



PLANNING DEPARTMENT TYPE III DIRECTOR'S DECISION

FILE NUMBER: 2019-CAMJ-0007, 08, 09

APPLICANT: City of Lake Forest Park
Neil Jensen, PE, City Engineer
17425 Ballinger Way NE
Lake Forest Park, WA 98155

TYPE OF CASE: Type III major critical area permit to replace the Lyon Creek culvert beneath NE 178th Street, and perform critical area mitigation to surrounding stream and buffers.

DIRECTOR DECISION: ISSUE subject to conditions

DATE OF DECISION: March 12, 2020

FINDINGS OF FACT

1. Since 2009 the City has been working to replace substandard culverts along Lyon Creek in order to reduce flooding and improve fish passage. All culverts on Lyon Creek downstream of NE 178th Street have been replaced. The culvert beneath NE 178th Street ("L60 Culvert") is the next one to be replaced.
2. The project will replace and upgrade a structurally deficient 60-foot long, 96" wide by 76" high elliptical corrugated metal pipe ("cmp") culvert that is a partial fish barrier with a new 70-foot long; 24-foot wide by 8-foot high, fish passable pre-cast concrete box culvert with wing walls. Culvert design will adhere to the stream simulation culvert design option, which will allow Lyon Creek to continue normal stream function during and after the culvert installation. Work will include excavation of the road prism, utility protection and/or relocation, erosion and sediment control, fish exclusion and stream bypass, and widening of the channel bank within the project limits. The sidewalk on the south side of NE 178th Street east of 44th Avenue Ave NE will be replaced with modifications to meet ADA requirements. Project limits will include areas outside the existing right-of-way. Approximately 281 square feet ("SF") of mitigation planting will occur on a privately-owned property to the north of the culvert, along with 2,074 SF of planting occurring on the undeveloped lot to the south. The road section will be restored and improved to meet pedestrian (ADA) and vehicle use standards. Graded channel bed sediment suitable for fish will be placed in the new culvert, which will be countersunk to a depth of 30% of culvert rise. All areas above the ordinary high water mark ("OHWM") that are disturbed by the work will be restored with native vegetation. Wetlands are present downstream of the culvert, only the buffers of which will be impacted. The project also includes removal of five trees within the stream buffer. The trees proposed for removal include a 44" diameter at breast height ("DBH") cottonwood (in good condition, with moderate risk potential, but whose roots are harming the adjacent sidewalk), a 40.5" DBH western red cedar (in poor condition, with low risk potential),

a 33" DBH western red cedar (in fair condition, with low risk potential), a 6.7" DBH pacific dogwood (in poor condition, with low risk potential), and a 22.4" DBH western red cedar (in fair condition, with low risk potential).

3. A major critical area permit is required because the project proposes physical alterations to critical areas and buffers. The public agency exception 2019-PAUE-0001 approval issued on September 6, 2019 provides the authority to approve the activity proposed which would not otherwise be administratively approvable. The project is designed to have only temporary impacts on critical area and buffer functions, and to ultimately realize significant improvements to critical area and buffer functions. The project is intended to go beyond no net loss, and actually improve critical area and buffer functions and values.
4. The health of mitigation and restoration plantings, as well as the culvert's function and associated hydrologic functions will be monitored over a five year period with annual reports being submitted to Planning to document conditions.
5. The Washington Department of Fish and Wildlife and the United States Army Corps of Engineers have issued permits required by their respective agencies for this project.
6. The City's State Environmental Policy Act ("SEPA") Responsible Official issued a Determination of Nonsignificance ("DNS") on November 7, 2018, and a second DNS on July 24, 2019 (after removal of the fifth tree was found to be necessary). Neither DNS was appealed.
7. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

CONCLUSION

The Applicant's submittals, including written material and plans referenced in the above findings, demonstrate that the proposal complies with the criteria for critical area alterations, and the provisions in LFPMC 16.16.330. The culvert installation can be approved provided it adheres to the recommendations in the critical area report referenced in the Hearing Examiner's decision for 2018-PAUE-0001.

DECISION

The Critical Area Work Permits 2019-CAMJ-0007, 8, 9 allowing alteration of wetlands and buffers in conjunction with the installation of the L-60 culvert is approved with conditions. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

Decision issued March 12, 2020

Steve Bennett, Planning Director

APPEALS

This decision may be appealed by the applicant or any party of record under the provisions of LFPMC Section 16.26.190. Appeals must be submitted in writing.

CONDITIONS OF APPROVAL L60 CULVERT REPLACEMENT/CRITICAL AREA MITIGATION 2019-CAMJ-0007, 08, 09

This Major Critical Area Permit is subject to compliance with all applicable provisions, requirements, and standards of the Lake Forest Park Municipal Code, standards adopted pursuant thereto, and the following special conditions:

1. After the mitigation has been installed, inspected and accepted by the City, the applicant shall provide an as-built drawing and report designed and authored by a qualified professional to illustrate the final conditions of the mitigation work as it enters the monitoring period. Monitoring, inspection, and reporting shall be based on the provisions within chapter 7, section 6-Reporting of the critical area report (exhibit 2 of the HE decision for the PAUE).
2. The approved plan sets for these permits are identified as those plans date stamped Jan- 8 2020 by the City of Lake Forest Park labeled 2019-CAMJ-0007, 08, 09.
3. All design/implementation, recommendations and statements included in the critical areas report (Exhibit 2 of the PAUE) shall be strictly adhered to throughout the project and monitoring period.
4. Prior to any construction, clearing limits shall be marked and inspected by the Planning Department staff.
5. The locations of required critical area signage have been redlined on sheet 9 of the approved plans. The signage shall contain the language listed in LFPMC 16.16.170.
6. All construction activities involving hazardous chemicals shall occur only in the upland area or in the dry creek bed following dewatering.
7. Conditions of related tree removal permits must also be followed in conjunction with these conditions.