

CITY OF BELLEVUE  
DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT  
ENVIRONMENTAL COORDINATOR  
450 – 110<sup>th</sup> Avenue NE  
BELLEVUE, WA 98004

## NOTICE OF ACTION

---

Notice is given under SEPA, RCW 43.21C.080, that the **CITY OF BELLEVUE** took the action described in (2) below on March 24, 2016.

1. Any action to set aside, enjoin, review, or otherwise challenge such action on the grounds of noncompliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) shall be commenced on or before April 14, 2016.

**2. Description of agency action:** Notice of Action for the Determination of Non-Significance (DNS) for the Downtown Park – Complete the Circle, Inspiration Playground & 1997 Downtown Park Master Plan Update. The final decision of the City on the DNS was issued on March 11, 2016, following an administrative appeal of the DNS to the City Hearing Examiner.

**3. Description of proposal:** This action is for a Threshold Determination under the State Environmental Policy Act (SEPA) regarding the Downtown Park Complete the Circle and Inspiration Playground projects. In addition, the Threshold Determination also includes a concurrent programmatic review of the 1997 Downtown Park Master Plan Update, which supports both the Complete the Circle and Inspiration Playground improvement projects. **The City of Bellevue is now hereby issuing the associated Clear and Grade (14-147761-GD) permit to begin construction of the Complete the Circle improvements in the Downtown Park.**

**4. Location of proposal:** The Bellevue Downtown Park is located within Downtown Bellevue and is bordered by NE 4<sup>th</sup> Street to the north, 100<sup>th</sup> Avenue NE to the west and NE 1<sup>st</sup> Street to the south. Addresses for the park property(s) are as follows: 131 103<sup>rd</sup> Avenue NE, 10001 NE 4<sup>th</sup> Street, 10201 NE 4<sup>th</sup> Street, 204 100<sup>th</sup> Avenue NE and 210 100<sup>th</sup> Avenue NE.

**5. Type of environmental review under SEPA:** Determination of Non-Significance (DNS). This DNS was issued by the Development Services Department on August 6, 2015. Following an administrative appeal on the DNS, the final determination of the City was issued by the Bellevue Hearing Examiner on March 11, 2016.

6. Documents may be examined during regular business hours at Bellevue City Hall, Development Services Department, Public Records, 450 110<sup>th</sup> Avenue NE, Bellevue, Washington.

**7. Name of agency, proponent, or applicant giving notice:** City of Bellevue, Development Services Department.

**8. This notice is filed by** *Carol V. Helland, Environmental Coordinator:*

Signed: *Carol V. Helland*

Date of Notice: **March 24 and March 31, 2016**

Appeal: Pursuant to the provisions of Ch. 36.70C RCW, appeal period to Superior Court ends April 14, 2016

---

This Notice of Action may be withdrawn at any time if the proposal is modified so that it is likely to have significant adverse environmental impacts; if there is significant new information indicating, or on, a proposal's probable significant adverse environmental impacts (unless a non-exempt license has been issued if the proposal is a private project); or if the DNS was procured by misrepresentation or lack of material disclosure.

**BEFORE THE HEARING EXAMINER  
FOR THE CITY OF BELLEVUE**

In the Matter of the Appeal by )  
)  
**VANDER HOEK CORPORATION,** )  
)  
of a SEPA DNS issued by the City’s Land Use )  
Director for the Bellevue Parks Department )  
Proposal known as the “*Downtown Park-*)  
*Complete the Circle, Inspiration Playground &*)  
*1997 Downtown Park Master Plan Update*” )  
located in the City of Bellevue, Washington )  
)  
DSD File No. 15-107579-LM )

**AAD 15-71**

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

**I. SUMMARY OF DECISION.**

The Vander Hoek appeal is denied. The Determination of Non-Significance (DNS) is affirmed.

**II. PROJECT PROPOSAL.**

The Proposal addressed in the challenged DNS is from the Bellevue Parks and Community Services Department and is known as the “*Downtown Park-Complete the Circle, Inspiration Playground & 1997 Downtown Park Master Plan Update*”

The full Proposal includes two “Project-Level” reviews, in this case two park-improvement projects: a) “Complete the Circle”, which will do just that – complete the circle as the park was initially designed, finishing the southeast portion of the “pie” as it was sometimes called, by removing a parking lot area, continuing the water feature that is presently only ¾ of a full circle, and installing a terraced grass slope, seating walls, and an event space with a stage area; and b) “Inspiration Playground”, which will replace an existing, somewhat dated playground, in the southwest corner of Downtown Park, with a new playground that includes a number of features and equipment designed to

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DECISION RE: VANDER HOEK APPEAL OF  
SEPA DNS FOR DOWNTOWN PARK – COMPLETE  
THE CIRCLE, INSPIRATION PLAYGROUND &  
1997 DOWNTOWN PARK MASTER PLAN UPDATE,  
AAD 15-71**

**BELLEVUE HEARING EXAMINER’S OFFICE**  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012

1 accommodate children of all abilities, including caregivers. These projects will require  
2 elimination of a parking lot in the Park’s southeast area, necessitating certain upgrades,  
3 changes, and additional spaces in the parking lots on the west and southwest portions of the  
park. *(More detailed project descriptions can be found in the DNS, on pages 2-4, and on  
page 3 of the SEPA “project” checklist).*

4 The Proposal also includes a “Programmatic (Non-project) Review” of the City’s  
5 1997 Downtown Park Master Plan Update. In 1985, the City issued a full Environmental  
6 Impact Statement, prior to adopting the design now generally reflected in Downtown Park.  
7 Two major phases of the Park were constructed during projects that began in 1986 and  
8 1990. In 1997, after creation of a Citizens Advisory Committee and months of meetings,  
9 involving work with consultants who developed the original design and construction  
10 phases, the Committee generated the Update, which was adopted by the City Council in  
11 June of 1997. While commencing review for the Complete the Park and Inspiration  
Playground projects, City staff discovered that the 1997 Master Plan Update process did not  
include a formal SEPA environmental review. To remedy the situation, the current  
“Proposal” expressly includes a programmatic (non-project) environmental review of the  
Downtown Park Master Plan Update. *(Testimony of Ms. Helland and other City witnesses;  
DNS, pages 2, 3, 26 and 27).*

### 12 III. PROCEDURAL BACKGROUND.

13  
14 This is an appeal of a SEPA Determination of Non-Significance (DNS) issued by  
15 the City of Bellevue for the Parks Department’s “Downtown Park – Complete the Circle,  
16 Inspiration Playground and 1997 Downtown Park Master Plan Update,” issued on or about  
August 6, 2015.

17 A SEPA DNS is a “Process II” decision, made by the City’s Environmental  
18 Coordinator. 20.35.015.C. Process II matters may be appealed to the City’s Hearing  
Examiner. LUC 20.35.250.

19 On or about August 20, 2015, the Vander Hoek Corporation (VHC) submitted a  
20 timely appeal of the SEPA DNS, with a 7 page appeal statement, that generally complied  
21 with applicable procedural and content requirements found in city codes and rules of  
procedure for the Hearing Examiner’s Office. A copy of the appeal and the SEPA  
threshold determination at issue is on file at the Hearing Examiner’s Office.

