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3 **BEFORE THE HEARING EXAMINER FOR THE CITY OF BELLEVUE**
4

5 In the Matter of the Application for

File No.: 21-107343-LB,
21-107348-LO, and 21-107349-LS

6 **SUNSET HILLS MEMORIAL PARK**
7 **CEMETERY EXPANSION**
8 **CONDITIONAL USE PERMIT**

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
DECISION [REVISED
PURSUANT TO HEARING
EXAMINER RULE OF
PROCEDURE 1.24]**

9 located at 1575 145th Place SE, Bellevue
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13 **SUMMARY OF DECISION**

14 Sunset Hills Memorial Park is an existing cemetery approximately 60 acres in size in
15 the Lake Hills neighborhood of Bellevue. Sunset Hills Memorial Park, through applicants
16 William Dunning and Huit-Zollars (“Applicant”), seeks conditional use permit approval to
17 expand the existing cemetery on its western side to increase its usable size by 7.88 acres. The
18 Hearing Examiner has received and reviewed the administrative record and a recommendation
19 from the Development Services Department (“Department”), which includes the record of
20 State Environmental Policy Act compliance. The Hearing Examiner visited the site and
21 conducted a public hearing on the matter on July 13, 2023 at 6:00 p.m. in the Bellevue City
22 Council Hearing Chambers at Bellevue City Hall.

23 After considering all evidence in the record, the undersigned Hearing Examiner
24 **APPROVES** the conditional use permit **WITH CONDITIONS** as set out in this decision.

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2 **APPLICATION**

3 Sunset Memorial Hills Park is an existing cemetery in the Lake Hills neighborhood.
4 The property is approximately 60 acres in size, and the use was approved through a previous
5 conditional use permit. The eastern half of the cemetery is developed with burial sites,
6 mausoleums and other facilities common to a cemetery. The western portion of the property
is relatively undeveloped.

7 The Applicant seeks conditional use permit approval to construct a 7.88-acre
8 expansion of the existing Sunset Hills Memorial Park cemetery use along the western side of
9 the site and within a steep slope, steep slope buffer, stream buffers, and their respective
10 structure setbacks. The 7.88-acre total expansion consists of a 4.10-acre expansion through
11 the use of retaining wall structures and redevelopment of 3.78 acres of the site, including
relocation of the maintenance building.

12 As part of the development proposal, the Applicant requested a critical areas land use
13 permit to allow modification of the steep slope critical area, 50-foot top-of-slope buffer, and
14 75 foot toe-of-slope structure setback to accommodate the cemetery expansion. The proposal
15 also required a variance to exceed the maximum allowed fill amount of five feet outside of a
16 building footprint. Both of these requests were granted by the Department, as set out in the
17 staff report, and were not appealed. Therefore, they are final approvals by the City and not
within the jurisdiction of the Hearing Examiner. This decision only addresses the matter of
the conditional use permit application.

18 **CONTENTS OF THE RECORD**

19 The record consists of Exhibit C-1, the Department staff report and permit file; Exhibit
20 C-2, Department PowerPoint Presentation; Exhibit A-1, the Applicant's PowerPoint
21 Presentation, and Exhibit P-1, which includes all written comments from the public. The record
22 also includes the audio recording of the virtual public hearing held July 13, 2023, at 6:00 p.m. at
City Hall. The Examiner heard testimony from four witnesses. The Department provided the

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1 testimony of David Wong, Senior Environmental Planner. The Applicant, through their
2 attorney Ian Morrison, presented the testimony of Mike Green, Project Manager, and Tony
3 Sosebee, Project Engineer. One member of the public testified: Anu Kohli.

4 **PROCEDURE**

5 The application is for a conditional use permit approval. A conditional use permit is “a
6 mechanism by which the City may require special conditions on development or on the use
7 of land in order to ensure that designated uses or activities are compatible with other uses in
8 the same land use district and in the vicinity of the subject property.” Land Use Code (LUC)
9 20.30B.120. A conditional use is a Process I application under the Land Use Code. LUC
10 20.35.015.B.

11 Under Process I, the Director makes a recommendation to the Hearing Examiner, and
12 following the public hearing, the Hearing Examiner makes a decision to approve, approve
13 with conditions or deny the conditional use. The Hearing Examiner’s decision is the final
14 decision of the City. LUC 20.35.100.C. A final decision by the Hearing Examiner on a
15 Process I application may be appealed to Superior Court, as set forth in LUC 20.35.070.

16 **FINDINGS OF FACT**

17 All of the above information provided is adopted as findings of fact. The facts stated
18 in this decision are referenced from Exhibit C-1, the staff report, unless otherwise expressly
19 stated.

