

# City of Bellevue Development Services Department Land Use Staff Report

**Proposal Name:** 

Lin Residence

**Proposal Address:** 

6298 152<sup>nd</sup> Ave SE

**Proposal Description:** 

The applicant requests a Critical Areas Land Use Permit to construct a single-family residence within the 75-foot structure setback from the toe of a steep slope area. The applicant has provided a geotechnical report and a critical area report as support for the

proposal.

File Number:

16-146566-LO

Applicant:

Andrew Wisdom, Studio 19 Architects

**Decisions Included:** 

Critical Areas Land Use Permit

(Process II. LUC 20.30P)

Planner:

Peter Rosen, Senior Environmental Planner

State Environmental Policy Act

Threshold Determination:

Exempt

**Director's Decision:** 

**Approval with Conditions** 

Carol V. Helland, Land Use Director Development Services Department

Gud m Box

**Application Date:** 

November 17, 2016

Notice of Application Publication Date:

December 15, 2016

**Decision Publication Date:** 

March 9, 2017

Project Appeal Deadline:

March 23, 2017

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**

- Project plans Attached
   Critical Areas Report In File
   Geotechnical Report In File

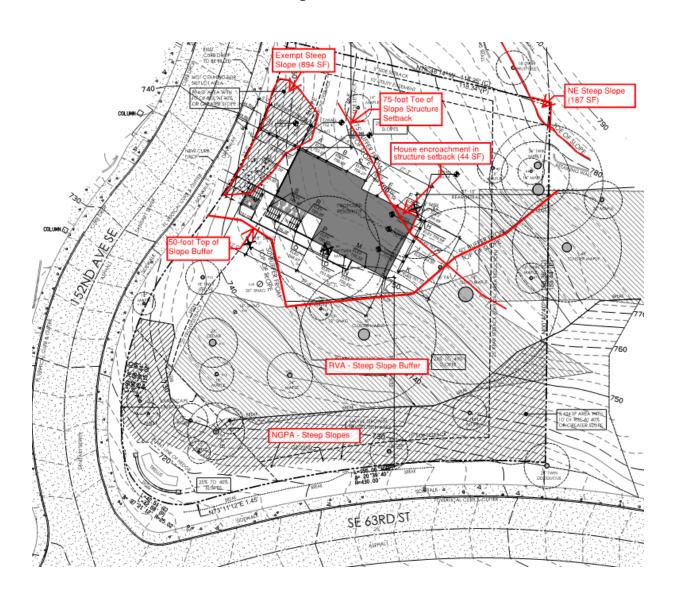
## I. Proposal Description

The applicant is requesting approval of a Critical Areas Land Use Permit to construct a new single family residence within a 75-foot steep slope toe-of-slope structure setback. The parcel is presently undeveloped and the proposal is for a 4,139 square foot (SF) residence with a 1,685 SF building footprint. A steep slope critical area extends onto the northeast corner of the subject parcel (178 SF) and continues off-site. The driveway access would go through a small steep slope area adjacent to 152<sup>nd</sup> Ave SE, but this steep slope area is 894 SF and therefore under the 1,000 SF threshold for regulated steep slope critical areas.

A 75-foot structure setback is required from the toe of the steep slope (LUC 20.25H.035). The northeast corner of the proposed residence (44 SF) would encroach approximately 7 feet into the 75-foot steep slope structural setback and associated temporary construction disturbance. A Critical Areas Land Use Permit is required to modify a critical area structure setback.

Figure 1 below for the project site plan.

Figure 1



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

#### A. Site Description

The project site is located at 6298 152<sup>nd</sup> Ave SE in the Newcastle subarea. The proposed residence would be accessed from a driveway off 152<sup>nd</sup> Ave SE.

The total lot area is 28,742 SF. There are steep slope critical areas encumbering both the northeast corner of the parcel (178 SF) and across the south portion of the lot (5,434 SF). The steep slope area along the south part of the lot was recorded in a Native Growth Protection Area (NGPA) when the lot was created as part of a "West Summit" subdivision. A Retained Vegetation Area (RVA), (8,839 SF), is located north of the steep slope critical area and was also recorded with platting. The 50-foot buffer from the top of this steep slope area is mostly contained within the recorded RVA. See Figure 1 Site Plan.

The proposed residence is located outside of the steep slope NGPA, the RVA and 50-foot top of slope steep slope buffer located along the south portion of the site. The proposal would not impact existing trees or vegetation within the NGPA, and the RVA or steep slope buffer.

