



**City of Bellevue
Development Services Department
Land Use Staff Report**

Proposal Name: **Chan Residence Critical Areas Land Use Permit and Land Use Code Variance**

Proposal Address: **5455 Pleasure Point Lane SE**

Proposal Description: Application for approval of Critical Areas Land Use Permit to modify the shoreline critical area structure setback and application for approval of a Land Use Code Variance from an access easement and for a front yard setback.

File Number: **15-106418-LO and 15-106417-LS**

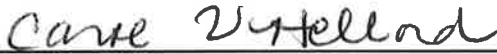
Applicant: **Michael Chan**

Decisions Included: Critical Areas Land Use Permit
(Process II. LUC 20.30P)
Land Use Code Variance
(Process II. LUC 20.30G)

Planner: **Heidi Bedwell, Land Use Planner**

**State Environmental Policy Act
Threshold Determination:** **SEPA Exempt per RCW 197-11-800**

Director's Decision: **Approval with Conditions**
Michael Brennan, Director
Development Services Department


Carol V. Helland, Land Use Director

Application Date: February 25, 2015
Notice of Application Publication Date: May 7, 2015
Decision Publication Date: October 20, 2016
Project Appeal Deadline: November 3, 2016

For information on how to appeal a proposal, visit Development Services Center at City Hall or call (425) 452-6800. Appeal of the Decision must be received in the City's Clerk's Office by 5 PM on the date noted for appeal of the decision.

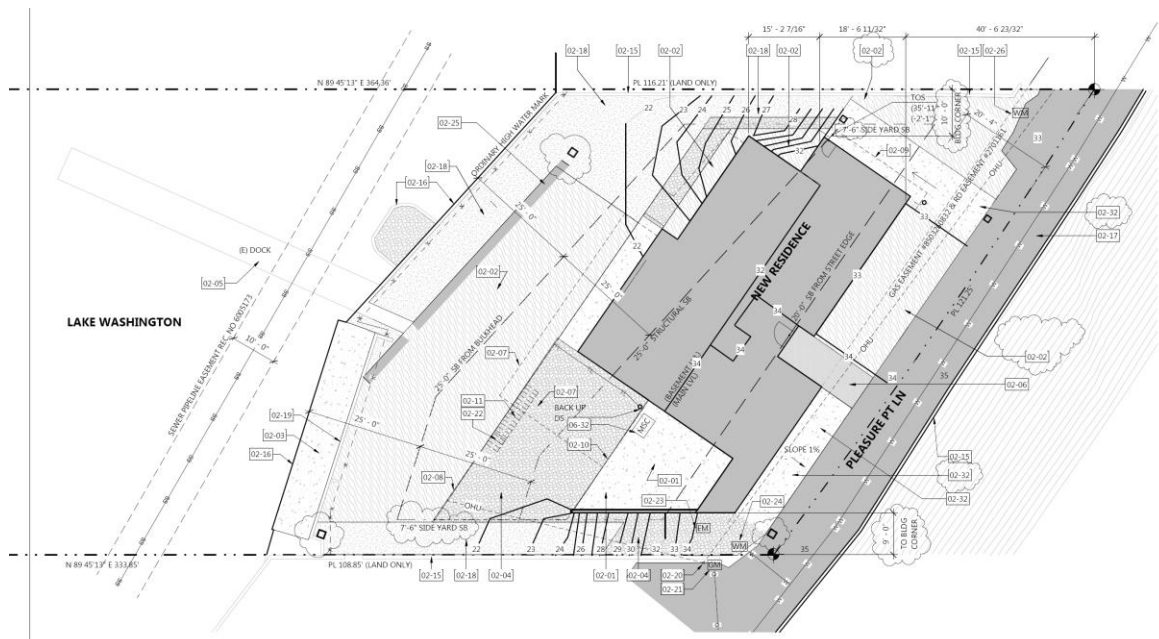
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I. Proposal Description

The applicant is requesting approval of a critical areas land use permit and land use code variance to allow for the construction of a new single family residence. The proposed structure would be located zero feet from an access easement and approximately 12 feet from a front property line. The shoreline structure setback is proposed to be modified to 7 feet at its smallest dimension (see site plan below).

