

# **DECISION DRIVEWAY DEVIATION REQUEST**

**Permit #2023-VAR-0001**

**Parcel #4022902040**

**Project Address:** 19543 40<sup>th</sup> Pl NE, Lake Forest Park

**Applicant:** Brent Huntley, First Lamp Architecture

Adam Ury submitted Building Permit application no. 2022-BLD-022 on March 04, 2022. The application proposes to construct a new single-family residence on vacant King County tax parcel 4022902040, located at 19543 40<sup>th</sup> Pl NE in Lake Forest Park (the “Project”). Access to the proposed residence is through an existing 20-foot-wide access and utility easement, King County Recording No. 20181108000752 (the “Easement”). The Project proposes that the existing driveway become a joint-use driveway serving the existing residence on King County tax parcel 4022902060 (“Adjacent Parcel”) and the Project’s proposed residence.

The Easement area follows an existing 10-foot-wide asphalt driveway that serves the residence on the Adjacent Parcel. The first 85-feet of the Easement area when entering from 40th Pl NE is a gravel driveway. The gravel driveway transitions to an asphalt driveway at the toe of the slope and is paved for approximately 200 feet up to the residence on the Adjacent Parcel.

The Lake Forest Park Municipal Code (“LFPMC”) and the adopted Road Design and Construction Standards (“Road Standards”) require a minimum 18-foot paved driveway within a 20-foot Easement. Road Standards 3.01, LFPMC 15.10.060. An Application for Deviation from the Road Standards, Permit application # 2023-VAR-0001, was submitted October 9, 2023 (the “Deviation Application”). The Deviation Application included the Driveway Deviation Proposal by Interlaken Engineering and Design, PLLC and First Lamp Architecture, LLC dated October 3, 2023, and revised April 30, 2024 (together “Driveway Deviation Proposal”). The Deviation Application seeks a deviation from the minimum width of a joint use driveway.

The City also received the April 1, 2024, letter from attorney Russel J. Hermes in support of the Deviation Application. The material included has been considered. The analysis in Mr. Hermes letter was considered were applicable to the deviation criteria in the Road Standards. The Deviation Application is not seeking relief under chapter 18.70 LFPMC, Variances, which applies to relief from standards in Title 18 LFPMC. LFPMC 18.70.010.

## **A. Road Standards and Fire Access Road.**

The Road Standards in Chapter 3, *Driveways, Sidewalks, Curbs, Ramps, Bikeways, Trails*, provide in relevant part as follows:

3.01(C). Location and Width of New Driveways. Refer to Figure 3-008.

1. A residential driveway shall typically serve only one parcel except as noted below. The minimum width of a residential driveway is 10 feet and the maximum width is 30 feet. A driveway serving more than one parcel shall be classified as a commercial driveway, or a private street, except as

provided in 3.a. below.

...

3.a joint-use driveway tract may be used to serve two parcels:

i. Minimum driveway tract width in urban areas shall be 20 feet with an 18-foot paved surface cross slope in one direction and curb or thickened edge on one side. Minimum driveway length shall be 20 feet from right-of-way line. When required, radius returns on paved apron shall have 10-foot radii.

...

iv. The Development Engineer may allow use of an easement if the only access to a serving roadway is through an adjacent parcel not owned by the applicant, or for urban residential short plats to satisfy minimum lot width requirements.

Under Section 1.13 of the Road Standards, a variance from the Road Standards may be granted when the variance is 1) in the public interest, and 2) requirements for safety, function, fire protection, transit needs, appearance and maintainability based on sound engineering and technical judgment are fully met. Section 1.13.B.

Chapter 15.10, Fire Code, LFPMC provides as follows for joint use driveways:

15.10.060 IFC Section 503, Fire apparatus access road.

Fire apparatus access roads shall be provided and maintained in accordance with the latest version of the King County Road standards except as modified below:

...

503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed access width of not less than 20 feet, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches.

Exceptions:

...

2. A joint use driveway serving only 2 single family homes must have a width of not less than 18 feet and may be located in an easement or tract of the same width.

The Deviation Application requests a deviation from the required 20-foot clear, and 18-foot paved, width for a length of 140 feet in the middle of the proposed joint use driveway. The Deviation Application proposes instead that the joint use driveway be 10-feet wide in some areas.

**B. Analysis of deviation request.**

The Driveway Deviation Proposal argues three reasons why deviation from the Road Standards should be granted. Each is analyzed below.

**1. Exceptional, landmark, and significant tree impact.**

The Driveway Deviation Proposal argues that the deviation should be granted because the Interior Critical Root Zone (ICRZ) of an exceptional tree (697'), as defined by LFPMC 16.40.030, will be impacted to meet the required width of a joint use driveway under the Road Standards. Widening the driveway, according to the Driveway Deviation Proposal, will also require trenching, construction, and alteration of grades within the ICRZ of five landmark and six significant trees. Driveway Deviation Proposal at 5-6.

**Finding.** Granting the Deviation Application is not required to preserve the exceptional tree on the property line. Under LFPMC 16.14.070, permits for the Project may be conditions such that impacts to the interior critical root zone of the tree are mitigated with measures such as exploratory air-spade trenching, cultural condition improvement, trunk protection, and prescriptive fertilization. See LFPMC 16.14.070(D)(8). These types of mitigation measures have not been considered in the Driveway Deviation Proposal. The same is true for impacts to the landmark and significant trees.

**2. Retaining walls.**

The Driveway Deviation Proposal argues that compliance with the Road Standards is infeasible given the necessity for retaining walls up to and exceeding six feet height and the “existing difficult terrain and steep grades.” Driveway Deviation Proposal at 6.

**Finding.** The deviation requested would result in a driveway that is only 10-feet in some areas. Granting a deviation that results in a paved driveway that does not accommodate two-way traffic is not in the public interest, does not provide for safe ingress and egress, and does not provide for fire protection needs. Due to the site conditions, the proposed mitigation measures do not adequately mitigate the risk. A deviation request that accommodates two-way traffic would, however, be considered by the City.

**3. Pedestrian access.**

The Driveway Deviation Proposal argues that safe pedestrian and emergency responder access to the Project property would not be possible during the construction of retaining walls for a 20-foot-clear width driveway. Driveway Deviation Proposal at 6-7.

**Finding.** Pedestrian and emergency responder access during construction may be addressed by permit conditions such as the use of flaggers that provide access for pedestrians and emergency responders. Also, the area proposed for retaining wall

construction is located in a portion of the driveway where only the existing single family residence is served by said driveway. Driveway improvement projects that temporarily restrict access to the residence are routinely completed and in our opinion such restriction is not a valid justification for the deviation.

**C. Decision.**

The Deviation Application is denied for the reasons set forth herein. The City is willing to consider a deviation request that accommodates two-way traffic on the driveway.

**D. Notice of right to appeal.**

An appeal of this decision must be filed within 14 calendar days following issuance of the notice of decision. Appeals must be delivered to the City Clerk's office by mail or personal delivery by the last business day of the appeal period. For the purposes of computing the time for filing an appeal, the day the notice of decision is rendered shall not be included. The last day of the appeal period shall be included unless it is a Saturday, Sunday, or a day designated by RCW [1.16.050](#) or by the city's ordinances as a legal holiday, then it also is excluded and the filing must be completed on the next business day (RCW [35A.28.070](#)). Appeals shall be in writing, be accompanied by the appeal fee in the City's Fee Schedule resolution, and include the information provided in LFPMC 16.26.055(F).

This 26th day of July, 2024.

  
\_\_\_\_\_  
Jeffrey Perrigo, Public Works Director