



DEVELOPMENT SERVICES DEPARTMENT  
ENVIRONMENTAL COORDINATOR  
450 110<sup>th</sup> Ave NE  
BELLEVUE, WA 98009-9012

### DETERMINATION OF NON-SIGNIFICANCE

**PROPONENT:** Polly E. Gardner

**LOCATION OF PROPOSAL:** 9545 Lake Washington Blvd

**DESCRIPTION OF PROPOSAL:** Construction of multiple walls, rockeries, and landscaping improvements on a steep slope critical area maintained as landscaping.

**FILE NUMBERS:** 16-130929-LO

**PLANNER:** Reilly Pittman

The Environmental Coordinator of the City of Bellevue has determined that this proposal does not have a probable significant adverse impact upon the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(C). This decision was made after the Bellevue Environmental Coordinator reviewed the completed environmental checklist and information filed with the Land Use Division of the Development Services Department. This information is available to the public on request.

- ☐ There is no comment period for this DNS. There is a 14-day appeal period. Only persons who submitted written comments before the DNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's office by 5:00 p.m. on \_\_\_\_\_.
- ☒ This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS. There is a 14-day appeal period. Only persons who submitted written comments before the DNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's Office by 5 p.m. on **3/30/2017**.
- ☐ This DNS is issued under WAC 197-11-340(2) and is subject to a 14-day comment period from the date below. Comments must be submitted by 5 p.m. on \_\_\_\_\_. This DNS is also subject to appeal. A written appeal must be filed in the City Clerk's Office by 5:00 p.m. on \_\_\_\_\_.

This DNS may be withdrawn at any time if the proposal is modified so as to have significant adverse environmental impacts; if there is significant new information indicating a proposals probable significant adverse environmental impacts (unless a non-exempt license has been issued if the proposal is a private project); or if the DNS was procured by misrepresentation or lack of material disclosure.

  
Environmental Coordinator  
Carol V. Heiland

3/16/2017

Date

**OTHERS TO RECEIVE THIS DOCUMENT:**

- ☐ State Department of Fish and Wildlife / [Stewart.Reinbold@dfw.gov](mailto:Stewart.Reinbold@dfw.gov); [Christa.Heller@dfw.wa.gov](mailto:Christa.Heller@dfw.wa.gov);
- ☒ State Department of Ecology, Shoreline Planner N.W. Region / [Jobu461@ecy.wa.gov](mailto:Jobu461@ecy.wa.gov); [sepaunit@ecy.wa.gov](mailto:sepaunit@ecy.wa.gov)
- ☐ Army Corps of Engineers [Susan.M.Powell@nws02.usace.army.mil](mailto:Susan.M.Powell@nws02.usace.army.mil)
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- ☐ Muckleshoot Indian Tribe [Karen.Walter@muckleshoot.nsn.us](mailto:Karen.Walter@muckleshoot.nsn.us); [Fisheries.fileroom@muckleshoot.nsn.us](mailto:Fisheries.fileroom@muckleshoot.nsn.us)



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

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**Proposal Name:** Gardner Voluntary Compliance

**Proposal Address:** 9545 Lake Washington Blvd.

**Proposal Description:** Critical Areas Land Use Permit to remove and reconstruct wall systems and other landscape features installed without permits on steep slope critical areas.

**File Number:** 16-130929-LO

**Applicant:** Polly E. Gardener, Owner

**Decisions Included:** Critical Areas Land Use Permit  
(Process II LUC 20.30P)

**Planner:** Reilly Pittman, Land Use Planner

**State Environmental Policy Act  
Threshold Determination:**

**Determination of Non-Significance**

Carol V. Helland, Environmental Coordinator  
Development Services Department

**Director's Decision:**

**Approval with Conditions**

Michael A. Brennan, Director  
Development Services Department

By:

Carol V. Helland, Land Use Director

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**Application Date:** April 22, 2016  
**Notice of Application Date:** May 12, 2016  
**Decision Publication Date:** March 16, 2017  
**Project/SEPA Appeal Deadline:** March 30, 2017

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For information on how to appeal a proposal, visit Development Services Center at City Hall or call (425) 452-6800. Comments on State Environmental Policy Act (SEPA) Determinations can be made with or without appealing the proposal within the noted comment period for a SEPA Determination. 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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## Attachments

