

**3. Describe the nature of the reasonable economic 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.**

Applicant seeks to develop a Site comprised of two single-family residential lots located in Lake Forest Park, Washington. The Site is approximately one acre and is currently undeveloped and forested. A Category III wetland with a Habitat Score of 4 currently covers approximately 50% of the Site (18,260 sf). LFPMC Section 16.16.320 requires a 60 foot buffer for this type of wetland. The combined area of the wetland and associated buffer encumbers approximately 89% of the total area of the Site, rendering it impossible to economically develop the Site in line with other residences in the area. Accordingly, a reasonable economic use exception is requested to allow construction of a single-family residence on each lot. The proposed development will not directly impact the wetland, but will impact the 60 foot buffer, as the majority of both residences will be included within the current buffer area. The development will also require removal of 11 trees from the wetland buffer area.

**4. What is the proposal's intended outcome?**

The intended outcome of this reasonable economic use request is to render the Site economically viable by constructing a single-family residence on each lot and a shared driveway for ingress and egress. The proposed new residences will be approximately 1840 sf and 2,184 sf, respectively, which are smaller in size than most other residences in the area while still maintaining the character of the neighborhood. The residences will be located on the northern portions of the two lots comprising the Site, as the wetland covers approximately the southern half of each lot. For this same reason, the proposed shared driveway will be constructed adjacent to the Site's northern boundary, and the western lot will be reached via an access easement over the eastern lot. Previously, the boundary line separating the properties ran east to west, meaning the southern lot was nearly entirely within the wetland area. The City approved Boundary Line Adjustment No. 2012-LL-0033 for the two lots in 2012, which shifted the boundary line to run north and south so the northern portion of both lots is now outside of the wetland area.

**5. Describe the mitigation measures associated with this proposal.**

Strategic mitigation measures coupled with a rigorous monitoring plan will serve to significantly improve the wetland and buffer area relative to their present condition. The wetland and buffer area are currently in a degraded state due to the proliferation of invasive species, such as Himalayan blackberry and non-native knotweed. Both the wetland and its remaining buffer will be improved by removal of such non-native, invasive species and replanting with native trees and shrubs. In addition to enhancement plantings, large woody debris from trees removed from the development envelop will be placed within the wetland and its remaining buffer area for greater environmental diversity. Bird and bat boxes will also be installed and selected trees may be girdled to create standing snags. These mitigation measures will drastically improve the aesthetic and functional attributes of the wetland and remaining buffer area by removing invasive species and promoting greater habitat and structural diversity.

Additionally, the Site plan incorporates development measures that will aid wetland hydration. The driveway will be constructed out of permeable paving material that will reduce the requirements for onsite capture and treatment of storm water while also helping to maintain the hydrology of the Wetland. Clean rooftop runoff will also be discharged along the southern boundary of the proposed development to further help maintain the hydrology of the wetland.

As previously noted, 11 trees will be removed from the wetland buffer area as part of the development. However, 4 of the trees scheduled to be removed are invasive and exempt from LFPMC Chapter 16.14 removal standards. To mitigate the effects of tree removal, tree replacement will occur at a ratio of three times the canopy coverage proposed for removal.

**C.1. Application of the requirements of Chapters 16.16 of the Lake Forest Park Municipal Code will deny all reasonable use of the property.**

The reasonable use exception is derived from the fundamental notion that a law or regulation that deprives a property owner of all reasonable economic use of his or her property is unconstitutional. Here, approximately 89% of the Site is encumbered by the wetland and its associated 60 foot buffer. The remaining 11% of the Site (4,374 sf) that is not encumbered by the wetland or its associated buffer is roughly divided between the two parcels that comprise the Site. There is insufficient area on either of the two parcels for reasonable development of the parcels without impacting the buffer. Additionally, buffer width averaging is not feasible because there is insufficient unencumbered space on the Site. Buffer reduction is not allowed under Chapter 16.16 of the Lake Forest Park Municipal Code. Simply put, the 11% of the Site that is unencumbered by the wetland and its associated buffer is inadequate to support any reasonable development of the property.

**C.2. There is no other reasonable economic use with less impact on the sensitive area.**

The Site is currently undeveloped and forested. The Site is zoned and platted for two single family residences. All developed parcels in the vicinity of the Site are single family residences. There are no other permitted uses for the Site based on zoning. Thus, there are no other possible economic uses that would have less impact on the buffer.

It is worth noting that, aside from benefitting from the aforementioned mitigation measures, the actual critical area (the wetland) will be entirely unaffected by the proposed development. The proposed development will only impact the wetland's 60 foot buffer. The King County Code is instructive on this issue. Section 21A.24.072 provides, in pertinent part, that when a proposed single family dwelling will alter a wetland buffer, but not the actual wetland, the developer does not need to apply for an alteration exception if the impact on the buffer is 5,000 sf or less. Here, each of the proposed single-family residences' foot prints will be less than 5,000 sf and will not impact the wetland. Thus, under the King County Code, the developer would not be required to submit an application for a reasonable use exception for the project. King County's metric for reasonable use has never been contested in court.

**C.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 the chapter and the comprehensive plan.**

The proposed single-family residences will not create unstable earth conditions, erosion or sediment problems, nor have any other impact to public health, safety, or welfare on or off the Site. The proposed development is consistent with the general purposes of Chapter 16.16 and the Comprehensive Plan for the City of Lake Forest Park.

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

The proposed single-family residences will occupy the minimum area practicable and will only impact the buffer area. The proposed new residences will be smaller in size than most other residences in the area, while still remaining in character with the neighborhood. As reflected in the Site Plans, the residences will be separated from the Site's northern boundary only by their shared driveway. Thus, it is not possible for the residences to be constructed any further from the wetland. The required width of the proposed driveway will also limit the extent to which additional residences can be located north of the wetland boundary, thereby limiting the amount of buffer impact. There is no other possible layout that provides residences that are consistent with the nature of the neighborhood with fewer impacts to the buffer for the wetland.

Additionally, as previously discussed, the remaining buffer and the wetland will both be enhanced relative to their current condition through removal of non-native, invasive species and replanting with native trees and shrubs; and habitat will also be improved through installation of habitat features, such as bird nesting boxes and bat roosting boxes. A single-family parcel that is 89% encumbered by wetland and associated buffer area does not allow for reasonable economic use. The proposed alteration to the buffer area is the absolute minimum necessary to reasonably develop the parcels in accordance with zoning regulations and their applicable plat designations.