City of Bellevue
Development Services Department
Land Use Staff Report

Proposal Name:	**Garden Tool Shed**
Proposal Address:	2430 West Lake Sammamish Parkway SE
Proposal Description:	Critical Areas Land Use Permit to retroactively permit a 200 SF garden shed constructed within the toe-of-slope structure setback from a steep slope critical area. The shed is located approximately 10 feet from the toe of the steep slope and 90 feet from the Lake Sammamish shoreline.
File Number:	**20-102567-LO**
Applicant:	John Gunner
Decisions Included:	Critical Areas Land Use Permit (Process II. LUC 20.30P)
Planner:	Peter Rosen, Senior Environmental Planner
State Environmental Policy Act Threshold Determination:	**Exempt**
Director's Decision:	**Approval with Conditions** Michael A. Brennan, Director Development Services Department *Heidi Bedwell, Planning Manager* _____ Elizabeth Stead, Land Use Director Development Services Department

Application Date:	January 28, 2020
Completeness Date:	March 27, 2020
Notice of Application Publication Date:	April 9, 2020
Decision Publication Date:	July 9, 2020
Project Appeal Deadline:	July 23, 2020

For information on how to appeal a proposal, visit Development Services Center at City Hall or call (425) 452-6800. 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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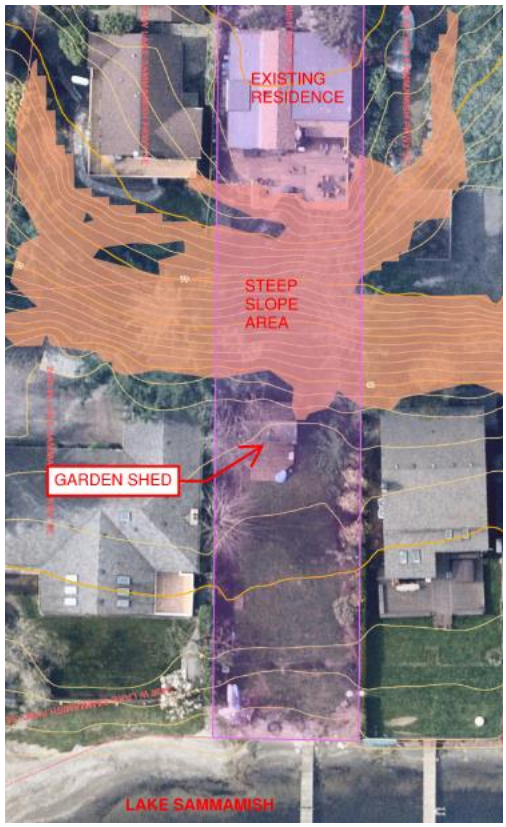
I. Proposal Description

The applicant is requesting approval of a Critical Areas Land Use Permit to retroactively permit a 200 SF garden shed, constructed without permits, within the toe-of-slope structure setback from a steep slope critical area. The shed is located approximately 10 feet from the toe of the steep slope and 90 feet from the Lake Sammamish shoreline.

The garden shed was constructed in the central portion of the site; at the base of the steep slope area in the lower lawn. No trees or shrubs were removed or impacted with constructing the garden shed. The garden shed was constructed on a raised, non-permanent foundation; there was no grading or excavation for a foundation. No plumbing or water service utilities were extended to the garden shed.

FIGURE 1 –Site Plan



To mitigate for the impacts of the garden shed, the applicant planted native trees and shrubs around the garden shed and along the perimeters of the site to improve vegetation diversity and multi-canopy structure and critical area functions. Plant species include Vine maple, Plum, Cluster rose, Salal, Lilac, Kinnikinnick and Sword fern. See Figure 2.

A Critical Areas Land Use Permit is required per LUC 20.25H.120.C.3 for modifications to a steep slope toe-of-slope structure setback. A Critical Area Report is required to modify code standards, to allow a reduction in the 75-foot toe-of-slope structure setback to approximately 10 feet. The Critical Areas Report must demonstrate the proposal would result in equal or better critical area functions and values as compared to the application of the standard code requirements.

FIGURE 2 –Mitigation Planting

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

A. Site Description

The project site is located at 2430 West Lake Sammamish Parkway in the Southeast Bellevue subarea. The site is 15,079 square feet in size and is developed with a single-family residence, which is accessed off West Lake Sammamish Parkway.

