



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

Proposal Name: Cochrane – Critical Areas Land Use Permit

Proposal Address: 61 Cascade Key

Proposal Description: The applicant requests to remodel an existing single-family residence by expanding the kitchen on a site containing shoreline critical area and shoreline critical area structure Setback. The kitchen will be expanded a total of 480 square feet within the shoreline structure setback.

File Number: 14-140072-LO

Applicant: Richard Fisher

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

Planner: Leah Chulsky, Associate Land Use Planner

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

Director's Decision: **Approval with conditions**
Michael A. Brennan, Director
Development Services Department

By: Leah Chulsky
Carol V. Helland, Land Use Director,

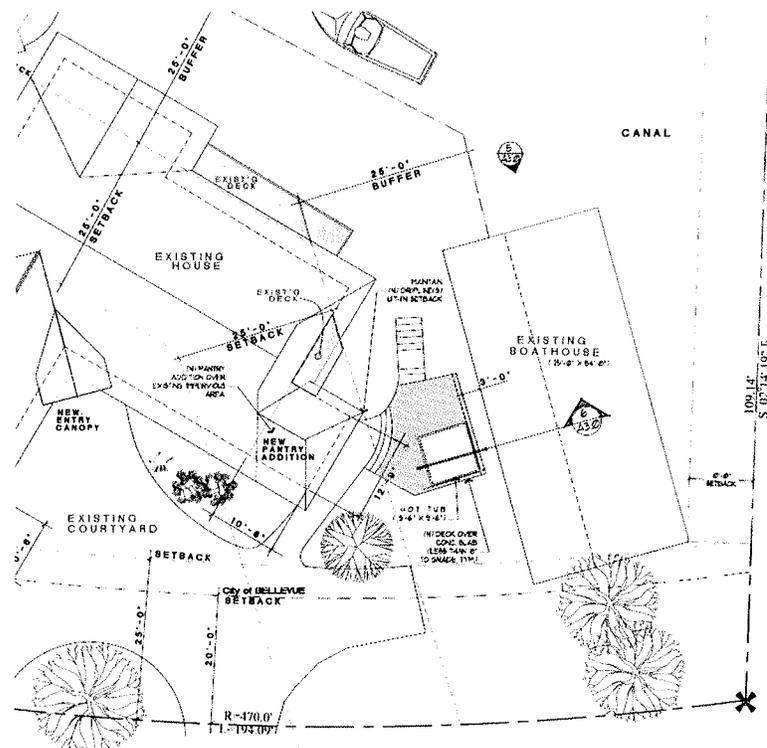
Application Date:	<u>August 21, 2014</u>
Notice of Application Publication Date:	<u>September 18, 2014</u>
Decision Publication Date:	<u>January 29, 2015</u>
Project Appeal Deadline:	<u>February 12, 2015</u>

For information on how to appeal a proposal, visit Development Services at City Hall or call (425) 452-6800. Comments on State Environmental Policy Act (SEPA) Determinations can be made with or without appealing the proposal within the noted comment period for a SEPA Determination. Appeal of the Decision must be received in the City's Clerk's Office by 5 PM on the date noted for appeal of the decision.

I. Background

A. Project Description:

The applicant is proposing to remodel an existing single-family residence by expanding the kitchen on a site containing shoreline critical area. The kitchen will be expanded a total of 480 square feet along the line of the existing kitchen within the shoreline structure setback over a paved patio. The expansion of an existing single-family primary structure into a critical area structure setback is an allowed development per Land Use Code (LUC) 20.25H.055.



B. Site Description:

The property, shown below, is located at 61 Cascade Key. The site is in the Factoria Subarea. The zoning of the property is R-2.5 and the Comprehensive Plan designation is single-family medium density.

Access to the site is via Cascade Key. The property is bounded on the north by Lake Washington and to south and the west by existing single-family residences. The site contains a regulated shoreline critical area and structure setback.

