



City of Lake Forest Park
17425 Ballinger Way NE
Lake Forest Park, WA 98155
206-368-5440

FOR STAFF USE ONLY	
Application <u>2019-PAVE-0001</u>	Number: _____
Amount Received: <u>\$4200.00</u>	
Receipt Number: <u>4715</u>	

PUBLIC AGENCY AND UTILITY EXCEPTION APPLICATION

Owner of Record: City of Lake Forest Park

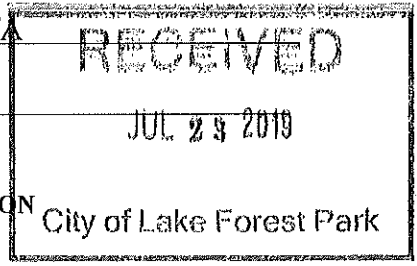
Site Address: 17435 Brookside Boulevard NE, Lake Forest Park, WA 98155

Contact Name: Donnelle Dayao Contact Phone Number: 206-957-2836

Representative's Name: Kenny Booth, The Watershed Company

Representative's Phone Number 425-822-5242 Alternate: N/A

Parcel Number(s): 1154100510



FEES MUST BE PAID AT TIME OF APPLICATION

<input checked="" type="checkbox"/> Public Agency And Utility Exception Request	\$ 4,000.00
<input type="checkbox"/> Drainage review fee (as needed)	\$ 600.00 per lot
<input type="checkbox"/> Land Use Public Notice Signage Fee	\$ 400.00 / \$25 if add'l posting
<input checked="" type="checkbox"/> Technology Fee (5% of fee total)	\$ <u>200.00</u>
Total Due:	\$ <u>4,200.00</u>

The applicant may be responsible for additional fees related to engineering and legal expenses

Zoning classification: RS 15,000

Is the site near the shoreline (within 200 feet): No

Comprehensive Plan designation: Recreation/Open Spaces

Circle known utilities / services to the site: (gas, electric, water, sewer, cable, garbage, phone, other)

Please provide the requested information:
(Attach additional sheets if necessary)

1. Can you demonstrate that there is no other practical alternative to the proposed development with less impact on the sensitive areas?

Yes. The vast majority of the site is encumbered by overlapping wetland and stream buffers and associated building setbacks. The only unencumbered portion of the site is a small triangular patch (430 square feet) located near the northeastern parcel boundary. A majority of this area is also located within the critical root zone of an exceptional tree, which has been determined to be a moderate risk for failure within the next five years (see *Tree Risk Assessment*, prepared by The Watershed Company, June 2019). This area is further reduced with consideration of zoning setbacks. Specifically, inclusion of the required 20-foot front yard setback (and without consideration of any possible reduction pursuant to LFPMC 16.16.240) reduces this oddly shaped area to 29 square feet, making it infeasible for placement of an adequately sized structure (see Figure 1 below). Finally, pursuant to the LFPMC, the only mechanism available for reduction of the wetland buffer is averaging. However, averaging requires expansion of the buffer elsewhere. Other areas of the site, as well as those to the west on the City's Big Tree property, are all encumbered with critical area buffers and thus unable to accommodate averaging. Thus, once consideration is given to all critical area buffers and setbacks, as well as zoning setbacks, there is no reasonably-sized area available on-site for construction of a new picnic shelter. Additionally, temporary trenching impacts to connect to existing electrical and water utilities within the wetland and stream buffers are required to adequately serve the intended purpose of the structure, which is to provide a semi-private gathering place for City residents which does not impact the ability of others to utilize the park's open spaces. Therefore, in order to develop a picnic shelter consistent with the existing land use, and to serve City residents, full avoidance of impacts to critical area buffers is not possible.

