

Exhibit 24

Garey RUE SEPA Comments

Volume 2 of 3

Re: Revised and renoticed MDNS for the Garey RUE

Tracy Furutani <tFurutani@cityofflp.gov>

Mon 8/5/2024 2:22 AM

To: Mark Hofman <mhofman@cityofflp.gov>

Hi, Mr. Hofman:



Please include this in the comments for this application.

Thanks, Tracy

To the hearing examiner:

As a resident of Lake Forest Park, I have a concern about the proposed Reasonable Use Exception for parcel tax number 4022900497.

On the SEPA checklist, section B 3 a (v), the applicant states that the proposal does not lie with a 100-year floodplain, yet in section B 1 (d), it is noted that this parcel has "frequently flooded areas". I realize that the county may not have MAPPED the parcel as being on the 100-year floodplain, but if it "frequently" floods, my concern is that there should be a more detailed study of the extent that the structure proposed for the parcel will be impacted.

Further, the SEPA checklist notes in section B 3 a (i) that Lyon Creek is piped in this area. Indeed, just beyond the southeastern corner of the property, Lyon Creek flows into what appears to be an 8-inch pipe under 37th Ave. NE. Upstream, there are box culverts under NE 205th St, and Cedar Way. In other words, there is no impedance to water flow in Lyon Creek upstream of the property, but there is an easily-blocked pipe just downstream - a set of conditions that would lead to flooding, as it did as recently as the winter of 2022. I believe further study is needed to determine the extent and frequency of flooding on the proposed footprint of the structure.

Thank you for considering my points.

Tracy Furutani
Lake Forest Park resident

From: Mark Hofman <mhofman@cityofflp.gov>

Sent: Tuesday, July 30, 2024 6:19 PM

To: Tracy Furutani <tFurutani@cityofflp.gov>

Subject: Re: Revised and renoticed MDNS for the Garey RUE

Thanks Tracy

That's correct; comments on the SEPA MDNS for the Garey RUE application will be collected and consolidated after the August 6 noticed deadline. (apologies for all the acronyms)

If you feel comfortable commenting as a resident and clarifying that in a comment I can include it in the comment set. The SEPA Responsible Official is my CD Director role, the city's Hearing Examiner (HE) is the decision maker on the RUE application, and the HE decision is the final decision for the city. There will be a separate public comment period with noticed public hearing in the future before any

decision/action by the HE on the application. There is no apparent appeal of an HE decision to the City Council for a Type I decision per LFPMC. Kim Pratt may be the person to seek advice on that with as a sitting councilmember.

Thanks



Mark Hofman, AICP | Community Development Director
City of Lake Forest Park
17425 Ballinger Way NE | 206-957-2824
www.cityofflp.gov

From: Tracy Furutani <tFurutani@cityofflp.gov>
Sent: Tuesday, July 30, 2024 5:01 PM
To: Mark Hofman <mhofman@cityofflp.gov>
Subject: Re: Revised and renoticed MDNS for the Garey RUE

Hi, Mark:

Thanks for sending this notice out. I can comment by the 6th, right? I didn't know if there were conflict of interest or other rules that prevented a sitting councilmember from commenting on these.

Thanks, Tracy

From: Mark Hofman <mhofman@cityofflp.gov>
Sent: Thursday, July 25, 2024 10:42 AM
To: City Council <citycouncil@ci.lake-forest-park.wa.us>
Cc: Planning Commission <PlanningCommission@ci.lake-forest-park.wa.us>; Kim Adams Pratt <kim@madronalaw.com>; Calvin Killman <ckillman@cityofflp.gov>; Elizabeth Talavera <etalavera@cityofflp.gov>; Desirae Bearden <dbearden@cityofflp.gov>; Drue Morris <dmorris@cityofflp.gov>; Leadership Team <LeadershipTeam@ci.lake-forest-park.wa.us>
Subject: Revised and renoticed MDNS for the Garey RUE

Good morning,

An update and fyi for you all:

A revised and re-noticed Mitigated Determination of Nonsignificance (MDNS) notice of comment period (through Tuesday, August 6) under SEPA for the Garey Reasonable Use Exception application was completed earlier this week through all required and additional notification methods of the city for agencies and the public. The comment period started Monday this week. Comments and questions can appear any time. The SEPA process and determination are largely informational, in support of a future decision/action on the application. In this case, the decision on the Reasonable Use Exception application will be the Hearing Examiner after a public hearing. This matter is a quasi-judicial land use matter. Please forward any comments or questions received on this to me. The hearing date, public notice, etc are undetermined at this time.

Thank you



Mark Hofman, AICP | Community Development Director
City of Lake Forest Park
17425 Ballinger Way NE | 206-957-2824
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AUG 5 2024

City of Lake Forest Park

Garey 2021-RuE-0001

michelleg18@frontier.com <michelleg18@frontier.com>

Mon 8/5/2024 9:55 AM

To: Mark Hofman <mhofman@cityofflp.gov>

Cc: City Council <citycouncil@ci.lake-forest-park.wa.us>; Tom French <tfrench@cityofflp.gov>; Mark Hofman <mhofman@cityofflp.gov>; Kim Adams Pratt <kim@madronalaw.com>

📎 1 attachments (15 KB)

Dear Mr. Hoffman. Jolene 2.docx;

Attached please find a letter with regard to the Garey project.

Thank you,

Mickie Gundersen
President
Hilltop-Locust Community Group
1126 Lawton Road
Alderwood Manor, WA 98036-7122

1126 Lawton Road, Alderwood Manor, WA 98036-7122

RE: 2021-RUE-0001 Garey

Dear Mr. Hoffman,

My name is Mickie Gundersen, and I serve as the President of the Hilltop-Locust Community Group. I am also a founding member of the Sno-King Watershed Council, where I was a board member for ten years. I have been a staunch advocate for smart growth since 1997. I have resided on my property, north of Kenmore, in Snohomish County since 1962. Over the decades, I have witnessed numerous instances of developers and planners engaging in practices that harm streams and the communities they flow through. Our groups have invoked the court process many times and have been successful in changing developers plans for the betterment of the community and the environment. **The Garey property proposal is among the worst development request I have encountered and should not go forward.**

I have personally walked around the Garey property and on the adjacent property owned by Jolene Jang. I am appalled by the proposal to build a house so dangerously close to Lyon Creek and the inevitable damage this will cause to the Jang property and homes downstream. Lyon Creek is a salmon stream, protected by both the state of Washington and the Federal Government. The City of Lake Forest Park must afford it the same protection.

It is unconscionable to allow a builder to construct a home within 15 feet of Lyon Creek, blatantly disregarding the acceptable setback of 115 feet. Moreover, the SEPA checklist submitted by Mr. Garey is not credible. One glaring example is the omission of the true steepness of the slope on his property; while Mr. Garey noted the slope, he failed to indicate that it exceeds 45 degrees. He did not circle "steep slope" on the SEPA checklist. This critical omission alone is a good indicator of his intentions.

The risk of landslides, and the removal of trees on the opposite bank, poses a serious threat to the downstream neighbors' homes as well as the Jang property.