As a site improvement, the applicant is proposing to remove a portion of existing lawn area and a fire pit that is located waterward of the existing bulkhead along the edge of Lake Washington. The area will be planted with native vegetation consistent with the requirements of the city's critical areas handbook as allowed under LUC 20.25H.220.



Critical areas land use permit (LUC 20.30P): The project site is located adjacent to Lake Washington and is subject to the city's land use code critical areas requirements for shoreline critical areas, buffers and structure setbacks. The applicant is requesting a reduction of the required shoreline critical area structure setback to allow for an intrusion of a single family residence (see **Figure 1** above). The critical areas land use permit action is discussed in greater detail in Section III below.

Land use code variance (LUC 20.30G): The applicant is seeking approval through the land use code variance process to reduce a required 10 foot setback from an access easement and reduce a 20-foot front yard setback.

II. Site Description, Zoning, Land Use, and Critical Areas

A. Site Description

The property is located at 5455 Pleasure Point Lane South East. It is bordered to the west by Lake Washington, the east by the Burlington Northern railroad right-of-way, and to the north and south by single family development. The property is currently developed with one single family residence that is also zero feet away from the access easement and approximately 12 feet from the front property line. The site vegetation consists of lawn, a few shrubs, and Himalayan blackberry. The lot is approximately 12,200 square feet in size. The existing structure is located within both the shoreline buffer and shoreline structure setback.



Photo 2 - Shoreline conditions at the site.



Photo 1 - Existing house and buffer.

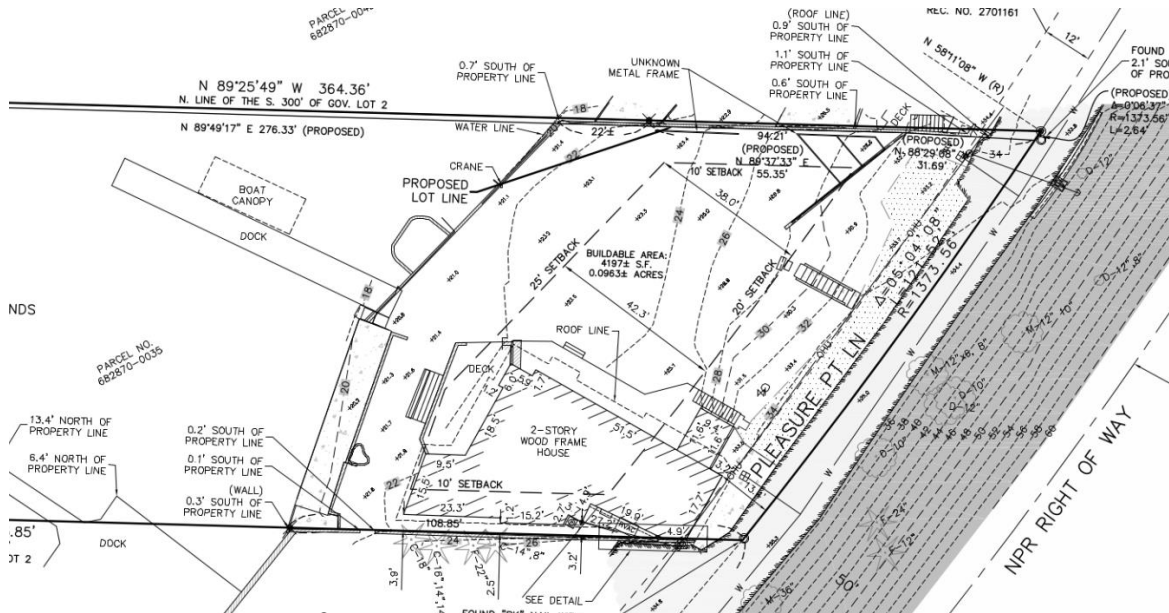


Figure 2: Existing site survey

Access to the property is gained via an ingress/egress easement across the neighboring properties to the north and south and along the eastern edge of the property and adjacent to the railroad right-of-way. The site is effectively compressed between Lake Washington to the west and the Burlington Northern Right-of-Way/access easement to the east.

