



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

Proposal Name: Ligot Residence Remodel –
Critical Areas Land Use Permit

Proposal Address: 12216 SE 36th St

Proposal Description: The applicant requests to remodel an existing single-family residence by expanding 246 square feet for a new dining room. The 246 square foot expansion is located within the top of steep slope critical area buffer.

File Number: 11-110348-LO

Applicant: Maxim Hessels

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

Planner: Drew Folsom, Assistant 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,

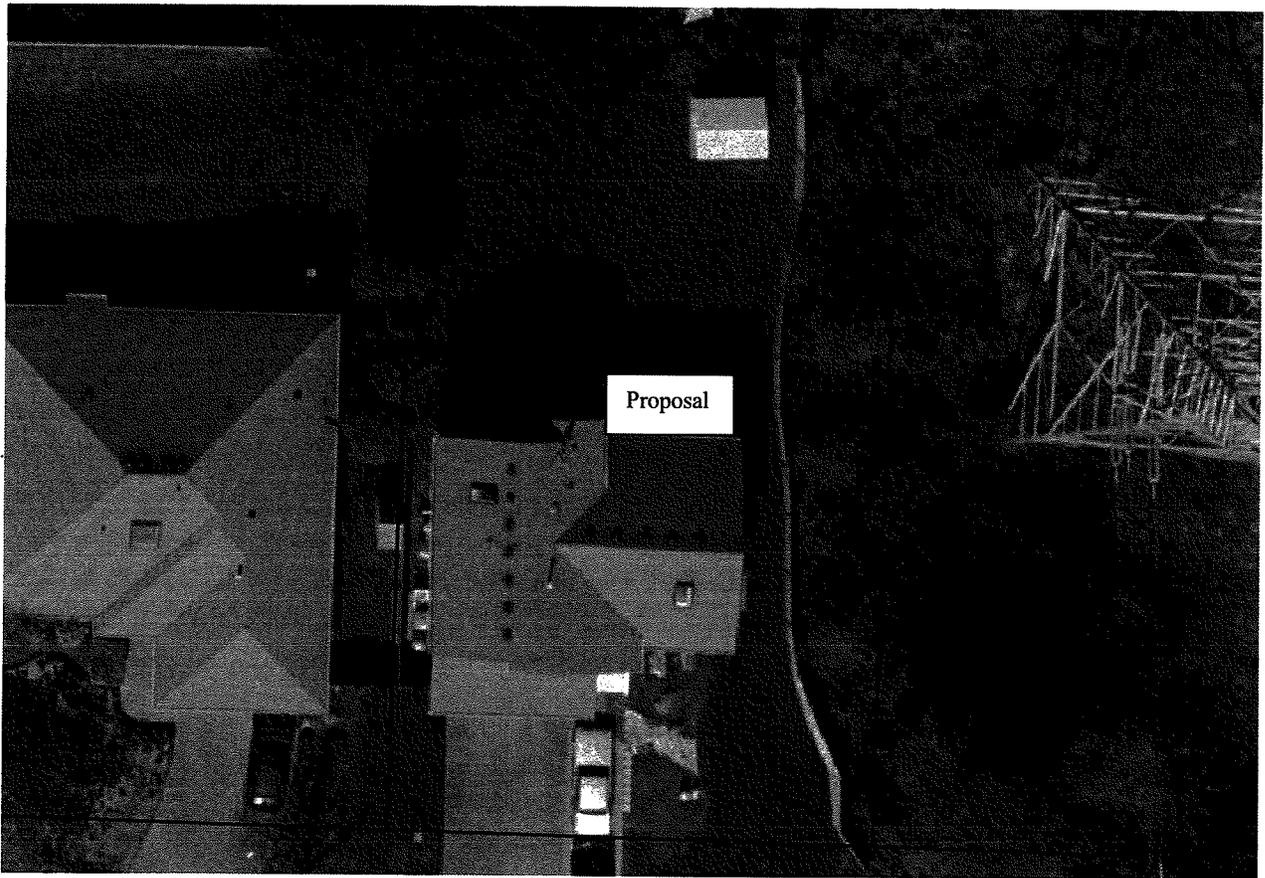
Application Date: March 29, 2011
Notice of Application Publication Date: April 28, 2011
Decision Publication Date: August 18, 2011
Project Appeal Deadline: September 2, 2011

For information on how to appeal a proposal, visit Development Services 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. Background

A. Project Description

The applicant is proposing to remodel an existing single-family residence by expanding the main floor and basement level on a site containing steep slope critical area. The building footprint will be expanded a total of 246 square feet in order to construct a dining room on the main floor of the residence. The expansion is located within a top of steep slope critical area buffer. The top of the steep slope critical area is located approximately 6 feet from the existing residence. The expansion of an existing single-family primary structure into a critical area structure setback is an allowed development per Land Use Code (LUC) 20.25H.055.



