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

In the Matter of the Application of )  
)  
**TOYOTA OF BELLEVUE** )  
)  
For a Conditional Use Permit, Critical )  
Area Land Use Permit and Design )  
Review Approval for a Multi-tiered )  
Parking Structure with 716 Stalls )  
On a 12-Acre Site in an Established )  
Retail Area within the Eastgate Subarea )

**FILE NOS: 11-117278-LB  
11-117276-LD  
11-117277-LO**

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

**SUMMARY**

**1. Decision.** The applications are **APPROVED**, subject to conditions.

**2. Proposal.** Toyota of Bellevue seeks approval to construct a 3-story, 4-tier parking structure (garage) to house their automobile inventory. The site is a level 12-acre area located behind the present Toyota dealership building in Eastgate. Immediately to the north is a steep slope. The garage will be located adjacent to the toe of the slope. The area is zoned Community Business (CB). A Conditional Use Permit, Critical Areas Land Use Permit, and Design Review approval are required.

The structure will provide parking for 716 vehicles. After subtracting the 266 existing surface stalls, there will be a net increase of 450 stalls on site. The new garage is needed because the dealership's present 350 stall offsite parking area will be eliminated in 2012. During the construction phase temporary offsite parking will need to be found for the vehicles now parked on the site of the new garage.

The proposal will not remove any significant trees. A rain garden will be installed around the perimeter, improving facilities for drainage from the site.

**3. Procedure.** The applications were filed on June 30 and July 1, 2011. Notice of Application was made on July 21, 2011. A public meeting was held on July 28, 2011. No members of the public attended. No written public comments were received.

1 The Critical Areas Land Use Permit and the Design Review Approval were made  
2 administratively with the issuance of the Staff Report on September 22, 2011. At the same  
3 time a Determination of Non-Significance was issued. There were no appeals of any of these  
4 decisions.

5 The Hearing Examiner hearing on the Conditional Use Permit application was held, upon  
6 due notice, on October 6, 2011. The Staff Report was presented by Carol Hamlin, Senior  
7 Planner. Lance Mueller, Architect, appeared for the Applicant. There was no public testimony.

### 8 **FINDINGS OF FACT**

9 1. The factual matters set forth in the foregoing **SUMMARY** are adopted by the  
10 Examiner as findings.

11 2. The proposed parking garage will be located at 3080 148th Avenue SE in the portion  
12 of Eastgate located north of Interstate 90. The site is north of and behind the present Toyota  
13 dealership building and the adjacent restaurant/retail/office complex along SE Eastgate Way.  
14 The Sun Villa Bowling Alley lies immediately to the west.

15 3. The site is currently used for parking cars on the existing blacktop surface. This  
16 surface parking will be replaced by the new garage which will be a three-story structure. Four  
17 tiers of parking will be provided by using the roof. The structure will provide 222,000 gross  
18 square feet of floor area and 716 parking stalls.

19 4. The site is zoned Commercial Business (CB). The use is allowed in the zone as a  
20 Conditional Use. The garage will be used only by the dealership and its employees. It will not  
21 be a public parking garage.

22 5. Behind the new garage to the north is a critical slope that is a designated Native  
23 Growth Protection Area. (NGPA). The slope is covered with indigenous trees and understory  
24 vegetation. The garage will be at the toe of the slope, meaning that the critical area structure  
25 setback from the slope will be reduced from 75 feet to 0 feet. The building is not expected to  
26 have any adverse impact on the slope.

27 6. The project will make a modest (680 square foot) intrusion into the NGPA during  
28 construction. This will be used to excavate footings and maneuver construction equipment. The  
29 disturbance will be temporary. When the project is complete, the finished grade will be very  
30 close to the existing grade with the exception of a 16 square foot intrusion into the NGPA next to

1 the structure for a rain water interception swale. The proposed grading will not require rockeries  
2 or retaining walls. No significant trees will be removed. A restoration plan for the critical slope  
3 disturbance has been adopted. Areas disturbed by construction will be re-vegetated with native  
4 plantings.

5 7. The garage will be in the same area as the existing paved parking lot, but will actually  
6 decrease the amount of paving through the installation of a rain garden along the perimeter  
7 covering approximately 5,600 square feet. The rain garden will be outside the NGPA.

8 8. The dimensions of the garage will be 127 feet in width (north/south) and 438 feet in  
9 length (east/west). The height will be 32.4 feet from average finished grade to the roof deck.  
10 The building will be made of concrete and steel.

