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

In the Matter of the Application for )  
 )  
**Midlakes Pump Station** )  
 )  
 )  
 )  
For a Conditional Use Permit for )  
Replacement of the facility at )  
12525 NE Spring Blvd. )  
Bellevue, WA )  
\_\_\_\_\_ )

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

**FILE NO. 16-129661 LB**

**SUMMARY**

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

**Proposal.** The applicant, City of Bellevue (“the City”) Utilities, seeks a Conditional Use Permit (CUP) for a project at 12525 NE Spring Blvd., Bellevue, replace the existing Midlakes Pump Station to meet projected demands for increased sewer capacity.

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

**Procedural History.** The City’s Utilities Department applied for a conditional use permit for the proposed replacement of the Midlakes Pump Station on April 29, 2016. A notice of application and public meeting was published on June 2, 2016.

A public meeting was held on June 29, 2016. No members of the public attended the meeting and the City of Bellevue (“the City”) received no comments on the project from members of the public following that meeting.

The City issued a determination of nonsignificance (DNS) on the Midlakes Pump Station project under the State Environmental Policy Act (SEPA). Notice of this determination was issued, and the City received no public comments or appeals on this environmental determination

1 A public hearing was scheduled for October 27, 2016, before the undersigned Hearing  
2 Examiner.

3 The Director of the Development Services Department (DSD) recommended approval of  
4 this Conditional Use Permit application, subject to conditions (Exhibit C1, DSD Staff Report).  
5 The DSD Director also approved a Critical Areas Land Use Permit with conditions.

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

11 **The Hearing.** This case came before the undersigned Hearing Examiner for a public  
12 hearing on October 27, 2016, at 7 PM, at the Bellevue City Hall.

13 David Wong, Associate Land Use Planner with the Development Services Department  
14 (DSD), City of Bellevue, testified on behalf of the City. The applicant did not appear and no  
15 members of the public appeared.

16 Sara Gollersrud, manager of the Office of the Hearing Examiner, recorded the  
17 proceeding.

18 **Exhibits.** The DSD's land use staff report on the conditional use application and other  
19 file reports were admitted into evidence as Exhibit C1 and the DSD's Power Point presentation  
20 prepared for hearing was admitted as Exhibit C2.

21 **FINDINGS OF FACT**

22  
23 1. The factual matters in the foregoing **SUMMARY** are adopted by the undersigned  
24 Examiner as findings.

25 2. The Applicant, Bellevue Utilities Department, operates Midlakes Pump Station, a  
26 sewer pump facility at 12525 NE Spring Blvd., Bellevue. The Applicant requests conditional use  
27 approval for a project that envisions demolition of the existing station and construction of a new  
28 replacement structure to upgrade and increase capacity of the station (See Staff Report, Exhibit  
29 C1, for further details). Land Use Planner David Wong testified that the existing pump station  
30 will be demolished once the new replacement facility is operational.

1 The project includes a new pump station, control building, generator and access drive.  
2 Also, as mitigation, native vegetation will be planted on the steep slope at the southwest corner  
3 of the site.

4 The existing pump station was built in the 1960s and has a capacity of about 800 gallons  
5 per minute (gpm). The proposed replacement station will provide a capacity of about 1700 gpm  
6 to meet future demands associated with the Bel-Red subarea rezone.

7 3. The pump station project at issue lies within the Bel-Red subarea and requires a  
8 conditional use permit under Land Use Code (LUC) 20.25D.070 because the proposed facility  
9 will be larger than the existing station and built in another location on the site. The application at  
10 issue therefore is properly before the undersigned Examiner for a Process I decision.

11 4. The L-shaped site at issue consists of two King County parcels: 2825059011 (west  
12 parcel) and 2825059180 (east parcel), and is approximately 210,046 square feet in size. The City  
13 Parks Department owns both parcels. The west parcel contains a Parks Department fleet building  
14 for vehicle and general storage. The east parcel is mostly undeveloped with exception of the  
15 existing Midlakes sewer pump station.

