

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

In the Matter of the:	)	
	)	
<b>CONDITIONAL USE PERMIT</b>	)	
<b>APPLICATION FOR THE</b>	)	DSD File No. 21-102203-LB
<b>COAL CREEK SEWER UPGRADE</b>	)	
<b>PROJECT,</b>	)	
	)	<b>FINDINGS OF FACT,</b>
King County Wastewater Treatment	)	<b>CONCLUSIONS, AND</b>
Division,	)	<b>DECISION</b>
	)	
Applicant	)	
_____	)	

**I. SUMMARY of DECISION.**

The applicant has met its burden of proof to demonstrate that a preponderance of the evidence supports the conclusion that its application for a Conditional Use Permit (CUP) merits approval. Accordingly, the pending Conditional Use Permit application is approved, subject to conditions.

**II. BACKGROUND and RELEVANT CODE PROVISIONS.**

There is no dispute that a conditional use permit is mandated for this project because the application is for a project upgrading a portion of a regional sewer system located in the City of Bellevue. (See LUC 20.10.440; Staff Report, .pdf page 5, Review Process). A Conditional Use Permit (CUP) is a mechanism by which the City may require special conditions on development or on the use of land in order to ensure that designated uses or activities are compatible with other uses in the same land use district and in the vicinity of the subject property. The CUP is a Process I, quasi-judicial decision which requires a public hearing before the City’s Hearing Examiner following a recommendation from the Director of the Development Services Department. (Id.).

**DECISION APPROVING CONDITIONAL USE  
PERMIT FOR THE KING COUNTY COAL CREEK  
SEWER UPGRADE PROJECT –  
FILE NO. 21-102203-LB**

**BELLEVUE HEARING EXAMINER’S OFFICE**  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012

1  
2 As explained in LUC 20.35.140.A, the Hearing Examiner *shall approve* a project or  
3 approve with modifications if the applicant has demonstrated that the proposal complies with  
4 the applicable decision criteria of the Bellevue City Code, and the applicant carries the  
5 burden of proof and must demonstrate that a preponderance of the evidence supports the  
6 conclusion that the application merits approval or approval with modifications. In all other  
7 cases, the Hearing Examiner shall deny the application. The preponderance of the evidence  
8 standard is equivalent to “more likely than not.”<sup>1</sup>

9  
10 ***Conditional Use Permit Decision Criteria:*** The decision criteria for a Conditional  
11 Use Permit is found in LUC 20.30B.140, which explains that the City may approve or  
12 approve with modifications an application for a conditional use permit if:

- 13 A. The conditional use is consistent with the Comprehensive Plan; and  
14 B. The design is compatible with and responds to the existing or intended character,  
15 appearance, quality of development and physical characteristics of the subject  
16 property and immediate vicinity; and  
17 C. The conditional use will be served by adequate public facilities including streets,  
18 fire protection, and utilities; and  
19 D. The conditional use will not be materially detrimental to uses or property in the  
20 immediate vicinity of the subject property; and  
21 E. The conditional use complies with the applicable requirements of this Code.

### 22 **III. ASSOCIATED PERMIT.**

23 Given the scale and location of the project, along significant portions of the Coal  
24 Creek corridor in the City of Bellevue, a Critical Areas Land Use Permit (CALUP) is also  
25 required for this project. Under LUC 20.25H.015, any disturbance or modification of a  
26 critical area, buffer, or setback by an allowed use listed in LUC 20.25H.055 requires a Critical  
Area Land Use Permit (CALUP). The CALUP is a Process II, administrative decision made  
by the Director.

For this project, there is no dispute that the Director approved the CALUP as

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<sup>1</sup> *In re Pers. Restraint of Woods*, 154 Wn.2d 400, 414 (2005).

1 explained in the same Staff Report issued for the pending Conditional Use Permit. The  
2 CALUP was not appealed, so it was not on review as part of the Hearing Examiner’s public  
hearing process.