Cochrane Property, 61 Cascade Key



II. Critical Areas and Critical Area Buffers

A. Shoreline Buffer and Structure Setback:

A site plan dated August 21, 2014 identifies a regulated shoreline of Lake Washington on the property. Shoreline critical areas on developed lots are afforded a 25-foot area buffer, measured from the Ordinary High Water Mark (OHWM), and a 25-foot structure setback, measured from the edge of the buffer. The applicant is proposing to expand the primary single-family structure a total of 480 square feet into the 25 foot structure setback from the shoreline buffer.

III. State Environmental Policy Act (SEPA)

The environmental review indicates that the proposed action is categorically exempt from SEPA review per WAC 197-11-800 because the encroachment is within the shoreline structure setback which is not designated as a critical area per Bellevue City Code.

IV. Consistency with Land Use Code Requirements

A. Critical Areas Requirements:

The City of Bellevue Land Use Code Critical Areas Overlay District (LUC 20.25H) establishes standards and procedures that apply to development on any site which contains in whole or in part any portion designated as critical area, critical area buffer or structure setback area. The Critical Areas Overlay District is a mechanism by which the City recognizes the existence of natural conditions which affect the use and development of a property. Through this section of the Land Use Code, the city imposes regulations on the use and development of affected property to protect the functions and values of these areas and the public health, safety and welfare, and to allow reasonable use of private property.

The property under proposal contains areas designated as critical area and structure setback area. Based on the proposed project elements and their intersection with the critical areas on the site, there are a set of specific performance standards that apply. Applicable performance standards are identified in the table below:

Critical Area	Shoreline Structure Setback
Performance Standards	20.25H.055.C.3.n 20.25E.080.B 20.25E.080.Q

V. Consistency with Land Use Code Performance Standards:

A. Consistency with LUC 20.25H.055.C.3.n – Expansion of Existing Single-Family Primary Structure into Critical Area Structure Setback.

- i. Where allowed, expansions into the critical area buffer and critical areas structure setback shall be limited as follows:
 - (A) The expansion shall be along the existing building line parallel to the edge of the critical area, unless such expansion is not feasible. Only when such expansion is not feasible may expansion encroach further into the critical area buffer and critical area structure setback.
 - (B) Expansions shall be the minimum necessary to achieve the intended functions of the expansion, but in no event may the footprint expansion within the critical area buffer and critical area structure setback exceed 500 square feet over the life of the structure. Expansions into stream critical area buffers

allowed pursuant to the City's previous critical areas regulations (prior LUC [20.25H.085.B](#)) shall be included in determining the allowed lifetime expansion; and

- (C) Areas of new permanent disturbance and all areas of temporary disturbance within the critical area buffer shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC [20.25H.210](#).
- ii. For purposes of this section, expansion outside of the critical area buffer and critical area structure setback shall be considered not feasible only when, considering the function to be served by the expansion and the existing structure's layout and infrastructure (including plumbing, drainage and electrical systems):
 - (A) Expansion away from the critical area buffer and critical area structure setback within the buildable area of the site will not realize the intended functions of the expansion; and
 - (B) Expansion away from the critical area buffer and critical area structure setback, including into non-critical area setbacks modified pursuant to LUC [20.25H.040](#), will not realize the intended functions of the expansion; and
 - (C) Expansion upwards to the maximum building height of the underlying land use district, within the existing footprint, or together with expansions permitted under subsections C.3.n.ii.(A) and (B) of this section, will not realize the intended functions of the expansion.

Finding: The applicant has demonstrated that expansion of the single-family primary structure is for an essential component of the single-family residence (kitchen), and is not feasible outside of the structure setback.

The kitchen exists on the east side of the house, approximately 35 feet from the identified OHWM. The cost of relocating the kitchen and necessary electrical and plumbing would be prohibitively expensive. The proposed foundation and roof extension are incorporated into the kitchen expansion and follow the line of the existing structure. The proposed 480 square foot expansion along the existing line of the kitchen is the minimum necessary to create a more functional kitchen and improve access. Expanding the house in any other direction will not yield the necessary functionality.