I have seen images of six trees that have fallen near the creek and one that has fallen on the steep slope. It is evident that it won't be long before any house built at the bottom of this slope and across the stream will experience flooding. It is staggering that the city would even consider allowing construction at such a precarious location previously deemed unbuildable.

The city's code is meant to protect the residents of Lake Forest Park and the streams and precious trees and habitats within. Prioritizing the interests of outside developers over the safety and well-being of the community is a gross misalignment with the city's mission.

I request that the city pause and reconsider their decision in this matter.

Sincerely,

Mickie Gundersen

President, Hilltop-Locust Community Group,

Re: Revised/Renoticed Mitigated Determination of Nonsignificance (MDNS) - Public Comment

Mark Hofman <mhofman@cityoflfp.gov>

Mon 8/5/2024 10:12 AM

To: Paula Goode <paula.m.goode@gmail.com>; Phillip Hill <phill@cityoflfp.gov>

Good morning,

Thank you for the comments; all are received by the city and will be included in the project record. Your time and concern is much appreciated.



Mark Hofman, AICP | Community Development Director
City of Lake Forest Park
17425 Ballinger Way NE | 206-957-2824
www.cityoflfp.gov

RECEIVED

AUG 5 2024

City of Lake Forest Park

From: Paula Goode <paula.m.goode@gmail.com>

Sent: Monday, August 5, 2024 9:36 AM

To: Mark Hofman <mhofman@cityoflfp.gov>; Phillip Hill <phill@cityoflfp.gov>

Subject: Re: Revised/Renoticed Mitigated Determination of Nonsignificance (MDNS) - Public Comment

Mark,

I was contacted by Jolene Jang with her concerns regarding the Garey project, and she has provided important information regarding the SEPA application and site conditions. I compared the information and pictures from the site showing the delicate nature of the location. It concerns me even more, seeing the remediations she has to do to keep her stream bank from further eroding and just how close she is to the stream. If it floods, she is in trouble. That along with obvious discrepancies between what is on the lot (proven by pictures) and what was indicated on the SEPA application.

Of course, as a Planner, you must go by what people fill out, however, though she said that you visited the site when you first came on board, I can see how remembering the details later on could be difficult especially with your current workload.... did you visit the site recently?

I have updated my comments, and due to the document size and added 'movies' size, I have had to send it to you via a 'WeTransfer' link. Please check your trash folder, as it may be flagged by our LFP email. The link is also here: <https://we.tl/t-gK1d5yw6la>

You have to download it as it will only be available for 7 days. In conclusion, I think the decision on this should be rescinded for further modification due to the difference in the site conditions to the application, and the lack of a geotechnical study with site borings. To me, the only safe expansion of this is if the permit contained a Bond to protect the adjacent Jang property, else her place should be fitted with piers to ensure she does not slide into the stream.

I have also copied some information from the LFP website that I thought is related to this Garey-MDNS-Signed-07192024.

Per Help Topic 5.4 Reasonable Economic Use Exception PUBLIC HEARING PROCESS

C. 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: • The supplementary information contained within the application provides adequate evidence that the proposal will not be **detrimental to the site, critical area or surrounding areas**. The proposal takes into consideration the intent of the Comprehensive Plan for this area. **Applicant must list specific citations of the Comprehensive Plan.**

16.26.250 Hold harmless and indemnification.

A. The city administration is authorized to accept a hold harmless and indemnification agreement and to issue permits and approvals when:

1. The property for which the permit or approval is sought is located in an identified and mapped steep slope or slide hazard area;
2. *A geotechnical report concerning the property which was submitted as part of the application for such permit or approval contains a disclaimer of liability that would preclude granting the permit or approval;*
3. Except for the condition in subsections (A)(1) or (A)(2) of this section the requested permit or approval could be issued under city ordinances;
and
4. The official charged with issuing the permit or approval concludes **that the public health, safety and welfare would not be unreasonably placed at risk** by issuing the permit or approval and that the **city's interest can be protected** by acceptance of an indemnification and hold harmless agreement.

B. Permits issued and approvals given under subsection A of this section shall be in consideration of the agreements of the party seeking the permit or approval in the form authorized and approved by the mayor and the city attorney. (Ord. 782, 1999)

Regards,

Paula Goode

On Mon, Jul 29, 2024 at 2:02 PM Mark Hofman <mhofman@cityofflp.gov> wrote:

Thank you

Comment received and will be included in the record.

Many thanks and appreciation.



Mark Hofman, AICP | Community Development Director
City of Lake Forest Park
17425 Ballinger Way NE | 206-957-2824
www.cityofflp.gov

From: Paula Goode <paula.m.goode@gmail.com>

Sent: Monday, July 29, 2024 1:46 PM

To: Mark Hofman <mhofman@cityofflp.gov>

Subject: Fwd: Revised/Renoticed Mitigated Determination of Nonsignificance (MDNS) - Public Comment

Mark,

This property shares similarities with the 3803 155th project. Both have steep slopes, history of flooding, and a request for a waiver of the setback. Granting a DNS on this property based on the actuality of the project environment is contrary to the safeguards that are supposed to be in place for properties of this type. No where do I see any future requirement of geo-technical studies, yet an EIS would, (if required) better outline the status of the environment in the affected area, provide a baseline for understanding the potential consequences of the proposed project, and identify positive and negative effects for the environment. It would also offer alternative actions, including inaction, in relation to the proposed project.

Lyon's Creek has long been flooding, there are articles back 100 years in the Seattle Times that speaks of this happening. In addition, there is a great deal of wildlife, yet there is no mention of impacting this cradle of land where wildlife is in abundance. As with the property next to me, any slip can cause severe flooding of downstream properties, yet this appears to be glossed over in the DNS.

Maybe the exact letter of the code can 'grant' an exception here, however I believe that at a minimum an EIS should be required on this property for protection of the delicate environment and adjoining properties. Blazing through on these construction projects without proper studies can endanger adjoining residences. I am not opposed per se to the addition of a home here, I am opposed to the lack of Good Engineering Practices and the lack of an EIS that could mitigate construction and negative environmental impacts AHEAD of the project, not during when it is much harder to correct.

Regards,

Paula Goode
As a resident

----- Forwarded message -----

From: **City of Lake Forest Park** <listserv@civicplus.com>

Date: Mon, Jul 22, 2024 at 9:56 AM

Subject: Revised/Renoticed Mitigated Determination of Nonsignificance (MDNS)

To: <paula.m.goode@gmail.com>



LAKE FOREST PARK WASHINGTON

Email Notification

REVISED/RENOTICED MITIGATED DETERMINATION OF NONSIGNIFICANCE (MDNS)

WAC 197-11-350

Description of proposal: Environmental determination for reasonable use exception recommendation to construct a new single-family home on a vacant site covered with a stream (Lyon Creek), steep slopes, and associated buffers.

File number: 2024-SEPA-0001

Proponent: Mark Garey

Location of proposal, including street address, if any: Address not assigned, corner of NE 205 ST and 37 AVE NE; parcel number: 4022900497.

