

Comments Received After Notice of Public Hearing

Garey RUE

(File Updated March 25, 2025)



Regarding application for RUE to build on property in critical buffer zone of Lyon Creek

From Maris Abelson <alwaysforwardronan@gmail.com>

Date Sat 3/15/2025 3:24 PM

To David Greetham <dgreetham@cityofflp.gov>

Dear David Greetham,

Because the proposed new home will be built very close to the creek (inside the 115 foot required stream buffer and possibly 12 feet from the creek itself), it will destroy the wetland, stream banks, and salmon habitat. In addition, the opposite bank, already degraded because of the lack of tree root stability, is in a state designated landslide hazard area. Compromising any of the banks in this area will add to the instability of this hazardous steep slope. If and when this bank slumps, it may destroy the new home and one already established right next to the unstable bank on the opposite side of the wetland.

There should be no Reasonable Use Exceptions at the expense of our streams, wildlife, trees, houses, and human safety. Do not let this builder harm the environment. Please help protect our LFP residents and habitat.

If this proposal for this house is approved, this could set precedent for all the properties in critical areas. Each builder that applies for reasonable use exception may get a free pass to ignore the environment and the impact on the neighbors.

Code designed to protect our environment becomes meaningless if it is not enforced and/or if exceptions like Reasonable Use are given.
Please add me as a party of record.

Cordially,
Maris Abelson
18741 40th PI NE
Lake Forest Park, WA 98155



File Number: 2021-RUE-0001

From Julia Bent <jbent@avvanta.com>**Date** Wed 3/19/2025 11:47 AM**To** David Greetham <dgreetham@cityofflp.gov>

Dear Sirs,

Below I am attaching a copy of the comment I sent the City in July of 2024 in regards to the Use Exception for the property referenced above. I would like to add a couple of comments since what I wrote in July pretty much covers my specific concerns.

Why do we have critical area regulations if all it takes is for a developer with money to ask for variances that are far too quickly granted? In this case, the reason for the regulations are obvious (see my comments below); they should be enforced. Lake Forest Park has a history of listening to its citizens. Has the City government been coopted by monied interests that have no intention of maintaining the historic quality of life in Lake Forest Park?

Sincerely yours,

Julia Bent

Here are my comments from last July:

From: Julia Bent <jbent@avvanta.com>
Sent: Sunday, July 21, 2024 5:31 PM
To: Mark Hofman <mhofman@cityofflp.gov>
Cc: Bent Julia <jbent@avvanta.com>
Subject: Proposed Construction at 36xx NE 205th St.

Dear Mr. Hofman:

As a neighbor who passes the corner of NE 205th St. and 35th Ave. NE on a regular basis, my assessment of the advisability of building at this location is that it would be deleterious in many ways. As a past member of the Tree Board, I will enumerate them for you below:

1. Several landmark trees will be affected, either by their removal or the impact on their root zones.
2. Slope erosion during and following construction will be difficult to mitigate. This includes the possibility/probability of a major associated landslide.
3. Flooding of Lyons Creek in this general area has been common historically. This is why Mountlake Terrace built a dam upstream, but this dam does not fully mitigate the flood risk.
4. The culverts below the proposed construction are aged and so may be unable to accommodate flooding secondary to the certain increase in impermeable surfaces created by the new home.
5. The effect on fish, both Coho Salmon and trout, has not been adequately addressed.
6. Invertebrates in the Creek will be impacted by the silt and sand attendant upon construction.

The City must take their own, well researched, and long standing requirements for building near streams and apply them to this proposal. Granting numerous variances to these requirements obviates even having them. Doing so will create a precedent for working around the City's ordinances in future proposals. Lake Forest Park is a unique community with a strong investment in environmental quality. This project flies in the face of all the City stands for.



DUWAMISH TRIBE

dx^wdəwʔabš

3/11/2025

City of Lake Forest Park
2021-RUE-0001

Dear David Greetham and Mark Hofman,

Thank you for the opportunity to comment on the Garey Reasonable Use Exception to construct a single-family residence and attached garage with a 1,100 square foot footprint on an existing legal lot (King County Parcel #4022900497) of record containing a fish-bearing stream, buffer, and associated steep slopes located near coordinates 47.777207, -122.290604 in Lake Forest Park. Based on the information provided and our understanding of the project and its APE, the Duwamish Tribe would recommend an archaeological or cultural resources assessment, especially if any groundbreaking activity occurs below fill, topsoil or other impervious surfaces into native soil. This is an area that the Duwamish Tribe considers culturally significant and has a High probability to have unknown archaeological deposits. We note that there are 7 historical and ancestral Duwamish place names within about two miles of the project location as well as near a fish bearing stream, Lyon Creek. The DAHP WISAARD predictive model indicates that an archaeological survey is highly advised with a high risk for encountering cultural resources.

We request that if any archaeological work or monitoring is performed, we would like notification. Cultural and archaeological resources are non-renewable and are best discovered prior to ground disturbance. The Tribe would also like the opportunity to be present if or when an archaeologist is on site.

In addition, the Tribe strongly recommends only native vegetation be used for any proposed landscaping to enhance habitat for fish and wildlife, and native avian life and native pollinators. The Tribe supports observing critical area tracts and stream buffers to preserve any remaining wetlands and stream buffers. Loss of wetland habitat is known to affect the viability of fish, water quality and increase the effects of seasonal urban flooding.

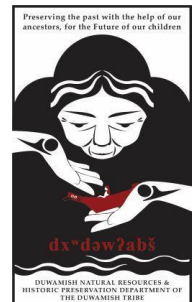
We also strongly recommend that mature native trees in the APE are preserved. Mature trees can be of profound cultural significance to the Duwamish Tribe and provide innumerable benefits for people, climate, and wildlife. If a tree is suspected to be culturally modified, the Duwamish Tribe would like to be notified and would like the opportunity to come to the site to ensure its protection.

Finally we request that any lighting associated with the project be [dark sky compliant](#) to reduce light pollution. Darkened skies were favorable conditions to practice traditional life pathways.

Thank you,

Duwamish Tribal Historic Preservation

Duwamish Tribal Historic Preservation





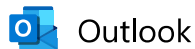
Outlook

RUE Hearing: Opposing construction

From Jean Farkas <jbfarkas1@gmail.com>**Date** Mon 3/17/2025 1:54 PM**To** David Greetham <dgreetham@cityofflp.gov>

Our environment is degraded bit by bit. A "reasonable use" exemption is just one more instance of this.

Jean and David Farkas
5119 NE 201st Pl, Lake Forest Park, WA 98155



Lyon Creek property consideration

From Leonard Goodisman <leonardgoodisman@gmail.com>

Date Tue 3/18/2025 10:57 PM

To Nancy Jang <nancy_jang@hotmail.com>; David Greetham <dgreetham@cityofflp.gov>

David Gfreetham

In the spirit of concern for the County as much as for this segment of Lyon Creek, it seems impossible that you could rule in favor of violating the construction ban within the designated protection distance of the Creek. Every sensitive area in the County has been compromised if you do this. Please don't!

Leonard D Goodisman

My name is David Haddock. I live in Lake Forest Park. I hold a bachelor's degree in geology and a master's degree in environmental geology. My master's degree research focused on a field called fluvial geomorphology which is at the intersection of the fields of hydrology and geology. I recently retired but previously held a Washington State license as a geologist as well as specialty licenses in engineering geology and hydrogeology. I have worked in the fields of geology, engineering geology, and hydrology, from 1978 until my recent retirement. I have more than 45 years of experience in these fields.

The development site is located within the Lyons Creek floodplain, an area where 37th Avenue NE was constructed on berms and embankments, channeling the creek through culverts. While 37th Avenue NE is elevated, mitigating recent flooding of the road, the entire area south of NE 205th Street lacks FEMA 100-year floodplain modeling, mapping, and designation. This absence of mapping, however, does not mean the site is not in the floodplain or negate the inherent floodplain risks. Due to the numerous downstream culverts, detailed flood modeling of this reach of Lyons Creek, as is required by FEMA, would be complex and costly.

Critically, anything built above existing ground level at this site will further constrict the floodplain, inevitably increasing floodwater velocity and/or height (stage). Even if the home is positioned away from the immediate slope, a home structure itself will further restrict the floodplain, intensifying floodwater force and destabilizing the slope. The elevated construction of 37th Avenue NE itself has already reduced the natural floodplain's capacity. The increased frequency and intensity of heavy rains in recent years have amplified Lyons Creek's flow, accelerating this erosive process. I have seen pictures and videos of flooding Lyons Creek, and I am concerned that further slope undercutting by the creek in this reach will cause a landslide.

The structural stability of this steep slope has not been formally assessed. Cobalt Geosciences' geotechnical study focused only on the flat area where the home is planned. The borings were conducted only on the flat part of the property, NOT the steep slope. These borings are insufficient to assess the slope's stability. A comprehensive geotechnical study of the slope itself is imperative to determine its stability. This study would necessitate deeper soil borings along the slope, extending to the elevation of Lyons Creek, to analyze soil properties and assess landslide potential. This level of analysis is necessary to adequately assess the potential impacts of the proposed development.

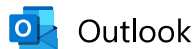
The site is located in an environmentally critical area. In my professional opinion, the applicant has failed to prove the site is safe from geologic hazards, especially those made worse by development. The current geotechnical investigation ignores the steep slope. The slope's safety cannot be determined with the current data. Constructing a home at this site will increase the risk of slope failure due to accelerated slope undercutting caused by the increased floodwater force. A slope failure at this location would have widespread downstream consequences, given the narrow floodplain's limited capacity. The proposed

development poses an unreasonable threat to public health, safety, and welfare. To accurately assess the site, the following additional work should be required:

First, a Comprehensive Slope Stability Analysis (or Geotechnical Slope Stability Evaluation): This report would require deep soil borings along the steep slope, extending to the elevation of Lyons Creek, to determine soil properties and assess landslide potential.

Second, Updated Flood Insurance Rate Maps or a detailed flood model for Lyons Creek in this specific reach: This would clarify the 100-year floodplain boundaries and potential flood risks, especially considering the numerous downstream culverts and constricted floodplain.

Lastly, the applicant has not proposed any measures to control or minimize stormwater and floodwater or to protect the steep slope from failure. The proposed exemption should not be granted at this time. The exemption should only be considered once appropriate studies and mitigation measures have been provided and proposed.



RUE denial tonight

From Donna <dhawkey@comcast.net>

Date Wed 3/19/2025 4:53 PM

To David Greetham <dgreetham@cityofflp.gov>

Dear David,

I am surprised that anyone would be allowed to build a home just 12 feet from a buffer zone designated to be 115 feet.

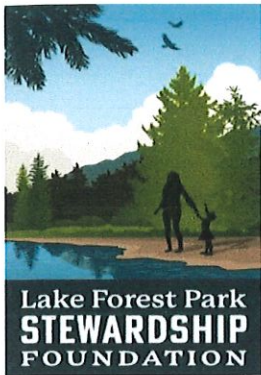
This issue alone seems to indicate a public safety hazard, so how can this get approved, as there are many more issues to this property building request?

Please don't let us start a very dangerous precedent here in Lake Forest Park.

As a resident of over 28 years, I have great concerns that this is not a feasible lot for a home and it is the fault of the buyers for not doing their due diligence before their purchase.

Thank you for your consideration to this grave matter.

Donna Hawkey
5022 NE 180th St.
Lake Forest Park, WA 98155



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MAR 21 2025

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LAKE FOREST PARK

To: The Hearing Examiner & City of Lake Forest Park

Re: Garey RUE application

March 11, 2025

The comments to the city submitted by the Lake Forest Park Stewardship Foundation (LFPSF) on November 18, 2021, and August 6, 2024, continue to be current. In those documents we stated that much more mitigation would be needed to repair the damage to the buffer than has been proposed for the buffer, or by any other proposed action on site. We suggested a suitable magnitude of mitigation would be building facilities to treat the stormwater that pours into this buffer very near the creek channel from two culverts draining the arterial streets bordering the site. Thus we think the mitigation requirements of the MDNS are not nearly adequate. The following comments have been submitted by others to the city, which we think strongly support our contention that building on this site would be so harmful that it should not be permitted. Major mitigation is necessary if allowed.

Comments of Washington Department of Fish and Wildlife, August 5, 2024:

WDFW said "The current box culvert on site [under NE 205th Street] 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?" LFPSF requests that the applicant be required to produce 30% engineering design plans for such construction before a permit is issued, to show that culvert replacement will be feasible without demolition of the house if the proposal is allowed.

WDFW asked "How will no-net-loss of habitat be ensured through the lifetime of the home within stream buffers?" LFPSF expects this type of certainty cannot be accomplished with mitigation on site so we request that the applicant be required to produce, before issuance of a permit, a study that causes WDFW and ECOLOGY to agree that this requirement has been met.

WDFW wrote "Will [installation of woody material in-stream] be possible without creating flood risks to the home? Slowing water down with woody material near the home can cause backwatering that could endanger the home...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." However, LFPSF notes that the MDNS requires "Degraded stream channels and corridors shall be rehabilitated to maintain water quality, reestablish habitat and prevent erosion...Parameters considered by the rehabilitation plan should include: salmonid habitat enhancement, erosion control, channel integrity

preservation, aesthetics and hydraulics.” LFPSF is unaware of how these requirements could be accomplished without installation of large woody material in the stream channel. Thus the city seems to be requiring the impossible. We request that before approval of the permit the applicant be required to produce a 30% engineering design plan acceptable to WDFW showing how the requirements of the MDNS can be met.

Comments of David Haddock, retired with 40 years experience as an engineering geologist, with expertise in hydrology, received Aug 3, 2024.

“...the proposed site lies in the floodplain of Lyons Creek...the creek has flooded twice in the last twenty years, leaving the channel and flowing in the floodplain.” This contradiction of the applicant’s contention that the house site is not in a floodplain is supported by the ECOLOGY email written by Kayla Eicholtz to Mark Hofman on 8/20/24. Apparently after a local resident reported flooding on the Garey site ECOLOGY wrote “It is likely that what you are seeing and have described in the area is urban and/or stormwater flooding. Under FEMA’s current mapping standards, these areas are not studied and mapped, and there is no requirement for them to be regulated like 100-year floodplains. We understand that can be frustrating, particularly as you see the effect of this in real-time as more impervious surfaces are put in. These impervious surfaces can create an increase is (sic) [in] low-level urban and/or stormwater flooding. ... But communities are not required to take them into account for regulatory decisions.” Thus even though it is a known floodable area it does not show on the FEMA floodplain map.

LFPSF is steadfast in the belief that city decisions should be based on situations witnessed on the ground, and not on inaccurate maps that are known to be deficient. That the applicant and city are allowed to use the FEMA map is unfortunate; that the city chooses to use that disproved map is outrageous. We support Mr. Haddock’s statement that the site floods. There is a very steep slope on this parcel to the west of the stream channel. “This steep slope is currently being undercut by the flow of Lyons Creek...” The proposed house “...will further constrict the natural floodplain and further limit the cross-sectional area. As a result, flood waters will need to move faster and/or increase their stage...will likely exacerbate the existing undercutting of the steep slope on the west... This could cause failure of the slope, which could in turn cause major damage to the proposed house, and to neighboring houses downstream...Because the report does not address the steep slope it does not fully address the potential impacts of the development.”

It appears to the LFPSF that the proponent’s geotechnical consultant only studied the soils on the east side of the creek, and did not investigate the geology of the steep slope on the west side of the creek, which would have required borings there. We request that the application be denied until the applicant produces a geotechnical report by a qualified engineering firm that shows the steep slope on the west side of the stream will not be made more unstable by the building proposal.

Comments of Janne Kaje received August 6, 2024.

The “driveway [to Jolene Jang’s house] comes directly across the subject Garey property’s west end...Presumably the Jang owners (or prior) bought an easement from the Garey owners (or prior) for that driveway...that also took away the most buildable part of their own property...Since the owner willfully sold that easement, that equates to having made economic use of the property, even if that use foreclosed an option to build a house there later. So, there are no grounds to say that the Garey parcel has been denied a reasonable economic use...” But LFPSF notes that the City staff report of March 6, 2025, overlooked this situation. In the staff report, under RUE Criterion D.5, they said “The inability to derive reasonable use is not the result of an action or actions taken by the applicant’s actions

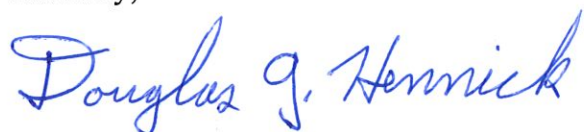
or that of a previous property owner..." City staff reported that this criterion for an RUE is met because "the property's title report and information contained within it does not contain any indication that previous land use actions have been executed on the site." LFPSF requests that the hearing examiner favorably consider Janne Kaje's contention that the establishment of the easement allowing a driveway to the Jang residence must have involved a purchase price for that easement. Presuming a gift of that easement is not credible, and we think this presumed payment for an easement satisfied the requirement of allowing reasonable economic use.

We think Mr. Kaje's contention of a second economic use also pertains. The sale of the easement prevented the possibility of future construction on the only buildable section of the Garey property (a house near the top of the hill like the Jang residence.) This saved the owners of the Garey site a lot of tax money over the years, thus generating "economic use" by allowing diminished taxation to the unbuildable rate. Because of these two issues we think the city staff's recommendation for denial should be based on three criteria rather than on the two that they identified.

In addition to comments submitted by others, and in addition to the impacts discussed in our comments to the city submitted on November 18, 2021, and in furtherance of impacts discussed in our MDNS comment on August 6, 2024, we now request strong action on the issue that the proposed development could hamper future attempts to treat and detain the stormwater that flows off the two arterial streets via culverts onto this parcel. We request that this project be denied until the applicant submits 30% engineering design plans for construction of these stormwater facilities, showing that the proposal will not require demolition of the house, or removal of any stream or buffer enhancements that have been required, in order to accomplish road runoff treatment.

Thank you for your attention to these difficult issues.

Sincerely,



Doug Hennick
Board Member
on behalf of the Lake Forest Park Stewardship Foundation

doug.hennick@gmail.com



Garey request for RUE File Number: 2021-RUE-0001.

From Nancy Jang <jangnt@gmail.com>

Date Tue 3/18/2025 11:07 PM

To David Greetham <dgreetham@cityofflp.gov>

To the Hearing Examiner:

Our living room is only 15 feet wide. That is the distance from Lyon Creek that Mr Garey proposes to build a house. Anyone who would purchase that home would have to worry about the constant threat of flooding. I would think that the City of LFP could be sued by those homeowners since they knowingly allowed it to be built even though environmental experts recommended against approval of this RUE.

This exemption would establish a horrible precedent for the use of RUE.

Please deny this request.

Thank you,
Nancy & Garold Jang

Garey RUE Application for Parcel 4022900497: Legal Non-Compliance and Environmental Risks

Author: Jolene Jang

Date: March 19, 2025,

Prepared for: City of Lake Forest Park Hearing Examiner

Subject: Analysis of Legal, Environmental, and Procedural Violations in the RUE Application

Author's Statement

This report was prepared by Jolene Jang, an adjacent property owner and environmental advocate with direct experience in the impacts of flooding, landslide hazards, and municipal code compliance in Lake Forest Park. This document presents a comprehensive analysis of the legal, procedural, environmental, and economic violations associated with the Reasonable Use Exception (RUE) application for Parcel 4022900497. The findings are based on expert testimony, municipal code, environmental reports, and community research.

Before we get into the codes.

My Immediate Safety Concerns

I live on the top of the steep slope adjacent to the Garey property. Recent events have highlighted the inherent instability of this area. Specifically:

- **Tree Failure:** Following recent heavy rains, a large tree on the Garey property, which previously helped stabilize the slope, crashed down. This incident underscores the vulnerability of the slope, especially given the increased aggressiveness of Lyon Creek in recent years. The roots of this tree were clearly compromised by erosion.
- **Submerged and Dead Trees:** Six other trees on the property have fallen and died due to their trunks being submerged in water.
- **Another Large Tree Fall:** A 40-foot tree fell across 37th street.
- **Erosion and Lyon Creek:** The increased volume and velocity of Lyon Creek, which has become far more aggressive in recent years, contributes significantly to this erosion and instability.

[Visible Changes to the Landscape and Weather Impacts – see the videos and pictures](#)

I urge the hearing examiner to consider the following:

- **Dramatic Changes in Two Months:** The changes to the property in the last two months, as documented in photos and videos on GreenVoicesOfLakeForestPark.com, are alarming.

These changes include significant alterations to the flow of Lyon Creek, which is now far more forceful after periods of heavy rain.

- Before and After Videos: Please review the before and after videos showing the changes to the property before and after flooding.
- Snow and Rain Impacts: The heavy snow and rain of 2021-2022 significantly altered the flow of Lyon Creek. During the summer, the creek is barely visible and audible, but after rains, it becomes a powerful, fast-moving stream.
- [See the trees](#)

(JangExhibits_RUE_2025) Property Tree Diagram & List of Trees page 36 Visual representation of trees on the property and discrepancies in applicant's tree inventory.

Water Accumulation and Flooding

- Mountlake Terrace Detention Pond: The Mountlake Terrace Detention Pond, which directly impacts the proposed property, experiences significant flooding. On normal days, the water level is about 12 feet below the lowest point, but it has risen to the birdcage on top during heavy rain. See the pictures and the map
- Recent Flooding: The large puddles observed on March 16, 2025, are clear evidence of ongoing flooding.
- Site Visit Request: I request that the hearing examiner conduct a site visit to walk the perimeter of the property. This will provide a firsthand understanding of the wet environment and the steep slope, which is inadequately addressed in the RUE application and SEPA checklist. Please bring the SEPA checklist that was approved to the property and compare the tree count and the slope description to the actual conditions.
- Proposed Building Location: The proposal to build 15 feet from the stream bank, instead of the 115 feet required by Lake Forest Park code, will inevitably result in flooding of the proposed structure. Please review the applicant's documents, which I have overlaid and color-coded, to visualize the proposed plan and the critical root zones. It is impossible to protect these zones with a fence, as required by code, given the applicant's plans.
- See my original public comments and see the other exhibits to show how much time, harm, mental health, the burden is on the neighbors not the applicant. (JangExhibits_RUE_2025) Jolene Jang Public Comments (August 5, 2024) page 37 Formal testimony detailing public safety risks, financial burdens, and legal precedents.



Visual Evidence and Environmental Changes

- [GreenVoicesOfLakeForestPark.com](https://www.GreenVoicesOfLakeForestPark.com): The photos and videos on this website document the rapid changes to the property, including the increased velocity and discharge of Lyon Creek, flooding over the stream bank, damage to living trees, and debris accumulation in the culvert, which fluctuates significantly and floods 37th Street. JangExhibits_RUE_2025) Erosion Impact - Pictures & Videos (Green Voices of Lake Forest Park, Jang) 28

Jolene Jang Public Comments (August 5, 2024).....	37
o Formal testimony detailing public safety risks, financial burdens, and legal precedents.	
6. Jolene Jang's Comments to Lake Forest Park Council (January 2022).....	21
o Early objections outlining flooding, tree miscounts, and violations of municipal codes.	
7. Moratorium Letter to Council (August 8, 2024).....	68
o Formal request urging the council to halt approvals of RUEs due to environmental concerns.	
8. City Council Comprehensive Plan - Strengthening RUE Regulations.....	86
o Policy recommendations to prevent misuse of RUEs in critical environmental areas.	
9. Council Meetings & Planning Commission Video Comments.....	94
o Summary of public concerns and expert testimony presented in city meetings.	
10. Critical Areas & RUEs: How They Are Abused.....	97
o Analysis of past RUE approvals that resulted in environmental and public safety failures.	

Opposition from Governing Bodies and Environmental Organizations

- City Opposition: All three governing bodies of Lake Forest Park—Planning Department, Planning Commission, and City Council—have expressed opposition to the Garey RUE.
 - The Planning Department recommends denial.
 - The Planning Commission has identified past RUE abuses and amended city policies.
 - The City Council has acknowledged enforcement limitations and opposes the project.
 - Council Member Lori Bodi’s statement highlights the concerns about the developers mitigation promises, and the cities lack of staff to enforce those promises.
 - The city spent many hours in December 2024, updating the comprehensive plan to strengthen critical area protections.
- Environmental Organizations: At least eight environmental organizations oppose the Garey RUE, including the Lake Forest Park Stewardship Foundation, Lake Forest Park Stream Keepers, Sno-King Watershed Council, Environmental Rotary of the Puget Sound, People for Environmentally Responsible Kenmore, Puget Sound Keepers, Dept of Fish and Wildlife, and Issaquah Salmon Hatchery.
- Potential Code Violations: There are at least 12 potential code violations associated with this project.

Expert Testimony and Environmental Concerns

- Expert Concerns: Experts, including fluvial morphologists, fish biologists, aquatic ecologists, arborists, engineers, environmentalists, and habitat biologists, have raised concerns about steep slope dangers, erosion, landslide hazards, flooding, and impacts on fish.
- Public Comments: Three Fish and Wildlife experts have submitted public comments opposing the RUE.
- Reasonable Use Exception Inapplicability:
 - James Mattila, Aquatic Ecologist and Natural Historian: Argues that the applicant purchased the property knowing its environmental constraints, therefore, any claim of a "taking" is unfounded.

- Peter Lance, Resident: States that this property is a defective lot created during a short plat process, and the current owner was aware of its limitations. Also that the RUE would unjustly shift decades of back taxes to the public.
- Peter Lance, Resident: The title report provided by the applicant is deficient, lacking key exhibits related to steep slopes and the original short plat.

Burden of Proof

- The RUE is not supposed to cause harm, and there is extensive evidence of a lack of reports, information, and data regarding the applicant's plan. The burden of proof should be on the applicant to demonstrate that their project will not cause harm, not on the community to prove that it will.

Who should the burden be on?

With RUE permit applications, we must ask ourselves: Who should bear the burden? Should it be the neighbor who is threatened by the development plan, or the developer applicant?

Currently, and in the past, the burden has been on the neighbor and environmentalists. The applicant can submit inaccurate answers and omit comprehensive reports. When the city approves these applications, it falls on the neighbors to prove the law has been violated.

I have spent over 1200 hours researching hydrology, fluvial morphology, and has consulted with numerous engineers, scientists and agencies. All of this effort is to defend her home from the threat of a landslide caused by the development plan.

Do you expect citizens to dedicate 1200 hours to defend their safety due to a builder applicant filling out misinformation, and city authorities approving these applications because they are scared of being sued by the builders? This is unreasonable but also unjust.

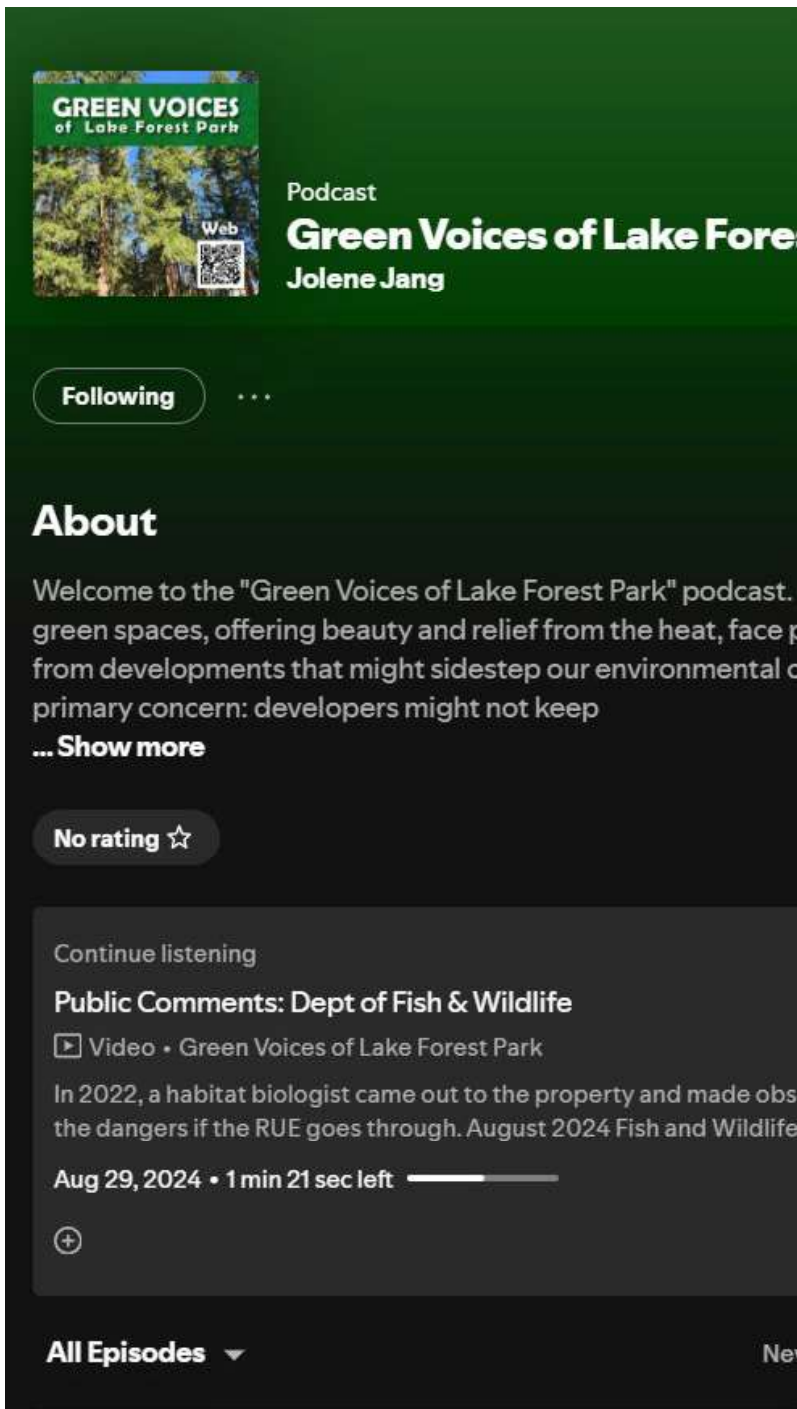
When will the laws be followed and when will the citizens safety be prioritized?

The responsibility should lie with the developer to provide accurate, comprehensive information and for the city to rigorously review these applications. Our citizens should not have to bear this burden.

Thank you for your time and consideration.

We all learn differently, so you can listen to the problems and contents with the podcast, youtube videos and pictures, in addition to writing.

[Play here](#)



The image shows a podcast player interface for "Green Voices of Lake Forest Park" by Jolene Jang. The header features a green background with a podcast cover image on the left and the title "Podcast Green Voices of Lake Forest Park Jolene Jang" on the right. Below the header, there is a "Following" button and a menu icon. The "About" section contains a paragraph of text and a "Show more" link. Below this is a "No rating" button with a star icon. The main content area is titled "Continue listening" and displays a video player for "Public Comments: Dept of Fish & Wildlife". The video player shows a play button icon, the title "Video • Green Voices of Lake Forest Park", and a description: "In 2022, a habitat biologist came out to the property and made observations about the dangers if the RUE goes through. August 2024 Fish and Wildlife". Below the description is a progress bar showing "Aug 29, 2024 • 1 min 21 sec left". At the bottom, there is a plus icon and a tab labeled "All Episodes" with a dropdown arrow. A "New" tab is partially visible on the right.

GREEN VOICES
of Lake Forest Park

Podcast
Green Voices of Lake Forest Park
Jolene Jang

Following ...

About

Welcome to the "Green Voices of Lake Forest Park" podcast. We focus on the importance of green spaces, offering beauty and relief from the heat, face of the city, and the challenges from developments that might sidestep our environmental concerns. Our primary concern: developers might not keep their promises.

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Outline

I. Legal Violations and Failure to Meet RUE Requirements

- Legal Framework and Procedural Violations
- Failure to Establish Reasonable Economic Use
 - Expert Analysis: RUE Not Intended for Speculative Development
 - Property Purchase History and Prior Constraints
 - Legal Precedent: No Legal "Taking" Occurs

II. Environmental Hazards and Public Safety Risks

- Flood Hazards
 - Expert Testimony: Flood Risk and Increased Flooding
 - Downstream Neighbor Observations of Flooding
- Erosion and Landslide Hazards
 - Expert Testimony: Slope Instability and Increased Erosion
- Inadequate Stormwater Management
 - Stormwater Disposal Concerns
 - Hydrology and Surface Water Management Failures
- Applicant's Failure to Address Hazards
- Conclusion: Public Safety Risks and Environmental Violations

III. Environmental Degradation: Loss of Trees, Impact on Lyon Creek and Fish

- Tree Removal and Buffer Violations
 - Expert Testimony: Tree Miscount and CRZ Violations
 - Stream Buffer Violations and Setback Issues
- Habitat Destruction and Ecological Risks
 - Expert Testimony: Fisheries and Riparian Habitat Loss
- Washington Department of Fish & Wildlife Testimony
 - Impact on Salmon Populations and Habitat Loss
- Conclusion: Environmental Violations and Justification for Denial

IV. Lack of Transparency and Procedural Concerns

- SEPA Checklist Failures
 - Expert Testimony: Incomplete SEPA Submissions

- Public Participation and Notice Failures
 - Failure to Provide Proper Public Notice
- Conclusion: Transparency Violations and Procedural Failures

V. Financial and Economic Impacts

- Taxpayer Burden for Flood and Stormwater Infrastructure
 - Expert Testimony: Increased Public Costs and Infrastructure Strain
- Property Value Decline for Adjacent Homes
 - Legal Protections for Property Owners
 - Market Devaluation and Flood Risk Impact
- Increased Insurance Costs for Residents
 - Expert Testimony: Rising Flood Insurance Premiums
- Applicant's Failure to Address Financial Consequences
- Conclusion: Economic Risks and Justification for Denial

VI. Precedent and Long-Term Implications

- Legal Precedents and the Dangers of RUE Abuse
 - Expert Testimony: RUE Legal Standards and Violations
- Encouraging Further High-Risk Development
 - Increased RUE Applications and Regulatory Erosion
- Financial Consequences for Taxpayers
 - Infrastructure Costs, Property Devaluation, and Legal Liabilities
- Local Example: Environmental Damage from RUE Abuse
 - Case Study: Prior RUE Violations in Lake Forest Park
- Conclusion: Protecting the Future of Lake Forest Park

VII. Final Determination

- Summary of Violations and Risks
- Justification for Denial Based on Legal, Environmental, and Financial Risks
- Conclusion: Responsible Land Use and Environmental Protection

LEGAL VIOLATIONS AND FAILURE TO MEET RUE REQUIREMENTS

I. Legal Framework and Procedural Violations

This application fails to meet the statutory criteria for a Reasonable Use Exception (RUE) as set forth in LFPMC 16.16.250 and violates multiple provisions of the Lake Forest Park Municipal Code (LFPMC). As such, it does not meet the legal threshold required for approval. The following evidence establishes that the application is both procedurally and substantively deficient, and approval would violate established legal standards.

Applicable Code Violations

The following 12 violations of LFPMC are directly applicable to this case:

Procedural Violations:

1. LFPMC 16.26.090 – Type I – Notice of Code Administrator’s Recommendation
2. LFPMC 16.26.090 – Applications – Approval – Criteria – Revocation
3. LFPMC 16.16.130 – Mitigation Sequencing

Environmental Protection Violations:

1. LFPMC 16.16.290 – Landslide Hazard Areas
2. LFPMC 16.16.310 – Steep Slope Hazard Areas
3. LFPMC 16.14.030 – Critical Root Zones
4. LFPMC 16.16.355 – Streams Development Standards
5. LFPMC 16.16.250 – Reasonable Use Exception
6. LFPMC 16.16.320 – Wetlands
7. LFPMC 16.16.380 – Fish and Wildlife Habitat Conservation Areas

Public Safety and Floodplain Violations:

1. LFPMC 16.24.100 – Critical Area

These violations demonstrate clear non-compliance with statutory and regulatory requirements and provide sufficient grounds for denial of the RUE application.

II. Failure to Establish Reasonable Economic Use

A. Expert Analysis: RUE Not Intended for Speculative Development

Expert Testimony: James Mattila, Aquatic Ecologist and Natural Historian

- "The Reasonable Use Exception is a mechanism intended to allow minimal development when no other use of the land is possible. It was never intended to facilitate speculative development or circumvent environmental protections. In this case, the applicant knowingly purchased constrained property and now seeks to override critical area protections that were clearly in place at the time of purchase."

- "The applicant purchased the property knowing it was constrained by environmental buffers. Any claim that these buffers now constitute a 'taking' is unfounded."
- "The government cannot 'take' what was never there—if the applicant never had a legal right to build, then they have lost nothing."
(See.Exhibit¿ExpertPublicComments(868❶pdf?Page.00);

Expert Testimony: Janne Kaje, Resident

- This property should not qualify for a Reasonable Use Exception. A prior owner's easement grant and successful 'unbuildable' tax appeal, maintained for nearly 30 years, preclude the current owner's reasonable development expectation.
- Approving the RUE would unjustly shift decades of back taxes, roughly \$50,000, to the public.
- The assessed value of the property has remained significantly lower than comparable buildable lots due to its 'unbuildable' status.
(See.Exhibit¿ExpertPublicComments(868❶pdf?Pages.7_9);

Expert Testimony: Peter Lance, Resident

.fThis.property.is.a.defective.property.that.is.part.of.what.was.once.a.fully.usable.property.that.was.not.defective; .It.is.a.defective.lot.that.was.manufactured.and.fully.understood.to.be.defective.when.created.by.the.owner.during.the.short.plat.process;

The.reasonable.use.of.this.lot.was.and.is.still.present.in.the.other.lots.that.are.part.of.the.original.short.plat; .The.other.lots.have.Reasonable.Use.and.have.homes.upon.them; .There.is.no.logical.reason.that.the.DELIBERATE.creation.of.a.faulty¿defective.lot.by.the.owner.or.previous.owner.should.create.a.Reasonable.Use.Exception; Just.because.a.lot.may.have.lot.status.does.not.confer.that.the.lot.is.buildable.or.should.be.eligible.for.exception.from.critical.areas.ordinances;

The.title.report.provided.by.the.applicant.is.deficient; .It.does.not.include.potentially.key.exhibits.that.are.difficult.to.obtain.from.King.County; .The.title.report.should.show.what.the.exhibits.are.for.item.C9¿C0¿and.C❸. These.documents.are.related.to.steep.slopes.and.the.original.short.plat.and.amendments; .This.information.should.be.readily.available.to.all.interested.parties.and.easily.accessible.in.the.city.recordsf.(See Exhibit: ExpertPublicComments_2025.pdf, Page 56)" (See Exhibit:JangExhibits_RUE_2025.pdf, Page 101)

B. Property Purchase History and Prior Constraints

- Historical property records confirm the land was classified as constrained and unbuildable due to critical areas at the time of purchase. (See.Exhibit¿JangExhibits(RUE(868❶pdf?Page.8)
- The applicant has not explored alternative low-impact uses for the land, such as conservation easements or passive recreation use.

C. Legal Precedent: No Legal "Taking" Occurs

The applicant's claim that denial of the RUE constitutes an illegal "taking" is unsupported by legal precedent.

Expert Testimony: James Mattila, Aquatic Ecologist

- "If an RUE were granted in this case, it would set a dangerous precedent that any land, no matter how environmentally sensitive, could be developed despite existing regulations."
- "The government cannot 'take' what was never there—if the applicant never had a legal right to build, then they have lost nothing."

(See Exhibit 6, Expert Public Comments (8681).pdf, Page 00)

Determination:

Based on expert testimony, historical records, and established legal precedent, the applicant fails to meet the criteria set forth in LFPMC 16.16.250 for a Reasonable Use Exception.

- The intent of the RUE is not to facilitate speculative development but to allow minimal development when no reasonable alternative use exists. The applicant has not demonstrated that alternative low-impact uses were considered.
- Historical property records confirm the land has long been classified as unbuildable, and the applicant purchased it with full knowledge of its constraints.
- Claims of "unlawful taking" lack merit, as no legal right to build existed at the time of purchase.
- Granting this RUE would set a harmful precedent allowing developers to override critical area protections, inviting future legal challenges and weakening the city's regulatory authority.

For these reasons, this RUE application should be denied.

III. Environmental Hazards and Public Safety Risks

A. Flood Hazards

Governed by LFPMC 16.24.250 and LFPMC 16.24.100, which restrict development that increases flood risk.

1. Expert Testimony: Alan Coburn on Flood Factor and Increased Flooding Risks

- Flood Factor, a tool used by the National Association of Realtors, forecasts a 10% increase in rainfall intensity over the next 30 years in Lyon Creek.
- Development actions attempting to mitigate flooding by grading and armoring would likely exacerbate flood risks downstream, impacting over 100 homes along Lyon Creek toward Lake Washington.

- Ethical responsibilities dictate adherence to the principle "First, do no harm," making approval of this development ethically indefensible due to significantly increased flood risk downstream. (See.Exhibit;ExpertPublicComments(8681.pdf?Pages.74_87);

2. Jolene Jang, Downstream Neighbor: Observations of Increased Flooding

- Lyon Creek flooding has escalated, demonstrated by water levels rising within 5 inches of streambanks (typically 4 feet below).
- In 2022, flooding destabilized seven trees, causing road hazards and threatening structural slope stability.
- Notably, debris accumulation at Evans' culvert exacerbates flooding events, documented visually at [Flooding Pictures](#). The water before it enters the culvert is often 8-9 feet below the street level, yet the water has flooded over the road.

3. Expert Testimony: Miles Penk, Habitat Biologist - Dept of Fish and Wildlife

- Development would eliminate tolerance for essential large woody debris, adversely affecting floodplain and habitat.
- Protecting future residences would necessitate habitat degradation, significantly impacting Lyon Creek's dwindling salmon runs. (See.Exhibit;ExpertPublicComments(8681.pdf?Page. 81);

4. Expert Testimony: Ryan Shaw, Habitat Biologist - Dept of Fish and Wildlife

- Raises critical questions on floodplain storage, woody debris management, and future flood impact mitigation.
- Identifies inherent conflicts between habitat restoration and residential safety, concluding effective mitigation is impractical at this location. (See.Exhibit; ExpertPublicComments(8681.pdf?Pages.85_96);

5. Expert Testimony: Jim Mattila, Aquatic Ecologist

- Warns of significant flooding risk associated with Mountlake Terrace Detention Pond, classified as a High downstream hazard (Class 1B) by the Department of Ecology.
- A failure of this structure would severely impact downstream infrastructure, homes, and public safety. (See.Exhibit;ExpertPublicComments(8681.pdf?Pages.06_08);

6. Expert Testimony: David Haddock, Fluvial Morphologist

- Highlights catastrophic flooding potential due to slope destabilization and uncontrolled water releases.
- Warns of substantial threats to infrastructure and public safety from sudden flood events. (See.Exhibit;ExpertPublicComments(8681.pdf?Pages.0_2);

Determination: Based on substantial expert testimony and documented increases in flood risk, the proposed development clearly violates LFPMP 16.24.250 and LFPMP 16.24.100. Approval would significantly escalate flooding risks, jeopardizing downstream residents, public safety, infrastructure, and environmental stability.

B. Erosion and Landslide Hazards

Expert Testimony: David Haddock, Fluvial Morphologist - Slope Instability

- Confirms active slope undercutting along Lyon Creek, evidenced by recent tree loss and soil slumps (December 2021).
- Emphasizes development would accelerate slope destabilization, increasing likelihood of slope failure.
- Notes applicant's geological hazard assessment is incomplete and inadequate, failing to address known slope instabilities.
- Warns increased floodwaters will accelerate undercutting, further reducing slope stability and increasing risk of failure. (See.Exhibit;ExpertPublicComments(8681.pdf?Pages.0_2);

Determination: The applicant has failed to address known geological hazards, and the development will increase the likelihood of slope failure. This violates LFPMC 16.16.290 (Landslide Hazards) and LFPMC 16.16.310 (Steep Slope Hazards), justifying denial of the application.

C. Inadequate Stormwater Management

1. LFP Stewardship Foundation: Stormwater Disposal Concerns

- Opposes stormwater dispersion trenches near Ordinary High-Water Mark due to elevated risks of slope failure and catastrophic flooding.
- Recommends permeable pavement for driveway installation, overseen by soil scientists, to mitigate stormwater impacts.
- Notes future infrastructure improvements would be compromised by this development. (See.Exhibit;ExpertPublicComments(8681.pdf?Pages.77_70);

2. Elizabeth Mooney, People for an Environmentally Responsible Kenmore

- Stresses urgency in preserving existing buffers due to current high impervious surface levels nearing watershed breaking points. (See.Exhibit;ExpertPublicComments(8681.pdf?Pages.79_70);

3. Jolene Jang, Adjacent Neighbor

- Questions absence of a comprehensive hydrologist report addressing surface water, groundwater, stormwater impacts, and comprehensive flow control assessment.
- Refutes applicant's claim of no upstream/downstream issues by highlighting existing detention pond flooding, documented visually at [Flooded Detention Pond](#).

Determination: The applicant's stormwater management plan is incomplete, inadequate, and fails to address environmental risks. The proposal violates LFPMC 16.24.100 (Soil and Erosion Control) and LFPMC 16.16.130 (Mitigation Sequencing) and must be denied.

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D. Applicant's Failure to Adequately Address Hazards

- Failed acknowledgment of the above hazards, violating the following LFPMC codes:
 - LFPMC 16.16.290 – Landslide Hazards
 - LFPMC 16.16.280 – Erosion Hazards

- LFPMC 16.16.310 – Steep Slope Hazards
- Omission of documented flood risk factors and photographic evidence contradicts the applicant’s incomplete assessments.

Determination:

The applicant has omitted critical hazard evaluations, violating multiple LFPMC environmental protection codes. Approval would set a dangerous precedent, warranting denial.

E. Conclusion: Environmental Hazards and Public Safety Risks Justify Denial

The proposed development presents severe threats to public safety, ecological integrity, and community well-being, violating the following LFPMC codes:

- LFPMC 16.24.250 – Floodplain Management
- LFPMC 16.16.280 – Erosion Hazards
- LFPMC 16.24.290 – Landslide Hazards
- LFPMC 16.24.310 – Steep Slope Hazards
- LFPMC 16.24.450 – Public Safety Considerations

Determination:

Legal, environmental, and expert evidence overwhelmingly supports denial of this RUE application. Approval would violate municipal obligations to public safety, environmental protection, and responsible land use practices.

IV. Environmental Degradation: Loss of Trees, Impact on Lyon Creek and Fish

The proposed development would result in significant tree removal, buffer violations, and habitat destruction, severely impacting Lyon Creek’s ecosystem and violating multiple LFPMC codes governing environmental protection.

Applicable Code Violations:

1. LFPMC 16.14.030 – Definitions: Tree Code
2. LFPMC 16.16.355 – Streams
3. LFPMC 16.16.120 – Mitigation and Monitoring
4. LFPMC 16.16.130 – Mitigation Sequencing
5. LFPMC 16.24.250 – Floodplain Management

A. Tree Removal and Buffer Violations

1. Jolene Jang, Adjacent Neighbor - Independent Tree Report

- Discrepancies identified between the applicant’s tree count/species and independent visual documentation (See.Tree.Miscount.Documentation).

- Critical Root Zone (CRZ) protections are infeasible, violating LFPMC 16.14.030 (Tree Code) (See.plan.overlay.of.CRZ.vs.j.proposed.development.footprint).
- Insufficient wildlife habitat tree assessments and inadequate tree protection plans raise concerns.

2. Setback Violations for Streams

- LFPMC 16.16.355 – Type F stream buffer requirement: 115 feet.
- The proposal reduces this buffer to 15 feet, violating stream protection regulations.

3. Expert Testimony: Daniel Collins, Certified Arborist

- Tree removal plan lacks mitigation or recommendations for trees inventoried.
- Report minimizes the severe slope angle (80-100%), incorrectly listing it as greater than 40%.
- Unstable slope condition identified, with no clear shoring or bedrock, warning that Lyon Creek's high flows could undermine the slope's toe, causing failure.
- Further tree failures will increase slope instability, impacting driveways above the site.
- Failure to account for critical root zones of mature and exceptional trees, increasing sedimentation in Lyon Creek and worsening erosion.
(See.Exhibit¿ExpertPublicComments(8681.pdf?Page.97_90);

Determination:

The proposed development violates LFPMC 16.14.030 and LFPMC 16.16.355 by failing to protect stream buffers, tree root zones, and slope stability. The applicant's tree removal plan is incomplete and does not meet municipal code standards. Approval would accelerate slope destabilization, erosion, and loss of critical habitat, necessitating denial.

B. Environmental and Habitat Destruction

1. Independent Review: Jolene Jang, Environmental Advocate and Community Researcher

- Discrepancies identified in tree inventory, with multiple miscounted or undocumented trees.
- Omissions of protected species raise concerns about the accuracy of the applicant's environmental impact assessment.
(See.Exhibit¿JangExhibits(RUE(8681.pdf?Page.06_06)

2. Expert Testimony: Lake Forest Park Stewardship Foundation (LFPSF)

- No Net Loss Violated – Project fails to meet "no net loss" requirements, harming stream functions.
- Cumulative Ecological Damage – Development degrades Lyon Creek, worsening flooding, erosion, and salmon habitat loss.
- Inadequate Mitigation – Proposed efforts do not compensate for stream buffer destruction.
- Hydrology Risks Ignored – Increased flood risk and soil saturation threaten stability and water quality.

- Weak Scientific Basis – Proposal disregards Best Available Science on stream and riparian health.
(See.Exhibit;ExpertPublicComments(8681pdf?Pages.476);

3. Expert Testimony: Lake Forest Park Streamkeepers

- Lyon Creek Protection Violated – Decades of restoration efforts will be reversed, harming stream health.
- Flooding Hazards Ignored – Development worsens flooding through inadequate stormwater management.
- Salmon Population Decline – Construction degrades riparian habitat, violating conservation goals.
- Stormwater Mismanagement – Proposal fails to prevent runoff contamination, worsening water quality.
- Legal Precedent Risk – Approving this RUE sets a dangerous precedent, leading to further environmental degradation.
(See.Exhibit;ExpertPublicComments(8681pdf?Pages.7073);

Determination:

The applicant has failed to meet environmental protection standards, violating LFPMC 16.16.355 and LFPMC 16.16.120. Approval would result in irreversible damage to Lyon Creek's ecosystem, harm fish habitat, and increase flood risks downstream. The overwhelming expert and scientific evidence supports denial.

C. Washington Department of Fish & Wildlife (WDFW) Testimony

1. Expert Testimony: Miles Penk, WDFW Habitat Biologist

- Future Flood Risks vs. Habitat Protection – Protecting the house from flood hazards would destroy fish habitat.
- Loss of Critical Habitat – Development removes tolerance for large woody material, reducing floodplain storage, sediment retention, and fish habitat.
- City Responsibility – Lake Forest Park must protect remaining riparian parcels instead of permitting further degradation.
(See.Exhibit;ExpertPublicComments(8681pdf?Pages.8182);

2. Expert Testimony: Dan Hawkins, WDFW Compliance Biologist

- Documented Fish Presence – WDFW confirms Cutthroat Trout and Coho salmon inhabit Lyon Creek.
- High-Quality Spawning Habitat – The site is critical for Coho salmon recovery.
- Salmon Migration Impact – Juvenile Coho migrate downstream to Puget Sound, requiring buffer protections.
- Lack of Habitat Mitigation – Project fails WDFW's "No Net Loss" standard, with no meaningful habitat enhancements.

3. Expert Testimony: Ryan Shaw, Senior Habitat Biologist, WDFW

- Flood Mitigation vs. Housing Risk – Installing woody material in-stream to restore habitat may increase flood risks to the home, making mitigation impractical.
- Habitat Damage is Unavoidable – The site’s constraints make it impossible to protect both the house and the stream. One will be damaged.
(See Exhibit 6 Expert Public Comments (8681.pdf?Pages.85-96);

Determination:

The Washington Department of Fish & Wildlife strongly opposes this project, citing critical habitat destruction, salmon population decline, and flood risks. The proposal fails to meet WDFW’s environmental conservation standards and should be denied.

D. Conclusion: Environmental Degradation and Habitat Destruction Justify Denial

The proposed development presents severe environmental risks, habitat destruction, and regulatory violations, directly contradicting municipal and state conservation goals.

Determination:

Legal, environmental, and expert testimony overwhelmingly supports denial of this RUE application. Approval would violate municipal obligations to environmental protection, fish habitat conservation, and responsible land use planning. The City must uphold regulatory standards and reject this proposal.

V. Lack of Transparency and Procedural Concerns

The Reasonable Use Exception (RUE) application for Parcel 4022900497 contains significant transparency issues, incomplete environmental assessments, and procedural failures that violate Lake Forest Park’s municipal code and state environmental laws.

The Lake Forest Park Municipal Code (LFPMC) and the State Environmental Policy Act (SEPA) require development applications to provide accurate, complete, and publicly accessible information to ensure informed decision-making. However, the applicant has misrepresented environmental conditions, failed to provide complete SEPA documentation, and obstructed public participation in ways that directly violate the law.

Applicable Code Violations:

1. LFPMC 16.16.080 – Applications & SEPA Compliance
2. LFPMC 16.26.090 – Public Notice Requirements
3. RCW 43.21C – State Environmental Policy Act (SEPA) Requirements

This section presents evidence of:

- LFPMC violations related to public notice failures, environmental review inaccuracies, and lack of applicant accountability.
- Errors and omissions in the applicant’s SEPA checklist and supporting documents.
- Expert testimony from fisheries biologists, SEPA policy analysts, and independent environmental consultants.

- Public comments from community organizations and concerned residents detailing procedural failures.

A. SEPA Checklist Failures

The SEPA checklist submitted by the applicant is incomplete and misleading, failing to properly assess the cumulative environmental impacts of the proposed project.

1. Jolene Jang, Adjacent Neighbor

- Application is 69% Incomplete – 33 out of 107 questions are unanswered or marked N/A, leaving 69% of the application incomplete, which prevents a full assessment of the project's impact.
- Environmental Data Missing – No erosion control plan or soil stability analysis is included. The response to soil conditions is “Unknown,” though soil evaluations are a standard requirement..(See Exhibit:JangExhibits_RUE_2025.pdf, Page 8-28)

2. Expert Testimony: Dan Hawkins, WDFW Compliance Biologist

- Incomplete Responses – Many one-word answers or lack required details.
- Floodplain Misrepresentation – The application states work is outside the 100-year floodplain, but evidence confirms it is within.
- Wildlife Data Missing – The Animals section is entirely marked “N/A”, omitting required information.
- Tree Inventory Incomplete – Evergreen trees were not checked, despite visible presence on-site.
(See.Exhibit;ExpertPublicComments(8681pdf?Page.83_84);

Determination:

The applicant has failed to provide a legally compliant SEPA checklist, violating LFPMC 16.16.080 and RCW 43.21C. The submission contains false and incomplete information, preventing an accurate environmental assessment. The permit should be voided under LFPMC 16.26.090(D) due to misrepresentation of facts.

B. Public Participation and Notice Failures

The applicant failed to provide adequate public notice, preventing concerned residents and experts from reviewing and responding in a timely manner.

1. LFPMC 16.26.090 – Public Notice Violations

- Failure to notify affected parties properly.
- Inadequate response to community concerns.
- Delayed or incomplete public notice documentation.

2. Community Complaint: Jolene Jang, Adjacent Neighbor

- Public Notice Was Delayed and Incomplete.
- April 11, 2024: Jang notified city officials (Mark Hofman) of notice failures.
- August 12, 2024: The issue remains unresolved.

- July 19 Notice: Was incomplete and did not meet public notice requirements.
(See.ExhibitJangExhibits(RUE(8681.pdf?Page.8_9)

Determination:

The applicant has failed to meet legal requirements for public transparency, violating LFPMC 16.26.090. These notice failures undermine public trust and deprive residents of their right to review and challenge the project. Given the lack of transparency and non-compliance with public notice requirements, the application should be rejected.

VI. Financial and Economic Impacts

The proposed Reasonable Use Exception (RUE) application for Parcel 4022900497 presents significant financial and economic risks to both Lake Forest Park taxpayers and surrounding property owners. The Lake Forest Park Municipal Code (LFPMC) ensures that new developments do not create an undue financial burden on the city or reduce property values of adjacent properties.

This section outlines economic concerns related to flooding, landslides, stormwater management, and infrastructure degradation.

Applicable Code Violations:

1. LFPMC 16.24.250 – Development in Floodplains
2. LFPMC 16.16.130 – Mitigation Sequencing
3. LFPMC 16.16.250 – No Harm to Public Welfare
4. LFPMC 16.26.090 – Property Protections
5. LFPMC 16.16.320 – Wetlands Protection
6. LFPMC 16.16.355 – Streams Protection

A. Taxpayer Burden for Flood and Stormwater Infrastructure

1. Infrastructure Cost Increases Due to Development

- LFPMC 16.24.250 states that new developments must not increase financial burdens on public infrastructure due to increased flood risks.
- LFPMC 16.16.130 requires mitigation efforts to be fully funded by the applicant, not transferred to taxpayers.

2. Expert Testimony: Janne Kaje on Tax Burden

- Approval reverses a prior tax decision, placing the financial burden back on taxpayers.
- Municipal stormwater repair costs would increase, requiring funding from the community.
- For nearly 30 years, the parcel has been assessed at a reduced tax rate due to its environmental constraints. If the city now reverses course, taxpayers will have subsidized the Garey parcel's tax obligations for decades.

- Property tax revenue avoidance exceeds \$5.2 million in 2023 dollars, with a 2024 tax liability of more than \$51,000 before interest and penalties.
(See Exhibit 6 Expert Public Comments (8681).pdf?Pages.7_9);

Determination:

Approval of this project would shift long-term financial burdens onto taxpayers, violating LFPMC 16.24.250 and LFPMC 16.16.130. The city must uphold financial accountability standards and require full mitigation funding from the applicant, rather than increasing public infrastructure costs.

B. Property Value Decline for Adjacent Homes

1. Legal Protections for Property Owners

- LFPMC 16.16.250 mandates that development within critical areas must protect public welfare, which includes preventing financial harm to surrounding property owners.
- LFPMC 16.26.090 prohibits Reasonable Use Exceptions that increase risks to adjacent properties, including environmental hazards or infrastructure degradation that could lower property values.

2. Impact on Adjacent Homeowners

- Development in an environmentally sensitive area would create increased flood risks, causing market devaluation of neighboring homes.
- A decline in property values could reduce home equity for long-term residents, affecting their ability to sell or refinance.

Determination:

This development directly contradicts LFPMC 16.16.250 and LFPMC 16.26.090 by introducing flood hazards and environmental instability that would decrease surrounding property values. The financial harm to homeowners cannot be justified, and the RUE application should be denied.

C. Increased Insurance Costs for Residents

1. Legal Protections for Homeowners

- LFPMC 16.16.320 (Wetlands Protection) ensures wetlands maintain flood control functions, reducing flood risks for residents.
- LFPMC 16.16.355 (Streams Protection) requires stream protections to be upheld, ensuring floodplain safety.

2. Homeowners Facing Higher Insurance Premiums

Expert Testimony: Alan Coburn, Engineer

- The National Flood Insurance Program (NFIP) has already increased flood insurance premiums in King County due to new developments in flood-prone areas.
- If this project is approved, Lake Forest Park homeowners could see a 20-40% increase in flood insurance rates.

