



City of Bellevue  
 Development Services Department  
 P.O. Box 90012, Bellevue, WA 98009-9012  
 (425) 452-6800 Fax (425) 452-5225

**Shoreline Management Act of 1971  
 Permit for Shoreline Management Substantial  
 Development  
 Conditional Use and/or Variance**

Application No. 08-132654-LN

Date Received 09/09/2008

Approved / Date 08/27/2009  
 Denied / Date \_\_\_\_\_

Type of Action:

- Substantial Development Permit
- Conditional Use Permit
- Variance Permit

Pursuant to Chapter 90.58 RCW, a permit is hereby granted to: James Cherberg, Property Owner  
 to undertake the following development:

Install utility infrastructure associated with a residential 2 lot short subdivision. Scope of work approved to include trenching and boring for utility line placement. No in water work allowed under this permit.

upon the following property: 3229 106<sup>th</sup> Ave SE

within Lake Washington  
 and/or its associated wetlands. The project will be located within Shorelines of Statewide  
 Significance (RCW 90.58.030). The project will be located within a Shoreline Overlay District  
 designation. The following master program provisions are applicable to this development:

- LUC Section 20.25E.080(B) General Regulations Applicable to all Land Use Districts & Activities:
- LUC Section 20.25E.080 (G) Clearing and Grading Regulations
- LUC Section 20.25E.080(Q) Residential Development Regulation
- LUC Section 20.30R.155 Shoreline Substantial Development Permit
- Bellevue Comprehensive Plan, Shoreline Management Program Element

Development pursuant to this permit shall be undertaken in accordance with the following terms and conditions:

**Conditions of Approval (Land Use Division) – See attached staff report**

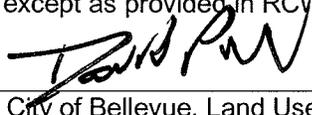
This permit is granted pursuant to the Shoreline Management Act of 1971 and nothing in this permit shall excuse the applicant from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project, but not inconsistent with the Shoreline Management Act (Chapter 90.58 RCW).

This permit may be rescinded pursuant to RCW 90.58.140(8) in the event the permittee fails to comply with the terms and conditions hereof. Construction pursuant to this permit, or substantial progress toward construction, must be undertaken within two years of the date of final approval. This permit shall expire five years from the date of local approval.

Construction pursuant to this permit will not begin or is not authorized until twenty-one (21) days from the date of filing, as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one (21) days from the date of such filing have terminated; except as provided in RCW 90.58.140(5) (A) (B) (C).

August 27, 2009

Date

  
 City of Bellevue, Land Use Division

CC: Attorney General, Department of Ecology, Northwest Region  
 Dept. of Fish and Wildlife, 1775 12th Ave. NW Suite 201 Issaquah, WA 98027  
 DOE, Dave Radabaugh, 3190 160<sup>th</sup> Avenue SE, Bellevue, WA 98008-5452



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

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**Proposal Name:** Cherberg Preliminary Conservation Short Plat

**Proposal Address:** 3229 106<sup>th</sup> Ave SE

**Proposal Description:** Preliminary Conservation Short Plat and Shoreline Substantial Development Permit to subdivide one single family 31,879 sf lot in the R-3.5 district into two single family lots of 22,219 sf and 6,994 sf and one tract of 2,665 sf. The existing residence will be retained.

**File Number:** 08-132654-LN

**Applicant:** James Cherberg

**Decisions Included:** Preliminary Short Plat (Process II)  
Shoreline Substantial Development (Process II)

**Planner:** David Pyle, Senior Land Use Planner

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

**Department Decision(s):** **Approval with Conditions**

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David Pyle, Senior Land Use Planner  
Development Services Department

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**Application Date:** September 9, 2008  
**Notice of Application:** November 26, 2008  
**Decision Publication Date:** August 27, 2009  
**Appeal Deadline:** September 17, 2009 5:00 PM

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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. Appeal of the Shoreline Substantial Development Permit must be made to the Washington State Shoreline Hearings Board (contact the project planner for more information on how to file an appeal with the Shoreline Hearings Board).

## TABLE OF CONTENTS

I.	Proposal Description.....	Pg 3
II.	Site Description, Zoning & Land Use Context.....	Pg 3-6
III.	Consistency with Land Use Code Requirements.....	Pg 6-8
IV.	Public Notice & Comment.....	Pg 8
V.	Summary of Technical Review.....	Pg 8-10
VI.	SEPA Environmental Policy Act.....	Pg 10
VII.	Changes to Proposal Due to Staff Review.....	Pg 10-11
VIII.	Decision Criteria.....	Pg 11-14
IX.	Conclusion and Decision.....	Pg 14
X.	Conditions of Approval.....	Pg 15-20

## **I. PROPOSAL DESCRIPTION**

### **A. Project Description**

The applicant is proposing to subdivide a 31,879 square foot lot along the shoreline of Lake Washington into two residential lots of 22,219 square feet and 6,994 square feet and a non buildable tract of 2,665 square feet through the Conservation Short Plat process. The site contains an existing single-family residence which will remain on proposed lot 1. The current driveway for the exiting residence on lot 1 will be maintained in an easement across lot 2 and a new driveway access will be provided for lot 2 to gain vehicular access from Lake Washington Boulevard SE.

