



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

Proposal Name: Avenius Deck

Proposal Address: 425 94th Avenue SE

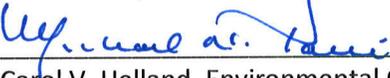
Proposal Description: Construct a small stand-alone deck and repair existing rockeries in a critical area buffer from a steep slope. Approval of this permit would remedy a previous enforcement 15-103982-EA.

File Number: 14-106474-LO

Applicant: Chris Avenius

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

Planner: Michael Paine, Environmental Planning Manager

**State Environmental Policy Act
Threshold Determination:** Exempt (See BCC 22.02.032.d)

Carol V. Helland, Environmental Coordinator
Development Services Department

Director's Decision: Approval with Conditions
Michael A. Brennan, Director
Development Services Department
By: 
Carol V. Helland, Land Use Director

Application Date: February 26, 2015
Notice of Application Date: April 16, 2015
Decision Publication Date: May 21, 2015
CALUP Appeal Deadline: June 4, (14-days from decision date)

For information on how to appeal a project proposal, visit the Permit Center at City Hall or call 425-452-6800. Appeal of the SEPA Threshold Determination and Critical Areas Land Use Permit must be made to the City of Bellevue City Clerk's Office by 5 p.m. on the date noted above for SEPA appeal deadline.

CONTENT

| | | |
|-------|--|-----------|
| 1) | Proposal Description..... | Pg. 3-4 |
| II. | Site Description, Zoning & Land Use Context..... | Pg. 3-6 |
| III. | Consistency with Land Use Code Requirements..... | Pg. 6-8 |
| IV. | Public Notice & Comment..... | Pg. 8 |
| V. | Summary of Technical Review..... | Pg. 8 |
| VI. | Changes to Proposal Due to Staff Review..... | Pg. 9 |
| VII. | Decision Criteria..... | Pg. 9-11 |
| VIII. | Conclusion and Decision..... | Pg. 11 |
| IX. | Conditions of Approval..... | Pg. 11-14 |

Attachments

1. SEPA Environmental Checklist – Attached
2. Critical Areas Report and Addendum Letter – Attached
3. Permit forms and documents – In File

I. Proposal Description

The applicant proposes a critical area modification to locate a 100 square foot deck in the buffer abutting a steep slope as permitted by LUC 20.25H.120.B.3. The area had previously been partially developed by a prior owner and the owner also proposes to repair previously installed rockery retaining walls the function to support the grading required to make the site sufficiently level to build the deck. The modest habitat loss associated with disturbance of the regulatory buffer will be mitigated by a combination of tree and shrub plantings or other performance measures.

A critical areas land use permit and critical areas report are required because LUC 20.25H prohibits development in a steep slope or steep slope buffer without the special critical area permits. Modification of steep slope buffer is allowed provided the proposal leads to levels of protection of critical area functions and values at least as protective as application of the regulations and standards of this code.

Figure 1: Site Context



II. Site Description, Zoning, and Land Use

A. Site Description

The site in question is located in Southwest Bellevue and is zoned R-1.8. At slightly more than an acre in size, roughly half of the lot is encumbered by steep slopes and buffer critical areas. Remnant stands of Puget Sound Lowland Mixed Forest dominate the overstory on the site supported by typical forest shrub layer. This habitat type is sometimes associated with Pileated woodpeckers and other species on the City of Bellevue's Species of Local Importance list. Structural habitat features important to woodpeckers include snags and dead or dying trees and scattered down logs. Patches of Himalayan

blackberry (*Rubus armeniacus*) cover disturbed and exposed areas. Single-family residential zoning dominates the area to the north, east, south and west.

B. Impact to Critical Areas

Based on review of the application, it appears that some care has been exercised to minimize encroachment into the critical area buffer from top-of-slope. The area affected was mostly devoid of trees and mature shrubs and little new vegetation was disturbed. Twenty sword ferns and other plants have been planted around the deck.

C. Land Use Context

The property has a Comprehensive plan Land Use Designation of SF-L (Single Family Low Estate). Given the impact of critical areas, the project is consistent with this land use. The property is zoned R-1.8, single-family residential. With appropriate permitting, the use is allowed in this zone.

D. Critical Areas

a. 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.

