



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

Proposal Name: Murstein Toe-of-Slope Setback Modification

Proposal Address: 12412 NE 27th St.

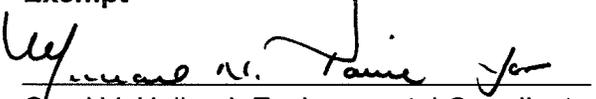
Proposal Description: Land Use review of a proposal to modify the 75-foot toe-of-slope structure setback from steep slopes in order to repair an existing septic system.

File Number: 09-118814-LO

Applicant: Michael Murstein, Property Owner

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

Planner: Reilly Pittman, Land Use Planner

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

Carol V. Helland, Environmental Coordinator
Development Services Department

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

By: Carol V. Helland, Land Use Director

Application Date: June 25, 2009
Notice of Application Date: July 9, 2009
Decision Publication Date: July 30, 2009
Project/SEPA Appeal Deadline: August 13, 2009

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.

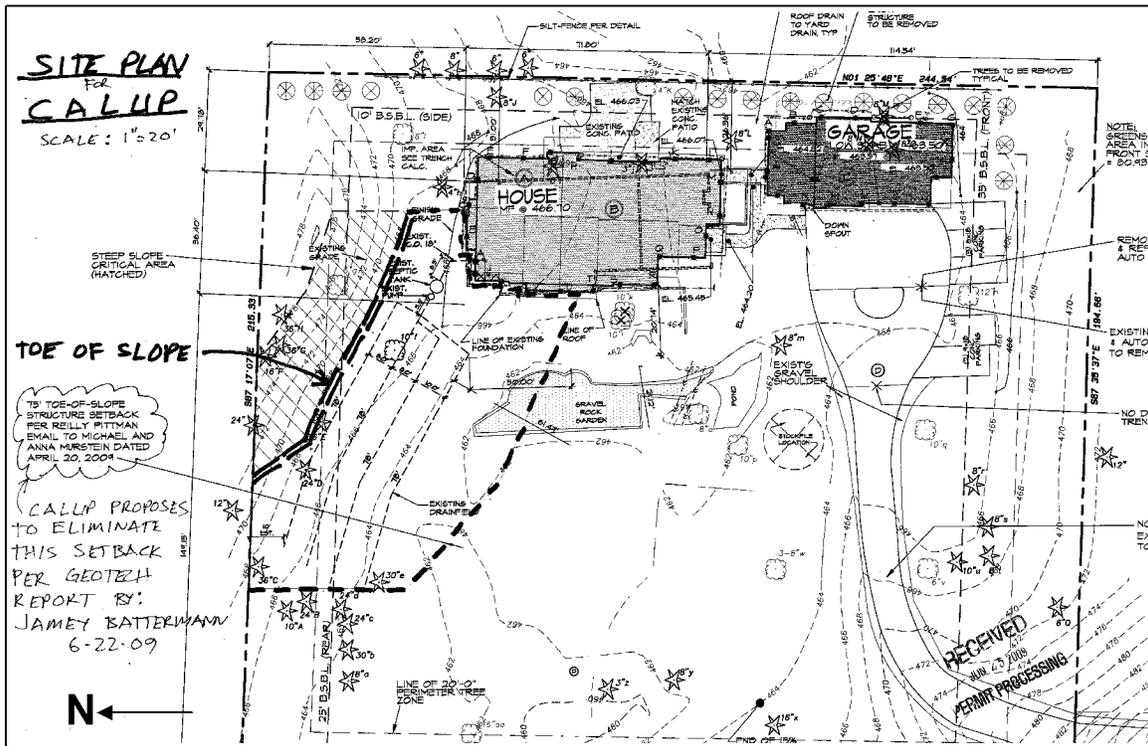
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I. Proposal Description

The applicant proposes to do repair, maintenance, and potential resizing of an existing septic system located within a 75-foot toe-of-slope structure setback. The septic system is associated with an existing single-family residence. Work is required on the septic system to ensure it meets current requirements as the existing residence is to be demolished and rebuilt. A Critical Area Land Use Permit is required to approve temporary disturbance and modification of the toe-of-slope setback on the site in order to allow the septic work. See Figure 1 below for a site plan.

Figure 1



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

A. Site Description

The project site is located at 12412 NE 27th St. in the Bridle Trails subarea of the City. The site is located in the NE quadrant of Section 21, Township 25 North, Range 5 East. The site is surrounded by other single-family zoned property on all sides. In addition the property is partially adjacent to the Pikes Peak Open Space to the northwest. The property gains vehicle access from an access easement which crosses the property to the south and connects to NE 27th St. The site is generally at the east end of a ravine that runs the length of the Pikes Peak Open Space and has slopes along the northern, eastern, and southern property lines which slope down toward the subject property. See figure 2 for existing site condition.