20 **A. Proposal**

21 1. The subject property is approximately 60 acres in size and is currently
22 developed as a cemetery use. Current development is almost entirely on the eastern portion
23 of the property. The western half of the site is relatively undeveloped compared to the
24 eastern half of the site, and development is limited to a smaller two-acre burial area and a
maintenance building. Streams, wetlands, a large steep slope, and continuous mature tree

1 canopy are present on the western parcel. The site contains a large west-facing steep slope
2 along the western side of the cemetery property. The steep slope continues off-site to the
3 north, south, and west. The approximate on-site slope elevations range from 80-110 feet and
4 are heavily forested. The most western parcel of the site contains transmission overhead
5 electric lines in a north-south configuration, as well as a walking trail that travels a north-
6 south trajectory. Kelsey Creek Park is a part of the larger drainage to the west of the
7 property.

8 2. The proposal seeks to allow for an increase in usable cemetery space of about
9 7.88 acres. The expansion area consists of 4.10 acres of newly created usable area through
10 the construction of retaining walls, as well as redevelopment of 3.78 acres to relocate the
11 maintenance building, for a total of 7.88 acres of new cemetery space.

12 3. Cemeteries and associated improvements are allowed in residential zones
13 through a Conditional Use Permit. LUC 20.10.440 (standard LUC ref. 6262). The proposed
14 expansion exceeds the scope allowed through an exemption or amendment of the existing
15 conditional use permit for the use and requires a new conditional use permit application
16 pursuant to LUC 20.30B.175. The requirements and decision criteria for a conditional use
17 permit are set out in Chapter 20.30B LUC.

18 4. Three large retaining walls ranging in height from 15-30 feet are proposed to
19 the north and south of the existing maintenance building. These walls are located in areas of
20 steep slope in excess of 45 percent. Backfill of the retaining walls is proposed to be no
21 steeper than a 2:1 grade and will contain stormwater infrastructure to maintain flows to
22 wetlands and streams located on and off-site to the west. Areas above the retaining walls
23 will be graded to a comparable flat or gentle grade to allow for usable cemetery area.

24 5. Approximately 178,071 square feet of steep slope and steep slope buffer
impacts are proposed as part of the cemetery expansion proposal. Impacts to these areas are
primarily due to construction of retaining walls and fill behind them, for the purpose of
allowing the cemetery area expansion. These impacts have been evaluated and mitigated

1 through the critical areas land use permit and are not within the jurisdiction of the Hearing
2 Examiner in this decision.

3 6. A new 4,425 square foot maintenance building is proposed to replace an
4 existing maintenance building that will be demolished as part of the site improvements. The
5 new building will be located to the south of the existing building and will be located on level
6 topography created by the two southern retaining walls (of the three proposed as part of the
7 application). Location of the building between the two retaining walls will allow for much of
8 the building to be obscured by the upland grading to help screen the building from the view
9 of homes located approximately 400 feet to the east.

10 7. The maintenance building design will be utilitarian in nature with a metal roof
11 and corrugated metal cladding. An extended awning in the front of the building will provide
12 some weather protection to the 12-foot roll-up garage doors, and break room and tool room
13 entrances. Glazed horizontal windows line the rear of the structure along the individual
14 garage bays.

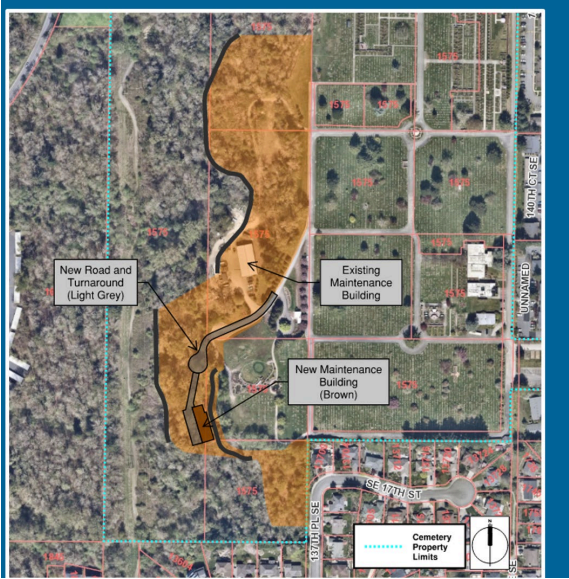
15 8. An existing access road and turnaround located to the south of the existing
16 maintenance building will be extended and reconstructed to provide access and
17 maneuverability to the proposed maintenance building. The extension of the road is located
18 within the bench area of the south retaining walls and is designed to utilize much of the
19 existing road and turnaround to minimize an increase in impervious surface.

20 9. Landscape and fence screening is proposed along the property line adjacent to
21 137th Pl SE and SE 17th St. The landscape screen will consist of a single row of cherry laurel
22 shrubs spaced five feet on-center in front of a new solid eight-foot fence. Cherry laurel is a
23 commonly found fast-growing shrub and is intended to function as a dense vegetative visual
24 screen between the cemetery (including the new maintenance building) and the single-family
residences along those streets.

