Exhibit 10.0

Critical Areas Report- Revised

GAREY REASONABLE USE DEVELOPMENT
LAKE FOREST PARK

September 23, 2022

Prepared for:

City of Lake Forest Park
Planning and Building
Department
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Lake Forest Park, WA 98155

Prepared on behalf of (applicant):

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THE WATERSHED COMPANY

Title-page image: Stream flowing through the subject property.

The information contained in this report is based on the application of technical guidelines currently accepted as the best available science and in conjunction with the manuals and criteria outlined in the methods section. All discussions, conclusions and recommendations reflect the best professional judgment of the author(s) and are based upon information available at the time the study was conducted. All work was completed within the constraints of budget, scope, and timing. The findings of this report are subject to verification and agreement by the appropriate local, state and federal regulatory authorities. No other warranty, expressed or implied, is made.

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1 Introduction

The purpose of this report is to document compliance with the requirements of the City of Lake Forest Park Municipal Code (LFPMC) in the development of a single-family residence located at 36XX NE 205TH Street in the City of Lake Forest Park, WA (parcel no. 4022900497). Specifically, this report provides an analysis of the proposed work relative to the requirements of LFPMC Chapter 16.16 (Environmental Critical Areas), and an analysis evaluating the effects of the proposed project on wetland and stream functions. The site is highly encumbered by critical areas that would deny all reasonable use of the site, therefore, a reasonable use exception pursuant to LFPMC 16.16.250 is sought.

2 Existing Conditions

2.1 Location

The subject parcel, #4022900497, has no assigned address and is on the southwest corner of NE 205TH Street and 37th Avenue NE within City of Lake Forest Park jurisdiction (Figure 1). It is at the north end of City limits, in the northwest ¼ Section 3, Township 26 North, Range 4 East of the Public Land Survey System.

