

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT
TO CITY OF LAKE FOREST PARK HEARING EXAMINER

The following review by the City of Lake Forest Park Community Development Department is based on information contained in the application and supplemental correspondence, information in the file, comments and letters received on-site investigation, applicable scientific reports, applicable codes, development standards, adopted plans, and other information on file with the city.

SUMMARY INFORMATION

City File Number: 2021-RUE-0001

Staff Report Date: March 6, 2025

Hearing Date: March 19, 2025; 6pm

Requested Action: Approval of Reasonable Use Exception (RUE) from critical area regulations to construct a single-family residence and attached garage with a footprint of 1,100 square feet. The proposal also includes construction of access and utility improvements, and installation of critical area mitigation.

Permittee: Mark Garey

Environmental Determination: Mitigated Determination of Non-Significance (MDNS) (Exhibit 22)

Site Location: Southwest corner of intersection of NE 205 ST / 37th Ave NE
 Lake Forest Park, WA 98155
 Parcels # 4022900497

Comprehensive Plan Designation: Single Family Residential, High (Exhibit 14)

Zoning Classification: RS – 9.6, Single-Family Residential, Moderate/High (Exhibit 15)

APPLICABLE CODES AND REGULATIONS FOR THE REASONABLE USE EXCEPTION (This list is not exhaustive)

Lake Forest Park Municipal Code Sections Directly Applicable to the Proposal:

- LFPMC Title 16.16 Environmentally Critical Areas
- LFPMC Section 16.16.250 – Establishes application procedures, policies, purpose and intent, and criteria for a reasonable use exception to allow for reasonable economic use.
- LFPMC Chapter 16.14- Lake Forest Park Tree regulations.

- LFPMC Section 16.26.030 – Establishes the authority of the Hearing Examiner to issue quasi-judicial decisions variance applications (Type I application).
- LFPMC Section 16.26.110 (D) – Establishes the decision of the Hearing Examiner on a Type I application as the final decision of the city.
- LFPMC Section 16.26.040 (D), .090, and .110 (C) – Establishes the public notification requirements associated with Type I applications.
- LFPMC Chapter 18.21- RS-9.6 – Standards for Single-Family Residential, Moderate/High zone designation

BACKGROUND INFORMATION AND PROJECT DESCRIPTION

Description of the Proposal and Background Information:

The applicant proposes to construct a single-family residence and attached garage with a 1,100 square foot footprint along with access and utility improvements on a legal lot of record encumbered entirely by regulated critical areas.

The proposed single-family home will be accessed via a driveway that meets the requirements of the King County Roadway Standards (KCRS). The project is proposing to utilize permeable pavement with a layer of sand below the pavement to meet groundwater protection requirements in the King County Surface Water Design Manual.

While the project is not subject to water quality or flow control requirements due to the relatively small amount of impervious area proposed, the project will utilize sheet flow dispersion for the roofs to meet Core Requirement #9 in the King County Surface Water Design Manual (KCSWDM). The project is not altering the current flow path and will discharge at the natural location. Temporary Erosion and Sediment control measures will be installed prior to construction activity to protect downstream properties as well as the onsite stream (Exhibit 9).

Site Characteristics/Critical Areas:

The subject parcel is an undeveloped lot, 0.25 acres in size, with an existing driveway on the west end of the property which is contained in an established access easement and serves the adjacent property to the south. A segment of Lyon Creek flows through the subject property. West of Lyon Creek, the property slopes steeply up to the access easement on the west edge of the property. East of Lyon Creek the property slopes up moderately toward the adjacent roads. The riparian buffer is vegetated by forest and shrub communities. Forest canopy is characterized by paper birch, western red cedar, Douglas-fir, red alder, and white poplar. The understory includes smooth sumac, salmonberry, osoberry, and knotweed. Ground covers include Cooley's hedge nettle, lady fern, sword fern, and giant horsetail. Invasive knotweed, Himalayan blackberry, jewelweed, English holly, ivy, climbing nightshade, and reed canary grass form locally dominant patches.

Lyon Creek flows through the subject property and divides the property roughly in half. It enters the site via a box culvert and meanders southeasterly. The channel is approximately 15 to 25 feet wide and is comprised of gravel and silt. Large woody debris, pool, and riffle features are present. According to WDFW mapping and the permittee's critical area report, coho

salmon spawning has been documented in this stream segment. This portion of the stream is classified as a Type F stream (LFPMC 16.16.350). Type F streams in the City of Lake Forest Park require a standard 115-foot buffer (LFPMC 16.16.355).