22  
23 The matter was assigned to the undersigned Examiner, and an initial Pre-hearing  
Conference occurred on September 29, 2015. The Prehearing Order issued thereafter

24 **FINDINGS OF FACT, CONCLUSIONS OF LAW**  
25 **AND DECISION RE: VANDER HOEK APPEAL OF**  
26 **SEPA DNS FOR DOWNTOWN PARK – COMPLETE**  
**THE CIRCLE, INSPIRATION PLAYGROUND &**  
**1997 DOWNTOWN PARK MASTER PLAN UPDATE,**  
**AAD 15-71**

**BELLEVUE HEARING EXAMINER’S OFFICE**  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012

1 confirmed that neither respondent raised any procedural objections to prevent this appeal  
2 from moving forward.

3 ***Parties of Record, Counsel:***

4 The parties to this appeal and their counsel of record are: the Vander Hoek  
5 Corporation (“VHC”), the appellant in this matter, represented by Aaron Laing, from  
6 Schwabe, Williamson & Wyatt, P.C.; Respondent City of Bellevue, Development Services  
7 Department, Land Use Director, represented by Assistant City Attorney, Catherine Drews;  
8 and Respondent/Project Proponent City of Bellevue, Parks and Community Services  
9 Department, represented by Assistant City Attorney Cheryl Zakrzewski.

10 ***Issue Presented:***

11 Whether the Director’s SEPA DNS threshold determination is supported by a  
12 preponderance of the evidence?

13 ***Burden of Proof, Substantial Weight Given to Director’s Decision:***

14 The appellant, Vander Hoek Corporation, bears the burden of proof to establish that  
15 the challenged SEPA threshold determination is not supported by a preponderance of the  
16 evidence. LUC 20.35.250.F. The same provision of the City’s Land Use Code mandates  
17 that the Hearing Examiner “*shall accord substantial weight*” to the decision challenged in  
18 this appeal.

19 ***Hearing Dates:***

20 The appeal hearing spanned some or all of ten days in the month of January,  
21 beginning on January 12<sup>th</sup>, continuing on January 13, 14, 19, 20, 21, 22, 27, 28, and 29,  
22 2016, at Bellevue City Hall, in the Council Chambers, where the room was open to the  
23 public or others who sat in the room as various witnesses provided their testimony under  
24 examination by counsel for the parties.

25 **IV. RECORD.**

26 A list of the complete set of the documentary evidence included as part of the  
Record is on file in the Hearing Examiner’s Office, at Bellevue City Hall.

Before the hearing, the City filed a motion seeking dismissal of portions of the appeal,

FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DECISION RE: VANDER HOEK APPEAL OF  
SEPA DNS FOR DOWNTOWN PARK – COMPLETE  
THE CIRCLE, INSPIRATION PLAYGROUND &  
1997 DOWNTOWN PARK MASTER PLAN UPDATE,  
AAD 15-71

BELLEVUE HEARING EXAMINER’S OFFICE  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012

1 providing legal arguments and support for their position. The appellant responded, and  
2 reply briefs were filed as well. The Examiner received oral arguments from counsel, and  
3 denied the City's motion. Consistent with the Prehearing Order, the City submitted a 38  
4 page "Response" to the appeal, dated December 18, 2015. The detailed appeal statement  
5 from the appellant, their multiple SEPA and other written public comments, the 32 page  
6 Determination of Non-Significance that is the subject of this appeal, and prehearing  
7 briefing filed by the parties, are all among the thousands of documents included as part of  
8 the Record that provide a comprehensive summary of the legal, procedural, and factual  
9 positions of the parties.

10 During the appeal hearing, all witnesses testified under oath, and hearing  
11 proceedings were digitally recorded. Counsel worked together to coordinate witness  
12 schedules and presented well-organized exhibits and sworn testimony in support of their  
13 respective positions. All of the party representatives, attorneys and their assistants working  
14 on this appeal are deserving of commendation for their thorough and professional approach  
15 demonstrated throughout the course of the hearing process. The issues may appear dry to an  
16 outsider, but emotion, sincere dedication, and a thoughtful spirit of commitment to what  
17 each person viewed as the best interests of the community was evident, throughout  
18 testimony of witnesses, arguments by counsel, and interactions between participants.

19 The Examiner made several site visits to Downtown Park, the parking lots, the  
20 surrounding streets, and portions of Old Bellevue in the weeks following the hearing.

21 There were 16 separate witnesses called to provide sworn testimony, and several of  
22 those were recalled to testify more than once. The witnesses<sup>1</sup>, dates of their testimony, and  
23 a brief (non-exclusive) description of their testimony is provided below:

24 January 12<sup>th</sup> –

25 1. *Laurie Tyler*, Associate Land Use Planner for the City of Bellevue, lead planner  
26 assigned to the applications addressed in the DNS on appeal. Ms. Tyler provided a  
brief summary of the Proposal and elements that were included in the environmental  
review process, summarized in Exhibit C-301.

2. *Carol Helland*, Land Use Director, Environmental Coordinator (SEPA  
Responsible Official), for the City of Bellevue, holds delegation from Development  
Services Department Director to exercise all authority given to the "Director" in the  
City's Land Use Code, including without limitation review and issuance of the SEPA

---

<sup>1</sup> Resumes for City employees and City consultants called to testify at the hearing are included in Exhibit C-344.

1 DNS on appeal in this matter. Ms. Helland was called as the appellants' first witness,  
2 where she was questioned regarding exhibits she relied upon in reaching her decision  
3 that is on appeal, her professional background, experience, and authority as the City's  
4 SEPA Responsible Official, her scope of authority and limitations under SEPA, a  
5 summary of the environmental review for the Proposal, how six parking studies were  
6 considered before issuing the DNS, how she viewed the TENW (Read) parking study  
7 as "irrelevant" because it failed to distinguish park-users from non-park users of  
parking spaces in the Park, and how she based her determination on what she viewed  
as typical, everyday, demand for park-user parking in the Park, outside special events  
and the like; how the parking review does not consider "existing" parking for a  
project site, only the proposed parking to serve uses on the site; and how the 85%  
utilization figure is not a free-standing city parking policy.