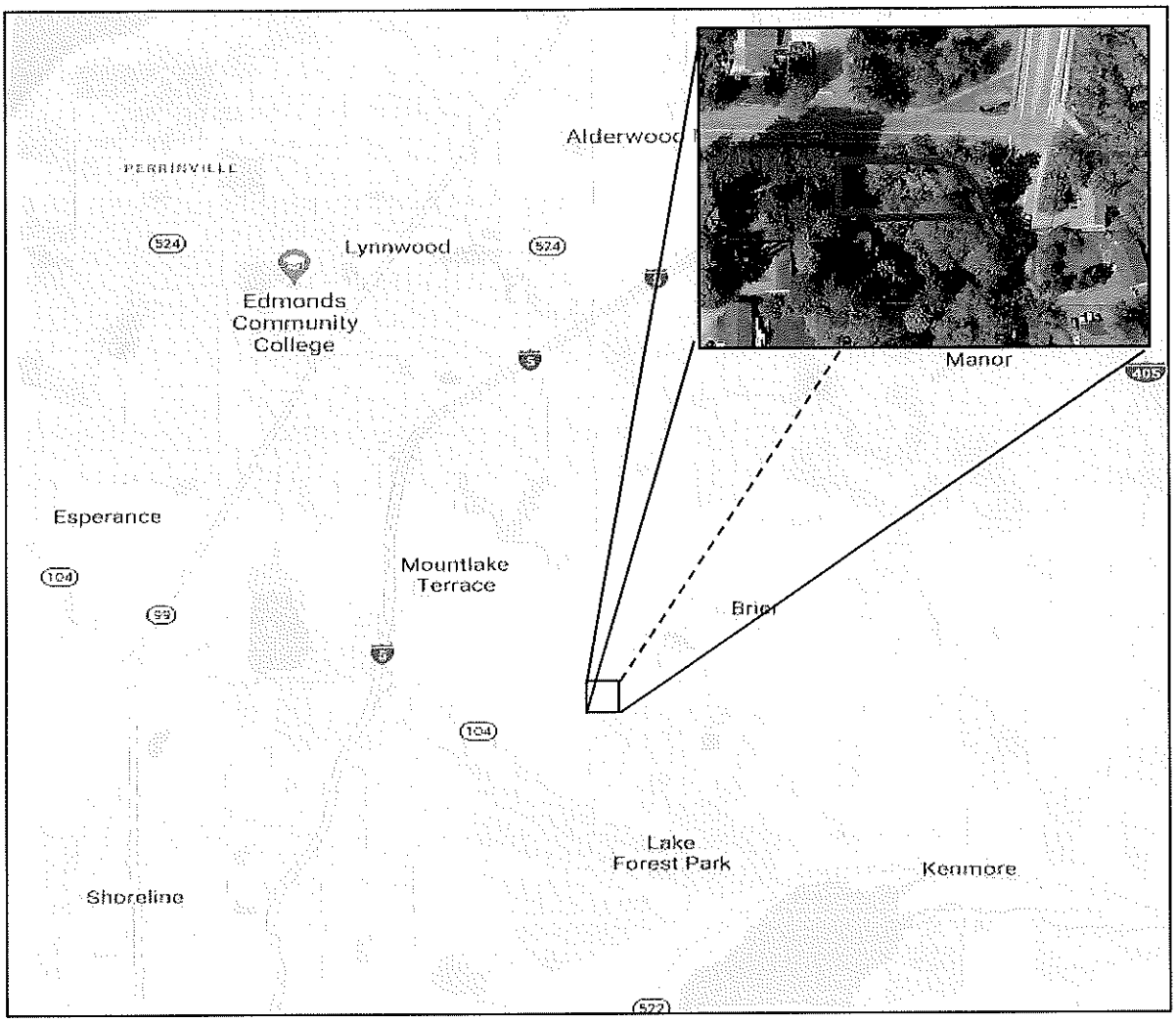

Figure 1. Vicinity and study area map, subject parcel in purple outline.

2.2 Site Description

The subject parcel is an undeveloped lot, 0.25 acres in size, with an existing driveway on the west end of the property. 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. Understory includes smooth sumac, salmonberry, osoberry, and knotweed. Groundcovers 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.

2.3 Environmental Setting

The subject parcel is located in the Lyon Creek basin of the Cedar-Sammamish Water Resource Inventory Area (WRIA 8). Surrounding land use west of the property is primarily single-family residential, and a greenbelt encompassing the left bank of Lyon Creek is located east of the property. At a landscape scale, the region is heavily developed and lacks habitat connectivity or corridors between wildlife areas and environmentally critical areas.

2.4 Critical Areas

Streams were delineated by The Watershed Company in the report *Re: Stream Delineation Study – 36XX NE 205th Street Wetland* (Appendix B). A summary of findings is provided below.

2.4.1 Streams

A segment of Lyon Creek flowing through the subject property was identified and delineated within the subject property. Lyon Creek 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 in the channel. Although recent sediment deposition occurred in and near the stream channel, a survey of our OHWM delineation indicates little if any change to the east bank of Lyon Creek.

The stream gradient is relatively flat, and no natural fish-passage barriers were observed. According to WDFW mapping (Salmonscape), coho salmon spawning is documented in this stream segment; there is also modeled presence of fall chinook salmon, sockeye salmon, and winter steelhead.

Streams are classified as Type S, F, Np, or Ns based on connectivity to Lake Washington, fish use, and seasonality of flow. Based on observed flows during the previous spring site visit (April 19, 2019), this segment of Lyon Creek is presumed to be perennial. As described above, this is documented as a salmon-bearing stream. Therefore, it is 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).

Table 1. Summary of wetlands, streams, and required buffers.

Stream Name	Type	Buffer (ft)
Lyon Creek	F	115

2.4.2 Stream Buffer

The standard 115-foot stream buffer encumbers the entire property. A 15-foot-setback, measured from the edge of the stream buffer, is also required. A 25% reduction in buffer, as permitted via LFPMC 16.16.355.B.1, still results in the buffer encumbering the entire property (see Appendix A – Mitigation Plan for details).

A reduction in setbacks to allow a reasonably-sized residence is allowed under LFPMC, so long as the mitigation provides equivalent or greater critical area functions and adheres to a comprehensive mitigation monitoring program. A mitigation sequencing narrative is provided below (see Section 3.2 Mitigation Sequencing).

