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

In the Matter of an Application for a  
Conditional Use Permit and a Shoreline  
Conditional Use Permit

**DSD FILE NOS: 19-113670-LB  
19-113671-WA**

**ENATAI INTERCEPTORS UPGRADE**

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

For Repairing and Replacing Elements of the  
Regional Sewer System from Lake  
Washington via Enatai Beach Park to  
Sweyolocken Pump Station

**SUMMARY**

1. Decision. The application is approved, subject to conditions.
2. Request. King County Wastewater proposes to improve the existing regional sewer system (a) by constructing a replacement sewer line through trenching in Lake Washington and boring under Bellevue’s Enatai neighborhood to reach the Sweyolocken Pump Station, and (b) by rehabilitating the existing sewer from Enatai Beach Park around the Enatai shoreline and through Mercer Slough to the Sweyolocken Pump Station. The new bored section will handle high flows while the upgrade of the existing section along the lake shore will accommodate low flows.
3. Procedure. The subject Conditional Use Permit and Shoreline Conditional Use Permit applications were accompanied by applications for a Critical Areas Land Use Permit

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

1 and a Shoreline Substantial Development Permit. The latter two requests have been approved  
2 administratively and were not appealed.

3 Notice of the subject applications was made by publication, the placement of signs and  
4 mailing on June 27, 2019. The City held a public meeting on the applications on August 22,  
5 2019. No comments were submitted and no members of the public attended the meeting.  
6 King County also gave public notice as part of the environmental review process which  
7 culminated in the issuance of a Determination of Non-Significance (DNS) under the State  
8 Environmental Policy Act. (SEPA).

9 The Hearing Examiner's public hearing was held via ZOOM conference on June 18,  
10 2020. At the hearing, the City was represented by Reilly Pittman, Senior Environmental  
11 Planner. King County was represented by Courtney Schaumberg. One member of the public  
12 participated and asked questions about how the project would affect existing docks. He was  
13 advised that the portions of docks impacted will be repaired by the applicant. It was  
14 emphasized that the project along the lakeshore will replace existing piping along an existing  
15 route.

#### 16 **FINDINGS OF FACT**

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

19 2. Through the subject applications, King County Wastewater seeks permission to  
20 improve portions of the existing regional sewer system as it connects Mercer Island and  
21 Bellevue. Within the City of Bellevue, the segment involved reaches from Lake Washington  
22 to the Sweyolocken Pump Station near the south end of Mercer Slough.

23 3. The project involves two major features. The first is replacement sewer line in Lake  
24 Washington connecting to a new below ground line, bored from Enatai Beach Park to  
25 Sweyolocken Pump Station under the intervening residential neighborhood. The second is  
rehabilitation of the existing sewer extending from Enatai Beach Park along the shoreline of  
the lake to the Mercer Slough, and from thence to the Sweyolocken Pump Station.

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1 4. The project is within Bellevue's Shoreline Overlay District and its Critical Areas  
2 Overlay District. The construction will involve about 7.5 acres within the city and will be  
3 completed in phases over 2.5 years.

4 5. The purpose is to improve reliability and increase the capacity of the County's  
5 regional sewer in the project area. The existing system was built in the 1960's. The present  
6 proposal aims to accommodate the 20-year peak wastewater flows projected through 2060 for  
7 Southwest Bellevue and Beaux Arts.

8 6. The project will involve five subparts:

9 (a) East Channel Siphon. New sewer line from Mercer Island that enters Bellevue in  
10 the East Channel of Lake Washington and proceeds to Enatai Beach Park. This portion will  
11 consist of three parallel pipes, 12 to 16 inches in diameter, installed in a trench in the bottom  
12 of the lake just north of the I-90 East Channel Bridge. Work and staging will be from barges.  
13 Navigability for the public will be maintained during construction. The lakebed will be  
14 restored using gravel substrate approved by the Washington Department of Fish and Wildlife.

15 (b) Enatai Siphon. A new 36-inch pipe underground from Enatai Beach Park to  
16 Sweyolocken Pump Station installed using horizontal direction drilling (HDD) in a bore  
17 extending 3,400 linear feet. The depth of the bore will be from 10 to 100 feet below ground.  
18 The function of this pipe will be to take high sewer flows directly to the pump station.

