



City of Bellevue
Development Services Department
Land Use Staff Report

Proposal Name: Severson Residence

Proposal Address: 1600 West Lake Sammamish Parkway NE

Proposal Description: Administrative Variance and Critical Areas Land Use Permit to redevelop an existing site with a new single-family residence on a constrained lot along the shoreline of Lake Sammamish.

File Number: 12-108556-LO & 13-119701-LS

Applicant: Elliott and Karen Severson

Decisions Included: Variance from the Land Use Code & Critical Areas Land Use Permit (Process II. LUC 20.30G & 20.30P)

Planners: David Pyle, Land Use Planner
Leah Chulsky, Land Use Planner

State Environmental Policy Act Threshold Determination: Exempt per WAC 197-11-800

Director's Decision: Approval with Conditions

Carol V. Helland, Land Use Director
Development Services Department

Critical Areas Application Date:	March 19, 2012
Variance Application Date:	July 8, 2013
Notice of Critical Areas Application Publication Date:	September 27, 2012
Notice of Variance Application Publication Date:	July 25, 2013
Decision Publication Date:	January 8, 2015
Project Appeal Deadline:	January 22, 2015

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. Site Plans – In File
2. Project Geotechnical Report – In File
3. Landscape/Mitigation Plans – In File
4. Critical Areas Report – In File
5. Variance Narrative – In File
6. Site Survey – In File

I. Proposal Description

The applicant is proposing redevelopment of the property located at 1600 west Lake Sammamish Parkway North East with a new single family home. The site is currently developed with one single family residence with a large deck and an existing dock. The project includes demolition of the existing residence and deck, re-grading of a portion of the site to allow the placement of the new home, and installation of site landscaping as mitigation for current proposed action and past actions taken out of permit scope. Redevelopment of the site requires deviation from the prescriptive requirements that apply to the site. The following is a list of actions approved with this permit:

Actions approved in compliance with prescriptive Land Use Code allowances:

- Reduction of the site's side yard setbacks to 5 feet as allowed under LUC 20.25H.040.B. Compliance with the minimum setback of 5 feet is required. No building elements may protrude into the reduced setback.

Actions approved through the project Critical Areas Land Use Permit:

- Construction of a new home as depicted in the project site plans included as Attachment 1. Construction permits are required.
- Reduction/elimination of the shoreline structure setback from 25 feet to a variable dimension necessary to accommodate the footprint of the new home as depicted in the project site plans (Attachment 1). Shoreline mitigation plantings are required. No reduction in the required 25 foot shoreline buffer is proposed or authorized. No building elements may extend into the required 25 foot shoreline buffer.
- Reduction of the toe of slope structure setback from 75 feet to a variable dimension necessary to accommodate the footprint of the new home as depicted in the project site plans (Attachment 1). Compliance with geotechnical engineer recommendations (Attachment 2) is required.
- Widening of the site's dock walkway by one foot to allow for installation of larger dock fascia. Shoreline mitigation plantings are required. This action is retroactive as the property has already completed this dock expansion. See discussion below.
- Filling of the ell at the end of the Site's dock. Shoreline mitigation plantings are required. This action is retroactive as the property has already completed this dock expansion. See discussion below.
- Removal of a wood deck in the shoreline buffer and Lake Sammamish Floodplain in accordance with the project mitigation plan included as Attachment 3. This mitigation action is a required component of the project.
- Planting native shoreline vegetation as mitigation in accordance with the project mitigation plan included as Attachment 3. This mitigation action is a required component of the project.

Actions approved through the project Variance from the Land Use Code:

- Reduction of the front yard setback from the North Rosemont Beach Drive access easement from 10 feet to 5 feet. Compliance with the minimum setback of 5 feet is required. No building elements may protrude into the reduced setback.

