BEFORE THE HEARING EXAMINER FOR THE CITY OF BELLEVUE

In the Matter of an Application for a) Conditional Use Permit for)	
TILLICUM MIDDLE SCHOOL	FILE NO: 15-107834 LB
To demolish the existing building) And construct a new two-story school)	FINDINGS OF FACT, CONCLUSIONS OF LAW
On the same site at 1280 160 th Avenue SE)	AND DECISION

SUMMARY

- 1. <u>Decision</u>. The application is approved, subject to conditions.
- 2. Request. To replace the existing Tillicum Middle School with a new two-story building of approximately 178,000 square feet, able to accommodate 1400 students and 90 faculty. Significant improvements will be made to the off-street facilities for picking-up and dropping-off students. Modifications will also be made to landscaping, parking and playfields on the 26.9-acre site. Existing trails and paths will remain.
- 3. <u>Procedure.</u> The Bellevue School District, applicant, held a well-attended public meeting on this project on October 1, 2014, in the school library. Many attendees spoke about the need for more efficient drop-off and pick-up facilities. The application for the project was filed on March 26. 2015. Notice of the application was duly published, mailed and posted. The City held a public meeting on April 30, 2015. Four neighborhood residents attended. In the interim prior to the Hearing Examiner public hearing, three emails and two letters were received. The City and the School District responded to these communications by letter and at the hearing.

Review was conducted pursuant to the State Environmental Policy Act (SEPA). The School District, as an agency with jurisdiction, issued a Determination of Non-Significance (DNS) on February 15, 2015. No appeals were filed.

The Hearing Examiner hearing was held after due notice on November 19, 2015.

Antoinette Pratt, Senior Planner, and Molly Johnson, Transportation Reviewer, represented the

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City. Jack McLeod, Facilities Manager, represented the School District. Testimony was provided by Ed Koltonowski, Traffic Consultant. There was no public testimony.

FINDINGS OF FACT

- 1. Bellevue School District 405 seeks a Conditional Use Permit to demolish the existing Tillicum Middle School and to replace it on the same site with a new larger facility.
- 2. The school is located at 1280 160th Avenue SE within the Southeast Bellevue Subarea. Tillicum lies adjacent to the south side of Phantom Lake Elementary School. Phantom Lake Elementary was rebuilt pursuant to a Conditional Use Permit issued in 2002. The site the two schools share comprises 26.9 acres.
- 3. The present plant at Tillicum comprises a 92,263 square foot structure. The present student population is 706. The proposed new two-story facility will contain approximately 178,000 square feet and be able to accommodate 1,400 students and 90 faculty. Though much larger in square footage, the new facility will occupy nearly the same footprint as the present school, pushing just slightly farther north on the site. The increased space will come from increased height.
- 4. Projections are that Tillicum will not reach its full student capacity for a number of years, but the School District wishes to preserve the potential for growth, given the lack of availability of large sites like this for future expansion.
- 5. The existing school is composed of six interconnected buildings. Athletic and play fields are located to the south and east of the school buildings. To the northeast are tennis courts. A wetland buffer runs along the southern perimeter of the property abutting SE Phantom Way.
- 6. The site is within a large residential area interspersed with parks. To the immediate west and south are single-family homes. Further south is the actual water body, Phantom Lake. More single family residences lie north of the adjacent elementary school. To the east of the playing fields is the Lake Hills Community Park which is bordered with single-family uses farther east.
- 7. The zoning for the property is R-5. A Conditional Use Permit is needed when the modification of a school involves an increase of 20 percent or more in the number of students.