The central portion of the site contains a steep slope critical area (40%-60% slope) sloping down toward Lake Sammamish, with an elevation change of approximately 40 feet (from 87 to 47 foot elevation). The steep slope area is well-vegetated and includes a mix of native trees (Douglas fir, Big-leaf maple) and ornamental plants and garden areas. The steep slope area has been modified with walking path switchbacks and stairs to connect the upper and lower yards.

There is a large, lower lawn area at the base of the steep slope and the garden shed was constructed in this lawn area. There are trees and shrubs along the site perimeters. The site extends to Lake Sammamish; the shoreline is natural, not hardened or improved with a bulkhead.

FIGURE 3 –Existing Site Conditions

B. Zoning

The property is zoned R-3.5, a Single-Family Residential zoning district, and is located in the Southeast Bellevue subarea. The surrounding area is zoned R-3.5 and R-5 and is developed with single family homes.

FIGURE 4 –Zoning

C. Land Use Context

The Comprehensive Plan designation for this site and adjacent parcels is Single-Family Medium Density (SF-M) and the surrounding area is developed with single family residences. The proposal for a detached garden shed is consistent with the other residential uses in this Land Use designation.

FIGURE 5 – Site Context

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.

ii. Shorelines

The site is in the Shoreline Residential shoreline environment designation.

Per LUC 20.25E.010, the shoreline residential environment is to accommodate single or multifamily residential development and appurtenant structures. A shoreline residential environment designation is assigned to Bellevue shorelands which are predominantly characterized by residential development or are planned for residential development and

exhibit moderate to low levels of ecological functions because of historic shoreline modification activities.

Shorelines provide a variety of functions including shade, temperature control, water purification, woody debris recruitment, channel, bank and beach erosion, sediment delivery, and terrestrial-based food supply (Gregory et al. 1991; Naiman et al. 1993; Spence et al.1996). Shorelines provide a wide variety of functions related to aquatic and riparian habitat, flood control and water quality, economic resources, and recreation, among others. Each function is a product of physical, chemical, and biological processes at work within the overall landscape. In lakes, these processes take place within an integrated system (ecosystem) of coupled aquatic and riparian habitats (Schindler and Scheuerell 2002). Hence, it is important to have an ecosystem approach which incorporates an understanding of shoreline functions and values.

See Attachment 3 for Letter of Exemption from Shoreline Substantial Development Permit.

III. Consistency with Land Use Code Requirements:

A. Zoning District Dimensional Requirements:

The site is located in the R-3.5 zoning district. The proposed garden shed conforms to the R-3.5 zoning dimensional standards.

B. Critical Areas Requirements LUC 20.25H:

LUC 20.25H.120.A.2 defines steep slope areas as *those areas that contain slopes of greater than 40%, have a rise of at least 10 feet, and exceed 1,000 SF in area.* Regulated steep slopes are protected by a 50-foot top-of-slope buffer and a 75-foot toe-of-slope structure setback (LUC 20.25H.120.B.1).

The applicant submitted a limited geologic evaluation (Cobalt Geosciences, dated July 29, 2019) prepared by a licensed geotechnical engineer. The geotechnical report evaluated the site for landslide hazards and indications of potential slope instability. The report concluded that the site does not contain features or evidence of landslide activity and that the steep slope area appears to be stable.

The City of Bellevue Land Use Code Critical Areas Overlay District (LUC 20.25H) establishes performance standards and procedures that apply to development on any site which contains in whole or in part any portion designated as critical area, critical area buffer or structure setback from a critical area or buffer. The following sections of the Land Use Code apply to the proposal.

i. Consistency with LUC 20.25H.125 - Performance standards - Landslide hazards and steep slopes.

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;

Finding: The garden shed is located on a relatively flat lawn area at the base of the steep slope. It was constructed on a raised, non-permanent foundation and there was no grading or excavation for construction of the shed. There was no alteration of the steep slope area or the natural contours of the site.

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

Finding: The garden shed was sited on a flat lawn area at the base of the steep slope area, preserving the most critical steep slope portion of the site and its natural landforms. The garden shed location and construction avoided impacts to existing tree and shrub vegetation.

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

Finding: The geotechnical report states that the existing garden shed is not at risk due to landslide activity or failure of the steep slope. The presence and location of the shed does not increase the risk of landslide activity or soil erosion nor would it result in a need for increased buffers on neighboring properties.