The parcel has a significant amount of tree canopy, as most of the parcel is currently undeveloped.

Adjacent Land Use Characteristics:

The site is surrounded by single-family development, and some lots within the vicinity also have portions of Lyon creek flowing through them. Most of the surrounding parcels have a significant amount of tree canopy.

Project Review Timeline:

The permittee applied for the reasonable use exception on May 20, 2021, and received a determination of complete application on October 25, 2021.

Notice of Application was issued on November 8, 2021 (Exhibit 20), generating the first of several groups of public comments on the proposal (Exhibit 5).

The city requested additional information from the initial code consistency review identifying several non-compliant design items such as conflicts with the city's drainage and access standards, on January 4, 2022. The permittee responded with additional information on October 21, 2022. The city again requested additional clarifying information regarding the adjacent property access as well as information regarding hearing exhibits needed on November 22, 2022. The permittee responded with additional information on November 23, 2022. During this period, the city hired a new arborist and the arborist's review of the most recent application materials resulted in some questions. During this period as well, the city chose to have a third-party environmental specialist peer review the application for compliance with city environmental regulations. The results of the peer review and their recommendations are contained in exhibit 3. The city requested additional information on February 7, 2023. The permittee responded and provided additional information on February 16, 2023.

The city requested the final version of the draft conservation easement on March 9, 2023. The permittee responded with the information on March 24, 2023.

A public hearing was originally scheduled for March 2024, but was subsequently cancelled to allow for additional review including completion of the SEPA process.

A SEPA Mitigated Determination of Nonsignificance (MDNS) was issued on July 19, 2024 (Exhibit 22). The SEPA determination was followed by a 14-day public comment period. No appeals were received; however, many public and agency comments were received (Exhibits 23-25).

The processing time requirements of LFPMC 16.26.040 (F) (2) (a) exclude periods when the city has requested additional information and periods where the applicant is correcting plans and providing additional information and up to 14 days after they provide the information. Overall,

the project has been in process for approximately 880 days. The permittee has provided authorization to exceed the 120-day statutory processing deadline (Exhibit 4).

STATE ENVIRONMENTAL POLICY ACT (SEPA)

A MDNS was issued in accordance with WAC 197-11-350 on July 19, 2024 (Exhibit 22). The SEPA mitigating conditions are included in the MDNS excerpt below:

1. This determination is based on findings and conclusions that the project design minimizes impacts within the stream buffer with a greatly reduced footprint and conditions, including that critical areas left unencumbered by project impacts shall be protected in perpetuity via a critical area easement. The proposal shall also include stream buffer mitigation at a ratio of greater than 1:1 to ensure an increase in buffer function (3,728 square feet of buffer enhancement to compensate for 2,619 square feet of permanent buffer impacts per the Revised Critical Areas Report dated September 23, 2022, by The Watershed Company). The mitigation compensates for significant tree removal and buffer intrusion and is conditioned to comply with the Arborist Report dated revised August 18, 2022, from the Watershed Company. Mitigation is required to be monitored for a period of ten years to ensure successful establishment of native species. Enhancement areas and remaining unencumbered buffer areas will be disclosed as a notice to title, preserving these areas from future development. Degraded stream channels and corridors shall be rehabilitated to maintain water quality, reestablish habitat and prevent erosion. A restoration plan is required and shall be prepared by a qualified fisheries biologist and shall be approved by the Washington Department of Fish and Wildlife. Parameters considered by the rehabilitation plan should include: salmonid habitat enhancement, erosion control, channel integrity preservation, aesthetics and hydraulics. Stream improvements shall not create problems elsewhere in the stream system. Additionally, the project shall follow all conditions imposed by the city's Hearing Examiner.

PUBLIC COMMENT

The city received public and tribal comments during and following the Notice of Application comment period for this project (Exhibits 5, 6). Generally, the public comments summarized the commenters' concern with the project's impact on critical areas as well as downstream stormwater impacts. Comments also focused on how the proposal did not protect the city's natural environment and how the project could have an impact on salmon habitat and existing vegetation. The permittee was provided with a copy of comments received.

A significant number of additional comments were received during the subsequent SEPA comment period (Exhibits 23-25). SEPA comments both reiterated and expanded upon the concerns from the NOA comment period, including additional concerns about both on and offsite impacts resulting from encroachment into the Lyon Creek stream buffer.