11 9. Most of the new garage will be screened from view by the existing structures in front  
12 of it. However, a portion that protrudes eastward beyond these structures will be visible from  
13 Eastgate Way. Each level will include a 42-inch knee wall at the building perimeter to soften  
14 views of vehicles. The exterior walls include architectural panels and metal grates to help  
15 modulate the building envelope and reduce its perceived length. Landscaping will be installed at  
16 the base of the structure to add visual interest and visually soften the building's volume. Vine-  
17 supporting arbors will be added over the two main entrances. The vegetated slope and trees to  
18 the north will rise well above the top of the garage.

19 10. The overall dealership site is non-conforming due to the reduced width of street  
20 frontage landscaping along SE Eastgate Way. In order to build this new garage, proportional  
21 compliance is required under LUC 20.20.560. To meet this requirement, the applicant has  
22 proposed landscaping improvements around the existing Dairy Queen on SE Eastgate Way, in  
23 addition to the landscaping around the garage.

24 11. Toyota now parks some cars on a separate lower lot that is north of I-90 but some  
25 distance to the west of the dealership site. This parking will no longer be available in the future,  
26 so the new garage is needed to accommodate the dealership's inventory. The new garage will  
27 add capacity for 450 more cars at the site.

28 12. While the garage is being built, some means will need to be found to handle the  
29 elimination of the existing 266 surface parking stalls. Either the inventory of stored vehicles  
30

1 must be reduced, vehicles must be stored on a smaller footprint, temporary additional parking  
2 storage must be found, or some combination of these measures must be adopted.

3 13. The proposed garage will, when complete, result in a reduction in the number of  
4 vehicle trips generated by the dealership. Currently taking cars to and from the lower lot  
5 requires some 120 to 150 vehicle trips per day. These will be eliminated. The new parking  
6 structure is not expected to generate any new traffic.

7 14. The Staff Report thoroughly discusses the relevant design guidelines and the critical  
8 areas standards that need to be met. The administratively issued Design Review Approval and  
9 Critical Areas Land Use Permit appear to have been correctly approved. These approvals have  
10 not been challenged.

11 15. Technical reviews were conducted by various City Departments. Their requirements  
12 are reflected in conditions of approval.

13 16. The Staff Report analyzes the proposal in light of the criteria for Conditional Use  
14 Permit approval (See LUC 20.30B.140). The Staff finds that the project:

- 15 (1) will be consistent with the Comprehensive Plan;
- 16 (2) has a design that is compatible with and responds to the existing or  
17 intended character, appearance, quality of development and physical  
18 characteristics of the subject property and immediate vicinity;
- 19 (3) will be served by adequate public facilities including streets, fire  
20 protection and utilities;
- 21 (4) will not be materially detrimental to uses or property in the immediate  
22 vicinity of the subject property;
- 23 (5) will comply with the applicable requirements of this [City] Code.

24 17. The Hearing Examiner concurs with this analysis and adopts the same. The Staff  
25 Report is by this reference incorporated herein as though fully set forth.

26 18. Any conclusion herein which may be deemed a finding is hereby adopted as such.

### 27 CONCLUSIONS OF LAW

28 1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding.  
29 Under the Land Use Code the Conditional Use Permit is a Process I decision (LUC  
30 20.35.015(B)(1)).

- 1           2. The requirements of the State Environmental Policy Act (SEPA) have been met.  
2           3. The proposal, as conditioned, meets the general criteria for Conditional Use Permit  
3 Approval (LUC 20.30B.140).  
4           4. Any finding herein which may be deemed a conclusion is hereby adopted as such.

5           **CONDITIONS OF APPROVAL**

6           **1. NO PARKING, LOADING, UNLOADING IN STREET RIGHTS OF WAY**  
7           During the construction phase of the development, no parking, loading, unloading, or  
8           staging of construction-related vehicles will be allowed in any adjacent street right of  
9           way, unless specifically allowed by a Right of Way Use Permit as described elsewhere in  
10           these Conditions of Approval. After completion of the development, no parking, loading,  
11           or unloading will be allowed in any adjacent street right of way. No future right of way  
12           use permits will be issued to allow automobile transport trucks to park, load, or unload in  
13           any adjacent street right of way. (BCC 14.30)

14           **2. CONSTRUCTION NOISE HOURS**

15           Noise related to construction is allowed from 7:00 a.m. to 6:00 p.m. Monday through  
16           Friday and 9:00 a.m. to 6:00 p.m. on Saturday, except for Federal holidays and as further  
17           defined by the Bellevue City Code. Exceptions to the construction noise hours limitation  
18           contained in the Noise Control Code MAY be granted pursuant to 9.18.020C.1 when  
19           necessary to accommodate construction which cannot be undertaken during exempt  
20           hours. Written requests for exemption from the Noise Control Code must be submitted  
21           two weeks prior to the scheduled onset of extended hour construction activity. (BCC  
22           9.18.020, .040)

