

DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT
TO CITY OF LAKE FOREST PARK HEARING EXAMINER

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

SUMMARY INFORMATION

City File Numbers: 2018-RUE-0001

Hearing Date: Thursday October 4th, 2018, 6:00 pm

Requested Action: Reasonable economic use exception from tree preservation and replacement regulations for construction of a single-family house.

Applicant: Steve Crane

Site Location: 4611 NE 178th ST
Lake Forest Park, WA 98155
Parcel # 4019301515

Comprehensive Plan Designation: Conservation Residential, Moderate

Zoning Classification: RS – 15,000

Recommendation: Partial Approval with Conditions

APPLICABLE CODES AND REGULATIONS FOR THE REASONABLE ECONOMIC USE EXCEPTION REQUEST (This list may not be exhaustive.)

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

1. LFPMC 16.14.100 – Establishes the application procedures for a reasonable use exception to allow for reasonable economic use.
2. LFPMC 16.26.110(D) – Establishes the decision of the Hearing Examiner on a Type I application as the final decision of the city.
3. LFPMC 16.26.040(D), .050, .090, and .110(C) – Establishes the public notification requirements associated with Type I applications.
4. LFPMC 18.18- Establishes permitted uses and bulk requirements for properties within the RS-15, Single Family Residential, Moderate zoning designation.

BACKGROUND INFORMATION:

Description of the proposal: On January 24, 2018, the applicant, Stephen Crane, filed an application to remove trees and vegetation on-site for future development of the lot (Exhibit 5). On May 14, 2018, the applicant filed an application for a reasonable economic use exception to allow development of the property located at 4611 NE 178 ST (Exhibit 2). The site includes two exceptional trees, as defined by LFPMC 16.14.030. Tree #6's (as identified in the tree inventory- Exhibit 5.3) interior critical root zone spans across all but 6.5 feet of the front lot line of the property and tree #10's (as identified in the tree inventory - Exhibit 5.3) interior critical root zone occupies a significant portion of the potential building footprint area of the lot. Chapter 16.14 of the LFPMC prohibits construction and disturbance within a tree's interior critical root zone. On August 29, 2018, in light of new information about tree #10, the applicant revised his application (Exhibit 2.15) and is now requesting the ability to remove both exceptional trees, for the purpose of building one single family residence, with associated infrastructure.

Site Characteristics: Currently the site is vacant, and contains dense native and invasive vegetation. The property accesses directly off of NE 178 ST, and is served by two existing sewer stubs. There are also two existing utility cabinets adjacent to the property, within the right of way (Exhibit 2.8).

As stated above, there are two exceptional trees on-site; specifically a 52" Diameter at Breast Height (DBH), Douglas Fir (tree #6), and a 42" DBH, Douglas Fir (tree #10). City staff and the Permittee have both confirmed the diameter of tree #10 to be over 42". Tree #10 (42"), therefore, meets the definition of an exceptional tree by LFP tree standards. The applicant has not submitted any additional arborist analysis indicating that tree #10 (42") has any issues that would disqualify it as an exceptional tree at the time this staff report was developed.

There are a total of twelve trees on-site of varying size and species (see Exhibit 5.3- Tree inventory/existing tree canopy). The lot is relatively flat, ascending approximately 1% south.

Adjacent Land Use Characteristics: The property is located in the RS-15 zone (Exhibit 4), with a comprehensive land use designation of Single Family Residential, Moderate (Exhibit 3). It is surrounded by similar land uses, with all adjacent properties zoned within the same comprehensive and zoning designation. The City's Town Center is within the vicinity, to the south.

Project Review Timeline:

Steve Crane filed an application, including an arborist report, on January 24, 2018 to remove trees and vegetation associated with future construction (Exhibit 5). A building permit application was also filed at this time, for the construction of one single family home. A Notice of Application for the tree removal permit was issued on February 1, 2018, with a public comment period ending February 15, 2018. As was standard practice at the time with tree permits related to major development, the City requested that Urban Forestry Services, the City's consulting arborist, review the application and issue a report. Urban Forestry Services issued their report to the City on March 26, 2018. The report indicated that a reasonable use application would be required due to the presence of the exceptional 52" Douglas Fir and proposed work

adjacent to those tree's interior critical root zone. The City's consulting arborist report and the resulting necessity for a reasonable use request were discussed during a meeting with the applicant on March 27, 2018.

