



City of Bellevue
Department of Planning and Community Development
Development Services Staff Report

Proposal Name: Khan Residence Remodel –
Critical Areas Land Use Permit

Proposal Address: 14435 NE 16th Place

Proposal Description: Critical Areas Land Use Permit approval to expand an existing single-family residence into a critical areas structure setback from a stream critical area. The expansion includes converting an existing second story deck (240 square feet) and converting it into a sunroom. Proposal also includes a new deck at grade over an existing concrete patio. The existing deck and patio are located within the critical area structure setback to Kelsey Creek.

File Number: 15-118531-LO

Applicant Louis Khan

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

Planner: Leah Chulsky, Associate Land Use Planner

**State Environmental Policy Act
Threshold Determination:** Proposed activity is SEPA Exempt per WAC 197-11-800
and is not identified as a Critical Area per BCC 22.02.045.

Director's Decision: **Approval with conditions**
Michael A. Brennan, Director
Development Services Department

By: 
Carol V. Helland, Land Use Director,

Application Date:	<u>July 15, 2015</u>
Notice of Application Publication Date:	<u>August 27, 2015</u>
Decision Publication Date:	<u>October 29, 2015</u>
Project Appeal Deadline:	<u>November 12, 2015</u>

For information on how to appeal a proposal, visit Development Services at City Hall or call (425) 452-6800. 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:

The applicant is proposing to expand an existing single-family residence into a critical area structure setback from a stream critical area. The expansion includes converting an existing second story deck (240 sq. ft.) and converting it into a sunroom. The proposal also includes a new deck at grade over an existing concrete patio. The deck and patio are located within the critical area structure setback to Kelsey Creek.

The expansion of an existing a single-family primary structure into a critical area structure setback is an allowed development per Land Use Code (LUC) 20.25H.055.n. A Critical Areas Land Use Permit is required where expansion is allowed.



B. Site Description:

The property, shown below, is located at 14435 NE 16th Place (King County Parcel # 2794300050). The site is in the Wilburton/NE 8th Comprehensive Plan Subarea. The zoning of the property is R-2.5 and the Comprehensive Plan designation is single-family medium density.

Access to the site is via NE 16th Place. The property is surrounded on all sides by existing single-family residences. The property is traversed by Kelsey Creek along the southern property line and contains a stream critical area buffer and stream critical area structure setback.



Khan Property, 14435 NE 16th Place

II. Critical Areas Functions and Values

Streams and Riparian Areas

Most of the elements necessary for a healthy aquatic environment rely on processes sustained by dynamic interaction between the stream and the adjacent riparian area (Naiman et al., 1992). Riparian vegetation in floodplains and along stream banks provides a buffer to help mitigate the impacts of urbanization (Finkenbine et al., 2000 in Bolton and Shellberg, 2001). Riparian areas support healthy stream conditions.

Riparian vegetation, particularly forested riparian areas, affect water temperature by providing shade to reduce solar exposure and regulate high ambient air temperatures, slowing or preventing increases in water temperature (Brazier and Brown, 1973; Corbett and Lynch, 1985).

Upland and wetland riparian areas retain sediments, nutrients, pesticides, pathogens, and other pollutants that may be present in runoff, protecting water quality in streams (Ecology, 2001; City of Portland 2001). The roots of riparian plants also hold soil and prevent erosion and sedimentation that may affect spawning success or other behaviors, such as feeding.

Both upland and wetland riparian areas reduce the effects of flood flows. Riparian areas and wetlands reduce and desynchronize peak crests and flow rates of floods (Novitzki, 1979; Verry and Boelter, 1979 in Mitsch and Gosselink, 1993). Upland and wetland areas can infiltrate floodflows, which in turn, are released to the stream as baseflow

Stream riparian areas, or buffers, can be a significant factor in determining the quality of wildlife habitat. For example, buffers comprised of native vegetation with multi-canopy structure, snags, and down logs provide habitat for the greatest range of wildlife species (McMillan, 2000). Vegetated riparian areas also provide a source of large woody debris that helps create and maintain diverse in-stream habitat, as well as create woody debris jams that store sediments and moderate flood velocities.

