



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

Proposal Name: Mirikeen Homes Slope Buffer Modification

Proposal Address: 13648 SE 10th Street

Proposal Description: Application for a Critical Area Land Use Permit to modify a top-of-slope buffer to allow the expansion and paving of a driveway, the construction of 2 new single-family residences, and the demolition/reconstruction of an existing single-family residence on three existing lots.

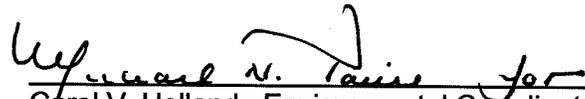
File Number: 07-127347-LO

Applicant: Duffy Ellis, Mirikeen Homes

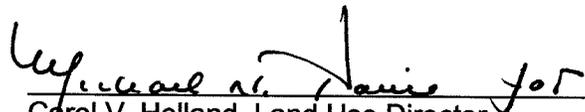
Decisions Included: Critical Areas Land Use Permit
(Process II, LUC 20.30P)

Planner: Reilly Pittman, Associate Planner

**State Environmental Policy Act
Threshold Determination:** **Exempt (development does not impinge on
critical slope)**


Carol V. Helland, Environmental Coordinator
Development Services Department

Director's Decision: **Approval with Conditions**


Carol V. Helland, Land Use Director
Development Services Department

Application Date: 7/19/07
Notice of Application Publication Date: 5/1/08
Decision Publication Date: 7/25/08
Project/SEPA Appeal Deadline: 8/8/08

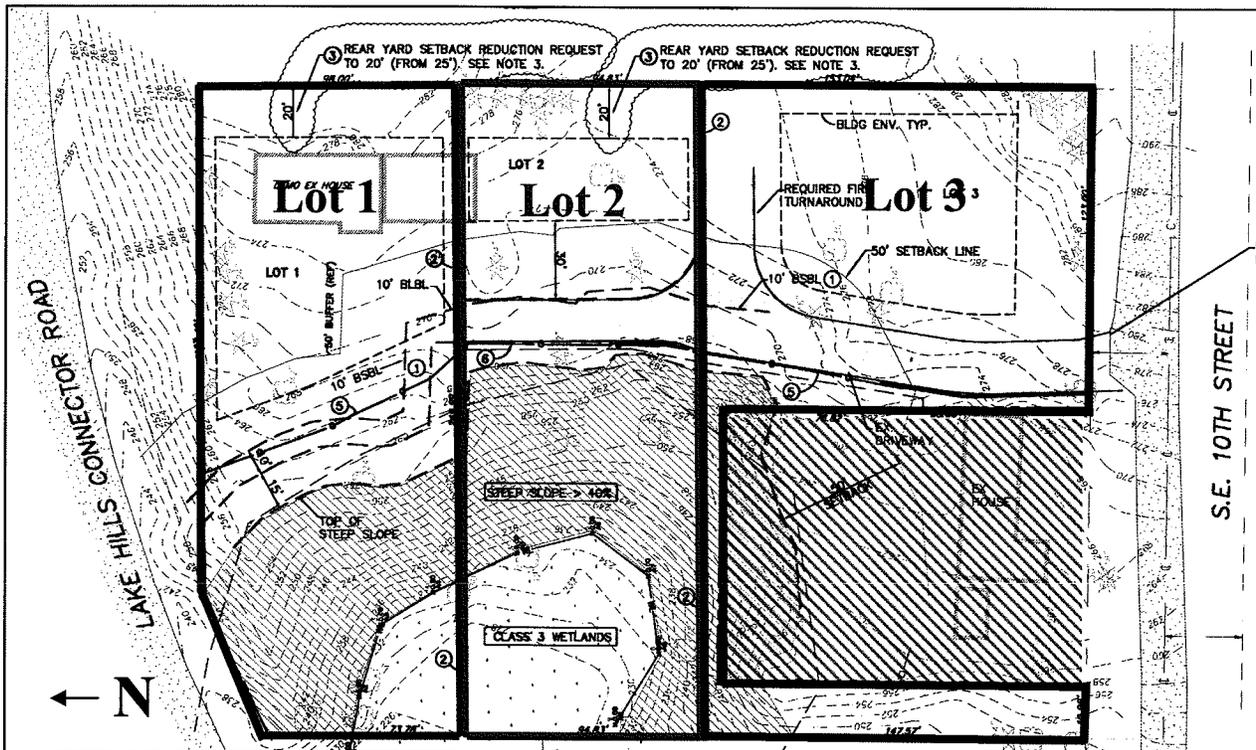
For information on how to appeal a proposal, visit Development Services at City Hall or call (425) 452-6800. Comments on State Environmental Policy Act (SEPA) Determinations can be made with or without appealing the proposal within the noted comment period for a SEPA Determination. Appeal of the Decision must be received in the City's Clerk's Office by 5 PM on the date noted for appeal of the decision.