3 Proposed Project

3.1 Overview

This project includes construction of a 1,100 square foot residence, associated driveway, water and sewer utility connections. A critical areas reasonable use exception is sought because a reasonably sized, single-family house with associated access and utilities is not possible under buffer requirements prescribed by LFPMC 16.16.355.

3.2 Mitigation Sequencing (LFPMC 16.16.130)

A. Avoiding impacts to environmentally sensitive areas by avoiding actions or parts of actions;:

The project avoids direct impacts to Lyon Creek. As mentioned, stream buffer encumbers the entire parcel; therefore, avoidance of buffer impacts is not feasible.

B. Minimizing impacts by limiting the degree or magnitude of the action by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

The residence was designed to minimize impacts within the stream buffer. The house will have no yard, except for a 5-foot wide perimeter surrounding the house for maintenance and emergency ingress/egress purposes. The house footprint is greatly reduced when compared to neighboring properties, see Section 3.3, Neighboring Housing Analysis. The house size is 25% smaller and the total associated impact area is 40% smaller than the median of neighboring properties, as shown in Table 2.

C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;:

Stream buffer mitigation will be provided at a ratio of greater than 1:1 to ensure an increase in buffer function. 3,728 square feet of stream buffer enhancement is proposed to compensate for

2,619 square feet of permanent buffer impacts. Mitigation will be monitored for a period of five years to ensure successful establishment. Further, enhancement areas and remaining unencumbered buffer areas will be disclosed as a notice to title, preserving these areas from future development.

D. Reducing impact or eliminating the impact over time through preservation and/or maintenance operations;

Critical areas left unencumbered by project impacts will be protected in perpetuity via a critical areas easement. All enhancement areas within stream buffers will be monitored for a minimum of five years and achieve performance standards outlined within sheet W6 of the mitigation plan. Maintenance protocol includes capturing as-built conditions once invasives are removed and mitigation areas are fully implemented.

E. Compensating for the impact by replacing, enhancing, or providing substitute critical areas and/or buffers; and/or

Significant tree removal and buffer intrusion will be compensated by enhancing nearshore areas adjacent to Lyon Creek with overhanging vegetation interspersed with trees. A total of XX trees will be planted to help compensate for the removal of X significant trees. See arborist report for additional information.

3.3 Neighboring Property Analysis

The subject parcel is zoned R 9,600 with surrounding uses within the City on the east, west, and south consisting of single-family residences. For purposes of determining compatibility with authorized uses, single-family lots zoned R 9,600 located nearby were compared to the subject parcel. The surrounding lots are a mix of highly modified with many framed within existing tree canopies, though many have large driveways, parking areas, and homes. These results can be seen in Table 2 and the corresponding map in Figure 2.

A total of nine properties were analyzed within 300 feet of the subject parcel. The project proposes significantly less impact area than all but two properties and is 25% smaller than the median structure footprint within the study area.

Table 2. Neighboring Property Analysis

Address	Map Key	Parcel Number	Lot size (SF)	Impact Area* (SF)	Percent Impact Area	Approx. House Footprint (SF)
20414 37TH AVE NE	1	4022900447	13,074	3,700	28%	1,620
20420 37TH AVE NE	2	4022900448	10,570	1,900	18%	1,510

Address	Map Key	Parcel Number	Lot size (SF)	Impact Area* (SF)	Percent Impact Area	Approx. House Footprint (SF)
3511 NE 205TH ST	3	4022900491	11,059	5,500	50%	2,880
3607 NE 205TH ST	4	4022900496	12,449	3,300	27%	780
3611 NE 205TH ST	5	4022900499	15,982	3,000	19%	1,560
3601 NE 205TH ST	6	4022900501	9,573	4,400	46%	3,050
20405 37TH AVE NE	7	4022900510	16,135	3,600	22%	1,290
3514 NE 204TH ST	8	4022900516	13,901	5,200	37%	2,260
20406 37TH AVE NE	9	4022900446	11,961	1,430	12%	3,200
Subject Site			10,369	1,848^	18%	1,100
Median			**12,449**	**3,600**	**27%**	**1,620**

*Impact area includes all structures, driveways, and other improved surfaces, measured from the 2019 aerial on King County iMap