16 The site also has a steep slope along the southwest corner and contains a piped segment  
17 of West Tributary of Kelsey Creek, a Type-F stream. The land area above the piped-stream  
18 segments contain mostly gravel with limited vegetation, much of which is non-native (See  
19 Exhibit C1 for details on the site).

20 5. The two parcels at issue are zoned BR-OR (Bel-Red Office/Residential) and BR-RC-2  
21 (Bel-Red Residential/Commercial Node 2). The surrounding properties are zoned BR-OR, BR-  
22 RC-2, and BR-CR (Bel-Red Commercial/Residential). The site to the west and south is  
23 associated with the Coca-Cola Bottling facility, and the site to the east is associated with a multi-  
24 tenant commercial warehouse. The City's Parks Department owns the vacant parcel to the north  
25 of the site. The property at issue has a small area of street frontage along NE Spring Blvd at the  
26 northwest corner (See Exhibit C1, Staff Report).

27 6. The project includes the construction of a new one-story, rectangular control building  
28 with a footprint of approximately 371.5 square feet, and one weather-protected enclosure with  
29 sound attenuation padding to house a back-up diesel generator.  
30

1 The proposed control building structure was designed to meet the contextual  
2 requirements of the Bel-Red subarea under the design guidelines found in LUC 20.25D.150 with  
3 both modern architecture and future development in mind. (A land use exemption from design  
4 review approval is required to demonstrate compliance with the Bel Red Design Guidelines (See  
5 Exhibit C-1, Staff Report, Figures 4 and 5 for the architectural elevation of the control building  
6 and photo simulation).

7 Demolition of the existing pump station will include restoration of the southeast portion  
8 of the site where it is located, and will not affect the future potential stream daylighting project.  
9 The proposal also envisions continued use of the fleet building and does not propose to modify  
10 the existing structure.

11 Access to the proposed new pump station will be from NE Spring Blvd. by way of a new  
12 access drive with turnaround.

13 7. The proposed facility meets the dimensional requirements of the Bellevue Land Use  
14 Code (LUC) at 20.20.010 (See details, Staff Report, Exhibit C1).

15 8. The Clearing and Grading Division of the Development Services Department reviewed  
16 the proposed development for compliance with Clearing and Grading codes and standards and  
17 found no issues with the proposed development.

18 9. The Utilities Department's Development Review Division reviewed the proposed  
19 development for compliance with Bellevue Utilities' codes and standards and found no issues  
20 with the proposed development.

21 10. The Transportation Department also reviewed the proposal. Access to the proposed  
22 project will remain at the east end of NE Spring Boulevard, a public road that is located within a  
23 30 feet wide right-of-way and that connects to 124th Ave NE. The access for the proposed  
24 project appears sufficient to accommodate existing truck traffic and the one new trip associated  
25 with this project. Internal circulation for the proposed project provides areas for trucks to turn  
26 around within the site. No on-street loading is allowed within the public right of way. No  
27 mitigation or improvements are required.

28 11. The future NE Spring Boulevard will pass through the north edge of the proposed  
29 project parcel. Based on City review, a right of way dedication and street frontage  
30 improvements for NE Spring Boulevard will not be required for this project.

1 12. A Right of Way Use Permit for activities such as materials storage, construction  
2 trailers, hauling routes, fencing, barricades, loading and unloading and other temporary uses as  
3 well as for construction of utilities and street improvements must be acquired prior to issuance of  
4 any construction permit including a demolition permit. Sidewalks may not be closed except as  
5 specifically allowed by a Right of Way Use Permit. See Conditions of Approval.

6 13. The City of Bellevue has established the Trench Restoration Program to provide  
7 developers with guidance on the extent of resurfacing required when a street has been damaged  
8 by trenching or other activities. NE Spring Boulevard does not have a classification under this  
9 program. Therefore, pavement restoration guidance will be provided by Right of Way staff at the  
10 time the Right of Way Permit issuance. See Conditions of Approval.