19 (c) Enatai Interceptor. Rehabilitation of the existing sewer line along the lake shore and  
20 Mercer Slough to Sweyolocken. This line accepts wastewater from properties nearby. Repair  
21 of the pipe will be accomplished through slip-lining or UV cast-in-place techniques. The  
22 work will require removal of sections of private docks. Affected docks will be restored with  
23 grated decking. During construction, a temporary sewer bypass system will be installed  
24 across the properties adjacent to the lake in order to maintain service.

25 (d) Enatai Connector. A new 36-inch pipe installed by trenching at Enatai Beach Park  
that connects the East Channel Siphon, the Enatai Siphon and the Enatai Interceptor and  
involves a new flow diversion structure directing high flows to the Enatai Siphon and low  
flows to the Enatai Interceptor. Underground vaults will be installed in the park for flow  
diversion and odor control. Above ground in the park will be a new maintenance access road,  
four new maintenance holes, an air intake and a vent stack.

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1 (e) Sweyolocken Pump Station. The existing pump station takes wastewater from  
2 Mercer Island and Bellevue and directs it to the Eastside Interceptor, a major pipeline carrying  
3 wastewater from eastside communities to the County treatment plant in Renton. The instant  
4 project will connect the Enatai Siphon to the station and provide new maintenance holes  
5 installed by open trenching.

6 7. The project work areas contain designated critical areas, buffers and setbacks. The  
7 critical areas include geologically hazardous areas, wetlands, wetland buffers, the slough, 100-  
8 year floodplain, and habitat for species of local importance. The avoidance of impacts and the  
9 impacts that will occur have been thoroughly described in technical reports. Where needed,  
10 mitigation/restoration actions have been identified, and monitoring requirements have been  
11 specified.

12 8. Temporary impacts will result from construction, access and staging. But long-term  
13 environmental impacts will be few. No risks to geologically hazardous areas were identified.  
14 Impacts to wetlands and wetland buffers will be minimized by locating work within buffer  
15 areas degraded with invasive species that will be removed and replaced with native plants.  
16 The minor wetland impacts that will occur will trigger restoration. Restoration across the  
17 project will occur within less than six months of any given impact and immediately after  
18 conclusion of construction activity.

19 9. Mercer Slough and its 100-foot buffer is the only stream and stream buffer within  
20 the project area. Impacts to it are largely avoided by rehabilitating the existing sewer line in  
21 place and accessing it by using existing maintenance holes. No new development is proposed  
22 for the floodplain.

23 10. Impacts of the project on wildlife habitat are predicted to be temporary. Work  
24 areas will be isolated. Work windows for fish will be observed. Restoration with native  
25 vegetation will improve habitat functions. Restoration will include additional enhancement  
planting at Enatai Beach Park.

11. The project will result in the removal of 30 trees, most of which are non-significant  
trees less, than eight inches in diameter. All trees will be replaced at a 1:1 ratio.

12. The project will meet design standards for utility facilities. No changes are  
proposed to the existing Sweyolocken Pump Station and no above ground structures are

1 proposed for Enatai Beach Park. Existing sewer service will be maintained throughout the  
2 project. Impacts to private docks will be temporary. Traffic will not be affected.

3 13. The Staff Report analyzes the project in light of the approval criteria for  
4 Conditional Use Permits and Shoreline Conditional Use Permits. The Staff Report concludes  
5 that, as conditioned, the project will meet the relevant approval criteria. The Hearing  
6 Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference  
7 incorporated herein as though fully set forth.

8 14. Notice of this project was provided appropriately, and there has been no adverse  
9 public reaction to the proposal. Only one member of the public participated in the hearing and  
10 his concern appeared to be for information.

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

### 12 CONCLUSIONS OF LAW

13 1. The Hearing Examiner has jurisdiction over this proceeding. It is a Process I  
14 decision. LUC 20.35.015(B)(1).

15 2. The requirements of SEPA have been met.

16 3. The project, as conditioned, meets the approval criteria for a Conditional Use Permit  
17 (LUC 20.30B.140) and for a Shoreline Conditional Use Permit (LUC 20.25E.180(D)).

