



Planning & Community Development

17500 Midvale Avenue North
Shoreline, WA 98133-4905
(206) 801-2500 ♦ Fax (206) 801-2788

NOTICE OF VIOLATION AND ORDER TO CORRECT

August 9, 2016

Belton Homes LLC
Attn: Greg Thompson
16108 Ash Way, Suite 201
Lynnwood, WA 98087

Sundquist Homes, LLC
Attn: Lyle Landrie
16108 Ash Way, Suite 201
Lynnwood, WA 98087

Land Development Consultants, Inc.
Attn: Matthew Merritt, P.E.
14201 NE 200th Street, Suite 100
Woodinville, WA 98072

Re: Code Enforcement Case # 1751
Permit # 124106 Arden View Site Development Project

Dear Responsible Parties:

Tax Payer of Record: Belton Homes, LLC
Project Applicant: Sundquist Homes, LLC
Project Consultant: Land Development Consultants, Inc.

You are hereby notified that the Director of Planning & Community Development has found you to be the responsible party for code violations located at:

Project Address of Violation: 20065 – 10th Avenue NW, Shoreline, WA
Project Parcel Numbers: 66499J0320, 6649900330, 6649900340,
6649900350

Legal Description of Parcels in Arden View Project:

Parcel 6649900320:
PARK VIEW TRS PCL D SHORELINE LLA#LLA-202084 REC#20160513900005 SD
LLA BEING ALL LOT 5 TGW PORS LOTS 3, 4 & 6 SD BLK 3

Parcel 6649900330:
PARK VIEW TRS PCL A SHORELINE LLA#LLA-202084 REC#20160513900005 SD
LLA BEING ALL LOT 5 TGW PORS LOTS 3, 4 & 6 SD BLK 3

Parcel 6649900340:
PARK VIEW TRS PCL B SHORELINE LLA#LLA-202084 REC#20160513900005 SD
LLA BEING ALL LOT 5 TGW PORS LOTS 3, 4 & 6 SD BLK 3

Parcel 6649900350:
PARK VIEW TRS PCL C SHORELINE LLA#LLA-202084 REC#20160513900005 SD
LLA BEING ALL LOT 5 TGW PORS LOTS 3, 4 & 6 SD BLK 3

VIOLATION

The City of Shoreline granted Arden View Site Development Permit #124106, which authorized clearing and grading of specific identified portions of the above-listed tax parcels to accommodate the construction of 15 detached condominium homes and 3 single family detached homes along with necessary infrastructure to support those structures.

The site includes areas with slopes between 15 and 40 percent. These areas are classified by the Shoreline Municipal Code (SMC) 20.80.220 as a moderate to high risk landslide hazard area. The site also includes areas of greater than 40 percent slope, over 20 vertical feet in height. SMC 20.80.220 classifies these areas as very high risk landslide hazard areas. Due to the presence of the landslide hazard areas, a type of critical area, permit conditions required those portions not authorized for clearing and grading to be flagged and for tree protection fencing and silt protection fencing to be installed.

By written notification to your representative, Mr. Landrie of Sundquist Homes, on June 30, 2016, you were notified that an inspection has verified violations on the properties, subject to Permit #124106 Arden View Site Development. Clearing and grading has occurred outside of the flagged clearing limits and within designated critical areas. Activities outside of these limits (in the protected open space) included vegetation clearing (tree and understory pruning and cutting) and grading.

Based on this inspection, you are found to be in violation of the Shoreline Development Code, Title 20. The unauthorized clearing and grading beyond the delineated flagged clearing limits is a violation of the following provisions of the Shoreline Municipal Code (SMC):

1. SMC 20.10.040(A): Clearing and grading is in excess of authorized limits established on the approved TESC Plan for the Permit #124106 Arden View Site Development.
2. SMC Chapter 20.50 Subchapter 5 Tree Conservation, Land Clearing and Site Grading Standards: Failure to comply with the requirements of SMC 20.50.300 (clearing and grading permit required; disturbance of vegetation within critical area or critical area buffer is subject to SMC 20.80 and Subchapter 5); SMC 20.50.320

(activities subject to subchapter); SMC 20.50.330 (approval requirements); SMC 20.50.350 (standards for clearing activities including the cutting/pruning of protected trees); SMC 20.50.360 (restoration plan required prior to tree removal).