B. Consistency with LUC 20.25E.080.B – General Regulations Applicable to All Land Use Districts and Activities

- A. Where applicable, all federal and state water quality and effluent standards shall be met;
- B. If a property extends into the Shoreline Overlay District, the Shoreline Master Program Policies and these use regulations shall apply only to that portion of the property lying within the Shoreline Overlay District.;
- C. All development within the Shoreline Overlay District shall be accompanied by a plan indicating methods of preserving shoreline vegetation and for control of erosion during and following construction in accordance with Part 20.25H LUC, City of Bellevue Clearing and Grading regulations, Chapter 23.76 BCC, and the Comprehensive Plan;
- D. Special care shall be exercised to preserve vegetation in wetland, shoreline and stream corridor bank areas in order to prevent soil erosion. Removal of vegetation from or disturbance of shoreline critical areas and shoreline critical area buffers, and from other critical area and critical area buffers shall be prohibited, except in conformance with Part 20.25H LUC and the specific performance standards of this section;
- E. Maximum height limitation for any proposed structure within the Shoreline Overlay District shall be 35 feet, except in land use districts with more restrictive height limitations. The method of measuring the maximum height is described in WAC 173-14-030(6). Variances to this height limitation may be granted pursuant to Part 20.30H LUC;
- F. The Bellevue Shoreline Master Program, in conjunction with existing Bellevue land use ordinances and Comprehensive Plan policies, shall guide all land use decisions in the Shoreline Overlay District;
- G. Any development within the Shoreline Overlay District shall comply with all applicable Bellevue ordinances, including but not limited to the Bellevue Land Use Code, Sign Code, and clearing and grading regulations;
- H. The dead storage of watercraft seaward of the ordinary high water mark of the shoreline is prohibited;
- I. Where applicable, state and federal standards for the use of herbicides, pesticides and/or fertilizers shall be met, unless superseded by City of Bellevue ordinances. Use of such substances in the shoreline critical area and shoreline

critical area buffer shall comply with the City's "Environmental Best Management Practices.", and

- J. Adequate storm drainage and sewer facilities must be operational prior to construction of new development within the Shoreline Overlay District. Storm drainage facilities shall be separated from sewage disposal systems.

Finding: The proposed addition is located in an area previously covered by a concrete patio. There will be no new permanent disturbance or changes to the existing grade. There will be no disturbance or removal of existing vegetation or construction storage within the structure setback or buffer. The applicant will replant a 600 square foot area adjacent to the kitchen with native plants as mitigation for the 480 square foot addition.

See related conditions of approval in Section X.

C. Consistency with LUC 20.25E.080.Q – Performance standards – Residential Development Regulations.

- A. For purposes of this section, accessory structures shall include swimming pools, tennis courts, spas, greenhouses and similar facilities;
- B. No boat, houseboat or watercraft moored seaward of the ordinary high water mark shall be used as a permanent residence;
- C. All structures, accessory buildings and ancillary facilities, other than those related to water use (such as moorage) shall be located outside of the shoreline critical area and shoreline critical area buffer, except stairs, handrails, and a trail or path providing access to the shoreline. The requirements of this subsection may be modified through a critical areas report, LUC 20.25H.230;
- D. Fences essentially parallel with the shoreline are not permitted within critical area buffer or critical area structure setback;
- E. Maximum building height in those areas of the Shoreline Overlay District which are zoned for residential uses shall be 35 feet, except in land use districts where more restrictive height limitations exist;
- F. All residential development shall be accompanied by a plan indicating methods for preserving shoreline vegetation and control of erosion during and following construction as required by City of Bellevue clearing and grading regulations, Chapter 23.76 BCC, and the Comprehensive Plan.

Finding: No accessory structure are proposed or approved under this application. The approved addition will be required to obtain all required building permits and meet the required height maximum. No existing shoreline vegetation will be removed under this application.