### **B. Permits Required**

This is a proposal to divide one residential lot along the shoreline of Lake Washington into two lots. If approved the proposal will result in the installation of infrastructure typically associated with residential development. Due to the location of the property along the shoreline of Lake Washington, the project must be processed as a Conservation Short Plat and must include review for consistency with the City's Shoreline Master Program through issuance of a Shoreline Substantial Development Permit for the installation of infrastructure. A summary of the projects consistency with short plat requirements and a summary of the projects consistency with shoreline substantial development requirements is included in Section III below.

## **II. SITE DESCRIPTION, ZONING, AND LAND USE CONTEXT**

### **A. Site Description**

The project site is located at 3229 106<sup>th</sup> Ave SE in the SW quadrant of Section 08, Township 24 North, Range 5 East within the Southwest Bellevue Subarea. The property is zoned single-family residential (R-3.5), and has one single-family residence currently existing on-site. The existing property was created as part of the Enatai Waterfront Addition division and is currently 31,879 square feet in area. The lot is located south of the Beax Arts community and north of Interstate 90 along the shoreline of Lake Washington in the Enatai neighborhood. The site directly abuts a commonly owned Enatai community lake access tract to the north and two residentially zoned properties to the south and is bordered by Lake Washington Boulevard to the east. A portion of the property is located within the Shoreline Overlay District and Critical Areas Overlay District. The property slopes down from Lake Washington Boulevard SE to the lake shoreline. The site's existing residence is accessed by an existing driveway connecting the flat lower portion of the lot (western portion) to the roadway. See Figure 1 and Figure 3 below for an aerial photo of the property as it currently exists and Figure 2 for a map identifying the location of the Shoreline Overlay District.

**Figure 1 – Site Aerial**



**Figure 2 – Shoreline Overlay**



**Figure 3 – Site Oblique**



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There are a number of significant trees on-site supported by an established understory of mixed trees and shrubs in addition to other ornamental landscape vegetation. The property has been identified by staff as having a potential and ability to provide habitat for local and migratory species due to landscape position, proximity to other forested patches, and current intact forested structure. To preserve habitat features, the applicant is proposing to retain a total of 35 percent of the site's significant trees – 19% must be preserved for habitat protection (LUC 20.25H) in addition to the 16% that are required preserved trees (LUC 20.20.900). See related conditions of approval in Section X below.

### **B. Zoning**

The property is zoned R-3.5, single-family residential, which requires a minimum lot area of 10,000 square feet be retained for existing lots. Due to the presence of shoreline critical area, this application is processed as a Conservation Short Subdivision (LUC 20.45B.055) where the target lot size is 6,500 sf for new lots and variation from the target lot size is controlled by the allowed lot coverage.

### **C. Land Use Context**

The property has a Comprehensive plan Land Use Designation of SF-M (Single Family Medium Density). The proposed activity is consistent with single-family development and is allowed in the single-family comprehensive plan land use designation. The surrounding neighborhood context is entirely single-family uses both adjacent to the site and in the vicinity.

**III. CONSISTENCY WITH LAND USE CODE REQUIREMENTS**

**A. Zoning District Dimensional Requirements**

The site is located in the R-3.5 zoning district. The proposed short plat is in conformance with the general dimensional requirements of the zone as outlined below.

**B. Consistency with Land Use Code Requirements**

<b>BASIC INFORMATION</b>			
<b>Zoning District</b>	R-3.5		
<b>Gross Site Area</b>	31,879 square feet		
<b>Critical Area and Buffer</b>	Shoreline Critical Area 25 foot buffer		
<b>ITEM</b>	<b>REQ'D/ALLOWED</b>	<b>PROPOSED</b>	<b>MEETS REQ'D</b>
<b>Dwelling Units/Acre (LUC 20.25H.045)</b>	2	2	Yes
<b>Minimum Lot Area (Existing Lot)</b>	10,000 square feet	Lot 1: 22,219 square feet	Yes
<b>Target Lot Area (New Lot)</b>	6,500 square feet +/- (Controlled by lot coverage per LUC 20.45B.055)	Lot 2: 6,994 square feet	Yes
<b>Minimum Lot Width</b>	70 feet	Lot 1: over 70 feet Lot 2: over 70 feet	Yes
<b>Minimum Lot Depth</b>	80 feet	Lot 1: over 80 feet Lot 2: over 80 feet	Yes
<b>Building Setbacks (Existing Lot)</b>			
Front Yard	20 feet	20 feet	Yes
Rear Yard	25 feet	25 feet	
Min. Side Yard	5 feet	5 feet	
2 Side Yard	15 feet	15 feet	
Access Easements	10 feet	10 feet	
<b>Building Setbacks (New Lot)</b>			
Front Yard	10 feet	10 feet	Yes
Rear Yard	15 feet	15 feet	
Min. Side Yard	5 feet	5 feet	
2 Side Yard	10 feet	10 feet	
Access Easements	10 feet	10 feet	
<b>Tree Retention</b>	15% of 1,476 diameter inches = 222 inches minimum	16% of diameter inches retained = 242 inches	Yes
<b>Structural Lot Coverage (Existing Lot)</b>	35% (7,777 square feet)	3,615 square feet	Yes
<b>Structural Lot Coverage (New Lot)</b>	LUC 20.45B.055	3,287 square feet	Yes
<b>Impervious Surface (Measured for whole)</b>	50% (15,939 square feet)	Lot 1 + Lot 2 = 15,939 square feet (cannot	Yes