3. SMC Chapter 20.80 Critical Areas: Failure to comply with the requirements of SMC Chapter 20.80 Critical Areas (SMC 20.80.015) by violating SMC 20.80.050 (unauthorized alteration of critical areas); SMC 20.80.090 (protection of critical areas buffers); SMC 20.80.224(C)-(D) (moderate to high risk landslide hazard areas development/alteration standards); SMC 20.80.230 (maintenance of landslide hazard areas buffers in natural state); SMC 20.80.240 (critical area report requirements); SMC 20.80.250 (mitigation requirements).

Shoreline Municipal Code 20.30.740 states that code violations of any land use and development ordinance are declared to be public nuisances. Your failure to obtain a clearing and grading permit prior to the alteration of a critical area; clearing and grading in excess of that authorized by Permit #124106 Aden View Site Development; failure to protect critical areas from the impact of clearing and grading activities; failure to comply with the standards and requirements of Chapter 20.50 SMC; and failure to comply with the standards and requirements of Chapter 20.80 SMC results in your activities being a public nuisance.

Civil Penalty for Unauthorized Work in Critical Area

In addition to violating SMC 20.10.040 and various provisions of Chapter 20.50 SMC, Subchapter 5, **as noted above**, the Director has determined you have committed a violation of the provisions of the Chapter 20.80 SMC, Critical Areas. As provided in SMC 20.30.770, the following civil penalty is hereby imposed:

1. **SMC 20.30.770(D)(2):**
 - A violation of SMC 20.50 and/or SMC 20.80 requires the payment of civil penalties in addition to those provided for in SMC 20.30.770(D)(1). For violations within critical areas and required buffers, the penalty is determined by SMC 20.80.130(E)(1):
 - A square footage cost of \$3.00 per square foot of impacted critical area buffer.
 - A square footage cost of \$15.00 per square foot of impacted critical area.
 - A per tree penalty in the amount of \$3000 for each non-significant tree removed from a critical area or a critical area buffer.
 - A per tree penalty in the amount of \$9000 for each significant tree removed from a critical area or critical area buffer.
2. **SMC 20.30.770(D)(3):**

A penalty of \$2000 for a violation that is deliberate or the result of reckless disregard.

The City has determined that approximately 20,000 square feet in a critical area of clearing and grading in excess of that authorized by your permit has occurred. The City has also determined that at least 10 significant trees and 20 non-significant trees have been removed. Based on the above SMC civil penalty provisions, the Director hereby **orders you to pay a civil penalty of Four Hundred Fifty Two Thousand Dollars (\$452,000.00) on or before August 31, 2016.**

Checks or money orders should be made payable to the City of Shoreline. Penalties may be paid in person at the City of Shoreline, Planning & Community Development counter at, 17500 Midvale Avenue North, Shoreline WA 98133 or by mailing the check or money order to the above address. To have your payment properly recorded you must include the Notice and Order case number (# 1751) on the check or money order.

Required Corrective Action

The Director has determined you have committed a violation of the provisions of Chapter 20.10 SMC, Chapter 20.50 SMC, Subchapter 5, and Chapter 20.80 SMC, and you shall be required to restore damaged critical areas, insofar as that is possible and beneficial, as determined by the Director.

The Director has determined the violations must be redressed with the following actions:

1. **An application for a clearing and grading permit.**
2. **A revised critical areas report meeting the requirements of SMC 20.80.080 and SMC 20.80.240.**
3. **A restoration/mitigation plan meeting the requirements of SMC 20.80.080 and SMC 20.80.250.**
4. **Payment to the City of Shoreline the fees associated with the report and plan review. Fees are assessed in accordance with Shoreline Municipal Code 3.01.010 and currently are \$161.25 per hour. Since this work was commenced without a permit, as provided in SMC 3.01.010(H), the fees shall be twice the applicable permit fee.**
5. **After approval by the City, implementation of the approved restoration/mitigation plan.**
6. **Authorize access by City of Shoreline staff to monitor the restoration/mitigation project to determine success of the plan in conformance with Shoreline Municipal Code.**

As provided in SMC 20.80.080, third party review of critical area reports and required plans may be required and shall be at your expense. The Director shall have the sole authority to determine whether the mitigation/restoration plan submitted is adequate, the party who prepared the restoration plan is qualified and acceptable to the City, and whether third party review of plans is necessary.