23           **3. USE OF BEST AVAILABLE NOISE ABATEMENT TECHNOLOGY**

24           The use of best available noise abatement technology consistent with feasibility is  
25           required during construction to mitigate construction noise impacts to surrounding uses.  
26           (BCC 9.18.020F)

27           **4. UTILITY REVIEW OF CONCEPTUAL DESIGN**

28           Utility Department approval of the conditional use and design review applications are  
29           based on the conceptual design only. Changes to the site layout may be required to  
30           accommodate the utilities after utility engineering is approved. (BCC Title 24.02, 24.04,  
          24.06)

1 **5. WATER, SEWER AND STORM DRAINAGE SYSTEMS**

2 The water, sewer, and storm drainage systems shall be designed per current  
3 City of Bellevue Utility Codes and Utility Engineering Standards. All design review, plan  
4 approval, and field inspection shall be performed under the individual permits and/or  
5 Utility Developer Extension Agreements depending on the extend of the work.  
6 (BCC Title 24.02, 24.04, 24.06)

7 **6. COMMERCIAL PARKING**

8 Use of the parking garage for commercial parking is prohibited without a new  
9 Conditional Use Permit specifically for that use. (LUC 20.10.440)

10 **PRIOR TO CLEARING & GRADING (CG) PERMIT: The following conditions**  
11 **are imposed to ensure compliance with the relevant decision criteria and Code**  
12 **requirements and to mitigate adverse environmental impacts not addressed through**  
13 **applicable Code provisions. These conditions must be complied with on plans**  
14 **submitted with the Clearing & Grading or Demolition permit application:**

15 **1. OFFSITE STORAGE FOR DISPLACED PARKING STALLS**

16 Prior to issuance of the clearing & grading permit, the inventory of stored vehicles must  
17 be reduced, stored on a smaller footprint, or a temporary parking storage area with an  
18 equal or number of stalls must be secured during the proposed construction. The  
19 applicant shall submit a written proposal for storing the inventory for City review and  
20 approval. (LUC 20.20.590)

21 **2. RIGHT-OF-WAY USE PERMIT REQUIRED**

22 Prior to issuance of any construction or clearing and grading permit, the applicant shall  
23 secure right-of-way use permits from the City's Transportation Department, which may  
24 include:

- 25 a) Designated truck hauling routes.
- 26 b) Truck loading/unloading activities.
- 27 c) Location of construction fences.
- 28 d) Hours of construction and hauling.
- 29 e) Requirements for leasing of right of way or pedestrian easements.
- 30 f) Provisions for street sweeping, excavation and construction.
- g) Location of construction signing and pedestrian detour routes.
- h) All other construction activities as they affect the public street system.
- i) Traffic control and pedestrian routing, if necessary.

1 **The applicant shall secure sufficient off-street parking for construction workers**  
2 **before the issuance of a clearing and grading, building, a foundation or demolition**  
3 **permit. (Bellevue City Code 14.30)**

4 **3. RESTORATION PLAN**

5 To assist in the re-establishment of vegetation on the slope, the property owner or applicant  
6 shall prepare a plan for and install vegetation (restoration) within the disturbed areas  
7 impacted by the proposed development. The restoration plan shall be submitted for review  
8 and approval by the City of Bellevue prior to the issuance of the clearing & grading permit  
9 or building permit. The plan must be consistent with the City's Critical Areas Hand-book  
10 for steep slope critical areas. The plan must include prescribed maintenance activities to  
11 ensure plant survival and monitoring requirements (including reporting) to document  
12 success/failure. (LUC 20.25H.210)

13 **4. PESTICIDES, INSECTICIDES AND FERTILIZERS**

14 The applicant must submit as part of the required clearing & grading permit information  
15 regarding the use of pesticides, insecticides, and fertilizers in accordance with the City of  
16 Bellevue's "Environmental Best Management Practices." (BCC 23.76.100)

17 **5. TRELLIS ELEMENT**

18 The required building permit application shall include design details for the trellis  
19 elements. (LUC 20.30F.145)

20 **PRIOR TO BUILDING PERMIT (BP): The following conditions are required by**  
21 **City Code. Unless specified otherwise below, these conditions must be complied**  
22 **with on plans submitted with the Building Permit application:**

23 **1. LANDSCAPING AND SIGHT LINES**

24 The landscape plan submitted with the building permit application shall include only low  
25 shrubs or ground cover at the corner of the driveway adjacent to the Dairy Queen on SE  
26 Eastgate Way, so as to not block vehicle or pedestrian sight lines required by city code.  
27 (BCC 14.60.240 and 241)

