City of Bellevue
Development Services Department
Land Use Staff Report

Proposal Name:	**Open Windows School**
Proposal Address:	6128 168th Place SE
Proposal Description:	Application for an Administrative Amendment to a previous Conditional Use Permit (99-224242 LB). Open Windows School proposes to modify its dismissal process, method of neighborhood noticing, and increase student enrollment cap.
File Number:	**15-118262 LI**
Applicant:	Open Windows School
Decisions Included:	Administrative Amendment, Process II
Planner:	Antoinette Pratt, Senior Planner, (425) 452-5374
State Environmental Policy Act Threshold Determination:	**SEPA Exempt**
Director's Decision:	Michael Brennan, Director Development Services Department By: Carol V Helland Carol V. Helland, Land Use Director

Application Date:	July 9, 2015
Notice of Application Date:	August 6, 2015
Minimum Comment Period:	August 20, 2015
Public Meeting:	October 8, 2015 and January 28, 2016
Bulletin Publication Date:	**March 10, 2016**
Appeal Deadline:	**March 24, 2016**

For information on how to appeal a proposal, visit the Development Services Permit Center at City Hall or call (425) 452-6800. Appeal of the Decision must be received in the City Clerk's Office by 5 PM on the date noted for appeal of the decision.

I. Request and Project Description

Open Window School (OWS) requests Administrative Amendment approval to modify three existing conditions of approval from their previous Conditional Use approval (99-224242 LB/Ordinance 5379). The conditions are noted as follows:

- Increase the existing enrollment cap from 315 to 375.
- Modify the student dismissal process from existing family based system to staggered grade level system.
- Modify the neighborhood noticing requirement from paper to electronic method.

All other previous conditions of approval will remain in effect as no further modifications are requested except for those noted above.

II. Site Context

OWS is located within the Newcastle subarea. The Cougar Mountain neighborhood is embedded within this subarea. Vehicular access occurs from two streets: SE 60th Street and 168th Place SE. Single-family residential homes surround the site on all property boundaries. Site topography slopes from the southeast to northwest with an overall slope of nine percent.

OWS is comprised of four individual buildings that are centrally located on 7.6 acres. Two are devoted to academics, one is a restored farm house that is used for storage while the remaining building is a gymnasium. There is an athletic field and a small hardscaped pad for basketball, etc. Minor play areas are centrally located for younger students. There are 151 parking stalls on-site which are separated into two lots—one north and the other west of the school. The north lot is principally used for elementary drop off and staff parking while the west parking lot is used by staff. There is a middle school drop off loop south of the westerly parking lot from 168th Place SE.

The site is considered a double fronting lot as it fronts both SE 60th Street and 168th Place SE. The remaining property boundaries are surrounded by landscape buffers that contain overstory and understory vegetation. There is an existing wetland at the northeast corner of the property adjacent to the existing driveway from SE 60th Street.

III History of School and Previous Conditional Use

<u>OWS History</u>
OWS was founded in 1983 for gifted preschoolers. It was later expanded to serve elementary students. Middle school students were added to the campus in 2007. OWS purchased their current location on April 27, 2001, and formally moved to this site in 2004

upon completion of the academic buildings and gymnasium. OWS now serves K-8th grade as it no longer supports preschool education.

Previous Conditional Use
OWS applied for their original Conditional Use application in 1999 (99-224242 LB). During the review process there were many concerns by the surrounding neighborhood about impacts from the proposed school. There were numerous appeals and remands back to the Hearing Examiner and City Council which ultimately led to Ordinance 5379 (see attached) which was approved in 2002. OWS desires to remove the noted conditions below:

1. Discretionary Condition #1, Number of Students: This decision permits the school to have a maximum population of 315 students. To ensure compliance, within 7-days after the start of each school year the school administrator shall provide written notification to the City of Bellevue, Land Use Division Director, disclosing the total number of students who are registered and expect to be registered for that school year. To exceed a population of 315 students requires formal City approval per LUC 20.30B.175.

   Response: The above condition was imposed to mitigate anticipated increased transportation impacts to the area. However, OWS requests removal of this requirement to better manage enrollment and their admission process. OWS wrote in their submittal narrative the following regarding the admission process:

   Because of the competitive nature of the independent school admissions process (i.e., schools compete for students), an independent school improves its enrollment position by offering acceptance to students with the expectation that some students will decide not to enroll. Because class sizes per grade may change from year to year, the current enrollment cap has limited the Open Window School's ability to optimize enrollment by imposing a hard limit below the existing capacity for each grade. This results in underutilization of the School's facilities and can pose a challenge for families with more than one student in the school.

   In response to OWS explanation, staff required a traffic analysis to analyze the existing parking and transportation operations for the requested increase in enrollment from 315 to 375. OWS hired Transportation Engineering Northwest (TENW) traffic consultants to evaluate how an increase in 60 students would affect existing conditions. See Section IV.d (Parking) and Section VI (Transportation) for further discussions and conclusions.

2. Discretionary Condition #4, School Start Time: To reduce the concentration of school related traffic in the surrounding neighborhood and ensure that there is sufficient parking in the afternoon when the student enrollment exceeds 250, the dismissal for all students shall be staggered by twenty minutes. Secondly, the children will be dismissed by family, not class.

   Response: OWS requests removal of this condition because they found that dismissal by family at staggered intervals was disruptive to classrooms, inefficient for carpooling and confusing to families. OWS found that when it implemented this standard longer wait times occurred within the parking lot which led to a backup of the queue onto the City street system.

The OWS administration created a separate middle school drop off area with a queue length of 460 feet at the southwest portion of the site from 168th Place SE to improve the dismissal process. Students are dropped off in this location with no need to park. Developing separate areas for drop off has led to a more manageable process for the administration. Establishing carpools for this age group is easier to accommodate than the elementary age group which requires child safety devices.

The addition of after school activities to the school's programming also helps with the school dismissal process in that students are picked up later after the general population has left the campus; thus, spreading out return vehicle trips to campus. The OWS administration estimates that 30 to 80 students are enrolled in such activities throughout the week from 3:15 p.m. to 6:00 p.m.

TENW has noted that OWS ceased utilizing the permitted method of staggered dismissal by family after the 2010-2011 school year, so it was not in effect at the time of their site visits. TENW confirmed that the current process is better than the staggered dismissal by family required by the previous Conditional Use. Staff finds that removal of the requirement for dismissal as a family is supported by the transportation analysis. However, in future, if the OWS administration seeks to modify an existing condition of approval, they will need to contact Development Services to discuss the matter before operational changes are made. Any future change may require another Administrative Amendment. Failure to comply with the stated conditions for this school without City approval can lead to code enforcement action (based upon neighborhood complaints) by Development Services. See Section XII for related condition.

