



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. 10-123168 WG

Date Received September 23, 2010

Approved / Date 12/9/2010
 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: Brian Valentine

to undertake the following development:
 construction of of a 100 foot long soil nail wall to stabilize the toe of a steep slope

upon the following property: 842 West Lake Sammamish Parkway SE

within 120 feet landward of the ordinary high water mark Lake Sammamish
 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-9 and SH-42

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

Conditions of Approval (Land Use Division)

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This permit may be rescinded pursuant to RCW 90.58.140(8) in the event the permittee fails to comply with the terms and conditions hereof.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).

December 9, 2010

 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 160th Avenue SE, Bellevue, WA 98008-5452



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

Proposal Name: Valentine Slope Stabilization

Proposal Address: 842 West Lake Sammamish Parkway SE

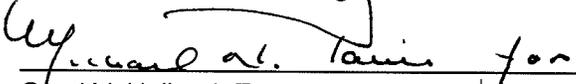
Proposal Description: The applicant requests a Shoreline Substantial Development Permit and Critical Areas Land Use Permit for the construction of a soil nail wall to stabilize the toe of a steep slope critical area that is eroding and presents a failure risk.

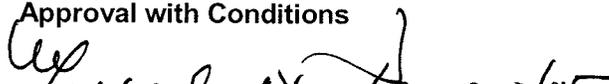
File Number: 10-123168-WG, 10-123167-LO

Applicant: Brian Valentine

Decisions Included: Shoreline Substantial Development Permit
Critical Areas Land Use Permit
(Process II. LUC 20.30R & LUC 20.30P)

Planner: Kevin LeClair, Planner

**State Environmental Policy Act
Threshold Determination:** **Determination of Non-Significance**

Carol V. Helland, Environmental Coordinator
Development Services Department

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

Carol V. Helland, Land Use Director
Development Services Department

Application Date:	September 23, 2010
Notice of Application Publication Date:	October 14, 2010
Decision Publication Date:	December 9, 2010
Project/SEPA Appeal Deadline:	December 30, 2010

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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Attachments

1. Environmental Checklist – in project file
2. Site Plan – in project file

I. Proposal Description

The applicant is requesting a shoreline substantial development permit and a critical areas land use permit for the construction of a soil nail wall at the toe of a steep slope critical area approximately 100 feet long and ranging in height from 15 feet to 25 feet. The reason for the proposed stabilization is to replace a degrading rockery wall with a safer, more permanent solution that prevents continued surface erosion at the top of the wall and protects the down slope property from the risk of slope failure posed by the steep slope above the rockery.

The proposed slope stabilization is located approximately 120 feet from the ordinary high water mark of Lake Sammamish and is within the City of Bellevue's Shoreline Master Program jurisdiction. The Shoreline rules (LUC 20.25E) specify that the proposal is required to obtain a Shoreline Substantial Development permit because the estimated value of construction for the proposed soil nail wall is \$194,000 which exceeds the \$5,718 exemption threshold for development within the shoreline jurisdiction.

The Land Use Code (LUC20.25H.120) defines steep slope critical areas as slopes of 40% or more with rise of 10 feet or more that cover at least 1000 square feet. Slopes meeting this definition, such as the one to be stabilized under this proposal, are afforded a 75-foot toe-of-slope structure setback. LUC 20.25.055 states that "stabilization measures" are an allowed use within provided the performance standards in LUC 20.25H.055.C.3.m and LUC 20.25H.125 are met.

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

A. Site Description

The property, shown below in Figure 1, is located at 842 West Lake Sammamish Parkway SE. The property is approximately 124 feet deep and 75 feet wide and is 10,200 square feet (King County) in size. It is adjacent to single-family properties on the north, south and west. The east side of the property is adjacent to Lake Sammamish.

The property is accessed via a private access easement that exits West Lake Sammamish Parkway in front of 840 West Lake Sammamish Parkway SE, traverses and descends approximately 500 feet to the south before turning to north and traverses another 500 feet.

The property contains a 4,050 square foot single-family residence built in 1975. To the west of the house is a 24-foot wide paved driveway. On the west side of the driveway is an existing 15 foot tall rockery wall that extends up to the toe of a steep slope.

Immediately above the southern end of the rockery is a 5 foot vertical soil face that is devoid of vegetation and showing signs of recent erosion. The balance of the steep

slope on the property above the rockery is vegetated with a mixture of native and invasive shrubs and groundcovers.

Upslope, on the neighboring property to the west, the steep slope continues and contains a mixture of native plants installed as required mitigation and restoration associated with the construction of a single-family residence at the top of slope on 840 West Lake Sammamish Parkway SE (07-142731-LO).



Figure 1: Aerial property view

B. Zoning

The property is zoned R-3.5. The property is also located in the Shoreline Overlay District and the Critical Areas Overlay District.