Lead Agency: City of Lake Forest Park, 17425 Ballinger Way NE, Lake Forest Park, WA 98155

The lead agency has determined that this proposal, as designed, revised, and conditioned, will not have a probable significant adverse impact on the environment. Pursuant to WAC 197-11-350(3), the proposal has been clarified, changed, and conditioned to include necessary mitigation measures to avoid, minimize or compensate for probable significant impacts. An environmental impact statement (EIS) is not required under RCW 43.21C.030. The necessary mitigation measures are listed below. This decision was made after review of a completed environmental checklist (attached) and other information on file with the lead agency. Information related to this decision is available to the public upon request (contact Mark Hofman at mhofman@cityoflfp.com).

Public Comment: This Revised/Renoticed MDNS is issued under WAC 197-11-350. The lead agency will not act on this proposal until the comment period has expired. Comments on this determination must be submitted by: **5pm, Tuesday, August 6, 2024**. In addition to this period for sending comments, the city's Hearing Examiner will hold a public hearing for this project application, which will be separately noticed. Written public comment will be allowed prior to that hearing and testimony

will be allowed at the hearing.

Mitigating Conditions: 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 Fisheries and Game. 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.

Responsible Official: Mark Hofman **Position/Title:** Community Development Director

Address: 17425 Ballinger Way NE, Lake Forest Park, and WA 98155

Date Issued: July 19, 2024

You may file an appeal of this determination with Matthew McLean, City Clerk, at 17425 Ballinger Way NE, Lake Forest Park, WA 98155, within 14 days of this determination. A \$500 filing fee must be submitted at the same time. You should be prepared to make specific factual objections. Contact Mark Hofman at mhofman@cityoflfp.com to ask about the procedures for SEPA appeals.

Notice date: July 22, 2024

Garey RUE Revised/Renoticed MDNS July 19, 2024

Garey MDNS and Checklist

You are receiving this message because you are subscribed to Planning Announcements on www.cityofflp.gov. To unsubscribe, click the following link:
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Comment re Garey MDNS

Julian Andersen <julian@andermac.org>

Mon 8/5/2024 11:41 AM

To: Mark Hofman <mhofman@cityofflp.gov>

 2 attachments (225 KB)

240805 MDNS cmnt Julian Andersen.docx; GareyRUE_1stConsRev_Final.pdf;

8/5/24

Hi Mark,

Attached are my comments on the MDNS, and an historical document to which I refer.

Best,

— Julian

-- Julian Andersen

-- Lake Forest Park, WA



Julian Andersen

Aug 5, 2024

Mark Hofman, Director of Community Planning
City of Lake Forest Park

Mark,

Three thoughts about the MDNS opinion you are about to issue.

1. I appreciate the visibility you have given to this step in evaluating a development proposal. Often, in the past, these opinions have been issued with very little public discussion, or even understanding. For my own benefit, and probably for others, I'd encourage some public education on this process, its purpose, processes, and standards for decisions.
Without some grounding in the regulatory framework I freely use my own definitions to pass judgement on City actions. Sometimes I can be befuddled by characterization of a proposed project, like Mr. Garey's, as having effects of "no significance."
2. I expected the notice of this action published on the City site to include more current information about the Mr. Garey project. There is much information and several reports in City files about this parcel and Mr. Garey's intentions. When none are presented in the notice, it is not possible to gain an appreciation of the MDNS opinion and why it is a correct opinion .
Specifying mitigating measures, and the mechanisms for assuring compliance with them, seems to me to be the province of the Hearing Examiner when the RUE process hearing is held and the Hearing Examiner opinion issued. So I'm reading the detail you have included to be essential components of the recommendation you will make to the Hearing Examiner.
If the MDNS relies on these mitigations is it not premature to issue an MDNS until after the RUE Hearing is complete and the actual mitigation requirements are known ?
3. The SEPA check list associated with this MDNS, received by the City on March 20, 2024, is remarkable to me.
 - a. No total fee is calculated, there is no record of a fee collected
 - b. As submitted (before red ink enhancements) it seems inadequate, so inadequate that it should have been rejected and the applicant encouraged or counseled to try again.
 - c. Red ink comments and enhancements, made by a staff member, improved Mr. Garey's application to the extent that you could rely on it for your MDNS opinion. But there is no indication that Mr. Garey has any opinion

PO Box 55969
Seattle WA 98155

julian@andermac.org
cell: 612-386-6853

regarding these additions which did bolster his SEPA checklist response. I'm sure the answer is no, but these circumstances compel me to ask if the staff member was employed by Mr. Garey at the time he made these additions to the SEPA checklist on which you relied?

- d. For comparison I attach memo sent to Mr. Mr. Garey on January 4, 2022, by Senior Planner Nick Holland. It is a critical review of the RUE application of that time. It's detail, it's scope, and it's clear expectation that the necessary improvements to the proposal were the applicant's responsibility are commendable, and completely different from the staff response to the SEPA check list that Mr. Garey recently presented to the City.

Best regards,

-- Julian

attached: GareyRUE_1stConsRev_Final.pdf

*PO Box 55969
Seattle WA 98155*

*julian@andermac.org
cell: 612-386-6853*

Mayor
Jeff R. Johnson

17425 Ballinger Way NE
Lake Forest Park, WA 98155-5556
Phone: 206-368-5440
Fax: 206-364-6521
Email: cityhall@ci.lake-forest-park.wa.us
www.cityofLFP.com



Councilmembers
Lorri Bodi
Tom French
Tracy Furutani
Larry Goldman
Phillippa M. Kassover
Jon Lebo
Semra Riddle

January 4, 2022

VIA EMAIL: pinematrix@outlook.com
Mark J Garey
14827 88th Ave NE,
Kenmore WA 98028

Re: Garey RUE @ parcel # 4022900497; Request for additional information; 1ST consistency review; File #2021-RUE-0001

Dear Mr. Garey:

The Planning Department has finished its initial compliance review of the application 2021-RUE-0001 for a Reasonable Use Exception at parcel # 4022900497. Below are specific review comments based on your submittal dated October 25, 2021. Please contact me or any of the other staff listed if you require any clarification of the following review comments.

Planning

1. Please update the information provided within the "Site Information" block located on Sheet 1 of the RUE plan set to the right of the "Project Information" block on the lower half of the sheet. The information in this block does not reflect the scope of this project and needs to either be removed or modified to accurately represent this project.
2. A signed application is missing. Please sign and return a completed RUE application.
3. Provide a current title report dated from the last 30 days per LFPMC 16.16.190.
4. Provide (2) sets of full size (18"x24" minimum) scaled (1"=20') site plans. The plans shall include all of the information on the reasonable use checklist. Please also provide a separate plan that details the locations of trees and their root zones (interior and critical).
5. Delineate all critical areas on the parcel. There are areas to the west that include critical slopes regulated by the city's critical areas code. These should be classified (according to the definitions in LFPMC 16.16.040) and delineated on the site plan, even if the project intends to avoid these areas. Show the conceptual locations of the required critical area signage for all critical areas on the site, per LFPMC 16.16.170.
6. Please provide a monitoring and maintenance program for the proposed critical area mitigation per LFPMC 16.16.120 (C). The critical area report indicates that buffer

mitigation should be monitored for a period of five years, but it lacks performance standards and criteria from which to assess the success of the mitigation over the monitoring period. Also, the study lacks maintenance and/or contingency provisions in the event the performance standards aren't met.

