



**City of Bellevue  
Department of Planning & Community Development  
Land Use Division Staff Report**

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**Proposal Name:** Pham Sports Court

**Proposal Address:** 6326 170<sup>th</sup> Place SE

**Proposal Description:** Critical Areas Land Use Permit to construct a sports court within a 75-foot steep slope toe of slope structure setback. No structural improvements or a reduction of the toe of slope structure setback is associated with the proposal.

**File Number:** 08-118026-LO

**Applicant:** Loc & Melinda Pham

**Decisions Included:** Administrative Decision for a Critical Areas Land Use Permit (Process II LUC 20.25H.145)

**State Environmental Policy Act Threshold Determination:** Exempt

**Department Decision:** Approval with Conditions



Matthew A. Terry, Director  
Dept. of Planning and Community Development

Application Date: March 21, 2008  
Notice of Application: April 3, 2008  
Decision Publication Date: June 12, 2008  
Appeal Deadline: June 26, 2008

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For information on how to appeal a proposal, visit the Permit Center at City Hall or call (425) 452-6800 [TTY (425) 452-4636]. Appeal of the Decision must be made with the City Clerk by 5 PM on the date noted for appeal of the decision.

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**I. DESCRIPTION OF PROPOSAL**

The applicant proposes to construct a sports court and supporting rockery. The proposal will permanently disturb a toe of slope structural setback from a steep slope critical area. Pursuant to Land Use Code (LUC) 20.25H.015.B, any disturbance of a critical area structure setback requires review and approval of a Critical Areas Land Use Permit per the decision criteria of LUC 20.30P.

The proposed sport court is located in the flattest, most naturally stable, portion of the lot in an area of approximately 30 percent grade. Grading for construction of the sport court will include placement of approximately 2 to 3 feet of fill adjacent to the western portion of the court and construction of rockeries with a maximum height of 30 inches. A cut slope with a maximum height of approximately 2 feet and a maximum inclination of 2H:1V (Horizontal:Vertical) will be located behind the rockery. Storm water runoff will be collected in two catch basins and routed to a storm drain via tightline pipe. At its closest point, the sport court and supporting rockery are located approximately 15-20 feet from the steep slope critical area.

Site analysis was completed by Associated Earth Sciences, Inc in 2000, with addendums in 2006 and 2008. The most recent addendum dated March 13, 2008 analyzed the current proposal and probable impacts to the 75-foot steep slope toe of slope structural setback in accordance with the requirements of LUC Section 20.25H. As part of the assessment, Associated Earth Sciences performed a review of the pertinent geological maps, conducted a site reconnaissance to observe local topographic features, and excavated three borings to delineate the site soil conditions. No ground water seeps or surface water erosions were seen on the site. There was no evidence of historical earth movement.

The report and addendum concluded the proposed sport court and permanent disturbance within the toe of slope structural setback will not adversely impact the stability of the slope provided the development of the sports court is conducted in accordance with the recommendations presented in their November 3, 2000 geotechnical report and subsequent letters dated July 18, 2006, September 22, 2006, November 15, 2006, and March 13, 2008. See related condition of approval in Section IX.

**II. SITE DESCRIPTION AND CONTEXT**

The subject property is described as Parcel B of City of Bellevue Boundary Line Adjustment 01-118101-LW and is being developed as a single family residence under permit 06-123339-BS. A Critical Areas Land Use Permit (06-136172-LO), issued in March 2007, reduced the top of slope buffer to 10-feet for the construction of the single family residence.

This lot and the lot to the east (Parcel C) are accessed off of 170<sup>th</sup> Place SE from the Pinnacle subdivision, via a private 15-ft access/utilities easement. Slope gradients on the property generally range from approximately 25 to 35 percent, but steepen to approximately 40 to 45 percent over a maximum vertical height of approximately 18-feet in an area in the mid western portion of the site. The portion of the steep slope on site that is regulated as a critical area is approximately 4,000 square feet in area. The slope is located east of the proposed location of the sports court and west of the house under construction.

Property to the south of this site is developed and contains a single-family home. Property to the north is vegetated by mixed deciduous/coniferous trees with moderately thick to thick brush.

### III. Consistency with Land Use Code Requirements

#### A. Zoning District Dimensional Requirements:

The site is located in the R-1 zoning district. No structural elements are included with the proposal, however, the proposed sport court and rockery have been reviewed for compliance with the maximum 50% impervious surface standard within the R-1 zoning district.

#### B. Critical Areas Requirements:

Bellevue's Land Use Code (LUC) Section 20.25H.120 designates steep slopes of 40 percent or greater that have a rise of at least 10 feet and exceed 1,000 square feet in area as critical areas. All development within the steep slope critical area structure setback must meet the requirements of 20.25H.120.C.

There are no specific performance standards associated with critical area structure setbacks, however, the proposal must comply with the stated intent of the structure setback pursuant to LUC 20.25H.120.C.

#### **LUC Section 20.25H.120.C:**

- a. Minimize long-term impacts of development adjacent to critical areas and critical area buffers

**Finding: The supporting geotechnical documentation concludes that placement of the sport court within the structure setback poses no impact to the slope. Six trees located outside the critical area will be removed. As mitigation, 21 Douglas Fir trees will be planted on the property. See related condition of approval in Section IX.**

- b. Protect critical areas and critical area buffers from adverse impacts during construction.

