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

6
7 In the Matter of the Application by

FILE NO. 18-126959 LB

8 **Silverado Memory Care**

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

9 For a Conditional Use Permit to Operate a
10 Memory Community at 14341 SE 16th
11 Street, Bellevue

12 **SUMMARY**

13 **Decision.** The application is **APPROVED**, subject to conditions.

14 **Proposal.** The applicant, Silverado Memory Care, seeks a Conditional Use Permit
15 (CUP) for a project at 14341 SE 16th Street, Bellevue, to operate a 21-unit memory care facility.

16 **Issue Presented.** The primary issue in this matter is whether the proposed Silverado
17 Memory Care project meets the criteria for Conditional Use approval under the Bellevue Land
18 Use Code (LUC) LUC 20.30B.140. The record establishes that the proposed project meets the
19 conditional use permit criteria, subject to conditions.

20 **Procedural History.** Silverado Memory Care applied for a conditional use permit for
21 the proposed new facility at issue on October 8, 2018. A notice of application and public
22 meeting was published on January 17, 2019. The City also mailed notices to property owners
23 within 500 feet of the subject property.

24 A public meeting was held on January 23, 2019. No members of the public attended the
25 meeting. The City of Bellevue (“the City”) received only one written comment and that was a
request to review the proposed structure approved in Design Review. That commenter
supported the project.

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1 The City issued a determination of nonsignificance (DNS) on the Silverado Memory
2 Care project under the State Environmental Policy Act (SEPA) and approved a Design Review
3 and Critical Areas Land Use Permit. The City issued a combined decision on these aspects of
4 the proposal on October 24, 2019. The City received no public comments or appeals on these
5 determinations. The appeal period for those determinations expired on November 7, 2019.

6 A public hearing was scheduled for November 14, 2019, before the undersigned Hearing
7 Examiner.

8 The Director of the Development Services Department (DSD) recommended approval of
9 this Conditional Use Permit application, subject to conditions (Exhibit C-1, DSD Staff Report).

10 **Hearing Examiner Jurisdiction.** The role of the Hearing Examiner in this matter is to
11 hold a public hearing, take testimony on the proposal, and issue a decision based on the record
12 established by Examiner. LUC 20.35.015. The decision must be based on applicable law,
13 regulations, and ordinances. Only the Conditional Use Permit aspect of this case is before the
14 undersigned Examiner.

15 **The Hearing.** This case came before the undersigned Hearing Examiner for a public
16 hearing on November 14, 2019, at 6 PM, at the Bellevue City Hall.

17 Leah Chulsky, Associate Land Use Planner with the Development Services Department
18 (DSD), City of Bellevue, testified on behalf of the City.

19 Loren Shook, President and CEO of Silverado Memory Care, testified on behalf of the
20 applicant. Sherra Grasser, a family member of a Silverado Memory Care client, and Jennifer
21 Nichols, RN, Director of Nursing, also testified on behalf of the applicant.

22 Karin Roberts, Deputy City Clerk for Bellevue, assisted the Examiner and recorded the
23 audio of the proceeding.

24 **Exhibits.** The DSD's land use staff report on the conditional use application and other
25 file reports were admitted into evidence as Exhibit C-1 and the DSD's Power Point presentation
prepared for hearing was admitted as Exhibit C-2. A document submitted by Ms. Grasser on the
project was admitted as Exhibit A-1.

Site Visit. The Examiner visited the site at issue before the hearing.

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FINDINGS OF FACT

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2 1. The factual matters in the foregoing **SUMMARY** are adopted by the undersigned
3 Examiner as findings.

4 2. The Applicant, Silverado Memory Care, requests conditional use approval to operate
5 a 21-unit memory care community within a facility to be constructed at 14341 SE 16th Street,
6 Bellevue (See Staff Report, Exhibit C-1, for further details).

7 3. The proposal also includes Design Review and Critical Areas Land Use Permit
8 approval—subject to conditions—to construct a 21-unit structure in which a memory care
9 community will reside and function.

10 4. The memory care facility is considered an “assisted living” use under the Bellevue
11 Land Use Code. This use requires a conditional use approval in the Neighborhood Business
12 (NB) land use district. LUC 20.10.440. The site at issue has an NB Comprehensive Plan
13 designation and lies entirely within Single-Family and Multifamily Transition Area Design
14 Districts, with commercial uses to the north and west, multifamily uses to the immediate south,
15 and single-family uses to the immediate east. The proposed assisted living use in this NB
16 district is allowed.

17 5. The site at issue is presently 35,100 square feet of undeveloped land with steep slopes
18 and a stream. The site is wooded with dense undergrowth, as the Examiner observed on his site
19 visit.

20 6. The proposed assisted living facility meets the land use and dimensional
21 requirements of the Land Use Code under LUC 20.10.440, 20.20.010, and 20.25B (See Exhibit
22 C-1, pp. 6-8 of Staff Report). The proposed building is within lot coverage, height, and other
23 permitted dimensions under the LUC.

24 7. Technical reviews assessed the proposal for utilities, transportation, noise, and other
25 matters. The City has set forth detailed findings and conditions for approval (Exhibit C-1, Staff
Report).

8 Leah Chulsky, Associate Land Use Planner for the City, testified credibly that the
proposal, as conditioned, complies with the Conditional Use requirements at LUC 20.30B.140
and she stressed the City’s recommendation for approval of the CUP application.