7. The mitigation sequencing exercise lacks detail, because it does not include an analysis of the sequencing criteria in LFPMC 16.16.130. Please provide a mitigation sequencing exercise that analyzes all mitigation sequencing criteria in LFPMC 16.16.130.
8. A conservation easement is required to be legally established for all critical areas. Please provide a draft of the conservation easement for this property which includes language for all critical areas and buffers per LFPMC 16.16.180.
9. Please verify if any portion of the property is located within a flood hazard area per LFPMC 16.16.360 (B).
10. At 1,180 square feet, the proposed single-family residence is larger in area than the 1,100 square feet that is typically approved through a reasonable use exception. In with LFPMC 16.16.250, please explain why the proposed size is the minimum necessary to allow for reasonable economic use of the property.
11. See the attached public comments received during the notice of application comment period. The city typically accepts comments up until the public hearing date and in open testimony during the public hearing. The applicant should be prepared to address the applicable concerns of the public during open testimony at the public hearing if it is required.
12. The proposed structure is located within the front yard setback area (see LFPMC 18.21.060 (A)). Please revise. If a setback exception (see LFPMC 16.16.240) is being sought in addition to a reasonable use exception, please provide an analysis of how the proposed project meets the criteria of approval for a setback exception.
13. A public comment from Jolene Jang has been submitted and claims that this parcel is designated by the State Department of Fish and Wildlife (WSDFW) for priority habitat and species. Please explore this claim and determine if it is a fact through coordination with WSDFW. If this parcel is protected, LFPMC 16.16.380 could apply in which case further detail addressing this code section would be needed.
14. Page 4 of the stream delineation report doesn't accurately classify the stream type on the property. Please revise this classification to meet the required stream classifications in LFPMC 16.16.350.

Please contact Nick Holland, Senior Planner at 206-957-2832 with any questions related to Planning comments.

Engineering-PACE Consultants

Drainage Report

1st Consistency Review
Garey RUE
January 4, 2022

1. Please provide a TIR worksheet per 2.3.1.1 of the KCSWDM.
2. Please provide additional information regarding the lack of drainage complaints in the Resource Review Task in the Off-Site Analysis Section. The stormwater modeling output from WWHM2012 needs to be provided in an appendix of the drainage report.
3. Please provide both an existing site hydrology map and a proposed site hydrology map in accordance with KCSWDM 2.3.1.1
4. Section 4 requires a discussion on Flow Control BMP's and how Core Requirement #9 shall be met. Please revise.
5. Per KCSWDM C.2.7 any proposed permeable pavement requires a soils report. Please see C.1.3 for guidance on report requirements.

Plan Set

6. The site information on the coversheet doesn't match the project information on the coversheet. Please revise for consistency.
7. Per the KCSWDM the minimum vegetated flow path for a dispersion trench is 25'. While it is understood that this is an RUE the project still needs to meet Core Requirement #9. Please provide additional information in the TIR on how this will be met.
8. Per KCSWDM C.2.7.1.5 permeable pavements that are pollution generating are only allowed where the underlying soils meet the groundwater protection standards found in 5.2.1. A proposed residential driveway that serves 2 households or less has the option to utilize a 6" sand layer instead. Please provide additional information on the underlying soils in regard to groundwater protection or show the 6" sand layer in the design.

Please contact Nick Holland, Senior Planner at 206-957-2832 with any questions related to Engineering comments. The city will facilitate all communication with PACE directly.

Once you have revised your design that address each review comment, please submit (3) collated, hard copy sets of revised plans, surveys, and reports, as well as (3) copies of a response letter indicating how you have revised the design to address each review comment. Please also provide one electronic copy of the materials. Complete responses to each comment are required for further processing. Per LFPMC 16.26.040 (B) (2), the City will have 14 days to determine if the information submitted is complete. You will be notified of this outcome per LFPMC [16.26.040](#) (B) (1).

Alternatively, if you wish to have your project decided upon, using the information submitted to this point, please indicate this in writing, so that we can draft our staff recommendation using the exhibits we've collected to this point. Note that due to the inconsistencies identified above, a recommendation to approve the application may not be provided.

Sincerely,

1st Consistency Review
Garey RUE
January 4, 2022

A handwritten signature in blue ink, consisting of several overlapping loops and a trailing line.

Nick Holland
Senior Planner

Attachments: Combined public comments received via NOA.

Cc: Desirae Bearden, Permit Technician
Record File
28 Parties of Record (official list kept in record file)

RECEIVED

AUG 5 2024

City of Lake Forest Park

Public Comments on a Reasonable Use Exception - Parcel 4022900497

Emily Gonzalez <emily@pugetsoundkeeper.org>

Mon 8/5/2024 1:57 PM

To:Elizabeth Talavera <etalavera@cityofflp.gov>;Drue Morris <dmorris@cityofflp.gov>;Mark Hofman <mhofman@cityofflp.gov>

To Whom it May Concern:

These comments pertain to an application for a reasonable use exception for a single-family home construction on parcel 4022900497 in the City of Lake Forest Park.

Soundkeeper is a member-based nonprofit organization that has been working for forty years to enhance and protect surface waters and the communities that rely on them. Soundkeeper works across the Puget Sound region and at the state and federal level on water quality issues including but not limited to pollution and habitat degradation. Our work often includes addressing impacts to threatened, endangered, and other critical species in Washington's watersheds.

Soundkeeper recognizes the proposed mitigation measures to the project on a parcel where the required stream buffer would limit residential development. However, given Washington State's salmon recovery priorities, Soundkeeper has concerns about the impact to salmonids that rely on this section of Lyon Creek during vulnerable freshwater life phases. Before entertaining a reasonable use exception, the City of Lake Forest Park should coordinate with Washington's Department of Fish and Wildlife to review potential impacts to salmonids at the site, and the proposed mitigation efforts and impacts to salmon upstream of the site.

Thank you for the opportunity to provide comments on this proposal,

Emily Gonzalez (she/her)

Staff Attorney, Director of Law & Policy

Puget Soundkeeper Alliance

130 Nickerson Street, Suite 107

Seattle, WA 98109

(206) 297-7002 x114

emily@pugetsoundkeeper.org

www.pugetsoundkeeper.org

[Facebook](#) | [Instagram](#)



Re: Requesting Moratorium on all RUEs until an effective process can be created, implemented and enforced.

Mark Hofman <mhofman@cityoflfp.gov>

Mon 8/5/2024 3:18 PM

To: City Council <citycouncil@ci.lake-forest-park.wa.us>; Tom French <tfrench@cityoflfp.gov>; Kim Adams Pratt <kim@madronalaw.com>; Phillip Hill <phill@cityoflfp.gov>; planningcommission@cityofLFP.gov <planningcommission@cityofLFP.gov>; jolene@jolenejang.com <jolene@jolenejang.com>

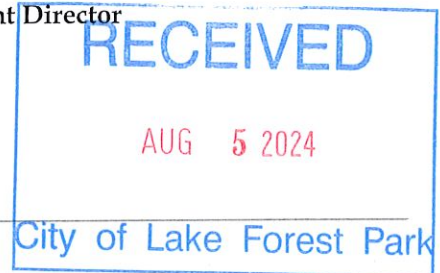
Thank you. Just eliminating any grey areas about the intent of the comment. Thanks for clarifying.

