

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

In the Matter of the Application of)	No. BP25 00322
)	
Ruben Rodela, Gary Wang and Associates, Inc. on behalf of Panda Express, Inc.)	Panda Express Drive-Through Alternative Design CUP
)	
)	FINDINGS, CONCLUSIONS, AND DECISION
<u>For Approval of a Conditional Use Permit</u>)	

SUMMARY OF DECISION

The request for approval of a conditional use permit to allow for an alternative drive-through design, associated with the development of a new restaurant, on an approximately 0.46-acre property located at 4316 Wheaton Way, is **APPROVED**. Conditions are necessary to address specific impacts of the proposal.

SUMMARY OF RECORD

Hearing Date:

The Hearing Examiner held an open record hearing on the request on March 23, 2026.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Justin Rowland, City Senior Planner
Ruben Rodela, Applicant Representative

Attorney Jessica Roe represented the Applicant at the hearing.

Exhibits:

The following exhibits were admitted into the record:

- A. Conditional Use Permit Application, dated July 2, 2025
- B. Conditional Use Permit Narrative, dated February 17, 2026
- C. Site Plans (16 sheets)
- D. Geotechnical Engineering Report, prepared by Terracon, dated June 5, 2025
- E. Noticing Record
 - E-1. Notice of Incomplete Application, dated August 20, 2025
 - E-2. Determination of Completeness, dated April 23, 2025
 - E-3. Notice of Application, including mailing, posting, and publication information, dated December 5, 2025

*Findings, Conclusions, and Decision
City of Bremerton Hearing Examiner
Panda Express CUP BP25 00322*

- E-4. Notice of Public Hearing, including mailing, posting, and publication information, dated March 13, 2026
- F. Staff Report, dated March 12, 2026
- G. Engineering and Drainage Information
 - G-1. Public Works Development Engineering Summary, dated December 18, 2025
 - G-2. Storm Drainage Report, prepared by PacLand, revised February 2026
- H. Drive-Through Queuing Analysis, prepared by Transpo Group, dated November 13, 2025
- I. Applicant Hearing Presentation, presented at the March 23, 2026, hearing

The Hearing Examiner enters the following findings and conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Application and Notice

1. Ruben Rodela, of Gary Wang and Associates, Inc., on behalf of Panda Express, Inc. (Applicant), requests approval of a conditional use permit (CUP) to allow for an alternative design to a drive-through facility, which would be associated with construction and operation of a new restaurant. This application is limited to review of the alternative design for the drive-through. Review of the building and use requirements will be completed administratively. The proposed facility would be located on an approximately 0.46-acre lot, located 4316 Wheaton Way.¹ *Exhibit A; Exhibit B; Exhibit F, Staff Report, page 1; Testimony of Justin Rowland.*
2. The City of Bremerton (City) determined the proposal was complete on November 21, 2025, and provided notice of the application by posting notice on the subject property, by mailing notice to owners of property within 300 feet of the subject property, and by publishing notice in the *Kitsap Sun* on December 5, 2025. The City provided notice of the public hearing by posting notice on the subject property, by mailing notice to owners of property within 300 feet of the subject property, and by publishing notice in the *Kitsap Sun* on March 13, 2026. The City did not receive any public comments in response to its notice materials. *Exhibit E; Exhibit F Staff Report, pages 1 and 8; Testimony of Justin Rowland.*

Environmental Review

3. The City determined that this proposal is categorically exempt from environmental review under the State Environmental Policy Act (SEPA), chapter 43.21C Revised Code of Washington (RCW), in accord with Washington Administrative Code (WAC) 197-11-800(1)(d). *Exhibit E-3.*

Comprehensive Plan and Zoning

4. City staff determined that the proposal would be consistent with the Comprehensive Plan

¹ The subject property is identified by Tax Assessor Parcel Number 012401-2-199-2003. *Exhibit A; Exhibit F.*

by providing additional economic opportunities for Bremerton's future population growth. City staff identified the following Comprehensive Plan goals and policies as relevant to the proposal:

- Plan for Bremerton's population and employment growth. [Goal LU1]
- Encourage economic development within the City. [Goal LU2]
- Provide development incentives and flexibility within regulations to encourage desirable design elements. [Policy LU2(D)]
- Support expansion of commerce by diversifying and expanding Bremerton's commercial base. [Goal ED1]
- Advance efforts to establish a regional perception of Bremerton as a welcoming, attractive, and business friendly City. [Goal ED5]

Exhibit F, Staff Report, page 2.