11 14. The Fire Department's Development Services Department reviewed the proposed  
12 development for compliance with relevant codes and standards and the staff found no issues with  
13 the proposed development.

14 15. Environmental review indicated no probability of significant adverse environmental  
15 impacts occurring from the proposal and thus DSD issued a Determination of Non-Significance  
16 (DNS) as the appropriate threshold determination under the State Environmental Policy Act  
17 (SEPA) requirements.

18 The capacity increase of the proposed facility is intended to serve the growth anticipated  
19 for the BelRed subarea, as determined by the Bellevue Utilities Department. The project is  
20 consistent with the growth and associated impacts described in the Bel-Red EIS (Bel-Red FEIS,  
21 Chapter 1, pg. 1-14). The long-term traffic impacts for the city are addressed in the 20162017  
22 Transportation Facilities Plan FEIS addendum which is also incorporated by reference in this  
23 staff report.

24 16. As Land Use Planner Mr. Wong testified credibly, the proposal, as conditioned,  
25 complies with the Conditional Use requirements at LUC 20.30B.140. The proposal is also  
26 consistent with the Comprehensive Plan's Urban Design Element.

27 17. The Conditional Use is consistent with the Comprehensive Plan for the site at issue in  
28 the in the Bel-Red subarea with Comprehensive Plan zoning designation of Bel-Red Office-  
29 Residential (BR-OR).  
30

1 The proposed expanded facility conforms with Bel-Red subarea policies as discussed in  
2 the Staff Report (Exhibit C1). The proposal provides increased sewer capacity, a necessary  
3 infrastructure upgrade, to address demands of anticipated development from the Bel-Red rezone.  
4 The structure and design of buildings also were studied for context in the area. See Subarea  
5 Policies S-BR-4 and S-BR-19.

6 The project also is consistent with Utilities Goals and Policies by replacing a pump  
7 station built in the 1960s with a new station to meet anticipated increased capacity demands from  
8 the Bel-Red Rezone. Most of the pump station will be housed below grade except for the control  
9 building and generator, which are designed to be durable and to respond to the context of the  
10 area. The proposal includes sound-dampening for the generator and landscape screening for the  
11 control building. See Utility Policies UT-2, UT-7, UT-8 and UT-31..

12 18. The proposal design is compatible with the character, appearance, development  
13 quality and physical characteristics of the site and immediate vicinity. The proposed expansion  
14 will be sensitive to structures in the existing neighborhood and does not change the relationship  
15 of the existing facility to the immediate vicinity. The elements of the proposal including the  
16 design and structure must be consistent with findings and plans noted in the City's staff report  
17 when submitted for building permits.

18 The applicant has operated a facility in this vicinity for five decades and activities on the  
19 site will not change appreciably once the proposed facility is completed.

20 19. The Conditional Use will be served by adequate public services, including streets, fire  
21 protection and utilities The Departments for Utilities, Transportation, and Fire have reviewed the  
22 project and found that, as conditioned, it conforms to their codes or will with required  
23 improvements as necessary. Further, the project expands public service with an improved sewer  
24 infrastructure.

25 20. The Conditional Use will not be materially detrimental to the uses of property in the  
26 immediate vicinity of the subject property. Development will be contained within the site at issue  
27 and the new pump station will replace an already existing use. Further, the facility location and  
28 design limit the effect of the new facility on adjacent property parcels, and vegetation will screen  
29 or buffer the control building.  
30



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

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

5 E. The conditional use complies with the applicable requirements of this Code.  
6

7 6. The Examiner concurs with and adopts the findings and the recommendation of the  
8 Development Services Department in its October 2016 land use staff report (Exhibit C1).