Comment received and will be made part of the administrative record for the application. Thank you for your time and concern.

Much appreciated



Mark Hofman, AICP | Community Development Director
City of Lake Forest Park
17425 Ballinger Way NE | 206-957-2824
www.cityoflfp.gov



From: jolene@jolenejang.com <jolene@jolenejang.com>

Sent: Monday, August 5, 2024 3:16 PM

To: Mark Hofman <mhofman@cityoflfp.gov>; City Council <citycouncil@ci.lake-forest-park.wa.us>; Tom French <tfrench@cityoflfp.gov>; Kim Adams Pratt <kim@madronalaw.com>; Phillip Hill <phill@cityoflfp.gov>; planningcommission@cityofLFP.gov <planningcommission@cityofLFP.gov>

Subject: RE: Requesting Moratorium on all RUEs until an effective process can be created, implemented and enforced.

Thanks for the message. Aren't all the emails dealing with 2021-RUE-0001_Garey during the public comment deemed as a public comment. Nick Holland had explained this to be the case. Yes, this is a public comment and request to the city.

Thanks.

From: Mark Hofman <mhofman@cityoflfp.gov>

Sent: Monday, August 5, 2024 3:09 PM

To: City Council <citycouncil@ci.lake-forest-park.wa.us>; Tom French <tfrench@cityoflfp.gov>; Kim Adams Pratt <kim@madronalaw.com>; Phillip Hill <phill@cityoflfp.gov>; planningcommission@cityofLFP.gov; jolene@jolenejang.com

Subject: Re: Requesting Moratorium on all RUEs until an effective process can be created, implemented and enforced.

Thank you, Jolene.

Can you clarify if the email and attachment are intended by you as public comment on the noticed SEPA MDNS for the Garey RUE or separate? The comment period for the Garey SEPA MDNS ends tomorrow and I wish to keep the administrative record straight as to what is intended to be included and what is not.

Thanks



Mark Hofman, AICP | Community Development Director
City of Lake Forest Park
17425 Ballinger Way NE | 206-957-2824
www.cityoflfp.gov

From: jolene@jolenejang.com <jolene@jolenejang.com>

Sent: Monday, August 5, 2024 3:01 PM

To: City Council <citycouncil@ci.lake-forest-park.wa.us>; Tom French <tfrench@cityoflfp.gov>; Kim Adams Pratt <kim@madronalaw.com>; Phillip Hill <phill@cityoflfp.gov>; Mark Hofman <mhofman@cityoflfp.gov>; planningcommission@cityoflfp.gov <planningcommission@cityoflfp.gov>

Subject: Requesting Moratorium on all RUEs until an effective process can be created, implemented and enforced.

City of LFP,
See attachment for full letter and appendices.

I am calling for a moratorium on all Reasonable Use Exceptions (RUEs) particularly the current Garey application (2021-RUE-0001) for Parcel 4022900497.

I am making this request so that you, our City Council – our policy making body for LFP, can engage in a proper inquiry to ensure all current and future projects are being managed as you intended at all levels of the application, development and enforcement stages. Sadly there has been a consistent lack of thorough, accurate evaluation of RUE applications and subsequent monitoring and enforcement of mitigation measures. And, there is little to no transparency for these project to the public, at-large nor do violations result in the designed penalties or full enforcement of intended actions. I respectfully request that you take a close look at how these projects are playing out in our community.

As an example, a repeat LFP developer purchased a wetland for \$144,000 along 28th Street just down the road from Grace Cole Park in 2016. They obtained a Reasonable Use Exception (RUE) for a nearly 3,000 sf house with an ADU/guest suite with kitchen in 2019. They sold it for \$1.7 million in 2022! During construction their rerouting of surface springs resulted in flooding of a neighboring property. After construction, the builder, who lived in the house until they sold it, violated the mitigation plans on several instances. They clear cut their slope, put in additional impervious surfaces, and never submitted their required annual report for the state of the mitigation plans. **How many other properties are current on their reporting? And, how does the city verify the owner developed reports are accurate?** The city only responded to these items when the issues were brought forward by the community. Further, the property owner was never required to pay a dime in penalties and now continues to build houses in LFP. They extracted substantial economic gain off this mess of a project and now the city and the new property owners are stuck with the consequences including 28th street having metal plates in place for months due to the road becoming undermined as a result of the improper mitigation of water flow off this property. Without consequences for his actions and without sufficient oversight from the city, we are signaling where we stand on our own rules and are setting a dangerous precedent for future projects.

The current Garey RUE application is another concerning case. An outside developer purchased a vacant parcel, previously established as unbuildable parcel given it is completely encumbered by critical area, for \$40,000. Since his initial application for a RUE in 2021, at my request the planning commission took by working to the Planning Commission worked to improve the policies around RUEs in LFP which you adopted into law, however, significant problems still remain.

For example, this recent incomplete application for the Garey RUE (2021-RUE-0001) underscores the need for more rigorous oversight and clarity. Critical issues, such as missing documentation in the application and SEPA Checklist and a comprehensive project narrative explaining compliance with the criteria outlined in LFPMC 16.16.250(C), must be addressed.

These omissions alone should void Garey RUE. [See Appendix A for a list of issues with this application and the process in handling it. See Appendix B for public comments and more references, pictures, videos and diagrams.]

Implementing a moratorium on all RUE applications will allow you time to evaluate how your current policies are being managed and identify where stronger policies are needed. We need better oversight of these projects and we need a comprehensive review system that includes stringent evaluation criteria, enforces environmental regulations, and ensures transparency for the public. Our values and vision for our community dictate this.

Further, until our LFP staff can demonstrate the bandwidth and expertise to implement the proper protocols required by city code, the moratorium should continue until such capacity can be built.

Jolene Jang

Additional information can be found at these links:

- See [GreenVoicesOfLakeForestPark.com](https://www.greenvoicesoflakeforestpark.com) for visuals, maps, comments
- Podcast - [Listen to podcast Green Voices of Lake Forest Park](#) to get updates
- [Article in the Town Crier](#)
- Article in the Shoreline News

[Play 1 Minute Intro Video](#) | [Play 8 Minute Video about Main Topic](#) | [Schedule Meeting](#).