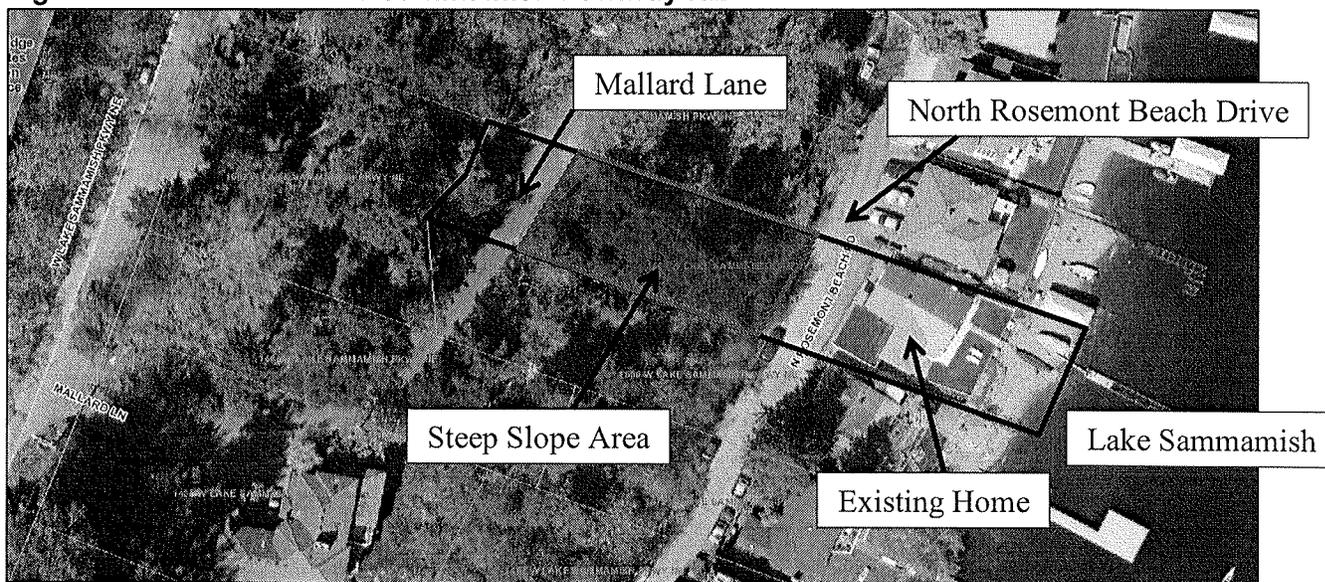
II. Site Description, Zoning, Land Use and Critical Areas

A. Site Description

The subject site is located at 1600 West Lake Sammamish Parkway North East. The property slopes down to the east with significant grade change from the uphill portion near West Lake Sammamish Parkway NE. A large portion of the site is characterized by protected steep slope geologic hazard critical areas. At the toe (bottom) of the steep slope areas, the site takes access from West Lake Sammamish Parkway via North Rosemont Beach Road, a private access road of varying widths that services dozens of homes along the shoreline of Lake Sammamish. North Rosemont Beach Drive originates at the grade level of West Lake Sammamish Parkway dropping in elevation to lake level where the subject property is situated. The property is four lots from the terminus of this access driveway.

A second private access driveway, Mallard Lane, transitions the upper portion of the lot, crossing an un-buildable portion of the property encumbered with a large steep slope area. The site is also fronted by the shoreline of Lake Sammamish and is restricted by the Lake Sammamish shoreline buffer, shoreline structure setback, and FEMA floodplain (Area of Special Flood Hazard). Due to the location of the access driveways, the presence of steep slopes, proximity to Lake Sammamish, and the regulated floodplain the 13,500 square foot (sf) site is restricted in available building area. The property owner is proposing redevelopment of the property and is requesting approval to build a new larger single family home in the place of the current home between the access driveway, and the shoreline of Lake Sammamish. See Figure 1 below.

Figure 1 – 1600 West Lake Sammamish Parkway NE



Design Constraints: Several constraints were encountered in design of the proposed

residence that prompted the applications for Critical Areas Land Use Permit and Variance from the Land Use Code. Constraints were as follows:

- Steep slopes along the western end of the site
- Shoreline frontage along the eastern edge of the site
- Narrow lot
- Access easement/driveway through the center of the site

These restrictions have limited site planning options in redevelopment of the property. As a result, the applicant has designed a home to occupy a specific area. The proposed site design represents a balancing of development restrictions with current site conditions and context and includes the following:

