



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

Proposal Name: Fereydoon – Reasonable Use

Proposal Address: 830 West Lake Sammamish Parkway SE

Proposal Description: This is an application for Critical areas Land Use Permit to obtain a Reasonable Use Exception under LUC 20.25H.200 for the construction of a single-family residence on a site 100% encumbered with steep slope critical area and critical area buffer. The subject property is located in the 3.5 zoning district. Within the R-3.5 zoning district, the Director may allow disturbance in a critical area and critical area buffer to the extent required to create a consolidated area for development equal to a maximum of 2,625 square feet. The applicant is proposing a permanent disturbance area of 2,615 square feet and a reduction in the front yard setback from twenty feet to ten feet.

File Number: 08-114591 LO

Applicant: Sadri Fereydoon

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

Planner: Mark Cross, Associate Land use Planner

**State Environmental Policy Act
Threshold Determination:**

Determination of Non-Significance

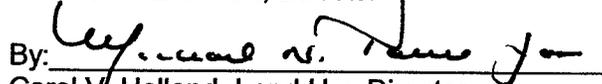


Carol V. Helland, Environmental Coordinator
Development Services Department

Director's Decision:

Approval with Conditions

Michael A. Brennan, Director

By: 

Carol V. Helland, Land Use Director
Development Services Department

Application Date: 4/22/2008
Notice of Application Publication Date: 7/03/2008
Decision Publication Date: 2/19/2009
Project/SEPA Appeal Deadline: 3/05/2009 5:00 p.m.

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.



DEVELOPMENT SERVICES DEPARTMENT
 ENVIRONMENTAL COORDINATOR
 450 100th Ave NE., P.O. BOX 90012
 BELLEVUE, WA 98009-9012

DETERMINATION OF NON-SIGNIFICANCE

PROPONENT: Mr. Sadri Fereydoon

LOCATION OF PROPOSAL: 830 West Lake Sammamish Pkwy SE

NAME & DESCRIPTION OF PROPOSAL: Construction of a single-family residence on a site 100% encumbered with steep slope critical area and critical area buffer. The subject property is located in the R-3.5 zoning district. Within the R-3.5 zoning district, the Director may allow disturbance in a critical area and critical area buffer to the extent required to create a consolidated area for development equal to a maximum of 2,625 square feet. The applicant proposes a reduction of the front yard setback from West Lake Sammamish Parkway SE from 20 feet to ten feet, permanent disturbance of 2,615 square feet for the house and driveway and a temporary disturbance area for construction of 1,481 square feet. The proposal includes construction of a 5,060 square foot, two story house with basement on a .17 acre lot. The structure would be constructed on an engineered auger-cast concrete pile foundation. Grading cut and fill is estimated at 550 cubic yards.

FILE NUMBER: 08-114591-LO

The Environmental Coordinator of the City of Bellevue has determined that this proposal does not have a probable significant adverse impact upon the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(C). This decision was made after the Bellevue Environmental Coordinator reviewed the completed environmental checklist and information filed with the Land Use Division of the Development Services Department. This information is available to the public on request.

- There is no comment period for this DNS. There is a 14-day appeal period. Only persons who submitted written comments before the DNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's office by 5:00 p.m. on _____.
- This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS. There is a 14-day appeal period. Only persons who submitted written comments before the DNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's Office by 5 p.m. on March 5, 2009.
- This DNS is issued under WAC 197-11-340(2) and is subject to a 14-day comment period from the date below. Comments must be submitted by 5 p.m. on _____. This DNS is also subject to appeal. A written appeal must be filed in the City Clerk's Office by 5 p.m. on _____.

This DNS may be withdrawn at any time if the proposal is modified so that it is likely to have significant adverse environmental impacts; if there is significant new information indicating, or on, a proposals probable significant adverse environmental impacts (unless a non-exempt license has been issued if the proposal is a private project); or if the DNS was procured by misrepresentation or lack of material disclosure.

[Signature]
 Environmental Coordinator

2/19/2008
 Date

OTHERS TO RECEIVE THIS DOCUMENT:

- State Department of Fish and Wildlife
- State Department of Ecology,
- Army Corps of Engineers
- Attorney General
- Muckleshoot Indian Tribe

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I. Proposal Description

A. Project Description

The applicant is proposing to construct one single-family residence on the property located at 830 West Lake Sammamish Parkway SE. This site is 100% encumbered by steep slope critical area and critical area buffer. The approval would allow disturbance in a critical area and critical area buffer to the extent required to create a consolidated area for development equal to a maximum of 2,615 square feet. The City of Bellevue Land Use Code, LUC 20.25H.200.2.b.i, would allow for a Reasonable Use approval for a permanent disturbance limit up to 2,625 square feet. For the purposes of reasonable use, disturbance includes, but is not limited to all structures, grading, utility installation, landscaping and other necessary land alteration. The applicant is also requesting to temporarily disturb 1,481 square feet of the lot during construction and to modify the twenty foot front yard setback to allow the proposed house to be located within ten feet of the front yard along West Lake Sammamish Parkway SE.