I. Background

A. Project Description

A Critical Area Land Use Permit (CALUP) to reduce the 50-foot top-of-slope critical area buffer and associated enhancement of an on-site category III wetland. The buffer reduction will allow the demolition and reconstruction of the existing residence (13648 SE 10th Street) and the construction of two new houses on the other existing lots of this three lot site. In addition, the existing unpaved driveway will be widened to the east (away from critical areas) and paved in order to provide access to the three lots which comprise this site. A new driveway is an allowed use within a critical area buffer per LUC 20.25H.055, provided there is no feasible alternative as to placement. There are other options to driveway placement on-site and as a result a critical area report and CALUP are required in order to allow the site to be developed as proposed and to reduce the 50-foot buffer. A "hammerhead" turnaround will also be installed to enable fire apparatus to access the site. See (figure 1) project proposal below, note the red hashed parcel surrounded by Lot 3 is not part of the project site.

Figure 1



B. Site Description

The project site is located at 13648 SE 10th Street and consists of three tax parcels (#2077700030, 2077700031, and 2077700025) hereafter called Lots 1, 2, and 3 respectively as seen above in figure 1. The site is located in the NW quadrant of Section 3, Township 24 North, Range 5 East and is zoned single-family residential, R-1.8. There is currently one single family residence with a garage on the site that is accessed by an unpaved driveway which provides access from the existing residence to SE 10th Street. See figure 2 for existing site condition.

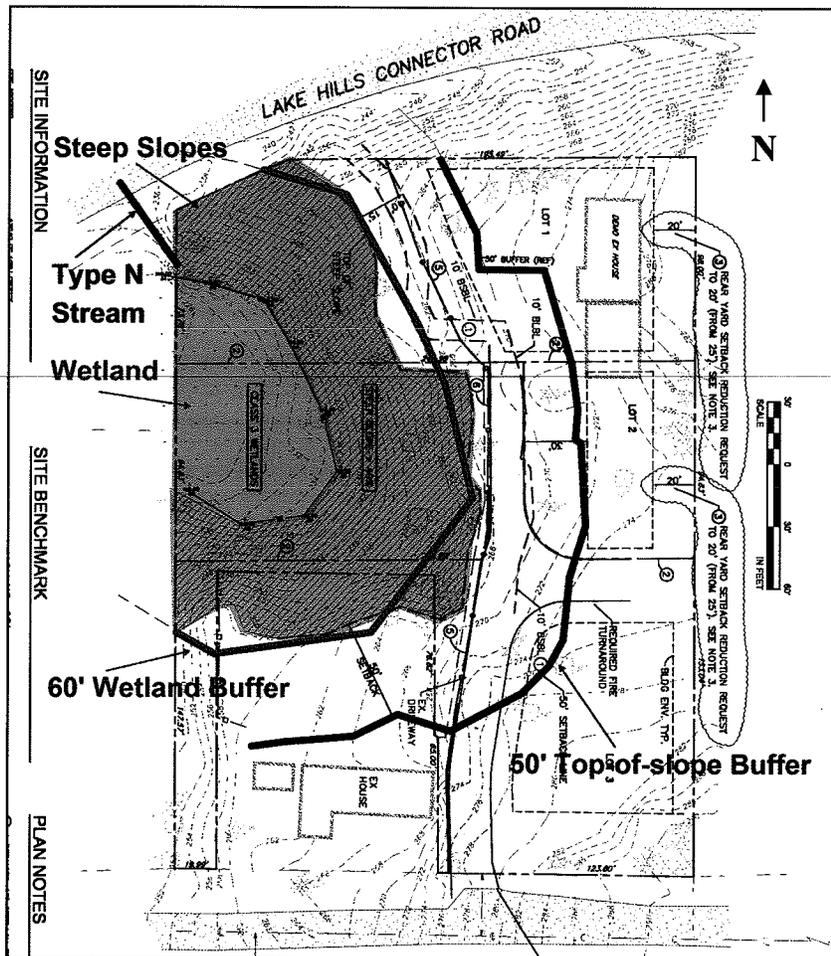
Figure 2



The Lake Hills Connector is north of Lot 1 and abuts the northwest corner of the site. Other single-family zoned parcels exist to the west and east of the site. 10th St. SE abuts the site to the south. Lot 3 also surrounds a lot with an existing residence. The northwest quarter of the site is comprised of steep slope critical areas, a category III wetland, and a type N stream (see figure 3). These critical areas and their resulting buffers constrain a majority of the site leaving only an area along the eastern boundary of the site available for development.

A Critical Area Land Use Permit is requested as the applicant proposes to reduce the required 50-foot top-of-slope critical area buffer and expand an existing unpaved driveway. No critical area or other critical area buffer modification is requested or examined in this decision. In addition this decision does not grant any modification to the critical areas and buffers found on the off-site lot which is surrounded by Lot 3 as depicted in figures 1 and 2 above.