See related condition of approval in Section X.

VI. Summary of Technical Reviews

A. Clearing and Grading:

The Clearing and Grading Division of the Development Services Department has reviewed the proposed site development for compliance with Clearing and Grading codes and standards. The Clearing and Grading staff found no issues with the proposed development. Clear and grading activities associated with the construction of the residential addition must meet the requirements of the Clearing and Grading Code including provisions for temporary erosion and sedimentation control using appropriate best management practices.

See related condition of approval in Section X.

VII. Public Notice and Comment

Application Date:	August 21, 2014
Public Notice (500 ft.):	September 18, 2014
Minimum Comment Period (2 weeks):	October 2, 2014

The Notice of Application for this project was published in the City of Bellevue Weekly Permit Bulletin and Seattle Times on September 18, 2014. It was mailed to property owners within 500 feet of the project site. No comments were received regarding this proposal.

VIII. Decision Criteria

The proposal, as conditioned below, meets the applicable regulations and decision criteria for a Critical Areas Land Use Permit pursuant to LUC 20.30P.

A. Critical Areas Land Use Permit Decision Criteria (LUC 20.30P)

1. The proposal obtains all other permits required by the Land Use Code;

Finding: The proposed project must apply for and receive approval of a City of Bellevue Building Permit for a single family addition (BR) prior to implementation of the project. **See related condition of approval in Section X.**

2. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer;

Finding: The submitted Geotechnical Report and associated site evaluation describes the project's potential impact on the structure setback and describes the use of the best available construction design and development techniques to minimize both permanent and temporary impacts on critical areas and their buffers.

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

Finding: The proposed project incorporates all of the applicable performance standards specified in LUC 20.25H. They are addressed in detail in Section V above for the critical areas present within the project area.

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

Finding: The existing single-family residence is served by adequate public facilities.

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

Finding: The applicant is proposing to add 480 square feet for the kitchen addition in an area currently developed with an at-grade concrete patio. The applicant will replant a 600 square foot area adjacent to the kitchen as mitigation for the disturbance. **See related condition of approval in Section X.**

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

Finding: The applicant submitted documentation consistent with the requirement to demonstrate compliance with the requirements of LUC 20.30P, 20.25H and 20.25E. Staff has reviewed these documents and finds that the proposal complies with all other applicable requirements of the Land Use Code.

IX. Conclusion and Decision

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, SEPA, City Code and Standard compliance reviews, Development Services does hereby **approve with conditions** the proposal for an expansion of 480 square feet for a single-family residence into a shoreline structure setback.

Note- Expiration of Approval: In accordance with LUC 20.30P.150, a Critical Areas Land Use Permit is void if the applicant fails to file for a Building Permit or other necessary development permits within one year of the effective date of the approval.

X. Conditions of Approval

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

<u>Applicable Ordinances</u>	<u>Contact Person</u>
Clearing and Grading Code- BCC 23.76	Tom McFarlane, 425-452-5207
Land Use Code- BCC 20.25H	Leah Chulsky, 425-452-6834

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

A. Rainy Season Restrictions: Due to the proximity to Lake Washington no clearing and grading activity may occur during the rainy season, which is defined as October 1 through April 30 without written authorization of Development Services. Should approval be granted for work during the rainy season, increased erosion and sedimentation measures, representing the best available technology must be implemented prior to beginning or resuming site work.

Authority: Bellevue City Code 23.76.093.A
Reviewer: Tom McFarlane, Development Services Department

B. Building Permit: Prior to initiation of any work on the existing residence the applicant must apply for and obtain a Single-Family Addition Building Permit from the City of Bellevue.

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

C. Replanting Plant: The applicant will replant a 600 square foot area at the toe of

the adjacent slope that is currently lawn with native plants.

Authority: Land Use Code 20.30P.140

Reviewer: Leah Chulsky, Development Services Department

XI. Attachments:

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