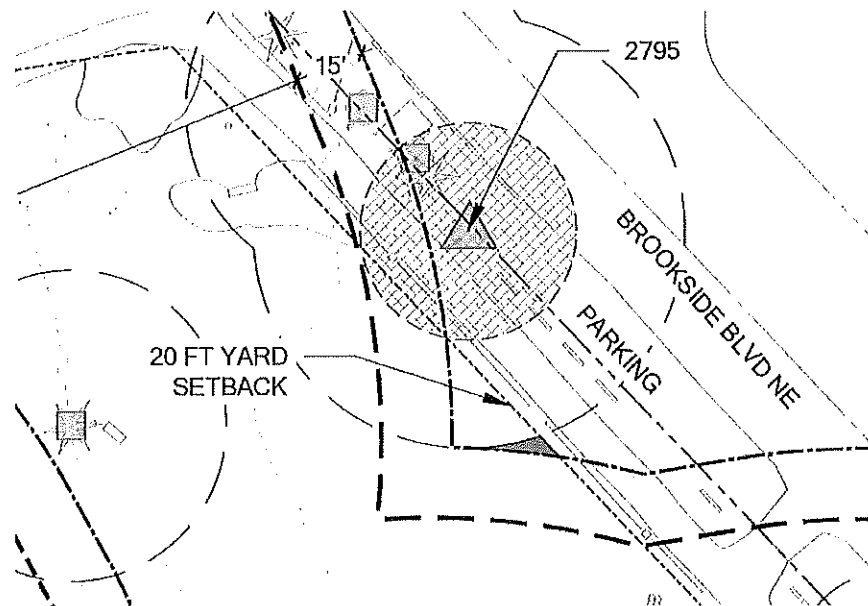


Figure 1. The small, grey, triangular area in the figure above is the only unencumbered area on the project site. The area (29 square feet) is outside of all critical area buffers, structure setbacks, zoning setbacks, and critical root zones.

The proposed development is located as far as possible from on-site critical areas, completely outside of the stream buffer/setback and on the very outer edge of the wetland buffer/setback, while avoiding direct impacts to on-site exceptional trees, minimizing additional impacts associated with providing access pathways and utilities, and allowing the City to provide adequate parks services. The proposed development is located in an area of the buffer which is currently low functioning, as it is vegetated solely with lawn grass. Impacts to high functioning buffer areas, including native vegetation within the critical area buffers, are completely avoided.

2. What are the known environmentally sensitive areas on or near the site, such as steep slopes, wetlands or streams?

Sheridan Creek (Type F stream, standard buffer of 115 feet) flows into McAleer Creek (Type F stream, standard buffer of 115 feet) near the western parcel boundary. A large wetland is located on the property within the McAleer Creek corridor. This large wetland contains two distinct wetland rating units, A and B (see description below and Wetland, Stream, and Arborist Assessment in Appendix B), that occur along the corridor of McAleer Creek and Sheridan Creek. There are no other known sensitive areas within the project area.

3. Describe the nature of the public agency and utility use exception request. What is proposed? What is the extent of the reasonable economic use exception? Does the proposal impact the sensitive area(s) and/or the associated buffer(s)? Indicate as much specific information as possible.

The proposed project is for the City of Lake Forest Park's Public Works Department to construct a new picnic shelter at Pfingst Animal Acres Park. The picnic shelter will be an above ground structure set on existing grade. The park does not currently contain adequate facilities to fulfill the intended purpose, which is to provide a semi-private gathering place for City residents which does not impact the ability of others to utilize the park's open spaces. The structure will provide a sheltered sitting area, which is currently not available at the park.

Construction of the picnic shelter would be in accordance with the department's responsibility, described as "for the maintenance, operation and repair of the City's streets, surface water infrastructure, buildings and grounds facilities, parks, sanitary sewer, and 24/7 emergency response." Strict application of this chapter would unreasonably restrict the ability of the City's Public Works Department to provide adequate parks services to residents of the City. This chapter does not contain allowances for the critical area buffer impacts which are necessary for the City to construct parks facilities at Pfingst Animal Acres Park.

The proposed project will have impacts to critical area buffers on the subject parcel, but will not have direct impacts to the stream or wetland critical areas identified on-site. The picnic shelter will be constructed completely outside of the on-site stream buffer but partially within the outer edge of a wetland buffer and setback on the subject parcel, in an area that is currently vegetated solely with lawn grass. The shelter is to also be located outside of the critical root zones of all on-site trees, and thus no trees have been identified for removal due to proposed impacts from the project.

Following completion of the construction project, buffer restoration will occur to offset permanent buffer/setback impacts. All temporary impacts within the updated wetland buffer areas will be

restored in-kind according to the planting specifications in the mitigation plan.

4. What is the proposal's intended outcome?

The proposal's intended outcome is for the City of Lake Forest Park's Public Works Department to construct a new picnic shelter at Pfingst Animal Acres Park. The picnic shelter will be an above ground structure set on existing grade. The park does not currently contain adequate facilities to fulfill the intended purpose, which is to provide a semi-private gathering place for City residents which does not impact the ability of others to utilize the park's open spaces. The structure will provide a sheltered sitting area, which is currently not available at the park.

The proposal's intended outcome includes mitigation planting to offset unavoidable impacts to the outer edge of the on-site wetland buffer.