10. A map below depicts the layout of the expansion proposal- the area shaded in
orange depicts the expansion area (Exh. C-2 at 6):

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11. The site contains five streams ranging from Type-O to Type-N in the near vicinity of the project area on the west side of the cemetery site. The Department determined through analysis of the critical areas land use permit that due to the presence of steep topography in close proximity the on-site streams, the top of bank for a number of the streams is located well beyond the streams’ ordinary high water marks (“OHWM”), and, in some cases, hundreds of feet away from the stream OHWM. Due to this anomaly, the proposed upland development will result in approximately 56,814 square feet of stream buffer impact. These impacts have been evaluated and mitigated through the approval of the critical areas land use permit and are not within the jurisdiction of the Hearing Examiner in this decision.

12. The site contains nine wetlands ranging from Category III to IV on the west side of the cemetery property and in the vicinity of the project area. The Critical Areas Report submitted by the Applicant indicates that the wetlands require buffers ranging from 0 to 110 feet, depending on the wetland category and habitat score in accordance with LUC 20.25H.095.D. The proposal avoids impacts to wetlands and their buffers entirely, and provides approximately 70,273 square feet of enhancement and invasive species removal through seven of the wetlands and their buffers.

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1 13. A total of approximately 152,000 square feet of mitigation, restoration, and
2 enhancement is proposed to off-set impacts to the on-site steep slope, wetlands, and buffers.
3 The Department approved this mitigation as a part of the critical area land use permit. That
4 decision is final and therefore is not under the jurisdiction of the Hearing Examiner.

5 14. The Applicant also requested a variance to allow a fill limit to as high as 25
6 feet (the Land Use code places the fill limit at five feet). Expansion of the cemetery in strict
7 adherence to the allowed fill limit would not be feasible due to the existing topography. The
8 use of retaining walls will reduce the amount of fill needed and avoid unnecessary critical
9 areas and buffer impacts. The Department approved the variance. That decision is final and
10 therefore not under the jurisdiction of the Hearing Examiner.

11 **B. Site Vicinity and Zoning.**

12 15. The Sunset Hills Memorial Park is located in the Lake Hills neighborhood and
13 has operated as a cemetery for a number of years. The surrounding uses are almost
14 exclusively residential, except for a limited area of Neighborhood Business to the east. The
15 terrain on the eastern half of the cemetery is gently sloping. The western side of the
16 developed portion of the cemetery is relatively flat with some gently rolling areas. There is a
17 steep slope on the edge of the developed portion of the property dropping to a valley to the
18 west, which is the Kelsey Creek drainage.

19 16. The property is zoned R-1 (Single-Family Residential) and R-20 (Multifamily
20 Residential) and is located within the Lake Hills neighborhood area. The portion of the site
21 where new development is proposed to occur is zoned R-1.

22 17. The site has a comprehensive plan designation of SF-L (Single-Family Low
23 Density) and MF-M (Multifamily Medium Density). The site is bordered by SF-L to the
24 north; MF-M and NB (Neighborhood Business) to the east; SF-H (Single-Family High
Density); and MF-L (Multifamily Medium Density) and P/SF-M (Park/Single-Family
Medium Density) to the west.

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1 **C. Public Notice and Comments.**

2 18. The application was submitted to the Department on April 12, 2021. The
3 Notice of Application for the Conditional Use Permit, Critical Areas Land Use Permit, and
4 the Variance to the Land Use Code was published in the City of Bellevue weekly permit
5 bulletin on June 10, 2021. Public notice was also mailed to all property owners within 500
6 feet of the project site. A public meeting was held on June 29, 2021. Fourteen comments
7 were received by the date of publication of the staff report (June 22, 2023) and one additional
8 written comment was received prior to the public hearing before the Hearing Examiner on
9 July 13, 2023.

10 19. Public comment received prior to publication of the staff report is addressed in
11 the staff report (Exh. C-1) at pp. 22-24. Pages 22-24 of the staff report is incorporated by
12 reference into the Hearing Examiner’s findings of fact as if set out herein. There were
13 comments concerning possible access to the site from SE 17th Street/137th Pl SE. Staff
14 indicated that no access would be possible, and a new eight-foot fence, along with fast-
15 growing large shrubs and trees, should act as an effective barrier and screen for the homes in
16 the vicinity.