8 January 13<sup>th</sup> –

9 2. *Carol Helland*, continued;

10 3. *Pamela Fehrman*, Project Manager for the City of Bellevue, Parks & Community  
11 Services Department, responsible for multiple Parks Department Capital  
12 Improvement Projects, including Inspiration Playground and other improvements to  
13 Downtown Park, as addressed in the DNS at issue in this appeal. Mr. Laing called  
14 Ms. Fehrman during appellant's case in chief, to testify regarding her work on the  
15 Proposal, her descriptions of new playground concepts and proposals in various grant  
applications for funding that would aid in design or construction of improvements to  
Downtown Park, and her work with the Bellevue Rotary to help finance development  
of the Inspiration Playground;

16 January 14<sup>th</sup> –

17 3. *Pamela Fehrman*, continued;

18 4. *Carl Vander Hoek*, one of the appellants, Project Manager for the Vander Hoek  
19 Corporation, called briefly to authenticate his Exhibit No. 160, and note differences  
20 with portions of Ms. Fehrman's testimony;

21 5. *Robert Rose*, owner/operator of Brant Photographers, local Bellevue family  
22 business, past-President of the Bellevue Rotary Club; active in Bellevue Rotary  
23 fundraising efforts to plan and develop playground enhancements at Downtown Park,  
24 now known as Inspiration Playground project;

25 **FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DECISION RE: VANDER HOEK APPEAL OF  
SEPA DNS FOR DOWNTOWN PARK – COMPLETE  
THE CIRCLE, INSPIRATION PLAYGROUND &  
1997 DOWNTOWN PARK MASTER PLAN UPDATE,  
26 AAD 15-71**

**BELLEVUE HEARING EXAMINER'S OFFICE**  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012

1 January 19<sup>th</sup> –

2 6. *Bradly J. Lincoln*, PE, from Gibson Traffic Consultants, Inc. (GTC), the firm that  
3 generated the Bellevue Downtown Park Parking Study, dated October 2013, which is  
4 marked with Mr. Lincoln’s Professional Engineer stamp, and is included in the  
Record under Tab 63, pages DSD-000689-711, a part of Exhibit C-300 (the DSD  
“Permit File”);

5 January 20, 2016

6 6. *Bradly Lincoln*, continued;

7 January 21, 2016

8 6. *Bradly Lincoln*, continued;

9  
10 7. *Michael Read*, PE, Principal with Transportation Engineering NorthWest  
11 (TENW), engaged by the appellant-Vander Hoek Corporation to critique Gibson  
Traffic Consultant’s parking data and recommendations for Downtown Park;

12 January 22, 2016

13 7. *Michael Read*, continued;

14 4. *Carl Vander Hoek*, appellant, Old Bellevue resident and property owner, called  
15 again to provide his personal testimony regarding observations and experiences in the  
16 area around Downtown Park and Old Bellevue;

17 8. *Julie Cairon*, resides in building immediately south of Downtown Park, with a  
18 view to the north looking into most of the park; called by the appellant to provide her  
19 personal observations and experiences in the area around Downtown Park and Old  
20 Bellevue;

21 9. *Anna Flora*, appellant, testified regarding her visit to Meadow Crest Park in the  
22 City of Renton;

23 10. *Glenn Kost*, Planning and Development Manager for the Bellevue Parks  
24 Department. Called by the City, testified that there is no correlation between grant  
25 applications and the Projects described in the SEPA application materials, described  
26 numerous Bellevue Parks facilities, that serve the needs of people of all abilities, his

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DECISION RE: VANDER HOEK APPEAL OF  
SEPA DNS FOR DOWNTOWN PARK – COMPLETE  
THE CIRCLE, INSPIRATION PLAYGROUND &  
1997 DOWNTOWN PARK MASTER PLAN UPDATE,  
AAD 15-71**

**BELLEVUE HEARING EXAMINER’S OFFICE**  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012

1 knowledge of parking available at other parks facilities, and his understanding of the  
2 intent for Downtown Park to be a “passive park”, and central gathering place;

3 11. *Stuart Vander Hoek*, appellant, President of the Vander Hoek Corporation;  
4 testified regarding his personal involvement and experiences regarding planning and  
5 development of Downtown Park, its uses and events over the years;

6 January 27, 2016

7 12. *Ken Kroeger*, Project Manager for the Bellevue Parks Department, managing the  
8 “Complete the Circle” project. He provided a summary of his understanding of the  
9 history of Downtown Park, its design and purpose, features, items and uses excluded  
10 or included over the years. Noted how Ex. 307, the 1997 Park Master Plan Update,  
11 explains that Downtown Park should not be used to solve parking problems  
12 associated with surrounding land uses, how there is no amphitheater in the Park or in  
13 current plans for the Park, how he was embarrassed that people kept reporting  
14 different numbers of parking spaces in the Park, so he conducted his own counts,  
15 reflected in Ex. 313, noting there are 199 total stalls planned for the Park, including  
16 12 ADA stalls, and that he compiled the documentation needed for SEPA checklist  
17 and submission for review by the City’s SEPA environmental staff.

18 13. *Jonathan Wilson*, Community Services Supervisor for the City of Bellevue’s  
19 Parks and Community Services Department, Chair of the City’s Special Events  
20 Committee. Mr. Wilson described the Special Events permitting process, how  
21 parking or arrangements for parking or transportation are commonly included as  
22 conditions for Special Events, key provisions of BCC 14.50 (Special Events Code),  
23 complaints he has received, enforcement he’s taken to stop violations, events denied  
24 or moved to other location, estimates his committee typically reviews 25-30 events  
25 each year,

26 January 28, 2016

13. *Jonathan Wilson*, continued;

14. *Brad Lincoln*, recalled, as part of the City’s case in chief, responded to concerns  
raised by Mr. Read, reaffirmed his professional opinions;

15. *Kevin McDonald*, Senior Transportation Planner for the City of Bellevue;

16. *Christine Dreaney*, Development Review Manager for Bellevue Transportation;

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DECISION RE: VANDER HOEK APPEAL OF  
SEPA DNS FOR DOWNTOWN PARK – COMPLETE  
THE CIRCLE, INSPIRATION PLAYGROUND &  
1997 DOWNTOWN PARK MASTER PLAN UPDATE,  
AAD 15-71**

**BELLEVUE HEARING EXAMINER’S OFFICE**  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012

1 Ms. Dreaney explained why the Proposal was not required to prepare a TIA, because  
2 it will not generate sufficient “net-new trips”, stating the potential impacts were “not  
3 even close” on “traffic operations”, noting that for Downtown Bellevue projects, a  
4 project would need to generate an “operational impact” on the city’s transportation  
5 system to require more detailed study, noting that would be something like 70  
6 condominiums or 90 hotel rooms. She concurred with the opinions provided by her  
7 former-employee, Mr. Wilson, who conducted analysis and input for the  
8 Transportation aspects of the environmental review, concluding that the Proposal  
9 would not have a negative impact of the city transportation system’s Level of Service  
10 (LOS).

11 January 29, 2016.

12 16. *Christine Dreaney*, continued;

13 2. *Carol Helland*, recalled, as part of the City’s case in chief. Testified that she has  
14 been a part of more than 1,000 SEPA Staff Reports for the City of Bellevue, noting  
15 that about 150 of those included “unspecified uses” for parking purposes, as is the  
16 case with the current Proposal. She offered credible and un rebutted testimony that the  
17 City will accept a parking utilization rate higher than 85%, and that there is no  
18 requirement to use an 85% utilization rate; and

19 11. *Stuart Vander Hoek*, recalled on request of the Examiner, to provide final hearing  
20 comments directly from one of the appellants.

## 21 V. FINDINGS OF FACT.

22 Based on the Record, the undersigned Examiner issues the following Findings of  
23 Fact:

24 1. Any factual matters set forth in the foregoing or following sections are hereby  
25 adopted by the Hearing Examiner as findings of fact, and incorporated into this section as  
26 such.