An application for reasonable use exception was filed by the applicant on May 14, 2018 (Exhibit 2). The reasonable use application was deemed complete on June 12, 2018 (Exhibit 10) and noticed on June 18, 2018 (Exhibit 11.1) with the required 14-day comment period. The project was determined exempt from the SEPA process (see Exhibit 12) on July 10, 2018. The City reviewed the application, scheduled and noticed a public hearing for September 6, 2018 (Exhibit 13). On August 29, 2018 and after a meeting with City staff regarding current options, the applicant revised his application for reasonable use to propose removing both tree #6 (52") and tree #10 (42") via email (Exhibit 2.15). As a result of the new scope of the project, the City canceled the September 6th, 2018 hearing, emailed the notice of cancellation, and combined revised NOA to all parties of record, and posted notice on-site, at City Hall, Third Place Books, and the LFP King County Library. The City also mailed the cancellation notice/revised NOA to property owners within 300 feet of the site, and posted it on the City website. All of this occurred on Thursday, August 30th. Due to the Labor Day holiday weekend, the cancellation notice and revised NOA did not appear in the Seattle Times until September 5, 2018 (Exhibit 15). The City performed its analysis of the data for the latest proposal, and noticed the required public hearing on September 20, 2018 (Exhibit 16).

Overall, the Reasonable Use application has been in review for a total of 144 days as of the date of the Hearing, October 4, 2018.

CRITERIA ANALYSIS

The following criteria are found in 16.14.100 of the Lake Forest Park Municipal Code. The Permittee has the burden of meeting all the criteria for an approval. Staff's analysis with supporting findings and conclusions of the relevant criteria are listed below:

Lake Forest Park Municipal Code 16.14.100 Reasonable Use Exception

C. The hearing examiner shall grant a reasonable use exception only if:

1. Application of the requirements of this chapter will deny all reasonable economic use of the property; and

Findings: Strict application of the tree regulations would require retention of both tree #6 (52"), and tree #10 (42") and prohibit work within each tree's interior critical root zone, since these trees meet the definitions of exceptional trees. Work within tree #10 (42") interior critical root zone would likely prevent the applicant from creating a functional building pad area for a moderately sized single family home. Tree #10 (42") is located within the eastern most side yard setback, with an interior critical root zone that occupies the same area where a future foundation footing or wall would be placed. The City's consulting arborist indicates that work within the interior critical root zone of tree #10 (42") would undermine the long term survivability of the tree. Other code requirements intended to mitigate the impacts of the single family home, such as the structure's

drainage system, limit the potential to reach what has previously been deemed a reasonable sized footprint; 1200 square feet.

Conclusions: This criterion is met.

2. There is no other reasonable economic use with less impact; and

Findings: Construction of one single family home within the RS -15 zone is the generally agreed upon reasonable economic use of a lots in such detached, single family zoning districts. Other uses not involving the construction of a single family home may have less of an impact to on a single family lot but the those uses are generally not going to rise to the level that the lot owner would consider that they have achieved the ‘reasonable’ use that surrounding property owners have achieved in the same district. The lot has an area of approximately 6,875 square feet and is a legal, non-conforming lot in terms of size. Subdivision of this lot would not be possible given the current parcel’s area, and the required minimum lot size.

Conclusions: This criterion is met.

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

Findings: This type of development is consistent with the permitted type of uses within the zoning designation, and is consistent with the surrounding land uses. This type of 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 since all of the surrounding properties have been approved for development in a similar manner. The conditions recommended in this staff report are intended to further protect retained vegetation and reduce impacts to public health, safety, and welfare.

Conclusions: This criterion is satisfied subject to compliance with the recommended conditions.

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

Findings: The City’s consulting arborist has recommended conditions that, if followed, would allow the retention of tree #6 (52”). Proposed conditions are intended to ensure the long-term health of the retained exceptional tree (tree #6) while allowing for the construction of a single family home of moderate size. City staff finds that, if utilities are re-routed to support the eventual residence and the driveway is constructed in accordance with the recommended conditions, tree #6 can be retained while allowing reasonable economic use of the property.

Conclusions: This criterion is satisfied if tree #6 is retained and construction of the residence complies with the recommended conditions.

D. To the extent feasible, all tree replacement shall be at a ratio of three times the canopy coverage proposed for removal. If on-site canopy coverage replacement is not feasible, off-site replanting shall be used to the extent on-site replacement is not feasible.