III. Consistency with Land Use Code Requirements:

A. Zoning District Dimensional Requirements:

The plans as submitted generally demonstrate conformance with zoning dimensional standards.

B. Critical Areas Overlay District LUC 20.25H

- a. In addition to generally applicable performance standards set forth in LUC 20.25H.055 and 20.25H.065, development within a landslide hazard or steep slope critical area or the critical

area buffers of such hazards shall incorporate the following additional performance standards in design of the development, as applicable. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function.

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;

All work conducted had little or no impact on the contour of the slope. The previously existing graded terrain and stepped terrain was utilized. A previously existing flat area was chosen to support the low deck structure.

B. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;

No mature native vegetation was disturbed; only existing weeds were removed and non-native shrubs were touched.

C. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;

The installation of the small deck had no measurable impact on stability of the buffer or slope below. Repair of the existing retaining walls further improved over all slope stability. See discussion on page 2 of Geotechnical Engineering Reconnaissance for Avenius property performed by Geotech Consultants, Inc,

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;

Previously constructed rockery retaining walls were repaired.

E. Development shall be designed to minimize impervious surfaces within the critical area and critical area buffer;

The proposed deck is small (100 sq. ft.) and the deck surface is pervious.

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;

New grading was very limited.

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;

Not applicable.

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;

The deck rests on a pole-type foundation and the foundations bear in competent native sand. . See discussion on page 2 of Geotechnical Engineering Reconnaissance for Avenius property performed by Geotech Consultants, Inc.

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

Not applicable; site is at top of steep slope not on it.

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)

As part of the project, the applicant has planted 20 sword ferns and other shrubs.

ii. Consistency with LUC 20.25H.140 and 145

Modification of a geologic hazard top-of-slope buffer requires a critical areas report as part of the application for a Critical Area Land Use Permit. The applicant has obtained the services of a qualified geotechnical engineering company to study the site and document the observed conditions.

The firm of Geotech Consultants, Inc. examined the property in question and reviewed a prior 1994 geotechnical study logs for a property in close proximity to the subject site concluded that long-term slope stability remained generally as a result of the proposed deck construction. They observed that the project does not pose any appreciable risk to slope stability and that "it will not

affect neighboring properties because the deck's foundation appears to bear on competent soil.”

Modifications to geologic hazard critical areas and critical area buffers shall only be approved if the Director determines that the modification:

A. Will not increase the threat of the geological hazard to adjacent properties over conditions that would exist if the provisions of this part were not modified;

The Geotechnical Engineering Reconnaissance by Geotech Consulting Inc concludes there is no threat. See page Page 2 of the report.

B. Will not adversely impact other critical areas;

Given the small scale of the disturbance (100 sq. ft.) and the location at the top-of-slope in the geohazard buffer the Engineering Reconnaissance by Geotech Consulting Inc. concludes there will be no impact to other critical areas.

C. Is designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than would exist if the provisions of this part were not modified;

The minimal disturbance associated with the small deck structure coupled with a design using a pole foundation in competent soils, associated mitigation planting, and repair of existing retaining walls eliminates or mitigates the hazard to a level equal to or less than if the provisions were not modified.

D. Is certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington;

The Geotechnical Engineering Reconnaissance by Geotech Consulting Inc. concludes it is safe.

E. The applicant provides a geotechnical report prepared by a qualified professional demonstrating that modification of the critical area or critical area buffer will have no adverse impacts on stability of any adjacent slopes, and will not impact stability of any existing structures. Geotechnical reporting standards shall comply with requirements developed by the Director in City of Bellevue Submittal Requirements Sheet 25, Geotechnical Report and Stability Analysis Requirements, now or as hereafter amended;

Reconnaissance Report by Geotech Consulting Inc. dated February 23, 2015. See pages two and three of the report for conclusions regarding stability of slopes and structures.

F. Any modification complies with recommendations of the geotechnical support with respect

to best management practices, construction techniques or other recommendations; and

Report includes no specific management practices or recommendations.

G. The proposed modification to the critical area or critical area buffer with any associated mitigation does not significantly impact habitat associated with species of local importance, or such habitat that could reasonably be expected to exist during the anticipated life of the development proposal if the area were regulated under this part. (Ord. 5680, 6-26-06, § 3)

The deck is constructed in an area that was already disturbed and modified. The applicant's proposal included very little additional disturbance.