Figure 3



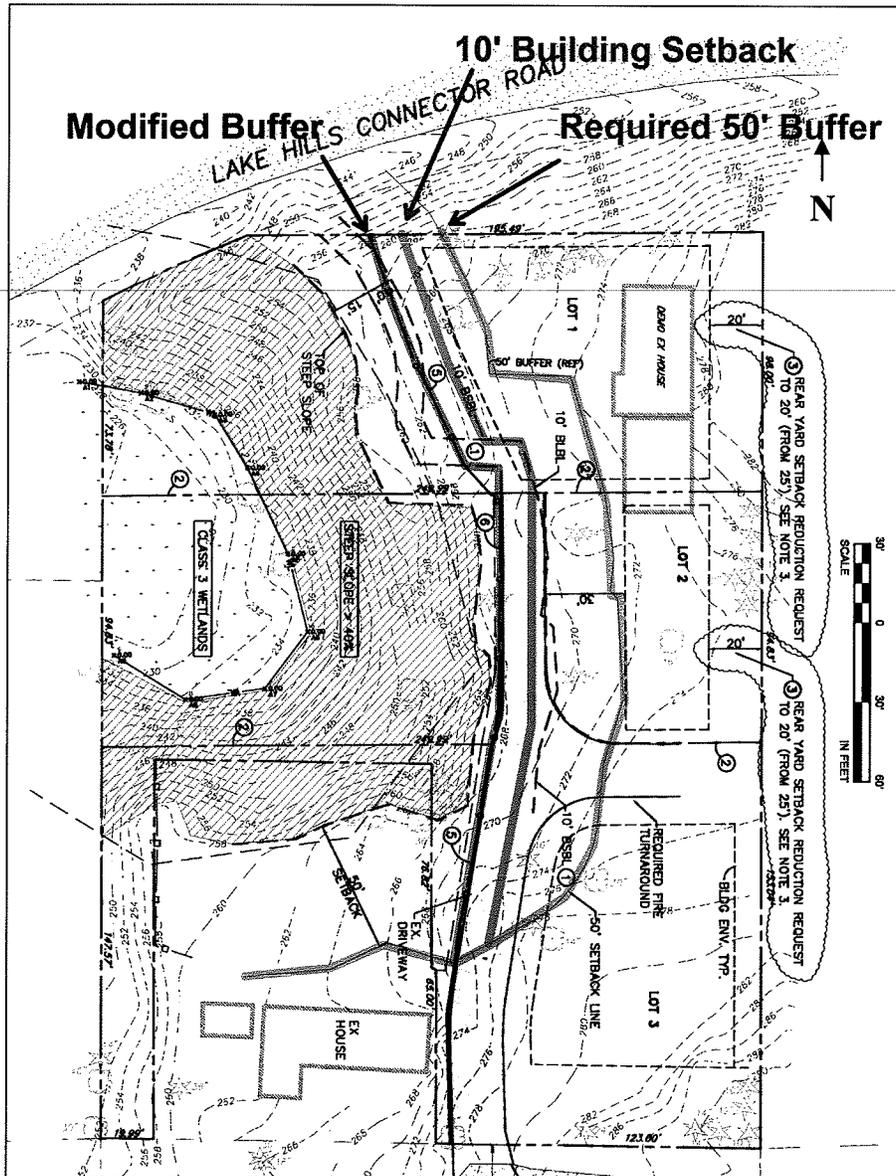
II. Critical Areas and Critical Area Buffers

A. Geologic Hazard Area - Steep Slopes

Geologic Hazard Areas (GHAs) are defined by the City of Bellevue Land Use Code as: those areas with slopes of 40 percent or more that have a rise of at least 10 feet and exceed 1,000 square feet in area. The subject site consists of steep slopes within the property boundaries which meet the criteria above to be classified as a GHA as noted in the geotechnical report prepared by Associated Earth Sciences Inc. dated September 6, 2006. The subject steep slopes are located on the western portion of the site and slope down to a wetland. Any geologically hazardous area is designated as a critical area and per LUC 20.25H.120.B.1.b a 50-foot buffer from the top-of-slope is required. This 50-foot top-of-slope buffer is proposed to be modified in order to improve an existing driveway to City standards and allow it to be a shared driveway providing access to the three existing lots. The buffer modification will also increase the area available for development of two new single-family residences on two previously

existing but undeveloped lots.

Figure 4



The buffer is proposed to be reduced below 15 feet in width on Lot 2 and briefly on Lot 3 in order to align the reduced buffer with the western edge of the driveway as shown in figure 4 above. The area of buffer that is below 15 feet in width will be compensated for on Lot 1 where the buffer is wider than 15 feet. In addition to the buffer, there is a 10-foot building setback from the buffer edge as recommended in the geotechnical report. Retaining walls are also proposed along the western edge of the driveway on Lots 2 and 3. Per the addendum letter to the geotechnical report dated June 24, 2008 prepared by Associated

Earth Sciences Inc. the proposed driveway and walls can be constructed as proposed provided certain recommendations are followed. See Conditions of Approval in Section X of this report.

B. Wetland

A category III wetland is located on the NW portion of the site. Per the Critical Area Report and Enhancement Plan submitted by Aquatica Environmental Consulting, LLC dated April 1, 2008 and LUC 20.25H.095.C.i the wetland has a buffer of 60 feet. The steep slope critical areas on this site surround the wetland and slope down to it making the wetland a depression at the bottom of the slopes.

The 60-foot wetland buffer is entirely contained within the slope critical area and the 50-foot top-of-slope buffer and does not affect the proposed development. No modification of the wetland or the 60-foot wetland buffer is proposed. The vegetation in the wetland and the top-of-slope buffer is proposed to be enhanced as mitigation in exchange for the allowance to reduce the top-of-slope buffer. A split rail fence is proposed in the critical area report to delineate the buffer edge and contain the planting area. This fence will become the modified edge of the top-of-slope buffer. See Conditions of Approval in Section X of this report.

C. Stream

A small Type N stream was identified in the Critical Area Report and Enhancement Plan. This stream originates from seeps within the wetland on-site.