B. Requested Permit, Exemption and Modification

The application includes a request for approval of a Critical Areas Land Use Permit for a Reasonable Use Exception to permit construction within the geotechnical hazardous steep slope critical area and critical area buffer. Due to the extent of the regulated critical areas on this site, the property owner has requested consideration through application for a Critical Areas Land Use Permit for a Reasonable Use Exception identified in the City of Bellevue Land Use Code (LUC) section 20.25H.200. The Reasonable Use Exception is a mechanism by which the City may approve limited use and disturbance of a critical area and critical area buffer when no other use of the property constitutes a reasonable alternative. This permit establishes conditions and performance standards designed to avoid and minimize impact to the site's environmentally sensitive features in order to obtain subsequent permits for the construction of the single-family residence on the subject property.

II. Site Description, Zoning, and Critical Areas

A. Site Description

The subject site is located at 830 West Lake Sammamish Parkway SE on the east side of the road. See the vicinity map on the face of attachment 1. The site is vacant with access gained directly from West Lake Sammamish Parkway SE. The lot is 7,500 square feet in size. The lot has 103 feet of frontage along the Parkway and is 75 feet deep. Slopes on the site range from 10% slopes along the very west property line to over 40% for the majority of the site as it slopes down to the east. The property is bordered on the south by a new house under construction on the Shirey property at 840 West Lake Sammamish Parkway SE. The Shirey property was the subject of a Critical Areas Land Use Permit request for a Reasonable Use Exception due to its steep topography (07-142731-LO) and is currently under construction.

To the east of the subject site are two properties with houses built along Lake Sammamish. These houses are accessed by a private road that runs between the houses and a rockery built into the steep slope along their western property line.

The parcel to the north of the subject site extends from West Lake Sammamish Parkway SE on the west to Lake Sammamish to the east. A house is built at the eastern end of this lot by the lake with the westerly steep hillside portion adjacent to

the subject site vegetated with a similar mixed conifer and deciduous forest.

B. Zoning

The property is zoned R-3.5 and is located entirely within two Critical Area Overlay Districts, the Geological Hazard Steep Slope Critical Area and Habitat Associated with Species of Local Importance Critical Area. The steep slope critical area designation reflects onsite slopes at or above 40 percent grade. The site starts to flatten at its westerly boundary along the Parkway. The Critical Area Overlay District designation as Habitat Associated with Species of Local Importance reflects the location and vegetation contained on the site which includes a mix of native and invasive groundcovers, native shrubs and second growth deciduous and coniferous trees.

C. Critical Areas Functions and Values

1. Geologic Hazard Area-Steep Slopes

Steep slopes are defined by LUC 20.25H.120.A.2 as those areas that contain slopes of greater than 40%, that have a rise of at least 10 feet, and exceed 1,000 square feet in area. Steep slopes are typically identified through site topographical survey and are delineated on a site map. The applicant has submitted a topographical site survey and site map and this verifies that 100% of the site is encumbered by steep slope critical area and critical area buffer.

Reasonable use proposals are considered an allowed activity under section LUC 20.25H.055. As an allowed activity, this proposal must meet the performance standards outlined in LUC 20.25H.125 and LUC 20.25H.205. These requirements are discussed in detail below.

2. Habitat Associated with Species of Local Importance.

Habitat Associated with Species of Local Importance - Several species of local importance are in the vicinity of the project area. As such, the project area is restricted by the City of Bellevue Land Use Code Critical Areas Overlay District requirements. Land uses consistent with the underlying land use district are allowed within habitats associated with species of local importance provided the activity complies with performance standards outlined in LUC 20.25H.160.

According to the Wildlife Habitat Study dated March 11, 2008 prepared by Carolyn Prentice of the Group Four Company, potential wildlife use of the site includes small mammals and birds because there is moderate plant species diversity and vertical structure. Page 1, attachment 5 to this staff report. The report states that habitat for species of local importance is limited for eagle habitat because perching trees are usually closer to their nests which are identified as being more than one-half mile from this site. The biologist states that use by peregrine falcon is considered unlikely since prey availability is limited. Although the study assumes little or no use by species of local importance, the site provides suitable refuge for wildlife and species of local importance have been observed on other sites with similar habitat and proximity to Lake Sammamish.

Under LUC 20.25H.155 the development of the site under the Reasonable Use Exception (LUC 20.25H.200) is allowed, and is subject to compliance with the performance standards and management plans designed by Washington

Department of Fish and Wildlife(WDFW) for species of local importance. The applicant has provided a copy of the habitat study. See attachment 5. According to the Tree Retention plan, attachment 1, the proposal will preserve the three largest significant trees on site including a 34" diameter Hemlock, a 30" diameter Fir and a 30" diameter Cedar. An 18" diameter Alder snag will also be retained.

III. Consistency with Land Use Code Requirements:

A. Zoning District Dimensional Requirements:

The site is located in the R-3.5 zoning district. This proposal is consistent with the underlying zoning district and applicable dimensional requirements based on the materials submitted. The permit submittal includes a request to vary the front yard setback from 20 feet to 10 feet in order to partially avoid the steep slopes. The reduced front yard would allow the house to be located closer to West Lake Sammamish Parkway SE and avoid some of the steep slopes that occur towards the eastern end of this site. A front yard setback reduction from 20 feet to 10 feet is allowed under the provisions of LUC 20.25H.040.B to allow avoidance of a critical area or critical area buffer.

The proposed site plan (See attachment 1, page two) provides for compliance with the required side and rear yard setbacks. The R-3.5 zone requires a total of 15 feet of side yard setbacks with the smallest side yard being at least five feet and a rear yard setback of 15 feet. The applicant proposes a minimum five foot side yard along the southern property line and more than ten feet of side yard along the north line.