- 8. The new school will maintain its frontage along 160th Avenue SE, with the primary academic areas to be located on the southern half of the first floor. The band, mechanical and electrical space and the gymnasium will be located to the north.
- 9. The school will be served by existing public facilities which, with the exception of streets, are adequate to accommodate the demands of the development. Temporary daily traffic congestion on 160th Avenue SE and SE 16th Street will be considerably relieved by an improved system for pick-up and drop-off of students.
- 10. Site traffic circulation will be located on the western edge of the property and along the northern perimeter. The main entrance will be on the western face of the building, adjacent to a large new area for queueing and visitor parking. A completely separate northern parking lot will be used for school bus service and faculty/staff parking. A total of 130 parking stalls will be provided on site.
- 11. 160th Avenue SE is a 24-foot wide collector arterial. The process of students being picked up or dropped off at the beginning and ending of the school day now causes significant short-term congestion in the nearby street network. Queues often extend from the parking lot south about 900 feet along 160th Avenue SE to the intersection with SE 16th Street. At such times northbound non-school traffic on 160th Avenue NE cannot get through.
- 12. To provide relief from this congestion, a new area for queueing will be constructed in front of the school and off of the street. The site redevelopment will improve the 160th Avenue SE frontage with curb, gutter, sidewalk, a planting strip, and a total of three driveways. The northerly driveway will access the north lot where the busses go. The off-street pick-up/drop-off area, near the school entrance, will be accessed by two more southerly driveways, and will include a long queueing loop south of the visitor parking area. The pick-up/drop-off lane will be bordered by a bypass lane near the school entrance. An additional lane for right turn channelization leading to the south driveway will be provided on 160th Avenue SE to provide additional queueing space. The site design provides curbside loading/unloading space for 33 cars at once.
- 13. In testimony, the traffic consultant noted that today's 300 feet of queueing space will be replaced by 1,650-1,750 of feet of queueing space, providing a much longer area for simultaneous drop-off/pick-up than at present. He also pointed out that the area will be widened

to allow easy bypass of waiting cars to speed up the individual car waiting time. Further, he observed that northbound traffic on 160th Avenue SE not associated with the school will no longer be caught in the northbound queue.

- 14. SE 16th Street borders the site on its southern edge and is a collector arterial. The street has two 12-foot lanes and minimal shoulders. The intersection of l60th Avenue SE and SE 16th Street is stop controlled on SE16th. The southbound leg of 160th Avenue SE now backs up during the morning rush, because left turns onto SE 16th are impeded by the high volume of eastbound traffic on SE 16th turning left onto 160th Avenue SE. This is to be remedied by disallowing left turns from 160th to SE 16th in peak periods. The restriction will force some drivers to take a more circuitous route, but will provide better overall operation for intersection users as a whole. The restriction will be implemented via a flashing beacon and a sign saying "No left turn when flashing."
- 15. The traffic improvement program is the product of analysis and creative thinking by Gibson Traffic Consultants and the City's transportation staff. The planning accommodates the increase in student population to 1,400. The City intends to conduct an ongoing traffic management program, periodically monitoring conditions on and around the site.
- 16. A citizen's letter was received the day before the public hearing questioning the objectivity of the SEPA review and the traffic analysis. The letter asked for additional City scrutiny of the project. The City, the School District and the traffic consultant responded to the letter at the hearing explaining the SEPA process performed and the traffic analysis done, maintaining that both were thorough and accurate. No evidence to the contrary was presented.
- 17. The other public comment on the proposal related to effects of stormwater runoff on the waters of Phantom Lake. The City responded by describing the facilities to be used to control runoff, stating that relevant standards (tightened since previous projects) will be met through a combination of flow control, water quality treatment and on-site stormwater management. Runoff from the new development will be conveyed to an underground detention vault which will release water at rates designed to match flows at pre-development rates. In addition, a green roof and bio-retention areas will be used to reduce runoff from portions of the project. A "modular wetland system" will be located downstream of the detention vault to

provide enhanced basic treatment and phosphorus control for runoff from impervious surfaces and artificial turf. The City predicted significant reductions in pollutants reaching the lake.

