

**DECISION OF THE  
CITY OF LAKE FOREST PARK PLANNING DIRECTOR  
REGARDING APPLICATION FOR A  
SENSITIVE AREA WORK PERMIT (BUFFER REDUCTION)  
Permit # 2020-CAMJ-0003**

**2020 FINDINGS**

On July 2<sup>nd</sup>, 2020, Mark Pellowski (the “Applicant”) submitted new plans and related building permit applications for a new single-family home.

This property was previously owned by Horizon View Homes, who had submitted a separate set of plans and applications in 2019 for a new single-family home. Horizon View Homes had previously received approval in 2016/2017 under 2016-SAMJ-0013 for reducing one steep slope buffer pursuant to LFPMC 16.16.310(A) and re-grading of a smaller slope on the site pursuant to LFPMC 16.16.310(C)(1) [see Appendix A]. Under the same permit, 2016-SAMJ-0013, Horizon View Homes received approval in 2019 for a reduced front yard setback of ten feet pursuant to LFPMC 16.16.240 [see Appendix A]. In March 2020, Horizon View Homes sold the property to Mark Pellowski, who decided to alter the plans for the new single-family home. Therefore, a new set of plans and related applications were required and new approvals are required.

The Applicant has used the same geotechnical engineer as Horizon View Homes, Robinson Noble, Inc. In a June 26, 2020 memorandum, Robinson Noble, Inc. states that they have reviewed the Applicant’s plans and have determined that “the plans are in general conformance with our recommendations in our geotechnical report and supplemental letters.” (pg. 2).

Front Yard Setback Reduction

LFPMC 16.16.240 requires that the decision to grant a deviation from required setbacks shall be based on the following criteria:

1. The aggregate setbacks for the zoning front, rear, and side yard setbacks total 50 feet or more;
2. Front and rear zoning setbacks are no less than 10 feet;
3. Side zoning setbacks are no less than five feet;
4. Significant vegetation is preserved;
5. The applicant demonstrates to the city through submittal of an application and supporting documentation that the use of aggregate zoning setbacks will not:
  - a. Be materially detrimental to the public welfare or injurious to adjacent property or development or alterations; and
  - b. Alter the neighborhood character or the appropriate use or development of adjacent property; and
  - c. Conflict with the general purposes and objectives of the comprehensive plan; and
  - d. Degrade critical areas and critical areas buffer functions. (Ord. 1150 § 1, 2017; Ord. 930 § 2, 2005)

Below is an analysis showing that the Applicant meets all five criteria according to the most recently submitted site plans dated July 2<sup>nd</sup>, 2020.

1. The aggregate setbacks for the zoning front, rear, and side yard setbacks will be well over the minimum of 50 feet required.
2. The front yard setback is proposed to be the minimum allowed 10 feet. The rear yard setback is proposed to be well over 200 feet.
3. One of the side yard zoning setbacks is proposed to be five feet and the other side yard zoning setback is proposed to be more than ten feet.
4. Due to the large size of the lot (121,691 square feet) and the large proposed rear yard setback, significant amounts of vegetation will be preserved.
5. Horizon View Homes' October 3, 2016 geotechnical memorandum from Robinson Noble, states that the previous applicant's proposed single-family residence meets the four requirements of 16.16.240 (C)(5) and responds to each of the four requirements in detail (pages 1-2). In a June 26, 2020 memorandum, Robinson Noble, Inc. states that they have reviewed the Applicant's plans and have determined that "the plans are in general conformance with our recommendations in our geotechnical report and supplemental letters." (pg 2).

#### Re-grading of a Steep Slope less than 20 feet in Vertical Elevation

Similar to Horizon View Homes' proposal, the Applicant is also requesting to re-grade the smaller slope directly behind the proposed house, pursuant to LFPMC 16.16.310(C)(1). The Applicant has used the same geotechnical engineer as Horizon View Homes, Robinson Noble, Inc. In a June 26, 2020 memorandum, Robinson Noble, Inc. states that they have reviewed the Applicant's plans and have determined that "the plans are in general conformance with our recommendations in our geotechnical report and supplemental letters." (pg. 2). Refer to the 2016/2017 Findings in Appendix A for details on Robinson-Noble's previous approval of the regrading of this slope.

#### Steep Slope Buffer Reduction

Similar to Horizon View Homes' proposal, the Applicant is also requesting a steep slope buffer reduction pursuant to LFPMC 16.16.310(A) for the slope. The Applicant has used the same geotechnical engineer as Horizon View Homes, Robinson Noble, Inc. In a June 26, 2020 memorandum, Robinson Noble, Inc. states that they have reviewed the Applicant's plans and have determined that "the plans are in general conformance with our recommendations in our geotechnical report and supplemental letters." (pg 2). Refer to the 2016/2017 Findings in Appendix A for details on Robinson-Noble's previous approval of the steep slope buffer reduction.