3 Specifically, the City thoroughly reviewed application materials for, duly noticed,  
4 sought and considered public feedback for, and issued a Critical Areas Land Use Permit for  
5 aspects of this project under File No. 21-101437-LO. Under the City’s code, the CALUP  
6 approval is subject to appeal before the Hearing Examiner. Again, no appeal was filed, so  
7 the Critical Areas permit stands without modification, as issued, and serves as support for the  
8 Conditional Use permit addressed in this Decision.<sup>2</sup> All findings, conclusions and conditions  
of approval in the CALUP are now beyond review. Any appeal of this Decision cannot be  
used to collaterally attack any aspect of the CALUP or determinations made therein. See  
*Wenatchee Sportsmen Ass’n v. Chelan County*, 141 Wn.2d 169, 182, 4 P.3d 123 (2000),  
and *Habitat Watch v. Skagit County*, 155 Wn.2d 397, 410–11, 120 P.3d 56 (2005).

#### 9 10 **IV. RECORD AND EXHIBITS.**

11 Exhibits entered into evidence as part of the record, and an audio recording of the  
12 public hearing, are maintained by the City of Bellevue, and may be examined or reviewed by  
contacting the Clerk in the Hearing Examiner’s Office.

13 **Exhibits:** Staff Report, dated February 2, 2023, approving CALUP and  
14 recommending approval of Conditional Use Permit for the King County Coal Creek Sewer  
Upgrade Project, with six large attachments, numbered and identified as follows:

- 15 1. Project Plans
- 16 2. Critical Areas Report
- 17 3. Arborist Report
- 18 4. Geotechnical Report
5. SEPA DNS
- 19 6. Application Forms, and other Material

20 During the public hearing, Staff and the applicant both submitted copies of slides used  
during their presentations, copies of which are also included as part of the record.

21  
22 <sup>2</sup> As a Process II Decision, the CALUP had a 14-day appeal deadline, which expired on February 16, 2023. See  
23 *LUC 20.35.250.A.3*. Any appeals would have been included in the Hearing Examiner’s public hearing process  
for the project. There were none. See *Staff Report for details on relevant dates, including date of issuance and  
24 appeal deadline listed on cover page.*

1 **Hearing Testimony:** During the duly noticed public hearing held in Bellevue City  
2 Council Chambers on February 16, 2023, only Staff and Applicant representatives were  
3 present and provided testimony under oath. Riley Pittman, the City's Planning Manager  
4 summarized the Staff Report, key aspects of the project, and recommended conditions of  
5 approval. Ronald Bard, the Project Engineer from Brown & Caldwell, represented the  
6 applicant, the King County Wastewater Treatment Division, and presented a thorough  
7 summary of the project, its purpose, special design features to prevent adverse impacts on the  
8 surrounding area including noise reduction measures, and best practices that will be  
9 implemented throughout the construction process. No one submitted written comments or  
10 testimony at the public hearing opposing the project. There is no evidence in the hearing  
11 record that would serve as a basis to deny the requested permit.

12 In the weeks following the public hearing, the Examiner was able to visit several parts  
13 of the project site, along the Coal Creek corridor, including surrounding residential uses that  
14 will be affected when the construction process begins. Having completed review of  
15 application materials, the Staff Report, various consultant reports, and other materials in the  
16 record, and mindful of the legal standards involved, this Decision is now in order.

#### 17 **V. FINDINGS of FACT.**

18 Based on the entire record, the undersigned Examiner issues the following Findings  
19 of Fact. Any statements contained in previous or following sections of this Decision that are  
20 deemed to be Findings of Fact are hereby adopted as such and incorporated by reference.

21 1. On or about January 15 and February 1, 2021, the King County Wastewater Treatment  
22 Division (King County Wastewater or KCW) applied to the City of Bellevue for a Critical  
23 Areas Land Use Permit (CALUP) and a Conditional Use Permit to replace the north segment  
24 of the existing King County Coal Creek trunk sewer pipe, along Coal Creek Pkwy SE  
25 between SE 119th Ave SE and SE 54th Pl. in the City of Bellevue. The proposal also includes  
26 decommissioning portions of the existing sewer line, improvements of local sewer  
connections to the new sewer line, mitigation for critical area and buffer impacts, and  
restoration of temporary disturbance. (*Staff Report, cover page*).