- The footprint of the home is proposed to be outside of the required 25 foot shoreline buffer. No building elements are allowed within the required 25 foot buffer.
- The footprint of the home is proposed to be constructed within a previously impacted portion of the 25 foot shoreline setback (allowed through Critical Areas Land Use Permit – see section VII below).
- The footprint of the home is proposed to be constructed within the 75 foot toe of slope structure setback (allowed through Critical Areas Land Use Permit – see section VII below).
- The footprint of the home is proposed to be outside of the Lake Sammamish Floodplain – defined as elevation 36.1' NAVD (area of special flood hazard).
- The footprint of the home will retain 5 foot setbacks along both of the site's side yards (allowed by LUC 20.25H.040.B). Compliance with the minimum setback of 5 feet is required. No building elements may protrude into the reduced setback.
- The footprint of the home will maintain a minimum of 5 feet of setback from the North Rosemont Beach Drive access easement (allowed through Variance from the Land Use Code – see section VII below). Compliance with the minimum setback of 5 feet is required. No building elements may protrude into the reduced setback.

B. Past Actions and Site History

Since acquiring the property in 2006, the property owners have completed several improvements to the site. In some cases improvements were made outside of the scope of permit issued and constitute a violation of the Land Use Code absent retroactive permitting and mitigation. In response to this situation, the applicant has prepared a summary of actions taken, including previously approved/required mitigation measures, and has developed a comprehensive mitigation plan designed to consolidate past complete and currently proposed actions. This summary demonstrates compliance with mitigation requirements outlined by LUC 20.25H.210 and LUC 20.25H.230 necessary to improve site conditions and compensate from prescriptive code requirements. The narrative of actions taken and consolidated mitigation plan is included with the project Critical Areas Report included as Attachment 4.

C. Zoning

The property is zoned R-2.5. The property is also within the Critical Areas Overlay District and

Shoreline Overlay District.

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 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.

1600 West Lake Sammamish Parkway is characterized by a large geologic hazard steep slope critical area. The slope area is located between the front of the lot in the vicinity of Lake Sammamish Parkway NE, and the site's access driveway, North Rosemont Beach Drive. The slope area is forested although it has been historically cleared. The top of the slope is developed with a private access driveway (Mallard Lane) that services homes to the north of the site. The toe of the slope has been historically cut and the area along the shoreline graded to establish North Rosemont Beach Drive and provide building pads along this section of driveway. The site does not contain any structures within the protected slope or top of slope buffer area. Development activity proposed with this application is limited to construction at the toe of slope and includes a widening of the paved area of North Rosemont Beach Drive (up to the toe of the slope), demolition of the existing and construction of a new home, and establishment of new site landscaping.

No impacts are proposed within the regulated slope area or top of slope buffer and no impacts or modifications are proposed to the toe of the slope. All impacts will occur within the 75 foot toe of slope structure setback required under LUC 20.25H.120.C. In response to restrictions on development in this area, the applicant has consulted with a qualified geotechnical engineer and has provided a geotechnical report as part of the application package supporting the proposal. The report recommends a reduction to the toe of slope structure setback from 75 feet to a setback matching the edge of the existing access easement driveway. The applicant has designed the new home in compliance with this recommended setback. See project geotechnical report included as Attachment 2.

ii. 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).

The subject site has frontage along the shoreline of Lake Sammamish. In accordance with LUC 20.25H.115, sites developed with an existing residence are subject to a 25 foot shoreline buffer with an additive 25 foot structure setback measured from the Ordinary High Water Mark of Lake Washington of from elevation 31.8 NAVD. The current site development consists of a single family home and deck. The shoreline buffer and structure setback are considered to be in a developed and degraded condition. See Figure 2 below. In response, the applicant has submitted a Critical Areas Report documenting the site's condition. Due to site constraints, the applicant is proposing to redevelop the site with a new single family home in the location of the existing residence and deck. The new home is proposed to be located within the shoreline setback and the applicant has requested a modification of the shoreline structure setback. See approved project plans included as Attachment 1. To compensate for the elimination of the shoreline structure setback and location of the home at the edge of the shoreline buffer the applicant has prepared a mitigation plan that includes planting and maintenance of vegetation along the shoreline of Lake Sammamish. See project Critical Areas report included as Attachment 4. Compliance with the 25 foot buffer is required. No building elements may protrude into the required shoreline buffer.