3. Discretionary Condition #7b, Parking and Traffic Mitigation: When the student enrollment exceeds 250, institute two dismissal periods twenty minutes apart, and dismiss students according to family.

AND

Discretionary Condition #7g, Parking and Traffic Mitigation: Within one week of the start of the school year, the School shall mail a full schedule of weekend and evening events to all homes within 200 feet of the site. Secondly, the School shall mail specific 14-day advance notice of evening and weekend school events involving more than 100 persons to all homes within 200-feet of the school site and to the Cougar Mountain Neighborhood Association;

Response: OWS requests removal of this Discretionary Condition #7b based on the response noted above in item #2. OWS requests modification of Discretionary Condition #7g which pertains to public notice of school activities. Rather than continue to utilize the public mail system, OWS proposes to modernize this function via their public website and email to those within 200 feet of their site. Staff finds that the proposed update in mass communication is warranted and recommends modification of Condition #7g in the following manner:

To move to an email based system, OWS proposes to conduct one last physical mailing to all homes within 500 feet of their property. The mailing will allow residents the ability to opt into the electronic notification system to be maintained by the OWS administration. This will take place within one week of the start of the school year, OWS shall post on its publicly-available website and email a full schedule of weekend and evening (after 6:00 p.m.) events to any neighbor residing

with 500 feet of the OWS site and the Cougar Mountain Residents Association who elect to have direct email communication with the school. Throughout the course of the year, any changes to the event schedule shall be communicated 14 days advance of the event. This information shall also be posted on a neighborhood web based website such as Next Door.

It should be noted that, OWS's approval occurred during a time when the Land Use Code (LUC) required a 200 foot public notice radius. However, this was modified shortly after their approval. LUC 20.35.135.A.2 now requires public notice to real property within 500 feet of the site. OWS will be required to expand its notification data base to 500 feet consistent with the City's current public notice standards. See Section XII for related condition.

IV. Consistency with Land Use Code/Zoning Requirements

a. General Provisions of the Land Use Code

This site is located within an R-1 land use district. As such, the Land Use Code (LUC) 20.10.440, Services Use Chart, permits primary and secondary educational facilities subject to prior Administrative Amendment approval. The applicant has fulfilled this requirement with approval of the original Conditional Use Permit, 99-244242 LB. The current request is a modification of the above named approval and does not make any changes to the underlying uses associated with the school.

b. Schools

LUC Chapter 20.20.740 provides development standards for schools in residential districts. No review of dimensional standards is necessary since OWS administration is not proposing physical changes to their site.

c. Current and Future Student Population

OWS is a private school that provides education for students K-8th grades. The existing facility contains 308 students for the 2014-2015 school year. The middle school contains 120 students while the elementary school contains 188 students. There are 76 faculty to support this 308 student body.

Future student population will increase by up to a maximum of 60 students over the prior Conditional Use Permit. OWS estimates that growth will take place primarily in the middle school population, with the breakdown anticipated to be: 12 elementary students and 48 middle school students. The teacher/student ratio would increase to 80 faculty in support of this population increase. Increasing the student count from 315 to 375 is under the 20 percent threshold increase for students allowed by LUC 20.10.440, footnote 25, (b)(i) which allows student increases by 20 percent administratively but if the increase in students is beyond this allowance then a full Conditional Use Permit is required.[1] OWS' administration understands this requirement and has written an email dated November 4, 2015, stating that they understand that this is a one-time increase for their existing campus. Any other student body increase beyond 20 percent (378 students) will require a full Conditional Use. See file for associated email. The City shall be contacted if the administration seeks to change this threshold

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1 OWS' maximum student count per the previous Conditional Use approval is 315. A 20% increase yields a maximum enrollment of 378. OWS has chosen to limit the student population three students short of this requirement to 375 which does not trigger the requirement of a full Conditional Use.

level to begin formal review of the required Conditional Use permit. See Section XII for related condition.

d. Parking Standards

LUC 20.20.590 does not define the number of parking stalls required for an educational facility. As such, this proposal will be classified as an unspecified use per LUC 20.20.590.F.2. There are 151 parking stalls at this facility. OWS hired TENW to conduct its required Transportation Impact Study (TIA). TENW conducted its site analysis in June 2015. Three reports were generated for OWS on dated June 26th, September 8th and with a final report completed on December 9th 2015.

Bus Ridership

To reduce the amount of drop off and pick up activities on campus, OWS contracts with Harlow's, a private bus service that operates their two *morning* buses. One of the buses is devoted to picking up students in Kirkland, Bellevue and Mercer Island every morning. There are 36 registered users to this route. TENW found that on the day of its site visit (June 2-3) that there were 28 and 29 students on the bus on these days respectively. At the start of the 2015-2016 school year, OWS added another bus route that is devoted to Issaquah and Sammamish. There are 25 registered users of this bus. Because this is a new route to the campus, TENW did not use this data in its calculations so as to create a conservative analysis for traffic impacts.