Sparsely vegetated or vegetated buffers with non-native species may not perform the needed functions of stream buffers. In cases where the buffer is not well vegetated, it is necessary to either increase the buffer width or require that the standard buffer width be restored or revegetated (May 2003). Until the newly planted buffer is established the near term goals for buffer functions may not be attained.

Riparian areas often have shallow groundwater tables, as well as areas where groundwater and surface waters interact. Groundwater flows out of riparian wetlands, seeps, and springs to support stream baseflows. Surface water that flows into riparian areas during floods or as direct precipitation infiltrates into groundwater in riparian areas and is stored for later discharge to the stream (Ecology, 2001; City of Portland, 2001).

III. State Environmental Policy Act (SEPA)

The environmental review indicates that the proposed action is categorically exempt from SEPA review per WAC 197-11-800 because the encroachment is within the structure setback which is not designated as a critical area per Bellevue City Code.

IV. Consistency with Land Use Code Requirements

A. Zoning District Dimensional Requirements:

The site is located in the R 2.5 zoning district and requires a building permit. As approved the proposal will comply with all applicable dimensional requirements.

See related condition of approval in Section X.

B. Consistency with Land Use Code Critical Areas Performance Standards

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, critical area buffer or structure setback area. 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 and the public health, safety and welfare, and to allow reasonable use of private property.

The property under proposal contains areas designated as critical area and structure setback area. Based on the proposed project elements and their intersection with the critical areas on the site, there are a set of specific performance standards that apply. Applicable performance standards are identified in the table below:

Critical Area	Stream
Performance Standards	20.25H.055.C.3.n

Consistency With LUC 20.25H.055.C.3.n – Expansion of Existing Single-Family Primary Structure into Critical Area Structure Setback:

- i. Where allowed, expansions into the critical area buffer and critical area structure setback shall be limited as follows:
 - (A) The expansion shall be along the existing building line parallel to the edge of the critical area, unless such expansion is not feasible. Only when such expansion is not feasible may expansion encroach further into the critical area buffer and critical area structure setback.
 - (B) Expansions shall be the minimum necessary to achieve the intended functions of the expansion, but in no event may the footprint expansion within the critical area buffer and critical area structure setback exceed 500 square feet over the life of the structure. Expansions into stream critical area buffers allowed pursuant to the City's previous critical areas regulations (prior

LUC 20.25H.085.B) shall be included in determining the allowed lifetime expansion; and

- (C) Areas of new permanent disturbance and all areas of temporary disturbance within the critical area buffer shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25H.210.
- ii. For purposes of this section, expansion outside of the critical area buffer and critical area structure setback shall be considered not feasible only when, considering the function to be served by the expansion and the existing structure's layout and infrastructure (including plumbing, drainage and electrical systems):
- (A) Expansion away from the critical area buffer and critical area structure setback within the buildable area of the site will not realize the intended functions of the expansion; and
 - (B) Expansion away from the critical area buffer and critical area structure setback, including into non-critical area setbacks modified pursuant to LUC 20.25H.040, will not realize the intended functions of the expansion; and
 - (C) Expansion upwards to the maximum building height of the underlying land use district, within the existing footprint, or together with expansions permitted under subsections C.3.n.ii.(A) and (B) of this section, will not realize the intended functions of the expansion.

Finding: The applicant has demonstrated that expansion of the single-family primary structure is for an essential component of the single-family residence (kitchen/living area), and is not feasible outside of the critical area structure setback.

The kitchen exists on the south side of the house, 88 feet from the identified top-of-bank. The cost of relocating the kitchen and necessary electrical and plumbing would be significant and doing so would require new disturbance within the critical area structure setback. The proposed enclosure will utilize the existing deck and the existing structural supports – no further foundation or disturbance at grade will be required. The proposed 240 square foot deck enclosure is the minimum necessary to create a more functional kitchen/living area and improve internal access and circulation. Expanding the house in any other direction will not yield the necessary functionality associated with the single-family residence.

20.25H.080 Performance standards.

A. General.

Development on sites with a type S or F stream or associated critical area buffer shall incorporate the following performance standards in design of the development, as applicable:

1. Lights shall be directed away from the stream.
2. Activity that generates noise such as parking lots, generators, and residential uses shall be located away from the stream or any noise shall be minimized through use of design and insulation techniques.
3. Toxic runoff from new impervious area shall be routed away from the stream.
4. Treated water may be allowed to enter the stream critical area buffer.
5. The outer edge of the stream critical area buffer shall be planted with dense vegetation to limit pet or human use.
6. Use of pesticides, insecticides and fertilizers within 150 feet of the edge of the stream critical area buffer shall be in accordance with the City of Bellevue's "Environmental Best Management Practices," now or as hereafter amended.