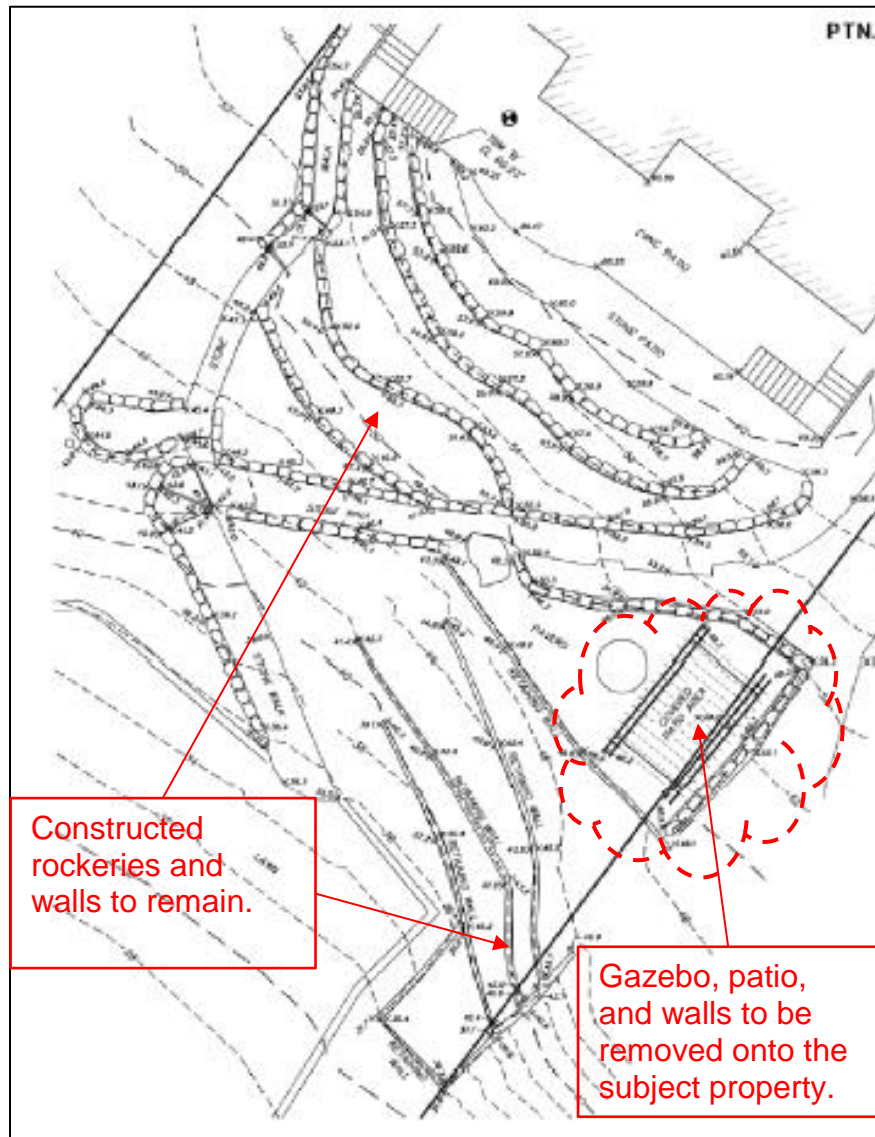
1. Project Plans – Enclosed
2. Geotech Reports and Critical Areas Report – In File
3. SEPA Checklist, Application Forms, Comment and Communication, and Materials – In File

## I. Proposal Description and Development Process

### A. Proposal Description

The applicant is requesting a Critical Areas Land Use Permit in order to obtain approval for stabilization work done without a permit that included construction of terraced rockeries, retaining walls, and landscaping improvements on a steep slope critical area that has been used and maintained for landscaping, paths, and other features. This application is required to permit work that proceeded without a permit and includes removal of a gazebo and improvements that do not conform to the City's codes. A portion of the constructed retaining walls is proposed to remain across the property line, with agreement from the adjacent property owner. See Figure 1 below for proposed improvements and photos of the improvements that were constructed without permits.

Figure 1







View to the east of rockery walls and the foot path that traverses below the rockeries.