#### Erosion Hazard Restrictions Not Applicable to Property

LFPMC 16.16.280 provides development standards for erosion hazard areas, including provision (A) that "clearing is allowed between April 1<sup>st</sup> and September 30<sup>th</sup>". LFPMC 16.16.040 (G) defines "Erosion hazard area" as:

*"an area with soil characteristics that, according to the USDA Soil Conservation Service Soil Classification System, may experience **severe to very severe erosion hazard**, including slopes greater than 15 percent with erodible soils that are exposed. Any activity which exposes erodible soils to rainfall or running water*

*will create erosion hazard conditions on slopes greater than 15 percent. Soils which are particularly susceptible to erosion include fill constructed of virtually all soil types, loose sandy native soils such as Vashon recessional outwash (Qvr), Esperance sand (Qe), Vashon till (weathered Qvt), and the dense fine-grained clay (Qcl). Improper fill methods, especially near flowing water, can produce an erosion hazard in areas not identified as hazard areas.” (Emphasis added).*

In a September 21, 2020 memorandum, Robinson Noble, Inc. clarifies that site can be classified as having a moderate hazard (pg 1). Because the site is classified as a moderate hazard area and not a severe or very severe hazard area, the site does not meet the LFPMC 16.16.040(G) definition of an erosion hazard and is therefore not restricted to provision (A) or any of the other provisions of LFPMC 16.16.280. Robinson Noble, Inc. go on to further state that “they have reviewed the City Code 16.16.280...it appears that plans are in conformance with these codes and we see no direction that winter time grading is limited based on these sections. We do recommend that the contractor follow the planned BMPs and normal BMPs practiced in the Puget Sound area to control surface water during construction,” (pg. 1).

#### **2020 CONCLUSIONS**

The Applicant’s submittals, including written material and plans referenced in the above findings, demonstrate that:


- that the proposed reduction of the front yard setback to 10 feet complies with LFPMC 16.16.240;
- that the proposed re-grading of a steep slope with a vertical height of less than 20 feet complies with LFPMC 16.16.310(C)(1);
- that the proposed reduction of the steep slope hazard area buffer complies with LFPMC 16.16.310; and
- the provisions of LFPMC 16.16.280 do not apply to the property as there are no erosion hazard areas as defined by LFPMC 16.16.040(G).

#### **2020 DECISION**

The Critical Area Work Permit 2020-CAMJ-0003, with the following proposed actions:

1. Reducing a standard steep slope buffer from 50 feet to 25 feet with an additional 15-foot building setback,
2. Allowing the re-grading of a steep slope less than twenty feet in vertical elevation change, and
3. Reducing the standard front yard setback from 20 feet to 10 feet

at 19814 47<sup>th</sup> Ave NE, Parcel #402770-0664, is approved. If any Finding is deemed to be a Conclusion or vice-versa, the Director adopts it as such.

  
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Stephen Bennett, AICP  
Planning Director

  
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Date

## APPENDIX A

### DECISION OF THE CITY OF LAKE FOREST PARK PLANNING DIRECTOR REGARDING APPLICATION FOR A SENSITIVE AREA WORK PERMIT (BUFFER REDUCTION) Permit # 2016-SAMJ-0013

#### 2019 FINDINGS

On March 14, 2019, the applicant, Kristen Bullard of Horizon View Homes (the “Applicant”) submitted plans and related building permit applications for a new single family home in conjunction with 2016-SAMJ-0013. In addition to the approved actions of reducing one steep slope buffer pursuant to LFPMC 16.16.310(A) and re-grading of a smaller slope on the site pursuant to LFPMC 16.16.310(C)(1), the Applicant is now requesting a reduced front yard setback of ten feet pursuant to LFPMC 16.16.240. The rear and side yard setbacks proposed will meet the standard requirements for the property’s RS 9600 zone.

LFPMC 16.16.240 requires that the decision to grant a deviation from required setbacks shall be based on the following criteria:

6. The aggregate setbacks for the zoning front, rear, and side yard setbacks total 50 feet or more;
7. Front and rear zoning setbacks are no less than 10 feet;
8. Side zoning setbacks are no less than five feet;
9. Significant vegetation is preserved;
10. The applicant demonstrates to the city through submittal of an application and supporting documentation that the use of aggregate zoning setbacks will not:
  - a. Be materially detrimental to the public welfare or injurious to adjacent property or development or alterations; and
  - b. Alter the neighborhood character or the appropriate use or development of adjacent property; and
  - c. Conflict with the general purposes and objectives of the comprehensive plan; and
  - d. Degrade critical areas and critical areas buffer functions. (Ord. 1150 § 1, 2017; Ord. 930 § 2, 2005)

Below is an analysis showing that the Applicant meets all five criteria:

6. According to the most recent submitted site plans dated September 27, 2019, the aggregate setbacks for the zoning front, rear, and side yard setbacks will be well over the minimum of 50 feet required.
7. According to the most recent submitted site plans dated September 27, 2019, the front yard setback is proposed to be the minimum allowed 10 feet. The rear yard setback is proposed to be well over 200 feet.
8. According to the most recent submitted site plans dated September 27, 2019, one of the side yard zoning setbacks is proposed to be five feet and the other side yard zoning setback is proposed to be more than ten feet.