17 20. Staff also received public comments voicing concern that moving the
18 maintenance building closer to residences in the SE 17th St/137th Pl SE/SE 18th St.
19 neighborhood may increase noise and visual impacts experienced by the neighborhood. Staff
20 indicated that the new maintenance building is proposed to be located approximately 400 feet
21 from the closest neighboring residence. The new maintenance building is 17 feet in height,
22 which complies with the height limitations in the Land Use Code and is lower than many
23 single family homes. The new location is situated between the two southern retaining walls
24 and will be mostly screened by the eastern of the two retaining walls. The location is further
screened by dense mature trees and undergrowth to the south, which will not be impacted by
the new development and are proposed to remain in place. Additionally, mitigation and
restoration planting is proposed around the south and southeast end of the eastern retaining
wall and extending along the area to neighboring residences to the southeast. A solid, eight-

1 foot high fence and a row of cherry laurel, a fast-growing and dense large shrub is proposed
2 along the property line adjacent to 137th Pl SE. The combination of grade changes, wall
3 height, existing and proposed vegetation, and the new fence will provide significant visual
4 and sound attenuation screening to the SE 17th St/137th Pl SE neighborhood. Finally, all
5 activities on the site are required to comply with Noise Code requirements of Bellevue City
Code chapter 9.18.

6 21. Other public comments indicated concerns about wildlife habitat, noise and
7 traffic impacts from construction impacts, and the safety of the site. These concerns were
8 addressed in the staff report at pp. 23-24, and, as stated above, the Examiner agrees with and
9 incorporates by reference the staff's discussion of these concerns at pp. 23-24 of the staff
report.

10 22. At the public hearing, Ms. Anu Kohli testified about noise impacts to
11 the neighborhood caused by construction of the retaining walls and the proximity of
12 the new maintenance facility to their neighborhood. Ms, Anu Kohli and Mr. Ryan
13 Smith reside at 13620 SE 18th Street, Bellevue WA 98005, and submitted written
14 comments in the record immediately prior to the public hearing. At the
15 hearing, Ms. Kohli also requested information on the construction schedule
currently contemplated by the Applicant.

16 23. The Applicants presented testimony from Tony Sosebee and Michael
17 Green regarding the questions posed by the resident. Mr. Green testified that the
18 project would comply with the City's noise ordinance, and that construction will be
19 accomplished in discrete phases with relatively short timelines. Mr. Sosebee
20 testified that the new maintenance building will be completed in about a month,
21 and that the construction equipment would consist of small tractors and bobcats, not
22 large earth-moving equipment. Mr. Sosebee also indicated that they are only allowed to
do construction in the dry season, and the soonest they would start is the spring of 2024.
He further testified they would like to complete the work in two seasons. Phase 1
would be the northwest retaining wall and relocation of the maintenance building.

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1 24. The Applicant extended an invitation to the residents attending the hearing to
2 remain in communication concerning the construction schedule and any concerns that may
3 arise.

4 **D. Transportation.**

5 25. The City of Bellevue Transportation Department has reviewed the proposal for
6 compliance with city transportation codes and standards and found no issues with the
7 proposed development. The Transportation Department notes that the site access driveways
8 at SE 16th Street/145th PI SE are currently being reconstructed to meet City standards as part
9 of a previously approved expansion project. Further analysis indicates that the driveway and
10 sidewalks abutting the property on the SE 12th Street driveway are not ADA compliant;
11 therefore, the following mitigation is required at the SE 12th Street driveway: a)
12 reconstruction of the driveway to meet city standards; and b) reconstruction of any sidewalk
13 panels adjacent to the driveway to meet standards required under the federal Americans with
14 Disabilities Act. Other review of the project by the Transportation Department is outlined at
15 pp. 25-26 of the staff report. The Hearing Examiner adopts and incorporates by reference the
16 staff report discussion concerning transportation impacts of the proposal and any mitigation
17 required.

18 **E. Review under the State Environmental Policy Act**

19 26. Review under the State Environmental Policy Act conducted for this proposal
20 was completed and a Determination of Non-Significance (“DNS”) was issued by the
21 Department on June 22, 2023. No appeals were filed.

22 **F. Other areas of review.**

23 27. The staff report indicates no other areas of concern with the project. For
24 clearing and grading, the staff report proposes numerous conditions of approval to ensure
compliance with the code. In addition, utilities review indicated no issues with the project.

1 **G. Consistency with the Comprehensive Plan**

2 28. The site is located within the Lake Hills neighborhood area and is designated
3 Single Family Low Density (SF-L) and MF-M (Multifamily Medium Density) in the
4 comprehensive plan. The comprehensive plan designation is consistent with the zoning
5 classification of R-1 and R-20.

6 29. The following comprehensive plan policies have applicability to this
7 application:

8 *EN-11: Support partnerships between the city and private landowners to steward
9 private lands, streams, habitat and other natural resources for public benefit.*

10 *EN-18: Integrate site-specific development standards with urban watershed-scale
11 approaches to managing and protecting the functions of critical areas.*

12 *EN-19: Retain existing open surface water systems in a natural state and restore
13 conditions that have become degraded.*

14 *S-SE-1: Strictly enforce the Land Use Code, Building Codes, Fire Code and other
15 regulations and standards related to development and use of properties.*

16 **H. General.**

17 30. Any Finding of Fact which may be deemed a Conclusion of Law is hereby
18 adopted as such, and vice versa.