The Land Use Code requires applicants to record a hold harmless agreement for any approvals to modify steep slopes, buffers, or structure setback areas. A hold harmless agreement is required to be recorded to release the City of Bellevue from any and all liability associated with construction of the garden shed. It must be reviewed by the Development Services Department for formal approval, recorded with the King County Assessor Office and the recorded copy submitted to the City. **See Conditions of Approval regarding a Hold Harmless Agreement in Section IX of this report.**

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;

Finding: No retaining walls were installed or are currently proposed. The construction of the garden shed did not involve grading or disturbance of the steep slope or grading within the steep slope structure setback area.

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

Finding: No impervious surfaces were constructed or are proposed within the steep

slope or steep slope buffer. The 200 SF garden shed minimizes impervious surface area on the 15,079 SF parcel.

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;

Finding: The garden shed was constructed on a flat lawn area without grading or topographic modification. It is on a raised, non-permanent foundation and there was no grading or excavation outside of the building footprint.

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;

Finding: No freestanding retaining walls were constructed or are proposed. The garden shed was not constructed on a foundation.

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;

Finding: Not applicable. The garden shed is not located in the steep slope area, on slopes in excess of 40 percent.

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

Finding: Not applicable. The garden shed is not located in the steep slope area, on slopes in excess of 40 percent.

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.

Finding: The garden shed is located on a lawn area at the base of the steep slope and no tree or shrub vegetation was impacted. To mitigate for the permanent disturbance of the 200 SF garden shed within the steep slope structure setback, the applicant planted native trees and shrubs around the garden shed and along the perimeters of the site to improve vegetation diversity and create a multi-canopy vegetation structure, thereby improving critical area functions.

ii. Consistency with LUC 20.25H.140 – Critical areas report – Additional provisions for landslide hazards and steep slopes.

The applicant submitted a limited geologic evaluation (Cobalt Geosciences, dated July 29, 2019) prepared by a licensed geotechnical engineer. The geotechnical report evaluated the site for landslide hazards and indications of potential slope instability. The report concluded that the site does not contain features or evidence of landslide activity and that the steep slope area appears to be stable.

iii. Consistency with LUC 20.25H.145 – Critical areas report – Approval of modification

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;

Finding: The geotechnical report concluded that the presence and location of the garden shed does not increase the risk of landslide activity or erosion on the steep slope area and will not increase the threat of geologic hazard to adjacent properties.

B. Will not adversely impact other critical areas;

Finding: The garden shed location did not directly impact the steep slope critical area and there are no other critical areas on the site. The shed is setback approximately 90 feet from the Lake Sammamish shoreline and the construction of the garden shed did not impact vegetation within the 50-foot shoreline vegetation conservation area.

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;

Finding: The geotechnical report concluded that the garden shed is not at risk due to landslide activity or the stability of the steep slope area, provided that full vegetation is maintained on the steep slope area.

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

Finding: A geologic evaluation (Cobalt Geosciences, dated July 29, 2019) was prepared by a licensed geotechnical engineer. The geotechnical report evaluated the site for landslide hazards and indications of potential slope instability. The report concluded that the site does not contain features or evidence of landslide activity and that the steep slope area appears to be stable.

Finding: The geotechnical report concluded that the garden shed is not at risk due to landslide activity or the stability of the steep slope area, provided that full vegetation is

maintained on the steep slope area and that runoff is not directed over the steep slope area. The applicant did not remove or impact vegetation in the steep slope area and is informed that removal or disturbance of vegetation in the steep slope critical area, other than routine landscape maintenance, is restricted by code standards.

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)

Finding: The garden shed was located on a lawn area and no native tree or shrub vegetation was removed or impacted. Therefore, the proposal did not impact wildlife habitat functions or impact habitat associated with species of local importance. The plantings installed around the garden shed and along the perimeter of the site will improve wildlife habitat conditions on the site.

IV. Public Notice and Comment

Application Date:	January 28, 2020
Public Notice (500 feet):	April 9, 2020
Minimum Comment Period:	April 23, 2020

The Notice of Application for this project was published in the City of Bellevue weekly permit bulletin on April 9, 2020. It was mailed to property owners within 500 feet of the project site. No public comments or comments from adjacent property owners was received.

V. Summary of Technical Reviews

A. Clearing and Grading:

The Clearing and Grading Division of the Development Services Department reviewed the garden shed and noted there was no grading or excavation to construct the shed. No Clearing & Grading Permit is required.