^ Includes project proposal area, but not the existing 1,570 SF driveway easement to neighboring property to the south (3611 NE 205th St)

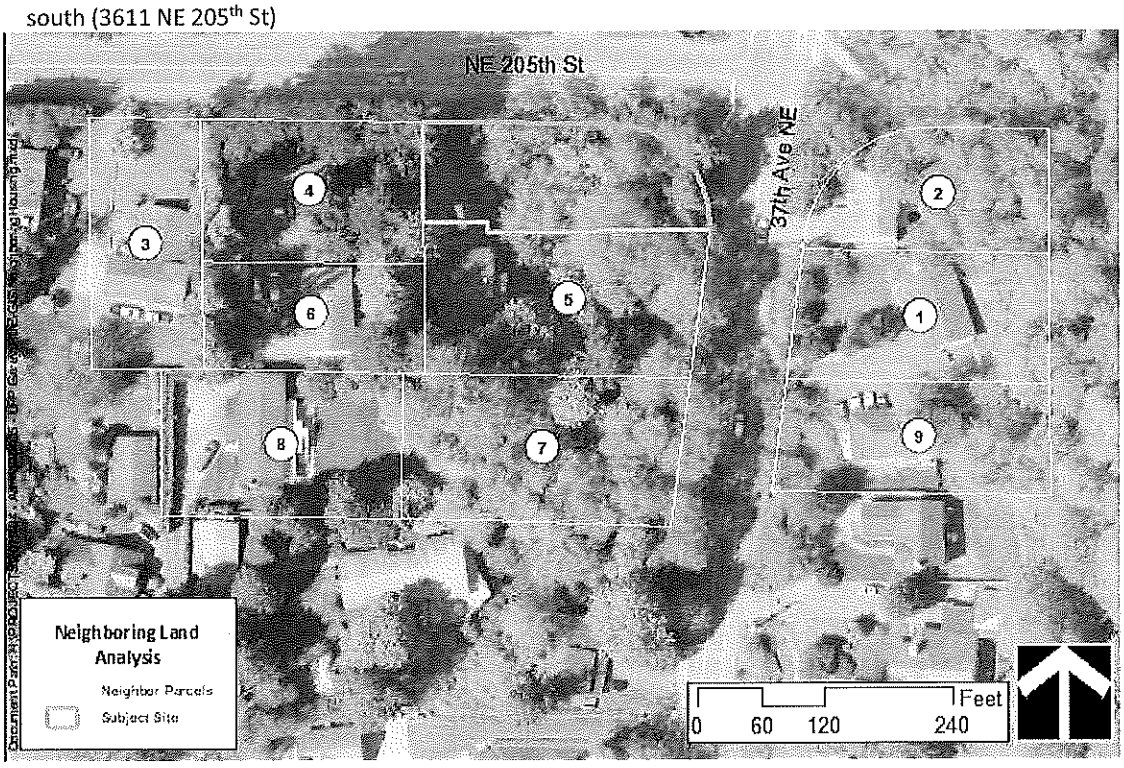

Figure 2. Housing Comparison Map

3.4 Mitigation Plan

Mitigation through the enhancement of stream buffers is proposed as compensation for impacts associated with project development. In total, 3,728 square feet of enhancement is proposed within the buffer of Lyon Creek between the proposed house and creek OHWM, a slightly larger than 1:1 ratio to permanent impacts. This involves the removal of invasive species and installation of a dense native forested plant assemblage.

A mitigation ratio of 1:1 is a typical industry standard for stream buffer impacts to ensure no net loss of ecological function. Removal of invasive species and establishment of a dense native plant community will improve forest structure and health, increase biodiversity, and increase screening vegetation throughout much of the remaining stream buffer. The high mitigation ratio is anticipated to increase wetland function in all categories of habitat, water quality, and hydrology.

Monitoring will be completed for a five-year period following installation of the mitigation site to ensure that goals and performance standards are achieved.