2. On one issue there appears to be no dispute – Downtown Park is a vibrant focal  
point, source of pride, and tremendous community asset to people who live, work and/or  
play in the downtown Bellevue area, including the area known as “Old Bellevue”, where

FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DECISION RE: VANDER HOEK APPEAL OF  
SEPA DNS FOR DOWNTOWN PARK – COMPLETE  
THE CIRCLE, INSPIRATION PLAYGROUND &  
1997 DOWNTOWN PARK MASTER PLAN UPDATE,  
AAD 15-71

BELLEVUE HEARING EXAMINER’S OFFICE  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012

1 the Vander Hoek Corporation offices and multiple property-holdings are located.

2 3. In the face of pointed examinations, by a thoroughly-prepared and detail-oriented  
3 Mr. Laing, City witnesses and consultants candidly and credibly presented themselves and  
4 evidence they had to support the challenged DNS. When they were wrong, or misspoke,  
5 they usually admitted to the mistake, and sought to explain or clarify the issue. But in the  
6 end, after all the storm and fury one can muster in a 10-day appeal hearing, involving  
hundreds of exhibits, reports, studies, charts, graphs and opinions, the ultimate test is  
whether the appellant proved that the DNS was not supported by a preponderance of the  
evidence. It was, so the appeal must be denied.

7 4. The appellant failed to present a preponderance of evidence to support any finding  
8 or conclusion that the Proposal will include special circumstances or unusual aspects that  
9 cannot be adequately addressed through application of existing City codes and regulations.  
10 Many of these same regulations have been adopted, revised, updated, or maintained  
11 throughout the years when the 1997 Downtown Park Master Plan Update has been in effect  
12 and has served to guide operations, planning, and use of the Park. Downtown Bellevue is a  
13 thriving regional center, and city codes, including its lengthy Land Use Code, include many  
provisions to address developments and uses of almost every shape and size, including a  
park, playgrounds, and the like. The DNS was issued with these codes and regulations in  
mind, including without limitation the city's parking guidelines for Unspecified Uses,  
which include parks.

14 5. Throughout the hearing, in questions to various witnesses, and in repeated  
15 restatements of issues raised in the appeal, Appellant's counsel sought to establish that there  
16 is a parking deficiency for Park-Users in the Park. Despite best efforts, and thorough  
questioning of key witnesses, the Record does not include a preponderance of evidence to  
establish that there is a parking deficiency for Park-Users in the Park.

17 6. Similarly, even if there is a deficiency of sufficient parking in Old Bellevue, there is  
18 no preponderance of evidence in the Record to establish that Park-Users cause such  
19 deficiency, or cause, or will cause, any probable, significant, adverse impacts on traffic or  
20 parking in the Old Bellevue area. Appellant could not point to or establish that there is a  
21 legal requirement or city policy to require the Parks Department to build extra parking to  
address perceived parking deficiencies in Old Bellevue, or any other area surrounding  
Downtown Park.

22 7. On questions from the Examiner, several witnesses confirmed that they did not  
23 believe it would be fair for the City to require a private project to incorporate extra parking  
to serve parking needs for people who do not use or visit the private project, i.e. the mall, a

24 **FINDINGS OF FACT, CONCLUSIONS OF LAW**  
25 **AND DECISION RE: VANDER HOEK APPEAL OF**  
26 **SEPA DNS FOR DOWNTOWN PARK – COMPLETE**  
**THE CIRCLE, INSPIRATION PLAYGROUND &**  
**1997 DOWNTOWN PARK MASTER PLAN UPDATE,**  
**AAD 15-71**

**BELLEVUE HEARING EXAMINER'S OFFICE**  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012

1 restaurant, or similar use. Applying the same reasoning, the appellant expressly clarified  
2 that they were not asking that the City include extra parking in Downtown Park to serve  
3 Old Bellevue or other non-park users, but that they were only seeking to ensure that there  
4 will be adequate parking in the Park for Park-users.

5 8. Ms. Helland offered an example of a vacant, heavily-parked parcel of land (the  
6 Griffin Parking Lot?), that would soon (or has already) redevelop(ed), and that such project  
7 could not be required under SEPA or any development regulation to maintain or build new  
8 parking for pre-existing parkers using the site. Instead, she explained, the city parking  
9 regulations generally require projects to provide parking to meet the needs of the use or  
10 uses provided on the redeveloped site – NOT for those on nearby properties or businesses,  
11 or for “pre-existing” users of previous parking.

12 9. Ms. Helland sat through virtually all of the testimony provided by Appellant’s  
13 traffic engineer, Mr. Read, as he raised concerns with the methodology and parking  
14 recommendations provided in the GTC parking study. She offered a salient observation on  
15 the last day of the hearing, that Mr. Read chose the worst of the worst scenarios, as support  
16 for his recommendations. Given that, she feels Mr. Lincoln was more “intellectually  
17 honest”.

18 10. Parking consultant conflicts all but rendered each meaningless, given perceived  
19 bias, and apparent desire to please their respective clients. But, the fact that only one  
20 consultant made a genuine effort to distinguish non-park and park-users that were parked in  
21 Downtown Park parking stalls, makes the GTC study far more relevant, and credible, when  
22 assessing the parking needs to “park the park”. Mr. Lincoln listened to criticism and  
23 withstood challenges to his charts, discussion points, and recommendations. In the end, his  
24 conclusions stand for the premise that Downtown Park is currently “over-parked” for park-  
25 users, and the proposed number of stalls in the re-developed park, at 199, is sufficient to  
26 cover the typical parking demands of Park-users, especially if enforcement measures are  
used to ensure they are not filled by non-park users.

11. Ms. Helland noted that the City had almost 7 different parking studies, reports, or  
substantive comments to consider, before issuance of the DNS and/or by the time the  
appeal hearing got underway, making the Bellevue Downtown Park one of the most studied  
facilities in the area. (*Testimony of Ms. Helland; Testimony of Mr. Lincoln, who noted that  
this project exceeds the amount of data collected for a typical project*).

1  
2  
3 12. The potential transportation impacts associated with the Park and Project were  
4 thoroughly reviewed by city staff and engineering consultants. *Testimony of Chris*  
5 *Dreaney, Kevin McDonald, and Carol Helland.* Ms. Dreaney credibly and thoroughly  
6 explained the type of projects that generate the level of transportation system impacts that  
7 would require a full Transportation Impact Analysis (TIA), and how the current Proposal  
8 does not even come close to the sort of impacts that would negatively effect the  
9 transportation Level of Service standard in downtown. Mr. McDonald provided credible  
10 and un rebutted testimony that the Level of Service for intersections around the Downtown  
11 Park are within the City’s LOS standards, which is “E” for the downtown area. He noted  
12 that Exhibit 330 shows an 8% decrease in the downtown PM-Peak traffic. He credibly  
13 offered his professional opinion that due to transit, bicycle use, pedestrian options, and the  
14 like, that traffic volumes have remained relatively constant over the last 20+ years, despite  
15 tremendous increases in the intensity of land uses in the downtown area. *Testimony of Mr.*  
16 *McDonald, See Figure 3, in Ex. C-328.*

17  
18 13. The Examiner finds that the appellant failed to present a preponderance of evidence  
19 to support their allegations that the Proposal will have transportation system impacts that  
20 warrant reversal of the challenged DNS. Instead, credible and convincing testimony by  
21 City witnesses and exhibits in the Record comprise more than a preponderance of evidence  
22 to demonstrate that the Proposal will not have transportation system impacts that are not  
23 adequately addressed in existing City codes, regulations, or conditions of approval noted in  
24 the DNS.