Listen to Podcast: [Aren't Asians All Alike](#)

Jolene Jang (she/her) – Asian American Ambassador

- Culture Explorer | Show Host | Speaker
- Helping employees learn about Asian American Cultures and why it matters
- 206.659.7183 | Jolene@JoleneJang.com | [JoleneJang.com](https://www.JoleneJang.com)
- Connect on LinkedIn [JoleneJang](#)
- Subscribe to youtube and turn on bell: [JoleneJang](#)
- Follow at [JoleneJang](#) | To be an [Asian Ally](#) | To be an [Empowered Asian](#)
- Add socials to your [phone click here](#)

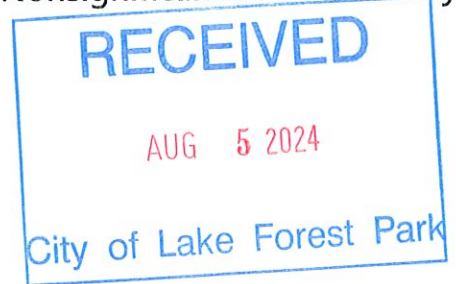
RE: Revised and renoticed Mitigated Determination of Nonsignificance for the Garey Reasonable Use Exception Application Review

DFW R4SPlanning <R4SPlanning@dfw.wa.gov>

Mon 8/5/2024 4:11 PM

To: Mark Hofman <mhofman@cityofflp.gov>

Cc: Dykstra, Jesse F (DFW) <Jesse.Dykstra@dfw.wa.gov>



📎 1 attachments (109 KB)

Garey RUE WDFW Comment.pdf;

Hello Mark,

The Washington Department of Fish and Wildlife would like to submit the attached letter for comment on this project. Thank you for the opportunity to comment. If you have any questions, please contact your local habitat biologist, Jesse Dykstra (Jesse.Dykstra@dfw.wa.gov).

Thank you again for the opportunity to comment,

Ryan Shaw | Habitat Biologist
Washington Dept. of Fish and Wildlife
Region 4, North Bend Field Office
Ryan.Shaw@dfw.wa.gov

From: Mark Hofman <mhofman@cityofflp.gov>

Sent: Friday, July 19, 2024 6:04 PM

To: Mark Hofman <mhofman@cityofflp.gov>

Subject: Revised and renoticed Mitigated Determination of Nonsignificance for the Garey Reasonable Use Exception Application Review

External Email

Good evening,

The City of Lake Forest Park, as Lead Agency under SEPA, is circulating the attached notice of public and agency comment period for a revised and re-noticed Mitigated Determination of Nonsignificance (MDNS) under WAC 197-11-350. The MDNS is for the Garey Reasonable Use Exception application (2021-RUE-0001) filed with the City of Lake Forest Park for the proposed development of a new single family dwelling on a vacant legal lot of record covered with a perennial stream (Lyon Creek), steep slopes, and associated buffers.

The lead agency will not act on this proposal until the comment period has expired. Comments on this determination must be submitted by: **Tuesday, August 6, 2024 at 5pm**. In addition to this period for sending comments, the city's Hearing Examiner will hold a public hearing for this project application, which will be separately noticed. Written public comment will be allowed prior to that hearing and testimony will be allowed at the hearing.

Comments can be emailed to mhofman@cityofflp.gov or can be mailed to:

City of Lake Forest Park
Attn: SEPA Responsible Official, Mark Hofman

17425 Ballinger Way NE
Lake Forest Park, WA 98155

If you have any questions on the notice, public and agency comment period, MDNS or Checklist, please contact me at mhofman@cityoflfp.gov or (206) 957-2824.

Thank you



Mark Hofman, AICP | Community Development Director

City of Lake Forest Park

17425 Ballinger Way NE | 206-957-2824

www.cityoflfp.gov



State of Washington

Department of Fish and Wildlife, Region 4

Region 4 information: 16018 Mill Creek Blvd, Mill Creek, WA 98012 | phone: (425)-775-1311

August 5, 2024

Lake Forest Park
ATTN: Mark Hofman
17425 Ballinger Way NE
Lake Forest Park, WA, 98155

Dear Mr. Hofman:

Thank you for the opportunity to comment on the Garey RUE Project (2024-SEPA-0001) located at parcel 4022900497 as proposed by Mark Garey. The Washington Department of Fish and Wildlife (WDFW) is dedicated to preserving, protecting, and perpetuating the state's fish, wildlife, and ecosystems while providing sustainable fish and wildlife recreational and commercial opportunities. In recognition of our responsibilities, we submit the following comments for the Garey RUE project. Other comments may be offered in the future.

Fish and Wildlife Questions and Recommendations:

- The Washington Department of Fish and Wildlife recommends applying for an HPA pre-application through our APPS system to determine whether the proposed development will require an HPA permit.
- Recent habitat surveys of Lyons creek indicate good spawning gravels and fish habitat. How will no-net-loss of habitat be ensured through the lifetime of the home within the stream buffers? It is important to consider the long-lasting effects of a project that can impact Lyons creek long after the initial construction is completed.
- How will this project address the removal of floodplain storage, large woody material input, and habitat creation? Additionally, how will it handle potential future issues such as floods, bank failure, and sediment storage?
- The current box culvert on-site is a fish passage barrier and will need to be updated in the future. How will the new construction of this structure ensure there is ample room for a culvert replacement project to occur in the future that allows fish passage?
- How will flood impacts be handled to protect the home?
- Installation of woody material in-stream and other mitigation is mentioned throughout the proposal. Will this be possible without creating flood risks to the home? Slowing the water down with woody material near the home can cause backwatering that could endanger the home. If woody material is added as mitigation, it will not be allowed to be removed without significant mitigation because of its removal.

- It appears that the possibilities for habitat mitigation and flood protections are not practical at this site. Construction on the creek here will likely create damages that are nearly impossible to mitigate. Protections for the house will likely result in damages to the stream, while protections for the stream will likely result in damages to the house. The local habitat biologist (Jesse Dykstra, Jesse.Dykstra@dfw.wa.gov) will be available to assist in determining proper mitigation for this site. However, to best protect the stream habitat and Lyons Creek salmon, development should be focused in other areas. Please allow this area to remain natural and allow the creek proper space to run freely.

The Washington Department of Fish and Wildlife provides our comments and recommendations in keeping with our legislative mandate to preserve, protect, and perpetuate fish and wildlife and their habitats - a mission we can only accomplish in partnership with local governments.

If you have any questions or concerns, please feel free to contact your local habitat biologist, Jesse Dykstra, at Jesse.Dykstra@dfw.wa.gov

Sincerely,

Ryan Shaw

Ryan Shaw | Habitat Biologist
Washington Dept. of Fish and Wildlife
Region 4, North Bend Field Office
Ryan.Shaw@dfw.wa.gov

Fw: paula.m.goode@gmail.com sent you New Garey Comments 8-5-24 via WeTransfer

X Mark Hofman <mhofman@cityofflp.gov>

Mon 8/5/2024 4:42 PM

To: Paula Goode <paula.m.goode@gmail.com>; Matthew McLean <mmclean@cityofflp.gov>

Cc: Aaron Emmons <aemmons@cityofflp.gov>; Jessica R. Halterman <jhalterman@cityofflp.gov>

Thanks for confirming the legitimacy of the large file/submittal, Paula.

I'm looking for a way to access and download the large file without signing up for the software. It appears that is required for access. I'll CC the Clerk's office and IT to see if there is another way to transmit and receive, given the time sensitivity. Tuesday (tomorrow) I'll see what we can do and keep you informed that we have it for the record.

much appreciated



Mark Hofman, AICP | Community Development Director
City of Lake Forest Park
17425 Ballinger Way NE | 206-957-2824
www.cityofflp.gov

RECEIVED

AUG 5 2024

City of Lake Forest Park

From: WeTransfer <noreply@wetransfer.com>

Sent: Monday, August 5, 2024 9:04 AM

To: Mark Hofman <mhofman@cityofflp.gov>

Subject: paula.m.goode@gmail.com sent you New Garey Comments 8-5-24 via WeTransfer



paula.m.goode@gmail.com
sent you New Garey Comments 8-5-
24

1 item, 181 MB in total • Expires on 8 August, 2024

New Garey Comments 8-5-24

These are new comments.