Review of the proposed development for consistency with the dimensional standards identified in LUC 20.20.010, as modified by this decision consistent with 20.25H.040.B, will be completed upon submittal of the application for single-family building permit. See related conditions of approval in Section X of this report.

B. Critical Areas Requirements LUC 20.25H

The City of Bellevue Land Use Code 20.25H.025 and 20.25H.035 designates geologic hazard areas and geologic hazard area buffers as regulated critical areas. Permanent and temporary disturbance or development activity within the designated critical areas and critical area buffers is prohibited by LUC 20.25H.050.B unless it is considered an allowed activity under LUC 20.25H.055 or approved through the Critical Areas Report process identified in LUC 20.25H.230. Due to the extent of the regulated critical areas on this site the property qualifies for a Reasonable Use Exception under LUC 20.25H.200. The Reasonable Use Exception is considered an allowed activity under LUC 20.25H.055 and all development must meet the performance standards outlined in LUC 20.25H.125 (slopes), LUC 20.25H.160 (habitat), and LUC 20.25H.200 (reasonable use).

1. Consistency with LUC 20.25H.200 Reasonable Use Exception - Applicability

A Reasonable Use Exception may be granted, when no other reasonable use of property exists, by the application of the regulations of LUC 20.25H.200. Based on the application of the required critical area and critical area buffer restrictions, this site is 100% encumbered by critical areas and critical area buffers. When the development density calculation identified in LUC 20.25H.045 is applied to this property, and considering the zoning district in which the property is located (R -3.5),

the density that is allowed on this site only allows for a single dwelling unit, classifying this site as "small lot" as defined in LUC 20.25H.200.A.2.a. Under this definition, a lot in the R-3.5 zoning district with less than 2,625 square feet of development area on the site is considered to have no reasonable use and qualifies for a Reasonable Use Exception. When eligible for the Reasonable Use Exception, a small lot in the R-3.5 district is granted up to 2,625 square feet of developable area (permanent disturbance) if the applicable performance standards listed in LUC 20.25H.055.B are met.

Finding: Due to the extent of the critical areas documented across the site, the property qualifies for a Reasonable Use Exception subject to compliance with the applicable performance standards. Total proposed permanent disturbance of the site is 2,615 square feet which is less than the maximum 2,625 square feet of permanent disturbance that can be allowed under LUC 20.25H.200.A.2.b.i.

2. Consistency with Land Use Code Critical Areas Performance Standards:

The following is a list of the performance standards that apply to the Reasonable Use Exception for the development of one single-family residence on this site. Required performance standards must be integrated into the design of the proposed structure. When a performance standard is listed that pertains to the design and construction of the development, a condition of approval requiring consistency with that standard will be referenced. No building permit will be issued for the construction of this proposed development unless all conditions of approval have been met.

C. Consistency with LUC 20.25H.125

Landslide Hazards and Steep Slopes - Performance Standards

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;

Finding: This is an application for Reasonable Use Exception. The stated design of the proposed structure minimizes alteration of the natural contours of the site to the greatest extent possible within the allowance of the Land Use Code. The proposed structure will consist of relatively lightly loaded wood framing supported on a conventional foundation built upon a series of auger cast concrete piers.

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

Finding: The structure will be located as far to the west of the steepest portion of the slope as allowed by the Land Use Code without requiring a variance. As this is a Reasonable Use Exception application, avoidance of all critical areas and critical area buffers is not feasible.

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

Finding: The registered professional engineer has determined that the proposed

location of the new structure will provide adequate separation, and will not increase the potential for slope instability which would impact neighboring properties. (See attachments 4 and 14) This conclusion is based on the details recommended in the Geotechnical Engineering Study and best management practices consistent with LUC 20.25H.125 - Steep Slope Critical Areas. See Section X for related conditions of approval.

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;

Finding: The proposed house will be constructed into the hillside on an auger cast concrete column foundation system. The only retaining walls onsite would be on the sides of the driveway near the parkway and along the west side of the house running across the natural slope. These proposed walls will not have the effect of creating terraces other than the driveway pad itself. Retaining walls are proposed to support the driveway from West Lake Sammamish Parkway SE to the front of the garage and along the west wall of the house which is partially below natural grade. The area of permanent disturbance is limited 2,615 square feet.

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

Finding: The location of the development area has been designed to minimize impact to the Critical Areas and associated buffers. The total area to be permanently impacted will not exceed 2,615 square feet, or 31% of the total site area. Through site evaluation and planning, the location of the proposed development has been designed in the area of least impact to the natural resources that characterize the site.

6. Where change in grade outside the building footprint is necessary, the site retention system should be stepped and re-grading 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;

Finding: No changes in grade outside the allowed developable area are proposed, other than what is absolutely necessary for the construction of the driveway located at the front edge of the property, adjacent to West Lake Sammamish Parkway SE. The area of temporary disturbance to stage construction is limited to 1,481 square feet and will be restored to its pre-existing slope conditions and re-planting. See conditions of approval in Section X of this report.

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;

Finding: The western foundation wall serves as a retaining wall and will be incorporated into the structure of the residence. Freestanding walls will only be allowed when no feasible alternative with less impact exists.

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;

Finding: The foundation system will be composed of auger cast concrete columns approximately 60 feet deep. The west wall of the first floor is recessed into the existing grade and acts as a retaining wall. All design features of the piling support system and retaining walls are to be designed by structural engineers.

