



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

Proposal Name: Peng Deck

Proposal Address: 4455 163rd PI SE

Proposal Description: Application for Critical Areas Land Use Permit approval to construct a deck associated with the existing single-family residence within a steep slope buffer. Native vegetation planting and repair of existing an existing block wall are also included in this proposal. This project is associated with Enforcement Action 14-108986-EA.

File Number: 14-137899-LO

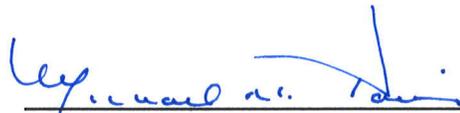
Applicant: Shad Minsheu

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

Planner: David Wong, Planner

**State Environmental Policy Act
Threshold Determination:** Exempt

Director's Decision: Approval with Conditions



Carol V. Helland, Land Use Director
Development Services Department

Application Date: July 25, 2014
Notice of Application Publication Date: September 4, 2014
Decision Publication Date: May 21, 2015
Project/SEPA Appeal Deadline: June 4, 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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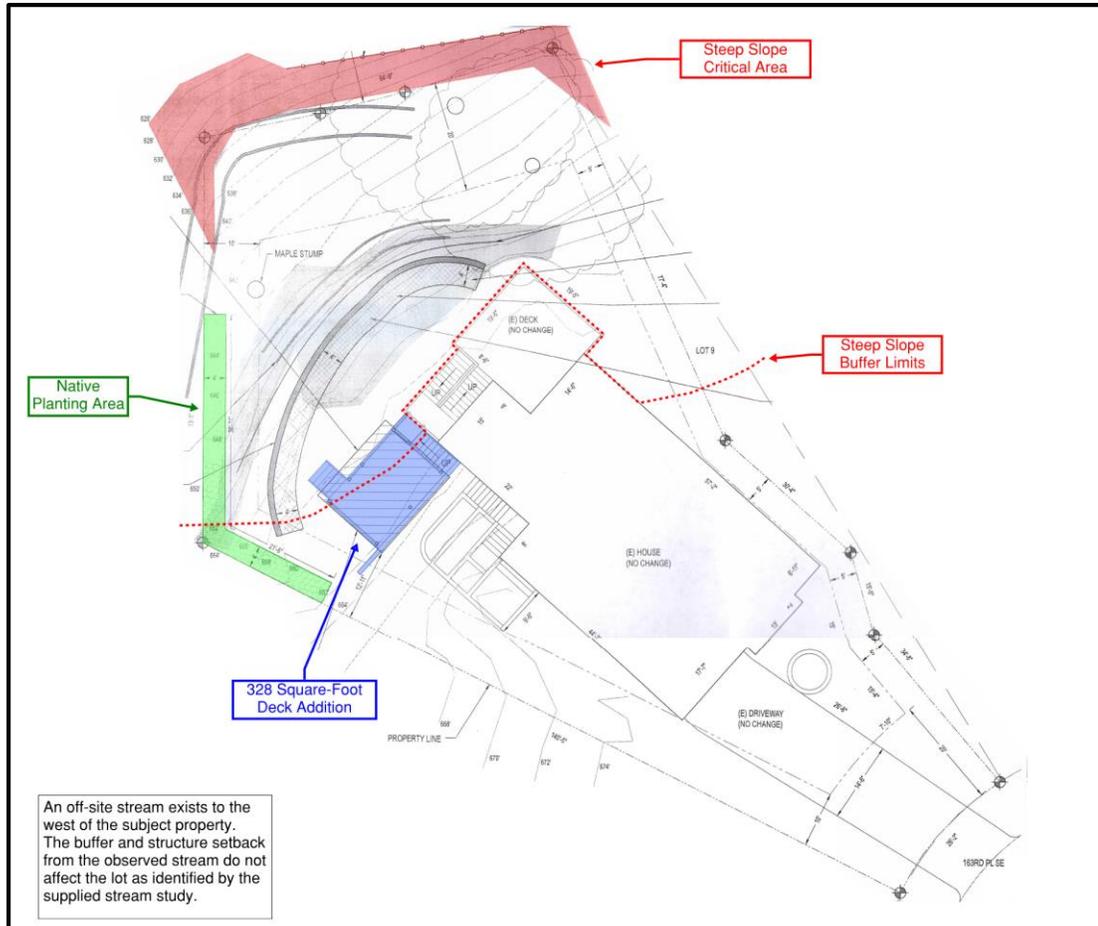
Attachments

