



City of Bellevue
Development Services Department
Land Use Staff Report

Proposal Name: Wang Shoreline Structure Setback Modification

Proposal Address: 9 Crescent Key

Proposal Description: Application for Land Use Approval of a Critical Areas Land Use Permit to reduce the 25 foot shoreline structure setback to 10 feet to accommodate a new single family home.

File Number: 11-130407-LO

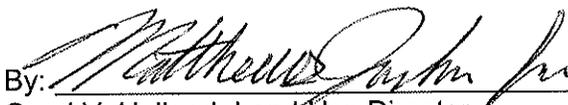
Applicant: Herbert Wang, Property Owner

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

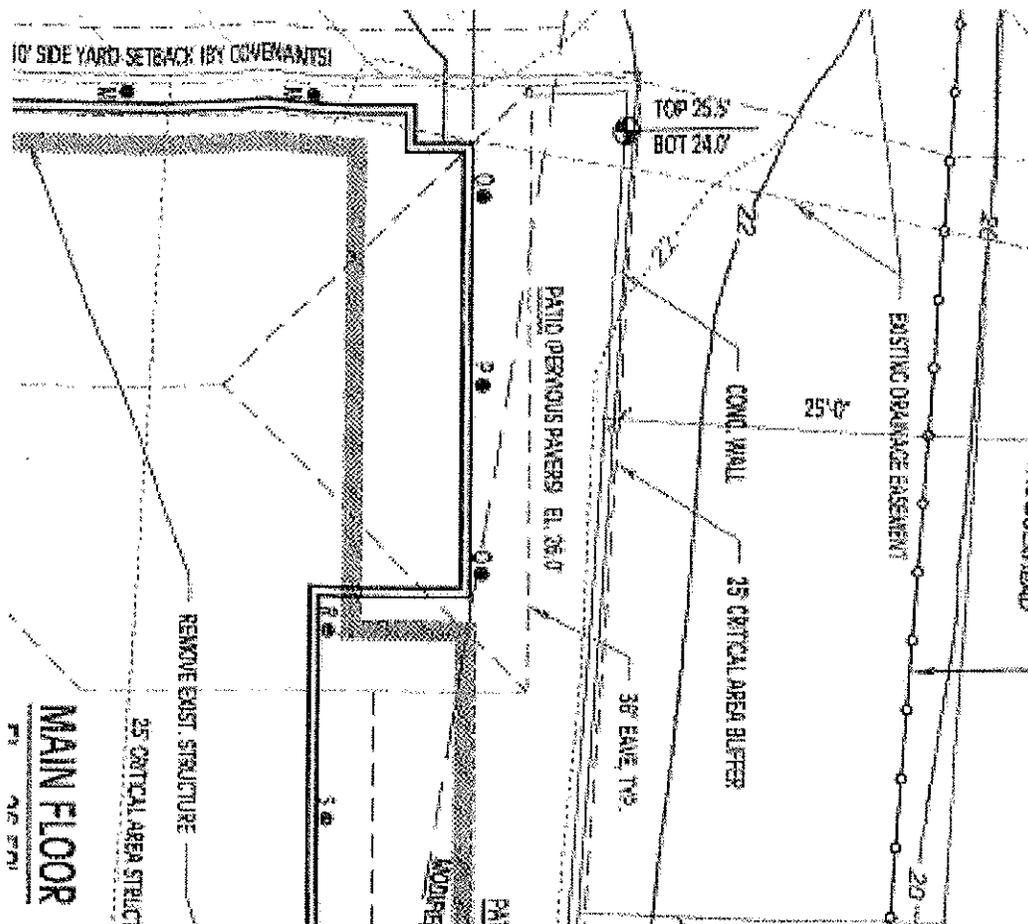
Application Date: December 9, 2011
Notice of Application Date: March 1, 2012
Decision Publication Date: April 12, 2012

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 proposes to reduce the 25 foot shoreline structure setback to 10 feet to construct a new single family home. The 25 foot critical area buffer will not be modified. The existing single family home which is to be demolished already intrudes into the structure setback and the proposed home will encroach no further than the existing home. This structure will be demolished and a new structure will be constructed. The proposed home will intrude no further than the existing home but will relocate the intrusion to the north side of the lot. The new home is set further back from the setback along the southern side of the setback. The existing concrete patio located within the shoreline buffer will be removed and replaced with pervious pavement and a portion of the critical area buffer will be planted with native vegetation. See Figure 1 below for site plan of proposed deck.

Figure 1



II. **Site Description, Zoning, and Land Use**

A. Site Description

The project site is located at 9 Crescent Key. The site has shoreline frontage along Lake Washington to the east and is accessed off Crescent Key. Single-family residences are adjacent to the north and south; other single-family residences are in the surrounding neighborhood. There is an existing single-family residence on-site which already intrudes into the shoreline structure setback. The existing shoreline buffer area is almost entirely covered with concrete with some area of lawn. See Figure 2 for existing site condition.