There is a landscape easement in the southwest corner of the parcel, currently improved with a sign and trellis. The proposal would not encroach into or impact the landscape easement.

According to the applicant's Critical Area Report (Otak, September 30, 2016), the site is comprised of a mix of upland forest and upland scrub-shrub habitat, with large conifers and deciduous trees throughout most of the site. The dominant vegetation in the forest overstory consists of Western Red Cedar, Douglas Fir, Big-leaf Maple and Red Alder. Subdominant species in the overstory include Black Cottonwood. Shrub and small tree species in the understory include low Oregon Grape, Red Alder shrubs, Osoberry, Salal, Trailing Blackberry, Scot's Broom and Red Elderberry. Dominant herbaceous species include Sword Fern, Bracken Fern, Herb-Robert, Wild Carrot, thistles and grass species. All the plant species are upland plants.

The tree inventory identifies a total of 25 significant trees; 2 trees would be removed for construction of the proposed residence. One of the trees, a 44-inch twin Maple, is located in the structure setback from the toe of the steep slope area.

#### B. Zoning

The property is zoned R-3.5, a Single Family Residential zoning district, and is located in the Newcastle subarea. The surrounding area is also zoned R-3.5 and is developed with single family homes. There are substantial areas of protected greenbelt/open space in the immediate vicinity but not contiguous to the site, including: the "SE 63<sup>rd</sup> Greenbelt South" to the south of the site, across SE 63<sup>rd</sup> St, the "SE 63<sup>rd</sup> Greenbelt

North" west of the site, across 152<sup>nd</sup> Ave SE, and the "West Summit Open Space" to the east of the site. See Figure 2.



Figure 2

# C. Land Use Context

The comprehensive plan designation for this site and the surrounding area is Single-Family Medium Density (SF-M). The proposal for a single family residence is consistent with the Land Use designation.

#### D. 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 provides 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 site is located in the R-3.5 zoning district. The plans demonstrate conformance with zoning dimensional standards, however conformance with all zoning requirements will be verified as part of the building permit review. **See Conditions of Approval in Section X of this report.** 

#### B. Critical Areas Requirements LUC 20.25H:

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 critical area impacts of the proposal are limited to a small encroachment (44 SF) of the northeast corner of the proposed residence into the 75-foot toe of slope structure setback.

The following sections of the Land Use Code apply to the proposal.

#### i. Consistency with LUC 20.25H.145

Staff reviewed the geotechnical report submitted by PanGeo Inc. (August 11, 2016) and the revision dated January 30, 2017, which provides a slope stability evaluation. The geotech report concluded the structure setback can be reduced to 25 feet and the proposed residence would not decrease the slope stability or adversely impact the subject and surrounding properties, provided the report recommendations are properly incorporated into the design and construction of the project. The proposed residence would encroach approximately 7 feet into the 75-foot structure setback, retaining a 68 foot structure setback from the toe of the slope, which far exceeds the 25-foot minimum setback recommended in the geotech report. The results of the post-construction slope stability analyses demonstrates adequate factors of safety against potential failures under static and seismic conditions. The geotechnical recommendations are required to be incorporated into the house plans with the future building permit. See Conditions of Approval in Section X of this report.

#### ii. Consistency with LUC 20.25H.250

The proposed reduction of the toe-of-slope structure setback requires a Critical Areas Report to demonstrate the requested modification will lead to equivalent or better critical area functions and values than would result from the application of standard requirements.

The total site area is 28,742 square feet (SF) and 14,967 SF is steep slope critical area

and buffer located primarily in the southern portion of the parcel, which is already protected in a Native Growth Protection Area (NGPA) and Retained Vegetation Area (RVA) that was recorded when the parcel was created through platting. This steep slope area and buffer is forested with native tree and shrub species and provides the most significant habitat functions on the site. The proposal avoids direct impacts into the steep slope critical area and the 50-foot top of slope buffer.

The applicant's Critical Area Report (Otak, September 30, 2016) emphasizes the proposal's avoidance and minimization of impacts; that the proposal avoids all encroachments and disturbance into the steep slope critical area and buffer located in the south portion of the property, which are protected as NGPA and RVA. The Critical Area Report assessed the existing vegetation and habitat features on the site and noted the steep slope and buffer areas are forested with large native species conifer and deciduous trees, a shrub understory, and wildlife snags; thereby providing expected upland forest habitat functions. It did not note the presence of invasive plant species. The Critical Area Report and supplemented technical memo (dated February 8, 2017) does not include specific mitigation recommendations because the report suggests mitigation is not necessary due to the lack of direct impacts to critical areas and to existing critical area functions on the site.