Compliance Dates

1. **The Civil Penalty of Four Hundred Fifty Two Thousand Dollars (\$452,000.00) shall be paid on or before August 31, 2016.**
2. **Submit to the City an application for a clearing and grading permit along with the required critical areas report and restoration/mitigation plan and required permit fees no later than 30 calendar days from the date of final determination of this Notice and Order.**

3. The restoration/mitigation project shall be completed, including a final inspection by appropriate City of Shoreline staff, **within 60 calendar days** from the date the restoration/mitigation plan is approved or as otherwise established within an approved restoration/mitigation plan.

The date(s) set for compliance in this Notice and Order takes precedence and will be subordinate only to written extension of the Notice and Order. An extension of the compliance date(s) may be granted at the discretion of the Director. Substantial progress towards compliance is a condition for granting an extension. Requests for extensions shall be made at least seven days before the established compliance date. Requests for extensions shall be made in writing, directed to the Code Enforcement Officer, and shall include a description of the work completed, the reason for the extension request and a detailed work plan with the proposed completion date. An inspection will be conducted to determine that substantial progress has been made toward compliance before a decision on the request for extension can be issued.

Additional Penalties

If the required corrective actions, including the payment of all permit fees, payment of the civil penalty and the preparation and implementation of the restoration/mitigation plan, are not completed within the specified compliance dates, the Director may:

1. Issue class I civil infractions in the amount of \$250.00 per violation.
2. As provided in SMC 20.30.770(D)(1), assess civil penalties in the amount of \$500.00 per violation for the first fourteen-day period or portion thereof during which the violation is continued, permitted or not corrected. The penalties for the next fourteen day period shall be one hundred fifty percent of the initial penalties, and the penalties for the next fourteen day period and each such period or portion thereafter, shall be double the amount of the initial penalties. Any civil penalty imposed shall be paid within 30 calendar days following the City's determination that compliance has been achieved.
3. If any assessed civil penalty, fee, or cost is not paid on or before the due date, the Director may charge the unpaid amount of the penalty as a lien against the property where a code violation occurred and as a joint and several personal obligation of all responsible parties;
4. Proceed to abate the violation and cause the work to be done and charge the costs thereof as a lien against the property and as a joint and separate personal obligation of all responsible parties;
5. Submit this matter to Superior Court for injunctive relief; and/or
6. Recommend to the City Attorney the filing of criminal misdemeanor charges.

PLEASE NOTE: The penalties stated in this section would be in addition to the civil penalty of Four Hundred Fifty Two Thousand Dollars (\$452,000.00) described above in the section addressing unauthorized work in a critical area which is due and payable on or before August 31, 2016.

Appeal

Any person named in this Notice and Order or having any record or equitable title in the property against which the Notice and Order is written may file an appeal of this Notice and Order.

Written appeal statements must be prepared in accordance with Shoreline Municipal Code 20.30.790 and satisfy the requirements of SMC 20.30.200 to 20.30.220. Appeals are conducted as outlined in the City of Shoreline Rules of Procedure for Administrative Hearings, Hearings before the Hearing Examiner. More specific information on appeals is available in the City Clerk's Office at 17500 Midvale Avenue North, Shoreline, WA 98133.

The written Appeal must be received by the City Clerk no later than 5:00 p.m. within fourteen days following service of this Notice and Order. An appeal fee of \$492.50 is required at the time of filing an appeal.

Failure to appeal within fourteen days renders the Notice and Order a final determination that the conditions described in the Notice and Order existed and constituted a code violation, and that the named party(ies) is liable as a responsible party.

This Notice and Order may be recorded against the property at the King County Recorder's Office.

As the responsible party, it is your duty to notify the Director of any actions taken to achieve compliance with the Notice and Order.

For question on permit requirements and restoration plan requirements, please contact Kim Lehmborg, Associate Planner, at klehmborg@shorelinewa.gov or by calling (206) 801- 2552. For specific questions regarding compliance with this Order, please contact Kristie Anderson, Code Enforcement Officer, at kanderson@shorelinewa.gov, or by calling (206) 801-2535.

Sincerely,



Kristie Anderson
Code Enforcement Officer