Figure 2



B. Zoning

The property is zoned R-2.5, single-family residential and is located in the Shoreline Overlay District. The proposed residence is an allowed activity associated with a single-family use in the R-2.5 zone.

C. Land Use Context

The property has a Comprehensive plan Land Use Designation of SF-M (Single Family High

Density). Construction of a new residence is consistent with single-family land uses located within the vicinity.

D. Critical Areas On-Site and Regulations

i. Shorelines

Shorelines provide a variety of functions including shade, temperature control, water purification, woody debris recruitment, channel, bank and beach erosion, sediment delivery, and terrestrial-based food supply (Gregory et al. 1991; Naiman et al. 1993; Spence et al. 1996).

Shorelines provide a wide variety of functions related to aquatic and riparian habitat, flood control and water quality, economic resources, and recreation, among others. Each function is a product of physical, chemical, and biological processes at work within the overall landscape. In lakes, these processes take place within an integrated system (ecosystem) of coupled aquatic and riparian habitats (Schindler and Scheuerell 2002). Hence, it is important to have an ecosystem approach which incorporates an understanding of shoreline functions and values.

ii. Shoreline Overlay District/Shoreline Substantial Development Permit

The property has frontage along Lake Washington and is within the Shoreline Overlay District which regulates areas within 200 feet of the Ordinary High Water Mark under the State Shoreline Management Act. The Shoreline Overlay District regulations (LUC 20.25E) allow for uses associated with single-family development which are exempt from the requirement for a Shoreline Substantial Development Permit.

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 25 foot shoreline structure setback to 10 feet. The modification can only be approved through a critical area report submitted under a CALUP.

III. Consistency with Land Use Code Requirements:

A. Zoning District Dimensional Requirements:

The proposal meets the R-2.5 zoning dimensional requirements found in LUC 20.20.010. The proposed structure meets the dimensional requirements of the Land Use Code. The proposed development will be evaluated for conformance with zoning requirements as part of the required building permit review. See Conditions of Approval in Section X 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 site is also located within the Shoreline Overlay District and is also subject to the requirements in LUC 20.25E. The performance standards found in LUC 20.25E as specified in the table below are applicable:

| Critical Area | Shoreline |
|-----------------------|--------------|
| Performance Standards | 20.25E.080.Q |

i. Consistency With LUC 20.25E.080.Q

Residential Development Regulations. For purposes of this section, accessory structures shall include swimming pools, tennis courts, spas, greenhouses and similar facilities.

- 1. No boat, houseboat or watercraft moored seaward of the ordinary high water mark shall be used as a permanent residence.**

No proposal to use a boat as a residence is included in this approval.

- 2. All structures, accessory buildings and ancillary facilities, other than those related to water use (such as moorage) shall be located outside of the shoreline critical area and shoreline critical area buffer, except stairs, handrails, and a trail or path providing access to the shoreline. The requirements of this subsection may be modified through a critical areas report, LUC 20.25H.230.**

As approved, the proposed structure will be located outside of the modified shoreline structure setback and out of the critical area buffer. The concrete patio within the shoreline buffer will be removed and replaced with pervious pavement and a portion replanted with native vegetation. The shoreline structure setback is being modified by a critical areas report as allowed subject to requirements in LUC 20.25H (no modification to the critical area buffer is proposed).

- 3. Fences essentially parallel with the shoreline are not permitted within critical area buffer or critical area structure setback.**

No new fences are proposed as part of this approval.

- 4. Maximum building height in those areas of the Shoreline Overlay District which are zoned for residential uses shall be 35 feet, except in land use districts where more restrictive height limitations exist.**

The proposed addition will not exceed 35 feet.

5. **All residential development shall be accompanied by a plan indicating methods for preserving shoreline vegetation and control of erosion during and following construction as required by City of Bellevue clearing and grading regulations, Chapter 23.76 BCC, and the Comprehensive Plan.**

As approved, no vegetation is proposed to be removed. The proposal includes converting the existing concrete patio to a pervious patio and replanting an area with native plants. A portion of the buffer will remain grass/turf. Erosion control is reviewed as part of the development permit by the Clearing and Grading Division. See Conditions of Approval in Section IX of this report.

IV. Public Notice and Comment

| | |
|---------------------------|------------------|
| Application Date: | December 9, 2011 |
| Public Notice (500 feet): | March 1, 2012 |
| Minimum Comment Period: | March 3, 2011 |

The Notice of Application for this project was published in the City of Bellevue Weekly Permit Bulletin on March 1, 2012. It was mailed to property owners within 500 feet of the project site. One comment was received from the Muckleshoot Indian Tribe asking for different trees in the planting plan. The planting plan was modified to include different trees.