The proposal would remove one 44-inch twin Maple tree located within the toe-of-slope structure setback from the steep slope area in the northeast corner of the site. To mitigate for this impact, the applicant shall plant 4 trees in the structure setback in northeast portion of the site. This area of the site is less forested and the proposed planting would increase the tree canopy and cover in this area of the site and improve habitat functions over the current site conditions. The mitigation planting shall be included in the building permit submittal. There is also an 18-inch snag located in the 50-foot top of slope buffer, to the southwest of the proposed residence, which will be removed for house construction. The snag shall be left as "downed wood" in the Vegetation Retention Area (RVA), and this shall also be shown on the building permit submittal. See Conditions of Approval in Section X of this report.

#### IV. Public Notice and Comment

Application Date: November 15, 2016
Public Notice (500 feet): December 15, 2016
Minimum Comment Period: December 29, 2016

The Notice of Application for this project was published in the City of Bellevue weekly permit bulletin on December 15, 2016. It was mailed to property owners within 500 feet of the project site. No comments were received.

# V. Summary of Technical Reviews

#### A. Clearing and Grading:

The Clearing and Grading Division of the Development Services Department has

reviewed the proposed site development and geotechnical report for compliance with Clearing and Grading codes and standards. The Clearing and Grading staff required revisions to the slope stability analysis and then approved the analysis.

# VI. State Environmental Policy Act (SEPA)

The proposal is exempt from SEPA review, per WAC 197-11-800. Construction of a single family residence is a categorical exemption and no construction or disturbance is proposed within critical areas.

# VII. Changes to Proposal Due to Staff Review

In response to the December 13, 2016 revision letter, the applicant clarified that the steep slope area along 152<sup>nd</sup> Ave SE is less than 1,000 SF and therefore does not meet the code criteria for a regulated critical area steep slope. The applicant also clarified that the proposal does not meet criteria for a reasonable use exception. The house location was shifted to the northeast to provide a 20-foot front yard setback from 152<sup>nd</sup> Ave SE and to avoid impacting trees in the Retained Vegetation Area (RVA). Clearing and Grading staff requested and received revisions to the slope stability analysis.

#### VIII. Decision Criteria

A. LUC 20.25H.255 Critical Areas Report - Decision Criteria- General The Director may approve, or approve with modifications, the proposed modification where the applicant demonstrates:

1. The modifications and performance standards included in the proposal lead to levels of protection of critical area functions and values at least as protective as application of the regulations and standards of this code;

**Finding:** The proposal meets the performance standards related to steep slopes by avoiding direct impacts to steep slope critical areas and buffers; thereby preserving the most critical portion of the site with the highest ecological functions. The proposed soldier-pile foundation system will help stabilize the northern portion of the site. The project geotech concluded the proposal would not impact slope stability on the subject site or on adjacent properties (page 1, PanGeo, January 30, 2017). **See Conditions of Approval in Section X of this report.** 

2. Adequate resources to ensure completion of any required mitigation and monitoring efforts;

**Finding:** The applicant is aware that a project condition will require mitigation planting of four trees for the removal of one tree from the toe-of-slope structure setback. The mitigation planting is required to be included on the building permit submittal and will be required to be monitored for five (5) years. Staff inspection of the planting is required after installation and to end the monitoring. A maintenance surety is required to be submitted prior to issuance of the building permit for an amount equal to the estimated cost of maintenance and monitoring for five years. A

cost estimate for maintenance surety is required to be submitted with the building permit. See Conditions of Approval in Section X of this report.

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 proposal avoids direct impacts to the steep slope critical area and buffer, and this forested area provides the highest ecological functions on the site. The proposal is not detrimental to the functions and values of critical areas.

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

**Finding:** The subject parcel is zoned for and surrounded by single family development. It is one of the few undeveloped lots remaining in the immediate vicinity. The proposal would be compatible with other single family uses and development in the same land use district.