- Higher flood risks could force long-term homeowners to sell at a loss.
(See [Exhibit 6 Expert Public Comments \(8681.pdf?Pages.74-86\)](#));

3. Public Comment: Financial Impact on Long-Term Homeowners

- Seniors and fixed-income homeowners would be disproportionately affected by rising insurance costs.
- The applicant has not provided an economic impact assessment to determine how this project affects community-wide insurance liabilities.

Determination:

Approval of this development would increase flood risks, leading to higher insurance premiums for residents. The applicant fails to address these economic burdens, violating LFPMC 16.16.320 and LFPMC 16.16.355. The financial consequences of approving this project are substantial and justify denial.

D. Applicant's Failure to Address Financial Consequences

The applicant has:

1. Failed to provide a financial mitigation plan to address rising public costs, violating LFPMC 16.24.250.
2. Not accounted for the reduction in neighboring property values, violating LFPMC 16.16.250.
3. Ignored the impact of rising flood insurance premiums, violating LFPMC 16.16.320.

Contradictory Evidence: Green Voices of Lake Forest Park

- Photos and videos on the Green Voices website document existing stormwater damage, declining home values in adjacent neighborhoods, and the financial burden on current residents.

-

(See [Green.Voices.Visual.Documentation.-.Trees.Fallen?Flooding](#))

Determination:

The applicant has failed to address the financial consequences of this project, violating multiple LFPMC codes. The economic strain on taxpayers, homeowners, and long-term residents reinforces the need for denial of this RUE application.

E. Conclusion: Economic Risks Justify Denial

The proposed development presents clear financial threats to homeowners and the City of Lake Forest Park, violating multiple LFPMC codes:

1. LFPMC 16.24.250 – Fails floodplain protection requirements, increasing city stormwater costs.
2. LFPMC 16.16.250 – Creates financial harm to surrounding property owners.
3. LFPMC 16.16.320 – Ignores the impact of increased flood insurance costs on residents.

Final Determination:

Given the significant financial, tax, and economic burdens associated with this development, the Hearing Examiner must deny this RUE application. The long-term financial risks to taxpayers, adjacent homeowners, and city infrastructure outweigh any potential benefits, making denial the only responsible course of action.

VII. Precedent and Long-Term Implications

The Reasonable Use Exception (RUE) process is designed as a last-resort measure to allow minimal development only when no other reasonable economic use exists. However, granting this RUE would not only violate existing legal standards but also set a damaging precedent that could weaken environmental protections and expose the City to significant financial and legal liabilities.

This section outlines the long-term risks associated with abusing the RUE process, including:

- Legal violations and the erosion of critical area protections.
- Financial burdens on taxpayers and adjacent property owners.
- Increased landslide and flood risks for future generations.

A. Legal Precedents and the Dangers of RUE Abuse

1. LFPMC 16.16.250 – Reasonable Use Exception Criteria Violations

The Reasonable Use Exception is intended only for properties with no reasonable alternative use. However, the applicant fails to meet this standard as outlined in LFPMC 16.16.250:

- LFPMC 16.16.250(2):
 - Requirement: “There is no other reasonable economic use with less impact on the critical area.”
 - Violation: The applicant has not demonstrated that the property cannot be used in a way that reduces environmental harm.
- LFPMC 16.16.250(3):
 - Requirement: “The proposed development does not pose an unreasonable threat to public health, safety, or welfare.”
 - Violation: The significant flood risks, landslide hazards, and stream degradation associated with this proposal pose an unacceptable risk to public safety.

2. Expert Testimony: James Mattila, Aquatic Ecologist, on RUE Legal Standards

James Mattila, a Fisheries Research Scientist, Aquatic Ecologist, and Natural Historian, provides a detailed legal and ecological analysis against granting this RUE:

- "If an RUE were granted in this case, it would set a dangerous precedent that any land, no matter how environmentally sensitive, could be developed despite existing regulations."
- "Approving this RUE would encourage speculative purchases of protected land, undermining the intent of Lake Forest Park's environmental regulations."

(See Exhibit 2 Expert Public Comments (868).pdf?Page=00_7)

Determination:

The applicant fails to meet the legal criteria for an RUE, violating LFPMC 16.16.250. Granting this exception would set a precedent that renders critical area protections meaningless and would encourage speculative development of environmentally sensitive lands.

B. Encouraging Further High-Risk Development

If this RUE is granted, it will open the floodgates for developers to exploit loopholes, weakening the City's ability to enforce environmental laws.

1. Increased RUE Applications

- Developers would follow this precedent, seeking RUEs to build in previously off-limits critical areas.
- The City's capacity to deny future RUEs would be significantly weakened.

2. Loss of Green Space and Tree Canopy

- This proposal sets a precedent that would allow more tree loss in protected areas.
- LFPMC 16.14.030 (Critical Root Zones) would become unenforceable if developers continue to receive RUEs that ignore environmental protections.

3. Landslide and Flooding Risks for Future Generations

- Compromising floodplains and steep slopes will shift the financial burden to future homeowners and taxpayers.
- The City's stormwater system is already at capacity, and further development will overwhelm flood management systems.

Determination:

This RUE would open the door to unchecked development in environmentally critical areas, undermining Lake Forest Park's long-standing environmental regulations. The risks of erosion, flooding, and habitat loss outweigh any potential benefits of approval.

C. Financial Consequences for Taxpayers

If this RUE is approved, Lake Forest Park residents will bear the long-term costs—not the developer.

1. Infrastructure Costs and Emergency Response Burden

- Flood events will increase, requiring higher spending on stormwater infrastructure and emergency response services.
- Taxpayers will be forced to cover rising municipal costs from flood damage and landslide risks.

2. Property Devaluation for Nearby Homeowners

- Homes adjacent to the development will lose property value due to:
 - Increased flooding risks.
 - Erosion concerns.

- Loss of tree canopy and environmental aesthetics.
- Real Estate Analysis: Studies from similar cases in King County show property values drop 10-30% when high-risk developments are approved nearby.

3. Potential Legal Liabilities for the City

- If this development causes flood damage or landslides, the City could be sued by affected homeowners.
- Lake Forest Park officials have already documented the risks, meaning they could share liability if they knowingly approve an RUE that leads to environmental damage.

Determination:

Granting this RUE would expose taxpayers to long-term financial burdens while increasing the City's legal liability. The economic and legal consequences justify rejection of this application.

D. Local Example: Environmental Damage from RUE Abuse in Lake Forest Park

Case Study: 17735 28th Avenue NE, Lake Forest Park, WA 98155

A recent case in Lake Forest Park demonstrates the dangers of RUE approvals:

1. Incident Details:

- A developer obtained an RUE to build on a critical area with a required mitigation plan.
- The developer violated the plan, resulting in:
 - Exceeding allowed impervious surface limits.
 - Clear-cutting unapproved areas, causing flooding of neighboring properties.
- Despite violations and complaints, the property was sold for \$1.7 million, rewarding environmental destruction.

2. Legal Documents:

- City of Lake Forest Park Critical Area Permit
- Decision on RUE Approval

What This Means for the Current RUE Application

If this RUE is granted:

- Developers will continue violating mitigation plans, knowing the City does not enforce environmental protections.
- The City will lose credibility in enforcing its own regulations, encouraging further RUE abuses.

Determination:

The City has failed to enforce mitigation in past RUE cases. Granting this application would signal to developers that violations go unpunished, further undermining local environmental policies.

E. Conclusion: Denial is Necessary to Protect the Future of Lake Forest Park

The approval of this RUE application would have long-term consequences, including:

1. LFPMC 16.16.250 Violations – Fails to meet RUE criteria by posing direct threats to public safety and the environment.
2. Encouraging RUE Exploitation – Weakening regulations will lead to more inappropriate RUE requests and environmental damage.
3. Financial Consequences – Approval could cost taxpayers millions in infrastructure repairs, lawsuits, and property buyouts.

Final Determination:

Approving this RUE would set a precedent that undermines environmental protections, weakens land-use policies, and exposes the City to financial and legal risks. The Hearing Examiner must deny this application to uphold the integrity of Lake Forest Park's environmental laws.

The Final, Final, Final Determination

The Reasonable Use Exception (RUE) application for Parcel 4022900497 does not meet the legal, environmental, financial, and procedural requirements outlined in the Lake Forest Park Municipal Code (LFPMC).

Legal and Procedural Violations

- The applicant has not demonstrated compliance with LFPMC 16.16.250 (Reasonable Use Exception Criteria), failing to establish that no other reasonable economic use exists.
- The SEPA checklist is incomplete and misleading (LFPMC 16.16.080), preventing an accurate assessment of environmental impacts.
- Public notice and participation requirements were not met (LFPMC 16.26.090), raising transparency concerns.

Environmental and Public Safety Concerns

- The development violates critical area protections (LFPMC 16.16.290, 16.16.310) by increasing risks of landslides, erosion, and flooding along Lyon Creek.
- The tree removal plan fails to protect Critical Root Zones (LFPMC 16.14.030) and does not comply with stream buffer setbacks (LFPMC 16.16.355).
- Floodplain protections are not met (LFPMC 16.24.250), creating unacceptable risks to public infrastructure and adjacent properties.

Financial and Economic Risks

- Approval would increase taxpayer burden for stormwater infrastructure and flood mitigation (LFPMC 16.16.130).
- Surrounding property values would decline due to flood risk and environmental degradation (LFPMC 16.16.250, 16.26.090).
- Higher flood insurance premiums for local homeowners would result from increased flood risks (LFPMC 16.16.320, 16.16.355).

Long-Term Implications and Precedent Risks

- Granting this RUE would set a precedent for speculative development in critical areas, undermining LFPMC 16.16.250 and eroding Lake Forest Park's environmental protections.
- Previous RUE cases have demonstrated enforcement failures, leading to violations of mitigation agreements and further environmental damage.

Conclusion

The cumulative legal, environmental, financial, and procedural violations clearly indicate that this RUE application is not in compliance with LFPMC requirements. The extensive expert testimony and public evidence support denial of the application, as approval would pose unacceptable risks to public safety, environmental sustainability, and municipal financial responsibility.

See Exhibit: ExpertPublicComments_2025.pdf

.See Exhibit:JangExhibits_RUE_2025.pdf

[GreenVoicesOfLakeForestPark.com](https://www.GreenVoicesOfLakeForestPark.com)

March 16, 2025

Re: Comments to Hearing examiner regarding Garey Reasonable Use Exception

File Number: 2021-RUE-0001

Proponent: Mark Garey

Permit Type: Reasonable Use Exception (Type I – Quasi-Judicial Decision of the Hearing Examiner, per LFPMC Section 16.26.030)

Location of proposal: Parcel # 4022900497

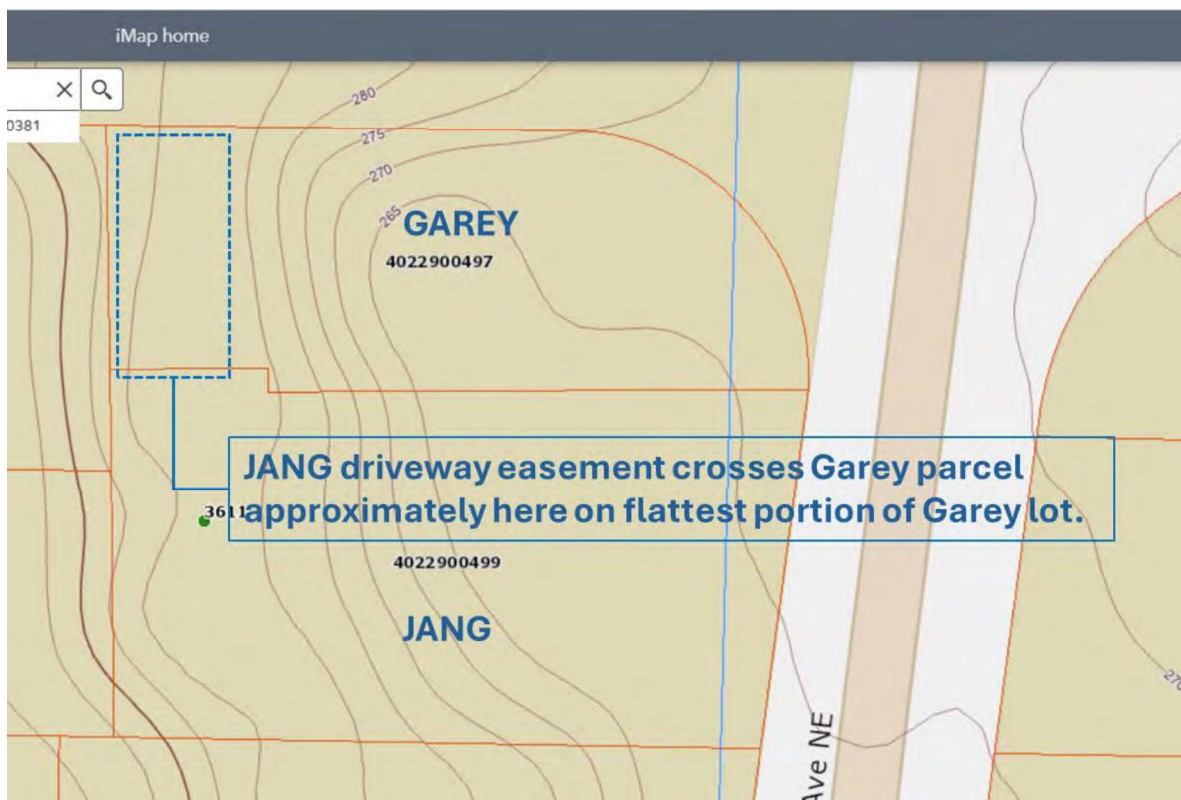
Summary: To grant a Reasonable Use Exception (RUE), the owner should have reasonably expected that development was possible when they purchased the property. The public record shows this is not the case. Based on the history of this property and affirmative actions taken by a previous owner, this property should not be eligible for a RUE. A prior owner of the property exercised their right to reasonable economic use by selling or granting an access easement to a neighboring parcel across the most buildable portion of the lot. That owner then successfully appealed the remaining property valuation and it has been taxed as unbuildable for nearly 30 years. If the property is deemed eligible for RUE, then the current owner should be liable, at minimum, for nearly thirty years of back taxes, totaling roughly \$50,000 in 2023 dollars, before penalties and interest.

Detailed comments: The Garey property has been officially deemed and taxed as unbuildable since at least 1995, and that information was publicly available to the current owner when they purchased the property in 2015. Based on the King County Assessor's tax records, a previous owner appealed the property value in 1995, almost certainly because the lot was deemed unbuildable even under then current environmental regulations and practical site constraints. The assessor agreed and reduced the taxable value from \$48,500 to \$20,000 and that value has hardly changed since then despite significant escalation in land and housing values. In fact, for the tax year 2025, the property is valued at just \$19,000. That is normal with the value of lots deemed unbuildable open space. If the Garey parcel had gone up in parallel with surrounding properties, the land value alone would be around \$300,000. Two adjacent lots of a similar size currently have assessed land values of more than \$330,000. Importantly, the appeal happened at the affirmative initiative of the property owner and that decision must stay with the property despite a change in ownership. The current owner purchased the property in 2015 for \$40,000, with a taxable value that year of \$24,000. In that same year, the land value of a neighboring parcel of similar size was valued at \$126,000. Due diligence by the buyer would have revealed the history of the assessed value and the reasons behind it.

While the specific motivations of a prior landowner are just speculation, the public record shows that a prior owner granted a perpetual easement to the neighboring parcel (current owner, Jang) in 1981. That easement likely took away the most buildable part of their own property.



The image below shows the topography of the parcel, with the driveway easement located on the flattest, most buildable portion of the parcel.



Approximate timeline:

- (1) Garey's predecessor sold a driveway easement to Jang parcel before 1989,
- (2) then successfully appealed the taxes on what was left in 1995, which was now unbuildable as a result of their own action as well as challenging topography,
- (3) sold the property to Garey at a fraction of the cost of comparable-but-buildable parcels, who now wants to build on the lower portion of the lot, next to the creek.

Tax implication: When property values are reduced through appeals or through enrollment in programs like the Public Benefit Rating System or Open Space Taxation, the tax obligation is borne by the remaining taxpayers in each taxing district (e.g., city, county, state, school district, etc.). Thus, if the city were to now reverse course and allow an RUE, the public would have been subsidizing the Garey parcel's tax obligations for nearly 30 years. For example, the Garey tax bill for 2025 is about \$193, while the tax bill for the land only on the neighboring parcel is more than \$3,700. It is fairly straightforward to estimate the tax benefit enjoyed by the property owner(s) since 1995 by comparing the assessed land value of similarly sized parcels. Before adjusting for inflation, I estimate that the owners have avoided tax payments on roughly \$3,700,000 in property value. When adjusted for inflation using the Consumer Price Index for the Seattle area, the avoided taxable value climbs to more than \$5,200,000 in 2023 dollars. At the 2024 property tax rate, that amounts to a bill of more than \$51,000 before interest and potential penalties.

The appeal decision was precipitated by the property owner 28 years ago – a reversal would not only be harmful to the environment, but also unjust to all residents who have carried the tax burden, and to the former owner who would not have received fair market value for the property when selling to Garey in 2015. This property is not the only vacant one in the city to have undergone a property value appeal for environmental and buildability reasons. Ruling here in favor of the landowner will open a giant can of worms.

Janne Kaje, resident, Lake Forest Park

Public Comment Submission

File Number: 2021-RUE-0001

Permit Type: Reasonable Use Exception - Mark Garey

Background and Credentials

My name is David Haddock. I live at 17012 35th Ave. NE in Lake Forest Park. I hold a bachelor's degree in geology and a master's degree in environmental geology. My master's degree research focused on a field called fluvial geomorphology which is at the intersection of the fields of hydrology and geology. I recently retired but previously held a Washington State license as a geologist as well as a specialty license in engineering geology. I have worked in the fields of geology, engineering geology, and hydrology, from 1978 until my recent retirement. I have more than 40 years of experience in these fields.

Local Development Concerns

I recently became aware of a property in Lake Forest Park proposed for development on the southwest corner of 37th Ave. northeast and NE 205th St. After reading what is available on the Lake Forest Park website regarding the development of this site, I decided to look at the site to determine whether I thought a Reasonable Use Exemption (RUE) made sense for it.

Geomorphological Analysis

From a large-scale perspective, the proposed site lies in the floodplain of Lyons Creek, but also much of 37th Ave. NE from NE 205th St. to NE 202nd St. was built in the natural floodplain of Lyons Creek. Because the road was built in the floodplain, Lyons Creek goes back and forth in culverts underneath 37th Ave. NE in that area. Residents have informed me that it has flooded twice in the last twenty years. The only reason that 37th Ave. NE has not flooded more in recent times is that it was built at a grade several feet above where the highest flood stages have reached in the recent past.

Slope Stability and Other Related Potential Hazards

The proposed RUE site (site) lies slightly downhill and west of 37th Ave. NE where the construction of the embankment of 37th Ave. NE has already limited the natural width of the floodplain. In that reach, Lyons Creek is further constricted and flows solely between the embankment of 37th Ave. NE and a very steep slope to the west. The site lies in this constricted zone. This steep slope is currently being undercut by the flow of Lyons Creek as can be witnessed in the form of small slope failures at the base of the slope into the creek and the loss of at least one large tree and some bushes on the steep western slope. The undercutting and bank erosion on the steep west slope caused the tree and adjacent soil to slump and fall or lean to the east. See below, Exhibit 1, Photo of Lyons Creek, Steep Slope, and Evidence of Slope Failure. When creeks or rivers flood, they tend to leave their banks and flow across the floodplain. The floodplains are often wide and with their wide cross-sectional area they can carry a great deal of flood water without increasing their flow velocity or stage (the height or top surface of the flood water). A home built between Lyons Creek and 37th Ave. NE at their proposed location will likely have a foundation that is 2 or 3 feet above the current ground level. Anything like this built above the current ground level will further constrict the natural floodplain and further limit the cross-sectional area. As a result, flood waters will need to move faster and/or increase their stage to move the same amount of water through this reach. Either and/or both conditions will likely exacerbate the existing undercutting of the steep slope on the west. Additional undercutting will, in turn, reduce the stability of the slope. Therefore, even a home built away from the steep slope on this parcel can increase the likelihood of slope undercutting by Lyons Creek and, in time, eventually a slope failure.

Potential For Larger Slope Failure

This brings into question the existing stability of this slope. It also brings into question whether a large failure of this steep slope into Lyons Creek could even block a portion of the creek and cause localized flooding or, as a worst-case scenario, create a temporary dam across the creek for a period. Whether the slide/dam was up-stream or downstream from the proposed home, a slope release or the sudden release of the impounded water would cause damage to the proposed structure by rock, soil, and debris or cause severe flooding. In addition to damaging the new house, neighbors' homes that sit on top of the steep slope could shift and slide.

Concerns of Massive Flooding

The uncontrolled release of the water held behind such a temporary mud or debris flow dam would also cause catastrophic damage to downstream, low-lying properties along the creek affecting the safety of the neighbors. It could also result in extensive damage to Lake Forest Park infrastructure including 37th Ave. NE itself and the utilities that lie beneath it. In addition to the financial loss to the as-built environment, there is no doubt that such a release has a high potential to result in injury or even death to persons residing or even driving through the area at a bad time.

Lack of Existing Geotechnical Data on Steep Slope

After talking to neighbors of the site who live nearby, it is my understanding that this steep slope on the west side of Lyons Creek has not been formally investigated to determine its structural integrity. I will venture that the proponent never thought much about the steep slope on his/her property because it was on the other side of the creek from their proposed building site. Any slope failure from that slope would just stop at the creek and be washed away, right? This is not necessarily the case. A study performed by Cobalt Geosciences (Cobalt) for the proponent also focused on the building site itself and not on the steep slope. They stated, "site slopes are stable at this time with no evidence of historic or recent landslide activity". This statement seems to ignore the western portion of the site because residents reported a soil slump and tree fall on the steep slope in late December 2021. The observation of tilted trees and plants can indeed indicate past movement or sliding of the slope, and further suggests active erosion or instability. Today, you can still see this bank, the dead tree, and the tree root ball. Cobalt utilized shallow hand borings and one deeper boring to determine site conditions. These borings were all in the area where the structure may be built, not on the steep slope on the western side of the property and are not adequate to understand the nature of this steep slope. Therefore, Cobalt's slope stability analyses do not consider the actual conditions within the steep slope, and I consider the analyses to be inadequate to address site-wide slope stability and the potential for increasing flood risk. Because the report does not address the steep slope it does not fully address the potential impacts of the development.

The Lessons Learned at Oso

We have learned that many slope failures in the Northwest occur during a period after prolonged rainfall when the soil becomes supersaturated and cannot hold any more moisture. This often coincides with near flooding or flooding conditions in nearby rivers and streams. When a slope releases under these conditions the landslide can become even more dangerous. With this high concentration of water these landslides often become slurry-like mud flows or debris flows and have the potential to cross rivers or creeks and even continue onto the other side of the river or creek creating a temporary dam. This was a lesson learned ten years ago along

the Stillaguamish River, where the Oso Landslide, originating on the north side of the river, crossed the nearly 200-foot-wide river and entered the Steelhead Haven neighborhood, destroying dozens of homes and leaving 43 fatalities. Because of the tremendous elevation difference between the crest of the landslide and the river at the Oso site, its kinetic energy carried it through the neighborhood and across SR 530. A slope failure at this site would not leave this level of devastation. However, on a much, much smaller scale, this is the same situation, a steep slope, a river or creek, a development or planned development, and a public road. The scale is obviously different, but the general setting and dynamics are the same.

Critical Area and RUE Compliance

A Reasonable Use Exemption for this site is being attempted because the site is in a designated Critical Area, in this case caused by both the steep slopes and the presence of Lyons Creek. It is my understanding that to meet this exemption burden, the proponent must ensure that no geologic hazards are present on the proposed property, especially hazards that may be increased by the proposal. Typically, demonstrating no geologic hazards related to a steep slope requires an investigation by an Engineering Geologist or Geotechnical Engineer. As stated previously, this investigation was performed by Cobalt and presented in early 2023. However, at this site, the current observation of the bank sloughing and existing slope failure by the undercutting action of Lyons Creek on the slope should require a more intensive investigation that specifically addresses the steep slope. The Cobalt report shows no borings penetrated the steep slope on the west side of the property. Looking at the entire site, a more reasonable study would have included soil borings along the steep slope on the west side of the property. These borings on the steep slope would need to be deep enough to determine the properties of the soil to a depth equivalent to the elevation of Lyons Creek. These soil samples taken from these borings could then be tested to determine their geotechnical properties and to determine the potential for a landslide/slope failure to be caused by the current cross section, and even perhaps, to a future scenario where the slope is steeper than it currently stands due to continued undercutting by Lyons Creek.

My Opinion

My opinion, based on information I have seen online posted by the city and based on my visits to the site on April 10 and 11, 2024, is that the burden to demonstrate that there are no geologic hazards present, especially hazards that could be triggered by their development, has still not been met. The existing Geologic and Geotechnical Investigation was deficient because it seemed focused only on the eastern side of the parcel. With their data it is not possible to adequately model the steep slope on the west side of the parcel to determine whether it is safe. Furthermore, a home built on this site, because it could increase the velocity or stage of floodwaters, will increase undercutting of the slope by Lyons Creek and increase the probability of slope failure. Additionally, a slope failure at this site would not only cause a localized issue but could have more wide-spread impact due to the narrow floodplain and the presence of Lyons Creek. I believe it is imperative to correctly understand this steep slope and whether it may be subject to failure, before an RUE is granted.



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November 18, 2021

Comments by the Lake Forest Park Stewardship Foundation (LFPSF)
File Number: 2021-RUE-0001
Proponent: Mark Garey

To the City of Lake Forest Park:

This proposal for building a house on a lot that is 100% within the critical area stream buffer of Lyon Creek will not accomplish the “no net loss” of stream functions required by code, will not minimize harm to the resource, and will not adequately mitigate for unavoidable impacts.

The Best Available Science (BAS) on ecological functions of stream buffers is Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications, Washington Department of Fish and Wildlife, 2020. It is available for downloading at <https://wdfw.wa.gov/publications/01987>. We request this BAS be considered when making decisions about this building proposal. This BAS is organized into chapters dealing with the processes that influence stream health; the pertinent chapters are discussed individually below, with suggested mitigation for the unavoidable impacts this proposal will cause on each of the processes.

We request that City officials keep in mind that the lot in question is at the very top of Lyon Creek at the border of Lake Forest Park, so impacts to the stream on this site will have wide effects downstream. These impacts are cumulative, meaning that if other property owners caused similar impacts the stream would be very severely damaged. Potential damage includes becoming more of a drainage ditch, which would get overly heated and nearly go dry during rainless spells, and flow very violently and out of its banks during storms. The stream on this site is a known Coho spawning reach and it is also probably habitat for Chinook, sockeye, steelhead, and cutthroat trout. It has potential to become habitat for the kokanee population that UWB and LFPSF are working to establish in Lyon Creek. Persons that would be impacted by buffer degradations on this site include not only the lower streamside property owners in LFP, but also: all people who are working to recover ecological health of the stream whenever possible by slowly restoring buffer functions on developed sites; all residents enjoy stream views; all who want salmon and trout populations to recover; all who want the streams of our area to contribute to Lake Washington in a healthy manner; all who are working to restore kokanee and other salmon populations to the creeks of our city; and all desire to know that the natural resources of our city are being protected and restored for the present and future enjoyment of our residents. Cumulative impacts allowed to occur on this site will harm all those people, not to mention fish and wildlife.

Lake Forest Park Municipal Code Chapter 16.16 ENVIRONMENTALLY CRITICAL AREAS, in 16.16.370 Streams—Mitigation Requirements states “*Replacement or enhancement will be required when a stream or buffer is altered pursuant to an approved development proposal.*”

There will be no net loss of stream functions on a development proposal site and no impact on stream functions above or below the site due to approved alterations.” Stream functions pertinent to Lyon Creek described in the BAS are listed immediately below by chapter number of the BAS, with hydrology concerns added by LFPSF. We request that the code requirements for “no net loss” and “no impact” be evaluated for each of these. Our evaluations and recommendations for mitigation are discussed for each of these in separate paragraphs below, following the heading “Buffer Functions”.

CHAPTER 2. STREAM MORPHOLOGY

CHAPTER 3. WOOD

CHAPTER 4. STREAM TEMPERATURE

CHAPTER 5. POLLUTANT REMOVAL

CHAPTER 6. NUTRIENT DYNAMICS IN RIPARIAN ECOSYSTEMS

CHAPTER 9. SCIENCE SYNTHESIS TO MANAGEMENT IMPLICATIONS

HYDROLOGY [a paragraph we add because LFP has so much experience with flooding]

We spoke to Nick Holland, LFP Senior Planner, on October 28, 2021, asking about mitigation required by the City for impacts not specifically mentioned in the code, and how the City enforces the code requirement for “no net loss of stream functions on a development proposal site and no impact on stream functions above or below the site due to approved alterations”. He said it is up to the applicant to demonstrate no net loss and no impact. We think it will be very difficult for the proponent of this project to assure no net loss and no impact, so proposals for satisfying the “replacement or enhancement” requirements of City code should be supported by reports of licensed professionals submitted by the applicant for each category of the possible impacts. If there remains a lack of submission of convincing reports, we request the City require very strong mitigation for impacts to each buffer function to ensure any errors in computing impacts are fully compensated.

Buffer Functions

CHAPTER 2. STREAM MORPHOLOGY.

The BAS says “...channel morphology and the processes that shape it can be impacted by human[s] ... usually resulting in loss of habitats, reduced habitat diversity, and diminished habitat functions for aquatic species. Management actions such as ... riparian vegetation removal tend to reduce natural variability of geomorphic processes, often amounting to stream habitat degradation greater than the sum of its parts.”

The impacts of the proposal include removing mature buffer trees and permanently preventing tree regrowth in the area of development and creating the likelihood of hazard tree removal in the future from areas quite distant from the house. These impacts will be to an area that is presently functioning quite well with 90% canopy closure. This will harm stream morphology by limiting contribution of wood to the stream, and by limiting the benefits of root strength in areas where the stream may need to meander. The proposal for mitigation of tree removal is to plant young trees under the canopy on site outside the development’s footprint. However, replacement trees will not develop the full function of removed mature trees for several decades, and this impact is not addressed by the proposal. Nor is the impact of permanently removing the area of the development from the ability to re-grow tree functions. To mitigate for the impacts to stream morphology the applicant should be required to add pieces of conifer trees to the stream that are large enough to remain in place during high flows, in a quantity sufficient to cause the channel on site to develop 50% pools and 50% riffles. Placing big stumps in the wetted low flow channel should be sufficient for this mitigation, if they are placed so there is only one-low flow channel width between them; logs anchored into the streambank probably are not needed in the channel on site, but an adequate job will make it look like the channel is very full of stumps.

CHAPTER 3. WOOD

The BAS says “Wood plays critical roles in the composition, structure, and function of riparian and aquatic ecosystems...wood is an important determinant of channel form and dynamics, especially in small streams... Large wood causes widening and narrowing, deepening and shallowing, stabilization and destabilization at

different points along a stream or river channel... The many effects of large wood create a variety of channel morphologies—dam pools, plunge pools, riffles, glides, undercut banks, and side channels—which provide a diversity of aquatic habitats.” Mitigation for the impact of permanently decreasing the ability of the buffer to provide wood to the stream is the same as for the impacts on stream morphology discussed in the paragraph above. Addition of the stumps described for mitigation for the impacts on stream morphology will also satisfy the need for mitigation for the impact on wood supply.

CHAPTER 4. STREAM TEMPERATURE

The BAS says “...*the types of riparian vegetation and their condition ... play important roles in determining the amount of solar radiation that reaches a stream’s surface. Through management of riparian ecosystem conditions, especially vegetation, the spatiotemporal distribution of stream temperatures (i.e., thermal regime) ... can be affected, which in turn, directly and indirectly affect the survival and productivity of aquatic species ... including salmon.*” The proposal calls for mitigation of the total removal of buffer trees in the area of the house, the 10-foot-wide perimeter area surrounding the house, and the driveway by underplanting the 90% canopy elsewhere on the Garey site. This seems inadequate because the impacted area will remain totally non-productive of trees, whereas the proposed mitigation site is already functioning well with 90% canopy coverage. A much greater area than the totally cleared area must be enhanced if the enhancement is to be done in places that are already functioning well. Increasing the functions of well-functioning areas sufficiently to compensate for full removal of functions elsewhere on site would be so difficult that we do not think the proponent could do it. In addition, the Arborist Report states, “Tree assessment related to occupant safety and safeguarding new structures or other targets must be done separately [from this report] and after building has been completed.” This implies the arborist anticipates the development of hazard trees from existing buffer trees which will require removal, further diminishing the buffer functions caused by the original clearing. Thus, we think the partial mitigation that can be provided by removal of invasive shrubs and underplanting the canopy with juvenile trees is necessary but not sufficient. The unmitigable portion of this impact must be compensated with alternate types of mitigation. We think part of the mitigation discussed below for pollutant removal could be applied to compensate for the only partially mitigated temperature impacts.

CHAPTER 5. POLLUTANT REMOVAL

The BAS says “*Riparian areas exert a significant influence on water quality due to their position between terrestrial and aquatic ecosystems... while passing through riparian areas contaminated water undergoes a variety of physical, chemical, and biological processes that reduce pollutant concentrations... Riparian areas slow surface runoff and increase infiltration of water into the soil, thereby enhancing both deposition of solids and filtration of water-borne pollutants. Riparian areas also intercept and act on contaminants in subsurface flow through dilution, sorption, physical transformation, chemical degradation, or volatilization by various biogeochemical processes and through uptake and assimilation by plants, fungi, and microbes. There is overwhelming evidence in the scientific literature that riparian buffers reduce nonpoint source water pollution for a variety of pollutants—including sediments, excess nutrients, metals, organic compounds such as pesticides, and pathogens.*” The proposal will decrease the ability of the buffer to process pollutants by eliminating natural soil processes in the area disturbed by the house, driveway, and 10-foot-wide perimeter area surrounding the house. There is no way this impact can be eliminated, so enhancement of buffer functions elsewhere must be accomplished for compensation. Presently a pipe on the western part of the lot discharges drainage water onto this lot a few feet from the stream channel. Also, in the street right-of-way near the edge of this lot a catch basin at the southwest corner of 205th Street NE and NE 37th Avenue apparently discharges street runoff from 205th Street directly into Lyon Creek. Building vaults to detain and treat stormwater presently discharging from these pipes into Lyon Creek on or near this site would be an excellent improvement to stream function, probably more than compensating for diminishment of pollutant removal functions caused by eliminating natural soil processes in the area disturbed by the development. Thus, some of the benefits of these two suggested vaults and filters could also be used to compensate for impacts discussed in the preceding and following paragraphs.

CHAPTER 6. NUTRIENT DYNAMICS IN RIPARIAN ECOSYSTEMS

The BAS says *“Organic matter from riparian areas, an important source of energy and nutrients, makes its way into streams via plant litterfall, or through transport by water, wind, or animals. Organic matter in streams provides habitat and food for microbes, insects, fish, amphibians, birds, and other organisms, and decomposes to release plant-available inorganic nutrients like ammonium, nitrate, and phosphate. Riparian areas also store energy and nutrients from organic matter coming from upland and instream sources through biotic uptake, sorption and exchange, and slowing or trapping particles... Nutrients and the hydrological and biogeochemical processes that dictate their transport and fate are ...of ...critical importance for growth and maintenance of life in the riparian ecosystem and the subsequent effects on stream biota and water quality.”* The decrease in the ability of the buffer to process nutrients by eliminating natural soil processes in the area disturbed by the development would be compensated by the two road runoff vaults and filters suggested in the paragraph above dealing with pollutant removal. More direct techniques for mitigating this impact are hard to envision.

CHAPTER 9. SCIENCE SYNTHESIS TO MANAGEMENT IMPLICATIONS

The BAS says *“The current state of the science, as reviewed in chapters 1 through 8, clearly demonstrates the importance of an intact riparian ecosystem to the proper functioning of aquatic habitats...Riparian ecosystems are a priority habitat because their composition, structure, and functions dramatically affect a multitude of fish, amphibian, reptile, bird, mammal, and invertebrate species ... Although riparian ecosystems are a small portion of the landscape, approximately 85% of Washington’s wildlife species use them...Protecting or restoring high function to this relatively small portion of the landscape can disproportionately benefit many species and other important ecosystem goods and services (e.g., clean water, fisheries, and flood control)”*. This BAS supports our view that strong mitigation is needed for the impacts the proposal would cause on the Lyon Creek buffer.

HYDROLOGY

In addition to the functions discussed in the BAS, we request careful consideration of the impacts the proposal will have on hydrology, including making floods worse and low flows more stressful on the stream ecosystem. We expect three changes to the plans should be required to minimize these impacts.

1. Stormwater from the developed areas should not be disposed in the proposed dispersion trenches. The proposal intends to infiltrate stormwater with level spreaders within one-half foot of elevation from the Ordinary High-Water Mark, and eight horizontal feet from the Ordinary High-Water Mark. We do not think this could function well during storm flows because the soil in this place would already be fully saturated. The applicant should be required either to submit a report from a civil engineer with hydrology expertise documenting that the infiltration proposed will indeed function fully during all stream flow, flooding, and soil saturation conditions, or the applicant should be required to redesign the stormwater control aspects of the proposal. We think an adequate redesign could be accomplished by building the house on pilings and infiltrating all the runoff from the house and 10-foot-wide perimeter area surrounding the house into the soil beneath the house.
2. The proposed level spreaders should not be built, and all the area of the lot outside the 10-foot-wide perimeter area surrounding the house should be fenced and given natural area protection by the city, to avoid compaction of the soil or destruction of plants that influence runoff. If building the house on pilings is impractical, then a vault should be built under the house to detain all runoff for dispersal into the highest elevation buffer area possible, at the rate of runoff from mature forest.
3. The driveway must be made of permeable pavement installed under the directions of a soil scientist. This is because we are concerned that soil this close to the elevation of the stream might not behave in the manner familiar to builders of permeable pavement elsewhere. Alternately a vault should be built under the driveway that will store all stormwater runoff from the driveway for release into the buffer at the rate of mature forest runoff. A bond to ensure periodic professional maintenance of the vaults should be required.

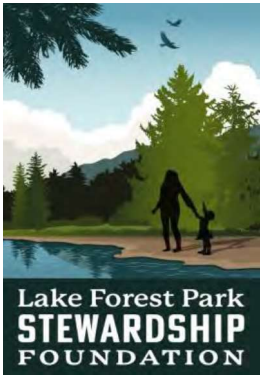
The City should take special care of this exceptionally important type of habitat, and it is entirely reasonable that the applicant be required to completely demonstrate accomplishment of the code requirement for **“no net loss of stream functions on a development proposal site and no impact on stream functions above or below the site due to approved alterations.”**

We think it will be very difficult for the proponent to assure no net loss and no impact, so if those claims are made the applicant should be required to submit reports by professionals specializing in evaluating impacts on stream morphology, wood, stream temperature, pollutant removal, and nutrient dynamics in riparian ecosystems, as discussed in the BAS, plus on hydrology because LFP has so much experience with flooding. We think the “replacement or enhancement” requirements of City code will be found to demand very strong and thorough mitigation for this project, and the City should err on the side of extra protection of the resource if there is question about how much mitigation is needed.

Sincerely,



Kim Josund
President
Lake Forest Park Stewardship Foundation



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

RE: MDNS File number: 2024-SEPA-0001
Proponent Mark Garey

August 6, 2024

We disagree with the determination that this proposal, as designed, revised, and conditioned, will not have a probable significant adverse impact on the environment. The proposed project is fully encumbered via the 115-foot standard buffer of Lyon Creek and there is not adequate area on-site for buffer averaging, or even siting a structure outside the maximum buffer reduction allowable.

The fundamental purpose of the Critical Areas Ordinance (LFP 16.16.010) is to protect the public health and safety and to protect the natural environment, in particular the Lyon and McAleer creek basins, but also all critical areas of the city, including their structures, functions and values.

Certainly the highest and best use of the property to be to leave it as is in a natural state, or to improve the ecosystem functions of the stream through restoration. It is a tall order to argue that placing a home so near to a known salmon bearing stream is reasonable. When critical stream functions are so threatened, we disagree that “*the needs of the applicant*” or “median size” of nearby homes (Watershed Co. report August 2021) should be relevant considerations. Absent the ability to deny this application outright due to the 5th Amendment rights of the property owner – the next question is, “can the damage be mitigated?”

The proposed construction and mitigation might be suitable on a more “normal” lot (in size and shape and location of critical areas), perhaps if a small footprint house was proposed in the buffer *90-feet back* from the stream channel of a small stream.

However, this lot is *super critical* in several ways, and the proposal is to build a house within 18-feet of the stream high flow channel, permanently eliminating buffer functions close to the stream. Thus, at the least, the proposal deserves more mitigation than presently planned.

The lot is super critical because:

1. This stream is the mainstem of Lyon Creek, with a channel 15- to 25-feet wide on site. Coho spawning is documented in this stream segment, and there is modeled presence of fall chinook salmon, sockeye salmon, and winter steelhead. This is one of the two most important streams in Lake Forest Park. It should not be regulated as if it was a small tributary of this stream, as this proposal intends to do. Additionally, there seems to be no recognition of potential wetland functions of the property. Have wetland soils or plants been surveyed? Given the topography of the site, below the road grade, it wouldn't be surprising for this site to function as a wetland with saturated soils at times.
2. This large stream flows through the middle of this ¼ acre lot, and on the streambank opposite the proposed house site there is a steep slope that is apparently unstable. Any alteration or increase in runoff or stormwater on site could cause the slope to fail catastrophically, temporarily damming up Lyon Creek during

a storm. After impounding a large amount of water that dam could catastrophically fail, releasing a large wave of flood water, a threat to public health, safety and water quality downstream.

2. Two culverts conveying stormwater from two arterial roads discharge directly into the stream buffer of this lot, almost straight into Lyon Creek. This building proposal would limit the existing possibilities of constructing stormwater detention and treatment facilities for the runoff of these roads. This runoff almost surely conveys substantial pollution into Lyon Creek, and makes the creek flow more violently during storms, problems which will need to be rectified in the future.

The proposed building design is inadequate in the following ways:

1. The small amount of buffer impact mitigation proposed may be adequate for a house 90-feet from a small tributary of Lyon Creek. But major mitigation is needed for the proposed impacts on this uncommonly important lot, and for a house proposed to be within 18-feet of the high-water channel.
2. The Arborist Report and the mitigation plan ignore trees on the property to the south. The proposed building is only 5-feet from that property line. No consideration has been given to the likelihood that the proposed construction will cause trees on the neighboring parcel to become hazard trees which could require removal from the buffer in the future. Also, apparently no thought has been given to the possibility that trees at first left on site will need to be removed in the future from having become hazard trees (due to impacts of construction and/or changes in soil saturation).

The requirement of the MDNS to have a fisheries expert design channel enhancements for this project is a good start on the exceptional mitigation needed for this proposal, as is the requirement for 10-year planting monitoring rather than 5-years of monitoring. But these requirements are not the exceptional mitigation needed for this unusually sensitive "building site".

The Critical Areas Report comparison of this proposal with neighboring houses failed to determine how many (if any) of those houses are within 18-feet of the channel, or receive storm flow from road culverts and pass it straight into the creek. Thus, we think the "neighboring land analysis" is highly misleading, and this proposal will do much more damage to the stream than the neighboring houses.

The recommendations we made in our comments previously on the Garey application (November 18, 2021) are still pertinent, and should be taken into account during a reconsideration of this MDNS.

Sincerely,



Kim Josund, President
on behalf of the Stewardship Foundation Board



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LAKE FOREST PARK

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MAR 21 2025

CITY OF
LAKE FOREST PARK

To: The Hearing Examiner & City of Lake Forest Park

Re: Garey RUE application

March 11, 2025

The comments to the city submitted by the Lake Forest Park Stewardship Foundation (LFPSF) on November 18, 2021, and August 6, 2024, continue to be current. In those documents we stated that much more mitigation would be needed to repair the damage to the buffer than has been proposed for the buffer, or by any other proposed action on site. We suggested a suitable magnitude of mitigation would be building facilities to treat the stormwater that pours into this buffer very near the creek channel from two culverts draining the arterial streets bordering the site. Thus we think the mitigation requirements of the MDNS are not nearly adequate. The following comments have been submitted by others to the city, which we think strongly support our contention that building on this site would be so harmful that it should not be permitted. Major mitigation is necessary if allowed.

Comments of Washington Department of Fish and Wildlife, August 5, 2024:

WDFW said "The current box culvert on site [under NE 205th Street] 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?" LFPSF requests that the applicant be required to produce 30% engineering design plans for such construction before a permit is issued, to show that culvert replacement will be feasible without demolition of the house if the proposal is allowed.

WDFW asked "How will no-net-loss of habitat be ensured through the lifetime of the home within stream buffers?" LFPSF expects this type of certainty cannot be accomplished with mitigation on site so we request that the applicant be required to produce, before issuance of a permit, a study that causes WDFW and ECOLOGY to agree that this requirement has been met.

WDFW wrote "Will [installation of woody material in-stream] be possible without creating flood risks to the home? Slowing water down with woody material near the home can cause backwatering that could endanger the home...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." However, LFPSF notes that the MDNS requires "Degraded stream channels and corridors shall be rehabilitated to maintain water quality, reestablish habitat and prevent erosion...Parameters considered by the rehabilitation plan should include: salmonid habitat enhancement, erosion control, channel integrity

preservation, aesthetics and hydraulics.” LFPSF is unaware of how these requirements could be accomplished without installation of large woody material in the stream channel. Thus the city seems to be requiring the impossible. We request that before approval of the permit the applicant be required to produce a 30% engineering design plan acceptable to WDFW showing how the requirements of the MDNS can be met.

Comments of David Haddock, retired with 40 years experience as an engineering geologist, with expertise in hydrology, received Aug 3, 2024.

“...the proposed site lies in the floodplain of Lyons Creek...the creek has flooded twice in the last twenty years, leaving the channel and flowing in the floodplain.” This contradiction of the applicant’s contention that the house site is not in a floodplain is supported by the ECOLOGY email written by Kayla Eicholtz to Mark Hofman on 8/20/24. Apparently after a local resident reported flooding on the Garey site ECOLOGY wrote “It is likely that what you are seeing and have described in the area is urban and/or stormwater flooding. Under FEMA’s current mapping standards, these areas are not studied and mapped, and there is no requirement for them to be regulated like 100-year floodplains. We understand that can be frustrating, particularly as you see the effect of this in real-time as more impervious surfaces are put in. These impervious surfaces can create an increase is (sic) [in] low-level urban and/or stormwater flooding. ... But communities are not required to take them into account for regulatory decisions.” Thus even though it is a known floodable area it does not show on the FEMA floodplain map.

LFPSF is steadfast in the belief that city decisions should be based on situations witnessed on the ground, and not on inaccurate maps that are known to be deficient. That the applicant and city are allowed to use the FEMA map is unfortunate; that the city chooses to use that disproved map is outrageous. We support Mr. Haddock’s statement that the site floods. There is a very steep slope on this parcel to the west of the stream channel. “This steep slope is currently being undercut by the flow of Lyons Creek...” The proposed house “...will further constrict the natural floodplain and further limit the cross-sectional area. As a result, flood waters will need to move faster and/or increase their stage...will likely exacerbate the existing undercutting of the steep slope on the west... This could cause failure of the slope, which could in turn cause major damage to the proposed house, and to neighboring houses downstream...Because the report does not address the steep slope it does not fully address the potential impacts of the development.”

It appears to the LFPSF that the proponent’s geotechnical consultant only studied the soils on the east side of the creek, and did not investigate the geology of the steep slope on the west side of the creek, which would have required borings there. We request that the application be denied until the applicant produces a geotechnical report by a qualified engineering firm that shows the steep slope on the west side of the stream will not be made more unstable by the building proposal.

Comments of Janne Kaje received August 6, 2024.

The “driveway [to Jolene Jang’s house] comes directly across the subject Garey property’s west end...Presumably the Jang owners (or prior) bought an easement from the Garey owners (or prior) for that driveway...that also took away the most buildable part of their own property...Since the owner willfully sold that easement, that equates to having made economic use of the property, even if that use foreclosed an option to build a house there later. So, there are no grounds to say that the Garey parcel has been denied a reasonable economic use...” But LFPSF notes that the City staff report of March 6, 2025, overlooked this situation. In the staff report, under RUE Criterion D.5, they said “The inability to derive reasonable use is not the result of an action or actions taken by the applicant’s actions

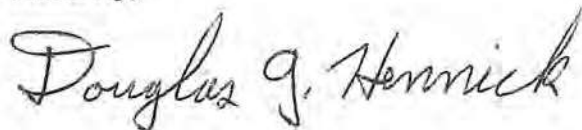
or that of a previous property owner..." City staff reported that this criterion for an RUE is met because "the property's title report and information contained within it does not contain any indication that previous land use actions have been executed on the site." LFPSF requests that the hearing examiner favorably consider Janne Kaje's contention that the establishment of the easement allowing a driveway to the Jang residence must have involved a purchase price for that easement. Presuming a gift of that easement is not credible, and we think this presumed payment for an easement satisfied the requirement of allowing reasonable economic use.

We think Mr. Kaje's contention of a second economic use also pertains. The sale of the easement prevented the possibility of future construction on the only buildable section of the Garey property (a house near the top of the hill like the Jang residence.) This saved the owners of the Garey site a lot of tax money over the years, thus generating "economic use" by allowing diminished taxation to the unbuildable rate. Because of these two issues we think the city staff's recommendation for denial should be based on three criteria rather than on the two that they identified.

In addition to comments submitted by others, and in addition to the impacts discussed in our comments to the city submitted on November 18, 2021, and in furtherance of impacts discussed in our MDNS comment on August 6, 2024, we now request strong action on the issue that the proposed development could hamper future attempts to treat and detain the stormwater that flows off the two arterial streets via culverts onto this parcel. We request that this project be denied until the applicant submits 30% engineering design plans for construction of these stormwater facilities, showing that the proposal will not require demolition of the house, or removal of any stream or buffer enhancements that have been required, in order to accomplish road runoff treatment.

Thank you for your attention to these difficult issues.

Sincerely,



Doug Hennick
Board Member
on behalf of the Lake Forest Park Stewardship Foundation

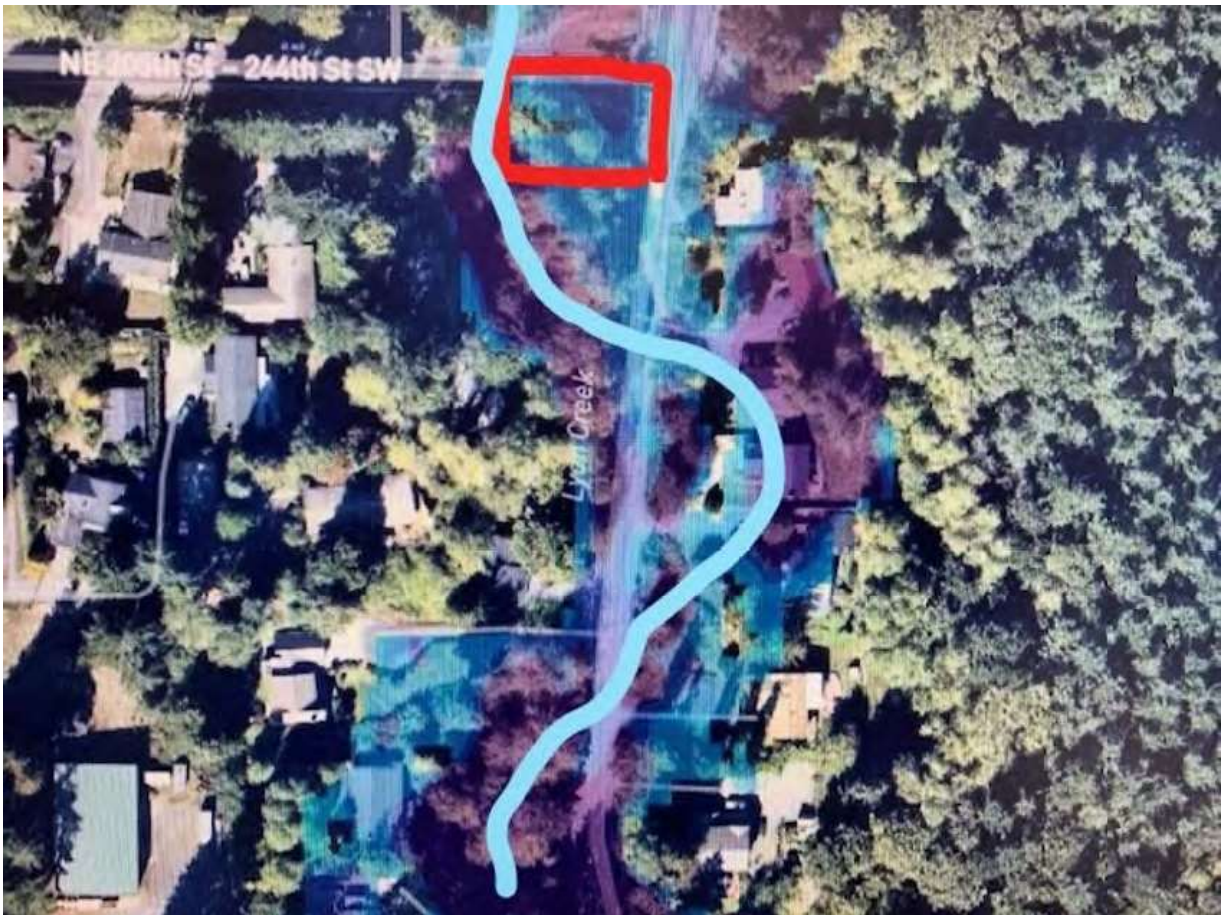
doug.hennick@gmail.com

Date: Thu, Feb 24, 2022 at 20:12

Subject: Fwd: PROPOSED DEVELOPMENT BY GAREY 205TH AND CEDAR
WAY/37TH NE

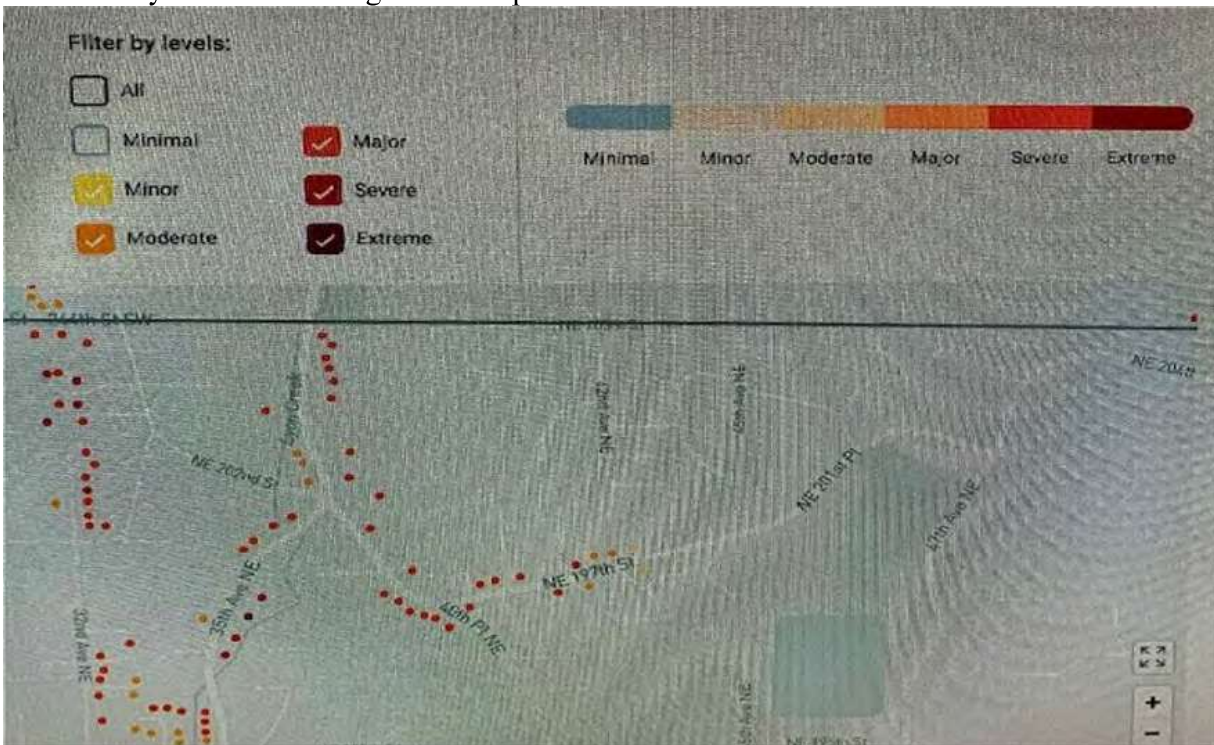
To: aplanner@cityoflfp.com <aplanner@cityoflfp.com>

Heads up of LFP government and citizens. This project is in a major to severe flood risk zone.