Parking Analysis

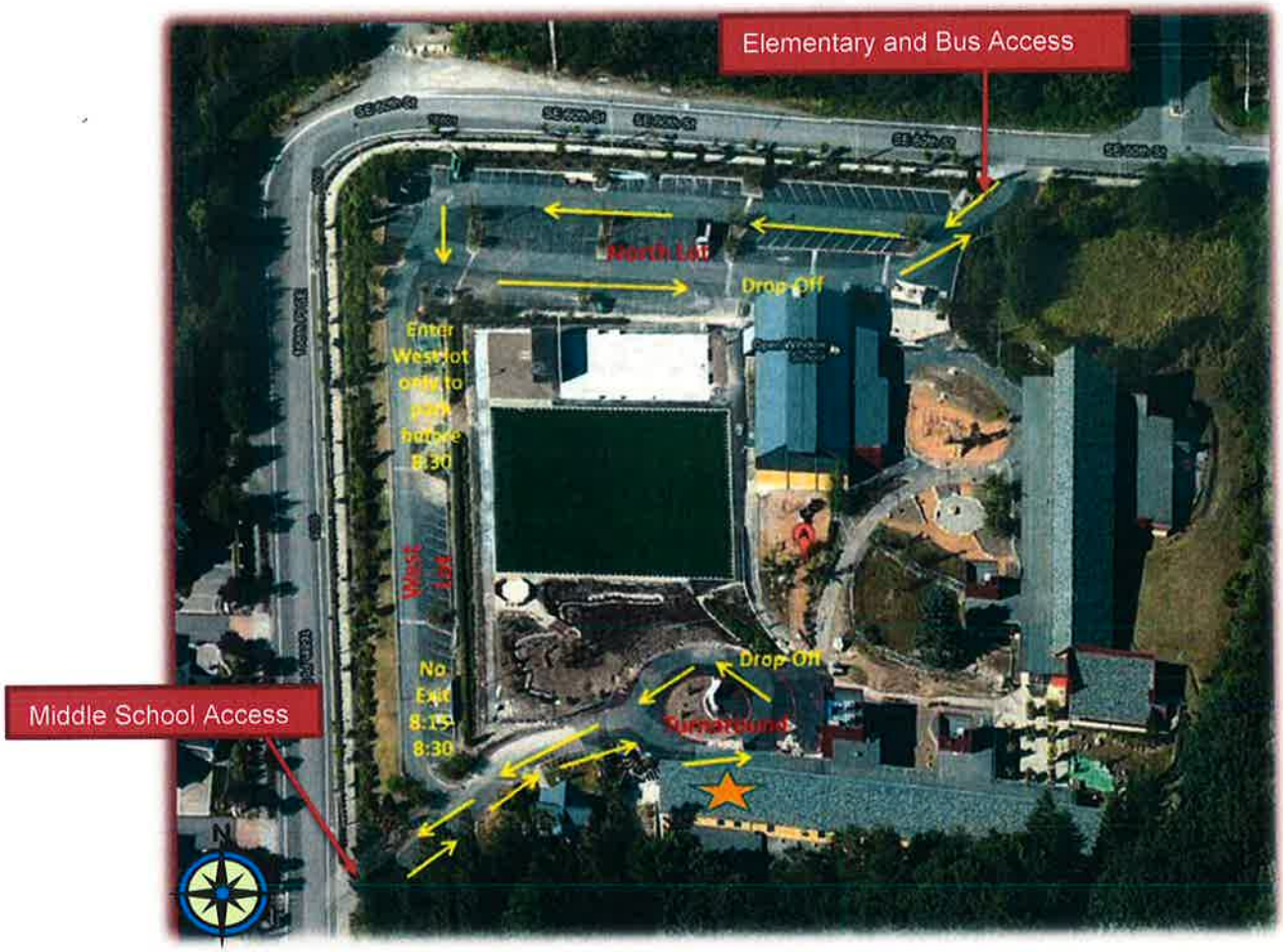
TENW evaluated existing parking conditions for both the a.m. and p.m. peak hours. TENW observed the parking demand patterns on June 2-3, 2015. They found that the peak parking usage occurred at 3:20 in the p.m. peak with a parking demand of 120 stalls of the 151 available. See Attachment C of TENW's report in the project file for a parking summary for existing parking conditions.

To predict future parking conditions, staff directed TENW to evaluate future parking scenarios with the most conservative analysis possible for the site which are noted below:

- Maximum enrollment of 375 students with no absentees and 80 staff.
- Maximum enrollment of 375 students with typical student 4.2% absentee rate (359 students).

In the first scenario, TENW notes that with no absenteeism, OWS will utilize 149 of the existing 151 parking stalls. The second scenario with the 4.2% absence rate will create a peak demand of 144 parking stalls. See Attachment C of TENW's report for parking summary analysis of both scenarios. In sum, TENW's findings support OWS' existing 151 parking lot.

Drop-Off/Pick-Up Procedures



TENW observed existing drop off and pick up procedures as implemented by OWS. See aerial above. Elementary and bus drop off/pick up activities occur at the northeast corner of the site from SE 60th Street. Vehicles are then routed in the direction noted by the arrows above to the drop-off/pick up point noted on the aerial. Conversely, the middle school drop-off and pick-up activities take place at the southwest corner of the site from 168th Place SE. Given the level of independence at this educational level, parents simply pull into the circular access to drop off and retrieve their student.

TENW conducted queue analysis based upon two scenarios at the request of the Transportation Department: 1) enrollment increase solely at the elementary level and its associated access and 2) enrollment increase solely at the middle school level and its access.

- Elementary/Bus Access (Northeast Corner): TENW observed that there are 154 existing arrival vehicles in the a.m. Of this vehicle count, 70% drop off their students while 30% are escorted in by a parent. If the future student increase were all elementary aged, arriving vehicles will increase to 219 with 70% still dropping off while 30% will still escort their student to their classroom. Alternatively, during the afternoon, all elementary parents parked their vehicles and went to their student's classrooms to escort them to the parking lot. TENW assumes that this behavior will continue with the modest elementary increase for this driveway access.

- Middle School Access (Southwest Corner): TENW observed 81 vehicles arriving at the middle school access during the morning peak hour. All vehicles dropped off their student by using the turnaround area rather than parking their vehicles. If all of the future enrollment increase took place at the middle school level, TENW determined that the number of vehicles dropping off students would increase from 81 to 146. Alternatively, in the afternoon, existing arriving vehicles would increase from 54 to 93.

It should be mentioned that OWS has designated parking lot staff who control vehicle movement through the elementary and middle school drop-off queues. TENW observed that the a.m. peak hour for the elementary queue had an estimated 30 to 40 second per vehicle drop-off rate while the middle school had a 20 to 30 second rate per vehicle. Alternatively, TENW found that in the p.m. peak that the middle school queue had a slight increase from the a.m. peak from 45 to 60 second vehicle average for pick-up. Elementary parents all park their vehicles in the afternoon so no queue analysis was necessary for this student level. In sum, each queue functioned as planned by the school administration.

Staff concurs with TENW's conclusions as noted within the submitted TIA. The existing parking and drop off/pick up areas are sufficient to handle the future increase in student and faculty.

V. Public Comment

The City held two public meetings: one on October 8, 2015 and the other on January 28, 2016. There were approximately 50 individuals that attended the first meeting and 14 attended the second public meeting. In addition to the public meetings, staff has received numerous emails on this project. The predominant theme, which was reflected at the public meetings, is concern regarding transportation and its effect on the adjacent neighborhood. All emails are contained within the project file.

A summation of neighborhood comments is provided below:

1. **E-mail notification rather than tradition mailing of school events**: There was agreement from the neighborhood [2] that electronic correspondence (email) was appropriate in 2016 rather than traditional mailing that was more predominant in 1999.

   City Response: The City agrees that this modification is appropriate given today's noticing standards. As noted earlier, the City will have OWS update the public notice notification from 200 to 500 feet as discussed in Section III. OWS will also be required to post notice of these notifications on-site for those without electronic devices. See Section XII for related condition.

2. **Dismissal by Family:** The neighborhood asked the OWS administration about its dismissal procedures. Jeff Stroebel, Head of Schools, responded to these questions and described how the dismissal by family requirement impacted the ability to effectively carpool while creating impacts to families with multiple students at various levels. The neighborhood accepted the OWS explanation as noted in the August 10, 2015 correspondence.

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2 The Cougar Mountain Residents Association wrote a letter dated August 10, 2015, to the OWS administration in support of electronic emailing rather than traditional mailing methods.