Figure 3: Property Aerial Photo



B. Zoning

The property is in the R-4 land use zoning district and is located within the critical areas overlay district and the shoreline overlay district.

C. Land Use Context

The property is in a high density single-family residential comprehensive plan land use district and is surrounded by similar single-family residential properties on the shoreline of Lake Washington. The lot was created as part of the Pleasure Point Park Divisions, developed in the 1920's. A majority of the properties along Pleasure Point Lane are also restricted in rights and privileges afforded to other properties in this part of Bellevue as they are confined due to the presence of the Lake Washington Shoreline and an access easement that occupies a large percentage of the lot. Additionally, because many of the structures in this area were developed in the 1920's they do not include architectural elements commonly associated with today's single family homes. In order to renovate these older structures to include common amenities many of the residences along Pleasure Point Lane and in the general vicinity have requested and been granted variances from lot coverage and setback standards.

D. Critical Areas Regulations and Functions and Values

1. Shorelines - The property is located along the shore of Lake Washington and is subject to the requirements of the critical areas overlay district found in LUC 20.25H. Lake Washington is considered a critical area and is protected along the shoreline by a 25 foot buffer and 25 foot structure setback.

Shorelines provide a variety of functions including shade, temperature control, water purification, woody debris recruitment, channel, bank and beach erosion, sediment delivery, and terrestrial-based food. Shorelines provide a wide variety of functions related to aquatic and riparian habitat, flood control and water quality, economic resources, and recreation, among others. Each function is a product of physical, chemical, and biological processes at work within the overall landscape. In lakes, these processes take place within an integrated system (ecosystem) of coupled aquatic and riparian habitats.

A discussion of critical areas permitting is included in Section III below.

III. Consistency with Land Use Code Requirements

A. Zoning District Dimensional Requirements

The following general dimensional requirements from LUC 20.20 for development in the R-4 district must be met by any single-family residential development on the property unless permitted through the variance process:

Front yard setback:	20 feet
Access Easement:	10 feet
Rear yard setback:	25 feet

Side yard setback:	5 feet
Two side yards combined:	15 feet
Maximum lot coverage by structures:	35%
Maximum coverage by impervious surface:	50%
Significant tree retention:	30% of diameter inches

B. Critical Areas Permit Requirements

1. Critical Areas Report Requirements - LUC 20.25H.230

As allowed under LUC 20.25H.115.B.2, the applicant has submitted application for critical areas land use permit in combination with the critical areas report process to achieve a reduction of shoreline structure setback. Critical areas land use permits with critical areas reports are governed by LUC 20.25H.230 and typically include an assessment of site conditions in relation to the proposed modification (reduction of structure setback). In response to these requirements, the applicant is proposing to plant 1,258 square feet of area and remove a fire pit located waterward of the existing bulkhead. See related conditions of approval in Section VIII.

C. Land Use Code Variance Request

The applicant is requesting a variance from the requirements of LUC 20.20.010 which requires a 20 foot front yard setback and a 10 foot setback from an access easement for property in the R-4 zone. The site is restricted in development potential for the following reasons and a variance is warranted to afford the property owner a reasonable use of the site:

- The site is restricted by the location of an access easement along the eastern portion of the property and does not allow development in this area.
- The site is restricted along the western portion of the lot by the Lake Washington Shoreline Critical Area and associated buffer and structure setback (which total 50 feet) and development in this area is not allowed.