The Washington Department of Fish and Wildlife (WDFW) submitted comments raising significant questions about the proposed development. A general summary of WDFW questions, concerns and comments follows (see exhibit 24, PDF pp. 32-33 for full comment letter):

- Concerns regarding the ability to ensure no net loss of habitat and avoidance of long-term impacts to Lyon Creek.
- The inability to adequately mitigate project impacts due to on-site stream morphology.
- How the project will handle future issues such as floods, bank failure and sediment storage, and potential removal of on-site floodplain storage.
- Whether the developed site can allow for ample room for future replacement of the box culvert for improved fish passage.
- Whether the proposal to add large woody material to the stream as mitigation is practical without creating flood risks to the home. Future removal, if needed, would require significant mitigation.
- The possibilities for flood protection and habitat mitigation are not practical at the subject site - protections for the house will likely result in damage to the stream, while protection for the stream will likely result in damage to the house.
- WDFW recommends that development be focused on other areas, and the area be allowed to remain natural to allow the Lyon Creek space to run freely.

REASONABLE USE CODE AND CRITERIA ANALYSIS

The following is excerpted from the Lake Forest Park Municipal Code. The Permittee has the burden of meeting all the criteria (represented in both **bold** and *italics*) for an approval of reasonable use exception.

Lake Forest Park Municipal Code 16.16.250

16.16.250 Reasonable use exception to allow for reasonable economic use.

A. Policy. The policy behind this reasonable use exception is to provide a mechanism that protects critical areas and approves the bare minimum amount of use and disturbance when strict application of this chapter would deny all reasonable economic use of a property. This policy recognizes that the city's comprehensive plan and the Washington State Growth Management Act mandate the adoption of policies and development regulations that protect the functions and values of critical areas, and the use of best available science when developing such policies and regulations. These mandates are at times juxtaposed with the obligation to not unconstitutionally take private property, especially when avoiding conflicts between new development and protecting critical areas is becoming increasingly difficult in urban areas like Lake Forest Park.

The city starts from the premise that alteration or work in, or development of, critical areas and their buffers is prohibited. Critical areas in Lake Forest Park include a variety of environmental

features important to the community and beyond. For example, there are approximately 50 acres of wetlands that range from large and complex wetland systems to small pockets of wetlands. Streams range from large, containing a variety of fish species, to small, intermittent creeks. Steep slopes are also prevalent in areas of the city and vary from stable to prone to landslides. The city recognizes that some critical areas may constitute an ecosystem or part of ecosystems that transcend the boundaries of individual lots and the city. The city also respects and recognizes that private property owners should not be required to bear the entire economic burden of the benefits afforded to the community at large by protecting critical areas.

B. Purpose and Intent. The purpose and intent of this section is to:

- 1. Protect critical areas;*
- 2. Preserve the existing functions and values of critical areas;*
- 3. Limit and minimize disturbance to critical areas;*
- 4. Protect public and private property from damage due to landslides, seismic hazards, flooding, sedimentation, or erosion;*
- 5. Safeguard the public from hazards to health and safety;*
- 6. Prevent the unconstitutional taking of private property rights;*
- 7. Require use of innovative construction techniques, products and design that minimize to the greatest extent possible net loss of critical area functions and values while also supporting reasonable economic use of a lot;*
- 8. Require compensatory mitigation for unavoidable harm done to critical areas;*
- 9. Require and implement conditions that ensure, for the life of the project, that the minimal disturbance and mitigation authorized by this section are strictly maintained;*
and
- 10. Provide the following guidelines for consideration when applying the criteria in subsection D of this section, with the understanding that the specific conditions of each lot must be taken into consideration:*
 - a. Advances have been made in the design and market acceptance of single-family dwellings with smaller footprints and square footage. The reasonable economic use guidelines for footprint and gross floor areas are single-family dwellings with a footprint no greater than 750 square feet and a maximum gross floor area of 1,500 square feet, including cantilevered areas, and an attached garage not to exceed a footprint and gross floor area of 250 square feet. Under this guideline, if no garage is provided, the square footage of the garage would not be allocated to the square footage allowance of the primary residence.*
 - b. To minimize the area of critical area disturbance, consider limiting the maximum amount of disturbance to the dwelling's footprint, minimum walkways and driveways needed to access the lot, associated utilities, and a 10-foot buffer around the dwelling footprint necessary for repair and maintenance.*

C. If the application of this chapter will prevent any reasonable economic use of the owner's property, then the applicant may apply to the planning department for an exception from the

requirements of this chapter and the application shall be processed pursuant to the provisions of Chapter 16.26 LFP MC. The planning director shall forward the application, along with the record submitted to the city and the director's recommendation, to the hearing examiner for decision.