Figure 2



B. Zoning

The property is zoned R-1, single-family residential and is located in the Critical Areas Overlay District. The surrounding properties are also zoned R-1 which is the primary zoning designation found in the Bridle Trails area. Properties zoned R-2.5 exist a few lots away to the southeast of the site but are not adjacent. The proposed work to improve the existing septic system is an allowed activity associated with a single-family use in the R-1 zone.

C. Land Use Context

The property has a Comprehensive plan Land Use Designation of SF-L (Single Family Low Density). Construction on septic systems is consistent with single-family land uses.

D. Critical Areas On-Site and Regulations

i. Geologic Hazard Areas

Geologic hazards pose a threat to the health and safety of citizens when commercial, residential, or industrial development is inappropriately sited in areas of significant hazard. Some geologic hazards can be reduced or mitigated by engineering, design, or modified construction practices. When technology cannot reduce risks to acceptable levels, building in geologically hazardous areas is best avoided (WAC 365-190).

Steep slopes may serve several other functions and possess other values for the City and its residents. Several of Bellevue's remaining large blocks of forest are located in steep slope areas, providing habitat for a variety of wildlife species and important linkages between habitat areas in the City. These steep slope areas also act as conduits for groundwater, which drains from hillsides to provide a water source for the City's wetlands and stream systems. Vegetated steep slopes also provide a visual

The wetland is adjacent to the Pike Peak Open Space which increases the potential habitat score of the wetland to be a probable category III wetland with a 60-foot buffer. The existing septic system is located outside of the wetland buffer and all work on the site will remain outside of the buffer. As a result, no formal evaluation of the wetland was required during review. In addition any drainage system required during the course of Utility Department review shall not be placed within the wetland buffer without Land Use approval. Any future development on the site may require the wetland to be evaluated and formally classified. See Conditions of Approval in Section IX of this report.

iii. Critical Areas Overlay District/Critical Area Land Use Permit

A Critical Area Land Use Permit (CALUP) is required as the applicant is requesting to modify the 75-foot toe-of-slope setback from the area of steep slopes adjacent to the site to work on an existing septic system. This work can only be approved through a critical area report submitted under a CALUP to modify the toe-of-slope setback.

III. Consistency with Land Use Code Requirements:

A. Zoning District Dimensional Requirements:

The R-1 zoning dimensional requirements found in LUC 20.20.010 do not apply to this request as no structure is proposed. A new single-family residence is proposed to be constructed on the site within the footprint of the existing residence. Per LUC 20.25H.035.B, if an existing residence is located in a structure setback from critical area or buffer and is demolished it can be rebuilt within the footprint of the pre-existing structure without needing a Critical Area Land Use Permit. The proposed new residence will be evaluated for conformance with zoning requirements as part of the required building permit review. This proposal to modify the toe-of-slope setback is only to allow work on the existing septic system. See Conditions of Approval in Section IX of this report.

B. Critical Areas Requirements LUC 20.25H:

The City of Bellevue Land Use Code Critical Areas Overlay District (LUC 20.25H) establishes performance standards and procedures that apply to development on any site which contains in whole or in part any portion designated as critical area, critical area buffer or structure setback from a critical area or buffer. The project area is within the 75-foot toe-of-slope setback from a steep slope critical area and is subject to the performance standards found in LUC 20.25H as specified in the table below

Critical Area	Geologic Hazard- Steep Slopes
Performance Standards	20.25H.230 20.25H.140.B

i. Consistency With LUC 20.25H.230 and LUC 20.25H.140.B

Modification of a toe-of-slope setback requires a critical areas report as part of the application for a Critical Area Land Use Permit. As this is a proposal to reduce the

required 75-foot toe-of-slope structure setback the applicant has obtained the services of a qualified geotechnical engineering company to study the site and document the observed conditions. Staff has reviewed the following documents:

- Critical Area Slope Assessment letter dated June 22, 2009 prepared by Battermann Geotechnical Consulting

This geotechnical analysis indicates that the slope is currently stable and that the proposed septic maintenance will not impact the slope provided that the septic system is not extended into the steep slope. The septic system is currently located beneath a managed and maintained lawn area which provides little to no habitat value. The submitted geotech analysis only reviewed the toe-of-slope modification in relation to the septic system and therefore future development on the site may require further geotechnical evaluation. See Conditions of Approval in Section IX of this report.