3.5 Functional Lift Analysis

Proposed mitigation is anticipated to provide a functional lift associated with three categories of critical area function including habitat, water quality, and hydrology. Well-functioning stream buffers provide many benefits that include shading, improved microclimate, introduction of dead wood, allochthonous input, stabilization of erosion, filtration of sediment and runoff, bio-attenuation of excess nutrients and pollutants, interception of rainfall, wildlife corridors, and habitat for riparian-associated species or other wildlife. The biotic and abiotic components of the buffer which provide these ecosystem services have the greatest potential when supported by native flora. Native plants improve habitat function compared to exotic species due to their influence on providing complex forest structure, diverse food resources, and the niche habitat that has historically coevolved with native wildlife.

Project impacts remove buffer area topographically and hydrologically down gradient of the creek within the property. Hydrologic and water quality function of downgradient streams are potentially affected. The project will follow stormwater manual requirements and will diffuse stormwater discharge within two separate dispersion trenches before it infiltrates towards the creek; therefore, water quality impacts are minimal.

As compensation, the mitigation area will improve forest health and forest structure, add screening vegetation, remove invasive species, and revegetate areas that do not contain native vegetation. Invasive species, which disrupt natural successional pathways and outcompete native species, will be removed throughout the entire site through use of hand labor and/or

light equipment. Native plants will be flagged to protect from removal as stormwater BMPs and tree protection fencing are installed. By successfully establishing dense understory vegetation, the creek will have greater visual screening from disturbed areas compared to preexisting conditions. Installed trees and shrubs are anticipated to provide habitat that can be utilized by native wildlife. As the site matures, a diversity of native vegetation will continue forest succession and regenerate in areas that are currently dominated by invasive species.

The ability of a buffer to remove nutrients is more effective where precipitation and runoff either infiltrates or moves through the rooting zone of a forested buffer. Deep roots associated with trees and shrubs have greater benefit in slope stability and reducing nutrients compared to areas composed invasive species such as English ivy or Himalayan blackberry, or areas with little or sparse vegetation. As the enhanced buffer matures, surface roots, woody debris, and understory species will also aid in surface roughness and the physical filtering of sediments and particulate matter. Overall, a functional lift in buffer functions is expected to result from the proposed project.

4 Code Compliance

4.1 Reasonable Use Exception

The following is an analysis of consistency with the reasonable use exception criteria in LFPMC 16.16.250.

C. *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

Response: The project is currently fully encumbered via the 115-foot standard buffer of Lyon Creek. There is not adequate area on-site for buffer averaging or a 25% buffer reduction, as allowed under LFPMC 16.16.355.B.1. 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.

2. There is no other reasonable economic use with less impact on the critical area; and

Response: 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 5' setback from the house footprint is necessary to provide for maintenance of the house, as well as safe ingress-egress in an emergency situation. A reduced maintenance area nearest to Lyon Creek from our original submittal, combined with a reduced house

footprint from 1,178 square feet to 1,100 square feet allows for a 15-foot vegetated flow path, the minimum distance allowed for sheet flow dispersion from the flat roof, as authorized by the revised stormwater TIR prepared by Plog Engineering. The proposed residential development footprint for the parcel is the minimum necessary size to fulfill the needs of the applicant and has been determined to be smaller than comparable adjacent lots, as outlined in the comparable structure/housing study above in Section 3.3.

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

Response: There would be no detriment to the public health, safety or welfare, on or off the parcel, as a result of the proposed development. This development is supported by the following City Goals and Policies, as found within the City's 2015 Comprehensive Plan:

Housing Policy H–2.1 Continue to incorporate site standards, landscaping, and building design guidelines into land use regulations to ensure that infill development complements surrounding uses and the character of Lake Forest Park. Note, infill development is the process of developing vacant or underused parcels within a surrounding area that is already largely developed, per the City Comprehensive Plan Housing Element.

Policy Response: The proposed residence preserves the vast majority of pre-existing natural areas. Further, this site proposes to enhance at a greater than 1:1 ratio to offset project impacts. All remaining lots surrounding this residence within City limits are developed with single-family homes.

Housing Policy H–2.2 Promote site planning techniques that create quality outdoor spaces and are in harmony with neighboring properties.

Policy Response: See response to previous policy.

Parks, Trails, & Open Space Policy PT–4.5 Remove invasive species in parks, trails, and open spaces. As a pre-existing open space zoned for single-family development, invasives will be removed site-wide to preserve remaining open space.

