

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

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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**

**File Numbers:** RU07-01 and RU07-02

**Hearing Date:** February 12, 2008

**Requested Action:** Requests for a Reasonable Use Exception from the requirements for Category 2 Wetlands (LFPMC 16.16.320) to allow for Reasonable Economic Use in order to facilitate construction of two new single-family residences (one on each lot) with associated earthwork, access, mitigation, and drainage facilities.

**Applicants:** Ben and Melissa Allison  
4324 E. Buena Terra Way  
Phoenix, AZ 85018

Darren Ellis and Jennifer Drain  
8035 14th Avenue N.W.  
Seattle, WA 98117

**Site Locations & Descriptions:** 16913 28<sup>th</sup> Avenue NE (Southern Lot - Allison)  
Lake Forest Park, WA, 98155  
Tax Parcel Number: 402410-0475  
Lake Forest Park 3rd Addition, Block 23, Lot 28

16919 28<sup>th</sup> Avenue NE (Northern Lot – Ellis and Drain)  
Lake Forest Park, WA, 98155  
Tax Parcel Number: 402410-0470  
Lake Forest Park 3rd Addition, Block 23, Lot 27

**Comprehensive Plan Designation:** Conservation Single-Family Residential, Low Density = minimum lot size of 20,000 square feet.

**Zoning Classification:** Residential Single-Family RS-20 = minimum 20,000 square feet per lot (2 units per acre)

**APPLICABLE CODES AND REGULATIONS FOR ALLISON AND ELLIS REASONABLE USE EXCEPTIONS (This list may not be completely exhaustive.)**

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

1. LFPMC 16.16.250-Establishes the decision criteria for a Reasonable Use Exception.
2. LFPMC 16.16.310-Establishes the development standards and permitted alterations for steep slope hazard areas.
3. LFPMC 16.16.320-Establishes the development standards and permitted alterations for wetlands.
4. LFPMC 16.16.350-Establishes the development standards and permitted alterations for streams.
5. LFPMC 16.26.030-Establishes the authority of the Hearing Examiner to issue quasi-judicial decisions for reasonable use exception applications (Type I application).

**BACKGROUND INFORMATION:**

**Description of the proposal:** Ben and Melissa Allison and Darren Ellis and Jennifer Drain filed applications for reasonable use exceptions on May 25, 2007 (Exhibits 1 and 3). The applications consisted of requests for a reasonable use exception to construct two single-family residences on two separate, adjacent lots, each measuring 30,600 square feet (0.7 acres). The applications were determined to be complete on June 8, 2007 and a Notice of Application was issued on this date (Exhibits 16 and 17). However, clarification of several aspects of the proposals, including a more detailed wetland delineation and, submittal of a State Environmental Policy Act (SEPA) checklist, and modifications to the proposed location of the residences to avoid the wetland, was necessary (Exhibits 30, 34, 37, 38, 39, 41, and 42). These issues were not resolved to the satisfaction of the City until September 2007. The revised Notice of Application was published on September 14, 2007 (Exhibits 44 and 45). Notice of the public hearing was made on October 5, 2007 (Exhibits 50 and 51), and the SEPA Threshold Determination (MDNS) was also issued for each application and was published on October 5, 2007 (Exhibits 52 and 53). The hearing was initially scheduled for October 22, 2007, but was postponed to allow for the SEPA appeal period to expire prior to the hearing. The initial public hearing was cancelled and a Notice of Cancellation was sent on October 19, 2007 (Exhibit 54). The public hearing was rescheduled for November 12, 2007. As a result, a revised Notice of Public Hearing was published on October 26, 2007 (Exhibits 59 and 60). Susan Stine, City Clerk, received a SEPA appeal from the Lake Forest Park Stewardship Foundation (LFPSF) on October 26, 2007 (Exhibits 61 and 62). After review of the appeal, the City found merit in the LFPSF's concern that the swale in the front of the subject properties had not been studied to determine if it was a stream. The City withdrew the MDNS and cancelled the public hearing on November 9, 2007 (Exhibits 75 and 76). The City issued a revised MDNS on December 28, 2007 (Exhibits 86 and 87). The appeal period ended on January 18, 2008 with no appeal being filed. A new public hearing notice was published on January 25, 2008 (Exhibits 102 and 103).