25  
26 14. Ms. Fehrman faced aggressive, and sometimes testy, questioning by appellant’s  
counsel. She endured some challenging confrontations in the form of questions, and  
withstood the pressure with respect. Her demeanor, and a genuine concern for the children  
and other populations served by the City’s park facilities, heavily weigh against any  
implication that she skewed data, sought to game numbers to her favor, or otherwise  
misrepresented the size, scope, or intent of the Inspiration Playground project that was  
ultimately reviewed as part of the DNS on appeal. Her credible explanations that various  
grant applications came with different, sometimes unique, requirements to include or  
exclude items like bathrooms, parking lots, sidewalks, or other “service area”, beyond just  
play area, appeared honest and forthright. The same goes for her explanations about how  
grant applications often come before any final design decisions are made, because securing  
funding for a project often comes before its design and permitting. No funds, no project, in  
many cases. Some grant applications were successful, some were not. In any event, none  
of the grant materials offered into evidence by the appellant serve to change the scope or

27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294  
295  
296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322  
323  
324  
325  
326  
327  
328  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339  
340  
341  
342  
343  
344  
345  
346  
347  
348  
349  
350  
351  
352  
353  
354  
355  
356  
357  
358  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368  
369  
370  
371  
372  
373  
374  
375  
376  
377  
378  
379  
380  
381  
382  
383  
384  
385  
386  
387  
388  
389  
390  
391  
392  
393  
394  
395  
396  
397  
398  
399  
400  
401  
402  
403  
404  
405  
406  
407  
408  
409  
410  
411  
412  
413  
414  
415  
416  
417  
418  
419  
420  
421  
422  
423  
424  
425  
426  
427  
428  
429  
430  
431  
432  
433  
434  
435  
436  
437  
438  
439  
440  
441  
442  
443  
444  
445  
446  
447  
448  
449  
450  
451  
452  
453  
454  
455  
456  
457  
458  
459  
460  
461  
462  
463  
464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503  
504  
505  
506  
507  
508  
509  
510  
511  
512  
513  
514  
515  
516  
517  
518  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550  
551  
552  
553  
554  
555  
556  
557  
558  
559  
560  
561  
562  
563  
564  
565  
566  
567  
568  
569  
570  
571  
572  
573  
574  
575  
576  
577  
578  
579  
580  
581  
582  
583  
584  
585  
586  
587  
588  
589  
590  
591  
592  
593  
594  
595  
596  
597  
598  
599  
600  
601  
602  
603  
604  
605  
606  
607  
608  
609  
610  
611  
612  
613  
614  
615  
616  
617  
618  
619  
620  
621  
622  
623  
624  
625  
626  
627  
628  
629  
630  
631  
632  
633  
634  
635  
636  
637  
638  
639  
640  
641  
642  
643  
644  
645  
646  
647  
648  
649  
650  
651  
652  
653  
654  
655  
656  
657  
658  
659  
660  
661  
662  
663  
664  
665  
666  
667  
668  
669  
670  
671  
672  
673  
674  
675  
676  
677  
678  
679  
680  
681  
682  
683  
684  
685  
686  
687  
688  
689  
690  
691  
692  
693  
694  
695  
696  
697  
698  
699  
700  
701  
702  
703  
704  
705  
706  
707  
708  
709  
710  
711  
712  
713  
714  
715  
716  
717  
718  
719  
720  
721  
722  
723  
724  
725  
726  
727  
728  
729  
730  
731  
732  
733  
734  
735  
736  
737  
738  
739  
740  
741  
742  
743  
744  
745  
746  
747  
748  
749  
750  
751  
752  
753  
754  
755  
756  
757  
758  
759  
760  
761  
762  
763  
764  
765  
766  
767  
768  
769  
770  
771  
772  
773  
774  
775  
776  
777  
778  
779  
780  
781  
782  
783  
784  
785  
786  
787  
788  
789  
790  
791  
792  
793  
794  
795  
796  
797  
798  
799  
800  
801  
802  
803  
804  
805  
806  
807  
808  
809  
810  
811  
812  
813  
814  
815  
816  
817  
818  
819  
820  
821  
822  
823  
824  
825  
826  
827  
828  
829  
830  
831  
832  
833  
834  
835  
836  
837  
838  
839  
840  
841  
842  
843  
844  
845  
846  
847  
848  
849  
850  
851  
852  
853  
854  
855  
856  
857  
858  
859  
860  
861  
862  
863  
864  
865  
866  
867  
868  
869  
870  
871  
872  
873  
874  
875  
876  
877  
878  
879  
880  
881  
882  
883  
884  
885  
886  
887  
888  
889  
890  
891  
892  
893  
894  
895  
896  
897  
898  
899  
900  
901  
902  
903  
904  
905  
906  
907  
908  
909  
910  
911  
912  
913  
914  
915  
916  
917  
918  
919  
920  
921  
922  
923  
924  
925  
926  
927  
928  
929  
930  
931  
932  
933  
934  
935  
936  
937  
938  
939  
940  
941  
942  
943  
944  
945  
946  
947  
948  
949  
950  
951  
952  
953  
954  
955  
956  
957  
958  
959  
960  
961  
962  
963  
964  
965  
966  
967  
968  
969  
970  
971  
972  
973  
974  
975  
976  
977  
978  
979  
980  
981  
982  
983  
984  
985  
986  
987  
988  
989  
990  
991  
992  
993  
994  
995  
996  
997  
998  
999  
1000

FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DECISION RE: VANDER HOEK APPEAL OF  
SEPA DNS FOR DOWNTOWN PARK – COMPLETE  
THE CIRCLE, INSPIRATION PLAYGROUND &  
1997 DOWNTOWN PARK MASTER PLAN UPDATE,  
AAD 15-71

BELLEVUE HEARING EXAMINER’S OFFICE  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012

1 nature of the Proposal that was addressed in the environmental review for the challenged  
2 DNS. The Examiner finds and concludes that Ms. Ferhrman’s testimony does not establish  
3 any material misrepresentation of facts or conditions that would comprise or contribute to  
4 establishing a reversible error in the SEPA Responsible Official’s review and issuance of  
5 the challenged DNS.

6 15. Mr. Rose, a long-time Bellevue business owner, and past-president of the Bellevue  
7 Rotary Club, testified with some emotion that he has established a friendship with the  
8 Bellevue staff during his years of work supporting development of Inspiration Park, that he  
9 admires and respects the City’s staff, and that he has no reason to question the Parks’ staff’s  
10 credibility.