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

Finding: Vehicular access to the site will be directly from West Lake Sammamish Parkway SE. Low retaining walls will support the driveway from the edge of Right-of-Way to the garage portion of the proposed house. No additional fill-based construction for additional parking is 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 20.2SH.210.

Finding: Approximately 2,615 square feet of permanent disturbance and 1,481 square feet of temporary disturbance to stage construction will result from this proposal. The applicant intends to mitigate for impacts of permanent and temporary disturbance by removing invasive species within the area of temporary disturbance before re-planting with native species. A detailed re-planting plan is required at the building permit stage. All areas of temporary disturbance will be restored and monitored pursuant to the approved restoration and monitoring plan for a period of five-years. See conditions of approval in Section X of this report.

D. Consistency with LUC 20.2SH.160

Habitat Associated with Species of Local Importance - Performance Standards

If habitat associated with species of local importance will be impacted by a proposal, the proposal shall implement the wildlife management plan developed by the Department of Fish and Wildlife for such species. Where the habitat does not include any other critical area or critical area buffer, compliance with the wildlife management plan shall constitute compliance.

Finding: Based on site observations, the preservation of the three largest significant trees onsite, and proposed mitigation/restoration planting, the proposal is consistent with management plans designed by WDFW for species that potentially may visit the site.

E. Consistency with LUC 20.25H.205

Reasonable Use Exception - Performance Standards

1. The structure shall be located on the site in order to minimize the impact on the critical area or critical area buffer, including modifying the non-critical area setbacks to the maximum extent allowed under LUC 20.25H.040;

Finding: The structure will be located as far west of the steepest portion of the slope as allowed by the Land Use Code without requiring a variance. In the R-3.5 zoning district, lots containing steep slope critical areas and critical area buffers, can have the front yard structure setback reduced from 20 feet to 10 feet without a variance pursuant to LUC 20.25H.040. The minimum front yard setback is reduced to 10 feet with this approval.

2. Ground floor access points on portions of the structure adjacent to undisturbed critical area or critical area buffer shall be limited to the minimum necessary to comply with the requirements of the International Building Code and International Fire Code, as adopted and amended by the City of Bellevue;

Finding: The access point for the new structure will be from the west side of the structure which provides access to West Lake Sammamish Parkway SE through the garage and driveway. A four foot wide pedestrian walkway from the street to the front door is also proposed. No other access points will be allowed. Compliance with IBC and IFC requirements will be required as part of the review of the building permit.

3. Associated development, including access driveways and utility infrastructure shall be located outside of the critical area or critical area buffer to the maximum extent technically feasible;

Finding: Vehicle access is on the west side of the structure directly onto West Lake Sammamish Parkway SE. This is the location furthest from the most sensitive areas of the property. Sanitary sewer service will be provided by collecting effluent into a 200 gallon storage tank and then pumping it to an existing sanitary sewer line located in the Right-of-Way on West Lake Sammamish Parkway SE. The effluent storage tank is proposed within the portion of the lot proposed for permanent disturbance. The sanitary sewer connection to West Lake Sammamish Parkway SE from the effluent storage tank will occur within the 1,481 square foot area of temporary disturbance.

Storm drainage from the roof and driveway will be collected and drained by gravity to the existing stormdrainage system within West Lake Sammamish Parkway SE. The applicant was required to pursue taking both the stormwater and sanitary sewer connections down the hill towards the lake. According to the applicant's submittal materials, there are no existing utility easements through the downhill properties to the east and these lakefront owners were unwilling to approve new easements to allow the utilities to run across their property.

4. Areas of disturbance for associated development, including access and utility infrastructure shall be consolidated to the maximum extent technically feasible;

Finding: A section of the sanitary sewer line is proposed within a portion of the lot designated for temporary disturbance during construction. Both the access to the lot and utility trenches are consolidated to the maximum extent to the lot approved for permanent disturbance with the approval of this Critical Areas Land Use Permit for a Reasonable Use Exception.

5. All areas of temporary disturbance associated with utility installation, construction staging and other development shall be determined by the Director and delineated in the field prior to construction and temporary disturbance shall be restored pursuant to a restoration plan meeting the requirements of LUC 20.25H.210;

Finding: Approximately 2,615 square feet of permanent disturbance and 1,481 square feet of temporary disturbance will result from this proposal. The applicant intends to mitigate for impacts of permanent and temporary disturbance by removing invasive species within the entire area of the lot not contained within the 2,615 square foot area of permanent disturbance. The 1,481 square foot area of temporary disturbance will receive restoration plantings consisting of native species. All areas of temporary disturbance will be restored and monitored pursuant to the approved restoration and monitoring plan for a period of five-years. In addition, the Steep Slope critical area and critical area buffers which constitute the balance of the parcel outside the area of permanent disturbance are required to be placed in a permanent Native Protection Area Easement to afford these areas additional protection from future disturbance. See conditions of approval in Section X of this report.

6. Areas of permanent disturbance shall be mitigated to the maximum extent feasible on-site pursuant to a mitigation plan meeting the requirements of LUC 20.25H.210; and

Finding: Approximately 2,615 square feet of permanent disturbance and 1,481 square feet of temporary disturbance will result from this proposal. The applicant intends to mitigate for impacts of permanent and temporary disturbance by removing invasive species, retaining all vegetation outside the permanent and temporary disturbance areas and planting native species within the area of temporary disturbance. All areas of temporary disturbance will be restored and monitored pursuant to the approved restoration and monitoring plan for a period of five-years. See conditions of approval in Section X of this report.

