



Planning and Community Development Department

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Critical Areas Ordinance Permit Findings and Decision Type I

1109 18th St.
CAP2024-0046

- Critical Area Type:** Geologic Hazards: Landslide Hazard Area
- Proposal:** Construction of a driveway for an existing single family residence within a Landslide Hazard Area buffer regulated under BMC 16.55. The total area to be gravel surfaced is approximately 1,488 sf as depicted in Exhibit B.
- Applicant:** Scott A Wicklund, 1115 18th St., Bellingham WA 98225
- Location:** 1109 18th St., Bellingham WA 98225
South Hill Neighborhood Area #4A, Residential Single zoning with a 7,200 sf density
- Decision:** Approved
- Date of Decision:** 10/30/24
- Exhibits:** **A- Land Use Application**
B- Critical Area Geologic Hazard Review prepared by John R Gillaspay LEG & Joely Marsyla GIT, Element Solutions dated 9/9/24

I. FINDINGS OF FACT AND CONCLUSIONS

1. The subject property is located within Area 4A of the South Hill Neighborhood and zoned Residential Single with a 7,200 sf density.
2. The city determined the subject property AP# 370201-375159 is a legal lot of record created prior to the adoption of the City's Subdivision Ordinance.
3. The applicant has applied for a critical area permit to construct a gravel driveway and on-site parking for the existing residence located at 1109 18th St. The proposed driveway also includes a turnaround in the right of way for maneuvering in order to safely navigate the steep topography abutting the subject property and abutting right of way.
4. The Hearing Examiner denied an Appeal of Notice of Decision PBW2021-0697 approving the driveway installation at 1112 18th St. and the consolidated appeal of CAP2021-0052. The driveway installation at 1112 18th St. is authorized as part of a variance approved by the City Council in 1993 subject to conditions. Based on the Hearing Examiner decision the variance approval for the driveway at 1112 18th St. was limited to the residence associated

with 1112 18th St. and any other parcel that desires to obtain vehicular access by the same route as the driveway would need its own relief in the form of a variance from the current code requirement to abut a minimum standard street.

5. As directed by Public Works Staff, the applicant is required to obtain a variance from the current code requirement to abut a minimum standard street to obtain access from the driveway constructed at 1112 18th St. through a Type IIIA decision which must be decided by the Hearing Examiner following a public hearing prior to approval of construction permits to establish additional use and expansion of the driveway to serve the residence located at 1109 18th St.
6. A Critical Areas Ordinance (CAO) permit application was submitted on 9/10/24 (Exhibits A & B).
7. The subject property contains a landslide geologically hazard area and associated reduced 10' buffers on the northern and southern portions of the site. Based on the information provided by the qualified professional, the primary rolling terrain within the subject parcel consists of grades generally between 15% and 30% and is interpreted to be broadly stable. While the project area does contain features where slope grades locally exceed 40%, these are short and discontinuous spanning a few feet in height, among more reclined topography of around 30% grade or less. These areas are generally limited, and in our opinion should not classify as an erosion hazard area (EHA) given the stabilized conditions observed. The northern ascending slope feature beginning along the north boundary of the subject parcel and northeast of the driveway project area has steeper graded terrain, and is largely deemed as a landslide hazard area (LHA) based on the grades consistently over 40% grade and typically over 10' in height.
8. A qualified professional has delineated geologically hazardous areas and a reduced 10' buffer from the slope in Exhibit B. Following review of the information provided by the qualified professional in Exhibit B, staff has determined the proposed gravel driveway and on-site parking is located outside of the geologically hazardous areas and associated buffers as determined by the qualified professional in Exhibit B.
9. In the event a future development proposal encroaches within the geologically hazardous areas or 10' buffer along the northern and southern portion of the subject property, the applicant will be required to provide additional information from a qualified professional documenting compliance with the applicable conclusions and recommendations within Exhibit B and BMC 16.55.
10. The regulations for CAO permit applications for geologically hazardous areas are set forth in Bellingham Municipal Code (BMC) section 16.55.410-460.
11. John R Gillaspay LEG & Joely Marsyla GIT submitted Exhibit B dated 9/9/24, which included an evaluation of the site geology, soils, and surface conditions and assessed the potential for geological hazards with the proposed construction. The information provided by the applicant in Exhibit B was reviewed by staff and determined to comply with the applicable code provisions under BMC 16.55.430-460.
12. Based on City IQ the topography on the subject property is similar to other areas in the vicinity to the west with an existing residence located within similar proximity to the landslide geologically hazardous areas. The proposal minimizes the impact to the critical area by

focusing development outside of the geologically hazardous area and minimizing impacts to the associated buffer.