<b>lot-LUC 20.45B.055)</b>		exceed total)	
<b>Building Height</b>	30 feet (LUC 20.20.010)	Up to 30 Feet	Yes
<b>Front Yard Greenscape</b>	50% (LUC 20.20.010)	Minimum 50% of required 10 foot front yard setback	Yes

**C. Consistency with Conservation Short Plat Requirements**

Due to the property’s proximity to Lake Washington, a regulated critical area, the project must be processed as a Conservation Short Subdivision in compliance with LUC 20.45B.055. Under this section, all critical areas and buffers must be placed in a tract. Under the requirements of LUC 20.25H.115 Lake Washington is protected by a 25 foot buffer. To meet the Conservation Short Plat requirements the applicant has dedicated the entire 25 foot buffer as a Native Growth Protection Area (NGPA) tract. To compensate for the dedication of this tract area, the applicant is eligible to follow modified site dimensional requirements as outlined in LUC 20.45B.055. Modified standards include a smaller lot size, reduced setbacks, and a lot coverage calculation. The applicant has provided documentation that the proposed lot meets these modified standards where allowed or required.

**D. Consistency with Critical Areas Overlay District Requirements**

The project site is located along the shoreline of Lake Washington, a regulated critical area under LUC 20.25H.025. The Lake Washington shoreline is protected by a 25 foot buffer and a 25 foot structure setback (developed site) under LUC 20.25H.115. To protect the shoreline features of this property, the applicant has complied with the conservation subdivision requirements of LUC 20.45B and has dedicated the buffer as an NGPA tract. The property has also been found to be in compliance with the required 25 foot structure setback that is mirrored in the required 25 foot rear yard setback required by LUC 20.20.010. In addition to the site’s shoreline features that are protected as critical areas, habitat features and the ability to provide habitat function has been identified for this site. To preserve a reasonable portion of these features and function, the applicant has proposed to preserve additional trees through the inclusion of a habitat protection requirement. See related conditions of approval in Section X below.

**E. Consistency with Shoreline Overlay District Requirements**

This is an application for Conservation Short Plat along the shoreline of Lake Washington, a shoreline regulated under the City’s shoreline overlay district. A portion of the project site is located within the 200 foot shoreline overlay that extends 200 feet waterward of the Ordinary High Water Mark (OHWM). Although the existing residence will be retained and the new residence on Lot 2 will be located outside of the shoreline regulatory area (more than 200 feet landward of the OHWM), the project will require infrastructure improvements within the shoreline overlay and a Shoreline Substantial Development Permit is required. The applicant has submitted plans that identify the location of the proposed sanitary side sewer and storm water connection for the new lot. Work within the shoreline overlay associated with this project is limited to these connections. All work within the shoreline overlay must comply with the performance standards listed in LUC 20.25E, specifically with the general performance standards listed

in LUC 20.25E.080.B, the Clearing and Grading performance standards listed in LUC 20.25E.080.G, and the Residential Development standards listed in LUC 20.25E.080.Q. Work reviewed and approved under this application is limited to the construction of utility infrastructure associated with the development of a new single family residence on Lot 2. No dock or other related work is included in this approval. See related conditions of approval in Section X below.

#### **IV. PUBLIC NOTICE AND COMMENT**

Application Date:	September 9, 2008
Public Notice (500 feet):	October 30, 2008
Minimum Comment Period:	December 1, 2008

The City initially notified the public of this proposal on October 30, 2008 with mailed notice and publication in the Weekly Permit Bulletin. A public information sign was installed on the site the same day. A revised notice was published on November 6<sup>th</sup> to correct the public comment period to include the full 30 days required for a Shoreline Substantial Development Permit (WAC 173-27). The comment period closed on December 1, 2008. Several comments on this project were received. Comments were primarily received from neighbors and were focused on concerns related to tree removal and related impact to the habitat resources that a forested site provides the community, although comment was also received from the Washington State Department of Fish and Wildlife regarding the site's inclusion in a Bald Eagle management zone. In response to comment received from adjacent neighbors, staff further evaluated the site for the possibility that the site provide habitat for species of local importance. A discussion of changes made to the project in response to this issue is included in Section VII below. Project comment letters are included as Attachment 1. A list of parties of record to this application is included as Attachment 2.

#### **V. 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 and has approved the application without any conditions of approval.