7. Fencing, sign age and/or additional buffer plantings should be incorporated into the site development in order to prevent long-term disturbance within the critical area or critical area buffer.

Finding: The applicant is required to submit a detailed planting plan to supplement the mitigation/restoration plan. The detailed planting plan will provide for removal of invasive plant species and supplemental planting intended to maintain native vegetation cover. A five-year monitoring of the supplemental plantings is required with this Critical Areas Land Use Permit. See conditions of approval in Section X of this report.

IV. Public Notice and Comment

Application Date: April 22, 2008
Public Notice (500 feet): July 3, 2008
Public Meeting Date: July 9, 2008
Minimum Comment Period: July 17, 2008

The Notice of Application for this project was published in the Seattle Times and the City of Bellevue weekly permit bulletin on July 3, 2008. It was mailed to property owners within 500 feet of the project site.

Several property owners living below the proposed project on Lake Sammamish attended the public meeting on July 3. Concern was expressed that the project proposal could cause slope instability and potential land slides above the lake front homes. Three written comments from Patricia Notarianni Curtis, including two e-mails and one letter with attachments, were received as of the writing of this staff report.

Summary of public comment:

1. Comment: "My main concern is the stability of the bank which is directly above my house." Letter received from Patricia Notarianni Curtis dated June 26, 2008. See attachment 17.

Response: According to the Addendum to the Geotechnical Engineering Study dated October 15, 2008, "Our additional analyses indicate that the slope has the required factor of safety in its current configuration and in a post-construction configuration. The proposed construction will have a minimal effect on the slope stability and the limited modification of the critical area (steep slope) will not adversely effect adjacent slopes and structures if constructed as proposed and with proper oversight by the geotechnical engineer." Page 3, Addendum Letter with Additional Slope Stability Analyses, submitted October 28, 2008. See attachment 14.

In addition, staff requested submittal of a Tree Retention Plan, attachment 16, and a revised mitigation sequencing and monitoring plan, see attachment 15. This approval requires the submittal of a detailed replanting plan with the building permit. The replanting of the areas of temporary disturbance is subject to a five-year monitoring plan.

The applicant's architect has designed the project so that the stormwater from the roof and driveway will be collected and gravity fed to the existing storm drainage system in West Lake Sammamish Parkway SE. The post construction conditions will reduce stormwater entering this site from the parkway fringe and from rainfall on the area covered by the driveway and roof.

2. Comment: "If the City of Bellevue is going to allow building on the properties at **BOTH** 830 and 840 W. Lake Sammamish SE I would like the City of Bellevue to **require that an indemnity Bond be mandatory for both properties.**"

Response: The City of Bellevue code allows reasonable use of property including property with steep slopes and steep slope buffers. LUC 20.25H.055.B. However,

development of lots with steep slopes is allowed only when that development is designed to meet the performance standards and decision criteria for approval of a Critical Area Land Use Permit. In addition, the city has required the applicant to submit a geotechnical report from a registered engineer to establish that the proposed development will not result in greater risk to neighboring properties. All walls and foundations must be designed by a licensed engineer and are subject to review and approval as part of the building permit application.

The city will review and inspect the house and foundation during the construction phase and will require an assurance bond for the restoration of areas of temporary disturbance and all vegetation management activities on site. The city inspects the vegetation restoration and vegetation management over a five year period. These requirements are the limit of the code adopted by the city.

3. Comment: The retaining wall at the bottom of the hill has had slides occur above it in the past. Historical pictures were submitted by Patricia Notarianni Curtis showing land slides, including one that covered a car. The concern is that the proposed project could cause a slide damaging homes property or potentially residents living below the site.

Response: The existing retaining wall is located on the properties facing Lake Sammamish and is off of the project site. The City of Bellevue code does allow the development of individual sites, even sites entirely covered by steep slope and steep slope buffers to be developed under the Reasonable Use Exception – Performance Standards, LUC 20.25H.205. Permanent disturbance is limited by this permit to 2,615 feet. Areas of temporary disturbance must be kept to a minimum. In this case the applicant has requested that 1,481 square feet of the lot be temporarily disturbed during construction. See attachment 1.

This approval includes a reduction in the front yard setback from twenty feet to ten feet to move the house to the west towards the portions of the site with the least slope. This reduced setback will increase the amount of native vegetation retained along the east side of the property and increase the distance between the areas of permanent and temporary disturbance from the properties to the east.

The project is subject to meeting the Reasonable Use Performance standards. A condition has been added to prohibit construction during the rainy season, conformance with the Mitigation Plan, and conformance with the Tree Retention Plan and Vegetation Management plan. A detailed planting plan for the areas of temporary disturbance is required at the building permit stage. Assurance devices will be in place to cover both installation and long term maintenance (five-years).

All portions of the subject site, outside of the area of permanent disturbance that qualify as geotechnical steep slope critical areas or critical area buffers are required to be placed in a Native Growth Protection Easement. See conditions of approval in Section X of this report.

V. Summary of Technical Reviews

Clearing and Grading:

The Clearing and Grading Section 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. Limitation on construction during the rainy season have been attached to the permit. See conditions of approval in Section X of this report.