1. Site Plan – In File
2. Critical Areas Report – In File
3. Stream Study – In File

I. Proposal Description

The applicant proposes to construct a 238 square-foot deck with access stairs associated with the existing single-family residence. The proposed deck is located within a 50-foot steep slope critical area top-of-slope buffer associated with a previously altered slope which was permitted in 2013 (13-107592-GA). This proposal includes 240 square feet of native vegetation planting as mitigation for buffer impact, and retaining wall repairs that were identified by the geotechnical engineer. See Figure 1 for additional information.

Figure 1



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

A. Site Description

The subject property is located at 4455 163rd Place SE within the Newcastle subarea and is adjacent to other single-family residential developments on all four sides. The subject property is 10,784 square feet and was developed with a two-story single-family residence with a garage in 2002. The site contains a steep slope critical area on the north side of the lot. The associated steep slope buffer that occurs to the south and southwest of the steep slope has been modified with rockeries, a block wall, and non-native vegetation and is in a degraded condition. See Figure 2 below.

Figure 2



B. Zoning

The property is zoned R-3.5, single-family residential. The proposed development is allowed in this zone.

C. Land Use Context

The property has a Comprehensive Plan Land Use Designation of SF-H or Single-Family High Density.

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 provides 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 site is located in the R-3.5 zoning district. The maximum allowable impervious surface for this site is 5,392 square feet or 50% of the total lot area. Approximately 25 square feet of impervious surface associated with the deck pilings is proposed.

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 buffer. This site contains a steep slope with a 50-foot buffer. The project is subject to the following performance standards which are reviewed below.

C. Consistency with Performance Standards for Steep Slopes 20.25H.125

Development within a landslide hazard, 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.

1. 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;

No alteration of the existing topography is proposed. The proposed deck will be constructed on 10-12 inch sonotube pilings.

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

Structures and improvements are located within an area containing artificial grades and 45 feet from the naturally occurring steep slope. No native vegetation will be impacted by deck construction.

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

The geotechnical analysis has concluded that the proposed deck development is "acceptable for the anticipated site and soil conditions at the project site" (Critical Areas Report – Geotechnical Report pg. 6). In addition, the applicant, by way of the recommendation of the project engineer, has included repair of the existing block wall as part of this proposal to ensure slope stability.

4. 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;

No new retaining walls or artificially graded slopes are proposed. Repair of loose fill soil behind the existing block wall is included in this proposal as recommended by the project engineer and City staff.

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

The proposal is designed to minimize impervious surface increases (approximately 25 square feet) within the steep slope buffer by constructing the deck on sonotube pilings.

6. 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; No new grade changes are proposed.

7. 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; No new foundation walls, retaining walls, or rockeries are proposed.

8. 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; No development within slopes of 40% or greater is proposed.

9. 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 No development within slopes of 40% or greater is proposed.

10. 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.
The proposed deck represents approximately 238 square feet of new disturbance within the degraded steep slope buffer that exists on site. As mitigation for the disturbance, the proposal includes conceptual planting plan for 240 square feet of native planting adjacent to undisturbed forest vegetation located offsite.

D. Consistency with Critical Areas Report LUC 20.25.230

The applicant supplied a complete critical areas report prepared by Aaron Gaston, a qualified professional. The report met the minimum requirements in LUC 20.25H.250.

