City of Bellevue
Development Services Department
Land Use Staff Report

Proposal Name:	**Chaffey Residence Retaining Wall and Buffer Modification**
Proposal Address:	**104 130th Ave SE**
Proposal Description:	Land Use approval of a proposal to modify the top of steep slope critical area buffer to allow for a retaining wall and replacement of an existing concrete patio.
File Number:	**17-107962-LO**
Applicant:	**Chaffey Building Group LLC**
Decisions Included:	Critical Areas Land Use Permit (Process II. LUC 20.30P)
Planner:	**Leah Chulsky**, Planner
State Environmental Policy Act Threshold Determination:	**Exempt**
Director's Decision:	**Approval with Conditions**

Elizabeth Stead, Land Use Director
Development Services Department

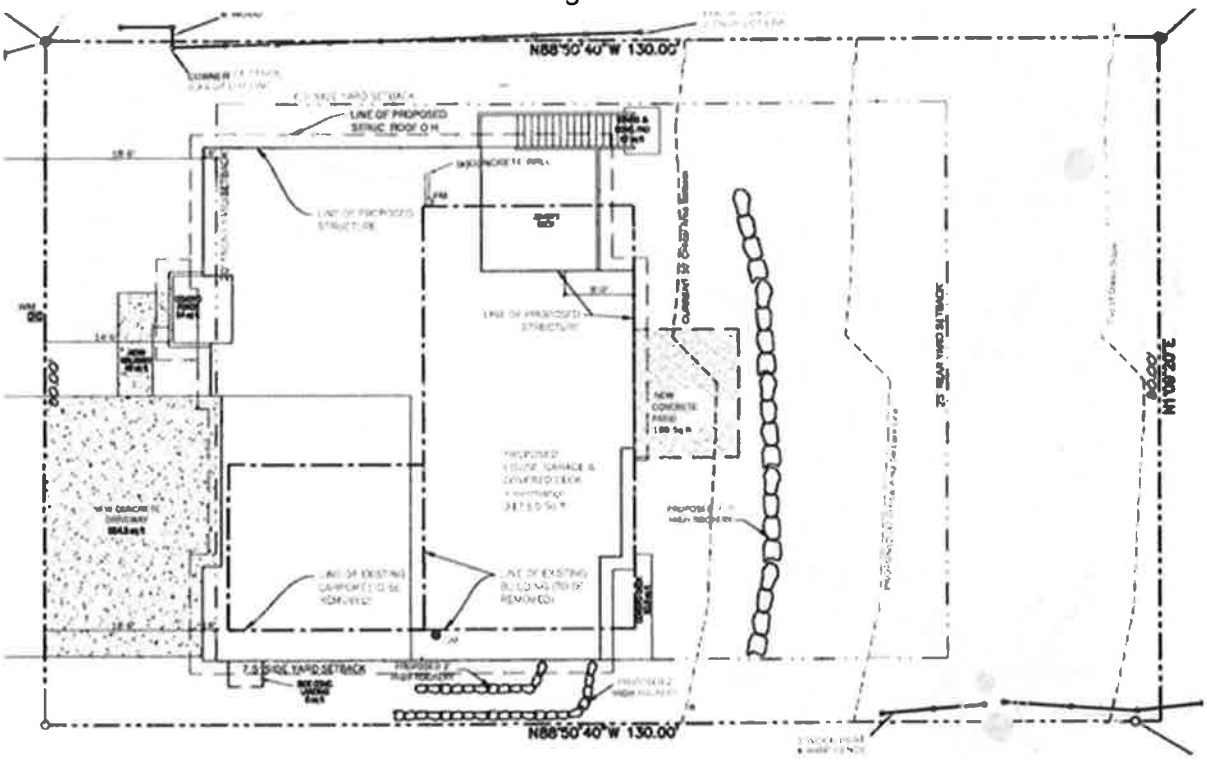
Application Date:	March 7, 2017
Notice of Application Date:	May 4, 2017
Decision Publication Date:	June 8, 2017
Project/SEPA Appeal Deadline:	June 22, 2017

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.