B. Site Description:

The property, shown below, is located at 12216 SE 36th St (King County Parcel # 2442100630). The site is in the Factoria Subarea and has a Comprehensive Plan land use designation of single-family high density. The zoning of the property is R-5.

Access to the site is via SE 36th St. The property is bounded on the north, south, and west by existing single-family residences and to the east by the right of way for Interstate 405. Located within the I-405 right of way is a regulated steep slope critical area. A portion of the steep slope and the top of steep slope critical area buffer extend onto the applicant's site. This area of the steep slope is fenced with moderate to dense vegetation. The applicant does not propose to disturb the steep slope.



Ligot Property, 12216 SE 36th St

II. Critical Areas and Critical Area Buffers

A. Geologic Hazard Area - Steep Slopes

A geotechnical report dated March 21, 2011 identifies a regulated geologic hazard area –steep slope on the property. Geologic hazard – steep slope critical areas are afforded a 50-foot critical area buffer, measured from the top-of-slope, and a 75-foot structure setback, measured from the toe-of-slope. The applicant is proposing to expand the primary single-family structure a total of 246 square feet into the top of steep slope critical area buffer. The existing structure is approximately 6 feet from the top of slope. The proposed addition will be approximately 6 feet from the top of slope.

III. State Environmental Policy Act (SEPA)

The environmental review indicates that the proposed action is categorically exempt from SEPA review per WAC 197-11-800 because the encroachment is within the top of steep slope critical area buffer which is not designated as a critical area per Bellevue City Code.

IV. Consistency with Land Use Code Requirements

A. Critical Areas Requirements:

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, critical area buffer or structure setback area. The Critical Areas Overlay District is a mechanism by which the City recognizes the existence of natural conditions which affect the use and development of a property. Through this section of the Land Use Code, the city imposes regulations on the use and development of affected property to protect the functions and values of these areas and the public health, safety and welfare, and to allow reasonable use of private property.

The property under proposal contains areas designated as critical area and critical area buffer. Based on the proposed project elements and their intersection with the critical areas on the site, there are a set of specific performance standards that apply. Applicable performance standards are identified in the table below:

Critical Area	Geologic Hazard - Steep Slope
Performance Standards	20.25H.055.C.3.n, 20.25H.125

V. Consistency With Land Use Code Performance Standards:

A. Consistency With LUC 20.25H.055.C.3.n – Expansion of Existing Single-Family Primary Structure into Critical Area Buffer and Critical Area Structure Setback:

- i. Where allowed, expansions into the critical area buffer and critical areas structure setback shall be limited as follows:
 - (A) The expansion shall be along the existing building line parallel to the edge of the critical area, unless such expansion is not feasible. Only when such expansion is not feasible may expansion encroach further into the critical area buffer and critical area structure setback.
 - (B) Expansions shall be the minimum necessary to achieve the intended functions of the expansion, but in no event may the footprint expansion within the critical area buffer and critical area structure setback exceed 500 square feet over the life of the structure. Expansions into stream critical area buffers allowed pursuant to the City's previous critical areas regulations (prior LUC 20.25H.085.B) shall be included in determining the allowed lifetime expansion; and
 - (C) Areas of new permanent disturbance and all areas of temporary disturbance within the critical area buffer shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25H.210.
- ii. For purposes of this section, expansion outside of the critical area buffer and critical area structure setback shall be considered not feasible only when, considering the function to be served by the expansion and the existing structure's layout and infrastructure (including plumbing, drainage and electrical systems):
 - (A) Expansion away from the critical area buffer and critical area structure setback within the buildable area of the site will not realize the intended functions of the expansion; and
 - (B) Expansion away from the critical area buffer and critical area structure setback, including into non-critical area setbacks modified pursuant to LUC 20.25H.040, will not realize the intended functions of the expansion; and

- (C) Expansion upwards to the maximum building height of the underlying land use district, within the existing footprint, or together with expansions permitted under subsections C.3.n.ii.(A) and (B) of this section, will not realize the intended functions of the expansion.

Finding: The applicant has demonstrated that expansion of the single-family primary structure is for an essential component of the single-family residence (dining room), and is not feasible outside of the top of steep slope critical area buffer.

The residence has a small kitchen which exists on the northeast side of the house, 6 feet from the identified top of slope. The cost of relocating the kitchen and necessary electrical and plumbing would be prohibitively expensive. The proposed dining room and roof extension follow the line of the existing structure. The proposed 246 square foot expansion is the minimum necessary to create a more functional kitchen and dining room and improve access. Expanding the house in any other direction will not yield the necessary functionality.

The applicant has proposed planting 3 native trees within the top of steep slope critical area buffer to mitigate the new areas of permanent disturbance. See related condition of approval in Section X.