E. Consistency with Critical Areas Report – Additional provisions LUC 20.25H.110

Modification of a steep slope structure setback 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. Staff has reviewed the following documents:

- Critical Areas Report – Geotechnical Analysis dated June 3, 2014 prepared by Aaron Gaston
- Critical Areas Report – Addendum Report dated January 21, 2015 prepared by Aaron Gaston

The geotechnical analysis found, “the proposed deck development is acceptable for the anticipated site and soil conditions at the project site” and, “no signs of soil movement has occurred where the deck is located.” The geotechnical engineer also provided recommendations for block wall repair, erosion control, and installation of new plant material.

The proposed 240 square foot mitigation planting area is to mitigate the 238 square feet of the structure setback impact from the addition. The planting is required to be maintained and monitored with the existing planting already guaranteed by an installation and maintenance surety. The installation surety will be released after planting installation and the maintenance surety will be released after the five-year monitoring, assuming restoration has been successful. The monitoring plan can be found in the conditions of approval at the end of this report. **See Conditions of Approval in Section X of this report.**

IV. Public Notice and Comment

Application Date:	July 25, 2014
Public Notice (500 feet):	September 4, 2014
Minimum Comment Period:	September 18, 2014

The Notice of Application for this project was published in the City of Bellevue weekly permit bulletin on September 4, 2014. It was mailed to property owners within 500 feet of the project site. No comments have been received from the public as of the writing of this staff report.

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.

VI. State Environmental Policy Act (SEPA)

The project was initially noticed with a SEPA review due to the location of an off-site stream to the west of the property. Upon further investigation, the stream buffer was found to not affect the subject property therefore no longer requiring a Determination of Non-Significance.

VII. Changes to Proposal As a Result of City Review

The City requested that, based on findings in the Geotechnical Report, the existing block wall and loose fill soils be repaired as part of this proposal. Repairs were included as recommendations by the project engineer and were confirmed by the City's Clearing & Grading Department.

VIII. Decision Criteria

A. Critical Areas Report Decision Criteria - Proposals to Reduce Regulated Critical Area Buffer LUC 20.25H.255

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 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 proposal includes 240 square feet of native species planting that provides a net increase in species diversity, habitat, slope stability, and stormwater interception from that which currently exists on-site.

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;

The proposal includes 240 square feet of native species planting that provides a net increase in species diversity, habitat, slope stability, and stormwater interception from that which currently exists on-site.

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

The proposal includes 240 square feet of native species planting that provides a net increase in species diversity, habitat, slope stability, and stormwater interception from that which currently exists on-site.

4. Adequate resources to ensure completion of any required restoration, mitigation and monitoring efforts;

A maintenance surety for the cost of the plants will be required prior to the issuance of a building permit for the proposed deck. **Please see Conditions of Approval in**

Section X of this report.

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

As discussed in the Critical Areas Report, the project engineer found that if the recommendations of the geotechnical report are properly implemented the steep slope and steep slope buffer would experience “minimal to no adverse impact” (Critical Areas Report Addendum pg. 6). Recommendations include the use of sonotube pilings, repair of block wall and loose soils, and native vegetation planting.

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

The proposal to construct an addition to an existing single-family residence maintains consistency with the surrounding residential land use district.

B. 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;

The applicant must obtain required development permits. A construction permit is required. **See Conditions of Approval in Section X 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 deck, block wall repair, and native landscaping utilize the best available construction, design, and development techniques. Degraded slope and buffer conditions have been documented in past permits, and will be addressed with through the mitigation landscaping to increase the level of function of the steep slope critical area and steep slope buffer.

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 applicable performance standards of LUC Section 20.25H are being met.

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

The proposed activity will not impact public facilities.

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

The proposal seeks modification for the top-of-slope buffer modification to facilitate

construction of a deck. Included with this proposal is a mitigation plan which provides 240 square feet of native plantings to offset the modification to the steep slope buffer. The applicant is required to follow the recommendation included in the project geotechnical report, which shall be verified by an inspection made by a qualified engineer. **See Conditions of Approval in Section X of this report.**

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

As discussed in Section III and V of this report, 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, the Director of the Development Services Department does hereby **approve with conditions** the proposal to construct a deck within the steep slope buffer.