2. The proposal at issue is known as the "Coal Creek Sewer Upgrade Project".

#### 27 ***Project.***

28 3. The Staff Report provides the following summary of the applicant's proposal, the  
29 Project at issue in this Decision:

30 **DECISION APPROVING CONDITIONAL USE  
31 PERMIT FOR THE KING COUNTY COAL CREEK  
32 SEWER UPGRADE PROJECT –  
33 FILE NO. 21-102203-LB**

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1 King County Wastewater proposes to replace the north segment of the Coal Creek  
2 regional trunk sewer system by installing a new sewer line and decommissioning or  
3 making improvements to the existing sewer facilities along Coal Creek Pkwy SE by:

- 4 • Constructing a new replacement sewer line by direct bore and open  
5 trenching between the Woodsong Condominiums (#2 Figure 1) and the  
6 Bellevue Parks Coal Creek Trailhead (#6 Figure 1).
- 7 • Converting existing sewer trunk infrastructure from the Woodsong  
8 Condominiums to 4628 125th Ave SE to a City lateral sewer line.
- 9 • Constructing new connections between City lateral sewer lines to new  
10 Coal Creek trunk line at Woodsong Condominiums and along Coal  
11 Creek Pkwy SE.
- 12 • Decommissioning in-place the existing trunk sewer line between:
  - 13 ○ East of the I-405, 119<sup>th</sup> Ave SE, and Coal Creek Pkwy SE  
14 intersection and Woodsong Condominiums.
  - 15 ○ 4628 125th Ave SE and the Coal Creek Trailhead
- 16 • Removal of existing sewer trunk line at Woodsong Condominiums and  
17 the Coal Creek Trail head.

18 The proposal is within the Critical Area Overlay District of the City of Bellevue. The  
19 project construction limits will cover approximately 1.3 linear miles within Bellevue and  
20 different phases will span over 5 years. The proposal includes work that will impact the  
21 following:

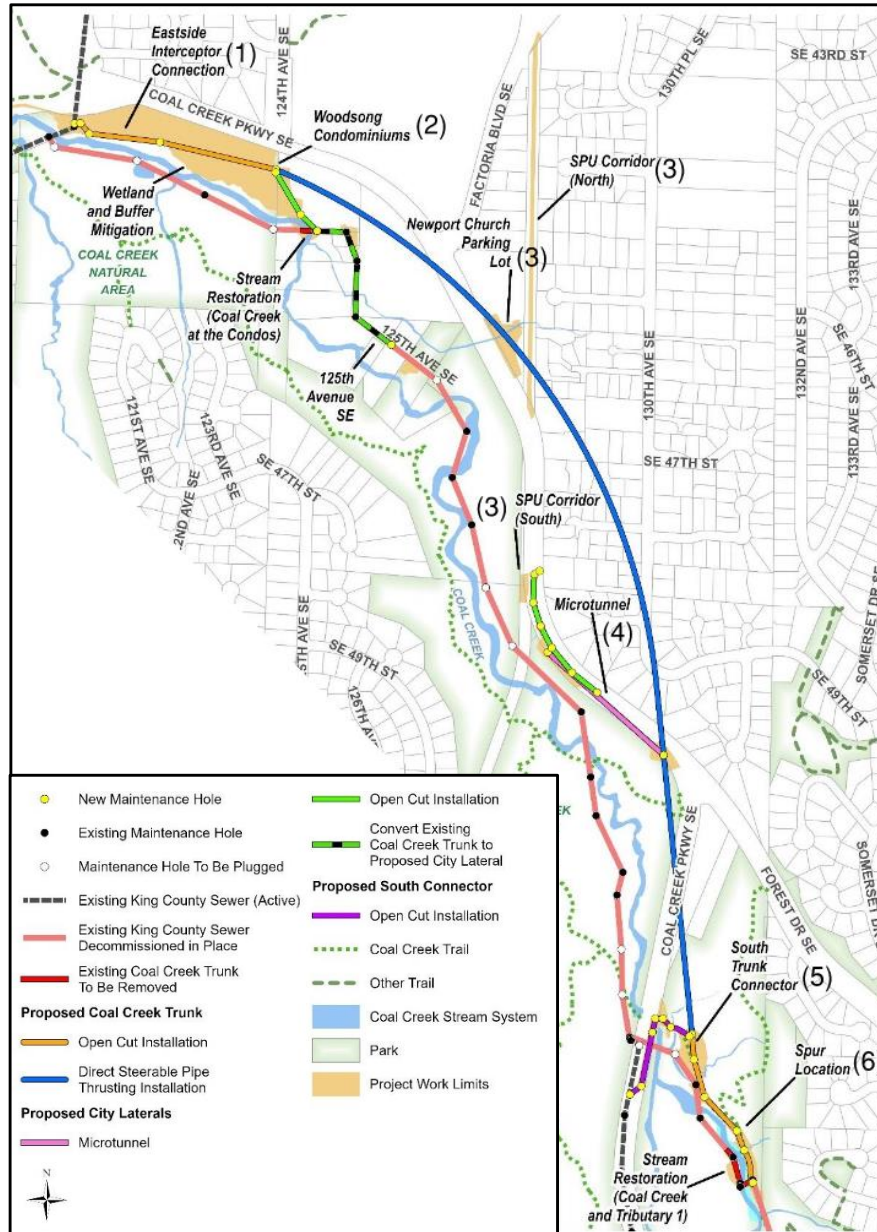
- 22 • The Coal Creek Natural Area containing streams, wetlands, geologic  
23 hazards, frequently flooded areas, habitat of species of local importance,  
24 buffers, and setbacks
- 25 • Private property on 125th Ave SE and on Coal Creek Pkwy SE between  
26 119th Ave SE and SE 54th Pl
- City of Bellevue Parks Department Facilities
- City of Bellevue Right of Way