C. Land Use Context

The property is in the Southeast Bellevue Comprehensive Plan Subarea. The comprehensive plan states goals for the subarea aimed at preserving the residential character of the subarea and protecting the natural landforms, such as slopes and the lakeshore.

D. Critical Areas Functions and Values

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 serve several other functions and possess other values for the City and its residents. Much 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 provides a water source for the City's wetlands and stream systems. Vegetated steep slopes also provide a visual amenity in the City, providing a "green" backdrop for urbanized areas enhancing property values and buffering urban development.

III. Consistency with Land Use Code Requirements:

A. Zoning District Dimensional Requirements:

The site is located in the R-3.5 zoning district. The dimensional standards for the zoning district are as follows:

Front yard setback	20 feet
Rear yard setback	25 feet
Side yard setback	5 feet
2-side yards setback	15 feet

The soil nail wall is proposed to be located within the access easement along the western property line. This is consistent with the LUC 20.20.022, which grants an exception for sidewalks and street improvements, and states "Improvements such as but not limited to rockeries and retaining walls which are required by the City as part of street frontage improvements and which are located on a public easement may be constructed in the setback if no feasible alternative exists." The access easement provides the only access to the properties in this area and the existing rockery to be replaced by the proposed soil nail wall are required to ensure the access easement is allowed to perform its intended purpose. There is no technically feasible alternative to having slope stabilization in this location due to the location of the residential structures and the topography on the site.

B. Consistency with Shoreline Performance Standards LUC 20.25E:

i. General Regulations Applicable to All Land Use Districts and Activities LUC 20.25E.080.B

The proposal is required to comply with the general regulations applicable to all land use districts. The applicant has provided information that demonstrates compliance with the applicable regulations. The applicant will be required to apply for and obtain a single-family building permit for the construction of the soil nail wall. The review and approval of this permit will ensure compliance with the applicable building codes, clearing and grading codes, and state and federal water

quality standards.

The height of the structure will not exceed 25 feet, which is less than the maximum height standard for the land use zoning district.

ii. Clearing and Grading Regulations LUC 20.25E.080.G

The proposal is required to demonstrate compliance with the clearing and grading regulations contained in the Shoreline Master Program. To ensure compliance the proposal will be required to apply for and obtain a single-family building permit prior to construction. The review and approval of this permit will ensure compliance with clearing and grading development code and consistency with the clearing and grading development standards. No work is proposed within the shoreline critical area or critical area buffer.

C. Consistency with Critical Areas Performance Standards LUC 20.25H:

i. Performance standards for stabilization measures LUC 20.25H.055.C.3.m

Proposed stabilization measures within a critical area or critical area buffer to protect steep slopes may be approved in accordance with this structure.

a. When Allowed. New or enlarged stabilization measures shall be allowed only to protect existing primary structures and infrastructure, or in connection with uses and development allowed pursuant to subsection B of this section. Stabilization measures shall be allowed only where avoidance measures are not technically feasible.

The proposed soil nail wall, which is considered a new or enlarged stabilization measure in this location is allowed because it protect the single-family residence east of the paved driveway access, as well as the paved driveway access itself. In addition, there is a single-family residence at the top of the slope which the wall will be supporting.

The applicant has demonstrated that avoidance is not a technically feasible due to the following reasons: 1) the slope is already extremely steep and is exhibiting signs of surface erosion that will likely continue; 2) the access easement is the only feasible access to the residential properties in the immediate vicinity; 3) during the rainy season soil and debris runs through the existing rockery.

b. Type of Stabilization Measure Used. Where a stabilization measure is allowed, soft stabilization measures shall be used, unless the applicant demonstrates that soft stabilization measures are not technically feasible.

The applicant is proposing a hard-stabilization measure because soft-stabilization measure is not feasible for the following reasons: 1) soft-stabilization would increase the amount of temporary and permanent disturbance of the slope due to the extreme steepness of the slope; 2) benching the slope might reduce the stability of the properties north and south of the proposed wall location; 3) cost of a hard stabilization is significantly lower, especially if a landslide was to occur within this location.

ii. Performance standards for steep slopes LUC 20.25H.125

In addition to the performance standards in LUC 20.25H.055, the following performance standards for steep slopes must be met.

- a. Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography;**

The proposed soil nail wall minimizes disturbance to the natural slope above the existing rockery to be replaced. The construction of a tiered wall structure was considered but it would require additional disturbance over a greater area and prevent the installation and growth of certain plants on the slope. It would also require additional monitoring over time to ensure it remains stable.

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

The most critical portion of the site is the steep slope above the wall. The proposed soil nail wall will preserve this by maintaining the slope stabilization in the same location as the existing rockery.

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

Based on the condition of the existing slope, the design of the wall and the engineering calculations used to support its construction, the proposed soil nail wall does not create the need for increased buffers on the neighboring properties.