City Response: The City accepts OWS' explanation regarding staggered dismissals by family. During the October 8, 2015, public meeting OWS' administrator noted that they ceased using the dismissal by family many years ago. The development of the second driveway on 168th Place SE has enhanced the dismissal process for middle school students which were added to the campus in 2007. This driveway has created an efficiency as it is dedicated solely to this grade level. The presence of this driveway and its operation has reduced the demand for the original access on SE 60th Street.

3. **Increase the student population from 315 to 375:** Many neighbors expressed concerns about increasing the student population on this site and its potential effects on the existing street systems. Additionally, many neighbors questioned the validity of the submitted transportation study by TENW. The representative from TENW did provide clarifications regarding the study and how a study is developed per International Transportation Engineering (ITE) standards. Concerns were also raised about the use of Kline Hill Road and its adequacy.

   City Response: The traffic study was conducted using standard engineering methodology by a professional engineer licensed in the State of Washington, with some modifications to ensure a conservative analysis resulted. Modifications were made in response to concerns expressed at the first public meeting, and included an increase in the standard trip generation rate for elementary/middle school and an adjustment for student absenteeism. The trip generation collection method used in the study was consistent with that used for other school projects in the City.

   In response to the student population increase and to formalize the traffic management strategies currently used to temper potential effects on the neighboring streets, the traffic mitigation condition from the previous approval was modified to require additional parental education and notification. See Section XII for related condition.

   With respect to the adequacy of Kline Hill Road (SE 60th Street/189th Avenue SE), it should be noted that this road is not the primary access to the site, and the original approval has a condition discouraging traffic from Open Window School from using this road. Near the school this road is known as NE 60th Street and is in Bellevue. East of the school the road enters King County, then Issaquah. The areas of the road where concern has been expressed regarding its condition are in King County and Issaquah, not in Bellevue's jurisdiction.

VI. City Department Review

The Departments of Transportation and Fire have the following comments regarding this proposal:

Transportation Department

Traffic Review

TENW prepared a traffic analysis for this project to determine if the increase in student population would have an impact on the traffic operations of the surrounding street network. This analysis looked at the trip generation and distribution, intersection level of service, queuing, and the adequacy of site access.

The site is located at the junction of SE 60th Street and 168th Place SE. The upper school, used by middle school students, is accessed by a driveway in the southwest corner of the site with a turnaround/drop-off area adjacent to the building. The lower school, used by elementary

students, is accessed by a driveway in the northeast corner of the site leading to a large parking lot with an attended drop-off area. This driveway is signed to prohibit right turns, limiting school traffic to the east where SE 60th Street becomes Kline Hill Road. The site is accessed from the east via Lakemont Boulevard SE and SE Cougar Mountain Way. Students are mainly transported to the site by passenger vehicles, however the school has added two morning buses serving 61 registered users.

For the purposes of trip generation, volumes were extrapolated for the proposed increase in students using existing rates from the school. To ensure a conservative analysis, the future condition used the assumption that all students were present with no absences and did not subtract bus users from the bus devoted to Kirkland/Bellevue/Mercer Island. The future level of service was evaluated at the school's two driveways and the Lakemont Boulevard SE/SE Cougar Mountain Way for the AM peak hour, the PM peak hour, and the PM school peak period. The analysis found that no Level of Service (LOS) deficiencies would be expected with the added trips from the project.

A queuing analysis for the two loading/unloading areas was performed to determine if the morning and afternoon peak traffic would cause the queue to spill out of the site onto the street network. To be conservative, it was assumed that all 60 additional students were added to each driveway. This analysis concluded that even in these worst-case scenarios, the queue could be contained on site.

The design and operation of the site's two access driveways was also analyzed to see if they were adequate to allow vehicles to quickly enter and exit the site without causing queuing on the street network. Both driveways meet the minimum standard for two-way traffic, however the school bus requires a larger turning radius and impedes traffic when turning out of the driveways. A staff member is assigned to control traffic when the bus exits. The disruption to operations is minimal and does not result in queuing on the street network.

Although current traffic management measures, like carpooling and the addition of the morning school buses, are moderating the effects of school traffic, not all of these are required. An increase in the student population without traffic management has the potential to create impacts if these were to be discontinued. To address this issue, condition 7. Parking and Mitigation will be modified to require a traffic management program that includes parental education and notification, and feasibility review of afternoon bus service to minimize trips to and from the site. See Section XII for related condition.

Based on this analysis, the Transportation Department concludes that this project will not result in significant impacts to the operations of the surrounding street network, and will not require mitigation.

Impact Fees
New development is required by the City of Bellevue to pay transportation impact fees to partially mitigate the cumulative impacts of growth on the City's street system. These fees are based the expected trips generated by the development, and in the case of schools, are calculated on a per student basis. Because this project will not require a building permit for implementation, impact fees are due at the time of the issuance of the approval of the amendment. See Section XII for related condition.

Fire Department

The Fire Department has no comments on this proposal.

VII. State Environmental Policy Act (SEPA)

The State Environmental Policy Act (SEPA) is not applicable to this proposal. The applicant is not proposing a demolition, addition or remodel to the property, which would trigger an environmental determination. Therefore, this proposal is SEPA exempt.

VIII. Applicable Decision Criteria

Administrative Amendment: The Director may approve or approve with modifications an application for an Administrative Amendment if it complies with the decision criteria of LUC Section 20.30B.175.D. After conducting the various administrative reviews of this project, including Comprehensive plan goals and policies and the Land Use Code provisions, the following conclusions are made with regard to the Administrative Amendment decision criteria. The criteria are as follow:

1. **The Amendment maintains the design intent or purpose of the original approval; and**

   Finding: Open Window School has been located within the Cougar Mountain neighborhood since 2004. The applicant is not proposing a change of use with this application. The school will continue to serve grades K through 8 and will remain consistent with this policy. Regarding the original design, OWS will still operate under the existing conditions of Ordinance 5379 but for the identified modifications discussed herein. The previously approved site improvements along with wetland buffers set aside with the previous approval have been maintained. OWS added a new access from 168th Place SE when they added the middle school population to this site; thus, lowering demand at the original access from SE 60th Street. Outside of the three modified conditions, this proposal will continue to be consistent with this policy.

2. **The Amendment maintains the quality of design or product established by the original approval; and**

   Finding: OWS is not proposing any development with their request. Modification of the three identified conditions will not change the design of the facility nor the original product. This criteria was achieved with the initial Conditional Use approval which established the development requirements for design so that the facility can be harmonious with the adjacent single-family neighborhood.