- B. 20.30P.140 Critical Areas Land Use Permit Decision Criteria Decision Criteria The Director may approve or approve with modifications an application for a critical areas land use permit if:
  - 1. The proposal obtains all other permits required by the Land Use Code;

**Finding:** The applicant must obtain a single-family building permit and any associated permits prior to construction. **See Conditions 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 avoids direct impacts to steep slope critical areas and buffers; resulting in the least impact to on-site critical areas and existing vegetation. The proposed residence is located and designed to minimize grading and disturbance outside of the building footprint. The project proposes the use of soldier-pile walls, stepped foundations, and auger dug footings to limit the impact of excavation on site.

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

**Finding:** As discussed in Section III, the applicable performance standards of LUC 20.25H are being met.

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

**Finding:** The proposal will be 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:** A project condition requires mitigation planting of four trees for the removal of one tree from the toe-of-slope structure setback. Maintenance and monitoring of the planting is required for five years. Final planting and maintenance plans will be required for building permit approval. **See Conditions of Approval in Section X of this report.** 

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

**Finding:** As discussed in Section III and V of this report, the proposal complies with all other applicable requirements of the Land Use Code. **See Conditions of Approval in Section X of this report.** 

#### IX. 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 Director of the Development Services Department does hereby **approve with conditions** the proposal to construct a new single-family dwelling within the 75-foot toe-of-slope steep slope structure setback.

Approval of this Critical Areas Land Use Permit does not constitute a permit for construction. A building permit is required and all plans are subject to review for compliance with applicable City of Bellevue codes and standards.

**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 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:

Applicable Ordinances	Contact Person
Clearing and Grading Code- BCC 23.76	Savina Uzunow, 425-452-7860
Land Use Code- BCC 20.25H	Peter Rosen, 425-452-5210
Noise Control- BCC 9.18	Peter Rosen, 425-452-5210

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

 Building Permit: Approval of this Critical Areas Land Use Permit does not constitute an approval of a development permit. Application for a building permit or other required permits must be submitted and approved. Plans submitted as part of either permit application shall be consistent with the activity permitted under this approval.

Authority: Land Use Code 20.30P.140

Reviewer: Peter Rosen, Development Services Department

**2. Tree Removal:** Approved plans show removal of 2 trees. The building permit submittal shall show clearing limits and tree protection measures to retain other trees on the site. Removal of additional trees will require a hazard evaluation by an arborist to demonstrate the tree health, risk, and target warrants tree removal.

Authority: Land Use Code 20.30P.140

Reviewer: Peter Rosen, Development Services Department

**3. Geotechnical Report Recommendations:** The geotechnical recommendations (PanGeo, Inc., August 11, 2016) are required to be incorporated into the house plans with the future building permit.

Authority: Land Use Code 20.25H.220

Reviewer: Peter Rosen, Development Services Department

4. Mitigation Planting, Snag Retention, and Final Mitigation Planting Plan: The applicant shall plant four (4) native tree species, two (2) conifer and two (2) deciduous, located within the toe-of-slope structure setback, as mitigation for the removal of the one (1) 44-inch twin Maple tree. The existing snag shall be left as "downed wood" in the Vegetation Retention Area (RVA), and this shall also be shown on the final mitigation plan.

A final mitigation planting plan is required with the Building Permit submittal. The plan shall show the location, species, quantity and size of plant material. The final mitigation plan shall also include performance standards to measure successful establishment of the mitigation plantings.

Authority: Land Use Code 20.25H.220

Reviewer: Peter Rosen, Development Services Department

5. Maintenance and Monitoring Surety: A financial surety is required to be submitted based on 100 percent of the cost to maintain and monitor the mitigation planting for five years. A cost estimate is required to be provided with the future building permit. A financial surety is required to be posted prior to building permit issuance. Release of the surety after the 5-year monitoring period is contingent upon a final inspection of the planting by Land Use Staff that finds the maintenance and monitoring plan was successful and meets performance standards.

Authority: Land Use Code 20.25H.220

Reviewer: Peter Rosen, Development Services Department

6. Final Maintenance and Monitoring Plan: The mitigation planting is required to be maintained and monitored for five years to ensure the plants successfully establish. Annual monitoring reports with photos of the planting area are required to be submitted to document the plants are meeting approved performance standards. Land Use inspection is required by Land Use staff to end the plant monitoring.

Reporting shall be submitted no later than the end of each growing season or by October 31<sup>st</sup>, and shall include a site plan and photos from photo points established at the time of Land Use inspection. Reports shall be submitted to Peter Rosen or Heidi Bedwell by the above listed date and can be emailed to prosen@bellevuewa.gov or mailed directly to:

Environmental Planning Manager Development Services Department City of Bellevue PO Box 90012 Bellevue, WA 98009-9012

Authority: Land Use Code 20.30P.140

Reviewer: Peter Rosen, Development Services Department

**7. Land Use Inspection:** Following installation of mitigation planting, the applicant shall contact Land Use staff to inspect the planting area prior to final building inspection.