Projects that modify geologic hazard buffers or protective structure setbacks or steep slope critical areas generally require the proponent to complete a *Hold Harmless Agreement with the City*. In this case, the impact and threat of future damage is judged so small as not to require this agreement.

IV. Public Notice and Comment

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|----------------------------|--|
| Application Date: | February 26, 2015 |
| Public Notice (500 feet): | April 16, 2015 |
| CALUP Comment Period: | April 30, 2015 |
| Decision Publication Date: | May 14, 2015 |
| CALUP Appeal Deadline: | May 28, 2015 (14-days from publication date) |

The Notice of Application for this project was published in the City of Bellevue weekly permit bulletin on January April 16, 2015. It was mailed to property owners within 500 feet of the project site. No comments were received.

V. Summary of Technical Reviews

A. Clearing and Grading

The Clearing and Grading Division of the Development Services Department has reviewed the proposed site development for compliance with Clearing and Grading codes and standards and approved the application.

VI. Changes to Proposal Due to Staff Review

No changes required.

VII. Decision Criteria

A. Critical Areas Report Decision Criteria – LUC 20.25H.255.B

The Director may approve, or approve with modifications, a proposal to reduce the regulated critical area buffer on a site where the applicant demonstrates the following. This project involves two modest intrusions requiring critical area or buffer modifications; one into the steep slope critical area and another in the shoreline buffer.

(1) The proposal includes plans for restoration of degraded critical area or critical area buffer functions which demonstrate a net gain in overall critical area or critical area buffer functions.

The project involves legalization of construction of a low-rise 100 square foot deck structure with stairs. In addition, existing but deteriorated rock walls were repaired or rebuilt. The actual disturbance to the critical area buffer is small and mitigation is provided that results in demonstrable improvement in critical area buffer functions.

(2) The proposal includes plans for restoration of degraded critical area or critical area buffer functions which demonstrate a net gain in the most important critical area or critical area buffer functions to the ecosystem in which they exist;

See discussion above. The applicant has planted 20 sword ferns and shrubs to offset the impact of placing the deck in the buffer.

(3) The proposal includes a net gain in stormwater quality function by the critical area buffer or the elements of the development proposal outside of the reduced regulated critical area buffer;

There is virtually no increase in impervious area as a result of this project and natural hydrologic functions are maintained and preserved.

(4) Adequate resources to ensure completion of any required restoration, mitigation and monitoring.

Adequate resources are available.

(5) 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

The proposed modifications are not detrimental to functions and values of critical area and critical area buffers off-site.

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

The proposed development is compatible with adjacent single-family residential development.

A. 20.30P.140 Critical Area 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;

The applicant must obtain a grading permit. . See Conditions of Approval in Section XI 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;

The project uses a pole-type foundation in competent soils to support the small deck proposed. Required mitigation planting will further offset the impacts.

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

As discussed in Section III of this report, the performance standards of LUC 20.25H are incorporated in the proposal. See Conditions of Approval in Section XI of this report.

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

The proposed activity does not significantly impact the provision of public services or facilities.

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

Proposed mitigation includes a planting of sword ferns and other shrubs designed to offset the small loss of existing critical area habitat as required at LUC 20.25H.125 and LUC 20.25H.230. See Conditions of Approval in Section XI of this report.

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

With respect to the footprint location of the proposed structure and conformance with the requirements of the LUC 20.25H, the proposal complies with the 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, SEPA, City Code and Standard compliance reviews, the Director of the Development Services Department does hereby **approve with conditions** the Critical Areas Land Use Permit to make improvements within the stream critical area structure setback described in this report. **A grading is**

required and all plans are subject to review for compliance with applicable City of Bellevue codes and standards.

Note - Expiration of Critical Area Permit 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. The permit may be extended an additional year provided the request is made prior to expiration of the one year time frame. At the applicant's request, the longevity of this approval has been extended for a total of **two years**.