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CITY OF BELLEVUE
450 – 110th Avenue NE
P. O. Box 90012
Bellevue, WA 98009 9012

1 9. Loren Shook, Silverado Memory Care CEO and President, testified on the proposed
2 memory care community. He agreed with Ms. Chulsky's testimony on the land use aspects of
3 this matter. He also stressed the humane and advanced geriatric services provided to clients with
4 memory issues. He added that the staff is trained in geriatric care and can address complex
5 issues, such as caring for clients with multiple mental and physical diagnoses. Sherra Grasser,
6 the daughter of a patient, offered moving testimony on behalf of the proposal and the need for
7 such a facility. Jennifer Nichols, RN, Director of Nursing, offered further comments on the
8 treatment and care of patients, and supported the proposal. The examiner acknowledges and
9 appreciates the background about the proposed memory care community that was presented by
10 these witnesses in support of the proposal.

11 10. The Conditional Use is consistent with the Comprehensive Plan for the site at issue.
12 The site is within the Southeast Bellevue subarea of the Comprehensive Plan and has a Plan
13 designation of Neighborhood Business or NB within Single-Family and Multifamily Transition
14 Area Design Districts.

15 The project conforms with land use and subarea policies as discussed in the Staff Report
16 (Exhibit C-1, Staff Report, pp. 33-34). The senior housing use will result in lower impact on the
17 area than full commercial use and will bridge existing single-family homes to the east and the
18 commercial area to the west. The approved structure will be residential in design and site
19 development in keeping with the surrounding neighborhood. The project also will preserve
20 some existing vegetation and maintain a vegetation buffer between the proposed development
21 and the present single-family neighborhood. See Land Use Policies LU-14 and LU-19 and
22 Bellevue Subarea Policies S-SE-2 and S-SE-7.

23 11. The proposal design is compatible with and responds to the character, appearance,
24 development quality and physical characteristics of the site and immediate vicinity. The
25 proposed project is designed to fit into the existing neighborhood will be sensitive to structures
in the neighborhood. See Exhibit C-1, Staff Report, p. 33. The design minimizes massing by
sinking the structure into a slope on the site. The structure also mimics the design of residences
within the surrounding neighborhood. Further, use of vegetation will reduce visual impact and
blend the structure into the natural context of the site. In addition, the structure's area coverage

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1 and height are lower than maximum coverage and heights allowed for the surrounding
2 residential area.

3 12. The Conditional Use will be served by adequate public services, including streets,
4 fire protection and utilities. All required public services will be available to the project (Exhibit
5 C-1). And the site is located on Southeast 16th Street, a major arterial with the capacity to
6 accommodate the expected additional traffic resulting from the project (See Traffic Study,
7 Project File). The Departments for Utilities, Transportation, and Fire have reviewed the project
8 and found that, as conditioned, it conforms to their codes or will with required improvements as
9 necessary. A new driveway will provide firetruck access.

10 13. The Conditional Use will not be materially detrimental to the uses or property in the
11 immediate vicinity of the subject property. Development will be limited to the senior housing
12 project and will be contained to the project site. This use will have lower impact than a fully
13 commercial use. In addition, the project is residential in design and site development and will
14 not interfere with other uses or property in the vicinity. And trees and vegetation will help
15 screen and buffer the project site.

16 14. The Conditional Use complies with applicable requirements of the Land Use Code,
17 as conditioned. The project will not be detrimental to uses or property in the immediate vicinity,
18 as noted above.

19 The Examiner stresses that the Applicant must comply with all conditions of approval.
20 In particular, for the proposed senior community, the Applicant must file an agreement with the
21 King County Recorder's Office, or any successor agency, and with the Bellevue City Clerk,
22 restricting senior citizen dwellings, congregate care senior housing, or assisted living to remain
23 for the life of the project, as required under LUC 20.10.440 at footnote 4, Land Use Table,
24 "Residential-Nonresidential Districts."

25 15. The testimony offered by Land Use Planner Ms. Chulsky was credible and
consistent with these findings, the determinations in the Staff report, and the other record
evidence.

16. The Development Services Department presented substantial evidence that the
Silverado Memory Care proposal meets the criteria for approval of a Conditional Use Permit
under LUC 20.30B.140.

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1 17. The undersigned Examiner concurs with the DSD's findings and recommendations
2 on the conditional use application, as conditioned, for the Silverado Memory Care project. All
3 future actions regarding the project must comply with all Code requirements.

4 18. Any conclusion herein, which may be deemed a finding, is adopted as such.

5 **CONCLUSIONS OF LAW**

6 1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding.
7 The application is subject to Process I procedures. LUC 20.35.015.

8 2. Requirements under the State Environmental Policy Act have been satisfied.

9 3. The Examiner, as required, has accorded substantial weight to the recommended
10 approval of the conditional use permit by the Development Services Department Director.

11 4. The proposed project complies with the Land Use Code Dimensional Standards at
12 LUC 20.20.

13 5. The proposed project, as conditioned, is consistent with all of the criteria for a
14 conditional use permit under LUC 20.30B.140 as follows:

15 The City may approve or approve with modifications an application for a
16 Conditional Use Permit if:

17 A. The conditional use is consistent with the Comprehensive Plan; and

18 B. The design is compatible with and responds to the existing or intended
19 character, appearance, quality of development and physical characteristics of the
20 subject property and immediate vicinity; and

21 C. The conditional use will be served by adequate public facilities including
22 streets, fire protection, and utilities; and

23 D. The conditional use will not be materially detrimental to uses of property in
24 the immediate vicinity of the subject property; and

25 E. The conditional use complies with the applicable requirements of this
Code.

6. The Examiner concurs with and adopts the findings and the recommendation of the
Development Services Department in its land use staff report (Exhibit C-1).