5. Describe the mitigation measures associated with this proposal.

A mitigation plan accompanies this application, and is intended to compensate for the unavoidable temporary and permanent impacts to the wetland critical area buffer/setback that will arise as part of the proposed development of a new picnic shelter. The plan was prepared in accordance with LFPMC 16.16.340. Permanent buffer impacts associated with the picnic shelter structure will be compensated through enhancement planting in a buffer area currently dominated by lawn grass, immediately adjacent to well vegetated buffer areas, within the overlapping stream and wetland buffers. These impacts will be compensated at a ratio of 1:1, pursuant to LFPMC 16.16.340.D.3. All areas of temporary disturbance will be restored in place, at the direction of the restoration specialist. A five-year maintenance and monitoring period is proposed that will ensure the successful establishment of the mitigation site.

6. Identify and list any special studies that have been performed to evaluate your proposal, such as a wetland delineation, functional assessment, biological evaluations, soils studies, geotechnical reports, habitat assessments, vegetation and tree management/preservation plans, mitigation plans, etc. Provide the title of the study or plan, the author and the date prepared.

- *Critical Areas Study – Pfingst Animal Acres Park*, The Watershed Company, July 2019
- *Mitigation Plan – Pfingst Animal Acres Park*, The Watershed Company, July 2019
- *Pfingst Animal Acres Park – Tree Risk Assessment*, The Watershed Company, June 2019
- *Pfingst Animal Acres Park – Arborist Assessment*, The Watershed Company, July 2019
- *Pfingst Animal Acres Park – Wetland, Stream, and Arborist Assessment*, The Watershed Company, April 2019

7. The applicant must provide the following submittal requirements. Two paper copies

Revised 6/22/16

and one digital copy of all materials are required. *It is important to note: It is the responsibility of the applicant to prove that all criteria are met in order for the Hearing Examiner to consider approval of the application.*

A. A site-plan that must be accurate, legible and drawn to scale (a recent survey may be required) that provides the following:

1. The existing dimensions and lot size, proposed dimensions and lot size.
2. Identify adjacent streets, existing and proposed access.
3. Identify existing and proposed structures and distances to property lines.
4. Location of proposed alterations or improvements.
5. Location of any sensitive areas on or near the site.
6. Location of any open space or preservation areas.
7. Location of any significant trees (6" diameter or greater)
8. If possible, locate drainage channels, sewer and water lines.
9. Identify existing and proposed easements.
10. Elevation plans, if applicable.

B. Preliminary Drainage Plan (required for some proposals) prepared by a professional engineer licensed in the State of Washington. Drainage requirements, systems and techniques must comply with the King County Surface Water Design Manual, as adopted by the City of Lake Forest Park

C. When the application of the sensitive areas requirements would preclude an owner from making any reasonable economic use of the owner's property, then an exception may be applied for. The Hearing Examiner may grant an exception from the requirements of Chapter 16.16 of the Lake Forest Park Municipal Code only to the minimum necessary extent to allow for reasonable economic use of the applicant's property. The Hearing Examiner may not exempt regional retention/detention surface water management facilities from stream buffer or wetland buffer requirements of Chapter 16.16 of the Lake Forest Park Municipal Code, whenever those buffers provide critical or outstanding habitat for herons, raptors or state, federal or locally designated endangered or threatened species, unless the applicant clearly establishes that the facility will protect the public health and safety and either will repair damaged natural resources or will not adversely affect such critical or outstanding habitat. All of the following criteria must be met before a reasonable use exception may be granted.

Applications must include a thorough response to the following criteria:

1. There is no other practical alternative to the proposed development with less impact on the sensitive areas;

Yes. The vast majority of the site is encumbered by overlapping wetland and stream buffers and associated building setbacks. The only unencumbered portion of the site is a small triangular patch (430 square feet) located near the northeastern parcel boundary. A majority of this area is also located within the critical root zone of an exceptional tree, which has been determined to be a moderate risk for failure within the next five years (see *Tree Risk Assessment*, prepared by The Watershed Company, June 2019). This area is further reduced with consideration of zoning setbacks. Specifically, inclusion of the required 20-foot front yard setback (and without consideration of any possible reduction pursuant to LFPMC 16.16.240) reduces this oddly shaped area to 29 square feet, making it infeasible for placement of an adequately sized structure. Finally, pursuant to the LFPMC, the only mechanism available for reduction of the wetland buffer is averaging. However, averaging requires expansion of the buffer elsewhere. Other areas of the site, as well as those to the west on the City's Big Tree property, are all encumbered with critical area buffers and thus unable to accommodate averaging. The small unencumbered area can be seen on Figure 1 above. Thus, once consideration is given to all critical area buffers and setbacks, as well as zoning setbacks, there is no reasonably-sized area available on-site for construction of a new picnic shelter. Additionally, temporary trenching impacts to connect to existing electrical and water utilities within the wetland and stream buffers are required to adequately serve the intended purpose of the structure, which is to provide a semi-private gathering place for City residents which does not impact the ability of others to utilize the park's open spaces. Therefore, in order to develop a picnic shelter consistent with the existing land use, and to serve City residents, full avoidance of impacts to critical area buffers is not possible.