IV. Public Notice and Comment

Application Date:	June 25, 2009
Public Notice (500 feet):	July 9, 2009
Minimum Comment Period:	July 23, 2009

The Notice of Application for this project was published the City of Bellevue weekly permit bulletin on July 9, 2009. It was mailed to property owners within 500 feet of the project site. No comments were received.

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.

VI. Changes to Proposal Due to Staff Review

Staff had no revision comments on the project.

VII. Decision Criteria

A. 20.25H.255 Critical Areas Report – Decision Criteria – General

The Director may approve, or approve with modifications, the proposed modification where the applicant demonstrates:

1. The modifications and performance standards included in the proposal lead to levels of protection of critical area functions and values at least as protective as application of the regulations and standards of this code;

The performance standards related to steep slopes are being met by this proposal as no critical area or critical area buffer is proposed to be modified. Only lawn area which provides little habitat value will be temporarily impacted. Once work on the septic system is completed the area will be restored back to lawn area and will continue to function as a septic drain system.

2. Adequate resources to ensure completion of any required mitigation and monitoring efforts;

No mitigation is required as no critical area or buffer is being impacted. The affected area will be restored to lawn area following temporary construction.

3. The modifications and performance standards included in the proposal are not detrimental to the functions and values of critical area and critical area buffers off-site;

Per the submitted geotechnical analysis the proposed septic work will not impact the stability of the steep slope. In addition, no work is proposed within the vicinity of the nearby wetland. A condition of approval will require that no work occurs within the 60-foot buffer of the wetland. See Conditions of Approval in Section IX of this report.

4. The resulting development is compatible with other uses and development in the same land use district.

Properties in the vicinity also use septic systems which the proposed activity is consistent with.

B. 20.30P.140 Critical Area Land Use Permit Decision Criteria – Decision Criteria

The Director may approve, or approve with modifications an application for a Critical Area Land Use Permit if:

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

The applicant must obtain a building permit and utility permits. See Conditions of Approval in Section IX of this report.

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;

The existing septic system will remain in its current location with potential sizing changes to conform with current requirements. The septic system is not proposed to be located in any critical area or buffer.

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

As discussed in Section III of this report, the applicable performance standards of LUC Section 20.25H are being met.

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

The proposed activity will not affect public services or facilities.

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

No mitigation has been required as the proposal is not affecting any critical area or critical area buffer. The area disturbed by the septic work is currently lawn and will be restored to lawn after work is completed.

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

As discussed in this report, the proposal complies with all other applicable requirements of the Land Use Code.

VIII. 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 does hereby **approve with conditions** the modification of the 75-foot toe-of-slope structure setback to allow work on an existing septic system. **Approval of this Critical Areas Land Use Permit does not constitute a permit for construction. A building permit, clear and grade permit, and/or utility permit is required and all plans are subject to review for compliance with applicable City of Bellevue codes and standards.**

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 building permit or other necessary development permits within one year of the effective date of the approval.

IX. 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	Savina Uzunow, 425-452-7860
Land Use Code- BCC Title 20	Reilly Pittman, 425-452-4350
Noise Control- BCC 9.18	Reilly Pittman, 425-452-2973

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

- 1. Work Area Restriction:** No work is allowed under this approval to occur within the wetland or wetland buffer depicted in section II of this report. Future development on this site may require further geotechnical evaluation. Applicant shall clearly depict the no work area on plans associated with future permits for this proposal.

Authority: Land Use Code 20.30P.140
Reviewer: Reilly Pittman, Development Services Department

- 2. Wetland Evaluation:** No drainage systems are allowed under this approval within the wetland buffer area. A storm permit will be required under Utility Department review to review the proposed drainage system for this site. Use of natural drainage practices on this site is recommended, subject to Utility Dept. review. Any future development including repair or expansion of existing development or systems on this site may require evaluation of the wetland as part of a Critical Area Land Use Permit.

Authority: Land Use Code 20.25H.095
Reviewer: Reilly Pittman, Development Services Department

- 3. Building Permit or Clear and Grade Permit Required:** Approval of this Critical Areas Land Use Permit does not constitute an approval of a development permit. Application for a building permit or a clear and grade permit must be submitted and approved. Plans submitted as part of either permit application shall be consistent with the activity permitted under this approval.