View to the northeast at the terraced slope using landscape walls that are less than 48-inches high.



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

### B. Site Description

The project site is on Lake Washington and is surrounded by existing single-family residences to the east and west. The site is accessed from Lake Washington Blvd which is to the north and lake frontage to the south. There is an existing house and associated improvements at the top of the steep slope. The area between the lake and the house contains the steep slope critical area that has been a maintained landscape prior to the installation of the subject walls and additional landscape features. See Figure 2 below for site conditions.

**Figure 2**





### **C. Zoning**

The property is zoned R-1.8, single-family residential and is located in the Critical Areas and Shoreline Overlay Districts. The properties to the north of Lake Washington Blvd are zoned R-3.5. The proposed work is allowed in the R-1.8 zone and is consistent with the landscaped nature of the area between the house and lake of properties along the shoreline.

### **D. Land Use Context**

The property has a Comprehensive Plan Designation of SF-L (Single Family Low Density). The proposal is consistent with this land use.

### **E. Critical Areas Functions and Values**

#### **i. Geologic Hazard Areas**

Geologic hazards pose a threat to the health and safety of citizens when commercial, residential, or industrial development is inappropriately sited in areas of significant hazard. Some geologic hazards can be reduced or mitigated by engineering, design, or modified construction practices. When technology cannot reduce risks to acceptable levels, building in geologically hazardous areas is best avoided (WAC 365-190).

Steep slopes may serve several other functions and possess other values for the City and its residents. Several of Bellevue's remaining large blocks of forest are located in steep slope areas, providing habitat for a variety of wildlife species and important linkages between habitat areas in the City. These steep slope areas also act as conduits for groundwater, which drains from hillsides to provide a water source for the City's wetlands and stream systems. Vegetated steep slopes also provide a visual amenity in the City, providing a "green" backdrop for urbanized areas enhancing property values and buffering urban development.

## **III. Consistency with Land Use Code Requirements:**

### **A. Zoning District Dimensional Requirements:**

The proposal generally meets the R-1.8 zoning dimensional requirements found in LUC 20.20.010. The gazebo that was constructed without a permit is proposed to be removed as it and the rockery adjacent cross over the property line to the east. The proposed rockery around the gazebo will be reduced to be contained on the subject site and allowed to exceed 30 inches within a zoning setback. Alteration to meet the 30-inch height would result in more terraced walls and greater slope disturbance than if the walls are allowed to exceed 30 inches in the setback from the east property line. An agreement was reached between both property owners to address the remaining property line encroachment from the retaining walls at the toe of slope. These walls are also allowed to exceed the 30 inch height limit in a setback. However this agreement does not remove the need for future permit approval from the City of Bellevue. The allowance to keeps the walls as they exist also does not remove the need for conformance with the City's Clearing and Grading Code or other codes. **See Condition of Approval in Section X of this report.**

**B. Critical Areas Requirements LUC 20.25H and LUC 20.25E.080:**

The City of Bellevue Land Use Code Critical Areas Overlay District (LUC 20.25H) establishes performance standards and procedures that apply to development on any site which contains in whole or in part any portion designated as critical area, critical area buffer or structure setback from a critical area or buffer. The project is subject to the performance standards found in LUC 20.25H. The site is also located within the Shoreline Overlay District and is also subject to the requirements in LUC 20.25E. The performance standards found in LUC 20.25H and LUC 20.25E as specified in the table below are applicable:

Critical Area	Performance Standards
Geological Hazard Areas	20.25H.055.C.3.m 20.25H.125
Shorelines	20.25E.080.G

**i. Consistency with LUC 20.25H.055.C.3.m**

Stabilization measures shall be allowed only where avoidance measures are not technically feasible. The determination of whether a technique or stabilization measure is "technically feasible" shall be made by the Director as part of the decision on the underlying permit after consideration of a report prepared by a qualified professional addressing the following factors:

- 1. Site conditions, including topography and the location of the primary structure in relation to the critical area;**
- 2. The location of existing infrastructure necessary to support the proposed measure or technique;**
- 3. The level of risk to the primary structure or infrastructure presented by erosion or slope failure and ability of the proposed measure to mitigate that risk;**
- 4. Whether the cost of avoiding disturbance of the critical area or critical area buffer is substantially disproportionate as compared to the environmental impact of proposed disturbance, including any continued impacts on functions and values over time; and**