19 **CONCLUSIONS OF LAW**

20 1. The Hearing Examiner has jurisdiction over this application. Under LUC
21 20.35.140.A, the following recommendation criteria apply:

22 The Examiner shall approve a project or approve with modifications if the
23 applicant has demonstrated that the proposal complies with the applicable
24 decision criteria of the Bellevue City Code. The applicant carries the burden of
proof and must demonstrate that a preponderance of the evidence supports the

1 conclusion that the application merits approval or approval with modifications.
2 In all other cases, the Hearing Examiner shall deny the application.

3 2. Under LUC 20.35.140.C, the Hearing Examiner may include conditions to
4 ensure a proposal conforms to the relevant decision criteria.

5 3. LUC 20.35.140.D provides the relevant requirements for the Hearing
6 Examiner's written decision:

7 D. Written Decision of the Hearing Examiner.

8 The Hearing Examiner shall within 10 working days following the close of the
9 record distribute a written report supporting the decision. The report shall
10 contain the following:

- 11 1. The decision of the Hearing Examiner; and
- 12 2. Any conditions included as part of the decision; and
- 13 3. Findings of facts upon which the decision, including any conditions,
14 was based and the conclusions derived from those facts.

15 4. Under LUC 20.30B.140, the City may approve or approve with modifications
16 an application for a 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
20 the 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 or property
24 in the immediate vicinity of the subject property; and
- 25 E. The conditional use complies with the applicable requirements of this
Code.

26 5. As documented in the Findings of Fact, the proposal is consistent with the
27 comprehensive plan, as conditioned by this decision. The Applicant's proposal is
28 consistent with the following policies:

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1 *EN-11: Support partnerships between the city and private landowners to steward*
2 *private lands, streams, habitat and other natural resources for public benefit.*

3 *EN-18: Integrate site-specific development standards with urban watershed-scale*
4 *approaches to managing and protecting the functions of critical areas.*

5 *EN-19: Retain existing open surface water systems in a natural state and restore*
6 *conditions that have become degraded.*

7 *S-SE-1: Strictly enforce the Land Use Code, Building Codes, Fire Code and other*
8 *regulations and standards related to development and use of properties.*

9 The proposal meets Criteria A for a conditional use permit, in that it is consistent with the
10 comprehensive plan.

11 6. The proposal also meets Criteria B for a conditional use permit, in that the
12 design of the proposal is compatible with and responds to the existing character,
13 appearance, quality of development and physical characteristics of the subject property and
14 immediate vicinity. The character of the existing cemetery use is quiet, peaceful, and
15 contemplative. The character of the cemetery will not change with the expansion. For that
16 reason, cemeteries are compatible in residential neighborhoods. The site contains a highly
17 managed landscape as typically found at cemeteries, and a largely undeveloped area
18 containing multiple critical areas and their buffers. Single-family and multifamily
19 development adjacent to the site exhibits similar attributes of Pacific Northwest natural
20 areas, developed landscape, and architecture. The proposal balances the natural character
21 and the highly maintained residential character by proposing design elements similar to
22 those found in the surrounding neighborhood, such as residential landscaping species and
23 manicured lawn. In addition, the proposal retains natural features such as mature forest on
24 the west side of the property combined with restoration of wetland areas that currently
contain invasive species. Plant species adjacent to forested areas will complement the
forest environment. The newly created cemetery areas will be designed with the same or
similar character as the remainder of the cemetery area, which has existed in this location
for many years.

1 7. The proposal meets Criteria C for a conditional use permit, as it will be served
2 by adequate public facilities including streets, fire protection and utilities. The site is
3 currently served by public facilities and no change in demand for public facilities and
4 services are anticipated as a result of this project.

5 8. The proposal complies with Criteria D for a conditional use permit, in that the
6 proposal will not be materially detrimental to uses or property in the immediate vicinity of
7 the subject property. The proposed conditional use is an expansion of an existing, legally
8 established use of the same type. The proposed design balances the need to protect and
9 enhance both critical areas functions and values as well as neighborhood impacts. The
10 proposal achieves this balance by utilizing selective placement of permanent
11 improvements; providing landscape and fence screening; and completing required
12 mitigation projects in a 152,000 square feet area, which will restore and enhance critical
13 areas and their buffers. The conditions will require that the Applicant execute a hold
14 harmless agreement prior to issuance of a clearing and grading permit.

15 9. The proposal complies with Criteria E for a conditional use permit: the proposal
16 meets all applicable requirements of the land use code. As documented throughout this
17 decision and in the staff report and associated attachments, this proposal meets the
18 applicable requirements of the land use code.

