



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

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**Proposal Name:** Bayshore East Condominiums Landscaping

**Proposal Address:** 331 101st Ave SE

**Proposal Description:** Shoreline Substantial Development Permit approval of landscaping improvements and the replacement of irrigation and drainage systems on Lake Washington. The project includes work within shoreline critical areas buffers.

**File Number:** 09-118659-WG

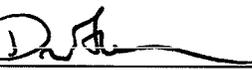
**Applicant:** Betty Mastropoele

**Decisions Included:** Shoreline Substantial Development Permit (Process II, LUC 20.30R)

**Planner:** Drew Folsom, Planner

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

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

By:   
Drew Folsom, Land Use Planner

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**Application Date:** June 22, 2009  
**Notice of Application Publication Date:** August 6, 2009  
**Decision Publication Date:** February 25, 2009  
**Project/SEPA Appeal Deadline:** March 18, 2009  
The Shoreline Hearings Board must receive written appeals within twenty-one (21) days of the date of filing of the permit with the State Department of Ecology.

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For information on how to appeal a proposal, visit Service First 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.

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**I. Proposal Description**

The applicant is requesting approval of a Shoreline Substantial Development Permit to remove and replace existing landscaping including some drainage and irrigation replacement. The project includes the replanting of existing lawn, the replacement and minor reconfiguration of existing pathways, replacement of lighting bollards, and the removal of approximately 412 square feet of pavement to be replaced with native vegetation. The proposed work is within 200 feet of the ordinary high water mark of Lake Washington and therefore located within the Shoreline Overlay District. The value of the proposed work is approximately \$150,000, excluding design and permit fees, which exceeds the valuation threshold (\$5,718) for an exemption from the Shoreline Substantial Development Permit requirements.

**II. Site Description, Zoning, Land Use and Critical Areas**

**A. Site Description**

The project site is approximately 4.87 acres, located in the R-20 zoning district. The site is currently developed with multifamily condominiums. Historically, the area between the condominiums and the shoreline has been developed with lawn, concrete pathways, and landscaped areas. Meydenbauer Creek flows through the site to Meydenbauer Bay. The majority of the stream is below grade in a pipe with a small open segment located in the eastern portion of the site. No disturbance is proposed within the stream or the open stream buffer. The site is accessed from 101st Ave SE.

The majority of the properties next to the site are developed with multifamily residences. South of the site are two properties developed with single family residences. Meydenbauer Bay (Lake Washington) borders the site to the northwest.



## **B. Zoning**

The property is located in the R-20 zoning district, Shoreline Overlay District, Critical Areas Overlay District, and Transition Area Design District. The proposed development is permitted with a Shoreline Substantial Development Permit.

## **C. Comprehensive Plan Designation**

The site is located in the Southwest Bellevue Subarea, and is designated Multi-Family Medium per the Comprehensive plan. Therefore, the existing condominium use conforms to the Comprehensive Plan, and the proposed landscaping improvements are consistent with the existing use.

## **D. Critical Areas Function and Value, Regulations**

### **i. Shorelines**

Shorelines provide a variety of functions including shade, temperature control, water purification, woody debris recruitment, channel, bank and beach erosion, sediment delivery, and terrestrial-based food supply (Gregory et al. 1991; Naiman et al. 1993; Spence et al. 1996).

Shorelines provide a wide variety of functions related to aquatic and riparian habitat, flood control and water quality, economic resources, and recreation, among others. Each function is a product of physical, chemical, and biological processes at work within the overall landscape. In lakes, these processes take place within an integrated system (ecosystem) of coupled aquatic and riparian habitats (Schindler and Scheuerell 2002). Hence, it is important to have an ecosystem approach which incorporates an understanding of shoreline functions and values. The discussion presented herein emphasizes this ecosystem approach.

### **ii. Shoreline Overlay District/Shoreline Substantial Development Permit**

The Shoreline Overlay District regulations (LUC 20.25E) allow for the proposed development, provided that the applicable performance standards in LUC 20.25E.080 are met. A Shoreline Substantial Development Permit is required because the value of the work is approximately \$150,000 and the threshold for exempting this requirement is \$5,000.