A discussion of variance approval criteria can be found in Section VI of this report. The variance must be recorded with the King County Department of Records and Elections within 60 days of the final approval of the variance action. See related condition of approval in Section VIII of this report.

IV. Public Notice and Comment

Application Date:	February 25, 2015
Notice of Application Publication Date:	May 7, 2015
Minimum Comment Period:	May 21, 2015

The Notice of Application for this project was published in the City of Bellevue Weekly Permit Bulletin on July 24, 2008. It was mailed to property owners within 500 feet of the project site. One comment acknowledged a property line encroachment but the

presence of that encroachment does not affect the proposed project. The commenter did not object to the proposal.

V. State Environmental Policy Act (SEPA)

The proposed work is entirely outside of the areas defined as “Critical Areas” by BCC 22.02.045. Furthermore, pursuant to BCC 22.02.032 and WAC 197-11-800, the construction or location of a one single-family primary structure is “categorically exempt” from SEPA environmental review.

VI. Decision Criteria

A. Land Use Code Variance Decision Criteria - LUC 20.30G.140

The Director may approve or approve with modifications an application for a variance from the provisions of the Land Use Code if:

1. The variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and land use district of the subject property; and

Finding: This request does not constitute a grant of special privilege. Properties in the vicinity are also closer than 20 feet to the property line and less than 10 feet from the access easement. The two properties to the south and the one directly to the north already encroach a similar distance into the setback as being requested by the subject application. The property located two parcels to the north received approval for a variance in 2001 to reduce the front yard setback to 13 feet and the setback from the easement to 5 feet. At that time the lot was not subject to both a shoreline buffer and shoreline structure setback from Lake Washington, therefore the structure was not as constrained as the subject property. The proposed footprint is consistent with the development pattern found in the vicinity of the site and with previously approved variances granted by the city.

2. The variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property to provide it with use rights and privileges permitted to other properties in the vicinity and in the land use district of the subject property; and

Finding: The subject site is constrained due to the presence of both the shoreline buffer and structure setbacks as well as the location of the access easement. The developed portion of the access easement is less than the actual easement however the land use code requires the setback to be measured from the outer edge of the access easement. Complying with both the setback from the easement and the front property line as well as the combined buffer and structure setback would only leave a developable footprint approximately 17-feet. Rather than encroaching further towards the shoreline buffer, the applicant has proposed reducing the setbacks to the easement and

front yard setbacks which is consistent with the existing development pattern within the vicinity of the property.

3. The granting of the variance will not be materially detrimental to property or improvements in the immediate vicinity of the subject property; and

Finding: The reduction in the required setbacks will not be materially detrimental to the property or improvements in the vicinity. As noted above, the existing development pattern is consistent with the proposed setbacks for the subject site. No impedance of the easement will occur and no changes in the developed pattern will be observable.

4. The variance is not inconsistent with the Comprehensive Plan; and

Finding: The variance is not inconsistent with the Comprehensive Plan. The site is developed with a single family residence and a new more modern residence will be constructed maintaining the stability of the neighborhood for adjacent residences. No changes in density or overall land use are proposed.

B. Critical Areas Report Decision Criteria - Proposal to Reduce Regulated Critical Area Buffer To Allow For Deck Intrusion - LUC 20.25H.255.B

The Director may approve, or approve with modifications, a proposal to reduce the regulated critical area buffer through the critical areas report process on a site where the applicant demonstrates:

1. The proposal includes plans for restoration of degraded critical area or critical area buffer functions which demonstrate a net gain in overall critical area or critical area buffer functions;

Finding: A conceptual shoreline buffer enhancement plan has been submitted by the applicant and is designed to comply with the requirements of the city's critical areas handbook. The enhancement plan will provide for substantially improved critical area and buffer functions and values relative to the existing condition. The plan includes 1,258 square feet of native planting and the removal of a fire pit waterward of the existing bulkhead. A monitoring and maintenance plan for the proposed mitigation area is also required. See related conditions of approval in Section VIII of this report.