Policy Response: All applicable front and side-yard setback standards, as well as all applicable building codes, will be met. Driveway access will be established from the existing public roadway and will provide for safe passage and emergency access. Of the one tree designated for removal, it will be replaced at a greater than 3:1 ratio.

4. Any alteration is the minimum necessary to allow for reasonable economic use of the property.

Response: The alteration is the minimum necessary for a single-family structure and appurtenances that will fulfill the needs of the applicant. As demonstrated, the size of the impact is less than the median of surrounding properties. Specifically, the nine neighboring properties (Table 2) indicate the proposal is below the median household size and significantly under the median impact area.

5 Summary

The applicant proposes construction of a single-family house, driveway access, and underground utilities. The parcel is entirely encumbered by Lyon Creek and its associated buffer. A reasonable use exception is sought to allow for deviations from stream buffers beyond the maximum allowed by code, in conjunction with a stream buffer enhancement plan. The size of the proposed development footprint is the minimum necessary and is less than other comparable developments in the vicinity, while the proposed critical area and buffer enhancement will result in a functional lift of ecological functions.

Appendix A

MITIGATION PLAN

Exhibit 10.15

Appendix B

STREAM DELINEATION REPORT

THE WATERSHED COMPANY

SCIENCE & DESIGN

June 18, 2019
Revised: May 13, 2022

Mark Garey
14827 – 88th Ave. NE
Kenmore, WA 98028
Via email: cheektowaga@outlook.com

Re: Stream Delineation Study – 36XX NE 205th Street
The Watershed Company Reference Number: 190405

Dear Mark:

This report has been revised per City of Lake Forest Park municipal code updates that went into effect on November 22, 2021 which include revisions to Chapter 16.16. Environmentally Critical Areas.

On April 19, 2019 Ecologists Nell Lund and Roen Hohlfeld visited the undeveloped lot north of 3611 NE 205th Street in the City of Lake Forest Park (parcel 4022900497). The Watershed Company previously visited the site on July 17, 2015 to delineate wetlands and streams. The purpose of this study was to document how site conditions have changed since a water main broke and flooded a portion of the subject parcel. The property was screened for wetlands, and the OHWM of the stream previously delineated by The Watershed Company (July 17, 2015) was re-assessed.

This letter summarizes the findings of this study, provides a brief review of the site plan provided by PLOG Real Estate and Consulting (Garey Residence Reasonable Use Exception, 5/22/2019), and details applicable federal, state, and local regulations. The following attachments are included:

- Stream Delineation Sketch
- Wetland Determination Data Form
- Garey Residence Reasonable Use Exception (PLOG Real Estate and Consulting, 6/15/2018 submittal and 5/22/2019 update)

Methods

Public-domain information on the subject property was reviewed for this delineation study. These sources include USDA Natural Resources Conservation Service Soil maps, U.S. Fish and Wildlife Service National Wetland Inventory maps, Washington Department of Fish and Wildlife (WDFW) interactive mapping programs (PHS on the Web), King County's GIS mapping website (iMAP), and the Lake Forest Park Sensitive Areas Map.

The study area was evaluated for wetlands using methodology from the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region Version 2.0* (Regional Supplement) (US Army Corps of Engineers [Corps] May 2010). Presence or absence of wetland area was determined on the basis of an examination of vegetation, soils, and hydrology. Any areas meeting the criteria set forth in the Regional Supplement were determined to be wetland. Soil, vegetation, and hydrologic parameters were sampled at several locations along the site to determine presence or absence of wetland. One data point (DP-1A) was recorded and marked with a yellow- and black-striped flag.

The ordinary high water mark (OHWM) of Lyon Creek was determined based on the definition provided by the Washington Department of Fish and Wildlife and WAC 220-110-020(69). The OHWM is located by examining the bed and bank physical characteristics and vegetation to ascertain the water elevation for mean annual floods. Areas meeting the definition were determined to be the OHWM and flagged. Field observations were used to classify streams according to the City of Lake Forest Park Critical Areas Ordinance. The east bank of the stream was flagged by ecologists from The Watershed Company in July 2015.