**5. The ability of both permanent and temporary disturbance to be mitigated.**

The steep slope critical area has been previously graded and maintained as an ornamental landscaping and lacks significant trees and other native vegetation. The existing house is immediately adjacent to the top of the slope and the rockeries and walls propose to support the slope and prevent erosion which could pose a risk to the house. The cost of removing the walls, regrading the slope to restore the preexisting grades, and replanting is disproportionate to the improvement of function and value on the slope which was an existing ornamental landscape prior to construction. The proposal is meant to maintain the landscaped nature of the slope but provide additional soil holding to allow for more substantial vegetation and erosion prevention. The slope is proposed to be completely landscaped which will ensure the slope is vegetated to prevent future erosion.

**ii. Consistency with LUC 20.25H.125**

**a. Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography;**

**Response:** The proposed walls attempt to maintain existing grades and tier the slope to approximate existing slope contours. No structures other than walls are proposed on the slope. The height of the walls was chosen to limit the need for terracing. Walls along the east property line exceed 30 inches in height but can remain where located in the side yard setback as removal or replacement with a shorter wall would result in increased alteration of the existing slope contours. All walls must meet engineering requirements and the allowance for height exceedance is only with the side setback.

**b. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;**

**Response:** The project maintains the landscaped condition of the slope. The existing steep slope is still present on the site. No significant trees or native vegetation are removed by the proposal. The gazebo structure on the slope is proposed to be removed to comply with zoning setbacks.

**c. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;**

**Response:** The geotechnical engineer reviewed the site and walls and found that the rockeries and walls tiered the slope with the result that the slope has been "stabilized... ..with respect to erosion" (pg. 8, Geotech Report). The geotech also found that the steep slope is safe as constructed based on the conditions and engineering proposed. As discussed in the Clearing and Grading section of this report the walls are required to be engineered if they exceed four feet in height. **See Condition of Approval in Section X of this report.**

- d. **The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes where graded slopes would result in increased disturbance as compared to use of retaining wall;**

**Response:** Retaining walls are used to minimize additional slope alteration, maintain the existing path improvement and prevent erosion on the slope below the primary structure.

- e. **Development shall be designed to minimize impervious surfaces within the critical area and critical area buffer;**

**Response:** The gazebo that was constructed is to be removed and the patio reduced in size to be contained on the subject property. **See Condition of Approval in Section X of this report.**

- f. **Where change in grade outside the building footprint is necessary, the site retention system should be stepped and regrading should be designed to minimize topographic modification. On slopes in excess of 40 percent, grading for yard area may be disallowed where inconsistent with this criteria;**

**Response:** The constructed retention system limits erosion below the existing primary structure and maintains existing landscape features.

- g. **Building foundation walls shall be utilized as retaining walls rather than rockeries or retaining structures built separately and away from the building wherever feasible. Freestanding retaining devices are only permitted when they cannot be designed as structural elements of the building foundation;**

**Response:** Not applicable.

- h. **On slopes in excess of 40 percent, use of pole-type construction which conforms to the existing topography is required where feasible. If pole-type construction is not technically feasible, the structure must be tiered to conform to the existing topography and to minimize topographic modification;**

**Response:** Not applicable.

- i. **On slopes in excess of 40 percent, piled deck support structures are required where technically feasible for parking or garages over fill-based construction types; and**

**Response:** Not applicable.

- j. **Areas of new permanent disturbance and all areas of temporary disturbance**

**shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25H.210.**

**Response:** The existing steep slope was an ornamental landscape that has been maintained over time. The proposal will restore landscaping to the entire slope area.

**iii. Consistency with LUC 20.25E.080.G**

The proposal is required to meet the provisions of the City of Bellevue Construction Code (BCC) 23.76. **See Condition of Approval in Section X of this report.**

**IV. Public Notice and Comment**

Application Date:	April 22, 2016
Public Notice (500 feet):	May 12, 2016
Minimum Comment Period:	May 26, 2016

The Notice of Application for this project was published in the Seattle Times and the City of Bellevue weekly permit bulletin on May 12, 2016. It was mailed to property owners within 500 feet of the project site. No comments were submitted.