7. The conditional use permit to operate a memory care community is approved with
conditions.

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1 8. The Applicant must comply with all of the conditions of approval. In particular, for
2 the proposed senior community project, the Applicant must file an agreement with the King
3 County Recorder's Office, or any successor agency, and with the Bellevue City Clerk,
4 restricting senior citizen dwellings, congregate care senior housing, or assisted living to remain
5 for the life of the project, as required under LUC 20.10.440 at footnote four (4), Land Use
6 Table-"Residential-Nonresidential Districts."

7 9. Any finding of fact deemed to be a conclusion of law is adopted as such.

8 **CONDITIONS OF APPROVAL**

9 The applicant shall comply with all of the conditions of approval listed in the
10 Development Services Department Staff Report on the conditional use permit (Exhibit C-1,
11 Staff Report, see Decision Addendum attached).

12 Please note that the Applicant must file a Senior Housing agreement with the King
13 County Recorder's Office and with the Bellevue City Clerk as required at LUC 20.10.440,
14 footnote four (4). See Conclusion of Law 8, above.

15 **DECISION**

16 The requested Conditional Use application is approved, subject to the above stated
17 conditions.

18 **SO ORDERED**, this 18th day of November 2019.

19 *Robin Lindley*

20 Robin Lindley, Hearing Examiner

21 *KL*

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1 **NOTICE OF RIGHT TO APPEAL**

2 (Pursuant to Resolution No. 9473)

3
4 **RIGHT TO APPEAL-TIME LIMIT**

5 Persons and entities identified in Land Use Code (LUC) 20.35.150, may appeal the
6 decision of the Hearing Examiner to the Bellevue City Council by filing a written statement of
7 the Findings of Fact or Conclusions of Law which are being appealed, and paying a fee, if any,
8 as established by ordinance or resolution, no later than 14 calendar days following the date that
9 the decision was mailed. The written statement must be filed together with an appeal
notification form, available from the City Clerk. The written statement of appeal, the appeal
notification form, and the appeal fee, if any, must be received by the City Clerk no later than
5:00 p.m. 14 calendar days following the date that the decision was mailed.

10 **TRANSCRIPT OF HEARING-PAYMENT OF COST**

11 An appeal of the Hearing Examiner’s decision requires the preparation of a transcript of
12 the hearing before the Hearing Examiner. Within thirty (30) days of the decision which is
13 appealed from, the appellant shall order from the City Clerk, on a form provided by the Clerk, a
14 full transcript of the hearing before the Hearing Examiner. At the time the order for
transcription is placed, the appellant shall post security in the amount of One Hundred Dollars
(\$100.00) for each hearing hour to be transcribed. If appellant fails to post security, the appeal
shall be considered abandoned.

15 Additional requirements and procedures concerning appeals filed with the Council are
16 found at Resolution 9473 and in the City of Bellevue Land Use Code.

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DECISION ADDENDUM

CONDITIONS OF APPROVAL:

A. GENERAL CONDITIONS: The following conditions apply to all phases of development.

1. Utilities Conceptual Approval

Utility Department approval of the design review application is based on the final conceptual design submitted with this application. Final utility design and construction approval is not given under this permit. Small changes to the site layout may be required to accommodate the utilities after utility engineering is approved. The water, sewer, and storm drainage systems shall be designed per the current City of Bellevue Utility Codes and Utility Engineering Standards. A Utility Developer extension agreement will be required as a condition of this permit. Utilities Department design review, plan approval, and field inspection is performed under the Utility Developer Extension Agreement (UE). All connection charges will be due with the Developer Extension Agreement prior to issuance of the permit. Water, sewer and storm easements will be required as needed.

AUTHORITY: Bellevue City Code Title 24.02, 24.04, 24.06
REVIEWER: Mark Dewey, Utilities Department

2. Building Permit

Approval of this application does not constitute an approval of a development permit. A building permit and any other associated development permits are required. Plans submitted as part of any permit application shall be consistent with the activity permitted under this approval.

AUTHORITY: Land Use Code 20.30P.140
REVIEWER: Leah Chulsky, Development Services Department

3. Approved Modification

This decision approves the slope buffer modification as identified in the project site plans to construct a new structure with mitigation (refer to Attachment 1). This approval does not allow future structures or improvements to be located without future review and permits.

AUTHORITY: Land Use Code 20.30P.140
REVIEWER: Leah Chulsky, Development Services Department

4. Building Height

The maximum height may be increased to 35 feet only if residential uses or administrative office uses are provided on the second floor, and provided the structure does not exceed two stories and meets the requirements of LUC 20.25B.040.2 for

1 allowed height bonus. Design shall meet the definition of story pursuant to the
2 International Building Code, Section 202, as adopted and amended by the City of
3 Bellevue.

4 The building is designed so that the lowest level meets the building code definition of
5 basement and is not considered a story above grade plane. This includes limiting the
6 finished floor surface of the level above to no more than 12 feet above finished ground
7 level at any point and not more than 6 feet above average existing? grade plane.

8 Building height shall be measured from average existing grade around the building to
9 the highest point of a flat roof or to the mean height between the tallest eave and tallest
10 ridge of a pitched roof. All mechanical equipment and screening shall not exceed the
11 maximum height permitted above.

12 **AUTHORITY:** Land Use Code 20.20.010 Footnote (25)
13 **REVIEWER:** Leah Chulsky, Development Services Department

14 **B. PRIOR TO CLEARING & GRADING PERMIT ISSUANCE:**

15 **1. Right-of-Way Use Permit**

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

- 19 a) Designated truck hauling routes.
- 20 b) Truck loading/unloading activities.
- 21 c) Location of construction fences.
- 22 d) Hours of construction and hauling.
- 23 e) Requirements for leasing of right of way or pedestrian easements.
- 24 f) Provisions for street sweeping, excavation and construction.
- 25 g) Location of construction signing and pedestrian detour routes.
- h) All other construction activities as they affect the public street system.