11 16. The Examiner takes official notice that multiple municipal recreational facilities and  
12 venues exist, and continue to be developed, throughout the Puget Sound region, like ball  
13 fields, playgrounds, bike trails, climbing walls, and other popular recreational opportunities.  
14 Several issues raised in this appeal are at least partially based on an assertion that the new  
15 Inspiration Playground at Downtown Park will be a regional draw to visitors from  
16 throughout the greater-Bellevue area, thereby contributing to parking and transportation  
17 impacts that were not studied, analyzed, or properly mitigated during the environmental  
18 review process. This presumes that all-access playgrounds and equipment like that planned  
19 for Inspiration Playground are or will only be provided in the heart of downtown Bellevue  
20 for quite some time. The hypothesis fails to leave the launch pad for serious consideration,  
21 given that two Washington jurisdictions (Renton and Spokane Valley) built similar  
22 playgrounds before Bellevue. The Record establishes that Bellevue will be at least the 3<sup>rd</sup>  
23 Washington city with such a specially-designed and equipped playground. As with skate  
24 parks, play-fountains, ‘safety-surfaces’, and other trends or innovations in outdoor  
25 recreation facilities that come and go over time, imitation or replication by other Parks  
26 Departments is likely to occur, reducing the potential that Inspiration Playground will have  
unmitigated, probable, significant, adverse impacts associated with a facility that serves as a  
one-of-a-kind “regional draw” over the long-term. Even if it should out-draw projections,  
the ongoing parking studies for the next 5 years, and the potential for a step-up in parking  
enforcement (as detailed in DNS Condition of Approval No. 6), will serve to ensure that  
parking in the park is available for use by park-users.

17. During the review period for the Proposal, the City received a public request to  
include a parking structure at the Park. The City Council provided clear guidance on the  
subject of a parking garage or additional parking facilities in the Park, when it expressly  
directed Staff to move forward with the current Proposal, without any above or below grade  
parking structures. *DNS, at page 24 of 32, DSD 000038.* The Examiner is without  
authority to modify such direction, and the Record includes insufficient evidence that

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DECISION RE: VANDER HOEK APPEAL OF  
SEPA DNS FOR DOWNTOWN PARK – COMPLETE  
THE CIRCLE, INSPIRATION PLAYGROUND &  
1997 DOWNTOWN PARK MASTER PLAN UPDATE,  
AAD 15-71**

**BELLEVUE HEARING EXAMINER’S OFFICE**  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012

1 would justify the need for such structure, whether it is to serve park-users, or others who  
2 choose to park in the Park.

3 18. The appellant strongly protests the DNS, alleging that present and future Downtown  
4 Park users contribute to a perceived parking deficiency in the Old Bellevue area, where  
5 their company owns at least 10 properties. *Appeal statement; Testimony of Carl Vander*  
6 *Hoek*. The Record shows that over the years, the Bellevue City Council has been made  
7 aware of parking concerns in the Old Bellevue area, and its legislative and policy decisions  
8 reflect a purposeful effort to promote economic vitality through adjustments or exemptions  
9 to otherwise applicable parking requirements. *See Ordinance Nos. 3813 and 6257.*

10 19. Having read, re-read, witnessed, and replayed portions of testimony from traffic  
11 engineers wearing “parking consultant” hats, and then weighing their conflicting opinions  
12 with the assessment provided by the decision-maker whose determination is challenged in  
13 this appeal, the Examiner finds and concludes that Ms. Helland’s conclusions related to  
14 parking were sound, based on a thorough review of available information, and are subject to  
15 deference, in accord with applicable city codes. Based on her summary of experience and  
16 familiarity with land use codes and parking demands for projects of many types, the record  
17 shows that she has a depth of experience reviewing parking studies, development projects,  
18 and competing experts, that goes beyond that of either parking consultant who appeared at  
19 the hearing. Her opinion and expertise should not be underestimated when addressing  
20 topics at issue in this appeal.

21 20. The parking study condition of approval No. 6 imposed as part of the DNS should  
22 serve as a safety net to see that the stated purpose of this appeal is achieved. It will be a  
23 means to provide long-term monitoring to verify that the Park has sufficient parking within  
24 the park to “park the park”. While it is clear the appellants would strongly prefer that the  
25 City place no limits on public parking in the park, for people who might visit Old Bellevue  
26 instead of the Park itself, there is no legal obligation for the City, or any other property  
owner, to build or maintain parking spaces that serve cars parked by people as they visit  
some nearby destination. If the future parking studies show that non-park users are filling  
parking spaces in the park, and that park-users need those spaces, then parking enforcement  
will be an appropriate means to clear-out spaces that are intended to serve park-users.

21 21. Paraphrasing the action words contained in the definition given for the word  
22 “mitigation” in the state SEPA regulations, the term “mitigation” does not mean zero  
23 impacts, but means “avoiding”, “minimizing”, “rectifying”, “reducing”, “compensating”, or  
24 “monitoring” an impact. WAC 197-11-768.

25 **FINDINGS OF FACT, CONCLUSIONS OF LAW**  
26 **AND DECISION RE: VANDER HOEK APPEAL OF**  
**SEPA DNS FOR DOWNTOWN PARK – COMPLETE**  
**THE CIRCLE, INSPIRATION PLAYGROUND &**  
**1997 DOWNTOWN PARK MASTER PLAN UPDATE,**  
**AAD 15-71**

**BELLEVUE HEARING EXAMINER’S OFFICE**  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012

1 22. “Conditions of Approval” detailed on pages 27 – 31 of the DNS are precisely the  
2 sort of “mitigation” envisioned under SEPA, and perhaps the best any neighborhood could  
3 ask for – simply put, the plan is to monitor the use of Downtown Park parking lots for five  
4 years after Complete the Circle and Inspiration Park are constructed. If future demands  
5 exceed current projections, then additional parking enforcement will serve as a means to  
allow the Park to provide parking for park-users. Again, the ongoing parking studies will  
provide a sufficient “safety net”, to address the genuine concerns raised in the appellant’s  
SEPA comments and in many issues raised in this appeal.

6 23. Whether over- or under-estimating the precise percentage of non-park users in  
7 Downtown Park’s parking spaces, no one genuinely asserted that only park users use the  
8 spaces. All witnesses who spoke about parking confirmed or seemed to accept the fact that  
9 non-park users park in spaces that are located in Downtown Park. The dispute surrounds  
10 the volume of such parking, and whether the City has a policy, practice, or requirement that  
must allow the situation to continue. The appellant failed to present a preponderance of  
evidence that would show the DNS is incorrect in finding that the parking plan is sufficient  
for park-user needs, following project-development.

11 24. The appellant also failed to present a preponderance of evidence that would  
12 establish a city policy, practice, or requirement, under which the Parks Department must  
13 continue to allow non-park users to park in parking spaces that are located within  
14 Downtown Park, or to find them somewhere else to park. The current or past parking signs,  
15 allowing for parking after certain hours for limited periods, or similar previous  
16 arrangements, are not based on any city code or policy that would be binding on the  
17 Examiner or other city official.

18 25. The Examiner finds that current city codes and development regulations provide the  
19 Parks Department with full authority to limit parking within Downtown Park to park-users.  
20 Businesses, property owners, and uses in the Downtown area are subject to parking  
21 requirements established in the city code for uses on their property, not for those located  
22 off-site. Downtown Park is no different. No SEPA or other requirement mandates that the  
23 Parks Department should find other parking for non-park users who currently choose to  
24 park in available parking spaces within the Park.