- 18. At the time of the rebuild of the adjacent Phantom Lake Elementary School, it and Tillicum Middle School occupied separate parcels. These have since been combined into one and the property line removed. The Hearing Examiner who approved the Phantom Lake project included two conditions under the then-effective code which are not appropriate today for the Tillicum project. One set a limit 1,000 on student limit at Tillicum, and the other required the establishment of a Native Growth Protective Area (NGPA) on a portion of the property. For some reason the NGPA was never filed. The Land Use Code (LUC) no longer contains a student per acre requirement. Further, the geotechnical work for the Tillicum project shows that the site does not meet the requirements for steep slopes under the updated code, thus eliminating the need for an NGPA. The Staff is asking that these conditions be removed.
- 19. The criteria for approval of a Conditional Use Permit are set forth at LUC 20.30B.140, as follows:
 - 1. The Conditional Use is consistent with the Comprehensive Plan.
 - 2. The design is compatible with and responds to the existing and intended character, appearance, quality of development and physical characteristics of the subject property and immediate vicinity.
 - 3. The Conditional Use will be served by adequate public facilities, including streets, fire protection and utilities.
 - 4. The Conditional Use will not be materially detrimental to uses or property in the immediate vicinity of the subject property.
 - 5. The Conditional Use complies with the applicable requirements of this Code.
- 20. The Staff Report analyzes the proposal against these criteria and finds that, as conditioned, the project will be consistent with them. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.
- 21. Notice is taken that schools are commonly placed within residential areas. For persons who chose to live in neighborhoods near schools, a reasonable expectation is that a certain amount of extra traffic will be present around the school site at the beginning and end of the school day. Tolerating some inconvenience from this situation is simply a part of normal

community life. In the present case, the temporary daily traffic snarl is being reduced if not eliminated through innovative project design. The net result will be a significantly improved traffic situation at the newly-built school.

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

CONCLUSIONS OF LAW

- 1. The Hearing Examiner has jurisdiction over this proceeding. It is a Process I decision. LUC 20.35.015(B)(1).
- 2. Within an R-5 land use district, a Conditional Use Permit is required for educational facilities that will increase student population beyond 20 percent. LUC 20.10.440 (Services footnote 25).
 - 3. The requirements of SEPA have been met.
- 4. The project, as conditioned meets the approval criteria for a Conditional Use Permit. LUC 20.30B.140.
- 5. The record provides no factual basis for rejecting the traffic analysis performed, nor for finding the SEPA analysis inadequate. Generalized and unsupported allegations of bias are not enough to reject the Staff's recommendations.
- 6. The record shows that adequate provision has been made for handling drainage from the subject property.
- 7. The Examiner is persuaded that a condition limiting the number of students and a condition requiring a Native Growth Protection Area should not be a part of this approval. Under current law, such conditions are not called for. However, the Examiner lacks the authority to eliminate conditions in the separate Phantom Lake Elementary School decision issued in 2002. He respectfully refers to the City Attorney's Office the questions of whether these obsolete conditions must be removed from the prior decision, and of how to accomplish this if it must be done.
 - 8. Any finding herein which may be deemed a conclusion is hereby adopted as such.

CONDITIONS

GENERAL CONDITIONS

 Vehicular Access Restrictions: All vehicular access to and from the site is intended to be via three driveways on 160th Avenue SE. Vehicle queuing space totaling 12/3/2015

1650 feet shall be provided on the site. If vehicle queues extend from the site into the street, turning restrictions may be required at the driveways to prevent impacts to through-traffic.

2. Provisions for 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.

PRIOR TO ISSUANCE OF ANY CLEAR AND GRADE PERMIT

- 1. **Right-of-Way Use Permit:** Prior to issuance of any construction or clearing and grading permit, the applicant shall secure applicable right-of-way use permits from the City's Transportation Department, which may include:
 - a) Designated truck hauling routes.
 - d) Truck loading/unloading activities.
 - e) Location of construction fences.
 - f) Hours of construction and hauling.
 - g) Requirements for leasing of right of way or pedestrian easements.
 - h) Provisions for street sweeping, excavation and construction.
 - i) Location of construction signing and pedestrian detour routes.
 - j) 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 prevents 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.