Each application requests a reasonable use exception from the requirements for Category 2 Wetlands (LFPMC 16.16.320) in order to facilitate construction of two new single family residences with associated earthwork, access, mitigation, and drainage facilities (Exhibits 1 and 3). The footprint of each of the proposed houses is approximately 1,200 square feet. Access to the residences would be obtained by way of a shared pervious, gravelpave driveway (Exhibit 74 – page 4). Gravelpave is a system of pervious honeycomb-like cells that each contains a small amount of gravel. The gravel remains in the cells so that the gravel stays in its intended places and water can

percolate through it. Both a grasspave buffer (like the gravelpave system, but with grass in the plastic cells) and a small concrete curb will also flank the gravelpave on both sides to protect the wetland from any debris from the driveway (Exhibit 35). The driveway is 20 feet wide until it reaches the shared gravelpave parking area between the residences. At its widest point, the driveway is 45 feet wide. The total area of both the driveway and parking area is approximately 5000 square feet (Exhibit 74 – page 4).

Lake Forest Park Municipal Code (LFPMC) 16.16.320 establishes the development standards for Category 2 wetlands and wetland buffers. The applications request relief from the requirements for Category 2 wetlands and all associated buffers in order to construct two new houses. The requests do not include modification of any of the environmentally sensitive areas, even those from which the applicant is not seeking relief. The residences will not be located closer than 25 feet from the edge of the Category 2 wetland. Additionally, the gravelpave driveway is proposed to be placed in the wetland buffer. At its nearest point, the driveway will be five feet from the edge of the wetland (Exhibit 74 – page 4). The gravelpave drive is designed to keep any gravel from entering the wetland. All construction will be located within buffer areas and outside of the wetland itself (Exhibits 104 -108). The proposed residences will not be located closer than 55 feet from the toe of the steep slope hazard area. The geotechnical report prepared by Associated Earth Sciences, Inc., requires that the residences be placed no closer than a total of 25 feet from the toe of the steep slope (Exhibit 13 – page 9). The applicants are not requesting relief from the Type 2 stream buffer and/or stream buffer setback. Both houses will be located outside of the stream buffer and stream buffer setback (Exhibit 107).

A Type 2 Stream is located along the northern property line of the northern (Ellis/Drain) property. This stream exits the property at its northeast corner where it continues off of the property into a swale adjacent to eastern property line of the Ellis/Drain site. The stream travels in a northeasterly direction inside the swale, parallel to 28<sup>th</sup> Avenue NE. This stream requires a 50-foot buffer as well as a 15-foot buffer setback. The applicants are not requesting relief from the Type 2 stream setbacks as specified in LFPMC 16.16.350. Both of the residences as well as the pervious driveway are located outside of the maximum stream buffer and stream buffer setback (Exhibit 107). The Type 2 stream on the Ellis/Drain property was delineated and categorized by Suzanne Tomassi, Wetland/Wildlife Biologist, for the Watershed Company (Exhibit 63a). Subsequent investigations by both Paul Szewczykowski, Senior Scientist for GeoEngineers (Exhibit 83 and 101) and David Brock of the Washington State Department of Fish and Wildlife (Exhibits 82 and 92) indicated that the Type 2 stream along the northern property line of the Ellis/Drain lot continues into the swale parallel to 28<sup>th</sup> Avenue NE and travels to the northeast. The waters to the south of the confluence of the Type 2 stream and the swale do not meet the City's or the WDFW's definition of a stream and therefore are not subject to stream regulations.

To allow for the house on the northern lot (Ellis and Drain) to be situated further from the wetland, the City suggested that the applicants apply for a lot line adjustment so that the house could be placed further south. Ben Allison submitted a Lot Line Adjustment application to the City on October 26, 2007 (see LLA07-002 – Exhibit 63). Consequently, these Reasonable Use requests are to be considered concurrently with the Lot Line Adjustment application. The Lot Line Adjustment application proposes a re-configuration of the property line shared by the two existing lots. As discussed below in "Existing Site Characteristics", both lots are rectangular and each measures 340 feet by 90 feet. The Lot Line Adjustment application proposes to reshape the lots so that each is irregular in shape, measuring 90 feet each on the eastern and western property lines. The northern lot's northern property line and the southern lot's southern property lines will also remain 340 feet long. The shared property line (the southern property line for the northern lot and the northern

property line for the southern lot) will extend from 28<sup>th</sup> Avenue NE northwesterly for 133 feet. Then the property line will continue sharply to the southwest for 85 feet. The lot line turns back to the northwest and stretches for 125 feet. The property line then turns western and joins up with the existing property line. The property line continues for 50 feet to end at the western lot line (Exhibit 74 – page 4). Upon preliminary approval, it appears the Lot Line Adjustment is in compliance with all zoning regulations and will be approved by Planning staff.