I. Proposal Description

The applicant is proposing to modify the 50 ft. top of slope buffer to 30 ft. from an offsite critical slope to install a retaining wall and replace an existing concrete patio. The proposed new single family home will be located outside of the buffer. The existing buffer is entirely maintained lawn area with three existing significant Douglas fir trees (totaling 121 diameter in.) which will be retained. The offsite critical slope is entirely covered with Himalayan blackberry and is just at 10 feet of rise. The proposal includes replanting 800 sq. ft. of existing lawn with native vegetation including trees, shrubs and ground cover. See Figure 1 for Site Plan.

Figure 1



Land Use Code (LUC) 20.25H.120.B prescribes a 50-foot critical area buffer from the surveyed top-of-slope. The request is to reduce the prescribed buffer to a minimum distance of 30 feet. LUC 20.25H.095.C.2 allows for the modification of a critical area buffer through a critical areas report. The critical areas report is a mechanism by which certain LUC requirements may be modified for a specific proposal.

The critical areas report is intended to provide flexibility for sites where the expected critical areas functions and values are not present due to degraded conditions. The offsite steep slope critical area and onsite buffer are degraded in function and value because they lack the vegetative structural diversity found in higher-quality steep slope critical areas. Therefore, the steep slope critical area and buffer are currently not fully performing their water quality, erosion control and wildlife habitat functions.

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

A. Site Description

The property is located at 104 130th Ave and zoned R 3.5 within the Wilburton/NE 8th St. Subarea of the City. The site is surrounded by single family residences to the north, south and west and abuts the Glendale Golf Course to the east. The site slopes gently downward from west to east and abuts a small off-site Critical Slope with 10 ft. of rise on the Glendale Golf Course. See figure 2 for existing site condition.

Figure 2

B. Zoning

The property is zoned R-3.5 and is located in the Wilburton/NE 8th St Subarea.

C. Land Use Context

The property is located amongst other similarly developed single family residences and adjacent to Glendale Golf Course.

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 will be verified during construction permit review.

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 project is subject to the performance standards found in LUC 20.25H.125 which are reviewed below.

i. Consistency with Steep Slope Performance Standards (LUC 20.25H.125)

Development within a landslide hazard, steep slope critical area, or the critical area buffers of such hazards shall incorporate the following additional performance standards in design of the development, as applicable. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function.

1. 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;

The proposed structure is terraced to conform to the existing topography throughout the remainder of the property outside of the steep slope buffer and associated buffer.

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

The proposed retaining wall and concrete patio are in an area currently maintained as lawn. The abutting steep slope will remain undisturbed and a 30 ft. buffer will be maintained.

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

The project geotechnical engineer (Associated Earth Sciences, Inc.) reviewed the

proposal and provided recommendations. The geotechnical engineer reported findings that portions of the top-of-slope buffer contained weak fill soil (Section 4.1 – Geotechnical Report), and provided recommendations for construction that "*will not decrease the stability of the slope on the subject and adjacent properties.*" (Section 5.2 – Geotechnical Report) Geotechnical Report, including construction recommendations, is included as Attachment 2. The applicant is required to follow the recommendations included in the project geotechnical report, which shall be verified by an inspection made by a qualified geotechnical engineer.

See Conditions of Approval in Section VIII of this report.

4. 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;
The proposed retaining wall maintains the existing slope and does not further encroach into the steep slope and buffer area.

5. Development shall be designed to minimize impervious surfaces within the critical area and critical area buffer;
The proposed single family homes is located outside of the onsite critical area buffer and as approved does not include grade change outside of the building footprint or within the critical area buffer.

6. 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;
No grade changes outside of the building footprint are proposed.

7. 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;
The purposed retaining wall is located to support the area of the home and replaced patio.

8. 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;
No development is proposed on slopes in excess of 40%.