In addition, the applicant shall submit for review and approval a plan for providing
pedestrian access during construction of this project. Access shall be provided at all
times during the construction process, except when specific construction activities such
as shoring, foundation work, and construction of frontage improvements prevent access.
General materials storage and contractor convenience are not reasons for preventing
access.

The applicant shall secure sufficient off-street parking for construction workers before
the issuance of a clearing and grading, building, a foundation or demolition permit.

AUTHORITY: Bellevue City Code 11.70 & 14.30
REVIEWER: Tim Stever, Transportation Department

2. Civil Engineering Plans – Transportation

Civil engineering plans produced by a qualified engineer must be approved by the Transportation Department prior to issuance of the clearing and grading permit. The design of all street frontage improvements and driveway accesses must be in conformance with the requirements of the Americans with Disabilities Act, the Transportation Development Code, the provisions of the Transportation Department Design Manual, and specific requirements stated elsewhere in this document.

All proposed infrastructure improvements within the right-of-way shall conform to current WSDOT Standard Specifications for Road, Bridge and Municipal Construction and to the City of Bellevue Special Provisions (BSP's).

All relevant standard drawings from the Transportation Department Design Manual shall be copied exactly into the final engineering plans. Requirements for the engineering plans include, but are not limited to:

- a) Traffic signs and markings.
- b) Curb, gutter, sidewalk, intersection, and driveway approach design. The engineering plans shall be the controlling document on the design of these features; architectural and landscape plans must conform to the engineering plans as needed.
- c) Curb ramps, crosswalk revisions, and crosswalk equipment such as pushbuttons.
- d) Installation or relocation of streetlights and related equipment.
- e) Undergrounding of existing overhead utility lines, which should be coordinated with adjacent sites. Transformers and utility vaults to serve the building shall be placed inside the building or below grade, to the extent feasible.
- f) As part of the traffic signal installation or modifications, the developer must pay a fee to integrate this signal into the city's adaptive signal management system (SCATS). Payment for SCATS is needed at the time the signal is added to the adaptive signal management system and in no case later than occupancy of the first building.
- g) Sight distance. Show the required sight triangles and include any sight obstructions, including those off-site. Sight distance triangles must be shown at all driveway locations and must consider all fixed objects and mature landscape vegetation. Vertical as well as horizontal line of sight must be considered when checking for sight distance.
- h) Driveway landings on sloping approaches must meet the requirements for commercial development.
- i) Trench restoration within any right of way or access easement.

Construction of all street and street frontage improvements must be completed prior to closing the clear and grade permit and right of way use permit for this project. A Design Justification Form must be provided to the Transportation Department for any aspect of any pedestrian route adjacent to or across any street that cannot feasibly be made to comply with ADA standards. Design Justification Forms must be provided prior to approval of the clear and grade plans for any deviations from standards that are known in advance. Forms provided in advance may need to be updated prior to project

1 completion. For any deviations from standards that are not known in advance, Forms
2 must be provided prior to project completion.

3 **AUTHORITY:** Bellevue City Code 14.60; Transportation Department Design
4 Manual; Americans with Disabilities Act
5 **REVIEWER:** Randa Kiriakos, Transportation Department

6 **3. Final Landscape and Irrigation Plan**

7 The Final Landscape and Irrigation Plans shall be submitted with the building permit
8 application to ensure compliance will all Land Use Code requirements.

9 Any sleeves for irrigation mainlines shall be placed within the project property lines.

10 The applicant shall record a copy of the approved project drawings, including the
11 landscape and irrigation plans, and conditions of this Design Review with the King
12 Country Division of Records and Elections and with the Bellevue City Clerk.

13 The location of the refuse area shall be located within the individual garages and be
14 taken out for pick up day only and then returned to the individual garages.

15 **AUTHORITY:** Land Use Code 20.20.520, 20.20.900.G and 20.25B.040.C
16 **REVIEWER:** Leah Chulsky, Development Services Department

17 **4. Pesticides, Insecticides, and Fertilizers**

18 The applicant must submit as part of the required Clearing and Grading Permit
19 information regarding the use of pesticides, insecticides, and fertilizers in accordance
20 with the City of Bellevue's "Environmental Best Management Practices".

21 **AUTHORITY:** Land Use Code 20.25H.220.H
22 **REVIEWER:** Leah Chulsky, Development Services Department

23 **5. Existing Easements**

24 Any utility easements contained on this site which are affected by this development must
25 be identified. Any negative impact that this development has on those easements must
be mitigated or easements relinquished.

AUTHORITY: Bellevue City Code 14.60.100
REVIEWER: Randa Kiriakos, Transportation Department

6. Easements for Signal Control and Street Light Boxes and Vaults

The applicant shall provide easements to the City for location of signal and street light
facilities such as above-grade boxes and below-grade vaults between the building and
sidewalk within the landscape area.

AUTHORITY: Bellevue City Code 14.60.100
REVIEWER: Randa Kiriakos, Transportation Department

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1 **7. Sidewalk/Utility Easements**

2 The applicant shall provide sidewalk and utility easements to the City such that
3 sidewalks outside of the City right of way along the property frontage are located within
4 a pedestrian easement area.

5 **AUTHORITY:** Bellevue City Code 14.60.100
6 **REVIEWER:** Randa Kiriakos, Transportation Department

7 **8. Geotechnical Review**

8 The project geotechnical engineer must review the final construction plans, including all
9 retaining walls and foundation designs. A letter from the geotechnical engineer stating
10 that the plans conform to the recommendations in the geotechnical report and any
11 addendums and supplements must be submitted to the clearing and grading section
12 prior to issuance of the construction permit.