**Existing Site Characteristics:** The subject properties are located at 16913 and 16919 28<sup>th</sup> Avenue NE (16913 28<sup>th</sup> Avenue NE - Southern Lot - Tax Parcel Number 402410-0475 and 16919 28<sup>th</sup> Avenue NE - Northern Lot - Tax Parcel Number 402410-0470). The lots are surrounded by single-family residences to the west and south, the 28<sup>th</sup> Avenue NE right-of-way to the east, and a vacant single-family lot to the north. Access to both sites would be obtained from 28<sup>th</sup> Avenue NE via a private gravel/pave driveway that would be shared by both lots. The lots proposed for development are both rectangular in shape and each measures approximately 340 feet in length along their northern and southern sides and 90 feet in length along their western and eastern sides.

A Category 2 wetland occupies the eastern half of 16919 28<sup>th</sup> Avenue NE (Northern Lot) and most of the eastern half of 16913 28<sup>th</sup> Avenue NE (Southern Lot). The requisite 100-foot wetland buffer and 15-foot wetland buffer setback restricts development on most of the northern lot and most of the remaining portion of the southern lot (Exhibit 106). An initial wetland delineation was submitted to the City on May 25, 2007 (Exhibit 5). A final wetland delineation was submitted on November 2, 2007 (Exhibit 63a).

There is also a Type 2 stream situated in the wetland. The stream is found on the northern (Ellis/Drain) lot and in a swale parallel to the eastern property line of the Ellis/Drain lot. This Type 2 stream has an associated 50-foot buffer and 15-foot stream buffer setback. The applicants are not requesting relief from the stream buffer and/or stream buffer setback. Both houses will be located outside of the stream buffer and stream buffer setback (Exhibit 107). A stream delineation completed by Suzanne Tomassi, Wetland/Wildlife Biologist with The Watershed Company, was submitted to the City on November 2, 2007 (Exhibit 63a). This stream delineation confirmed that the houses were to be positioned outside of the stream buffer and stream buffer setback, and therefore, no relief from the requirements for streams specified in LFPMC 16.16.350 is necessary. As discussed previously, both Paul Szewczykowski of GeoEngineers (Exhibit 83) and David Brock of the Washington State Department of Fish and Wildlife (Exhibit 82) stated the waters to the south of the confluence of the Type 2 stream and the swale do not meet the City's or the WDFW's definition of a stream and therefore are not subject to stream regulations.

The sites slope up to the west, with steep slopes located on the western portions of the lots (Exhibit 108). Steep slopes are those slopes with a gradient greater than 40 percent. The western third of both properties is located within the steep slope hazard area and its associated buffers and buffer setbacks. Slopes equal to or greater than 40 percent can also be found on adjacent properties. The applicants submitted a geotechnical report prepared by Scott Hannah, Senior Geologist, of Associated Earth Sciences, Inc. on May 25, 2007 (Exhibit 13).

The northern lot, owned by Darren Ellis and Jennifer Drain, is located completely within sensitive areas, sensitive areas buffers, or sensitive areas buffer setbacks. This lot has no allowable building area if LFPMC 16.16 is strictly enforced. A small portion of the southern lot located along the southern property line, which is owned by Ben and Melissa Allison, is buildable in accordance with LFPMC Chapter 16.16. The buildable area measures approximately 17 feet by 4 feet (68 square

feet) and is found entirely within the required side setback. Consequently, the regulations in LFPMC 16.16 render the lot unbuildable.

### **CRITERIA ANALYSIS**

The following criteria for a reasonable use exception are established by Lake Forest Park Municipal Code 16.16.250. All of the following criteria must be met before a reasonable use exception may be granted. The applicant has burden of meeting all the criteria for an approval.