## **III. Consistency with Land Use Code Requirements:**

### **A. Zoning District Dimensional Requirements:**

The proposed project complies with the dimensional requirements for the R-20 zoning district, (LUC 20.20.010). The proposed project area has existing landscaping and concrete pathways, there would be no increase in lot coverage by structure, a net decrease of impervious surface, and no reduction in the number of parking stalls.

**B. Critical Areas Requirements LUC 20.25H:**

The City of Bellevue's Shoreline Overlay District requirements (LUC 20.25E) establish standards and procedures that apply to all development within 200 feet of Lake Washington's shoreline, plus associated floodways, floodplains, marshes, bogs, swamps, and river deltas.

The proposed project is located within 200 feet of Lake Washington shoreline, which requires the performance standards identified below to be met:

Critical Area	Performance Standards
Shorelines	20.25E.080.B

**i. Shorelines - General Regulations Applicable to All Land Use Districts and Activities**

- 1. Where applicable, all federal and state water quality and effluent standards shall be met.**

No effluent discharge is expected. No degradation of surface water or Lake Washington is expected. The proposed work location is within area with existing lawn, landscaping, and walkways. The City will ensure that on-site water quality is maintained through clearing and grading permit review and inspections.

- 2. If a property extends into the Shoreline Overlay District, the Shoreline Master Program Policies and these use regulations shall apply only to that portion of the property lying within the Shoreline Overlay District.**

The majority of the project area is within the Shoreline Overlay District and therefore the project is governed by the Shoreline Master Program policies.

- 3. All development within the Shoreline Overlay District shall be accompanied by a plan indicating methods of preserving shoreline vegetation and for control of erosion during and following construction in accordance with Part 20.25H LUC, City of Bellevue Clearing and Grading regulations, Chapter 23.76 BCC, and the Comprehensive Plan.**

Vegetation removal is limited to replacing existing lawn and ornamental landscaped areas. A Clearing and Grading permit with erosion control measures will be required prior to beginning the project. See Section X for related conditions of approval.

- 4. Special care shall be exercised to preserve vegetation in wetland, shoreline and stream corridor bank areas in order to prevent soil erosion. Removal of vegetation from or disturbance of shoreline**

**critical areas and shoreline critical area buffers, and from other critical area and critical area buffers shall be prohibited, except in conformance with Part 20.25H LUC and the specific performance standards of this section.**

The proposed vegetation removal is limited to replacement of lawn and landscaped areas with new vegetation. In addition, asphalt will be removed within an approximately 400 square foot area located within the shoreline buffer. This area will be replanted with three tiers of native vegetation. See Section X for related condition of approval.

- 5. Maximum height limitation for any proposed structure within the Shoreline Overlay District shall be 35 feet, except in land use districts with more restrictive height limitations. The method of measuring the maximum height is described in WAC 173-14-030(6). Variances to this height limitation may be granted pursuant to Part 20.30H LUC.**

No structures are proposed as part of this permit.

- 6. The Bellevue Shoreline Master Program, in conjunction with existing Bellevue land use ordinances and Comprehensive Plan policies, shall guide all land use decisions in the Shoreline Overlay District.**

The proposed project is consistent with the Bellevue Shoreline Master Program and conforms to the applicable the Comprehensive Plan policies. Policy EN-16 of the Environmental Element restricts development in the Shoreline Overlay District to have the least impact on a critical area. The proposal conforms to this policy because the proposed work involves the removal and replacement of existing landscaping, and existing walkways. The proposal also involves the removal of existing pavement and replacement with native vegetation.

- 7. Any development within the Shoreline Overlay District shall comply with all applicable Bellevue ordinances, including but not limited to the Bellevue Land Use Code, Sign Code, and clearing and grading regulations.**

The proposed project complies with all applicable Bellevue ordinances and regulations.

- 8. The dead storage of watercraft seaward of the ordinary high water mark of the shoreline is prohibited.**

No dead storage of watercraft will occur as a result of the proposed project.

9. **Where applicable, state and federal standards for the use of herbicides, pesticides and/or fertilizers shall be met, unless superseded by City of Bellevue ordinances. Use of such substances in the shoreline critical area and shoreline critical area buffer shall comply with the City's "Environmental Best Management Practices."**

The proposal will limit the use of herbicides, pesticides and/or fertilizers and will be compatible with the City's "Environmental Best Management Practices." See Section X for related conditions of approval.