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

### 19 CONDITIONS

#### 20 Codes & Ordinances

21 The applicant shall comply with all applicable Bellevue City Codes and ordinances  
22 including but not limited to:

23 Applicable Ordinances	Contact Person
24 Clearing and Grading Code- BCC 23.76	Savina Uzunow, 425-452- 7860
25 Construction Codes- BCC Title 23	Bldg. Division, 425-452- 6864
Fire Code- BCC 23.11	Bill Lehner, 425-452-2925
Land Use Code- BCC Title 20	Reilly Pittman, 425-452- 4350

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Noise Control- BCC 9.18	Reilly Pittman, 425-452-4350
Transportation Code- BCC 14.60	Ryan Miller, 425-452-2065
Right of Way Use Code- BCC 14.30	Tim Stever, 425-452-4294
Utility Code- BCC Title 24	Mark Dewey, 425-452-6197

**A. GENERAL CONDITIONS**

**The following conditions are imposed under the Bellevue City Code referenced**

**1. Clearing and Grading Permit Required**

Approval of these applications does not constitute an approval of a construction permit. A clearing and grading permit must be approved before construction can begin. Plans submitted as part of any permit application shall be consistent with the activity permitted under this approval. The proposal is required to meet all applicable clearing and grading Best Management Practices.

**2. In-Water Work Windows**

Time of work approved is subject to the allowed work windows or as approved by the US Army Corps.

**3. Tree Replacement**

Final planting plans submitted under the future clearing and grading permit or other construction permits shall depict all trees being removed and replanted to restore trees removed by construction. Replanting shall be at a ratio of 1:1 or greater.

**4. Enhancement Planting Areas and Final Restoration Plan**

Planting proposed to restore temporary disturbance and enhance areas to ensure no-net loss requires planting of trees in addition to shrubs and groundcover at plant densities and with species consistent with the City’s Critical Areas Handbook and LUC 20.25E. The submitted restoration plan has conceptual approval. A final restoration plan that shows all trees removed and proposed, provides full plant quantities, and includes all maintenance and monitoring plan elements is required to be submitted with the clearing and grading permit.

**5. Maintenance and Monitoring for Five Years**

Maintenance and monitoring is required for five years per the plan submitted in the Critical Areas and Special Shoreline Report as reference document 4. Annual reports are required to be transmitted to Reilly Pittman for review.

1           **6. Restoration of Lake Beds and Substrate**

2           All material used to restore disturbance to beds and substrate of Lake Washington  
3           shall be as approved by the Washington Department of Fish and Wildlife.

4           **7. Dock Restoration**

5           All docks impacted by construction shall be restored meeting requirements in LUC  
6           20.25E.065. Removed decking is required to be replaced with open grating. No  
7           dock expansion or reconfiguration is approved as part of this approval.

8           **8. Restoration Timing**

9           Restoration for construction impacts must be completed within one year of the  
10          cessation of work at a given location.

11          **9. Utilities**

12          Construction work on City owned water, sewer and storm mains will require a  
13          permit from the Utilities Department.

14          **10. Geotechnical Review**

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

20          **11. Geotechnical Inspection**

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

24          **12. Rainy Season Restrictions**

25          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.

1 **13. RIGHT-OF-WAY USE PERMIT**

2 Prior to issuance of any construction or clearing and grading permit, the applicant  
3 shall secure applicable right-of-way use permits from the City’s Transportation  
4 Department, which may include:

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

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

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

22 **14. PAVEMENT RESTORATION**

23 Pavement restoration associated with street frontage improvements or to repair  
24 damaged street surfaces shall be provided based upon the Trench Restoration  
25 Pavement Classification of the road at the time of restoration. Under the Trench  
Restoration Program, every street in the City of Bellevue has been examined and  
placed in one of three categories based on the street’s condition and the period of  
time since it has last been resurfaced. These three categories are, “No Street Cuts  
Permitted,” “Overlay Required,” and “Standard Trench Restoration.” Each category  
has different trench restoration requirements associated with it.

**DECISION**

The requested Conditional Use Permit and Shoreline Conditional Use Permit for the subject regional sewer upgrades are **APPROVED**, subject to the conditions set forth above.

**DONE**, this 26<sup>th</sup> day of June, 2020.



Wick Dufford, Hearing Examiner

**NOTICE OF RIGHT TO APPEAL**

(Pursuant to Resolution No. 9473)

**RIGHT TO APPEAL-TIME LIMIT**

Persons and entities identified in Land Use Code (LUC) 20.35.150, may appeal the decision of the Hearing Examiner to the Bellevue City Council by filing a written statement of the Findings of Fact or Conclusions of Law which are being appealed, and paying a fee, if any, as established by ordinance or resolution, no later than 14 calendar days following the date that 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.**

**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. Within thirty (30) days of the decision which is appealed from, the appellant shall order from the City Clerk, on a form provided by the Clerk, a 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.

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

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