- C1. Application of the requirements of this chapter will deny all reasonable economic use of the property.*
- C2. There is no other reasonable economic use with less impact on the sensitive area.*
- C3. 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 the comprehensive plan.*
- C4. Any alteration is the minimum necessary to allow for reasonable economic use of the property.*
- D. The hearing examiner shall grant an exception from the requirements of this chapter only to the minimum necessary extent to allow for reasonable economic use of the applicant's property.*
- E. The hearing examiner shall condition any exception from the requirements of this chapter upon conditions recommended by the city and upon compliance with any mitigation plan approved by the city.*

#### **Criterion C1: Application of the requirements of this chapter will deny all reasonable economic use of the property.**

The final site plan, which is included in Exhibit 74 (page 4), identifies the locations of the Category 2 wetland, the steep slope hazard areas that are equal to or greater than 40 percent, the Type 2 stream on the Ellis/Drain property that continues into the right-of-way adjacent to the northwest corner of the Ellis/Drain property. LFPMC 16.16.320(A) establishes that a 100-foot buffer to be contiguous to the wetland. Likewise, a steep slope hazard area is required to maintain a 50-foot buffer per LFPMC 16.16.310(A), and a Type 2 stream must be protected by a 50-foot buffer in accordance with LFPMC 16.16.350(A). Furthermore, all sensitive areas buffers are additionally protected by a 15-foot building setback into which no structures are allowed to be placed. Consequently, Drawings A and B also illustrate the required sensitive areas buffers as well as buffer setbacks in addition to the environmentally sensitive areas. To allow for greater detail, separate maps have been prepared to show the extent of each sensitive area on the subject properties. Exhibit 106 shows the location of the wetland, and its associated buffer and buffer setback. The Type 2 stream and its buffer and buffer setbacks are found on Exhibit 107. Exhibit 108 identifies the location of the steep slopes and associated buffer and buffer setback.

The above referenced steep slopes, Category 2 wetland, and Type 2 stream, in conjunction with their associated buffers and buffer setbacks, restrict development completely on the Ellis-Drain lot and on all but approximately 68 square feet of the Allison lot (which occurs within the zoning setback from the property line). When the regulations of LFPMC 16.16 are applied to the lots, no buildable area remains. Therefore, the application of the sensitive areas requirements does deny all reasonable use of the properties.

Criterion C1 is met.

**Criterion C2: There is no other reasonable economic use with less impact on the sensitive area.**

Lake Forest Park Zoning Code and Map designate these properties Single-Family Residential RS-20, with a minimum area of 20,000 square feet per lot. The only permitted use within this zoning classification is single-family residential use. Any other uses allowed are only permitted as accessory to a residential use or by Conditional Use permit. No other uses are permitted on the sites. The extent of the sensitive areas and associated buffers and buffer setbacks results in all land on the lots being regulated by sensitive areas requirements per LFPMC 16.16. The location of the wetland, stream, steep slopes and buffers require that they must be altered for any single-family residential use of the site, considering what would be required for access, utilities, drainage and construction on the site. A denial of single-family residential use of the subject lots will result in a failure to grant the properties the same use, rights, and privileges permitted to other properties in the vicinity and in the zone in which the subject properties are located. The Planning Department finds that there is no other reasonable economic use with less impact to the sensitive area.

Criterion C2 is met.

**Criterion C3: 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 the comprehensive plan.**

The applicants submitted several technical reports to the City that detail the extent of the sensitive areas on site as well as prudent and safe ways to mitigate construction impacts. These reports have also aided the applicants in situating the proposed residences and driveway in the most appropriate locations. The applicants submitted a wetland delineation completed by Suzanne Tomassi of The Watershed Company for the properties' previous owner, Howard Anderson. This report included a sketch of the approximate location of the wetland. This sketch indicated that the wetland shown was "approximate and not to scale" (Exhibit 5). The Watershed Company prepared a subsequent report for Ben Allison that included the actual location of the wetland as well as the exact location of southern boundary of the wetland (Exhibit 14). This report also included an initial buffer mitigation plan. However, during the review process, the City and the applicants agreed the proposed locations of the residences could be moved farther from the wetland through a Lot Line Adjustment (Exhibit 63). The site plan was updated to reflect the new locations of the residences and the proposed Lot Line Adjustment (Exhibit 34). Afterward, an updated mitigation plan was submitted to the City on August 21, 2007 (Exhibit 36). In addition to the buffer mitigation plan, the applicants provided to the City a final wetland and stream delineation on November 2, 2007 (Exhibit 63a). The applicants also have submitted a geotechnical report from Associated Earth Sciences, Inc. that analyzes the stability of the steep slope along the western edge of the properties (Exhibit 13).