**V. Summary of Technical Reviews**

**Clearing and Grading:**

The Clearing and Grading Division of the Development Services Department has reviewed the proposed site development for compliance with Clearing and Grading codes and standards and approved the application with conditions. Clearing and Grading will review grading permit 16-130930-GJ and/or building permit application for conformance with codes and standards. Walls that have not been engineered are limited in height to four feet measured from the base of the footing to the top of the wall or from the bottom of the base block/rock to the top of a rockery. If the walls onsite exceed four feet in height they are required to be engineered by a professional engineer registered in the State of Washington in order to remain and the grading permit to be approved. **See Condition of Approval in Section X of this report.**

**VI. State Environmental Policy Act (SEPA)**

The environmental review indicates no probability of significant adverse environmental impacts occurring as a result of the proposal. The Environmental Checklist submitted with the application adequately discloses expected environmental impacts associated with the project. The City codes and requirements, including the Clear and Grade Code, Utility Code, Land Use Code, Noise Ordinance, Building Code and other construction codes are expected to mitigate potential environmental impacts. Therefore, issuance of a Determination of Non-Significance (DNS) is the appropriate threshold determination under the State Environmental Policy Act (SEPA) requirements.

**A. Earth and Water**



A temporary erosion and sedimentation control measures will be required to be employed for any further work. Erosion and sedimentation control requirements and BMPs will be reviewed by the Clearing and Grading Department as part of future construction permit. Erosion and sediment control best management practices include the installation of silt fencing around the work area, covering exposed soils, not working in wet conditions, etc.

#### **B. Plants and Animals**

The project site has been maintained as an ornamental landscape on the steep slope. No removal of significant trees is proposed or occurred with the construction of the improvements. The entire slope is to be restored to an ornamental landscape.

#### **Noise**

The only noise anticipated as a result of this work will be from construction equipment. Any noise is regulated by Chapter 9.18 BCC. **See Condition of Approval in Section X of this report.**

### **VII. Changes to proposal as a result of City review**

The gazebo was required to be moved to meet the side setback but the applicant has proposed to remove it. Information regarding maintaining the existing walls and their height exceeding 30 inches in a setback was requested. Replacing the walls would result in more slope disturbance and terracing than if the walls remain.

### **VIII. Decision Criteria**

#### **A. Critical Areas Land Use Permit Decision Criteria 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 applicant is required to obtain all necessary building, clearing & grading, and utility approvals along with any ancillary permits and approvals required by the City of Bellevue. Approval of permit 16-130930-GJ is required to remove the code enforcement for unpermitted work. **See Condition of Approval in Section X 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 minimizes impacts by utilizing terraced walls that maintain the existing slope contours and prevent erosion. If the walls exceed four feet in height they are required to be engineered as described previously. **See Condition of Approval in Section X of this report.**

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

**Finding:** The proposal incorporates the performance standards of LUC 20.25H as discussed in Section III.

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

**Finding:** The site is served by adequate public facilities.

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

**Finding:** The existing area is a maintained ornamental landscape that is on the steep slope. The proposal will fully restore landscaping to the slope.

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

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

**IX. Conclusion and Decision**

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, SEPA, City Code and Standard compliance reviews, the Director of Development Services does hereby **approve with conditions** the proposal to construct rockeries and retaining walls as stabilization on a steep slope critical area to maintain and enhance existing landscaping features.

**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, Building Permit, or other necessary development permits within one year of the effective date of the approval.

**X. 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>
Clearing and Grading Code- BCC 23.76	Tom McFarlane, 425-452-5207
Land Use Code- BCC 20.25H	Reilly Pittman, 425-452-4350
Noise Control- BCC 9.18	Reilly Pittman, 425-452-4350

**The following conditions are imposed under the Bellevue City Code or SEPA authority referenced:**

**A. Conditions Associated with the Clearing and Grading Permit:**

**1. Clearing and Grading Permit Required:**

Approval of this Critical Areas Land Use Permit does not constitute an approval of a development permit. Clearing and grading permit 16-130930-GJ must be approved and issued before construction can begin. Plans submitted as part of the permit application shall be consistent with the activity permitted under this approval.