Figure 2 – Existing Development



E. Critical Areas Requirements - LUC 20.25H

i. General

a. LUC 20.25H.230

The applicant supplied a complete critical areas report supported by project narrative, shoreline planting plans, and geotechnical report. The report meets the minimum

requirements in LUC 20.25H.250.

ii. Geologic Hazards

a. LUC 20.25H.125 Performance standards for landslide hazards and steep slopes

The applicant is not proposing any development or construction within the critical area or critical area buffer. The applicant's geotechnical engineer has evaluated the slope and the proposed construction and recommends that the structure can safely be located within the toe of the steep slope without risk (See Project Geotech Report – Attachment 2). No modification to the slope, toe of slope, or top of slope buffer is proposed or allowed as part of this permit.

iii. Shorelines

a. LUC 20.25H.115 Shoreline Buffer and Structure Setback Requirements

The applicant has provided information necessary to reduce the shoreline structure setback from the required 25-foot standard dimension for developed sites to accommodate the new proposed residence. This reduction is allowed through Critical Areas permit process. No reduction of the required 25 foot buffer is proposed. To improve site conditions over the current existing degraded condition in compliance with LUC 20.25H.230, the applicant is proposing installation of native vegetation within the shoreline buffer (See Project Planting Plan - Attachment 3). Compliance with the 25 foot buffer is required. No building elements may protrude into the required shoreline buffer.

b. LUC 20.25E.080.Q Performance Standards for Residential Development

The residential development regulations of the shoreline overlay district are being met. The home as proposed is under the 35-foot maximum height as measured from average existing grade. The proposal includes a request modify the vegetation along the shoreline through installation of native vegetation as mitigation (See Project Planting Plan - Attachment 3). The 25-foot buffer will be maintained. No other structures or ancillary facilities are proposed.

c. LUC 20.25E.080.N Performance Standards for Docks

The properties dock was constructed in 2011 under City of Bellevue permit numbers 11-104082-WG and 11-104083-BR. The dock constructed exceeds the dimensional standards of the dock that was approved. The deviations from the original design were implemented after the dock was constructed and after final inspection. Changes include a widened dock walkway from 4 feet to 5 feet by the additional of a 6 inch thick timber dock fascia on each side of the walkway (totaling 1 foot), and filling in the dock ell with a platform eliminating the dock ell. These deviations can be permitted through the Critical Areas permit process if appropriate mitigation is provided. The applicant has requested that these items be added to the Critical Areas permit process to retroactively permit the changes that were made. With this Critical Areas Land Use Permit, the unpermitted changes were evaluated, impacts noted, and mitigation applied in the form of shoreline plantings and removal of an existing wood platform

deck on the properties' beach (See Project Critical Areas Report – Attachment 4).

III. Consistency with Land Use Code Requirements:

A. Zoning District Dimensional Requirements (LUC 20.20.010):

The site is located in the R-2.5 zoning district. The following table summarizes the dimensional standards that apply compared with the dimensions proposed under the requested variance:

Table 1: Dimensional Standards and Proposed Dimensions

STANDARD (* = variance requested) See discussion below for details	REQUIRED	PROPOSED
Front yard structure setback	20 feet	20 feet
*Setback from an Access Easement	10 feet	5 feet
Rear yard structure setback	25 feet	25 feet
Side yard structure setback	5 feet	5 feet
2 side yards structure setback	15 feet	10 feet
Maximum building height	35 feet	35 feet
Maximum lot coverage	35%	< 35%
Maximum impervious surface	50%	< 50%
Minimum greenscape percentage of front yard setback	50%	< 50%
Footnote (43): Floor Area Ratio (FAR) Threshold	0.50	< 0.50

Figure 3: Development Pattern of North Rosemont Drive Neighborhood



Table 2: Comparison of Neighborhood Development

West Lake Sammamish Parkway Address	Setback From Easement	Building Envelope
1604	2.5 feet	Approximately 1,800 sq., ft.,
1610	15 feet	Approximately 1,600 sq., ft.,
1614	12	Approximately 1,800 sq., ft.,)
1472	7	Approximately 1,625 sq., ft.,
1462	2	Approximately 1,300 sq., ft.,
1460	20	Approximately 1,333 sq., ft.,
1450	13	Approximately 1,800 sq., ft.,

B. Front yard/Access Easement structure setback of 5 feet

Due to the relative shallow depth of the developable portion of the property, coupled with the required 25-foot shoreline critical area shoreline buffer, the only feasible location to site the proposed structure is between the shared access road (North Rosemont Beach Drive) and Lake Sammamish, requiring a reduction from the standard 10 foot structure setback measured from shared access driveways. The critical areas overlay section of the Land Use Code (LUC 20.25H) encourages this sort of adjustment in order to protect the functions and values of the shoreline critical area.