The wetland report indicates that the wetland abuts 28<sup>th</sup> Avenue NE along the eastern edges of both properties. There is an area that is approximately 25 feet wide where no portion of the wetland is adjacent to the roadway. This is the lot access location for the proposed shared gravel-pave driveway. The end of the pervious driveway adjacent to the road will be located on top of an existing access, the apron of which will have to be widened to accommodate the proposed shared drive. This widening will also require replacement of the existing culvert underneath the access. Replacement of the culvert will not necessitate a Hydraulic permit from the Washington

Department of Fish and Wildlife (WDFW) as the access is over the section of the swale that is not classified as either a stream or a stream buffer. Beyond the swale, the driveway will be new and require the removal of vegetation from the property. The proposed driveway will be located entirely within the wetland buffer so that the wetland itself will not be compromised. As described above, the pervious driveway will not be any closer than five feet from the edge of the wetland. The gravel in the driveway is placed in cells to reduce the likelihood it will migrate from its intended location. Both a grasspave buffer and a small concrete curb will also flank the gravelpave on both sides to protect the wetland from any shifted gravel. The closest that either of the residences will be to the wetland edge is 25 feet. To counteract any potential degradation of the wetland buffer by the proposals, the applicants will adhere to the Wetland Mitigation Plan submitted by the Watershed Company on August 21, 2007 (Exhibits 36 – 39; also see Exhibit 68 for summary). This mitigation plan includes a 5-year monitoring requirement.

The geotechnical report prepared by Associated Earth Sciences assesses the stability of the steep slope on the sites. This report classifies the slope along the western edge of the properties as an “Erosion Hazard, Class II Landslide Hazard, and a Steep Slope Hazard (LFPMC 16.16) due to slope gradient and permeable soil” (Exhibit 13 – page 6). In accordance with LFPMC 16.16.280, no buffer is required for Erosion Hazard Areas. However, LFPMC 16.16.290(A) and 16.16.310(A) require that a 50-foot buffer and 15-foot slope buffer setback be maintained for both Landslide Hazard Areas and Steep Slope Hazard Areas. Nevertheless, the steep slope and/or landslide hazard buffer may be reduced administratively from 50 to 25 feet if a qualified professional demonstrates to the planning director’s satisfaction that the reduction will adequately protect the proposed development, adjacent developments, and uses and the sensitive area. The geotechnical report states that as long as construction practices specified in the report are followed, the residences may be safely built as close as 25 feet from the toe of the slope (Exhibit 13 – page 9). The applicants are not proposing to build any closer than 55 feet from the toe of the slope. This meets the stipulations of the geotechnical report. The proposals are in compliance with LFPMC 16.16.310 even if the applicants request an administrative reduction of the steep slope buffer from 50-feet to 25-feet.

There is a Type 2 stream on the northern (Ellis/Drain) lot that flows through the wetland and into a swale parallel to 28<sup>th</sup> Avenue NE. The stream continues to flow northeasterly away from the subject properties. Neither of the residences will be constructed within the stream buffer or stream buffer setback. A full 65-foot distance (50 foot stream buffer and 15 foot stream buffer setback) from the stream will be maintained, so no relief from the stream buffer is requested.

Policy EQ 2.1 of the Lake Forest Park Comprehensive Plan states “development allowed in environmentally sensitive areas should be restricted to approved building footprints, access and areas immediately adjacent to these improvements. Native vegetation should be preserved, wherever practical, or replanted with native species.” The proposed development adheres to this policy. Construction will be limited to one residence on each lot with a shared gravelpave driveway. There will be no accessory buildings and the proposed carport is integrated into the first level of each of the homes. The overall construction/development impact area of the northern lot is 3,500 square feet and the total area of the construction/development impact area for the southern lot is 7,100 square feet. The construction/development impact area includes the proposed driveway as well as an area encompassing approximately 10 feet in width around the proposed residence. The City is requiring that most areas outside of the construction impact zone be fenced, marked and delineated to prevent intrusion by homeowners as required by LFPMC 16.16.180. Exhibit 109 illustrates the proposed location of the fence. Along the western side of the southern lot, the fence will be placed 25 feet from the toe of the steep slope. Since the northern lot is more impacted by the wetland, the fence will be located 7-10 feet from the proposed residence (Exhibit 109). The