The OHWM of the stream was reassessed after a water main break was repaired. For the updated April 2019 stream delineation study, the left (east) and right (west) banks of Lyon Creek were marked with five and eight blue- and white-striped flags, respectively.

Findings

The subject property is on the southwest corner of NE 205th Street and 37th Avenue NE. It is at the north end of City limits, in the northwest ¼ of Section 3, Township 26 North, Range 4 East. The property is in the Lyon Creek basin of the Cedar-Sammamish Water Resource Inventory Area (WRIA-8). 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. No wetlands were identified onsite. Site conditions are described below.

In January 2019, a water main break along NE 205th Street north of the site impacted the subject property. As a result of the break, Lyon Creek was flooded and a layer of sand sediment up to eight-inches deep was deposited on the subject parcel. The water main was repaired ahead of our April 2019 fieldwork and curb was added to NE 205th Street.

Lyon Creek

Lyon Creek 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 in the channel. Although recent sediment deposition occurred in and near the stream channel, a survey of our OHWM delineation indicates little if any change to the east bank of Lyon Creek (see enclosed June 2018 and May 2019 site surveys).

The stream gradient is relatively flat and no natural fish-passage barriers were observed. According to WDFW mapping (Salmonscape), coho salmon spawning is documented in this stream segment; there is also modeled presence of fall chinook salmon, sockeye salmon, and winter steelhead.

Riparian buffer

Except for the existing driveway on the west end of the property, the 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. Understory includes smooth sumac, salmonberry, osoberry, and knotweed. Groundcovers include Cooley's hedge nettle, lady fern, sword fern, and giant horsetail. Invasive knotweed, Himalayan blackberry, jewelweed, English holly, ivy, climbing nightshade, and reed canarygrass form locally-dominant patches.

One data point was recorded in a low spot within the southeast property corner to re-confirm our previous determination (July 17, 2015) that this area is non-wetland. This area has been affected by the water main break, with flooding depositing a layer of sand sediment approximately 8-inches deep. Therefore, soil assessment began below that deposition layer (see DP-1A). Vegetation in the area is dominated by jewelweed, Cooley's hedge nettle, reed canarygrass, and giant horsetail, mixed with blackberry vines. This area, which is under red alder canopy, is also interspersed with smooth sumac and sword fern, both have a facultative upland plant indicator status. Wetland hydrology parameters and hydric soil indicators were not met. Wetland conditions are not present.

Local Regulations

Streams in the City of Lake Forest Park are regulated under municipal code Chapter 16.16 – Environmentally Sensitive Areas.

Lyon Creek

Streams in Lake Forest Park are currently classified as Type S, Type F, Type Np, or Type Ns. Based on observed flows during the summer site visit (July 17, 2015), this segment of Lyon Creek is presumed to be perennial. As described above, this is documented as a salmon-bearing stream. Lyon Creek contains fish habitat and is therefore classified as a Type F stream (LFPMC 16.16.350).

Prior to the November 22, 2021 Lake Forest Park municipal code update, it was determined that Lyon Creek met the definition of a Type 1 stream, which would require a standard 115 foot buffer. Per the revise code, Type F streams also require a standard 115 foot buffer. Prior to the 2021 code update a provision was included for reducing Type 1 stream buffers to a minimum width of 70 feet with enhancement; however, this provision has been revised with the latest code update so that buffers may be reduced by 25% of the standard buffer width when it can be demonstrated that a development proposal results in a net improvement of stream and buffer functions utilizing incentive-based mitigation options (LFPCC 16.16.355.B). The minimum buffer width allowable for Type F streams is therefore limited to 86.25 feet. As such, the standard and reduced stream buffers encumber the entire property. A 15-foot-setback, measured from the edge of the stream buffer, is also required.

Mitigation Sequencing

Pursuant to LFPMC 16.16.130, any plan to impact a critical area or critical area buffer must demonstrate that impacts were avoided where feasible, unavoidable impacts are minimized, and compensatory mitigation will occur.