19 10. The Hearing Examiner concludes that the proposal meets each of the criteria for
20 approval of a conditional use.

21 11. The Hearing Examiner concludes that all public notice and opportunities for
22 public engagement have been satisfied as required by the Land Use Code. The Hearing
23 Examiner further concludes that the Department has completed SEPA review, and the
24 application is compliance with SEPA.

 12. The Hearing Examiner has reviewed the conditions of approval recommended
by the Department and concludes they are reasonable and capable of being accomplished;
moreover, the Hearing Examiner concludes they should be required to assure the
conditional use as proposed meets the criteria of LUC 20.30B.140. The Applicant has

1 indicated at the hearing that it agrees with the staff report and to the imposition of the
2 conditions as recommended in the staff report. The conditions of approval are attached to
3 this decision.

4 **DECISION**

5 The Hearing Examiner grants approval of the conditional use, with the attached
6 conditions of approval as recommended by the Department.

7 **SO ORDERED**, this 29th day of August, 2023.

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11 Barbara Dykes Ehrlichman
12 Hearing Examiner

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1 **CONDITIONS OF APPROVAL**

2 **The applicant shall comply with all applicable Bellevue City Codes and Ordinances including**
3 **but not limited to:**

4

Applicable Ordinances	Contact Person
Clearing and Grading Code - BCC 23.76	Savina Uzunow, 425-452-7860
Utilities Code - BCC 24	Mark Dewey, 425-452-6179
Land Use Code - BCC 20.25H	David Wong, 425-452-4282
Noise Code – BCC 9.18	David Wong, 425-452-4282
Transportation Code - BCC 14	Darwin Li, 425-452-4598

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9 **The following conditions are imposed under the Bellevue City Code or SEPA authority**
10 **referenced:**

11 **1. Building Permit Required:** Approval of this Critical Areas Land Use Permit does not
12 constitute an approval of a development permit. A Building Permit shall be required and approved.
13 Plans consistent with those submitted as part of this permit application shall be included in the
14 Building Permit application.

15 Authority: Land Use Code 20.30P.140
16 Reviewer: David Wong, Land Use

17 **2. Clearing and Grading Permit Required:** Approval of this Critical Areas Land Use Permit
18 does not constitute an approval of a development permit. A Clearing and Grading Permit shall be
19 required and approved. Plans consistent with those submitted as part of this permit application shall
20 be included in the Clearing and Grading Permit application.

21 Authority: Land Use Code 20.30P.140
22 Bellevue City Code 23.76.035
23 Reviewer: David Wong, Land Use
24 Savina Uzunow, Clearing and Grading

1 **3. Provisions for Loading:** The property owner shall provide an off-street loading space which
2 can access a public street. This must include an off-street location for garbage pick-up, which must
3 be acceptable to the garbage hauler. On-street loading and unloading will not be permitted.

4 Authority: Land Use Code 20.20.590.K.4
5 Bellevue City Code 14.60.180
6 Reviewer: David Wong, Land Use
7 Darwin Li, Transportation

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

13 Authority: Bellevue City Code 23.76.050
14 Reviewer: David Wong, Land Use

15 **5. Geotechnical Monitoring:** The project geotechnical engineer of record or his representative
16 must be on site during critical earthwork operations. The geotechnical engineer shall observe all
17 excavations and fill areas. In addition, the engineer shall monitor the soil cuts prior to construction
18 of rockeries and verify compaction in fill areas. The engineer must submit field report in writing to
19 the DSD inspector for soils verification and foundation construction. All earthwork must be in
20 general conformance with the recommendations in the geotechnical report.

21 Authority: Bellevue City Code 23.76.160
22 Reviewer: Savina Uzunow, Clearing and Grading

23 **6. Required Screening:** An 8-foot privacy fence and dense vegetative screening shall be provided
24 along 137th Pl SE and conforming to the conceptual plans. The privacy fence shall be faced with the
25 finished side towards 137th Pl SE. The plant species selected shall be fast-growing; have a mature
26 height of at least 20 feet; and shall be at least 5 feet tall at time of installation.

27 Authority: Land Use Code 20.20.400, 20.30B.140
28 Reviewer: David Wong, Land Use

29 **7. Clearing Limits and Temporary Erosion & Sedimentation Control Plan:** Prior to the
30 initiation of any clearing or grading activities, clearing limits and the location of all temporary
31 erosion and sedimentation control measures shall be field staked for approval by the on-site clearing
32 and grading inspector.

1 Authority: Bellevue City Code 23.76.060, 23.76.090
2 Reviewer: Savina Uzunow, Clearing and Grading

3 **8. Pesticides, Insecticides, Herbicides, and Fertilizers:** The use of pesticides, insecticides
4 herbicides, and fertilizers to install and maintain the wetland buffer enhancement planting shall be in
5 accordance with the City of Bellevue’s “Environmental Best Management Practices.” Herbicides,
6 pesticides and insecticides used in the stream, wetland, or their respective buffer areas shall be
7 approved for aquatic use.