D. The hearing examiner shall grant an exception only if:

- 1. Application of the requirements of this chapter will deny all reasonable economic use of the property; and***
- 2. There is no other reasonable economic use with less impact on the critical area; and***
- 3. The proposed development does not pose an unreasonable threat to the public health, safety, or welfare, on or off the proposed site, and is consistent with the general purposes of this chapter and the comprehensive plan; and***
- 4. Any alteration is the minimum necessary to allow for reasonable economic use of the property; and***
- 5. The inability to derive reasonable use is not the result of an action or actions taken by the applicant's actions or that of a previous property owner, such as by altering lot lines that result in an undevelopable condition.***

E. The hearing examiner shall condition any exception from the requirements of this chapter upon conditions and upon compliance with any mitigation plan necessary to satisfy the criteria in this section.

F. For any in-water or wetland work it is the applicant's responsibility to obtain all state and federal approvals before beginning work.

G. All exceptions shall be conditioned on the property owner providing a financial security guarantee, in a form approved by the city, for the required critical area mitigation performance and maintenance. The amount of the financial guarantee shall be subject to approval of the city and based on a qualified professional's cost estimate of the current market value of labor and materials for the approved mitigation and monitoring plan as well as a 30 percent contingency.

H. The hearing examiner's decision granting an exception and all other mitigation documents shall be recorded against the real property in question with the King County Recorder's Office. (Ord. 1278 § 1, 2023; Ord. 1150 § 1, 2017; Ord. 930 § 2, 2005)

CRITERIA ANALYSIS

Staff's analysis with findings and conclusions for the RUE criteria are listed below:

RUE CRITERION D.1: *Application of the requirements of this chapter will deny all reasonable economic use of the property;*

FINDINGS: According to the permittee's critical areas report (exhibit 10), the project is currently fully encumbered by the 115-foot standard buffer requirement for Lyon Creek. Application of buffer averaging or a 25% buffer reduction allowed under LFPMC 16.16.355.B.1 does not yield adequate area for reasonable use. The maximum reduced buffer (86.25 feet) still encumbers the entire parcel, preventing the placement of a building footprint and associated driveway for a single-family residence outside the buffer.

CONCLUSIONS: Strict application of these requirements would deny all reasonable economic use of the property because the parcel is entirely encumbered by stream, stream buffer, and the required 15-foot-wide building setback from the edge of the stream buffer. This criterion is met.

RUE CRITERION D.2: *There is no other reasonable economic use with less impact on the critical area;*

FINDINGS: According to the permittee's application materials, there is no other reasonable use consistent with the residential zoning of the property and compatible with the surrounding neighborhood that would result in less impact. The site is currently undeveloped. The site is zoned for one single-family residence. There are no other permitted uses for the site given the zoning classification. Thus, there are no other possible economic uses that would have less impact on critical areas. The range of possible uses within a single-family zoned property and associated conditional uses are limited. The alternative uses allowed as conditional under the zoning code presume the existence of a single-family structure and would imply a greater intensity of use than that of a residence intended for a single family.

CONCLUSIONS: No reasonable, allowable use would have less impact on the critical area than a single family residence. This criterion is met.

RUE CRITERION D.3: *The proposed development does not pose an unreasonable threat to the public health, safety, or welfare, on or off the proposed site, and is consistent with the general purposes of this chapter and the comprehensive plan;*

FINDINGS: Comments received via the various public notification processes (i.e. NOA, SEPA) have raised a number of issues indicating that the proposed development may pose an unreasonable threat to the public health, safety, or welfare on or off the proposed site. Comments received from the public and various conservation groups identify potential impacts to the public welfare as it relates to salmon habitat protection and restoration via impacts to Lyon Creek through loss of stream buffer. WDFW has provided comments identifying impacts related to urban flooding, habitat loss, and future fish habitat restoration efforts (exhibit 24, PDF p. 32-33). WDFW has indicated that the application of in-stream habitat mitigation and flood protection for the proposed residence would conflict with each other and are not practical on the subject site. This is significant due to the fact that the SEPA conditions require the applicant to create a stream restoration plan to be approved by WDFW (MDNS, Exhibit 22). Streams are regulated by WDFW as waters of the state, and the hydrologic connectivity to downgradient stream areas between the project site and Lake

Washington raises the potential for an unreasonable threat to public health, safety, or welfare resulting from direct impacts to the Lyon Creek stream system.