placement of the fence allows for the creation of a small yard area beyond the construction impact zone. The fenced areas will be recorded with King County as a Sensitive Areas Preservation Tract (SAPT). Consequently, approximately 19,145 square feet (62.6 percent) of the southern lot will be preserved in an SAPT and approximately 26,294 square feet (85.9 percent) of the northern lot will be preserved in an SAPT.

In order to mitigate potential impacts that may result from construction, the homes are to be prefabricated off site and transported in, minimizing site impacts from construction. The proposed residences will each have a system of ground level storage tanks to ensure that a condition of zero stormwater discharge is maintained. As discussed previously, the shared driveway will be comprised of pervious gravelpave cells, flanked on each side by a buffer of grasspave cells. Furthermore, tree removal is usually necessary for any new construction. For the shared gravelpave driveway and two residences, a total of 22 significant trees are to be removed (See Exhibit 74 – page 5). All removed trees will be placed in kind with native trees. Additionally, the wetland buffer will be planted with native vegetation, which will be monitored for five years to ensure its survival.

Criterion C3 is met.

**Criterion C4: Any alteration is the minimum necessary to allow for reasonable economic use of the property.**

As previously stated, the site is so significantly encumbered by steep slopes, a Category 2 wetland, a Type 2 stream, and their associated buffers and buffer setbacks that any proposal for construction of a house would be entirely located in the designated sensitive areas and/or associated buffers and buffer setbacks. The applications request to build one house per lot, each with a footprint of 1,200 square feet, which results in a total zoning lot coverage of 3.9 percent of the lot area. The zoning classification, RS-20, allows for a maximum lot coverage of 25 percent of the lot area, which calculates to 7,650 square feet for these properties. Planning staff determined that the proposed gravelpave/grasspave driveway does not meet the definition of impervious surface as described in LFPMC 18.08.360. Consequently, the driveway is not included in the calculations for impervious surface coverage. Like lot coverage, impervious surface coverage is 1,200 square feet for each lot. This equals 3.9 percent impervious surface coverage per lot. A total of 35 percent of a lot in the RS-20 zone is allowed to be covered by impervious surface. For the Allison and Ellis proposals, a total of 10,710 square feet per lot (the proposed lot line adjustment would not change the lot sizes – see Exhibit 74, page 4) is permitted to be covered by impervious surfaces. If the gravelpave driveway were to be considered impervious, the impervious surface coverage for the northern lot would be 1,900 square feet (6.2 percent) and it would be 5,500 square feet (18.0 percent) for the southern lot. The proposal falls well below the maximum lot coverage and impervious surface thresholds allowed within the RS-20 zone.

In addition, the residences are to be located entirely outside of designated environmentally sensitive areas. The residences will encroach into the wetland buffer but will remain at least 25 feet from the edge of the Category 2 wetland. The gravelpave driveway will be entirely within the wetland buffer, coming as close as 5 feet from the wetland at its nearest point.

As discussed previously, the proposed residences will not be located closer than 55 feet from the toe of the steep slope hazard area. However, the applicants are requesting and administrative reduction of the steep slope buffer, which, if granted, may allow the applicants to build a minimum of 40 feet from the toe of the slope as stated in LFPMC 16.16.310(A). The minimum distance of 40 feet allowed under a slope buffer reduction exceeds the recommendation of the geotechnical report

prepared by Associated Earth Sciences, Inc., which requires that the residences be placed no closer than a total of 25 feet from the toe of the steep slope (Exhibit 13 – page 9). In order to be considered for an administrative slope buffer reduction, the applicants must submit a minor sensitive area permit application to the Planning Department. The application will be reviewed to ensure it meets the criteria in LFPMC 16.16.310(A), however at this time, planning staff sees no reason not to grant the requested reduction.

Both of the residences, as well as, the pervious driveway are located outside of the maximum stream buffer and stream buffer setback. The applicants have made a significant effort to ensure that proposed alterations are the minimum necessary and that potential impacts are adequately mitigated.

Criterion C4 is met.