A site plan dated July 15, 2015 and City of Bellevue aeriels show that Kelsey Creek traverses the southern property line. Kelsey Creek is a Type F stream and the site is considered "developed" as defined by LUC 20.25H.075.C.1.ii. The site contains a 50 ft. buffer from "top-of-bank" and an additional 50 ft. structure setback. The applicant is proposing to expand the existing primary structure by enclosing the existing second story deck for use as sunroom living space and construct an at grade deck over a portion on an existing patio. The proposed enclosure will utilize the existing deck and the existing structural supports – no further foundation or disturbance at grade will be required for either item. The proposed addition will encroach no closer than the existing second story deck which will remain in place.

The 50 ft. buffer from the top-of-bank along with a portion of the structure setback is densely forested with evergreens, deciduous, shrubs and ground cover. Based on existing conditions and the fact that no additional ground disturbance is needed for the proposed sunroom or deck, no additional planting will be required as part of this approval.

VI. Summary of Technical Reviews

A. Clearing and Grading:

The Clearing and Grading Division of the Development Services Department has reviewed the proposed site development for compliance with Clearing and Grading codes and standards. The Clearing and Grading staff found no issues with the proposed development. The proposed addition is less than 1000 sq. ft. and proposes no additional ground disturbance. Clear and Grade review will not be required for the building permit.

VII. Public Notice and Comment

Application Date:	July 15, 2015
Public Notice (500 ft.):	August 27, 2015
Minimum Comment Period (2 weeks):	September 10, 2015

The Notice of Application for this project was published in the Seattle Times and the City of Bellevue Weekly Permit Bulletin. It was mailed to property owners within 500 feet of the project site. No comments were received regarding this proposal.

VIII. Decision Criteria

The proposal, as conditioned below, meets the applicable regulations and decision criteria for a Critical Areas Land Use Permit pursuant to LUC 20.30P.

A. Critical Areas Land Use Permit Decision Criteria (LUC 20.30P)

1. The proposal obtains all other permits required by the Land Use Code;

Finding: The proposed project must apply and for and receive approval of a City of Bellevue Building Permit for a single family addition (BR) prior to implementation of the project. See related condition of approval in Section X.

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 submitted application describes the project's potential impact on the structure setback and describes the use of the best available construction design and development techniques to minimize both permanent and temporary impacts on critical areas and their buffers.

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

Finding: The proposed project incorporates all of the applicable performance

standards specified in LUC 20.25H. They are addressed in detail in Section V above for the critical areas present within the project area.

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

Finding: The existing single-family residence is served by adequate public facilities.

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

Finding: The applicant is proposing to add 240 square feet for the kitchen/living addition in an area currently developed with a second story deck and concrete patio. There will be no temporary or permanent disturbance that warrants a mitigation and restoration plan as all proposed new development within the structure setback is in areas of existing disturbance.

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

Finding: The applicant submitted documentation consistent with the requirement to demonstrate compliance with the requirements of LUC 20.30P, 20.25H and 20.25E. Staff has reviewed these documents and finds that 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, Development Services does hereby **approve with conditions** the proposal for an expansion of 240 square feet for a single-family residence into a stream critical area structure setback.

Note- Expiration of Approval: In accordance with LUC 20.30P.150, a Critical Areas Land Use Permit 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:

<u>Applicable Ordinances</u>	<u>Contact Person</u>
Clearing and Grading Code- BCC 23.76	Janney Gwo, 425-452-6190
Land Use Code- BCC 20.25H	Leah Chulsky, 425-452-6834

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

- A. Building Permit:** Prior to initiation of any work on the existing residence the applicant must apply for and obtain a Single-Family Addition Building Permit from the City of Bellevue.

Authority: Land Use Code 20.30P.140

Reviewer: Leah Chulsky, Development Services Department

XI. Attachments:

1. Vicinity Map
2. Site Plan- In File
3. Building Plan

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