Utilities:

The applicant has proposed to collect stormwater from the entire roof of the house and driveway and direct it by gravity to the stormdrainage system in West Lake Sammamish Parkway SE. Effluent from the house plumbing will be collected in an onsite storage tank and pumped to the sanitary sewer line located on the west side of West Lake Sammamish Parkway SE. Neither of these design features is the most desirable design. The optimum design solution would have both the effluent from the home's sanitary sewer system and storm water flowing down hill through the adjacent properties to the east to the sewer line for effluent and to the lake with storm water. Approval to direct the flows to the Parkway will only be granted with the submittal of evidence from the owner of a refusal to enter into an easement by the downhill property owners. See conditions of approval in Section X of this report.

Fire: No issues were identified by the fire reviewer.

VI. State Environmental Policy Act (SEPA)

The environmental review indicates no probability of significant adverse environmental impacts occurring as a result of the proposal. The Environmental Checklist submitted with the application adequately discloses expected environmental impacts associated with the project. The City codes and requirements, including the Clear and Grade Code, Utility Code, Land Use Code, Noise Ordinance, Building Code and other construction codes are expected to mitigate potential environmental impacts. Therefore, issuance of a Determination of Non-Significance (DNS) is the appropriate threshold determination under the State Environmental Policy Act (SEPA) requirements.

A. Earth and Water

A temporary erosion and sedimentation control plan is included in the project plans, and addresses all requirements for restoring the site to its current condition as well as erosion and sedimentation management practices. Erosion and sediment control best management practices include the installation of silt fencing around the work area and covering exposed soils to prevent migration of soils. The applicant will also be required to submit information regarding the use of pesticides, insecticides, and fertilizers to avoid impacts to water resources. See Section X for a related condition of approval.

B. Animals

The project site is part of a larger natural area that contains quality habitat for birds and mammals. In order to minimize disturbance, the proposed development of the property with a single-family residence will preserve existing mature vegetation,

including the three largest significant trees onsite. The mature vegetation on the site could provide potential habitat to bald eagles and pileated woodpeckers that are known to be in the vicinity. Impacts to woodpeckers will be limited by retention of three largest significant trees onsite and an 18" Alder snag to provide habitat.

C. Plants

Mitigation for temporary and permanent disturbance will be approved pursuant to an approved re-vegetation and monitoring plan. See Section X for related conditions of approval.

D. Noise

The site is adjacent to single-family residences whose residents are most sensitive to disturbance from noise during evening, late night and weekend hours when they are likely to be at home. Construction noise will be limited by the City's Noise Ordinance (Chapter 9.18 BCC) which regulates hours of construction related noise and noise levels. See Section X for a related condition of approval.

VII. Changes to proposal as a result of City review

1. The proposal was changed to incorporate storm drainage that flows by gravity to West Lake Sammamish Parkway SE instead of being held in a sump and pumped.
2. The applicant was required to research the downhill properties for storm drainage and sanitary sewer easements and then to pursue, in writing, the option to direct the sanitary sewer system and storm drainage directly downhill as the first option for utility hookup.

VIII. Decision Criteria

Critical Areas Land Use Permit Decision Criteria 20.30P

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

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

Finding: The applicant must obtain a Single-Family Building Permit prior to commencing any work on the site.

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 proposed slope modification and structure construction will follow the design guidelines and requirements identified in the project geotechnical study. All walls and foundations must be designed by a licensed engineer and are subject to review and approval as part of the building permit application.

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

Finding: As discussed in Section III of this report, the proposal meets, or as

conditioned will meet, the performance standards outlined in LUC 20.25H.125 (slopes), LUC 20.25H.160 (habitat), and LUC 20.25H.200 (reasonable use). See Section X of this report for a list of conditions associated with the required performance standards.

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

Finding: The proposed single-family residence is consistent with surrounding land uses and is adequately served by public facilities. All necessary services and ancillary utilities are currently available on-site via West Lake Sammamish Parkway SE.

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

Finding: The application materials included a "Conceptual Mitigation and Wildlife/Habitat Assessment Report (See attachment 5). A detailed planting plan for the entire area of temporary disturbance is required with the building permit. See conditions of approval in Section X of this staff report.

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

Finding: As discussed in Sections II and III 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 the Department of Development Services does hereby **approve with conditions** this application for Reasonable Use Exception for Mr. Fereydoon to establish up to 2,615 square feet of developable area and to reduce the front yard setback from twenty feet to ten feet for the property located at 830 West Lake Sammamish Parkway SE.

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 20.25H	Mark Cross, 425-452-6938
Noise Control- BCC 9.18	Mark Cross, 425-452-6938
Utilities	Joy Ramshur, 425-452-4855
Construction Code – BCC 23	Building Division, 425-452-4121
Transportation Code – BCC 14.30	ROW Division, 425-452-6800

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

1. Geotechnical Engineering Recommendation: The geotechnical engineering recommendations including but not limited to site preparation, structural fill, excavations, retaining walls, utility trenching, foundations, drainage, and any other necessary site alternation contained within the Geotechnical Engineering Slope Evaluation and Foundation Recommendations, attachments 4 and 14, shall be implemented with development on this site. The Geotechnical Engineer of Record shall monitor work related to installation of the foundation and erosion control to assure compliance with all recommendations of the Geotechnical Study for Slope Stability Evaluation and Foundation Recommendations.