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 Clearing and Grading 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	Tom McFarlane, 425-452-5207
Land Use Code- BCC 20.25H	David Wong, 425-452-4282
Noise Control- BCC 9.18	David Wong, 425-452-4282

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

1. Building Permit: Approval of this Critical Areas Land Use Permit does not constitute an approval of a development permit. A building permit for the deck is required.

Authority: Land Use Code 20.30P.140

Reviewer: David Wong, Land Use

2. Approved Buffer Modification: The buffer modification approved is for the construction of a deck only as depicted in the project site plan and does not authorize additional site changes outside of this project scope. The modification does not allow future structures or improvements to be located in the buffer without approval of a Critical Areas Land Use Permit/geotechnical evaluation.

Authority: Land Use Code 20.30P.140
Reviewer: David Wong, Land Use

3. Geotechnical Recommendations: The project shall be constructed per the recommended procedures and practices in the geotechnical report dated June 3, 2014 and addendum dated January 21, 2015.

Authority: Land Use Code 20.30P.140
Reviewer: David Wong, Land Use

4. Mitigation Planting: Plans submitted for the building permit must provide 240 square feet of mitigation landscaping that adheres to the standards found in the City of Bellevue Critical Areas Handbook.

Authority: Land Use Code 20.30P.140
Reviewer: David Wong, Land Use

5. Plant Cost Estimate: A cost estimate for the proposed mitigation plants and installation of plants must be submitted prior to building permit issuance.

Authority: Land Use Code 20.30P.160
Reviewer: David Wong, Land Use

6. Maintenance & Monitoring: The mitigation and restoration areas shall be self-maintained and self-monitored for five (5) years. Annual monitoring reports are to be submitted to Land Use each of the five years at the end of each growing season or October 31st. Photos from selected points, determined by the City, will be included in the monitoring reports to document the planting. The following schedule and performance standards apply and are evaluated in the report each year:

Year 1 (from date of plant installation)

100% survival of all install plants/or replanting in following the dormant season to reestablish 100%

10% maximum coverage of invasive plants in planting area

Year 2 (from date of plant installation)

90% survival of all install plants/or replanting in the following dormant season to reestablish 90%

20% minimum vegetative coverage

10% maximum coverage of invasive plants in planting area

Year 3 (from date of plant installation)

80% survival of all install plants/or replanting in the following dormant season to reestablish 80%

35% minimum vegetative coverage

10% maximum coverage of invasive plants in planting area

Years 4-5 (from date of plant installation)

80% survival of all installed plants

50-60% minimum vegetative coverage

10% maximum coverage of invasive plants in planting area

The reports along with a copy of the planting plan can be sent to David Wong at dwong@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 Wong, Land Use

7. Maintenance Surety: A maintenance surety, based on the cost estimate above is required and shall equal 150% of the cost of the plants. The maintenance surety is required to building permit issuance.

Authority: Land Use Code 20.30P.160

Reviewer: David Wong, Land Use

8. Land Use Inspection: Following installation of planting, the applicant shall contact Land Use staff to inspect the planting area prior to final building inspection. Planting stock must meet ANSI Z60.1 nursery standards, be installed correctly, and in healthy condition upon inspection.

Authority: Land Use Code 20.30P.140

Reviewer: David Wong, Land Use

9. Rainy Season Restrictions: Due to the proximity to 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 the Development Services Department. 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: Tom McFarlane, Clearing and Grading

10. 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 or buffer in accordance with LUC 20.30P.170. The hold harmless agreement is required to be recorded with King County prior to Clearing & Grading Permit issuance or building permit issuance. Staff will provide the applicant with the hold harmless form.

Authority: Land Use Code 20.30P.170
Reviewer: David Wong, Land Use

11. Pesticides, Insecticides, and Fertilizers: The applicant must submit as part of the required Clearing and Grading Permit information regarding the use of pesticides, insecticides, and fertilizers in accordance with the City of Bellevue's "Environmental Best Management Practices".

Authority: Land Use Code 20.25H.220.H
Reviewer: David Wong, Land Use

12. 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 Wong, Land Use