2. The proposal includes plans for restoration of degraded critical area or critical area buffer functions which demonstrate a net gain in the most important critical area or critical area buffer functions to the ecosystem in which they exist;

Finding: In addition to the proposed native vegetation to be planted on the site, the applicant will also be removing an existing fire pit located waterward of the existing bulkhead. By removing the fire pit, the nearshore lake environment will

be improved and additional fish habitat created. See conditions of approval in Section VIII of this report.

3. The proposal includes a net gain in stormwater quality function by the critical area buffer or by elements of the development proposal outside of the reduced regulated critical area buffer;

Finding: This is a proposal to construct a new single family residence. Per the City of Bellevue Stormwater requirements, the applicant will be required to control stormwater coming from the site. The application also includes the use of permeable pavement to reduce effective impervious surfaces on the site. With the installation of native vegetation and compliance with the City's stormwater code, the applicant will provide a net gain in stormwater quality function on site.

4. Adequate resources to ensure completion of any required restoration, mitigation and monitoring efforts;

Finding: A three year maintenance and monitoring plan, including information on specific plant types and quantities is required. This plan will ensure that proposed enhancement plantings will be maintained, monitored and successfully established within the first three years following implementation. Furthermore, to ensure that the proposed plantings are installed and that the three year maintenance and monitoring plan is implemented, the applicant will post an Installation Assurance Device and a Maintenance Assurance Device prior to permit issuance. See conditions of approval in Section VIII of this report.

5. The modifications and performance standards included in the proposal are not detrimental to the functions and values of critical area and critical area buffers off-site; and

Finding: The area located within the prescribed 25 foot structure setback is currently degraded and of low ecological value due to the location of existing structures and past residential landscaping practices undertaken on the site. The proposed encroachment into the structure setback will not be detrimental to critical areas off-site as it is located in an already impacted landscaped area.

6. The resulting development is compatible with other uses and development in the same land use district.

Finding: The proposed structure setback modification and resulting single-family development will be compatible with adjacent properties and surrounding development within the same land use district (R-4). Adjacent properties contain single-family land uses and include encroachments into the shoreline buffer. The proposed structure will not be located any closer to the shoreline than other adjacent properties to the north and south.

C. Critical Areas Land Use Permit Decision Criteria - Proposal to Reduce Regulated Critical Area Structure Setback-20.30P.140

The proposal, as conditioned below, meets the applicable regulations and decision criteria for a Critical areas land use permit pursuant to LUC Section 20.30P.

1. The proposal obtains all other permits required by the Land Use Code;

Finding: The property owner has applied for a Critical areas land use permit to reduce the shoreline structure setback. No other City of Bellevue permits will be required of the project at this time. A building permit has been applied for and shall incorporate any conditions of approval associated with the subject application. See conditions of approval in Section VIII of this report.

2. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer;

Finding: The proposal involves the construction of a new single family residence. The applicant has used the best available design and development techniques to conceptually design the footprint of the proposed residence, along with all associated hardscapes. The design and layout took into consideration the location and condition of existing improvements and reduced the amount of encroachment into the buffer from what is currently there today. To compensate for the structure setback reduction, the applicant has proposed buffer and structure setback vegetation enhancement and the removal of a fire pit and installation of spawning gravel to create fish habitat. The applicant must submit as part of the required building permit information regarding the use of pesticides, insecticides, and fertilizers in accordance with the City of Bellevue's "Environmental Best Management Practices". See related conditions of approval in Section VIII of this report.

3. The proposal incorporates the performance standards of Part 20.25H to the maximum extent applicable, and ;

Finding: The proposal incorporates the applicable performance standards of Part 20.25H. To compensate for the structure setback reduction the applicant has proposed buffer enhancement consistent with LUC 20.25H.118. See related condition of approval in Section VIII of this report.