VI. Decision Criteria

A. Consistency with LUC 20.25H.255 – Critical areas report – Decision criteria

General.

Except for the proposals described in subsection B of this section, 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 garden shed was constructed on a lawn area at the base of the steep slope. There was no grading or excavation that impacted the steep slope area or that would compromise slope stability. The plantings installed around the garden shed and along the perimeter of the site will improve wildlife habitat conditions and provide a level of protection of critical area functions at least as protective as with the application of the standards of this code.

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

Finding: The applicant has completed mitigation plantings around the garden shed and along the perimeter of the site. The vegetation is established and will be maintained by the applicant with the other display garden areas on the site. The applicant is aware that removal or disturbance of vegetation in the steep slope area/steep slope buffer and structure setback, beyond routine landscape maintenance is restricted by code standards.

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 modification to allow the garden shed within the steep slope structure setback will not be detrimental to the functions and values of the steep slope critical area nor impact functions and values of critical areas and buffers off-site.

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

Finding: The subject site is zoned for and surrounded by single family development. The garden shed is compatible with other residential uses and development in the same land use district.

B. Consistency with LUC 20.30P.140 – Critical Areas Land Use Permit – Decision criteria.

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

Finding: The garden shed is located within 200 feet of the ordinary high water mark (OHWM) of Lake Sammamish and therefore within shoreline jurisdiction and the Shoreline Overlay District. The approval includes a Shoreline Exemption permit for the garden shed shoreline development (See Attachment 3).

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 garden shed is located on a lawn area at the base of the steep slope area. It was constructed on a raised foundation with no grading or excavation and no tree or shrub vegetation was removed. This design and construction avoided direct impacts to the steep slope and results in the least impact on the steep slope critical area.

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

Finding: As discussed in Section III, the applicable performance standards of LUC 20.25H are being met.

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

Finding: No public utilities (water, sewer) were extended to the garden shed. The residential site is served by adequate public facilities, utilities and fire protection.

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

Finding: The applicant planted native trees and shrubs around the garden shed and along the perimeters of the site to mitigate for the permanent disturbance of the 200 SF garden shed within the steep slope structure setback. The plantings improved vegetation diversity and a multi-canopy vegetation structure to improve critical area functions. The mitigation is consistent with the requirements LUC 20.25H.210.

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

Finding: As discussed in this report, the proposal complies with all other applicable requirements of the Land Use Code.

VII. 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 proposal for a garden tool shed within the 75-foot toe-of-slope structure setback, setback approximately 10 feet from the toe-of-slope.