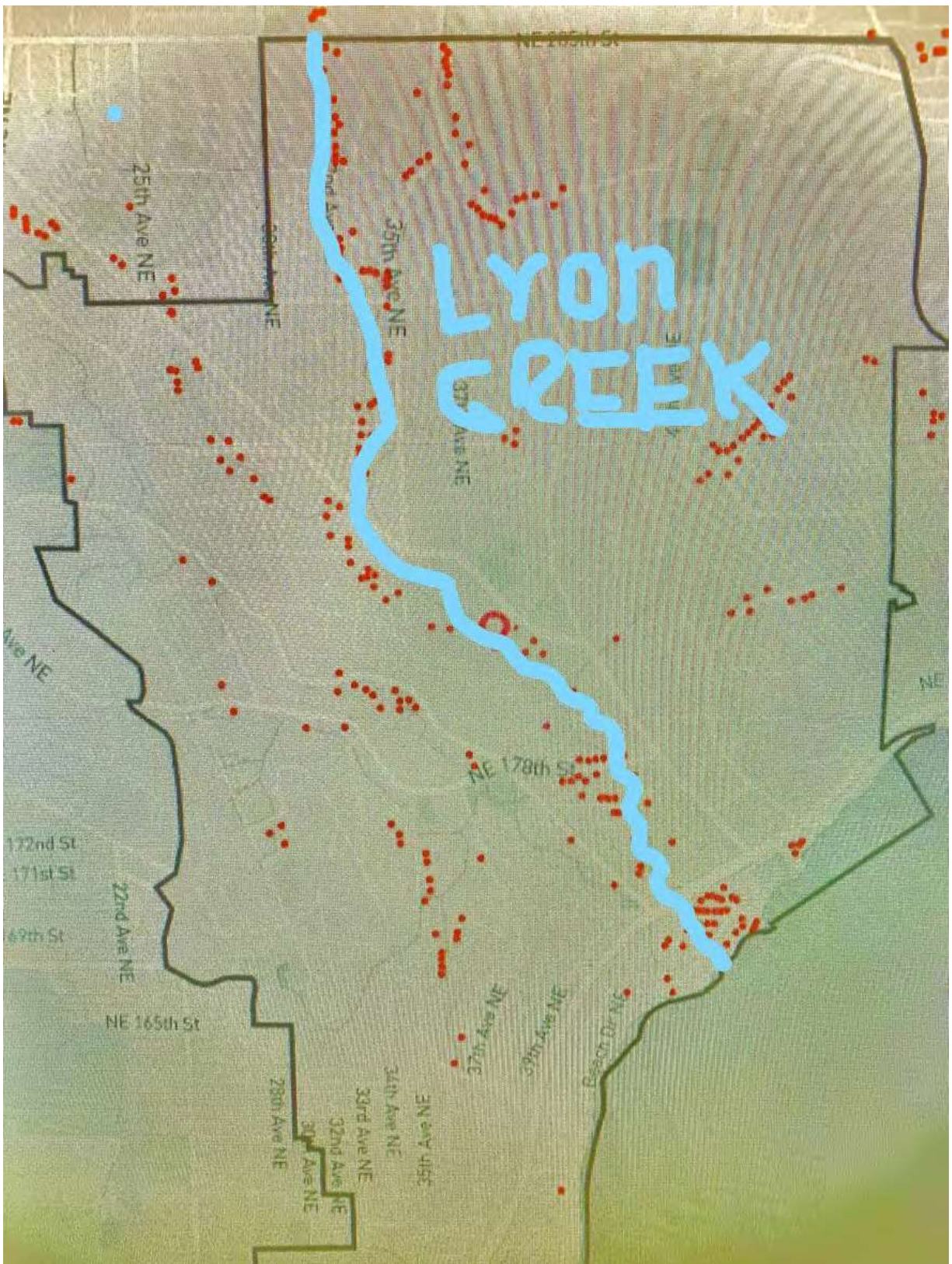


Flood Factor, a tool used by the National Association of Realtors to inform their professionals and clients of flood risks to properties, forecasts rainfall amounts and intensities are also likely to increase 10% over the next 30 years in Lyon Creek drainage. https://floodfactor.com/city/lake-forest-park-washington/5337270_fsid This may render the upstream runoff detention pond undersized since the implications of climate

change, increased and more intense rainfall, were not likely known when that facility was sized and designed and constructed. This would result in more frequent and higher flood flows from the upper portions of the Lyon Creek drainage basin upstream of the proposed development. The subject property may end up in the new floodplain due to the anticipated higher flood flows. If raised substantially by grading, the property will be removed from the new floodplain, maybe, according to Flood Factor. Although Flood Factor is forecasting VIRTUALLY ALL streamside properties adjacent and downstream of the subject property will be exposed to increased major to severe flooding risk from a 100 year event even without the federally mandated changes to the upstream culvert.



A developer with the knowledge above would be ethically bound to disclose this information. Or would likely fill and armour graded portions of the site trying to remove the developed property from flooding risk. This is unlikely to be successful given the forecasted water elevations from Flood Factor. And unconstructively, even making a futile but gallant effort will result in adding increased runoff to Lyon Creek AND potentially removing needed future flood plain area, given Flood Factor forecasts. Thus sending even more water more frequently and at higher velocities downstream thus substantially adding to the flood risk and damage to ALL 100+ stream side properties on Lyon Creek all the way to Lake Washington.



The governing jurisdictions and all of the property owners or families and children living downstream of the proposed project should recognize that any development in the subject property should include mitigation of the flooding risks and damages to all 100+ streamside properties downstream all the way to Lake Washington. Every property adjacent to Lyon

Creek and downstream of the proposed development is exposed to major or severe flood risk further aggravated by this potential development!

Good luck protecting LFP environmental protection codes, values, policies and image while approving the proposed development and exposing one more new family to known, major to severe flood risks, and for all those downstream Lyon Creek properties identified by Flood Factor.

Professional ethics embody at least two principles:

“First do no harm”. It would seem this principle cannot be met if this development is allowed to go forward. It would seem impossible to reconcile putting a new family and all of those 100+ families downstream at increased risk of more frequent and higher major to severe flooding and plead no harm. Pleading, “I didn’t know” is no longer available to responsible officials nor citizens nor developers.

Second, professionals have a duty to acquire the necessary knowledge to responsibly apply their purported and licensed training and skills and meet their legal professional licensing and certifications authorities and responsibilities wherever and whenever called upon to do so. Knowledge creates duty. The duty created is for each professional, be it planning, engineering, law, etc. to apply the responsible and reasonable laws, codes, and standards of care applicable to and practiced in the area. If the applicable standard of care in this case says it is okay to knowingly put a new home owner in a a major to severe flood risk zone and increasing the flooding flow and frequency risk to all 100+ home owners downstream, then all is good.

LFP professionals and citizens now have knowledge from Flood Factor that there is a major to severe of flood risk for those living along Lyon Creek. The developer now knows the property propped for a single family home, probably with kids and pets, is in a major to severe flood risk zone. And this new development will only aggravate the flood risk to all living downstream.

I hope this information does what information is supposed to do, inform the public decision makers to make a fully informed and thus the best decision in the public interests.

Alan Coburn

-



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BRIAN SAUNDERS, MS
Project Lead

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LAWRENCE BROWN

LEE ROLFE

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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

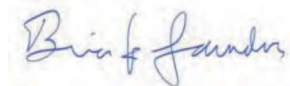
runoff will be self-contained during and after construction. The Lake Forest Park Municipal Code (LFPMC) outlines the requirements for protecting water quality and managing drainage in environmentally critical areas. The Receiving Water Assessment identifies several impairments in Lyon Creek, including 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

I am writing to oppose the MDNS finding and approval of the RUE for this parcel and proposal, for the following reasons:

1. I believe the SEPA application is incomplete. In particular, Section D, questions 1, 2, and 4 are especially pertinent to this proposal to build a structure very close to Lyon Creek. Lyon Creek is a functioning wildlife corridor. Construction in this corridor will increase stormwater impacts to Lyon Creek and affect plants and animals using this wildlife corridor.
2. The project as a whole is proposed to take place in an environmentally sensitive Critical Area, the buffer of Lyon Creek, with steep slopes and saturated soils. More detailed, careful analysis of the proposed project than was provided is needed to correctly determine the impact of this project on the site and on Lyon Creek.
3. The MDNS relies, among other things, on a 10-year stewardship and monitoring plan for buffer mitigation, in a critical area easement, AKA a Native Growth Protection Area or NGPA. While that looks good on paper, the reality is that ongoing stewardship of NGPA's is non-existent, and there is no enforcement effort by jurisdictions. It may sound nice but it will not happen, and the disturbance will result in a rapid overtaking of the NGPA by invasive, non-native plants, negatively impacting the site.
4. Development of this site is not advisable based on its steep slopes and proximity to an important creek. Unfortunately the City seemingly finds itself in the position with its RUE of having to approve some development on any parcel purchased by a developer, whether it makes sense or not. But, the City does have the opportunity via SEPA review to determine that development on this site is not "reasonable".

Thank you for considering my comments.--

Eric Adman - President

Sno-King Watershed Council www.snokingwatershedcouncil.org.

Save



Penk, Miles A (DFW)



1/25/2022



Follow up.

You replied to this message on 2/10/2022 11:14 PM.



20220125_092004.jpg
2 MB

This email from the Washington Department of Fish and Wildlife Habit Biologist, Miles Penk, who visited the proposed property in 2022. He writes to neighbor Jolene Jang with is observations and the flood plain that is proposed to be built in the flood plain.

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.

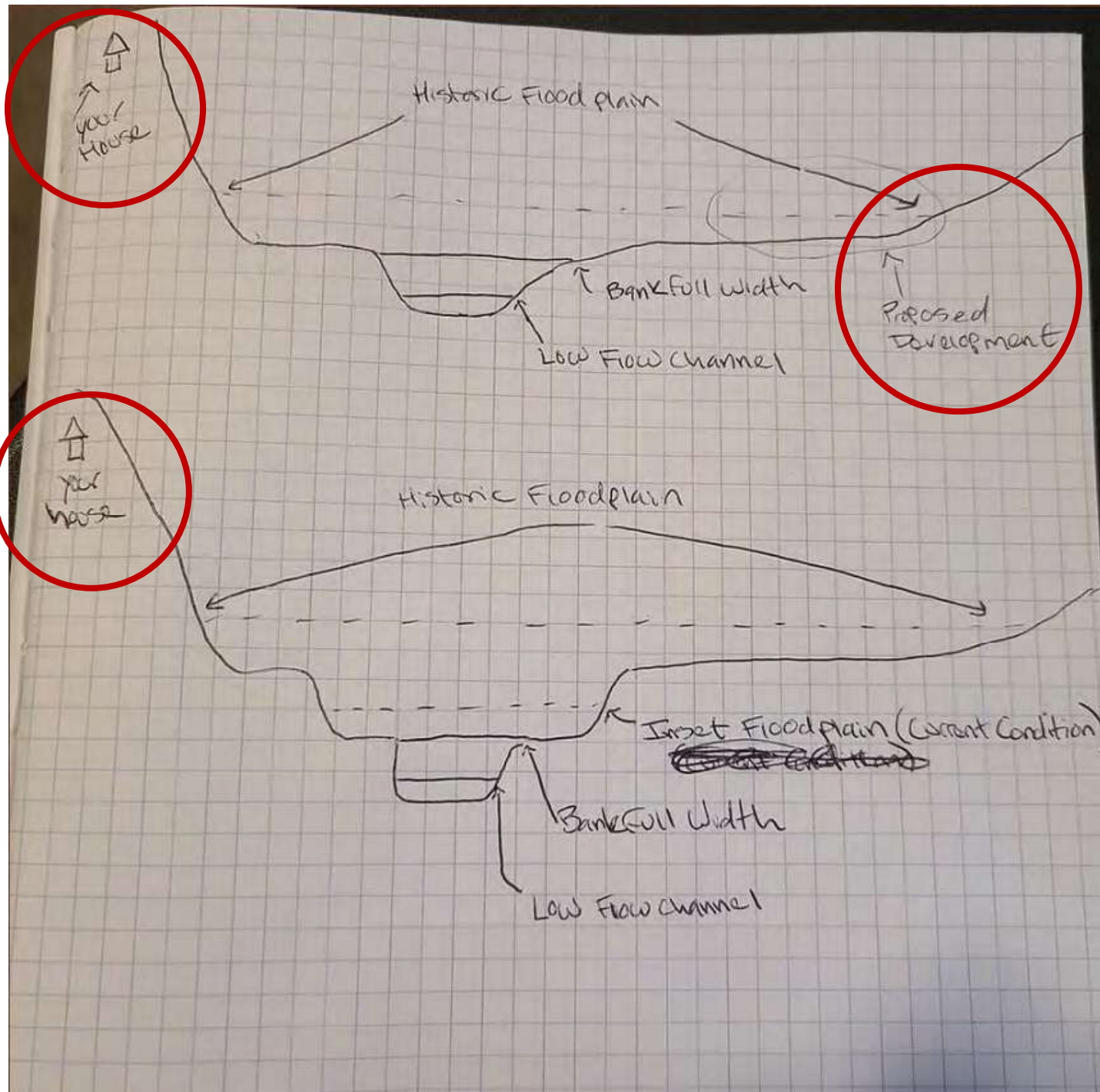
If this development were to go ahead as planned, I am concerned that it's location will remove any tolerance for large woody material. What would benefit the system as a whole for floodplain storage, sediment storage, habitat creation for fish, would represent a flood hazard and/or bank stabilization 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

Buffer



This is from the Compliance Biologist of

Washington Department of Fish and Wildlife

The Habitat Biologist, share concerning/problematic answers 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)



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

FM: Daniel Collins, Consulting Arborist ISA Certified Arborist PN-8028A,
for Jolene Jang, 3611 37th Ave NE, Lake Forest Park
TO: Lake Forest Park Planning Director, Steve Bennett
Date: Feb.18, 2022

RE: Arborist Report- Mark Garey property NE 205 Street and 37th Avenue NE, P#4022900497

MEMO

I reviewed the materials in the Critical Areas Report, and specifically the Garey Residence Arborist Report provided by The Watershed Company Reference Number: 190405; below referred to as: the Report

Site Review:

I was asked to evaluate the thoroughness, quality, and the trees inventoried of the Report: observing from site boundaries and adjacent properties and using my knowledge of conditions associated with tree risk/hazards.

The project site located at the southwest corner of NE 205th Street and 37th Avenue NE in Lake Forest Park contains an early serial woodland of red alder (*Alnus rubra*), black cottonwood (*Populus trichocarpa/balsamifera*) and Cherry (*Prunus* sp.) according to the Report; forming a relatively low canopy.

Black cottonwood trees on the subject property are either dead or in a state of severe condition according to the Report; this is compounded by adverse biotic conditions: severe slopes which may strain water uptake, stem fungal rot-observed on several trees, and failing root plates raise failure risk to targets in future construction and living zones. On this parcel and the adjacent parcel, many black cottonwood trees show poor health. I recommend a thorough evaluation of these trees in poor health to mitigate future problems and damage to structures. It is not sufficient to claim in the Report that, “Tree assessment related to occupant safety and safeguarding new structures or other targets **must be done separately and after building has been completed.**” Level I Assessments are conducted to anticipate risk and provide mitigation or recommendation options to manage that risk.

Red alder species on this and adjacent sites tend to be in a healthier condition than the black cottonwood species notably on the eastern half and left creek bank. However, several of the red alder on the subject north property margins near the NE 205th Street Right of Way have poor architecture, with misshapen crowns; this is due in part to entanglement with power lines, stem failures, and pruning cuts; these trees are generally on steep slopes and in fair to poor condition(**see photo 3**); these are identified as #1,2,3,6,7, and 8 and are located on steep slopes near storm water outfall or box culverts. These trees, in the context of a site development will need careful monitoring to avoid further damage. This observation was not made in the Report. Client has indicated that up to five red alder trees on her adjacent property have failed at their roots in the past year.

The ISA Level I Assessment process used to inventory the black cottonwoods and red alders requires “the submittal of a report indicating risk level(s) and mitigation options and/or recommendations” Dunster, J. Tree Risk Assessment Manual 2nd Ed. 2017, p. 17. This Report did not give mitigation options or recommendations for any of the trees inventoried. This is an important omission, in my opinion because the Report is linked to a development proposal with

Daniel Collins-Consultant 360.531.0447

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major site impacts. Native tree preservation should be a strong objective for trees in any Critical Areas.

Tree health/condition has many biotic and abiotic factors which, if ignored or unmanaged can result in tree failures and potential damage to property, or injury to people. The western half of the property has a severe slope angle of 80-100%; the Report minimizes this, indicating the slope angle is greater than 40%. Much of the slope is under light ground cover with no obvious slope shoring, or bedrock. This unstable slope condition should be made clear in the Report. At the base of the slope is Lyon Creek, which, during high flows could undermine the toe of slope, potentially causing slope failure from below; there is evidence of creek bank undermining, but this was not listed in the Report. The plans call for coir wattle to line the slope base. This material will collect surface silts but will not reduce slope failure. Without adequate woody vegetation including trees and rooting structures to resist soil shear, the slope will remain unstable for many years. Tree #5, red alder inventoried in November 2021 with observed root plate uplift and given a Poor condition on that severe slope has subsequently uprooted and slipped to the base of the slope during high creek flows in December 2021 causing a 30' lateral slope tear; (**see photo 1**). Continued slope instability will impact creek waters between culverts, undermine uphill structures and complicate woody tree establishment in the proposed Mitigation and Planting Plan W3 of 6.

The construction of impervious surfaces is likely to increase impacts to the remaining trees on the eastern half of this Critical Area. The proposed development site has one tree in good condition; the western red cedar #9. Tree #9 would have 30% -35% of it's Critical Root Zone impacted by house and driveway. Tree #11 is shown to be removed for development. Tree #12 (dead) will likely be removed unless the recommendation is for a habitat tree. Tree #14 will have 40% of its roots impacted by the building footprint.

There are several trees on the widened arc of the Public Right of Way including Douglas firs, Sitka spruce and red alders (**see photo 2**). The root zones of these trees forming a grouping would likely be impacted adversely by the clearing limits for water services as identified in Proposed Impacts Assessment W2 of 6. The Report mentions that development proposals shall place a strong emphasis on tree protection LFPMD 16.14.070D as *Tree retention plans shall prioritize i. Existing viable trees in groups or stands*. No mention was given in the Report about what recommendations would be made for these four trees in the Critical Areas Zone of the Public Right of Way.

In Summary

The parcel represents a limited residential development opportunity with large impacts to the native trees surrounding the design footprint. Many trees within the parcel have sustained defects or are in poor condition according to the Report. Further tree failures will likely cause more slope instability and potentially impact driveways above the site development. The arborist/assessor offered no mitigation or recommendations for these trees. No Level II assessments for trees #12 or #4 were recommended to resolve these questions, while tree #5 has failed since the assessor has visited the site. It is my professional opinion, that there was inadequate analysis and information contained in the Report to advance the development proposal of owner - Mark Garey into a design-development phase. Thank you for considering these important concerns; our riparian forests deserve careful review.

Please contact me if you have further questions.

Sincerely,

Daniel Collins-Consultant 360.531.0447

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nicoterratrails.com 2802-21st Ave South Seattle, WA. 98144

Daniel Collins

Daniel Collins' Background-Experience: arboriculture and related expertise includes

- Urban Forestry/Ecological Restoration- dual track SSCC, Masters Urban Planning and engaged in riparian restoration projects with the Green River Coalition during the last decade
- Olympic National Forest USFS Cost Share Agreements (2005-2012); forestry-related scopes of work
- King County Bridge and Structures Engineering Group-FHWA Certified Bridge Inspector
- Professional tree care 10 years ISA Certified Arborist PN-8028A, TRAQ Risk Assessor

Attachment: photographs 1-3



Photo 1

Daniel Collins-Consultant 360.531.0447

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Photo 2

Daniel Collins-Consultant 360.531.0447

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nicoterratrails.com 2802-21st Ave South Seattle, WA. 98144



Photo 3

Daniel Collins-Consultant 360.531.0447

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nicoterratrails.com 2802-21st Ave South Seattle, WA. 98144

February 6, 2021

Comments on proposed development, Parcel #4022900497
File 2021-RUE-0001
Proponent Mark Garey

To the City of Lake Forest Park:

It has come to my attention that a development plan for Parcel #4022900497 has been submitted to the City of Lake Forest. Lyon Creek (08.0052), a recognized fish bearing stream, runs through the middle of this parcel. Coho salmon and cutthroat trout are known to use this stream (Kerwin 2001)¹.

The west side of the parcel is a steep slope, and at the time of my visit 5 February 2022, there had been several active landslides down the slope (Photo 1). The east side of the parcel extends to 37 Ave NE. Much of this area appears to be part of the active floodplain of Lyon Creek. Fine soils suggest continuous sediment deposition throughout much of the area. I would strongly recommend that a wetlands specialist evaluates much of the area, and a geologist evaluates the suitability of this area for construction. The environmental functions provided by this floodplain: sediment retention and attenuation of storm events (high flows) are important to the health of Lyon Creek downstream. Loss of channel complexity and connectivity was cited by Kerwin (2001) as factor of decline, and this property represents one of the few areas where natural stream processes are still evident. The eastern portion of the parcel also provides a biological buffer for road run-off from 37th Ave NE.

The stream reach in this area contained several patches of gravel, which appear to be suitable for spawning. It was also noted that there were several pieces of large wood in the stream (Photo 2). These are important in influencing stream processes, including pool formation and providing refuges for fish and other aquatic organisms.

Development of this parcel would remove any meaningful buffer at this location for Lyon Creek and would further degrade the environmental services that the parcels in this reach provide. I observed that the culvert downstream of the property was showing the effects of recent storms, a process that will only be hastened by development of this property (Photo 3).

While I am a resident of Kenmore, I have been involved in a number of efforts to protect and restore the stream and wetland habitat in the north Lake Washington watersheds. If we are to stop the ongoing decline in our salmon populations, we need to first preserve our remaining habitats while ongoing restoration efforts begin to have their effect.

Sincerely,

James M Myers, PhD (Fisheries, UW 1990)
5934 NE 201st St
Kenmore, WA
98028

¹ Kerwin, J. 2001. Salmon and steelhead habitat limiting factors report for the Ceda-Sammamish Basin (Water Resource Inventory Area 8). Washington Conservation Commission.



Photo 1. February 5, 2022. West side of property showing steep slope and recent slide



Photo 2. Looking downstream, Lyon Creek, note large log on right side and gravel in foreground



Photo 3. Culvert downstream of property showing storm damage.

Cameron Tuck, Assistant Planner

Lake Forest Park Planning Department

City of Lake Forest Park

17425 Bothell Way NE

Lake Forest Park, Washington 98155

RE: File Number: 2021-RUE-0001, Reasonable Use Exception

Dear Mr. Tuck

A friend who is an environmental advocate and knows my work well, asked me if I was familiar with the lot applied for in the above file. She is concerned that building on this site will degrade the local environment, and spawning habitat in particular, and wanted my opinion as to whether or not the City of Lake Forest Park should grant a reasonable exception for this building lot.

As time to comment is short, here is my hastily generated answer:

I grew up in Kenmore and as an adult lived just a couple of blocks upstream of the site in question. More important is that I have spent my entire life studying local natural history, and that of the fish of this area especially. I have worked at/with both the state and county gathering data on aquatic resources of the very reach in question, and have a degree in Aquatic Ecology from the University of Washington School of Fisheries, where also I was employed for a decade in a research unit conducting various projects involving fish, many of which involved those of the Lake Washington Basin.

However outside of work and going back to the 60s even when I was young, I have been consulted informally by various parties, agencies, non-profits and firms as to the attributes of local streams and fish, and have provided data freely which are the result of my personal efforts alone. Most of my expertise in the history and ecology of the area under consideration (and its fish and habitat specifically) was gleaned from my personal observation and research which is extensive and goes back decades and to childhood with devout attention absolutely.

So I know the site well, and not just because it was a block or so away from where I used to live. Rather because it's one of the locations on Lyon Creek that I could easily access and count upon seeing fish spawn, Cutthroat Trout (a Pacific Salmon mind you) in particular, along with Coho juveniles when the state was still planting the stream with fry in abundance.

In fact I could sometimes determine the presence of spawning fish just by driving by and noting Herons stalking the riffles. And beyond the Herons I have observed Eagles prowling that specific portion of stream corridor, as it offers riparian seclusion that is all but missing along the entire length of Lyon Creek throughout its run in Lake forest Park.

For an urban stream, the site is environmentally sensitive as it gets, and its ecological value hinges almost wholly on the riparian cover across the entire parcel period. Given that the stream divides just upstream into two small branches at the Cedar Way Detention Facility, and all gravels there are smothered in fine sediments, moreover that fish passage at the dam is problematic, in my professional opinion the development site in question constitutes the finest spawning habitat yet remaining in the Lyon Creek Watershed. I cannot imagine that granting a permit there would be anything but a mockery of environment law and indeed the need for buffers.

Frankly am astounded that such a proposal is even being considered in the first place.

The simple fact is that the site is ecologically unique in its aquatic nature, and while small, it is yet forested, something rarely found in Lake Forest Park obviously.

It has attributes that indeed are seen just upstream in Mountlake Terrace, but there natural meanders are absent as the stream is confined to essentially a straight run along Cedar/44th/35th, and then runs through an artificial pond at the stormwater detention facility.

Thus for good logical cause, and with over a lifetime of research on local streams (and annually through say 1980 to 2010 absolutely) I have noted Herons at the site of proposed development many many times stalking spawning fish, and on a couple of occasions have seen eagles there absolutely.

The fish and birds are there because the site has explicit qualities that are nowhere else to be found along that fork of the stream. And while above the detention facility and 240th, similar appearing habitat does exist; it is greatly diminished in volume as the stream divides at the pond.

These are environmental observations that unless someone knew the site intimately might not be obvious I must say. So that is one thing, the site has unique habitat that draws in a host of important and desirable species. However beyond that the other environmental concern is that the detention facility just upstream poses a GRAVE risk to all homes along that corridor of Lyon Creek, and that site perhaps above all.

Everyone needs to be aware that the detention facility's planning documents say loss of life is already at risk should the dam ever fail during a storm event.

Page 197 of the North King and South Snohomish Counties Section III – Multi-Jurisdictional Breakouts
Regional Mitigation Plan III – 197 Mountlake Terrace June 2004 is says the following:

"A 1999 report by the Washington State Department of Ecology indicates that if the fuse plug erodes, the dam will release four to five times the water expected during a 100-year storm flow. A water release of this scale would travel for 2.4 miles down Lyons Creek to Lake Washington, potentially causing loss of life and damage to private property as well as damage to a state highway, several arterial streets, and a shopping center and office complex. The Department of Ecology, in 1999, confirmed a classification of Hazard Class 1B, High downstream hazard potential."

This document was made before society was as aware of the risks faced with global warming which will increase these hazard potentials. There is no way to secure the requested building site from the catastrophic flood hazard there to be found.

There is a LOT of water impounded at the detention facility when it is full, and it backs up BOTH forks well upstream of the pond itself at great depth. And so naturally the floodplain a the development parcel needs to be defined with THAT in mind and NOT just the stream's normal high flow such as seen when the dam is routinely over topped.

The dam is an undisclosed environmental risk, and one that can't be mitigated, and sadly one far greater than the public downstream currently has been made aware.

The danger posed by the flood facility is far more severe than presently understood (or acknowledged) being that while the dam itself is well engineered (and to date has withstood the rather common overflowing such as I have noted, but which planners never expected unfortunately) with the vastly increased runoff instituted through the high density development of Downtown Mountlake Terrace, the danger to the proposed development site is annually being increased no question.

But beyond that and even MORE troubling, is that while the dam is well engineered, on its east side it abuts a steep hill slope that is obviously unstable.

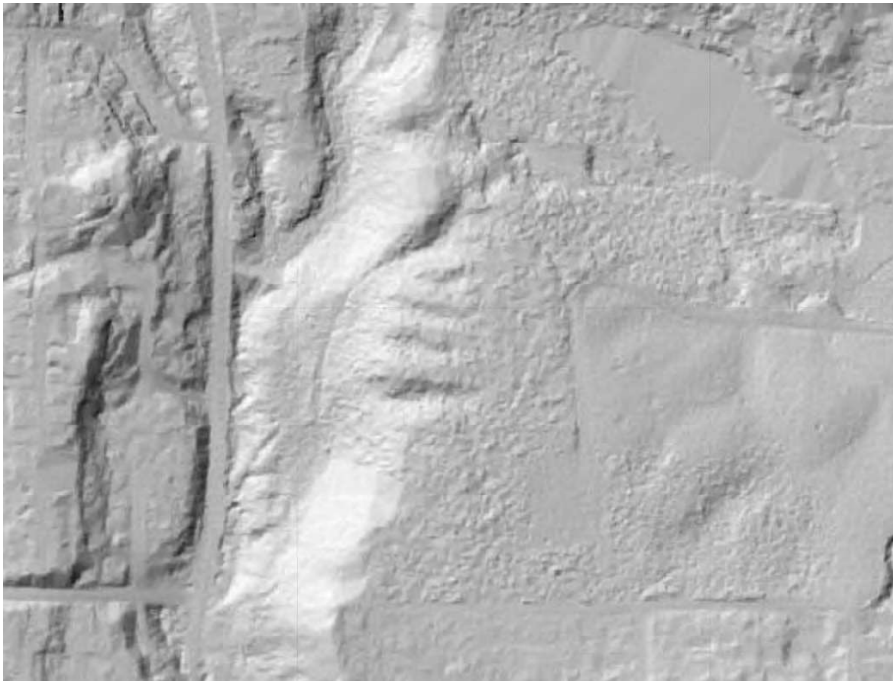
With the constant flooding of the base of that hill (leading up into Brier) there is every reason to expect it will fail at some point. The routine impounding of water at the detention facility in fact undermines the toe of that slope annually. Most relevant however is that should the dam spillway ever get clogged with woody debris at its outfall, resulting in flows diverted to its eastern end, the moving waters there will surely carve a path around the dam in the loose soils there, already wet and so emptying the dam in rapid fashion with water, mud and debris violently pounding its way downstream all the way to Lake Washington no question.

And what happens should a landslide occur anywhere along the pond regardless?

Well the water so displaced would flood the site in question dangerously also. And again, raising the water table on and off by a dozen feet via the water being impounded by the dam a few hundred meters along the base of an unstable hill, is honestly asking for a geological disaster to begin with.

And bear in mind there is a lake at Abbey View literally at the top of the hill in Brier providing hydraulic ground water pressure from above, and so the conditions there bode for catastrophe all the way around.

In fact as an aquatic ecologist I find the lack of old growth stumps on certain portions of the hill slope thereabouts as clear evidence it is prone to fail absolutely. Even a cursory view of LIDAR imagery reveals the hill there is not sharply defined, and indeed it has the soft appearance of sluffing from probably having failed repeatedly in the past in several places.



LIDAR imaging with the development site at the lower left and Abbey View Lake in the upper right. Note the bright jumbled appearance of the slope along the eastern border of Mountlake Terrace leading up into Brier.

And while these undisclosed disastrous flood dangers threaten the entire stream in Lake Forest Park, their worst effects will be seen on its upstream length in your city and so at the very site in question to be developed wherein no risk to life currently exists.

It matters not what I or anyone else may claim or say, the facts on the ground there speak for themselves with absolute, and perhaps fatal clarity, no question.

So for deep biological and human concerns alike I implore the city to not grant the requested "Reasonable Use Exception" or issue development permits of any sort at the site in question, under file number 2021-RUE-0001, as the economic desire in no way outweighs the risks and losses to people and the environment that development there would surely entail.

Cordially,
Jim Mattila
waterite@uw.edu

For: The Hearing Examiner

Re: Reasonable Use Exception, Mark Garey Property – Parcel in Lake Forest Park

To whom it may concern,

I wish to address the request for a Reasonable Use Exception (RUE) on the Mark Gary Parcel in Lake Forest Park along Lyon Creek at the County line and to highlight why this application does not meet the necessary criteria for approval. The points below outline fundamental flaws in the applicant's request and why granting this exception would undermine both the intent and legal framework governing land use in Lake Forest Park.

I am a Fisheries Research Scientist, Aquatic Ecologist, and Natural Historian with expertise in habitat analysis of aquatic and riparian zones, encompassing Hydrology, Geomorphology, Forestry, and Ecology. I have conducted extensive field sampling of aquatic organisms for presence and abundance, obtaining genetic, ecological, and biological information using methods such as electrofishing, netting, trapping, hook and line, along with habitat surveys and then laboratory, literature and historic research work for the University of Washington School of Fisheries Sciences, The Washington Department of Fish and Wildlife, and King County Department of Natural Resources. My resume is below.

I write to address the request for a **Reasonable Use Exception (RUE)** on the Garey Parcel and to highlight why this application **does not meet the necessary criteria for approval**. The points below outline what I see as the fundamental flaws in the applicant's argument and why granting this exception would undermine both the intent and legal framework governing land use in Lake Forest Park.

1. The Applicant Has Not Suffered an Economic Loss nor in Particular is Experiencing a Governmental "Taking"

The legal foundation of the RUE process is rooted in the principle that regulations cannot deprive a landowner of all reasonable economic use of their land. However, this case does not meet that threshold.

My understanding is that the applicant **purchased the property knowing that it was constrained by environmental buffers**. Therefore any claim that these buffers now constitute a "taking" is unfounded because the limitations were pre-existing. The applicant has not lost anything—they **still have what they purchased**, and the land retains its original and real value as a protected natural area.

A **true taking** occurs when an owner is burdened beyond reason, such that their land investment retains no monetary value as may be reasonably expected. However, it appears this applicant bought the land at a discounted price **precisely because it was undevelopable** due to buffers. The pre-existing environmental restrictions are not an unfair burden imposed after purchase—they were part of the bargain from the beginning.

2. The RUE Is Not Meant to Guarantee Profit or Speculative Development

The Reasonable Use Exception is intended to allow relief **only when a regulation obstructs a reasonable economic use**—it is not to guarantee the landowner the right to build for profit no matter the cost to our environment. The **intent of the law is not to erase environmental protections simply to create an economic opportunity** where none previously existed.

- **The applicant here is not entitled to build a home simply because they wish to do so.** The law does not exist to ensure that every piece of land can be maximized for development.
- The **presence of a garage or shed in the past does not justify constructing a home now.** A shed is not a residence, and no reasonable use exception for a home should be granted based upon some prior non-residential use.
- If an RUE were granted in this case, it would **set a dangerous precedent** that any land, no matter how environmentally sensitive, could be developed despite existing regulations, and moreover merely upon speculation that a profit only perhaps can be made. And here, given the proximity of Lyon Creek, one routine rain on snow event could destroy any work concluded even before completion. The difference being between a reasonable expectation and that of a gamble is glaring of course.

The **fact that no home was on the lot when it was created** is crucial. The RUE is often applied in cases where **a home already exists** and needs maintenance or to allow for its slight improvement within a buffer. That is not the situation here. The applicant **is seeking to create a new value that was never there**—not to preserve or moderately improve something which presently exists as a reasonable use of the property.

3. The Government Cannot “Take” What Was Never There

One of the strongest arguments against this RUE is simple:

The government is not taking anything away from the applicant because they never had a legal right to build a home on this land in the first place.

- If the applicant never had a home on the site, nor had the expectation of doing so other than beyond a hopeful wager, then they have lost nothing.
- If the applicant purchased the land knowing its restrictions, they assumed the risk that it might not be buildable.
- If the land retains value in its natural state (which courts recognize as an economic benefit), then the government is not imposing an economic loss, merely affirming the owners existing natural value be preserved.

If the government were required to compensate for every instance in which regulations prevented potential profits as a taking, then **every environmental and building regulation in the state would essentially be invalidated.** That is not how land use law works, and it is not how Reasonable Use Exceptions are meant to function.

4. The Public Interest AND Proponents Own Existing Natural Values Must Be Protected

The destruction of natural areas, even in part, creates a net real economic loss. The Supreme Court has affirmed that environmental benefits—such as fish and wildlife, natural habitat, water quality, and environmental aesthetics—**hold real economic value for both property owners and the public.**

This RUE request is not about allowing an existing use to continue—it is about **eliminating environmental protections to generate a profit for which no legal expectation exists**. That is not a reasonable use, and it is not what this exception process was designed to accommodate.

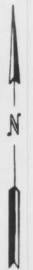
Conclusion: The RUE Should Be Denied

This application does not meet the burden required for a Reasonable Use Exception. The applicant still has the land they purchased, with the same value and restrictions that existed at the time of sale. No right to build has been taken away because **no such right ever existed**.

Approving this exception would not only be **legally and environmentally unsound** but would set a precedent that would encourage **future speculative purchases of restricted land in hopes of forcing development**. That is not the purpose of the RUE process, and it is not in the public interest.

For these reasons, **I urge the denial of the RUE request**.

Cordially,
James D Mattila



PHOTOGRAPHY BY: PACIFIC AERIAL SURVEYS INC. A-94-6-2

1" = 400' FLOWN 8-11-61

SEC.34T27R4 E

This is a private letter written by Scientist Jim Mattila to Mickie Gundersen January 2025 referring to the state law about Reasonable Use.

And so to start, I'll point out that the rule you quote is clearly referring to LFP City code, but that matters not as it descends from both Federal and State code affirming the property rights of individual landowners wherein Government may not "Take" private property without compensation, be that by even just restricting its reasonable use.

The theory is that if a regulation so limits a person's use of their land, the situation is such that it essentially has been seized although even if it physically does not become public property. Now clearly ALL environmental buffers are argued by developers to be Takings, although generally the exception is applicable or sympathetic to small landowners who bought a piece of land with the reasonable expectation of building a home for themselves (not mere speculation to sell for profit alone) only to find themselves burdened beyond reason such that their land investment retains no monetary value.

And so right off a developer who bought a lot cheap precisely because it was undevelopable due to a buffer is NOT being burdened unfairly such that they have suffered an economic loss or taking... So THAT is the first point to make against the exception sought. They still have what they bought and the pre-existing buffers are not taking a thing.

Next is to point out that all land is seen as separate from any buildings placed atop, and indeed land is always taxed at a value regardless of what improvements are on it. Usually it's obvious that an owner has been paying taxes on a value that reflects their land is in a critical area, so the next point is to show the developer got what they paid for and still retains the natural economic value they started with.

Moreover, it's important to understand that the reasonable use exception isn't meant to guarantee the landowners potential profit a new building may yield, just the existing value or use of the LAND alone! And so more often than not the exception is applied in a situation where an existing home lies in the buffer when it was enacted, such that permits can be issued to maintain or perhaps even improve it if the footprint remains unchanged.

Its NOT a reasonable exception to let developers get permits for new projects as if the buffers and values were never there to begin with as that would render ALL environmental regulation meaningless of course.

So it's important to show the lot never had a home on it when created, and NO(!) a shed or garage is NOT a home. But if some structure was present and in use, such outbuildings might arguably be granted permits to repair under the exception, but probably not rebuilt if long abandoned or

destroyed. Certainly replacing a shed with a home is creating a value for the land which was never there.

So another point to vigorously point out (if the developer is using the past presence of a garage or shed as the footprint for their new building) is that the historical improvement wasn't present when they started, and in particular wasn't a home when they bought the land, nor ever was a home there if I recall the site from my youth.

The above points should be amongst the arguments made against the exception being contemplated, and I would really hammer home that if going forward the property is not built upon, the land STILL has the value at which it was purchased.

Because just as important, at a start one has to show that the reason why environmental regulations are NOT uncompensated takings to begin with (which naturally are forbidden under our ST and Fed constitutions) is because the government isn't creating an economic loss to the site, or if they are, it's merely requiring the landowner to preserve their existing value which is greater...

That is the Supreme Court has affirmed that environmental amenities like fish, wildlife, riparian habitat and water and even views are of high value whether one directly uses them or not, and their ownership has an economic value period.

Specifically buffers and the like have been determined to not be takings precisely due to the fact that underlying value created for the landowner by the natural resources, remain even if their land is left vacant.

And yes, the destruction of natural/aesthetic values even in part results in a net economic loss as far as the land's value upon which they rely is concerned.

This is an aspect of regulatory law which most attorneys (and even those specializing in realty) are frankly unaware of. And of course this is often ignored by lawyers employed by local authorities trying to increase their tax base via development at the expense of critical areas. And even if they all know better, they still seek to defy the law for the sake of greed sadly.

Again the exception is just about the value and use of the land alone, NOT any improvements speculated to be placed upon it. And whether the developer lost a thing as far as the land is concerned, depends upon if they are just proposing to destroy certain existing values the land has at present so that they may realize a profit through a wholly separate asset (a home) which was never there.

The government can't take what you never had right? So that's the prime point to make, the government isn't taking anything the owner HAS, or had a reasonable expectation to, just ensuring their existing value to the land is preserved.

If such takings were about potential losses any environmental or even building laws creates, then every square foot subject to ANY regulation across the State would have to be compensated for, and there's NO legal theory demanding that at any scale obviously.

So Mickie, the point of all my above mansplaining is if there ain't no home on the site now, nor ever was within the lot when created, the developer hasn't lost a thing.

They still have what they bought, a very valuable and beautiful bit of stream habitat and so NO taking of their existing "use and enjoyment" has occurred period.

It wasn't "reasonable" for them to expect to build a home there, just a hopeful gamble that they can illegally force it to happen, which would entail great expense to the public's reasonable belief that its own interest in resources onsite would be protected.

James D. Mattila

Fisheries Research Scientist, Aquatic Ecologist and Natural Historian

Education

- BS Fisheries Science (Aquatic Ecology) University of Washington, June 2005.
- Associates in Science Edmonds Community College June 2002

Work and other experience

Over two decades experience conducting salmonid spawning and habitat surveys.

Nine years' experience in general fisheries lab work involving fish aging, calorimetric processing and diet examination, along with data entry and analysis.

Field sampling a wide variety of aquatic organisms for genetic, ecological or biological information via, net, hook and line, electrofishing or trapping.

Habitat analysis of aquatic and riparian zones, along with the attendant Hydrology, Geology, Forestry and Ecology.

Research involving all stages of Salmonid life history within Puget Sound and their associated inland habitat.

A lifetime of experience in local and natural historical research and natural resource assessment.

Twenty years experience in construction/contracting involving everything from heavy equipment to finish hammer.

Vintage vehicle purchase, repair, restoration and sales.

Reading, Flyfishing, Hunting, Photography, Astronomy, Music, Computer Aided Photo and Data Restoration, Compiling and Synthesizing Natural Resource History.

Most Recent Employer: Currently self-employed with private research and writing.

Washington Cooperative Fish and Wildlife Research Unit

Research Scientist Summer 2009– Summer 2010

- Organize and performed food-web studies in Chester Morse Reservoir and Clackamas River and other aquatic systems that included field sampling, hydroacoustics, calorimetry and diet analysis.

Lab and Field Technician Summer 2001- Summer 2009

- Assisted with trophic fish and zooplankton studies in Puget Sound, Lakes Washington, Sammamish, Wenatchee and Chelan.
- Literature search and copy support

Washington Department of Fish and Wildlife

- Conducted seasonal Salmonid redd and escapement counts.
- Volunteer historical research and compiler

King County Department of Natural Resources June 1997 – June 2001

- Conducted wetland assessment and amphibian surveys. Performed benthic indexing. Collected genetic samples. Surveyed geomorphologic and habitat conditions in local Salmonid streams. Gathered and disseminated historical information for local aquatic resources. Data entry and resource mapping into programs such as Excel and Arcview.

The Plumbers, Snohomish Washington, and associated corporations 1977 - 1997

- Performed a wide variety of contracting work involving commercial and residential construction.



People for an Environmentally Responsible Kenmore

5934 NE 201st St., Kenmore, WA, 98028

January 27, 2022

Lake Forest Park City Council

Re: Comments by People for an Environmentally Responsible Kenmore
File Number 2021-RUE-0001
Proponent: Mark Garey

Dear City Council Members,

It has come to our attention that a property development has been proposed that we believe will seriously impact Lyon Creek, a tributary to Lake Washington. People for an Environmentally Responsible Kenmore (PERK), is non-profit 501(c)(3) organization dedicated to the preservation of the natural ecosystems: streams, wetlands, and forests not only in Kenmore but also throughout the North Lake Washington watershed. Lake Forest Park and Kenmore share a number of tributary watersheds, and we need to work together to protect what is left of our natural habitats. Critical areas ordinances can be a powerful tool to reduce the impact of development and preserve some of the critical environmental services that wetlands and streams provide. Given the level of development that was undertaken prior to the updating of buffer zones and stormwater retention codes, there has been a serious degradation of natural habitats in our cities. That is why we are urging you to not provide any waiver or variance to the existing codes under the reasonable use exception. The health of our stream systems hangs in the balance. The present level of impervious surface in these watersheds is close to the breaking point and we need to protect existing stream buffers to limit storm event scour and stabilize water flows. Recovery of habitats is a long process, and losing any ground now would further imperil the remaining salmon and aquatic species that are tenuously struggling to persist.

Sincerely,

Elizabeth Mooney
PERK President
206-979-3999

File number: 2024-SEPA-0001

Proponent: Mark Garey

The City of Lake Forest Park has determined that this proposal, as designed, revised, and conditioned, will not have a probable significant adverse impact on the environment.

because:

the proposal has been clarified, changed, and conditioned to include necessary mitigation measures to avoid, minimize or compensate for probable significant impacts.

and goes on to say that this:

determination is based on findings and conclusions that the project design minimizes impacts within the stream buffer with a greatly reduced footprint

“Greatly reduced” from what? A previous proposal? The applicant’s original desires are not relevant to the discussion of whether this is the minimum necessary damage to critical areas to grant reasonable use. A school child could assess that the footprint on this exceptional lot would need to be smaller than others, with the sloughing steep slope and the wide deep stream channels, sitting as it does below the roadway.

Indeed, the table that purports to justify the footprint and ultimate square footage of this new home is at best biased. A quick survey of the surrounding homes via King County Parcel Viewer shows the five surrounding homes, all on 12,000 to 15,000 sq ft lots, to be 2430 sq ft, 1970 sq ft, 780 sq ft, 1710 sq ft, and 1840 sq ft, or an average of 1746 sq ft. (Throwing out the highest and lowest would still be 1840 sq ft.) The house is allowed 30ft in height, or 3 stories (a restriction that might appropriately be waived to, for example, preserve say, 100sq ft of functioning wetland in the buffer of a salmonid stream.)

A three story 1,000sq ft footprint could accommodate a 500sq ft garage, plus up to 2500sq ft of living space- far exceeding the surrounding properties. Is a 1,100sq ft footprint truly the minimum required for reasonable use of this property? It may meet precedent, but it is not exceptional, a win for the critical areas, or currency to merit more damage in other aspects of the proposal.

The documents note that:

critical areas left unencumbered by project impacts shall be protected in perpetuity via a critical area easement.

Indeed, this is wonderful. But, of course, no one in their right mind would suffer the expense to build on these “unbuildable” portions. Again, it is not really brownie points to spent later in allowed damage that is not the minimum required for reasonable use.

The MDNS states that the:

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)

But the SEPA checklist says only that:

the mitigation as designed will increase stream buffer function.

Extra planting in a 1 to 1.4 ratio is better than only doing those planting in a 1:1 area, but is it demonstrated to be such a substantive improvement that the new smaller buffer will maintain function that exceeds the existing buffer? I see no justification for this optimistic assessment in the materials I could find. I don’t feel this plan ensures an increase in buffer function, and

am wondering why the city is taking this stand in defence of this proposal.

In what may be a petty criticism, why is the accepted SEPA checklist from Mar 2, 2024 simply the applicant's previously submitted checklist, with notes written in in red by the staff? Why was the applicant not required to change answers that seem erroneous based on the added comments?

For example, SEPA checklist section B. 1. d.) are there surface indications of unstable soils? is answered: "No / **Frequently flooded Areas**. Indeed, the frequently flooded areas highlight just how important the functioning wetlands onsite are for stormwater management. The evidence of flooded areas IS pertinent when flooding can happen so close to steep slopes that could slough into a salmon stream channel. So is the answer to this question still "No"?

Why are the types of soils found on the site still "unknown"? Is this accurate?

How could animals be "n/a"? There are no applicable animals here? Coho spawning is documented in this stream segment. Are the salmon addressed in other documents? There are no birds or salamanders here? None of the small mammals that grace most of our backyards? Isn't the purpose of the SEPA checklist to show consideration for each of key aspects (earth, water, air, plants and animals)? How has this application been given a pass on addressing all animals but humans?

Given the nature of the site, I am sceptical that not a single wetland indicator plant is found on the site. And I believe there is at least one fir. These details may be inconsequential, but they just look sloppy.

Given that "potential for erosion exists," are basic BMPs adequate for monitoring during construction? This is a salmonid stream. But perhaps DFW will address this. Will there be any restrictions on when building takes place? An inadvertent turbidity event, even recognized, acknowledged and mitigated could be catastrophic to the salmonids known to be in this stream and areas downstream.

The SEPA checklist has other clear deficits. When stream buffer and wetlands co-exist, often the buffer restrictions are more significant and more primarily addressed. In this case, the salmonid stream is indeed very important, but wetland also exists and are an essential feature of this lot. The lot sits below the roadway. It receives significant runoff- at seemingly ever-increasing peak flows (as more impervious surface and development occur above this drainage area. How has an entire SEPA been completed and approved without mentioning the wetlands? This property IS the stormwater management plan for homes downstream. It does not seem that stormwater management has been adequately looked at in this proposal. Any contributing function of existing wetlands does not seem to be given even cursory lip service in the documents I was able to review. As a taxpayer who will be paying for any downstream flooding caused or exacerbated by this proposal, I feel the city should have done a better job protecting the citizenry in this regard. If the applicant is required to monitor whether the new plantings survive for 10 years, might it not be even more pertinent and appropriate for this proposal to monitor storm runoff from the property for at least some period? If in fact the plan, as stated, will completely address storm and surface water management, then documented success would do much to reassure all of us downstream.

Given that the stormwater system proposed is relying on infiltration, and "Will be installed per stormwater standards," isn't a wetland assessment pertinent here? How will it infiltrate if it is

Jean Reid
18551 28th Ave NE
Lake Forest Park resident

inundated? The superficial treatment of this issue in the documents I could find is not appropriate.

Why is the percent impervious surface, "Approximately 1,500 Sf"? Isn't the relevant information a percent? The answer is less important than the apparent lack of diligence and respect for the process.

Previous concrete is "Planned." Given the critical storm water functions here, can't pervious concrete or pervious pavers be "Required"?

This proposal has not addressed the question of the potential CUMULATIVE water quality and storm water impacts that would occur if similar development was allowed on other undeveloped lots.

The applicant states that:

There would be no detriment to the public health, safety or welfare, on or off the parcel, as a result of the proposed development.

The documents submitted leave me unconvinced.

Sincerely,

Jean Reid

From: Peter Lance <peter.v.lance@gmail.com>
Sent: Tuesday, March 18, 2025 3:21 PM
To: David Greetham <dgreetham@cityoflfp.gov>
Subject: 2021-RUE-0001. Garey property - an owner created defective property

Dear Hearing Examiner,

This property is a defective property that is part of what was once a fully usable property that was not defective. It is a defective lot that was manufactured and fully understood to be defective when created by the owner during the short plat process.

The reasonable use of this lot was and is still present in the other lots that are part of the original short plat. The other lots have Reasonable Use and have homes upon them. There is no logical reason that the DELIBERATE creation of a faulty, defective lot by the owner or previous owner should create a Reasonable Use Exception. Just because a lot may have lot status does not confer that the lot is buildable or should be eligible for exception from critical areas ordinances.

The title report provided by the applicant is deficient. It does not include potentially key exhibits that are difficult to obtain from King County. The title report should show what the exhibits are for item C3, C4, and C7. These documents are related to steep slopes and the original short plat and amendments. This information should be readily available to all interested parties and easily accessible in the city records.

Thank you,

Peter Lance
206-948-8922
[6501 NE 151st St](#)
[Kenmore, WA 98028](#)




RUE Garey, Hearing Examiner

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

Date Wed 3/19/2025 4:48 PM

To David Greetham <dgreetham@cityofflp.gov>

 1 attachment (9 MB)

3611RealEstatePlat.pdf;

Hearing Examiner

The owner of this lot shot himself in the foot when granting an easement across the west 15 of the lot. This easement made the lot difficult to build on the high ground away from Lyon's Creek along the west side of the lot. This request for an RUE should be denied.

See:

March 6, 2025

Staff Report and Recommendation.

Mark Garey Reasonable Use Exception

(2021-RUE-0001)

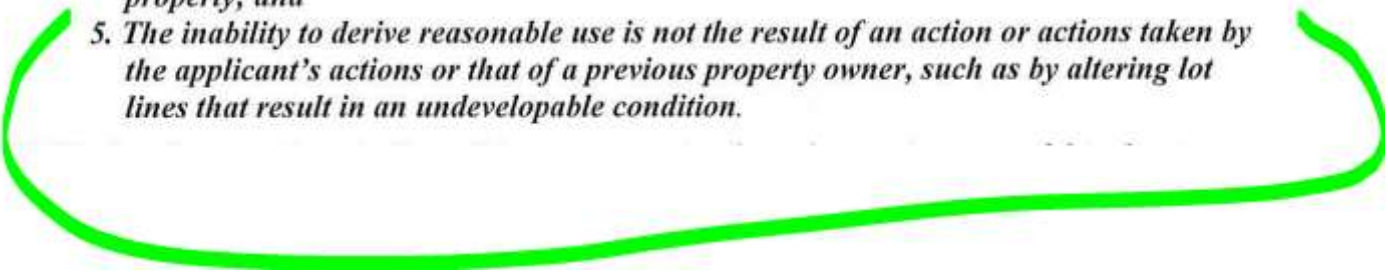
https://www.cityofflp.gov/DocumentCenter/View/12199/Exhibit-1_Staff-Report_GareyRUE?bidId=

See the attachment for the plat and look at the applicants title.

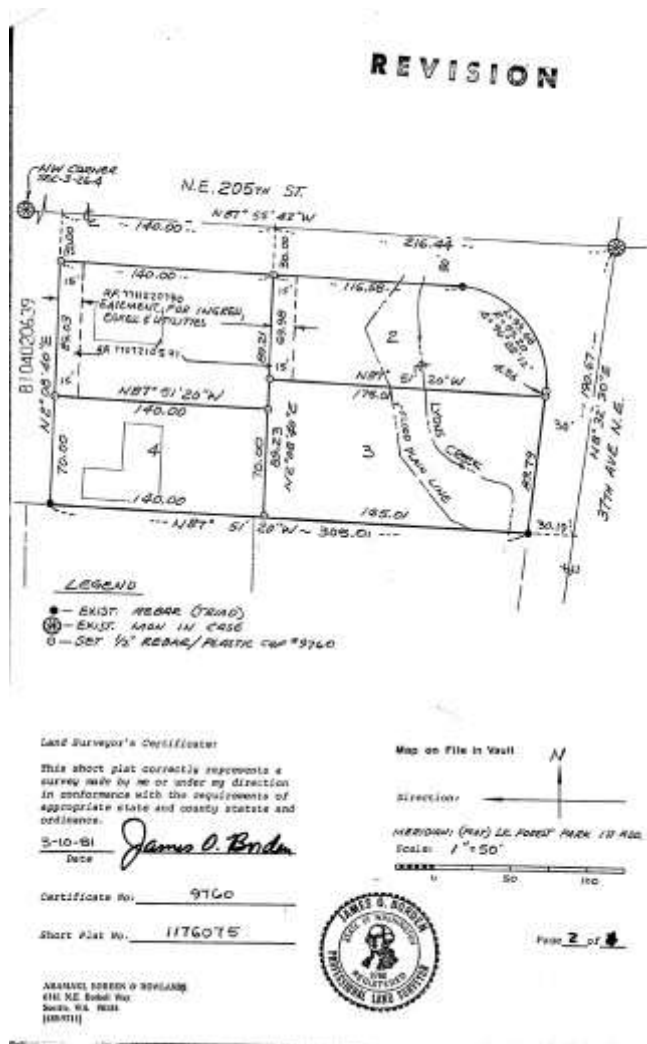
D. The hearing examiner shall grant an exception only if:

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

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

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

In this case the owner of the property granted an easement along the west edge 15 of the lot creating a situation where the western part of the lot was no longer developable. If the western 15 feet of the lot was not encumbered by this easement that was voluntarily given up by an owner the lot could be developed. Below is a picture of the easement on lot 2. I am sorry I do not have a better image to offer. This should have been in the title package as an exhibit not just provided as a referenced recording number.



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
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REVISION

S. 3 T. 26 R. 4

SHORT PLAT NO 1176075-

KING COUNTY, WASHINGTON

8104020639

#0639 B

6.00

81/04/02
RECD F
SHSL

Recording Number

This space reserved for
recorder's use

Filed for record at the
request of:

MERLE MACHMILLER
Name

Return to:
Building & Land Development
450 KC Administration Bldg
Seattle, Washington 98104

APPROVAL

Department of Planning and Community Development
Building and Land Development Division

Examined and approved this 26 day of

March, 1981
Edward B. Davis
Manager, Building & Land Development Division

Department of Public Works

Examined and approved this 19th day of

March, 1981
Paul C. Hagen
Director

Department of Assessments

Examined and approved this 25 day of

March, 1981
HARLEY H. HORDE
Assessor
A. Martin
Deputy Assessor

LEGAL DESCRIPTION

ENTIRE LEGAL:

That portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot;
EXCEPT that portion conveyed to King County for road purposes under A.F.#7312200101

SUBJECT TO AND TOGETHER WITH easements recorded under A.F.#7711220730 & 7707210591.
ALSO SUBJECT TO easements as recorded under A.F.# 7711020750, 7312200101, 7308300439.

RECORDED THIS DAY
APR 2 2 04 PM '81
BY THE CLERK OF
RECORDS & ELECTIONS
KING COUNTY

NW 1/4 of NW 1/4
3-26-4
402290-0496
-0497
-0499
-0501

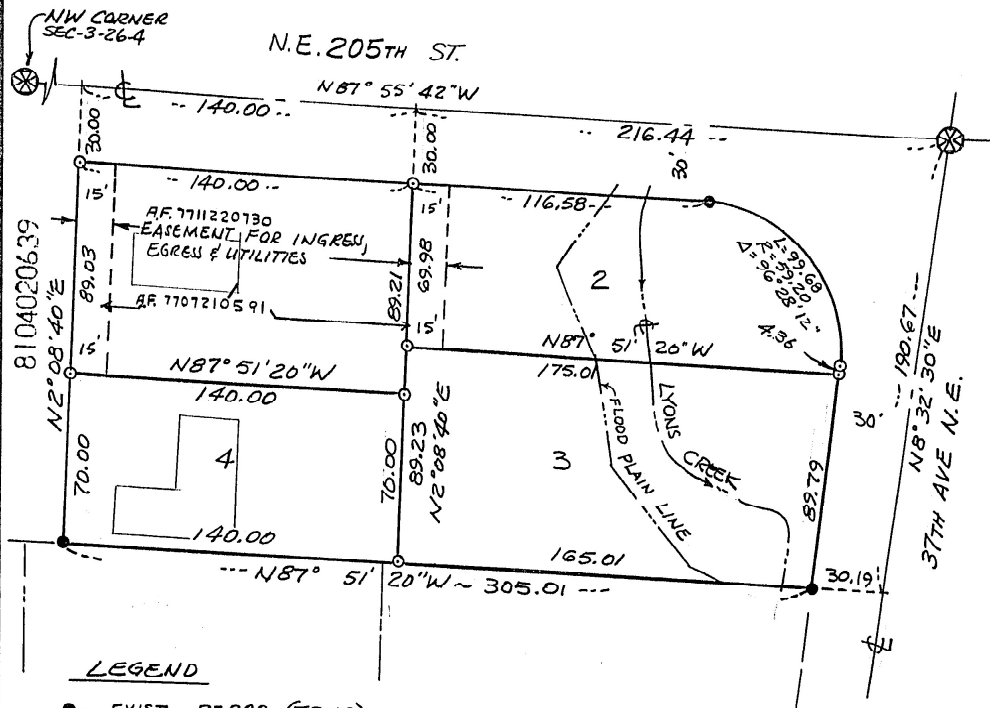
Map on File in Vault

Page 1 of 4

ARAMAKI, BORDEN & ROWLANDS
6141 N.E. Bothell Way
Seattle, WA 98155
(485-9711)



REVISION



LEGEND

- - EXIST. REBAR (TRIAD)
- ⊗ - EXIST. MON IN CASE
- - SET 1/2" REBAR/PLASTIC CAP #9760

Land Surveyor's Certificate:

This short plat correctly represents a survey made by me or under my direction in conformance with the requirements of appropriate state and county statute and ordinance.

3-10-81

Date _____

James O. Borden

Certificate No: 9760

Short Plat No. 1176075

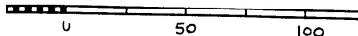
ARAMAKI, BORDEN & ROWLANDS
6141 N.E. Bothell Way
Seattle, WA 98155
(485-9711)

Map on File in Vault

Direction:

MERIDIAN: (PLAT) LK. FOREST PARK 1ST ADD.

Scale: 1" = 50'



DECLARATION:

REVISION

KNOW ALL MEN By these presents, that we, the undersigned, owners in fee simple [and contract purchaser(s)] of the land herein described, do hereby revise Short Subdivision Application No. 1176075 as recorded under Recording No. 7707210591, Records of King County, Washington, and by this Revised Short Subdivision thereof pursuant to RCW 58.17.060 declare this revised short plat to be the graphic representation of the same, and that said revised short subdivision is made with the free consent, and in accordance with the desire of the owner(s).