4. The proposal will be served by adequate public facilities including street, fire protection, and utilities; and;

Finding: The proposed project will be served by adequate public facilities. No new streets will be needed to serve the site and the project site will utilize existing utilities found within Pleasure Point Lane. Additionally, fire and police protection are currently available at the site and will not be compromised by the requested variance from requirements of the land use code.

5. The proposal includes a mitigation or restoration plan consistent with the requirements of LUC Section 20.25H.210; and

Finding: A conceptual mitigation and restoration plan has been prepared in accordance with the requirements of LUC 20.25H.220. See related condition of approval in Section VIII of this report.

6. The proposal complies with other applicable requirements of this code.

Finding: As discussed in Section III of this report, the proposal complies with all other applicable requirements of the Land Use Code.

VII. Conclusion and Decision

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, City Code and Standard compliance reviews, the Development Services Director does hereby **approve with conditions** this application for Land use code variance and Critical areas land use permit to construct a new single family residence as depicted in the site plan found in Attachment 1.

Note- Expiration of Approval: In accordance with LUC 20.30P.150 a Critical areas land use permit automatically expires and is void if the applicant fails to file for a Clearing and Grading Permit or other necessary development permits within one year of the effective date of the approval.

Note – Recording of Variance Required: In accordance with LUC 20.40.500.B.1.a the variance must be recorded with King County Department of Records and Elections within 60 days of final City approval. The variance expires if not recoded within 60 days of final approval (expiration of appeal period).

VIII. Conditions of Approval

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

<u>Applicable Ordinances</u>	<u>Contact Person</u>
	Heidi M. Bedwell, 425-452-4862

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

1. Building Permit Required: Prior to commencement of construction of the proposed single family residence, the applicant must apply for and receive building permit approval. The permit shall be in compliance with the approved setbacks from the access easement and front yard setback as depicted on the site plan in Attachment 1.

Authority: Bellevue City Code 23.05.090

Reviewer: Heidi M. Bedwell, Development Services Department

2. Restoration Plan for Reduced Critical Area Structure Setback: To mitigate for the allowed reduction of the critical area structure setback, a final restoration plan

based on the submitted conceptual plan in Attachment 2, that meets the requirements of the city's critical areas handbook shall be submitted for review and approval by the city prior to issuance of the building permit.

Authority: Land Use Code 20.25H.220
Reviewer: Heidi M. Bedwell, Development Services Department

3. Fire Pit Removal: In order to provide for a net increase in critical area functions, the applicant shall be required to remove the existing fire pit located waterward of the existing bulkhead and place spawning gravel in the area. The spawning gravel shall be installed and inspected by a land use planner prior to the final inspection of the building permit to construct the single family residence.

Authority: Land Use Code 20.25H.220
Reviewer: Heidi M. Bedwell, Development Services Department

4. Pesticides, Insecticides, and Fertilizers: The applicant must submit as part of the required building permit information regarding the use of pesticides, insecticides, and fertilizers in accordance with the City of Bellevue's "Environmental Best Management Practices".

Authority: Land Use Code 20.25H.220.H
Reviewer: Heidi M. Bedwell Development Services Department

5. Installation and Maintenance Assurance Devices: To ensure the proposed plantings are installed and that the three year maintenance and monitoring plan is implemented, the applicant shall post an Installation Assurance Device and a Maintenance Assurance Device prior to the Building Permit issuance. These devices will be released when the applicant demonstrates that the three year maintenance and monitoring plan has been implemented and the restoration successfully established and at the end of three years following implementation.

Authority: Land Use Code 20.25H.255.B.4
Reviewer: Heidi M. Bedwell, Development Services Department

6. Recording of Variance Required: The variance must be recorded with King County Department of Records and Elections within 60 days of final City approval.

Authority: Land Use Code 20.40.500.B.1.a
Reviewer: Heidi M. Bedwell, Development Services Department

Attachments

1. Project Site Plan
2. Mitigation Plan
3. Critical Areas Report (in file)