8 Authority: Land Use Code 20.25H.220.H
9 Reviewer: David Wong, Land Use

10 **9. Rainy Season restrictions:** Due to the proximity of working occurring and the presence of a
11 steep slope on-site, no clearing and grading activity may occur during the rainy season, which is
12 defined as October 1 through April 30 without written authorization of the Development Services
13 Department. Should approval be granted for work during the rainy season, increased erosion and
14 sedimentation measures, representing the best available technology must be implemented prior to
15 beginning or resuming site work.

16 Authority: Bellevue City Code 23.76.093.A
17 Reviewer: Savina Uzunow, Clearing & Grading

18 PRIOR TO ISSUANCE OF A BUILDING PERMIT

19 **10. Building and Site Plans - Transportation:** The building grade and elevations shall be
20 consistent with the curb and sidewalk grade shown in the approved civil engineering plans. During
21 construction, city inspectors may require additional survey work at any time in order to confirm
22 proper elevations. Building plans, landscaping plans, and architectural site plans must accommodate
23 on-site traffic markings and signs and driveway design as specified in the engineering plans.
24 Building plans, landscaping plans, and architectural site plans must comply with vehicle and
pedestrian sight distance requirements, as shown on the engineering plans.

Authority: Bellevue City Code 14.60.060, 110, 120, 150, 180, 181, 190, 240, 241
Reviewer: Darwin Li, Transportation

PRIOR TO ISSUANCE OF A CLEARING AND GRADING PERMIT

11. Hold Harmless Agreement: Prior to Clearing and Grading Permit approval, the applicant or
property owner shall submit a hold harmless agreement releasing the City of Bellevue from any and
all liability associated with the critical area, critical area buffer, and critical area structure setback

1 modifications. The agreement must meet city requirements and must be reviewed by the City
2 Attorney's Office for formal approval.

3 Authority: Land Use Code 20.30P.170

4 Reviewer: David Wong, Land Use

5 **12. Right of Way Use Permit:** Prior to issuance of any construction or clearing and grading permit,
6 the applicant shall secure applicable right-of-way use permits from the City's Transportation
7 Department, which may include:

- 8 a. Designated truck hauling routes.
- 9 b. Truck loading/unloading activities.
- 10 c. Location of construction fences.
- 11 d. Hours of construction and hauling.
- 12 e. Requirements for leasing of right of way or pedestrian easements.
- 13 f. Provisions for street sweeping, excavation and construction.
- 14 g. Location of construction signing and pedestrian detour routes.
- 15 h. All other construction activities as they affect the public street system.

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

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

23 Authority: Bellevue City Code 11.70 & 14.30

24 Reviewer: Tim Stever, Right of Way

13. 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.

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

- 4 a. Traffic signs and markings.
- 5 b. Curb, gutter, sidewalk, and driveway approach design. The engineering plans shall be the
6 controlling document on the design of these features; architectural and landscape plans must
7 conform to the engineering plans as needed.
- 8 c. Installation or relocation of streetlights and related equipment.
- 9 d. Undergrounding of existing overhead utility lines, which should be coordinated with adjacent
10 sites. Transformers and utility vaults to serve the building shall be placed inside the building or
11 below grade, to the extent feasible.
- 12 e. Sight distance. Show the required sight triangles and include any sight obstructions, including
13 those off-site. Sight distance triangles must be shown at all driveway locations and must
14 consider all fixed objects and mature landscape vegetation. Vertical as well as horizontal line of
15 sight must be considered when checking for sight distance.
- 16 f. Landings on sloping approaches are not to exceed a 7% slope for a distance of 30 feet
17 approaching the back edge of sidewalk. Driveway grade must be designed to prevent vehicles
18 from bottoming out due to abrupt changes in grade.
- 19 g. Location of fixed objects in the sidewalk or near the driveway approach.
- 20 h. Trench restoration within any right of way or access easement.

Specific requirements are detailed below.

21 Frontage improvements required by the developer include:

- 22 1. SE 12th Street driveway
 - 23 a. Reconstruct driveway to meet COB Standards per Standard Drawing SW-170-1
 - 24 b. Reconstruct any sidewalk panels adjacent to the driveway to meet ADA standards.

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

Authority: Bellevue City Code 14.60
Transportation Department Design Manual
Americans with Disabilities Act

Reviewer: Darwin Li, Transportation

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1 **14. Turbidity and pH Monitoring Required:** A turbidity and pH monitoring plan must be
2 submitted and approved prior to issuance of the clearing and grading permit, and the plan must be
3 implemented during site work. The plan must be developed and implemented in accordance with the
4 Turbidity & pH Monitoring Requirements contained in the Bellevue Clearing & Grading
5 Development Standards.