IN WITNESS WHEREOF We have set our hands and seals.

Merle O. Machmiller
Name

Merle O. Machmiller

[Signature]
Name

CRAIG R. BRAND, VICE-PRESIDENT
GREAT WESTERN UNION FEDERAL SAVINGS
AND LOAN ASSOCIATION

Irene Machmiller
Name

Irene Machmiller

[Signature]
Name

[Signature]
Name

STATE OF WASHINGTON, } ss.

County of King

On this day personally appeared before me Irene Machmiller

to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 21 day of January, 1981.



R. K. [Signature]
Notary Public in and for the State of Washington,
residing at Seattle

STATE OF WASHINGTON, } ss.

County of KING

On this day personally appeared before me CRAIG R. BRAND, VICE-PRESIDENT

of Great Western Union Federal Savings and Loan Association

to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that HE signed the same as HIS free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 16TH day of MARCH, 1981.

Rebecca E. Lee
Notary Public in and for the State of Washington,
residing at Edmonds

seal

Short Plat Number 1176075

Page 3 of 4

REVISION

S. 3 T. 22 R. 4

SHORT PLAT NO 1176075
KING COUNTY, WASHINGTON

8104020639

91/04/02

Recording Number

This space reserved for
recorder's use

Filed for record at the
request of:

MERLE MACHMILLER
Name

Return to:
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450 KC Administration Bldg
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APPROVAL

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March, 1981
Paul B. Hagen
Director

Department of Assessments

Examined and approved this 25 day of

March, 1981
Harley H. Howe
Assessor
P. Martin
Deputy Assessor

LEGAL DESCRIPTION

ENTIRE LEGAL:

That portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot;
EXCEPT that portion conveyed to King County for road purposes under A.F.#7312200101

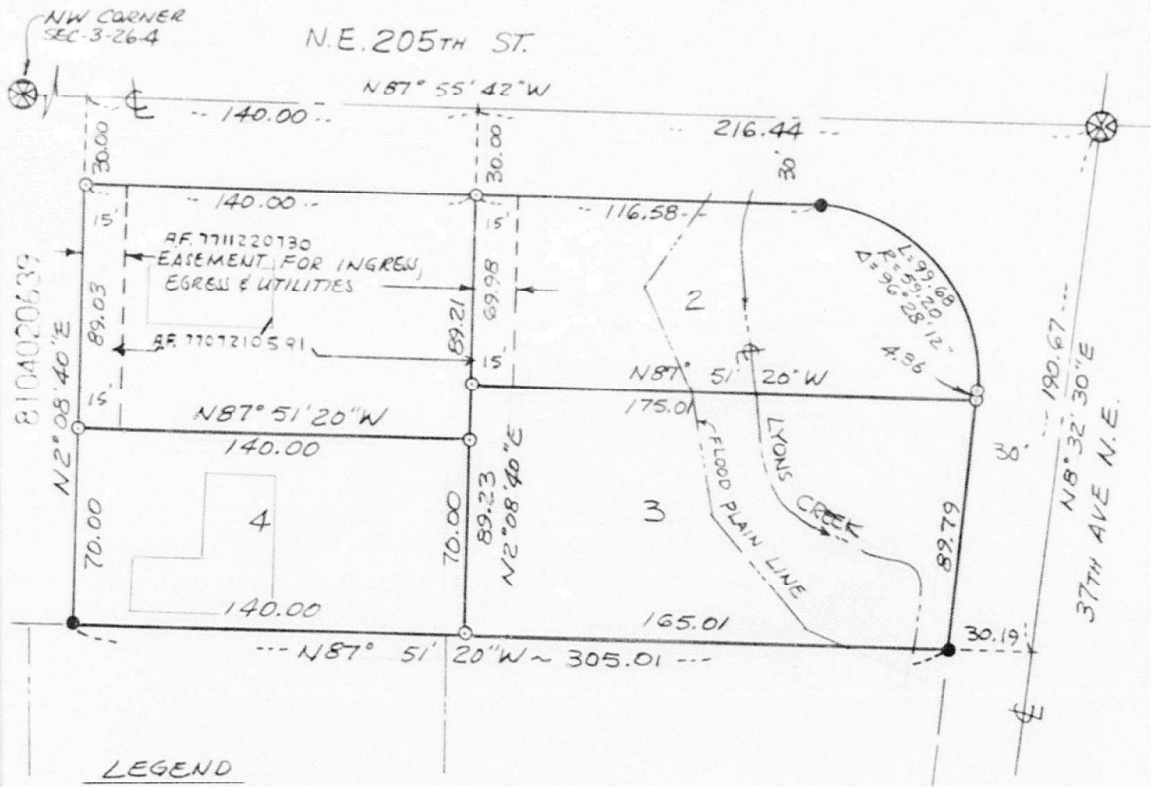
SUBJECT TO AND TOGETHER WITH easements recorded under A.F.#7711220730 & 7707210591.
ALSO SUBJECT TO easements as recorded under A.F.# 7711020750, 7312200101, 7308300439.

RECORDED THIS DAY
APR 2 2 04 PM '81
RECORDS & ELECTIONS
AND CLERK

NW 1/4 of NW 1/4
3-26-4
402290-0496
-0497
-0497
-0501

Map on File in Vault

REVISION



- LEGEND**
- - EXIST. REBAR (TRIAD)
 - ⊗ - EXIST. MON IN CASE
 - - SET 1/2" REBAR/PLASTIC CAP #9760

Land Surveyor's Certificate:

This short plat correctly represents a survey made by me or under my direction in conformance with the requirements of appropriate state and county statute and ordinance.

3-10-81
Date

James O. Borden

Certificate No: 9760

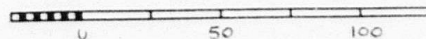
Short Plat No. 1176075

Map on File in Vault

Direction:

MERIDIAN: (PLAT) LK. FOREST PARK 1ST ADD.

Scale: 1" = 50'



Page 2 of 4

DECLARATION:

REVISION

KNOW ALL MEN By these presents, that we, the undersigned, owners in fee simple [and contract purchaser(s)] of the land herein described, do hereby revise Short Subdivision Application No. 1176075 as recorded under Recording No. 7707210591, Records of King County, Washington, and by this Revised Short Subdivision thereof pursuant to RCW 58.17.060 declare this revised short plat to be the graphic representation of the same, and that said revised short subdivision is made with the free consent, and in accordance with the desire of the owner(s).

IN WITNESS WHEREOF We have set our hands and seals.

Merle O. Machmiller
Name

Merle O. Machmiller

[Signature]
Name

CRAIG R. BRAND, VICE-PRESIDENT
GREAT WESTERN UNION FEDERAL SAVINGS
AND LOAN ASSOCIATION

Irene Machmiller
Name

Irene Machmiller

[Signature]
Name

[Signature]
Name

STATE OF WASHINGTON, } ss.

County of King

On this day personally appeared before me Irene Machmiller

to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 21 day of January, 1981.

[Signature]
Notary Public in and for the State of Washington,
residing at Seattle

STATE OF WASHINGTON, } ss.

County of KING

On this day personally appeared before me CRAIG R. BRAND, VICE-PRESIDENT

of Great Western Union Federal Savings and Loan Association
to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that HE signed the same as HIS free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 16TH day of MARCH, 1981.

[Signature]
Notary Public in and for the State of Washington,
residing at Edmonds

seal

STATE OF WASHINGTON

COUNTY OF King

On this 16th day of March, A. D. 1931, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Craig R. Brand, Vice President
and XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX respectively, of
GREAT WESTERN UNION FEDERAL SAVINGS AND LOAN ASSOCIATION, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Notary Public in and for the State of Washington
residing at Edmonds

STATE OF WASHINGTON

500

JUL-21-77 100038 7707210591 - E RF

S. 3 T. 26 R. 4SHORT PLAT NO 1176075

KING COUNTY, WASHINGTON

This space reserved for
recorder's use

RECORDED NO RECORD

JUL 21 1977

Filed for record at the
request of:

GRADY MITCHELL

Name

Recording Number

Return to:

Building & Land Development
450 KC Administration Bldg
Seattle, Washington 98104

APPROVAL

Department of Planning and Community Development
Building and Land Development DivisionExamined and approved this 20 day of

July

19 77

Edward B. Land

Manager, Building & Land Development Division

Department of Public Works

Examined and approved this 23 day of

March

19 77

Director

Department of Assessments

Examined and approved this 23 day of

March

19 77

HARLEY H. HOPPE

Assessor

Deputy Assessor

LEGAL DESCRIPTION

✓ ENTIRE LEGAL: That portion of Lot 1 in Block 3 of First Addition to Lake Forest park, as per plat recorded in Volume 20 of Plats, on page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot;
EXCEPT that portion conveyed to King County for road purposes under Recording No. 7312200101.

✓ PARCEL 1: The Westerly 160.00 feet of that portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, on page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot;
EXCEPT that portion conveyed to King County for road purposes under Recording No. 7312200101.
EXCEPT the Southerly 70.00 feet thereof;
SUBJECT TO AND TOGETHER WITH an easement for ingress, egress, and utilities as shown graphically on King County Short Subdivision No. 1176075.

PARCEL 2: That portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, on page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot;
EXCEPT that portion conveyed to King County for road purposes under Recording No. 7312200101;
EXCEPT the Southerly 70.00 feet thereof, and,
EXCEPT the Westerly 160.00 feet thereof;
SUBJECT TO AND TOGETHER WITH an easement for ingress, egress, and utilities as shown graphically on King County Short Subdivision No. 1176075.

Map on File in Vault

Page 1 of 4

NW 3-26-4

402296-0496-0497

GRADY MITCHELL
Legal Descriptions

7707210591

✓ PARCEL 3: The Southerly 70.00 feet of that portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, on page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot; EXCEPT that portion conveyed to King County for road purposes under Recording No. 7312200101; EXCEPT the Westerly 160.00 feet thereof. SUBJECT TO AND TOGETHER WITH an easement for ingress, egress, and utilities as shown graphically on King County Short Subdivision No. 1176075

✓ PARCEL 4: The Westerly 160.00 feet of the Southerly 70.00 feet of that portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, on page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot; EXCEPT that portion conveyed to King County for road purposes under Recording No. 7312200101; SUBJECT TO AND TOGETHER WITH an easement for ingress, egress, and utilities as shown graphically on King County Short Subdivision No. 1176075.

7707210591

Hand-drawn survey map showing four parcels (1, 2, 3, 4) with bearings, distances, and area calculations. The map includes a creek, easements, and a flood plain. A note at the bottom states: "LINE AS DEFINED BY ROGER BRAZIER - K.C. HYDRAULICS PER VISIT ON 6/21/77".

Parcel 1: 12,925 S.F. (Northwest corner)

Parcel 2: 11,730 S.F. (Northeast corner)

Parcel 3: 10,425 S.F. (Southeast corner)

Parcel 4: 11,200 S.F. (Southwest corner)

Key Features:


- North Boundary:** N.E. 205TH ST. N 87° 55' 42" W 356.44
- East Boundary:** LYONS CREEK (curved boundary with radius R=59.99, angles 40° 22' 00" and 99° 16' 17")
- South Boundary:** N 87° 51' 20" W 305.01
- West Boundary:** N 2° 08' 40" E 159.03
- Internal Boundaries:**
 - Parcel 1 to 2: N 87° 51' 20" W 160.00
 - Parcel 2 to 3: N 87° 51' 20" W 152.86
 - Parcel 3 to 4: N 2° 08' 40" E 70.00
 - Parcel 4 to 1: N 2° 08' 40" E 89.03
- Easements:** 15' wide easements are shown along the west and north boundaries of Parcel 1.
- Flood Plain:** A dashed line labeled "FLOOD PLAIN" runs along the east boundary of Parcel 3.
- Other Measurements:**
 - Parcel 1 to 2: 96.59
 - Parcel 2 to 3: 23.71
 - Parcel 3 to 4: 70.44
 - Parcel 4 to 1: 160.00
 - Parcel 1 to 2: 160.00
 - Parcel 2 to 3: 152.86
 - Parcel 3 to 4: 104.25
 - Parcel 4 to 1: 89.03

LINE AS DEFINED BY
ROGER BRAZIER - K.C. HYDRAULICS
PER VISIT ON 6/21/77



Map on File in Vault

Direction: *W* ←



DECLARATION:

Know all men by these presents that we, the undersigned, owner(s) in fee simple [and contract purchaser(s)] of the land herein described do hereby make a short subdivision thereof pursuant to RCW 58.17.060 and declare this short plat to be the graphic representation of same, and that said short subdivision is made with the free consent and in accordance with the desire of the owner(s).
In witness whereof we have set our hands and seals.

Grady E. Mitchell
Name

Name

Cathy A. Mitchell
Name

Name

Name

Name

STATE OF WASHINGTON, }
County of KING } ss.

On this day personally appeared before me GRADY E. MITCHELL
E CATHERINE A MITCHELL HIS WIFE
to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that _____ signed the same as _____ free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 5 day of Feb, 1978.

P. C. [Signature]
Notary Public in and for the State of Washington,
residing at KIRKLAND

seal

STATE OF WASHINGTON, }
County of _____ } ss.

On this day personally appeared before me _____

to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that _____ signed the same as _____ free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this _____ day of _____, 19____.

Notary Public in and for the State of Washington,
residing at _____

seal

7707210591

EASEMENT FOR A SEWER

THIS AGREEMENT, made this 21 st day of October 19 77.

between Grady E. Mitchell and Cathy A. Mitchell

and _____

and _____

owners of See attached legal description

and _____

and _____

WITNESSETH: That for and in consideration of the mutual covenants herein expressed, it is hereby agreed between the above parties that:

1st - There shall be an easement six (6) feet wide for side sewer along the line of said side sewer as constructed for the use and benefit of said properties.

2nd - The cost of maintenance, repair or reconstruction of that portion of the sewer used in common shall be borne in equal shares, except that the owners of any lower parcel shall not be responsible for the part of the sewer above their connection; and when necessary to repair, clean or reconstruct the sewer the parties to this agreement shall have a right of entry for that purpose.

3rd - This agreement shall be a covenant running with the land and shall be binding upon all parties and their heirs and assigns forever.

IN WITNESS WHEREOF we hereunto set our hands and seals the day and year first above written.

Grady E. Mitchell (SEAL) Cathy A. Mitchell

(SEAL) _____

(SEAL) _____

STATE OF WASHINGTON)
COUNTY OF KING) SS

On this 21st day of Oct, 19 77,
personally appeared before me

Grady E. Mitchell & Catherine
Mitchell

to me known to be the individual described in and who executed the within instrument and acknowledged that they signed and sealed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

P. C. Jensen

Notary Public in and for the State of Washington, residing at Seattle.

Portion of this document poor quality for filming

7711020750

0102577-I

7711020750

✓ PARCEL 1: The Westerly 160.00 feet of that portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, on page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot; EXCEPT that portion conveyed to King County for road purposes under Record No. 7312200101.

EXCEPT the Southerly 70.00 feet thereof;
SUBJECT TO AND TOGETHER WITH an easement for ingress, egress, and utilities as shown graphically on King County Short Subdivision No. 1176075.

PARCEL 2: That portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, on page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot;

EXCEPT that portion conveyed to King County for road purposes under Recording No. 7312200101;
EXCEPT the Southerly 70.00 feet thereof, and,
EXCEPT the Westerly 160.00 feet thereof;
SUBJECT TO AND TOGETHER WITH an easement for ingress, egress, and utilities as shown graphically on King County Short Subdivision No. 1176075.

Map on File in Vault

Page 1 of 1

NW 3-26-4

102296-0496-0497

✓ PARCEL 4: The Westerly 160.00 feet of the Southerly 70.00 feet of that portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, on page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot;

EXCEPT that portion conveyed to King County for road purposes under Recording No. 7312200101;
SUBJECT TO AND TOGETHER WITH an easement for ingress, egress, and utilities as shown graphically on King County Short Subdivision No. 1176075.

NOV-2-77 100186 7711020750 -- A HF

4.00

NOV 2 11 36 AM '77
RECORDED KC RECORDS

FILED for Record at Request of

RONALD SEWER DISTRICT
17505 Linden Ave. N.
Post Office Box 33490
Seattle, WA 98133

EASEMENT (UNDERGROUND & SURFACE RIGHTS)

FILE No. 2215
COMPTROLLER

THIS INDENTURE, made this 21st day of October

1977

between GRADY E. MITCHELL and CATHERINE A. MITCHELL, his wife,

hereinafter called the Grantor S, GREAT WESTERN UNION FEDERAL SAVINGS AND LOAN

ASSOCIATION, a corporation hereinafter called the Mortgagee, and the CITY OF SEATTLE, a municipal corporation, hereinafter called the Grantee, WITNESSETH:

That the Grantor S, for and in consideration of the sum of One and No/100 Dollars (\$ 1.00) and other valuable considerations, receipt of which is hereby acknowledged, hereby convey and grant to the Grantee, its successors and assigns, the right, privilege and authority, to install, construct, erect, alter, repair, energize, operate and maintain electric underground transmission and distribution facilities, at depths not exceeding six feet, consisting of vaults, manholes, handholes, ducts, conduits, cables, wires and other necessary or convenient appurtenances; ALSO the right, privilege and authority to the Grantee, its successors and assigns, to install, construct, erect, alter, repair, energize, operate and maintain at the ground level, electric transformer units, electric junction cabinets and/or containers, together with such appurtenances necessary to make said underground and surface installations an integrated electric system, all such electric system to be located upon, under, over and across the following described lands and premises situated in the COUNTY OF KING, State of Washington, to-wit:

The west 15 feet of the property described as follows:

The westerly 160.00 feet of that portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, page 82, records of King County, Washington, lying east of a line drawn at right angles to the south line of said lot from a point in said south line distant 305.01 feet west from the southeast corner of said lot; EXCEPT that portion conveyed to King County for road purposes under Recording No. 7312200101.
EXCEPT the southerly 70.00 feet thereof.

Nov 22 11 17 AM '77

RECORDED KC RECORDS

Together with the right at all times to the Grantee, its successors and assigns, of ingress to and egress from said lands across adjacent lands of the Grantor S for the purpose of installing, constructing, altering, repairing, energizing, operating and maintaining said electric system, and the right at any time to remove all or any part of said electric system from said land.

The CITY OF SEATTLE is to be responsible, as provided by law, for any damage to the Grantor S through its negligence in the construction, operation and maintenance of said electric system, across, over, upon and under the property of the Grantor S.

The rights, title, privilege and authority hereby granted shall continue and be in force until such time as the Grantee, its successors or assigns, shall permanently remove all said electric system from said lands, or shall permanently abandon said electric system, at which time, all such rights, title, privilege and authority shall terminate.

Any mortgage on the said premises held by the Mortgagee, above named, is hereby released to the extent, but only to the extent, necessary to subordinate said mortgage to the easement herein granted to the Grantee.

IN WITNESS WHEREOF, this instrument has been executed the day and year first above written.

GREAT WESTERN UNION FEDERAL SAVINGS
AND LOAN ASSOCIATION

By: Elizabeth McCoy
Title: Vice President

Grady E. Mitchell
GRADY E. MITCHELL
Catherine A. Mitchell
CATHERINE A. MITCHELL

By: 1% EXCISE TAX NOT REQUIRED
Title: King Co. Records Division

By: J. T. Tschopp
Deputy

STATE OF WASHINGTON, } ss.
COUNTY OF KING

I, the undersigned, a Notary Public, do hereby certify that on this 21st day of Oct, 1977,
personally appeared before me GRADY E. MITCHELL and CATHERINE A. MITCHELL,

his wife, to me known to be the individual described in and who executed the within instrument, and acknowledged that they
signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal the day and year in this certificate above written.

P. C. [Signature]
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT KIRKLAND

STATE OF WASHINGTON, } ss.
COUNTY OF

I, the undersigned, a Notary Public, do hereby certify that on this _____ day of _____, 19____,
personally appeared before me _____ and _____

his wife, to me known to be the individual described in and who executed the within instrument, and acknowledged that _____
signed the same as _____ free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal the day and year in this certificate above written.

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON.

RESIDING AT _____

(FOR CORPORATE ACKNOWLEDGMENT)

STATE OF WASHINGTON, } ss.
COUNTY OF KING

On this 21st day of October, A. D., 1977, before me personally appeared ELIZABETH MCCOY
to me known to be the VICE President, and Great Western Union Federal Savings and Loan Association, to me known to be the
~~Secretary~~ of the corporation that executed the within and foregoing instrument, and each acknowledged that said instrument to be
the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and each on oath stated that
they were authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Shirley Rollman
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT Rickland

APPROVED AS TO FORM ONLY
JOHN P. HARRIS
CORPORATION COUNSEL

John P. Harris
ASSISTANT

Date Nov 4, 1977

PAGE _____

RECORDED IN VOLUME _____

RECORDING DATA

COUNTY _____

FILED FOR RECORD AT REQUEST OF
TO
CITY OF SEATTLE
DEPARTMENT OF LIGHTING
1015 THIRD AVENUE
SEATTLE 4, WASHINGTON

FROM _____

EASEMENT

CONTROLLER FILE
NO _____

EASEMENT (Overhead and Underground)
P.M. #260403-2-027

THIS INDENTURE, made this 11th day of December 19 89,
between EXCEL ENTERPRISES, INC., a Washington corporation, hereinafter
called the Grantor; and the CITY OF SEATTLE, a municipal corporation,
hereinafter called the Grantee; WITNESSETH:

That the Grantor, for and in consideration of the sum of One Dollar
(\$1.00) and other valuable considerations, receipt of which is hereby
acknowledged, hereby conveys and grants to the Grantee, its successors and
assigns, the right, privilege and authority to install, construct, erect,
alter, improve, repair, energize, operate and maintain electric overhead
and underground distribution facilities at depths not exceeding 15 feet,
which consist of poles with braces, guys and anchors, crossarms,
transformers, ducts, vaults, manholes, cabinets, containers, conduits,
wires and other necessary or convenient appurtenances to make said
underground and overhead installations an integrated electric system. All
such electric system is to be located across, over, upon and under the
following described lands and premises situated in the County of King,
State of Washington, to wit:

The westerly 50 feet of Lot 2 of revised King County
Short Plat No. 1176075 recorded under recording No.
8104020639, records of King County, Washington.

Together with the right at all times to the Grantee, its successors
and assigns, of ingress to and egress from said lands across adjacent lands
of the Grantor for the purpose of installing, constructing, reconstructing,
repairing, renewing, altering, changing, patrolling, energizing and
operating said electric system, and the right at any time to remove all or
any part of said electric system from said lands.

Also the right to the Grantee, its successors and assigns, at all
times to cut and trim brush, trees or other plants standing or growing upon
said lands which, in the opinion of the Grantee, interfere with the
maintenance or operation of the system, or constitute a menace or danger to
said electric system.

The Grantor, their, executors, administrators, successors and
assigns, hereby covenant and agree that no structure or fire hazards will
be erected or permitted within the above described easement area without
prior written approval from the Grantee, its successors and assigns; that
no digging will be done or permitted within the easement area which will in
any manner disturb the facilities or their solidity or unearth any portion
thereof; and that no blasting or discharge of any explosives will be
permitted within fifty (50) feet of said lines and appurtenances.

It is understood and agreed that the City of Seattle, City Light
Department, may grant other utilities the right and privilege to occupy and
use jointly said distribution system and/or easement.

The City of Seattle and other utilities are to be responsible, as
provided by law, for any damage to the Grantor through their negligence in
the construction, maintenance and operation of said electric and/or other
utility systems across, over, upon and under the property of said Grantor.

The rights, title, privileges and authority hereby granted shall
continue and be in force until such time as the Grantee, its successors,
assigns and other utilities shall permanently remove said poles, wires and
appurtenances from said lands or shall otherwise permanently abandon said
electric and other utility systems, at which time all such rights, title,
privileges and authority hereby granted shall terminate.

LEGAL DESCRIPTION
BY CHC
CHK 11/1/89

8912200646

RECEIVED THIS DAY

DEC 20 10 52 AM '89
BY THE DIVISION OF
RECORDS & ELECTIONS
KING COUNTY

89/12/20 #0646 R
RECD F 6.00
REC FEE 2.00
CASHES *****8.00
55

IN WITNESS WHEREOF, this instrument has been executed the day and year first above written.

EXCEL ENTERPRISES, INC.

By: Kathleen J. Hebig
Title: President

By: Michael D. Hebig
Title: Secretary/Treasurer

(FOR CORPORATE ACKNOWLEDGMENT)

STATE OF WASHINGTON)
) ss.
COUNTY OF Island)

On this 11th day of December 19 89, before me personally appeared Kathleen J. Hebig, to me known to be the President, and Michael D. Hebig, to me known to be the Secretary, of EXCEL ENTERPRISES, INC. the corporation that executed the within and foregoing instrument, and each acknowledged that said instrument was the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and each on oath stated that they were authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Blaine Z. Taylor
Notary Public in and for the State of Washington,
residing at Freeland.
My Commission Expires: 12-1-92



8912200646

APPROVED AS TO FORM ONLY
DOUGLAS N. JEWETT
CITY ATTORNEY

Spencer S. Williams
ASSISTANT

Date 12/15/89

FILED FOR RECORD
REQUEST OF
CITY OF SEATTLE
CITY LIGHT DEPARTMENT
PROPERTY MANAGEMENT SECTION
1015-3rd AVENUE
SEATTLE, WA 98104

CHICAGO TITLE INSURANCE COMPANY
has placed this document of
record as a customer courtesy
and accepts no liability for
the accuracy or validity of
the document

ACCESS EASEMENT

90/01/05
REC FEE
REC'D F
CASHSL

2.00
6.00

#0364 B
+11118.00
35

For a valuable consideration, receipt of which is hereby acknowledged, the GRANTORS, James A. McKimmy and Excel Enterprises, Inc., do hereby grant and convey unto the GRANTEES, Excel Enterprises, Inc.,

their successors and assigns, an access easement for ingress and egress, over and across a strip of land described as follows: The West 20 feet of Lot 2 and the West 30 feet of the South 10 feet of Lot 2, King County Short Plat Number 1176075 (REVISION), as filed under Recording Number 8104020639, records of King County, Washington; (Being a portion of Lot 1, Block 13, FIRST ADDITION TO LAKE FOREST PARK as filed in Volume 20 of Plats, page 82, records of said King County and lying in the Northwest quarter of the Norwest quarter of Section 3, Township 26 North, Range 4 East, W.M.)

Said easement is intended to provide legal access to the GRANTEES' adjoining property in which the GRANTEES are given the right, privilege and authority to improve, repair and maintain an existing access road over and across said easement.

The cost of maintenance of said access road shall be borne equally by all parties benefiting from and using said easement.

The GRANTORS shall make no use of the land occupied by said access road and utilities except for those compatible with the continued use of the land for the purposes above mentioned and the continued maintenance of same.

In exercising the rights herein granted, the GRANTEES, their successors and assigns, may pass and repass over said existing access road and may cut and remove brush, trees or other obstructions which, in the opinion of GRANTEES, interferes with the maintenance of the road.

The easement herein granted shall run with the land and inure to the benefit of the GRANTORS, their successor in interest and assigns of the ownership of all or any portion of the following described lands:

Lot #3, KCSP 1176075-R

EXCISE TAX NOT REQUIRED
King Co. Records Division

By [Signature], Deputy

The easement shall also inure to the benefit of the GRANTEES, their successors and assigns of the following described lands:

Lot#2, KCSP 1176075-R

IN WITNESS WHEREOF, the said GRANTORS have executed this instrument this 21st day of November, 1989.

[Signature]
James A. McKimmy

[Signature]
Excel Enterprises, Inc.
L. Wayne Naff, Vice-President
4126 Terrace Drive, Everett, WA 98203

[Signature]
Excel Enterprises, Inc.
L. Wayne Naff, Vice-President
4126 Terrace Drive, Everett, WA 98203

Subscribed to and sworn to before me this 21st day of November, 1989

[Signature]
Notary Public
State of Washington
Residing in Freeland
My Commission Expires 12-1-92

RECEIVED THIS DAY
RECEIVED THIS DAY

Seal

9001050364

STATE OF WASHINGTON. }
County of King } ss.

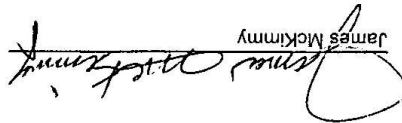
James A. McKinney

On this day personally appeared before me
to me known to be the individual described in and who executed the within and foregoing
instrument, and acknowledged that he signed the same as his free and voluntary
act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this
My commission expires 4/23/90
ACKNOWLEDGMENT INDIVIDUAL

4th day of January, 1990
Michael J. [Signature]
Notary Public in and for the State of Washington
residing at Carroll

F. 9236


James McKimmy

Dated: July 27, 2015

Subject to:
Exceptions Set forth on attached exhibit and by this reference made a part hereof as if fully incorporated herein.

Tax Parcel Number(s): 402290-0497-07

Lot 2 SP 8104020639

Abbreviated Legal: (Required if full legal not inserted above.)

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

the following described real estate, situated in the County of King, State of Washington:

in hand paid, conveys, and warrants to Mark A. Garey and Lisa A. Garey, husband and wife

for and in consideration of Ten And No/100 Dollars (\$10.00), and other valuable consideration

THE GRANTOR(S) James McKimmy, a married man as his separate estate

STATUTORY WARRANTY DEED

PAGE-001 OF 001

E2745989
07/28/2015 14:33
KING COUNTY, WA
TAX
\$717.00
\$49,000.00
SALE

20150728001394
CHICAGO TITLE LP
PAGE-001 OF 005
07/28/2015 15:12
KING COUNTY, WA
76.00

When recorded return to:
Mark Garey and Lisa Garey
14827 88th Ave NE
Kenmore, WA 98028

Chicago Title
Ref # 14125-1
⑥ ⑦ ⑧

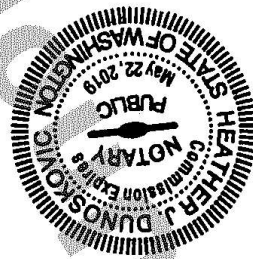
STATUTORY WARRANTY DEED (continued)

State of Washington
County of Okanogan

I certify that I know or have satisfactory evidence that

James McHenry
is/are the person(s) who appeared before me, and said person(s) acknowledged that
(he/she/they) signed this instrument and acknowledged it to be (his/hers/their) free and voluntary act
for the uses and purposes mentioned in this instrument.

Dated: 07-27-2019



Heather J. Dunoskova
Name: _____
Notary Public in and for the State of _____
Residing at: Douglas County
My appointment expires: 05-22-2019

Official Copy

EXHIBIT "A"
Legal Description

LOT 2 OF KING COUNTY SHORT PLAT NO. 1176075, RECORDED UNDER RECORDING NO. 8104020639, BEING A REVISION OF SHORT PLAT NO. RECORDED UNDER RECORDING NO. 7707210591, RECORDS OF KING COUNTY, WASHINGTON;
EXCEPT THE SOUTH 5 FEET OF THE WEST 40 FEET THEREOF, AS CONVEYED UNDER RECORDING NO. 8910200533.

Unofficial
Copy

EXCEPTIONS

SPECIAL EXCEPTIONS

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Purpose: Ingress and egress
Recording Date: July 21, 1977
Recording No.: 7707210591
Affects: Westerly 15 feet

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Purpose: Electric transmission and/or distribution line, together with necessary appurtenances
Recording Date: November 22, 1977
Recording No.: 7711220730
Affects: West 15 feet

Side Sewer Easement

Recording Date: November 2, 1977
Recording No.: 7711020750
Width: 6 feet
Affects: An undisclosed portion of said Land along the line as constructed

Said easement contains a provision for bearing a proportionate or equal cost of maintenance, repair or reconstruction of said Side sewer by the common users.

Side Sewer Easement

Recording Date: October 16, 1989
Recording No.: 8910161152
Width: 6 feet
Affects: An undisclosed portion of said Land along the line as constructed

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Recording Date: December 20, 1989
Recording No.: 8912200646
Affects: The westerly 50 feet

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Purpose: Ingress and egress
Recording Date: January 5, 1990
Recording No.: 9001050364
Affects: West 20 feet and the west 30 feet of the south 10 feet

Said easement contains a provision for bearing a proportionate or equal cost of maintenance, repair or reconstruction by the common users.

EXCEPTIONS

(continued)

Covenants, conditions and restrictions but omitting any covenants or restrictions, if any, including marital status, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording Date: October 24, 1919
Recording No.: 1357452

Covenants, conditions, restrictions, restraints, reservations, easements, easement provisions, dedications, building setback lines, notes, statements, and other matters, if any, but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth on Short Plat No. 1176075:

Recording No: 8104020639

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Recording No: 20050728900032

Any question that may arise due to shifting and changing in the course, boundaries or high water line of Lyons Creek.

Right to make necessary slopes for cuts or fills upon property herein described as granted or reserved in deed

In favor of:
King County
Recording No.: 7308300439 and 7312200101

⑥ 78
Chicago Title
Ref # 11125-1

When recorded return to:
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20150728001394

CHICAGO TITLE LD
PAGE-001 OF 005
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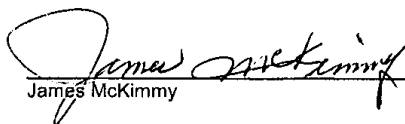
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James McKimmy

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(continued)

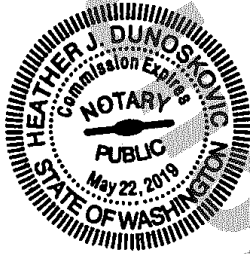
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James McKimmy

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Heather J. Dunoskovic
Name: Heather J. Dunoskovic
Notary Public in and for the State of WA
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My appointment expires: 05-22-2019

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Recording No: 8912200646
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Recording No.: 9001050364
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20150728001394

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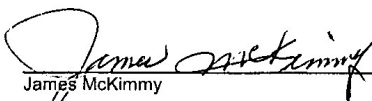
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James McKimmy

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(continued)

State of Washington
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Table of Contents - Exhibits

1. Jolene Jang Protest Request to City Council (August 12, 2024).....	2
○ Official complaint outlining procedural errors and public notice failures.	
2. SEPA Checklist with Jang’s Notations (2025).....	7
○ Annotated review highlighting missing and misleading information in the applicant’s SEPA checklist.	
3. Erosion Impact - Pictures & Videos (Green Voices of Lake Forest Park, Jang)....	28
○ Photographic and video evidence documenting landslide risks and erosion in Lyon Creek.	
4. Property Tree Diagram & List of Trees.....	36
○ Visual representation of trees on the property and discrepancies in applicant’s tree inventory.	
5. Jolene Jang Public Comments (August 5, 2024).....	37
○ Formal testimony detailing public safety risks, financial burdens, and legal precedents.	
6. Jolene Jang’s Comments to Lake Forest Park Council (January 2022).....	21
○ Early objections outlining flooding, tree miscounts, and violations of municipal codes.	
7. Moratorium Letter to Council (August 8, 2024).....	68
○ Formal request urging the council to halt approvals of RUEs due to environmental concerns.	
8. City Council Comprehensive Plan - Strengthening RUE Regulations.....	86
○ Policy recommendations to prevent misuse of RUEs in critical environmental areas.	
9. Council Meetings & Planning Commission Video Comments.....	94
○ Summary of public concerns and expert testimony presented in city meetings.	
10. Critical Areas & RUEs: How They Are Abused.....	97
○ Analysis of past RUE approvals that resulted in environmental and public safety failures.	
11. Real Estate Plat for property 3611, easement documents.....	101

LFP Council Meeting - Public Comment for **August 12, 2024**

Jolene Jang

To : City officials and Staff

I am writing to formally protest the Mitigated Determination of Non-Significance (MDNS) issued on July 19th, 2024, concerning the Reasonable Use Exception (RUE) for the Garey property. My protest is based on several significant concerns regarding the application process and the compliance with city codes.

1. **Request** for Clarification on Code Compliance

I would like to better understand how the city planning department has engaged with and applied the relevant city codes, both generally and specifically in relation to this case. There are specific provisions within the Lake Forest Park Municipal Code that guide the approval process for Reasonable Use Exceptions, and I am requesting a detailed explanation of how these codes were followed.

2. Incompleteness of the SEPA Checklist

The MDNS appears to be based on a State Environmental Policy Act (SEPA) checklist that was incomplete at the time of submission. I request a detailed explanation of why each incomplete or inconsistent answer on the SEPA form was accepted by the city. My attached notes and questions (see attached documents) provide specific instances where inconsistencies and inaccuracies were noted without adequate explanation or supporting reports. Please address each of these points specifically.

3. Inconsistencies in the RUE Application

There are inconsistencies between the Builder's RUE application and the SEPA checklist. Despite these inconsistencies, the application was processed without sufficient justification. I request an explanation of how these inconsistencies were addressed and why they were deemed acceptable by the planning department. The application process, as outlined in the city's Reasonable Use Exception Checklist, requires strict adherence to accuracy and detail, yet this standard was not met.

4. Notification Issues Regarding the July 19th MDNS

When the July 19th, 2024 MDNS was noticed, it is my understanding that all parties of record (those who have made comments regarding this Garey RUE) were required to be notified under the city code. However, it appears that not all parties were properly notified about this MDNS update.

Request for Action:

- I request that all parties of record be properly noticed regarding this MDNS update.
- Please ensure that this includes a thorough review of all public comments and correspondence, particularly those sent to Nick Hollands, to confirm that everyone who commented has been included.
- The comment period should be re-opened for the required 12-day time frame, starting from the date all parties have been properly notified.

5. Follow-Up on Previous Notification Issues

On April 11, 2024, at 12:00 PM, I spoke to Mark Hofman on my property (with Doug Hennick and David Haddock present) to express that I and others were not properly notified in April 2024. I requested that the correct list of parties be compiled and that proper notice be given moving forward. Mr. Hofman indicated he would look into it, but as of August 12, 2024, this issue remains unresolved. The July 19th notification didn't notify all the parties of record.

I request immediate action to ensure compliance with notification requirements and that the process is corrected to prevent further procedural errors.

Thank you for your attention. I look forward to your prompt response and resolution.

To help you understand the impact on citizens, please read.

I am calling for moratorium on RUEs -Why?

Because when word gets out the LFP doesn't hold up their city code, how many developers are going snap all the empty parcels abusing the system and killing the trees and salmon because LFP allows them to do so. Mark Hofman issued the MDNS which is based on false information provided by the applicant by law the application is supposed to be voided.

16.16.090 Applications – Approval – Criteria – Revocation.

Fish and Wildlife has confirmed that the builder's answers are incorrect. I would think that the city allowing a dozen potential code violations to go unquestioned could make it liable and vulnerable to scrutiny from regulatory bodies.

You as the Mayor, administrator, council have power, step into it, and protect your community and environment.

Implementing this moratorium will allow you time to evaluate the RUE process and diagnose where it breaking down. The planning commission tried to fix the RUE process after learning about this Garey RUE, but its not fixed.

The implementation of the RUE permitting process is a problem.

One person holds all the power and that's Hofman. Now its your turn. Invoke your powers.

The current staff does not have the bandwidth, or expertise to implement the proper protocols required by city code, so stop evaluate and figure out how to create a process that can work with the limited resources you do have. Create a sustainable solution.

There is no one with history with this RUE.

- There is no senior engineer
- The asst engineer is new
- M Hofman is from CA, not from LFP, he is in charge of the planning, building, code enforcement, and elements of economic development
- No one has any history with LFP
- Caroline, records management retired and the new person self-identified that she is learning. Which is evident. August 1 -12th

This is what's happening and one person has all the authority.

Invoke your powers. Do your part, call a moratorium and create a process that is sustainable that

- Respects the citizens
- and our environment
- while honoring RUEs and
- following code.

Let's make it easier for you.

We know you are all busy and working on budgets and don't have time to invest in all learning about all projects. Let me highlight a few expert testimonials that are in the public comments.

Many of them on are the dedicated website to address this Gare RUE on GreenVoicesOfLakeForestPark.com and you can listen to updates and public comments on the spotify podcast made to the address this RUE.

Engineer Alan Coburn regarding the Project

*.. Flood Factor is forecasting VIRTUALLY ALL streamside properties adjacent and downstream of the Garey property will be exposed to increased **major to severe flooding risk** from a 100 year event even without the federally mandated changes to the upstream culvert.*

A developer with the knowledge would be ethically bound to disclose this information.

Fish and Wildlife, Habit Biologist, Miles Penk says

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.

Arborist, Daniel Collins

Further tree failures will likely cause more slope instability and potentially impact driveways above the site development. The developer's arborist offered no mitigation or recommendations for these trees. It is my professional opinion, that there was inadequate analysis and information contained in the Report to advance the development proposal of owner - Mark Garey into a design-development phase.

Please read the streamkeepers, lake forest park steward foundation and the newest Fish and Wildlife discoveries. All the pictures of the 7 trees falling, slope failure and flooding can be seen on GreenVoicesOfLakeForestPark.com

WHO SHOULD the burden be on?

With RUE permit applications, we must ask ourselves: Who should bear the burden? Should it be the neighbor who is threatened by the development plan, or the developer applicant?

Currently, and in the past, the burden has been on the neighbor and environmentalists. The applicant can submit inaccurate answers and omit comprehensive reports. When the city approves these applications, it falls on the neighbors to prove the law has been violated.

I have spent over 1000 hours researching hydrology, fluvial morphology, and has consulted with numerous engineers, scientists and agencies. All of this effort is to defend her home from the **threat of a landslide** caused by the development plan.

Do you expect citizens to dedicate 1000 hours to defend their safety due to a builder applicant filling out misinformation, and city authorities approving these applications because they are scared of being sued by the builders? This is **unreasonable** but also **unjust**.

When will the laws be followed and when will the citizens safety be prioritized?

The responsibility should lie with the developer to provide accurate, comprehensive information and for the city to rigorously review these applications. Our citizens **should not have to bear this burden**.

Are there any consequences for when the city does not follow code?
Specifically these 2 city codes

16.26.090 Type I – Notice of code administrator's recommendation.

And

Applications – Approval – Criteria – Revocation.

It seems that despite all the expert comments, organizations, and authorities weighing in, their voices just aren't making a difference.

- Dept of Fish and Wildlife
- SnoKing WaterShed
- Lake Forest Park Stewardship Foundation
- Lake Forest Park Streamkeepers
- PugetSoundKeepers Alliance
- Salmon Fisheries
- Hydrologist and Fluvial Morphologist discussing the slope erosion hazards
- Aquatic Ecology background - MLT Dam add pics
- Alan Flood Factor discussing the flooding risk
- Arborist - sharing the tree failure causing slope failure
- Jim Halliday
- Jack Tonkin
- Paula Goode
- Tracy Furatani

This leaves citizens with like me with limited options.

Feeling like we're not being heard, my next step is reaching out to the media.

I have a proven track record of getting attention on important issues—having successfully passed a law in Washington state protecting women and children after hundreds of interviews with national media. My efforts influenced laws in 42 other states and at the federal level.

I have been interviewed Diane Sawyer on Good Morning America, The Today Show, and even Oprah. Spotlighting how green cities are deteriorating, which could be a good way to finally get the community's voices heard and make sure the city of LFP steps up to protect its residents and environment.

Should neighbors have to go through all of this just to motivate the city to hold up their code?

Thanks for your support. I am glad to give resources.

Jolene Jang

Lake Forest Park, adjacent downstream neighbor

Because you are busy, I am putting many of the public comments online and on a podcast

- See GreenVoicesOfLakeForestPark.com for visuals, maps, comments
- [Listen to podcast Green Voices of Lake Forest Park](#) to get updates and listen to public comments.

Jolene Jang's notes

July 23, 2024 City's Recent Communication

July 22, 2024 Mark Hofman, the newish community development director now in charge of the RUE Mark Garey Property case, Senior Planner, Nick Holland, no longer works for the city. He emailed me and tell me that the City of Lake Forest Park has issued a SEPA Mitigated Determination of Non-Significance (MDNS) regarding the proposed construction of a house only 15 feet from the fish-bearing creek, instead of the required 115 feet. The city determined that this project, with specific design revisions and conditions, will not have a significant adverse impact on the environment and that an Environmental Impact Statement (EIS) is not required.

He has greenlit this project to go to the hearing examiner, even though the SEPA Checklist application left 33 out of 105 questions unanswered and many answers are marked N/A without explanations, or were just a simple answer with no information. I believe this incomplete information undermines the application's reliability.

To understand the notes, here is the key

- Builders responses are typed in black
- LFP Planner Nick Holland in red pen
- Jolene's marks are in green and red digital circles and arrows and info in question is highlighted in yellow. A comment bubble shows there is a note at the bottom of the page.

B. Environmental Elements

1. Earth

a.) General description of the site (circle one)
 Flat Rolling Hilly Steep Slopes Mountainous Other slopes

b.) What is the steepest slope on the site, and its approximate percent slope?
roughly 70% (WESTERN PORTION OF SITE)

c.) What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils
unknown

d.) Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe
No FREQUENTLY FLOODED AREAS

Permits

SEPA Checklist

Permit # SEPA-2024-0001



Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

~~STAFF REDLINES~~

Owner of Record:	Mark Garey		
Property Address:	not assigned; parcel: 4022900497		
Property Owner Phone:	206-446-9090	Email:	pinematrix@outlook.com
Property Owner Mailing Address (if different than project address):			
Tax Parcel No:	4022900497		
Owner's Authorized Agent:	Same as applicant		
Authorized Agent Phone:	n/a	Email:	pinematrix@outlook.com

PERMIT APPLICATION FEES

Fees must be paid at time of application

Application Fee	\$ 700
Signage Fee	\$ 200
Additional Signage (if required) -----	\$25 each
SUBTOTAL	
Technology Fee (10% of Subtotal)	
TOTAL FEES	

**Please complete the attached checklist
& submit to:**

City of Lake Forest Park, City Hall
17425 Ballinger Way NE
Lake Forest Park, WA 98155
Attn: Planning and Building Department

Questions?

For more information, please contact the Planning Department
aplanner@cityoflfp.com
206-957-2837

Access to Information

Electronic versions of all forms, permits, applications, and codes
are available on the Lake Forest Park website:

<http://www.cityoflfp.com/>

Paper copies of all of the above are available at City Hall:
17425 Ballinger Way Northeast, Lake forest Park, WA 98155
206-368-5440

Instructions for application:

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

A. Background


1. Proposed Project:

2. Date checklist prepared: March 19, 2024

3. Agency requesting checklist: City of Lake Forest Park

4. Proposed timing or schedule (including phasing, if applicable): Summer 2024

5. Do you have any plans for future additions, expansion or further activity related to or connected with proposal? If yes, please explain. No — APPLIED FOR RUE


6. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal: 1  2

The site has steep slopes, a stream and associated stream and slope buffers / THEY ENCUMBER THE ENTIRE PROPERTY

7. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain: No

8. List any government approvals or permits that will be needed or your proposal, if known:

RUE, building permit, grading permit, ROW PERMIT


9. Give a brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. 


Construction of a new SFR with an 1,100 sf footprint; associated access/utility improvement

CRITICAL AREA MITIGATION, STORMWATER SYSTEM

Summary of Comments on SEPA Checklist_GareyRUE_JoleneComments.pdf

Page: 2

 Number: 1 Author: jolen Subject: Pencil Date: 4/12/2024 10:59:00 AM

 Number: 2 Author: jolen Subject: Sticky Note Date: 4/9/2024 5:34:20 PM


16.16.180 Critical areas – Conservation easements and critical area tracts.

16.16.290 Landslide hazard areas

16.16.310 Steep slope hazard areas

16.16.355 Streams – Development standards.

2. Type F stream containing fish habitat shall have a 115-foot buffer;

 Number: 3 Author: jolen Subject: Sticky Note Date: 4/9/2024 5:37:21 PM

Erosion, landslide, flooding for the property and downstream properties. Removing trees.

10. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map and topographic map. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

parcel number: 4022900497; just off of NE 205 ST at the northern city line

B. Environmental Elements

1. Earth

- a.) General description of the site (circle one)

Flat Rolling Hilly Steep Slopes Mountainous Other slopes

- b.) What is the steepest slope on the site, and its approximate percent slope?

roughly 70% (WESTERN PORTION OF SITE)

- c.) What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils

unknown

- d.) Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe

No

5

4

PERMANENTLY FLOODED AREAS

- e.) Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill

excavation to construct footprint and driveway and storm improvements

- f.) Could erosion occur as a result of clearing, construction, or use? If so, generally describe

Yes

potential for erosion exists; BMPs will be during construction / BMPs
FOR EROSION CONTROL







- g.) About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

approximately 1,500 sf

- h.) Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

general BMPs

Page: 3

	Number: 1	Author: jolen	Subject: Pencil	Date: 4/12/2024 10:59:56 AM
	Number: 2	Author: jolen	Subject: Comment on Text	Date: 4/9/2024 5:39:14 PM
In another submission, the slope says 5%+ inconsistent answers. Should the slope be measured be an expert?				
	Number: 3	Author: jolen	Subject: Line	Date: 4/9/2024 5:52:35 PM
	Number: 4	Author: jolen	Subject: Sticky Note	Date: 4/9/2024 5:58:36 PM
Jolene has pictures from the steep slope sliding. Visiting the slope now can show that plants of slipped down the hill. Pictures and videos of flooding.				
	Number: 5	Author: jolen	Subject: Oval	Date: 4/9/2024 5:58:27 PM
There is flooding that took out 7 trees and including the big tree on the steep slope that fell over the creek, all due to flooding.				
	Number: 6	Author: jolen	Subject: Comment on Text	Date: 4/9/2024 6:00:43 PM
Where is comprehensive erosion control plan? The weather has changed in the last few years.				

2. Air

a.) What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known

exhaust from construction equipment;

b.) Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe. No

c.) Proposed measures to reduce or control emissions or other impacts to air, if any:

minimize to the extent feasible the use of heavy equipment

3. Water

1

a.) Surface water

i. 2 there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

Yes; LYON CREEK IS PIPED AND FLOWS THROUGH THIS SITE -
yes, storm drains and a stream exist

ii. 3 Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans. Yes

yes, work will occur in the stream's buffer

iii. 4 Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material

the eastern portion of the site will be graded; fill not yet known. THE CREEK & SEPA SUPPORT A PROPOSED SITE LAYOUT.

iv. Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known. No








the least amount of impact is planned for surface waters

v. 6 Does the proposal lie within a 100-year floodplain? If so, note location on the site plan. No

vi. 7 Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

No

Page: 4

	Number: 1	Author: jolen	Subject: Pencil	Date: 4/12/2024 11:00:29 AM
	Number: 2	Author: jolen	Subject: Comment on Text	Date: 4/9/2024 6:06:58 PM
Lyon Creek is an "F" stream for fish				
	Number: 3	Author: jolen	Subject: Comment on Text	Date: 4/9/2024 6:07:31 PM
Construction will be in the stream buffer, all of it.				
	Number: 4	Author: jolen	Subject: Comment on Text	Date: 4/9/2024 6:16:12 PM
Shouldn't there be a plan of how much fill or dredge material in order to be able to move forward with construction. It is already prone to flooding.				
	Number: 5	Author: jolen	Subject: Comment on Text	Date: 4/9/2024 6:17:36 PM
What surveys and calculations have produced a no answer?				
	Number: 6	Author: jolen	Subject: Comment on Text	Date: 4/9/2024 6:17:58 PM
Show and verify. A 100-year floodplain refers to an area that has a 1% chance of flooding in any given year and since 2002 it has flooded more than one time, probably 5 times, where the creek has flooded. The neighbor downstream can also share when the road Cedar way gets flooded. Which source are you using and when was it updated?				
	Number: 7	Author: jolen	Subject: Comment on Text	Date: 4/9/2024 6:24:53 PM
I would expect for the builder to specify the types and volumes of discharges from the waste materials of the project and then measure their impact. Otherwise, without quantifying, how can it be determined there is NO discharge?				

b.) Ground water

- i. Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known. No

1

2

Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing chemicals, agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve

N/A

c.) Water Runoff (including stormwater)

- i. Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe

THE PROJECT HAS PERFORMED A DRAINAGE ANALYSIS AND THE SYSTEM HAS BEEN DESIGNED TO COMPLY W/ THE KING COUNTY STORM WATER MANUAL.

A stormwater system that complies with the standards will be installed

- ii. Should waste materials enter ground or surface waters? If so, generally describe
No






- iii. Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe
No

none anticipated with the storm system installed

- d.) Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

A stormwater system using infiltration will be installed per stormwater standards

Page: 5

	Number: 1	Author: jolen	Subject: Pencil	Date: 4/12/2024 11:00:44 AM
	Number: 2	Author: jolen	Subject: Comment on Text	Date: 4/9/2024 6:30:34 PM
How can discern the impact on the environment, when there are no answers or vague answers. How can one be confident that will be no impact to the environment?				
	Number: 3	Author: jolen	Subject: Comment on Text	Date: 4/9/2024 6:37:02 PM
Prove what is being done to protect waste materials for entering?				
	Number: 4	Author: jolen	Subject: Comment on Text	Date: 4/9/2024 6:40:09 PM
A stormwater system using infiltration will be installed per stormwater standards				
The drain on corner of the 205th/Cedar way already puddles and floods the corner. How can it be that there will be no more runoff? Show how that will be mitigated.				
The culvert 2 houses down raises up 8ft and sometimes floods over the road. Show how building a house will not make this worse.				
	Number: 5	Author: jolen	Subject: Comment on Text	Date: 4/9/2024 6:40:16 PM
Are you taking in deluge of waterfall from 2021-2024. Where are the calculations specific to the property?				
A stormwater system using infiltration will be installed per stormwater standards				
The drain on corner of the 205th/Cedar way already puddles and floods the corner. How can it be that there will be no more runoff? Show how that will be mitigated.				
The culvert 2 houses down raises up 8ft and sometimes floods over the road. Show how building a house will not make this worse.				

SEPA Checklist

4. Plants

a) Check the types of vegetation found on the site:

- ☒ Deciduous tree: alder, maple, aspen, ³ther
- ☒ Evergreen tree: fir, cedar, pine, other
- ☒ Shrubs
- ☐ Grass
- ☐ Pasture
- ☐ Crop or grain
- ☐ Orchards, vineyards or other permanent crops.
- ☐ Wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- ☐ Water plants: water lily, eelgrass, milfoil, other
- ☐ Other types of vegetation

b) What kind and amount of vegetation will be removed or altered?

only tree removal necessary to construct the residence and access

TREES ARE
GENERALLY IN POOR HEALTH; QUANTITY OF SIGNIFICANT
TREES IS LOW.

c) List threatened and endangered species known to be on or near the site.

n/a

d) Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

A significant amount of buffer mitigation is proposed for the site; THE MITIGATION
AS DESIGNED WILL INCREASE STREAM BUFFER FUNCTION.e) ⁴st all noxious weeds and invasive species known to be on or near the site.

n/a

5. Animals

a) List any birds and other animals which have been observed on or near the site or are known to be on or near the site. (I.e. any birds, fish, mammals, specifics if possible)

n/a

b) List any threatened and endangered species known to be on or near the site.

n/a

c) Is the site part of a migration route? If so, explain.

n/a






d) Proposed measures to preserve or enhance wildlife, if any

n/a

e) List any invasive animal species known to be on or near the site.

n/a

Page: 6

	Number: 1	Author: jolen	Subject: Pencil	Date: 4/12/2024 11:01:00 AM
	Number: 2	Author: jolen	Subject: Line	Date: 4/9/2024 6:40:40 PM
	Number: 3	Author: jolen	Subject: Comment on Text	Date: 4/9/2024 8:00:04 PM
The builder says did not check the box for evergreen trees. That is in accurate. Jolene has pictures of the all of the trees on the property including the Exceptional and significant trees. How will the Critical Root Zones be protected . The code designates there shall be fences around the root zones. The Exceptional tree and significant trees by the driveway deserve to be protected by law. Show how this will be done.				
	Number: 4	Author: jolen	Subject: Comment on Text	Date: 4/9/2024 7:45:21 PM
The property has lots of 15' tall Japanese Knot weed and blackberry bushes. What is the plan to protect Lyon Creek. King Conversation District -Urban Shorelines & Riparian Habitat Improvement Services has worked on adjacent neighbor and the next downstream neighbor in order to protect the F stream Lyon Creek, which includes removing knot weed and blackberries and planting native plants. https://kingcd.org/programs/better-water/urban-shorelines-riparian-habitat-improvement-services/				
	Number: 5	Author: jolen	Subject: Comment on Text	Date: 4/9/2024 7:47:11 PM
All these questions are not answered? How is this a credible application when all of the answer are not answered and do not have comprehensive information from experts?				

6. Energy & Natural Resources

a) What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

it is anticipated that natural gas will be used with electricity as well

b) Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe. No

c) What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

energy code requirements will be used / *STRUCTURE WILL BE REQ'D TO COMPLY W/ ENERGY CODE STANDARDS.*

7. Environmental Health

a) Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? If so, describe

n/a

b) Describe any known or possible contamination at the site from present or past uses

n/a

c) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity

n/a

d) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project

n/a

e) Describe special emergency services that might be required

general emergency services from fire/police etc...

f) Proposed measures to reduce or control environmental health hazards, if any:

n/a

8. Noise

- a) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Traffic noise is present, but not thought to affect the project

- b) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

short-term; non-permanent noises shall occur as a result of construction **EQUIPMENT**

- c) Proposed measures to reduce or control noise impacts, if any:

observing hours for construction in LFP city limits

9. Land & Shoreline Use

- a) What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe

the site is vacant and adjacent to single family uses; the proposed use is similar

- b) Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to non-farm or non-forest use?

no.

- c) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:

No

- d) Describe any structures on the site:

n/a

- e) Will any structures be demolished? If so, what?

n/a

- f) What is the current zoning classification of the site?

RS 9.6

- g) What is the current comprehensive plan designation of the site?

Residential Mod/High

- h) If applicable, what is the current shoreline master program designation of the site?

n/a

- i) Has any part of the site been classified as a critical area by the city or county? If so, specify

Yes

steep slopes and a stream/buffer is present

- j) Approximately how many people would reside or work in the completed project?

a single family

- k) Approximately how many people would the completed project displace?

n/a

- l) Proposed measures to avoid or reduce displacement impacts, if any:

n/a

- m) Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

The new home will be designed to fit in with the existing neighborhood

THE PROPOSED STRUCTURE HAS BEEN DESIGNED TO INTEGRATE INTO EXISTING NEIGHBORHOOD.

- n) Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any:

n/a

10. Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing

one

- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing

n/a

- c. Proposed measures to reduce or control housing impacts, if any:

mitigation for impacts to critical areas are planned

11. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

30-feet is the height limit in this zone, although a home design has not been finalized

- b. What views in the immediate vicinity would be altered or obstructed?

n/a

- c. Proposed measures to reduce or control aesthetic impacts, if any:

n/a

12. Light & Glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

lighting for typical residential unit

- b. Could light or glare from the finished project be a safety hazard or interfere with views?

no

- c. What existing off-site sources of light or glare may affect your proposal?

street lighting, but not thought to affect proposal

- d. Proposed measures to reduce or control light and glare impacts, if any:

attempts to keep light produced on the property will be made

13. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?

parks

- b. Would the proposed project displace any existing recreational uses? If so, describe

No

- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

n/a

14. Historic & Cultural Preservation

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe No

- b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources

No

- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

If any evidence is found, construction will stop to assess the conditions. APPROPRIATE AGENCIES AND TRIBES WILL BE NOTIFIED.

- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources.

Please include plans for the above and any permits that may be required.

ONLY AREA REQ'D TO CONSTRUCT THE RESIDENCE & ACCESS WILL BE DISTURBED.

Only the minimum amount of area will be disturbed for the construction process

15. Transportation

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any

the site is served by public streets; NE 205 ST and 37 AVE NE

- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop? No

- c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate?

Two additional for the garage; none displaced

- d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private)

No

- e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe Yes

new water service is anticipated; certificates of water availability have been secured

FROM THE LOCAL WATER PROVIDER

- f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and non-passenger vehicles). What data or transportation models were used to make these estimates?

Unknown, but it is not anticipated to be more than a typical new SFR

- g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe No

- h. Proposed measures to reduce or control transportation impacts, if any:

we proposed to use concrete that will absorb water in the driveway - PERVIOUS
CONCRETE DRIVEWAY IS PLANNED

16. Public Services

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe

Yes

it is anticipated that fire and police services will be utilized

- b. Proposed measures to reduce or control direct impacts on public services, if any:

n/a

17. Utilities

a. Circle utilities currently available at the site:

electricity - natural gas - water - refuse service - telephone - sanitary sewer - septic system - other all

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

C. Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make

Signature: Mark J. Garey

Name of sign: Mark Garey

Position and Agency/Organization: Property Owner

Date Submitted: 3/20/2024

D. Supplemental Sheet for Non Project Actions

(IT IS NOT NECESSARY to use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment. When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented.

1. Respond briefly and in general terms

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise? Proposed measures to avoid or reduce such increases are:

2. How would the proposal be likely to affect plants, animals, fish, or marine life? Proposed measures to protect or conserve plants, animals, fish, or marine life are:

3. How would the proposal be likely to deplete energy or natural resources? Proposed measures to protect or conserve energy and natural resources are:

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands? Proposed measures to protect such resources or to avoid or reduce impacts are:

Page: 12



Number: 1

Author: jolen

Subject: Pencil

Date: 4/12/2024 11:05:23 AM



Number: 2

Author: jolen

Subject: Comment on Text

Date: 4/9/2024 8:24:09 PM

No answers again. What kind of dedication to detail and planning and to code?

1

2. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans? Proposed measures to avoid or reduce shoreline and land use impacts are:

6. How would the proposal be likely to increase demands on transportation or public services and utilities? Proposed measures to reduce or respond to such demand(s) are:

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

Page: 13

 Number: 1 Author: jolen Subject: Pencil Date: 4/12/2024 11:05:50 AM

 Number: 2 Author: jolen Subject: Comment on Text Date: 4/9/2024 8:50:52 PM

Mark Garey's SEPA application for a construction project raises concerns about its completeness and accuracy, particularly in addressing environmental impacts due to critical areas like steep slopes and Lyon Creek. Given the project's sensitive location and stringent regulations, the application's lack of detail and transparency is problematic.

Key Observations and Concerns

1. ****Incomplete Responses****: Significant portions of the application were unanswered or marked as N/A, leaving 69% of the questions inadequately addressed.
2. ****Discrepancies in Critical Area Reporting****: The application inadequately addresses conservation easements, development standards, and buffer requirements as mandated by LFPMC Sections.
3. ****Vague Environmental Impact Assessments****: Responses regarding erosion, soil stability, and water runoff lack necessary detail and supporting data.
4. ****Inadequate Addressing of Vegetation and Wildlife****: The application fails to provide detailed accounts of vegetation impact, especially regarding significant trees and local fauna.
5. ****Lack of Specificity in Mitigation and Construction Impact****: The proposed stormwater system's effectiveness in managing increased runoff and existing drainage issues is not convincingly detailed.
6. ****Potential Underestimation of Environmental Risks****: The absence of detailed reports and data analysis undermines the project's compliance with environmental codes.

Conclusion

Mark Garey's SEPA application, in its current form, fails to convincingly address critical environmental impacts and community concerns. The substantial number of unanswered questions and the lack of detailed environmental assessments cast doubt on the project's compliance with Lake Forest Park's environmental standards. A thorough revision is needed to ensure responsible development and adherence to local codes.

Jolene Jang

[Go to the website - The pictures are videos are crucial to get the full story of the impact of water.](#)

[GreenVoicesOfLakeForestPark.com](https://parcelbyparcel.wixsite.com/my-site/pictures)

<https://parcelbyparcel.wixsite.com/my-site/pictures>

Lyon Creek: How Erosion is Impacting Three Adjacent Properties in 2 months

A Visual Timeline of Creek Changes and Their Effects on Mark Garey's Property, Jang's Property, and the Downstream Neighbor

Why This Matters: The Environmental and Structural Risks at Lyon Creek

Between November 16, 2021, and January 7, 2022, under two months, Lyon Creek has undergone significant erosion and destabilization, threatening the properties of Mark Garey, Jang (my property), and the downstream neighbor. The creek's rapid changes are not just a natural phenomenon—they are worsened by flooding from an upstream detention pond and failing drainage systems.

Key Concerns:

- **Erosion and Land Stability** – The creek is actively cutting into the bank on Mark Garey's property. The loss of a large tree, whose roots once stabilized the soil, has accelerated erosion. Without intervention, the bank will continue to erode, potentially leading to slope failure, affecting both his property and those downstream.
- **Changing Water Flow and Flood Risks** – As the creek shifts its course, it alters water velocity and direction, increasing flood risks for all three neighboring properties. Water moves more aggressively, affecting the Garey property, my home, and the downstream neighbor.
- **Impacts on Neighboring Properties** – Changes in creek flow don't stop at one property. As erosion continues at the Garey site, more sediment and debris are carried downstream, potentially clogging culverts see the pictures and videos and increasing flood hazards for everyone along the creek. All 3 of our properties are in danger of a landslide as our two houses are on top of steep slopes.
- **Infrastructure Vulnerability** – The upstream and downstream culverts are critical for controlling creek flow. If erosion continues unchecked, these culverts may become blocked or structurally compromised, worsening flooding and environmental damage for all three properties.

This provides a visual timeline to illustrate the increasing risks to the community and why immediate action is necessary.

Before the Changes: Lyon Creek in Springtime 2020

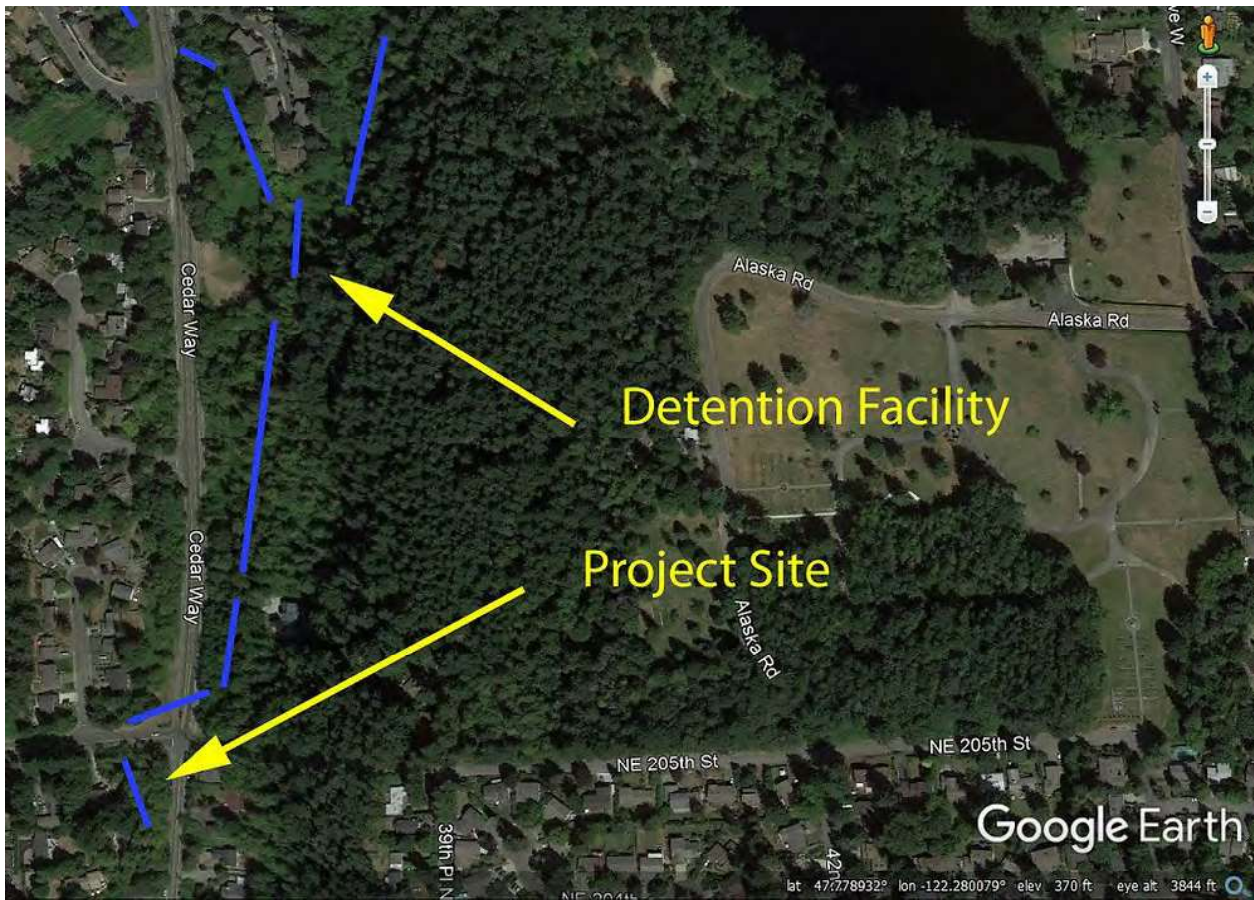
Before the erosion intensified, Lyon Creek was a stable, slow-moving stream with dense vegetation helping to anchor the soil and prevent major changes in the creek's path. Lyon Creek in springtime, when vegetation stabilized the banks, reducing erosion. The contrast with later photos

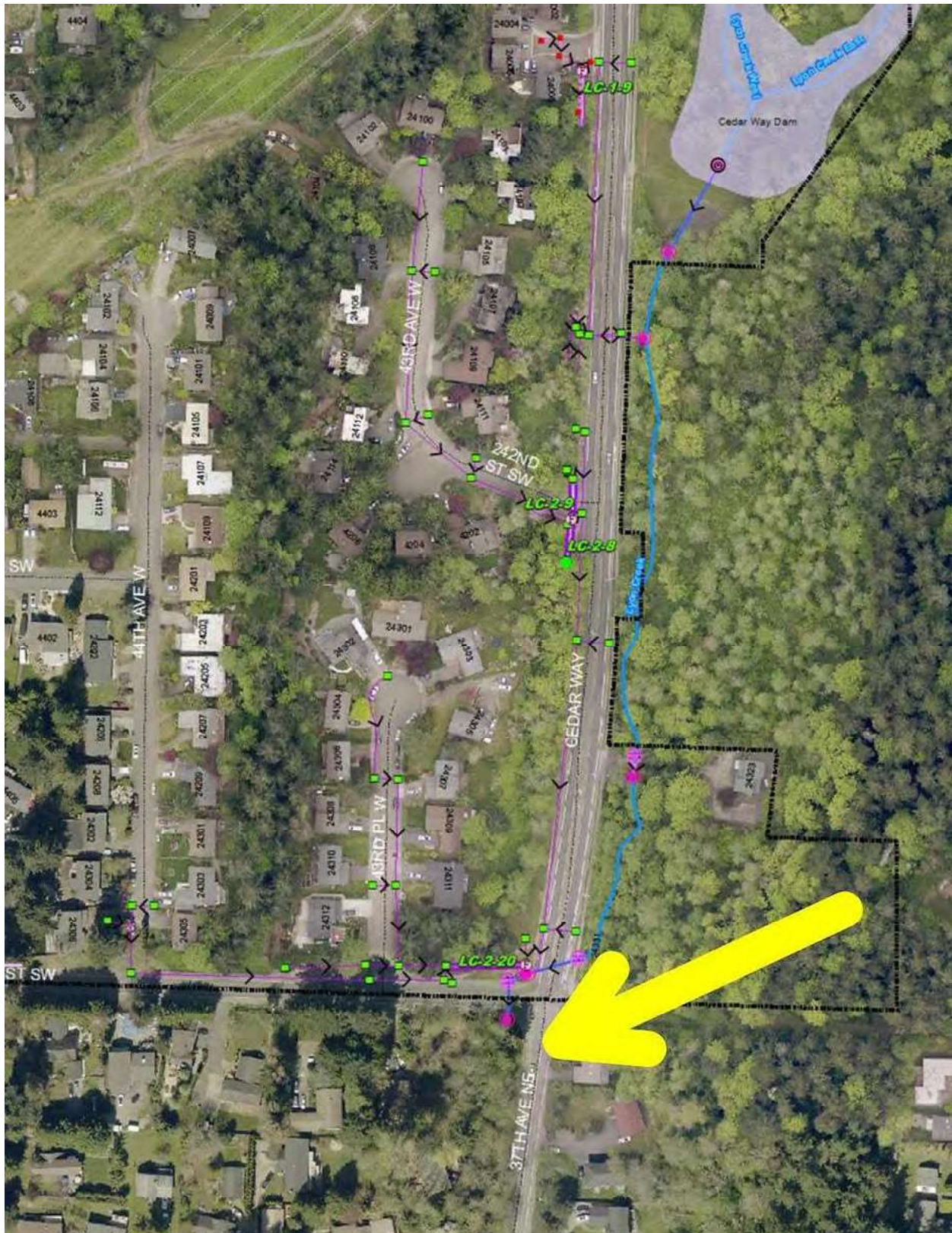
highlights the damage that followed. Notice that the large tree in the middle is still standing. In the spring and the summer, it is hard to hear the trickle of the shallow stream and to see it.



Upstream Contributors: The Detention Pond & Flooding Drain

While seasonal rains contribute to creek fluctuations, flooding from upstream infrastructure failures is making the situation worse.





The Detention Pond (Upstream) is Overflowing

- Designed to control stormwater flow, this pond has been overwhelmed by heavy rain, sending high-velocity water into Lyon Creek.
- Instead of regulating flow, it releases surges of water, accelerating erosion and forcing the creek to cut deeper into its banks.
- The upstream detention pond is overflowing, sending excessive water into Lyon Creek and eroding the banks of all three properties.

Mark Gareys parcel is on the corner noted by the yellow arrow.

Cedar Way Dam upstream from proposed development

Mountlake Terrace Detention Pond view when not flooded

March 16, 2025 Video taken when it is not raining. Vantage point from filming north to south from 44th street. Mark Garey's property is in viewing range.

Notice the cage free of water

From the top of the cage is likely 10-12 feet down the bottom of the hill. The next pictures shows the entire hill filled in with water. Do you see the cage?

The cage if covered and flooded

The water runs quickly down the hill to Lake Forest Park, Mark Garey's property. The water doesn't top at the property line as FEMA shows. This pictures from the City of the Mountlake Terrace.

FEMA Flood Map

The map has a teal color shape highlighting the flood zone. You will notice it ends exactly on the border of Lake Forest Park. However, Mountlake Terrace is higher in elevation, so it is not logical that all of the water would stop promptly at the border. Gravity pulls the water downhill to Garey's property.

Flooded Drain on Garey's Property

- A storm drain on the Garey property, meant to handle runoff, is failing to drain properly and is flooding instead. This suggests the property's water management system is overwhelmed, contributing to instability.
- A storm drain on Mark Garey's property is backing up, flooding the area and worsening soil saturation.
- Corner of 205th St and Cedar way, Dec 27, 2022
- This is the north side of the property where the water enters the property.
- Across the bottom street, Cedar Way/44th, you can see the water pooling, yet it hasn't rained that much. Look at the photo below.

Picture that is across the street about 25 feet from the Garey Property from the above picture. March 16, 2025 There hasn't been much rain, yet look at this large puddle. Garey's property elevation drops lower than the road.

Rapid Erosion: November 16, 2021 - January 7, 2022

Just under 2 months, Lyon Creek dramatically changed, eroding its banks and shifting closer to structures on all three properties.

- Visual Organization:
 - Left Column → 1 Mark Garey's Property (proposed house site)
 - Middle Column → 2 Jang's Property (my house)
 - Right Column → 3 The Downstream Neighbor's Property
- Markers to Track Changes:
 - Point A & Point B: Vantage points for key before-and-after images.
 - The creek is flowing from left to right, 1 to 3
- Below look at the purple shaded area. The steep slope flanks the westside of the creek . The creek is cutting into the bank, eroding the the vegetation making it vulnerable to landslides. The proposal report states the slope is 5%, which means almost flat. In another part of the proposal it states it is 30%, which is inconsistent and incorrect. You can visit the pics and videos below to see how the creek is cutting into the steep slope and caused the tree to slide and fall over.

Infrastructure Risks: Culverts & Downstream Impacts

On the previous layout of the 3 properties on the top right you will see a sign for the downstream culvert. Below are pictures. The creek's rapid changes put key drainage infrastructure at risk:

- Upstream Culvert– As erosion continues, this culvert may become blocked or collapse, disrupting water flow further.
- Downstream Culvert – More sediment and debris are being washed downstream, and the culvert has a lot of debris stacked up. Typically the water level at this culvert is 8 feet below the road. In the last few years, it has been 12-18" below the road. In the last 20 years, the water has flooded over Cedar way. Flood risks are high.

Culvert 2021 - see the debris

Culvert 2022 - see how close to the road

If the erosion, flooding, and infrastructure failures continue, the risks to all three properties will escalate:

- More land loss due to erosion
- Potential slope failure and property damage
- Increased flooding and stormwater runoff issues
- Compromised infrastructure (culverts, drains, and stormwater systems)

Culvert 2022 After the rains

Before the rain and snow

This is a typical day in November 26, 2021 before flooding. This is from vantage point A looking at property #1 notice the width of the creek and the immediate tree that is currently standing and alive holding up the west slope.

After the first rain

December 11, 2022 The banks are now flooded and this is just the beginning. In my 22 years of living here, I have never seen the creek so wide. The snow and rain hit us hard in Seattle from December 25 until January 7, 2022 causing 6 trees to fall because of the flooding of the creek on these 3 properties. This impacts the safety of these 2 houses #2 and #3 who live on the top of the slopes. If there was a house #1 was constructed, not only would they be subject to flooding, landslide, but the trees may also fall on their house.

Timber! The first of many trees falls down

December 25, 2022 With all of the flooding, the tree above in the video was uprooted because the water was raging and toppled this 30ft tall tree. Luckily, there was no house down there, so it didn't fall anyone. However, the property up above is endangered because of the slope erosion.

Examine the flow and you will see later how the creek widens

After the snow - the next day

January 2, 2023 I have never, ever seen the Lyon Creek so full. What is going to happen when all the snow melts?

After the snow and rain - banks are overflowing

January 7, 2022 The width of the creek has widened 300% and creek has risen up 5ft. This water on property #1 is draining properties on the top of the hill of 205th, the water from Mountlake Terrace from 44th and Lyon Creek. Can you imagine how this is hitting the slope and washing away the bank that holds up a house on top. Now there is no tree to hold in the slope. Plus disrupting the gravel and leaving silt everywhere making it unfriendly to salmon.

Listen to the creek, it's much faster, taller and wider.

As you look downstream, Lyon Creek is flooding

Look at the increased width of Lyon Creek

January 7, this perspective is walking on 37th on property 2 walking towards property 3. Look at all the trunks of the trees submerged. All those blue cylinders with new plants are also underwater.

Holy Flooding!

The rain without better drainage and increased impervious services and more cut down trees, it will only get worse.

Timber again!

January 7, this tree about 12" width and approximately 30' fell over the road. Fortunately, no one was hurt. 5 more other trees fell too. We are lucky no pedestrians and cars were crushed. Many people walk their dog and jog along 37th. A couple of years before this, an alder tree fell over due to the flooding. Many more tall trees may be dislodged and fall over, this is a hazard.

Notice the blue cylinders in the background. King County Conservation District is working with the neighbor to secure the slope and to nurture Lyon Creek by repairing the riparian zone along the stream.

Lots of trees fell over the culvert in the background that is under the concrete barrier. Normally, the water level is 5 feet lower than it is in the picture.

On the 3 parcel map, this is on property #3 culvert.

Timber! Timber! Timber! Timber! Timber!

We have a flooding problem, lets consider safety first before we let a developer endanger human lives. Take a look at this video to all the trees trunks submerged in water. When it floods more trees will crash down and it might be on the road of the potential house.

Timber! Timber! Timber! Timber! Timber!

We have a flooding problem, lets consider safety first before we let a developer endanger human lives.

Flooding from north to south

In the summer, sometimes, it is hard to see any water. Look at high velocity flow for a normally tiny brook.

Count how many trees are vulnerable to fall down because their roots are getting saturated

Let's take another look at the tree that held up the steep slope

We have a flooding problem, lets consider safety first before we let a developer endanger human lives. Can you see why a neighbor might be concerned about their safety? The next house is the slope too. The tree that fell on the property #1, holds up house #2. What would you do if a builder proposed a house that allowed him to disregard safety hazards and to damage the environment?

In the SEPA Checklist, the applicant says there is soil and no erosion on the slope.

Can you see why a neighbor might be concerned about their safety? The next house is the slope too.

[Visit these pictures and videos](#)

[See more pictures and diagrams here](#)

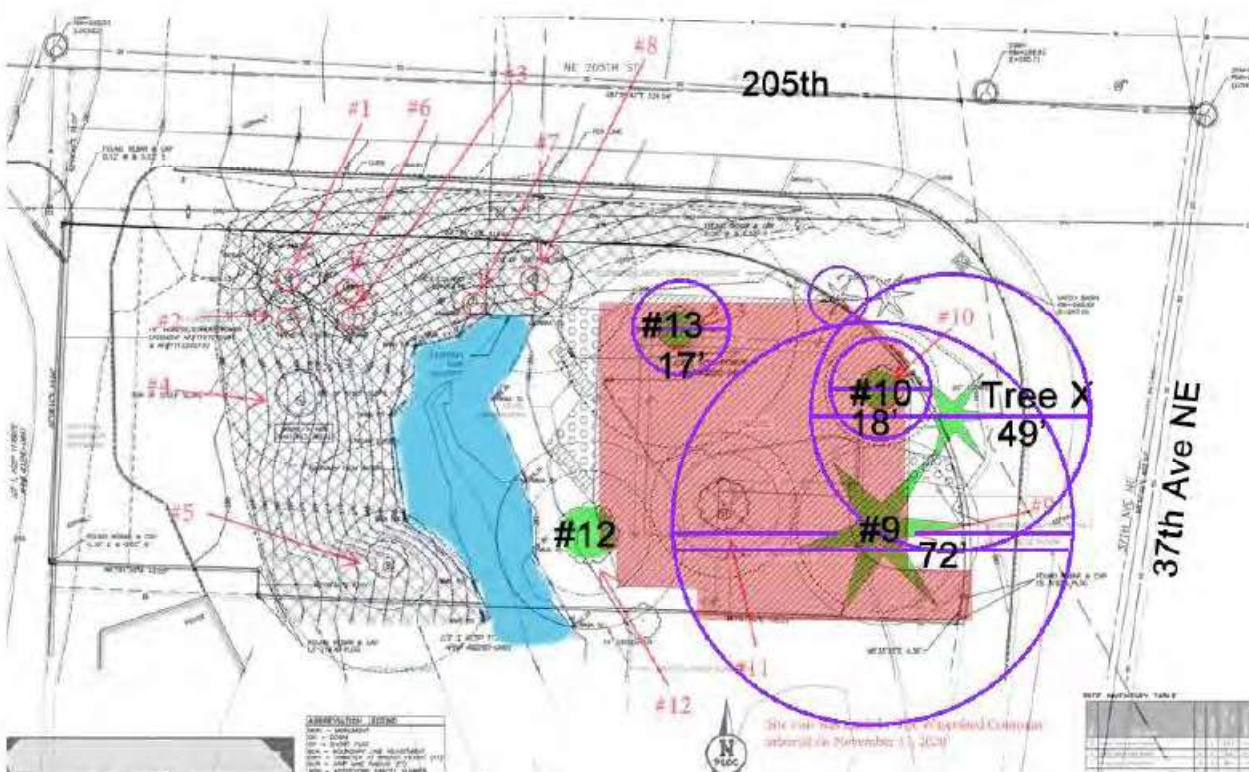


Figure 1 Full size provided as an attachment

Here is the list of inventoried trees on from the document. The ones I am questioning are the significant trees outlined in red and the evergreen that is nameless on the east border on 37th ave. Plus why aren't the other 22 trees on this map.

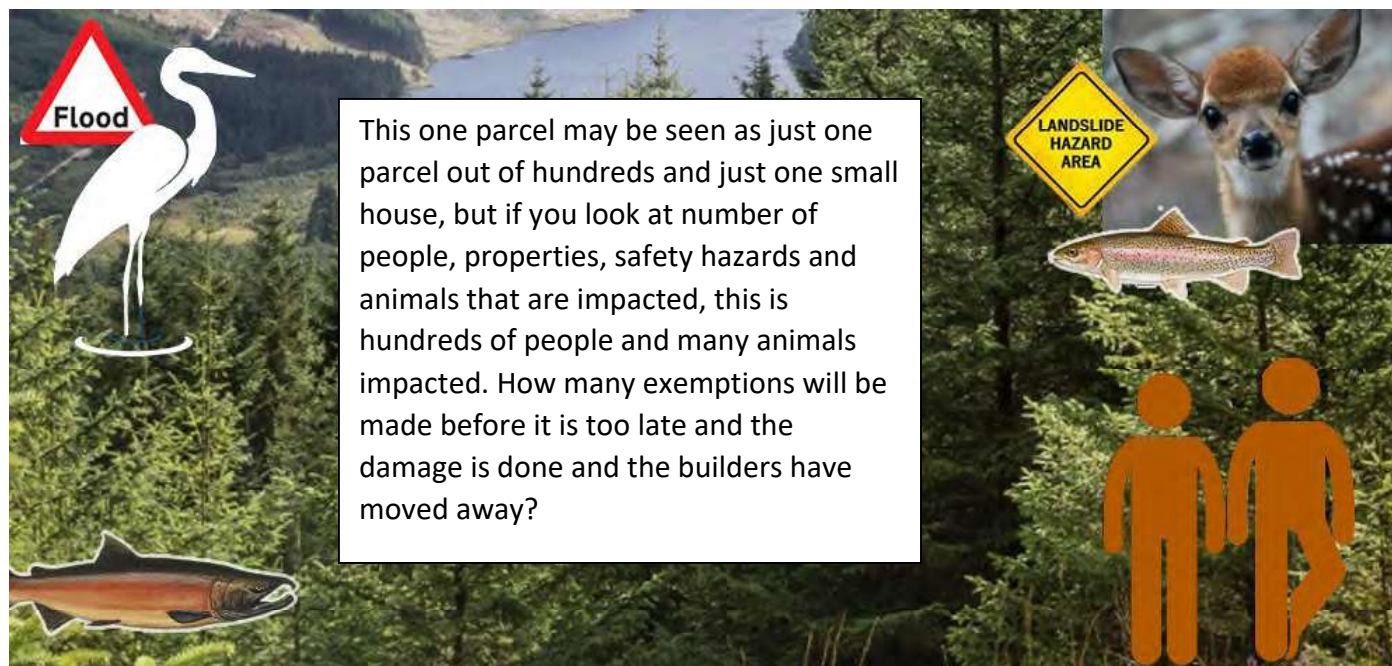
Tag ID	Scientific Name / Common Name	Trunk DBH (inches)	Significant (Y/N)	Landmark (Y/N)
1	<i>Alnus rubra</i> (Red alder)	12.3	Y	N
2	<i>Alnus rubra</i> (Red alder)	8.6	Y	N
3	<i>Alnus rubra</i> (Red alder)	8.5	Y	N
4	<i>Populus trichocarpa</i> (Black cottonwood)	18.0	N	N
5	<i>Alnus rubra</i> (Red alder)	19.0	Y	N
6	<i>Alnus rubra</i> (Red alder)	8.6	Y	N
7	<i>Alnus rubra</i> (Red alder)	8.5	Y	N
8	<i>Alnus rubra</i> (Red alder)	14.0	Y	N
9	<i>Thuja plicata</i> (Western red cedar)	36.3	Y	Y
10	<i>Prunus</i> sp. (Cherry sp.)	9.0	Y	N
11	<i>Populus trichocarpa</i> (Black cottonwood)	20.0	Y	N
12	<i>Populus trichocarpa</i> (Black cottonwood)	36.0	N	N
13	<i>Alnus rubra</i> (Red alder)	8.5	Y	N

Jolene Jang

Adjacent Neighbor and living above the slope and Lyon Creek

November 30, 2021, updated Dec 14, 2021

Planner Bennett, Asst Planner Tuck and Team,



Although, I am not a trained wetland ecologist, fluvial geomorphologist, geotech, hydrologist, habitat engineer or fish biologist, I have read through and understand the documents. I believe these types of experts should be required to be in the process to make valid decisions based on data. This data should be transparent and shown to us, not just the opinion that say no impact.

With climate change now on center stage, more people are tuning into the human effects on our precious eroding environment. In our local politics, environmental concerns are more popular as seen with the electing of LFP Council Person Tracy Furatani, Climate Educator. From reaching out to lots of salmon lovers, friends of creeks, protector of streams, and environmentalists, alone there is a lot of interest to protect this land. Many people who didn't pay attention to politics like me are now paying close attention and getting involved in many causes. Times are different and people are speaking up.

From the written documents on the LFP City website it sounds like LFP is committed to be environmental and to be transparent. I am pleased to learn about the green future of LFP. Are the following plans still valid with the current administration? If so, do we have guardrails to keep these green ideas on track? As an LFP resident, these plans for motivating.

specifically calling out streams, ravines, canopies and wetlands, and wildlife habitats. The Current Ongoing Services #3 talks about responsive code enforcement. I would like to make sure that code is enforced as stated in the document.

In the Service and Policy Growth section, it specifically states the importance of Lyon Creek. LFP seems to be highly committed to the environment. That is why I am writing to you.

II. HEALTHY ENVIRONMENT

From its very beginning, our City's natural environment has been its defining characteristic. Named for its location on the shore of Lake Washington and the abundance of streams, ravines, wetlands and robust tree canopy, our city has been committed to protecting this valuable ecosystem and green infrastructure to create economic and health benefits for our citizens. Effective environmental protection requires strategy that acknowledges the critical interdependence of the various contributing local, regional and global ecosystems, as well as their relationship to the built environment. What we build, where we build, and how we build it has a lasting effect on the health of our citizens, community, region and planet.

The city has strived to maintain a healthy tree canopy through urban forestry planning and an adopted tree ordinance, as well as public education. The city's land use policies and permitting functions are designed to protect environmentally sensitive areas and to preserve natural areas in response to

WE DELIVER A HEALTHY ENVIRONMENT THROUGH...

Ensuring the community and environmental health of Lake Forest Park through the effective policies that protect lands, waters, trees, and wildlife, and promoting human health while managing the effects of climate change on a local level.

LFP state values and environmental codes sound appropriate and **strongly committed to the environment**. I am proud of the LFPs commitment.

My concern is that Garey's proposal is **contrary to Lake Forest Parks** stated values and concerns, as indicated in the previous documents including a healthy environment. The request for a Reasonable Use Exception breaks many LFP codes.

16.16.250 Reasonable use exception to allow for reasonable economic use.
 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;*

From reading the sparse application, lacking specific scientific reports to address each issue, it doesn't seem like any proof was delivered. The science is missing, and the limited documents appear to contain minimum information. There is not enough information to prove that there will not be a devastating impact on this critical area.

Another red flag besides the lack of studies and assessments to prove there will be no unreasonable threats on the site is the **tree report**. The tree inventory report is inaccurate and misleading. Anyone walking past the parcel can count the trees and see a large discrepancy. I counted 35 trees. The application says there 13 trees.



Many potential problems are not discussed in Garey's proposal like flooding, potential landslide hazards and the impacts of erosion. The PSH Protected Species Habitat is not even mentioned. I wonder if Garey's past permits were given green lights in other cities, without him having to submit thorough plans and documents? Perhaps he thought the LFP wouldn't read the report?

From all of the voices I have heard from concerning this application, both citizens of LFP and those with titles, it appears that you and your team will take this proposal seriously. If this RUE proposal is accepted as submitted, it will go against stated LFP commitments and values. It will set precedent for ignoring environmental degradation. Not being accountable, not enforcing code and not protecting other non-builder residents will tarnish LFPs reputation and degrade our pristine environment.

Who is the customer to serve? Are the residents of LFP a priority? Or is it builders? Whomever it is, to be transparent, it should be stated who takes priority and why.

Introduction

My name is Jolene Jang and I have lived in this 3611 NE 205th St, Parcel 4022900499 house starting in 2002. I am the adjacent neighbor to Mark Garey's parcel.

The current RUE proposal if approved will have a significant adverse environmental impact, on the stream health of Lyon Creek, which runs through the property. This adverse impact includes the riparian zone, downstream stream bed, in creek gravel for salmon redds and the steep hillside adjacent to the stream. It will also negatively impact the neighbors downstream, which includes me.

Must the LFP team be certain there is proper science and proper specialists stating there will be no impact, including the resident in the parcel and all of the downstream community is not negatively impacted and protected threatened species are **not harmed?**

Building on this critically sensitive area **will threaten** trees, riparian zone, wildlife habitat, Protected Species Habitat, water quality, and downstream neighbor's safety.



16.16.110 Contents of critical areas study.

2. Assess all hazards posed by the development proposal to any critical areas or critical area buffers on or adjacent to the proposed site;

The Garey's proposal says "**Avoidance: The project avoids direct impacts to Lyon Creek** (P6 3.2 Mitigation sequencing)."

I will show how this statement is false.

16.16.250 Reasonable use exception to allow for reasonable economic use.

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;

In order to make qualified decision on this RUE, I encourage requiring specific assessments, modeling and reports on each impacted area.

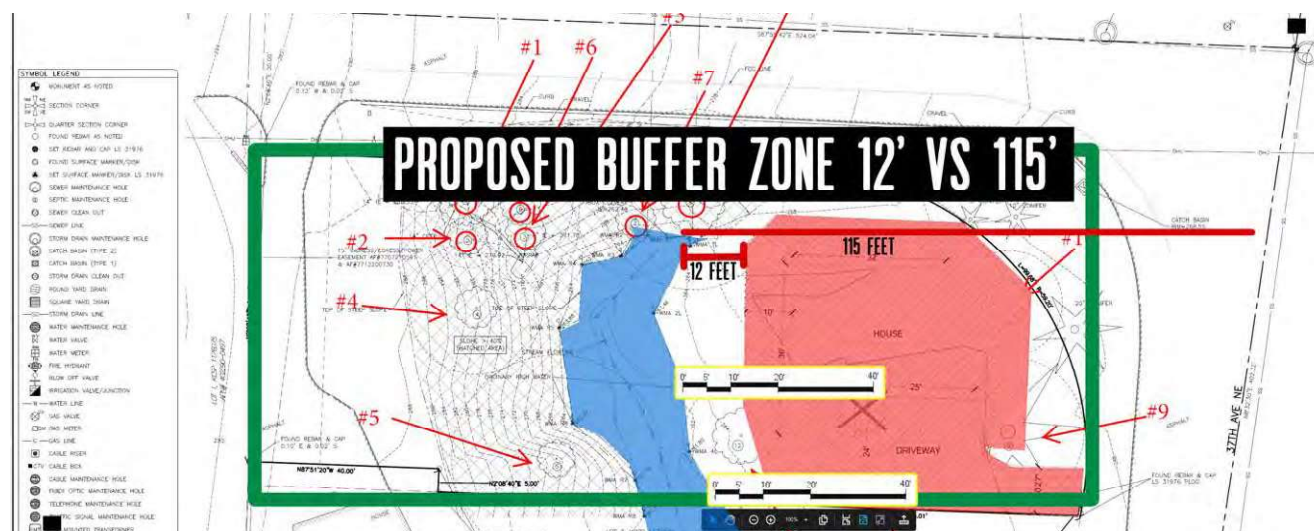
- Stream buffer zone is violated
- Trees health of existing and future trees, survival - impact of removing plants
- Flooding/Erosion/Slope/Landslide
- Lyon creek stream banks
- Downstream and the Cedar way roadway
- Impact on Stream Water Quality
- Aquatic animals
- Land animals

Stream Buffer Violated

Lyon creek, which runs through the middle of the parcel is required to have a buffer zone of 115', but using the scale of the proposal, the footprint in red for the house and driveway is as close as 12 feet from the ordinary high mark of Lyon Creek. That's 103 feet not enough.

16.16.355 Streams – Development standards.

2. Type F stream containing fish habitat shall have a 115-foot buffer;



Arborist Report is incomplete and misleading

Imagine this. You are a manager of a computer store and one of your employees was in charge of hiring a temporary worker to do inventory. The paperwork for the inventory is completed and says 13k items. Do you ask any questions about who was hired and are they reputable? Would you take a moment to go the and glance and eyeball to see if that inventory number seems correct? Do you feel responsibility to your store and company and other employees to make sure this inventory is accurate?

What if you saw there was a large discrepancy? Would you question it or let it go? What if you hired another inventory person to count from a known reputable company and found out there was 35k items, that's 63% of the inventory missing. What would you think? Might you ask the employee about the person they hired? Might you inquire to the person about how they did they inventory and how they missed 22,000 items? What would be the sound thing to do?

From the enclosed Watershed Report, it states there are 13 trees inventoried. What about the other trees? What are the standards for tree inventory reports? Who decides which trees will be documented and which ones will be left out? Will the city go out to verify? A person can easily eyeball and count the trees from the road.

I would like to **invite the tree board** to this conversation, so they can see if there are challenges with accountability to current tree code moving forward.

Red Flag Problems

- Only 13 out of 35 trees are documented
- For the conifer on the east edge stated as 20". It needs to be remeasured. It looks bigger than 20" diameter at 53" height.
- These 2 conifer trees are noted on the map, but are not in the chart report. They are outside of the parcel line, but they may be impacted and their roots should be protected too.
- The position of the house and driveway and trees required CRZ and IRZ to be protected doesn't calculate. How can LFP code be followed and position the house in the current position? If you look at the house plan overlaid on the tree plan, it doesn't work. Using the LFP code of Tree Protection for CRZ the 6ft tall chainlink fences protecting the roots encompass over 70% of the stated house and driveway foot print. How could you protect the trees and build in the same area?
- The plan says they will **only remove one tree #11**. The other trees are in the footprint of the house and driveway, how is it explained that these trees will not be removed when they are inside of that area and their CRZ zone is beyond?
- What will happen with all the other trees on the property?
- What about the trees on my property bordering his property. Doesn't the code state these trees should have their critical root zones
- In the report, should there be an in-depth assessment of the individual trees to assess the survival rate and mitigation strategies to insure their survival. Here is an example of what I request to make an accurate decision of the impact of the construction on the land on [Page 3-13 on the public comments](#)

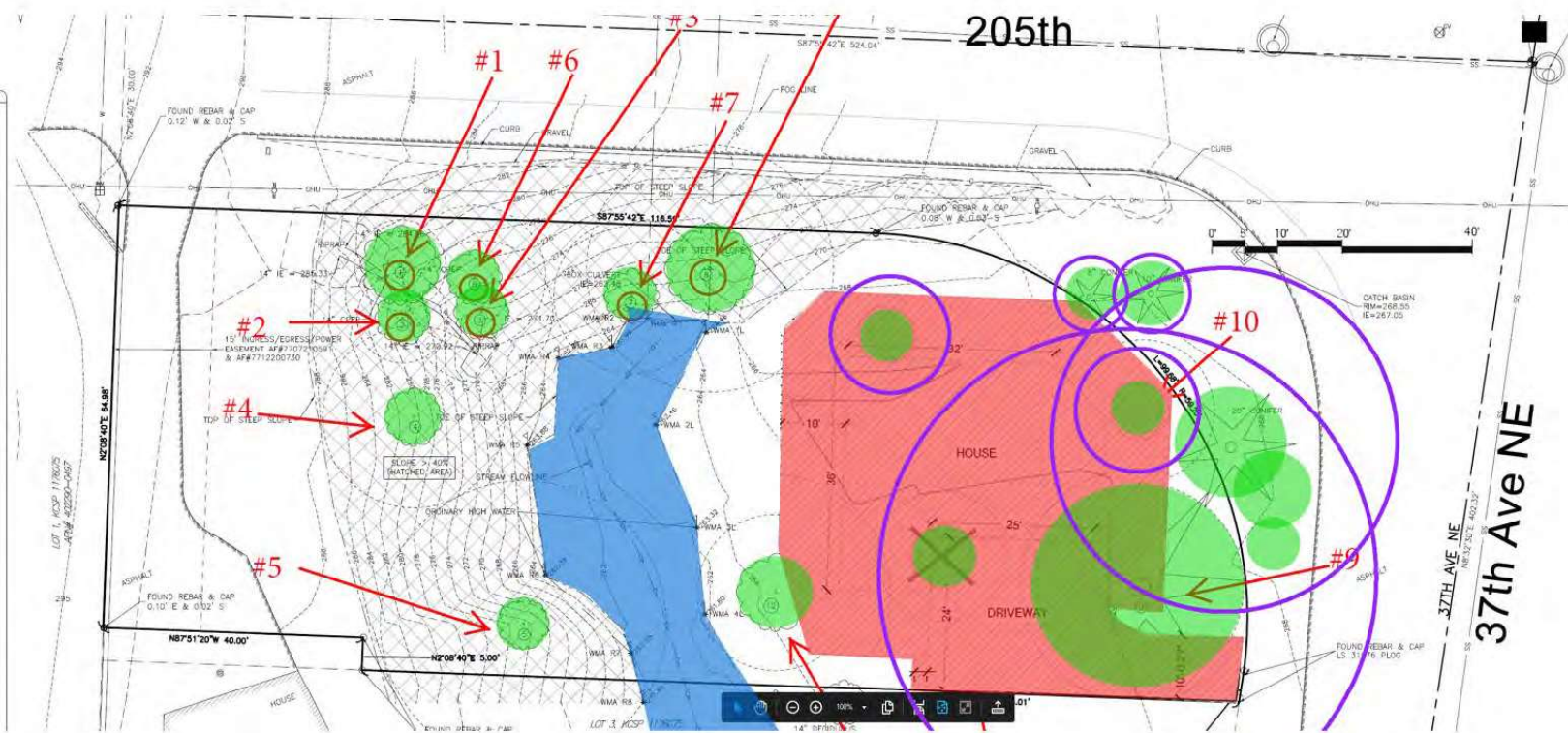


How do you make sense of this house footprint map overlayed on his other map of the trees?
The purple circle denotes the CRZ zone.

Tree Protection Measures To ensure the survival of the significant trees that will be marked for retention prior to construction, these industry standard best management practices should be followed:

- *Tree protection barriers: A temporary enclosure erected around a tree to be protected at the critical root zone (CRZ). The City defines the CRZ as an area equal to one-foot radius from the base of the tree's trunk for each one inch of the tree's diameter at 4.5 feet above grade). Tree protection barriers should consist of 6-foot-high chain link fence with a sign that states: "Tree Protection Area" on all sides of the fence. Protection barriers are to remain on-site until the director authorizes their removal.*

Green are the trees and the purple rings are the critical root zone where the fences will stand.



What will happen if trees go missing? Will anyone know? Are there any consequences for saying “only one tree will be removed” but somehow 4 other trees disappear?

Figure 1 Full size provided as an attachment

Here is the list of inventoried trees on from the proposal. The ones I am questioning are the significant trees outlined in red and the evergreen that is nameless on the east border on 37th ave. Plus why aren't the other 22 trees on this map.

Tag ID	Scientific Name / Common Name	Trunk DBH (inches)	Significant (Y/N)	Landmark (Y/N)
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Figure 2 Parcel from 37th eastside



Figure 3 Parcel from north side 205th

I am concerned about the trees on my property? Shouldn't the trees that border his property be noted with CRZ zones? Doesn't this code state that offsite trees that may be impacted be protected?

16.14.040 Tree removal

2. Major tree permits and proactive forest management permit applications shall include the following:

a. A site map (to scale) with a north arrow depicting accurate location of site features including buildings, driveways, environmentally critical areas and buffers, forest stands or open-grown single or clusters of significant trees; the CRZ of the stand, cluster, or individual tree, along with any off-site trees that may be impacted by tree removal, excavation, grading, or other development activity proposed; and



In the tree report "A total of 13 trees were inventoried and assessed within the study area. Of these 13 trees, two were dead and therefore are not significant, per LFPMC 16.14.030, and not subject to Lake Forest Park regulations.

Shouldn't the trees be evaluated to see if they are a "Wildlife habitat tree?" A Wildlife habitat tree means the remaining trunk of a dead, dying, diseased, or hazard tree that is reduced in height and stripped of all live branches. To be considered as a wildlife habitat tree, the tree must be at least 12 inches DBH and 20 feet tall. The actual wildlife habitat tree height must consider the surrounding targets.

From what I have learned these trees are important to health of the stream and provide bird and other small animal habitat.

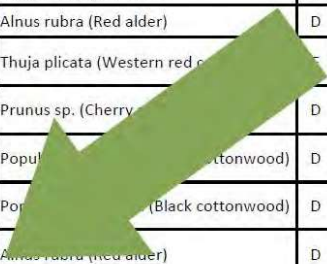


Mark J. Garey
Lake Forest Park, WA (parcel #4022900497)

Tree Inventory Table
Table Issued: 11/23/2020
Site Visit: 11/17/2020

TAG #	TREE NAME	EV / DEC	# STEMS	COMB. DBH (IN)	HEIGHT (FT)	RADIUS (FT)	CONDITION	SIGNIFICANT (Y/N)	LANDMARK (Y/N)	
1	Alnus rubra (Red alder)	D	1	12.3	35	7	Fair	Y	N	Located on steep slope
2	Alnus rubra (Red alder)	D	1	8.6	40	7	Fair	Y	N	Located on
3	Alnus rubra (Red alder)	D	1	8.5	40	11	Fair	Y	N	Located on steep slope
4	Populus trichocarpa (Black cottonwood)	D	1	18.0	45	14	Dead	N	N	
5	Alnus rubra (Red alder)	D	1						N	Has an in sandy
6	Alnus rubra (Red alder)	D	1						N	
7	Alnus rubra (Red alder)	D	1						N	
8	Alnus rubra (Red alder)	D	1	14.0				Y	N	Branch
9	Thuja plicata (Western red cedar)	D	1	36.3	100	16	Good	Y	Y	Close to stream
10	Prunus sp. (Cherry)	D	1	9.0	60	11	Poor	Y	N	IVY on steep stem.
11	Populus trichocarpa (Black cottonwood)	D	1	20.0	50	14	Severe	Y	N	Fallen over but still sprouting new growth. Root plate still intact and buried.
12	Populus trichocarpa (Black cottonwood)	D	1	36.0	30	12	Dead	N	N	
13	Alnus rubra (Red alder)	D	1	8.5	55	23	Fair	Y	N	

13 TREES



Where is the in-depth report and assessments on the trees to be sure they won't be impacted by the disruption?

I also question the Site canopy assessment and Tree protection measures. From reading Tree Solutions <http://www.treesolutions.net/> with 40 years of experience as an arborist, his reporting is thorough. I believe a complete report like shown on [Page 3-13 on the public comments](#) of the [LFP Crane RUE involving 2 trees](#). Scott Baker, arborist, showed the inaccuracies and mistruths about the tree report submitted by the builder. I suggest hiring a professional like Scott Baker to do a complete job.

I made a few red highlights showing that it is possible for builders to hire arborists to buy their authority and to mislead the city planners. By reading this full comment, you may see some similarities of omissions, as well as Tree Solutions, Scott Baker makes validate points in order to do legitimate tree assessments. It is possible that vendors hired by the builder are withholding, omitting or not being truthful. I believe a second opinion is required and should be reviewed by your LFP Arborist.

EXHIBIT # 19.4

Arborist Memo: Lake Forest Park Stewardship Foundation
Date: February 8, 2018

pg. 2 of 7

I used binoculars to inspect the upper parts of the two large trees. Tree #10 shows good adaptive anatomy at the unions of the regrown tops. The trees are both in good condition and growing at a normal rate. Tree #10 has some large (>6 inch diameter) branches present.

The arborist report recommends that most of the trees on the ROW and the large Douglas-fir (#10) tree on the parcel be removed to accommodate the house. He states that the two large Douglas-firs are both hazards, having used the TRAQ risk assessment form to show that tree #6 is high risk and tree #10 moderate risk.

Although it is stated in the methods section that a complete and close inspection was made of every tree, when I visited the site tree #6 and tree #7 were both mostly covered by ivy vines that obscured the bases of the trees. A close inspection would require the removal of these vines.

The arborist says that the failure of tree #6 at the union of the two trunks is probable within two years. He states that the failure of one of the tops of the tree is possible within two years due to decay. No data from an aerial inspection, or advanced testing confirming the presence decay is included.

The report also states that to develop the site as shown on the plan, tree removal is necessary to allow utilities to be installed and to construct a driveway.

The tree canopy coverage uses tree canopy from trees on the adjacent ROW property. It is not clear if this is acceptable.

I noted that the lot to the south of the parcel has a large group of tall native conifers present and only one tree is shown on the plan. I noted an elm (*Ulmus* sp.) tree (shown on the plan) near the south west corner of the parcel on the adjacent property overhangs the rear of the parcel.

Discussion

Both the risk assessment forms for trees #6 & #10 contain errors or omissions that are significant. For tree #6, the choice of probable for the likelihood of failure is not backed up with any supporting data. This tree has stood for a very long time. It shows significant reaction growth around the two trunks which are close together and evenly proportioned over the portion of the basal trunk beneath them. No indication of failure is present in the anatomy at the union of the trunks. Several significant wind events have occurred in recent years. The tree withstood these and the tree currently shows no worrisome signs of failure at the union.

For tree #10, the assessor appears to assume from a ground based inspection that the tree has significant decay near the area where it was topped long ago. My visual assessment using binoculars revealed no signs of significant decay and the tree appears to have a well-adapted canopy.

Both risk assessments give one option to mitigate risks from the trees: removal of both trees. This is a significant omission as both trees can be managed using acceptable management practices like pruning and cabling according to ANSI A-300 Standards to reduce risk to a low level while preserving the trees. The species is tolerant of pruning and can be managed for a long time with reasonable risk.

If there are inaccuracies and omissions in one report, do you question other areas related to this proposal?

I am not an arborist, but regarding planting new growth, where are the survival rates for the specific plants? What happens is most of them do not survive? What will the impact be? How long will it take to replace the canopy with new growth.

Regarding removing the evasive weeds like himalayan blackberry and knotweed, they don't just go away, they grow back and are persistent. From the [King County Noxious Weed Control Program](#), this information on how to remove knotweed. Notice that it takes 4-6 years and several treatments. Plus it says after 2-3 years, try to re-vegetate with desirable vegetation. It appears that the main mitigation plan is to remove evasive species. As shared by the facts below, it is not instant. How will the newly plaintive native species survive and do their job? I understand riparian zones are crucial to the health of the stream.

Large Infestations/Monocultures

- Mowing is not effective for controlling invasive knotweed infestations and can spread infestations further.
- Large infestations can be controlled with herbicides or a combination of methods (follow directions in the appropriate sections above).
- Eradication of knotweed with a single herbicide application is difficult. Typically it takes several treatments, over 4 to 6 years to get an infestation under control.
- If using the covering method, be sure to monitor for knotweed growth on the edges of sheet-mulched sites, at overlapped areas in the sheet-mulch, and where sheet-mulch has been staked. For sprayed sites, monitor annually around the edges of chemically treated areas.
- Use erosion control measures in areas subject to erosion, especially on steep slopes or riverbanks.
- Plan on re-vegetating with desirable vegetation after the initial 2-3 years of treatment, especially in areas likely to be re-infested with knotweed or other

King County Noxious Weed Control Program
206-477-9333 Website: www.kingcounty.gov/weeds

KNOTWEED BMP
JULY 2015, Page 12

Where is the timeline of the evasive plant removal and replanting and the modeling of the survival rates? Who is responsible for monitoring this? What happens if the plans to remove evasive plants and installing of new plants doesn't happen? In addition, knotweed must be removed by those certified if using the injection method. This method works best, takes 3 to 4 years, needs to be documented and monitored.

<https://your.kingcounty.gov/dnrp/library/water-and-land/weeds/BMPs/Knotweed-Control.pdf>

Flooding/Erosion/Slope/Landslides

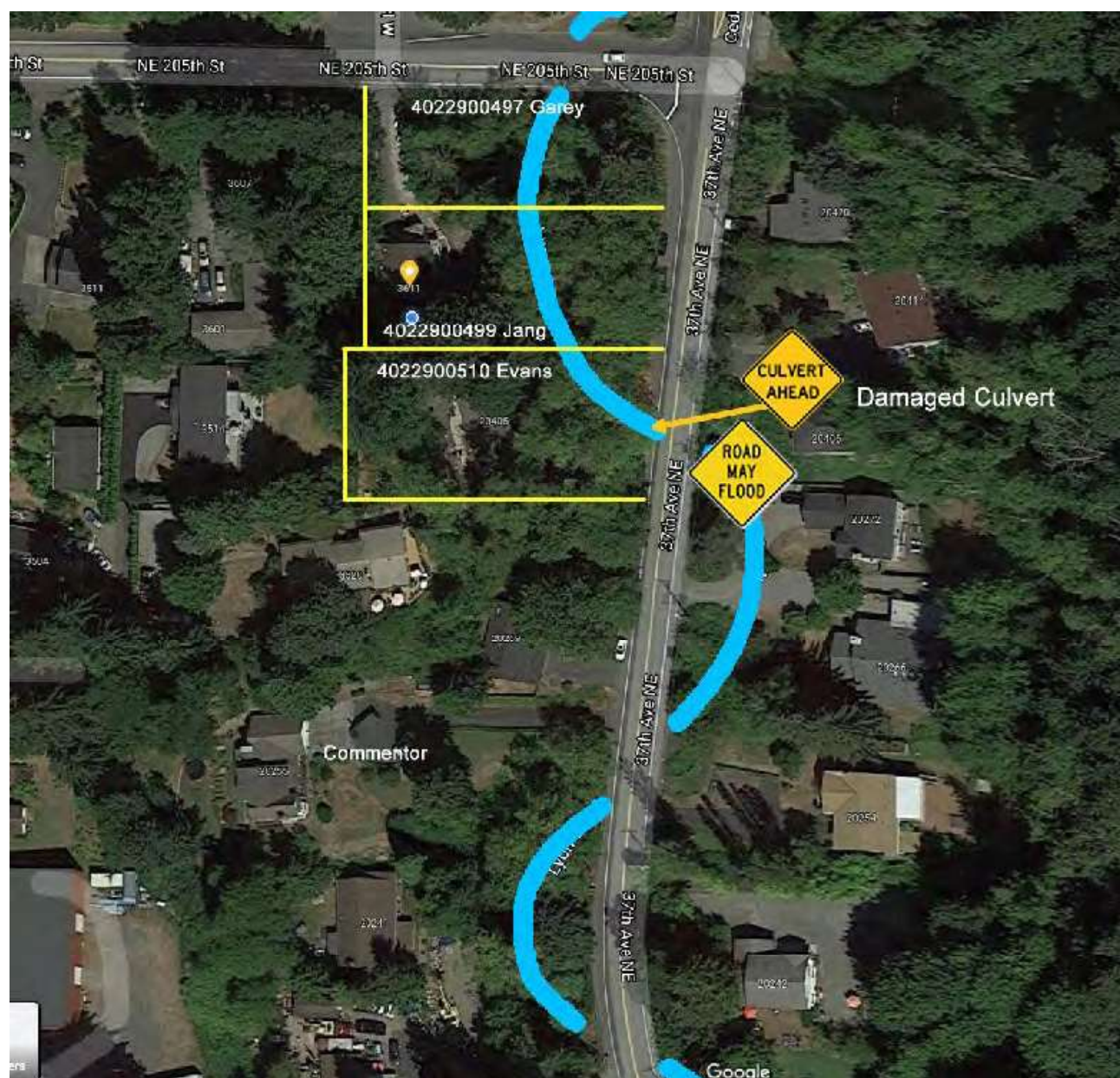


Figure 4 Parcel and adjacent parcels

Garey's proposal says "Avoidance: The project avoids direct impacts to Lyon Creek and there will be no less impact that can be done." If you believe it is true, **where is the evidence?**

In the aerial map you will see 3 parcels Gareys, mine and Evans and we are downstream. Lyon Creek winds through our property. Another neighbor a couple houses also is concerned about this proposal.



Culvert Damaged – [see pictures and videos](#)

If flooding already occurs, wouldn't the new construction and addition of impervious surfaces, exacerbate the flooding? In front of the driveway on the 3rd parcel "Evans" there was flooding about 5 years ago. When the county came to look at it they said when the road had been expanded, they only did an addition to the metal culvert tubing and that additional section is coming apart from the original piece of the culvert and **therefore collapsing due to flooding that keeps occurring a few times a year**. They said it probably would be several years before they could get around to fixing it. But that our section of the culvert is on the list to be

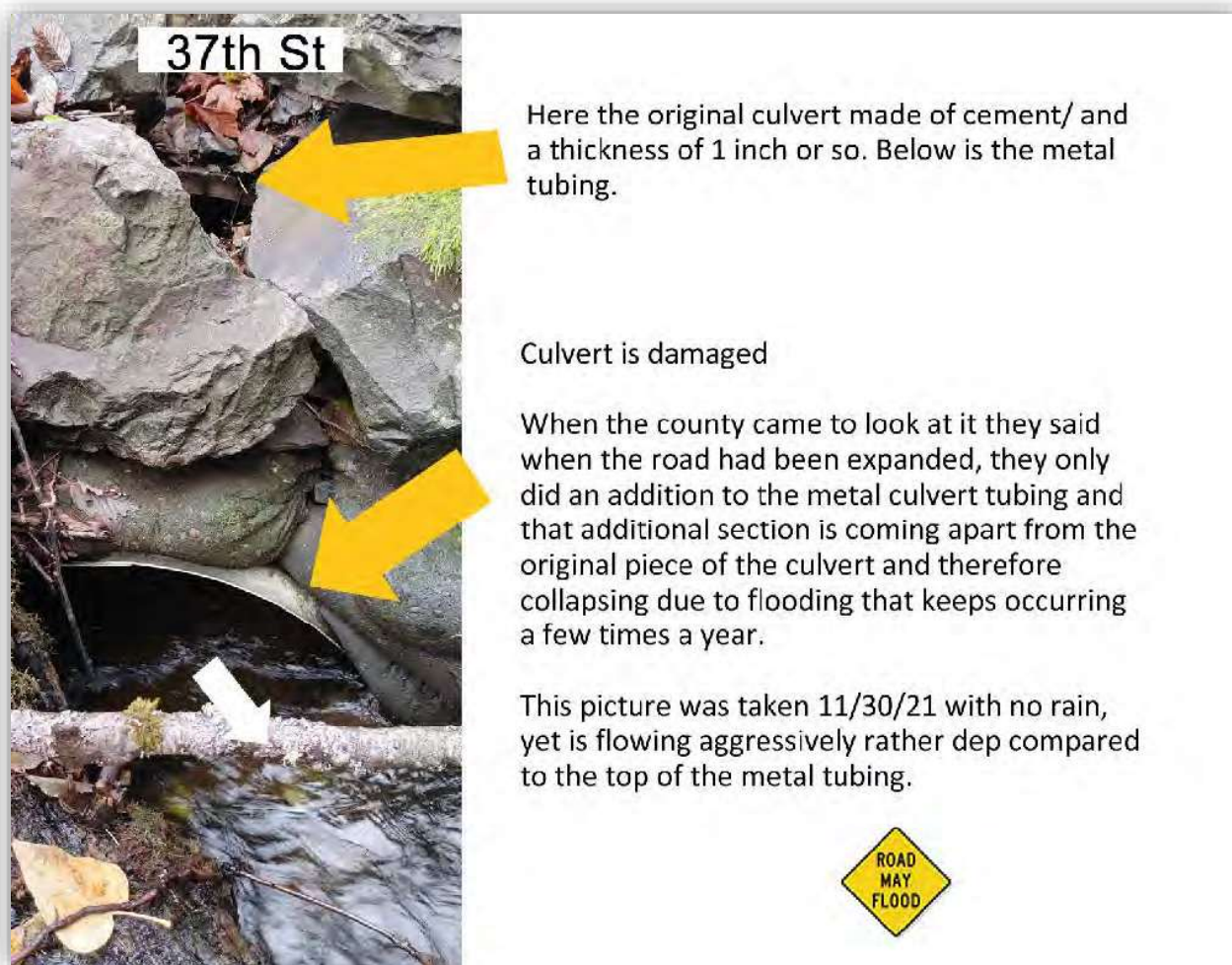


Erosion

Do you see evidence of flooding and erosion? The land the concrete road divider is sitting on is eroding. This culvert is on the 3rd parcel in the map, Evans.