CONCLUSIONS: The applicant has not demonstrated that the proposed development does not pose an unreasonable threat to the public health, safety, or welfare, on or off the proposed site. This criterion is not met.

RUE CRITERION D.4: *Any alteration is the minimum necessary to allow for reasonable economic use of the property.*

FINDINGS: A single-family site that is entirely encumbered by stream restrictions and associated buffer area may not allow for reasonable economic use. Staff also acknowledge the applicant's neighboring property analysis demonstrating that the proposed footprint of 1,100 square feet is 25% smaller than the median structure footprint in the study area (see exhibit 10, Revised Critical Areas Report, Section 3.3). However, the subject site is uniquely encumbered relative to surrounding lots due to the on-site location and morphology of Lyon Creek (Exhibits 2, 10), resulting in a proposal to significantly reduce the standard stream buffer. The "minimum necessary" could be achieved via a reduced footprint design, still allowing for two floors but with less buffer intrusion.

CONCLUSIONS: The applicant has not demonstrated that the proposed alteration is the minimum necessary to allow for reasonable economic use. The proposed 1,100 square foot building footprint does not reflect the "minimum necessary" in accordance with this criterion. Reasonable economic use may be achieved via a reduced scale building design that would balance reasonable use with a "minimum necessary" building footprint, and the "bare minimum amount of use and disturbance" in accordance with the RUE policy statement at LFPMC 16.16.250.A. This criterion is not met.

RUE CRITERION D.5 *The inability to derive reasonable use is not the result of an action or actions taken by the applicant's actions or that of a previous property owner, such as by altering lot lines that result in an undevelopable condition.*

FINDINGS: Based on the information provided in the application, this lot is vacant and encumbered entirely by regulated critical areas. The property's title report and information contained within it does not contain any indication that previous land use actions have been executed on the site. A search of King County recorded documents revealed no previously recorded land use actions that would result in any ability to derive reasonable use of the site.

CONCLUSIONS: This criterion is met.

SUMMARY CONCLUSIONS

Pursuant to LFPMC 16.26.100.C, the applicant must demonstrate by a preponderance of the evidence that a Type I application merits approval or approval with modifications. Based on the analysis above, the Department concludes that the current proposal does not meet all five of the

criteria required to approve a reasonable use exception at LPMC 16.16.250.D and therefore has not demonstrated by a preponderance of the evidence that the application merits approval.

Based on the site constraints identified in various public comments and the revised critical areas report (Exhibit 10), and site-specific issues and limitations identified by the Washington Department of Fish and Wildlife, it is staff's position that the current proposal for a 1,100 square foot building footprint does not adhere to a "bare minimum amount of use and disturbance" in accordance with the reasonable use exception policy statement at LFMPC 16.26.250.A, and that the proposed alteration does not meet "...the minimum necessary to allow for reasonable economic use of the property" standard at LFMPC 16.16.250.D(4).

Staff concludes that site-specific conditions and limitations dictate that a "bare minimum" or "minimum necessary" should include a reduced structure footprint, with allowance for a small attached single-car garage or carport.

RECOMMENDATION

The Community Development Department recommends **DENIAL** of the request for a reasonable use exception.

The following conditions are offered for consideration should the Hearing Examiner approve the request for a reasonable use exception:

Conditions (Note: Nos 1-5 are SEPA conditions):

1. The critical areas left unencumbered by project impacts shall be protected in perpetuity via a critical area easement.
2. The proposal shall include stream buffer mitigation at a ratio of greater than 1:1 to ensure an increase in buffer function (3,728 square feet of buffer enhancement to compensate for 2,619 square feet of permanent buffer impacts per the Revised Critical Areas Report dated September 23, 2022, by The Watershed Company). The mitigation compensates for significant tree removal and buffer intrusion and is conditioned to comply with the Arborist Report dated revised August 18, 2022, from the Watershed Company.
3. Mitigation is required to be monitored for a period of ten years to ensure successful establishment of native species.
4. Enhancement areas and remaining unencumbered buffer areas will be disclosed as a notice to title, preserving these areas from future development.
5. Degraded stream channels and corridors shall be rehabilitated to maintain water quality, reestablish habitat and prevent erosion. A restoration plan is required and shall be prepared by a qualified fisheries biologist and shall be approved by the Washington Department of Fish and Wildlife (WDFW). Parameters considered by the rehabilitation plan should include: salmonid habitat enhancement, erosion control, channel integrity preservation, aesthetics and hydraulics. Stream improvements shall not create problems elsewhere in the stream system.
6. Prior to building permit issuance, the site plan (Exhibit 2) shall be revised for consistency with these conditions of approval.