Authority: Land Use Code 20.25H.125
 Reviewer: Mark Cross, Development Services

2. Mitigation, Restoration, and Monitoring Plan for Areas of Permanent and Temporary Disturbance: A restoration plan for all areas of permanent and temporary disturbance that meets the requirements of LUC 20.25H.220 is required to be submitted for review and approval by the City of Bellevue with the building permit. The plan shall identify the full areas of permanent and temporary impacts expected during and after the construction of the single-family residence. The restoration measures should, to the maximum extent feasible, attempt to mimic the existing desirable on-site conditions prior to any disturbance. The monitoring plan shall establish site-specific performance standards set forth in LUC 20.25H.

Final inspection of the residence shall not be granted until an acceptable security device for the installation of site mitigation and restoration and five-years of maintenance and monitoring has been submitted. All areas requiring restoration or receiving mitigation improvements shall be monitored for a period of not less than five (5) years.

Authority: Land Use Code 20.25H.220.H
 Reviewer: Mark Cross, Development Services

3. Restoration for Temporary Disturbance Outside of Allowed Impact Area: The Reasonable Use Exception that has been granted to develop this site limits impact to 2,615 square feet. All temporary impact outside of this allowed impact area must be identified on the building permit site plans and shall only be allowed when no feasible

alternative exists. Final inspection of the residence shall be withheld until restoration of areas of temporary disturbance has been completed and an acceptable assignment of financial security device has been submitted. All restored areas of temporary disturbance are subject to five-years of maintenance and monitoring.

Authority: Land Use Code 20.25H.220.H
Reviewer: Mark Cross, Development Services

4. Rainy Season restrictions: Due to the proximity to a steep slope and steep slope buffers, 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 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: Thomas McFarlane, Development Services

5. Pesticides, Insecticides, and Fertilizers: The applicant must submit as part of the required Clearing and Grading Permit/Building 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: Mark Cross, Development Services

6. 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: Mark Cross, Development Services

7. Verification of the Location of Existing Utilities onsite and within the Right-of-Way: Prior to the commencement of any development activity on site, the applicant shall verify and stake the location of utilities, including water meters, water service lines and any other existing utilities on-site and within the Right-of-Way to avoid disturbance during construction.

Authority: Utilities Engineering Code 24.04
Reviewer: Joy Ramshur, Development Services

8. Pumped Sanitary Sewer System: Approval of the proposed pumped sanitary sewer system must be reviewed and approved as follows:

- Evidence of refusal to enter into an easement is provided in writing. An affidavit (signed letter) from the applicant would be the minimum accepted.
- The pump system must be designed per Utilities Engineering Standards and

approved under a Sanitary Sewer connection permit (UA).

Authority: Utilities Engineering Code 24.04
Reviewer: Joy Ramshur, Development Services

9. Stormwater System: The preferred storm system design would take runoff from the proposed house and driveway directly down the slope to Lake Sammamish.

Approval of the proposed storm water system that includes collection of roof and driveway runoff and connecting to the storm water system in West Lake Sammamish Parkway SE must be reviewed and approved as follows:

- Evidence of refusal to enter into an easement is provided in writing. An affidavit (signed letter) from the applicant would be the minimum accepted.
- The storm water system must be designed per Utilities Engineering Standards and approved under a storm system connection permit (UB).
- All landscaping shall be installed with amended soils in accordance with City of Bellevue's Fact Sheet, or Seattle, King County or Puget Sound Action Team Technical manuals, in order to minimize stormwater runoff.

Authority: Utilities Engineering Code 24.04
Reviewer: Joy Ramshur, Development Services

10. Compliance with Performance Standards – Design of Single-family Residence: The proposed home design must comply to the fullest extent possible with the performance standards outlined in Section V of this report. A full review of the proposed development will be completed at the time of submittal for single-family building permit and compliance with these standards will be verified.

Authority: Land Use Code 20.25H.080.A, 20.25H.125, 20.25H.160, and 20.25H.205
Reviewer: Mark Cross, Development Services

11. Hold Harmless: The property owners requesting approval of disturbance in the critical area and critical area buffer shall execute 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 and critical area buffer.