13 **AUTHORITY:** Clearing & Grading Code 23.76.050
14 **REVIEWER:** Savina Uzunow, Development Services Department, Clear &
15 Grading Section

16 **9. Final Mitigation Planting Area**

17 The reduced geologic hazard critical area requires planting to mitigate the approved
18 structure setback reduction in accordance with the project mitigation plan. **The**
19 **applicant shall submit a final planting plan as part of the clear and grade permit**
20 **which is consistent with the requirements in this report.**

21 **AUTHORITY:** Land Use Code 20.25H.220
22 **REVIEWER:** Leah Chulsky, Development Services Department

23 **10. Maintenance and Monitoring**

24 The planting area shall be maintained and monitored for 5 years as required by LUC
25 20.25H.220. A maintenance surety for the mitigation planting is required based on 150
percent of the cost estimate for all costs associated with maintenance and monitoring
for 5 years of monitoring, maintenance activity, plant replacement, contingencies. The
amount of the surety is determined by a cost estimate submitted as part of the clearing
and grading permit. The maintenance surety is required prior final inspection of the
clearing and grading permit. Photos from selected photo points will be included in the
monitoring reports to document the planting. Annual monitoring reports are to be
submitted to the Development Services Department Land Use Division at the end of the
growing season by no later than November 30 for each year monitored. The reports,
along with a copy of the planting plan, can be sent to Leah Chulsky at
Ichulsky@bellevuewa.gov or to the address below:

Development Services Department
City of Bellevue
PO Box 90012

Bellevue, WA 98009-9012

AUTHORITY: Land Use Code 20.30P.140; 20.25H.220
REVIEWER: Leah Chulsky, Development Services Department

11. Installation Device

To ensure the required mitigation and restoration of areas of temporary disturbance is completed, the applicant shall post an Installation Assurance Device prior to the building permit or clearing and grading permit issuance. The device shall be equal to 150% of the value of the approved mitigation. The device will be released when the applicant demonstrates required mitigation has successfully been installed.

AUTHORITY: Land Use Code 20.25H.125.J, 20.25H.220, and 20.40.490
REVIEWER: Leah Chulsky, Development Services Department

12. Hold Harmless Agreement

The applicant shall submit a hold harmless agreement in a form approved by the City Attorney which releases the City from liability for any damage arising from the location of improvements within a critical area structure setback in accordance with LUC 20.30P.170. The hold harmless agreement is required to be recorded with King County prior to building permit issuance. Staff will provide the applicant with the hold harmless form.

AUTHORITY: Land Use Code 20.30P.170
REVIEWER: Leah Chulsky, Development Services Department

13. Rainy Season Restrictions

Due to steep slopes on the site, no clearing and grading activity may occur during the rainy season, which is defined as October 1 through April 30 without written authorization of the Development Services Department. Should approval be granted for work during the rainy season, increased erosion and sedimentation measures, representing the best available technology must be implemented prior to beginning or resuming site work.

AUTHORITY: Bellevue City Code 23.76.093.A,
REVIEWER: Savina Uzunow, Development Services Department

14. Storm Water Pollution Prevention Plan

To ensure contaminated stormwater or construction-related runoff does not pollute adjacent surface water; a construction stormwater pollution prevention plan (CSWPPP) is required. The CSWPPP outline should be generally consistent with the SWPPP requirements of the National Pollutant Discharge Elimination System (NPDES) General Storm water Permit for Construction Activities.

AUTHORITY: Bellevue City Code 23.76.
REVIEWER: Savina Uzunow, Development Services Department

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1 **15. Transportation Infrastructure and Street Development Requirements**

2 The final design of transportation infrastructure improvements shall be approved by the
3 Transportation Department, including all construction of streets, street lighting, planter
4 strips, sidewalks, signals, channelization, pedestrian paths and trails, and bicycle
5 facilities according to the street design standards.

6 **Prior to any form of occupancy, completion of the following transportation
7 infrastructure is required:**

- 8 1. Construct new minimum 26 ft. wide commercial driveway approach for site
9 access onto SE 16th Street at the location required to maximize the sight
10 distance. An approved Design Justification is required prior to completion of the
11 project.
- 12 2. Construct new standard concrete curb and gutter along the development
13 frontage to replace the existing concrete curb and gutter.
- 14 3. Construct new planter strip along the development frontage with a minimum
15 width of 5 ft.
- 16 4. Construct new sidewalk along the development frontage with a minimum width
17 of 8 ft.
- 18 5. The planter strip shall have spray irrigation, root barrier, street trees and
19 landscaping.
- 20 6. Install street lighting per Bellevue Standards; including new poles, arms, and
21 fixtures as needed to meet Bellevue's minimum photometric values.
- 22 7. Install City fiber communication vaults, junction boxes, conduits and wiring per
23 City's requirements.
- 24 8. Any proposed landscaping, signage, and street furnishings shall be placed to
25 avoid obstruction within the sight lines for vehicles and pedestrians.
9. All landscape planters shall have irrigation from a private metered water source
 unless the City has agreed to accept a new meter or provide water from an
 existing City meter.
10. A combined street tree and street light plan is required for review and approval
 prior to completion of engineering and landscape plans. The goal is to provide
 the optimum number of street trees while not compromising the light and safety
 provided by streetlights. Street trees and streetlights must be shown on the same
 plan sheet with the proper separation (generally 25 ft. apart) and the proper
 spacing from driveways (10 ft. from Point A in standard drawing SW-140-1 or
 equivalent).
11. The Americans with Disabilities Act (ADA) requires that sidewalk cross slopes
 not exceed two percent. The sidewalk cross slope may be less than two percent
 only if the sidewalk has a longitudinal slope sufficient to provide adequate
 drainage. Bellevue's standard for curb height is 6 in., except where curb ramps
 are needed. The engineering plans must comply with these requirements, and
 must show adequate details, including spot elevations, to confirm compliance.
 New curb and sidewalk shall be constructed in compliance with these
 requirements. Building elevations shall be consistent with the required curb and
 sidewalk elevations. Spot elevations must be included in the building plans in a
 manner that proves that building elevations are designed to correspond to the
 sidewalk elevations shown in the engineering plans, especially at entrances and

1 other key points. Curb and sidewalk elevations will not be revised to fit the
2 building, and city inspectors may require spot surveys during construction in
3 order to confirm the required elevations.