IX. Conditions of Approval

The applicant shall comply with all applicable Bellevue City Codes and Ordinances including but not limited to:

| Applicable Ordinances | Contact Person |
|--------------------------------------|-----------------------------|
| Clearing and Grading Code- BCC 23.76 | Tom McFarlane, 425-452-5207 |
| Land Use Code- BCC Title 20 | Michael Paine, 425-452-2739 |
| Noise Control- BCC 9.18 | Michael Paine, 425-452-2739 |

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

- 1. Clearing and Grading Permit Required:** Approval of this Critical Areas Land Use Permit does not constitute an approval of a grading, building, or utility permit. To ensure execution of the required performance standards and required mitigation planting within the critical area buffer the Applicant shall apply for a clearing and grading permit to install required mitigation and monitor performance.

Authority: Land Use Code 20.30P.140

Reviewer: Michael Paine, Development Services Department

- 2. Final Mitigation Plan Required:** The applicant shall submit, in concert with a clearing and grading permit, a final planting plan, prepared by a qualified professional and conforming to the requirements of LUC 20.25H.220 (Mitigation and Restoration Plan Requirements) that demonstrates sufficient planting to offset the 100 or so square feet of habitat loss resulting from the proposed modification of the critical area buffer.

Authority: Land Use Code 20.25H.210 and 20.30P

Reviewer: Michael Paine, Development Services Department

- 3. Obtain and Install NGPE Signs:** The applicant shall obtain and install required NGPE signage along

the outer boundary of 50 buffer from top-of-slope. Signs are obtainable from the City. Installation must be to a solid wood, metal, or carsonite stake. This condition is in lieu of survey and recording of the critical area typically required in enforcement cases.

Authority: Land Use Code 20.25H.030.B.1

Reviewer: Michael Paine, Development Services Department

- 11. Temporary Irrigation Required:** The mitigation and restoration plan shall include provision for temporary irrigation sufficient to guarantee establishment success of all mitigation and restoration areas.

Authority: Land Use Code 20.25H.210

Reviewer: Michael Paine, Development Services Department

- 12. Land Use Inspection Required:** Inspection of the required mitigation planting must be completed by the land use planner as part of the final inspection of the clearing and grading permit. See how to request an inspection at: http://www.bellevuewa.gov/schedule_an_inspection.htm

Authority: Land Use Code 20.25H.210

Reviewer: Michael Paine, Development Services Department

- 14. Maintenance and Monitoring:** Any planting area outlined in the mitigation plan shall be maintained and monitored for a total of five (5) years. Annual monitoring reports must to be submitted to the City of Bellevue's Land Use Division for five years at the end of each growing season. Photos from designated photo points approved by the City shall be included in the monitoring reports to document continued success. The monitoring may be discontinued after three years if, in the opinion of the Department, the long-term success of the mitigation is assured. Due to the size and simplicity of this mitigation effort, the following simple schedule and performance standards apply and are evaluated in the report for each year:

Year 1 (from date of plant installation)

- 100% survival of all installed plants and/or replanting in following dormant season to reestablish 100%
- 0% coverage of invasive plants in planting area

Year 2 (from date of plant installation)

- At least 90% survival of all installed material
- Less than 5% coverage of planting area by invasive species or non-native/ornamental vegetation

Year 3, 4, & 5 (from date of plant installation)

- At least 85% survival of all installed material
- At least 35% (Yr3), 50% (Yr4), 70% (Yr5) coverage of the planting area by native plants in each year respectively
- Less than 5% coverage by invasive species or non-native/ornamental vegetation

The reports can be sent to Michael Paine at mpaine@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 20.25H.220.D

Reviewer: Michael Paine, Development Services Department

- 16. Dark Sky Lighting Required:** Any lighting associated with this proposal shall be limited to the minimum necessary and constructed and installed in such a manner that all light emitted by the luminaire, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane through the luminaire's lowest light-emitting part. Lighting tear sheets or photos of fixtures must be submitted to Development Services with the clearing and grading application for preliminary approval and shall be confirmed by inspection in the field after installation.

Authority: Land Use Code 20.25H.080

Reviewer: Michael Paine, Development Services Department

- 17. Noise related to construction:** Noise from 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 at least one week prior to the date the specific exemption is required.

Authority: Bellevue City Code 9.18

Reviewer: Michael Paine, Development Services Department