7. The permittee must apply for and receive all required permits from the planning and building department.
8. All work must comply with the city's adopted standards for development and construction including stormwater mitigation, erosion control, zoning and building.
9. A maximum 10-foot building setback shall be established from the outer edge of the critical area buffer to allow for building repair and maintenance.
10. Split-rail wood fencing and approved signage are required to delineate between the critical area boundary and the construction impact area. The split-rail fencing and signage shall be installed after completion of construction. Standard protective construction fencing shall be installed and maintained during construction to delineate the outer boundary of the construction impact area. Only work associated with the buffer impact mitigation plan and, if required, drainage control may occur outside of the construction impact area.
11. Inadvertent Discovery: If the applicant or contractor believes they have discovered cultural resources or human skeletal remains the applicant shall follow the "stop-protect-notify" protocols for inadvertent discovery in accordance with Department of Ecology Publication 070-560 (rev. 06/21). This shall include notification to the City, The Department of Archaeological and Historic Preservation (DAHP), and affected local tribes including The Duwamish Tribe.
12. Prior to final inspection of the residence, the critical area and buffer mitigation plan (Exhibit 7) shall be revised for consistency with these conditions of approval, including any resultant increase in buffer area, and implemented by the Permittee/property owner and be found to be correctly installed by City staff and/or City Arborist.
13. The mitigation area shall be subject to the annual monitoring and reporting to verify if the performance standards in the critical area report are being met. Monitoring is required for ten consecutive years after the final inspection of the residence. If any of the mitigation plans are not successful, the Permittee/property owner shall address the issue as described in the contingency plan of the critical area report.
14. Prior to occupancy, the permittee shall provide a signed copy of the contract from the professional to perform the mitigation monitoring program with bond amounts reflective of the current pricing.
15. All recommendations of the revised critical area report (Exhibit 10), as may be modified by these conditions, shall be strictly adhered to throughout the project and monitoring period.
16. The Permittee shall record a notice and disclosure on the property's title which indicates the property is subject to critical area mitigation and monitoring, as described in the critical area report. The Permittee shall also record each protected area as a surveyed tract.
17. A financial security guarantee, in a form approved by the City, is required for critical area mitigation performance and maintenance. The amount of the financial guarantee shall be subject to approval of the City and based on a qualified professional's cost estimate of the current market value of labor and materials for the approved mitigation plan including a thirty percent contingency.
18. The Permittee is responsible for obtaining any necessary state and federal permits and approvals for the project, and is responsible for complying with any conditions of approval placed on these or other state or federal permits or approvals, and for submitting

revised drawings to the City for its review and approval, if necessary, to reflect these state or federal conditions of approval

19. Trees may be removed within the construction impact area as required for safe and effective construction of the residence. Trees dangerously overhanging the driveway may also be removed if any diseased or hazardous trees are located within a reasonable distance of the residence. Any additional tree removal is subject to the requirements of Chapter 16.14 LFPMC. Trees planted as part of the buffer impact mitigation plan may also count towards required tree canopy coverage if they are of a species and size to qualify for that purpose.
20. If the planning director determines a significant adverse deviation from predicted impacts has occurred, or that mitigation or maintenance measures have failed, the permittee or the property owner shall be required to institute corrective action, which may be subject to further monitoring.
21. All costs associated with the mitigation/monitoring and planning therefore, including city expenses, shall be the responsibility of the permittee.
22. Prior to issuance of occupancy by the City, the property owner shall provide documentation indicating that the critical areas preservation tract has been recorded with King County as required by LFPMC 16.16. 180.
23. The hearing examiner's decision granting an exception and all other mitigation documents shall be recorded against the real property in question with the King County Recorder's Office.

Submitted: Mark Hofman Date: 3/6/2025
Mark Hofman
Director, Community Development Department