Findings: A re-planting scheme to achieve three times the canopy coverage (tree #10-42") that will be removed as a part of this proposal is a feasible goal and outcome of this project. One of the recommended conditions is to develop a re-planting plan, structured by the appropriate permits and staff review, to achieve three times the canopy coverage removed from the site.

Conclusions: This criterion is satisfied subject to compliance with the recommended conditions.

PUBLIC COMMENT

During the comment period for the tree removal permit's Notice of Application, the City received 23 comments from concerned citizens or groups (Exhibits 19-40). During the comment period for the Reasonable Economic Use's Notice of Application, the City received comments from concerned citizens or groups (Exhibits 42-45). The names and contact information for the parties of record are contained in Exhibit 18. Staff has considered these comments while drafting the decision and creating the recommended conditions of approval. One additional public comment (Exhibit 46) has been received since the application was re-noticed on September 5, 2018. Staff feels that all of the citizen's concerns can be mitigated through the project as designed, or through the recommended conditions. The notice of hearing for this project was published and posted September 20, 2018.

CONCLUSIONS AND RECOMMENDATION

Staff and the City's consulting arborist recommends allowing removal of tree #10 (42") and compliance with mitigating conditions (such as the appropriate tree protection techniques, arborist supervision during construction, temporary irrigation during post-construction periods, performance bonding to ensure survivability, and monitoring over time with the appropriate financial securities) to retain tree #6 (52"). The City's consulting arborist has estimated a value for tree #6, which is included in Exhibit 14. Requiring bonds in the amount of that value is critical to the long term retention of tree #6. Also, staff and the City's consulting arborist recommends a condition where supporting infrastructure (such as driveways) and utilities are routed around tree #6 (52"), to minimize the impact to root zones. In combination, these measures should allow the applicant reasonable economic use of this property (construction of a single family home) while retaining one of the two exceptional trees that the Permittee proposed to remove.

The City of Lake Forest Park Planning Department recommends partial approval of the proposal, described in Exhibits 2.15, subject to the conditions listed below:

1. The applicant shall install all utilities and infrastructure in a manner that avoids damage to roots in the critical root zone (CRZ) of retained exceptional tree#6.
2. Driveway construction shall incorporate low impact development techniques, specifically, a no-dig driveway within the CRZ of all protected trees. The City shall have final approval of the construction method for the driveway.
3. Appropriate tree protection measures shall be approved by the City and implemented prior to any staging of equipment and materials. Approved protection measures shall be maintained throughout construction. Any changes to the tree protection measures shall require City Arborist approval. A qualified arborist shall be onsite during all construction activity within the Interior Critical Root Zone (ICRZ) of all protected trees and shall submit weekly reports to the City regarding the health and long term sustainability of all protected trees.
4. The applicant shall provide a performance security (bond) prior to permit issuance for the purpose of securing the Exceptional Tree #6's health during the construction phase of the project. The value of the bond shall be based on the City Arborist's Landscape Tree Appraisal value, which is included in Exhibit 14, at has a value of \$39,215.00.
5. Prior to release of the performance bond, the applicant shall post a five (5) year maintenance bond, ensuring the long-term and sustainable health of the Exceptional Tree based on the Landscape Tree Appraisal value. During the maintenance period, the applicant shall provide annual reports prepared by a qualified arborist on the trees' condition.
6. Provide temporary irrigation to the Exceptional Tree during construction and during the five (5) year maintenance bond period, if determined by monitoring arborist.
7. Provide post care maintenance treatments as required during the five (5) year maintenance bond period, if determined by monitoring arborist.
8. A re-planting and mitigation plan shall be required,. The design and installation shall achieve the minimum requirement of 28% canopy coverage and additionally, three times the canopy coverage of the exceptional treeremoved in accordance with Ch. 16.14 LFPMC, to the extent feasible. Off-site planting in the right-of-way may be allowed subject to approval of the replanting plan by City staff prior to permit issuance.

ATTACHMENTS

The following documents are attached to or referenced, and made a part of this report:

Attached: Exhibits 1 through 47

Submitted: _____ Date: September 27, 2018
Nick Holland
Senior Planner

For information about this proposal or questions about this staff report, please contact the Lake Forest Park Planning Department at Lake Forest Park City Hall, 17425 Ballinger Way NE, (206) 368-5440 or e-mail aplanner@cityofflp.com.