10. **Adequate storm drainage and sewer facilities must be operational prior to construction of new development within the Shoreline Overlay District. Storm drainage facilities shall be separated from sewage disposal systems.**

Adequate storm drainage and sewage is operational. No new development is proposed.

ii. **Shorelines - Clearing and Grading Regulations**

1. **All clearing, grading, excavating, and fill in the Shoreline Overlay District shall comply with the provisions of Chapter 23.76 BCC, now or as hereafter amended.**

As a condition of approval, a clearing and grading permit is required and must comply with BCC 23.76. See Section X for related conditions of approval.

2. **No clearing, grading, excavating, or fill shall be allowed within the shoreline critical area or shoreline critical area buffer except as permitted by this Part 20.25E, or in association with activities allowed under Part 20.25H LUC.**

Clearing and grading within the shoreline critical area buffer is limited to replacement of existing landscaping vegetation and maintenance of walkways, planting of native vegetation, and removal of asphalt as allowed in Part 20.25E and Part 20.25H. LUC.

3. **Wherever the City determines that the act or intended act of clearing, grading, excavation or fill has become or will constitute a hazard to life or limb, or endangers property, or adversely affects the safety, use of, or stability of a public way, drainage channel or natural stream corridor, including siltation and sedimentation therein, the owner of the property upon which the clearing, excavation or fill is located or other person or agent in the City shall, within the period specified therein, terminate such clearing, grading, excavation, embankment or fill, or eliminate the**

**same from the development plan, or modify the plans, as may be required so as to eliminate the hazard and be in conformance with the requirements of this Code.**

A clearing and grading permit is required and may be revoked if the activity undertaken is not limited to that approved in the permit. See Section X for related conditions of approval.

#### **IV. Public Notice and Comment**

Application Date:	June 22, 2009
Notice of Application:	August 6, 2009
Minimum Comment Period:	September 3, 2009

The Notice of Application for this project was published in the Seattle Times and the City of Bellevue weekly permit bulletin on June 22, 2009. It was mailed to property owners within 500 feet of the project site. Several comments have been received from the public as of the writing of this staff report.

The comments expressed the desire for more extensive planting of the shoreline buffer, concern with the plant species within the Meydenbauer stream buffer, new or modified crossings of Meydenbauer Creek, and lighting.

#### **City Response:**

The vegetation plans as submitted details the removal of approximately 412 square feet of asphalt within the shoreline buffer. This area will be replanted with 3 tiers of native vegetation including trees, shrubs and groundcover. The applicant also proposes to plant some low growing ground cover predominantly western iris and coastal strawberry in several additional areas within the shoreline buffer. The comment suggested removing additional area of existing lawn near the shoreline and replanting this area with native vegetation. As part of the approval process the City reviewed the scope of the proposed project in light of the proposed replanting with native vegetation. Based on the review of the scope of the project and the proposed replanting plan the City feels the proposal is appropriate to mitigate the disturbance of the shoreline buffers. No additional shoreline buffer mitigation planting will be required.

The proposal was revised and clarified to demonstrate that no disturbance of the Meydenbauer Creek stream buffer is proposed. This includes no new or modified changes to any of the stream crossings.

The applicant will be required to install lighting which directs light downward and which shields the source of light from visibility at the property line. The exterior lighting fixtures shall be shielded to prevent spillover of light beyond the property.

See conditions of approval in Section X.

## **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.

### **B. Utilities**

The Utilities Department has reviewed the proposed site development for compliance with Utility codes and standards. The Utilities staff found no issues with the proposed development.

## **VI. State Environmental Policy Act (SEPA)**

**Exempt per BCC 22.02.045**

## **VII. Changes to Proposal Due to Staff Review**

- Additional planting of shoreline plants
- Removal of asphalt area and replanting with native vegetation

## **VIII. Decision Criteria**

### **A. LUC 20.30R.155.B Shoreline Substantial Development Permit – Decision Criteria**

The Director may approve, or approve with modifications 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;**

As discussed in this staff report, the applicant has produced evidence that the proposal is consistent with applicable code requirements and merits approval with conditions.

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

The proposal complies with all applicable decision criteria.

- 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.**

As demonstrated in this staff report, the proposal complies with the policies of the Shoreline Management Act and Chapter 173-14 WAC (Now 173-27) of the Master Program.