Authority: Land Use Code 20.30P.140

Reviewer: Tom McFarlane, Development Services Department

**2. Landscape Walls, Modular Block Walls and Rockeries:**

Landscape walls, modular block walls and rockeries that were constructed as part of this project have not been designed by an engineer. Therefore, those walls and rockeries may not exceed 4 feet in height. Height is measured from the base of the footing of a landscape wall to the top of the wall, or from the bottom of the base block or rock to the top of the wall or rockery.

Any landscape walls, modular block walls or rockeries that are proposed to extend over 4 feet in height must be designed by a professional engineer registered in the state of Washington.

Authority: Clearing & Grading Code 23.76.085; Clearing & Grading Code 23.76.086;  
Building Code 23.05.105

Reviewer: Tom McFarlane, Development Services Department

**3. Removal of Improvements**

The gazebo, patio, and walls around these improvements are required to be removed and/or relocated onto the subject property and meet any required setbacks with the exception of the walls which are allowed to exceed height in the side setback as discussed in this report.

Authority: Land Use Code 20.20.010

Reviewer: Reilly Pittman, Development Services Department

**4. Land Use Inspections Required:**

A Land Use inspection is required. All work required under the clearing and grading permit is required to be completed prior to Land Use inspection.

Authority: Land Use Code 20.30P.140

Reviewer: Reilly Pittman, Development Services Department

**5. Noise Control:**

Noise related to construction is exempt from the provisions of BCC 9.18 between the hours of 7 am to 6 pm Monday through Friday and 9 am to 6 pm on Saturdays, except for Federal holidays and as further defined by the Bellevue City Code. Noise



emanating from construction is prohibited on Sundays or legal holidays unless expanded hours of operation are specifically authorized in advance. Requests for construction hour extension must be done in advance with submittal of a construction noise expanded exempt hours permit.

Authority: Bellevue City Code 9.18

Reviewer: Reilly Pittman, Development Services Department



N.E. LAKE WASHINGTON BOULEVARD



SCALE: 1" = 5'

DETAIL  
CRITICAL AREA DETAIL ALONG SOUTHEASTERLY PROPERTY  
LINE AS SHOWN ON THE CITY OF BELLEVUE STEEP SLOPES  
MAP GENERATED ON 04/05/2013

FOUND TRIAD CAP & REBAR  
LS 18084 (6/22/15)  
REF RGS REC. NO. 5311249003

Trellis to be removed.

FIREPLACE  
FIREPLACE TO  
REMAIN UNCHANGED

COVERED PATIO  
19.0'  
6.3'  
19.0'  
2.0'  
11'  
13.0'  
2.0'

BACKWALL OF  
TRELLIS MOVED

SEE LOT STAKE  
CONC. RET. WALL

ROCKERY MOVED  
INSIDE PROPERTY  
LINE

PROXIMATE LOCATION  
STEEP SLOPE CRITICAL AREA  
CONTAINING 7248 SQ. FT.  
SCALED FROM CITY OF  
BELLEVUE MAP GENERATED  
ON 04/05/2013

PROPERTY LINE

CONC. RET. WALL

Retaining walls to  
remain per 02/14/17  
geotechnical  
recommmendations.

LINE POINT  
SET TACK & LEAD IN ROCK  
W/ LS WASHEN  
LS 21402 (6/24/15)

LAKE WASHINGTON

**triad**

20300 Woodinville Snohomish Rd NE  
Suite A • Woodinville, WA 98072  
p: 425.415.2000 f: 425.486.5059  
w: triadassociates.net

PROPOSED CORRIDOR EXHIBIT  
CITY OF BELLEVUE

PERMIT NO. 15-126771-EA  
**GARDNER RESIDENCE**  
9545 NE LAKE WASHINGTON BOULEVARD

BELLEVUE, WASHINGTON

BY:                     

DATE:                      REVISION:                     

NO.                     

Bradley J. Freeman, PLS  
PROJECT MANAGER

Liamie E. Carlson, PLS  
PROJECT SURVEYOR

PROJECT ENGINEER

PROJECT LANDSCAPE ARCHITECT

FIRST SUBMITTAL DATE: 09/02/2016

SCALE: HORIZ. 1"=30' VERT.                     



STAMP NOT VALID  
UNLESS SIGNED AND DATED

JOB NO. **LEVY-1**

SHEET NO. **1 OF 1**