5. The subject property and all surrounding properties are located in the District Center Core (DCC) zoning district. The subject property is currently developed with a restaurant and associated parking. Surrounding properties to the north, south, and east are developed with restaurant, retail, and accessory parking uses. Wheaton Way runs along the property to the west. The DCC zone is intended "to provide a mixed-use 'town center' to support the surrounding neighborhoods and general public" and to provide "opportunities for a variety of services including commercial and residential development that demonstrates planning and design to create a pedestrian friendly community while still accommodating a certain level of regional auto-dependent uses." *Bremerton Municipal Code (BMC) 20.70.010*. Restaurants are permitted outright in the DCC zone. *BMC 20.70.020*. Drive-through facilities are allowed when associated with, "a permitted use in commercial, mixed-use, or industrial zones, unless drive-through facilities are expressly prohibited in the zoning district regardless of the principal use." *BMC 20.44.120.b*. City staff determined that, with approval of this CUP request and with recommended conditions, the proposal would be compatible with the zoning, development standards, and requirements of the DCC. *Exhibit A; Exhibit B; Exhibit C; Exhibit D; Exhibit F, Staff Report, pages 1 through 3.*

Existing Site and Proposed Development

6. The approximately 0.46-acre subject property is currently developed with a 3,997 square foot restaurant and associated parking. The Applicant proposes to demolish the existing restaurant structure and construct a new 2,600 square foot restaurant with a drive-through. In addition to the new structure and drive-through, the Applicant's proposal includes parking, landscaping and visual screening, and a pedestrian walkway that would connect pedestrian access from Wheaton Way through the site and into the shopping center. The Applicant submitted a site plan and landscaping plan, and the Applicant Representative, Ruben Rodela, testified during the hearing, to show how the proposal would meet design and development requirements. The Applicant's site plan indicates that there would be a screening wall installed along a portion of the eastern side of the subject property. The Applicant's landscaping plan shows that some existing vegetation and trees would remain on the site and would be supplemented by additional trees and

other landscape plantings. The Mr. Rodela testified that the Applicant would meet landscaping requirements, noting that the landscaping would be similar to the existing shopping center. *Exhibit C; Exhibit I; Testimony of Ruben Rodela.*

7. The Applicant submitted a Drive-Through Queuing Analysis (Analysis), prepared by Transpo Group, which determined that the new development would create an estimated 158 additional daily trips above the level of the current use. Specific to the drive-through, the Analysis found that there would be 27 inbound drive-through trips in the AM peak hour and 20 inbound drive-through trips in the PM peak hour. Given the volume of trips and the service time, the proposal would not exceed a three car queue 95 percent of the time during the weekday AM and PM peak hours. The Analysis ultimately determined that “[t]he drive-through on site is designed to accommodate up to 13 queued vehicles, which would more than accommodate both the projected weekday AM and PM peak hours 95th percentile queues and minimize off-site impacts.” *Exhibit H.*
8. The Applicant submitted a Geotechnical Engineering Report, prepared by Terracon, which found that the site was at a high risk for liquefaction during an earthquake. The report made recommendations for the proposed project, including recommendations for site preparation and earthwork, foundation and floor slab design and construction, grading and drainage, stormwater management, and pavement design and construction. City staff determined that, as conditioned, the proposal would meet requirements under the municipal code to “protect human life and property from potential risks related to development on or near geologically hazardous areas.” *BMC 20.14.610. Exhibit D; Exhibit F, Staff Report, pages 2 and 3.*
9. City staff reviewed the project for compatibility with the surrounding area, and for adverse impacts, and determined that the proposal would be compatible with surrounding uses and would not negatively impact the neighborhood, noting that the subject property is an established commercial use. City staff additionally noted that the noise, parking demand, operating hours, and air quality impacts generated by the proposal would be compatible with nearby land uses. The project was reviewed by the City Public Works Department for adequate water, sewer, stormwater, and utilities. *Exhibit F, Staff Report, pages 7 and 8; Exhibit G.*