The stream flows downhill to the northwest and eventually links up with Kelsey Creek. As this is a Type N stream on a developed site a 25-foot buffer and 25-foot setback are required which combine to create a 50-foot wide area of no disturbance. However, due to the stream being primarily located off-site and within the Category III wetland, the resulting 50-foot no disturbance area is located entirely within the wetland buffer. No modification of the wetland buffer or stream buffer is requested under this permit application.

III. State Environmental Policy Act (SEPA)

A. SEPA Exempt

No work is proposed within a critical area as defined within BCC 22.02, which contains the City of Bellevue's environmental procedures. As a result the project is exempt from SEPA review.

IV. Consistency with Land Use Code Requirements:

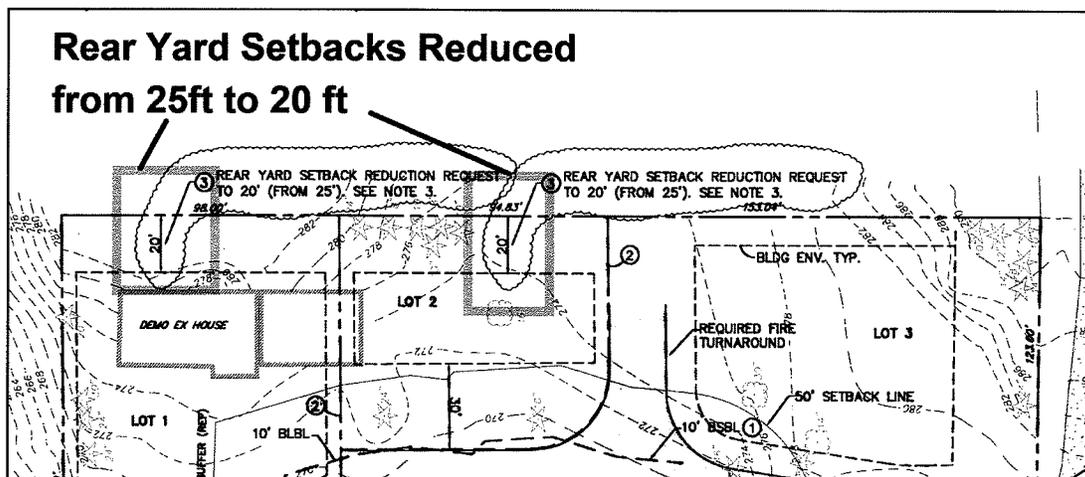
A. Zoning District Dimensional Requirements

The site is zoned R-1.8 which has the setbacks required in the table below:

| DIMENSIONAL STANDARD | Minimum Required |
|---------------------------------------------------------------|------------------|
| Front Yard Setback (Can be measured from edge of easement) | 30' |
| Rear Yard Setback | 25' |
| Side Yard (2 Side Yards) | 5' (15') |
| Setback from access easement | 10' |

Setbacks are reviewed at time of building permit, however, the setbacks are shown on the project site plan for this permit application. The setbacks are shown as a reduction in the rear yard setback on Lots 1 and 2 as made possible under LUC 20.25H.040. The rear yard setback is proposed to be reduced from 25 feet to 20 feet. This reduced setback will not only provide a larger developable area, but will also move the building envelopes on Lots 1 and 2 further away from the critical areas on-site which meets the intent of LUC 20.25H.040. See figure 5 below. See Conditions of Approval in Section X of this report.

