is conditioned on full compliance by the owner or owners of the property described herein, their heirs, assigns, grantees and successors in interest, with the terms and conditions of that certain Concomitant Agreement which has been given Clerk's Receiving No. 22322 and which by this reference is fully incorporated herein.

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

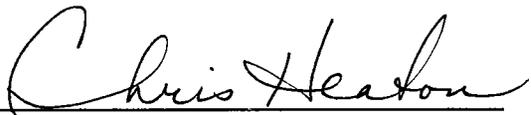
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Section 4. This ordinance shall take effect and be in force five days after its passage and legal publication.

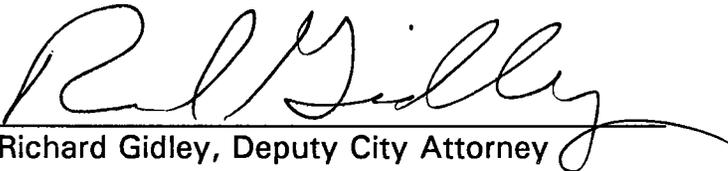
PASSED by the City Council this 2nd day of October, 1995, and signed in authentication of its passage this 2nd day of October, 1995.

(SEAL)


Chris Heaton, Mayor Pro Tem

Approved as to form:

Richard L. Andrews, City Attorney


Richard Gidley, Deputy City Attorney

Attest:


Myrna L. Basich, City Clerk

Published October 6, 1995