Drive-Through Facility

10. As noted above, the Applicant is requesting an alternative to the site design requirement under BMC 20.44.120(e)(2)(i), which requires that, for drive-through facilities associated with restaurants or other food and drink uses, stacking lanes must be a minimum of 120 feet from the drive-through entrance to the ordering window. Here, the Applicant proposes to construct two drive aisles that each contain an ordering box and then merge into one drive aisle to access a single pick-up window. The two drive aisles combine to measure greater than 120 feet, with the distance from the drive-through entrance to the ordering box in the right lane measuring 62.3 feet and the left lane measuring 68.8 feet. *Exhibit C; Statements of Attorney Jessica Roe.*

11. The Hearing Examiner is authorized to approve alternatives to any of the site design requirements when the criteria of BMC 20.44.120(c)(2) are met. City staff reviewed the proposal and determined that, with conditions, the alternative design proposal would meet those requirements, noting the following:
- The proposal would not undermine the intent of the DCC zone or the intent of the drive-through standards because the restaurant is an allowed use in the zone and the project would incorporate pedestrian features such as the pedestrian corridor through the subject property and front yard landscaping.
 - The drive aisle would be located to the side and rear of the proposed building.
 - A screening fence would be provided between the drive-through and adjacent properties, and the proposed landscaping would exceed the minimum requirements for the site location.
 - As a public amenity, the project would provide a pedestrian path extending from Wheaton Way, through the subject property, and connecting neighboring retail properties. City staff recommended that the Hearing Examiner approve this as a satisfactory public amenity.
 - The neighboring properties are developed with commercial uses, including drive-through facilities, and no adverse impacts on neighboring uses were identified. The proposal will be required to comply with noise level standards found in chapter 6.32 BMC.
 - The combination of drive aisles will exceed the 120-foot requirement.
 - The project is meeting requirements to design drive-through lanes in a manner that can enhance pedestrian safety and provide screening from adjacent properties and the right-of-way by using a screening wall and an alternative material for the drive-through lanes.
 - The proposed menu board dimensions and locations would meet the requirements for signage. City staff recommended a condition to ensure the proposal continues to meet this requirement.
 - The proposal meets the requirements for pedestrian access, including walkway widths, separation of pedestrian facilities, and road surface treatments.

Exhibit F, Staff Report, pages 3 through 5.

Conditional Use Permit

12. As noted above, the Applicant requests a conditional use permit to allow for a variation from required drive-through facility length as a part of a larger project to develop a new restaurant. City staff reviewed the proposal, consistent with the above findings, and determined that, with conditions, the required criteria for a conditional use permit under BMC 20.58.020 would be met. City staff noted that the CUP is being required for the drive-through design only and that there are no other specific conditional use criteria for this proposal in the DCC zone. City staff testified that the building and use review and permits would be conducted administratively. *Exhibit F, Staff Report, pages 2 through 8; Testimony of Justin Rowland.*

Staff Recommendation

13. As noted in the staff report, and in the testimony of Justin Rowland on behalf of the City, City staff recommends approval of the conditional use permit, with conditions. *Exhibit F, Staff Report, page 8; Testimony of Justin Rowland.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to review and decide conditional use permit applications under BMC 2.13.070; BMC 20.44.120(c)(2); and BMC 20.58.020.