25 26. Special Events monitoring, limits, reductions in number, or elimination of certain  
26 events, may be needed in the coming years, to ensure that parking is adequate, and traffic  
impacts continue to be considered and addressed, all under authority of the City’s existing  
Special Events Code. The Record includes testimony and evidence sufficient to establish  
that the City’s Special Events Code is well-applied, and has been used to condition, stop,  
and move events, or deny events, based on considerations noted in the Code or concerns

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DECISION RE: VANDER HOEK APPEAL OF  
SEPA DNS FOR DOWNTOWN PARK – COMPLETE  
THE CIRCLE, INSPIRATION PLAYGROUND &  
1997 DOWNTOWN PARK MASTER PLAN UPDATE,  
AAD 15-71**

**BELLEVUE HEARING EXAMINER’S OFFICE**  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012

1 identified by the Special Event Review Committee. The DNS Condition of Approval No. 5  
2 appropriately notes that the Special Events Code will be enforced, and such events require  
3 approval by the Special Events Committee.

3 27. With respect to the future parking studies to be conducted in compliance with  
4 Condition of Approval No. 6, this appeal hearing should have provided key staff with  
5 helpful insight on how to maintain an appropriate level of communication with  
6 stakeholders, to weigh-in on potential methodologies that will be used, how and when data  
7 will or should be collected, all in an effort to eliminate confusion and misunderstandings,  
8 and to hopefully establish confidence in the process used to obtain and analyze the data that  
9 will be used by future decision-makers responsible for Downtown Park issues.

8 28. Appellant, the Vander Hoek Corporation, raised 17 distinct grounds for this appeal,  
9 identified in the appeal statement as issues (a) – (q). For reasons explained above, and/or as  
10 addressed below, the appeal must be denied, because the appellant failed to meet their  
11 burden of proof, and the City presented far more than a preponderance of credible and  
12 convincing evidence to support the DNS. The captions provided below are restatements of  
13 each issue as though they were questions, and the full language of each issue raised has  
14 been fully considered and evaluated as written and submitted in the Vander Hoek’s written  
15 Appeal statement.

13 a) *Whether the City erred in issuing a DNS instead of requiring the preparation of a  
14 supplemental EIS and holding a scoping meeting, per the code and state law, in light of  
15 probable, significant, adverse environmental impacts that the Project will generate?*

15 No. Upon consideration of all the evidence, information, and testimony included  
16 within the Record, Appellant failed to establish that the Project is likely to have any  
17 probable, significant, adverse environmental impacts. Instead, the Record  
18 establishes that a preponderance of evidence supports issuance of the challenged  
19 DNS.

19 b) *Whether the City erred in failing to analyze and/or mitigate the transportation impacts  
20 to the Downtown Park / Old Bellevue area associated with the proposed physical expansion  
21 of the Park through the Project?*

21 No. The DNS properly relied on the City’s existing development regulations to  
22 adequately address any adverse parking or transportation-related impacts. Also see  
23 transportation-related findings set forth in previous and following portions of this  
24 Decision. Further, mid-range impacts/concurrency was not reviewed because BCC

24 **FINDINGS OF FACT, CONCLUSIONS OF LAW  
25 AND DECISION RE: VANDER HOEK APPEAL OF  
26 SEPA DNS FOR DOWNTOWN PARK – COMPLETE  
THE CIRCLE, INSPIRATION PLAYGROUND &  
1997 DOWNTOWN PARK MASTER PLAN UPDATE,  
AAD 15-71**

**BELLEVUE HEARING EXAMINER’S OFFICE**  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

14.10.020.I exempts public parks from the requirements of the Bellevue Traffic Standards Code. Appellant failed to show that the Project will be a “regional draw”, or that the Special Events Code is insufficient to regulate traffic and parking impacts associated with atypical-events. The Project also includes a new driveway, to serve truck access off 100<sup>th</sup> Avenue NE, directly into the Park, to reduce potential for on-street conflicts associated with loading or unloading for park events and functions. See DNS at pages 12, 13, 29 and 30.

*c) Whether the City erred in failing to analyze and/or mitigate the transportation impacts to the Downtown Park / Old Bellevue area associated with existing and proposed event programming, oversight and management in the Park?*

No. The DNS properly relied on the City’s existing development regulations to adequately address any adverse parking or transportation-related impacts. Also see transportation-related findings set forth in previous and following portions of this Decision, including without limitation the discussion under (b), above.

*d) Whether the City erred in relying on one or more parking studies that failed to properly analyze impacts that will occur as a result of the Project; over-/misrepresented non-park user parking in the park; and failed to analyze future demand for Park parking based on growth forecasts?*

No. The Record includes far more than a preponderance of evidence to establish that the DNS was based on a thorough analysis and consideration of parking needs associated with the Proposal, including future demand. Also see parking-related findings set forth in previous and following portions of this Decision.

*e) Whether the City erred in relying on one or more parking studies that relied on a non-industry standard parking utilization rate?*

No. The Record includes far more than a preponderance of evidence to establish that the DNS was based on a thorough analysis and consideration of parking needs associated with the Proposal, including future demand. Also see parking-related findings set forth in previous and following portions of this Decision. Ms. Helland provided credible and un rebutted testimony that establishes the City has no binding parking utilization rate that would apply in this situation.

*f) Whether the City erred in relying on one or more parking studies that relied on a non-industry standard parking demand forecasting methodology?*

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DECISION RE: VANDER HOEK APPEAL OF  
SEPA DNS FOR DOWNTOWN PARK – COMPLETE  
THE CIRCLE, INSPIRATION PLAYGROUND &  
1997 DOWNTOWN PARK MASTER PLAN UPDATE,  
AAD 15-71**

**BELLEVUE HEARING EXAMINER’S OFFICE**  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012

1 No. See item (e), above.

2 *g) Whether the City erred in relying on one or more parking studies that failed to analyze*  
3 *the impacts on the Downtown Park / Old Bellevue area that would occur if the City adopted*  
4 *a policy that would prohibit non-park users from parking in the Park, and further erred in*  
5 *concluding that sufficient parking is present, despite the City's alleged "existing parking*  
6 *policy" for Downtown Park?*

7 No. See item (e), above. Appellant failed to meet its burden of proof, and did not  
8 establish by a preponderance of evidence that any city policy or requirement exists,  
9 that would require continued access for non-park users to park at Downtown Park.  
10 Evidence in the Record further supports a finding that Old Bellevue, and other areas  
11 surrounding Downtown Park, could improve parking conditions through improved  
12 parking management efforts, outside the scope of this appeal.

13 *h) Whether the City erred in imposing General Condition of Approval 6 (that will require*  
14 *studies over the next 5 years to monitor the use of Park parking spaces by Park and non-*  
15 *Park users, potentially serving as a basis for targeted Parking Enforcement efforts to*  
16 *ensure that Park-parking spaces are only used by Park-users), because such condition is*  
17 *based on one or more parking studies that failed to analyze the impacts on the Downtown*  
18 *Park / Old Bellevue area that would occur if the City adopted a policy that would prohibit*  
19 *non-park users from parking in the Park, and further erred in concluding that sufficient*  
20 *parking is present, despite the City's alleged "existing parking policy" for Downtown*  
21 *Park?*

22 No. As shown in previous findings, Condition of Approval No. 6 is fully consistent  
23 with SEPA as a mitigation measure, i.e. monitoring. This issue fails, because state  
24 law and local city codes fully justify the condition, for reasons explained in previous  
25 parking-related findings, including without limitation Finding Nos. 20-27.