9. 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

No new parking facilities or garages are proposed.

10. 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.
Approximately 800 sq. ft. of native vegetation will be installed as restoration for degraded conditions that have been documented within the critical area buffer. Disturbance is limited to areas of the retaining wall and existing concrete patio.

See Conditions of Approval in Section VIII of this report.

C. Consistency with Critical Areas Report LUC 20.25.250.
The applicant supplied a complete critical areas report prepared by Associated Earth Sciences, a qualified professional. The report met the minimum requirements in LUC 20.25H.250 and LUC 20.25H.140.

D. Consistency with Critical Areas Report LUC 20.25H.140 & 20.25H.145
Modification of a steep slope buffer requires a critical areas report as part of the application for a Critical Area Land Use Permit. The applicant has obtained the services of a qualified geotechnical engineering company to study the site and document the observed conditions. Staff has reviewed the following documents:

- Geotechnical Report – 130th Ave SE Property
  Prepared by: Associated Earth Sciences

The geotechnical analysis found that the site contained existing fill that is "*is not suitable for structural support*" (Geotechnical Report - Section 4.1). Due to the reported findings, recommendations were made to replace the existing concrete patio and install a rockery to reinforce the existing site. The rockery should be placed on stable foundations using compacted structural fill (Section 14.0). Construction of the wall shall be monitored by Associated Earth Sciences.

See Section VIII for conditions of approval.

IV. Public Notice and Comment

Application Date:	March 8, 2017
Public Notice (500 feet):	May 4, 2017
Minimum Comment Period:	May 18, 2017

The Notice of Application for this project was published in the City of Bellevue weekly permit bulletin on May 4, 2017. It was mailed to property owners within 500 feet of the project site. No comments have been received from the public as of the writing of this staff report.

V. Summary of Technical Reviews

Clearing and Grading:
The Clearing and Grading Division of the Development Services Department has reviewed the proposed development for compliance with Clearing and Grading codes and standards. The Clearing and Grading staff found no issues with the proposed development.

VI. Decision Criteria

A. Critical Areas Report Decision Criteria- General Criteria LUC 20.25H.255
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: As described in the Geotechnical Report authored by Associated Earth Sciences, placement of the retaining wall in an existing lawn area along with a three tiered restoration planting within the buffer will alter an area identified to contain non-natives species in order to increase stability and water quality functions. The proposal represents an increase in ecological value to the property from that which currently exists.

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

   Finding: The proposal has included a maintenance and monitoring plan and will be required to provide financial surety as a guarantee.

3. **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: Installation of native plantings at the eastern portion of the lot will aid in soil retention and reduce storm water run-off. Slope stability will be improved by virtue of the root systems of these plantings.

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

   Finding: The proposed use is compatible with adjacent uses.

B. 20.25H.255 Critical Areas Report Decision Criteria

The Director may approve, or approve with modifications, a proposal to reduce the regulated critical area buffer 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 three tiered restoration plan within the buffer will alter an area identified to contain non-natives species in order to increase habitat value and water quality functions. The three existing Douglas fir trees (121 diameter in.) will remain and be incorporated within the planting area.

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: Installation of native plantings at the eastern portion corner of the lot will aid in soil retention and reduce storm water run-off. Slope stability will be improved by virtue of the root systems of these plantings.

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: The issue of stormwater quality is addressed by the installation of native plantings at the eastern property line, closest to the critical steep slope area. Runoff will be directed away from the slope through downspouts or as approved by Utilities.

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

   Finding: The restoration planting will be monitored for a period of one year. A performance surety will be required based on the cost estimate of plants, labor and materials. The maintenance performance surety will be released after three years assuming restoration has been successful per the submitted maintenance and monitoring provisions. The applicant must submit as part of the required Clearing and Grading Permit information regarding the use of pesticides, insecticides, and fertilizers in accordance with the City of Bellevue's "Environmental Best Management Practices

   See Section VIII for conditions of approval.