VIII. Conditions of Approval

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

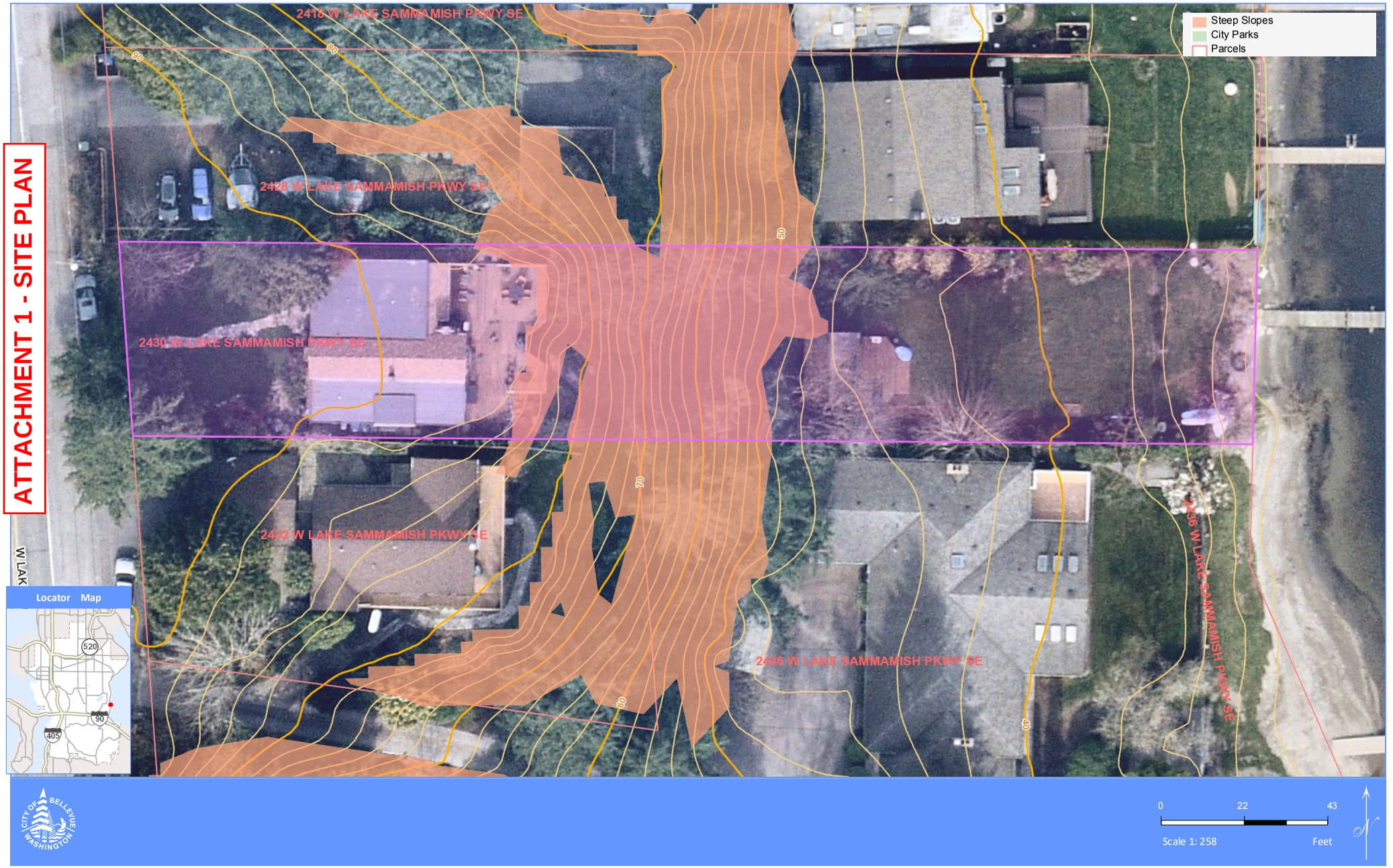
Applicable Ordinances	Contact Person
Clearing and Grading Code- BCC 23.76	Savina Uzunow, 425-452-7860
Land Use Code- BCC 20.25H	Peter Rosen, 425-452-5210

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

1. **Hold Harmless Agreement:** The property owner shall submit a hold harmless agreement releasing the City of Bellevue from any and all liability associated with construction of the garden shed The agreement must meet City requirements and must be reviewed by the Development Services Department for formal approval, recorded with the King County Assessor Office and the recorded copy submitted to the City.

   Authority: Land Use Code 20.30P.170
   Reviewer: Peter Rosen, Development Services Department

ATTACHMENT 1 - SITE PLAN



Map Generated on: 03/25/2020

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Date: January 24, 2020 at 3:39 PM
To: jgunner2430@gmail.com