4. The Staff Report includes an illustration on page 2, labeled Figure 1, showing the full  
scope and alignment of the project, with numbers marking locations of various project  
elements described in the previous finding, a copy of which is republished below:

25 **DECISION APPROVING CONDITIONAL USE**  
26 **PERMIT FOR THE KING COUNTY COAL CREEK**  
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Figure 1



DECISION APPROVING CONDITIONAL USE  
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1 **Purpose.**

2 5. The Staff Report credibly explains that the purpose of the Project as follows: “... to  
3 improve reliability, increase the sewer capacity, and reduce risk of sewer overages into Coal  
4 Creek of the County’s regional sewer components in this area. The goal of this project is to  
5 improve the sewer system to convey the 20-year peak wastewater flows projected through the  
6 year 2060 for Bellevue and the surrounding communities.” (Staff Report, page 3).

6 **Environmental Review.**

7 6. There is no dispute that the Project was the subject of a SEPA review process,  
8 undertaken by King County, as the project sponsor and lead agency; and that King County  
9 issued a SEPA Determination of Non-Significance (DNS) for this proposal in January of  
10 2021. The County’s SEPA threshold determination was not appealed, and stands as issued  
11 for purposes of considering and issuing the permit addressed in this Decision.

12 7. The City of Bellevue’s Critical Areas regulations include specific standards and  
13 requirements for projects such as this, all of which are intended to protect sensitive aspects  
14 of the local environment from adverse impacts, among other things. The unchallenged  
15 CALUP issued for this project includes a number of conditions and requirements that will  
16 further effectuate the purposes and intent of state and City environmental codes and policies.

17 8. The findings, recommendations and conclusions provided in the environmental  
18 documentation submitted on behalf of the applicant, as well as the City’s reviewing reports,  
19 are credible, un rebutted, and well-reasoned summaries of complicated regulations,  
20 conditions, possible impacts and appropriate mitigation measures associated with this sewer  
21 upgrade proposal. No one submitted comparable evidence that would provide a basis to deny  
22 the requested permit.

23 9. After completing its public notice and detailed application review process, Staff  
24 determined that this sewer upgrade proposal meets the decision criteria for a conditional use  
25 permit found in LUC 20.30B.140, as explained in pages 39-41 of the Staff Report.  
26 (Testimony of Mr. Pittman). Accordingly, the Director recommends approval of the  
requested CUP.

10. The Director’s Recommendation of approval includes detailed conditions of  
approval that are based on facts and evidence in the record, consistent with applicable  
regulations, and capable of accomplishment, found in pages 41-44 of the Staff Report. The  
recommended Conditions of Approval include, without limitation, measures addressing the  
following issues:

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- Construction permit requirements
- Compliance with in-water work windows
- Tree replacement requirements
- Enhancement planting, restoration, and timing of restoration
- Noise mitigation
- Maintenance and monitoring

11. During the hearing, the applicant’s primary representative, Mr. Bard, accepted the Staff Report analysis and recommended Conditions of Approval without objection or requested changes.