Authority: Land Use Code 20.30P.170
Reviewer: Mark Cross, Development Services

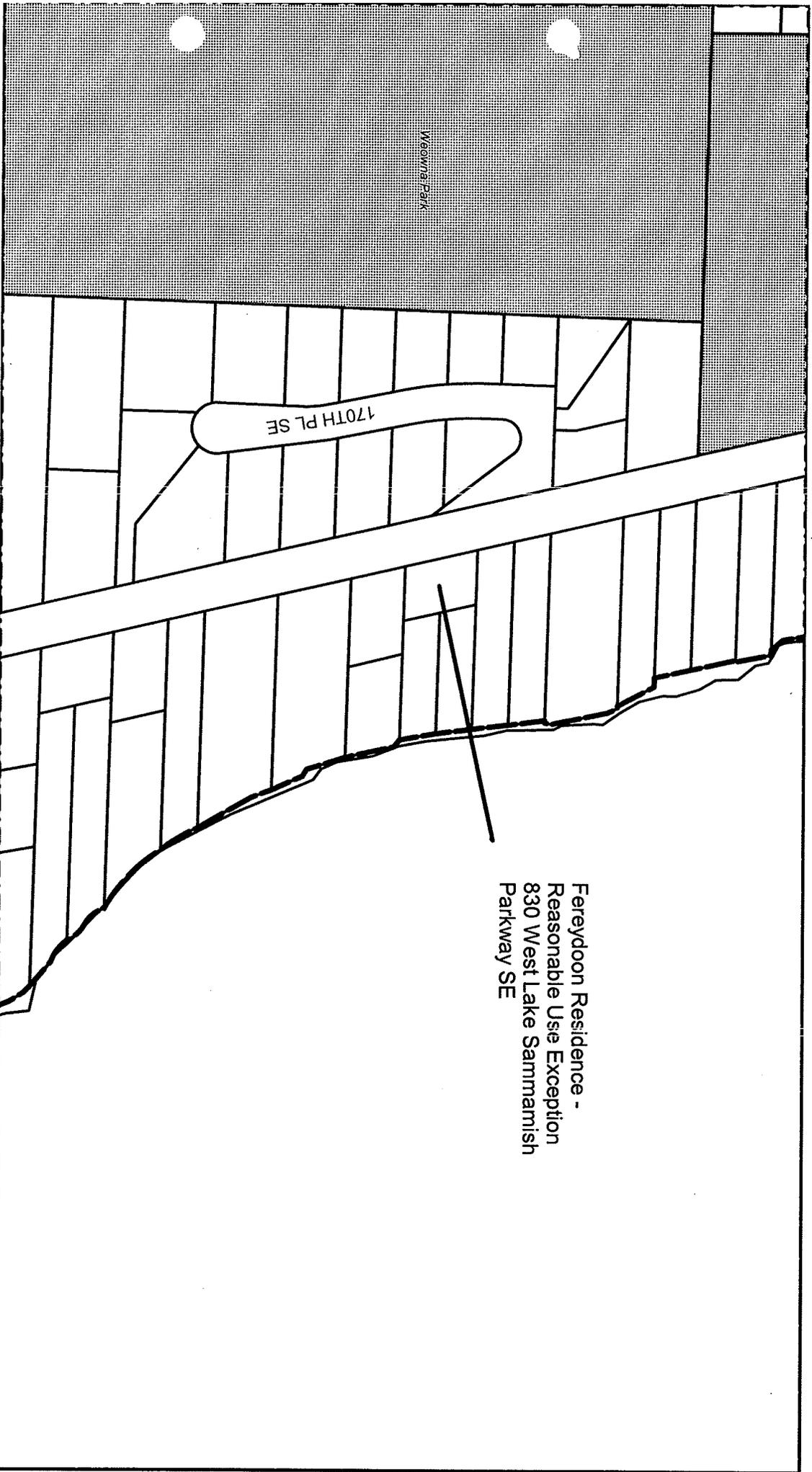
12. Native Growth Protection Easement: The applicant shall prepare and record with King County a site plan and easement document that clearly delineates the area of permanent disturbance (up to 2,615 square feet), the location of critical areas and critical area buffer on the property, and shall place that portion of the property not included in the area of permanent disturbance into "Native Growth Protection Easement." The NGPE must be reviewed and approved by the City before recording with King County.

Authority: Land Use Code 20.25H.030.B
Reviewer: Mark Cross, Development Services

Attachments

1. Site Plan, Tree Retention, Landscape Restoration plan submitted October 28, 2008, in file.
2. Boundary and Topographic Survey, submitted April 22, 2008, in file.
3. Environmental Checklist, submitted April 22, 2008, in file.
4. Slope Stability Evaluation/Foundation Recommendations, submitted April 22, 2008, in file.
5. Conceptual Mitigation and Wildlife/Habitat Assessment Report, submitted April 22, 2008, in file.
6. Building Floor Plans and Building Elevations, eleven sheets, submitted April 22, 2008, in file.
7. Statistical Information Sheet, submitted April 22, 2008, in file.
8. Letter to Devon McNeilus from Kerry Kriner, dated April 7, 2005, in file.
9. Letter to Yu Wang from Mark Cross, dated August 28, 2008, in file.
10. Letter to Yu Wang from Matt Jackson, dated October 30, 2007, in file.
11. Plan Set including: Boundary and Topographic Survey, Project Information A0.0, Site Plan A0.1, Tree Retention Plan Sheet 1, Landscape Plan Sheet, L1, submitted October 28, 2008, in file.
12. Request for reduction of front yard setback to ten feet, submitted October 28, 2008, in file.
13. Response to comments from "Planning and Community Development" dated October 18, 2008 (Overview of October 28, 2008 revision submittal.), in file.
14. Addendum Letter with Additional Slope Stability Analyses, by Mr. Phil Haberman, P.G., P.E.G. Senior Engineering Geologist, Krazan & Assoc. dated October 15, 2008, in file.
15. Revised Mitigation Plan for critical area and critical area buffer by Group Four, dated October 24 and submitted October 28, 2008, in file.
16. Tree Retention Plan, by Group Four, dated October 24, 2008 and submitted October 28, 2008, in file.
17. Letter to Mark Cross from Patricia Notarianni Curtis dated June 26, 2008
Includes attachments including, letters to and from the City of Bellevue, a letter to King County on previous projects in the neighborhood and photos of hillside slippage and slides, in file.
18. E-mail from Patricia Notarianni Curtis dated June 25, 2008, in file.
19. E-mail from Patricia Notarianni Curtis dated July 9, 2008, in file
20. SEPA DNS, dated February 12, 2009, attached.

Vicinity Map - Fereydoon Residence 08-114591



Fereydoon Residence -
Reasonable Use Exception
830 West Lake Sammamish
Parkway SE

Weowng Park

170TH PL SE

SCALE 1 : 2,266