3. **The Amendment is not materially detrimental to uses or property in the immediate vicinity of the subject property.**

   Finding: The amendment does not cause a significant adverse environmental or land use impact on or beyond the site. The traffic patterns for drop off and pick up of students was evaluated by TENW and found not to be detrimental to the surrounding residential area. However, if at any time student population is increased beyond 20 percent from the original approval (378 students), the applicant would be required to apply for a Conditional Use permit along with a traffic analysis to determine adequacy of public facilities. See Section XII for related condition.

   In addition to the above, the remaining conditions of Ordinance 5379 shall remain in full force and effect. Operation of this facility outside of these parameters may cause a revocation of the original Conditional Use approval. See Section XII for related condition.

XI. Decision of the Director

After conducting the various administrative reviews associated with this proposal, including applicable Land Use consistency and City Code and Standard compliance reviews, the Director of Development Services does hereby **APPROVE WITH CONDITIONS** the subject proposal:

Vested Status of Administrative Amendment Approval: The vested status of the Administrative Amendment approval shall expire two years from the date of the City's final decision, for projects which do not require a Building Permit, the use allowed by the permit or approval has been established prior to the expiration of the vested status of the land use permit or approval and is not terminated by abandonment or otherwise per LUC 20.40.500.B.2.b.

XII. Conditions of Administrative Amendment Approval:

GENERAL CONDITIONS

1. **Transportation Impact Fee:** Payment of the traffic impact fee will be required at the time of amendment issuance.

   Authority: BCC 22.16
   Reviewer: Molly Johnson (425) 452-6175

2. **Modification to Discretionary Condition #7. Parking and Traffic Mitigation:** Discretionary condition #7.d. is modified as follows:

   Manage school traffic through a variety of methods with the goal to minimize trips to and from the site. These could include expanding school bus service, using a carpool program, providing parental educational materials, and/or other methods designed to reduce impacts to the surrounding street system. Distribute traffic management strategies to parents prior to the beginning of each school year.

   Authority: BCC 14.60.060
   Reviewer: Molly Johnson (425) 452-6175

3. **Removal of Discretionary Condition #1 and Increase in Student Population** Discretionary condition #4 is modified as follows:

   OWS may increase their student population from 315 to 375. Prior to any student population increases beyond 20 percent (378 students), the applicant shall be required to apply for a Conditional Use permit along with a traffic analysis to determine adequacy of public facilities. To ensure compliance, within 7-days after the start of each school year, OWS shall provide written notification to the Development Services Department—Land Use, disclosing the total number of students who are registered and expect to be registered for that school year.

   Authority: LUC 20.20.440, subnote 25.(b),i-iii
   Reviewer: Antoinette Pratt, (425) 452-5374

4. **Removal of Discretionary Condition #4, School Start Time**: Discretionary condition #4 is hereby removed.

   Authority: LUC 20.30B.175.D.4
   Reviewer: Antoinette Pratt, (425) 452-5374

5. **Removal of Discretionary Conditions 7b and 7g, Parking and Traffic Mitigation (Dismissal by Family and Advance Notice of School Events):** Discretionary Condition 7b, dismissal by family is hereby removed. Condition 7g is modified as follows:

   To move to an email based system, OWS shall conduct one last physical mailing to all homes within 500 feet of their property. The mailing will allow residents the ability to opt into the electronic notification system to be maintained by the OWS administration. This will take place within one week of the start of the school year, OWS shall post on its publicly-available website and email a full schedule of weekend and evening (after 6:00 p.m.) events to any neighbor residing with 500 feet of the OWS site and the Cougar Mountain Residents Association who elect to have direct email communication with the school. Throughout the course of the year, any changes to the event schedule shall be communicated 14 days advance of the event. This information shall also be posted on a neighborhood web based website such as Next Door. OWS shall also be required to post notice of these notifications on-site for those without electronic devices.

   Authority: LUC 20.35.135.A.2
   Reviewer: Antoinette Pratt, (425) 452-5374

6. **Previous Conditions of Approval of Ordinance 5379/Revocation of a Conditional Use Permit**: The remaining conditions of Ordinance 5379 shall remain in full force and effect for this project. If the OWS administration seeks to modify an existing condition of approval, they will need to contact Development Services. Any future change may require another Administrative Amendment. Failure to cease complying with the stated conditions for this facility without City approval can lead to code enforcement action by Development Services. Approval of a Conditional Use permit may be revoked if the use, facility, or traffic pattern/parking or transportation methods are changed from Ordinance 5379.

   Authority: LUC 20.30E.175.B
   Reviewer: Antoinette Pratt, Land Use

Attachments

Ordinance 5379

0538-ORD
06/27/02

ORIGINAL

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5379

AN ORDINANCE denying the appeal from a decision of the Hearing Examiner approving the Application of Dan Vradenburg, Chair of the Board of Trustees of Open Window School, Application No. 99-2242-LB, for a Conditional Use Permit, with conditions, for a school to be located at 6128 168th Place SE, in the City of Bellevue; and granting the Conditional Use Permit with additional conditions.

WHEREAS, on July 27, 2000, the Bellevue Hearing Examiner conducted a hearing on the application of Dan Vradenburg, Chair of the Board of Trustees of Open Window School for a Conditional Use Permit, Application No. 99-2242-LB; and

WHEREAS, on August 11, 2000, the Hearing Examiner issued Findings of Fact, Conclusions of Law and Decision, granting Conditional Use Permit Application No. 99-2242-LB with conditions; and

WHEREAS, on August 23, 2000, Peter Frame and Mark Gregoire, individually and as Officers of the Cougar Mountain Residents Association (the "Association"), appealed the grant of the Conditional Use Permit to the City Council; and

WHEREAS, the City Council conducted a hearing on the appeal on October, 2, 2000, and remanded the matter back to the Bellevue Hearing Examiner to take additional evidence on the consistency of the proposal with the City's Comprehensive Plan and plan policies, and the applicability of the City's Traffic Standards Code, BCC Chapter 14.10; and

WHEREAS, the Bellevue Hearing Examiner took additional evidence on the remand issues on November 29, 2000, and thereafter issued Findings, Conclusions, and a Recommendation to deny the appeal on December 14, 2000; and

WHEREAS, the City Council conducted a hearing on the remanded issues on February 5, 2001, and voted to grant the appeal and deny the Conditional Use Permit; and

WHEREAS, on February 12, 2001, the City Council reconsidered its decision to grant the appeal and voted to take additional argument regarding the applicability to the proposal of certain Comprehensive Plan policies and Land Use Code provisions identified in the motion for reconsideration; and

WHEREAS, on March 5, 2001, the City Council conducted a hearing limited to additional arguments on the issues identified in the motion for reconsideration, and, after deliberation, voted to deny the appeal and approve the conditional use permit, with conditions; and