- 4 12. ADA also requires provision of a safe travel path for visually handicapped
5 pedestrians. Potential tripping hazards are not allowed in the main pathway. Any
6 planter boxes installed in the sidewalk to improve pedestrian sight distance at
7 driveways must be designed to reduce the tripping potential and must not extend
8 more than two feet into the public sidewalk. Traffic signal controller boxes and
9 streetlight contactor cabinets must be located so as not to interfere with the main
10 pedestrian path. Buildings shall be designed so that doors do not swing out into
11 the pedestrian path. Installation of colored or textured bands to guide pedestrians
12 in the direction of travel is advisable, subject to the requirements for non-
13 standard sidewalk features. ADA-compliant curb ramps shall be installed where
14 needed, consistent with City and WSDOT standard drawings. If such standards
15 cannot be met, then deviation from standards must be justified on a Design
16 Justification Form to be filed with the Transportation Department.
- 17 13. The new landscaping planter strip within the sidewalk along the public road shall
18 be irrigated with a private metered water source. Electrical connections for
19 lighting in planter strips may be allowed, if installed in compliance with the
20 electrical code and subjected to an electrical inspection. Irrigation devices and
21 electrical components shall not create a tripping hazard in the sidewalk.
22 Installation of the proposed planter shall include a spray irrigation system, soil
23 preparation, root barrier and plantings. Root barrier and soil preparation are
24 described in Standard Drawing SW-130-1. Landscaping in the right-of-way shall
25 be maintained by the abutting property owner(s) unless maintenance has been
accepted by the city.
- 14 14. The design and appearance of the sidewalk and landscaping shall comply with
15 the standards and drawings in the Transportation Department Design Manual.
16 The sidewalk shall be constructed of standard concrete with a broom finish and
17 a 2 ft. by 2 ft. score pattern, unless both the Transportation Department and the
18 Development Services Department agree to accept any non-standard pattern,
19 color, or other features.
- 17 15. Any non-standard features or vegetation shall not create a sight obstruction
18 within any required sight triangle, shall not create a tripping or slipping hazard in
19 the sidewalk, and shall not create a raised fixed object in the street's clear zone.
20 The materials and installation methods must meet typical construction
21 requirements.
- 19 16. To the extent feasible, no new utility vaults that serve only one development will
20 be allowed within a public sidewalk. Vaults serving a broader public purpose may
21 be located within a public sidewalk. To the extent feasible, no utility vaults may
22 be located within the primary walking path in any sidewalk.
- 21 17. No fixed objects, including fire hydrants, trees, and streetlight poles, are allowed
22 within ten feet of a driveway edge, defined as Point A in standard drawing SW-
23 140-1 or equivalent. Fixed objects are defined as anything with breakaway
24 characteristics greater than a four-inch by four-inch wooden post.
- 23 18. No new overhead utility lines will be allowed within or across any right of way or
24 sidewalk easement, and existing overhead lines must be relocated underground.

25 **AUTHORITY:** Bellevue City Code 14.60; Transportation Department Design

11/19/19

1 Manual; Americans with Disabilities Act
2 **REVIEWER:** Randa Kiriakos, Transportation Department

3 **16. Maintenance Agreement – Right of Way Streetscape**

4 Prior to the release of the Landscape Maintenance Assurance Device, the applicant and
5 the City of Bellevue Parks shall enter into an agreement to determine future maintenance
6 responsibilities for the streetscape and streetscape plantings.

7 **AUTHORITY:** Land Use Code 20.20.520
8 **REVIEWER:** Leah Chulsky, Development Services Department

9 **17. Planting – Right of Way Streetscape**

- 10 1. Planting shall be done according to the Parks and Community Services
11 Department Environmental Best Management Practices and Design
12 Standards in place at the time of construction.
- 13 2. A Parks Department representative shall be on-site to inspect street trees
14 prior to planting and at the time of planting to observe the installation.
15 Contact Parks Department Resource Management at 425-452-6855 at least
16 24 hours before planting to schedule the inspection.

17 **AUTHORITY:** Land Use Code 20.20.520
18 **REVIEWER:** Leah Chulsky, Development Services Department

19 **18. Planting – Right of Way Streetscape**

20 Existing City of Bellevue landscaping and irrigation is present in project area. Irrigation
21 systems are not included in 811 locates. Contact City of Bellevue Parks Department
22 before starting work in these areas to coordinate landscape restoration, ensure impacts
23 to off-site landscapes fed by the irrigation system are minimized, determine any tree
24 protection needs, and backfill soil is installed per Parks standards. Protect all existing
25 lateral lines, main lines, sleeving, wiring and components until inspection by Parks
irrigation staff before moving forward with planned modifications. Any disruption of
existing irrigation function must be short duration as it supplies other streetscape areas
along SE 16th. Damage is to be reported immediately to the construction inspector for
the project.