**Finding: No disturbance of the critical area or critical area buffer is proposed or will be allowed as part of this permit. A temporary erosion and sedimentation control plan must be implemented with the review and approval of the associated combination building permit. See related condition of approval in Section IX.**

#### IV. STATE ENVIRONMENTAL POLICY ACT (SEPA)

No critical areas will be disturbed. This project is exempt from SEPA.

#### V. SUMMARY OF TECHNICAL REVIEWS

##### A. Clearing & Grading Review

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.

#### VI. PUBLIC NOTICE AND COMMUNITY INPUT

*Application Date:* March 21, 2008

*Public Notice (500 feet):* April 3, 2008

*Minimum Comment Period:* April 17, 2008

Notice of Application was published in the City of Bellevue's *Land Use Bulletin* and the *Seattle Times* on April 3, 2008. It was mailed to property owners within 500 feet of the project site.

Public comments were received from the Pinnacle Homeowners Association regarding neighborhood protective covenants, drainage, wildlife corridors, and Native Growth Protection Areas (NGPA's). Subsequent email discussions between the applicant and the Homeowners Association forwarded by the applicant state the Homeowners Association's approval of the project. Though resolved, the concerns are discussed below:

- **Compliance with neighborhood covenants.**

**City Response:** The City of Bellevue does not enforce neighborhood covenants because they are a private contract between property owners.

- **Concern over drainage and water runoff from sports court**

**City Response:** A drainage system is included in the proposed plans to collect runoff from the sport court and direct it to the storm drain via a tightline pipe. Consequently, discharge of concentrated flows will be avoided. The proposed sport court will increase the impervious surface to 29% of the property. This is well below the maximum impervious surface limit of 50% for the R-1 zoning district.

- **Impact on Wildlife Corridors and NGPA's**

**City Response:** No disturbance of designated Wildlife Corridors and NGPA's is proposed. The sport court installation will remove six significant trees on the property. The applicant has proposed planting 21 native trees as mitigation per the site plan dated March 21, 2008.

## VII. DECISION CRITERIA

### Land Use Code Decision Criteria LUC 20.30P.140

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

**Finding: The applicant has already applied for a necessary revision to an existing combination single family building and clearing and grading permit.**

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

**Finding: The applicant will be using retaining walls 30 inches or less in height and located in an area which avoids the critical area and critical area buffer.**

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

**Finding: The performance standards of the 20.25H are related to critical areas and critical area buffers. The proposal will not disturb critical areas or critical area buffers. These standards are not applicable to this project.**

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

**Finding: The site is adequately served by existing public facilities.**

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

**Finding: The applicant will be required to implement the site restoration plan as detailed on Site Plan sheet L 1. See related condition of approval in Section IX.**

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

**Finding: As conditioned and discussed in this report, the proposal complies with all applicable code requirements.**

**VIII. CONCLUSION AND DECISION**

After conducting the various administrative reviews associated with this proposal, including applicable Land Use consistency, SEPA, City Code, and standard compliance reviews, the Director of Planning and Community Development does hereby **approve with conditions**, the proposed construction of a sport court and retaining walls within the 75-ft toe of slope structure setback.

A Critical Areas Land Use Permit approval 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 pursuant to LUC 20.30P.150.

**IX. CONDITIONS OF APPROVAL**

**A.** The following conditions are imposed under authority referenced:

**Compliance with Bellevue City Codes and Ordinances.**

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

<b>Applicable Codes, Standards and Ordinances</b>	<b>Contact Person</b>
Clearing & Grading Code – BCC 23.76	Tom McFarlane, 425-452-5207
Utility Codes	Joy Ramshur, 425-452-4855
Land Use Code – BCC Title 20.25H	Drew Folsom, 425-452-4441
Noise Control – BCC 9.18	Drew Folsom, 425-452-4441

**B. General Conditions:**

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

**1. Geotechnical Recommendations:** The new sport court must be constructed in accordance with the recommendations presented in the November 3, 2000 geotechnical report and subsequent letter dated March 13, 2008.

Authority: Land Use Code section 20.25H.125  
Reviewer: Drew Folsom, Planning and Community Development Department

**2. 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 23.76.0.93.A  
Reviewer: Tom McFarlane, Planning and Community Development

- 3. Temporary Erosion and Sedimentation Control Plan:** A temporary erosion and sedimentation control plan is required as part of the existing combination building and clearing and grading permit in order to mitigate for anticipated temporary construction related impacts.

Authority: Land Use Code 20.25H.120.C.b  
Reviewer: Drew Folsom, Planning and Community Development Department

- 4. Restoration Plan:** The applicant shall implement the Site Plan sheet L1 stamped March 21, 2008 that includes planting of 21 Douglas Fir trees as mitigation for impacts to the site associated with the disturbed toe of slope structure setback.