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 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, including beacons and programming equipment.
- Curb, gutter, sidewalk, and driveway approach design. The engineering b) plans shall be the controlling document on the design of these features; architectural and landscape plans must conform to the engineering plans as needed.
- Curb ramps, crosswalk revisions, and crosswalk equipment such as c) pushbuttons. Reference ADA compliance or provision of MEF form.
- Installation or relocation of streetlights and related equipment. d)
- e) Street lighting.
- Undergrounding of existing overhead utility lines, which should be f) 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.
- Sight distance. Show the required sight triangles and include any sight g) 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.
- Location of fixed objects in the sidewalk or near the driveway approach. h)
- 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

Maximum Extent Feasible (MEF) form must be provided to the Transportation

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Department for any aspect of any pedestrian route adjacent. to or across any street that cannot feasibly be made to comply with ADA standards. MEF forms must be provided prior to approval of the clear and grade plans for any deviations from standards that are known in advance. MEF forms provided in advance may need to be updated prior to project completion. For any deviations from standards that are not known in advance, MEF forms must be provided prior to project completion.

PRIOR TO ISSUANCE OF ANY BUILDING PERMIT

- 1. Building and Site Plans Transportation: Building plans, landscaping plans, and architectural site plans must accommodate on-site traffic markings and signs and driveway design as specified in the engineering plans. Building plans, landscaping plans, and architectural site plans must comply with vehicle and pedestrian sight distance requirements, as shown on the engineering plans. BCC 14.60.060; 110; 120; 150; 180; 181; 190; 240; 241
- 2. Existing Easements: Any utility easements contained on this site which are affected by this development must be identified. Any negative impact that this development has on those easements must be mitigated or easements relinquished. BCC 14.60.100
- 3. Sidewalk/Utility Permits: The applicant shall provide sidewalk and utility easements to the City such that sidewalks outside of the City right of way along the property frontage are located within a pedestrian easement area. BCC 14.60.100
- **4. Signs:** The proposed signage shown throughout the submittal is not approved with this application. A separate sign package shall be submitted for DSD for staff review and approval. Any proposed sign shall be architecturally compatible with the existing building. BCC 22B.10.040.6.1,2
- **5. Final Utilities Approval:** The Utilities Department approval of the Conditional Use application is based on the preliminary utility design. Final civil engineering of the utility design may require changes to the site layout to accommodate the utilities. BCC Title 24.02., 24.04, 24.06

- 6. **Developer Extension Agreement:** The water, sewer, and storm drainage systems shall be designed per the current City of Bellevue Utility Codes and Utility Engineering Standards. Utilities Department design review, plan approval, and field inspection is performed under the Developer Extension Agreement and Utilities Permit Processes. BCC Title 24.02, 24.04, 24.06
- 7. Construction Hours: Construction Hours: Normal hours for construction related noises are from 7:00 a.m. to 6:00 p.m. Monday through Friday and 9:00 a.m. to 6:00 p.m. on Saturday. No deliveries shall be scheduled prior to 7:00 a.m. or after 6:00 p.m. Exceptions for construction related noise limitations contained in the Noise Control Code MAY be granted pursuant to 9.18.020C.1 when necessary to accommodate construction on schools which cannot be undertaken during exempt hours. No blanket exemption exists. Allowances for short term work outside of normal hours for construction related noise shall be limited and will be reviewed on a case by case basis to verify necessity and ensure appropriate noise mitigation is utilized to protect surrounding uses and properties. If expanded hours are necessary to accommodate a specific component of the school construction, the District must apply for a separate noise permit for review and approval by staff. In this time period, the site shall be posted on all street frontages prior to the start of construction activity. BCC 9.18.040

CONDITIONS PRIOR TO CERTIFICATE OF OCCUPANCY:

1. Street Frontage Improvements: All street frontage improvements and other required transportation elements, including street light and traffic sign and beacon revisions, must be constructed by the applicant and accepted by the City 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. BCC 14.60;

Comprehensive Plan Policy UT-39; Transportation Department Design Manual; and Transportation Department Design Manual Standard Drawings.

