



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

Proposal Name: Regan Slope Restoration

Proposal Address: 4442 144th Ave SE

Proposal Description: Land Use approval of a Critical Areas Land Use Permit for restoration and vegetation management related to unpermitted vegetation removal in a steep slope critical area buffer.

File Number: 11-104991-LO

Applicant: Lucy Regan, Property Owner

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

Planner: Leah Chulsky, Land Use Planner

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

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

Michael A. Brennan, Director
Development Services Department

By: 
Carol V. Helland, Land Use Director

Application Date: **March 8, 2011**
Notice of Application Publication: **April 7, 2011**
Decision Publication Date: **June 30, 2011**
Project/SEPA Appeal Deadline: **July 14, 2011**

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.

I. PROPOSAL DESCRIPTION

The applicant installed a rockery and removed lawn within a steep slope critical area buffer without a permit. This Critical Areas Land Use Permit will restore the affected area of steep slope buffer with vegetation and remove the rockery in order to comply with enforcement action 10-129658-EA. This approval establishes a vegetation management plan for maintenance of the plants and long term removal of invasive species which are found on the steep slope buffer.

II. SITE DESCRIPTION, ZONING, LAND USE AND CRITICAL AREAS

A. SITE DESCRIPTION

The project site is located at 442 144th Ave in the Factoria Subarea of the City. The site is accessed off of 144th Ave SE. The property is adjacent to other residential property to the north and south. The site has an existing single-family residence and improvements typically associated with a residence. The areas of steep slope and buffer on-site are located along the eastern portion of the property. See figure 1 for existing site condition.



Figure 1

B. ZONING

The subject site and surrounding properties are zoned R-3.5, Single-Family Residential. The proposed activities of replanting and maintenance are allowed in this zone per the conditions of this approval.

C. LAND USE CONTEXT

The property has a Comprehensive Plan Land Use designation of SF-M, Single-Family Medium Density.

D. CRITICAL AREAS FUNCTION AND VALUE, 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 amenity in the City, providing a "green" backdrop for urbanized areas enhancing property values and buffering urban development.

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

A Critical Area Land Use Permit (CALUP) is required for approval of restoration and a vegetation management plan.

III. CONSISTENCY WITH LAND USE CODE REQUIREMENTS:

A. ZONING DISTRICT DIMENSIONAL REQUIREMENTS:

The R-3.5 zoning dimensional requirements found in LUC 20.20.010 do not apply to this project as no structure is proposed to be constructed.

B. CRITICAL AREAS REQUIREMENTS LUC 20.25H:

The City of Bellevue Land Use Code Critical Areas Overlay District (LUC 20.25H) establishes standards and procedures that apply to development on any site which contains in whole or in part any portion designated as critical area or critical area buffer.

The proposed vegetation management plan is located within a steep slope critical area buffer. The performance standards identified in the table below apply:

Critical Area	Performance Standards
Geological Hazard – Steep Slopes	20.25H.055.C.3.i 20.25H.125

i. Consistency With Land Use Code Vegetation Management Performance Standards LUC 20.25H.055.C.3.i:

Vegetation management is an allowed use in a critical area or critical area buffer provided a Critical Areas Land Use Permit is approved. The project proposal is to restore vegetation in the vicinity of the cutting, manage the restored vegetation until established, and create long term maintenance provisions for this area. The submitted vegetation management plan can be found as attachment 1 to this report. The vegetation management plan must be submitted and approved as part of the required clearing and grading permit for this approval. Vegetation management plans may be approved subject to the following:

- 1. A description of existing site conditions, including existing critical area functions and values;**
See above site description in section II of this report. The site is currently developed with a single-family residence and associated uses. The critical slope is located along the eastern portion of the property and is vegetated with seven Douglas Firs, one Maple, and one Magnolia along with lawn and Himalayan Blackberry. No trees were removed.
- 2. A site history;**
A portion of the buffer was cleared of lawn and invasives and a rockery was installed without permits.
- 3. A discussion of the plan objectives;**
The objective of the vegetation management on this site is to replant the cleared area of buffer and remove the rockery and posts and replace with two small two foot rockeries within the buffer.
- 4. A description of all sensitive features;**
The only sensitive feature on this site is the steep slope and associated 50 foot buffer.

5. Identification of soils, existing vegetation, and habitat associated with species of local importance present on the site;

The area of steep slope is covered by existing vegetation consisting trees, lawn and invasives. There are seven Douglas Firs, one Maple, and one Magnolia within the steep slope buffer within the property. Trees on-site may be large enough for nesting and perching of important species. The understory consists of lawn and Himalayan blackberry.