##### **B. Fire Department:**

The Fire Department has reviewed and approved the application. Additional Fire Department review will occur during review of the single family building permit that is necessary to construct a new residence on this property.

##### **C. Transportation Department:**

The Transportation Department has reviewed the plans submitted for the preliminary short plat and recommends approval. The final engineering plans must show all transportation related improvements and must be consistent with the Transportation Development Code (BCC 14.60) and the Transportation

Department Design Manual prior to approval of the plat infrastructure permit. Prior to final short plat approval, the developer must provide all transportation improvements at the developer's expense (BCC 14.60.110) or provide an acceptable financial assurance device equivalent to 150% of the cost of unfinished improvements.

Under BCC 22.16, payment of the transportation impact fee for each new home prior to building permit issuance will adequately mitigate off-site transportation impacts. The fee amount is subject to periodic revision by the city council. Builders will pay the fee in effect at the time of building permit issuance.

**i. Site Access**

The Cherberg short plat proposes to subdivide a lot with an existing house to form two lots. The existing house in Lot 1 will remain and will continue to gain access to 106th Ave SE via the existing driveway. Access to Lot 2 will be from a new single driveway off of 106th Ave SE as shown on the approved plans. No other access connection to city right-of-way is authorized.

The new driveway with a paved width of 16 feet must meet with Fire Department Approval and must be built per the City's Transportation Department Design Manual Standard Drawing DEV-7B.

**ii. Street Frontage Improvements**

The properties adjacent to this site do not have bike lane, curb, gutter and sidewalk in their frontage. Hence, the developer is not required to provide these improvements along this property frontage. Specific engineering requirements include:

- Removal of earth berm on 106th Ave SE in front of the site to provide a safer connection of the new driveway with the pavement on 106th Ave SE.
- Removal of the paved surface which allows the private use of the public right of way.

**iii. Use of the Right of Way**

Applicants often request use of the right of way and of pedestrian easements for materials storage, construction trailers, hauling routes, fencing, barricades, loading and unloading, and other temporary uses as well as for construction of utilities and street improvements. A Right of Way Use Permit for such activities must be acquired prior to issuance of any construction permit including demolition permit.

**iv. Pavement Restoration**

The City of Bellevue has established the Trench Restoration Program to provide developers with guidance as to the extent of resurfacing required when a street has been damaged by trenching or other activities. Under the

Trench Restoration Program, every public street in the City of Bellevue has been examined and placed in one of three categories based on the street's condition and the period of time since it was last resurfaced. These three categories are No Street Cuts Permitted, Overlay Required, and Standard Trench Restoration. Each category has different trench restoration requirements associated with it. Near the development site 106th Avenue SE is classified as Standard Trench Restoration.

#### **v. Transportation Impacts and Mitigation**

City staff has considered the potential short term operational impacts of the proposed two lot short plat in order to recommend mitigation if necessary. These impacts include traffic operations conditions during the a.m. and p.m. peak hours. The addition of one new lot is estimated to generate one new PM peak hour trip. This is not expected to have a significant impact on the traffic operations on the roadway system.

#### **D. Utilities Review**

The Utilities Department has reviewed the submitted plans and has approved the Preliminary Short Plat proposal only. There are no implied approvals of the utility engineering. Changes to the site layout may be required to accommodate the utilities. All water, sewer & storm drainage design review, plan approval and field inspection shall be done through the Utility Developer Extension Agreement process, water application process, side sewer permit(s), and/or storm drainage connection permits. See related conditions of approval in Section X of this report.

#### **VI. STATE ENVIRONMENTAL POLICY ACT (SEPA) REVIEW**

Short Plats not containing Critical Areas are exempt from SEPA review pursuant to WAC 197-11-800(6)(a), BCC 22.02.032. Although the project is adjacent to the Lake Washington shoreline, only the buffer area is affected by the proposal. Thus, the project proposal is exempt from SEPA review.

#### **VII. CHANGES TO PROPOSAL DUE TO CITY REVIEW**

In response to several comments received from property neighbors, staff have reviewed the resources located on the property and have identified the property as having the ability to provide habitat for species of local importance, as regulated by LUC 20.25H.150, due to the presence of intact canopy structure and proximity aquatic resources and other large potential habitat patches. To preserve the site's habitat structure and some of the features identified as habitat, staff have worked with the applicant to protect additional trees on the property through the period of construction of a new home on Lot 2. As part of this plan, the applicant has proposed preserving significant trees that total 280 diameter inches in addition to the already proposed 242 inches proposed for preservation to meet the standard tree retention requirement. This proposal will ensure that these trees are preserved through construction of the new residence on Lot 2. A total of 522 diameter inches will be preserved through the construction of a new residence on Lot 2. As identified in section III above, 242 diameter inches will be permanently protected as preserved

trees to meet the City's 15% retention requirement. See related conditions of approval in Section X below.

## VII. DECISION CRITERIA

### A. Preliminary Conservation Short Subdivision Decision Criteria

The Director may approve or approve with modifications an application for a Preliminary Short Plat if:

**1. The Preliminary Short Plat makes appropriate provisions for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets, sidewalks, alleys, other public ways, water supplies, sanitary waste.**

**Finding:** City codes ensure public health, safety and general welfare through development code requirements. Existing public streets, water, and sewer facilities have been deemed adequate to serve the proposed development.