AUTHORITY: Land Use Code 20.20.520
REVIEWER: Leah Chulsky, Development Services Department

19. Noise & Construction Hours

The proposal will be subject to normal construction hours of 7 a.m. to 6 p.m., Monday
through Friday and 9:00 a.m. to 6:00 p.m. on Saturdays, except for Federal holidays and
as further defined by the Bellevue City Code. Proximity to existing residential uses will
be given special consideration. Upon written request to PCD, work hours may be

1 extended to 10:00 p.m. if the criteria for extension of work hours as stated in BCC 9.18
2 can be met and the appropriate mitigation employed.

3 The use of best available noise abatement technology consistent with feasibility is
4 required during construction to mitigate construction noise impacts to surrounding uses.

AUTHORITY: Bellevue City Code 9.18.020.C & 9.18.040
REVIEWER: Leah Chulsky, Development Services Department

5 **C. PRIOR TO BUILDING PERMIT ISSUANCE:**

6 **1. Transportation Impact Fee**

7 Payment of the traffic impact fee will be required at the time of building permit
8 issuance. If multiple building permits will be issued, the impact fee will be tied to the
9 primary above-ground permit. Removal of existing buildings will be eligible for impact
10 fee credit. Impact fees are subject to change and the fee schedule in effect at the time
11 of building permit issuance will apply.

AUTHORITY: Bellevue City Code 22.16
REVIEWER: Randa Kiriakos, Transportation Department

12 **2. Building and Site Plans – Transportation**

13 The building grade and elevations shall be consistent with the curb and sidewalk grade
14 shown in the approved civil engineering plans. During construction, city inspectors may
15 require additional survey work at any time in order to confirm proper elevations. Building
16 plans, landscaping plans, and architectural site plans must accommodate on-site traffic
17 markings and signs and driveway design as specified in the engineering plans. Building
18 plans, landscaping plans, and architectural site plans must comply with vehicle and
19 pedestrian sight distance requirements, as shown on the engineering plans.

AUTHORITY: Bellevue City Code BCC 14.60.060, 110, 120, 150, 180, 181, 190,
20 240, 241
REVIEWER: Randa Kiriakos, Transportation Department

21 **3. Geotechnical Inspection**

22 The project geotechnical engineer must provide geotechnical inspection during project
23 construction, including retaining walls, subgrades for foundations and footings, and any
24 unusual seepage, slope, or subgrade conditions.

AUTHORITY: Clearing & Grading Code 23.76.050
REVIEWER: Savina Uzunow, Development Services Department, Clearing &
25 Grading Section

4. Provisions for Refuse and Loading

The property owner shall provide an off-street loading space which can access a public

street. This must include an off-street location for garbage pick-up, which must be acceptable to the garbage hauler. On-street loading and unloading will not be permitted.

AUTHORITY: Land Use Code 20.20.590.K.4; Bellevue City Code 14.60.180
REVIEWER: Randa Kiriakos, Transportation Department

5. Use of Best Available Noise Abatement Technology

The use of best available noise abatement technology consistent with feasibility is required during construction to mitigate construction noise impacts to surrounding uses.

AUTHORITY: Bellevue City Code 9.18.020.F
REVIEWER: Leah Chulsky, Development Services Department

D. PRIOR TO ISSUANCE OF ANY OCCUPANCY:

1. Landscape Maintenance Assurance Device

File with the Development Services Department a landscape maintenance assurance device prior to TCO approval for a five year period for 20% of the cost of labor and materials for all required landscaping. For the purpose of this permit, maintenance and monitoring shall be completed for a period of five growing seasons. Release of this assurance device is contingent upon receipt of documentation reporting successful establishment in compliance with the mitigation performance standards listed in the project mitigation plan. Land Use inspection of the planting after 5-years is required to release the surety

AUTHORITY: Land Use Code 20.40.490, 20.25H.125.J and 20.25H.220
REVIEWER: Leah Chulsky, Development Services Department

2. Street Frontage Improvements

All street frontage improvements and other required transportation elements, including street light and traffic signal revisions, must be constructed by the applicant and accepted by the Transportation Department inspector. All existing street light and traffic signal apparatus affected by this development, including traffic controllers, pedestrian signal poles, traffic signal poles, and power sources, must be relocated as necessary. Existing overhead lines must be relocated underground. All required improvements must be constructed as per the approved plans or as per direction of the Transportation Department inspector. Bonding or other types of assurance devices will not be accepted in lieu of construction, unless the City requires a delay.

AUTHORITY: Bellevue City Code 14.60; Comprehensive Plan Policy UT-39; Transportation Department Design Manual Sections; and Transportation Department Design Manual Standard Drawings.
REVIEWER: Randa Kiriakos, Transportation Department

1 **3. Pavement Restoration**

2 Pavement restoration associated with street frontage improvements or to repair
3 damaged street surfaces shall be provided as follows:

4 SE 16th Street is classified as Grind and Overlay required. Should street cuts prove
5 unavoidable or if the street surface is damaged in the construction process, a half-street
6 or full-street (depending on the extent of street cuts or damage) grind and overlay will
7 be required for a minimum of 50 feet.

8 **AUTHORITY:** Bellevue City Code 14.60. 250; Design Manual Design Standard
9 #23

10 **REVIEWER:** Tim Stever, Transportation Department

11 **4. Geotechnical Recommendations and Inspection:**

12 The project shall be constructed and inspected by the Engineer of Record to verify
13 implementation of the recommended procedures and practices in the geotechnical
14 report found in the reports prepared by prepared by AESI, on April 9, 2018. A report
15 verifying implementation of inspection shall be submitted to Leah Chulsky at
16 lchulsky@bellevuewa.gov prior to receipt of Temporary Certificate of Occupancy.