- d. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes where graded slopes would result in increased disturbance as compared to use of retaining wall;**

The proposed soil nail wall maintains the natural slope area above the wall, as opposed to a tiered structure that would increase the area of disturbance.

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

A small area of impervious surface will be created below the new soil nail wall. The reason for this is to mitigate the risk associated with portion of the slope above the existing rockery that is sloped in excess of 100%. This area presents a high risk and the soil nail wall will be extended up and west to retain this portion of slope. The result will be a small area of new impervious at the toe of the soil nail wall.

- f. Where change in grade outside the building footprint is necessary, the site retention system should be stepped and regrading should be designed to minimize topographic modification. On slopes in excess of 40 percent, grading for yard area may be disallowed where inconsistent with this criteria;**

No changes in grade are proposed outside of the building footprint.

- g. Building foundation walls shall be utilized as retaining walls rather than rockeries or retaining structures built separately and away from the building wherever feasible. Freestanding retaining devices are only permitted when they cannot be designed as structural elements of the building foundation;**

The proposed retaining structure is separated from the existing primary residence. It cannot be incorporated into the structure because it is used to retain the slope above the access easement that serves the property and neighboring properties to the north.

- h. On slopes in excess of 40 percent, use of pole-type construction which conforms to the existing topography is required where feasible. If pole-type construction is not technically feasible, the structure must be tiered to conform to the existing topography and to minimize topographic modification;**

Does not apply. Pole-type construction is not feasible for a retaining wall.

- i. On slopes in excess of 40 percent, piled deck support structures are required where technically feasible for parking or garages over fill-based construction types; and**

Does not apply. The proposal is for a soil nail retaining wall to maintain the existing access easement.

- j. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25H.210.**

The applicant has determined that no trees or shrubs will need to be removed in order to construct the soil nail wall. The only disturbance will be minor exposed soil near the top of the wall and it will be seeded with an erosion control mixture following construction. If any trees or shrubs are removed, they will be replaced at a ratio of 3 plants per each removed.

IV. Public Notice and Comment

Application Date: September 23, 2010
Public Notice (500 feet): October 14, 2010
Minimum Comment Period: November 14, 2010

The Notice of Application for this project was published in the City of Bellevue weekly permit bulletin on October 14, 2010. It was mailed to property owners within 500 feet of the project site. No comments have been received from the public as of the writing of this staff report.

V. Summary of Technical Reviews

Clearing and Grading:

The Clearing and Grading Division of the Development Services Department has reviewed the proposed development for compliance with Clearing and Grading codes and standards. The Clearing and Grading staff found no issues with the proposed development.

VI. State Environmental Policy Act (SEPA)

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

A. Earth and Water

A Construction Stormwater Pollution Prevention Plan (CSWPPP) is required to be submitted along with the project plans for the required building permit for the soil nail wall. The CSWPPP will address temporary erosion and sedimentation controls to be implemented at the site during construction. The applicant has already provided information relative to restoring the site and for mitigating for the permanent impacts relative to stepping the wall to the west in order to stabilize the over-steep, unvegetated area above the existing rockery. The applicant will also be required to submit information regarding the use of pesticides, insecticides, and fertilizers to avoid impacts to water resources. See Section X for a related condition of approval.

B. Animals

The project site is below a larger steep slope critical area that serves as a vegetated greenbelt and likely provides habitat for birds and small mammals. The proposed soil nail wall will preserve the steep slope in its current configuration and allow the vegetation to develop naturally above the wall. The wall is not anticipated to have any impact on habitat in the area, except for minor, temporary impacts associated with the construction.

C. Plants

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

D. Noise

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

VII. Changes to proposal as a result of City review

As a result of City review, the applicant added additional restoration and potential mitigation plantings to the steep slope area west and upslope of the proposed soil nail wall.

VIII. Decision Criteria

A. Shoreline Substantial Development Permit Decision Criteria 20.30R

The Director of Planning and Community Development 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; and

Finding: The applicant, Brian Valentine, contracted with Jacobs Associates, engineering firm with geotechnical expertise, to evaluate the condition of the existing rockery and design a soil stabilization measure in the same location that provides protection to the single-family residence across (east) the access easement. This geotechnical evaluation and design is sufficient proof and evidence that the proposal merits approval.

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

Finding: The applicant prepared a details response to the applicable performance standards, as discussed in Section III, and has demonstrated compliance with the applicable decision criteria for a Shoreline Substantial Development Permit and a Critical Areas Land Use Permit.