13. A qualified professional has determined the proposed construction complies with the applicable general and specific code requirements under the Critical Areas Ordinance (BMC 16.55.450.A, 16.55.460.A.1-6), provided the proper site management and incorporation of the recommendations in Exhibit B are achieved.
14. Based on the information provided by the qualified professional in Exhibit B, the hazard of erosion and slope instability associated with the planned driveway access improvement is low. As such it does not present an unacceptable level of risk for construction of the proposed improvement. Nor does the proposed project present an increased risk of geologic hazards (erosion or landslide activity) to the site or surrounding areas by its installation, assuming property design and construction methods are applied and by following the guidance and recommendations below to minimize potential for impacts.
15. Based on the information provided by the qualified professional in Exhibit B, no evidence was found of active or recent historical slope instability in the project location or its close vicinity based on conditions seen during the field site visit. The gentle to moderate grades directly within and adjacent to the proposed driveway alignment are found to not exceed the threshold defining a potential landslide hazard area per BMC 16.55.420.B. Therefore, we conclude that the proposed driveway alignment itself does not contain geologic hazards which would call for additional restrictions or mitigations along the development. The driveway footprint and its expected ancillary construction disturbance area are outside of the minimum 10' slope protection buffer recommended based on the nature of the project and observed site conditions.
16. Based on the information provided by the qualified professional in Exhibit B, in the case of this project, the proposed driveway will be constructed with a permeable ballast rock material that is generally conducive for infiltration of stormwater on the driveway surface. The runoff mitigation is incorporated directly into the driveway construction. While the driveway project does include converting landscape and lawn areas into a hard scaped permeable surface, no significant clearing or tree removal is necessary. Thus, with this approach to construction, the driveway installation is not expected to materially alter the hydrological conditions of the site.
17. Based on the information provided by the qualified professional in Exhibit B, given the close proximity of past explorations to the current project location, it is reasonable to assume similar shallow soils underlie the proposed driveway alignment and its adjacent downslope area which are capable of such transmission rates. Permeable surfacing requires minimum rates of about 0.3 inches/hour to be effective. Absorption rates of shallow subgrade at the site are likely to have three or more times the transmission capacity needed for permeable surfacing use. Therefore, we expect that the developed driveway will broadly mimic the pre-development condition and should result in minimal or no added runoff potential after construction is complete. Any increased runoff from the driveway surface during heavy precipitation events is expected to be distributed and absorbed within the adjacent downhill gentle yard area.
18. This activity uses reasonable methods to avoid potential impacts to critical areas. This permit approval does not give permission to degrade a critical area or ignore risk from natural hazards.

19. As conditioned, the proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development site.
20. As conditioned, the proposal is consistent with the general purposes of the Critical Areas Ordinance. A permit should be granted for the proposal.

II. DECISION

Based upon the Findings of Fact and Conclusions, the Director of Planning and Community Development or designee, approves Critical Areas Ordinance Permit (CAP2024-0046), for the project described herein and as provided in Exhibits A & B subject to the following conditions:

1. Site construction and maintenance of the proposed development shall be consistent with the recommendations in Exhibit B unless otherwise modified through the Construction Permit Application review process.
2. Reasonable measures shall be incorporated into the development of the single family residence to preserve existing trees onsite outside of the proposed construction footprint. Removed trees (6" diameter) from the geologically hazardous area or associated buffer shall be replaced at a 3:1 ratio consistent with BMC 16.55.080.C.6.b under the Stormwater Permit review.
3. All activities shall be conducted using the best management practices that result in the least amount of impact to the critical area. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, and water quality protection.
4. Site work shall only occur between May 1 and October 1 of any calendar year unless otherwise approved by the Planning and Community Development Department pursuant to BMC 16.55.460.A.4.
5. Based on the recommendation from the qualified professional in Exhibit B, the permeable driveway construction shall follow typical guidelines for installation in accordance with local municipal and state standards, including the DOE SMMWW (2019). A suitable material for performance as both a gravel base and pervious surfacing media should be employed. We recommend a "permeable ballast" type of material, or similar substitute. See WSDOT SS (2024) 9-03.9(2) for a representative specification of permeable base material. Additional stormwater review will be completed under the Stormwater Permit for compliance with BMC 15.42.
6. No use or construction associated with the driveway for the existing residence located at 1109 18th St. shall be allowed until the Hearing Examiner has issued an approval from the variance from the requirement to abut a minimum standard street. In the event the Hearing Examiner denies the variance the subject critical area permit shall become null and void.

This Type I permit is granted with the conditions specified above pursuant to the Critical Areas Chapter of the Bellingham Municipal Code. It does not excuse the applicant from compliance with any other federal, state or local statutes, ordinances or regulations that may be applicable to this project.

In the event the owner/applicant fails to comply with the terms of the conditions herein, the permit may be rescinded. All work must be completed according to this permit.

III. EXPIRATION

In accordance with BMC 21.10.260, this permit shall expire five (5) years from the date of decision unless a complete building permit application is filed before the end of the five-year term. In the event the applicant or a person completing the project fails to comply with the terms or conditions herein, the permit may be rescinded.

IV. APPEAL

Any party aggrieved by the decision of the Director may file an appeal within 14 days of the notice of decision in accordance with BMC 21.10.250. Any appeal must be filed with the Planning and Community Development Department on the appropriate forms and be accompanied by a filing fee as established by the City Council.

V. EFFECTIVE DATE

Critical Area permits shall be effective after the close of the appeal period, or if an appeal is filed, after the withdrawal of, or final decision on an administrative appeal (BMC 21.10.240 C.3.). The effective date of this permit is 11/13/24 **unless an appeal is filed.**

Approved By



Ryan Nelson, Planner II
Planning and Community Development
Department