28 **2. EXTERIOR LIGHTING**

29 In order to mitigate potential impacts to retail establishments and glare towards SE  
30 Eastgate Way, the light source shall be incorporated into the parking garage design so as  
not to provide light and glare and spillover. Lighting fixtures shall incorporate cutoff  
shields to minimize off-site impacts. Rooftop parking area lights shall have cutoff shields.  
(LUC 20.20.522)

1 **3. REFUSE AND RECYCLING COLLECTION FACILITIES REQUIRED**

2 Collection and storage facilities for refuse and recyclable materials shall be shown on  
3 building and site plan drawings. This area shall not be visible from the street. The  
4 applicant shall provide a letter from Allied Waste that states their approval of the  
5 collection areas, as designated on the plans. (LUC 20.20.750)

6 **4. FIRE DEPARTMENT CONDITIONS**

- 7 a. Provide automatic fire sprinklers throughout the parking garage. (International Fire  
8 Code 903 & Bellevue Amendment)
- 9 b. Provide a Fire Department Connection at an approved location and within 50 feet of a  
10 fire hydrant. (International Fire Code 912 & Bellevue Fire Department Development  
11 Standards 7.8)
- 12 c. Provide a fire alarm notification system throughout the parking garage. (International  
13 Fire Code 907)
- 14 d. Provide a standpipe system in the southwest and southeast stairways with 2 1/2 inch  
15 gated hose stations at each intermediate landing. (International Fire Code 905)
- 16 e. The access road on the north and east sides of the garage can be eliminated if doors are  
17 provided on the northwest and northeast side of the garage. (International Fire Code 503)
- 18 f. Provide substantial bollards at the stairs on the 2nd, 3rd and 4th floors to maintain the  
19 required access width to the stairs. A parked car could reduce the required width.  
20 (International Fire Code Chapter 10)
- 21 g. Demolition and construction shall conform to the requirements of International Fire  
22 Code Chapter 14. (International Fire Code Chapter 14)
- 23 h. Maintain fire hydrants and water supply for existing sprinkler systems in the  
24 Toyota/shopping building. (International Fire Code 903)  
25 (LUC 20.40.490) (International Fire Code)

26 **PRIOR TO ISSUANCE OF ANY CERTIFICATE OF OCCUPANCY (CO)**

27 **1. LANDSCAPE INSTALLATION ASSURANCE DEVICE**

28 If a Temporary Certificate of Occupancy is requested prior to completion of the  
29 landscaping installation, the applicant shall file with the Development Services  
30 Department a landscape installation assurance device equal to 150% of the cost of labor  
and materials for any landscaping that has not yet been installed. (LUC 20.40.490)

**2. LANDSCAPE MAINTENANCE ASSURANCE DEVICE**

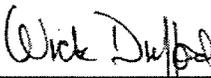
The applicant shall file with the Development Services Department a landscape  
maintenance assurance device in the form of an assignment of savings or letter of credit

1 for 20% of the cost of labor and materials for all landscaping on the site. (LUC  
2 20.40.490)

3 **DECISION**

4 Design Review and the Critical Areas Land Use Permit have been approved  
5 administratively. The Conditional Use Permit is hereby approved, subject to the conditions set  
6 forth above.

7  
8 **DONE** this 14<sup>th</sup>, day of October, 2011.

9  
10   
11 \_\_\_\_\_  
12 Wick Dufford, Hearing Examiner

13 **NOTICE OF RIGHT TO APPEAL**  
14 (Pursuant to Resolution No. 5097)

15 **RIGHT TO APPEAL-TIME LIMIT**

16 A person who submitted written comments to the Director prior to the hearing, or submitted  
17 written comments or made oral comments during the hearing on this matter, may appeal the decision of  
18 the Hearing Examiner to the Bellevue City Council by filing a written appeal statement of the Findings of  
19 Fact or Conclusion being appealed, and paying any appeal fee, no later than 14 calendar days following  
20 the date that the decision was mailed. The appeal must be received by the City Clerk by **5:00 p.m.**  
21 **October 28, 2011.**

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

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

28 **WAIVER OF TRANSCRIPTION FEE**

29 Upon request, the City Clerk will waive transcription fees upon submission by an appellant of the  
30 following documentation: a) an affidavit stating that the appellant's net financial worth does not exceed  
\$20,000; b) an affidavit stating that the appellant's annual income does not exceed \$5,200; c) a brief  
statement of the issues sought to be reviewed; d) a designation of those parts if the record the party thinks  
are necessary for review; e) a statement that review is sought in good faith.

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