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 modifications and performance measures in this proposal are not detrimental to the functions and values of the steep slopes off-site as discussed in this report.

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

   Finding: Construction of a single-family house is allowed in this zone and is compatible with adjacent land uses.

C. **Critical Areas Land Use Permit Decision Criteria 20.30P**

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: A single-family building permit will be required to be obtained.

   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 utilizes existing impervious surface areas and architectural design to avoid permanent impacts to the steep slope critical area. In addition, the proposal includes restoration of the buffer that has been maintained as lawn area over time. Refer to geotechnical report and condition of approval requiring recommendations to be incorporated.

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

   Finding: As discussed in Section III, the proposal incorporates and adheres to the performance standards of LUC 20.25H.125.

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

   Finding: The proposal is currently 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 restoration plan for 800 square feet of native planting has been included and meets the requirements of LUC 20.25H.210.

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.

VII. 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 the Development Services Department does hereby **approve with conditions** the proposal to replace an existing concrete patio and install a retaining wall within the steep slope critical area buffer.

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.

VIII. 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 Uzunuw, 425-452-7860
Land Use Code- BCC 20.25H	Leah Chulsky, 425-452-6834
Noise Control- BCC 9.18	Leah Chulsky, 425-452-6834

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

1. Building Permit Required: Approval of this Critical Areas Land Use Permit does not constitute an approval of a development permit. Application for a building permit and utilities permit 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: Leah Chulsky, Land Use

2. Geotechnical Recommendations: Construction of the proposed addition and all site work within the critical area buffer shall comply with the recommendations found in the Geotechnical Report dated August 8, 2016.

Authority: Land Use Code 20.25H.145.F
Reviewer: Leah Chulsky, Land Use

3. Mitigation Planting and Monitoring: Mitigation planting shall be undertaken within the steep slope critical area buffer to mitigate for the impacts associated with the replacement of the existing retaining wall and concrete patio. The mitigation plantings shall be monitored for a period of three years, consistent with a monitoring plan approved pursuant to LUC 20.25H.210. Reports shall be submitted to the Development Services Department in order to release the performance surety.

Authority: Land Use Code 20.30P.140
Reviewer: Leah Chulsky, Land Use

4. Land Use Inspection: Following installation of planting the applicant shall contact Land Use staff to inspect the planting area. At the end of 3 years, a Land Use Inspection will need to be requested to release the surety.

Authority: Land Use Code 20.30P.140
Reviewer: Leah Chulsky, Land Use

5. Hold Harmless Agreement: Prior to building permit approval, the applicant or property owner shall submit a hold harmless agreement releasing the City of Bellevue from any and all liability associated with the reduction in the top of slope buffer. The agreement must meet city requirements and must be reviewed by the City Attorney's Office for formal approval.

Authority: Land Use Code 20.30P.170
Reviewer: Leah Chulsky, Land Use

6. **Assignment of Savings – Landscape Maintenance Performance Surety:** To ensure a proper maintenance schedule is followed after the mitigation plantings have been installed, an assignment of savings or bond financial security device for landscape maintenance equal to 20% of the value of the labor and materials required to install the approved mitigation plantings. This device shall be submitted prior to the release of the landscape installation device in accordance with LUC 20.40.490,

Authority: Land Use Code 20.40.490
Reviewer: Leah Chulsky, Land Use

7. Rainy Season restrictions: Due to the proximity to steep slope critical area, no clearing and grading activity may occur during the rainy season, which is defined as

October 1 through April 30 without written authorization of the Development Services Department. Should approval be granted for work during the rainy season, increased erosion and sedimentation measures, representing the best available technology must be implemented prior to beginning or resuming site work.

Authority: Bellevue City Code 23.76.093.A
Reviewer: Savina Uzunow, Clearing and Grading

8. Pesticides, Insecticides, and Fertilizers: The applicant must submit as part of the required Clearing and Grading 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: Leah Chulsky, Land Use