Figure 5

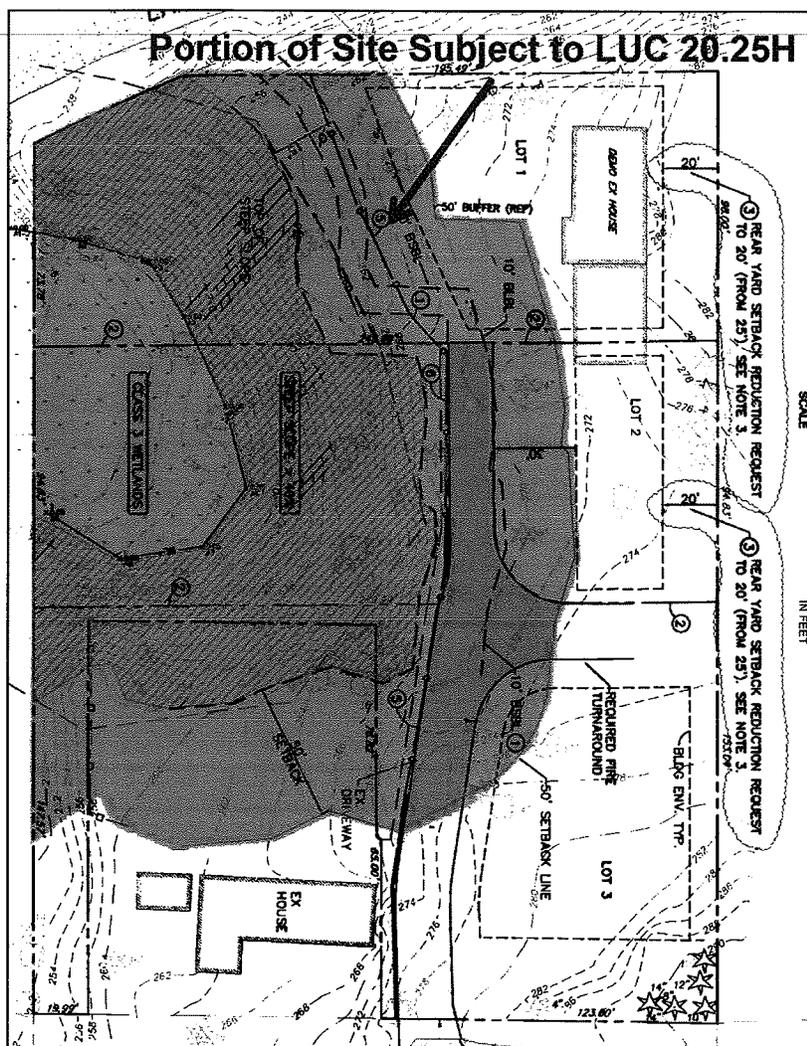


B. Critical Areas Requirements

The City of Bellevue Land Use Code Critical Areas Overlay District (LUC 20.25H) establishes standards and procedures that apply to development on any site which contains in whole or in part any portion designated as critical area or critical area buffer.

The Critical Areas Overlay District is a mechanism by which the City recognizes the existence of natural conditions which affect the use and development of a property. Through this section of the Land Use Code, the city imposes regulations on the use and development of affected property to protect the functions and values of these areas, the public health, safety and welfare, and to allow reasonable use of private property. Please see figure 6 below which depicts the portion of the site which is subject to the Critical Areas Overlay District LUC 20.25H

Figure 6



The site under proposal contains areas designated as critical areas and critical area buffers. However, based on the proposed project and requested modification only the steep slope critical area performance standards apply. These performance standards are identified in the table below:

| | |
|------------------------------|------------------------------------------|
| Critical Area | Geologic Hazard - Steep Slope |
| Performance Standards | 20.25H.055.C.2 20.25H.125 |

The City of Bellevue Land Use Code (section 20.25H.120) designates areas with steep slopes of 40 percent or more that have a rise of at least 10 feet and exceed 1,000 square feet in area as a Critical Area. Under LUC 20.25H, the modification of a Critical Area is prohibited unless the proposal is identified as an allowed use or a provision for modification exists. Steep Slope Critical Areas are subject to a 50-foot top of slope buffer. Due to these constraints, the applicant is requesting City approval of to modify the top-of-slope critical area buffer to accommodate a driveway expansion and to allow for the redevelopment of the site with two new single-family residences and the reconstruction of a third, previously existing residence. As a result the proposed development must meet the requirements identified in LUC 20.25H.055.C.2 and 20.25H.125. LUC 20.25H.055.C.2 establishes performance standards for expansions of facilities within critical areas and critical area buffers and LUC 20.25H.125 establishes performance standards specific to geological hazard areas. The proposed reduction of steep slope critical area structure setbacks is allowed under LUC 20.25H.120, which requires a site analysis through the Critical Areas Report process and is subject to compliance with the requirements of LUC 20.25H.230. Approval of either of these proposals requires review for consistency with the Critical Areas Land Use Permit criteria listed in LUC 20.30P These standards and requirements are analyzed in detail below.

V. Consistency With Land Use Code Critical Areas Performance Standards:

A. Consistency With LUC 20.25H.125

In addition to generally applicable performance standards set forth in LUC 20.25H.055, development within a landslide hazard or 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.

- 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;**

The proposed development is being located along the relatively flat, eastern portion of the site in order to avoid significant alterations to the slope and site topography.

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

Through placement of the proposed single-family residences, reduction in the rear yard setback, and using the existing driveway route the most critical and sensitive landforms will be avoided.

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

This project will not result in greater risk or a need for increase buffers on neighboring properties. There are not adjacent structures (aside from that of the applicant) located within immediate proximity of the proposed slope modification that would be affected by this proposal. The off-site property that is surrounded by Lot 3 is currently restricted by the same 50-foot top-of-slope buffer that is requested to be reduced by this proposal.

- 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;**

Rockerries will be used when possible to avoid excessive grading, such as the ones proposed adjacent to the western edge of the driveway; however, no grading is proposed on the steep slope itself. Earthwork is limited to the relatively flat top-of-slope buffer. See Conditions of Approval in Section X of this report.

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

This proposal will require the submittal of a building permit application and all development on this site will be subject to the 50% impervious surface limitations identified in the Land Use Code for the R-1.8 zoning district.

- 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;**

This requirement is not applicable to this project. No steep slope is proposed to be modified; no significant change in site topography is proposed.

- 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;**

This requirement is not applicable as the future buildings are being constructed on relatively flat surfaces that will not require extensive earthwork.

- 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;**

This requirement is not applicable as no building is occurring on slopes of over 40 percent.

- 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;**

This requirement is not applicable as no building is occurring on slopes of over 40 percent.

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.

An acceptable Temporary Erosion Sedimentation Control Plan will be required as part of the building permit submittal and approval. A restoration and replanting plan will also be required as part of the building permit submittal and must include a maintenance and monitoring plan. The applicant shall also submit cost estimates to be used in determining the amount of the assignment of savings financial security device that will be required prior to permit issuance based on the cost of restoration, replanting, and maintenance. See Conditions of Approval in Section X of this report.