Criteria for Review

Conditional Use Permit

Pursuant to BMC 20.58.020, the Hearing Examiner must determine the following to grant a conditional use permit:

- (1) The use is consistent with the Comprehensive Plan goals and policies;
- (2) The use complies with all applicable zoning and development standards and requirements;
- (3) The use satisfies all of the conditional use approval criteria specified in the zone in which the use is located;
- (4) The design of the proposal and conditions of approval has mitigated all identifiable adverse impacts;
- (5) The use is compatible with nearby land uses and the surrounding neighborhood in terms of the level of light and glare, noise and parking demand, hours of operation and air quality; and
- (6) Stipulations are made for the availability of adequate water, sewer, stormwater, utilities and urban governmental services.

Drive-Through Facility

In addition to the general criteria for conditional use permit applications, for drive-through facilities, BMC 20.44.120, “regulate[s] the installation of drive-through facilities to ensure their design, operation, and associated impacts can effectively be mitigated.” The purpose of BMC 20.44.120 is to ensure that drive-through facilities:

- (1) Provide safe and efficient and on-site vehicular and pedestrian circulation;
- (2) Minimize conflicts between queued vehicles and traffic on adjacent streets and sidewalks; and
- (3) Reduce impacts on abutting uses, such as noise, visual, and light, particularly to residential uses.

BMC 20.44.120(a).

To approve an alternative from any of the design standards found in BMC 20.44.120(e), the Hearing Examiner must determine that the following will be met:

- (i) Any proposal to modify drive-through facility standards shall not undermine the intent of this section or that of the underlying zone.

- (ii) Proposals seeking a drive aisle between a primary frontage and the building shall demonstrate that all other site designs have been exhausted and found unworkable.
- (iii) The applicant shall demonstrate how the proposed alternative fully screens neighboring properties, that the total amount of landscaping exceeds the total amount of that created by adherence to standard landscaping and buffer requirements.
- (iv) A public amenity shall be provided. Examples of public amenities include: outdoor eating area, outdoor artwork, street furniture, plantings in window boxes, public trash receptacles, or other alternative public amenity approved by the Hearings Examiner. Any proposed amenity shall be architecturally compatible with the principal structure and shall be maintained for the life of the project.
- (v) Conditions such as site orientation, fencing, buffering, parking location, lighting, access, hours of operation, and others may be imposed as a condition of approval if it is found they are necessary to mitigate identifiable adverse impacts and ensure compatibility with nearby uses.

BMC 20.44.120(c)(2).

Conclusions Based on Findings

With conditions, the proposed use would comply with criteria for approval of a conditional use permit under BMC 20.58.020, including meeting the alternative design criteria under BMC 20.44.120(c)(2).

The City provided reasonable notice and opportunity to comment on the proposal. The City did not receive any comments from members of the public on the proposal. The proposal is categorically exempt from the State Environmental Policy Act under WAC 197-11-800(1)(d).
Findings 2 and 3.

The proposed development is consistent with the Comprehensive Plan and is allowed in the DCC zone. City staff provided information about how the proposed use would meet several Comprehensive Plan goals and policies, including goals and policies related to population and employment growth and support of businesses. The proposed development would be compatible with the surrounding neighborhood and nearby land uses. The proposed restaurant is an allowed use in the DCC zone, and the surrounding area has largely similar uses, including other restaurants. Nothing indicates that there have been any changes to the area since the property was previously used as a restaurant. The project has been reviewed by the City's Public Works department for availability of water, sewer, stormwater, and utilities, and the City has recommended conditions to ensure that services are available for the proposed development. With conditions, the site is suitable for construction from a geotechnical perspective. The building design and use requirements will be reviewed as a part of the building permit approval process, which will ensure that the proposal will comply with applicable development and design regulations. In addition, City staff has recommended conditions for this CUP approval to ensure compliance with the municipal code for the construction and building design. *Findings 4, 5, 8, 9, and 12.*

*Findings, Conclusions, and Decision
City of Bremerton Hearing Examiner
Panda Express CUP BP25 00322*