The majority of the homes in this section of North Rosemont Beach Drive were constructed prior to annexation into the City of Bellevue with existing are setback ranging from 5 to 10 feet measured either from the edge of the private access easement. Due to the shallow depth of the buildable portion of this lot and the context of the surrounding neighborhood, a 5 foot setback for the Severson property is appropriate.

As demonstrated in Table 2 above, the requested variance would not be a granting of special privilege. A number of the properties in the vicinity already enjoy a reduced front yard setback due to the constraint of the lakeshore, the access easement and uphill slopes. Not granting the requested variance would render an undesirable building footprint compared to the surrounding properties and would constitute a significant hardship to the property owner as the standard buildable area allowed without variance would result in an un-marketable home.

The variance has met the approval of the Bellevue Transportation Department as the site is located at the end of and adjacent to a private shared access driveway. No impact to the access easement is expected.

IV. Public Notice and Comment

Critical Areas Application Date:	August 13, 2012
Critical Areas Public Notice (500 feet):	September 27, 2012
Critical Areas Minimum Comment Period:	October 11, 2012
Variance Application Date:	July 8, 2013
Variance Public Notice (500 feet):	July 25, 2013
Variance Minimum Comment Period:	August 8, 2013
Variance Public Meeting:	August 28, 2013 *Public Meeting not required held after original noticing period due to interest from the public.

The Notice of Application for this project is divided into two actions, notice for the Critical Areas permit, and notice for the Variance.

Critical Areas Land Use Permit Notice:

Notice for the Critical Areas Land Use Permit was published in the City of Bellevue weekly permit bulletin on May 17, 2012. It was mailed to property owners within 500 feet of the project site. Several comments were received regarding the proposed site redevelopment. Most comments were focused on the size of the proposed home, setbacks from the neighborhoods shared access easement, and the impacts of allowing a reduced shoreline setback. Multiple discussions were had with surrounding property owners. A majority of the comments received were related to ongoing historical disputes between the surrounding property owners or due to misunderstanding about the project. After application for variance was made, a neighborhood meeting was held at the Bellevue City Hall and the project was discussed in detail with many of the neighbors who had previously submitted comment. Included in the comments were:

- Concerns about the impacts to adjacent property owners from use of a 5 foot side yard setback.
- Concerns about impacts to views by allowing the home to be located at the edge of the required 25 foot shoreline buffer.
- Concerns over past changes made to the property either without permit or outside of the permitted scope of work.
- Concerns about construction staging impacts on the private driveway shared by the neighbors.

In response to these issues, Land Use Division staff has discussed the project at length with the neighbors. Concerns were addressed, Land Use Code requirements presented, and commenters indicated they were satisfied with the response. Written comments received are included in the project file.

Land Use Code Variance Notice:

Notice for the Land Use Code Variance was published in the City of Bellevue weekly permit bulletin on July 25, 2013. It was mailed to property owners within 500 feet of the project site. Five neighboring residents attended the public meeting held August 28, 2013 and submitted the following concerns.