B. Consistency With LUC 20.25H.230:

The critical areas report is intended to provide flexibility for sites where the expected critical area functions and values are not present due to degraded conditions or other unique site characteristics, or for proposals providing unique design or protection of critical area functions and values not anticipated by this part. Generally, the critical areas report must demonstrate that the proposal with the requested modifications leads to equivalent or better protection of critical area functions and values than would result from the application of the standard requirements. This is a proposal to reduce the required top-of-slope buffer from 50 feet to 15 feet or less. The applicant has obtained the services of a qualified geotechnical engineering company and a qualified environmental consultant to study the site and document the observed conditions. Staff has reviewed the following documents:

- Geotechnical report dated September 6, 2006 prepared by Associated Earth Sciences Inc.
- Geotechnical Addendum letter dated June 4, 2008 prepared by Associated Earth Sciences Inc.
- Critical Area Report and Enhancement Plan dated April 1, 2008 prepared by Aquatica Environmental Consulting, LLC
- Supplemental documentation prepared by Aquatica dated April 15, 2008

These documents indicate that a reduction in required top-of-slope buffer is appropriate for this site due to lack of slope instability and lack of existing ecological or habitat benefit. Construction of the driveway within the top-of-slope

buffer is feasible if the recommendation in the letter dated June 4, 2008 prepared by Associated Earth Sciences are followed. This in effect reduces the buffer from 50 feet to 15 feet or less which is being compensated for by extensive wetland enhancement of the on-site wetland and mitigated through the potential use of rockeries or retaining walls along the driveway edge.

VI. Public Notice and Comment

Application Date: July 19, 2007

Public Notice (500 feet): May 1, 2008

Minimum Comment Period: May 15, 2008

The Notice of Application for this project was published in the Seattle Times and the City of Bellevue weekly permit bulletin on May 1, 2008. It was mailed to property owners within 500 feet of the project site. No comments on the project were received.

VII. Summary of Technical Reviews

A. Clearing and Grading

The Clearing and Grading Division of the Planning and Community Development Department has reviewed the proposed site development for compliance with Clearing and Grading codes and standards. The Clearing and Grading staff found no issues with the proposed development and concurred with the findings within the Geotechnical Report.

VIII. Decision Criteria

A. LUC 20.25H.145 Critical Areas Report – Approval of Modification

Modifications to geological hazard critical areas and critical area buffers shall only be approved if the Director determines that the modification:

- 1. Will not increase the threat of the geological hazard to adjacent properties over conditions that would exist if the provisions of this part were not modified.**

The applicant has submitted a geotechnical report and supplemental review of the site and slope area prepared by Associated Earth Sciences Inc. that addresses slope stability and identifies construction practices and structure design that will help limit the potential for increased hazard

associated with this slope. The applicant is required to conform to the requirements of the geotechnical evaluations. See Conditions of Approval in Section X of this report.

2. Will not adversely impact other critical areas;

This proposed modification is to reduce the top-of-slope buffer. No modification or alteration of any critical area is proposed; all work will remain outside of critical areas. Restoration planting is proposed to restore the on-site wetland and top-of-slope buffer.

3. Is designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than would exist if the provisions of this part were not modified;

The proposed development is designed to minimize new impacts and enhance the critical area. No development is proposed within the steep slope critical area or wetland. The top-of-slope buffer is currently impacted with either invasive plant species or by an unpaved driveway. With the exception of the driveway being paved and expanded, the proposed development of three single-family residences will be constructed outside of the top-of-slope buffer. The driveway is to be paved and widened to the east away from the top-of-slope. The Geotechnical Engineer of record has concluded that the proposed location of the improved driveway near the top-of-slope poses no hazard to the development assuming the recommendations in their addendum letter dated June 4, 2008 are followed. Copies of the project geotechnical evaluations are available in the project file. See Conditions of Approval in Section X of this report.

4. Is certified as safe as designed under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington;

The applicant has submitted a geotechnical report and addendum letter of the site and slope area prepared by Associated Earth Sciences Inc. that address slope stability and identifies construction practices and structure design that will help limit the potential for increased hazard associated with this slope. The applicant is required to conform to the requirements of the geotechnical addendum letter dated June 4, 2008. See Conditions of Approval in Section X of this report.

- 5. The applicant provides a geotechnical report prepared by a qualified professional demonstrating that modification of the critical area or critical area buffer will have no adverse impacts on stability of any adjacent slopes, and will not impact stability of any existing structures;**

The applicant has submitted a geotechnical report of the site and slope area prepared by Associated Earth Sciences Inc. that addresses slope stability and identifies construction practices and structure design that will help limit the potential for increased hazard associated with this slope. The applicant is required to conform to the requirements of the geotechnical addendum letter dated June 4, 2008. See Conditions of Approval in Section X of this report.

- 6. Any modification complies with recommendations of the geotechnical support with respect to best management practices, construction techniques or other recommendations; and**

The applicant has submitted a geotechnical report of the site and slope area prepared by Associated Earth Sciences Inc. that addresses slope stability and identifies construction practices and structure design that will help limit the potential for increased hazard associated with this slope. The applicant is required to conform to the requirements of the geotechnical addendum letter dated June 4, 2008. See Conditions of Approval in Section X of this report.