This creek is about 8 feet lower than the road and flooded 5 or 6 years ago.

If it already floods, what will the impact of more water be? How many people and habitats will it effect?



corrected. These neighbors are concerned their driveway on the slope adjacent to the creek may erode away.

My neighbor, Evans, is working with the [King Conservation District](#) and Ashley Allan to improve the habitat of the creek and environment, removing invasive species and planting native plants. I also have a plan drafted to work with them to improve water quality, assist in the salmon population restoration, and improve the overall health of Lyon Creek. Both Evans, King Conservation District and my efforts will be nullified with the disruption of the new construction. We are concerned about slope stability. Both Evans and my houses are on top of the slope. When the water level rises, there will be more erosion to our slopes threatening are houses. Our safety should be considered too.

Upon the King Conservation District suggestion, I spent time last winter following the [guidelines to dig up knotweed](#) and dispose correctly so as to not send seeds down stream. I also manually stunted my evasive blackberries. My neighbor Evans and I are on the same page of taking care of Lyons creek. From the proposal, **Garey will be negating our efforts.**

The slope is steep. All of three properties are at risk. The code states all hazards be examined.

16.16.110 Contents of critical areas study.

2. Assess all hazards

I suggest that a geotec slope report for the 3 properties is necessary to make a proper decision if there is impact and threatens downstream neighbors. Attached is thorough example of a desired slope assessment from the local [WA State Fish and Wildlife Fish biologist](#).

- Subsurface soil conditions
- Ground water conditions
- Landslide Hazard areas
- Seismic areas

- Where is the geotechnical analysis of the current slopes and the impact of the removal hearty evasive weeds? What will happen when the slope is bare and or waiting for the new native plants to establish and survive?

- What is the soil composition of both his parcel and as well and the neighboring downstream parcels that will be affected by a water level rise in the creek?

- Is there a report that considers the slope, which is layman terms is 45-60 degrees. Logging around streams and building around slopes usually has stipulations depending on the steepness of the slope.

- What are the erosion rates with the dependent on 2022 forecasts currently and with the addition of the new construction and potentially more rain and more impervious surfaces increasing the width, and pace of the flow? The slopes on the 3 parcels in a row are different and should be considered since his development will impact us.

- The slope leading down the stream is very steep. How will the builders get to the slope side of the creek? Will they put up a bridge over the creek or walk through it? Or will they disrupt the steep slope while walking up and down it? Is it approved to build in and around the stream or is a [Fish Enhancement Hydraulic Permit Applications \(HPA\) required by the Washington State Department of Fish and Wildlife](#)

[Work that crosses over a waterbody or includes in-water work may require coverage under a Hydraulic Project Approval \(HPA\) permit from the Washington Department of Fish and Wildlife \(WDFW\).](#)

There are many unknowns.

Slope Discrepancy

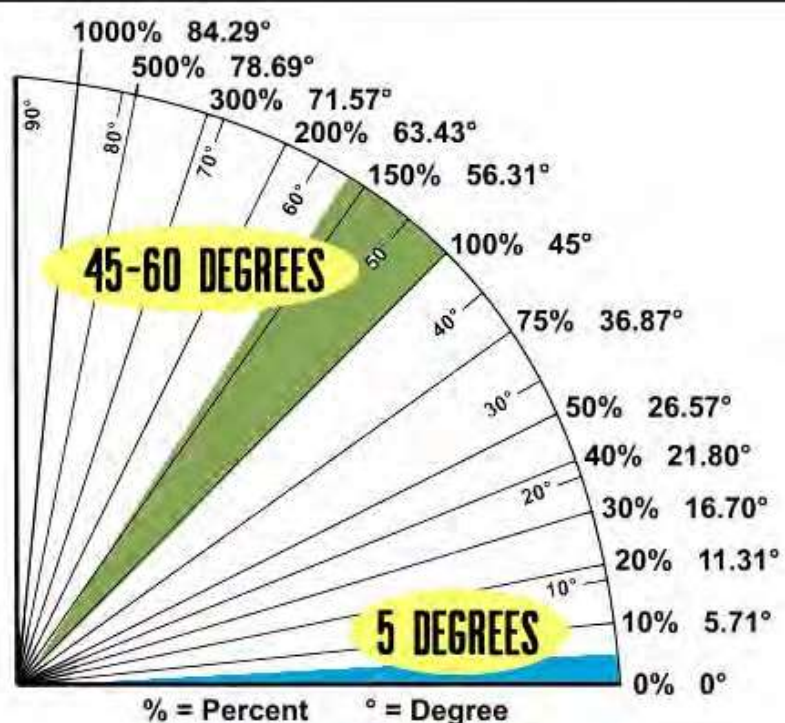
The proposal states there is a <5% slope. Do drive or walk by the property to verify with your eyesite. It is true that is more than 5%, but it is honest to record 5% when it at 100% or more? This needs to be explained.



WETLAND DETERMINATION DATA FORM Western Mountains, Valleys, and Coast Supplement 1987 COE Wetlands Delineation Manual

Project Site:	36XX NE 205th St. (Parcel 4022900497)		
Applicant/Owner:	Garey, Mark		
Investigator:	N. Lund		
Sect., Township, Range:	S 03	T 26	R 4
Landform (hillslope, terrace, etc):	hillslope		Slope (%): <5%
Subregion (LRR):	A		Lat:
Soil Map Unit Name:	Click here to enter text.		
Are climatic/hydrologic conditions on the site typical for this time of year?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Are "Normal Circumstances" present on the site?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
Are Vegetation <input type="checkbox"/> , Soil <input checked="" type="checkbox"/> , or Hydrology <input type="checkbox"/> significantly disturbed?			
Are Vegetation <input type="checkbox"/> , Soil <input type="checkbox"/> , or Hydrology <input type="checkbox"/> naturally problematic			

In the next graphics is a chart showing slope grading. The proposal says it is <5% represented by the blue triangle in the chart. The green slice is 45-55 degrees which is 100 to 150%. You can look at the picture of the slope and also take your own photo.



This is the west side of Lyon Creek. The slope drops off sharply.



Stream and water quality

Where is a through qualified hydrologist report addressing:

- Surface water
- Groundwater
- Stormwater impacts
- Stormwater sampling, the [Dept of Ecology has a robust document](#) that should be required to follow.
- Where is a comprehensive flow control assessment?

As you look at the current report submitted on water, where is all of the data to arrive at the conclusions? Which tests were used? In red marking are questions about the report. The report looks insufficient. It also states there is **no downstream or upstream issues**. When there is **proof to the contrary** from neighbor Evans, and likely the people who maintain the roads and culvert. Plus there are also pictures of the **flooding upstream from the MLT detention pond**. These contradict this report. Please see the report by environmental biologist, Jim Mattila that addresses dire downstream and upstream issues.



Section 2 – Conditions and Requirements Summary

The following summary describes how this project will meet the eight "Core Requirements" and the "Special Requirements" that apply:

Core Requirements

1. **Discharge at the natural location:** This site currently discharges to the creek on the property. The natural discharge location will be maintained.
2. **Off-site Analysis:** A Level 1 off-site analysis was completed for this project and is included in Section 3 of this report.
3. **Flow control:** This site is exempt from flow control based on the basic exemption in Section 1.2.3.
4. **Conveyance system:** Dispersion will be utilized; no conveyance system.
5. **Erosion and sedimentation control:** An erosion and sediment control plan has been provided with the submittal.
6. **Maintenance and Operations:** The stormwater facilities for this project shall be maintained in accordance with the requirements of Appendix A of the 2016 KCSWDM.
7. **Financial guarantees and liability:** Financial guarantees and liability will be provided as required by the City of Lake Forest Park.
8. **Water Quality:** This project is exempt from Water Quality requirements.
9. **Flow Control BMP's:** These will be implemented in accordance with KCSWDM Section 1.2.9.3. Specifically, a level spreader is provided.

Special Requirements

1. **Other adopted area-specific requirements:** None
2. **Floodplain/Floodway delineation:** None
3. **Flood protection facilities:** None
4. **Source controls:** None
5. **Oil Control:** None

Where is all the data to back up the claims? Tests, modeling, history, predictions?

Section 3 – Off-site Analysis

This Level 1 Downstream Analysis is submitted as required by Core Requirement #2, of the 20016 KCSWDM. Core Requirement #2 requires a qualitative analysis of upstream and downstream drainage conditions with an initial project submittal.

Task 1: Study Area Definition and Maps:

See Section–1 Project Overview of this report for a detailed Study Area Definition.

Task 2: Resource Review:

The King County Sensitive Area Maps, along with the Critical Areas Report from The Watershed Company, show that there is an unclassified creek on the property.

There were no recent drainage complaints on parcels within ¼ mile directly downstream of the proposed project parcel.

Task 3: Field Inspection:

What about the Evans property and the road flooding?

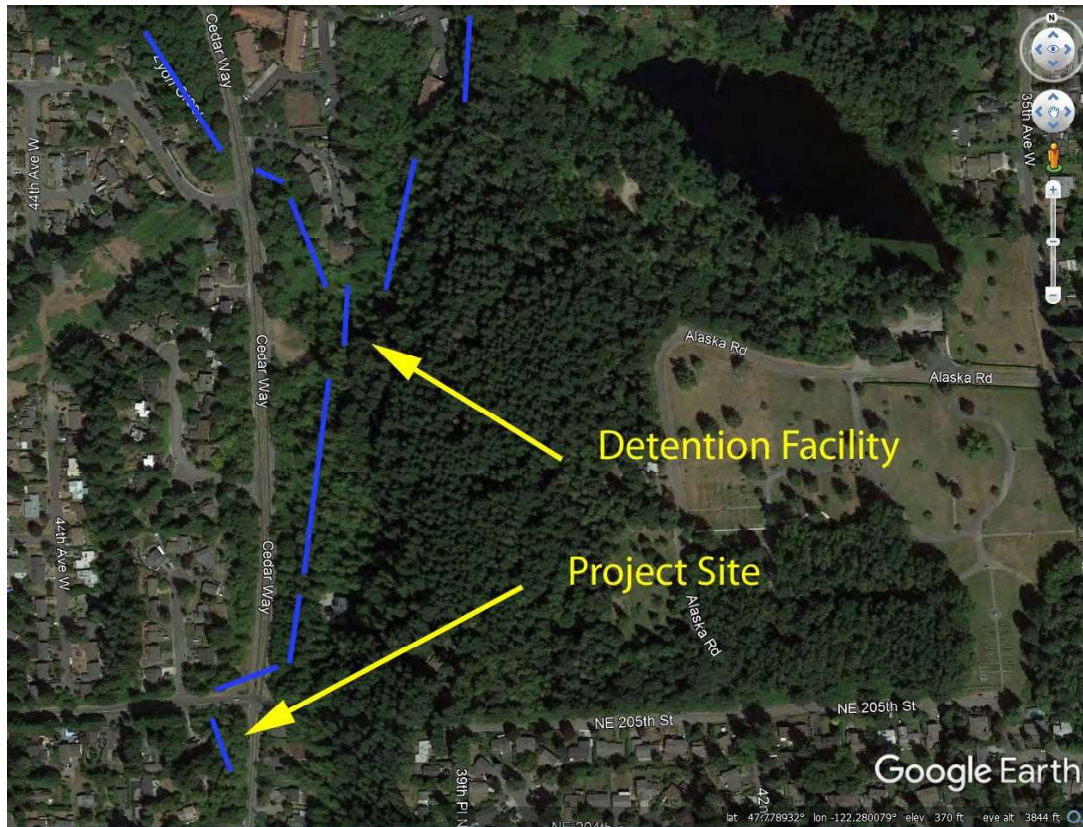
A field observation of the site, upstream drainage area, and ¼ mile downstream drainage path conditions was performed in June, 2018.

Task 4: Drainage System Description and Problem Descriptions:

What about the upstream detention pond flooding?

Upstream: There is not any significant upstream drainage area contributing to the site.

The proposal report says there are no up or downstream issues. That is untrue. Drive 30 seconds up stream and you will find the detention pond.



MLT Detention Pond - Wrong. Here is proof. [See more videos](#)

- Where are the reports on current water quality and compared with future impact of house construction with chemicals, debris, more sunlight, less plants filter the water?
- If the builder clears trees lying across and or near the stream, how will that disrupt the contents and nutrients in the water, which also affects the salmon?
- Stormwater Monitoring reports, Discharge monitoring DMRs
- Evaluate the water odors, water surface oils, turbidity, temperative, conductivity, dissolved oxygen and Ph levels
- Sediment and substrate
- Will tests be done along the way if the proposal is accepted to prove there is "no less impact" that could be done?
- Is there an approved 3rd party vendor to do this?
- How often should these tests be done to assure this result?
- Who will check these documents to assure the legitimacy and monitor the results?
- If the results show a negative impact for the water quality, then what will happen?
- Where is the future modeling of the impacts?
- Shouldn't a thorough analysis be required to meet the criteria of a reasonable exception?

Protected Species Habitat

There is no mention of any fish in this proposal, yet this Parcel # 4022900497 is a **known PHS (Priority habitat and species) designated by [Washington Department of Fish and Wildlife](#)**, the [full document is attached](#). There are 3 protected animals, yet none of them were mentioned. The disturbance of the construction is going impact their lives. I suggest that it be required to get a submit the PHS report.

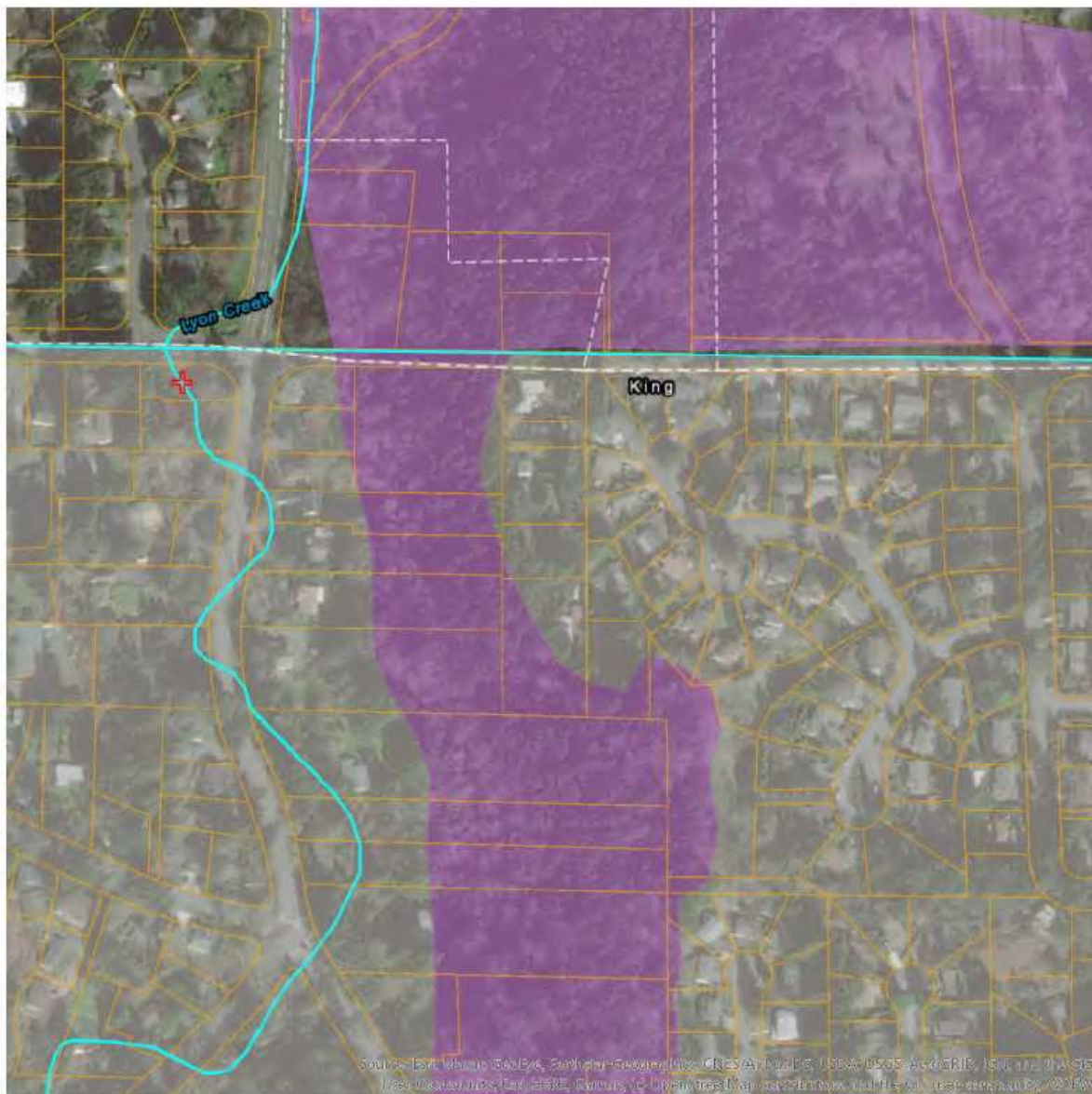
Report Date: 11/22/2021

PHS Species/Habitats Overview:

Occurrence Name	Federal
Coho	N/A
Coho	Candidate
Resident Coastal Cutthroat	N/A
Little Brown Bat	N/A



Priority Habitats and Species on the Web



Report Date: 11/22/2021

PHS Species/Habitats Overview:

Occurrence Name	Federal Status	State Status	Sensitive Location
Coho	N/A	N/A	No
Coho	Candidate	N/A	No
Resident Coastal Cutthroat	N/A	N/A	No
Little Brown Bat	N/A	N/A	Yes

11/22/21, 10:05 AM

PHS Report

PHS Species/Habitats Details:

Coho	
Scientific Name	<i>Oncorhynchus kisutch</i>
Priority Area	Breeding Area
Site Name	Lyon Creek
Accuracy	NA
Notes	LLID: 1222800477542, Fish Name: Coho Salmon, Run Time: Unknown or not Applicable, Life History: Anadromous
Source Record	39584
Source Dataset	SWIFD
Federal Status	N/A
State Status	N/A
PHS Listing Status	PHS Listed Occurrence
Sensitive	N
SGCN	N
Display Resolution	AS MAPPED
More Info	http://wdfw.wa.gov/wlm/diversity/soc/soc.htm
Geometry Type	Lines

Coho	
Scientific Name	<i>Oncorhynchus kisutch</i>
Priority Area	Occurrence
Site Name	Lyon Creek
Accuracy	NA
Notes	LLID: 1222800477542, Stock Name: Lake Washington/Sammamish Tribs Coho, Run: Unspecified, Status: Depressed
Source Record	3120
Source Dataset	SASI
Source Name	Not Given
Source Entity	WDFW Fish Program
Federal Status	Candidate
State Status	N/A
PHS Listing Status	PHS Listed Occurrence
Sensitive	N
SGCN	N
Display Resolution	AS MAPPED
More Info	http://wdfw.wa.gov/wlm/diversity/soc/soc.htm
Geometry Type	Lines

11/22/21, 10:05 AM

PHS Report

Resident Coastal Cutthroat	
Scientific Name	<i>Oncorhynchus clarki</i>
Priority Area	Occurrence/Migration
Site Name	Lyon Creek
Accuracy	NA
Notes	LLID: 1222800477542, Fish Name: Cutthroat Trout, Run Time: Unknown or not Applicable, Life History: Unknown
Source Record	39581
Source Dataset	SWIFD
Federal Status	N/A
State Status	N/A
PHS Listing Status	PHS Listed Occurrence
Sensitive	N
SGCN	N
Display Resolution	AS MAPPED
More Info	http://wdfw.wa.gov/wlm/diversty/soc/soc.htm
Geometry Type	Lines

Little Brown Bat	
Scientific Name	<i>Myotis lucifugus</i>
Notes	This polygon mask represents one or more records of the above species or habitat occurrence. Contact PHS Data Release (360-902-2543) for obtaining information about masked sensitive species and habitats.
Federal Status	N/A
State Status	N/A
PHS Listing Status	PHS Listed Occurrence
Sensitive	Y
SGCN	N
Display Resolution	TOWNSHIP
ManagementRecommendations	http://wdfw.wa.gov/publications/pub.php?id=00605

DISCLAIMER. This report includes information that the Washington Department of Fish and Wildlife (WDFW) maintains in a central computer database. It is not an attempt to provide you with an official agency response as to the impacts of your project on fish and wildlife. This information only documents the location of fish and wildlife resources to the best of our knowledge. It is not a complete inventory and it is important to note that fish and wildlife resources may occur in areas not currently known to WDFW biologists, or in areas for which comprehensive surveys have not been conducted. Site specific surveys are frequently necessary to rule out the presence of priority resources. Locations of fish and wildlife resources are subject to variation caused by disturbance, changes in season and weather, and other factors. WDFW does not recommend using reports more than six months old.

When making a decision on critical area, shouldn't be required to do a Scientific Analysis & Habitat Assessment? [The Stream Keepers](#) have a description of the process to of assessing.

- Fish Barrier Assessment
- Salmonid Habitat Assessment
- Benthic Macro Invertebrate Analysis
- Vegetation Monitoring
- Salmon Spawning Surveys
- Federal Biological Assessments and Evaluations (BA's and BE's) required by the US Corps of Engineers, Environmental Protection Agency, and Fish and Wildlife Service
- Ecoregional assessments



"Habitat Assessment Scores, calculated using the EPA's Rapid Bio-assessment protocol, reflect the condition of fish habitat along the creek. Example to the right: Red sections are classified as degraded as a result of stream channelization, bank hardening, and narrow riparian buffers populated by invasive plant species."

Here is more information about the [Puget Sound Coastal Streamkeeper's info.](#)

Because the property will impact the salmon, have you consulted with the Tulalip Tribal Council on this topic? Do they have a say in this regarding their treaty rights and access to salmon? Here is the [CEO's info.](#)

<https://www.tulaliptribes-nsn.gov/Dept/TreatyRightsAndGovernmentAffairs>

I haven't spent much time on sharing salmon habitat education because, there are so many stream and habitat protectors, and LFP states they are committed to protecting salmon and I know you are committed to the fish.



Property Value

Why did this property sell for 40K? Because it would be too hard to obey the law and build a house there. The property is assessed at 27k. If Garey bought the property for \$200k, that is would be more reasonable to think that you could do build a house, but at 40k. Perhaps he was gambling and hoping no city planners were paying attention.

SALES HISTORY

Excise Number	Recording Number	Document Date	Sale Price	Seller Name	Buyer Name	Instrument	Sale Reason
3131043		3/5/2021	\$0.00	GAREY LISA F	GAREY MARK J	Quit Claim Deed	Other
2745989	20150728001394	7/27/2015	\$40,000.00	MCKIMMY JAMES	GAREY MARK J+LISA F	Statutory Warranty Deed	None
1099566	198911221550	11/20/1989	\$25,000.00	EXCEL ENTERPRISES INC	MCKIMMY JAMES	Warranty Deed	None

REVIEW HISTORY

Tax Year	Review Number	Review Type	Appealed Value	Hearing Date	Settlement Value	Decision	Status
1995	9408778	Local Appeal	\$48,500	1/1/1900	\$20,000	REVISE, ASSESSOR RECOMMENDED	Completed

Valued Year	Tax Year	Appraised Land Value (\$)
2021	2022	32,000
2020	2021	27,000
2019	2020	27,000
2018	2019	25,000
2017	2018	23,000
2016	2017	21,000
2015	2016	25,000
2014	2015	24,000
2013	2014	20,000

It is remarkable that this proposal in critical area is being considered with all efforts LFP and the neighboring citizens have done to create healthy environments for the salmon and our environment. It concerns me that his proposal does not prove anything.

I don't see any documentation about the condition of the stream with regard to salmonoid habitat. There needs to be documentation that proves that disturbing the land so close to a salmonoid stream will not harm the habitat. At this point I do not see anything that proves that damage won't happen. Building a hard surfaces structure so close 12feet to the stream when the buffer should be at least 115 feet, will damage the stream forever. There is no way that having a home so close to the stream with all the human refuse and run off that will occur because of home chemical use, fertilizer, domestic animal waste, chemicals from automobiles, to name a few, will **not** harm the stream. Not to mention what will happen to the stream if the when so much canopy is removed. If this small lot is developed it will for certain, destroy any natural habitat that now exists.

Do we have ample healthy salmon habitat in LFP that we can afford to destroy this small one of the few remaining rich sites. Are there any rich salmon habitat sites left? For further information on this site with regard to stream health, please see the report form Ecological Biologist, Jim Mattila.

It would be best for salmon, heron, eagles and riparian animals and our citizens if LFP purchased this property or traded with the applicant for a site that would not destroy so much of what is valued in LFP. We cannot afford to keep destroying our earth, lot by lot.

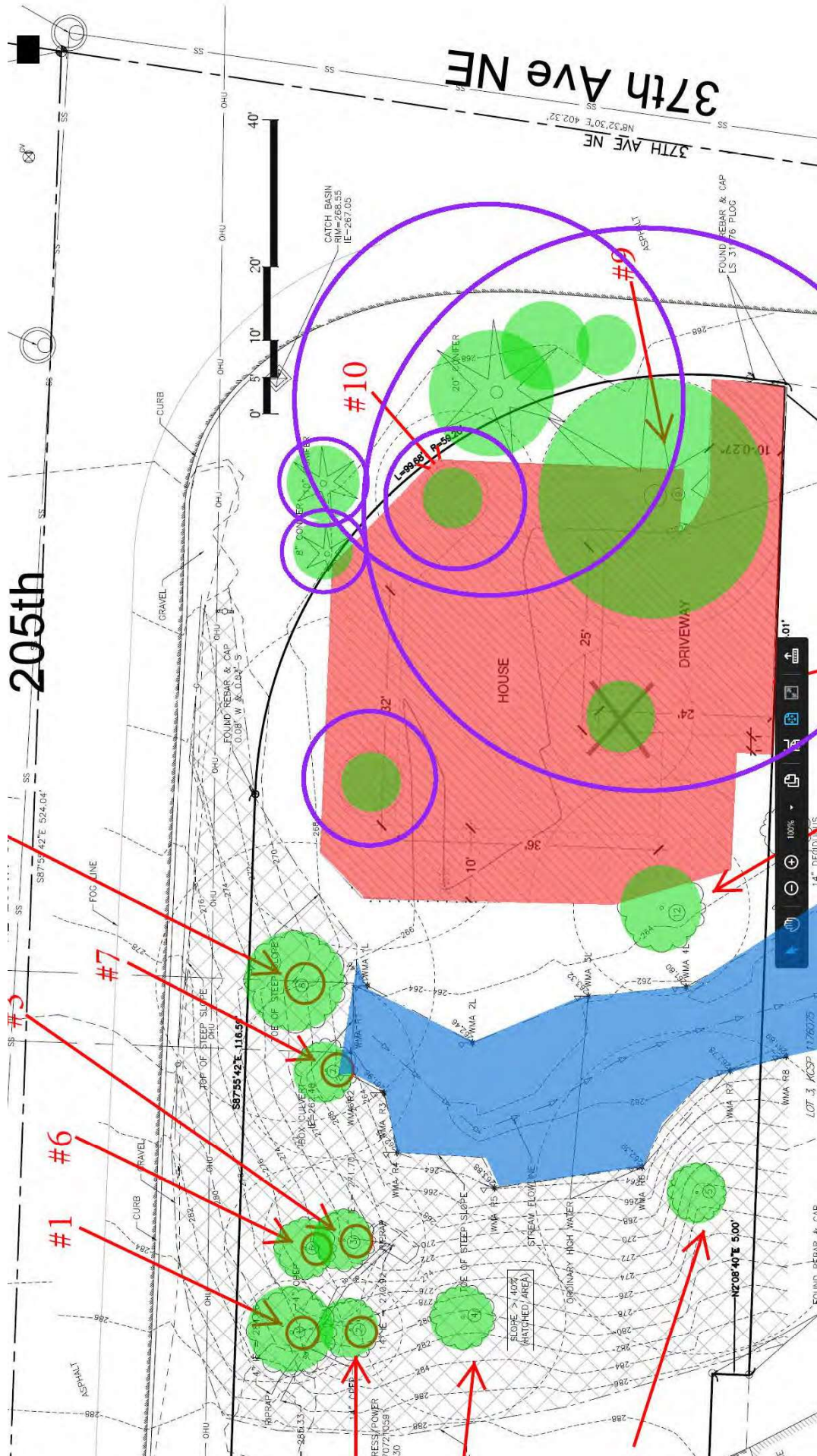
And we haven't even begun to talk about how much the trees on this lot contribute to healthy air, and carbon sequestration.

What happens if this RUE is accepted as is?

Will there be consequences for a plan not implemented fully? Does LFP have dedicated enforcement staff who are trained in a variety of disciplines to do site visits and produce update reports on the plant and tree management, drainage management, erosion control, make sure the measurements and positioning was executed accurately? What are the consequences if a builder says he will cut one tree, but somehow 6 trees disappear? What if a builder gets the green light to build and lives in the house for a few years and then the house floods because of drainage and erosion issues, that are no longer his problem. He just turned a profit and gifted a nightmare to the new home owners. What happens then? If there are minimal consequences or monitoring, I hope the planning commission board can talk about solutions that will be sustainable.

LFP is on the right track with its goals and plans, let us please stay true to it. Many people want to save our environment. I am concerned that if this approved as is, this may send a rift triggering distrust with the city. Please consider that many hundreds of people will be impacted by this decision, and I hope that my safety is important too. Thanks for hearing me out.

Concerned LFP-er, Jolene Jang Attached is slope report example, storm water protocol and pictures of the damaged culvert and of flow of the creek. [Click here.](#)



January 13, 2022 To Council Members

Jolene Jang, LFP Resident since 2002

I am sending this to you because I believe you have an interest in the environment, including salmon, trees and humans and the future of Lake Forest Park. There is a proposal for a developer outside of the city to build a house on an empty lot valued at \$40k, when other lots of this size or at least \$200k. It has been vacant because Lyon Creek runs through the middle of it and the City of Lake Forest Park has code to protect the critical areas. LFP Code requires a buffer zone of 115' for F (fish streams) **not** 12 feet. (see map) <https://www.cityoflfp.com/313/Notices-and-Announcements> **File Number:** 2021-RUE-0001

City of Lake Forest Park states it is committed to protect salmon, creeks, trees and its residents. The LFP codes appear to support that effort.

This development goes **against this promise**. The builder applied for a reasonable use exception and it should be denied because it causes a threat to public health, safety and welfare on and off site.

The developers proposal says "The project **avoids direct impacts to Lyon Creek.**"

This is wrong.

- The safety of my house and my neighbors house is threatened by rising waters eroding our slopes
- The Fish and wildlife designated protected, species salmon are threatened
- In the proposal
 - there are inaccuracies with the tree inventory **off by 23 trees**
 - the slope is stated as almost **no slope**, when it is very steep
 - It says only one tree will be removed, yet the floor plan is on top of 4 trees and the in the critical root zone of 6 trees.

Here are simple explanations and pictures below. I have detailed explanations, many pictures and videos. If you are interested.

This is LFP Code

16.16.250 Reasonable use exception to allow for reasonable economic use.

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.

This proposal is a threat to my health, safety and welfare. The developers proposal says "The project **avoids** direct impacts to Lyon Creek." Not true.

A few months ago, I made a public comment stating that building a house and driveway on this small lot within the critical buffer zone will add impermeable surfaces that will put more water into the creek, which will increase slope and bank erosion. It will threaten my safety, my house and downstream neighbors, as well as harming the stream habitat.



Health, Safety and Welfare of Lake Forest Park (LFP) resident

The corner of my house sits on the top of the slope of the proposed development. On this last Christmas morning, the one and only tree holding up that slope fell across Lyon Creek. It is 19-inches in diameter and 35 foot tall alder. The roots are at least 10 feet across. It took out a lot of dirt from the steep slope that is now in Lyon Creek. On my house, one deck post has moved downward since the tree fell 2 weeks ago. Other deck posts have shifted 4 inches down the hill due to slope erosion over time.

Before the tree fell



Tree fell



January 7, 2022 when the snow melted and with all the rain, the creek widened by 3 times and rose at least 5 feet. In the narrow area water went over the banks and covered 4 to 5 tree trunks. Five of those trees fell over. One that was at least 11" in diameter fell over the Cedar Road. The water rose over 5 feet. Seventeen inches more and it would have washed over the road.

On my property the water in the creek was level with the banks. This is the first time I have seen this in the 20 years I have lived here.

The rising levels of Lyon Creek this last week and **6 trees fell due to the water rising** and eroding the creek banks should easily **prove**, that more water is endangering Lake Forest Citizens, the land and salmon habitat.



In the developer's proposal it says the slope on the far side of the creek greater than 5%, which is almost no slope. If you stand on top the slope and someone dared to take 2 steps down, you would not let them go without a safety harness. This area is part of the critical area of the creek and is also appears to be landslide hazard zone my foundation sits on.



January 7, 2022

5 Trees have fallen in the last couple days and 1 on Christmas



Trees fell on all 3 neighboring properties



January 7, 2022

New plantings with blue collars were up on the bank are submerged.



Notice that tree trunks are submerged in water.





November 30, 2021

Notice that all the rocks and wood is above the water level

← **Road**

← **Old culvert**

January 7, 2022

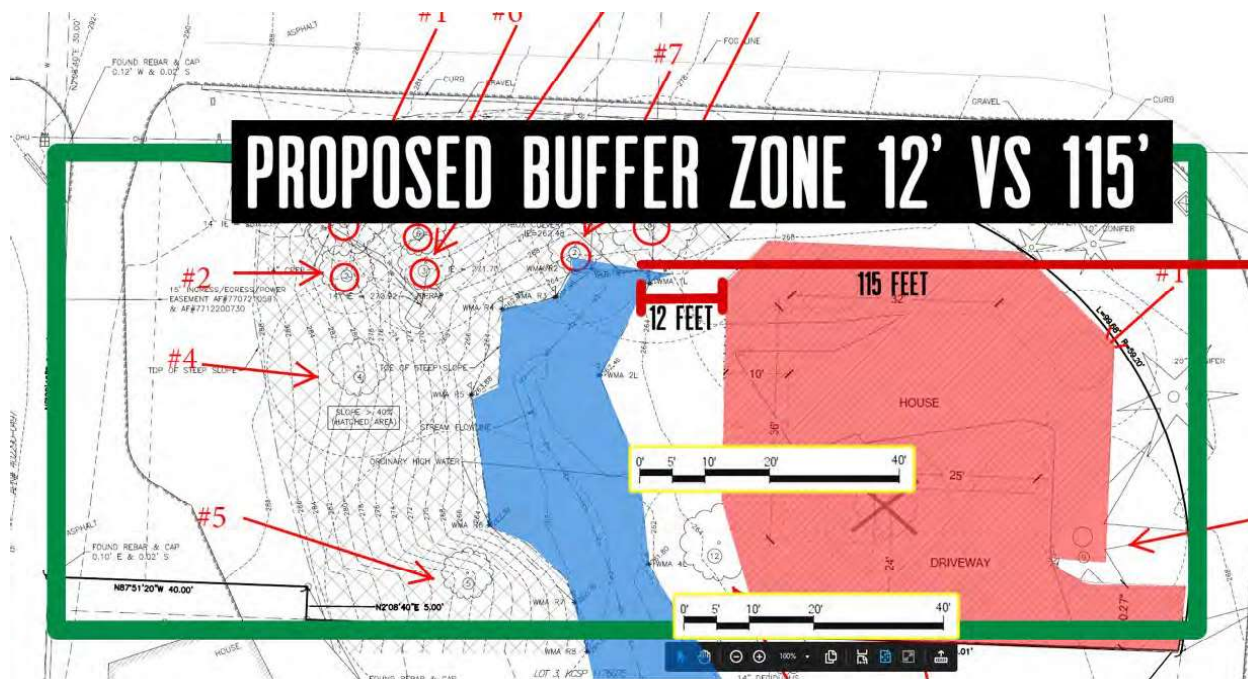
**Notice all the rocks are submerged
The working culvert is buried
The water level rose several feet. If it
raises 14" inches, it will flood the road.**



Lyon Creek

The Department of fish and wildlife designate this stream as a type F- fish stream. It is as a Priority Habitat for Coho and Cutthroat, and endangered Chinook salmon.

The parcel is split by Lyon Creek and according to his submittal, builder Garey has plans to build a house 12 feet from the creek. **The buffer zone required for a type F stream, is 115 feet not 12 feet.** That is a 103-foot deviation from the LFP code.



If you drive 30 seconds upstream you will see the Mountlake Terrace detention facility, which has flooded. When it floods again what will happen? According to aquatic ecologist, Jim Mattila Mr. Garey plans to build in a flood plain. (See attached report from aquatic ecologist Mattila.)

Trees

The submitted tree inventory has identified 13 trees. I counted 35 trees. There are many trees with a 6" DBH (Diameter at Breast Height) that are not counted. We need an accurate count of trees.

The proposal says it will remove 1 tree, however the footprint of the house is on top of 4 trees and in the critical root zones of 6. It appears that trees **will** be removed. Who will verify that only 1 tree will be removed?

There is [LFP tree protection code](#) to protect critical root zones. When can authorities disregard code? Who gets dismissed and who gets approved?

Notice the green circles are trees and their purple circles are critical root zones required by code to be protected with the use of fences.



If this code is enforced, it then requires 6-foot-tall chain-link fences to protect the roots. In this proposal, the critical root zones encompass over 70% of the planned house and driveway footprint. How can a house be built on top of trees while also installing these fences?

Will the builder be held accountable? Which individuals are subject to LFP code?

If the builder fills in the floodplain with brick and mortar, the water that used to soak in will run off, raising and accelerating the flow of the creek. This acceleration will tear out the steep slope that my house and my neighbor's house sit upon.

This property has been vacant for decades. It wasn't even appraised until 1998, and then, judging by the low value, it wasn't considered a buildable lot. This is the property in front of and adjacent to mine. I thought it was my property until it was sold to this builder.

Whose voice matters? Is it established Lake Forest Park residents or outside developers? How many established LFP residents need to be endangered before the tree, stream, and critical area ordinances are upheld?

Thanks. Jolene Jang

Jolene Jang

Public Comments to the Council Meetings and Planning Commission regarding RUEs

Can see on website <https://parcelbyparcel.wixsite.com/my-site/videos>

- Council Meeting - Dec 9, 2021 LFP [Video comment](#)
- Planning Commission - Dec 14, 2021 [Video comment](#) at 11 min 15 sec
- Council Meeting - January 13, 2022 [Video comment](#) at 46 min 30 sec [Written comment](#)
- Council Meeting - January 27, 2022 [Video comment](#) at 3 min 45 sec [Written comment](#)

[Planning commissioner comment](#) at 9 min 41 sec

- Planning Commission - February 8, 2022 [Video comment](#) at 7 min 50 sec
- Council Meeting - February 10, 2022 [Video comment](#) at 1 hour 6 min, 10 sec
- Council Meeting - December 9, 2022 [Video comment](#)
- Planning Commission - December 14, 2022 [Video comment](#) at 11 min 15 sec

[Written comment](#)

- Council Meeting - January 13, 2022 - [Video comment](#) at 46 min 30 sec [Written comment](#)
- Council Meeting - January 27, 2022- [Video comment](#) at 3 min 45 sec [Written comment](#)
- Planning Commission - February 8, 2022 - [Video comment](#) at 7 min 50 sec Planning Commission
- Council Meeting - February 10, 2022 [Video comment](#) at 1 hour 6 min, 10 sec

August 8th City Council Meeting, Council Person Lori Bodi addressing the RUE

Lori Bodi, Council Member

Sharing concern about the management of the RUEs, suggesting revisiting the code.

1 min remark from Lori Bodi

https://youtu.be/rEPfT26B0k8?si=2O5ssH_7xpwWXWsd&t=6552

Begins 1:49:15 - 1 minute remark



I'm addressing the reasonable use exception. I was involved with the Planning Commission throughout their review of this issue, including some case studies. These studies highlighted two main concerns: large structures that lacked long-term commitment to proposed mitigation measures, and our team's limited capacity to enforce these measures due to staffing constraints.

In my personal capacity, I strongly urge our permit team and the community development director to approach this issue thoroughly and seriously, considering the detailed technical comments we've heard tonight. This situation is concerning, but it also raises a broader policy question about how the reasonable use exception process is managed. While we tried to tighten the process, I believe it still needs careful scrutiny at the permit level.
Thank you.

To continue on this topic, about a year ago, we had some policies in front of us. If we can revisit those, we have a good foundation to make changes, staying within the limits of what the Revised Code of Washington (RCW) allows.

https://youtu.be/rEPfT26BOk8?si=Vh_Mx1z86b_PzmrU&t=330

[August 8, 2024 Regular Business Meeting](#)

5:30 David Haddock, Fluvial Morphologist, Environmental Geomorphologist
Sharing grave concern about the Garey Property and potential landslides.



<https://youtu.be/rEPfT26BOK8?si=Qd11a67ly5gku1sO&t=575>

[August 8, 2024 Regular Business Meeting](#)

9:35 Jolene Jang, Downstream Neighbor



<https://youtu.be/rEPfT26BOK8?si=ewno6X9p1QNRxA0S&t=821>

[August 8, 2024 Regular Business Meeting](#)

14.26 Nancy Jang Suggestion to listen to all of the expert comments



<https://youtu.be/rEPfT26BOK8?si=zX1QHQ8LxssKPSPQ&t=1127>

[August 8, 2024 Regular Business Meeting](#)

18:48 Gary Jang



Public Comment on Reasonable Use Exemptions (RUEs)

David Haddock

"I'm here to discuss reasonable use exemptions, specifically regarding the proposed development of the Gary property.

For those unfamiliar with the site, it is located along Lyons Creek in a floodplain, with a steep slope mapped as such. As a geologist with 40 years of experience in natural and man-made hazards, I find this development concerning.

When a river erodes against a steep slope, it creates a recipe for disaster—similar to what happened at Oso, the deadliest landslide in U.S. history. While this is on a much smaller scale, allowing construction on this site could increase flood risks in Lyons Creek. Reducing the cross-sectional area of the creek will increase water velocity and flood height, leading to greater erosion and the potential for slope failure.

The geotechnical evaluation done by the applicant only assessed soil conditions beneath the proposed building site—not the steep slope itself. A proper evaluation should include soil testing on the slope and a factor-of-safety analysis, which was not conducted.

Without this critical information, we don't know the full risk. However, the applicant has not sufficiently demonstrated why they should be allowed to build there. The site is not suitable, and the development could lead to flooding or, in the worst-case scenario, a catastrophic slope failure. That is not the intent of reasonable use exemptions."

Jolene Jang

Requests to call for a moratorium on RUEs before destructive precedent is set

"Thank you. I would be that Oso victim. I don't want to be the person whose home slides down the hill. That's why I am calling for a moratorium on RUEs.

Why? Because if word gets out that Lake Forest Park (LFP) is not enforcing its own city code, developers will flood into our town, snapping up empty parcels, abusing the system, cutting down trees, and destroying salmon habitats—because LFP allows it.

Mark Hoffman has issued a Mitigated Determination of Non-Significance (MDNS) based on false information provided by the applicant. Legally, the application should be voided. The Washington Department of Fish and Wildlife has confirmed that the applicant's statements are incorrect.

By allowing dozens of potential code violations to go unchallenged, the city makes itself liable to regulatory scrutiny.

Mayor French, Administrator Phil, and Council—you have the power to protect our city. You love this city, and that's why you're here. Use your authority. A moratorium would give you time to evaluate what's breaking down, diagnose the problem, and fix it.

The Planning Commission recognized this issue and attempted to address it because of this very project. But the RUE permitting process is still broken. Currently, one person—Mr. Hoffman—holds all decision-making power. That is not an effective system of checks and balances.

The planning department is understaffed and inexperienced:

- Everyone is new.
- There's no senior engineer.
- The assistant planner left.
- Mr. Hoffman is also new and juggling multiple roles—planning, building, code enforcement, and economic development.

With such limited resources, the city does not have the expertise or capacity to ensure proper RUE implementation.

I have personally experienced the dysfunction. I requested documents on August 1. A week later, I received a handful of unrelated emails. I still don't have the records I need. Now, I'm told that by August 12, staff will "work on it." Meanwhile, the public comment period has closed.

This broken process affects real people. Invoking a moratorium will give the city time to develop a system that both protects residents and follows the city code.

Thank you."

Nancy Jang

"Thank you. Regarding the RUE proposal, I know you're busy with the budget and don't have time to research every proposal in depth. So, I'd like to highlight key expert testimony already in the public record.

These experts' statements can be found at GreenVoicesOfLakeForestPark.com, a website dedicated to this issue.

1. Engineer Alan Coburn:

- Forecasts that all streamside properties adjacent to and downstream from the Gary property will face major to severe flood risks from a 100-year event.
- These risks exist even without federally mandated upstream culvert changes.
- Ethically, developers should disclose these risks.

2. Washington Department of Fish and Wildlife Biologist Miles Perk:

- Concerned that the development will remove critical floodplain storage, harming fish habitat and increasing flood risks.
- Predicts that protecting the house from future floods will come at the expense of fish resources.
- Notes that past development in the Lyons Creek Basin has already degraded the creek, contributing to the decline of salmon populations.

3. Arborist Daniel Collins:

- Warns that tree failures will increase slope instability.
- Criticizes the developer's arborist for failing to propose mitigation measures.
- States that the developer's analysis is inadequate to justify moving the proposal forward.

The city should commit to protecting untouched riparian parcels instead of approving projects that degrade the environment. I urge you to visit GreenVoicesOfLakeForestPark.com to review these expert opinions. Thank you."

The burden of filling out a complete application and the city diligently evaluating the application

Gary Jang

The Correct Burden: Safety Lies with Applicant and City, Not Neighbors

"I've seen plenty of permit applications in my time. Here's how the process should work:

1. The applicant must fill out the application correctly.
2. The city planner must verify that it's complete.

In my experience, that doesn't happen. Instead, it falls on residents to point out errors—which is not their responsibility.

Jolene has done the heavy lifting, gathering detailed information. Yet despite all this evidence, you're still hesitating to issue a moratorium?

Let me put it in perspective: I worked in insurance for a long time. If a neighbor warns you in writing that your tree is rotten and you don't address it, you will be sued when it falls. The same logic applies here. The city has been warned. If problems occur, lawsuits will follow.

The city is also violating its own code—specifically 16.26.9, Notice of Code Commission Recommendation, Approval Criteria, and Revocation. Ignoring the code exposes the city to legal challenges.

Lastly, Jolene has a history of effecting real change—she’s successfully pushed laws forward, spoken on radio shows, and even appeared on Oprah. If this issue gets public attention, lawsuits will be even stronger. So, take action now. Enact the moratorium. Thank you."

Closing Remarks

The public comment session concluded, with the council moving on to the next agenda item.

This version maintains the substance of the discussion while making it clear, structured, and easy to read. Let me know if you'd like any further refinements.

From.~https://chatgpt.com/e-23d0a005_01c4_4665_b657_3cf5ee3153d5~.

Lake Forest Park Council Meeting – August 8, 2024

Jolene Jang Public Comment

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 were 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 commision 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

APPENDIX A

3 Examples of False information on Garey Forms

16.16.090 Applications – Approval – Criteria – Revocation.

D. A permit issued on the basis of false information provided by the applicant is void and the holder of such permit shall have no rights thereunder. (Ord. 1150 § 1, 2017; Ord. 930 § 2, 2005)

Reviewing the current application, the following represent inconsistent answers and falsehoods:


- Slope
- Tree count
- Tree Type
- Soil stability

The sources of the false information are from the SEPA Checklist and Garey RUE Application.

SLOPE : Slope is listed as less than 5% on the Wetland Determination Data form and as 70% on the SEPA checklist submitted by Mark Garey. Why did the city not catch this, have it corrected or otherwise investigate this?

1. Wetland Determination Data Form - Watershed Company

a. States landform is a hillslope and it is greater than 5%

		WETLAND DETERMINATION DATA FORM Western Mountains, Valleys, and Coast Supplement to the 1987 COE Wetlands Delineation Manual		750 Sixth Street South Kirkland, Washington 98033 (425) 822-5242 watershedco.com	
				DP- 1A	
Project Site: 36XX NE 205th St. (Parcel 4022900497)		Sampling Date: 4/19/2019			
Applicant/Owner: Garey, Mark		Sampling Point: DP- 1A			
Investigator: N. Lund		City/County: Lake Forest Park/King County			
Sect., Township, Range: S 03 T 26 R 4		State: WA			
Landform (hillslope, terrace, etc): hillslope		Slope (%): <5%		Local relief (concave, convex, none): none	
Subregion (LRR): A		Lat:		Long: Datum:	
Soil Map Unit Name: Click here to enter text.		NW1 classification: Click here to enter text.			
Are climatic/hydrologic conditions on the site typical for this time of year?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		(If no, explain in remarks.)	
Are "Normal Circumstances" present on the site?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Are Vegetation <input type="checkbox"/> , Soil <input checked="" type="checkbox"/> , or Hydrology <input type="checkbox"/> significantly disturbed?					
Are Vegetation <input type="checkbox"/> , Soil <input type="checkbox"/> , or Hydrology <input type="checkbox"/> naturally problematic				(If needed, explain any answers in Remarks.)	
SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.					
Hydrophytic Vegetation Present?		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
Hydric Soils Present?		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
Wetland Hydrology Present?		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
Is the Sampling Point within a Wetland?				Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	

2. Tree Inventory Table - Watershed Company - Page 13 in application
 a. States there are trees on the **steep slope**



Mark J. Garey
 Lake Forest Park, WA (parcel #4022900497)

Tree Inventory Table
 Table Issued: 11/23/2020
 Site Visit: 11/17/2020

TAG #	TREE NAME	EV / DEC	# STEMS	COMB. DBH (IN)	HEIGHT (FT)	RADIUS (FT)	CONDITION	SIGNIFICANT (Y/N)	LAND MARK (Y/N)	NOTES
1	Alnus rubra (Red alder)	D	1	12.3	35	7	Fair	Y	N	Located on steep slope.
2	Alnus rubra (Red alder)	D	1	8.6	40	7	Fair	Y	N	Located on steep slope.
3	Alnus rubra (Red alder)	D	1	8.5	40	11	Fair	Y	N	Located on steep slope.
4	Populus trichocarpa (Black cottonwood)	D	1	18.0	45	14	Dead	N	N	
5	Alnus rubra (Red alder)	D	1	19.0	45	22	Poor	Y	N	Has an uncorrected lean to the East over the stream. Growing in sandy soil which is showing some signs of uplift.
6	Alnus rubra (Red alder)	D	1	8.6	25	11	Fair	Y	N	
7	Alnus rubra (Red alder)	D	1	8.5	25	12	Fair	Y	N	
8	Alnus rubra (Red alder)	D	1	14.0	25	19	Poor	Y	N	Branches intertwined with overhead utility lines.
9	Thuja plicata (Western red cedar)	E	1	36.3	100	16	Good	Y	Y	Co-dominant stems at 7 feet.
10	Prunus sp. (Cherry species)	D	1	9.0	60	11	Poor	Y	N	Ivy growing up stem.
11	Populus trichocarpa (Black cottonwood)	D	1	20.0	50	14	Severe	Y	N	Fallen over but still sprouting new growth. Root plate still intact and buried.
12	Populus trichocarpa (Black cottonwood)	D	1	36.0	30	12	Dead	N	N	
13	Alnus rubra (Red alder)	D	1	8.5	55	23	Fair	Y	N	

3. SEPA Checklist

- a. Instead of the circling **STEEP slopes**, the builder filled out **slopes**
 b. The next question asked about the steepest slope and he answered **70%**

B. Environmental Elements

1. Earth

a.) General description of the site (circle one)

Flat Rolling Hilly Steep Slopes Mountainous Other slopes

b.) What is the steepest slope on the site, and its approximate percent slope?

roughly 70% (WESTERN PORTION OF SITE)

Tree Count & Type:

The tree count and identification are consistent across submitted documents.

1. SEPA Checklist Page 6 asks for Plants on the property - the check box for Evergreen trees was not checked when, if fact, there are evergreen trees on the property.

SEPA Checklist

4. Plants

a) Check the types of vegetation found on the site:

<input checked="" type="checkbox"/>	Deciduous tree: alder, maple, aspen, other
<input type="checkbox"/>	Evergreen tree: fir, cedar, pine, other
<input checked="" type="checkbox"/>	Shrubs
<input type="checkbox"/>	Grass
<input type="checkbox"/>	Pasture
<input type="checkbox"/>	Crop or grain
<input type="checkbox"/>	Orchards, vineyards or other permanent crops.
<input type="checkbox"/>	Wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
<input type="checkbox"/>	Water plants: water lily, eelgrass, milfoil, other
<input type="checkbox"/>	Other types of vegetation

2. Tree Inventory Table - Watershed Company - Page 13 in application
In the tree inventory there is a cedar (evergreen) listed plus the tree count is a miscount as there are 6 cedar trees clearly on the property along with many other trees that are not listed.



THE
WATERSHED
COMPANY

Mark J. Garey
Lake Forest Park, WA (parcel #4022900497)

Tree Inventory Table
Table Issued: 11/23/2020
Site Visit: 11/17/2020

[illegible]

3. Look at the actual pictures of the property and compare to his submitted tree count. They are different. (Pictures and diagrams can be viewed [here under Pictures](#) and [here under problem](#).)



SOIL:

Soil and unstable Soil SEPA Checklist Page 3

1. Describe the soils: his answer is "unknown"
2. Is there a history of unstable soils "No" (the senior planner answered for him "frequently flooded areas" see pictures and videos of the recent Lyon creek flooding.

c.) What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils

unknown

d.) Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe

No

FREQUENTLY FLOODED AREAS

APPENDIX B

Stakeholders have addressed their concerns and are in the [public records and also be seen](#) and heard some [Listened to on the podcast Green Voices of Lake Forest Park](#) to get updates and listen to public comments.

Organizations

- Lake Forest Park Stewardship Foundation
- Sno-King Watershed Council
- Stream Keepers
- Puget Sound Keeper attorney made a comment
- Organization -People for Environmentally Responsible Kenmore
- Fish and Wildlife
- The Fish and Wildlife is alerted
- Environmental Rotary

Experts addressing the dangers of steep slope, Slope erosion earthquake hazards, flooding, and fish.

- Fluvial Morphologist
- Fish Biologist
- Aquatic Ecologist
- Arborist
- Engineer referencing flooding
- Issaquah Salmon Hatchery
- Former council member Jack Tonkin
- Current council members Paula Goode and Tracy Furatani
- And more

SUMMARY:

These items are just some of the examples that represent incomplete and false information in the application materials.

Again, our code reads “A permit issued on the basis of false information provided by the applicant is void and the holder of such permit shall have no rights thereunder.”

Furthermore, it appears that parties of record (those the city has an obligation to notify based on the city’s own terms of notification) were not properly informed of the recent activity with this application as required by chapter 16.26.090 Type I – Notice of code administrator’s recommendation. This along with 10 other violations of Lake Forest Park City code.

16.26.090 Type I – Notice of code administrator’s recommendation.

A. Notice of the recommendation, the determination under the State Environmental Policy Act, and of the date of the hearing examiner’s hearing shall be included in the notice of hearing.

B. In addition, written notice shall be provided to each person who submitted comments during the comment period or at any time prior to the publication of the notice of recommendation. (Ord. 924 § 4, 2005; Ord. 768 § 1, 1999)

The 10 additional LFP City code violations without comprehensive studies and reports include:

- 16.16.130 Mitigation sequencing
- 16.16.290 Landslide hazard areas
- 16.16.310 Steep slope hazard areas
- 16.14.030 Definitions. Critical root zones
- 16.16.355 Streams
- 16.24.250 Development in floodplains
- 16.16.290 Landslide hazard areas
- 16.16.320 Wetlands
- 16.16.380 Fish and wildlife habitat conservation areas.
- 16.24.100 Soil and erosion control

These violations are further documented in [my public comments](#) and other public comments.

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

Jolene Jang

The City Council recognizes the problems of the RUE Process and makes changes to strengthen the Comprehensive plan to support prioritizing the residents and the environment.

[City of Lake Forest Park Comprehensive Plan Update December 2024 – Click here](#)

Excerpts on Reasonable Use and Sensitive Areas from the Lake Forest Park Comprehensive Plan Update

Sensitive Areas (also called Critical Areas)

- Printed Page 18, actual Page 29:
 "Designated sensitive areas include all state-identified critical areas, which are erosion hazard areas, landslide hazard areas, seismic hazard areas, steep slope areas, streams, wetlands, fish-bearing waters, areas with a critical recharging effect on aquifers used for potable water, flood hazard areas, and the adjoining protective buffers necessary to protect the public health, safety, and welfare (Lake Forest Park Municipal Code 16.24.020)."
 - Policy EQ-1.4: "Use the best scientific information available in an adaptive management approach to preserve or enhance the functions and values of sensitive areas through regulations, programs, and incentives. Implement integrated and interdisciplinary approaches to environmental planning strategies."
 - Policy EQ-1.6: "Incentivize LEED building standards, low-impact development stormwater infrastructure, or other sustainable development standards, especially for development adjacent to sensitive areas, and consider adopting sustainable development standards for public facilities."
- Printed Page 234, actual 245:
 "Sensitive Areas, also called Critical Areas, are geographic locations that contain fish and wildlife ecosystems, wetlands, frequently flooded areas, critical aquifer recharge areas, and geologically hazardous areas."