Authority: Land Use Code 20.30P.140
Reviewer: Reilly Pittman, Development Services Department

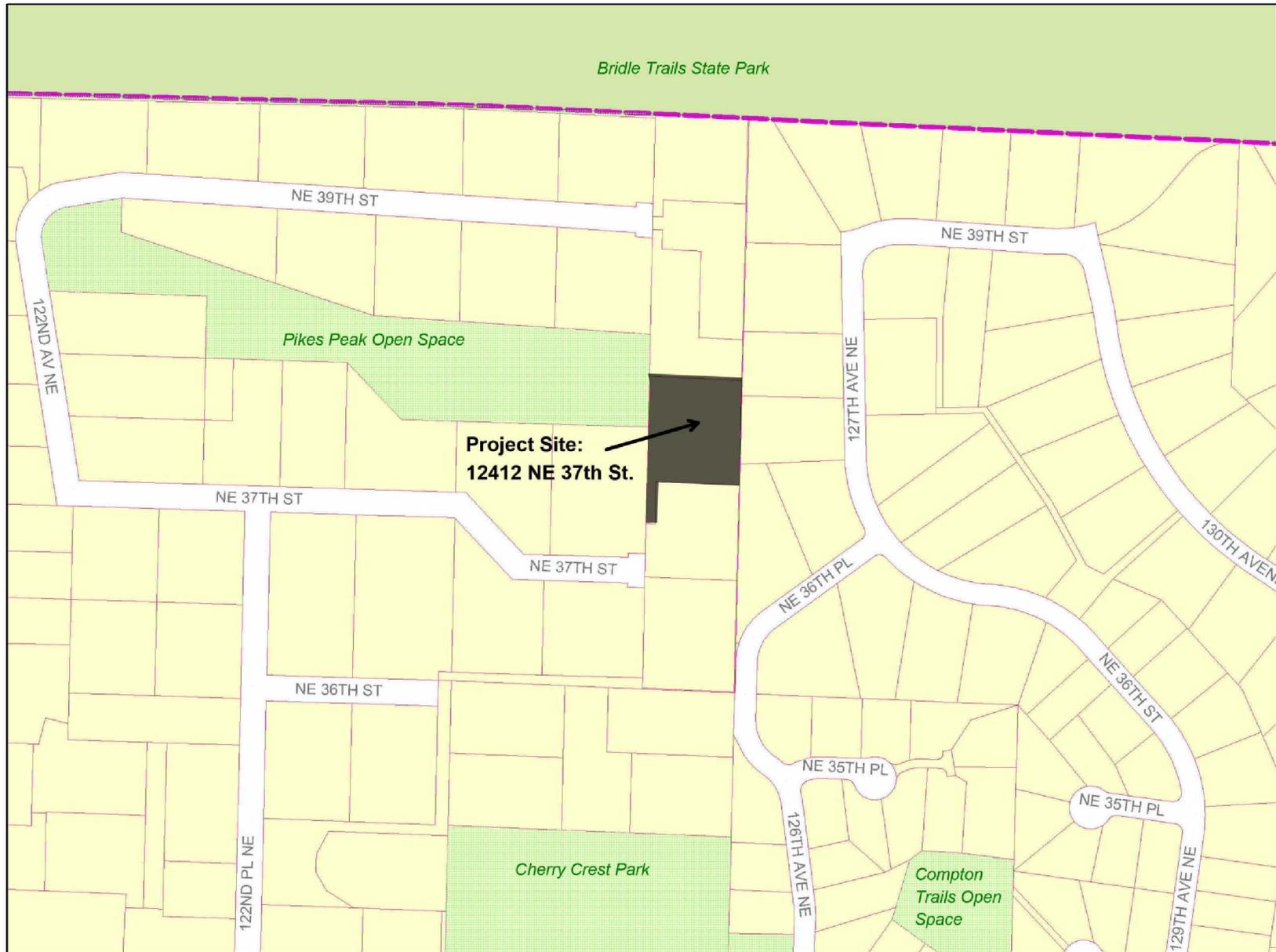
- 4. Noise Control:** Noise related to construction is exempt from the provisions of BCC 9.18 between the hours of 7 am to 6 pm Monday through Friday and 9 am to 6 pm on Saturdays, except for Federal holidays and as further defined by the Bellevue City Code. Noise emanating from construction is prohibited 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: Reilly Pittman, Development Services Department

X. Attachments:

1. Critical Area Slope Analysis and Site Plan - Enclosed

Murstein Toe-Slope Structure Setback Modification Vicinity Map





June 22, 2009
Project No. 09012

Mr. Michael Murstein
12412 NE 37th Street
Bellevue, WA 98005-1215

Subject: Critical Area Slope Assessment
Murstein Residence
12412 NE 37th Street
Bellevue, Washington