12. The Staff Report includes a number of specific findings and conclusions that establish how the pending CUP application satisfies provisions of applicable law and/or can be conditioned to comply with applicable codes and policies. Except as modified in this Decision, all Findings, statements of fact, and conclusions contained in the Staff Report for the pending Conditional Use Permit are incorporated herein by reference as Findings of the undersigned hearing examiner.<sup>3</sup>

***The application satisfies the City’s decision criteria for a Conditional Use Permit.***

13. As noted above, the City’s decision criteria for the pending conditional use permit is found in LUC 20.30B.140. Applying facts and evidence in the record to the decision criteria for a Conditional Use Permit (found in LUC 20.30B.140.A-E), the Examiner finds and concludes as follows:

**A. The conditional use is consistent with the Comprehensive Plan.**

*The unchallenged Staff Report credibly explains that the proposal is consistent with the Comprehensive Plan, including without limitation the following elements or policies:*

- *The proposal will improve the regional sewer system to provide reliable, sustainable, and quality service (UT-1).*
- *The proposal is designed to coordinate between the jurisdictions of Bellevue and numerous City departments and King County for implementation of multi-jurisdictional utility family additions and improvements (UT-18).*

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<sup>3</sup> For purposes of brevity, only certain findings from the Staff Report are highlighted for discussion in this Decision, and others are summarized, but any mention or omission of particular findings or analysis provided in the Staff Report should not be viewed to diminish their full meaning and effect, except as modified herein.



- 1 • *The proposal will Balance the immediate and long range environmental*
- 2 *impacts of policy and regulatory decisions in the context of the city’s*
- 3 *commitment to provide for public safety, infrastructure, economic*
- 4 *development and other obligations (EN-1).*
- 5 • *The proposal was required to provide an analysis of soil liquefaction*
- 6 *potential where appropriate, in the siting and design of structures and*
- 7 *infrastructure (EN-36).*
- 8 • *The proposal Minimize and control soil erosion during and after*
- 9 *development through the use of best management practices and other*
- 10 *development restrictions (EN-40)*
- 11 • *The proposal will impact wetlands in stream and the project will restore*
- 12 *the impacted areas and enhance them to a more natural state from the*
- 13 *existing degraded condition (EN-63).*
- 14 • *The proposal will preserve and enhance native vegetation in critical area*
- 15 *buffers (EN-69).*
- 16 • *The proposal will protect significant trees and environmentally sensitive*
- 17 *areas (steep slopes, riparian corridors, and wetlands) in accordance with*
- 18 *the provisions of the Land Use Code (S-NH-8).*
- 19 • *The proposal includes measures to protect and enhance surface water*
- 20 *quality (S-NH-28).*
- 21 • *The proposal will preserve wildlife habitat along Coal Creek (S-NH-31).*

13 **B. The design is compatible with and responds to the existing or intended character,**  
 14 **appearance, quality of development and physical characteristics of the subject**  
 15 **property and immediate vicinity.**

16 *The unchallenged Staff Report credibly explains that the sewer system will be*  
 17 *underground and will not impact the existing character, appearance, or quality of*  
 18 *development or physical characteristics of properties along the sewer alignment, and*  
 19 *that any impacts to improved sites are to be mitigated to improve conditions or*  
 20 *restored to preconstruction conditions.*

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

23 *The unchallenged Staff Report credibly explains that the proposal will temporarily*  
 24 *impact, for up to (4) years, public park facilities for construction of the sewer trunk*  
 25 *line, DSPT launch pit, access and maintenance road, and sewer trunk removal at the*  
 26 *Upper West Coal Creek Trailhead and parking lot. Impacts include closure of the*  
*parking lot resulting in displacement of 20 parking stalls and access impacts to the*  
*nearby trail(s). Short-term closures of these facilities may also occur during year 1.*

25 **DECISION APPROVING CONDITIONAL USE**  
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*All impacts will be restored or mitigated to provide continued use of the Parks Department facilities once construction is complete. The Parks Department has reviewed the conceptual plans and generally approves of the proposed scope of work, including the minor improvements (bench placement and kiosk). No new use or development of Parks facilities are proposed and any proposal to do so will require separate permitting.*

*The built sewer system will not require additional public services to function and will provide greater service of public sewer facilities.*

**D. The conditional use will not be materially detrimental to uses or property in the immediate vicinity of the subject property**

*The unchallenged Staff Report credibly explains that the proposed sewer project is necessary for properties regionally and in the south Bellevue area to continue to be served by sewer. Noise emanated from the construction pits has been analyzed and BMPs have been developed to drastically reduce construction noise. These BMPs include mobile sound attenuation curtains, regular monitoring of noise, and contact information for the public to report noise issues. (See conditions of approval related to noise mitigation and BMPs).*