Reasonable Use Exemption & Critical Areas

- Printed Page 261, actual 272::
 "Lake Forest Park contains a large amount of critical areas, including steep slopes, creeks and streams and their buffers, and wetlands. Although some development may occur in these areas through the use of a Reasonable Economic Use Exemption, the constrained parcel acreage was removed for the purposes of this analysis, in order to make a

conservative assumption of land capacity and ensure that Lake Forest Park can reach its housing targets without needing to develop in critical areas."

Key changes to prevent granting RUEs like Mark Garey's

1. City's Intent to Avoid Development in Critical Areas

- Page 261 states that critical areas were removed from the city's housing capacity analysis to ensure the city can meet growth targets without relying on development in these areas.
- This suggests that the city is prioritizing the preservation of steep slopes, wetlands, and stream buffers over allowing new development.
- If the city does not count critical areas as available for housing growth, it reinforces the argument that these lands should not be developed, even with an exemption.

2. Policy EQ-1.4 – Use of Best Available Science

- This policy mandates that the city must use scientific data and adaptive management to protect critical areas.
- If the science shows that development would increase risks of erosion, landslides, or environmental damage, this policy strengthens the case against granting the RUE.

3. Policy EQ-1.6 – Incentivizing Low-Impact Development

- The plan encourages low-impact building standards, particularly near sensitive areas.
- If the proposed RUE does not follow best practices for low-impact development, it could be seen as inconsistent with city policy.

4. Policy EQ-3.10 – Removing Barriers to Waterways

- This policy supports removing or retrofitting existing culverts and encourages daylighting creeks.
- If Mark Garey's property contains a creek, wetland, or buffer, any development could contradict this policy.

- **Legal and Policy Consistency:** The city recommended to deny the RUE, it can argue that granting it would contradict newly adopted policies that prioritize protecting critical areas.
- **Environmental Impact:** The emphasis on conservation and ecosystem protection makes it harder to justify exemptions for development in these zones.
- **Precedent:** If this RUE is granted, it could set a precedent for future developments in critical areas, undermining the city's policies.

Jolene Jang

Developer profits while the neighbor is flooded – the inspiration for the Planning Commission to update the RUE code

This is property https://www.cityoflfp.com/DocumentCenter/View/9632/2020-CAMJ-0005_JerimiahJohnson_FindingsDecision is what inspired the LFP Planning Commission to research the problems with the RUE Process. Seeing the developer violate critical area and flood the neighbor with no consequence, raised concern for the Garey RUE.

Critical Areas in LFP are being damaged beyond repair

Developers whose primary objective is profit over stewardship are a threat to the environment. We need to solve it.

Synopsis of property being snapped up by developers who are violating code and are hurting the environment.

[Play Video](#)



<https://parcelbyparcel.wixsite.com/my-site>

Problem to solve:

We want to better understand the **Reasonable Exception Permitting and Enforcement Policies**. There are 2 examples of developers whose primary objective is **profit over property**. The builder has a legal right to reasonable use exception and the city is under pressure by developers. Reasonable use exception allows developers to build on these critical areas with mitigation plans, however, developers don't always follow those mitigation plans. Then what happens? Here is a recent example of the damaged property and habitats and one that is in process.

Two Examples

EXAMPLE ONE

Developer flipped and violated wetland property and sold it for 1.7 million last week.

The developer was able to build a house on critical area and had an agreed upon mitigation plan, but he didn't follow the plan. He exceeded the volume of impervious surfaces allowed. During the **build he flooded the neighbor's property**. Roughly one year into the development, he clear cut part of his property that also was not approved. From the permit you can see the mitigation plan for plantings which is not being accurately implemented. Because of a few neighbors raised red flags, the city of was notified an installed a stop work order. This property is now under review.

This was **bought for \$144,500** and sold it for 1.7 million dollars. It's too late the save the environment. The builder is currently building another new house. What type of incentive or enforcement will be effective in this type of situation? Preventing this type of situation is important, because after the fact doesn't bring the environment back.

Notice Date: December 8, 2020

[Decision](#)

[Exhibit 1](#)

https://www.cityofflp.com/DocumentCenter/View/9632/2020-CAMJ-0005_JerimiahJohnson_FindingsDecision

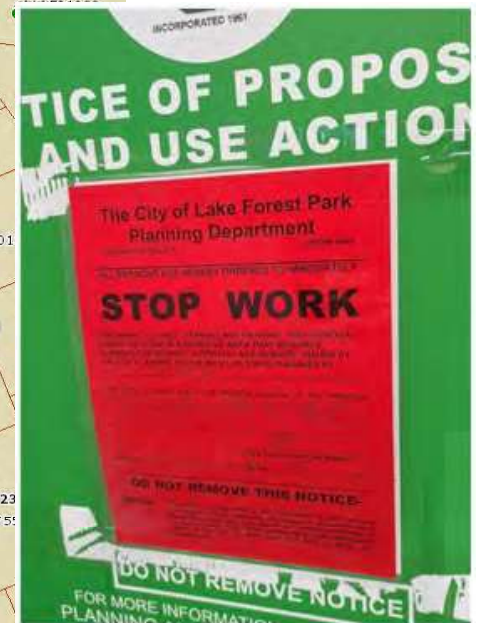
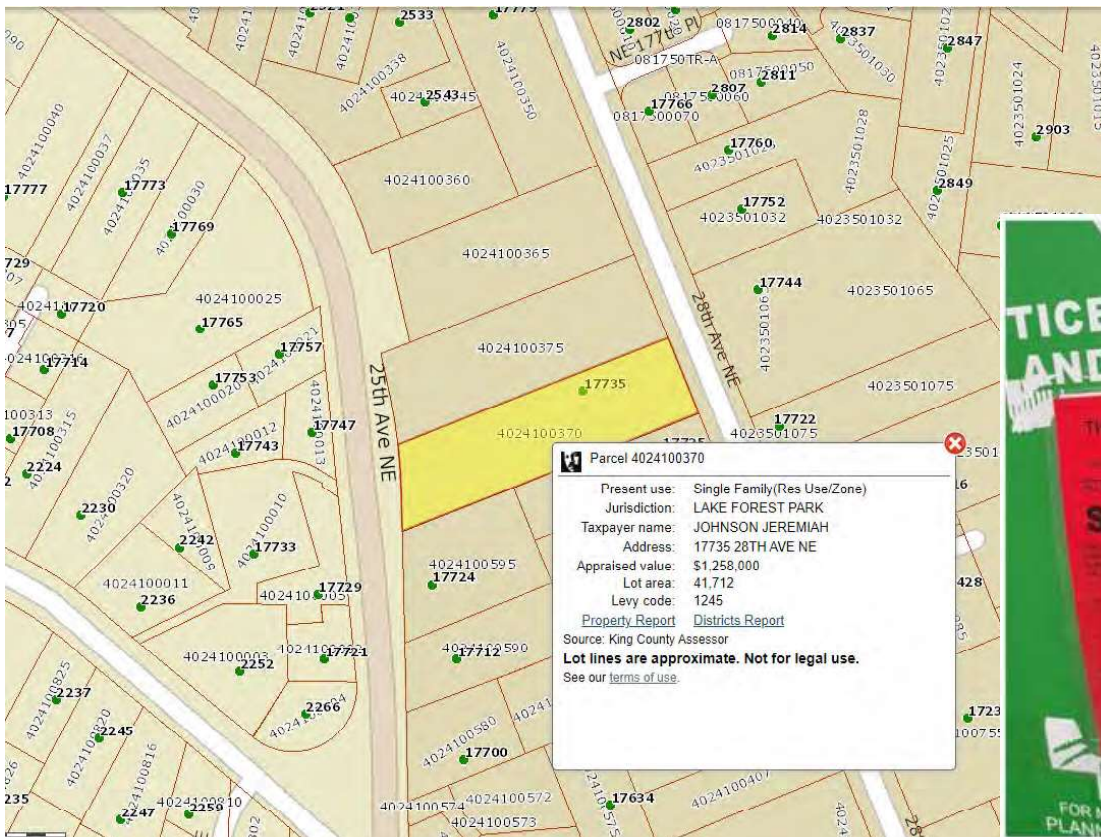
https://www.cityofflp.com/DocumentCenter/View/9633/Exhibit1_JJ_CritAreaPermit

[King County Department of Assessments: eReal Property](#)

<https://gismaps.kingcounty.gov/parcelviewer2/>

17735 28th Avenue NE, Lake Forest Park, WA 98155

SALES HISTORY							
Excise Number	Recording Number	Document Date	Sale Price	Seller Name	Buyer Name	Instrument	Sale Reason
3179382	20220323001043	3/15/2022	\$1,700,000.00	JOHNSON JEREMIAH	WU HUI+LEE SHARON	Warranty Deed	None
2795466	20160511001176	5/6/2016	\$144,500.00	GORBMAN ERIC+NANCY	JOHNSON JEREMIAH	Statutory Warranty Deed	None
1301011	199304050630	3/25/1993	\$25,000.00	FRANCISCO RICHARD+HAPPOLD PAUL	GORBMAN ERIC+NANCY	Warranty Deed	None



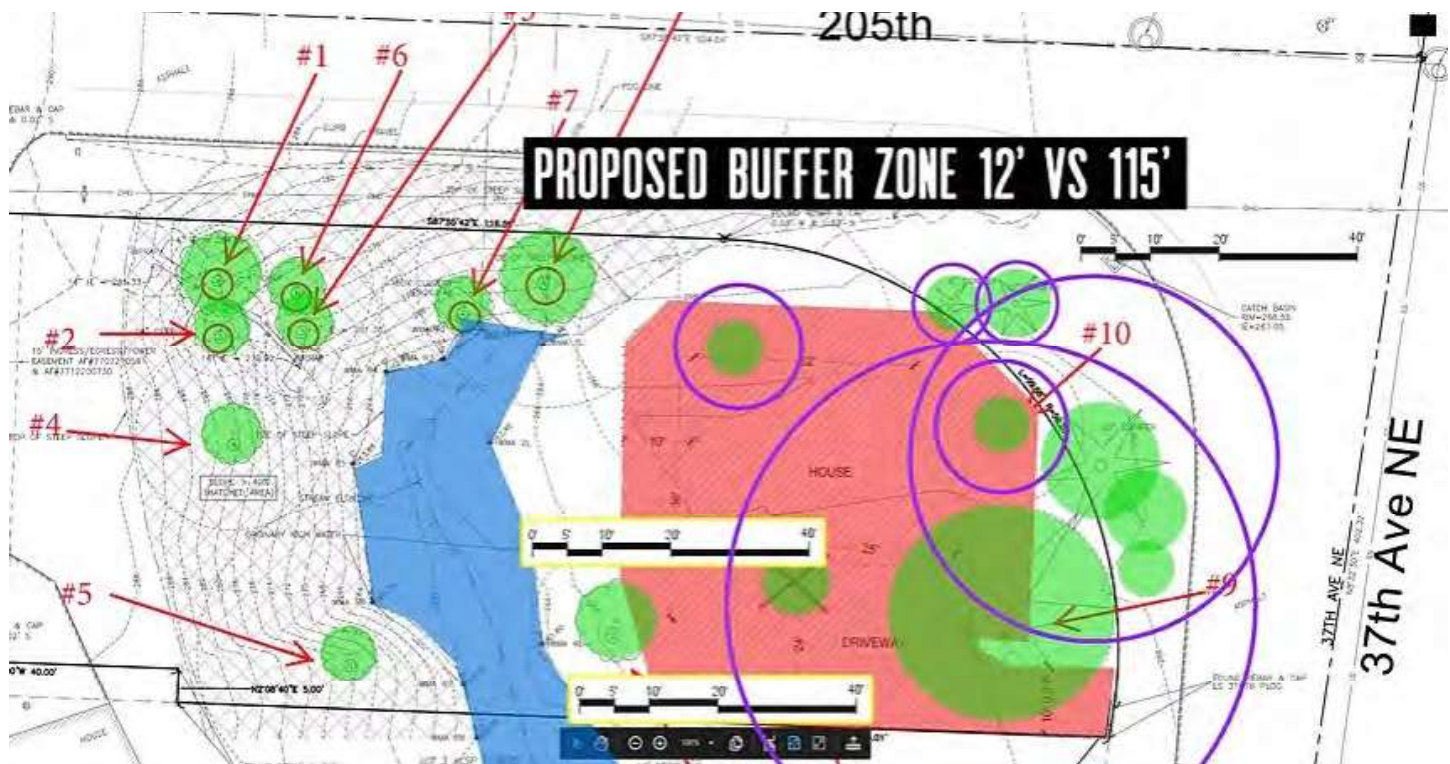
EXAMPLE TWO

Another **developer with insufficient reports and mitigation plans** is in the application process is this Parcel 4022900497. The corner property that doesn't have an address, but 3611 NE 205th St, Lake Forest Park is adjacent house. The city of LFP, senior planner did not accept developers application as is, so it is up to the developer to resubmit. We need to get more comments to make sure the city knows that the residents do not want to see the environment hurt.

This property was bought for third of an acre was **bought for \$40k**.

I created a website for all the **details concerning potential damage to property and the environment**. You can see pics and videos of Lyon Creek with white water during early January.

This is abuse that will continue if we don't solve the problem.



Website Parcel by Parcel

Make sure to see the [Site Map](#) and [Pics](#)

<https://parcelbyparcel.wixsite.com/my-site>

REVISIONS. 3 T. 26 R. 4SHORT PLAT NO 1176075

KING COUNTY, WASHINGTON

This space reserved for recorder's use

8104020639

RECORDING NUMBER

81/04/02

RECD F

6.00

#0639 B

22

Filed for record at the request of:

MERLE MACHMILLER

Name

Return to:

Building & Land Development
450 KC Administration Bldg
Seattle, Washington 98104

APPROVALDepartment of Planning and Community Development
Building and Land Development DivisionExamined and approved this 26 day of

March, 1981

Edward B. Sand

Manager, Building & Land Development Division

Department of Public Works

Examined and approved this 19th day of

March, 1981

Paul C. Hagen

Director

Department of Assessments

Examined and approved this 25 day of

March, 1981

HARLEY H. NORDE

Assessor

A. Martin

Deputy Assessor

LEGAL DESCRIPTION**ENTIRE LEGAL:**

That portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot;

EXCEPT that portion conveyed to King County for road purposes under A.F.#7312200101

SUBJECT TO AND TOGETHER WITH easements recorded under A.F.#7711220730 & 7707210591.

ALSO SUBJECT TO easements as recorded under A.F.# 7711020750, 7312200101, 7308300439,

RECORDED UNDER

APR 2 2 04 PM '81

RECORDS & ELECTIONS

AND CLERK

NW 1/4 of NW 1/4

3-26-4

402290-0496

-0497

-0499

-0501

Map on File in Vault

Page 1 of 4

ARAMAKI, BORDEN & ROWLANDS

6141 N.E. Bothell Way

Seattle, WA 98155

(485-9711)





- - EXIST. REBAR (TRIAD)
- ⊗ - EXIST. MON IN CASE
- ⊙ - SET 1/2" REBAR/PLASTIC CAP #9760

Land Surveyor's Certificate:

This short plat correctly represents a survey made by me or under my direction in conformance with the requirements of appropriate state and county statute and ordinance.

3-10-81
Date

James O. Borden

Certificate No: 9760

Short Plat No. 1176075

ARAMAKI, BORDEN & ROWLANDS
6141 N.E. Bothell Way
Seattle, WA 98155
(483-9711)

Map on File in Vault

Direction:

MERIDIAN: (PLAT) LK. FOREST PARK 1ST ADD.
Scale: 1" = 50'



Page 2 of 4

DECLARATION:

REVISION

KNOW ALL MEN By these presents, that we, the undersigned, owners in fee simple [and contract purchaser(s)] of the land herein described, do hereby revise Short Subdivision Application No. 1176075 as recorded under Recording No. 7707210591, Records of King County, Washington, and by this Revised Short Subdivision thereof pursuant to RCW 58.17.060 declare this revised short plat to be the graphic representation of the same, and that said revised short subdivision is made with the free consent, and in accordance with the desire of the owner(s).

IN WITNESS WHEREOF We have set our hands and seals.

Merle O. Machmiller
Name

Merle O. Machmiller

[Signature]
Name

NAME CRAIG R. BRAND, VICE-PRESIDENT
GREAT WESTERN UNION FEDERAL SAVINGS
AND LOAN ASSOCIATION

Irene Machmiller
Name

Irene Machmiller

[Signature]
Name

[Signature]
Name

STATE OF WASHINGTON, } ss.
County of King

On this day personally appeared before me Irene Machmiller

to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 21 day of January, 1981.

Ruth M. Gallie
Notary Public in and for the State of Washington,
residing at Seattle

STATE OF WASHINGTON, } ss.
County of KING

On this day personally appeared before me CRAIG R. BRAND, VICE-PRESIDENT

of Great Western Union Federal Savings and Loan Association

to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that HE signed the same as HIS free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 16TH day of MARCH, 1981.

Debra E. Love
Notary Public in and for the State of Washington,
residing at Edmonds

Short Plat Number 1176075

Page 3 of 4

8104020639

STATE OF WASHINGTON

COUNTY OF King

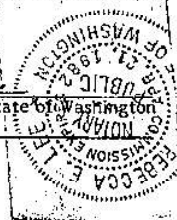
On this 16th day of March, A. D. 1981, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Craig R. Brand, Vice President

~~and~~ respectively, of GREAT WESTERN UNION FEDERAL SAVINGS AND LOAN ASSOCIATION, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



Rebecca E. Lee
Notary Public in and for the State of Washington
residing at Edmonds



STATE OF WASHINGTON

4 of 4

REVISION

S. 3 T. 22 R. 4SHORT PLAT NO 1176075
KING COUNTY, WASHINGTONThis space reserved for
recorder's use

APPROVAL

Department of Planning and Community Development
Building and Land Development DivisionExamined and approved this 26 day ofMarch, 1981Edward B. Sans
Manager, Building & Land Development Division

Department of Public Works

Examined and approved this 19th day ofMarch, 1981Paul B. Hagen
Director

Department of Assessments

Examined and approved this 25 day ofMarch, 1981Harley H. Howe
AssessorP. Martin
Deputy AssessorFiled for record at the
request of:MERLE MACHMILLER
Name

Return to:

Building & Land Development
450 KC Administration Bldg
Seattle, Washington 98104

LEGAL DESCRIPTION

ENTIRE LEGAL:

That portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot;

EXCEPT that portion conveyed to King County for road purposes under A.F.#7312200101

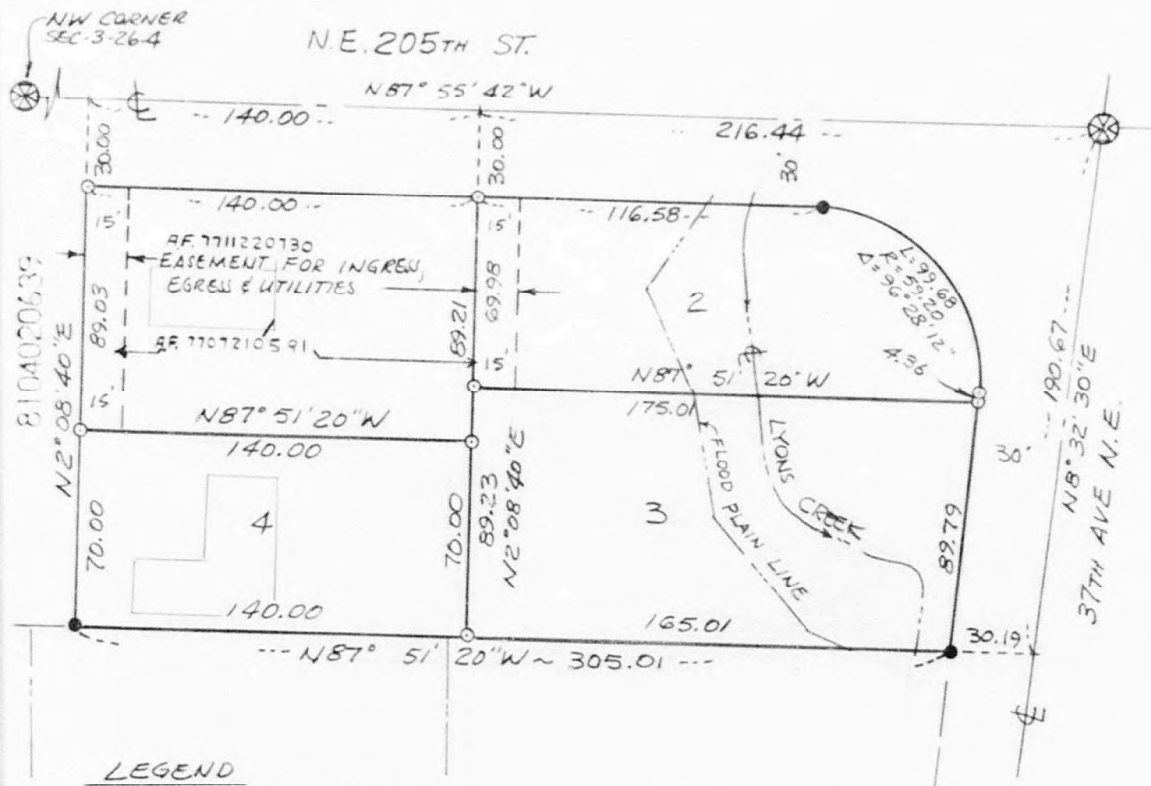
SUBJECT TO AND TOGETHER WITH easements recorded under A.F.#7711220730 & 7707210591.
ALSO SUBJECT TO easements as recorded under A.F.# 7711020750, 7312200101, 7308300439.

RECORDED THIS DAY
APR 2 2 04 PM '81
RECORDS & ELECTIONS
DIVISION

NW 1/4 of NW 1/4
3-32-4
403290-0496
-0497
-0497
-0501

Map on File in Vault

REVISION



Land Surveyor's Certificate:

This short plat correctly represents a survey made by me or under my direction in conformance with the requirements of appropriate state and county statute and ordinance.

3-10-81

Date

James O. Borden

Certificate No: 9760

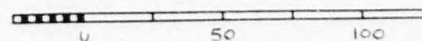
Short Plat No. 1176075

Map on File in Vault

Direction:

MERIDIAN: (PLAT) LK. FOREST PARK 1ST ADD.

Scale: 1" = 50'



Page 2 of 4

DECLARATION:

REVISION

KNOW ALL MEN By these presents, that we, the undersigned, owners in fee simple [and contract purchaser(s)] of the land herein described, do hereby revise Short Subdivision Application No. 1176075 as recorded under Recording No. 7707210791, Records of King County, Washington, and by this Revised Short Subdivision thereof pursuant to RCW 58.17.060 declare this revised short plat to be the graphic representation of the same, and that said revised short subdivision is made with the free consent, and in accordance with the desire of the owner(s).

IN WITNESS WHEREOF We have set our hands and seals.

8104020639

Merle O. Machmiller
Name

Merle O. Machmiller

Name

Craig R. Brand
Name CRAIG R. BRAND, VICE-PRESIDENT
GREAT WESTERN UNION FEDERAL SAVINGS
AND LOAN ASSOCIATION

Name

Irene Machmiller

Name

Name

STATE OF WASHINGTON, } ss.

County of King

On this day personally appeared before me Irene Machmiller

to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 21 day of January, 1981.

Kenneth J. Patton
Notary Public in and for the State of Washington,
residing at Seattle

STATE OF WASHINGTON, } ss.

County of KING

On this day personally appeared before me CRAIG R. BRAND, VICE-PRESIDENT

of Great Western Union Federal Savings and Loan Association
to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that HE signed the same as HIS free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 16TH day of MARCH, 1981.

Robert E. Lee
Notary Public in and for the State of Washington,
residing at Edmonds

seal

Short Plat Number 1176075

Page 3 of 4

COUNTY OF King

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

STATE OF WASHINGTON

500

JUL-21-77 100038 7707210591 - E RF

S. 3 T. 26 R. 4SHORT PLAT NO 1176075

KING COUNTY, WASHINGTON

This space reserved for
recorder's use

RECORDED NO RECORD

JUL 16 12 10P

Filed for record at the
request of:

GRADY MITCHELL

Name

Recording Number

Return to:

Building & Land Development
450 KC Administration Bldg
Seattle, Washington 98104

APPROVAL

Department of Planning and Community Development
Building and Land Development DivisionExamined and approved this 20 day ofJuly, 1977Edward B. Land

Manager, Building & Land Development Division

Department of Public Works

Examined and approved this 23 day ofMarch, 1977John W. Hory

Director

Department of Assessments

Examined and approved this 23 day ofMarch, 1977

HARLEY H. HOPPE

Assessor

A. Martin

Deputy Assessor

LEGAL DESCRIPTION

✓ ENTIRE LEGAL: That portion of Lot 1 in Block 3 of First Addition to Lake Forest park, as per plat recorded in Volume 20 of Plats, on page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot;
EXCEPT that portion conveyed to King County for road purposes under Recording No. 7312200101.

✓ PARCEL 1: The Westerly 160.00 feet of that portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, on page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot;
EXCEPT that portion conveyed to King County for road purposes under Recording No. 7312200101.
EXCEPT the Southerly 70.00 feet thereof;
SUBJECT TO AND TOGETHER WITH an easement for ingress, egress, and utilities as shown graphically on King County Short Subdivision No. 1176075.

PARCEL 2: That portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, on page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot;
EXCEPT that portion conveyed to King County for road purposes under Recording No. 7312200101;
EXCEPT the Southerly 70.00 feet thereof, and,
EXCEPT the Westerly 160.00 feet thereof;
SUBJECT TO AND TOGETHER WITH an easement for ingress, egress, and utilities as shown graphically on King County Short Subdivision No. 1176075.

Map on File in Vault

Page 1 of 4

NW 3-26-4

402290-0496-0497

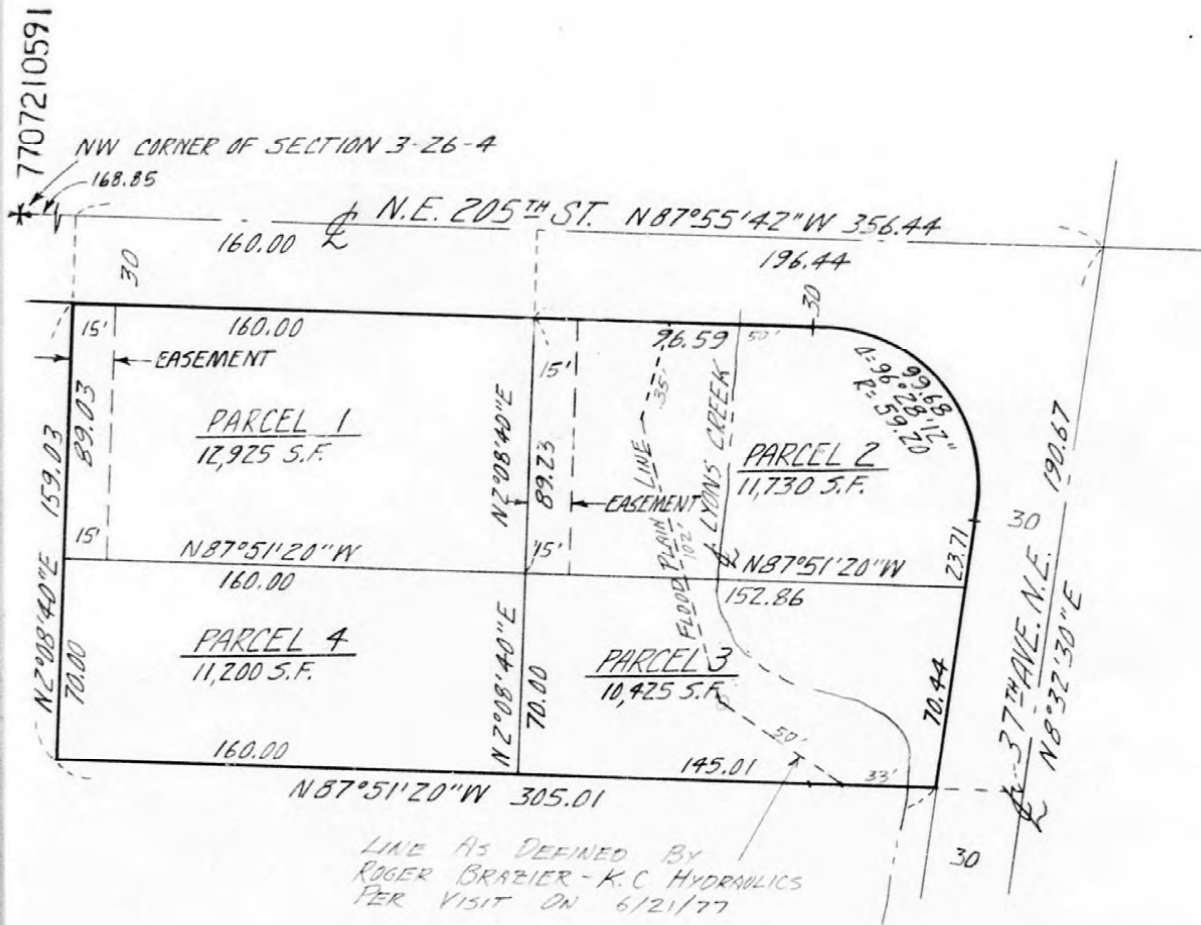
GRADY MITCHELL
Legal Descriptions

7707210591

✓ PARCEL 3: The Southerly 70.00 feet of that portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, on page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot; EXCEPT that portion conveyed to King County for road purposes under Recording No. 7312200101; EXCEPT the Westerly 160.00 feet thereof. SUBJECT TO AND TOGETHER WITH an easement for ingress, egress, and utilities as shown graphically on King County Short Subdivision No. 1176075

✓ PARCEL 4: The Westerly 160.00 feet of the Southerly 70.00 feet of that portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, on page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot; EXCEPT that portion conveyed to King County for road purposes under Recording No. 7312200101; SUBJECT TO AND TOGETHER WITH an easement for ingress, egress, and utilities as shown graphically on King County Short Subdivision No. 1176075.

PORTION OF NW 1/4 OF SEC. 3-26-4



Map on File in Vault

Direction: W

Scale: 1" = 50'



Short Plat No: 1176075

Page 3 of 4

DECLARATION:

Know all men by these presents that we, the undersigned, owner(s) in fee simple [and contract purchaser(s)] of the land herein described do hereby make a short subdivision thereof pursuant to RCW 58.17.060 and declare this short plat to be the graphic representation of same, and that said short subdivision is made with the free consent and in accordance with the desire of the owner(s).

In witness whereof we have set our hands and seals.

Name

Name

Name

Name

Name

Name

STATE OF WASHINGTON, } ss.
County of KING

On this day personally appeared before me GRADY E. MITCHELL
E CATHERINE A MITCHELL HIS WIFE
to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that _____ signed the same as _____ free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 5 day of Feb, 1978.

P. C. [Signature]
Notary Public in and for the State of Washington,
residing at KIRKLAND

seal

STATE OF WASHINGTON, } ss.
County of _____

On this day personally appeared before me _____

to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that _____ signed the same as _____ free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this _____ day of _____, 19____.

Notary Public in and for the State of Washington,
residing at _____

seal

Short Plat Number 1176075

Page 4 of 4

7707210591

EASEMENT FOR A SEWER

THIS AGREEMENT, made this 21 st day of October 19 77.

between Grady E. Mitchell and Cathy A. Mitchell

and _____

and _____

owners of See attached legal description

and _____

and _____

WITNESSETH: That for and in consideration of the mutual covenants herein expressed, it is hereby agreed between the above parties that:

- 1st - There shall be an easement six (6) feet wide for side sewer along the line of said side sewer as constructed for the use and benefit of said properties.
- 2nd - The cost of maintenance, repair or reconstruction of that portion of the sewer used in common shall be borne in equal shares, except that the owners of any lower parcel shall not be responsible for the part of the sewer above their connection; and when necessary to repair, clean or reconstruct the sewer the parties to this agreement shall have a right of entry for that purpose.
- 3rd - This agreement shall be a covenant running with the land and shall be binding upon all parties and their heirs and assigns forever.

IN WITNESS WHEREOF we hereunto set our hands and seals the day and year first above written.

Grady E. Mitchell (SEAL) Cathy A. Mitchell
 _____ (SEAL) _____
 _____ (SEAL) _____

STATE OF WASHINGTON)
 COUNTY OF KING) SS

On this 21st day of Oct, 19 77,
 personally appeared before me

Grady E. Mitchell & Catherine Mitchell

to me known to be the individual described in and who executed the within instrument and acknowledged that they signed and sealed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

P. C. [Signature]

Notary Public in and for the State of Washington, residing at Seattle.

Portion of this document poor quality for filming

771020750

0102577-I

Page 115
PARCEL 1: The Westerly 160.00 feet of that portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, on page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot; EXCEPT that portion conveyed to King County for road purposes under Record No. 7312200101.

EXCEPT the Southerly 70.00 feet thereof;
SUBJECT TO AND TOGETHER WITH an easement for ingress, egress, and utilities as shown graphically on King County Short Subdivision No. 1176075.

PARCEL 2: That portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, on page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot;

EXCEPT that portion conveyed to King County for road purposes under Recording No. 7312200101;

EXCEPT the Southerly 70.00 feet thereof, and,

EXCEPT the Westerly 160.00 feet thereof;

SUBJECT TO AND TOGETHER WITH an easement for ingress, egress, and utilities as shown graphically on King County Short Subdivision No. 1176075.

Map on File in Vault

Page 1 of 1

7711020750

NW 3-26-4

1102296-0496-0497

PARCEL 4: The Westerly 160.00 feet of the Southerly 70.00 feet of that portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, on page 82, records of King County, Washington lying East of a line drawn at right angles to the South line of said Lot from a point in said South line distant 305.01 feet West from the Southeast corner of said Lot;

EXCEPT that portion conveyed to King County for road purposes under Recording No. 7312200101;

SUBJECT TO AND TOGETHER WITH an easement for ingress, egress, and utilities as shown graphically on King County Short Subdivision No. 1176075.

NOV-2-77 00166 7711020750 -- A HF 4.00

NOV 2 11 36 AM '77
RECORDED KC RECORDS

FILED for Record at Request of

RONALD SEWER DISTRICT
17505 Linden Ave. N.
Post Office Box 33490
Seattle, WA 98133

EASEMENT (UNDERGROUND & SURFACE RIGHTS)

Page 117

FILE No. 215
COMPTROLLER

THIS INDENTURE, made this 21st day of October

1977

between GRADY E. MITCHELL and CATHERINE A. MITCHELL, his wife,

hereinafter called the Grantor S, GREAT WESTERN UNION FEDERAL SAVINGS AND LOAN

ASSOCIATION, a corporation hereinafter called the Mortgagee, and the CITY OF SEATTLE, a municipal corporation, hereinafter called the Grantee, WITNESSETH:

That the Grantor S, for and in consideration of the sum of One and No/100 Dollars (\$ 1.00) and other valuable considerations, receipt of which is hereby acknowledged, hereby convey and grant to the Grantee, its successors and assigns, the right, privilege and authority, to install, construct, erect, alter, repair, energize, operate and maintain electric underground transmission and distribution facilities, at depths not exceeding six feet, consisting of vaults, manholes, handholes, ducts, conduits, cables, wires and other necessary or convenient appurtenances; ALSO the right, privilege and authority to the Grantee, its successors and assigns, to install, construct, erect, alter, repair, energize, operate and maintain at the ground level, electric transformer units, electric junction cabinets and/or containers, together with such appurtenances necessary to make said underground and surface installations an integrated electric system, all such electric system to be located upon, under, over and across the following described lands and premises situated in the COUNTY OF KING, State of Washington, to-wit:

The west 15 feet of the property described as follows:

The westerly 160.00 feet of that portion of Lot 1 in Block 3 of First Addition to Lake Forest Park, as per plat recorded in Volume 20 of Plats, page 82, records of King County, Washington, lying east of a line drawn at right angles to the south line of said lot from a point in said south line distant 305.01 feet west from the southeast corner of said lot; EXCEPT that portion conveyed to King County for road purposes under Recording No. 7312200101.
EXCEPT the southerly 70.00 feet thereof.

NOV 22 11 17 AM '77

RECORDED KC RECORDS

Together with the right at all times to the Grantee, its successors and assigns, of ingress to and egress from said lands across adjacent lands of the Grantor S for the purpose of installing, constructing, altering, repairing, energizing, operating and maintaining said electric system, and the right at any time to remove all or any part of said electric system from said land.

The CITY OF SEATTLE is to be responsible, as provided by law, for any damage to the Grantor S through its negligence in the construction, operation and maintenance of said electric system, across, over, upon and under the property of the Grantor S.

The rights, title, privilege and authority hereby granted shall continue and be in force until such time as the Grantee, its successors or assigns, shall permanently remove all said electric system from said lands, or shall permanently abandon said electric system, at which time, all such rights, title, privilege and authority shall terminate.

Any mortgage on the said premises held by the Mortgagee, above named, is hereby released to the extent, but only to the extent, necessary to subordinate said mortgage to the easement herein granted to the Grantee.

IN WITNESS WHEREOF, this instrument has been executed the day and year first above written.

GREAT WESTERN UNION FEDERAL SAVINGS
AND LOAN ASSOCIATION

By: Elizabeth McCoy
Title: Vice President

Grady E. Mitchell
GRADY E. MITCHELL
Catherine A. Mitchell
CATHERINE A. MITCHELL

By: 1% EXCISE TAX NOT REQUIRED
Title: 1% EXCISE TAX NOT REQUIRED

STATE OF WASHINGTON, } ss.
COUNTY OF KING

I, the undersigned, a Notary Public, do hereby certify that on this 21st day of Oct, 1977,
personally appeared before me GRADY E. MITCHELL and CATHERINE A. MITCHELL,

his wife, to me known to be the individual described in and who executed the within instrument, and acknowledged that they
signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal the day and year in this certificate above written.

P. A. Sullivan
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT KIRKLAND

STATE OF WASHINGTON, } ss.
COUNTY OF

I, the undersigned, a Notary Public, do hereby certify that on this _____ day of _____, 19____,
personally appeared before me _____ and _____

his wife, to me known to be the individual described in and who executed the within instrument, and acknowledged that _____
signed the same as _____ free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal the day and year in this certificate above written.

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,

RESIDING AT _____

(FOR CORPORATE ACKNOWLEDGMENT)

STATE OF WASHINGTON, } ss.
COUNTY OF KING

On this 21st day of October, A. D., 1977, before me personally appeared ELIZABETH MCCOY
to me known to be the VICE President, and Great Western Union Federal Savings and Loan Association,
~~Secretary~~ of the corporation that executed the within and foregoing instrument, and each acknowledged that said instrument to be
the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and each on oath stated that
they were authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Shirley Rollman
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT Rickland

APPROVED AS TO FORM ONLY
JOHN P. HARRIS
CORPORATION COUNSEL

John P. Harris
ASSISTANT

Date Nov 4, 1977

FILED FOR RECORD AT
TO
CITY OF SEATTLE
DEPARTMENT OF LIGHTING
1015 THIRD AVENUE
SEATTLE 4, WASHINGTON

FROM

EASEMENT

NO _____
COMPTROLLER FILE

RECORDING DATA

RECORDED IN VOLUME _____

PAGE _____

COUNTY _____

7711220730

CL COMPTROLLER
NO. 7164EASEMENT (Overhead and Underground)
P.M. #260403-2-027

THIS INDENTURE, made this 11th day of December 19 89,
between EXCEL ENTERPRISES, INC., a Washington corporation, hereinafter
called the Grantor; and the CITY OF SEATTLE, a municipal corporation,
hereinafter called the Grantee; WITNESSETH:

That the Grantor, for and in consideration of the sum of One Dollar
(\$1.00) and other valuable considerations, receipt of which is hereby
acknowledged, hereby conveys and grants to the Grantee, its successors and
assigns, the right, privilege and authority to install, construct, erect,
alter, improve, repair, energize, operate and maintain electric overhead
and underground distribution facilities at depths not exceeding 15 feet,
which consist of poles with braces, guys and anchors, crossarms,
transformers, ducts, vaults, manholes, cabinets, containers, conduits,
wires and other necessary or convenient appurtenances to make said
underground and overhead installations an integrated electric system. All
such electric system is to be located across, over, upon and under the
following described lands and premises situated in the County of King,
State of Washington, to wit:

The westerly 50 feet of Lot 2 of revised King County
Short Plat No. 1176075 recorded under recording No.
8104020639, records of King County, Washington.

Together with the right at all times to the Grantee, its successors
and assigns, of ingress to and egress from said lands across adjacent lands
of the Grantor for the purpose of installing, constructing, reconstructing,
repairing, renewing, altering, changing, patrolling, energizing and
operating said electric system, and the right at any time to remove all or
any part of said electric system from said lands.

Also the right to the Grantee, its successors and assigns, at all
times to cut and trim brush, trees or other plants standing or growing upon
said lands which, in the opinion of the Grantee, interfere with the
maintenance or operation of the system, or constitute a menace or danger to
said electric system.

The Grantor, their, executors, administrators, successors and
assigns, hereby covenant and agree that no structure or fire hazards will
be erected or permitted within the above described easement area without
prior written approval from the Grantee, its successors and assigns; that
no digging will be done or permitted within the easement area which will in
any manner disturb the facilities or their solidity or unearth any portion
thereof; and that no blasting or discharge of any explosives will be
permitted within fifty (50) feet of said lines and appurtenances.

It is understood and agreed that the City of Seattle, City Light
Department, may grant other utilities the right and privilege to occupy and
use jointly said distribution system and/or easement.

The City of Seattle and other utilities are to be responsible, as
provided by law, for any damage to the Grantor through their negligence in
the construction, maintenance and operation of said electric and/or other
utility systems across, over, upon and under the property of said Grantor.

The rights, title, privileges and authority hereby granted shall
continue and be in force until such time as the Grantee, its successors,
assigns and other utilities shall permanently remove said poles, wires and
appurtenances from said lands or shall otherwise permanently abandon said
electric and other utility systems, at which time all such rights, title,
privileges and authority hereby granted shall terminate.

LEGAL DESCRIPTION
BY CHC
CHK 11/1/89

8912200646

RECEIVED THIS DAY

DEC 20 10 52 AM '89
BY THE DIVISION OF
RECORDS & ELECTIONS
KING COUNTY

Page 1 of 2

89/12/20 #0646 R
RECD F 6.00
REC FEE 2.00
CASHES *****8.00
55

IN WITNESS WHEREOF, this instrument has been executed the day and year first above written.

EXCEL ENTERPRISES, INC.

By: Kathleen J. Hebig
Title: President

By: Michael D. Hebig
Title: Secretary/Treasurer

(FOR CORPORATE ACKNOWLEDGMENT)

STATE OF WASHINGTON)
) ss.
COUNTY OF Island)

On this 11th day of Decemoer 19 89, before me personally appeared Kathleen J. Hebig, to me known to be the President, and Michael D. Hebig, to me known to be the Secretary, of EXCEL ENTERPRISES, INC. the corporation that executed the within and foregoing instrument, and each acknowledged that said instrument was the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and each on oath stated that they were authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Blaire Z. Taylor
Notary Public in and for the State of Washington,
residing at Freeland.
My Commission Expires: 12-1-92



APPROVED AS TO FORM ONLY
DOUGLAS N. JEWETT
CITY ATTORNEY

Spencer S. Williams
ASSISTANT

Date 12/15/89

Page 2 of 2

FILED FOR RECORD
@ REQUEST OF
CITY OF SEATTLE
CITY LIGHT DEPARTMENT
PROPERTY MANAGEMENT SECTION
1015-3rd AVENUE
SEATTLE, WA 98104

8912200646

W 9038-2
CHICAGO TITLE INSURANCE COMPANY
has placed this document of
record as a customer courtesy
and accepts no liability for
the accuracy or validity of
the document

ACCESS EASEMENT

90/01/05
REC'D
REC'D
CASH
#0364 R
2.00
6.00
8.00
35

For a valuable consideration, receipt of which is hereby acknowledged, the GRANTORS, James A. McKimmy and Excel Enterprises, Inc., do hereby grant and convey unto the GRANTEES, Excel Enterprises, Inc.,

their successors and assigns, an access easement for ingress and egress, over and across a strip of land described as follows: The West 20 feet of Lot 2 and the West 30 feet of the South 10 feet of Lot 2, King County Short Plat Number 1176075 (REVISION), as filed under Recording Number 8104020639, records of King County, Washington; (Being a portion of Lot 1, Block 13, FIRST ADDITION TO LAKE FOREST PARK as filed in Volume 20 of Plats, page 82, records of said King County and lying in the Northwest quarter of the Norwest quarter of Section 3, Township 26 North, Range 4 East, W.M.)

Said easement is intended to provide legal access to the GRANTEES' adjoining property in which the GRANTEES are given the right, privilege and authority to improve, repair and maintain an existing access road over and across said easement.

The cost of maintenance of said access road shall be borne equally by all parties benefiting from and using said easement.

The GRANTORS shall make no use of the land occupied by said access road and utilities except for those compatible with the continued use of the land for the purposes above mentioned and the continued maintenance of same.

In exercising the rights herein granted, the GRANTEES, their successors and assigns, may pass and repass over said existing access road and may cut and remove brush, trees or other obstructions which, in the opinion of GRANTEES, interferes with the maintenance of the road.

The easement herein granted shall run with the land and inure to the benefit of the GRANTORS, their successor in interest and assigns of the ownership of all or any portion of the following described lands:

Lot #3, KCSP 1176075-R

EXCISE TAX NOT REQUIRED
King Co. Records Division

By [Signature], Deputy

The easement shall also inure to the benefit of the GRANTEES, their successors and assigns of the following described lands:

Lot#2, KCSP 1176075-R

IN WITNESS WHEREOF, the said GRANTORS have executed this instrument this 21st day of November, 1989.

James A. McKimmy
James A. McKimmy

L. Wayne Naff
Excel Enterprises, Inc.
L. Wayne Naff, Vice-President
4126 Terrace Drive, Everett, WA 98203

L. Wayne Naff
Excel Enterprises, Inc.
L. Wayne Naff, Vice-President
4126 Terrace Drive, Everett, WA 98203

Subscribed to and sworn to before me this 21st day of November, 1989

[Signature]
Notary Public
State of Washington
Residing in Freeland
My Commission Expires 12-1-92

RECEIVED THIS DAY
RECEIVED HIS DAY

Seal

STATE OF WASHINGTON. }

County of

King

ss.

On this day personally appeared before me

James A. McKinney

to me known to be the individual described in and who executed the within and foregoing
 instrument, and acknowledged that he signed the same as his free and voluntary
 act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this

4th

day of

January

1990

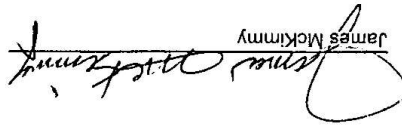
My commission expires
 4/23/90

Notary Public in and for the State of Washington
 residing at

F. 9236

9001050364

ACKNOWLEDGMENT INDIVIDUAL


James McKimmy

Dated: July 27, 2015

Subject to:
Exceptions Set forth on attached exhibit and by this reference made a part hereof as if fully incorporated herein.

Tax Parcel Number(s): 402290-0497-07

Lot 2 SP 8104020639

Abbreviated Legal: (Required if full legal not inserted above.)

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

the following described real estate, situated in the County of King, State of Washington:

in hand paid, conveys, and warrants to Mark A. Garey and Lisa A. Garey, husband and wife

for and in consideration of Ten And No/100 Dollars (\$10.00), and other valuable consideration
THE GRANTOR(S) James McKimmy, a married man as his separate estate

STATUTORY WARRANTY DEED

PAGE-001 OF 001

E2745989
07/28/2015 14:33
KING COUNTY, WA
TAX
\$717.00
SALE
\$49,000.00

20150728001394
CHICAGO TITLE LP
PAGE-001 OF 005
07/28/2015 15:12
KING COUNTY, WA
76.00

When recorded return to:
Mark Garey and Lisa Garey
14827 88th Ave NE
Kenmore, WA 98028

Chicago Title
Ref # 44125-1
⑥ 78

STATUTORY WARRANTY DEED

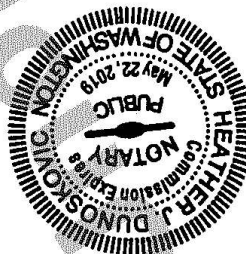
(continued)

State of Washington
County of Okanogan

I certify that I know or have satisfactory evidence that

James McHenry
is/are the person(s) who appeared before me, and said person(s) acknowledged that
(he/she/they) signed this instrument and acknowledged it to be (his/hers/their) free and voluntary act
for the uses and purposes mentioned in this instrument.

Dated: 07-27-2015



Heather J. Dunoskov
Name: _____
Notary Public in and for the State of _____
Residing at: Douglas County
My appointment expires: 05-22-2019

EXHIBIT "A"
Legal Description

LOT 2 OF KING COUNTY SHORT PLAT NO. 1176075, RECORDED UNDER RECORDING NO. 8104020639, BEING A REVISION OF SHORT PLAT NO. RECORDED UNDER RECORDING NO. 7707210591, RECORDS OF KING COUNTY, WASHINGTON;
EXCEPT THE SOUTH 5 FEET OF THE WEST 40 FEET THEREOF, AS CONVEYED UNDER RECORDING NO. 8910200533.

Unofficial Copy

EXCEPTIONS

SPECIAL EXCEPTIONS

Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Purpose: Ingress and egress
Recording Date: July 21, 1977
Recording No.: 7707210591
Affects: Westerly 15 feet

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of Seattle
Purpose: Electric transmission and/or distribution line, together with necessary appurtenances
Recording Date: November 22, 1977
Recording No.: 7711220730
Affects: West 15 feet

Side Sewer Easement

Recording Date: November 2, 1977
Recording No.: 7711020750
Width: 6 feet
Affects: An undisclosed portion of said Land along the line as constructed

Said easement contains a provision for bearing a proportionate or equal cost of maintenance, repair or reconstruction of said Side sewer by the common users.

Side Sewer Easement

Recording Date: October 16, 1989
Recording No.: 8910161152
Width: 6 feet
Affects: An undisclosed portion of said Land along the line as constructed

Said easement contains a provision for bearing a proportionate or equal cost of maintenance, repair or reconstruction of said Side sewer by the common users.

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of Seattle
Purpose: Electric transmission and/or distribution line, together with necessary appurtenances
Recording Date: December 20, 1989
Recording No.: 8912200646
Affects: The westerly 50 feet

Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

In favor of: Excel Enterprises, Inc.
Purpose: Ingress and egress
Recording Date: January 5, 1990
Recording No.: 9001050364
Affects: West 20 feet and the west 30 feet of the south 10 feet

Said easement contains a provision for bearing a proportionate or equal cost of maintenance, repair or reconstruction by the common users.

EXCEPTIONS

(continued)

Covenants, conditions and restrictions but omitting any covenants or restrictions, if any, including marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording Date: October 24, 1919
Recording No.: 1357452

Covenants, conditions, restrictions, restraints, reservations, easements, easement provisions, dedications, building setback lines, notes, statements, and other matters, if any, but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth on Short Plat No. 1176075:

Recording No: 8104020639

Said Short Plat is a revision of Short Plat recorded under recording number 7707210591.

Covenants, conditions, restrictions, restraints, reservations, easements, easement provisions, dedications, building setback lines, notes, statements, and other matters, if any, but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth on Unrecorded Boundary Line Adjustment No. 8901021.

Covenants, conditions, restrictions, restraints, reservations, easements, easement provisions, dedications, building setback lines, notes, statements, and other matters, if any, but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth on Record of Survey:

Recording No: 20050728900032

Any question that may arise due to shifting and changing in the course, boundaries or high water line of Lyons Creek.

Right to make necessary slopes for cuts or fills upon property herein described as granted or reserved in deed

In favor of:
King County
Recording No.: 7308300439 and 7312200101

Chicago Title
Ref # 11125-1

When recorded return to:
Mark Garey and Lisa Garey
14827 88th Ave NE
Kenmore, WA 98028



20150728001394

CHICAGO TITLE LD
PAGE-001 OF 005
07/28/2015 15:12
KING COUNTY, WA

76.00

E2745989

07/28/2015 14:33
KING COUNTY, WA

TAX
SALE

\$717.00
\$40,000.00

PAGE-001 OF 001

STATUTORY WARRANTY DEED

THE GRANTOR(S) James McKimmy, a married man as his separate estate
for and in consideration of Ten And No/100 Dollars (\$10.00) , and other valuable consideration

in hand paid, conveys, and warrants to Mark^JGarey and Lisa^FGarey, husband and wife

the following described real estate, situated in the County of King, State of Washington:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Abbreviated Legal: (Required if full legal not inserted above.)

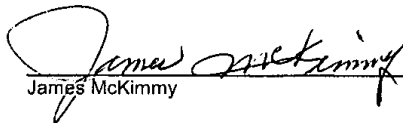
Lot 2 SP 8104020639

Tax Parcel Number(s): 402290-0497-07

Subject to:

Exceptions Set forth on attached exhibit and by this reference made a part hereof as if fully incorporated herein.

Dated: July 27, 2015


James McKimmy

STATUTORY WARRANTY DEED
(continued)

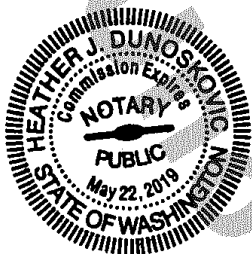
State of Washington
County of Okanogan

I certify that I know or have satisfactory evidence that

James McKimmy

is/are the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) signed this of instrument and acknowledged it to be (his/her/their) free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: 07-27-2015



Heather J. Dunoskovic
Name: Heather J. Dunoskovic
Notary Public in and for the State of WA
Residing at: Douglas County
My appointment expires: 05-22-2019

EXHIBIT "A"

Legal Description

LOT 2 OF KING COUNTY SHORT PLAT NO. 1176075, RECORDED UNDER RECORDING NO. 8104020639, BEING A REVISION OF SHORT PLAT NO. RECORDED UNDER RECORDING NO. 7707210591, RECORDS OF KING COUNTY, WASHINGTON;
EXCEPT THE SOUTH 5 FEET OF THE WEST 40 FEET THEREOF, AS CONVEYED UNDER RECORDING NO. 8910200533.

Unofficial
Copy

EXCEPTIONS

SPECIAL EXCEPTIONS

Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Purpose: Ingress and egress
 Recording Date: July 21, 1977
 Recording No.: 7707210591
 Affects: Westerly 15 feet

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of Seattle
 Purpose: Electric transmission and/or distribution line, together with necessary appurtenances
 Recording Date: November 22, 1977
 Recording No: 7711220730
 Affects: West 15 feet

Side Sewer Easement

Recording Date: November 2, 1977
 Recording No.: 7711020750
 Width: 6 feet
 Affects: An undisclosed portion of said Land along the line as constructed

Said easement contains a provision for bearing a proportionate or equal cost of maintenance, repair or reconstruction of said Side sewer by the common users.

Side Sewer Easement

Recording Date: October 16, 1989
 Recording No.: 8910161152
 Width: 6 feet
 Affects: An undisclosed portion of said Land along the line as constructed

Said easement contains a provision for bearing a proportionate or equal cost of maintenance, repair or reconstruction of said Side sewer by the common users.

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of Seattle
 Purpose: Electric transmission and/or distribution line, together with necessary appurtenances
 Recording Date: December 20, 1989
 Recording No: 8912200646
 Affects: The westerly 50 feet

Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

In favor of: Excel Enterprises, Inc.
 Purpose: Ingress and egress
 Recording Date: January 5, 1990
 Recording No.: 9001050364
 Affects: West 20 feet and the west 30 feet of the south 10 feet

Said easement contains a provision for bearing a proportionate or equal cost of maintenance, repair or reconstruction by the common users.

EXCEPTIONS

(continued)

Covenants, conditions and restrictions but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording Date: October 24, 1919
Recording No.: 1357452

Covenants, conditions, restrictions, recitals, reservations, easements, easement provisions, dedications, building setback lines, notes, statements, and other matters, if any, but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth on Short Plat No. 1176075:

Recording No: 8104020639

Said Short Plat is a revision of Short Plat recorded under recording number 7707210591.

Covenants, conditions, restrictions, recitals, reservations, easements, easement provisions, dedications, building setback lines, notes, statements, and other matters, if any, but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth on Unrecorded Boundary Line Adjustment No. 8901021.

Covenants, conditions, restrictions, recitals, reservations, easements, easement provisions, dedications, building setback lines, notes, statements, and other matters, if any, but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth on Record of Survey:

Recording No: 20050728900032

Any question that may arise due to shifting and changing in the course, boundaries or high water line of Lyons Creek.

Right to make necessary slopes for cuts or fills upon property herein described as granted or reserved in deed

In favor of: King County
Recording No.: 7308300439 and 7312200101

⑤ 78
Chicago Title
Ref # AA125-1

When recorded return to:
Mark Garey and Lisa Garey
14827 88th Ave NE
Kenmore, WA 98028



E2745989
07/28/2015 14:33
KING COUNTY, WA
TAX \$717.00
SALE \$40,000.00
PAGE-001 OF 001

STATUTORY WARRANTY DEED

THE GRANTOR(S) James McKimmy, a married man as his separate estate
for and in consideration of Ten And No/100 Dollars (\$10.00) , and other valuable consideration

In hand paid, conveys, and warrants to Mark^JGarey and Lisa^FGarey, husband and wife

the following described real estate, situated in the County of King, State of Washington:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Abbreviated Legal: (Required if full legal not inserted above.)

Lot 2 SP 8104020639

Tax Parcel Number(s): 402290-0497-07

Subject to:

Exceptions Set forth on attached exhibit and by this reference made a part hereof as if fully incorporated herein.

Dated: July 27, 2015

James McKimmy

STATUTORY WARRANTY DEED
(continued)

State of Washington
County of Okanagan

I certify that I know or have satisfactory evidence that

James McKimmy

is/are the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) signed this instrument and acknowledged it to be (his/her/their) free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: 07-27-2015



Heather J. Dunoskovic
Name: Heather J. Dunoskovic
Notary Public in and for the State of WA
Residing at: Douglas County
My appointment expires: 05-22-2019

Unofficial Copy

EXHIBIT "A"
Legal Description

LOT 2 OF KING COUNTY SHORT PLAT NO. 1176075, RECORDED UNDER RECORDING NO. 8104020839, BEING A REVISION OF SHORT PLAT NO. RECORDED UNDER RECORDING NO. 7707210591, RECORDS OF KING COUNTY, WASHINGTON;
EXCEPT THE SOUTH 5 FEET OF THE WEST 40 FEET THEREOF, AS CONVEYED UNDER RECORDING NO. 8910200533.

Unofficial Copy

EXCEPTIONS

SPECIAL EXCEPTIONS

Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Purpose: Ingress and egress
 Recording Date: July 21, 1977
 Recording No.: 7707210591
 Affects: Westerly 15 feet

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of Seattle
 Purpose: Electric transmission and/or distribution line, together with necessary appurtenances
 Recording Date: November 22, 1977
 Recording No: 7711220730
 Affects: West 15 feet

Side Sewer Easement

Recording Date: November 2, 1977
 Recording No.: 7711020750
 Width: 6 feet
 Affects: An undisclosed portion of said Land along the line as constructed

Said easement contains a provision for bearing a proportionate or equal cost of maintenance, repair or reconstruction of said Side sewer by the common users.

Side Sewer Easement

Recording Date: October 16, 1989
 Recording No.: 8910161152
 Width: 6 feet
 Affects: An undisclosed portion of said Land along the line as constructed

Said easement contains a provision for bearing a proportionate or equal cost of maintenance, repair or reconstruction of said Side sewer by the common users.