6 Authority: Bellevue City Code 23.76.160.C

7 Reviewer: Savina Uzunow, Clearing and Grading

8 **15. Mitigation, Restoration, and Enhancement Plan:** A final mitigation plan in accordance with
9 the conceptual mitigation plan (Attachment 3) provided under this application shall be submitted for
10 review and approval by the City of Bellevue prior to issuance of the Clearing and Grading Permit.
11 Enhancement plans for pileated woodpecker habitat shall conform with WDFW publication:
12 *Management Recommendations for Washington's Priority Species Volume IV: Birds.*

13 Authority: Land Use Code 20.25H.125, 20.25H.160

14 Reviewer: David Wong, Land Use

15 **Maintenance & Monitoring:** A maintenance & monitoring plan in conformance with the plan
16 submitted under this application shall be submitted for review and approval by the City of Bellevue
17 prior to issuance of the Building Permit. The mitigation plan shall be maintained and monitored for a
18 minimum of five (5) years. Annual reporting shall be submitted at the end of each growing season
19 or by December 1 for each of the five (5) years this plan is applicable. All reporting shall be
20 submitted by email to dwong@bellevuewa.gov. or by mail to:

21 Environmental Planning Manager
22 Development Services Department
23 City of Bellevue
24 PO Box 90012
Bellevue, WA 98009-9012

Authority: Land Use Code 20.25H.220.D, 20.25H.220.H

Reviewer: David Wong, Land Use

16. Maintenance and Monitoring Assurance Device: A financial surety is required to be
submitted to ensure the mitigation, restoration, and enhancement planting successfully establishes.
A maintenance assurance device that is equal to 100% of the cost of plants, planting materials, and
labor is required to be held for a period of five years from the date of building permit issuance. A
cost estimate is required to be provided with the Clearing and Grading Permit. The assurance device
is required to be posted prior to Clearing and Grading Permit issuance. Release of the surety after

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1 the 5-year monitoring period is contingent upon meeting all performance standards, submission of
2 annual reporting by December 1 of each year following successful Land Use inspection of the plant
3 installation, and a final inspection of the planting by Land Use Staff that determines the maintenance
4 and monitoring plan was successful and objectives are met.

5 Authority: Land Use Code 20.25H.220.F
6 Reviewer: David Wong, Land Use

7 PRIOR TO ISSUANCE OF ANY CERTIFICATE OF OCUPANCY

8 **17. Landscape Installation Assurance Device:** Prior to any request for temporary certificate of
9 occupancy, all landscaping shall be installed, or a financial surety is required to be submitted to
10 ensure the mitigation, restoration, and enhancement planting is successfully installed. An assurance
11 device that is equal to 150% of the cost of plants, planting materials, and labor is required to be held
12 until all landscaping is installed and successfully inspected by City inspection staff. A cost estimate
13 is required to be provided prior to the request for temporary occupancy to determine the final cost of
14 the assurance device.

15 Authority: Land Use Code 20.25H.220.F
16 Reviewer: David Wong, Land Use

17 **18. Street Frontage Improvements:** All street frontage improvements and other required
18 transportation elements, including streetlight and traffic signal revisions, must be constructed by the
19 applicant and accepted by the Transportation Department inspector. All existing streetlight and
20 traffic signal apparatus affected by this development, including traffic controllers, pedestrian signal
21 poles, traffic signal poles, and power sources, must be relocated as necessary. Existing overhead
22 lines must be relocated underground. All required improvements must be constructed as per the
23 approved plans or as per direction of the Transportation Department inspector. Bonding or other
24 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
Transportation Department Design Manual Standard Drawings
Reviewer: Darwin Li, Transportation

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**NOTICE OF RIGHTS TO REQUEST
CLARIFICATION OR RECONSIDERATION, AND TO APPEAL**

1. Request for Clarification or Reconsideration of the Decision:

As provided in Rule 1.25 and 1.26 of the Bellevue Hearing Examiner Rules of Procedure, a party may file a written request for clarification or reconsideration of this Decision within (5) working days after the date of issuance. Additional requirements and procedures are found in Rule 1.25 and 1.26 of the Hearing Examiner Rules of Procedure.

2. Right to Appeal the Decision to Superior Court:

The decision of the Hearing Examiner on this Process I application is the final City decision on the conditional use permit. A final decision by the Hearing Examiner on a Process I application may be appealed as set forth in LUC 20.35.070. LUC 20.35.100.C.

LUC 20.35.070 provides the following:

A final City Decision on this Process I application may be appealed to Superior Court by filing a land use petition meeting the requirements set forth in Chapter 36.70C RCW. The petition must be filed and served upon all necessary parties as set forth in state law and within the 21-day time period as set forth in RCW 36.70C.040.