The proposed development is located as far as possible from on-site critical areas, completely outside of the stream buffer/setback (with the exception of trenching for utilities) and on the very outer edge of the wetland buffer/setback, while minimizing impacts to the critical root zones of on-site exceptional trees with installation of new utility connections. The proposed development is located in an area of the buffer which is currently low functioning, as it is vegetated solely with lawn grass. Impacts to high functioning buffer areas, including native vegetation within the critical area buffers, are completely avoided.

2. The application of this chapter would unreasonably restrict the ability to provide utility services to the public;

The City of Lake Forest Park's Public Works Department is "responsible for the maintenance, operation and repair of the City's streets, surface water infrastructure, buildings and grounds facilities, parks, sanitary sewer, and 24/7 emergency response" (City of Lake Forest Park Public Works Department webpage: <https://www.cityofflp.com/67/Public-Works-Department>). Strict application of this

chapter would unreasonably restrict the ability of the City's Public Works Department to provide adequate parks services to residents of the City. In this case, Pfingst Animal Acres Park currently lacks covered shelter space for park users. The park is actively used by members of the public, but because the park is essentially completely encumbered by critical area buffers and setbacks, covered accommodation for semi-private gatherings is not feasible within the park. Specifically, LFPMC 16.16 does not contain allowances for the critical area buffer impacts which are necessary for the City to construct the necessary parks facilities at Pfingst Animal Acres Park. Construction of the project is critical to implementation of Public Works' mission to provide parks services to the public. Therefore, strict application of LFPMC 16.16 would unreasonably restrict the ability of the Public Works Department to provide necessary services to the public.

It should be noted that the proposed picnic shelter was included within a 1997 Master Plan for Animal Acres Park. Elements of the 1997 Master Plan were eventually approved as part of a Conditional Use Permit in 2000. The picnic shelter was never constructed, however. Nevertheless, the need and desire for the shelter has existed for more than two decades, and the City now intends to formally complete this element of the master plan.

3. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

The proposed development of a new picnic shelter does not pose an unreasonable threat to the public health, safety, or welfare on or off site. The shelter is strategically located to be outside of the potential target path of an on-site exceptional tree. The shelter's location will also avoid flooding impacts from McAleer Creek, and is completely outside of the regulatory stream buffer and associated setback. The proposed shelter includes lighting and an ADA accessible pathway to ensure safety and ease of use and access. The proposed picnic shelter is an open-air structure, and its proposed location is immediately adjacent to the parking area along Brookside Boulevard NE, providing optimal visibility from all directions.

The area surrounding the project site is primarily in residential land uses though a large church is situated immediately across the street from the shelter's proposed location. Additionally, an elementary school is located just to the west of the project site. The proposed development is not expected to noticeably increase the level of park usage or vehicular trips to and from the park. Minor increases in both may occur during times of peak usage when gatherings occur at the shelter, primarily on weekends, and are not expected to coincide with school hours. Semi-private gatherings utilizing the proposed picnic shelter will produce some noise, though noise levels are not expected to increase from the current baseline level, as the park is currently actively used by the public. Therefore, the project proposal will not result in unreasonable threats to public health, safety, or welfare, on or off the project site.

4. The proposal attempts to protect and mitigate impacts to the sensitive area functions and values consistent with the best available science with the objective of no net loss of critical area functions and values; and

Section 16.16.130 requires an applicant to make all reasonable efforts to avoid, minimize and compensate any and all critical areas and their buffers or setbacks.