- Issue: Reduction of the required 10 foot structure will restrict access to residents whose homes are located northeast of the site.
- Response: The existing home is currently built within less than 5 feet from the paved easement. The proposed reduction will require the new home to be no less than 5 feet from the edge of the historically paved easement (to additional intrusion for overhangs or any minor building permit will be permitted within the reduced 5 foot setback). The approved reduction will make the new structure more conforming to current Land Use Code requirements. With no minor building elements permitted within the setback it will maintain existing access and increase site distance.
- Issue: Access for garage trucks, fire and emergency vehicles.
- Response: All the homes constructed along the easement deal with the same constraints dealing with access. The proposed reduction will make the result in a structure more conforming then what currently exists.
- Issue: Parking for contractors and access for residents during construction.
- Response: The applicant will not be permitted to block the easement at any time during construction as it is an access easement. As part of the building permit the applicant will also submit a Construction Plan to deal with access issues.
- Issue: Reduction of Critical Areas Setbacks and Requirements.
- Response: Not addressed under the Variance application. All modifications to onsite critical areas are discussed and reviewed under the Critical Areas Land Use Permit (12-108556-LO).
- Issue: A previously constructed deck within the shoreline setback does not match approved plans.
- Response: The approved deck within the shoreline setback is discussed and reviewed under 12-108556-LO and not part of the Variance review or decision criteria.
- Issue: Not enough guest parking for the homes located along the easement.
- Response: The City requires two parking spaces for new single family homes. The proposal meets this requirement. Land Use Code does doesn't require additional guest parking for single family homes.
- Issue: A retaining was built without permit in the shoreline setback.
- Response: All shoreline issues are being reviewed under permit number 12-108556-LO.

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.

Utilities

The Utilities Department's Development Review Division has reviewed the proposed development for compliance with Bellevue Utilities' codes and standards. The Utilities Development Review staff found no issues with the proposed development.

Transportation

The Transportation Department's Development Review Division has reviewed the proposed development for compliance with Bellevue's Transportation codes and standards. The Transportation Development Review staff found no issues with the proposed development.

VI. State Environmental Policy Act (SEPA)

The proposal is categorically exempt from SEPA review per WAC 197-11-800 for minor new construction of a single-family residence.

VII. Decision Criteria

A. Variance from the Land Use Code – General Decision Criteria LUC 20.30G.140.A

The Directory may approve or approve with modifications an application for a variance from the Land Use Code if:

- 1. The variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and land use district of the subject property; and**

Finding: Approval of a variance to the required front yard setback will not constitute a grant of special privilege to the applicant. The requested variance will result in a building pad which is consistent with the surrounding neighborhood. Houses in the vicinity have footprints which range in size from 1,200 square feet to 2,000 square feet with building depths ranging from 45 feet to 80 feet. The City has previously approved a variance for the neighboring property and has issued construction permits to homes retaining their non-conforming status through restricted valuation.

The proposed variance will result in increasing the potential building area outside of setbacks by an additional 5 feet for a total depth. The proposal does not include a modification to the maximum allowed lot coverage (35% of the total lot area)) which is consistent with the footprints of neighboring structures.

- 2. The variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject**

property to provide it with use rights and privileges permitted to other properties in the vicinity and in the land use district of the subject property; and

Finding: The variance is necessary because of the size and shape of the property. Development potential on property is constrained by the proximity of the sensitive natural features both to the west (steep slope) and to the east (Lake Sammamish). Future development will be required to conform to side yard setbacks, lot coverage maximums, impervious surface maximums, height maximums, floor area ratio and all other applicable dimensional requirements.

Approval of this variance would allow the applicant to achieve the developable area that is afforded to other similarly zoned and sized lots in the area while keeping with the character of the residential development in the vicinity.

3. The granting of the variance will not be materially detrimental to property or improvements in the immediate vicinity of the subject property; and

Finding: The variance will not be materially detrimental to property or improvements in the vicinity. The property to the north is proposed to be redeveloped within 5 feet of the property line and the home to the south is built to 5 feet from the property line. The requested variance will not negatively impact the development potential of the properties in the vicinity. The granting of a variance to the front yard setback will not be materially detrimental to property or improvements within the vicinity. The majority of homes within the immediate vicinity are built to a depth of 45 feet or greater with footprint of a similar size to what could potentially be built with the approved variance on the subject property. Approval of the variance will be consistent with the built environment of the land use district in which the subject property is located. Granting of a variance to reduce the setbacks to construct a new structure would have less of an impact than an addition to the existing structure along a line of non-conformity

4. The variance is not inconsistent with the Comprehensive Plan; and

Finding: The Comprehensive Plan has identified the area under review as single-family low-density residential. The requested variance is consistent with this designation.

POLICY SH-10. Encourage development to keep the water's edge free of buildings.

POLICY LU-9. Maintain compatible use and design with the surrounding built environment when considering new development or redevelopment within an already developed area.