Battermann Geotechnical Consulting, pllc was requested to provide a geotechnical assessment of the minor area of 40 percent slope near the northeast corner of the subject property. We understand that you are planning on constructing a new single family residence to replace the existing single family residence onsite and that the City of Bellevue has requested a geotechnical engineering review of this critical area. The new residence will occupy the same basic footprint as the existing residence near the middle of the east side of the property. A short, approximate 10 to 12 foot high segment of slope to the north of the residence location was at an inclination slightly steeper than 40 percent which qualifies the slope as a critical area per the City code. The existing septic drainfield for the residence is located at the toe of this slope and may require maintenance as part of the new development plans. We performed a visual geological hazards reconnaissance of the site and the results of our review are contained in the following letter.

The subject property was located at 12412 NE 37th Street in the Pikes Peak neighborhood of Bellevue, Washington. The property was located in a shallow east-west trending draw with a flat bottom and moderate side slopes. The majority of the slope to the north of the residence was at slope inclinations of 20 to 30 percent. There is a minor, short segment at the toe of this slope that was at an inclination of about 50 to 60 percent. The slope was covered with a thick growth of 12 to 24 inch diameter fir trees except for the steep section where the trees are much smaller and were congruous with the landscaping around the yard.

We performed a geologic hazard reconnaissance of the slope on June 22, 2009. We did not observe any evidence of past or current slope instability on the slope. There was no evidence of old head scarps, debris flow channels, hummocky topography, or tension cracks. The tree trunks were primarily straight with minimal "pistol butt" tree trunks which is an indication of little soil creep on the slope. The slope was well vegetated with no exposed soil or evidence of erosion. The upslope area was not extensive extending about 20 to 30 feet above the steep slope segment at an inclination of about 25 percent.

A geologic map of the area indicates that the site is underlain by Vashon glacial till sediments. Soils exposed on the south slope in the driveway cut into the property confirms that the site is underlain by dense, damp to moist, grey, fine to medium sand with some silt, gravel and cobbles. Shallow hand exploration into the near surface soil in the steep slope area revealed a medium dense, damp, orangish brown, fine to medium sand with some gravel and fine silt. The near

BGC, PLLC 14267 209th Avenue NE Woodinville, WA 98077 (425) 273-5062

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surface soil is either the upper weathered glacial till sediments of possibly a thin layer of recessional outwash sand from the retreat of the Vashon glacial ice at.

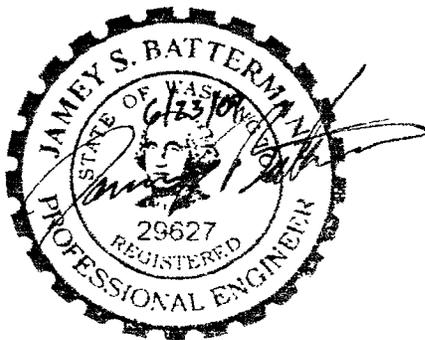
It is our opinion based on our review of the slope and the surrounding area that the slope is in a stable configuration. It is our opinion that the segment of steep slope was man-made from grading for the original residence construction. Based on the dense glacial sediments that underlie the core of the slope and the slope height and slope gradients, the potential for the slope to experience a rotational failure or earthquake induced landslide is low. Based on the moderate slope inclination of the majority of the slope and the relatively low over-all slope length, the potential for a debris flow, mass wasting type slope failure to occur is also low. No grading into the slope is planned as part of the development plans presented to us. Provided that the slope is left in its current configuration, we do not recommend that any setback from the toe of slope be imposed on the development plans.

The current septic drainfield is located at the toe of the north slope within the sandy soils. It is our understanding that this drainfield will continue to be utilized for the new residence but that some maintenance may need to be performed on the system. The system has been functioning without impact to the stability of the slope since its installation and it is our opinion that its continued use will not impact the stability of the slope. The planned maintenance may involve lengthening or replacing some of the dispersal lines within the drainfield. Provided that these lines are not installed higher up the slope than their current location, it is our opinion that the maintenance of the drainfield will not impact the slope.

We trust that this information will aid with the development of your project. If you have questions or require additional geotechnical engineering services, please contact BGC, pllc at (425) 273-5062.

Sincerely

Battermann Geotechnical Consulting, pllc



EXPIRES 11-28-10

Jamey S. Battermann, PE, LG