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

160th Avenue SE is classified as Standard Trench Restoration along the frontage of the site. SE 16th Street classified as Overlay Required. Trenching within the intersection of 160th Avenue SE and SE 16th Street may or may not require a grind and overlay, depending on the determination of the city's Pavement Manager and the conditions of the right of way use permit for the project.

For any asphalt street surface classified as Overlay Required, any trenching or construction-related damage to the street surface generally requires a grind and overlay at least 50 feet long for the full width of any affected lane. Details will be specified in the right of way use permit for this project.

BCC 14.60. 250; Design Manual Design Standard #23

- 3. Transportation Management Program: BSD and the administrators of TMS shall implement a transportation management program with the goal of accommodating pick-up and drop-off activity and vehicle queuing on-site as much as feasible, with minimal off-site traffic impacts. Prior to initial occupancy of the building, the school district shall submit a detailed transportation management program and policies for City review and approval. The program and policies shall include at least the following:
 - a) Provide on-site traffic monitors whose duties include managing peak on-site traffic flow as needed. Traffic monitors must be adequately trained and be provided in sufficient numbers to effectively manage traffic in every peak period.
 - b) At the beginning of each school year, and periodically as needed, the school district or school administers shall provide information to parents, staff, and students regarding proper traffic and pedestrian behavior and safety, and encouraging the use of buses, carpooling, and other modes of travel. Information to parents must emphasize the need to obey traffic monitors.
 - c) At the beginning of each school year, and periodically as needed, the school district or school administers shall provide contact information to recognized neighborhood groups near the site and to any nearby resident who requests contact information so that nearby residents can easily report to the school district regarding off-site traffic problems related to TMS.

d) The BSD and the administrators of TMS shall be responsible to review and revise the traffic management program as needed in order to improve and implement the program for the long-term with the intent of achieving the goal stated above; that is, to accommodate pick-up and drop-off activity and vehicle queuing on-site as much as feasible, with minimal off-site traffic impacts. The program shall include a policy on how to notify each new school administrator about the requirements of the program and a policy requiring each administrator to continue the program each year. The program shall include a method for addressing reports of school-related traffic problems from nearby residents.

BCC 14.60.180

CONDITIONS REQUIRED POST CERTIFICATE OF OCCUPANCY:

1. Future Transportation Condition if Significant Traffic Safety or Congestion Problems are identified: If necessary to address specific concerns with safety, pedestrian access, off-site traffic impacts, or the required transportation management program, the school district may be required to obtain the services of transportation consultants and/or to pay for city staff review time through a Predevelopment Services application or similar procedure. Based on the results of such work, the school district may be required to make changes in the traffic management program, the crossing guard program, or other non-capital transportation programs or services. BCC 14.60.050, 060, Comprehensive Plan Policy TR 35

DECISION

The requested Conditional Use Permit for the replacement of Tillicum Middle School (File No. 15-107834 LB) is approved, subject to the conditions set forth above.

DONE, this 3rd day of December, 2015.

Wick Dufford, Hearing Examiner &

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NOTICE OF RIGHT TO APPEAL

(Pursuant to Resolution No. 5097)

RIGHT TO APPEAL-TIME LIMIT

A person who submitted written comments to the Director prior to the hearing, or submitted written comments or made oral comments during the hearing on this matter, may appeal the decision of the Hearing Examiner to the Bellevue City Council by filing a written appeal statement of the Findings of Fact or Conclusion being appealed, and paying any appeal fee, no later than 14 calendar days following the date that the decision was mailed. The appeal must be received by the City Clerk by 5:00 p.m. on December 17, 2015.

TRANSCRIPT OF HEARING-PAYMENT OF COST

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

WAIVER OF TRANSCRIPTION FEE

Upon request, the City Clerk will waive transcription fees upon submission by an appellant of the 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.

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