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: The proposal is consistent with the Shoreline Management Act and the Master Program. For example, the proposal is consistent with POLICY SH-9, which is "Preserve the natural amenities and resources of the shorelines in the context of existing and planned residential, recreational, and commercial land uses." It is

consistent because it seeks to preserve the overwhelming majority of the steep slope critical area as a permanent greenbelt area between the homes at 840 and 842 West Lake Sammamish Parkway SE. If this slope were to fail the solution would be an engineered slope with a significantly lower function from habitat corridor and land use buffering perspective.

B. Critical Areas Land Use Permit Decision Criteria 20.30P

The Director may approve or approve with modifications an application for a critical areas land use permit if:

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

Finding: The proposal is required to obtain a single-family building permit for the construction of the soil nail wall.

2. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer;

Finding: The proposal was designed and evaluated by Jacobs Associates, an engineering and consulting firm. The proposal represents the best available construction, design and development techniques because it preserves the most of the critical area steep slope possible over other designs that would require tiered or stepped back rockeries up the slope. Other designs would require more disturbance on the slope itself and preclude the growth of significant vegetation and trees on the slope due to the risk of destabilization.

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

Finding: As discussed in Section III, the proposal incorporates the applicable performance standards of LUC 20.25H.055.C.3.m and LUC 20.25H.125.

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

Finding: The property is currently served by adequate public facilities. The proposal will not change the need for public services in the future.

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

Finding: A mitigation and restoration plan consistent with LUC 20.25H.210 has been submitted. The plan calls for the restoration of temporary disturbance associated with the construction of the wall.

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

Finding: As discussed in Section III and V of this report, the proposal complies with all other applicable requirements of the Land Use Code.

IX. Conclusion and Decision

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, SEPA, City Code and Standard compliance reviews, the Director of Planning and Community Development does hereby **approve with conditions** the proposal to construct an approximately 100-foot long soil nail wall to a height of 15 feet to 25 feet within the toe of slope structure setback at 842 West Lake Sammamish Parkway SE.

Note- Expiration of Approval: In accordance with LUC 20.30R.175, a Shoreline Substantial Development Permit 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.

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	Savina Uzunow, 425-452-7860
Land Use Code- BCC 20.25H	Kevin LeClair, 425-452-2928
Noise Control- BCC 9.18	Kevin LeClair, 425-452-2928

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

1. Single-Family Addition Building Permit: In order to construct the proposed soil nail wall and ensure compliance with applicable building code requirements, a single-family building permit must be obtained prior to the initiation of construction.

Authority: Land Use Code 20.30P.140.A
Reviewer: Kevin LeClair, Land Use

2. Hold Harmless Agreement: As a condition of approval of the subsequent building permit, the property owner/applicant, must sign and record with King County a Hold Harmless Agreement that holds the City of Bellevue and its officers, agents and employees harmless from all suits, claims, damages and liabilities of any nature, including attorney's fees, costs and expenses for or on account of any injuries or damages sustained by any person or to any property, including the property of the Grantor(s), resulting in whole or in part from the location of the above-referenced development within the Critical Area or Critical Area Buffer.

Authority: Land Use Code 20.30P.170
Reviewer: Kevin LeClair, Land Use

3. Restoration for Areas of Temporary Disturbance: A restoration plan for all areas of temporary disturbance is required to be submitted for review and approval by the City of Bellevue prior to the issuance of the Building Permit. The plan shall include documentation of existing site conditions and shall identify the restoration measures to return the site to its existing conditions per LUC 20.25H.220.H.

No shrubs or trees are anticipated to be removed for the construction of the soil nail wall. If the construction does necessitate the removal of any shrubs or trees, then they will be replaced at a ratio of 3 to 1.

Authority: Land Use Code 20.25H.220.H
Reviewer: Kevin LeClair, Land Use

4. Construction Stormwater Pollution Prevention Plan: To ensure federal and state water quality and effluent standards are met, and all clearing and grading, excavating, and fill in the Shoreline Overlay District comply with the provision of Chapter 23.76 BCC, a Construction Stormwater Pollution Prevention Plan is required to be submitted for review and approval as part of the Building Permit.

Authority: Bellevue City Code 23.76
Reviewer: Savina Uzunow, Clearing & Grading

5. Rainy Season restrictions: Due to the proximity to steep slope critical area, no clearing and grading activity may occur during the rainy season, which is defined as October 1 through April 30 without written authorization of the Development Services Department. Should approval be granted for work during the rainy season, increased erosion and sedimentation measures, representing the best available technology must be implemented prior to beginning or resuming site work.

Authority: Bellevue City Code 23.76.093.A,
Reviewer: Savina Uzunow, Clearing & Grading

6. Pesticides, Insecticides, and Fertilizers: The applicant must submit as part of the required Building Permit information regarding the use of pesticides, insecticides, and fertilizers in accordance with the City of Bellevue's "Environmental Best Management Practices".

Authority: Land Use Code 20.25H.220.H
Reviewer: Kevin LeClair, Land Use

7. 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: Kevin LeClair, Land Use