This request for a conditional use permit is specifically to allow an alternative design for the drive-through facility, which requires meeting the criteria under BMC 20.44.120(c)(2). The only deviation from drive-through standards that the Applicant proposes is to the required 120-foot drive aisle requirement under BMC 20.44.120(e)(2). The project meets all other standards under BMC 20.44.120(e). Here, instead of providing a 120-foot drive aisle, the Applicant proposes to provide two drive aisles from the entrance of the drive to the ordering box, and together, these aisles would measure over 120 feet. The proposed alternative design could contain the same level of queued vehicles as a single, 120-foot drive aisle, and the transportation and queuing analysis determined that the alternative design would accommodate the peak vehicle traffic at the site. Therefore, there would be no additional impacts between queued vehicles and other vehicle or pedestrian circulation. The drive-aisles would not be located between the primary frontage and the structure. As conditioned by the City and as reviewed during the building design phase, the proposal would reduce impacts on nearby properties. The Applicant has provided a landscape plan that shows a screening wall and landscaping that will meet landscape and screening requirements. The Applicant is proposing a pedestrian walkway that connects Wheaton Way to the site and then extends beyond the site into the shopping area, providing a pedestrian connection to other retail uses. The City determined that, as conditioned, this would meet the requirement for a public amenity under BMC 20.44.120(c)(2)(iv). The Hearing Examiner agrees that providing a pedestrian walkway that will provide a safe path for walking from Wheaton Way, through the new restaurant site, and that will then connect with the existing pedestrian walkway in the shopping center, meets the requirement for a public amenity. City staff additionally determined that the proposal, which is located in a commercial district and surrounded by commercial uses, would not have negative impacts on nearby uses. After reviewing the staff report, the Applicant's project narrative and submitted site and building plans, the Hearing Examiner determines that the proposed design alternative for a drive-through would satisfy the specific criteria for BMC 20.44.120(c)(2) and would therefore satisfy the criteria for a conditional use permit in the DCC zone. *Findings 6 – 13.*

DECISION

Based upon the preceding findings and conclusions, the request for approval of a conditional use permit to allow for an alternative drive-through design, associated with the development of a new restaurant, on an approximately 0.46-acre property located at 4316 Wheaton Way, is **APPROVED**, with the following conditions:

1. Development shall comply with BMC 20.14.600 and the *Geotechnical Engineering Report*, prepared by Terracon, dated June 5, 2025 (noted in this decision as *Exhibit D*). An addendum to the geotechnical report shall be provided with any permit for construction relaying that the geotechnical engineer has reviewed and approved plans for construction.
2. A Notice to Title & Hold Harmless Agreement shall be recorded with the Kitsap County Auditor's Office prior to issuance of any permit for construction.

3. Per BMC 20.44.120(e)(4)(i), the project shall show conformance with menu board design standards prior to the issuance of site development and building permits.
4. Per BMC 20.70.070, the project shall show conformance with design standards of the District Center Core zone prior to issuance of the building permit.
5. Per BMC 20.50.050(j)(2), the proposed trash enclosure shall be constructed of materials which are architecturally similar to the primary structure. Consistency will be confirmed with the building permit application for the structure.
6. Per BMC 20.50.040(h), all plant material is required to be maintained in a healthy growing condition free of weeds, trash or debris through the life and use of the development, with dead, damaged, diseased, or missing plant material required to be replanted or replaced as necessary.
7. A final landscape and irrigation plan shall be provided with the submission of site development permit consistent with BMC 20.50.
8. To satisfy public amenity requirements per BMC 20.44.120(c)(2)(iv), the pedestrian connection to neighboring properties shall be maintained through the life of the development.
9. Per BMC 20.44.110(b), a photometric plan conforming to BMC 20.44.110 shall be submitted with the Site Development Permit and Building Permit applications.
10. All work shall adhere to the standards and comply with all conditions as outlined in the *Public Works Development Engineering Summary*, dated December 18, 2025, (noted in this decision as *Exhibit G*).

Decided this 3rd day of April 2026



Yoshi Kumara
Administrative Hearing Examiner
City of Bremerton