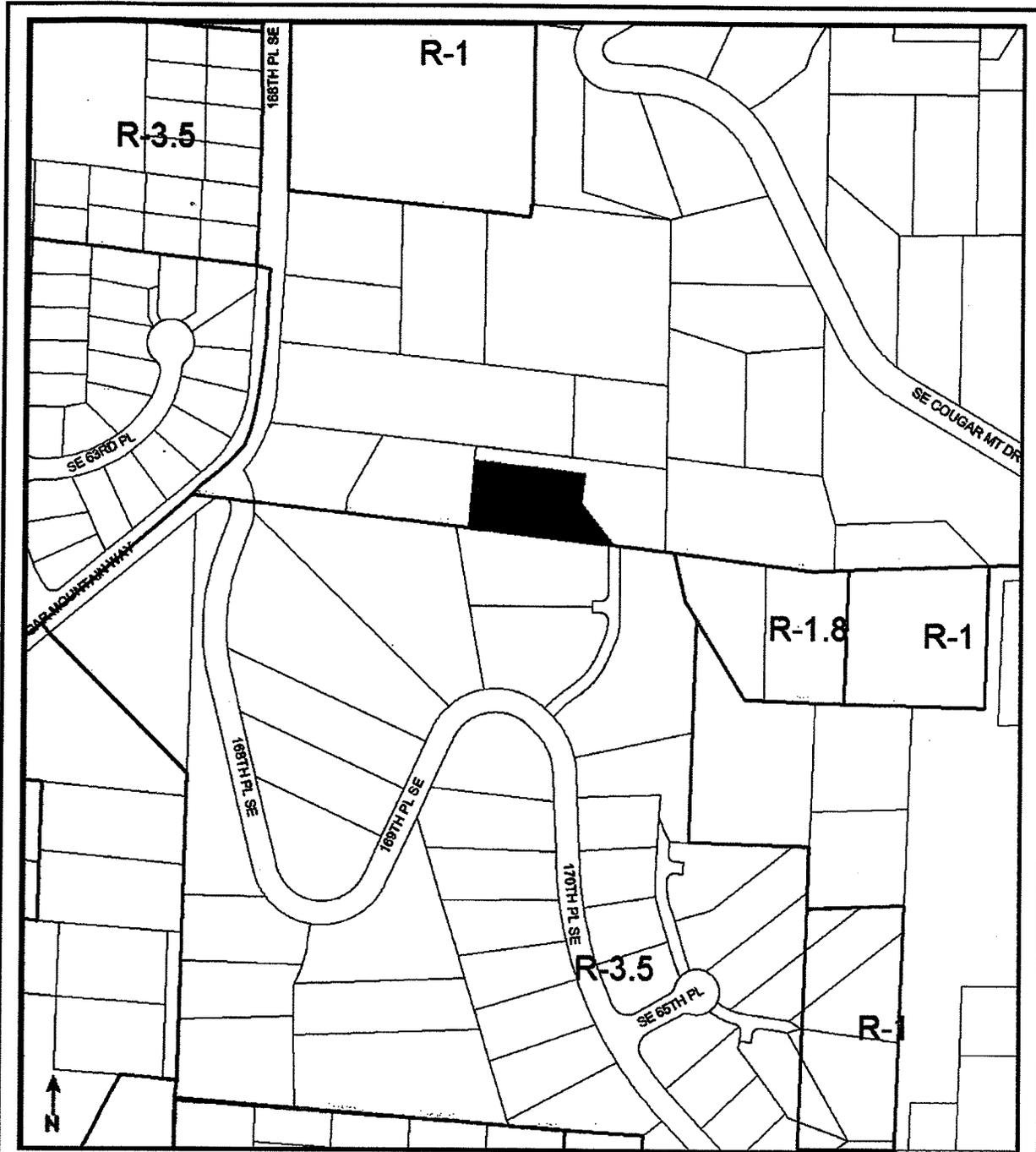
Authority: Land Use Code 20.25H.210  
Reviewer: Drew Folsom, Planning and Community Development

- 5. Noise Control:** The proposal will be subject to normal construction 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. Upon written request to PCD, work hours may be extended to 10 pm if the criteria for work hours as stated in BCC 9.18 can be met. Use of heavy equipment will be prohibited outside normal construction hours.

Authority: Bellevue City Code 9.18  
Reviewer: Drew Folsom, Planning and Community Development Department

## **ATTACHMENT**

- A. Zoning Map/Vicinity Map



City of Bellevue  
 Information Technology  
 Geographic Information Services  
 February 28, 2007

**Zoning**  
**Pham Residence**

- |  |                     |  |                               |
|--|---------------------|--|-------------------------------|
|  | Single Family       |  | Subdistrict A                 |
|  | Multi Family        |  | Subdistrict B                 |
|  | Office              |  | Subdistrict C                 |
|  | Commercial          |  | Downtown Core                 |
|  | Light Industrial    |  | Single Family Transition Zone |
|  | Evergreen Highlands |  | Multi Family Transition Zone  |
|  | Institutional       |  |                               |

This map is derived from the Bellevue Geographic Information System and designed for City staff use. It is not guaranteed accurate.

If you have specific questions concerning information contained on this map please contact the department shown.



VICINITY MAP