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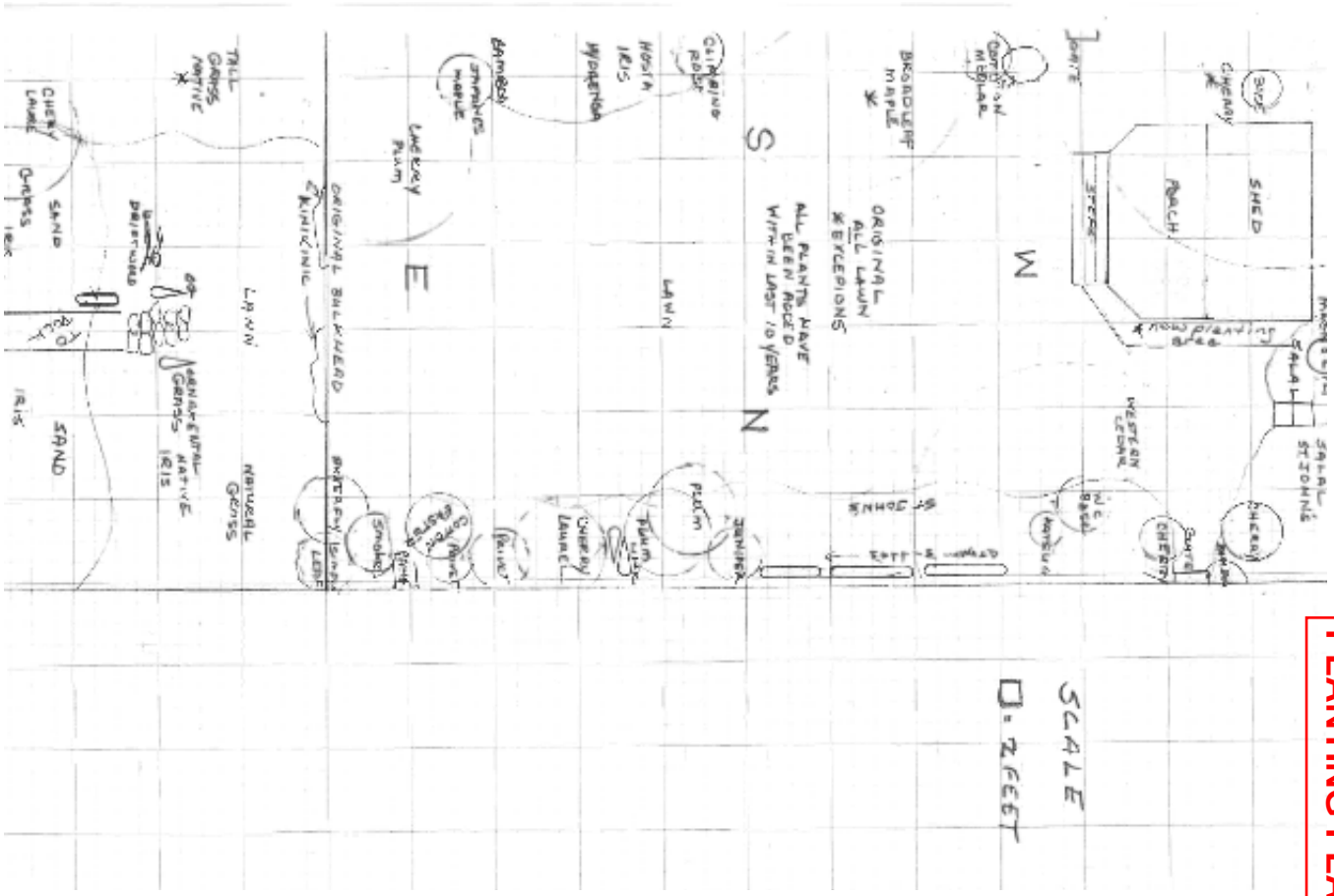

ATTACHMENT 2 - MITIGATION PLANTING PLAN

ATTACHMENT 3 - SHORELINE EXEMPTION LETTER

City of Bellevue

Post Office Box 90012 ▪ Bellevue, Washington ▪ 98009 9012

Exemption from Shoreline Management
Substantial Development Permit Requirement

To: John Gunner
2430 West Lake Sammamish Parkway SE
Bellevue, WA. 98008
jgunner2430@gmail.com

Re: **Garden Tool Shed**

Property Address: **2430 West Lake Sammamish Parkway SE**

File Number: **20-102567-LO**

SEPA Determination: **Determination of Non-Significance**

The proposal to undertake the following development:

A 200 square foot (SF) garden tool shed constructed approximately 90 feet from the ordinary high water mark (OHWM) of Lake Sammamish.

Within **Lake Sammamish** and/or its associated wetlands; is exempt from the requirement of a substantial development permit because:

- **Garden Tool Shed is a normal appurtenance connected to the use and enjoyment of a single-family residence. (LUC 20.25E.170.C.7 and WAC 173-27-040(2)(g).**

Inconsistent	Consistent	
	X	Policies of the State Shoreline Management Act (RCW 90.58)
	X	The Bellevue Shoreline Master Program and Comprehensive Plan

Findings:

1. The Garden Tool Shed is located approximately 90 feet landward of the ordinary high water mark (OHWM) of Lake Sammamish. Therefore, it is beyond the 50-foot shoreline structure setback and outside the 50-foot Vegetation Conservation Area and no mitigation is required.

2. "Sheds" are specifically listed as a normal appurtenance *connected to the use and enjoyment of a single-family residence* in LUC 20.25E.170.C.7 and WAC 173-27-040(2)(g) and therefore the proposed Garden Tool Shed qualifies for an Exemption from a Shoreline Substantial Development Permit.

Date: July 9, 2020 Signed Peter Rosen, Land Use Planner

CC: DOE, 3190 160th Avenue SE, Bellevue, WA 98008-5452
Dept. of Fish and Wildlife, 1775 12th Ave. NW Suite 201, Issaquah, WA 98027