**Criterion D: The hearing examiner shall grant an exception from the requirements of this chapter only to the minimum necessary extent to allow for reasonable economic use of the applicant's property.**

Criterion C4 addresses the extent of construction proposed by the applicants. The applicants are proposing to place one prefabricated home on each lot. Each home will have a footprint of approximately 1,200 square feet, with a total area constructed area of 3,440 square feet. King County tax records show that the proposed size of the residences is comparable to the existing homes in the vicinity, and the proposed footprint is smaller than most other homes in the neighborhood. The Hearing Examiner should determine whether these proposed alterations represent the minimum necessary and that all modifications are conducive to the City's standards for protection of environmentally sensitive areas as specified in LFPMC 16.16.

**Criterion E: The hearing examiner shall condition any exception from the requirements of this chapter upon conditions recommended by the city and upon compliance with any mitigation plan approved by the city.**

The City is recommending conditions be placed upon construction occurring on the subject properties (see Conclusions and Recommendation section below). If the proposal is approved, the applicants must also meet all conditions imposed by the Hearing Examiner. City staff will enforce all conditions and the applicants will have to meet all specified requirements throughout the entire duration of the construction of the residences.

Mitigation will be required in the form of placement of all environmentally sensitive areas on the lots and their associated buffers outside of the construction area (the building footprint and the 10 feet adjacent to the footprint surrounding all sides of the residence) into a sensitive areas tract, the use of pervious gravelpave pavers for the driveway (which provides access to both lots), and installation of ground level overflow storage tanks to create a zero stormwater discharge system. Furthermore, the applicants will be required to obtain all necessary local, state, and federal permits prior to construction provided that the Hearing Examiner approves the pending Reasonable Economic Use requests.

## **CONCLUSIONS AND RECOMMENDATION**

The City Planning Department concludes that the applicant has demonstrated that the proposals meet all of the criteria for a reasonable economic use exception.

**The Planning Department recommends a conditional approval of the requests for an exception to allow for reasonable economic use, RU07-01 and RU07-02, for the above-described reasons with the following conditions:**

1. The applicable recommendations contained in Associated Earth Sciences, Inc. geotechnical report (Exhibit 13) shall be implemented.
2. All remaining areas located outside of the construction impact area shall be fenced, marked and delineated to prevent intrusion by homeowners as required by LFPMC 16.16.180. The proposed location for the fence is shown in Exhibit 109 and is subject to compliance with Condition 3 below.
3. The property owners must apply for a minor sensitive areas work permit for consideration by the Planning Director of a steep slope buffer reduction.
4. The applicants shall provide proof that the sensitive areas preservation tracts have been recorded with King County as required by LFPMC 16.18.170(A) prior to issuance of development permits by the City. The proposed location for the sensitive areas preservation tract is shown in Exhibit 109 and is subject to compliance with Condition 3 above.
5. The applicants shall obtain the appropriate permits for construction and development in and modification to the sensitive areas buffers.
6. The site plan shall be valid for a period of 3 years from the date of approval.
7. Prior to the finaling of the residential building permits, the August 21, 2007 wetland buffer mitigation plan prepared by Suzanne Tomassi of the Watershed Company must be implemented and inspected by planning department staff.
8. All plantings on the two sites, including all replacement trees, shall be subject to the annual monitoring plan specified prepared by Suzanne Tomassi of The Watershed Company (as described on page 3 of the Wetland Buffer Mitigation Plan – Exhibit 39). Monitoring shall be required for five consecutive years subsequent to the finaling of the residences.
9. Construction of residences and driveway shall be conducted as proposed by the applicants as conditioned by the Hearing Examiner.
10. Prior to the issuance of a building permit for either residence, the applicants shall apply for, obtain approval of, and record the Boundary Line Adjustment for the boundary line between the two lots consistent with the site plan contained in Exhibit 74 – page 4.

Submitted: Shana Restall  
Shana Restall

Date: 2/5/2008

For information about this proposal or questions about this staff report, please contact Shana Restall, Associate Planner at Lake Forest Park City Hall 17425 Ballinger Way NE, Lake Forest Park, WA 98155, 206/368-5440 or e-mail [srestall@ci.lake-forest-park.wa.us](mailto:srestall@ci.lake-forest-park.wa.us).

**PARTIES OF RECORD**

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