9 7. The conditional use permit for a new facility and related work at the Midlakes Pump  
10 Station is approved with conditions.

11 8. Any finding of fact deemed to be a conclusion of law is adopted as such.

### 12 CONDITIONS OF APPROVAL

13 The applicant shall comply with all conditions of approval listed in the Development  
14 Services Department Staff Report on the conditional use permit (Staff Report, Section XI,  
15 Exhibit C1) including the following conditions (as detailed in the staff report).

16 The applicant shall comply with all applicable Bellevue City Codes and Ordinances  
17 including but not limited to:

18 Clearing and Grading Code- BCC 23.76

19 Land Use Code- Title 20

20 Noise Control- BCC 9.18

21 Fire Code- BCC 23.11

22 Transportation Code- BCC 14.60

23 Right of Way Code- BCC 14.30

24 Utility Code- Title 2  
25

26 The following conditions are also imposed:

#### 27 General Conditions of Approval

28 1. **Building Permit Required:** An application for a building permit or other required  
29 permits must be submitted and approved. Plans submitted as part of either permit application  
30 shall be consistent with the activity permitted under this approval. The final site plan,



1 structure architectural design including color, and other elements of design related to  
2 compatibility submitted with the required building permits shall be consistent with the  
3 findings of this staff report. LUC 20.30C; 20.30D; 20.30F; 20.30R

4 **2. Rainy Season Restrictions:** Due to the proximity to steep slope critical area, no clearing  
5 and grading activity may occur during the rainy season, which is defined as October 1  
6 through April 30 without written authorization of the Development Services Department.  
7 Should approval be granted for work during the rainy season, increased erosion and  
8 sedimentation measures, representing the best available technology must be implemented  
9 prior to beginning or resuming site work. Bellevue City Code 23.76.093.A,

10 **3. Pesticides, Insecticides, and Fertilizers:** The applicant must submit as part of the  
11 required Clearing and Grading Permit information regarding the use of pesticides,  
12 insecticides, and fertilizers in accordance with the City of Bellevue's "Environmental Best  
13 Management Practices". Land Use Code 20.25H.220.H

14 **4. Noise Control:** Noise related to construction is exempt from the provisions of BCC 9.18  
15 between the hours of 7 am to 6 pm Monday through Friday and 9 am to 6 pm on Saturdays,  
16 except for Federal holidays and as further defined by the Bellevue City Code. Noise  
17 emanating from construction is prohibited on Sundays or legal holidays unless expanded  
18 hours of operation are specifically authorized in advance. Requests for construction hour  
19 extension must be done in advance with submittal of a construction noise expanded exempt  
20 hours permit. Bellevue City Code 9.18

21 **5. Turbidity and pH Monitoring May Be Required:** A turbidity and pH monitoring plan  
22 must be submitted and approved if any worksite stormwater is to be discharged to the storm  
23 system. The approved plan must then be implemented during site work. The plan must be  
24 developed and implemented in accordance with the Turbidity & pH Monitoring  
25 Requirements contained in the Bellevue Clearing & Grading Development Standards. This  
26 requirement may be waived if worksite stormwater is discharged to sanitary sewer. Clearing  
27 & Grading Code 23.76.160.C

28 **6. Geotechnical Monitoring:** The project geotechnical engineer of record or his  
29 representative must be on site during critical earthwork operations. The geotechnical  
30 engineer shall observe all excavations and shoring installation. In addition, the engineer

1 must observe installation of dewatering and subsurface drainage measures, and verify  
2 compaction in fill areas. The engineer must submit field report in writing to the DSD  
3 inspector for soils verification and foundation construction. All earthwork must be in general  
4 conformance with the recommendations in the geotechnical report. Bellevue City Code  
5 23.76.160

6 **7. Provisions for Loading:** On-street loading and unloading will not be permitted within  
7 the public right of way. LUC 20.20.590.K.4; BCC 14.60.180