**2. The public interest is served by the short subdivision.**

**Finding:** The public interest is served by providing additional housing opportunities in accordance with the Comprehensive Plan while ensuring compliance with City codes and standards.

**3. The preliminary short plat appropriately considers the physical characteristics of the proposed short subdivision site.**

**Finding:** The preliminary short plat considers the physical characteristics of the site by establishing tree retention and protection requirements which will maintain some of the significant trees around the perimeter of the site. Additional tree protection measures intended to preserve habitat features through construction of a new single family residence on Lot 2 have been added. New driveway construction will be the minimum necessary to allow for the construction of a new residence. Infrastructure improvements are minor and will not impact the site's resources. The site's shoreline critical area buffer has been placed in a separate NGPA tract for permanent preservation. Staff have determined that proper mechanisms have been established to reasonably preserve the physical characteristics of the site. See related conditions of approval in Section X of this report.

**4. The proposal complies with all applicable provisions of the Land Use Code (BCC Title 20), the Utility Code (BCC Title 24), and the City of Bellevue Development Standards.**

#### Land Use Code Requirements

**Dimensional Requirements:** *Refer to Section III of this report for conformance with both conventional and conservation dimensional requirements for the R-3.5 zone.*

**Finding:** All of the lots shown can be developed in accordance with the City of Bellevue Land Use Code requirements, including the R-3.5 zoning district dimensional requirements. See related conditions of approval in Section X of this report.

**Significant Tree Preservation:** *Tree preservation requirements pursuant to LUC Section 20.20.900.D require the retention of 15% of significant trees on the site. In order to meet the 15% minimum retention requirement, the project must retain a minimum of 222 diameter inches of the 1,476 diameter inches of the existing significant trees.*

**Finding:** The applicant proposes to preserve a total of 242 diameter inches or 16% of the significant trees onsite. This satisfies the minimum 15% tree retention requirements. See related conditions of approval in Section X of this report.

#### **Utility Codes and City Development Standards**

**Finding:** As conditioned, the proposal complies with the Utility Code and the City of Bellevue Development Standards. See related conditions of approval in Section X of this report.

#### **5. The proposal is in accord with the Comprehensive Plan (BCC Title 21).**

**Finding:** The site is located within the Southwest Bellevue Subarea of the Comprehensive Plan. The Comprehensive Plan specifies Single-Family Urban Residential development for this property, which is consistent with the R-3.5 zoning designation. The proposal complies with applicable Comprehensive Plan policies City-wide and for this Subarea, including the following:

**Land Use Policy LU-3:** *Accommodate growth targets of 10,117 additional households and 40,000 additional jobs for the 2001-2022 period. These targets represent the city's commitment to develop the zoning and infrastructure to accommodate this level of growth; they are not a commitment that the market will deliver these numbers.*

**Finding:** This short plat will provide one lot for future single family residential development which will help to meet Bellevue's share of the regionally adopted demand forecasts for residential uses for the next 13 years

**Land Use Policy LU-4:** *Encourage new residential development to achieve a substantial portion of the maximum density allowed on the net buildable acreage.*

**Finding:** This short plat will create two lots from one preexisting lot which is the maximum number of lots allowed on an R-3.5 lot of this size.

**Housing Policy HO-17:** *Encourage infill development on vacant or under-utilized site that have adequate urban services and ensure that the infill is compatible with the surrounding neighborhoods.*

**Finding:** This project will create one new lot and add one new single family home which is, by use type, compatible with the surrounding single-family neighborhoods. The proposal provides development on an infill or under-utilized site with adequate urban services and meets the Housing Element Neighborhood Quality & Vitality goal of ensuring compatible housing and environmentally sensitive features by preserving healthy, significant, existing trees on-site.

**5. Each lot in the proposal can reasonably be developed in conformance with current Land Use Code requirements without requiring a variance.**

**Finding:** As conditioned, each lot can reasonably be developed to current R-3.5 zoning standards without requiring a variance. There are no site constraints identified on the proposed lot outside of tree removal restrictions that would inhibit the development of this property or would warrant a variance. See related conditions of approval in Section X of this report.

**6. All necessary utilities, streets or access, drainage and improvements are planned to accommodate the potential use of the entire property.**

**Finding:** The Utilities and Transportation Departments have reviewed the preliminary short plat and determined that all necessary utilities, drainage, driveway access location, and other required improvements are existing, planned or conditioned as part of this approval to accommodate the use of these lots. See related conditions of approval in Section X of this report.