26 *i) Whether the City erred in ignoring citizen comments that allegedly establish that there is*  
*a parking deficiency in the Park, that park-users park offsite, that insufficient parking poses*  
*an accessibility issue for residents who cannot access the Park other than by automobile,*  
*and by failing to condition the Project to provide additional parking to meet current and*  
*anticipated future demand?*

No. As noted in previous Findings, the appellant failed to establish by a  
preponderance of the evidence that there is any parking deficiency in the Park, or  
any of the other allegations reflected in this issue.

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DECISION RE: VANDER HOEK APPEAL OF  
SEPA DNS FOR DOWNTOWN PARK – COMPLETE  
THE CIRCLE, INSPIRATION PLAYGROUND &  
1997 DOWNTOWN PARK MASTER PLAN UPDATE,  
AAD 15-71**

**BELLEVUE HEARING EXAMINER'S OFFICE**  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012

1 j) *Whether the City erred in relying on information related to Meadow Crest Playground in*  
2 *Renton, as a proxy for determining parking demand associated with Inspiration*  
3 *Playground, and in failing to condition the project to provide additional parking to meet*  
4 *current and anticipated future demand?*

5 No. City witnesses provided credible and convincing testimony to demonstrate that  
6 their consideration of Meadow Crest Playground was not a major basis of their  
7 decision, and witness testimony, from Ms. Fehrman, Ms. Helland, and others, noted  
8 how they were aware of differences between the two parks, in size and location to  
9 name a few. The DNS was not based on any “proxy”, and the Record does not  
10 include a preponderance of evidence to support Appellant’s allegations included in  
11 this issue. As noted in previous Findings, the DNS is fully supported by a credible,  
12 and convincing preponderance of the evidence, including that parking demand is  
13 adequately addressed for park-users.

14 k) *Whether the City failed to conduct necessary analyses and failed to condition the*  
15 *Project to mitigate the probable, significant adverse transportation impacts that will result,*  
16 *because it based the DNS on speculative, unstudied assertions, including that there is no*  
17 *way to predict that the playground will be a regional draw, that permanent parking for*  
18 *special events would be unreasonable, and that increased density near the Park is likely to*  
19 *result in a new user group that will easily access the Park by other means than driving?*

20 No. See discussion in previous Findings, including without limitation Finding No.  
21 16. The Appellant failed to demonstrate that Inspiration Playground will be a  
22 “Regional Draw.” Special event parking can be adequately addressed through  
23 application of the City’s Special Events Code provisions, and permitting conditions,  
24 as articulated in the DNS, and its Conditions of Approval. The Appellant failed to  
25 present a preponderance of evidence to demonstrate how statements in this issue are  
26 factually accurate, or how it would warrant reversal of the challenged DNS.

l) *Whether the City erred in failing to analyze and mitigate the transportation impacts*  
*associated with a regional park facility, because Inspiration Playground will be a regional*  
*draw?*

No. See item (k), above.

m) *Whether the City erred by failing to condition the Project to provide additional parking*  
*for the Downtown Park / Old Bellevue area, because it allegedly ignored studies that*  
*purport to show a parking deficiency in the area?*

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DECISION RE: VANDER HOEK APPEAL OF  
SEPA DNS FOR DOWNTOWN PARK – COMPLETE  
THE CIRCLE, INSPIRATION PLAYGROUND &  
1997 DOWNTOWN PARK MASTER PLAN UPDATE,  
AAD 15-71**

**BELLEVUE HEARING EXAMINER’S OFFICE**  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012

1 No. See previous findings regarding parking issues.

2 n) *Whether the City erred by “ignoring” a 1998 code interpretation?*

3 No. The City Council recently adopted Ordinance No. 6257, Ex. C-337, which  
4 explains its position and city policy regarding parking in Old Bellevue. The Agenda  
5 packet for new ordinance notes consideration of input similar to concerns raised by  
6 the appellant in this appeal, but seeks to strike a balance between economic vitality  
7 for existing businesses in Old Bellevue and parking requirements that could entail  
8 additional costs, for private businesses or the city. The Examiner is without  
9 authority to second-guess or rewrite city ordinances, whether they differ from any  
10 interpretation that the appellant prefers or not.

8 o) *Whether the City erred in deciding not to design, fund or include additional parking  
9 within the Park based upon alleged policy direction from the City Council?*

10 No. The appellant failed to present a preponderance of evidence that shows any  
11 need to design, fund, or include additional parking within the park, beyond that  
12 identified in the DNS. See all previous findings.

12 p) *Whether the City erred in failing to consider and/or condition the project on providing  
13 mitigation to address alleged probable, significant transportation impacts to the Downtown  
14 Park/Old Bellevue area that will result from the project?*

14 No. As noted in previous findings, the appellant failed to establish that the Proposal  
15 will cause any probable, significant transportation or other impacts to the  
16 Downtown Park or Old Bellevue area, that must be addressed under state or city  
17 environmental codes, beyond those detailed in the DNS, and its Conditions of  
18 Approval, which are based on applicable of existing city development regulations,  
19 which are sufficient to address potential impacts associated with the Proposal.

18 q) *Whether Appellant’s public records requests served to uncover grounds demonstrating  
19 that the City erred in issuing the DNS?*

20 No.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**VI. CONCLUSIONS OF LAW.**

1. “SEPA does not demand a particular substantive result in government decision making; rather it ensures that environmental values are given appropriate consideration.” *Glasser v. City of Seattle*, 139 Wn. App. 728, 742 (2007).

2. In this appeal, the Examiner has authority to determine if Appellant has shown by a preponderance of the evidence that the challenged DNS was not properly issued.

3. For reasons set forth in the Findings of Fact, all of the appellant’s specific issues on appeal must fail, because the City successfully presented credible, reliable, and convincing testimony and documentary evidence to prove that the DNS is supported by a preponderance of evidence in the Record.

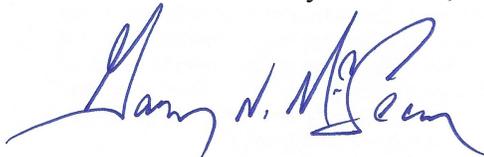
4. Appellant failed to meet its burden of proof to show that the City’s DNS is not supported by a preponderance of the evidence.

5. Any finding or other statement contained in this Decision that is deemed to be a Conclusion of Law is hereby adopted as such and incorporated by reference.

**VII. DECISION.**

The Vander Hoek appeal is denied. The Determination of Non-Significance for the “*Downtown Park-Complete the Circle, Inspiration Playground & 1997 Downtown Park Master Plan Update*” is affirmed.

ISSUED this 11<sup>th</sup> Day of March, 2016



---

Gary N. McLean  
Hearing Examiner

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DECISION RE: VANDER HOEK APPEAL OF  
SEPA DNS FOR DOWNTOWN PARK – COMPLETE  
THE CIRCLE, INSPIRATION PLAYGROUND &  
1997 DOWNTOWN PARK MASTER PLAN UPDATE,  
AAD 15-71**

**BELLEVUE HEARING EXAMINER’S OFFICE**  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012