- 7. The proposed modification to the critical area or critical area buffer with any associated mitigation does not significantly impact habitat associated with species of local importance, or such habitat that could reasonably be expected to exist during the anticipated life of the development proposal if the area were regulated under this part.**

The proposed modification to the top-of-slope buffer does not impact habitat associated with species of local importance. See section 5.3 of the Critical Area Report and Enhancement Plan in the project file.

B. 20.25H.255 Decision Criteria – Proposals to Reduce Regulated Critical Area Buffer

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;

As described within the Critical Area Report and Enhancement Plan prepared by Aquatica, the project proposes to restore the on-site wetland and the top-of-slope buffer. These areas are either sparsely vegetated or dominated by invasive weeds. As described in the functional value assessment, an overall net gain in functions will result from these actions. The property will gain an increase in structural and biological diversity in the form of additional plantings, a net increase of trees will result on the property, which cumulatively result in an increase in wildlife habitat value and water quality functions. In addition, the proposed restoration area exceeds the buffer area reduced. Further, the area proposed for reduction is already low in value, as it is partially developed and/or dominated by invasive weeds or ornamental landscaping. As a result, the project will result in an increase in ecological value to the property over what is existing and over what would be required by applying the standard buffers. See Conditions of Approval in Section X 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;

The most important functions of the critical area within its ecosystem was determined to be the water quality and wildlife functions, since the wetland is a headwater wetland for the adjacent stream. Through additional plantings the water quality function of the wetland should improve as additional plant material binds soil and absorbs nutrients in the water. Through invasive weed removal a weed-seed source at the headwaters of the stream will be removed, which otherwise could contribute to downstream weed infestations. This will thus benefit not only the habitat value on site through weed removal, but potentially a reduced risk of contaminating downstream areas with weeds, increasing the value to the greater ecosystem in which the property exists.

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;

Through wetland and top of slope enhancement, the proposal will result in a net gain in stormwater quality function as the mitigation planting will slow and retain stormwater more efficiently than the existing invasive species. The project will be subject to the City's existing stormwater regulations.

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

As stated in the Critical Area Report (Section 10), an assurance device to ensure completion of the mitigation plan will be provided upon request by the City, which will financially ensure completion of the project. A monitoring and maintenance plan (Sections 8 and 9 in the Aquatica report), details the technical assistance that will be provided to ensure project success. See Conditions of Approval in Section X 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

As detailed in the Critical Area Report (Section 7.4), the functions and value assessment demonstrates that with implementation of the restoration plan, there will be no detrimental effect to the functions and values of the critical area or buffers. No change is expected for the hydrologic function, an increase in value of the water quality, habitat, and social functions of the wetland and buffer areas are expected.

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

The resulting development would be three single family residential houses on three existing legal lots. This is compatible with the other uses in the land use district in which the property is located. No modification or short plat of the property is being requested; the applicant intends to construct three houses on three existing lots.

C. 20.30P.140 Critical Area Land Use Permit Decision Criteria – Decision Criteria

The Director may approve, or approve with modifications an application for a Critical Area Land Use Permit if:

- a. The proposal obtains all other permits required by the Land Use Code;**

The applicant must obtain a building permit before beginning any work. See Conditions of Approval in Section X of this report.

- b. 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;**

The proposed wetland mitigation will significantly enhance the on-site wetland and slopes by removing invasive plants and restoring the area with native wetland species. No slopes are proposed to be modified as the development is proposed on the eastern portion of the site which is relatively flat. See Conditions of Approval in Section X of this report.

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

As discussed in Section V of this report, the proposal meets the performance standards of LUC Section 20.25H.055.C.2 for expansion of facilities into a critical area or its buffer and LUC Section 20.25H.125 for areas of geological hazards. The proposal also meets the Critical Areas Report decision criteria in LUC 20.25H.255.B required to reduce a critical area buffer.

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

The proposed driveway expansion will improve the existing service level by providing improved driveway circulation for resident and visiting vehicles. In addition a fire turnaround will be provided in order to allow emergency vehicles to access the site and turn around. The proposal to reduce the required 50-foot top-of-slope buffer does not impact the demand on public services and facilities. In order for building permits to be approve the site will be required to be in conformance with all applicable code requirements.

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

An acceptable Temporary Erosion Sedimentation Control Plan will be required as part the building permit submittal and approval as recommended by the geotechnical addendum letter dated June 4, 2008 prepared by Associated Earth Sciences. A restoration and replanting plan for the wetland and top-of-slope buffer will also be required as part of the building permit submittal and must include a maintenance and monitoring plan. The applicant shall also submit restoration / replanting / maintenance cost estimates to be used in determining the amount of the assignment of savings financial security device that will be required prior to permit issuance. See Conditions of Approval in Section X of this report.

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

As discussed in Section IV, V, & VI 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 Planning and Community Development does hereby **approve with conditions** the proposal to reduce the 50-foot top-of-slope buffer to allow the existing driveway to be placed as proposed and allow the construction of two new single-family residences and the reconstruction of the existing single family residence located at 13648 SE 10th St. **Approval of this Critical Areas Land Use Permit does not constitute a permit for construction. Building permits are 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 Clearing and Grading 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 Title 20 | Reilly Pittman, 425-452-4350 |
| Noise Control- BCC 9.18 | Reilly Pittman, 425-452-2973 |

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

- 1. Buffer Reduction and Alignment:** The top of slope buffer shall be reduced to 15 feet or to align with the western edge of the driveway, whichever is less. See figure 4. The buffer on Lot 1 shall be wider than 15 feet in order to compensate for the area of buffer lost that is under 15 feet on Lots 2 and 3.