## **B. Shoreline Substantial Development Decision Criteria**

The Director of Planning and Community Development may approve or approve with modifications an application for Shoreline Substantial Development Permit if:

**1. The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval or approval with modifications.**

**Finding:** This is an application for Preliminary Conservation Short Subdivision that will result in the creation of a new buildable parcel. To complete the construction of a new home, a new side sewer and stormwater connection is required and will require development activity in the Shoreline Overlay District. Typical activity associated with utility installation includes trenching and boring. The applicant has provided site plans identifying the expected location of the utility connections and will be required to obtain a

clearing and grading permit and side sewer permit prior to commencement of utility connection construction. All performance standards have been met and the applicant has provided sufficient information regarding the preliminary design of the proposed development activity.

**2. The applicant has demonstrated that the proposal complies with the applicable decision criteria of the Bellevue City Code.**

**Finding:** This proposal meets all of the applicable performance standards listed in the Land Use Code for Conservation Short Subdivisions and Shoreline development. Future proposals for development on this property must similarly demonstrate compliance with appropriate requirements.

**3. The applicant has demonstrated that the proposal is consistent with the policies and procedures of the Shoreline Management Act and the provisions of Chapter 173-14 WAC and the Master Program.**

**Finding:** This is an application for residential development along the shoreline of Lake Washington and is consistent with the Shoreline Management Act, the City's Shoreline Master Program, and the requirements of WAC 173-27. Residential development is a preferred use in the shoreline overlay and this proposal is compliant with all applicable shoreline performance standards. The proposed development within the shoreline overlay district (200 feet landward of the OHWM) is limited to the installation of new utility connections to service the new residence. No expansion of the existing residential use within the shoreline overlay outside of utility connections is proposed.

**VIII. CONCLUSION AND DECISION:**

After conducting the various administrative reviews associated with this proposal, including applicable Land Use consistency, City Code, and standard compliance reviews, the Director of the Development Services Department does hereby **APPROVE** the Cherberg Preliminary Conservation Short Plat and Shoreline Substantial Development Permit **WITH CONDITIONS**.

Note on expiration of Preliminary Short Plat Approval: Approval of the preliminary Conservation Short Plat automatically expires and is void if the applicant fails to file for approval of the final short plat within one year of the effective date of approval unless the applicant files for an extension at least 30 days prior to the expiration and the extension is granted pursuant to LUC 20.45B.150 and 160.

Note on expiration of Shoreline Substantial Development Permit Approval: A Shoreline Substantial Development Permit automatically expires and is void if the applicant fails to file for a Building Permit or other necessary development permit and fails to make substantial progress towards completion of the project within two years of the effective date of the Shoreline Substantial Development Permit unless the applicant has received an extension for the Shoreline Substantial Development Permit pursuant to LUC 20.30R.180. "Substantial progress" includes the following,

where applicable: the making of contracts; signing of notice to proceed; completion of grading and excavation; and the laying of major utilities; or if no construction is involved, commencement of the activity. Permit authorization expires finally, despite substantial progress, five years after the effective date of the Shoreline Substantial Development Permit unless the applicant has received an extension pursuant to LUC 20.30R.180.

**IX. CONDITIONS OF APPROVAL:**

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

<b>Applicable Codes and Ordinances</b>	<b>Contact Person</b>	<b>Phone</b>
Clearing and Grading Code – BCC 23.76	Savina Uzunow	425-452-7860
Construction Codes – BCC Title 23	Building Division	425-452-6864
Fire Code – BCC 23.11	Adrian Jones	425-452-6032
Land Use Code – BCC Title 20	David Pyle	425-452-2973
Noise Control – BCC 9.18	David Pyle	425-452-2973
Trans. Development. Code – BCC 14.60	Rohini Nair	425-452-2569
Traffic Standards Code – BCC 14.10	Rohini Nair	425-452-2569
Right-of-Way Use Code – BCC 14.30	Tim Stever	425-452-4294
Utility Code – BCC Title 24	Mark Frazier	425-452-2022

**A. GENERAL CONDITIONS:**

**1. Variance Restriction**

Approval by the City of this short plat is a determination that each lot in the short plat can be reasonably developed in conformance with the Land Use Code requirements in effect at the time of preliminary short plat approval without requiring a variance.

AUTHORITY: Land Use Code 20.45B.130.A.6  
 REVIEWER: David Pyle, Development Services Department

**2. Noise – Construction Hours**

Construction will be subject to normal operation hours of 7 a.m. to 6 p.m., Monday through Friday and 9:00 a.m. to 6:00 p.m. on Saturdays, except for Federal holidays and as further defined by the Bellevue City Code. Proximity to existing residential uses will be given special consideration. Upon written request to DSD, work hours may be extended to 10:00 p.m. if the criteria for extension of work hours as stated in BCC 9.18 can be met and the appropriate mitigation employed.

AUTHORITY: Bellevue City Code 9.18  
 REVIEWER: David Pyle, Development Services Department

**3. Utilities**

Utilities has approved the Preliminary Short Plat proposal only. There are no implied approvals of the utility engineering. Changes to the site layout may be required to accommodate the utilities. A separate side sewer permit is required for repairs/connections. A separate storm drainage permit is required for storm drain connections. Provide a joint use maintenance easement agreement for sewer and

storm drainage as described in the utilities notes.