WHEREAS, on March 19, 2001, the City Council considered whether additional conditions should be required of the Applicant and imposed three additional conditions on the permit, all of which had been offered by the Applicant to mitigate adverse impacts of the proposal; and

WHEREAS, on March 19, 2001, the City Council adopted Ordinance No. 5287, denying the appeal and granting the permit with conditions, including the three new conditions added by the City Council; and

WHEREAS, the City Council's decision denying the appeal and granting the permit was appealed by the Association to the King County Superior Court; and

WHEREAS, on September 21, 2001, the King County Superior Court invalidated the City Council's February 12, 2001, reconsideration of its February 5, 2001, decision; its March 5, 2001 decision denying the appeal and granting the permit; and its adoption of Ordinance No. 5287, based on failure to comply with the state Appearance of Fairness statute, RCW 42.36, and remanded the matter to the City Council for further action; and

WHEREAS, on September 24, 2001, a motion for reconsideration of the February 5, 2001, vote of the City Council granting the appeal and denying the permit was made, seconded, and postponed for discussion and action; and

WHEREAS, on October 1, 2001, the City Council voted to reconsider its vote of February 5, 2001, and voted to deny the appeal and to grant the conditional use permit with three conditions offered by the Applicant; and

WHEREAS, on October 15, 2001, the City Council adopted Ordinance No. 5322, denying the appeal and granting the permit with conditions, including the three new conditions added by the City Council; and

WHEREAS, the City Council's decision denying the appeal and granting the permit was appealed by the Association to the King County Superior Court; and

WHEREAS, on June 12, 2002, the King County Superior Court entered a judgement invalidating the City Council's September 24, 2001, reconsideration of its February 5, 2001, decision; its October 1, 2001 decision denying the appeal and granting the permit; and its adoption of Ordinance No. 5322, nunc pro tunc, based on failure to comply with the state Appearance of Fairness statute, RCW 42.36, and remanded the matter to the City Council for further action; and

WHEREAS, on June 17, 2002, a motion for reconsideration of the February 5, 2001, vote of the City Council granting the appeal and denying the permit was made and seconded, and thereafter the Council voted to reconsider its vote of February 5, 2001, and to deny the appeal and grant the conditional use permit with three conditions offered by the Applicant; and

WHEREAS, the City has complied with 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 of the Hearing Examiner as set forth in "Findings of Fact, Conclusions of Law and Decision" on Conditional Use Permit Application No. 99-2242-LB, issued on August 11, 2000, and "Findings, Conclusions and Recommendation on Remand" issued on December 14, 2000, except for the first sentence of the third paragraph of Finding of Fact No. 19 on lines 15 and 16 of page

9 of the "Findings, Conclusions and Recommendation on Remand" issued on December 14, 2000, which sentence is in error and is hereby corrected to read as follows:

"19. . . . .

Cougar Mountain Way is a local street." (Comprehensive Plan, Transportation Element, Figure TR. 3, page VII-24)

Section 2. The City Council adopts the following additional Findings of Fact supported by the record:

1. Between 88% and 90% of the traffic from the proposed school at the site is expected to travel on Cougar Mountain Way SE. A significant amount of that traffic will also travel through the intersection between Cougar Mountain Way SE and Lakemont Boulevard. Although the intersection does not currently meet warrants for the installation of a traffic signal, one of the turning movements currently operates at Level of Service F. The traffic generated by the proposal will have an impact upon this intersection. Transcript #1, pp 44-49.)

2. During the remand hearing conducted by the Hearing Examiner on November 30, 2000, City Staff member Chris Dreaney testified that the Transportation Department would consider installation of a traffic signal at this intersection at the time the CIP project for improvements to Cougar Mountain Way SE goes through the design process. (Transcript #4, p. 36)

3. During the remand hearing conducted by the Hearing Examiner on November 30, 2000, Wilder Dominick, Head of Open Window School, testifying on behalf of applicant, stated that the school would offer $5000 to set aside towards the signalization of the intersection should the City determine it to be necessary to install a signal within six years. Dominick testified that $5000 represented the applicant's understanding of its proportionate share of impacts to the intersection based on the cost of installing signalization. (Transcript #4, pp. 131-32.)

4. At the City Council hearing on the remand issues conducted on February 5, 2001, counsel for applicant, Linda Youngs, affirmed the offer to contribute $5000 for signalization of the intersection and stated that the applicant agreed that the six year period would begin to run from the date of the issuance of the building permit for the school. City Staff member Chris Dreaney confirmed that this amount would represent the proportionate share of the proposal's impact on the intersection.

5. The proposal will generate significant amounts of traffic that would substantially impact the surrounding low-density, single-family neighborhood if not mitigated. The timing of the traffic spikes from the proposed use, if not mitigated, would have a negative effect upon the safety of school children waiting for and being dropped off by buses from the local public schools or walking to and from those buses and/or along the affected streets. (Transcript #1, p. 64)

6. In his Decision issued August 11, 2000, the Hearing Examiner imposed 13 traffic-related conditions upon the applicant for evening and weekend activity and upon the occurrence of inclement weather (Decision, Section A. Discretionary Conditions of Approval, Condition #6, p. 8)

7. In briefing submitted to the City Council on September 27, 2000, for the initial appeal hearing, applicant offered to accept the imposition of those 13 conditions, with modifications proposed by the Applicant, to all of its activities, 24 hours a day, seven days a week. (Hearing Examiner Report, Correspondence, September 27, 2000 submission of John Milne, (Applicant), pp. 152-163)

8. During the initial appeal hearing conducted by the City Council on October 5, 2000, counsel for the applicant, John Milne, affirmed the offer made in his September 27th letter. (Transcript #2, pp. 37-38.)

9. In his Decision dated August 11, 2000, the Hearing Examiner imposed Discretionary Condition No. 6 on the School prohibiting any evening or weekend use of the site not related to a School function. The stated purpose for this condition was to control potential traffic impacts to the Cougar Mountain community. (Decision, Section A. Discretionary Conditions of Approval, Condition #6, p. 8)

10. During the July 27, 2000 Hearing Examiner proceedings, Head of School Wilder Dominick testified regarding the School's desire to become part of the Cougar Mountain neighborhood and to participate in the Neighborhood Association. Dominick further testified that the School viewed its summer program, which is open to the public, to be a great program for the neighborhood children. (Transcript #1, p. 24)

11. The City received a letter dated March 13, 2001 from the Cougar Mountain Residents Association requesting that the Discretionary Condition No. 6 be amended to permit the School, at its sole discretion, to open its facilities to use for neighborhood activities.

12. At the City Council meeting on June 17, 2002,Wilder Dominick, representative of the Applicant, affirmed the School's agreement to the amendment of Discretionary Condition No. 6 to permit the School, at its sole discretion, to open its facilities to use for neighborhood activities. Such use is supported by Comprehensive Plan Policies PA-14, -15, -16 and –17.