#### **IX. Conclusion and Decision**

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, City Code and Standard compliance reviews, the Director of the Development Services Department hereby **approves with conditions** the proposed landscaping improvements. **Approval of this Shoreline Substantial Development Permit does not constitute a permit for construction.** The required clearing and grading permit is required and all plans are subject to review for compliance with applicable City of Bellevue codes and standards.

**Expiration of Approval:** In accordance with LUC 20.30R.175, the Shoreline Substantial Development Permit automatically expires and is void if the applicant fails to file for the other necessary development permits and fails to make substantial progress towards completion of the project within two years of the approval date of the Shoreline Substantial Development Permit, unless an extension is granted per LUC 20.30R.180.

#### **X. Conditions of Approval**

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

<u>Applicable Ordinances</u>	<u>Contact Person</u>
Clearing and Grading Code- BCC 23.76	Janney Gwo, 425-452-6190
Utilities – BCC Title 24	Robert Hutchinson, 425-452-7903
Land Use Code- BCC Title 20	Drew Folsom, 425-452-4441
Noise Control- BCC 9.18	Drew Folsom, 425-452-4441

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

- 1. Clearing and Grading Permit Required:** Prior to the commencement of activity, a Clearing and Grading permit is required and must comply with BCC 23.76.

Authority: Land Use Code 20.25E.080.Q.6

Reviewer: Drew Folsom, Development Services Department

- 2. Erosion and Sediment Control:** The site must be managed according to an approved erosion control plan to be evaluated during review of clearing and grading permit. 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 to the adjacent shoreline. A silt curtain may be required for aquatic plantings. The applicant will also be required to submit information regarding the use of pesticides, insecticides, and fertilizers to avoid impacts to water resources.

Authority: Bellevue LUC 23.76.090

Reviewer: Drew Folsom, Development Services Department

- 3. Planting Plan:** The applicant shall implement the planting plan that includes mitigation planting. Any modifications to this plan dated January 7, 2010 must be reviewed and approved by the Development Services Department.

Authority: Land Use Code Section 20.25E.080.B.4

Reviewer: Drew Folsom, Development Services Department



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. 09-118659-WG

Date Received 6/22/09

Approved / Date 2/25/10  
 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: **Betty Mastropoele**

to undertake the following development:

Landscaping improvements. The proposa includes landscaping improvements and the replacement of irrigation and drainage systems on Lake Washington. The project includes work within shoreline critical areas buffers.

upon the following property: **331 101st 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:

- Land Use Code(LUC) Section 20.25E.080(B)General Regulations Applicable to all Land Use Districts & Activities:
- LUC Section 20.25E.080 (N) Moorage Regulations; LUC Section 20.30R.155 Shoreline Substantial Development Permit
- Bellevue Comprehensive Plan, Shoreline Management Program Element, Policy SH-13 and SH-50

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

1. **Clearing and Grading Permit Required:** Prior to the commencement of activity, a Clearing and Grading permit is required and must comply with BCC 23.76.  
 Authority: Land Use Code 20.25E.080.Q.6  
 Reviewer: Drew Folsom, Development Services Department
2. **Erosion and Sediment Control:** The site must be managed according to an approved erosion control plan to be evaluated during review of clearing and grading permit. 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 to the adjacent shoreline. A silt curtain may be required for aquatic plantings. The applicant will also be required to submit information regarding the use of pesticides, insecticides, and fertilizers to avoid impacts to water resources.  
 Authority: Bellevue LUC 23.76.090  
 Reviewer: Drew Folsom, Development Services Department
3. **Planting Plan:** The applicant shall implement the planting plan that includes mitigation planting. Any modifications to this plan dated January 7, 2010 must be reviewed and approved by the Development Services Department.  
 Authority: Land Use Code Section 20.25E.080.B.4  
 Reviewer: Drew Folsom, Development Services Department

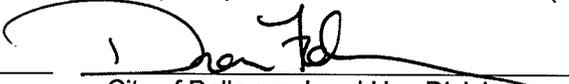
This permit is granted pursuant to the Shoreline Management Act of 1971 and nothing in this permit shall excuse the applicant from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project, but not inconsistent with the Shoreline Management Act (Chapter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

February 25, 2009

Date



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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