*Subject to compliance with all Conditions of approval, the Project will not be detrimental to other uses or property in the area. To the contrary, Applicant's failure to carry out the repairs and upgrades included in this Project could be detrimental to uses and property in the vicinity and risk environmental impacts from wastewater impacts within critical areas.*

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

*As conditioned, the pending Conditional Use Permit application meets the applicable performance standards and requirements included in the City's Code.*

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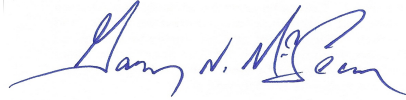
**VI. CONCLUSIONS of LAW.**

1. As explained above, the record includes credible, un rebutted, and substantial proof that the Conditional Use Permit application satisfies all applicable decision criteria specified in applicable city LUC 20.30B.140, as conditioned herein.
2. Based on the record, and all findings set forth above, the applicant established that more than a preponderance of the evidence supports the conclusion that its permit application merits approval, meeting its burden of proof imposed by LUC 20.35.340(A).
3. Any finding or other statement contained in this Decision that is deemed to be a Conclusion of Law is hereby adopted as such and incorporated by reference.

**VII. DECISION.**

Based on the record, and for the reasons set forth herein, the requested Conditional Use Permit for the King County Wastewater Treatment Division’s Coal Creek Sewer Upgrade Project (File No. 21-102203-LB) should be and is hereby approved, subject to the following conditions of approval, which are incorporated herein by reference.

ISSUED this 30<sup>th</sup> Day of March, 2023



\_\_\_\_\_  
Gary N. McLean  
Hearing Examiner

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**CONDITIONS OF APPROVAL**

**KING COUNTY WASTEWATER TREATMENT DIVISION  
COAL CREEK SEWER UPGRADE PROJECT  
CONDITIONAL USE PERMIT  
FILE NO. 21-102203-LB**

A. Throughout the duration of this Conditional Use Permit, the burden shall be upon the Permittee/King County Wastewater Treatment Division, to demonstrate compliance with the following conditions of approval and all applicable federal, state, or City of Bellevue regulations that might apply to any aspect of this Project.

B. The Permittee shall comply with all professional report conclusions and recommendations submitted in connection with this Conditional Use Permit file and the associated CALUP, including without limitation environmental and engineering reports, as approved and/or amended by the City.

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

<b>Applicable Ordinances</b>	<b>Contact Person</b>
Clearing and Grading Code- BCC 23.76	Tom McFarlane, 425-452-5207
Fire Code- BCC 23.11	Shelley Jin, 425-452-5251
Land Use Code- BCC Title 20	David Wong, 425-452-4282
Noise Control- BCC 9.18	David Wong, 425-452-4282
Transportation Code- BCC 14.60	Ian Nisbet, 425-452-4851
Right of Way Use Code- BCC 14.30	Tim Stever, 425-452-4294
Utility Code- BCC Title 24	Arturo Chi, 425-452-4119

D. The following conditions are imposed under authority of the Bellevue City Code provisions noted below:

**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

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1 submitted as part of any permit application shall be consistent with the activity permitted  
2 under this approval. The proposal is required to meet all applicable clearing and grading  
3 Best Management Practices.

4 AUTHORITY: Land Use Code 20.30P.140; BCC 23.76  
5 REVIEWER: Tom McFarlane, Development Services Department

## 6 **2. In-Water Work Windows**

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

9 AUTHORITY: Land Use Code 20.30P.140  
10 REVIEWER: Tom McFarlane, Development Services Department

## 11 **3. State and Federal Permits**

12 The applicant shall provide approvals of any required State or Federal Permitting with the  
13 Clearing and Grading Permit application.

14 AUTHORITY: Land Use Code 20.25H.055  
15 REVIEWER: David Wong, Development Services Department

## 16 **4. Tree Replacement**

17 Final planting plans submitted under the future clearing and grading permit or other  
18 construction permits shall depict all trees being removed and replanted to restore trees  
19 removed by construction. Replanting shall be at a ratio of 2.38:1 or greater.