Authority: Land Use Code 20.25H.140, 20.25H.145, 20.25H.255

Reviewer: Reilly Pittman, Development Services Department

- 2. Critical Area Fencing:** A split rail fence shall be placed along the edge of the reduced top-of-slope buffer as noted in the Critical Area Report and Enhancement Plan.

Authority: Land Use Code 20.25H.220

Reviewer: Reilly Pittman, Development Services Department

- 3. Native Growth Protection Easement:** A Native Growth Protection Easement (NGPE) shall be recorded consistent with the standards in LUC 20.25H.030.B. The easement shall apply to the area of the site which is regulated critical area and critical area buffer. The NGPE shall be marked in the field with permanent boundary markers noting its status as a habitat reserve and set aside as an NGPE. One sign/marker (obtained from City) shall be posted every 50 feet.

Authority: Land Use Code 20.25H.030

Reviewer: Reilly Pittman, Development Services Department

- 4. Critical Area Restoration and Replanting:** Mitigation and planting shall be consistent with the mitigation proposal in the Critical Area Report and Enhancement Plan prepared by Aquatica dated April 1, 2008. The proposed planting plan is Attachment 1 to this staff report. All mitigation

shall be completed prior to Land Use final inspection of the single-family residences.

Authority: Land Use Code 20.25H.220

Reviewer: Reilly Pittman, Development Services Department

- 5. Maintenance and Monitoring Plan:** Maintenance and monitoring shall be carried out in accordance with the proposal in the Critical Area Report and Enhancement Plan prepared by Aquatica dated April 1, 2008. Monitoring shall be carried out for a period of three years. The following table depicts the required monitoring program.

| Year | Date | Maintenance Review | Performance Monitoring | Report Due to City |
|------|---------|------------------------------|------------------------|--------------------|
| 1 | Spring* | Send as-built report to City | | |
| | Fall | X | X | X |
| 2 | Spring | X | | |
| | Fall | X | X | X |
| 3 | Spring | X | | |
| | Fall** | X | X | X |

*Event to occur following construction completion

**Request approval for release of bond from the City (presumes performance criteria are met)

Authority: Land Use Code 20.25H.220

Reviewer: Reilly Pittman, Development Services Department

- 6. Assignment of Savings Financial Security Device:** As part of the building permit application the applicant shall submit restoration / replanting / maintenance plan cost estimates to be used in determining the amount of the assignment of savings financial security device that will be required prior to permit issuance. A complete assignment of savings financial security device in the amount determined by the project planner must be submitted prior to building permit issuance. Release of the assignment of savings will be contingent upon successful mitigation and monitoring.

Authority: Land Use Code 20.25H.220.F

Reviewer: Reilly Pittman, Development Services Department

- 7. Geotechnical Recommendations:** The recommendations contained in the addendum letter dated June 4, 2008 prepared by Associated Earth Sciences shall be implemented as follows:
- Construction of driveway does not disturb areas outside of driveway alignment.
 - A temporary erosion control and sediment plan shall be submitted at time of building permit.
 - Stockpiled soils are not placed within 25 feet of the top-of-slope.

Once the site improvements are complete the geotechnical consultant shall provide a follow-up letter confirming that their recommendations have been met.

Authority: Land Use Code 20.25H.145

Reviewer: Reilly Pittman, Development Services Department

8. Hold Harmless Agreement:

Future applicants for construction permits on Lots 1, 2, and 3 shall sign a hold harmless agreement in a form approved by the City Attorney which releases the City from liability for any damage arising from the location of improvements within the critical area buffer in accordance with LUC 20.30P.170.

Authority: Land Use Code 20.30P.170

Reviewer: Reilly Pittman, Development Services Department

- 9. Retaining Walls or Rockeries:** These structures will require building permits and may be subject to other requirements in LUC Title 20 if the height of any walls or rockeries is 48 inches or greater.

Authority: Land Use Code Title 20

Reviewer: Reilly Pittman, Development Services Department

- 10. Use of Pesticides, Insecticides, and Fertilizers:** In order to limit impacts associated with pesticide, insecticide, and fertilizer use, particularly in the small wetland on the site, the use of these materials in retained habitat areas must comply with the City of Bellevue's Environmental Best Management Practices.

Authority: Land Use Code 20.25H.100

Reviewer: Reilly Pittman, Development Services Department

11. Rainy Season Restrictions: Due to the proximity to a steep slope, no clearing and grading activity may occur during the rainy season, which is defined as November 1 through April 30 without written authorization of the Department of Planning and Community Development. 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: Tom McFarlane, Development Services Department

12. 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

XI. Attachments:

1. Mitigation Planting Plan – Attached to Staff Report
2. Site Map- In File
3. Environmental Checklist- In File
4. Site Plans- In File
5. Subsurface Exploration, Geologic Hazard, and Geotechnical Engineering Report (Including Supplements)- In File
6. Critical Area Report and Enhancement Plan (Including Supplements) – In File