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of Seattle
 Purpose: Electric transmission and/or distribution line, together with necessary appurtenances
 Recording Date: December 20, 1989
 Recording No.: 8912200846
 Affects: The westerly 50 feet

Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

In favor of: Excel Enterprises, Inc.
 Purpose: Ingress and egress
 Recording Date: January 5, 1990
 Recording No.: 9001050364
 Affects: West 20 feet and the west 30 feet of the south 10 feet

Said easement contains a provision for bearing a proportionate or equal cost of maintenance, repair or reconstruction by the common users.

Unofficial Copy

EXCEPTIONS

(continued)

Covenants, conditions and restrictions but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording Date: October 24, 1919
Recording No.: 1357452

Covenants, conditions, restrictions, recitals, reservations, easements, easement provisions, dedications, building setback lines, notes, statements, and other matters, if any, but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth on Short Plat No. 1176075:

Recording No: 8104020639

Said Short Plat is a revision of Short Plat recorded under recording number 7707210591.

Covenants, conditions, restrictions, recitals, reservations, easements, easement provisions, dedications, building setback lines, notes, statements, and other matters, if any, but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth on Unrecorded Boundary Line Adjustment No. 8901021.

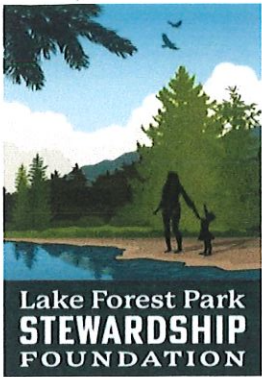
Covenants, conditions, restrictions, recitals, reservations, easements, easement provisions, dedications, building setback lines, notes, statements, and other matters, if any, but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth on Record of Survey:

Recording No: 20050728900032

Any question that may arise due to shifting and changing in the course, boundaries or high water line of Lyons Creek.

Right to make necessary slopes for cuts or fills upon property herein described as granted or reserved in deed

In favor of: King County
Recording No.: 7308300439 and 7312200101



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RECEIVED

MAR 17 2025

CITY OF
LAKE FOREST PARK

March 17, 2025

Comments by the Lake Forest Park Stewardship Foundation (LFPSF)

File Number: 2021-RUE-0001 Proponent: Mark Garey

To the City of Lake Forest Park:

It appears to us that the FEMA floodplain map has not been entered into the record so far. We intend to discuss it with the Hearing Examiner on March 19, 2025, and so we request that he be provided a copy of the attachment.

Thank you,

Kim Josund
Board President
Lake Forest Park Stewardship Foundation

PO Box 82861
Kenmore, WA 98028
(206) 361-7076
info@lfpsf.org
LFPSF.ORG

City of Mountlake Terrace
530170

53061C1320F
eff. 6/19/2020

Snohomish County
535534

47.776723, -122.290666

ING COUNTY
530071

CITY OF LAKE FOREST
530082

53033C0043G
eff. 8/19/2020

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November 18, 2021

Comments by the Lake Forest Park Stewardship Foundation (LFPSF)
File Number: 2021-RUE-0001
Proponent: Mark Garey

To the City of Lake Forest Park:

This proposal for building a house on a lot that is 100% within the critical area stream buffer of Lyon Creek will not accomplish the “no net loss” of stream functions required by code, will not minimize harm to the resource, and will not adequately mitigate for unavoidable impacts.

The Best Available Science (BAS) on ecological functions of stream buffers is Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications, Washington Department of Fish and Wildlife, 2020. It is available for downloading at <https://wdfw.wa.gov/publications/01987>. We request this BAS be considered when making decisions about this building proposal. This BAS is organized into chapters dealing with the processes that influence stream health; the pertinent chapters are discussed individually below, with suggested mitigation for the unavoidable impacts this proposal will cause on each of the processes.

We request that City officials keep in mind that the lot in question is at the very top of Lyon Creek at the border of Lake Forest Park, so impacts to the stream on this site will have wide effects downstream. These impacts are cumulative, meaning that if other property owners caused similar impacts the stream would be very severely damaged. Potential damage includes becoming more of a drainage ditch, which would get overly heated and nearly go dry during rainless spells, and flow very violently and out of its banks during storms. The stream on this site is a known Coho spawning reach and it is also probably habitat for Chinook, sockeye, steelhead, and cutthroat trout. It has potential to become habitat for the kokanee population that UWB and LFPSF are working to establish in Lyon Creek. Persons that would be impacted by buffer degradations on this site include not only the lower streamside property owners in LFP, but also: all people who are working to recover ecological health of the stream whenever possible by slowly restoring buffer functions on developed sites; all residents enjoy stream views; all who want salmon and trout populations to recover; all who want the streams of our area to contribute to Lake Washington in a healthy manner; all who are working to restore kokanee and other salmon populations to the creeks of our city; and all desire to know that the natural resources of our city are being protected and restored for the present and future enjoyment of our residents. Cumulative impacts allowed to occur on this site will harm all those people, not to mention fish and wildlife.

Lake Forest Park Municipal Code Chapter 16.16 ENVIRONMENTALLY CRITICAL AREAS, in 16.16.370 Streams—Mitigation Requirements states “*Replacement or enhancement will be required when a stream or buffer is altered pursuant to an approved development proposal.*”

There will be no net loss of stream functions on a development proposal site and no impact on stream functions above or below the site due to approved alterations.” Stream functions pertinent to Lyon Creek described in the BAS are listed immediately below by chapter number of the BAS, with hydrology concerns added by LFPSF. We request that the code requirements for “no net loss” and “no impact” be evaluated for each of these. Our evaluations and recommendations for mitigation are discussed for each of these in separate paragraphs below, following the heading “Buffer Functions”.

CHAPTER 2. STREAM MORPHOLOGY

CHAPTER 3. WOOD

CHAPTER 4. STREAM TEMPERATURE

CHAPTER 5. POLLUTANT REMOVAL

CHAPTER 6. NUTRIENT DYNAMICS IN RIPARIAN ECOSYSTEMS

CHAPTER 9. SCIENCE SYNTHESIS TO MANAGEMENT IMPLICATIONS

HYDROLOGY [a paragraph we add because LFP has so much experience with flooding]

We spoke to Nick Holland, LFP Senior Planner, on October 28, 2021, asking about mitigation required by the City for impacts not specifically mentioned in the code, and how the City enforces the code requirement for “no net loss of stream functions on a development proposal site and no impact on stream functions above or below the site due to approved alterations”. He said it is up to the applicant to demonstrate no net loss and no impact. We think it will be very difficult for the proponent of this project to assure no net loss and no impact, so proposals for satisfying the “replacement or enhancement” requirements of City code should be supported by reports of licensed professionals submitted by the applicant for each category of the possible impacts. If there remains a lack of submission of convincing reports, we request the City require very strong mitigation for impacts to each buffer function to ensure any errors in computing impacts are fully compensated.

Buffer Functions

CHAPTER 2. STREAM MORPHOLOGY.

The BAS says “...*channel morphology and the processes that shape it can be impacted by human[s] ... usually resulting in loss of habitats, reduced habitat diversity, and diminished habitat functions for aquatic species. Management actions such as ... riparian vegetation removal tend to reduce natural variability of geomorphic processes, often amounting to stream habitat degradation greater than the sum of its parts.*”

The impacts of the proposal include removing mature buffer trees and permanently preventing tree regrowth in the area of development and creating the likelihood of hazard tree removal in the future from areas quite distant from the house. These impacts will be to an area that is presently functioning quite well with 90% canopy closure. This will harm stream morphology by limiting contribution of wood to the stream, and by limiting the benefits of root strength in areas where the stream may need to meander. The proposal for mitigation of tree removal is to plant young trees under the canopy on site outside the development’s footprint. However, replacement trees will not develop the full function of removed mature trees for several decades, and this impact is not addressed by the proposal. Nor is the impact of permanently removing the area of the development from the ability to re-grow tree functions. To mitigate for the impacts to stream morphology the applicant should be required to add pieces of conifer trees to the stream that are large enough to remain in place during high flows, in a quantity sufficient to cause the channel on site to develop 50% pools and 50% riffles. Placing big stumps in the wetted low flow channel should be sufficient for this mitigation, if they are placed so there is only one-low flow channel width between them; logs anchored into the streambank probably are not needed in the channel on site, but an adequate job will make it look like the channel is very full of stumps.

CHAPTER 3. WOOD

The BAS says “*Wood plays critical roles in the composition, structure, and function of riparian and aquatic ecosystems...wood is an important determinant of channel form and dynamics, especially in small streams... Large wood causes widening and narrowing, deepening and shallowing, stabilization and destabilization at*

different points along a stream or river channel... The many effects of large wood create a variety of channel morphologies—dam pools, plunge pools, riffles, glides, undercut banks, and side channels— which provide a diversity of aquatic habitats.” Mitigation for the impact of permanently decreasing the ability of the buffer to provide wood to the stream is the same as for the impacts on stream morphology discussed in the paragraph above. Addition of the stumps described for mitigation for the impacts on stream morphology will also satisfy the need for mitigation for the impact on wood supply.

CHAPTER 4. STREAM TEMPERATURE

The BAS says “*...the types of riparian vegetation and their condition ... play important roles in determining the amount of solar radiation that reaches a stream’s surface. Through management of riparian ecosystem conditions, especially vegetation, the spatiotemporal distribution of stream temperatures (i.e., thermal regime) ... can be affected, which in turn, directly and indirectly affect the survival and productivity of aquatic species ... including salmon.*” The proposal calls for mitigation of the total removal of buffer trees in the area of the house, the 10-foot-wide perimeter area surrounding the house, and the driveway by underplanting the 90% canopy elsewhere on the Garey site. This seems inadequate because the impacted area will remain totally non-productive of trees, whereas the proposed mitigation site is already functioning well with 90% canopy coverage. A much greater area than the totally cleared area must be enhanced if the enhancement is to be done in places that are already functioning well. Increasing the functions of well-functioning areas sufficiently to compensate for full removal of functions elsewhere on site would be so difficult that we do not think the proponent could do it. In addition, the Arborist Report states, “Tree assessment related to occupant safety and safeguarding new structures or other targets must be done separately [from this report] and after building has been completed.” This implies the arborist anticipates the development of hazard trees from existing buffer trees which will require removal, further diminishing the buffer functions caused by the original clearing. Thus, we think the partial mitigation that can be provided by removal of invasive shrubs and underplanting the canopy with juvenile trees is necessary but not sufficient. The unmitigable portion of this impact must be compensated with alternate types of mitigation. We think part of the mitigation discussed below for pollutant removal could be applied to compensate for the only partially mitigated temperature impacts.

CHAPTER 5. POLLUTANT REMOVAL

The BAS says “*Riparian areas exert a significant influence on water quality due to their position between terrestrial and aquatic ecosystems...while passing through riparian areas contaminated water undergoes a variety of physical, chemical, and biological processes that reduce pollutant concentrations... Riparian areas slow surface runoff and increase infiltration of water into the soil, thereby enhancing both deposition of solids and filtration of water-borne pollutants. Riparian areas also intercept and act on contaminants in subsurface flow through dilution, sorption, physical transformation, chemical degradation, or volatilization by various biogeochemical processes and through uptake and assimilation by plants, fungi, and microbes. There is overwhelming evidence in the scientific literature that riparian buffers reduce nonpoint source water pollution for a variety of pollutants— including sediments, excess nutrients, metals, organic compounds such as pesticides, and pathogens.*” The proposal will decrease the ability of the buffer to process pollutants by eliminating natural soil processes in the area disturbed by the house, driveway, and 10-foot-wide perimeter area surrounding the house. There is no way this impact can be eliminated, so enhancement of buffer functions elsewhere must be accomplished for compensation. Presently a pipe on the western part of the lot discharges drainage water onto this lot a few feet from the stream channel. Also, in the street right-of-way near the edge of this lot a catch basin at the southwest corner of 205th Street NE and NE 37th Avenue apparently discharges street runoff from 205th Street directly into Lyon Creek. Building vaults to detain and treat stormwater presently discharging from these pipes into Lyon Creek on or near this site would be an excellent improvement to stream function, probably more than compensating for diminishment of pollutant removal functions caused by eliminating natural soil processes in the area disturbed by the development. Thus, some of the benefits of these two suggested vaults and filters could also be used to compensate for impacts discussed in the preceding and following paragraphs.

CHAPTER 6. NUTRIENT DYNAMICS IN RIPARIAN ECOSYSTEMS

The BAS says *“Organic matter from riparian areas, an important source of energy and nutrients, makes its way into streams via plant litterfall, or through transport by water, wind, or animals. Organic matter in streams provides habitat and food for microbes, insects, fish, amphibians, birds, and other organisms, and decomposes to release plant-available inorganic nutrients like ammonium, nitrate, and phosphate. Riparian areas also store energy and nutrients from organic matter coming from upland and instream sources through biotic uptake, sorption and exchange, and slowing or trapping particles... Nutrients and the hydrological and biogeochemical processes that dictate their transport and fate are ...of ...critical importance for growth and maintenance of life in the riparian ecosystem and the subsequent effects on stream biota and water quality.”* The decrease in the ability of the buffer to process nutrients by eliminating natural soil processes in the area disturbed by the development would be compensated by the two road runoff vaults and filters suggested in the paragraph above dealing with pollutant removal. More direct techniques for mitigating this impact are hard to envision.

CHAPTER 9. SCIENCE SYNTHESIS TO MANAGEMENT IMPLICATIONS

The BAS says *“The current state of the science, as reviewed in chapters 1 through 8, clearly demonstrates the importance of an intact riparian ecosystem to the proper functioning of aquatic habitats...Riparian ecosystems are a priority habitat because their composition, structure, and functions dramatically affect a multitude of fish, amphibian, reptile, bird, mammal, and invertebrate species ... Although riparian ecosystems are a small portion of the landscape, approximately 85% of Washington’s wildlife species use them...Protecting or restoring high function to this relatively small portion of the landscape can disproportionately benefit many species and other important ecosystem goods and services (e.g., clean water, fisheries, and flood control)”*. This BAS supports our view that strong mitigation is needed for the impacts the proposal would cause on the Lyon Creek buffer.

HYDROLOGY

In addition to the functions discussed in the BAS, we request careful consideration of the impacts the proposal will have on hydrology, including making floods worse and low flows more stressful on the stream ecosystem. We expect three changes to the plans should be required to minimize these impacts.

1. Stormwater from the developed areas should not be disposed in the proposed dispersion trenches. The proposal intends to infiltrate stormwater with level spreaders within one-half foot of elevation from the Ordinary High-Water Mark, and eight horizontal feet from the Ordinary High-Water Mark. We do not think this could function well during storm flows because the soil in this place would already be fully saturated. The applicant should be required either to submit a report from a civil engineer with hydrology expertise documenting that the infiltration proposed will indeed function fully during all stream flow, flooding, and soil saturation conditions, or the applicant should be required to redesign the stormwater control aspects of the proposal. We think an adequate redesign could be accomplished by building the house on pilings and infiltrating all the runoff from the house and 10-foot-wide perimeter area surrounding the house into the soil beneath the house.
2. The proposed level spreaders should not be built, and all the area of the lot outside the 10-foot-wide perimeter area surrounding the house should be fenced and given natural area protection by the city, to avoid compaction of the soil or destruction of plants that influence runoff. If building the house on pilings is impractical, then a vault should be built under the house to detain all runoff for dispersal into the highest elevation buffer area possible, at the rate of runoff from mature forest.
3. The driveway must be made of permeable pavement installed under the directions of a soil scientist. This is because we are concerned that soil this close to the elevation of the stream might not behave in the manner familiar to builders of permeable pavement elsewhere. Alternately a vault should be built under the driveway that will store all stormwater runoff from the driveway for release into the buffer at the rate of mature forest runoff. A bond to ensure periodic professional maintenance of the vaults should be required.

The City should take special care of this exceptionally important type of habitat, and it is entirely reasonable that the applicant be required to completely demonstrate accomplishment of the code requirement for **“no net loss of stream functions on a development proposal site and no impact on stream functions above or below the site due to approved alterations.”**

We think it will be very difficult for the proponent to assure no net loss and no impact, so if those claims are made the applicant should be required to submit reports by professionals specializing in evaluating impacts on stream morphology, wood, stream temperature, pollutant removal, and nutrient dynamics in riparian ecosystems, as discussed in the BAS, plus on hydrology because LFP has so much experience with flooding. We think the “replacement or enhancement” requirements of City code will be found to demand very strong and thorough mitigation for this project, and the City should err on the side of extra protection of the resource if there is question about how much mitigation is needed.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim Josund". The signature is fluid and cursive, with the first name "Kim" and last name "Josund" clearly distinguishable.

Kim Josund
President
Lake Forest Park Stewardship Foundation



RE: Regarding the Mark Garey RUE

From kim.josund@gmail.com <kim.josund@gmail.com>

Date Wed 3/19/2025 2:24 PM

To 'Lee Rolfe' <salleygardens9@gmail.com>; David Greetham <dgreetham@cityofflp.gov>

Cc 'Julian Andersen' <julian@andermac.org>; 'Doug Hennick' <doug.hennick@gmail.com>; Brian Saunders <bandesaunders@comcast.net>; Mark Phillips <msphillips1@comcast.net>

Thanks for sharing your letter!

The City staff report recommends denial of this permit...fingers crossed that the preponderance of arguments against holds the day at the hearing tonight.

Kim Josund

Lake Forest Park Stewardship Foundation

www.lfpsf.org

From: Lee Rolfe <salleygardens9@gmail.com>

Sent: Wednesday, March 19, 2025 1:34 PM

To: dgreetham@cityofflp.gov

Cc: Kim J <kim.josund@gmail.com>; Julian Andersen <julian@andermac.org>; Doug Hennick <doug.hennick@gmail.com>; Brian Saunders <bandesaunders@comcast.net>; msphillips1@comcast.net

Subject: Regarding the Mark Garey RUE

To Lake Forest Park Mayor French, City Council, and Planning Department:

Recently we came across a photograph of my twin daughters planting a thousand young salmon into Lyon's Creek, compliments of the Department of Fisheries. The year was 1977, and the twins were four years old. In years since then, we have witnessed countless commitments by our community to clean up our streams, restore our watersheds and protect and steward what makes Lake Forest Park true to its name. This policy must be sustained.

It is my understanding that the Garey RUE, formerly determined to be unsuitable for development, is now up for review. It is on

record that this application is incomplete, discouraged by the Dept of Fish and Wildlife, and a gross endangerment to a low-lying riparian zone. It sets a terrible precedence both in its environmental and judicial aspects.

Now more than ever, possible negative impacts from development must NOT be tolerated. Our Lyon Creek ecosystem is still in the process of reaching some stability, and the recovering populations of salmon hang in the balance. Any development that could directly affect the conditions of our creeksheds must be thoroughly reviewed and determinations made as to its possible negative effects on this natural heritage.

Most Sincerely,

Tony Angell
Lee Rolfe

March 16, 2025

Re: Comments to Hearing examiner regarding Garey Reasonable Use Exception

File Number: 2021-RUE-0001

Proponent: Mark Garey

Permit Type: Reasonable Use Exception (Type I – Quasi-Judicial Decision of the Hearing Examiner, per LFPMC Section 16.26.030)

Location of proposal: Parcel # 4022900497

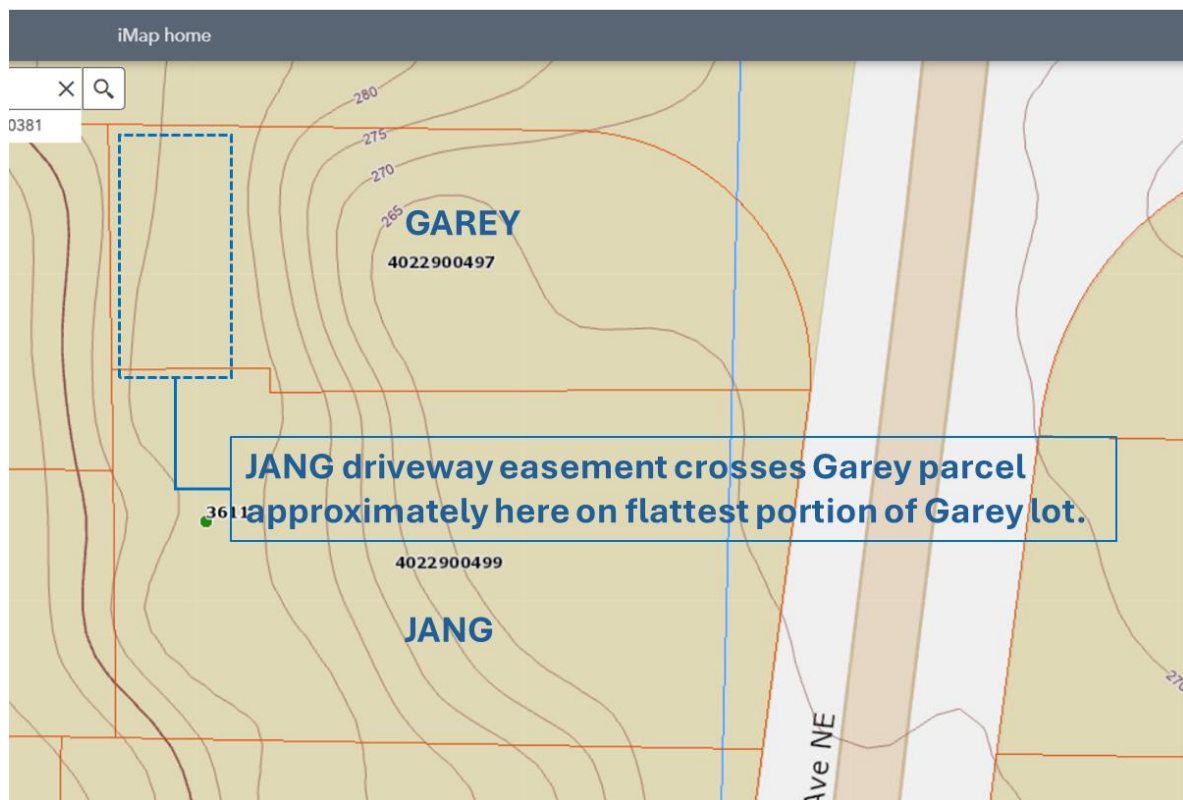
Summary: To grant a Reasonable Use Exception (RUE), the owner should have reasonably expected that development was possible when they purchased the property. The public record shows this is not the case. Based on the history of this property and affirmative actions taken by a previous owner, this property should not be eligible for a RUE. A prior owner of the property exercised their right to reasonable economic use by selling or granting an access easement to a neighboring parcel across the most buildable portion of the lot. That owner then successfully appealed the remaining property valuation and it has been taxed as unbuildable for nearly 30 years. If the property is deemed eligible for RUE, then the current owner should be liable, at minimum, for nearly thirty years of back taxes, totaling roughly \$50,000 in 2023 dollars, before penalties and interest.

Detailed comments: The Garey property has been officially deemed and taxed as unbuildable since at least 1995, and that information was publicly available to the current owner when they purchased the property in 2015. Based on the King County Assessor's tax records, a previous owner appealed the property value in 1995, almost certainly because the lot was deemed unbuildable even under then current environmental regulations and practical site constraints. The assessor agreed and reduced the taxable value from \$48,500 to \$20,000 and that value has hardly changed since then despite significant escalation in land and housing values. In fact, for the tax year 2025, the property is valued at just \$19,000. That is normal with the value of lots deemed unbuildable open space. If the Garey parcel had gone up in parallel with surrounding properties, the land value alone would be around \$300,000. Two adjacent lots of a similar size currently have assessed land values of more than \$330,000. Importantly, the appeal happened at the affirmative initiative of the property owner and that decision must stay with the property despite a change in ownership. The current owner purchased the property in 2015 for \$40,000, with a taxable value that year of \$24,000. In that same year, the land value of a neighboring parcel of similar size was valued at \$126,000. Due diligence by the buyer would have revealed the history of the assessed value and the reasons behind it.

While the specific motivations of a prior landowner are just speculation, the public record shows that a prior owner granted a perpetual easement to the neighboring parcel (current owner, Jang) in 1981. That easement likely took away the most buildable part of their own property.



The image below shows the topography of the parcel, with the driveway easement located on the flattest, most buildable portion of the parcel.



Approximate timeline:

- (1) Garey's predecessor sold a driveway easement to Jang parcel before 1989,
- (2) then successfully appealed the taxes on what was left in 1995, which was now unbuildable as a result of their own action as well as challenging topography,
- (3) sold the property to Garey at a fraction of the cost of comparable-but-buildable parcels, who now wants to build on the lower portion of the lot, next to the creek.

Tax implication: When property values are reduced through appeals or through enrollment in programs like the Public Benefit Rating System or Open Space Taxation, the tax obligation is borne by the remaining taxpayers in each taxing district (e.g., city, county, state, school district, etc.). Thus, if the city were to now reverse course and allow an RUE, the public would have been subsidizing the Garey parcel's tax obligations for nearly 30 years. For example, the Garey tax bill for 2025 is about \$193, while the tax bill for the land only on the neighboring parcel is more than \$3,700. It is fairly straightforward to estimate the tax benefit enjoyed by the property owner(s) since 1995 by comparing the assessed land value of similarly sized parcels. Before adjusting for inflation, I estimate that the owners have avoided tax payments on roughly \$3,700,000 in property value. When adjusted for inflation using the Consumer Price Index for the Seattle area, the avoided taxable value climbs to more than \$5,200,000 in 2023 dollars. At the 2024 property tax rate, that amounts to a bill of more than \$51,000 before interest and potential penalties.

The appeal decision was precipitated by the property owner 28 years ago – a reversal would not only be harmful to the environment, but also unjust to all residents who have carried the tax burden, and to the former owner who would not have received fair market value for the property when selling to Garey in 2015. This property is not the only vacant one in the city to have undergone a property value appeal for environmental and buildability reasons. Ruling here in favor of the landowner will open a giant can of worms.

Janne Kaje, resident, Lake Forest Park



2021-RUE-0001. Garey property - an owner created defective property

From Peter Lance <peter.v.lance@gmail.com>

Date Tue 3/18/2025 3:21 PM

To David Greetham <dgreetham@cityofflp.gov>

Dear Hearing Examiner,

This property is a defective property that is part of what was once a fully usable property that was not defective. It is a defective lot that was manufactured and fully understood to be defective when created by the owner during the short plat process.

The reasonable use of this lot was and is still present in the other lots that are part of the original short plat. The other lots have Reasonable Use and have homes upon them. There is no logical reason that the DELIBERATE creation of a faulty, defective lot by the owner or previous owner should create a Reasonable Use Exception. Just because a lot may have lot status does not confer that the lot is buildable or should be eligible for exception from critical areas ordinances.

The title report provided by the applicant is deficient. It does not include potentially key exhibits that are difficult to obtain from King County. The title report should show what the exhibits are for item C3, C4, and C7. These documents are related to steep slopes and the original short plat and amendments. This information should be readily available to all interested parties and easily accessible in the city records.

Thank you,

Peter Lance
206-948-8922
6501 NE 151st St
Kenmore, WA 98028



Re: 2021-RUE-0001. Garey property - an owner created defective property

From Peter Lance <peter.v.lance@gmail.com>

Date Wed 3/19/2025 3:53 PM

To David Greetham <dgreetham@cityofflp.gov>

Dear Hearing Examiner ,

As the city is entertaining a RUE for the Garey property all manner of building should be on the table. This is a very sensitive property in flood prone Lyon's Creek. Others have discussed this problem at length. The city could consider suggesting Garey apply for a variance to setbacks from the street and apply for the opportunity to build next to the street with zero setback and have the home built on pilings so flood waters can pass freely under the home. A driveway if necessary could also be built on pilings. Fill would not be necessary if the home is built on pilings. Thus the flow of the water would not be impacted by structure. The worst remaining impacts to the creek, toxic materials coming from the roof and driveway can be moderated with bio-filtration and careful plantings.

It is not reasonable to approve an RUE that is going to adversely affect others in flood events. Building on pilings with a zero lot line to the street could reduce a lot of the flood impacts.

Thank you,

Peter Lance
206-948-8922
6501 NE 151st St
Kenmore, WA 98028

For: The Hearing Examiner

Re: Reasonable Use Exception, Mark Garey Property – Parcel in Lake Forest Park

To whom it may concern,

I wish to address the request for a Reasonable Use Exception (RUE) on the Mark Gary Parcel in Lake Forest Park along Lyon Creek at the County line and to highlight why this application does not meet the necessary criteria for approval. The points below outline fundamental flaws in the applicant's request and why granting this exception would undermine both the intent and legal framework governing land use in Lake Forest Park.

I am a Fisheries Research Scientist, Aquatic Ecologist, and Natural Historian with expertise in habitat analysis of aquatic and riparian zones, encompassing Hydrology, Geomorphology, Forestry, and Ecology. I have conducted extensive field sampling of aquatic organisms for presence and abundance, obtaining genetic, ecological, and biological information using methods such as electrofishing, netting, trapping, hook and line, along with habitat surveys and then laboratory, literature and historic research work for the University of Washington School of Fisheries Sciences, The Washington Department of Fish and Wildlife, and King County Department of Natural Resources. My resume is below.

I write to address the request for a **Reasonable Use Exception (RUE)** on the Garey Parcel and to highlight why this application **does not meet the necessary criteria for approval**. The points below outline what I see as the fundamental flaws in the applicant's argument and why granting this exception would undermine both the intent and legal framework governing land use in Lake Forest Park.

1. The Applicant Has Not Suffered an Economic Loss nor in Particular is Experiencing a Governmental "Taking"

The legal foundation of the RUE process is rooted in the principle that regulations cannot deprive a landowner of all reasonable economic use of their land. However, this case does not meet that threshold.

My understanding is that the applicant **purchased the property knowing that it was constrained by environmental buffers**. Therefore any claim that these buffers now constitute a "taking" is unfounded because the limitations were pre-existing. The applicant has not lost anything—they **still have what they purchased**, and the land retains its original and real value as a protected natural area.

A **true taking** occurs when an owner is burdened beyond reason, such that their land investment retains no monetary value as may be reasonably expected. However, it appears this applicant bought the land at a discounted price **precisely because it was undevelopable** due to buffers. The pre-existing environmental restrictions are not an unfair burden imposed after purchase—they were part of the bargain from the beginning.

2. The RUE Is Not Meant to Guarantee Profit or Speculative Development

The Reasonable Use Exception is intended to allow relief **only when a regulation obstructs a reasonable economic use**—it is not to guarantee the landowner the right to build for profit no matter the cost to our environment. The **intent of the law is not to erase environmental protections simply to create an economic opportunity** where none previously existed.

- **The applicant here is not entitled to build a home simply because they wish to do so.** The law does not exist to ensure that every piece of land can be maximized for development.
- The **presence of a garage or shed in the past does not justify constructing a home now.** A shed is not a residence, and no reasonable use exception for a home should be granted based upon some prior non-residential use.
- If an RUE were granted in this case, it would **set a dangerous precedent** that any land, no matter how environmentally sensitive, could be developed despite existing regulations, and moreover merely upon speculation that a profit only perhaps can be made. And here, given the proximity of Lyon Creek, one routine rain on snow event could destroy any work concluded even before completion. The difference being between a reasonable expectation and that of a gamble is glaring of course.

The **fact that no home was on the lot when it was created** is crucial. The RUE is often applied in cases where **a home already exists** and needs maintenance or to allow for its slight improvement within a buffer. That is not the situation here. The applicant **is seeking to create a new value that was never there**—not to preserve or moderately improve something which presently exists as a reasonable use of the property.

3. The Government Cannot “Take” What Was Never There

One of the strongest arguments against this RUE is simple:

The government is not taking anything away from the applicant because they never had a legal right to build a home on this land in the first place.

- If the applicant never had a home on the site, nor had the expectation of doing so other than beyond a hopeful wager, then they have lost nothing.
- If the applicant purchased the land knowing its restrictions, they assumed the risk that it might not be buildable.
- If the land retains value in its natural state (which courts recognize as an economic benefit), then the government is not imposing an economic loss, merely affirming the owners existing natural value be preserved.

If the government were required to compensate for every instance in which regulations prevented potential profits as a taking, then **every environmental and building regulation in the state would essentially be invalidated.** That is not how land use law works, and it is not how Reasonable Use Exceptions are meant to function.

4. The Public Interest AND Proponents Own Existing Natural Values Must Be Protected

The destruction of natural areas, even in part, creates a net real economic loss. The Supreme Court has affirmed that environmental benefits—such as fish and wildlife, natural habitat, water quality, and environmental aesthetics—**hold real economic value for both property owners and the public.**

This RUE request is not about allowing an existing use to continue—it is about **eliminating environmental protections to generate a profit for which no legal expectation exists**. That is not a reasonable use, and it is not what this exception process was designed to accommodate.

Conclusion: The RUE Should Be Denied

This application does not meet the burden required for a Reasonable Use Exception. The applicant still has the land they purchased, with the same value and restrictions that existed at the time of sale. No right to build has been taken away because **no such right ever existed**.

Approving this exception would not only be **legally and environmentally unsound** but would set a precedent that would encourage **future speculative purchases of restricted land in hopes of forcing development**. That is not the purpose of the RUE process, and it is not in the public interest.

For these reasons, **I urge the denial of the RUE request**.

Cordially,
James D Mattila

Taken from a private letter written by Scientist Jim Mattila to Mickie Gundersen January 2025 referring to the state law about Reasonable Use.

And so to start, I'll point out that the rule you quote is clearly referring to LFP City code, but that matters not as it descends from both Federal and State code affirming the property rights of individual landowners wherein Government may not "Take" private property without compensation, be that by even just restricting its reasonable use.

The theory is that if a regulation so limits a person's use of their land, the situation is such that it essentially has been seized although even if it physically does not become public property. Now clearly ALL environmental buffers are argued by developers to be Takings, although generally the exception is applicable or sympathetic to small landowners who bought a piece of land with the reasonable expectation of building a home for themselves (not mere speculation to sell for profit alone) only to find themselves burdened beyond reason such that their land investment retains no monetary value.

And so right off a developer who bought a lot cheap precisely because it was undevelopable due to a buffer is NOT being burdened unfairly such that they have suffered an economic loss or taking... So THAT is the first point to make against the exception sought. They still have what they bought and the pre-existing buffers are not taking a thing.

Next is to point out that all land is seen as separate from any buildings placed atop, and indeed land is always taxed at a value regardless of what improvements are on it. Usually it's obvious that an owner has been paying taxes on a value that reflects their land is in a critical area, so the next point is to show the developer got what they paid for and still retains the natural economic value they started with.

Moreover, it's important to understand that the reasonable use exception isn't meant to guarantee the landowners potential profit a new building may yield, just the existing value or use of the LAND alone! And so more often than not the exception is applied in a situation where an existing home lies in the buffer when it was enacted, such that permits can be issued to maintain or perhaps even improve it if the footprint remains unchanged.

Its NOT a reasonable exception to let developers get permits for new projects as if the buffers and values were never there to begin with as that would render ALL environmental regulation meaningless of course.

So it's important to show the lot never had a home on it when created, and NO(!) a shed or garage is NOT a home. But if some structure was present and in use, such outbuildings might arguably be granted permits to repair under the exception, but probably not rebuilt if long abandoned or

destroyed. Certainly replacing a shed with a home is creating a value for the land which was never there.

So another point to vigorously point out (if the developer is using the past presence of a garage or shed as the footprint for their new building) is that the historical improvement wasn't present when they started, and in particular wasn't a home when they bought the land, nor ever was a home there if I recall the site from my youth.

The above points should be amongst the arguments made against the exception being contemplated, and I would really hammer home that if going forward the property is not built upon, the land STILL has the value at which it was purchased.

Because just as important, at a start one has to show that the reason why environmental regulations are NOT uncompensated takings to begin with (which naturally are forbidden under our ST and Fed constitutions) is because the government isn't creating an economic loss to the site, or if they are, it's merely requiring the landowner to preserve their existing value which is greater...

That is the Supreme Court has affirmed that environmental amenities like fish, wildlife, riparian habitat and water and even views are of high value whether one directly uses them or not, and their ownership has an economic value period.

Specifically buffers and the like have been determined to not be takings precisely due to the fact that underlying value created for the landowner by the natural resources, remain even if their land is left vacant.

And yes, the destruction of natural/aesthetic values even in part results in a net economic loss as far as the land's value upon which they rely is concerned.

This is an aspect of regulatory law which most attorneys (and even those specializing in realty) are frankly unaware of. And of course this is often ignored by lawyers employed by local authorities trying to increase their tax base via development at the expense of critical areas. And even if they all know better, they still seek to defy the law for the sake of greed sadly.

Again the exception is just about the value and use of the land alone, NOT any improvements speculated to be placed upon it. And whether the developer lost a thing as far as the land is concerned, depends upon if they are just proposing to destroy certain existing values the land has at present so that they may realize a profit through a wholly separate asset (a home) which was never there.

The government can't take what you never had right? So that's the prime point to make, the government isn't taking anything the owner HAS, or had a reasonable expectation to, just ensuring their existing value to the land is preserved.

If such takings were about potential losses any environmental or even building laws creates, then every square foot subject to ANY regulation across the State would have to be compensated for, and there's NO legal theory demanding that at any scale obviously.

So Mickie, the point of all my above mansplaining is if there ain't no home on the site now, nor ever was within the lot when created, the developer hasn't lost a thing.

They still have what they bought, a very valuable and beautiful bit of stream habitat and so NO taking of their existing "use and enjoyment" has occurred period.

It wasn't "reasonable" for them to expect to build a home there, just a hopeful gamble that they can illegally force it to happen, which would entail great expense to the public's reasonable belief that its own interest in resources onsite would be protected.

James D. Mattila

Fisheries Research Scientist, Aquatic Ecologist and Natural Historian

Education

- BS Fisheries Science (Aquatic Ecology) University of Washington, June 2005.
- Associates in Science Edmonds Community College June 2002

Work and other experience

Over two decades experience conducting salmonid spawning and habitat surveys.

Nine years' experience in general fisheries lab work involving fish aging, calorimetric processing and diet examination, along with data entry and analysis.

Field sampling a wide variety of aquatic organisms for genetic, ecological or biological information via, net, hook and line, electrofishing or trapping.

Habitat analysis of aquatic and riparian zones, along with the attendant Hydrology, Geology, Forestry and Ecology.

Research involving all stages of Salmonid life history within Puget Sound and their associated inland habitat.

A lifetime of experience in local and natural historical research and natural resource assessment.

Twenty years experience in construction/contracting involving everything from heavy equipment to finish hammer.

Vintage vehicle purchase, repair, restoration and sales.

Reading, Flyfishing, Hunting, Photography, Astronomy, Music, Computer Aided Photo and Data Restoration, Compiling and Synthesizing Natural Resource History.

Most Recent Employer: Currently self-employed with private research and writing.

Washington Cooperative Fish and Wildlife Research Unit

Research Scientist Summer 2009– Summer 2010

- Organize and performed food-web studies in Chester Morse Reservoir and Clackamas River and other aquatic systems that included field sampling, hydroacoustics, calorimetry and diet analysis.

Lab and Field Technician Summer 2001- Summer 2009

- Assisted with trophic fish and zooplankton studies in Puget Sound, Lakes Washington, Sammamish, Wenatchee and Chelan.
- Literature search and copy support

Washington Department of Fish and Wildlife

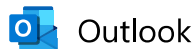
- Conducted seasonal Salmonid redd and escapement counts.
- Volunteer historical research and compiler

King County Department of Natural Resources June 1997 – June 2001

- Conducted wetland assessment and amphibian surveys. Performed benthic indexing. Collected genetic samples. Surveyed geomorphologic and habitat conditions in local Salmonid streams. Gathered and disseminated historical information for local aquatic resources. Data entry and resource mapping into programs such as Excel and Arcview.

The Plumbers, Snohomish Washington, and associated corporations 1977 - 1997

- Performed a wide variety of contracting work involving commercial and residential construction.



Oppose the reasonable use exception

From Kymberly McDonald <kymberly.mcdonald5@gmail.com>

Date Tue 3/18/2025 9:19 PM

To David Greetham <dgreetham@cityofflp.gov>

I am writing to oppose the reasonable use exception for construction in critical area regulations.

It is unacceptable to consider development in these areas, and is counter to our environmental goals. Short term developer profits should NOT trump long term neighborhood and environmental consequences of these exceptions. Protections have been in place for decades for a reason. Destroying a creek, a buffer zone, and an entire habitat so a developer can make a profit is actually absurd. Lake Forest Park should stand up and protect the trees and environment, which in turn protects its community.

Kym McDonald
352-356-3916

People for an Environmentally Responsible Kenmore

March 19, 2025



Honorable John Galt

RE: Reasonable Use Exception- File Number: 2021-RUE-0001

Dear Mr. Galt,

The owner of this property is not eligible for an RUE by granting an easement across the west 15 of the lot. This easement has made the lot difficult, if not impossible, to build on the high ground away from environmentally sensitive and flood prone areas adjacent to Lyon's Creek along the west side of the lot. This request for an RUE should be denied.

See:

March 6, 2025

Staff Report and Recommendation.

Mark Garey Reasonable Use Exception

(2021-RUE-0001)

Page 7 of 12.

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

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

In this case the owner of the property granted an easement along the west edge 15 of the lot creating a situation where the western part of the lot was no longer developable. If the western 15 feet of the lot was not encumbered by this easement that was voluntarily given up by an owner the lot could be developed. Below is a picture of the easement on lot 2. I am sorry I do not have a better image to offer. This should have been in the title package as an exhibit not just provided as a referenced recording number.

Thank you,

Elizabeth Mooney

President PERK

5934 NE 201st ST

Kenmore, WA

98028

REVISION



LEGEND

- - EXIST. REBAR (TRAD)
- ⊕ - EXIST. MARK IN CASE
- - SET 1/2\" REBAR/PLASTIC CAP #9760

Land Surveyor's Certificate:

This short plat correctly represents a survey made by me or under my direction in conformance with the requirements of appropriate state and county statute and ordinance.

3-10-81
Date James O. Borden

Certificate No. 9760

Short Plat No. 1176075

ABRAHAM E. BORDEN & SONS, INC.
4101 N.E. 80th Way
Miami, FL 33122
(305) 411-1111

Map on File in Vault

Direction:

MERIDIAN: (FMS) LE. FOREST PARK 1ST ADD.

Scale: 1" = 50'



Page 2 of 4



Fw: Public Comment - RUE 2021_RUE-0001 Garey

From Mark Hofman <mhofman@cityofflp.gov>

Date Tue 3/11/2025 1:58 PM

To David Greetham <dgreetham@cityofflp.gov>



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

From: mireya peralez <mireyaperalez@gmail.com>

Sent: Monday, March 10, 2025 7:19 PM

To: Mark Hofman <mhofman@cityofflp.gov>

Subject: Public Comment - RUE 2021_RUE-0001 Garey

Good evening Mr. Hofman,

I drive by the corner of 37th Ave NE and NE 205th St daily. In the last couple years I noticed efforts of preservation for the salmon runs/natural habitat via plantings and maintenance. As a resident, I have to admit how proud I am that my local community gave a damn and, better yet, was doing something to leave things better than we found them.

I've just learned about the private residential development of this corner and am surprised. Any casual passerby, such as myself, can look at that lot and see it is a keystone to the natural connection LFP strives for and thrives by. What they will also note, is how unfit it is for development. Its a slope thats wet all year, and has a creek running through it that ebbs and flows in size constantly. Our town needs these green spaces to accomodate the wild aspects of the natural world around us.

I really love where I live and would hate to see the natural habitats and human homes of this area unnecessarily wrecked. Given the chance to learn more or share my opinion I would happily do so.

Thank you for listening, considering many newpoints,
and acting on what is right for our town.

Sincerely,
Jacob Smithers

March 17, 2025

From: Jean Reid
18551 28th Ave NE
Lake Forest Park, WA 98155

To: Mark Hofman, Director, Community Development Department

Regarding: City File Number 2021-RUE-0001
requested exemption from CAO by Mark Garey

I believe this application has significant deficiencies above and beyond those cited by the Community Development Department and concur that this application should be denied.

I ask your indulgence, as I have not closely followed the process on this parcel since the SEPA determination. While I have spent many hours over the last few days reviewing the presented exhibits, I have been unable to find several pertinent documents which may be included in the voluminous file, but not discovered by me.

I cannot find a site plan that shows the current proposed building foot print with its specified dimensions and total square footage for the house, garage, and planned paved surfaces. The listed "Exhibit 2 Site Plan" is actually a "Mitigation and Planting Plan," and contains none of this information. What is the paved area and percentage coverage?

RUE applications are required to consider alternatives and explore innovative technology that could minimize the environmental impact. Perhaps these discussions occurred with Planning, but I could not locate public information presenting any other less impactful alternatives and why they were discarded. I do understand that the developer initially hoped to exceed an 1100 sq ft footprint and was required to downsize, but this does not qualify for a less impactful alternative. In his report, the Arborist blandly states that the Landmark cedar tree on site "will need to be removed" based on the design provided by the client. One plan, chainsaw down the one healthy tree on site, no discussion of merits or options, and no mitigation required.

There is a reason our city has "Landmark" status for trees. It's supposed to protect them. As are our Critical Areas ordinances. Were other driveway locations that do not go through this tree considered? Could the whole footprint of the house move north, with a driveway north of the cedar's Critical Root Zone (CRZ)? The stream where it enters the property is culverted there, and less susceptible to impacts. This would also free up an area along the southern edge of the lot for mitigation.

Of note, the original plans for a larger house showed the driveway against the lot's southern border, and kept the cedar, at least on the drawing. Is this possible?

Could height restrictions be waived to contemplate a three story structure? It is not difficult to picture a ground level garage in front, with effectively a daylight basement overlooking the stream in back, and two house levels above. With a 600 sq ft footprint, this would afford

over 1500 sq ft of living space with a 250 sq ft garage and reduce the impacts on the stream and buffer.

Could a set-back exception be used to snug the house closer to the north and east property line, to afford the fish in the stream more protection and move the house out of highest flood risk? While not ideal to have your home closer to the road, it still may be the most reasonable use on this obviously fragile and constrained lot.

Any casual observer can easily assess this lot as severely compromised. It is no mystery why this lot is assessed at less than 6% of the average lot price in Lake Forest Park.¹ King County Parcel Viewer clearly states environmental concerns and an observed stream. How many properties in LFP have *lost* value in the last 40 years? With Coho known to have spawned onsite, obviously inundated soils (that even the applicant's own geotech has observed flooded twice in the last twenty years), and that is half encumbered with a steep sandy slope (that even the arborist observed had signs of upheaval), it is hard to imagine a way that this lot could be more environmentally fragile. The entire thing is wet, wet, wet, which is why all of the trees on the lot, except the one cedar, are in poor condition and why so few reach 6" DBH.

The Landmark Cedar tree is an extraordinary asset and deserves to be retained and protected. It is implausible that the only way to get a driveway to a home on this property is through this tree.

Recognizing our roots

The Duwamish Tribe is clearly on record regarding the need for consultation, which appears to be minimized in the City's recommended actions for this project, noting only that "stop-protect-notify" is required if actual artifacts or human remains are found and recognized by the applicant's contractors.

From their letter:

[T]he Duwamish Tribe would recommend an archaeological or cultural resources assessment, especially if any groundbreaking activity occurs below fill, topsoil or other impervious surfaces into native soil. This is an area that the Duwamish Tribe considers culturally significant and has a High probability to have unknown archaeological deposits. We note that there are 7 historical and ancestral Duwamish place names within about two miles of the project location as well as near a fish bearing stream, Lyon Creek. The DAHP WISAARD predictive model indicates that an archaeological survey is highly advised with a high risk for encountering cultural resources.

¹ The assessed value is \$19k. The average sale price of vacant lots in LFP in 2024 was \$325K, but comes down to \$300K excluding one more than one million dollar lot.

https://kingcounty.gov/en/dept/assessor/buildings-and-property/property-value-and-information/reports/area-reports/2024/residential-northwest/-/media/king-county/depts/assessor/buildings-property/reports/area-reports/2024/residential/SalesUsed/004_SalesUsed.pdf

The Duwamish and other tribes' concerns escalate if this particular cedar is contemplated for removal. This tree sits next to a salmon stream well known to indigenous inhabitants and is a two stem at 7', which can indicate a culturally modified tree.

Again from the Duwamish Tribes letter:

We also strongly recommend that mature native trees in the APE are preserved. Mature trees can be of profound cultural significance to the Duwamish Tribe and provide innumerable benefits for people, climate, and wildlife. **If a tree is suspected to be culturally modified, the Duwamish Tribe would like to be notified and would like the opportunity to come to the site to ensure its protection.**

I request that the city add the requested consultation with the Duwamish Tribe as one of the specific requirements in their recommend conditions, if this project proceeds and includes the removal of the cedar tree.

The tree inventory provided lacks credibility and required information

The Arborist report states it is based on a single site visit in November 2020. It states a revision in 2022, but it is unclear what, if anything was updated, excepting the date on the letter and a foot note that tree #5 has fallen over. Was the revision based on a follow up site visit, or just a phone call reporting that #5 fell into the stream? Is all the tree data 5 years old? What else may have changed? Did the arborist actually plod through the mud and measure the trees, or are the numbers just visual estimates, as it seems in some cases?

Why is the cedar tree listed at a 100 ft tall and the others 60' or less? Quick visual inspection on site does not support that the cedar is twice as tall as all the others. It doesn't make sense. The arborist should have been able to accurately measure the height from across the road with standard tools. Are we to presume the cedar tree shrank, or all the others had a growth spurt in the last five years?

The arborist report fails to provide data on significant trees over the property line that nonetheless have critical root zones extending onto the lot. I understood this was required for a complete application. For example, there is a 25" diameter Spruce on the right of way, maybe 60' tall. His CRZ extends at least 20' onto the property.

Why were all of the drawings done showing drip lines, and none (that I could find) that showed CRZ? (There is a cryptic label on a square box on sheet W2 of 6 of the old bigger house plans that says "Critical Root Zone, TYP," but I cannot make out what this means. Some trees on that drawing are shown with drip lines, the rest with nothing.)

The report states that there are only 13 trees > 6" DBH on this lot. Two are reported already dead and don't count (but still show up on all the tables, and drawings, including their drip lines.) Two have fallen over, but are still listed with heights of 45 and 50 ft. Eight trees are red alders in "Fair" condition, (non-fatal damage and defoliation which may compromise up to 50% of the crown.) Three Black cottonwoods are dead or nearly dead and fallen over. That leaves tree #10, variably identified as "Prunus s. (Cherry species)" or "Prunus sp. menziesii (Douglas fir)," and listed in poor condition with ivy growing up its trunk. And of course, our healthy cedar tree.

About tree #10- whatever Prunus it may be, these tend to be shorter lived trees, and this tree appears to be quite near the end of it's life. It is not likely to survive construction. "Poor" condition is described as unhealthy, poor vigor, potentially fatal pest infestations, failure may occur at any time, etc. Nonetheless, it is recommended for construction protection with a circumferential 6' high chain-link fencing at a 4.5' perimeter. Why? So it can die in peace? Why can't we afford some protection to healthy trees, like the 25" DBH Spruce next to it? or the 40' tall Doug Fir (10" DBH) right next to it? These trees provide screening and much needed urban habitat (that the Watershed Company says doesn't exist.) They deserve protection. Clearly tree #10 is not expected to live, as evidenced by the applicant's replanting plan, which positions not one but two other trees to be planted inside its CRZ.

One other tree is proposed to be provided with 6' chain-link fence protection at 4.25' surround. An Alder in "Fair" shape that appears to be no more than 4 1/2' from the northern wall of the proposed house. The tree is damaged, with die-back, and the builders will be over 4' into the tree's critical root zone with the foundation. How many days will it last before it's deemed a hazard? I wouldn't give it a week. Can you imagine how hard it is to build an exterior house wall right up next to a chain-link fence?

The arborist's proposed protections are at best silly, and at worst, a dog and pony show pretending to protect trees while ignoring pertinent trees in need of protection. A current, complete, professional arborist report, including assessment of all trees with CRZs on the lot must be completed. Healthy trees over the lot line need to be protected. Please make this a requirement sooner rather than later. It is needed well before the Tree Permit application, in order to adequately assess the best building plan for this site.

Jake Robertson's Arborist report recommends that an ISA-certified arborist should be present on-site during all construction activities within the CRZ of retained trees. I encourage the city to comply with this recommendation. This will be hard to discern without a site map clearly showing the Critical Root Zones for all significant trees that have a CRZ extending onto the property. All of the maps I could find showed drip lines, or "canopy radius," not CRZ. If this site map is not already in the file, a clear map of all trees showing their CRZs must be required.

Do we need this Cedar?

As we all know, the Western Red Cedar is the iconic species of the Pacific Northwest. The Landmark Cedar tree is second only to the salmon stream as an environmental jewel on this property. The two are closely linked, as biologists and our Indigenous friends teach us. Some online tools predicted her to be 150 or more years old based on the arborists measurements, but even if only 80 or a 100 years old, she is in young adulthood,² mature

² Western red cedar might be considered the long distance runner of our native trees. It persists in small numbers for the first several hundred years and only shows its stamina with great age.

With the exception of yellow cedar, western red cedar is the longest lived tree species in western Washington. Many specimens over 1,500 years of age have been recorded. Older trees probably exist, but are impossible to date due to their large sizes and often hollow centers.ref: <https://www.dnr.wa.gov/publications/>

enough to be making seed cones, which she will continue to do for centuries to come (if not cut down, of course). Based on her close relationship with the salmon stream she is more likely to survive, even thrive, than her peers. As the longer hotter summers continue and the Western Red Cedar die-back continues, she will be more and more exceptional indeed, with her toes in the water.

According to Robbie Andrus, postdoctoral researcher at the Washington State University who has studied the cedar die-back and recent drought effects on the Western Red Cedar, he finds that only older trees survive, younger ones do not. Trees in suitable habitat, i.e. places that provide plenty of water and limit the trees' exposure to extreme heat, like this one, are the only hope to sustain the iconic Western Red Cedars here where we live.³

It is well-known that cedars affect the acidity of the soil underneath them⁴, and make it more ideal for their own offspring. Cedars without this boost are hard to establish, grow more slowly and are more prone to stress. While it's nice to think that, after sawing down the Landmark cedar and covering her with sand and pervious pavement, someone will come on site with seven 2-gallon cedar trees and plant them, (albeit well outside the soil zone where this grandmother cedar could support seedling regeneration), wouldn't it make more sense to do everything we can to support this healthy functioning mature tree with a 100 year leg up on them?

In conclusion, the Garey RUE as submitted is not the minimum required to achieve reasonable economic use of this parcel. The footprint is not the minimum for reasonable use. The impact on the fish-bearing stream is not the minimum. The arborist's report as submitted is inadequate. The impact of removing a 100 year old healthy cedar tree is not the minimum impact on urban habitat. Reducing the 115 ft buffer to 10 feet is not the minimum required impact on the riparian zone, which encumbers the entire lot. This plan does not adequately protect public and private property from damage due to landslides, flooding, sedimentation or erosion. No innovative construction techniques have been contemplated or incorporated to minimize loss of critical area function, as submitted.

Sincerely,

Jean Reid

³ <https://oregoncapitalchronicle.com/2023/03/24/new-study-sounds-alarm-provides-hope-for-western-red-cedars/#:~:text=>

⁴ Most coniferous trees found in western Washington are members of the pine family. Western red cedar, in contrast, is a member of the cypress family, (Cupressaceae). Studies have shown the soils underneath an ancient red cedar are different than those under members of the pine family and influence seedling regeneration though a higher pH. In forests where western hemlock and western redcedar co-occur, seedlings of each species are more abundant under trees of their own species
lm_hcp_west_oldgrowth_guide_wrc_hires.pdf



Regarding the Mark Garey RUE

From Lee Rolfe <salleygardens9@gmail.com>

Date Wed 3/19/2025 1:34 PM

To David Greetham <dgreetham@cityofflp.gov>

Cc Kim J <kim.josund@gmail.com>; Julian Andersen <julian@andermac.org>; Doug Hennick <doug.hennick@gmail.com>; Brian Saunders <bandesaunders@comcast.net>; Mark Phillips <msphillips1@comcast.net>

To Lake Forest Park Mayor French, City Council, and Planning Department:

Recently we came across a photograph of my twin daughters planting a thousand young salmon into Lyon's Creek, compliments of the Department of Fisheries. The year was 1977, and the twins were four years old. In years since then, we have witnessed countless commitments by our community to clean up our streams, restore our watersheds and protect and steward what makes Lake Forest Park true to its name. This policy must be sustained.

It is my understanding that the Garey RUE, formerly determined to be unsuitable for development, is now up for review. It is on record that this application is incomplete, discouraged by the Dept of Fish and Wildlife, and a gross endangerment to a low-lying riparian zone. It sets a terrible precedence both in its environmental and judicial aspects.

Now more than ever, possible negative impacts from development must NOT be tolerated. Our Lyon Creek ecosystem is still in the process of reaching some stability, and the recovering populations of salmon hang in the balance. Any development that could directly affect the conditions of our creeksheds must be thoroughly reviewed and determinations made as to its possible negative effects on this natural heritage.

Most Sincerely,

Tony Angell
Lee Rolfe



Construction along Lyon Creek

From Brian Schuessler <bfschuess@comcast.net>
Date Sat 3/8/2025 6:03 PM
To David Greetham <dgreetham@cityofflp.gov>

Dear Mr. Greetham,

I am writing to express my concern over the potential of building in a protected area along Lyon Creek. My understanding is that you will decide after a hearing on March 19 whether or not to allow development along the creek. As a resident of Lake Forest Park I think it is right for us to prevent tree loss and flooding. In this case I hope you decide in favor of not allowing the construction that has been proposed.

Thanks for considering my opinion,

Brian Schuessler
15623 36th Ave NE
Lake Forest Park, WA 98155
(206) 883 - 7451



Fw: Public Comment - RUE 2021_RUE-0001 Garey

From Mark Hofman <mhofman@cityofflp.gov>
Date Tue 3/11/2025 1:58 PM
To David Greetham <dgreetham@cityofflp.gov>



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

From: Jacob Smithers <smithersphoto@gmail.com>
Sent: Monday, March 10, 2025 7:15 PM
To: Mark Hofman <mhofman@cityofflp.gov>
Subject: Public Comment - RUE 2021_RUE-0001 Garey

Good evening Mr. Hofman,

I drive by the corner of 37th Ave NE and NE 205th St daily. In the last couple years I noticed efforts of preservation for the salmon runs/natural habitat via plantings and maintenance. As a resident, I have to admit how proud I am that my local community gave a damn and, better yet, was doing something to leave things better than we found them.

I've just learned about the private residential development of this corner and am surprised. Any casual passerby, such as myself, can look at that lot and see it is a keystone to the natural connection LFP strives for and thrives by. What they will also note, is how unfit it is for development. Its a slope thats wet all year, and has a creek running through it that ebbs and flows in size constantly. Our town needs these green spaces to accomodate the wild aspects of the natural world around us.

I really love where I live and would hate to see the natural habitats and human homes of this area unnecessarily wrecked. Given the chance to learn more or share my opinion I would happily do so.

Thank you for listening, considering many niewpoints, and acting on what is right for our town.

Sincerely,
Jacob Smithers