



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

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**Proposal Name:** Briggs Residence –  
Critical Areas Land Use Permit

**Proposal Address:** 215 130<sup>th</sup> Ave NE

**Proposal Description:** The applicant requests to remodel an existing single-family residence by expanding the kitchen on a site containing steep slope critical area. The kitchen will be expanded a total of 91 square feet within the toe-of-slope structure setback.

**File Number:** 11-117298-LO

**Applicant:** Darlene Forhart

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

**Planner:** Leah Chulsky, 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,

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Application Date: June 30<sup>th</sup> 2011  
Notice of Application Publication Date: July 14<sup>th</sup> 2011  
Decision Publication Date: August 25, 2011  
Project Appeal Deadline: September 8, 2011

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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.



**B. Site Description:**

The property, shown below, is located at 215 130<sup>th</sup> Ave NE (King County Parcel # 2330000125). The site is in the Wilburton/NE 8<sup>th</sup> St Comprehensive Plan Subarea and the Wilburton Neighborhood Enhancement Program area. The zoning of the property is R-3.5 and the Comprehensive Plan designation is single-family medium density.

Access to the site is via 130<sup>th</sup> Ave NE. The property is bounded on the north, south and the west by existing single-family residences. The site contains a regulated steep slope critical area and a toe of slope structure setback.



Briggs Property, 215 130<sup>th</sup> Ave NE

## **II. Critical Areas and Critical Area Buffers**

### **A. Geologic Hazard Area - Steep Slopes:**

A survey dated April 19, 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 91 square feet into the 75 foot structure setback from the toe 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 toe-of-slope structure setback 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 structure setback area. 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:

<b>Critical Area</b>	<b>Geologic Hazard - Steep Slope</b>
<b>Performance Standards</b>	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 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 (kitchen), and is not feasible outside of the structure setback.

The kitchen exists on the west side of the house, 15 feet from the identified toe-of-slope. The cost of relocating the kitchen and necessary electrical and plumbing would be prohibitively expensive. The proposed pipe pile foundation and roof extension are incorporated into the kitchen expansion and follow the line of the existing structure. The proposed 91 square foot expansion along the existing line of the kitchen is the minimum necessary to create a more functional kitchen and improve access. Expanding the house in any other direction will not yield the necessary functionality.

**B. Consistency With LUC 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](#).

**Finding:** The proposed addition is located in an area previously covered by a concrete patio and deck. There will be no new permanent disturbance or changes to the existing grade. The applicant will replant a 100 square foot area adjacent to the slope with native plants as mitigation for the 91 square foot addition.

## 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:	June 30, 2011
Public Notice (500 ft.):	July 14, 2011
Minimum Comment Period (2 weeks):	July 28, 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 structure setback 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 91 square feet for the kitchen

addition in an area currently developed with an at-grade deck and concrete patio. The applicant will replant a 100 square foot area adjacent to the slope as mitigation for the 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, 20.25H. Staff has reviewed these documents and finds that 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, Development Services does hereby **approve with conditions** the proposal for an expansion of 91 square feet for a single-family residence into a geologic hazard area structure setback.

**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	Savina Uzunow, 425-452-5207
Land Use Code- BCC 20.25H	Leah Chulsky, 425-452-6834

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

**A. 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 October 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: Savina Uzunow, Development Services Department

**B. 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: Leah Chulsky, Development Services Department

**C. Replanting Plant:** The applicant will replant a 100 square foot area at the toe of the adjacent slope currently lawn with native plants.

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

**XI. Attachments:**

1. Vicinity Map
2. Site Plan- In File
3. Building Plan