13. Allowing the School, in its discretion, to permit use of its facilities by neighborhood residents will not increase the amount of non-local traffic to and from the School, and will not significantly increase the amount of local traffic to and from the School.

Section 3. The City Council adopts the Conclusions of the Hearing Examiner as set forth in "Findings of Fact, Conclusions of Law and Decision" on Conditional Use Permit Application No. 99-2242-LB, issued on August 11, 2000, and "Findings, Conclusions and Recommendation on Remand" issued on December 14, 2000.

Section 4. The City Council adopts the following additional Conclusions based upon the above-adopted Findings of Fact:

1. The significant traffic generated by the proposal will also have an impact upon the intersection of SE Cougar Mountain Way and Lakemont Boulevard. It appears that a traffic signal will be warranted in the future at this intersection as a result of the cumulative impacts of this and other development proposals. The applicant has offered $5,000 towards installation of a traffic signal at this location. $5,000 is an appropriate amount that

represents the proportionate share of the cost to signalize this intersection to mitigate the impacts generated by this proposal on the intersection.

2. The Conditional Use Permit Criteria contained in BLUC 20.30B.140(D) require that the conditional use will not be materially detrimental to uses or property in the immediate vicinity of the subject property. The significant amount of traffic generated by the proposal has the potential to negatively impact the surrounding low-density single family properties if the Conditional Use Permit is not appropriately conditioned to mitigate those impacts. The imposition of the 13 restrictions found in Hearing Examiner Discretionary Conditions of Approval, Condition #6, on the activities of the school at all times, as opposed to only at those times specified by the Hearing Examiner in his conditions, will appropriately mitigate the impacts on the surrounding low-density single family properties from the increased non-local traffic which is expected to be generated by this proposal.

3. Comprehensive Plan Policies PA-14, -15, -16, and –17 encourage partnerships with non-profit agencies and school districts to utilize school sites for recreation, meeting space, athletic instruction and special activities. There is material and substantial evidence in the record that by limiting the availability of the school facilities to the neighborhood, these Comprehensive Plan policies are furthered, without adding to the non-local traffic generated by the School itself, or significantly adding to local traffic to and from the site.

Section 5. Based on the foregoing Findings of Fact and Conclusions, the City Council enters the following Decision:

The City Council concludes that appellant failed to meet its burden to prove that the Hearing Examiner's Decision and Recommendation that the Conditional Use Permit be approved, with conditions, were not supported by material and substantial evidence in the record. The appeal is hereby denied, and the Decision of the Hearing Examiner approving the Conditional Use Permit, with conditions, is modified, and as modified is approved, subject to the following Conditions:

A. Discretionary Conditions of Approval

1. Number of Students

The school may have a maximum population of 315 students. To ensure compliance, within 7-days after the start of each school year the school administrator shall provide written notification to the City of Bellevue, Land Use Division Director, disclosing the total number of students who are registered and expect to be registered for that school year. To exceed a population of 315 students requires formal City approval per LUC and 20.30B.175.

2. Wetland Buffer Trail

The applicant has proposed to include a pedestrian trail in the wetland buffer for educational purposes. The building permit drawings shall be revised to include the proposed location and design for any foot trail within the buffer, including nodal area. The proposed trail shall exclude grading, but include the installation of a surface material that can accommodate foot traffic without damaging the buffer or wetland environments, and planting as discussed under condition 3, below. Lastly, all proposed work in the wetland buffer shall be reviewed, approved and field inspected by the project wetland biologist. The building permit submittal shall include a letter from the biologist confirming that he/she has reviewed and approved the proposed work the wetland buffer, and will field inspect the work

in progress to ensure that it is completed per the City approved plans and without damage to the wetland.

3. Wetland Buffer Planting

To ensure that any planting in the wetland buffer is done without damaging the buffer environment, the planting shall include the following notes/provisions specific to wetland buffer planting: a) All plants shall be indigenous to a wetland buffer environment, b) All planting and irrigation installation shall be done with hand tools, c) All backfill planting soil shall be free of commercial fertilizers, d) All plants shall be legally "collected" or nursery grown, e) All excavated soil for new plants shall be temporarily stored without affecting vegetation to remain and used for backfill in the planting process, f) All exposed soil around newly installed plants shall be mulched with a 3-inch layer of straw that completely covers the excavation, g) The proposed plants shall be of a scale and character that help contain activities to the trail and minimize potential damage to the buffer, h) The plants shall be irrigated by a temporary, above-ground irrigation system, i) The irrigation system shall be removed when the plants are established (maximum 2-years), and j) Damage to the buffer landscape shall be minimized during construction of the trail.

4. School Start Time

To reduce the concentration of school related traffic in the surrounding neighborhood and ensure that there is sufficient parking in the afternoon, when the student enrollment exceeds 250 the dismissal time for all students shall be staggered by twenty minutes. Secondly, the children will be dismissed by family, not class.

5. Water Quality Treatment in The Northern Portion of The Site

In order to mitigate for potential adverse impacts to water quality within the Lewis Creek Drainage Basin, the applicant may choose to comply with either of the following options:

Provide storm water runoff control facilities per the current Utility Department Engineering Standards <u>and</u> pay a fair share charge, including any future long term maintenance charges, for the benefit and use of the Lakemont Regional Facility,

OR

Provide both runoff control and water quality treatment facilities onsite per the current Utility Department Engineering Standards.

6. Weekend & Evening Activities

To control potential weekend and evening use of the school facilities by the school or a community group, and related traffic impacts to the community, all such activities shall be limited to Open Window School functions, unless Open Window School, in its sole discretion, opens its facilities to use for neighborhood activities.

7. Parking and Traffic Mitigation

School officials shall complete the steps identified by the project traffic consultant, including:

a. Accommodate all parking demand on-site;
b. When the student enrollment exceeds 250, institute two dismissal periods, twenty minutes apart, and dismiss students according to family;
c. Actively , and in an ongoing manner, discourage the parents from using Kline Hill Road;

d. Work with families to encourage carpooling and minimize traffic and parking demand;

e. Work with the City of Bellevue to ensure that School Zone and reduced speed limit signs are installed as required;

f. If acceptable to the Association, appoint a permanent School representative to the Cougar Mountain Neighborhood Association in order to have an active part in improving neighborhood conditions, and to communicate with residents of the neighborhood about parking and traffic issues on a regular basis;

g. Within one week of the start of the school year, the School shall mail a full schedule of weekend and evening events to all homes within 200-feet of the site. Secondly, the School shall mail specific 14-day advance notice of evening and weekend school events involving more than 100 persons to all homes within 200-feet of the school site and to the Cougar Mountain Neighborhood Association;

h. Provide qualified school staff or volunteers to manage on-site parking and traffic flow to ensure that traffic does not back up onto the frontage roads.

i. For all School events, or when it has been determined that parking demand will likely exceed parking supply on-site, the school administration shall institute a site and parking management plan. When warranted, the plan shall include provisions for special parking (valet or tandem) and/or locating appropriate off-site parking for carpooling or van pooling to the school site;

j. The school shall establish a weather-watch contact in the neighborhood in order to determine when school starts need to be delayed or cancelled, or alternative access plans put into effect;

k. As part of the neighborhood association, the school shall exert efforts to maximize plowing, sanding and maintenance efforts by the City for the Cougar Mountain Area, and

l. If acceptable to the City, the School will install or pay in lieu fees to have installed crosswalks on SE 60th St. and 168th Ave. SE to facilitate pedestrian and bicycle flow in the area.