X MH/CD - 3 Video Clips
Downloaded from WeTransfer
to City folder & available
for the SEPA MDAS
comment/record.

Get your files

Download link

<https://wettransfer.com/downloads/448f0b5705973166f0e7169e426c9ff220240805160308/d033cbcd6548ad64fa4fc0fca283290020240805160342/822452>

1 item

Garey DNS Comments 8-5-24.zip
181 MB

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Streamkeepers letter GAREY-RUE-0001, parcel 4022900497

bandesaunders@comcast.net <bandesaunders@comcast.net>

Mon 8/5/2024 6:38 PM

To: Mark Hofman <mhofman@cityofflp.gov>

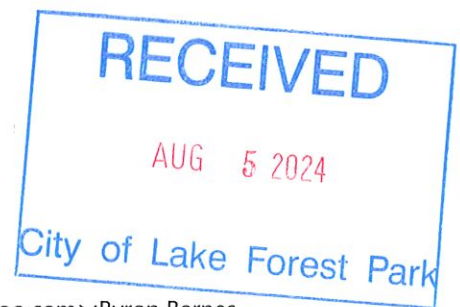
Cc: Adelle Nolan <adelle_nolan@hotmail.com>; Amanda Royal <mandymoo1973@yahoo.com>; Byron Barnes <byron37@comcast.net>; Chip Dodd <ckdodd1p@hotmail.com>; Connie Barnes <cbarnes@comcast.net>; Dan Benson <benson.dan@gmail.com>; Dana Campbell <danalcampbell@hotmail.com>; Joleen Borgerding <joleen@borgerding.info>; Jolene Jang <jolene@jolenejang.com>; Laith Rabaa <laithr777@gmail.com>; Laurie McCarthy <lsmcCarthy@gmail.com>; Lawrence Brown <gevarre@gmail.com>; Lee Rolfe <Salleygardens9@gmail.com>; Mark Phillips <msphillips1@comcast.net>; Regina Fletcher <fletcherrgm@gmail.com>; Robbi Lober <robiannelober@gmail.com>; Sally Yamasaki <sally.yamasaki@gmail.com>; Tracy Furutani <tracyfurutani@yahoo.com>

📎 1 attachments (223 KB)

Garey_RUE letter - LFP Streamkeepers.pdf;

Please find the attached letter for consideration in the decision to allow the permit for the GAREY (2021-RUE-0001), parcel 4022900497. Thanks

Brian





MEMBERS

BRIAN SAUNDERS, MS
Project Lead

BYRON BARNES

CONNIE BARNES

DAN BENSON, PHD

DANA CAMPBELL, PHD

LAURIE McCARTHY

LAWRENCE BROWN

LEE ROLFE

MARK PHILLIPS

SALLY YAMASAKI

ROBI LOBER

JOLEEN BORGERDING

CHARLES DODD, MS

August 5, 2024

Mark Hoffman
Community Development Director
City of Lake Forest Park
17425 Ballinger Way NE
Lake Forest Park, WA 98155

Dear Director Hoffman,

I am writing on behalf of the Lake Forest Park Streamkeepers to express our deep concerns regarding the Garey Reasonable Use Exception (RUE) application (2021-RUE-0001), parcel 4022900497. I respectfully urge you to deny the permit for the following reasons:

- 1. Protection of Lyon Creek's Health:** Over the past 20 years, significant restoration efforts have improved the health of [Lyon Creek](#). Protecting the stream buffers and critical areas has been essential to these efforts. The article in the Shoreline Area News highlights the positive impacts of these restoration activities, supporting the need to continue these restrictions and prohibiting construction along urban watersheds. Historically, the overdevelopment of the headwaters of [Lyon Creek in the 1970s](#) and 1980s caused significant harm to the creek. Allowing this development would reverse the progress made and further degrade the creek's health. Indeed, strict ordinances on development are likely the reason [streams throughout King County are improving](#).
- 2. Inadequate Addressing of Flooding Hazards:** [Recent flooding on 37th Ave NE](#), underscores the inadequacy of the current culvert that Lyon Creek flows through under Cedar Way road just downstream from the Garey property. The [U.S. Geological Survey Fact Sheet 076-03](#) states, "Common consequences of urban development are increased peak discharge and frequency of floods. Typically, the annual maximum discharge in a stream will increase as urban development occurs." New developments in the critical areas of Lyon Creek's floodplain will exacerbate flooding risks and potentially damage downstream properties.
- 3. Impact on Salmon Populations:** Urban development has been linked to declines in salmon populations. As stated in Governor Inslee's 2022 State of Salmon in Watersheds report, "*Riparian zones and floodplains are critically important for aquatic species such as salmon and serve to buffer the effects of climate change. Well vegetated riparian areas shade and keep water cool, filter polluted water, and support trees with roots that help stabilize banks and provide hiding places for fish. Floodplains slow, filter, and store flood water; provide shelter and food for young fish; and buffer communities against flood.*" The restoration plans for Lyon Creek also include reintroducing native [Kokanee salmonids](#), vital for the health of the natural ecosystem. Continued development in stream critical areas jeopardizes these efforts and the overall biodiversity of the watershed.
- 4. Inadequate Stormwater Management:** The proposed development does not adequately address stormwater management to ensure that site


runoff will be self-contained during and after construction. The Lake Forest Park Municipal Code (LFPMC) outlines the requirements for protecting water quality and managing drainage in environmentally critical areas. The Receiving Water Assessment identifies several impairments in Lyon Creek, including increased instream temperatures, depleted levels of dissolved oxygen, and poor benthic index of biotic integrity (BIBI) scores. These factors contribute to habitat degradation for aquatic life. Ensuring zero impact on creek water quality from stormwater runoff is crucial, and the current plans do not meet this standard.

5. **Mandatory Due Diligence:** We understand that the Garey RUE permit does require regular monitoring so that the development does not cause environmental harm to the Lyon Creek watershed, but we find the lack of legal accountability very disturbing. It should not be the responsibility of citizens to research every potential development to make sure they are not unwittingly causing environmental destruction. The developers themselves are best placed to identify and tackle these risks and should therefore be required by law to prove that their construction activities are not causing harm of this kind. Publication of this data should be available to all citizens of LFP. If the permit is allowed, we would also ask that the *original* owner (not future owners) be held responsible for mitigating all future damage to the creek directly related to the property development.
6. **Legal Precedent and Best Available Science:** Allowing this RUE sets a dangerous precedent for future developments in critical habitats. The principle of "Stare Decisis" emphasizes the importance of adhering to previous decisions to ensure consistency and stability in the law. Approving this application could initiate further encroachments into critical areas, leading to cumulative negative impacts on urban streams. The Best Available Science (BAS) does not support the idea that continued development in these sensitive areas will have zero impact on stream health.