17 Development Services Department
18 City of Bellevue
19 PO Box 90012
20 Bellevue, WA 98009-9012

21 **AUTHORITY:** Land Use Code 20.30P.140

22 **REVIEWER:** Leah Chulsky, Development Services Department

23 **5. Sprinklers**

24 The structure shall be provided with an automatic fire sprinkler system in accordance
25 the International Fire Code as amended by the City of Bellevue. A permit for the fire
26 system shall be obtained from the Fire Department prior to work commencing.

27 **AUTHORITY:** International Fire Code 903

28 **REVIEWER:** Glen Albright, Fire Department

29 **6. Fire Alarm**

30 A fire alarm system installed in accordance with the International Fire Code and NFPA
31 72 is required for this structure. Submit revised plans indicating that deferred submittal
32 will be provided.

33 **AUTHORITY:** International Fire Code 907

34 **REVIEWER:** Glen Albright, Fire Department

1 **7. Smoke Alarm**

2 Smoke alarms are required per the International Fire Code in all sleeping rooms and in
3 the area immediately adjacent to the sleeping rooms.

4 **AUTHORITY:** International Fire Code 907
5 **REVIEWER:** Glenn Albright, Fire Department

6 **8. Carbon Monoxide Alarm**

7 Carbon monoxide alarms are required in immediately adjacent to all sleeping rooms.

8 **AUTHORITY:** International Fire Code 915
9 **REVIEWER:** Glen Albright, Fire Department

10 **9. Key Box Access**

11 A key-box access system shall be provided in accordance with the International Fire
12 Code. The location and type shall be approved by the Fire department. Submit revised
13 plans indicating that a Knox box will be provided.

14 **AUTHORITY:** International Fire Code 506
15 **REVIEWER:** Glen Albright, Fire Department

16 **10. Extinguishing System – Cooking Equipment**

17 Commercial-type cooking equipment shall be protected by an approved automatic
18 extinguishing system. A permit for the installation of the system shall be secured from
19 the Fire Prevention Division prior to work commencing.

20 **AUTHORITY:** International Fire Code 904.12
21 **REVIEWER:** Glen Albright, Fire Department

22 **11. Senior Housing Agreement**

23 A Senior Housing agreement must be recorded with the King County Recorder's Office,
24 or its successor agency, and filed with the Bellevue City Clerk, restricting senior citizen
25 dwellings, congregate care senior housing, or assisted living to remain for the life of the
26 project.

27 **AUTHORITY:** Land Use Code 20.20.440 footnote (4)
28 **REVIEWER:** Leah Chulsky, Development Services Department

29 **12. Native Growth Protection Easement**

30 Record with King County a Native Growth Protection Easement that clearly delineates
31 the area to be designated as Native Growth Area. A copy of the recorded Native Growth
32 Protection Area Easement must be submitted to the City of Bellevue prior to the approval
33 of the TCO.

1 **AUTHORITY:** Land Use Code 20.25H.030.B
2 **REVIEWER:** Leah Chulsky, Development Services Department

3 **13. NGPE Boundary Fence and Signage**

4 Prior to final building inspection, the applicant shall perform a field survey of property
5 boundaries completed by a Washington State Licensed Surveyor. The boundary of the
6 NGPE shall be identified, fenced, and marked with boundary signage that states:

7 **PROTECTED AREA – NO CLEARING**

8 **This fence marks the edge of a Native Growth Protection Area. Disturbance,
9 vegetation removal, or tree removal beyond this fence is prohibited.**

10 NGPE boundary fencing and signage shall be of permanent construction and shall be
11 maintained for the duration of the development. Signs must be of size and location to be
12 visible and the boundary fence shall be a minimum of four feet tall.

13 **AUTHORITY:** Land Use Code 20.25H.030
14 **REVIEWER:** Leah Chulsky, Development Services Department

15 **14. Exterior Building Lighting**

16 All exterior lighting shall include cut-of shields that prevent light impacts to nearby
17 developments. Exterior accent lighting shall be adjustable; applicant will work with
18 planner at TCO to confirm appropriate light levels.

19 **AUTHORITY:** Land Use Code 20.25B.050.B
20 **REVIEWER:** Leah Chulsky, Development Services Department

21 **15. Rooftop Mechanical Screening**

22 Mechanical equipment which is located on the roof shall be incorporated into the pitched
23 or stepped roof form, and not appear as a separate penthouse or box. Any proposed
24 future changes must be approved by Land Use and uphold the intent and conditions of
25 the original proposal to screen mechanical equipment from above and street level views.

AUTHORITY: Land Use Code 20.25B.040.E
REVIEWER: Leah Chulsky, Development Services Department

16. Noise Levels/Measurements in Sleeping Areas

Noise levels in sleeping areas shall not exceed 40 dBA. The applicant shall measure the
noise levels in a random sample of the rooms and submit the findings to the City. If the
maximum threshold is exceeded, additional noise mitigation will be required to meet the
threshold prior to the issuance of an Occupancy Permit.

AUTHORITY: Bellevue City Code 9.18.045B
REVIEWER: Leah Chulsky, Development Services Department

11/19/19

17. **Communication Dishes**

Communication dishes greater than one meter (3.28 feet) in diameter shall not be visible from any adjacent residential districts. Communication dishes, antennas and other building appendages require Land Use Approval. Any proposed future changes must be approved by Land Use and uphold the intent and conditions of the original proposal to screen equipment from above and street level views.

AUTHORITY: Land Use Code 20.25B.040.E
REVIEWER: Leah Chulsky, Development Services Department

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