AUTHORITY: BCC 24.02, 24.04, 24.06  
REVIEWER: Mark Frazier, Utilities

#### **4. Native Growth Tract Required**

The 25 foot shoreline buffer must be placed in a separate tract in accordance with the requirements of the LUC 20.45B.055.

AUTHORITY: Land Use Code Section 20.45B.055  
REVIEWER: David Pyle, Development Services Department

#### **5. Habitat Protection Required – Tree Retention**

In addition to the retaining fifteen percent of the site's significant trees, the applicant is required to retain an additional nineteen percent of the diameter inches of all significant trees to protect the site's habitat features. Trees retained for habitat must be clearly identified on any future drawings submitted to the City for permit review. The final short plat mylar must include the following note:

*Trees labeled for habitat protection are to be preserved and shall not be removed or damaged during construction of the short plat improvements or the associated residence on Lot 2. Removal or damage to any such designated tree will require the replacement of 2 similar trees as approved by the City of Bellevue.*

AUTHORITY: Land Use Code Section 20.25H.165  
REVIEWER: David Pyle, Development Services Department

#### **6. Driveway Easement Required**

The existing driveway providing access to Lot 1 shall be placed in an access easement sufficient to preserve access rights to Lot 1. Impervious surface associated with the driveway crossing Lot 2 to access Lot 1 shall be deducted from the total impervious surface allowed on Lot 2.

AUTHORITY: Land Use Code Section 20.45B.055 and LUC 20.45B.130  
REVIEWER: David Pyle, Development Services Department

#### **7. Lot Coverage Requirements**

Lot coverage on Lot 1 shall be governed by the limits established by LUC 20.20.010. Lot coverage on Lot 2 shall be governed by the lot coverage calculation included under LUC 20.45B.050. Allowed maximum structural lot coverage for Lot 1 and Lot 2 shall be clearly labeled on the final short plat mylar.

AUTHORITY: Land Use Code Sections 20.20.010 and 20.45B.055  
REVIEWER: David Pyle, Development Services Department

#### **8. Impervious Surface Coverage Requirements**

Impervious surface coverage shall be divided across Lots 1 and 2 and shall be governed by the limits established by LUC 20.45B.050. Allowed maximum impervious surface coverage for Lot 1 and Lot 2 shall be clearly labeled on the final

short plat mylar.

AUTHORITY: Land Use Code Section 20.45B.055  
REVIEWER: David Pyle, Development Services Department

### **9. Tree Protection Requirements**

A minimum of fifteen percent of the diameter inches of all significant trees on the site are required to be retained. If trees depicted on the preliminary plat as retained are subsequently found infeasible to retain, conformance is required to be demonstrated with LUC 20.20.900 D and/or G and alternative trees must be retained to demonstrate that the required retention of 15 percent is met. All trees to be retained must clearly be labeled on all future plans submitted and must be clearly identified on the final plat mylar. Retained trees must be identified through the installation of "City of Bellevue Retained Tree – Do Not Remove" tags.

AUTHORITY: Land Use Code Section 20.20.900 D and G  
REVIEWER: David Pyle, Development Services Department

## **B. CONDITIONS PRIOR TO ISSUANCE OF ANY PLAT ENGINEERING/CLEAR AND GRADE PERMIT:**

### **1. Right of Way use Permit**

The applicant is required to apply for a Right of Way Use Permit before the issuance of any clearing and grading, building, foundation, or demolition permit. In some cases, more than one Right of Way Use Permit may be required, such as one for hauling and one for construction work within the right of way. A Right of Way Use Permit regulates activity within the city right of way, including but not limited to the following:

- a. Designated truck hauling routes.
- b. Truck loading and unloading activities.
- c. Hours of construction and hauling.
- d. Street sweeping and maintenance during excavation and construction.
- e. Location of construction fences.
- f. Parking for construction workers.
- g. Construction vehicles, equipment, and materials in the right of way.
- h. All other construction activities as they affect the public street system.

Access shall be provided at all times during the construction process. General materials storage and contractor convenience are not reasons for preventing access.

AUTHORITY: Bellevue City Code 14.30  
REVIEWER: Tim Stever, Transportation Department (425) 452-4294

### **2. Off Street Parking**

The applicant must secure sufficient off-street parking for construction workers, equipment, and materials storage before the issuance of a clearing and grading, building, foundation or demolition permit.

AUTHORITY: Bellevue City Code 14.30  
REVIEWER: Tim Stever, Transportation Department

### **3. Engineering Plans**

A site (civil engineering) plan produced by a qualified engineer must be approved by the City prior to clear and grading permit approval. The design of all transportation improvements must be in conformance with the requirements of the Americans with Disabilities Act, the Transportation Development Code and the provisions of the Transportation Department Design Manual. The engineering plans must correctly show all transportation-related engineering details, including but not limited to, driveway connection to 106<sup>th</sup> Ave SE, pavement restoration in 106<sup>th</sup> Ave SE, earth berm removal, removal of paved parking surface in property frontage, mailbox location, and sight distance. Appropriate standard drawings from the Transportation Department Design Manual must be included in the engineering plans.