8. Contribution to Cost of Traffic Signal

Applicant shall pay to the City the sum of $5,000 to be set aside towards contribution to the cost to the City of Bellevue for installation of a traffic signal at the intersection of Cougar Mountain Way SE and Lakemont Boulevard. The sum paid to the City shall be returned to the Applicant in the event that a traffic signal is not installed within six years of the issuance of a building permit for the proposed school.

B. Code Required Conditions of Approval

1. Project Codes, Ordinances & City Staff Reviewers

The proposed project shall comply with all applicable Bellevue City Codes and Ordinances, including but not limited to:

Clearing & Grading Code	BCC 23.76 – E. Mecum, (425) 452-7860
Trans. Development Stds.	BCC 14.60 – L. Glas (425) 452-2841
Trans. Improvement Prog.	BCC 22.16 " "
Bellevue Utilities Code	BCC 24.02; J. Stewart, (425) 452-4474
Construction Codes	BCC Title 23; G. Schrader (425) 452-6451
Land Use Code	BCC Title 20; K. Thiem, (425) 452-2728
Sign Code	BCC Title 22 " "

Noise Control	BCC 9.18	" "
Uniform Fire Code	BCC, Bill Lehner, (425) 452-6946	

a. The following code requirements (i-x) are referenced to ensure compliance with these provisions prior to issuance of any demolition, clear and grade, shoring, or building permit:

i. CODES & STANDARDS

The water, sewer, and storm drainage systems shall be designed per the new Utility Codes (adopted 4/3/95) and Engineering Standards. All design review and plan approval shall be performed under the Developer Extension Agreements. All engineering design will be to current code or Development Standards.

ii. SITE LAYOUT

Utilities Department approval of the Conditional Use / Design Review is based on conceptual designs of the water, sewer and storm drainage systems. Changes to the site layout may be required to accommodate the utilities engineering approval.

iii. SIGNAGE

Proposed signage shall be architecturally integrated with the project and sensitive to the development context. The signage shall be oriented to the movement of pedestrians and vehicles along the abutting streets.

iv. TRANSPORTATION IMPACT FEE

Payment of a transportation impact fee is required for the proposed development. The current fee is $9.10 per student for a total of 315 students. The fee schedule is subject to change and the applicant will be required to pay the scheduled fee at the time of building permit issuance

v. FRONTAGE IMPROVEMENTS

The applicant shall provide street frontage improvements on SE 60th Street and 168th Place SE fronting the site. Improvements shall include a 5' wide concrete sidewalk, curb and gutter, a 5' wide future bike lane, storm drainage facilities, driveway approaches, undergrounding of utility lines, street lighting, and street widening.

vi. STREET LIGHTING PLAN

Prior to issuance of building permit, the applicant shall submit for review and approval a street lighting plan stamped by a registered professional engineer.

vii. RIGHT OF WAY USE PERMIT

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

(a) designated truck hauling routes,
(b) truck loading and unloading activities,
() location of construction fences,
(d) hours of construction and hauling,
(e) maintenance of pedestrian access,
(f) provisions for st. sweeping, excavation, and construction,
(g) location of construction signs and pedestrian detour routes,
(h) all construction activities as they affect public streets.

viii. OFF STREET PARKING

The applicant shall secure sufficient off-street parking for construction workers.

ix. PARKING STALL DIMENSIONS

The applicant shall revise the plans to show compliance with the minimum parking stall dimensions required by the Land Use Code, or provide the Director with more convincing facts and evidence that the proposed stall width and parking bay dimensions will adequately serve the drivers parking at this site.

x. SEASONAL RESTRICTIONS

This site is subject to seasonal restrictions. City approval for site construction from Nov. 1 through April 31 (rainy season) is contingent on the applicant implementing *extraordinary* erosion control measures. These measures shall include, but are not limited to: 1) providing a temporary erosion and sedimentation control plan (TESC) in narrative form; 2) installing a City-approved geosynthetic erosion control system; 3) installing City-approved catch basin inserts; 4) providing an erosion control pond sized for the 10-year, 24-hour storm in developed condition with 20 percent safety factor and length to width ratio of 10-to-1; 5) turbidity monitoring; 6) funding of additional inspections; and 7) providing larger abatement securities. Any time the applicant is unwilling or unable to fully prevent erosion and sediment discharge from the site the City will suspend work on the project until the dry season.

b. The following conditions (xi and xii) are referenced to ensure compliance with these provisions of the Code <u>prior to issuance of any Certificate of Occupancy and/or final inspection</u>:

xi. LANDSCAPE INSTALLATION ASSURANCE DEVICE

The TCO requires completion of all site landscaping or a landscape installation assurance device for 150% of the cost of labor and materials for landscaping not yet installed.

xii. LANDSCAPE MAINTENANCE ASSURANCE DEVICE

The applicant shall provide to this Department a performance assurance device equal to 20% of the cost of site landscaping (based on the landscape architect's estimated cost to provide and install all plant material shown on the City-approved landscape plan). This device shall be an Assignment of Savings, Letter of Credit, or bond from an approved bonding company. Approximately one year after occupancy of the building, site landscaping shall be inspected by the City. Following the inspection, the owner shall replace all unhealthy or dead plant material per the approved plan. Upon completion of the restoration, the assurance device shall be returned to the applicant, provided that if the owner fails to replace required material, the City shall use necessary funds from the assurance device to complete the restoration.

Section 6. This ordinance shall take effect and be in force five days after its passage and legal publication.

0538-ORD
06/27/02

ORIGINAL

Passed by the City Council this 1st day of July, 2002, and signed in authentication of its passage this 1st day of July, 2002.

(SEAL)

Connie B. Marshall
Connie B. Marshall, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

Lori M. Riordan
Lori M. Riordan, Assistant City Attorney

Attest:

Myrna L. Basich
Myrna L. Basich, City Clerk

Published July 5, 2002