In conclusion, we urge you to consider the long-term environmental impact and the precedents set by approving the Garey Reasonable Use Exception (RUE) application (2021-RUE-0001). Denying this permit is essential to protecting the short-term and long-term health of Lyon Creek, mitigating flooding risks, preserving salmon populations, ensuring proper stormwater management, and adhering to legal principles and scientific evidence.

Thank you for your attention to this matter.

Sincerely,



Brian Saunders
Project Lead for LFP Streamkeepers
bandesaunders@comcast.net
(206) 972-3465

RECEIVED

AUG 5 2024

City of Lake Forest Park

RUE Garey - Fish and Wildlife

jolene@jolenejang.com <jolene@jolenejang.com>

Mon 8/5/2024 6:54 PM

To: City Council <citycouncil@ci.lake-forest-park.wa.us>; Tom French <tfrench@cityofflp.gov>; Kim Adams Pratt <kim@madronalaw.com>; Phillip Hill <phill@cityofflp.gov>; Mark Hofman <mhofman@cityofflp.gov>; Planning Commission <PlanningCommission@ci.lake-forest-park.wa.us>

📎 1 attachments (225 KB)

DeptofFishWildlife.JPG;

This is an email for public comment and tonight was said the Council Meeting. Plus here is another public comment in the records from another Fish and Wildlife habitat who was at the property a couple of years ago. Tuesday, you will receive another public comment from them.

Dan Hawkins

(he/him)

Compliance Biologist

Washington Department of Fish and Wildlife

From: Hawkins, Daniel G (DFW) <Daniel.Hawkins@dfw.wa.gov>

Sent: Monday, August 5, 2024 5:09 PM

To: jolene@jolenejang.com

Subject: Comments on Environmental Impacts and RUE

Hi Jolene,

Thank you for reaching out and speaking with me about your concerns with this project. As I told you over the phone, a WDFW Biologist, Ryan Shaw is providing comments to City of Lake Forest Park regarding this project later tonight before the end of the review period. This will be public information once the city makes it available.

I understand that you'll be speaking with the city council tonight about the project, and asked me to provide "informal comments" regarding the biological impacts to the site, the stream, and to fish life. As a WDFW Habitat Biologist, I can provide some comments for you regarding what I believe are concerning/problematic with this proposal.

1. Overall, the general lack of explanations within the RUE is concerning. Some have no answers, many are 1 word answers, and many do not provide the minimum answers asked by the questions. In general, not enough information has been provided to approve the proposed project.
2. Lyons Creek floods frequently, and some addition of Large Woody Material in the stream
 - a. We normally like to see more large wood added to the system, but here it would likely add to the flooding problems that Lyons Creek experiences.
3. Question 3(v) asks if the proposal lies within a 100 year floodplain- The answer says NO
 - a. That is not correct and work does occur within the 100 year floodplain
4. The culvert that conveys Lyons Creek underneath NE 205th St and through the site is a partial barrier for fish passage, and the plans will have to provide enough space for a Fish Barrier Correction Project to occur in the future.
 - a. The fish barrier correction culvert will be much larger than the one currently there, and the plans are lacking adequate space for a Fish Passage Barrier Removal Project to take place
5. Under Plants, Evergreen trees were not checked

- a. I can see from arial photographs and Google Maps Street View that there is at least 2 cedar trees on site.
- 6. The plans propose to replace large trees in a 1:1 ratio with new plantings
 - a. A young, newly planted tree does not account for the removal of a large, mature tree.
- 7. Under the "Animals" section, all questions are answered with "n/a"
 - a. There are certainly animals using the site including birds, fish, and mammals
 - i. WDFW records show that Cutthroat Trout and Coho salmon have been documented in this reach of Lyons Creek
 - ii. The local biologist also told me that the reach on this site has High Quality Spawning Habitat, which is of high importance to the conservation and recovery of Coho Salmon populations
 - iii. If Coho salmon are present, then they will likely migrate upstream to spawn, and juveniles will likely migrate downstream on their way out to the Puget Sound and Pacific Ocean.
- 8. There appears to be little to no proposals for habitat enhancement
 - a. This will be necessary to mitigate the impacts that will occur while developing this site. WDFW's "No Net Loss" standard has not been met in the proposal

Those are my "informal" comments. I hope this provides more clarity for you until the Official comments from WDFW comments are sent to the city of Lake Forest Park (tomorrow).

Dan Hawkins

(he/him)

Compliance Biologist

Washington Department of Fish and Wildlife

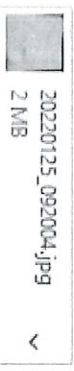
Daniel.hawkins@dfw.wa.gov

360.688.6432 (Mobile)



Penk, Miles A (DFW) <Miles.Penk@dfw.wa.gov>
To: jolene@jolenejang.com

1 Follow up.
You forwarded this message on 1/25/2022 10:28 AM.



Reply

Reply All

Forward



Tue 1/25/2022 10:25 AM

Hello,

Apologies for the delayed response. I wanted to follow-up on a topic that was discussed during our meeting on the 19th.

Based on how low and flat that parcel is on the far side of the creek, it does seem reasonable to question whether it is part of the historic floodplain (prior to human settlement) of the creek. I've attached a quick drawing showing how creek systems become disconnected from their historic floodplains, typically through channel incision. Stream channel incision is a common result seen in increasingly urbanized areas, where increased stormwater runoff, decreased channel roughness (through removal of large woody debris and riparian vegetation), and disruptions to sediment transport lead to channel downcutting. Over time, channel downcutting results in the stream now longer able to access floodplain. No longer able to access it's floodplain, the stream is less capable of dissipating the energy found in flood flows which can result in further downcutting of the channel. Channel incision also causes the groundwater table to drop, so may have converted vegetation on the proposed development property to change from wetland vegetation to non. I don't have any evidence to suggest that happened just sharing it as a possibility.

This stretch of creek, though somewhat incised, does appear capable of being having this condition at least partially reversed and reconnected to its previous floodplain. This could be accomplished through the strategic placement of large woody material (habitat logs). This would capture sediment (thus raising the channel bed), increase channel roughness (dispersing flood flow energy), and potentially influence lateral channel migration. Not only does wood help reconnect floodplains, it also creates dynamic habitat features for salmonids to use and thrive in.

If this development were to go ahead as planned, I am concerned that it's location will remove any tolerance for large woody material. What would benefit the system as a whole for floodplain storage, sediment storage, habitat creation for fish, would represent a flood hazard and/or bank stabilization issue for whomever lived in that house. Future measures to protect the house from flood risk would come at the expense of the fish resource. It should be unacceptable to maintain a process of compromising habitat while the once thriving salmon runs of Lyon Creek continue to dwindle away to nothing. Already many homes in the Lyon Creek basin have been built within the historic floodplain, and the Creek has been continually degraded in order to ensure the safety of those residents. The first step in restoring the Creek should be a commitment by the City of Lake Forest Park to protect the remaining untouched parcels within the riparian corridor.

Hopefully this email has given you some food for thought. Those reviewing this project should at least be looking at these issues. I encourage you to do a google search on "stream channel incision" to learn more. As always feel free to reach out if you wish to discuss any of this further.

Thanks,
Miles

Miles Penk | Habitat Biologist
Washington Department of Fish and Wildlife
Region 4, North Bend office
Cell: (425) 677-1297