20 AUTHORITY: Land Use Code 20.25H  
21 REVIEWER: David Wong, Development Services Department

## 22 **5. Mitigation, Restoration, and Enhancement Final Plans**

23 A "Final Mitigation, Restoration, and Enhancement Plan" shall be submitted with the  
24 Clearing and Grading Permit application. Planting proposed to mitigate, restore, or enhance  
25 critical area, buffers, or areas of disturbance shall be planted consistent with species and  
26 densities noted in the City's Critical Areas Handbook. The submitted mitigation, restoration  
and enhancement plan has conceptual approval. The final plan shall include all maintenance  
and monitoring plan elements as well as contingencies.

AUTHORITY: Land Use Code 20.25H.220  
REVIEWER: David Wong, Development Services Department

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**6. Noise Mitigation and Monitoring Plan**

A final noise mitigation and monitoring plan, complete with BMPs, and in conformance with the preliminary plans contained within this application shall be submitted with the Clearing and Grading Permit application.

AUTHORITY: Land Use Code 20.30B.140  
REVIEWER: David Wong, Development Services Department

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

Maintenance and monitoring is required for five years per the plan submitted in the Critical Areas Report as reference document 2. Annual reports are required to be transmitted to David Wong for review.

AUTHORITY: Land Use Code 20.25H.220  
REVIEWER: David Wong, Development Services Department

**8. Utilities**

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

AUTHORITY: Bellevue City Code 24.02, 24.04, 24.06  
REVIEWER: Arturo Chi, Utilities Department

**9. Geotechnical Review**

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

AUTHORITY: Bellevue City Code 23.76.050  
REVIEWER: Tom McFarlane, Development Services Department

**10. Geotechnical Inspection**

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

1 AUTHORITY: Bellevue City Code 23.76.050  
2 REVIEWER: Tom McFarlane, Development Services Department

3 **11. Rainy Season Restrictions**

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

9 AUTHORITY: Bellevue City Code 23.76.050  
10 REVIEWER: Tom McFarlane, Development Services Department

11 **12. Right-Of-Way Use Permit**

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

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

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

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

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

DECISION APPROVING CONDITIONAL USE  
PERMIT FOR THE KING COUNTY COAL CREEK  
SEWER UPGRADE PROJECT –  
FILE NO. 21-102203-LB

BELLEVUE HEARING EXAMINER'S OFFICE  
450 – 110<sup>TH</sup> AVENUE NE  
P.O. BOX 90012  
BELLEVUE, WASHINGTON 98009-9012

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**13. Pavement Restoration**

Pavement restoration associated with street frontage improvements or to repair damaged street surfaces shall be provided based upon the Trench Restoration 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.

AUTHORITY: Bellevue City Code 14.60.250; Design Manual Design Standard #23  
REVIEWER: Tim Stever, Transportation Department

END of Conditions –

**DECISION APPROVING CONDITIONAL USE  
PERMIT FOR THE KING COUNTY COAL CREEK  
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**NOTICE OF RIGHTS  
TO REQUEST CLARIFICATION OR RECONSIDERATION,  
AND TO APPEAL**

This Decision has been issued by the Hearing Examiner who has specific authority to address Process I quasi-judicial matters following a public hearing. *See LUC 20.35.100.*

**REQUEST FOR CLARIFICATION OR RECONSIDERATION** – 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 five (5) working days after the date of issuance. Additional requirements and procedures concerning Requests for Clarification or Reconsideration are found in Rule 1.25 and 1.26 of the Hearing Examiner Rules of Procedure.

**RIGHT TO APPEAL TO SUPERIOR COURT – TIME LIMIT** – As explained in LUC 2.35.100.C, this decision is the final decision of the City, and it may be appealed to Superior Court as set forth in LUC 20.35.070.

LUC 20.35.070.A explains that a final City decision on a land use permit application (Processes I through III and V), [except for shoreline permits], 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. Notwithstanding the provisions of such subsection, the time for filing an appeal of a final Process II land use action that has been merged with a Process I or III application will be tolled until the Process I or III decisions are final. Requirements for fully exhausting City administrative appeal opportunities, if any are available, must be fulfilled.

An appeal of a Shoreline Substantial Development Permit, a Shoreline Conditional Use Permit, or a shoreline variance shall be to the State Shoreline Hearings Board and shall be filed within 21 days as set forth in RCW 90.58.180.

**DECISION APPROVING CONDITIONAL USE  
PERMIT FOR THE KING COUNTY COAL CREEK  
SEWER UPGRADE PROJECT –  
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