9. According to the most recent submitted site plans dated September 27, 2019, due to the large size of the lot and the large proposed rear yard setback, significant amounts of vegetation will be preserved.
10. The Applicant's most recent geotechnical report from Robinson Noble, dated August 13, 2019, states that the proposed single-family residence meets the four requirements of 16.16.240 (C)(5) and responds to each of the four requirements in detail.

### **2016/2017 FINDINGS**

On December 14, 2016, the applicant, Dennis Wick (the "Applicant") applied for a Critical Area Work Permit for a critical area buffer reduction at 198xx 47<sup>th</sup> Ave NE, Parcel #402770-0664 (the "property"). According to the Applicant's topographic survey, a steep slope (>40% slope) more than twenty feet in vertical change exists on the sensitive area tract located on the southwestern portion of the property. Additionally, a steep slope less than twenty feet in vertical change is found in the northwestern portion of the property. The applicant proposes to build a new single family home within the standard buffer and building setback from the larger slope, and has therefore requested a buffer reduction pursuant to LFPMC 16.16.310(A). The applicant has also requested to re-grade the smaller slope, pursuant to LFPMC 16.16.310(C)(1).

LFPMC 16.16.310(A) establishes a standard buffer of 50 feet from the top, toe, and sides of any slope 40% or greater. An additional, non-reducible 15-foot building setback is also required by this section. The code states that the 50-foot buffer may be reduced to a minimum of 25 feet if a qualified professional demonstrates that the reduced buffer will adequately protect the proposed development, adjacent developments, uses, and the steep slope hazard area.

The Applicant's geotechnical report from Robinson Noble, dated April 13, 2016, states that a buffer of 10 feet with an additional 15-foot building setback would be adequate to meet the requirements of LFPMC 16.16.310(A) in relation to the proposed house, subject to the conditions of that geotechnical report, the Robinson Noble geotechnical report dated August 20, 2010, and the Creative Engineering Options Geotechnical report dated December 1, 1992.

LFPMC 16.16.310(C)(1) allows for re-grading of steep slopes less than twenty feet in vertical elevation change, subject to the requirements that the proposal will:

1. Not decrease slope stability on the site or on adjoining properties; and
2. Be subject to certification by a qualified professional that the landslide hazard area can be modified safely or that the development proposal eliminates or mitigates the landslide hazard risk to the property or adjacent property; and
3. Not adversely impact other critical areas, such as streams; and
4. Not result in an increase in peak surface water flows or sedimentation to adjacent properties.

The Steep Slope Response letter, provided by Robinson Noble and dated October 3, 2016, demonstrates that the proposed grading meets each of the criteria above.

**2016/2017 CONCLUSIONS**

The Applicant's submittals, including written material and plans referenced in the above findings, demonstrate that the proposal meets the requirements for a buffer reduction and re-grading, as allowed by LFPMC 16.16.

**2019 CONCLUSIONS**

The Applicant's submittals, including written material and plans referenced in the above findings, demonstrate that the proposal meets the requirements for a reduced front yard setback, as allowed by LFPMC 16.16.

**2016/2017 DECISION**

The Sensitive Area Work Permit 2016-SAMJ-0013, reducing a standard steep slope buffer at 198xx 47<sup>th</sup> Ave NE, Parcel #402770-0664, from 50 feet to 25 feet with an additional 15-foot building setback, and allowing the re-grading of a steep slope less than twenty feet in vertical elevation change, is approved. If any Finding is deemed to be a Conclusion or vice-versa, the Director adopts it as such.

**2019 DECISION**

The Sensitive Area Work Permit 2016-SAMJ-0013, with the following proposed actions:

4. Reducing a standard steep slope buffer at 198xx 47<sup>th</sup> Ave NE, Parcel #402770-0664, from 50 feet to 25 feet with an additional 15-foot building setback,
5. Allowing the re-grading of a steep slope less than twenty feet in vertical elevation change, and
6. Reducing the standard front yard setback from 20 feet to 10 feet

is approved. If any Finding is deemed to be a Conclusion or vice-versa, the Director adopts it as such.

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Signature on file  
Stephen Bennett, AICP  
Planning Director

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Date