Specific requirements are detailed below:

- Landings on sloping approaches are not to exceed a 10% slope for the first 20 feet.
- Vehicle sight distance must be provided per BCC 14.60.240. A note regarding sight distance must be provided on the plan sheet
- Removal of the existing earth berm on 106<sup>th</sup> Ave SE
- Relocation of mail boxes on 106<sup>th</sup> Ave SE to provide necessary sight distance. Coordinate with the Post Master regarding the new location and show it in the plans.
- New driveway to Lot 2. The driveway must be constructed as per standard drawing DEV 7B
- Transportation Department Standard Construction notes must be provided on the plans

AUTHORITY: Bellevue City Code 14.60; Transportation Department Design Manual; and Transportation Department Design Manual Standard Drawings DEV 7B.  
REVIEWER: Rohini Nair, Transportation Department

### **4. Sight Distance**

If necessary to meet the sight distance requirements of BCC 14.60.240 and standard drawing TE-1, existing vegetation near the access points on 106<sup>th</sup> Ave SE must be trimmed and obstacles to the sight distance must be removed or relocated. Ground vegetation within the sight triangle must be trimmed to no more than 2.5 feet above a line drawn from pavement level to pavement level. Trees within the sight triangle must be limbed up to a height of 7.5 feet above a line drawn from pavement level to pavement level. A description of any required vegetation trimming and/or obstacle removal and relocation must be shown on a sheet of the clearing and grading plan set.

AUTHORITY: Bellevue City Code 14.60.240  
REVIEWER: Rohini Nair, Transportation Department

### **5. Pavement Restoration**

The city's pavement manager has determined that this segment of 106<sup>th</sup> Avenue SE will require Standard Trench Restoration for any utility connections or other digging in the street surface. Trench restoration must meet the requirements of Section 21 of the Design Manual and standard drawings ROW-1 through ROW-5. Exact copies of the appropriate trench restoration drawing(s) must be included in the final engineering plans.

AUTHORITY: Bellevue City Code 14.60.250 and Design Manual Design Standard # 21

REVIEWER: Tim Stever, Transportation Department

### **6. Tree Protection**

To mitigate adverse impacts during all construction to the trees to be retained and trees on adjacent properties, the applicant must comply with the following:

- a. Clearing limits shall be established for retained trees within the developed portion of the site and within the public right-of-way, outside of the drip lines. Six-foot chain link fencing with driven posts, or an approved alternative, shall be installed at the clearing limits (outside of the drip lines) prior to initiation of any clearing and grading.
- b. No excavation or clearing shall be performed within drip lines of retained trees except as specifically approved on plans. All such work shall be done by hand to avoid damage to roots and shall be done under the supervision of an arborist approved by the City.
- c. Protection must also be provided for any trees on adjacent properties. Protection shall be provided around the portion of the drip lines that overhang the proposal property.

AUTHORITY: Bellevue City Code 23.76.060

REVIEWER: David Pyle, Development Services Department

## **C. PRIOR TO FINAL SHORT PLAT APPROVAL:**

### **1. Infrastructure Improvements**

All transportation improvements shown in the final engineering plans or required by city codes and standards must be either completed prior to approval of the final short plat or provided for with a financial assurance device. Completion of the top lift and all other transportation infrastructure items prior to completion of the homes associated with the development is allowed.

Land Use Code Section 20.40.490 allows a developer to obtain final short plat approval prior to finishing improvements with provision of an acceptable financial assurance device equivalent to 150% of the cost of unfinished infrastructure improvements. Provision of such an assurance device requires completion of the improvements by the developer within two years of final short plat approval. Installation of improvements that would negatively affect safety if left unfinished may not be delayed through use of a financial assurance device. Partial reductions of the financial assurance device will not be approved except in special circumstances, determined in advance, such as phased projects.

Improvements must be approved by the Transportation Department inspector before they are deemed complete. At completion of all transportation infrastructure items, the developer must provide a two year maintenance assurance device equivalent to 20% of the value of the transportation infrastructure improvements, dating from the acceptance of the improvements.

AUTHORITY: Bellevue City Code 14.60.100, 110, 130, 150, 170, 190, 210, 240, 241; LUC 20.40.490

Transportation Department Design Manual Sections 3, 4, 5, 7, 11, 14, 19

REVIEWER: Rohini Nair, Transportation Department

## **2. Access Design and Maintenance**

The final short plat shall show and describe the proposed public easement north of the existing driveway to Lot 1 that allows access to the Community Beach access located to the north of the site.

AUTHORITY: BCC 14.60.130

REVIEWER: Rohini Nair, Transportation Department

## **3. Retained Tree Marking**

The final short plat shall number and label all trees to be retained. Trees identified for retention must be field marked with City approved retained tree identification tags. All tree protection must be in place prior to the release of the final short plat mylar for recording.

AUTHORITY: BCC 23.76.060

REVIEWER: David Pyle, Development Services Department

### **Attachments:**

1. Project Comment Letters – In project file
2. Parties of Record – In project file
3. Site Survey, Plans, and Title Report – In project file