6. Allowed work windows;

Rainy season restrictions would apply to any clearing and grading activity however only minimal earth disturbance should be caused by plant installation. Clearing of invasive species will be followed by dense replanting and mulch installation.

7. A clear delineation of the area within which clearing and other vegetation management practices are allowed under the plan; and

This plan only allows for replanting of vegetation and the maintenance of the vegetated area which is 1,500 square feet on the affected steep slope critical area buffer. This review does not allow for site-wide vegetation management.

8. Short- and long-term management prescriptions, including characterization of trees and vegetation to be removed, and restoration and revegetation plans with native species, including native species with a lower growth habit. Such restoration and revegetation plans shall demonstrate that the proposed Vegetation Management Plan will not significantly diminish the functions and values of the critical area or alter the forest and habitat characteristics of the site over time.

The cleared area consisted of lawn and Himalayan blackberry. None of the existing trees onsite were removed. The management plan notes that a small area of lawn will be restored along with sword fern, red alderberry and osoberry. Invasive plants will be controlled by mulch and jute netting with planting.

See related condition of approval in Section IX.

ii. Consistency With LUC 20.25H.125

The performance standards found in LUC 20.25H.125 are met as no structure, modification, or impervious surface is proposed in the steep slope. The disturbed area of slope is being restored as required by these performance standards.

IV. PUBLIC NOTICE AND COMMENT

Application Date:	March 8, 2011
Public Notice (500 feet):	April 1, 2011
Minimum Comment Period:	April 21, 2011

The Notice of Application for this project was published in the City of Bellevue Weekly Permit Bulletin on April 7, 2011. Notice was also 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.

VI. CHANGES TO PROPOSAL DUE TO STAFF REVIEW

Staff requested revisions concerning the removal of the posts installed to support the rockery.

VII. DECISION CRITERIA

A. 20.30P.140 CRITICAL AREA LAND USE PERMIT DECISION CRITERIA

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

- i. The proposal obtains all other permits required by the Land Use Code;**
Finding: The applicant must obtain a clearing and grading permit before beginning any work. Future modifications beyond the approved activity covered in this report may require a new Critical Areas Land Use Permit. See related condition of approval in Section IX of this report.

- ii. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer;**
Finding: The proposed restoration planting and vegetation management will provide vegetation cover on a steep slope buffer to protect it from erosion and maintain stability, and remove invasive species.

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

Finding: As discussed in Section III of this report, the applicable performance standards of LUC 20.25H.055.C.3.i and LUC 20.25H.125 are being met.

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

Finding: The proposed activity will not affect public services or facilities.

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

Finding: The proposed restoration is consistent with requirements. This vegetation management plan will restore vegetation to a steep slope buffer.

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

Finding: As discussed in this report, the proposal complies with all other applicable requirements of the Land Use Code and Bellevue City Codes. See related condition of approval in Section IX.

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 Development Services Department does hereby **approve with conditions** the restoration and vegetation management proposed within the steep slope on the site located at 4442 144th Ave SE. **Approval of this Critical Areas Land Use Permit does not constitute a permit for construction. A Clearing and Grading 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 Clearing and Grading 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	Janney Gwo, 425-452-7860
Land Use Code- BCC Title 20	Leah Chulsky, 425-452-6834
Noise Control- BCC 9.18	Leah Chulsky, 425-452-6834

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

- 1. Clearing/Grading Permit Required:** Approval of this Critical Areas Land Use Permit does not constitute an approval of a clearing and grading permit. Application for a clearing and grading permit must be submitted and approved prior to work commencing. Plans submitted as part of the clearing and grading permit application must be consistent with the vegetation management plan attached to this report as Attachment 1.

Authority: Land Use Code 20.30P.140
Reviewer: Leah Chulsky, Development Services Department

- 2. Land Use Inspection:** Following installation of planting, the applicant shall contact Land Use staff to request an inspection of the planting area as part of the clearing and grading permit process.

Authority: Land Use Code 20.30P.140
Reviewer: Leah Chulsky, Development Services Department

- 3. Approved Activity:** The vegetation management plan established under this approval allows the installation and maintenance of vegetation within a portion of steep slope critical area buffer measuring 1,500 square foot in area where lawn was cleared. Any work shall be consistent with this staff report, the plan as Attachment 1, and the Land Use Code. Future development of structures or impervious surfaces, tree cutting/removal, clearing and/or grading, or other actions that will cause disturbance within the steep slope, buffers, or setback will require additional City permits as they are not considered in this approval.

Authority: Land Use Code 20.30P.140

Reviewer: Leah Chulsky, 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: Leah Chulsky, Development Services Department