8 **Prior to Issuance of Any Clearing and Grading Permit**

9  
10 1. **Right-of-Way Use Permit:** Prior to issuance of any construction permit or Clearing and  
11 Grading Permit, the applicant shall secure applicable Right-of-Way Use permits from the  
12 City's Transportation Department, which may include:

- 13 A. Designated truck hauling routes.  
14 B. Truck loading/unloading activities.  
15 C. Location of construction fences.  
16 D. Hours of construction and hauling.  
17 E. Requirements for leasing of right of way or pedestrian easements.  
18 F. Provisions for street sweeping, excavation and construction.  
19 G. Location of construction signing and pedestrian detour routes.  
20 H. All other construction activities as they affect the public street system.

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

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

28 BCC 11.70 & 14.30

29 **2. Restoration for Areas of Temporary Disturbance and Degraded Slope Conditions:**

30 A restoration plan for all areas of temporary disturbance and slope enhancement adjacent to  
the proposed pump station is required to be submitted for review and approval by the City of

1 Bellevue prior to the issuance of the Clearing and Grading Permit. The plan shall include  
2 documentation of existing site conditions and shall identify the restoration measures to return  
3 the site to its existing conditions per LUC 20.25H.220.H and be consistent with the  
4 conceptual mitigation plan in Attachment 3. Land Use Code 20.25H.220.

5 **3. Mitigation for Tree Removal:** A mitigation plan for tree removal associated with the  
6 demolition and decommissioning of the existing pump station is required to be submitted for  
7 review and approval by the City of Bellevue prior to issuance of the Clearing and Grading  
8 Permit. The plan shall document the total number of trees removed and their respective  
9 species and size. Land Use Code 20.25H.220.

10 **Prior to Issuance of Any Building Permit**

11 **1. Transportation Impact Fee:** Payment of the traffic impact fee will be required at the  
12 time of building permit issuance. If multiple building permits will be issued, the impact fee  
13 will be tied to the primary above-ground permit. Due to the number of new trips being less  
14 than one, no impact fee is anticipated. Impact fees are subject to change and the fee schedule  
15 in effect at the time of building permit issuance will apply. BCC 22.16.

16 **2. Building and Site Plans – Transportation:** During construction, city inspectors may  
17 require additional survey work at any time in order to confirm proper elevations. Building  
18 plans, landscaping plans, and architectural site plans must accommodate on-site traffic  
19 markings and signs and driveway design as specified in the engineering plans. Building  
20 plans, landscaping plans, and architectural site plans must comply with vehicle and  
21 pedestrian sight distance requirements, as shown on the engineering plans. BCC 14.60.060;  
22 110; 120; 150; 180; 181; 190; 240; 241.

23 **3. Existing Easements:** Any utility easements contained on this site which are affected by  
24 this development must be identified. Any negative impact that this development has on those  
25 easements must be mitigated or easements relinquished. BCC 14.60.100.

26 **Prior to Issuance of Any Certificate of Occupancy**


27 **1. Pavement Restoration:** Pavement restoration associated with the repair of damaged  
28 street surfaces shall be provided per the requirements of the Right of Way Use Permit.  
29 Authority: BCC 14.60. 250; Design Manual Design Standard #23.  
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**DECISION**

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

**SO ORDERED**, this 8th day of November, 2016.

  
Robin Lindley, Hearing Examiner) *SL*

**NOTICE OF RIGHT TO APPEAL**

**RIGHT TO APPEAL—TIME LIMIT**

A person who submitted written comment to the Director before 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 Conclusions being appealed, and paying any appeal fee, no later than 14 calendar days following the date that the recommendation was mailed. **The appeal must be received by the City Clerk by 5:00 p.m., on November 22, 2016.**

**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 for each recording hour. Should the actual cost be less than 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**

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Upon request, the City Clerk will waive transcription fee 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 of the record the party thinks are necessary for review; e) a statement that the review is sought in good faith.