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 and approved the application.

VI. Changes to Proposal Due to Staff Review

Staff requested different vegetation within the proposed planting area.

VII. Decision Criteria

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

The Director may approve, or approve with modifications, a proposal to reduce the regulated critical area buffer on a site 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;**

A restoration plan that details the area proposed for restoration to mitigate the structure setback modification was submitted. Restoration will include removal of the

existing concrete patio within the shoreline buffer and replacing it with pervious pavement. A portion of the lawn within the buffer will be removed and the area replanted with native vegetation. The planting plan incorporates native plant species which will increase diversity, providing a variety of forage species for wildlife. An increase in the structural diversity over the existing conditions will also result, providing more suitable summer and winter cover conditions for wildlife, particularly song birds.

The proposed native plantings and pervious pavement will also improve storm water functions within the structure setback, allowing improved filtration of storm water by helping to remove pollutants from stormwater before entering the lake. The restoration plan will provide improved critical area and buffer functions and values relative to the existing conditions. See Conditions of Approval in Section IX of this report.

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

A three year maintenance and monitoring plan is required. The plan specifies appropriate species for planting and planting techniques, describes proper maintenance activities, and sets forth performance standards to be met yearly during monitoring. As part of the plan, the applicant is required to post an Installation Assurance Device prior to permit issuance. See Conditions of Approval in Section IX of this report.

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

Restoration of the shoreline buffer will provide improved protection of the critical area buffer in those areas closest to Lake Washington. Restoration of the shoreline buffer will increase overall habitat function of the area, thereby improving habitat functions on the adjacent properties.

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

The proposed shoreline structure setback modification and resulting single family residence will be compatible with the adjacent properties and surrounding single family residential development.

B. 20.30P.140 Critical Areas 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;**
Finding: The applicant must submit a building permit application for the proposed structures which will include clearing and grading review. 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;**
Finding: The proposal is consistent with required performance standards for projects in the shoreline overlay district. The resulting development will improve stormwater quality and provide a vegetated area which is improved over the existing condition.
- 3. 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 are being met.
- 4. 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.
- 5. The proposal includes a mitigation or restoration plan consistent with the requirements of LUC Section 20.25H.210; and**
Finding: A mitigation plan consistent with LUC 20.25H.210 has been submitted to convert the existing concrete patio to pervious pavement and restore a portion of the exiting lawn with native plantings. See Attachment 1 of this report.
- 6. 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.

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 shoreline structure setback from 25 feet to a staggered 5 to 10 feet.

Approval of this Critical Areas Land Use Permit does not constitute a permit for construction. A combination building 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 | Janney Gwo, 425-452-6190 |
| Land Use Code- BCC Title 20 | Leah Chulsky, 425-452-4350 |
| Noise Control- BCC 9.18 | Leah Chulsky, 425-452-4350 |

1. Building Permit Required: Approval of this Critical Areas Land Use Permit does not constitute an approval of a development permit. A building permit is required for the proposed single family home. Plans submitted as part of the permit application shall be consistent with the plans reviewed as part of this approval.

Authority: Land Use Code 20.30P.140

Reviewer: Leah Chulsky, Development Services Department

2. Maintenance and Monitoring: The following monitoring plan is required for the maintenance and monitoring of the mitigation planting associated with this approval. Monitoring reports should be mailed to:

Leah Chulsky
Development Services Department
City of Bellevue
PO Box 90012
Bellevue, WA 98009-9012

Goal:

- Establish a shoreline buffer on the property.

Objectives:

- Plant 3 trees, 11 shrubs and species of ground cover over

Monitoring:

Reports are to be submitted to Land Use yearly. Photos from selected photo points

Authority: Land Use Code 20.30P.140; 20.25H.220
Reviewer: Leah Chulsky, Development Services Department

3. **Maintenance Surety:** In order to ensure the required restoration plan successfully establishes within the structure setback, a maintenance assurance device in an amount equal to 25% of the cost of labor and materials for the planting installation shall be held for a period of three years from the date of successful installation. The maintenance assurance device will be released to the applicant upon receipt of documentation reporting successful establishment in compliance with the performance standards stated in condition of approval #2 above.

Authority: Land Use Code 20.30P.160
Reviewer: Leah Chulsky, Development Services

4. **Landscape Installation Surety:** To ensure the timely installation of required mitigation plantings, an assignment of savings or bond financial security device for landscape installation equal to 100% of the cost of the labor and materials is required. This device shall be submitted prior to the issuance of the building permit.

Authority: Land Use Code 20.40.490
Reviewer: Leah Chulsky, Development Services Department, Land Use

5. **Land Use Inspection:** Following installation of plantings the applicant shall contact Land Use staff to inspect the planting area as part of the combination building/clearing and grading permit process.

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

Attachments:

1. Site Plan – In File