Reasonable Use Exception (RUE)

Since the property is entirely encumbered by stream and stream buffer, any site development application would be eligible for a reasonable use exception to allow for reasonable economic use of the parcel (LFPMC 16.16.250). On residentially zoned parcels this translates to the ability to construct a reasonably sized residence. RUE permit applications are processed by City staff with approval required by the City's hearing examiner. The hearing examiner's decision criteria, as stated under LFPMC 16.16.250, are as follows (bold emphasis added):

> *C. 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.***

D. ***The hearing examiner shall grant an exemption from the requirements of this chapter only to the minimum necessary extent to allow for reasonable economic use of the applicant's property.***

E. The hearing examiner shall condition any exception from the requirements of this chapter upon conditions recommended by the city and upon compliance with any mitigation plan approved by the city.

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

To meet the 'minimum necessary' code requirements, projects permitted through an RUE typically involve a deviation from front and rear yard zoning setbacks. Setback exception decision criteria stated under LFPMC 16.16.240 is as follows:

C. The decision to grant a deviation shall be based on the following criteria:

1. *The aggregate setbacks for the zoning front, rear, and side yard setbacks total 50 feet or more;*

2. *Front and rear zoning setbacks are no less than 10 feet;*

3. *Side zoning setbacks are no less than five feet;*

4. *Significant vegetation is preserved;*

5. *The applicant demonstrates to the city through submittal of an application and supporting documentation that the use of aggregate zoning setbacks will not:*

   a. *Be materially detrimental to the public welfare or injurious to adjacent property or development or alterations; and*

   b. *Alter the neighborhood character or the appropriate use or development of adjacent property; and*

c. Conflict with the general purposes and objectives of the comprehensive plan; and

d. Degrade critical areas and critical areas buffer functions.

RUE permitted developments commonly have a limited footprint, lack a yard beyond the 15-foot building setback, and require mitigation in the form of invasive plant removal followed by native plant restoration, likely on all areas of the lot not impacted by the home, yard, and driveway. Additionally, mitigation plantings require monitoring and maintenance at the applicant's expense for a minimum of five years (LFPMC 16.16.120) and a bond or other security mechanism to ensure successful establishment (LFPMC 16.16.150).

State and Federal Regulations

U.S. Army Corps of Engineers (Corps)/Washington Department of Ecology (Ecology)

The Corps, under section 404 of the Clean Water Act, and Ecology, under Section 401 of the Clean Water Act, are charged with reviewing, conditioning, and approving or denying certain permitted actions that result in discharges to streams. However, provided all site improvements remain above the stream's OHWM, no coordination with the Corps or Ecology will be necessary.

Washington Department of Fish and Wildlife (WDFW)

Chapter 77.55 of the RCW (the Hydraulic Code) gives WDFW the authority to review, condition, and approve or deny "any construction activity that will use, divert, obstruct, or change the bed or flow of state waters." This provision includes any in-water work, the crossing or bridging of any state waters and can also include stormwater discharge to state waters. Thus, the proposed rain garden overflow may require coordination with WDFW. If a project meets regulatory requirements, WDFW will issue a Hydraulic Project Approval (HPA).

Through issuance of an HPA, WDFW can also restrict activities to a particular timeframe. Work is typically restricted to late summer and early fall. However, WDFW has in the past allowed upland stormwater improvements to occur at any time during the year.

References

Hruby, T. 2014. *Washington State Wetland Rating System for Western Washington: 2014 Update.* (Publication #14-06-029). Olympia, WA: Washington Department of Ecology.

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U.S. Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS). 2015. *National Engineering Handbook, Part 650 Engineering Field Handbook, Chapter 19 Hydrology*

Disclaimer

The information contained in this letter or report is based on the application of technical guidelines currently accepted as the best available science and in conjunction with the manuals and criteria outlined in the methods section. All discussions, conclusions and recommendations reflect the best professional judgment of the author(s) and are based upon information available to us at the time the study was conducted. All work was completed within the constraints of budget, scope, and timing. The findings of this report are subject to verification and agreement by the appropriate local, State and Federal regulatory authorities. No other warranty, expressed or implied, is made.

Please call if you have any questions or if we can provide you with any additional information.

Sincerely,

Nell Lund, PWS
Senior Ecologist

Roen Holfield
Ecologist

Kenny Booth, AICP
Senior Planner

Enclosures

Exhibit 10.24