Avoidance

The vast majority of the site is encumbered by critical areas and their associated buffers. The only unencumbered portion of the site is a small triangular patch (430 square feet) located near the northeastern parcel boundary. The size and shape of the unencumbered patch does not allow for the construction of the proposed picnic shelter completely within its boundaries. Additionally, temporary trenching impacts to connect to electrical and water utilities within the wetland buffer are required to adequately serve the intended purpose of the structure, which is to provide a semi-private gathering place for City residents which does not impact the ability of others to utilize the park's open spaces. It is also located underneath the low hanging limbs, and directly in the potential target path, of an on-site exceptional tree, which has been determined to be a moderate risk for failure within the next five years (see Tree Risk Assessment, prepared by The Watershed Company, June 2019). As such, development more fully situated in this location would likely necessitate impacts to the exceptional tree. Therefore, in order to develop a picnic shelter consistent with the existing land use, and to serve City residents, full avoidance of impacts to critical area buffers is not possible.

Minimization

Minimization techniques were utilized during the design process in order to limit impacts. The proposed location of the picnic shelter was strategically sited to maximize the distance between the structure and the stream and wetland critical areas while placing the structure in a viable location for the use, avoiding impacts to significant and exceptional trees on-site, and minimizing impacts associated from creating access pathways and connecting utilities to the shelter. The proposed shelter location is directly adjacent to the parking area and an existing access point to the park, minimizing the amount of additional impervious surface necessary to create suitable access to the shelter. Additionally, on-site utilities for electricity and water are located to the southeast of the proposed location, within the wetland buffer and stream buffer. The proposed shelter location is closer to both utility access points than the unencumbered portion of the property, minimizing the amount of trenching required to supply adequate utility services to the shelter. The proposed project will comply with the applicable impact minimization measures in Table 16.16.320-2. The proposal will not create any of the permanent disturbances in the Table – lights, noise, toxic runoff, stormwater runoff, changes in water regime, pets and human disturbances, and/or dust. Furthermore, standard best management practices, including temporary erosion and sediment control measures, will be implemented during construction.

Compensation

Following completion of the construction project, buffer restoration will occur to offset permanent buffer/setback impacts. All temporary impacts within the updated wetland buffer areas will be restored according to the planting specifications in the mitigation plan. The wetland critical area buffer and setback encumber the entire project area. Thus, all temporary impacts resulting from the project will require restoration. A

diverse mix of native trees, shrubs and groundcover will be installed. The mitigation area will be monitored for a period of at least five years, held to a series of performance standards listed in Chapter 5 of the project Critical Area Study, and, if required, a financial guarantee will be in place to ensure the site successfully establishes.

A total of 1,035 square feet of permanent wetland buffer/setback impact will result from construction of the new picnic shelter and access paths. Meanwhile, 4,000 square feet of wetland and stream buffer (and structure setback) will be temporarily disturbed as a result of shelter construction and trenching for utility lines. As mitigation for permanent wetland buffer impacts, a total of 1,035 square feet of wetland buffer will be enhanced, equating to a ratio of 1:1, as required by LFPMC 16.16.340.D.3. All areas of temporary disturbance will be restored in place, at the direction of the restoration specialist. Overall, no net loss in critical area/buffer functions and values is proposed.

5. The proposal is consistent with other applicable regulations and standards.

The proposal will comply with all other applicable development regulations and standards.

8. Release / Hold Harmless Agreement

I, the undersigned, his/her heirs and assigns, in consideration for City processing the application agrees to release, indemnify, defend and hold the City of Lake Forest Park harmless from any and all damages and/or claims for damages, including reasonable attorneys fees, arising from any action or inaction as based in whole or in part upon false, misleading or incomplete information furnished by the applicant, his agents or employees.

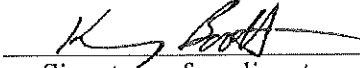
The undersigned acknowledges that this application is for a permit from the City of Lake Forest Park; that any permit issued by the City as a result of this application establishes only that the applicant's project complies with City ordinances and regulations; and that other State and Federal laws and regulations, particularly the Endangered Species Act, U.S.C. 16.31, et. seq., may apply to this project. The undersigned further acknowledges and accepts responsibility for complying with such other laws and regulations and agrees to release the City of Lake Forest Park, indemnify and defend it from any claim, damages, injuries, or judgments, including reasonable attorney's fees, arising from or related to violations of such other laws or regulations.

9. Permission to enter subject property

I, the undersigned, grant his/her or its permission for public officials and staff of the City of Lake Forest Park to enter the subject property for the purpose of inspection and posting attendant to this application.

7-17-19

Date



Signature of applicant, owner or representative

Complete applications must be submitted to the City of Lake Forest Park Planning and Building Department, 17425 Ballinger Way NE, Lake Forest Park, WA 98155