B. 20.25H.125 Performance standards – Landslide hazards and steep slopes:

- (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;
- (B) Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;
- (C) The proposed development shall not result in greater risk or a need for increased buffers on 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;
- (E) Development shall be designed to minimize impervious surfaces within the critical area and critical area buffer;

- (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;
- (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;
- (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;
- (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
- (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. (Ord. 5680, 6-26-06, § 3)

Finding: The applicant has proposed to locate the addition in area that is relatively flat within the top of slope steep slope critical area buffer. No change in the existing grade or retaining walls outside the building footprint is proposed. The proposal will preserve all areas of the critical steep slope and no disturbance of the slope is proposed.

A Critical Areas Assessment prepared by Tewodros Taddesa an Engineering Geologist and Erik Anderson a licensed Geotechnical Engineering was submitted as part of the proposal. As stated in the Critical Areas Assessment dated March 21, 2011, the proposed development will not result in greater risk to neighboring properties.

The applicant has proposed planting 3 native trees within the top of steep slope critical area buffer to mitigate the new areas of permanent disturbance. See related condition of approval in Section X.

VI. 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 concurred with the findings within the Geotechnical Report. Clearing and grading activities associated with the construction of the residential addition must meet the requirements of the Clearing and Grading Code including provisions for temporary erosion and sedimentation control using appropriate best management practices. See related condition of approval in Section X.

VII. Public Notice and Comment

Application Date:	March 29, 2011
Public Notice (500 ft.):	April 28, 2011
Minimum Comment Period (2 weeks):	May 12, 2011

The Notice of Application for this project was published in the Seattle times and the City of Bellevue weekly permit bulletin. It was mailed to property owners within 500 feet of the project site. No comments were received regarding this proposal.

VIII. Decision Criteria

The proposal, as conditioned below, meets the applicable regulations and decision criteria for a Critical Areas Land Use Permit pursuant to LUC 20.30P.

A. Critical Areas Land Use Permit Decision Criteria (LUC 20.30P)

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

Finding: The proposed project must apply for and receive approval of a City of Bellevue Building Permit for a single family addition (BR) prior to implementation of the project. See related condition of approval in Section X.

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 submitted evaluation describes the project's potential impact on the top of steep slope critical area buffer and describes the use of the best available construction design and development techniques to minimize both permanent and temporary impacts on critical areas and their buffers.

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

Finding: The proposed project incorporates all of the applicable performance standards specified in LUC 20.25H. They are addressed in detail in Section V above for the critical areas present within the project area.

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

Finding: The existing single-family residence is served by adequate public facilities.

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

Finding: The applicant is proposing to add 246 square feet for the kitchen addition in an area currently developed with an at grade deck and lawn. The applicant has proposed planting 3 native trees within the top of steep slope buffer as a mitigation and restoration plan. This will sufficiently mitigate the area of disturbance. See related condition of approval in Section X.

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

Finding: The applicant submitted documentation consistent with the requirement to demonstrate compliance with the requirements of LUC 20.30P, and 20.25H. Staff has reviewed these documents and finds that the proposal complies with all other applicable requirements of the Land Use Code. The applicant will be required to submit a hold harmless agreement prior to issuance of any City of Bellevue Building Permit related to this project. See related condition of approval in Section X.

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, Development Services does hereby **approve with conditions** the proposal for an expansion of 246 square feet for a single-family residence into a top of steep slope critical area buffer.

Note- Expiration of Approval: In accordance with LUC 20.30P.150, a Critical Areas Land Use Permit 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.

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
Land Use Code- BCC 20.25H	Drew Folsom, 425-452-4441

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

- 1. Rainy Season Restrictions:** Due to the proximity to a steep slope, no clearing and grading activity may occur during the rainy season, which is defined as November 1 through April 30 without written authorization of Development Services. 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: Janney Gwo, Development Services Department

- 2. Building Permit:** Prior to initiation of any work on the existing residence the applicant must apply for and obtain a Single-Family Addition Building Permit from the City of Bellevue.

Authority: Land Use Code 20.30P.140
Reviewer: Drew Folsom, Development Services Department

3. **Hold Harmless Agreement:** Prior to building permit or clearing and grading permit approval, the applicant or property owner shall submit a hold harmless agreement releasing the City of Bellevue from any and all liability associated with the installation of single family addition. The agreement must meet city requirements and must be reviewed by the City Attorney's Office for formal approval.

Authority: Land Use Code 20.30P.170
Reviewer: Drew Folsom, Development Services Department

4. **Mitigation Planting:** The applicant must plant 3 native trees within the top of slope setback prior to final inspection of any building permit.

Authority: Land Use Code 20.30P
Reviewer: Drew Folsom, Development Services Department

XI. Attachments:

1. Vicinity Map
 2. Site Plan- In File
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