POLICY LU-21. Develop land use strategies to encourage the maintenance and updating of the city's older housing stock, so that neighborhoods are well-maintained and existing housing is preserved, updated, or modified to meet the evolving needs of residents.

B. Critical Areas Report Decision Criteria- General Criteria LUC 20.25H.255

The Director may approve, or approve with modifications, the proposed modification

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;**

Finding: The modification of the steep slope critical area structure setback and shoreline setback is at least as protective of the critical area functions and values. The shared private driveway crosses the proposed development site between the slope and the proposed home location isolating the slope area from the development area. The area of shoreline setback is currently developed with hardscape and a large second story deck. Reduction of the shoreline setback will not affect the current condition of the setback area. Further, the applicant has included a shoreline planting plan and a proposal to remove an existing deck platform along the shoreline. With the proposed mitigation, the development will likely result in an improvement of condition along the shoreline within the 25 foot shoreline buffer.

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

Finding: This is a proposal to reduce an area of previously developed shoreline structure setback and a steep slope structure setback. The applicant is proposing mitigation proportional to the anticipated impact and has included a mitigation plan with the proposal. To ensure installation and appropriate maintenance of the proposed and required mitigation the applicant is required to submit a financial security device meeting the requirements of LUC 20.40.490. Mitigation measures must be installed before occupancy is granted and maintenance of required plantings is required for a period of five years.

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

Finding: The applicant is proposing mitigation proportional to the anticipated impact and has included a mitigation plan with the proposal.

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

Finding: The resulting development of a single-family residential structure on the property is compatible with the other single-family residential structures in the neighborhood surrounding the subject property.

C. 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 applicant is required to obtain a single-family residential building permit

for the construction of the proposed residence.

- 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: Several constraints were encountered in design of the proposed residence that prompted the applications for Critical Areas Land Use Permit and Variance from the Land Use Code. Constraints include steep slopes along the western end of the site, shoreline frontage along the eastern edge of the site, a narrow lot, and the presence of an access easement/driveway through the center of the site. These restrictions have limited site planning options in redevelopment of the property. As a result, the applicant has designed a home to occupy a specific area. The proposed site design represents a balancing of development restrictions with current site conditions and context.

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

Finding: The proposed site design represents a balancing of development restrictions with current site conditions and context. The proposal incorporates the Land Use Code performance standards to the maximum extent feasible.

- 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. Nothing in the proposal will increase the need for public facilities on the property.

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

Finding: The applicant supplied a complete critical areas report supported by project narrative, shoreline planting plans, and geotechnical report. The report meets the minimum requirements in LUC 20.25H.210 and LUC 20.25H.250.

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

Finding: As discussed in the sections above, 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 Variance from the Land Use Code and Critical Areas Land Use Permit to construct a new house**. Approval of this Variance and Critical Areas Land Use Permit does not constitute a permit for construction. A building 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, Clearing and Grading Permit, or other necessary development permits within one year of the effective date of the approval.

Note – Recording of Variance Required: In accordance with LUC 20.40.500.B.1.a the variance must be recorded with King County Department of Records and Elections within 60 days of final City approval. The variance expires if not recoded within 60 days of final approval (expiration of appeal period).

IX. Conditions of Approval

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

1. **Easement Setback:** The required setback from North Rosemont Beach Drive is reduced to a minimum of 5 feet. This setback shall be confirmed through completion of a site survey executed by a licensed surveyor verifying the location of foundation concrete forms before the foundation is poured as part of the required building permit. No additional intrusions, including minor building elements and eaves are permitted within the reduced setback.

Authority: Land Use Code 20.30G.115
Reviewer: David Pyle & Leah Chulsky, Land Use

2. **Side Yard Setbacks:** The side yard setbacks on the north and south side of the property are reduced to a minimum of 5 feet (total of 10 feet). The side yard setback shall be confirmed through completion of a site survey executed by a licensed surveyor verifying the location of foundation concrete forms before the foundation is poured as part of the required building permit. No additional intrusions, including minor building elements and eaves are permitted within the reduced setback.