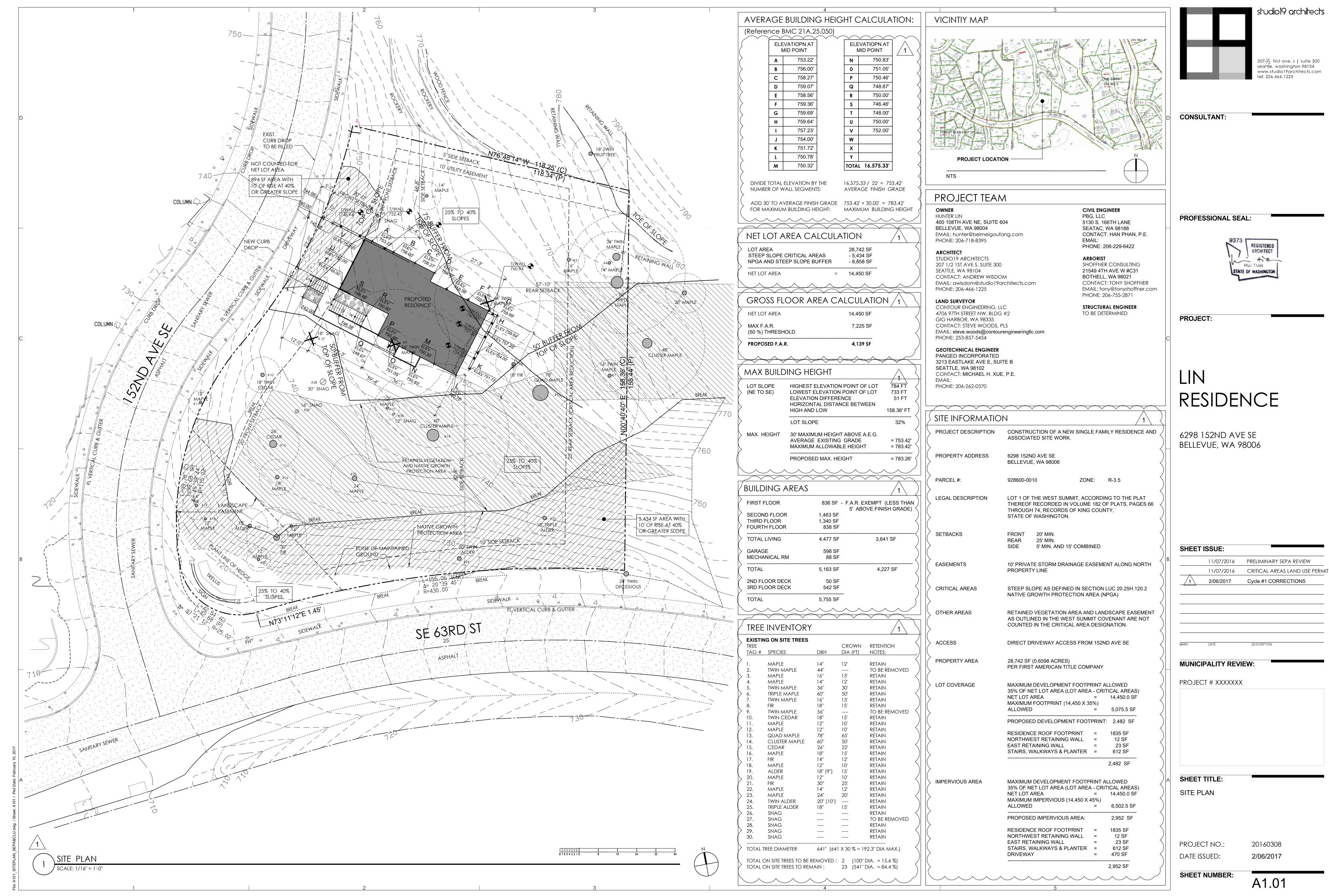
Authority: Land Use Code 20.30P.140

Reviewer: Peter Rosen, Development Services Department

8. 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 at least one week in advance with submittal of a construction noise expanded exempt hours permit.

Authority: Bellevue City Code 9.18

Reviewer: Peter Rosen, Development Services Department



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