Authority: Land Use Code 20.25H.040.B
Reviewer: David Pyle & Leah Chulsky, Land Use

3. **Building Permit Required:** Approval of this Variance and Critical Areas Land Use Permit does not constitute an approval of a building permit. Review of the proposed site development was focused on the issues presented in this staff report and does not constitute approval of the proposed building. A building permit with construction plans is required to be issued along with any other associated development permits. Plans submitted as part of any subsequent permit application shall be consistent with the activity permitted under this approval.

Authority: Land Use Code 20.30P.140
Reviewer: David Pyle & Leah Chulsky, Land Use

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: David Pyle & Leah Chulsky, Land Use

- 5. 25-foot Shoreline Buffer:** No activity, landscaping, or improvements shall be made within the 25 foot shoreline buffer as part of this site redevelopment project outside of those allowed through the approved project plans or as routine maintenance through LUC 20.25H.055.C.3.h.

Authority: Land Use Code 20.25H
Reviewer: David Pyle & Leah Chulsky, Land Use

- 6. Approved Modification:** This decision approves the shoreline and slope modifications as identified in the project site plans (Attachment 1) to construct an expanded single family residence with mitigation. This approval does not allow future structures or improvements to be located without future review and approval of a Critical Areas Land Use Permit. Geotechnical evaluation may be required for any future development on the property.

Authority: Land Use Code 20.30P.140
Reviewer: David Pyle, Development Services Department

- 7. Hold Harmless Agreement:** The applicant shall submit a hold harmless agreement in a form approved by the City Attorney which releases the City from liability for any damage arising from the location of improvements within a critical area buffer in accordance with LUC 20.30P.170. The hold harmless agreement is required to be recorded with King County prior to building permit issuance. Staff will provide the applicant with the hold harmless form.

Authority: Land Use Code 20.30P.170
Reviewer: David Pyle, Development Services Department

- 8. Final Mitigation Plan Required:** as part of the application for Construction Permit, the applicant shall submit a final mitigation plan prepared by a qualified consultant that meets the requirements of LUC 20.25H.220 and is consistent with the preliminary mitigation plan included as Attachment 2.

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

- 9. Mitigation Planting Area:** The reduced slope buffer, slope modifications, and shoreline structure setback requires replanting to mitigate the approved buffer reduction in accordance with the project mitigation plan included as Attachment 2.

The applicant shall submit a final planting plan as part of the building permit which is consistent with the requirements in the approved mitigation plan.

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

- 10. Maintenance and Monitoring:** The planting area shall be maintained and monitored for 5 years as required by LUC 20.25H.220. Annual monitoring reports are to be submitted to Land Use each of the five years. Photos from selected photo points will be included in the monitoring reports to document the planting. The schedule and performance standards included in the project mitigation plan included as Attachment 2 apply and are evaluated in the report for each year. Annual monitoring reports are to be submitted to the Development Services Department Land Use Division at the end of the growing season by no later than November 30 for each year monitored. The reports, along with a copy of the planting plan, can be sent to David Pyle at dpyle@bellevuewa.gov or to the address below:

Environmental Planning Manager
Development Services Department
City of Bellevue
PO Box 90012
Bellevue, WA 98009-9012

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

- 11. Installation Device:** To ensure the required mitigation and restoration of areas of temporary disturbance is completed, the applicant shall post an Installation Assurance Device prior to the building permit or clearing and grading permit issuance. The device shall be equal to 150% of the value of the approved mitigation. The device will be released when the applicant demonstrates required mitigation has successfully been installed.

Authority: Land Use Code 20.25H.125.J, 20.25H.220, and 20.40.490
Reviewer: David Pyle, Development Services Department

12. Maintenance Device: Prior to the issuance of the building permit or clearing and grading permit, the applicant shall submit a restoration / replanting maintenance plan cost estimate to be used in determining the amount of the assignment of the maintenance and monitoring financial security device that will be required prior to permit issuance. A complete assignment of savings financial security device in the amount determined by the project planner must be submitted prior to building permit or clearing and grading permit issuance. For the purpose of this permit, maintenance and monitoring shall be completed for a period of five growing seasons. Release of this assurance device is contingent upon receipt of documentation reporting successful establishment in compliance with the mitigation performance standards listed in the project mitigation plan included as Attachment 2. Land Use inspection of the planting after 5-years is required to release the surety.

Authority: Land Use Code 20.25H.125.J and 20.25H.220
Reviewer: David Pyle, Development Services Department